

Development Committee

Meeting Date: Tuesday, 11 September, 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**
 - DE18.61 Exhibition Outcomes and Next Steps - Nowra Riverfront
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8. Confidential Reports

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 section 8.11 or section 8.9 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:

- a. 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.
- b. 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 7 of the EPA Act.
- c. 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.
- d. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which seeks to vary 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.
- e. 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
- f. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
- g. Review of determinations of development applications under sections 8.11 and 8.9 of the EP&A Act that the General Manager requires to be determined by the Committee.
- h. 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, 14 August 2018
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.02pm

The following members were present:

Clr Joanna Gash - Chairperson
Clr Patricia White
Clr John Levett
Clr Nina Cheyne
Clr Annette Alldrick
Clr Kaye Gartner
Clr Andrew Guile
Clr Greg Watson
Clr Mark Kitchener
Clr Bob Proudfoot
Clr John Wells (left 7.06pm)
Clr Mitchell Pakes
Mr Russ Pigg - General Manager

The Chairperson read a statement advising those present that 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.

Apologies / Leave of Absence

An apology was received from Clr Findley.

Confirmation of the Minutes

RESOLVED (Clr Cheyne / Clr Levett) MIN18.600

That the Minutes of the Development Committee held on Tuesday 03 July 2018 be confirmed.

CARRIED

Declarations of Interest

Nil.

DEPUTATIONS AND PRESENTATIONS

DE18.50 - Proposed New Commercial Development - 16 Additional Motel Rooms at the Bangalee Motel - Lot 100, DP 1057897, 180 Queen Street, BERRY - DA17/1359 (Page 6)

Mr Stuart Coughlan spoke against the recommendation.

Mr Anthony Houghton (Berry Chamber of Commerce and Tourism) spoke for the recommendation.

DE18.53 – Development Application - DA17/1678 – 87 Tallwood Ave, Mollymook Beach – Lot 51 DP1193578 (page 65)

Ms Jan Gregory (Ulladulla Forum) spoke against the recommendation.

Mr Tony Freeman (Molnar Freeman Architects) spoke for the recommendation.

DE18.58 – Development Application DA17/2435 - 148 Island Point Road, St. Georges Basin - Lot 43 DP 25550 - Access and Section 7.11 (94) Contributions (Page 95)

Mr Travis Harpley spoke for the recommendation.

REPORTS

Procedural Motion - Bring Item Forward

RESOLVED (Clr Pakes / Clr Wells)

MIN18.601

That the matter of items DE18.50, DE18.53, DE18.58 and DE18.56 be brought forward for consideration.

CARRIED

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**

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.

RESOLVED (Clr Guile / Clr Wells)

MIN18.602

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.

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

AGAINST: Clr Gartner

CARRIED

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

HPERM Ref: D18/223258

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.

MOTION (Clr Guile / Clr Levett)

That Council:

1. Does not support the applicant's request to vary the maximum building height standard for the development; and
2. Refers the development application (DA17/1678) back to staff for determination.

FOR: Clr Levett, Clr Gartner, Clr Guile and Clr Pakes

AGAINST: Clr Gash, Clr White, Clr Wells, Clr Cheyne, Clr Aldrick, Clr Watson, Clr Kitchener, Clr Proudfoot and Russ Pigg

LOST

MOTION (RESOLVED) (Clr Gash / Clr Cheyne)

MIN18.603

That Council:

1. Confirms 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. Refers the development application (DA17/1678) back to staff for determination.

PROCEDURAL MOTION (Clr White / Clr Wells)

That the MOTION be PUT.

CARRIED

The MOTION was PUT and CARRIED.

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

AGAINST: Clr Levett, Clr Aldrick, Clr Gartner, Clr Guile and Clr Pakes

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

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.

RESOLVED (Clr Proudfoot / Clr White)

MIN18.604

That Council.

1. Prepare a detailed design review of the remaining section of the St Georges Basin Village Centre Service Lane identified in Contribution Project (CP) 03ROAD2113 to establish what can now be practically achieved and if necessary report the outcome back to Council.
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.

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

AGAINST: Nil

CARRIED

RECOMMENDATION (Clr Proudfoot / Clr White)

That Council depending on the outcome of detailed design review, 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:

1. 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.
2. Recouping the expended funds through Section 7.11 development contributions levied by Shoalhaven Contributions Plan 2010 for future development.
3. 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.
4. 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.

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

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D18/234448**

Recommendation

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.

RECOMMENDATION (Clr Guile / Clr Pakes)

That Council:

1. Adopt the draft Medium Density Amendment as exhibited and as per attachment 1, but with the following additional changes:
 - a. Delete any reference to 'Mandatory Controls' as such content would be contrary to Section 4.15 (3A) of the EPA Act 1979, which requires the council to be flexible in applying DCP provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with an aspect of a proposed development. The current DCP if adopted would lead to breaches of the EPA Act if mandatory controls were contained within it.
 - b. Delete reference to minimum lot size of 1000m² for battle-axe lots in A1.1.
 - c. Amend Figure 3 and table 2 such that a maximum setback to a secondary street is 5m for dual occupancy dwellings on corner lots.
 - d. Amend Table 2 to remove reference to 4m rear setback to dwellings and replace with 3m (average) rear setback.
 - e. Amend Table 4 to remove reference to 4m rear setback to dwellings.
 - f. Amend A6.2 to read:

A6.2: In addition to the formal landscaping area required at A6.1, a further area of at least 20% of the site is to be provided, which:

 - i. *Has a minimum dimension of 1m in any direction.*
 - ii. *Is inclusive of 40% deep soil planting.*
 - iii. *Can Include landscaped area, decks, terraces, alfresco areas, swimming pools or other recreation areas / structures.*
 - g. Amend A11.3 to add the words 'where practicable'.
 - h. Delete Section 5.33 of the DCP in its entirety.
 - i. Delete Section 5.3.4 of the DCP in its entirety.
 - j. Delete Section 5.3.6 of the DCP in its entirety.
 - k. Amend A28.2 such that the setback required is only 5.5m and not 7.2m.
 - l. Amend Section 5.4.3 by:
 - i. Deleting reference to "Mandatory Controls"
 - ii. Amending item 1 to read as follows:

Mandatory Controls:

All Class 1a and 2 developments, as defined in the Building Code of Australia, must provide accessible or adaptable housing at the following rate:

Developments containing 3 -10 dwelling – 1 dwelling.

Developments containing 11 – 40 dwellings – 2 dwellings.

Development containing 41 – 60 dwellings – 3 dwellings.

Development containing 61 – 80 dwellings – 4 dwellings.

Developments containing 81 – 100 dwellings – 5 dwellings.
 - m. Amend A34.1 to state:

The required proportion of new Class 1a or 2 dwellings, should:

Be designed so the dwelling can be easily and affordably adaptable at a later date.

2. 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.
3. 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.
4. Advise key stakeholders, including relevant industry representatives, of this decision, and when the Medium Density Amendment will be made effective.
5. Should the resolution of Council be substantially different from the draft Medium Density Amendment as exhibited, further advertisement and community engagement occur.

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

AGAINST: Nil

CARRIED

Clr Wells left the meeting, the time being 7.06pm.

Procedural Motion - Adjournment of Meeting

RESOLVED (Clr Guile / Clr Pakes)

MIN18.605

That the meeting be adjourned until 7.26pm.

CARRIED

Note: The meeting adjourned, the time being 7.06pm.

Note: The meeting reconvened, the time being 7.32pm

When the following members were present:

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

Procedural Motion - Bring Item Forward

RESOLVED (Clr Gash / Russ Pigg)

MIN18.606

That the matter of items DE18.59, DE18.52 and DE18.57 be brought forward for consideration.

CARRIED

DE18.59 Collingwood Beach Dune Vegetation Management

**HPERM Ref:
D18/260749**

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.

RESOLVED (Clr White / Clr Gash)

MIN18.607

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

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

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D18/190275**

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.

RESOLVED (Clr Proudfoot / Clr Gash)

MIN18.608

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 to the report).
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.

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

AGAINST: Nil

CARRIED

DE18.57 Coastal Hazards Review - Proposed Amendments - Shoalhaven Local Environmental Plan 2014 and Shoalhaven Development Control Plan 2014	HPERM Ref: D18/242202
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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.

RESOLVED (Clr Alldrick / Clr White)

MIN18.609

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.

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

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D18/202166**

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.

RESOLVED (Clr Gartner / Clr White)

MIN18.610

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.

FOR: Clr Gash, Clr White, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Gartner, Clr Guile, Clr Kitchener and Russ Pigg

AGAINST: Clr Pakes, Clr Watson and Clr Proudfoot

CARRIED

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

**HPERM REF:
D18/190275**

Item dealt with earlier in the meeting see MIN18.608.

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

**HPERM REF:
D18/223258**

Item dealt with earlier in the meeting see MIN18.603.

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

**HPERM Ref:
D18/233892**

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.

RESOLVED (Clr Watson / Clr Pakes)

MIN18.611

That Council:

1. Defer consideration of using the Wollongong Design Review Panel for Industry consultation.
2. Nominate on a case-by-case basis its representative on the pilot NSW State Design Review Panel.

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

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D18/233878**

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.

RESOLVED (Clr Pakes / Clr White)

MIN18.612

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.

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

AGAINST: Nil

CARRIED

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

**HPERM REF:
D18/234448**

Item dealt with earlier in the meeting.

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

**HPERM REF:
D18/242202**

Item dealt with earlier in the meeting see MIN18.609.

**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**

Item dealt with earlier in the meeting see MIN18.604.

DE18.59 Collingwood Beach Dune Vegetation Management

**HPERM REF:
D18/260749**

Item dealt with earlier in the meeting see MIN18.607.

Procedural Motion - Matters of Urgency

RESOLVED (Clr Proudfoot / Clr White)

MIN18.613

That an additional item in relation to DA18/1844 – Boarding Houses – 120 Macleans Point Road, Sanctuary Point (Lot 653 DP 27855) be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent due to extensive public interest.

DE18.60 Additional item - Development Application - Macleans Point Road, St Georges Basin

RESOLVED (Clr Proudfoot / Clr White)

MIN18.614

That DA18/1844 – Boarding Houses – 120 Macleans Point Road, Sanctuary Point (Lot 653 DP 27855) be called to Council for determination due to significant public interest.

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

AGAINST: Nil

CARRIED

There being no further business, the meeting concluded, the time being 8.14pm.

Clr Gash
CHAIRPERSON

DE18.61 Exhibition Outcomes and Next Steps - Nowra Riverfront Entertainment and Leisure Precinct - Proposed Planning Controls Report

HPERM Ref: D18/218690

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments:

1. Summary of Submissions (under separate cover)
2. Submission - NSW Department of Planning and Environment [↓](#)
3. Submission - NSW Roads and Maritime Services [↓](#)

Purpose / Summary

Report the outcomes of the exhibition of Nowra Riverfront Entertainment and Leisure Precinct Proposed Planning Controls Report to Council and obtain endorsement to proceed to the next stage.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the Nowra Riverfront Leisure and Entertainment Precinct Strategic Direction: Review & Analysis and Proposed Planning Controls Reports as exhibited and with the following changes to the Proposed Planning Controls Report:
 - a. Amend the Indicative Future Road Local / Alignment on the key development parameters mapping including the closure of Pleasant Way as per Variation B of the report and illustrate an additional road connection off Hawthorn Avenue to Princes Highway.
 - b. Include further justification for the change in Land Use Zone and Height of Building in Scenic Drive, Wharf Road, Bridge Road and Pleasant Way and Graham Lodge sub-precincts in accordance with Section 9.1 Ministerial Direction 1.1 Business and Industrial Zones and 3.1 Residential Zones.
 - c. Amend the Bridge Road and Scenic Drive sub-precincts to include additional text which notes that the future development of these sub-precincts will be subject to additional investigation once the detail design of the Nowra Bridge project is complete.
 - d. Amend Figure 43 and supporting text to categorise Bridge Road sub-precinct as Level 3 high level of uncertainty around the impact to development outcomes as a result of the acquisition associated with the Nowra Bridge project.
2. Prepare a Planning Proposal for Mandalay Avenue sub-precinct to amend the Land Use Zones, Height of Buildings and Floor Space Ratio as per the exhibited Proposed Planning Controls Report and submit to Department of Planning & Environment for Gateway determination.
3. Prepare a Planning Proposal for the remaining sub-precincts as per the Staging Plan (except for Bridge Road and Scenic Drive sub-precincts) as per the exhibited Proposed Planning Controls Report and with the following additional considerations:
 - a. Reflect the latest Concept Design for the Nowra Bridge Project.
 - b. Consider reduction in Height of Building and Floor Space Ratio to address flooding

- impacts.
- c. Consider B4 Mixed Use as an alternative zone for the Wharf Road precinct, and Additional Permitted Uses to enable the activation of the riverfront.
 - d. Prior to submitting to NSW Department of Planning & Environment for Gateway determination, report the matter to Council.
4. Prepare a Development Control Plan Chapter to be inserted into Shoalhaven Development Control Plan 2014 for the Nowra Riverfront Precinct, which includes the controls in the exhibited Proposed Planning Controls Report as per the Staging Plan (except for Bridge Road and Scenic Drive), and:
 - a. In preparing the Draft Development Control Plan Chapter:
 - i. Review appropriateness and suitability of flood related controls.
 - ii. Revise the key development parameters of each sub-precinct to reflect the latest Concept Design for the Nowra Bridge Project.
 5. Commence initial preparatory work to clarify the infrastructure required to support the future development of the precinct and inform a possible Contributions Plan Amendment for new road, drainage and open space infrastructure projects and consider a subsequent report on this aspect that details the funding required to advance the infrastructure design work and identifies a Council funding source.
 6. Notify all submitters and public authorities of the resolution.

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Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will ensure that Council moves forward with the Nowra Riverfront Leisure and Entertainment Precinct whilst considering and responding to the Nowra Bridge project and utilising the most up to date flood information.

Adopting the Nowra Riverfront Leisure and Entertainment Precinct Strategic Direction: Review & Analysis and Proposed Planning Controls Reports as exhibited and with the recommended changes will ensure the future direction for the precinct is established and community / landowner expectations are met.

Proceeding to a Planning Proposal (PP) for Mandalay Avenue as a first stage will ensure the enabling of some development in the precinct whilst the Nowra Bridge project proceeds to detail design and the Lower Shoalhaven River Floodplain Risk Management Study and Plan review is completed.

2. Adopt an alternative recommendation to proceed to prepare a PP for the full precinct with assumptions to be made for the Nowra Bridge project based on the most recent Concept Design.

Implications: In taking this approach, when submitting a PP for Gateway determination there is the option to request that the masterplan for the precinct be revised after a Gateway determination is received and relevant studies are completed. There are risks in proceeding to a PP for the full precinct due to the level of affected land stemming from the Nowra Bridge project and flooding constraints.

3. Adopt the exhibited Strategic Direction and Proposed Planning Controls Reports as exhibited and with the changes as recommended, but do not proceed further at present and report the matter back to Council following the completion of the detail design for the

new Nowra Bridge and associated Princes Highway realignment, and the Lower Shoalhaven River Floodplain Risk Management Study and Plan.

Implications: This is not preferred as it will mean that development in the broader precinct is stifled until as early as 2020. Some areas within the broader precinct (i.e. Mandalay Avenue sub-precinct) are not impacted by either flood or the Nowra Bridge project and can proceed earlier.

4. Consider providing for additional development potential (building height and floor space ratio controls) in the Wharf Road and Scenic Drive sub-precincts above that identified in the exhibited Strategic Direction and Proposed Planning Controls Reports, as requested in the major submission received regarding these sub-precincts.

Implications: the submission in question proposes an increase in the proposed height of buildings and indicative FSR for Wharf Road sub-precinct. The increases requested represent a significant change for the exhibited proposals.

The proposed height of buildings and FSR controls for the Wharf Road and Scenic Drive precincts were subject to site testing by Council's project consultants to inform the selected proposed planning controls and ensure the resulting development outcomes were suitable within the context and did not create any adverse visual or amenity impacts. As noted later in the report, development of the scale requested has the potential to cause significant impact and relatively limited justification has been provided to support the requested increase in development controls.

Whilst not preferred at this time, should Council wish to consider increasing the proposed height or buildings and FSR controls, not necessarily to the full extent requested in the submission, as part of the subsequent PP and DCP processes then additional justification work and investigation should be required from the proponents in this regard.

5. Given the significance of this planning project, the nature of the submissions received and the need to consider the implications from the recent announcement regarding the Nowra Bridge, Council may wish to defer this matter to enable a more detailed briefing meeting/workshop for Councillors.

Implications: Should Council wish to take this option it would provide an opportunity to fully consider the matters raised during the exhibition and in this report, prior to deciding on the next steps regarding this project.

Background

The Nowra Riverfront Leisure and Entertainment Precinct (the precinct) is located along the Shoalhaven River and includes land north of Hyam Street and Graham Street, East of Hawthorn Avenue and West of Shoalhaven Street as shown in *Figure 1*.



Figure 1 - Nowra Riverfront Leisure and Entertainment Precinct

For the purposes of this exercise, the overall precinct is broken into six (6) sub-precincts (see Figure 2 below) which each have their individual opportunities, constraints and proposed planning controls.



Figure 2 – Sub-precincts within Nowra Riverfront Leisure and Entertainment Precinct

Council considered a report on the Nowra Riverfront Leisure and Entertainment Precinct Proposed Planning Controls Report at its meeting on 27 March 2018. Council’s project consultants, Studio GL, also briefed Councillors on 22 March 2018.

Council resolved (MIN18.207) on 27 March 2018 as follows:

1. Receive the attached Nowra Riverfront Entertainment and Leisure Precinct Proposed Planning Controls Report prepared by Studio GL for information and endorse it being

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placed on public exhibition for a minimum period of 28 days to enable community comment.

2. *During the exhibition period, directly consult with NSW Roads and Maritime Services in relation to the Nowra Bridge Project.*
3. *Consider a further report following the exhibition of the Nowra Riverfront Entertainment and Leisure Precinct Proposed Planning Controls Report that details any comments received, with a view to proceeding to: prepare a Planning Proposal for submission for initial Gateway determination to revise relevant Local Environmental Plan provisions; and a supporting Area Specific Chapter to be inserted in Shoalhaven Development Control Plan 2014.*
4. *Receive a further report on the insurance options for the former Nowra Sailing Club site.*

Public Exhibition

The public exhibition package in this regard included the following documents:

- Strategic Direction: Review and Analysis report
- Proposed Planning Controls Report
- Explanatory Statement.

