

## Development Committee

**Meeting Date:** Monday, 07 November, 2016  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 4.00 pm

**Membership** (Quorum - 5)  
Clr Patricia White - Chairperson  
All Councillors  
General Manager or nominee

**Please note:** Council's Code of Meeting Practice permits the electronic recording and broadcast of the proceedings of meetings of the Council which are open to the public. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

## Agenda

### 1. Apologies / Leave of Absence

### 2. Confirmation of Minutes

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### 3. Declarations of Interest

#### Deputations

### 4. Reports

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### 5. Confidential Reports

Nil

## Development Committee

### Delegation:

THAT pursuant to s377 (1) of the Local Government Act 1993:

- A. The Committee is delegated the functions conferred on Council by the Environmental Planning & Assessment Act 1979 (EPA Act), Local Government Act 1993 (LG Act) or any other Act or delegated to Council, as are specified in the attached Schedule, subject to the following limitations:
- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
  - ii. The Committee cannot review a s82A or s96AB EPA Act determination made by the Council or by the Committee itself;
  - iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
  - iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
  - v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

### Schedule:

1. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
2. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 4 of the EPA Act.
3. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.
4. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which breaches a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
5. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the General Manager requires to be determined by the Committee
6. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
7. Review of all determinations of development applications under sections 82A and 96AB of the EP&A Act.
8. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.

## MINUTES OF THE DEVELOPMENT COMMITTEE

**Meeting Date:** Monday, 10 October 2016  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 4.00pm

The following members were present:

Clr Patricia White - Chairperson  
Clr Amanda Findley  
Clr Joanna Gash  
Clr John Wells  
Clr John Levett  
Clr Nina Cheyne  
Clr Annette Alldrick  
Clr Kaye Gartner  
Clr Andrew Guile  
Clr Mitchell Pakes  
Clr Greg Watson  
Clr Bob Proudfoot  
Mr Russ Pigg - General Manager

### Election of Chairperson

The General Manager Mr Russ Pigg called for nominations from the floor. Mr Pigg informed the meeting that two nominations had been received for the position of Chairperson of the Development Committee, the nominations being for Clr White, and Clr Proudfoot.

**Mr Pigg called for a show of hands and declared Clr White the Chairperson for the Development Committee on a count of 8 votes.**

**RESOLVED** (Clr Gash / Clr Wells)

MIN16.1

That Clr White be appointed the Chair of the Development Committee.

CARRIED

### Apologies / Leave of Absence

Apologies were received from Clr Kitchener

### Confirmation of the Minutes

**RESOLVED** (Clr Wells / Clr Gash)

MIN16.760

That the minutes of the Development Committee Meeting held on Tuesday 2 August 2016 be confirmed.

CARRIED

## Declarations of Interest

Clr Findley – DE16.3 - NSW Heritage Grants Program 2016/2017 - Shoalhaven Local Heritage Assistance Fund Program less than significant non pecuniary interest declaration – will leave the room and will not take part in discussion or vote – one of the applicants is known to her.

## DEPUTATIONS

Jennifer Parkin addressed the Committee in relation to item CL16.1 Development Application – 25 Junction Street, Nowra – Lot 1 DP 81167.

## PRESENTATIONS

Nil

## REPORTS

<b>DE16.1</b>	<b>Development Application – 25 Junction Street, Nowra – Lot 1 DP 81167</b>	<b>HPERM Ref: D16/301955</b>
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### Recommendation (Item to be determined under delegated authority)

That the Committee:

1. Confirm that it supports the variation to the minimum lot size for lots 1-4 to 265, 195, 155 and 204.5 square metres respectively; and
2. The Development Application be determined under delegated authority.

### RESOLVED (Clr Watson / Clr Guile)

MIN16.761

1. That the variation to the minimum lot size not be supported
2. That Council review the zoning in this location with a view to change to R2 in Central Nowra
3. If necessary the General Manager report back to the Development Committee on the 79c assesment for the subject application, given the extent of public interest in the development application.
4. The General Manager also report back on Development Guidelines that could be adopted to assist in preserving the character of central Nowra. In addition could Council report back on ways that it could work with the Old Houses Our History group to identify the most significant streetscapes for additional consideration for preservation / protection

### CARRIED

FOR: Clr Findley, Clr Gash, Clr Wells, Clr White, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Proudfoot and Russ Pigg

AGAINST: Nil

**DE16.2 Planning Proposal (PP 017) - Shoalhaven LEP 2014 -  
Shoalhaven Animal Shelter - Assessment of  
Submissions****HPERM Ref:  
D16/298138****Recommendation (Item to be determined under delegated authority)**

That the Development Committee:

1. Adopt the Planning Proposal as exhibited; and
2. Forward the Planning Proposal to the NSW Parliamentary Counsel to draft the amendment to the Shoalhaven Local Environmental Plan 2014 and enable it to proceed to finalisation.

**RESOLVED** (Clr Wells / Clr Gash)

MIN16.762

That the Development Committee:

1. Adopt the Planning Proposal as exhibited; and
2. Forward the Planning Proposal to the NSW Parliamentary Counsel to draft the amendment to the Shoalhaven Local Environmental Plan 2014 and enable it to proceed to finalisation.

CARRIED

FOR: Clr Findley, Clr Gash, Clr Wells, Clr White, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Proudfoot and Russ Pigg

AGAINST: Nil

**DE16.3 NSW Heritage Grants Program 2016/2017 - Shoalhaven  
Local Heritage Assistance Fund Program****HPERM Ref:  
D16/300392****Recommendation (Item to be determined under delegated authority)**

The Committee endorse the allocation of Shoalhaven Local Heritage Assistance Funds for the 2016/2017 program listed in Attachment 1 to this report.

Clr Findley – DE16.3 - NSW Heritage Grants Program 2016/2017 - Shoalhaven Local Heritage Assistance Fund Program less than significant non pecuniary interest declaration – left the room and did not take part in discussion or vote – one of the applicants is known to her.

**RESOLVED** (Clr Wells / Clr Watson)

MIN16.763

The Committee endorse the allocation of Shoalhaven Local Heritage Assistance Funds for the 2016/2017 program listed in Attachment 1 to this report.

CARRIED

FOR: Clr Gash, Clr Wells, Clr White, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Proudfoot and Russ Pigg

AGAINST: Nil

There being no further business, the meeting concluded, the time being 5.00pm.

Clr White  
CHAIRPERSON

## DE16.4 Exhibition Outcomes/Finalisation - Shoalhaven Development Control Plan 2014 - Draft Amendment No 5 - Stage 2 Housekeeping

**HPERM Ref:** D16/298267

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

**Attachments:**

1. Development Committee Report 3/5/16 - draft Amendment No. 5 Shoalhaven DCP 2014 (under separate cover) [⇒](#)
2. Summary of Submissions - DCP Stage 2 Amendment No. 5 (under separate cover) [⇒](#)
3. Submission Attachment - Natural Resources & Floodplain Unit - Site specific controls - DCP G9 - Updated Flood Risk Management Study and Plan (under separate cover) [⇒](#)
4. Post Exhibition Changes - Track Changes PDF version DCP2014 Chapter G9: Development on Flood Prone Land (under separate cover) [⇒](#)

### Purpose / Summary

The purpose of this report is to:

- Detail the submissions received during the exhibition of draft Amendment to Shoalhaven Development Control Plan (DCP) 2014 and consider changes resulting from submissions;
- Adopt the Amendment with recommended changes and rescind a previous related policy; and
- Make the Amendment effective by providing the required public notice and simultaneously rescinding the relevant existing Shoalhaven DCP 2014 chapters and policies of Council.

### Recommendation (Item to be determined under delegated authority)

That the Development Committee:

1. Note the submissions received during the exhibition of Shoalhaven DCP 2014 Draft Amendment No. 5 - Stage 2 Housekeeping
2. Adopt Amendment No.5 to Shoalhaven DCP 2014 as exhibited with the inclusion of the following changes to respond to the submissions as per Attachment 2 - Submission Summary Table:
  - a. Minor editorial changes in Chapter G9: Development on Flood Prone Land; and
  - b. Content changes in Chapter G9: Development on Flood Prone Land, Chapter G10: Caravan Parks in Flood Prone Areas and the Dictionary as outlined in Attachment 2 and Attachment 4.
  - c. Defer the draft changes to Chapter G9: Development on Flood Prone Land relating to subdivision in Greenwell Point to seek legal advice and to consider alternative provisions in Shoalhaven Local Environmental Plan 2014 to implement development controls identified in the Lower Shoalhaven River Floodplain Risk Management Plan. Prepare an additional report following the receipt of legal advice to outline possible alternative provisions.

3. Rescind Council Policy: POL 12/118 Finders Estate – Zincalume Roofs
4. Undertake a future review of DCP Chapter G9: Development on Flood Prone Lane to improve the readability of controls with simplified wording and formatting
5. Notify the adoption of Amendment No.5 to Shoalhaven Development Control Plan 2014 in the local newspapers in accordance with the requirements of the Environmental Planning & Assessment Act 1979 and Regulations
6. Notify the NSW Department of Planning & Environment and those who made a submission on this matter that Amendment No.5 to Shoalhaven DCP 2014 has been adopted.

## Options

1. Adopt the recommendation

Implications: This is the preferred option as it will enable Council to consider the submissions received during the exhibition period and make minor typographical and content changes where appropriate.

This will also enable finalisation of this amendment to the DCP which will:

- Increase the readability/usability of the document;
- Streamline relevant development related controls;
- Address matters of ongoing operational importance;
- Rescind POL 12/118 – Flinders Estate – Zincalume roofs; and,
- Amend the following chapters of Shoalhaven DCP 2014 the DCP Dictionary:
  - Chapter G6 – Coastal Management Areas
  - Chapter G9 – Development on Flood Prone Land
  - Chapter G10 – Caravan Parks in Flood Prone Areas
  - Chapter G17 – Business, Commercial and Retail Activities
  - Chapter G20 – Industrial Development
  - Chapter NB1 – Mundamia Urban Release Area.

2. Adopt an alternative recommendation

Implications: Depending on its nature, this could delay the progress of Shoalhaven DCP 2014 Housekeeping Amendment works program.

## Background

### Context

Shoalhaven DCP 2014 was prepared to meet the requirements of the planning reforms, initiated by the NSW Government. The reforms required that only one DCP apply to an area of land, and this must be effective within six months of the commencement of a Council's new Local Environmental Plan (LEP).

The Shoalhaven LEP 2014 commenced on 22 April 2014 and the Shoalhaven DCP 2014 became effective on the 22 October 2014. As a result of the tight six month preparation time frame, Council resolved on 14 October 2014 to consider all major issues raised in the submissions as future ('housekeeping') amendments to Shoalhaven DCP 2014.

The background to this Housekeeping Amendment is detailed in the report to the Development Committee Meeting on 3 May 2016. This report is provided as Attachment 1.

The Development Committee (under delegation) resolved on 3 May 2016 to:

- a) *Publicly exhibit Shoalhaven DCP 2014 Housekeeping Amendment No 5 Draft Stage 2 Housekeeping Amendment which includes changes to chapters:*
  - *G6 – Coastal Management Areas;*
  - *G9 – Development on Flood Prone Land;*
  - *G10 – Caravan Parks in Flood Prone Areas;*
  - *G17 – Business, Commercial and Retail Activities;*
  - *G20 – Industrial Development;*
  - *NB1 – Mundamia Urban Release Area;*
  - *Dictionary.*
- b) *Publicly exhibit the Shoalhaven DCP 2014 Housekeeping Amendment No 5 Draft Stage 2 Housekeeping Amendment for a minimum period of 28 days in accordance with legislation.*
- c) *Consider a further report after public exhibition of the draft amendments to:*
  - *Consider any submissions received;*
  - *Rescind POL 12/118 – Flinders Estate – Zincalume Roofs; and*
  - *Adopt the Stage 2 Housekeeping Amendments for finalisation.*

#### Public exhibition:

Shoalhaven DCP 2014 Draft Amendment No. 5 - Stage 2 Housekeeping (the Amendment) was publicly exhibited for a period of 31 days from Wednesday 1 June until Friday 1 July 2016.

The community engagement strategy for the exhibition included:

- Public notification of the exhibition in local newspapers
- A plain English explanatory statement
- Outline of key changes proposed to each chapter provided as a Table of Changes at the beginning of each chapter
- Three internal workshops were run for Council staff by members of the Natural Resources and Floodplain Unit on 27 June 2016
- Copies of the exhibition material was available on Council's internet site and for viewing at Council's Nowra Administration Building and Ulladulla Branch Office.

#### Submissions:

A total of three (3) submissions were received during the exhibition period relating to Chapter G9: Development on Flood Prone Land. 1 submission was received on behalf of a landowner and two internal Council submissions were received. A brief summary of these submissions are outlined below in the table below:

Submission No.	Author	Brief Summary
1	External - Planning Consultant Cowman Stoddart on behalf of the landowners of 1 Greens Road, Greenwell Point	Supports the change to site specific controls in Schedule 5 of Chapter G9: Development on Flood Prone Land.
2	Internal – Strategic Planning	Minor typographical error.
3	Internal – Natural Resources and Floodplain Unit	Minor editorial changes and a number of content changes.

A detailed summary of the submissions and any proposed recommendations arising from them is provided in the table in Attachment 2. Due to the number of changes recommended resulting from submissions, a copy of the exhibited draft Chapter G9 with recommended



changes tracked is included as Attachment 4. Copies of the actual written submissions will be available for Councillors to view in the Councillor Information Folder prior to the meeting.

Through the current review of this chapter, outdated zoning information has been identified in the specific controls for Hay Avenue, Shoalhaven Heads Part D, Schedule 5 of the chapter. This section refers to the deferred zoning prior to the commencement of Shoalhaven LEP 2014. The wording of this section has been updated in the track changes version of the draft DCP Chapter G9: Development on Flood Prone Land included as Attachment 4

#### Subdivision in Greenwell Point

Following a Notice of Motion, Council resolved on 15 December 2015 to amend Part (D) in Schedule 5 of Chapter G9 (MIN15.813):

*allow the subdivision of land and the creation of strata title lots within the Village of Greenwell Point subject to the lots whether strata or real property having access to flood free land, in compliance with Shoalhaven LEP 2014.*

The submission from Council's Natural Floodplain Unit has questioned this change. The submission highlights a broader issue regarding controls recommended in the Lower Shoalhaven River Floodplain Risk Management Plan (FRMSP) and whether it is appropriate to include these controls in the DCP.

