

Development Committee

Meeting Date: Monday, 17 July, 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 - 5 June 2017 1
3. **Declarations of Interest**
4. **Mayoral Minute**
5. **Deputations and Presentations**
6. **Notices of Motion / Questions on Notice**

Nil
7. **Reports**
 - DE17.45 Development Application – 52 Cyrus St Hyams Beach – Lot 58 DP
577627 8
 - DE17.46 Development Application – 59 Princes Highway Ulladulla – Lot A DP
346694 26
 - DE17.47 Waiving of DA Fees - Nowra CBD Access Improvement Financial
Assistance Program 30
 - DE17.48 Shoalhaven LEP 2014 - Review of Subdivision Controls 32
 - DE17.49 Strategic Planning Works Program - Adoption and Finalisation 39

DE17.50	Endorsement for Exhibition - Draft Shoalhaven Affordable Housing Strategy	53
DE17.51	Exhibition & Finalisation - Planning Proposal - Additional Permitted Use - 5C Creston Grove, Bomaderry (PP021).....	59
DE17.52	Options Report - Berry Heritage Investigations	70

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: Monday, 5 June 2017

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Time: 5:00pm

The following members were present:

Clr Patricia White - Chairperson
Clr Joanna Gash
Clr John Wells
Clr Amanda Findley
Clr John Levett
Clr Nina Cheyne
Clr Annette Alldrick
Clr Andrew Guile
Clr Mitchell Pakes
Clr Greg Watson
Clr Bob Proudfoot
Mr Russ Pigg - General Manager

Apologies / Leave of Absence

Apologies were received from Clr Gartner and Clr Kitchener

Confirmation of the Minutes

RESOLVED (Clr Findley / Clr Gash)

MIN17.474

That the Minutes of the Development Committee held on Tuesday 09 May 2017 be confirmed.

CARRIED

Declarations of Interest

Nil

DEPUTATIONS AND PRESENTATIONS

Mr John Willmott addressed the Committee in relation to DE17.40 Planning Proposal (Rezoning) - St Vincent and Deering Streets, Ulladulla.

Mr Anthony Barthelmess addressed the Committee in relation to DE17.42 SF10554 – 1 Greens Road Greenwell Point – Lot 1 DP 530097.

Mr Tony Marshall addressed the Committee in relation to DE17.43 Development Application – 98 Canberra Crescent, Burrill Lake – Lot 149 DP 15648

Procedural Motion - Bring Item Forward

RESOLVED (Clr Gash / Clr Cheyne)

MIN17.475

That the following items be brought forward for consideration:

- DE17.40 – Planning Proposal (Rezoning) – St Vincent and Deering Streets, Ulladulla (Your Urban Designer)
- DE17.42 – SF10554 – 1 Greens Road Greenwell Point – Lot 1 DP 530097
- DE17.43 – Development Application – 98 Canberra Crescent, Burrill Lake – Lot 149 DP 15648

CARRIED

REPORTS

DE17.40 Planning Proposal (Rezoning) - St Vincent and Deering Streets, Ulladulla (Your Urban Designer)

**HPERM Ref:
D17/91270**

Recommendation (Item to be determined under delegated authority)

That Council:

1. Give in principle support for the proposed rezoning and building height review for Lots 1-7, 9 DP 21597 and Lot CP SP 42583, St Vincent and Deering Streets, Ulladulla; and submit a Planning Proposal to the NSW Department of Planning and Environment for Gateway determination upon receipt of the final outstanding owners consent.
2. Request that the following be required as a condition of the Gateway determination:
 - a. Additional visual impact assessment and/or modelling for the planning proposal site following completion of the Review of Building Heights Study (part of Ulladulla CBD) as required by Council.
 - b. Economic feasibility analysis to consider the proposed heights following completion of the Review of Building Heights Study (part of Ulladulla CBD).
 - c. Stage 1 Contamination Assessment for Lots 3-7, 9 DP 21597 and Lot CP SP 42583.
3. Require the proponent to pay pro rata costs associated with the preparation of the Review of Building Heights Study.
4. Advise the proponent, adjacent land owners and relevant community groups of this decision, noting the opportunity for formal consultation later in the process.
5. If necessary, receive a further report following receipt of the Gateway determination.

RESOLVED (Clr Gash / Clr Findley)

MIN17.476

That Council:

1. Give in principle support for the proposed rezoning and building height review for Lots 1-7, 9 DP 21597 and Lot CP SP 42583, St Vincent and Deering Streets, Ulladulla; and submit a Planning Proposal to the NSW Department of Planning and Environment for Gateway determination upon receipt of the final outstanding owners consent.
2. Request that the following be required as a condition of the Gateway determination:
 - a. Additional visual impact assessment and/or modelling for the planning proposal site following completion of the Review of Building Heights Study (part of Ulladulla CBD) as required by Council, which considers up to 14 mts on the subject site.
 - b. Economic feasibility analysis to consider the proposed heights following completion of the Review of Building Heights Study (part of Ulladulla CBD).
 - c. Stage 1 Contamination Assessment for Lots 3-7, 9 DP 21597 and Lot CP SP 42583.
3. Require the proponent to pay pro rata costs associated with the preparation of the Review of Building Heights Study.
4. Advise the proponent, adjacent land owners and relevant community groups of this decision, noting the opportunity for formal consultation later in the process.
5. If necessary, receive a further report following receipt of the Gateway determination.

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

AGAINST: Nil

CARRIED

DE17.42 SF10554 – 1 Greens Road Greenwell Point – Lot 1 DP 530097

HPERM Ref: D17/140378

Recommendation (Item to be determined under delegated authority)

That the Committee:

1. Confirm that it does not support the departure from the Performance Criteria P3.2 and P3.3 of Control 5.3 *Subdivision in the Floodplain*, Chapter G9, SDCP 2014; and
2. Refer the application (SF10554) back to staff for determination.

RESOLVED (Clr Pakes / Clr Proudfoot)

MIN17.477

That Council

1. Supports the departure from the Performance Criteria P3.2 and P3.3 of Control 5.3 *Subdivision in the Floodplain*, Chapter G9, SDCP 2014.
2. Refer the application (SF10554) back to staff for determination.

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

AGAINST: Clr Gash, Clr Findley, Clr Cheyne and Clr Alldrick

CARRIED

DE17.43 Development Application – 98 Canberra Crescent, Burrill Lake – Lot 149 DP 15648**HPERM Ref:
D17/144057****Recommendation (Item to be determined under delegated authority)**

That the Development Committee

1. Support the variation to maximum building height of 8.5m set by clause 4.3 of Shoalhaven LEP 2014 for two storey pole home at 98 Canberra Crescent, Burrill Lake to a maximum building height of 11.15m;
2. Refer the application back to staff for determination.

Note: Cllr Watson left the meeting at 6:15pm

RESOLVED (Cllr Proudfoot / Cllr Wells)

MIN17.478

That the Development Committee

1. Support the variation to maximum building height of 8.5m set by clause 4.3 of Shoalhaven LEP 2014 for two storey pole home at 98 Canberra Crescent, Burrill Lake to a maximum building height of 11.15m;
2. Refer the application back to staff for determination.

FOR: Cllr White, Cllr Gash, Cllr Wells, Cllr Findley, Cllr Levett, Cllr Cheyne, Cllr Alldrick, Cllr Guile, Cllr Pakes, Cllr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

DE17.38 Section 138 Approvals, Roads Act 1993**HPERM Ref:
D16/374324****Recommendation (Item to be determined under delegated authority)**

That;

1. Section 138 of the Roads Act 1993 be applied consistently to all development where approval is required in the road reserve.
2. A clear modern driveway profile/gradients and associated fact sheet be produced to assist home builders to ascertain suitable garage floor levels and driveway gradients to facilitate integration with Council's road reserve.

Note: Cllr Findley left the meeting at 6:24pm

RESOLVED (Cllr Wells / Cllr Cheyne)

MIN17.479

That

1. Section 138 of the Roads Act 1993 be applied consistently to all development where approval is required in the road reserve.
2. A clear modern driveway profile/gradients and associated fact sheet be produced to assist home builders to ascertain suitable garage floor levels and driveway gradients to facilitate integration with Council's road reserve.

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

AGAINST: Nil

CARRIED

DE17.39 Development Application DA16/1759 - 2159 Moss Vale Road Barrengarry - Lot C in DP 18081	HPERM Ref: D17/88129
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Recommendation (Item to be determined under delegated authority)

That Council:

1. Support the following variations to the relevant development standards in Shoalhaven LEP 2014 for the purpose of the erection of a dwelling house on Lot C in DP18081:
 - a. variation to the minimum lot size of 40Ha to 750m², and
 - b. variation to the 5.5m building height under clause 4.3 to 6.855m.
2. That the application is referred back to staff for determination.

RESOLVED (Clr Guile / Clr Wells)

MIN17.480

That Council:

1. Support the following variations to the relevant development standards in Shoalhaven LEP 2014 for the purpose of the erection of a dwelling house on Lot C in DP18081:
 - a. variation to the minimum lot size of 40Ha to 750m², and
 - b. variation to the 5.5m building height under clause 4.3 to 6.855m.
2. That the application is referred back to staff for determination.

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

AGAINST: Nil

CARRIED

DE17.40 Planning Proposal (Rezoning) - St Vincent And Deering Streets, Ulladulla (Your Urban Designer)	HPERM REF: D17/91270
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Item dealt with earlier/later in the meeting see MIN17.476

DE17.41 Options - Dual occupancy development - Old residential area of Berry	HPERM Ref: D17/133020
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Recommendation (Item to be determined under delegated authority)

That Council:

1. Receive this options investigation report and provide a direction to progress.
2. Consult with the Berry Forum on the preferred option.

RESOLVED (Clr Wells / Clr Guile)

MIN17.481

That Council

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

2. Consider the provision of \$20,000 in the 2017/2018 Budget to review the Shoalhaven Heritage Study to support any additional heritage listings in Berry.
3. Consult with the Berry Forum, Berry Chambers of Commerce and other stakeholder groups on the preferred option.

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

AGAINST: Nil

CARRIED

**DE17.42 SF10554 – 1 Greens Road Greenwell Point – Lot 1 DP
530097**

**HPERM REF:
D17/140378**

Item dealt with earlier/later in the meeting see MIN17.477

**DE17.43 Development Application – 98 Canberra Crescent, Burrill
Lake – Lot 149 DP 15648**

**HPERM REF:
D17/144057**

Item dealt with earlier/later in the meeting see MIN17.478

Introduction of Items as Matters of Urgency

Recommendation

That the following addendum reports be introduced as matters of urgency:

1. DE17.44 Development Application – 5 Spinnaker Street, Vincentia – Lot 716 DP 1204850

CARRIED

The Chairperson ruled the matter as one of urgency as it relates to urgent business of Council and allowed its introduction.

ADDENDUM REPORTS

**DE17.44 Development Application – 5 Spinnaker Street, Vincentia
– Lot 716 DP 1204850**

**HPERM Ref:
D17/177122**

Recommendation (Item to be determined under delegated authority)

That the Development Committee:

1. Support the 10.4% variation to the minimum lot size set by clause 4.1 of Shoalhaven LEP 2014 for allotments at 448 m² each for torrens title subdivision of dual occupancy to be erected at 5 Spinnaker Street Vincentia – LOT 716 DP 1204850;
2. Refer the application back to staff for determination

RESOLVED (Clr Wells / Clr Gash)

MIN17.482

That the Development Committee:

1. Support the 10.4% variation to the minimum lot size set by clause 4.1 of Shoalhaven LEP 2014 for allotments at 448 m² each for torrens title subdivision of dual occupancy to be erected at 5 Spinnaker Street Vincentia – LOT 716 DP 1204850;
2. Refer the application back to staff for determination

CARRIED

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

Against: Nil

CARRIED

There being no further business, the meeting concluded, the time being 6.34 pm.

Clr White
CHAIRPERSON

DE17.45 Development Application – 52 Cyrus St Hyams Beach – Lot 58 DP 577627

DA. No: DA16/1341/4

HPERM Ref: D17/152965

Group: Planning Environment & Development Group
Section: Development Services

Attachments:

1. Coastal Engineering Review by Advisian (under separate cover) ➡
2. Coastal Hazards Assessment Summary (under separate cover) ➡
3. Assessment of submissions (councillors information folder) ➡
4. Section 79C Planning Assessment Report (under separate cover) ➡
5. Shadow diagrams ↓
6. Boathouse Arm Design Statement ↓
7. Draft conditions of consent (under separate cover) ➡
8. Statement of Environmental Effects - Part 1 Rev 2 (under separate cover) ➡
9. Statement of Environmental Effects - Part 2 Rev 2 (under separate cover) ➡
10. Plans (councillors information folder) ➡

Description of Development: Demolition of an existing dwelling and erection of a new two storey dwelling and ancillary boathouse arm

Owner: T G Van Veenendahl

Applicant: Peter Stutchbury Architecture

Notification Dates: The application has been notified on three occasions:

1. 6 to 21 April 2016 (extended to 2 May 2016 in response to neighbour's request);
2. 10 to 25 October 2016 (extended to 31 October 2016 in response to neighbour's request) – notified amended plans, boathouse arm design statement, initial and supplementary Coastal Hazards Risk Assessment Reports;
3. 17 February to 6 March 2017 – notified additional information on geotechnical and coastal hazard assessment issues.

No. of Submissions: Forty (40)

Purpose / Reason for consideration by Council

At its Ordinary meeting held on 28 February 2017 Council resolved to call in the application for determination as there is significant public interest in the development (MIN17.133).

Recommendation (Item to be determined under delegated authority)

That Development Application 16/1341 to demolish the existing dwelling and erect a two storey dwelling and ancillary boathouse arm on Lot 58 DP 577627, 52 Cyrus Street Hyams Beach be approved subject to:

1. The boathouse floor being constructed to a height of 4.75m AHD (without any increase in maximum building height) and in accordance with the requirements of the Advisian report dated 6 June 2017 (report No.301015-03779-001) vis:

DE17.45

- a. the floor of the boathouse is to be constructed of timber slats to reduce wave uplift pressures;
 - b. access to the boathouse is to be from the landward side or via a timber ramp oriented south-north so that it does not interfere with wave runoff flows;
 - c. The boathouse is to be landscaped to suitably screen the sub-floor area.
2. The additional conditions contained in Attachment 7 of this report.

Options

1. Approve the application in accordance with the recommendation of this report.

Implications: This would allow the boathouse to be constructed in its present position with an elevated floor. There is no change in the overall height of the boathouse but it would be on piers without filling. The open nature of the subfloor will have a visual impact but additional screen planting will address this matter.

2. Approve the application with an alternative recommendation.

Implications: Council will need to provide justification for alternative recommendation consistent with Section 79C considerations.

3. Refuse the application.

Implications: Council would need to determine the grounds on which the application is refused consistent with Section 79C considerations.

Location

The subject site is shown outlined in orange on Figure 1 below:



Figure 1 – Location Map

DE17.45

Background

Proposed Development

This application seeks approval to demolish an existing two storey house and erect a new two storey dwelling. The new dwelling is of timber frame construction with timber wall cladding and colorbond metal roof cladding. Full details of the proposal are shown in the final revised plans (Attachment 10) and statement of environmental effects (Attachments 8&9).

The application also includes the erection of what is described by the applicant as the 'boathouse arm'. This is a non-habitable ancillary building extending along the southern boundary from the new dwelling to 7.5m from the eastern boundary. The boathouse arm includes the boathouse 'room' and the screen wall linking the boathouse to the main dwelling. The screen wall varies in height from 3.71 metres to 4.12 metres (approximately) and it is located 900 mm from the side boundary adjoining 54 Cyrus Street. The screen wall is of concrete construction and coloured to coordinate with the beach environment.

The site plan at Figure 2 shows the public reserve to the north of the site and the footprint and roofline of the adjoining house at 54 Cyrus Street to the South.