The exhibition was available for viewing at Council's City Administration Centre in Nowra and on Council's website between 25 April and 25 May 2018 (inclusive) to enable community review and comment. A wide range of direct notifications were also provided, including to landowners, specific interest groups etc.

During the exhibition period, a total of fourteen (14) submissions were received, four (4) of which were from public authorities. Each submission received has been summarised in detail and responded to in **Attachment 1**. Copies of the actual submissions will be available in the **Councillor's Room** prior to the Development Committee Meeting.

The exhibition material can still be viewed on Council's website at the following link:

<https://shoalhaven.nsw.gov.au/My-Council/Public-exhibition/Documents-on-exhibition>

Public Authority Submissions

As part of the exhibition period, Council notified NSW Department of Planning & Environment (DP&E) and NSW Roads & Maritime Services (RMS) and sought comment in relation to the strategic direction and proposed planning controls for the precinct.

Submissions were received from four (4) public authorities/within Council and the following is an overview of these submissions.

DP&E

The submission provided is summarised below and a copy is provided as **Attachment 2**.

- Subject to consideration of detailed PPs, the strategic directions and proposed planning controls are generally supported.
- The proposed controls within the sub-precincts demonstrate potential inconsistencies with Section 9.1 Ministerial Directions, namely:
 - Changes to business zones may be inconsistent with Direction 1.1 Business and Industrial Zones;
 - Changes to residential zones may be inconsistent with Direction 3.1 Residential Zones;

- Reduction in building heights may be inconsistent with Directions 1.1 Business and Industrial Zones and 3.1 Residential Zones.
- Any inconsistencies with Section 9.1 Ministerial Directions must demonstrate that the inconsistencies are justified as per the terms of the Directions.
- If Council intends to use the Strategic Direction and Proposed Planning Controls Report to justify inconsistencies with the Section 9.1 Directions, it is recommended that further information be included in the reports to satisfy the terms of the Directions, particularly the objective.
- Further justification should be provided for the reduction in height and potential reduction in permissible residential and employment density, in the Bridge Road sub-precinct.

Staff Comment

It is noted that DP&E support the proposals in principle, subject to further suitable detail being contained in a future PP. The strategic direction and proposed planning controls intend to reaffirm and realise the actions within the Illawarra-Shoalhaven Regional Plan that seek to activate the Shoalhaven Riverfront in this location.

It is recommended that the exhibited Proposed Planning Controls report be amended to also cover the following Section 9.1 Ministerial Directions as recommended by DP&E:

- *Direction 1.1 Business and Industrial Zones:* needs to be addressed in relation to the proposed zoning and height changes in Scenic Drive, Bridge Road, and Pleasant Way and Graham Lodge sub-precincts. This direction seeks to encourage employment growth in suitable locations, protect existing zoned employment land and support the viability of existing centres. General commentary will be added in this regard.
- *Direction 3.1 Residential Zones:* needs to be addressed in relation to the proposed zoning and height changes in Wharf Road and Bridge Road sub-precincts. This direction seeks to encourage a variety of housing, make efficient use of infrastructure and minimise impact of residential development on employment/resource lands. General commentary will be added in this regard.

RMS

Just prior to the public exhibition RMS publicly released the “preferred option” for the Nowra Bridge project. The timing of this release coincided with the reporting of the draft planning package to Council, which meant that the consultants’ work did not reflect the preferred option for the Nowra Bridge Project. Thus, consistent with part 2 of the Council resolution direct consultation was undertaken in this regard with RMS as part of the exhibition period.

Council staff notified RMS of the public exhibition period, and copies of the draft package were provided to help assess the compatibility of the Nowra Bridge project with the package. In response to Council’s notification, RMS provided a submission on 25 June 2018. The contents of which are summarised below, and a copy of the submission is provided as **Attachment 3**.

- It is understood that the reports identify possible changes to Shoalhaven LEP 2014 in terms of zoning, heights and floor space ratios (FSR). It also recommends a number of design controls that could be incorporated into a future amendment to the DCP.
- The works currently being undertaken by RMS for the Nowra Bridge project has the potential to impact upon the smaller catchments that the *Proposed Planning Control (Draft)* prepared by Studio GL has identified (i.e. Scenic Drive Precinct, Wharf Road Precinct, Pleasant Way/Graham Lodge Precinct and Bridge Road Precinct).

- RMS is currently preparing the environmental assessment for the Nowra Bridge project. This will contain more details on the preferred option having regard for community feedback, additional design works undertaken, etc. RMS anticipates that this will be placed on public exhibition in late 2018;
- It is important that the location/alignment for the Princes Highway and its intersections with both Pleasant Way and Bridge Road in Nowra Riverfront Entertainment and Leisure Precinct package align with the latest design work RMS is undertaking.
- At this time the exhibited preferred option for the RMS Nowra Bridge project is based on concept designs. RMS believes that further detailed design work is required before certainty on the future Princes Highway road alignment and intersection locations at both Pleasant Way and Bridge Street can be provided. The detailed design that is required includes, but is not limited to, more detailed investigation of constraints such as utilities and geotechnical issues which may impact on the future road alignment and required setbacks to enable future RMS works.
- The indicative future road location and alignment for the Princes Highway as detailed in the Proposed Planning Control report is not the same as the RMS preferred option that has been publicly exhibited by the RMS for the Nowra Bridge project.
- The Proposed Planning Control report has identified the area south of the Bridge Road and Pleasant Way/Graham Lodge Precinct as no change, however the Nowra Bridge project preferred option identifies a new intersection for Pleasant Way and the Princes Highway on the eastern side of the Princes Highway.

In addition to consultation as part of the riverfront precinct work, Council staff met with RMS in relation to the Nowra Bridge project as part of the public authority consultation required under the State Environmental Planning (Infrastructure) 2007 (ISEPP) on 5 June 2018. Further to the consultation required under ISEPP, a Councillor Briefing was held on 23 August 2018 where staff from RMS presented the environmental assessment and concept design for the new Nowra Bridge. The Nowra Bridge Environmental Assessment, Response to Submissions and Concept Design plans are now on public exhibition from 27 August to 28 September 2018. The exhibited material in this regard is available on the internet at:

<http://www.rms.nsw.gov.au/projects/south-coast/nowra-bridges-shoalhaven-river/index.html>

Staff comment

It is noted that there are some inconsistencies between the proposals contained in the exhibited package and the Nowra Bridge project preferred option and more recently released concept design and its supporting material. This is a result of the completion of the draft package ahead of the public release of the preferred option concept plans and also subsequently the release of the concept design for the bridge just before this report was completed. Thus, it is recommended that the future proposed amendments to Shoalhaven LEP 2014 and Shoalhaven Development Control Plan (DCP) 2014 are consistent with the outcomes of the Nowra Bridge project.

It is noted that significant changes will be required to the Bridge Road and Scenic Drive sub-precincts because of the RMS concept design and the land acquisition required to construct the new bridge crossing, realignment of Princes Highway and intersection treatments. These sub-precincts will need to be deferred from the next stage of preparing a PP and DCP in the interim and until such time the detail design of Nowra Bridge project is available. This will enable a full understanding of the remaining land after acquisition, to undertake site testing of potential developments.

It is recommended that the Indicative Future Road Location / Alignment on the key development parameters mapping be amended to include the full impacted area as per the latest Concept Design for the bridge, including closure of Pleasant Way as per Variation B of

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the Proposed Planning Controls Report (page 15), and the additional road connection off Hawthorn Avenue to Princes Highway. The alignment of the latest Concept Design from RMS will be reflected in future PPs and DCP Chapter.

Council - Recreation, Community & Culture Section

The submission raised the following matters:

- The plan identifies the significance of the riverfront and acknowledges the whole of community ability to access it without obstructions (either physical or socially), which is an important element to providing for the community of Shoalhaven and its visitors. We encourage greater density set back from the public open space adjacent to the riverfront to provide housing/retail and commercial elements.
- Acknowledge the importance of clear links to the CBD, through and to the riverfront precinct and across to the entertainment precinct to ensure inclusion and accessibility and greater utilisation of the spaces.
- The reports should include housing of the David Berry Floodboat at the Nowra Aquatic Park as per *Figure 3* below. This is currently a proposal that we are seeking grant funding for. It would be fitting for the Floodboat to be displayed somewhere along the Shoalhaven River where it was originally used.

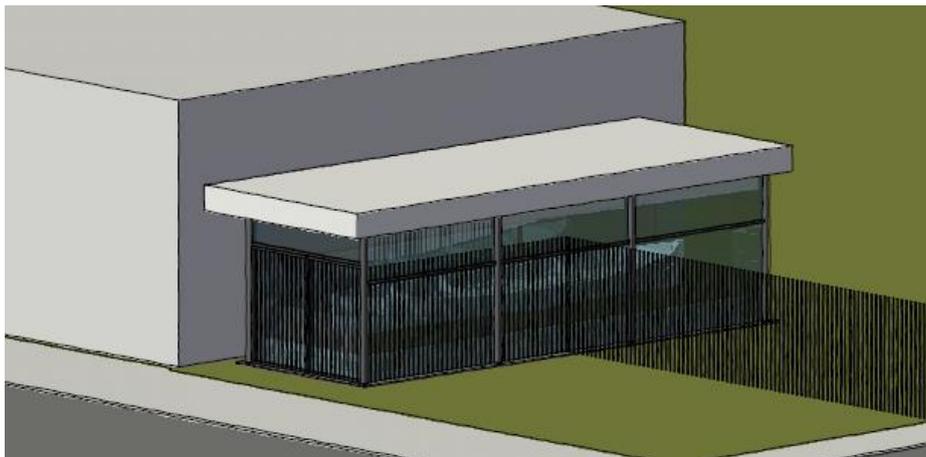


Figure 3 – Concept Design of David Berry Floodboat, Nowra Aquatic Park

- In relation to Graham Lodge and surrounding landscape:
 - This building is one of high cultural significance to Shoalhaven with the land grant to William Graham being given in 1826 and the residence ‘Greenhills’ in evidence shortly after.
 - Consistent with Council’s ‘Graham Lodge – Nowra Interpretation Plan’ (September 2000) there is a strong potential for the Lodge to be developed into a historical museum, with collections and interpretation that encourage awareness of the history of the area.
 - There is a need within 10 years for significant expansion of the Shoalhaven Regional Gallery and Nowra Library to service the anticipated population growth, collection and storage needs and state government recommendations for floor size.
 - Arts and cultural facilities are known to be significant drivers of urban renewal when done in a way that supports cultural tourism, showcases world leading architecture

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and design principles and strengthens employment through related and ancillary services such as hospitality, accommodation etc.

- It is recommended that:
 - To support the planning and design principles for this precinct Council are strongly encouraged to plan for an architecturally significant Regional Gallery and Library complex, sited in the same precinct as the Entertainment Centre and current council Administration building with visual and pedestrian linkages to the heritage listed Graham Lodge. This precinct would become a significant gateway to Nowra and free up space within the CBD for future development.
 - Shoalhaven and District Historical Society should be approached with an opportunity to make Graham Lodge into a regionally significant museum as per the Interpretation Plan and the Conservation Management Plan, 2000.
 - Locating a Regional Gallery, Museum and Library within walkable access and as a visual precinct, will provide opportunities for shared collection storage and access, shared visitation across all sites and an engaging public site, making retail, cafes, restaurant and accommodation more attractive and helping to revitalise the riverfront precinct.

Staff comment

Creating a permeable and connected network is one of the key planning and design principles for the precinct. The importance of improving links from/to the CBD and Civic Precinct, prioritising east-west connections across the highway, connectivity and links across and along the river are all acknowledged.

The re-integration of the David Berry Floodboat is a matter that could be explored as part of a future Amendment to the Shoalhaven Contributions Plan (CP) 2010 for the provision of open space and reorientation of the Nowra Aquatic Centre and car park. As a result of the Nowra Bridge project, there is also the need to possibly consider a suitable location for a relocated Bicentennial Memorial which currently resides at Moorhouse Park. Any relocation of these heritage items will need to be guided by an assessment of heritage impact.

As part of the Nowra Bridge project, a substantial part of the Bridge Road sub-precinct is proposed for acquisition. The Council-owned site within the Pleasant Way and Graham Lodge precinct which houses the State Heritage listed Graham Lodge, is currently subject to an Expressions of Interest process, whereby a private company has an option over the land. It is considered that any additional commentary in relation to the integration of a Regional Gallery and Library Complex on this site is not appropriate given previous decisions by Council to proceed with its proposed sale.

Whilst it is not recommended that the Proposed Planning Controls Report be amended to include the suggestion, it is noted that the Shoalhaven CP 2010 includes project CWCFA0006 Shoalhaven City Library Extensions (Berry Street, Nowra) which seeks to extend the current facility. As Council reviews the Shoalhaven CP 2010, consideration of amending the existing project from an extension to the existing facility, to the establishment of a new facility may be considered appropriate at this stage. Any consideration of relocating the existing Library complex and potentially the Regional Gallery will need to be separately and duly considered given the potential impact it may have on the Nowra CBD.

Council - Natural Resources & Floodplain Unit

The submission raised the following matters:

- Some of the controls are not supported as they are inconsistent with Chapter G9 Development on Flood Prone Land in Shoalhaven DCP 2014. New DCP controls must be consistent with the objectives and controls contained within DCP Chapter G9.
- Basement parking should not be constructed in high hazard flood areas.
- Driveway crests should be constructed at a minimum 1% AEP (Annual Exceedance Probability).
- Due to the catchment size and level of flooding in the precinct, provision of pumps for managing floodwaters is not appropriate.
- Elevators and other electrical fittings should be installed above the Flood Planning Level. A DCP control should be inserted to require this to ensure that future development in this precinct demonstrate this.
- Consideration of Floor Level requirements for habitable and commercial areas - the current document is silent on this; however, it is recommended this is clearly highlighted, referring to DCP Chapter G9.
- The proposed planning controls need to consider flood damage.
- Council is currently reviewing the Lower Shoalhaven River Floodplain Risk Management Study and Plan. This is due for completion in late 2020. Because of this review, flood lines and hazards may change.

Staff comment

The Proposed Planning Controls report identifies that the precinct is largely flood affected to varying degrees and that DCP Chapter G9 applies and controls development on land at risk of flooding. The report also notes that confirmation of flood levels and impacts is required to determine the likely development impacts and the viability of specific development options as outlined in the report.

It is noted that a consultant has been commissioned to undertake a review of the Lower Shoalhaven River Floodplain Risk Management Study and Plan (FRMSP) which will improve understanding of flood behaviour and impacts, and better inform management of flood risk in the study area. This work will include the Riverfront Precinct. It is expected that this process will provide more contemporary flood affectation information in relation to the precinct and enable any development controls for this area to be well informed and respond to the sub-precinct specific flood constraints.

However, whilst the review of the Lower Shoalhaven River FRMSP has commenced, it is expected to take two years to complete, with a draft not available till late 2019. As such this has the potential to significantly impact on the final delivery of this project and ultimately new development in this area. The update of Lower Shoalhaven FRMSP information is however needed to ensure that the proposed planning controls, particularly scale (e.g. height) of development, encourage development outcomes that are appropriate and do not create adverse flood impact.

In this regard, it is recommended that the sub-precincts outside of the flood affected area, namely Mandalay Avenue, proceed to a PP immediately. The remaining precincts could proceed once the updated flood constraint information is available.

General Community Submissions

A total of ten (10) submissions were received from the general community, including land and business owners within the precinct.

One (1) submission included a significant proposal termed the “Shoalhaven Gateway Project” for the development of the Wharf Road and Scenic Drive sub-precincts.

Three (3) submissions did not respond to or comment on the exhibited Council material as such. Rather, they relate to the submission and proposed concept for the “Shoalhaven Gateway Project” which includes the current Caravan Park and Motel Site within the Wharf Road and Scenic Drive sub-precincts. One (1) submission did support the “Shoalhaven Gateway Precinct” and made comments on the exhibited materials.

The following is a summary of the key issues raised in the submissions, and a review of the submission received from Inspired Property Partners in relation to the “Shoalhaven Gateway Project”.

Inspired Property Partners Submission

The submission from Inspired Property Partners included a written submission, concept plans, vision and 3D flyover. In addition, the written submission was supplemented by support letters from both the Riverhaven Motel site and Gateway Caravan Park landowners; Sailing for Everyone Foundation; Pleasant Way River Lodge landowner; and a private individual.

The proposed development concept is over both the Scenic Drive and Wharf Road precincts, specifically Lot 1 DP 624434, Lot 7038 DP 1101416, Lot 5 DP 262460, Lot 1 DP 735303, Lot 101 DP 611544 and Lots 5, 6, 7 DP 209295.

Figure 4 below is an artist’s impression of the precinct and proposed development concept, looking south from the Shoalhaven River.



Figure 4 – Artist Impression of Shoalhaven Gateway Project

The written submission describes the proposed development concept within the Wharf Road sub-precinct as follows:

- Proposed development of buildings between 19.6 to 31.8 metres in height with a 1.3:1 to 1.5:1 FSR.
- The proposal includes three (3) medium rise buildings on a commercial / public podium. The upper levels of the buildings are terraced with a primary podium on the second storey and several smaller podiums above where apartments can link to private green spaces with views to the waterfront.
- The buildings include cross boulevards between them to form the basis for an activated waterfront precinct with the potential for cultural links. The centre of the boulevards is

suggested as potential location for a new site for the Captain Cook Memorial (currently located on Moorhouse Park – to be relocated as part of the Nowra Bridge project).

- Potential redevelopment of the wharf and previous Nowra Sailing Club site to help link the precinct to the river and revitalise the foreshore.
- The form of the buildings has been designed to reflect the curves and fluid nature of the Nowra River on which it is sited. The materiality of the project will be light and reflective to allow the buildings to form a discourse with their natural surroundings and also allow visitors to the site to readily enjoy aspects of both the private commercial spaces and surrounding public boulevards and open spaces.

Figures 5 and 6 below are an artist's impression of the Wharf Road sub-precinct within the proposed development concept.



