

Development & Environment Committee

Meeting Date: Tuesday, 11 May, 2021

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

Attachments (Under Separate Cover)

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PLANNING PROPOSAL – PP044

Shoalhaven Local Environmental Plan 2014 Housekeeping 2020-2021

Prepared by
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- Attachment B – Council Report and associated Minute
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- Attachment E – Heritage Assessment and Heritage Data Form: Item No. 407
- Attachment F – SEPP Checklist
- Attachment G – s9.1 Ministerial Direction Checklist

This Planning Proposal (PP) seeks to amend Shoalhaven Local Environmental Plan (LEP) 2014 to improve the operation and accuracy of the Plan. The amendment responds to a range of instrument and mapping issues that have arisen since the previous housekeeping amendment commenced.

1.1 Subject Land

[illegible]

Figure 1: Subject Land

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

1.2 Background

Shoalhaven LEP 2014 commenced on 22 April 2014. The process essentially consolidated existing planning controls into the one LEP in the NSW Government's Standard Instrument LEP format.

On 3 June 2014, Council's Development Committee resolved to commence the process to make necessary housekeeping amendments to Shoalhaven LEP 2014 and report these for consideration as required. In line with this, reviews to Shoalhaven LEP 2014 are continuously undertaken to ensure accuracy and operation are upheld and improved, and positive outcomes for the community are delivered in line with applicable strategic documents.

On [Insert Date here], Council's Development and Environment Committee resolved [Insert MIN here] to submit this Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination. Refer to **Attachment B** for a copy of the Council Report and Minutes.

2 Part 1 – Intended Outcome

The intended outcome of this Planning Proposal (PP) is to amend a number of clauses and maps in order to correct identified anomalies or inconsistencies within the LEP and improve the Plan's operation. These anomalies or inconsistencies have arisen since the Plan's commencement in 2014 and have resulted from staff identified anomalies, development assessment processes, the registration of new land titles, landowner requests and as resolved by Council.

A detailed explanation and justification for each proposed amendment is included in Section 3 (Part 2 – Explanation of Provisions) of this PP.

3 Part 2 – Explanation of Provisions

To achieve the proposed objectives, the PP proposes to amend Shoalhaven LEP 2014 via a number of instrument and mapping amendments as shown in the following sections.

3.1 Changes to Existing Provisions – Instrument Only

Ten (10) items have been identified that require administrative amendments to Shoalhaven LEP 2014. These amendments include updates to clauses, land use zones and Schedule 5, which are explained in **Table 1** with proposed changes identified in red.

Exact wording of the proposed amendments will be determined in conjunction with the NSW Parliamentary Counsels Office.

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Table 1: Instrument Amendments – Administrative Anomalies

Item	Clause	Proposed Amendment
1.	Land Use Table R1 General Residential R2 Low Density Residential R3 Medium Density Residential R5 Large Lot Residential	<p>Issue and Justification: Secondary Dwellings are permissible with consent in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones under the <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> (AHSEPP). It would be appropriate for Shoalhaven LEP 2014 to be amended to be consistent with the AHSEPP. This also resolves uncertainty regarding the floor area requirements in Clause 5.4(9) of the LEP relating to secondary dwellings.</p> <p>Shoalhaven Development Control Plan (DCP) 2014 has recently been amended to include provisions that guide secondary dwellings and require them to comply with Schedule 2 of State Environmental Planning Policy (Affordable Rental Housing) 2009 or otherwise seek an alternative solution.</p> <p>Proposed Amendment: Insert 'secondary dwellings' as a land use permitted with consent in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones.</p> <p>Zone R1 General Residential 3 Permitted with consent Attached dwellings; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Exhibition homes, Exhibition villages; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Jetties; Multi dwelling housing; Neighbourhood shops; Office premises; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Registered clubs; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Secondary Dwellings; Seniors housing; Sewerage systems; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Water supply systems</p> <p>Zone R2 Low Density Residential 3 Permitted with consent Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling</p>

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		<p><i>houses; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Jetties; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary Dwellings; Semi-detached dwellings; Sewerage systems; Tank-based aquaculture; Water supply systems</i></p> <p>Zone R3 Medium Density Residential</p> <p>3 Permitted with consent</p> <p><i>Attached dwellings; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Emergency services facilities; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Home-based child care; Home businesses; Home industries; Home occupations; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Registered clubs; Residential flat buildings; Respite day care centres; Roads; Secondary Dwellings; Seniors housing; Sewerage systems; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Water supply systems</i></p> <p>Zone R5 Large Lot Residential</p> <p>3 Permitted with consent</p> <p><i>Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Extensive agriculture; Group homes (transitional); Home-based child care; Home businesses; Home industries; Horticulture; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary Dwellings; Sewerage systems; Tank-based aquaculture; Water supply systems</i></p>
2.	<p>Land Use Table</p> <p>B2 Local Centre</p> <p>B3 Commercial Core</p> <p>B4 Mixed Use</p>	<p>Issue and Justification: 'Artisan food and drink industry' is currently not permissible in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones citywide.</p> <p>In 2018 the NSW Government released an amendment to the Standard Instrument Local Environmental Plan to include provision for a new land use term 'artisan food and drink industry'. As a result, Shoalhaven LEP 2014 was amended to insert the land use term in the RU1 Primary Production and RU2 Rural landscape zones. The term is now permissible with consent in the following zones:</p> <ul style="list-style-type: none"> • RU1 Primary Production

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	<ul style="list-style-type: none"> • RU2 Rural Landscape • RU5 Village • B5 Business Development • B7 Business Park • IN1 General Industrial • IN2 Light Industrial • IN4 Working Waterfront <p>In addition to the above, it is considered appropriate for the term to also be permissible with consent in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones to support the growing the artisan and craft food and drink industry in Shoalhaven. These uses have the potential to contribute to the viability and revitalisation of Shoalhaven centres.</p> <p>The proposed amendment is supported by Council's Nowra CBD Revitalisation Strategy Committee, which resolved (CBD21.3) at their 3 February 2021 meeting to:</p> <ol style="list-style-type: none"> 1. <i>Support the preparation and progression of a Planning Proposal to add 'Artisan Food & Drink Industry' as a permissible use in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones in the Shoalhaven Local Environmental Plan 2014.</i> 2. <i>Receive future updates on the progress of the Planning Proposal.</i> <p>Proposed Amendment: Insert 'artisan food and drink industry' as a land use permitted with consent in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones.</p> <p>Zone B2 Local Centre 3 Permitted with consent <i>Artisan food and drink industry; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential care facilities; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4</i></p> <p>Zone B3 Commercial Core 3 Permitted with consent</p>
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		<p><i>Artisan food and drink industry; Boarding houses; Building identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Any other development not specified in item 2 or 4</i></p> <p>Zone B4 Mixed Use</p> <p>3 Permitted with consent</p> <p><i>Artisan food and drink industry; Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Group homes; Hotel or motel accommodation; Information and education facilities; Medical centres; Multi dwelling housing; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4</i></p>
3.	<p>Clause 4.1D</p> <p>Exceptions to minimum subdivision lot sizes for multiple occupancy development on land in Zone RU1 or Zone RU2</p>	<p>Issue and Justification: The following State Environmental Planning Policies (SEPPs) have now all been repealed:</p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy No 15—Multiple Occupancy of Rural Land,</i> • <i>State Environmental Planning Policy No 42—Multiple Occupancy of Rural Land, and</i> • <i>State Environmental Planning Policy No 15—Rural Landsharing Communities</i> <p>The wording of Clause 4.1D should be amended to reflect the repeal of all of the SEPPs, to provide clarity when addressing previously approved multiple occupancy development.</p> <p>Proposed Amendment: Amend Clause 4.1D(3)(c) to reflect the repeal of all three State Environmental Planning Policies. Appropriate wording will be drafted by the Parliamentary Counsels Office.</p>
4.	<p>Clause 4.1E</p> <p>Minimum lot size for certain split zone lots</p>	<p>Issue and Justification: Proposed Clause 7.29 (refer to Instrument Item 10) seeks to enable the subdivision of lots that currently have a split zoning (Industrial and Environmental or Rural), to allow the creation of two residue</p>

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		<p>lots which contain all of the rural or environmental land within the parent lot.</p> <p>As such, Clause 4.1E should be amended to include an additional subclause that prevents lots created under proposed Clause 4.29(2) from being subdivided further.</p> <p>Proposed Amendment: Insert an additional subclause that ensures resulting lots created via proposed Clause 4.29 (refer to Instrument Item 10) cannot be subdivided under Clause 4.1E.</p> <p>4.1E Minimum lot size for certain split zone lots</p> <p>(9) A resulting lot referred to in clause 7.29(2) must not be subdivided under this clause.</p>
5.	<p>Clause 4.2D(7)</p> <p>Erection of dual occupancies (attached) and dwelling houses on land in certain rural, residential and environment protection zones</p>	<p>Issue and Justification: Clause wording needs to be updated to include the term <i>waterbody</i>, in addition to road or railway. Council's position has always been that a holding separated by water is still considered to be a holding. This is supported by legal advice.</p> <p>There are a number of <i>holdings</i> across the Shoalhaven that are held in the same owner and separated by waterbodies. To ensure Clause 4.2D reflects Council's position, Clause 4.2D(7) should be updated.</p> <p>Proposed Amendment: Amend Clause 4.2D to include the term <i>waterbody</i>.</p> <p>4.2D Erection of dual occupancies (attached) and dwelling houses on land in certain rural, residential and environment protection zones</p> <p>(7) In this clause –</p> <p>holding means all adjoining land, even if separated by a road, or railway or waterbody, held by the same person or persons.</p>
6.	<p>Clause 7.10</p> <p>Development in HMAS Albatross Military Airfield buffer area</p>	<p>Issue and Justification: The Australian Standards have been updated, AS 2021–2015 now supersedes existing AS 2021–2000. The intent of the LEP is to apply best practice and therefore the more recent Australian Standard should be applied.</p> <p>Proposed Amendment: Amend Clause 7.10(3)(b) & 7.10(4) to reflect the updated AS2021-2015.</p> <p>7.10 Development in HMAS Albatross Military Airfield buffer area</p> <p>1) The objectives of this clause are as follows—</p> <p>a. to prevent certain noise sensitive developments from being located near the HMAS Albatross Military Airfield and its flight paths,</p>

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		<p>b. to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,</p> <p>c. to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.</p> <p>2) This clause applies to development that—</p> <p>a. is on land that—</p> <p>i. is in the vicinity of the HMAS Albatross Military Airfield, and</p> <p>ii. is identified as “HMAS Albatross” on the Buffers Map, and</p> <p>b. the consent authority considers is likely to be adversely affected by aircraft noise.</p> <p>3) Before determining a development application for development to which this clause applies, the consent authority—</p> <p>a. must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>b. must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000 2021—2015, and</p> <p>c. must consider the ANEF contour that applies to the land on which the development is proposed, and</p> <p>d. for development for the purposes of centre-based child care facilities, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings, residential accommodation, business premises, hostels, hotel or motel accommodation, office premises or retail premises—must be satisfied that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000 2021—2015.</p> <p>4) In this clause—</p> <p>ANEF contour means a noise exposure contour shown as an ANEF contour on the <i>Noise Exposure Forecast Contour Map</i> for HMAS Albatross Military Airfield prepared by the Department of the Commonwealth responsible for airports.</p> <p>AS 2021—2000 AS 2021—2015 means AS 2021—2000 2021—2015, <i>Acoustics—Aircraft noise intrusion—Building siting and construction</i>.</p>
7.	<p>Schedule 5 Environmental Heritage</p> <p>Item No. 39: ‘Coomanderry Swamp Drainage Channel’</p>	<p>Issue and Justification: The property description is not succinct. Amending the property description will accurately reflect the included drainage reserves and their location.</p> <p>Proposed Amendment: Update the property description “... so much of DP 623346 and DP 615003 that comprises</p>

DE21.37 - Attachment 1

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		drainage reserves” to read “drainage reserves DP 623346 and DP 615003”.
	Existing Schedule 5	Proposed Schedule 5
	Item No: 39 Item: Coomanderry Swamp Drainage Channel Address: Coolangatta Road and Shoalhaven Heads Road Locality: Coolangatta Property Description: Lot 6, DP 786106; Lot 12, DP 1047067; Lot 12, DP 630628; Lot 1, DP 1196368; Lot 1, DP 706777; Lot 22, DP 1028714; Lot 2, DP 836097, Lot 1 DP 1148057; Lot 3, DP 805443; Lot 5, DP 860111; so much of DP 623346 and DP 615003 that comprises drainage reserves Significance: Local	Item No: 39 Item: Coomanderry Swamp Drainage Channel Address: Coolangatta Road and Shoalhaven Heads Road Locality: Coolangatta Property Description: Lot 6, DP 786106; Lot 12, DP 1047067; Lot 12, DP 630628; Lot 1, DP 1196368; Lot 1, DP 706777; Lot 22, DP 1028714; Lot 2, DP 836097, Lot 1 DP 1148057; Lot 3, DP 805443; Lot 5, DP 860111; so much of DP 623346 and DP 615003 that comprises drainage reserves drainage reserves DP 623346 and DP 615003 Significance: Local
8.	Schedule 5 Environmental Heritage Item No. 262: Remnant rainforest	Issue and Justification: The property description for Heritage Item No. 262 is incorrect. Lot 1 DP 861814 does not contain the Milton Ulladulla Subtropical Rainforest (MUSr) threatened ecological community (TEC). As such the property description should be amended to remove Part Lot 1 DP 861814 from the property description. The item is mapped as being entirely located within Lot 2, DP 861814 and Lot 1, DP 737627. Updating the property description aligns the listing with the mapped data. Proposed Amendment: Update the property description to remove 'Part Lot 1'.
	Existing Schedule 5	Proposed Schedule 5
	Item No: 262 Item: Remnant rainforest Address: Church Street Locality: Milton Property Description: Part Lot 1 and Lot 2, DP 861814; Lot 1, DP 737627 Significance: Local	Item No: 262 Item: Remnant rainforest Address: Church Street Locality: Milton Property Description: Part Lot 1 and Lot 2, DP 861814; Lot 1, DP 737627 Significance: Local
9.	Schedule 5 Environmental Heritage Item No. 299: Rendered Masonry Commercial Store	Issue and Justification: The item description does not accurately reflect the item. The trees have been removed from the site.

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	Including Residence and Trees	<p>A significant white cedar tree was removed in 2008 (with approval) and subsequently a fire on the adjoining property resulted in the wall at the rear of the property having to be replaced and the removal of trees in the process. The proposed amendment accurately reflects the removal of heritage significant trees.</p> <p>Proposed Amendment: Update the items name to remove 'and Trees'.</p>									
	Existing Schedule 5	Proposed Schedule 5									
	<p>Item No: 299</p> <p>Item: Rendered Masonry Commercial Store Including Residence and Trees</p> <p>Address: 61 Princes Highway</p> <p>Locality: Milton</p> <p>Property Description: Lots 1-3 and CP, SP 66659; Lots 5-8, SP 76002</p> <p>Significance: Local</p>	<p>Item No: 299</p> <p>Item: Rendered Masonry Commercial Store Including Residence and Trees</p> <p>Address: 61 Princes Highway</p> <p>Locality: Milton</p> <p>Property Description: Lots 1-3 and CP, SP 66659; Lots 5-8, SP 76002</p> <p>Significance: Local</p>									
10.	<p>New local clause</p> <p>Minimum lot size for certain split zone lots</p>	<p>Issue and Justification: There are a number of lots within the Shoalhaven that cannot be practically subdivided under the existing Clause 4.1E as the environmental or rural portion cannot be held within the one residue lot, as a result of environmental or other constraints.</p> <p>This is not Council's intent and can be rectified through the implementation of a new local clause aimed at enabling the creation of two residue lots that would contain the whole of the rural or environmental land within the parent lot.</p> <p>To ensure the non-industrial component of land is tied to the resulting lot and to prevent any unintended fragmentation of rural and environmentally zoned land, the resulting lot will retain a minimum of 1800m² of industrially zoned land. 1800m² is considered a suitable size of land for industrial development and is considered to be an average size of smaller industrial lots across the LGA.</p> <p>Attachment C shows the locations of the 4 lots located at Nowra Hill and Sussex Inlet and the following table provides commentary as to why Clause 4.1E cannot be used.</p> <table border="1"> <thead> <tr> <th></th><th>Location</th><th>Property Details</th><th>Why Clause 4.1E cannot be used</th></tr> </thead> <tbody> <tr> <td>1</td><td>Nowra Hill</td><td>Lot 1 DP 1112040</td><td>Cannot contain the entirety of E2 Environmental Conservation and RU2 Rural Landscape zoned land in one resulting lot due to the riparian network.</td></tr> </tbody> </table>			Location	Property Details	Why Clause 4.1E cannot be used	1	Nowra Hill	Lot 1 DP 1112040	Cannot contain the entirety of E2 Environmental Conservation and RU2 Rural Landscape zoned land in one resulting lot due to the riparian network.
	Location	Property Details	Why Clause 4.1E cannot be used								
1	Nowra Hill	Lot 1 DP 1112040	Cannot contain the entirety of E2 Environmental Conservation and RU2 Rural Landscape zoned land in one resulting lot due to the riparian network.								

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2	Nowra Hill	Lot 5 DP 1016142	Cannot contain the entirety of E2 Environmental Conservation zoned land in one resulting lot due to the riparian network.
3	Sussex Inlet	Lot 8 DP 731147	The subdivision of the lot will require an access road, similar to Flood Avenue (e.g. Mapping Item One, Section 3.2), to be formed connecting to either Sussex Inlet Road or The Springs Road. This will result in the severing of the RU2 Rural Landscape zoned land. Should future development occur, it is likely that the access road will be in a similar location as the current cross over to The Springs Road.
			
4	Sussex Inlet	Lot 104 DP 26638	Cannot contain the entirety of the RU2 Rural Landscape zoned land in one resulting lot due to the zone fragmentation. The introduction of the proposed clause will enable land to be released as per the Sussex Inlet Settlement Strategy.

Proposed Amendment: Insert a local clause that enables the creation of two residue lots containing all of the rural or environmental land within the parent lot.

Clause 7.28 of Shoalhaven LEP 2014 has now come into effect which enables a dwelling entitlement for the two lots at Nowra Hill (Lot 1 DP 1112040 & Lot 5 DP 1016142). The proposed new local clause will not affect the objectives of Clause 7.28 as it already allows for the situation where land has been subdivided first.

7.29 Development on land at Nowra Hill and Sussex Inlet

(1) This clause applies to land identified as "CI 7.29" on the *Clauses Map*, being the following (each an **original lot**)—

- (a) Lot 1, DP 1112040, 109 The Links Road, Nowra Hill,
- (b) Lot 5, DP 1016142, 147 The Links Road, Nowra Hill,
- (c) Lot 8, DP 731147, 12 The Springs Road, Sussex Inlet

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		<p>(d) Lot 104, DP 26638, 1002B Sussex Inlet Road, Sussex Inlet</p> <p>(2) Despite any other provision of this Plan, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if two of the resulting lots will:</p> <p>(a) Each contain land in Zone IN1 General Industrial that is at least 1800 square metres.</p> <p>(b) Together contain all of the non-urban land that was in the original lot.</p> <p>(3) In this clause, non-urban land means land in Zone E2 Environmental Conservation, Zone E3 Environmental Conservation or Zone RU2 Rural Landscape.</p>
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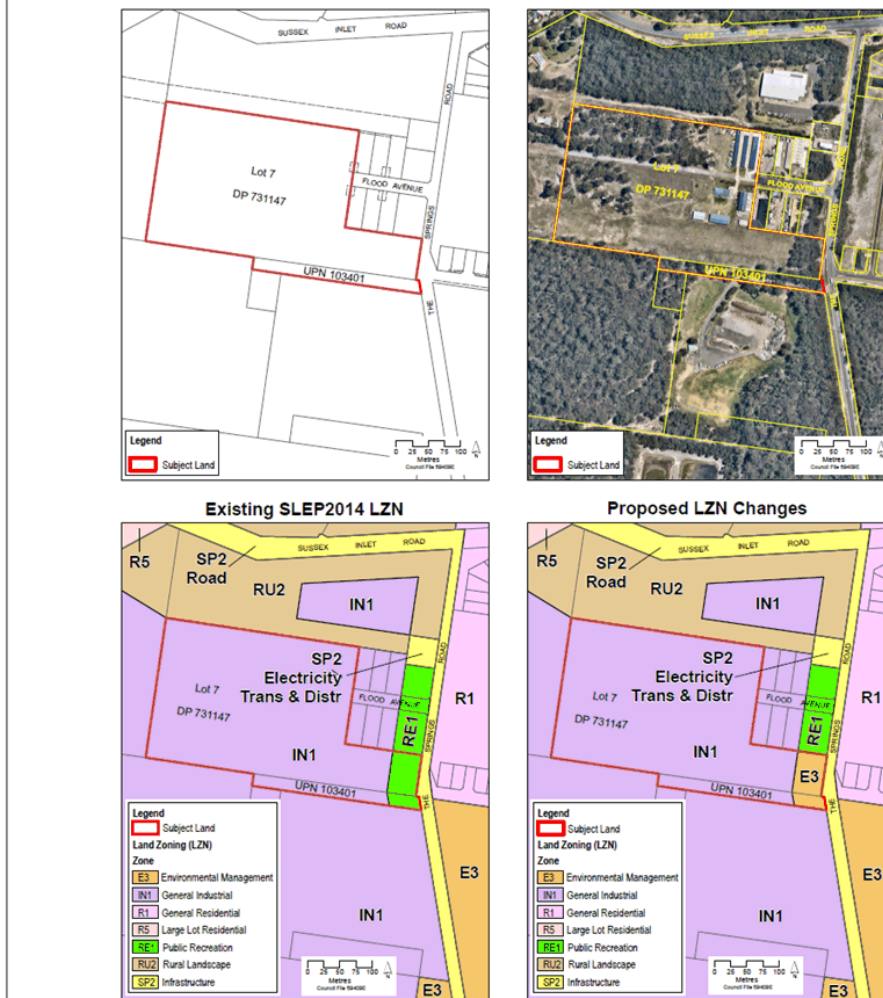
3.2 Changes to Existing Provisions – Mapping Only

Twenty-nine (29) items have been identified that require mapping amendments to Shoalhaven LEP 2014. These include mapping amendments to the Land zoning (LZN), Lot Size (LSZ), Height of Building (HOB), Buffer (BFR), Urban Release Area (URA), Clauses (CLS) and Heritage (HER). These are outlined in **Tables 2-7**, with proposed changes to the instrument identified in **red**.

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Table 2: Mapping Amendments – Land Zoning

1. Lot 7 DP 731147 & Road UPN 103401, The Springs Rd, Sussex Inlet



Issue and Justification: The lot is currently zoned part RE1 Public Recreation, which is considered an inappropriate zoning for privately owned land.

Council's [Community Infrastructure Strategic Plan](#) includes the two adjoining areas of open space (to the north) identified as undeveloped open space, although does not list the portion of RE1 on the subject lot as open space. Council has no intention of acquiring this portion of land, however the land historically has been set aside as a buffer for visual amenity purposes and therefore an E3 Environmental Management zone is considered appropriate to protect this function into the future.

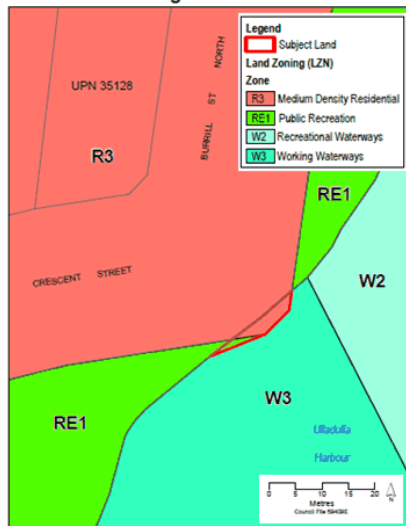
Proposed Amendment: Rezone the RE1 Public Recreation portion of both Lot 7 DP 731147 and Road Casement to E3 Environmental Management.

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

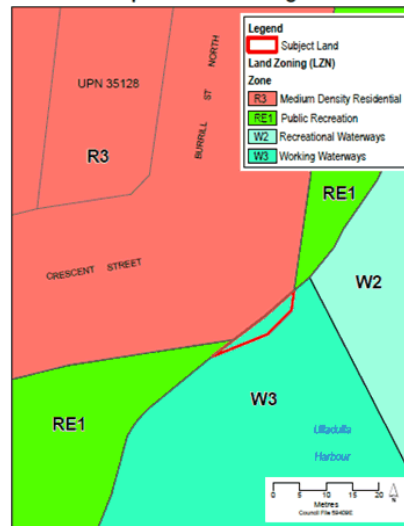
2. UPN 35128, Crescent St, Ulladulla



Existing SLEP2014 LZN



Proposed LZN Changes



Issue and Justification: The subject polygons are currently zoned R3 Medium Density Residential and RE1 Public Recreation. The R3 zone boundary is inconsistent with the road cadastre. The R3 zone and the RE1 zone protrude into the waterway.

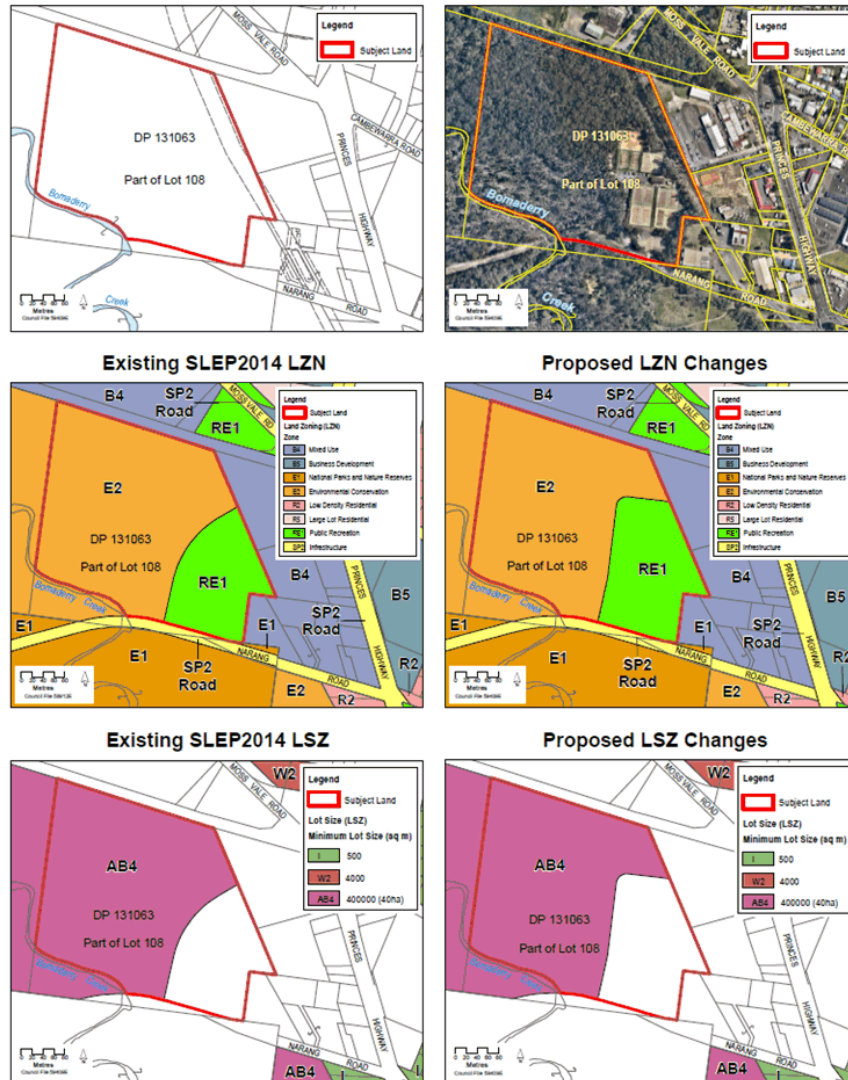
Crown Lands have no objection to the proposed amendments. (**Attachment D**)

Proposed Amendment: Rezone the R3 Medium Density Residential and RE1 Public Recreation polygons to W3 Working Waterways.

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Table 3: Mapping Amendments – Land Zoning and Lot Size

3. Part of Lot 108 DP 131063, West Cambewarra Rd, Bomaderry

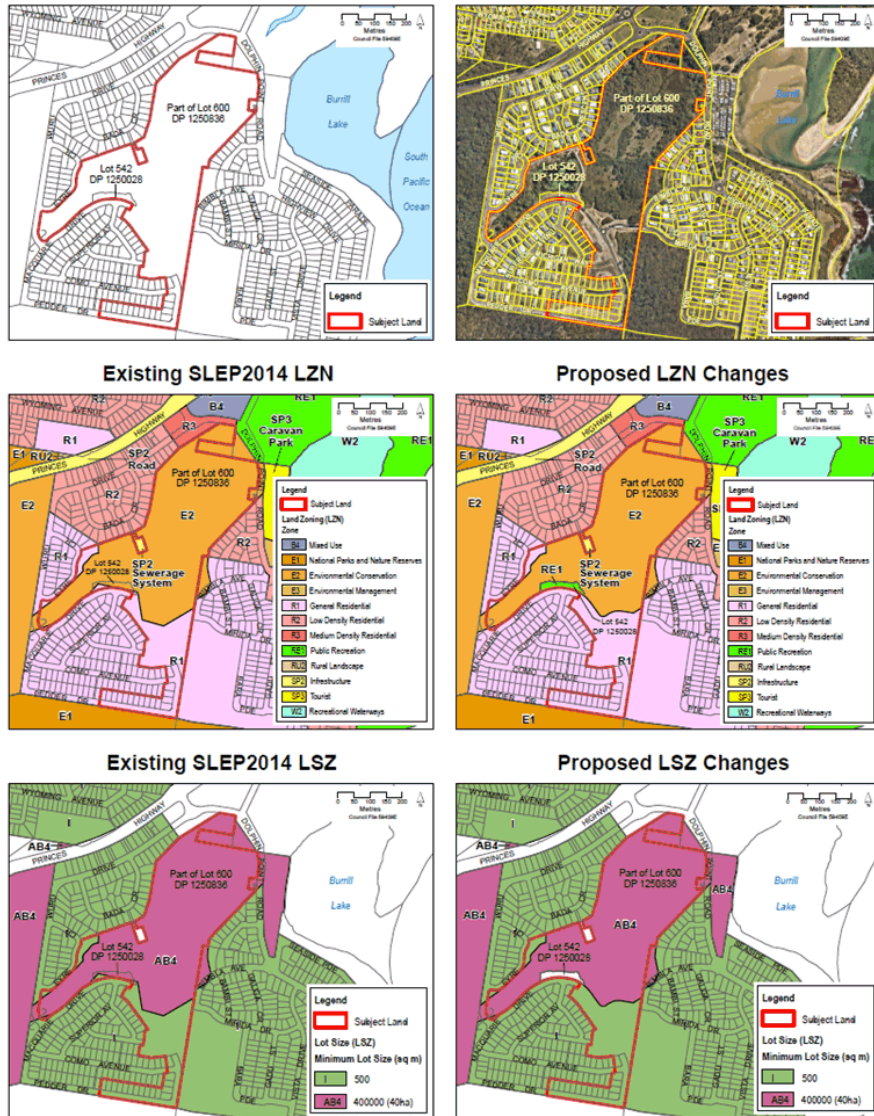


Issue and Justification: The subject lot has a split zoning of RE1 Public Recreation and E2 Environmental Conservation, and a part associated minimum lot size of AB4 (40ha). The RE1 portion correlates to the public tennis, however the tennis courts protrudes into the E2 zone. The RE1 zone should be amended to encompass the full extent of the tennis court.

Proposed Amendment: Amend the RE1 Public Recreation zoning of Lot 108 DP 131063 to extend over the tennis court and realign the AB4 (40ha) LSZ accordingly.

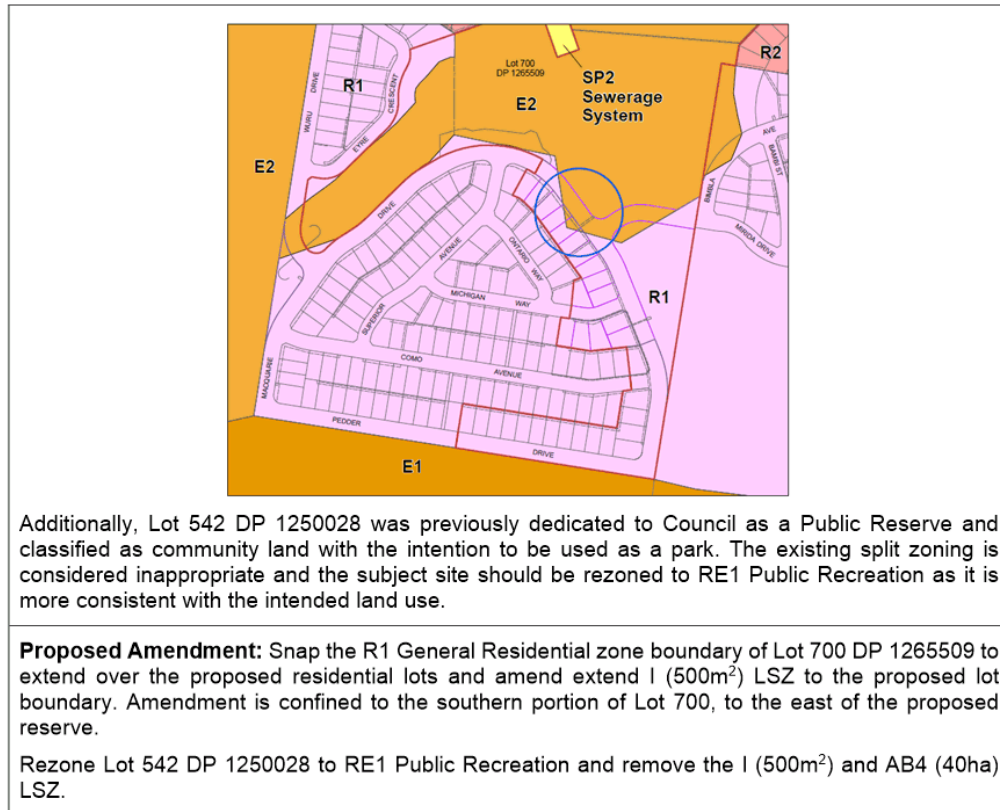
Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

4. Part of Lot 700 DP 1265509 & Lot 542 DP 1250028, Macquarie Dr, Burrill Lake



Issue and Justification: The subject lots are zoned E2 Environmental Conservation and R1 General Residential and have an associated minimum lot size of 1 (500m²) and AB4 (40ha). The E2 zone currently protrudes into the residential subdivision proposed for Lot 700 DP 1265509 (see proposed subdivision layout below) and this split zoning may be problematic for future development applications and complying development. The R1 zone should be amended to encompass the residential lots, as vegetation has been removed as part of the subdivision approval, environmental characteristics are no longer present on this portion of the land.

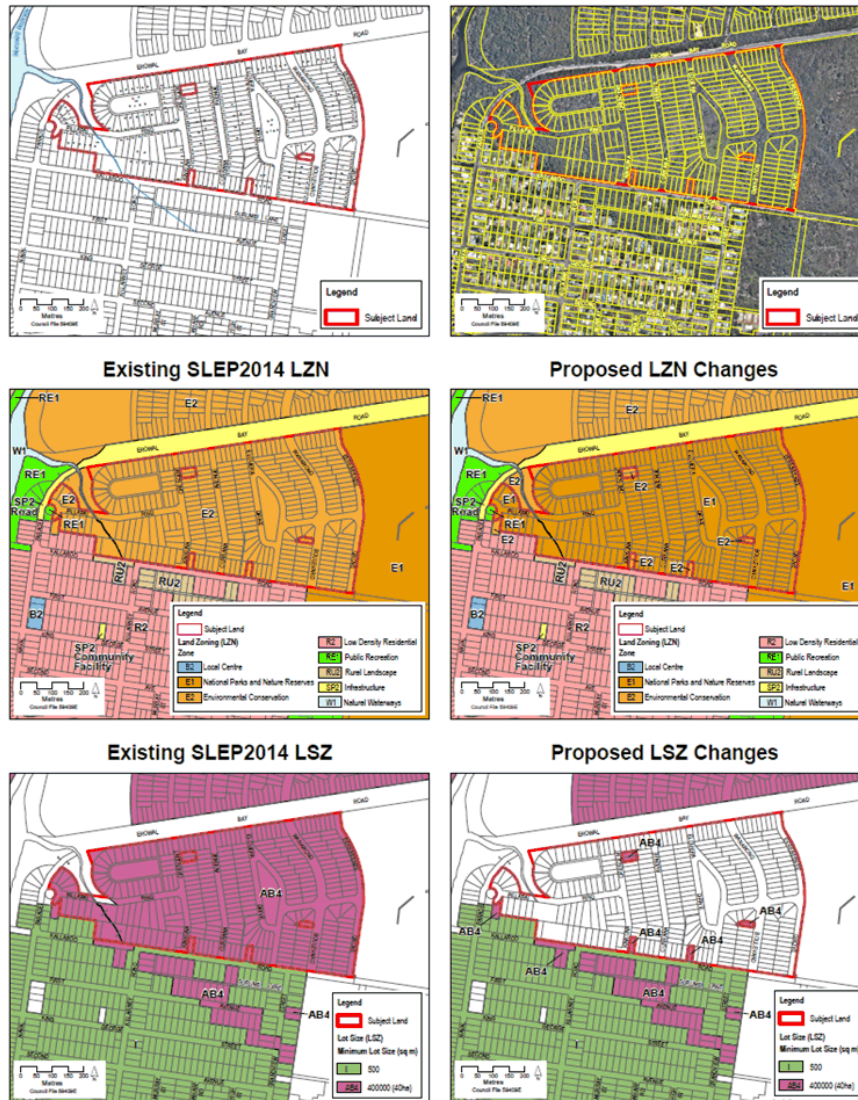
Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21



DE21.37 - Attachment 1

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5. DP 8592 (Excluding Lots 270 & 271), DP 8769 (Excluding Lots 24, 93, 148, 165, 166, 216, 217, 218, 220, 221, 222, 224, 225, 227, 228, 229, 230, 231, 232, 233, Part Lot 234, 243 & 266), Lot 1 DP 724813 & Road UPN 106874, 106875, 106876, 106665 & Part of Road UPN 114695 & UPN 106664, Errowal Bay



Issue and Justification: The subject lots are currently zoned E2 Environmental Conservation and have an associated minimum lot size of AB4 (40ha). On 4 September 2019, the land was reserved as part of Jervis Bay National Park under the provisions of Section 30A(1)(a) of the *National Parks and Wildlife Act 1974*, subsequently E1 National Parks and Nature Reserves is more consistent with the land use.

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Proposed Amendment: Rezone lots in DP 8592 (excluding Lots 270 & 271); DP 8769 (excluding Lots 24, 93, 148, 165, 166, 216, 217, 218, 220, 221, 222, 224, 225, 227, 228, 229, 230, 231, 232, 233, Part Lot 234, 243 & 266); Lot 1 DP 724813; Road UPN 106874, 106875, 106876, 106665; Part of Road UPN 114695 and UPN 106664 to E1 National Parks and Nature Reserves and remove the AB4 (40ha) LSZ layer associated with these lots.

6. Lot 2 DP 1206753, Princes Hwy, Falls Creek

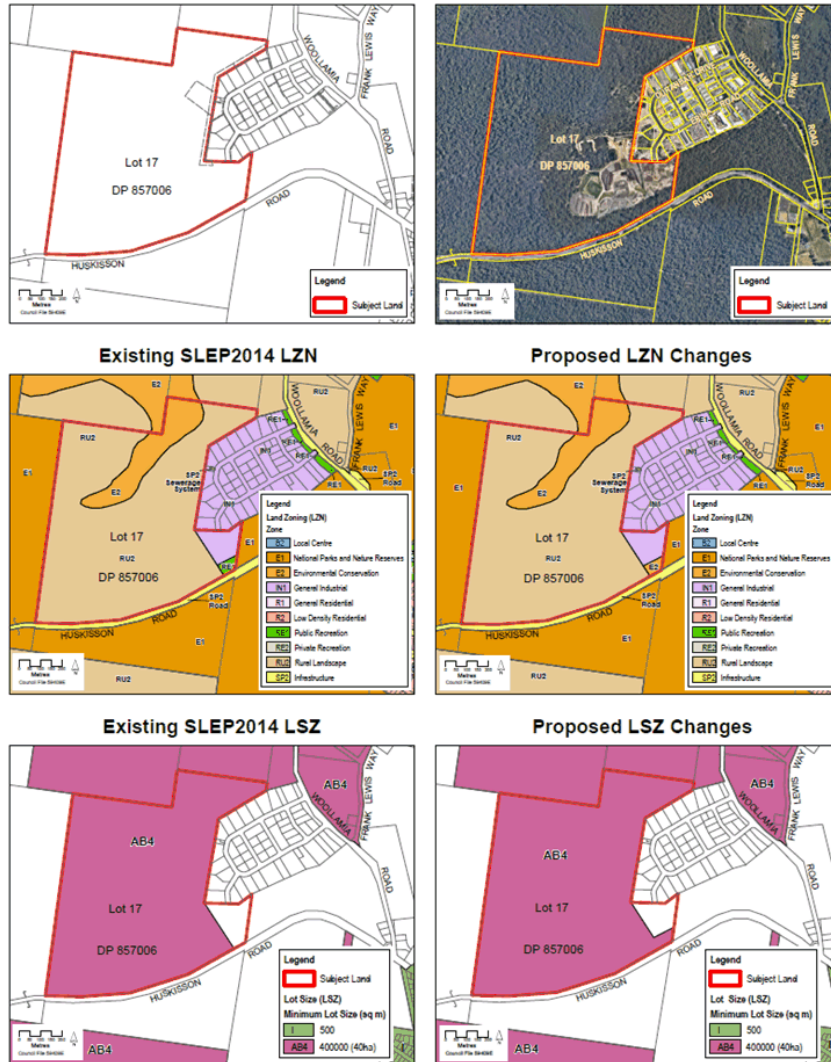


Issue and Justification: The lot is currently zoned RU2 Rural Landscape and has an associated minimum lot size of AB4 (40ha) applying. Lot 2 DP 1206753 is owned by the NSW Roads and Maritime Service (now Transport for NSW) and was acquired under the *Roads Act 1993* and forms part of the Princes Highway road reserve.

Proposed Amendment: Rezone Lot 2 DP 1206753 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.

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7. Lot 17 DP 857006, Huskisson Rd, Huskisson

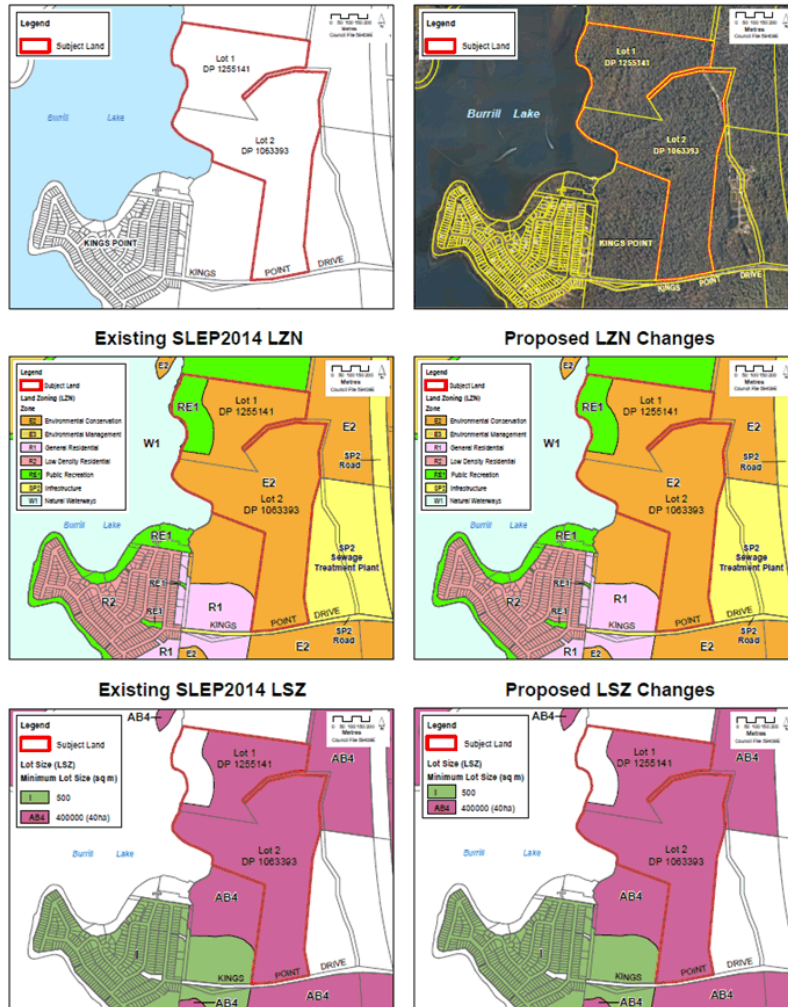


Issue and Justification: The lot is currently zoned E2 Environmental Conservation, RU2 Rural Landscape, IN1 General Industrial and RE1 Public Recreation. A minimum lot size of AB4 (40ha) applies to the RU2 and E2 component of the land. RE1 is considered an inappropriate zoning for privately owned land and there is no intention for the land to be acquired for this purpose. Historically, the land was intended to be set aside as a buffer to Jervis Bay Road. The E2 zone would be a more appropriate zoning for this portion of land, as its objectives will assist in protecting, managing and restoring the natural vegetation present. Rezoning the RE1 portion to E2 would maintain and secure the naturally vegetated corridor that links the Jervis Bay National Park with Council's Huskisson BioBank site.

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Proposed Amendment: Rezone the RE1 Public Recreation portion of Lot 17 DP 857006 to E2 Environmental Conservation and apply an AB4 (40ha) LSZ to that portion of the lot.

8. Lot 1 DP 1255141 & Lot 2 DP 1063393, Kings Point Dr, Kings Point

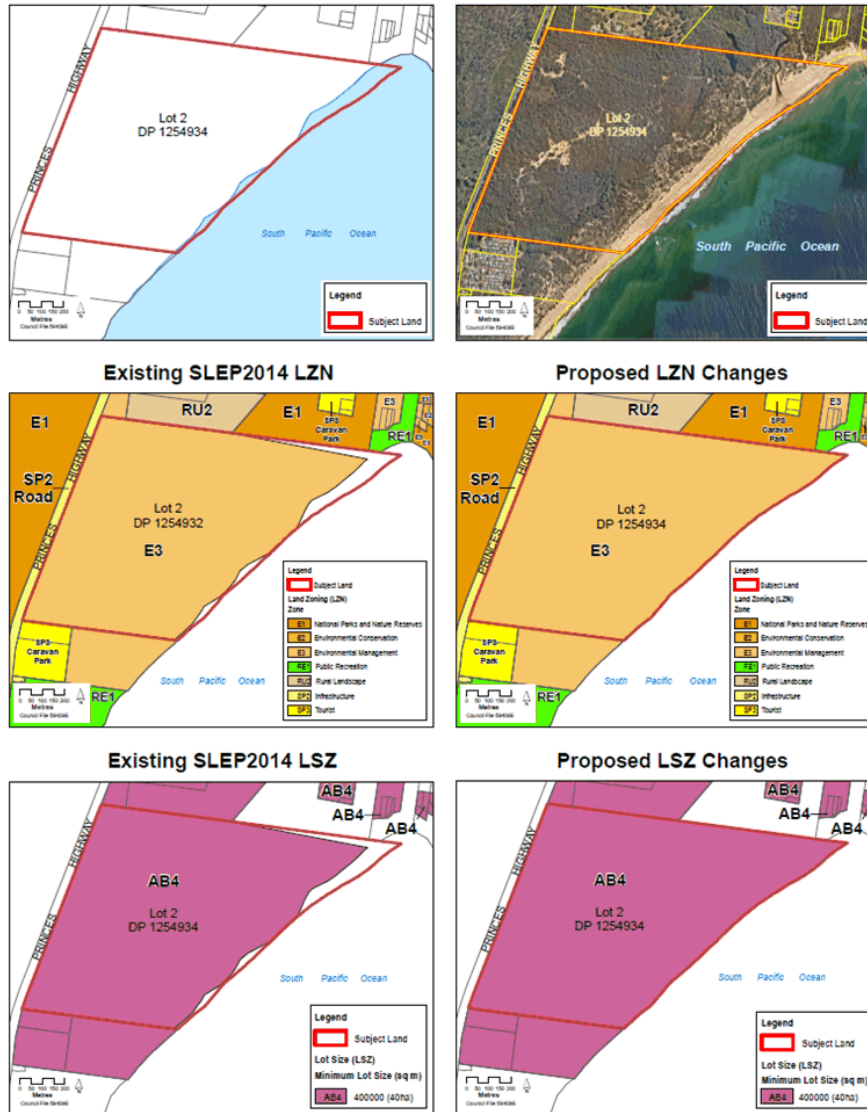


Issue and Justification: The subject lots are currently zoned E2 Environmental Conservation and RE1 Public Recreation. The E2 lot has an associated minimum lot size of AB4 (40ha). The lot boundaries have changed, presumably from the changing watermark, resulting in an inconsistency with the land zoning and minimum lot size layer cadastres.

Proposed Amendment: Snap the RE1 Public Recreation and E2 Environmental Conservation zoning layer and AB4 (40ha) LSZ layer to the western lot boundary of Lot 1 DP 1255141 and Lot 2 DP 1063393.

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9. Lot 2 DP 1254934, Princes Hwy, Lake Tabourie



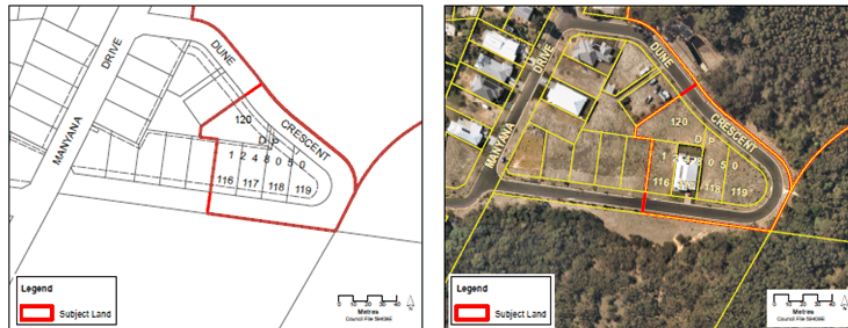
Issue and Justification: The lot is currently zoned E3 Environmental Management and has an associated minimum lot size of AB4 (40ha). Subdivision and redefinition of the lot has resulted in an inconsistency with the lot boundary and zone layer. The zoning layer of Lot 2 DP 1254934 requires updating to reflect the full extent of the lot.

Proposed Amendment: Snap the E3 Environmental Management land zoning and AB4 (40ha) LSZ layer to the Lot 2 DP 1254934 boundary.

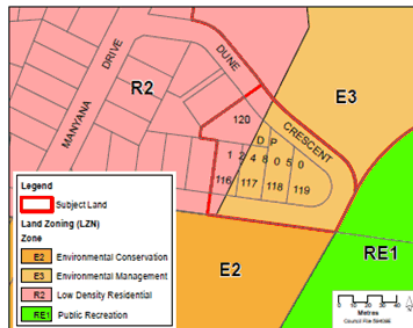
DE21.37 - Attachment 1

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

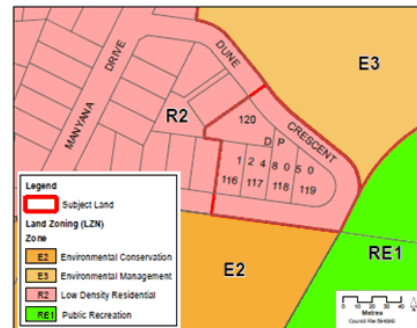
10. Lots 116-120 DP 1248050 & Part of Road UPN 121947, Dune Cr, Manyana



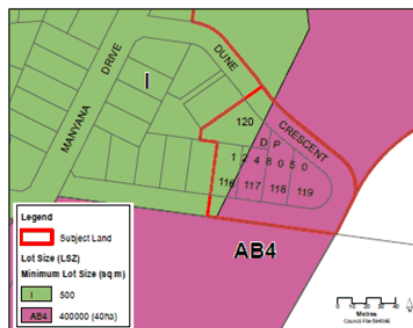
Existing SLEP2014 LZN



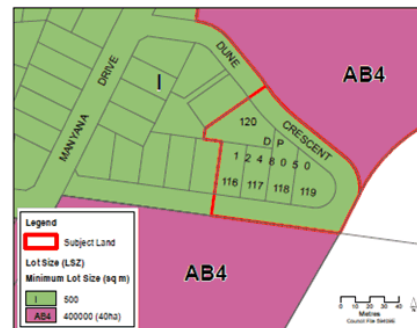
Proposed LZN Changes



Existing SLEP2014 LSZ



Proposed LSZ Changes



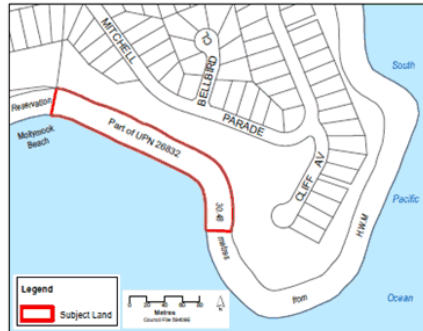
Issue and Justification: The subject lots are currently zoned E3 Environmental Management and R2 Low Density Residential, with an associated minimum lot size of I (500m²) and AB4 (40ha) respectively. As the lots form part of a residential subdivision previously approved under Part 3A, the E3 zoning is considered inconsistent with the approved residential intent and the subject lots should be rezoned to be consistent with the adjoining land zoning of R2 Low Density Residential.

Proposed Amendment: Rezone Lots 116-120 DP 1248050 and Part of Road UPN 121947 to R2 Low Density Residential and apply the I (500m²) LSZ to the land.

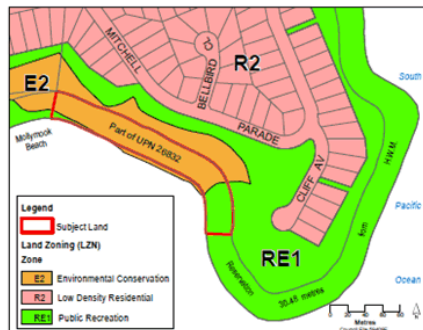
DE21.37 - Attachment 1

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11. UPN 26832, Mitchell Pde, Mollymook Beach



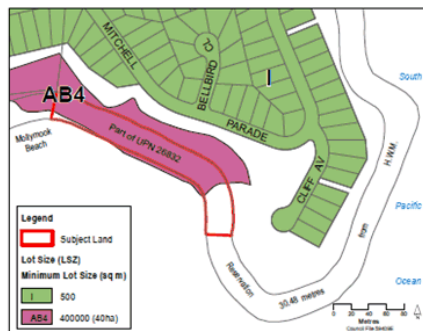
Existing SLEP2014 LZN



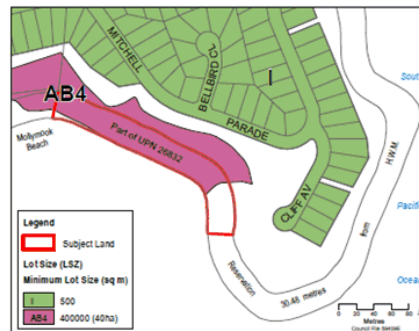
Proposed LZN Changes



Existing SLEP2014 LSZ



Proposed LSZ Changes



Issue and Justification: The subject lot is zoned RE1 Public Recreation and E2 Environmental Management, with an associated minimum lot size of AB4 (40ha) applying to the E2 component of the land. The E2 zoning protrudes past the lot boundary and into the beach.

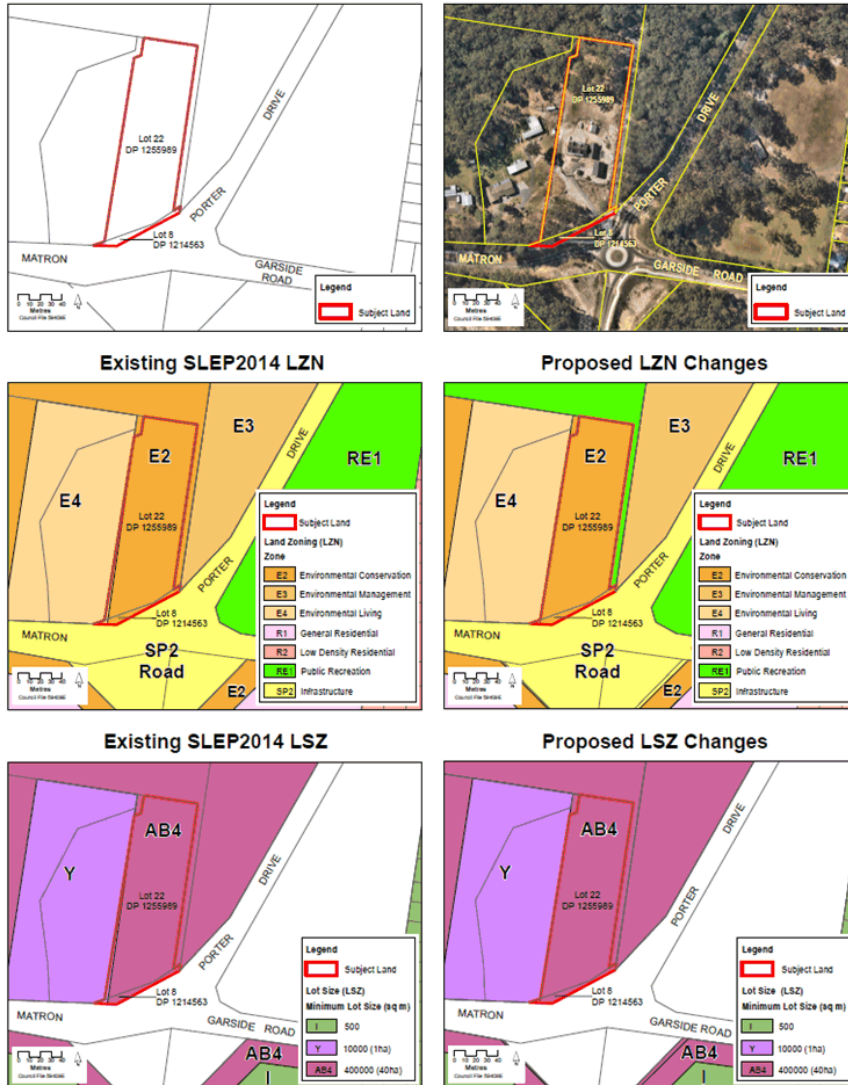
Crown Lands have no objection to the proposed amendments. (**Attachment D**)

Proposed Amendment: Snap the E2 Environmental Conservation layer and AB4 (40ha) LSZ layer to the lot boundary of UPN 26832.

DE21.37 - Attachment 1

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12. Lot 22 DP 1255989 & Lot 8 DP 1214563, Matron Porter Dr, Narrawallee



Issue and Justification: The lots are currently zoned E2 Environmental Conservation and E4 Environmental Living, with an associated minimum lot size of AB4 (40ha) and Y (1ha) respectively. Subdivision and redefinition of the lots has resulted in the land zoning and minimum lot size layer requiring minor snapping to the lot boundary.

Proposed Amendment: Snap the E2 Environmental Conservation layer and the AB4 (40ha) LSZ layer to the lot boundary of Lot 22 DP 1255989 & Lot 8 DP 1214563 (Council Road) to remove the E4 Environmental Living zone and Y (1ha) LSZ from that land.

DE21.37 - Attachment 1

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13. Lot 3 DP 1069042, Wallace St, Nowra

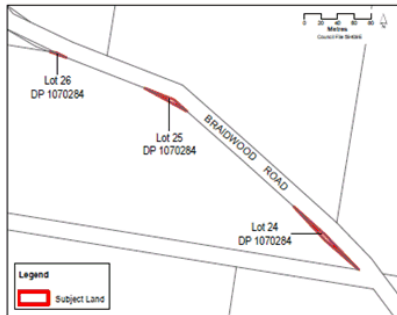


Issue and Justification: The subject lot is zoned RE1 Public Recreation and R1 General Residential and there is a minimum lot size of I (500m²) applying to the R1 component of the lot. The RE1 zoning is considered an inappropriate zoning for privately owned land. Rezoning the lot to R1 is consistent with the land use. There is no intention for Council to acquire the current RE1 portion of the site. The ecological values of the creek line/open drain would still be protected by the Department of Industry's *Guidelines for Controlled Activities on Waterfront Land* and any future development within the riparian zone would require approval from the Natural Resources Access Regulator (NRAR).

Proposed Amendment: Rezone the RE1 Public Recreation portion of Lot 3 DP 1069042 to R1 General Residential and apply an I (500m²) LSZ.