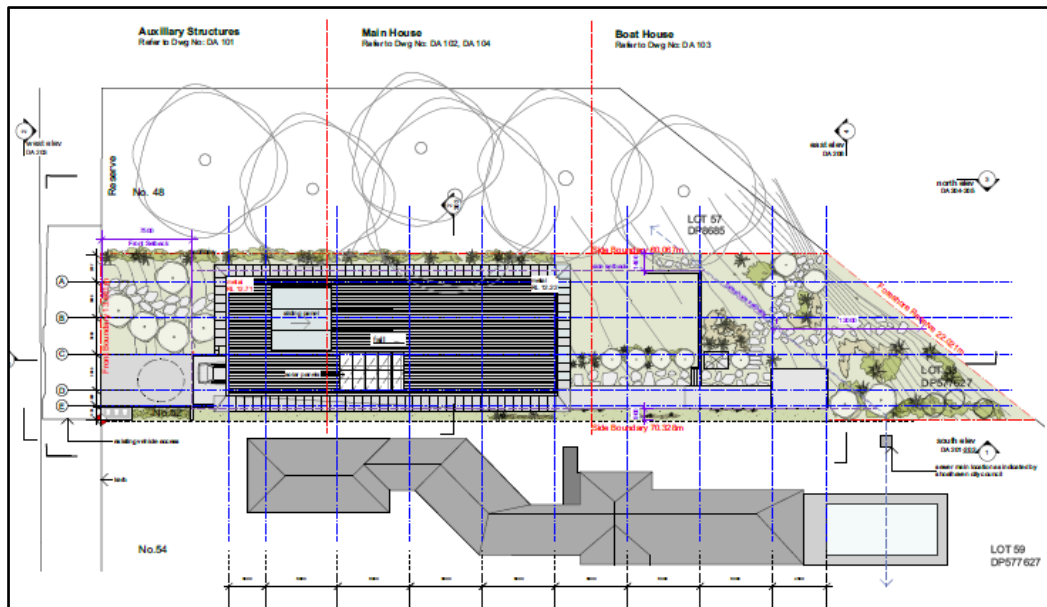


Figure 2 – Site plan

Subject Land

The subject land is 52 Cyrus Street Hyams Beach with a legal description of lot 58 in DP 577627. The land is 13.715 metres wide and has variable depths of 60.115 metres and 77.22 metres to the North and South respectively. The eastern boundary is skewed and has a length of 21.925 metres. The land has an area of 941.7m² and is zoned R2 Low Density Residential in accordance with Shoalhaven Local Environmental Plan (SLEP2014).

The site falls from the southwest corner at the Cyrus Street frontage to the north and the east. It has a maximum elevation at the street frontage of 9.79 metres AHD and a minimum of approximately 1.5 metres AHD at its boundary with the foreshore reserve.

Site & Context

The site is bounded on the east by a strip of foreshore reserve and to the north by another area of reserve, which make up the Cyrus Street Reserve, an area of community land owned and managed by Council. This area of reserve to the north of the site contains a deeply incised natural creek, the lower reaches of which meander in varying locations in the beach in front of the site.

DE17.45

To the west of the site is Cyrus Street and to the south is No 54 Cyrus Street which contains a two storey dwelling with a swimming pool. The eastern section of the site extends to the sand of the beach.

History

The foreshore reserve was subdivided from the subject land and the adjoining No 54 Cyrus Street in 1975, the existing dwelling predates the subdivision. The most recent approval for the land was for a timber fence on the boundary with 54 Cyrus Street (DA11/2452). Council records also include a building approval for dwelling additions in 1971 (BA71/1489).

Issues

The development is generally compliant with the provisions of Shoalhaven Local Environmental Plan (SLEP2014) and Shoalhaven Development Control Plan (SDCP2014). There are a number of variations to provisions of SDCP2014 - Chapter G6 (Coastal Management Areas) and Chapter G12 (Dwelling Houses, Rural Worker's Dwellings, Additions and Ancillary Structures).

Predominant issues in the assessment of the application include: the exposure of the site to coastal hazards; the impact on visual amenity of the adjoining beach and the impact on views enjoyed by nearby properties. The 'boathouse arm' features highly in the concerns raised.

Exposure of the site to coastal hazards

This aspect of the development has been the subject of submissions and competing expert reports. The extent to which the site is affected by coastal hazards and erosion from the creek that flows from the public reserve to the north, which frequently meanders across the lower eastern section of the site, are core issues.

Applicant's submission

The applicant has supplied the following expert reports that address this issue:

- 1) Coastal Hazards Risk Assessment Report dated 6 June 2016 and prepared by Geoff Metzler and Associates P/L;
- 2) Coastal Hazards Risk Assessment – Supplementary Report for 2025 ZRFC dated 5 September 2016 and prepared by Geoff Metzler and Associates P/L;
- 3) impact of Bedrock on Coastal Hazard Assessment dated 21 December 2016 and prepared by Geoff Metzler and Associates P/L;
- 4) 52 Cyrus Street Hyams Beach – Development Application Review Advice dated 19 December 2016 and prepared by BMT WBM;
- 5) report on Geotechnical Investigation dated 21 December 2016 and prepared by Douglas Partners P/L;
- 6) report on Geotechnical Investigation dated 15 February 2017 and prepared by Douglas Partners P/L.

In summary, the applicant's submission is that the proposed development satisfies all of the considerations around coastal hazards and deserves approval. The applicant does not agree with the position asserted in the coastal hazard assessment reports submitted by the owner of 54 Cyrus Street.

Discussion

These issues have been addressed at length in the assessment of the application.

The lack of concurrence between the expert reports provided by the applicant and the submitter led Council to commission an independent review of coastal hazards. This work was undertaken by Advisian who are recognised as a leading coastal engineering consultancy.

- the boathouse can be constructed at its proposed location subject to the floor level being raised so that it is clear of the extent of wave runup (4.4m AHD) plus an allowance for future sea level rise (0.35m). This level is 4.75m AHD;
- the floor of the boathouse, if constructed at this location, should be constructed of timber slats to reduce wave uplift pressures;
- access to the boathouse would need to be from landward or via a timber ramp oriented south-north so that it does not interfere with wave runup flows;
- alternatively to above points, the boathouse can be relocated landwards of the estimated extent of wave runup, plus an allowance for sea level change;
- all development is to be piled so that it is founded on rock in accordance with the recommendations of the geotechnical report by Douglas Partners;
- there should be no filling or retaining walls under the boathouse or within the extent of wave runup.

Clause 5.2.3 of Chapter G6 (Coastal Management Areas) of Shoalhaven DCP 2014

Impact on Views from 53-55 Cyrus Street

[illegible]

Figure 3 – Western elevation of new building showing outline of existing building (in pink)

View loss has been raised as an issue by the owner of No. 54 Cyrus Street. More detail on this issue is given below in the 'Submissions' section of this report and in Attachment 3 'Report on Assessment of Submissions'.

Applicant's submission

The applicant has comprehensively addressed the view impact on 54 Cyrus Street. The applicant's position is that the views from the upper (living area) floor are not impacted to any significant extent and that all important and iconic views from the upper floor (including those across the side boundary between 52 and 54) are retained.

The applicant contends that the main house building has been sensitively designed and located so as to preserve these views. Had the building been constructed to the full extent of the allowable building envelope, it would have obscured more views from No 54. The applicant has provided an aerial photograph overlaid with the extent of the views retained from No 54 (see Figure 4).



Figure 4 – Extent of views from first floor living area and rear terrace (pool deck) of 54 Cyrus Street

Discussion

There will be minimal loss of views from the first floor of 54 Cyrus Street. Some loss of north easterly views will occur from the first floor bedroom and bathroom, neither of which are regarded as living areas.

There will be a loss of views from the ground floor rooms and adjoining terrace. However these rooms are two bedrooms and a bathroom and are not considered living rooms. Having regard to the retention of the vast majority of quality and iconic views from the main living areas, the overall loss of views is considered to be acceptable. More detail on the assessment of views is contained in Attachment 4 Section 79C Assessment Report. That assessment follows the view sharing principles established by the NSW Land and Environment Court in its decision in *Tenacity Consulting v Warringah Council [2004]*.

An important principle established by the Land and Environment Court decision is that the expectation to retain side views is often unrealistic as it is more difficult to protect than views over other boundaries. Council's LEP and DCP provides for a building envelope and a maximum building height of 7.5 metres. Apart from some minor variations (detailed later in this report) the proposed development is compliant with these controls. Indeed the two storey part of the building (the main house) could extend further seawards while being compliant with the controls, which would have a far more significant effect on views than the

proposal before Council. This supports the applicant's contention that the building has been sensitively designed to minimise view loss to the adjoining property while providing acceptable levels of amenity for the occupants of the new building.

The Banksia trees planted along the southern boundary of the site will be removed where the footprint of the new building lies. The removal of these trees will effectively provide an improvement to the views enjoyed by No. 54.

Impact on views – 57, 59 and 53-55 Cyrus Street

A submission by the owners of Nos. 57 and 59 Cyrus Street (rental cottages opposite) following the third round of submissions argues that these properties as well as 'The Green Cabins' at 53-55 Cyrus Street will suffer loss of views of Jervis Bay if the proposal goes ahead.

Discussion

The roof of the new building is 0.75m above the height of the roof of the existing building and 2.1m below the ridge on the house at 54 Cyrus Street. This means that the new building will only marginally reduce the view available from 57 and 59 Cyrus Street. The views of Point Perpendicular and the land/water interface will be retained.

The views from the cottages at 53-55 Cyrus Street are primarily along the side boundary of No 52 and across the adjoining public reserve. These views will not be affected.

A large tree in the front yard of the subject property will be removed as a consequence of the development and this will increase the views available from 57, 59 and 53-55 Cyrus Street.

Solar access

Council's DCP requires that 50% of the area of the windows or glazed doors of north facing living areas and principal open space of adjoining dwellings retain at least three hours of sun between 9am and 3pm on the shortest day of the year (21 June). Subclause 5.5 (2) (c) of clause 5.5 (Coastal Management Areas) of Shoalhaven LEP2014 also requires Council to consider the impact of the proposed development on the amenity of the coastal foreshore including any significant overshadowing.

Applicant's submission

The applicant has provided plan and perspective views of the extent of shadowing on the adjoining property (54 Cyrus Street). The shadow diagrams which are shown at Attachment 5 indicate that:

- on the upper floor there will be no loss of solar access to the living rooms and outdoor open space areas, with some loss of sun to the first floor bedroom;
- on the lower floor there will be some additional loss of sun in the afternoon to the ground floor bedrooms, bathroom and outdoor paved area.

Discussion

The extent of shadowing is considered to be acceptable. The living rooms of the upper floor of the adjoining dwelling have no loss of solar access, while the bedroom on the upper floor retains at least 3 hours of sunlight over 50% of its area. The principal open space area on the site is regarded as the pool deck area, which is completely unaffected. The paved area adjoining the lower floor bedrooms and the bedrooms themselves still retain substantial solar access until after 12 pm. Most of the existing Banksia trees planted along the boundary of No 52 and 54 will be removed as a consequence of the new development. This will further reduce the filtered shadowing of No 54.

DE17.45

Visual impact

Submissions have made varying references to the visual impact of the development, with most attention devoted to the boathouse arm element. While the impact of the main house has also featured in a few submissions, it is of lesser concern.

Applicant's submission

The applicant submits that the boathouse arm is a valid use of the property and that it complies with the 7.5m foreshore setback in DCP2014. The applicant has provided a Design Statement for the boathouse arm (Attachment 6) and states that the colours and materials of the boathouse arm were chosen to be sympathetic to the sand of the foreshore and that the outline of the building will be softened by existing and proposed plantings of endemic coastal species.

The applicant contends that the design was carefully located close to the southern boundary so that it would only ever be viewed as foreground to both levels of No.54.

The applicant has provided 3D images of the building as further illustration of the practical and sensitive management of the building form as seen at Figures 5 and 6.



Figure 5 – View from foreshore reserve looking west towards site



Figure 6 – View from foreshore reserve looking south towards site

In summary the design statement concludes the following with respect to the service arm:

- it sits well below neighbours and blends inoffensively with both surrounding scale and materials;
- It has been carefully designed to sit below the neighbour's primary view lines whilst maintaining a degree of privacy in both directions;
- The eastern garden is overlooked by the southern neighbours and the service arm allows the area to retrieve some privacy.

Discussion

The visual impact of the boathouse arm has been an issue in many submissions. These have been addressed in the submissions section below and in the Report on Assessment of Submissions at Attachment 3.

The height of the boathouse arm was reduced with the amended plans lodged in June 2016. Having regard to the degree of overlooking from the adjoining house at No. 54, the owner's desire to achieve a degree of privacy in the area of the site between the dwelling and the foreshore is considered reasonable.

The original approval for the house at No. 54 was issued prior to the current DCP which provides for a 'privacy sensitive zone' which should not be overlooked from an adjoining property. Generally this is described by a 12m radius from a living room area. As with many waterfront houses, the area between the house and the waterfront at the subject site is intensively used as the principal private open space area on the site. The owners concerns about privacy are exacerbated by the short term rental of the adjoining house.

The extent of the 12m privacy sensitive zone affecting the subject property, from the adjoining property at No. 54, is shown by the heavy red line in Figure 7. The footprint and roof of the house at No 54 is shown below the development site.

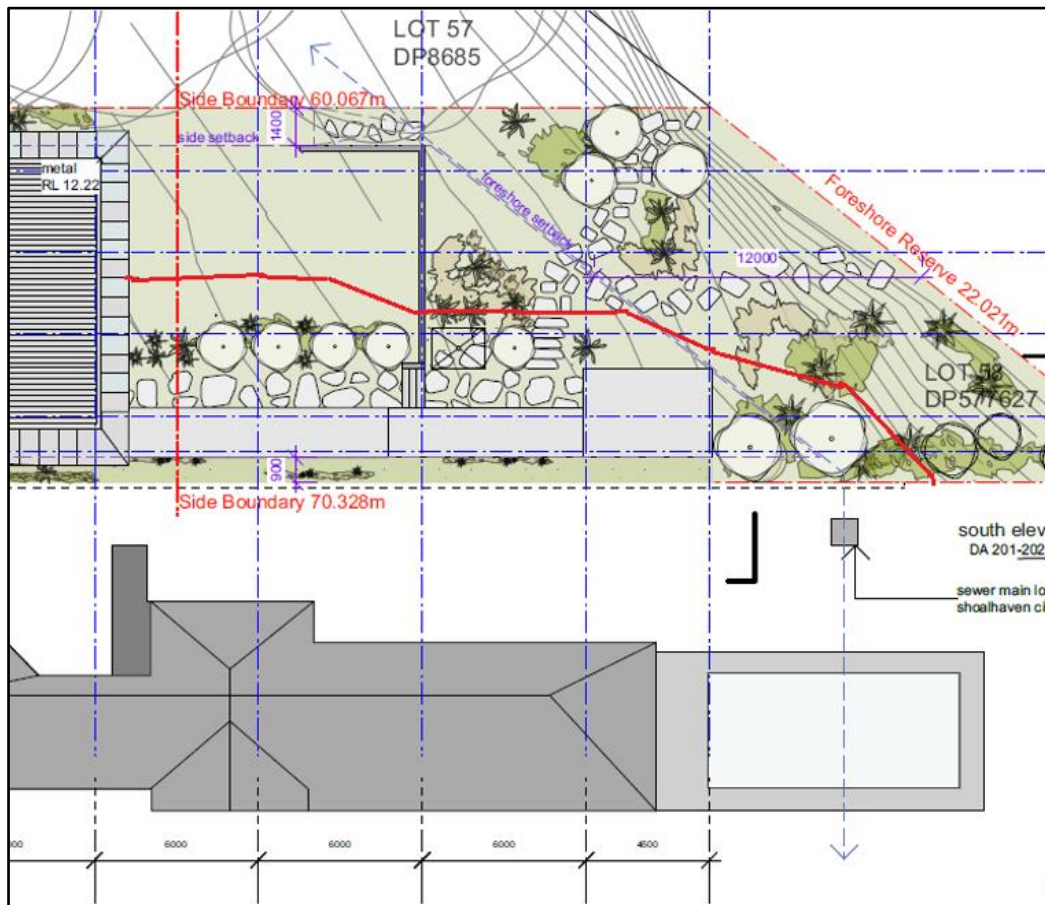


Figure 7 – Extent of 12m 'privacy sensitive zone' within the subject property

DE17.45

Figure 8 illustrates the extent of the overlooking of the private open space area of No 52 by the first floor living areas and outside deck areas of No 54 Cyrus Street.



Figure 8 – Photo of 54 Cyrus Street showing the extent of overlooking of the private open space of 52 Cyrus Street (in the foreground)



Figure 9 – Approximate location of the boathouse arm with the raised floor level

Figure 9 shows the approximate outline impression of the boathouse arm with the raised floor level as required by the Advisory report. It is considered that the visual impact of the boathouse arm in its proposed location as viewed from the foreshore could be improved by additional plantings, particularly low plants to screen the subfloor structure which is required to be open for to allow for wave runoff.

Building envelope (Shoalhaven DCP 2014, Chapter G6, Section 5.2.1)

There is a 1.07 metre encroachment to the building envelope at the northern “eaves” of the eastern end of the roof. Figure 10 shows the encroachment beyond the building envelope which is identified as the red dashed line. The encroachment is beyond the 45 degree angled ‘splay’ at the northern side of the roof.