Figure 5 - Artist Impression of Wharf Road Sub-precinct of Shoalhaven Gateway Project



Figure 6 - Artist Impression of Buildings within Wharf Road Sub-precinct of Shoalhaven Gateway Project

The written submission describes the proposed development concept within the Scenic Drive sub-precinct as follows:

- Proposed development of buildings between 18 to 32 metres in height.
- The form of the building flanks the Princes Highway at the foot of the bridge with the entry located off the Scenic Drive cul-de-sac.
- The form of the building is split at the rear where the site widens to create two wings separated by a full height atrium which will allow light into the building.

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- To the north there is a public promenade which carries pedestrians down to the park and Ben's Walk. The ground level podium wraps around the building at a level that sits above the Probable Maximum Flood level.
- Above the ground floor the building has been compartmentalised to be further designed as either apartments or hotel style accommodation.

Figures 7 and 8 below are an artist's impression of the Scenic Drive sub-precinct within the proposed development concept.



Figure 7 - Artist Impression of Scenic Drive Sub-precinct of Shoalhaven Gateway Project



Figure 8 - Artist Impression of Buildings within Scenic Drive Sub-precinct of Shoalhaven Gateway Project

The written submission raised the following additional matters:

- Potential link bridge is proposed between the two sites as indicated on the accompanying plans. While Council have noted RMS's hesitation in installing a pedestrian bridge, it is recommended that this should be considered as it would alleviate potential congestion around the bridge by connecting both sides of the foreshore. The footbridge would minimise the number of pedestrians crossing at the lights. It would also, in a flood event, provide safe access and egress between sites, both of which are above the PMF.
- To further improve the planning outcomes and community benefits for the precinct, the following changes are recommended to the proposed planning controls:
 - Maximum building heights and FSR for the proposed buildings within the Wharf Road and Scenic Drive sub-precincts be reviewed to facilitate a greater height as illustrated on the accompanying plans. The increased heights have been justified by achieving the objectives of the Strategic Direction, specifically:
 - To create an attractive place to live and visit through high quality landscape, signage, built form.

- Encourage tourist related uses that are appropriate given the flood risk and help create an attractive gateway into Nowra and expand and activate the riverfront open space.
- o Retain the existing B4 Mixed use zoning in the Scenic Drive sub-precinct.
- o Rezone the Wharf Road sub-precinct from SP3 Tourist to B4 Mixed use.
- o The following land uses be included as Additional Permitted uses by means of a Clause 2.5 Amendment to the LEP (Schedule 1) within the W2 Recreational Waterways and/or RE1 Public Recreation zoning to ensure the best use of the wharf precinct for tourist and the community:
 - Information Centre
 - Leisure equipment hire/sales
 - Markets
 - River tours admin/office ticketing
 - Water sports/ boating shop
 - Wharf or boating facilities

Staff Comment

Whilst the proposed development concepts that have been submitted potentially create a significant gateway development and activate the river foreshore, significant departures are requested to the Proposed Planning Controls Report with respect to the scale of development of the Wharf Road and Scenic Drive sub-precincts. The following is a comparison of the exhibited key controls and ones suggested in the submission:

Wharf Road

Exhibited heights – range up to a maximum of 18m (5 storeys)

Exhibited FSR – indicative FSR of approximately 1.1

Requested heights - 19.6 to 31.8 metres

Requested FSR - 1.3:1 to 1.5:1

Scenic Drive

Exhibited heights – range up to a maximum of 18 m (5 storeys)

Requested heights - 18 to 32 metres

As shown above, the submission proposes/requests an increase in the Height of Buildings by a maximum of 18m (double the proposed height control for both sub-precincts), and an increase to the proposed indicative FSR for Wharf Road sub-precinct by 0.3-0.5:1 is proposed/requested.

The Scenic Drive sub-precinct did not have a recommended FSR in the exhibited material as it required additional investigations for flooding, Nowra Bridge project impact, heritage and access.

The proposed building height and FSR for the Wharf Road and Scenic Drive precinct were subject to site testing by the project consultants to inform the selected proposed planning controls and ensure the development outcomes that would result from the proposed planning controls were suitable within the context and did not create any adverse visual or amenity

impacts. Enabling development up to 32 metres within the Wharf Road sub-precinct is considered inappropriate due to the proximity to low density residential development to the immediate east of Hawthorn Avenue. Development of that scale has the potential to cause significant impact and relatively limited justification has been provided to support the requested increase in development controls. Due to this uncertainty, it is recommended that the alternative heights and FSR requested in this submission not be supported at this time.

Given the latest information from RMS in relation to the Nowra Bridge Project and the land acquisition required to facilitate it, the development of the Scenic Drive precinct will not be able to proceed as envisaged in the exhibited Proposed Planning Controls report. As such, it is recommended that Council defer the PP or DCP over this sub-precinct to ensure that the most appropriate development outcome can be achieved based on the new land area and interface with the bridge.

The rezoning of the Wharf Road sub-precinct to B4 Mixed Use was not recommended by the project consultant due to the potential for conflict and competition with the function of Nowra CBD. However, in the previous Council report (March 2018), the alternate zoning of the sub-precinct as B4 Mixed Use was suggested. This may be an option that could be considered, subject to the addition of a clause within Shoalhaven LEP 2014 which limits the floorplate of particular commercial uses, to ensure that the hierarchy of commercial centres is not compromised further. The NSW Government has also made some recent adjustments to the Standard LEP Instrument regarding retail uses and this will require further consideration in the preparation of any PP. It is noted that within the SP3 Tourist zone, land uses which have the potential to help activate the riverfront, including food and drink premises (includes restaurant or café, take away food and drink premises, pub, and small bar), function centres, recreation facilities, kiosk, and more, are permitted with consent. However, it is acknowledged that the B4 zone does allow a broader mix of land uses, including residential.

Within the Wharf Road sub-precinct, encouraging land uses which can help activate the Riverfront is supported. The Additional Permitted Uses suggested in this submission would be largely defined as information and education facility, water recreation structure, charter and tourism boating facility, markets, shop and business premises. Within the W2 Recreational Waterways and RE1 Public Recreation zones, these uses are permitted with consent across the two zones except for shop and business premises. It is considered that these uses are more appropriately placed within the sub-precincts and not on the foreshore public land, however it is acknowledged that the SP3 Tourist zone does not permit shop and business premises. These uses could be considered as Additional Permitted Uses with limitations applied to the maximum gross floor area, or alternatively, if the sub-precinct is zoned B4 Mixed Use these uses will be permitted with consent.

The notion of a pedestrian bridge that connects the east and west sides of the precinct above the Princes Highway has some merit, however RMS are the responsible authority and would need to be consulted in respect to this proposal. Previous correspondence between Council and RMS in relation to the Nowra Bridge project has highlighted the benefits of a pedestrian bridge, as suggested in the submission. This suggestion can be raised as part of continued feedback on the Nowra Bridge Project.

Remaining Community Submissions - Key Themes

A number key themes were derived from the remaining community submissions. The key themes included:

- Accessibility, including accessibility of the Shoalhaven River for non-motorised water sports and pleasure craft use
- Improved connectivity between both sides of the Highway and with the Nowra CBD
- Preservation of heritage – particularly Graham Lodge, Old Nowra Bridge, Kilsyth (dwelling), Uuna (dwelling), and Rodman Cottage

- Open Space infrastructure provision
- Overdevelopment of the riverfront and inconsistency with the human scale and character of Nowra

Staff Comment

The draft package includes detail to encourage the development of land within the precinct. Whilst it is noted that improving accessibility with Shoalhaven River, particularly for non-motorised water sports and pleasure craft, is important, that level of detail is more appropriate for the concept and detail design stage of the Nowra Riverfront area. Whilst encouraging this, it must not prevail over the use of Greys Beach and Paringa Park as the priority locations. However, the significance of the old Nowra Sailing Club site in terms of its connection to the use of the Shoalhaven River by watercraft is acknowledged. It is recommended that additional text be added to Page 44 (of the Planning Controls Report) requiring that any future development of the old Nowra Sailing Club site should also ensure that the area can accommodate launching facilities and other amenities to support the use of Shoalhaven River by watercraft.

Creating a permeable and connected transport/pedestrian network is one of the key planning and design principles for the precinct. This principle identifies the importance of improving links from the CBD and Civic Precinct, and prioritising east-west connections across the highway, connectivity and links across the river.

In respect to heritage, the Proposed Planning Controls Report refers to the need to preserve and further investigate the impact of development on the existing heritage items within the precinct. The preservation of Graham Lodge has been referenced on page 26 (of the Planning Controls Report) and recommends that future development of the sub-precinct is consistent with the Conservation Management Plan for Graham Lodge.

One of the submissions received implies that local heritage items are not given preservation status, specifically *“Kilsyth, Uuna, and Rodman Cottage also deserve specific recommendation of preservation because of its aesthetic and historical value to the town, as does the entirety of Bridge Street, which should be preserved”*. Both Kilsyth and Uuna are referred to in specific controls on page 62 (of the Planning Controls Report) controls 9(a) and 9(b). Rodway Cottage is not located within the Nowra Riverfront Leisure and Entertainment precinct and therefore has not been included / considered. Whilst Bridge Road is not heritage listed, the report does identify the significance of Bridge Road as the original road into Nowra, and the intention to safeguard its aesthetics is reflected in the future design character of the sub-precinct and the setbacks from the road. It should also be noted that its conservation of Nowra Bridge and conversion into a pedestrian / cyclist thoroughfare has been proposed by RMS, and therefore this will be a key consideration in how the Wharf Road sub-precinct develops.

Open space infrastructure in the overall precinct is an important component in the development of the area, particularly to ensure that the increased densities proposed within the precinct are offset with sufficient public space. The revitalisation of the Shoalhaven River foreshore is consistent with the Illawarra-Shoalhaven Regional Plan which identifies the activation of this area as an action. To ensure that quality, connected and functional open space is provided within the precinct, it is recommended that Shoalhaven CP 2010 be amended to include a new open space project which will require new development in the precinct to pay a contribution toward the provision of quality open space infrastructure.

The proposed Height of Buildings and FSR controls have been nominated as a result of investigative work, with the context, known constraints of the land, views, heritage and the like considered to determine what has been recommended. To respond to the various constraints and opportunities of the individual sub-precincts, each has their own specific Height of Buildings and FSR recommended. To ensure that the human scale is maintained,

controls include street wall height limits and landscaped setbacks to ensure the bulk and scale of future developments do not appear to dominate the street.

Community Engagement

The Nowra Riverfront Entertainment and Leisure Precinct package was publicly exhibited from 25 April to 25 May 2018 (inclusive). During the exhibition period, a total of 14 submissions were received from the community and public authorities.

Prior to the public exhibition, Council staff and the project consultants held landowner workshops and presentations to identify the strategic direction of the precinct and determine the aspirations of landowners.

The community will continue to be involved and consulted as this project proceeds, particularly noting that if Council resolve to amend Shoalhaven LEP 2014 or Shoalhaven CP 2014, the legislation requires minimum periods for community consultation.

Policy Implications

Preparation of a PP will be required to modify the zones and height of building development standard in some of the sub-precincts within the Precinct. The PP will result in an amendment to Shoalhaven LEP 2014.

Preparation of an area-specific DCP Chapter for the Nowra Riverfront will also be required. In adopting a DCP Chapter for this area, existing Chapter N7: Nowra Hotel Site and Civic Precinct will need to be rescinded.

The impacts of the recently released detail on the Nowra Bridge project will need to be closely considered moving forward and this may impact on the eventual content of the PP and DCP.

It is also recommended that Shoalhaven CP 2010 be amended as appropriate to include additional projects within the precinct area, including road, drainage and open space projects. An amendment to the CP will allow development within the precinct to be levied for infrastructure provision.

It is important that any future development of the precinct include the provision of quality open space and other supporting infrastructure.

Financial Implications

Given the potential development yield resulting from the recommended endorsement of the Nowra Riverfront Leisure and Entertainment Precinct package, the provision of infrastructure relating to roads, drainage and open space will incur a significant cost to Council. Given the nexus between development and infrastructure provision, it is recommended that the Shoalhaven CP 2010 be amended to include additional projects relating to road, drainage and open space, to ensure that any development within the precinct is appropriately levied. A further report will need to be considered by Council that outlines investigations undertaken of additional proposed CP projects for the precinct which outline estimated costs for infrastructure items, and the estimated levy per Equivalent Tenement.

Initial up-front Council funding is required to progress the relevant engineering investigations and designs to support the development and redevelopment of this key precinct. Where appropriate this may be able to be recouped (whole or part) through the Contributions Plan process.

Additionally, Council should continue to apply for grant funding, as opportunities arise, to assist with the delivery of this important precinct. In this regard Council will most likely need to play a key role in encouraging the redevelopment of this key precinct through the early

provision of infrastructure to stimulate private investment/development, such as the new high quality open space (and associated new roads) in the centre of the precinct between the Mandalay Avenue and Hyam Street sub- precincts

Depending on the availability of future grant funding opportunities and the scope of them, the following tasks (but not limited to) could be subject to grant funding applications:

- Site investigations, including geotechnical investigations;
- Concept and detail design of the road, drainage and open space infrastructure; and
- Construction / delivery of road, drainage and open space infrastructure.



General Manager
Shoalhaven City Council
By email: council@shoalhaven.nsw.gov.au

Your ref: 52289E (D18/129328)
Our ref: EF18/1373

Attention: Jessica Volkanovski, Acting Team Coordinator –
Strategy Planning North

Dear General Manager

Nowra Riverfront Leisure and Entertainment Precinct - Strategic Direction: Review and Analysis and Proposed Planning Controls reports

I refer to Council's request for comment on the above reports which are currently on public exhibition.

Subject to consideration of detailed planning proposals, the strategic directions and proposed planning controls for the Nowra Riverfront and Entertainment Precinct are generally supported.

It is noted that a number of the proposed controls for the sub-precincts may raise inconsistencies with a number of Section 9.1 Ministerial Directions, namely:

- Scenic Drive sub-precinct – proposed rezoning from B4 Mixed Use Zone to SP3 Tourism Zone may be inconsistent with Direction 1.1 Business and Industrial Zones.
- Wharf Road sub-precinct – proposed rezoning of part of the site from R2 Low Density Residential Zone to SP3 Tourism Zone may be inconsistent with Direction 3.1 Residential Zones.
- Bridge Road sub-precinct – proposed decrease in height of building control from 25-28 metres to 4-7 storeys (16-20m) may be inconsistent with Directions 1.1 Business Zones and 3.1 Residential Zones.
- Pleasant Way and Graham Lodge sub-precinct - proposed rezoning of the site from B4 to R3 Medium Density Residential Zone may be inconsistent with Direction 1.1 Business Zones.

Council will need to satisfy the Secretary, or her delegate, that the provisions of any planning proposal that are inconsistent are justified by the terms of the Directions.

If Council intends to use the "Nowra Riverfront Leisure and Entertainment Precinct - Strategic Direction: Review and Analysis and Proposed Planning Controls" reports to justify inconsistencies with the S 9.1 Directions then it is suggested that Council consider including further information in the reports to satisfy the terms of the Directions. In particular the reports should identify and give consideration to the objectives of the relevant Directions.

In relation to the Bridge Road sub-precinct it is suggested that the report provide addition information/analysis to justify the proposed reduction in the current building height control and potential reduction in permissible residential and employment density in the sub-precinct.

The Department is available to meet with Council staff to discuss the above matters to assist Council in the preparation of a planning proposal.

Please contact me on telephone 4224 9465 if you require any assistance.

Yours sincerely



George Curtis
Senior Planner
Southern Region



Our ref: STH08/02120/32
Contact: Andrew Lissenden 4221 2769
Your ref: 48168E (D18/116626)

25 June 2018

Lauren Turner
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au
Cc: lauren.turner@shoalhaven.nsw.gov.au

NOWRA RIVERFRONT LESIURE AND ENTERTAINMENT PRECINCT - PUBLIC EXHIBITION OF PLANNING DOCUMENTS

Dear Lauren,

Roads and Maritime Services (RMS) refers to Council's correspondence and our subsequent telephone discussion regarding the public exhibition of the above planning documents.

RMS has reviewed the information provided focussing on the impact to the state road network. For the area that the Nowra Riverfront Leisure and Entertainment Precinct covers the key state road is the Princes Highway.

RMS as a result of its assessment notes the following:

- The current alignment of the Princes Highway bisects the Nowra Riverfront Leisure and Entertainment Precinct/study area;
- RMS is currently working on the Nowra Bridge Project. This involving the investigation of options for a new bridge as well as associated intersection upgrades. This project has been developed to improve conditions on the Princes Highway over the Shoalhaven River in Nowra. The existing alignment of the Princes Highway will change as a result of planning that is underway for the Nowra Bridge project;
- A preferred option for the above upgrade works has recently been on public display. RMS is currently reviewing community feedback that it has received during the public display/consultation period;
- RMS is working with Council to ensure it is informed on the works it is doing on the Nowra Bridge project;
- The *Strategic Direction: Review and Analysis* and the *Proposed Planning Control (Draft)* reports, prepared for Council by Studio GL for the Nowra Riverfront Leisure and Entertainment Precinct, in part, identify possible changes to the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) in terms of zoning, heights and floor space ratios. It also recommends a number of design controls that could be

incorporated into a future amendment to the *Shoalhaven Development Control Plan 2014* (SDCP 2014);

- The works currently being undertaken by RMS for the Nowra Bridge project has the potential to impact upon the smaller catchments that the *Proposed Planning Control (Draft)* prepared by Studio GL has identified (i.e. Scenic Drive Precinct, Wharf Road Precinct, Pleasant Way/Graham Lodge Precinct and Bridge Road Precinct); and
- Council is seeking comment from RMS with regard to the studies direction and proposed controls specifically in relation to their impacts on the Nowra Bridge project.

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

- RMS is currently preparing the environmental assessment for the Nowra Bridge project. This will contain more details on the preferred option having regard for community feedback, additional design works undertaken, etc. RMS anticipates that this will be placed on public exhibition in late 2018;
- RMS notes that the *Proposed Planning Control (Draft)* prepared by Studio GL identifies an indicative future road location/alignment for the Princes Highway and its intersections with both Pleasant Way and Bridge Road. It is important these both align with the latest design work RMS is undertaking.

