

## COUNCIL ASSESSMENT REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-397 – DA2024 - 734.1
<b>PROPOSAL</b>	Staged 112 Lot Residential Subdivision and Associated Infrastructure
<b>ADDRESS</b>	Lot 53 DP 1312158, Lot 54 DP 1312158 and Lot 383 DP 1241368 - Carlie Jane Drive, Thrumster
<b>APPLICANT</b>	Hopkins Consultants Pty Ltd
<b>OWNER</b>	PM Land Pty Ltd
<b>DA LODGEMENT DATE</b>	11 November 2024
<b>APPLICATION TYPE</b>	Development Application (Integrated)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 8(b) of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as the proposal is for coastal subdivision for more than 100 lots wholly or partly in a sensitive coastal location (i.e. partly within mapped proximity area to coastal wetland).
<b>CIV</b>	\$9,520,676 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Primary Production) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Port Macquarie-Hastings Local Environmental Plan 2011</li> </ul>
<b>TOTAL &amp; SUBMISSIONS ISSUES SUBMISSIONS</b> <b>UNIQUE KEY IN</b>	No submissions.

<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Environmental Impact Statement Plans Bushfire Assessment Biodiversity Development Assessment Report (BDAR) Traffic and Access Assessment Road Traffic Noise Impact Assessment Aboriginal Heritage Assessment Flood Impact Assessment Development Control Plan Assessment Waste Management Plan Geotechnical Assessment Arborist Report
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	N/A
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	14 July 2025
<b>PLAN VERSION</b>	Plans - Revision L dated 26 May 2025
<b>PREPARED BY</b>	Ben Roberts
<b>DATE OF REPORT</b>	30 June 2025

## EXECUTIVE SUMMARY

The development application (DA2024 - 734.1) seeks consent for a staged residential subdivision and associated infrastructure.

Specifically, the proposal involves:

- Torrens title subdivision to create 112 residential lots including a central large future development lot.
- Vegetation clearing and bulk earthworks.
- Civil works including provision of roads, water, sewer and stormwater infrastructure.
- Compensatory Koala food tree plantings.
- Dedication of environmental land in accordance with Voluntary Planning Agreement.

The subject site and development are primarily proposed on the property recognised as Lot 53 DP 1312158 and which comprises 57.4 hectares in area. The site is vacant land and

contains no buildings or infrastructure. The site is located approximately 800m from the Thrumster Town Centre to the north and approximately 350m to a small local centre established within the residential subdivision adjoining to the west of the site.

The site has undulating topography with a ridge connecting the two western and eastern high points in the northern portion of the site. The site comprises established stands of native vegetation primarily in the northern and southern extents. The site comprises environmental zoned land in the northern and southern portions with an environmental habitat corridor connecting these areas along the western portion of the site.

The proposed development incorporates a staged residential subdivision incorporating 112 lots and associated infrastructure primarily within the residential zoned portion of the site.

Subdivision of the land is permissible with consent under clause 2.6 of the Port Macquarie-Hastings Local Environmental Plan 2011.

The application is integrated development and General Terms of Approval received from the following agencies under the relevant legislation:

- NSW Rural Fire Service - Section 100B of the Rural Fires Act 1997
- Department of Planning and Environment - Water - Section 91 of the Water Management Act 2000

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied:

- Section 4.8 of the Biodiversity and Conservation SEPP requiring that Council's determination of the application must be consistent with the approved koala plan of management that applies to the land.
- Section 2.27 of Primary Production SEPP for potential impact on oyster aquaculture;
- Sections 2.7 and 2.8 of the Resilience and Hazards SEPP identifying the development as designated and that the proposed development will not significantly impact on coastal wetlands.
- Section 4.6 of the Resilience and Hazards SEPP for consideration of whether the land is contaminated;
- Section 2.48(2) of the Transport and Infrastructure SEPP in relation to consultation for development in proximity to electricity infrastructure;
- Section 2.120 of the Transport and Infrastructure SEPP in relation to impact of road traffic noise or vibration on non-road development.
- Clause 2.3 of the LEP regarding permissibility and zone objectives.
- Clause 4.1 of the LEP regarding minimum lot size provisions.
- Clause 6.1 of the LEP regarding satisfactory arrangements for state public infrastructure.
- Clause 7.5 of the LEP regarding mapped Koala habitat and demonstrating consistency with approved KPoM.
- Clause 7.9 of the LEP and the acoustic controls map and ensuring occupants not subject to excessive road traffic noise.
- Clause 7.13 of the LEP and ensuring adequate arrangements for the provision of essential services for the development.

The application was placed on public exhibition from 28 November 2024 to 17 January 2025 and no submissions were received.

The application is referred to the Northern Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 8(b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is for coastal subdivision for more than 100 lots wholly or partly in a sensitive coastal location (i.e. partly within mapped proximity area to coastal wetland).

A briefing was held with the Panel on 18 February 2025 where the following issues were identified and further clarity sought in the assessment report:

- Clarification requested in regard to the management of the remaining large residual, noting the existing VPA for C2 and C3 area land dedication to Council
  - Management/ownership of residual lot noting dwelling envelope in this lot
  - Future development of residual lot noting residential zoning and consideration of options for biodiversity protection
- Proposed servicing of master lot that is subject to separate application (expected in near future)
- Location of water quality basin located within the C3 land and adopted strategies
  - Dual purpose areas for habitat corridor and water management
  - Additional detail to be submitted with application, being additional to strategies
- Proposed management of koala habitat
  - Core koala habitat mapped area noted, with residential development proposed within this area
  - Removal of core koala feed trees
  - Traffic calming particularly in perimeter roads to be outlined
  - Existing KPOM and availability of alternative koala protection measures post adoption
  - Stage 4 noted as potential koala habitat and KPOM enabling tree removal and revegetation
- Location of asset protection zones
- Staging and construction traffic management, with consideration of utilisation of perimeter roads
- Clarification requested for number of lots affected and details (including height) of proposed retaining walls
- Road width and availability of street parking, noting the location of footpaths/cycleway and pedestrian linkages
  - Options for alternate road widths and bus routes
- Proximity to public open space

Having considered the planning controls and the proposal in detail, the following key issues are relevant to the assessment of this application:

- Biodiversity impacts and consistency with approved Koala Plan of Management
- Traffic and transport
- Bushfire
- Flooding
- Road traffic noise

Key issues are discussed in Section 5 of this report and have been addressed through amendments to the design, submission of specialist reports, and/or the recommended conditions of consent.

Having considered the matters under Section 4.15(1) of the EP&A Act, the site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA2024 - 734.1 is recommended for approval subject to the conditions contained in **Attachment A** of this report.

## 1. THE SITE AND LOCALITY

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### 1.1 The Site

- The site is vacant and primarily located on Lot 53 DP 1312158 which comprises 57.4 hectares in area. The site has undulating topography with a ridge connecting the two western and eastern high points in the northern portion of the site. In the northern portion the land slopes away to the north towards the Oxley Highway and the southern portion it slopes away to the south towards Karikee Creek. The site comprises established stands of native vegetation primarily in the northern and southern extents.
- The site is located approximately 800m from the Thrumster Town Centre to the north and approximately 350m to a small portion of local centre zoned land in the established residential subdivision adjoining to the west of the site.
- A location map, aerial photograph, and site photographs are included below.

