

MINUTES OF THE DEVELOPMENT & ENVIRONMENT COMMITTEE

Meeting Date: Tuesday, 2 July 2019
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.00pm

The following members were present:

Clr Joanna Gash - Chairperson
Clr Patricia White
Clr John Wells
Clr John Levett
Clr Nina Digiglio
Clr Annette Alldrick
Clr Kaye Gartner
Clr Mitchell Pakes
Clr Greg Watson
Clr Mark Kitchener
Clr Bob Proudfoot
Mr Stephen Dunshea - Chief Executive Officer

Apologies / Leave of Absence

Apologies were received from Clrs Findley and Guile.

Confirmation of the Minutes

RESOLVED (Clr White / Clr Alldrick) MIN19.454

That the Minutes of the Development & Environment Committee held on Tuesday 04 June 2019 be confirmed.

CARRIED

Declarations of Interest

Clr Gash – DE19.58 - Shoalhaven Development Control Plan 2014 - Proposed Amendment to Chapter N12: Culburra Beach - The Marina Area – pecuniary interest declaration – will leave the room and will not take part in discussion or vote – She is the co-owner of 97 The Marina, Culburra Beach and the amendment may or may not have a positive or negative effect on her property.

Call Over of the Business Paper

The following items were called up for debate DE19.46, DE19.53, DE19.54, DE19.57, DE19.58, DE19.59, DE19.60, DE19.61 and DE19.62.

The remaining items (DE19.52 and DE19.55) were resolved en-bloc (Clr Gartner/ Clr White) at this time. They are marked with an asterisk (*) in these Minutes.

MAYORAL MINUTES

Nil

DEPUTATIONS AND PRESENTATIONS

DE19.46 - Public Exhibition Outcomes - Coastal Hazard Review Planning Proposal and Coastal Management Areas DCP Amendment (Page 12)

Ms Leonie Sinclair addressed the meeting to speak against the recommendation.

Mr David Greenslade addressed the meeting to speak against the recommendation.

DE19.57 - Exhibition Outcomes and Proposed Finalisation - Citywide SP3 Tourist Zones Review - Planning Proposal and Proposed Amendment to Chapter V3 Shoalhaven Development Control Plan 2014

Mr John Willmott addressed the meeting to speak against the recommendation.

DE19.59 - Development Application – No. 64, Lot 1138 in DP 1210394, Seagrass Avenue Vincentia (Page 65)

Mr Glyn Leyshon (of behalf of Bayswood residents) addressed the meeting to speak for the recommendation.

Mr Andrew Stecyk (owner) addressed the meeting to speak against the recommendation.

DE19.60 - Development Application – 38 Lyrebird Drive Nowra – Lot 74 DP 1198691 DA18/2175 (page 98)

Mr Alex Kelly and Mr Anthony Barthelmess (representing the owners of the land) addressed the meeting to speak against the recommendation.

Procedural Motion - Bring Item Forward

RESOLVED (Clr Gartner / Clr White)

MIN19.455

That the following matters be brought forward for consideration:

- DE19.46 - Public Exhibition Outcomes - Coastal Hazard Review Planning Proposal and Coastal Management Areas DCP Amendment
- DE19.57 - Exhibition Outcomes and Proposed Finalisation - Citywide SP3 Tourist Zones Review - Planning Proposal and Proposed Amendment to Chapter V3 Shoalhaven Development Control Plan 2014
- DE19.59 - Development Application – No. 64, Lot 1138 in DP 1210394, Seagrass Avenue Vincentia

- DE19.60 - Development Application – 38 Lyrebird Drive Nowra – Lot 74 DP 1198691 DA18/2175

CARRIED

DE19.46 Public Exhibition Outcomes - Coastal Hazard Review Planning Proposal and Coastal Management Areas DCP Amendment

**HPERM Ref:
D19/113261**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the Planning Proposal (PP026) as exhibited and forward to the NSW Department of Planning and Environment for finalisation.
2. Adopt and finalise Shoalhaven Development Control Plan 2014 Chapter G6: Coastal Management Areas Amendment as exhibited, with the inclusion of the changes highlighted in Attachment 2.
3. Advise key stakeholders, including all CCBs, relevant industry representatives and those who made a submission, of this decision, and when the LEP and DCP amendments will be made effective.