At this time the exhibited preferred option for the RMS Nowra Bridge project is based on concept designs. RMS believes that further detailed design work is required before certainty on the future Princes Highway road alignment and intersection locations at both Pleasant Way and Bridge Street can be provided. The detailed design that is required includes, but not limited to, more detailed investigation of constraints such as utilities and geotechnical issues which may impact on the future road alignment and required setbacks to enable future RMS works;

- The indicative future road location and alignment for the Princes Highway as detailed in the *Proposed Planning Control (Draft)* prepared by Studio GL (e.g. as shown in Figure 15, Figure 33, Figure 40, etc) is not the same as the RMS preferred option that has been publically exhibited by the RMS for the Nowra Bridge project; and
- The *Proposed Planning Control (Draft)* prepared by Studio GL has identified a precinct as 'No Change' (to the south of the Bridge Road and Pleasant Way/Graham Lodge Precinct – refer to Figure 13). The RMS Nowra Bridge project preferred option that was exhibited identifies a new intersection for Pleasant Way and the Princes Highway on the eastern side of the Princes Highway within this 'No Change' sub-precinct.

Noting the above RMS requests that the finalisation of any planning controls for the Nowra Riverfront Leisure and Entertainment Precinct be determined once more detailed designs for the Nowra Bridge project has been prepared. This ensuring the controls that are implemented correctly reflect the future road alignment and intersection locations.

RMS will continue to work with Shoalhaven City Council to resolve the above alignment, intersection locations and treatments for these key intersections so as to ensure clear direction is provided by any future proposed amendments to SLEP 2014 and within any new area specific chapters within SDGP 2014.

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

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

Yours faithfully



Chris Millet
Manager Land Use
Southern Region

DE18.61 - Attachment 3



DE18.62 Exhibition Outcomes - Planning Proposal - 9 Browns Road South Nowra - Caravan Park

HPERM Ref: D18/228829

Group: Planning Environment & Development Group
Section: Strategic Planning

- Attachments:**
1. Previous Report to Development Committee - February 2018 [↓](#)
 2. Gateway Determination - 9 Browns Road South Nowra Caravan Park Planning Proposal [↓](#)
 3. RFS Advice - 9 Browns Road South Nowra Caravan Park Planning Proposal [↓](#)
 4. Browns Road South Nowra Caravan Park Planning Proposal - Post Exhibition Version (under separate cover)

Purpose / Summary

To present the outcome of the formal public exhibition/community consultation for the Planning Proposal (PP) to permit 'caravan parks' as an additional permitted use at Lot 1 DP 1079345, 9 Browns Road, South Nowra and obtain the approval of Council to proceed to finalise this PP.

Recommendation (Item to be determined under delegated authority)

That the Committee:

1. Adopt the Planning Proposal PP034 as exhibited, with the minor adjustments detailed in the report, to make 'caravan parks' an additional permitted use at Lot 1 DP 1079345, 9 Browns Road South Nowra.
2. Forward Planning Proposal (PP034) to NSW Parliamentary Counsel's Office to draft the required amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using the plan making delegations issued under Section 2.4 of the *NSW Environmental Planning and Assessment Act 1979*.
4. Notify the proponent, submitters and residents of the site when the amendment of Shoalhaven Local Environmental Plan 2014 is notified.

Options

1. Proceed to finalise the PP.

Implications: This will enable the amendment to the LEP to be finalised and allow the area with the approved tourist cabins to be used for long term accommodation without changing the underlying LEP zone.

This is the lowest impact approach to achieve the outcome sought by the proponent. It will also effectively recognise the 'existing use right' on most of the site, while retaining the existing B5 – Business Development zone. This is the preferred option.

2. Abandon the PP.

Implications: This would prevent the rationalisation of the uses on the site and would leave a relatively small part of the existing facility not able to be used for longer term accommodation. This option is not recommended.

Background

The land which is covered by this PP is Lot 1 DP 1079345, 9 Browns Road, South Nowra as shown on the image below. The site is an established caravan park with 61 long term sites and 8 approved holiday cabins.



Aerial Photograph Showing Subject Land - Lot 1 DP 1079345

The subject land is currently zoned B5 – Business Development under Shoalhaven LEP 2014. ‘Caravan parks’ are prohibited in the B5 zone, but due to previous approvals for a caravan park and tourist accommodation, the site has certain ‘existing use rights’ under the Environmental Planning and Assessment Act 1979.

The land underwent lot consolidation in 1986 and a small part of the new overall lot did not benefit from an ‘existing use right’ for a caravan park. In 2004 the smaller part was developed as a tourist facility comprising 8 tourist cabins, which cannot be occupied by permanent residents under the current LEP provisions.

As such the caravan park currently has 61 long term sites and an area approved for 8 tourist cabins, which the proponent also wishes to use for long term accommodation.

The proponents (Coastplan Group on behalf of the owners, Restpoint Holdings) submitted a PP request to amend Shoalhaven LEP 2014 to allow caravan parks on the entirety of the site as an ‘additional permitted use’ (via inclusion in Schedule 1 of the LEP). This will essentially allow the whole of the caravan park to ultimately be used for long term accommodation.

The proponent’s PP request was considered by the Development Committee on 13 February 2018 (see **Attachment 1**) and it was resolved that Council:

DE18.62

1. *Prepare a Planning Proposal to amend Shoalhaven Local Environmental Plan 2014 to permit caravan parks as an additional permitted use for Lot 1 DP 1079345, No. 9 Browns Road South Nowra.*
2. *Forward this Planning Proposal to the NSW Department of Planning and Environment for a Gateway determination and if granted proceed to exhibition in accordance with its requirements, following which the matter be reported back to Council.*
3. *Advise the proponent of this resolution and that the proposal will be subject to fees and charges for proponent initiated Planning Proposals, including a requirement that the full cost of any necessary specialist studies be borne by the proponent.*

Council sought a Gateway determination from the NSW Department of Planning and Environment (DP&E) on 8 March 2018. This was issued on 2 May 2018 and gave Council delegation to proceed. A copy of the Gateway determination is provided as **Attachment 2**.

The Gateway determination required consultation with the NSW Rural Fire Service and public exhibition of the PP for a minimum of 28 days.

RFS Consultation

Following the issue of the Gateway determination the PP was referred to the RFS, who advised that they have no objection to the PP and a copy of their advice is provided at **Attachment 3**.

Public Exhibition

The PP was subsequently publicly exhibited at Council's Administrative Building in Nowra from 20 June to 20 July 2018 (inclusive). The PP was also available for viewing on [Council's website](#).

The exhibition included a mailout to adjoining owners and residents of the caravan park and an advertisement in the South Coast Register.

No submissions were received as a result.

Conclusions

As detailed above, the PP is of a minor nature and has been subject to consultation with RFS, residents of the park and the broader community.

There have been no submissions or objections to the PP. Proceeding to finalise the PP in accordance with the recommendation will enable the required LEP amendment to be made and enable the existing use right on the site to be regularised and allow a modest expansion of the park for long term residential use.

The PP has been updated since the exhibition as follows:

- Change all references to the site being a manufactured home estate to caravan park. The presence of caravans was confirmed during a site inspection by Council staff and this is the current approved use.
- Provide commentary on the outcome of referral of the PP to RFS.
- Provide commentary on the public exhibition of the PP.
- Update dates and version numbers.

A copy of the updated PP is provided as **Attachment 4**.

Community Engagement

The PP was publicly exhibited from 20 June to 20 July 2018 (inclusive). The exhibition included a mailout to adjoining owners and residents of the caravan park and an advertisement in the South Coast Register.

No submissions were received.

Financial Implications

There are no immediate financial implications for Council.

**DE18.10 Planning Proposal Request - Proponent Initiated
- 9 Browns Road, South Nowra - Caravan Park**

HPERM Ref: D17/421697

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Proponent's Planning Proposal Request - Browns Road South Nowra Caravan Park (under separate cover)

Purpose / Summary

Detail a proponent initiated request for Planning Proposal (PP) that has been received to enable the use of the whole property as a 'caravan park', including part of the site which has approved tourist cabins, to be used for long term accommodation (consistent with the bulk of the site), and to obtain direction in this regard.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Prepare a Planning Proposal to amend Shoalhaven Local Environmental Plan 2014 to permit caravan parks as an additional permitted use for Lot 1 DP 1079345, No. 9 Browns Road South Nowra.
2. Forward this Planning Proposal to the NSW Department of Planning and Environment for a Gateway determination and if granted proceed to exhibition in accordance with its requirements, following which the matter be reported back to Council.
3. Advise the proponent of this resolution and that the proposal will be subject to fees and charges for proponent initiated Planning Proposals, including a requirement that the full cost of any necessary specialist studies be borne by the proponent.

Options

1. Request a Gateway determination for the PP to allow caravan parks as an additional permitted use on the subject land.

Implications: This will allow the area with the approved tourist cabins to be used for long term accommodation without changing the underlying zone. This is the lowest impact approach to achieve the outcome being sought by the proponent. It will also effectively recognise the 'existing use right' on most of the site, while retaining the existing B5 – Business Development zone. This is the preferred option.

2. Request a Gateway determination for the PP to rezone the land to a zone in which caravan parks are permissible.

Implications: This would require the zoning to be changed to a non-business zone, fundamentally changing the zone objectives and land use table. Not only would it allow the expansion of the existing caravan park but also other uses that may not be appropriate in this location. While this approach will achieve the outcome being sought

by the proponent, it could lead to unintended uses on the site and is at odds with established strategic planning directions. This option is not recommended.

3. Not proceed with the PP.

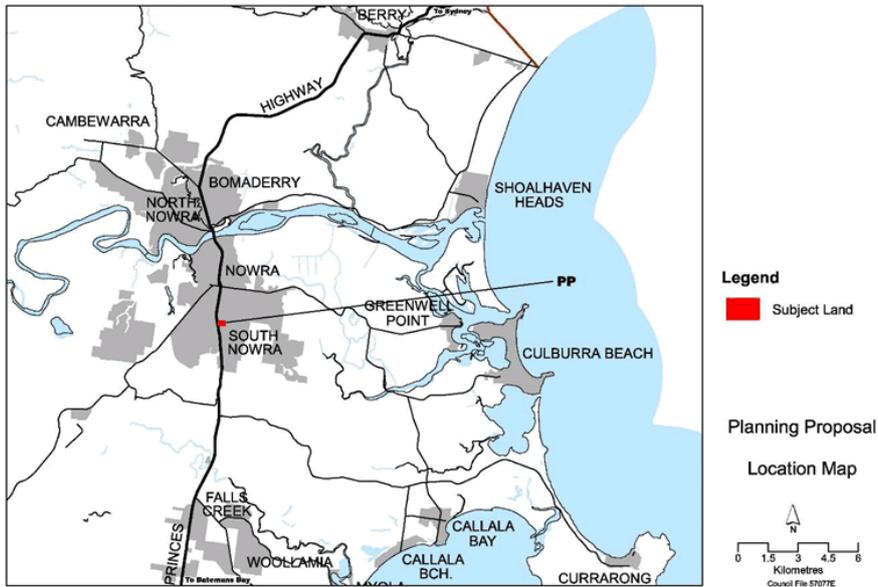
Implications: This would prevent the rationalisation of the uses on the site and would leave a relatively small part of the existing caravan park not able to be used for longer term accommodation. This option is not recommended.

Background

The Site

The subject land is Lot 1 DP 1079345, 9 Browns Road, South Nowra. It is located on the northern edge of the South Nowra employment lands area. The land adjoins Ison Park to the north, a small residential development to the east of Mumbulla Street, and business uses to the south and west. The site is an established caravan park.

Maps showing the subject land and its location are provided below:



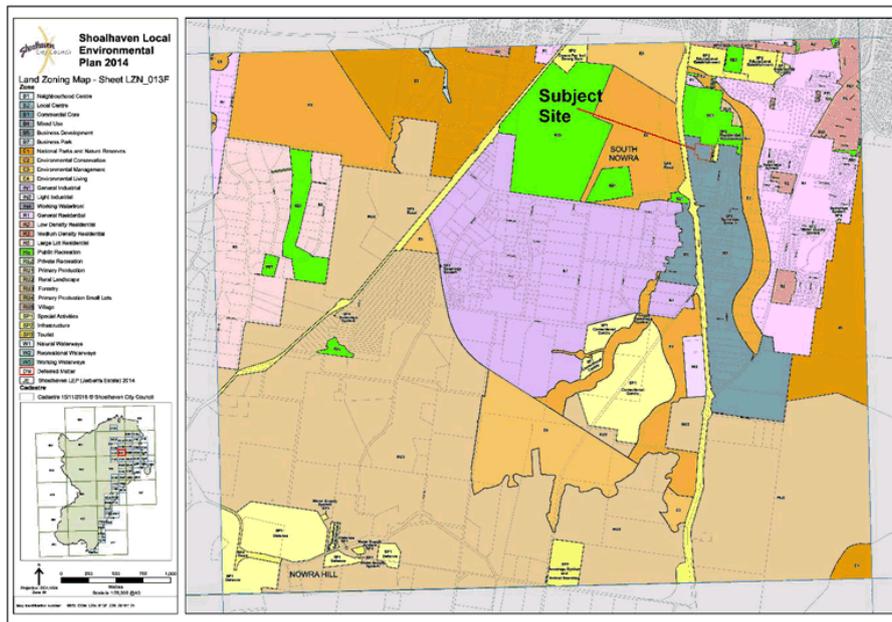
Subject Land – Location



Aerial Photograph Showing Subject Land - Lot 1 DP 1079345

Shoalhaven Local Environmental Plan (LEP) 2014

The subject land is currently zoned B5 – Business Development under Shoalhaven LEP 2014. The relevant zoning map is provided below.



Shoalhaven LEP 2014 Land Zoning Map Showing Subject Land

One of the objectives of the B5 zone is to “allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development”.

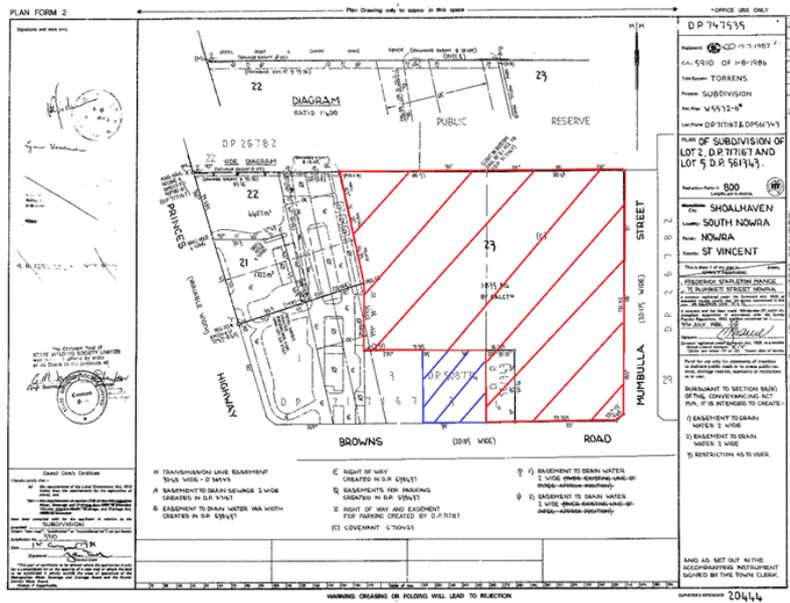
‘Residential accommodation’ (except for ‘shop top housing’) and ‘tourist and visitor accommodation’ (except for ‘hotel or motel accommodation’ and ‘serviced apartments’) is prohibited in the B5 zone. ‘Caravan parks’ are also prohibited in the B5 zone.

As outlined below, due to previous approvals for a caravan park and tourist accommodation, the site has certain ‘existing use rights’ under the Environmental Planning and Assessment Act 1979.

Site History

The use of part of the site as a caravan park dates back to the 1970’s.

The land underwent lot consolidation in 1986. A marked-up version of this plan is provided below.



Deposited Plan with Mark Up - DP 747535

Historically, the use of the site as a caravan park was confined to Lot 23 DP 747535 and Lot 4 DP 561343, highlighted in red above. The area highlighted in blue, Lot 3 DP 508774 was consolidated with Lots 4 and 23 in 2005 but was not used as part of the caravan park. Consequently, at the commencement of Shoalhaven LEP 2014, Lot 3 DP 508774 did not benefit from an ‘existing use right’ for a caravan park.

In 2004, the owner sought and obtained development consent for a tourist facility on the former Lot 3 (outlined in blue above). This development comprised 8 tourist cabins. These cabins however cannot be occupied by permanent residents under the current LEP provisions.

In summary, the caravan park currently has 61 long term sites and an area approved for 8 tourist cabins that the proponent also wishes to use for long term accommodation.

The Proponent's PP

The proponent's PP request was received on 2 November 2017 from Coastplan Group (on behalf of the owners, Restpoint Holdings) and seeks to amend Shoalhaven LEP 2014 to allow caravan parks on the entirety of the site as an 'additional permitted use' (via inclusion in Schedule 1 of the LEP). The proponent's submission (see **Attachment 1**) includes a draft PP.

This will essentially allow the whole of the caravan park to be used for long term accommodation.

Preliminary Planning Assessment

The following is an overview of strategic planning documents that are relevant to this proposal.

- *Shoalhaven LEP 2014*

The subject land is currently B5 Business Development under Shoalhaven LEP 2014. The objectives of this zone relate to enabling businesses that require a large floor area, and allowing a diverse range of activities that do not significantly conflict with the operation of existing or proposed development.

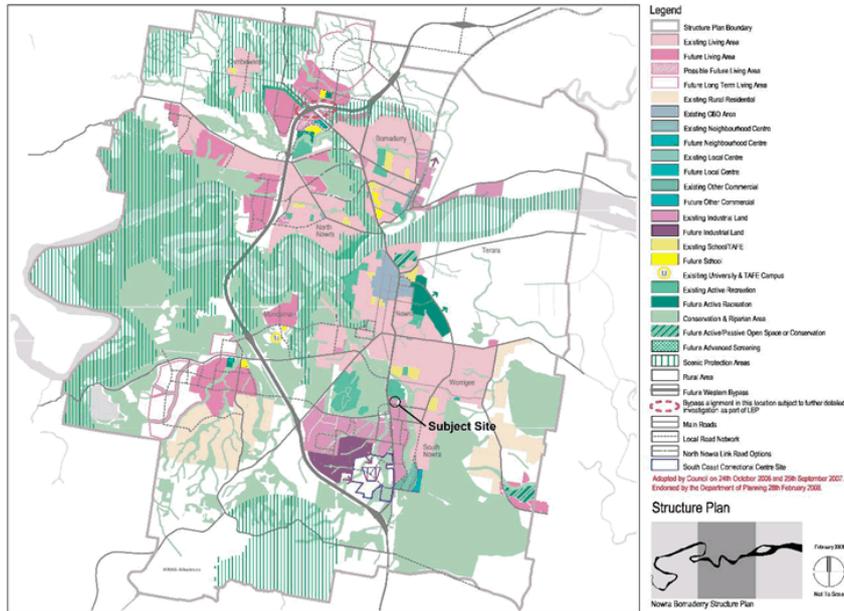
In context of the site's current and historical use, the proposal is not considered to be inconsistent with these objectives, noting that the underlying zoning will be retained.