A DCP control cannot prohibit possible development in the LEP, however the concerns raised warrant further consideration to ensure outcomes from the Lower Shoalhaven River FRMSP are acknowledged. Council is generally afforded protection from liability under section 733 of the Local Government Act when making decisions if it acts in good faith; following the provisions of an adopted Floodplain Plan would usually ensure such protection. To clarify this matter and alleviate flood risk through suitable development controls, it is recommended that this issue be deferred to allow consideration of legal advice and further investigation into possible alternative LEP provisions. Consistency with the FRMSP is important to ensure Council's planning documents include suitable controls consistent with the Floodplain Development Manual and Guidelines and to ensure Council is acting in good faith when providing flood risk controls to ensure legal indemnity is maintained. Legal advice is needed to clarify potential liability issues relating to development controls identified in the FRMSP and Council's duty to alleviate flood risk.

The Lower Shoalhaven FRMSP was prepared in accordance with the Floodplain Development Manual and Guidelines. The development controls are the last stage in the process and implement the actions of the plan. Council staff are concerned that the resolution of Council, to change development controls are inconsistent with the FRMSP and therefore Council could be seen to have provisions in a DCP that are not consistent with the 'good faith' test in regards to Section 733 of the Local Government Act. Legal advice is required to clarify this issue and it is recommended that advice be sought before any changes are made to the DCP. Council's policy position (as per the resolution) is still in place at this stage pending further consideration of legal advice and a further report.

The FRMSP identifies that areas in Greenwell Point as well as Greenwell Point Road are classified as high hazard floodway and includes the following:

*"The township of Greenwell Point experiences access and evacuation difficulties in as little as the 10% AEP design event and greater... Greenwell Point Road is the only access route for Greenwell Point and closure of this road can occur relatively early in a flood event, resulting in the whole town (developed area) becoming isolated from Nowra and any essential services it provides..."*

*There is little, if any, opportunity to raise this road because it crosses the main floodplain and has the potential to dam water and change the nature of flooding in the area. The road would need to be raised significantly (refer Figure 8) to provide flood free access in the 1% AEP event and substantial waterway openings would then be required to minimise the adverse hydraulic impacts for surrounding properties..."*

*Land not classified as flood prone should have similar low density restrictions because the entire area can be isolated from services such as fresh water, sewer and electricity during major flood events. Even though there will be no threat to property in the flood free areas there will still be a burden for emergency services because of the isolation. Any further expansion or new development beyond the current residential zoning should not be permitted at all (Shoalhaven Lower FRMSP, 2008, page 43)”*

As detailed in the FRMSP, the evacuation access issues in Greenwell Point are a major issue. Increased density through subdivision or new development will only increase the existing burden on emergency services and put an increased population at risk during a flood event. . Council needs to clarify and resolve the difference between zoning provisions in the SLEP2014 that imply further development rights and the recommendations of the Shoalhaven Lower FRMSP 2008, which place restrictions on development intensification.

### **Community Engagement**

Through the exhibition of the Amendment, Council has met its legislative requirements in this regard and provided an opportunity for the community to review the Amendment and make comment. The summary of submissions and staff comments/recommendations are provided as Attachment 2.

The subsequent adoption of the Amendment and the date it becomes effective will be notified in the local newspapers in accordance with legislation. The NSW Department of Planning & Environment and any submitters will be notified when the Amendment becomes effective.

### **Policy Implications**

By adopting the recommendations of this report, Council staff will finalise the Amendment, make effective the changes and simultaneously replace the existing relevant Shoalhaven DCP 2014 chapters and rescind POL 12/118 – Flinders Estate – Zincalume Roofs. This will resolve current concerns relating to the ongoing operation and usability of Shoalhaven DCP 2014.

### **Financial Implications**

Based on the recommended approach, there are no immediate financial implications for Council. Finalisation of the Amendment will be resourced within the existing Strategic Planning budget.

## DE16.5 Development of an Affordable Housing Strategy for Shoalhaven

**HPERM Ref:** D16/312373

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

**Attachments:** 1. Affordable Housing Background Report (under separate cover) [⇒](#)  
2. Affordable Housing Discussion Paper (under separate cover) [⇒](#)  
3. Framework for Affordable Housing Strategy (under separate cover) [⇒](#)

### Purpose / Summary

To provide an update on the initial work undertaken by Judith Stubbs and Associates in relation to the development of an Affordable Housing Strategy for Shoalhaven and obtain Council endorsement to continue with the preparation of the draft strategy based on the strategic framework.

### Recommendation (Item to be determined under delegated authority)

That the Development Committee

1. Receive the Affordable Housing Background Report, Discussion Paper and Strategic Framework prepared by Judith Stubbs and Associates as the initial stages of the development of an Affordable Housing Strategy for Shoalhaven for information
2. Make the Background Report, Discussion Paper and Strategic Framework publicly available and endorse the continued preparation of a draft Affordable Strategy for Shoalhaven based on the Strategic Framework.
3. Receive a future report on the draft Affordable Housing Strategy for Shoalhaven, to enable it to be fully considered prior to proceeding to community consultation/engagement
4. Arrange for Dr Judy Stubbs to brief Council, when appropriate, on the Affordable Housing Strategy work for Shoalhaven

### Options

1. As recommended

Implications: this is the preferred option as it will enable the work completed to date to be publicly released, given the broad community interest in this important issue, and work to continue on the development of an Affordable Housing Strategy for Shoalhaven.

2. Adopt an alternative recommendation

Implications: This may result in changes to the project that could complicate the desired outcomes, leading to inefficiencies as well as additional costs to Council. It may also delay the adoption of a policy position on this important social and community issue.

3. Not adopt the recommendation

Implications: This would postpone or prevent the development of an Affordable Housing Strategy for Shoalhaven.

## Background

Following the consideration of a Notice of Motion, Council resolved on 15 September 2015 (MIN15.631), that the General Manager:

*develop an initial discussion paper and Councillor Briefing to consider achievable and short term initiatives and options that will lead to a council report adopting an 'Affordable Housing Strategy' in Shoalhaven City.*

### Background Report

As a result of the resolution, Council engaged Judith Stubbs and Associates (JSA) in late 2015 to develop and present an initial affordable housing discussion paper.

The purpose of this paper was to outline achievable and feasible options and strategies that would increase the supply of affordable housing in Shoalhaven for relevant target groups in appropriate locations, with evidence based recommendations regarding those likely to be most effective in the local housing market context.

To inform the discussion paper, JSA also produced a *Shoalhaven Affordable Housing Background Report* which provided detailed research, analysis and calculations regarding the demographic housing market, policy and planning context of Shoalhaven, and an analysis and critical review of the range of potential strategies and mechanisms likely to be most effective in this context.

The background report is provided as Attachment 1.

### Affordable Housing Discussion Paper

The *Shoalhaven Affordable Housing Discussion Paper* provides a summary of the evidence presented in the background report, an overview of the main mechanisms and strategies likely to be effective in the local context and preliminary recommendations for Council's consideration should it choose to proceed to prepare an Affordable Housing Strategy for Shoalhaven.

Dr Judy Stubbs presented the discussion paper to a Councillor briefing on the 17 March 2016. Consistent with the discussion at the briefing, JSA were then engaged to prepare a strategic framework for an Affordable Housing Strategy.

The discussion paper is provided as Attachment 2.

### Framework for an Affordable Housing Strategy

The *Shoalhaven City Council: Framework for an Affordable Housing Strategy* provides an outline of the proposed Shoalhaven Affordable Housing Strategy (strategy) that will be prepared by JSA for Council. It is based on evidence of local affordable housing need, the planning and market context, and will outline achievable strategies and mechanisms that are most likely to be effective in the local context.

The evidence is set out in the background report and discussion paper. The strategy will be designed to be implemented in a number of key stages over the next 10 years, focusing initially on strategies that are most likely to have a practical impact on the supply of affordable housing, in particular, the development of surplus or underutilised Council land in partnership with government or community agencies and/or the private sector.

The strategy will also provide for ongoing and sustainable engagement of Council in affordable housing through longer term strategies related to relevant planning mechanisms, amendments to relevant planning instruments and monitoring its effectiveness against key performance indicators over time.

The framework document is provided as Attachment 3.

**Next Steps**

JSA are continuing to work up a possible draft Affordable Housing Strategy for Shoalhaven consistent with the framework that is discussed above and detailed in Attachment 3. When available the draft strategy will be reported to Council for formal consideration prior to proceeding to broader community engagement and consultation. Arrangements will be made for Dr Judy Stubbs to brief Council as part of the consideration of the detailed draft strategy.

In the meantime, given the broad interest in this issue there is a need to publicly release the material that has been prepared to date given that it could be useful to industry groups, community service agencies and others.

**Community Engagement**

When the draft Affordable Housing Strategy is completed there will be detailed engagement and consultation with relevant bodies, interested parties and the broader community.

**Policy Implications**

The discussion paper and background report have identified possible changes to Council's policies and planning controls. These will be examined and evaluated as part of the draft strategy based on effectiveness and feasibility in respect to Shoalhaven. Any resulting changes to policy will ultimately be considered following the adoption of the strategy.

**Financial Implications**

The current strategy work is being undertaken and managed within the Strategic Planning budget.

Depending on the strategies or actions that are ultimately pursued, there could be financial implications/considerations for Council and these will be discussed as required.

## DE16.6 Draft Huskisson Foreshore Masterplan - Exhibition Outcomes & Process Finalisation

**HPERM Ref:** D16/312632

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

**Attachments:** 1. Survey Questionnaire - Public Exhibition - Huskisson Masterplan - SJB [↓](#)

### Purpose / Summary

To report the outcomes of the draft Huskisson Foreshore Masterplan exhibition and community consultation to Council for information and consideration.

### Recommendation (Item to be determined under delegated authority)

That Council

1. Adopt the draft Huskisson Foreshore Masterplan with the following changes:
  - a. Remove the four development scenarios for 59 Owen Street and any content that specifically relates to the development scenarios; and
  - b. Identify priority projects to implement the Wider Town Centre Concept Plan.
2. Commence the process to amend Shoalhaven Development Control Plan 2014 Chapter N18 – Huskisson Town Centre to include relevant aspects of the Urban Design Principles and Wider Town Centre Concept Plan, and to restrict development above ground level on 59 Owen Street.
3. Using the material gathered during the preparation of the draft Masterplan prepare a preferred option for the site that is consistent with the proposed 'community' classification and that maintains the view, for possible incorporated into a management plan for the site that supports the proposed 'community' classification.
4. Advise submission makers, the Huskisson Chamber of Business and Tourism and the Huskisson -Woollamia Community Voice of this resolution and provide a letter of thanks to the members of the Community Reference Group who assisted with this project.

### Options

1. Adopt the recommendations of this report.

Implications: This option is preferred as it allows Council to incorporate many of the agreed principles and concepts from the Huskisson Foreshore Masterplan into Shoalhaven DCP 2014 - Chapter N18. The process to amend the DCP will involve community consultation and notification. This option will ensure that future development within the foreshore precinct is reflective of the community's expectations for the Huskisson Town Centre.

2. Not adopt the Huskisson Foreshore Masterplan.

Implications: Whilst Council's decision to reclassify 59 Owen St to 'community' has altered the basis of the Masterplan process over this area, it is still recommended that

Council adopt the Masterplan to ensure that the community's views and aspirations for the Huskisson foreshore are considered in the future planning and development of the town centre.

3. Adopt the Huskisson Foreshore Masterplan and select a preferred Masterplan Scenario.

Implications: Following Council's decision to reclassify 59 Owen St to 'community', it is highly unlikely that any of the development scenarios in the Masterplan could be achieved. If Council adopt a preferred scenario, it is likely to create unrealistic expectations and/or unnecessary concern in the community.

## Background

Council purchased 59 Owen Street, Huskisson in early 2015 and resolved on 17 March 2015 to prepare a masterplan for the Huskisson Foreshore precinct and investigate several preliminary development concepts for 59 Owen Street.

The overall foreshore precinct includes the subject site (59 Owen Street) through to the existing Huskisson Hotel and the foreshore area to the north, as shown in Figure 1 below.



Figure 1 - Subject Land

Council subsequently engaged SJB Architects Pty Ltd in August 2015 to prepare a masterplan for the Huskisson Foreshore Precinct and a range of development concepts for 59 Owen Street to guide the future use/development of the area.

As part of the process, Council also established a Community Reference Group (CRG) made up of representatives from the local Business Chamber, Tourism group, Community Consultative Body, specific interest groups, general public, adjoining land owners and wharf operators.

The project consultant worked with the CRG to identify the key strengths and opportunities of the precinct which were then used to develop a set of key urban design principles. The key design principles were used as a foundation to develop the draft Masterplan and potential development scenarios (four).

### Draft Huskisson Foreshore Masterplan

The draft Masterplan presents a vision and principles for the precinct, a wider town centre concept plan and four development concepts for 59 Owen Street, the adjoining road reserve and the Club Jervis Bay site. A copy of the exhibited draft Masterplan document is available on Councils internet site at:

<http://shoalhaven.nsw.gov.au/My-Council/Current-Projects/Huskisson-Foreshore-Masterplan>

A hard copy of the document will also be available in the Councillors room prior to the meeting.

The project webpage (link provided above) contains a wide range of background material related to this project including; CRG workshop presentations, progress reports, enquiry by design workshop overview, exhibition questionnaire, interactive Masterplan website and 3D models of the four development options.