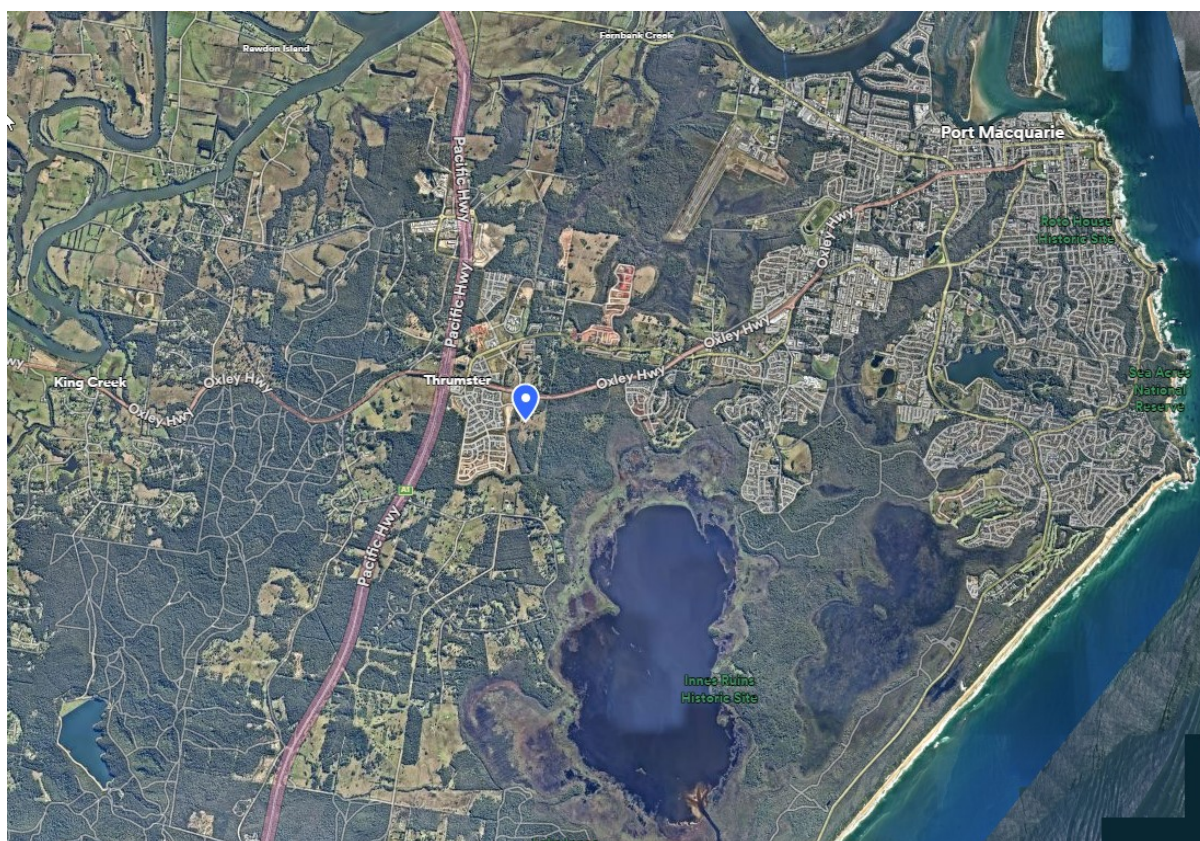


Figure 1 - Location Map



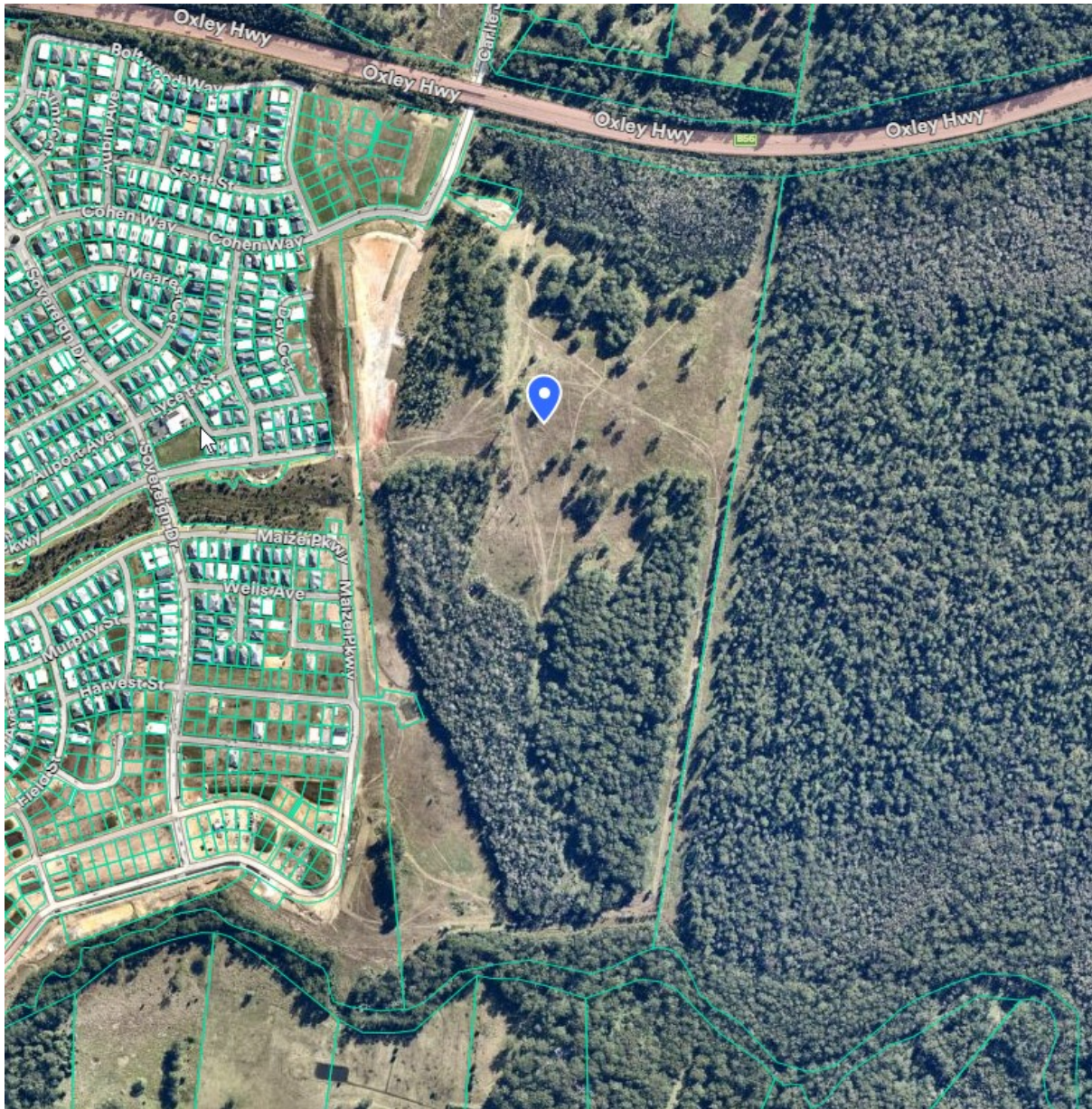


Figure 2 - Aerial Photograph of site

## 1.2 The Locality

- The site is located approximately 800m from the Thrumster Town Centre to the north and approximately 350m to a small portion of local centre zoned land in the established residential subdivision adjoining to the west of the site.
- Adjoining the site to the north is the Oxley Highway with vacant undeveloped residential land immediately beyond. Adjoining the site to the east is vegetated rural zoned land. Adjoining the site to the west is recently subdivided residential land predominantly containing single and two storey dwelling houses and parklands. Adjoining the site to the south is Karikaree Creek with rural land comprising lifestyle lots beyond.
- The site is located within residential and environmental zoned land and recently established residential subdivisions adjoin to the west.
- The site will be serviced by public transport (buses) and is within close proximity to commercial town centre and associated services.

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The proposal seeks consent for staged residential subdivision and associated infrastructure.

Specifically, the proposal involves:

- Torrens title subdivision to create 112 residential lots including a central large future development lot.
- Bulk earthworks and construction of stormwater basins.
- Civil works including provision of roads, water, sewer and stormwater infrastructure.
- Vegetation removal and Koala tree plantings.
- Dedication of environmental land in accordance with Voluntary Planning Agreement.





Figure 3 - Extract of Site Plan

The key development data is provided in **Table 1** below.

**Table 1: Development Data**

Control	Proposal
Minimum lot size	All proposed lots comply.
Koala Plan of Management	The Area 13 Koala Plan of Management applies to the site.



Voluntary Planning Agreements	The First Deed of Variation to Sovereign Hills Estate Planning Agreement and the Area 13 Environmental Land Management Planning Agreement apply to the site.

## 2.2 Background

A pre-lodgement meeting was held on 14 February 2023 with Council staff. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Koala Plan of Management consistency. The application has demonstrated consistency with the approved Koala Plan of Management.
- Ecological impacts - A Biodiversity Development Assessment Report has been submitted with the application, which confirms that the proposal will not have any significant ecological impacts.
- Traffic impact assessment - An adequate traffic impact assessment has been submitted with the application.
- Bushfire - An adequate bushfire assessment report has been submitted within the application and referred to the NSW Rural Fire Service.
- Flooding - An adequate Flood Impact and Risk Assessment has been submitted with the application.
- Road Traffic Noise impacts - An adequate road traffic noise impact assessment has been submitted with the application.

The development application was lodged on 11 November 2024. A chronology of the development application since lodgement is outlined below including the Panel's involvement with the application:

**Table 2: Chronology of the DA**

Date	Event
28 November 2024 to 17 January 2025	Exhibition of the application.
26 November 2024	DA referred to relevant Council subject matter experts and to external agencies - NSW RFS, Department of Planning and Environment - Water, Transgrid and Essential Energy.
28 November 2024	Essential Energy comments received.
5 December 2024	Additional information request - BDAR certification.
10 January 2025	NSW RFS Bushfire Safety Authority conditions received.

14 January 2025	Additional information request - Ecology and preliminary Vegetation Management Plan.
15 January 2025	General Terms of Approval (GTAs) received from Department of Planning and Environment - Water.
16 January 2025	Preliminary Vegetation Management Plan (VMP) provided.
11 February 2025	Revised BDAR and ecological response with amended plans received.
18 February 2025	Panel briefing.
6 March 2025	Additional information request re KPOM consistency.
27 March 2025	Additional information request - stormwater.
1 April 2025	Applicant response to panel briefing questions with revised plans showing retaining wall details.
14 May 2025	Additional information provided re stormwater and KPOM consistency.
15 May 2025	Additional information request to update BDAR, EIS and plans re KPOM consistency.
27 May 2025	Revised BDAR and plans provided.
17 June 2025	Final version of Road Traffic Noise Impact Assessment provided.
18 June 2025	Updated EIS and DCP assessment table provided.
24 June 2025	Draft conditions provided to applicant.
26 June 2025	Comment of draft conditions with minor change.

### 2.3 Site History

- A development consent (DA2021/697) exists that provides for temporary stockpiles and haulage road on the site up until 10 December 2027. These stockpiles are in place.
- A development consent (DA2023/258) exists for filling of a portion of the site. This filling work has commenced.
- A previous development application (DA2023 - 678) was lodged and later withdrawn following case law surrounding coastal wetland mapping and subdivisions being recognised as designated development.
- A development consent (DA2024/932) exists that provides for additional temporary stockpiles up until 18 February 2028.

## 3. STATUTORY CONSIDERATIONS

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and*

*Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Port Macquarie-Hastings Local Environmental Plan 2011*

A summary of the key matters for consideration arising from these environmental planning instruments are outlined in **Table 3** and considered in more detail below. Jurisdictional prerequisites to the grant of consent are shown in bold.

**Table 3: Summary of Applicable Environmental Planning Instruments**



EPI	Matters for Consideration (Brief summary)	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 4: Koala Habitat Protection 2021 Clause 4.8 consistency with approved Area 13 Koala Plan of Management	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 8 of Schedule 6.	Y
State Environmental Planning Policy (Primary Production) 2021	Chapter 2: Primary Production and rural development Division 4 - Consideration of effects of proposed development on oyster aquaculture.	Y
SEPP (Resilience & Hazards)	Chapter 2: Coastal Management <ul style="list-style-type: none"> <li>• Section 2.7(1)(d) - The application has been lodged as designated development due to the uncertainty surrounding whether subdivision not dividing mapped coastal wetlands is triggered or not.</li> <li>• Section 2.8(1) - Development on land in proximity to coastal wetlands.</li> </ul> Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>• Section 4.6 - Potential contamination and remediation has been considered.</li> </ul>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions.</li> <li>• Section 2.120 Impact of road noise or vibration on non-road development</li> <li>• Section 2.122 - Traffic-generating development (proposal is not of a scale that triggers traffic generating development and is located over 90m from Gordon Street/classified road).</li> </ul>	Y
Proposed Instruments	No compliance issues identified.	Y
Port Macquarie-Hastings Local Environmental Plan 2011	<ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 2.6 - Subdivision</li> <li>• Clause 4.1 - Minimum subdivision lot size</li> <li>• Clause 5.10 - Aboriginal heritage conservation</li> <li>• Clause 5.21 - Flood planning</li> <li>• Clause 6.1 - Satisfactory arrangements certification for State infrastructure</li> <li>• Clause 6.2 - Arrangements for public infrastructure</li> <li>• Clause 6.3 - Development control plan in place</li> <li>• Clause 7.1 - Acid sulfate soils</li> <li>• Clause 7.2 - Earthworks</li> </ul>	Y

