



**Planning &
Infrastructure**

MAJOR PROJECT ASSESSMENT:

***RESIDENTIAL, COMMERCIAL AND TOURIST
DEVELOPMENT AND ENVIRONMENTAL WORKS***

***OCEAN DRIVE, LAKE CATHIE
PORT MACQUARIE***

***Proposed by
MILLAND Pty Ltd and SEAWIDE Pty Ltd***

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

November 2011



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EXECUTIVE SUMMARY

This is a report on a concept plan and project application lodged by King + Campbell Pty Ltd, on behalf of Millard Pty Ltd and Seawide Pty Ltd (the proponent) which seeks approval for residential, commercial and tourist development at Ocean Drive, Lake Cathie, pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act).

The site is located on Ocean Drive, Lake Cathie and is described as Lot 4 in DP 615261, Lot 1 in DP 374315 and part Crown Reserves R82555 and R754444. The site is located in the local government area of Port Macquarie-Hastings.

The proponent seeks concept approval for the development of 34 hectares of land for residential, commercial and tourist development. 'Stage 1' of the concept plan proposes environmental works for the protection of the adjacent State Environmental Planning Policy 26 Littoral Rainforest (SEPP 26 Littoral Rainforest) while the land is proposed to be developed for low density residential, medium density residential and mixed uses including commercial and tourist uses up to a maximum of 4 storeys in height. The concept plan includes a road and stormwater infrastructure network including perimeter road, access roads, pedestrian and cycle paths.

The concept proposal is wholly consistent with Port Macquarie-Hastings Local Environmental Plan 2011 as amended by Amendment No. 6 gazetted on 30 September 2011. A Planning Proposal for the site (Stage 1B of Area 14) was concurrently exhibited by PMHC during the public exhibition of this Part 3A application which has since been approved by the department. The proposal is therefore permissible.

The estimated Capital Investment Value (CIV) of the development is \$62 million. The Project has the potential to provide approximately 30 full time equivalent jobs during construction and 100 full time equivalent operational jobs.

The Environmental Assessment was exhibited from 19 November 2010 until 20 December 2010. The department received nine submissions from public authorities and seven submissions from the public including special interest groups. Two of the public submissions were in support of the project.

On 25 February 2011, the proponent submitted a Response to Submissions Report (Submissions Report). Subsequent information was submitted on 19 May 2011 and 5 September 2011. Key changes made to the proposal included the enlargement of the rainforest area subject to the Voluntary Planning Agreements (VMP), a redesign of the 2m fence that encloses the regeneration area and its relocation from within the regeneration area to adjacent to the pedestrian/cycleway footpath and an increase of the distance between Duchess Gully and the carriageway from 20m to 30m in the south-west corner of the site.

The department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed by the proponent's Environmental Assessment, Submissions Report and subsequent information, including the final Statement of Commitments. Key issues raised in the assessment including the impact to the SEPP 26 Littoral Rainforest, the impact on Endangered Ecological Communities, traffic impacts and urban design, have been satisfactorily addressed. Other impacts relating to water management, flooding, noise, community impacts, flora and fauna, archaeology and Aboriginal cultural heritage, acid sulfate soils, geotechnical, contamination, bushfire risk and infrastructure contributions, have also been satisfactorily addressed.

The proposal is in the public interest as it will contribute to regional housing targets in the Mid-North Coast Regional Strategy, protect and conserve the adjacent SEPP 26 Littoral Rainforest, improve public access to the beach foreshore, provide a range of housing options for the community, improve stormwater and groundwater flows for the benefit of the SEPP 26 Littoral Rainforest and Duchess Gully and protect items of Aboriginal Cultural Heritage on the site.

On these grounds, the department recommends that the project be **approved**, subject to modifications to the concept plan and subject to conditions to the project application.

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1 BACKGROUND

1.1 THE SITE

Site Location and Context

The 34 hectare site is described as Lot 4 in DP 615261, Lot 1 in DP 374315 and part Crown Reserves R82555 and R754444, Ocean Drive, Lake Cathie, in the local government area of Port Macquarie-Hastings. The site is part owned by Milland Pty Ltd and Seawide Pty Ltd, the proponent, and part owned by the Crown.

The site is located approximately 15km south of Port Macquarie on the southern fringe of the coastal village of Lake Cathie (refer Figure 1). Further south is the coastal village of Bonny Hills. Access to the site is off Ocean Drive, the main coastal road which connects Port Macquarie with smaller coastal towns and villages along the Mid-North Coast. The Pacific Highway lies approximately 6km inland to the west and connects to Ocean Drive via Houston Mitchell Drive at a junction some 1.5km south of the site.



Figure 1: Site location (Source: Google Maps)

To the north is Lake Cathie village which is predominantly residential in character, while to the south and west is undeveloped land owned by St Vincent's Foundation. Immediately opposite the site is a newly opened medical centre while the closest local shopping centre is located in Lake Cathie Village. Rainbow Beach lies some 130m east of the site, separated by a north-south corridor of existing littoral rainforest. Further afield to the west and north are Queens Lake State Forest and Lake Innes Nature Reserve which provide the wider area with a high environmental value.

Area 14

The site is located within 'Area 14', a strategic area (the others including 'Area 13' and 'Area 15') within the Port Macquarie-Hastings local government area originally identified in the *Hastings Urban Growth Strategy 2001* (HUGS) for strategic urban growth. The Port Macquarie-Hastings LEP 2011 identifies Area 14 as an 'urban release area' comprising the area between the villages of Lake Cathie and Bonny Hills (refer Figure 2) and is currently a mix of undeveloped land and low density residential development. At the time of writing, Area 14 was the subject of two Part 3A proposals under assessment by the department; a 180 hectare concept plan proposal on St Vincent's Foundation land, known as 'Area 14 Stage 1A' (major project 06_0085); and the subject Part 3A application, known as 'Area 14 Stage 1B'. The concept plan proposals for Stage 1A and Stage 1B are linked through their respective road layouts, as discussed later in this report.

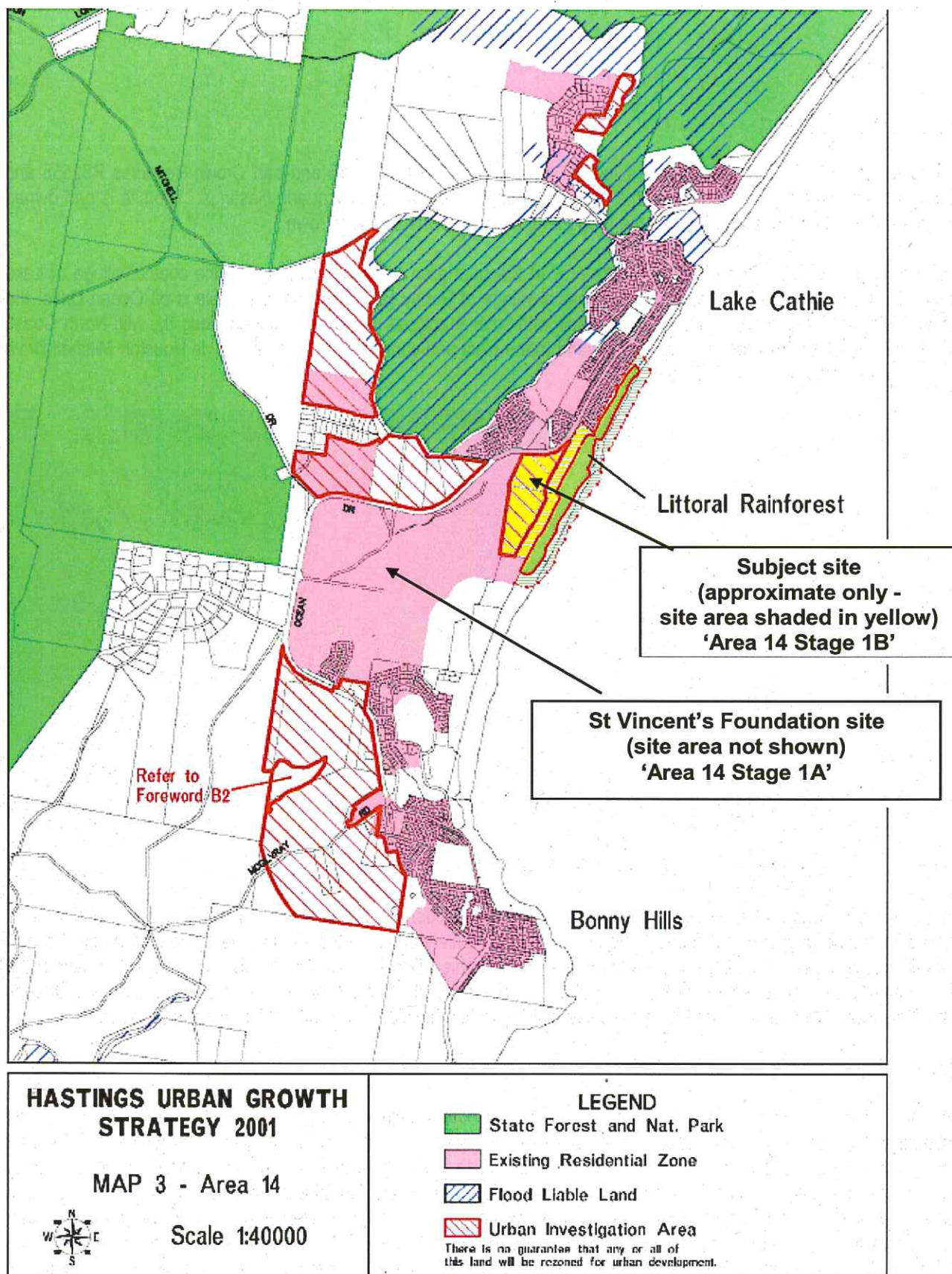


Figure 2: Area 14 Urban Investigation Area (Source: Hastings Urban Growth Strategy 2001)

Site Description

The subject 'Stage 1B' site is mostly cleared of vegetation. It is adjacent to littoral rainforest protected by State Environmental Planning Policy 26 – Littoral Rainforest (SEPP26 – Littoral Rainforest). The rainforest forms the site's entire eastern boundary which approximately measures 1,100m in length. To the west and south-west corner of the site is Duchess Gully, a watercourse that extends through to the adjacent St Vincent's Foundation site. Duchess Gully flows intermittently and was largely stagnant during site inspection. The site has a frontage onto Ocean Drive along its north western boundary of approximately 560m (see Figure 3).

The site is undulating in form with two notable peaks which provide an outlook to the ocean. The highest points of the land are contained within Lot 1 which rise to 21m and 24m AHD respectively, dropping to 17m AHD between the two peaks. As such, the site is visible from both the northern and southern approaches along Ocean Drive. The lowest point in Lot 1 is Duchess Gully at 3m AHD.

An informal pedestrian access to Rainbow Beach currently exists through the rainforest at the juncture of Lot 1 and Lot 4. Local residents currently cross the site (private land) from Ocean Drive to access the beach via this informal pedestrian access.

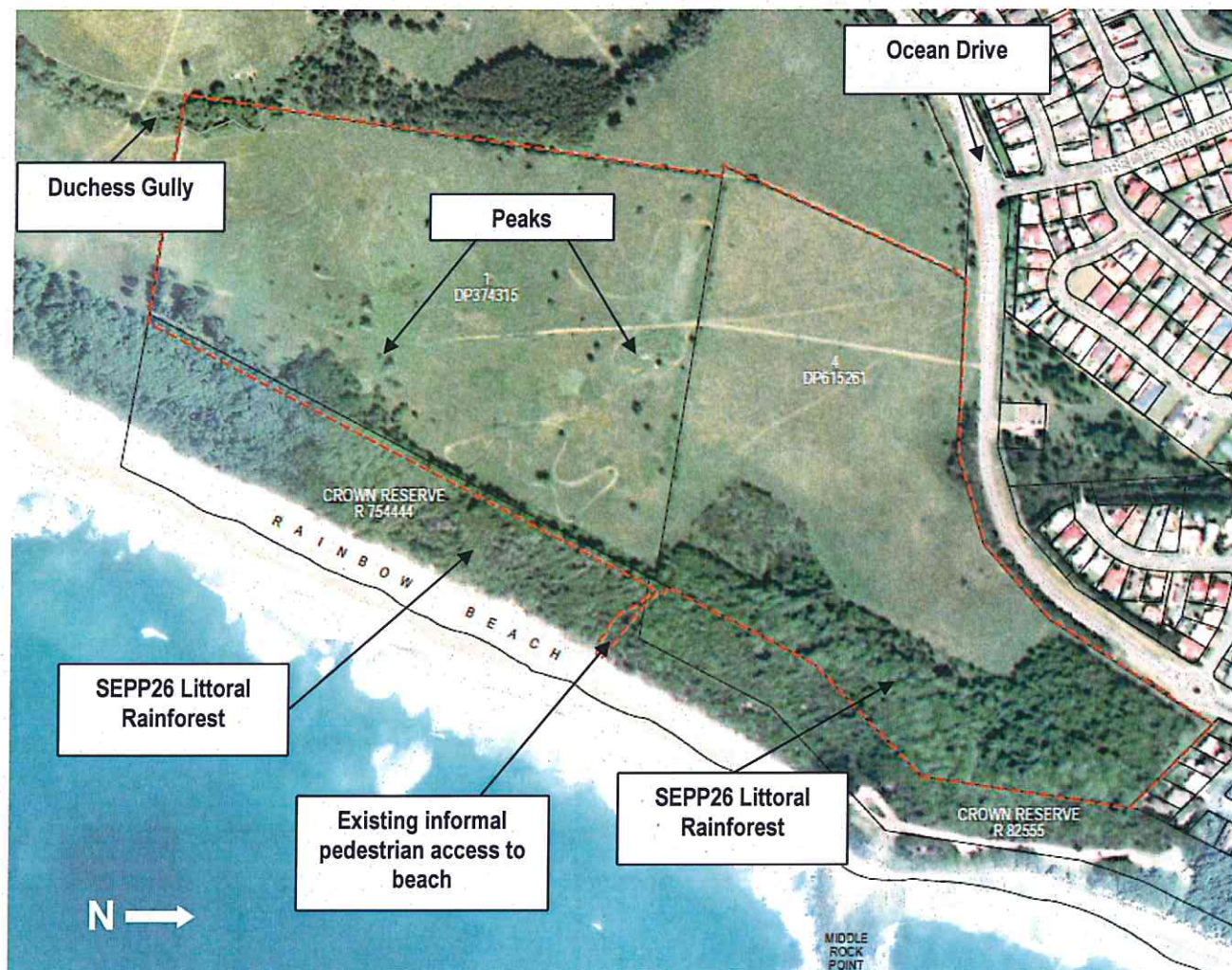


Figure 3: Aerial Photograph (Source: Submissions Report)

Zoning

On 30 September 2011, the department approved a rezoning amendment, Amendment No.6, to the *Port Macquarie-Hastings Local Environmental Plan 2011*. The amendment provides a variety of land use zones across the site including R1 (General Residential), R3 (Medium Density Residential), B4 (Mixed Use), RE1 (Public Recreation), E3 (Environmental Management) and E2 (Environmental Conservation). The adopted land use zones are wholly consistent with the development proposed in the Concept Plan, as these zonings were developed by the Council in conjunction with the proponent to enable development of the site.

Council's planning proposal was submitted to the department simultaneously with the proponent's Part 3A concept plan proposal and both proposals were publicly exhibited over the same period. The approved land use zonings are illustrated in Figure 4 below.