### Wider Town Centre Masterplan Concept

The Wider Town Centre Master Plan (Section 4.1 & 4.2 of the draft Masterplan document) identifies strategic objectives and wider town centre improvements that respond to the ideas of what makes a great waterfront destination. The objectives focus on taking advantage of the water views, providing improved interaction with the water, ensuring development in the town centre caters for a range of different price points, encouraging optimal movement around the town centre (for both vehicles and pedestrians), and encouraging the principle of 'ten things to do' which make a great place.

During the community consultation period, submissions and survey responses indicated a large amount of support for some of the proposed objectives including upgraded amenity and facilities at Voyager Memorial Park, improved through-block connections, activation of the foreshore, and a new activated promenade as part of Voyager Memorial Park upgrades.

An opportunity still exists to incorporate many of the agreed principles and concepts from the Huskisson Foreshore Masterplan related to the wider town centre into Shoalhaven Development Control Plan (DCP) Chapter N18 – Huskisson Town Centre to ensure that future development within the foreshore precinct is reflective of the community's expectations for the Huskisson Town Centre.

### Draft Foreshore Masterplan Options

The exhibited draft Masterplan contained four (4) possible development scenarios and these are summarised below:

#### Scenario 1A and 1B

Scenario 1A incorporates a large open space area (1,450m<sup>2</sup>) with potential commercial development along the wharf edge (not visible from street level) on 59 Owen Street. Three to four (3-4) storey mixed use development was proposed for 2 Currumbene Street (Club Jervis Bay site) with ground floor activated frontages along Owen Street and Voyager Park. Upgrades to Currumbene Street and Owen Street were also proposed as part of this scenario.

Scenario 1B is a variation to 1A in that it proposed the addition of a small lightweight, primarily glazed pavilion along the Owen Street frontage of 59 Owen Street. The pavilion was shown running east-west in the concept images, however, the Masterplan highlighted that it could also be positioned to run north-south. All other aspects of Scenario 1A and 1B were the same and the Scenarios are shown in Figure 2 and Figure 3 below.





**Figure 2 – Scenario 1A (note - pavilion not included on 59 Owen Street)**



**Figure 3 – Scenario 1B (note - pavilion included on 59 Owen Street)**

### Scenario 2

Scenario 2 proposed the introduction of a 3 storey mixed use development on 59 Owen Street. The slimline building located on the west of the block included an open space area to the east of the site which would connect with a new open space area created by the suggested closure of the Currumbene Street road reserve. Four to five (4-5) storey mixed-use development on 2 Currumbene Street (Club Jervis Bay site) would be setback from the street and compensated with additional height to allow the entire existing view aperture of 65 metres to remain.

The closure of the Currumbene Street road reserve and setting development back on the club site resulted in a larger public open space (2,260m<sup>2</sup>) which flowed directly down to the wharf and Voyager Memorial Park. A new service loop would be provided for service vehicles to access the new developments and the wharf. Scenario 2 is shown in Figure 4 below.



**Figure 4 – Scenario 2**

### Scenario 3

Scenario 3 proposed the full development of 59 Owen Street based on the current planning controls contained within the existing DCP, with a 4 storey mixed use building including ground floor activation. The proposal to close the Currambene Street road reserve was also included in this scenario to provide a new public open space (1,200m<sup>2</sup>) to connect to the wharf and Voyager Memorial Park. This scenario also included a service loop for service vehicles. Scenario 3 d is shown in Figure 5 below.



**Figure 5 – Scenario 3**

The development scenarios were informed by a preliminary geotechnical investigation and preliminary environmental site assessment prepared by SMEC Australia Pty Ltd and a market analysis and feasibility assessment completed by Charter Heck Kramer Pty Ltd. This work was undertaken to ensure the development options were realistic and achievable. While both reports are technical in nature, and difficult to interpret and understand, they were exhibited with the draft Masterplan for the sake of transparency and to ensure the community had complete access to all of the relevant information.

### Public Exhibition/Community Consultation Overview

The draft Huskisson Foreshore Masterplan was publicly exhibited for two months from 15 June to 10 August 2017 at Council's Administrative Centre in Nowra and on Council's website.

To support the exhibition, Council developed an interactive Masterplan website and 3D model to assist the community in interpreting and understanding the different scenarios in the Masterplan.

Overall, the draft Foreshore Masterplan was viewed on Council's website nearly 5,000 times, with 2,495 people viewing the designated project page, 1,718 people viewing the interactive Masterplan website and 682 people viewing the 3D Model.

During the exhibition period, Council facilitated a specific information session for tourism operators in the Jervis Bay area and a two day community drop-in session on site in Huskisson which was attended by over 300 people. Council also developed a survey form that was made available at the drop-in session and on Council's website. A copy of the survey form is provided as **Attachment 1** to this report.

### Outcomes of the exhibition

Council received a total of 440 submissions during the exhibition period including 325 completed survey forms and 115 written submissions. Copies of the submissions received will be available in the Councillors rooms prior to the Development Committee meeting and the survey results and key issues raised in the submissions are detailed and discussed below.

### Survey Results

A total of 325 survey forms were completed with 81% of all respondents identifying 'protecting the view' as one of the two most important issues for the Huskisson foreshore precinct. Over 58% of respondents also identified 'public open space', while 33% identified 'maintaining the character of Huskisson' and 16% nominating 'strengthening Huskisson as a tourist destination' as one of the two most important issues for the Huskisson foreshore precinct. An overview of the survey responses is provided in Figure 6 below.

## Q1 Which 2 of the following issues are most important to you and why?

Answered: 325 Skipped: 0

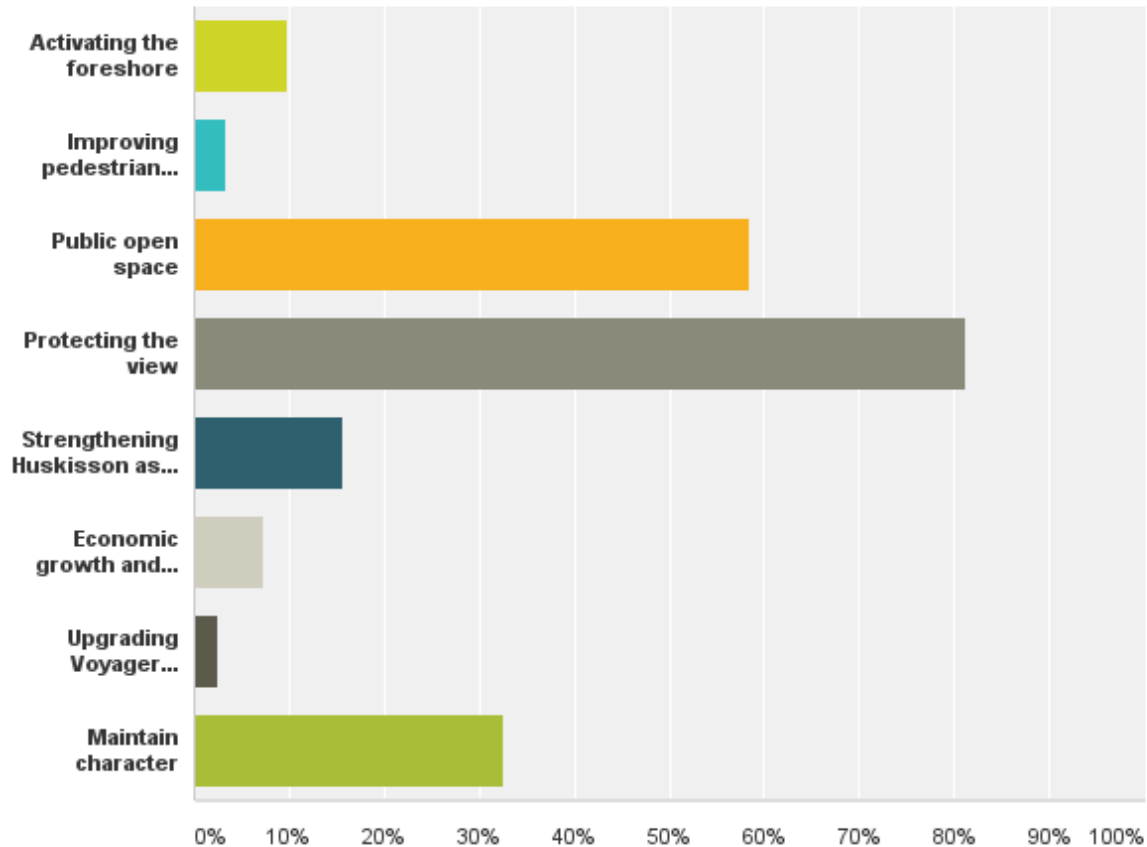


Figure 6 – Survey Results, Important Issues for the Foreshore Precinct

Survey respondents were asked to nominate both their preferred and least preferred of the four scenarios from the draft Masterplan. As shown in Figure 7 below, nearly 66% of all respondents nominated Scenario 1A as their preferred option, 17% nominated Scenario 2, 8% Scenario 1B and only 2% nominated Scenario 3. In relation to the least preferred option, 86% of respondents nominated Scenario 3, 4% nominated Scenario 1A and approximately 1% nominated Scenarios 2 and 1B.



## Q2 Which option do you like the best and why?

Answered: 325 Skipped: 0

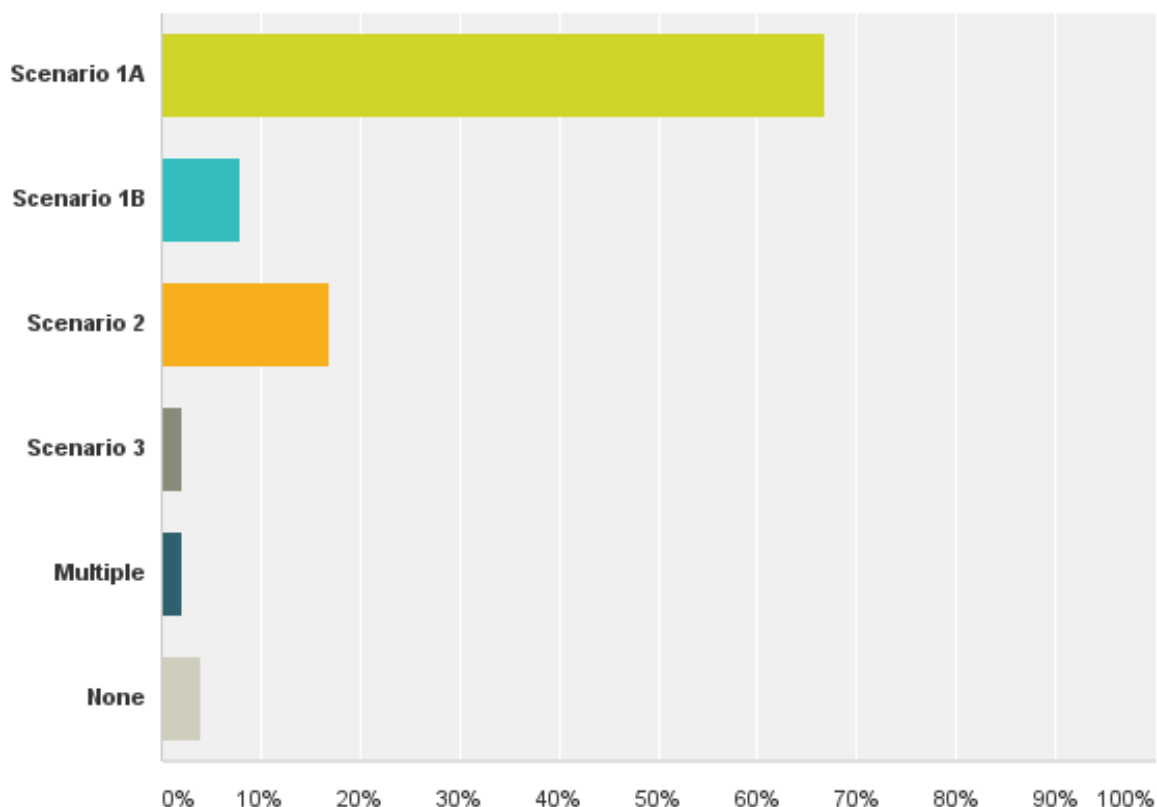


Figure 7 – Survey Results, Preferred Scenario

### Key Issues - Maintaining the View

A total of 102 submissions made reference to protecting or enhancing the view, and therefore it should remain free from development at or above the Owen Street ground level. Many of the submissions recommended that the site should either remain completely free from development, or alternatively, the roof top open space in Scenario 1A should amphitheatre down towards the foreshore to further protect the existing view.

### Staff Comments

*The view across 59 Owen Street was a key consideration throughout the draft Masterplan process. Each of the scenarios were tested to assess their impacts on the existing view, from different points along Owen Street. Scenario 1A has the least impact on the current view from Owen Street level. Scenario 2 provided an option to include development above ground on 59 Owen Street, while still maintaining a full 65m wide view aperture, albeit in a modified location. As per the March 2015 Council resolution, the draft Masterplan explored a range of development options for 59 Owen Street, including options that would impact to a significant or lesser extent on the view from Owen Street.*

*It appears that around 40 submissions were composed without having viewed the exhibited draft Masterplan and assumptions were made based on other information that was available whilst the Masterplan was on public exhibition.*

*The potential for the open space to be of an amphitheatre nature was raised in the CRG meetings. In this regard it is noted that Allan Jack + Cottier Architects had previously*

*prepared an amphitheatre park concept for the 'Heart of Huskisson' group. As a result the consultant further tested Scenario 1A and 1B to determine whether commercial development could occur at the wharf level, while also providing an amphitheatre park down towards the foreshore. The site has a natural fall of 4m towards the foreshore, and a leasable commercial floor space requires a minimum floor to floor height of 4.1m. This means that an amphitheatre (open space) above a commercial development would be extremely difficult and expensive to achieve, and would require significant excavation of the Crown land along the foreshore, which may or may not be possible. Given the cost and difficulty in achieving this outcome, the Masterplan incorporated commercial development underneath the Owen Street level, without an amphitheatre open space.*

#### Inconsistency with Council Resolution

A total of 16 of the submissions raised concerns that the Masterplan process was inconsistent with the original Council resolution (January 2015) to purchase the land, which stated that (MIN15.3) *Council proceed immediately to consider development options for the subject property which do not compromise views from the Owen Street Huskisson.*

#### Staff Comments

*Following the purchase of 59 Owen Street, Council subsequently resolved in March 2015 to prepare a Masterplan that explore development several concepts for the site. This subsequent resolution superseded the original Council resolution, and determined how the Masterplan process was undertaken.*

*Thus Council staff engaged the community in good faith to prepare a draft Masterplan for the foreshore precinct in accordance with the March 2015 resolution of the Council.*

#### Development Feasibility / Intrinsic Value of the View

During the public exhibition period a number of concerns were raised with Council staff about the development feasibility assessment that was prepared to help inform the draft Masterplan scenarios. A number of submissions suggested that the draft Masterplan process had been in fact been driven by development feasibility and raised concerns about the need and motive for including a feasibility assessment in the draft Masterplan.