	<ul style="list-style-type: none"> <li>• Clause 7.5 - Koala habitat map</li> <li>• Clause 7.9 - Acoustic controls map</li> <li>• Clause 7.13 - Essential services</li> </ul>	
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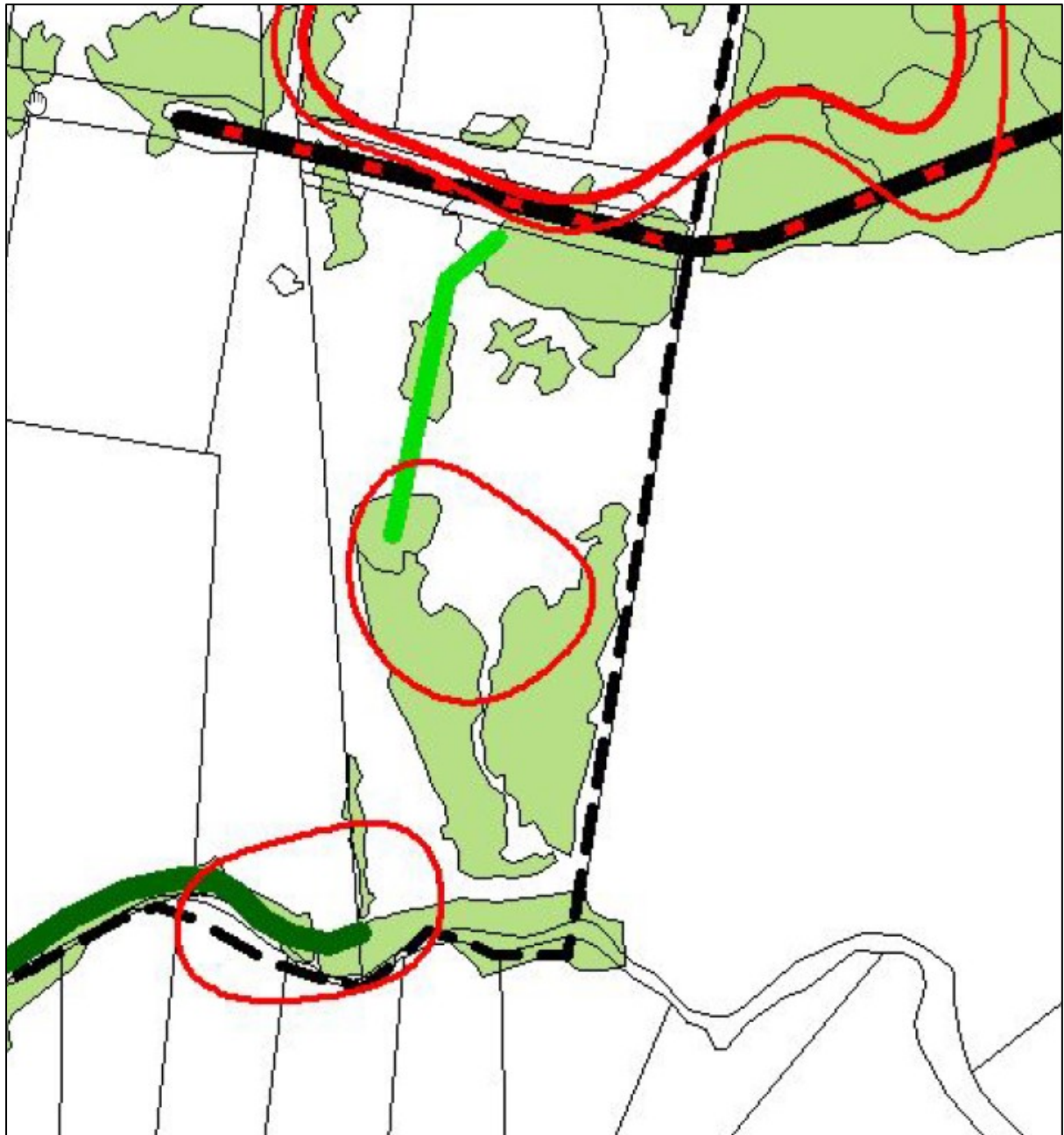
Consideration of the relevant SEPPs is outlined below.

***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

**Chapter 4: Koala Habitat Protection 2021**

Chapter 4 applies to the proposal and aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The land is subject to the Area 13 Koala Plan of Management (KPoM). Figure 4 below which has been extracted from Figure 6 - Material working provision of the KPoM identifies the mapped potential koala habitat, medium core koala habitat and habitat linkage on the site.





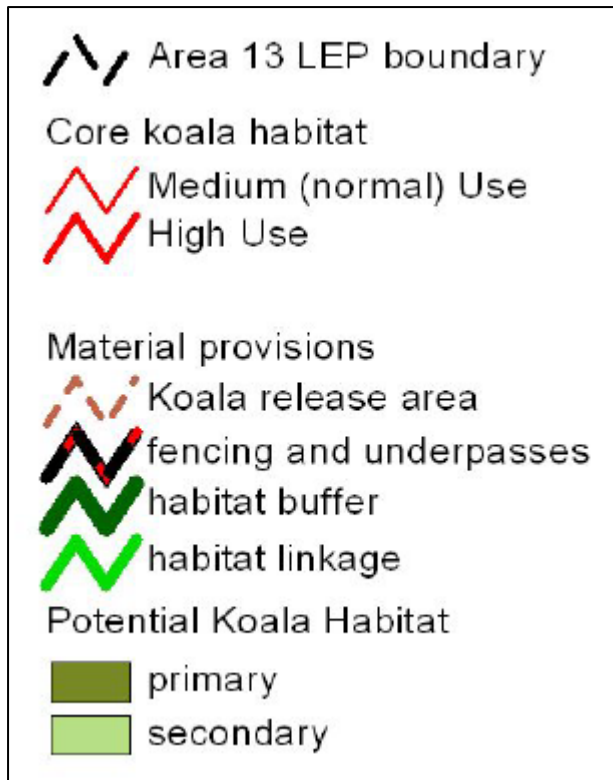
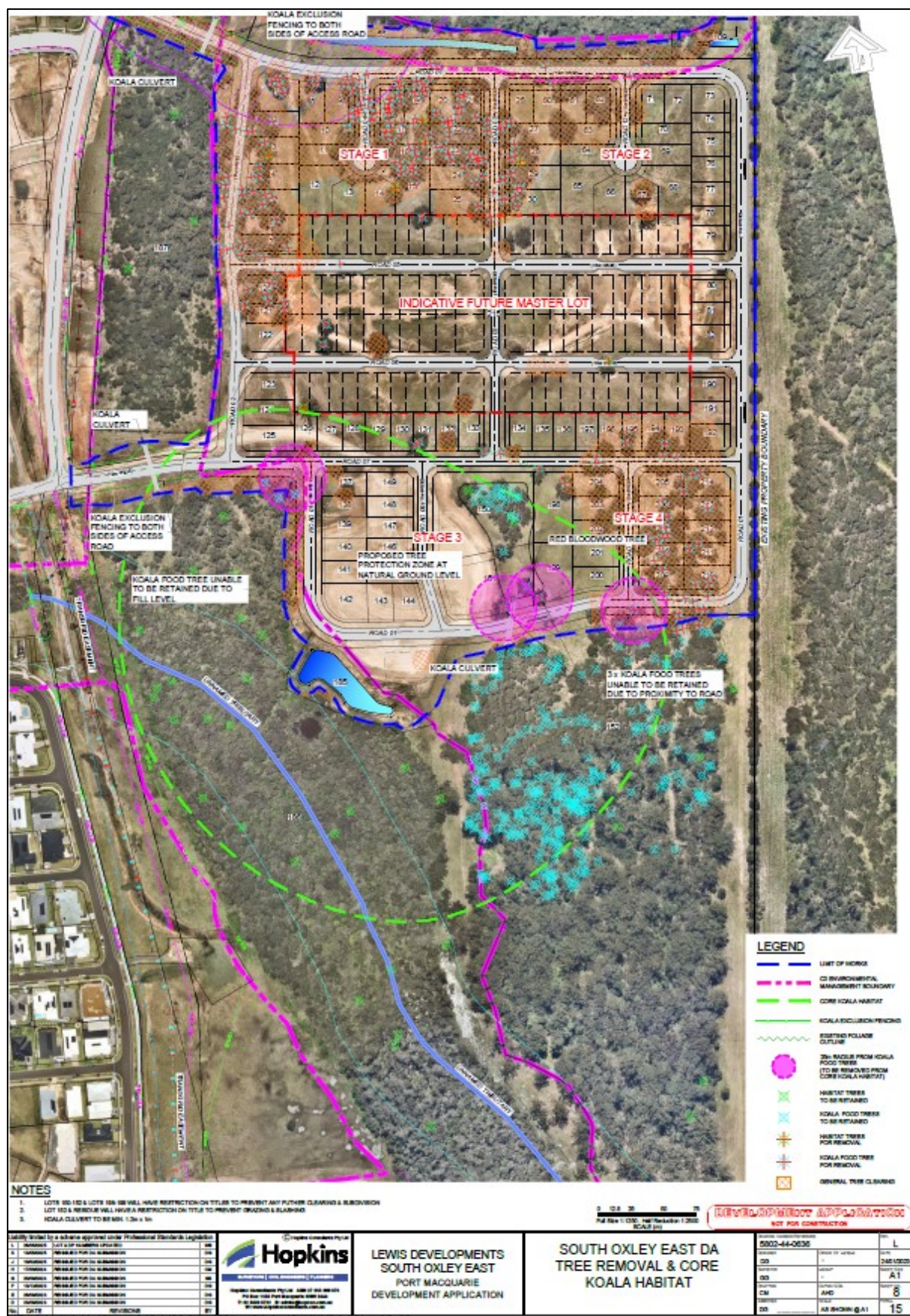


Figure 4 - Extract from KPoM showing mapped koala habitat and habitat linkage.

Potential Koala habitat is mapped and located within the site. The proposed development includes the removal of 238 koala food trees in the identified potential Koala habitat within the central portion of the site. Two areas of core Koala habitat (medium use) are mapped on the site. No development is proposed within the mapped core Koala habitat area (medium use) located within the southwest portion of the site. The proposed development includes the removal of 5 koala food trees within the centrally mapped core Koala habitat area (medium use). Figure 5 below illustrates the extent of vegetation and tree removal proposed. The green polygon represents the mapped core Koala habitat (medium use) area.



Attachment B provides a detailed assessment against the working provisions/measures of the Area 13 Koala Plan of Management.

The proposed subdivision layout and road locations have been reduced from that originally presented to Council. The proposed development was ultimately chosen to avoid and minimise the impact upon Koala food trees. Specifically, the southern portion of the site which is zoned residential and contains significant vegetation including koala food trees has been avoided.

The E2 and E3 zoned land is to be dedicated to Port Macquarie Hastings Council as public land in accordance with the Voluntary Planning Agreement and with the implementation of the proposed mitigation measures and offset plantings the development is considered to be consistent with the Koala Plan of Management. Consent conditions have been recommended to ensure the recommendations of the Biodiversity Development Assessment Report (BDAR) and requirements of the KPoM are undertaken.

A preliminary Vegetation Management Plan (VMP) supports the application which details offset planting locations, fauna fencing and Koala culverts. Figure 6 below is an extract from the VMP showing the location of proposed compensatory Koala food trees.



