

Development Committee

Meeting Date: Tuesday, 11 April, 2017
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5:00pm

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

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

Agenda

1. **Apologies / Leave of Absence**
2. **Confirmation of Minutes**
 - Development Committee - 14 March 20171
3. **Declarations of Interest**
4. **Mayoral Minute**
5. **Deputations and Presentations**
6. **Notices of Motion / Questions on Notice**

Nil
7. **Reports**

DE17.24	Planning Proposal PP006 - Halloran Trust Lands - Potential Biodiversity Certification Application.....	5
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DE17.28	Development Application – 7 Beach St, Huskisson - Lot B DP 359526	32
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 s82A or s96AB EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
- v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

Schedule:

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

MINUTES OF THE DEVELOPMENT COMMITTEE

Meeting Date: Tuesday, 14 March 2017
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5:01pm

The following members were present:

Clr Patricia White - Chairperson
Clr Amanda Findley
Clr Joanna Gash
Clr John Wells
Clr John Levett
Clr Nina Cheyne
Clr Annette Alldrick
Clr Kaye Gartner
Clr Andrew Guile – arrived 5.04pm
Clr Mitchell Pakes
Clr Bob Proudfoot
Mr Russ Pigg - General Manager

Apologies / Leave of Absence

Apologies received from Clr Watson and Clr Kitchener

Confirmation of the Minutes

RESOLVED (Clr Cheyne / Clr Gartner) MIN17.179

That the Minutes of the Development Committee held on Tuesday 14 February 2017 be confirmed.

CARRIED

DEPUTATIONS AND PRESENTATIONS

DE17.20 – Subdivision Controls in Greenwell Point - Legal Advice and Policy Direction

Mr Anthony Barthelmiss addressed the Committee speaking against the recommendation

Note: Clr Guile arrived 5.04pm during the Deputation.

DE17.22 – Future Potential Subdivision within the R2 Zone Hyams Beach

Mr Lee Carmichael addressed the Committee speaking against the recommendation

Mrs Vicki Fortescue addressed the Committee speaking for the recommendation

DE17.23 Development Application – Parson St Ulladulla – Proposed Lot 15 in Subdivision of Lot 3 DP 746228 and Lots 5 & 6 DP 805221

Jan Gregory, President of the Ulladulla Forum addressed the Committee speaking against the recommendation

Mr Tony Blazek addressed the Committee speaking for the recommendation

REPORTS**DE17.20 Subdivision Controls in Greenwell Point - Legal Advice and Policy Direction****HPERM Ref:
D17/28315****Recommendation (Item to be determined under delegated authority)**

That Council:

1. Form a position on development controls relating to flood risk management in Greenwell Point by selecting **Option 1 or 2**; and,
2. Undertake a review of the Lower Shoalhaven River Flood Risk Management Plan, Shoalhaven Local Environmental Plan 2014 and Chapter G9 of Shoalhaven Development Control Plan 2014 as required by this Interim Policy position.

RESOLVED (Clr Pakes / Clr Guile)

MIN17.180

1. Not provide additional development restrictions in Greenwell Point and consider each development application on its merit in accordance with the provisions of Shoalhaven LEP 2014 and Shoalhaven DCP 2014; and
2. Undertake a review of the Lower Shoalhaven River Flood Risk Management Plan, Shoalhaven Local Environmental Plan 2014 and Chapter G9 of Shoalhaven Development Control Plan 2014 as required by this Interim Policy position.

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

AGAINST: Clr Findley, Clr Cheyne and Clr Gartner

CARRIED

DE17.21 Restaurants and Cafes - A new interim restaurant authorisation system for liquor licences

**HPERM Ref:
D17/43541**

Recommendation (Item to be determined under delegated authority)

That this report be noted for information.

RESOLVED (Clr Findley / Clr Wells)

MIN17.181

That the report regarding Restaurants and Cafes – A New interim restaurant authorisation system for liquor licenses be received for information.

CARRIED

DE17.22 Future Potential Subdivision within the R2 Zone Hyams Beach

**HPERM Ref:
D17/46796**

Recommendation (Item to be determined under delegated authority)

That:

1. Council note the findings of this report; and
2. Confirm the variations to the minimum lot size proposed in development application SF10534, as modified, not be supported and the application be determined under delegated authority.

RESOLVED (Clr Guile / Clr Gash)

MIN17.182

That under delegated authority from Council, the Committee:

1. Note the findings of this report; and
2. Confirm the variations to the minimum lot size proposed in development application SF10534, as modified, be supported.

FOR: Clr Findley, Clr White, Clr Gash, Clr Wells, Clr Cheyne, Clr Alldrick, Clr Guile, Clr Pakes and Clr Proudfoot

AGAINST: Clr Levett, Clr Gartner and Russ Pigg

CARRIED

DE17.23 Development Application – Parson St Ulladulla – Proposed Lot 15 in Subdivision of Lot 3 DP 746228 and Lots 5 & 6 DP 805221

**HPERM Ref:
D17/50496**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Confirm that it supports the proposed height variation to the 7.5m height limit and allow the increase sought;
2. Refer the application back to staff for determination by delegation;
3. That a review of the 7.5m building heights in this part of the town centre be included in any future review of DCP2014 Chapter S8 – Ulladulla Town Centre

RESOLVED (Clr Wells / Clr Findley)

MIN17.183

That Council:

1. Confirm that it supports the proposed height variation to the 7.5m height limit and allow the increase sought;
2. Refer the application back to staff for determination by delegation;
3. That a review of the 7.5m building heights in this part of the town centre be included in any future review of DCP2014 Chapter S8 – Ulladulla Town Centre
4. Any review of the DCP in the near future be limited to South of Deering Street and the R3 zone.

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

AGAINST: Clr Alldrick, Clr Guile and Clr Proudfoot

CARRIED

There being no further business, the meeting concluded, the time being 7.09pm.

Clr White
CHAIRPERSON

DE17.24 Planning Proposal PP006 - Halloran Trust Lands - Potential Biodiversity Certification Application

HPERM Ref: D17/5761

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

Seek in principle endorsement to commence the process to potentially enable the Biodiversity Certification of land associated with the Halloran Trust Planning Proposal (PP) at Culburra Beach, Callala Bay and Kinghorne (near Currarong).

Recommendation (Item to be determined under delegated authority)

That the Committee support in principle the preparation of a Biodiversity Certification Application for the Planning Proposal for the Halloran Trust Lands at Culburra Beach, Callala Bay and Kinghorne.

Options

1. Adopt the recommendation to support (in principle) Council being the applicant of a Biodiversity Certification Application associated with the Halloran Trust PP.

Implications: This will provide certainty in ensuring adequate land is conserved for biodiversity protection and management in association with and whilst moving forward with the PP. This also potentially provides a revenue stream for the ongoing management of the lands ultimately identified for conservation purposes.