There were also concerns raised in relation to the feasibility assessment given that it did not consider the intrinsic value of the view to tourism and visitation. It was essentially suggested that the view was a key tourism attractor and that its loss or any impact on it could in turn have a negative impact on tourist visitation. A number of submissions also argued that the feasibility assessment was flawed given that it did not put a financial value on maintaining the view across 59 Owen Street.

#### Staff Comments

*The feasibility assessment was undertaken as an important aspect of the draft Masterplan to ensure that the four scenarios were realistic and achievable, and to enable Council to ultimately make an informed decision in relation to the future development of the site. The outcomes of the draft Masterplan were never directly influenced or dictated by development feasibility, but rather, like any decision to fund infrastructure, it was considered important for Council to understand the potential cost to the community before ultimately selecting a preferred scenario. It is noted that even developing the site as an improved open space will not be without a cost to Council.*

*In relation to the intrinsic value of the view, there is no widely accepted and robust methodology of financially valuing a view. While there have been some attempts at valuing views and open space in different studies, the methodologies are highly subjective and not broadly accepted in the industry. Nevertheless, the importance of the view was reflected in every other aspect of the draft Masterplan, from developing the design principles through to designing and refining the development concepts for the site. Each of the development concepts thus provides for a varying degree of view to Currumbene Creek.*

*The outcomes of the preliminary feasibility assessment are shown in the Table below. It should be noted that the revenue outlined below was based on Council selling the completed development. Given that Council has resolved to reclassify the land to 'community', the total net revenue would likely be significantly lower than the revenue outlined in the table below.*

Feasibility Outputs						
Scenario	Scenario 1A	Scenario 1B	Scenario 2	Scenario 3	No Development	
Total cost including land purchase price and construction cost	\$4.8m	\$5.0m	\$9.2m	\$14.9m	\$3m plus embellishment	
Total net revenue from development	\$2.8m	\$3.3m	\$8.6m	\$18.4m	\$0	
Total cost to Council	\$2m	\$1.7m	\$0.6m	+\$3.5m	\$3m plus embellishment	

#### Club Jervis Bay Proposal

During the public exhibition period, Auric International made a submission that proposed to relocate Club Jervis Bay as part of a redeveloped 5-6 storey mixed use development on 59 Owen Street. The submission also proposed a redevelopment of the existing Club Jervis Bay site for a 7 storey mixed use development. A range of third party material was available in the community during the exhibition period in regard to this specific proposal, including a flyer released by the Club providing an overview of the proposed redevelopment

#### Staff Comments

*While the Auric International proposal stated that it was largely consistent with Scenario 2, the proposal included a significantly more intensive development than outlined in the draft Masterplan. A number of concerns were raised with Council staff during the exhibition period that the Auric proposal had influenced the Scenarios in the Masterplan. However, neither the Council staff managing the draft Masterplan nor Council's consultants were aware of the Auric proposal until it was formally submitted during the exhibition period for the draft Masterplan.*

#### Resolution to reclassify

Council resolved on 14 October 2016 to proceed to reclassify 59 Owen Street as 'community' land under the Local Government Act 1993 (MIN16.688).

Council recently notified its intent to reclassify the land in accordance with the requirements of the Local Government Act 1993 and this matter will be reported back to the Council in due course.

#### Staff Comments

The reclassification of 59 Owen Street will significantly impact on Council's ability to achieve any of the development scenarios outlined in the draft Masterplan. A 'community' classification restricts Council's ability to sell the site and creates significant constraints in relation to commercial leases. To achieve any of the scenarios outlined in the draft Masterplan, Council would need to accept significant risk in developing the site, given the restrictions on sale or lease. Alternatively, Council could try and enter into a public private

partnership (PPP) to develop the site, but again, it would be highly unlikely that a developer would be willing to invest in a development given the restrictions on leasing.

Given the Council's strong support for a 'community' classification, and the community campaign that led to that decision, it is highly unlikely that any of the draft Masterplan scenarios as presented could be achieved on the site.

### Conclusion

The draft Huskisson Foreshore Masterplan was developed through extensive consultation with the community, and included a series of urban design principles, a wider town centre concept plan and four separate potential development scenarios. The decision to reclassify the land to 'community' means that each of the development scenarios is unlikely to be achievable.

However, it is still recommended that Council adopt the draft Masterplan with the exception of the four development scenarios. This will allow Council to commence the process to incorporate many of the agreed principles and concepts from the Huskisson Foreshore Masterplan into Shoalhaven DCP 2014 - Chapter N18, and ensure that future development within the foreshore precinct is reflective of the community's expectations for the Huskisson Town Centre. The process to amend the DCP will provide a further opportunity for community engagement/comment.

It is also recommended that, utilising the material gathered during the preparation of the draft Masterplan that a preferred option be prepared for the site that is consistent with the proposed 'community' classification and that maintains the view (a key outcome from the recent community consultation). This preferred option could then inform or be incorporated into a management plan for the site, that is likely to be required under the proposed 'community' classification.

### **Community Engagement**

The draft Masterplan was developed with extensive community consultation, including regular consultation with the CRG and a two-day Enquiry by Design workshop with the wider community which took place in late October 2016. During the exhibition period, Council and the project consultants facilitated a specific information session for tourism operators and a two-day drop in session on site in Huskisson that was attended by more than 300 people.

Council staff and the project consultants tried to engage the community constructively and in good faith throughout the entire draft Masterplan process, and over 4,500 people viewed the draft Masterplan through Council's website alone. There was significant community interest in the draft Masterplan project, and the community were engaged extensively throughout.

The community's efforts in contributing to the draft Masterplan are appreciated and the specific input provided by the members of the CRG should be formally recognised.

### **Financial Implications**

The Huskisson Foreshore Masterplan project was managed within existing budgets.



PRECINCT MASTERPLAN AND DEVELOPMENT CONCEPTS FOR

# HUSKISSON FORESHORE

## ABOUT THE PROJECT

Following Shoalhaven City Council's purchase of No. 59 Owen Street, Council resolved to prepare a Masterplan for the Huskisson Foreshore Precinct as well as investigate preliminary development concepts for No. 59 Owen Street to establish a 'way forward' for the site and broader precinct.

Shoalhaven City Council engaged SJB Architects in August 2015 to work collaboratively with key Council staff, a Community Reference Group (CRG) and the broader community to prepare this masterplan.

### Guiding Principles

A set of eight guiding principles for the wider town centre were established and have been used as a tool to assess the development concepts;

- **Principle 1: Character** - Embracing the Essence of Huskisson
- **Principle 2: Nature** - Pristine and Precious Natural Environment
- **Principle 3: Activity** - A Diversity of Activity
- **Principle 4: Built Form** - Respectful & Responsive Buildings & Spaces
- **Principle 5: Movement** - Equitable and Inviting Connections
- **Principle 6: Development** - A Prosperous Future
- **Principle 7: Destination** - The Gateway to Jervis Bay
- **Principle 8: Living** - A Place for Tourists and Locals Alike

## PROCESS TO DATE

1. Site analysis & document review
2. Workshop with Council, CRG and Councillors to collaboratively develop guiding project principles
3. Enquiry By Design with the CRG and wider community
4. Development of four Concept Scenarios
5. Economic Feasibility of the scenarios
6. Presentation to the CRG and Councillors on the findings of the feasibility study
7. Preparation of four detailed scenarios and presentation to the CRG, Council Staff and Councillors
8. Scenarios and design principles assessment
9. **Public Exhibition - current stage**
10. Consideration of consultation outcomes
11. Final Masterplan

## DEVELOPMENT SCENARIO OVERVIEW

### Scenario 1 A and B - Minimal Development

This scenario has two variants (A and B) and incorporates a large open space on 59 Owen Street with small amount of retail at the wharf edge. Variant A does not include any built form at level of Owen Street. Variant B includes a small lightweight, primarily glazed pavilion at Owen Street in either a north-south or east-west orientation.

Upgrades are proposed to Currambene Street in this scenario.

At 2 Currambene Street, the proposal is for a 2-3 storey mixed use courtyard development with one level of basement car park.

### Scenario 2 - Medium Development

This scenario includes a possible 3 storey mixed use building to 59 Owen Street, oriented north-south along the western boundary, with one level of car park. A large open space is proposed on the subject site, Currambene Street and a small part of 2 Currambene Street - this space allows for the same width of view to be experienced.

At 2 Currambene Street, a mixed use courtyard development is proposed of 3-4 storeys with one level of basement Car parking.

### Scenario 3 - Maximum Development

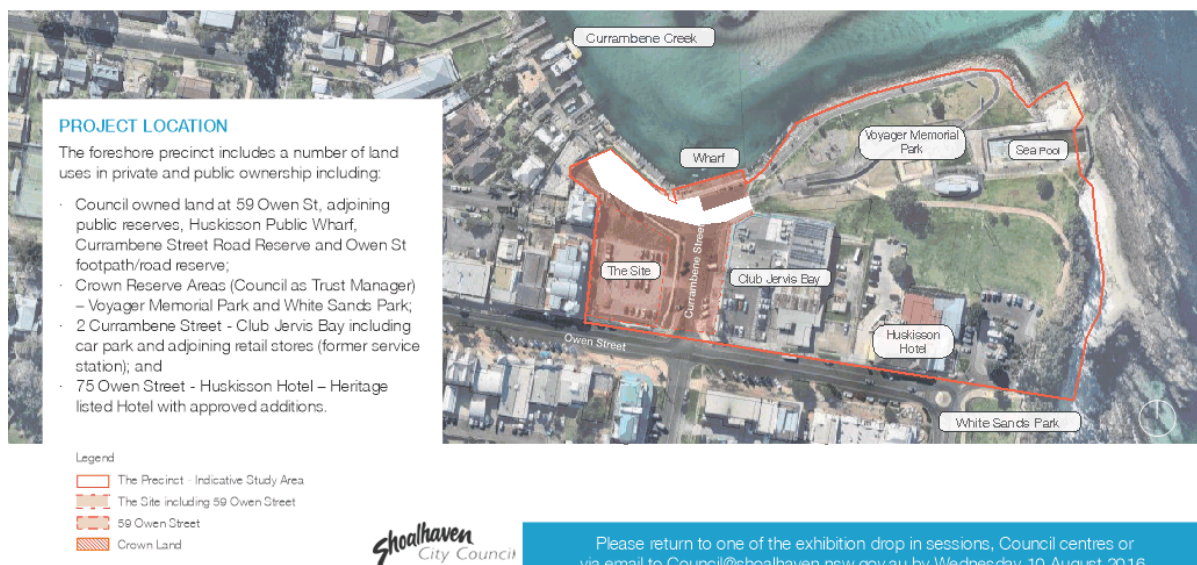
This scenario provides the maximum amount of development permissible under the LEP and DCP on the sites, and includes a mixed use development of 4 storeys (which includes the height bonus provision) on 59 Owen Street with one level of car parking.

At 2 Currambene Street, a mixed use building of 4 storeys is proposed with one level of car parking.

Please fill out the short questionnaire on the reverse side of this page, and tell us what you think about each of the development scenario's.

For more information visit:  
[www.shoalhaven.nsw.gov.au/My-Council/Current-Projects/Huskisson-Foreshore-Masterplan](http://www.shoalhaven.nsw.gov.au/My-Council/Current-Projects/Huskisson-Foreshore-Masterplan)

Enquiries: Michael Park (02) 4429 3596



PRECINCT MASTERPLAN AND DEVELOPMENT CONCEPTS FOR

## HUSKISSON FORESHORE

In order to answer these questions to the best of your knowledge, we recommend reading the full Draft Masterplan Document on Council's website; [www.shoalhaven.nsw.gov.au/My-Council/Current-Projects/Huskisson-Foreshore-Masterplan](http://www.shoalhaven.nsw.gov.au/My-Council/Current-Projects/Huskisson-Foreshore-Masterplan), or talking to our consultants at one of the drop in sessions on Friday 8 July, or Saturday 9 July 2016.

### PROJECT FEEDBACK

**Q1: Which 2 of the following issues are most important to you and why?**

- ☐ Activating the foreshore
- ☐ Improving pedestrian connections
- ☐ Public open space
- ☐ Protecting the view
- ☐ Strengthening Huskisson as a tourist destination
- ☐ Economic growth and activity
- ☐ Upgrading Voyager Park
- ☐ Maintain character

Why?

**Q1: Which option do you like the best and why?**

- ☐ Scenario 1A
- ☐ Scenario 1B
- ☐ Scenario 2
- ☐ Scenario 3

Why?

**Q2: Which option do you like the least and why?**

- ☐ Scenario 1A
- ☐ Scenario 1B
- ☐ Scenario 2
- ☐ Scenario 3

Why?