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

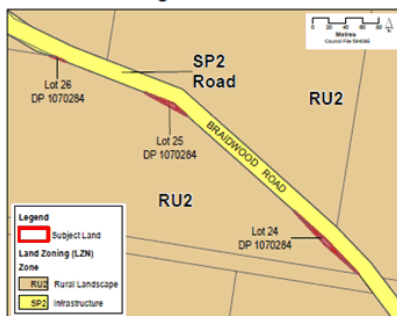
14. Lot 24, 25 & 26 DP 1070284, Braidwood Rd, Sassafras



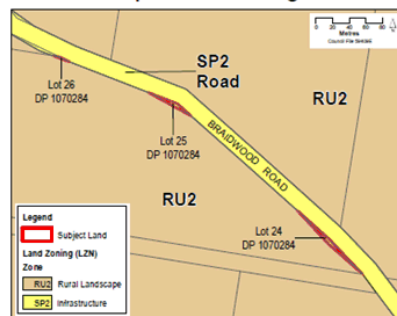
Existing SLEP2014 LZN



Proposed LZN Changes



Existing SLEP2014 LSZ



Proposed LSZ Changes

Issue and Justification: The subject lots are zoned RU2 Rural Landscape, with an associated minimum lot size of AB4 (40ha). Lots 24, 25 and 26 DP 1070284 have been declared a Controlled Access Road/Public Road and therefore should be zoned SP2 Infrastructure (Road) to be consistent with their land use.

Proposed Amendment: Rezone Lots 24, 25 and 26 DP 1070284 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.

DE21.37 - Attachment 1

Proposed Amendment: Amend the R1 General Residential zone and the I (500m²) LSZ layer to extend to the southern and eastern lot boundary of Lot 100 DP 1247844.

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16. Lot 1 DP 866983, Naval College Rd, Vincentia



Issue and Justification: The subject lot is currently zoned SP2 Infrastructure (Educational Establishment) and E2 Environmental Conservation. The E2 component of the lot has an associated minimum lot size of AB4 (40ha). On 4 September 2019, the land was reserved as part of Jervis Bay National Park under the provisions of Section 30A(1)(a) of the *National Parks and Wildlife Act 1974*. Subsequently E1 National Parks and Nature Reserves is more appropriate zone and is consistent with the ongoing land use.

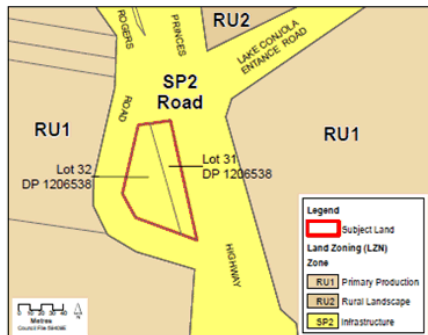
Proposed Amendment: Rezone Lot 1 DP 866983 to E1 National Parks and Nature Reserves and remove the AB4 (40ha) LSZ from the lot.

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

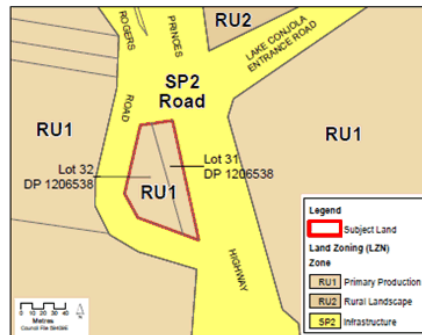
17. Lots 31 & 32 DP 1206538, Rogers Rd & Princes Hwy, Yatte Yattah



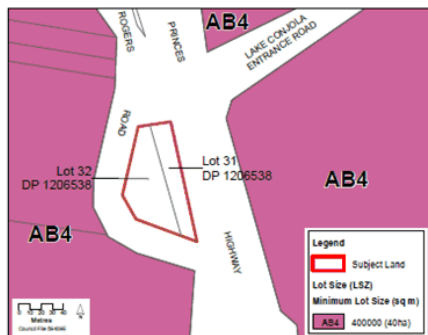
Existing SLEP2014 LZN



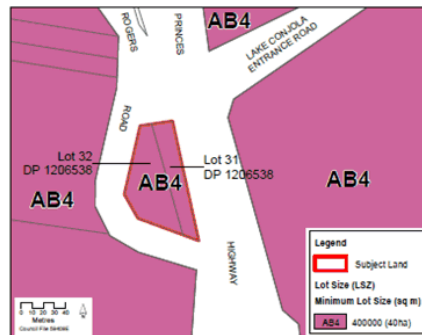
Proposed LZN Changes



Existing SLEP2014 LSZ



Proposed LSZ Changes

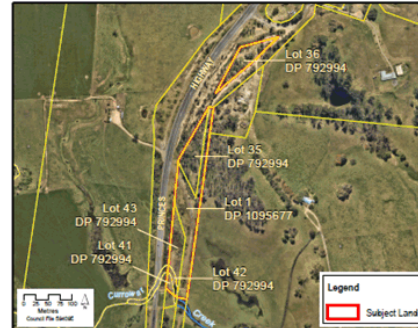
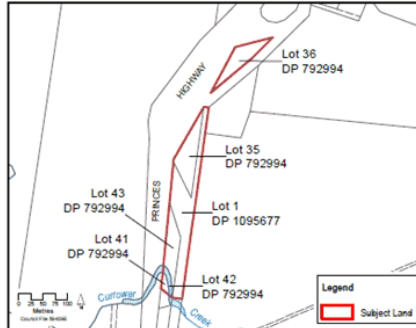


Issue and Justification: The subject lots are currently zoned SP2 Infrastructure (Road). The lots were previously owned by Transport for New South Wales (TfNSW) and are now owned by Crown Lands. The SP2 zoning over these lots should be removed and replaced with the adjoining RU1 Primary Production zoning, to be consistent with the adjoining land uses.

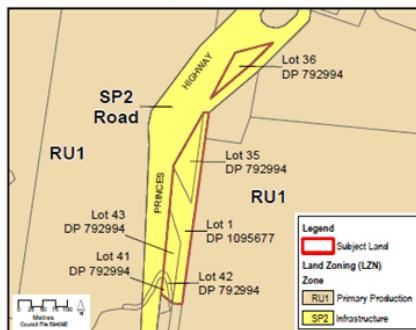
Proposed Amendment: Rezone Lots 31 & 32 DP 1206538 to RU1 Primary Production and apply an AB4 (40ha) LSZ.

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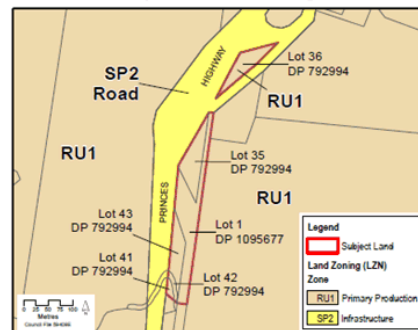
18. Lots 35, 36, 41, 42 & 43 DP 792994 & Lot 1 DP 1095677, Princes Hwy Yatte Yattah



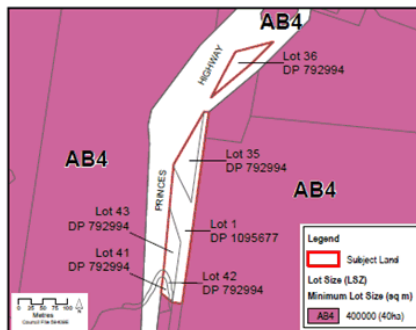
Existing SLEP2014 LZN



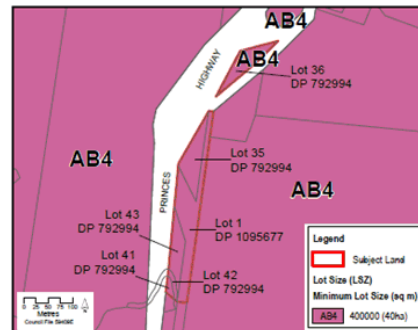
Proposed LZN Changes



Existing SLEP2014 LSZ



Proposed LSZ Changes



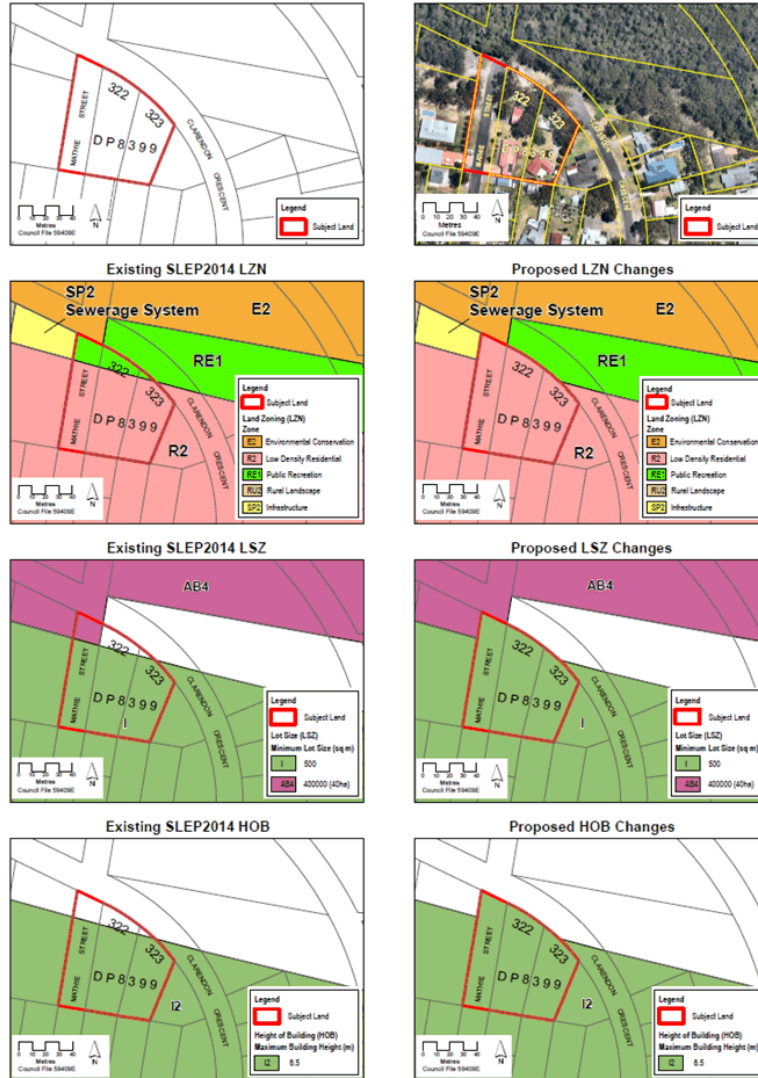
Issue and Justification: The subject lots are currently zoned SP2 Infrastructure (Road). The lots were previously owned by Roads and Maritime Services (now Transport for NSW), however, were sold into private ownership in 2008. The SP2 zoning over these lots should be removed and the adjoining RU1 Primary Production zoning and associated minimum lot size of 40ha adopted to be consistent with the adjoining land use.

Proposed Amendment: Rezone Lots 35, 36, 41, 42 & 43 DP 792994 & Lot 1 DP 1095677 to RU2 Rural Landscape and apply AB4 (40ha) LSZ.

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Table 4: Mapping Amendments – Land Zoning, Minimum Lot Size and Height of Building

19. Lot 322 & 323 DP 8399 & Road UPN 112288, Mathie St & Clarendon Cr, Basin View

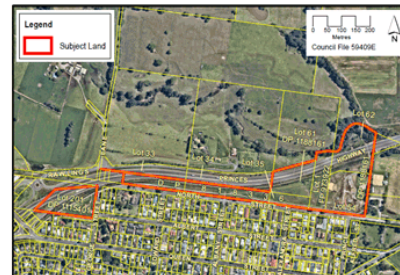
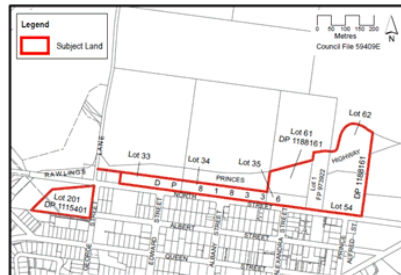


Issue and Justification: The subject lots are currently zoned RE1 Public Recreation and R2 Low Density Residential. The R2 component of the land has an associated minimum lot size of 1 (500m²) and height of building of I2 (8.5m). The RE1 zone is considered to be an inappropriate zone for the privately owned residential lots. The RE1 portion of Lots 322 and 323 and Road UPN 112288 should be rezoned to reflect the adjoining R2 zoned land. Given Council has no intention to acquire the RE1 portion of land adjoining the road reserve, the subject portion of the lot should be rezoned to R2 Low Density Residential.

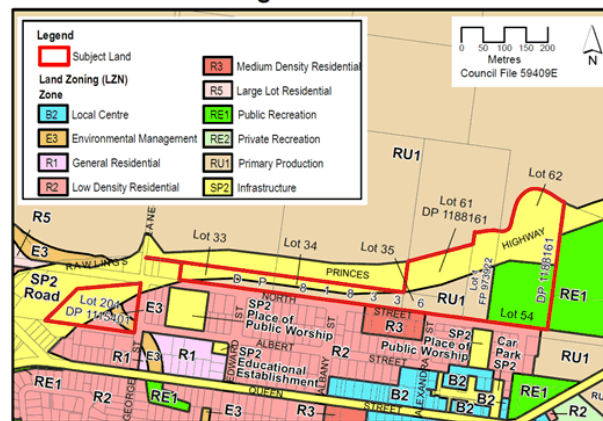
Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Proposed Amendment: Rezone the RE1 Public Recreation portion of Lots 322 and 323 DP 8399 and Road UPN 112288 to R2 Low Density Residential and extend the I (500m²) LSZ and I2 (8.5m) HOB over the entire lots and part of the road casement.

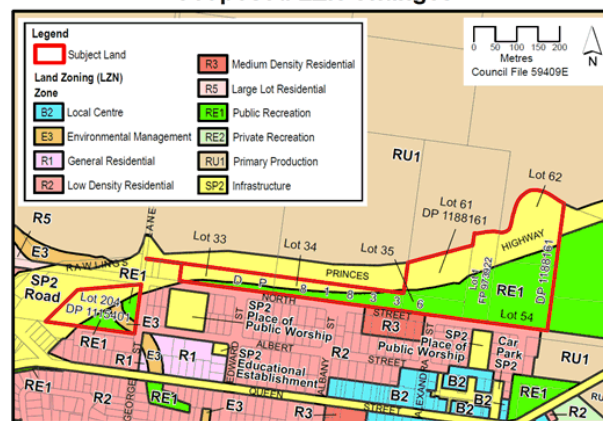
20. Lot 204 DP 1115401; Lot 33 DP 818336; Lot 34 DP 818336; Lot 35 DP 818336; Lot 61 DP 1188161; Lot 1 DP 973922; Lot 62 DP 1188161; and Lot 54 DP 1188161, Princes Hwy, Berry



Existing SLEP2014 LZN

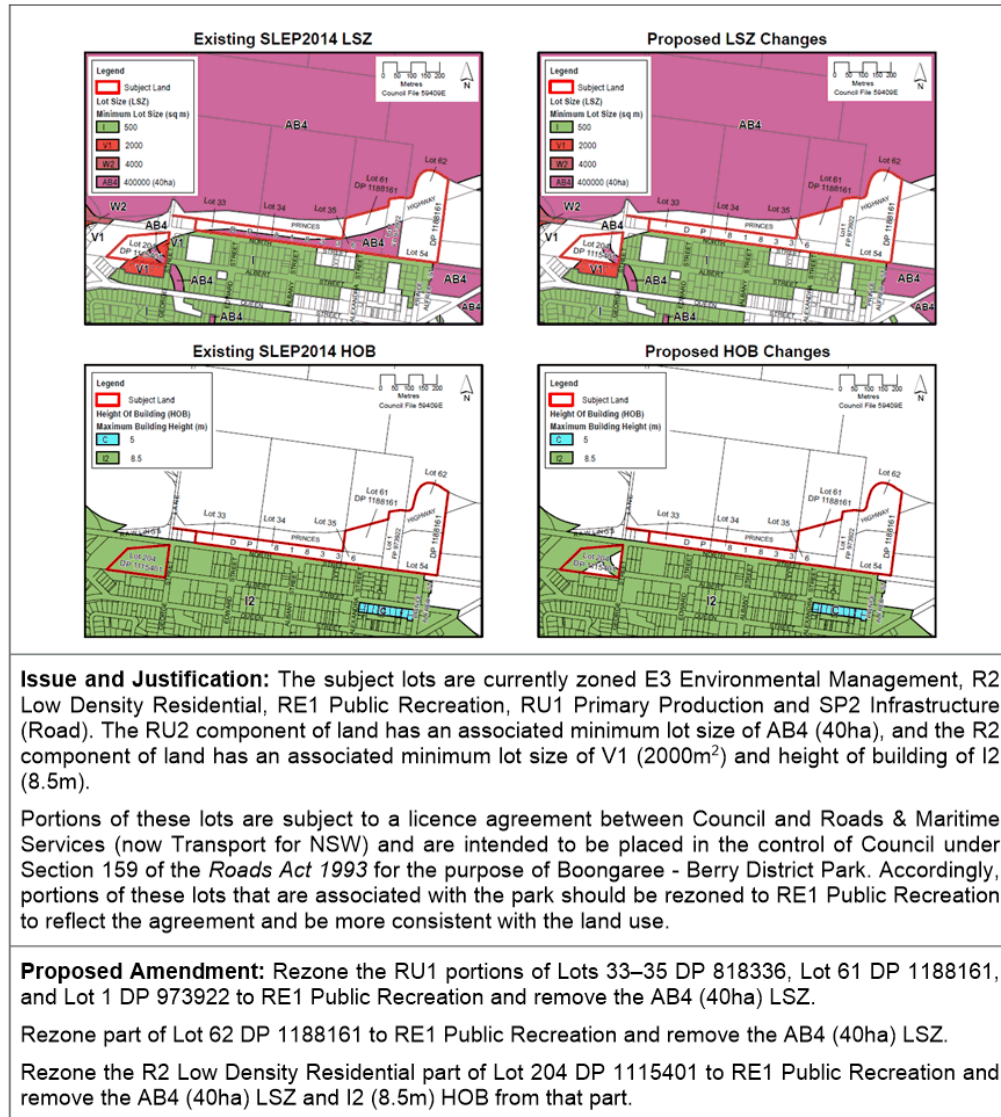


Proposed LZN Changes



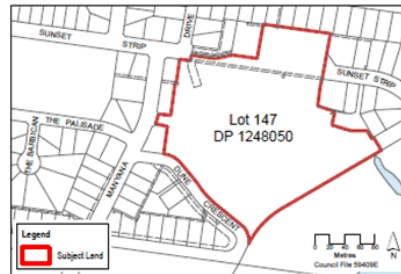
DE21.37 - Attachment 1

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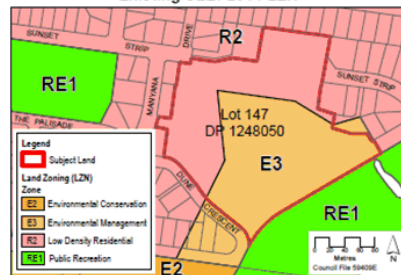


Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

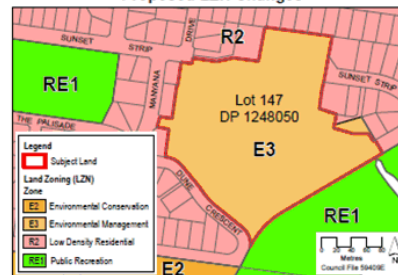
21. Lot 147 DP 1248050, Sunset Rd, Manyana



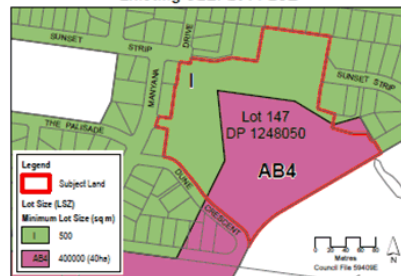
Existing SLEP2014 LZN



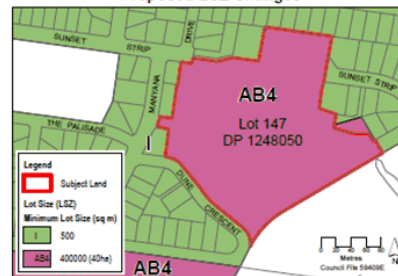
Proposed LZN Changes



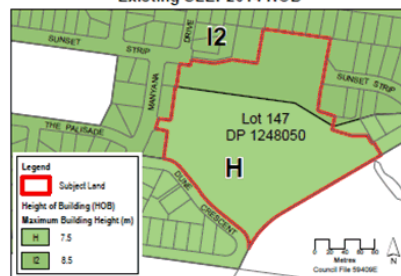
Existing SLEP2014 LSZ



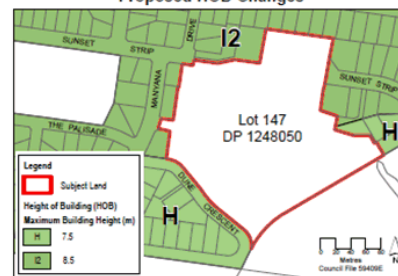
Proposed LSZ Changes



Existing SLEP2014 HOB



Proposed HOB Changes



Issue and Justification: The lot is currently split zoned E3 Environmental Management and R2 Low Density Residential. The E3 component of land has an associated minimum lot size of AB4 (40ha) and the R2 component of land has an associated minimum lot size of I (500m²). In addition, the northern portion of land has a height of building of I2 (8.5m), and the remaining land has a height of

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building of H (7.5m). The lot was dedicated to Council as public reserve on 31 October 2018 in accordance with subdivision SF9747, for environmental protection. The lot is mapped as being an Endangered Ecological Community under the *Biodiversity Conservation Act 2016*, therefore the R2 zone is considered inappropriate and the objectives of the E3 zone will ensure the ecological area is protected, managed and restored.

Proposed Amendment: Rezone the R2 Low Density Residential portion of Lot 147 DP 1248050 to E3 Environmental Management and extend the AB4 (40ha) LSZ over the entire lot. The HOB layer should be removed from the site to be consistent with the Citywide E3 approach.

22. Lots 1-5 DP 700116, Pitt St, North Nowra



DE21.37 - Attachment 1

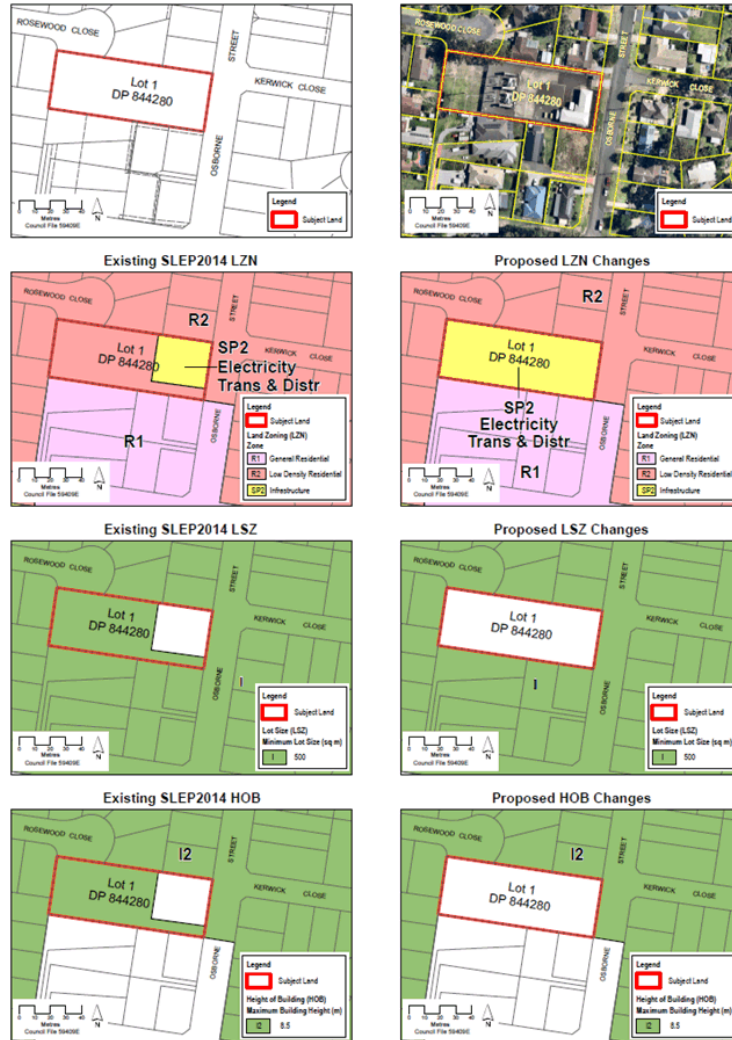
Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Issue and Justification: The subject lots are split zoned IN2 Light Industrial and R1 General Residential. The R1 component of land has an associated minimum lot size of I (500m²) and I2 (8.5m) height of building. The original subdivision approval permitted industrial development from 30m of the front boundary (Pitt Street), although the current IN2 zoning boundary is 40m from Pitt Street. Overtime, industrial development has been erected beyond 30m of Pitt Street. Rezoning the IN2 portion of the lot to the 30m boundary from Pitt Street will accurately reflect the intention as well as the existing development character.

Proposed Amendment: Rezone the IN2 Light Industrial portion of Lots 1-5 DP 700116 beyond 30m from Pitt Street, and remove the I (500m²) LSZ and I2 (8.5m) HOB from the portion of lot being rezoned.

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23. Lot 1 DP 844280, Osborne St, Nowra



Issue and Justification: The lot is currently zoned R2 Low Density Residential and SP2 Infrastructure (Electricity Transmission & Distribution) and has an associated minimum lot size of I (500m²) and I2 (8.5m) height of building applying to the R2 component of land. The lot consists of an electricity substation. The R2 zoning is considered an inappropriate zoning for the land use and as the lot cannot be used for residential purposes, extending the SP2 zoning is considered more appropriate.

Proposed Amendment: Rezone the R2 Low Density Residential portion of Lot 1 DP 844280 to SP2 Infrastructure (Electricity Transmission & Distribution) and remove the I (500m²) LSZ and I2 (8.5m) HOB accordingly.

DE21.37 - Attachment 1

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24. Lot 11 DP 771431, Nurrawallee St, Ulladulla



Issue and Justification: The lot is currently split zoned R2 Low Density Residential and SP2 Infrastructure (Educational Establishment). The R2 component of land has an associated minimum lot size of I (500m²) and an I2 (8.5m) height of building. The R2 zoned portion of the lot remains from a prior lot consolidation, however, the subject lot contains Budawang School for Specific Purposes and subsequently the R2 zoning is therefore inconsistent with the land use.

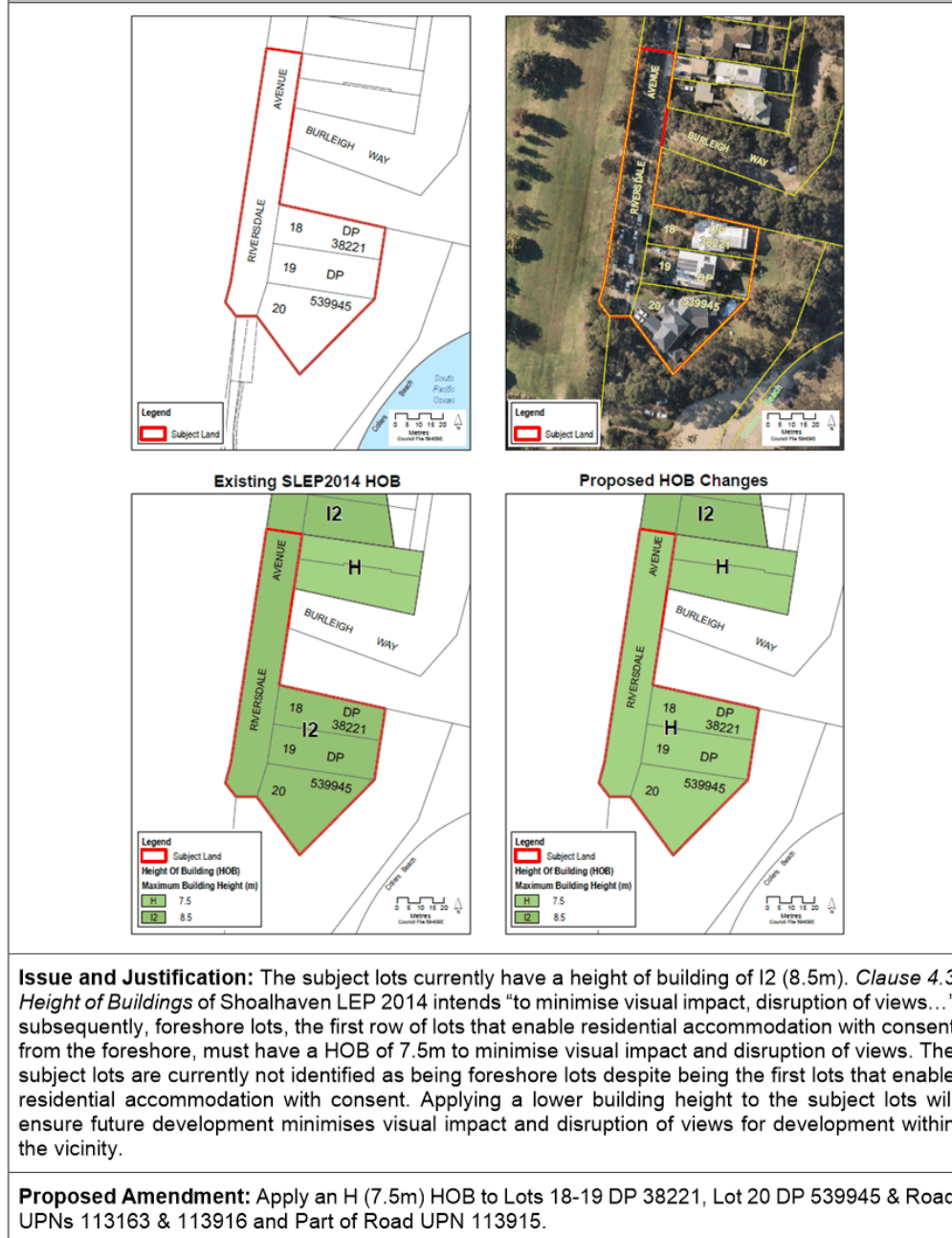
Proposed Amendment: Rezone the R2 Low Density Residential portion of Lot 11 DP 771431 to SP2 Infrastructure (Educational Establishment) and remove the associated I (500m²) LSZ and I2 (8.5m) HOB accordingly.

DE21.37 - Attachment 1

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Table 5: Mapping Amendments – Height of Building

25. Lots 18-19 DP 38221, Lot 20 DP 539945 & Road UPNs 113163 & 113916 and Part of Road UPN 113915, Riversdale Ave, Mollymook

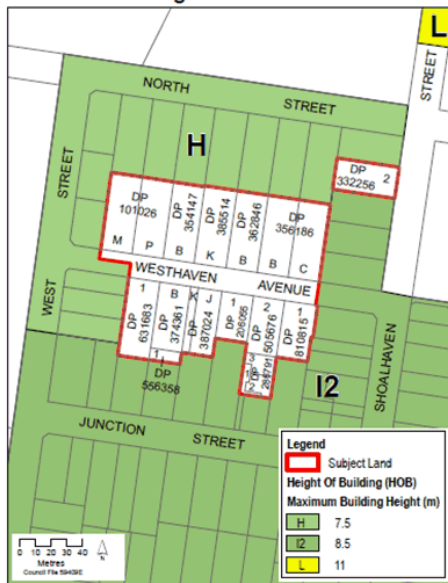


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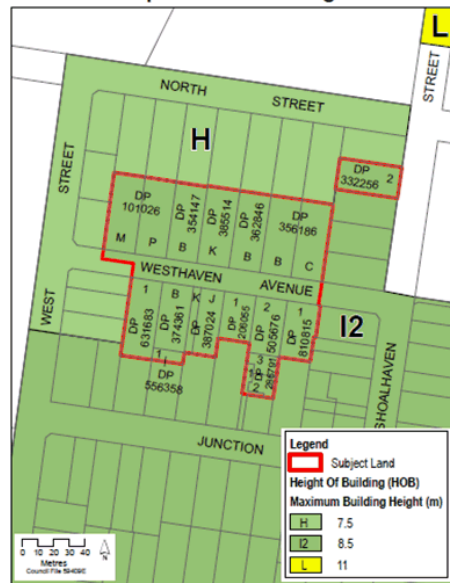
26. Lots M & P DP 101026, Lot B DP 354147, Lot K DP 385514, Lot B DP 362846, Lot B & C DP 356186, Lot 1 DP 810815, Lot 2 DP 505676, Part of Lot 1 DP 286791, Lots 2-3 DP 286791, Lot 1 DP 206055, Lot 1 DP 556358, Lots J & K DP 387024, Lot B DP 374361, Lot 1 DP 631683, Lot 2 DP 332256; Road UPNs 107718, 107719, 107720, 107721, 107722, 107723 and Part of Road UPN 107726, Westhaven Ave & Shoalhaven St, Nowra



Existing SLEP2014 HOB



Proposed HOB Changes



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Issue and Justification: The subject lots currently have no height of building. The Nowra CBD Fringe Planning Proposal (PP038) intended to amend the Height of Buildings Map in Shoalhaven LEP 2014 so that the lots in the cluster along Westhaven Avenue (including the road) would have a I2 (8.5m) height of building applied, however these lots were instead presented with no HOB in the exhibited maps. Applying a HOB of I2 (8.5m) will be consistent with the intentions of PP038.

Additionally, subsequent to the proposed amendment to the lots along Westhaven Avenue, Lot 2 DP 332256 will be the only lot in the vicinity without a HOB. A HOB of I2 (8.5m) should be applied to ensure consistency with the local area.

Proposed Amendment: Apply I2 (8.5m) HOB to Lots M & P DP 101026, Lot B DP 354147, Lot K DP 385514, Lot B DP 362846, Lot B & C DP 356186, Lot 1 DP 810815, Lot 2 DP 505676, Part of Lot 1 DP 286791, Lots 2-3 DP 286791, Lot 1 DP 206055, Lot 1 DP 556358, Lots J & K DP 387024, Lot B DP 374361, Lot 1 DP 631683 & Road UPNs 107718, 107719, 107720, 107721, 107722, 107723 and Part of Road UPN 107726.

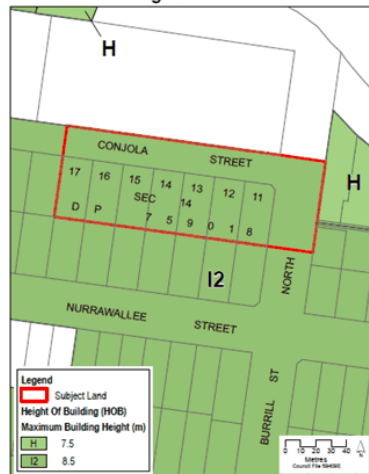
Apply a I2 (8.5m) HOB to Lot 2 DP 332256.

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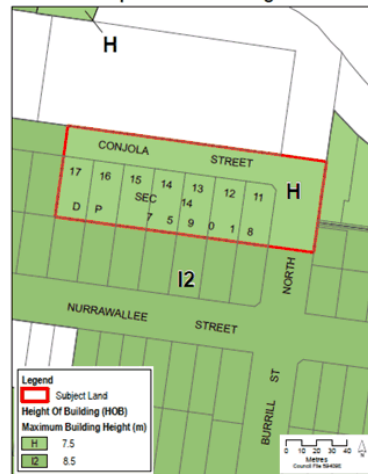
27. Lots 11-17 Sec 14 DP 759018 & Road UPN 113170, Part of Road UPN 105045 and Part of Road UPN 113169, Conjola St, Ulladulla



Existing SLEP2014 HOB



Proposed HOB Changes



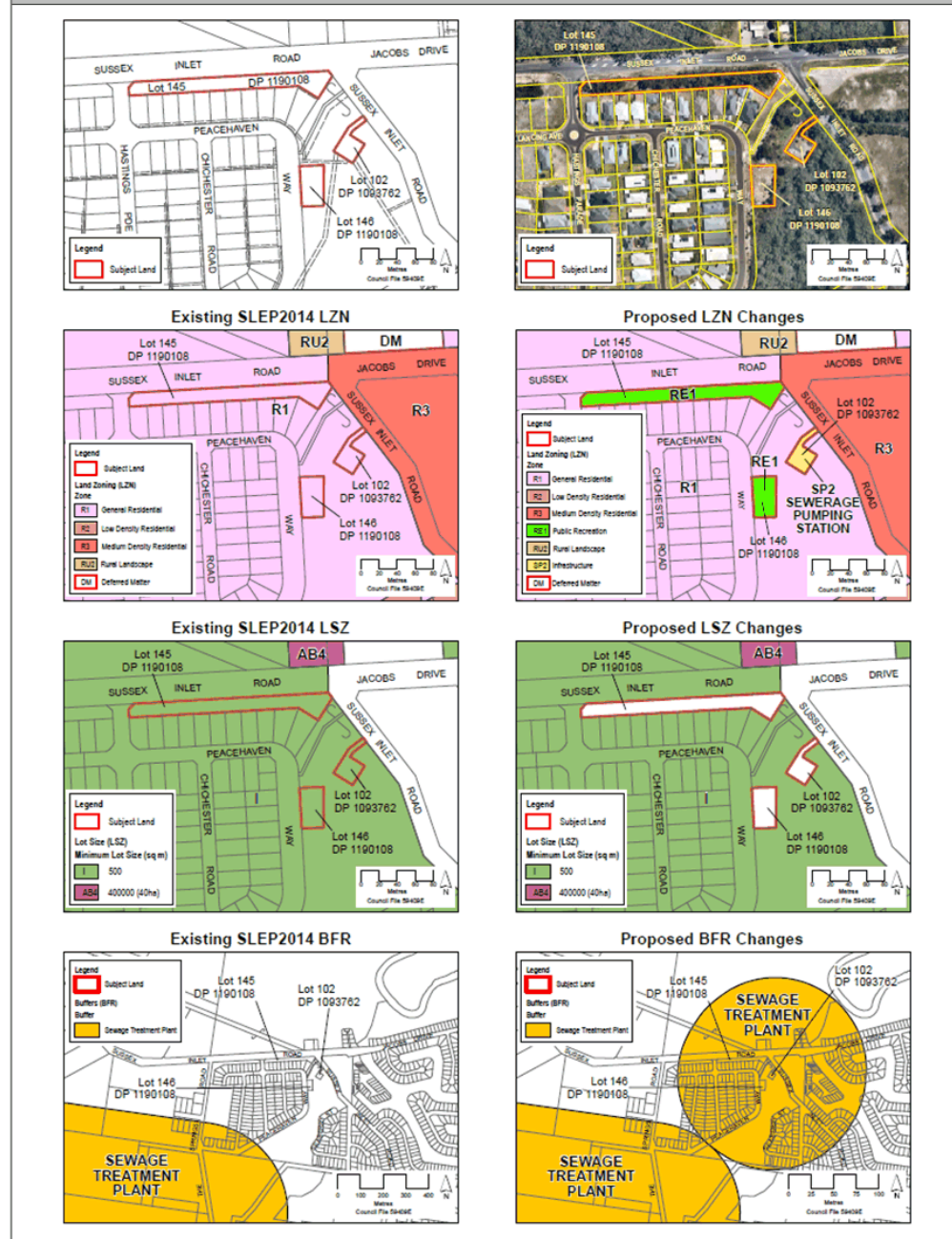
Issue and Justification: The subject lots currently have a height of building of I2 (8.5m). *Clause 4.3 Height of Buildings* of Shoalhaven LEP 2014 intends "to minimise visual impact, disruption of views..." subsequently, foreshore lots, the first row of lots that enable residential accommodation with consent from the foreshore, must have a HOB of 7.5m to minimise visual impact and disruption of views. The subject lots are currently not identified as being foreshore lots despite being the first lots that enable residential accommodation with consent. Applying a lower building height to the subject lots will ensure future development minimises visual impact and disruption of views for development within the vicinity.

Proposed Amendment: Apply a H (7.5m) HOB to Lots 11-17 Sec 14 DP 759018, Road UPN 113170, Part of Road UPN 105045 and Part of Road UPN 113169.

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Table 6: Mapping Amendments – Land Zoning, Minimum Lot Size and Buffer

28. Lots 145-146 DP 1190108 & Lot 102 DP 1093762, Peacehaven Way & Sussex Inlet Rd, Sussex Inlet



DE21.37 - Attachment 1

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Issue and Justification: The subject lots are currently zoned R1 General Residential and have an associated minimum lot size of 1 (500m²). Lots 145 and 146 DP 1190108 were dedicated as open space for the public purpose of community land, in accordance with subdivision SF9055. The R1 zoning is an inappropriate zoning for the public purpose of the lots and the zoning of RE1 Public Recreation is considered to be more consistent with the lots future use as a public reserve.

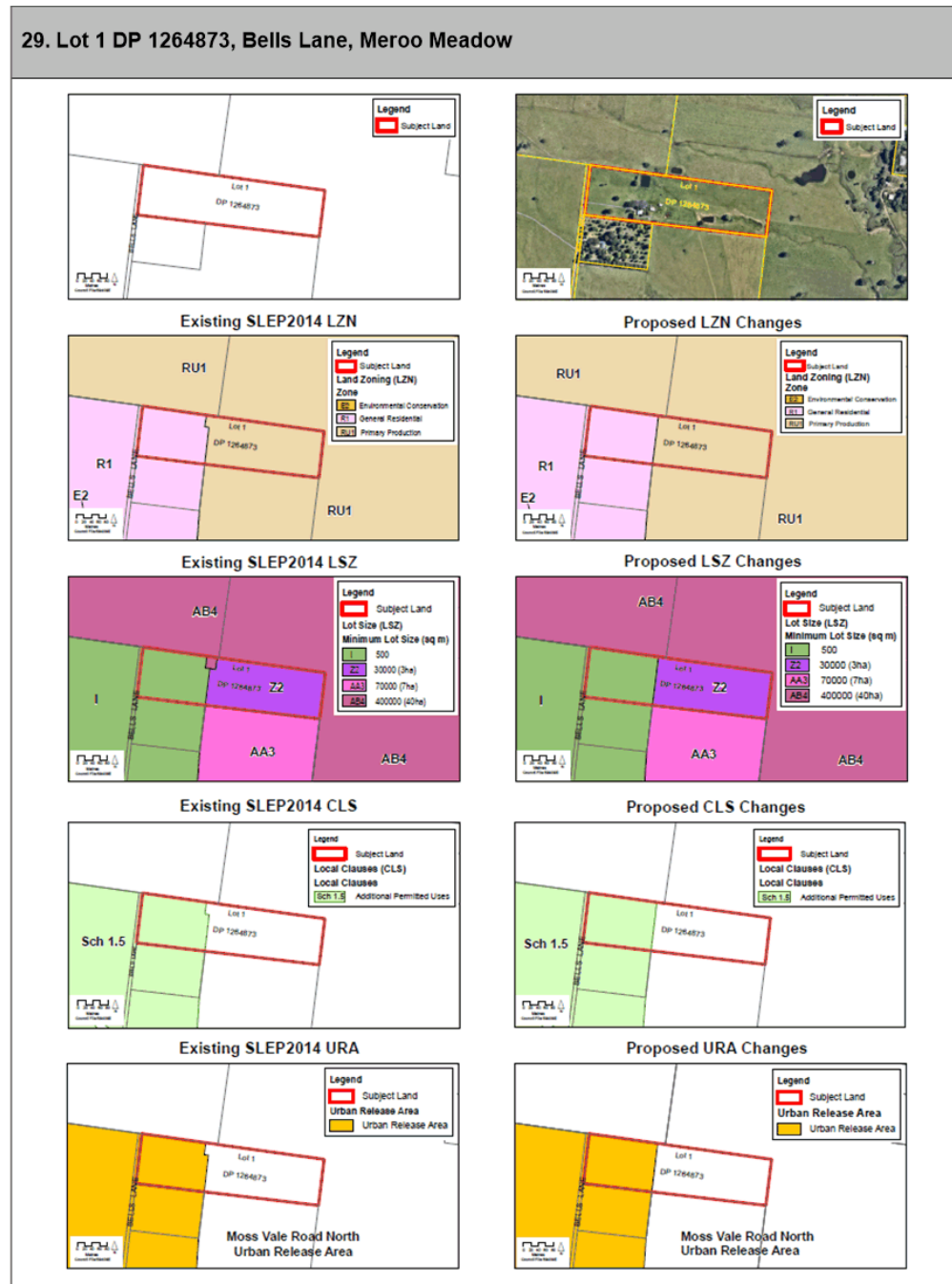
Lot 102 DP 1093762 was acquired by Shoalhaven Water and subsequently as classified operational land for the purpose of a sewage pumping station. The R1 land zoning is considered an inappropriate zoning for the purpose of the lot, and the zoning of SP2 Infrastructure (Sewerage System) is considered to be more consistent with the land use. Additionally, as the lot is being utilised as a sewage pumping station, a buffer layer (400m radius) is required to be applied to the lot and surrounding area.

Proposed Amendment: Rezone Lots 145-146 DP 1190108 to RE1 Public Recreation and remove 1 (500m²) LSZ.

Rezone Lot 102 DP 1093762 to SP2 Infrastructure (Sewage Treatment Plant) remove 1 (500m²) LSZ and apply a Sewage Treatment Plant buffer to the subject lot and surrounding area.

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Table 7: Mapping Amendments – Land Zoning, Minimum Lot Size, Urban Release Area and Clauses



DE21.37 - Attachment 1

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Issue and Justification: Subsequent to a recent boundary adjustment, the subject lot is currently split zoned R1 General Residential and RU1 Primary Production. The current R1 component of the land has an associated minimum lot size of 1 (500m²), and the RU1 component of the land currently has a split minimum lot size of Z2 (3ha) and AB4 (40ha). Additionally, the R1 component of the land has the Clauses (Schedule 1.5) and the Urban Release Area layers applying.

The subject land is partially located within the Moss Vale Road North Urban Release Area (URA). Subsequently, the zoning, minimum lot size, clauses (Schedule 1.5) and Urban Release Area layer should be amended to reflect the consistent line and intent of the Moss Vale Road North URA following the boundary adjustment.

Proposed Amendment:

Realign the URA boundary to standardise the eastern boundary of the URA. This same alignment is to apply to the clauses map as well.

Rezoned the small portion of Lot 1 DP 1264873 to be included in the URA from RU1 Primary Production to R1 General Residential and apply the 1 (500) MLS to that portion of lot. Apply the Z2 (3ha) MLS to the remaining AB4 (40ha) MLS portion of the lot.

3.3 Changes to Existing Provisions – Instrument and Mapping

Two (2) items have been identified for amendment that relate to both the instrument, Schedule 5 of Shoalhaven LEP 2014, and the associated heritage mapping (HER). These amendments are outlined in **Table 7**, with proposed changes to the instrument identified in red.

Table 8: Instrument and Mapping Amendments – Heritage

**1. Lots 2-3 DP 363266 & Road UPN 106868, Junction St, Nowra
Schedule 5 Heritage Item No. 355: Mafeking Boer War Memorial**



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Issue and Justification: The property description for Heritage Item No. 355 is incorrect. The heritage listed item refers to the white marble 'Mafeking' war memorial, which was relocated to Lot 3 in 1962. Rauch Park does not possess heritage significance and is not listed as a heritage item.

The property description should be updated to remove Lot 2, in order to better identify the heritage item. This is consistent with the heritage data sheet.

Proposed Amendment: Update Heritage Map (Sheet HER_013E) to remove the heritage overlay from Lot 2 DP 363266 and the adjoining road reserve.

Existing Schedule 5

Item No: 355

Item: Mafeking Boer War Memorial

Address: 60-62 Junction Street

Locality: Nowra

Property Description: Lots 2 and 3, DP 363266 and adjacent road reserve

Significance: Local

Proposed Schedule 5

Item No: 355

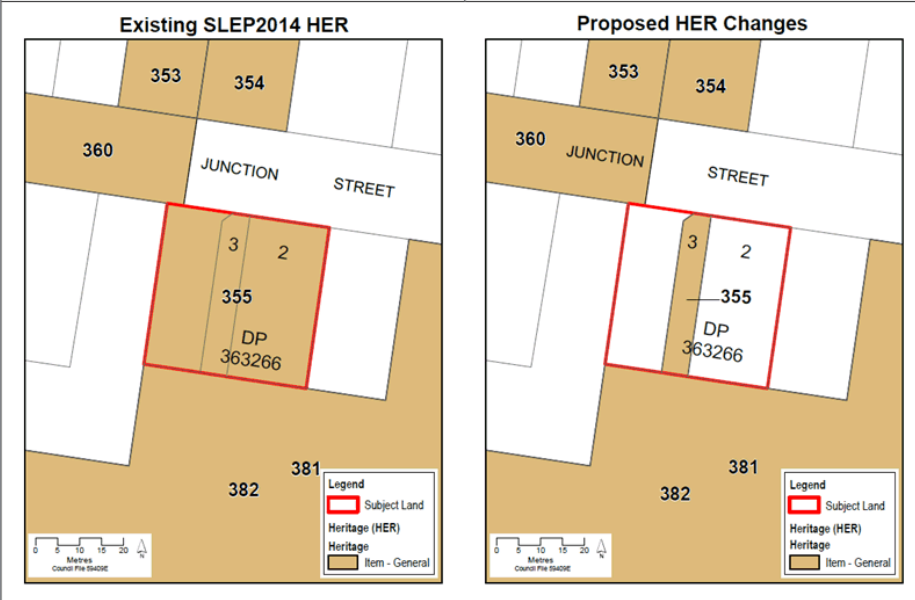
Item: Mafeking Boer War Memorial

Address: 60-62 Junction Street

Locality: Nowra

Property Description: Lots ~~2 and~~ 3, DP 363266 ~~and adjacent road reserve~~

Significance: Local



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**2. Lot 7012 DP 1002643 and Lots 263 & 383 DP 755952, Wharf Rd, Nowra
Schedule 5 Heritage Item No. 407: Former Nowra Sailing Club site and Timber Wharf**



Issue and Justification: A Heritage Assessment, prepared by Council's heritage consultant Louise Thom, identified the former Boatshed Restaurant to possess heritage significance that contributes to the overall significance of Heritage Item No. 407 (**Attachment E**).

Nowra wharf; the site of the Nowra Sailing Club, the former Boatshed Restaurant and the respective setting, provides important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for the transportation of goods and passengers. The former Boatshed Restaurant building has historical value, as the surviving remains of Walter Elyard's jetty, boat slip, boatshed and residence, constructed between 1892 and 1906, which provided essential river transport for goods and boat hire for tourists.

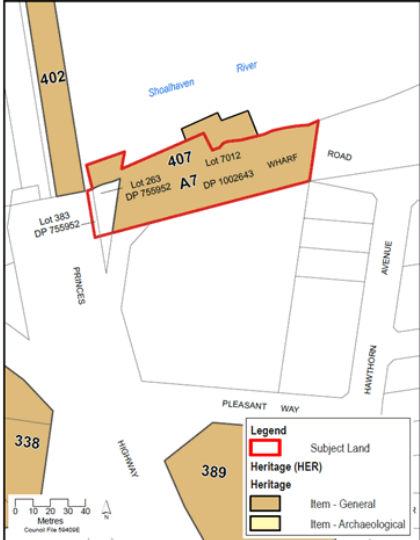
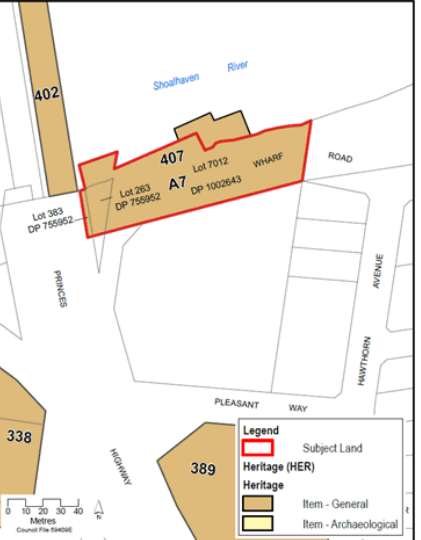
Although much original fabric has been removed or modified, the grouping of sites and structures has strong historic value and provides important evidence of the role of the Shoalhaven River in the early historical development of Nowra and the Shoalhaven.

Lot 263 DP755952 and Lot 383 DP 755952, should be included in the curtilage of item No. 407, and the item name should be updated to reflect all components.

Proposed Amendment: Update the Heritage Map (Sheet HER_013E) to expand the heritage mapping layer over Lot 263 DP 755952 and Lot 383 DP 755952. Update Item No. 407's name to reflect the history of the site and its components. Update the property description to include Lot 263 DP755952 and Lot 383 DP 755952.

Existing Schedule 5	Proposed Schedule 5
Item No: 407 Item: Former Nowra Sailing Club site and Timber Wharf Address: 6 Wharf Road	Item No: 407 Item: Former Nowra Sailing Club site and Timber Wharf Site of former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former

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<p>Locality: Nowra</p> <p>Property Description: Lot 7012, DP 1002643 and adjacent waterway</p> <p>Significance: Local</p>	<p>Boatshed Restaurant and site of former boatshed, slipway and jetty</p> <p>Address: 6-10 Wharf Road</p> <p>Locality: Nowra</p> <p>Property Description: Lot 7012, DP 1002643; Lots 263 & 383, DP 755952 and adjacent waterway</p> <p>Significance: Local</p>
<p>Existing SLEP2014 HER</p> 	<p>Proposed HER Changes</p> 

DE21.37 - Attachment 1

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4 Part 3 – Justification

4.1 Need for the Planning Proposal (Section A)

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

No. While these amendments are not the result of a strategic study or report, they are consistent with Council's policy position and will help achieve the expected outcomes of Council's LEP.

A Heritage Assessment (**Attachment E**) supports the expansion and changes to Heritage Item No. 407 (Former Nowra Sailing Club Site and Timber Wharf).

The proposed amendments cover a range of mapping and instrument related matters, which have been identified as housekeeping issues that need to be addressed to ensure that the Shoalhaven LEP 2014 operates as originally intended or to improve its operations.

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

Yes. The PP is the best and only means of addressing the instrument adjustments, mapping errors and anomalies that have been identified within Shoalhaven LEP 2014.

There is no other way to achieve the required outcomes.

4.2 Relationship to strategic planning framework (Section B)

4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The PP is consistent with the objectives and actions of the Illawarra-Shoalhaven Regional Plan (ISRP). The plan applies to the whole Shoalhaven Local Government Area (LGA) and aims to grow the economy, provide affordable housing, secure agricultural land, build infrastructure and protect the natural and cultural environments.

The proposed amendments will better align Shoalhaven LEP 2014 with the aims of this plan and cater for future development more effectively by way of improving the efficiency and operational integrity of the instrument which will enable for more streamlined processes.

4.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Shoalhaven 2027

The PP is consistent with Council's Community Strategic Plan, Shoalhaven 2027, and the relevant themes and actions below:

- Theme 1: Resilient, safe and inclusive communities
 - 1.3 Support active, healthy liveable communities.
- Theme 2: Sustainable, liveable environments
 - 2.1 Improve and maintain road transport infrastructure;
 - 2.2 Plan and manage appropriate and sustainable development;
 - 2.3 Protect and showcase the natural environment.
- Theme 3: Prosperous communities

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- 3.1 Maintain and grow a robust economy with vibrant towns and village.
- Theme 4: Responsible governance
 - 4.1 Deliver reliable services;
 - 4.3 Inform and engage with the community about the decisions that affect their lives.

Shoalhaven 2040 Local Strategic Planning Statement

The Shoalhaven Local Strategic Planning Statement (LSPS) sets out the vision and priorities for land use planning in Shoalhaven over the next 20 years. The PP is consistent with the Shoalhaven LSPS, and the relevant planning priorities outlined below:

- Planning Priority 10: Protecting the environment.
- Planning Priority 13: Protecting and enhancing neighbourhoods.
- Planning Priority 14: Heritage items and places.
 - CW14.1 Administration and management of heritage items, heritage conservation areas, and archaeological sites.

Sussex Inlet Settlement Strategy

The Sussex Inlet Settlement Strategy provides a broad framework to guide future residential and rural residential growth and development within the Sussex Inlet area. The PP is consistent with the Sussex Inlet Settlement Strategy, as it seeks to resolve the zoning anomaly associated with Lot 100 DP 1247844 (Mapping Item 15), which is an identified residential investigation area within the strategy. Additionally, the introduction of a new local clause within Shoalhaven LEP (2014) will further support the employment land objective of the Sussex Inlet Settlement Strategy.

Nowra Bomaderry Structure Plan

The Nowra Bomaderry Structure Plan identified several new living areas, which have since become Urban Release Areas (URAs) with the commencement of Shoalhaven LEP (2014). The PP is no inconsistent with the Nowra Bomaderry Structure Plan as it only seeks to realign the Moss Vale Road North URA boundary to standardise the eastern boundary of the URA.

Other Local Strategic Plans

Due to the housekeeping nature of the PP, the PP is considered consistent with Council's other Local Strategic Plans:

- Shoalhaven Growth Management Strategy
- Jervis Bay Settlement Strategy
- Milton Ulladulla Structure Plan

4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The PP is consistent with the applicable State Environmental Planning Policies (SEPPs). A full list of SEPPs is provided at **Attachment F**.

Coastal Management 2018

The SEPP sets out matters for consideration for development in the coastal zone. A large number of residentially zoned and non-residentially zoned lots in the PP fall within the coastal zone area, as defined by the *Coastal Management Act 2016*.

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There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land. This includes Clause 16 which requires the Shoalhaven Coastal Zone Management Plan to be considered prior to the issuing of development consent for a development application in the coastal zone.

Exempt and Complying Development Codes 2008

The SEPP sets out a number of Codes which enables certain development to be undertaken without Council approval via the exempt or complying development streams.

The Codes SEPP applies to this PP as a heritage listing or buffer (for example) effectively 'turn off' most forms of complying development under the SEPP. This means that development that is not exempt will require full merit assessment by Council.

Vegetation in Non-Rural Areas 2017

This SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas in Shoalhaven, as well as the amenity they provide. There are no provisions in this SEPP that directly apply to this PP, and therefore the PP is not inconsistent in this regard.

The SEPP will need to be taken into consideration prior to the clearing of native vegetation in non-rural areas, as specified by the SEPP.

4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The s.9.1 Ministerial Directions are considered at **Attachment G** and those specifically relevant to this PP are discussed in greater detail below.

Direction 1.1 Business and Industrial Zones

This direction applies as the PP affects land within an existing or proposed business or industrial zone. PP044 intends to alter existing business and industrial zones through the following amendments:

Instrument Item 2	Insert 'artisan food and drink industry' as a land use permitted with consent in the B2 Local Centre zone.
Instrument Item 5	Amend Clause 4.1E to include an additional subclause that enables the creation of two residue lots containing the rural or environmental portions of the parent lot.
Mapping Item 22	Rezone the IN2 Light Industrial portion of Lots 1-5 DP 700116 beyond 30m from Pitt Street, and remove the I (500m ²) LSZ and I2 (8.5m) HOB from the portion of lot being rezoned.

The PP is generally consistent with the direction as it:

- Gives effect to the objectives of Direction 1.1, including encourage employment growth in suitable locations, and protect employment land in business and industrial zones;
- Retains the area and locations of existing business and industrial zones;
- Does not propose to reduce the total potential floor space area for employment uses, related public services or industrial uses in existing business or industrial zones.

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Direction 1.5 Rural Lands

This direction applies as the PP affects land within an existing or proposed rural or environmental zone. PP044 intends to alter existing rural or environmental zones through the following amendments:

Instrument Item 3	Amend Clause 4.1D(3)(c) to reflect repeal of all three State Environmental Planning Policies.
Instrument Item 4	Insert an additional subclause that ensures resulting lots created via proposed Clause 4.29 (refer to Instrument Item 10) cannot be subdivided under Clause 4.1E.
Instrument Item 5	Amend Clause 4.2D to include the term <i>waterbody</i> .
Instrument Item 10	Insert a local clause that enables the creation of two residue lots containing all of the rural or environmental land within the parent lot.
Mapping Item 3	Amend the RE1 Public Recreation zoning of Lot 108 DP 131063 to extend over the tennis court and realign the AB4 (40ha) LSZ accordingly.
Mapping Item 4	Snap the R1 General Residential zone boundary of Lot 700 DP 1265509 to extend over the proposed residential lots and amend extend I (500m ²) LSZ to the proposed lot boundary. Amendment is confined to the southern portion of Lot 700, to the east of the proposed reserve. Rezone Lot 542 DP 1250028 to RE1 Public Recreation and remove the I (500m ²) and AB4 (40ha) LSZ.
Mapping Item 5	Rezone lots in DP 8592 (excluding Lots 270 & 271); DP 8769 (excluding Lots 24, 93, 148, 165, 166, 216, 217, 218, 220, 221, 222, 224, 225, 227, 228, 229, 230, 231, 232, 233, Part Lot 234, 243 & 266); Lot 1 DP 724813; Road UPN 106874, 106875, 106876, 106865; Part of Road UPN 114695 and UPN 106864 to E1 National Parks and Nature Reserves and remove the AB4 (40ha) LSZ layer associated with these lots.
Mapping Items 6	Rezone Lot 2 DP 1206753 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.
Mapping Item 7	Rezone the RE1 Public Recreation portion of Lot 17 DP 857006 to E2 Environmental Conservation and apply an AB4 (40ha) LSZ to that portion of the lot.
Mapping Item 8	Snap the RE1 Public Recreation and E2 Environmental Conservation zoning layer and AB4 (40ha) LSZ layer to the western lot boundary of Lot 1 DP 1255141 and Lot 2 DP 1063393.
Mapping Item 9	Snap the E3 Environmental Management land zoning and AB4 (40ha) LSZ layer to the Lot 2 DP 1254934 boundary.
Mapping Item 10	Rezone Lots 116-120 DP 1248050 and Part of Road UPN 121947 to R2 Low Density Residential and apply the I (500m ²) LSZ to the land.
Mapping Item 11	Snap the E2 Environmental Conservation layer and AB4 (40ha) LSZ layer to the lot boundary of UPN 26832.

