

Development Committee

Meeting Date: Tuesday, 14 August, 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: The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

Agenda

1. **Apologies / Leave of Absence**
2. **Confirmation of Minutes**
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3. **Declarations of Interest**
4. **Mayoral Minute**
5. **Deputations and Presentations**
6. **Notices of Motion / Questions on Notice**

Nil
7. **Reports**
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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, 3 July 2018
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.02pm

The following members were present:

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

Apologies / Leave of Absence

Apologies were received from Clr Alldrick, Clr Pakes and Clr Levett.

Confirmation of the Minutes

RESOLVED (Clr Findley / Clr Gartner) MIN18.522

That the Minutes of the Development Committee held on Tuesday 05 June 2018 be confirmed.
CARRIED

Declarations of Interest

Clr Watson — DE18.49 Planning Proposal: Semi-Detached Dwelling Housekeeping Amendment - Post Exhibition Consideration and Finalisation - pecuniary interest declaration – a property owned by Clr Watson and his wife would be affected by potential zoning changes. Clr Watson left the room and did not take part in discussion or vote.

DEPUTATIONS AND PRESENTATIONS

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

Jennifer Parkyn, representing Old Houses Are Heritage, spoke for the recommendation.

REPORTS

**DE18.46 Public Exhibition Outcomes and Next Steps - Nowra
CBD Fringe Medium Density Study Recommendations
Report****HPERM Ref:
D18/174784****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.

RESOLVED (Clr Wells / Clr White)

MIN18.523

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.

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

AGAINST: Nil

CARRIED

DE18.47 Proposed Submission - Draft Design Guide for Heritage

**HPERM Ref:
D18/183018**

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.

RESOLVED (Clr Wells / Clr Gartner)

MIN18.524

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.

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

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D18/188119**

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).

RESOLVED (Clr White / Clr Proudfoot)

MIN18.525

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).

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

AGAINST: Clr Kitchener

CARRIED

DE18.49 Planning Proposal: Semi-Detached Dwelling Housekeeping Amendment - Post Exhibition Consideration and Finalisation**HPERM Ref:
D18/195705**

Note: Clr Watson — DE18.49 Planning Proposal: Semi-Detached Dwelling Housekeeping Amendment - Post Exhibition Consideration and Finalisation - pecuniary interest declaration – a property owned by Clr Watson and his wife would be affected by potential zoning changes. Clr Watson left the room and did not take part in discussion or vote.

Clr Watson left the room, the time being 5.28pm.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the Planning Proposal as exhibited (Attachment 1 to the report).
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.

RESOLVED (Clr Wells / Clr Gartner)

MIN18.526

That Council:

1. Adopt the Planning Proposal as exhibited (Attachment 1 to the report).
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.

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

AGAINST: Nil

CARRIED

Clr Watson returned to the meeting, the time being 5.31pm.

There being no further business, the meeting concluded, the time being 5.31pm.

Clr Gash
CHAIRPERSON

DE18.50 Proposed New Commercial Development - 16 Additional Motel Rooms at the Bangalee Motel - Lot 100, DP 1057897, 180 Queen Street, BERRY - DA17/1359.

HPERM Ref: D18/169024

Group: Planning Environment & Development Group
Section: Development Services

Attachments:

1. Heritage Response - Louise Thom - 13 April 2018 - 180 Queen Street, BERRY [↓](#)
2. Heritage Response - Louise Thom - 27 October 2017 - 180 Queen Street BERRY - Lot:100 DP:1057897 [↓](#)
3. Design Review Statement - Borst & Co Report - 180 Queen Street BERRY - Lot 100 DP [↓](#)
4. Amended Heritage Assessment Report - Borst & Co - 180 Queen Street Berry - Lot 100 DP 1057879 (under separate cover) [⇒](#)
5. S4.15 Assessment Report - 180 Queen Street, BERRY - Lot 100 DP 1057897 (under separate cover) [⇒](#)
6. Conditions of Development Consent - 180 Queen Street, Berry - Lot 100 DP 1057897 (under separate cover) [⇒](#)
7. Amended Plans - Site, Floor, Elevations and 3D perspectives and Landscape Plan - 180 Queen Street, Berry - Lot: 100 DP: 1057897 [↓](#)

Description of Development: **Two storey motel buildings consisting of 16 Motel Rooms, parking for sixteen (16) vehicles and associated site works (Addition to Bangalee Motel)**

Owner: HDP Solutions Pty Limited

Applicant: Infinite Designs & Building Consultancy

Notification Dates: 4 September 2017, 23 October 2017 and 20 February 2018

No. of Submissions: 108 Submissions received

Purpose / Reason for consideration by Council

On 10 April 2018, the Development Committee resolved (MIN 18.264) *“that DA17/1359 – Bangalee Motel – A10 Princes Highway, Berry Lot 100 DP 1057897 be called in to Council for determination due to significant public interest.”*

Recommendation (Item to be determined under delegated authority)

That Development Application DA17/1359 for the construction of two, 2 storey motel buildings consisting of 16 units and associated site works on the land at 180 Queen Street, Berry - Lot 100, DP 1057897 be approved subject to the recommended conditions of consent contained in Attachment 6 to this report.

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Options

1. Approve the development application (DA) in accordance with the recommendation.

Implications: This would allow the applicant to then proceed to seek a Construction Certificate (CC) for development on the subject site.

2. Refuse the application.

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.15 considerations. The applicant would have the ability to request a review of any refusal by Council and / or pursue an appeal through the NSW Land and Environment Court (L&EC).

3. Alternative recommendation.

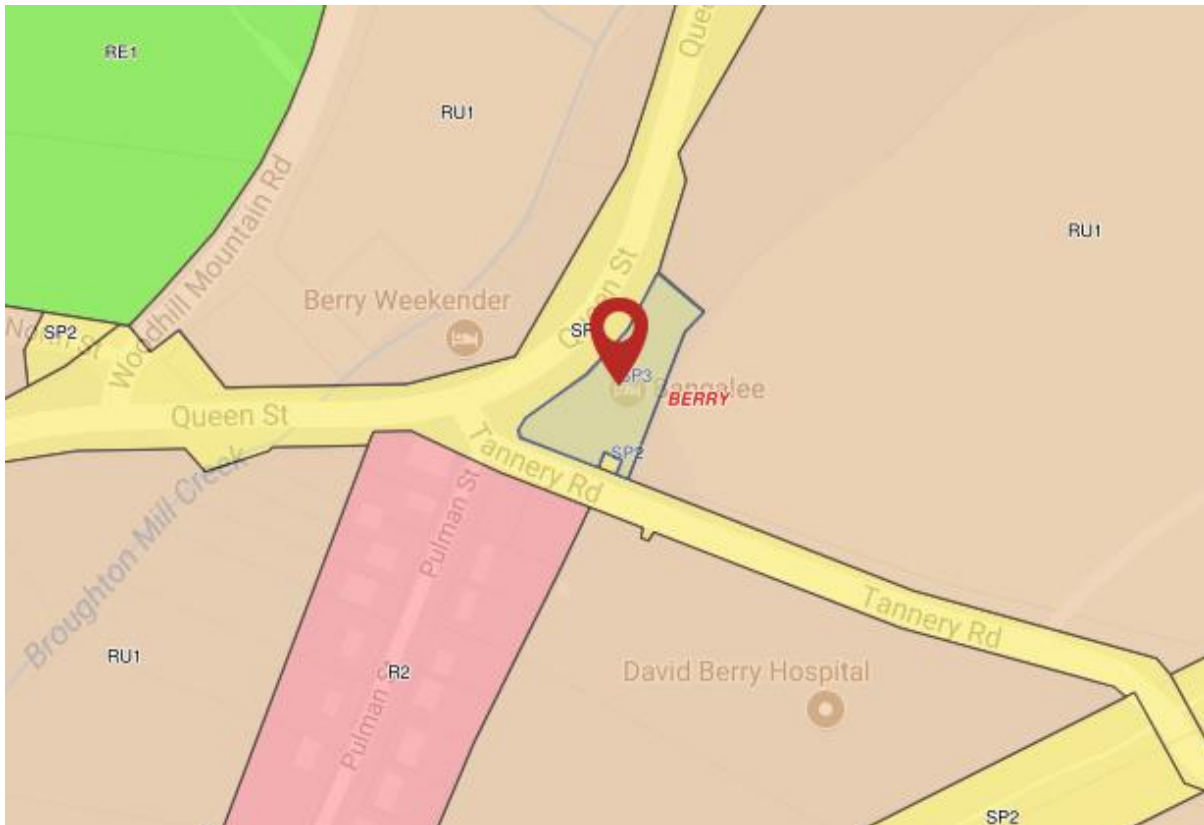
Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

Figure 1 - Location Map



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Figure 2 - Zoning Map



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Background

Proposed Development

The application seeks development consent to extend the existing motel known as the “Bangalee Motel”, to the north, with the addition of sixteen (16) new units.

The application proposes the construction of two x two-storey buildings - each comprising a total of eight (8) units located within the upper and lower levels. Four of the units are proposed to be located on each of the levels of the buildings. At least one of the proposed new motel units will be designed to be accessible for persons with a disability. This access will be from the proposed ramped access to building two (2).

The proposed development includes the extension of the existing driveway and the provision of an additional sixteen (16) car parking spaces, including an accessible space adjoining the motel extensions.

The car parking is proposed to be provided in front (on the western side) of the new buildings, with modifications to the existing vehicles entry/exit onto the (old) Princes Highway to comply with AS2890.1 requirements. An additional car parking area will be provided to accommodate oversize vehicles on-site.

The new buildings will be serviced from the existing motel facilities.

Subject Land

The site is legally identified as Lot 100 in DP 1057897 and is described as 180 Queen Street, Berry (formerly A10 Princes Highway, Berry). The site is an irregular shaped allotment with has dual frontages of 57.5m to Tannery Road and 107.3m to Queen Street. The lot has a total land area of 3,684m². The subject site and its local context are shown in **Figure 1**.

The site has dual access points from the (old) Princes Highway, now. Queen Street. The northern entry functions as an entry and the southern as an exit. The site drains steadily from

the Queen Street frontage in the west to the eastern boundary. The site is not benefited by an easement to drain water.

The subject site has several scattered trees and shrubs across the site in addition to the landscaping around the curtilage of the existing motel. The site has not been identified as containing any Endangered Ecological Community (EEC) or Critically Endangered Ecological Community (CEEC).

The site is within a Flood Planning Area (FPA) supporting the Shoalhaven Local Environmental Plan 2014 (SLEP 2014). There are no other known physical hazards.

Existing Development

The property currently accommodates a motel building, known as the “Bangalee Motel”, comprising ten (10) accommodation units, a laundry and administrative offices. An in-ground swimming pool for the motel guests has been provided on the northern side of the existing motel building. A car parking area adjoins the motel building.

Site Context

The site is adjoined by rural/residential land uses to the north and east. To the south the site is Tannery Road and on the southern side of the road the land has been developed for detached residential dwellings running along Pullman Street. To the west, the site is bound by the Queen Street and on the western side of Queen Street is further detached residential development and the Berry Sports fields on the western side of Woodhill Mountain Road. The broader context of the site is characterised by a mix of rural/residential land uses and agricultural land. Much of the land surrounding the Berry Township is prime crop and pasture land. To the far west is the Berry township which includes a shopping precinct.

History

The following provides details on pre-lodgement discussions, post-lodgement actions and general site history for context:

- The site has been historically used for purpose a motel accommodation since the 1960's. over the years the motel has been altered to accommodate additional guestrooms (BA69/0357). A guest swimming pool was also constructed in the 1980's in accordance with Building Application No. BA80/0212. Further commercial additions were approved by Council on 14 November 1989 pursuant to Building Application No. BA89/3096;
- There have been no development applications lodged with Council for development on the site since the withdrawal of an application for an advertising sign/structure on 17 August 2004 pursuant to Development Application No. DA04/2319;
- No pre-lodgement meeting was conducted in relation to this Development Application prior to lodgement;
- On 5 April 2017, Development Application No. DA17/1359 was lodged with Council for development described on the Development Application Form as “*Construction of an additional 16 motel rooms to existing Bangalee Motel*”;
- On 13 April 2017, additional information was requested from the applicant. Council formally request the submission of additional information on eight (8) separate occasions on: 12 June 2017, 21 June 2017, 3 August 2017, 27 September 2017, 6 October 2017, 8 November 2017, 8 December 2017, 9 February 2017;
- On 4 September 2017, the Development Application was notified in accordance with Council's Community Consultation Policy for a period of fourteen (14) days. A total of thirteen (13) submissions were received to the application during this period and shortly thereafter as a result of extensions granted by the assessing. It is noted that a total of

four (4) submissions were received to the application prior to the notification period commencing;

- On 18 October 2017, the applicant lodged amended photomontages of the Development application and a Heritage Impact Assessment;
- On 23 October 2017 the Development Application was re-notified in accordance with Council's Community Consultation Policy for a period of fourteen (14) days following the submission of amended plans to the Development Application. No submissions were received to the application during this period and shortly thereafter as a result of extensions granted by the assessing officer to enable late submissions to be made;
- On 8 February 2018, the applicant lodged amended; architectural, landscape and engineering plans for the Development Application in response to the substantive issues raised during the notification process and matters raised by Council's Heritage Advisor;
- On 20 February 2018, the Development Application was re-notified in accordance with Council's Community Consultation Policy for a period of fourteen (14) days following the submission of amended plans to the Development Application. A total of six (6) submissions were received to the application during this period and shortly thereafter as a result of extensions granted to enable late submissions to be made;
- An additional 85 submissions were received to the Development Application following the close of the notification period on 7 March 2018; and
- On 10 April 2018, the Development Committee resolved (MIN 18.264) "[t]hat DA17/1359 – Bangalee Motel – A10 Princes Highway, Berry Lot 100 DP 1057897 be called in to Council for determination due to significant public interest."

Figures 4,5 and 7 illustrate the original proposal and the changes made during the assessment process. Figure 7 shows the current proposal.

Issues

Heritage impacts

The subject site is directly adjoining or adjacent to several heritage items and a heritage conservation area listed under Schedule 5 of SLEP 2014.

- The site is adjoining to the north by A40 Princes Hwy, Berry (Lot: 101 DP: 1057897), which contains an item of local heritage significance identified in the LEP as "*Mananga*"—*Berry Estate manager's farm complex* – Item 63.
- Located on the western side Queen Street at 185 Queen Street, Berry (Lot: 1 DP: 558065 and Lot: 5 DP: 600374) is an item of local heritage significance identified in the LEP as "*Constables Cottage*"—*Victorian Georgian style weatherboard cottage and garden* – Item 62.
- Adjacent the subject site at 1 Pulman Street, Berry (Lot: 1 DP: DP724944) is an additional item of local heritage significance identified in the LEP as a "*Colonial style weatherboard store (former Wilson and Co store), and Araucaria heterophylla (Norfolk Island Pines-2)*" – Item 70.
- The *Populus nigra italica (Lombardy Poplars-23)* running along the western portion of Tannery Road to the south-east of the site are identified in the LEP as items of local heritage significance – Item 97.
- To the south of the site is the 'Pulman Street Heritage Conservation Area' that is identified as an item of local heritage significance in the LEP.
- The *David Berry Hospital complex including gatehouse, stained glass window, garden, trees and remnant rainforest* is located 580m east of the subject site at 85

DE18.50

Tannery Road, Berry (Part DP 924054). This complex is identified as an item of State heritage significance in the LEP and on the State Heritage Register.

- The development site is removed from the former mill sites located on the northern side of Pulman Street (No. 11 and 13 Pulman Street). It is also noted that the subject site does not impact on an earthen water race associated with the former mills on Pulman Street or the old mill which was built close to where the railway bridge now crosses Tannery Road.

Figure 3 below shows the heritage items and heritage conservation area

In this regard the development application is supported by the following documents:

- Heritage Assessment Report prepared by Borst & Co Architects dated October 2017;
- Heritage Assessment Report prepared by Borst & Co Architects dated February 2018 (Refer to Attachment 4); and
- Design Review Statement prepared by Borst & Co Architects dated 16 April 2018 (Refer to Attachment 3).

Council's Heritage Advisor, Ms Louise Thom, has also provided comment.

Clause 5.10(4) – Effect of proposed development on heritage significant of SLEP 2014, requires Council, before granting consent under this clause in respect of a heritage item or heritage conservation area, to consider the effect of the proposed development on the heritage significance of the item or area concerned. This sub-clause applies regardless of whether a heritage management document is prepared under sub-clause (5) or a heritage conservation management plan is submitted under subclause (6).

Council has required the preparation of a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage items or heritage conservation area identified above.

It is considered that the issue of heritage impact is associated mainly with context. That is: will the proposed buildings, which have a similar height and scale to the existing motel development, reduce the significance of the adjoining heritage items and Pulman Street Heritage Conservation Area?

The two (2) Heritage Assessment Reports and Design Review Statement prepared by Borst & Co Architects along with the Heritage Referral Responses prepared by Ms Louise Thom, all conclude that the proposed development will not reduce the significance of the adjoining heritage items or the Pulman Street Heritage Conservation Area.

The methodology used in the above Heritage Assessment Reports is determined to be consistent with *Statements of Heritage Impact and Assessing Heritage Significance* published by the Heritage Division of the NSW Office of Environment and Heritage and has been prepared in accordance with the principles contained in the most recent edition of *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*.

Furthermore, it is considered that the Heritage Assessment Reports are consistent with the approach adopted by the Land & Environment Court in the case of *Comino v Council of the City of Sydney* [2014] NSWLEC 1211.

The *Comino* case considered the impact on heritage significance of heritage items in the vicinity of the site and the Pitt Street Mall Special Character Area associated with alterations and additions to an existing commercial building. Whilst this may be a city or urban based example, the *Comino* case discusses what factors should be considered.

In this case Commissioner O'Neill outlined the requirements for the preparation of a Statement of Heritage Impact (SHI) at paragraph [29] as follows:

*'A SHI requires research, analysis and when appropriate, the identification of visual catchments and significant **views and vistas**, which should inform the proposal's siting,*

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*envelope and design development and finally, the SHI must assess what impact the proposal will have on the heritage significance of an item and what measures are proposed to mitigate any impacts. Such an analysis is specific to the **context** and cannot be appropriately or adequately substituted by a planning principle.'*

Council's Heritage Advisor has considered the applicant's heritage assessment and has concluded that "heritage significance of each of the items is not adversely impacted by the proposed development".

Council's Heritage Advisor concluded on page 3 of her advice dated 13 April 2018, that:

*'The revised plans have addressed much of the **visual** impact from along Tannery Road. The applicant has incorporated all my previous recommendations in order to reduce the heritage impact of the building when viewed from the east. Overall the amendments to the design have improved the appearance of the building so that it will have less impact upon the aesthetic value of surrounding heritage items and the approach to the town of Berry along Tannery Road.'*

It is considered that the proposed development will not reduce the significance of the adjoining heritage items and Pulman Street Heritage Conservation Area or the Berry Township itself which is not currently designated as a heritage conservation area.

Figure 3 – LEP Heritage Mapping



Light Brown Colour – Heritage Items

Red Hatching – Heritage Conservation Area

Compatibility with surrounding development

On 13 April 2017, Council raised initial concerns with the applicant's design and compatibility with the urban context. Subsequent discussions with the applicant and comments received by Council's Heritage Advisor, Louise Thom, on 27 October 2017 resulted in the applicant amending plans and providing additional justification for the design. The figures below show the superseded versions of the proposal

DE18.50

Figure 4 – Original Proposal (now superseded)



Figure 5 – Modified Proposal (now superseded)



In considering the compatibility of the proposal with the surrounding development, Council is guided by the planning principle established by Senior Commissioner Roseth of the L&EC in the case of *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 which established the planning principle for assessing the compatibility of a proposal with surrounding development.

Importantly Roseth SC identified at paragraph [22] of the judgement, that:

“Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”

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Importantly, to achieve harmony, balance and sympathetic design, it is not necessary or indeed appropriate to copy or 'mimic' architectural styles. Often, a sympathetic and appropriate design solution can be different to identify specifically the new addition or new development component.

Figure 6 – Examples of design solutions – contrasting architectural styles



Source: NSW State Government publications

Roseth SC outlines the planning principle at paragraph [24] – [30] as follows:

24 Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

25 The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity.

*26 For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height, setbacks and landscaping**. In special areas, such as conservation areas, **architectural style and materials** are also contributors to character.*

*27 Buildings do not have to be the same **height** to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.*

28 **Front setbacks** and the way they are treated are an important element of urban character. Where there is a uniform building line, even small differences can destroy the unity. **Setbacks** from side boundaries determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way.

29 **Landscaping** is also an important contributor to urban character. In some areas landscape dominates buildings, in others buildings dominate the landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.

30 Conservation areas are usually selected because they exhibit consistency of scale, style or material. In conservation areas, a higher level of similarity between the proposed and the existing is expected than elsewhere. The similarity may extend to **architectural style** expressed through roof form, fenestration and materials.

In applying the planning principle established by Roseth SC in the *Project Venture Developments* case, Council is to consider the following matters:

- physical and visual impacts of the development;
- building height;
- setbacks;
- landscaping;
- architectural style and materials.

The following figure shows the current version of the proposal that is under assessment and comments are provided below regarding the above five matters for consideration.

Figure 7 – Scheme currently under assessment and subject of this report



Physical Impacts

The proposed development is unlikely to have a significant or unreasonable impact, such as noise, overlooking, overshadowing and constraining development potential. The site is considered to be appropriately separated from adjoining development and is unlikely to constrain further development on adjoining lots.

Building height

The development is proposed to be constructed to a maximum height of 9.93m (Building 1) and 9.27m (Building 2) above natural ground level (as measured from eastern elevation or the rear of buildings). The applicant has reduced the overall height of the development following a redesign of the application, which took into consideration the comments from the Heritage Advisor and matters raised through the community consultation.

The proposed development sits below the maximum permitted building height of 11m for the subject site. Figures 4 and 5 illustrate the earlier design concepts for the development. If an approval is issued, conditions can be imposed to confirm height compliance.

Setbacks

The proposed development is setback 12.4 metres (building 1 and 2) from the western property boundary with Queen Street, 6.5m from the rear boundary to the east of the proposed buildings and 5.7 metres to the northern boundary with No. A40 Princes Highway (Queen Street).

The proposed setback of the buildings to the Queen Street frontage is consistent with the existing motel development on the site which has a variable setback of 12 metres for the northern element of the “L” shaped design and 6 metres for the southern element of the existing motel. It is not considered that there is a clearly defined setback in the locality and there are no provisions within Shoalhaven Development Control Plan 2014 (DCP 2014) to control setbacks for development of this kind in this locality.

It is considered however, that the proposed setback of the development is appropriate for the type of development and location having regard to the existing and proposed built form.

Landscaping

The landscape character of the northern entry to the Berry Township along the (old) Princes Highway and Queen Street is a mix of ornate managed gardens and native remnant and regrowth native vegetation surrounding low scale detached residential dwelling houses. The new development provides the opportunity for additional landscaping to be planted to along the western, northern and eastern elevations of the development and the removal of identified noxious weeds and introduced flora species.

It is considered that the addition of supplementary shrubs and lower storey plants along the western frontage to Queen Street will provide a positive contribution to the landscape character in the locality and enable the undesirable noxious and introduced species to be removed from the northern portion of the site.

Architectural style and materials

As noted previously, the site is not identified as forming part of the Pulman Street Heritage Conservation Area under Schedule 5 of SLEP 2014 and therefore a higher level of similarity between the proposed development and the existing heritage items and conservation area should not be expected.

The applicant has attempted to minimise adverse visual impact upon the streetscape and impact within the heritage conservation area, through adoption of the following external fabrics and forms:

- Roofing: Colorbond custom orb to match existing adjacent corrugated roofs to traditional gable profiles.
- Cladding: Combination of traditional cladding materials (e.g. cement rendered brick, horizontal fibre cement weatherboards) which is consistent with cladding types of original surrounding fabric.
- Architectural elements of building form and roof shape of simplified traditional forms in a contemporary style are taken from existing surrounding buildings.
- Colour schemes are generally muted.

These elements and finishes are considered to appropriately respond to the roof form, fenestration and materials of the surrounding heritage items and Pulman Street Heritage Conservation Area.

It is considered that the proposed development is compatible with the surrounding development, despite the proposal not having the same density, scale or appearance.

There is no doubt that the buildings will be visible having regard to the site, location and fact that there is vegetation screening much of the development nearby. Accordingly, the choice of colours, materials and height are important considerations along with the built form. The built form is described as modest and acceptable having regard to context and the use of the building.

The following comments related to other relevant matters for consideration regarding this application.

Height, bulk and scale

The assessment of the height, bulk and scale of the development is most appropriately led by consideration against the *relevant* provisions of SLEP 2014 and Chapters of DCP 2014.

Pursuant to Clause 4.3(2A) of SLEP 2014, the height of a building on the land is not to exceed 11 metres. The proposed development is consistent with the maximum permitted building height of 11m for the subject site.

SLEP 2014 does not prescribe a maximum floor space ratio, site coverage or setback for the site or development type. The DCP 2014 has limited controls with respect to the site and type of development.

Where there is an absence of planning controls related to bulk and character, the L&EC in *Veloshin v Randwick Council* [2007] NSWLEC 428 states at [32] that:

“The assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one. In cases where even this question cannot be answered, reliance on subjective opinion cannot be avoided. The question then is:

Does the proposal look appropriate in its context?”

It is considered that the presentation of the development to the Queen Street (old Princes Highway) frontage is compatible with the existing motel and through the use of appropriate landscaping treatments, setback and height will not overly and unacceptably dominate, overwhelm or detract from Queen Street.

The eastern elevation of the development to Tannery Road is the most visually prominent and noticeable portion of the development. To address the potential visual impacts of the building and its presentation to Tannery Road, the applicant has:

- ‘Broken up’ the built form into two building elements which offer differing depth and orientation.
- Adopted a colour schedule and finishes which reflect the heritage and rural setting.
- Provided additional landscaping on the eastern elevation to soften the built form.

It is considered that the height of the development is acceptable having regard to the context and site considerations. Therefore, the bulk and scale of the buildings should be considered in the context of the site and reasonable assumption that the site may be developed in line with the planning controls and constraints of the site and surrounding land uses.

The bulk and scale of the development is in summary, considered consistent with the scale of development in the area noting there has been no unique character specifically established in the DCP 2014 for the locality. However, the unique attributes of the Berry township and surrounds are still noted and have been considered in the assessment of the application by Council the Heritage Advisor.

Traffic

The subject site is bound by Queen Street (old Princes Highway) in the west and Tannery Road in the South. With the Berry Bypass now constructed and operational, the RMS has advised that the classification of Queen Street (former Highway) at this location will change from a State Road to a Local Road soon.

The proposed development generates the requirement for an additional 16 car parking spaces to meet the parking demand generated by the proposed 16 motel units. Car parking is proposed to be provided forward of the building with a modification to the existing vehicle entry/exit onto the former Highway to comply with AS2890.1.

The new units are to be serviced from the existing motel facilities with the addition of car parking space for oversized vehicles to be located adjacent to the existing office.

Currently vehicles enter the site via two driveways both two ways. It is proposed to reconfigure the current driveway to enable entry only from the northern access driveway and exit only from the southern driveway adjacent to the intersection with the Queen (former Highway) Street and Tannery Road is to be relocated away from the intersection.

The anticipated peak hourly movements have been considered by Council’s Traffic Unit and are unlikely to significantly impact on the operation of Queen Street (former Highway) or Tannery Roads particularly under the reduced traffic conditions created by the opening of the Berry By-pass.

Subject to the applicant providing the following road and pedestrian pathway upgrades within the Queen Street road reserve the development is recommended for approval:

1. Basic Auxiliary Left turn (BAL) facility from the former Highway into the vehicular entry to the development in accordance with Austroads Guidelines and based on a 60km/h design speed; and
2. A 1.2m wide concrete footpath across the former Highway frontage of the development from the northern driveway access to the intersection with Tannery Road.