RESOLVED (Clr Pakes / Clr Watson)

MIN19.456

That:

1. Consideration of the Planning Proposal (PP026) be deferred to allow for:
 - a. a briefing be held for Councillors to address the concerns raised at the 2 July 2019 Development and Environment Committee Meeting
 - b. The provision of an avenue for affected community members to address any of the concerns raised at the 2 July 2019 Development and Environment Committee meeting
2. Following the briefing and community consultation, that a further report on the proposal be brought to the July 2019 Ordinary Council meeting for adoption, if possible.
3. No changes be made with respect to Coastal Mapping unless a report has been provided to the Council and prior community consultation undertaken with affected residents.

FOR: Clr Gash, Clr White, Clr Wells, Clr Digiglio, Clr Aldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Clr Levett

CARRIED

DE19.57 Exhibition Outcomes and Proposed Finalisation - Citywide SP3 Tourist Zones Review - Planning Proposal and Proposed Amendment to Chapter V3 Shoalhaven Development Control Plan 2014

**HPERM Ref:
D19/171980**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise the exhibited Planning Proposal (PP013)
2. Forward PP013 to NSW Parliamentary Counsel's Office to draft the amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using

Council's delegation.

4. Adopt and finalise the amendment to Shoalhaven Development Control Plan 2014 Chapter V3: Miscellaneous Site-Specific Issues as exhibited, with the inclusion of the change to Performance Criteria P5.1 as noted in Attachment 2.
5. Advise key stakeholders, including owners of the subject land, adjoining land owners, all Community Consultative Bodies, relevant industry representatives and those who made a submission, of this decision, and when the LEP and DCP amendments will be made effective.

RESOLVED (Clr Gartner / Clr Digiglio)

MIN19.457

That Council:

1. Adopt and finalise the exhibited Planning Proposal (PP013).
2. Forward PP013 to NSW Parliamentary Counsel's Office to draft the amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using Council's delegation.
4. Adopt and finalise the amendment to Shoalhaven Development Control Plan 2014 Chapter V3: Miscellaneous Site-Specific Issues as exhibited, with the inclusion of the change to Performance Criteria P5.1 as noted in Attachment 2 and with an amendment to Acceptable Solution A5.4 specifying that screening is an alternative solution.
5. Advise key stakeholders, including owners of the subject land, adjoining land owners, all Community Consultative Bodies, relevant industry representatives and those who made a submission, of this decision, and when the LEP and DCP amendments will be made effective.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Stephen Dunshea

AGAINST: Clr Pakes, Clr Watson and Clr Kitchener

CARRIED

DE19.59 Development Application – No.64, Lot 1138 in DP 1210394, Seagrass Avenue Vincentia

HPERM Ref: D18/383673

Recommendation (Item to be determined under delegated authority)

That Development Application DA18/1998 be refused for the reasons set out in Attachment 1 to this report.

RESOLVED (Clr Gartner / Clr Alldrick)

MIN19.458

That Development Application DA18/1998 be refused for the reasons set out in Attachment 1 to this report.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

DE19.60 Development Application – 38 Lyrebird Drive Nowra –

HPERM Ref:

Lot 74 DP 1198691 DA18/2175

D19/189185

Recommendation (Item to be determined under delegated authority)

That the Committee refuse Development Application DA18/2175 for the erection of an attached dual occupancy at Lot 74 DP 1108691, 38 Lyrebird Drive Nowra, for the reasons as shown in the draft Notice of Determination at Attachment 1.

RESOLVED (Clr Wells / Clr Proudfoot)

MIN19.459

That:

1. Council accept Development Application DA18/2175 for the erection of an attached dual occupancy at Lot 74 DP 1108691, 38 Lyrebird Drive Nowra, a further report be provided to Council with suitable conditions for consent.
2. The next Housekeeping Amendment seek to consider inserting provisions in the Shoalhaven LEP to rule out dual occupancy development in the vicinity of Riverview Road and Lyrebird Drive, Nowra.