## Appendix A. Offset KFT Planting Plan

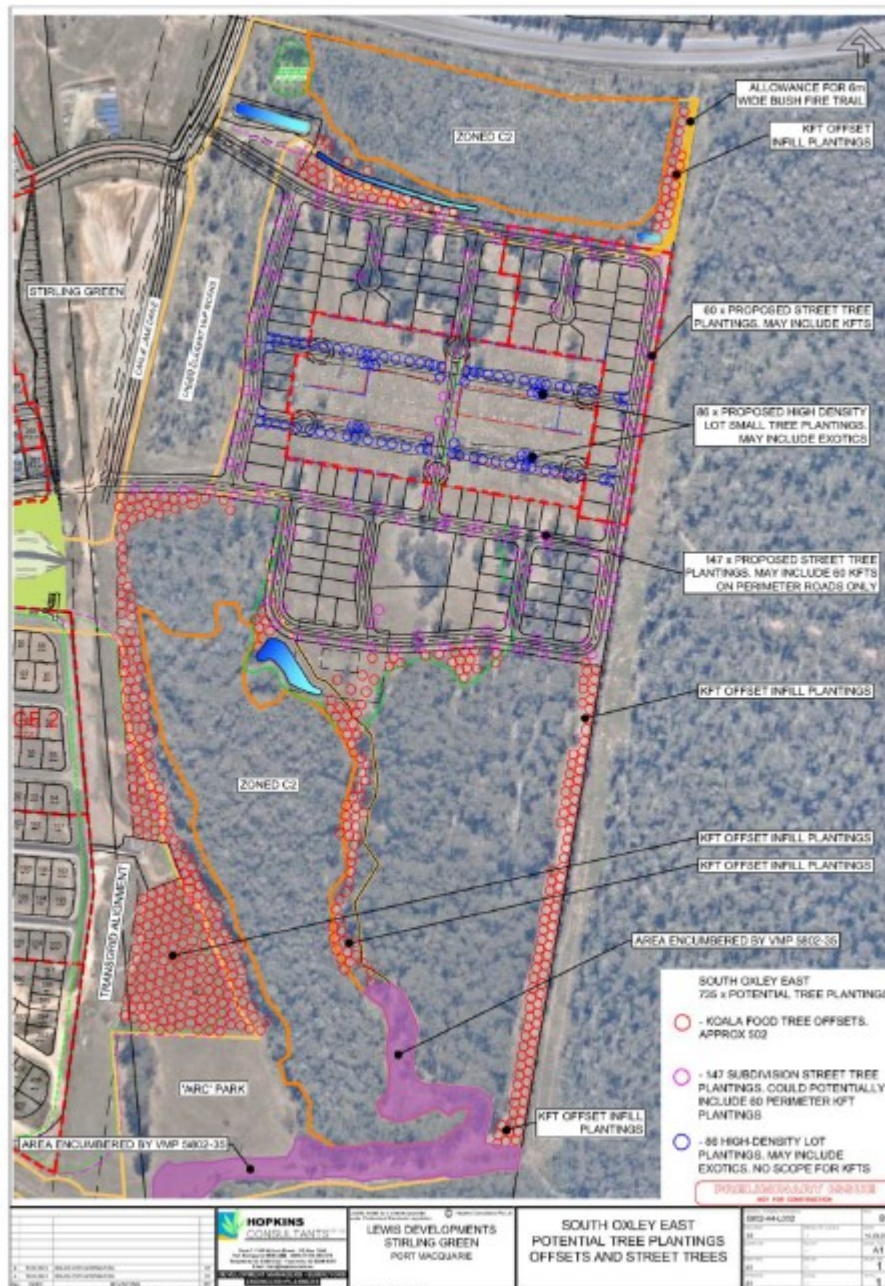


Figure 6 - Extract from VMP with proposed compensatory plantings.

### State Environmental Planning Policy (Planning Systems) 2021

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 8(b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* declares the proposal regionally significant development as the proposal is for coastal subdivision for more than 100 lots wholly or partly in a sensitive coastal location (i.e. partly within mapped proximity area to coastal wetland). Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.



## ***State Environmental Planning Policy (Primary Production) 2021***

### Chapter 2 Primary production and rural development

Pursuant to clause 2.27 and having regard to the location and nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing priority oyster aquaculture areas.

## ***State Environmental Planning Policy (Resilience and Hazards) 2021***

### Chapter 2: Coastal Management

Clause 2.7 - Development on certain land within coastal wetlands and littoral rainforest area.

The northwestern corner of the site contains mapped coastal wetland. See figure 7 below showing the location and extent of mapped coastal wetland on the site. The heavy blue is the mapped wetland and hatched blue the proximity area surrounding the wetland.



Figure 7 - Location and extent of mapped coastal wetlands.

Figure 8 below is extracted from the plans which shows the location and proximity of the mapped wetland to the development. The heavy purple is the mapped wetland and hatched purple the proximity area from coastal wetland.

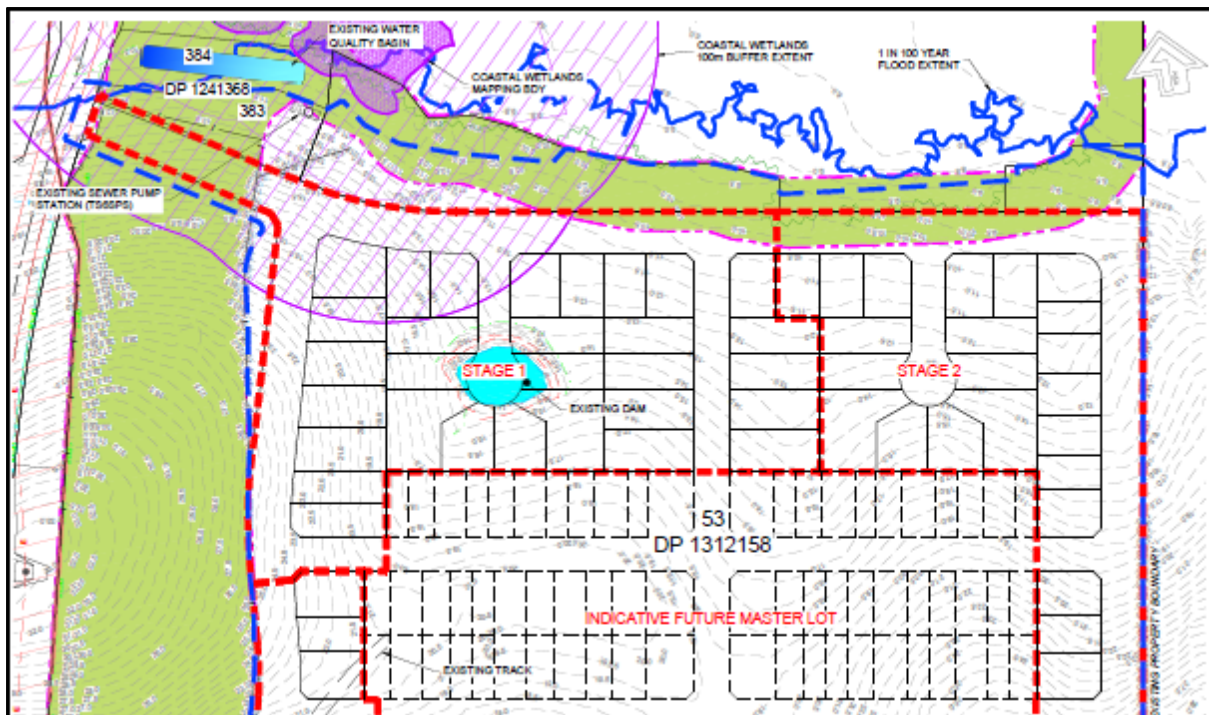


Figure 8 - Mapped coastal wetland and development footprint.

No subdivision or physical work is proposed in the mapped coastal wetland and previous interpretations of clause 2.7(1)(d) would have suggested that the proposal is not recognised as designated development. However, there has been some recent case law to suggest otherwise when subdivision is involved and casts doubt over this interpretation. To avoid any uncertainty surrounding this matter, the application has been lodged as designated development under 2.7(2) and is accompanied by an Environmental Impact Statement (EIS).

In accordance with clause 2.7(4) a consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

The proposed development has considered the impacts to adjacent coastal wetlands in section 12.2. of the BDAR which indicates there is unlikely to be any substantial hydrological changes that would affect the integrity of the wetland and that is primarily because of the strategic placement of the northwestern stormwater basin between the development and the mapped wetland. The basin is 9m from the coastal wetland and will collect and treat runoff and stormwater from the development prior to release into the coastal wetland. Offset plantings are also proposed between the basin and the wetland. Council's ecologist has reviewed this information and concurs with the findings.

It is considered that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland

Clause 2.8 - Development on land in proximity to coastal wetlands or littoral rainforest

The northwestern corner of the site as illustrated in figures 8 and 9 are mapped as proximity area to coastal wetlands. Development is proposed within the proximity area which include

the northern entry road, northwestern stormwater detention basin and outlets, removal of 24 trees, part of the perimeter roads, lots 1 and 8 entirely and part of lots 2, 9, 10 and 18.

Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

The proposed development has considered the impacts upon adjacent coastal wetlands in section 12.2 of the BDAR which indicates that no substantial changes are likely to occur and that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland and that the quality and quantity of surface and ground water flows to and from the adjacent coastal wetland will not be significantly impacted.

#### Chapter 4: Remediation of Land

The provisions of Chapter 4 have been considered in the assessment of the development application. Section 4.6 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The site is not identified on Council’s contaminated land mapping and a preliminary investigation at zoning stage did not identify any contamination on the site. The site has since been used for low-intensity cattle grazing and storage of soil in the form of temporary stockpiles. The applicant has indicated that the stockpiled soil is material obtained from adjoining subdivision developments and consists of natural soils. There is no reason to suspect the soil is contaminated however if the stockpiled soil is intended to be used it is recommended that it be tested to confirm suitability for residential use.

Subject to the implementation of the recommendation consent conditions the land is considered to be suitable for the proposed residential use.

#### ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

The development is in proximity to electricity infrastructure and has been referred to Essential Energy in accordance with Clause 2.48. The electricity authorities provided the below advice:

*“Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.*

*Essential Energy makes the following general comments:*

- 1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.*



2. *Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.*
3. *As part of the subdivision, an easement is created for any existing electrical infrastructure (located within the property or adjoining the property as required). The easement is to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).*
4. *Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.*
5. *In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.*
6. *Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).*
7. *Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets."*

As per the above, Essential Energy have no specific safety concerns regarding the development but have provided some general advice. The advice received from Essential Energy has been forwarded the applicant for consideration.

Clause 2.120 - Impact of road noise or vibration on non-road development. This clause applies to residential accommodation that is on land in or adjacent to a freeway, tollway or transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary.

If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The site adjoins the Oxley Highway, and the application is supported by a road traffic noise impact assessment that considers the Development Near Rail Corridors and Busy Roads - Interim Guideline 2008 issued by the Department of Planning. The report recommends that category 1 and 2 building construction measures be implemented on specific lots to ensure the above noise criteria are achieved. A consent condition is recommended requiring a title restriction be applied to the nominated lots advising of the building construction categories required.

The development does not trigger any of the traffic generating development thresholds of Clause 2.122. Referral to the NSW Roads and Maritime Services (RMS) is not required.

Division 18 Sewerage systems. Clause 2.126 - Development permitted with or without consent. The proposal is reliant upon clause 2.126(7) which provides development for the purpose of sewage reticulation systems may be carried out with consent on any land as the proposal incorporates a sewer pipe extension that traverses part of the C2 Environmental Conservation zoned land under the Port Macquarie-Hastings Local Environmental Plan.

Division 20 Stormwater management systems. Clause 2.138 - Development permitted with consent. The proposal is reliant upon clause 2.138 which provides that development for the purpose of a stormwater management system may be carried out by any person with consent on any land as the proposed stormwater detention basins are located within the C3 Environmental Management zoned land under the Port Macquarie-Hastings Local Environmental Plan.