2. Adopt an alternative recommendation.

Implications: The other alternative mechanism in this regard is BioBanking. Whilst this process is relatively similar procedurally, BioBanking does not guarantee land biodiversity protection and management at the strategic planning stage. Further approvals are required at the Development Approvals stage which can cause delays with the eventual development of the subject lands.

Background

Council received a PP request for land at Culburra Beach, Callala Bay and Kinghorne (near Currarong) known as the Halloran Trust Lands from Allen Price & Skarratts Pty Ltd on 4 August 2014. The PP relates to the land that has been deferred from the Shoalhaven Local Environmental Plan (LEP) 2014 and proposes to resolve/determine the zoning of the land.

Since receiving the PP request, Council supported the proposal in principle and submitted it to the NSW Government for Gateway determination in October 2014. The Gateway determination enabling the PP to proceed further was received on 16 November 2015.

Council staff in association with a Project Control Group (PCG), established by the NSW Government to assist with this significant project, have been working through the various aspects of the Gateway determination. Work has commenced on the detailed stage 1

assessments that are required to consider strategic biodiversity and water quality requirements. This report deals with an aspect of the biodiversity work that requires a decision by Council.

The Gateway determination required that a flora and fauna assessment and biodiversity offset strategy be prepared and to comply with the BioBanking Assessment Methodology or Biodiversity Certification Assessment Methodology.

Since receiving the Gateway determination the proponent has proceeded with engaging EcoLogical Pty Ltd to commence the field surveys and subsequent offset strategy in accordance with the Biodiversity Certification method. As part of this process, the proponent has requested that Council undertake the role of lodging the application that will be prepared and this requires a resolution of Council to initiate.

Biodiversity Certification Process

Biodiversity Certification is a mechanism that allows integration of planning for biodiversity conservation and proposed land use intensification at the strategic planning level. It is intended to run alongside and compliment/support the PP or rezoning process.

During the certification process the Planning Authority (in this case Council) must identify:

- Areas of high biodiversity value to be protected from development; and
- Other areas of lower biodiversity value, including cleared land that is suitable for development purposes.

An application for Biodiversity Certification is made to the NSW Office of Environment and Heritage (OEH) and may be granted by the NSW Minister for Environment. An application must demonstrate that a conferral will result in an 'improve or maintain' outcome of biodiversity values. The application also sets out the land that is proposed for Biodiversity Certification (for development), proposed conservation measures (including financial contribution to fund conservation measures that improve biodiversity values) and the parties required to implement the conservation measures.

Biodiversity Certification of land provides certainty that a positive conservation outcome can be achieved by identifying land for biodiversity protection and management in perpetuity. In addition, it identifies a funding mechanism for the ongoing conservation and management. These key aspects are 'locked in' at the strategic planning stage and remove the requirement for further flora and fauna investigations at the subsequent Development Approval stage.

An application for Biodiversity Certification is generally developed in conjunction with a PP. Only a Planning Authority may apply to the NSW Minister for the Environment to have Biodiversity Certification conferred on specified land.

As indicated, the proponent of the Halloran Trust PP have requested that Council undertake the role of lodging the application.

Community Engagement

Biodiversity Certification applications must be publicly exhibited for a minimum period 30 days in accordance with the relevant legislation. Where the Biodiversity Certification application is associated with a current PP, the application is to be publicly exhibited concurrently with the PP where possible.

Financial Implications

The preparation of the necessary flora and fauna studies, including Biodiversity Certification Assessment and the Biodiversity Certification Strategy as required by OEH has been

commissioned and funded by the proponent. However the work is being guided by the PCG for this overall project.

Council will be responsible for the management of the application (including advertising and exhibition, preparing a submissions report and staff attendance at meetings) and the associated costs will be funded by the proponent through payment of the relevant PP fees and charges.

DE17.24

DE17.25 Submission - Draft SEPP Education & SEPP Infrastructure Review

HPERM Ref: D17/93026

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Submission - Department of Planning & Environment - proposed Education SEPP and review of Infrastructure SEPP [↓](#)

Purpose / Summary

The NSW Department of Planning & Environment (DP&E) is proposing to introduce a new education-based State Environmental Planning Policy (SEPP) called *State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017* (SEPP Education) and is reviewing the existing *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP).

The purpose of this report is to outline the key changes proposed and seek endorsement to provide the submission on these changes that is included as Attachment 1 to this report.

Recommendation (Item to be determined under delegated authority)

That Council make a submission (Attachment 1) to the NSW Department of Planning and Environment on the new *State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017* and the review of *State Environmental Planning Policy (Infrastructure) 2007*.

Options

1. Adopt the resolution and endorse Attachment 1 as Council's submission.

Implications: This is the preferred option as it will enable Council to provide a submission on the proposed changes.

2. Make changes to the draft submission included as Attachment 1 and submit.

Implications: This option will still enable Council to provide a submission, however the implications of any possible changes are unknown and may require closer consideration or refinement.

3. Not make a submission.

Implications: This is not favoured as it will mean that Council does not provide input on the proposed changes which could impact on Council and/or the community.

Background

The NSW Government, through the DP&E, are proposing to introduce a new education-based planning policy called *State Environmental Planning Policy (Educational Establishments & Child Care Facilities) 2017* (SEPP Education).

There are a number of related amendments to other environmental planning instruments that are also proposed as part of this overall policy package, including:

- Amendments to the *SEPP (State and Regional Development) 2011* and *SEPP (Exempt and Complying Development Codes) 2008* (Codes SEPP),
- Consequential changes to the *SEPP (Infrastructure) 2007* (Infrastructure SEPP) and the *Standard Instrument Local Environmental Plans* (LEP's).

Education Establishments & Child Care Facilities SEPP

This new SEPP intends to make it easier for child-care providers, schools, TAFE's and universities to build new facilities and improve existing ones by streamlining the planning process to save time and money and deliver greater consistency across NSW.

This forms part of the NSW Government's commitment to a simplified planning system. The new SEPP is broken into the various types of establishments and the proposals for each include;

Child Care Facilities

- Align national definitions and categories of early childhood education and care facilities with state planning definitions;
- Enable some types of early childhood education and care facilities to be considered as exempt or complying development;
- Adopt key requirements from the National Quality Framework for assessment of early childhood education and care facilities;
- Introduce standards for applications that Councils cannot refuse a development application for;
- Make it easier for the temporary relocation of early childhood education and care facilities in the event of an emergency.
- Update all Standard Instrument LEP's across NSW to include the national definitions of early childhood education and care facilities and permit child care facilities in all R2 Low Density Residential and IN2 Light Industrial zones.