Submissions objecting to the development application

Council has received a total of one hundred and eight (108) submissions – these were opposed to the proposal, except for a single submission in support.

In accordance with section 4.15(d) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and clause 3.4.10 of Council’s *Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies*, Council is required to consider the submissions received.

Some of the submissions received raise a single issue relating to a specific part of the development. Other submissions raise several issues. The submissions have been broken into the relevant heads of 'objection' and addressed in the section 4.15 Assessment Report that accompanies this Council Report (see **Attachment 5**, specifically pages 29-39 inclusive).

The substantive issues raised in objection to the proposal are outlined/discussed below:

- *Heritage impacts* – in response to the submissions, the applicant has made amendments to the building height, design, finishes and colour schedule and provided additional landscaping.
- *Height, bulk and scale* – in response to the submissions the applicant has amended the plans, the applicant has:
 - 'Broken up' the built form into two building elements which offer differing depth and orientation;
 - Adopted a colour schedule and finishes which reflect the heritage and rural setting; and
 - Provided additional landscaping on the western and eastern elevations to soften the built form when viewed from Queen Street and Tannery Road.
- *Suitability of the site for the proposed development* - Council staff have considered the applicant's site analysis and the relevant constraints of the site and adjoining development. It is considered that the subject site is suitable having regard to section 4.15(1)(c) of the EP&A Act for the following reasons:
 - The proposal is permitted with development consent within the zone;
 - The proposal is consistent with the objectives of the zone;
 - The proposal has regard to the context of the area and broader locality;
 - There will be no significant adverse environmental impacts resulting from the development; and
 - There are no known physical impediments preventing the development.
- *Compatibility of the proposed development with the surrounding development* - the applicant has amended the application as detailed earlier and has provided an additional Heritage Assessment Report and Design Review Statement prepared by Borst & Co Architects to justify the proposed design solution in the heritage context of the site.
- *Overdevelopment* – the existing ten (10) motel units, reception, pool and car parking/manoeuvring area cover an area of 1,047m². The addition of 16 additional motel units and car parking area constitutes a building area of 947m² or a 90% increase in the site coverage. The total site coverage of the existing and proposed development however amounts to a 54% site coverage. Given that there is no maximum floor space ratio specified under Clause 4.4 of SLEP 2014 or site coverage controls under DCP 2014, the application must be assessed on merit to ascertain if the design is reasonable having regard to the type of development, site characteristics and other planning considerations. Having regard to these factors, the site coverage is considered reasonable.
- *Traffic impacts and access/egress from the site* - Council's Traffic Unit and Development Engineer have reviewed the application and supporting documentation and provided recommended conditions to address access, egress, upgrades to the road and pedestrian access from the site to the adjoining pedestrian pathway network on the southern side of Tannery Road.

- *Direct and indirect impacts on flora and fauna* – the potential direct and indirect impacts on flora and fauna in the context of the site have been considered. Due to the limited nature of the clearing proposed and extent of introduced and noxious weeds located in the footprint of the development is not likely to significantly affect threatened species under Part 7 of the *Biodiversity Conservation Act 2016*.
- *Landscaping* – the applicant has provided additional landscaping to the western and northern perimeter of the proposed car parking area and to the greatest extent possible along the eastern and southern elevations of the buildings. The proposed landscaping is consistent with the streetscape and existing more ornate landscaping on the site and the locality.

The section 4.15 Assessment Report that accompanies this Council Report (**Attachment 5**) has addressed the substantive issues raised in the submissions in further detail (including those received after the closing date for submissions).

Planning Assessment

The application has been assessed under section 4.15 of the EP&A Act, with all necessary heads of consideration reviewed. (Attachment 5.)

Community Engagement

Notification was undertaken in accordance with Council's Community Consultation Policy with letters being sent within a 100m radius of the site and Community Consultative Bodies. The development application was notified on three (3) separate occasions for a period of fourteen (14) days on 4 September 2017, 23 October 2017 and 20 February 2018.

A total of 108 submissions were received by Council following the conclusion of the notification period and prior to the finalisation of this report.

Policy Implications

There are no specific policy implications that arise from this matter. It is noted that there are no specific controls that apply to this site and it is acknowledged that given the nature of Shoalhaven it would be difficult for all sites like this one to have detailed controls.

Financial Implications

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending any appeal in the L&EC.

Legal Implications

Pursuant to section 8.2 of the EP&A Act a decision of the Council may be subject of a review by the applicant in the event of an approval or refusal. Alternatively, an applicant for development consent who is dissatisfied with the determination of the application by the Council may appeal to the Court against the determination pursuant to section 8.7 of the EP&A Act.

Summary and Conclusions

- The proposal is consistent with the relevant environmental planning instruments and the Shoalhaven Development Control 2014;
- The proposed will not have an adverse impact on heritage items or heritage conservation areas near the subject site;
- The development is compatible with the surrounding development and provides a positive contribution to the landscape character of the area and streetscape of Queen Street and Tannery Road.

- The height, bulk and scale of the proposed buildings is satisfactory and consistent with the existing development on the site and surrounding development.
- The car parking provided on site and traffic movements associated with the ongoing operation of the site are satisfactory and meet Council's and relevant Australian Standards.

Regarding the above, the proposal is not considered unacceptable, objectionable or warranting refusal. Accordingly, a positive recommendation is made.



Shoalhaven City Council

Heritage Referral Response

Date	13/04/2018	DA Number	DA17/1359
Referring Officer	Elliott Weston		
Property description	180 Queen St, BERRY - Lot 100 - DP 1057897 (A10 Princes Highway)		
Description of development	Proposed construction of an additional 16 motel rooms to be contained within two x 2 storey buildings with associated parking at the Bangalee Motel		
Heritage Status	Heritage Item Shoalhaven LEP Schedule 5	Item No. Not an item	
	Heritage items in the vicinity	<ul style="list-style-type: none"> • “Mananga” —Berry Estate manager’s farm complex, A40 Princes Highway Local 63 • “Constables Cottage” —Victorian Georgian style weatherboard cottage and garden A15 Princes Highway Local 62 • Colonial style weatherboard store (former Wilson and Co store), and Araucaria heterophylla (Norfolk Island Pines-2) 1 Pulman Street , Local 70 • Colonial weatherboard cottage (former curate’s cottage) 3 Pulman Street, Local 71 • Populus nigra italica (Lombardy Poplars-23) Tannery Road, Road reserve, Local 97 • Pulman Street Heritage Conservation Area 	

Background

Referral from Council

I note that as part of the notification process the amended design was notified to all previous submitters and the Berry Forum, who have raised concern with the development and not the following:

- *In response to concerns expressed by the Forum that the northern entrance to the town must be in keeping with the heritage nature of Berry and welcoming to visitors, Council previously responded – “Like the Forum, we also value the significance of gateway sites and this will be a critical element in our assessment.”*

...

The above comments of the Berry Forum are provided for your information, furthermore, Council would also like to seek further advice or an expansion of your previous advice provided on the current design which would examine how the amended design addresses the heritage setting, urban context of Berry and entrance to the township.

Proposed Development

It is proposed to retain the existing motel building and to construct an additional two motel buildings. The buildings will be two storey facing a car park on the side facing the Princes Highway which is approximately one story lower than the highway. Due to the slope of the site the buildings

will be approximately three storey facing east when viewed from Tannery Road with a large understorey area. Due to the Right of Carriageway along the eastern boundary there will be no landscaping to screen the new building from the east. In response to my concerns regarding this design the overall height of the development has been lowered, the façade treatment has more horizontal elements rather than vertical elements, the undercroft has been enclosed by horizontal battens and there is landscaping proposed around the base of the building.

Heritage Context

The subject site is located in the area of the original private town of Broughton Creek which pre-dated the Town of Berry. It is the oldest area of settlement and has some very significant heritage listed properties along with the Pulman Street heritage conservation area. In the immediate vicinity of the subject site are:

- Adjoining the northern boundary is 'Mananga' – Berry Estate manager's Farm Complex. This property includes the house and a number of out buildings including a silo and milking bails. At the southern end of the property is part of the archaeological evidence of the Berry Estate Saw Mill and the original Mananga house.
- Opposite the site across the Princes Highway is "Constables Cottage", a Victorian Georgian style weatherboard cottage and garden built close to the front boundary and screened by trees.
- Diagonally opposite is a Colonial style weatherboard store (former Wilson and Co store), and two Araucaria heterophylla (Norfolk Island Pines) at 1 Pulman Street.
- Immediately to the south east of the site is a grouping of Lombardy Poplars in Tannery Road.
- And to the South east is the Pulman Street HCA.

The property at A10 Princes Highway, Berry is located at the gateway into Berry from the north. As well as being visually prominent on the historic approach from along Tannery Road.

Heritage Impact on each item

- There is sufficient space between the adjoining property Mananga (Local heritage item 63) and the development site so there will be an acceptable degree of heritage impact.
- The Lombardy Poplars along Tannery Road, Road reserve, (Local heritage item 97) will not be impacted by the hotel development. They are located on the southern side of the road and can still be appreciated regardless of the new development.
- "Constables Cottage" cottage and garden A15 Princes Highway (Local heritage item 62) is located across the highway from the proposed development. On this side of the highway there will be negligible difference to the appearance of the property as much of the existing vegetation is within the road reserve and the height of the new building will not substantially increase.
- Likewise the Colonial Weatherboard building at 3 Pulman Street (local heritage item 71) is removed from the area affected by the development.
- The Pulman Street Heritage Conservation Area is an important precinct with historic and aesthetic value. The western side of Pulman Street is particularly significant and is also well removed from the proposed development. The buildings at the corner of Tannery Road and along the eastern side of Pulman Street have negligible heritage value and screen the HCA from the proposed development.

In summary the heritage significance of each of the items is not adversely impacted by the proposed development.



Figure 1. Aerial showing relative locations of heritage items

Heritage Impact upon Berry Township

The Township of Berry has large number of heritage buildings and landscapes that collectively contribute to the ambiance and atmosphere of the village. However the village itself is not listed as a heritage item or a Heritage Conservation Area. The heritage provisions of the LEP therefore do not apply outside the areas designated as heritage items or HCA. The clause of relevance in the SLEP is 5.10(5)(c) which requires the consent authority to require submission of a heritage management document for land within the vicinity of the development.

The revised plans have addressed much of the visual impact from along Tannery Road. The applicant has incorporated all my previous recommendations in order to reduce the heritage impact of the building when viewed from the east. Overall the amendments to the design have improved the appearance of the building so that it will have less impact upon the aesthetic value of surrounding heritage items and the approach to the town of Berry along Tannery Road.

Recommendation

Supported. No conditions.

Louise Thom, Shoalhaven City Council Heritage Advisor



Shoalhaven City Council

Heritage Referral Response

Date	27/10/2017	DA Number	DA17/1359
Referring Officer	Elliott Weston		
Property description	A10 Princes Hwy, BERRY - Lot 100 - DP 1057897 (180 Queen St, Berry)		
Description of development	Proposed construction of an additional 16 motel rooms to be contained within two x 2 storey buildings with associated parking at the Bangalee Motel		
Heritage Status	Heritage Item Shoalhaven LEP Schedule 5	Item No. Not an item	
	Heritage items in the vicinity	<ul style="list-style-type: none"> • “Mananga”—Berry Estate manager’s farm complex, A40 Princes Highway Local 63 • “Constables Cottage”—Victorian Georgian style weatherboard cottage and garden A15 Princes Highway Local 62 • Colonial style weatherboard store (former Wilson and Co store), and Araucaria heterophylla (Norfolk Island Pines-2) 1 Pulman Street , Local 70 • Colonial weatherboard cottage (former curate’s cottage) 3 Pulman Street, Local 71 • Populus nigra italica (Lombardy Poplars-23) Tannery Road, Road reserve, Local 97 • Pulman Street Heritage Conservation Area 	

Background



Figure 1. The SLEP 2014 Heritage map shows the subject property is at the centre of four heritage items and adjoins the Pullman Street HCA

The subject site is located in the area of the original private town of Broughton Creek which pre-dated the Town of Berry. It is the oldest area of settlement and has some very significant heritage listed properties along with the Pulman Street heritage conservation area. In the immediate vicinity of the subject site are:

- Adjoining the northern boundary is 'Mananga' – Berry Estate manager's Farm Complex. This property includes the house and a number of out buildings including a silo and milking bails. At the southern end of the property is part of the archaeological evidence of the Berry Estate Saw Mill and the original Mananga house.
- Opposite the site across the Princes Highway is "Constables Cottage", a Victorian Georgian style weatherboard cottage and garden built close to the front boundary and screened by trees.
- Diagonally opposite is a Colonial style weatherboard store (former Wilson and Co store), and two Araucaria heterophylla (Norfolk Island Pines) at 1 Pulman Street.
- Immediately to the south east of the site is a grouping of Lombardy Poplars in Tannery Road.
- And to the South east is the Pulman Street HCA.

The subject property is a gateway location into Berry from the north. The site is located on a bend in the Princes Highway just before the bridge and slopes steeply down from the highway towards the east. The existing motel building is not sympathetic with the historic character of Berry but is discreetly tucked in to the site, it is relatively small and is screened by landscaping.

The historic character of Berry is defined by buildings representing the following key historic periods:
1850-1890 – Mid Victorian to late Victorian
1890-1915 – Federation and Queen Anne
1915-1940 – Inter-war Californian Bungalow

Berry is also known as the town of trees. The mature urban landscape of Berry within its rural setting is a defining characteristic of Berry.

Proposed Development

It is proposed to retain the existing motel building and to construct an additional two motel buildings. The buildings will be two storey facing a car park on the side facing the Princes Highway which is approximately one story lower than the highway. Due to the slope of the site the buildings will be approximately three storey facing east when viewed from Tannery Road with a large understorey area. Due to the Right of Carriageway along the eastern boundary there will be no landscaping to screen the new building from the east.

Heritage Impact

In its current form the proposed development will have an adverse heritage impact upon the historic character of Berry as demonstrated by the heritage items and the HCA in its immediate vicinity. Aesthetically the most impact is from the eastern side of the development. There are a number of ways this could be rectified so that the development had an acceptable level of heritage impact. These include:

- Lowering the building or changing it to a split level design so that the building does not have such a great height on its eastern elevation.
- Introducing tiered landscaping around the buildings to soften the building and help it integrate better with the landscaped character of Berry.
- Screen under the buildings as the open columns are a non-traditional built form. The area is also likely to attract weeds and rubbish and will appear unsightly.
- Change the eastern elevation to appear less vertical and more horizontal in design by emphasising horizontal elements not vertical elements. See picture below.



Figure 2. On the left is the current vertical emphasis which makes the building appear tall. Next to it is emphasis on the horizontal.

Recommendation

Not supported in its current configuration due to the potential adverse heritage impact on heritage items and HCA in the vicinity. It is recommended that the recommendations above be taken into consideration to minimise the impact on the heritage character of Berry and its heritage items in close proximity to the subject site.

Louise Thom
Shoalhaven City Council Heritage Advisor



16 April 2018

Senior Development Planner
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Attn: Elliot Weston

E:

P:

Dear Elliot

Re: Proposed Works at Bangalee Motel
10 Princes Highway Berry NSW
Design Review Statement

We have reviewed final architectural drawings by Infinite Designs and Building Consultancy submitted for a Development Application with Shoalhaven City Council so as to provide a Design Review Statement.

This Statement has been requested by Council to provide additional supporting documentation for an approval.

The submitted design has been overseen by myself, in the capacity of Heritage Architect addressing the concerns with the initial design by Council's Heritage Officer. These concerns have now been resolved and we now both support the amended drawings and therefore the proposal. The concerns included height, visual impact from Princes Highway and Tannery Road, architectural character and appropriate colour and material selections.

The design reflects the recommended changes of the heritage consultants (Borst & Co Architecture) and that of Council's Heritage Officer. The amendments have improved the appearance of the building so that there is less impact upon the aesthetic value of surrounding heritage items.

The amendments are:

- Reduced overall height of the proposed development by lowering floor levels and achieving floor levels lower than that of the existing motel.
- Changes to roof design to be more responsive to that of adjacent heritage structures.

Generally, bulk and scale is articulated with two building elements, colours have been adopted from a heritage range of paints and external fabric and form reflects that of nearby heritage structures.

As the Princes Highway approach to Berry has higher usage than the Tannery Road approach, the proposal will have minimal visual impact on this northern "gateway" entry:

- Built forms of the existing motel are set closer to the Princes Highway than the proposal.

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Wollongong NSW 2500
info@bcarchitecture.com.au www.bcarchitecture.com.au

(PO Box 1408)
T: 02 4226 3794

Geoffrey R Borst B.Arch (UNSW) AIA
NSW Board of Architects Reg No. 4898
ABN 39 130 701 076

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- The ridge height of the proposal is lower than the existing ridge height of the existing motel.
- Due to the topography of the site the portion of the development visible from the Princes Highway is significantly minimised.
- Visual sight lines of travellers entering Berry from the north will be drawn to the intersection of Tannery Road and away from the proposal given the curve of the Princes Highway at this point.
- The colours proposed, landscaping and the fall of the site away from the Princes Highway will minimise any opportunity for this development to visually dominate the streetscape as travellers approach Berry township.

The development will have a visual impact when viewed from Tannery Road. However, this is not considered to be a "gateway" entry point. Notwithstanding this:

- The built form has been broken up into two building elements which offer differing depth and orientation.
- The colours and landscaping proposed will assist to prevent the eastern elevations appearing bold in the landscape.
- Maximising the rural outlook that this land zoned SP3 Tourist has to the east is consistent with other buildings along this incline. That is both the existing motel building and the large dwelling at No.10 Tannery Road and are within the visual catchment of the proposed development when viewed from Tannery Road.

The proposal sits well into the site and now respects the constraints of the topography and existing and proposed landscaping. Once completed the proposal shall enhance the existing site and become an addition to the adjacent heritage precinct.

It is therefore my opinion, the proposal is an acceptable addition to the Bangalee Motel site and the "gateway" entry location to the Berry township.

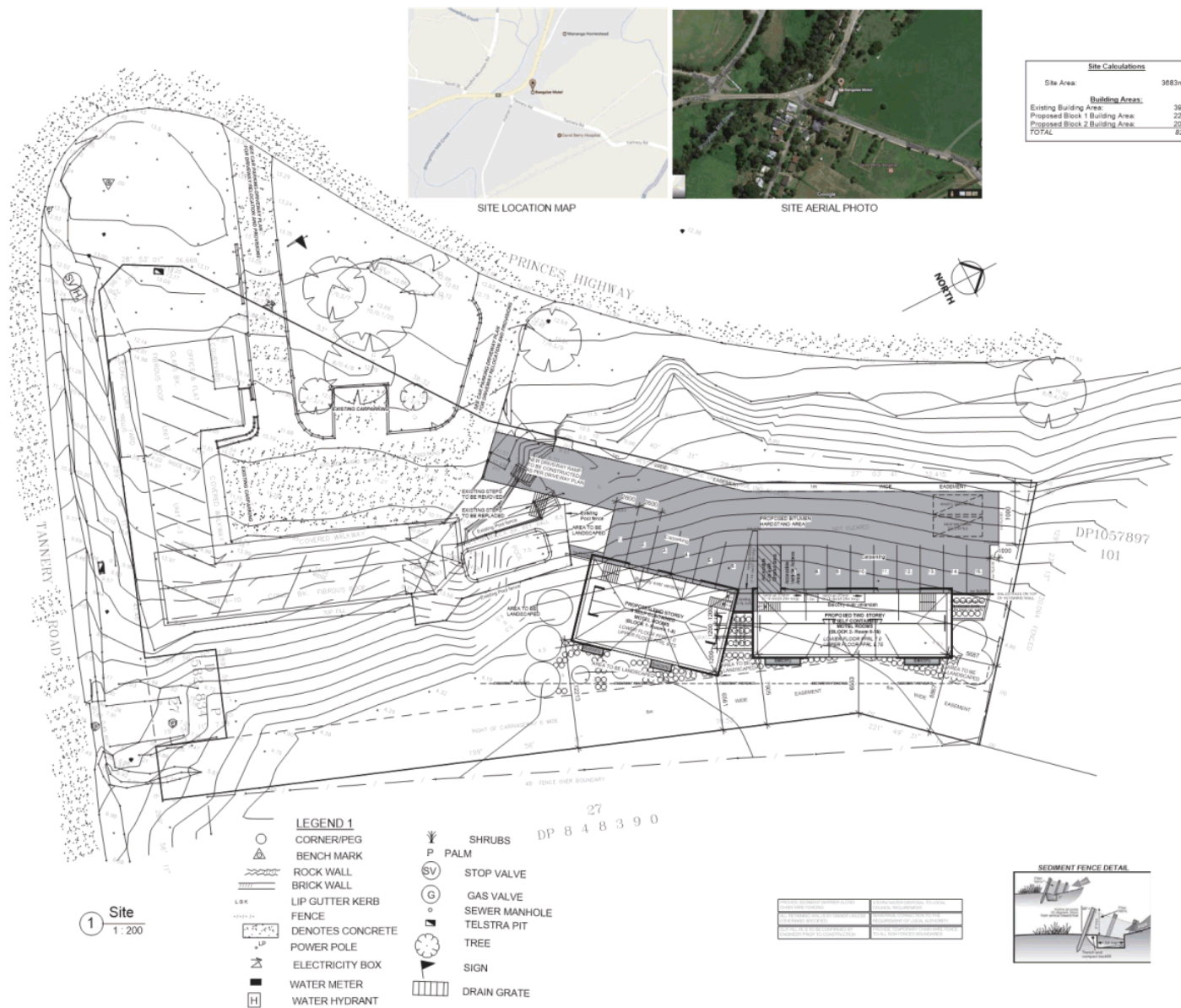
Yours faithfully



Geoffrey R Borst AIA
director | architect | heritage architect

Reference Documents

A101 C	Site Plan	21/8/17
A102 C	Floor Plans, Sections	21/8/17
A103 C	Elevations	21/8/17
A104 C	Long Elevations	21/8/17
A105 C	3D Views Colour and Materials Schedule	
View 1	West – Princes Highway	
View 2	South-east – Tannery Road	



infinite designs
and building consultancy

phone: 0410 498 640
email: infinite.arc@live.com
post: PO Box 48 Lake Heights
NSW 2502

DEVELOPMENT
APPLICATION
ISSUE C

[illegible]

BANGALEE MOTEL
ADDRESS: 10 PRINCES HIGHWAY
BERRY

Project Name

SITE PLAN,
SITE/WASTE
MANAGEMENT PLAN

Project number	16052
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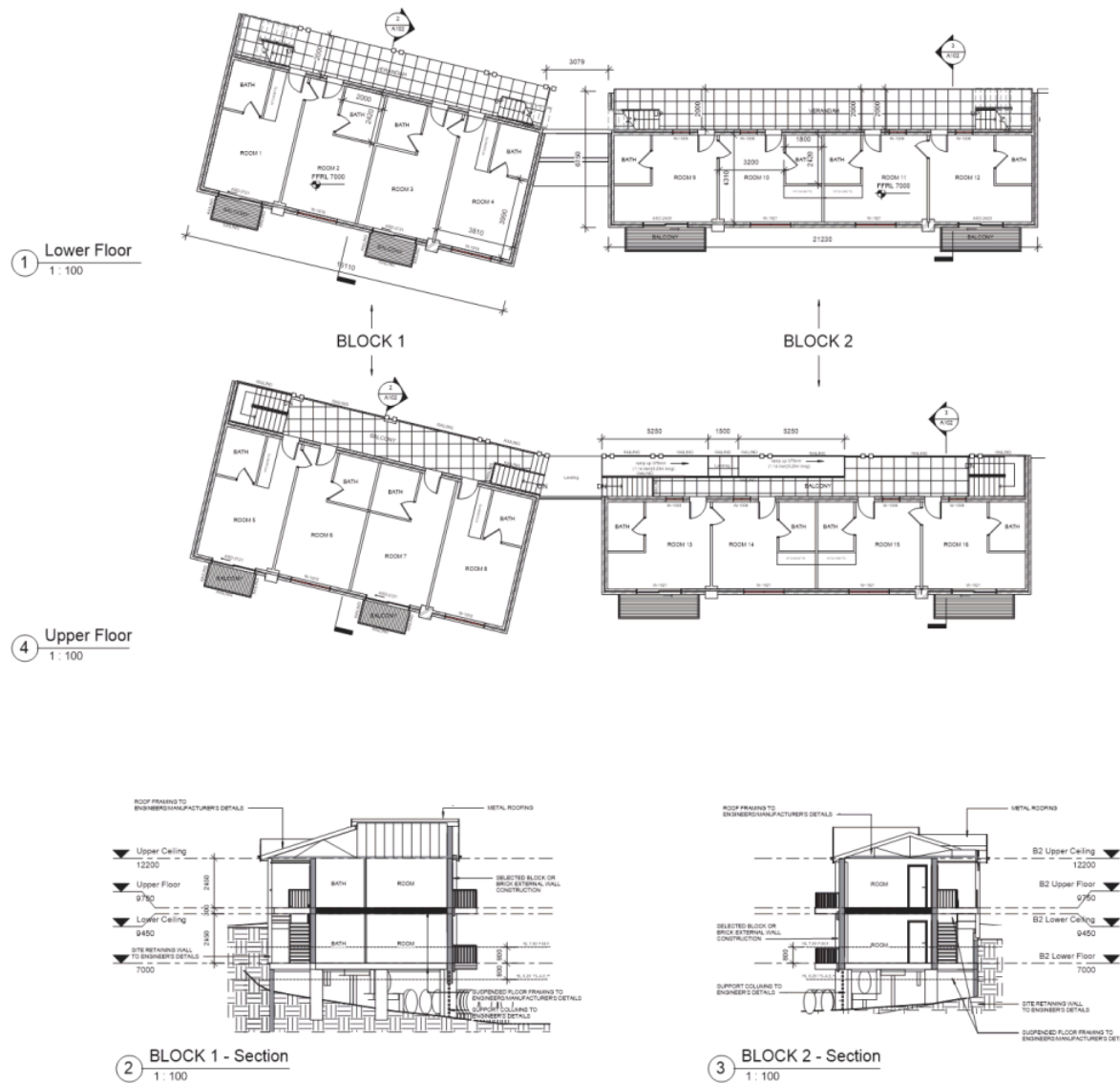
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A101

Scale	As indicated
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DEVELOPMENT
APPLICATION
ISSUE C

[illegible]

BANGALEE MOTEL
ADDRESS: 10 PRINCES HIGHWAY
BERRY

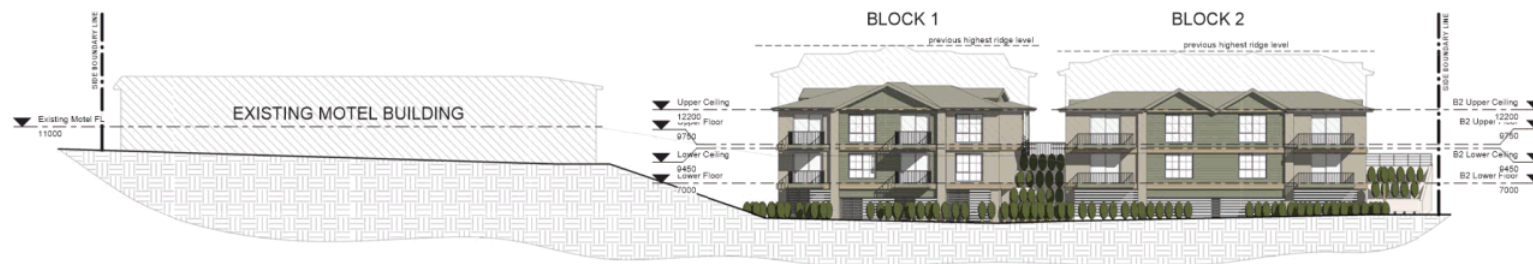
Project Name

ELEVATIONS

Project number	16052
Date	21.08.17
Drawn by	Author
Checked by	Checker
A103	
Scale	1 : 100