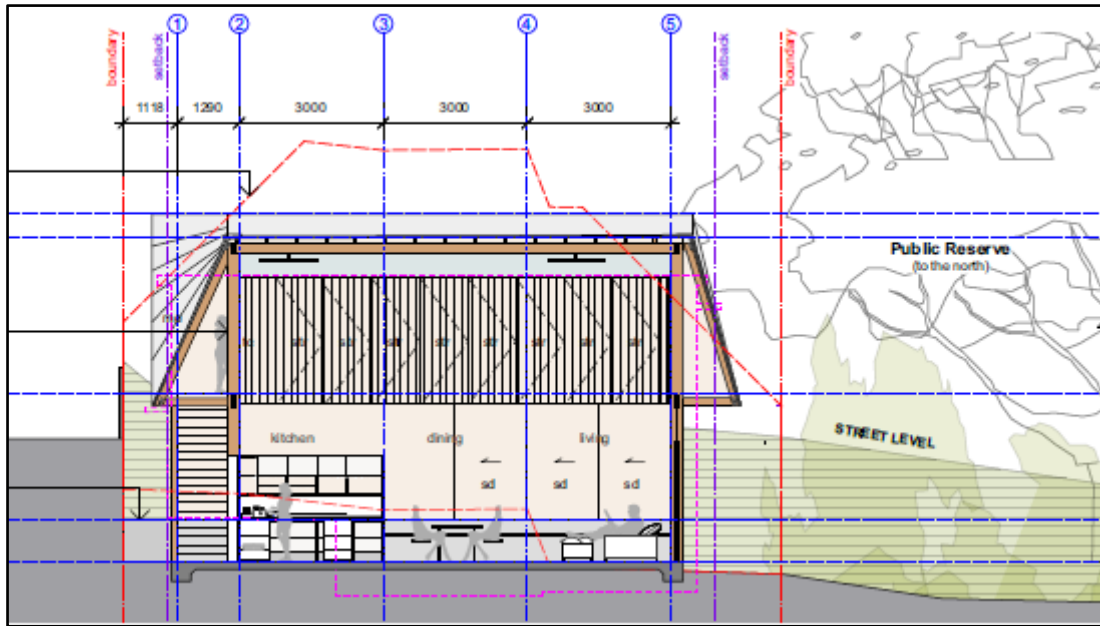


Figure 10 – East elevation showing the encroachment beyond the building envelope

Applicant's submission

In the Statement of Environmental Effects (SOEE) the applicant states the building is generally within the envelope but due to the irregular shape of the lot and the changes of ground elevation, the envelope lines vary significantly from elevation to elevation.

Discussion

The encroachment is considered to be minor. The encroachment has no measurable adverse impact on the amenity, privacy, views or solar access of other residential properties or of the adjoining public reserve. Accordingly it is considered that the minor variation is acceptable.

Planning Assessment

The DA has been assessed under section 79C of the Environmental Planning and Assessment Act 1979. Please refer to Attachment 4.

Policy Implications

There are no policy implications associated with this application.

Consultation and Community Engagement

The application has been notified on three separate occasions. Submissions have been lodged at other times between the periods of formal notification and all submissions have been considered in the assessment of the application. Forty (40) submissions were received in total.

This application was first notified from 6 to 21 April 2016, which was extended in response to neighbour's request to 2 May 2016.

The second notification was for the amended plans, a design statement for the boathouse arm and the initial and supplementary Coastal Hazards Risk Assessment Reports. This notification occurred from 10 to 25 October 2016 and it was extended in response to neighbour's request to 31 October 2016.

The third notification was to notify additional information on geotechnical and coastal hazard assessment issues. The notification period was from 17 February to 6 March 2017.

All notifications were made in accordance with Council's Community Consultation Policy, with the letters for the first notification sent to the owners of four (4) properties lying within a

25m buffer of the site. Subsequent notifications were sent to the owners notified in the first round of notification and also to those people who made submissions during the first and second rounds.

Overall, nearly half of all submissions (45% - 18 of 40) were made by or on behalf of the owner of the adjoining property at 54 Cyrus Street.

Key issues raised in submissions are provided below. Individual submissions and assessment of them is detailed in Attachment 3 'Assessment of Submissions'.

Exposure to coastal hazards and creek erosion

Concern has been expressed that the development, and in particular the boathouse arm, will be exposed to coastal hazards and to erosion from the creek which frequently flows across the eastern end of the site.

Comment

This issue has been examined in a series of reports commissioned by the applicant and by the owner of the adjoining property. Because there was substantial disagreement between the reports Council commissioned independent advice from Advision on the coastal hazards issues. The assessment of this issue is detailed earlier in this report.

Impact of the boathouse on the visual amenity of the beach

A number of submissions have expressed concern about the impact of the boathouse on the visual amenity from Hyams Point and Hyams Beach.



Figure 11 – Aerial showing Hyams Point, Hyams Beach and the proposed development site

The concern is that the boathouse will visually dominate the beach due to its easterly location, its floor level above the level of the beach, and what respondents consider to be the excessive height of the screen wall above ground level.

Comment

The boathouse complies with the DCP setback of 7.5 metres from the property boundary, however it will have the appearance of being closer to the beach as the eastern boundary of the property extends into the loose sands of the beach. The boathouse will appear to be located just behind the berm at the rear of the beach and well above the normal level of the beach itself. The drawings submitted with the application show landscaping around the boathouse that would have the effect of partially screening it. The boathouse arm when viewed from along the beach will be silhouetted by the more extensive development on 54 Cyrus Street and is not considered to be prominent as shown in Figures 5 & 6.

The independent coastal engineering review by Advisian has found that the floor of the boathouse needs to be clear of the wave runup level. The exposure of the sub-floor space will increase the visual impact of the boathouse, which can be addressed by a condition requiring additional landscaping.

View sharing with 54 Cyrus Street

Submissions made by and on behalf of the owner of 54 Cyrus Street are concerned that the development will have a severe or devastating impact on the views currently enjoyed by No.54.

Comment

This issue is addressed in detail earlier in this report. Overall the impact on views enjoyed by 54 Cyrus Street is assessed as acceptable as:

- the views which remain unaffected are extensive and of high quality;
- the views lost are across a side boundary, which are harder to protect than those across a rear boundary;
- the views from living areas and the principal open space area are virtually unaffected.

View loss to the holiday cottages at 53-55, 57 and 59 Cyrus Street

One submission expressed concern about the potential loss of views to these properties which are heritage items of local significance listed in Shoalhaven LEP2014.

Comment

This issue is addressed in the 'Issues' section of this report and in the relevant section of the Section 79C Assessment Report at Attachment 4. The impact on views enjoyed by these properties is assessed as negligible.

Application is not validly made – encroachments on adjoining public reserve

One submission has expressed the view that the application is invalid as it lacks the requisite owner's consent. This is said to be in respect of the adjoining public reserve which is owned by Council.

Comment

The submission bases the assertion on an incorrect assumption that works are proposed within the public reserve. The plans and other information submitted with the application reveal no such works and the application is valid.

It is true there are existing encroachments on the public reserve in terms of part of the concrete driveway and part of the front fence. The proposed new development does not rely on the continuation of these encroachments which have been in existence for decades. As part of the approval, there is a condition requiring the removal of the concrete driveway and fence section from the public reserve.

Impact on Council's sewer main

The proposed boathouse is located over a section of Council's sewer main. Some submissions have expressed concern that wave attack at this location may present a risk to Council's sewer main asset. They have highlighted previous damage to the sewer manhole located close by in the 54 Cyrus Street property and the protective works (rock armouring) undertaken by Council in 2013.

Comment

The application was referred to Shoalhaven Water who have not opposed the development. Shoalhaven Water have suggested conditions requiring the construction of the boathouse arm be undertaken in accordance with Council's Building Over Sewers Policy. This would require that the foundation loads of the building be taken below the zone of influence of the sewer main and that the sewer main be encased in concrete. The policy also imposes a minimum vertical clearance between the underside of the building floor and the top of the sewer main.

The applicant has indicated a willingness and ability to comply with the Shoalhaven Water requirements. This will be conditioned on the consent.

Rooftop garden

A number of submissions have expressed concern about the garden that was originally proposed on the rooftop of the boathouse arm, mainly in regard to the further loss of views enjoyed by 54 Cyrus Street. Concerns included apprehension that large trees and shrubs would be planted in the rooftop garden. The concerns continued to be expressed in later submissions, after amended plans deleted the roof garden. A few submissions were also concerned that the rooftop garden would increase the bushfire hazard to No 54.

Comment

The rooftop garden was originally proposed to soften the visual impact of the boathouse arm as viewed from No 54, but was deleted from the amended plans lodged in June 2016 following the receipt of the earlier adverse submissions.

Financial Implications:

If the application is appealed it will result in costs to Council for defending the appeal. In most cases this prospect is reasonably remote and is not a matter Council is required or entitled to consider in determining a development application. Accordingly it should not be given any weight in Council's decision.

Legal Implications

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

Under some circumstances, third parties may have a right to appeal Council's decision to the Land and Environment Court.

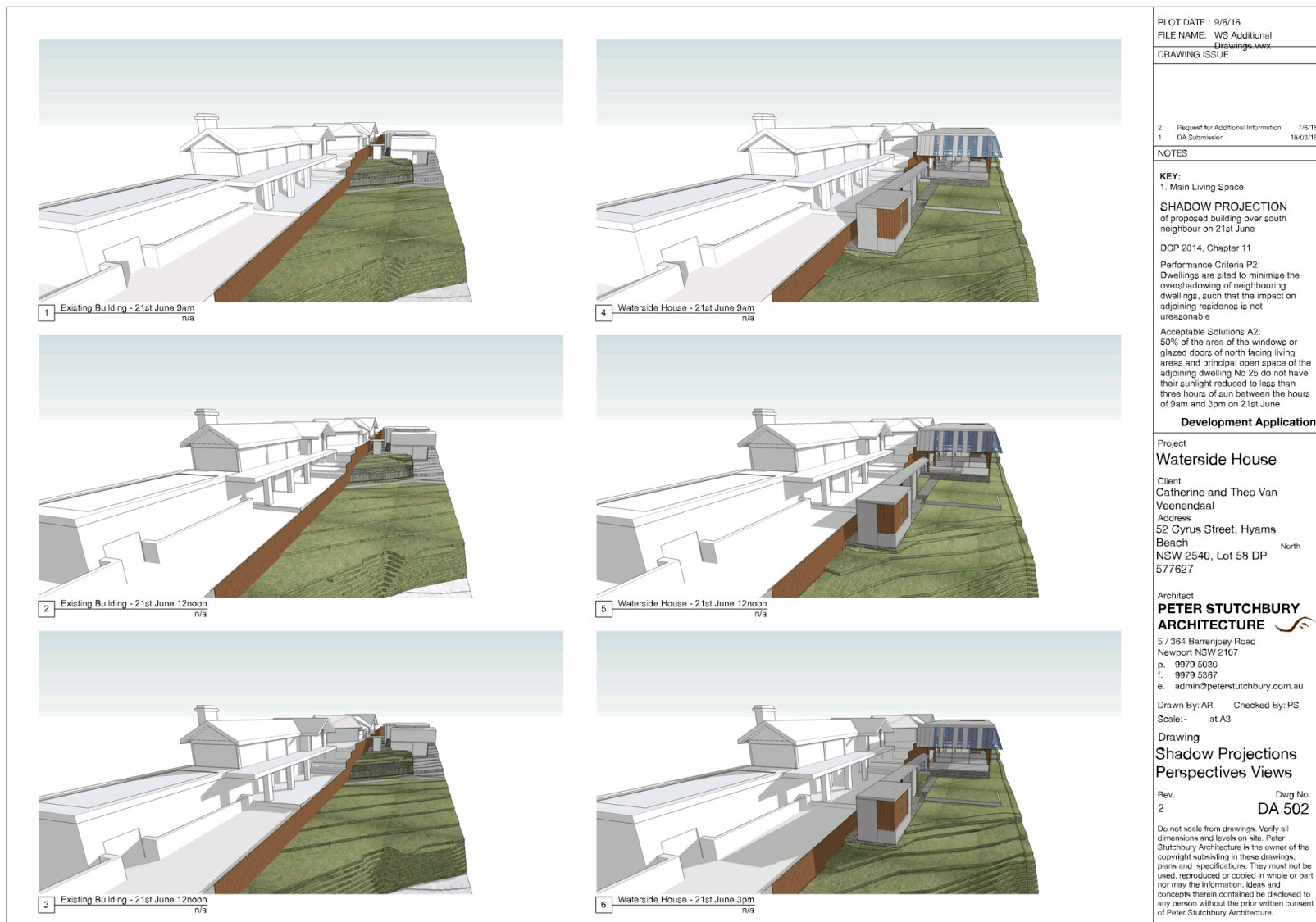
Summary and Conclusion

This application has been extensively notified on three occasions and has been subjected to analysis of the main issues identified including:

- coastal hazards;
- impact on the amenity of the adjoining property in terms of view sharing and solar access; and
- visual impact when viewed from the beach and foreshore.

The main issues arising from the proposal come from the boathouse arm and screen wall rather than from the main house building and these have been extensively assessed both in this report and attachments.

Accordingly it is recommended that the application be determined by approval with the requirement to raise the floor level of boathouse to 4.75m AHD and construct it in accordance with the requirements of the Advisian report with respect to open sub-floor, timber slats and timber ramp. The additional conditions contained in Attachment 7 are also recommended.





peter stutchbury
architecture

WATERSIDE HOUSE

20

09

16

Attn: John Clague
Shoalhaven Council
PO BOX 42
Nowra NSW 2541

RE: 52 Cyrus Street, HYAMS BEACH NSW

Dear John,

The boat arm is typical of the traditional boatshed associated with waterfront or waterside homes. It is intended to house a variety of small craft and accessories that then provide manageable access to the beach.

The boat arm provides storage that otherwise would only be managed at the western undercroft area of the home. Storage similar to that provided under adjacent pool to the south. Associated washing facilities allow for craft and accessories to be washed before secure storage.

The arm has been carefully located to sit below the neighbours primary view lines whilst maintaining a degree of privacy in both directions. Our client's eastern garden amenity is overlooked by the recent build of southern neighbours. The low arm allows the area to retrieve some privacy and be used actively by our clients.

The design was carefully located immediately parallel to the southern boundary so that it would only ever be viewed as foreground to the 2+ levels immediately adjacent to the south. The 3D images included in our report at the time of council's request for additional information clearly communicate the practical and sensitive management of this form.

It is worth noting that the boat arm is a practical beach adjunct that provides a residence in such a location with suitable amenity – the residence living room is set back in the tree line with

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architecture

WATERSIDE HOUSE

services adjacent to the street; the boat arm provides for an interactive use of front garden which we predict is a healthy attitude to beach front.

Observed from the beach, this small service arm sits well below neighbours and blends inoffensively with both surrounding scale and materials.

Please feel free to call the office if you would like to discuss further.

With Regards,

Professor Peter Stutchbury

DE17.46 Development Application – 59 Princes Highway Ulladulla – Lot A DP 346694

DA. No: DS17/1162

HPERM Ref: D17/209331

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

Description of Development: Single Storey Dwelling for use as Respite Care Cottage, detached storage shed and car parking partially within council road reserve

Owner: Lions Ulladulla District Community Foundation Inc.

Applicant: Robert Bellet

Notification Dates: 30 January 2017 to 14 February 2017 & 12 to 27 May 2017

No. of Submissions: Nil in objection
Nil in support

Purpose / Reason for consideration by Council

The purpose of this report is to seek Council direction with respect to a request for a variation to Chapter G21: Car Parking and Traffic to permit part of the parking for the development off site on council road reserve.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Supports the variation to Shoalhaven Development Control Plan 2014 – Chapter G21 – Car Parking and Traffic to allow part of the car parking for the development to be provided on the adjoining road reserve.
2. Refer the application back to staff for determination

Options

1. To support the variation to allow parking on the adjoining road reserve.

Implications: This is the recommended option and will provide more onsite area for recreation of respite care attendees

2. Not support the variation to allow parking on the adjoining road reserve.

Implications: This would require the development to be redesigned to provide all car parking onsite.

Background

Proposed Development

DE17.46

Lions Ulladulla are developing a dwelling, detached storage shed and parking for use as a Respite Care Cottage [Jindelara] as a community project that is funded by a number of grants. The original development was approved on 8th February 2016 and the project was tendered seeking a suitable builder. Subsequent tenders identified that the approved design was in excess of original cost estimates resulting in lodgement of a modified design under DS17/1162.