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Mapping Item 12	Snap the E2 Environmental Conservation layer and the AB4 (40ha) LSZ layer to the lot boundary of Lot 22 DP 1255989 & Lot 8 DP 1214563 (Council Road) to remove the E4 Environmental Living zone and Y (1ha) LSZ from that land.
Mapping Item 14	Rezone Lots 24, 25 and 26 DP 1070284 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.
Mapping Item 16	Rezone Lot 1 DP 866983 to E1 National Parks and Nature Reserves and remove the AB4 (40ha) LSZ from the lot.
Mapping Item 17	Rezone Lots 31 & 32 DP 1206538 to RU1 Primary Production and apply an AB4 (40ha) LSZ.
Mapping Item 18	Rezone Lots 35, 36, 41, 42 & 43 DP 792994 & Lot 1 DP 1095677 to RU2 Rural Landscape and apply AB4 (40ha) LSZ.
Mapping Item 20	Rezone the RU1 portions of Lots 33–35 DP 818336, Lot 61 DP 1188161, and Lot 1 DP 973922 to RE1 Public Recreation and remove the AB4 (40ha) LSZ. Rezone part of Lot 62 DP 1188161 to RE1 Public Recreation and remove the AB4 (40ha) LSZ. Rezone the R2 Low Density Residential part of Lot 204 DP 1115401 to RE1 Public Recreation and remove the AB4 (40ha) LSZ and I2 (8.5m) HOB from that part.
Mapping Item 21	Rezone the R2 Low Density Residential portion of Lot 147 DP 1248050 to E3 Environmental Management and extend the AB4 (40ha) LSZ over the entire lot. The HOB layer should be removed from the site to be consistent with the Citywide E3 approach.
Mapping Item 29	Realign the URA boundary to standardise the eastern boundary of the URA. This same alignment is to apply to the clauses map as well. Rezone the small portion of Lot 1 DP 1264873 to be included in the URA from RU1 Primary Production to R1 General Residential and apply the I (500) MLS to that portion of lot. Apply the Z2 (3ha) MLS to the remaining AB4 (40ha) MLS portion of the lot.

The PP is generally consistent as it:

- Is consistent with the applicable strategic plans (see section 4.2.1).
- Does not result in controls that infringe upon farmer right to farm.
- Does not prohibit the use of rural zoned land for the purpose of agriculture and primary production.

The following items are inconsistent with this direction although are considered of minor significance, and are discussed below:

Mapping Item 3	Amend the RE1 Public Recreation zoning of Lot 108 DP 131063 to extend over the tennis court and realign the AB4 (40ha) LSZ accordingly.
Mapping Item 4	Snap the R1 General Residential zone boundary of Lot 700 DP 1265509 to extend over the proposed residential lots and amend extend I (500m ²) LSZ to the proposed lot boundary. Amendment is confined to the southern portion of Lot 700, to the east of the proposed reserve.

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	Rezone Lot 542 DP 1250028 to RE1 Public Recreation and remove the I (500m ²) and AB4 (40ha) LSZ.
Mapping Items 6	Rezone Lot 2 DP 1206753 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.
Mapping Item 10	Rezone Lots 116-120 DP 1248050 and Part of Road UPN 121947 to R2 Low Density Residential and apply the I (500m ²) LSZ to the land.
Mapping Item 14	Rezone Lots 24, 25 and 26 DP 1070284 to SP2 Infrastructure (Road) and remove the AB4 (40ha) LSZ.
Mapping Item 20	Rezone the RU1 portions of Lots 33–35 DP 818336, Lot 61 DP 1188161, and Lot 1 DP 973922 to RE1 Public Recreation and remove the AB4 (40ha) LSZ. Rezone part of Lot 62 DP 1188161 to RE1 Public Recreation and remove the AB4 (40ha) LSZ. Rezone the R2 Low Density Residential part of Lot 204 DP 1115401 to RE1 Public Recreation and remove the AB4 (40ha) LSZ and I2 (8.5m) HOB from that part.
Mapping Item 29	Realign the URA boundary to standardise the eastern boundary of the URA. This same alignment is to apply to the clauses map as well. Rezone the small portion of Lot 1 DP 1264873 to be included in the URA from RU1 Primary Production to R1 General Residential and apply the I (500) MLS to that portion of lot. Apply the Z2 (3ha) MLS to the remaining AB4 (40ha) MLS portion of the lot.

The lots identified in the above table proposes to rezone the land from either a rural or environmental zone.

Mapping Items 6 and 14 proposes to rezone RU2 Rural Landscape zoned land to SP2 Infrastructure (Road) as the land has been declared Controlled Access Road/Public Road. Subsequently, there is no agricultural production value in the land and the departure of the RU2 zone is considered of minor significance.

Mapping Items 4 and 10 intend to rezone land from an environmental zone to a residential zone (R1 and R2, respectively), as the residential zone is considered more consistent with the intended residential use of the land following subdivision approvals. Subsequently, the departure of the E2 Environmental Conservation and E3 Environmental Management zone is considered of minor significance. Additionally, Mapping Items 3, 4 and 20 propose to rezone land from a rural and environmental zone to RE1 Public Recreation. The RE1 zone is considered consistent with the nature of the public reserve land use, therefore the departure from the direction is considered of minor significance.

Mapping Item 29 is considered of minor significance, as the amendment proposes to rezone a small portion of the RU1 Primary Production zoned land to R1 General Residential, in order to realign the eastern boundary of the Moss Vale Road North URA. The R1 zoning is more consistent with the future land use of the Moss Vale Road North URA.

Direction 2.1 Environmental Protections Zones

This direction applies as the PP affects land within an environmental protection zone or land otherwise identified for environment protections purposes. PP044 intends to alter existing environmental zones through the following amendments:

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Mapping Item 1	Rezone the RE1 Public Recreation portion of both Lot 7 DP 731147 and Road Casement to E3 Environmental Management.
Instrument Item 4	Insert an additional subclause that ensures resulting lots created via proposed Clause 4.29 (refer to Instrument Item 10) cannot be subdivided under Clause 4.1E.
Instrument Item 5	Amend Clause 4.2D to include the term <i>waterbody</i> .
Instrument Item 10	Insert a local clause that enables the creation of two residue lots containing all of the rural or environmental land within the parent lot.
Mapping Item 3	Proposes to rezone a component of the E2 Environmental Conservation zoned land of Lot 108 DP 131063 to RE1 Public Recreation, as it is consistent with the land use of the existing tennis court.
Mapping Item 4	Intends to rezone a component of the E2 Environmental Conservation portion of Lot 700 DP 1265509 to R1 General Residential, as it is consistent with the intended residential land use. Additionally, Lot 542 DP 1250028 proposed to be rezoned to RE1 Public Recreation to be consistent with the future public reserve land use.
Mapping Item 5	Rezoned lots in DP 8592 (Excluding Lots 270 & 271), DP 8769 (Excluding Lots 24, 93, 148, 165, 166, 216, 217, 218, 220, 221, 222, 224, 225, 227, 228, 229, 230, 231, 232, 233, Part Lot 234, 243 & 266) & Lot 1 DP 724813 to E1 National Parks and Nature Reserves and remove AB4 (40ha) LSZ layer.
Mapping Item 7	Rezoned the RE1 Public Recreation portion of Lot 17 DP 857006 to E2 Environmental Conservation and apply AB4 (40ha) LSZ to the E2 portion of lot.
Mapping Item 8	Proposes to snap the RE1 Public Recreation and E2 Environmental Conservation land zoning layer and AB4 (40ha) LSZ layer to the lot boundary of Lot 1 DP 1255141 and Lot 2 DP 1063393.
Mapping Item 9	Proposes to snap the E3 Environmental Management land zoning and AB4 (40ha) LSZ layer to the Lot 2 DP 1254934 boundary.
Mapping Item 10	Proposes to rezone the E3 Environmental Management zoned land of Lots 116-120 DP 1248050 to R2 Low Density Residential, to be consistent with the intended residential land use of the lots.
Mapping Item 11	Snaps the E2 Environmental Conservation layer and AB4 (40ha) LSZ layer to the lot boundary of UPN 26832.
Mapping Item 12	Snaps the E2 Environmental Conservation layer and the AB4 (40ha) LSZ layer to the lot boundary of Lot 22 DP 1255989 & Lot 8 DP 1214563 (Council Road) to remove the E4 Environmental Living zone and Y (1ha) LSZ from that land.
Mapping Item 16	Intends to rezone Lot 1 DP 866983 to E1 National Parks and Nature Reserves and extend the AB4 (40ha) LSZ over the entire lot.
Mapping Item 21	Proposes to rezone the R2 Low Density Residential portion of Lot 147 DP 1248050 to E3 Environmental Management and extend the AB4 (40ha) LSZ over the entire lot.

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The PP is considered to be generally consistent with this direction.

Mapping Items 3, 4 and 10 propose the rezoning of environmental lots and are considered inconsistent as they reduce the environmental protection standards that apply to the land. The items seek to rezone environmental land to a residential and public recreation zone; however, due to the housekeeping nature, the departure of the environmental zone is considered to be of minor significance.

Direction 2.2 Coastal Management

This direction applies as the PP affects land within the coastal zone, as defined under the *Coastal Management Act 2016*, PP044 intends the following amendment:

The PP is consistent as it:

- Does not make changes relevant to the *Coastal Management Act 2016*, NSW Coastal Management Manual, NSW Coastal Design Guidelines 2003 or any Coastal Zone Management Plan certified by the Minister or under the *Coastal Protection Act 1979*.
- Does not seek to amend any maps contained within the *State Environmental Planning Policy (Coastal Management) 2018*.

The PP is therefore not inconsistent with this direction.

Direction 2.3 Heritage Conservation

This direction applies as the PP is proposing to amend the listing and associated mapping of heritage items within Schedule 5 of Shoalhaven LEP 2014 through the following amendments:

Instrument Item 7	Update the property description of Item No. 39: Coomanderry Swamp Drainage Channel, "... so much of DP 623346 and DP 615003 that comprises drainage reserves" to read "drainage reserves DP 623346 and DP 615003".
Instrument Item 8	Update the property description to remove 'Part Lot 1'.
Instrument Item 9	Update item name of Item No. 299: Rendered Masonry Commercial Store including Residence and Trees, to remove 'and Trees'.
Instrument & Mapping Item 1	Update Heritage Map (Sheet HER_013E) to remove heritage overlay from Lot 2 DP 363266 and adjoining road reserve.
Instrument & Mapping Item 2	Update the Heritage Map (Sheet HER_013E) to include heritage mapping layer over the proposed item Lot 263 DP755952 and Lot 383 DP 755952. Update Item No. 407's name to reflect the history of the site and its components. Update the property description to include Lot 263 DP755952 and Lot 383 DP 755952.
Instrument & Mapping Item 3	Update the property description to remove Lot 11 DP 1080453 and update Heritage Map (Sheet HER_019C) to remove Heritage overlay from Lot 11 DP 1080453.

The PP is generally consistent with this direction as it will strengthen the conservation of heritage items within the Shoalhaven Local Government Area. This will be achieved through ensuring Council's heritage listings and associated mapping is accurate and reflects current data on both Council's and Heritage NSW's websites.

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Those items that are inconsistent are the result of administrative errors or physical changes that have severed the significance and are considered of minor significance.

Direction 2.6 Remediation of Contaminated Land

This direction applies as the PP relates to various land across the City, some of which may be potentially contaminated. The PP is not inconsistent with this direction as the proposed changes are of a housekeeping nature and any development assessment process for future development would consider the above (as relevant).

Direction 3.1 Residential Zones

This direction applies as the PP affects land within an existing residential zone. PP044 intends to alter existing residential zones through the following amendments:

Instrument Item 1	Insert 'secondary dwellings' as a land use permitted with consent in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones.
Instrument Item 5	Amend Clause 4.2D to include the term <i>waterbody</i> .
Mapping Item 2	Rezone the R3 Medium Density Residential and RE1 Public Recreation polygons to W3 Working Waterways.
Mapping Item 4	Snap the R1 General Residential zone boundary of Lot 700 DP 1265509 to extend over the proposed residential lots and amend extend I (500m ²) LSZ to the proposed lot boundary. Amendment is confined to the southern portion of Lot 700, to the east of the proposed reserve.
Mapping Item 10	Rezone Lots 116-120 DP 1248050 and Part of Road UPN 121947 to R2 Low Density Residential and apply the I (500m ²) LSZ to the land.
Mapping Item 13	Rezone the RE1 Public Recreation portion of Lot 3 DP 1069042 to R1 General Residential and apply an I (500m ²) LSZ.
Mapping Item 15	Extend the R1 General Residential component of Lot 100 DP 1247844 to the lot boundary and extend the I (500m ²) LSZ layer to lot boundary.
Mapping Item 19	Rezone the RE1 Public Recreation portion of Lots 322 and 323 DP 8399 and Road UPN 112288 to R2 Low Density Residential and extend the I (500m ²) LSZ and I2 (8.5m) HOB over the entire lots and part of the road casement.
Mapping Item 21	Rezone the R2 Low Density Residential portion of Lot 147 DP 1248050 to E3 Environmental Management and extend the AB4 (40ha) LSZ over the entire lot. The HOB layer should be removed from the site to be consistent with the Citywide E3 approach.
Mapping Item 22	Rezone the IN2 Light Industrial portion of Lots 1-5 DP 700116 beyond 30m from Pitt Street, and remove the I (500m ²) LSZ and I2 (8.5m) HOB from the portion of lot being rezoned.
Mapping Item 23	Rezone the R2 Low Density Residential portion of Lot 1 DP 844280 to SP2 Infrastructure (Electricity Transmission & Distribution) and remove the I (500m ²) LSZ and I2 (8.5m) HOB accordingly.

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Mapping Item 24	Rezone the R2 Low Density Residential portion of Lot 11 DP 771431 to SP2 Infrastructure (Educational Establishment) and remove the associated I (500 m ²) LSZ and I2 (8.5m) HOB accordingly.
Mapping Item 25	Apply an H (7.5m) HOB to Lots 18-19 DP 38221, Lot 20 DP 539945 & Road UPNs 113163 & 113916 and Part of Road UPN 113915.
Mapping Item 26	Apply I2 (8.5m) HOB to Lots M & P DP 101026, Lot B DP 354147, Lot K DP 385514, Lot B DP 362846, Lot B & C DP 356186, Lot 1 DP 810815, Lot 2 DP 505676, Part of Lot 1 DP 286791, Lots 2-3 DP 286791, Lot 1 DP 206055, Lot 1 DP 556358, Lots J & K DP 387024, Lot B DP 374361, Lot 1 DP 631683 & Road UPNs 107718, 107719, 107720, 107721, 107722, 107723 and Part of Road UPN 107726. Apply a H (7.5m) HOB to Lot 2 DP 332256.
Mapping Item 27	Apply a H (7.5m) HOB to Lots 11-17 Sec 14 DP 759018, Road UPN 113170, Part of Road UPN 105045 and Part of Road UPN 113169.
Mapping Item 28	Rezone Lots 145-146 DP 1190108 to RE1 Public Recreation and remove I (500m ²) LSZ. Rezone Lot 102 DP 1093762 to SP2 Infrastructure (Sewage Treatment Plant), remove I (500m ²) LSZ and apply a Sewage Treatment Plant buffer to the subject lot and surrounding area.
Mapping Item 29	Realign the URA boundary to standardise the eastern boundary of the URA. This same alignment is to apply to the clauses map as well. Rezone the small portion of Lot 1 DP 1264873 to be included in the URA from RU1 Primary Production to R1 General Residential and apply the I (500) MLS to that portion of lot. Apply the Z2 (3ha) MLS to the remaining AB4 (40ha) MLS portion of the lot.

The PP is generally consistent as it:

- Encourages a variety and choice of housing types to provide for existing and future housing needs.
- Makes efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services.

The following mapping changes are considered inconsistent, although the departure is considered of minor significance as discussed below:

Mapping Item 2	Intends to rezone the R3 Medium Density Residential and RE1 Public Recreation polygons to W3 Working Waterways. The subject polygon is a waterway, subsequently the W3 Working Waterways zoning is considered to be more appropriate land zone.
Mapping Item 21	Intends to rezone the R2 Low Density Residential component of land to E3 Environmental Management, as the objectives of the proposed land zone will ensure the protection of the Endangered Ecological Community present as mapped under the <i>Biodiversity Conservation Act 2016</i> .
Mapping Item 22	Proposes the rezoning of a component of the R2 Low Density Residential zoned land within Lots 1-5 DP 700116 to IN2 Light Industrial, to the 30m boundary from Pitt

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	Street. The subject portions of land consist of approved industrial premises, therefore the departure from the residential zone is considered of minor significance.
Mapping Item 23	Intends to rezone the R2 Low Density Residential component of Lot 1 DP 844280, as the subject lot consists of an electricity substation and cannot be used for residential purposes. The SP2 Infrastructure (Electricity Transmission & Distribution) zoning is more consistent with the land use.
Mapping Item 24	Proposes to rezone the R2 Low Density Residential component of Lot 11 DP 771431, as the subject lot consists of a school and cannot be used for residential purposes. The SP2 Infrastructure (Educational Establishment) zoning is more consistent with the land use.
Mapping Item 28	Proposes to rezone the R1 General Residential land to RE1 Public Recreation and SP2 (Sewage Treatment Plant). Lots 145 and 146 DP 1190108 were dedicated as open space for the public purpose of community land, the RE1 zoning is considered more consistent with the land use. Lot 102 DP 1093762 contains a sewage pumping station, subsequently the SP2 zoning is more consistent land use. The departure from the residential zone is considered of minor significance.

The above items within the PP are inconsistent with this direction, specifically part 5(b). Whilst the PP contains provisions which will reduce the permissible residential density of land in a general sense, this only relates to a handful of lots across the city. Given there are significant residential development opportunities available across Nowra-Bomaderry and Milton-Ulladulla in infill areas and endorsed Urban Release Areas, the departure is considered of minor significance. Additionally, much of the land is being rezoned from residential for the purpose of established and/or dedicated public recreation and services, which will contribute to improving the quality of life of surrounding residents.

Direction 3.4 Integrating Land Use and Transport

This direction applies as the PP proposes to create, alter or remove a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The PP is not inconsistent with this direction as the proposed changes are of a housekeeping nature and are not inconsistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for Planning and Development 2001*, and *The Right Place for Business and Services – Planning Policy 2001*.

Direction 4.1 Acid Sulfate Soils

This direction applies as the PP affects land that has a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

The PP is considered consistent as it:

- Does not propose to introduce provisions to regulate works in acid sulfate soils.
- Does not proposed to intensify land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.

The PP is therefore not inconsistent with this direction.

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Direction 4.3 Flood Prone Land

This direction applies as the PP seeks to alter planning provisions for land that is identified as flood prone.

Mapping Item 4	Snap the R1 General Residential zone boundary of Lot 700 DP 1265509 to extend over the proposed residential lots and amend extend I (500m ²) LSZ to the proposed lot boundary. Amendment is confined to the southern portion of Lot 700, to the east of the proposed reserve. Rezone Lot 542 DP 1250028 to RE1 Public Recreation and remove the I (500m ²) and AB4 (40ha) LSZ.
Mapping Item 15	Rezone R1 (General Residential) to the boundary of Lot 100 DP 1247844 and extend the I (500m ²) LSZ layer to lot boundary.

This direction applies as the PP proposes to rezone land from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

Mapping Items 4 and 15 propose to rezone flood prone land from Recreation (Lot 100 DP 1247844) and Environmental Protection Zones (Lot 600 DP 1250836) to a Residential zone. This is considered inconsistent with the direction, as it will increase the development of the land within a flood affected area; however, the provisions of the PP that are inconsistent are considered to be of minor significance. Any future development carried out on the future residential lots will require development consent, which will require consideration of environmental constraints, such as flooding, as part of the development assessment process.

Direction 4.4 Planning for Bushfire Protection

The direction applies as the PP affects land across the LGA that is (or is in proximity to) land mapped as bushfire prone land. The PP is:

- Has regard to *Planning for Bushfire Protection 2006* and the new *Planning for Bushfire Protection 2019*.
- Does not result in controls that place inappropriate developments in hazardous areas.
- Does not prohibit bushfire hazard reduction within an APZ.

Consultation will be undertaken with the NSW Rural Fire Service following receipt of a Gateway determination, and prior to undertaking community consultation.

The PP is not inconsistent with this direction.

Direction 5.10 Implementation of Regional Plans

The Illawarra Shoalhaven Regional Plan (ISRP) applies to the Shoalhaven Local Government Area. The PP is consistent with the ISRP as discussed in Section 4.2.1 above.

The PP is therefore consistent with this direction.

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4.3 Environmental, Social and Economic Impact (Section C)

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

The likelihood that critical or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the PP is very low. The PP proposes to make amendments to the LEP that is of a housekeeping nature.

Lot 147 DP 1248050 Sunset Road, Manyana is mapped as Endangered Ecological Community under the *Biodiversity Conservation Act 2016*. The proposed rezoning to E3 Environmental Management is considered to protect the ecological communities and their habitats into the future.

Any future use of the land will consider environmental impacts as part of the development assessment process.

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

Other environmental impacts are not anticipated, and any future development would consider environmental impacts as part of the development assessment process.

4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?

The PP is likely to have positive social and economic effects due to the LEP operating in a more efficient manner which will better align the objectives of the instrument with appropriate development.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The PP does not create additional requirements for public infrastructure. It facilitates development in areas that already have an urban zone; the public infrastructure requirements have or will be considered as these areas are considered for development.

4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council will consult with relevant State and Commonwealth authorities in accordance with the conditions of the Gateway determination. The PP will be updated prior to public exhibition, if required, to incorporate the view of any public authority.

5 Part 4 – Mapping

There are a number of mapping amendments identified within this PP. These are shown in **Part 2 – Explanation of Provisions (Section 3 of this PP)**.

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6 Part 5 - Community Consultation

Council proposes to exhibit the PP in accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* and any other requirements as determined by the Gateway determination. It is intended that an exhibition period of 28 days would apply.

The exhibition would include public notification and a package of exhibition material on Council's website.

All stakeholders, including relevant Community Consultative Bodies and any directly affected landowners, will be advised of the public exhibition arrangements.

7 Part 6 – Project Timeline

The anticipated timeline for the PP is as follows:

Table 9: Project Timeline

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	May 2021
Completion of Gateway determination requirements	July 2021
Public exhibition	August 2021
Consideration of submissions	September 2021
Post exhibition consideration of PP	October 2021
Finalisation and notification of Plan	January/February 2022

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ATTACHMENTS

Attachment A – Evaluation Criteria for the Delegation of Plan Making Functions

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP044 – 2019 Housekeeping Amendment

Address of Land (if applicable):

The PP applies to all land in the Shoalhaven Local Government Area.

Intent of draft LEP:

The intent of the Planning Proposal is to amend a number of clauses in the LEP and related mapping, to correct identified anomalies or inconsistencies within the LEP that have arisen since its commencement in 2014.

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any consistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			

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Minor Mapping Error Amendments				
Does the Planning Proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			

Heritage LEPs				
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?	Y – (Council's heritage officer prepared the report relating to Item No. 407)			
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		

Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the Planning Proposal?		N/A		
Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?		N/A		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		

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Spot Rezoning				
Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?		N/A		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		N/A		
Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		N/A		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the Planning Proposal create an exception to a mapped development standard?		N/A		
Section 73A matters				
Does the proposed instrument:				
a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;		N/A		
b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?;		N/A		
c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?		N/A		
(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				

Any other relevant documentation e.g. letters of support from State Government agencies.

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

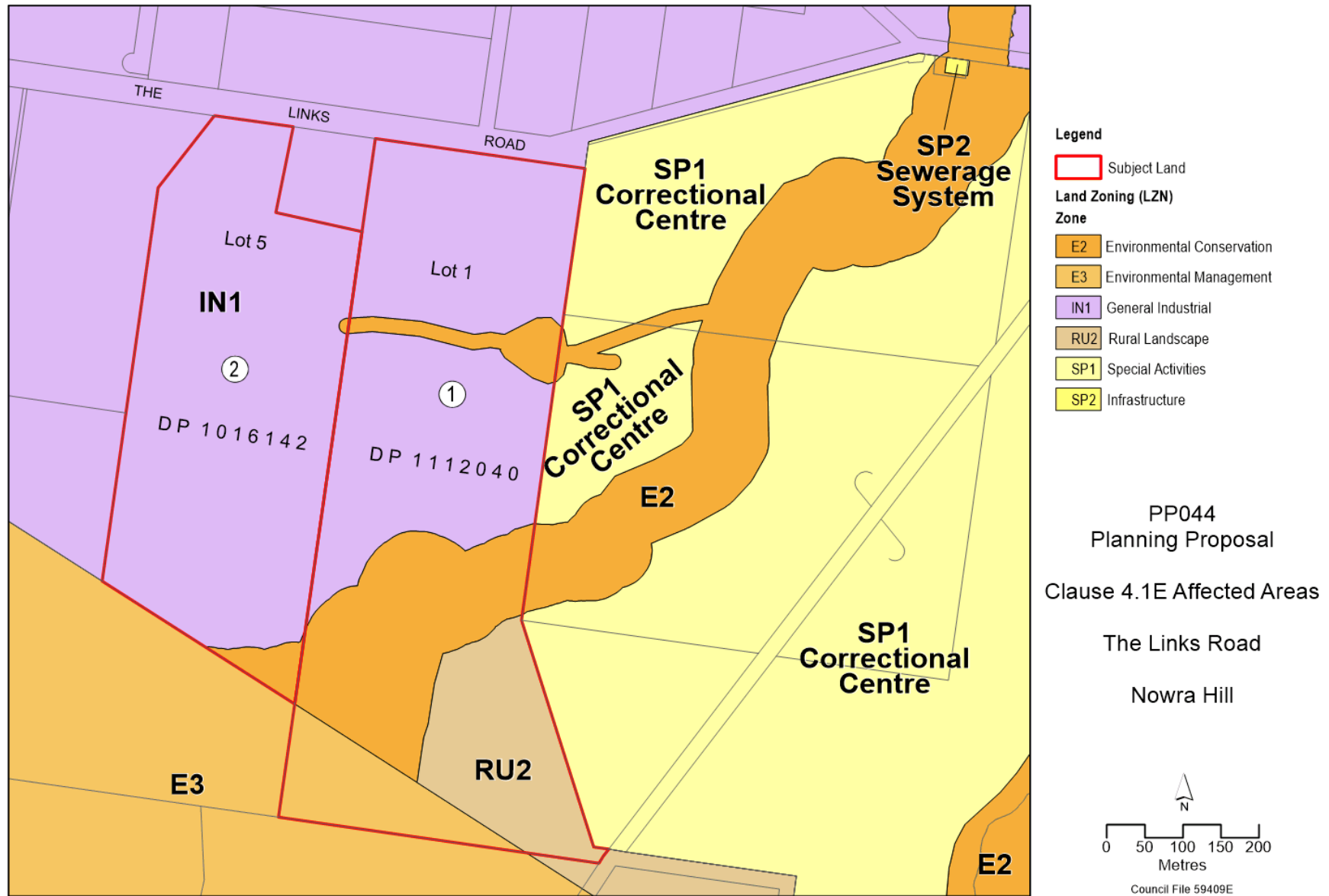
Attachment B – Council report and resolution (MIN21.XXX) supporting the PP

DE21.37 - Attachment 1

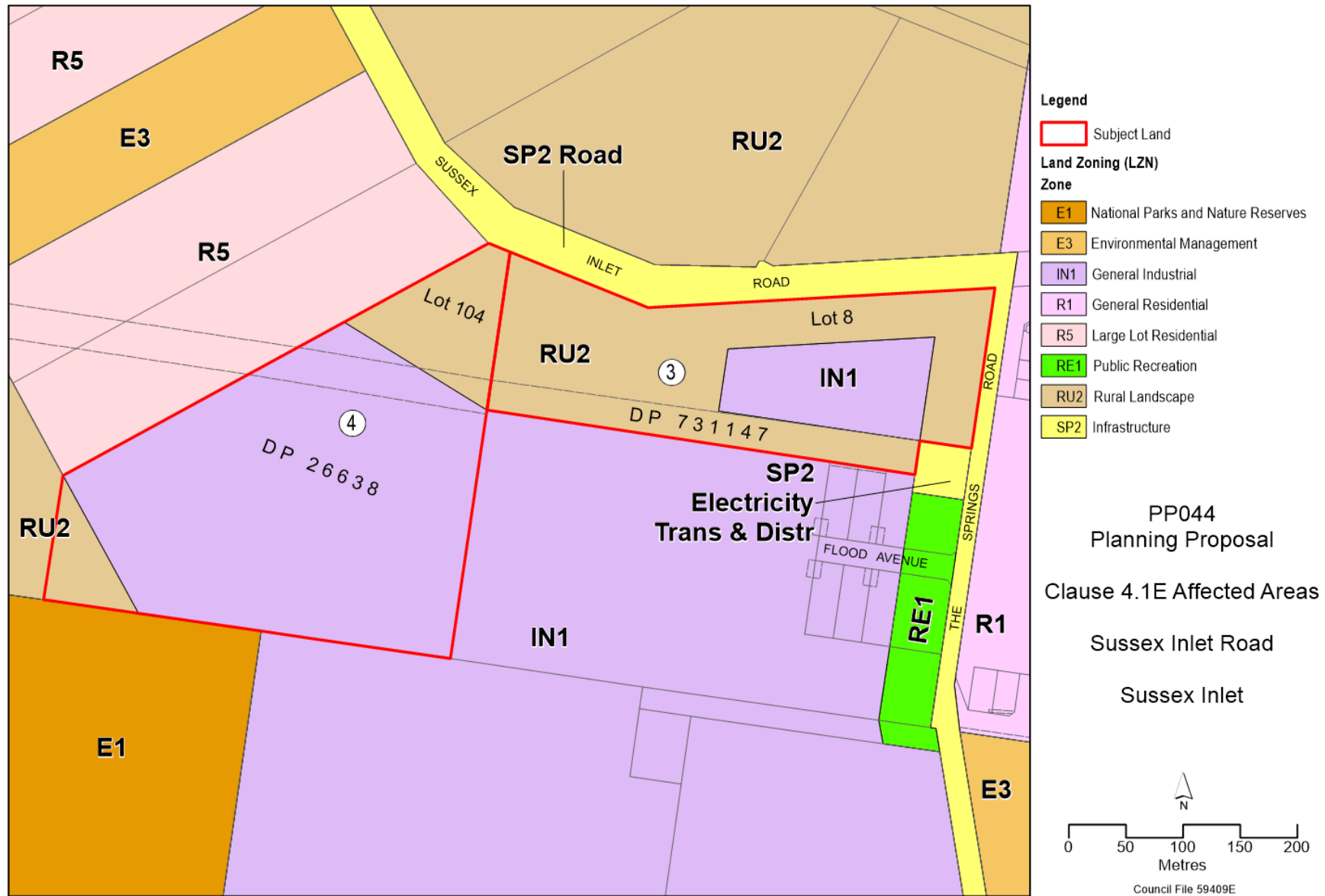
Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Attachment C – Affected Land relating to Instrument Item 10

DE21.37 - Attachment 1



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Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Attachment D – Support from Crown Lands for Mapping Items 2 & 11

DE21.37 - Attachment 1

From: Helen Wheeler <helen.wheeler@crowland.nsw.gov.au>
Sent: Monday, 6 April 2020 11:58 AM
To: Emma Kell <Emma.Kell@shoalhaven.nsw.gov.au>
Subject: HPECM: FW: Enquiry – Potential Housekeeping Items - Shoalhaven Local Environmental Plan (LEP) 2014

Hi Emma

Thanks for your referral of the proposed housekeeping amendments outlined below.

Crown Lands have no objection to the proposed amendments.

regards

Helen Wheeler

Natural Resource Project Management Officer

Crown Lands | Department of Planning, Industry and Environment

E Helen.Wheeler@crowland.nsw.gov.au

PO Box 309 NOWRA NSW 2541

www.dpie.nsw.gov.au

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Angela Lordan <angela.lordan@crowland.nsw.gov.au> **On Behalf Of** CL Reserves
Sent: Monday, 6 April 2020 8:11 AM
To: Nowra CrownLands <nowra.crownlands@crowland.nsw.gov.au>
Subject: Fwd: Enquiry – Potential Housekeeping Items - Shoalhaven Local Environmental Plan (LEP) 2014

Kind Regards

Reserves | Dubbo Business Centre

Crown Lands | Department of Planning, Industry and Environment

T 1300 886 235 (Option 5, Option 1) | **E** reserves@crowland.nsw.gov.au

PO Box 2185 Dangar NSW 2309

www.dpie.nsw.gov.au

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

----- Forwarded message -----

From: **Emma Kell** <Emma.Kell@shoalhaven.nsw.gov.au>


Date: Thu, 2 Apr 2020 at 08:36

Subject: Enquiry – Potential Housekeeping Items - Shoalhaven Local Environmental Plan (LEP) 2014

To: reserves@crowland.nsw.gov.au <reserves@crowland.nsw.gov.au>

Strategic Planning are currently investigating items for the purpose of a future housekeeping amendment to Shoalhaven LEP 2014. The following mapping anomalies have been identified on crown reserves.

Council is seeking feedback as to whether the proposed mapping amendments would be supported by Crown Lands.

Item One:	UPN 26832, Mollymook		<p>Issue: The Lot boundary is inconsistent with the zoning. E2 zoning currently protrudes outside of lot and onto the beach.</p> <p>Potential Amendment: Snap the E2 layer to the lot boundary.</p>
Item Two:	Opposite UPN 35128, Ulladulla		<p>Issue: The Lot boundary is inconsistent with the zoning. A portion of the R3 zone associated with the road</p>



Please do not hesitate to contact me on the below number, if you require further clarification.

Regards,
Emma Kell

Trainee Town Planner
Shoalhaven City Council

02 4429 3213
Bridge Rd (PO Box 42) Nowra NSW 2541
Emma.Kell@shoalhaven.nsw.gov.au
www.shoalhaven.nsw.gov.au

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DE21.37 - Attachment 1

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Attachment E – Heritage Assessment and Heritage Data Form: Item No. 407

DE21.37 - Attachment 1



Heritage assessment of the former Boatshed Restaurant,
10 Wharf Road, Nowra. Lots 263 and 383 DP 755952

Review of significance of Nowra Wharf

Update of heritage data sheet for Item 407



For Shoalhaven City Council
May 2020

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Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

Cover Image: Top: Eastern view of the former Boatshed Restaurant. Bottom: View of sea wall along the river and the site of the old Nowra Wharf and Sailing Club (24 May 2020)

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Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

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1. Executive Summary

Nowra wharf, the site of the Nowra Sailing Club, the former Boatshed Restaurant and their setting provide important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for transport of goods and passengers. The original location of Nowra Wharf and the offices of the Illawarra Steam Navigation Company on the south side of the Shoalhaven River from 1884 played a vital role in the historical development of Nowra at the end of the 19th century and the early 20th century. The former Boatshed Restaurant building has historical value as the surviving remains of Walter Elyard's jetty, boat slip, boatshed and residence, constructed between 1892 and 1906, which provided essential river transport for goods and boat hire for tourists.

Although much original fabric has been removed or modified the grouping of sites and structures has strong historic value and provides important evidence of the role of the Shoalhaven River in the early historical development of Nowra and the Shoalhaven. The Illawarra Steam Navigation Company and Walter Elyard played crucial roles in the transport of goods and people, facilitating the growth of Nowra on the southern side of the river. There is enough fabric remaining to tell the story of these significant associations.

This assessment concludes that existing heritage listing under item number 407 in Shoalhaven Local Environmental Plan 2014 needs to be updated to reflect more accurately the heritage significance of the whole site and its precise components. The listing description in schedule five should be changed to:

Site of former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former Boatshed Restaurant and site of former boatshed, slipway and jetty.

And Lot 263 DP755952, Lot 383 DP755952 should be added to the property description.

A new Heritage Inventory Data Sheet has been prepared and is included in Appendix 1 of this report.

2. Introduction

2.1. Report Objectives

The objective of this report is to firstly provide a Heritage Assessment of the former Boatshed Restaurant, which was previously Elyard's Boatshed, Wharf and Residence, and is listed in Shoalhaven Local Environmental Plan 2014 as a heritage item (407). The Heritage Map of SLEP2014 and the heritage description refers to an Inter-war Weatherboard Building and Timber Wharf at Wharf Road on Lot 7012, DP 1002643. However the description and map do not match and the former Boatshed Restaurant is located on two adjoining lots not shown on the map but included in the description of the heritage inventory sheet, see figure 3.

Shoalhaven City Council have commissioned this report to provide a significance assessment of the Boatshed Restaurant and a review of Heritage Item 407 and to provide an accurate map and description for SLEP2014. The report focuses in particular on the boatshed restaurant as no previous assessment has been completed of this building. Upon completion of this report the heritage inventory data sheet for heritage item number 407 will be updated.

2.2. Methodology and Structure

The Heritage Assessment will set out the history and physical description of the building, wharf and landscape setting in order to assess their heritage significance. The assessment of significance and guidance for determining opportunities and constraints are taken from the following sources:

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

- *Assessing Heritage Significance*, NSW Heritage Office (former) Office of Environment and Heritage, 2001
- *Conservation Management Documents* Heritage Office and Department of Urban Affairs & Planning, 1996, revised 2002
- *The Conservation Plan* [Fifth Edition], James Semple Kerr for the National Trust 2000
- *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, Australia ICOMOS 2013
- *Practice Note, Understanding and assessing cultural significance*, Australia ICOMOS 2013

2.3. Location



Figure 1. Map from Spatial Information Exchange, Department of Finance and Services NSW (SIX Maps)

2.4. Study Area



Figure 2. Aerial view. Highlighted lots contain the boatshed restaurant. Six Maps

2.5. Authorship

This report was prepared by Louise Thom, Heritage Consultant. All photographs unless otherwise specified were taken by Louise Thom on 24 April 2020.

2.6. Report limitations

An inspection was made of the site on 24 April 2020. The inspection was limited to what was visible from the exterior. The findings of the report are based solely on a visual inspection of what was available to view at the time of the inspection. No intervention into the physical structure of any building was undertaken for the purposes of this report and no inspection was undertaken of the roof space, the interior or under the floor.

3. Heritage Status

3.1. Shoalhaven Local Environmental Plan 2014

Schedule 5 of SLEP2014 list lots 7012 DP 1002643 as a heritage item of local heritage significance. The description in the heritage schedule is Inter-war Weatherboard Building and Timber Wharf, Wharf Road, Nowra Item number 407. The statement of significance for the item in the existing heritage data sheet is as follows:

Statement of significance:

Nowra Wharf, Nowra Sailing Club & Boatshed Restaurant are locally significant for their ability to illustrate the historical relationship between Nowra and the Shoalhaven River and its dependence on coastal shipping and river transport well into the twentieth century. The close juxtaposition of the wharf and road bridge of 1881 reinforces this dependence. Historic, aesthetic and social value. Local significance (Shoalhaven).

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

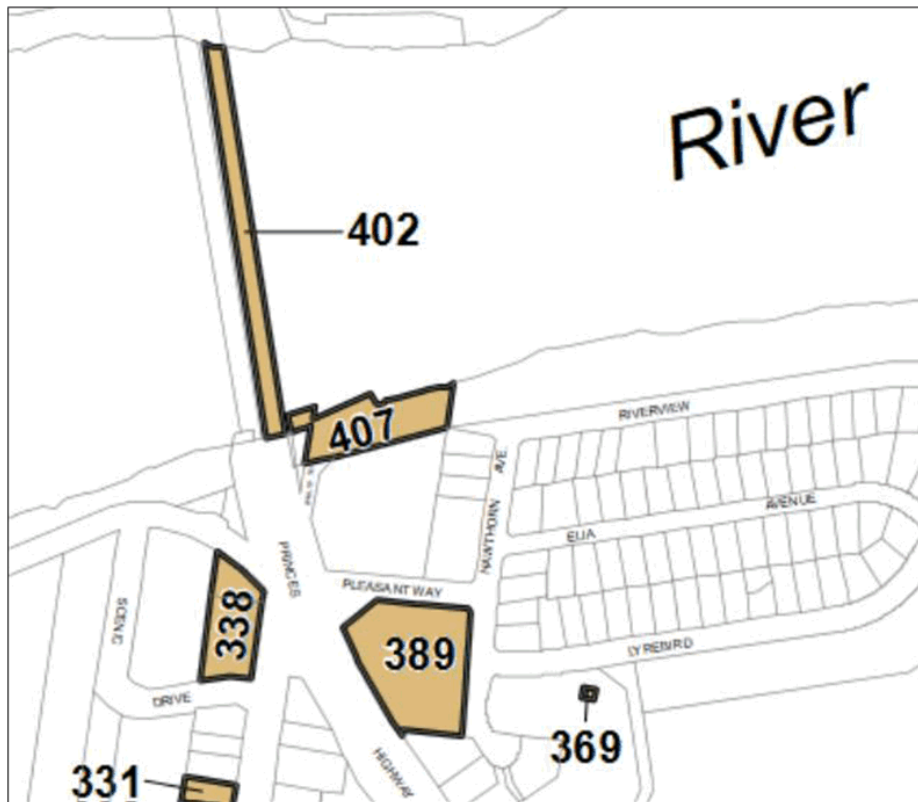


Figure 3. Extract from Heritage Map 013E Shoalhaven Local Environmental Plan 2014

As can be seen on the map in Figure 3, Lots 263 and 383 DP755952 have not been included in the heritage map for item 407.

4. Historical Background

4.1. Early history

Aboriginal people of the Shoalhaven region state that they have always lived in the area since time began. Using knowledge passed down from their ancestors the Salt Water people lived comfortably off the land, the rivers and the sea until the arrival of the European settlers. After this time the life of Aboriginal people changed dramatically. (Bennett, 2003)

Dr Charles Throsby moved to the Illawarra in 1815 after being told of good grazing areas at Five Islands by Aboriginal people from the area. When he visited the area he was guided by two Aboriginal guides, Bundle and Broughton. Throsby visited again and explored as far as Jervis Bay in 1818, again accompanied by Bundle and Broughton.

During the period leading up to settlement in the Shoalhaven, timber cutting was common as cedar was a sought after resource. In the process of cutting cedar large areas of land were cleared. In 1822

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Governor Brisbane granted 10,000 acres in the Shoalhaven to Alexander Berry and his business partner Edward Wollstonecraft.



Map of the Illawarra District showing the location of the free Grants and the large purchase grants [cartographic material] Wollongong City Library accessed 29/05/2019

Berry arrived at the Shoalhaven Heads in the "Blanche" with provisions to start a settlement, 100 assigned convicts and accompanied by Broughton, a few government men and an Aboriginal man named Charcoal Will. A small party went ashore but the boat was capsized and two men drowned. Berry set the convicts to work building a canal to link the Shoalhaven and Crookhaven Rivers. (Bradshaw)

Alexander and David Berry founded the private township of Broughton Creek (later Berry). Private villages were also established at Numbaa, Greenwell Point and Bomaderry. Hundreds of tenant farmers were accommodated on the Estate. By the end of the 1850s, there was little productive land that was not occupied by farmers, though not all of it was cleared. By 1858 a road had been built to Berry and to Bomaderry assisting in the long term growth of the area.

4.2. Nowra Wharf

Meanwhile coastal shipping remained essential as a means to move produce along the coast of New South Wales. The Illawarra Steam Navigation Company was incorporated in 1858 and the wharf built by Alexander Berry at Greenwell Point was an essential part of their operations. In the 1850s and 1860s steam ships could only access part of the Shoalhaven River and could only go as far as Numbaa, Terrara and Bomaderry and Broughton Creek Wharves. In 1904 the rock outcrop that had been hindering access was broken up and river access was improved. (Simpson Dawbin)

The Illawarra Steam Navigation Company established a wharf and store on the southern side of the Shoalhaven Bridge which had opened in 1881. Another transport milestone at the end of the 19th century was the arrival of the Sydney-South Coast railway line which was extended to Bomaderry in 1893.

The Illawarra Steam Navigation Company was a shipping company that serviced the south coast of New South Wales, Australia from 1858 to the early 1950s. It was formed through the amalgamation of the General Steam Navigation Company, the Kiama Steam Navigation Company and the Shoalhaven Steam Navigation Company, each of whom serviced parts of the south coast with their respective vessels. The company transported both passengers and a range of produce, including livestock, and hence it became known as the 'Pig and Whistle Line': it was said that ships would wait an hour for a pig but not a minute for a passenger. (Wikipedia)

The Shoalhaven River Bridge joined the downtown area of Nowra with North Nowra and Bomaderry. The bridge extended the South Coast Road and originally was intended to carry the railway. The railway never extended past Bomaderry however and the bridge has always carried vehicle and pedestrian traffic. The bridge was designed by C Shaler Smith, an American engineer, and is a steel truss bridge. In 1981 a concrete bridge was constructed alongside the old bridge to accommodate the increase in traffic.

On the northern side of the Shoalhaven River was the Bomaderry Wharf which was in use from 1871.

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

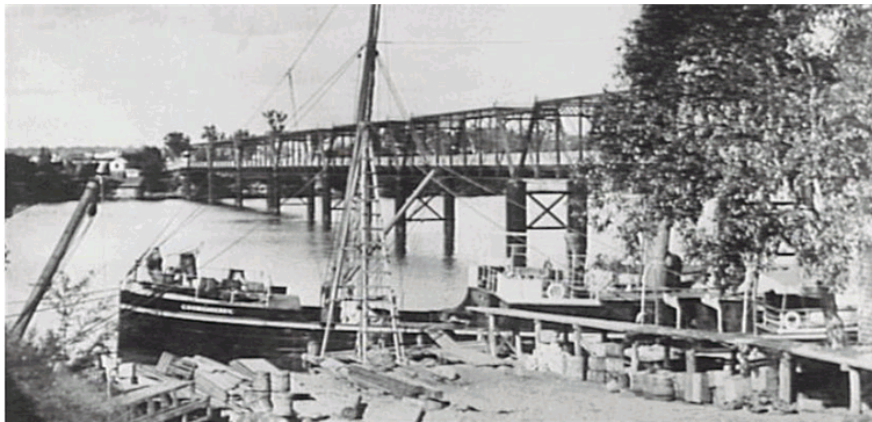


Figure 4. 1898; Shoalhaven Bridge over the Shoalhaven River and the "Coomonderry" at the Bomaderry Wharf. Wollongong City Library

Figure 4, shows the subject site in 1898 – across the other side of the Shoalhaven River on the southern bank next to the bridge can be seen Elyard's boatshed and wharf.

An anchor on the southern side of the river was sought and in 1879 there was much lobbying of Council and letters to the Minister for Works arguing for the construction of a public wharf on the southern bank of the Shoalhaven River below the bridge. On 22 September 1879 the Minister of Works approved construction of a public wharf on the south side of the river. (The Telegraph and Shoalhaven Advertiser, 1879) Unfortunately in 1884 there was no carriageway to the wharf and no storage shed. The Nowra Wharf was not completed until 1885 and a storage shed the following year.

NOWRA WHARF.—We are glad to be able to say, through the courtesy of Mr. H. Moss, Mayor of Nowra, who has shown us the plans, that tenders will shortly be called for a spacious shed 20 x 30 feet over Nowra Public Wharf. The wharf has now been in progress seven years; and has been in an uncomplete state; for want of the convenience the authorities are now about to afford.

Figure 5, The storage shed at the wharf came several years after the wharf was built. (Shoalhaven Telegraph, 1886)

The storage shed was overseen by Mr. Moriarty assistant engineer at Wollongong. It was decided to change the cladding to weatherboards. Couch grass was planted to stabilise the embankment.

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Figure 6. An early photo of the wharf and storage shed. (Shoalhaven Historical Society)

The Illawarra Steam Navigation Company had three different wharves at the site. In 1884 they erected a wharf and store building but just 4 years later the structure were almost completely destroyed by a flood. A new building and wharf were built between 1902 and 1904 which are thought to have survived until about 1930 when they were replaced with a third building. (Florence, 2000)



Figure 7. A view of the wharf during busy times (Shoalhaven Historical Society)

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There were numerous floods that had varying degrees of impact upon the site. In 1900 and 1904 the Shoalhaven River rose over the wharf and flooded the store buildings.

In 1913 Nowra Council took over the wharf and building and lengthening them to 56 feet so that steam ships could safely dock. Another flood occurred in 1916 which was so high it almost cover the roof of the Illawarra Steamship Company Store. Another flood on 1922 was slightly less high than the 1916 levels, reaching the windows.



Figure 8. The wharf and store buildings during the 1916 flood of the Shoalhaven River (South Coast Register, 1916)



Figure 9. View of a steamer loading at Nowra Wharf. (Shioalhaven River Cruise, n.d.)

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Figure 10. (Shoalhaven Historical Society)



Figure 11. The sailing club (Shoalhaven River Cruise, n.d.)

By the mid 1940's the Nowra Fishing Coop took over the premises and started trading.

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In 1964 an application to lease the building and the Wharf was submitted and approved which saw the Nowra Sailing Club established at Nowra Wharf. The club housed its boats and used the building for its headquarters, paying Council an annual rent of £100. In 1977 the Shoalhaven Rowing Club was established and the wharf and shed with the sailing club. (Florence, 2000)

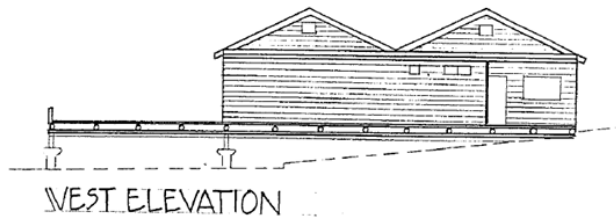


Figure 12. Drawing by Simpson Dawbin for Shoalhaven City Council, 2000

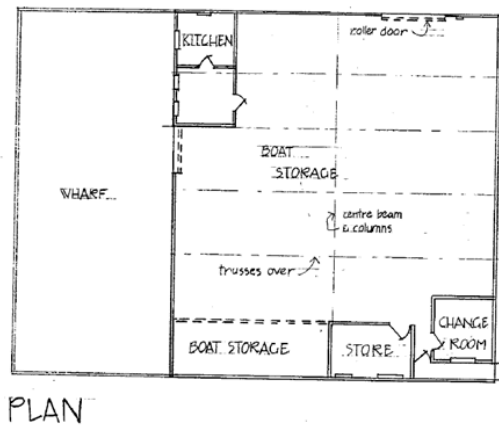


Figure 13. Drawing by Simpson Dawbin for Shoalhaven City Council,

Unfortunately in June 2017 the building was the subject of a fire which destroyed most of the structure above the wharf.

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Figure 14. The Nowra Sailing Club building after the fire in June 2017



Figure 15. The interior of the Nowra Sailing Club building after the fire in June 2017

The site was cleared leaving as much of the sub structure and wharf in place as possible.

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Figure 16. The Nowra Sailing Club after the burnt building was removed. October 2017

4.3. Elyard's Boatshed, Wharf and Residence

The Parish of Nowra, County of Vincent map drawn 1885 shows the Shoalhaven Bridge with a 100 foot reservation along the river taken possession of by the Crown. There is a notation on the map immediately adjacent to the southern end of the bridge on the eastern side referred to as Special Lease 913 Gaz No767 granted to Walter R Elyard for jetty and floating dock.

Walter Raleigh Elyard was a saw miller and boat builder having commenced milling timber at the Comberton Grange Saw Mill in 1879.

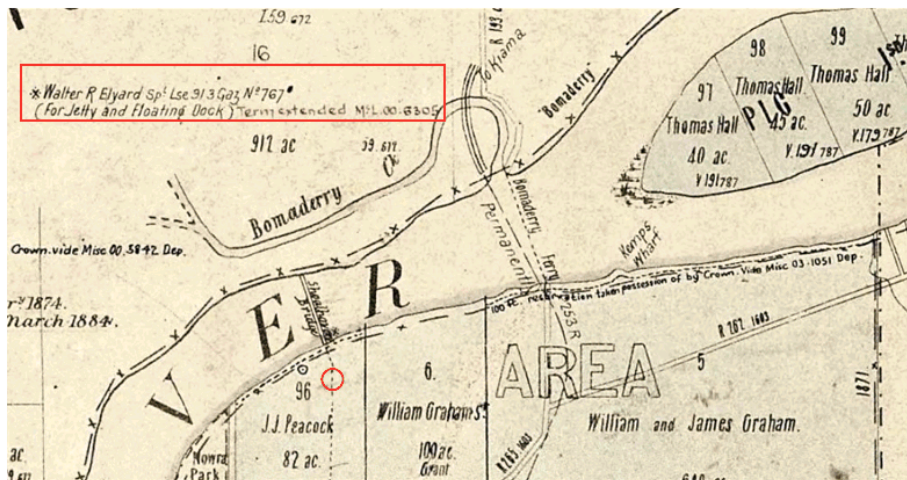


Figure 17. Extract from Parish of Nowra, County of St Vincent Map drawn 1885 (Historic Land Records Viewer)

On the 8 March 1892 the NSW Department of Lands advertised its proposal to grant a Lease for Special Purposes to Walter R. Elyard County of St. Vincent, Parish of Nowra, close to Nowra Bridge,

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and extending into Shoalhaven River to a distance not exceeding 30 feet for the purpose of a jetty and floating dock. (NSW Department of Lands, 1892)

A lease for special purposes was granted to Walter R. Elyard on the 31st May 1892 for a Jetty and Floating Dock. The terms of the lease were from 1 January 1892 to 31 December 1896 with an annual rent of 2 pounds. NSW Government Gazette (NSW Government Gazette, 1892) The lease was subsequently extended from 1 January 1897 to 31 December 1904 (NSW Government Gazette, 1900) By 1902 boats were for hire from Elyards boatshed.

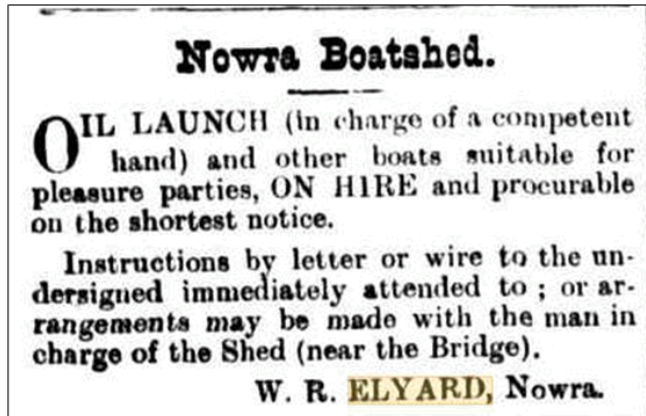


Figure 18. Advertisement for boat hire from Elyard's Boatshed (Shoalhaven News and South Coast Districts Advertiser, 1902)

In 1906 Walter Raleigh Elyard was granted a special lease for a boat shed, jetty, boat slip and residence located partly above and partly below high-water mark, on Shoalhaven River, east of and adjacent to Nowra Bridge. The area was 23 perches and the term of lease from 1 Jan 1902 to 31 Dec 1911. A special condition attached to the grant was that a fence had to be built above the high water mark on the east and west boundary lines. These fences are visible in figure 19.

The residence was therefore likely to have been built in 1906 by Walter Elyard.

In 1908 council with assistance from the works department erected a stone wall From Elyards Jetty to the public wharf. The wall was backfilled with clean rubbish. The Lighting Committee recommended placing a lamp between Mr Elyards house and the wharf. However the application for a light on the public wharf was refused due to cost. (Shoalhaven Telegraph 1910)

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Figure 19. Photo of Elyard's Boatshed after 1902. The fences on the east and west boundaries are visible. (Wollongong City Library)

In 1910 a Mr Wilson was granted permission to erect a wharf on the western side of the Nowra Bridge.

The lease for a boat shed, jetty, boat slip and residence was again extended on from 1 Jan 1912 to 31 Dec 1921. (NSW Government Gazette, 1912 Issue) This came after considerable discussion by Nowra Council who felt that the waterfront should be public all the way from Shoalhaven Street to the public wharf. It was however acknowledged that Mr Elyard had held the lease for 20 years and therefore the lease should be renewed.

The lease for a boat shed, jetty, boat slip and residence was again extended on from 1 January 1922 to 31 December 1929. (NSW Government Gazette 1922)

Special Lease 4,505, Nowra. Walter Raleigh Elyard.—The lease shall be subject to subsections 1, 3, 4, 6 to 14, 19, 20, and 22 of Regulation No. 105 (notified 20th April, 1917), and to the following special conditions :—(a) All buildings, fences, and other improvements on the land shall be kept in good, efficient, and sanitary condition, and in a thorough state of repair, and free from rats and mice during the currency of the lease, to the satisfaction of the Minister. (b) The lessee shall, after the determination of the lease by forfeiture, effluxion of time, or otherwise, and within such time as may be given, remove the structure, or all or any material from the land at their own cost, and without compensation, if required by the Minister in writing to do so. (c) The lessee shall reside for the whole term of the lease on the land leased or on the adjoining lands owned or legally occupied by him. "Residence," for the purpose of this condition, shall be taken to mean continuous and bona fide living on any of the areas mentioned in the preceding sentence as the holder's usual home without any other habitual residence.

Figure 20. Special lease conditions in 1922.

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As well as hiring out boats Elyard kept launches which transported goods on a regular basis, for example in 1913 The Nowra Leader reported milk being conveyed to the Nowra Cooperative Dairy Company's Depot by one of Mr Elyard's launches on a daily basis.

Walter Raleigh Elyard died in July 1926 aged 70. He had served as an Alderman on Nowra Council and served on the original Shoalhaven Agricultural Society. He married Rebecca Graham, daughter of James Graham of Graham Lodge. He was known as a saw miller and boat builder. (Death Notice, 1926)

The Nowra Leader reported the arrival of an international boat in 1931 and its description included an interview with Mr R. Elyard, wharfinger for the Illawarra Steamship Navigation Company. It is presumed that this reference refers to the son of Walter Elyard and it demonstrates the close relations between the Elyards and the Illawarra Steam Navigation Company at the Nowra wharf.

Wharfinger is an archaic term for a person who is the keeper or owner of a wharf. The wharfinger takes custody of and is responsible for goods delivered to the wharf, typically has an office on the wharf or dock, and is responsible for day-to-day activities including slipways, keeping tide tables and resolving disputes. The term is rarely used; today a wharfinger is usually called a "harbourmaster".

On 17 September 1937 the Nowra Leader reported that a new man had purchased Elyards Boatshed at Nowra Bridge. An aerial photograph taken in 1937 provides a clear picture of the boatshed and Nowra Wharf. Note how the boatshed is on the lower level and the residence on the upper level.



Figure 21. Aerial photograph taken in 1937, from a collection held by the Royal Australian Historical Society.

The boat shed was owned by Mr G.K. Carter from 1938 to 1946.

In 1946 the boatshed was purchased by Grace McNab, a former AWAS sergeant and Margaret Bruce, a former AWAS lieutenant. Who went into partnership to continue the operation of the boatshed. At the time of their purchase the boatshed it had 11 rowing skiffs and two Chapman launches for hire.

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The four roomed cottage and rose garden behind the boat shed was a part of the purchase. (The Sun, 1946)

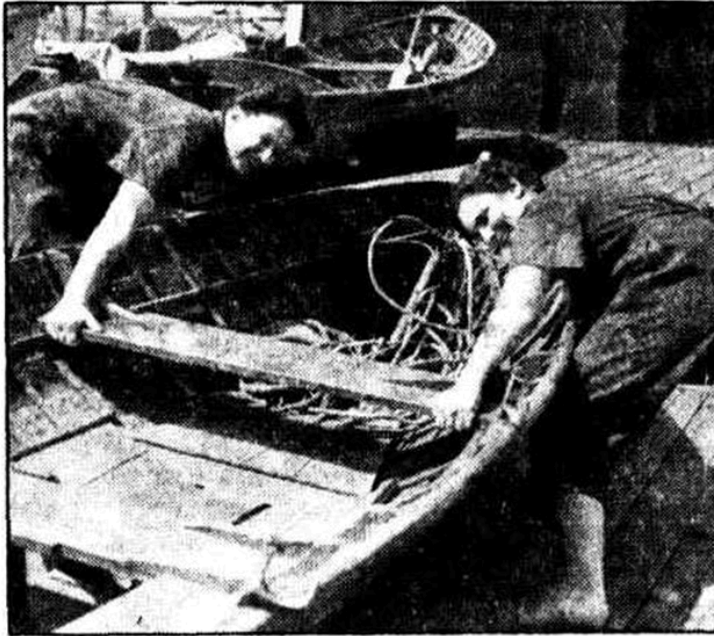


Figure 22. Grace Mc Nab and Margaret Bruce purchased the boatshed in 1946 (The Sun, 1946)

The boatshed and residence went on to become a restaurant known as the Boatshed Restaurant. The property sold in November 2010 and again more recently in 2020.

A well-known waterfront restaurant in Nowra that closed in June last year has sold for \$890,000.

Located on the southern edge of Shoalhaven River, the site of the Wharf Road restaurant has been acquired by Sydney investors who also have other property in the Shoalhaven, according to Integrity Real Estate principal Peter Russell.

The property was most recently owned by award-winning chef David Campbell and his wife Nicole, who ran the restaurant for six and a half years.

The couple also ran the Hungry Duck restaurant in Berry for 11 years.

The site has also been home to the Boatshed Restaurant.

According to the South Coast Register, the new owners will be looking to rent the property, with plans to potentially redevelop the site in the future.