1 Long Elevation - North East
1 : 100



2 Long Elevation - South East
1 : 150



DEVELOPMENT
APPLICATION
ISSUE C

[illegible]

BANGALEE MOTEL
ADDRESS: 10 PRINCES HIGHWAY
BERRY

Project Name

LONG ELEVATIONS

Project number	16052
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Date	21.08.17
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Scale	As indicated
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1 3D View 1

COLOUR/MATERIALS SCHEDULE

External Walls option 1 - Cement Australia
"Beige" oxide for bagged finish

External Walls option 2 - bagged finish, Pascol heritage and traditional colours "warm grey"

Balcony Posts - powder coated galvanised steel,
Pascol "bone"

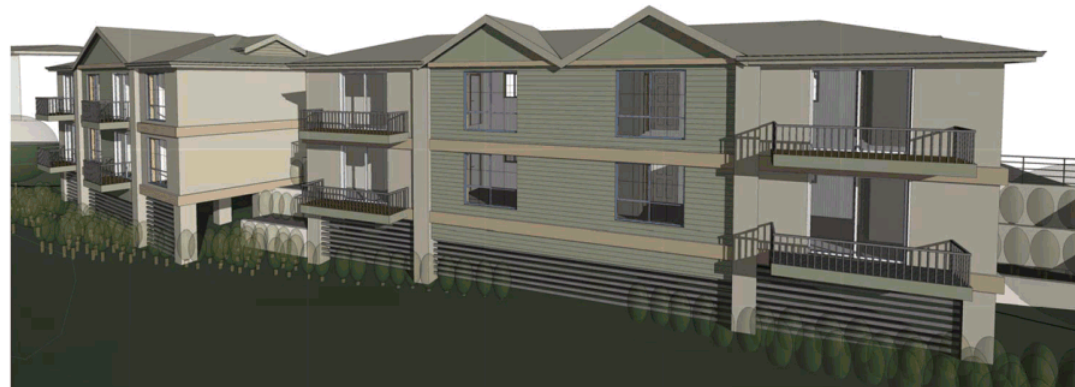
Balustrades - powder coated aluminium, Dulux
"light grey"

Roof and gutters · Colorbond "dune"

Windows and doorframes - powder coated aluminium, Dulux "white birch"

Horizontal bands - painted cement render, Pascol
"camouflage green"

Scyon Linea fibre cement boarding - Pascol "pale olive"



② 3D View 2



3 3D View 3



DEVELOPMENT
APPLICATION
ISSUE C

[illegible]

BANGALEE MOTEL
ADDRESS:10 PRINCES HIGHWAY
BERRY

Project Name

3D VIEWS

Project number	16052
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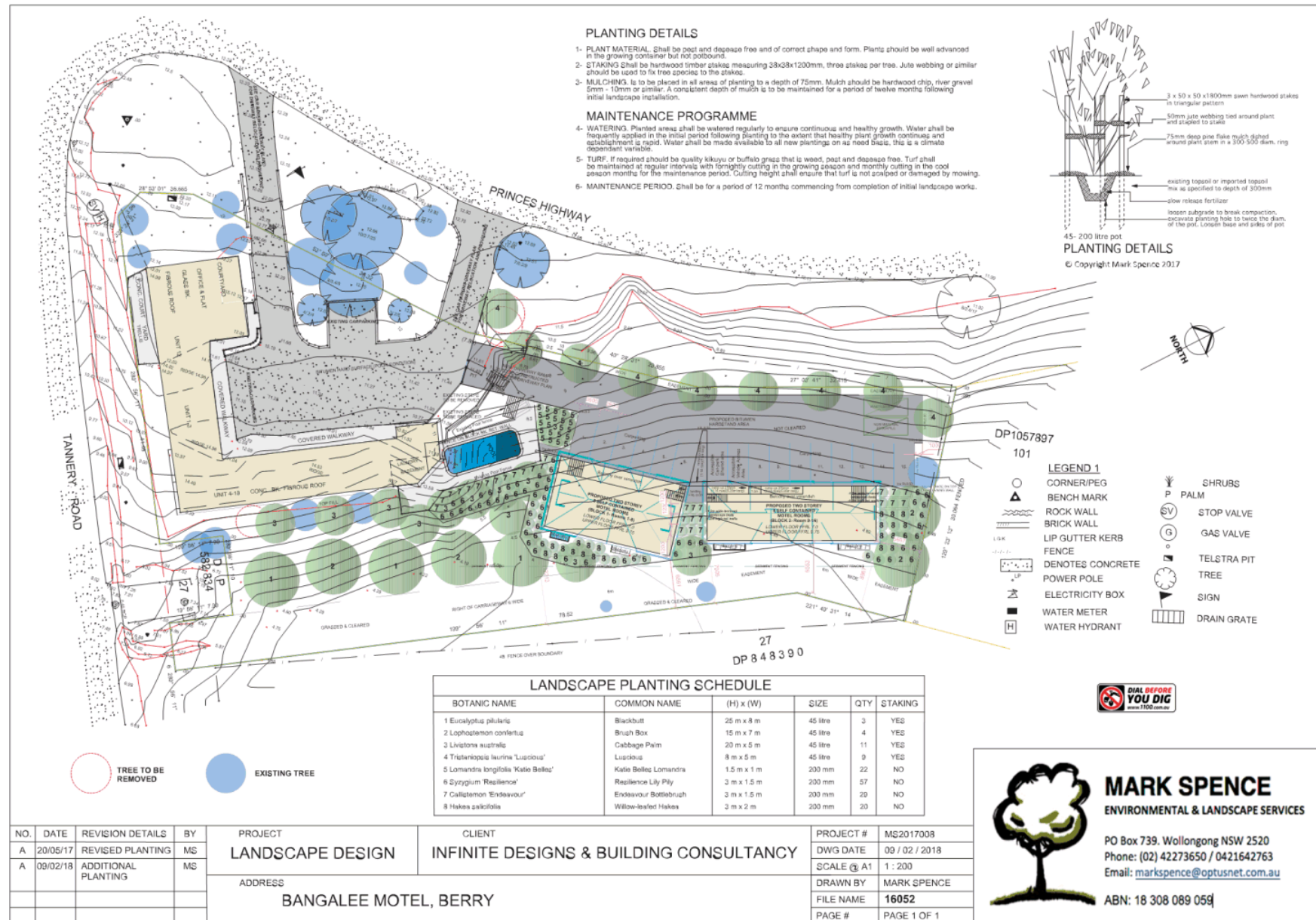
Date	21.08.17
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Scale



DE18.51 Nowra-Bomaderry Retail Hierarchy Review - Next Steps

HPERM Ref: D18/202166

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Previous Report to Council - September 2017 [↓](#)

Purpose / Summary

To advise of the outcomes of the recent internal review workshop held to discuss the implications of the *Nowra-Bomaderry Centres & Retail Assessment 2017* (undertaken by David Broyd and Urbacity) and to seek endorsement to proceed to publicly exhibit the study for community comment or determine an alternative course of action.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Place the *Nowra-Bomaderry Centres & Retail Assessment 2017* (David Broyd & Urbacity) on public exhibition for a minimum period of 28 days.
2. Receive a further report following the public exhibition to consider any submissions/comments received and determine the next steps.

Options

1. Place the study on public exhibition to ensure commercial landowners and other interested parties have an opportunity to comment prior to Council determining its position.

Implications: Provides business owners, operators and the broader community the opportunity to comment on this important study. Feedback received may help to determine priorities and/or the extent of any implementation program.

2. Adopt some study recommendations only

Implications: Proceed with the more important high and mid priority recommendations (as outlined at the workshop) only. This may limit the beneficial impact if all feasible recommendations are not implemented.

3. Adopt all feasible study recommendations

Implications: Initial support from the NSW Department of Environment & Planning (DP&E) is crucial. Will require sensitive landowner negotiations. However potentially offers best long-term outcomes for Nowra-Bomaderry and the viability of the CBD.

4. Do Nothing

Implications: Current land use zoning will remain, existing policy framework is out of date, additional out-of-town development is likely, could eventually severely undermine the ongoing viability of the Nowra CBD.

Background

This matter was previously reported to the Development Committee meeting on 12 September 2017, where it was resolved to:

- Not go on public exhibition at this stage
- Hold a briefing on the implications of the study
- Report back on its content and implications

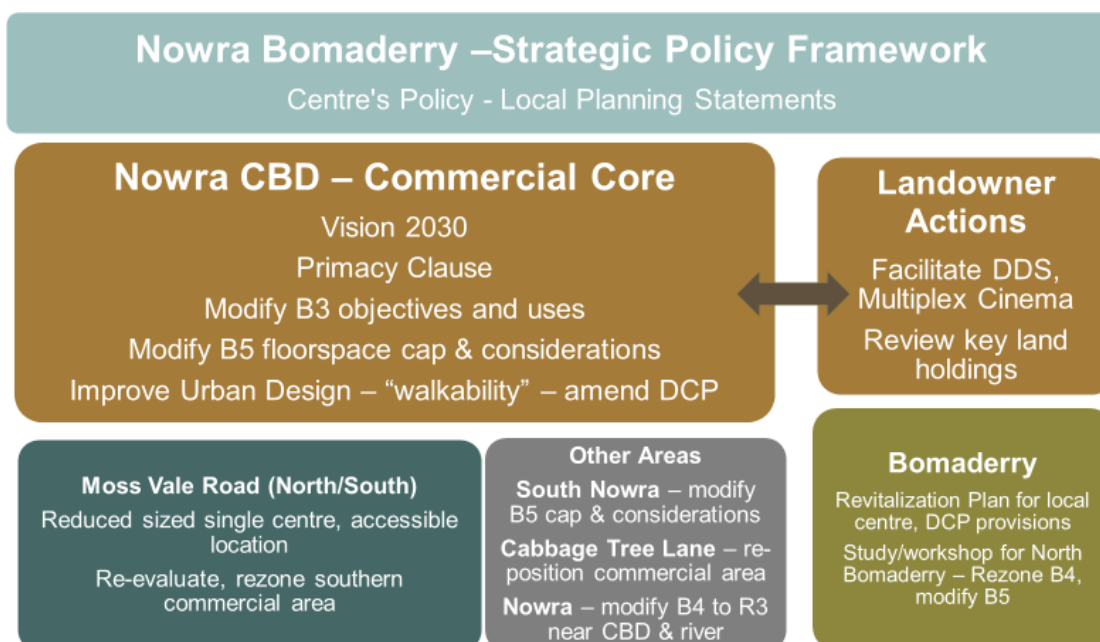
The previous report, that included a summary of the study, is provided as **Attachment 1**.

The Council briefing workshop took place on 14 June 2018 and covered the following four (4) main sections:

- 1) Background – an outline of relevant provisions of the Illawarra Shoalhaven Regional Plan, the Nowra-Bomaderry Structure Plans as well Shoalhaven Local Environmental Plan (LEP) 2014.
- 2) Broad Planning Considerations - a discussion of retail industry trends that may impact on future land use patterns and specifically influence retail and commercial businesses. This included commentary on retail planning being considered at a State level.
- 3) Explanation of the Assessment Study – detailed explanation of the approach, methodology, and findings of the subject study.
- 4) Implications, Issues and Way Forward – discussion of the implications of the various study recommendations, initial feedback from DP&E, as well as setting priorities and considering options.

Following robust discussion by those Councillors in attendance, there appeared to be consensus and comfort in moving to the next stage of public exhibition of the study to enable broader community comment before deciding what steps or actions to take.

The following slide from the presentation used at the Council workshop on 14 June 2018 provides a graphical overview of the how the recommendations in the study may ultimately all fit together if implemented.



The following workshop slides also provide an overview of the potential priority (high, mid, lower) recommendations from the study, following rationalisation based on the initial advice from DP&E, and the implications/issues associated with them.

Possible High Priority

Recommendations (+priority)	Implications & issues
<p>• High Priority</p> <p>1) Strategic Policy Changes : Centre's policy, Planning Statements</p> <p>2) SLEP modifications : CBD primacy clause, review B3 objectives & uses, B5 floorspace cap & considerations clause</p> <p>3) North Bomaderry : Study/workshop to determine B4 modifications and urban design approach</p>	<p>1) Relatively straight-forward, resource, work program impact</p> <p>2) Requires PP, initial support from DP&E, work program impact, may get some concern from B5 landowners</p> <p>3) Need to utilise specialist consultant, impact consultant's budget, need to work collaboratively with landowners</p>

Possible Mid Priority

Recommendations	Implications & issues
<p>• Mid Priority</p> <p>4) Nowra CBD : Improve urban design quality</p> <p>5) Council land owner actions : Facilitate DDS, Cinema, review key land holdings</p> <p>6) Modify Moss Vale Rd. URA : Single centre of reduced scale, accessible location, re-evaluate zones in southern commercial area</p>	<p>4) Needs commitment and leadership to fully implement CBD Revitalisation Strategy, on-going funding</p> <p>5) Specialist Property Development advice may be required given past efforts</p> <p>6) Requires sensitive discussion & negotiations with affected landowners, PP required, initial advice DP&E supportive, work program impact</p>

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Possible Lower Priority

Recommendations	Implications & issues
<p>• Lower Priority</p> <p>7) Bomaderry local centre : Revitalization Plan, “theme” provisions in DCP</p> <p>8) Cabbage Tree Lane : Re-position commercial centre</p> <p>9) Nowra : Vision 2030 statement, modify B4 zone surrounding CBD down to river</p>	<p>7) Requires engagement of affected landowners & broader community, impact on work program</p> <p>8) Requires sensitive discussions & negotiations with affected landowners, impact on work program</p> <p>9) Rezoning requires detailed examination & consideration of demand for higher density housing, discussion with affected landowners, impact on work program</p>

The abovementioned recommendations are considered to be effectively within Councils own area of responsibility or are likely to be positively considered by DP&E via a possible Planning Proposal (PP).

It was suggested at the workshop that Council may wish to consider adopting an implementation plan based on the recommendations identified above as follows:

- Stage 1: High Priority Recommendations – commence actions within 6 months.
 Stage 2: Mid Priority Recommendations – commence initial discussions within 6 months, progress within 12 months.
 Stage 3: Consider as part of 2019/2020 work program.

Following consideration of submissions received following the recommended public exhibition, Council can consider how to proceed with the recommendations, their priority and how they are to be implemented.

Community Engagement

Only limited consultation (during the preparations of the study) has taken place at this stage with some owners (or their representatives) in the Moss Vale Road Urban expansion area. Feedback has also been sought from key interest groups and only some limited feedback received. A formal public exhibition of the study will at the very least afford the broader community the opportunity of providing feedback before Council finally determines the next steps to take, noting that if for example a PP is pursued then there will be further formal consultation.

Policy Implications

The Nowra-Bomaderry Retail Assessment was triggered by the approvals of Woolworths and ALDI in North Bomaderry. Through these consents the local community, in particular those who reside north of the Shoalhaven River, will be provided with much more convenient local shopping. However, these approvals were not consistent with Council’s existing Strategic Planning policy framework, that is the Nowra-Bomaderry Structure Plan.

The flow on impacts and implications are significant for most existing and planned future commercial areas within Nowra-Bomaderry. It is therefore crucial that Council revise its

existing retail hierarchy strategy, so that landowners, business operators, developers, investors and the broader community have a clear understanding of Council's articulated policy position. Without a revised policy and statutory changes to Shoalhaven LEP 2014 to support this policy shift there is a serious risk that the long-term viability of Nowra CBD and other existing centres may be jeopardised and eventually undermined.

Financial Implications

Public exhibition of the subject study can be accommodated within existing budget allocation. Implementation of the study recommendations could however impact on existing resource allocation and the existing Strategic Planning Works Program. These impacts can be considered in due course once Council determines the action it will take post exhibition.

Risk Implications

No implications at this stage.

DE17.65 Nowra-Bomaderry Retail Hierarchy Review - Consultants Report - Consideration

HPERM Ref: D17/279940

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Nowra Bomaderry Centres - Retail & Centres Planning Assessment - Report (under separate cover)
2. Executive Summary - Nowra Bomaderry Centres - Retail & Centres Planning Assessment

Purpose / Summary

To present the findings of the consultant's report *Nowra-Bomaderry Centres – Retail & Centres Planning Assessment* (David Broyd Consulting Services & Urbacity, August 2017) for consideration and to determine the next steps in this review.

Recommendation (Item to be determined under delegated authority)

That Council

1. Release the *Nowra-Bomaderry Centres – Retail & Centres Planning Assessment* report prepared by David Broyd Consulting Services & Urbacity for community comment.
2. Consider a further report on this matter following the community consultation.

Options

1. Provide an opportunity for interested members of the community and others to review and comment on the consultant's report, prior to Council determining how to proceed.

Implications: This is the preferred option, as it will enable Council to be fully aware of the broader community view on the findings and the report and its recommendations before determining how to proceed.

2. Accept the consultant's report and proceed to implement its recommendations or the recommendations from it that are supported.

Implications: This options is not recommended as it does not provide the opportunity for community input prior to determining how to proceed, noting that some of the recommendations are likely to be difficult to implement or could be resisted.

3. Not proceed further with the requested retail planning review and retain the existing provisions that exist.

Implications: This option is also not recommended given that Council has now received a detailed consultant's report that highlights a range of matters and issues that should be considered.

Background

Council considered a development application for a retail development (supermarket) on the Princes Highway at Bomaderry and resolved in April 2016 to

- a) *Approve Development Application 14/2579 subject to conditions for the following reasons:*
 - i) *The development is permissible in the zone and the economic impact is not of such a degree that would undermine the variability of the existing centres and as such would not warrant refusal.*
 - ii) *Improved convenience to the broader public and future residents out-weighs the potential negative impact on existing businesses/centres*
 - iii) *The benefits of providing a full-line supermarket addresses the unsatisfied and under-supply of supermarket floor space in the area and north of the Shoalhaven River.*
- b) *Request the General Manager to prepare an additional report to Council with draft conditions of consent to the next Development Committee Meeting.*
- c) *Undertake a review of the strategic planning framework as it applies to retail and business in the northern Shoalhaven, in particular in the context of the Nowra Bomaderry Structure Plan and the SLEP 2014 zoning provisions to be completed by December 2016.*
- d) *As part of the retail and business review landowners be consulted.*

Consistent with part (c) of the resolution, David Broyd Consulting Services & Urbacity were engaged by Council to undertake the requested review.

As part of the review initial consultation was undertaken with relevant landowners and interest groups consistent with part (d) of the resolution. Depending on the option Council resolves to follow, there will be further consultation opportunities for affected landowners and interest groups.

Unfortunately, due to a range of factors, the review could not be completed by the identified December 2016 deadline. The project consultants briefed Councillors on the findings of their review on 22 June 2017 and Council is now in receipt of their final review report.

The report entitled *Nowra-Bomaderry Centres – Retail & Centres Planning Assessment* (David Broyd Consulting Services & Urbacity, August 2017) is provided under separate cover as **Attachment 1**.

Overview - Retail & Centres Planning Assessment

The consultant's report provides a detailed overview of the existing strategic context and statutory provisions related to retail development and associated centres. It also provides an analysis of other comparable centres (Maitland, Coffs Harbour, Port Macquarie and Shellharbour) and a review of the Nowra Central Business District (CBD) and other retail/commercial centres within Nowra-Bomaderry, both existing and proposed. The full report provides a wide range of conclusions/suggested strategic directions and recommendations. The consultants Executive Summary is provided as **Attachment 2** to this report.

The following are some of the relevant conclusions and strategic directions contained in the consultant's report:

- *Strategic policies should be reaffirmed and statutory changes should be initiated to implement the Nowra-Bomaderry Structure Plan (NBSP) objective that the Nowra CBD / commercial core should be planned for, and protected as, the major regional retail and commercial centre.*
- *Short term expediency - particularly giving consent to retail developments outside of the CBD which undermine the latter's viability - should not detract from the above long-term opportunities for very positive growth and "liveable town status" for Nowra Bomaderry and the economic, social and cultural role and capacity of existing and new centres to enhance this status.*
- *The crucial importance – as emphasised in the NBSP - of facilitating a Discount Department Store (DDS) in the Nowra CBD is reaffirmed.*
- *There are development opportunities that need to be promoted by strategic policies facilitated by the strategic framework and the organisational implementation thereof - notably a DDS and a state-of-the-art Multiplex cinema in the Nowra Town Centre. These developments would have major, positive spin-offs.*
- *Council should utilise some or all of its three key land holdings in Nowra CBD to facilitate crucial new development opportunities which will contribute to rejuvenation of the Nowra CBD – this should include the promotion and facilitation of a DDS (This, of course, needs to be facilitated within the appropriate legal and probity parameters by Council in utilising its three key land holdings in the Nowra CBD).*
- *Other development opportunities to explore include the development of a modern multiplex cinema – for which there is an adequate catchment population.*
- *The revitalisation of Bomaderry centre should be planned and promoted by Council and the local Bomaderry business and broader community.*
- *Planning for future urban release areas need to be reviewed - within an overall review of relevant sections of the NBSP. Priority areas should be assessed (if Council has the resources) for the scale (extent of zoned area), timing and locations (are they in the right place?) for Business zones to serve these urban release areas.*
- *The area of land zoned B4 in Bomaderry (south and north-west of the intersection of the Princes Highway and Moss Vale Road) is around 12.3 ha, excluding the ALDI site (approximately 3.9 ha) on which the development application for a supermarket was approved in November 2016. This area has the potential to greatly undermine the future economic sustainability of the Nowra CBD, particularly given that Commercial Premises (i.e. including retail premises/shops) are permissible in the B4 zone. There is also a demonstrable benefit in providing more land for residential development in this location. The scale - individually and cumulatively of potential retail premises/shops within this zoned area could also mean very high pedestrian movement across the Princes Highway given the future Woolworths supermarket and bulky goods retailing on the eastern side of the Highway. These factors lead to the conclusion that there is a crucial need to rezone this 12.3 ha site to part R3 Medium Density residential and part B5 Business development.*

- *The implications of the program of development releases for the areas zoned Neighbourhood Business at Moss Vale North and Moss Vale South are significant in terms of:*
 - *Location;*
 - *The scale of the areas zoned and the potential area therefore of supply of retail and commercial land relative to projected demand and viability, now in the context of approved Woolworths and ALDI developments;*
 - *With retail, personal and community services and professional services it is likely that the size of this centre will be less than 5,000 square metres GLA. This also means that irrespective of location of the future site for the centre, the currently zoned area is too large for the new role. The new centre would require around 1.2-1.5 ha. However, the area zoned appears to be between 6 and 7 hectares.*
 - *Equity; in relation to the recent purchase of the land and consequent expectations of retail and commercial development given the Neighbourhood Business zoning (B1) in LEP 2014 and its derivation from the NBSP – and, therefore, this proposed Business zoning essentially being the policy of Council for approximately 10 years;*
- *The risk to the sustained viability of the Nowra CBD of retaining permissibility for the development of shops within the extensive land zoned B5 in Bomaderry and South Nowra is high and shops therefore should be prohibited in the B5 zone or other controlling mechanisms implemented.*
- *Strategic policy directions and statutory framework should encourage redevelopment opportunities for medium density residential in selected sectors between the Nowra CBD and the river.*
- *The University of Wollongong Nowra campus is a 15 minute bus ride from the Nowra CBD and 25 minutes from Bomaderry railway station and therefore there may be related student residential accommodation development and other opportunities around Bomaderry.*
- *To achieve rigour of strategic and statutory positions, there should be enhanced application/evaluation of:*
 - *“Local Strategic Planning Statements” as proposed for inclusion in the draft Planning Bill with increased status*
 - *Primacy clauses and objectives – similar to in the Coffs Harbour, Wagga Wagga, Wollongong (Part 8 of Wollongong LEP 2011) and the City of Sydney (LEP 2012) - i.e. - LEP’s are valid and pivotal for managing a hierarchy of centres in an LGA;*
 - *The judgement of the Land and Environment Court (10430 of 1994): Almona Pty Ltd v Newcastle City Council wherein the LEP 1987 objective “to maintain and reinforce the Newcastle CBD as the Hunter region’s major commercial, administrative, cultural and entertainment centre” - together with the relevant provisions of the Newcastle Strategy 1997 and the Hunter Regional Environmental Plan 1987 were held to carry such weight as to sustain the dismissal of an appeal regarding a refusal of development for a major bulky goods and retail shopping centre at Kotara.*

The report makes nineteen (19) detailed recommendations for consideration related to:

- Proposed vision for the future of Nowra CBD

- The need for a Centres Policy to be developed as a high priority
- Reviewing sections of the NBSP to be a “Local Strategic Planning Statement”
- Zoning of existing centres and business zoned land in a range of locations in Nowra-Bomaderry
- Including a Local Provision in the LEP to give ‘primacy’ to the Nowra commercial core
- Revising the LEP objectives and land use tables for various business zones
- Amending the Shoalhaven DCP 2014 to include additional provisions related to Nowra CBD (note: some of which has already recently occurred)
- Pursuing the development potential of key Council held development sites in the CBD for a DDS, university presence and cinema complex
- Reviewing the commercial zones in and adjacent to the Moss Vale Road Urban Release Areas
- Revitalisation of the Bomaderry centre

The detailed recommendations are provided at the end of **Attachment 2**.

Next Steps

The consultant’s report is detailed and contains wide-ranging conclusions/strategic directions and recommendations. It is likely to be welcomed by some, but will be of concern for others. As such before Council determines a direction in this regard, it is recommended that the consultant’s report be released for review and comment so that affected landowner’s, community groups, business groups and others can make comment in it. This will ensure that Council is aware of the range of views that are likely to exist on its findings before making a decision on how to respond to the findings of the consultant’s report.

Community Engagement

Given the significance of the consultant’s report, it is intended to release it for community comment for a minimum period of six (6) weeks. The availability of the report will publicised widely and via direct mail out to:

- Relevant Community Consultative Bodies (CCB’s).
- Interest groups (including Shoalhaven Business Chamber, Nowra CBD Business Chamber and Councils Nowra CBD Revitalisation Strategy Committee).
- Owners of affected land.
- Business owners and others who participated in the early consultation sessions with the project consultants.

The report will also be referred to the NSW Department of Planning & Environment for comment given that it recommends changes that will require their feedback.

Policy Implications

Depending on the direction that Council takes in this regard there are likely to be a wide range of policy implications.

Financial Implications

This project is currently being managed within the existing Strategic Planning budget.

FOR ACTION

DEVELOPMENT COMMITTEE

12/09/2017

TO: Strategic Planning Manager (Gordon Clark)

Subject: Nowra-Bomaderry Retail Hierarchy Review - Consultants Report - Clr Briefing - Further report request
Target Date: 12/10/2017
Notes:
HPERM Reference 52652E D17/279940

RESOLVED (Clr Proudfoot / Clr Pakes)

MIN17.780

That the *Nowra-Bomaderry Centres – Retail & Centres Planning Assessment* report prepared by David Broyd Consulting Services & Urbacity not go on public exhibition at this stage until staff have been given the opportunity to report to Council on its content and implications and that Councillors are briefed on that report

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

AGAINST: Nil

CARRIED

DE18.51 - Attachment 1

DE18.52 Proposed South Nowra Internal Service Road Alignment Redesign - Contributions Plan Project

HPERM Ref: D18/190275

Group:
Section: Strategic Planning

Attachments: 1. 01ROAD3104 and 01ROAD3105 Project Sheets [↓](#)
2. Environmental Constraints Synopsis (under separate cover) [⇒](#)
3. Service Road Design Concept Drawings [↓](#)
4. Service Road Costings [↓](#)

Purpose / Summary

To seek Council endorsement for the:

- Proposed draft realignment of the South Nowra Internal Service Road.
- Review of existing Contributions Plan projects that relate to the subject land.
- Preparation of development control plan provisions for the subject land.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the proposed draft road alignment and staging of the South Nowra Internal Service Road as identified in the concept drawings and costing (**Attachments 3-4**).
2. Commence the review of the Contributions Plan projects that relate to the subject land – 01ROAD3104 and 01ROAD3105.
3. Commence the preparation of development control plan provisions for the subject land addressing:
 - a. Onsite stormwater detention measures.
 - b. Building setbacks and landscaping.
 - c. Reduce vehicle access and egress to the Princes Highway.
 - d. Any other issues that may be identified during preparation.
4. Prepare a further report seeking a resolution to publicly exhibit the draft development control plan provisions and Contributions Plan amendment.
5. 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.

