

STATUTORY & NON – STATUTORY PROVISIONS



5 Relevant Statutory & Non-Statutory Provisions

This section of the Environmental Assessment Report considers the requirements of DGRs 1.2, DGR 1.3, DGR 1.4 and DGR 1.5. These DGRs state as follows:

DGR 1.2: “Justify the proposed landuses across the site with reference to relevant local, regional and State planning strategies. The proposal should be generally consistent with the Port Macquarie – Hastings Council Area 14 Structure Plan or justification provided for any inconsistencies.”

DGR 1.3: “Consider the integration and compatibility of the proposed landuses (schools, retail / business centre, residential properties, tourist site) across the site with regard to access arrangements, traffic, environmental buffers, density controls and suitability of the landuse with surrounding development.”

DGR 1.4: “Demonstrate the consistency of the proposed residential subdivision with the NSW Coastal Design Guidelines.”

DGR 1.5: “Identify any potential impacts of the development on adjoining rural lands and if necessary, appropriate mitigation measures”.

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

The Environmental Planning and Assessment Act 1979 (EP&A Act) lists a number of Objects under Part 1 Section 5. When determining applications, the Minister is required to have regard to the Objects of the EP&A Act. The

following table sets out these Objects and describes the manner in which the Concept Plan addresses the Objects.

Table 2: Objects of EP&A Act

<i>(a) to encourage:</i>	
<i>(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,</i>	The Concept Plan includes details regarding the ongoing management of the areas identified for conservation and rehabilitation. The development will include the creation of significant areas of habitat. In addition, the Concept Plan provides for the implementation of a major component of the adopted urban release strategy for the locality known as Area 14. The future urban areas will also incorporate water reuse facilities, which aid in the proper management and conservation of water resources. The Village Centre includes civic buildings such as library, Council office, etc. This will contribute to the social welfare of the existing and future residents. A significant area of the subject land will be revegetated and managed for habitat creation and conservation.

	Therefore, it may be seen that the Concept Plan has had regard to this object of the EP&A Act.
<i>(ii) the promotion and co-ordination of the orderly and economic use and development of land,</i>	<p>The subject land has been zoned residential since the early 1980s. The land was identified in the Area 14 Structure Plan as having areas suitable for urban development. There is existing demand for residential, open space, environmental, and some commercial development in the locality.</p> <p>Thus, the Concept Plan is consistent with the need to ensure orderly and economic development of land.</p>
<i>(iii) the protection, provision and co-ordination of communication and utility services,</i>	The development of the subject land will require the extension and upgrading of communication and utility services. Consultation with service providers ensures this may be undertaken in a manner which does not adversely impact on the protection of such services, and enables forward planning for required upgrades.
<i>(iv) the provision of land for public purposes,</i>	The Concept Plan makes provision for the use of land for public purposes – being the civic area within the Village Centre.

<i>(v) the provision and co-ordination of community services and facilities, and</i>	The Concept Plan identifies the Village Centre as an appropriate location for community services and facilities.
<i>(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, and</i>	The subject land has been investigated via a number of environmental studies and assessments. It has been determined that the majority of existing areas of significant vegetation or habitat areas will be retained within the central corridor. In addition, existing cleared areas will be rehabilitated and additional habitat will be created and native vegetation planted.
<i>(vii) ecologically sustainable development, and</i>	<p>The principles of ESD are discussed within the Justification section of this report.</p> <p>In summary, the Concept Plan has had regard to the environmental attributes of the subject land and the potential impacts of the development. Mitigation measures have been identified and the overall development is likely to create an improvement in the habitat currently available on site.</p>
<i>(viii) the provision and maintenance of affordable housing, and</i>	The proposal will result in the development of housing in the most economical manner

	possible, via the sourcing of fill material from on site. This contributes to the provision of the most affordable housing on site possible.
<i>(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and</i>	The Part 3A process involves State and Local Government in the planning process.
<i>(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i>	This Concept Plan is the implementation of a strategy for the subject land which was the subject of extensive public consultation during the development of the Area 14 Structure Plan. In addition, the Part 3A process involves the exhibition of the preliminary report and application on the Department's website. Public consultation was also undertaken during the development of this EAR. Further consultation will be undertaken during the public exhibition period.

The application is submitted under the provisions of Part 3A *Major Infrastructure and Other Projects* of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Regulations.

5.2 State Environmental Planning Policy (Major Development) 2005

The State Environmental Planning Policy (SEPP) (Major Development) has the following aims:

- (a) to identify development to which the development assessment and approval process under Part 3A of the Act applies,*
- (b) to identify any such development that is a critical infrastructure project for the purposes of Part 3A of the Act,*
- (c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,*
- (d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes,*
- (e) to rationalise and clarify the provisions making the Minister the approval authority for development and sites of State significance, and to keep those provisions under review so that the approval process is devolved to councils when State planning objectives have been achieved.*
- (f) to identify development for which regional panels are to exercise specified consent authority functions.*

The SEPP (Major Development) defines the developments that are major developments under Part 3A of the EP&A Act and developments for which the Minister for Planning is the consent authority.

Schedule 2 of the SEPP (Major Development), Section 1 Coastal Areas, Part 1(i) relates to development in the coastal zone, on residential zoned land,

where the proposal involves a subdivision to create more than 25 lots. The number of residential lots proposed on the subject land will be in excess of the 25 lot threshold. The subject land is within the coastal zone. Therefore, the subdivision component of this development meets the SEPP (Major Development) criteria. There do not appear to be any other provisions that would exclude the proposed development from Schedule 2 of the SEPP (Major Development).

Clause 6(1)(a) of the SEPP (Major Development), specifies - development that, in the opinion of the Minister, is development of a kind that is described in Schedule 1 or 2, is declared to be a project to which Part 3A of the Act applies.

Details of the eco-tourist site have not been developed at this stage. However, it is likely that the development will provide accommodation for more than that identified in the threshold for Part 3A, thus this landuse should be considered in the Concept Plan assessment.

The other components of the Structure Plan will not all meet the criteria for Major Development, however information regarding these components has been provided to show the context of the proposed subdivision development.

5.3 State Environmental Planning Policy 44 – Koala Habitat (SEPP 44)

This policy applies to land within the Port Macquarie – Hastings local government area.

The aim of SEPP 44 is:

to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a

permanent free-living population over their present range and reverse the current trend of koala population decline:

(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and

(b) by encouraging the identification of areas of core koala habitat, and

(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones”.