- *Illawarra-Shoalhaven Regional Plan*

The Regional Plan was released by the NSW Government in late 2015. This PP is minor in nature and is not inconsistent with any of the provisions of this plan given the site's current and historical use.

- *Nowra-Bomaderry Structure Plan*

The land is within the Nowra-Bomaderry Structure Plan area and is identified as being "Existing Industrial Land". The Structure Plan is provided below.



Nowra-Bomaderry Structure Plan

This PP is minor in nature and is not inconsistent with any of the provisions of this plan given the site's current and historical use.

- *Shoalhaven Affordable Housing Strategy*

Council adopted the Shoalhaven Affordable Housing Strategy in December 2017 in response to a range of issues surrounding the availability of affordable housing in Shoalhaven. One of its 'medium term' (within 3-5 years) strategies is to:

Provide opportunities for permanent sites in caravan parks.

The Strategy notes that caravan parks are an important source of affordable housing in Shoalhaven, with on-site vans and manufactured homes being able to be rented by all low-income households and some very low-income households. It is however also noted that there appears to be a decreasing supply of permanent sites in some areas through their conversion to tourist use.

In the case of this PP it is essentially looking at enabling the whole of the current caravan park to be used long term accommodation, given that part (former Lot 3) only currently benefits from 'existing use rights' for tourist use.

The PP is generally consistent with this Strategy as it will provide additional permanent sites within this caravan park.

- *Council's Planning Proposal (Rezoning) Guidelines*

These guidelines detail the circumstances when a PP is likely to be supported by Council and provide a range of detail on the PP process. The guidelines were adopted by Council in 2016 and note that a PP is likely to be supported in the following circumstances:

- Proposed amendment is supported by Council or State Government strategy or plan.
- Clear zoning anomaly exists on site.
- Proposed amendment is considered to be minor in nature and has been sufficiently justified to Council.

The guidelines also note that the proponents should have pre-lodgement dialogue with Council staff before formally lodging a PP.

The guidelines make it clear that PP's that are not supported by a strategy or plan and are considered speculative will generally not be supported by Council.

Pre-lodgement engagement with the proponents regarding this matter took place during 2016 and the PP is minor in nature (see comments below).

- *NSW Guide to Preparing PPs*

The NSW Guide to Preparing Planning Proposals provides an assessment framework for PP's. This framework requires the planning authority (Council) to answer questions in determining the merit of a PP. These are considered below:

Q1. Is the Planning Proposal a result of any strategic study or report?

The proposal is not the result of any strategic study or report. A minor amendment is proposed in acknowledgement of the specific history of this site. It seeks to allow that part of the site currently used for tourist accommodation so that it can be used for long term stay accommodation.

Council recently adopted the Shoalhaven Affordable Housing Strategy and the role that caravan parks and manufactured homes play in assisting with affordable housing is acknowledged in this strategy. It is also acknowledged that the current short-term sites are not in a desirable tourist location and as such converting them to longer term use will have minimal impact and will potentially assist with affordable housing in the Nowra-Bomaderry area.

Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The PP is the only way to permit a caravan park across the entire site given the 'existing use rights' scenario – amending the LEP is the only way to overcome the prohibition that currently applies across the site.

Allowing caravan parks as an additional permitted use is the most appropriate way to amend the LEP in the circumstance and recognise the continuation and minor expansion of an existing use which is currently prohibited under Shoalhaven LEP 2014.

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Illawarra-Shoalhaven Regional Plan is the relevant regional strategy.

The Regional Plan does not contain any provisions that are relevant to this minor PP.

Q4. Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?

The Nowra-Bomaderry Structure Plan anticipates that the South Nowra industrial precinct will provide a "mix of industries including storage & large footprint commercial". The use of the subject land as a caravan park is inconsistent with this expectation, whether it is occupied on a temporary or permanent basis.

This PP will not alter the existing inconsistency between the existing use of the land and the expectation of this plan. It seeks only to allow for the permanent occupation within that part of the park which can only currently be used for short term stays. The PP is minor and in and of itself is not inconsistent with this plan and the underlying B5 zoning will be retained.

Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

No inconsistencies have been identified at this stage.

It is noted that under the provisions of SEPP 36 – Manufactured Home Estates, any urban land on which a caravan park is permissible may also be developed for a manufactured home estate. This is considered satisfactory in the context of this site as it is largely consistent with the existing development on site.

The NSW Government has released a discussion paper in 2015 that looked at Improving the regulation of manufactured homes, caravan parks, manufactured home estates and camping grounds. The proposed reforms may provide opportunities regarding this matter. Council made a submission to this review, however its status is unknown, and it has not advanced.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

There is a minor inconsistency with 117 Direction 1.1 Business and Industrial Zones. This direction requires the protection of employment land in business and industrial zones. This PP would allow for the permanent occupation of that part of the site that is currently used for tourist accommodation. The change from tourist development to residential accommodation is contrary to the protection of employment land. It is considered that this inconsistency is minor. The difference in employment opportunities between 8 tourist cabins and 8 manufactured homes in a fully maintained park are minimal. It is also noted that the underlying B5 zoning will be retained.

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site has been extensively cleared and is used as a caravan park. It is not identified in Council's mapping as being an area of ecological significance.

Q8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No other environmental effects are likely to result from this minor PP.

Q9. Has the Planning Proposal adequately addressed any social and economic effects?

No other social or economic effects are anticipated to result from this PP, which is of a minor nature.

Q10. Is there adequate public infrastructure for the Planning Proposal?

The development is supported by existing infrastructure and the PP will not increase demand.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The required consultation will be undertaken if the PP proceeds. A small part of the site is mapped as bushfire prone land and the PP will need to be referred to NSW Rural Fire Service (RFS) as a result.

Conclusions

As detailed above, the PP is of a minor nature. If Council supports the PP, it is recommended that a Gateway determination be sought requiring no specialist studies to be prepared.

Community Engagement

Upon receipt of the proponent's PP request the surrounding landowners and the park residents were notified in writing. One submission was received raising concerns that caravans would be installed on the site. It was clarified with the submitter that manufactured home estates are permissible in urban areas where caravan parks are permissible.

If the PP proceeds, formal public exhibition will be required including advertising in a local newspaper and a mail out to surrounding landowners.

Policy Implications

The PP is minor and is consistent with Council's adopted Planning Proposal (Rezoning) Guidelines.

Financial Implications

If Council support the PP it will be pursued on a 100% cost recovery basis, to be funded by the proponent, in accordance with Council's adopted fees and charges.



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2018_SHOAL_003_00): to amend Shoalhaven Local Environmental Plan 2014 to add caravan parks as a permitted use of land located at No. 9 Browns Road, South Nowra (Lot 1 DP 1078345).

I, Sarah Lees, Director Regions, Southern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2014 as described above should proceed subject to the following conditions:

1. Community consultation is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
2. Consultation is required with the Rural Fire Service under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.



Planning &
Environment

5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated **2ND** day of **MAY** 2018.

A handwritten signature in blue ink, appearing to read "Sarah Lees".

Sarah Lees
Director Regions, Southern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

DE18.62 - Attachment 2



NSW RURAL FIRE SERVICE

Shoalhaven City Council
Received

22 JUN 2018



File No. 57077E

Referred to: G. Rokobauer

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

Your reference: 57077E (D18/155033)
Our reference: R18/873
12 June 2018

Attention: Grant Rokobauer

Dear Sir,

Additional Permitted Use – Caravan Park – 9 Browns Road South Nowra

Reference is made to Council's correspondence dated 10 May 2018 seeking comment in relation to the above Planning Proposal which seeks to amend Shoalhaven LEP 2014 to include an additional permitted use under clause 2.5 for the use of a caravan park at the above address.

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

The objectives of the direction are:

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

The direction provides that a planning proposal must:

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

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

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

Yours sincerely,

Martha Dotter
A/Team Leader Development Assessment & Planning

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

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

DE18.62 - Attachment 3

DE18.63 Berry Heritage Investigation Project - Future Direction

HPERM Ref: D18/261051

Group:

Section: Strategic Planning

Attachments: 1. Attachment 1 - Previous Options Report - Berry Heritage Investigations - 17 July 2017 [↓](#)

Purpose / Summary

Obtain direction regarding the Berry Heritage Investigation project.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Proceed with the Berry Heritage Investigations project; to investigate and consider the 29 properties and 2 smaller Heritage Conservation Areas identified as possible additional heritage listings for Berry.
2. Commit to the direct funding of the project (approximately \$40,000) via savings from the quarterly budget review.
3. Notify relevant stakeholders, including the Berry Forum, of this decision and how they can be involved as the project progresses.

Options

1. As recommended.

Implications: Funds are not available in existing Strategic Planning budget and as such the option will require a new financial commitment from Council.

2. Continue to apply for State heritage grant funding for the project.

Implications: This option is not preferred as it would delay the project until State funding may be received. It is unlikely that grant funding will be forthcoming given that the four (4) applications since 2015 have been unsuccessful. It is noted that the grant application process is time and resource intensive.

3. Discontinue the project and remove it from the Strategic Planning Works Program.

Implications: This option is not preferred as no further heritage listings would be investigated in Berry, which is a significant historic tourist town. There is the potential for erosion of the heritage character by unsympathetic development if appropriate heritage protections, including additional listings, are not considered.

Background

On 17 July 2017, Council's Development Committee received an Options Report (see **Attachment 1**) regarding future heritage-related strategic planning projects in Berry. The following was resolved regarding heritage investigations in the Berry urban area:

1. Pursue Option 1 – Consideration of additional heritage listings for properties outlined in the report as the appropriate approach to progress heritage investigations in the Berry urban area.
2. Apply for grant funding to support Option 1 via the NSW Government’s Heritage Near Me – Local Heritage Strategic Projects grants program.

Consideration of Additional Heritage Listings for Berry

The resolved project essentially seeks to investigate (and in some cases reconsider) the following in relation to the character of the older residential area of Berry:

- 29 potential additional heritage items (dwellings etc.),
- 2 potential additional Heritage Conservation Areas (HCAs),
- Any other items warranting greater heritage protection following the passing of time.

In addition to the field survey and community consultation processes, a set of heritage inventory sheets (several of which have been partially prepared) would be revised and completed to provide the supporting justification required for potential additional heritage listings in Schedule 5 Environmental Heritage of Shoalhaven Local Environmental Plan (LEP) 2014.

Council’s Heritage Advisor recently completed a desktop review of the 29 potential additional heritage items and 2 potential additional HCAs in relation to:

- Level intactness of the item/HCA;
- Number of heritage listed items in the vicinity (intactness of the streetscape); and
- Degree of heritage significance (according to age and historic value).

The desktop review confirmed the majority of the 29 items and HCAs earmarked for investigation do warrant consideration as additional heritage listings.

Grant Funding History

In accordance with the resolution, grant applications were submitted to the NSW Office of Environment and Heritage (OEH) in August and November 2017 under their ‘Heritage Near Me’ program. These applications were unfortunately not successful.

The OEH grants team has continually encouraged Council to reapply, however the project has continually not ranked high enough to attract or receive any of the competitive and limited grant funding available.

A summary of the grant application history for the project is provided in **Table 1** below.

Table 1: History of Berry Heritage Grant Applications

Application Date	Grant	Project Name	Outcome
29 November 2017	NSW Heritage Grants Program - Local Government Heritage Planning Studies	‘Berry Historic Township – Community Driven Heritage Study’ – a review of potential new items and 2 HCA in the Berry Township.	Unsuccessful. OEH advised that while the project had merit and was eligible, it was not successful due to a large volume of applications and a lack of State funding. Only 8 of the 40 applications received funding.

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18 August 2017	Heritage Near Me - Local Heritage Strategic Projects	EOI for 'Heritage investigations for the historic town of Berry – Review of Heritage Study and Inventory'.	Unsuccessful. OEH advised that the project appeared to be eligible through the NSW Heritage Grants program but would not be eligible for support through the Heritage Near Me program due to the change in scope from HCA for the Berry township to considering additional heritage items.
12 December 2016	NSW Heritage Grants Program - Local Government Heritage Planning Studies	Review of the Shoalhaven Heritage Study for the Berry Township Urban Area.	Unsuccessful. OEH advised that the funding round was oversubscribed and while the application was eligible, it did not rank as highly as the successful applications. Only 7 of the 38 applications received funding.
15 December 2015	NSW Heritage Grants Program - Local Government Heritage Planning Studies	Heritage Conservation Area – Berry Township.	Unsuccessful. OEH advised that the application was not eligible for funding as it did not meet clause 5.2.1 of Local Government Heritage Planning Studies Guideline.

Next Steps

The grants that have unsuccessfully been applied for would have helped fund the required detailed assessment work that is required to justify the inclusion of additional heritage items and HCAs in the Shoalhaven LEP2014. Given that the inability to obtain funding assistance in this regard, Council now needs to consider whether it is prepared to fund the required work in this regard, so this project can move forward.

Community Engagement

No community engagement has been undertaken on this matter as this report seeks a resolution on how to progress the Berry Heritage Investigations project.

Any proposed amendments to Shoalhaven LEP 2014 or Shoalhaven Development Control Plan (DCP) 2014 will include community consultation in accordance with legislative and project requirements. There will also be a dialogue with affected owners as part of the initial assessment of properties.

Policy Implications

The outcome of the Berry Heritage Investigations project may require future amendments to Shoalhaven LEP 2014 or Shoalhaven DCP 2014, which would be reported to Council as required.

Additional DCP controls may be required to consider heritage and manage character impacts associated with potential medium density development.

Financial Implications

The Committee previously resolved (MIN17.481.2) to consider allocating \$20,000 from the general budget for the project; however this funding was not made available in the 2018-19 budget.

The project has not been successful in receiving any grant funding to date. A future application may or may not be successful; however, this is unlikely given the pattern of OEH receiving a high volume of applications but insufficient State funding to dispense. Continually applying for grant funding is a time and resource intensive exercise.

Council funding is therefore required (approximately \$40,000) to enable this project to be advance to completion.

Any future amendments to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will be resourced from the existing Strategic Planning budget.

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DE17.52 Options Report - Berry Heritage Investigations

HPERM Ref: D17/194330

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Listing Report - National Trust Register - Berry Township Urban Conservation Area (under separate cover)

Purpose / Summary

Obtain clarification on future strategic planning projects in Berry, related to heritage conservation, arising from two potentially inconsistent resolutions, specifically:

- MIN12.494(2) – “Investigate the inclusion of the Berry Township Urban Conservation Area as a Heritage Conservation Area in Council’s LEP as a matter for consideration following the completion of LEP 2009”.
- MIN17.481(1) – “Investigate additional heritage listings within Berry and additional controls within the DCP to manage character impacts associated with potential dual occupancy development”.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Resolve to pursue Option 1 as detailed in this report as the appropriate approach to progress heritage investigations in the Berry urban area.
2. Apply for grant funding to support Option 1 via the NSW Government’s Heritage Near Me – Local Heritage Strategic Projects grants program.
3. Notify the Berry Forum of this outcome.

Options

1. Pursue Option 1 as outlined in this report.

Implications: This is the preferred option, as it will enable Council staff to focus the strategic planning effort in relation to Berry’s heritage and character.

2. Receive this report for information.

Implications: This option is not favoured, as it does not provide a direction as to which of the two resolutions Council wishes to pursue. Staff resources would remain allocated to both projects and Council would be required to consider this matter again as part of any future Planning Proposal.

Background

On 5 June 2017, Council’s Development Committee received an options report to manage the changing character of the old residential area of Berry, primarily resulting from dual occupancy development where the existing character dwelling house is demolished rather than integrated into the proposal.

The Development Committee resolved under delegation to (Part MIN17.481(1)):

Investigate additional heritage listings within Berry and additional controls within the DCP to manage character impacts associated with potential dual occupancy development.

This resolution to investigate additional individual heritage listings is potentially inconsistent with or at odds with an earlier resolution of Council in May 2012 (MIN12.494(2)) for a wider heritage conservation area (HCA) investigation:

Investigate the inclusion of the Berry Township Urban Conservation Area as a Heritage Conservation Area in Council's LEP as a matter for consideration following the completion of LEP 2009.

As such before staff move forward with MIN17.481 (individual additional listings), it is necessary to clarify Council's current thinking in terms of MIN12.494 (heritage conservation listing for the town)

Individual heritage items and heritage conservation areas

A summary of the characteristics, benefits and limitations of individual heritage items and HCA's is provided in the following table:

Individual Heritage Items	Heritage Conservation Area/s
<p>Listing applies to individual properties only. These items have a heritage value in their own right.</p> <p>Any change to a listed place can be assessed for approval. The demolition of locally listed items is not prohibited.</p> <p>Any proposed development within the vicinity of a heritage item must consider any impacts on the importance of the item.</p>	<p>HCA is a collection of places (e.g. streetscape) that together have significance, but individually may not.</p> <p>Manages sympathetic change to protect character without overly restricting development opportunity. More substantial changes to individual buildings can be made to the rear or to the interior.</p> <p>Dwellings/structures that do not fit in with the character of a HCA can usually be removed or altered. A HCA does not prevent demolition.</p> <p>Any proposed development within the vicinity of a HCA (including development within) must consider any impacts on the character of the HCA.</p>

Options

A summary of the two resolutions (Options 1 and 2) are outlined below for consideration.