Schools

- Minor developments such as play equipment, landscaping, amenities buildings, single storey portable classrooms and sporting facilities will be permitted as exempt development at existing schools. If the proposed works meet all nominated development standards development approval is not needed.
- Provisions that are already in the Infrastructure SEPP for buildings such as classrooms, libraries, administration offices, school halls and canteens will be able to be undertaken as "complying development".
- Permit these buildings to be constructed up to a maximum height of four storeys or 22 metres, provided they meet set requirements including side and rear street setbacks, privacy and landscaping.
- If a proposal does not meet all of the complying development standards, a development application must be submitted.
- All new schools and major expansions of existing schools with a project value of \$20 million or more will become State Significant Development (SSD) and be assessed by the NSW Government.
- Roads and traffic safety outcomes are a key issue related for the development of schools - applications for complying development certificates, where the proposal increases

student numbers by more than 50 students, must be accompanied by a traffic certificate from the Roads and Maritime Services (RMS) certifying the impacts on the surrounding road network are acceptable. Applications for SSD will also require submission of a traffic impact report.

Tertiary Institutions

- The Infrastructure SEPP currently contains provisions for TAFE institutions and limited provisions for universities. It is proposed to transfer these provisions into the new SEPP and to consolidate all the provisions for educational facilities in one policy document.
- Planning provisions already exist in the Infrastructure SEPP permitting buildings on TAFE campuses as complying development, such as classrooms, libraries, lecture theatres, trade or training facilities, trade or training facilities, and administration offices. The new SEPP will expand these guidelines to also apply them to universities and introduce some additional development types such as cafes, take away food and drink premises and recreation facilities.
- If a proposal does not meet all the standards listed in the new SEPP, a development application must be submitted.

The detailed information package on this proposal is available on DP&E's website at:

<http://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies-Review/Draft-Education-SEPP>

Infrastructure SEPP Review

The proposed changes to the Infrastructure SEPP intend to make it easier and faster to deliver and maintain social infrastructure including health facilities, correctional centres, emergency and police services, and also Council services.

Key changes for Council include:

- Optimising the use of commuter hubs by providing more services and conveniences at transport interchanges
- Enabling Councils to better manage and maintain their lands, including their operational lands

The proposed changes also include other operational and housekeeping improvements to ensure the policy remains up to date and effective.

Further information on this Review is also available on DP&E's website at:

<http://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies-Review/Draft-infrastructure-SEPP>

Council staff comments

Council staff attended a DP&E workshop in Wollongong on the proposed changes. Relevant Council staff have also reviewed the proposed changes in detail and relevant comments have been collated into Council's submission included as Attachment 1 to this report.

There are a number of concerns in relation the proposed changes and their potential impact on both the community and Council, including:

- Adding a new SEPP to the existing range of SEPP's potentially increases the complexity of the planning system at a development assessment level for both Council planners, proponents and others;
- Increase in exempt and complying development and development without consent provides the community with less opportunities to have a say and they will potentially

not realise the scale of changes until work commences on site or they view a set of drawings for a proposed development;

- The proposed controls in the new Education Establishments & Child Care Facilities SEPP seem to lack integration with the wider planning system. Development cannot be refused if it meets the criteria in the SEPP even when the planning issues cannot be overcome, i.e. child care centres in R2 Low Density Residential Zones or IN1 General Industrial or IN2 Light Industrial zones and family day care centres in bush fire prone areas without adequate assessment.
- Expanded exempt development for Education Facilities to allow building heights of 22 metres (four storeys).
- Controls appear to be metropolitan based and little consideration is given to different circumstances in regional areas.

Whilst there are a number of changes that raise concerns, there are a number of changes included in the Infrastructure SEPP Review that are supported as they will increase Council's ability to undertake required work on its land. This includes:

- Refining definitions in the Infrastructure SEPP to align with Standard Instrument LEP definitions;
- Increased ability for Council to carry out work on Council land without requiring consent; and
- Additional provisions for waste or resource management facilities for certain extensions and work carried out.

Community Engagement

The proposed changes were publicly exhibited from 8 February to 24 March 2017 with numerous documents available on DP&E's website. DP&E have been advised that Council will provide its submission after the April Development Committee Meeting to enable its endorsement by Council.

Policy Implications

The proposed changes are explained and supported by a number of documents and policies including:

- Amendments to the Environmental Planning and Assessment Regulation 2000
- Planning guidelines for child care facilities
- Design guidelines for school facilities
- An Environmental Assessment Code of Practice for non-government schools;
- A planning circular providing guidance to applicants and consent authorities in relation to development consent conditions that cap student and staff numbers; and
- An explanation of Intended Effect (EIE), setting out the detail of the package in plain English.

The new SEPP will also require amendments to the standard instrument LEP; however, this will not occur until such time as the SEPP comes into effect and an amendment to the Standard Instrument Order is made.

The finalisation of this package of changes will see the implementation of State-wide Guidelines, which will override Council's LEP and DCP controls. Any changes considered necessary to Council's controls will be addressed when the final SEPP's are made.

Financial Implications

There are no immediate financial implications for Council.

Risk Implications

At an overall level the proposed SEPP Review appears to increase complexity in the planning system at the development assessment level for Council planners, proponents and the community

With the increasing range of exempt and complying development and development without consent, along with the expanding Code SEPP, the community is slowly having fewer opportunities to have a say, particularly with regard to the legislative changes.

There are no immediate risks for Council, however there are some concerns that increasing State-wide Guidelines and the types of development that are permitted through the SEPP Review is concerning and may reduce the ability to consider development applications on their merit.



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Address all correspondence to
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Council Reference: 31157E (D17/89044)

Draft Education SEPP & Draft Infrastructure SEPP Review
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam,

Submission - Draft Education SEPP & Draft Infrastructure SEPP Review

Thank you for the opportunity to provide comments on the *Draft Education SEPP & Draft Infrastructure SEPP Review (the Review)*. Council supports the NSW Government initiatives and provides the following feedback on the Review.

General Comments

The proposed Education SEPP and amendments to the Infrastructure SEPP are wide ranging. Considerable documentation was required to be reviewed in order for Council to provide a thorough and appropriate response to the Departments proposals. As you can appreciate, the submission process takes time to coordinate comments from multiple sections in Council. For this reason, it is prudent that in future Council's request for extended timeframes be accepted, not only in order to provide an appropriate submission but to allow the submission to go through the formal Council reporting processes so that it is the endorsed Council position.

At a broad level this proposed SEPP raises concerns about the apparent proliferation of new SEPPs instead of a reduction in the number of SEPPs and the increasing complexity of the planning system at a development assessment level for both Council planners and proponents. It is assumed that someone is checking these changes and the legislation aligns so there is not issues with regard to consistency. With the increasing range of exempt and complying development and development without consent along with the expanding Code SEPP, the community is slowly having fewer opportunities to have a say, particularly with regard to the legislative changes. The community does not often understand policy or strategic planning but do understand when something is built next to them or there are a set of architectural drawings showing what is proposed.