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

The relevant local environmental plan applying to the site is the *Port Macquarie-Hastings Local Environmental Plan 2011* ('the LEP'). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to protect, conserve and sustainably manage the ecological biodiversity and natural environment of the Port Macquarie-Hastings area,*
- (b) to facilitate a strong and diverse local economy within the Port Macquarie-Hastings area,*
- (c) to manage and coordinate the orderly, equitable and economic use and development of land within the Port Macquarie-Hastings area,*
- (d) to facilitate the provision and coordination of community services and facilities within the Port Macquarie-Hastings area,*
- (e) to facilitate adaptive planning for natural hazards and risks, including flooding, erosion, inundation, land stability, bush fire risk and acid sulfate soils within the Port Macquarie-Hastings area,*
- (f) to reinforce the role of the Port Macquarie-Hastings area's settlement hierarchy, centred on Port Macquarie and supported by its surrounding towns and villages,*
- (g) to ensure the effective management of public assets within the Port Macquarie-Hastings area,*
- (h) to provide a land use framework for development within the Port Macquarie-Hastings area that is safe, inclusive and equitable, and caters for the housing, employment, entertainment, cultural, welfare and recreational needs of residents and visitors,*

- (i) to ensure that development does not conflict with the hierarchy of business and retail centres in the Port Macquarie-Hastings area and the role of the Greater Port Macquarie Central Business District as the focal point for subregional functions and service delivery,*
- (j) to identify and protect features of environmental, cultural or visual importance within the Port Macquarie-Hastings area,*
- (k) to ensure that new urban development makes a positive contribution to the public domain and streetscape,*
- (l) to facilitate efficient use of urban land and infrastructure by appropriate staging of development and ensuring appropriate density of development,*
- (m) to provide effective and efficient connectivity and movement corridors within and between subdivisions.*

The proposal is consistent with these aims for the following reasons:

- The development will not result in a significant adverse impact on the ecological biodiversity and natural environment.
- The proposal appropriately responds to the natural hazards applicable to the site.
- The proposal will facilitate release of residential land and infrastructure at an appropriate density to provide for future housing opportunity.
- The proposal provides for effective connection and corridors between the adjoining subdivision.

#### *Zoning and Permissibility (Part 2)*

The site is zoned R1 General Residential, C2 Environmental Conservation and C3 Environmental Management pursuant to Clause 2.2 of the LEP.



Figure 9 - Zoning Map

The objectives of the R1 General Residential include the following (pursuant to the Land Use Table in Clause 2.3):

- 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 proposal is considered to be consistent with these zone objectives for the following reason:

- The development will provide for housing needs of the community and platform for variety of housing types and densities.

The objectives of the C2 Environmental Conservation zone include the following (pursuant to the Land Use Table in Clause 2.3):

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect coastal wetlands and littoral rainforests.
- To protect land affected by coastal processes and environmentally sensitive land.
- To prevent development that adversely affects, or would be adversely affected by, coastal processes.



- To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, scientific, cultural or aesthetic values.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The development footprint is primarily located outside the E2 zone. However, a sewer pipe is proposed via under bore to traverse the E2 zone which will be at a depth that will not impact any vegetation. The sewer pipeline is permissible with consent via the overriding provisions of SEPP (Transport and Infrastructure) 2021.
- The development will enhance and protect the area of the site containing high ecological value and coastal wetland.
- The E2 and E3 zoned portions of the site will be dedicated to Council as envisaged in the Voluntary Panning Agreement.

The objectives of the C3 zone include the following (pursuant to the Land Use Table in Clause 2.3):

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

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The main footprint of the development is located outside the E3 zone' however parts of the lead in and perimeter roads, stormwater basins and sewer pipeline extension intrude which will have no adverse effect on the ecological values. Roads are permissible with consent in the C3 zone. The stormwater basins and sewer pipeline are permissible with consent via the overriding provisions of SEPP (Transport and Infrastructure) 2021.
- The development will manage and protect areas of the site containing special ecological value.
- The E2 and E3 zoned portions of the site will be dedicated to Council as envisaged in the Voluntary Panning Agreement.

#### *Clause 2.6 - Subdivision - Consent requirements*

2.6(1) provides that land to which this plan applies may be subdivided, but only with development consent. Development consent is sought under this application.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

**Table 4: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (Cl 4.1)	<p>450m<sup>2</sup> for R1 zone portion</p> <p>40 hectares for C2 and C3 zone portions</p>	<p>All proposed lots within the residential zoned portion 450m<sup>2</sup> or greater in area.</p> <p>The residue lot containing the C2 and C3 zoned portions is 26.04 hectares in area.</p>	<p>Yes</p> <p>Refer to below</p>
Minimum subdivision lot sizes for certain split zones (Cl 4.1B)	<p>Despite clause 4.1 an original lot that contains land in a residential zone and C2 and C3 zones may be subdivided if one of the resulting lots contains land in a residential zone that has an area that is not less than the minimum lot size shown in the lot size map and all the land in the C2 and C3 zones and all other resulting lots meet the lot size provision.</p>	<p>The proposed residue lot has an area of 26.04 hectares and contains split zones. In accordance with clause 4.1B it will contain all C2 and C3 zoned land and a R1 portion in the south-western part comprising &gt;450m<sup>2</sup> in area. All other lots meet the lot size provision.</p>	<p>Yes</p>
Heritage conservation (Cl5.10)	<p>Consent required for subdivision of land on which an Aboriginal place of heritage significance is located. Consider the effect of the proposed development on the heritage significance of the place.</p>	<p>Development consent is sought for the subdivision.</p> <p>The aboriginal place of heritage significance is item AH01 - Karikeree 1 Thrumster Conservation Area which has been appropriately identified and zoned C3 at the zoning stage. This area is located approximately 360m from the development and in the southwestern portion of the site. No development is proposed in this area and there will be no impact on the heritage significance of this area. The area was recently converted to an Archaeological Park in consultation with the local Aboriginal community under an adjoining</p>	<p>Yes</p>

		<p>residential subdivision to recognise the Aboriginal heritage significance of the site.</p> <p>An Aboriginal Heritage Information Management System (AHIMS) search supports the application which revealed 10 Aboriginal sites recorded in or near the site. 3 of the sites are located in the development footprint. A copy of the Aboriginal Heritage Assessment prepared by Archaeologist Jacqueline Collins dated September 2005 for the land rezoning supports the application. The report identifies these 3 items as being previously destroyed by land clearing.</p> <p>The development is not expected to impact on any Aboriginal items. However, a consent condition has been recommended advising works cease immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974 if unexpected Aboriginal objects are exposed or discovered.</p>	
Flood Planning (CI5.21)	<p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:</p> <p>(a) is compatible with the flood function and</p>	<p>The following comments are provided from Council's specialist flood officer which incorporate consideration of the objectives of Clause 5.21, Council's Flood Policy 2018, the NSW Government's Considering Flooding in Land Use Planning Guideline 2021 and the NSW Government's Floodplain</p>	Yes

	<p>behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p>	<p>Development Manual (2005):</p> <ul style="list-style-type: none"> <li>• The proposal is sufficiently compatible with the flood function and behaviour on the land;</li> <li>• The proposal will not result in any significant adverse effects on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;</li> <li>• The proposal will not result in any adverse effects on the safe occupation and efficient evacuation of people along existing evacuation routes for the surrounding area;</li> <li>• The proposal incorporates sufficient measures to minimise and manage the flood risk to life and property associated with the use of land;</li> <li>• 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;</li> <li>• The proposal is not likely to result in unsustainable social and economic costs to the community as a</li> </ul>	
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	<p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>consequence of flooding;</p> <ul style="list-style-type: none"> <li>• The proposal will not result in any identifiable adverse impacts to flood behaviour as a result of projected climate change;</li> <li>• Appropriate consent conditions are recommended including recommended minimum finished road and lot levels having regard to Council's Flood Policy.</li> </ul>	
Satisfactory arrangements for State infrastructure in Urban Release Area (CI 6.1)	Development consent must not be granted for subdivision of land in an Urban Release Area unless the Director-General has certified that satisfactory arrangements have been made to contribute to the provision of designated state public infrastructure.	There is a state infrastructure VPA in place for Sovereign Hills which includes this site and a copy of the Satisfactory Arrangement Certification (SAC) has been provided from the Director-General for the proposed subdivision development.	Yes
Public utility infrastructure in Urban Release Area (CI 6.2)	Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.	Adequate arrangements are proposed and required for provisioning of the necessary public utility infrastructure to serve the development. Consent conditions have been recommended to re-enforce these arrangements and requirements.	Yes

Development control plan in Urban Release Area (CI 6.3)	Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.	A development control plan has been developed for the land.	Yes
Acid sulfate soils (CI 7.1)	Ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Class 3 and 5 acid sulfate soils are mapped onsite. No development is proposed in the class 3 areas and with regard to the class 5 area, no work below 5 metres AHD by which the water table is likely to be lowered is proposed. A geotechnical report also supports the application confirming no acid sulfate soil management is considered necessary.	Yes
Earthworks (CI 7.2)	<p>Before granting development consent for earthworks, the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and</p>	<p>Earthworks in the form of cut to 2.5m and fill up to 3m is proposed. Batters are proposed on road verges and retaining walls on lot boundaries to facilitate future residential development.</p> <p>In relation to the earthworks proposed:</p> <ul style="list-style-type: none"> <li>the application has demonstrated that the works will not lead to any adverse impact 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;</li> <li>the works will not adversely affect but rather facilitate future landuses on the site;</li> </ul>	Yes

	<p>likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p>	<ul style="list-style-type: none"> <li>the existing soil quality and structure will not present a constraint to the construction of the proposal on the site;</li> <li>Any fill to be imported or used shall be certified clean fill;</li> <li>the likely change in levels associated with the proposed development will not have an adverse effect on the amenity of adjoining/adjacent properties to the site;</li> <li>the proposal will not impact on any known items of aboriginal or other cultural significance;</li> <li>appropriate conditions of consent are proposed to manage the impact of the works.</li> </ul>	
Koala Habitat Map (CI 7.5)	Consistent with approved Koala Plan of Management	Application has demonstrated consistency with the approved Area 13 Koala Plan of Management. Refer to detailed assessment table attached to this report. Conditions have been recommended to ensure requirements of the KPoM are implemented (i.e. Koala culverts, fauna fencing, traffic calming measures, educational awareness/signage).	Yes
Airspace operations (CI 7.7)	If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant	The proposed development will not penetrate the Limitation or Operations Surface. However, a consent condition has been recommended advising that a controlled activity approval may be required from the airport operator for any cranes intended to be used during construction that may penetrate the OLS.	Yes

	Commonwealth body about the application.		
Acoustic Controls Map (CI 7.9)	Road traffic noise levels meet acceptable levels for the development	Application has demonstrated that future occupants will not be subject to excessive road traffic noise subject to building construction categories being implemented on specific lots. Conditions have been recommended requiring a title restriction on these lots.	Yes
Essential services (CI 7.13)	Essential infrastructure to be provided to development	Essential services existing or proposed to be provided as detailed in the recommended conditions.	Yes

The proposal is considered to be generally consistent with the LEP.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments applicable to the proposal.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- *Port Macquarie-Hastings Development Control Plan 2013* ('the DCP')

The key controls are discussed below and a full assessment table is included in **Attachment B**.

- Part B - General Provisions
- Part C - Development Specific Provisions - C5 - Subdivision
- Part D - Locality Specific Provisions - D4 Thrumster - South Oxley

*Environmental Management Areas and Buffers (Objective 7)*

A Biodiversity Development Assessment Report (BDAR) prepared by Wolfpeak and dated 26 May 2025, which addresses the relevant provisions of the Biodiversity Conservation Act 2016 accompanies the application.