### ANY FURTHER FEEDBACK?

### A BIT ABOUT YOU

Name (optional):

**Q4: What is your relationship to Huskisson?**

- ☐ Resident - Huskisson
- ☐ Business owner
- ☐ Resident - Shoalhaven
- ☐ Worker
- ☐ Visitor

**Q4: What is your age**

- ☐ 0 - 14
- ☐ 35 - 44
- ☐ 65 - 74
- ☐ 15 - 24
- ☐ 45 - 54
- ☐ 75+
- ☐ 25 - 34
- ☐ 55 - 64

**Q5: What is your post code?**

## DE16.7 Development Application – No.160 Bolong Road, Bomaderry – Lot 1 DP 838753

**DA. No:** DA14/2161-03

**HPERM Ref:** D16/314387

**Group:** Planning & Development Services Group  
**Section:** Development Services

**Attachments:** 1. Overall site plan - showing where new silos are located.[↓](#)  
2. Elevation of new silos and existing structures that are adjoining /adjacent.[↓](#)

**Description of Development:** Two (2) additional grain silos and associated infrastructure

**Owner:** Manildra Energy Australia Pty Ltd

**Applicant:** Brian Hanley, Shoalhaven Starches

**Notification Dates:** 22 October 2014 to 24 November 2014

**No. of Submissions:** No submissions received in objection or in support

### Purpose / Reason for consideration by Council

To seek direction from Council on a policy variation relating to the 11m height of buildings standard in Clause 4.3 (Height of Buildings) of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

The application has had a protracted assessment given that the works were undertaken without development consent.

### Recommendation (Item to be determined under delegated authority)

That the Committee:

1. Confirm that it supports, pursuant to Clause 4.6 (Variation to development standards) of SLEP 2014, the applicant's request to vary the height limit of 11m to 34.12m; and
2. Refer the development application (DA14/2161) back to staff for determination.

### Options

1. Resolve to support the requested variation to the maximum height of buildings requirement.

Implications: This would enable Council to issue a development consent for the existing structures subject to conditions which would include, but not be limited to, the submission of engineering certification and Building Code of Australia (BCA) compliance certification. Council will also need to consider enforcement/compliance action in relation to works being undertaken without development consent or a construction certificate.

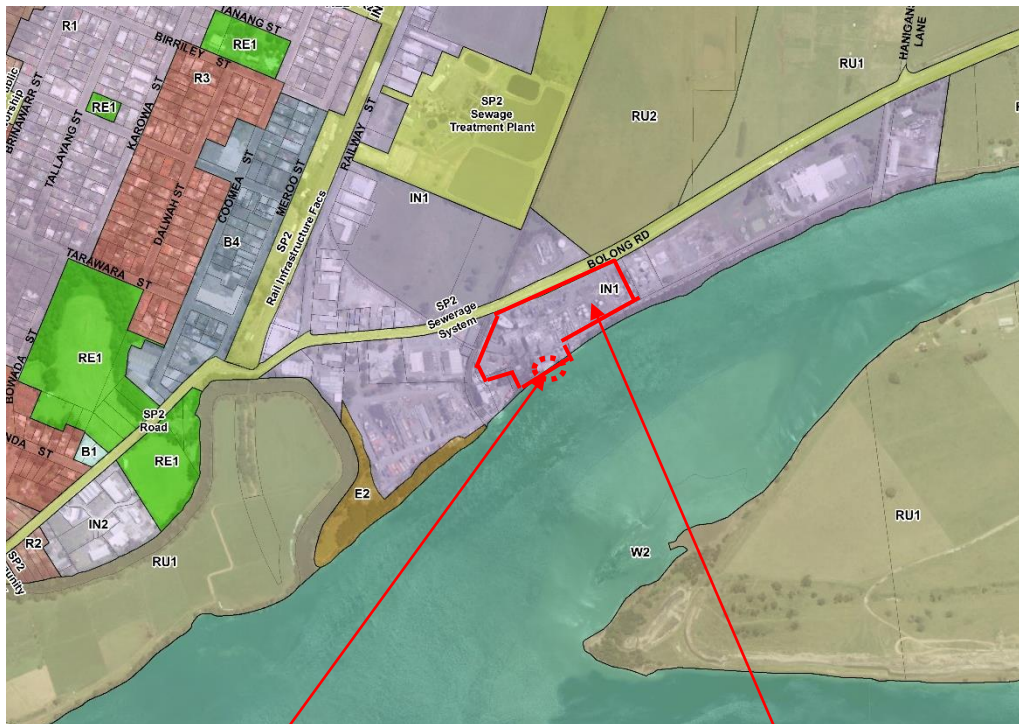
2. Resolve not to support the proposed variation to the maximum height of buildings requirement.

Implications: This would result in the applicant needing to reconsider the design of the proposal and for Council to commence enforcement proceedings to have the constructed buildings removed or modified. This may result in the applicant appealing Council's refusal in the Land and Environment Court.

3. Resolve to modify the recommendations contained in this report.

Implications: This would require the Committee to provide direction to staff.

### Location Map



Area of works that are the subject of this DA.

Development Site

### Background

#### Proposed Development

The Development Application (DA) seeks consent to erect two additional silos at the Shoalhaven Starches factory complex. Each silo has a maximum height above ground level, including all associated infrastructure, of 34.12 metres and a diameter of 10 metres. The silos have a height of 28 metres, the associated walkways above the silos have a maximum height of 31.6 metres and the top end of the infrastructure servicing the silos has a maximum height of 34.12 metres. Each silo is capable of holding 1,300 metric tonnes of grain which will be used to provide a 'relief' supply only and will be constructed of galvanised steel and positioned on structural steel legs. See Attachment 1 for a copy of the DA plans.

#### Subject Land

The subject land is known as Lot 1 DP 838753 (No.160) Bolong Road, Bomaderry. It has an area of 3.53 hectares and forms part of the Shoalhaven Starches factory complex.

#### Site & Context

The site adjoins Bolong Road to the north, the Shoalhaven River to the south and land that forms part of the Shoalhaven Starches factory complex to the east and west. It is zoned IN1 General Industrial under the SLEP 2014 and is identified as being affected by both

DE16.7



contamination and flooding. The proposal is permissible within the zone and is considered compatible with the character of the area.

### History

The DA was received by Council on 18 September 2014. After DA was lodged a site visit was undertaken as part of the assessment process. At this site visit it was apparent that the two silos that are the subject of the DA were already in place/had been constructed. Further discussions were had with the applicant at that time during which it was acknowledged that construction had been undertaken prior to obtaining a development consent or obtaining a construction certificate.

This application, now in effect will serve to regularise the situation by providing a 'land use' or planning approval for the structures.

### **Issues**

#### Clause 4.3 (Height of buildings) of the Shoalhaven Local Environmental Plan 2014

Clause 4.3 contains controls for the maximum height of buildings and specifically outlines that the maximum height of a building must not exceed the height shown on the 'Height of Buildings Map' that supports the SLEP 2014 or if there is no map it must not exceed 11 metres.

The 'Height of Buildings Map' has no specific maximum building height provisions for the subject site. As such, the maximum height of any building, under this clause, must not exceed 11 metres as required by Clause 4.3(2A). The two silos covered by this DA meet the criteria of a 'building' as defined in the SLEP 2014 as the definition, in part, includes "any structure or part of a structure". The development therefore does not comply with this development standard as the silos and supporting infrastructure will be above the 11 metre height requirement with the structures having a maximum height of 34.12 meters. This representing a 310% variation to the numerical standard.

Whilst these structures exceed the 11metres height, there are numerous other tall structures in the complex.

#### Applicant's Submission

The applicant has requested an exemption to this development standard and has provided a detailed assessment pursuant to the requirements of Cluse 4.6 (Exemptions to development standards) which is discussed in greater detail below. The applicant has advised that:

*"Shoalhaven Starches have a preference for the use of rail for delivery of raw materials as opposed to the use of heavy vehicles using the road network" and*

*"over recent years there have been ongoing closures of the Illawarra South Coast rail line due to re-construction of the Kiama track; flooding; storm damage; as well as traffic and rail accidents. During these closures the ability to use rail for the supply of grain and flour has been restricted, which has resulted in interruptions to the factory production operations."*

The additional silos therefore will enable the Shoalhaven Starches factory operations to continue during periods when the rail line is not operational. The applicant in their submission outlining that strict compliance with the provisions of Clause 4.3(2A) is unreasonable and unnecessary having regard for the specific circumstances associated with this application and is consistent with the objectives of Clause 4.3(1) as the silos structures:

- Are not dissimilar to existing structures on the site in terms of height bulk and scale;
- Will have minimal visual impact having regard for the scale/size of adjoining structures. The main vantage point being from the south where the development given its location adjacent to the sites southern boundary is visible from residents in Riverview Road and Terara. The silo structures that form part of this application being under the height of adjoining structures and will be in the "silhouette" of the existing factory complex;

- Will not result in additional overshadowing of the adjoining foreshore areas having regard for the shadows cast by the existing development and the nature of the foreshore in this locality; and
- Will not impact upon heritage items as the development site is not subject to a heritage listing nor in the vicinity of a heritage item or heritage conservation area.

#### Discussion

With reference to the objectives of Clause 4.3 and the general requirements of Clause 4.3, the assessment concludes:

- Council is satisfied that the proposed buildings are not inconsistent with the height, bulk and scale of existing and desired future character of the locality. This being due to the industrial nature of the development site and adjoining sites which reflects the sites zoning. In addition, the development site currently contains a number of large buildings that are comparable in size. Specifically the buildings adjacent to the location of the silos have heights which vary from 30.6m above the ground to 34.78m above the ground (refer to Attachment 2);
- Council is satisfied that the silos location will have minimal visual impact, will not diminish views or result in loss of privacy/solar access. While it is acknowledged that the proposal will result in two structures that will be visible, the bulk and scale of these structures is not dissimilar to that of the other existing industrial type development associated with the current use of the site. The silos themselves are the same height as three (3) existing silos that are currently placed adjacent to the location of the silos covered by this DA, are sited within the silhouette of the existing factory complex and do not extend past the existing skyline created by the existing factory; and
- The subject site is not subject to a heritage listing under the provisions of the SLEP 2014 nor is it sited within or close to a heritage item or a heritage conservation area

#### Clause 4.6 (Exceptions to development standards) of the Shoalhaven Local Environmental Plan 2014

Clause 4.6 contains the specific requirements relating to the variation of a development standard where it can be shown that strict compliance is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental planning grounds to justify contravening the development standard. Before applying the requirements of Clause 4.6 the consent authority must be satisfied that the standard for which the departure is sought is a development standard and not a matter which would prohibit the proposal.

#### Applicant's Submission

The applicant as per the requirements of Clause 4.6(3) and Clause 4.6(4)(a)(i) of the SLEP 2014, has submitted a written request for an exemption to the required maximum 11 meter height limit as it applies to this DA. In summary, the applicant's written request has provided justification for the departure from the 11m height limit against the specific requirements of 4.6(3). The applicant, in part, providing the following justification:

*"Under these circumstances it is my view that this objection made pursuant to Clause 4.6 is well founded and strict compliance with Clause 4.3(2A) of Shoalhaven LEP 2014 would be unreasonable under the specific circumstances of this case as:*

- *The objectives that underpin the development standard outlined in Clause 4.3 of Shoalhaven LEP are achieved notwithstanding non-compliance with the development standard.*
- *This proposal is consistent with state and regional planning provisions applying to this land.*
- *The proposal is consistent with the objectives of the IN1 zone that applies to the land.*
- *Despite non-compliance with the eleven metre height restriction, the proposal is consistent with the stated objectives of Clause 4.3 as they relate to the height of building requirements as outlined above in this written request.*

- *The proposed development is representative of the prevailing character of the locality, i.e. industrial development within an industrial zone.*
- *The proposed silos are of a form, bulk and height consistent with buildings already existent on the development.*
- *The underlying purpose of the silos would be defeated if compliance was required as restricted height would limit silage capacity and therefore compliance is unreasonable. Such would have an adverse impact on the ongoing operations on the site.*
- *The subject site is eminently suitable for the proposal development.*

*Although well considered, the eleven metre height restriction for the broader Shoalhaven encapsulated within Clause 4.3 should not be rigidly enforced as a development standard in all cases.*

*This submission demonstrates that the variation to the development standard sought by this proposal is consistent with the objectives of the state, regional and local planning provisions for this site. It is my opinion that strict compliance with this development standard under the specific circumstances of this case would be unreasonable and unnecessary."*

The applicants submission has also detailed how the development will be in the public interest as the proposal is not inconsistent with the objectives that are detailed in Clause 4.3 (refer to discussion above) as well as being consistent with the objectives of an IN1 zone that apply to the land. In relation to the objectives of the IN1 zone the applicant has advised the following:

- *"By siting the silos within an existing factory complex the development is ensuring that land that is zoned for industrial purposes is fully utilised for that purpose;*
- *The silos will provide additional grain storage which will minimise stoppages to production caused by disruptions due to stoppages along the rail network. As such the development will support and protect both the industrial use of the subject site and the employment opportunities provided by Shoalhaven Starches;*
- *The siting of the silos adjacent to buildings of similar form, height, shape and characteristics ensures the proposal does not significantly alter the visual impacts of the Shoalhaven Starches site. Thereby minimising the effect of this development on other land uses."*

The submission also details that that the concurrence of the Director-General can be assumed in this case as the proposal is consistent with state and regional environmental planning provisions that apply to the land and in the applicants view the proposal is in the public interest (refer to discussion above).