Due to grant funding milestone constraints council staff approved the revised dwelling component of the application in part under delegation to lock in the grant funding and left the parking design for later consideration by council as it requires a portion of its parking to be provided off site on council's road reserve. (refer **Attachment 1 – Plans**).



Figure 1 - Location Map

Subject Land

The site is located at the junction of Nurrawallee Street and the Princes Highway Ulladulla. It has a 21.45m frontage to the highway and 40.45m frontage to Nurrawallee Street and is orientated east-west.

Site & Context

Nurrawallee Street is closed to the highway at this location resulting in no through traffic and only local street traffic. The site is surrounded by low density residential dwellings south and west on R3 zoned land that supports conversion over time to medium density. An existing display home was converted to a dental surgery immediately north of the subject site [33 Nurrawallee Street] under DA08/1876 that provided parking partially on council road reserve.

DE17.46

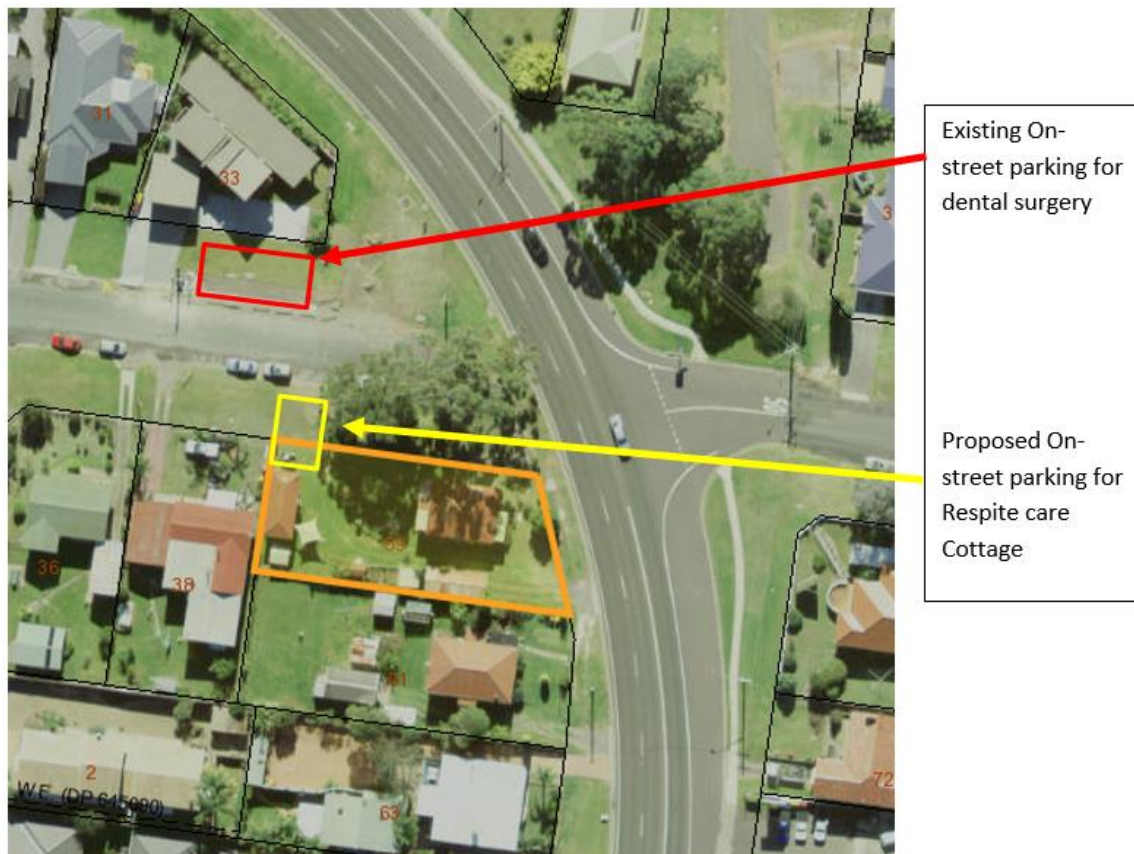


Figure 2 - Parking Locations Map

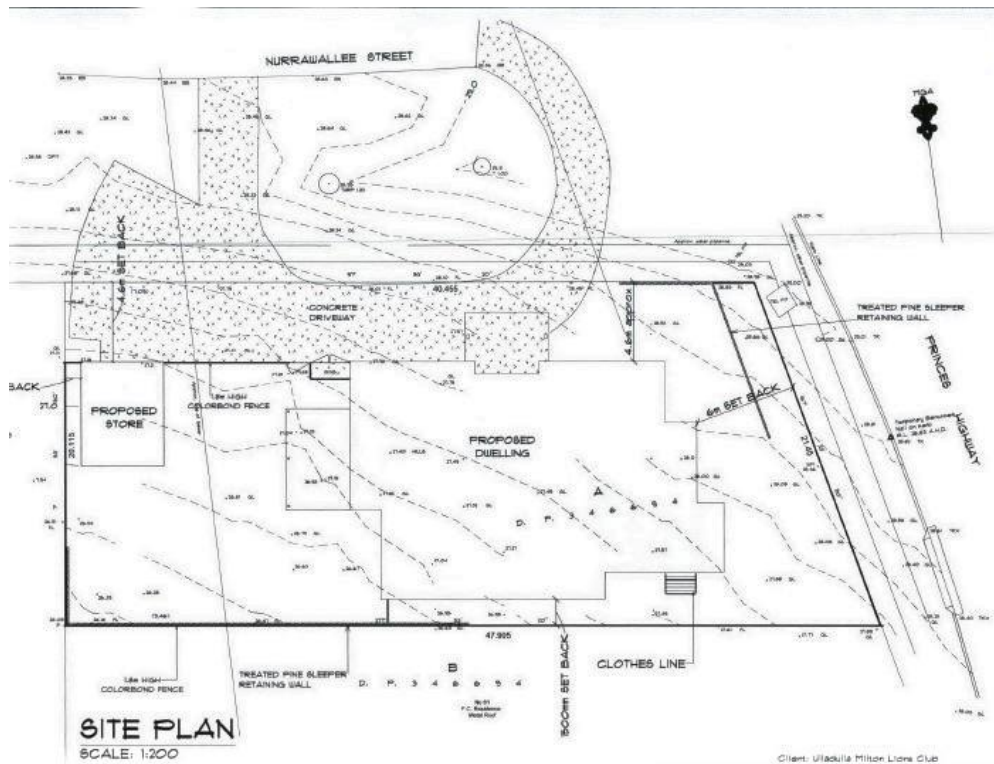


Figure 3 – Site Plan

Issues

Variation to Clause A2.1 Chapter G21: Car Parking and Traffic

DE17.46

Acceptable Solution A2.1 states - *Car parking spaces are provided on-site and are readily accessible from the road frontage of the development.* The revised design seeks to locate part of the car parking for the proposal on council road reserve.

Applicant's Submission

The Lions Club seek to maximise the play area on site for its children and to provide physical separation of vehicle parking area from the play area to provide increased safety for both the children and the public.

Discussion

Performance Criteria P2 part 5.3 Parking layout and Dimensions of Chapter G21: Car Parking and Traffic requires the development to provide safe and efficient circulation, manoeuvring and parking of vehicles.

The proposed parking design incorporates a circular one way driveway that starts from the closed end of Nurrawallee Street and moves west below a covered entry portico allowing for undercover entry and pick up from the front door of the respite care cottage then proceeding back to Nurrawallee Street to 90 degree parking located in an arc close to the western boundary of the subject lot and projecting approximately 7m onto council road reserve.

Internal Referral Comments

Asset and Works – The principle of providing private parking spaces on public land is not generally supported.

Property - No objection provided there are no permanent structures erected within the road reserve.

Planning Assessment

The remaining part of the application will be assessed by staff under s79C of the Environmental Planning and Assessment Act 1979.

Consultation and Community Engagement:

No public submissions were received in relation to Council's notification of the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a (25)m buffer of the site

Legal Implications

The carparking on the road will be covered by a Section 138 approval under the Roads Act.

Summary and Conclusion

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

- The design provides:
 - Safe and efficient circulation, manoeuvring and parking of vehicles
 - The ability to drop off and pick up children under cover from the front door
 - Entry and exit in a forward direction
 - Compliant site distance for pedestrians
 - Separates the childrens play area from the public which is critical for child safety in a respite care situation

DE17.47 Waiving of DA Fees - Nowra CBD Access Improvement Financial Assistance Program

HPERM Ref: D17/192826

Group: Planning Environment & Development Group

Purpose / Summary

To advise the Committee of possible incentives that could be offered to land owners to improve access for people with a disability to retail businesses in the CBD.

Recommendation (Item to be determined under delegated authority)

That Council endorse the waiver of development application fees to a value of \$300 and the entire construction certificate fee and Principal Certifying Authority fees for successful applications under the Nowra CBD Access Improvement Financial Assistance Program.

Options

1. Adopt the recommendation.

Implications: Assist in providing incentives for owners to improve access to their premises which will increase patronage of those businesses and makes the CBD a more disability friendly place to shop.

As reported to the Nowra CBD Revitalisation Strategy Committee, this would be an opportunity to engage the community and draw people to the CBD through a media campaign to demonstrate the willingness of the CBD businesses to include people with disabilities and show that they are valued members of our community.

2. Receive the report for information only.

Implications: Incentive for owners to provide improved access to the retail business in the CBD would be minimised as they would still be obliged to pay Council fees for a development application, construction certificate and for Council to act as the Principal Certifying Authority.

Background

A report was provided to the Nowra CBD Revitalisation Strategy Committee meeting of 19 April 2017 advising of Council's Disability Inclusion Action Plan 2017-2020. The Plan provides a four year framework for improving access and inclusion across the Shoalhaven Local Government Area and to Council services.

As documented in the report, one of the community outcomes relates to providing access to places of recreation, learning and leisure, community celebration, cultural participation, tourism, entertainment and easier shopping.

The Committee resolved the following:

That the Nowra CBD Revitalisation Strategy Committee

1. *Allocate \$15,000 from the 2017/2018 Nowra CBD Revitalisation Committee budget to offer land owners an incentive to improve physical access to retail businesses in the CBD.*

2. Offer to fund 50 percent of the cost to improve physical access to premises capped at \$3,000 per land owner.
3. Develop similar guidelines to that of the Nowra CBD Façade Improvement Financial Assistance Program.

Following the meeting the Nowra CBD Access Improvement Financial Assistance Program Guidelines were been drafted. The guidelines provide the criteria for eligibility, the works that will be eligible and advice on assessment of criteria. Under “Eligible Applicants” the following

Building owners and business operators of a property within the program area who wish to undertake works to façades, are eligible to apply for financial assistance under the Nowra CBD Access Improvement Financial Assistance Program. Eligible applicants are required to submit all relevant documentation and information with a completed application form. Government-owned properties are excluded from applying for financial assistance.

To facilitate maximum uptake of the funds provided under the Nowra CBD Access Improvement Financial Assistance Program, the Planning, Environment and Development Group propose to provide free advice and waive the development application fee to the value of \$300 (approx. development value \$15,000) and the entire construction certificate and Principal Certifying Authority fees. It is hoped this will provide an additional incentive for owners to provide improved access for people with a disability.

Policy Implications

Council currently has a policy for providing fee waivers for development application and construction certificate fees but this only applies to charitable organisations and community groups.

Financial Implications

The funds allocated through the Nowra CBD Access Improvement Financial Assistance will be for access upgrades only and not for other upgrades triggered by the development application process. Any development application and or construction certificate fees that are waived will only be for disability access upgrades.

DE17.48 Shoalhaven LEP 2014 - Review of Subdivision Controls

HPERM Ref: D17/144236

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

To review the current Torrens subdivision related provisions and commence the preparation of a Planning Proposal to clarify and amend Shoalhaven Local Environmental Plan (LEP) 2014 to facilitate appropriate subdivision outcomes for medium density development in Shoalhaven.

Recommendation (Item to be determined under delegated authority)

That Development Committee:

1. Prepare a planning proposal to amend Shoalhaven Local Environmental Plan 2014 to:
 - a. Investigate inclusion of an exception to clause 4.1 to remove Torrens subdivision restrictions following lawful dual occupancy and multi dwelling housing development.
 - b. Revise Clause 4.1A – Dual occupancy and multi dwelling housing to:
 - i. Remove provisions relating to a minimum lot size for the subdivision of resulting lots and replace with a minimum lot size for the parent lot prior to the erection of a dual occupancy or multi dwelling housing development.
 - ii. Consider expansion of areas to which this provision would apply.
 - c. Investigate the application of a minimum lot size to the parent lot for the erection of a dual occupancy on a battle-axe lot in certain areas and include the term 'battle-axe' in the Shoalhaven LEP 2014 Dictionary.
 - d. Revise Clause 4.1C - Dwellings, attached dwellings and semi-detached dwellings to:
 - i. Reduce the minimum lot size for resulting lots to 300m² or less.
 - ii. Expand application to the R3 and RU5 zones.
 - iii. Investigate additional provisions for urban release areas.
2. Consider a briefing and a further report to consider the detail of the planning proposal for submission to the NSW Department and Planning of Environment for Gateway determination.

Options

1. Adopt the recommendation.

Implications: This is the preferred option, as it will commence a review of Torrens subdivision provisions in Shoalhaven LEP 2014 to facilitate appropriate subdivision outcomes for medium density development in Shoalhaven.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the updating of Torrens subdivision provisions in Shoalhaven LEP 2014 and could result in provisions that do not facilitate appropriate subdivision outcomes.

3. Not review the current subdivision related provisions in Shoalhaven LEP 2014.

Implications: This is not a preferred option as the existing Torrens subdivision provisions in Shoalhaven LEP 2014 will not be reviewed and appropriate subdivision outcomes for medium density development in Shoalhaven will not be achieved.

Background

Shoalhaven LEP 2014 includes a number of provisions relating to the subdivision of land in the City. These provisions address the three main titling systems:

- Torrens,
- Strata
- Community.

Following the commencement of Shoalhaven LEP 2014 in April 2014, there has been some concern that the current Torrens minimum lot size (MLS) provisions are too large for certain medium density development in urban zoned areas (e.g. multi dwelling housing, dual occupancy and integrated dwelling houses, attached dwellings and semi-detached dwellings).

In response, strata and community subdivision has increased in popularity, as there are limited lot size restrictions for these titling options. Under Shoalhaven's current LEP provisions, existing residential development in an R1, R2, B4 or SP3 zone can be strata or community subdivided with resulting lots being less than that prescribed by the relevant minimum lot size map.

The Shoalhaven LEP 2014 enables the Torrens subdivision of medium density development via a number of principal development standards:

Shoalhaven LEP 2014 Clause	Minimum lot size for subdivision						
4.1 Minimum subdivision lot size	Torrens only. As per the associated lot size maps. Subdivision can occur prior to development.						
4.1A Exceptions to minimum lot sizes for dual occupancies and multi dwelling housing	<p>Enables Torrens lots smaller than prescribed by clause 4.1. Subdivision can only occur after development has been carried out.</p> <p>Dual occupancy:</p> <table border="1"> <thead> <tr> <th>Area identified on the lot size map</th><th>Minimum area</th></tr> </thead> <tbody> <tr> <td>Area 1: Bomaderry, North Nowra, Nowra, West Nowra, Worrigee, South Nowra, St Georges Basin, Sanctuary Point, Huskisson, Vincentia, Sussex Inlet, Mollymook Beach, Mollymook, Ulladulla.</td><td>350m²</td></tr> <tr> <td>Area 2: Shoalhaven Heads, Greenwell Point, Culburra Beach, Callala Bay, Callala</td><td>400m²</td></tr> </tbody> </table>	Area identified on the lot size map	Minimum area	Area 1: Bomaderry, North Nowra, Nowra, West Nowra, Worrigee, South Nowra, St Georges Basin, Sanctuary Point, Huskisson, Vincentia, Sussex Inlet, Mollymook Beach, Mollymook, Ulladulla.	350m ²	Area 2: Shoalhaven Heads, Greenwell Point, Culburra Beach, Callala Bay, Callala	400m ²
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Area 2: Shoalhaven Heads, Greenwell Point, Culburra Beach, Callala Bay, Callala	400m ²						

	Beach.	
	Multi dwelling housing:	
	<ul style="list-style-type: none"> R1 zone – 350m². 	
4.1C Exceptions to minimum subdivision lot sizes for certain residential development	<p>Enables Torrens lots smaller than prescribed by clause 4.1. Single application in the R1 zone that considers both:</p> <ul style="list-style-type: none"> Subdivision of land into 3 or more lots; and Erection of dwelling house, attached dwelling or semi-detached dwelling on each lot resulting from the subdivision where each lot is greater than 350m². 	