Options

1. Adopt the recommendation.

Implications: The proposed draft road alignment has been designed taking into consideration community/stakeholder consultation and environmental constraints. This is the preferred option as the long-term project will then be able to progress via the commencement of amendments to Shoalhaven Development Control Plan (DCP) 2014 and the Contributions Plan.

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2. Adopt the recommendation, excluding Project Area 3.

Implications: This option would enable the South Nowra Internal Service Road project to proceed for Project Area 1 and 2, whilst avoiding the key areas of environmental constraints, including significant flood prone land and Endangered Ecological Communities (EEC). The concept designs for Area 1 and 2 would not require modification. This option would mean that land located in Project Area 3 would not benefit from the additional access created by the proposed Internal Service Road. This will result in a substantially lower cost (construction) of delivery (\$5,702,475 rather than \$11,292,310 for the whole project).

3. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the finalisation of the South Nowra Internal Service Road project.

4. Reject the recommendation.

Implications: This is not the preferred option as the South Nowra Internal Service Road project would not progress and Contribution Plan projects 01ROAD3104 and 01ROAD3105 would be retained. Development control plan provisions would still be needed to address vehicular access/egress to the Princes Highway.

Background

The proposed South Nowra Internal Service Road project is intended to facilitate the greater utilisation of the land zoned B5 Business Development to the east of the Princes Highway at South Nowra, between Quinns Lane and Warra Warra Lane (**Figure 1**), and minimise access/egress to the Princes Highway. The project evolved from the Shoalhaven LEP1985 and draft DCP No.22 - South Nowra, which was ultimately incorporated in Council's first Contributions Plan in 1993.

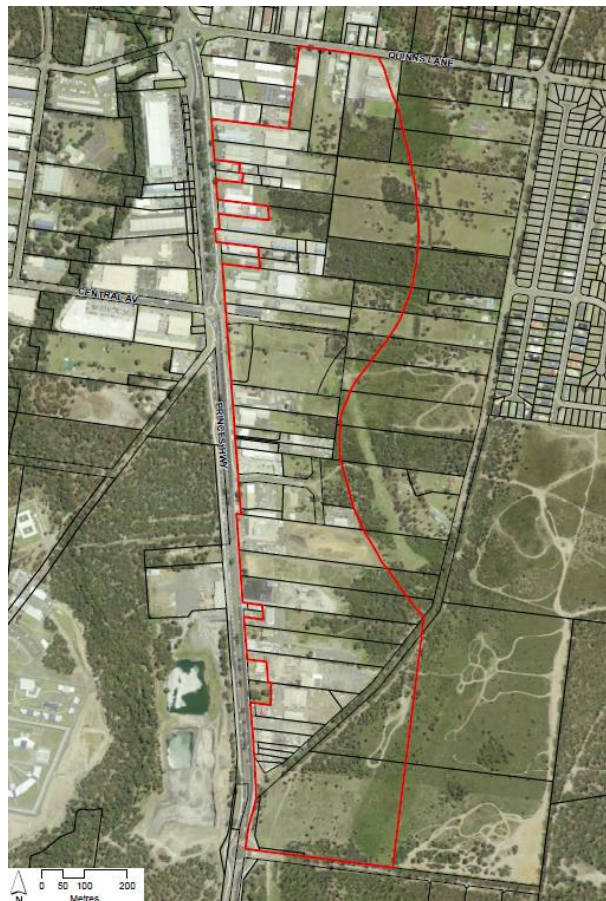


Figure 1: Subject Land

The Shoalhaven Contributions Plan currently includes two related projects for the subject land:

- Project 01ROAD3104 – Quinns Lane/Old Southern Road Link (internal service road) (**Figure 2**).
- Project 01ROAD3105 – Quinns Lane/Old Southern Link (construct drainage for internal service road) (**Figure 3**).

The project sheets from the Contributions Plan for these projects are provided as **Attachment 1**.

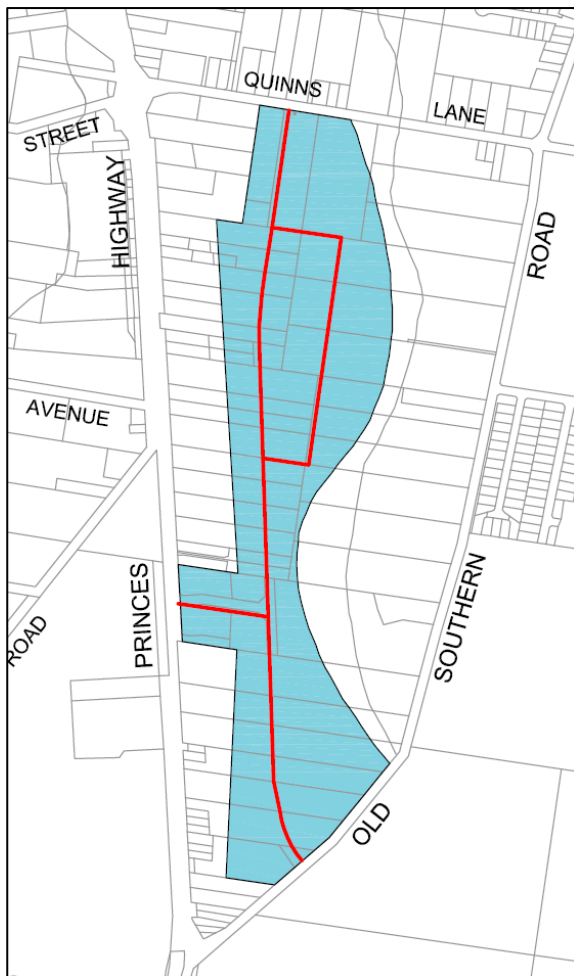


Figure 2: 01ROAD3104

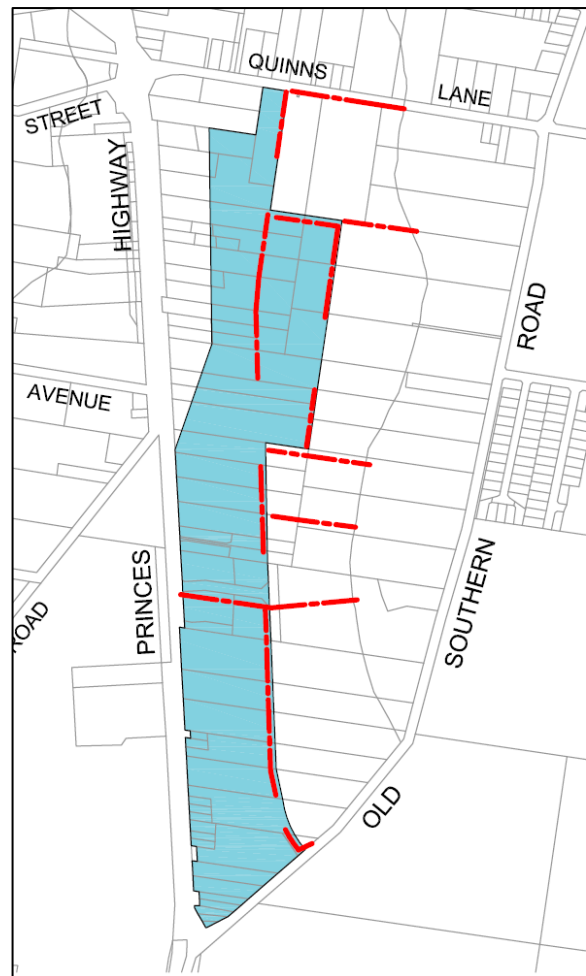


Figure 3: 01ROAD3105

On 22 October 2013, Council resolved (MIN13.1073c) to:

Review the design of the South Nowra Service Road (Contributions Project 01ROAD3104) to be consistent with the Service Lane Layout proposed in the draft Planning Agreement for 190-198 Princes Highway, South Nowra.

It is noted that the draft Planning Agreement mentioned above has since been withdrawn and did not proceed.

During 2014, a proposed draft alignment of the South Nowra Internal Service Road was placed on exhibition for a period of 28 days. Council's Development Committee considered the feedback from the landowners on 7 October 2014, and resolved to:

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- a) *Redesign the road realignment as per the plan circulated for landowner feedback with the following changes:*
- i) *Realigning the road in Project Area 3 to be closer to the mapped flood liable land.*
 - ii) *Realigning the road in 'Possible DCP Land' to be closer to the mapped flood liable land.*
 - iii) *Consider updated flood information from the draft Flood Risk Management Study and Plan for Nowra and Browns Creeks when undertaking i and ii above.*
 - iv) *Undertake a review of environmental factors, including a flora and fauna assessment, which will be considered as part of the redesign.*
- b) *Allocate \$95,000 from Section 94 contributions already collected for the service road (Contribution Project 01ROAD3104 - Job No. 67101) to undertake detailed investigations for the redesign of the South Nowra internal service road.*
- c) *Receive a further report following the completion of detailed investigations for redesign of the service road.*

Service Road Alignment - Redesign

Consistent with the October 2014 resolution, the proposed South Nowra Internal Service Road alignment has been redesigned to:

- Realign the road in Project Area 3 and 'Possible DCP Land' closer to the mapped flood liable land (in the redesign, Project area 3 and 'possible DCP land' have been considered together).
- Consider the findings of the Environmental Constraints Synopsis (**Attachment 2**).
- Consider stakeholder feedback.

The redesign process has divided the subject land (**Figure 1**) into three (3) distinct but connected project areas as identified in **Attachment 3**. It is proposed that the project ultimately be delivered in three (3) stages in line with the three (3) project areas.

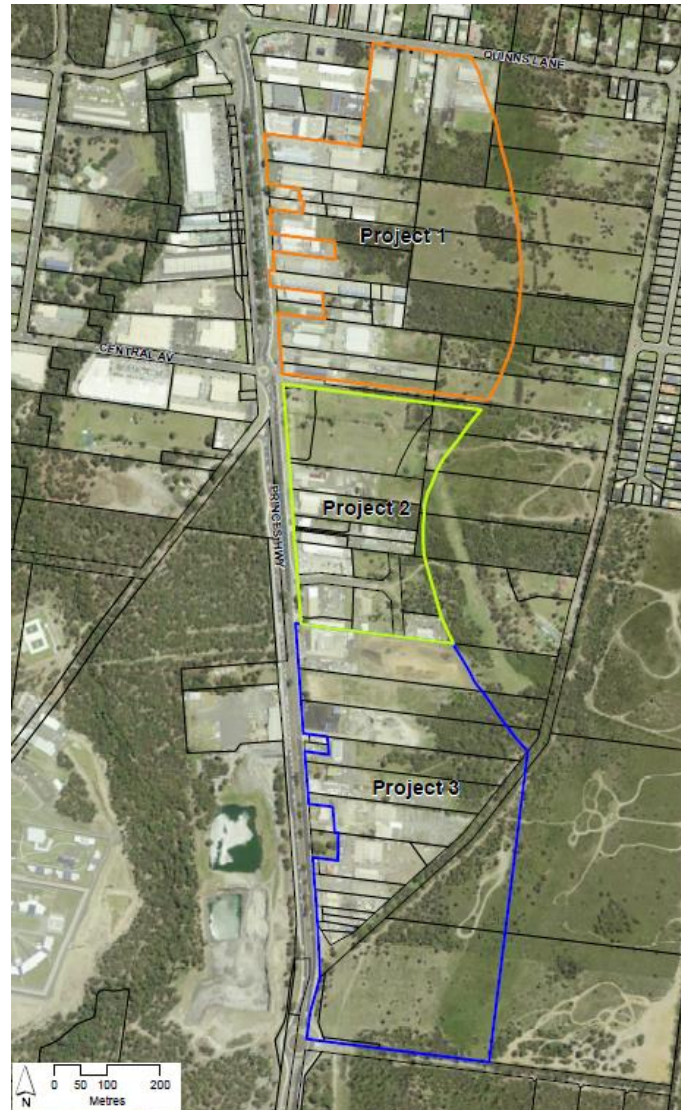


Figure 3: Subject Land – Proposed Project Areas

Contributions Plan Review

The current total cost of the existing Contribution Plan projects (01ROAD3104 and 01ROAD3105) is estimated at \$5,805,041.98 as outlined in **Table 1**.

Table 1: Estimated cost of current CP projects

CP Project (indexed 2017)	Estimated cost (\$)
01ROAD3104	4,355, 456.74
01ROAD3105	1,449,585.24
Total	5,805,041.98

Following the redesign, the updated costs are estimated at \$11,292,310 as identified in **Table 2**. It is noted that land acquisition costs have not been factored into these calculations.

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Table 2: Estimated costs of project following redesign of alignment

Component	Stage 1 (\$)	Stage 2 (\$)	Stage 3 (\$)	Total (\$)
Drainage	395,200	303,500	396,900	1,095,600
Earthworks	994,800	1,080,800	2,798,700	4,874,300
Pavements	1,010,590	672,800	1,217,660	2,901,100
Misc	132,700	98,900	183,400	415,000
Contingency	253,300	215,600	459,700	928,600
Total	2,786,590	2,371,650	5,056,360	10,214,600
Total (inc. GST)	3,065,250	2,608,820	5,562,000	11,236,060
Total (inc. GST and CPI*)	3,080,595	2,621,880	5,589,845	11,292,310

* Based on 2.5% CPI – for reference purposes only. Actual figures to be revised on preparation of new Contributions Project

It should also be noted that given the length of the road, road casement width and additional land required to accommodate drainage infrastructure, preliminary calculations for acquisition of land show that the cost of the delivery could increase by more than 30%. This is based on recent average land sale of B5 land in South Nowra and Valuer General assessments.

Contributions funds currently available for projects 01ROAD3104 and 01ROAD3105 at May 2018 is estimated at \$520,230.03 (see **Table 3**). Income received in the last 5 years is minimal.

Table 3: Funds available

CP Project	Estimated Income (\$)
01ROAD3104	\$283,298.58
01ROAD3105	\$236,931.45
Combined	\$520,230.03

The updated costings (**Attachment 4**) will inform a new contributions project that combines and updates existing projects 01ROAD3104 and 01ROAD3105.

Development Control Plan Provisions

The South Nowra Internal Service Road construction will create the need for the consideration of new areas specific provisions in Shoalhaven DCP 2014 addressing:

- Onsite stormwater detention measures due to the flood extent identified in the area, lack of drainage infrastructure, likely future impacts from the new road surface and the projected future requirement for inter allotment drainage to be considered as development occurs.
- Building setbacks and landscaping to address amenity and access requirements

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- The required reduction in vehicle access and egress to the subject land from the Princes Highway.

Should the South Nowra Service Internal Road project not proceed, Shoalhaven DCP 2014 provisions will still be required to manage vehicle access/egress to the subject land from the Princes Highway.

Conclusion

Following preliminary consideration of the project in terms of cost, environmental constraints (namely flooding), and stakeholder input, the proposed draft South Nowra Internal Service Road realignment has now been prepared consistent with the 2014 resolution.

To ensure the timely delivery of the project, should Council still wish to proceed further, it would be appropriate to commence the preparation of formal amendments to Shoalhaven DCP 2014 and the Shoalhaven Contributions Plan.

Community Engagement

The new road design has been circulated to affected land owners for information and they have also been advised of this report.

Any future amendments to Shoalhaven DCP 2014 and the Shoalhaven Contributions Plan will be also be exhibited concurrently in accordance with the legislative requirements of the *Environmental Planning and Assessment Act 1979* and associated regulation.

Financial Implications

There are no immediate financial implications for Council, however a significant investment is required for the commencement of the project to be realised in the immediate future. There has been an increase in the projected cost of the project, which is the result of two (2) major factors:

1. The road design/alignment is now over a larger area than when the original contributions projects were calculated; and
2. The original project calculations did not consider the flooding impacts on the road design to the same degree - updated flood data is now available allowing more appropriate design and estimation.

For construction to meaningfully commence, the South Nowra Internal Service Road may need to be considered a priority project and recoupment funds be utilised, that is, surplus funds from completed and/or deleted contributions projects. This will encourage development in the area where funds can then be levied from future development. The realities of this will require detailed investigation as part of the contributions plan review.

It is emphasised that the costings provided earlier in this report do not include land acquisition costs. Preliminary calculations for acquisition of land show that the cost of delivery could increase by more than 30% when acquisition is factored in. Detailed costings of acquisition will need to be conducted in a review of the contribution plan projects.

Any future amendments to Shoalhaven DCP 2014 and the Shoalhaven Contributions Plan would be resourced from the Strategic Planning budget.

Supporting information

Project code

01ROAD3104

Date of project delivery

Project not completed

Project cost breakdown

	Length		Width	Quantity		Rate		Total
Seal Pavement Service Rd	1,530m	x	13	19,890m ²		\$31.52	=	\$626,890
Seal Pavement Loop Road	680m	x	9	6,120m ²	x	\$31.52	=	\$192,890
Seal Pavement Access Rd	190m	x	9	1,710m ²	x	\$31.52	=	\$53,895
Seal Pavement Old Sthn Rd	300m	x	13	3,900m ²	x	\$25.21	=	\$98,335
K and G Service Road	3,060m	x				\$107.16	=	\$327,910
K and G Loop Road	1,360m	x				\$107.16	=	\$145,740
K and G Access Rd	380m	x				\$107.16	=	\$40,720
K and G Old Sthn Rd	600m	x				\$107.17	=	\$64,300
						Sub-Total	=	\$1,550,680
Design				3.0%	x	\$1,550,680	=	\$46,520
Supervision				3.0%	x	\$1,550,680	=	\$46,520
Administration and On-costs				15.5%	x	\$1,550,680	=	\$240,355
Land Acquisition Access Rd	178m	x	20	3,560m ²	x	\$21.43	=	\$76,300
Land Acquisition Service Road	1,530	x	20	30,600m ²	x	\$21.43	=	\$655,825
Land Acquisition Loop Road	680m	x	15	10,200m ²	x	\$21.43	=	\$218,610
Share of Drainage Costs	3.16	divided by	25.85	12.22%	x	\$1,081,370	=	\$132,190
						Estimated Project Cost	=	\$2,967,000

Apportionment assumptions

BENEFIT AREA 01ROAD3104	ESTIMATED EQUIVALENT TENEMENTS			ESTIMATED APPORTIONMENT			2005 CONTRIBUTION RATE
	Existing	Potential	Total	Vehicles per Day	% Traffic Generation	Area Cost	
1	150	1816	1966	N / A	N / A	\$2,967,000	\$1,509.16
Assumed Through Traffic				N / A	N / A	N / A	
			100.00%	N / A	N / A	N / A	

Benefit area(s) assumptions

None applicable

Actual project cost

Project not completed

History of amendment to this project

This project supersedes the following inactive projects:

- 01ROAD0104
- 01ROAD2104

Other relevant information

None applicable

Supporting information

Project code

01ROAD3105

Date of project delivery

Project not completed

Project cost breakdown

	Diameter		Class	Quantity		Rate		Total
Drainage Pipe	375	dia. RR	Class X	304m	x	\$79.28	=	\$24,100
Drainage Pipe	375	dia. RR	Class Y	87m	x	\$96.44	=	\$8,390
Drainage Pipe	450	dia. RR	Class X	806m	x	\$112.31	=	\$90,520
Drainage Pipe	600	dia. RR	Class X	164m	x	\$174.39	=	\$28,600
Drainage Pipe	600	dia. RR	Class Y	62m	x	\$208.79	=	\$12,945
Drainage Pipe	750	dia. RR	Class X	440m	x	\$269.55	=	\$118,600
Drainage Pipe	750	dia. RR	Class Y	20m	x	\$346.25	=	\$6,925
Drainage Pipe	900	dia. RR	Class X	636m	x	\$420.17	=	\$267,230
Drainage Pipe	900	dia. RR	Class Y	22m	x	\$537.73	=	\$11,830
Drainage Pipe	1,050	dia. RR	Class X	180m	x	\$547.03	=	\$98,465
Drainage Pipe	1,050	dia. RR	Class Y	22m	x	\$704.32	=	\$15,495
Drainage Pipe	1,200	dia. RR	Class X	60m	x	\$685.83	=	\$41,150
Drainage Pipe	1,200	dia. RR	Class Y	20m	x	\$882.50	=	\$17,650
Pits				38item	x	\$1,981.97	=	\$75,315
Headwalls				4item	x	\$1,982.50	=	\$7,930
Sand Backfill Supply and Place				2,865m ³	x	\$22.47	=	\$64,355
Sedimentation Control Pond				1item	x	\$33,030.00	=	\$33,030
Legal Costs Easements				4item	x	\$1,057.50	=	\$4,230
						Sub-Total	=	\$926,760
Design				3.0%	x	\$926,760	=	\$27,800
Supervision				3.0%	x	\$926,760	=	\$27,800

01 ROAD 0105 Estimated Cost cont								
Administration and On-costs				15.5%	x	\$926,760	=	\$143,650
Sub-Total							=	\$1,126,010
Less Road Drainage							=	-\$138,540
Estimated Project Cost							=	\$987,470

Apportionment assumptions

BENEFIT AREA 01ROAD3105	ESTIMATED EQUIVALENT TENEMENTS			ESTIMATED APPORTIONMENT			2005 CONTRIBUTION RATE
	Existing	Potential	Total	Vehicles per Day	% Traffic Generation	Area Cost	
1	967	325	1292	N / A	N / A	\$987,470	\$764.30
Assumed Through Traffic				N / A	N / A	N / A	
			100.00%	N / A	N / A	N / A	

Benefit area(s) assumptions

None applicable

Actual project cost

Project not completed

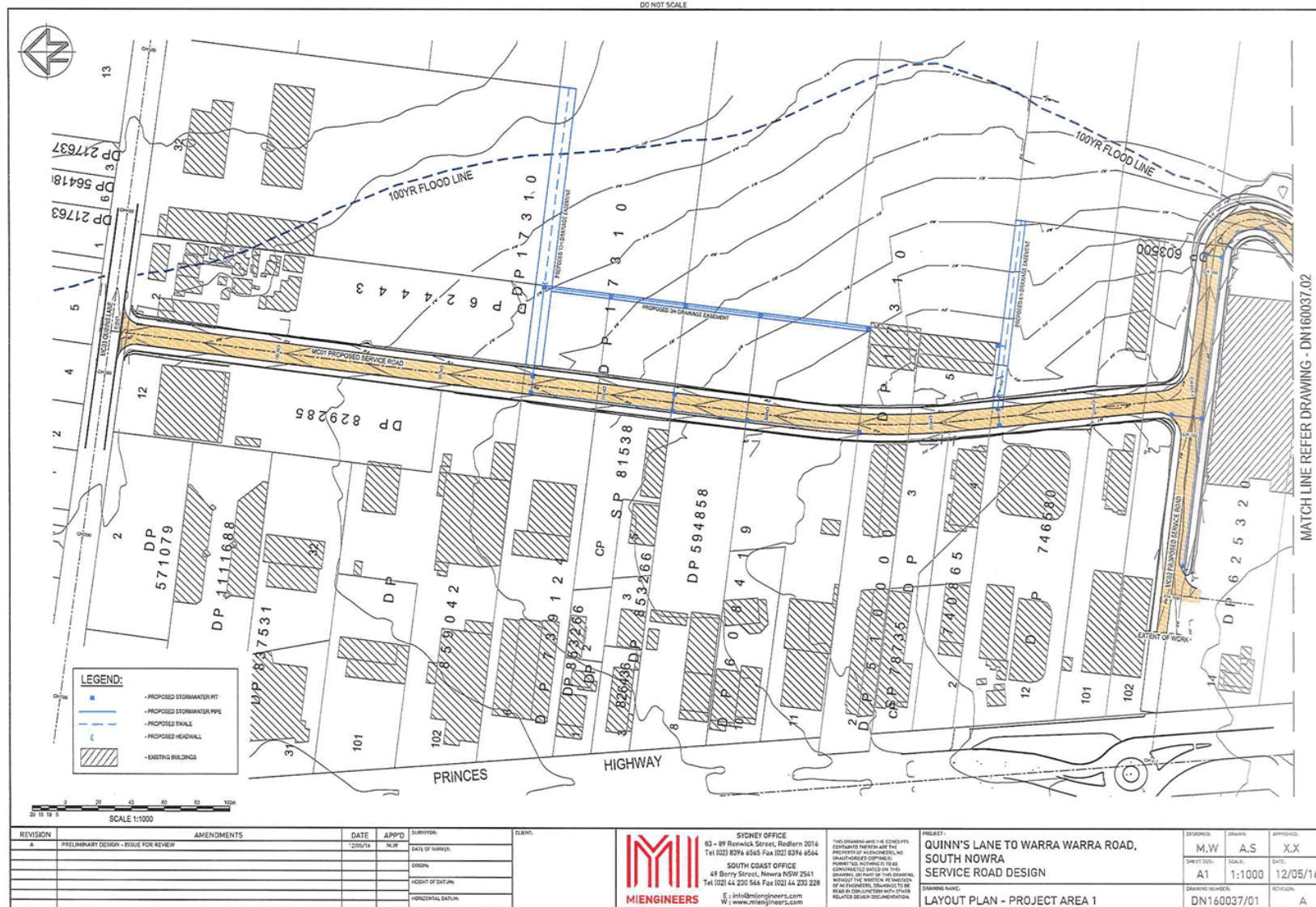
History of amendment to this project

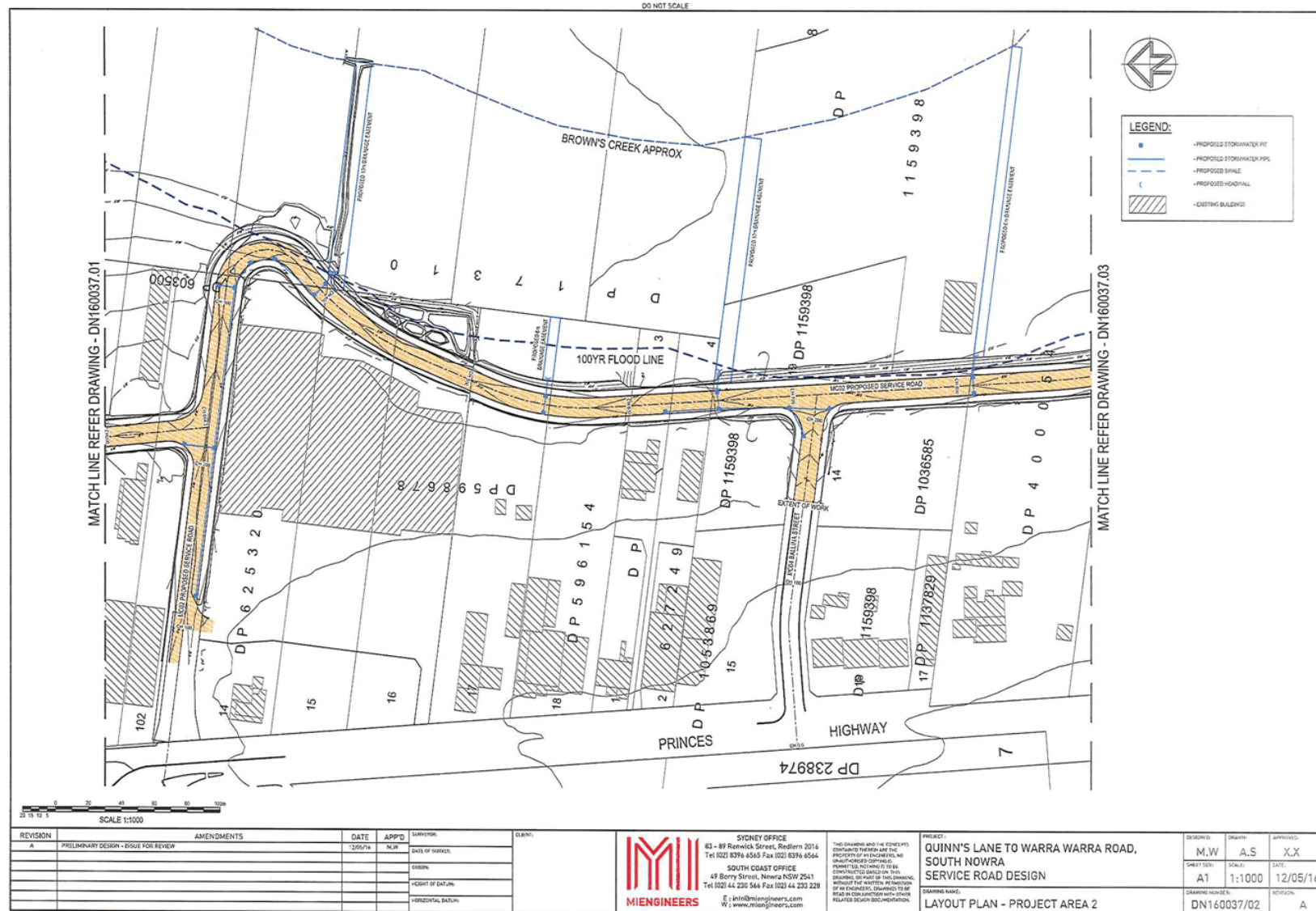
This project supersedes the following inactive projects:

- 01ROAD0105
- 01ROAD2105

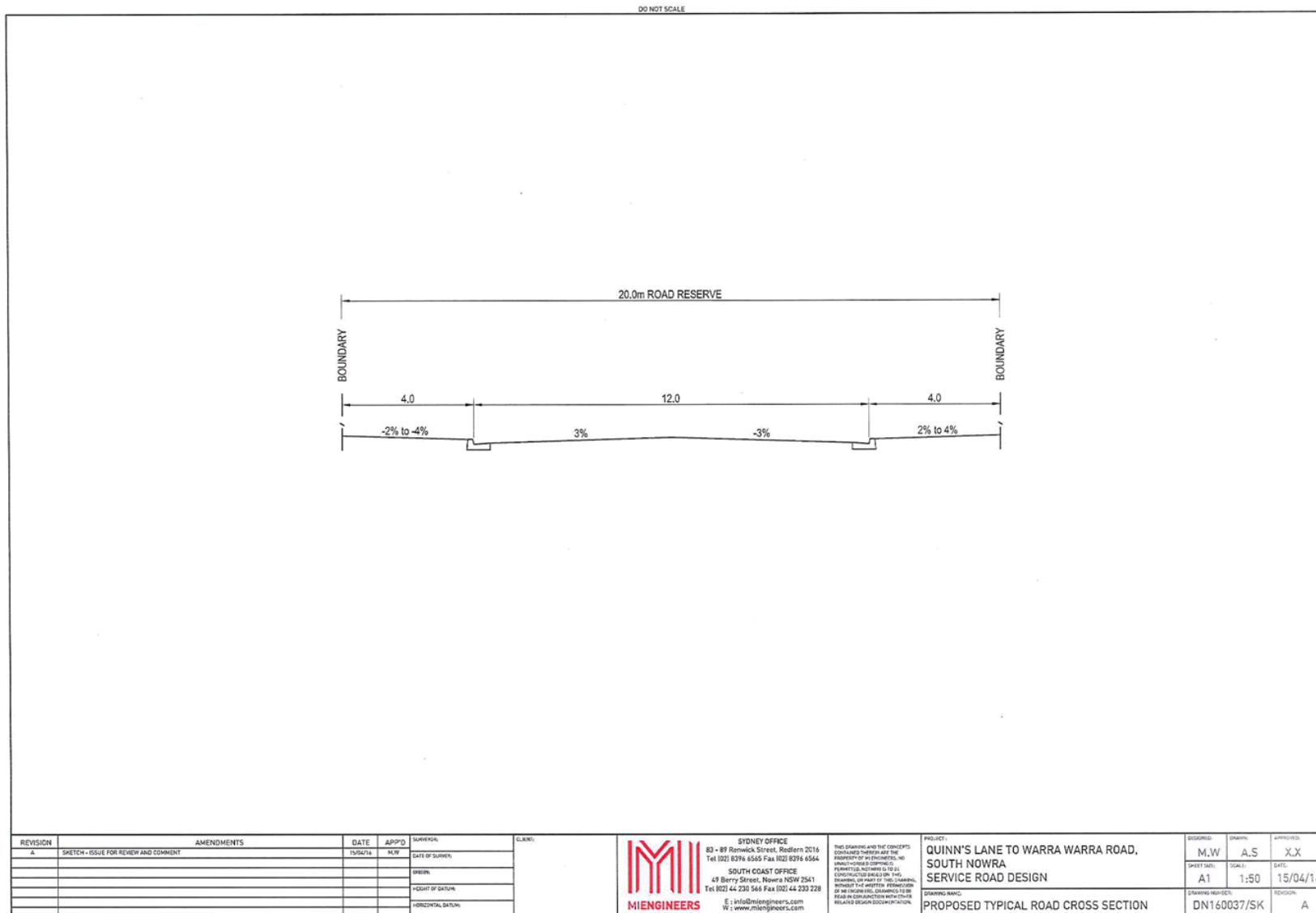
Other relevant information

None applicable









Quinns Lane to Warra Warra Rd Sth Nowra SCC - Total					
Quote Number: DN160037.E01			Date : 9/06/2016		
Item	Description	Quantity	Unit	Rate	Amount
I	Environmental Protection	1 item		\$133,400.00	\$133,400.00
II	Clearing and Grubbing	1 item		\$70,100.00	\$70,100.00
III	Traffic Management	1 item		\$104,700.00	\$104,700.00
Drainage and Kerbs					
1	Stormwater Drainage Pipes (including backfill)				
1.1	375 mm Diameter	187 m		\$176.00	\$32,912.00
1.2	450 mm Diameter	253 m		\$215.00	\$54,395.00
1.3	525 mm Diameter	458 m		\$249.00	\$114,042.00
1.4	600 mm Diameter	297 m		\$286.00	\$84,942.00
1.5	675 mm Diameter	98 m		\$331.00	\$32,438.00
1.6	750 mm Diameter	3 m		\$395.00	\$1,185.00
2	Reinforced Concrete Box Culverts				
2.1	Single Cell 1200 mm x 600 mm Box Culvert	36 m		\$1,300.00	\$46,800.00
2.2	Single Cell 1200 mm x 300 mm Box Culvert	11 m		\$1,300.00	\$14,300.00
2.3	Twin Cell 600 mm x 450 mm Box Culvert	24 m		\$1,200.00	\$28,800.00
3	Kerbs and Gutters				
3.1	Type SA Kerb and Gutter (including turnouts)	4,750 m		\$102.00	\$484,500.00
Earthworks					
4	Topsail Stripping				
4.1	Topsail Stripping to Disposal	13830 m3		\$17.00	\$235,110.00
4.2	Topsail Stripping for Reuse	960 m3		\$28.00	\$26,880.00
5	Cut to Fill (including drainage excavations)	18750 m3		\$21.00	\$393,750.00
6	Imported Fill Material	47570 m3		\$51.00	\$2,426,070.00
7	Foundation Treatments				
7.1	Removal and Disposal of Unsuitable Material	1490 m3		\$373.00	\$555,770.00
7.2	Removal and Disposal of Uncontrolled Fill	1330 m3		\$841.00	\$1,118,530.00
7.3	Loosen and Recompact Subgrade	59110 m2		\$2.00	\$118,220.00
Pavements					
8	DGS-20 (300mm thick)	29840 m2		\$43.00	\$1,283,120.00
9	DGB-20 (150mm thick)	26490 m2		\$31.00	\$821,190.00
10	Dense Grade AC10 (50mm thick)	26490 m2		\$28.00	\$741,720.00
11	Concrete Pavement	190 m2		\$153.00	\$29,070.00
12	Concrete Spillways	200 m2		\$130.00	\$26,000.00
Miscellaneous					
13	Linemarking				
13.1	Give Way line	160 m		\$14.00	\$2,240.00
14	Signposting				
14.1	Small Signage	18 each		\$383.00	\$6,894.00
15	Landscaping / Vegetation				
15.1	Topsailing Behind New Kerb	4750 m2		\$8.00	\$38,000.00
15.2	Turfing Behind New Kerb	4750 m2		\$9.00	\$42,750.00
15.3	Topsailing Open Drains	5130 m2		\$8.00	\$41,040.00
15.4	Turfing Open Drains	5130 m2		\$9.00	\$46,170.00
Sub Total					\$8,846,800
Contingency					10 % \$884,700
Total - Exclusive of GST					\$9,731,500
GST					\$973,150
Total - Inclusive of GST					\$10,704,650

Notes and Assumptions

- * No tip fees for topsoil disposal. Material assumed to be carted within 10km and disposed of without charge.
- * Add an additional \$216/m3 to the topsoil disposal rate for tipfees, inclusive of waste levies.
- * Imported fill volume is higher than necessary to allow for the road flood immunity > 1:100yr ARI.
- * Rates include a 10% provision above direct costs to cover items such as overheads, profit allowances and inclement weather

Quinns Lane to Warra Warra Rd Sth Nowra SCC - Stage 1					
Quote Number: DN160037.E01			Date : 9/06/2016		
Item	Description	Quantity	Unit	Rate	Amount
I	Environmental Protection	1	item	\$46,300.00	\$46,300.00
II	Clearing and Grubbing	1	item	\$22,500.00	\$22,500.00
III	Traffic Management	1	item	\$28,300.00	\$28,300.00
Drainage and Kerbs					
1	Stormwater Drainage Pipes (including backfill)				
1.1	375 mm Diameter	146	m	\$176.00	\$25,696.00
1.2	450 mm Diameter	163	m	\$215.00	\$35,045.00
1.3	525 mm Diameter	136	m	\$249.00	\$33,864.00
1.4	600 mm Diameter	87	m	\$286.00	\$24,882.00
1.5	675 mm Diameter	55	m	\$331.00	\$18,205.00
1.6	750 mm Diameter	3	m	\$395.00	\$1,185.00
2	Reinforced Concrete Box Culverts				
2.1	Single Cell 1200 mm x 600 mm Box Culvert	0	m	\$1,300.00	\$0.00
2.2	Single Cell 1200 mm x 300 mm Box Culvert	11	m	\$1,300.00	\$14,300.00
2.3	Twin Cell 600 mm x 450 mm Box Culvert	0	m	\$1,200.00	\$0.00
3	Kerbs and Gutters				
3.1	Type SA Kerb and Gutter (including turnouts)	1,730	m	\$102.00	\$176,460.00
Earthworks					
4	Topsoil Stripping				
4.1	Topsoil Stripping to Disposal	4400	m3	\$17.00	\$74,800.00
4.2	Topsoil Stripping for Reuse	350	m3	\$28.00	\$9,800.00
5	Cut to Fill (including drainage excavations)	4620	m3	\$21.00	\$97,020.00
6	Imported Fill Material	11690	m3	\$51.00	\$596,190.00
7	Foundation Treatments				
7.1	Removal and Disposal of Unsuitable Material	480	m3	\$373.00	\$179,040.00
7.2	Removal and Disposal of Uncontrolled Fill	0	m3	\$841.00	\$0.00
7.3	Loosen and Recompact Subgrade	18970	m2	\$2.00	\$37,940.00
Pavements					
8	DGS-20 (300mm thick)	10230	m2	\$43.00	\$439,890.00
9	DGB-20 (150mm thick)	9070	m2	\$31.00	\$281,170.00
10	Dense Grade AC10 (50mm thick)	9070	m2	\$28.00	\$253,960.00
11	Concrete Pavement	190	m2	\$153.00	\$29,070.00
12	Concrete Spillways	50	m2	\$130.00	\$6,500.00
Miscellaneous					
13	Linemarking				
13.1	Give Way line	80	m	\$14.00	\$1,120.00
14	Signposting				
14.1	Small Signage	6	each	\$383.00	\$2,298.00
15	Landscaping / Vegetation				
15.1	Topsoiling Behind New Kerb	1730	m2	\$8.00	\$13,840.00
15.2	Turfing Behind New Kerb	1730	m2	\$9.00	\$15,570.00
15.3	Topsoiling Open Drains	1120	m2	\$8.00	\$8,960.00
15.4	Turfing Open Drains	1120	m2	\$9.00	\$10,080.00
Sub Total					\$2,386,900
Contingency					10 % \$238,700
Total - Exclusive of GST					\$2,625,600
GST					\$262,560
Total - Inclusive of GST					\$2,888,160

Notes and Assumptions

- * No tip fees for topsoil disposal. Material assumed to be carted within 10km and disposed of without charge.
- * Add an additional \$216/m3 to the topsoil disposal rate for tipfees, inclusive of waste levies.
- * Imported fill volume is higher than necessary to allow for the road flood immunity > 1:100yr ARI.
- * Rates include a 10% provision above direct costs to cover items such as overheads, profit allowances and inclement weather

Quinns Lane to Warra Warra Rd Sth Nowra SCC - Stage 2					
Quote Number: DN160037.E01			Date : 9/06/2016		
Item	Description	Quantity	Unit	Rate	Amount
I	Environmental Protection	1 item		\$30,900.00	\$30,900.00
II	Clearing and Grubbing	1 item		\$15,900.00	\$15,900.00
III	Traffic Management	1 item		\$24,200.00	\$24,200.00
Drainage and Kerbs					
1	Stormwater Drainage Pipes (including backfill)				
1.1	375 mm Diameter	41 m		\$176.00	\$7,216.00
1.2	450 mm Diameter	24 m		\$215.00	\$5,160.00
1.3	525 mm Diameter	100 m		\$249.00	\$24,900.00
1.4	600 mm Diameter	186 m		\$286.00	\$53,196.00
1.5	675 mm Diameter	43 m		\$331.00	\$14,233.00
1.6	750 mm Diameter	0 m		\$395.00	\$0.00
2	Reinforced Concrete Box Culverts				
2.1	Single Cell 1200 mm x 600 mm Box Culvert	0 m		\$1,300.00	\$0.00
2.2	Single Cell 1200 mm x 300 mm Box Culvert	0 m		\$1,300.00	\$0.00
2.3	Twin Cell 600 mm x 450 mm Box Culvert	24 m		\$1,200.00	\$28,800.00
3	Kerbs and Gutters				
3.1	Type SA Kerb and Gutter (including turnouts)	1,050 m		\$102.00	\$107,100.00
Earthworks					
4	Topsoil Stripping				
4.1	Topsoil Stripping to Disposal	3150 m3		\$17.00	\$53,550.00
4.2	Topsoil Stripping for Reuse	210 m3		\$28.00	\$5,880.00
5	Cut to Fill (including drainage excavations)	10360 m3		\$21.00	\$217,560.00
6	Imported Fill Material	2360 m3		\$51.00	\$120,360.00
7	Foundation Treatments				
7.1	Removal and Disposal of Unsuitable Material	340 m3		\$373.00	\$126,820.00
7.2	Removal and Disposal of Uncontrolled Fill	630 m3		\$841.00	\$529,830.00
7.3	Loosen and Recompact Subgrade	13420 m2		\$2.00	\$26,840.00
Pavements					
8	DGS-20 (300mm thick)	6940 m2		\$43.00	\$298,420.00
9	DGB-20 (150mm thick)	6170 m2		\$31.00	\$191,270.00
10	Dense Grade AC10 (50mm thick)	6170 m2		\$28.00	\$172,760.00
11	Concrete Pavement	0 m2		\$153.00	\$0.00
12	Concrete Spillways	80 m2		\$130.00	\$10,400.00
Miscellaneous					
13	Linemarking				
13.1	Give Way line	40 m		\$14.00	\$560.00
14	Signposting				
14.1	Small Signage	4 each		\$383.00	\$1,532.00
15	Landscaping / Vegetation				
15.1	Topsolling Behind New Kerb	1050 m2		\$8.00	\$8,400.00
15.2	Turfing Behind New Kerb	1050 m2		\$9.00	\$9,450.00
15.3	Topsolling Open Drains	1420 m2		\$8.00	\$11,360.00
15.4	Turfing Open Drains	1420 m2		\$9.00	\$12,780.00
Sub Total					\$2,038,400
Contingency					10 %
					\$203,800
Total - Exclusive of GST					\$2,242,200
GST					\$224,220
Total - Inclusive of GST					\$2,466,420

Notes and Assumptions

- * No tip fees for topsoil disposal. Material assumed to be carted within 10km and disposed of without charge.
- * Add an additional \$216/m3 to the topsoil disposal rate for tipfees, inclusive of waste levies.
- * Imported fill volume is higher than necessary to allow for the road flood immunity > 1:100yr ARI.
- * Rates include a 10% provision above direct costs to cover items such as overheads, profit allowances and inclement weather

Quinns Lane to Warra Warra Rd Sth Nowra SCC - Stage 3					
Quote Number: DN160037.E01					
Date : 9/06/2016					
Item	Description	Quantity	Unit	Rate	Amount
I	Environmental Protection	1	item	\$56,200.00	\$56,200.00
II	Clearing and Grubbing	1	item	\$31,700.00	\$31,700.00
III	Traffic Management	1	item	\$52,300.00	\$52,300.00
Drainage and Kerbs					
1	Stormwater Drainage Pipes (including backfill)				
1.1	375 mm Diameter	0	m	\$176.00	\$0.00
1.2	450 mm Diameter	66	m	\$215.00	\$14,190.00
1.3	525 mm Diameter	222	m	\$249.00	\$55,278.00
1.4	600 mm Diameter	24	m	\$286.00	\$6,864.00
1.5	675 mm Diameter	0	m	\$331.00	\$0.00
1.6	750 mm Diameter	0	m	\$395.00	\$0.00
2	Reinforced Concrete Box Culverts				
2.1	Single Cell 1200 mm x 600 mm Box Culvert	36	m	\$1,300.00	\$46,800.00
2.2	Single Cell 1200 mm x 300 mm Box Culvert	0	m	\$1,300.00	\$0.00
2.3	Twin Cell 600 mm x 450 mm Box Culvert	0	m	\$1,200.00	\$0.00
3	Kerbs and Gutters				
3.1	Type SA Kerb and Gutter (including turnouts)	1,970	m	\$102.00	\$200,940.00
Earthworks					
4	Topsoil Stripping				
4.1	Topsoil Stripping to Disposal	6280	m3	\$17.00	\$106,760.00
4.2	Topsoil Stripping for Reuse	400	m3	\$28.00	\$11,200.00
5	Cut to Fill (including drainage excavations)	3770	m3	\$21.00	\$79,170.00
6	Imported Fill Material	33520	m3	\$51.00	\$1,709,520.00
7	Foundation Treatments				
7.1	Removal and Disposal of Unsuitable Material	670	m3	\$373.00	\$249,910.00
7.2	Removal and Disposal of Uncontrolled Fill	700	m3	\$841.00	\$588,700.00
7.3	Loosen and Recompact Subgrade	26720	m2	\$2.00	\$53,440.00
Pavements					
8	DGS-20 (300mm thick)	12670	m2	\$43.00	\$544,810.00
9	DGB-20 (150mm thick)	11250	m2	\$31.00	\$348,750.00
10	Dense Grade AC10 (50mm thick)	11250	m2	\$28.00	\$315,000.00
11	Concrete Pavement	0	m2	\$153.00	\$0.00
12	Concrete Spillways	70	m2	\$130.00	\$9,100.00
Miscellaneous					
13	Linemarking				
13.1	Give Way line	40	m	\$14.00	\$560.00
14	Signposting				
14.1	Small Signage	8	each	\$383.00	\$3,064.00
15	Landscaping / Vegetation				
15.1	Topsoiling Behind New Kerb	1970	m2	\$8.00	\$15,760.00
15.2	Turfing Behind New Kerb	1970	m2	\$9.00	\$17,730.00
15.3	Topsoiling Open Drains	2590	m2	\$8.00	\$20,720.00
15.4	Turfing Open Drains	2590	m2	\$9.00	\$23,310.00
Sub Total					\$4,421,600
Contingency				10 %	\$442,200
Total - Exclusive of GST					\$4,863,800
GST					\$486,380
Total - Inclusive of GST					\$5,350,180

Notes and Assumptions

- * No tip fees for topsoil disposal. Material assumed to be carted within 10km and disposed of without charge.
- * Add an additional \$216/m3 to the topsoil disposal rate for tipfees, inclusive of waste levies.
- * Imported fill volume is higher than necessary to allow for the road flood immunity > 1:100yr ARI.
- * Rates include a 10% provision above direct costs to cover items such as overheads, profit allowances and inclement weather

DE18.53 Development Application - DA17/1678 – 87 Tallwood Ave, Mollymook Beach – Lot 51 DP1193578

DA. No: DA17/1678

HPERM Ref: D18/223258

Group: Planning Environment & Development Group
Section: Ulladulla Service Centre

Attachments: 1. Revised Clause 4.6 Variation Request Report - 87 Tallwood Ave Mollymook Beach [↓](#)

Description of Development: Proposed roof top sun deck for exclusive use of residential guests during daylight hours

Owner: Conbrae Pty Ltd

Applicant: Tony Freeman c/o Molnar Freeman Architects

Notification Dates: 18 April 2018 to 18 May 2018

No. of Submissions: 8 in objection
1 in support

Purpose / Reason for consideration by Council

Obtain direction from Council regarding a request for a variation of a development standard (building height) applicable to the site under clause 4.6 of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

Note: Requests for a variation that exceed 10% of the development standard are required to be determined by Council rather than by delegation in accordance with the conditions of assumed concurrence by the Secretary, NSW Department of Planning & Environment.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Confirm that it supports, pursuant to clause 4.6 (exceptions to development standards) of SLEP 2014, the applicant's request to vary the maximum building height standard of 11m to increase the existing maximum building height from 13.514 to 14.714m; and
2. Refer the development application (DA17/1678) back to staff for determination.

Options

1. Resolve to support the proposed variation to the development standard for maximum building height of 11m to increase the existing maximum building height from 13.514m to 14.714m.

Implications: This will permit the application to proceed in its current form.

DE18.53

2. Resolve not to support the proposed variation to the development standard.

Implications: This would result in the applicant needing to reconsider their options for the proposal.

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

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

Figure 1 - Location Map



Source: Google Maps

Background

Proposed Development

The application seeks approval for a 260m² sundeck for exclusive use of residential guests during daylight hours to be constructed on top of the existing roof level (RL 19m AHD – 2.514m above 11m max building height) of Banisters Pavilion comprising:

- External stair located at the eastern end of the existing roof top terrace with privacy screen that wraps around the stair and the first 3.49m of access path on the roof. The privacy screen projects up to 1.6m above the level of the existing roof (RL20.6m AHD) which at its highest point is 3.38m above the 11m height standard;
- A 1.2m high clear glass balustrade (RL20.2m AHD) that ranges from 2.1m to 3.714m above the 11m height standard;
- Seating and landscaping that are lower in overall height; and
- A number of isolated movable sun shades up to 3.5m above the 11m height standard.

DE18.53

Figure 2 - Roof Top Floor Plan

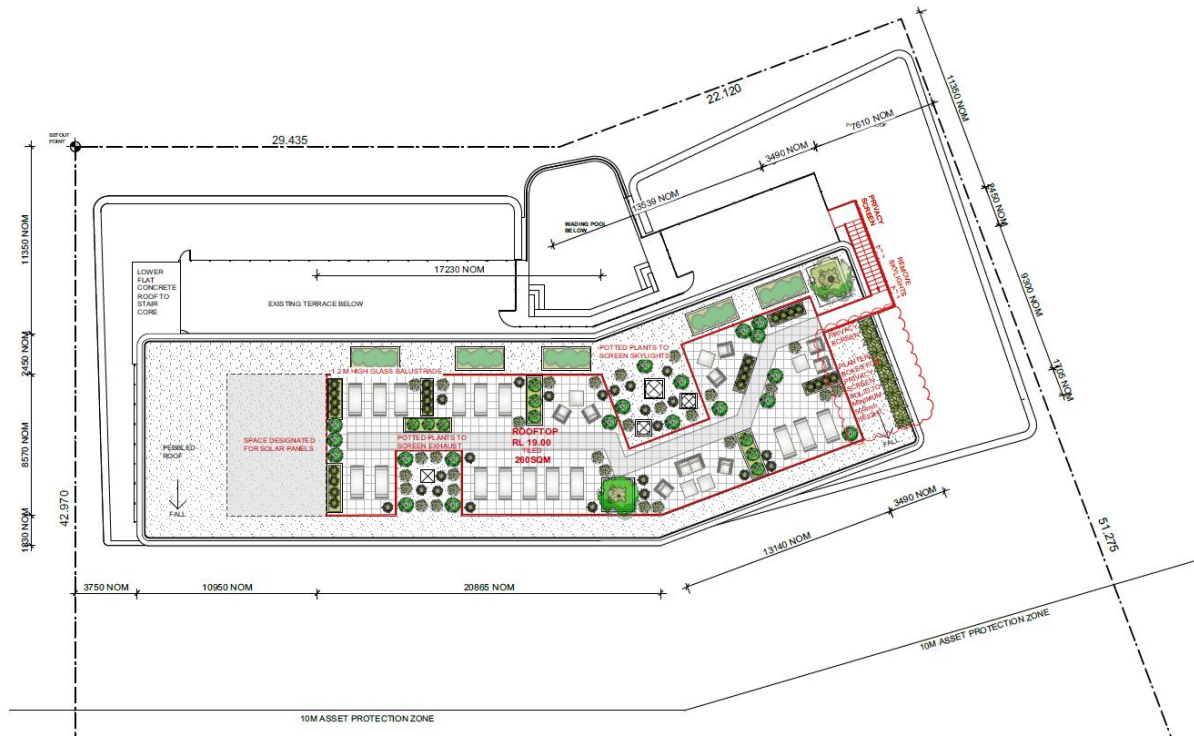
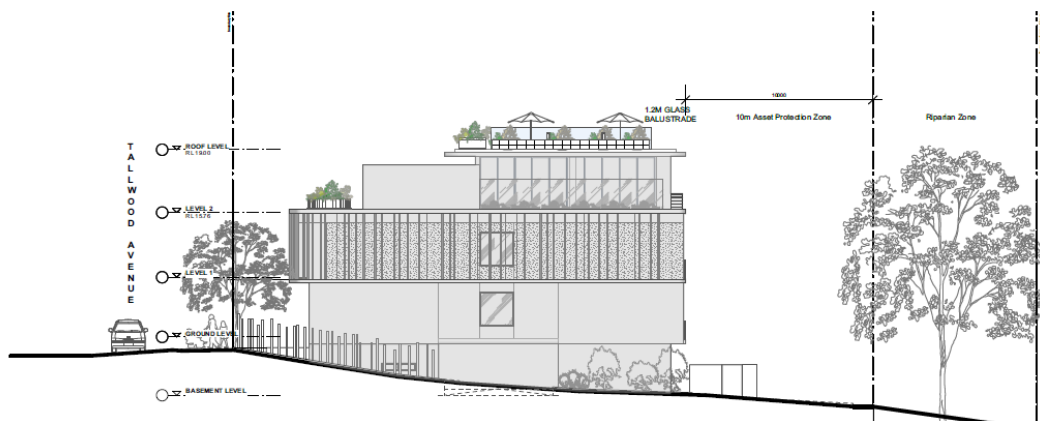


Figure 3 – North East Elevation



Figure 4 – North West Elevation

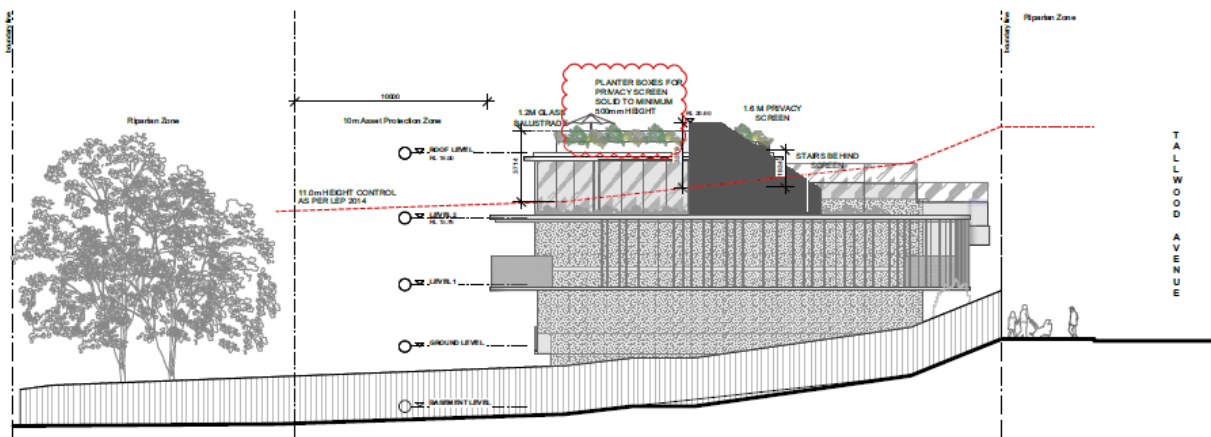


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Figure 5 – South West elevation



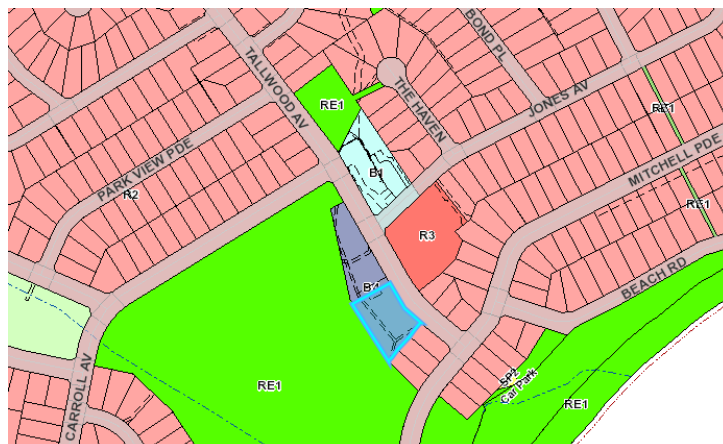
Figure 6 – South east Elevation



Subject Land

The subject site Lot 51 DP 1193578 (87 Tallwood Ave) is located on the southern side of Tallwood Ave approximately 40m north west of Mitchell Parade, Mollymook Beach. The land has a 52m slightly angled frontage to Tallwood Ave and a variable depth ranging approximately from 51m to 43m with an area of 2,627m². The site (outlined in blue below) rises gradually in elevation to the north west along Tallwood Ave and drops away from Tallwood Ave to the riparian reserve at the rear.