(Hospitality directory.com.au)

5. Physical Evidence

5.1. Former Boatshed and Residence

The property constructed by Elyard consisted of a wharf, a boatshed and a residence. A stone retaining wall was constructed between the boatshed and the Nowra Wharf. The residence was at a higher level than the boatshed as can be seen in the 1937 photo in Figure 21. The location of the building can be seen as it is today at an angle to the bridge. This aligns with the eastern boundary of Lot 263. The residence is still in-situ and retains its roof form. It has been modified for use as the restaurant.

The boatshed is no longer apparent, dining areas have been built at a higher level and a crib lock wall retains the ground beneath the building. There may be evidence of the boatshed beneath the building.



Figure 23. View from the riverside - Ben's Walk

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Figure 24. Southern view of the former residence.



Figure 25. Eastern view of former residence/restaurant.



Figure 26. South eastern view

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant



Figure 27. View from the bridge



Figure 28. View of the roof of the former residence

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant



Figure 29. View to the roof from the rear



Figure 30. The original sea wall which is different to the rest of the sea wall. There is evidence of early construction such as the remains of a post seen in this picture.



Figure 31. View to the former restaurant dining area through the window

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5.2. Former Nowra Sailing Club and Wharf



Figure 32. Sandstone slipway and retaining walls.



Figure 33. Nowra Wharf



Figure 34. New development on the site of former Sailing Club building

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5.3. Setting of Heritage Item 407 (Nowra Wharf, Nowra Sailing Club & Boatshed Restaurant)



Figure 35. View to Nowra Wharf from pontoon out the front of the Boatshed Restaurant. The stone retaining wall was constructed in 1908.



Figure 36. View to the Boatshed Restaurant

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Figure 37. View showing proximity of bridge and former residence



Figure 38. View of a stone retaining wall which may have originally defined the garden of the residence. Wharf Road approached from this angle.

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6. Significance Assessment

6.1. Significance Assessment Criteria

The following criteria are the standard criteria for use in NSW that have been prepared for use by the Heritage Department of the Department of Premier and Cabinet (formerly the Heritage Division of the NSW Office of Environment and Heritage).¹

For a place to be deemed to be significant to NSW it must meet at least one or more of the following criteria:

- a) an item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural and natural history of the local area);
- b) an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural and natural history of the local area);
- c) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);
- d) an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;
- e) an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);
- f) an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural and natural history of the local area);
- g) an item is important in demonstrating the principal characteristics of a class of NSW's - cultural or natural places; or - cultural or natural environments. (Or a class of the local area's (cultural or natural places; or cultural or natural environments of the local area)

The SLEP 2014 heritage item number 407, described as Inter-war Weatherboard Building and Timber Wharf (which includes the Nowra Wharf, site of the former Nowra Sailing Club and the Boatshed Restaurant in the heritage data sheet description) is significant under 5 heritage significance criterion.

- a) *an item is important in the course, or pattern, of NSW's or Shoalhaven's cultural or natural history;*
Nowra wharf, the site of the Nowra Sailing Club and the former Boatshed Restaurant and their setting provides important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for transport. The original location of Nowra Wharf and the offices of the Illawarra Steamship Navigation Company on the south side of the Shoalhaven River from 1884 played a vital role in the historical development of Nowra at the end of the 19th century and early 20th century.
Meets this criterion at a local level.
- b) *an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's or Shoalhaven's cultural or natural history;*

¹ See <https://www.environment.nsw.gov.au/Heritage/publications/index.htm> for more information.

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

The former Wharf and Sailing Club have strong association with the Illawarra Steamship Navigation Company which had its offices and a store at the wharf and was a prominent shipping company that serviced the south coast of New South Wales, Australia from 1858 to the early 1950s.

The Boatshed Restaurant is associated with Walter Raleigh Elyard, a saw miller and boat builder who was a known identity on the Shoalhaven River and in local affairs, as an Alderman on Nowra Council and in the Shoalhaven Agricultural Society and his association with the Graham family through his marriage to Rebecca Graham, daughter of James Graham.

Meets this criterion at a local level.

- c) *an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW or Shoalhaven;*

The setting of the Nowra Wharf and former Sailing Club site and the Boatshed Restaurant is in a picturesque location on the Shoalhaven River. Views from the item are aesthetically pleasing however views to the item have been degraded by the substantial alterations to the buildings and the removal of the Sailing Club building.

Does not meet this criterion.

- d) *an item has strong or special association with a particular community or cultural group in NSW or Shoalhaven for social, cultural or spiritual reasons;*

The site of the Nowra Sailing Club has special association for the users of the sailing club. There is some community attachment to the place due to the wharf being close to the walk along the river known as Ben's Walk. There is likely to be some special attachment to the former Boatshed Restaurant. The ability to meet this criterion is minor until more work is done to demonstrate social value.

Does not meet this criterion.

- e) *an item has potential to yield information that will contribute to an understanding of NSW's or Shoalhaven's cultural or natural history;*

There is potential for archaeological evidence relating to the former jetty and boatshed constructed by Walter Elyard. This evidence may shed light on boat building and maintenance activities of the period from 1892 to 1926. There is potential for the boatshed building to be left under the dining area addition behind the crib lock wall.

There is potential for maritime archaeology to be found along the river front that relates to the Illawarra Steamship Navigation Company.

The stone retaining wall along the river bank was reportedly backfilled with rubbish which has potential to provide information about daily life in 1908.

Meets this criterion at a local level.

- f) *an item possesses uncommon, rare or endangered aspects of NSW's or Shoalhaven's cultural or natural history;*

The Nowra Wharf, former Sailing Club site, stone retaining wall and slipway and the former Elyard's jetty, boatshed and residence and their setting are rare as a surviving grouping of riverside structures in their original location which demonstrate the historical development of Nowra that was made possible by river transport.

Meets this criterion at a local level.

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

- g) *an item is important in demonstrating the principal characteristics of a class of NSW's or Shoalhaven's - cultural or natural places; or - cultural or natural environments.*

The Nowra Wharf, former Sailing Cub site, stone retaining wall and slipway and the former Elyard's jetty, boatshed and residence and their setting are a good example of a grouping of interdependent riverside structures that facilitated river transport at the end of the 19th century and in the early 20th century.

Meets this criterion at a local level.

6.2. Summary Statement of Significance

Nowra wharf, the site of the Nowra Sailing Club, the former Boatshed Restaurant and their setting provide important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for transport of goods and passengers. The original location of Nowra Wharf and the offices of the Illawarra Steamship Navigation Company on the south side of the Shoalhaven River from 1884 played a vital role in the historical development of Nowra at the end of the 19th century and the early 20th century. The former Boatshed Restaurant building has historical value as the surviving remains of Elyard's jetty, boatshed and residence, constructed between 1892 and 1906, which provided essential river transport for goods and boat hire for tourists.

The former Wharf and Sailing Club have strong association with the Illawarra Steamship Navigation Company which had its offices and a store at the wharf and was a prominent shipping company that serviced the south coast of New South Wales, Australia from 1858 to the early 1950s.

The former Boatshed Restaurant is associated with Walter Raleigh Elyard, a saw miller and boat builder who was a known identity on the Shoalhaven River and in for his role in local affairs, as an Alderman on Nowra Council and in the Shoalhaven Agricultural Society and his association with the Graham family through his marriage to Rebecca Graham, daughter of James Graham.

There is potential for archaeological evidence relating to the former jetty and boatshed constructed by Walter Elyard. This evidence may shed light on boat building and maintenance activities of the period from 1892 to 1926. There is potential for the boatshed building to be left under the dining area addition behind the crib lock wall. There is potential for maritime archaeology to be found along the river front that relates to the Illawarra Steamship Navigation Company. The stone retaining wall along the river bank was reportedly backfilled with rubbish which has potential to provide information about daily life in 1908.

The Nowra Wharf including the stone retaining wall and slipway, former Sailing Cub site, former Boatshed Restaurant and the site of the former Elyard's jetty and boatshed and their setting are rare as a surviving grouping of riverside structures in their original location which demonstrate the historical development of Nowra that was made possible by river transport.

The Nowra Wharf, former Sailing Cub site and former Boatshed Restaurant and their setting are a good example of a grouping of interdependent riverside structures that facilitated river transport at the end of the 19th century and in the early 20th century.

7. Conclusions

This report has come to the following conclusions:

1. The heritage item known as 407 in the heritage schedule (Schedule 5) of Shoalhaven Local Environmental Plan 2014 is described as:
*Inter-war Weatherboard Building and Timber Wharf, Wharf Road, Nowra;
Lot 7012, DP 1002643 Local 407*
Whilst the description in the Shoalhaven heritage data sheet includes the Boatshed restaurant.
Nowra Wharf, Nowra Sailing Club & Boatshed Restaurant are locally significant for their ability to illustrate the historical relationship between Nowra and the Shoalhaven River and its dependence on coastal shipping and river transport well into the twentieth century.

This report shows that the Boatshed Restaurant building is significant and that the two lots on which it is located, Lot 263 DP755952 and Lot 383 DP 755952, should be included in the curtilage of item 407. The assessment of the heritage significance of this building has shown that it has heritage value and warrants inclusion in the listing description in schedule 5.
2. This report provides a reassessment of heritage item 407 and forms the basis for an updated heritage inventory data sheet.

8. Recommendations

1. Schedule 5 of Shoalhaven Local Environmental Plan 2014 should be amended as follows:

Delete the following listing

Nowra	Inter-war Weatherboard Building and Timber Wharf	Wharf Road	Lot 7012, DP 1002643	Local	407
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Include the following listing

Nowra	Site of former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former Boatshed Restaurant and site of former boatshed, slipway and jetty	Wharf Road	Lot 7012, DP 1002643; Lot 263 DP755952; Lot 383 DP 755952	Local	407
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Shoalhaven Local Environmental Plan 2014 Heritage Map 013E should be amended to include Lot 263 DP755952 and Lot 383 DP 755952 in the curtilage of heritage item 407.

2. The existing Shoalhaven Heritage Data Sheet should be deleted and the sheet included here in **Attachment 1** should be in the database.

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

9. References

- Death Notice. (1926, July 9). *Sydney Morning Herald*.
- Florence, S. D. (2000). Nowra Sailing Club - Heritage Assessment Report.
- Historic Land Records Viewer*. (n.d.).
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- Shoalhaven River Cruise. (n.d.). *The old Nowra Sailing Club*. Retrieved from <https://shoalhavenrivercruise.com.au/2019/01/the-old-nowra-sailing-club/>
- Shoalhaven Historical Society. (n.d.).
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- Shoalhaven Telegraph. (1886, Feb 4). Nowra Wharf. p. 2.
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- Wollongong City Library. (n.d.).

Heritage Assessment Nowra Wharf and the former Boatshed Restaurant

Appendix 1. Shoalhaven Heritage Data Sheet

DE21.37 - Attachment 1

Shoalhaven Heritage Data Form

Heritage Review – Housekeeping LEP 2020

ITEM DETAILS					
Name of Item	Site of former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former Boatshed Restaurant and site of former boatshed, slipway and jetty				
Other Name/s Former Name/s	Inter-war Weatherboard Building and Timber Wharf ; Elyard's boatshed and residence and Illawarra Steamship Navigation Company Offices (former, Fisherman's Co-operative) Nowra Sailing Club				
Item type (if known)	Built				
Item group (if known)	Transport - Water				
Item category (if known)					
Area, Group, or Collection Name					
Street number	6 and 10				
Street name	Wharf Road,				
Suburb/town	Nowra	Postcode		2541	
Local Government Area/s	Shoalhaven City				
Property description	Lot 7012 DP 1002643; Lot 263 DP755952; Lot 383 DP755952				
Location - Lat/long	Latitude	-34.865356		Longitude	150.602409
Location - AMG (if no street address)	Zone		Easting		Northing
Owner	Private and Crown				
Current use	Public wharf and former restaurant				
Former Use	Store and wharf for steamship transport, boatshed, jetty and residence.				
Statement of significance	<p>Nowra wharf, the site of the Nowra Sailing Club, the former Boatshed Restaurant and their setting provide important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for transport of goods and passengers. The original location of Nowra Wharf and the offices of the Illawarra Steam Navigation Company on the south side of the Shoalhaven River from 1884 played a vital role in the historical development of Nowra at the end of the 19th century and the early 20th century. The former Boatshed Restaurant building has historical value as the surviving remains of Elyard's jetty, boatshed and residence, constructed between 1892 and 1906, which provided essential river transport for goods and boat hire for tourists.</p> <p>The wharf and site of the Sailing Club have strong association with the Illawarra Steam Navigation Company, which had its offices and a store at the wharf, was a prominent shipping company that serviced the south coast of New South Wales from 1858 to the early 1950s.</p> <p>The former Boatshed Restaurant is associated with Walter Raleigh Elyard, a saw miller and boat builder who was a known identity on the Shoalhaven River and in for his role in local affairs – as an Alderman on Nowra Council and in the foundation of the Shoalhaven Agricultural Society as well as for his association with the Graham family through his marriage to Rebecca Graham, daughter of James Graham.</p> <p>There is potential for archaeological evidence relating to the former jetty and boatshed constructed by Walter Elyard. This evidence may shed light on boat building and maintenance activities of the period from 1892 to 1926. There is potential for maritime archaeology to be found along the river front that relates to the Illawarra Steamship Navigation Company as well as behind the sea wall.</p> <p>The Nowra Wharf including the stone retaining wall and sandstone ramp, former Sailing Club site, former Boatshed Restaurant and the site of the former Elyard's jetty and boatshed and their setting are</p>				

Shoalhaven Heritage Data Form

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	<p>rare as a surviving grouping of riverside structures in their original location which demonstrate the historical development of Nowra that was made possible by river transport. Nowra Wharf, the former Sailing Club site and former Boatshed Restaurant and their setting are a good example of a grouping of interdependent riverside structures that facilitated river transport at the end of the 19th century and in the early 20th century.</p>			
Level of Significance	State <input type="checkbox"/>		Local <input checked="" type="checkbox"/>	

DESCRIPTION						
Designer	Illawarra Steamship Navigation Company and Walter Raleigh Elyard					
Builder/ maker	Walter R. Elyard					
Physical Description	<p>The ISNCo building that went on to be the Fisherman's Coop and the Nowra Sailing Club burnt down in 2017. The structure was then removed. Nowra Wharf is a timber wharf and adjacent to it is a sandstone block ramp and sandstone retaining walls.</p> <p>The former Boatshed Restaurant was constructed by Elyard as a residence in 1906. The residence was described in 1946 as having four rooms. He also constructed a boatshed at a lower level which is no longer extant. A stone retaining wall (sea wall) was constructed between the boatshed and the Nowra Wharf in 1908 and backfilled with local rubbish, this wall is still extant.</p> <p>The original Elyard residence has been extended to the north with concrete suspended slabs on a crib lock wall. There may be evidence of the boatshed beneath the extension.</p>					
Physical condition and Archaeological potential	<p>The conversion of the former Elyard residence and boatshed to the Boatshed Restaurant has removed much original fabric. The boatshed and jetty are no longer extant, the form and roof of the residence appears to be similar to original.</p> <p>The 2017 fire lead to the loss of the original sailing club building.</p> <p>The surviving residence and its location next to the bridge, the stone sea walls and stone ramp and the timber wharf retain their group values and their setting and can be easily interpreted.</p> <p>There is archaeological potential.</p>					
Construction years	Start year	1886	Finish year	1908	Circa	No
Modifications and dates	<p>2017 Nowra Sailing Club burnt down and was removed.</p> <p>2020 New wharf rebuilt on site of sailing club with shade sails and picnic area</p>					

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Further comments	Although much original fabric has been removed or modified the grouping of sites and structures has strong historic values and provides important evidence of the role of the Shoalhaven River in the early historical development of Nowra and the Shoalhaven. The Illawarra Steam Navigation Company and Walter Elyard played crucial roles in the transport of goods and people, facilitating the growth of Nowra on the southern side of the river. There is enough fabric remaining to tell the story of these significant associations.
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HISTORY	
Historical notes	<p>Coastal shipping was essential as a means to move produce and passengers along the coast of New South Wales throughout the 19th century. The Illawarra Steam Navigation Company was incorporated in 1858 and the wharf built by Alexander Berry at Greenwell Point was an essential part of their operations. In the 1850s and 1860s steam ships could only access part of the Shoalhaven River and could only go as far as Numbaa, Terrara and Bomaderry and Broughton Creek Wharves. In 1904 the rock outcrop that had been hindering access was broken up and river access was improved. (Simpson Dawbin)</p> <p>The Illawarra Steam Navigation Company established a wharf and store on the southern side of the river east of the Shoalhaven Bridge which had opened in 1881. Another transport milestone at the end of the 19th century was the arrival of the Sydney-South Coast railway line which was extended to Bomaderry in 1893.</p> <p>On the northern side of the Shoalhaven River was the Bomaderry Wharf which was in use from 1871. A wharf on the southern side of the river was sought and in 1879 there was much lobbying of Council and letters to the Minister for Works arguing for the construction of a public wharf on the southern bank of the Shoalhaven River below the bridge. On 22 September 1879 the Minister of Works approved construction of a public wharf on the south side of the river. (The Telegraph and Shoalhaven Advertiser, 1879) Unfortunately in 1884 there was no carriageway to the wharf and no storage shed. The Nowra Wharf was not completed until 1885 and a storage shed the following year.</p> <p>The Illawarra Steam Navigation Company had three different wharves at the site. In 1884 they erected a wharf and store building but just 4 years later the structure were almost completely destroyed by a flood. A new building and wharf were built between 1902 and 1904 which are thought to have survived until about 1930 when they were replaced with a third building. (Florence, 2000)</p> <p>There were numerous floods that had varying degrees of impact upon the site. In 1900 and 1904 the Shoalhaven River rose over the wharf and flooded the store buildings.</p> <p>In 1913 Nowra Council took over the wharf and building and lengthened them to 56 feet so that steam ships could safely dock. Another flood occurred in 1916 which was so high it almost cover the roof of the Illawarra Steamship Company Store. Another flood on 1922 was slightly less high than the 1916 levels, reaching the windows. By the mid 1940's the Nowra Fishing Coop took over the premises and started trading. In 1964 an application to lease the building and the Wharf was submitted and approved which saw the Nowra Sailing Club established at Nowra Wharf. The club housed its boats and used the building for its headquarters, paying Council an annual rent of £100. In 1977 the Shoalhaven Rowing Club was established and the wharf and shed with the sailing club. (Florence, 2000)</p> <p>Elyard's Boatshed, Wharf and Residence</p> <p>The Parish of Nowra, County of Vincent map drawn 1885 shows the Shoalhaven Bridge with a 100 foot reservation along the river taken possession of by the Crown. There is a notation on the map immediately adjacent to the southern end of the bridge on the eastern side referred to as Special Lease 913 Gaz No767 granted to Walter R Elyard for jetty and floating dock.</p> <p>Walter Raleigh Elyard was a saw miller and boat builder having commenced milling timber at the Comberton Grange Saw Mill in 1879.</p> <p>On the 8 March 1892 the NSW Department of Lands advertised its proposal to grant a Lease for Special Purposes to Walter R. Elyard County of St. Vincent, Parish of Nowra, close to Nowra Bridge, and extending into Shoalhaven River to a distance not exceeding 30 feet for the purpose of a jetty and floating dock. (NSW Department of Lands, 1892)</p> <p>A lease for special purposes was granted to Walter R. Elyard on the 31st May 1892 for a Jetty and Floating Dock. The terms of the lease were from 1 January 1892 to 31 December 1896 with an annual rent of 2 pounds. (NSW Government Gazette, 1892) The lease was subsequently extended from 1 January 1897 to 31 December 1904 (NSW Government Gazette, 1900)</p>

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	<p>In 1906 Walter Raleigh Elyard was granted a special lease for a boat shed, jetty, boat slip and residence located partly above and partly below high-water mark, on Shoalhaven River, east of and adjacent to Nowra Bridge. The area was 23 perches and the term of lease from 1 Jan 1902 to 31 Dec 1911. A special condition attached to the grant was that a fence had to be built above the high water mark on the east and west boundary lines.</p> <p>The residence was therefore likely to have been built in 1906 by Walter Elyard.</p> <p>In 1908 Council with assistance from the Works Department erected a stone sea wall from Elyards Jetty to the public wharf. The wall was backfilled with clean rubbish. The Lighting Committee recommended placing a lamp between Mr Elyards house and the wharf. However the application for a light on the public wharf was refused due to cost. (Shoalhaven Telegraph 1910)</p> <p>The lease for a boat shed, jetty, boat slip and residence was again extended on from 1 Jan 1912 to 31 Dec 1921. (NSW Government Gazette, 1912 Issue) This came after considerable discussion by Nowra Council who felt that the waterfront should be public all the way from Shoalhaven Street to the public wharf. It was however acknowledged that Mr Elyard had held the lease for 20 years and therefore the lease should be renewed.</p> <p>The lease for a boat shed, jetty, boat slip and residence was again extended on from 1 January 1922 to 31 December 1929. (NSW Government Gazette 1922)</p> <p>As well as hiring out boats Elyard kept launches which transported goods on a regular basis, for example in 1913 The Nowra Leader reported milk being conveyed to the Nowra Cooperative Dairy Company's Depot by one of Mr Elyard's launches on a daily basis.</p> <p>Walter Raleigh Elyard died in July 1926 aged 70. He had served as an Alderman on Nowra Council and served on the original Shoalhaven Agricultural Society. He married Rebecca Graham, daughter of James Graham of Graham Lodge. He was known as a saw miller and boat builder. (Death Notice, 1926)</p> <p>On 17 September 1937 the Nowra Leader reported that a new man had purchased Elyards Boatshed at Nowra Bridge. The boat shed was owned by Mr G.K. Carter from 1938 to 1946.</p> <p>In 1946 the boatshed was purchased by Grace McNab, a former AWAS sergeant and Margaret Bruce, a former AWAS lieutenant. Who went into partnership to continue the operation of the boatshed. At the time of their purchase the boatshed had 11 rowing skiffs and two Chapman launches for hire. The four roomed cottage and rose garden behind the boat shed was a part of the purchase. (The Sun, 1946)</p> <p>The boatshed and residence went on to become a restaurant known as the Boatshed Restaurant. The property sold in November 2010 and again more recently in 2020.</p>
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THEMES	
National historical theme	<ol style="list-style-type: none"> 2. Peopling the continent 3. Developing local, regional and national economies 4. Building settlements, towns and cities 5. Working
State historical theme	<ul style="list-style-type: none"> Transport Towns, suburbs and villages Land tenure Social institutions Sport Persons

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APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	Nowra wharf, the site of the Nowra Sailing Club, the sandstone ramp and sea wall and the former Boatshed Restaurant and their setting provides important historical evidence of the early growth of Nowra and the reliance upon the Shoalhaven River for transport. The original location of Nowra Wharf and the offices of the Illawarra Steamship Navigation Company on the south side of the Shoalhaven River from 1884 played a vital role in the historical development of Nowra at the end of the 19 th century and early 20 th century. Meets this criterion at a local level.
Historical association significance SHR criteria (b)	The former Wharf and Sailing Club have strong association with the Illawarra Steamship Navigation Company which had its offices and a store at the wharf and was a prominent shipping company that serviced the south coast of New South Wales from 1858 to the early 1950s. The Boatshed Restaurant is associated with Walter Raleigh Elyard, a saw miller and boat builder who was a known identity on the Shoalhaven River and in local affairs, as an Alderman on Nowra Council and in the Shoalhaven Agricultural Society and through his association with the Graham family through his marriage to Rebecca Graham, daughter of James Graham. Meets this criterion at a local level.
Aesthetic significance SHR criteria (c)	The setting of the Nowra Wharf and former Sailing Club site and the Boatshed Restaurant is in a picturesque location on the Shoalhaven River. Views from the item are aesthetically pleasing however views to the item have been degraded by the substantial alterations to the buildings and the removal of the Sailing Club building. Does not meet this criterion.
Social significance SHR criteria (d)	The site of the Nowra Sailing Club is likely to have special association for the users of the sailing club. The public wharf is close to the walk along the river known as Ben's Walk. There is likely to be some special attachment to the former Boatshed Restaurant through significant social events such as weddings. The ability to meet this criterion is minor and is insufficient to demonstrate social value. Does not meet this criterion.
Technical/Research significance SHR criteria (e)	There may be potential for archaeological evidence relating to the former jetty, boat slip and boatshed constructed by Walter Elyard. This evidence may shed light on boat building and maintenance activities of the period from 1892 to 1926. There may be potential for the boatshed building to be left under the dining area addition behind the crib lock wall. There may be potential for maritime archaeology to be found along the river front that relates to the Illawarra Steamship Navigation Company. The stone retaining wall along the river bank was reportedly backfilled with rubbish which may have potential to provide information about daily life in 1908. Meets this criterion at a local level.
Rarity SHR criteria (f)	The Nowra Wharf, former Sailing Club site, sea wall and stone ramp and the former Elyard's residence and the site of his boatshed and jetty and their setting are rare as a surviving grouping of riverside structures in their original location which demonstrate the historical development of Nowra that was made possible by river transport. Meets this criterion at a local level.
Representativeness SHR criteria (g)	The Nowra Wharf, former Sailing Club site, stone retaining wall and slipway and the former Elyard's residence and the site of his boatshed and jetty and their setting are a good example of a grouping of interdependent riverside structures that facilitated river transport at the end of the 19 th century and in the early 20 th century. Meets this criterion at a local level.
Integrity	The original Illawarra Steam Navigation Co building burnt down. The Nowra Wharf and sandstone ramp and sea walls are all in-situ. The Boatshed Restaurant is in the former Elyard's Residence, it's not known whether any of the Elyard boatshed slip way or structures below high water mark survive.

Shoalhaven Heritage Data Form

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HERITAGE LISTINGS	
Heritage listing/s	Shoalhaven Local Environmental Plan 2014

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Peter freeman P/L	Heritage Study 1995-1998	2003	Shoalhaven City Council

RECOMMENDATIONS	
Recommendations	Amend the description of heritage item 407 in Schedule 5 of Shoalhaven Local Environmental Plan 2014 (SLEP) to the following: Site of former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former Boatshed Restaurant and site of former boatshed, slipway and jetty and update the property description to include Lot 263 DP755952 and Lot 383 DP 755952. Amend the curtilage of heritage item 407 on the heritage map to match the property description.

SOURCE OF THIS INFORMATION			
Name of study or report	Heritage assessment of Elyard's Wharf, Boatshed and Residence, 10 Wharf Road, Nowra. Lots 263 and 383 DP 755952 Review of significance of Nowra Wharf	Year of study or report	2020
Item number in study or report			
Author of study or report	Louise Thom		
Inspected by	Louise Thom (Exterior only)		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Louise Thom	Date	1/05/2020

DE21.37 - Attachment 1

Shoalhaven Heritage Data Form

Heritage Review – Housekeeping LEP 2020

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Former Elyard's residence now the Boatshed Restaurant viewed from the south showing its close proximity to the Nowra Bridge				
Image year	2020	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View to the front of the Boatshed Restaurant, showing the addition in the location of the former boatshed.				
Image year	2020	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



DE21.37 - Attachment 1

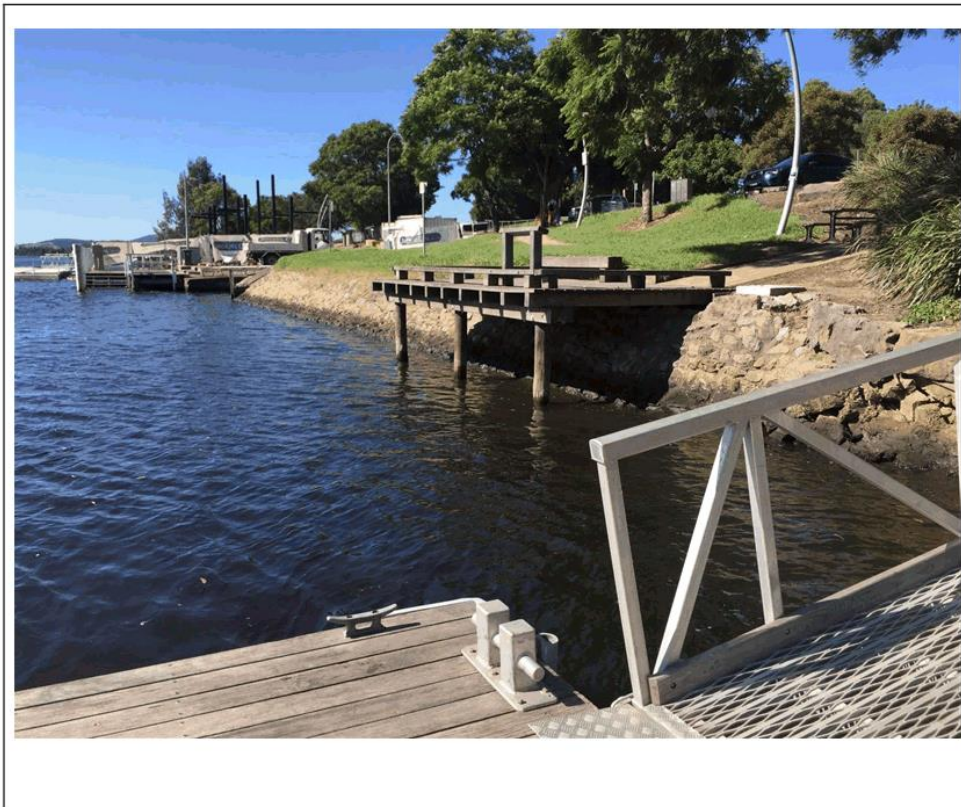
Shoalhaven Heritage Data Form

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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View of the sea wall and riverside walk.				
Image year	2020	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Sandstone ramp				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Nowra Wharf				
Image year	2018	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



DE21.37 - Attachment 1

Shoalhaven Heritage Data Form

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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	View from the bridge showing the sea wall, the Nowra Wharf and the site of the former Sailing Club				
Image year	2020	Image by	Louise Thom	Image copyright holder	Shoalhaven City Council



DE21.37 - Attachment 1

Shoalhaven Heritage Data Form

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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	The sea wall in front of the Boatshed restaurant appears to date from Elyard's time. Remains of a timber post can be seen in this photo (bottom left). This sea wall is different to the rest of the sea wall.				
Image year	2020	Image by	Louise Thom	Image copyright holder	Shoalhaven Council



DE21.37 - Attachment 1

Shoalhaven Heritage Data Form

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IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Oblique aerial view taken 17 November 1937. Note the Elyard residence is at a higher level to the boatshed.				
Image year	1937	Image by	RAAF	Image copyright holder	Royal Australian Historical Society



DE21.37 - Attachment 1

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Attachment F – SEPP Checklist

SEPP	Name	Applicable	Relevant	Not inconsistent
19	Bushland in Urban Areas	✗	✗	n/a
21	Caravan Parks	✓	✗	n/a
33	Hazardous and Offensive Development	✓	✗	n/a
36	Manufactured Home Estates	✓	✗	n/a
47	Moore Park Showground	✗	✗	n/a
50	Canal Estate Development	✓	✗	n/a
55	Remediation of Land	✓	✗	n/a
64	Advertising and Signage	✓	✗	n/a
65	Design Quality of Residential Apartment Development	✓	✗	n/a
70	Affordable Housing (Revised Schemes)	✓	✗	n/a
--	Aboriginal Land 2019	✗	✗	n/a
--	Activation Precincts 2020	✗	✗	n/a
--	Affordable Rental Housing 2009	✓	✗	n/a
--	Building Sustainability Index: BASIX 2004	✓	✗	n/a
--	Coastal Management 2018	✓	✗	Refer to s.4.2.3
--	Concurrences and Consents 2018	✓	✗	n/a
--	Educational Establishments and Child Care Facilities 2017	✓	✗	n/a
--	Exempt and Complying Development Codes 2008	✓	✗	Refer to s.4.2.3
--	Gosford City Centre 2018	✗	✗	n/a
--	Housing for Seniors or People with a Disability 2004	✓	✗	n/a
--	Infrastructure 2007	✓	✗	n/a
--	Koala Habitat Protection 2020	✓	✗	n/a
--	Koala Habitat Protection 2021	✓	✗	n/a
--	Kosciuszko National Park – Alpine Resorts 2007	✗	✗	n/a
--	Kurnell Peninsula 1989	✗	✗	n/a
--	Major Infrastructure Corridors 2020	✗	✗	n/a
--	Mining, Petroleum Production and Extractive Industries 2007	✓	✗	n/a
--	Penrith Lakes Scheme 1989	✗	✗	n/a
--	Primary Production and Rural Development 2019	✓	✗	n/a
--	State and Regional Development 2011	✓	✗	n/a
--	State Significant Precincts 2005	✓	✗	n/a
--	Sydney Drinking Water Catchment 2011	✓	✗	n/a
--	Sydney Region Growth Centres 2006	✗	✗	n/a
--	Three Ports 2013	✗	✗	n/a
--	Urban Renewal 2010	✗	✗	n/a
--	Vegetation in Non-Rural Areas 2017	✓	✗	Refer to s.4.2.3
--	Western Sydney Aerotropolis 2020	✗	✗	n/a
--	Western Sydney Employment Area 2009	✗	✗	n/a
--	Western Sydney Parklands 2009	✗	✗	n/a

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

Attachment G – s9.1 Ministerial Direction Checklist (24 February 2021 Version)

Direction		Applicable	Relevant	Not inconsistent
1 Employment and Resources				
1.1	Business and Industrial Zones	✓	✓	Refer to s.4.2.4
1.2	Rural Zones	✓	✗	n/a
1.3	Mining, Petroleum Production and Extractive Industries	✗	✗	n/a
1.4	Oyster Aquaculture	✗	✗	n/a
1.5	Rural lands	✓	✓	Refer to s.4.2.4
2 Environment and Heritage				
2.1	Environmental Protection Zones	✓	✓	Refer to s.4.2.4
2.2	Coastal Management	✓	✓	Refer to s.4.2.4
2.3	Heritage Conservation	✓	✓	Refer to s.4.2.4
2.4	Recreation Vehicle Area	✗	✗	n/a
2.5	Application of E2 and E3 Zones in Environmental Overlays in Far North Coast LEPs	✗	✗	n/a
2.6	Remediation of Contaminated Land	✓	✓	Refer to Section 4.2.4
3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	✓	✓	Refer to s.4.2.4
3.2	Caravan Parks and Manufactured Home Estates	✓	✗	n/a
3.4	Integrating Land Use and Transport	✓	✓	Refer to s.4.2.4
3.5	Development Near Regulated Airports and Defence Airfields	✗	✗	n/a
3.6	Shooting Ranges	✗	✗	n/a
3.7	Reduction in non-hosted short term rental accommodation period	✗	✗	n/a
4 Hazard and Risk				
4.1	Acid Sulphate Soils	✓	✓	Refer to s.4.2.4
4.2	Mine Subsidence and Unstable Land	✗	✗	n/a
4.3	Flood Prone Land	✓	✓	Refer to s.4.2.4
4.4	Planning for Bushfire Protection	✓	✓	Refer to s.4.2.4

Planning Proposal PP044 – Shoalhaven LEP 2014 – Housekeeping 2020/21

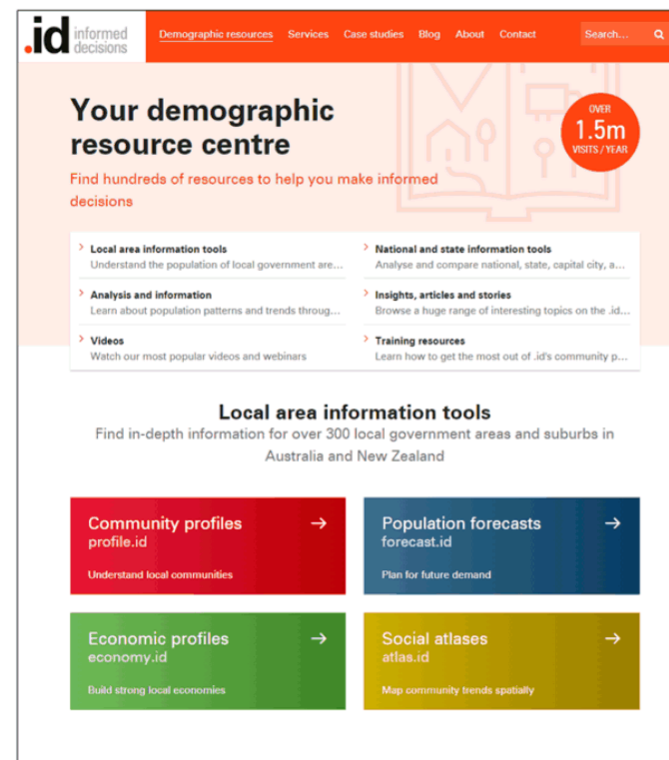
5 Regional Planning				
5.2	Sydney Drinking Water Catchments	✓	✗	n/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	✗	✗	n/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	✗	✗	n/a
5.9	North West Rail Link Corridor Strategy	✗	✗	n/a
5.10	Implementation of Regional Plans	✗	✗	n/a
5.11	Development of Aboriginal Land Council land	✗	✗	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	✗	n/a
6.2	Reserving Land for Public Purposes	✓	✗	n/a
6.3	Site Specific Provisions	✗	✗	n/a
7 Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	✗	✗	n/a
7.3	Parramatta Road Corridor Urban Transformation Strategy	✗	✗	n/a
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	✗	✗	n/a
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	✗	✗	n/a
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	✗	✗	n/a
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	✗	✗	n/a
7.8	Implementation of Western Sydney Aerotropolis Plan	✗	✗	n/a
7.9	Implementation of Bayside West Precincts 2036 Plan	✗	✗	n/a
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	✗	✗	n/a
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	✗	✗	n/a
7.12	Implementation of Greater Macarthur 2040	✗	✗	n/a
7.13	Implementation of the Pyrmont Peninsula Place Strategy	✗	✗	n/a

Shoalhaven City Council – Forecast.id Population Forecasts

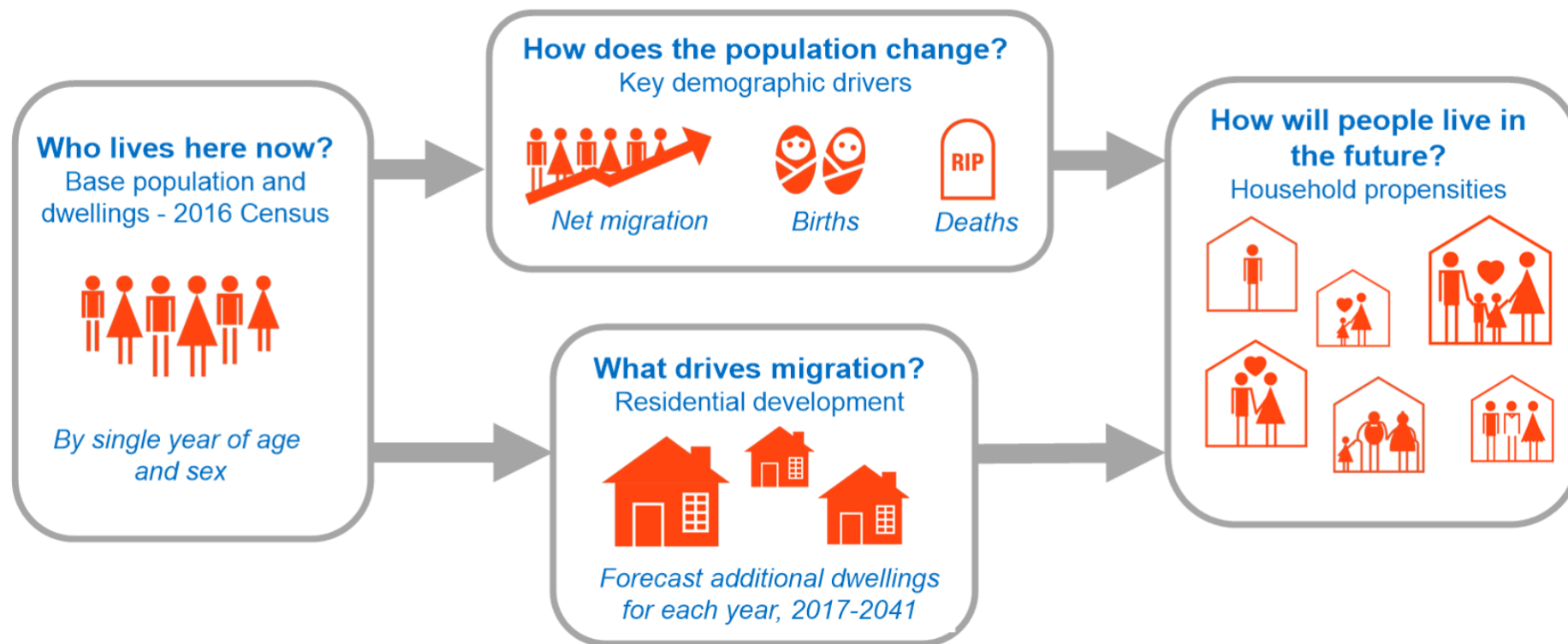
Strategic Planning Working Party Presentation– April 2021

About .id

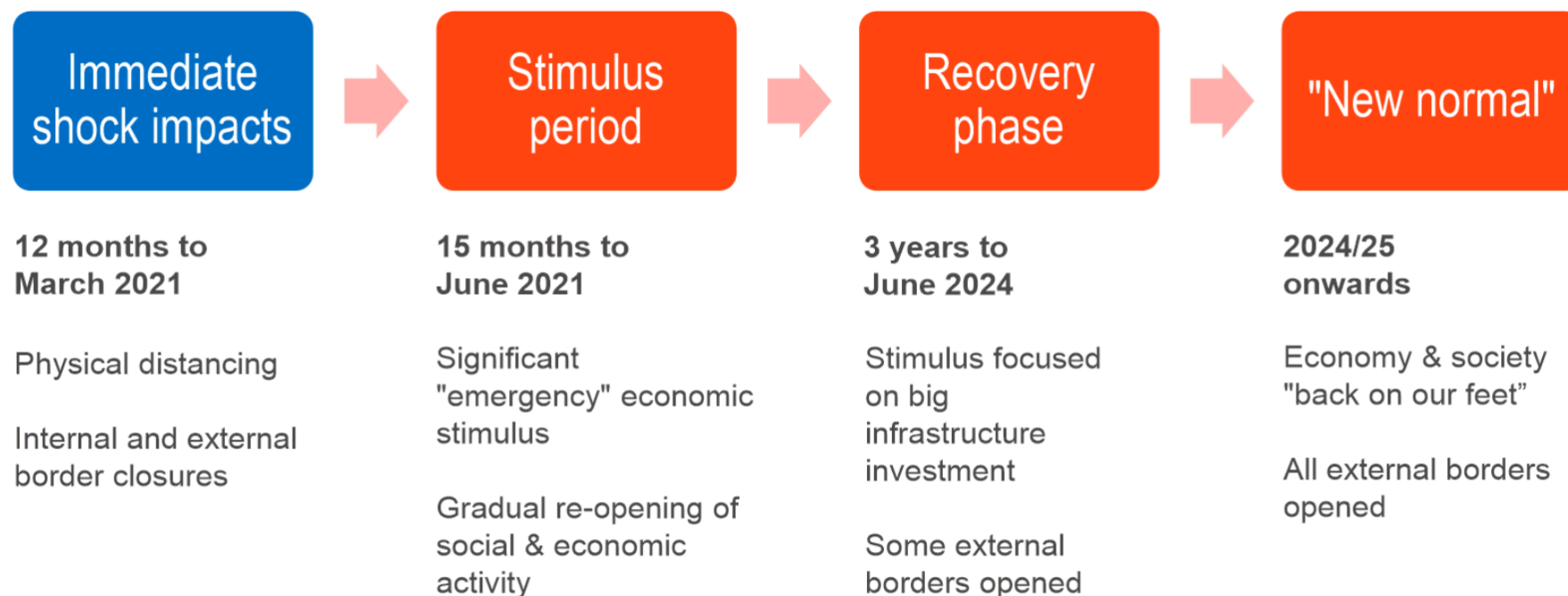
- ▣ we specialise in small area population forecasts
- ▣ methodology and assumptions are explicit and publicly available
- ▣ we deliver small area forecasts to more than 120 councils across Australia (forecast.id)
 - ▣ First forecast produced in the late 1990s
- ▣ We produce forecasts for almost all councils on the NSW South Coast
 - ▣ Shoalhaven has been a forecast.id client since 2011
 - ▣ This is the fourth forecast adjustment



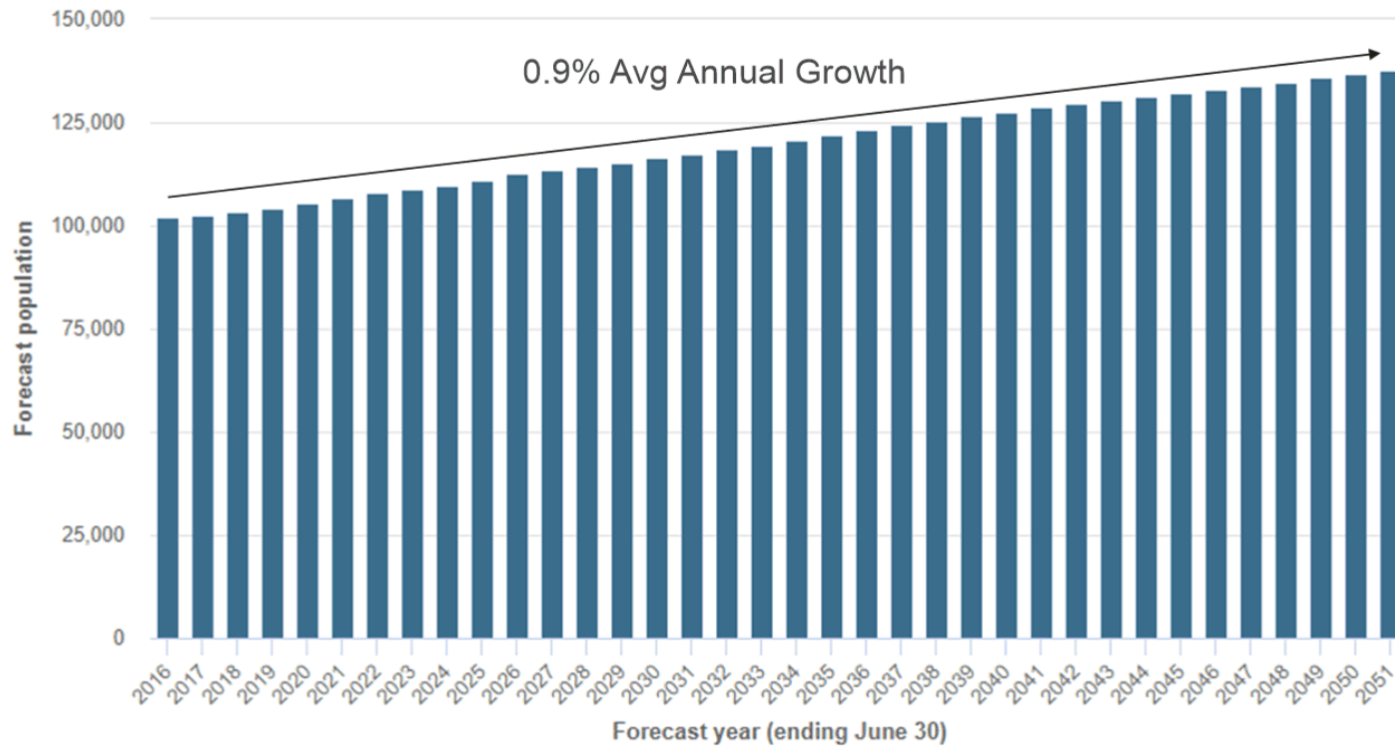
Our Model



COVID-19 impacts will be felt in four phases



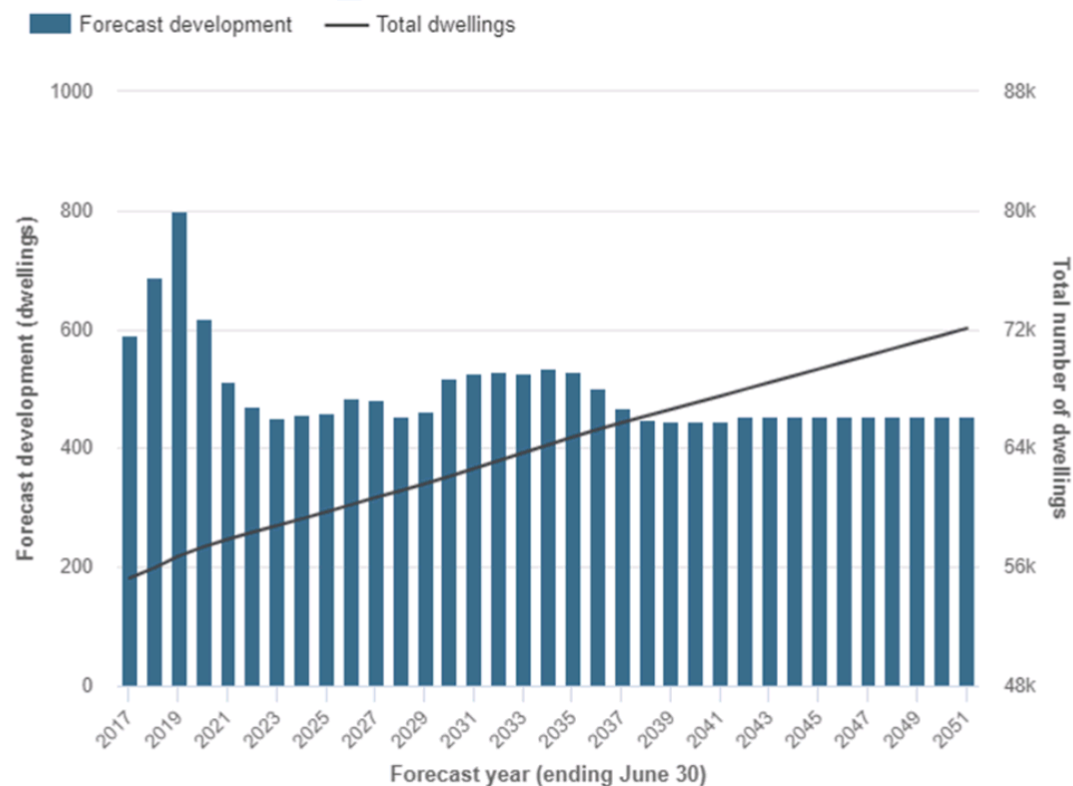
Population forecast to be over 137,000 residents by 2051

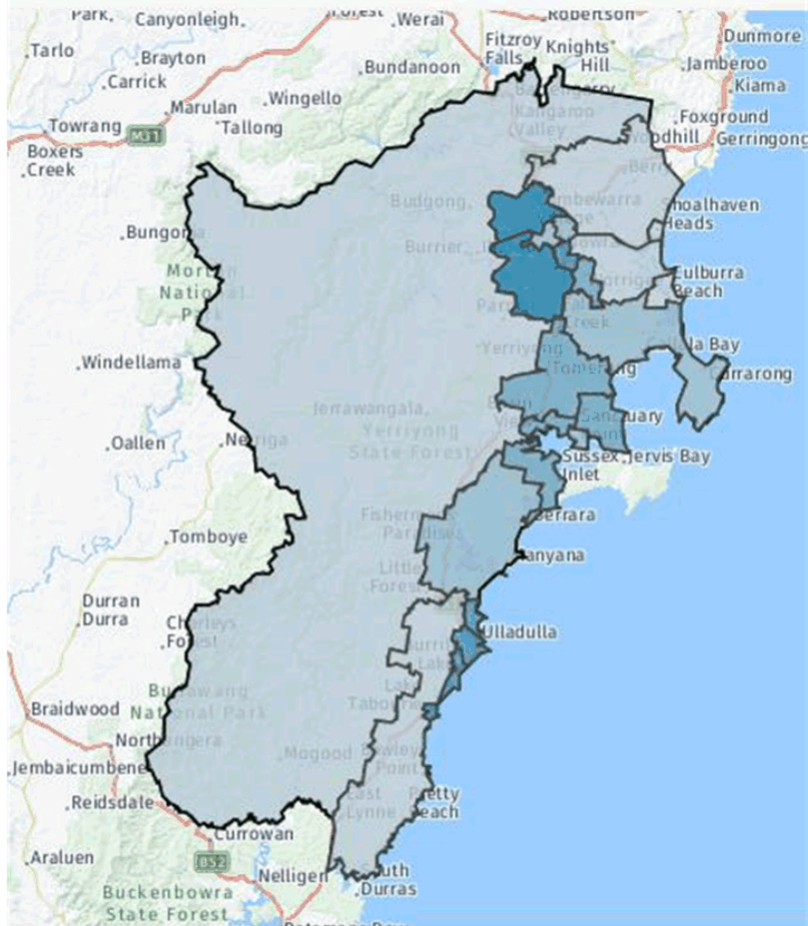


Major results

- Number of household to increase from **45,454 to 59,859**, with the average household size falling from **2.32 to 2.23**.
- The number of dwellings is forecast to grow from **55,243 in 2021 to 72,056 in 2051**.
- Occupancy rate forecast to increase by **5%**

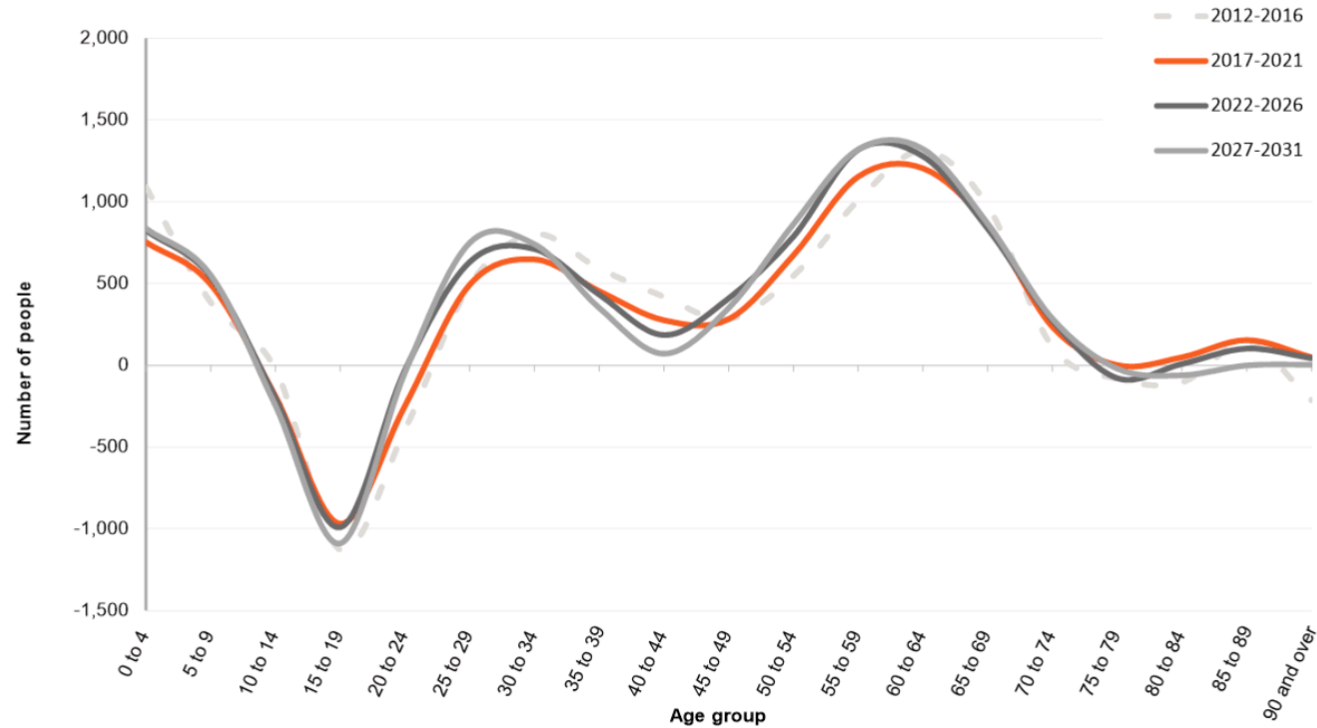
Net additional dwellings forecast to be around 497 pa



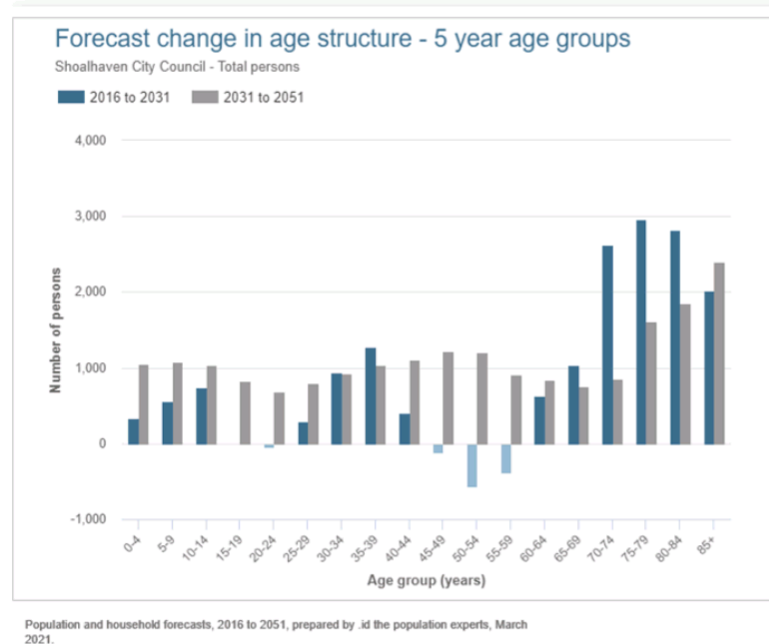
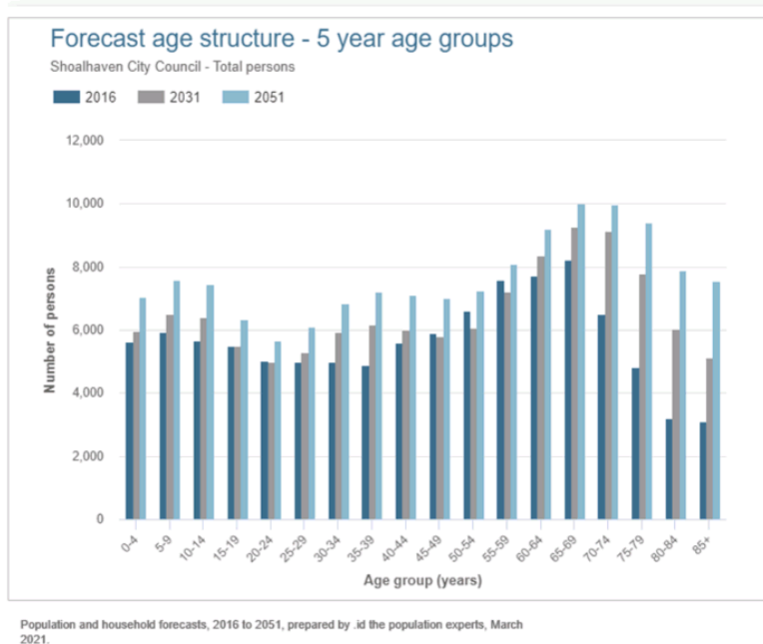


Growth in development to be concentrated around Nowra

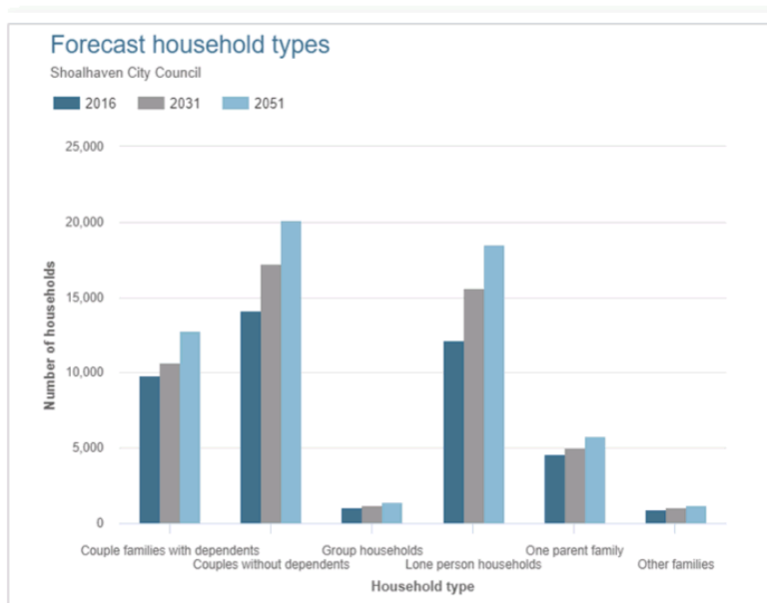
Role and function - Dual housing market...



