

Development Committee

Meeting Date: Tuesday, 03 July, 2018
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.00pm

Membership (Quorum - 5)
Clr Joanna Gash - Chairperson
Clr John Levett
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

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4. **Mayoral Minute**
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Nil

Development Committee

Delegation:

Pursuant to s377 (1) of the Local Government Act 1993 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: Tuesday, 5 June 2018
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.04pm

The following members were present:

Clr Joanna Gash - Chairperson
Clr Patricia White
Clr Amanda Findley (5.08pm)
Clr John Wells
Clr Kaye Gartner (5.08pm)
Clr John Levett
Clr Nina Cheyne
Clr Greg Watson
Clr Mark Kitchener
Clr Bob Proudfoot
Mr Russ Pigg - General Manager (5.05pm)

Apologies / Leave of Absence

Apologies were received from Clr Alldrick and Clr Pakes.

Confirmation of the Minutes

RESOLVED (Clr White / Clr Kitchener) MIN18.418

That the Minutes of the Development Committee held on Tuesday 08 May 2018 be confirmed.

CARRIED

Note: Mr Russ Pigg arrived at the meeting, the time being 5.05pm.

Declarations of Interest

Nil.

Note: Clr Findley and Clr Gartner arrived at the meeting, the time being 5.08pm.

REPORTS

DE18.42 Strategic Planning Works Program - Proposed 2018-2019 Version

**HPERM Ref:
D18/141977**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise Attachment 2 as Council's 2018-2019 Strategic Planning Works Program.
2. Receive a report on the 2019-2020 Strategic Planning Works Program in June 2019 to coincide with the new financial year.
3. Make future changes to the Strategic Planning Works Program only after considering the current program, project priority, staff workload and resources.
4. Receive a briefing on how to use the interactive Strategic Planning Works Program when operational.

RESOLVED (Clr Wells / Clr Cheyne)

MIN18.419

That Council:

1. Adopt and finalise Attachment 2 to this report as Council's 2018-2019 Strategic Planning Works Program.
2. Receive a report on the 2019-2020 Strategic Planning Works Program in June 2019 to coincide with the new financial year.
3. Make future changes to the Strategic Planning Works Program only after considering the current program, project priority, staff workload and resources.
4. Receive a briefing on how to use the interactive Strategic Planning Works Program when operational.

FOR: Clr Gash, Clr Findley, Clr White, Clr Wells, Clr Levett, Clr Cheyne, Clr Gartner, Clr Kitchener, Clr Proudfoot and Russ Pigg

AGAINST: Clr Watson

CARRIED

DE18.43 Proposed Planning Proposal - Citywide SP3 Tourist Zone Review

**HPERM Ref:
D18/143978**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Support the preparation of the Citywide SP3 Tourist Zone Review Planning Proposal at Attachment 1 and submit to the NSW Department of Planning & Environment for Gateway determination. If Gateway determination is granted, proceed to formal public exhibition in terms of such determination.
2. Prepare an amendment to Chapter V3: Miscellaneous Site-Specific Issues of Shoalhaven Development Control Plan 2014 to establish site specific provisions for Site 6: Mollymook/Ulladulla.
3. Consider the detail of the proposed amendments to Shoalhaven Development Control Plan 2014 via a separate report and if needed a Councillor Briefing prior to exhibition.
4. Advise the owners of the subject land, adjacent land owners and relevant community groups

of this decision, noting the opportunity for formal consultation later in the process.

5. Following public exhibition of the Planning Proposal and draft Chapter V3, submit a further report to Council to address any submissions and finalisation of the process.

RESOLVED (Clr Findley / Clr Wells)

MIN18.420

That Council:

1. Support the preparation of the Citywide SP3 Tourist Zone Review Planning Proposal at Attachment 1 and submit to the NSW Department of Planning & Environment for Gateway determination. If Gateway determination is granted, proceed to formal public exhibition in terms of such determination.
2. Prepare an amendment to Chapter V3: Miscellaneous Site-Specific Issues of Shoalhaven Development Control Plan 2014 to establish site specific provisions for Site 6: Mollymook/Ulladulla.
3. Consider the detail of the proposed amendments to Shoalhaven Development Control Plan 2014 via a separate report and if needed a Councillor Briefing prior to exhibition.
4. Advise the owners of the subject land, adjacent land owners and relevant community groups of this decision, noting the opportunity for formal consultation later in the process.
5. Following public exhibition of the Planning Proposal and draft Chapter V3, submit a further report to Council to address any submissions and finalisation of the process.

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

AGAINST: Nil

CARRIED

**DE18.44 Proposed Adoption - Works in Kind Agreement - 21
Beach Street, Huskisson (Re: DA15/1102)**

**HPERM Ref:
D18/152989**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt, as exhibited, the Works in Kind Agreement for 21 Beach Street, Huskisson associated with DA15/1102.
2. Obtain the necessary signatures on the Works in Kind Agreement to enable its finalisation and once this occurs action a refund to the applicant as per the Agreement.

RESOLVED (Clr Wells / Clr Levett)

MIN18.421

That Council:

1. Adopt, as exhibited, the Works in Kind Agreement for 21 Beach Street, Huskisson associated with DA15/1102.
2. Obtain the necessary signatures on the Works in Kind Agreement to enable its finalisation and once this occurs action a refund to the applicant as per the Agreement..

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

AGAINST: Nil

CARRIED

Procedural Motion - Matters of Urgency

Note: the Director, Planning, Environment & Development advised that Council has received verbal advice from the Department of Planning about the potential to apply for deferral of low Rise Medium Density SEPP. This involves the R1, R2, R3 zones (residential).

If Council wishes to apply for a deferral, Council would need to provide a letter of request by 27 June 2018 and full documented case by 27 September 2018.

The potential issues relate to character and deferral would provide the opportunity to adopt character statements for nominated areas.

Council could also seek greater guidance on how character is to be considered in verification statements, who can provide verification statement and repercussions for incorrect verification statements.

RESOLVED (Clr White / Clr Findley)

MIN18.422

That an additional item State Environmental Planning Policy, Low Rise Medium Density Code be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent as the Department of Planning requires a letter of request by 27 June 2018 if Council wishes to apply for deferment of Low Rise Medium Density SEPP.

DE18.45 Additional item - State Environmental Planning Policy - Low Rise Medium Density Code

MOTION (Clr Findley / Clr Wells)

That Council apply to the Department of Planning, prior to 26 June 2018, seeking deferral from the implementation of the SEPP Low Rise Medium Density Development, for a 12 month period, to allow Council to prepare character profiles/statements for existing residential zones and to seek clarification from the Department of Planning as to:

1. How design verification statements are to address and comply with adopted character statements;
2. Who may issue such statements; and
3. If there are proposed repercussions for issuing an incorrect verification statement.

AMENDMENT (Clr Watson / Clr Proudfoot)

That Council:

1. Apply to the Department of Planning, prior to 26 June 2018, seeking deferral from the implementation of the SEPP Low Rise Medium Density Development, for a 12 month period, to allow Council to prepare character profiles/statements for existing residential zones and to seek clarification from the Department of Planning as to:
 - a. How design verification statements are to address and comply with adopted character statements;
 - b. Who may issue such statements; and
 - c. If there are proposed repercussions for issuing an incorrect verification statement.
2. Delegate authority to the General Manager to determine the final content of application to the

Department of Planning, with respect to restricting the deferral to specific areas, particularly considering the character of areas.

FOR: Clr Watson and Clr Proudfoot

AGAINST: Clr Gash, Clr Findley, Clr White, Clr Wells, Clr Levett, Clr Cheyne, Clr Gartner, Clr Kitchener and Russ Pigg

LOST

RESOLVED (Clr Findley / Clr Wells)

MIN18.423

That Council apply to the Department of Planning, prior to 26 June 2018, seeking deferral from the implementation of the SEPP Low Rise Medium Density Development, for a 12 month period, to allow Council to prepare character profiles/statements for existing residential zones and to seek clarification from the Department of Planning as to:

1. How design verification statements are to address and comply with adopted character statements;
2. Who may issue such statements; and
3. If there are proposed repercussions for issuing an incorrect verification statement.

FOR: Clr Gash, Clr Findley, Clr White, Clr Wells, Clr Levett, Clr Cheyne, Clr Gartner, Clr Kitchener and Russ Pigg

AGAINST: Clr Watson and Clr Proudfoot

CARRIED

There being no further business, the meeting concluded, the time being 5.40pm.

Clr Gash
CHAIRPERSON

DE18.46 Public Exhibition Outcomes and Next Steps - Nowra CBD Fringe Medium Density Study Recommendations Report

HPERM Ref: D18/174784

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments:

1. Summary of Submissions (under separate cover) ➡
2. Submission from NSW Roads and Maritime Services ↓
3. Response from NSW Department of Planning and Environment ↓
4. Advice from Council's Heritage Advisor ↓
5. Background Report (under separate cover) ➡
6. Recommendations Report (under separate cover) ➡

Purpose / Summary

Provide the outcomes of the recent public exhibition of the Nowra CBD Fringe Medium Density Study – Background Report and Recommendations Report and recommend the potential next steps regarding this project.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Receive the submissions provided on the Nowra CBD Fringe Medium Density Study for information.
2. Adopt the Nowra CBD Fringe Medium Density Study – Background Report and Recommendations Report as exhibited, with the following minor changes to the Recommendations Report:
 - a. Page 10: Amend Figure 4 to change the key for buildings on Jarvis Street that are early 20th century buildings.
 - b. Page 20: Replace Jarvis with Jervis and replace west with east.
 - c. Page 36: Remove references to FSR (not included in recommendations).
3. Prepare a Planning Proposal to establish a Heritage Conservation Area and amend land use zonings and building heights, as recommended in the Nowra CBD Fringe Medium Density Study Recommendations Report and submit to the NSW Department of Planning and Environment for initial Gateway determination.
4. Prepare an area specific Development Control Plan Chapter based on the consultant's Recommendations Report (as exhibited) with the following additions:
 - a. Controls relating to lots located adjacent to the Princes Highway to require access via the local road network or alternatively the aggregation or reduction of existing access points.
5. Advise the NSW Department of Planning and Environment and those who made submissions on the Nowra CBD Fringe Medium Density Study of Council's resolution in this regard.
6. Receive a further report following the public exhibition of the resulting Planning Proposal and Shoalhaven Development Control Plan 2014 Chapter.

DE18.46

Options

1. Adopt the recommendation.

Implications: This is preferred option as it enables this important project and its outcomes, including the Planning Proposal (PP), to progress and establishes a clear policy direction for the area, providing certainty to landowners/developers.

2. Adopt the recommendations of this report with an extended Heritage Conservation Area (HCA) to include (a) the entire Study Area or (b) the addition of the area to the south-west of the study area.