Following the adoption of the Area 14 Structure Plan, Council commissioned a number of related environmental investigations. This included the preparation of a draft koala plan of management (KPOM) in accordance with the provisions of SEPP 44. The draft KPOM was undertaken by Biolink Pty Ltd (2004). This draft KPOM was amended in November 2005 to include all of the subject land.

Biolink notes the aim of the KPOM is:

to ensure negative impacts on Koalas are minimised and development occurs such that the quality and quantity of the habitat resource does not change over time.

The draft KPOM identifies one area where there has been a koala sighting on the subject land. This area directly adjoins the sewerage treatment plant. The draft KPOM goes on to then identify the quality of koala habitat in the locality, and suggests habitat corridor locations. It should be noted that Biolink undertook a number of the environmental investigations for the Area 14 Structure Plan, hence the draft KPOM integrates with the other environmental considerations on the land.

The koala habitat and suggested corridor locations are shown in Figure 24. Potential koala habitat, as defined by Biolink, is identified as Secondary (Class A).

From the Biolink draft KPOM extract, it may be seen that the proposed habitat linkages will be contained within the area identified in this Concept Plan as open space / drainage / habitat corridor. The only area of core koala habitat is on land within the sewerage treatment plant buffer that is also within the open space / drainage / habitat corridor, as is the secondary habitat containing SAT site 1409. The secondary habitat on the far western side of the subject land will primarily be contained within a vegetated buffer to Ocean Drive.

The draft Biolink KPOM provides a number of Management provisions. The aims and objectives of the draft KPOM Management provisions are as follows:

The primary aim of the plan is to accommodate development whilst ensuring, to the maximum extent possible, that disturbance to Core Koala Habitat areas is minimised while conservation of Potential Koala Habitat elsewhere on the site is maximised. This task is reflected in the following objectives:

- (i) Ensuring that the main area of Core Koala Habitat is effectively buffered from adverse impact.*
- (ii) Maximising retention of preferred koala food trees within areas of Potential Koala Habitat elsewhere within the site by innovative subdivision design*
- (iii) creation of habitat linkages within the site.*

The draft Biolink KPOM sets out the Management provisions that relate to the development of potential koala habitat areas for residential development. These are as follows:

Where development of land for residential purposes is proposed within the areas that are Potential Koala Habitat, the following provisions will apply:

(i) Habitat linkages can take the form of a revegetated corridor OR otherwise be a feature of innovative subdivision design that demonstrates the underlying objective.

(iii) Preferred koala food trees must comprise a minimum of 50% of the native tree species used for the purposes of creating a habitat link and must be planted at a density of no greater than 1 tree/100m².

(iv) Development Applications that relate to a proposed residential subdivision must demonstrate innovative design concepts that maximise retention of any preferred food trees that may occur on the site.

(v) Road design standards and/or approved vehicle calming devices must be incorporated into any subdivision design such that motor vehicles are restricted to a maximum speed of 50km/hour.

(vi) The Determining Authority must discourage the keeping of domestic dogs in areas adjacent to natural areas such as the Lake Innes Nature Reserve while encouraging responsible dog ownership elsewhere on land to which the plan applies.

Consultation with Port Macquarie – Hastings Council has noted there is no current timeframe for when the current draft Biolink KPOM may be presented to Council for adoption. However, the current management provisions of the draft KPOM may be incorporated into the future designs of the residential subdivision – although it should be noted that the area identified as secondary habitat is primarily retained within the open space / drainage / habitat corridor on the subject land. The Project Application for the Constructed Wetland will have regard to the matters relating to the creation of habitat corridors within the open space / drainage / habitat corridor area and include provision for the planting of koala food trees.

For the purpose of this Concept Plan application, it can be concluded that the landuses identified in this Concept Plan are consistent with the overall aims of the draft KPOM.

5.4 State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are as follows:

- (1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.*
- (2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*
 - (a) by specifying when consent is required, and when it is not required, for a remediation work, and*
 - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
 - (c) by requiring that a remediation work meet certain standards and notification requirements.*

SEPP 55 lists agricultural landuses as a potential source of site contamination, and where residential landuse is proposed, a preliminary site assessment is required to be undertaken.

In accordance with these provisions, a Preliminary Site Assessment was undertaken by consulting firm ERM Pty Ltd, for the subject land. The full report is included in the appendices section of this Environmental Assessment Report. It should be noted that only localised site contamination was identified

on the subject land (two small areas of waste oil spillage near an existing shed and possible creosote usage around the base of overhead powerlines) and the two existing dwellings are both likely to contain asbestos building material which will require appropriate safety measures when the buildings are demolished.

The level of contaminants is minor and these sites may readily be treated during the development of the land.

The report is discussed in more detail in the environmental assessment section of this report.

5.5 State Environmental Planning Policy 71 – Coastal Protection

State Environmental Planning Policy 71 (SEPP 71) applies to land within the coastal zone of New South Wales as defined within the NSW Coastal Policy. The subject land is within the coastal zone and therefore the provisions of SEPP 71 apply to the proposal.

SEPP 71 aims:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*

- (f) to protect and preserve beach environments and beach amenity, and*
 - (g) to protect and preserve native coastal vegetation, and*
 - (h) to protect and preserve the marine environment of New South Wales, and*
 - (i) to protect and preserve rock platforms, and*
 - (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
 - (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
 - (l) to encourage a strategic approach to coastal management.*
- (2) This Policy:*
- (a) identifies State significant development in the coastal zone, and*
 - (b) requires certain development applications to carry out development in sensitive coastal locations to be referred to the Director-General for comment, and*
 - (c) identifies master plan requirements for certain development in the coastal zone.*
- (3) This Policy aims to further the implementation of the Government's coastal policy.*

Clause 7(b) of SEPP 71 requires a consent authority to take into consideration Clause 8 matters when determining a development application. Clause 8 matters are listed below, with a comment on the manner in which

this Concept Plan addresses the issues raised made under each point as follows.

Matters for Consideration as set out in Clause 8:

(a) the aims of this Policy set out in clause 2,

The aims of SEPP 71 have been reproduced above. The aims include the principles of protecting the foreshore and ensuring public access is maintained and improved. The subject land has frontage to Rainbow Beach along the eastern boundary of Lot 5. This is the location of an existing informal beach access that, shown in Figure 19, which has been used for many years, albeit over private land. Therefore, there is currently no formal public beach access along this section of Rainbow Beach.