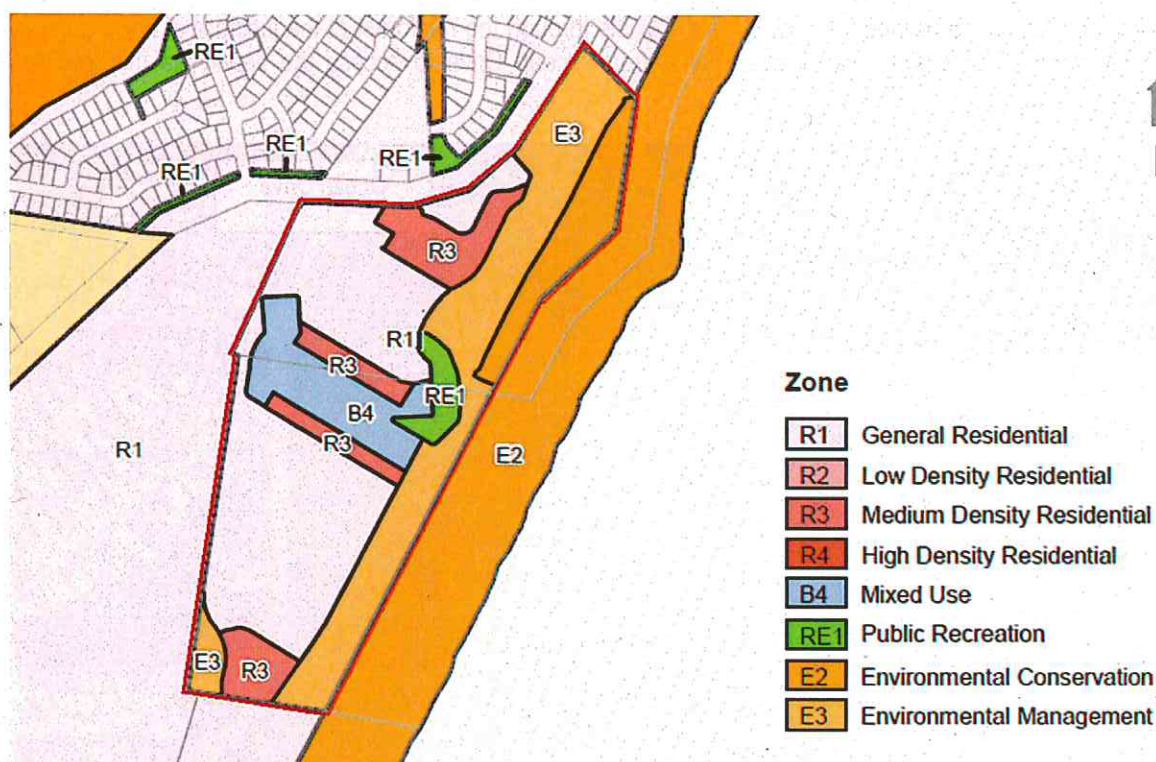


Figure 4: Land Zoning Plan (Source: Hastings Local Environmental Plan 2011 (as amended))

1.2 SITE PLANNING HISTORY

As mentioned, Area 14 was identified in 2001 by Council as an urban investigation area. During this period the land has not been used other than for grazing purposes.

2 THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

The concept plan and project application seek approval for the development of land for urban purposes. Concept plan approval is sought for the staged development of the land for environmental, residential, commercial and tourist uses, while project approval is sought for environmental works relating to the adjacent SEPP26 Littoral Rainforest. For the purposes of this report, the concept plan and project application will be referred to as 'the Project'. A detailed description of the Project follows.

Concept plan

The concept plan proposes:

- residential development for approximately 217 low density lots
- residential development for approximately 82 medium density lots
- mixed uses including a 'Hill-Top Village' for approximately 160 residential/tourist apartments and up to 6,400m² commercial space
- 1.73 hectares of open space
- urban design concepts for low density dwellings up to 2-storeys in height, for medium density dwellings up to 3-storeys in height and for the 'Hill-Top Village' up to 4-storeys in height
- 2m high noise wall along Ocean Drive
- environmental works associated with the SEPP 26 Littoral Rainforest and Duchess Gully
- stormwater infrastructure provision including 6 biofiltration/detention basins, 3 groundwater recharge wells and filling of approximately 470m² near Duchess Gully
- perimeter road and network of access roads and pedestrian/cycle paths
- pedestrian access to Rainbow Beach

Planning approval is not sought for lot subdivision or dwellings at this time which will be subject to future development application/s to be lodged with the Council. The concept plan layout exhibited in the EA is illustrated in Figure 5 below.



Figure 5: Concept Plan layout (Source: Environmental Assessment Report)

Project application

The project application proposes 'Stage 1' environmental works within that part of the SEPP 26 Littoral Rainforest that is on the site (see Figure 6). 'Stage 1' environmental works comprise:

- the establishment of a 'vegetation regeneration area'
- weeding, retention of native vegetation and selected revegetation within the regeneration area
- the erection of a 2m high temporary fence to enclose the regeneration area
- the construction of a raised timber boardwalk through the rainforest following the existing pedestrian access to the public foreshore and Rainbow Beach.

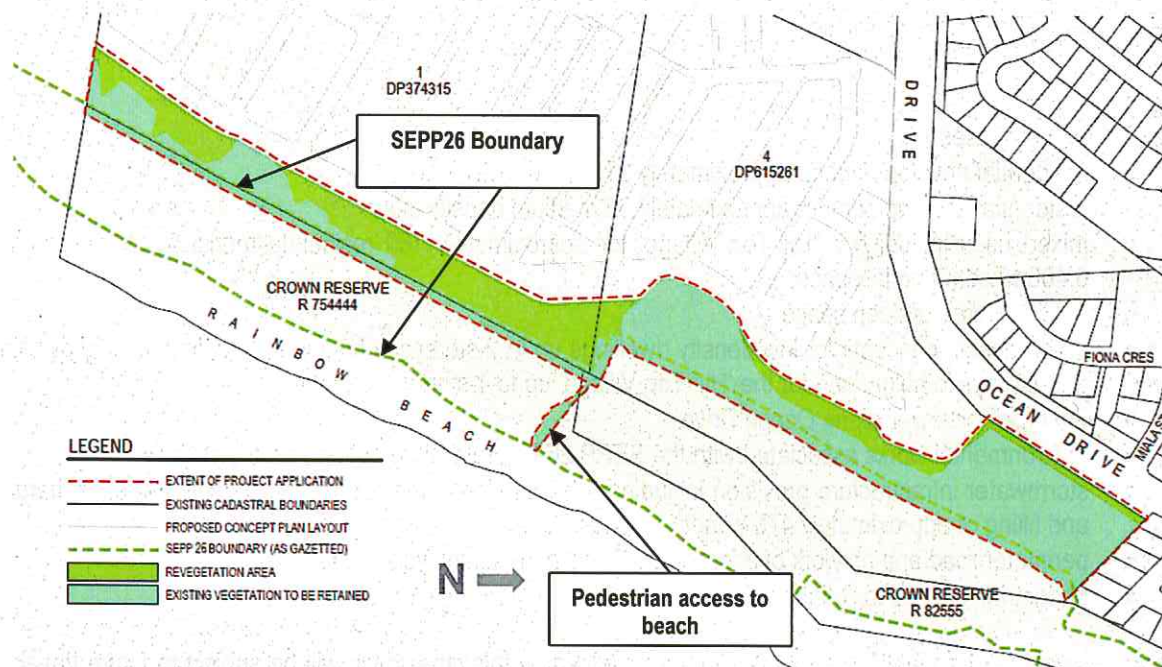


Figure 6: Project Plan layout (Source: Environmental Assessment Report)

Staging

The concept plan is proposed to be developed in stages (see Figure 7) which broadly follows the following sequence:

PA1	'Stage 1' environmental works, fencing and installation of raised pedestrian boardwalk (the Project Application)
M2/S2	perimeter road, access, stormwater infrastructure, associated services, environmental works adjacent Duchess Gully
M2-M6/S2-M4	low density residential
M7-M8/S5-S7	medium density residential
M9-M10/S8	'Hill-top Village', mixed use development and open space.

Prefixes 'M' and 'S' denote stages contained within land owned by Milland Pty Ltd and Seawide Pty Ltd respectively. The development of residential areas and the 'Hill-Top Village' is expected to take place in a number of sub-stages which will be subject of future development applications.



Figure 7: Project Plan layout (Source: Environmental Assessment Report)

Voluntary Planning Agreements

Voluntary Planning Agreements (VPA) have been entered into between the proponent and Council in connection with Council's Planning Proposal for the rezoning of the land. The VPAs are between the separate owners of the land and Council, that is, between Milland Pty Ltd and Port Macquarie-Hastings Council, and Seawide Pty Ltd and Port Macquarie-Hastings Council. In brief, the VPAs require that the proponent:

- provide monetary contributions to Council for open space and roads
- construct an intersection at Ocean Drive (at the junction with Abel Tasman Drive)
- construct a local park (within the site)
- establish environmental improvement works within land zoned as E2 and E3
- manage environmental works within land zoned as E2 and E3 for a period of ten (10) years prior to dedication to Council.

The VPAs are therefore intrinsically linked to the Project and are relevant to the assessment of the Project. Further discussion on the VPAs can be found in Section 5.

2.2 PROJECT AMENDMENTS

Amendments to the concept plan and project application proposals were contained within the Submissions Report dated February 2011 and within further information packages dated 27 May 2011 and 5 September 2011. The amendments were generally minor in nature and can be summarised as follows:

- the concept plan and project application site areas were increased to include a larger area of the rainforest (while remaining consistent with environmental zoning boundaries)
- the relocation of the 2m high fence from inside the revegetation area to immediately adjacent the pedestrian/cycleway footpath
- the inclusion of temporary fencing within the project application to be erected during 'Stage 1' environmental works
- the deletion of road access points into adjoining land to the west
- the increase of buffer distance from 20m to 30m to Duchess Gully

As a result of these changes, the area of land subject to environmental management was increased by 3.18Ha. These layout changes are illustrated in Figure 8 and Figure 9 below. Minor changes to the staging plan can be seen in Figure 10.

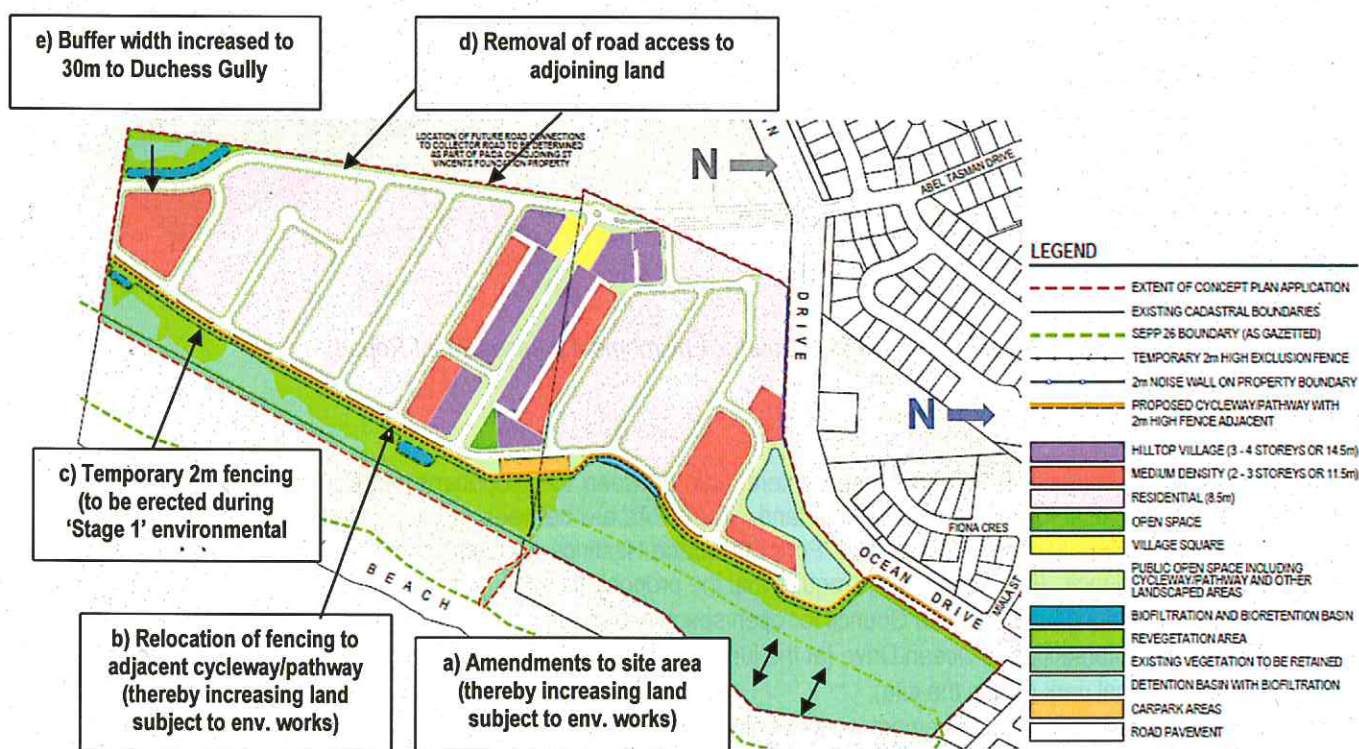


Figure 8: Revised Concept Plan Layout

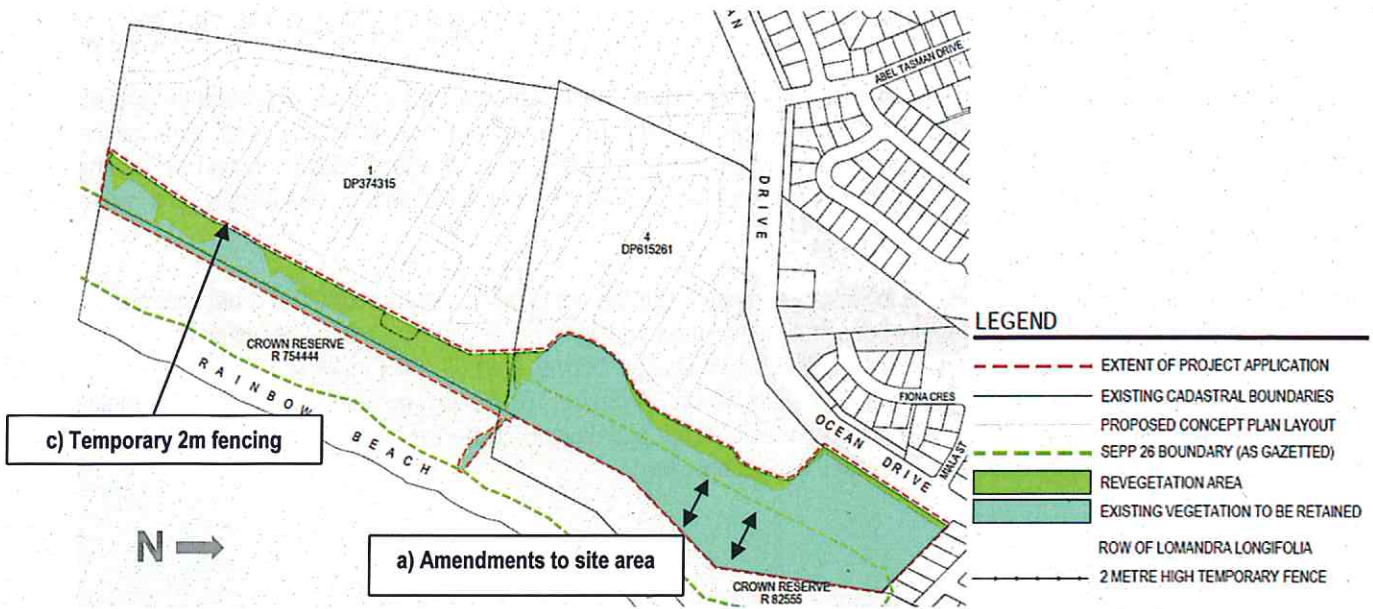


Figure 9: Revised Project Application Layout



Figure 10: Revised Staging Plan

2.3 PROJECT NEED AND JUSTIFICATION

The site is located in an identified 'Growth Area' within the *Mid North Coast Regional Strategy 2006-2031* and the project will contribute to the regional dwelling targets identified in the strategy. In accordance with the overall aims of the strategy, the Project will supply a variety of housing types to meet the needs of smaller households and an ageing population while protecting high value environments such as SEPP 26 Littoral Rainforest, biodiversity and water resources in this sensitive coastal area.