Figure 7 – Zoning Map



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Site & Context

The development site:

- Contains an existing 4 storey motel development comprising:
 - Basement Level - 37 space car park, loading bay, store rooms, cool room, staff room, associated facilities, landscaping and civil works;
 - Ground Level - Entry lobby, lounge, reception, 2 lifts, 19 single bed motel rooms, associated landscaping and civil works and 13 car parking spaces in Carroll Ave;
 - First Level - 12 single bed motel rooms and 2 x 2 bed penthouse motel rooms all with balconies and associated facilities;
 - Second Level - Paved roof top terrace & wading pool surrounded by glass balustrade, café, kitchen & bar enclosed below the elevated cantilevered roof and screened within operable doors & walls, landscaping and associated facilities;
- Is zoned B4 - Mixed Use;
- Adjoins land zoned RE1 Public Recreation, R2 Low Density Residential, R3 Medium Density Residential & B1 Neighbourhood Centre under SLEP 2014;
- Is surrounded by single dwellings (103-107 Mitchell Parade) to the south east, Mollymoke Farm Creek Riparian land and Bill Andriske Oval to the west, shops and commercial tenancies and parking to the north west and north and medium & low-density housing to the north east.

History

The following provides details on general site history in relation to the current application:

- The original Development Application (DA13/1253) was approved on 11/09/2013 with building height of 13m approved under delegation with consideration under clause 139 of former Illawarra Regional Environmental Plan (IREP);
- Modification (DS14/1057) approved on 10/07/2014 with building height slightly higher at 13.514m approved under delegation under clause 139 (IREP) to add service lift, increase the covered area on the roof to include a café/bar and removal of function room from the lower levels of the development;
- Modification (DS15/1154) approved on 18/06/2015 to carry out internal & external alterations and revised dining hours for residential guests – no change to maximum building height;
- Modification (DS16/1076) approved on 19/09/2016 included minor alterations, revised landscaping, revised café/bar number of persons and hours of use – no change to maximum building height.

Issues

Clause 4.3 (Height of buildings) of SLEP 2014

Clause 4.3 relates to the maximum height of buildings and as the land is not mapped the maximum building height for the site is 11m above existing ground level. The development does not comply with this development standard as the proposed sun deck, stair and privacy screen will be above 11m. The existing development already exceeds this standard.

The following variations are sought:

- External stair and privacy screen 1.6m above the existing roof height and 3.3m above the 11m maximum building height;

- Clear glass balustrade 1.2m above the existing roof and 3.714m above the 11m maximum building height at the highest point in the south east corner;
- Seating and landscaping that are lower in overall height than the above features; and
- A number of isolated movable sun shades 2m above the existing roof and up to 3m above the 11m maximum building height.

Clause 4.6 (Exceptions to development standards) of SLEP 2014

The applicant has sought a variation to the development standard pursuant to the requirements of clause 4.6 of SLEP 2014 and their complete application is included in **Attachment 1**.

The following is an extract from the applicant's justification for the variation of the development standard:

It is considered that the development standard for this minor area of privacy screening and the clear glass balustrade is unreasonable and unnecessary for the following reasons:

- *The site is sloping down from the north east (Tallwood Ave) to the south-west at the rear. As a result, the technical non-compliance is exaggerated as the proposal is located near to the lowest side of the site. The only position it can be viewed from is the street which is at a higher level and thus the non-compliance relative to the street is substantially smaller.*
- *The proposal is setback almost 13.8m from the street (North-Eastern boundary), 15.2m from the northern-western boundary, 11.7m from the South-Eastern boundary and 19.8m from the South Western boundary. There is significant vegetation screening in place and as such this area of noncompliance is almost undetectable from the public domain. The proposed open terrace has clear glass balustrades other than the privacy screen to the access stair.*
- *The siting of the built form has been provided in a sensitive manner to the adjoining neighbours. The access to the rooftop is screened for privacy and their views and outlook will be retained.*
- *There are no dwellings or properties to the south-west. The privacy screening to the stair is a very small area and is setback significantly from the adjoining boundary. As such any shadow impacts to the properties to the south-east are extremely minor.*

The above factors demonstrate that the LEP height standard is unreasonable and unnecessary in this circumstance.

Consistency with the objectives of the Height of Buildings standard in the LEP

The following assessment addresses the relevant criteria under Clause 4.3 of the LEP:

Clause 4.3 Height of Buildings:

The objectives of this clause are as follows:

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*

Assessment: The site has a commercial zoning and is adjacent to a residential zoning. Therefore, a variety of forms, bulk and scales exist in this vicinity. This proposal is for a very small structure relative to the existing building and for the reasons mentioned previously will barely be visible. The majority of the bulk and scale exists in the constructed building and this proposal is minor in nature.

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Figure 8 – North Elevation Motel Montage viewed from Tallwood Ave



The majority of the height, bulk and scale is already existing. The additional roof area is very small, well setback from the sides and barely visible. As such it is compatible with the height, bulk and scale of the existing, and it will not change the character of the existing building or the desired future character of the locality thus meets this objective.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

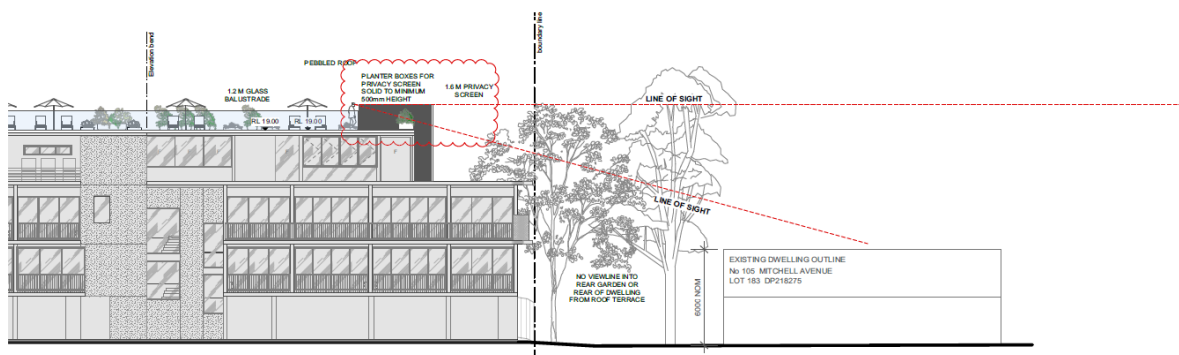
Assessment: As discussed and demonstrated by the photomontage above, the visual impact is extremely minimal.

As it is setback a long way from the edges of the building and the site boundaries there will be no disruption of views. The balustrade is clear glass to resulting in very minimal changes to the existing.

The line of sight drawing below demonstrates that the hotel guests will not be able to look into the adjacent neighbour's private out door areas along Mitchell Road, given the large setback to the very outer edge of the roof terrace.

There is a proposed privacy screen at 1.6m from the floor level around the new external stair which is protect the privacy of the adjoining residences for people accessing this terrace. The surrounding balustrade is clear glass to ensure there is no added building bulk and to maximise transparency.

Figure 9 – Line of Sight Plan South West elevation



Discussion

In accordance with 4(a)(i) of clause 4.6 of the SLEP 2014, the applicant's written request is considered to have adequately addressed the matters required to be demonstrated by subclause (3) that is:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

DE18.53

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

After reviewing the applicant's submission, it is considered that the variation is reasonable and acceptable for the following reasons:

- The building height varies with the slope of the block and is contextually appropriate;
- The building height variation does not generate overshadowing impacts, loss of views or loss of privacy on the surrounding properties;
- The proposal is considered to be consistent with the objectives of the height standard, to ensure that the height of development is appropriate to the condition of the site and its context;
- The height, bulk and scale of the proposal is consistent with the desired future character of the area. The area is identified as B4 Mixed Use zone which permits the development of Hotel and Motel accommodation that has a symbiotic relationship with nearby commercial premises;
- The sun deck is well set back from the street and nearest neighbours and due to the extensive use of clear glass will sit lightly in the landscape.

In accordance with subclause 4(a)(ii) of clause 4.6 of the SLEP 2014, the applicant's written request and associated plans are considered to have adequately demonstrated that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 of the SLEP 2014 and the objectives for development within the B4 mixed use zone in which the development is proposed to be carried out.

In accordance with the departments guidelines for variations to development standards Council should consider the following 5 part test to identify if the application is well founded:

a) The objectives of the standard are achieved notwithstanding noncompliance with the standard;

The objectives of the 11m height standard have been achieved as the proposed sun deck is compatible with the height, bulk and scale of the existing and desired future character of the locality while minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

b) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Due to the proposed setbacks, extensive use of clear glazing, privacy screens and landscaping it is considered that the underlying objective of the height standard is not relevant to the proposed variation.

c) The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

This is not considered relevant to this proposal.

d) The development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

This is not considered relevant to this proposal or to other variations to this development standard.

e) The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

This is not considered relevant to this proposal.

Under the terms of the Secretary's notification Council can assume concurrence under cl4.6(4)(b) but must give consideration to the matters in cl4.6(5) of the SLEP 2014:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning - it is considered that contravention of the maximum building height development standard will not raise any matters of state or regional planning significance in this case;

(b) the public benefit of maintaining the development standard - the subject site already benefits from an approval for a height greater than the 11m height threshold from IREP. There is no public benefit in maintaining the 11m height standard for this development as the variation is minor in scale, well setback from boundaries and will not impact on views, privacy or cause shade impacts to neighbours;

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence. – no other matters required.

Planning Assessment

The application will be fully assessed under s79C of the Environmental Planning and Assessment Act 1979 following determination of the application for variation to development standards.

Consultation and Community Engagement:

Nine (9) public submissions were received in relation to Council's notification of the development. Eight (8) were objections to the development and one (1) was in support of the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent to an extensive buffer around the site. The application was also notified in the Milton Ulladulla Times Newspaper on 18 April 2018 for a four (4) week period.

Relevant issues raised as a result of the notification are provided below.

Issue - *The sun deck use is defined as recreation facilities outdoor and therefore prohibited in the B4 zone.*

Comment - The sun deck is ancillary to the use as a motel which is a permitted use in the B4 zone.

Issue - *The sun deck forms another storey to the development and thereby increases the Floor Space Ratio of the development.*

Comment - The proposed sun deck has a floor but no walls or roof and therefore by definition is not included in the calculation for floor space ratio and in any event no floor space ratio applies to this site.

Issue - *The sun deck needs to comply with clause 5.6 of the SLEP 2014 as an architectural roof feature.*

Comment - This clause does not apply to the current application as the proposed works are not architectural roof features and are addressed more appropriately under clause 4.6 of the SLEP 2014.

Issue - *Concern that furniture and umbrellas could become airborne and cause injury or damage to surrounding residents/public or premises in windy conditions.*

Comment - Any lightweight furniture or shade devices will be required to be suitably anchored for the location.

Issue - Concern that the additional sun deck will increase the visual bulk and scale of the development

Comment – Not supported see full details in the body of this report.

Issue - Acoustic privacy of nearby residents will be further impacted

Comment - An acoustic report prepared by Harwood Acoustics was submitted with the current proposal that demonstrates that the level of noise emission from Hotel guests using the roof top sundeck will be well below the acceptable noise limits at all receptor locations without the need for further noise controls.

Issue - Safety concern of guests falling over the 1.2m safety balustrade.

Comment - The proposed safety balustrade complies with the Building Code of Australia for the classification and rise of stories.

Issue - Concern that the proposal will increase patron numbers and impact on parking available in Tallwood Ave.

Comment - The deck is proposed for exclusive use of the accommodation guests and is to be controlled via electronic card entry gate to prevent the general public when using the rooftop bar and café from gaining access. As the sun deck will not be open to non-resident visitors there will not be any increase in parking demand for the site.

Issue - Concern that the amenity of nearby residents would be impacted.

Comment - The sun deck has been carefully designed to provide suitable setbacks and screening to ensure that visual and acoustic amenity will not be impacted by the proposal.

Issue - Concern that the sun deck will be serviced with food and alcohol and be utilised for New Year's Eve events.

Comment - The application is for a sun deck for use by residential guests during daylight hours only. The existing development consent for the motel has very strict noise and amenity conditions which the current application will need to comply with.

Financial Implications:

Nil

Legal Implications

If the application is refused, or if the applicant is dissatisfied with Council's determination, the applicant is entitled to appeal to the Land and Environment Court.

Summary and Conclusion

It is considered that the variation is reasonable and acceptable and strict compliance with the development standard is considered to be unnecessary as the development is appropriate in the location and can achieve the relevant planning objectives.

There are sufficient planning grounds to justify the departure from the maximum building height development standard prescribed in the Shoalhaven LEP 2014, therefore, the proposed variation is well founded in this instance.

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**CLAUSE 4.6 VARIATION TO CLAUSE 4.3 OF SHOALHAVEN LEP 2014
EXCEPTIONS TO DEVELOPMENT STANDARDS – HEIGHT VARIATION**

In relation to
Proposed Extension of existing staircase to existing rooftop
and creation of outdoor terrace

Submitted to
Shoalhaven Council

Prepared by
Molnar Freeman Architects

January 2018
Revised July 2018

DE18.53 - Attachment 1

SHOALHAVEN LEP 2014 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission has been prepared to accompany the development application submitted to Shoalhaven Council for the proposed additions to the Bannister's Pavilion hotel at 87 Tallwood Avenue, Mollymook Beach.

The proposal seeks a variation to the development standard contained within Clause 4.3 of the *Shoalhaven Local Environmental Plan 2014* - maximum height of 11m.

Whilst on the LEP Height map this property is not identified as having a specified height control, Clause 4.3 states that where a property does not have a specific height control, then the maximum building height shall be 11m.

The development proposes an external staircase to access an open rooftop terrace surrounded by a clear glass balustrade. The privacy screen that wraps around this stair is the highest point being 1.6m above finished floor level of the existing roof. The other structures being the clear glass balustrade and planter boxes and are lower in overall height. At its highest point this privacy screen is 3.3m above the 11m height control.

This submission contends that strict compliance with the maximum height of 11m is unreasonable and unnecessary in the circumstances of the case and that the variation sought can be supported and that the Clause 4.6 exception to the development standard should be upheld.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:*
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Director-General has been obtained.*
- (5) In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

It is considered that the development standard for this minor area of privacy screening and the clear glass balustrade is unreasonable and unnecessary for the following reasons:

- The site is sloping down from the north east (Tallwood Ave) to the south-west at the rear. As a result, the technical non-compliance is exaggerated as the proposal is located near to the lowest side of the site. The only position it can be viewed from is the street which is at a higher level and thus the non-compliance relative to the street is substantially smaller.
- The proposal is setback almost 13.8m from the street (North-Eastern boundary), 15.2m from the northern-western boundary, 11.7m from the South-Eastern boundary and 19.8m from the South Western boundary. There is significant vegetation screening in place and as such this area of non-compliance is almost undetectable from the public domain. The proposed open terrace has clear glass balustrades other than the privacy screen to the access stair.
- The siting of the built form has been provided in a sensitive manner to the adjoining neighbours. The access to the rooftop is screened for privacy and their views and outlook will be retained.
- There are no dwellings or properties to the south-west. The privacy screening to the stair is a very small area and is setback significantly from the adjoining boundary. As such any shadow impacts to the properties to the south-east are extremely minor.

The above factors demonstrate that the LEP height standard is unreasonable and unnecessary in this circumstance.

Consistency with the objectives of the Height of Buildings standard in the LEP

The following assessment addresses the relevant criteria under Clause 4.3 of the LEP:

Clause 4.3 Height of Buildings:

The objectives of this clause are as follows:

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,

Assessment: The site has a commercial zoning and is adjacent to a residential zoning. Therefore, a variety of forms, bulk and scales exist in this vicinity. This proposal is for a very small structure relative to the existing building and for the reasons mentioned previously will barely be visible.

The majority of the bulk and scale exists in the constructed building and this proposal is minor in nature.



The majority of the height, bulk and scale is already existing. The additional roof area is very small, well setback from the sides and barely visible. As such it is compatible with the height, bulk and scale of the existing, and it will not change the character of the existing building or the desired future character of the locality thus meets this objective.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

Assessment:

As discussed and demonstrated by the photomontage above, the visual impact is extremely minimal.

As it is setback a long way from the edges of the building and the site boundaries there will be no disruption of views. The balustrade is clear glass to resulting in very minimal changes to the existing.

The line of sight drawing on the following page demonstrates that the hotel guests will not be able to look into the adjacent neighbour's private out door areas along Mitchell Road, given the large setback to the very outer edge of the roof terrace.

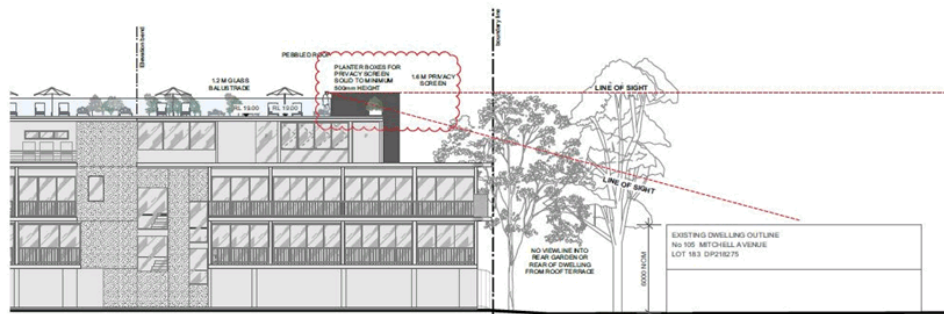
There is a proposed privacy screen at 1.6m from the floor level around the new external stair which is protect the privacy of the adjoining residences for people accessing this terrace.

The surrounding balustrade is clear glass to ensure there is no added building bulk and to maximise transparency.

Clause 4.6 Variation

Rooftop Terrace, 87 Tallwood Avenue, Mollymook Beach

May 2018



This roof area would not create any additional loss of privacy to the properties along Tallwood Ave. There is already the existing roof terrace facing towards them and this is on a similar level to those properties as well as being closer to them than the proposed roof terrace.

There will be no shadows cast onto any of the adjoining properties as a result of this proposal other than a very minor amount from the privacy screen around the stairs.

As such the proposal meets all aspects of this objective.

(c) to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.

Assessment: Not applicable as the site is not in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.

Conclusion

For the reasons mentioned herein, this Clause 4.6 variation is forwarded to Council in support of the development proposal at 87 Tallwood Avenue, Mollymook Beach and is requested to be looked upon favourably by Council.

DE18.54 Release of the Local Strategic Planning Statements Guideline for Councils

HPERM Ref: D18/233878

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

To advise of the release of the *Local Strategic Planning Statements Guidelines for Councils* by the NSW Department of Planning and Environment (DP&E).

Recommendation (Item to be determined under delegated authority)

That Council receive this report, advising of the release by the NSW Department of Planning & Environment of the *Local Strategic Planning Statements Guidelines for Councils*, for information.

Options

1. Receive this report for information.

Implications: This is the preferred option as work is underway and there is no required action at this time.

2. Resolve on some other course of action regarding this matter.

Implications: The implications are dependent on what the alternative resolution might be.

Background

In March 2018, major amendments to the Environmental Planning and Assessment Act 1979 (EP&A Act) commenced. As part of those amendments, a new requirement for Councils to prepare and make Local Strategic Planning Statements (LSPS) was introduced. Consistent with Section 3.9 of the EP&A Act:

- (1) *The council of an area must prepare and make a Local Strategic Planning Statement and review the Statement at least every 7 years.*
- (2) *The Statement must include or identify the following:*
 - (a) *the basis for strategic planning in the area, having regard to economic, social and environmental matters,*
 - (b) *the planning priorities for the area that are consistent with any strategic plan applying to the area and (subject to any such strategic plan) any applicable community strategic plan under section 402 of the [Local Government Act 1993](#),*
 - (c) *the actions required for achieving those planning priorities,*
 - (d) *the basis on which the council is to monitor and report on the implementation of those actions.*

Regional Councils (including Shoalhaven) now have until 1 July 2020 to have a LSPS in place.

To assist Councils in the preparation of these LSPS, the DP&E released the *Local Strategic Planning Statements Guidelines for Councils* on 8 June 2018.

The Guidelines can be viewed on the DP&E's website at

<http://www.planning.nsw.gov.au/Policy-and-Legislation/Environmental-Planning-and-Assessment-Act-updated/Guide-to-the-updated-Environmental-Planning-and-Assessment-Act-1979/~media/E56C7C8D06C04D658615983B78F4D42F.ashx>

The Guidelines clarify the purpose of the LSPS, their place in the NSW Planning System, what a LSPS should include, and the stages in preparing a LSPS. It is also stated that the DP&E will work closely with Councils throughout the process to assist with the development of the LSPS.

Community Engagement

There was no community or Council engagement regarding the Guidelines.

The Guidelines indicate that there will be formal exhibition of a draft LSPS for a minimum of 28 days.

Policy Implications

It is intended that the current review of the Shoalhaven Growth Management Strategy (GMS) will help inform the preparation and delivery of Shoalhaven's LSPS. The initial commencement report for the GMS review project was considered by Council in May 2018.

This has obvious implications regarding the timing of the GMS review if it is to feed into the LSPS which is due for completion by mid-2020. The GMS review is identified as a priority project in Councils Strategic Planning Works Program.

The Guidelines state that once a LSPS is made, it becomes a consideration when preparing LEPs.

Financial Implications

It is envisaged that the preparation of the LSPS will be managed alongside the review of the GMS within the Strategic Planning budget.

DE18.54

DE18.55 Design Review Panel Establishment and NSW State Design Review Panel Pilot Program Nomination

HPERM Ref: D18/233892

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. List of Shortlisted Applicants for the NSW State Design Review Panel [↓](#)

Purpose / Summary

To report back regarding MIN17.1042 which sought to consider the Terms of Reference and proposed budget and fee structure for a possible Design Review Panel for Shoalhaven, and to also seek direction for Council's nomination for the pilot NSW State Design Review Panel (SDRP).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Support the expansion of the Wollongong Design Review Panel for use by other councils in the Illawarra-Shoalhaven region, including Shoalhaven.
2. Trial the referral of certain development applications to the Wollongong Design Review Panel for advice.
3. Nominate a local panel member for the pilot NSW State Design Review Panel from the shortlisted applicants provided by the Government Architect NSW or a panel member with the required expertise and strong local knowledge and advise Government Architect NSW of Council's nomination.

Options

1. Adopt the recommendation

Implications: This will enable Council to trial the use of an established Design Review Panel in conjunction with other councils in the Illawarra-Shoalhaven Region, which could result in the formalisation of a regional Design Review Panel. Such a panel would eliminate the need for expensive and reactive design referrals in the development application (DA) process, provide greater certainty and efficiency for developers, increase the design expertise among Council staff, and lead to better outcomes for the community.

It will also enable Council to select a suitably qualified and experienced person to be Council's nominated panel member for the pilot State Design Review Panel.

2. Adopt an alternative recommendation.

Implications: Dependent on the nature of the alternative recommendation.

3. Not adopt the recommendation.

Implications: No further action will be taken, and current processes will remain.

Background

Council's Development Committee at its meeting on 11 December 2017 considered a report on the Establishment of a Design Review Panel for Shoalhaven and resolved as follows (MIN17.1042):

That Council:

1. *Supports in principle the establishment of a Design Review Panel for Shoalhaven subject to receiving the report outlined in number 5.*
2. *Explore the possibility of establishing a joint Design Review Panel for the Illawarra-Shoalhaven region.*
3. *Apply the Design Review Panel to all development citywide that is covered under State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and development in the Nowra and Ulladulla CBD's that is at least 3 or more storeys in height.*
4. *Endorse the nine (9) Design Quality Principles defined in Attachment 1 for the consideration of development referred to the Design Review Panel.*
5. *Receive a subsequent report on the Terms of Reference and proposed budget and fee structure for the Design Review Panel.*

This report provides an update on the interest of other councils in establishing a joint Design Review Panel and further discussion on the budget and fees for a Design Review Panel.

The report also seeks direction for Council's nomination for the pilot NSW State Design Review Panel.

Possible Joint Regional Design Review Panel – Interest from Illawarra Councils

Following the above resolution, Council wrote to the councils of Wollongong, Shellharbour and Kiama as well as the Illawarra-Shoalhaven Joint Organisation (ISJO) seeking their interest in establishing a joint Design Review Panel for the region.

The matter was considered by the region's Planning Directors in February and April 2018, where it was agreed that the possibility of utilising Wollongong City Council's Design Review Panel, which has been established for several years, be explored.

Consultation led by Wollongong City Council with their existing panel members showed they are generally very interested in expanding their role and function to assist other areas in the region. As experts in the fields of architecture, landscape architecture or urban design, existing panel members can vouch for the success of such panels in both Wollongong and across NSW and see the benefit this could bring other councils in the region which may not have the demand or capacity to warrant establishing their own panel.

Following the agreement by the region's Planning Directors to explore the possibility of expanding the Wollongong Design Review Panel, Shellharbour City Council commenced a trial of referring certain DA's to the Wollongong panel, with meetings held in Shellharbour. This trial has so far proved very successful in providing independent, impartial and expert design advice to assist council in their approval process. In the longer term, the benefits of design review include, but are not limited to, improved design standards across the built environment, and increased design expertise among Council assessment staff.