The long term proposal is to improve and maintain this existing access and also to put in place works to ensure beach access occurs at a single formalised point along this section of Rainbow Beach. The detail of this beach access will be addressed in the Project Application (MP 07_0001) that applies to the open space / drainage / habitat corridor area of the subject land.

The protection of Aboriginal heritage is identified in the aims of SEPP 71 and has been considered in both the development of Council's Area 14 Structure Plan as well as this Concept Plan. A number of investigations have been undertaken over the property in relation to Aboriginal heritage. These are included in the Appendices section of this Report and include details of the manner in which known artefacts will be protected and / or preserved.

Consideration of the visual amenity of the coastal environment also forms part of the SEPP 71 aims. The view lines across the subject land were considered in the development of Port Macquarie - Hastings Council's Area 14 Structure Plan. The footprints for each development form were considered in relation to

this visual assessment, and further considered in the Visual Analysis contained in the Appendices section of this report.

The SEPP 71 aims include reference to the need for a strategic approach to the management of coastal lands. This Concept Plan covers an area of approximately 177.4 hectares. This is a significant parcel of coastal land. The Area 14 Structure Plan, and this Concept Plan will ensure the development of the land occurs in a strategic manner and has regard to the wider context of the locality.

Thus, this Concept Plan has addressed the provisions of Clause 8(a) of SEPP 71.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

As previously noted, the separate Project Application for the open space / drainage / habitat corridor on the subject land includes the improvement of the existing beach access. Having regard to the other beach access points in the locality, being the Rainbow Beach Reserve access to the south (adjoining the patrolled section of the beach) and the Middle Rock access and carpark to the north, it is not considered appropriate to include any additional beach access points other than the improvement and formalisation of the existing access on the subject land.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

The visual amenity of the coastal area has been assessed in the development of the Area 14 Structure Plan. This Concept Plan application is generally consistent with the Structure Plan. In addition, the visual analysis undertaken for the project did not identify any significant adverse visual impacts. The visual analysis is included in the Appendices section of this report.

- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) existing wildlife corridors and the impact of development on these corridors,*

The subject land has been included in a number of environmental investigations. These include studies commissioned by Council in the development of the Area 14 Structure Plan, as well as studies relating to site specific proposals on the land. The results of these investigations have been considered in the development of this Concept Plan. A significant area of the subject land, which is currently zoned residential, has been identified for open space / drainage / habitat corridor. The separate Part 3A Project Application for this area of the land identifies the need for a revegetation plan to create habitat linkages that do not currently exist. The works will also provide significant additional habitat areas on the property.

An assessment of the SEPP 26 Littoral Rainforest vegetation located on adjoining land was also undertaken. A full copy of this report by Darkheart Eco-Consultancy (2009) is included in the Appendices. The identified buffer areas located on the subject land will be landscaped and fencing retained to further protect the littoral rainforest. The landowner is also working in conjunction with Landcare to undertake bush regeneration works in the dunal area adjoining the subject land.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

A coastal processes study was previously undertaken by the Department of Public Works and it was concluded that the subject land was not likely to be adversely affected by coastal processes nor coastal hazards. In addition, a site specific study was completed by SMEC (2010) and no adverse impact arising from coastal processes, including the impacts of sea level rise and climate change were identified. The full report is included in the appendices.

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

The landuses identified in the Area 14 Structure Plan and proposed within this Concept Plan are not likely to create a conflict between land-based and water-based coastal activities.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

The subject land is identified as being partly within the boundaries of the Bunyah Local Aboriginal Land Council, and partly within the boundaries of the Birpai Local Aboriginal Land Council. Port Macquarie – Hastings Council has

previously commissioned a study into the Aboriginal significance of the subject land during the development of the Area 14 Structure Plan. In addition, various studies have been commissioned by the property owner to identify any sites of significance. The results of these studies have been taken into account in the development of both the Area 14 Structure Plan and also this Concept Plan. The reports are included in the Appendices section of this report.

(m) likely impacts of development on the water quality of coastal waterbodies,

The proposal at this stage is for a Concept Plan application. Of the studies and investigations completed to date, there is nothing to suggest that adequate controls and design provisions cannot be put in place to ensure water quality is not adversely affected. The investigations, modelling and subsequent report prepared by Cardno Pty Ltd (Water Engineering and Environment Report) specifically deals with this issue and further modelling and studies were undertaken by UNSW Water Research Laboratory (2010). The complete reports are included in the Appendices section of this report.

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

This Concept Plan has had regard to all items of heritage, archaeological or historic significance that has been identified in the Council commissioned studies, as well as those commissioned specifically for the development of the subject land.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

(ii) measures to ensure that water and energy usage by the proposed development is efficient.

The development of a Strategic Planning document, in the form of the Area 14 Structure Plan, has regard to the overall context of the development of the subject land. There will be significant improvements to the environment if development in accordance with this Concept Plan is carried out - in particular, the creation of habitat corridors that do not currently exist. In addition, the creation of a freshwater constructed wetland will have considerable benefits to those species that rely on this form of habitat. The consideration of the development of this land has also had regard to the need to ensure separation between coastal villages, and this will be achieved by the creation of the identified open space/ drainage/ habitat corridor areas.

In addition, the future housing developments will need to comply with the existing legislation, which requires the certification of housing energy rating systems. This will contribute to the efficiency of the development in the use of water and energy. The layout of the development also encourages pedestrian and cycle movements, particularly between the existing villages of Lake Cathie and Bonny Hills. Pedestrian and cycleway networks created within the open space areas of the subject land encourage this form of travel. This minimises vehicular use within the estate and creates a more energy efficient environment.

5.6 North Coast Regional Environmental Plan

As at 1 July 2009, regional environmental plans are no longer part of the hierarchy of environmental planning instruments in NSW, in order to simplify

the planning system. All existing regional environmental plans are deemed to be State Environmental Planning Policies. Whilst all plans will be reviewed, the North Coast Regional Environmental Plan (NCREP) still applies to the subject land.

Clause 2(B) of the NCREP requires such of its aims that are relevant to be taken into account by the consent authority in determining a development application. The aims of the NCREP are as follows:

- (1) The aims of this plan are:*
 - (a) to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future,*
 - (b) to consolidate and amend various existing policies applying to the region, make them more appropriate to regional needs and place them in an overall context of regional policy,*
 - (c) to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region, and*
 - (d) to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies.*
- (2) The aims will be implemented in this plan by:*
 - (a) specifying objectives for the future planning and development of land within the region,*
 - (b) specifying regional policies to guide the preparation of local environmental plans within the region, and*
 - (c) specifying regional policies for the control of development in the region.*

The proposal is not inconsistent with these objectives.