Specific comments on draft Education SEPP provisions

Definitions

Council welcomes the inclusion of the revised definitions for the Standard Instrument. Whilst there will still be Part 4 approvals for new developments, which will help to minimise interpretation issues, Council does seek clarification and raises the following matters in relation to some of the terms.

In the first instance, Council assumes “*early childhood education and care facility*” is the group term, but asks that this be confirmed. Additionally, Council requests that the Department’s LEP Matrix be updated to reflect these amendments to definitions.

There is some confusion around the term “*family day care service*”. According to the definitions, *Centre-based child care* includes;

- (e) a *family day care service* (within the meaning of the Children (Education and Care Services) National Law (NSW),

but does not include;

- (f) a building or place used for home-based child care or school-based child care...

However, according to the definition below, a “*family day care service*” is a type of “*home-based child care*”

“*home-based child care*” includes;

- (a) a *family day care residence* (within the meaning of the Children (Education and Care Services) National Law (NSW), or
- (b) a dwelling used for the purpose of a home based education and care service (within the meaning of the Children (Education and Care Services) Supplementary Provisions Act 2011
if the number of children (including any children who reside at the dwelling does not at any one time exceed 7 children under the age of 13 years, including no more than 4 who do not ordinarily attend school.

This is very confusing and clarification is sought as to how “*family day care*,” which is a type of “*home-based child care*” is able to be included in “*centre-based child care*”.

Major concerns are also raised in relation to allowing “*home-based child care*,” to be located within areas identified as bushfire prone land. Whilst “*home-based child care*,” is already exempt under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, bushfire prone land currently precludes this exemption.

Council acknowledges that some attempts have been made to implement bushfire safety controls; however, given this will now be included as exempt development, who, if anybody, will be checking these measures. Even if this information is required in order to obtain a Service Approval for a “*home-based child care*” or “*family day care*,” it is unlikely that a Family Day Care Coordinator, issuing the approval, will have the relevant skills to determine the applicable BAL rating or appropriate APZ.

This is likely to result in “*home-based child care*” incorrectly being approved, meaning some of our most vulnerable individuals, small children and babies, could be located in BAL-40 or BAL-FZ areas with restricted ability to evacuate during an emergency situation.

Additionally, concerns are raised in relation to the number of children able to be cared for within a “*home-based child care*” or “*family day care*,” at any one time. Seven children seems excessive, particularly given a standard car only seats 5 people, which would make evacuation difficult.

Divisions 2 & 3

The draft Education SEPP has different flexible zoning provisions to the draft Infrastructure SEPP in that it will override SLEP 2014 and will therefore apply in the Coastal Zone. Whilst this will require a compatibility certificate issued by JRPP and the process will include consultation with Council, the referral timeframe will be limited to only 21 days.

It would seem that this is proposing an inconsistency between the draft Education SEPP and the draft Infrastructure SEPP. The clause in the Education SEPP relates to all prescribed State land and is not confined to Education Department land. Council is concerned that as a result, this SEPP could be used in order for other State land to overcome the restrictions in the Infrastructure SEPP – clarification on this issue is required.

Additionally, this arrangement may well leave Council with a need to carry out housekeeping LEP amendments with no resources from the Department. For example - SP2 land could be developed as a residential subdivision where it is no longer needed for education purposes, whilst flexible zone provisions could be used to consider development of this nature, an amendment to the LEP zoning is usually required to ensure that future development on that land can be undertaken i.e. complying development and other residential development.

Part 3 Early Childhood Education & Care Facilities

Clause 20 requires Council to assess any proposal against National Regulations. If the proposal does not comply, then the application is required to be forwarded to the *Regulatory Authority* within 7 days for concurrence with details outlining how the proposal needs their concurrence - this requirement is incredibly onerous on Council staff and it will be difficult to meet such tight time frames from the date an application is received.

Council suggests a similar approach to that which is required of *SEPP 65 – Design Quality of Residential Apartment Development* be applied. To this end a design guide could be developed detailing how ‘childhood education and care facilities’ meet the SEPP’s design quality principles and the National Regulations. Proposed developments would need to be designed by a qualified designer, in accordance with the design guide and a design verification certificate or Statement of Compliance submitted to the consent authority with any application. This would avoid Councils having to assess applications within 7 days, as well as significantly reduce the requirements for concurrence.

The draft SEPP essentially overrides any Council DCPs in relation to this type of land use and replaces them with the draft State-wide Guidelines. On initial review, these guidelines appear reasonable, providing enough flexibility to accommodate different geographical areas, including our regional area.

However, a closer review of the Guidelines identifies a mix of mandatory and optional components, located in Part 2 and Part 3 of the guide required by Clause 21 of the SEPP.

Part 2, the mandatory component of the guide, relates to the internal requirements needed to meet the national guidelines, presumably in line with the National Framework requirements. Whilst Part 3 of the guidelines, the optional requirements, relates to planning related matters such as how a development will be designed and assessed for impacts on the surrounding built environment, including built form, amenity, safety, landscaping and sustainability. Council has major concerns that those aspects in Part 3, that are considered to result in good planning outcomes, and which more closely reflect what would generally be included in a DCP are “optional.” Whilst Council has the option of still having a DCP, the criteria in Part 2 of the guidelines and Clause 24 of the SEPP will over-ride any DCP controls that are inconsistent with the guidelines. Even more concerning is that a proposal cannot be refused based on the criteria in Part 3. It is assumed that the aim of this guide is to provide consistency by standardising child care facilities across NSW, however, given the criteria in Part 3 is optional, consistency would be undermined and additionally, poor planning outcomes are likely.

Additionally, centralised controls are likely to create confusion for both applicants and assessment staff, with regard to what controls apply to ‘any’ application, which is unhelpful. Council does not see anything within this part that could not be added to the Standard Instrument LEP, rather than a SEPP. It does not provide any variation to permissibility of uses and only applies development standards.

The inclusion of “*centre-based child care*” in *IN1 General Industrial* and *IN2 Light Industrial* zonings, prompts concerns regarding both existing and future land uses. Industrial zones allow for a wide range of land uses, a number of which would be considered incompatible with child care centres. It is acknowledged that some local government areas already permit child care centres in *IN2 Light Industrial* zonings; however, under current legislation land use conflict can be addressed and if necessary, refused. Despite clause 22 of the proposed SEPP containing provisions relating to land use conflicts within these zones, this clause is essentially diminished by Part 3 (optional) of the draft State-wide Guidelines as a consent authority cannot refuse an application based on criteria (including location) within Part 3.

The State Government sets targets regarding employment lands, many of which are located within industrial zones. Allowing child care centres within industrial zonings not only diminishes lands for industrial uses but will likely sterilise lots containing “*centre-based child care*,” given adjoining land uses will need to be compatible. This also creates additional resourcing issues for local governments, whilst DCP’s for child care centres will essentially be replaced by the draft State-wide Guidelines, significant amendments will be required to industrial lands DCP’s as well as Employment Lands Strategies.