Area 14 was formally identified as suitable for urban purposes with the adoption of HUGS in 2001 and has since been subject to detailed investigation, community consultation and urban design master planning exercises culminating in the adoption of the *Greater Lake Cathie and Bonny Hills Urban Design Master Plan* (UDMP) in 2004. In support of the Project, Council submitted a Planning Proposal for site (Area 14 Stage 1B) for the rezoning of the site to enable development of the site in accordance with the proposed concept plan layout. The *Port Macquarie-Hastings LEP 2011* was amended on 30 September 2011 as discussed in Section 1.1.

3 STATUTORY CONTEXT

3.1 MAJOR PROJECT

The Project is one to which Part 3A of the Act applies because it is development of a kind that is described in Schedule 2 of the State Environmental Planning Policy (Major Projects) 2005 as was in force at the time, namely Clauses 1(1)(f) and (i) – a tourist facility in a sensitive coastal location providing accommodation for any number of persons and subdivision of residential-zoned land into more than 25 lots in the coastal zone. Therefore the Minister for Planning and Infrastructure is the approval authority.

Despite its repeal on 1 October 2011, Part 3A continues to apply to certain projects, described as transitional Part 3A projects, pursuant to Schedule 6A of the Act. The subject concept plan and project application are such projects as an Environmental Assessment was lodged and DGRs issued on 3 August 2007, before the applicable cut off date of 8 April 2011.

On 14 September 2011, the Minister for Planning and Infrastructure delegated to the Planning Assessment Commission (PAC) his functions as an approval authority to determine project applications under sections 75O and 75P of the Act if a proponent has made a political donation disclosure.

3.2 PERMISSIBILITY

The site is zoned R1 (General Residential), R3 (Medium Density Residential), B4 (Mixed Use), RE1 (Public Recreation), E3 (Environmental Management) and E2 (Environmental Conservation) under the Port Macquarie-Hastings Local Environment Plan 2011. The proposed land uses and works outlined in the Project wholly accord to those land use zonings identified in the LEP and are all permissible with development consent.

3.3 ENVIRONMENTAL PLANNING INSTRUMENTS

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The department's consideration of relevant SEPPs and EPIs is provided in Appendix C and Appendix D.

3.4 OBJECTS OF THE EP&A ACT

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land*
 - (iv) *the provision of land for public purposes*
 - (v) *the provision and co-ordination of community services and facilities*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats*
 - (vii) *ecologically sustainable development.*

- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The assessment of this application has had regard to the above objects of the Act. The protection of the SEPP 26 Littoral Rainforest through the provision of a regeneration area ensures the proper management of natural resources for the environmental benefit and welfare of the community. The protection of the Endangered Ecological Communities ensures protection of native animals and plants and their habitats for the environmental benefit while the protection of Aboriginal cultural resources ensures community values are met in the conservation of heritage items. The concept plan provides economic and social benefits through the provision of housing and employment including a range of housing types for a changing population. In granting concept plan and project approval, the needs of future generations will be met, the department having ensured sustainable development principles were considered in the assessment of the application while the needs of the community have been considered through public participation in the decision making process.

3.4 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment
 - (ii) an assessment of the risk-weighted consequences of various options.
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.
- (d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement.
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

Precautionary Principle

The EA submitted has identified and assessed the range of environmental impacts of the Project. The modified Project includes the following:

- A stormwater management system that incorporates Water Sensitive Urban Design principles, in order to maintain water quality and quantity leaving the site including into the SEPP 26 Littoral Rainforest
- A commitment to providing appropriate Acid Sulfate Soils management where appropriate.

The proponent has proposed appropriate measures in their Statement of Commitments that will manage the potential environmental impacts of the development. Additional environmental studies and assessments will be prepared for future Development Applications required for the detailed design and construction of development.

Inter-Generational Principle

The Project will contribute to the supply of housing choices to meet the needs of current and future generations and provides a range of accommodation opportunities for various household sizes now and into the future. The project will secure the rehabilitation and preservation of the SEPP 26 Littoral Rainforest for future generations.

Biodiversity Principle

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site. Mitigation measures and management strategies will be implemented to prevent any potential environmental impacts. Proposals for the monitoring of ground water reserves are included in the Statement of Commitments to ensure effective management of any impacts to water resources in the SEPP 26 Littoral Rainforest as a result of the urban development.

Valuation Principle

The cost of infrastructure and measures to ensure an appropriate level of environmental performance of development on the site will be incorporated into the cost of development on the site.

3.5 STATEMENT OF COMPLIANCE

In accordance with Section 75I of the EP&A Act, the department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4 CONSULTATION AND ISSUES RAISED

4.1 EXHIBITION

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the EA publicly available for at least 30 days. The department publicly exhibited the EA from 19 November, 2010, until 20 December, 2010, (31 days) at the following exhibition locations:

- Department of Planning and Infrastructure Head Office, 23-33 Bridge Street, Sydney
- Port Macquarie Library, corner Gordon and Grant Streets, Port Macquarie
- Port Macquarie-Hastings Council, Customer Service Centre, corner Lord and Burrawan Streets, Port Macquarie.

The department advertised the public exhibition in the *Port Macquarie Express*, *Port Macquarie News* and the *Camden Haven Courier* on 24 November, 2010, 19 November, 2010 and 24 November, 2010 respectively. Relevant State and local government authorities, adjacent landholders and local neighbours were notified in writing. The EA was also provided for download on the department's website.

A summary of the issues raised in submission is provided below.

4.2 PUBLIC AUTHORITY SUBMISSIONS

Nine submissions were received from public authorities. Generally, all public authorities supported the Project subject to further information and/or the imposition of recommended planning conditions.

Port Macquarie-Hastings Council generally supported the project. Three key issues were raised as follows:

- *Vegetation Management* - the area of land subject to the Vegetation Management Plan was considered to be too small for the ongoing regeneration of the SEPP 26 Littoral Rainforest and should be extended eastward into the crown reserve up to the beach foreshore
- *Stormwater* - the stormwater concept modelling for the north-west catchment of the site did not demonstrate that discharge rates would not exceed pre-development rates for all storm events up to and including the 100 year ARI event
- *Groundwater* - a series of recommendations as set out in the Martens Consulting Report July 2010 with respect to groundwater management were not included as part of the development proposal. These related to the need for deep stormwater infiltration pits, specific stormwater discharge control structures and other specific stormwater management design requirements. It is expected that the scope of the Project Application include those recommendations.

Council also requested that:

- *Boardwalk Design* - the boardwalk design be altered in its elevation and proposed materials to minimise damage to the littoral rainforest and to promote regeneration over time
- *Acid Sulfate Soils* - the biofiltration works adjacent Duchess Gully be designed to avoid the disturbance of acid sulfate soils located at the south west corner of the site
- *Buffers* - the vegetated buffer adjacent Duchess Gully and the SEPP 26 littoral rainforest be widened and improved
- *Fencing* - the exclusion fence be relocated from its proposed position to alongside the pedestrian path, be constructed to a minimum 1.8m in height and allow for fauna movement at its base
- *Erosion Control* - an erosion control management plan be prepared for Duchess Gully
- *Vegetation Management* - the VMP include contingencies for failed plantings and unsuccessful weeding, 6 monthly weed inspections and a monitoring program
- *Landscaping* - species selection for street tree planting be in accordance with appropriate guidelines.

The above issues have been addressed either through project amendments or by way of project conditions. See Section 5.

The **Office of Environment and Heritage (OE&H)** (formerly Department of Environment, Climate Change and Water) did not object to the Project however raised the following key issues:

- **Buffer width** - that a 100m buffer must be retained between any proposed development on the site and any areas of mapped SEPP 26 Littoral Rainforest. OE&H believed the 40-60m buffer to be inadequate and not in accordance with the requirements of SEPP 26 Littoral Rainforest. OE&H recommended that the minimum buffer of 100m be retained to protect environmentally sensitive areas and littoral rainforests
- **Threatened Species** - that the EA does not provide any details of pre-clearing surveys for fauna species including threatened species which would typically be completed prior to vegetation removal.

OE&H also requested that:

- **Vegetation Management** - revegetation strategies be in accordance with best practice
- **Aboriginal Cultural Heritage** - the proponent continues to engage with the registered Aboriginal stakeholders in developing appropriate cultural heritage outcomes for the duration of the proposed development
- **Sewage** - the proponent ensures that sufficient capacity exists in the municipal sewage treatment system to accept, treat and dispose of all sewage waste from the proposal.

The key issue relates to the recommended 100m buffer to the SEPP 26 Littoral Rainforest which is not provided by the project layout. The remaining issues are addressed by project conditions. See Section 5.

The **Roads and Transport Authority (RTA)** raised general concern regarding the Project's impact to Ocean Drive and the potential cumulative impacts on Houston Mitchell Drive and the Pacific Highway. The RTA raised similar concerns relating to three other developments in the wider area and stated:

- **Traffic Impact** - Ocean Drive is a classified road that provides an alternative route to the Pacific Highway. Any proposed access or road works will require the RTA's concurrence in accordance with the Roads Act 1993 which at this time has not been given pending further discussions with Port Macquarie Hastings Council.

This issue is addressed by the proposal. See Section 5.

The **Department of Primary Industries Crown Lands Division** (formerly Land and Property Management Authority or LPMA) did not object to the Project but stated:

- **Land owner's consent** - that no stormwater structures, piping, gabions or any other infrastructure or works are to be sited on the Crown Land without landowner's consent from the Crown Lands Division
- **Boardwalk Design** - that the boardwalk and beach access should incorporate handrails/barriers where it passes through Crown Land to avoid unnecessary access in adjacent dunal vegetation
- **Bushfire Protection** - that any proposed bushfire protection must be contained within private land, not Crown land.

These issues are discussed in Section 5 and are addressed by way of project conditions.

The **Northern Rivers Catchment Management Authority (NRCMA)** indicated it did not support the Project unless an appropriate buffer is applied uniformly along the length of the littoral rainforest. The NRCMA raised the following points:

- **Buffer width** - the NRCMA produced handbook *Living and Working in Rural Areas* recommends a minimum buffer of 100m between residential/urban areas and SEPP 26 Littoral Rainforest
- **Buffer width** - the EA includes a 40-60m vegetated buffer in the concept plan but does not specify the width of the total buffer. The effects of climate change, sea level rise and increased storm surge are likely to result in beach erosion and recession. This will see the littoral rainforest sandwiched between the beach planned development. This makes inclusion of an appropriate buffer even more important to provide for landward migration.

The NRCMA supported the efforts to rationalise and formalise public access to the beach. It also requested that:

- **Vegetation Management** - any clearing of vegetation 'maintains or improves' environmental outcomes in accordance with the Native Vegetation Act. The VMP should be implemented in accordance with best-practice weed management and planting of native species. The NRCMA encourages liaison with the Bonny Hills and Lake Cathie Landcare groups.
- **Signage** - signage be used to increase community understanding of the littoral rainforest
- **Public access to beach** - the NRCMA supported the efforts to rationalise and formalise public access to the beach
- **Hydrology** - the development must not have a negative impact on the hydrology of the littoral rainforest
- **Acid Sulfate Soils** - an Acid Sulfate Soil Management Plan be prepared prior to development on the site

- **Flooding** - flooding on site to be considered in accordance with *NSW Coastal Planning Guideline: Adapting to Sea Level Rise August 2010*.

The 100m buffer recommended by the NRCMA is not provided by the proposal. The remaining issues have been addressed by way of project conditions. See Section 5.

The **Rural Fire Service (RFS)** raised no objections to the Project and raised the following points:

- that the development shall comply with *Planning for Bushfire Protection 2006* and the RFS's document *Standards for Asset Protection Zones*
- a 10m asset protection zone is required within the lots in the north-west of the site.

These issues are discussed in Section 5 and are addressed by way of project conditions.

Housing NSW raised the following points:

- **Affordable Housing** - there is no provision for affordable housing or a range of housing types aimed at meeting the housing needs of the existing and future population
- **Community Impact** - a Social Impact Assessment has not been submitted to consider the future social needs of the population
- **Sea Level Rise** - Housing NSW trusts that due consideration will be given to the impact of sea level rise as this has implications for housing availability and affordability.

These issues are addressed by the proposal. See Section 5.

The **NSW Office of Water (NOW)** raised the following environmental matters:

- **Groundwater** - the groundwater recharge pits are proposed to be above the water table. In the event that excavation is required into the water table, a licence will be required from NOW
- **Groundwater** - all primary stormwater treatment basins should be lined with an impermeable layer to ensure the adequate treatment of stormwater prior to discharge into groundwater. It is imperative that the proposed recharge pits are not contaminated with urban contaminants such as nutrients, pesticides and hydrocarbons
- **Groundwater** - the EA proposes 6 new monitoring bores - these will require licences under the *Water Act 1912* prior to drilling. Any works that intersect an aquifer require a water licence. Any proposed dewatering for the construction of the on-site detention basins and recharge pits will require a water licence
- **Acid Sulfate Soils** - NOW raises concerns about the potential contamination of surface water and groundwater as a result of acid sulfate soils disturbance. An acid sulfate soils management plan should outline how surface and groundwater will be protected from potential contamination
- **Groundwater** - NOW is concerned about the intensity of urban development in the area and the cumulative impact on groundwater and surface water resources.

These issues are addressed by the proposal and by way of project conditions. See Section 5.

The **Department of Primary Industries (DPI)** (formerly Industry & Investment NSW) raised no fishery, mineral, forestry or agricultural issues. The following comment was raised:

- **Stormwater** - Intermittently Closed and Open Lakes and Lagoons (ICOLLS) such as Duchess Gully are susceptible to poor water quality as a result of cumulative impacts from development in their catchment. The quality of health of seagrass beds in Lake Cathie can be impacted by increases in diffuse and point source stormwater discharges. I&I NSW recommend that the Statement of Commitments adopt a commitment to improve the quality of stormwater discharges from the development.

This issue is addressed by the proposal and the environmental assessment. See Section 5.

4.3 PUBLIC SUBMISSIONS

Seven submissions were received from the public. This included submissions from the following special interest groups:

- Lake Cathie Progress Association
- Bonny Hills Progress Association
- Bonny Hills Youth and Community Projects Group.

Of the public submissions, three objected to the project, two supported the project and two did not object but raised concerns. Supporters of the project were the Lake Cathie Progress Association and Tierney Property Services Pty Ltd on behalf of St Vincents Foundation Pty Ltd. Submissions from residents were all from local residents. The key issues raised in public submissions are listed in Table 1 below.

4.4 PROPONENT'S RESPONSE TO SUBMISSIONS

The proponent provided a formal response to each of the issues raised above in a Submissions Report received by the department on 1 March 2011. The proponent's full response to the issues raised can be seen in Appendix E.

Table 1: Summary of Issues Raised in Public Submissions

Issue	Proportion of Submissions (%)
Traffic impact	17%
Impact to SEPP26 Littoral Rainforest	17%
Urban Design – building heights too high	13%
– density too high	8%
Infrastructure (road) financing	8%
Connectivity of development	8%
Impact to wildlife	4%
Safety Issues	4%
Open space provision	4%
Loss of agricultural land	4%
Visual Amenity	4%
Stormwater	4%
Flooding	4%

The department has fully considered all submissions in its assessment of the project. A discussion the issues raised can be found in the following section.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

The department considers the key environmental issues of the Project to be:

- impacts on Littoral Rainforest
- impacts on Endangered Ecological Communities (EECs)
- traffic impacts
- urban design.