Generally, it is unusual for medium density development to be Torrens subdivided under Clause 4.1 of Shoalhaven LEP 2014. Torrens subdivision will usually occur under clause 4.1A or 4.1C depending on the land use type. Importantly, a subdivision of this nature occurs either after the development has been carried out, or where the subdivision and actual development is considered in a single application.

In June 2016, Council staff undertook a review to consider, in part, the appropriateness of Torrens, community and strata title subdivision of dual occupancy development. The Dual Occupancy Review concluded that the actual subdivision and its form does not change the appearance of development as it usually occurs later. However, consideration should be given to the timely inclusion of revised design controls in Shoalhaven Development Control Plan (DCP) 2014 to improve the standard of the finished development. As such, Council staff are currently preparing Amendment 9 to Shoalhaven DCP 2014 that considers improved design provisions for medium density development (including dual occupancy development).

Despite the fact that DCP design provisions should be of primary consideration, inevitably most medium density development will be subdivided at some point and it would be inequitable and unreasonable to not allow this. If there are limited restrictions for strata and community title subdivision, the inequity of Torrens potential is questioned. There appears to be little point in permitting medium density development in urban areas and not allowing its subsequent subdivision under the Torrens system.

The Review

Staff have reviewed the Torrens subdivision provisions adopted by surrounding and comparable local government areas - Eurobodalla, Kiama, Shellharbour, Palerang, Wollongong, Goulburn-Mulwaree, Wingecarribee, Port Macquarie-Hastings, Coffs Harbour, Lake Macquarie, Maitland, Newcastle and Tweed.

Generally, two main approaches were identified:

- A specific minimum lot size per resulting lot based on land use - Shoalhaven's current approach.
- A minimum lot size for the parent lot with no restriction on the minimum lot size for each resulting lot. This approach encourages sites with an appropriate area to accommodate the proposed development. Generally, there are no restrictions on Torrens subdivision once the development is constructed.

The three areas that are proposed for review include the following and are discussed below:

- Dual occupancy and multi dwelling housing.
- Dual occupancy on battle-axe lots.
- Dwellings, attached dwellings and semi-detached dwellings.

Dual occupancy and multi dwelling housing

Shoalhaven LEP 2014 enables the Torrens subdivision of existing:

- Dual occupancy development in certain areas to a minimum lot size of 350m² or 400m² (clause 4.1A(2)); and
- Multi dwelling housing in the R1 zone to a minimum lot size of 350m² (clause 4.1A(4)).

A summary of surrounding and comparable LGA provisions, where applied, is provided in the following table:

Local Environmental Plan	Dual Occupancy Provision	Multi Dwelling Housing Provision
Kiama	150m ² per resulting dwelling in residential zones. Development must be completed prior to commencement of Kiama LEP 2011.	
Wollongong	No MLS for the subdivision of an existing dual occupancy development in a residential zone. Resulting lots could be as small as 225m ² per dwelling.	No MLS for an existing multi dwelling housing development in a residential zone. Resulting lots could be as small as 150m ² per dwelling (based on 3 dwelling development).
Shellharbour	450m ² for the parent lot for the erection of a dual occupancy development in R2 and R3 zones. There are no restrictions on the subsequent Torrens subdivision of a lawfully constructed dwelling and resulting lots could be as small as 225m ² per dwelling.	600m ² for the parent lot for the erection of a dual occupancy development in R2 and R3 zones. There are no restrictions on the subsequent Torrens subdivision of a lawfully constructed dwelling and resulting lots could be as small as 200m ² per dwelling (based on 3 dwelling development).
Lake Macquarie	MLS of 250m ² per dwelling in the R1 or R2 zone.	-
Coffs Harbour	Minimum lot size of 800m ² for the parent lot for the erection of a dual occupancy development in the R2 zone.	-

Generally, there is a preference for a MLS for a parent lot or a MLS for the resulting dwellings. Wollongong is unique in enabling Torrens subdivision in residential areas without supporting provisions. Where an LEP only prescribes a minimum lot size for the resulting dwelling, this area is generally significantly less than that prescribed by Shoalhaven.

Applying a parent lot MLS appears to be more in line with the conclusions of the recent Dual Occupancy Review and would enable LEP provisions to be supported by complimentary DCP provisions.

Additionally, the proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) Subdivision Code, resulting from the proposed Codes SEPP Medium Density Housing Code amendment, may result in

Torrens subdivision of medium density dwellings as complying development at a MLS significantly less than current Shoalhaven provisions.

Further, the proposed Medium Density Housing Code amendment has suggested that the Standard Instrument LEP, and eventually Shoalhaven LEP 2014, be amended to include a mandatory provision for a MLS for parent lots for the purpose of dual occupancy and multi dwelling housing.

In applying a parent lot MLS, the most important consideration is the size of the parent lot. As outlined in the table above, parent lots adopted by surrounding and comparable LGAs are in the range of 450m² to 800m². It is important that the MLS is of a suitable size to enable the realisation of the design provisions in Shoalhaven DCP 2014. Essentially, inappropriate/undersized sites would be ruled out and the size of the resulting lots would be controlled by the built form already erected.

To enable the Torrens subdivision of resulting lots to a size less than prescribed by clause 4.1 (MLS maps), an amendment to clause 4.1 would be required. Wollongong and Shellharbour LEPs include a provision similar to the following that could be adapted for the Shoalhaven LEP 2014 in this regard:

This clause does not apply in relation to the subdivision of land in a residential zone on which there is an existing dual occupancy or multi dwelling housing approved under this Plan.

Thus in regard to this development form, it is recommended that the following inform a planning proposal:

- Remove provisions relating to a MLS for the subdivision of resulting lots. In its place, apply a MLS for the parent lot for the erection of a dual occupancy or multi dwelling housing development.
- Consider areas to which this provision would apply, e.g.:
 - Expand application of MLS for multi dwelling housing to include the R3 zone.
 - Expand the area (i.e. beyond Areas 1 and 2) to which the dual occupancy provisions would apply as per MIN16.8:

“That Council’s policy position on locations where subdivision of dual occupancy can be permitted be reviewed”.
- Investigate inclusion of an exception to clause 4.1 to remove Torrens subdivision restrictions following lawful dual occupancy and multi dwelling housing development.

Dual occupancy on battle-axe lots

Shoalhaven DCP 2014 currently includes a requirement for a battle-axe lot to have a minimum lot size of 1000m² prior to the construction of a dual occupancy development. To ensure consideration of amenity, privacy, private open space, access/circulation and to avoid over development, this numerical standard is considered the minimum area required to enable a well-considered dual occupancy development.

There are no provisions relating to minimum lot size for the erection of a dual occupancy development in Shoalhaven LEP 2014, beyond clause 4.1B that encourages greater density in the R3 zone. No comparable/surrounding Council LEPs include MLS provisions for dual occupancy development on battle-axe lots.

It is generally acknowledged that a larger site area is required for a dual occupancy development on a battle-axe lot, than that required for a standard dwelling house, or a dual occupancy with street frontage. A larger MLS will also enable its subsequent and appropriate subdivision under the Torrens system.

Thus in regard to this development form, it is recommended that the following inform a planning proposal:

- Investigate application of a MLS for the parent lot for the erection of a dual occupancy on a battle-axe lot in certain areas.
- Include the term 'battle-axe' in the Shoalhaven LEP 2014 Dictionary.

Dwellings, attached dwellings and semi-detached dwellings

Shoalhaven LEP 2014 enables the Torrens subdivision of dwellings, attached dwellings and semi-detached dwellings to a minimum lot size of 350m² where there is a single application for both construction and subdivision (i.e. integrated development with generally 3 or more lots) in the R1 zone (clause 4.1C).

A summary of surrounding and comparable LGA provisions, where applied, is provided in the following table:

Local Environmental Plan	Integrated Dwellings, Attached Dwellings and Semi-Detached Dwellings Provision
Kiama	150m ² per resulting dwelling in R2 and R3 zones.
Wollongong	No provisions restricting Torrens subdivision of attached or semi-detached dwellings.
Shellharbour	225m ² (application for subdivision only). 200m ² (application for both subdivision and dwellings).
Lake Macquarie	200-450m ² depending on location. In an urban release area, 10-50% of lots are to be 300-450m ² .
Palerang	350m ²
Eurobodalla	300m ²
Goulburn-Mulwaree	350m ² – attached or semi-detached dwelling. 300m ² if part of an integrated 5 lot subdivision include erection of a dwelling, attached dwelling or semi-detached dwelling.
Port Macquarie	No provisions restricting Torrens subdivision of attached or semi-detached dwellings.
Maitland	300m ²
Newcastle	200m ²

The provisions above indicate that the MLS of resulting lots is generally the preferred approach and the numerical standards are generally less than currently prescribed in Shoalhaven, falling within a range of 150-450m².

The proposed amendment to Shoalhaven LEP 2014 and the Codes SEPP Subdivision Code, as a result of the proposed Codes SEPP Medium Density Housing Code, could result in Torrens subdivision in the R1, R3 and RU5 zones with resulting lots of the following size:

- Dwelling house – 300m² (proposed Subdivision Code amendment) or 375m² (proposed LEP amendment) per dwelling; or
- Attached/semi-detached dwelling – 300m² (both proposed amendments).

Thus in regard to this development form, it is recommended that the following inform a planning proposal:

- The MLS be reduced to 300m² or less which would be comparable with other LGAs and provide greater flexibility in certain areas. It would also be more consistent with the proposed Medium Density Housing Code amendments. This is of particular

significance as it is likely that Torrens subdivision of this nature will be permissible as complying development as a result of the Medium Density Housing Code.

- Investigate expansion of clause 4.1C to the R3 and RU5 zones as per the proposed Codes SEPP and LEP amendment.
- Investigate the merit in expanding 4.1C to include provisions for dwellings, attached dwellings and semi-detached dwellings in urban release areas (as per the Lake Macquarie example).

Conclusion

The Planning Proposal process would enable the existing Torrens subdivision provisions in Shoalhaven LEP 2014 to be refined and brought in line with industry expectations and proposed amendments to NSW Government policy.

Ultimately, any Planning Proposal would seek to enable provisions for equitable Torrens subdivision that may provide greater housing choice and opportunity.

Community Engagement

Any future Planning Proposal will be exhibited for comment in accordance with Council's Community Engagement Policy and in accordance with the relevant legislative requirements.

The Gateway determination from the NSW Government will also specify the minimum exhibition period and any government agencies with whom Council must consult.

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

Policy Implications

Any Planning Proposal will need to consider the provisions of the Illawarra-Shoalhaven Regional Plan (Plan). The suggested amendments are generally consistent with the Plan's direction to provide sufficient housing supply to suit the changing demands of the Region. More appropriate Torrens subdivision opportunities may increase desirability of medium density development as an alternative housing choice to standard detached dwellings.

Financial Implications

Based on the recommended approach, there are no immediate financial implications for Council, as the preparation of a Planning Proposal would be resourced within the existing Strategic Planning budget.

DE17.49 Strategic Planning Works Program - Adoption and Finalisation

HPERM Ref: D17/142532

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. New Strategic Planning Works Program - July 2017 [↓](#)
2. Interim Strategic Planning Work Program - November 2016 [↓](#)

Purpose / Summary

To report the new Strategic Planning Works Program (SPWP) to Council for adoption and finalisation.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise Attachment 1 as Council's Strategic Planning Works Program.
2. Request that the Strategic Planning Works Program be reported back to the Development Committee annually in June to coincide with each new financial year.
3. Make future changes to the Strategic Planning Works Program only after considering the current program, project priority, staff workload and resources.
4. Receive a briefing on how to use the interactive Strategic Planning Works Program when operational.

Options

1. Adopt and finalise the SPWP (**Attachment 1**).

Implications: This option is favoured as it builds on the earlier approach of Council in this regard to have a works program that guides our strategic planning effort and ensure that we are proactively undertaking forward planning. The SPWP will assist in the prioritisation of projects and management of staff workload

The SPWP structure and projects have been refined with Councillors during two workshops held in March and May 2017. The SPWP is also aligned with the community's expectations following the recent Community Strategic Plan/Integrated Strategic Plan 2027 process.

2. Adopt and finalise the SPWP (**Attachment 1**) with modifications.

Implications: The SPWP has been prepared taking into consideration current and expected strategic planning tasks, community involvement/expectations and known planning challenges/expectations. Further, the two detailed workshops provided Councillors with an opportunity to shape the SPWP. Modifications to the SPWP at this stage may delay its finalisation.

3. Not adopt or finalise the SPWP (**Attachment 1**) and react to requests, opportunities etc. as they arise in the future.

Implications: This option would mean that Council reacts to requests, opportunities, requirements etc. for strategic planning work in an ad-hock or unmanaged manner. This is not desirable, as it does not necessarily focus Councils efforts in areas or on projects that support the broader community or are required by legislation or other drivers.

Background

Strategic Planning Works Program - History

The SPWP originally emerged from an internal tool that was used to track and manage strategic and land use planning projects being undertaken by Council.

It was formally reported to Council from 2003 onward for information and to enable priorities to be considered. The SPWP was initially reported to Council quarterly and then moved to twice yearly.

The 2008 NSW Department of Local Government Promoting Better Practice Review recommended that:

Council should review the projects on the Strategic Planning Group Work program in order to give priority to finalising the Growth Management Strategy and new Comprehensive LEP.

As part of considering the completion of the Shoalhaven Local Environmental Plan (LEP) 2014, Council also resolved to:

Prepare a new Planning Works Program to focus Councils Strategic Planning effort and arrange a Councillor briefing to discuss the desired detail of this program before it being reported back to Council for consideration.

In December 2016, an Interim SPWP (**Attachment 2**) was adopted by Council (MIN16.950) and staff immediately commenced the preparation of the new SPWP. As part of this resolution, Council also resolved that the new SPWP be reported back for adoption by mid-2017.

Formulation of the new SPWP

In preparing the new SPWP, the following matters were considered:

- Current Strategic Planning tasks.
- Expected Strategic Planning tasks.
- Community involvement and expectations around land use planning including the Community Strategic Plan/Integrated Strategic Plan 2027 exhibition outcomes.
- Ongoing, known and future planning challenges.

On 9 March 2017, an initial Council workshop was held to provide an opportunity for detailed and early Councillor input into the structure and content of the suggested new SPWP. During the workshop (and subsequent meetings), key priority areas, overarching strategies and priority projects were identified in consultation with Councillors.

On 18 May 2017, a second Councillor workshop was held to further refine the form and content of the new SPWP. At this workshop, the priority areas and overarching strategies were further developed and confirmed as follows:

Priority	Priority Area	Overarching Strategy
1	Managing Future Growth	<ul style="list-style-type: none"> Developing and maintaining a Growth Management Strategy to provide continued residential development and infrastructure 'ahead of the game'.
2	Economic Development, Retailing, Town Centres and Tourism	<ul style="list-style-type: none"> Balance commercial development with cultural and recreation opportunities.
3a	Natural Environment/Agriculture	<ul style="list-style-type: none"> Maintain an 'unspoilt' environment, plan for infrastructure to manage high use areas, maintain sustainable agriculture sector focusing on diversity and quality of output.
3b	Affordable Housing	<ul style="list-style-type: none"> Work to increase affordable housing opportunities in Shoalhaven.
4	Population, Ageing and Social Infrastructure	<ul style="list-style-type: none"> Facilitate a healthy, active and accessible community. Identify and respond to demonstrated need and create best practice liveable communities for all ages and stages
5	Heritage and Events	<ul style="list-style-type: none"> Maintain, investigate and bring forward our Aboriginal and European heritage into the future.
6	Legislation and Policy	<ul style="list-style-type: none"> Maintain Shoalhaven LEPs, DCP and Contributions Plan. Monitor and respond to legislative and policy changes/proposals – consistent with Council's strategic direction.

DE17.49

For each priority area, current and future (yet to commence or on hold) projects have been identified. At present, the SPWP (**Attachment 1**) contains a total of 89 projects - 53 current projects and 36 projects that are yet to commence or are on hold.

A number of projects have been recognised as being a priority and these will be advanced ahead of other projects on the SPWP.