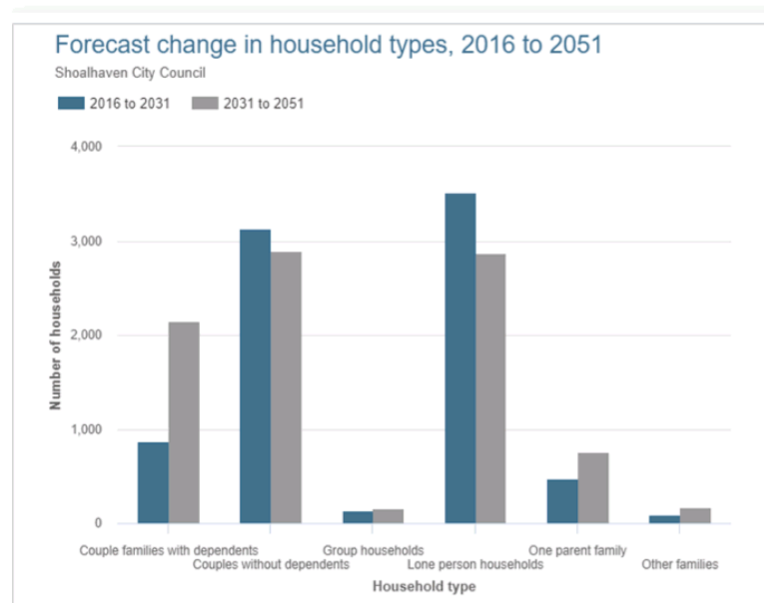
Ageing in place to increase...



Forecast household types



Population and household forecasts, 2016 to 2051, prepared by .id the population experts, March 2021.



Population and household forecasts, 2016 to 2051, prepared by .id the population experts, March 2021.

Agritourism and small-scale agriculture development
Executive Director
Local Government and Economic Policy
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

19 April 2021

Dear Sir/Madam,

Submission - Agritourism and small-scale agriculture development

Council welcomes the opportunity to provide comments on the Explanation of Intended Effect (EIE) for Agritourism and small-scale agriculture development.

Following consideration of a detailed report, Council resolved (MIN21.XXX) on 4 May 2021 to make this submission on this important matter.

General Comments

Council appreciates that these planning reforms are part of a response to the recent economic impacts of natural disasters, such as droughts, bushfires, floods, as well as the impact of COVID-19 on the farming community and the economy more broadly.

The EIE proposes amendments to the:

- *Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument LEP Order),*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019 (PPRD SEPP), and*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).*

The intent of the proposed amendments to the NSW planning system to streamline the approval of agritourism development and small-scale agricultural development; is understood, however there is an overriding concern, with the increasing range of exempt and complying development and development without consent along with the expanding Code SEPP, that the community is slowly losing opportunities to have a say. The broader community does not often understand policy or strategic planning but do understand when something is proposed or built next to them or there are a set of architectural drawings showing what is proposed.

Given that the proposed reforms are in response to the recent economic impacts of natural disasters and COVID-19, clarification is sought as to whether these initiatives are able to be turned on and off (for example by a Council) or will they be mandated?

Tourism is extremely important to economy of Shoalhaven – the local tourism industry is worth over \$1 billion per year based on total visitor expenditure. Shoalhaven is argued to be the most visited area in NSW outside Sydney.

Farm-based experiences and local produce is in high demand with target audiences from cities such as Sydney and Canberra making up around 80% of the 3.71million visitors who visit Shoalhaven every year.

Tourism within Shoalhaven has traditionally been highly seasonal with visitation driven by its beaches and nature-based experiences; however, in recent years the visitor economy and target markets have evolved significantly with destination marketing campaigns such as the “Unspoilt South Coast” campaign, food and wine campaigns, and more recently the “Wine & Whales” campaign, focusing on driving off-season visitation. As a result, total visitors during the Shoalhaven off-season grew 43% between 2015 and 2018 due to promotional activities driving brand awareness for winter-based experiences.

The proposed amendments to support farm businesses and regional economies are generally supported, they come at a time when Shoalhaven tourism industry has suffered greatly with bushfires and COVID-19 and the proposals could result in economic benefits for the farming community and others. The attempt to clarify consistent planning approval pathways for existing and emerging opportunities is supported. Council also appreciates and acknowledges the benefits of industry diversification and the role that tourism can play in this regard. There is however also a need to be cognisant of and consider the complexities associated with this type of diversification, including for example pressures on infrastructure, land use conflict and the degradation of rural character.

Shoalhaven’s proximity to Canberra and Sydney means that the area benefits from, but is also directly impacted by the tourism industry and popularity of our area. It is essential that any legislation recognises and identifies the different pressures that coastal communities experience compared to, for example, western and peri-urban Councils. Thus it is essential that careful planning and consideration is still an integral part of the process for certain land uses to ensure that there is a balance between the benefits and potential impacts.

Given the relevance of this matter to Shoalhaven it is important that there is additional consultation and engagement with Council’s to ensure that the final reforms are appropriate, can function as intended and impacts are balanced.

Specific Comments

Agritourism Definition

The EIE defines ‘agritourism’ and identifies that the term covers farm-stay, camping and other on-farm accommodation, farm tours and activities, and events. Whilst the EIE goes on to specify that two new land use terms for farm gate activities and farm events will be included in the Standard Instrument LEP Order, it is unclear whether ‘agritourism’ will be introduced as a new group term. Clarification is requested in this

regard and it is suggested that a new group term should be awarded given the confusion that they create.

Clarification would also be appropriate around what constitutes a 'farm' for the purposes of the proposed provisions given the possible compliance pressure that may result if this is not clarified.

Bushfire Prone Land

The amendment proposes to allow farm stay accommodation as exempt development where visitors reside in tents, caravans, campervans or other similar portable and light weight temporary shelters on rural zoned land.

Whilst available mapping can be used to identify whether land is bushfire prone, this does not provide the additional detail normally outlined within a bushfire report and accompanying a development application (DA), such as water supply, Asset Protection Zones (APZs) Bushfire Attack Levels (BALs), which would otherwise currently be required for development of this nature on bushfire prone land.

Farm stay accommodation is a form of tourist accommodation, which is currently identified as development for 'Special Fire Protection Purposes (SFPP)' by the NSW Rural Fire Service (RFS). As such how will the SFPP requirements outlined within the *Rural Fires Act 1997* be considered if development is exempt?

Given that most of Shoalhaven is bushfire prone and the fact that these developments are usually within a rural setting, the vast majority of sites will be potentially within a bushfire hazard area, thus posing a potential and significant risk to life. For this reason, it is suggested that this land use should be permissible with consent (i.e., development application required) where it is proposed to take place on bushfire prone land to ensure that the issue is given appropriate consideration.

State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008

Similarly, it is proposed to allow land to be used for farm stay accommodation as exempt development and the erection, alteration or addition to a building for a farm gate activity or farm event on rural zoned land as complying development, provided the land is not significantly contaminated within the meaning of the *Contaminated Land Management Act 1997*.

Many agricultural activities involve contaminating land uses (e.g. sheep dips) and due to the ongoing agricultural uses this has not been acknowledged or recorded. Currently, where contamination is potentially an issue, the DA process enables a Phase 1 contamination report to be provided or required as part of the process.

If contamination is confirmed, the land is then subsequently recorded as contaminated land and notated within Part 5 of Council's Section 10.7 planning certificates. Whilst a principle certifying authority (PCA) can request a 10.7(5) planning certificate as part of the complying development process, which would specify if the land is currently known to be contaminated, it is unlikely that they would request a contamination report. This

will prevent Council from capturing properties that should otherwise be identified on a contaminated lands register and subsequently within a planning certificate. Furthermore, given the self-assessment aspect of exempt development and no requirement for a planning certificate, contamination issues or concerns could be overlooked and future visitors possibly placed at risk.

Additionally, many dairy farms, particularly within Shoalhaven are located on floodplains or in areas where Class 1 or 2 acid sulphate soils are mapped. This affectation currently restricts complying development from being undertaken generally under the Codes SEPP and this should also be the case for agritourism.

Clarification needs to be provided on whether the complying development provisions for agritourism will form part of a new Code or will be contained within the suite of existing Codes in the Codes SEPP. It needs to be very clear what land agritourism may or may not be carried out on (i.e. land based exclusions) to ensure that complying development is appropriately considered and future compliance burdens minimised.

The EIE outlines that where the erection, alteration or addition to a building or manufactured home is proposed as complying development, the development cannot occur on unsewered land to which *SEPP (Sydney Drinking Water Catchment) 2011* applies, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250 square metres or in any other drinking water catchment identified in any other environmental planning instrument. The EIE also currently specifies that the same development could not occur in any other drinking water catchment in an environmental planning instrument.

In Shoalhaven, parts of Kangaroo Valley and Sassafras are affected by *SEPP (Sydney Drinking Water Catchment) 2011*, however no other drinking water catchments are currently mapped within an environmental planning instrument even though they exist for example Bamarang and Porters Creek. Guidance would be appreciated in this regard and specifically whether Council should now map all drinking water catchments with its LEP to ensure they are appropriately recognised in planning legislation that is emerging from the NSW Government?

Where land is used for farm stay accommodation, farm gate activities and farm events, neither the proposed exempt or complying development pathways give any level of consideration to management of human waste or on-site sewerage. This has the potential to have significant impacts on the environment, which are outlined further in the later sections of this submission. It is recommended that farm stay accommodation, farm gate activities and farm events should not be undertaken on unsewered land as exempt development, but instead be included as complying development or development with consent which would facilitate the requirement for a drainage application under the *Local Government Act 1993*, thus ensuring this important potential impact is appropriately considered.

Local Strategic Planning Statement (LSPS) - Protection Rural Land

Council recognises the importance of and has committed to supporting the region's agriculture and aquaculture sectors with a Planning Priority in Council's Local Strategic Planning Statement (LSPS) – Shoalhaven 2040.

This includes a policy statement to retain and manage existing rural land, avoiding the rezoning of land for other uses including rural-residential and residential outcomes, unless identified in a relevant strategy. One of the 'short-term' actions identified in the LSPS is the preparation of a rural lands strategy to identify strategically important resource lands. This strategy will be informed by the provisions of a potential State Agricultural Land Use Planning Strategy and the new Illawarra-Shoalhaven Regional Plan that are currently under preparation. The finalisation of the proposed reforms needs to be considered against and alongside these, particularly the Agricultural Land Use Planning Strategy, which amongst other things is considering land use conflict and the right to farm.

Shoalhaven's agricultural activities and industries are an important economic asset, contributing \$320 million annually to the local economy and employing 803 people as of 2019, with dairy farming, beef cattle, sheep and grains forming the largest industries. There is scope to further develop the sector by leveraging off the potential for value-adding industries including milk and cheese production, abattoirs, wineries and agritourism ventures. The region also supports several agricultural processors, the largest being bakery product manufacturing and grain mill and cereal product manufacturing which employ a further 728 people. The Shoalhaven's estuaries and waterways also support a growing aquaculture sector with 11 active oyster farms and 50 hectares of aquaculture leases.

These activities and industries, and the way they have shaped the land, also contribute greatly to the rural landscape and amenity which makes the area both an attractive residential lifestyle and tourist destination.

As a peri-urban local government area, managing rural land use conflict is an important and ongoing strategic planning challenge. The City's proximity to Greater Sydney makes it an attractive destination for landowners seeking a country lifestyle change, who may not necessarily be fully informed or aware of the realities of living in a rural location. The desire for rural-residential development creates pressure for further subdivision and fragmentation of rural land, which can displace farmland or impinge on working farms by bringing them closer to residential development. Additionally, there is a need to continue to provide a range of residential opportunities and also balance further greenfield growth on the edges of or close to the region's urban centres which are fringed by rurally zoned land.

The general intent of the proposed amendments aligns with the commitments made within Council's LSPS and most likely the future Rural Lands Strategy related to continuing to support the region's agriculture sectors. Potentially incentivising non-agricultural uses to the extent proposed, without appropriate development standards relating to density or legitimate primary production, could result in a range of impacts and concerns. This could increase land use conflict, reduce opportunities for legitimate farming, increase fragmentation of rural areas and create negative environmental and scenic impacts. This is potentially at odds with the intent of Council's LSPS and the NSW Agricultural Land Use Planning Strategy Options Paper.

Consultation Questions

4.1.1 Farm stay accommodation

1. *Are the proposed setbacks to pig farms, other intensive livestock, forestry, and mines for exempt and complying development appropriate?*

Council generally has no issue with the setbacks proposed but requests clarification and confirmation that the term “waterway” is the same as the definition within Shoalhaven LEP 2014 to ensure that dams and intermittent watercourses are also captured within this definition.

2. *Where a development application is required, should farm stay accommodation be permitted only on land that benefits from a dwelling entitlement?*

Shoalhaven has a number of rural lots that are below the standard minimum lot size or do not otherwise meet the requirements for a dwelling entitlement under clause 4.2D of Shoalhaven LEP 2014. It is often difficult to work out easily in all cases whether land has a dwelling entitlement without detailed research.

If farm stay accommodation remains secondary to primary production and does not need to be tied to a dwelling, farm stay accommodation should be able to be considered where the land does not have dwelling entitlement, however, there are still several issues that need to be considered (i.e. consideration of size and density).

Chapter G15: Tourist and Visitor Accommodation of Shoalhaven Development Control Plan (DCP) 2014, currently contains a range of development controls that relate to tourist developments in rural areas and need to be considered as part of the relevant development application process. The DCP includes requirements for a minimum area for all forms of tourist development in rural areas, as well as density requirements for tourist cabins. These controls ensure that the density of development is sustainable, has minimal impact on the environment and is compatible with the rural character of the area. Similar development standards should be considered as part of the proposed reforms and are recommended.

Where farm stay accommodation is no longer secondary to primary production, farm stay accommodation could be considered where the land does not have a dwelling entitlement only if the land is of a suitable size, the proposal has an appropriate density and wherever possible a managers residence (not a dwelling house) is part of the proposal. Whilst a manager's residence in relation to larger tourist developments may be considered as ancillary development, it is essential that this use is associated with a genuine working farm and the use is ancillary to the tourism use. Occupation would however then need to cease upon the discontinuation of the tourist and visitor accommodation use to ensure that the managers residence is not utilised as a de facto dwelling.

Farm stay accommodation should not be possible or considered on smaller rural lots that are not associated with some form of primary production and where there is no dwelling entitlement.

3. *For complying development, should there be a requirement that a new building or manufactured home for farm stay accommodation be within 300 metres (or some other distance) from the existing dwelling house to enable clustering together of sensitive land uses?*

Yes, wherever possible, new buildings or manufactured homes for the purposes of farm stay accommodation should be located in close proximity to the primary dwelling house. This is generally consistent with accepted planning outcomes and will not only prevent the fragmentation of agricultural land and reduce land use conflict, but will ensure that other structures and facilities such as roads, waste effluent disposal facilities are able to be shared. However, a distance of 300m may be considered too large.

4. *Should there be different development standards for farm stay accommodation based on land size or location (such as whether the land is inland or east of Great Dividing Range)? If yes, please provide your suggestions and reasons.*

It is suggested that development standards east of the Great Dividing Range should be based on land size/density. Development standards relating to density help ensure that development density relates or responds to the constraints of the land or a general area and is sustainable in the long term, as well as conserving and protecting environmental attributes or scenic protection.

It is acknowledged that some (not all) land in 'Inland' areas has very different characteristics and holdings are often substantially larger with different characteristics (less constraints), which could warrant or support different development standards.

Other comments regarding farm stay accommodation:

The current requirement for farm stay accommodation to only occur on working farms ensures that the principal land use continues to be for agricultural purposes. Removing this requirement means the agricultural use could become ancillary. Whilst the proposed amendments may benefit some farmers, enabling them to diversify their incomes during times of drought or natural disaster where their incomes could be jeopardised, the Australian Tax Office (ATO) already addresses this through the criteria for primary producers. This change could see fewer farms utilised primarily for rural/primary production purposes, undermining the protection of agricultural lands as a resource for primary production and food security, creating land use conflict and ongoing development pressures on Shoalhaven's rural land.

There could also be a range of compliance issues or concerns that emerge as a result of the changes.

The proposed reform intends to amend the existing definition of 'farm stay accommodation' to include camping. This is in order to facilitate small-scale camping on a farm as exempt development. Additionally, it is proposed to amend the definitions of camping ground and caravan park to exclude tents, campervans and caravans erected on land for the purposes of farm stay accommodation.

Caravans are able to be located on land as exempt development for the purpose of farm stay accommodation and to accommodate people for up to 14 days; however, it is unclear if the caravan can remain on the land if the caravan is not 'accommodating' – this needs to be clarified and further detail provided in the final reforms. Whilst the definition excludes caravan parks, there is the potential for de facto caravan parks to emerge due to the exempt nature of development and this needs to be managed.

Currently the development application process requires a management plan that demonstrates how a tourist facility will be managed appropriately and that safeguards that are in place to manage issues, including the behaviour of guests, and impacts on neighbours and the surrounding environment. In the absence of a development application and relevant conditions of consent, what powers do Councils have to ensure that compliance with relevant requirements and legislation is adhered to?

It is assumed that the proposed reforms are consistent with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* relating to "primitive camping grounds," as well as *SEPP No 21—Caravan Parks*. Further clarification in this regard would be appreciated.

On-site effluent disposal

Currently, where land is used for farm stay accommodation or where there is a change of use of an existing dwelling or building/manufactured home for the purpose of farm stay accommodation, neither the proposed exempt or complying development pathways gives any level of consideration to human waste or on-site sewerage.

Where there is a change of use of an existing dwelling/ building, given that the original structure subject to the change of use would have initially been assessed and approved as a residential dwelling, the calculation to determine the potential effluent loading and design of the on-site sewerage system would be significantly less than that of tourist accommodation.

Whilst the EIE specifies that the maximum number of guests allowed is two persons per bedroom, given the exempt nature of this, in reality it is possible that the use will be far greater and could lead to a range of compliance requests and difficulties. Regardless, all tourist accommodation has the potential to create very large peak loads on the sewerage system, which requires specific measures to be put in place for the system to perform satisfactorily. Additionally, and due to the seasonal nature of tourism, there can be significant periods where the sewerage system is not in use, which is not suitable for certain types of on-site sewerage systems.

Also many farms rely on aerated wastewater treatment systems, which require a steady delivery of effluent for the system to function properly. If this is not occurring, micro-organisms within the system die-off, meaning there are insufficient organisms within the system. This can result in inadequately treated wastewater being potentially distributed to the ground surface when there is a sudden peak load. Where a property is located within an oyster catchment area, that exist in parts of Shoalhaven, this has the potential to have catastrophic impacts on the environment and public health. In this regard, Council is keen to avoid a similar negative outcome to what occurred at Wallis Lakes.

Additionally, in the instance an on-site sewerage management system fails, Council would be required to issue significant fines under the *Protection of the Environment Operations Act 1997* (POEO). However compliance action is not consistent with the intent of this reform, as it would make it more difficult and expensive for landowners, nor is it something that Council has the staffing or financial resources to expend.

Similarly, the EIE identifies that where human waste storage devices are proposed for farm stay accommodation, such as for camping/ caravanning, these devices must not be emptied on sites without reticulated sewerage. Clarification is sought in relation to the term “reticulated sewerage” - does this mean that only pump-out systems are permissible or can other methods of effluent disposal, such as trenches, mounds or irrigation also be considered?

It is assumed that only the scenario of portable camping toilets or toilets in caravans with cannisters has been considered, there is however a need to consider and manage wastewater from caravan kitchens, showers, handbasins and washing machines. Given caravans do not usually have a waste tank for kitchen blackwater and greywater and at a minimum this wastewater needs to go to an on-site system as untreated wastewater will otherwise end up going to the ground surface and has the potential to end up in waterways.

It is recommended that exempt development not occur on unsewered land - see ‘Specific Comments.’

4.1.2 Farm gate activities

5. *How far do you think a roadside stall should be setback from the road?*

The setbacks in this regard should be considered on merit and a standard setback may not be appropriate in all circumstances or result in good outcomes. This may then raise the question of whether exempt development is appropriate.

6. *What additional standards should be included for the exempt and complying development pathways for farm gate activities, if any?*

There are several concerns regarding exempt development for farm gate activities. Whilst the exempt development pathway has always involved a self-assessment process, safety concerns are raised regarding the following themes:

Traffic

Standardised sight distance (250m) may not be appropriate for all sites, as this could be affected by topography and environmental features such as trees. Additionally, the speed limit and existing road signage could also impact on this.

Clarification and a definition is sought in relation to what constitutes a “major road” as this is subjective.

The EIE proposes to enable parking within the verge, provided certain development standards are met. Parking has the potential to affect the 250m sight lines and poses potential safety issues. Given that the verge is located within the public road reserve, there are provisions within both the *Roads Act 1993* and the *Local Government Act 1993* that either require approval to use the road for food and drink premises or restrict operations within the road reserve particularly regarding safety.

Issues associated with roads are likely to create significant resourcing issue for Councils (e.g. community complaints), as well as the cost of resourcing compliance actions. Additionally, developments that may arise from this initiative could also generate traffic on roads that are unsealed or not designed to accommodate large volumes of traffic, creating both safety concerns and possible maintenance impacts and costs.

Food Safety

Under the proposed amendments, there is the potential for bed & breakfasts and food and drink premises to be established as exempt development. This would not only remove the consideration that occurs through the development application process, but additionally there is no requirement for compliance with the relevant Australian Standard for food premises fit out. This could have long term ramifications on a business's ability to comply with Food Safety Standards.

Additionally, it is likely that food businesses, particularly those in rural areas, could go unnoticed and not be registered or inspected by Environmental Health Officers (EHO's) for some time resulting in increased outbreaks of food born illnesses (FBI's) on a larger scale, particularly if catering for small weddings and events.

Currently the NSW Food Authority (NSWFA) exempts the farm gate retail of fruit and vegetables and eggs; however, licensing (with a fee) is required for any wholesale production. Will the NSWFA change their process to include the other proposed farm gate activities as exempt development? If not, this will mean that any compliance action resulting from these increased farm gate activities will fall to Council to resource.

Given that the proposal currently negates any development standards relating to food safety, compliance action could be significant. Compliance action conflicts with the intent of this reform, by making it more difficult and expensive for landowners. Additionally, it is not something that Council can resource either financially or with regard to staff resources. It is recommended that either development standards for food safety be included within the exempt provisions requiring licensing by NSWFA or that farm gate activities be undertake as complying development, to enable some form of inspection.

Noise and Amenity and Human Waste Issues

Farm gate activities allowing up to 50 people has the potential to have a range of significant impacts on the amenity of neighbouring properties - noise, traffic generation and parking issues. The maximum scale (50 people) also raises a range of potential safety issues particularly for sites adjacent to main or busy roads.

The proposed reform enables both the erection of, as well as a change of use to an existing building for the purpose of a roadside stall as either exempt or complying development. This means a building has the potential to go from producing no wastewater to wastewater being generated for up to 50 guests at any one time. With no development standards specifying the need for toilets or the treatment of human waste on land used for farm gate activities or for the erection of roadside stalls, this could potentially have significant environmental and public health impacts from human wastewater on unsewered land – please see ‘Specific Comments.’

4.1.3 Farm events

7. *The proposed maximum number of people and events per day for exempt and complying development are:*

- a) 52 event days per year and up to 30 guests per event, or
- b) 10 event days per year and up to 50 guests per event

Are these appropriate?

There are significant concerns about the potential impacts that the proposed numbers could create. As such the proposal for farm events to be undertaken as exempt development is generally not supported and should be reconsidered.

The development standard for operational requirements outlined above is similar to Clause 2.8 of Shoalhaven LEP 2014 that allows Council to grant development consent for any purpose (of a temporary nature) in any zone. Clause 2.8 has been used to approve function centres and wedding centres within rural zones where these development types would otherwise be prohibited. Under the current Clause 2.8, approved temporary uses can only operate for a maximum period of 52 days (consecutive or non-consecutive) in any 12-month period. It is assumed that similar to Clause 2.8, any days spent setting up or deconstructing structures associated with the farm event do not contribute to the maximum 52-day restriction. Clarification is sought in this regard,

However, unlike Clause 2.8, given the exempt nature of the above development standard, there is no consideration of ‘adverse’ impacts on any adjoining land or the amenity of the neighbourhood; however, given that the proposed planning reforms enable 52 events per year / 30 guests or 10 events per year / 50 guests, for small weddings and functions, with the ability to operate to 12am on Friday and Saturday, the reform has the potential to have adverse impacts on neighbouring properties without the ability to consider or comment on a proposal.

From experience, noise associated with amplified/acoustic music, people talking/shouting and vehicular movements would be commonplace. The exempt nature of these events will mean that the usual development application process, which would normally involve an assessment from an independent acoustic consultant, would not be required and there is not opportunity or ability to impose corrective noise attenuation measures/conditions.

Developments approved under the current LEP Clause 2.8 already cause Council's compliance unit significant work. The ability for this form of development to be approved via an exempt development pathway could result in a proliferation in these types of events and also the complaints associated with them. Whilst the Shoalhaven economy relies heavily on the tourism industry, there is also a community desire to ensuring that development within rural areas, particularly for weddings, events and function centres, considers all relevant issues.

Although the majority of operators will function within the bounds of legislation, there will always be operations that push the boundaries of non-compliance due to the exempt nature of the development. Should the reforms process, the opportunities for compliance action, without the safeguards of a development consent, need to be clarified.

8. *What events, if any, do you think should be excluded from the definition of farm events?*

There are a range of concerns and impacts that could result. As such it is argued that proposals for farm events should not be undertaken as exempt development and a complying development or development approval pathway should be considered

Events that create noise, traffic and amenity issues, such as motorbike events and weddings should be considered for exclusion from the definition of farm events.

9. *Should changes be made to the planning system to facilitate destination weddings under a development application? If so, in which zones should destination weddings be permitted? Please provide reasons for your selection.*

- a) RU1
- b) RU2
- c) RU4 zones
- d) Other zones (please specify)

Yes, changes to the planning system to help facilitate and confirm an approval pathway for destination weddings under a development application would be supported. This would allow relevant matters to be considered within structured planning criteria. Zones that may be suitable for destination weddings, subject to further discussion, could include;

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone E3 Environmental Management.

Further consultation with Councils should be undertaken regarding zone suitability and the SI LEP must remain flexible enough for each Council to opt in or out regarding permissibility (i.e. it should not be mandatory).

10. *Should the department prepare a model clause for destination weddings which councils can choose to adopt?*

Yes. As discussed above, this would allow structured planning criteria to be set, which would allow relevant planning matters to be considered and assessed, as well as relevant community concerns to be considered. A model clause would also provide longer term certainty for those operators currently utilising Clause 2.8 of the LEP, which does not currently provide clarity or certainty regarding whether a modification to a temporary use development application for an extension to the time operation of a wedding or function, will be approved or not.

11. Is there any rural land or areas in which agritourism activities should not be permitted?

Agritourism, particularly for the purpose of farm stay and farm events should only be permitted within the RU1 and RU2 zones. Additionally, a development standard relating to density would assist in limiting or managing amenity issues associated with agritourism developments.

4.1.4 Small scale processing plants

12. Should any other agricultural produce industries be complying development? What standards should apply?

Shoalhaven already has a number of issues with commercial activities and developments in rural areas. As such it is suggested that additional agricultural produce industries should not be included as complying development, so as not to create additional issues.

Livestock processing industries are currently a form of designated development and require concurrence with the EPA. How will manage these requirements and at what cost? Development standards need to address amenity issues, as well as the numerous environmental concerns that are associated with abattoirs, for example.

13. Is a maximum throughput of 1,000 carcasses per annum for other animals such as deer or kangaroo appropriate?

1,000 carcasses per annum for 'other animals' appears reasonable, subject to a state-wide review following implementation of the SEPP. However, consideration should be given to areas that have a focus on 'other animal' farming pursuits to identify if a greater threshold should be identified in those locations.

14. Should any additional standards be included?

All the current requirements associated with development approval need to be included within any development standards.

15. Should the locational criteria that classify livestock processing industries as designated development be reviewed for small-scale processing plants to determine whether these plants could be approved:

a) as complying development?

b) through the standard DA process?

This could potentially be considered within a development application process; however, Council does not feel that complying development is appropriate for this type of use generally.

4.1.5 Rebuilding of farm infrastructure

16. Will these provisions sufficiently enable the rebuilding of buildings lost to natural disasters in the same location of the same size and form?

Yes and are generally supported, however, there should be a trigger to identify that if the design of the structure changes, where complying development cannot be undertaken, a then a development application is required.

17. Should any additional standards be included?

It is recommended that an additional development standard be included that if the property is not connected to sewer:

- The new structure must have the same number of bedrooms (or less) as the former structure;
- The new structure must have the equivalent on-site sewerage management system as the former.

A change in the number of bedrooms will require an assessment for on-site wastewater as per previous comments. The type of system proposed may also trigger this – or a higher treatment level. Another form of effluent disposal may be proposed and therefore a different type of assessment would be required.

4.1.6 Stock containment areas

18. What type of permanent infrastructure should be permitted for stock containment areas?

Stock food and drink troughs and open sided weather shelters are considered appropriate.

19. What type of permanent infrastructure should not be permitted for stock containment areas?

It is recommended that that an additional development standard be included that prohibits stock containment areas in effluent disposal areas, if a property is not connected to sewer. Stock can damage effluent application infrastructure (such as pipework) as well as cause compaction of soils which may reduce the permeability and therefore ability of the soils to treat wastewater.

4.1.7 Farm dams

20. How could we simplify planning provisions for farm dams?

Consistent terminology across the State would be beneficial and should be established, as well as consolidated provisions.

The planning provisions currently in place for farm dams requiring consent help ensure the protection of existing waterways and should remain. This is particularly relevant on the coast, where the overflow from dams can seep into natural waterways and have the potential to contaminate oyster catchments.

4.1.8 Biosecurity for poultry and pig farms

21. Do the proposed provisions adequately provide for biosecurity between poultry farms and pig farms?

Standards for poultry and pig farms should be in line with the relevant bodies best practice management. The reform identifies that locational restrictions will apply; however, it is queried how these will be captured given that development consent will not be required. Whilst it identifies that the development consent will not be required, the approval pathway needs to be identified as either exempt or complying development.

22. Should any additional standards be included?

Development standards for location restrictions need to be identified and better articulated.

4.1.9 Rural dwelling setbacks from intensive agriculture

23. Should the setbacks for rural dwellings be increased from its current requirement to be 250 metres from the boundary (when done as complying development)?

The setback required would most likely need to vary depending on the nature of the intensive agriculture. As such It would be helpful for DPIE to provide additional information regarding research undertaken and any associated conclusions. In some situations, a complying development pathway may not be appropriate.

24. From which point should the setbacks be measured?

- a) From the proposed or existing intensive agricultural use*
- b) From the property boundary shared with land used for intensive agriculture*
- c) A combination of the above*

For ease of interpretation and consistency, the setback should be taken from the property boundary shared with the land used for intensive agriculture.

4.1.10 Recreational Beekeeping

25. Are the proposed development standards appropriate and are any additional standards needed?

Provided that the relevant biosecurity measures are met, Council has no issue with the proposed standards for recreational beekeeping.

Conclusion

Thank you again for the opportunity to provide feedback on this very important matter.

Given the relevance of this matter to Shoalhaven it is important that there is additional consultation and engagement with Council's to ensure that the final reforms are appropriate, can function as intended and impacts are balanced. Further consultation regarding opt in clauses for farm stay accommodation and farm gate activities is also specifically requested.

Hitchcocks Lane Berry
Planning Proposal and draft DCP Chapter

Summary of submissions

The following table provides a summary of all submissions received, sorted by date received, and brief responses to each submission, to provide more information and context on the proposal. For more detailed analysis of the main themes emerging from the submissions please refer to the Council Report. A number of changes have been made to the Planning Proposal and site-specific Development Control Plan (DCP) Chapter in response to the issues raised in submissions. These changes are also detailed within the Council Report. A glossary of planning terms has been provided after this table.

No.	Date	Author	Submission	Response
1.	29/10/20	Resident of Berry	<i>Oppose proposal and any new housing development in Berry. More housing will ruin character and attractiveness. Infrastructure strained already and cannot accommodate growth.</i>	Planning controls within the DCP seek to balance provision of homes with protection of character and promote homes compatible in scale with surrounding development in Huntingdale Park Estate (the Estate). A landscape screen next to the southern boundary is proposed to soften and obscure views of new development. Please refer to detailed discussion in Council Report regarding infrastructure planning and provision.
2.	2/11/20	Resident of Berry	<i>Do not oppose if adequate infrastructure provided.</i> 1. Complete access road before houses. 2. Prioritise delivery of planned park - no new park areas yet on this side of Berry. 3. Additional pre-school and school capacity. 4. Deliver walking and cycling paths to connect to Berry Centre and other parts of Berry. Suggest pedestrian underpass/overpass from proposed development to Victoria Street. Proposed roads are narrow and too few egress points.	The DCP has controls relating to the coordination of road building across the site. Should development be staged, controls in Section 6.5 require timely and coordinated construction of the Entry Road. Post-exhibition changes to the DCP included requirements for the timely upgrade of the Unnamed Link Road. These major road connections will be required to be constructed in their entirety before the surrounding road network capacity is reached. Future subdivision applications will include additional detailed traffic analysis and detail proposed road connections. It is intended to construct a park with a playground and other embellishments between Huntingdale Park Road and Hitchcocks Lane using collected developer contribution funds. Please refer to the Council Report for detailed discussion on traffic and school infrastructure issues. The DCP requires construction of a footpath network to connect to town and a 'Walking and Cycling Links' map has been added to the DCP. The Victoria Street overpass/underpass is not included as the existing links via Kangaroo Valley Road were constructed by Transport for NSW (TfNSW) after extensive consultation with the community. The proposed road widths in the DCP are minimums (road carriageways can be designed to be wider at subdivision stage where necessary). The minimum road widths consider expected traffic volumes and seek to provide low-speed and pedestrian friendly streets. Wider roads often mean increased vehicle speeds and trade-offs in terms of pedestrian convenience, safety and road noise.
3.	3/11/20	Address not specified	<i>Oppose 350 m² lot size. Should have larger, semi rural lot size to protect character. Small lots will allow buildings of excessive bulk and scale.</i>	The desire to protect character is reflected in planning controls for the subject land. Commentary is provided within the Council Report on concerns about small lot development.
4.	5/11/20	Visitor to Berry	<i>Believe most proposed controls are acceptable (height limits, land use zone, mix of lot sizes). But would like larger lots in transitional/edge areas - suggest 1000 m² min lot size instead of 700 m² to provide rural aesthetic and protect views.</i> <i>Would like native trees within road reserve for nice streetscape, habitat. Plant trees and shrubs to mitigate noise problem from Highway. Lots along eastern and southern boundaries should have min. 10 m rear setback to provide noise mitigation and smooth transition from urban to rural landscape.</i>	Larger lots in Huntingdale Park Estate were initially planned in the 1980s-1990s, with larger lots intended to provide a transition to rural and forested areas, and also in response to steeper topography. The flat nature of the subject land makes development easier at smaller lot sizes. The proposal seeks to provide a range of lot sizes and homes in a relatively compact manner, to help manage outward expansion of Berry and promote efficient use of land and infrastructure. Larger lot sizes along the southern edge were considered. 700 m ² blocks were considered appropriate provided the land is effectively screened through the planting of extensive landscaping adjacent to the southern boundary of the subject land. The proposed landscape screen (at maturity) will protect views on approach to Berry by screening and softening views of development. This landscape screen could also provide habitat benefits. DCP controls require generous tree planting. Native tree species are encouraged, although some exotic species may be accepted for specific purposes (e.g. deciduous trees for microclimate benefits). Requirements to address noise issues have been strengthened and clarified in the DCP. Noise issues will need to be addressed at the subdivision stage of development.
5.	5/11/20	Resident of Berry	<i>Oppose proposal. Views of roofs will exacerbate view impacts. Will make Berry unattractive to tourists. Will take away from village atmosphere with suburban appearance.</i> <i>Will further divide Berry, need for a corner shop and commercial services will take away from Berry town centre.</i>	Views over the subject land will change from rural paddock to residential. The DCP controls seek to break up monotonous views of roofs by mandating 35% green landscaped space around houses, and through additional side setbacks, requiring a 22.5% minimum pitch for hipped and gabled roofs and encouraging variety in roof forms. Tree planting throughout the area will soften views as trees and landscaping becomes established over time. There is no commercial centre proposed west of the Princes Highway at Berry. Only limited small-scale and locally-focused commercial activity is permitted which will not compete adversely with Berry Town Centre (e.g. neighbourhood shops).

Note: All efforts have been made to provide up-to-date details on planning requirements. Planning controls as described apply as at January 2021. If you are seeking to purchase property or obtain development approval, obtain your own site-specific advice.

			<p>Concerned about traffic impacts including need for buses. Will lead to increased demand on limited services, schools, parking, open space and recreation.</p> <p>Land is natural watercourse, no established trees to provide visual beauty.</p>	<p>The landscape screen aims to obscure views of development on the southern approach into Berry, including development that is already visible and provide a natural and attractive entry statement into the town.</p> <p>Please refer to detailed discussion in Council Report regarding infrastructure planning and provision.</p> <p>A natural drainage depression runs through the land. The area affected by the 1% AEP flood extent is confined to this drainage channel and will be excluded from residential subdivision. The majority of the site sits above the flood planning level (1% AEP + 0.5 m freeboard).</p>
6.	12/11/20	Resident of Berry	<p>Oppose proposal. Cumulative impact - death by a thousand cuts. Gradual loss of farmland. Rural outlook and country charm replaced by suburbia. Loss of attractiveness to visitors. Sad at loss of trees and wildlife in the region for growth. Thinking of moving due to changes.</p>	<p>Planning Proposal does rezone farmland for housing, but this area is identified for growth in Council's adopted Growth Management Strategy (GMS) 2014. Planning for growth west of Berry has been underway for decades. The subject land represents the last identified growth area west of the Princes Highway in Council's current strategic growth plan. Draft DCP controls require tree planting throughout area, generous landscaping and landscape screen planting along southern boundary, all of which will provide wildlife benefits.</p>
7.	12/11/20	Resident of Berry	<p>Oppose proposal - only one road in and out (Kangaroo Valley Road) which could be blocked in emergencies, how do people get out in emergency?</p>	<p>Traffic impacts and emergency access is discussed in detail within the Council report. The local roads have been assessed as having sufficient capacity to cater for the traffic needs of the area. Emergency planning/disaster preparedness is important for residents and communities and development of the subject land will not compromise opportunities to plan for, and respond to, emergencies in the area.</p>
8.	15/11/20	Resident of Berry	<p>For further residential development to occur, residents of Huntingdale Park need a park and community facilities to ensure families have an outlet for recreation. Existing space under powerlines inadequate. Would like real park and BBQ facilities on corner of Boran Place and Brangus Close.</p>	<p>A park area has been identified between Huntingdale Park Road, Hitchcocks Lane and the Unnamed Link Road, and is zoned for public recreation. Additional community consultation on park facilities is intended.</p>
9.	17/11/20	Address not specified – bus company	<p>Design needs to allow for public transport for school children and town passengers.</p>	<p>The DCP includes a requirement for the Entry Road to be able to accommodate a future bus route. Any improvements to bus facilities and services in the Huntingdale Park area would be subject to additional funding (e.g. grant funding through the <i>Country Passenger Infrastructure Grant Scheme</i>). Additional population growth in area will help support investment in, and viability of, public transport services.</p>
10.	30/11/20	Resident of Berry	<p>New homes are ridiculously proportioned. Will spoil beauty of Berry. Not a suburb of Sydney and shouldn't be seen as a development opportunity.</p>	<p>Concerns about the size, appearance and character of modern homes, lots and suburbs are acknowledged, and site-specific planning controls are proposed to help guide development that is sensitive to the local character, in terms of proportion and scale.</p> <p>The site has been identified for growth in strategic plans (GMS) to provide additional housing choice in the high demand suburb of Berry. Berry is relatively well-serviced and has good accessibility to larger regional centres. Growth in this location is limited to an area in line with the current urban extent of Berry.</p>
11.	29/11/20	Resident of Berry	<p>Strongly oppose. Berry tourist drawcard, but no longer an authentic country town. Constant growth with no regard for town's aesthetic.</p> <p>Inadequate infrastructure to support growth - inadequate preschools, parking, public transport, public toilets. Berry is bursting at the seams.</p> <p>500 m² lots too small, and 350 m² is unbelievable. No lots in a rural community should be that small. Do not want Berry to become suburb of Sydney.</p>	<p>Berry is experiencing growth in visitor numbers and residents. The Berry bypass has improved the attractiveness of the historic Town Centre and improved accessibility. Tourism has boomed following the 2019-2020 bushfire season and Covid-19 pandemic with people choosing local travel options. Growth in Berry is supported by the Illawarra-Shoalhaven Regional Plan. The current proposal defines the edge of residential expansion in this area of Berry, as detailed in the GMS. Directions for future growth in Berry (and across Shoalhaven) will be explored in the upcoming review of the GMS, and community members are encouraged to be involved in this process of planning for future growth.</p> <p>Council is working to manage change in positive ways by investing in parks, public amenities and roads and through planning projects such as conserving Berry's heritage items; introducing stronger local character controls for development; rezoning larger lot areas of Huntingdale Park Estate to prohibit multi-dwelling development and creating a masterplan for Berry showground.</p> <p>Houses prices have increased significantly over the past decade and there is limited housing stock available for purchase and for rent, especially smaller homes close to town. Provision of new smaller lots is a relatively new concept to Berry but small lots do exist in Huntingdale Park Estate and have been bought up quickly, indicating demand exists. This reflects changing housing choices and seeks to make the most of scarce land resources, providing compact (yet still low density) growth, rather than sprawling growth. Potential impacts are recognised and need to be managed, therefore, site-specific planning controls accompany the proposal. These controls aim for small lot housing to be in keeping with surrounding character as much as possible – for more detailed discussion see the Council Report. Additional housing supply, including some smaller houses on smaller blocks, will assist in meeting demand and fill identified gaps in the local housing market. Smaller lots are proposed to be limited to no more than 25% of the area to maintain a low-density environment.</p>
12.	7/12/20	Resident of Berry	<p>Oppose small lot sizes. 350 m² is way too small and not in keeping with surrounding area. Would support larger acre blocks more like Kangaroo Valley Road area.</p>	<p>Berry is growing and there is considerable demand for housing with a recognised need to provide greater housing diversity to fill the gap in the market for smaller lots and smaller homes.</p> <p>Berry is changing from a small agricultural village to a lifestyle destination for residents and tourists but retains many attractive country town characteristics. The site-specific DCP promotes new development that is compatible</p>

Note: All efforts have been made to provide up-to-date details on planning requirements. Planning controls as described apply as at January 2021. If you are seeking to purchase property or obtain development approval, obtain your own site-specific advice.

			<p>Not enough infrastructure to support high volume of people - insufficient supermarket, pre-school, primary school.</p> <p>Concern will compromise Berry aesthetic and will look like overcrowded estate similar to Shellharbour. Proposed lot sizes are not reflective of historic Berry - there lots are larger than 500 m².</p> <p>Once the blocks are purchased how will DCP ensure homes built are high quality? Believe instead will see kit homes from mass produced builders. Berry attractive to tourists because it is unique and beautiful. New estates with narrow streets, small blocks and houses close together will detract from appeal and will not add value to community.</p>	<p>with these characteristics, whilst providing flexibility to accommodate changing housing preferences and modern trends.</p> <p>The DCP focuses on providing most controls at the subdivision stage as a well-designed subdivision provides greater opportunities for high-quality house design and improved neighbourhood amenity. Once lots are created and homes proposed, merit assessment against DCP controls and objectives will occur for DAs submitted to Council. There are also fast-track planning approvals called Complying Development if certain state government standards are met, and volume built homes can be built using this approval pathway or via a DA. Huntingdale Park is a residential area separated from the historic town centre of Berry by the Princes Highway and is expected to have few impacts on the character of historic Berry town centre.</p>
13.	11/12/20	Resident of Berry	<p>Not opposed to land development but Huntingdale has zero infrastructure (unlike other housing estates - e.g. Calderwood). Need parks, play areas, BBQ areas and amenities. Hasn't eventuated for Huntingdale. Young neighbourhood with young families and children - need to consider before expanding.</p> <p>Opposed to small lot sizes (incl. 500 m²). Will take away from current estates look and feel. Rural town, with spacious blocks, don't cram people on top of each other so Council can make more money on rates.</p>	<p>An area zoned for open space is located between Huntingdale Park Rd, Hitchcocks Lane and the Unnamed Link Road/ Princes Highway. A park with facilities catering to local residents of Huntingdale Park is planned for this land, and further consultation with the local community is intended for this project.</p> <p>Planning controls in the DCP seek to balance provision of new homes and modern aspirations with protecting the special character values of Berry through encouraging high quality subdivision and building design.</p> <p>Council's strategic growth planning is guided by community needs, population trends and supply and demand considerations. Whilst new development will provide additional rates, Council and ratepayers also have to fund the ongoing maintenance of new infrastructure and services that are provided or extended as part of that new development (e.g. will need to pay for new road and park maintenance and increased demand for community services). The total amount of income that a council can raise from ordinary rates and charges is limited. This is called rate pegging and a council's overall rates revenue cannot increase by more than the approved percentage increase. Therefore, ensuring development occurs efficiently (and does not impose unreasonable maintenance costs on Council and future ratepayers) is an important consideration when planning and approving new development. More information on how and why councils collect rates can be found at here:</p> <ul style="list-style-type: none"> Office of Local Government Rates FAQs: https://www.olg.nsw.gov.au/public/about-councils/laws-and-regulations/rates-charges-and-pensioner-concession/ <p>and,</p> <ul style="list-style-type: none"> Shoalhaven City Council Rates Information: https://www.shoalhaven.nsw.gov.au/For-Residents/Rates-Payments/Rates-Information#section-2
14.	13/12/20	Resident of Berry	<p>Not opposed to land development - understand strategic basis but would prefer if land not developed at all. If land is developed, minimise traffic impacts. Supports location of entry road access points as presented (Unnamed Link Road and intersection with Hitchcocks Lane close to Parker Crescent). Would not want Huntingdale Park Road extended south from intersection with Hitchcocks Lane into development site - do not want upgraded intersection/additional traffic in this area. Support Unnamed Link Road being main access point. Would like Council to consider additional access to Schofield Lane and Princes Highway. Do not want to see unformed section of Hitchcocks Lane (road reserve) developed into a road - support a shared bike and pedestrian path in this location.</p>	<p>Traffic concerns are addressed in detail within the Council Report, including the suggestion to provide a link road to Schofields Lane.</p> <p>The DCP illustrates that the eastern section of Hitchcocks Lane, which is currently unformed (not constructed), will not be developed into a road or through-link for vehicles. A shared path for pedestrians and cyclists is proposed for this section of road reserve and will link with a shared path along the upgraded Unnamed Link Road and Huntingdale Park Road.</p>
15.	28/12/20	Former resident of Berry - current address not specified	<p>Oppose proposal. Will impact privacy of family property on [REDACTED] and will lead to overlooking of house which is open design because of low density character of area. Will create additional noise pollution. Intention behind planning controls in DCP is disputed.</p>	<p>Shoalhaven DCP contains existing planning controls to protect privacy of neighbours. It appears that this submission relates to impacts on property that is a considerable distance from the planning proposal area (over 200 m away). In addition, the property appears to be at a higher elevation than the planning proposal land. Therefore, significant privacy and noise issues are considered unlikely as a result of proposed development.</p>
16.	28/12/20	Resident of Berry	<p>Oppose proposal. Will cause extreme crowding and traffic will worsen - only way out is via Hitchcocks Lane.</p> <p>Berry Public School does not have capacity for influx of new students.</p> <p>Will be too busy during holidays, too busy already and more cost to businesses to keep up with the amount of stock and more aggravation to locals who need items.</p>	<p>The proposed increase in traffic has been modelled to fall within acceptable policy limits. Traffic concerns are addressed in detail within the Council Report.</p> <p>Additional information relating to Berry Public School is provided in the Council Report. Local residents support local businesses consistently and during tourism low seasons and/or during periods of reduced mobility, improving business resilience. The concerns raised about the availability of stock may be related to panic buying during the Covid-19 pandemic. In non-pandemic times it is envisaged that goods and services provision and buying patterns will return to normal. Berry is a popular destination, given its proximity to large centres and Sydney and lifestyle benefits it provides. Council has strategic plans for growth, including the Growth Management Strategy (GMS) for</p>

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			<p>Too many trees removed already, taking away leafy aspect.</p> <p>Will ruin tourist appeal, tourists come for country aspect, and more houses will make more city-like, less picturesque and homey, claustrophobic like Sydney. Will infringe on privacy of residents.</p> <p>Loss of scenery from Princes Highway - blocked by views of houses.</p> <p>Land is flood-prone, and any flattening of land will make properties on Schofields Lane flood-affected.</p>	<p>housing, and the Destination Management Plan 2018-2023 for tourism, which seek to manage growth impacts sustainably. These strategies will both be reviewed in future with community input.</p> <p>The subject land is grazing land and is largely cleared of trees, apart from a mature eucalypt and several liquidambars. Trees will be required to be planted along streets and in yards to complement the leafy qualities of Berry, and a landscape screen will provide visual screening of housing development from the south. Impacts will lessen over time as this vegetation matures.</p> <p>Housing will be above the flood planning level, and the area of flood-prone land on the site will be contained within a drainage reserve which will convey stormwater and floodwaters away from the site. Any future subdivision application will have to address requirements of Chapter G9 (Development on Flood Prone Land) in the Shoalhaven DCP 2014 including that the development will not make flood impacts worse on other properties.</p>
17.	2/1/21	Resident of Berry	<p>Object based on increased traffic on Huntingdale Park Road. Demand traffic be redirected to Schofields Lane underpass. Additional development will justify eastbound merging lane onto Highway from Schofields underpass which is current safety concern. Reject any proposal to alter the central median located at the entrance to Huntingdale Park - landscaping provides green outlook, allows for parking and slows traffic. Reject speed humps due to noise.</p>	<p>Traffic concerns are discussed in detail within the Council Report, including issues regarding Schofields Lane and impacts on Huntingdale Park Road.</p> <p>Specific details of traffic management devices and the design of roads to slow traffic speeds are provided at the subdivision application stage of development. There are various options to provide safe road speed environments (not limited to speed humps) which can be considered during subdivision design and assessment.</p>
18.	4/1/21	Resident of Berry	<p>Disagree strongly with small size of blocks - do not need 300 m² blocks like Calderwood, Tullimbah, or Shell Cove not keeping with area or historic township. Should not use back lanes to fit more blocks in and only consider bottom line \$\$ Were informed on purchase that all blocks would be min 700 m² and beyond Boran Place 1000 m². Setbacks and other controls seem appropriate.</p>	<p>Minimum lot size for subdivision is proposed to be 350 m² in some areas of the subject land (refer to the proposed Minimum Lot Size Map in the Planning Proposal). Small lots are proposed to be limited to no more than 25% of the area to maintain a low-density environment. Further discussion is found within the Council Report.</p> <p>All lots with rear lane access will be required to have street frontage to a full-sized road. The intent of providing vehicle access at the rear of blocks is to free up front yards for landscaped areas and gardens and front verandas/decks; provide additional area for on street parking and street trees and promote attractive, safe and walkable streetscapes compatible with the historic character of Berry (which was developed before large front driveways, hardstand parking areas and double or triple garages at the front of the home were commonplace). Laneways can allow for efficient smaller lot layouts, however, can actually take up similar, if not more, space than other forms of access such as cul-de-sacs, long private driveways and battle-axe allotments. Therefore, laneways can be a useful urban design and access feature and are not necessarily a feature used only to maximise lot yields. The DCP requires rear laneway access for any lot under 400 m² in size.</p>
19.	4/1/21	Resident of Berry – and works in Berry	<p>Oppose small blocks - families and kids moving in need more room. 500 m² blocks will ruin Berry. Do not want to overpopulation or to look like Shell Cove area.</p> <p>Berry already lacking in major infrastructure like schools and daycare. 1 preschool and 2 smaller centres in Berry with years worth of waiting lists, own children have to get care outside of area because of wait lists (preschools waitlist from birth). Would like more day care centres and family facilities.</p> <p>Worrying as only one exit in and out for hundreds of homes in Huntingdale, in emergency like bushfire how will everyone escape the estate? Gridlock with one feeder road (Huntingdale Park Road). Needs to be another road in and out for the safety and well-being of the residents</p>	<p>The 500 m² lot size is consistent with the minimum lot size that applies to the majority of Huntingdale Park and Berry township. Contemporary planning controls also allow for smaller lot subdivision (down to 350 m²) where a dual occupancy has been built on a lot larger than 500 m². The small lot areas of 350 m² (limited to no more than 25% of the subject land) are compatible with the similarly sized lots provided on Hitchcocks Lane as part of Huntingdale Park Estate. The minimum lot size is a minimum only, and lots can be (and are) developed at larger lots sizes in response to site specific constraints and market considerations.</p> <p>The DCP includes provisions to protect character qualities of Berry, including replicating the leafy atmosphere through requiring extra landscaped area, the planting of at least one tree per property and a street tree every 15-20 metres.</p> <p>Traffic, access and other infrastructure related concerns are addressed in detail within the Council Report</p>
20.	4/1/21	Resident of Berry – and works in Berry	<p>Don't agree that rezoning necessary at this time, should be pushed back to date in GMS, land still for sale in Huntingdale. Small lot sizes unnecessary in rural area like Berry, and not keeping with town character. Adding extra houses will put pressure on Huntingdale Park Road - already busy and could be catastrophe in emergency such as bushfire. Request alternate access to Schofields Lane to access church easier and also in emergency like bushfire.</p>	<p>All land sold out within the Huntingdale Park Estate in November 2020 (as reported within the South Coast Register 27/11/20). Lots and homes in Berry are in high demand evidenced by the quick take up of property, which exceeded predictions within the GMS. In addition, these properties fetch very high prices, evidencing strong demand. Berry is changing from a small agricultural village to a lifestyle destination for residents and tourists but retains many attractive rural qualities. Site specific planning controls seek to manage this change and balance some growth with protection of these important local values.</p> <p>Traffic concerns are addressed in detail within the Council Report.</p>
21.	4/1/21	Resident of Berry	<p>Concerned about overdevelopment. Maintaining character so important to residents. Character is old-world feel, small country town, significant history. PP biased towards small lot sizes in terms of justifying providing housing choices when most common choice in Berry is larger lots.</p> <p>Proposal does provide reasonable choice of smaller lots balanced with character of Berry - if developed all as single dwellings. PP says</p>	<p>The PP explains the role of small lots in providing housing choices because there is less supply of smaller homes and fewer homes at entry level price points in the local market. Given the popularity of Berry and the broad segments of the population excluded from living where they would like to due to lack of affordability, there is likely latent demand for small lots. Larger lots may be a common choice but there are many more larger lots provided compared to smaller lots and where smaller lots/smaller homes have been provided they have been taken up (e.g., 15-34 Hitchcocks Lane). Further discussion on housing choice is provided in the Report.</p>

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			<p>expects most homes to be developed as single dwellings with some additional subdivision and dual occupancy development. Great concern however that this cannot be enforced, and more dual occupancies will result given high value of area - also concern about complying development, low rise medium density housing code and new subdivision controls.</p> <p>Pressure for multi-unit housing in Huntingdale already. Modern housing estates have more dual occupancies - e.g. Shellharbour. This would be inconsistent with character, not right for the area and impact infrastructure - also do not want to impact on tourist value and amenity. DCP is not legally binding and not enough to ensure character protected. Too many avenues to work around controls. Similar for 88B restrictions applied to titles. Need to control via LEP - suggest LEP clause restricting development of lots to single dwellings only - like precedent in clause 7.28 in South Nowra.</p>	<p>Dual occupancies are a permitted use in the R2 Low Density zone. In Shoalhaven, they are permitted on lots 500 m² or larger (attached dual occupancy) and 700 m² or larger (detached dual occupancy). Dual occupancy provides another type of housing choice. A common planning assumption is that approx. 10% of lots provided in a greenfield estate with be dual occupancy. As of 20 October 2020, six (6) dual occupancies have been approved in Huntingdale Park (via DA processes), with 3 constructed, 1 started construction and 2 yet to be constructed. This represents 2% of all lots in the estate developed as dual occupancy.</p> <p>Multi-dwelling housing (more than 2 homes on one lot, e.g. townhouses, villas, terraces) are <u>not</u> permitted in the R2 zone under Shoalhaven LEP 2014 and are <u>not</u> permitted as complying development under the Low Rise Housing Diversity Code (SEPP Exempt and Complying Development Codes).</p> <p>DCP controls provide guidance for development and give effect to LEP objectives and strategic planning aims. DAs are assessed against the DCP and controls can be varied where sufficient planning justification is provided. The Shoalhaven DCP is performance based and focuses on the achievement of certain objectives and outcomes for development, labelled performance criteria. The DCP is intended to allow some flexibility as long as the performance criteria and overall objectives can demonstrably be achieved.</p> <p>LEP controls restricting developments of lots to single dwellings only would be inconsistent with the State Government's <u>Planning Direction 6.3 Site Specific Provisions</u>, because it would be overly restrictive. Clause 7.28 of the LEP as applies to development in South Nowra serves a different strategic planning purpose – seeking to enable development which would otherwise be prohibited in an area that is transitioning from past residential uses to commercial and light industrial. In that context the site-specific LEP clause is permissive rather than restrictive, and therefore complies with the applicable State Planning Directions.</p>
22.	6/1/21	Resident of Berry	<p>Object to all traffic using Huntingdale Park Road - already busy and extra congestion, noise and speeding vehicles from new development is unfair and unreasonable. Why not use second exit with road onto Schofields Lane? Do not want to see changes to Huntingdale Park Road - keep median strip with trees. Suggest reinforcing speed limit rules with signs. Concerned about property values falling with increased busyness of road.</p> <p>Do not want to see Berry expand any further outwards.</p>	<p>Traffic concerns are addressed in detail within the Council Report. Road design will be detailed and assessed at development application stage.</p> <p>Property values in Berry have risen substantially over the past 8 years – from a median house price of \$650,000 in 2012 to over \$1.15 million in 2020. The liveability of Berry and popularity as a lifestyle destination is likely to see it remain a high value area for the foreseeable future (noting current impacts of the Covid-19 pandemic are seeing accessible regional locations boom in terms of property prices and demand). There are no current strategic plans supporting further expansion of Berry further south or west in this location, the current growth plan (GMS 2014) intends for the subject land to define the south-western urban edge of Berry.</p>
23.	1/1/21	Resident of Far Meadow	<p>Object to rezoning. Concerned with retaining the rare heritage of Berry, once being a private town owned by Alexander Berry and family. Proposal inconsistent with Draft Illawarra and Shoalhaven Regional Plan 2041: Objective 23 "Cultural heritage values must be embraced as the region grows and changes"; Strategy 23.1 (identify, conserve and enhance cultural heritage values in local strategic planning and local plans). Oppose extending boundary of Berry and ribbon development along the highway. Huntingdale Park example of ribbon development. This PP precedent for development all the way into Bomaderry. Encroaching on the historic Milk Board Graham Park Insemination Centre.</p> <p>Why no provision for corner store? Could relieve pressure on parking in Berry town centre. Proposal will exacerbate the crowded traffic and parking problems that already exist in Berry. Need more accessible parking spaces.</p> <p>Allowing the minimum lot size of 500 m² and even smaller lot sizes of 350 m² does not fit in with the larger historic lot sizes of Berry, which are 750 m². Berry & District Historical Society does not want the historic nature of Berry changed by overdevelopment. We do not want it to become like Shellharbour, Blackbutt or Flinders. Infilling green spaces, dividing large historic blocks into multiple occupancies and allowing two storey houses is not in character. At the northern entrance to Berry, a significant historic site, the Broughton Creek village area, is being destroyed by overdevelopment and now at the southern entrance the same is happening.</p>	<p>The DCP Chapter identifies the cultural heritage of the area and its importance, noting the history of the Graham Park Insemination Centre, and also recognising the need to engage with Aboriginal people and organisations at all stages of development to respect Aboriginal cultural and environmental heritage. Embellishment of the park area could provide heritage interpretation opportunities and further community consultation on this project is intended.</p> <p>The rural history of the area and importance of the rural and natural surrounding landscape is proposed to be protected with the planting of a landscape screen to mitigate visual impacts of the development (and existing development) as viewed on the southern approach into Berry.</p> <p>Small lots are intended to provide for smaller homes and additional housing choice for households and residents in Berry and wanting to move to Berry. Allowing lots smaller than those traditionally developed in older, historic parts Berry seeks to promote a more compact and efficient growth pattern for Berry, rather than continuing expansion or ribbon development on the rural outskirts. The history of the development of Huntingdale Park extends to the 1980s/1990s, when planning for additional residential development west of Berry began (then called Berry Gardens). The current proposal defines the edge of residential expansion in this area of Berry, as detailed in the GMS, and no further development towards Bomaderry is outlined in these growth plans. Directions for future growth in Berry (and across Shoalhaven) will be explored in the upcoming review of the GMS, and community members are encouraged to be involved in this process to help shape future growth in the area.</p> <p>Council is also working to manage change in positive ways by investing in parks, public amenities and roads and through planning projects such as conserving Berry's heritage items; introducing stronger local character controls for development; and rezoning larger lot areas of Huntingdale Park Estate to prohibit multi-dwelling development.</p> <p>Traffic concerns are discussed in detail in the Council Report.</p>
24.	6/1/21	Resident of Nowra	<p>Very much against further development in area of Berry. Too much agricultural land in Shoalhaven is being given over to new housing. Need to preserve agricultural land. Thousands of visitors do not come to see housing estates, come for semi-rural outlook, beaches and hills.</p>	<p>The proposal seeks to rezone farmland for housing, representing a loss of 11 ha of agricultural land. Fertile agricultural land is valuable and becoming scarcer. However, the proposal is consistent with Council's strategic plan for growth – the GMS (2014), which identifies this location as an area for housing growth. Directions for future growth in Berry (and across Shoalhaven) will be explored in the upcoming review of the GMS, including planning</p>