Similarly, concerns are raised in relation to the permissibility of “*centre-based child care*” within R2 Low Density Residential areas. Whilst this land use is already permissible within this zone, the diminishment of Council DCP’s by the draft State-wide Guidelines will severely limit Council’s ability to refuse applications that are not appropriate within existing residential locations. Considerations relating to car parking and setbacks are again located within Part 3 (optional) of the draft State-wide Guidelines, to reiterate again, criteria in this Part is non-mandatory and applications are unable to be refused on criteria within this section. This is likely to cause significant problems within existing residential zones, in relation to car parking, noise and amenity, to name just a few.

Part 4 Schools

Exempt Development has been expanded significantly but is consistent with other exempt development.

Complying Development has also been expanded significantly and more particularly the development standards have been revised with some of the more relevant ones being:

- Building height increased from 12 metres to 22 metres (and four storeys)
- Increased setbacks
- Overshadowing more detailed and brought in line with planning principle
- Bushfire and Flood Prone land dealt with in a similar way to Code SEPP

Building heights for schools seems excessive and there is confusion with regard to the heights stated. The SEPP specifies a maximum of 4 storeys or 22 metres; however a 22 metre building is approximately 6 storeys. Additionally, the Height of Buildings referred to in Council's LEP restricts height in metres, not storeys. Lift access would be required for a building of this nature and this raises evacuation and duty of care concerns. Class sizes range between 20-28 students, generally a teacher would be required to make 2 trips with a class of this size, leaving small children unsupervised. The ability of small children to safely descend 6 storeys of stairs in the event of an emergency is also questionable.

Although these heights may have little impact within city areas, the SEPP does not limit these building to city locations. The development of multi storey buildings in regional areas raises bulk and scale issues and would considerably impact on the character of certain regional locations. Broader issue with regard to the Department of Education's Strategic Planning and future asset planning are raised. Rather than investing in new land release areas, the Department of Education is preferring to utilise existing sites and building up. The feasibility of this direction is also questioned, particularly when the Department of Education is selling its land parcels in some regional areas without accommodating for increased growth or urban release areas.

With regard to the term "qualified designer" Council suggests this be amended to "qualified architect" to ensure the highest quality of design and functionality. This would avoid inappropriately qualified designers undertaking such development that must prove functional, robust and attractive for many years. Additionally public certifying authorities should be limited to Council Certifiers in order to ensure consistency and compliance, particularly with the SEPP allowing private schools to become public authorities, meaning school principals, who generally may not have any experience in this area may now be running such projects.

RU1 Primary Production has been included in the prescribed zones which has the potential to create land use conflicts with viable agricultural land and rural land uses.

Development with consent now requires Councils to take into consideration the design quality principles – these principles really go beyond normal development standards and some relate more to the use of the school by the community which would be difficult to assess in a development application or for Council's to require through conditions of development consent – typical examples:

- *School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning; and*
- *Schools should actively seek opportunities for their facilities to be shared with the community and to cater for activities outside of school hours.*

Universities and TAFE's have been provided for similarly but with different maximum heights for complying development and it is difficult to understand the rationale between the differences, for example:

- Universities 15 metre and three storeys
- TAFE 12 metre and no storey limit

In general terms, building heights relating to schools, TAFE's and university should be reversed, with Universities having the ability to build to 22 metres, TAFE's 15 metres, and schools 12 metres from a common sense perspective, however Council still believes the height limits provided may be excessive.

Part 5 Assessments

NSW Code of Practice for non-government schools Part 5 assessment – the expansion of Part 5 assessment to non-government agencies is a concern on principle with the risk of decisions being made more on economic considerations and not having public officer oversight with an independent perspective.

INFRASTRUCTURE SEPP

Council has reviewed its initial comments provided to the Department of Planning & Environment prior to the review of the Infrastructure SEPP Review (see Council's letter dated 22 May 2016). It appears that the majority of Council's comments have been incorporated into the current draft of the Infrastructure SEPP, however Council still requests that additional provisions be included to incorporate the following Council Infrastructure including:

- Animal shelters;
- Cemeteries and extensions to existing cemeteries;
- Equestrian centres and pony clubs;

The inclusion of additional provisions for waste or resource management facilities for extensions to those facilities is supported.

The comments provided below are provided on the Infrastructure SEPP EIE document and Appendix A – draft policy.

Schedule 7 - Emergency and police services facilities and bush fire hazard reduction
Clause 48(1) specifically excludes NSW Rural Fire Service as a public authority that may carry out development. Council questions why this emergency service provider is excluded from exempt or development without consent for minor alterations, additions and demolition of emergency service facilities in Division 6 of the current Infrastructure SEPP when all other emergency services authorities are included.

Schedule 9 - Health Services Facilities

Clause 56

Includes the R2 Low Density Residential zone into prescribed zones for permissibility with consent of health service facilities. There is the potential for significant planning conflicts in low density residential areas – currently only health consulting rooms are permitted. Council has various examples of medical centres that cause conflict in residential areas and can provide further comment on these concerns if required.

Clause 58

A broad range of development permitted without consent has been expanded significantly – includes additions & alterations; replacing accommodation or administration; demolition; car parks; helipads; new buildings up to 12 metres in height and vegetation removal. Council is concerned that without the need for development consent, a number of planning issues cannot be considered or addressed, particularly in regional areas with additional environmental constraints i.e. native vegetation, flood prone land, agricultural land, bush fire prone areas, land use conflict etc.

Clause 58(c)

A broad range of complying development within and existing health service facility including an additional health services facility; training & education buildings; commercial premises providing services to the facility; demolition; admin bldg.; car park or child care including any of these buildings up to 12 metres in height.

Schedule 12 – Parks & Other Reserves

The changes proposed are supported to increase Council's ability to carry out its operational functions and improvements to Parks & Reserves. Council also supports the inclusion of Crown Reserves where work can be carried out without consent by the Council where it is a crown reserve or a reserve trust and is managed by the Council – cl 65(2)(d) which is also supported by Council.

Schedule 13 – Port, Wharf or Boating Facilities

Council supports to changes to reflect the definitions in the Standard Instrument LEP for *port facilities* and *wharf or boating facilities* to provide clearer and consistent definitions.

Clause 69(1) replaced with a simpler clause that clearly allows retail, business or industrial development within a port development that are not related to the operation of the port or wharf with consent in prescribed zone or unzoned – this will have specific application in Ulladulla Minor Port area and will overcome the current restrictions on some of these types of development in IN4 zone.

Clauses 69(3-5) add new development classes with consent. Council has concern with the existing Clause 69 (3) provision allowing dredging by any person on any land as well as the addition of facilities for maintaining development. The Department should ensure that any development proposed to be permitted through Clause 69 does not allow development that is prohibited via SEPP 50 – Canal Estate. Facilities for maintaining vessels should be limited to appropriate Standard Instrument LEP definitions.