These identified priority projects include:

- Urban Release Area (URA) Planning and Significant Planning Proposals (PP):
 - Moss Vale Road South URA (and Shoalhaven DCP 2014 Chapter).
 - Moss Vale Road North URA (and Shoalhaven DCP 2014 Chapter).
 - Nowra CBD Heights Planning Proposal (and DCP chapter).
 - Culburra Beach/Callala Bay/Kinghorne Point (Halloran) Planning Proposal.
- Shoalhaven DCP 2014 – Residential and Subdivision Review.
- Central Nowra Residential Area Character Controls (and resulting outcomes)
- Contributions Plan Review.
- Review of Strategies and Structure Plans:
 - Nowra-Bomaderry Structure Plan:
 - Growth Management Strategy
 - Jervis Bay Settlement Strategy
 - Shoalhaven Heritage Strategy.
 - Shoalhaven Affordable Housing Strategy.
- Shoalhaven Riverfront Precinct (including future PP and DCP Chapter).
- Nowra-Bomaderry Retail Hierarchy review.
- Review of tourist and visitor provisions in rural and environmental protection zones.

- Biodiversity Certification Application (Bio Banking) for the Halloran Planning Proposal.
- Cambewarra Escarpment character assessment/review.
- Implement Illawarra-Shoalhaven Regional Plan Implementation.

The proposed new SPWP is provided as **Attachment 1**.

Using and interrogating the new SPWP

Councillors and key Council staff will have direct access to the new SPWP via an interactive format on Council's Intranet (currently under development). It is intended that the SPWP will be updated on a fortnightly basis and will include the following detail (where relevant):

- Project name.
- Project type and reference (LEP, DCP etc.)
- Minute reference for the project.
- Envisage project timeframe.
- Where the project is up to and next steps.
- Project officer and contact details that Councillors can pass onto stakeholders (provisions of Councillor and Staff Interaction Policy applicable).

Councillors will be able to search for specific projects and interrogate the data accordingly.

Council staff are currently preparing a pilot interactive SPWP and a Councillor briefing will be scheduled when appropriate to demonstrate its use. Until the interactive SPWP is live, an updated SPWP based on Attachment 1, will be available for viewing via Council's intranet and will be updated on a fortnightly basis.

Process for adding/removing projects from the new SPWP

The SPWP will assist with some discipline in Council's decision making regarding new planning related projects. Ideally, the new SPWP will be proactive and not reactionary. It is inevitable, however, that changes to the SPWP will happen through time and this needs to be done in a considered manner.

Prior to changing the SPWP (e.g. adding a project), consideration should be given to the likely impact on the current program, priorities, staff workload and resources. Projects should only be included on the SPWP (or reprioritised) after consideration by Council and following a formal resolution. Ideally, consideration should be given to how they sit against the overarching strategies identified in the SPWP. The exception would be matters that must be resolved operationally (legislative directions, reactive policy submissions etc.).

It is expected that projects will be removed from the SPWP upon completion or via a resolution of Council.

Monitoring and reporting

The full SPWP will be reported back to the Development Committee annually in June, in line with the each new financial year, to enable formal reconsideration and highlight progress, including what has been achieved or completed in the year. The SPWP will also be monitored for efficiency on an ongoing basis and any required or proposed changes to the structure or projects will be reported as needed.

Community Engagement

The SPWP is essentially a tool to manage Council's strategic planning effort. No formal community consultation is required as it is an internal management resource.

Based on existing knowledge, plans and community engagement processes (especially the recent Community Strategic Plan/Integrated Strategic Plan 2027 process) the broader expectations of the community have been considered during preparation of the SPWP.

Policy Implications

It is considered important to have a clear work program to focus Councils current and future strategic planning effort. This will ensure that Council has an appropriate strategic framework in place that is forward thinking and responsive in nature.

Financial Implications

Generally, projects that are on the SPWP will be undertaken within existing budgets. However, should projects require specific funding allocations these will be reported to Council for consideration as the need arises.

Proposed Strategic Planning Works Program

Priority	Priority Area	Overarching Strategy	Current Projects	Projects yet to commence or on hold
1	Managing Future Growth	Developing and maintaining a Growth Management Strategy to provide continued residential development and infrastructure 'ahead of the game'.	<ul style="list-style-type: none"> • Moss Vale Road South URA (and DCP 2014 Chapter). • Moss Vale Road North URA (and DCP 2014 Chapter). • Nowra-Bomaderry Structure Plan: <ul style="list-style-type: none"> – Additional development opportunities. – Review phasing and dwelling yields. • Growth Management Strategy version 2: <ul style="list-style-type: none"> – Outstanding investigation areas. – Relationship with commercial and industrial land. – Additional development opportunities (e.g. Berry Expansion). • Jervis Bay Settlement Strategy (MIN16.950): <ul style="list-style-type: none"> – Review additional urban development opportunities. • DCP 2014 – Residential and Subdivision Review. • Higher density in existing settlements. • Rezoning/Planning Proposal – <ul style="list-style-type: none"> – Falls Creek/Woollamia (and DCP 2014 Chapter). – Nebraska Estate, St Georges Basin. – The Wool Road, St Georges Basin. – Beach Road Berry. – Warrah Road, Bangalee. – Island Point Rd (Anson St) building heights. • Culburra Beach, Callala Bay and Kinghorne Point (Halloran). • Infrastructure Implementation - Verons Estate, Sussex Inlet. 	<ul style="list-style-type: none"> • Rezoning/Planning Proposal – <ul style="list-style-type: none"> – Badgee Lagoon Deferred Matters. – Manyana (Kylor). – Goodland Road, Woollamia (awaiting landowner agreement). • LEP 2014 – additional matters for consideration - future investigations. <ul style="list-style-type: none"> – Rural Residential Strategy. – Milton/Ulladulla deferred 2(a1) areas. • Milton-Ulladulla Structure Plan: <ul style="list-style-type: none"> – Review additional development opportunities. • Outstanding investigations resulting from strategies.
2	Economic Development, Retailing, Town Centres and Tourism	Balance commercial development with cultural and recreation opportunities.	<ul style="list-style-type: none"> • Shoalhaven Riverfront Precinct (including future DCP chapter). • Nowra/Bomaderry Retail Hierarchy review. • Planning Proposal – <ul style="list-style-type: none"> – Nowra CBD Heights Planning Proposal (and DCP chapter). – Albatross and Kinghorne Street. – Bomaderry Boat Showroom. – SP3 Tourist Zone Review. – St Vincent and Deering Streets, Ulladulla. • DCP 2014 - Draft Chapter G18: Streetscape Design for Town Centres. • S94 Contribution – Huskisson Town Centre Service Lanes Review. • Nowra CBD Murals Policy and Branding. • Precinct Plan – Worroving Heights (possible planning proposal). • Nowra CBD Revitalisation Strategy – coordinating implementation and supporting Committee. 	<ul style="list-style-type: none"> • LEP 2014 – additional matter for future investigation - Burton Street, Vincentia shopping centre. • Actions resulting from community led Strategic Plans (i.e. Shoalhaven Heads, Berry, Sanctuary Point). • DCP 2014 Chapter N18: Huskisson Town Centre: <ul style="list-style-type: none"> – Amendments following Huskisson Foreshore Masterplan. – Car parking review (includes Contribution Plan review). • Strategy to activate key waterfront locations. • South Nowra – zoning and land use review. • CBD/ Retail strategy: <ul style="list-style-type: none"> – Responding to e-retailing, department stores, entertainment centres, changing nature of CBDs. – Escape spending. – Investigate developing provisions in Shoalhaven LEP 2014 to strengthen Nowra CBD (centre/retail primacy). • Refine and use outcomes of Employment Lands Monitor (to be established with DP&E) to understand existing supply of industrial land (particularly Milton-Ulladulla) and undertake strategic exercise to identify appropriate industrial land for future expansion. • Ensure appropriate and relevant references to Disability Discrimination Act in DCP. • Berry car parking review. • Flinders Industrial Estate expansion DCP. • Economic Development Strategy – implement relevant actions.

July 2017

Proposed Strategic Planning Works Program

Priority	Priority Area	Overarching Strategy	Current Projects	Projects yet to commence or on hold
3a	Natural Environment/Agriculture	Maintain an ‘unspoilt’ environment, plan for infrastructure to manage high use areas, maintain sustainable agriculture sector focusing on diversity and quality of output.	<ul style="list-style-type: none"> Review of tourist and visitor provisions in rural and environmental protection zones (LEP/DCP) (MIN16.979). Biodiversity Certification Application (BioBanking) for the Halloran Planning Proposal. Cambewarra Escarpment character Assessment/review (MIN16.950) – identify development controls. LEP 2014 - Review of flood controls (and DCP Flood Chapter Review). ‘Heritage Estates’, Worrowing Heights: <ul style="list-style-type: none"> Manage land and water degradation. Collaborate with State and Federal Governments to resolve the land tenure. 	<ul style="list-style-type: none"> LEP 2014/Planning Proposal: <ul style="list-style-type: none"> Yalwal Danjera Dam Camping Area. Amend clause 5.9 Preservation of trees or vegetation to align with DCP mapping. Strategic review of agricultural development opportunities (LEP). Respond to outcomes of Council’s natural resources plans and strategies.
3b	Affordable Housing	Work to increase affordable housing opportunities in Shoalhaven.	<ul style="list-style-type: none"> Shoalhaven Affordable Housing Strategy. Tiny Homes Project, Nowra – detailed investigation. Affordable Housing Ministerial Briefing Paper – Coomea Street, Bomaderry. Identifying land for a temporary shelter for the homeless - Flinders Estate. 	<ul style="list-style-type: none"> Review of dual occupancy subdivision opportunities outside Areas 1 and 2 (LEP) and implications on affordable housing opportunities. Expand Affordable Housing Strategy Framework to include affordable university student accommodation. Investigate implications of dual occupancy provisions on affordable housing. Citywide density review of existing residential areas to identify higher density opportunities. Reconsider position on short term rental accommodation following release of the Government’s discussion paper.
4	Population, Ageing and Social Infrastructure	<ul style="list-style-type: none"> Facilitate a healthy, active and accessible community. Identify and respond to demonstrated need and create best practice livable communities for all ages and stages 	<ul style="list-style-type: none"> Medical precinct master plan. Undertake an assessment of the City’s ageing demographic with a view to determining future aged housing types, demand and associated services. Outcomes to be facilitated via future Strategic Planning projects. 	<ul style="list-style-type: none"> Well Being Strategy (in conjunction with other Sections of Council). Illawarra Age Friendly Alliance work. Labour force review.
5	Heritage and Events	Maintain, investigate and bring forward our Aboriginal and European heritage into the future.	<ul style="list-style-type: none"> Review heritage strategy: <ul style="list-style-type: none"> Berry character. Consideration of Aboriginal Cultural Heritage. Planning Proposal – Central Nowra Residential Area Character Controls (conservation areas and/or back zoning – MIN17.131). Managing response to Aboriginal Land Claims. Land Asset Reviews – Assist Local Aboriginal Land Councils. Run annual Local Heritage Grants Scheme. 	<ul style="list-style-type: none"> Chinaman’s Island Heritage Significance.

Proposed Strategic Planning Works Program

Priority	Priority Area	Overarching Strategy	Current Projects	Projects yet to commence or on hold
6	Legislation and Policy	<ul style="list-style-type: none"> Maintain Shoalhaven LEPs, DCP and Contributions Plan. Monitor and respond to legislative and policy changes/proposals – consistent with Council's strategic direction. 	<ul style="list-style-type: none"> Contributions Plan Review. Implement Illawarra Shoalhaven Regional Plan Actions (includes ongoing representation at the Coordinating and Monitoring Committee jointly chaired by the Department of Planning and Environment and the Illawarra Pilot Joint Organisation). LEP 2014 /Planning Proposals: <ul style="list-style-type: none"> Council Land Reclassification. 2016 Housekeeping (minor mapping and instrument changes). DCP 2014 Amendment 7 – Generic Chapter Review. Local Approvals Policy Review. S149 Policy Note Review. Manage proponent submitted planning proposals. Prepare submissions to respond to legislation and policy proposals. 	<ul style="list-style-type: none"> LEP 2014 - Council Strategic Land Review and possible zoning changes. DCP 2014 <ul style="list-style-type: none"> Amendment 10 – Various/Area Specific Chapter Review. Amendment 12 – General Housekeeping. Sussex Inlet Canal Easements. ePlanning – responding to DP&E requirements and improving Council's ability to process online request and electronic payment.

Planners Work Program (EPAA)

Type	ProjId	Task	Comments Statement
DCP			
	DCP2014.12	<i>DCP 2014 Amendment No 12 - Housekeeping Amendments to Chapters G17, N3, N4</i>	Initial work has commenced.
	DCP2014.16	<i>Huskisson - DCP 2014 Amendment No 16 - Huskisson Town Centre Chapter N18</i>	Resolution to amend Chapter N18 on 7/11/16.
	DCP127	<i>Nowra - CBD Urban Design / Heights & Floor Space Ratio</i>	Currently on public exhibition for comment until 16/12/16.
	DCP2014.5	<i>Shoalhaven - DCP 2014 Amendment No 5 - Housekeeping Amendment to Chapters G6, G9, G10, G17, G20, NB1, Dictionary</i>	Report to Council Nov 16 to enable finalisation. Further work required on Greenwell Point flooding issue.
	DCP2014.10	<i>Shoalhaven DCP 2014 Amendment No 10 - Housekeeping amendment to Chapters V2, N18, N19, N20, N22, N23, N7, S6, S8, S9</i>	Yet to commence wider review - consultant to be engaged to undertake Milton Car Parking Study.
	DCP2014.13	<i>Shoalhaven DCP 2014 Amendment No 13 - Chapter G4 Tree & Vegetation Management</i>	Exhibition finished 16/9/16. 9 submissions received. Aim to report to Council in Dec. 16 to consider submissions.

<i>Type</i>	<i>ProjId</i>	<i>Task</i>	<i>Comments Statement</i>
	DCP2014.14	<i>Shoalhaven DCP 2014 Amendment No 14 - Housekeeping Amendment to Chapter G18 & Streetscape Technical Manual</i>	Draft DCP chapter prepared. Draft technical manual received - reviewing document. Consultation with CCB's to commence soon.
	DCP2014.7	<i>Shoalhaven DCP 2014 Amendment No 7 - Housekeeping Amendment to Chapters NB1, G17, G20, G6, G3</i>	To commence when capacity.
	DCP2014.8	<i>Shoalhaven DCP 2014 Amendment No 8 - Housekeeping Amendment to Chapter G21 CAR PARKING AND TRAFFIC</i>	To commence when capacity.
	DCP2014.9	<i>Shoalhaven DCP 2014 Amendment No 9 - Housekeeping Amendment to Chapters G11, G12, G13, G14</i>	Discussion paper prepared for G13/14 chapters review. Currently preparing discussion paper for Chapters G11/G12.
LEP	LP406	<i>Falls Creek/Woollamia - Planning Proposal Jervis Bay Settlement Strategy Rural Residential Deferred Areas</i>	To be reported to Council Dec 2016 to finalise direction.
	LP359	<i>Milton/Ulladulla deferred matter - 2(a1) areas in Mollymook & Ulladulla</i>	Future amendment to Shoalhaven LEP 2014 - yet to commence.
	LP410	<i>Nowra - CBD Heights Planning Proposal</i>	Currently on public exhibition for comment until 16 December 2016.

Monday, 14 November 2016

Page 2 of 6

<i>Type</i>	<i>ProjId</i>	<i>Task</i>	<i>Comments Statement</i>
MISC	LP145.1	<i>St Georges Basin - rural part of Nebraska Estate</i>	Preparation of required water cycle assessment has commenced to support the rezoning.
	LP407	<i>Sussex Inlet - Planning Proposal Badgee Deferred Matters</i>	Granted an extension to gateway for 12 months until 11/9/17 to complete PP. Discussions to be held with proponent to progress.
	M0293	<i>Cambewarra - Moss Vale Road South (URA)</i>	Work has commenced on required plans to enable URA release. Initial landowner information session held.
	M0287	<i>Huskisson - Foreshore Masterplan</i>	Public exhibition completed and outcomes reported to Council Nov. 2016.
	M0302	<i>Huskisson - Huskisson town Centre Service Lanes Review</i>	Reported to Council June 2016. Options being considered prior to further report.
	M0295	<i>Manyana - Kylor Caveat Removal</i>	Awaiting outcome of PP007.
	M0300	<i>Nowra - CBD Murals Policy & Branding</i>	Project commenced and consultant engaged.
	M0291	<i>Nowra - Chinaman's Island Heritage Significance/Lease Issue</i>	To be reported to Council in Dec. 2016 to determine action.