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				for preservation of agricultural lands. Protecting character was expressed as a top priority in submissions received and is a key focus of DCP controls.
25.	5/1/21	Resident of Berry	Concerns at traffic into Hitchcocks Lane and Huntingdale Park Road from proposed development. Current traffic already stressing roads and deteriorating quality. Already too narrow creating bottlenecks. Many cars/caravans/trailers etc parked on the side of the streets taking up available space for vehicles to safely pass each other and in particular large trucks. Trees on median strips create poor vision/obstruction and parked cars, making it difficult to get in and out of Hitchcocks Lane. Roads not designed to take so much traffic. Access road to Schofields Lane should take traffic away from existing roads. Current DA for 10 units (DA20/2374) complicates matters further with more traffic.	<p>Traffic concerns are discussed in detail in the Council Report. The trees on median strips and verges within Huntingdale Park Estate are valued by many residents (Berry township is characterised by its tree canopy cover) and can be managed to assist with visibility and sight lines. Trees also provide important shade and microclimate benefits, soften the appearance of buildings and hard landscaping, provide habitat for birds and wildlife and contribute positively to the appearance of the streetscape adding value to properties.</p> <p>The Estate's roads are designed for slow traffic, to create a pleasant, safe and quiet residential environment, safe for people to walk, cycle and cross safely. On-street car parking is not facilitated along Huntingdale Park Road (which is one way traffic north and south bound separated by a central median), however, on-street car parking can be accommodated on other local roads. Cars parked on the sides of the road help to slow traffic in the area as cars navigate slowly around parked vehicles.</p>
26.	7/1/21	Resident of Berry	Strongly object to directing all traffic along Huntingdale Park Road & propose the entrance be from Schofields Lane instead. Hitchcocks Lane is too narrow, too busy and too many cars parked on the road. Support submission of local action group & request an extension for the DA approval of the 10 townhouses proposed on the corner of Huntingdale Road & Hitchcocks lane.	<p>Traffic concerns, including the suggestion to direct traffic from the subject land to Schofields Lane, are addressed in detail within the Council Report.</p> <p>Concerns relating to the current multi-dwelling DA have been passed on to the Development Assessment Officer.</p>
27.	7/1/21	Resident of Berry	Too many small lots. Cap lots to 75. Don't want to become Shellharbour. Should be another entry/exit into this development, rather than Huntingdale Park Rd/ Hitchcocks Lane. Traffic that will pass through the Brangus Close roundabout will be intolerable (noise/safety to pedestrians).	<p>There are very limited planning mechanisms available to cap the number of lots provided in an area that is designated for growth. A site-specific clause restricting the number of lots permitted to a certain number would contravene state planning directions to avoid overly restrictive controls (see Ministerial Planning Directions 6.3 Site Specific Provision, issued under section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i>). Lot numbers are limited by minimum lot size provisions.</p> <p>Planning controls applying to all lots, including small lots, seek to respect the character of Berry, in particular with regard to provision of additional landscaped area and trees, with more details provided within the Council Report. Traffic and pedestrian safety concerns are addressed in detail within the Council Report.</p>
28.	7/1/21	Berry Forum	<p>Note R2 zoning (as opposed to R1 General Residential) minimum lot size controls and DCP controls should result in high quality subdivision sensitive to the character of Berry. Hopefully higher density issues that have arisen as part of Huntingdale Park development are less likely with introduction of proposed controls, however, need strict enforcement of DCP.</p> <p>PP notes controls could enable up to 150 lots and 150-180 dwellings yet believe developers will try to maximise development and challenge objectives, excessive bulk and visual impacts still of concern. Recent DA for multi-dwelling development at 52 Parker Crescent undermines Council's intention to provide more generous spacing of dwellings through specifying larger lot sizes, therefore previous support for larger lots (700 m²) along southern boundary has wavered. Concerned these larger lots will be the target of multiple dual occupancy applications.</p> <p>Encourage provision of passive open space that was part of Huntingdale Park Estate but has not been provided. Distance to other parks is 1.5-2km away, more younger families and more local demand.</p> <p>Further traffic studies required. There are already traffic hazards at Kangaroo Valley Road roundabout (mornings on work and school days). Need to resolve foot traffic issues and opportunities at this stage - footpath underpass to Victoria St discussed during early talks about Berry bypass. Unlikely to be a viable option now so how to provide safe foot traffic links to Queen Street, Boongaree and Victoria St (school).</p> <p>On noise issues, the more planning done at this early stage and the earlier mitigation measures put in place the less likely will need to have retrospective measures later (e.g. as in north Huntingdale Park Road). Measures should embrace natural materials (earth berms)</p>	<p>The subject land is proposed to be rezoned to R2 Low Density Residential, to restrict the development of multi-dwelling housing and application of the Low Rise Housing Diversity Code (only dual occupancy will be permitted as complying development using this Code and only where the standards within the Code are met).</p> <p>The DCP focuses on objectives and controls applying to the subdivision stage of development, recognising that high quality subdivision design will provide greater opportunity for site-sensitive housing design and cost-effective, streamlined assessment of housing applications.</p> <p>Subdivision controls focus on reinterpreting the key character qualities of Berry within a modern housing estate, for example by providing walkable, connected streets, generous tree planting (on public streets and on private land) and room for gardens.</p> <p>Dual occupancy development is permitted within the 700 m² minimum lot size on the southern edge of the development area. Dual occupancy development will need to meet the requirements of the DCP (for DAs) and the complying development code (for CDCs). By providing areas within the development area designated for small lots (in attractive locations close to public open space and alongside the drainage reserve), it is envisaged that development demand to subdivide the larger lots on the southern boundary will be reduced.</p> <p>A park including a play area to cater for the new residents west of the Princes Highway is planned, with further consultation on this project intended. Berry Forum will be notified of this park planning project.</p> <p>Traffic and pedestrian safety concerns are acknowledged and are addressed in detail within the Council Report. Requirements to address noise issues have been strengthened and clarified in the DCP – refer to Council Report for more details. The DCP contains some guidance regarding the appearance of any required noise barriers (focusing on soft landscaping features) but further detail is to be provided at the subdivision development application stage.</p>

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			rather than costly and unsightly concrete or similar barriers about to be installed by the RMS near the overpass.	
29.	8/1/21	Resident of Berry	Most concerned about Huntingdale Park Rd as entry and exit point, volume of traffic likely to exceed all original expectations. Proposal to service additional 150 lots will have adverse impact on residents' lifestyles, unreasonable for a residential street in regional town to support such high volume of traffic. Already witness speeding on Huntingdale Park Rd daily, with no regard for children or residents. Proposed development needs separate entry and exit and suggest Schofield Lane better option.	Traffic and pedestrian safety concerns are addressed in detail within the Council Report.
30.	8/1/21	Resident of Berry	Most concerned about Huntingdale Park Rd as entry and exit point, volume of traffic likely to exceed all original expectations. Adverse impact on 'quiet enjoyment' of nearby residents, unreasonable increased traffic flow. Increased likelihood of an accident, road is used by children, bikes, skateboarders and pedestrians. Should have own entry and exit with Schofields Lane logical choice. Shoalhaven City Council should be encouraging development that distances itself from the cut and paste suburbia that is exploding in Western Sydney and parts of the NSW coast. Goal should be to preserve community spirit and town character, resist medium density and have reasonable block size (500 m ² or above).	Traffic and pedestrian safety concerns are addressed in detail within the Council Report. The draft site-specific DCP seeks to encourage development that provides housing choice whilst respecting the character qualities of Berry, being the rural history and surrounding landscape, leafy environment and well-tended gardens and the walkable, connected and compact township. The majority of the subject land will have a minimum lot size of 500 m ² , consistent with the majority of Berry and Huntingdale Park Estate. The provision of areas for some small lots reflects changing housing needs and seeks to make the most of scarce land resources, providing compact (yet still low density) growth, rather than additional suburban growth on the rural outskirts. Directions for future growth in Berry (and across Shoalhaven) will be explored in the upcoming review of the GMS, and community members are encouraged to be involved in this process to help shape future growth in the area.
31.	8/1/21	Resident of Berry	Support Huntingdale Park Residents Action Group submission. Use Schofields Lane as main Entry Road for PP029. Abandon any connection to Hitchcocks Lane because traffic situation inadequate and cannot handle additional traffic movements. Concerned about emergency like bushfire with only one way in or out of Huntingdale. Road network is inadequate, not enough parking, not enough room to pass garage truck or school bus. Concerned about accidents. Too many housing lots in proposal and lots are too small - not in keeping with feel of Berry.	Concerns about traffic volumes and road design (including design for emergency access) are discussed in detail within the Council Report. The Planning Proposal seeks to rezone land to enable future residential subdivision, with the exact number of lots to be provided subject to detailed design and assessed in a development application (DA) for subdivision. The planning controls as proposed are estimated to allow for up to 150 lots and planning for infrastructure has occurred on this conservative basis. However, the actual number of lots proposed may be less as planning controls designate minimum lot sizes only, and do not consider all eventualities and constraints that can emerge during the detailed subdivision design process. Site-specific planning controls have been drafted to balance provision of housing in this area (in accordance with adopted strategic growth plans) with the character of Berry.
32.	8/1/21	Resident of Berry	Object to current road system in Huntingdale Park, call on Council to ensure that connection made via Schofields Lane and Princes Highway. Huntingdale Park road already heavily used, busy and noisy. Proposal will increase to unsafe levels, using Schofield will negate this. Support Residents Action Group submission. Do not use Hitchcocks Lane as traffic already too heavy and dangerous. Concerned that in event of disaster, residents may be trapped and traffic will be too heavy and congested that safe exit not possible or that emergency vehicles will not be able to enter. Number of proposed lots unclear, maximum number of lots should be clarified. Should be dedicated bus stops with pull in bays and off street car parking for cars at school bus stops.	Concerns about traffic volumes and road design (including design for emergency access) are discussed in detail within the Council Report. The landowners and applicants of the PP, who are seeking to have their land rezoned to allow residential subdivision, have stated that they expect the land to yield 110 residential lots and are relying on one concept design. Council recognises that different concepts could be accommodated on site (and the possibilities of land sales/new developers in future could yield a different concept) and has therefore estimated, conservatively, that the proposed planning controls could provide a yield of up to 150 lots. The number of lots cannot be clarified further at this stage of the proposal, as the eventual number of lots provided will be subject to detailed design and assessment. The Planning Proposal (rezoning) stage in the planning process: <ul style="list-style-type: none">confirms whether infrastructure capacity can accommodate development (either through relying on infrastructure that already exists or prescribing infrastructure upgrades) andprovides a planning framework, against which a subdivision design and road layout will be designed and assessed. Subdivision layout will be determined through separate development application(s). Residents will have further opportunities to comment on lot numbers and design at the subdivision stage of development, should the land be rezoned.
33.	8/1/21	Resident of Berry	Understand area identified for future expansion many years ago. Current owner and resident in Huntingdale Park Estate. Consulted extensively with various stakeholders. Seeking fairness for existing community. Connection into Hitchcocks Lane should be rejected. Should require construction of entry road to Schofields Lane. Traffic issues most important. Proposal is inadequate and would create terrible results and safety issues for community. Not a safe entry and exit as existing roads are too narrow and already carry too much traffic. Proposal does not account for inadequate width of	Traffic-related concerns are acknowledged and the specific traffic issues raised within this submission are discussed in detail within the Council Report. In general, the Planning Proposal and DCP have been formulated to provide additional homes consistent with growth plans whilst making most efficient use of land and existing infrastructure. Growth in the area will have some impacts in terms of additional traffic, but these impacts are sought to be minimised through the site-specific provisions of the DCP.

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			<p>Huntingdale Park Road and Hitchcocks Lane and roundabouts. Will increase traffic on existing roads and greatly affect residents' amenity. No need and manifestly unfair.</p> <p>Recently lodged DA (DA20/2374) on SE corner of Huntingdale Park Rd and Hitchcocks Lane seems to be designed in isolation from PP029. Additional 10 houses will increase traffic numbers and safety issues that are already unacceptable and inaccurate Traffic Study provided in PP is even further out in traffic projections. Solution is to provide entry road connected to Schofields Lane and rejection of connection to Hitchcocks Lane. Will assist in providing fire and emergency services in quick and direct access - will also provide second access if Kangaroo Valley Rd is cut off. Taxpayers paid for the connection onto the Princes Highway and the underpass at Schofields Lane and should be made available for more than the limited number that are currently using it. Any argument that to provide this link would encourage housing development to other land on Schofields Lane is short sighted and has no merit. Council can simply say no and have community support.</p> <p>Entry Road (Unnamed Link Road) should be built to 1 in 100 flood year event not 1 in 20 as currently proposed. Staging is vital as well. Any Entry road or roads should be required to be built before any works or subdivisions are commenced. And when the Entry road is built it should be the ONLY access for subdivision, infrastructure and building. All other access should be closed off and not used at all.</p> <p>Confusion about how many lots PP will allow as a maximum - need to cap these and clarify the issue. Variety of numbers used is threatening to the community and maximum number would alleviate a lot of concerns and would make Traffic Impact Statements easier and more accurate.</p> <p>Should be parks with seating and off street parking and pull in bus stop for safety. Current parking issues often on verges, roundabouts, medians, people dropping off or collecting kids at the bus stop. Look forward to Contributions Plan Review so community can assist Council in improving this situation.</p>	<p>There are no plans at this stage to extend housing further south towards Schofields Lane. As discussed within the Council Report, the building of a road from the subject land to Schofields Lane could weaken this strategic position.</p> <p>The 150 lot figure is estimated to be the upper number of lots likely to be accommodated on the site (the proponents have estimated a lot yield of 110 lots based on one concept design). The use of the higher figure (150 lots as opposed to 110 lots) is prudent when assessing infrastructure capacity, to ensure capacity is not strained if more lots are created than reflected in the applicant's initial concept.</p> <p>Minimum lot size restrictions and other planning controls limiting density (zoning, floor space restrictions, landscaped area requirements, access and subdivision requirements) and the provision of infrastructure such as roads and the drainage reserve influence the number and design of lots that can be provided. The number of lots cannot be clarified further, as the eventual number of lots provided will be subject to detailed design and assessment at the subdivision stage.</p> <p>There are very limited planning mechanisms available to cap the number of lots provided in an area that is designated for growth. A site-specific clause restricting the number of lots permitted to a certain number would contravene state planning directions to avoid overly restrictive controls (see Ministerial Planning Directions 6.3 Site Specific Provision, issued under section 9.1 of the Environmental Planning and Assessment Act 1979).</p> <p>A park including a play area to cater for the new residents west of the Princes Highway is proposed, (funded via development contributions) and opportunities for community consultation on this project are intended.</p>
34.	8/1/21	Huntingdale Park Residents Action Group (HPRAG) – submitted on behalf of 43 residents	<p>Appreciate time to comment but Contribution Project and Voluntary Planning Agreement details not available, engagement period held over year end, Covid restrictions, many people away, busy. Accept Council need to provide further housing. Submission should carry a lot of weight for wanting best for entire community.</p> <p>If increased traffic past existing residents can be stopped or at least, greatly reduced, should be. Endured many years of building and no end in sight, inconvenience, noise, dust, construction traffic. DCP well-meaning and generally supported but limited in power - strengthen. Would like max. no. of lots - 110 with max 132 dwellings.</p> <p>Entry Road should connect to Schofields Lane & Highway, with existing underpass primary access. Current proposal is to have one end of Entry Road joining Hitchcocks Lane just below Parker Cres intersection and should be abandoned. Secondary access should be only from the roundabout on Huntingdale Park Rd & Lincoln Circuit, via Unnamed Link Rd and comply with a higher flood standard. Do not want additional traffic funnelled to Hitchcocks Lane, Huntingdale Park Rd and Kangaroo Valley Rd. Issues with new DA for multi dwelling houses - part of Hitchcocks Lane unformed with sight line safety issues. Consider how to integrate shared-access pathways to the passive space area for residents of both developments. Need to minimise construction traffic on narrow roads for resident amenity. Primary Access road (Schofields Lane link) needs to be built before any subdivision work, should be no access on existing roads with the exception of the short distance on Huntingdale Park Road from</p>	<p>The PP and draft DCP were exhibited for 73 days. The Planning Agreement and draft Contributions Plan amendment will be exhibited separately. Accept engagement period presented with numerous challenges; however legislative requirements for engagement were exceeded and the feedback received has been comprehensively considered and incorporated into planning controls where practicable.</p> <p>Impacts relating to construction noise, dust and hours of operation can be managed via conditions of any future consents and can be enforced by Council.</p> <p>DCPs are not statutory planning instruments, but they are recognised in the <i>Environmental Planning and Assessment Act 1979</i>, with the purpose of giving effect to the aims and objectives of Local Environmental Plans (LEPs). LEPs are statutory (legal) planning instruments and must contain certain requirements that are standardised across NSW. In the event of any inconsistency, LEP provisions will override DCP provisions.</p> <p>The minimum lot size requirements and proposed R2 Low Density land use zone are used to manage density via the LEP (for example multi-dwelling housing is not permitted in the proposed R2 Low Density zone). The DCP complements the LEP through more specific controls relating to maximum gross floor area and minimum landscaped area requirements. Any variations to controls within the DCP need to be documented and adequate planning justification for the variation needs to be provided.</p> <p>The estimated lot and dwelling yields provided in the exhibited Planning Proposal are indicative only. Ultimately, the dwelling yield will depend on a range of factors. There are very limited planning mechanisms available to cap the number of lots provided in strategic growth areas. A site-specific clause restricting the number of lots permitted to a certain number would contravene state planning directions to avoid overly restrictive controls (see Ministerial Planning Directions 6.3 Site Specific Provisions, issued under section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i>).</p> <p>Traffic-related issues are discussed in detail within the Council Report. Shared access pathways are proposed along the unformed section of Hitchcocks Lane.</p>

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			<p>Kangaroo Valley Road to the Unnamed Link Road for the purposes of upgrading the Unnamed Link Road. Proposal only identifies one perimeter road, need to confirm all perimeter roads for bushfire protection purposes.</p> <p>Fully support Council's efforts with proposed changes to DCP and for Council to take all efforts to ensure that inappropriate subdivisions and smaller building footprints be protected. Also support working to strengthen current State Government mandated provisions and safeguards in the current Zones.</p> <p>Should be clearly identified proportion of CP funds directed to the development of passive open space, to enhance the community benefit of the space. Any contributions to the provision of Boongaree (nearly 2 km's away) unreasonable. Community engagement should determine required embellishments, likely include, but not be limited to:</p> <ul style="list-style-type: none"> • bus stop with pull-in bay, fencing & shelter. Currently no safe bus stop and no safe parking for parents driving to the bus stop (e.g. in wet weather). Currently utilising roundabouts, grass centre strip areas and verges. • a small park, with off road carparking • community seating • playground equipment, particularly for small children • dog walking area <p>Currently road outside #32 Huntingdale Park Rd only 4 m wide each carriageway – does not comply with the requirements of an "Entry Road" in the Proposed DCP (9 m). Cannot be allowed to be part of "Entry Road" as does not comply. This section of Huntingdale Park Road, before turns corner to the West and becomes Hitchcocks Lane, will be only access for 217 Lots. At 10 traffic movements per day that is 2,170 (Council applies 20% increase for second dwellings on some Lots = a further 434 traffic movements), giving a total of 2,604 traffic movements per day before PP029 development is included. How do you ensure the "existing roadway connecting to the southern side of the Huntingdale Park/Lincoln Close roundabout" is the Primary Access for the PP? Answer: provide a link to Schofields Lane and deny the other access to Hitchcocks Lane opposite #19. No. traffic movements > 2,000 identified in TIA - how can take the study seriously? Schofields Lane link would reduce traffic noise in the area, reduce traffic conflicts and improve sight distances and safety.</p>	<p>Concerns relating to DA20/2374 have been passed on to the Development Assessment Officer.</p> <p>Council has limited ability to influence state government level planning controls, given the planning hierarchy and standard instrument LEP provisions as detailed above. State Environmental Planning Policies (SEPPs) override LEP and DCP provisions. For example, SEPP Exempt and Complying Development allows for certain fast tracked dwelling and dual occupancy applications (that meet certain standards) to be approved using a fast-track system and private certification. The implications of exempt and complying development for the Planning Proposal land have been considered during assessment of the PP.</p> <p>A park, including a play area, to cater for the new residents west of the Princes Highway is proposed. The suggestions raised in HPRAG submissions will be incorporated into the initial planning phase of the contributions project and further community consultation is intended.</p>
35.	8/1/21	Resident of Berry	<p>Strongly support Huntingdale Park Residents Action Group submission. Strongly support Schofields Lane connection as main entry road. Current road system is already too busy, noisy and cannot handle additional proposed traffic movements. Not enough room on roads to park, pass, school bus or for garbage collection. Roads in new development should be better planned. Huge potholes and swelling in Huntingdale Park Road, cannot cope with more. Parking a problem in existing streets - Hitchcocks Lane has parked cars constantly, reducing road to one lane. Corner of Hitchcocks and Brangus Close is dangerous due to lack of vision.</p> <p>Noise from highway has increased considerably over two years. A noise barrier along the highway from Hitchcocks Lane to Schofields Lane that would be beneficial for residents of the new development.</p> <p>Trees behind 1-19 Parker Crescent are a corridor for birds including vulnerable Gang Gang Cockatoo - need to retain these trees. No mature trees in estate if these are removed.</p> <p>The Boongaree Park currently under construction in Berry is nearly 2 km's away for the estate and the current green space available is under large powerlines – not a healthy option. As a family with</p>	<p>Traffic and pedestrian safety concerns are addressed in detail within the Council Report.</p> <p>Requirements to address noise issues have been strengthened and clarified in the DCP – refer to Council Report for more details.</p> <p>The DCP for the site requires trees to be retained wherever possible and the liquidambers along the western boundary could conceivably be retained in the rear yards of the lots provided in these areas. Being deciduous, these trees could provide important shade form hot afternoon sun form the west in summer yet allow warming sun to the property in winter and are worth incorporating into future home design. Given the area is currently a cleared paddock, tree cover will improve through the development of the land.</p> <p>A park and playground within walking distance to cater for local resident's needs west of the Princes Highway is proposed under the Shoalhaven Contributions Plan 2019. The location of the park will be between Hitchcocks Lane Road, Huntingdale Park Road and the Princes Highway/Unnamed Link Road, as there are recognised constraints that apply to providing facilities within the powerline easement. Pathways for waking and cycling are also planned. Further community consultation is intended in relation to plans and facilities for the park.</p>

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			children this is not an acceptable in a large family estate. The proposed area for open space is currently a creek and a stagnant pond – totally unacceptable, especially for families with small children. New estate warrants a small park, with off road carparking, community seating, and playground equipment. It also requires pathways for walking and cycling.	
36.	8/1/21	Resident of Berry	Fully support Huntingdale Park Residents Action Group submission. Also concerned about loss of trees, particularly mature specimens; bushfire threat, road access and road safety and passive recreation amenity. This submission includes a drawing of a road concept plan to help address issues - showing roundabout at Huntingdale Park road and Hitchcocks Lane into subdivision area and the Unnamed Link Road being upgraded to extend all the way south to Schofields Lane.	Traffic concerns are discussed in detail within the Council Report. The development land is not currently mapped as bushfire affected. Updates to bushfire mapping and classifications however may lead to part of the property being mapped as bushfire affected – grass fire hazard from the south. Bushfire risk management has been incorporated into the planning proposal and will be incorporated into any future subdivision design. The NSW Rural Fire Service have been consulted on the proposed planning controls and do not object to the proposal. A park and playground within walking distance to cater for local resident's needs west of the Princes Highway will be provided on neighbouring land (between Hitchcocks Lane, Huntingdale Park Road and the Unnamed Link Rd/Princes Highway) and further community consultation is intended.
37.	7/1/21	Resident of Berry	Current access to the proposed subdivision via Huntingdale Park Rd is manifestly inadequate due to the restricted road width. Even a vehicle of normal width parked in the street is sufficient to retard traffic movement to and from the area. In an emergency would be difficult to escape from the area, and heavy vehicles would struggle to get access. Traffic assessment fails to take this into account. Huntingdale not fully developed and road is already too busy and too noisy - Huntingdale Park Road has not been designed to cope with heavy or large volumes of traffic, evidence of subsidence of road surface downhill from Kangaroo Valley Road roundabout, and large pothole between Boran Place and Brangus Close. New proposal would exacerbate this issue. Access to proposed subdivision should be via link road to Schofields Lane intersection with Princes Highway. This already well designed intersection would provide excellent access and an alternative escape route from Huntingdale Park Estate, avoid disturbance to existing residents and avoid need to upgrade Unnamed Link Road. Strongly support Action Group's submission	Traffic concerns are addressed in detail within the Council Report. Specific concerns relating to road condition and maintenance can be directed to Council's City Services (Works and Services) Division on (02) 4429 3111.
38.	8/1/21	Resident of Berry	Do not agree with proposal as it stands. Will be too much traffic on one road. Huntingdale Park Road is already very busy. Will decrease value of our houses in Huntingdale Park Estate and will change character of Berry as a whole. Live on Huntingdale Road and have to put up with noise of trucks at 6am, road works, paths and road destroyed. Buses stop outside house but there is nowhere for them to pull over or for parents to park. Concern about more multi-unit development DA20/2374. One road in is a bad idea.	Transport and traffic concerns are addressed in detail within the Council Report. Concerns regarding DA20/2374 have been passed on the Development Assessment Officer.
39.	8/1/21	Resident of Berry	Do not support proposed rezoning. However, if it goes ahead would like the following considered: Preference for all lots to be a min. of 500 m ² with no additional subdivision (oppose 350 m ² lots). Larger lots for spacing of homes and for landscaping. Max no. of lots should be 110. If 350 m ² lots to be permitted, they should not adjoin existing lots within Huntingdale Park Estate. Single level houses preferred adjacent to existing lots and on higher ground. Building footprint calculations should include the garage, excluding garage floor area distorts development densities particularly with regard to landscaping requirements/allowance within lots. Proposal must include effective noise barriers along the highway; this is already an issue for existing development.	The majority of the site will have minimum lots size provisions and subdivision controls that are the same as those applying to most of Huntingdale Park and Berry township (of 500 m ²). Capping lots to a set number within a defined growth area at this rezoning stage would be inconsistent with state planning directions issued under section 9.1 of the EP&A Act 1979 (as they would be overly restrictive). The provision of small lots recognises that smaller homes and smaller lots are a feature of many modern housing estates (including Huntingdale Park Estate) and can provide additional housing choice for residents. Dual occupancy development (two homes on one lot) and further subdivision of small lots 350 m ² in size is not permitted. The proposed height limit is 8.5 m high (two storeys). This height limit is specified in the LEP. A DCP restriction to limit development to single storey cannot be applied (the DCP cannot provide more stringent height controls than the LEP, as legally the LEP overrides the DCP in the event of any inconsistency). Height limits are measured from natural ground level, accounting for sloping sites. Most of the subject land sits below existing development within the Estate. The only way to limit heights to single storey would be to change the LEP height limit to 5 m or lower, and this is considered overly restrictive given the amount of existing double storey development in Huntingdale Park and Berry. There are additional setback controls relating to two-storey components of dwellings within the DCP to mitigate any potential impacts to neighbouring dwellings. Privacy/overlooking and overshadowing implications must be considered during the application phase.

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			<p>Primary access should be via Schofields Lane to alleviate impacts on Huntingdale Park Road which was not designed or approved for higher traffic flows. Primary access must be established and constructed prior to any construction on the site. The un-named link road (1st on the left off Huntingdale Park Rd) should be developed as a secondary road and be flood-free and landscaped. These two roads will improve permeability for both housing areas and provide alternative access during emergencies.</p> <p>The southern landscape screen should be comprised of at least 40% advanced native species and a mechanism for in-perpetuity maintenance of an effective landscape screen be put in place.</p> <p>Indented bus stops should be provided throughout the proposed road network.</p> <p>No rear boundaries should face roads. Overall, the development should be low density and its visual impact reduced through planning controls related to size, height and design of buildings, configuration of lots and landscaping. No backyards should adjoin public space such as the drainage reserve and unformed section of Hitchcocks Lane.</p> <p>Existing vegetation should be protected i.e. within the unformed section of Hitchcocks Lane and along the western boundary of the subject land. Landscaping of any roundabouts, medians and the drainage line should not use turf grasses; rather, they should be landscaped using a range of suitable, non-invasive and low maintenance plant species such as those in estates such as Shell Cove. Council has demonstrated it has inadequate resources to maintain similar areas within the Huntingdale Estate. It is best to plan these areas out of the maintenance portfolio. The Hitchcocks Lane Estate should aim to mirror the best features of the Huntingdale Park Estate, rather than repeat the errors. For example, the same street lights should be used, on-site stormwater detention required (10,000 L/lot) and restrictions on fencing materials.</p> <p>The provision of a small-scale, local playground is supported as the distance to existing playgrounds is excessive given the requirements and constraints of the users. Any developer contributions should be directed to development and embellishment of the Council land at the eastern end of Hitchcocks Lane for this purpose. This will contribute to sense of community and foster resilience for both housing estates. Support the comments prepared by the Huntingdale Park Community Action Group.</p> <p>Also request that the consideration of DA20/2374 Multi-Unit Development - Ten Units Hitchcocks Lane, be deferred or at least reviewed alongside PP029 and the proposed changes to the DCP.</p>	<p>The proposal seeks to limit gross floor area (GFA) to 50% of the size of the lot (i.e. 175 m² of GFA would be permitted on a block 350 m² in size, 350 m² of GFA is permitted on a block 700 m² in size). GFA is defined by the LEP and is a standard definition across NSW which excludes 'car parking to meet any requirements of the consent authority (including access to that car parking)'. Oversized garages (providing in excess of the floor space required for parking) are counted as GFA.</p> <p>Requirements to address noise issues have been strengthened and clarified in the DCP – refer to Council Report.</p> <p>As key themes emerging from the public exhibition, traffic concerns are addressed within the Council Report.</p> <p>The southern landscape screen will consist of native species and in perpetuity maintenance arrangements are being negotiated via a Planning Agreement (under section 7.1 of the EP&A Act 1979). It is intended to publicly exhibit a draft Planning Agreement shortly.</p> <p>It is important to discourage home designs that provide backyard spaces facing public spaces. The DCP provides controls relating to home facing public areas such as roads and the drainage reserve. Existing vegetation is protected by the DCP – it is intended to retain as many mature healthy trees along the unformed section of Hitchcocks Lane as possible to provide amenity to the area and shade over the future shared path. The DCP requires the provision of a minimum of 6,000L rainwater tanks per lot and provides similar restrictions on fencing to Huntingdale Park Estate.</p> <p>Land at the eastern end of Hitchcocks Lane (bound by Huntingdale Park Road to the north and the unnamed link road to the east) will be embellished as a local park to cater for the needs of residents west of the Princes highway at Berry.</p> <p>Concerns relating to DA20/2374 have been passed on to the Development Assessment Officer.</p>
40.	8/1/21	Resident of Berry and works in Berry	<p>Not in favour of another development in Huntingdale. Small blocks and cluttering of beautiful town will ruin it. Develop land in Berry away from Huntingdale. Do not overcrowd estate. If need to develop please make acreage or large blocks. Do not allow access to Huntingdale Park Road, for more vehicles where kids play. Please have entry/exit off Schofields Lane. Save trees parallel to Parker Crescent - suggest reserve strip to keep trees, this will also keep estates segregated. Trees are iconic and Berry is town of trees.</p>	<p>Traffic and small lot concerns are addressed in detail within the Council Report.</p> <p>The proposal seeks to limit outward expansion of Berry through providing homes within a defined growth boundary (see GMS 2014). The land is close to Berry Town Centre (closer than some parts of the Huntingdale Park Estate) and is not significantly constrained by flooding or vegetation. The proposal optimises development of available land to provide housing for a range of household types. Rural acreages or larger blocks in this location would represent a less efficient and more costly way to develop land in the area and would be inconsistent with adopted strategic plans.</p> <p>One of the key aims of the proposal is to create a leafy and well-landscaped addition to Huntingdale Park Estate with DCP controls requiring generous tree planting (on streets and in yards) and additional landscaped area on smaller lots. The DCP requires retention of existing trees wherever possible, including those along the western boundary (behind Parker Crescent). However, these trees are to be retained in the rear yards of homes in this area rather than within a separate reserve which would be difficult to maintain and would provide little recreational value. Some tree planting is proposed within the drainage reserve with a walking and cycling link to provide recreational value. This will be enhanced by street tree plantings and the landscape screen adjacent to the southern boundary.</p>

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				The DCP seeks to integrate, rather than segregate, new development in the Hitchcocks Lane area with existing neighbourhoods in Huntingdale Park Estate.
41.	8/1/21	Resident of Berry	<i>Not in favour of another development in Huntingdale. Small blocks will clutter Berry. Develop land in Berry away from Huntingdale. Do not overcrowd estate. If need to develop please make acreage or large blocks. Do not allow access to Huntingdale Park Road and more traffic where kids ride and play. Please have entry/exit off Schofields Lane. Keep iconic trees behind Parker Crescent, suggest reserve to keep trees and segregate estates.</i>	See comments above.
42.	8/1/21	Resident of Berry	<p>Number of lots excessive - existing Huntingdale Park Estate is lower density. Disagree with smaller 350 m² lots, especially burdening 1 and 2 Parker Crescent, the rest of Parker Crescent properties will back out onto 500 m² lots. DCP states keep trees behind Parker Crescent lots - how will retain Liquid Amber tree on 350 m² lot?</p> <p>Building area not exceeding 50 % of lot area would encourage 2-storey dwellings especially on smaller lots - images of examples of housing on smaller lots is mainly single storey and misleading. The building of 2 storey dwellings would cause overlooking of existing houses and loss of privacy and views to dwellings in the existing development. Loss of views from existing properties was described as moderate loss of grassland views to be replaced by rooftop views. More realistic description is rural views replaced by 2-storey dwelling/rooftop views. Loss of views from existing properties to Coolangatta mountain not documented.</p> <p>Additional access road/s in and out of Huntingdale Estate are needed - one road in/out for potentially over 400 dwellings is not acceptable. The infrastructure of Berry (including phone, internet, parking, services) is already under pressure especially during holiday times. The addition of 150-180 dwellings would put even more pressure on this small town.</p>	<p>Small lot concerns are discussed in detail in the Council Report.</p> <p>The Planning Proposal includes a small area zoned for small lots (min. 350 m²) in the north-western corner of the subject land, directly behind Nos 1 & 3 Parker Crescent. The small lots in this location will likely face existing small lot / multi-dwelling housing opposite, on Hitchcocks Lane. Provision of 500 m² lots in this location would likely not activate/face Hitchcocks Lane and could present an extended area of side/rear fence to the street, considered a poor urban design outcome and also having sight line implications for vehicles. It is acknowledged that the trees in this location will likely need to be removed and consist of Elm trees in poor condition, with healthier Liquidambar extending along the western boundary. Trees are required to be planted on each housing lot. Impacts on existing properties on Parker Crescent are expected to be minimal, as small lots could utilise a shared driveway and existing homes on Parker Crescent sit at a higher elevation than the subject land.</p> <p>Floor space area provisions in the DCP seek to restrict building floor space (including the ground and first floor spaces of any building) to 50% of lot area, meaning on a 350 m² lot, 175 m² of floor space would be permitted (including the floor space on any first floor/second storey). The control is not a site coverage control (which apply only to the ground floor of development or building footprint). All dwellings are required to consider existing setback, privacy and overlooking controls within the DCP (see Chapters G12 and G13) and there are extra requirements for two storey dwellings. Existing homes within Huntingdale Park Estate sit at higher elevations than those in Hitchcocks Lane with the closest properties along the eastern side of Parker Crescent separated from the subject land by their rear yards. Therefore, any potential impacts on privacy and overlooking are envisaged to be manageable during the design and assessment phase of development.</p> <p>The submitted Visual Impact Assessment (Paa Design May 2018) considered views from various areas within Huntingdale Park Estate (viewpoints 8, 9, 10 & 11) and found impacts to range from negligible to moderate. The highest impacts on views would be experienced from Parker Crescent. Whilst the VIA did not specifically mention the distant views of Coolangatta (Culunghutti) mountain, a small number of homes may have these views impacted and this level of detail would be assessed during the DA stage of development. It was noted that most views of the proposed development would be similar to the existing views of residential development over Huntingdale Park Estate and that the Hitchcocks Lane subdivision area has been the subject of growth investigations for many years, with recent growth plans indicating the area was slated for future development from 2012 onwards. As landscaping and trees mature over time, initial view impacts associated with residential development are expected to soften.</p> <p>Population growth can support additional service provision and infrastructure investment, as well as provide additional local spending for small businesses in town. It is recognised that Berry is a busy tourist destination. Please refer to detailed discussion in Council Report regarding infrastructure planning and provision.</p>
43.	9/1/21	Resident of Berry	<i>Live on Huntingdale Park Rd and road is already busy. With small children this a concern. Schofields Lane should be another access point to stop overuse of Huntingdale Park Rd.</i>	Traffic concerns (including the Schofields Lane suggestion) are addressed in detail within the Council Report.
44.	9/1/21	Resident of Berry	<i>Volume of traffic too much on Huntingdale Park Road and Hitchcocks Lane if this is only entrance, especially too great in event of an emergency. Have all traffic entering and exiting via Schofields Lane, install a large timber fence and divide the two estates along Hitchcocks Lane - very similar to estates in Worrige. If this not an option, have all traffic diverted onto roundabout opposite number 22 Huntingdale Road - this road is not finished and was temporary road used for freeway construction.</i>	<p>Traffic concerns (including the Schofields Lane suggestion) are addressed in detail in the Council Report.</p> <p>The DCP seeks to integrate, rather than segregate, new development in the Hitchcocks Lane estate with existing neighbourhoods in Huntingdale Park Estate to encourage community interactions and foster welcoming, inclusive neighbourhoods and spaces.</p>
45.	9/1/21	Resident of Berry	<i>Traffic currently substantial on only road access Huntingdale Park Road. Increased traffic will have safety impacts, especially children, road maintenance and ongoing repairs. Will be unmanageable during construction of estate. Creating an additional entry point at Schofields Lane would reduce the proposed impact on the people and infrastructure which is currently at capacity. Additional entry point</i>	Traffic and small lot concerns (including the Schofields Lane suggestion) are addressed within the Council Report. A park with a playground and other embellishments is to be constructed between Huntingdale Park Road and Hitchcocks Lane using collected developer contribution funds. Additional community engagement opportunities for this project are intended as part of the required amendment to the Shoalhaven Contributions Plan 2019.

Note: All efforts have been made to provide up-to-date details on planning requirements. Planning controls as described apply as at January 2021. If you are seeking to purchase property or obtain development approval, obtain your own site-specific advice.

			<p>would also assist with any emergency vehicle which may need to access the area, especially ambulances, taking in to account the ageing population in the area and RFS/Fire in case of bush fires or house fires.</p> <p>Maintain look and feel of current estate - too many smaller blocks will not maintain continuity.</p> <p>Need designated recreation areas for families and their children. Parks, playgrounds and green spaces essential to wellbeing. Not good enough for people to have to drive to other side of Berry for recreation. Need safe, covered access to bus stop for all ages.</p>	
46 / A1	18/11/20	NSW Rural Fire Service	<p>Recognise the land is not currently mapped as bush fire prone land, however there is intention for this land to be mapped as a Category 3 hazard in the near future, in recognition of the grassland hazard to the south of the subject site.</p> <p>Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision of the land complies with Chapter 5 - Planning for Bush Fire Protection 2019. This includes, but is not limited to:</p> <ul style="list-style-type: none"> Provision of Asset Protection Zones (APZs) within the proposed lots in accordance with Table 5.3a; Access to be provided in accordance with Table 5.3b - including (but not limited to) the provision of a perimeter road to separate hazards from urban development, and, Services to be provided in accordance with Table 5.3c. 	<p>Proposal considers future bushfire hazard classification and proponent has submitted a Bushfire Hazard Assessment showing that future development can meet the requirements of Planning for Bushfire Protection (PBP) 2019.</p> <p>Specifically, the draft DCP requires provision of a perimeter road along the southern boundary, to separate development from the fire hazard to the south. Other roads will meet requirements for non-perimeter roads in PBP 2019. The perimeter road and front setbacks of lots facing the perimeter road provide enough space for the required APZs.</p>
47 / A2	15/12/20 & 16/2/21	Transport for NSW	<p>TfNSW does not object to the PP in principle as it is unlikely to have a significant impact on the state road network. TfNSW does however offer additional comments in relation to road upgrades, noise and encouraging active and public transport.</p> <p>Unnamed link road Constructed as part of the Berry Bypass and currently TfNSW owned land. TfNSW intending to dedicate as public road. Will become Council public road. Upon dedication, opportunities may exist for road to be used as an access point for the future development (any use prior requires TfNSW owners' consent).</p> <p>Any required improvements (e.g. widening, shared paths etc) must occur within the dedicated road reserve west of the Princes Hwy (no impacts to Princes Hwy road corridor). Must ensure that post-development stormwater management and flooding impacts are controlled so adverse impact upon the Princes Hwy.</p> <p>Noise/acoustic requirements As previously advised, concerned that higher order treatment may be required to adequately mitigate noise levels for future development. Note ongoing concerns raised by existing residents in close proximity.</p> <p>Supportive of noise mitigation being investigated and installed where necessary at subdivision stage as opposed to reliance on individual house design and construction requirements. Noise barriers generally preferred over architectural treatments (provides benefits indoors and outdoors). Consistent with TfNSW road noise policy.</p> <p>Any noise barriers must be located within private land, not Princes Hwy road reserve. Also consider ongoing maintenance – TfNSW will not accept any maintenance responsibility.</p> <p>Applicants Noise Assessment reviewed: calculations based on the earth mound and single storey residences and not on possible double storey residences. Therefore, the required noise reductions will be much higher. E.g. highest external noise level specified (i.e. 62dBA in the day and 57 dBA at night) does not apply to a 2 storey residence and would be much higher. No specific details on the earth mound</p>	<p>Unnamed link road comments are noted –DCP contains controls to ensure upgrade does not create adverse stormwater or flooding conditions to Princes Highway (Section 6.5.2 (5)).</p> <p>Requirements to address noise issues have been strengthened and clarified in the DCP in response to submissions and TfNSW comments. The DCP contains controls stating that any noise barriers must be contained outside the Princes Highway road reserve (A5.2), and a control has been added stating noise barriers must be minimal-maintenance (A5.3). The proponents have been advised of TfNSW concerns regarding noise barriers, noise impacts on double storey residences and have prepared additional noise report to address this issue (refer to discussion in Council Report).</p> <p>Draft Acceptable Solution AS4.1 (c) (relating to landscaping on top of earth mounds for noise mitigation) has been deleted, to avoid insinuating that landscaping can be used as a noise attenuation measure. A note stating that landscaping cannot be used to mitigate noise and should only be used to soften the appearance of noise attenuation treatments has also been added. In addition, landscaping requirements for noise barriers (to reduce/soften their visual impact) have been moved to Section 6.3 to group all landscape screening and noise mitigation controls together.</p> <p>DCP controls have been strengthened to clarify an Acoustic Report including Noise Barrier Assessment must be submitted at the subdivision stage of development for Lot 763 (rather than deferring noise assessment to individual dwelling applications and relying on architectural and building treatments). The EPA Road Noise Policy has also been referenced.</p> <p>TfNSW's comments supporting active and public forms of transport are acknowledged. The DCP seeks to maximise opportunities for walking and cycling from subdivision and road design through to dwelling and public space design.</p> <p>The DCP prohibits direct vehicle and pedestrian access to and from the Princes Highway.</p> <p>Council's lot yield assumptions have been estimated based on proposed planning controls (minimum lot size and zoning) and differ from the proponents' design of 110 lots. The possibility for an additional 40 lots have been considered in the context of the road network and capacity. Additional assessment will occur at the subdivision stage of development when lot yields and detailed design of roads and lot layouts are provided.</p> <p>Council sought additional comments from TfNSW in response to community submissions requesting provision of an alternate road linking the proposed residential development to Schofields Lane to the south. TfNSW provided the following additional comments on 16 February 2021:</p> <ol style="list-style-type: none"> Use of the Princes Highway/Schofields Lane Intersection <p>a) TfNSW is supportive of limiting access points to the state road network for local trips. This ensuring</p>

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			<p>provided. A noise barrier assessment is required based on EPA's NSW Road Noise Policy (RNP) which outlines road noise criteria.</p> <p>Comments on draft DCP: Section 6.3: AS 4.1(c): "Landscaping on top of small earth mounds will assist with screening and to reduce potential noise impacts from the highway". TfNSW is concerned that this statement could be interpreted by the reader that landscaping is a noise attenuation measure. Landscaping is not and should not be used as a noise attenuation measure.</p> <p>The draft DCP chapter currently does not provide requirements for a noise barrier assessment, implying that a noise wall does not need to be considered. A noise barrier assessment is required at subdivision stage to determine extent and height of barrier and will need to satisfy noise criteria in EPA Road Noise Policy. Need to reference EPA Road Noise Policy in 'Advisory information' section of draft DCP Chapter. Noise barriers should be designed based on TfNSW's specification D&C R271 - Design and Construction of Noise Walls. Noise barrier needs to be a permanent solution which does not require ongoing maintenance (e.g. a concrete wall).</p> <p>Promotion of sustainable transport</p> <p>Appropriate facilities and services need to be provided for walking, cycling and public transport. TfNSW strongly supports new development which will reduce car dependency and encourage the use of sustainable modes of travel including buses, bicycles and walking for local trips. TfNSW therefore suggests that the PP ensure that it supports, to the greatest extent possible, the aims and objectives of the State Government policies dealing with this matter. This including adequate servicing by public transport (refer to the Roads and Maritime Services (RMS) Guide to Traffic Generating Developments October 2002) and the provision of cycling and pedestrian facilities within the PP area and linking to existing facilities.</p> <p>General Comments</p> <p>No vehicular and pedestrian access to/from the PP site will be permitted directly from the Princes Highway. Notes that the PP report prepared by Shoalhaven City Council that is dated October 2020 is based on the rezoning enabling up to 150 residential allotments although the submitted traffic assessment is based on 110 lots.</p>	<p>that the number of local vehicle trips that are taken using the state road network (i.e. the Princes Highway) is minimised. TfNSW would be concerned that the additional access via Schofields Lane would be used to enable local trips (e.g. to Berry). As such, based on the information currently available, TfNSW is unlikely to be supportive of an additional access point to the PP site and the adjacent residential land/Huntingdale Park Estate to and from the state road network as suggested.</p> <p>b) TfNSW notes the Council's comment that the provision of an access point via Schofields Lane would potentially increase pressure to rezone additional land to the south of this current PP from rural to residential. This would further increase vehicle movements via the Princes Highway/Schofields Lane intersection for local trips.</p> <p>c) Noting the initial comment above (i.e. unlikely to be supportive of an additional access point to the PP site), further information would be required to enable TfNSW to make an informed decision of the impact that this additional access point would have and what additional works would be required to the existing Schofields Lane connections with the Princes Highway. As such, an updated Traffic Impact Study (TIS) would be required that considered the increased traffic volumes from both the PP and future land rezoning's, mitigation measures required to address safety/traffic concerns (e.g. acceleration lanes), mechanisms for funding any identified works, desire/impacts of local trips on the state road network, etc.</p> <p>2. General Comments</p> <p>a) Please note the above comments relate to connections to and from the state road network only. No consideration has been given to the suitability of the existing local road network (e.g. Schofields Lane) to deal with the increase in both vehicular and pedestrian traffic.</p> <p>b) The Princes Highway is a state/classified road that is managed by TfNSW. Any works within the Princes Highway road reserve would require approval under Section 138 of the Roads Act 1993 from TfNSW.</p> <p>c) TfNSW has no current plans or funding to investigate, develop, and deliver road infrastructure upgrades along the Princes Highway at its existing connections with Schofields Lane.</p> <p>These additional comments are noted and are discussed further within the Council Report.</p>
48 / A3	13/1/21	NSW Department of Primary Industries (DPI) - Agriculture	<p>Despite part of the land being mapped as Biophysical Strategic Agricultural Land by SEPP (Mining, Petroleum Production and Extractive Industries) 2007, the land has been identified as an urban investigation area in the Shoalhaven Growth Management Strategy Version 1 which was endorsed by the NSW Department of Planning on 20 May 2014.</p> <p>Note that the Gateway determination (condition 1) did not require the preparation of a land capability assessment as identified in the Shoalhaven Growth Management Strategy Version 1 (section 7.3.7 page 87) to determine the agricultural value of the land nor did the Gateway determination require the preparation of a land use conflict risk assessment to determine the potential impacts of the proposed future residential land uses on nearby agricultural land uses.</p> <p>Regrettable that the supporting studies for the proposal have not investigated the potential impacts on agricultural land, resources or activities in the vicinity. Though it is acknowledged that the proposed residential zoning of the site reflects the strategic planning framework for Berry.</p> <p>Support Draft Chapter N3: Berry Residential Subdivision of the Shoalhaven DCP 2014 which proposes a perimeter road and a 12m wide vegetated landscape screen along the southern boundary of the land proposed to be zoned R2. As well as the advantages these features will provide for visual amenity and bushfire protection,</p>	<p>The land is currently zoned for rural purposes and part of the land has been mapped as Biophysical Strategic Agricultural Land.</p> <p>The proponent's original Planning Proposal (Cowman Stoddart, Sept 2017, pp.54-58) included an assessment of the agricultural viability of the subject land and an Agricultural Assessment was submitted as an annexure to this report (Agricultural Report, Cowman Stoddart, June 2017). These reports can be accessed using the link to the proponent's report within the Planning Proposal Document Attachment 3 (page 50). The Agricultural Report concludes:</p> <p>'The property is not part of a viable rural holding such as a dairy farm and the only agricultural implication is the loss of 14 hectares [since reduced to 11 hectares] of grazing land which has had minimal agricultural use, being used for opportunity beef cattle grazing. It is also noted that Council has issued approval for a primitive camping ground on this land which would remove its ability for agricultural use and further indicates the limited agricultural capacity this land has. The existing equine enterprise (which uses the property improvements [to the south]), will not be affected by the proposal.'</p> <p>The rezoning of the land will result in a loss of 11 ha of rural land, but the proposal is supported by the Shoalhaven Growth Management Strategy 2014, which considered rural land issues and identified the subject land for residential expansion.</p> <p>The landscape screen will provide benefits in terms of separating residential and rural land uses and will assist in managing potential land use conflicts. The residential area will be separated from the rural land to the south by a front setbacks (min 5 m wide), perimeter road (min 16 m wide) and the landscape screen (12 m wide), providing a total buffer of approximately 33 m. It is expected that the rural land to the south will be used for stock grazing, or an extension of the proposed equestrian uses. The document: Buffer Zones to Reduce Land Use Conflict with Agriculture An Interim Guideline November 2018 recommends a buffer distance of 50 m between land used for stock grazing and sensitive land uses (including residential). Stock grazing has the smallest required buffer</p>

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			<p>Council should consider whether they are adequate to mitigate any potential land use conflict between the future residential land uses and agricultural activities on the land to the south. The landscaped area and perimeter road (depending on the width of the road) could provide an important buffer between any incompatible land uses. More information on buffers to mitigate conflict with agriculture is available here.</p>	<p>distance, recognising the generally low-impact nature of this activity. It is noted stock are currently grazing on the subject land which is located directly adjacent to the new Huntingdale Park Estate. The proposed buffer of 30 m is considered sufficient in the context of the continued low-impact rural uses expected in the area.</p>
49 / A4	21/1/21	Shoalhaven Water	<p>Water supply capacity will exist for the planning proposal. The Berry water supply system with the proposed lead in water infrastructure (a DN 200 Main to maintain/improve water pressure to the upper reaches of Huntingdale Park Estate) will be able to support the existing development and the planning proposal.</p> <p>No capacity issues are raised in relation to provision of sewer services. The area can be serviced by a new sewerage pumping station (SPS) or parts of the area could be designed as pressure sewer area. Any future approved subdivision development will be required to pay Section 64 (sewerage services) Contributions for each new lot created at the time of release of the lot/s. The applicant of any subdivision will be required to extend the gravity sewer and pressure sewer reticulation systems to and within a future approved subdivision to serve all lots at the developers cost. If pressure sewer was considered, then the developer will be required to pay Council for each lot served by a pressure sewer unit as set out in Council's Fees and Charges at the time of release of the lot/s.</p>	<p>The planning proposal has the potential to impact on the provision of adequate water pressure to the upper reaches of Huntingdale Park Estate; however, Shoalhaven Water have advised that a lead in DN200 main is specified in the current Water Supply Development Servicing Plan to connect the main on Kangaroo Valley Road with the upper north-western corner of Huntingdale Park Estate. The construction of this main will ensure water pressure is maintained to the upper reaches of Huntingdale Park Estate (with or without the additional development associated with the planning proposal). The construction of this main is development dependent and will be funded by Shoalhaven Water.</p> <p>Therefore, the planning proposal will have no adverse impacts on the surrounding water network and sufficient capacity exists to cater for the proposed development. Additional augmentation of the water supply network adjacent to the planning proposal land (e.g. along Hitchcocks Lane) may be required, and will be investigated at subdivision stage, with the costs of any augmentation to be borne by the developer. In addition, to encourage water efficiency and additional stormwater capture, the DCP requires construction of rainwater tanks (in excess of BASIX requirements) for all homes within the estate, similar to the requirements elsewhere within Huntingdale Park Estate.</p> <p>Comments relating to sewer capacity are noted, indicating the design of the sewer system can be detailed further at subdivision stage.</p>
50/ A5	28/1/21	Endeavour Energy	<p>Subject to the following recommendations and comments Endeavour Energy has no objection to the Planning Proposal.</p> <p>Endeavour Energy has noted that the Planning Proposal is supported by an Infrastructure Assessment was prepared by Allen Price and Scarratts and consultation was undertaken with AKH Design, who is a Level 3 Certified ASP - certified to complete design work for Endeavour Energy's assets.</p> <p>Electricity network infrastructure in the area is as follows:</p> <ul style="list-style-type: none"> No easements benefitting Endeavour Energy. 11,000 volt / 11 kilovolt (kV) (constructed at 22,000 volts / 22 kV) high voltage overhead power lines on eastern adjoining Lot 14 DP 1188080. Low voltage underground cables to part of the opposite side of Hitchcocks Lane. <p>In regard to the 11kV (constructed at 22 kV) high voltage overhead power lines on Lot 14 DP 1188080, although not held under easement, these are protected assets and deemed to be lawful for all purposes under the Electricity Supply Act 1995 (NSW). Essentially this means the owner or occupier of the land cannot take any action without the approval of Endeavour Energy.</p> <p><u>Capacity</u></p> <p>Whilst there are a number of distribution substations in proximity of the site which are likely to have some spare capacity, it will not be sufficient to facilitate the proposed development. Accordingly, an extension and / or augmentation of the existing local network may be required. However, the extent of the works will not be determined until the final load assessment is completed. Endeavour Energy's preference is to alert proponents / applicants (and Council) of the potential matters that may arise as further development of areas continues to occur.</p>	<p>The Infrastructure Assessment submitted with the planning proposal provided an overview of the required works to service the new subdivision. It is expected that this will involve construction of a new high voltage loop and two new padmount substations to convert to low voltage power to lots, although final amount and location will be subject to detailed electrical design at subdivision stage. New street lights will also be provided. This assessment also stated that existing electricity infrastructure is expected to cope with the increase in load caused by the new residential development without any augmentation required.</p> <p>Endeavour Energy has not raised any capacity issues at this stage with extension of the local electricity supply network to occur at the subdivision stage of development.</p> <p>Endeavour Energy also provided detailed comments relating to the various policies and standards that future subdivision proposals would need to consider at detailed design stage and comply with throughout the life of the development. These have been passed on to the proponent for consideration as they are relevant to later stages of development, should the land be rezoned.</p>

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Glossary and Acronyms

BASIX – The Building Sustainability Index (BASIX) is a scheme introduced by the New South Wales Government in 2004 to regulate the energy efficiency of residential buildings. It offers an online assessment tool for rating the expected performance of any residential development in terms of water efficiency, thermal comfort and energy usage. It aims to reduce water consumption and greenhouse gas emissions by 40% compared to pre-BASIX (2004) buildings.

Bulk and scale – Bulk refers to the mass or size of something large, and a 'bulky' item means something that appears larger than it is. Scale means relative dimensions to ground level, including height, bulk and number of storeys.

Complying Development Certificate (CDC) - A CDC is a combined planning and construction approval for complying development.

Complying Development - Complying development allows straightforward development to be approved through a fast-track assessment by a council or an accredited certifier. The majority of exempt and complying development types and their development standards are found in the State Environmental Planning Policy (SEPP) for exempt and complying development.

DA (Development Application) - A development application is a formal request to undertake development (i.e. build or modify your home or business site). A DA approval allows development to occur (usually subject to conditions).

Development Control Plan (DCP) – A DCP is a written document that supports planning controls in the Local Environmental Plan (LEP). The DCP provides detailed planning controls and guidelines for certain types of development and/or localities.

Dual occupancy - means 2 dwellings on one lot of land but does not include a secondary dwelling. Dual occupancy can consist of attached dwellings or detached dwellings.

Environmental Planning and Assessment Act 1979 (EP&A Act) - is an Act to institute a system of environmental planning and assessment for the State of New South Wales.

Flood planning level - means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Floor space/gross floor area (GFA) - means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

GMS – Growth Management Strategy

Latent market demand - A latent market, for **example**, is a market in which there is **demand** for something. However, that product is not available, i.e., there is no supplier. If a company provided that product and started to sell it, people would buy it. In this context, market conditions and demographic trends indicate there is latent demand for smaller homes and entry-level housing products and small lots in Berry and Shoalhaven.

Local Environmental Plan (LEP) – Local Environmental Plans (LEPs) guide planning decisions for local government areas. They do this through zoning and development controls, which provide a framework for the way land can be used. LEPs are the main planning tool to shape the future of communities and also ensure local development is done appropriately.

Low Rise Housing Diversity Code – Part of SEPP Exempt and Complying Development, the new Low Rise Medium Density Housing Code will allow one and two storey dual occupancies, manor houses and terraces to be carried out under a fast-track complying development approval.

Multi-dwelling housing - means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Passive design principles - 'Passive design' is design that takes advantage of the climate to maintain a comfortable temperature range in the home. Passive design reduces or eliminates the need for auxiliary heating or cooling, which accounts for about 40% (or much more in some climates) of energy use in the average Australian home.

Planning Proposal (PP) - A Planning Proposal is the first step in preparing or changing a Local Environmental Plan (LEP). It is a document that explains a request or intended effect of a proposed LEP and details the justification for making that plan.

State Environmental Planning Policy (SEPP) - State Environmental Planning Policies or SEPP's are environmental planning instruments that deal with matters of State or Regional environmental planning significance. The effect of a SEPP is that it can override a LEP and can prohibit certain types of development or can allow development in a certain zone.

TfNSW – Transport for NSW, State Government Transport and Roads Agency

1% AEP Flood Extent - A 1 in 100 year flood is a flood event that has the probability of occurring on average once every 100 years, i.e. there is a 1% chance of a flood of this size occurring at a particular location in any given year. This does not mean that if a location floods one year that it will not flood for the next 99 years. Nor, if it has not flooded for 99 years that it will necessarily flood the next year. Some parts of Australia have experienced more than one '1 in 100 year' floods within a decade of each other. Within the Floodplain Risk Management Study and Plan the '1 in 100 year' flood is referred to as the 1% AEP (Annual Exceedance Probability) flood event.

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PLANNING PROPOSAL – PP029

Shoalhaven Local Environmental Plan 2014

Hitchcocks Lane Berry Residential Investigation Area

Prepared by
Strategic Planning, City Futures
Shoalhaven City Council

File: 56367E
Version 3 - Final
Date: April 2021

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Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

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DE21.42 - Attachment 2

Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

Introduction

This Planning Proposal (PP029) seeks to rezone land at the south-western edge of the town of Berry to allow residential development. Specifically, this PP seeks to rezone the subject land from RU1 Primary Production to R2 Low Density Residential and allow for a mix of lot and house sizes. It is estimated that the proposal will enable between 110 - 150 lots on the subject land and between 120-165 dwellings (primarily detached single houses and some dual occupancy).

Subject Land

The subject land is located on the southern edge of the Berry township, on the western side of the Princes Highway. The subject land is legally described as part Lots 762 and 763 DP 1224932 and part of the Hitchcocks Lane Road Reserve (UPN 96829). Note: the Hitchcocks Lane Road Reserve was added to the subject land in accordance with Council's resolution on 1 September 2020 (MIN20.610).

The land measures approximately 11.02 hectares in area. The land is gently to moderately inclined and has an elevation of approximately 8 to 23 metres AHD. The eastern portion of the site is generally flat or gently inclined, with the highest point of the land located in the south-western corner. A drainage depression flows through the site to the south-east toward Broughton Creek. The site is largely cleared and maintained as pasture. There is one large mature eucalypt in the south-western corner of the site and avenues of mature liquidambars line the western border.

Maps showing the location and boundary of the subject land are provided in **Figures 1 and 2** below. There are six agricultural outbuildings in the north-eastern corner of the site which were previously used for livestock activities associated with the Graham Park stock breeding centre. These are visible on the aerial photograph provided as **Figure 3** below.