Council is concerned with the increased range of exempt development for port areas permitted in Clause 70 as this includes demolition, geotechnical investigations, washbays and rainwater, greywater or bilge water tanks up to 20 kilolitres.

Clause 71 complying development is extended significantly to include new buildings up to 500m² and 12 metres high – which is above most height of building standards in Shoalhaven LEP 2014.

Schedule 16 Roads & Traffic

The amendments provide clear provisions for bus stops and shelters and makes it clear that advertising on bus shelters is not exempt development.

Council is concerned with the extensive provisions for exempt and complying development for bus depots that will apply to *accredited bus service operators* (defined in schedule) as well as public authorities and will allow buildings up to 500m² and 12 metres high.

Clause 102 significantly reduces traffic vehicle count trigger for noise attenuation for non-road development adjoining road corridor from 40,000 to 20,000. This may have some significant effect if any parts of the Princes Highway corridor has counts between 20,000 & 40,000.

Schedule 19 – Telecommunications

The significant issue Council sees here is the adoption of more up to date *Electromagnetic Radiation – Human Exposure* standards from 2003 to 2014 – it is not clear at this stage the significance of this change in standards. More guidance should be provided to assist Council consider applications for telecommunications towers.

Schedule 24 – Miscellaneous and General

Clause 18 adds in a flexible zoning provision for all prescribed State land, however this clause suggests it will not apply the Shoalhaven LGA except for land that is not covered by SLEP 2014 as it is a Standard Instrument LEP as set out in 18(1)(a) – in which case clause 5.3 of our SLEP 2014 makes provision for flexible zoning provisions except in coastal zone. This has proven to be conflicting where this clause was thought to apply to State land in Mollymook Beach, however due to the land being in the coastal zone the clause was not able to be applied. Council has already raised this issue in the submission to the draft Coastal SEPP as the restriction on flexible zone provisions for land in the coastal zone provides an unnecessary restriction on the use of this clause.

Schedule 25 – Amendment of Codes SEPP

The exempt and complying provisions for solar energy systems and wind turbine systems is to be transferred from Infrastructure SEPP to Codes SEPP – this is generally positive as it relates mainly to domestic scale systems and at least puts the exempt development together. The provisions have been amended significantly in the changeover and now include heritage conservation areas in the exempt however this should also explicitly exclude complying development.

If you need further information about this matter, please contact Peta Brooks, Planning Environment & Development Group on (02) 4429 3228. Please quote Council's reference 31157E (D17/89044).

Yours faithfully

Gordon Clark
Strategic Planning Manager

DE17.26 Readoption of Development Services Policies

HPERM Ref: D17/72708

Group: Planning Environment & Development Group
Section: Development Services

Attachments: 1. Burials - Private Burial Grounds [↓](#)
2. Assessment of Council's Own Development Applications [↓](#)

Purpose / Summary

To consider the re-adoption of existing policies which deal with the responsibilities of Planning Environmental & Development Group.

Recommendation (Item to be determined under delegated authority)

That Council adopt the following policies, with the minor amendments outlined in the report:

1. Private Burial Grounds
2. Policy for the Assessment of Council's Own Development Applications

Options

1. Adopt the recommendation

Implications: The minor changes made to the policies will assist with policy implementation and interpretation.

2. Not adopt the recommendation and give further instruction to staff.

Background

The Planning Environment & Development Group policies listed below have been reviewed, mostly without any substantive change but with minor amendments as follows:

The Private Burial Grounds Policy was developed to provide guidance with respect to private burial grounds, including, however not limited to, in which zones Council supports a private burial ground, who can be buried on private land and considerations when a Development Application is submitted.

In consultation with the Department of Planning and Environment, it was agreed that private burial grounds can be defined as a 'cemetery' under Shoalhaven Local Environmental Plan 2014 (SLEP 2014). A 'cemetery' is permissible with the consent of Council within land zoned RU1, RU2 and SP2 within SLEP 2014.

Accordingly, it is recommended that reference to private burial grounds throughout the policy be revised to read private cemetery, to reflect the relevant definition under SLEP 2014.

Part 2 of the Policy contains references to both SLEP 2014 and zones contained within Shoalhaven Local Environmental Plan 1985 (SLEP 1985). It is recommended that:

- a) the wording within this part be refined to clarify where Council will/won't support a private cemetery;
- b) reference to zones within SLEP 1985 be removed;
- c) reference to Shoalhaven Local Environmental Plan (Jerberra Estate) 2014 be included; and
- d) reference to areas deferred from SLEP 2014 be included.

Furthermore, there are references to now defunct Departments and positions within Council. As part of this review the current Groups and positions within Council have been referred to.

Policy for the Assessment of Council's Own Development Applications was formulated following Council's consideration of the Independent Commission Against Corruption (ICAC)'s Position Paper on "Corruption Risks in NSW Development Approval Processes" dated September 2007. Any activity requiring development consent where Council is the applicant and landowner or where Council may have an interest in the land is subject to the policy's provisions.

After consultation with ICAC, no relevant reviews or updates have been released on the ICAC Position Paper since 2007; as such, no circumstance has arisen to warrant revision of the policy. The only change is an update to the new name of the Group – Planning Environment & Development Group, on the front page of the policy.

Community Engagement

The Planning Environment & Development Group policies for readoption have been reviewed in conjunction with the following internal and external agencies:

- a) Independent Commission Against Corruption,
- b) Council's Strategic Planning Section,
- c) Council's Bereavment Services, and
- d) Department of Planning & Environment.



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Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra
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Southern District Office
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Email: council@shoalhaven.nsw.gov.au

Website: www.shoalhaven.nsw.gov.au

For more information contact the Planning, Environment & Development Services Group

PRIVATE BURIAL GROUNDS PRIVATE CEMETERIES

Policy Number: POL16/228 • **Adopted:** 15/04/1997 • **Reaffirmed:** 21/12/2004, 14/04/2009, 21/05/2013 • **Minute Number:** MIN97.450, MIN04.1598, MIN09.429, MIN13.473 • **File:** 31509E • **Produced By:** Planning, Environment & Development Services Group • **Review Date:**

1. PURPOSE

The Objective of this Policy is to detail Council's requirements with respect to Private Burial Grounds cemeteries.

2. STATEMENT

This policy is based on Council's Minute 97.450 of 15th April, 1997. Council reaffirmed the policy on the 21st December, 2004 by minute 04.1598. It applies to all land affected by Shoalhaven Local Environmental Plan 2014 other than land zoned:

- Urban
- Environmental Protection
- Rural 1(e), 1(f) 1(g); or
- National Park 8(a) or 8(b)

Council will not consent to private burials within any of the abovementioned zones or on land identified for potential urban use under any adopted Structure Plan.

2. APPLICATION

This policy applies to all land where a cemetery is permissible with consent in the relevant Local Environmental Plan in the Shoalhaven Local Government Area (LGA).