FOR: Clr Gash, Clr White, Clr Wells, Clr Pakes, Clr Watson, Clr Kitchener and Clr Proudfoot

AGAINST: Clr Levett, Clr Digiglio, Clr Aldrick, Clr Gartner and Stephen Dunshea

CARRIED

REPORTS

DE19.46 Public Exhibition Outcomes - Coastal Hazard Review Planning Proposal and Coastal Management Areas DCP Amendment

**HPERM REF:
D19/113261**

Item dealt with earlier/later in the meeting see MIN19.456

Items marked with an * were resolved 'en bloc'.

DE19.52 Progress Update - Berry Heritage Investigations

**HPERM Ref:
D19/181822**

RESOLVED* (Clr Gartner / Clr White)

MIN19.460

That Council:

1. Provide in principal support to the proposed heritage listing of the 25 properties and 2 Heritage Conservation Areas in Shoalhaven Local Environmental Plan 2014, as identified in Table 1 in this report, for preliminary community consultation only.
2. Investigate the heritage significance of No. 30 and No. 40 Alexandra Street, Berry as recommended by the Heritage Consultant.
3. Following part 2 of this recommendation, commence preliminary community consultation with the affected landowners, the Berry Forum, Berry Showground Management Committee, Berry Chamber of Commerce and Berry & District Historical Society regarding the Berry Heritage Investigations work to date.
4. Advise relevant stakeholders (affected landowners, the Berry Forum, Berry Showground Management Committee, Berry Chamber of Commerce and Berry & District Historical Society) of this decision.

5. Receive a further report outlining the findings of the supplementary heritage investigations and preliminary community consultation.

CARRIED

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| DE19.53 | Exhibition Outcomes and Finalisation - Planning Proposal: 2017 Housekeeping Amendment (Instrument Changes) - Shoalhaven LEP 2014 | HPERM Ref: D19/121834 |
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Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise Planning Proposal (PP033) as exhibited, with the changes outlined in Attachment 2.
2. Forward PP033 to NSW Parliamentary Counsel's Office to draft the amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using Council's delegation.
4. Undertake a separate future review of Clause 4.2B of Shoalhaven Local Environmental Plan 2014 with the following scope:
 - a. Further consideration of Item 6 (proposed for deletion from PP033) including the appropriateness of the current zoning of certain land in Clause 4.2B.
 - b. Provide clarification as to what 'land' means (i.e. identifying holdings).
 - c. Other matters that are identified during the review or were raised in submissions.
5. Prepare a future report to Council in relation to the outcome of the review at Part 4 of this recommendation, including the scope of a future Planning Proposal as appropriate and its priority in the Strategic Planning Works Program.
6. Advise key stakeholders, including all CCBs, relevant industry representatives and those who made a submission, of this decision, and when the Amendment will be made effective.

RESOLVED (Clr Proudfoot / Clr Pakes)

MIN19.461

That the Planning Proposal (PP033) be deferred for consideration at the July 2019 Ordinary Council meeting.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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| DE19.54 | Nowra CBD Fringe Planning Proposal - Progress and | HPERM Ref: |
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Possible Next Steps

D19/122291

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the following recommendations of the Heritage Study and provide an amended Planning Proposal to the Department of Planning and Environment:
 - a. Reduce the boundaries of the proposed Heritage Conservation Area to exclude areas where there are large areas of 'non-contributory' buildings.
 - b. Update the Statement of Significance for the proposed Heritage Conservation Area.
2. Not adopt the following recommendation of the Heritage Study and defer for consideration as part of any broader future Shoalhaven heritage review:
 - a. Expand the proposed Heritage Conservation Area boundary to include Oliver Parade which is in the study area but not in the proposed Heritage Conservation Area.
3. Not include 'post-war fibro cottages' on Leaney Avenue and Oliver Parade as 'contributory' items on the contributory items map.
4. Endorse the revised contributory items map for public exhibition with the supporting DCP Chapter.
5. Not endorse the DCP controls recommended in the Heritage Study to ensure the overall focus of the DCP Chapter remains on character rather than heritage aspects of individual 'contributory' items.