Other issues include:

- water cycle management
- flooding and coastal hazards
- noise
- affordable housing
- community impacts
- archaeology and cultural heritage
- acid sulfate soils, geotechnical and contamination
- bushfire risk
- infrastructure and section 94 contributions.

5.1 IMPACT ON LITTORAL RAINFOREST

Littoral rainforest identified in State Environmental Planning Policy No. 26 – Littoral Rainforest (SEPP 26 – Littoral Rainforest) forms the eastern boundary of the site (refer Figure 3). This rainforest has particular environmental value as one of the largest littoral rainforest remnants along the NSW coastline, and it stands out from other remnants due to its size, species diversity, small mammal assemblages and the virtual absence of rubbish dumping (source: Environmental Assessment). SEPP 26 provides the legislative policy framework for the preservation of littoral rainforest. The aim of the policy is:

'.....to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state.'

Buffer to Littoral Rainforest

The concept plan includes a buffer or physical separation between the littoral rainforest and the proposed residential lot boundaries. The buffer comprises two elements, a revegetation area (subject to VMP works, discussed below) and a clearing or road reserve which includes the perimeter road, parking areas and a footway/cycleway. The road reserve measures 25m in width, while the vegetation area measures approximately 47m in width across the majority of the site. The buffer is 72m wide, for 75% of the site. The variable buffer is shown in Figure 11.

The buffer width varies when measured from the mapped SEPP 26 boundary (see Figure 12) and when measured from the existing rainforest edge. From the mapped boundary, the buffer ranges from 72m to 92m to the nearest residential lot. However it is noted that there has been some regrowth in the rainforest since the SEPP 26 Littoral Rainforest mapping. This means that in some areas (at three locations) the actual rainforest exceeds the mapped boundaries indicated in SEPP 26. When measured to the existing rainforest edge, the buffer ranges from 25m to 92m, and in one location the buffer is made up solely of the road reserve. The varying buffer distances from the littoral rainforest and the nearest residential lot can be seen in Figure 11.

Buffer width was a key issue raised during public exhibition. The OE&H recommended a 100m wide buffer from the marked boundary under SEPP 26. Similarly, the NRCMA recommended a 100m buffer in accordance with their best practice guidelines for ecological buffers adjacent littoral rainforests. A 100m wide buffer was originally envisaged in the *Greater Lake Cathie Bonny Hills Urban Design Masterplan* when adopted by Council in 2004, while concern regarding buffer width was also raised in public submissions.

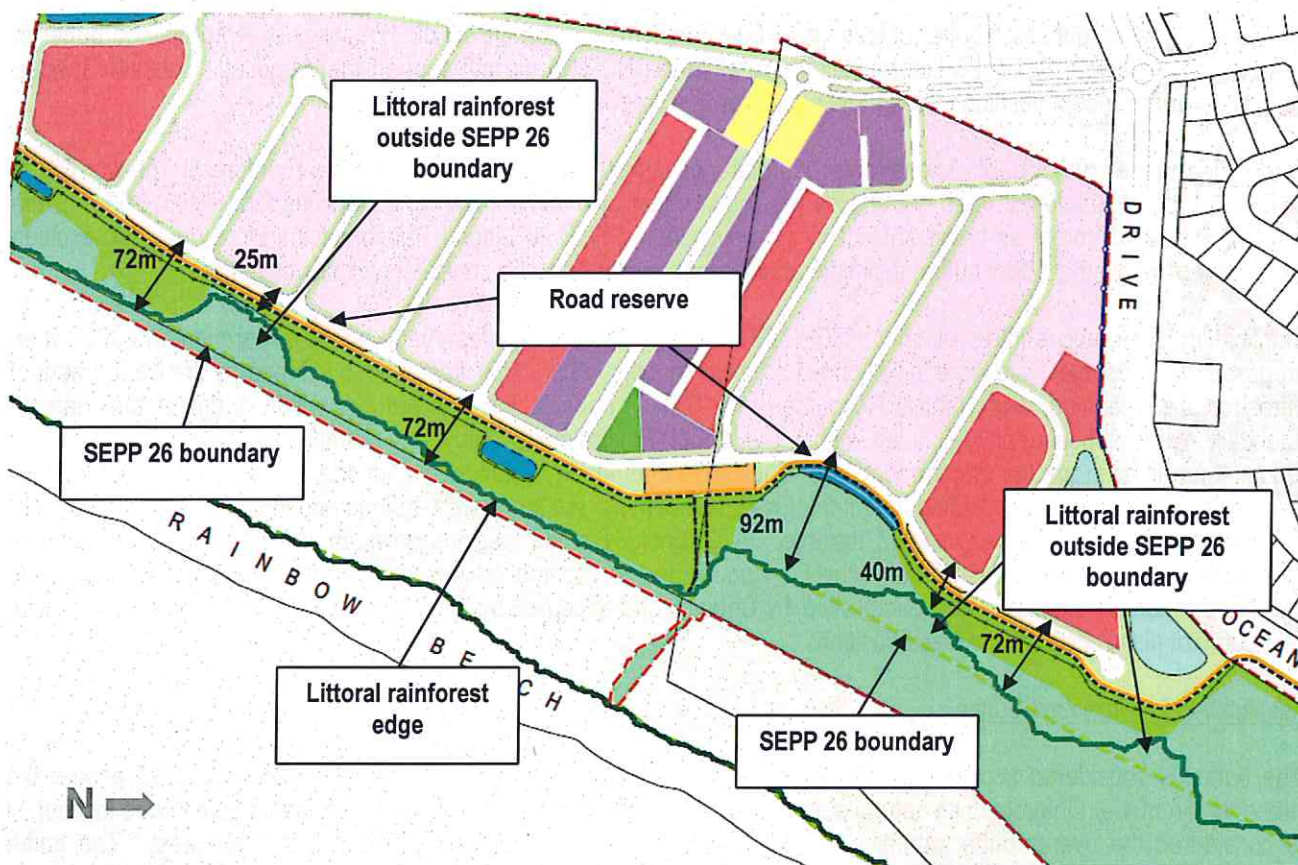


Figure 11: Variable buffer width including road reserve and vegetation area

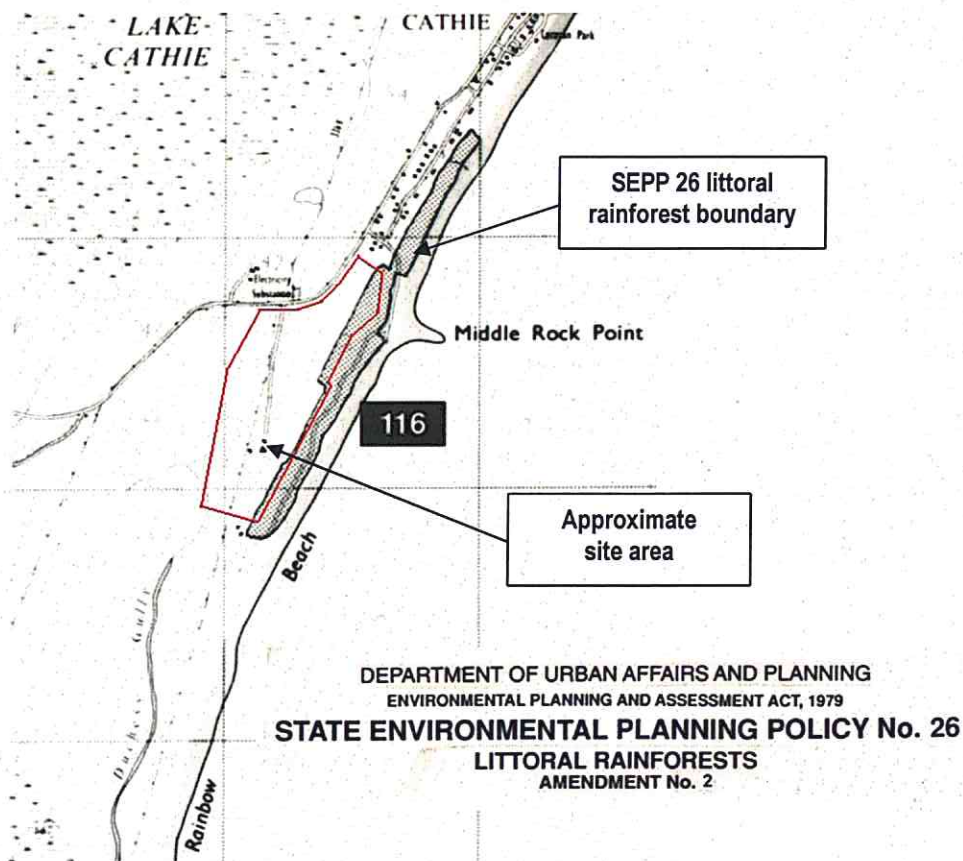


Figure 12 – SEPP 26 Littoral Rainforest mapped boundary

The concept plan proposes a buffer of less than 100m. Accordingly, the OE&H did not consider the proposed buffer to be in accordance with SEPP 26 Littoral Rainforest while the NCRMA did not support the proposal. Council departed from its original concept position in 2004 and supported the proposal.

In considering the agency submissions received, reference is firstly made to SEPP 26 Littoral Rainforest. The wording of SEPP 26 Littoral Rainforest does not specify the requirement of a 'buffer', rather, it identifies land within 100m of the mapped littoral rainforest as being subject to its provisions. SEPP 26 Littoral Rainforest therefore does not exclude development within this 100m buffer, it simply requires that any land use be consistent with its objectives.

Clarification of the above interpretation of SEPP 26 Littoral Rainforest was first made by the department in 2002, when proposals on the subject site were initially presented to Planning NSW. This was again confirmed by the Department of Infrastructure, Planning, and Natural Resources in 2005. Proposals for development within 100m of the mapped boundary were subsequently included within the Local Environment Study for Council in 2006, which adopted recommendations from the department and Council regarding development within the 100m zone. Accordingly, proposals for development including a perimeter road adjacent the rainforest were refined and included in Council's 2010 Planning Proposal for the rezoning of the site. A chronology of discussions between the proponent and relevant authorities in relation to the 100m zone can be found in the Environmental Assessment and Submissions Report. In short, the extent of the buffer was established by Council, and accepted by the department in the rezoning of the site. The concept plan reflects this agreed position.

Justification for Proposed Buffer

The buffer is considered acceptable as it will achieve the fundamental objective of SEPP 26, that is, to ensure the preservation of the rainforest in its natural state. While the buffer width to the existing rainforest is 25m in one location, it is considered the overall buffer contains sufficient width to ensure the ongoing health of the rainforest. The buffer addresses the potential impacts upon the rainforest from urban development including rainforest fragmentation, human and animal intrusion, changes to microclimates at the rainforest edge (edge effects) and rubbish dumping. An indicative cross section of the buffer is shown in Figure 13. The proposed buffer width is acceptable due to the extensive revegetation works to be undertaken within the buffer, described as follows.

Vegetation Management Plan

Environmental works are detailed within the proposed vegetation management plan (VMP). The vegetation management plan includes the weeding of exotic flora, the retention of native flora species and the systematic planting of endemic rainforest species within a 'vegetation regeneration area'. The VMP is comprehensive in detail and provides planting specifications for over 20,000 plants comprising tree, shrub and groundcover species over a period of 3.5 years from project commencement. Details of proposed seed collection, planting techniques and recommended maintenance and monitoring proposals are also included within the VMP. The VMP therefore strengthens the ecological function of the buffer area and in total the area identified for regeneration exceeds 2.1 hectares (Ha).

In response to submissions received from Council, the area of land subject to vegetation management was substantially increased from that originally identified in the Environmental Assessment (see Section 2.2). The area subject to vegetation management now extends west up to the pedestrian footway and well into the rainforest to include the area zoned E2 (Environmental Conservation), an increase of 3.14Ha. The area subject to the VMP will not however extend to the beach foreshore as suggested by Council as these areas are adequately being managed by the Bonny Hills Landcare Group.

Fencing

To prevent unnecessary human and domestic animal movement into the rainforest, the concept plan proposes a 2m high fence along the western edge of the rainforest. This fence will enclose the buffer and will be combined with spiky hedge planting to discourage human intrusion beyond the fence line.

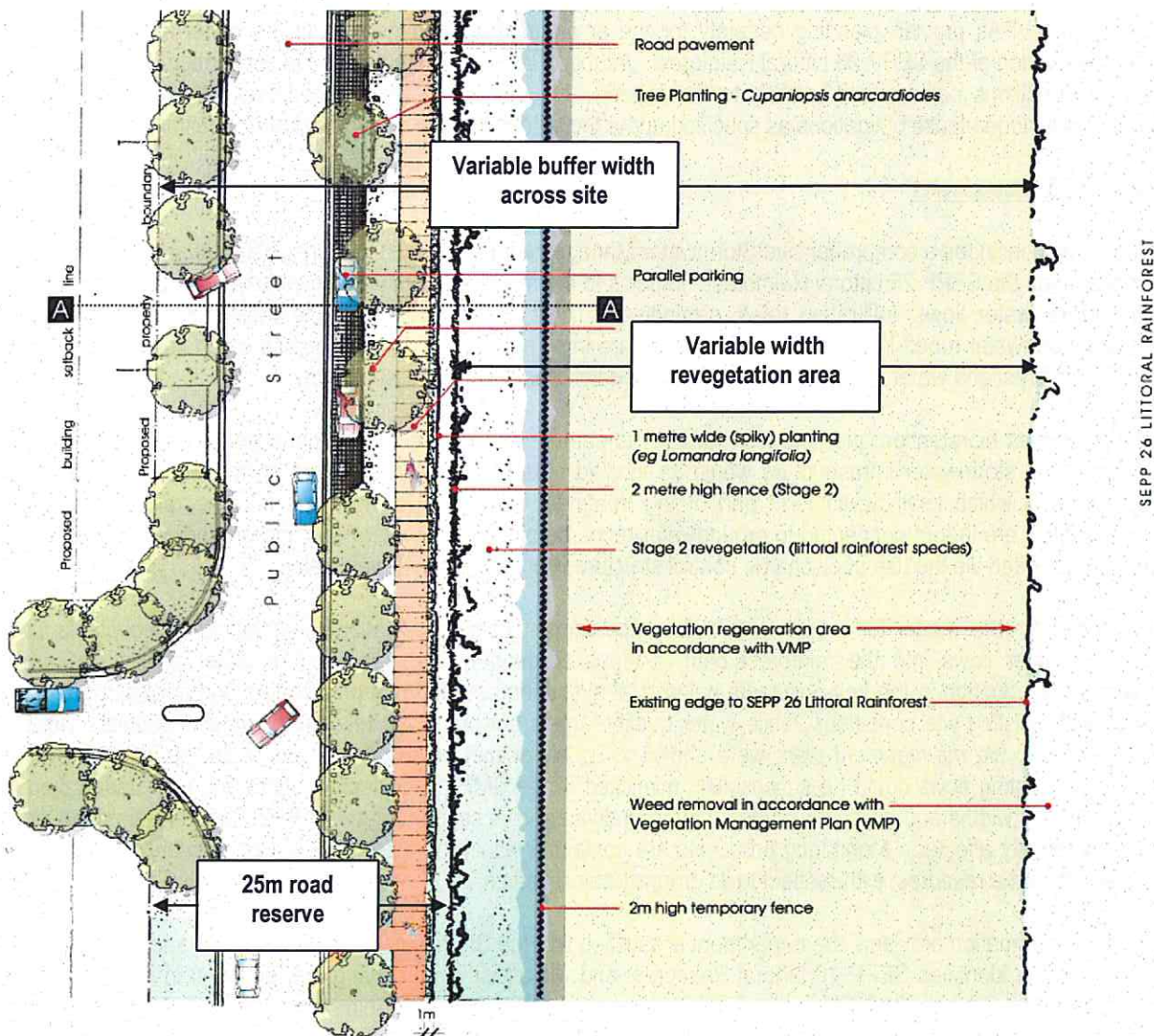


Figure 13: Buffer to SEPP26 Littoral Rainforest

Temporary fencing will be initially erected as part of the project application to restrict access into the revegetation area and to allow for the construction of stormwater and other infrastructure located in the same area. Permanent fencing will then be erected upon completion of this infrastructure during concept plan Stages M2 and S2. As the land will be eventually dedicated to Council, the final design details of the fence are to be submitted to and approved by Council.