There are a number of clauses within the NCREP which the local Council is required to take into consideration when determining a development proposal. However, in the case of Part 3A of the Environmental Planning and Assessment Act, Council is not the consent authority.

Despite this, Port Macquarie – Hastings Council may still take these matters into consideration when they are providing their comment on Part 3A matters. These clauses would also be a consideration should the subsequent applications be declared to be Part 4 matters. For these reasons, the relevant clauses of the NCREP have been considered.

Clause 15 of the NCREP requires the Council to take into consideration the following matters where development is proposed *“adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area.*

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,*
- (b) the need to conserve the existing amateur and commercial fisheries,*
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development,*
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*
- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,*
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves,*
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion, and*
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and*
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment.”*

These matters may be considered in relation to Duchess Gully, which is a coastal watercourse located on the subject land. The Concept Plan identifies

Duchess Gully primarily within the open space / drainage / habitat corridor area of the property. Based on the studies and investigations completed to date, there are no indications to suggest the proposal cannot be undertaken without adequate controls and designs to ensure water quality and habitat areas will not be significantly adversely affected. These controls and designs are discussed in the Water Engineering and Environment report completed by Cardno, and included in the Appendices section.

Clause 32B of the NCREP applies to coastal land as identified in the NSW Coastal Policy 1997. This clause requires the Council to take into consideration the NSW Coastal Policy 1997, the Coastline Management Manual and the North Coast Design Guidelines.

The matters raised in these policy documents were considered in the development of the Area 14 Structure Plan and this Concept Plan.

Clause 43 of the NCREP relates to residential housing. The Council must consider the maximisation of the housing density of residential development, without adversely impacting on the environmental features of the land. As may be seen in the Concept Plan, the residential component of the development is contained within an area which does not contain significant environmental features, and a large portion of the property will become open space / drainage / habitat corridor. The development will also encourage pedestrian and cycle movement throughout the estate, thereby minimising vehicular movements. This is also a matter for consideration under this clause of the NCREP.

Clause 66 of the NCREP requires the Council to take into consideration the adequacy of community and welfare services, prior to granting consent for the development of a residential land subdivision. The Concept Plan provides for the location of a Village Centre. This Village Centre is able to accommodate a child care centre, Council branch office and a branch library facility as identified within Council's Section 94 program. These facilities will contribute to the community and welfare services, which future residents of the subject land may require.

Clause 75 of the NCREP relates to tourism development. This clause requires Council to be satisfied that the following provisions are adequate for the development proposed: transport access, provision of social and community services, scenic impact and provision of reticulated services.

The Concept Plan is consistent with the Area 14 Structure Plan in that it identifies an area of land for Eco-Tourist development. The exact form of this development will be the subject of a future application. However, the Concept Plan identifies access to this site and considers this development in the context of capacity within the network of reticulated services.

Similarly, clause 81 of the NCREP requires Council to consider foreshore open space, access and the impact of any buildings on the amenity of waterways, when assessing developments proposed for land within 100 metres of the ocean or any substantial waterway. The Concept Plan makes provision for retention and improvement of the existing beach access point located on the subject land, and the Project Application for the open space / drainage / habitat corridor which is currently lodged under Part 3A of the Act, will demonstrate, in detail, the means of ensuring these matters are addressed.

Clause 82 of the NCREP is to be considered by Council when assessing an application to develop a sporting field or other specialised recreational facility. The Council is to consider the need for access by the community to the facilities and ensure an acceptable level of public access. The Concept Plan shows the location of future sporting fields identified in the Area 14 Structure Plan. Further consultation with Council has resulted in a more accurate identification of the area required as shown in this Concept Plan. The proposed road and cycleway networks will provide suitable vehicular and pedestrian access to these future fields.

5.7 Hastings Local Environment Plan 2001

The subject land is primarily zoned 2(a1) Residential under the provisions of Hastings Local Environmental Plan 2001 (LEP 2001) and a small area of the subject land forming a buffer around the adjoining sewerage treatment plant, is zoned 1(a1) Rural.

The objectives of the 2(a1) Residential zone are as follows:

- a) To identify land suitable for residential purposes;*
- b) To ensure the provision of services and facilities associated with residential land uses or which are unlikely to affect residential amenity;*
- c) To ensure a variety of housing choice;*
- d) To enable appropriate development where allowed with consent.*

The landuse table for the 2(a1) zone is as follows:

Allowed without development consent

Nil

Allowed only with development consent

Any development not included in Item 3

Prohibited

Development for the purpose of:

Aeroplane landing areas, Animal establishments, Aquaculture, Brothels, Car repair stations, Clubs, Commercial premises (other than those within neighbourhood centres), Depots, Extractive industries, Forestry, Heliports, Hotels, Industries, Institutions, Junk yards, Liquid fuel depots, Mines, Motor showrooms, Places of assembly, Radio or television transmission towers, Recreation facilities, Retailing of bulky goods, Roadside stalls, Rural workers' dwellings, Rural tourist facilities, Sawmills, Service stations (other than those within neighbourhood centres), Shops (other than those within neighbourhood centres), Stock and sale yards, Transport terminals (other than bus stations), Warehouses.

The Concept Plan is consistent with the 2(a1) zone objectives. There are no landuses proposed in this Concept Plan that are prohibited development. Subdivision of land to create allotments down to 450m² is permissible with consent in accordance with clause 17(1)(a) of LEP 2001. Clause 17(2) allows lot sizes of less than this area where dual occupancy or cluster housing developments are proposed.

Neighbourhood shopping centres are permissible within the residential zone. Council's adopted Retail Strategy refers to neighbourhood shopping centres as having a retail floorspace of up to 5,000m². This would be sufficient for the proposed village centre. Recreation areas are also permissible landuses, and this allows the proposed playing fields, as well as the open space and any future child play areas.

Educational establishments are permissible within the 2(a1) Residential zone. The identified school sites are both wholly within the 2(a1) zone. The eco-tourist site is subject to both the 2(a1) and 1(a1) zones. Various forms of tourist facilities are permissible with consent within both these zones, as rural tourist facilities are permissible with consent within the 1(a1) Rural zone, and tourist facilities are permissible within the 2(a1) Residential zone.