Monday, 14 November 2016

Page 3 of 6

<i>Type</i>	<i>ProjId</i>	<i>Task</i>	<i>Comments Statement</i>
	M0298	<i>Nowra - Shoalhaven Riverfront Strategy</i>	Urban Design consultant engaged and Stage 1 report completed.
	M0299	<i>Nowra - Urban Area Character Controls</i>	Urban Design consultant engaged and project commenced. Reported to Council Nov. 2016
	M0297	<i>Nowra/Bomaderry - Retail Hierarchy Review</i>	Project consultants engaged. Stage 2 report being finalised and Councillor briefing to be held.
	M0292	<i>Shoalhaven - Aboriginal Land Claims</i>	Collating feedback from other groups. Advice being provided to NSW Gov't.
	M0296	<i>Shoalhaven - Council Strategic Land Review</i>	Project has commenced and assisting Property Services Unit as required.
	M0289	<i>Shoalhaven - LAP Review</i>	Existing LAPS being transferred into City wide instrument - project progressing.
	M0294	<i>Shoalhaven - s149 Policy Note Review</i>	Review has commenced and is ongoing.
	M0301	<i>Shoalhaven - Shoalhaven Affordable Housing Strategy</i>	Background research work reported to Council in Nov 2016. Work continuing on proposed Strategy.
	M0303	<i>St Georges Basin - Possible Planning Proposal The Wool Road</i>	Reported to Council Nov. 2016 to enable consideration of policy issue.
	M0290	<i>Sussex Inlet - Easement Issues</i>	Initial investigation work underway. Will require DCP amendment.

Monday, 14 November 2016

Page 4 of 6

<i>Type</i>	<i>ProjId</i>	<i>Task</i>	<i>Comments Statement</i>
PP	M0288	<i>Worowing Heights - 1310 Naval College Rd Precinct Plan</i>	Decision deferred on PP - consultants engaged to prepare precinct plan and work is underway.
	PP005	<i>Bangalee - Crams Road Urban Release Area</i>	Gateway determination received - to be reported to Council in Dec 2016 to determine direction.
	PP018	<i>Berry - Beach Road Rezoning Request</i>	Awaiting outcome of pre-gateway review. JRPP meeting held on 27/9/16.
	PP021	<i>Bomaderry - Boat Showroom and Office</i>	Gateway determination received 8/11/16.
	PP006	<i>Culburra - SLEP2014 Deferred Land</i>	Stage 1 water quality groundwater investigation. Consultant brief sent out - close date 7/12/16.
	PP007	<i>Manyana - Kylor Rezoning Request</i>	With owner (Kylor) re - biocertification. Will need to start process to request extension - meeting with owners rep in Oct 16.
	PP019	<i>Nowra - Albatross and Kinghorne Sts Rezoning Request</i>	Gateway determination received 9/11/16. Organising character assessment and RFS consultation.
	PP020	<i>Shoalhaven - Amend SLEP 2014 CL5.9 maps to DCP 2014 Chapter G4</i>	Maps to be prepared following adoption of DCP Chapter G4 amendment to enable possible mapping updates.

Monday, 14 November 2016

Page 5 of 6

<i>Type</i>	<i>ProjId</i>	<i>Task</i>	<i>Comments Statement</i>
	PP010.1	<i>Shoalhaven - Land Reclassification</i>	Public exhibition complete 21/10/16. Public hearing scheduled 16/11/16 and report in preparation.
	PP017	<i>Shoalhaven - Shoalhaven Animal Shelter</i>	Reported to Council Oct 16. Being finalised.
	PP012	<i>Shoalhaven - SLEP 2014 Housekeeping Stage 4 Flooding Issues</i>	Aim to report to December Development Committee.
	PP013	<i>Shoalhaven - SP3 Tourist Zone - Residential Dwellings</i>	Initial letters/surveys provided to owners of SP3 zoned land citywide. Options being considered.
	PP009	<i>Sussex Inlet - Paradise Lagoon/Lagoon Cres Canal Reclassification</i>	Status to be determined.
	PP016	<i>Yalwal - Danjera Dam Camping Area</i>	Gateway determination received - Planning Proposal extended for 12 months. Awaiting Bushfire report.
S94			
	M0304	<i>Shoalhaven - Shoalhaven Contributions Plan Review</i>	Internal staff contributions panel established to drive review of the CP.
VPA			
	VPA012	<i>South Nowra - Enterprise Avenue</i>	Reported to Council Aug 2016 - VPA being drafted.

Monday, 14 November 2016

Page 6 of 6

DE17.50 Endorsement for Exhibition - Draft Shoalhaven Affordable Housing Strategy

HPERM Ref: D17/146959

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Draft Shoalhaven Affordable Housing Strategy (under separate cover) [↗](#)

Purpose / Summary

To obtain Council endorsement to enable the public exhibition of the draft Shoalhaven Affordable Housing Strategy (Attachment 1).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the draft Shoalhaven Affordable Housing Strategy (Strategy) at Attachment 1 with the following changes:
 - a. Identify the Council owned site at 42-46 Coomea Street, Bomaderry as the preferred site for the short term strategy and investigate potential opportunities for expansion to include additional land in the precinct;
 - b. Remove the following sites as potential affordable housing project sites:
 - i. 11 Lamonds Lane, Nowra.
 - ii. Corner Greenwell Point Road and Clipper Road, Nowra.
 - iii. 10 Pleasant Way, Nowra.
 - c. Outline that Council will undertake investigations into the suitability of other sites for affordable housing projects that may also include sites not owned by Council.
 - d. Include a set of desired affordable housing location characteristics and a definition of key centres in line with the Background Report and Discussion Paper.
 - e. Include commentary on the broader approach to affordable housing maintenance.
 - f. Consider the relevant outcomes of the Shoalhaven Economic Development Strategy 2017.
2. Support the public exhibition of the draft Strategy with the Background Report, Discussion Paper and Strategic Framework.
3. Arrange for Dr Judy Stubbs to brief Council on the strategies/actions in the draft Strategy either prior to or during the public exhibition period.
4. Continue to pursue the possibility of an initial demonstration affordable housing development at Coomea Street, Bomaderry with the NSW Government, Community Housing Providers, property industry representatives (e.g. Property Council of Australia) and relevant community consultative bodies.
5. Receive a future report, following the public exhibition period of the draft Strategy, to enable any submissions to be fully considered and any changes made prior to Council adoption.

DE17.50

Options

1. As recommended.

Implications: this is the preferred option as it will enable the draft Strategy to be placed on public exhibition and will give the community an opportunity to comment on the proposed strategic approach to affordable housing in Shoalhaven.

2. Adopt an alternative recommendation.

Implications: depends on the extent of changes.

3. Not adopt the recommendation.

Implications: This may postpone the development of an affordable housing strategy for Shoalhaven.

Background

Council resolved on 7 November 2016 (MIN 16.840), that the Development Committee:

1. *Receive the Affordable Housing Background Report, Discussion Paper and Strategic Framework prepared by Judith Stubbs and Associates as the initial stages of the development of an Affordable Housing Strategy for Shoalhaven for information*
2. *Make the Background Report, Discussion Paper and Strategic Framework publicly available and endorse the continued preparation of a draft Affordable Strategy for Shoalhaven based on the Strategic Framework.*
3. *Receive a future report on the draft Affordable Housing Strategy for Shoalhaven, to enable it to be fully considered prior to proceeding to community consultation/engagement*
4. *Arrange for Dr Judy Stubbs to brief Council, when appropriate, on the Affordable Housing Strategy work for Shoalhaven*

Affordable Housing Background Report, Discussion Paper and Strategic Framework

Council engaged Judith Stubbs and Associates (JSA) in late 2015 to develop and present an initial Affordable Housing Discussion Paper. This Discussion Paper can be viewed at:

http://shoalhaven.nsw.gov.au/LepRegisterDocuments/Msc/301/ShoalhavenAffordableHousing_DiscussionPaper.pdf.

The purpose of the Discussion Paper was to outline achievable and feasible options and strategies that would increase the supply of affordable housing in Shoalhaven for relevant target groups in appropriate locations. The Discussion Paper includes evidence based recommendations regarding those locations likely to be most effective in the local housing market context.

To inform the Discussion Paper and draft Strategy, JSA also prepared the following documents (they can also be viewed at the web links provided below):

- Shoalhaven Affordable Housing Background Report (Background Report): http://shoalhaven.nsw.gov.au/LepRegisterDocuments/Msc/301/ShoalhavenAffordableHousing_BackgroundReport.pdf ; and
- Framework for an Affordable Housing Strategy (Framework): http://shoalhaven.nsw.gov.au/LepRegisterDocuments/Msc/301/ShoalhavenAffordableHousing_Framework.pdf.

The Background Report provided detailed research, analysis and calculations regarding the demographic housing market, policy and planning context of affordable housing in

Shoalhaven, and an analysis and critical review of the range of potential strategies and mechanisms likely to be most effective in this context.

The Framework provided an outline of the draft Strategy and was based on evidence of local affordable housing need and the planning and market context. It outlines achievable strategies and mechanisms that are most likely to be effective in the local context.

Draft Shoalhaven Affordable Housing Strategy

JSA have now prepared the draft strategy (Attachment 1) which is in line with the strategic framework document. The draft strategy seeks to target the most effective policy solutions in the context of the local challenges presented in the Background Report and Discussion Paper.

The draft Strategy has been designed to be implemented through a number of key stages over the next 10 years with short, medium and long-term strategies. The initial focus would be on strategies that are most likely to have a practical impact on the supply of affordable housing, particularly the development of surplus or underutilised Council land in partnership with government or community agencies and/or the private sector.

The draft Strategy also provides for ongoing and sustainable engagement of Council in affordable housing through long-term strategies related to relevant planning mechanisms, amendments to relevant planning instruments and monitoring its effectiveness against key performance indicators over time.

Internal Consultation

Following a period of internal consultation in April 2017, the following submissions were received from Councils Development Services and Social and Infrastructure Planning sections (responses have also been provided):

Submission	Response
Development Services	
Medium term strategies are more likely to yield opportunities for affordable housing.	Noted. The draft Strategy includes strategies to achieve affordable housing outcomes over the short, medium and long terms.
Need a clear definition of Council's role in the provision of affordable housing.	<p>The draft Strategy outlines Council's role being "a statutory responsibility to seek to preserve and create affordable housing through the planning and assessment process". The strategies within with draft Strategy range from 'light' planning intervention to 'strong' intervention, or direct provision of affordable housing.</p> <p>It is not Council's role to act as service provider.</p>
<p>All suggested sites except Coomea Street have environmental constraints that make development difficult to achieve:</p> <ul style="list-style-type: none"> 11 Lamonds Lane, Nowra: <ul style="list-style-type: none"> The site is not currently certified for residential use because of contamination. Significant traffic implications, i.e. loss of car parking to the Nowra CBD. 	<p>It is acknowledged that Coomea Street, Bomaderry and 19 Boree Street, Ulladulla are the only two suggested Council owned sites that are not heavily constrained.</p> <p>There is merit in removing the following sites from the draft Strategy prior to exhibition to manage community expectations for the sites that have limited/no development potential:</p> <ul style="list-style-type: none"> 11 Lamonds Lane, Nowra.

<ul style="list-style-type: none"> • Corner Greenwell Point Road and Clipper Road, Nowra: <ul style="list-style-type: none"> ◦ A significant part of the site functions as a detention basin. ◦ The whole of the site provides open space to the existing low cost housing. ◦ The site is classified as Community land. • 10 Pleasant Way, Nowra: <ul style="list-style-type: none"> ◦ Flood prone. ◦ Listed heritage item. 	<ul style="list-style-type: none"> • Corner Greenwell Point Road and Clipper Road, Nowra. • 10 Pleasant Way, Nowra (in the process of being sold). <p>Additional sites could be identified as the project progresses, including land not necessarily in Council ownership e.g. other public owned sites.</p>
<p>Tiny homes appear to provide emergency accommodation not affordable rental housing.</p>	<p>Tiny homes have been suggested to be included as a medium term strategy for affordable housing as part of a manufactured home site that includes partnership with social support agencies.</p> <p>Emergency accommodation is intrinsically linked to the supply of affordable housing and therefore it is appropriate to address it in some form within the draft Strategy.</p>
<p>Need to consider other land not in Council ownership.</p>	<p>There is merit in further investigating potential affordable housing sites that might not be in Councils ownership and ways to facilitate development of these other suitable sites.</p> <p>Council is currently seeking support and funding from the State Government for the site at 42-46 Coomea Street, Bomaderry. There are a number privately owned land parcels in the broader precinct at Bomaderry that could be investigated to enable the expansion of the project area. This is consistent with the Council resolution of 28 March 2017 to consider opportunities as they arise to further consolidate the Council land holding at Coomea Street.</p>
<p>Need to consider a contributions plan for site acquisition.</p>	<p>Affordable Housing is not community infrastructure and cannot be included in a Section 94 contributions plan as prescribed by the <i>Environmental Planning and Assessment Act 1979</i> and Environmental Planning and Assessment Regulation 2000.</p>
<p>Need a clear set of desired characteristics for affordable housing locations (e.g. proximity to transport, key sites). Also need to include a definition of key centres.</p>	<p>Although mentioned in the Background Report and Discussion Paper, a set of desired characteristics and a definition of key centres could be included and clarified in the actual Strategy.</p>

DE17.50

Social and Infrastructure Planning Unit	
Strategy needs to consider how residents will maintain properties in comfortable and sustainable manner.	The draft Strategy considers maintenance within strategy three, however, there would be merit in providing commentary on the broader approach to maintenance. It is noted that depending on the approach taken, this is not something that Council is likely to be directly involved in.
Imperative affordable housing placement made with jobs availability in mind.	The draft Strategy identifies appropriately located affordably priced housing as a key principle. The Background Report and Discussion Paper look at locating affordable housing projects in the three key urban centres of Shoalhaven (Nowra-Bomaderry, Bay and Basin and Ulladulla) which are close to services, transport and job opportunities. The placement of affordable housing with jobs availability and consideration of the draft Shoalhaven Economic Development Strategy could be incorporated into the draft Strategy.
Consider objectives of draft Shoalhaven Economic Development strategy.	There is merit in considering the Shoalhaven Economic Development Strategy 2017 in the strategic framework of the draft Strategy.
Great concept for those who have down payment but strategy does not address saving for down payment. Are there opportunities for Council to explore lending pathways or rent to own?	It is not Council's role to lead the overall management and arrangements associated with loans or saving strategies. The draft Strategy includes commentary on 'Shared Equity Arrangements' but indicates that they could be developed by a Community Housing Provider potentially in partnership with a financial institution and/or on Council owned land. The recent Federal budget announcements could assist in this regard.
A risk factor is the potential concentration of affordable housing. Therefore should be distributed across residential areas.	The draft Strategy looks at promoting a mix of affordable accommodation types for different target groups to complement the existing housing mix in established areas.
Council could facilitate through the sale of 'pocket-parks' earmarked for rationalisation which could be put back into community infrastructure budget.	Council has not made any decision to rationalise pocket-parks at this stage and any proposed sale of 'pocket-parks' would need further consideration by Council and extensive community consultation as part of a separate process. However, there is merit in further considering what other Council properties could assist with the realisation of this Strategy in the longer term.

Conclusion

The proposed changes to the draft Strategy in response to the internal staff consultations are included in item 1 of the recommendation.

Once the recommended changes are completed, the draft Strategy can be placed on public exhibition. Following public exhibition and targeted community engagement, submissions will be reviewed and reported back to Council for consideration.

In accordance with the previous resolution, arrangements will be made for Dr Judith Stubbs to brief Councillors on her work and the draft Strategy actions, either prior to, or during the exhibition of the draft Strategy.

Community Engagement

Following changes to the draft Strategy, a detailed engagement and consultation will be undertaken with relevant bodies, interested parties and the broader community.

Policy Implications

The Discussion Paper and Background Report have identified possible changes to Council's policies and planning controls. Any resulting changes to policy will ultimately be considered following the adoption of the draft Strategy.

Financial Implications

These affordable housing investigations are being conducted within the current Strategic Planning budget.

Depending on which strategies or actions are adopted there may be financial implications/considerations for Council and these will be discussed in future reports.

DE17.51 Exhibition & Finalisation - Planning Proposal - Additional Permitted Use - 5C Creston Grove, Bomaderry (PP021)

HPERM Ref: D17/163745

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Gateway Determination [↓](#)
2. Public Exhibition Documentation (under separate cover) [↗](#)
3. RMS Submission [↓](#)

Purpose / Summary

Report the outcomes of the public exhibition and enable the finalisation of the Planning Proposal (PP) that seeks to add a Schedule 1 Additional Permitted Use (APU) into the Shoalhaven Local Environmental Plan (LEP) 2014 for Lot 393 DP 1144727, 5C Creston Grove, Bomaderry to allow for vehicle sales and hire premises.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the Planning Proposal as exhibited.
2. Under Council's delegation for this Planning Proposal, forward the Planning Proposal to the NSW Parliamentary Counsel instructing them to draft an amendment to the SLEP 2014 under Section 59(1) of the Environmental Planning and Assessment Act 1979.
3. Advise the proponent and surrounding landowners of this resolution and again when the LEP Amendment is notified.