RESOLVED (Clr Wells / Clr Gartner)

MIN19.462

That Council:

1. Adopt the following recommendations of the Heritage Study and provide an amended Planning Proposal to the Department of Planning and Environment:
 - a. Reduce the boundaries of the proposed Heritage Conservation Area to exclude areas where there are large areas of 'non-contributory' buildings.
 - b. Update the Statement of Significance for the proposed Heritage Conservation Area.
2. Not adopt the following recommendation of the Heritage Study and defer for consideration as part of any broader future Shoalhaven heritage review:
 - a. Expand the proposed Heritage Conservation Area boundary to include Oliver Parade which is in the study area but not in the proposed Heritage Conservation Area.
3. Not include 'post-war fibro cottages' on Leaney Avenue and Oliver Parade as 'contributory' items on the contributory items map.
4. Endorse the revised contributory items map for public exhibition with the supporting DCP Chapter.
5. Not endorse the DCP controls recommended in the Heritage Study to ensure the overall focus of the DCP Chapter remains on character rather than heritage aspects of individual 'contributory' items.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

2020-21

D19/185099

RESOLVED* (Clr Gartner / Clr White)

MIN19.463

That Council:

1. Accept the following NSW Heritage Grants funding offers as detailed in the report:
 - a. 2019-20 to 2020-21 financial years for the Local Heritage Places and Local Government Heritage Advisor streams; and
 - b. 2019-2021 Local Government Heritage Studies stream (Berry Heritage Investigations project).
2. Note that recurrent funding is provided in the annual Budget to meet Council's matching commitment.

CARRIED

**DE19.56 Proposed Housekeeping Amendment - Shoalhaven
Development Control Plan 2014 - General and Generic
Chapters**

**HPERM Ref:
D19/185859**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the initial draft General and Generic Chapter Housekeeping Amendment (draft Amendment) to Shoalhaven Development Control Plan 2014 at Attachment 1 (including the Draft Waste Minimisation and Management Guidelines and rescission of Chapter 3: Exempt Development) and support the exhibition of the draft Amendment for a period of at least 28 days as per legislative requirements.
2. Receive a further report on the draft Amendment following the conclusion of the public exhibition period to consider feedback received, any necessary adjustments and the finalisation of the amendment.
3. Advise key stakeholders, including relevant industry representatives, of this decision and the exhibition arrangements in due course.

RESOLVED (Clr Gartner / Clr Digiglio)

MIN19.464

That Council:

1. Endorse the initial draft General and Generic Chapter Housekeeping Amendment (draft Amendment) to Shoalhaven Development Control Plan 2014 at Attachment 1 (including the Draft Waste Minimisation and Management Guidelines and rescission of Chapter 3: Exempt Development) and support the exhibition of the draft Amendment for a period of at least 28 days as per legislative requirements.
2. Receive a further report on the draft Amendment following the conclusion of the public exhibition period to consider feedback received, any necessary adjustments and the finalisation of the amendment.
3. Advise key stakeholders, including relevant industry representatives, of this decision and the exhibition arrangements in due course.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

**DE19.57 Exhibition Outcomes and Proposed Finalisation -
Citywide SP3 Tourist Zones Review - Planning Proposal
and Proposed Amendment To Chapter V3 Shoalhaven
Development Control Plan 2014**

**HPERM REF:
D19/171980**

Item dealt with earlier/later in the meeting see MIN19.457.

Note: Clr Gash left the meeting at 7:10pm – Clr Watson assumed the chair in the absence of Councillor Gash.

**DE19.58 Shoalhaven Development Control Plan 2014 - Proposed
Amendment to Chapter N12: Culburra Beach - The
Marina Area**

**HPERM Ref:
D19/191446**

Clr Gash– DE19.58 Shoalhaven Development Control Plan 2014 - Proposed Amendment to Chapter N12: Culburra Beach - The Marina Area – pecuniary interest declaration – left the room and did not take part in discussion or vote – She is the co-owner of 97 The Marina, Culburra Beach and the amendment may or may not have a positive or negative affect on her property.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the preparation of an amendment to Chapter N12: Culburra Beach – The Marina of Shoalhaven Development Control Plan 2014.
2. Receive a further report on the draft Amendment prior to public exhibition.
3. Adopt the ‘Interim’ Policy Position that the Maps at **Attachment 1** represent Council’s ongoing strategic intent in terms of building lines, erosion setback lines and 20m vegetation buffer lines for The Marina area and apply the Interim Policy Position until the lines have been reviewed, considered and finalised as part of the amendment to DCP Chapter N12.
4. Advise key stakeholders, including relevant industry representatives and landowners, of this decision.