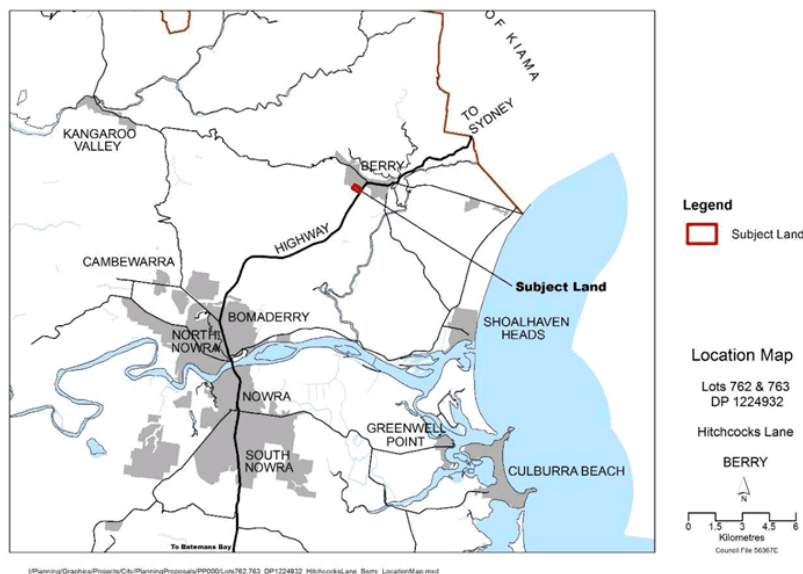


Figure 1: Location Map

Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

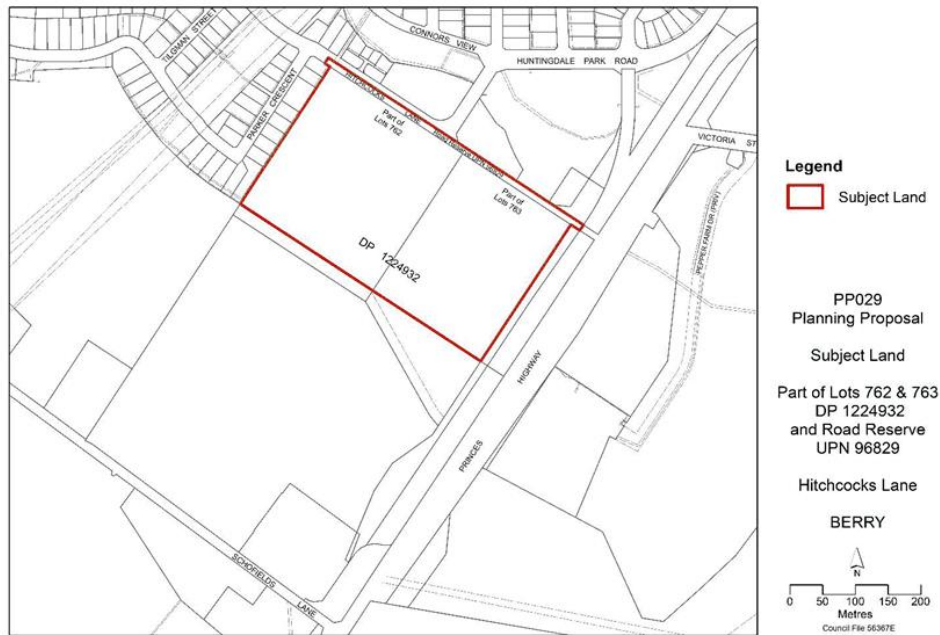


Figure 2: Subject Land Map



Figure 3: Aerial Photograph

DE21.42 - Attachment 2

Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

Surrounding Area

Situated at the footslopes of Berry Mountain, the subject land drains to Broughton Creek via a drainage depression on the subject land and two intermittent watercourses (not located on the subject land). The drainage depression and intermittent watercourses are subject to localised flooding. Forested ridgelines and escarpments are located to the west and distant north. Views of the ridgelines and escarpment are available from various areas throughout Berry including the village and the Princes Highway. The landscape is also defined by rural pastures associated with the current and historic agricultural uses of the area. Recent development, including the construction of the Princes Highway bypass and development to the west and south of the town, has altered the experience of some of these views, yet the area retains significant scenic qualities.

The Huntingdale Park residential area is located directly to the north and west of the subject land. Huntingdale Park is a modern housing estate, developed over the past decade. As at September 2020, Huntingdale Park Estate contains 253 lots in a mixture of lot sizes, and areas zoned for medium density housing on the northern side of Hitchcocks Lane.

The Princes Highway runs directly alongside the eastern border of the subject land. The Princes Highway was upgraded to a four lane highway to bypass the centre of Berry in 2017. Land to the south and south-west is rural land, traversed by a channelised intermittent watercourse and opportunistically grazed.

On the eastern side of the Princes Highway (opposite the subject land) is The Arbour, an over 55's retirement village (110 dwellings) and the Berry Bupa Aged Care facility. The historic Berry Town Centre is located east of the Princes Highway, which provides for the day to day needs of local residents and serves as a very popular tourist destination. It is approximately a 1.6 km walk from the subject land (at the intersection between Hitchcocks Lane and Huntingdale Park Road) to the Berry Town Centre (at the intersection between Queen and Alexandra Streets).

A series of site photos taken from Hitchcocks Lane are provided in **Figures 4-7**. A comprehensive assessment of the landscape qualities of the area and character of surrounding development is provided in the accompanying Visual Impact Assessment and Urban Design Guidelines Report by Peter Andrews and Associates (paa Design), dated May 2019, which is also included as an Attachment to this PP.

Site Photos



Figure 4: View of western boundary of subject land, looking south.

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Figure 5: View of subject land looking south from Hitchcocks Lane.



Figure 6: View of subject site looking east from Hitchcocks Lane.
Mature trees are located within the (unformed) Hitchcocks Lane road reserve.



Figure 7: View looking east down Hitchcocks Lane/Parker Crescent intersection
The subject land is visible in the background to the right.

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Background

Land Use Planning History (post 1950)

The subject land was subdivided from the former “Graham Park” complex in 2016. Graham Park was an artificial stock breeding centre built by the NSW Milk Board in the 1950s and the first of its kind in Australia. The centre closed in the 1980s. Graham Park was subsequently acquired by Shoalhaven City Council and used by the University of Wollongong (UOW) as an educational facility until the early 2000s. The former administrative buildings on Lot 601 DP 1188616 (land to the south of the subject land and not part of the Planning Proposal) are currently used as a place of public worship.

Council initially considered future urban expansion opportunities on this edge of Berry in late 2002 during preparation of a draft Growth Management Strategy (GMS). At this time, the sale of the land by Council was proposed and future possible uses for the land were canvassed. Council considered a report on this matter on 17 September 2002, and the concept plan produced at that time identified the subject land as “possible urban expansion” area (as shown in **Figure 8** below).

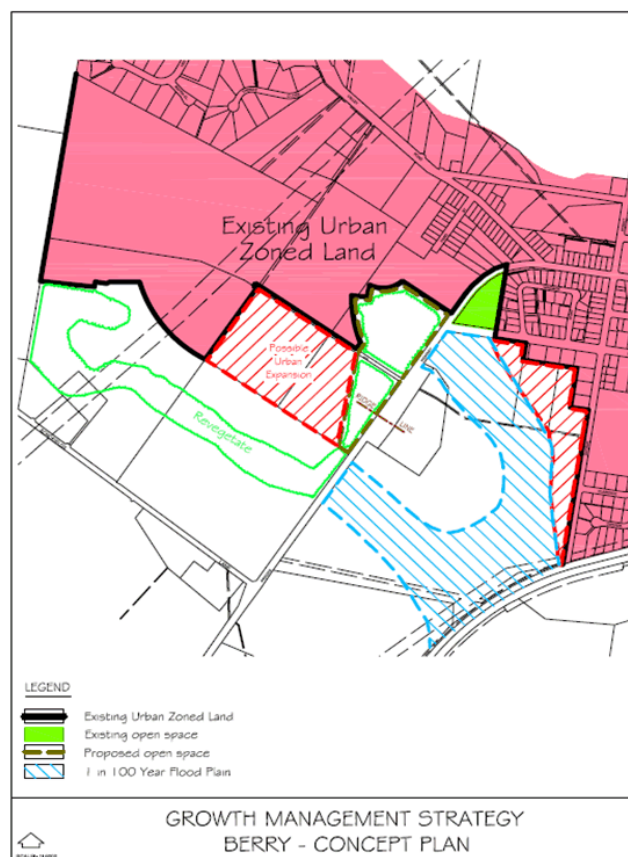


Figure 8: Concept Plan from 2002 Draft GMS

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The land was ultimately identified as a Long Term Investigation Area (LTIA) in the *Shoalhaven Growth Management Strategy (GMS) (Version 1)* which was finalised by Council and endorsed by the NSW Government in 2014. The relevant map from the GMS is provided as **Figure 9** below.

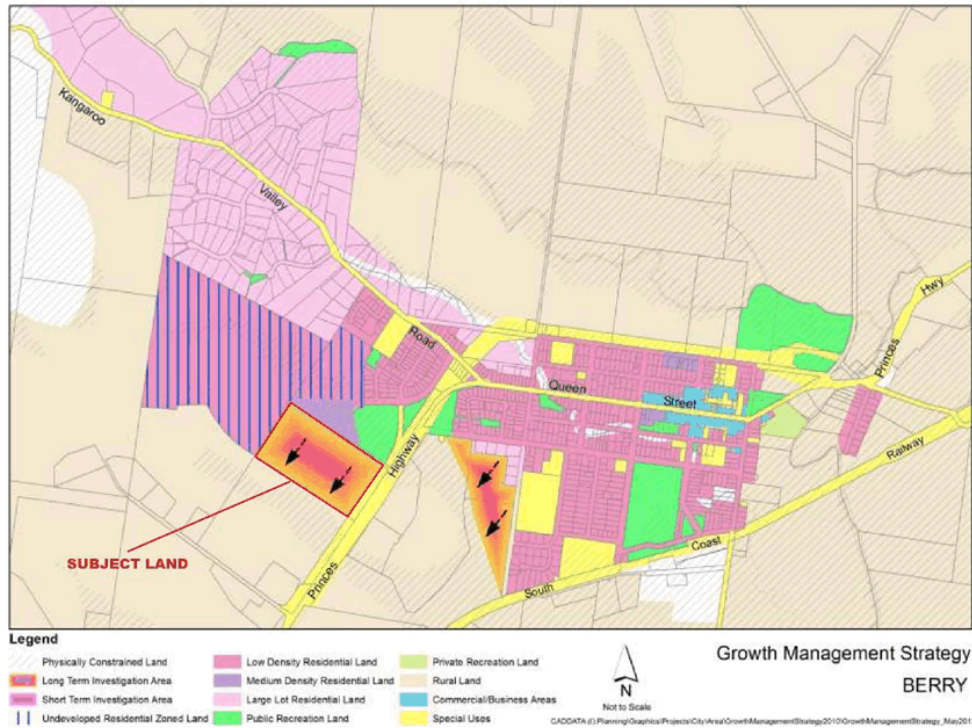


Figure 9: GMS 2014 Map showing subject land as long-term investigation area

The south-western edge of the LTIA aligned with the edge of the adjacent existing residential zone (developed as Huntingdale Park Estate). The intent of this alignment is to limit urban expansion of Berry at this location, defining a consistent urban edge.

Lodgement of Planning Proposal Request

On 8 September 2017, Council received a request from Cowman Stoddart Pty Ltd (the proponent) to prepare a Planning Proposal to:

- Rezone Lots 762, 763 and part of Lot 764 from 'RU1 Primary Production' to 'R1 General Residential'. This area consisted of land between Hitchcocks Lane in the north down to Schofields Lane in the south.
- Apply a minimum lot size of 500 m², allowing for an area of smaller lots (350 m²).
- Apply a maximum building height limit of 8.5 metres.

The proponent's submission included a Planning Proposal document and a range of preliminary supporting studies. The original proposal sought to rezone an area measuring

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15 hectares of developable land, extending past the area identified for urban expansion in the GMS.

Council's Development Committee considered this proposal on 14 November 2017. The Committee resolved to prepare a modified Planning Proposal (to rezone the land to R2 Low Density Residential) and to limit the area to be rezoned to the extent identified as Long-Term Investigation Area (LTIA) in the adopted GMS. Additional urban expansion southwards towards Schofields Lane is not supported by strategic growth plans.

The Committee resolved (under delegation) on 14 November 2017 as follows:

1. *Prepare a Planning Proposal to rezone part (as detailed in the plans within this report) of Lots 762 and 763 DP 1224932, Hitchcocks Lane, Berry, to an R2 - Low Density Residential Zone with:*
 - a. *A 500 m² minimum lot size; and*
 - b. *An 8.5 m maximum height of buildings.*
2. *Forward this Planning Proposal to the NSW Department of Planning and Environment for a Gateway determination with a request that the determination be subject to a condition allowing up to 25% of the site to be provided with a lot size as small as 350 m² subject to specialist studies and community consultation.*
3. *Advise the NSW Department of Planning & Environment that the following studies are considered appropriate as part of the post Gateway stage of the Planning Proposal (prior to public exhibition):*
 - a. *Stormwater assessment including conceptual design details for the proposed drainage reserve*
 - b. *Stage 1 preliminary contaminated site assessment*
 - c. *Aboriginal cultural heritage assessment*
 - d. *Flood risk assessment*
 - e. *Traffic study*
 - f. *Visual impact assessment*
 - g. *Infrastructure study and delivery plan (including "soft" infrastructure)*
 - h. *Master plan including detailed urban design and built form guidelines*
4. *Advise the proponent of this resolution and that the proposal will be subject to fees and charges for proponent initiated Planning Proposals, including a requirement that the full cost of all specialist studies be borne by the proponent.*
5. *Advise the Berry Forum of this resolution.*
6. *Consider a report on the Planning Proposal prior to public exhibition.*
7. *Request a future report that provides options for a policy framework for considering Planning Proposals that accelerate consideration of an area ahead of its timing in Council's adopted strategic plans.*

A Planning Proposal (PP) was forwarded for a Gateway Determination as the next step in the Planning Proposal process. A Gateway Determination was issued on 3 April 2018 by the NSW Department of Planning, Industry and Environment (DPIE) authorising the PP to

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proceed, subject to completion of technical studies, public exhibition, and consultation with public authorities.

Extensions to the timeframe for completion were issued on 22 October 2019 to allow for completion of technical studies and public exhibition. An extension to complete the Planning Proposal was granted to 3 October 2020. This deadline has now lapsed; however, the Planning Proposal remains current and under consideration. NSW DPIE reviewed the proposal and associated completed technical studies in September 2020 and endorsed the proposal for exhibition on 6 October 2020. See **Attachment 6** for a copy of the original Gateway Determination, the alteration issued in October 2019 and subsequent correspondence with the NSW DPIE.

Landscape Screening - Recommendation of Visual Impact Assessment Report

The establishment of a landscape screen to mitigate the visual impacts of residential development on the subject land was a key recommendation of the Visual Impact Assessment and Urban Design Guidelines Report (VIA/UDG) by Peter Andrews and Associates (paa Design).

On 7 April 2020, Council's Development Committee considered a report detailing the status of PP029 and seeking 'in principle' endorsement to provide a landscape screen directly adjacent to the southern boundary of the subject land. The purpose of the landscape screen is to minimise visual impacts from development on the southern approach ('gateway') into Berry.

Various options were discussed within the report regarding the design, implementation and maintenance of the landscape screen, noting the outcome would need to consider the following critical factors (refer to page 8 of the report):

- *[the screen] Is established at subdivision stage i.e. ahead of development. Note: this has been a consistent theme in early planning work done by Council for this future residential area.*
- *[the screen] Is sufficiently wide enough and under appropriate tenure to facilitate effective screening of the development from the south, as depicted in the VIA report.*
- *Addresses the long-term management arrangements for the landscape screen. It should also be cost-neutral to Council over the life of the asset.*
- *Complies with the requirements of Planning for Bushfire Protection 2019...*

It was noted within the report that the proponents supported the establishment of a 12 m wide screen on land directly adjoining the southern boundary of the subject land, which Council's Landscape Architect agreed would meet the intent of the VIA/UDG recommendation.

The agreed path forward was for the proponents and Council to enter into a Voluntary Planning Agreement (VPA) to establish the landscape screen and for the screen to be maintained in perpetuity by the landholders (currently the same owners of the subject land) via a positive covenant placed on the land. The landscape screen is proposed to be located outside the area covered by this Planning Proposal, directly adjacent to the southern boundary of the subject land. This area will retain the current RU1 Primary Production land use zone. The landscape screen will delineate the urban edge of Berry and obscure and soften the appearance of the residential development beyond.

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Figures 10 and 11 on the following page are extracted from the VIA/UDG report and illustrate the potential visual impacts of proposed development without and with a landscape screen along the southern boundary.



Figure 10: Indicative photomontage of development without landscape screening



Figure 11: Indicative photomontage of development with landscape screening

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Council Resolutions 7 April 2020 and 1 September 2020

The Council resolved at the Development Committee meeting of 7 April 2020 to:

1. *Note the update on the status of Planning Proposal PP029.*
2. *Give ‘in principle’ endorsement to locating a proposed landscaped screen adjacent to the southern boundary of the subject land as follows:*
 - a. *Minimum 12 m wide landscaped buffer incorporating an 8 m wide planting area and 2 m wide buffer on either side.*
 - b. *The landscaped buffer is to be maintained by the landholder in accordance with a positive covenant on the adjoining land.*
3. *Secure the Proponent’s commitment to implement the above measures via a Voluntary Planning Agreement to be exhibited concurrently with the PP.*
4. *Prepare a draft amendment to Chapter N3 (Berry Residential Subdivision) of Shoalhaven Development Control Plan (DCP) 2014 to incorporate the above provisions and any other key recommendations of the supporting studies.*
5. *Commence the preparation of an amendment to Shoalhaven Contributions Plan 2019 project 01OREC0009 (Land acquisition for passive open space - Princes Highway, Berry) to recognise the demand the additional lots will place on the passive open space network in the Huntingdale subdivision area.*
6. *Prepare a report on the PP package prior to public exhibition, including the updated PP, draft Planning Agreement, and proposed amendments to the CP and DCP.*

A draft amendment to *Chapter N3 Berry Residential Subdivision* of the *Shoalhaven Development Control Plan (DCP) 2014* has been prepared in accordance with part 4 of the above resolution. The draft DCP Chapter provides planning objectives and controls to guide future development outcomes on the subject land. The draft DCP Chapter aims to provide for high quality subdivision and housing design to create an attractive and liveable neighbourhood that is sensitive to the character of Berry.

Council considered the draft DCP Chapter at the Development Committee meeting of 1 September 2020 and resolved to place the Planning Proposal and draft DCP Chapter N3 on public exhibition for 60 days. The resolution is as follows:

That Council:

1. *Publicly exhibit the updated Planning Proposal (PP029), to rezone land south of Hitchcocks Lane Berry (Part Lots 762 and 763 DP 1224932); and the supporting draft Shoalhaven Development Control Plan (DCP) Chapter N3 Berry Residential Subdivision, to facilitate subdivision and housing development on the land.*
2. *Seek a minor amendment to the Gateway determination for PP029 to revise the subject land boundary and PP maps to include the adjacent Hitchcocks Lane Road Reserve (UPN 96829) to improve LEP mapping consistency.*
3. *Allow for minor changes to the PP029 and draft DCP Chapter prior to exhibition to update graphics and provisions in consultation (if required) with the proponent and the NSW Department of Planning, Industry & Environment.*
4. *Exhibit PP029 and the draft DCP Chapter N3 Berry Residential Subdivision for public comment for 60 days in accordance with the requirements of the Gateway*

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Determination issued by the NSW Department of Planning, Industry and Environment (DPIE).

5. *Continue to progress:*

- a. *A Voluntary Planning Agreement (VPA) to provide landscaping screening along the southern boundary of the subject land to mitigate visual impacts of future development, and*
- b. *A review of the Shoalhaven Contributions Plan (CP) 2019 Project 01OREC0009 (Land acquisition for passive open space - Princes Highway, Berry) to recognise the demand the additional housing lots will place on the passive open space network in the area.*

The subject land has been revised in accordance with part 2 of the above resolution.

Negotiations on a Planning Agreement to secure the Landscape Screen along the southern boundary of the land are continuing in accordance with part 5a of the above resolution.

An amendment to the *Shoalhaven Contributions Plan (CP) 2019* to provide for the open space needs of the area is being prepared for exhibition, in accordance with part 5b of the above resolution. This review includes investigating embellishment of the future proposed park to the north of the subject land.

The draft Planning Agreement and Contributions Plan update will be publicly exhibited at a later date.

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Part 1 – Intended Outcome

To amend the *Shoalhaven Local Environmental Plan (LEP) 2014* to facilitate subdivision of the subject land for housing. In addition, to enable for a mix of lot and house sizes to provide greater local housing choices in a manner compatible with the low-density character and scenic qualities of Berry.

Part 2 – Explanation of Provisions

The intended outcome will be achieved by the following proposed amendments to *Shoalhaven LEP 2014*:

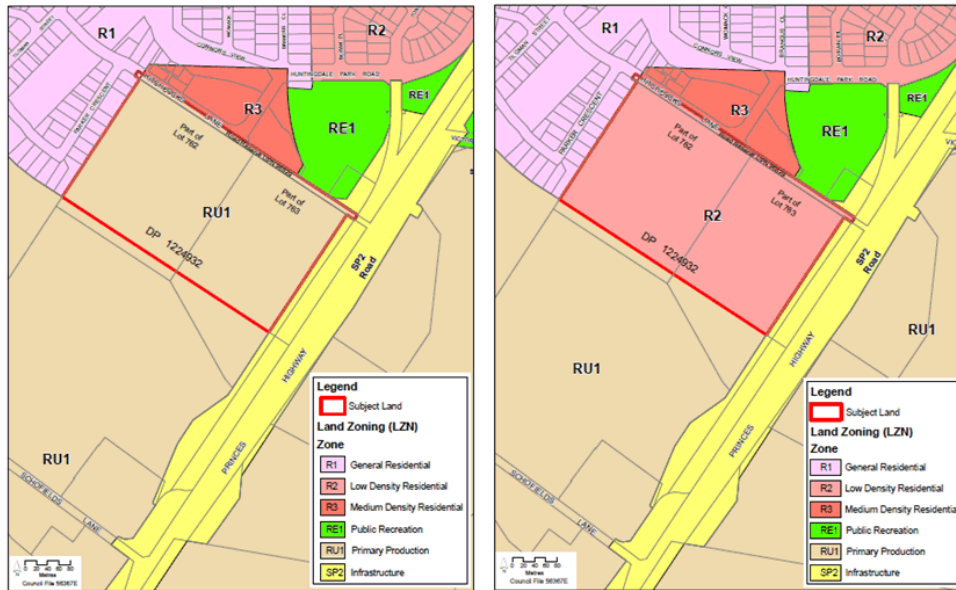
- Amend the Land Zoning Map for the subject land south of Hitchcocks Lane, Berry to rezone the land from RU1 Primary Production to R2 Low Density Residential, as shown in **Map 1**.
- Amend the Height of Buildings Map for the subject land south of Hitchcocks Lane, Berry to allow a maximum permissible building height of 8.5 metres, as shown in **Map 2**.
- Amend the Minimum Lot Size Map for the subject land south of Hitchcocks Lane, Berry to allow the land to be subdivided into lots measuring a minimum of 350 m², 500 m² and 700 m² as shown in **Map 3**. The Drainage Reserve is proposed to have a minimum lot size of 1 ha, allowing this area to be subdivided and managed as one land parcel, consistent with its intended purpose for stormwater (and floodwater) conveyance.

A draft amendment to Chapter N3 (Berry Residential Subdivision) in the *Shoalhaven Development Control Plan (DCP) 2014* was exhibited concurrently with this PP. DCP Chapter N3 provides detailed guidance on subdivision and housing development to assist in achievement of the intended outcomes outlined in this PP.

To mitigate the visual impacts of development, a draft Planning Agreement between Council and the landowners is being prepared to secure the establishment of a landscape screen along the southern boundary of the subject land. The terms of this Planning Agreement are currently being negotiated and the draft Planning Agreement is proposed to be publicly exhibited separate to this PP.

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Land Use Zones (LZN) Map



Map 1: Existing (left) and proposed (right) Land Use Zones

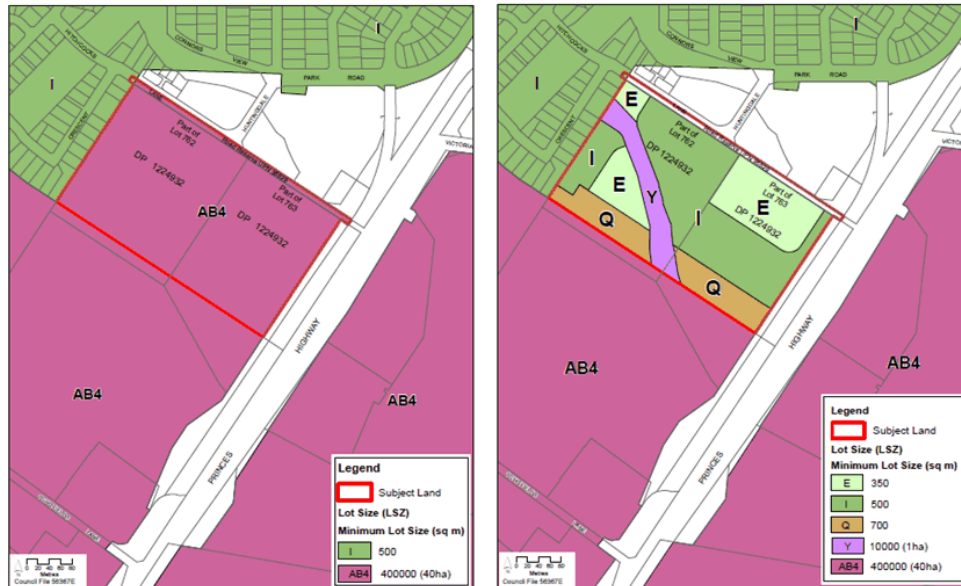
Height of Buildings (HOB) Map



Map 2: Existing (left) and proposed (right) allowable Height of Buildings

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Minimum Lot Size Zones (LSZ) Map



Explanatory Notes on the proposed Minimum Lot Size Map

It is estimated that this PP could facilitate subdivision of approximately 150 residential lots on the subject land. A range of lot sizes are proposed across the site to encourage housing choices to meet a wide range of local housing needs.

Most of the subject land will have a minimum allowable lot size for subdivision of 500 m², consistent with the surrounding lot size requirements. The mapped lot sizes show the minimum size allowable for subdivision. It is noted that much of the surrounding Huntingdale Park Estate has been developed with lot sizes larger than the minimum required.

A row of lots at a minimum of 700 m² are proposed to face the southern boundary of the land, in response to the recommendations of the Visual Impact Assessment and Urban Design Guidelines report.

The drainage depression that runs through the site is proposed to have a 1 ha minimum lot size requirement, with the area measuring 1.2 ha in size. The natural drainage depression will be retained as a drainage reserve to convey stormwater and floodwater and provide open space and will be able to be subdivided into a single land parcel, able to be dedicated to Council for ongoing future maintenance upon completion of the development.

Small lot housing

The intention of providing smaller lots is to encourage provision of some smaller homes to meet a recognised gap in the local housing market for two bedroom dwellings (and smaller-

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than-average modern 3 bedroom homes) and to provide a (relatively) more affordable housing type. Further discussion about housing supply gaps, community demographics and housing needs is provided in Part 3 Section C (Q9). The design of dwellings on small lots will be guided by the provisions of *Shoalhaven DCP 2014* (including the site-specific DCP Chapter N3 Berry Residential Development)¹, to promote homes of high quality design that are compatible with the character of surrounding development.

Smaller homes generally have minimal bulk and scale impacts on the streetscape, as they are compact in form. Well-designed smaller homes can also help achieve sustainability outcomes. Many of the older and historic homes in the centre of Berry are modest in size with generous areas of landscaping. The DCP Chapter seeks to ensure house size is proportionate to lot size, recognising there can be adverse impacts where large buildings are squeezed onto smaller lots. The DCP Chapter contains controls relating to setbacks from boundaries, floor space and landscaping requirements, orientation and sunlight access provisions and vehicle access and parking requirements to encourage sensitive house design, including for small lots. The draft DCP also emphasises provision of adequate landscaped area on lots to complement the leafy character qualities of Berry.

Consistent with the Development Committee resolution of 14 November 2017, the extent of the area allowed to be subdivided to a minimum lot size of 350 m² is limited to 25% of the total site area. Some additional subdivision of larger lots could also occur over time associated with future dual occupancy development. However, it is expected that most of the site will provide conventional-sized lots with 4 bedroom homes consistent with similar modern housing estates. These homes are typically marketed towards families with children, sea/tree changers or as holiday homes/investment properties. The provision of some smaller lots will provide homes to cater to other common household types (such as single person households, couples without children, first home buyers, downsizers etc).

Permissible housing types

The proposed R2 Low Density Residential zone in *Shoalhaven LEP 2014* does not allow housing types such as multi-dwelling housing (townhouses/villas) or residential flat buildings (units). Therefore, housing on small lots will be primarily detached single dwellings (one house per lot). The R2 Low Density Residential zone does allow for dual occupancies (two homes on one lot) and semi-detached housing (two attached homes each with their own lot of land that share one common wall, also known as a duplex). Some dual occupancy/semi-detached development may occur across the site (not necessarily confined to the smaller lots). These housing types will be subject to development controls within the *Shoalhaven DCP*, including the site-specific controls within the DCP Chapter N3 Berry Residential Subdivision¹.

The DCP Chapter has been written to embed design quality at the subdivision stage, to optimise future house design and maximise neighbourhood liveability. The DCP contains controls relating to road and lot layout, landscaping, provision of footpath links, noise amelioration and stormwater and flood management which apply to the initial subdivision/s of the land. Providing high quality subdivision design and favourable lot configurations is

¹ **A note on Complying Development:** Development Applications (DAs) for dwellings on the subject land will be assessed against the provisions of *Shoalhaven DCP 2014*, including the site-specific DCP Chapter N3 Berry Residential Subdivision. However, development able to be approved as Complying Development under *State Environmental Planning Policy (SEPP) Exempt and Complying Development Codes* may not need to comply with the requirements of the DCP. [Complying development](#) is a combined planning and construction approval for straightforward development that can be determined through a fast-track assessment pathway. To qualify as Complying Development, proposals need to meet various land and design standards within *SEPP Exempt & Complying Development Codes*.

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particularly important where some future homes could be built as Complying Development, circumventing the house design controls in the DCP¹. The DCP controls applying to house building are intentionally simple, comprising of 10 Performance Criteria, to streamline house approvals and encourage well-designed yet cost-effective housing.

Part 3 – Justification

Section A – Need for the Planning Proposal

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

Yes. Berry is recognised in the *Shoalhaven Growth Management Strategy (GMS) 2014 (Version 1)* as one of six towns having some longer term growth potential.

The subject land is identified as a long term investigation area (LTIA) for urban residential development in the GMS. The LTIA measures approximately 11.8 hectares (see **Figure 9**), which aligns with the subject land area for this proposal. The land was identified because it is contiguous with the residential area of Berry (directly adjacent to Huntingdale Park), close to the Berry Town Centre and related services and primarily cleared of vegetation with limited environmental constraints.

Areas for long-term investigation were envisaged in the GMS to be developed in 15+ years from the adoption of the Plan. At the time that the GMS was prepared it was expected that the Huntingdale Park Estate would accommodate the expected residential growth within Berry in the short to medium term.

However, the take-up of land in the Huntingdale Park Estate has been faster than envisaged in the GMS and available land supply in the area is almost exhausted, especially for suburban-sized lots. The last stages of the Estate consist of large lots (2000 m²+) in the upper reaches (Stage 9) and one vacant lot (~5,700 m²) on the eastern side of Huntingdale Park Road to be developed for medium density housing. All initial lot release in the Estate sold out in November 2020.

Housing demand in Berry reflects its lifestyle attractions, accessibility and strong desirability from buyers from Sydney. House sale and rental prices remain relatively high presently (with a median house price above \$1.15 million and a median rental of \$650 per week²), down from the peak in 2018 but remaining strong even with the initial economic impacts of the Covid-19 pandemic. The longer term impacts of the pandemic on the local housing market are currently unknown and dependent on wider economic conditions and policies. Recent research indicates regional housing markets have been more resilient than city markets during the pandemic, due to a variety of factors, including liveability, relative affordability, rise in remote work and international migration having less influence over house prices compared to city markets³. Areas such as Berry which are accessible to key job markets (Wollongong, Nowra, Sydney) are particularly desirable.

Given the above, there is strategic justification to bring forward housing release on the subject land to provide for planned growth in Berry.

² Realestate.com.au, [Median property prices, Berry](#), for 2020

³ CoreLogic, [Regional Market Update Report summary](#), 18 August 2020

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

Yes. The proposed amendments to the *Shoalhaven LEP 2014* as described above, accompanied by site-specific development controls in the *Shoalhaven DCP 2014* and a Planning Agreement to establish a landscape screen are considered the best way to achieve the intended outcome (context-sensitive housing development and growth in Berry).

Alternative residential zones are considered unsuitable as detailed below.

Land Use Zoning

The proponent's original PP sought to rezone the subject land R1 General Residential development, consistent with the neighbouring Huntingdale Park Estate. The R1 General Residential Zone is considered unsuitable for the subject land as it provides less certainty of achieving a context-sensitive low density development outcome.

The R1 zone allows a wider range of housing types, compared to the R2 Low Density Residential zone, such as multi-dwelling housing (and manor houses as Complying Development) that were not considered appropriate across this visually sensitive greenfield area.

Multi-dwelling housing in this visually sensitive setting should only be considered in discrete locations, such as the area zoned R3 Medium Density Residential on Hitchcocks Lane opposite the subject land (which sits in a central, lower-lying and less visually sensitive area).

The option of applying the R3 Medium Density Residential zone to the 350 m² lot size areas in the subject land is not considered appropriate in this instance due to the site's visual sensitivity. The R3 zone allows for higher density forms of housing compared to the R2 Low Density Residential Zone (including manor houses as Complying Development). In addition, dwelling houses are not a permissible use in the R3 Zone under Shoalhaven LEP 2014.

The proposed combination of the R2 Low Density Residential land use zone and a mix of minimum lot sizes including 700 m², 500 m² and 350 m² is therefore considered the best way to provide greater housing choices for residents whilst maintaining an overall low density outcome and 'feel' across the subject land.

Height of Buildings

The proposed height limit for buildings is 8.5 metres, consistent with the surrounding residential area. The Visual Impact Assessment and Urban Design Guidelines Report recommended that single storey development be mandated in visually prominent areas of the site (i.e. along the southern and eastern boundaries of the site). This could potentially be enforced via lower height limits in the Shoalhaven LEP 2014 over some areas of the site. This recommendation has not been adopted as it would limit flexibility in future house design, may encourage homogenous development and 'sameness' creating unintended adverse visual and character impacts.

Importantly, visual impacts are influenced not only by the height of development (e.g. whether a house is single storey or two-storey) but also by building bulk or footprint. Where homes are limited to one storey, they are more likely to extend over a larger area of the site and closer to boundaries, limiting areas available for backyards and landscaping. Two-storey homes can provide the same amount of internal floor area over a smaller footprint, leaving larger areas available for backyards and landscaping. Where large-footprint

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buildings are replicated over and over in the streetscape, horizontal building bulk can create adverse visual impacts.

A mix of single and double storey development and a maximum height limit of 8.5 metres is therefore considered appropriate for the subject land, supported by development controls within the DCP that limit the horizontal and vertical bulk and scale of buildings footprints to minimise potential for adverse visual impacts.

Minimum Lot Size

The proposed minimum lot size map provides designated areas across the subject land for small lot housing (i.e. where lots can be subdivided to a minimum of 350 m²). The benefits of this approach include greater transparency in planning controls – so developers and the community know where to expect and plan for small lot subdivision.

Combined with floor space area and landscaped area controls in the site-specific DCP Chapter more certainty of housing choice is provided. Proposed development controls within the DCP limit gross floor area (internal) to 50% of the site area and require 35% of the site area to be landscaped area. This will help to ensure that house sizes will be sized proportionate to lot size. That is, smaller lots will have smaller dwellings, and a range of lot sizes will encourage a variety of house sizes. For example, gross floor area will be limited to 175 m² for lots measuring 350 m², 250 m² on lots measuring 500 m² and 375 m² on lots measuring 700 m².

These proposed controls seek to limit impacts on neighbours and promote development compatible with the low density character of Berry. The risks in this approach include lot layout design issues at subdivision stage if unforeseen constraints arise (which may impact the intended lot size mix/development yield) and community opposition to small lot development due to concerns regarding development outcomes and potential impacts.

If a minimum of 500 m² applied across the site (a common lot size in modern housing estates) it is likely the same type and configuration of housing would be replicated across the site. This housing type would likely not address local housing supply gaps for smaller dwellings. Larger lot size requirements (>500 m²) across the site would likely lead to building of larger dwellings. Larger lot sizes may also incentivise dual occupancies and semi-detached developments to maximise dwelling yields, which could then be subdivided into smaller allotments post-construction.

With good quality house design, greater variety in lot sizes and housing types can add interest to the streetscape and limit streetscape homogeneity/monotony. Pursuing a mix of lot sizes across the subject land is considered the best way to meet the intended outcome. Alternative methods to achieve lot size mix such as lot averaging clauses or applying density targets are not appropriate in this context and not as transparent as minimum lot size mapping.

Options for housing growth in Berry

The intended outcome is to provide more housing in a low-density setting whilst providing for greater housing choices. The current Shoalhaven Growth Management Strategy (GMS) identifies the subject land (limited outward expansion) as a potential future greenfield release area. Challenges include:

- limiting visual and environmental impacts of development at the rural/urban interface,

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- planning for efficient use of land,
- protecting high value farmlands,
- avoiding hazards, and
- ensuring sufficient infrastructure capacity for current and future populations.

In addition, planning for greenfield urban release needs to consider how to enhance liveability, character and sustainability in new neighbourhoods and provide practical connections to key destinations and services such as the Berry Town Centre, schools and employment areas.

An alternative method of providing housing growth for Berry could be to focus on infill housing (building more homes in existing neighbourhoods). Infill housing growth can represent an efficient way to use existing residential land and infrastructure and can reduce some of the environmental impacts and risks associated with greenfield areas but also presents challenges, especially in towns with heritage values such as Berry. Infill housing in Berry would involve increasing densities in existing residential areas and would require additional development and design controls to ensure that local character quality could be maintained and enhanced, and heritage values protected. The current GMS recognises that some infill housing growth may occur in Berry, however, focuses on development of greenfield land on the south-western edge of Berry, including on the subject land.

Therefore, the current PP is aligned with existing adopted planning policy. Any changes to growth planning for Berry would need to be investigated in future strategies and involve significant community engagement processes and additional design work.

Section B – Relationship to strategic planning framework

Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *Illawarra Shoalhaven Regional Plan 2036* (ISRP) is the NSW Government's strategy for guiding land use planning decisions for the Illawarra-Shoalhaven Region for the next 20 years.

This proposal will contribute to the ISRP goal to provide additional housing choices within the ISRP and specifically give effect to Direction 2.2: *"Support housing opportunities close to existing services, jobs and infrastructure in the region's centres"*.

The IRSP identifies Berry as a centre identified for increased housing activity, including for dual occupancy development (p.35).

Direction 4.1 *"Protect regionally important agricultural lands as an asset to food and fibre production"* recognises that rural lands are a feature of the Berry landscape which attract residents and tourists, reiterating the importance of reducing potential land use conflicts and potential visual impacts of development at the interface between rural and housing areas.

The *Illawarra Shoalhaven Regional Plan 2036* is currently under review. The PP is not inconsistent with the exhibited *Draft Illawarra Shoalhaven Regional Plan 2041* as it will provide for the housing needs of the community, a major goal of the draft Plan. The Draft ISRP places additional emphasis on urban growth boundaries and protection of town and village character. This PP represents growth within an identified growth boundary (defined

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in the Shoalhaven GMS 2014) and planning controls and a Planning Agreement have been pursued to protect local character values.

There is currently no draft or adopted sub-regional strategy.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The Local Strategic Planning Statement (LSPS) *Shoalhaven 2040* is a high level strategic land-use planning policy document setting out how Council will identify and meet the communities' land-use needs over the next 20 years. *Shoalhaven 2040* was adopted by Council at its Extra Ordinary Meeting on 29 September 2020. This PP is not inconsistent with the policy statements in *Shoalhaven 2040*.

A number of actions within *Shoalhaven 2040* relate directly to Berry:

- CA2.2 – *Advocate with Transport for NSW...to upgrade the rail line and services between Berry and Bomaderry.*
- CA3.1 *Work with the NSW Government to identify opportunities for proposed special character planning controls to guide in-fill development in Berry, Kangaroo Valley, and Milton.*
- CW 14.3 *Progressing a Planning Proposal to list additional heritage items and places in Berry in Schedule 5 Environmental Heritage of Shoalhaven Local Environmental Plan 2014.*

Improvements to public transport infrastructure will benefit current and future Berry residents and special character planning controls will complement the proposed character controls in the DCP Chapter N3 Berry Residential Subdivision which accompanies this PP.

Shoalhaven 2040 will guide future planning policies such as the forthcoming review of the Growth Management Strategy.

A number of other actions, including those relating to planning for future housing growth and protecting local character through built form character statements in the DCP will shape future growth and development in Berry.

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

The PP is consistent with applicable State Environmental Planning Policies (SEPPs).

SEPP Infrastructure applies to the proposal and is discussed below. Attachment 4 provides a comprehensive list of SEPPs.

State Environmental Planning Policy (Infrastructure) 2007

Clause 102 of this SEPP requires a consent authority to consider the impact of noise and vibration from major roads in the determination of development applications. The site is located directly adjacent to the Princes Highway and management of traffic noise will be important to ensure a healthy and comfortable residential environment. Whilst this clause specifically relates to the development application stage, to ensure consistency with the intent of this provision, noise impacts are assessed as part of the PP process. Noise management controls are proposed in the DCP Chapter N3 Berry Residential Subdivision.

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This approach is consistent with the accompanying SEPP guidelines - *Development near rail corridors and busy roads – interim guideline*, which state:

As part of taking a strategic planning approach, noise and air quality issues should be considered at the strategic level to avoid or minimise the need to address them at the site specific stage.

The proponents have submitted a Noise Impact Assessment (Harwood Acoustics and dated September 2017) in support of the proposal. This assessment states noise impacts affecting future residential development on the land can be managed to acceptable standards (as required by clause 102 of this SEPP) through construction techniques. As well as relying on good house design and construction techniques, the DCP Chapter requires noise to be considered further and appropriately ameliorated at the subdivision stage of development, an approach closely aligned with the SEPP guidelines. Advice from Transport for NSW also reiterates a preference in this location to address noise impacts at the subdivision stage. In response to these issues, the proponents submitted additional Noise Impact Assessment (Harwood Acoustics February 2021) which indicates noise barriers at subdivision stage will need to be installed along the eastern edge and south-eastern corner of the PP land. The DCP and Landscape Screen Planning Agreement have been updated to reflect this requirement.

The PP, supported by appropriate development controls within a site-specific DCP Chapter, is consistent with the provisions of this SEPP and accompanying guidelines.

Q6. Is the planning proposal consistent with applicable Ministerial Planning Directions (s.9.1 directions)?

The PP is broadly consistent with the majority of applicable Ministerial Planning Directions. The PP is inconsistent with Directions 1.2, 1.5 and 4.3, however these inconsistencies are justified as they are minor in nature and the PP is supported by the endorsed *Shoalhaven Growth Management Strategy (GMS) 2014*. The applicable Planning Directions are detailed below, and a full list of direction is provided as Attachment 5.

1.2 Rural Zones

The subject land is zoned RU1 Primary Production. Rezoning this land to an R2 Low Density Residential Zone will be inconsistent with the provisions of this direction which seeks to prevent rezoning of rural land to residential. It is considered that this inconsistency is justified because:

- The land has been identified for urban expansion of Berry in the GMS, an endorsed strategy under the *Illawarra Shoalhaven Regional Plan*.
- The loss of rural land is of minor impact in this location.

The Secretary's concurrence has been issued in relation to this inconsistency (refer to Gateway Determination).

1.4 Oyster Aquaculture

The subject land drains to Broughton Creek which eventually flows into the Shoalhaven River. Part of the Shoalhaven River is mapped as priority oyster aquaculture area (POAA) in the *NSW Oyster Industry Sustainable Aquaculture Strategy Third Edition 2016*.

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The proposal is located a considerable distance from any POAA (>10 km) and at-source control of stormwater will minimise any potential water quality impacts to Broughton Creek. The proposal will have negligible impacts on water quality at POAA, therefore is consistent with the provisions of this direction.

1.5 Rural Lands

This direction requires that PPs which affect land within existing or proposed rural or environmental zones are consistent with the principles of the *SEPP Primary Production and Rural Development* 2019. The subject land is rural. Rezoning this land to an R2 Low Density Residential Zone will be inconsistent with the provisions of this direction. It is considered that this inconsistency is justified because:

- The land has been identified for urban expansion of Berry in the GMS, an endorsed strategy under the *Illawarra Shoalhaven Regional Plan*.
- The proposal will have limited impact on agriculture and agricultural producers in the area.
- The proposal will not fragment rural land, as the land is contiguous with the urban area of Berry.

The Secretary's concurrence has been issued in relation to this inconsistency (refer to Gateway Determination).

2.3 Heritage Conservation

This direction requires planning proposals to contain provisions that conserve Aboriginal and non-Aboriginal heritage items and places.

The proposal is not located within the vicinity of any non-Aboriginal heritage-listed items or places. The proposal includes mechanisms to minimise visual impacts of development at the southern entrance into Berry, recognising the historical and heritage character values of the town.

An Aboriginal Cultural Heritage Assessment (ACHA) (including an Aboriginal Archaeological Survey Report [ASR]) has been prepared to accompany the proposal. The ASR did not uncover any evidence of Aboriginal artefacts on the site, and concluded due to level of historic disturbance, discovery of artefacts would be unlikely. No areas of Aboriginal cultural heritage significance were identified during the ACHA process which included consultation with Aboriginal stakeholders. The ACHA concluded that the *'proposed development may proceed with caution'*.

The DCP Chapter includes provisions relating to considering and protecting Aboriginal cultural heritage at the development application stage.

The proposal is not inconsistent with this planning direction.

2.6 Remediation of Contaminated Land

The proposal relates to the rezoning of land formerly used for agricultural purposes to a residential zone. A Stage 1 Environmental Site Assessment (with soil testing) (by ENRS dated February 2019) was carried out to identify the potential for contamination. This report did not find evidence of contamination and concluded: *"It is unlikely that the Site may pose a significant risk to the environment and to the health of future users of the Site and may be considered suitable for the proposed residential land-use."*

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The proposal is consistent with the provisions of this planning direction.

3.1 Residential Zones

The proposal gives effect to the objectives of this planning direction as it:

- Contains provisions to broaden the choice of building types and locations available in the housing market.
- Makes more efficient use of existing infrastructure and services.

The proposal allows for a variety of lot and house sizes and encourages the provision of smaller homes to meet a gap in the local housing market.

The proposal seeks to reduce the consumption of land for housing and associated urban development on the urban fringe by limiting the area to be rezoned to only the area identified in the endorsed *Growth Management Strategy* (2014) which is contiguous with the existing urban area. The proposal is accompanied by a draft DCP Chapter which encourages good design and details infrastructure servicing requirements.

The proposal is consistent with the provisions of this direction.

3.4 Integrating Land Use and Transport

The proposal is consistent with the policy *Improving Transport Choice – guidelines for planning and development* as it:

- Locates development in an area contiguous with the existing Berry urban area.
- Requires the development of active transport networks to encourage walking and cycling trips (reducing the need for short local private vehicle trips).
- Supports public transport usage by locating development in a town with an existing train station with links to Wollongong, Bomaderry and Sydney. In addition, planning controls require road construction to accommodate a future bus route within the development.
- Will be supported by planning controls (draft DCP Chapter) which promotes good urban design and accessibility included connected streets and road management.

The policy nominates 400 m – 1 km as reasonable walking distance to services. The proposed development area is generally within 1.4 - 2 km walking distance from the Berry Town Centre. The intent of this policy is achieved given good quality walking/cycling links exist, or are planned, to link the area with the Berry Town Centre and the topography of the walk/cycle is generally flat (with a slight incline up Huntingdale Park Road) with good natural surveillance and pleasant views. In addition, the proposed development area will be within 400 metres walking distance of public open space, with a passive open space area proposed opposite the site between Hitchcocks Lane, Huntingdale Park Road and the Princes Highway.

In the rural and regional context of the Shoalhaven Local Government Area, Berry is well-located to accommodate growth, given its proximity to Nowra, Wollongong and Sydney and level of services available. This policy also supports providing detailed design guidance via a Development Control Plan (DCP).

Therefore, the proposal is consistent with this policy direction.

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4.1 Acid Sulphate Soils

The proposal is consistent with the provisions of this planning direction as the land is not mapped as being affected by Acid Sulphate Soils.

4.3 Flood Prone Land

The subject land contains areas affected by the 1% Annual Exceedance Probability (AEP) Flood as shown in **Figure 12**. A 1% AEP flood event has a 1% chance of occurring in any one year and is alternately described as having a 1:100 Annual Recurrence Interval (ARI).

Flood mapping is derived from the *Broughton Creek Floodplain Risk Management Study and Plan* (FRMS&P) (Cardno Dec 2012 and update August 2017). This FRMS&P was prepared in accordance with the *NSW Flood Prone Land Policy* and *NSW Floodplain Development Manual 2005*.

The proponents' submitted *Flooding and Stormwater Management Report* (Southeast Engineering & Environmental Oct 2018) states the flood-affected area of the site is categorised as a low hazard floodway due to the wide and shallow nature of flows and relatively low flood velocities and flow rates. The flood-affected area of the site lies within a natural drainage depression which is proposed to be retained as a drainage reserve to cater for stormwater and floodwater flows. The drainage reserve is shown superimposed over the flood-affected area (1% AEP) in **Figure 12**, which also shows the flood planning area (1% AEP + 0.5 m freeboard).

The proposal is inconsistent with this planning direction because it proposes to rezone land within the flood planning area from a Rural zone to a Residential zone.

This inconsistency is of minor significance because residential development will not be permitted within the flood-affected area of the site (area affected by the 1% AEP). This area will be contained within a drainage reserve, designed and managed to safely convey flood waters in a post-development scenario. This is consistent with the requirements of the *NSW Flood Prone Land Policy* and *NSW Floodplain Development Manual 2005*.

The proposed drainage reserve area is proposed to be zoned R2 Low Density Residential (consistent with other drainage reserves in the locality) to allow for detailed survey and design at the subdivision stage. Post-development, the reserve could be dedicated to Council and could be rezoned to an environmental or recreation zone as a future housekeeping amendment. The minimum lot size map for subdivision prevents subdivision of the drainage reserve area into residential allotments as it specifies a 1 ha minimum lot size over the reserve (the reserve measures 1.2 ha in size).

The proponents' *Flooding and Stormwater Management Report* details how the proposal can comply with state and local government policies relating to stormwater management and flood risk mitigation. In addition, following planning policies and controls ensure flood risks will be safely managed:

- NSW Flood Prone Land Policy.
- NSW Floodplain Development Manual 2005.
- Shoalhaven LEP 2014, clause 7.3 Flood planning.
- Shoalhaven DCP 2014 Chapter D9 Development on Flood Prone Land and draft DCP Chapter N3 Berry Residential Subdivision.

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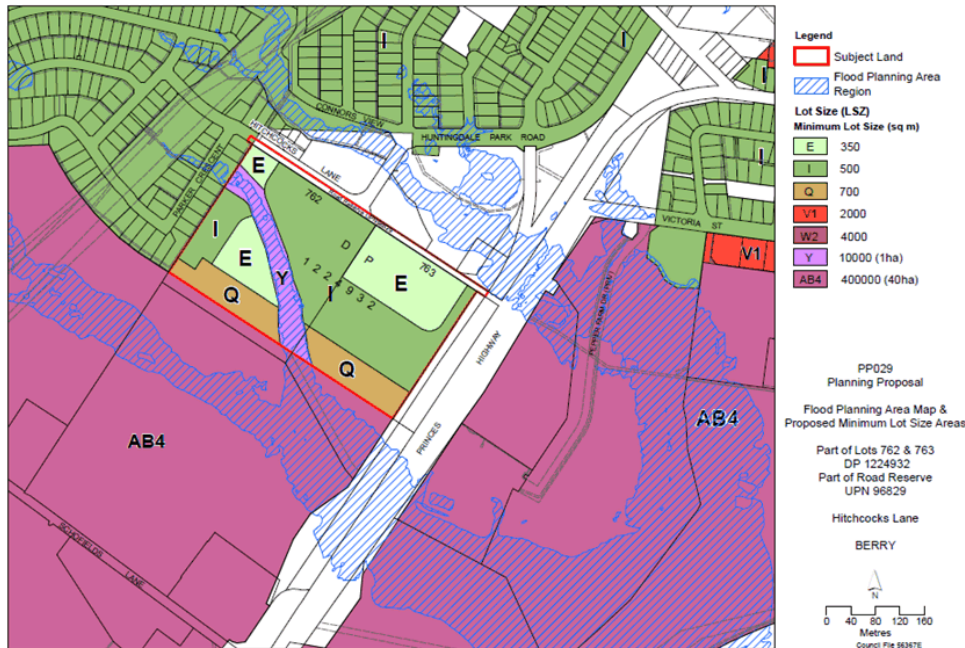


Figure 12: Flood affected area map superimposed over minimum lot size map

The draft DCP Chapter N3 Berry Residential Subdivision requires all flood-prone areas in the Hitchcocks Lane subdivision area (affected by 1% AEP) to be contained within the drainage reserve, as well as providing several other controls to manage flood risks (i.e. providing safe access). In the exhibited version of the PP, a small portion of flood planning area (1% AEP + 0.5 m freeboard) was located outside the proposed drainage reserve area. No residential development was intended within this area, noting that it is likely to form part of a road verge. The Secretary's concurrence for this minor inconsistency with planning direction 4.3 Flood Prone Land was received on 2 October 2020. However, post-exhibition this minor inconsistency was rectified with a small change to the boundaries of the drainage reserve on its eastern side, to encompass the entire FPA. The minimum allowable lot size over the drainage reserve was also changed post-exhibition, from 40 ha to 1 ha, allowing it to be subdivided as one discrete parcel, simplifying future management and preventing future fragmentation.

Council's Floodplain Team have reviewed the proposal and the proponents' Flooding Report. No significant concerns were raised, and their input has been incorporated into the PP and DCP Chapter.

5.10 Implementation of Regional Plans

The proposal is consistent with this direction as it is consistent with the provisions of the Illawarra Shoalhaven Regional Plan (as discussed in Section B Q5 of this report).

6.1 Approval and Referral Requirements

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The proposal is consistent with this direction because it does not contain provisions requiring concurrence, consultation or referral of a Minister or public authority at the development assessment stage.

6.3 Site Specific Provisions

The proposal is consistent with this direction because it allows for residential development in the R2 Low Density Residential zone and the Planning Proposal does not include planning controls that are more restrictive than those enabled by the LEP or any site-specific drawings or concept plans.

Section C – Environmental, Social and Economic Impact

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

The site has been extensively cleared and grazed. No adverse ecological impacts are anticipated. Landscaping associated with the development may have positive biodiversity outcomes.

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

Stormwater Management

The Flooding and Stormwater Management Report prepared by Southeast Engineering & Environmental on behalf of the proponent describes stormwater and flooding behaviour for the site (in its pre-development state) and proposes options to manage stormwater and floodwater post-development.

The PP seeks to provide for flood and stormwater conveyance by retaining the natural drainage depression and managing it as a drainage reserve.

The Report describes the drainage depression as ephemeral (boggy and only intermittently flowing) with no distinct riparian features such as defined banks and incised channel. The drainage depression is not mapped as “Riparian Land” or “sensitive area - watercourse” in the Riparian Lands & Watercourses Map of the *Shoalhaven LEP 2014*. The Report asserts that the drainage depression is not considered to be a “river” as defined by the *Water Management Act 2000*, therefore a Controlled Activity Approval is not required for future development in the area. A Controlled Activity Approval (issued by the NSW Government) means approval for the carrying out of certain works on or near watercourses.

The site is located within a larger catchment that includes an area to northwest (recently developed as part of Huntingdale Estate) of about 5 ha. The drainage depression running through the site conveys the upstream runoff as well as most of the runoff from the subject land. This depression merges with a straightened channel south of the southern Lot 762 boundary which drains through culverts under the Princes Highway and ultimately towards Broughton Creek.

Council's Floodplain Team reviewed the proposal and stormwater report and advised that Council's stormwater quantity and quality requirements can be achieved subject to more detailed assessment at subdivision stage. Their input has been incorporated in the DCP

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Chapter. Methods of stormwater management will be dependent on detailed design and will be assessed as part of any future subdivision application. Development of the land is to be consistent with Water Sensitive Urban Design principles as outlined in Chapter G2 of *Shoalhaven DCP 2014* and the site-specific provisions of draft DCP Chapter N3 Berry Residential subdivision.

Concept Drainage Reserve Designs have also been submitted in support of the PP and will be subject to further detailed design at subdivision application stage. The drainage reserve design will consist of a relatively shallow grassed depression with avenues of tree plantings on the upper half of the waterway batters. The primary purpose of the drainage reserve is to safely convey flood and stormwater and maintain water quality, avoiding impacts on downstream riparian environments.

The drainage reserve also presents an opportunity to add amenity and value to the area, by providing:

- a natural open space outlook to homes in the area,
- additional tree planting opportunities (to soften visual impacts of development and provide amenity value for surrounding homes and residents),
- improved biodiversity outcomes (resulting from tree planting and water quality management), and
- active edges and a corridor for walkers and cyclists, linking in with the surrounding footpath network.

Road Noise and Air Quality

The site adjoins the Princes Highway and is subject to vehicle noise and potential air quality impacts.

Noise Impacts

A Noise Impact Assessment Report was prepared by Harwood Acoustics in September 2018 which noted the closest potential future homes could be located approximately 30 metres from the northbound lane of the Princes Highway.

Any future application for subdivision would need to comply with *State Environmental Planning Policy (Infrastructure) 2007* and associated guidelines, which set road noise limits for internal spaces.

Current guidelines, being the *Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008* (NSW Department of Planning), set noise criteria at 35 dBA (Leq) inside bedrooms at night (between 10pm and 7am) and 40 dBA (Leq) in other indoor spaces at any time (excluding a garage, kitchen, bathroom or hallway) at any time. DBA are 'A'-weighted decibels which are used to describe sound level recommendations for healthy listening. Leq is the "equivalent continuous sound level" which describes an average sound level over time.

The Report included noise surveys undertaken between August and September 2018. The Report found: "*Traffic noise levels range between 62 and 49 dBA during the day and 57 and 44 dBA at night at the closest and furthest potential future dwellings respectively.*" These noise levels exceed the noise criteria within state guidelines, however the Report states that the noise criteria can be achieved through construction methods and acoustical treatments incorporated within dwellings 170 metres or less from the Princes Highway noise source.

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The Report recommends that, “Individual [noise] assessments for dwellings within 170 metres of the frontage of the Site will be required once the subdivision is created prior to the issue of Construction Certificates for each dwelling.”

Figure 13 from the Report models the day-evening-night noise level (Lden⁴) across the site as of September 2018 (i.e. prior to the completion of the Princes Highway upgrade).

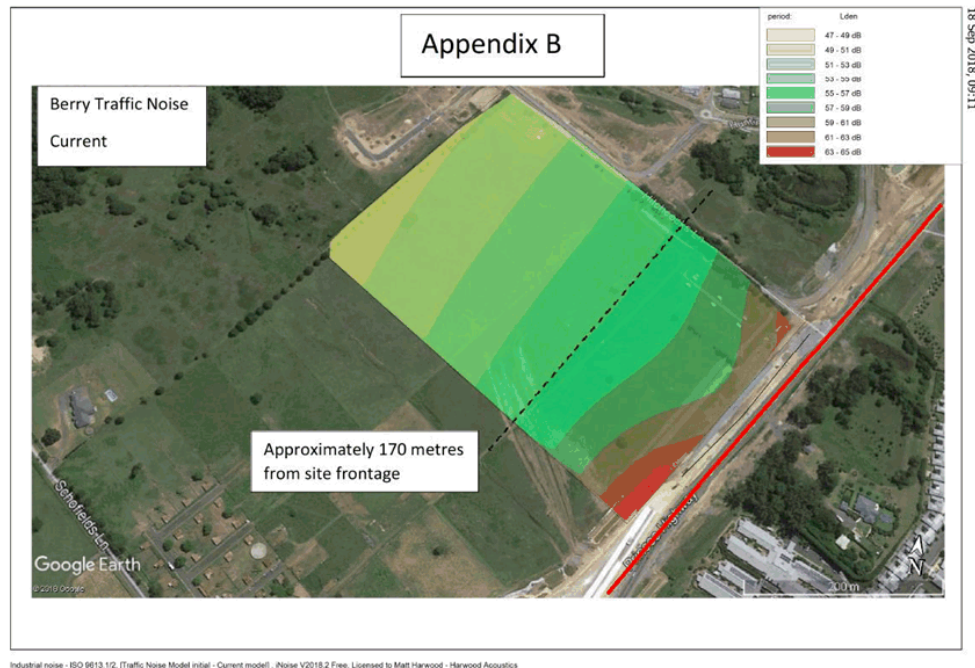


Figure 13: Traffic Noise Model (Sept 2018, Harwood Acoustics)

Whilst the Report states that residential development could comply with noise criteria, this would be subject to further individual assessment at house-building stage and potential restrictions on house design, materials and construction methods. The Report indicates these noise mitigation construction methods will not be overly onerous, however these could add costs, design limitations and potentially time-delays to home building.