With regard to the small area of the land zoned 1(a1) Rural under the provisions of Hastings LEP 2001, the zone objectives are as follows:

- a) To protect and encourage utilisation of the productive potential of agricultural, extractive and mineral resources located in rural areas.*
- b) To protect the amenity of rural residential subdivision areas.*
- c) To prevent the unnecessary, premature or sporadic fragmentation of rural land, to protect the agricultural potential of land and also to ensure that development does not create unreasonable or uneconomic*

demands for the provision or extension of public amenities and services.

d) To enable appropriate development where allowed with consent.

The landuse table for the 1(a1) Rural zone is as follows:

Allowed without development consent

Development for the purpose of:

Agriculture (other than buildings associated with agriculture), Forestry

Allowed only with development consent

Any development not included in Item 1 or 3.

Prohibited

Development for the purpose of:

Aeroplane landing areas within one kilometre of the coast, Boarding houses, Brothels, Car repair stations, Cluster housing, Commercial premises, Dual occupancies (detached dwellings only), Exhibition homes, Industries (other than offensive or hazardous industries and rural industries), Medical centres, Motor showrooms, Neighbourhood centres, Residential flats, Retailing of bulky goods, Road transport terminals, Shops, Tourist facilities (other than rural tourist facilities), Warehouses.

The Concept Plan identifies the rural zoned land as being part open space / drainage / habitat corridor, and part eco – tourist development. Both these landuses are currently permitted with consent within the 1(a1) zone, including rural tourist facilities within the rural zoned area of the land.

Hastings LEP 2001 includes a number of clauses that will be relevant to future development of the subject land. A brief overview of clauses that may be relevant is as follows:

Clause 7 – Exempt and Complying Development. This clause includes a reference to Development Control Plan 36, which sets out the development types that may be either exempt or considered to be complying development,

subject to a number of criteria. The future construction of dwellings and associated buildings will be subject to this clause. There is nothing in this section of LEP 2001 which would limit or prohibit the Concept Plan.

Clause 12 – Development near zone boundaries. Whilst this clause would allow for a 20m variation in the zone boundary between the 2(a1) and 1(a1) zones on the subject land, clause 13 of SEPP 71 restricts this clause from applying to land within the coastal zone. Therefore, it should be noted that the zone boundary across the subject land is not able to be varied using the provisions of Clause 12.

Clause 13 – Availability of essential services. This clause is to ensure that development does not occur without adequate measures to protect the environment and the community's health, as well as ensuring development occurs in a co-ordinated and efficient manner with costs attributed equitably.

The subject land is able to be serviced for the future development identified in the Concept Plan. The upgrading of the Bonny Hills sewerage treatment plant, which adjoins the subject land, has recently been completed to cater for the future growth of Area 14.

Clause 26 – Acid Sulphate Soils. This clause sets out the matters that the consent authority must take into consideration if the land is identified as having potential acid sulphate soil. This may include the submission of a preliminary soil assessment and an acid sulfate soils management plan prepared in accordance with the Acid Sulfate Soil Manual. These matters are dependent upon the exact location of the proposed works and the depth of works.

The subject land has been investigated in terms of potential acid sulphate soils and the potential acid sulphate soil layer is quite accurately detailed. Whilst any earthworks associated with the landuses identified in the Concept Plan will be the subject of future applications, the mapping of potential acid

sulphate soils has not identified any constraint to the landuse elements proposed.

Clause 31 of LEP 2001 relates to neighbourhood centres. This clause is reproduced as follows:

- (1) *Objective: To ensure that the neighbourhood centres are viable and not in competition with one another and are compatible with a hierarchy of business centres.*
- (2) *Consent must not be granted to development for the purpose of a neighbourhood centre within Zone 2 (a1) unless:*
 - (a) *the consent authority is satisfied that the development is consistent with the objectives of this clause, with particular regard to size, facilities and location, and*
 - (b) *the neighbourhood centre is located at least 1.5 kilometres from the nearest land within another neighbourhood centre or a business zone.*

The nearest neighbourhood shopping centre is some 1.5km north at Lake Cathie (although draft planning legislation at the time of writing, is likely to remove provisions such as clause 31(2)(b)). This centre contains a number of small shops such as a bakery, post office facilities, video rental, real estate, café and service station. This centre was recently expanded and now contains a Woolworths supermarket. There is also a tavern adjoining this complex.

Thus, whilst the Area 14 Structure Plan envisaged a large village centre on the subject land, the more recently constructed Woolworths supermarket development in Lake Cathie may mean that a supermarket based district centre is not economically feasible on the subject land. This is further discussed in a specific Village Centre report contained within the Appendices section of this report.

However, the location of a future neighbourhood centre has been provided for in the Concept Plan, and the exact retail floor area requirements, will be the

subject of a future application. A neighbourhood centre up to 5,000m² in retail floor area is still permissible and would be consistent with the objectives of clause 31.

5.8 Exhibited LEP 2010

Port Macquarie – Hastings Council has placed on exhibition draft Local Environmental Plan 2010 (LEP 2010). This LEP conforms to the requirements of the Standardised LEP instrument and covers the entire Local Government Area.

LEP 2010 essentially maintains the current zone boundaries for the subject land, such that current residential land remains residential, and the rural zoned buffer around the STP remains rural.

However there are a number of provisions in draft LEP 2010 which are slight variations on the current LEP 2001. There are no significant differences in relation to the Concept Plan development, as all proposed landuses identified on the Concept Plan remain permissible, except for the development of the Lake Cathie – Bonny Hills Village Centre to the full extent identified within the Area 14 Structure Plan and reflected in this Concept Plan.

A submission to Council highlighting this anomaly was made during the exhibition of LEP 2010, and it is anticipated that Council will wish to ensure LEP 2010 is consistent with the adopted Area 14 Structure Plan.

5.9 Development Control Plans

Port Macquarie – Hastings Council has consolidated the development control plans (DCPs) for the Local Government Area into the one document known as DCP 2006. However, the previous DCPs were adopted by reference within DCP 2006. Therefore, for clarity, each DCP will be referred to separately, rather than via DCP 2006.

DCP 9 – Residential and Tourist Development. This DCP applies to medium density developments ranging from a dual occupancy to a multi-storey unit development. This Concept Plan is not inconsistent with the current provisions of DCP 9.