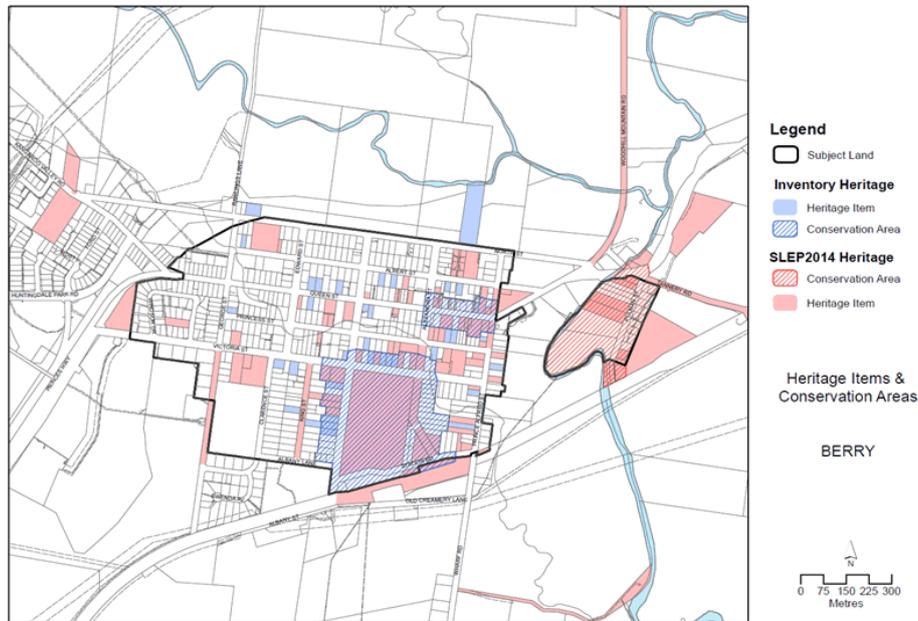
Option 1: Additional Heritage Listings (MIN17.481)

Council's recent resolution to investigate additional individual heritage listings in the study area, rather than a HCA (part or whole), sought to protect the individual items contributing to the character of the old residential area of Berry whilst enabling appropriate redevelopment opportunities. The resolution also includes investigation of additional DCP controls to manage character impacts associated with dual occupancy development.

The current heritage items and HCA's (one) within the old residential area of Berry are listed in Schedule 5 of Shoalhaven Local Environmental Plan (LEP) 2014. Prior to the commencement of this plan, there were a number of other heritage items and conservation areas suggested for inclusion as part of the Heritage Amendments to the previous

Shoalhaven LEP 1985 (Amendment No. 212) in 2007. These items were ultimately not included in Amendment No. 212, however they are detailed in the Shoalhaven Heritage Study and Inventory.

Figure 1 shows the current Shoalhaven LEP 2014 heritage items and HCA, as well as the heritage items and HCA's identified within the Shoalhaven Heritage Study and Inventory, that were not ultimately included as part of Amendment No.212 to Shoalhaven LEP 1985.



There are approximately an additional 30 items (dwellings etc.) and two HCA's identified in the Shoalhaven Heritage Study that could be investigated and reconsidered for future inclusion in Shoalhaven LEP 2014:

Location	Heritage Item/Conservation Area
Berry Showground Conservation Area	
Queen, Alexandra and Prince Alfred Streets Conservation Area	
17 Albany Street	Victorian Georgian Brick Residence
27 Albany Street	Inter War Federation style Weatherboard Cottage
29 Albany Street	Inter War Weatherboard & Fibro Cottage
31 Albany Street	Post War Fibro & Tile Residence & Garden
3 Albert Street	Victorian Georgian Style Weatherboard Cottage
46 Albert Street	Federation Georgian style Weatherboard Cottage
50 Albert Street	Victorian Georgian Style Weatherboard Cottage
66 Albert Street	Federation Weatherboard Cottage
70 Albert Street	Inter War Timber & Durabestos Cottage
39 George Street	Federation Weatherboard Cottage

19 Prince Alfred Street	Inter War Weatherboard Californian Bungalow
33 Prince Alfred Street	Federation Georgian style Weatherboard Cottage
36 Prince Alfred Street	Federation Weatherboard Cottage
45 Prince Alfred Street	Weatherboard Cottage
44 Princess Street	Inter War Weatherboard & Fibro California Bungalow
64 Princess Street	Federation Weatherboard Cottage
71 Princess Street	Federation Weatherboard Cottage
51 Queen Street	Federation Weatherboard Cottage
53 Queen Street	Inter War Weatherboard Cottage
54 Queen Street	Federation Weatherboard Cottage
59 Queen Street	Federation Weatherboard Cottage
68 Queen Street	Federation Georgian style Weatherboard Cottage
70 Queen Street	Inter War Weatherboard Cottage
44 Victoria Street	Federation Weatherboard Cottage
50 Victoria Street	Federation Weatherboard Cottage
63 Victoria Street	Inter War Georgian style Weatherboard Cottage
69 Victoria Street	Federation Weatherboard Cottage
73 Victoria Street	Federation Weatherboard Cottage
75/77 Victoria Street	Inter War Californian Bungalow style Residence

The review of the Shoalhaven Heritage Study for Berry will clarify the ongoing significance of these items, and identify additional items that may warrant inclusion following the passage of time. Amendments to Shoalhaven DCP 2014 will be investigated and prepared to manage character impacts associated with potential dual occupancy development.

The review of the Shoalhaven Heritage Study for Berry and subsequent planning efforts would be undertaken concurrently with extensive community involvement and consultation.

Option 2: Urban Conservation Area (MIN12.494)

In June 2011, the National Trust of Australia (NSW) notified Council that the Berry Township Urban Conservation Area had been listed on the National Trust Register. The National Trust Register listing report for the Berry Township Urban Conservation Area is provided as **Attachment 1**.

Submissions relating to the Citywide LEP process at the time requested the new LEP recognise the National Trust Berry Township Urban Conservation Area as a HCA. A number of submissions were received from National Trust of Australia (NSW), Berry and District Historical Society, Berry Alliance and the wider community.

The report to Council in 2012 noted that the listing of a property or area on the National Trust Register does not automatically warrant the listing of that property or area in the heritage schedule of an LEP and that classification by the National Trust does not have any legal force.

Further investigation into the inclusion of the Berry Township Urban Conservation Area as a HCA was considered necessary to ensure appropriate strategic justification supported any amendments to the LEP in this regard, particularly as the existing Shoalhaven Heritage Study had not assessed this entire area as having heritage significance. Thus, this was added to the matters for subsequent consideration following the completion of the Citywide LEP (MIN12.494).

Since 2014, Council staff have attempted to secure funding via the NSW Heritage Grants for a review of the Shoalhaven Heritage Study to investigate a HCA for Berry Township, however to date have been unsuccessful. Recently, Council staff, in conjunction with Council's Heritage Advisor, commenced the preparation of an application to gain funding under a new grant funding stream more appropriate for this project: Heritage Near Me – Local Heritage Strategic Projects program. This application is on hold pending Council's direction concerning this matter. Any future application would seek funding to complete a Heritage Planning Study including:

- HCA assessment to assess the setting and spaces between heritage items and identification of contributory elements and buildings.
- Thematic history to identify the character, places and elements.
- Policy to guide the development of Shoalhaven DCP 2014 objectives and controls.

Conclusion

At present there are two Council resolutions in this regard, one more contemporary and one more dated. As such, Council direction is sought in this regard.

Community Engagement

No community engagement has been undertaken on this matter as this report seeks a direction to proceed with one of the options outlined above. Any amendments to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will include community consultation in accordance with legislative and project requirements.

Council is aware of the work the Berry community is undertaking to support the Berry Community Strategic Plan. It is noted that both options are generally consistent with the vision statement and relevant heritage objective within the Berry Community Strategic Plan:

- *Berry is highly valued by both its residents and its visitors for its location and its heritage village atmosphere.... Future development, infrastructure improvement and growth of tourism will be carefully balanced with a heightened focus on Berry's unique historic charm, rural character and renown as "The Town of Trees".*
- *Maintain the history, setting and unique character of the Berry area through careful planning and development.*

Policy Implications

Both options outlined in this report could potentially reduce the opportunity for housing growth in Berry and may be considered inconsistent with the Illawarra Shoalhaven Regional Plan (Regional Plan). Despite this, one of the key principles of the Regional Plan is for Councils to "conserve heritage assets when undertaking local strategic planning and development". Any planning proposal would need to balance the competing actions and directions of the Regional Plan.

Financial Implications

There are no immediate financial implications for Council because of this report.

Should Council continue to pursue Option 1, MIN17.481(2) details Councils resolution to:

Consider the provision of \$20,000 in the 2017/2018 Budget to review the Shoalhaven Heritage Study to support any additional heritage listings in Berry.

It would be appropriate to seek additional funding through the Heritage Near Me – Local Heritage Strategic Projects grants program administered by the NSW Office of Environment and Heritage.

Should Council continue to pursue Option 2, it is anticipated that the Heritage Planning Study, including the review of the Shoalhaven Heritage Study for the Berry area, will be in vicinity of \$100,000. This would be reliant on funding via the Heritage Near Me – Local Heritage Strategic Projects grants program.

Any future amendment to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will require financial commitments from Council. These will be separately considered and reported as needed in the future.

DE18.64 South Nowra Industrial Zoned Area - Future Direction

HPERM Ref: D18/273390

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

Present representations from landowners in the South Nowra industrial zoned area and seek direction in this regard.

Recommendation (Item to be determined under delegated authority)

That Council

1. Receive the report on the representations made by landowners in South Nowra Industrial Zoned Area for information.
2. Engage a suitably qualified and experienced consultant/s to assist Council with the preparation of proposed development controls and engineering design investigations for required access roads, drainage infrastructure, land acquisition and water/sewerage in the South Nowra Industrial Zoned Area.
3. Support the preparation of an area specific chapter for South Nowra Industrial Zoned Area in Shoalhaven Development Contribution Plan (DCP) 2014.
4. Support the preparation of an amendment to Shoalhaven Contributions Plan (CP) 2010 to include additional Local Contribution Projects to facilitate required infrastructure works and recoup design and investigation costs.
5. Receive a future report to consider the draft DCP Chapter and draft CP amendment for South Nowra Industrial Zoned Area for public exhibition.

Options

1. Adopt the recommendation.

Implications: This will formally enable the preparation of an area specific DCP Chapter and Contributions Plan project for the South Nowra industrial area, which will enable a coordinated longer-term approach to the delivery of industrial land in the area and provide greater certainty to landowners/developers.

2. Not adopt the recommendation.

Implications: By not adopting the recommendation, no immediate planning work will be undertaken for the South Nowra industrial area and current circumstances will remain. Since the land is identified for long term industrial use, this planning work could be undertaken in subsequent years, enabling staff to continue working on other projects already identified in the 2018-2019 Strategic Planning Works Program.

3. Adopt an alternative recommendation.

Implications: Will be dependent on the nature of the alternative recommendation. However, it is noted in the body of the report that any proposal to remove the current industrial zone, for example, may be difficult to justify.

Background

On 16 July 2018, the South Nowra Disadvantaged Landholders Group (Landholder Group) met to compile a list of discussion points to bring to the attention of Council. On Monday 30 July 2018 the Mayor and Council staff met with the landowners and Kiama MP Gareth Ward to discuss their concerns.

This report provides an overview of the landowner’s concerns and seeks Council’s direction on future planning work in the subject area.

Subject Land

The subject land in question is located to the south of the existing Flinders Industrial Estate in South Nowra as shown in **Figure 1** below.

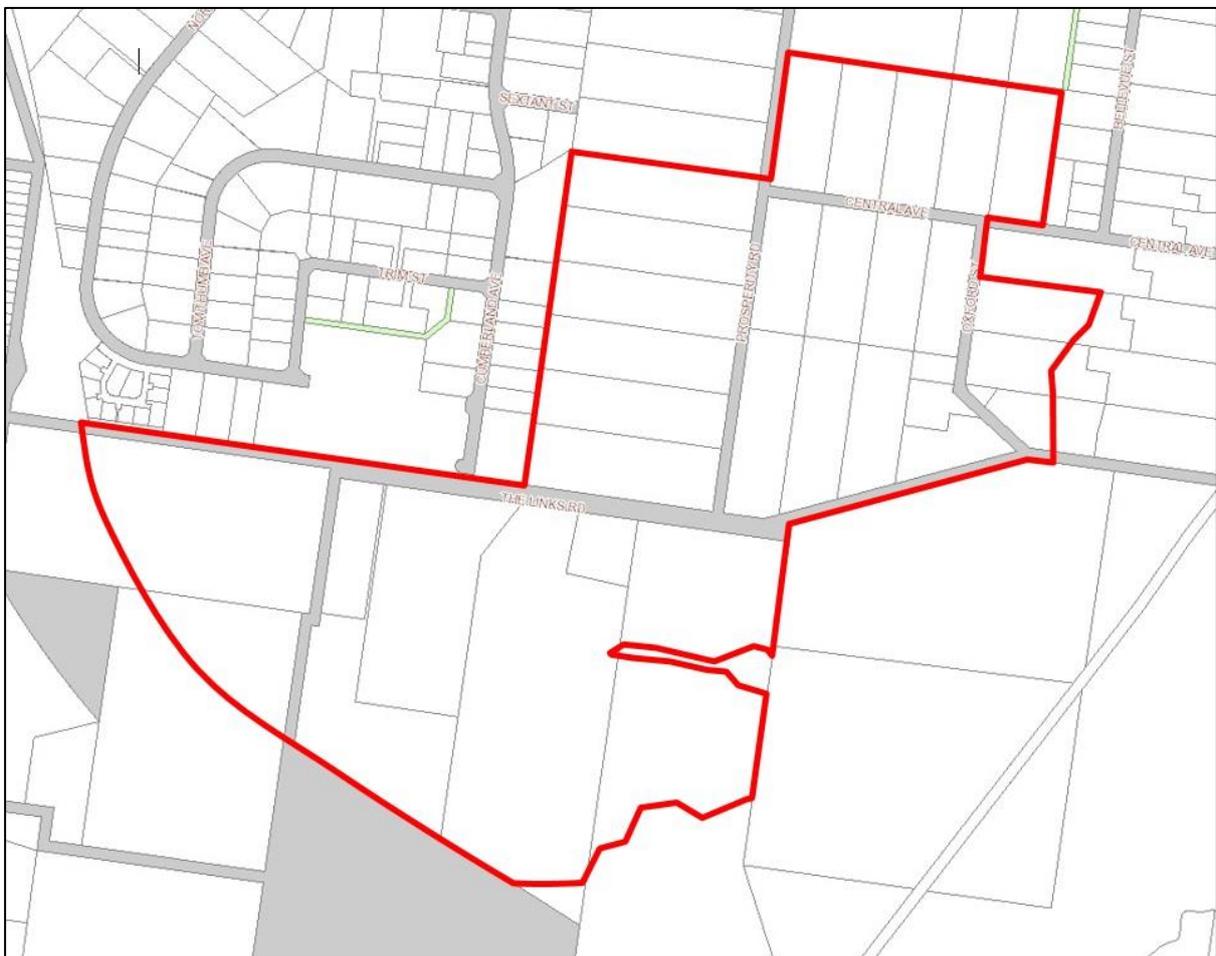


Figure 1 – Subject Land

Land Use Zoning History

The subject land is currently zoned IN1 General Industrial under Shoalhaven Local Environmental Plan (SLEP) 2014, as shown in **Figure 2** below.

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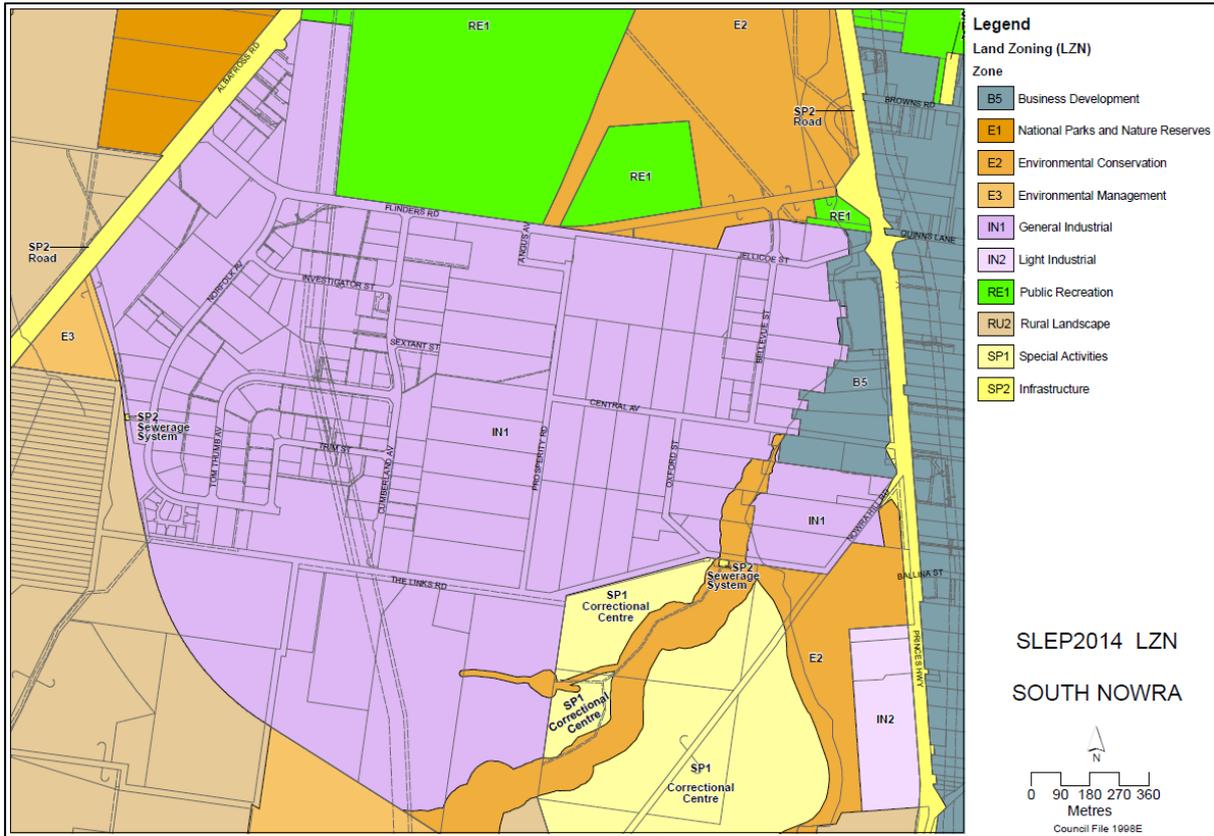


Figure 2 – Land Use Zoning, Shoalhaven LEP 2014

The IN1 zone aims to provide for a diverse range of industrial and warehouse land uses and activities, encouragement of employment opportunities, and to support and protect industrial land for industrial uses.