### Discussion

The assessment concludes that the 11 metre height limit in Clause 4.3 is a development standard which can be varied using Clause 4.6 of SLEP 2014 (i.e. regard has been had for the definition of 'development standard' in the Environmental Planning and Assessment Act 1979 (EPA Act). The written submission provided by the applicant is considered to satisfy the requirements of Clause 4.6(3) and Clause 4.6(4) and in summary the objectives underpinning Clause 4.3 have been achieved. As such, compliance with the 11metre height development standard is unreasonable, and there are sufficient environmental grounds to justify contravention of the height requirement and the proposal is in the public interest for the following reasons:

- The proposed structures are not inconsistent with the height, bulk and scale of the existing and desired future character of the locality. Staff in forming this opinion have had regard for the industrial nature of the development site and adjoining sites which is reflective of the sites zoning, as well as the fact that the development site currently contains a number

of large buildings that are comparable in size to what this DA is seeking approval for. As detailed by the applicant the adjacent buildings have heights which vary from 30.6 metres above ground to 34.78 metres above ground (refer to Attachment 2);

- The silos location will have minimal visual impact, will not diminish views or result in loss of privacy/solar access. While it is acknowledged that the proposal will result in two (2) structures that will be visible from the south, the bulk and scale of these structures is not dissimilar to that of the other existing industrial type development associated with the current use of the site. The silos themselves are the same height as three (3) existing silos that are currently placed adjacent to the location of the silos covered by this DA. In addition, they are sited within the silhouette of the existing factory complex and do not extend past the existing skyline created by the existing factory;
- The development site is not subject to a heritage listing under the provisions of the SLEP 2014 nor is it sited within or close to a heritage item or heritage conservation area;
- The sole intent of the structures is to store large quantities of grain which requires silos of the size proposed. The provision of reduced size structures would limit the ability to store/hold material and potentially impact upon the operation of the existing facility should access via the rail line at any time in the future be temporarily restricted;
- The silos are in the public interest as they are not inconsistent with the objectives of Clause 4.3 and the IN1 zone (refer to discussion above) and are not inconsistent with applicable state and regional planning provisions that apply to the land;
- The silos will involve minimal environmental impacts as the majority of works are above ground and will not impact upon existing flooding or contamination issues; and
- Concurrence from the Director-General is not required and can be assumed for this DA as per the guidelines prepared by the Department of Planning and Environment (Planning Circular PS 08-003 issued on 9 May 2008).

### **Planning Assessment**

The associated DA assessment will be finalised under Section 79C of the EPA Act following consideration of the policy issue that is the subject of this report.

### **Consultation and Community Engagement:**

No public submissions were received during Council's notification of the DA. The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a 1 kilometre buffer of the site which included Burruga/Pig Island and properties to the south in Terara (including along Riverview Road, Ferry Lane and both sides of Terara Road including the Terara village). The DA was also notified in the paper on two (2) occasions and were displayed on Council's website. The notification was for a period of 33 days.

### **Financial Implications:**

If the DA is contested (appealed in the Land and Environment Court) it will result in potential costs to Council as a result of defending the appeal.

### **Legal Implications**

If the requested variation is not supported and the DA subsequently refused, or if the applicant is dissatisfied with Council's determination, the applicant has the right of appeal to the Land and Environment Court.

The matter has also been referred to Council's Compliance Team for consideration and action.

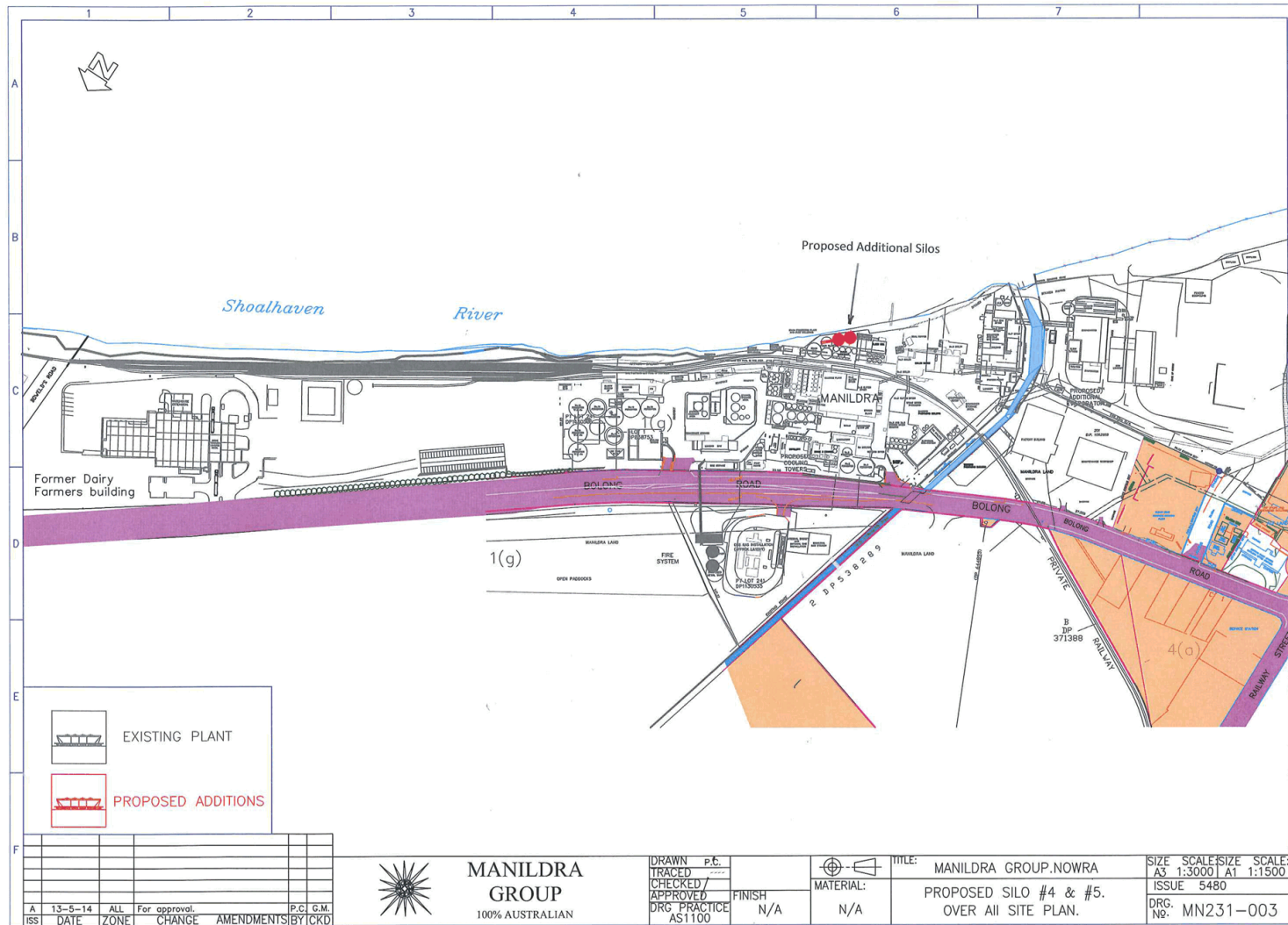
### **Summary and Conclusion**

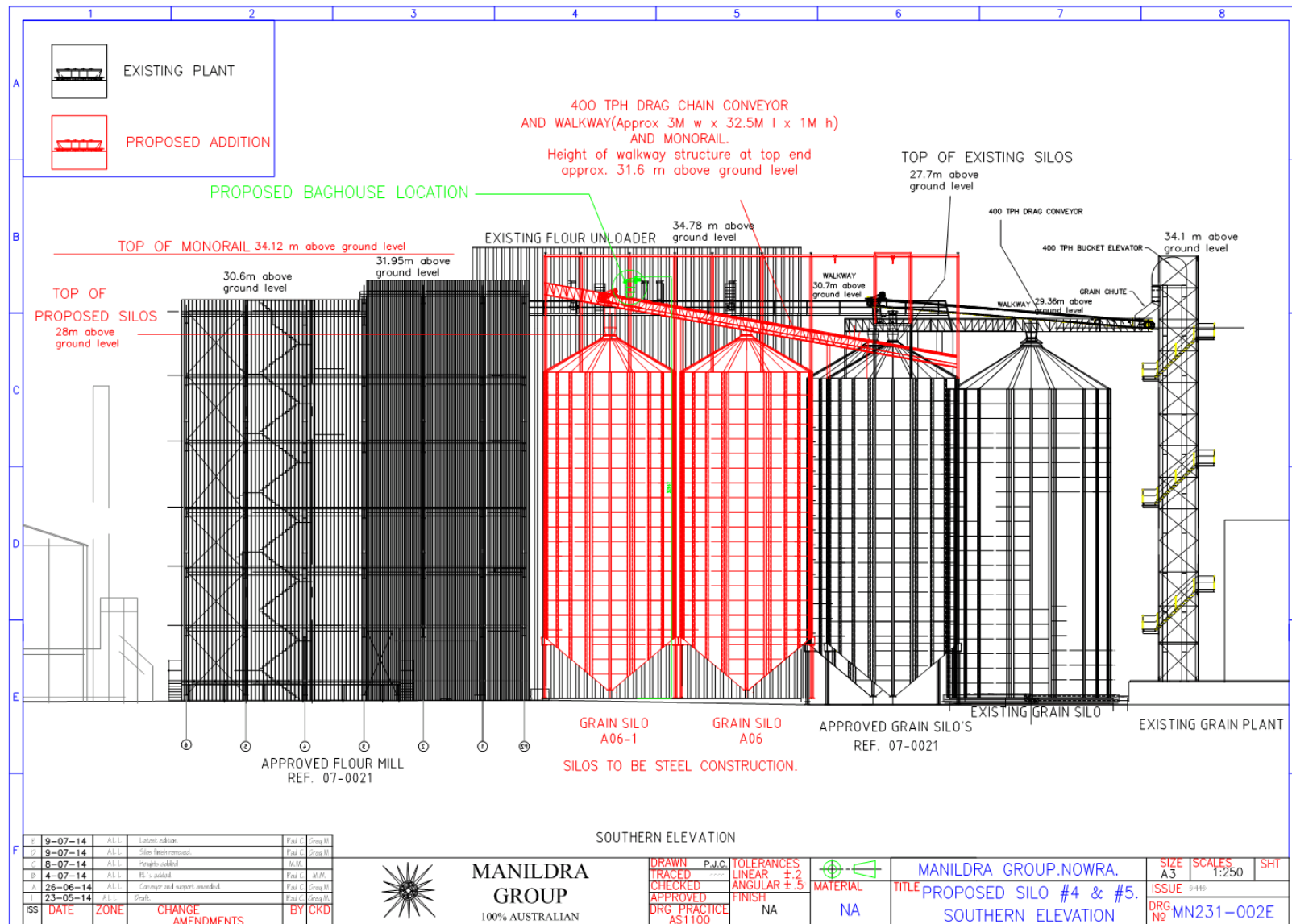
While it is acknowledged that the numerical departure to the height requirement is large and the structures have been built without development consent and a construction certificate,



the placement of the two silos in the location proposed is in an area that has a number of other structures/buildings of similar or greater height.

The applicant's submission has provided sufficient justification to demonstrate that given the specific circumstances of this case, that the 11m height limit is unreasonable, there is sufficient environmental planning grounds to justify contravention of the height requirement and that the proposal is in the public interest and should be supported.





## DE16.8 Development Application – 25 Junction Street, Nowra – Lot 1 DP 81167 DP

**DA. No:** DA16/1369/4

**HPERM Ref:** D16/316144

**Group:** Planning & Development Services Group  
**Section:** Development Services

**Attachments:** 1. Draft Development Consent (under separate cover) [⇒](#)  
2. Section 79C Planning Assessment Report (under separate cover) [⇒](#)  
3. Draft Refusal (under separate cover) [⇒](#)

**Description of Development:** Three (3) Single Storey Dwellings

**Owner:** Janack Nominees Pty Ltd

**Applicant:** Formerly Hotondo Homes, Lee Carmichael Town Planning (LCTP as of 14 October 2016)

**Notification Dates:** 5 – 20 April 2016, 1- 16 June 2016 and 1 – 12 August 2016.

**No. of Submissions:** Seven (7) objections - first notification, Six (6) - second and nil for the third. No submissions were made in support.

### Purpose / Reason for consideration by Council

The Council considered the subdivision component of the development application (DA) on 10 October 2016. This report is in response to item 3 of the resolution which is reproduced in full below. Further, the applicant has amended the DA to remove the subdivision component of the development.

1. That the variation to the minimum lot size not be supported
2. That Council review the zoning in this location with a view to change to R2 in Central Nowra
3. If necessary the General Manager report back to the Development Committee on the 79c assessment for the subject application, given the extent of public interest in the development application.
4. The General Manager also report back on Development Guidelines that could be adopted to assist in preserving the character of central Nowra. In addition could Council report back on ways that it could work with the Old Houses Our History group to identify the most significant streetscapes for additional consideration for preservation / protection

### Recommendation (Item to be determined under delegated authority)

That the Committee grant consent to Development Application DA16/1369 for a multi-unit housing development, comprising, 3 single storey units with garages (2 x 3 bedroom and 1 x 2 bedroom) in accordance with the conditions as detailed in Attachment 1.

## Options

1. Determine the DA conditional approval as recommended in the section 79C assessment report. Refer to Attachments 1 and 2. This option allows the development to proceed as proposed and will provide for additional dwelling choice close to the Nowra CBD. .

Implications: This option is unlikely to satisfy the adjoining neighbours. The neighbours could chose to exercise their appeal rights (on process not merit) in the Land and Environment Court

2. Refuse the DA and state reasons for refusal based on planning grounds. Refer to Attachment 3 – reasons for Refusal.

Implications: The neighbours may be satisfied with this outcome and the status quo would be maintained. However the applicant would most likely pursue the refusal in the Land and Environment Court.

3. Adopt an alternative recommendation and provide direction to staff.

## Location

Location Map



Zoning Map



Site: 25 Junction St, Nowra.  
Zone: R1 – General Residential, Shoalhaven Local Environmental Plan 2014e

## Background

### Proposed Development

The DA proposes removal of an existing shed. Construction of a 2 x 3 bedroom and 1 x 2 bedroom single storey dwellings.

The DA does not propose removal of the existing residence as the intention is to obtain a Complying Development Certificate (CDC). Complying Development is a fast track approval

process for straightforward development types that meets specific criteria which can be determined by a Council or accredited certifier without the need for a full development application.

Development Consent has been granted for the dwelling to be relocated to a property in Milton via Development Consent DA16/1675.

#### Subject Land

The subject land is within an established residential area zoned R1 – General Residential under the Shoalhaven Local Environmental Plan 2014 (SLEP 2014). It has direct frontage to Junction Street and is in vicinity to heritage items but is not heritage listed itself.