Implications: At this stage, this option is not favoured as further detailed heritage advice has not yet been sought/obtained. Once this is undertaken following a Gateway determination from the NSW Department of Planning and Environment (DP&E), the boundaries of the HCA could be reconsidered to include a wider HCA, should there be sufficient justification.

3. Adopt an alternative recommendation and/or additional changes to the Nowra CBD Fringe Medium Density Study Background Report and Recommendations Report.

Implications: This option is not favoured. Comments relating to suggested changes are addressed in the Submissions Summary. The consultant's recommendations have been developed through extensive testing and community consultation and are a positive outcome for the area. Any further changes at this point are unconsidered and may require a re-exhibition.

4. Not adopt the recommendation.

Implications: This option is not favoured. By not adopting the recommendation, there is a risk that the existing character of the Nowra CBD Fringe area, including substantially intact streetscapes and evidence of key historical periods, will be lost or damaged. It is important to establish a clear set of balanced development controls that will provide certainty and direction to future development proposals. The adoption of local character considerations are the basis for seeking deferment of the application of State Environmental Planning Policy – Low Rise Medium Density Development.

Background

The Nowra CBD Medium Density Fringe Medium Density Study was initially reported to Council's Development Committee meeting of 13 March 2018 to enable it to proceed to public exhibition. It was however resolved:

That the matter be deferred for one month to allow for a full briefing of Councillors.
(MIN18.161)

The required Council Briefing was held on 22 March 2018 where the project consultants (Studio GL) provided a detailed presentation on the background and recommendations of the study.

Following the Council briefing, the matter was reported back to the Development Committee meeting of 10 April 2018. It was resolved, under delegation, to:

1. *Receive the attached Nowra CBD Fringe Medium Density Study - Recommendations Report prepared by Studio GL for information and endorse it being placed on public exhibition for a minimum period of 28 days to enable community comment.*
2. *Consider a further report following the exhibition of the Nowra CBD Fringe Medium Density Study Recommendations Report on any comment received, with a view to*

proceeding to: prepare a Planning Proposal for submission for initial Gateway determination to revise relevant Local Environmental Plan provisions; and a supporting Area Specific Chapter to be inserted in Shoalhaven Development Control Plan 2014.

3. *Write to all affected residents as part of the consultation.*

As such the matter proceeded to public exhibition and the purpose of this report is to respond to Part 2 of the resolution, by providing the outcomes of the exhibition, seeking endorsement of the exhibited study and proceeding to prepare a PP and Development Control Plan (DCP) Chapter to implement the recommendations within the Study.

Nowra CBD Fringe Medium Density Study - Community Consultation

In accordance with Part 1 of the Council resolution, the Nowra CBD Fringe Medium Density Study – Background Report and Recommendations Report were placed on public exhibition for community comment from 18 April to 18 May 2018 (inclusive).

In accordance with Part 3 of the Council resolution, Council wrote to over 870 landowners within the study area advising of the public exhibition arrangement, including a community workshop. The proposals were also notified on Councils web page and local media.

The exhibited Nowra CBD Fringe Medium Density Study – Background Report and Recommendations Report contains a range of suggested planning/development controls to assist with maintaining the existing character of the area, whilst encouraging a mix of densities and high-quality housing which could be incorporated into Shoalhaven Local Environmental Plan (LEP) 2014 and Shoalhaven Development Control Plan (DCP) 2014.

During the consultation period, a community workshop was held on 26 April 2018 at Council's City Administrative Centre. This workshop provided further information about the study and the consultant's recommendations. There were 29 registrations for the workshop, however only 12 individuals attended, of which the majority were landowners in the study area.

During the community consultation period, a total of 15 written submissions were received, including one pro-forma letter from 'Old Houses Our Heritage' (OHOH), signed by 70 individuals. Copies of the submissions received are available in the Councillor's Room for review prior to the meeting. A summary of the submissions is provided in **Attachment 1**.

The major issues and key themes raised in the submissions are discussed below.

Submissions Overview

1. Heritage Conservation Area (HCA) – Proposed Extent

Several submissions supported the consultant's recommendations including the introduction of a HCA. However, some of the submissions suggested the HCA be extended beyond that currently suggested by the consultants, as follows:

- Entire study area;
- Area to the south-west of the study area bounded by West Street, Bainbridge Crescent, Jervis Street, Osborne Street and Plunkett Street;
- Properties on either side of boundary streets to ensure streetscapes are not fragmented at the edge of the HCA;
- Entire "old Nowra" area bounded by Kinghorne Street to the east, the Shoalhaven River to the north, the Showground and Nowra Creek to the west, and Jervis Street to the south; or

- Other areas characterised by specific housing design such as Walsh Crescent in North Nowra with some architect designed houses of the 60's and 70's.

Staff Comment

The HCA extent currently suggested by the consultants generally captures the area with the highest concentration of older dwellings, substantially intact streetscapes and evidence of key historical periods in the development of Nowra. The recommended HCA seeks to achieve a balance in protecting the existing character of Nowra whilst facilitating an appropriate mix of densities and high-quality housing. Approximately 482 out of 1,081 lots in the study area would be included in the HCA if pursued.

At this stage, it is considered that there is sufficient merit and justification to support the HCA as recommended by the consultant. The HCA should however include properties on both sides of the street at its edges, following advice from Council's Heritage Advisor. While Studio GL in their Recommendations Report noted that this may have additional impacts on adjoining properties to the rear, Council's Heritage Advisor noted that this would not impact adjoining properties, as "a heritage impact statement is not usually required for properties in the vicinity of a HCA unless the development is of such scale and bulk that it would impact the HCA."

As part of a PP to establish a HCA, it is recommended that a heritage assessment to formalise the HCA boundaries and develop an overall statement of significance for the area be undertaken following receipt of a Gateway determination from DP&E.

The study area did not extend to include an analysis of the character of other parts of Nowra including Walsh Crescent, North Nowra and the suggestion/request in this regard is outside the scope of this project.

2. HCA – Non-Contributory Items

Some submissions raised concern that identifying 'non-contributory items' within the HCA would allow the redevelopment of these sites, thereby creating an idealised version of what the past looked like.

Staff Comment

Generally, an HCA is an area with some overall historic significance and typically a distinctive character of heritage significance that is worth protecting. The elements contributing to the character are not just limited to the buildings, but also potentially include the historical subdivision pattern, consistency of building style, siting and scale, materials or common age of building stock and landscaping that reflect a particular period or periods in the history and growth of an area.

It is not the role of a HCA to conserve a precinct in its entirety so that everything remains 'as is'. The purpose of a HCA is to conserve the unique features and overall character of an area, to ensure that new buildings and alterations are designed with close reference to their context and the identified character of the area.

If development is proposed on a site of a non-contributory item within the proposed HCA, the development will need to be designed in accordance with the detailed controls set out in the Recommendations Report. The detailed controls ensure that new development is sympathetic to the character of the HCA, whilst not replicating or producing faux-heritage development outcomes.

3. *Medium density development*

Several submissions were concerned that the Central Nowra area is inappropriate for medium density housing as it contains most of Nowra's older, historic houses. It was suggested that Council identify suitable areas for medium density development, away from the CBD, e.g. the eastern side of the highway between Nowra High School through to Kalandar Street or the area south of Albatross Road in the McDonald Avenue area.

Staff Comment

Medium density development generally includes development types containing more than one dwelling on one lot of land such as: terraces, manor houses, dual occupancies, residential flat buildings and multi dwelling housing. These development types are already permissible in large parts of the Central Nowra area, including some of the areas suggested, and development over the past few years has seen an increasing uptake of these forms of development generally.

Nowra is identified as a 'major regional centre' in the NSW Governments Illawarra-Shoalhaven Regional Plan and its planning principles include the following:

- Increase housing density around centres that have access to jobs and transport and are already appealing to residents; and
- Encourage urban design that reduces car dependency, improves the public domain, promotes energy efficiency and supports healthier environments.

As such there is a need in ongoing planning to ensure development opportunities close to centres. This will ensure affordable housing, seniors housing etc. opportunities close to a range of services. The suggestion that additional medium density development should be located away from the CBD directly conflicts with these key planning principles. It also needs to be acknowledged that the zones that allow medium density development already exist in areas adjoining the CBD and it is unlikely that the NSW Government would allow them to be 'back-zoned'.

The exhibited Recommendations Report seeks to achieve a balance in protecting the existing character of Nowra whilst also facilitating an appropriate mix of densities and high-quality housing to support future growth. This can be achieved through implementing the recommended planning controls to ensure that future development considers and is designed to respect the existing character, through the introduction of a HCA, reduced building heights within the HCA from 11m to 8.5m and identifying well located areas outside the HCA in which medium density development may be undertaken. Locations that the consultant has identified as being suitable for greater development are those that generally contain fewer individual heritage items, including:

- The area along Colyer Avenue between North Street and Hyam Street to the north;
- The area bounded by Bainbridge Crescent, Douglas Street, Osborne Street and Jervis Street to the south-west; and
- The area directly west of the Princes Highway around Cox Ave and View Street to the east.

4. *Concern that many older homes will be knocked down*

Some submissions raised concern that many older homes in Nowra will be knocked down to support medium density building.

Staff Comment

Under current planning controls, unless a building is individually heritage listed, many 'older' homes in Nowra could potentially be demolished and replaced with medium density development that has no regard to the character of the area. This is essentially the issue that triggered this project/review

To provide greater protection for older homes (not necessarily heritage items), which are evidence of key historical periods in Nowra's development, the consultant has recommended that a HCA be established over part of the study area. The establishment of a HCA will remove the opportunity for demolition of buildings without heritage listing, via the Complying Development process.

If supported, an Area-Specific DCP Chapter for the study area would identify specific buildings, places and elements that are either 'contributory' or 'non-contributory'. Contributory items contribute to the overall significance of the area and must be kept, while items non-contributory items may be replaced if the new building or infill is designed sympathetically.

5. Discrepancies with the built form, age and materials map

One submission noted discrepancies in the built form, age and materials map (Figure 4 in the consultant's Background Report), incorrectly showing houses around 23 Jervis St as mostly fibro construction and late 20th century, when they are early 20th century homes.

Staff Comment

These discrepancies are noted. The map provides an indicative age of buildings only, based on a visual (not detailed) assessment by the consultant.

An amendment will be made to Figure 4 in the Recommendations Report to change the key for buildings on Jervis Street that are early 20th century buildings.

6. DCP controls

One submission made specific comments on some of the recommended DCP controls, including the absence of any FSR recommendations and the proposal that where a third storey is permissible, it must not extend further than 22m in depth measured from the street boundary.

Staff comment

Suggestions for floor space ratio (FSR) controls were not included in the consultant's report as these are undergoing a separate DCP review (Draft Amendment No 9 – Chapter G13 Medium Density Development & Other Residential Development). This amendment was exhibited from 30 May to 29 June 2018 (inclusive) and proposes the introduction of more appropriate FSR provisions for medium density development of 0.5:1 to 0.7:1, depending on the land use and zone.