DCP 17 – Subdivision Code. This document has been under review for a number of years. A draft document was exhibited some time ago but has not progressed further. The development proposed under the Concept Plan is not inconsistent with the current subdivision code. A future application for the subdivision of the land identified for residential development will need to consider DCP 17 in more detail.

DCP 18 – Off Street Parking Code. This DCP sets out the parking requirements for developments including medium density housing, school sites, recreational facilities and eco-tourist developments. Each future application for the various components of this Concept Plan will need to address the provisions of DCP 18. However, it may be seen that there is sufficient area identified for each landuse which will generate higher levels of parking provision (ie: sporting fields, schools, shopping centre and eco-tourist site) to ensure the parking requirements are incorporated into the final design, and parking requirements are contained within the site of each of these landuses.

DCP 34 – Acid Sulphate Soils. The requirement to fully assess the potential for acid sulphate soils is further detailed in DCP 34. The preparation of a management plan for specified works would be required for some areas of the subject land. Further details on the potential acid sulphate soil layer on the subject land is discussed in a separate section of this Report. However, it is noted that the requirements of DCP 34 would be able to be met in future Project or Development Applications for the subject land.

DCP 36 – Exempt and Complying Development. This DCP will apply to future minor structures, and up to two-storey dwellings and associated buildings.

DCP 38 and 41 – Relate to construction standards for dwelling houses. These matters will need to be addressed when dwellings are proposed for the subject land.

The provisions within the DCPs applying to the subject land do not appear to restrict the proposal as set out in the Concept Plan.

Port Macquarie – Hastings Council has also exhibited a draft DCP in conjunction with the exhibition of LEP 2010. The draft DCP consolidates the existing DCP provisions and also incorporates some minor additional provisions. There are no matters identified within the exhibited draft DCP which will prohibit the development of the subject land as set out in Figure 1.

Port Macquarie – Hastings Council is also preparing a DCP specific to Area 14. This document has not been completed to the draft stage at the time of writing and is not anticipated to be completed in 2010. However Council has advised that the DCP will address urban design matters specific to Area 14, as well as connectivity and transport issues.

5.10 Other Acts, Policies or Guidelines

There are a number of Policies that have been considered in the preparation of this Concept Plan and / or which are relevant to this Concept Plan. These are discussed in the following sections.

5.10.1 Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy was released in draft form in December, 2006 and finalised in March 2009. This Strategy was developed in response to the sustained growth experienced by the region. The natural coastal and social values that attract people to the region are to be protected.

In this context, the Strategy was to “*establish the guiding principles for how the future growth of the Mid North Coast will be planned and managed*”.

The primary purpose of the Strategy is to “*ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region’s population over the next 25 years*”.

The Strategy covers a timeframe from 2006 – 2031. The Strategy is based on a potential population increase of 91,000 during this time. It is anticipated that an additional 58,400 dwellings will be required to satisfy this projected population growth.

One of the challenges in providing this level of housing, is identified in the Strategy, and refers to the need to “*retain the coastal and local character of existing settlements*”. The Area 14 Structure Plan specifically considered the community desire to maintain the village character of both Bonny Hills and Lake Cathie. The delineation of the landuse elements within this Concept Plan will achieve this, as the urban development of the villages will be delineated by the open space / drainage / habitat corridor.

The Strategy specifically refers to the areas to accommodate new growth within the subregion of Hastings – Macleay Valley, which includes the subject land. The Strategy refers to the “*areas between Lake Cathie and Bonny Hills*”..as being one of these new release areas to accommodate growth.

Therefore, this Concept Plan is in accordance with the Port Macquarie – Hastings Council’s adopted Area 14 Structure Plan, which is recognised within the Mid North Coast Regional Strategy.

5.10.2 Policy and Guidelines for Aquatic Habitat Management and Fish Conservation 1999

The objective of this document is to *“improve the conservation and management of aquatic habitats in NSW”*.

These Policy and Guidelines suggest that:

“..all proponents of developments and activities should consider ways to mitigate, or compensate for, environmental impacts by using such strategies as replanting marine vegetation, constructing fishways, establishing environmental flows, fish stocking and adopting environmentally friendly fishing methods to mitigate some of these environmental impacts”.

This Concept Plan identifies a significant area of urban landuse, as well as a substantial area of open space / drainage / habitat corridors. The subject land currently contains a large man-made lagoon which was constructed during the 1980s. Since that time, additional smaller artificial wetlands have been approved and constructed to treat stormwater runoff from the existing Rainbow Beach estate to the south of the subject land. These artificial wetlands provide water quality control prior to the runoff entering the downstream section of Duchess Gully.

The Concept Plan also identifies an additional constructed wetland downstream of the existing lagoon. This will provide a source of fill material for the residential component of the development, create freshwater coastal wetland habitat, and include an area that provides for stormwater treatment for the proposed residential estate. Stormwater treatment is an essential component of the downstream survival of fish within Duchess Gully.

The Policy and Guidelines for Aquatic Habitat Management and Fish Conservation 1999 includes the following guidelines for managing water pollution in areas of new housing estates:

“The planning for and construction of new housing estates and other developments should include provisions for gross pollutant traps, sedimentation ponds and artificial wetlands to remove nutrients and sediments from stormwater as an integral component of the development.”

The required provision for an artificial wetland, as setout in these guidelines, has been incorporated into the design of the proposed constructed wetland. The design elements are further discussed within the report prepared by Cardno Pty Ltd included in the Appendices section of this Report.

5.10.3 NSW Coastal Design Guidelines

The Coastal Design Guidelines were developed with reference to the NSW Coastal Policy 1997 and was to complement SEPP 71. The Coastal Design Guidelines were based on the principles of Ecologically Sustainable Development.

The guidelines define a hierarchy of coastal settlements as follows:

- Coastal cities
- Coastal towns
- Coastal villages
- Coastal hamlets

Whilst Port Macquarie is a coastal city, the existing settlements of Lake Cathie and Bonny Hills may be defined as coastal towns.

Coastal Towns are defined within the Coastal Design Guidelines as being *“small centres that vary in size and have a population ranging from 3,000 to 20,000 people”*. The desired future character for coastal towns generally, is set out as follows:

Relationship to the environment: Protection of the relationship of the town to the coast and enhancing views and links to the coast with the protection of significant natural areas for environmental, educational and recreational purposes. The Guidelines also seek ecological links between the coast and hinterland, protection of foreshore access whilst protecting dunes, lakes and beaches.