Local Environmental Plans that cover the Shoalhaven LGA include:

- Shoalhaven Local Environmental Plan 2014; and
- Shoalhaven Local Environmental Plan (Jerberra Estate) 2014.

There are some areas deferred from Shoalhaven Local Environmental Plan 2014, please refer to the relevant in force LEP immediately before the commencement of Shoalhaven Local Environmental Plan 2014.

Council will not consent to private cemeteries on private land where that land is identified for potential urban use under an adopted structure plan or strategy.

3. PROVISIONS

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3.1. Who can be buried on private land?

Burials on private land are limited to the immediate relatives of those owners of the land as at the date of the first interment. In this regard "immediate relatives" means parents (including foster and step-parents), legal guardian, sister (including half, foster and step-sister), brother (including half, foster and step-brother), spouse (including de-facto partner and same sex partner), child (including step and foster child) and parents of spouse.

3.2. Public Health Regulations

Private burials must demonstrate full compliance with the following:

(a) A person must not place a body in any grave or vault unless that grave or vault is located:

- (i) In a public cemetery, or in a private cemetery or other place approved for that purpose by Council; or
- (ii) On private land where the area of the land holding is five (5) hectares or more and the location has been approved for that purpose by Council;

(b) A person must not bury a body in or on any land if to do so would make likely the contamination of drinking water supply or a domestic water supply.

3.3. Site requirements

A site proposed for a private cemetery must:

- (a) have an area of not less than 100 square metres;
- (b) have an access corridor not less than 4 metres wide; and
- (c) be located not less than 100 metres from any property boundary;

as illustrated in the plan below.

3.4. Restrictions on land title

The cemetery site must be endorsed as a restriction-as-to-user on the title of the land such that only private burials and ancillary activities under this policy shall be carried out. The site and access corridor must also be endorsed on the title of the land as a right-of-way benefiting the public at large.

In the event the restriction-as-to-user and right-of-way referred to above do not already exist then the applicant must provide Council with a written undertaking to complete these requirements within six (6) months of the date of development consent. Accompanying the written undertaking shall be an explanation of how the right-of-way can be maintained in perpetuity, at nil cost to Council.

3.5. Access construction

The right-of-way must be constructed to a minimum all-weather standard suitable for two-wheel drive vehicles, to the satisfaction of Council.

3.6. Fencing

The cemetery site must be fenced to prevent the possible intrusion of livestock.

3.7. Graves

Grave sizes shall be as directed by Council's ~~Crematorium/Cemeteries~~Bereavement Services Manager. In this respect the preparation of each grave shall be conducted and directed by an undertaker, and shall be certified as satisfying Council's ~~Crematorium/Cemeteries~~Bereavement Services Manager prior to interment of the body.

Shoalhaven City Council - ~~Private-Burial-Grounds~~Private Cemeteries

3.8. Burial Records

Accurate records of the details of the burial shall be maintained by Council's ~~Crematorium/~~
~~Cemeteries-Bereavement Services~~ Manager. The fee for recording such records on a register
will be determined annually by Council in its Management Plan.

3.9. Permanent Markers

A permanent marker shall be placed at the site within twelve (12) months of the burial. The
minimum details shall be as directed by Council's ~~Crematorium/Cemeteries-Bereavement~~
~~Services~~ Manager.

3.10. Development Application

A development application under the provisions of the Environmental Planning and
Assessment Act, 1979 (EPAA) must be submitted to, and approved by Council for the purpose
of creating the private cemetery and access road.

3.11. Interment of remains

Once the private cemetery and access road have been legally created, further development
consent is not required for the interment of remains.

4. IMPLEMENTATION

This policy will be implemented by the ~~Development and Environmental Planning,~~
~~Environment and Development Services~~-Group in the assessment of Development
Applications.

The ~~City Services and Operations-Assets and Works~~ Group (~~Crematorium/Cemeteries~~
~~Bereavement Services~~ Manager) is responsible for the keeping of burial records.

5. REVIEW

To be reviewed within the first 12 months of each newly elected Council, or earlier, if
circumstances require.

6. APPLICATION OF ESD PRINCIPLES

Social Integrity – The policy will ensure that future generations will maintain a legal right to visit
grave sites.

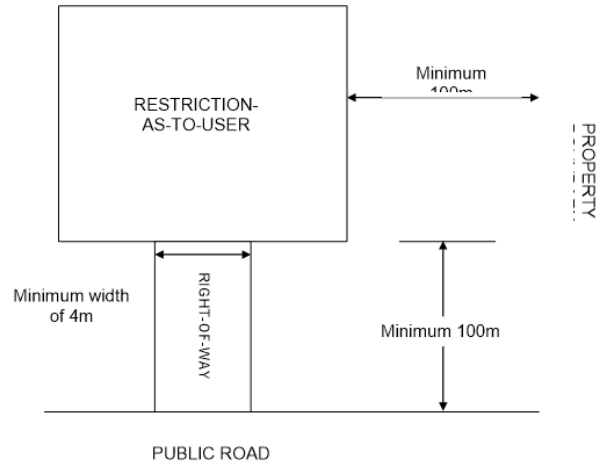
Ecological Integrity – Water quality issues will be assessed as part of the DA process.

Cemetery – minimum 100 square metres



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Shoalhaven City Council - ~~Private Burial Grounds~~ Private Cemeteries





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For more information contact the Planning, **Environment** & Development **Services** Group

Policy for the Assessment of Council's Own Development Applications

Policy Number: POL16/226 • **Adopted:** 16/12/2008 • **Amended:** 4/08/2009, 24/11/2011 • **Reaffirmed:** 26/02/2013 • **Minute Number:** MIN08.1691, MIN13.110 • **File:** 3621E • **Produced By:** Planning, **Environment** & Development **Services**-Group • **Review Date:**

1. PURPOSE

To ensure that where a Development Application (DA) is lodged and Council is both the applicant and landowner, the assessment, the consideration of submissions and the recommendations put forward for Council's consideration of that DA,

- are free from any conflicts of interest, and
- are undertaken independently and in an unbiased manner.
- are in line with the Independent Commission Against Corruption (ICAC)'s Position Paper on "*Corruption Risks in NSW Development Approval Processes*" dated September 2007.

This policy is formulated following Council's consideration of the ICAC Position Paper recommending: "*That individual local councils take steps to manage their conflicting roles in matters where they are the regulator of land and have a financial interest in the outcome of the matter.*"

2. APPLICATION OF THIS POLICY

This policy applies to all DAs under Part 4 of the *Environmental Planning & Assessment (EP&A) Act 1979*:

- 2.1. Where Council is the applicant and landowner [including applications made under the *SEPP (Infrastructure) 2007*] requiring development consent, and
- 2.2. Where Council may have an interest in the land (even if Council is not the landowner); eg, Council land under contract for sale or Council is the trustee of the land.