The consultants, Studio GL, conducted further site testing on the control relating to third storeys not extending beyond 22m in depth on both large and small corner sites. The 22m control for 3 storey development does not appear to be an issue for the development feasibility of corner sites and the tested sites can be developed to a 0.7 FSR within the allowed building envelope. The limitation on the third storey ensures that development is concentrated along the street frontage and not in the rear of lots, contributing to overshadowing and privacy issues. While the control of 22m does not take into account / is not linked to how deep to the lot is, the 45-degree plane from the rear boundary effectively creates an 8.5-9.5m setback from the rear boundary for three storey development regardless

of the depth of the lot. Large corner sites may also find terraces under complying development attractive. The scenarios tested by the consultant are provided at the end of the submission table in Attachment 1.

7. *Lack of public knowledge about the consultation*

Several submissions raised concern that many people were unaware of the consultation opportunity. One submission thought the letter was Council junk mail as it was not concise enough and suggested better wording of future letters and wider notification in the media. Another submission also stated that one community workshop was not enough for those living in the area.

Staff Comment

As part of the specific notification of the consultation, direct letters were sent to over 870 landowners within the study area. The letter was sent approximately one week before the exhibition commenced and was not intended to be complex, but included the following information:

- Council resolution from Tuesday 10 April 2018.
- Public Exhibition dates for the consultant's Reports and how to view these.
- Outline of the purpose of the consultant's report – to review the existing character of the area and suggest potential development options including the possible establishment of a Heritage Conservation Area.
- How to make a submission.
- Advice of the community workshop on 26 April 2018 and its purpose: to discuss and test the consultant's recommendations and consider how they could encourage a mix of density and high-quality housing, whilst respecting the existing character of the area.
- Staff contact details for further information.

A direct link was included in the letter to the full suite of exhibition materials on Council's website. The letter also advised that the exhibition materials would be available at Council's Nowra Administration Centre during normal business hours.

In addition to the specific letters to landowners, wider publicity included:

- Media release dated 12 April 2018;
- Advertisement in the South Coast Register on 18 April 2018; and
- Engagement on Council's Facebook page on 18 April 2018.

Insights into the Facebook post showed that it reached 4,275 people through their newsfeed and received 471 post clicks. Comments on the Facebook post addressed the current affordability issue, lack of new infrastructure, prevailing loss of character, and the benefit of mixture of housing types and increased densities in Nowra and Nowra CBD providing significant buildings are preserved.

As such, there were various methods utilised to publicise the community consultation period for the subject project. It should be noted that the exhibition of this Study goes beyond Council's legislative obligations to consult with the community. It is also noted that through the life of this current project there have been ongoing opportunities for community input and engagement, not just the more formal recent exhibition.

Should Council resolve to proceed to prepare a PP and Area-Specific DCP Chapter based on the Recommendations Report, there will be further opportunities for community consultation.

8. Car Parking

A number of the submissions raised concern over the impacts of increased densities on traffic and car parking. One submitter highlighted that these issues are predominately in relation to code compliant development not under Council's control. Some concerns were also raised regarding the recommendation to allow stacked (tandem) parking in future DCP controls for the study area, including the potential to be blocked in, manoeuvring and reversing difficulties, difficult access for disabled or elderly residents.

Staff Comment

The consultant's Report does not suggest any reduction in the number of car parking spaces, below what is currently required, however does suggest allowing stack/tandem parking if the following is met:

- Both spaces are assigned to the same dwelling;
- No more than 2 vehicles parked behind each other; and
- If visible from the street only one stacked parking arrangement is permissible for every 20m of lot frontage, ideally towards the side boundary.

Scenario testing by the consultants in the Background Report showed that stacked parking can create a better design outcome overall, without reducing the number of car parking spaces required. Benefits of allowing stacked parking as evidenced in the 'scenario testing' include:

- Moderate to significant increase in usable landscaped area, private open space and area for deep soil planting and larger trees;
- Improved visual amenity from the street due to less obtrusive car parking and hardstand area for vehicle manoeuvring;
- Reduced stormwater runoff and increase in permeable areas;
- Better passive surveillance through dwellings facing the street; and
- Increase in overall dwelling size through a more efficient layout.

In addition, providing increased densities close to (within walking distance) the CBD will hopefully encourage individuals who live in these areas to walk, rather than utilise private vehicles for travelling to the CBD. This is consistent with the key planning principles of the Illawarra-Shoalhaven Regional Plan, as addressed previously in this report.

State Government Agency Consultation

Some State Government agencies own land within the study area and they were invited to comment including NSW Roads and Maritime Service (RMS), NSW Housing and Crown Lands.

During the community consultation period, a submission (**Attachment 2**) was received from the RMS and summarised below:

RMS

- Comments focused on impacts of the recommendations on the state road network, being the Princes Highway, which adjoins the study area to the east.
- SEPP (Infrastructure) 2007 contains requirements relating to practicable access being gained from a road other than a classified road. SEPP specifies that development must not adversely affect the safety, efficiency and ongoing operation of the classified road.

- The change in zoning of land from R1 General Residential to R3 Medium Density Residential on the western side of the Highway was noted, specifically in relation to potential future access from the Highway.
- The existing SP2 zoning along the western side of the Highway between Plunkett Street and Kalandar Street should be maintained to enable future Highway upgrades. This is likely to result in surplus land which will require consolidation of sites to enable the intended development potential of an R3 zoning.
- New or additional access points on the Highway should be discouraged as per the SEPP. Controls should avoid establishing additional access to the Highway because of new development. For those lots adjoining the Highway, Council should consider the inclusion of controls requiring:
 - Consolidation of lots to enable access from the local road network; and
 - If access via the local road network is not practicable, the aggregation or reduction of existing accesses onto the Highway should be required.

Staff Comment

It is recommended that as part of the preparation of an Area-Specific DCP Chapter for the study area, that appropriate controls be investigated and included in relation to consolidation of lots with a frontage to Princes Highway to achieve access via local streets.

Previous Consultation Advice – NSW Department of Planning and Environment (DP&E)

Comments from DP&E were previously provided to the Development Committee on 13 March 2018. A copy of their letter is provided in **Attachment 3**.

DP&E referred to the Planning Circular ‘*Stepping up planning and designing for better places: respecting and enhancing local character*’ released on 16 January 2018. The circular advises that DP&E will prepare amendments to the Standard Instrument LEP for consultation to establish overlays for additional consideration of local character in areas of significance. Character overlays would be permitted in exceptional areas as part of LEPs where the Council has:

- Demonstrated the significance of the character area in accordance with guidelines to be issued by DP&E; and
- Ensured the LGA will meet the dwelling targets for future growth as established by the relevant regional or district plan.

It is understood that character overlays will be statutory maps that will apply in addition to the standard zoning of an area and will trigger additional consideration of local character in significant areas.

DP&E indicated that they would be willing to consider many of the changes detailed in the Recommendations Report, subject to adequate justification being provided through any future PP.

Staff Comment

Depending on the approach taken by Council the future Standard Instrument LEP ‘character overlay’ that is being considered may be of use in implementing the outcomes of this project. However, the timing of this is uncertain. The general comments from DP&E on considering any changes arising from this project are noted.

Heritage Advisor Comments

Council's Heritage Adviser provided advice on the Nowra CBD Fringe Medium Density Study (**Attachment 4**). This notes the importance and timeliness of the study as increased medium density development has begun to have an impact on the CBD fringe area.

The response notes that there are properties outside the study area for the project on the eastern side of Osborne Street between Plunkett and Worrigeer Streets which should also be included in the HCA. The comments also noted that the study does not include a full assessment of the cultural landscape.

Specific Feedback – LEP Related Recommendations

The Heritage Advisor made the following specific comments on the LEP related recommendations:

- Heritage assessment of the study area will be required to define/confirm the actual boundary of the recommended HCA and prepare a statement of significance for the area. Boundaries of the HCA should follow property boundaries as a heritage impact statement is not usually required for properties adjoining or within the vicinity of a HCA.
- R3 zonings within the HCA should be reconsidered as these can be difficult to control and are a greater indication of Council's intent than a HCA.
- Increasing height of buildings in Shoalhaven Street between North and Hyam Streets may need to be further explored. This area contains a collection of single storey bungalows on the eastern side which additional development could pose adverse impacts to.

Staff comment

At this stage, it is considered that there is merit in now preparing a PP and Area-Specific DCP Chapter to incorporate the recommendations contained in the consultants Recommendations Report. Further heritage assessment to clarify and refine/define the actual HCA boundaries and preparation of a statement of significance is recommended following receipt of a Gateway determination from DP&E should Council support this approach.

Existing R3 Medium Density Residential areas are not proposed to be back zoned as this is unlikely to be supported by DP&E. It is considered that by reducing building heights for R3 zoned land within the HCA from 11m (up to 3 storeys) to 8.5m (up to 2 storeys), medium density development can still occur, however the reduced heights would enable the design to consider and respect the existing heritage character of the area.

The area north of North Street has been identified as suitable for further development due to its proximity to the hospital and as it has relatively few older buildings. Overall, the recommendations seek to achieve a balance in protecting the existing character of Nowra whilst facilitating an appropriate mix of densities and high-quality housing. The recommendation to increase heights in this location from 7.5/8.5m to 11m ensures consistency with the adjoining mixed-use area to the north.

Specific Feedback - DCP Related Recommendations

The Heritage Advisor made the following specific comments on the DCP related recommendations:

- Recommended controls are too generic.
- DCP objectives and controls would need to be specifically prepared for the HCA.

- 4.5m front setback may not be appropriate in some cases given varying setbacks of contributory and heritage buildings.
- Suggested additional controls:
 - garages/car ports are not located forward of the front building line.
 - private open space is not located on ground level and forward of the front building line.
 - front fences are a maximum height of 1200-1500mm.
 - public domain, existing landscaping and pavement treatment.
- Identification of contributory, neutral or significant landscaping.
- Key views and vistas within the area should be defined.

Staff comment

The detailed design controls in the Recommendations Report are not complete planning controls and it is considered that they will need to be further refined before they can be included in any Area-Specific DCP chapter. Should Council resolve to prepare an Area-Specific DCP Chapter for the study area, consideration and incorporation of the suggested additional controls as suggested by Council's Heritage Advisor can be undertaken.

The Heritage Assessment which is proposed to be undertaken as part of the PP process, post-Gateway, would also investigate the appropriateness of the controls within the Recommendations Report, and the need for additional development controls.

PP (LEP Amendment) and DCP Chapter

The Nowra CBD Fringe Medium Density Study Background Report and Recommendations Report recommends planning controls which could be incorporated into Shoalhaven LEP 2014 and Shoalhaven DCP 2014 (as a new Area-Specific Chapter).