Visual sensitivity: views to areas of water, views to and from the hinterland and views of headlands. The Guidelines also seek the provision of clear boundaries between each town and the enhancement and upgrading of the open space network for conservation, recreation, views and public access.

Edges to the water and natural areas: Access to the foreshore should be optimised, and add to social and cultural opportunities.

Street hierarchy: Key streets to provide access to landmarks or focal points, provide a focus on natural and topographic features, and the use of streets to define the urban edge – are all elements of the coastal town. Pedestrian and cycle pathways and routes are also important elements.

Buildings: The building form of coastal town centres is likely to include mixed use, shop top housing, educational and civic buildings. The residential areas of coastal towns will have a predominant built form of apartment buildings, town houses, semi-detached and detached dwellings. The built form is predominantly low scale.

Heights: Building heights within the town centres are up to four storeys, with residential areas up to two storey. However, the Guidelines note that heights are subject to place specific urban design studies. Buildings should, of course, avoid overshadowing of public open spaces, the foreshores and beaches during the late afternoon and early morning hours.

The design principles of the Guidelines are:

- Defining the footprint and boundary
- Connecting open space
- Protecting natural edges
- Reinforcing the street pattern
- Appropriate buildings for a coastal context

In relation to the definition of the footprint and boundary of coastal development, the Guidelines state:

Broadly, the objective is to limit and control coastal sprawl by planning for compact settlement footprints.

The Concept Plan provides for the delineation of the limit of residential development. This is in accordance with the Area 14 Structure Plan. The development of the Structure Plan considered a variety of settlement options and determined the creation of a new village with a new village commercial centre would enable the protection of the existing town environments of Lake Cathie and Bonny Hills, whilst making provision for higher order services such as the branch library, child care centre and neighbourhood shopping centre within the Concept Plan land.

The large area of land identified in the Concept Plan as open space / drainage / habitat corridor, ensures the continued separation of urban development along this section of the coast. The environmentally significant areas of Lake Innes Nature Reserve north of Lake Cathie, the Queens Lake Nature Reserve and State Forests to the east, and the Grants Head headland and natural areas to the south – ensure that the overall urban footprint is well contained and urban development is controlled by the defining of these outer limits.

The connection of open spaces is well catered for in the Concept Plan as a large area of land is identified for open space / drainage / habitat corridor. It was previously noted that this corridor contains some 45% of the subject land.

The Area 14 Structure Plan included an environmental assessment by Biolink, as commissioned by Port Macquarie – Hastings Council.

This assessment identified the location of potential habitat corridors across the subject land. This Concept Plan incorporates those recommendations and creates a number of linkages between coastal and hinterland environments. The open space network is also able to provide for pedestrian and cycle movement between the existing Lake Cathie and Bonny Hills settlements and it is intended that this will eventually link with the coastal link north to Port Macquarie (ie: The Goolgook Track). A plan showing the linkages with adjoining properties and existing coastal systems has been developed and is shown in Figure 25.

The protection of natural edges is achieved in a number of ways. Predominantly, the Concept Plan provides for the creation of perimeter roads to define the urban edge. These roads then form part of the Bushfire Asset Protection Zone that separates the residential allotments from the areas of existing vegetation or areas to be revegetated.

The natural edge is defined by perimeter roads and thus protected from encroachment by residents, which may occur when allotments directly adjoin natural areas and are subject to residents mowing adjoining reserves and the dumping of lawn clippings into adjoining reserves. These actions are undesirable as it results in the introduction of weeds to the natural environment, and also the creation of tracks through natural areas.

The natural area adjoining the foreshore is also protected via the restriction of pedestrian movements to a single beach access point. Cycleways and pathways throughout the subject land will also be provided as part of the development of the open space network, ensuring that such activities occur in a planned rather than haphazard manner.

The Guidelines refer to the need to reinforce the street pattern. However, the Concept Plan relates to land that is a greenfields site, and has physical

separations from the existing towns of Lake Cathie and Bonny Hills (via Ocean Drive and the open space network). The Area 14 Structure Plan provides for a main road through the new village centre. This is maintained in this Concept Plan.

The provision of a bypass road is also maintained, as Ocean Drive will continue to function as a major collector road and through traffic will be able to utilise this upgraded network. The location of the major regional centre of Port Macquarie, 20km to the north of Lake Cathie does result in through traffic using Ocean Drive. Therefore this wider context for the road network was taken into account in the development of the road network both for the Area 14 Structure Plan development, as well as this Concept Plan design.

The road speed along Ocean Drive has recently been reviewed with the Roads and Traffic Authority announcing the implementation of reduced speed limits along the section of Ocean Drive fronting the subject land. The road speed will reduce from 100 km/h to areas of 70 km/h and 90 km/h.

The Port Macquarie – Hastings Local Government Area has generally adopted the speed limit of 50km/h for residential streets. This is identified within the Coastal Design Guidelines and the future residential subdivision application will need to have regard to this design speed criteria.

The Guidelines also seek consideration of appropriate buildings for a coastal context. This Concept Plan does not include any buildings. However, future applications for buildings will need to have regard to the Coastal Design Guidelines as well as the North Coast Design Guidelines. The latter document provides a number of specific guidelines to minimise the impact of the built form within the coastal environment. Port Macquarie – Hastings Council is also currently reviewing the development control plan for medium density developments (DCP 2006, Chapter 9).

The visual impact of development on the Eco-Tourist site has also been assessed, particularly with regard to views from the adjoining Rainbow Beach.

The height of future development on this site will be required to be below the viewline of a pedestrian on Rainbow Beach, thus minimising the impact of built form on beach areas. A detailed survey has been undertaken from the beach through to the Eco-Tourist site to demonstrate the possible impacts of the development of the coastal site on the public areas of the adjoining Rainbow Beach. The resultant section is shown in Figure 26.

Therefore, it may be seen that the development proposed within this Concept Plan, is generally consistent with the Coastal Design Guidelines.

5.10.4 Area 14 Structure Plan

The Port Macquarie – Hastings local government area has experienced a high growth rate for a sustained period of time. In response to this growth rate, and the need to ensure a sustainable level of growth, the Hastings Urban Growth Strategy (HUGS) was developed and adopted by Council. This document identified two areas to accommodate the future growth of the area. These areas were called Area 13 – Thrumster, located west of Port Macquarie, and Area 14 – Rainbow Beach, located between Lake Cathie and Bonny Hills.