Prior to the commencement of SLEP 2014 on 22 April 2014, the land was partly zoned Rural 1(c)(Rural Lifestyle) and Rural 1(d)(General) under the previous SLEP 1985, as shown in **Figure 3** below.

The previous 1(c) zone was essentially a rural residential zone and enabled a range of agricultural uses and rural lifestyles as an alternative to urban development forms and servicing levels. The previous 1(d) General Rural zone provided opportunities for a range of rural land uses and other development which require siting away from urban areas.

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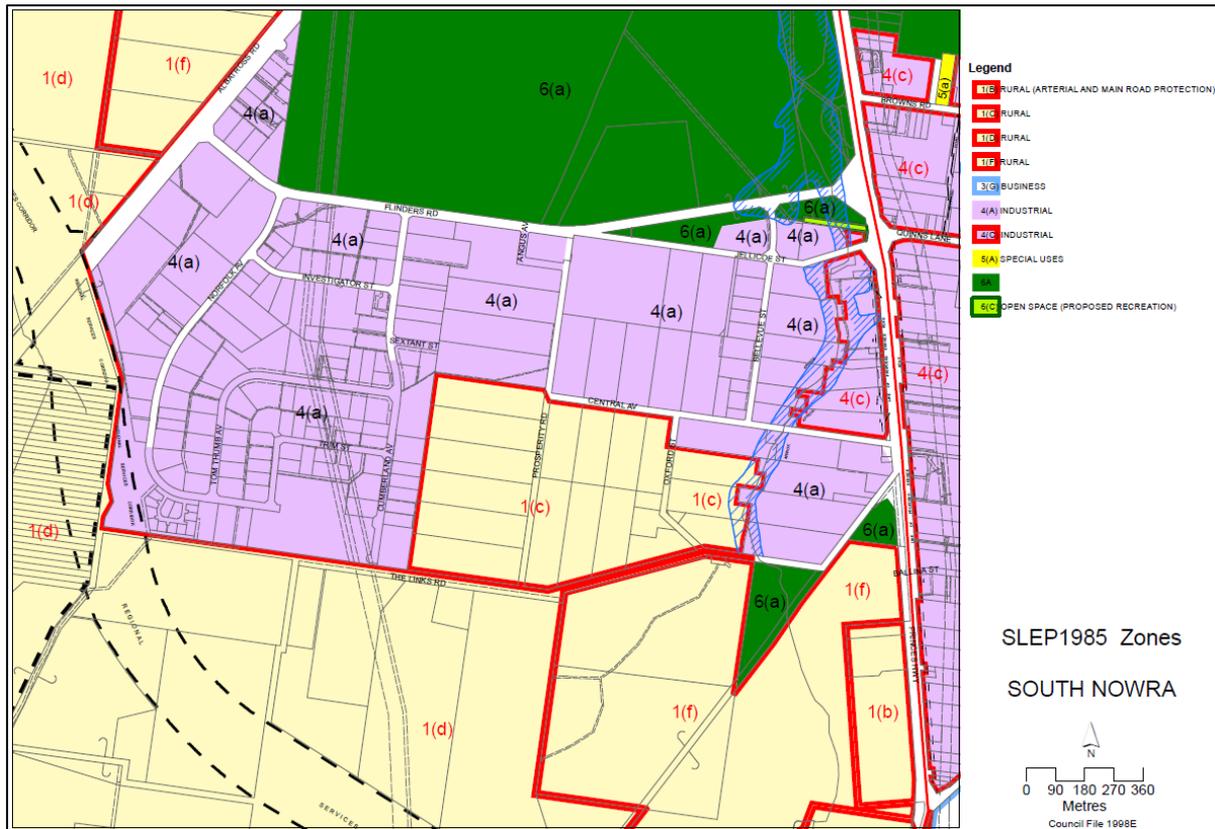


Figure 3 – Land Use Zoning, Shoalhaven LEP 1985

DE18.64

The Nowra-Bomaderry Structure Plan (NBSP) 2006 was adopted by Council on 25 September 2007 and endorsed by the NSW Department of Planning on 28 February 2008. One of the key objectives of the NBSP is to provide sufficient industrial land to meet longer term future demands (20-30 years), and the Plan was informed by detailed industrial land supply and demand analysis work.

To meet projected demand, the NBSP identified an additional 91.8 hectares of land at South Nowra as “Future Industrial Land”, as an extension of the Flinders Industrial Estate. As a result, SLEP 2014 zoned this additional area IN1 General Industrial. An additional area between South Coast Correctional Centre and the future Western Bypass Corridor was also zoned IN1 following landowner submissions made during the exhibitions of the draft citywide LEP and in response to the placement of the correctional centre.

The current IN1 General Industrial zoning is supported by the NSW Governments Illawarra-Shoalhaven Regional Plan, which aims to support new and expanded industrial activity by providing well-located and well serviced supplies of industrial land. The South Nowra industrial zoned area is one of the largest banks of industrial land in the region and is of strategic importance in meeting the demand for future employment land in the region in the long term. A key action for the NSW Government, identified in the Plan, is to support the development of new industrial land through ongoing collaboration between State and Local Government and servicing authorities to coordinate infrastructure delivery.

The Regional Plan is also supported by the *Employment Land Guidelines for the Illawarra* that contains principles to help guide land use planning decisions regarding employment lands.

Both the Regional Plan and its supporting Guidelines can be viewed on the internet at:

<http://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Illawarra-Shoalhaven/Resources>

Landowner Concerns

At the meeting held on 30 July 2018, landowners within the South Nowra IN1 General Industrial area presented Council with several concerns/issues they are facing because of the zoning and other factors. A copy of the document provided at this meeting has been separately provided to Councillors.

The concerns/issues are summarised below along with comments from Council staff.

1. *Strategic Planning for Flinders Industrial Estate*

Landowners raised concern that Council has no strategic plans in place for the South Nowra industrial area. Landowners feel they have suffered an unknown outcome for an extended period.

Staff Comment

As discussed earlier in the report, the IN1 zoning was introduced with the commencement of SLEP 2014. The background and strategic justification for the zoning change is based upon the extensive work under the Nowra-Bomaderry Structure Plan, which is endorsed by both Council and the NSW Government. This Plan looks to the needs of the area for the next 20-30 years. It was never envisaged that land zoned because of this plan would, in all cases, be developed or needed immediately. The take up of land will be somewhat dependent on demographics, market forces and opportunities (for example significant industry relocating to the area).

It is noted that, different to the new Urban Release Areas, there is no legal requirement to have supporting plans (e.g. DCP and CP) in place to directly facilitate or enable the development of new industrial zoned land. Under Part 6 of the LEP supporting plans need to be in place for identified URAs before they can be released (developed). In the case of this land it is acknowledged that development applications can be lodged and considered now for development that is consistent with the IN1 zoning, however matters that could require coordinated or planned outcomes, such as road access and stormwater management, would need to be considered on a development by development basis. The required outcomes would most likely then need to be managed on site (e.g. stormwater) or as conditions of consent (e.g. access).

In the four years since the commencement of SLEP 2014, several priority strategic planning projects have been completed and are currently underway. Council's 2018-2019 Strategic Planning Works Program that was adopted in June 2018 does not currently include work on a possible DCP and/or CP for this area, given the existing supply of industrial land and other priority projects at this time.

However, Council's Economic Development section has commenced preliminary strategic planning work for the South Nowra industrial land expansion and with the assistance of Locale Consulting have prepared potential draft development controls and concept plans to inform overall longer-term planning of the Flinders Industrial Estate.

This preliminary planning work will potentially form part of a new area specific chapter within Shoalhaven DCP 2014, which will provide for the timely and coordinated development and delivery of industrial land in the South Nowra industrial area in the longer term. Until these more detailed/specific controls are finalised, development applications can still be lodged and assessed against the generic controls within Shoalhaven DCP 2014 Chapter G20 Industrial Development and other generic chapters relating to industrial development and subdivision including (but not limited to) Stormwater, Site Analysis and Environmental Considerations, Car Parking, Subdivision, Landscaping, Flooding, Removal of Trees and Waste Management.

2. *Section 7.11 Developer Contributions and DA Works*

Concern was raised over the costs of developer contributions and development application works, which make even low scale industrial development unviable for landowners.

Staff Comment

Shoalhaven Contributions Plan 2010 allows Council or an accredited certifier to levy contributions through the development approval process to help provide community infrastructure or additional infrastructure to meet demand created by the development.

Shoalhaven Contributions Plan 2010 applies across the entire LGA; however, it does not currently include any specific projects in the South Nowra industrial area. Any development applications lodged now for industrial development must provide any additional infrastructure at full cost to the developer creating the demand, both on and off site.

However, future planning work will include the preparation of a lot layout plan and staging plan to help facilitate a coordinated subdivision, infrastructure planning for the road hierarchy and drainage, and a Development Contribution Plan project/s to include access roads, drainage infrastructure and land acquisition.

3. *South Nowra Correctional Centre*

Landowners raised concern over the impacts of the South Nowra Correctional Centre including a decline in property values, increases in traffic flows and road safety concerns. Additionally, there were concerns that no contributions were levied on the Correctional Centre development.

Staff Comment

The South Nowra Correctional Centre was a State Significant Development (SSD) assessed under the former Part 3A approval process. Being a State Development, there was no requirement for the Government to pay developer contributions or ability for Council to levy them. Despite this, significant infrastructure upgrades were however directly provided to support the development (access, water/sewer etc).

The South Nowra industrial area currently supports approximately 247 businesses and the employment of 2,358 persons, which is expected to increase by a further 300-400 businesses which will provide employment for approximately 3000-4000 people over the next 40/50 years. As further development occurs in this area, it is expected that the level of traffic will continue to increase. Infrastructure to support these increased levels of traffic, both on and off site, must be provided for by the developer as a condition of development consent.

It is noted that property valuations are based on several factors, including planning controls, environmental constraints, structures on the site, servicing, supply and demand factors, marketability, surrounding development and locational factors. Fully serviced lots would receive a higher land valuation than englobo lands.

4. *Development Requirements Under IN1 General Industrial Zoning*

Most of the existing lots have dwellings and current landowners are concerned that they cannot build, extend or rebuild houses on their land because of the IN1 General Industrial zoning. Also because of the zoning potential sales have been reduced to those who can afford a commercial mortgage with a 60% Loan to Value Ratio and a 40% deposit and ability to service a higher loan. The customer base has also been reduced to less than 5% of the overall market.

Industrial land values have not been realised. Any improvements require a development application, supported by Aboriginal cultural heritage, bushfire, flora and fauna, hydrology, and environmental impact studies.

The land should be rezoned Residential (R1, R2, R3, R5) or Environmental (E2, E3, or E4) and owners should be able to lodge a development application under previous zoning to enable home extensions, sheds, pools, etc. and be exempt from the current industrial planning controls.

It has also been suggested that the land should be given some form of 'transitional' zoning or similar special zoning mechanism that sees it reverting to being able to be used as it previously was to maintain resident's lifestyle, whilst also enabling it to be transitioned to industrial zoning/development as needed.

Staff Comment

Despite the IN1 General Industrial zone prohibiting uses such as 'agriculture' and 'dwelling houses' which were permissible under the former 1(c) and 1(d) zones in SLEP 1985, the Environmental Planning and Assessment (EP&A) Act 1979 and the EP&A Regulation 2000 contains provisions which enable the continuation of existing lawful uses through 'existing use rights'.

The objective of 'existing use rights' is to compromise between the legitimate expectations of occupiers with the public interest in implementing the objectives of the new LEP and land zoning. They play an important role where the zoning of an area has changed through a rezoning or LEP review.

Existing uses can continue to operate in perpetuity without the need for further approval, provided that the nature of the use remains the same as that which existed prior to the new LEP coming into force. The definition of what constitutes an 'existing use' in section 4.65 of the EP&A Act must be carefully applied to the facts of each case and the onus of establishing 'existing use rights' is on the applicant. It is also noted under 4.66 of the Act that the existing use is considered abandoned if it ceases to be used for a continuous period of 12 months.

Part 5 of the EP&A Regulation that deals with existing uses also provides for the modification of existing uses, with development consent, including any alteration, extension to, or rebuilding of a building or work, or any enlargement, expansion or intensification of the use.

The regulations (Clause 41) specifically note that an existing use, for example an existing dwelling, may be:

- a) Enlarged, expanded or intensified, or
- b) Altered or extended, or
- c) Be rebuilt, or
- d) Be changed to another use, but only if the use may be carried out with or without development consent

The regulations also provide that an existing use that is commercial or light industrial must not be changed to a similar use unless that change:

- a) involves only alterations or additions that are minor in nature, and
- b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and
- c) does not involve the rebuilding of the premises associated with the existing use, and
- d) does not involve a significant intensification of that existing use.

As such the concerns regarding extending or rebuilding existing houses are unfounded given that most existing circumstances are assumed to benefit from 'existing use rights', noting that this would need to be established and confirmed on a case by case basis as needed.

Even though they are zoned for different uses, large areas in Shoalhaven are affected by constraints such as flooding, bushfire and biodiversity. As part of the approval process, the consent authority must be satisfied that the development is compatible with the hazard and be designed to avoid or minimise any adverse impacts. It is acknowledged that they do add additional complexity in bringing land to market, but this is no different to other zoned development land in the City.

Rezoning of the land is not recommended, as this would be inconsistent with the NSW Government's Illawarra-Shoalhaven Regional Plan and would be unlikely to receive support from the NSW Department of Planning and Environment. As noted previously in this report, the South Nowra industrial area is one of the largest reserves of industrial land in the region and is of strategic importance in meeting the demand for employment land in the region. There are a range of other NSW Government planning provisions that aim to protect existing industrial land including the *Employment Land Guidelines for the Illawarra* and Section 9.1 (formerly Section 117) Direction 1.1 – Business and Industrial Land.

It is specifically noted that under this Direction 1.1 a Planning Proposal (rezoning) must retain areas and locations of existing industrial zones, not reduce total potential floor space areas for industrial uses in industrial zones and ensure new employment areas are in accordance with an approved strategy. Planning Proposals can only be inconsistent with this direction when justified by a strategy, a study or are of minor significance. As such given the strategic planning background and the requirements of this direction any rezoning of the subject land out of an industrial zone would be difficult to justify.

The request for a 'transitional' zone or approach is also not possible under the Standard LEP Instrument approach set by the NSW Government as there is no zone or approach of this nature that can be used. An approach of this nature would also be problematic as it increases the potential for land use conflict and reduces the certainty and responsiveness that is provided by a clear zoning. The comments above in regard the Section 9.1 Direction are also relevant in this regard.

5. *Competition from Flinders Industrial Estate and Lack of Infrastructure*

Landowners are concerned that the Flinders Estate is in direct competition with them for industrial land sales and they are disadvantaged because lots in the Flinders Estate are fully serviced. As ratepayers they believe Council should provide them with sealed roads, street lighting, stormwater and sewer constructed to industrial standards. Council should cease all sales and marketing of Flinders Estate and move works allocations to the subject area.

Staff Comment

To assist bringing industrial land to market, one of the functions of Council's Economic Development section is to develop land in the Flinders Industrial Estate and other Industrial Estates in the City. Ratepayer funds are not used to provide infrastructure improvements in the area, rather they are funded directly through industrial land sales in the Estate. Council provides this service to assist with the supply of industrial land to support employment growth and economic development in the City. It is considered inappropriate for Council to cease all sales and marketing of the Flinders Estate.

Australia operates under a free market economic system, where land prices are determined by the forces of supply and demand in the open market. There is nothing stopping other developers entering the market, developing the infrastructure for a single lot or group of lots, and submitting a development application for a subdivision for industrial lots. Council

recognises that this can sometimes be difficult, which is why Council can design and cost the necessary infrastructure and levy a contribution on a pro rata basis across the development precinct through a Developer Contributions Plan. As discussed previously, given the number of other priority projects and existing supply of industrial land, this work is not included in Council's adopted 2018-2019 Strategic Planning Works Program as a current high priority project.

Timeframes

Noting the issues of the landowners above and the Council staff comments on them, it is recommended that Council formally resolve to prepare an area specific DCP Chapter and Development Contributions project for the area to assist with the coordinated delivery of industrial land in the South Nowra area and provide greater certainty for landowners and developers.

Given the number of other priority projects of Council have already committed to in the 2018-2019 Strategic Planning Works Program, consultancy assistance will be required to complete the work required for the DCP and CP project. Estimated timeframes for the completion of this work should Council resolve to proceed with it are 12 months to 2 years.

Community Engagement

Wider community engagement has not been undertaken at this stage. Landowners will continue to be informed of Council's decisions as the planning for this area progresses.

It is noted that no detailed engagement has been undertaken with the affected landowners regarding the preparatory investigation and planning work that has already been undertaken.

Policy Implications

The proposed DCP and CP for the South Nowra industrial area is not included in the 2018-2019 Strategic Planning Works Program which was adopted by Council in June 2018.

The adoption of the recommendation will see work on this project commence and the projected added to the Work Program. Given existing staff workloads and other priority projects, additional resources will be required to complete the work, particularly in preparing the Contributions Plan project. A recommendation is included to enable the engagement of a consultant to assist in this regard.

Financial Implications

The engagement of a consultant to assist with the contributions plan project for the South Nowra industrial area can be funded initially within the existing Economic Development Budget and ultimately recouped through Section 7.11 contributions levied on future development.

Other work associated with this project will be managed within the existing Strategic Planning Budget.

Risk Implications

The South Nowra Disadvantaged Landowners Group noted possible legal action in the discussion points provided at the recent meeting. These points are not covered in this report and Council's insurers have been advised.

DE18.65 Low Rise Medium Density Housing Code - Request for Deferred Commencement Extension

HPERM Ref: D18/279418

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Proposed Correspondence to the Department of Planning and Environment - Request for Deferred Commencement Extension [↓](#)

Purpose / Summary

To obtain endorsement to request that the Department of Planning and Environment consider a further deferral to the Low Rise Medium Density Housing Code (the Code), which at present will commence for Shoalhaven on 1 July 2019.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Submit the correspondence at Attachment 1 to the Department of Planning and Environment, requesting up to a further 12-month deferral (until 30 June 2020) for Shoalhaven in relation to the Low Rise Medium Housing Code.
2. Advise Development Industry Representatives and Community Consultative Bodies of this resolution, and again should Council be successful in obtaining the further 12-month extension.