Copies of the final Background Report and Recommendations Report are provided in **Attachment 5** and **Attachment 6** respectively.

The objective of the subsequent PP would be to amend Shoalhaven LEP 2014 to introduce mechanisms to maintain the character of the Nowra CBD fringe area (study area), including substantially intact streetscapes and evidence of key historical periods, whilst also facilitating an appropriate mix of densities and high-quality housing. This would be achieved through amending the Land Zoning, Height of Building and Heritage maps within Shoalhaven LEP 2014.

The Recommendations Report suggests that the LEP controls for a HCA, amended heights and zoning may require further advice from heritage and bushfire consultants and the RMS. At this stage, it is considered that there is sufficient justification and strategic merit for a PP to be prepared based on the work completed thus far. Further detailed advice should be sought following the issue of a Gateway determination from DP&E via a heritage assessment by a qualified consultant. Undertaking the study at that stage will provide greater certainty that the recommendations are supported by the NSW Government and minimise overall delay and risk to Council.

The establishment of the HCA is also considered to be prudent to protect the character of the area by "switching-off" complying development. This is considered important with the expansion of complying development via the Low Rise Medium Density Housing Code. It is noted that on 5 June 2018 Council resolved to seek deferral from the implementation of the Low Rise Medium Density Housing Code for a 12-month period to enable Council to prepare character profiles/statements for existing residential zones. Should the request be

DE18.46

successful, this will help minimise the potential risk that unsympathetic and uncharacteristic dual occupancies, manor houses and terraces being approved and built in the area under a complying development process.

Despite the potential for deferral from the Low Rise Medium Density Housing Code till mid-2019, the process to date has highlighted the need to establish controls in the study area to achieve the overall objective of protecting character facilitating an appropriate mix of densities and high-quality housing. On this basis, it is considered that Council should resolve to proceed to prepare a PP and Area-Specific DCP as per the Recommendations Report in **Attachment 6**.

Policy Implications

This is a 'high priority' project on the 2018-2019 Strategic Planning Works Program that was adopted by Council in June 2018.

The adoption of the Nowra CBD Fringe Medium Density Study Background Report and Recommendations Report will result in amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014.

Financial Implications

The Nowra CBD Fringe Medium Density Study work has been managed with the existing Strategic Planning Budget.

Risk Implications

If the consultant's reports are not adopted and the recommendations implemented through the preparation of a PP and Area-Specific DCP chapter, there is a risk that the character of the Nowra CBD fringe area will not be considered in the development process, and substantially intact streetscapes and evidence of key historical periods may be lost or damaged.



Our ref: STH08/02120/29
Contact: Andrew Lissenden 4221 2769
Your ref: 48168E (D18/116626)

7 May 2018

Molly Porter
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au

NOWRA CBD FRINGE MEDIUM DENSITY STUDY - PUBLIC EXHIBITION OF PLANNING DOCUMENTS

Dear Molly

Roads and Maritime Services (RMS) refers to Council's correspondence dated 11 April 2018 (received 16 April 2018) regarding the public exhibition of the above planning documents.

RMS has reviewed the information provided focussing on the impact to the state road network. For the area that the Nowra CBD Fringe Medium Density Study covers, the key state road is the Princes Highway.

RMS as a result of its assessment notes the following:

- The Princes Highway adjoins part of the study areas eastern boundary (between Plunkett Street and Kalandar Street);
- Some of properties within the study area that adjoin the Princes Highway are currently affected by an SP2 Infrastructure zoning under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014). This zoning requirement identifies land for arterial road widening and therefore allows for potential future upgrades to the Princes Highway;
- Not all the land that is within the study area and currently zoned SP2 along the western side of the Princes Highway has at this time been acquired by the relevant acquisition authority (i.e. RMS);
- The study recommends a number of changes to the SLEP 2014 standards including building heights, a new heritage conservation area and zoning changes that will increase dwelling yields;
- The requirements of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP 2007) currently contains requirements relating to practicable access being gained from a road other than a classified road and in relation to the safety, efficiency and ongoing operation of the classified road not be adversely affected by new development; and
- Council is seeking RMS comment in relation to the studies proposal to change the zoning of land from R1 General Residential to R3 Medium Density Residential, on the western side of the Princes Highway, specifically in relation to vehicle access to/from the Princes Highway.

Having regard for the above, RMS offers the following comments for Council's consideration:

rms.nsw.gov.au

1

- The existing SP2 zoning along the western side of the Princes Highway between Plunkett Street and Kalandar Street should be maintained to enable future upgrades to the Princes Highway when required. It is however noted that this is likely to result in surplus land that given its resultant size will require consolidation of sites to enable the intended development potential of an R3 zoning (refer to additional comments in the dot point below);
- New or additional access points to/from the Princes Highway should be discouraged. As such, controls used should discourage new accesses to the Princes Highway as a result of new development associated with the proposed zoning change (i.e. the intensification of the existing land use). For those lots adjoining the Princes Highway, noting the size of the SP2 zoning and size of the residue parcels created, Council should consider the inclusion of:
 - A requirement for the consolidation of lots (i.e. lots fronting the local road network being consolidated with lots fronting the Princes Highway) so as to enable access to be gained from the local road network (e.g. Cox Avenue, View Street); and
 - If access via the local road network is not practicable (i.e. able to be done/capable of being put into practice) the aggregation or reduction of existing accesses onto the Highway should be required.

The above controls reinforcing the provisions contained in SEPP 2007.

If you have any questions please contact Andrew Lissenden on (02) 4221 2769.

Please ensure that any further email correspondence is sent to development.southern@rms.nsw.gov.au.

Yours faithfully



Chris Millet
Manager Land Use
Southern Region

Cc: Molly.Porter@shoalhaven.nsw.gov.au



Ms Molly Porter
Strategic Planner
Shoalhaven City Council
By email: molly.porter@shoalhaven.nsw.gov.au

Your ref: 48168E (D17/349382)
Our ref: OBJ17/01433

Dear Ms Porter

Nowra CBD Fringe - Medium Density Study - Draft Recommendations Report

I refer to Council's 27 October 2017 letter concerning the above draft report and its request for the Department to provide comment in relation to the recommended LEP and DCP changes. I note that Council has asked whether these recommendations are likely to receive support should they be pursued through a planning proposal. Council has also requested advice as to the types of background studies or supporting information which would be required to support the above changes in a future planning proposal, in addition to the work already completed by Studio GL.

I understand that the purpose of the report is to review the residential zoned land to the west and south of the Nowra CBD and to prepare development controls that would enable opportunities for high quality medium density housing without fundamentally impacting on the existing character of the area.

The Department has prepared a Planning Circular PS18-001– "Stepping up planning and designing for better places respecting and enhancing local character". The circular provides guidance for local councils and other relevant planning authorities, state agencies and communities about the tools available to them to incorporate consideration of local character into strategic planning and detailed planning for places. The Circular can be viewed on the Department's website: <http://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-System-Circulars> and I encourage Council to read the Circular.

As a general comment, the Department is willing to consider many of the recommended changes to the Shoalhaven LEP 2014 identified in the report subject to adequate justification being provided through a planning proposal. I note that the consultant has identified the need for an assessment of heritage significance within the study area as a key consideration.

It is also considered important that any planning proposal addresses the projected housing needs for the Shoalhaven area, including the Nowra centre, identified in the Shoalhaven Regional Plan and Shoalhaven Growth Management Strategy. In particular, the following Directions and Actions of the Regional Plan are relevant to a future planning proposal:

- Direction 2.1 Provide sufficient housing supply to suit the changing demands of the region.
- Direction 2.2 Support housing opportunities close to existing services, jobs and infrastructure in the region's centres.

- Action 2.2.1 Investigate the policies, plans and investments that would support greater housing diversity in centres.

The consultant has identified areas that may be suitable for more intensive development to offset any reduction in development potential in identified heritage or special character areas. This approach is supported.

The following specific comments are provided in relation to the recommended changes to the Shoalhaven LEP:

Heritage and conservation:

The recommendation to undertake an assessment of the area's heritage significance and if justified, extend the number of properties listed and/or expand the amount of land that is within a conservation area, is supported. Council should ensure that the heritage study addresses the requirements of the Section 117 Direction 2.3 Heritage in relation to the protection of items, places, buildings, works, relics, moveable objects or precincts of heritage significance. Council may want to discuss the preparation of any heritage assessment with the Office of Environment and Heritage.

Imposing extensive heritage conservation areas may increase development costs and make housing in the area less affordable. It is recommended that Council adopt a balanced approach between protecting character and ensuring that adequate provision is made for a diversity of housing types, including affordable housing, in the study area.

Land use zoning:

The report recommends that, following the completion of the heritage study, a review of the current residential zonings in the study area (namely R1, R2 and R3 Zones) should be undertaken to identify areas having heritage value or residential character that are unsuited to higher density dwelling types. It also proposes to identify areas that are suitable for higher density development. The intent of the recommendations is supported in principle.

Council will need to address the requirements of Section 117 Direction 3.1 Residential Zones, particularly in relation to justifying any reduction in residential density as a result of permissible uses. Council will also need to address the requirement of Section 117 Direction 5.10 Implementation of Regional Plans in relation to meeting residential dwelling targets in the Nowra centre and to ensure that these dwelling targets can be facilitated through the planning controls proposed in the planning proposal. Council may consider undertaking an economic feasibility assessment to determine the feasibility of different zones, residential land uses and building heights in the study area to address the requirements of the Directions.

Building heights:

It is understood that the intent of the report's recommendations in relation to reviewing the building height controls in the study area, following the completion of the heritage assessment, is to identify areas that are unsuited to higher density development and areas that are suited to higher density development. The intent of the recommendations are supported in principle subject to addressing the Section 117 Directions 3.1 and 5.10 as described above in relation to the report's recommendations about land use zoning.

The Department would be pleased to work with Council on these matters and would like to meet with Council prior to the preparation of a planning proposal. Please contact George Curtis, Senior Planner, at the Department's Southern Region to discuss or to arrange a meeting. George can be contacted on telephone 4224 9465.

Yours sincerely



Graham Towers
Team Leader
Southern Region

22/1/18



Shoalhaven City Council

Heritage Referral Response – Strategic Planning

| | | |
|-----------------------------------|---|------------------------|
| Date | 31/05/2018 | |
| Referring Officer | Molly Porter, Strategic Planner | |
| Property description | Nowra CBD Fringe | |
| Description of development | draft Nowra CBD Fringe Medium Density Study prepared by Studio GL is currently on public exhibition | |
| Heritage Status | Heritage Item Shoalhaven LEP Schedule 5 | Various heritage items |

Background

The Study undertaken by consultants, Studio GL, includes both a review and general analysis of the existing character of the Nowra CBD residential fringe area, and provides recommendations for suitable mechanisms to maintain this character whilst facilitating development of an appropriate mix of densities and high quality housing. These recommendations, which include the possible establishment of a Heritage Conservation Area could be incorporated in a future amendment to Shoalhaven Local Environmental Plan (LEP) 2014 and Shoalhaven Development Control Plan (DCP) 2014.