The report identifies 2 EECs partly impacted by the proposed development. The report recommends impacts from the development be mitigated by offset through the retirement of ecosystem and species credits.

In addition to the fulfilment of the credit obligations the report recommends a number of mitigation measures. Some key measures include:

- Vegetation clearing only occur outside breeding seasons of threatened species.



- Preclearing surveys by qualified ecologist.
- Vegetation clearing, hollow bearing tree removal and dam dewatering supervision by qualified ecologist.
- Permanent flora protection fencing around Threatened flora species.
- Retention of Koala food trees in core koala habitat within proposed lots 150 and 151.
- Installation of permanent fauna fencing in select areas to avoid road strike.
- Incorporation of traffic calming measures on all roads to reduce risk of road strike.
- Incorporation of Koala underpasses for both lead in roads that traverse the habitat linkage.
- Protection of the retained vegetation in proposed lot 152 via title restriction.
- Installation of educational and warning signage re protected vegetation and Koalas.
- Hollow bearing tree removal compensation in the form of nest boxes to be installed under ecologist supervision within retained and enhanced habitat.
- Compensatory koala food tree plantings consistent with KPoM requirements.

It is considered that the subdivision design has satisfactorily avoided and minimised impacts upon these EECs and biodiversity to the extent that no significant adverse impacts will result that would warrant refusal of the application. All mitigation measures form part of the recommended consent conditions outlined in Attachment A.

The C2 and C3 zoned land is to be embellished and dedicated to Council under the Area 13 Environmental Land Management Planning Agreement.

#### *Tree Management (Objective 11 and 13)*

Koala food trees and Hollow Bearing Trees (HBTs) are proposed to be removed for the development. The koala food trees are proposed to be offset at ratios of 2:1 in areas of potential koala habitat and 4:1 in core koala habitat (medium use) areas, which is consistent with ratios required in the Area 13 KPoM.

The removal of HBTs within the development footprint is proposed to be offset by the installation of nest boxes with retained C2 and C3 environmental zoned land.

Compensatory planting and nest box details and maintenance are outlined in the supporting preliminary Vegetation Management Plan.

#### *Bushfire Hazard Management - (Objective 18)*

Part of the Asset Protection Zones (APZs) extend into the C3 Environmental Management zone where part of the road extends into that zone. Roads are permissible within this zone and the South Oxley Area based provision of this plan specify that APZs may extend into C3 zoned land. The area-based provisions prevail with regard to this inconsistency and the parts of the APZ extending into the C3 zone remain consistent with the objectives of this provision.

#### *Urban Structure and Lot Layout - (Objective 139)*

The proposal incorporates 8 battleaxe lots. Having regard to the ecological site constraints the incorporation of the 2 cul-de-sacs and resultant 8 battle axe lots is considered an appropriate response to maximum yield. The battleaxe lots are of sufficient size to accommodate dwellings design as to minimise any noise, privacy and waste management issues.

#### *Minimum dwelling yields - (Objectives 145 and 265)*

The proposed development will achieve a dwelling yield of approximately 5 dwellings per hectare or which is well below the envisaged target of >35 dwellings per hectare or 430 - 460 dwellings in Area 3 within these provisions.

The site fails to achieve the identified target yield due to ecological constraints and compliance with the approved Area 13 KPoM. These provisions have not envisaged these ecological site constraints which have significantly reduced the development potential of the area. The proposed dwelling yield is considered acceptable.

#### *Koala habitat and Fauna Corridors - (Objectives 246 and 259)*

The proposed development is consistent with the KPoM. The E2 and E3 zoned portions of the site is proposed to facilitate compensatory Koala food tree plantings at appropriate centres and is to dedicated to Council under a planning agreement. The identified habitat corridor is provided for with the C3 zone with type 4 Koala crossings proposed consistent with that identified in the plan.

A preliminary VMP supports the application. The BDAR and draft VMP demonstrate how the key requirements of the Area 13 KPoM are to be satisfied. Appropriate title restrictions are to be applied to lots being created in the mapped potential and core koala habitat areas.

#### **(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

The site is subject to the following existing Planning Agreements:

- The First Deed of Variation to Sovereign Hills Estate Planning Agreement
- The Area 13 Environmental Land Management Planning Agreement

The Planning Agreements includes the following key provisions relevant to the proposed development:

- Identify development contributions payable toward community, cultural, emergency services, open space, roads and administration in connection with the carrying out of the development in accordance with the Sovereign Hills Estate Planning Agreement.
- Identify establishment and management obligations and contributions payable for the environmental land (i.e. C2 Environmental Protection and C3 Environmental Management zoned land).
- Require dedication of all C2 Environmental Protection and C3 Environmental Management zoned land to Port Macquarie-Hastings Council.

An estimate of development contributions payable is provided as Attachment F to this report.

#### **(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

No additional matters prescribed by the regulations apply.

### **3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and Setting** - The site is vacant residential and environmental zoned land and has undulating topography with a ridge connecting the two western and eastern high points in the northern portion of the site. In the northern portion the land slopes away to the north towards the Oxley Highway and the southern portion it slopes away to the south towards Karikee Creek. The site comprises established stands of native vegetation primarily in the northern and southern extents. The site is located approximately 800m from the Thrumster Town Centre to the north and approximately 350m to a small portion of local centre zoned land in the established residential subdivision adjoining to the west of the site.

The proposed development is considered an appropriate response to the site's ecological constraints and will fit into the local context and character envisaged for the area and will not significantly impact surrounding land uses.

- **Access and traffic** -

A traffic impact assessment undertaken by Positive Traffic and dated September 2023 supports the application, in which the surrounding road network was assessed as being adequate to accommodate the likely additional traffic generation associated with this development. The report demonstrated that the existing intersections surrounding the development would continue to operate at the same levels of service that currently occurs, and into the future following full development of the Thrumster area. These include the key intersections serving the development of Oxley Highway / John Oxley Drive and John Oxley Drive / Carlie Jane Drive.

The development is proposing new public road connections onto Carlie Jane Drive, via the creation of two new intersections. The development consists of 8 new Local Streets (Roads 1, 2, 3, 5, 6, 7, 9 and 10) and 2 new Access Places (Roads 4 and 12), all of which consent conditions have been recommended to meet Auspec Geometric Road Design and Bushfire standards. In accordance with the Geometric Road Design standards, the carriageway width of each Access Place and Local Road is a minimum 7m wide, within a 15m wide road reserve. SE (layback) kerb and gutter is proposed along all road frontages, except for the western side of Road 2, where SA (up-right) kerb and gutter will be installed. The proposed internal road network complies with the minimum requirements of the Port Macquarie-Hastings Development Control Plan 2013 and is reflective of road cross sections approved within other residential subdivisions within North and South Oxley precincts.

Each residential lot will have sufficient frontage to allow for an individual driveway. To encourage pedestrian access, foot paving is proposed along one side of each Local Road and Access Place. This new foot paving will connect onto the existing footpath and cycleway network within the Thrumster area adjoining to the west. The site is also served by existing indented northbound and southbound bus bays adjacent to the northern frontage of Carlie Jane Drive. Access shall comply with Council AUSPEC and Australian Standards, and conditions have been recommended to reflect these requirements.

Residential development of the site has been envisaged under the adopted planning controls and the new intersections on Carlie Jane Drive will be designed in accordance

with Auspec and Austroads standards and conditions have been recommended to reflect these requirements.

- **Public Domain** - The development proposes construction of a public road network and pedestrian linkages to the adjoining residential development to the west of the site. Connection to the established park and open space is proposed as envisaged in the provisions of Port Macquarie Hastings Development Control Plan 2013.
- **Water Supply Connection** - The site has access to water supply infrastructure, including recycled water and is capable of being connected to the existing network. Council's Water and Sewer Team have reviewed the proposal and issued a section 306 Notice of Requirements confirming water supply servicing arrangements. Standard conditions of consent have been applied to obtain a section 307 certificate of compliance to ensure compliance with the requirements under the *Water Management Act 2000*.
- **Sewer Connection** - The site has access to sewer infrastructure and is capable of being connected to the existing network. Council's Water and Sewer Team have reviewed the proposal and issued a section 306 Notice of Requirements confirming sewer serving arrangements. Standard conditions of consent have been applied to obtain a section 307 certificate of compliance to ensure compliance with the requirements under the *Water Management Act 2000*.
- **Stormwater** - The development application is supported by a preliminary stormwater management plan which demonstrates conceptually how stormwater is to be managed and disposed of.

The development site naturally grades towards two tributaries located at both northern and southern extents of the lot. The legal point of discharge for the proposed development is defined as on-site disposal via suitably designed water quality and quantity control systems.

Stormwater from the proposed development is planned to be disposed via numerous stormwater detention basins which is consistent with the above requirements.

A detailed site stormwater management plan will be required to be submitted for assessment with the subdivision work certificate application.

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

- On site stormwater detention facilities.
- Water quality controls .
- Provision of inter-allotment drainage to allow the proposed development to drain to the nominated point of discharge via a single suitably sized conduit.
- Koala crossing culverts proposed at proposed lot 151 will require a maintenance covenant be imposed to ensure the culvert remains free from blockage to allow for site surface runoff from proposed lots 150 and 151.
- Confirm on detailed stormwater plans how all proposed stormwater basins will be accessible for typical Council maintenance plant / vehicles with all access tracks fully contained within drainage and/or road reserve.
- Provide detailed plans for proposed concrete lined cut-off drains and inlet capture devices along eastern boundary of proposed lot 187.

- Confirm that existing stormwater infrastructure including end of line basin has capacity (regarding quantity and quality) to accept stormwater runoff from road 01 extension off Carlie Jane Drive.

Appropriate consent conditions are recommended in this regard.

- **Utilities** – Telecommunication and electricity services are available to the site. Evidence of satisfactory arrangements with the relevant utility authorities for provision of services to the development will be required prior to works commencing.
- **Heritage** – Refer to comments under clause 5.10 of the Port Macquarie-Hastings Local Environmental Plan 2011 within this report. No adverse impacts are anticipated however as a precaution, a condition of consent has been recommended that works are to cease in the unexpected event items are found. Works can only recommence when appropriate approvals are obtained for management and/or removal of the item.
- **Other land resources** – The proposed development is located within residential zoned land envisaged for future urban development and will not sterilise any significant mineral or agricultural resource.
- **Water Cycle** - The proposed development will not have any significant adverse impacts on water resources and the water cycle.
- **Soils** - The proposed development will not have any significant adverse impacts on soils in terms of quality, erosion, stability and/or productivity. A consent condition has been recommended requiring a detailed soil and water management plan be approved before commencement of any clearing or earthworks. Subject to the implementation of this plan (including erosion and sediment control measures) prior to and during construction no adverse impact are anticipated.
- **Air and Microclimate** - The construction and operation of the proposed development will not result in any significant adverse impacts on the existing air quality or result in any pollution. Standard precautionary site and dust management condition recommended.
- **Flora and Fauna impacts** - The proposed development footprint includes the removal of 8.47 hectares of native vegetation, including land identified on the biodiversity values map. The proposal triggers the Biodiversity Offset Scheme (BOS) under the Biodiversity Conservation Act and a Biodiversity Development Assessment Report (BDAR) is required to accompany the development application.