Note: Clr Proudfoot left the meeting at 7.17pm

RESOLVED (Clr Gartner / Clr Digiglio)

MIN19.465

That Council:

1. Endorse the preparation of an amendment to Chapter N12: Culburra Beach – The Marina of Shoalhaven Development Control Plan 2014.
2. Receive a further report on the draft Amendment prior to public exhibition.
3. Adopt the ‘Interim’ Policy Position that the Maps at **Attachment 1** represent Council’s ongoing strategic intent in terms of building lines, erosion setback lines and 20m vegetation buffer lines for The Marina area and apply the Interim Policy Position until the lines have been reviewed, considered and finalised as part of the amendment to DCP Chapter N12.
4. Advise key stakeholders, including relevant industry representatives and landowners, of this decision.

FOR: Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener and Stephen Dunshea

AGAINST: Nil

CARRIED

Note: Clr Gash returned to the meeting at 7:18pm and reassumed the Chair.

Note: Clr Proudfoot returned to the meeting at 7:18pm

**DE19.59 Development Application – No.64, Lot 1138 IN DP
1210394, Seagrass Avenue Vincentia**

**HPERM REF:
D18/383673**

Item dealt with earlier/later in the meeting see MIN19.458

**DE19.60 Development Application – 38 Lyrebird Drive Nowra –
Lot 74 DP 1198691 DA18/2175**

**HPERM REF:
D19/189185**

Item dealt with earlier/later in the meeting see MIN19.459

**DE19.61 Shoalhaven City Council - Mobile Food Vans in the LGA
- Private and Public Lands**

**HPERM Ref:
D19/187221**

Recommendation (Item to be determined under delegated authority)

That the report Mobile Food Vans in the LGA - Private and Public Lands be received for information.

RESOLVED (Clr White / Clr Wells)

MIN19.466

That:

1. The report Mobile Food Vans in the LGA - Private and Public Lands be received for information.
2. Council write to the NSW State Government to express concerns about the impact of the Mobile Food Van provisions within the State Environmental Planning Policy (SEPP) (Exempt & Complying Development Codes) on businesses in regional towns and villages and consider further consultation and amendments to the SEPP if necessary.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

**DE19.62 Shoalhaven Heads - River Road Foreshore Precinct
Rehabilitation Project - Progress Update**

**HPERM Ref:
D19/115308**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Proceed to call Tenders for the Shoalhaven Heads River Road Foreshore Precinct Rehabilitation Project in accordance with the separable portions strategy outlined in the report.
2. Receive a further confidential report regarding the Tender process in accordance with the provisions of the Local Government Act.

RESOLVED (Clr Wells / Clr White)

MIN19.467

That Council:

1. Proceed to call Tenders for the Shoalhaven Heads River Road Foreshore Precinct Rehabilitation Project in accordance with the separable portions strategy outlined in the report.
2. Receive a further confidential report regarding the Tender process in accordance with the provisions of the Local Government Act.

FOR: Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

Procedural Motion - Matters of Urgency

RESOLVED (Clr White / Clr Pakes) MIN19.468

That an additional item with respect to home modifications for elderly and injured persons be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent as it is a current issue affecting residents.

DE19.63 Additional Item – Home Modifications – Elderly and Injured Residents – Medical Requirements

RESOLVED (Clr White / Clr Pakes) MIN19.469

That:

1. Council approve an Interim Policy to give approval for residence modifications in response to Occupational Therapists and Doctors instructions to allow elderly people and those who are injured to return to their homes.
2. A further report be provided back to Council on a policy provision to address this issue.

CARRIED

There being no further business, the meeting concluded, the time being 7.33pm.

Clr Gash
CHAIRPERSON