There are three documents on exhibition:

1. Draft Nowra CBD Fringe Medium Density Study - Background Report
2. Draft Nowra CBD Fringe Medium Density Study - Recommendations Report
3. Draft Nowra CBD Fringe Medium Density Study - Explanatory Statement

General Comments

Council should be congratulated for undertaking this timely and important study. The increase in medium density development has begun to have an impact upon the CBD fringe area which is dominated by quality early 20th century housing and gardens.

Study Area – There are properties outside the study area on the Eastern side of Osborne Street between Plunkett and Worrige Street that should be included in the HCA.

Explanatory Statement Comments

Heritage – the Explanatory Statement is a bit confusing when discussing properties in the HCA.

As part of the assessment of the heritage significance, there will need to be consideration of whether the boundaries to any future HCA should include whole properties, or alternatively only be along streets.

A HCA covers the whole property boundaries otherwise it would be impossible to protect the HCA qualities because only the public domain would be included. It would also be difficult to define only half a property as future development of the other half of the property also needs to consider the heritage impact to the HCA. Through identification of contributory items and by defining key periods of significance it is possible to define the HCA but still allow sensitive development.

Heights – Not sure why increasing the heights in Shoalhaven Street between North and Hyam Streets. There are a collection of single storey bungalows on the eastern side of Shoalhaven Street. The increase in Coyer Ave and in the South of the study area is acceptable as these streets were developed later.

Land Use

Change the zoning of the block to the north of North Street, south of Hyam Street and west of the hospital to either R1 or B4 to enable greater development in this well located area close to the hospital.

West of the hospital?

Background Report Comments

The setting of the study area is not well discussed. For example the relationship to Shoalhaven River and the Showground. The memorial planting and termination of Junction Street.

The study is very strong on built form but weak on its understanding of the cultural landscape.

Recommendations Report Comments

LEP Recommendations – Heritage

- I agree that a heritage assessment of the study area is required in order to define/confirm the boundary and to prepare a statement of significance for the HCA. The assessment would also help identify and define the key historical periods and the buildings associated with them ie contributory buildings.
- Boundaries should follow property boundaries. A heritage impact statement is not usually required for properties in the vicinity of a HCA unless the development is of such scale and bulk that it would impact the HCA. E.g. an addition to a house next to the HCA would not require a SoHI.

LEP Recommendations – Zoning

The R3 zones within the HCA allow medium density which is difficult to control even within a HCA. These should be reconsidered as the zoning is often considered to be indicative of Council's intentions more so than the HCA.

DCP Controls

The controls are too generic and not precise. For example the use of language such as 'should' and 'may' can be challenged or ignored. DCP objectives and controls would need to be specifically prepared for the HCA.

HCA controls

- Street setbacks – I'm concerned that the contributory and heritage buildings have varying set back and therefore a blanket 4.5metres setback may not be appropriate in all cases. It needs to be fine-tuned so that in fill is consistent with neighbouring significant properties.
- Garages and car ports must be located behind the building. There needs to be a clear control stating they are not to be in the street front zone.
- Private open space is not to be located on ground level in the street front zone.
- Street front fences must be a maximum of 1200-1500mm.
- The public domain needs more work, particularly existing landscaping and pavement treatment.
- Street landscaping needs to be identified, as contributory, neutral or significant.
- Key vistas and views within the area need to be defined

Summary

The proposed HCA needs to be defined by further heritage assessment which will provide the tools for DCP controls, Contributory Items and a Statement of Significance.

Louise Thom
Heritage Advisor, Shoalhaven

DE18.47 Proposed Submission - Draft Design Guide for Heritage

HPERM Ref: D18/183018

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Draft Design Guide for Heritage (under separate cover) [↗](#)
2. Draft submission - Heritage Design Guide [↓](#)

Purpose / Summary

Advise of the public exhibition of the draft Better Placed Design Guide for Heritage – Implementing the Better Placed policy for heritage buildings, sites and precincts, (**Attachment 1**) and obtain endorsement to make the attached submission (**Attachment 2**).

Recommendation (Item to be determined under delegated authority)

That Council make a submission to the NSW Office of Environment and Heritage on the draft Design Guide for Heritage, based on **Attachment 2**, prior to the deadline of 17 August 2018.

Options

1. Endorse **Attachment 2** as Council's submission on the Draft Design Guide for Heritage.
Implications: This is the preferred option as it will enable Council to provide a submission within the nominated exhibition period. The comments will then be considered by the NSW Heritage Council in the finalisation of the proposed Design Guide for Heritage.
2. Adjust **Attachment 2** and include additional comments as necessary and submit to the Heritage Council of NSW.
Implications: This option will still enable Council to provide a submission within the nominated exhibition timeframe, however the implications of any changes are unknown and may require closer consideration or refinement.
3. Not make a submission.
Implications: This is not recommended as it would prevent Council from having any input or comment regarding the draft Heritage Design Guide and the opportunity to identify issues for consideration or resolution would be missed.

Background

The draft Better Placed Design Guide for Heritage (the Guide) is a proposed new heritage policy which provides advice on conserving, maintaining and enhancing heritage places, sites and precincts in NSW through good design.

It aims to assist those who own, regulate, oversee or are working to develop heritage items or make changes to heritage buildings, sites and precincts including:

- Heritage owners and members of the community;
- Architects, planners, consultants;
- Developers and builders; and
- Local and State government.

DE18.47

The draft Guide is a collaboration between the Government Architect NSW and the Heritage Council of NSW and is a companion document to the NSW Government 'Better Placed' policy on architecture and design, which was released by the NSW Government Architect in 2017.

The draft Guide contains three main parts:

- Part 1 – Introducing the Design Guide for Heritage: defines heritage and explains why it matters and how to use the Guide.
- Part 2 – Better Design for heritage: defines and explains heritage and outlines good design outcomes and the processes that support these including the 'Better Placed' objectives.
- Part 3 – Explaining heritage: outlines how heritage significance is determined and describes the legal and regulatory mechanisms that apply to heritage projects.

The draft Guide provides current advice on managing heritage design works and how to carefully and appropriately use good design for heritage items and places. It aims to ensure that new work protects heritage significance and safeguards the character and experience of historic places. The guide also provides several examples of successful heritage projects.

The draft Guide will be complemented by a set of digital case studies showing how principles of good design have been applied across a range of heritage contexts, scales and building types. These case studies are currently being developed and will be released later in the year.

Draft Council Submission

The proposed Council submission (**Attachment 2**) includes general feedback on the document, as well as specific commentary on the various sections of the guide.

The key issues outlined in the submission include:

- The overall aims of the guide as a foundation policy document that brings together the principles of design in a heritage context are supported.
- Support policy that encourages good design along with the preservation of heritage value.
- The Guide should be more specific in nature, with a more precise structure to enable use as an assessment tool, given that a design guide generally provides practical, appropriate tools for assessment and design purposes.
- There is a strong emphasis on heritage in the built environment but little guidance on cultural landscapes.
- The current Guide is very 'Sydney-centric'/'metro-centric' in its focus and should also address heritage in regional and rural NSW more strongly.
- The Guide cannot be used in isolation and needs to be used in conjunction with the 'Better Placed' policy and other companion documents. It would be simpler if it were a standalone, comprehensive document.
- Several additional specific matters have been identified for consideration in the finalisation of specific sections of the guide, covering issues such as:
 - Typographical errors;
 - Identification of complex wording that should be simplified to improve usability;
 - Suggested amendments and additions to wording to improve usability of the Guide;
 - Requests for clarification, additional information and detail such as better explaining the operation of relevant legislation and the relationships between them;
 - Requests for more specific and precise objectives;

- Greater emphasis on local development approval process in relation to heritage;
- Greater recognition of the differences and explanation of the implications of this, between heritage projects in metropolitan Sydney and regional/rural NSW;
- The need to provide more detail on the operation of heritage controls in local environmental plans and development control plans; and
- Suggestions for additional documents to be referenced within the Guide.

Community Engagement

The draft Guide is on public exhibition until 17 August 2018 to provide an opportunity for community members and industry stakeholders to submit feedback.

The exhibition package is available from the NSW Office of Environment and Heritage website at:

<http://www.environment.nsw.gov.au/research-and-publications/publications-search/draft-design-guide-for-heritage>

Policy Implications

The final Guide may require future amendments or consideration in Council's policies, strategies and the Shoalhaven Development Control Plan 2014. Any required future amendments would be separately considered and reported to Council as needed.

NSW Office of Environment and Heritage - Sydney
PO Box A290
SYDNEY SOUTH NSW 1232

By email only: heritage.engagement@environment.nsw.gov.au

Dear Sir / Madam

Submission – Draft Design Guide for Heritage

Thank you for the opportunity to comment on the draft Design Guide for Heritage (the Guide). Council supports the overall aims of the Guide as a foundation policy document that brings together the principles of design in a heritage context. Council is supportive of policy that encourages good design along with the preservation of heritage value.

On 3 July 2018 Council's Development Committee resolved to (MIN18.XX):

General comments

- Whilst the Guide provides a good general understanding of heritage design principles, it is not an easy or workable document. If the intention of the Guide is for it to be used as an assessment tool, it needs to be more specific in nature with a more precise structure.
- Given that the Guide does not commit to 'specifics' and is very high-level in its focus, it should be named something other than a 'Design Guide'. A design Guide generally provides practical, appropriate tools for assessment and design purposes and these elements could be more strongly included in the Guide.
- There is a strong emphasis upon heritage in the built environment but little guidance for cultural landscapes.
- The size of the Guide may be too large and complex in nature to enable persons not engaged with heritage conservation to read and apply the principles being offered.
- The Guide is very 'Sydney-centric' and 'metro-centric' in focus, despite there being many wonderful country heritage places. Regional and rural heritage should also be a key feature.
- The Guide cannot be used in isolation and needs to be used in conjunction with the Better Placed policy and other companion documents. It would be simpler if it were a standalone, comprehensive document.

A number of additional specific matters have been identified for consideration, as outlined in the following discussion which addresses each section of the Guide separately.

Section 1.1 Why heritage matters

- The following amendments to the second paragraph are suggested (as shown in red font): “Design for heritage can vary enormously in scope, scale and aims, but all design work should consider the potential to link to the past to the present and to project into the future.”
- The following wording is suggested to be added to the last paragraph (as shown in red font): “... to demonstrate their skills and creativity while at the same time being visually sympathetic to the existing, demonstrate layering of time, or conversely in some limited cases, using the interventionist approach with due care and consideration to avoid confusion.”