The application is supported by a BDAR prepared by Wolfpeak, dated 26 May 2025, which addresses the relevant provisions of the Biodiversity Conservation Act 2016.

In addressing the avoidance principle, the BDAR includes a copy of the preliminary development concept layout demonstrating how areas of the site that have been avoided in adoption of the current proposed subdivision layout. An extract of the preliminary concept layout has been extracted from the BDAR and is provided below in figure 10.





Figure 10 - Preliminary subdivision concept layout.

The BDAR summarises the following measures taken to avoid and minimise impacts:

- Reduction in the number of proposed allotments and extent of direct impact.
- Strategic positioning of development site to avoid good quality habitat and retain fauna movement corridor.
- Establishment of sewer connection via under boring instead of trench system.

The report identifies 3 vegetation communities (PCTs) in the development footprint. The report recommends impacts from the development be mitigated by offset through the retirement of ecosystem credits as follows:

- PCT3250 = 130 credits
- PCT3253 = 11 credits
- PCT4004 = 24 credits

The report identifies impacts on 7 threatened species and their habitat from the development. The report recommends the impacts be mitigated by offset through the retirement of species credits as follows:

- Swift Parrot = 156 credits
- Biconvex Paperbark = 14 credits
- Southern Myotis = 118 credits
- Powerful Owl = 186 credits
- Koala = 200 credits
- Native Guava = 235 credits
- Cryptic Forest Twiner = 187 credits

In addition to the fulfilment of the credit obligations above, the report recommends a number of mitigation measures on pages 150 to 164 of the BDAR. The mitigation measures include:

- Vegetation clearing and fill areas marked up onsite prior to any clearing and earthworks commencing to ensure no impacts beyond that assessed.
- Vegetation clearing to only occur outside breeding seasons of identified threatened species.
- Two staged vegetation clearing strategy for habitat trees and general vegetation.
- Preclearing survey by qualified ecologist and specific actions and measures for any identified fauna before clearing commences.
- Vegetation clearing and dam dewatering be supervised by qualified ecologist.
- Hollow-bearing tree removal protocol with qualified ecologist supervision.
- Any tree hollows suitable for salvaged to be relocated within retained vegetated areas under ecologist supervision.
- Hollow logs and log pile removal protocol under ecologist supervision.
- Post clearing fauna management report submitted to Council.
- Permanent flora protection fencing around Threatened flora species in proposed lot 152.
- Implementation and maintenance of sediment and erosion control measures.
- Vegetation of stormwater basins with native reeds and sedges for filtration.
- Entrance and exit points of the sewer under bore to be clear of any tree protection zones of any nearby vegetation and erosion and sediment controls measures adopted.
- Weed control during works.
- Dust suppression during works as necessary.
- Retention of Koala food trees in proposed lots 150 and 151 with restriction on title providing ongoing protection.
- Koala friendly fencing restriction on title of proposed lots 150 and 151 to provide for Koala movement.
- Installation of permanent fauna fencing in select areas to avoid road strike.

- Restriction on title prohibiting keeping of dogs for all lots within the identified core koala habitat area.
- Restriction on title of all proposed lots advising that any future swimming pool incorporate a stout rope at one end to enable Koala to climb out.
- Strategic placement of lighting, directed at the ground and kept to a minimum.
- Incorporation of traffic calming measures on all roads to reduce risk of road strike to the Koala.
- Incorporation of Koala underpasses in accordance with the KPoM and DCP provisions for both lead in roads that traverse the habitat linkage.
- Protection of the retained vegetation in proposed lot 152 via title restriction.
- Removal of cattle from the site.
- Installation of educational and warning signage re protected vegetation and Koalas.
- Community engagement via promotional and educational measures highlighting importance of koala habitat and measures to protect.
- Hollow bearing tree removal compensation in the form of nest boxes to be installed under ecologist supervision within retained and enhanced habitat.
- Compensatory koala food tree plantings consistent with KPoM requirements. Details to be outlined in the Vegetation Management Plan (VMP).
- Consultation with Department of Climate Change, Energy, the Environment and Water (DCCEEW) re the impact upon the Koala as a Matter of National Environmental Significance (MNES).
- Retained vegetation, habitat features, offset plantings, salvaged hollows, weed management be managed under a Vegetation Management Plan (VMP).

These measures have been addressed in the design of the development and a consent condition is recommended advising these measures form part of the consent and be implemented at the respective stages throughout the development.

A preliminary Vegetation Management Plan (VMP) supports the application which details offset planting locations, fauna fencing, Koala culverts, weed management consistent with the above mitigation measures. A consent condition has been recommended requiring the VMP be amended to incorporate some specific changes surrounding expected establishment and maintenance periods.

Subject to the implementation of the recommended mitigation measures outlined in the BDAR, which are recommended to form part of the consent conditions outlined in Attachment A, it is considered that the proposed development has satisfactorily avoided and minimised impacts upon flora and fauna to the extent that no significant adverse impacts will result that would warrant refusal of the application.

- **Waste** – Disposal of cleared vegetation shall be disposed of via mulching and/or approved waste management facility and shall not be burned onsite. A condition is recommended to confirm no burning of felled vegetation occur onsite.
- **Noise and vibration** – The site adjoins the Oxley Highway, and the application is supported by a Road Traffic Noise Impact Assessment prepared by SLR Consulting and dated 27 October 2023 that considers the Development Near Rail Corridors and Busy Roads - Interim Guideline 2008 issued by the Department of Planning. The report recommends that category 1 and 2 building construction measures be implemented on specific lots to ensure the above noise criteria are achieved. A consent condition is

recommended requiring a title restriction be applied to the nominated lots advising of required building construction categories.

Construction noise impacts can be managed by restricting work to the standard construction hours, as recommended in the consent conditions.

- **Bushfire** – The site is mapped as bushfire prone land as per figure below.

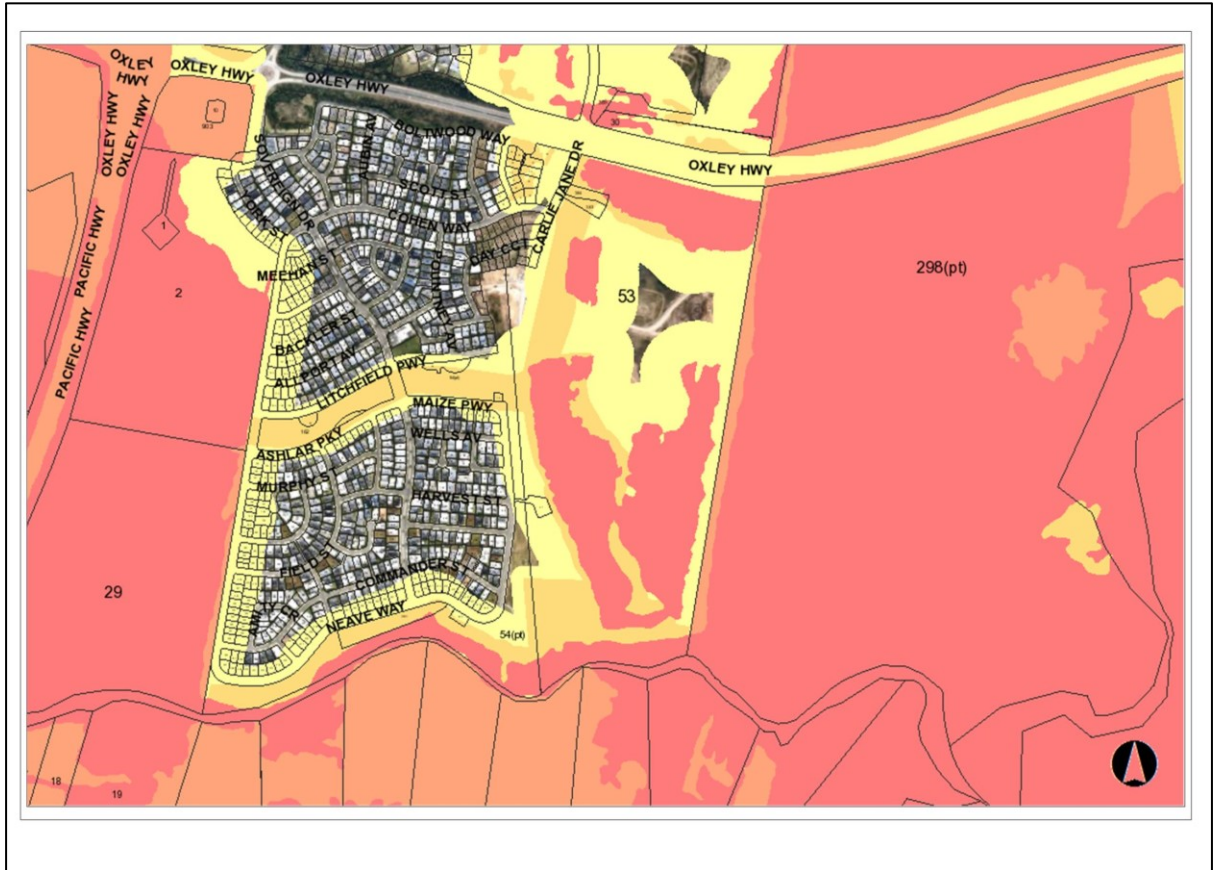


Figure 11 - Bushfire prone land mapping.

The application includes a Bush Fire Assessment Report prepared by Building Certification and Environmental services and dated August 2023. 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. As a result, the application and report was forwarded to the NSW Rural Fire Service who have since issued a Bushfire Safety Authority, which have been incorporated into the recommend consent conditions.

- **Flooding** - A small part of the proposed development footprint is mapped as flood prone land near the south-western stormwater detention basin as illustrated in the below figure. This part of the site is to be filled above flood planning level. A Flood Impact and Risk Assessment Report prepared by Advisian dated 23 October 2023 supports the application.



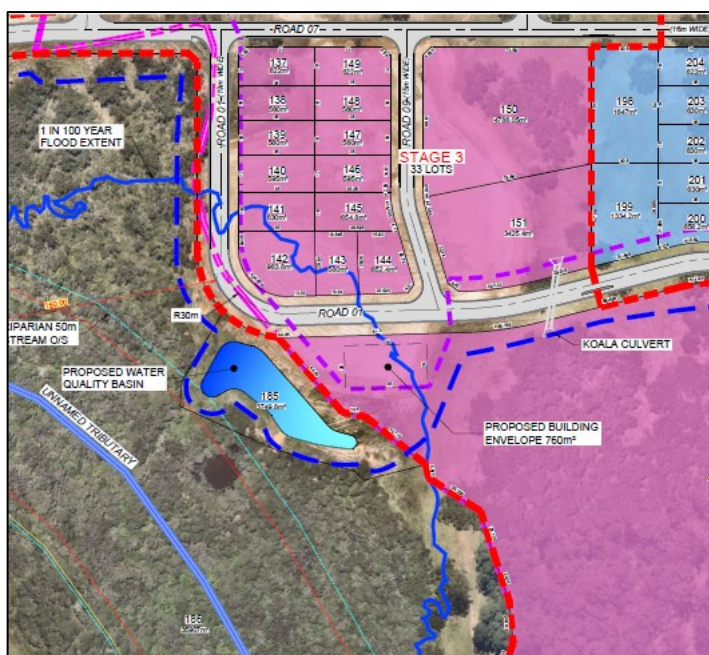


Figure 12 - Part of site subject to flooding extract from plans.