The land has a regular rectangular shape with an area of 815.69 square metres and is joined by single dwellings on either side. St Michael's Catholic Primary School adjoins at the rear. The site has a slight fall away from the street and does not contain any easements. Sewer is connected.

#### Site & Context

The site is occupied by an older style weatherboard and iron roof cottage. A fibro single storey garage is also situated on the site. A large Jacaranda tree is located in the road reserve. The site is located in an older established part of Nowra containing a mixture of dwelling types.

The site is located about 450m from the Shoalhaven River which triggers consideration of the State's State Environmental Planning Policy 71 – Coastal Protection.

#### History

The DA was lodged in March 2016. The DA had a lengthy assessment largely attributable to design issues including streetscape impacts and some non-compliances which were essentially resolved through the assessment process. Significantly, this included the removal of parking in the front setback area and a substantial change to the building design changing it from a modern contemporary design with low pitched skillion roof to a more traditional hipped roof form evident in the street.

#### **Issues**

In short, there were two key issues with this application.

- The variation to the development standard being 350 square metres for the subdivision. The standard is called up via clause 4.1C of the Shoalhaven Local Environmental Plan 2014.
- The design and density compatibility of the development with the character of the area. The area contains a mixture of dwellings, including older style homes, some of which are heritage 'listed' (in the SLEP 2014). The street is 'listed'.

The subdivision component of the application has now been withdrawn. It is noted that whilst the subdivision has been withdrawn, the applicant may, as is the case with any multi dwelling housing development, choose to lodge a subsequent application for subdivision for either Strata or Community Title or pursue Strata subdivision title via Part 6 of the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2007. Under this SEPP, Strata subdivision can be complying development in certain circumstances. The Complying Development Certificate (CDC) can be issued by Council or a private certifier and does not require a formal development application.

The attached section 79C report discusses issues of streetscape, character and heritage.

#### **Planning Assessment**

The DA has been assessed under s79C of the Environmental Planning and Assessment Act 1979. The assessment considers matters prescribed by s79C including but not limited to

planning instruments, Council's Development Control Plan, site suitability, impacts of the development and public interest.

### **Policy Implications**

The key planning controls are the Shoalhaven Local Environmental Plan 2014 and Shoalhaven Development Control Plan 2014.

#### *Shoalhaven Local Environmental Plan 2014 (SLEP 2014)*

The application proposes multi dwelling housing. The development is permissible

#### *Shoalhaven Development Control Plan (DCP) 2014*

A detailed assessment has been made against the DCP and is attached. The DCP contains various chapters including a specific chapter on multi dwelling housing. The proposal has been assessed against the DCP and is considered generally satisfactory. There are some minor variations which are detailed in the section 79C report and associated checklist.

### **Consultation and Community Engagement:**

Seven (7) public submissions were received in relation to Council's notification of the development. Six (6) were received following a second notification and nil following the third and final notification. All were objections to the development. The notification was made in accordance with Council's Community Consultation Policy.

Key issues raised as a result of the notification included (but were not limited to):

- impact on heritage;
- unsympathetic development;
- the existing building should be retained;
- parking and traffic impacts;
- inadequate on-site parking;
- adverse impacts on the economy and tourism; and
- drainage.

Further details on the above issues raised are provided in the section 79C Assessment Report.

### **Financial Implications:**

In the event that Council decides to refuse the development, the applicant has the right to lodge an appeal with the Land and Environment Court. Litigation has cost implications for Council. Further, the objectors could also seek to challenge Council's decision if approved, however this can legally only relate to the process followed by Council not the merits of the application. Again, this has potential cost implication for Council.

### **Legal Implications**

An appeal with the Land and Environment Court is possible with respect to either an approval or refusal. The applicant also has the option to request an 82A Review in the event of a refusal which would mean that the matter would be brought before the Council again for reconsideration. A request for a Review or the lodgement of an appeal must be made within 6 months of the date of determination.

### **Summary and Conclusion**

The proposal has been assessed under section 79C of the Environmental Planning and Assessment Act 1979 and found to be satisfactory. There have been no *substantive* planning reasons or significant defects with the application to justify recommending a refusal.

The modifications to the design, have improved the street appearance of the development which is considered a key concern, notably the roof design. Conditions have been recommended which will assist in mitigating any impact and addressing any detailed issues.

With specific regard to the zone objectives contained in the Shoalhaven Local Environmental Plan 2014 and Council's development controls, the development is considered capable of support.



## DE16.9 Possible Planning Proposal - The Wool Road, St Georges Basin

**HPERM Ref:** D16/319525

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

### Purpose / Summary

To obtain Council direction on a possible Planning Proposal (PP) for Lot 7 DP 827728 and Lot 218 1071257, The Wool Road, St Georges Basin given the policy issues involved.

### Recommendation (Item to be determined under delegated authority)

1. Provide in principle support for the proposal to jointly rezone Lot 7 DP 827728 and Lot 218 1071257, subject to the following:
  - a. Any loss of industrial zoned land being offset by the identification of new industrial zoned land.
  - b. A detailed biodiversity assessment being completed prior to formally considering a Planning Proposal over the site.
  - c. An odour assessment being completed within the identified buffer area around the Sewerage Treatment Plant following Gateway determination.
2. Seek initial input from the NSW Department of Planning and Environment in regard to the proposed Planning Proposal, particularly in regard to the strategic issue of maintenance of industrial zoned land.
3. Notify the proponents of the Council resolution, the outcome of consultation with the NSW Department of Planning and Environment and the studies that need to be prepared to support a formal Planning Proposal.
4. Encourage the proponents to have early discussions with the Basin Villages Forum in regard to the Planning Proposal should it proceed to formal lodgement.
5. Report back to Council when a formal Planning Proposal has been lodged, following the completion of the necessary studies.

### Options

1. Adopt the recommendation outlined above.

Implications – this option is preferred as the proposal has some strategic merit, and it allows Council to consider the environmental impacts of the proposal before formally considering the PP for Gateway determination. It also gives the proponents some ‘policy’ certainty (albeit with conditions) before they prepare the full range of studies required to support a PP.

2. Not support the proposed Planning Proposal.

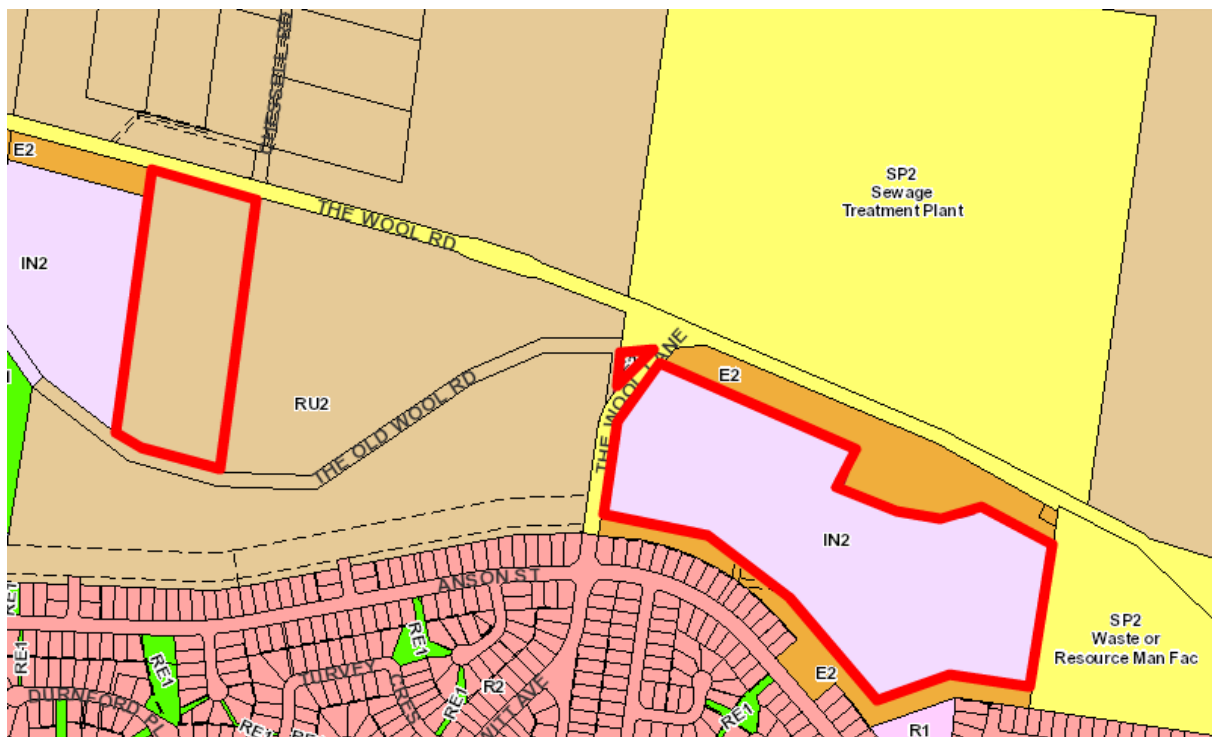
Implications – this option is not preferred, as the proposal is considered to have some strategic merit, subject to a detailed biodiversity assessment and other required studies.

3. Give an alternate direction to staff on Council's preferred direction for this proposed Planning Proposal.

## Background

Council recently received preliminary PP information from Tovedale Developments to consider the jointly rezoning Lot 218 DP 1071257 (eastern parcel) from IN2 Light Industrial to a low density residential zone, and Lot 7 DP 827728 (western parcel) from RU2 Rural Landscape to IN2 Light Industrial under Shoalhaven Local Environmental Plan (LEP) 2014. Both parcels are owned by the company.

The proposal essentially seeks to allow for new residential development, whilst also maintaining a stock of industrial zoned land within the St Georges Basin area for the future. The subject lands and their existing land use zones are shown in Figure 1 below.



**Figure 1: Current Land Use Zones**

Prior to receiving the preliminary PP information, Council staff had been involved in preliminary discussions with the proponent, who originally proposed to rezone Lot 218 DP 1071257 (eastern parcel) from IN2 Light Industrial to a low density residential zone as a possible stand alone rezoning.

However, the original proposal was considered to be potentially inconsistent with Section 117 Ministerial Direction 1.1 - Business and Industrial Zones, which seeks to ensure that Planning Proposals do not reduce total potential floor space area for industrial uses. Therefore, Council staff advised the proponent that the proposal on its own would be unlikely to be supported by the Department of Planning and Environment (DP&E) due to this inconsistency.

To address this inconsistency, the current proposal seeks to offset the loss of industrial land by also rezoning Lot 7 DP 827728 (western parcel) from RU2 Rural Landscape to IN2 Light Industrial.

However, the current proposal, whilst seeking to maintain a stock of industrial zoned land for the future, may result in an overall reduction in industrial zoned land. Given that this issue is key to the proposal, the report seeks in principal support from Council from a policy perspective, so that the matter can be discussed with the NSW D P & E prior to the proponent possibly undertaking the necessary studies to support a formal PP.

In regard to Lot 218 DP 1071257 (eastern parcel), it is understood that a development consent was issued over the subject land for in 1991 (SF7083) for a resi-industrial subdivision comprising 37 residential/industrial lots. Again it is understood that this subdivision consent has been secured and could be acted on. The proponents have suggested that given the approved 37 lots covered an area of 11.53 ha and given that half of each lot would be used for residential purposes and the other half for industrial use that 5.76 ha would end up allocated to light industrial use. The proponents have also noted that Lot 7 DP 827728 (western parcel) has an area of 5.77 ha and as such they see this joint proposal as essentially maintaining the status quo in terms of zoned industrial land supply.

It is also noted that Lot 7 DP 827728 (western parcel) is within the area identified in the former Jervis Bay Regional Environmental Plan (REP) as a “new urban release” area. As a result the Jervis Bay Settlement Strategy (2003) identifies Lot 7 and adjoining land as a “possible urban expansion”.

### Additional studies to support a Planning Proposal

As outlined above, the proponent has submitted preliminary PP information and is seeking in principal support from the Council and advice from the D P & E on the policy issue prior to undertaking the additional strategic work required to support a formal PP.

If Council is to give in principle support for the proposal to proceed further and the policy issue is resolved, a number of environmental assessments will still need to be undertaken over the subject land, particularly over Lot 7 DP 827728 (western parcel), which is proposed to be rezoned from a rural to an industrial zone.

A detailed biodiversity assessment needs to be undertaken on the subject lot to determine the presence of any endangered flora or fauna prior to consideration of rezoning the site. The proponents consultant has identified the likely presence of an Endangered Ecological Community (EEC) on Lot 7 (see Figure 2 below) and a more detailed assessment is required that considers the impact of the proposed rezoning on the EEC.