Section 1.2 About this Guide

- There is a typographical error in the spelling of the heading “Environmental Planning and Assessment Act” (EP&A Act).
- Heritage Act – this paragraph should be amended to clarify what type of heritage items the Heritage Act applies to. The current wording is unclear as it states the Heritage Act provides the statutory framework for heritage items. This is generally only correct for State significant items and archaeology. The EP&A Act and local environmental plans (LEPs) also define and identify heritage items.
- The relationship between the EP&A Act and the operation of the Heritage Act should be explained and clarified here.

Section 1.3 How to use this Guide

- The application of the Guide to various stakeholders is useful by highlighting the relevance of this document in different contexts.
- The section on “Planners” could be expanded to explain the role of LEP and Development Control Plan (DCP) heritage provisions for local development.
- The section on “Local Government” could also mention that local heritage assistance grants may be available from councils.

Section 2.1 What is heritage?

- There is little explanation of cultural heritage and places as the key focus is on buildings.
- This section could be expanded to highlight the benefits of heritage conservation which can be to a person, family and community and represent a connection with our past. Many people in the community respect where they have come from.
- The wording from the Burra Charter notes that “Place” can be defined by intangible values, however the wider document does not address this and instead focuses mainly on built form.
- In the second paragraph, the use of the word “dramatic” should be reconsidered.
- “Extant” is a complex word, it is suggested that the wording is simplified to improve readability for users.

Section 2.2 Good design for heritage

- The Guide encourages and respects flexibility in interpretation which is supported. Further, the basic foundational principles and definitions are very useful, as is the commentary that applies the design principles specifically to heritage items.
- It is suggested that the word “navigate” is replaced with “employ” to provide a simpler, more accurate description.
- The wording on page 18 states that new work must recognise and “enhance” the heritage significance of the place. The Burra Charter uses the phrase “respect and support significance” instead. The word “enhance” should be reconsidered as it implies that significance can become something more than it is, which would be to change significance. The concern is that a designer may want to make a building look older or more “heritage like”.
- The diagram on page 19 is unclear and does not present a clear message. It is confusing and should be removed as it does not contribute to the readers understanding.
- “Iterative” is a complex word. This wording should be simplified to improve usability of the document.

Section 2.3 Better Placed Objectives

- Applying generic principles to the heritage context is supported, however there is a concern that this approach is too high-level and vague to be practical and applicable in a local context.
- The objectives are more explanatory statements than objectives.
- Some paragraphs in the objectives are quite specific and others are vague. The objectives contain paragraphs which are explanatory and others that provide specific objectives, no differentiation is made between them. For example, “Better Performance” provides a very good understanding of sustainability in the heritage context, which is very valuable, however it doesn’t provide any actual objectives. Objective 5, Better Working has some useful objectives, the language is precise and makes the objective clear.
- Where there is a clear direction or objective, it should be numbered for easy referencing purposes. For example, when Council’s Heritage Advisor undertakes a heritage assessment for a DA for demolition of a contributory building in a Heritage Conservation Area (HCA), the assessment could refer to the Guide and specifically the section on ‘Better Fit’, where the fourth paragraph states that contributory items should be kept.
- There would be merit in some design objectives and outcomes for heritage projects focusing on a regional/rural context. Different contexts (i.e. metropolitan/regional/rural) impact on the feasibility of projects undertaken. For example, in terms of land costs, land is more expensive and finite in Sydney but this may not necessarily be the case in regional or rural areas.
- Objective 1 - Better Fit – contextual, local and of its place – a suggested amendment to the wording in the fifth paragraph (as shown in red): “...In particular,

the careful consideration of height and setback of built structures are crucial to designing for a better fit.”

- Objective 3 – Better for community – inclusive, connected and diverse – it is suggested that this should go beyond providing an understanding of why we undertake heritage conservation.
- Objective 4. Better for people – safe, comfortable and liveable - the Guide should also address sites or buildings that are not “beautiful”. It is also suggested that the example of the NSW Art Gallery entry (page 29) is reconsidered. If the example must be Sydney-centric (much like the rest of the Guide), it is suggested it is replaced with a better example such as the receiving room in Hyde Park Barracks.
- Objective 5. Better Working – functional, efficient and fit for purpose - The pictorial example on page 31 (100 Harris Street, Pyrmont) is commendable and is truly representative of adaptive reuse.
- Objective 6 identifies financial incentives for listed sites – it would be great to see additional funding being offered into NSW Heritage Programs to make heritage more accessible and valued within communities. These need to be equally distributed across NSW and not be limited to State Heritage Register listed items, but also be applied to local heritage items and locally significant HCAs.
- Objective 7 – Better look and feel – engaging, inviting and attractive:
 - The pictorial example on page 35 (Mason House by Chenchow Little) is good as it reinforces the content in the ‘Design in Context’ 2005 publication and advocates flexibility.
 - It notes that major subdivision or changes to significant spaces should be avoided in some regional areas, large “heritage” sites are vacant. As such, there may not be a broad enough variety of “uses” in regional areas to fill these medium-large spaces because it may not be financially viable to do so.

Section 2.4 Design Processes for Heritage

- This section of the Guide is stronger than Part One, however it would benefit from more formal structuring. This could be used for referencing purposes such as in heritage advice and assessments.
- Deliver – Gain approvals from relevant regulatory bodies - This wording could simply refer to Council LEP requirements and approvals required.
- The design process is orientated towards the high-end of the market. Smaller domestic scale developments are not going to want/or be able to afford to complete all the reports that are recommended. Not all owners of heritage listed properties can afford to do an archival record, a conservation management strategy, a heritage impact statement and an interpretation strategy and as such is not be appropriate for authorities to expect this.
- The examples chosen in the Guide are high-end designs. These types of projects are often beyond the budget of individuals in areas outside city centres and the required expertise may be unavailable. It is suggested to provide some domestic scale useful examples to improve the application of the Guide.
- There should also be some consideration/inclusion of practical ways to understand and appreciate Aboriginal cultural heritage.

- The Guide could better address buildings and places that might not have obvious heritage qualities and detail appropriate approaches and outcomes in this regard.
- The Guide could also include strategies that differentiate between the feasibility of projects in metropolitan and rural areas. For example, the resale value of a heritage place after it has been adapted to a new use is quite high and therefore this makes sense in metropolitan areas. Land is not as finite in regional / rural areas, so there is little incentive to re-use heritage sites where non-heritage sites may be cheaper.
- The Guide should outline specific processes for heritage buildings in a regional /rural context as they can be more complex, for example vacant buildings that are tailored to previous uses. There may not be enough business “types” to fill those spaces in regional/rural areas.

Section 3.1 Heritage lists

- The explanation of statutory lists, the legislation they operate under and the name of the list should be expanded and clarified.
- The non-statutory list includes examples and therefore the statutory list should do the same. It should also refer to the following discussion and explanation as it is too disjointed. It is suggested to discuss statutory information first.
- Places listed on a Local Environmental Plan – the terminology used in LEPs is ‘heritage items’. This section could also provide more detail about LEPs, given that they are the main vehicle for listing heritage items. The explanation of Schedules of Environmental Heritage in LEPs could be clearer. It is very broad and could more specifically explain how heritage items are listed individually in a schedule and mapped, especially as this triggers the application of an LEP clause for heritage conservation to ensure heritage is thoroughly considered in development applications for heritage items and lots in the vicinity of heritage items.
- The section on DCPs should provide more detail and clarify that DCPs contain detailed design guidelines such as development controls, performance criteria and acceptable solutions. It should address what the Guide can do to assist council’s in preparing DCPs specific to heritage and to implement the Better Placed policy.
- Other “Better Placed” Guides have identified the potential for the application of a model DCP to achieve the objectives of Better Places / Greener Places. A similar approach could be undertaken to provide practical assistance to Councils with the implementation of this draft Guide in DCPs and other planning controls.
- Gaining approval to do work on a listed place – this section should explain the process of undertaking development on heritage items listed in the LEP and on land in the vicinity of heritage items.

Section 3.2 What is significance and how is it assessed?

- There is a foundation document used to assess heritage significance which should be mentioned in this section called *Assessing Heritage Significance*.

Section 3.3 Heritage documents

- This should include Conservation Management Strategy documents.

Section 3.3 Statement of Significance

- In the section “Statement of Significance” a document called “Statements of Heritage Impact” is referenced. This is an error, it should refer to “Assessing Heritage Significance”.

Section 3.4 Regulations and planning

- This section should also mention the operation of LEPs in relation to heritage items.

Glossary

- Heritage items are defined well here and this precise terminology should be used throughout the document, particularly in relation to planning legislation.
- Heritage Agreement – this should also refer to the EP&A Act and LEPs given that the primary way that heritage is managed is through the development assessment process.

Thank you again for the opportunity to comment on the Guide. It is hoped that the comments raised in this submission will be considered and that the Guide will be amended accordingly. The opportunity for further dialogue on the proposed policy would be beneficial and appreciated to ensure the Guide is applicable and relevant to regional NSW.

If you need further information about this matter, please contact Danielle Ratcliffe, Planning Environment & Development Group on (02) 4429 3482. Please quote Council's reference 31157E (D18/199683).

Yours faithfully

Gordon Clark
Strategic Planning Manager
14/06/2018

DE18.48 Revision of Certain Community Projects - Shoalhaven Contribution Plan 2010 Review

HPERM Ref: D18/188119

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

To create two Bay and Basin community facility projects in the Shoalhaven Contributions Plan 2010 to reflect and facilitate recent resolutions of Council, and also delete a redundant passive recreation contribution project for the Vincentia expansion area (Bayswood) and a redundant community facility project at Sussex Inlet via inclusion of these changes in the proposed exhibition of the Shoalhaven Contributions Plan 2010 Review (Amendment No. 10).

Recommendation (Item to be determined under delegated authority)

That:

1. The following amendments also be included in the exhibition of the Shoalhaven Contributions Plan 2010 Amendment No. 10:
 - a. Delete project 03CFAC3001 and replace it with two separate projects:
 - i. Bay and Basin Community Hub (03CFAC4001)
 - ii. Bay and Basin Library (03CFAC0006)
 - b. Delete projects 03OREC0011 and 04CFAC2002 as they are no longer required.
2. Council allocate the existing funds collected for project 03CFAC3001 as follows:
 - a. 55% towards the library (03CFAC0006); and
 - b. 45% towards the community Hub (03CFAC4001).

Options

1. Include the deletion of 03CFAC3001 and the creation of two separate projects for the Bay and Basin Community Hub and Bay and Basin Library in the exhibition of the Contributions Plan review, as well as the deletion of 03OREC0011 for the Vincentia expansion area (Bayswood) and 04CFAC2002 at Sussex Inlet.