Perimeter Road

To ensure private land does not adjoin the edge of the rainforest, the proposal includes a perimeter road along the edge of the rainforest. This ensures a defined public space along the western edge of the rainforest which in turn ensures effective and practical management of the rainforest edge. The perimeter road layout is consistent with the aims of the *Coastal Design Guidelines for NSW* which seeks to protect the natural edges of coastal environments when determining subdivision footprints and boundaries.

Dedication of Environmental Lands to Council

Under the terms of the VPAs between the proponent and Council, land zoned E2 and E3 will be dedicated to Council as a public reserve, which includes the proposed buffer. The VPAs ensure:

- the establishment of environmental works in zones E2 and E3 in accordance with an approved VMP
- environmental management of land zoned E2 and E3 for a period of 10 years
- the dedication of land zoned E2 and E3 to Council as a public reserve
- development contributions for the management of the public reserve for a further 10 year period.

Accordingly, the VPAs provide planning certainty for the environmental management of the buffer area and for the ongoing preservation of the SEPP 26 Littoral Rainforest. As the VPAs were not submitted in connection with the Project, no planning conditions are required relating to the signing of a VPA in the project approval. Notwithstanding, the proponent has included those obligations as specified under the VPA within their Statement of Commitments.

Stormwater and Groundwater

The concept plan includes a comprehensive Stormwater Management Plan (SMP) to manage the water cycle impacts of the proposal upon the SEPP 26 Littoral Rainforest. Impacts to the rainforest from urban development include changes to existing surface water flows, infiltration rates, groundwater flows, water quality and the proliferation of weeds from nutrient-rich stormwater runoff into the rainforest. There are three sub-catchments on the site which flow into the SEPP 26 Littoral Rainforest and water management within these catchments are discussed below.

The SMP proposes bioretention and detention facilities to capture and treat surface stormwater flows in the rainforest catchments. The stormwater infrastructure would be located outside the perimeter road on the western edge of the revegetation area which itself would form part of the treatment train prior to discharge into the rainforest. These detention facilities are in turn connected to groundwater recharge pits, where water flows into groundwater reserves will be carefully regulated via the use of discharge control structures such as variable weir plates.

MUSIC modelling (the model for urban stormwater improvement conceptualisation) demonstrated acceptable post-development water flows into the rainforest both in terms of quantity and quality. For water quality, the model demonstrated a reduction in the key pollutants being total suspended solids, total phosphorus and total nitrogen when compared with existing site conditions, while water quality targets set out in the relevant guidance, Council's *Area 14 integrated water cycle management plan*, were shown to be either met or exceeded. For water quantity, the model demonstrated existing flows could be successfully mimicked in the SMP. Significantly, modelling was undertaken for buffers of differing widths and it was concluded that groundwater flows supporting the SEPP26 Littoral Rainforest would not be detrimentally affected. Monitoring proposals are contained within the Statement of Commitments to ensure the ongoing health of the rainforest with respect to its groundwater reserves.

Based on the information provided, the department is satisfied that the Stormwater Concept Plan will adequately mitigate the impacts to the identified SEPP 26 Littoral Rainforest and will assist in preserving the rainforest in its natural state. Concerns raised by Council, the NOW and the NRCMA regarding assessment requirements and engineering detail were adequately addressed in the Submissions Report. Consultant recommendations for post-development groundwater monitoring are appropriately included within the proponent's Statement of Commitments.

Flora and Fauna

The department is satisfied that the proposal will not detrimentally impact on flora and fauna within the Littoral Rainforest. The Environmental Assessment concluded that no specific mitigation strategies will be required for any significant fauna or flora species. One threatened flora species was recorded during surveys, the rough-shelled bush-nut, however this is not an endemic rainforest species and has little ecological value in the context of the Littoral Rainforest. The Project will not disconnect existing regional wildlife corridors as suggested in a public submission as ecological connectivity will be maintained along the length of the SEPP26 Littoral Rainforest adjacent the beach foreshore. The OE&H raised concerns about displaced fauna that may result from the clearing of vegetation however the existing vegetation is in good condition and not dominated by weeds so large scale vegetation clearing would not be required. Rather, spot weeding techniques would be used eliminating the need for pre-clearing any fauna surveys.

5.2 ENDANGERED ECOLOGICAL COMMUNITIES

The site lies adjacent to two Endangered Ecological Communities (EECs) as defined in the *Threatened Species Conservation Act 1995*. The vegetation communities satisfy the criteria for recognition as 'Swamp Oak Floodplain Forest', and 'Littoral Rainforest'. The environmental impact of urban development upon these EECs are similar to those of the SEPP26 Littoral Rainforest, being the fragmentation of the vegetation community, edge effects, human and animal intrusion and the invasion of exotic vegetation species. In mitigating these effects, the proponent has considered a 'buffer' between the development and each EEC as will be discussed in further detail below.

Swamp Oak Floodplain Forest

A linear swathe of Swamp Oak Floodplain Forest EEC is located to the west of the site (refer Figure 14). The forest stretches approximately 250m along this western boundary and is set back approximately 8m-10m from the common boundary. This area of Swamp Oak Floodplain Forest EEC is therefore wholly contained within the neighbouring St Vincent's Foundation site.

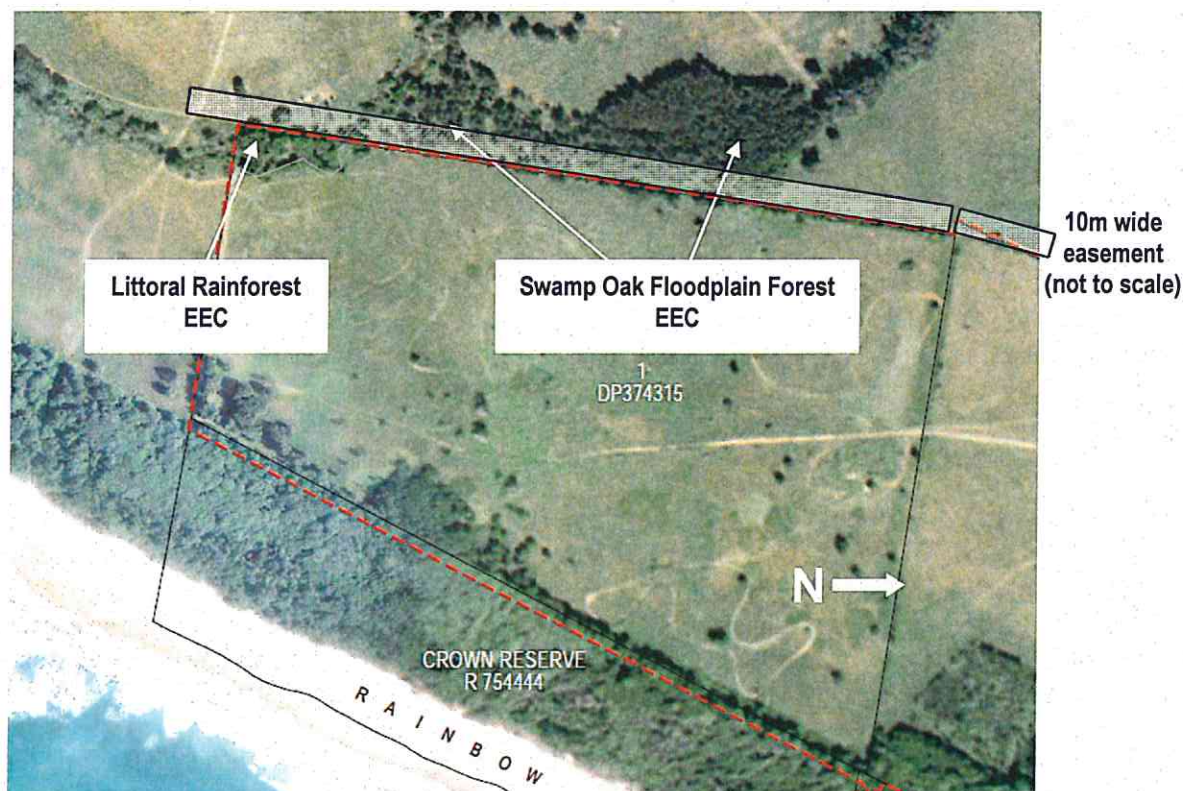


Figure 14: Littoral Rainforest and Swamp Oak Floodplain Forest EECs

A unique constraint presented by the adjacent St Vincent's Foundation land is an existing 10m wide Council easement containing sewerage and water infrastructure which abuts the length of the site's western boundary (located within St Vincent's Foundation land). The Council has indicated that this easement is to be kept free of significant vegetation.

Accordingly, in considering proposals for a vegetated buffer adjacent the EEC, the proponent is constrained by the 10m wide easement and Council's requirement for it to be kept clear. The provision of any planting strategy (to act as a buffer) immediately adjacent this easement would be physically detached from the EEC, located some 8-10m from the edge of the EEC (see Figure 15). Any planting on the subject site would not therefore form part of a continuous vegetated buffer to the edge of the EEC. Instead, the concept plan proposes a perimeter road along the western boundary of the site, which would provide a physical separation between the EEC and future development, rather than a vegetated buffer. The total separation distance or buffer between the EEC and the nearest residential lot would be approximately 29m.

Having considered Council's request, the OE&H confirmed in subsequent correspondence that it did not raise any objection to the proposed 29m wide buffer or the absence of a vegetated buffer adjacent the EEC. Similarly, Council did not raise any objections in this regard and did not seek any changes to the concept plan layout. The department agrees with this shared position. It is considered that the effectiveness of any vegetated buffer strategy is undermined by the presence of the 10m easement and that any planting outside of this easement (along the western boundary of the subject site) would provide little ecological benefit to the EEC. The ecological benefits provided by a vegetated buffer such as decreased light diffusion into the EEC and species progression would not be provided by any planting outside this easement and hence any such additional planting would be unnecessary.

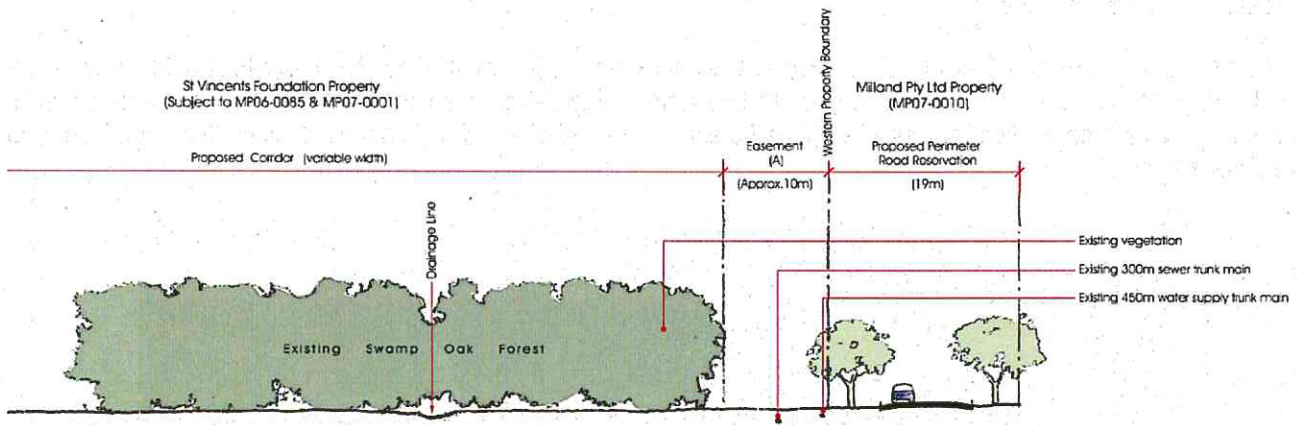


Figure 15: Cross section at western boundary with Council easement

The department therefore considers that the proposal is acceptable in this instance and the provision of a 29m separation distance to the closest residential lot would be sufficient to minimise environmental impacts upon the EEC. It is suggested that a vegetation management program is included within St Vincent's Foundation land for the benefit of the EEC and this will be considered in Part 3A application 06_0085 currently being assessed by the department.

Littoral Rainforest

A 750m² patch of Littoral Rainforest lies in the south-west corner of the site (refer Figure 14). The patch of rainforest is isolated and largely degraded and is generally contained within the subject site area. The vegetation community exhibits many attributes typical of a riparian rainforest and its classification as Littoral Rainforest EEC was debated by the proponent's consultant team, however, for the purposes of this assessment the vegetation will be considered as an EEC.

The concept plan identifies this land as Open Space/Public Open Space which matches the E3 zoning (Environmental Management) under the amended LEP (refer Figure 4). It is proposed that the identified area of littoral rainforest be subject to environmental improvement works and a future VMP, before the land is dedicated to Council as a public reserve (as specified in the separate VPAs in connection with the land). The VMP would also be tied into stormwater management proposals to improve water quality flows into Duchess Gully. The concept plan also proposes a perimeter road adjacent the EEC which provides a separation distance or 'buffer' of between 21m-35m between the top of bank (of Duchess Gully) and the carriageway. The nearest residential lot would be located an additional 15m away from this edge of the carriageway. In total, a separation distance between the top of bank and the nearest residential lot would range between 36m-50m.

The OE&H raised concerns regarding the proposed buffer and recommended a 50m buffer 'to retain an appropriate buffer around this community to afford its long term protection'. This advice is consistent with the OE&H's recommendations for buffers to identified littoral rainforests not covered by SEPP 26 Littoral Rainforest. Council's submission requested only that the distance between the top of the bank and the carriageway of the perimeter road be increased from 20m (as proposed in the EA) to 30m. This distance was subsequently provided by the proponent.

In considering the merits of the proposal, the department notes that the remnant patch of EEC is relatively small and is isolated from the State Significant SEPP 26 Littoral Rainforest on the eastern boundary of the site. It is also noted that, given the residential zoning surrounding the EEC, the area of littoral rainforest will never reach the size or maturity of the nearby SEPP 26 Littoral Rainforest and as such the buffer width should be assessed on its relative scale. Therefore, while the intrinsic environmental value of the rainforest is not considered to be diminished due to its size, it is considered that a generic 50m buffer recommended by OE&H is excessive in this instance, as such a buffer would be wider than the subject patch of rainforest itself.

Instead, a robust program of vegetation management would bring many environmental benefits to the EEC. While the details of the VMP will only be required prior to Stages S2 and M2 of the concept plan, it will contain a scope of works to include the rehabilitation of the riparian corridor, the removal of grasses and weeds and the planting of endemic

rainforest species. Water flows into and through Duchess Gully will be improved, bringing further environmental benefits to the EEC. The VPAs ensure that the rehabilitation of this EEC will be appropriately undertaken prior to dedication to Council, which would then become the authority responsible for the long term protection of the EEC.