Options

1. Adopt the recommendation and finalise the PP as exhibited.

Implications: Given that no submissions objecting to the proposal were received, this is the preferred option, as it will enable the PP to be finalised within the timeframe set by NSW Department of Planning & Environment (DP&E) in the Gateway determination.

2. Adopt an alternative or revised recommendation.

Implications: Depending on the nature of any changes, this could mean Council would not meet the timeframe set by DP&E in the Gateway determination, or may result in the PP needing to be re-exhibited.

Background

This matter was initiated by the lodgement of a PP in February 2016 by Ride Australia Pty Ltd for the rezoning 5C Creston Grove, Bomaderry to allow for a new commercial premises comprising of a boat and merchandise showroom with associated office space.

The original PP sought to rezone the subject land from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development under Shoalhaven LEP 2014.

In considering the preliminary PP, adjoining landowners were notified of the proposal and consultation was undertaken with the NSW Roads and Maritime Service (RMS).

Initially the RMS strongly opposed the proposal and submissions (6) were received from adjoining landowners raising concerns with the proposal in respect to access, impact on residential amenity and the design of the future development.

The proponents subsequently advised that they were willing to revise the proposal from a rezoning (to B5 Business Development) to a Schedule 1 APU that would enable the specific use they were seeking.

The Development Committee resolved (under delegation) on 3 May 2016 (MIN16.341) that:

- a) *Consideration of the Planning Proposal be deferred to allow*
- i. *A further report being provided to Council on the Proponents amended proposal and approach regarding the use of Schedule 1 of the LEP*
 - ii. *Council to consult with Department of Planning regarding the use of Schedule 1 for the proposed rezoning*
 - iii. *Council to further consult with Roads and Maritime Services given the scale and activity of the proposed development*
 - iv. *Council and the proponent undertaking further consultation with the local residents*
- b) *That Council write to MP Gareth Ward to advise him of Councils decision in relation to the proposal.*

Consistent with this resolution, a meeting was held in May 2016 between adjoining landowners/residents (4), the proponents and Councils staff to discuss the PP. The discussion at the meeting included:

- Strong desire to “future proof” the site from more intensive business and industrial uses associated with a B5 Business Development zone, given that these uses could result in a greater impact on amenity. Thus, the use of a tailored Schedule 1 APU appeared to be a more favourable way forward.
- Ability to concurrently submit a Development Application (DA) for assessment alongside the PP was also discussed and there was general support for this as it provided an opportunity to see and comment on the detail associated with the proposal aspects. It is noted that at the time of writing this report, a development application had not yet been lodged for the proposed development over the subject site.
- Inclusion of a “sunset” provision in the resulting LEP Amendment that requires that the APU be acted on within 12 months. This provision provides a window within which the LEP provision is to be utilised and ensure the proponents act on the provision in a timely manner and the site is not ultimately left undeveloped and subject to further change.

At the conclusion of this meeting, there was consensus that the proposal was generally acceptable and it was confirmed that residents would have future opportunity to comment further on the proposal as part of the formal exhibition process and eventual development application.

Following the meeting a further report was considered by Council on 28 June 2016 and it was resolved (MIN16.489) to:

- a. *Support a Planning Proposal over 5C Creston Grove, Bomaderry that enables the proposed boat and merchandise showroom and associated office space via a suitably worded inclusion in Schedule 1 (Additional Permitted Use) of Shoalhaven Local Environment Plan (LEP) 2014 that “sunsets” in 12 months if not acted upon;*
- b. *Submit the Planning Proposal to the Department of Planning & Environment to request a ‘Gateway Determination’*
- c. *Encourage the proponent to also lodge a development application for the proposed use to be considered and advanced alongside the Planning Proposal so that the adjoining landowners/residents can get a greater certainty on the proposed development outcome; and*
- d. *Notify the NSW Roads & Maritime Services and the adjoining landowners/residents who participated in the early discussions surrounding this matter of this resolution*
- e. *Should the planning proposal be approved a subsequent DA not be dealt with under delegated authority and be brought to the Council for consideration in relation to the right of way on the site.*

The PP subsequently received Gateway determination from DP&E on the 27 October 2016 (**Attachment 1**). The Gateway determination outlined that the Traffic Impact Statement was to be amended to address issues raised by the Roads and Maritime Services (RMS) prior to exhibition and that the amending of the LEP be finalised within 12 months of the Gateway Determination.

Community Engagement

The PP was publicly exhibited for comment from 26 April until 31 May 2017 in accordance with the Gateway determination. A copy of the exhibited PP document is provided at **Attachment 2**.

All surrounding landowners, including those in attendance at the landowner meeting, were advised in writing of the public exhibition of the PP. In addition, Council staff contacted at least two of the landowners by telephone to ensure that they had received the advice of the exhibition and were comfortable that all their concerns had been addressed by way of the Schedule 1 APU. It was noted to these landowners that a subsequent opportunity to provide comment on the proposed development would be available as part of the future development application.

At the conclusion of the exhibition period and at the time of writing this report, no community submissions have been received.

RMS Response

RMS provided comment on the exhibited PP, which noted: “RMS is satisfied that the proposed access arrangements are consistent with, and can be constructed to comply with the relevant standards”. A copy of the RMS submission is provided as **Attachment 3**.

Conclusion

The PP, if adopted, will amend Shoalhaven LEP 2014 to add an APU over the subject site to allow for a vehicle sales and hire premises, specifically a boat and merchandise showroom with associated office space. The exhibited PP was prepared to address the concerns raised initially by RMS and the adjoining landowners. As such, it is recommended that Council adopt the PP as exhibited and forward it to NSW Parliamentary Counsel Office (PCO) to enable finalisation of the resulting LEP Amendment.

Policy Implications

This PP will amend the Shoalhaven LEP 2014, by:

- Adding a Schedule 1 APU to permit with development consent a ‘vehicle sales and hire premises’ excluding ancillary industrial activities. The ability to narrow the wording further to also include a reference to “boat and merchandise showroom, with associated office space” will be discussed with the PCO as part of the drafting of the LEP Amendment;
- Including a 12 month sunset provision requiring that development on the site is acted upon;
- Amending the relevant Clauses Map; and
- Insert an exception to Clause 1.8A Savings Provision in relation to the proposal.

At the time of writing this report, a development application has not been lodged for the development. The exception to Clause 1.8A is only required if an application is lodged prior to the finalisation of the LEP Amendment. As part of the drafting of the LEP Amendment, Council staff will liaise with PCO to determine whether the exception to clause 1.8A will need to be included in the final Amendment.

Financial Implications

As this is a proponent initiated PP, the proponent has paid the relevant fees and charges to cover the cost of staff resources required to complete the post exhibition assessment and finalisation.



Planning & Environment

Mr Russ Pigg
General Manager
Shoalhaven City Council
PO Box 42
Nowra NSW 2541

Contact: Lisa Kennedy
Phone: (02) 4224 9457
Fax: (02) 4224 9470
Email: lisa.kennedy@planning.nsw.gov.au

Our Ref: PP_2016_SHOAL_004 (16/11914)
Your Ref: 52920E (D16/262728)

Shoalhaven City Council

Received

- 3 NOV 2016

Attention: Ms Jessica Volkanovski

File No. _____

Referred to: J. Volkanovski

Dear Mr Pigg

Planning proposal to amend Shoalhaven Local Environmental Plan 2014

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal for a Schedule 1 amendment to allow for an additional permitted use being a vehicle sales or hire premises on Lot 393 DP1144727, 5C Creston Grove, Bomaderry.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In issuing this Gateway determination, I have found that the planning proposal is consistent with s117 Direction 5.10 Implementation of Regional Plans.

I have agreed the planning proposal's inconsistency with section 117 Directions 3.1 Residential Zones and 6.3 Site Specific Provisions are of minor significance. No further approval is required in relation to these Directions or other Directions, while the proposal remains in its current form.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Lisa Kennedy of the Department's Southern Regional office to assist you. Lisa can be contacted on (02) 4224 9463.

Yours sincerely

 27/10/16

Linda Davis
Acting Director Regions, Southern
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Delegated Plan Making Reporting Template



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2016_SHOAL_004_00): for Lot 393 DP1144727, 5C Creston Grove, Bomaderry to amend the Shoalhaven Local Environmental Plan 2014 to:

- add a Schedule 1 Additional Permitted Use to allow for vehicle sales or hire premises excluding ancillary industrial activities;
- include a sunset provision requiring that development on the site is acted upon with 12 months;
- amend the Clauses map CLS_013D; and
- insert an exception to clause 1.8A savings provision in relation to the proposal.

I, Linda Davis, Acting Director Regions, Southern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2011 as described above should proceed subject to the following conditions:

1. The Traffic Impact Statement is to be updated to address issues raised by the Roads and Maritime Services prior to exhibition.
2. The draft Clauses Map is to be prepared in accordance with the Department's 'Standard technical requirements for LEP maps' and included in the planning proposal prior to its exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* as follows:
 - (a) the planning proposal is to be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2012).
4. Consultation is required with Roads and Maritime Services. Roads and Maritime Services are to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
5. No public hearing is required to be held into the matter under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission).

6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Dated 27th day of October 2016



Linda Davis
Acting Director Regions, Southern
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Shoalhaven City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_SHOAI_004_00	<p>Planning proposal to amend the Shoalhaven Local Environmental Plan 2014 by:</p> <ul style="list-style-type: none"> • adding a Schedule 1 Additional Permitted Use to allow for vehicle sales or hire premises excluding ancillary industrial activities; • including a sunset provision requiring development on the site to be acted upon with 12 months; • amending the Clauses map CLS_013D; and • inserting an exception to clause 1.8A Savings provision for the development; <p>at Lot 393 DP1144727, 5C Creston Grove, Bomaderry.</p>

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 27/10/2016

Linda Davis
Acting Director Regions Southern
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning

Delegated plan making reporting template

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2016_SHOAL_004_00
Date Sent to DoP&E under s56	14 October 2016
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	27/10/16

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Have changes been made to the draft LEP after obtaining final PC opinion?	YES NO	
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information:

Our Ref: STH15/00009/08
Contact: Melissa Steep 4221 2771
Your Ref: 52920E (D17/85711)



Transport
Roads & Maritime
Services

28 April 2017

Peta Brooks
Shoalhaven City Council
council@shoalhaven.nsw.gov.au
cc: Peta.Brooks@shoalhaven.nsw.gov.au

**GATEWAY DETERMINATION – LOT 393 DP 1144727, 5C CRESTON GROVE,
BOMADERRY, PROPOSED BOAT SHOWROOM**

Dear Peta,

Roads and Maritime Services (RMS) refers to your correspondence dated 24 March 2017 regarding the subject planning proposal.

RMS has reviewed the Addendum Traffic Impact Statement (TIS) provided, dated 28 February 2017 and notes that TIS continues to refer to the application as a rezoning of the subject parcel of land, rather than an application to include an additional permitted use (with consent) of "Vehicle Sales or Hire Premises" in the Shoalhaven LEP.

Despite this, RMS understands Council is considering the following changes to the LEP:

- Amendment of Schedule 1 to allow for an additional permitted use being a 'vehicle sales or hire premises', excluding ancillary industrial activities;
- Inclusion of a sunset provision requiring that development on the site is acted upon within 12 months;
- Amend the Clauses map CLS_013D; and
- Insert an exception to Clause 1.8A savings provision in relation to the proposal.

On this basis and upon review of the provided plans (Appendix E of TIS) RMS is satisfied that the proposed access arrangements are consistent with, and can be constructed to comply with the relevant standards.

Given the subject site is to retain R2 Low Density Residential Zoning, RMS considers that the existing Right of Carriageway (ROC) benefitting the subject lot and burdening the adjoining Lot 392 DP1144727 should be maintained. This is to ensure appropriate local road access is retained to the lot should the site not be developed as a boat showroom, as proposed, and be required for residential use as per its existing zoning.

Yours faithfully,


Melissa Steep
A/ Manager Land Use
Southern Region

Roads & Maritime Services

Level 4, Southern Regional Office, 90 Crown Street, Wollongong NSW 2500 | PO Box 477 Wollongong East NSW 2520
T 02 4221 2460 | F 02 4221 2777 | www.rmservices.nsw.gov.au |

DE17.52 Options Report - Berry Heritage Investigations

HPERM Ref: D17/194330

Group: Planning Environment & Development Group
Section: Strategic Planning

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

Purpose / Summary

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

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

Recommendation (Item to be determined under delegated authority)

That Council:

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

Options

1. Pursue Option 1 as outlined in this report.

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

2. Receive this report for information.

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

Background

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

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

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

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

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

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

Individual heritage items and heritage conservation areas

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

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

Options

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

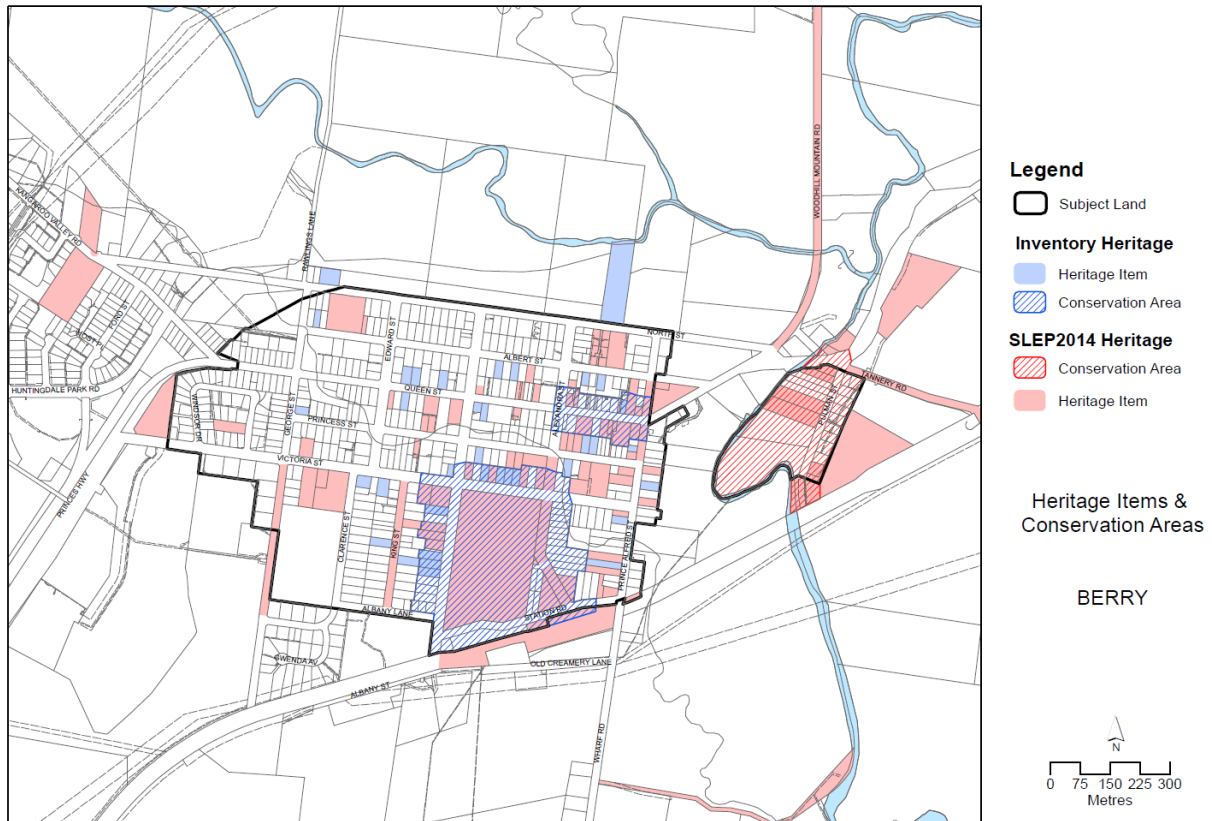
Option 1: Additional Heritage Listings (MIN17.481)

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

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

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

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



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

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

DE17.52

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

DE17.52

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

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

Option 2: Urban Conservation Area (MIN12.494)

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

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

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

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

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

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

Conclusion

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

Community Engagement

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

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

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

Policy Implications

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

Financial Implications

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

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

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

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

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

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

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.