Implications: The creation of two separate projects for the Bay and Basin Community Hub and Bay and Basin Library will allow for allocation of existing funds to each specific project and allow for the use of these existing funds to potentially acquire land and undertake detailed planning for a stand-alone library. It also allows for the inclusion of the approximate cost of the addition of a learn to swim/therapy pool to the cost of the community Hub. The costing would be based on the existing estimates; the contributions projects may need to be revised once more detailed costing are known. The deletion of the passive open space project for the Vincentia expansion area will ensure that contributions are not charged for a project that was completed and paid for by the developer rather than Council. The deletion of the community facility project at Sussex Inlet will ensure that Council is not charging two lots of contributions for the one project, being the library.

2. Not amend the Contributions Plan in relation to 03CFAC3001 until detailed planning and costing has been prepared but proceed with the deletion of 03OREC0011 for the Vincentia expansion area and 04CFAC2002 at Sussex Inlet.

Implications: The community Hub and library would remain as one project until detailed planning has been undertaken and then the Contributions Plan could be amended as a separate amendment to create two separate projects. This approach would make sure that the new projects are based on more accurate costing, but it may prevent existing collected funding being used to acquire a site and undertake detailed planning for a stand-alone library given that it is outside the scope of the existing project. The deletion of the passive open space project for the Vincentia expansion area will ensure that contributions are not charged for a project that was completed and paid for by the developer rather than Council. The deletion of the community facility project at Sussex Inlet will ensure that Council is not charging two lots of contributions for the one project, being the library.

3. Not proceed with either of these proposed inclusions to the Shoalhaven Contributions Plan 2010 review.

Implications: This approach is not recommended as it does not address the issues highlighted in this report.

Background

Work has substantially progressed on the major review of Shoalhaven Contributions Plan 2010 with several reports regarding this project being considered by Council. The main components of the current review are:

1. Revision of the content of the plan.
2. Review and rationalisation of projects.
3. Creation of an updated website including a new calculator.

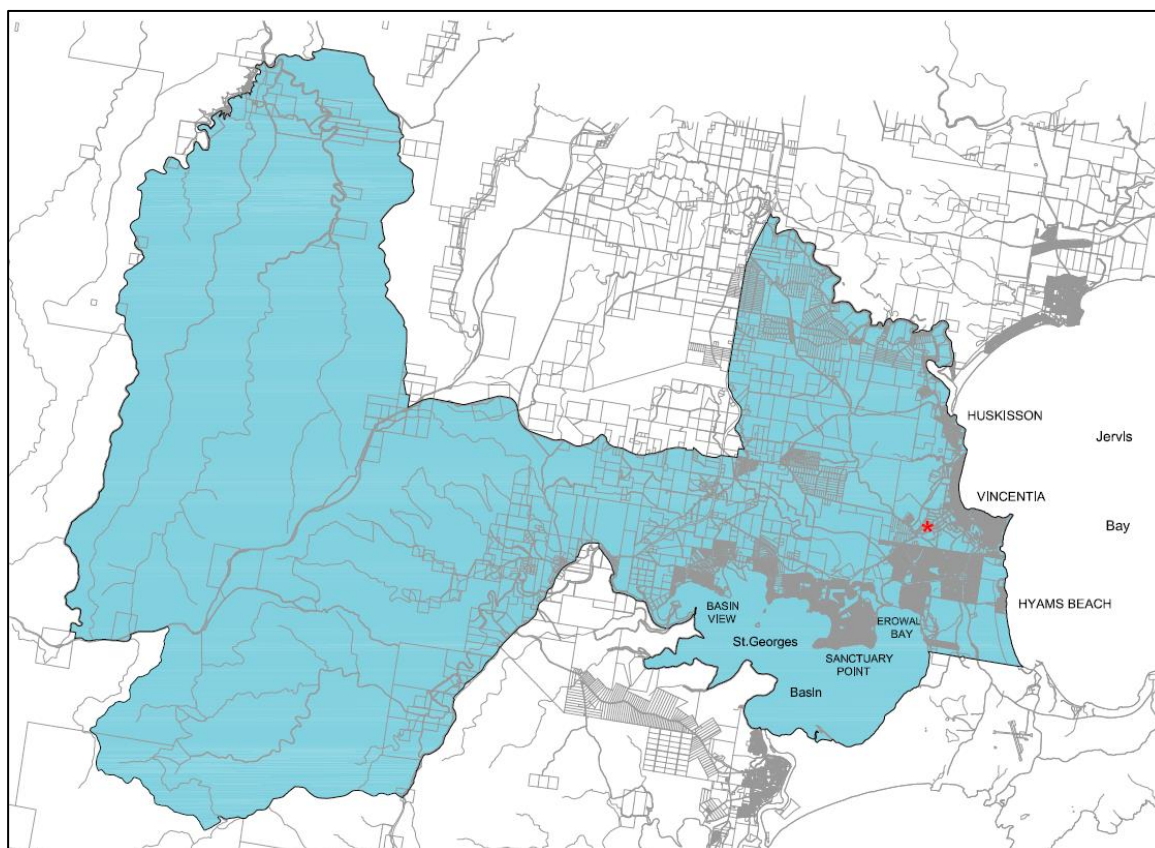
Most recently Council resolved on 10 April 2018 to:

1. *Adopt for exhibition purposes the draft Amendment No. 10 to Shoalhaven Contributions Plan 2010 as attached;*
2. *Exhibit draft Amendment No. 10 for a minimum period of 28 days in accordance with legislation;*
3. *Receive a further report after public exhibition to consider any submissions and to adopt the amendment for finalisation; and*
4. *Acknowledge a further amendment to the Contributions Plan will be necessary once the two significant projects identified in this report have been revised and adopted by council.*

This report relates to part 4 of the resolution and also to two unrelated proposed amendments to the Contributions Plan. The proposed changes to the adopted draft Amendment No. 10 to the Contributions Plan are outlined below.

Contributions Project 03CFAC3001

Contribution project 03CFAC3001 - Bay & Basin Community Centre and Branch Library was intended to provide the community with increased variety of activity and access to Information Technology through the provision of a community centre and library at Vincentia close to the Bay and Basin Leisure Centre (indicated with a red asterisk on the map below).



Contribution Area Map – Shoalhaven Contribution Plan 2010

DE18.48

At Council's Strategy & Assets Committee meeting of 27 February 2018, it was resolved in relation to the community centre that:

...

2. *During development of detailed design Council incorporate additional Learn to Swim / Therapy Pool."*

Further, at Council's Strategy & Assets Committee meeting of 27 March 2018, it was resolved that Council:

1. *Construct a District Library at Sanctuary Point as a priority;*
2. *Redesign the Draft Bay and Basin Community Hub Master Plan without the library.*

To facilitate the planning for these community facilities as separate projects and to allow access to contribution funds already collected for these facilities to be used in the detailed planning and potential acquisition of land for the library, it is proposed to delete 03CFAC3001 and create two new contributions projects:

- 03CFAC4001 Bay and Basin Community Hub; and
- 03CFAC0006 Bay and Basin Library.

The costings and the contributions rates for these two new projects would be based on the costings in the current project with the inclusions of \$2.8 million in the community centre project for the addition of a 20 x 15 metre learn to swim/therapy pool (approximate cost).

Council could wait until a site has been identified for the library and detailed planning completed to enable more accurate costs to be included in the Contributions Plan, however, this would possibly mean that Council would not be able to use contributions collected for the library for the acquisition of land and for detailed planning, as a stand-alone library was not

part of the scope of 03CFAC3001. The new contribution projects can then be updated via a minor amendment once more detailed planning has been completed.

The overall cost of the community centre was estimated in 2004 to be \$7,379,300.00 with the estimated cost of Stage 1 (community centre) being \$3,359,720.00 (45%) and the estimated cost of Stage 2 (library) being \$4,019,580.00 (55%). The index estimate is \$11,823,851.78 with a contribution rate of \$1,182.74 (will have increased on 1 July 2018 in line with the Consumer Price Index, all figures will need to be adjusted accordingly). The details of the proposed new projects are outlined in the table below:

| | Community Hub 03CFAC4001 | Library 03CFAC0006 |
|---|-------------------------------------|-------------------------------|
| Estimated cost | \$8,120,733.30 | \$6,503,118.48 |
| Apportionment to development | 22.66%. | 22.66%. |
| Cost to Council | \$6,280,575.13 | \$5,029,511.83 |
| Cost to future development | \$1,840,158.17 | \$1,473,606.65 |
| Number of ETs | 2266 | 2266 |
| Contribution rate | \$812.07 | \$650.31 |
| Share of existing funds (\$1,995,946.45 in Jan 2018) | \$898,175.90 | \$1,097,770.55 |

DE18.48

The creation of two separate projects will provide greater latitude as 03CFAC0006 will not show a specific site and will be general in the terms of describing the location.

Contributions Project 03OREC0011

This project was intended to provide public open space within the Vincentia expansion area though the purchase and embellishment of a suitable parcel of land. The residential development of the area was however subsequently approved as a major project application (Bayswood) and the provision of embellished public open space was a condition of the major project consent.

The developer dedicated the land at no cost to Council and embellished the land at their own cost. The project is therefore redundant and should be deleted to ensure Council is not receiving funds for a project which Council was not responsible for funding or undertaking. Two payments have been made to this project where secondary dwellings/dual occupancies have been constructed.

These funds (\$2,875.05) should be included in the recoupment fund to be used to seed other contribution projects.

Contributions Project 04CFAC2002

This project is intended to provide for a library at Sussex Inlet, however, this project is now covered by the new overall community facilities project for Planning Area 4 (04CFAC0003) which allows the pooling of funds.

If the separate library project is retained, Council would be charging two lots of contributions for the same project as the library is listed as a project under 04CFAC0003.

Community Engagement

As per the resolution of Council and the requirements of the NSW Environmental Planning and Assessment Act 1979, the overall Shoalhaven Contributions Plan 2010 Amendment No. 10 will be placed on public exhibition for a minimum of 28 days to enable the community to view and comment on the proposed changes.

Work is currently underway in preparing the new website for exhibition and it is expected that the exhibition will occur in August/September.

Policy Implications

The Bay and Basin Community Hub and Bay and Basin Library should have separate contributions projects and the impending exhibition of the Shoalhaven Contributions Plan 2010 Amendment No. 10 provides the opportunity for the two community facilities to be separated into two projects in a relatively short time frame while work is continuing on detailed planning for the projects. Once this has been done, the contribution projects can be updated as a minor amendment to the Contributions Plan.

Financial Implications

The proposed changes to 03CFAC3001 will allow Council to start sooner, to collect a higher contribution rate for the community Hub project to cover the additional cost of the inclusion of the learn to swim/therapy pool. It will also allow for the use of existing collected funds to be used to potentially acquire a site for a stand-alone library and to undertake detailed planning work. Otherwise, to progress the library as a priority, Council will need to identify another source of funding for this project.