EECs – Concluding remarks

The department is satisfied that the main impacts of urban development upon EECs being rainforest fragmentation, edge effects and the invasion of exotic vegetation are adequately addressed by the proposal. Site constraints negate the effectiveness of a wide vegetated buffer adjacent the Swamp Oak Floodplain Forest, while a robust VMP should ensure the protection of the small patch of Littoral Rainforest adjacent Duchess Gully. Whilst the proposed buffer treatment to the 750m² Littoral Rainforest is smaller than that recommended by the OE&H, the department considers that there is scope for a smaller buffer while achieving environmental benefits along the riparian corridor. The department is cognisant of the residential value of the land within Area 14 and as Council will become the authority responsible for the eventual protection of the EEC, it is considered that sufficient safeguards are in place to secure the long term survival of the Littoral Rainforest.

5.3 TRAFFIC IMPACTS

The main vehicular access to the site is proposed at the junction of Ocean Drive and Abel Tasman Drive. As illustrated by Figure 16, this junction is located outside the subject site area. The siting of the main access at this junction accords to strategic traffic proposals in Area 14 and would achieve greater road safety and more efficient traffic flows than if located on the curved section of Ocean Drive on the north west boundary of the site. The siting of this junction is also consistent with a separate Part 3A concept plan proposal for St Vincents Foundations land (major project 06_0085) currently being assessed by the department.

The main traffic impact of the proposal on the surrounding road network is predicted at this intersection at Ocean Drive and Abel Tasman Drive. The predicted increase in traffic generated by the Project will require changes to the existing road infrastructure, namely the signalisation of the Ocean Drive/Abel Tasman Drive junction. Other traffic impacts relate to the siting of the main access on third party land, outside the boundary of the site. An assessment of the Project's traffic impacts follows.

Area 14 impacts

The Environmental Assessment contains a traffic report for the wider Area 14 area, produced by Roadnet on behalf of Port Macquarie-Hastings Council. In summary, the Roadnet report provides traffic analysis, traffic modelling and road upgrade recommendations for Area 14 to accommodate new development for approximately 2,160 dwellings, two schools, a town centre, a commercial district, sporting fields and other developments including tourist facilities. The Roadnet report considers the traffic impacts to Ocean Drive, Houston Mitchell Drive (1.5km south of the site) and the Pacific Highway (6km west of the site), as well as the predicted impacts to their respective junctions, their functionality, road safety and their level of service.

The Environmental Assessment confirms that the likely traffic movements generated by the proposal were incorporated into the greater traffic model for Area 14. The wider traffic model allows for traffic movements generated by 598 residential lots, a 2000m² village centre and 26 tourist units, which far exceeds the likely traffic movements of the subject proposal. The department has reviewed the traffic assessment and is satisfied that the traffic impacts to the wider Area 14 area have been considered by the proponent.

Twelve road upgrades within Area 14 were recommended by Roadnet to ensure safe and efficient traffic flows in the road network up to the year 2029. Of these recommendations, three are located within close proximity to the site being the signalisation of the Ocean Drive/Abel Tasman Drive junction by 2019, the widening of Ocean Drive from one to two lanes (northbound) by 2019, and the widening of Ocean Drive from one to two lanes (southbound) by 2029. The widening of Ocean Drive is not considered to be directly related to this Part 3A application as these upgrades relate to the growth of the Area 14 area as a whole. The upgrade of Ocean Drive/Abel Tasman Drive is discussed further below.



Figure 16: Ocean Drive/Abel Tasman Drive junction (Source: Environmental Assessment)

To ensure predicted traffic impacts of the Proposal are adequately managed, the upgrade of the Ocean Drive/Abel Tasman Drive junction is proposed. Being located outside the subject site, however, the junction upgrade does not form part of the concept plan proposal. Instead, the proponent has entered into VPAs with Council (separate to this Part 3A proposal) which requires the construction of the Ocean Drive/Abel Tasman Drive junction prior to the lodgement of any application for a subdivision certificate for any residential lots. This provides a satisfactory mechanism to ensure the timely construction of a new junction at Ocean Drive/Abel Tasman Drive to manage the predicted traffic generated by the development on the wider traffic network. The VPAs also include provisions for the payment of contributions for other future road upgrades in the Area 14 precinct deemed necessary by Council.

Regarding the design of the junction at Ocean Drive/Abel Tasman Drive, this is the subject of ongoing discussions between Council and the RTA. At the time of writing, the key road upgrades required for Area 14 were still under investigation and were pending Council's preparation of precinct Development Control Plans within Area 14. Therefore, RTA approval for the signalised junction at Ocean Drive/Abel Tasman Drive had not yet been received by the proponent. Instead, agreement had been reached between Council and the RTA confirming that any upgrade proposals along Ocean Drive would be considered by the RTA on the basis of actual (rather than modelled) traffic generation, such that all RTA approvals would be successively granted as the Project and other developments in Area 14 were progressively completed in the coming years.

Concept plan approval can therefore be granted regardless that the final design of the Ocean Drive/Abel Tasman Drive junction is unknown at present. The department is satisfied that the traffic impacts of the proposal were adequately considered in the traffic assessment and that the VPAs provide an appropriate mechanism to ensure the construction of the said junction. To ensure the predicted traffic impacts on the road network are not exceeded, future development applications for subdivision will need to demonstrate compliance with the Roadnet report. Therefore, further environmental assessment requirements have been included by the department to ensure that traffic generated by future subdivision proposals are consistent with any concept plan approval.

Access to Ocean Drive

As illustrated in Figure 16 above, direct vehicular access onto Ocean Drive is not proposed from within the subject site boundary, but via third party land. A distance of approximately 200m lies between the site and Ocean Drive which connects to the main street on the western boundary of the site.

To ensure co-operation with the adjoining landowner regarding the provision of an access, a Memorandum of Understanding (MOU) was prepared between the proponent and St Vincent's Foundation and was submitted to the department to accompany the concept plan proposal. The MOU established the key elements upon which the parties agree to co-operate, including the construction of the junction at Ocean Drive/Abel Tasman Drive and the construction of the 200m road access between Ocean Drive and the subject site. Agreement was also reached for a secondary access to St Vincent's land via an access on the southern boundary of the site.

The department considers this legal arrangement between the neighbouring landowners satisfactorily addresses access issues onto Ocean Drive. The MOU ensures that either party is free to construct the access and junction in accordance with their own construction timetables and as such the delivery of an operational junction will not be impeded by St Vincent's as the land owner. The VPAs signed between the proponent and Council require the 200m access to be completed within the same timescales as the Ocean Drive/Abel Tasman Drive junction mentioned above, this requirement is adequately accommodated within the MOU. Concept plan approval may therefore be granted despite the proposed access onto Ocean Drive being located in third party land.

5.3 URBAN DESIGN

As outlined in Section 2.1, concept plan approval is sought for the following:

- approximately 217 low residential lots, at 13-14 dwellings per hectare, up to 2-storeys or 6m in height
- approximately 82 medium density residential lots, at 25 dwellings per hectare, up to 3-storeys or 11.5m in height
- approximately 160 residential/tourist apartments and approximately 6,400m² of commercial space, including a 'Hill-Top Village' up to 4-storeys or 14.5m in height.

The proponent also seeks approval for 'urban design concepts' for the residential areas and the 'Hill-Top Village', including architectural concepts and indicative façade treatments to guide future development applications. In summary, the concept plan proposes a pedestrian-friendly main street in the 'Hill-Top Village' with rear service lanes to eliminate the need for driveways along the main street. The main street would form the spine of the development and create a public linkage which connects the Village Square at the highest point of the land to Rainbow Beach. The parallel east-to-west street layout is repeated in the northern and southern parts of the site, to maximise ocean views from the street, rather than from private lots. Building heights are proposed to taper from 4-storeys in the main street to 3-storeys in the adjacent medium density housing areas, falling again to 2-storeys in the low residential areas. Building heights would increase again at the southern portion of the site where a medium density area is proposed.

Concerns regarding the proposed urban design and the overall built form were raised in two public submissions. Building height was raised as a specific concern, as was the overall density of development and the impact to visual amenity. In assessing the concept plan and submissions received with respect to urban design, the department has considered the relevant guidelines as will be discussed in turn.

Coastal Design Guidelines for NSW

The department's *NSW Coastal Design Guidelines* (2003) seeks to ensure that future urban developments in NSW are sensitive to the natural attributes of coastal areas. Part 1 of the Guidelines determines a local hierarchy for the different types of coastal settlements and sets out a 'desired future character' of these settlements, while Part 2 sets out design principles for new coastal development in accordance with this local hierarchy. Design principles consider the relationship to the coastal environment, visual sensitivity, edges to water and natural areas, streets, buildings and height.

The concept plan is generally consistent with the *NSW Coastal Design Guidelines*, despite the site not being easily defined within the coastal settlement hierarchy. As a new residential release area, the site is considered as a 'New Coastal Settlement' which includes new subdivisions over 25 lots, however when considered as part of the wider Area 14 growth area, the site is better defined as a 'Coastal Town', which typically would have populations of over 3,000 and up to 20,000 people. This distinction is important, as the desired future character and design principles for the different settlement types vary. With regard to building height, the guidelines set 2-storey limits for 'New Coastal Settlements', while 4-storey limits apply for 'Coastal Towns'. The department considers that the proposal forms part of a wider urban development for Area 14 and should be categorised as a 'Coastal Town' on the coastal settlement hierarchy. This is consistent with the views of Council which considers the site to be part of a broader medium density development

stretching from Lake Cathie to Bonny Hills. On this basis, the building heights proposed in the concept plan proposal are consistent with those heights set by the *NSW Coastal Design Guidelines*.

The concept plan is generally consistent with the remaining urban design principles contained within the *NSW Coastal Design Guidelines* and achieves key design objectives with regard to its proposed layout. Specifically, the proposal avoids areas of ecological value and respects setbacks between natural areas; it protects waterways through water sensitive urban design and total cycle water management; it rehabilitates degraded natural areas; it provides a public domain for future residents; it presents a street layout which responds to the landform and vistas of the foreshore; and it restricts access through foreshore vegetation to ensure ecological integrity of the rainforest is not degraded.

Greater Lake Cathie and Bonny Hills Urban Design Master Plan (UDMP)

Council's *Greater Lake Cathie and Bonny Hills Urban Design Masterplan 2003* (UDMP) provides the strategic guidance for the development of the site. The UDMP provides concept details for land use, urban structure and preferred urban form outcomes for Area 14 and its villages, and includes details on the preferred layout and densities for the subject site (see Figure 17). The UDMP was adopted in 2003 and represents the master plan for development of Area 14.

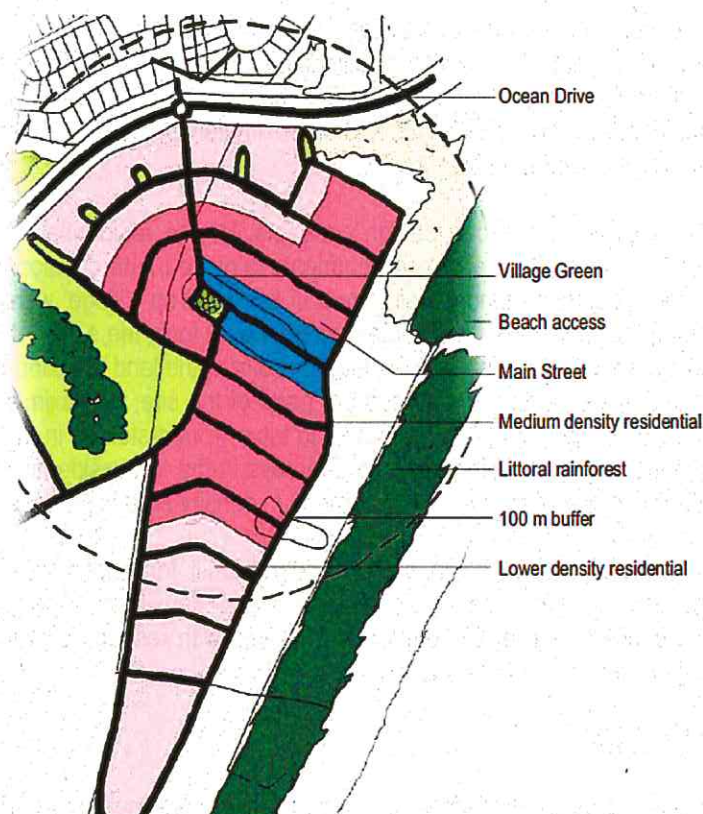


Figure 17: Hill-Top Village Concept Plan

The concept plan is generally consistent with the preferred design outcomes outlined in the UDMP. The overall street layout, the siting of the 'Hill-Top Village', the siting of the main street and the provision of a public square, are all consistent with the UDMP. Streets which have been configured to point eastward towards the ocean to achieve maximum public amenity and public spaces have been sited to take advantage of ocean views and higher ground elevations. Tourist uses, commercial uses and medium density housing are located around a central corridor in accordance with the master plan and an additional 'pocket park' is included by the proponent to strengthen the central spine which links the 'Hill-Top Village' to the beach access. The Project incorporates a rainforest 'buffer' and perimeter road as envisaged by the UDMP and whilst the buffer width is less than 100m in parts (discussed in section 5.1) the general layout is consistent with the master plan guidance.

The concept plan is inconsistent with the UDMP with regard to building height and density. The UDMP envisaged low density residential development at a maximum of 6m in height and medium density residential development at a maximum of 9m in height, while the concept plan proposes heights of 8.5m and 11m for low and medium residential development respectively. The concept plan also seeks approval for building heights of 14.5m which was not envisaged in the UDMP. However, heights are consistent with the LEP as amended.

Visual Impacts

In assessing the proposed building heights, the department considered the visual impacts from key views to and from the site. The key strategic views relating to the site (as identified in Council's UDMP) were the easterly views to the ocean; the westerly views from the beach; district views to the significant natural landmarks of North Brother Mountain and Jolly Nose Mountain; and views from Ocean Drive adjacent the site. The department considers that when viewed from the strategic viewpoints identified in the UDMP, the Project would not have a detrimental impact on visual amenity. Impacts to strategic views are summarised below:

- easterly views from the site to the ocean will be increased, not impeded, by increased building heights
- westerly views of the site as seen from the beach foreshore would not be impacted upon, thereby retaining beach amenity. The site is not visible from the public foreshore
- district views of North Brother Mountain would not be impeded. North Brother Mountain is visible from Ocean Drive from a northern approach (driving south) towards the site and while the development would be prominent, district views of the mountain peak would remain easily visible
- district views of Jolly Nose Mountain would not be impeded due to increased building heights.

The greatest visual impact from increased building heights will be the easterly view of the site from Ocean Drive, as the land rises from Ocean Drive to the 'Hill-Top Village' area. The visual impact from Ocean Drive is depicted in Figure 18. Only the western side of the proposal will be visible from the road as the land rises up to the Village Square, meaning that the remaining development will be imperceptible to the viewer. Consequently, the proposal will not be seen in its entirety from any vantage point, minimising the visual impact upon the landscape. For the remaining strategic views, the concept plan proposal will either not be visible or will not significantly impact on any important natural features and landmarks.