Based on the success of this approach so far, it is recommended that Council endorse the use of the Wollongong Design Review Panel, for a trial period, to enable the referral of certain DA's from Shoalhaven City Council. Based on part 3 of the 11 December 2017 resolution, this includes all development citywide that falls under State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and development in the Nowra and Ulladulla CBD's that is at least three (3) or more storeys in height.

Since the panel is an existing panel, a draft Terms of Reference has not been prepared at this stage, as the Wollongong Panel operates under the terms of Part 5 of the Apartment Design Guide under State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.

Should the trial be successful, Illawarra-Shoalhaven councils may seek to formalise the panel as a 'regional' panel and prepare a separate Terms of Reference at that stage.

Financial Implications

Continuing the trial expansion of the Wollongong Design Review Panel is likely to be more cost efficient for Council as opposed to establishing a complete new panel for Shoalhaven. The experience of other councils is that design review panels can be expensive to run, with fees paid by applicants generally only just covering the cost of paying the panel members. It therefore makes sound financial sense that the option of expanding the Wollongong panel be explored further by Shoalhaven trialling the referral of DA's to the Panel.

The cost of the design review service is borne by the developer at a maximum fee of \$3,000 per meeting. This fee is set by the Environmental Planning and Assessment Regulation 2000 and is included in Council's schedule of fees and charges. This fee is not used to cover Council's costs but is directed towards the payment of a minimum of three independent, expert panel members with expertise in architecture, landscape architecture or urban design. Panel members have varying rates based on their profile and level of expertise, however based on Shellharbour's trial of the panel, payment of the chair and panel members would be as follows:

No of Items on Agenda	Chair	Panel Member
1–2	\$1,760	\$1,430
3	\$2,640	\$2,145

It is noted that, without a Panel, Council already requires the engagement of independent urban design advice for certain Development Applications with significant architecture and urban design implications. Based on recent examples, these referrals can cost Council anywhere between \$3,432 (e.g. DA16/2070 – 7 Beach Street, Huskisson) and \$6,050 (e.g. RA17/1002 – Corner Kinghorne & Kalandar Streets and Gould Avenue, Nowra).

By utilising a design review panel, applicants can receive early design input and advice from experts in the field in accordance with the Design Quality Principles of SEPP 65. As these types of development become more prevalent, feedback from other councils is that it is an expectation of the industry and community that such applications will go through a rigorous design review process. Design review panels save time and money for the proponent as they are more likely to reach an acceptable design outcome in the pre-lodgement stage, leading to faster approval times. Council will also be able to utilise the established panel rather than needing to engage consultants to review the design aspects of certain DA's.

NSW State Design Review Panel (SDRP) Pilot Program – Local Council Nomination

The NSW State Design Review Panel Pilot Program has also been set up the NSW Government Architect's Office (GA NSW) to provide design advice in the early stages of certain state significant projects.

This may include, but is not limited to:

- any project referred to GA NSW by the Minister or his delegate
- projects on Government owned land that includes public use of that land and/or may impact on the public domain, including Green Corridors

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- projects declared state significant development in the *State Environmental Planning Policy (State and Regional Development) 2011*
 - certain land uses (for example tourism, health or education uses, or commercial / residential premises within a rail corridor)
 - other types of state significant development where the project is adjacent to or impacts on sensitive areas.
- selected projects declared state significant infrastructure in the *State Environmental Planning Policy (State and Regional Development) 2011*.

Should any of the above projects occur in the Shoalhaven Local Government Area and be referred to the SDRP, a panel of up to four independent panel members and a Chair will review and provide advice on the project. One of these panel members can be Council's nominee.

Council's nominee is not a representative of Council views within the panel but are nominated for their strong knowledge of the local area and for their independent expertise. The requirements for Council's nomination are that the person must:

- Be independent, qualified and (where relevant) Australian registered practitioners, or retired practitioners, in architecture, urban design, landscape architecture, and/or other relevant discipline with equivalent experience.
- Have demonstrated strong working knowledge of the relevant LGA (either through experience on local design review panel or as consultant to Council), particularly in respect of large projects including education or health related projects, industrial and infrastructure projects, heritage, strategic design, master planning, open space and green infrastructure, as well as high density and mixed-use development, and that;
- Council's nominee will be reviewed and approved by GA NSW, appointed directly by GA NSW for a 24-month period, remunerated on the same basis as the existing SDRP members, and held to the NSW SDRP Terms of Reference, and in particular the principles of good design review.

GA NSW suggests that councils select their representative panel member from those shortlisted through the open tender process for the SDRP, provided as **Attachment 1**. However, few of these are believed to have strong knowledge of the local area. From the shortlist, three panel members have been engaged by Council on previous projects:

	Panel Member Name	Service Provider	Previous Council project experience	Other panel experience
1	Gabrielle Morrish	GM Urban Design	Huskisson Mixed Use Zones development controls	NSW SDRP Panel Member NW Rail / Light Rail / Ryde / Parramatta
2	Jonathan Knapp	SJB Architects	Huskisson Master Plan	Randwick Council / Eastern Beaches DRP
3	Kylie Legge	Place Partners	Facilitated place management training for Council staff	North Sydney Council

Gabrielle Morrish is the only NSW SDRP member listed that Council staff can recommend given Gabrielle's design work for Shoalhaven City Council on the Huskisson Mixed Use zones development controls. Jonathon Knapp and Kylie Legge are included in the shortlist of applicants and are also considered to be suitable panel members for their previous work with Shoalhaven City Council.

Council may seek to nominate another representative, for consideration by GA NSW. There are other suitably qualified consultants that Council staff consider to be more suitable for the

role of panel member due to their increased knowledge of the local area, such as Di Griffiths from Studio GL for her recent body of work in Nowra CBD.

In response to this invitation, there are potentially three options Council could take:

1. Nominate a panel member from the list of shortlisted applicants in **Attachment 1**, who have been shortlisted through an open tender process by GA NSW.
2. Nominate an alternative panel member who meets the requirements outlined above.
3. Not nominate a panel member at this stage and that the matter be dealt with when the need arises, which is difficult to predict.

Community Engagement

There are no requirements for community consultation in trialling the use of the Wollongong Design Review Panel. However, the region's Planning Directors have discussed the matter and agree that this is a logical way forward given the inconsistent workload in this regard.

Policy Implications

Engagement of design review panel members will be in accordance with Council's procurement policies and procedures.

Below is the list of NSW SDRP panel members selected from the open tender process. We've listed their previous panel experience for your information and recommend that your nominee, where appropriate, should be selected from this list on the basis of experience.

NSW SDRP Panel member name		Service Provider Name	Other Panel exp
Abbie Galvin	NSW	BVN Architecture Pty Ltd	Opera House / UNSW prev / Newcastle University
Adam Haddow	NSW	SJB Architects	
Amanda Roberts	VIC	SJB Urban	VIC / SA / QLD
Ashley Dunn	NSW	Dunn & Hillam	
Bill Tsakalos	NSW	TDDP Pty Ltd	SOPA / Transport / Kuringai
Deborah Barnstone	NSW	University of Technology Sydney	
Diane Jones	NSW	Peddle Thorp & Walker	Little Bay / Heritage Council
Gabrielle Morrish	NSW	GM Urban Design	NW Rail / Light Rail / Ryde / Parramatta
Garth Paterson	NSW	PDS	Westconnex / Sydney Light Rail / SOPA / NW Metro / Parramatta
Helen Lochthead	NSW	University of New South Wales	Planning Assessment Commission / City of Sydney / North Sydney (prev) / Parramatta / Liverpool (prev) / Sutherland IHAP/ South Sydney Dev Corp / SOPA (prev)
Ingrid Mather	NSW	James Mather Delaney Design Pty Ltd	
Isabelle Toland	NSW	Aileen Sage Architects	
John Choi	NSW	Choi Ropiha Figuera Pty Ltd	SOPA
Justine Clark	VIC	Justine Clark	SA/VIC DRP (prev)
Ken Maher	NSW	Ken Maher Consulting Pty Ltd	UNSW (prev) / City of Sydney / ACT / Opera House / Urban Growth
Kim Crestani	NSW	Order Architects Pty Ltd	Westconnex / SICPPC / Liverpool/Sydney Metro DRP/ Parramatta City Architect
Lynne Hancock	NSW	Architectus	NZ / SA / Sydney Light Rail / Liverpool (prev) / Sutherland IHAP (prev) / Warringah IHAP (prev)
Mark Tyrrell	NSW	Tyrrell Studio	Canberra University
Mary Anne McGirr	NSW	Design Inc Sydney Pty Ltd	City of Sydney / Penrith / Cumberland / Pittwater
Matt Davis	SA	Davis & Davis	SA DRP (and Planning Commission)
Matt Devine	NSW	Matt Devine & Co	
Matthew Bennett	NSW	Bennett and Trimble Pty Ltd	North Sydney (prev)
Matthew Pullinger	NSW	Matthew Pullinger Architect	Ryde / Inner west
Matthias Hollenstein	NSW	Stewart Hollenstein	
Michael Charles Tawa	NSW	Michael Charles Tawa	
Oi Yoke Choong	NSW	Oi Yoke Choong	Parramatta / Kogarah/ Rockdale / Hurstville / SSC / Barrangaroo / Macquarie Uni
Peter Mould	NSW	Peter Mould Architect Pty Ltd	Sydney Opera House / City of Sydney / Vic / SA / WA / SOPA
Peter Smith	NSW	Smith & Tzannes	South Sydney / Leichardt / Sydney East
Philip Pollard	NSW	Amenity Urban & Natural Environments Pty Ltd	Lake Macq SEPP 65 / Newcastle UDCG / Sutherland (prev)
Richard Nugent	NSW	CM+	Randwick / Waverley / Parramatta Square / Ivanhoe / Lachlans Line / Shellharbour / Barangaroo
Roger Jasprizza	NSW	Oculus Landscape Architecture & Environmental Planning Pty Ltd	
Sacha Coles	NSW	Aspect Studios	SEPP 65 / Inner west UDRP/ Parramatta
Sam Crawford	NSW	Elemental Architecture Pty Ltd	Bayside
Sara Francis Stace	NSW	Sara Francis Stace	Waverley Council
Sarah Koshy	NSW	Jacobs	
Shelly Penn	VIC	Shelley Penn Architect	VIC / SA DRPs
Simon Kilbane	NSW	Simon Kilbane	Dunedin NZ (prev)
Sophie Cleland	NSW	ARM Architecture	SA DRP
Sue Anne Ware	NSW	University of Newcastle	
Timothy Hill	TAS	Partners Hill	

Below is a list of applicants shortlisted through the open tender process. We've listed their previous panel experience for your information and recommend that your nominee, where none of the NSW SDRP members are appropriate, could be selected from this list on the basis of experience.

NSW SDRP shortlisted applicant name		Company	Other panel experience
Annie Tenant	NSW	Lendlease	UTS/ UNSW
Bob Meyer	NSW	Cox Architecture	Parramatta / SOPA
Bob Nation	NSW	GHD Pty Ltd	Barangaroo / Transport for NSW, Parramatta Council
Catherine MacArthur	NSW	GML Heritage	NSW Heritage Council
Che Wall	NSW	Flux Consultants Pty Ltd (ESD specialist)	City of Sydney DAP
Christopher Procter	NSW	Ethos Urban Pty Ltd	Victoria GA DRP
Christopher Thomas	NSW	Christopher Thomas	City of Sydney
Dale Swan	NSW	Conrad Gargett Pty Ltd	
David Chesterman	NSW	David Chesterman	North Sydney / Sutherland Shire
David Pigram	NSW	Supermanouvre	
Fiona Young	NSW	Hayball	
Georgina Blix	NSW	Choi Ropiha Fighera Pty Ltd	
Gerard Reinmuth	NSW	Terroir Pty Ltd	SA DRP
Glenn Harper	NSW	PTW	
Guy Luscombe	NSW	Guy Luscombe	
John Richardson	NSW	Cox Architecture	Sydney Harbour DRP
Jonathan Knapp	NSW	SJB Architects	Randwick Council / Eastern Beaches DRP
Koos de Keijzer	NSW	DKO Architecture	Victorian DRP
Kylie Legge	NSW	Place Partners	North Sydney Council
Marc Deuschle	NSW	LSA Design Pty Ltd	Wollongong / Camden/ Strathfield Councils DRP
Marcus Trimble	NSW	Bennett and Trimble Pty Ltd	North Sydney
Martin Bryant	NSW	University of Technology Sydney	
Matthew Todd	NSW	Hassell Ltd	
Michael Harrison	NSW	Architectus	City of Sydney DRP / IHAP - North Sydney & Waverley / Inner West DAP
Michael Neustein	NSW	Neustein Resources	
Mike Horne	NSW	Turf Design Studio	Sutherland Shire Council / Liverpool City Council
Patrick O Carrigan	NSW	POC+P Architects	IHAP - Warringah Council
Paul Berkemeier	NSW	Paul Berkemeier	
Paul Walter	NSW	Atlas Urban Design & Strategy	
Paulo Macchia	NSW	Civic Associates	Barangaroo
Peter Titmuss	NSW	BVN Architecture Pty Ltd	
Russel Olsson	NSW	Olsson and Associates Architects	Waverley / Parramatta / North Sydney / Liverpool / Burwood / Strathfield / Canada Bay / Ashfield / Fairfield IHAP / Liverpool IHAP / Warringah WDAP
Sam Marsall	NSW	Architect Marshall Pty Ltd	
Stephen Collier	NSW	Stephen Collier Architects	Sutherland Shire Council
Steven Hammond	NSW	Group GSA Pty Ltd	
Sue Wittenoom	NSW	The Soft Build	
Terence Byrnes	NSW	Byrnes and Associates	
Tom Rivard	NSW	McGregor Coxall Unit Trust	Randwick Council
Tony Caro	NSW	Tony Caro Architecture	Canada Bay / Hills & Sutherland / Sydney Metro DRP

DE18.56 Draft Medium Density Amendment - Shoalhaven Development Control Plan 2014 - Post Exhibition Consideration and Finalisation

HPERM Ref: D18/234448

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments:

1. Draft Chapter G13 Medium Density Development & Other Residential Development - Post Exhibition Changes (under separate cover) [↗](#)
2. Exhibition Explanatory Statement (under separate cover) [↗](#)
3. Public Exhibition Submission Summary (under separate cover) [↗](#)

Purpose / Summary

- a) Consider submissions received during the public exhibition of the draft Amendment
- b) Finalise the draft Amendment.
- c) Acknowledge that the dual occupancy, manor house and multi dwelling housing (terraces) provisions in the draft Amendment satisfy the requirements of the Environmental Planning and Assessment Regulation 2000. As such, Council will not be required to consider the new Low Rise Medium Density Design Guide for Development Applications (Design Guide for DAs) when the Low Rise Medium Density Housing Code (the Code) ultimately comes into effect for Shoalhaven on 1 July 2019 (Note: is currently deferred for 12 months).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the draft Medium Density Amendment as exhibited, with the inclusion of the changes to draft Chapter G13 as highlighted in **Attachment 1**.
2. Acknowledge that the dual occupancy, manor house and multi dwelling housing (terraces) provisions in the draft Amendment satisfy the requirements of the Environmental Planning and Assessment Regulation 2000 with regards to the application of the new Low Rise Medium Density Design Guide for Development Applications.
3. Notify the adoption of the Medium Density DCP Amendment in local newspapers in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations.
4. Rescind the following existing Shoalhaven Development Control 2014 chapters when the Medium Density Amendment is made effective:
 - a. Chapter G13: Dual Occupancy Development.
 - b. Chapter G14: Other Residential Development.
5. Advise key stakeholders, including relevant industry representatives, of this decision, and when the Medium Density Amendment will be made effective.

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Options

1. As recommended.

Implications: This is the preferred option as it will enable Council to finalise the draft Amendment which will result in medium density provisions that holistically consider local character and context, appropriate density, good quality design, amenity, universal design and more broadly the public interest. As the draft Amendment includes appropriate provisions for dual occupancy, manor house and multi dwelling housing (terraces) development, Council will be able to rely upon Shoalhaven DCP 2014 rather than the Design Guide for DAs when the Code commences for Shoalhaven on 1 July 2019.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and/or could postpone the implementation of more appropriate medium density residential development provisions. It could also result in Shoalhaven DCP 2014 not having adequate provisions for dual occupancy, manor house and multi dwelling housing (terraces) when the Code commences for Shoalhaven on 1 July 2019. Council would be required to consider the Design Guide for DAs when assessing development applications for these land uses, which is not preferred as this document is metro-centric in nature and is generally not appropriate for the Shoalhaven context.

3. Not adopt the recommendation.

Implications: This could stop or postpone the implementation of more appropriate medium density residential development provisions. This option is not preferred as the 'status quo' approach will continue to result in poor built form and liveability outcomes for both residents and the broader community.

It would also result in Shoalhaven DCP 2014 not having adequate provisions for dual occupancy, manor house and multi dwelling housing (terraces) when the Code commences for Shoalhaven on 1 July 2019. Council would be required to consider the Design Guide for DAs when assessing development applications for these land uses, which is not preferred as this document is metro-centric in nature and is generally not appropriate for the Shoalhaven context.

Background

On 8 May 2018, Council's Development Committee resolved (MIN18.340), under delegation to:

1. *Support the exhibition of the draft Medium Density Amendment to Shoalhaven Development Control Plan 2014 for a period of 28 days as per legislative requirements.*
2. *Receive a further report on the draft Medium Density Amendment following the conclusion of the public exhibition period.*
3. *Advise key stakeholders, including relevant industry representatives, of this decision.*

The draft Medium Density Amendment - Shoalhaven Development Control Plan 2014 (the draft Amendment) package proposes to combine the coverage of the current Chapter G13: Dual Occupancy Development and Chapter G14: Other Residential Development into one new chapter that applies to land where dual occupancy, multi dwelling housing, multi dwelling housing (terraces), attached dwellings, semi-detached dwellings, manor houses,

integrated housing development, residential flat buildings, shop top housing, seniors housing, boarding houses, group homes and hostels are permissible with development consent. As such, the draft Amendment will apply to residential developments above a single dwelling. It also considers the more complex issues relating to medium and higher density residential development arising from the:

- Low Rise Medium Density Housing Code and related Design Guides for complying development and development applications.
- Outcomes of the Dual Occupancy Review.
- Resolutions of Council.
- Operational issues or matters that need clarification that have been identified since the Shoalhaven DCP 2014 became effective on 22 October 2014.

Related amendments to the DCP Dictionary are also proposed.

Public Exhibition

In accordance with the above resolution, the draft Amendment package was placed on public exhibition for a period of 31 days, from 30 May to 29 June 2018 (inclusive).

Notices appeared in local newspapers on 30 May 2018. All Community Consultative Bodies and 38 development industry representatives were also notified directly in writing.

The draft Amendment 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 included the:

- Explanatory Statement (**Attachment 2**).
- Draft Chapter G13: Medium Density Development and Other Residential Development and the Draft Dictionary. To view a copy of these Chapters, refer to the [attachments to item DE18.39](#) considered at the 8 May 2018 Development Committee Meeting (MIN18.340).
- Newspaper advertisement.

As a result of the exhibition, eight (8) formal submissions were received including:

- One (1) submission from Councils Access & Inclusion Advisory Committee.
- Three (3) submissions from development industry representatives.
- Two (2) submissions from the community.
- Two (2) internal Council submissions: Strategic Planning Section and Traffic and Transport Unit.

A detailed summary of the submissions with a response to all comments raised is provided in **Attachment 3**. Copies of the actual submissions will also be available for review in the **Councillor's Room** prior to the meeting.

Post-Exhibition Amendments

Attachment 3 covers the content of the submissions received and comments on them and highlights adjustments where required, justified etc.

Resulting from the submissions received, various minor amendments are proposed to draft Chapter G13 as shown at **Attachment 1**. For convenience, the proposed changes are highlighted in yellow, with strikethroughs to note deletions.

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The recommended post exhibition amendments to draft Chapter G13 are summarised briefly below:

- Inclusion of additional commentary in Section 5 Medium Density Development to note that medium density development is generally considered to be development between the scale of a dwelling house and a residential flat building.
- Clarify that ground level (existing) and proposed building levels must be identified on plans registered by a registered surveyor for site slopes greater than 10%, not less than 10%.
- Ensure that the future desired character of an area is considered during the assessment process, not just existing character.
- Remove requirement for geology to be detailed on a site analysis plan.
- Clarify application of private open space requirements and amend the amount of private open space required for a dual occupancy with a ground floor component from 50m² to 50m² or 50% of the gross floor area, whichever is the lesser.
- Replace reference to the Access to Premises Standard and *Disability Discrimination Act 1992* with Australian Standard 1428 in relation to the communal open space mandatory control.
- Only require bicycle spaces to be provided for each dwelling in a multi dwelling housing, multi dwelling housing (terraces) and manor house development, rather than for every medium density development type.
- Include consideration of safe sight distances for road users and pedestrians when a fence or wall is proposed.
- Include A1 accredited building surveyor as someone who can prepare an alternative solution report.
- Rename Section 7 to 'Housing for Seniors or People with a Disability' and include commentary relating to people with a disability.
- Highlight the term 'residential care facilities' blue as it is a term defined in Shoalhaven LEP 2014.

No submissions were received regarding the draft Dictionary, and as such, no changes are required.

Implications of the Low Rise Medium Density Housing Code and Design Guides

The Deferral

In July 2018, Council resolved (MIN18.423) to seek a 12-month deferral from the implementation of the NSW Government's Low Rise Medium Density Housing Code (the Code). The Code enables the consideration of the following medium density development types as complying development:

- One and two storey dual occupancies, manor houses and terraces in Shoalhaven's R1 General Residential, R3 Medium Density Residential and RU5 Villages zones; and
- One and two storey dual occupancies in Shoalhaven's R2 Low Density Residential zone.

The Code package also includes an amendment to Shoalhaven Local Environmental Plan (LEP) 2014 to make 'manor houses' and 'multi dwelling housing (terraces)' permissible with consent in the R1 General Residential and R3 Medium Density Residential zones. Council would also have the opportunity to include these land uses as permissible with consent in the

RU5 Village zone if desired. This would need to be initiated by Council via a separate Planning Proposal process.

Council's request for a deferral has been favourably received and the City of Shoalhaven is now known as a 'deferred area' for the purposes of the Code, until 30 June 2019. This means that applicants will not be able to lodge complying development applications under the Code until 1 July 2019.

Importantly, the deferral also means that Shoalhaven LEP 2014 will not be amended at present to include 'manor houses' and 'multi dwelling housing (terraces)' as permissible with consent in the R1 General Residential and R3 Medium Density Residential zones until 1 July 2019. Although Section 5 of draft Chapter G13 applies to 'manor houses' and 'multi dwelling housing (terraces)', a development application cannot be lodged with Council for these medium density development types until 1 July 2019 as Shoalhaven LEP 2014 will not permit this form of development until that time.

It is noted that the deferral provides Council with an opportunity to prepare and include local strategic planning statements in Shoalhaven DCP 2014 and minimum lot size provisions for certain medium density development in Shoalhaven Local Environmental Plan 2014. This will ensure that the character and context of Shoalhaven's existing towns and villages will be adequately considered during the complying development process, and where appropriate, maintained into the future. The Development Committee will receive future reports in this regard in due course.

The Design Guide for DAs

Recent changes to the Environmental Planning and Assessment Regulation 2000 require councils to consider the new [Design Guide for DAs](#) when they are assessing development applications for dual occupancy, manor house and multi dwelling housing (terraces) development, until development controls for these housing types are in place.

As such, until Council has appropriate controls in place in Shoalhaven DCP 2014 for dual occupancy, manor houses and multi dwelling housing (terraces), Council will be required to consider the Design Guide for DAs when assessing development applications for these new housing types.

It is considered that the draft Amendment includes appropriate controls for every medium type addressed by the Code and therefore Council would not need to rely on the Design Guide for DAs for development applications. It is noted that a number of these provisions are based on those within the Design Guide for DAs that are appropriate to Shoalhaven. Examples include ceiling height, and dwelling size and layout.

Conclusion

The draft Amendment, with recommended post exhibition changes, holistically considers medium density development in Shoalhaven into the future. As such, there is merit in now adopting and finalising the draft Amendment.

This would also ensure that appropriate provisions for dual occupancy, manor houses and multi dwelling housing (terraces) are in place in Shoalhaven DCP 2014 prior to the commencement of the Code on 1 July 2019. This means that Council can rely on the provisions in the DCP rather than the Design Guide for DAs which is largely metro-centric and not appropriate to the Shoalhaven context.

Community Engagement

The draft Amendment was publicly exhibited for 31 days at the Nowra Administrative Building in accordance with legislative requirements. Eight (8) submissions were received which are summarised above, and at **Attachment 3**.

Policy Implications

The draft Amendment seeks to respond to the Dual Occupancy Review, Low Rise Medium Density Housing Code and Design Guides, and identified operational issues. In doing so, draft Chapter G13: Medium Density Development and Other Residential Development will ultimately replace existing Chapters G13: Dual Occupancy Development and G14: Other Residential Development.

It is considered that the draft Amendment includes appropriate controls for dual occupancies, manor houses and multi dwelling houses (terraces) which means that Council will not be required to consider the Design Guide for DAs when the deferred commencement for the Code ceases to apply on 1 July 2019.

Financial Implications

The finalisation of the draft Amendment will continue to be resourced within the existing Strategic Planning budget.

Risk Implications

Should the draft Amendment not proceed, there is a risk that Council will not be able to respond to the increasing demand for medium density development in a way that holistically considers local character and context, appropriate density, good quality design, amenity, universal design and more broadly the public interest. This could result in continued poor built form and liveability outcomes for both residents and the broader community. There are also matters that need to be revised to ensure the planning controls continue to operate as expected/intended and resolve inconsistencies.

If Council does not have appropriate development controls in Shoalhaven DCP 2014 by 1 July 2019, Council must rely on the Design Guide for DAs to assess those development applications. This is not an ideal outcome as the Design Guide for DAs is largely metro-centric which is not appropriate for the Shoalhaven context.

DE18.57 Coastal Hazards Review - Proposed Amedments - Shoalhaven Local Environmental Plan 2014 and Shoalhaven Development Control Plan 2014

HPERM Ref: D18/242202

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Coastal Hazard Review Planning Proposal (PP026) (under separate cover) [⇒](#)
2. Draft Chapter G6: Areas of Coastal Management (under separate cover) [⇒](#)

Purpose / Summary

Obtain endorsement to:

- Submit the Coastal Hazards Review Planning Proposal (PP026) to the NSW Department of Planning and Environment (DP&E) for Gateway determination.
- Concurrently exhibit PP026 and draft Chapter G6: Coastal Management Areas of Shoalhaven Development Control Plan (DCP) 2014, following receipt of the Gateway determination.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the Coastal Hazards Review Planning Proposal (PP026) (**Attachment 1**) and submit it to the NSW Department of Planning and Environment for a Gateway determination.
2. Following receipt of the Gateway determination, concurrently exhibit PP026 and draft Chapter G6: Coastal Management Areas of Shoalhaven Development Control Plan 2014 (**Attachment 2**), for a period of 28 days as per legislative requirements.
3. Support the preparation of the online coastal hazard mapping based on current coastal risk data.
4. Receive a further report on PP026 and draft Chapter G6: Coastal Management Areas following the conclusion of the public exhibition period.
5. Advise key stakeholders, including relevant Community Consultative Bodies, of this decision.

Options

1. As recommended.

Implications: This is the preferred option as it will enable Council to respond to the outcomes of the Shoalhaven Coastal Hazard Review. The removal of the coastal risk planning maps from Shoalhaven Local Environmental Plan (LEP) 2014 will result in more efficient future amendments to the coastal hazard mapping which will be located on Council's website. The online mapping approach will ensure that up to date data is applied across the City and updated as required, which will increase consistency during development assessment. The amendment to Chapter G6: Coastal Management Areas

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of Shoalhaven DCP 2014 will also address several housekeeping matters which will increase the readability and function of the Chapter.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could postpone the amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014.