DE18.49 Planning Proposal: Semi-Detached Dwelling Housekeeping Amendment - Post Exhibition Consideration and Finalisation

HPERM Ref: D18/195705

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments:

1. Planning Proposal PP031 - Semi-Detached Dwelling Housekeeping Amendment (under separate cover) [↗](#)
2. Gateway Determination dated 16 April 2018 [↓](#)
3. Explanatory Statement [↓](#)
4. NSW Rural Fire Service - Referral Submission [↓](#)
5. Water NSW (Natural Resources Access Regulator) - Referral Submission [↓](#)

Purpose / Summary

- a) To consider submissions received during the public exhibition of this Planning Proposal (PP); and
- b) Finalise the PP and undertake the required steps to enable drafting of the resulting amendment to Shoalhaven Local Environmental Plan (LEP) 2014.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the Planning Proposal as exhibited (**Attachment 1**).
2. As per Council's delegated functions as Relevant Planning Authority, forward the Planning Proposal to NSW Parliamentary Counsel to draft the amendment to the Shoalhaven Local Environmental Plan 2014 and enable it to proceed to finalisation.
3. Notify relevant community groups of this decision, and again when the Planning Proposal is notified and comes into effect.

Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will enable the PP to be finalised. This will ultimately result in the inclusion of the land use term 'semi-detached dwelling' as permitted with consent in the R2 Low Density Residential and RU5 Village land use tables within LEP2014. This will resolve any potential uncertainty relating to the classification of an attached dual occupancy once subdivided.

2. Adopt an alternative recommendation.

Implications: This may result in changes to the PP that could complicate the intent of the PP or delay the finalisation of the PP.

3. Not proceed with the PP.

Implications: This is not the preferred option as the existing zoning provisions in Shoalhaven LEP 2014 will not be amended. Potential uncertainty relating to the classification of an attached dual occupancy once subdivided will remain.

DE18.49

Background

'Dual occupancy (attached)' is a land use that is currently permissible with consent in the R2 Low Density Residential and RU5 Village zones and Shoalhaven LEP 2014 currently enables subdivision of a 'Dual occupancy (attached)' which then results in a land use more appropriately defined as a 'semi-detached dwelling'. The LEP definition for a 'semi-detached dwelling' is as follows:

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

Currently, 'semi-detached dwellings' are identified as a prohibited land use in the R2 and RU5 zones, noting that the prohibited uses are "any development not specified in item 2 or 3". Items 2 and 3 are the 'permitted without consent' and 'permitted with consent' parts of the zone tables.

The intent of Shoalhaven LEP 2014 is to enable this development outcome to continue and the NSW Department of Planning and Environment (DP&E) have advised that Council's ability to approve 'dual occupancy (attached)' and their subdivision remains lawful. The proposed Housekeeping PP intends to make 'semi-detached dwellings' as permissible with consent in the R2 and RU5 to resolve any potential uncertainty in this regard.

On 22 January 2018, Council resolved (MIN18.10(1)) to:

Support the preparation of the Semi-Detached Dwelling Housekeeping Amendment Planning Proposal at Attachment 1 and submit to the NSW Department of Planning & Environment for Gateway determination. If Gateway determination is granted, proceed to formal public consultation in terms of such determination.

The PP was submitted to DP&E on 29 January 2018 and a Gateway determination was issued with conditions on 16 April 2018 (**Attachment 2**).

Public Exhibition

As per the requirements of the revised Gateway determination, the Semi-Detached Dwelling Housekeeping Amendment PP was exhibited for a period of 16 days from 30 May to 15 June 2018. Notices appeared in local newspapers on 30 May 2018. Development industry representatives and all Community Consultative Bodies were also notified in writing.

The PP was exhibited at Council's Administrative Office, Bridge Road, Nowra during business hours, and could also be viewed at the Ulladulla Administrative Office and on Council's website. The exhibition material remains available on Council's website (<http://shoalhaven.nsw.gov.au/My-Council/Public-exhibition/Documents-on-exhibition>) and includes:

- Planning Proposal (PP031) - Semi-Detached Dwelling Housekeeping Amendment Planning Proposal dated January 2018 (**Attachment 1**).
- Gateway Determination dated 16 April 2018 (**Attachment 2**).
- Explanatory Statement (**Attachment 3**).
- Newspaper advertisement.

No submissions were received during the public exhibition period.

Public Agency Consultation

As per condition two (2) of the Gateway determination, Water NSW and the NSW Rural Fire Service were provided with a copy of the PP and relevant supporting material and given at least 21 days to comment on the proposal.

The NSW Rural Fire Service have advised (**Attachment 4**) that they do not object to the PP, subject to the requirement that the future development complies with Planning for Bush Fire Protection 2006. It is noted that this matter would be addressed at the development application stage.

Water NSW (Natural Resources Access Regulator) have advised (**Attachment 5**) that the PP is satisfactory; no objection has been raised.

Conclusion

The PP seeks to amend Shoalhaven LEP 2014 to include 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village Zones. This will resolve any potential uncertainty relating to the classification of an attached dual occupancy once subdivided. As such, it is recommended that Council adopt the PP and forward it to NSW Parliamentary Counsel for finalisation.

Community Engagement

The PP was exhibited for 16 days in accordance with the Gateway determination dated 16 April 2018. No submissions were received.

Policy Implications

Finalisation of the PP as recommended will enable Council to resolve any potential uncertainty relating to the classification of an attached dual occupancy once subdivided.

Financial Implications

Finalisation of the PP will be resourced via the existing Strategic Planning budget.



Planning &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2018_SHOAL_001_00): amend Shoalhaven Local Environment Plan 2014 to include 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village Zones.

I, the Jeffrey Horn, the Acting Director Regions at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2014 to include the land use term 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village Zones should proceed subject to the following conditions:

1. Community consultation is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 days** and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
2. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service
 - Water NSW

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

PP_2018_SHOAL_001_00 IRF No18



Planning & Environment

4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.
5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 16th day of April 2018.

A handwritten signature in blue ink, appearing to read "J. Horn".

16.04.20178

Jeffrey Horn
Acting Director Region, Southern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2018_SHOAL_001_00 IRF No18

DE18.49 - Attachment 2



Overview

“Dual occupancy (attached)” is a land use that is currently permissible with consent in the R2 Low Density Residential and RU5 Village zone. Shoalhaven Local Environmental Plan (LEP) 2014 currently enables subdivision of a Dual occupancy (attached) which then results in a land use perhaps more appropriately defined as a semi-detached dwelling:

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

The intent of Shoalhaven LEP 2014 is to enable this development outcome to continue to be able to be considered. The NSW Department of Planning and Environment have advised that Council’s ability to approve dual occupancy (attached) and subdivide remains lawful.

The Planning Proposal (PP) seeks to remove any potential confusion and amend the R2 Low Density Residential and RU5 Village zone land use tables in Shoalhaven LEP 2014 to include semi-detached dwellings as permissible with consent. This will resolve any potential uncertainty in this regard.

Public Authority Consultation

Condition 2 of the Gateway determination requires consultation with the NSW Rural Fire Service and Water NSW. The PP and relevant supporting material has been provided to both public authorities, who have been given a period of at least 21 days to comment. At the time of writing, no submissions have been received.

Further Information

This PP is on exhibition for a period of 16 days from Wednesday 30 May to Friday 15 June 2018.

Written comments are invited and should be addressed to the General Manager, Shoalhaven City Council, PO Box 42, Nowra 2541 or emailed to council@shoalhaven.nsw.gov.au by Friday 15 June 2018 quoting Council’s reference 57267E.

Enquiries to Jenna Tague on (02) 4429 3553.

Exhibition Documents

1. Explanatory Statement
2. Planning Proposal (PP031) – Semi-Detached Dwelling Housekeeping Amendment
3. Gateway Determination dated 16 April 2018
4. Newspaper advertisement

Copies of the Exhibition Documents are available at the City Administration Centre, Bridge Road, Nowra and on Council’s website at: www.shoalhaven.nsw.gov.au/MyCouncil/Publicexhibition



NSW RURAL FIRE SERVICE



The General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Shoalhaven City Council

Your reference: 57267E
Our reference: R18/873

Received

16 May 2018

28 MAY 2018

File No. 57267E

Referred to: J. Tague

Attention: Jenna Tague

Dear Madam,

Planning Proposal PP031 – Semi-Detached Dwelling Housekeeping Amendment

Reference is made to Council's correspondence dated 23 April 2018 seeking comment in relation to the above Planning Proposal which seeks to include the land use term 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village zones..

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 117(2) of the *Environmental Planning and Assessment Act 1979*.

The objectives of the direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

The direction provides that a planning proposal must:

- (a) have regard to *Planning for Bushfire Protection 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future development complies with *Planning for Bush Fire Protection 2006*.

If you have any queries regarding this advice, please contact Anna Jones, Development Assessment and Planning Officer, on 1300 NSW RFS.

Yours sincerely,

Martha Dotter
A/Team Leader, Development Assessment and Planning

Postal address

NSW Rural Fire Service
Planning and Environment Services
Locked Bag 17
GRANVILLE NSW 2141

T 1300 NSW RFS
F (02) 8741 5433
E records@rfs.nsw.gov.au
www.rfs.nsw.gov.au

DE18.49 - Attachment 4



**Natural Resources
Access Regulator**

Natural Resources Access Regulator
Level 11, 10 Valentine Ave, Parramatta
PO Box 3720,
Parramatta NSW 2124
T 1800 633 362
www.industry.nsw.gov.au/nrar

The General Manager,
Shoalhaven City Council,
PO Box 42,
Nowra, NSW, 2541

Our ref: V15/2812-2#32 & OUT18/8789

Via email: council@shoalhaven.nsw.gov.au

Dear Sir/Madam,

**Shoalhaven LEP 2014 Amendment – Semi-detached dwelling housekeeping
amendment Planning Proposed (PP031)**

The Natural Resources Access Regulator (NRAR) has reviewed the documentation regarding the proposed amendment to the Shoalhaven Local Environmental Plan 2014 (LEP 2014) and Planning Proposal 031.

It is understood that the amendment aims to include the term Semi-detached dwelling to the definition of Lower Density Residential (R2) and Village Zone (RU5). The definition of Semi-detached dwelling is stated as “a dwelling that is on its own lot of land and is attached to only one other dwelling”.

NRAR is satisfied with the arranged proposal by Shoalhaven LGA. NRAR would like to comment that the term semi-detached dwelling will be considered under Schedule 5 of the *Water Management Regulations (2011)*.

Should you have further enquiries about this matter, I have arranged for Annika Lawrence to assist you. Annika Lawrence may be contacted at the Natural Resources Assess Regulator's Newcastle office on (02) 4904 2516.

Yours Sincerely,

Marcus Leslie
A/Manager, Water Regulation Branch (East)
Natural Resources Assess Regulator
7/6/2018

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.