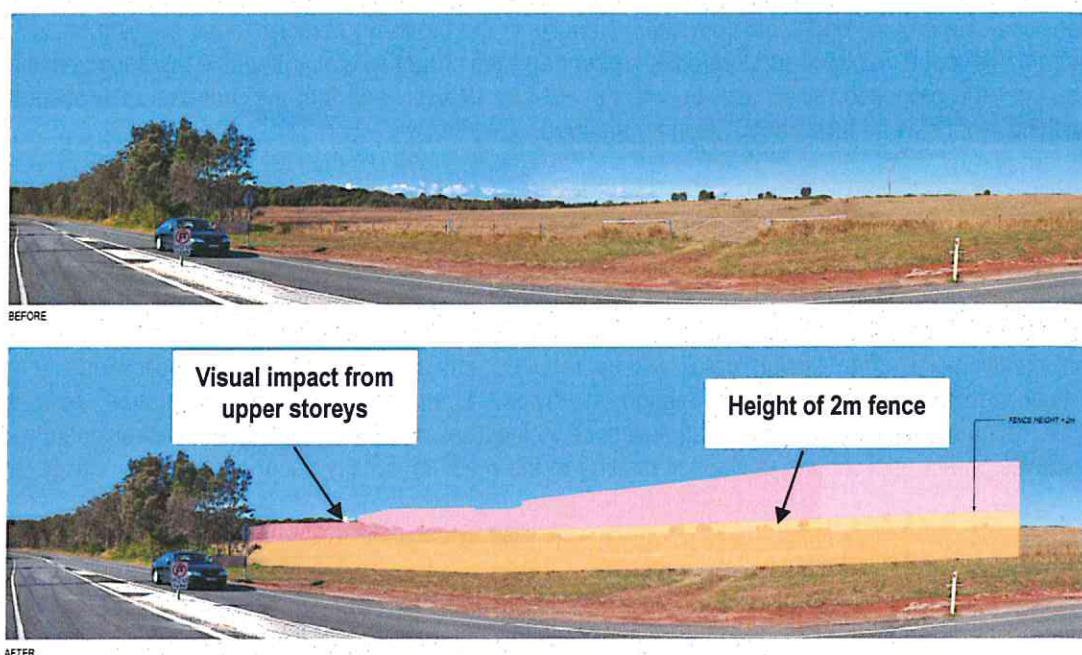


Figure 18: Visual Impact of the Project as seen from Ocean Drive near existing medical centre

The concept plan corresponds to Council's planning proposal for the rezoning of Area 14B and having undertaken a separate visual assessment (including a public consultation exercise) within the planning proposal, Council confirmed that the proposed heights were acceptable subject to high quality urban design in future development proposals. With regard to the hierarchy of coastal settlements identified in the *NSW Coastal Design Guidelines*, Council considered the proposal to represent 'a medium scale urban development within a much broader scale urban community stretching from

Lake Cathie to Bonny Hills' and in this context raised no objections from a visual amenity perspective in accordance with its broader vision for the area. It should be noted that the proposal accords to the 'Building Heights Plan' in the *Port Macquarie-Hastings LEP 2011* (as amended).

On these grounds, the department considers that the proposed building heights are acceptable for the subject site. There is little doubt that the proposal will impact upon the existing landscape from Ocean Drive, however, the department considers it acceptable that some degree of visual impact results from major urban expansions such as Area 14, particularly as the existing site is currently an empty field. It should be noted that fencing and landscaping proposals will accompany future subdivision proposals for stages fronting Ocean Drive, which will need to accord to Council's forthcoming Area 14 Ocean Drive Corridor DCP. The proponent has included these requirements in its Statement of Commitments.

Density

The Project seeks approval for an alternative distribution of density across the development than that illustrated in the UDMP. Higher densities of up to 3/4-storeys are proposed in the 'Hill-Top Village' rather than 2/3-storeys, while medium density development is proposed in the south of the site (refer Figure 16).

The higher densities proposed resulted from the redistribution of densities across the site. The proponent proposes a larger footprint for low density residential development and proposes a reduction of medium density residential development while maintaining an equivalent residential yield across the site. This in turn provided capacity for higher densities to be achieved around the 'Hill-Top Village' provided the built form was increased to 3/4-storeys. The proponent's rationale for the redistribution of site densities was that lower density housing was more typical of the local area and that the high level of medium density housing suggested by the UDMP was unlikely to be reflected in market demand. Higher density development would also provide further accommodation options for the future community that may not be offered by medium density housing types.

The department considers this approach to be acceptable and supports the higher densities around the mixed use zoned 'Hill-Top Village'. On the basis that the higher densities are confined to this area, the department considers that higher densities of the 'Hill-top Village' are acceptable despite exceeding those densities suggested by the UDMP. The increased densities also provide additional community benefits in the provision of more varied housing choice as will be discussed later in this report. Council supported the higher densities proposed stating that the increased building heights would help support the proposed mixed use around the 'Hill-Top Village' and that the proposal is in accordance with Council's planning proposal and its broader vision for the area.

Urban Design Concepts

The proposal includes urban design concepts and architectural themes to guide future development on site. The urban design concepts generally accord to those provided by the UDMP including street layout, architectural themes, dwelling setbacks and façade treatments. A clear distinction is made between the main street, medium density and low density areas. Significantly more urban design detail will be required with future development applications to ensure an appropriate built form however sufficient information is provided to enable concept plan approval. Accordingly, the department has recommended that quality urban design be included as a further environmental assessment requirement for all future development applications to Council relating to the medium density superlots, Hill-Top Village and Village Square.

Urban Design – Concluding Remarks

The department considers that the proposed future form of development is acceptable in urban design terms and seeks to make the most efficient use of the land. The concept plan proposal is generally in accordance with the relevant state and local planning and design guidance and has the support of Council in its strategic vision for the development of Area 14. Issues of visual impact, building heights and density raised during public exhibition were considered in detail and determined to be acceptable and subject to detailed design assessment during future development applications the proposal should ensure an appropriate development in this coastal setting. It is considered that the concept plan provides a suitable framework for future development and approval may be granted having considered the environmental impacts of the Project.

5.4 OTHER ISSUES

Other issues and impacts considered by the department are listed below. Issues include those raised by Council, agencies and by the general public during public exhibition.

Water Cycle Management

The development of grazing land for urban purposes will alter the existing water cycle pattern on the site. The proposal will impact on existing surface water flows and groundwater flows and if unmanaged will impact upon both the quantity and quality of water flows in a post-development scenario. Five main sub-catchments exist on the site. Water cycle management for the three eastern sub-catchments (which flow into the rainforest as discussed in Section 5.1) will not be repeated here, a discussion on water cycle management for the remaining two sub-catchments follows below.

A key feature of water quality management is a biofiltration system proposed to treat stormwater in the south-western sub-catchment prior to discharge into Duchess Gully. The adequate treatment of stormwater in this catchment is critical as Duchess Gully is not only a sensitive receiving environment, but Duchess Gully also ultimately discharges to recreational areas downstream. MUSIC modelling demonstrated that water quantity treatments set by Council in the adopted *Area 14 Integrated Water Cycle Management Plan 2006* document can be adequately met while post-development flows of stormwater could be successfully managed to mimic pre-development flows. To ensure satisfactory water quality objectives can be met and in accordance with the *Area 14 Integrated Water Cycle Management Plan*, a stormwater detention structure was omitted from this sub-catchment and instead the riparian zone of Duchess Gully will be rehabilitated via a future regeneration strategy. The proposed regeneration strategy is included in the proponent's Statement of Commitments to be completed prior to Stage M2 of the concept plan however has also been included as a further assessment requirement for future development application relating to Stage M2.

For the north western sub-catchment, a biofiltration structure is proposed to treat stormwater while a detention structure will capture stormwater flows prior to discharge into an existing drainage channel adjacent Ocean Drive. Adequate treatment of stormwater from this catchment is also crucial as this ultimately leads to a SEPP14 wetland further north of the site. MUSIC modelling results demonstrated both water flow targets and water quality targets set in the *Area 14 Integrated water cycle management plan* could be met or exceeded with the proposed stormwater infrastructure.

Through the appropriate application of water sensitive urban design (WSUD) principles, the proponent has thereby demonstrated that stormwater from the site can be appropriately managed in accordance with the relevant guidelines. The department is satisfied with the stormwater modelling results and recommendations made in the EA and considers the Stormwater Concept Plan to be acceptable. Concerns raised by Council and NOW regarding the design of stormwater structures were adequately addressed through amendments to the Statement of Commitments. Ongoing monitoring proposals include the drilling of boreholes to enable the management of groundwater reserves and these proposals are appropriately contained within the Statement of Commitments. Notwithstanding, the inclusion of further environmental assessment requirements relating to stormwater is recommended to ensure that future stormwater management infrastructure achieves the water quality objectives outlined in Council's *Area 14 Integrated Water Cycle Management Plan 2006*.

Flooding and Coastal Hazards

The site is located in the coastal zone and as such the proposal must be assessed for its susceptibility to flooding and potential impacts from sea level rise. A flooding assessment was included in the EA and revealed that the south-west corner of the site lies at a low elevation which leads to occasional inundation from local storm events in Duchess Gully. This affects low lying areas adjacent Duchess Gully within Stages M2, M5 and M7 of the concept plan. The flooding assessment considered:

- the flooding impacts for the site up to and including the 1% AEP flood event
- the flooding impacts for the site incorporating a future development scenario for a constructed wetland on the adjacent site (Part 3A project application 07_0001)
- cumulative impacts and the effects on local flooding
- the impacts of proposed filling adjacent Duchess Gully and its effects on local flooding
- the impacts of climate change and increased rainfall intensity of 20%

- road crossing design and freeboard requirements of 500mm
- evacuation routes from the site during flooding events.

To address flooding impacts, the Environmental Assessment recommended the following:

- that future residential lots shall be filled to a maximum of RL 5.0m AHD
- that the minimum floor level of any residential dwelling is RL 5.27m AHD
- that road crossings over flowpaths shall be designed to take into account the 100 year ARI (plus climate change) and comply with Council's *AUSPEC Design Specifications*.

The department is satisfied that the Environmental Assessment adequately addresses flooding issues and considers that sufficient information is included to enable concept plan approval. The Council and the OE&H were satisfied with the flooding assessment and raised no concerns. To ensure flooding impacts to low lying areas in Stages M2, M5 and M7 are considered in appropriate detail, the department recommends that future development applications for subdivision in these stages include a flood assessment consistent with the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise 2010* document and the *Interim Port Macquarie-Hastings LGA Flood Policy 2007*, or any subsequent relevant document. It is noted the proponent has included this assessment requirement in their Statement of Commitments for future development applications in those stages affected by flooding.

Regarding impacts from sea level rise, the Environmental Assessment included a Coastal Hazards Study which concluded that the development is not at risk from sea level rise due to climate change as the proposed development is located landward of the coastal hazard zone when considered over a 100 year planning period. The assessment was carried out using conservative estimates in accordance with ecologically sustainable development (ESD) principles and the *NSW Coastal Policy*. The department is satisfied that sufficient assessment has been completed with regard to sea level rise.

Noise

The proposal is located adjacent Ocean Drive which connects smaller coastal towns and villages along the Mid-North Coast. Noise impacts from road traffic is therefore an issue that should be addressed to ensure residential amenity of future occupiers of the development is protected.

The Environmental Assessment contains a noise assessment prepared by Heggies Pty Ltd. The noise report considered two development scenarios; a baseline scenario containing traffic volumes for 2009; and a constructed scenario which assumed traffic volumes for 2029 including the completed development. In order to meet the relevant noise standards as set by the OE&H's *Environmental Criteria for Road Traffic Noise 1999*, the Heggies report recommended the combination of a 2m high noise wall and architectural treatments for those future dwellings fronting Ocean Drive to mitigate the impacts of predicted road traffic noise from Ocean Drive. The noise wall would stretch approximately 180m along Ocean Drive in the north-west corner of the site.

The department considers that approval for a 2m acoustic noise wall is inappropriate at concept plan stage and should form part of future development applications for residential subdivision. Given the visual impact of such a noise wall, the department does not consider a noise wall to be acceptable without the benefit of a subdivision layout and particularly before alternative solutions to noise mitigation have been examined and/or exhausted. No submissions were received from Council or other agencies regarding noise impacts.

Therefore, the department recommends the concept plan be modified to delete the 2m noise wall and recommends that noise assessment be included as a further environmental assessment requirement for future subdivision development applications fronting Ocean Drive. Recommended construction standards for future dwellings proposed in the EA to achieve acceptable noise levels for future residents have been retained in the proponent's Statement of Commitments.

Affordable Housing

The concept plan does not include proposals for the provision of affordable housing within the low density residential areas or medium density areas. Housing NSW raised concerns in this respect and considered that the proposal would not adequately consider the housing needs of the community.

While the concept plan does not specifically include proposals for affordable housing, the concept plan does not preclude the future provision of affordable housing on site. The proponent seeks approval for low density residential areas, medium density residential areas and mixed use areas, so affordable housing could be easily provided within this framework. Proposals for affordable housing could therefore form part of future development applications for residential subdivision.

Notwithstanding, the department does not consider affordable housing provision as being necessary for concept plan approval. The concept plan offers a wide range of accommodation options to cater for a wide range of housing needs including single dwellings in the lower density areas, smaller dwellings including town houses or three storey walk-ups in the medium density areas, and even smaller dwellings above retail or commercial space 'shop top units' with high accessibility to amenity and public space. In this respect the concept plan proposal provides for a greater range of accommodation options than outlined in the UDMP.

Therefore, in the absence of Council policy requiring affordable housing in this locality, the department does not consider affordable housing a necessary component in the proposal to enable concept plan approval. Furthermore, the investigation of affordable housing provision as a further environmental assessment requirement has not been included for future subdivision proposals on the site.

Community Impacts

The proposal will bring significant change to the existing community. Area 14 currently remains largely undeveloped, so any new urban development is likely to impact and bring about changes upon the wider area and community. Of the submissions received from the public and community groups, three objected to the Project, two did not object but raised concerns, while two supported the Project. The Lake Cathie Progress Association supported the proposal, the Bonny Hills Progress Association raised concerns regarding the lack of detail regarding the final built proposals, while the Bonny Hills Youth and Community Projects Group objected to the proposal. The public submissions which did not support the proposal raised issues including over development, building heights and densities, traffic impact and environmental protection.

A Social Impact Assessment (SIA) set out the findings of previous community consultation undertaken for the UDMP in 2003 and provided an assessment of the likely impact of the Project on the existing community. The key community issues for Area 14 identified in the 2003 consultation workshop included the following:

- maintaining a village atmosphere and environmental values
- sensitive water management
- environmental management and wildlife corridors
- adequate infrastructure for development
- remedy existing infrastructure deficiencies
- urban/community/environmental relationships
- integrated community centre
- ensure road system adequacy
- danger of overdevelopment.

The department considers the Project to be capable of providing a positive community outcome for both existing and incoming residents. With reference to the issues raised by the community listed above, the proposal promotes a sense of community or 'village atmosphere' by providing a central public space at the 'Hill-Top Village' and provides a central spine which links the neighbourhood centre to the pedestrian beach access. The Project provides a comprehensive water cycle management plan which uses appropriate WSUD principles to capture, treat and discard stormwater. The Project provides environmental benefits in the protection, rehabilitation and management of the SEPP26 rainforest for 20 years and will not impact on the wildlife corridor and north south movements within the rainforest. The Project provides the community with unrestricted access to the beach foreshore at Rainbow Beach which formalises the existing pedestrian access that currently crosses private land. The Project also offers a range of future housing types providing the community with an increased range of accommodation options as households change in age and size. The low density housing style familiar to the local community is adequately catered for, while housing choice is increased with the potential provision of residential flat buildings, townhouses and integrated housing above retail units.

In terms of remedying deficiencies in community facilities, the Project will not provide key health and community facilities to the local area, however, key health and educational facilities will be adequately provided within Area 14 Stage 1A (as proposed in MP06_0085). With regard to road infrastructure, all proposed road upgrades will be developer funded ensuring the cost of infrastructure delivery will not be borne by Council or the community. Regarding the 'danger' of overdevelopment, the department considers that the Project is in accordance with the Regional Strategy and is consistent with the Council's broader vision for Area 14 as a whole. Issues of building heights and overall built form densities were previously discussed in Section 5.4.

Overall, the department considers that the development of the site and Area 14 will bring positive benefits to the area. The department acknowledges the public submissions received and the potential negative community impacts that may result from development. However, the proponent has responded to the community issues raised during previous community consultation workshops and has clearly addressed each issue through the development of the project layout. The specific concerns raised by the Bonny Hills Progress Association relating to the lack of detail in the proponent's submission is due primarily to the fact the proponent is seeking concept plan approval, and as such their concerns may be further addressed at future development applications for residential subdivision.