The subject land is within the Area 14 urban growth area and is the largest single holding of land in this urban growth area. Further to the adoption of the HUGS document, Council instigated the Area 14 Structure Plan. This latter document was the subject of intense public consultation, and included environmental investigations over the subject land.

The Area 14 Structure Plan is a strategic planning document prepared on behalf of Port Macquarie - Hastings Council, and identifies a target population of 10,000 for Area 14. This will enable the area to achieve the threshold population required for the identified services and facilities including: education facilities, district playing fields, branch library, community services, multi-purpose community centre, higher order retail facilities and services, and additional child care facilities.

The provisions of the Area 14 Structure Plan are discussed throughout this Report as the Concept Plan aims to ensure the implementation of the Area 14 Structure Plan.

The Concept Plan is consistent with the Area 14 Structure Plan in that it identifies the specified landuses on the subject land, being:

- Residential development;
- Traffic access points for connections to Ocean Drive;
- General location of the Greater Lake Cathie Bonny Hills Village Centre;
- Two separate school sites on the subject land;
- A site for eco-tourist development; and a
- Large expanse of Open Space / Drainage / Habitat Corridor including the District Sporting Fields.

This Concept Plan is generally consistent with the adopted Structure Plan. This Concept Plan delineates landuses, as does the Structure Plan. Both documents also identify major vehicular connections to Ocean Drive.

The Concept Plan has incorporated updates since the completion of the Area 14 Structure Plan, such that the delineation of the district sporting fields has been modified in accordance with further advice from Council regarding the exact configuration and area requirements. Also, the area of land required for education facilities has been slightly modified based on further information from the Department of Education regarding their exact requirements for a primary school, as well as the widening of the habitat corridor and protection of significant vegetation. However it is noted that there is no current commitment or requirement by the Department of Education to acquire either of the school sites.

The provision for road connections to adjoining land to the north-east, identified in the Area 14 Structure Plan for future urban development, has also

been confirmed in liaison with the adjoining property consultants and during liaison meetings with Council staff.

Additional open space / drainage / habitat corridor areas have been provided for, based on the flora and fauna investigations undertaken for the subject land.

The Eco-Tourist site has been identified on the Concept Plan map, as including the sewerage treatment plant buffer area and eastern area of the land. However, the footprint of development will be the subject of a future application. Incorporating the land into the Eco-Tourist site enables a broader range of options for the long term management and ownership of the land. This includes land management issues such as bushfire asset protection zones, which will require any future buildings to maintain an adequate setback to vegetation within the adjoining STP, the adjoining coastal vegetation, and also the vegetation along Duchess gully. Under the current bushfire legislation, it is preferable that the asset protection zones are contained within the same property on which the asset is located. The Concept Plan is consistent with this requirement.

Thus the Concept Plan is consistent with the landuse identification shown in the Area 14 Structure Plan. Whilst it is noted that the Area 14 Structure Plan states that it *“is an urban design concept, with precise land use boundaries to be defined by more detailed planning controls”*, consideration has been given to the landuse areas identified in the Structure Plan as they compare to the areas identified in the Concept Plan. The Concept Plan has separated out the central corridor (being the Open space, drainage & Wildlife habitat Corridor), from the other areas of open space, from the buffer areas within the tourist site. However, for the purposes of comparing the total open space areas across both the Structure Plan and the Concept Plan, all the buffer and open space areas have been combined for the purposes of the following table. It should also be noted that these areas are approximate as the Structure Plan provides limited area information.

SUMMARY OF AREAS		
Landuses	Area 14 Structure Plan (hectares)	Rainbow Beach Concept Plan (hectares)
All Open space / buffer / corridor areas (includes Central Corridor)	87.99	88.8
Residential	64.85	67.8
Nth school	6.07	5
Sth school	12.07	9.4
EcoTourist site area	3.15	1.6
Village Centre	3.27	4.8
TOTAL	177.4	177.4

Therefore, it may be seen that the Concept Plan is generally consistent with the adopted Area 14 Structure Plan and has been refined based on further consultation and liaison with the various local and state government departments.

5.11 Conclusion of Statutory & Non Statutory Assessment

This section of the Environmental Assessment Report, has considered the Concept Plan proposal, with regard to the provision of State and Local Environmental Planning Instruments, as well as relevant local policies and development control plans.

It has been demonstrated that the landuses identified in the Concept Plan, are consistent with the planning controls that apply to the subject land. It has also been shown that the proposal is consistent with the adopted Area 14 Structure Plan. The Concept Plan will in fact enable the implementation of a number of strategic planning documents.

In this manner, the provisions of DGR 1.2 have been addressed.

This section has also considered the relevant provisions of local, regional and state planning strategies. The release of additional residential land within the Urban Investigation Area known as Area 14 has been identified within a number of planning strategies and the Concept Plan and this report, set out the manner in which a significant portion of the Area 14 residential development may be achieved. This is consistent with the adopted local and regional strategies.

Thus, Section 5 of this report has addressed the requirements of DGR 1.2.

The integration of the landuses have been considered with particular regard to environmental and bushfire buffers, traffic and pedestrian linkages between landuses, and the location of landuses in proximity to those which are compatible (ie schools and playing fields in close proximity, retail facilities and civic buildings within the town centre, etc).

Thus, the requirements of DGR 1.3 have been considered and addressed.

The provisions of the NSW Coastal Design Guidelines have also been considered specifically in relation to the landuses identified in this Concept Plan. Therefore, the requirements of DGR 1.4 have been addressed.

DGR 1.5 required a consideration of impacts on rural lands adjoining the subject land. It is noted that the rural lands are primarily identified for future urban development. Integration with these future development sites has been considered and connecting road networks and pedestrian / cycle networks have been provided for. Thus, no mitigation measures, as specified in DGR 1.5, were identified or considered necessary.

FIGURE 24

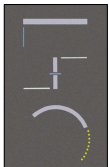
**DRAFT AREA 14
KPOM EXTRACT**

Plan prepared by Council's
consultants - Biolink Pty Ltd



- Subject Land
- ⊕ Sat sites
- Core koala habitat
- Habitat links
- Study area
- A14veg.shp
- Primary Habitat
- Secondary (Class A)
- Other Vegetation
- Water

Rainbow Beach Estate
Concept Plan Application Set
Job: No. 4509ND DWG: RM



Luke and Company Pty Ltd

SCALE:
Not To Scale
The stated scale of this drawing might differ by output.
This scale should be verified prior to setting measurements
from the drawing.