3. PROVISIONS

Category of DA where Council is both Applicant and Landowner, or where Council has an interest on the land	Provision
Minor ¹ DA	<ul style="list-style-type: none"> Assessment by Council staff not involved in the application. Determination under delegated authority².
Routine larger subdivision DA (not minor) or other form of DA that takes place within Council's industrial estates or on Council reserves and complies with zoning, landuse provisions and Council policies.	<ul style="list-style-type: none"> Assessment by Council staff not involved in the application and peer reviewed by senior member of staff. Determination under delegated authority³ by senior member of staff. Report to council would be an option if substantial submissions received.
Major DA.	<ul style="list-style-type: none"> Engage external independent town planning consultant (in accordance with Council's <i>Purchasing Policy</i>), to: <ul style="list-style-type: none"> assess DA in accordance with requirements of Section 79C of the <i>Environmental Planning & Assessment (EP & A) Act 1979</i>; consider any submissions received following DA notification in accordance with Council's <i>Community Consultation Policy for Development Applications (Including Subdivisions)</i> and the <i>Formulation of Development Guidelines and Policies</i>; which may include addressing a resident briefing meeting; and prepare and submit to Council a report on the Section 79C assessment and consideration of submissions, including recommendations for the consideration

¹ Minor DA refer to development that is small-scale, routine operational and/ or non-controversial. The determination of "minor" shall be made after consideration of the following criteria, at the discretion of the General Manager [Director ~~Development and Environmental Services (DES) Group~~ Planning, Environment & Development Group]:

- The estimated value of the works to be undertaken;
- The potential impact on surrounding residential amenity associated with the proposed development;
- The consistency of the proposed works with an existing Council Management Plan or strategy;
- Whether the proposal involves any substantial variations from existing Council policy; and
- Whether the proposal will lead to any financial benefit for Council.

² Other than for development on community land under section 47E of the *Local Government Act 1993*.

³ Other than for development on community land under section 47E of the *Local Government Act 1993*.

Shoalhaven City Council - Policy for the Assessment of Council's Development Applications

of full Council.

- 3.1. This Policy does not apply to applications where the original DA (eg, a parent subdivision application) has been subjected to this policy and a subsequent proposed development is consistent with the original DA.

3.2. Professional Courtesy

Where a DA project manager (responsible staff within Council) wishes to discuss any matter relating to the DA lodged or where a DA project manager needs to approach the DA assessing officer (whether Planning, Environment & Development DES staff or external independent consultant), the DA project manager shall exercise professional courtesy by making an appointment to do so via e-mail or telephone call.

The DA assessing officer, in return, shall also exercise professional courtesy by making the appointment to allow the DA project manager to discuss the matter relating to the DA.

4. IMPLEMENTATION

To be implemented by Planning, Environment & Development Group, DES Group.

5. REVIEW

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revision.

DE17.27 Readoption of Community Consultation Policy for Development Applications

HPERM Ref: D17/75255

Group: Planning Environment & Development Group
Section: Development Services

Attachments: 1. Community Consultation Policy - for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (under separate cover) [⇒](#)

Purpose / Summary

To consider the re-adoption of the existing Community Consultation Policy for Development Applications.

Recommendation (Item to be determined under delegated authority)

That Council adopt the policy with the minor amendments outlined in this report.

Options

1. Adopt the recommendation.

Implications: The minor amendments made to this policy will assist with policy implementation and interpretation.

2. Not adopt the recommendation and give further instruction to staff.

Background

The purpose of this policy is to ensure that the community is consulted during the processing of development applications and the formulation of development guidelines and policies; and that the community is informed of decisions made by Council.

The following minor amendments are proposed:

1. Modify reference of 'Part V matters' to 'Part 5 matters' as the Environmental Planning and Assessment Act 1979 and Regulations 2000 do not use Roman numerals.
2. Modify bullet point 6 under Part 1 *Purpose* to read 'ensure that feedback is given to the community of decisions made.'
3. Delete bullet point 3 under Part 2 *Statement* as Council's Community Consultation Strategy (POL04/29) as it no longer exists.
4. Modify reference of 'Integrated Development' to 'Nominated Integrated Development' within the 3rd paragraph under Part 3.3.2 Legal Requirements as the thirty (30) day notification period only applies to Nominated Integrated Development.
5. Delete the 4th paragraph under Part 3.3.2 *Legal Requirements* as it is incorrect and also no longer applies. The paragraph refers to a clause (No. 37A) in the Shoalhaven Local Environmental Plan 2014. This clause applied to Shoalhaven Local

Environmental Plan 1985. Whilst this Plan still remains applicable to some land, this provision in the policy is considered superfluous.

6. Revise subject sites and delete street names in Diagram 1a, 1b, 2a, 2b, 3a and 3b due to concerns raised by the landowner/s.
7. Delete 'Commercial Caravans' and requirement under Table 2: Development Not Requiring Notification, as Council's Policy Relating to the Parking of Caravans for Commercial and Community Activities within the City of Shoalhaven (POL12/124) no longer exists.
8. Relocate Part 3.3.19 *Minor development/activities not requiring Notification* to before Part 3.3.

These amendments are proposed to essentially 'tidy up' the current policy and are not substantive given the proposed amendments to the Environmental Planning and Assessment Act 1979. These proposed amendments, if implemented, will require Council to comprehensively review its community consultation policy.

Internal Consultation

Relevant officers within the Planning and Development Services Group were consulted and comments incorporated into the proposed amendments.

DE17.28 Development Application – 7 Beach St, Huskisson - Lot B DP 359526

DA. No: DA16/2070/4

HPERM Ref: D17/106804

Group: Planning Environment & Development Group
Section: Development Services

Description of Development: Demolition of existing dwelling and ancillary outbuilding, and
Construction of a residential flat building

Owner: JACA Property Group Pty Ltd

Applicant: Lee Carmichael Town Planning

Notification Dates: 23 September 2016 to 10 October 2016

No. of Submissions: Five (5) objections, nil in support.

Purpose / Reason for consideration by Council

Council resolved to call in the application on 25 October 2016 due to public interest. This report is for Council's information noting that the application will be the subject of a detailed addendum report.

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

That Council receives this report for information.

Options

1. Receives the report for information.

Implications: Council will be able to consider the report and note that there is an addendum report on the matter for separate and detailed consideration.

2. Not receive this report and make an alternative recommendation and provide direction to staff.

Background

The application is being put to Council following Council's resolution to call in the application. The applicant and owners have requested the matter be put to the April meeting. This report and addendum is a response to that request.

The application requires further information to resolve solar impact /access issues which are a consequence of non-conforming setbacks.

There are also other non-compliances with respect to Council's Development Control Plan and Shoalhaven Local Environmental Plan 2014.

These issues are detailed in the addendum report.

DE17.28

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.