The flood impact and risk assessment has been reviewed by Council's specialist flood officer who gave consideration to the objectives of Clause 5.21 of the LEP, Council's Flood Policy 2018, the NSW Government's Considering Flooding in Land Use Planning Guideline 2021 and the NSW Government's Floodplain Development Manual (2005).

It is considered that:

- The proposal is sufficiently compatible with the flood function and behaviour on the land.
- The proposal will not result in any significant adverse effects on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties.
- The proposal will not result in any adverse effects on the safe occupation and efficient evacuation of people along existing evacuation routes for the surrounding area.
- The proposal incorporates sufficient measures to minimise and 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.
- The proposal will not result in any identifiable adverse impacts to flood behaviour as a result of projected climate change.



Appropriate consent conditions have been recommended including certification of minimum finished road and lot levels having regard to Council's Flood Policy.

- **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.
- **Social impact** – Given the nature of the proposed development and its location the proposal is not considered to have any significant adverse social impacts. The use will provide for further interaction between members of the community.
- **Economic impact** – The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.
- **Site design and internal design** – The proposed development design has had regard to important environmental constraints and satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.
- **Construction** – Construction impacts are considered capable of being managed, standard construction and site management conditions have been recommended.
- **Cumulative impacts** – The proposed development is consistent with the relevant planning controls and is not considered to have any significant adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(c) - Suitability of the site**

The proposal development and subdivision layout is considered to be an appropriate response to the ecological, bushfire and flooding constraints that exist within and around the site. The proposed development will fit into the locality and is consistent with that envisaged in the adopted area-based planning controls for the site.

### **3.4 Section 4.15(1)(d) - Public Submissions**

No public submissions were received during exhibition of the application.

### **3.5 Section 4.15(1)(e) - Public interest**

The proposed development satisfies relevant planning controls and will not have any significant adverse impacts on the wider public interest. The provision of appropriately located housing opportunities is considered to be in the public interest, as is a subdivision design that adequately responds to the relevant constraints affecting the land. These outcomes are considered to have been achieved by the proposal.

## **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.

The principles of ESD require that a balance needs to be struck between the manmade development and the environmental impacts. Based on the assessment provided in the report and with recommended conditions of consent, it is considered an appropriate balance has been struck.

## Climate change

The proposal is not considered to be vulnerable to any risks associated with climate change.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

**Table 5: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
N/A			
<b>Referral/Consultation Agencies</b>			
Essential Energy	Section 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021	No concerns or safety risks identified.	Y
Transgrid	Section 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021	No concerns issues raised subject to meeting conditions when working in and around Transgrid infrastructure. A consent condition has been recommended advising of the requirements when working in around Transgrid infrastructure.	Y

Integrated Development (S 4.46 of the EP&A Act)			
NSW Rural Fire Service	S100B - Rural Fires Act 1997 bush fire safety for subdivision of land that could lawfully be used for residential purposes.	Bushfire safety authority received with number of conditions which form part of the recommended consent conditions.	Y
NSW Department of Planning and Environment - Water	S91 - Water Management Act 2000 works within 40m of natural waterbody.	General Terms of Approval (GTAs) issued which form part of the recommended consent conditions.	Y

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

**Table 6: Consideration of Council Referrals**

Officer	Comments	Resolved
Stormwater engineer	The development application is supported by a preliminary stormwater management plan which demonstrates conceptually how stormwater is to be managed and disposed of. Council staff are satisfied that stormwater can be managed as indicatively suggested. A detailed stormwater management plan is required as part of the subdivision works certificate to provide specific details prior to construction and appropriate conditions are recommended in this regard.	Yes
Development Engineer	The submitted Traffic Impact Assessment has been reviewed by Councils staff and the conclusions and recommendations are considered appropriate for the development. Appropriate consent conditions have been recommended in relation to expected road design standards to ensure they satisfy relevant engineering standards.	Yes
Ecologist	The submitted Biodiversity Development Assessment Report (BDAR) and preliminary Vegetation Management Plan (VMP) have been reviewed by Council staff and the findings and conclusions supported in principle. Appropriate consent conditions have been recommended to ensure the recommended mitigation measures of the BDAR and requirements of the Koloa Plan of Management are implemented. An amended VMP is required and consent conditions recommended it be approved by Council prior to any clearing work commencing.	Yes

Water and Sewer	Water and sewer infrastructure is available and the development is capable of being connected.  Council's Water and Sewer Team have reviewed the proposal and issued a section 306 Notice of Requirements confirming servicing arrangements. Standard conditions of consent have been applied to obtain a section 307 certificate of compliance to ensure compliance with the requirements under the <i>Water Management Act 2000</i> .	Yes
Flooding	The submitted flood impact assessment report has been reviewed by Council's flooding officer and appropriate consent conditions recommended to confirm the finished road and lot levels meet the requirements of Council's flood policy.	Yes
Environmental Health	The submitted road traffic impact assessment has been reviewed by Council's Environmental Health Officer and the findings and conclusions supported in principle. Appropriate consent conditions have been recommended to ensure the mitigation measures are implemented.	Yes
Development Contributions	Development contributions and obligations under the applicable Voluntary Planning Agreements (VPAs) apply. Consent conditions have been recommended requiring payment of development contributions and fulfilment of VPA obligations.	Yes

### 4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 28 November 2024 until 17 January 2025. The notification included the following:

- Notification letters sent to adjoining and adjacent properties; and
- Advertising on the Council's website; and
- Placement of Designated Development sign onsite.

The Council received no submissions during the exhibition period and has received no submissions up until the date of this report.

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Biodiversity Impacts

A Biodiversity Development Assessment Report (BDAR) prepared by Wolfpeak and dated 26 May 2025, which addresses the relevant provisions of the Biodiversity Conservation Act 2016 accompanies the application.

The report identifies 3 vegetation communities (PCTs) and 7 threatened species and their habitat impacted by the proposed development. The report recommends impacts from the development be mitigated by offset through the retirement of ecosystem and species credits.

In addition to the fulfilment of the credit obligations the report recommends a number of mitigation measures. While detailed earlier with the report some key measures include:

- Vegetation clearing only occur outside breeding seasons of threatened species.
- Preclearing surveys by qualified ecologist.
- Vegetation clearing, hollow bearing tree removal and dam dewatering supervision by qualified ecologist.
- Permanent flora protection fencing around Threatened flora species.
- Retention of Koala food trees in core koala habitat within proposed lots 150 and 151.
- Installation of permanent fauna fencing in select areas to avoid road strike.
- Incorporation of traffic calming measures on all roads to reduce risk of road strike.
- Incorporation of Koala underpasses for both lead in roads that traverse the habitat linkage.
- Protection of the retained vegetation in proposed lot 152 via title restriction.
- Installation of educational and warning signage re protected vegetation and Koalas.
- Hollow bearing tree removal compensation in the form of nest boxes to be installed under ecologist supervision within retained and enhanced habitat.
- Compensatory koala food tree plantings consistent with KPOM requirements.

In addressing the avoidance principle, the BDAR includes a copy of the preliminary development concept layout which demonstrates areas of the site that have been avoided in adoption of the current proposed subdivision layout.

The BDAR summarises the following measures taken to avoid and minimise impacts:

- Reduction in the number of proposed allotments and extent of direct impact.
- Strategic positioning of development site to avoid good quality habitat and retain fauna movement corridor.
- Establishment of sewer connection via underboring instead of trench system.

**Resolution:** The application and BDAR have been reviewed by Council's ecologist who is supportive of the findings and conclusions. It is considered that the subdivision design has satisfactorily avoided and minimised impacts upon biodiversity to the extent that no significant adverse impacts will result that would warrant refusal of the application. All mitigation measures form part of the recommended consent conditions outlined in Attachment A.

## **5.2 Traffic and Transport Impacts**

A traffic impact assessment undertaken by Positive Traffic and dated September 2023 supports the application, in which the surrounding road network was assessed as being adequate to accommodate the likely additional traffic generation associated with this development. The report demonstrated that the existing intersections surrounding the development would continue to operate at the same levels of service that currently occurs, and into the future following full development of the Thrumster area. These include the key



intersections serving the development of Oxley Highway / John Oxley Drive and John Oxley Drive / Carlie Jane Drive.

Resolution: Residential development of the site has been envisaged under the adopted planning controls and the traffic impact assessment concludes that the surrounding road network is adequate to accommodate the likely additional traffic generation associated with the development. Consent conditions have been recommended in Attachment A, requiring new roads and intersections to be designed in accordance with relevant engineering standards.

### **5.3 Bushfire**

The site is identified as being bushfire prone. The application includes a Bush Fire Assessment Report prepared by Building Certification and Environmental services and dated August 2023 which indicates the proposed development meets the Planning for Bushfire Protection Guidelines 2019. The proposed development is integrated development under Section 100B - *Rural Fires Act 1997* as the application proposes subdivision of bush fire prone land that could lawfully be used for residential purposes.

Resolution: The NSW Rural Fire Service have reviewed and issued a Bushfire Safety Authority consisting of a number of conditions for the proposed development, which has been incorporated into the recommend development consent conditions in Attachment A.

### **5.4 Flooding**

A Flood Impact and Risk Assessment Report prepared by Advisian dated 23 October 2023 supports the application demonstrating how the application is consistent with Council's Flood Policy.

Resolution: The Flood Impact and Risk Assessment Report was reviewed by Council's flooding officer and deemed consistent with Council's flood policy. Appropriate consent conditions have been recommended in Attachment A including certification of minimum finished road and lot levels.

### **5.5 Road Traffic Noise Impacts**

The site adjoins the Oxley Highway, and the application is supported by a road traffic noise impact assessment that considers the Development Near Rail Corridors and Busy Roads - Interim Guideline 2008 issued by the Department of Planning. The report recommends that category 1 and 2 building construction measures be implemented on specific lots to ensure the above noise criteria are achieved.

Resolution: Road traffic noise impacts are resolved through implementation of specific building construction categories for specific lots within the proposed development. The recommended consent conditions in Attachment A require a restriction on title for these specific lots advising of required building construction categories for future dwellings.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

Overall, the site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be

contrary to the public's interest and will not result a significant adverse social, environmental or economic impact.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

## **7. RECOMMENDATION**

That the Development Application DA2024 - 734.1 (PPSNTH-397) for a staged 112 lot residential subdivision and associated infrastructure at Lot 53 DP 1312158, Lot 54 DP 1312158 and Lot 383 DP 1241368 - Carlie Jane Drive, Thrumster be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Compliance Tables
- Attachment C: Architectural Plans
- Attachment D: NSW RFS Bushfire Safety Authority conditions
- Attachment E: NSW Department of Planning and Environment - Water - General Terms of Approval
- Attachment F: Contribution Estimate