Options

1. As recommended.

Implications: A 12-month extension to the deferral would enable Council to fully prepare and finalise the relevant planning proposal prior to the commencement of the Code.

This means that the minimum lot size provisions in the Code relating to dual occupancy and multi dwelling housing (terraces), which are generally not appropriate to Shoalhaven's regional and diverse context, will not apply to Shoalhaven.

2. Not request a further 12-month extension.

Implications: This option is not preferred as it is likely that the planning proposal required to insert minimum lot size provisions in Shoalhaven LEP 2014 will not be notified (completed and in force) prior to commencement of the Code for Shoalhaven on 1 July 2019. The minimum lot size in the Code is significantly less than currently required by Council which could or will have significant built form implications for Shoalhaven, especially regarding character and on coastal villages.

Background

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.

Council's request for a deferral was favourably received and the City of Shoalhaven is now known as a 'deferred area' for the purposes of the Code, until 30 June 2019.

The 12-month deferral provides Council with an opportunity to work towards the preparation and inclusion of local strategic planning statements in Shoalhaven Development Control Plan (DCP) 2014 and minimum lot size provisions for certain medium density development in Shoalhaven Local Environmental Plan (LEP) 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.

It is likely that the required amendments to Shoalhaven DCP 2014 to incorporate the local strategic planning statements can be finalised prior to 1 July 2014 and the Development Committee will receive a future report in this regard.

Amendments to Shoalhaven LEP 2014

The required amendments to Shoalhaven Local Environmental Plan 2014 to incorporate minimum lot size provisions for medium density development are unlikely be notified (in force) before 1 July 2019 due to the potentially detailed and extensive nature of the planning proposal and the steps Council needs to follow.

The proposed amendments will seek to introduce a minimum lot size for the parent lot prior to the erection of a dual occupancy, manor house, multi dwelling housing, multi dwelling housing (terraces) or residential flat building development. This will also assist in lifting the restriction on Torrens subdivision following lawful medium density development.

The introduction of minimum lot sizes for the erection of medium density development is also critical in responding to the Code. The Code specifies minimum lot size requirements for complying development as follows:

- Dual occupancy - 400m² or the minimum lot area specified for the land in Shoalhaven LEP 2014, whichever is the greater.
- Manor houses – 600m².
- Multi dwelling housing (terraces) - 600m² or the minimum lot area specified for the land in Shoalhaven LEP 2014, whichever is the greater.

This means that unless Council includes minimum lot sizes in Shoalhaven LEP 2014, the Code provisions for dual occupancy and multi dwelling housing (terraces) will apply.

To put this in context, Shoalhaven DCP 2014 currently requires the size of the parent lot, prior to the erection of a dual occupancy development, to be 500m² for attached dual occupancy, and 700m² for detached dual occupancy. The minimum lot size in the Code is 400m² which is noticeably less than currently required by Council. This could have significant built form implications for Shoalhaven, especially around character and on some of our coastal villages.

The NSW Department of Planning and Environment have requested that any planning proposal relating to this matter be received by the end of September 2018. This timeframe cannot be achieved for several reasons; notably it is considered critical that workshops are arranged with Councillors to discuss the proposed minimum lot sizes and other matters

related to the planning proposal prior to formally reporting to Council. As such, it is expected that the matter will be reported to Development Committee towards the end this year. A planning proposal of this nature is thus unlikely to be concluded prior to 1 July 2019.

As such, it would be appropriate to request a further 12-month (up to) extension to the current Code commencement date. This will enable Council to prepare and finalise the planning proposal prior to the commencement of the Code. The proposed correspondence in this regard is at **Attachment 1**.

It is understood that the City of Ryde has been successful in obtaining a similar 12-month extension which means the Code will commence in that local government area on 1 July 2020.

Conclusion

Based on the risk that the planning proposal to insert minimum lot sizes for medium density development is unlikely to be finalised by 1 July 2019, it is recommended that Council formally request that the Department of Planning and Environment consider up to a 12-month extension to the current Code deferral for Shoalhaven until 30 June 2020.

Community Engagement

It is recommended that Development Industry Representatives and Community Consultative Bodies are notified of Council resolution, and again should Council be successful in obtaining the further 12-month extension.

Any proposed amendments to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will include community consultation in accordance with legislative and project requirements.

A Councillor workshop will be schedule in due course to discuss the proposed minimum lot sizes and other matters related to the planning proposal, prior to formally reporting to Council.

Policy and Risk Implications

The current deferral of the Code until 30 June 2019, whilst appreciated, is unfortunately unlikely to be enough time for Council to fully consider all relevant matters and finalise the planning proposal before 1 July 2019. A further 12-month extension would enable Council to prepare and finalise the planning proposal prior to the commencement of the Code.

In the case that a further deferral is not supported by the Department of Planning and Environment, Council staff will continue to progress the planning proposal in an expedited fashion. There is a risk, however, that the planning proposal process will not be completed prior to 1 July 2019, which would leave Shoalhaven exposed to minimum lot sizes applicable to complying development that are generally not appropriate to Shoalhaven's regional and diverse context.

Financial Implications

There are no direct financial implications for Council in seeking a further 12-month extension to the deferral of the Code.

Any future amendments to Shoalhaven LEP 2014 or Shoalhaven DCP 2014 will be resourced from the existing Strategic Planning budget.



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Address all correspondence to
The General Manager, PO Box 42, Nowra NSW 2541 Australia
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Council Reference: 31157E (D18/XXXXXX)

Regional Director – Sarah Lees
NSW Department of Planning & Environment - Southern Region
84 Crown Street
WOLLONGONG NSW 2500

By email only: wollongong@planning.nsw.gov.au

Attention: Director Sarah Lees

Dear Sarah

**Request for Deferred Commencement Extension
Low Rise Medium Density Code**

I refer to your correspondence of 5 July 2018 advising that Council's request for a 12-month deferral from the implementation of the Low Rise Medium Density Housing Code (the Code) was favourably received. As such, the City of Shoalhaven is known as a 'deferred area' for the purposes of the Code until 30 June 2019.

The 12-month deferral is welcomed and will provide an opportunity for Council to consider the implications of the Code amendment for Shoalhaven and work towards the preparation and inclusion of the following:

- Local strategic planning statements in Shoalhaven Development Control Plan 2014; and
- Minimum lot size provisions for certain medium density development in Shoalhaven Local Environmental Plan 2014.

It is likely that the required amendment to Shoalhaven DCP 2014 to incorporate the local strategic planning statements could be finalised prior to 1 July 2019.

The required amendments to Shoalhaven Local Environmental Plan 2014 to incorporate minimum lot size provisions for medium density development are unfortunately, however, unlikely to be notified before 1 July 2019 due to the potentially extensive nature of the planning proposal and the steps Council needs to follow. In this regard, Council staff have requested to meet with Southern Region and SEPP Team staff.

The introduction of minimum lot sizes for the erection of medium density development is a critical in Shoalhaven's ability to respond to the Code, as the minimum lot size provisions in

the Code could have significant built form implications for Shoalhaven, especially around character and some of our coastal villages.

On 11 September 2018, Council's Development Committee under delegation, resolved ([INSERT MIN]) that Council request up to a further 12-month extension to the deferred commencement of the Code until 30 June 2020. A copy of the report and minute is enclosed. As such, a further 12-month extension to the deferred commencement is formally requested to enable Council to prepare and finalise the planning proposal prior to the commencement of the Code. This would mean that the City of Shoalhaven would be known as a 'deferred area' for the purposes of the Code until 30 June 2020.

It is understood that the City of Ryde has recently been successful in obtaining a similar 12-month extension.

It is hoped that the comments raised within this request will be fully considered and provide an opportunity for further dialogue in relation to an extension to the deferred commencement of the Code as it applies to Shoalhaven.

If you need further information about this matter, please contact Jenna Tague, Planning Environment & Development Group on (02) 4429 3553. Please quote Council's reference 31157E (D18/XXXXXX).

Yours faithfully

[INSERT SIGNATURE]

Phil Costello
Director - Planning Environment & Development
[INSERT DATE]

DE18.66 Proposed 2017 Housekeeping Amendment to Shoalhaven Local Environmental Plan 2014 - Instrument Changes

HPERM Ref: D18/282538

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Draft Planning Proposal - 2017 Housekeeping Amendment - Instrument Changes (under separate cover)

Purpose / Summary

To obtain the necessary resolution to progress the 2017 Housekeeping Amendment – Instrument Changes Planning Proposal (PP) which seeks to undertake and resolve a range of necessary housekeeping adjustments and changes to Shoalhaven Local Environmental Plan (LEP) 2014 that have been picked up during the 2017 calendar year.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Submit the 2017 Housekeeping Amendment – Instrument Changes Planning Proposal (PP033 – Attachment 1) to the NSW Department of Planning and Environment for a Gateway determination and if favourable, proceed to formal public consultation in accordance with the terms of the determination.
2. Advise any relevant community groups of this decision, noting the opportunity for formal consultation later in the process.

Options

1. As recommended.

Implications: Since the commencement of Shoalhaven LEP 2014, anomalies and minor issues continue to arise and be identified and that need to be resolved. The matters related to the LEP instrument that were identified during 2017 will be corrected through this housekeeping amendment. Continuously improving the LEP is necessary to ensure it remains current.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the resolution of the identified housekeeping matters.

3. Reject the recommendation.

Implications: This is not the preferred option as the identified housekeeping matters will not be resolved.

Background

Shoalhaven LEP 2014 commenced on 22 April 2014. It consolidated planning controls into the one LEP and transitioned existing controls into the NSW Government’s Standard Instrument LEP format.

As part of the completion, and since Shoalhaven LEP 2014 has been in force, Council has identified a number of housekeeping amendments needed to improve the operation and accuracy of the Plan. Council continuously reviews Shoalhaven LEP 2014 to ensure it aligns with strategic documents, is improved where necessary, and delivers positive outcomes for the community.

Due to the extent of the mapping changes proposed as part of the 2017 Housekeeping Amendment, the amendment has been split into two PPs:

- 2017 Housekeeping Amendment – Instrument Changes (this PP).
- 2017 Housekeeping Amendment – Minor Mapping Changes (future PP). Council will receive a future report in this regard.

2017 Housekeeping Amendment – Instrument Changes

This PP covers a variety of required housekeeping adjustments and amendments to Shoalhaven LEP 2014 to improve the operation and accuracy of the plan. It responds to issues that were identified in the 2017 calendar year.

The intended outcome of this PP is to amend or add provisions to the LEP instrument to improve the Plan’s operation and address the identified issues. The proposed amendments are summarised in **Table 1** below.

Table 1: Summary of LEP instrument amendments

Item	Summary of proposed amendment	Rationale
1	Amend references to the <i>Crown Lands Act 1989</i> in clause 1.9A(2) to reflect the repeal of the Act in June 2018.	The <i>Crown Lands Act 1989</i> was repealed in June 2018 and replaced by the <i>Crown Land Management Act 2016</i> . The proposed amendment seeks to reflect the new Act and content within.
2	Insert ‘artisan food and drink industry’ as a land use permitted with consent in the RU1 Primary Production and RU2 Rural Landscape zones.	<p>The NSW Government recently released an amendment to the Standard Instrument Local Environmental Plan to include provision for a new land use term ‘artisan food and drink industry’.</p> <p>This new land use term is a subset of the ‘light industry’ land use and is permissible wherever ‘light industry’ is permissible in LEP’s.</p> <p>As a result, the land use ‘artisan food and drink industry’ is now permissible with consent in the following Shoalhaven LEP 2014 zones:</p> <ul style="list-style-type: none"> • RU5 Village

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		<ul style="list-style-type: none"> • B1 Neighbourhood Centre • B5 Business Development • B7 Business Park • IN1 General Industrial • IN2 Light Industrial • IN4 Working Waterfront <p>It is considered appropriate for the term to also be permissible with consent in the RU1 Primary Production and RU2 Rural Landscape zones to support the growing artisan and craft food and drink industry in Shoalhaven.</p> <p>It is noted that following similar land uses are already permissible in the RU1 and RU2 zones in Shoalhaven: intensive plant agriculture (e.g. viticulture/wineries), cellar door premises, food and drink premises and rural industries.</p>
3	Insert 'dual occupancies (attached)' as a land use permitted with consent in the E2 Environmental Conservation zone.	<p>'Dual occupancies (attached)' have limited additional impact above and beyond the impact of a single dwelling due to the fact that they are required to be co-located and have a common roofline. As such, it is considered appropriate for 'dual occupancies (attached)' to be permissible with consent in the E2 Environmental Conservation zone.</p> <p>It should be noted that the use can only be considered where a dwelling is currently permissible and as such this inclusion will not create new development opportunities in the E2 zone.</p>
4	Amend clause 4.1(4) Minimum Subdivision Lot Size, to allow the creation of a lot from a closed road that is smaller than the minimum lot size shown on the Lot Size Map.	<p>The current situation where the lot size map is applied to roads is causing issues in relation to road closures. The closure is technically a 'subdivision' creating a lot smaller than the minimum lot size.</p> <p>It would be appropriate to amend clause 4.1 to facilitate the creation of lots smaller than the prescribed lot size where the subdivision is resulting from a road closure.</p>
5	Insert a new subclause to clause 4.1F Minimum Subdivision Lot Size for	It is proposed to add new wording to clause 4.1F " <i>This clause applies despite</i>

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	Community Scheme and Strata Plan Lots, to make it clear that clause 4.1F is not subservient to clause 4.1 (Minimum subdivision lot size).	<p><i>clause 4.1</i>”, to make it clear that clause 4.1 does not override the provisions of clause 4.1F.</p> <p>This ensures consistency between clauses in the LEP and negates any argument that clause 4.1F is subservient to clause 4.1.</p>
6	Amend clause 4.2B(2) Subdivision of Certain Land in Zone RU1, Zone RU2, Zone RU4, Zone R5 and Zone E4, to only apply to land in a RU1, RU2 or RU4 zone in relation to prime crop and pasture land given they are the ‘rural’ zones where agriculture would be expected, noting that R5 and E4 are essentially residential in nature.	<p>Some landowners in areas identified by Clause 4.2B and mapped as prime crop and pasture land have submitted subdivision applications supported by detailed site-specific land capability studies indicating that the subject land is not class 1, 2 or 3 agricultural land. Following referral, the NSW Department of Primary Industries (DPI) has advised that they will not be revising the mapping and will not consider site specific studies. This leaves Council unable to consider these applications other than by way of refusal.</p> <p>As part of the preparation of Shoalhaven LEP 2014, a desktop assessment was undertaken of all the areas to which this clause applies to determine the appropriate zone. Some areas were identified in the study as having a character or form of development that is reflective of lifestyle living or residential rather than small scale agriculture, e.g. the R5 Large Lot Residential and E4 Environmental Living zones. It is also noted that the E4 zone does not permit any form of agriculture.</p> <p>As such, it is appropriate to amend 4.2B(2) to only apply the requirement to land in the rural zones RU1, RU2 and RU4.</p>
7	Amend clause 4.2G(4) Boundary Adjustments of Land in Certain Rural and Environmental Protections Zones, to delete reference to permissibility of a dwelling following subdivision.	<p>The wording of clause 4.2G(4) has caused some confusion. The subclause appears to create a circular argument with 4.2D(3)(cc) if one of the proposed lots is an existing holding.</p> <p>Clause 4.2D(3)(cc) ensures that a dwelling can be approved on lot created under clause 4.2G so it is redundant to specify that a dwelling must be permissible on a lot after the subdivision.</p> <p>The removal of the second half of subclause 4 (from “and...”) would</p>

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		resolve the confusion.
8	In relation to Schedule 1 Additional permitted uses (6) 'Use of certain land at Manyana', update the description of the land to which Schedule 1 (6) applies.	<p>Lot 204 DP 755923 (Por 204) and Lot 1070 DP 836591 have been subdivided, with registration occurring in 2008 and 2011 respectively.</p> <p>Lot 204 DP 755923 (Portion 204) is now known as Lot 2 DP 1121854, and Lot 1070 DP 836591, Curvers Drive is now known as Lot 2 DP 1161638, Inyadda Drive.</p> <p>The proposed amendments to this clause seek to reflect the newly created lots as the land to which the clause applies.</p>
9	In relation to Schedule 2 Exempt Development 'Temporary events on public land and public roads and associated temporary structures', insert additional criteria in subclause 2 in relation to Crown land that is vested in Council, or of which Council is the Crown lands manager.	<p>The current wording excludes the operation of the clause to any land to which the <i>Crown Land Management Act 2016</i> applies, including where Council is the Crown land manager or is responsible for the care, control and management of that land pursuant to the provisions of that Act. A development application is therefore required for any event on land to which the <i>Crown Land Management Act 2016</i> applies. This is not the intent of Council.</p> <p>As such, it is appropriate to amend the clause to extend its application to Crown land of which Council is the Crown lands manager or Crown land which has been vested in Council pursuant to the <i>Crown Land Management Act 2016</i>.</p>
10	In relation to Schedule 2 Exempt Development, insert new exempt development criteria relating to: <ul style="list-style-type: none"> • A-frame sign boards and structures. • Merchandise displays. 	<p>Shoalhaven Development Control Plan currently includes a Chapter relating to exempt development. As it is unlawful for a development control plan to provide an exemption to a land use where the permissibility of that land use is prescribed by an environmental planning instrument, it is considered appropriate to include additional provisions in Schedule 2 Exempt Development. A development application should not be required in this regard. <i>Note: The removal of Chapter 3 Exempt Development from the DCP will be considered in a future report to Council.</i></p> <p>Further, Council also issues a few approvals under Section 68 of the <i>Local Government Act 1993</i> in relation to the</p>

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		commercial use of a footpath. The inclusion of these exempt development types will assist in the timely processing of these applications.
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Following endorsement from Council, the PP will be submitted to the NSW Department of Planning and Environment for a Gateway determination.

As detailed in the Project Timeline in the PP (**Attachment 1**), it is anticipated that the LEP amendment will be finalised by July 2019.

Community Engagement

Should the PP receive a favourable Gateway determination, it will be exhibited for comment in accordance with Council’s Community Engagement Policy at Level 1 to ‘inform’ and ‘consult’, and in accordance with the relevant legislative requirements.

The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted. Any directly affected landowners will be advised of the exhibition arrangements in writing, as will all Community Consultative Bodies.

Financial Implications

There are no immediate financial implications for Council. The amendment to Shoalhaven LEP 2014 will be resourced from the Strategic Planning budget.

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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.