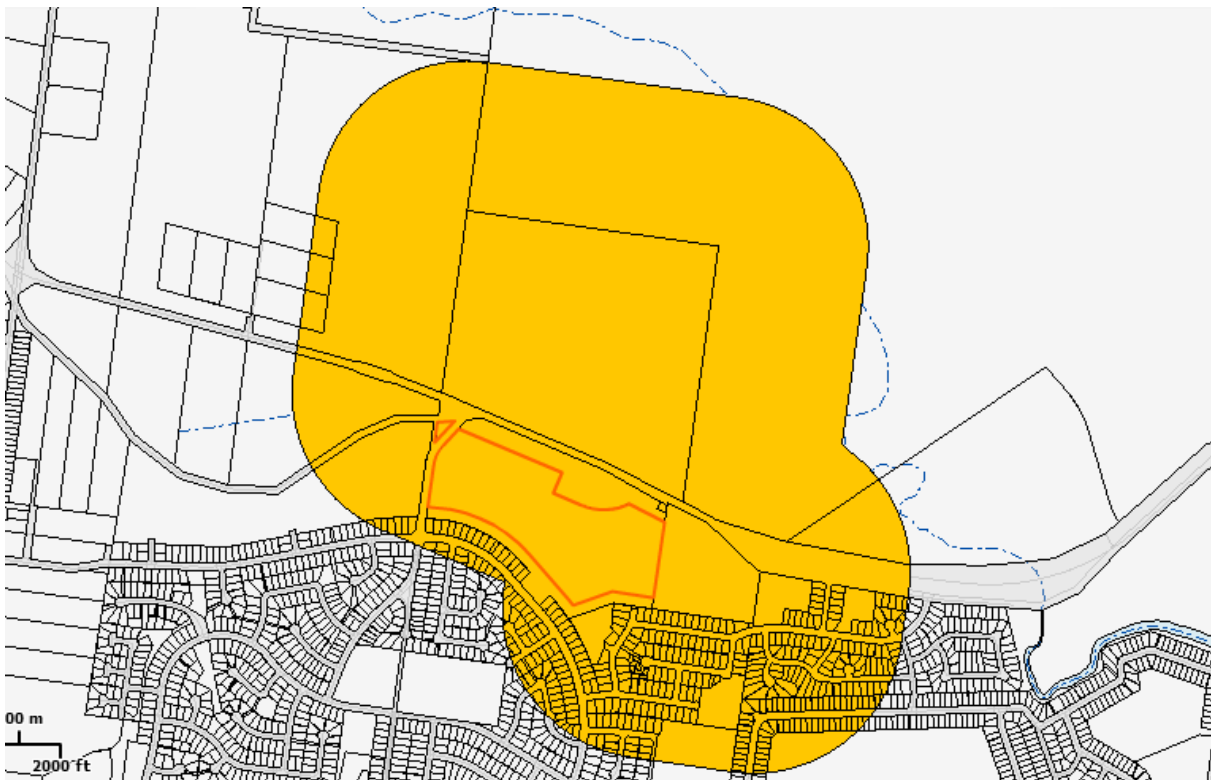
Figure 2: Extract from preliminary biodiversity assessment

A number of other threatened species are known to exist in this locality. Lot 7 has habitat consistent with that often used by these threatened fauna species and further surveys will be needed to examine the importance of these resources for any resident threatened species.

The critically endangered orchid *Pterostylis Ventricosa* is also known to exist in this locality, and the additional biodiversity assessment will need to include targeted surveys for this species.

The additional biodiversity assessment will need to determine if or how much of the site is High Conservation Value (HCV) land, and these areas will potentially need to remain in a rural or environmental protection zone. As this site is being used to offset the loss of industrial land (and therefore allow the proposal to be considered), it is recommended that the biodiversity assessment be completed prior to Council considering a formal PP over the site.

As shown in Figure 3 below, Lot 218 DP 1071257 (eastern parcel) is entirely within the LEP buffer area for the adjacent St. Georges Basin Sewerage Treatment Plant and it is recommended that an odour assessment be prepared if the proposal receives a Gateway determination, to consider the potential impact of this issue on the proposed rezoning.



**Figure 3: Sewerage Treatment Plant Buffer**

### **Community Engagement**

If a formal PP is lodged and ultimately supported by Council and the NSW Department of Planning & Environment, the PP will be exhibited in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and any other requirements as determined by the Gateway process.

Council may also carry out informal notification of the formal PP after it is lodged and before it is initially considered by Council. This will provide adjoining owners and the broader community an early opportunity to review the formal PP.

It is also recommended that the proponents be encouraged to have early discussions with the Basin Villages Forum in regard to the PP should it proceed further to formal lodgement.

**Policy Implications**

Approval of the PP will require an amendment to Shoalhaven LEP 2014 through a formal PP process.

This is essentially a joint rezoning of two separate, but linked parcels of land. Thus should, for whatever reason (eg. biodiversity constraints) one of the parcels be found to be constrained or its development limited, then the rezoning may not be able to proceed.

**Financial Implications**

The proponent will be required to pay the Planning Proposal fees in accordance with Council's fees and charges if and when they submit a formal PP. The proponent is also required to fund and/or undertake any studies associated with the PP.

## **DE16.10 Central Nowra Residential Zones - Character Related Development Controls**

**HPERM Ref:** D16/320236

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

### **Purpose / Summary**

To report on the engagement of an urban design consultant to undertake an analysis of the character of central Nowra and provide recommendations on suitable mechanisms to maintain character and encourage an appropriate mix of density and high quality housing, following the recent Council resolution in this regard.

### **Recommendation (Item to be determined under delegated authority)**

That Council:

1. Finalise the character analysis that is currently underway in central Nowra, including the planned consultation with the Old Houses Our History group, landowners and other key stakeholders.
2. Following the completion of the character analysis, Council:
  - a. Receive a further report on the outcomes of the consultants work including recommendations on suitable mechanisms to protect the character of central Nowra.
  - b. Identify specific locations to be considered for a backzoning to an R2 Low Density Residential Zone, where appropriate.
  - c. Prepare a set of detailed planning and character development controls that seek to maintain the character of the central Nowra area.

### **Options**

1. Adopt the recommendation – this will enable the character analysis work that is currently being undertaken to be completed and then consider specific areas for back zoning arising from the detailed character analysis and targeted consultation.

Implications: This will provide a complete analysis of the study area to then allow for an informed decision on a preferred approach moving forward. This could be achieved through potential rezoning, additional heritage provisions and/or detailed development controls.

2. Proceed to review and revise the zones in central Nowra prior to the consultants works being completed

Implications: Back zoning properties that are currently zoned R1 and R3 in central Nowra would be inconsistent with State and Council Strategy, and contrary to the recent background research completed for affordable housing in the area. It is unlikely that the Department of Planning & Environment would support a back zoning for the purposes of preserving the character of central Nowra without sufficient justification, and given that

there may be other more suitable options. As such the character analysis work could assist in this regard.

### **Background**

Urban design consultants, Studio GL Pty Ltd have recently been engaged to undertake a review of the residential zoned area to the west and south west of the Nowra CBD to consider how recent medium density developments have and could continue to impact on or influence the character of the area, and recommend ways in which development controls could encourage a mix of density and high quality housing consistent within the existing zones, whilst respecting the existing character of central Nowra.

The consultant has already acknowledged that the existing character of this area is predominantly detached single storey dwellings on large sites with a number of heritage items located throughout. Approved and proposed development in this area is showing the influence of development pressures and the replacement of existing housing with new development has the capacity to irreversibly change the character of the area.

The work underway initially involves undertaking an analysis and review of the area to the west and the south of the Nowra CBD which is predominantly zoned R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential (as outlined in red in Figure 1) under Shoalhaven Local Environmental Plan (LEP) 2014.

The primary objective of this work is to review whether recent development applications are typical of what can be expected under the current controls and the likely impact of leaving the current controls unchanged. The initial stage will involve an analysis and review of the area to identify typical character areas guided by the current zoning and desired future character. As part of this first stage it is proposed that a workshop be held with key stakeholders including the 'Old Houses, Our History' (OHOH) group to identify their objectives and vision for the future development of this area.

The work will also involve a review of how other Councils have addressed similar challenges in encouraging greater variety and increased medium density housing without unduly influencing the existing character. The study will finally recommend what, if any, controls are required to encourage an appropriate mix of density and high quality housing in the study area going forward. It is anticipated that the detailed character analysis will be completed by the end of November, prior to a targeted consultation with landowners, the OHOH group and other relevant stakeholders.



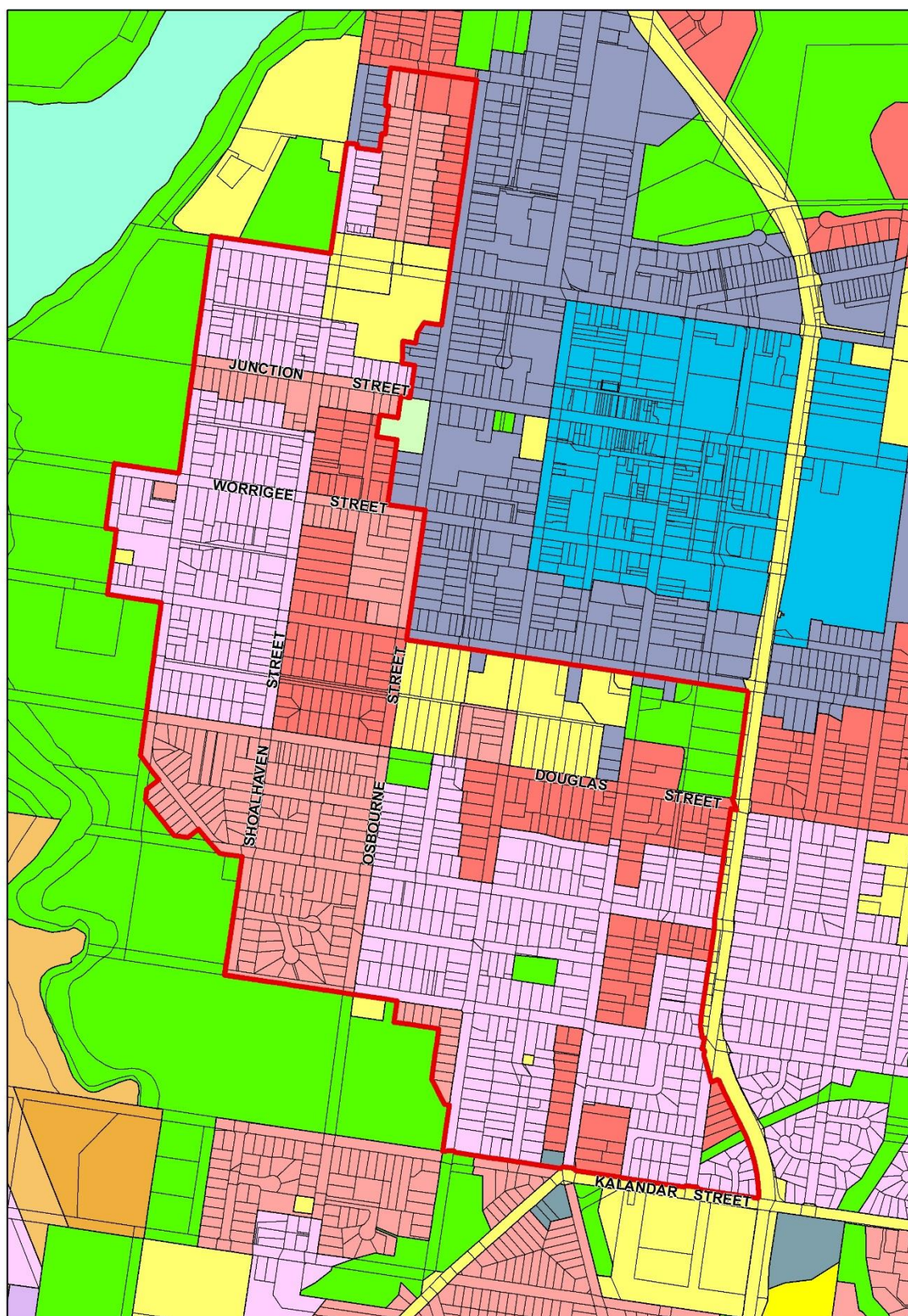


Figure 1 – Study Area (outlined in red)

DE16.10

Since engaging Studio GL Pty Ltd, Council's Development Committee considered a Development Application (DA) at 25 Junction Street Nowra, and resolved under delegation, in part (MIN 16.761):

2. *That Council review the zoning in this location with a view to change to R2 in Central Nowra*

....

4. *The General Manager also report back on Development Guidelines that could be adopted to assist in preserving the character of central Nowra. In addition could Council report back on ways that it could work with the Old Houses Our History group to identify the most significant streetscapes for additional consideration for preservation / protection.*

The second part of the resolution predetermines the outcome of the work currently being undertaken by Studio GL Pty Ltd without considering the analysis of character and the consultant's recommendations on suitable mechanisms to encourage an appropriate mix of density and high quality housing. The fourth part of the resolution can be achieved through the work which the consultant has been engaged to do.

#### *Current zoning*

The study area is predominantly zoned under Shoalhaven LEP2014 for residential purposes being R1, R2 and R3 with some small pockets of SP2 Infrastructure (Schools and Places of Public Worship), RE1 Public Recreation and B4 Mixed Use.

The study area underwent some changes in zones at the introduction of the Shoalhaven Local Environmental Plan (LEP) 2014. The rationale for the changes were based on the strategic direction and implementation of the Nowra-Bomaderry Structure Plan (2008) which had identified that residential land within 800m of the Nowra CBD to the west and the south as having potential to increase population living in close proximity to the centre. Increasing the population in this area was seen to have a positive impact on the vitality of the Nowra CBD by providing increased housing close to the centre, decreasing dependency on private vehicles, and making use of existing infrastructure. This is also consistent with the more recent work being undertaken for Council in regard to housing affordability, which has identified a significant undersupply of affordable housing in close proximity to key centres.

Undertaking a review of the zones with a view to changing areas in central Nowra to the R2 Low Density Residential zoning will result in a potential 'back zoning' which is inconsistent with endorsed Council and State Government Strategies being the Nowra-Bomaderry Structure Plan and more recent Illawarra-Shoalhaven Regional Plan. In particular, there are directions in these plans related to providing sufficient housing supply and choice, and supporting housing opportunities close to existing services, jobs and infrastructure in the region's centres. The Nowra Centre is specifically identified in the Regional Plan as a higher order centre. On this basis, it is considered unlikely that the Department of Planning & Environment would support a planning proposal to back zone the land to R2 Low Density Residential, without sufficient justification. Therefore, it is recommended that Council finalise the character analysis, before considering specific areas to pursue for back zoning.

#### **Community Engagement**

As part of the current character analysis work that is currently being undertaken, Council's consultant will facilitate a workshop with relevant stakeholders including the OHOH group. Their input will involve identifying their objectives and vision for the future development of the area and also potentially key areas or sites to be given specific consideration.

## LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

### Chapter 3, Section 8A Guiding principles for councils

#### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

#### (2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

#### (3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

### Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
  - (i) performance management and reporting,
  - (ii) asset maintenance and enhancement,
  - (iii) funding decisions,
  - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
  - (i) policy decisions are made after considering their financial effects on future generations,
  - (ii) the current generation funds the cost of its services

**Chapter 3, 8C Integrated planning and reporting principles that apply to councils**

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.