3. Not adopt the recommendation.

Implications: This could stop or postpone the implementation of amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014. This option is not preferred as the outcomes of the Shoalhaven Coastal Hazard Review will not be actioned. The coastal risk planning maps will remain in Shoalhaven LEP 2014 resulting in future lengthy delays to update the maps and the risk of coastal hazards will not be mapped for all known land across the City. The housekeeping matters for consideration in Chapter G6: Coastal Management Areas of Shoalhaven DCP 2014 will remain outstanding which will impact upon the overall readability and function of the Chapter.

Background

The settlement pattern on Shoalhaven's coast has resulted in public and private properties and assets being at risk from coastal hazards such as beach erosion, shoreline recession, coastal entrance instability, sand drift, coastal inundation, storm water erosion, and slope instability; all of which may be exacerbated by climate change.

On 2 June 2015, Council's Development Committee resolved to:

- (c) *Prepare draft amendments to Chapter G6: Coastal Management Areas of DCP 2014 chapters as detailed in Attachment "A" (Stage 3).*

On 27 June 2017, Council's Development Committee also resolved (MIN17.552(4)) to:

- Review the Shoalhaven Local Environmental Plan 2014 and Shoalhaven Development Control Plan 2014 to reflect the outcomes of the Shoalhaven Coastal Hazard Review and a further report be provided on the proposed amendments.*

As such, draft amendments to Shoalhaven LEP 2014 (PP026) and Chapter G6: Coastal Management Areas of Shoalhaven DCP 2014 have been prepared in response. A summary of the proposed amendments is provided below.

Planning Proposal (PP026)

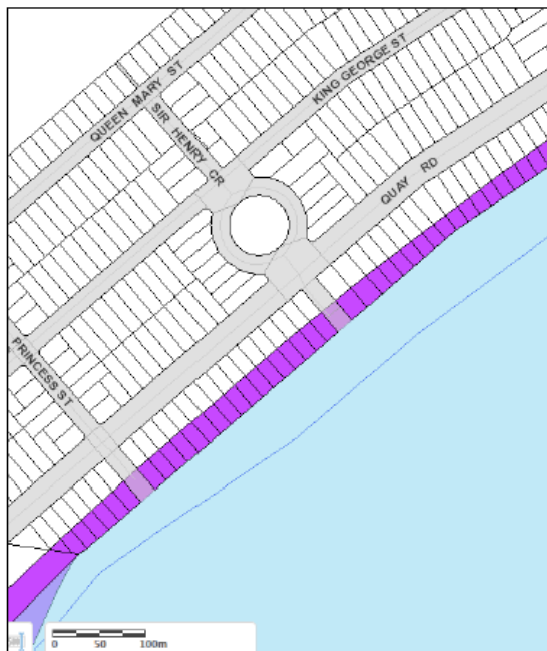
The current Coastal Risk Planning (CRP) Map in Shoalhaven LEP 2014 is based on the data from the studies available at the time of the original preparation of Shoalhaven LEP 2014 – this data is now out of date. Because of the ongoing program of updates, Council currently has a need to continuously update the Shoalhaven LEP 2014 maps to ensure that the most up to date data is relied upon for development assessment. Given that Shoalhaven LEP 2014 maps can only be amended via a Planning Proposal, lengthy delays in the updating of the maps will potentially be experienced.

Further, Clause 7.4 Coastal risk planning of Shoalhaven LEP 2014 only applies to the areas identified on the CRP Map. Given the extensive nature of the coast line and the limited number of studies that have been undertaken, it is considered that Clause 7.4 should be broadened to apply to all areas that may be at risk of coastal hazards. This

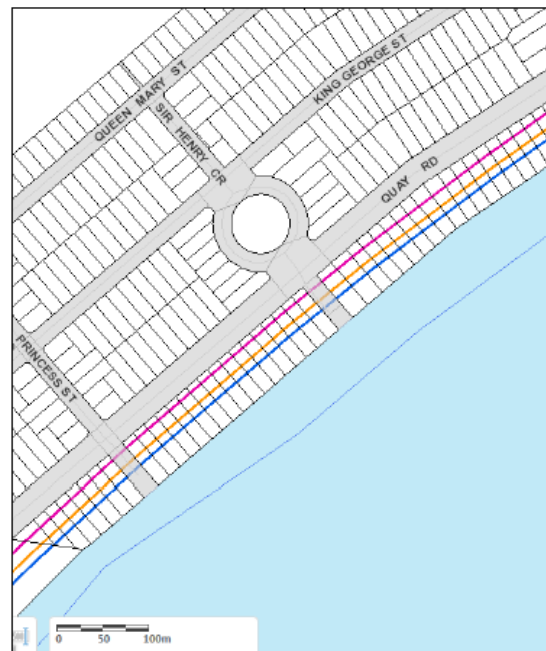
would ensure consistent assessment of potential risks at the development application stage.

As such, PP026 (**Attachment 1**) seeks to remove the Coastal Risk Planning Maps from Shoalhaven LEP 2014 and amend Clause 7.4 Coastal risk planning to apply to all land at risk of coastal hazards. Council is currently pursuing a similar approach regarding flood risk planning in the LEP.

It is intended that Council's adopted coastal hazard mapping will be made available on Council's website as part of the online mapping system. The online mapping system allows searching for individual properties and is at a scale to enable meaningful interrogation of the data at a property level. It will also be able to provide more detailed information by showing the multiple projections (i.e. 2030, 2050, 2100 scenarios) rather than being constrained by having to show a polygon (mapping requirement under the Standard LEP Instrument format) as required for Shoalhaven LEP 2014 mapping - see example comparison below of the existing and proposed mapping. The new online maps will be updated regularly as better information becomes available and when Council adopts new or updated coastal risk data.



CRP Map



Example of online mapping

Draft DCP Chapter G6: Coastal Management Areas

The proposed draft amendments to DCP Chapter G6: Coastal Management Areas addresses issues arising from:

- Resolutions of Council, particularly the adoption of the Coastal Hazard Review;
- Operational issues or matters that need clarification that have been identified since the DCP became effective on 22 October 2014.

All proposed draft amendments to the DCP are outlined in the table of changes at the beginning of the Chapter (**Attachment 2**) and the key components are briefly outlined below for convenience:

- Insert references to the Shoalhaven Coastal Hazard Interactive Mapping.
- Replace references to 2025 zone of reduced foundation capacity (ZRFC) with 2030 throughout.

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- Clarification that sites landward of Precinct 2 (i.e. 2100 Zone of Reduced Foundation Capacity (ZRFC)) have limited restrictions, not no restrictions.
- Inclusion of commentary and provisions relating to wave runoff, the fourth type of coastal hazard risk.
- Addition of Bendalong Boat Harbour Beach as a known area of beach erosion and/or oceanic inundation, and Narrawallee as a known area of cliff/slope instability.
- Insertion of reference to recently adopted studies (e.g. Royal Haskoning DHV Report – Shoalhaven Coastal Cliffs and Slopes Risk Management Program – 2018).
- Clarification that the side setback requirements also apply to lots landward side of an unformed road that adjoins a waterfront reserve.
- Inclusion of several provisions from Council Policy POL12/217 Coastal Areas – Planning and Development relating to the mitigation of loss of public amenity, and aesthetic and environmental impacts on the foreshore and other public areas. It is noted that POL12/217 will also need to be rescinded at the date the DCP amendment is made effective.
- Expansion of foreshore development controls in Section 5.2 to also apply to non-residential development.
- Inclusion of provisions relating to public infrastructure on public land.
- Inclusions of provisions to reflect the revised content of the Generic Community Lands Plan of Management – Natural Areas and Foreshore Reserves Policy (e.g. Stormwater from adjoining residences should be managed via inter-allotment drainage and discharged directly into a stormwater facility of Council).
- Redrafting of all images to enhance the readability of the Chapter and consistency across Shoalhaven DCP 2014.
- Plain English review.

Community Engagement

The PP and draft DCP amendment will be exhibited for comment in accordance with Council's Community Engagement Policy to 'inform' and 'consult', and the relevant legislative requirements. The documentation will be exhibited at the Nowra Administrative Building for a period of 28 days. Documentation will also be available on Council's website and at the Ulladulla Administrative Building.

The Gateway determination will also potentially specify any government agencies with whom Council must consult.

Community Consultative Bodies (CCB's) and other interest groups will also be advised of the future formal exhibition arrangements.

Policy Implications

The proposed LEP and DCP amendments respond to the outcomes of the Shoalhaven Coastal Hazard Review. The amendments to Shoalhaven LEP 2014 to remove the coastal risk mapping will avoid future lengthy delays to update the maps. The online mapping approach will ensure that up to date data is applied and updated as required. This also means that the area at risk of coastal hazards will be broadened across the City.

The amendments to Shoalhaven DCP 2014, also address several housekeeping matters which will improve the overall readability and function of Chapter G6: Coastal Management Areas.

Financial Implications

Based on the recommended approach, there are no immediate financial implications for Council as this matter is being resourced within the existing Strategic Planning budget.

Risk Implications

The proposed LEP and DCP amendments will ensure that all areas at risk of coastal hazard will be identified on the online mapping. This approach ensures that Council is providing the most accurate information available to current and future landowners.

DE18.58 Development Application DA17/2435 - 148 Island Point Road, St. Georges Basin - Lot 43 DP 25550 - Access and Section 7.11 (94) Contributions

HPERM Ref: D18/261085

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

This report has been prepared in response to the following resolution from Council's Strategy and Asset Committee on 24 July 2018:

That the General Manager (Director Planning & Development) provide a report to the Development Committee on all issues relating to this application including access and payment from section 94 funding to access the subject property.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Commit to funding the upfront costs for the construction of the remaining section of the St Georges Basin Village Centre Service Lane identified in Contribution Project (CP) 03ROAD2113 through:
 - a. Funding the initial expenditure of the works and land acquisition using recoupment funds that may be available following the completion of the Shoalhaven Contributions Plan review or through general revenue allocations in the future Capital Works Program of up to \$200,000 (2018/19 Indexed Estimate for Project Costs rounded up) and request a further report should it require more than this amount.
 - b. Recouping the expended funds through Section 7.11 development contributions levied by Shoalhaven Contributions Plan 2010 for future development.
 - c. Including the design and construction of the remaining section of the St Georges Basin Village Centre Service Lane with an additional minimum width of 4.2m within properties that adjoin the existing service lane area adjacent to the IGA supermarket in Council's capital works planning.
 - d. Commencing the process of land acquisition for land required for the ultimate construction of the service lane and existing service areas identified in CP 03ROAD2113 to allow full public access in the service lane.
2. Continue to assist the applicant of DA17/2435 to facilitate the required interim access arrangements until the St Georges Basin Village Centre Service Lane is constructed.
3. Request Council's Strategic Planning team to provide advice to the applicant of DA17/2435 to recommend available methods to reduce the monetary amount of Development Contributions payable.
4. Include the updated service lane design and costing in a future amendment to Shoalhaven Contributions Plan 2010 and Shoalhaven Development Control Plan (DCP) 2014 Chapter N23: St Georges Basin Village if necessary.

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Options

1. Adopt the recommendation

Implications: Council can choose to fund the service lane ahead of development contributions being available for this project. The initial seed funding can be provided through possible pool funds that may be available for Contribution Projects following completion of the Contributions Plan Review. As the timing and outcome of this is unknown at this stage, Council may choose to fund through general revenue allocations in the future Capital Works Program. The initial funding of this project would allow the required planning, design, construction and land acquisition to occur with development instead of waiting for funds to become available in the Section 7.11 (Formerly Section 94) fund.

This option moves the timeframe for construction ahead of some of the development and will hopefully stimulate the remainder of development in the benefiting areas, although this is not guaranteed noting some of the development that already exists on some of the lots. The construction of the service lane will however help ensure the best long-term future development outcomes for servicing and access arrangements consistent with current plans.

Landowners within the project benefit area will contribute to the costs through Section 7.11 contributions at development stage with a 100% apportionment rate, meaning the service lane will be fully developer funded.

2. Adopt an alternative recommendation regarding funding or not to proceed with the proposed laneway as planned.

Implications: As detailed in this report, there are two funding options to provide seed funding for this project and recouping through Section 7.11 Development Contributions:

- a) Funding the project through general revenue; or
- b) Funding the project using possible pooled funds that may become available following the completion of the Shoalhaven Contributions Plan review that is currently underway.

Given the remaining projects costs are relatively low and most of this project was completed by the IGA supermarket through a works-in-kind agreement, loan funds are not considered appropriate given that regular repayments are unrealistic for a development contribution project of this nature.

As previously reported to Council, deletion of the CP project and an amendment to DCP Chapter N23 to reflect deletion of the laneway is an option that is available but is not preferred.

The laneway provides a separate access for service vehicles to 10 development sites within the catchment area, some of which contain existing development. Providing service vehicle access at the rear of these sites will have multiple benefits to Island Point Road including but not limited to improved presentation to the street, overall improvements to the streetscape, and improved pedestrian and vehicular safety. An issue for Council to consider is land acquisition with respect to the properties immediately north of the subject site or legal arrangements, to achieve legal access to Lot 43, the subject site of the current application.

If Council does not proceed with the service lane as originally planned, it would require each individual landowner/developer to provide safe and practical servicing options for each individual property should they be developed or redeveloped, most likely to/from Island Point Road. This option may also be inequitable for the supermarket development which previously funded most of the works required through a works-in-kind agreement.

Considering that works provided to date by the supermarket development and the right of carriageways that exist for current access to the supermarket, it would be in the broader community interest to facilitate this service lane, as close as possible to envisaged, so that suitable rear access can be achieved by all landowners within the catchment of the

Contributions Project although this will require detailed work from Council to achieve and a funding source to realise.

Background

Council resolved on 8 May 2018 at its Development Committee to:

1. *Resolve to reaffirm the current requirements of Chapter N23: St Georges Basin, Village Centre, SDCP 2014 and Shoalhaven Contributions Plan 2010 (SCP 2010) in support of the rear service lane arrangement to have one-way access, noting the available width; and*
2. *Receive a report on providing the road using recoupment of section 7.11 (former s 94) contributions funds once the review of the current contributions plan is complete.*

Because of the wording of this resolution Council staff have not done any detailed work (engineering review, designs, land acquisition needs etc) on what is required to practically realise the rear service land. The 24 July 2018 resolution triggered the need for this earlier than anticipated report and the detail on the realisation of the project is not currently available and will also require some funding.

Deferred Commencement Development Consent DA17/2435

A Deferred Commencement Development Consent was issued on 5 July 2018 for a two (2) storey commercial building for the property Lot 43 DP 25550, 148 Island Point Road, St Georges Basin.

The following Deferred Commencement condition requires the matter of site access to be resolved within 12 months of the determination date of the development consent:

- A. *Prior to the issue of an Operational Development Consent, evidence must be submitted to Council that a legal right of way at 4m wide and variable width has been created over the service lane/road at the rear of the subject site, within Lot 1 DP 1161650 (known as 136 Island Point Road, St Georges Basin), in favour of Shoalhaven City Council and those authorised by it.*

To execute this easement, Council subsequently resolved at its Ordinary Meeting held 31 July 2018:

1. *Council resolve to acquire, at no cost to Council, an easement for a Right of Way 4m wide and variable width over Lot 1 DP1161650, 136 Island Point Road, St Georges Basin.*
2. *Inform the adjacent land owner (Lot 2 DP 1093012) of the decision and the right of way in this report is not located on his land*
3. *Authorise the Common Seal of the Council of the City of Shoalhaven be affixed to any documentation requiring to be sealed and delegate to the General Manager authority to sign any documentation necessary to give effect to this resolution.*

As previously reported to Council and as per advice that has been consistently conveyed to the applicant, Section 7.11 Development Contributions are payable for the proposed (and now approved) commercial development.

The Deferred Commencement Development Consent includes the following development contributions (2018/19 Financial Year):

Project	Description	Rate	Qty	Total	GST	GST Incl
03ROAD2023	St Georges Basin Village Access Road & Traffic Facilities	\$7,672.23	3.67	\$28,157.08	\$0.00	\$28,157.08
03ROAD2113	St Georges Basin Village Centre Service Lane	\$12,409.24	3.67	\$45,541.91	\$0.00	\$45,541.91
03ROAD3021	St Georges Basin Bypass	\$804.47	3.67	\$2,952.40	\$0.00	\$2,952.40
CWFIRE2001	Citywide Fire & Emergency services	\$133.68	1.83	\$244.63	\$0.00	\$244.63
CWFIRE2002	Shoalhaven Fire Control Centre	\$195.57	1.83	\$357.89	\$0.00	\$357.89
CWMGMT3001	Contributions Management & Administration	\$555.90	1.83	\$1,017.30	\$0.00	\$1,017.30
				Sub Total:	\$78,271.23	
				GST Total:	\$0.00	
				Estimate Total:	\$78,271.23	

Table 1: DA17/2435 Development Contributions

Landowners/developers contribution requirements may be satisfied by a monetary contribution, dedication of land to Council, the provision of a material public benefit or works-in-kind, or a combination of these.

There are currently two separate contributions projects that relate to future roads identified in the DCP for this area, namely:

- 03ROAD2023 – St.Georges Basin Village Access Road
- 03ROAD2113 – St.Georges Basin Village Centre Service Lane

These projects are shown graphically in Figures 2 and 3 below.

As part of the property Lot 43 DP 25550 is identified in the acquisition area required for the construction of the service lane, the applicant/landowner can dedicate part of their land to Council or provide works-in-kind to reduce the amount of development contributions payable for this project - 03ROAD2113 (see Figure 2 below).

Due to the large scale of Contribution Project 03ROAD2023 St Georges Basin Village Access Road and Traffic Facilities (see Figure 3 below) it may not be possible for the required contributions to be satisfied without monetary contribution.

Shoalhaven Development Control Plan 2014 – Chapter N23: St Georges Basin Village Centre

Consistent with the requirements of Chapter N23: St Georges Basin Village Centre in Shoalhaven Development Control Plan (DCP) 2014, rear access is required for future redevelopment of 138 to 152 Island Point Road.

Figure 1 below is an extract from the current DCP relating the area in question.

Following the development of the supermarket and the development conditions of this consent, some of the access arrangements have been provided not in strict accordance with the requirements of the DCP.

The provision of vehicle access to the rear of the properties remains highly desirable to prevent additional vehicle access via Island Point Road and while this DCP Chapter N23 would benefit from a future detailed review considering developments that have occurred and small changes to rear access carriageway widths (following the construction of the supermarket), the controls in the DCP are generally still considered relevant

Further investigations will be required with respect to surveys for boundaries and levels and this will be considered through detailed designs for the Service Lane.



Figure 1: Shoalhaven DCP 2014 - Chapter N23 Supporting Map

Shoalhaven Contributions Plan 2010

As detailed above two separate contributions projects that relate to future roads are relevant to the subject land.

Contribution Project (CP) 03ROAD2113 - St. Georges Basin Village Centre Service Lane

The purpose of the Contribution Project (CP) 03ROAD2113 - St Georges Basin Village Centre Service Lane (Village Access Road to Island Point Road) is to provide a service lane between the Village Access Road and Island Point Road for service vehicles to have separate access to the retail area and properties sighted for future development. See Figure 2 below.

The current project cost equals the total project estimate (\$388,305.93) minus the estimated value of works required to be constructed by the supermarket consent for Lot 1 DP 1093012 issued 06/02/2009 (\$226,649.15 including \$99,620 in land value).

There are cost implications for Council in the event of land acquisition. Despite this, acquisition is identified in the contribution rate breakdown for project 03ROAD2113 which identifies the need for land acquisition to provide for the road infrastructure. In 2010, land acquisition was estimated to cost \$87,459.00.

To date, there have been no monetary contributions paid towards the subject contribution project, however Development Consent DA07/1059 for the adjacent IGA supermarket included a Works-in-Kind Agreement to deliver part of the road infrastructure and \$45,541.91 has recently been levied for DA17/2435.

The Contributions Plan does not give a time when the service road will be constructed/realised and notes that its timing is "development dependent".

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It is noted that at the time of acquisition of the subject land much of the above detail was available on Councils Contributions Plan website.



Figure 2: CP 03ROAD2113 - St Georges Basin Village Centre Service Lane (with approximate widths)

Contribution Project (CP) 03ROAD2023 - St Georges Basin Village Access Road and Traffic Facilities

This project ensures that new development pays the costs associated with providing a suitable road network which directly services demand created by development. The subject site is within the catchment of this Contribution Project and contributions have been levied accordingly.

The project is a critical part of the local road network and necessary to enable land zoned B4 Mixed Use to the east of Island Point Road to develop. It is however not directly required for the development of the subject land.

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Figure 3: CP 03ROAD2023 - St Georges Basin Village Access Road and Traffic Facilities

Contributions Plan Review

Council is currently reviewing the CP, which involves reviewing and rationalising projects. Through the review, it is proposed that out of the 179 projects which are currently identified in the CP, 88 projects are proposed for deletion.

Neither of the above projects are currently proposed for deletion or modification.

It is hoped that the CP review will be exhibited for community comment shortly.

Community Engagement

No direct community engagement has been carried out for this report.

Any proposed amendments to Shoalhaven Development Control Plan (DCP) 2014 and Shoalhaven Contributions Plan (CP) 2010 will be publicly exhibited for a minimum period of 28 days and further landowner and broader community feedback will be undertaken at that point.

Policy Implications

Shoalhaven Development Control Plan (DCP) 2014 and Shoalhaven Contributions Plan (CP) 2010 may need to be amended to reflect Council's decision, depending on its nature. It is recommended that any draft Amendments that may arise are exhibited simultaneously.

Financial Implications

There is currently no funding available or set aside for acquisitions or project delivery.

Seed funds to deliver the remainder of the service lane will require funding from general revenue or potential pool funds that may be available following the completion of the Contributions Plan review.

DE18.59 Collingwood Beach Dune Vegetation Management

HPERM Ref: D18/260749

Group: Planning Environment & Development Group
Section: Environmental Services

Attachments: 1. Council Resolution [↓](#)
2. Draft two-year trial Action Plan (under separate cover) [↗](#)

Purpose / Summary

To inform Council on the development of the Draft Collingwood Beach Dune Vegetation two-year trial Action Plan (the Plan) in accordance with Council resolution MIN17.974 and seek Council endorsement of the Plan.

Recommendation (Item to be determined under delegated authority)

That Council endorse the Draft Collingwood Beach Vegetation two-year trial Action Plan to enable implementation of the actions contained within the Plan.

Options

1. Endorse the two-year trial Action Plan

Implications: Actions outlined in the Plan will be implemented, including community consultation throughout the implementation of on-ground works for two vegetation management trial sites in accordance with Council's previous resolution.

2. Do not endorse the two-year trial Action Plan

Implications: The extensive long-term community consultation process will need to continue to find an alternative approach to address the issue of vegetation vandalism along Collingwood Beach foreshore reserve.

3. Do Nothing

Implications: This is likely to be unacceptable to community if Council does not address community concerns regarding the issue of vegetation vandalism, and hence dune stability along Collingwood Beach foreshore reserve dune system.

Background

At the November 2017 meeting of Council's Strategy and Assets Committee, Council received a report that contained advice from the Office of the Hon. Gabrielle Upton MP, NSW Minister for the Environment; expert consultant reports and detailed community expectations for managing Collingwood Beach dune vegetation following extensive vandalism. The report (SA17.296 CL17.225).can be viewed via at the following link:

https://shoalhaven.infocouncil.biz/Open/2017/11/SA_20171121_AGN_6758_AT_WEB.htm

In response to the report, Council resolved (**Attachment 1**) to undertake a two-year trial project involving two sites: one to include pruning established banksias and the other to include revegetation of a vandalised site. As part of this resolution, Council also resolved to develop a City-wide tree vandalism policy, which will be the subject of a separate future

report to Council. In this regard, Council Rangers are continuing compliance when required and regular surveillance, including patrols of the area.

In accordance with the Council resolution, a new reference group, that includes Council staff, was established. The reference group has undertaken planning and assessment of the proposed trial project. The draft Plan presented in **Attachment 2** is the outcome of reference group collaborations.

The draft Plan includes engagement of a specialist arborist to offer expert advice for the selected pruning trial site. The arborist is required to submit a report on best practice management of the pruning to ensure the long-term health of trees and to also oversee the works. The draft Plan actions also include community planting days. Should Council endorse the draft Plan, then it is intended that planting days will be held during August 2018.

Community Engagement

Extensive community consultation has been undertaken over several years. Details of this are contained within previous reports to Council which detail previous in-depth community responses to the project and draft management plans (SA17.296 CL17.225).

The current trial project has, to date, involved consultation via on-site meetings with property owners adjacent to the selected trial sites. Some residents objected to various aspects of the trial. It was emphasised during these meetings that the project is still a trial and outcomes will be monitored and assessed during and at the end of the two-year period, as will community opinions. The community will be involved at various levels over the period of the trial.

The draft Plan has been reviewed by NSW Crown Lands, Jervis Bay Marine Parks and NSW Office of Environment and Heritage. All three government agencies have agreed the draft Plan is an acceptable management strategy for moving forward on the issue of on-going damage and degradation of the Collingwood Beach dune vegetation.

Financial Implications

Implementation of the Plan will be funded by the existing Collingwood Beach Dune Management funding - Job Number 15857.

Risk Implications

If the draft Plan is not endorsed, the community will potentially continue to demand an alternative management initiative for managing Collingwood Beach dune vegetation. As such there is a need to move forward with this proposal.

STRATEGY & ASSETS COMMITTEE

21/11/2017

RESOLVED (Clr White / Clr Levett)

MIN17.974

That Council:

1. Receive the advice received from the Office of the Hon. Gabrielle Upton MP, Minister for the Environment, Minister for Local Government, and Minister for Heritage.
2. In view of advice from Manly Hydraulics Laboratory (MHL), Government agencies and NGH Environmental and the objectives of the Coastal Management Act, adopt the following:-
 - a. Recognise the final draft recommendations and proposed management and communication methods compiled by the Collingwood Beach Dune Vegetation Reference Group (Chaired by Allan Baptist in the former Council) were adopted as a broad framework on which to build and should be utilised as a reference document.
 - b. Develop two trial sections at Collingwood Beach beachfront, each of approximately 50 mtrs in length, to be monitored over a two year period:-
 - i. Section One will be a damaged and denuded section to be revegetated in accordance with an agreed plan and with appropriate plants (not of the banksia species) in accordance with the five management objectives of the "Baptist" draft recommendation. The first stage of restoration will include the cutting down and spreading of dead wood on the selected site in recognition of its value as habitat.
 - ii. Section Two will be a current vegetated area of Banksia species to be trimmed progressively over time to provided filtered views of the Bay.
 - iii. Identifies location for 1 viewing platforms in accordance with MHL's report; and
 - iv. Includes a monitoring and evaluation program during the 2-year trial implementation period.
 - v. The aim of the trial is to show good foreshore management.
 - c. Prior to any implementation of the trial:-
 - i. A Management plan for the two sites be developed;
 - ii. Pictorial records will be made of the beachfront from the land and air in order to have a means of measurement of outcomes;
 - d. All existing signs regarding tree vandalism will be removed from Collingwood Beach and a new signage program developed in the new Tree Vandalism policy.
 - e. All Management planning and assessments of the Trial to be managed by:-
 - i. Council staff
 - ii. Reference Group - Community members;
Bruce McKenzie, Noel Ross-Kelly, Dawn Thompson and Barbara Liddle
 - iii. Councillors –
 - iv. Jo Gash, Kaye Gartner, Patricia White, John Levett, Mitch Pakes and other interested Councillors.
 - f. A strong engagement and communication strategy be established with identified stakeholders including a program of public consultation and education throughout the trial

period and ongoing. Explanatory signs should be erected to encourage the local community to take ownership of the plan.

3. Pursue funding options of:-
 - a. The current Collingwood budget
 - b. Grant funding
 - c. Council budget at quarterly reviews
4. Develop a robust Shoalhaven Tree Vandalism policy to be rolled out across the Shoalhaven. In the interim Council immediately adopt the anti-vandalism strategy as outlined in this report be adopted and implemented to mitigate against continuing vandalism.

CARRIED

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.