Archaeology and Cultural Heritage

The Cultural Heritage Assessment considered Aboriginal and European Cultural Heritage in accordance with the Draft *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* produced by the then Department of Environment and Climate Change, July 2005. A 'scarred tree' was identified as a significant item of cultural heritage value, this was located well within the rainforest and away from any proposed or future development works.

The OE&H raised no concerns regarding the assessment of cultural heritage however recommended specific planning conditions regarding engagement with registered local Aboriginal representatives should items of cultural value be discovered during construction.

The department is satisfied that the appropriate assessment has been undertaken and recommends planning conditions to ensure that the appropriate management practices are in place during the construction phases of the development to protect any items of heritage value that may be found. Similar management practices have been included within the proponent's Statement of Commitments during the construction phases of any future development applications for subdivision.

Acid Sulfate Soils, Geotechnical and Contamination

Technical investigations for acid sulfate soils, geotechnical and contamination hazards were contained within the Environmental Assessment. The investigations concluded that risk from these environmental hazards were minimal. The most significant risk was the potential presence of acid sulfate soils below the water table in the south-west corner of the site near Duchess Gully affecting Stages M2, M5 and M7. This was noted by Council, the NOW and the NRCMA.

In recommending concept plan approval, therefore, the department has included environmental assessment requirements for future development applications for Stages M2, M5 and M7. Future development applications for these stages will need to include a risk assessment for acid sulfate soils disturbance. In the event that acid sulfate soils are likely to be disturbed, an acid sulfate soils management plan shall be prepared in accordance with the *NSW Acid Sulfate Soils Manual* (ASSMAC). This eventuality is included in the proponent's Statement of Commitments accordingly.

Bushfire Risk

The concept plan application proposes future development within a bushfire prone area. Accordingly, an analysis of bushfire risk was included within the Environmental Assessment.

The department is satisfied that bushfire risk was considered in accordance with the relevant guidance, *Planning for Bushfire Protection 2006*, and that the appropriate asset protection zones (APZs) can be wholly contained within the site without need for the use of Crown lands or that land subject to regeneration/revegetation. A 20m APZ is provided for by the concept plan which exceeds the 10m requirement applicable to residential development adjacent a littoral rainforest.

The required APZ can be wholly contained within the road reserve and as such will not impact on proposals for environmental management. Specific details of bushfire management measures including the final locations and dimensions of APZs can be determined during future development applications for subdivision.

Accordingly, in recommending concept plan approval, the department has included environmental assessment requirements for future development applications for subdivision with respect to bushfire risk. The environmental assessment requirements are consistent with those planning conditions requested by the Rural Fire Service with respect to *Planning for Bushfire Protection 2006*.

Local and State Infrastructure Contributions

As already discussed in this report, the proponent has entered into VPAs with Council pursuant to section 93F of the Act which outline the proponent's obligations for the payment of monetary contributions to Council. These include contributions towards roads and open space in the Port Macquarie-Hastings local government area. Accordingly, the department is satisfied that an appropriate mechanism has been secured to ensure the appropriate provision of local infrastructure relating to the concept plan proposal. Additional contributions may be required in connection with future lot subdivision proposals such as community, sewer and bushfire services, however as the concept plan does not propose lot subdivision, these contributions do not apply and can be determined by Council during future Part 4 applications on the site.

State public infrastructure contributions may also be applicable in connection with future Part 4 applications for lot subdivision as the site, Area 14 1B, is identified as an 'urban release area' in the LEP. Part 6 of the LEP requires that Council consult the department regarding State public infrastructure requirements prior to granting consent for subdivisions within an urban release area, if the subdivision would create lots smaller than the minimum lot size before the land became an urban release area. Any requirements for a State infrastructure levy would therefore be considered at this future juncture. Accordingly, the department recommends a future assessment requirement be included in the concept approval that requires the proponent to address Part 6 of the LEP with respect to state public infrastructure contributions.

6 CONCLUSION

The proposal is located within 'Area 14', a parcel of land identified by Port Macquarie-Hastings Council as an area for strategic urban growth, and within a growth area identified by the State government for the Mid North Coast of New South Wales.

The proposal is for the development of land for low and medium density residential development and mixed use development including commercial and tourist uses. The proposal is located adjacent a significant SEPP 26 Littoral Rainforest and includes environmental works to preserve the rainforest in its natural state.

The department has assessed the Environmental Assessment and subsequently submitted information and has considered the submissions received in response to the proposal. The key issues raised by the proposal relate to the SEPP 26 Littoral Rainforest, EECs, traffic impacts and urban design, while other issues included water cycle management, flooding and coastal hazards, noise, affordable housing, community impacts, flora and fauna, cultural heritage, acid sulfate soils, bushfire risk and infrastructure provision. The Environmental Assessment and subsequently submitted information demonstrates general compliance with the relevant environmental planning instruments.

The project is considered to provide the following public benefits:

- contribution to housing targets for Port Macquarie-Hastings local government area as identified in the *Mid North Coast Regional Strategy 2006*
- rehabilitation, protection and conservation of SEPP26 Littoral Rainforest
- rehabilitation, protection and conservation of EECs
- improvements to public access to Rainbow Beach and the public foreshore
- increased housing choice
- protection of public, beach and visual amenity
- improved stormwater flows and management
- groundwater management for the benefit of SEPP26 Littoral Rainforest
- protection of Aboriginal cultural heritage.

The department has included further environmental assessment requirements for future applications and planning conditions to the project approval to ensure a satisfactory level of environmental performance. Modifications to the concept plan include:

- The deletion of a 2m high noise wall along the Ocean Drive frontage.

On these grounds, the department considers the site to be suitable for the proposed development and that the proposal is in the public interest. Consequently, the department recommends that the Planning Assessment Commission **approve** the project, subject to the modification to the concept plan, further assessment requirements, conditions contained within the project approval and the proponent's Statement of Commitments.

7 RECOMMENDATION

It is recommended that the Planning Assessment Commission:

- (A) consider the findings and recommendations of this report;
- (B) **approve** the concept plan for the project, under section 75O of the *Environmental Planning and Assessment Act 1979*, subject to modification of the concept plan and further assessment requirements; and sign the instrument of approval (**TAG A**); and
- (C) **approve** the project application for the project, under section 75J *Environmental Planning and Assessment Act 1979*, subject to planning conditions; and sign the instrument of approval (**TAG B**)

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Endorsed by:



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APPENDIX A. INSTRUMENTS OF APPROVAL

APPENDIX B. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Provided on the attached compact disk.

APPENDIX C. COMPLIANCE WITH ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes reference to the provisions of the environmental planning instruments that substantially govern the carrying out of the Project and have been taken into consideration in the environmental assessment of the Project. The provisions, including development standards of local environmental plans and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the Proponent to address such standards and provisions. In summary, the relevant EPIs for the Project include:

State Environmental Planning Policy (Major Development) 2005

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* (as in force at the time) being a subdivision for residential purposes for more than 100 lots in the NSW Coastal Zone. The opinion was formed by the Director-General as delegate on 18 January 2007.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP aims to assist in effective infrastructure delivery. Schedule 3 of the SEPP requires the proponent to refer the concept plan to the RTA for developments comprising of 75 or more apartment dwellings, commercial premises with a floor space over 2,500m², or tourist facilities creating 50 or more motor vehicle movements. In accordance with the SEPP, the application was referred to the RTA on 17 November 2010. RTA's concerns have been addressed in Section 5.

State Environmental Planning Policy No. 26 – Littoral Rainforests

SEPP 26 aims to preserve and protect littoral rainforests in their natural state. The policy applies to that land within 100m of the marked boundaries identified in a series of maps marked "*State Environmental Planning Policy No. 26 – Littoral Rainforests (Amendment No.2)*". The subject site borders SEPP26 Littoral Rainforest No. 116 to the east and therefore the policy applies. The policy requires the consent authority to consider any development that may damage or destroy the littoral rainforest before approval can be given for development. The relevant matters for consideration as required by SEPP26 have been considered in Section 5 of this report.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 aims to encourage proper conservation and management of natural vegetation areas that provide habitat for koalas. The SEPP applies to development on land parcels of more than one hectare. In accordance with SEPP44, the existence of core koala habitat must be determined before development consent can be given. An assessment of the site was undertaken by the Proponent and no core potential habitat or potential koala habitat was recorded. As such, a Koala Plan of Management was not required and is not contained in the EA accordingly.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore whether it is suitable for the use for which development is proposed. If the land is unsuitable, remediation must take place before land is developed. The Proponent has undertaken a Preliminary Site Investigation (PSI) notwithstanding that the site is not identified on Council's contaminated sites register. The EA confirmed that the site is suitable in its current state for urban development. The relevant matters for consideration as set out in SEPP55 have been considered in the assessment of the Project.

State Environmental Planning Policy No. 71 – Coastal Protection

SEPP 71 applies generally to development in the coastal zone. Clause 2 sets out the aims of the policy which includes *inter alia* the protection, preservation and effective management of coastal areas and natural resources including vegetation, beaches and amenity. Clause 8 sets out the matters of consideration by a consent authority when determining a development application in the coastal zone which includes *inter alia* the suitability of the development given its type, location and relationship with surroundings; the preservation and improvement of access opportunities to

the public foreshore; and measures to preserve native flora and fauna. In particular, the Project improves public access to the coastal foreshore, demonstrates due regard to its environmental setting and surroundings, is not detrimental to the scenic amenity of the coastal foreshore, includes measures to protect and regenerate existing coastal habitats and includes measures to protect and conserve items of Aboriginal cultural heritage. The aims and matters for consideration as set out in SEPP71 have accordingly been considered in the assessment of the Project.

North Coast Regional Environmental Plan 2008

The *North Coast Regional Environmental Plan* (North Coast REP) applies to the coastal local government areas between Hastings Shire and Tweed Shire and as of 1 July 2009 was considered a deemed SEPP. The assessment of the Project has had regard to the relevant provisions of the North Coast REP as it relates to the Project including: the protection of water quality of the coastal environment; the retention and regeneration of natural areas; the provision for the orderly and economic release of urban land; and to locate urban and tourism development on land that is free from flooding, land instability, bush fire risk and other environmental hazards.

Port Macquarie-Hastings Local Environmental Plan 2011

The *Port Macquarie-Hastings Local Environmental Plan 2011* (LEP) outlines the local environmental planning provisions for the area. The assessment of the Project has had regard to the relevant aims and objectives of the LEP as it protects, conserves and manages ecological biodiversity and surrounding natural environment; manages the orderly, equitable and economic use and development of the land; considers and adapts for natural hazards and risks including flooding, erosion, land stability, bush fire risk and acid sulfate soils; reinforces the area's settlement hierarchy and does not conflict with the hierarchy of business and retail centres in the area; and identifies and protects features of environmental, cultural and visual importance within the area.

APPENDIX D. COMPLIANCE WITH OTHER PLANS AND POLICIES

Other plans and policies considered in the assessment of the Project:

Mid North Coast Regional Strategy 2006-2031

The *Mid North Coast Regional Strategy* was adopted to ensure a long term vision (25 years) is achieved for the coastal areas of NSW's Mid North Coast. The strategy identifies the subject site as a growth area for urban development. Broadly, the strategy aims to sustainably manage the expected population increase in the region, protect the region's environmental assets, cultural values and natural resources, and encourage economic opportunities over the next 25 years. The assessment of the Project has had regard to the relevant aims and objectives of the Regional Strategy as it aims to: protect high value environments including vegetation communities by ensuring that new urban development avoids these important areas; cater for a minimum of 59,600 new dwellings to 2031 to accommodate the forecast population increase; ensure that new housing meets the needs of smaller households and an ageing population by encouraging a shift in dwelling mix and type so that 40% is of multi-unit style; protect the coast and character of the coastal villages; and protect the cultural and Aboriginal cultural heritage values and visual character of coastal towns and villages and surrounding landscapes.

NSW Coastal Policy 1997

The *NSW Coastal Policy* sets out the direction for coastal zone management, planning and conservation. It aims to plan for sustainable population growth and economic development, without compromising the natural, cultural and heritage values of the coastal zone. The assessment of the project has had regard to the relevant goals of the Coastal Policy which represents a commitment to: protecting, rehabilitating and improving the natural environment of the coastal zone; recognising and accommodating the natural processes of the coastal zone; protecting and enhancing the aesthetic qualities of the coastal zone; providing for ecologically sustainable human settlement in the coastal zone; providing for public access; and protecting and conserving the cultural heritage of the coastal zone.

Coastal Design Guidelines for NSW 2003

The *NSW Coastal Design Guidelines* aims to ensure that future developments are sensitive to natural and urban settings of coastal places. The Project is generally consistent with the 'desired future character' contained within the Guidelines as it respects the ecological limits of the site; has been developed with careful consideration of the existing landform and views from public areas; and provides a public domain within the site. Specifically, the Project avoids areas of ecological value and respects setbacks between natural areas; protects waterways through water sensitive urban design and total cycle water management; rehabilitates degraded natural areas; presents a street layout which responds to the landform and vistas of the foreshore; and restricts access through foreshore vegetation to ensure ecological integrity of the rainforest is not degraded.

It is noted that the Project is not consistent with the 'desired future character' outlined in the Guidelines regarding building height. The Project seeks heights of 3/4-storeys in the main street which exceeds those heights contained within the Guidelines of 1/2-storeys for 'New Coastal Settlements' and 2/3-storeys for 'Coastal Villages'. Heights of 3/4-storeys are envisaged only in 'Coastal Towns' which typically have a population of between 3,000 and 20,000 people. This matter is discussed in detail in Section 5.

Port Macquarie-Hastings Development Control Plans

The assessment of the Project has had regard to the relevant development control standards as set out in the Port Macquarie Hastings DCP 2006, DCP No.9 Residential and Tourist Accommodations 1999, DCP No.34 Acid Sulfate Soils 2008 and DCP No.41 Building Construction and Site Management 2008. Consistency with these development controls will be more relevant in future subdivision proposals and planning applications on the subject site.

Hastings Urban Growth Strategy 2001 (HUGS)

The *Hastings Urban Growth Strategy* identified Council's vision in 2001 for the future pattern of urban growth in Hastings. The purpose of HUGS was to satisfy the requirements of the State Government in the preparation of a comprehensive Urban Land Release Strategy prior to any significant residential land releases, while providing an integrated framework for Council decisions relating to planning and servicing for future urban development. The subject

site was identified in the Strategy as an Urban Investigation Area and as such the assessment of the Project has had regard to the HUGS document accordingly.

Greater Lake Cathie and Bonny Hills Urban Design Master Plan 2004 (UDMP)

The *Greater Lake Cathie and Bonny Hills Urban Design Master Plan* provides concept level urban design guidance for the future urban development for the wider Lake Cathie and Bonny Hills area (Area 14), which was identified as an area of future growth in the HUGS 2001 document. The UDMP aims to provide for sustainable development within Area 14 which is expected to accommodate 9,900 people by 2021 (the population was approx 4,100 in 2001). The master plan also outlines land use zones for Area 14 and provides development principles to guide urban growth including the desired urban structure, urban design criteria and preferred design outcomes for the future built form. The assessment of the Project has had regard to this document and generally the Project is in accordance with the draft master plan. It is noted that the proposed building heights of 3/4-storeys exceed those heights envisaged in the UDMP of 2/3-storeys, this is discussed in detail in Section 5.

APPENDIX E. ENVIRONMENTAL ASSESSMENT

Provided on the attached compact disk.

APPENDIX F. SUBMISSIONS

Provided on the attached compact disk.

APPENDIX G. RESPONSE TO SUBMISSIONS REPORT

Provided on the attached compact disk.