It is preferable for any potential required noise mitigation to be investigated and implemented at the subdivision stage of the proposed development, rather than relying solely on construction methods for future dwellings. The required level of noise mitigation is not known at this stage and would be subject to additional acoustic assessment (accounting for the completed Princes Highway works) but could include landscaped earth mounds or noise walls/barriers (if required). This is consistent with preliminary advice issued by Transport for NSW (TfNSW).

TfNSW suggested that a higher order treatment may be required to mitigate noise levels, rather than relying solely on construction methods for future dwellings. TfNSW expressed a

⁴ Lden describes the day-evening-night noise level, which is the A-weighted, L_{eq} (equivalent noise level) over a whole day, but with a penalty of 10 dB(A) for night-time noise (23:00-07:00) and 5 dB(A) for evening noise (19:00-23:00).

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preference for noise barriers as they provide acoustic benefit externally to the residences as well as internally. Feedback from TfNSW is discussed later in this report.

The need to provide for adequate ventilation (fresh air) to rooms with windows closed to reduce noise impacts could also add costs and impact on resident comfort and amenity, as well as have impacts on neighbourhood amenity.

Outdoor noise impacts and neighbourhood amenity

The Noise Impact Assessment initially did not consider noise impacts outdoors, in streets, gardens and private open spaces. Whilst new buildings in the area could provide barriers to outdoor noise impacts in some areas, and suburban development will lift background noise levels in the area, noise mitigation measures investigated and installed where necessary, at subdivision stage would provide increased residential amenity for occupants indoors and outdoors, as opposed to reliance on individual house design and construction requirements.

Indoor Air Quality and Ventilation

Access to fresh air and adequate indoor ventilation is important for health and wellbeing. The *Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008* guidelines provide ventilation (fresh air) requirements, recognising windows and openings may need to be closed to achieve comfortable noise levels indoors. The initial Noise Impact Assessment indicates that future dwellings within 120 metres of the Princes Highway will exceed the noise “trigger levels” for ventilation, meaning openings facing noise sources need to be closed to achieve noise criteria and rooms in these areas could need to be mechanically (as opposed to naturally) ventilated, adding costs and potentially compromising cross ventilation and passive design principles. Noise mitigation installed at the subdivision stage will optimise future house design by removing the need for design compromises to achieve noise impact mitigation at the expense of natural ventilation.

Outdoor Air Quality

In relation to outdoor air quality, existing landscaped mounds and additional proposed landscaping (required by draft DCP controls) will mitigate potential impacts, consistent with the principles in the *Development near rail corridors and busy roads – interim guidelines*.

Proposed approach to address noise and indoor air quality issues at subdivision stage

The proposal can minimise noise impacts to future residents through high quality subdivision design and construction.

In response to Council’s concerns and TfNSW’s comments regarding potential adverse noise impacts, the proponents completed an additional Noise Impact Assessment (by Harwood Acoustics, dated 24 February 2021) to illustrate that the Planning Proposal can comply with the *EPA’s Road Noise Policy*. The *EPA’s Road Noise Policy* provides noise criteria for external (outdoors) noise levels during the day and at night, measured 1 m from the dwelling facade.

According to the updated NIA, a noise barrier extending along the eastern boundary of the PP land will likely be required including a return along the south-eastern corner, extending approximately 88 m to the west. This could take the form of a noise wall or earth mound or a combination of the two. Additional noise assessment will be required for subdivision of Lot 763 (the eastern-most property), considering the finished ground levels and expected floor

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levels of development. The installation of noise barriers will be required at the subdivision stage of development, with the type and final extent of the barriers to be investigated further as part of a development application.



Figure 14: Extract from updated Noise Impact Assessment (Harwood Acoustics February 2021) showing impact of noise barrier.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Housing Choice and Affordability

The intended outcome of this PP is to provide improved housing choice to meet the housing needs of the community.

Berry currently has a very limited supply of smaller homes, especially one and two bedroom homes, with house listings indicating new builds primarily offer 4 bedrooms or more. As at 20 August 2020, homes for purchase in the Berry suburb area were primarily 4 and 5+ bedroom homes as shown in **Figure 15**.

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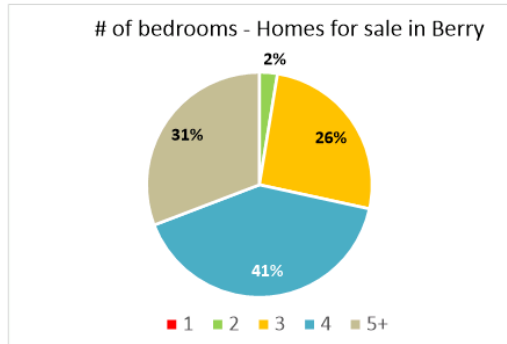


Figure 15: Homes for sale in Berry by number of bedrooms August 2020⁵

These homes were listed for sale at prices ranging between \$950,000 for a two-bedroom villa to \$3.2 million for a 7 bedroom rural-residential property. As at 20 August 2020, there were 6 rental listings, of which half (3) were 3 bedroom homes, with one 1 bedroom, one 2 bedroom and one 4 bedroom listed, ranging in price from \$350/wk (for a 2 bedroom) to \$800/wk for a 4 bedroom home.

The pattern of recent house sales in Berry also illustrates a limited supply of smaller homes, of the last 100 homes sold in the Berry suburb, only three (3) were 2 bedroom dwellings⁶.

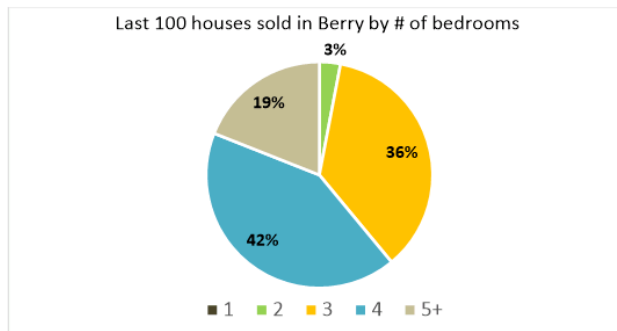


Figure 16: Homes sold in Berry by number of bedrooms Sept 19-Aug 2020⁶

Census data compiled by Profile id⁷ shows that in the Berry (and surrounds) 19.2% of households were in dwellings with 2 bedrooms or less, and 39.5% in 4 or more bedroom dwellings, compared with 21.4% and 30.1% for Regional NSW respectively.

The major differences between the number of bedrooms per dwelling of Berry and Surrounds and Regional NSW were:

- A larger percentage of 4 bedroom dwellings (29.8% compared to 24.5%)
- A larger percentage of 5 or more bedroom dwellings (9.6% compared to 5.6%)
- A smaller percentage of 3 bedroom dwellings (35.0% compared to 40.4%)

⁵ Source: realestate.com.au, date 20 August 2020, includes 39 listings, excludes 17 listings for land only, Berry suburb.

⁶ Source: realestate.com.au, last 100 homes sold (excluding land only) between 20 August – 15 Sept 2019, Berry suburb.

⁷ Profile id, Berry and Surrounds dwelling data, 2016 <https://profile.id.com.au/shoalhaven/about-profile-id?WebID=110>

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- A smaller percentage of dwellings with 1 or no bedrooms (includes bedsitters) (2.3% compared to 4.5%)

In 2016, the most common household size in Berry and Surrounds is 2 persons per household⁷.

Population Profile⁸

Relevant demographic statistics for Berry when considering housing needs include:

- 9.2% of residents need assistance due to age or disability compared to 7.7% in Shoalhaven and 6.3% in Regional NSW.
- A quarter (25.8%) of all households in Berry are single person households, very similar to the proportion of single person households in Shoalhaven and Regional NSW (26.7% and 25.5% respectively).
- Approximately 1 in 5 people living in Berry is aged between 70-84 (21.9%). This is a much higher proportion of seniors aged 70-84 compared to Shoalhaven (14.9%) and Regional NSW (11.4%).
- A higher proportion of people aged 85+ (7.2%) live in Berry compared to Shoalhaven (3.2%) and Regional NSW (2.7%).
- A lower proportion of younger people and the 'young workforce' cohort of 25-34 year olds (6.6%) live in Berry compared to Shoalhaven (9.3%) and Regional NSW (11%).
- A higher proportion of couples living without children (38.3%) reside in Berry compared to Shoalhaven (31.2%) and Regional NSW (27%). This household type can include older couples whose children have left home ("empty nesters") as well as younger couples who have not yet had children or couples of all ages who choose not to have children. Given the older age profile of Berry, it is surmised that a large proportion of couples living without children are older couples.
- Similar proportions of couples living with children reside in Berry (22.8%) compared to Shoalhaven overall (21.6%). A lower proportion of one parent households (living with their child/children) reside in Berry (6%) compared to Shoalhaven (10%).
- Berry has a lower proportion of renters (15.1%) compared to Shoalhaven (23.8%) and Regional NSW (26.5%).

This proposal seeks to provide greater variety in housing size and configuration, to suit a wide range of household types by providing a range of lot sizes and encouraging provision of some smaller homes by allowing some smaller lots. Smaller homes can provide (relative) housing affordability, recognising Berry will remain a high-value area due to its proximity to large job markets and lifestyle benefits. Smaller homes may provide greater options for first home buyers and other household types currently priced out of the local housing market. Smaller housing types and smaller lot sizes can provide downsizing options for an ageing population allowing for greater opportunities to age in place.

⁸ Profile id, Berry locality snapshot demographic data, 2016: <https://profile.id.com.au/shoalhaven/locality-snapshots?WebID=10322100>

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Economic Impacts and Jobs

The proposal has the potential to achieve positive economic outcomes through population growth. Population growth supports local business through increasing local spending opportunities.

Housing growth supports the construction industry which is a major employment sector in the region. Housing growth can also support the professional, property, retail and hospitality industries through purchase of related goods and services. Berry is well-located in terms of proximity to major job markets, within commuting distance of Nowra, Wollongong and some parts of Sydney, noting the increasing trend towards working from home in some job sectors.

The Built Environment, Visual Impacts and Local Character Impacts

The site is located at the southern entrance to Berry on the Princes Highway. It forms an important part of the setting for the town and is visually prominent when viewed from the Princes Highway.

Any development of the site will need to be low-density in character and sensitive to the character of the landscape and the town. An accompanying Development Control Plan (DCP) Chapter provides a comprehensive set of subdivision and house design controls. In addition, a Planning Agreement is proposed to install a landscape screen adjacent to the southern boundary of the subject land to soften visual impacts of development.

The DCP Chapter has been written taking into account the recommendations of the Draft Character Assessments by RobertsDay dated 2018 (prepared to inform future built form character statement controls within the *Shoalhaven DCP 2014*) and the *Berry Community Strategic Plan* (dated September 2016), a community-led plan to guide future directions for the town. This Plan was prepared by the Berry Forum and partners and involved extensive community engagement. The Plan was endorsed by Council's Strategy and Assets Committee under delegation on 15 November 2016. In 2017, Council resolved to recognise the Plan (among others) and that:

2. *Council develop a Community Led Strategic Planning framework and guide (including templates) to assist in the development of community led plans.*
3. *As part of this framework and guide Council clearly communicate the expectations of Council in relation to the planning process.*
4. *This communication process explains what can and cannot be achieved through plans including Council recognition, resource allocation, limitations, clarification of support or agreement with actions and that plans do not guarantee funding.*
5. *Council use Community Led Strategic Plans to assist in determining community priorities and community needs as part of its overall community engagement strategy particularly for the corporate process carried out each year.*

Infrastructure impacts including traffic impacts

The implications of the proposal on infrastructure and service provision are discussed in Section D below.

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

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Transport and Roads

A Traffic Impact Assessment (TIA) prepared by Bitzios Consulting in January 2019, considered the impact of the proposed development on the surrounding traffic network. The TIA also assessed preliminary internal road designs as well as public and active transport (walking and cycling) connectivity to and from the site. The key findings of the TIA are discussed below.

The TIA states the proposal will have acceptable traffic impacts based on the following proposed access arrangements:

- The Hitchcocks Lane subdivision will be accessed from two locations.
- The primary access will be via the “existing roadway connecting to the southern side of the Huntingdale Park Road / Lincoln Close roundabout.”
- Secondary access is proposed to be via a proposed priority-controlled T-Intersection on Hitchcocks Lane, opposite 19 Hitchcocks Lane.

The existing roadway is the “Unnamed Link Road”, currently owned by Transport for NSW and constructed as part of the upgrade of the Princes Highway. This road will need to be upgraded to provide suitable access to the Hitchcocks Lane subdivision.

The TIA also states that the ‘roads surrounding the proposed development are expected to have sufficient capacity to cater for daily traffic with the complete development of Huntingdale Park and the proposed development’.

Figure 17 below illustrates the capacity of the surrounding road network and the modelled impact of development.

This modelling shows that Huntingdale Park Road (at the entry into the Huntingdale Park estate) has capacity to carry 6000 vehicle movements a day, with all development in the area (including the proposed Hitchcocks Lane subdivision) predicted to produce approximately 3,760 – 4,100 vehicle movements a day.

Traffic volumes in the area will increase in line with expectations for growth areas. The projected traffic increase is assessed to fall within acceptable limits. Proposed site-specific planning controls within DCP Chapter N3 seek to reduce potential amenity impacts to residents. Chapter N3 also focuses on facilitating safe road and path design to encourage increased walking and cycling for local trips.

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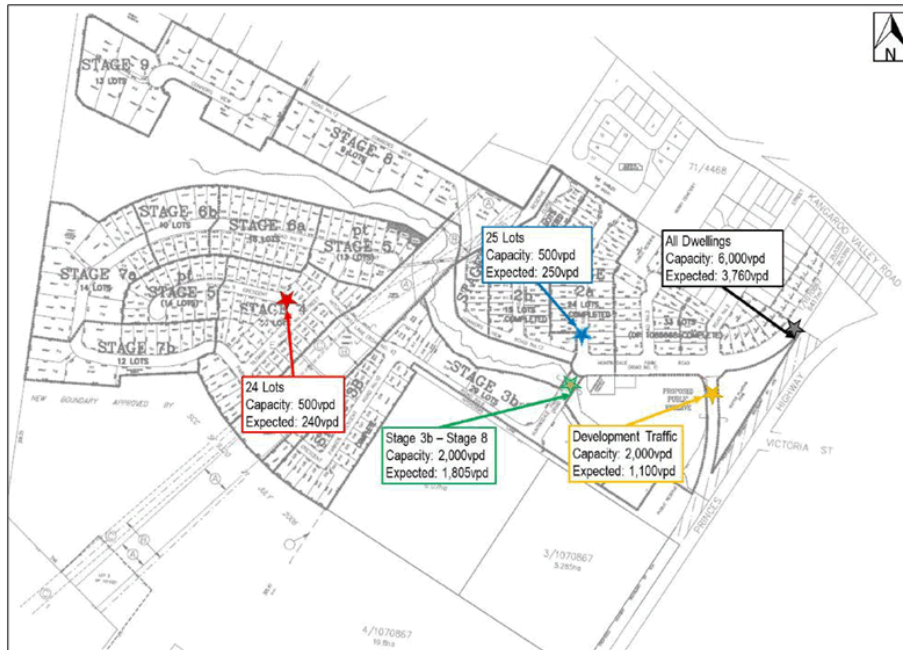


Figure 17: Traffic capacity diagram from Traffic Impact Assessment (Bitzios 2019)

Comments on assumed traffic generation

The TIA assumes development of the subject land will yield 110 low density lots generating up to 10 trips a day per lot (assuming one dwelling per lot) i.e. an additional 1,100 vehicle movements per day. However, an analysis of the proposed planning controls as at August 2020, suggests a theoretical yield of up to 150-165 dwellings. Therefore, the proponent's TIA potentially underestimated the total number vehicle movements, and these are not accounted for in the submitted TIA. However, with the proposed upgrade of the through-link "Unnamed Link Road", the surrounding road capacity appears able to accommodate these potential additional increased vehicle movements, according to the submitted TIA. The DCP provides triggers for the timely and coordinated upgrade of the Unnamed Link Road to ensure local road capacity is not exceeded.

Proposed approach to address traffic issues at subdivision stage

Additional detailed traffic impact assessments will be required at subdivision stage. The DCP Chapter N3 includes mandatory controls in Section 6.5.2 to ensure traffic issues are fully addressed at subdivision stage.

Active Transport infrastructure (encouraging walking and cycling)

The proposal includes construction of shared user paths (for pedestrians and cyclists) throughout the subdivision to encourage more local walking and cycling trips (reducing the need to make short private vehicle trips and providing health and environmental benefits). Shared paths are proposed along the drainage reserve, primary Entry Road and the Unnamed Link Road, connecting to the future park and other open space and path networks

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in the area as well as to the Berry Town Centre, which is approximately a 20-30 minute walk away.

Public Transport Infrastructure

The TIA notes that the nearest public transport availability is a bus stop approximately 1.2 km walk away yet states a bus route is planned within Huntingdale Estate and that most of the proposed development would therefore be located within 400 m of a future bus stop. The TIA also illustrates how a bus could manoeuvre safely along the entry road of the proposed subdivision.

Berry is located on the South Coast train line with connections to Bomaderry to the south and Kiama to the north (changing for ongoing services to Wollongong and Sydney). The Berry train station is located over 2.5 km away from the subject land, which is a 5-10 minute drive away and not within convenient walking distance.

Water, Sewer and Electricity supply

An Infrastructure Assessment was prepared by Allen Price and Scarratts, dated October 2018. This study assessed the infrastructure needs of the proposal, investigating water, sewer, electricity and community facilities and public open space requirements and capacity. This report assumed the proposal would yield approximately 110 new lots.

The preliminary water supply strategy found that the existing water main in Hitchcocks Lane will be able to supply the required flows and pressure to serve up to approximately 150 dwellings within the proposed residential area. The strategy noted there may be adjustments required to the proposed water main sizes in the upper reaches of the Huntingdale Park Estate to maintain water pressure on the higher elevations. The strategy concluded that it is not expected that there will be any upstream capacity constraints in the reservoirs, trunk mains or water treatment plant to cater for this development.

The preliminary sewer strategy found a new sewer pumping station (SPS) is likely to be required adjacent to the south edge of the proposed residential area. The majority of the site will drain in a south-westerly direction to this new SPS, although some of the adjoining sewer mains have been constructed at a depth and location that will potentially allow some of the land to drain via gravity to the existing sewer mains. This alleviates the load on the new SPS and will reduce construction and operation costs. The strategy also reviewed sewer main capacity and concluded that the sewer main has capacity to accommodate an additional 150 lots.

A preliminary electricity supply strategy found electricity could be extended into the area, proposing two pad mount substations to service up to 138 lots. The strategy noted the final number of substations and their location would be subject to the detailed electrical design of the subdivision. The strategy concluded that no upstream capacity constraints would constrain the proposed development.

The preliminary servicing strategies may require changes or adjustments subject to future subdivision layout and detailed surveys at subdivision application stage.

Open Space

The open space needs of the area are proposed to be met through provision of a passive open space area to the north of the site as well as through the provision of Boongaree, a district-level multipurpose park in Berry. The area for open space is shown in **Figure 18**.

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This CP project will be reviewed as part of this project, looking to expand the project to provide funding for future embellishments. This project will ensure that the majority of the Planning Proposal area will be within 400 metres (as the crow flies) from this future park.

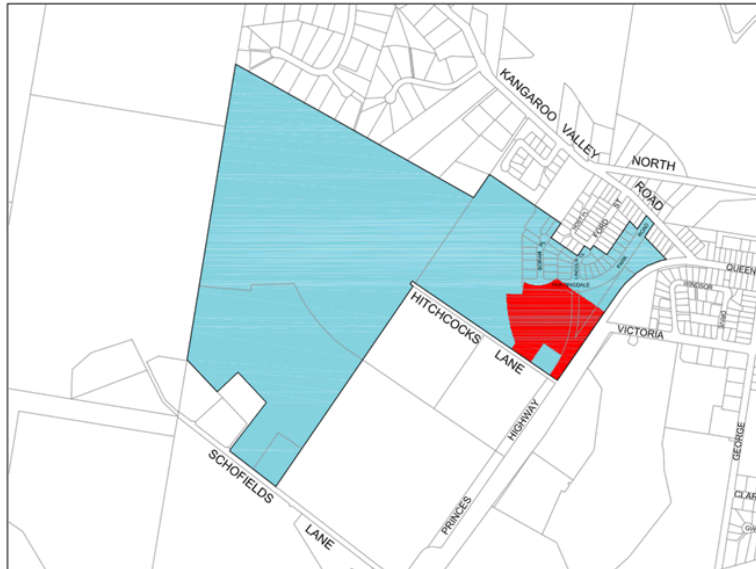


Figure 18: Future Passive Open Space - Contributions Plan 2019
Area for passive open space is highlighted in red (noting this plan will be updated to reflect the subdivision of Huntingdale Park Estate).

Community facilities, educational establishments, health Infrastructure

The proponents' Infrastructure Assessment reviewed existing community facility and public open space plans for the area and identified two relevant projects in the former Shoalhaven Contributions Plan 2010 being:

- 01CFAC0013 - Berry Gardens Neighbourhood Community Centre
- 01OREC0009 - Land acquisition for passive open space (Princes Highway, Berry)

The 'Berry Gardens Neighbourhood Community Centre' project (1CFAC0013) was deleted as part of a recent review of the *Shoalhaven Contributions Plan (CP) 2019*. This was in response to the findings of the *Community Infrastructure Strategic Plan* recommendations to focus funding on improvements to existing, underutilised facilities within the area. The Passive Open Space project (01OREC0009) remains within the CP and is discussed above.

The Berry Public School services the area and according to the Myschool website has had a rise in enrolments since 2014, with enrolments steady in the last 3 years. There are no high schools in Berry, with Bomaderry and Nowra providing secondary education. The Huntingdale Park Estate land release has attracted families with children to the area and the Hitchcocks Lane subdivision is predicted also to bring families with school-aged children to the area. The NSW Department of Education and the local primary school will be notified as part of the public exhibition of the PP.

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The David Berry Hospital provides rehabilitation and specialist palliative care for the Shoalhaven as well as allied health services. Emergency services and other hospital services are located in Nowra, Shellharbour and Wollongong, with Berry being located conveniently to these services, with the upgraded Princes Highway improving access. A new ambulance station was opened in Berry in 2019.

In addition, the DCP Chapter provides guidance on subdivision and house design to support public health outcomes, including supporting walking and cycling, providing outlooks over open space and encouraging healthy and sustainable home design.

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

The Gateway determination required consultation with the following State Government Agencies:

- Roads and Maritime Services (now Transport for NSW)
- Shoalhaven Water
- Endeavour Energy
- NSW Department of Primary Industries Agriculture
- NSW Department of Primary Industries Fisheries

No submission was received from NSW Department of Primary Industries – Fisheries.

Agency	Summary of submission
Transport for NSW	<p>No objection to proposed rezoning of land in principle as unlikely to impact on state road network.</p> <p>Intention to dedicate Unnamed Link Road to Council as public road – understand this could be upgraded to service development. Any required improvements must not impact on Princes Highway.</p> <p>Concerned about noise impacts, higher order treatment such as noise barrier may be required. Support noise mitigation being investigated and installed where necessary at subdivision stage as opposed to reliance on individual house design and construction requirements. Raised concerns with proponent's Noise Assessment. Noise Barrier Assessment is required in accordance with EPA's NSW Road Noise Policy. Any future noise barriers must be located on private land and TfNSW will not accept any maintenance responsibility. TfNSW concerned that DCP infers that landscaping can be used as noise attenuation, when landscaping is not an effective noise attenuation measure.</p> <p>Strongly supports development that provides for walking, cycling and public transport and reduces car dependency, proposal should ensure support for these measures to the greatest extent possible.</p> <p>Notes Traffic Impact Assessment considers impact of 110 new lots, whilst PP states capacity for up to 150 new lots.</p> <p>No additional vehicular or pedestrian access to/from Princes Highway will be permitted.</p>
Transport for NSW (2 nd submission: responding to Council's request for additional comments)	<p>TfNSW has no current plans or funding to investigate, develop, and deliver road infrastructure upgrades along the Princes Highway at its existing connections with Schofields Lane.</p>

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relating to provision of access to PP land via Schofields Lane – in response to community submissions)	<p>Concerned additional link would increase trips into Berry using Highway rather than local roads. Current policy is to limit access points to the state road network (Princes Highway) for local trips.</p> <p>Based on limited information currently available, have some concerns and unlikely to be supportive of additional access to the PP site via Schofields Lane.</p> <p>Unsure whether a road link from PP site to Schofields Lane would allow for additional future development south of PP subject land, if this was to occur, this would further increase vehicle movements via Schofields Lane/Princes Highway for local trips.</p> <p>Noting comments above (i.e. generally unlikely to be supportive of proposed link to Schofields Lane), further information would be required to allow for an informed decision including an updated Traffic Impact Study (TIS) that considers the increased traffic volumes from both the PP and possible future land rezonings to the south; mitigation measures required to address safety/traffic concerns (e.g. acceleration lanes); mechanisms for funding any identified works and upgrades; and impacts of local trips on the state road network.</p>
Shoalhaven Water	<p>Water supply capacity will exist for the PP. The Berry water supply system with the proposed lead in water infrastructure (a DN 200 Main to maintain/improve water pressure to the upper reaches of Huntingdale Park Estate) will be able to support the existing development and proposed development.</p> <p>Sewer system in the area can accommodate the proposal as there are a number of options available to extend sewer services to the development (which can be detailed further at subdivision stage). Will need to be provided at the developers cost.</p>
Endeavour Energy	<p>No objection. PP is supported by Infrastructure Assessment with input from certified consultant. All existing electricity assets protected by law, and any works need approval from Endeavour Energy. Existing distribution substations in the vicinity have some spare capacity, but not enough to cater for development – therefore network required to be augmented/extended, with extent of works to be assessed at subdivision application stage (after final load assessment completed).</p>
DPI Agriculture	<p>Part of site mapped as Biophysical Strategic Agricultural Land, but acknowledge land is identified as an urban investigation area in state-endorsed Shoalhaven Growth Management Strategy 2014. Regrettably, Gateway determination did not require preparation of land capability assessment to determine agricultural value of land and address land use conflict issues.</p> <p>Support perimeter road and provision of landscape screen as these also provide buffer to rural land to the south which can limit land use conflict impacts.</p>
NSW Rural Fire Service	<p>Land not currently mapped as bush fire prone land, however intention to map land near southern boundary as a Category 3 Grassland hazard in future. No objections to proposal subject to compliance with Planning for Bushfire Protection 2019 (provision of Asset Protection Zones, perimeter roads and provision of adequate water, electricity and gas services).</p>

Part 4 – Mapping

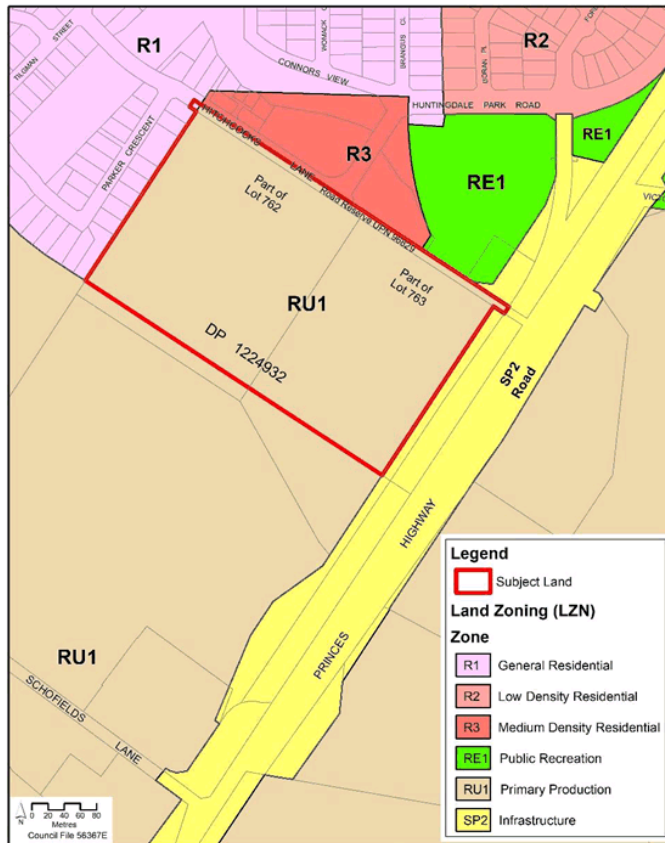
Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

This PP is supported by the following maps:

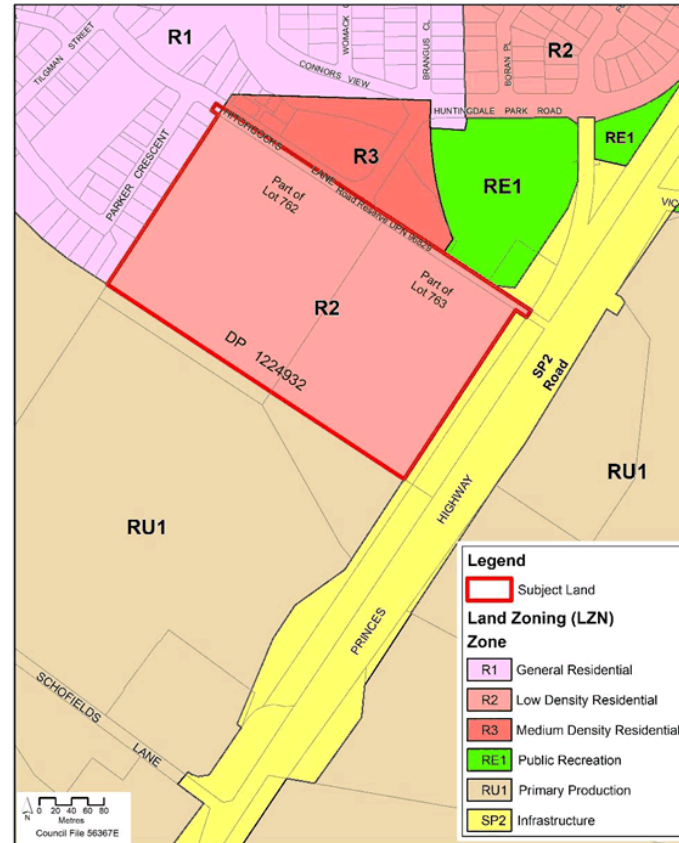
- Land Zone Map (LZN)
- Height of Buildings Map (HOB)
- Lot Size Map (LSZ)

These maps are provided on the following pages.

PP029
Planning proposal
Existing SLEP2014 LZN



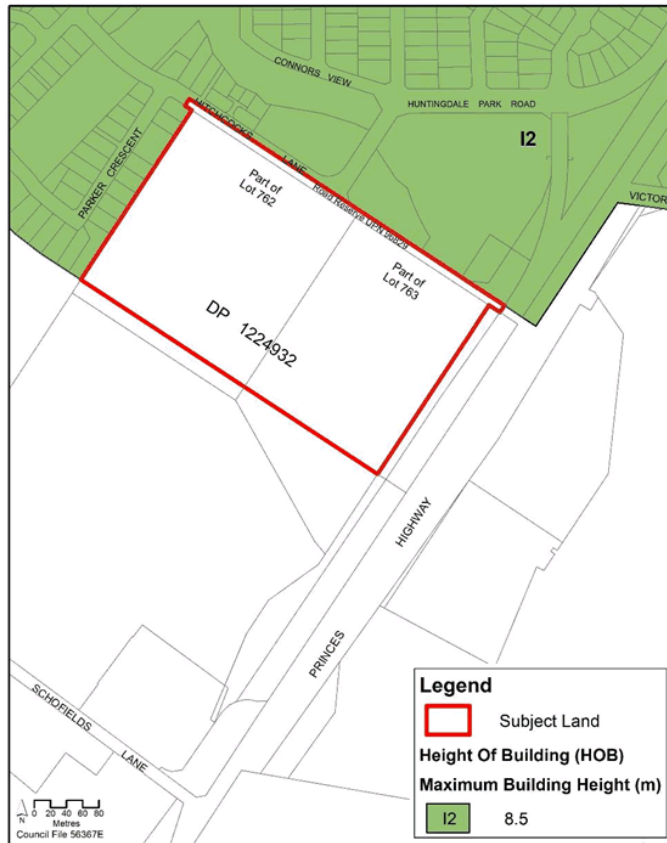
PP029
Planning Proposal
Proposed SLEP2014 LZN



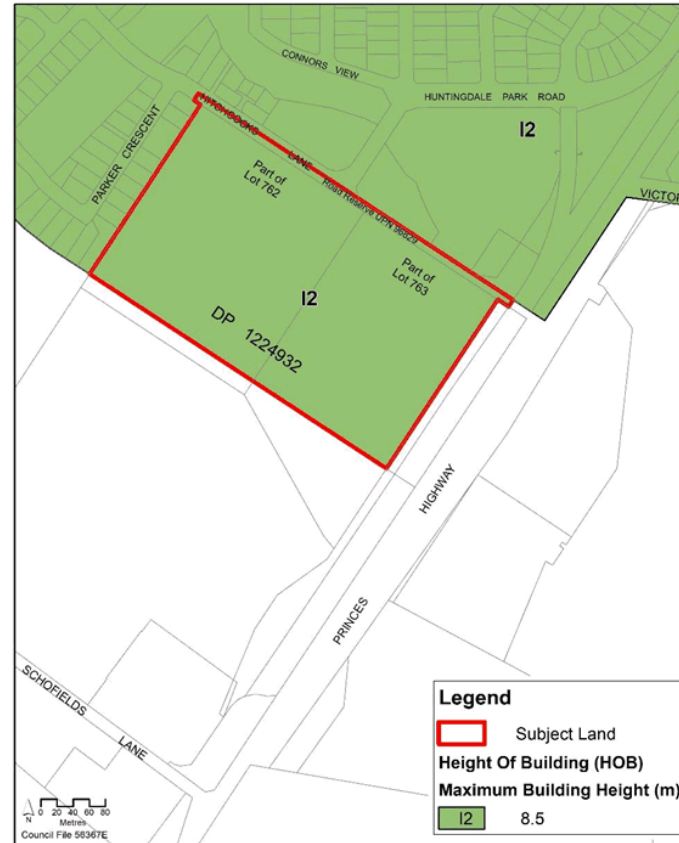
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Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

PP029
Planning Proposal
Existing SLEP2014 HOB

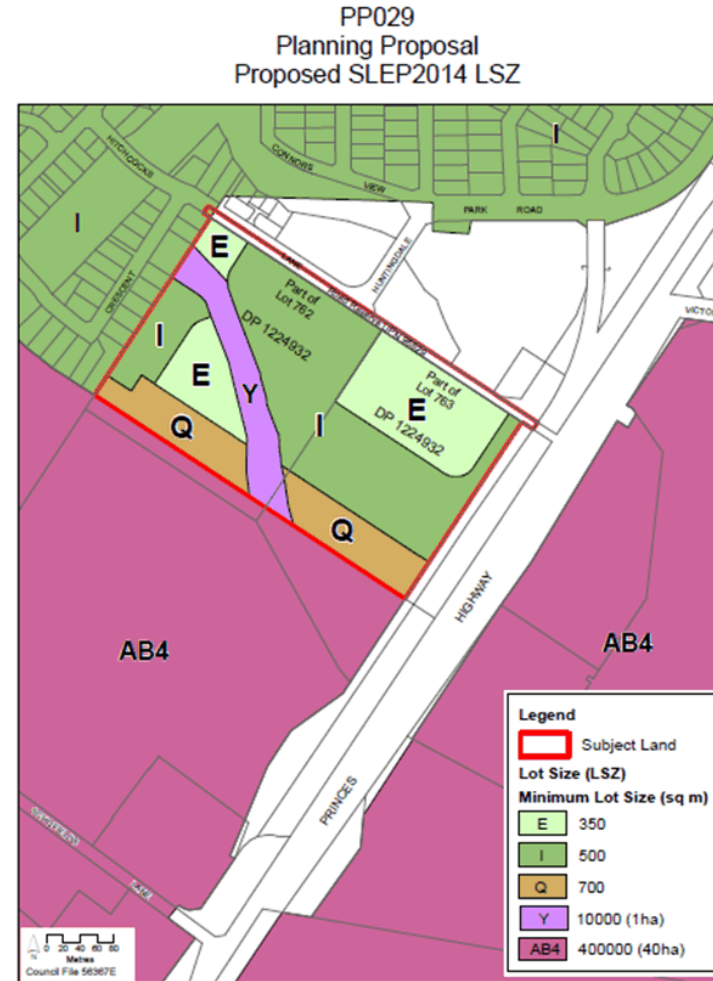
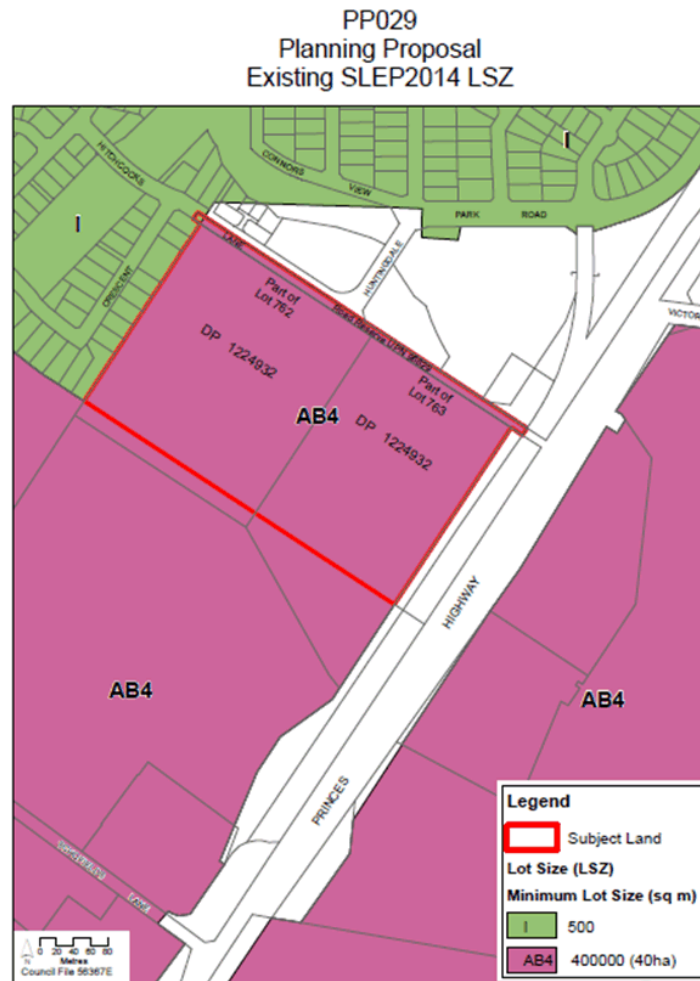


PP029
Planning Proposal
Proposed SLEP2014 HOB



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Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area



Part 5 – Community Consultation

The PP and draft DCP Chapter were publicly exhibited for 10 weeks (73 days) between 28 October 2020 - 8 January 2021, recognising limitations presented by Covid restrictions and the holiday period.

Forty-five (45) submissions were received from community members and groups. Thirty-seven (37) of the submissions objected to the proposal to rezone land for residential development; five (5) supported aspects of the proposal and opposed others; and three (3) did not express support nor opposition to the proposal overall.

The main themes expressed within the submissions related to:

- Infrastructure capacity concerns (particularly road capacity and traffic impacts)
- Impacts of development on local character
- Concerns about overdevelopment and poor design

These submissions were summarised and addressed as Attachments to the Council Report dated 4 May 2021.

Part 6 – Project Timeline

The timeline below illustrates the original timeframes (submitted with the draft Planning Proposal and reflected in the original Gateway Determination, and the updated anticipated timelines. The original timeframes have been exceeded due to the complexity of the PP.

Table 1: Project Timeline

Task	Original Timeframe	Anticipated Timeframe
Commencement date (date of Gateway determination)	February 2018	February 2018
Completion of specialist studies	August 2018	May 2020
Completion of master planning and revision of specialist studies	October 2018	Aug 2020 (Additional Acoustic Assessment received February 2021)
Concurrence of agencies and DPIE for the public exhibition	December 2018	Sept-Oct 2020
Public exhibition (60 days)	March 2019	Late Oct 2020 – early Jan 2021
Post exhibition consideration of PP	June 2019	Jan - March 2021
Finalisation and notification of Plan	September 2019	July 2021*

*Recommended within Council Report to notify PP (and complete rezoning of land) once Planning Agreement for Landscape Screen is completely drafted and placed on public exhibition. This is because landscape screening is essential to mitigate visual impacts of proposed development.

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Attachment 1: Council Resolutions and Reports

[Development & Environment Committee – 1 September 2020:](#)

DE20.93 Planning Proposal (PP029) and Draft Development Control Plan - Hitchcocks Lane, Berry - Next Steps

[Resolution 1 September 2020 - MIN20.610](#)

[Development & Environment Committee – 7 April 2020:](#)

DE20.27 Landscape Screening and Bushfire Protection Measures - Planning Proposal (PP029) - Hitchcocks Lane, Berry

[Resolution 7 April 2020 \(Reconvened 9 April\) - MIN20.257](#)

[Development & Environment Committee – 14 November 2017:](#)

DE17.77 Hitchcocks Lane, Berry - Proponent Initiated Planning Proposal

[Resolution 14 November 2017 - MIN17.953](#)

DE21.42 - Attachment 2

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Attachment 2: Supporting Technical Studies

[Flooding and Stormwater Management Report](#) – Southeast Engineering + Environmental – dated 19 December 2018

[Concept Designs for Drainage Reserve](#) – Allen Price & Scarratts Pty Ltd – dated 14 September 2020

[Stage 1 Environmental Site Assessment](#) (Contamination Report) – ENRS – dated 12 February 2019

[Traffic Impact Assessment](#) – Bitzios Consulting – dated 7 January 2019

[Noise Impact Assessment](#) (Traffic Noise Intrusion Assessment) – Harwood Acoustics – dated 28 September 2018

[Update – Noise Impact Assessment](#) – Harwood Acoustics – dated 24 February 2021

[Visual Impact Assessment and Urban Design Guidelines](#) – PAA Design / Peter Andrews and Associates – dated 28 May 2019

[Infrastructure Assessment](#) – Allen Price & Scarratts Pty Ltd – dated 29 October 2018

[Bushfire Assessment Report](#) – Bushfire and Evacuation Solutions – dated 5 February 2020

[Aboriginal Cultural Heritage Study \(ACHA\)](#) – AMBS – dated 19 May 2020 (includes Aboriginal Archaeological Survey Report)

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Attachment 3: Proponent's Planning Proposal

[Planning Report to support Planning Proposal](#) – Cowman Stoddart Pty Ltd – dated 7 September 2017

Note: Changes have occurred to the proposal as described within the proponent's Planning Proposal Report dated September 2017.

These changes include, but are not necessarily limited to:

- A revised subject land area. The subject land area now consists of Part Lots 762 and 763 DP 1224932 and part of the Hitchcocks Lane Road Reserve (UPN 96829). Lot 764 DP 1224932 is not part of the subject land for this PP. The subject land area measures 11.02 hectares instead of the 15 hectares described in the original proposal.
- Removal of the areas proposed to be rezoned RE1 Public Recreation on the subject land due to these areas being too narrow to meet useability standards within Council's Community Infrastructure Strategic Plan for passive recreation. The open space needs of the development, and the neighbouring Huntingdale Park Estate will be met through the provision of a passive open space area to the north of the subject land (currently zoned RE1 Public Recreation) and other facilities in Berry, including the Boongaree District Level Park. The drainage reserve on the subject site, currently proposed to be zoned R2 Low Density Residential, will be further defined with detailed designs submitted at subdivision stage and will be dedicated to Council after development is complete. Once the development is complete the drainage reserve may be rezoned to RE1 Public Recreation or similar appropriate zone in future housekeeping amendments to the LEP.
- Areas allowing for small lot subdivision (minimum lot size of 350 m²) have been expanded from those shown in the proponent's original proposal – refer to **Map 3 – Minimum Lot Size Map** of this PP for the location of the proposed small lot areas across the site.

Plans showing road layouts are concepts only and do not form part of this proposal. Eventual road layouts and subdivision lot design will be detailed at the development application for subdivision stage and will need to comply with the *Shoalhaven DCP 2014* including any site specific requirements.

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Attachment 4: SEPP Checklist

State Environmental Planning Policies Checklist

SEPP #	Name	Applicable	Consistency/Comment
		✓ / ✗	
-	Aboriginal Land 2019	✗	Currently this SEPP only applies to land owned by the Darkinjung Local Aboriginal Land Council on the Central Coast.
-	Activation Precincts 2020	✗	N/A
-	Affordable Rental Housing 2009	✗	Should the land be rezoned the provisions of the ARHSEPP apply, allowing for future secondary dwellings and other forms of affordable rental housing on the land.
-	Building Sustainability Index: BASIX 2004	✗	Future dwellings on the site will need to comply with BASIX requirements relating to energy, water and thermal efficiency.
-	Coastal Management 2018	✗	Subject land is not within the coastal management zone.
-	Concurrences & Consents 2018	✗	N/A
-	Educational Establishments and Child Care Facilities 2017	✗	Allows for certain educational and child care development as exempt and complying development.
-	Exempt and Complying Development Codes) 2008	✗	Will apply to future rezoned area allowing for exempt and complying development on applicable land.
-	Gosford City Centre 2018	✗	N/A
-	Housing for Seniors or People with a Disability 2004	✗	No provisions relevant for PPs. Allows for some seniors housing and disability care facilities on certain land.
-	(Infrastructure) 2007	✓	Proposal is consistent with provisions of this SEPP, as noise impacts from neighbouring busy roads are proposed to be managed through site-specific development controls which will require noise amelioration to be investigated and installed at subdivision stage.
-	Koala Habitat Protection 2019	✗	The site has no koala or potential koala habitat.
-	Kosciuszko National Park—Alpine Resorts) 2007	✗	N/A
-	Kurnell Peninsulas	✗	N/A
-	(Major Infrastructure Corridors) 2020	✗	Applies only to western Sydney LGAs
-	Mining, Petroleum Production and Extractive Industries) 2007	✗	N/A
19	Bushland in Urban Areas	✗	N/A
21	Caravan Parks	✗	N/A

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33	Hazardous and Offensive Development	✖	N/A
36	Manufactured Home Estates	✖	N/A
47	Moore Park Showground	✖	N/A
50	Canal Estate Development	✖	N/A
55	Remediation of Land	✖	The requirement to consider contamination when rezoning land was removed from the SEPP and is now considered under Section 9.1 Ministerial Directions of the <i>Environmental Planning and Assessment Act 1979</i> .
64	Advertising and Signage	✖	N/A
65	Design Quality of Residential Apartment Development	✖	Residential apartment buildings will not be permissible should the land be rezoned.
70	Affordable Housing Schemes	✖	N/A
-	Penrith Lakes Scheme 1989	✖	N/A
-	Primary Production and Rural Development 2019	✖	N/A
-	State and Regional Development) 2011	✖	N/A
-	State Significant Precincts 2005	✖	N/A
-	Sydney Drinking Water Catchment) 2011	✖	N/A
-	Sydney Region Growth Centres 2006	✖	N/A
-	Three Ports 2013	✖	N/A
-	Urban Renewal 2010	✖	N/A
-	Vegetation in Non-Rural Areas 2017	✖	Will apply to clearing of vegetation in residential areas, defers generally to Council's DCP requirements for tree management and removal.
-	Western Sydney Employment Area) 2009	✖	N/A
-	Western Sydney Parklands) 2009	✖	N/A

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Attachment 5: S9.1 Planning Directions

Section 9.1 Planning Directions Checklist

Direction	Applicable	Relevant	Consistency/Comment
1 Employment and Resources			
1.1 Business and Industrial Zones	x	N/A	
1.2 Rural Zones	✓	✓	Minor inconsistency. Secretary's concurrence received – refer to Gateway Determination
1.3 Mining, Petroleum Production and Extractive Industries	✓	x	
1.4 Oyster Aquaculture	✓	✓	No adverse impacts on Priority Oyster Aquaculture Areas are expected, noting that the subject land is currently used for agricultural purposes and any subdivision proposal will have to meet water quality objectives set out in DCP Chapter G2. Consultation with DPI Fisheries to occur during public exhibition to confirm.
1.5 Rural lands	✓	✓	Minor inconsistency Secretary's concurrence received – refer to Gateway Determination
2 Environment and Heritage			
2.1 Environmental Protection Zones	x	N/A	
2.2 Coastal Protection	x	N/A	
2.3 Heritage Conservation	✓	✓	Studies investigating Aboriginal cultural heritage have been prepared which illustrate compliance with legislation and consistency with this direction. Additional consultation with Aboriginal stakeholders to occur during public exhibition.
2.4 Recreation Vehicle Area	x	N/A	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	x	N/A	
2.6 Remediation of Contaminated Land	✓	✓	Consistent – a preliminary contamination report has been submitted; land appears suitable for intended use.
3 Housing, Infrastructure and Urban Development			
3.1 Residential Zones	✓	✓	Consistent

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3.2	Caravan Parks and Manufactured Home Estates	x	N/A	
3.3	Home Occupations	✓	x	
3.4	Integrating Land Use and Transport	✓	✓	Consistent – refer to discussion within the PP
3.5	Development Near Licensed Aerodromes	x	N/A	
3.6	Shooting Ranges	x	N/A	
3.7	Reduction in non-hosted short term rental accommodation period	x	N/A	Applies to Byron Shire only
4 Hazard and Risk				
4.1	Acid Sulphate Soils	✓	✓	Consistent - proposed residential land not identified as containing Acid Sulphate Soils.
4.2	Mine Subsidence and Unstable Land	x	N/A	
4.3	Flood Prone Land	✓	✓	
4.4	Planning for Bushfire Protection	x	✓	Land is not currently mapped as bushfire prone. Based on advice from the NSW RFS that the grassland is likely to be mapped as bushfire prone, a bushfire assessment has been completed, and appropriate controls incorporated in the PP and draft DCP chapter.
5 Regional Planning				
5.1	Implementation of Regional Strategies	x	N/A	Revoked.
5.2	Sydney Water Drinking Catchment	x	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	x	N/A	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	x	N/A	
5.5-5.8	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA); Sydney to Canberra Corridor; Central Coast; Second Sydney Airport: Badgerys Creek	x	N/A	Revoked

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5.9	North West Rail Link Corridor Strategy	x	N/A	
5.10	Implementation of Regional Plans	✓	✓	Consistent – land is identified for investigation in the Shoalhaven GMS, an endorsed strategy. Refer to discussion within the PP.
5.11	Development of Aboriginal Land Council Land	x	N/A	Currently only applies to Central Coast LGA
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	✓	Consistent
6.2	Reserving Land for Public Purposes	x	N/A	No land is proposed to be reserved for a public purpose. The drainage reserve area is proposed to be zoned R2 Low Density Residential to allow for detailed design at subdivision stage. Post-development the reserve could be dedicated to Council and rezoned as RE1 Public Recreation as a future housekeeping amendment.
6.3	Site Specific Provisions	✓	✓	Consistent, the proposal does not include any site-specific LEP planning standards. A site-specific DCP Chapter is proposed to guide the design of future development, but this will not impact on permissibility of uses or other planning standards within the LEP.

Planning Proposal PP029 – Shoalhaven LEP 2014 – Hitchcocks Lane Berry Residential Investigation Area

Attachment 6: Gateway Determination

[Gateway Determination PP_SHOAL_2018_004_00](#) – NSW Department of Planning and Environment – dated 3 April 2018

[Alteration of Gateway Determination PP_SHOAL_2018_004_00](#) – NSW Department of Planning Industry & Environment – dated 22 October 2019

[Letter to NSW Department of Planning, Industry & Environment](#) – Shoalhaven City Council – dated 17 September 2020

[Correspondence regarding PP029 and Gateway Determination PP_SHOAL_2018_004_00](#) – NSW Department of Planning Industry & Environment – dated 2 October 2020

DE21.42 - Attachment 2

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Draft Chapter N3: Berry – West of the Princes Highway Residential Subdivision

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POST EXHIBITION CHANGES ARE SHOWN HIGHLIGHTED IN YELLOW

Amendment history			
Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	14 October 2014	22 October 2014	New
2	23 June 2015	1 July 2015	Amendment
3			Amendment

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1 Purpose

The purpose of this Chapter is to facilitate residential subdivision and development on certain land west of Berry Town Centre and the Princes Highway, Berry to meet the housing and lifestyle needs of the community into the future.

This Chapter promotes development that is compatible with the character of Berry and respects the scenic landscapes of the area.

2 Application

This Chapter applies to land generally bound by the Princes Highway, Schofields Lane and Kangaroo Valley Road as shown in Figure 1.

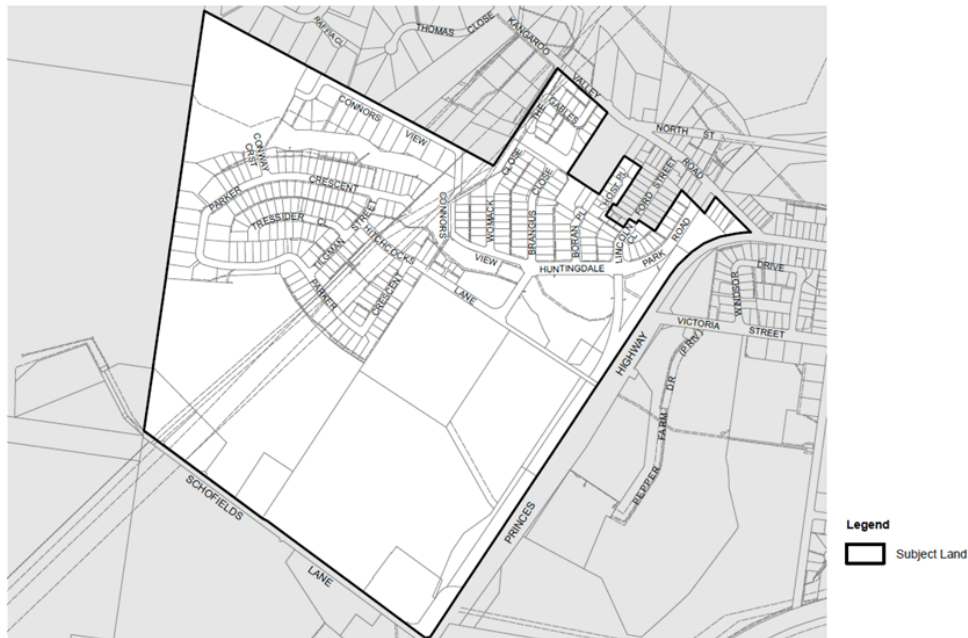


Figure 1: Subject Land Map

3 Context

Berry is a leafy, historic town surrounded by rural land in the north of Shoalhaven. Berry is a very popular place to live and visit, given its historic town centre, village character and landscape amenity. Berry also benefits from good connectivity to Nowra, Shellharbour and Wollongong.

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The south-western edge of Berry is an important gateway to the town. The approach features scenic **views** of forested escarpment, prominent ridgelines and rural pastures. This area has undergone significant change since 2010.

Aged care facilities and a retirement village have been constructed on the eastern side of the Princes Highway, south of Victoria Street. The recently completed Berry Bypass included major infrastructure upgrades which changed the experience of entering the Town. Residential expansion of the Town towards the south-west is underway, in accordance with **the adopted Shoalhaven Growth Management Strategy 2014, strategic growth plans**. New housing has been delivered to the west of the Princes Highway, at the foot of the Berry escarpment in an area known as Huntingdale Park **Estate** (part of the Subject Land within this Chapter).

Residential land in the south-west of Berry (the Subject Land) is located in a visually sensitive area. It is important for the design of new **development** to respect the scenic values of the area and enhance the natural features and landscape quality of Berry. The area is separated from the Berry Town Centre by the Princes Highway. New **development** presents opportunities to improve links between destinations on either side of the Highway by augmenting **footpath** and cycleway networks **and bus routes and facilities**.

The planning **objectives** and controls within this Chapter build upon the themes and strategic priorities described within the community-led *Berry Community Strategic Plan 2016*, which was prepared by the Berry Forum and partners and endorsed by **Council** in December 2016.



Figure 2: Huntingdale Park, Berry from Princes Highway/Schofields Lane intersection.

4 Objectives

The **objectives** of this Chapter are to:

- i. Provide new housing supply in residential zones and encourage variety in housing types and sizes to meet a wide range of household needs.

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- ii. Create a well-landscaped southern gateway to Berry and protect important escarpment **views** and rural **vistas**.
- iii. Complement the character of Berry and highlight its natural attributes through high quality subdivision and housing design.
- iv. Provide for attractive and functional **public open spaces**, convenient and enhanced walking and cycling links and a safe and efficient traffic network.
- v. Encourage social interactions and foster **community** connections.

5 Precinct-wide Controls

The Section applies to all land **to land** in **Figure 1**.

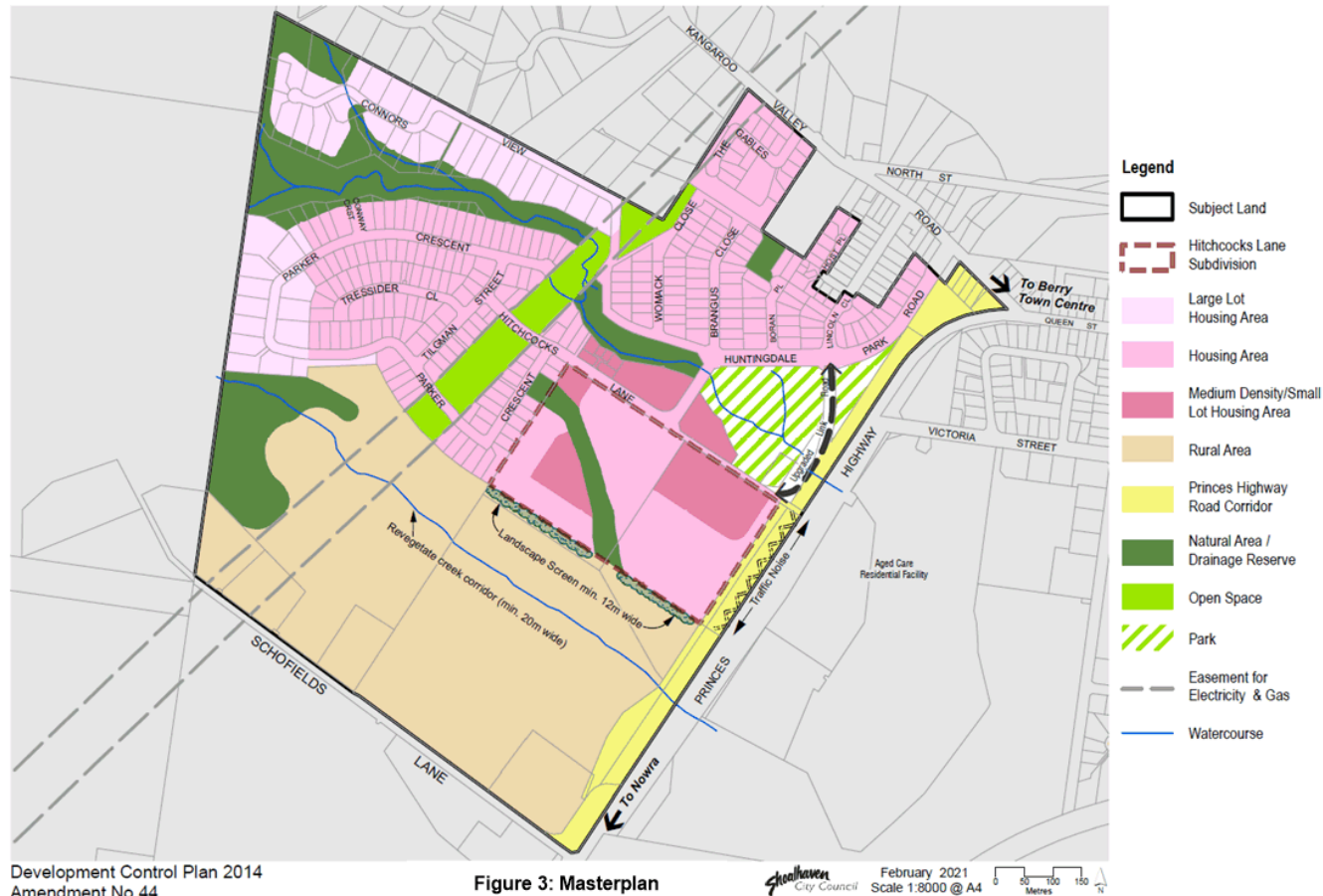
5.1 Masterplan

The Masterplan at **Figure 3** illustrates how the **objectives** of this **DCP** will be met.

Performance Criteria	Acceptable Solutions
P1 Development is consistent with the Masterplan (Figure 3).	A1.1 Development is designed and delivered in accordance with the Masterplan (Figure 3). Note: Variations will only be considered where the applicant provides sound justification for the variation and the alternative solution meets the objectives of the Chapter.

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6 Area-specific Controls – Hitchcocks Lane Subdivision

This Section applies to the Hitchcocks Lane Subdivision land, and neighbouring land as shown in **Figures 3 and 4**.

Historically, this land was part of Graham Park, an artificial stock breeding centre built by the NSW Milk Board and the first of its kind in Australia. The centre closed in the 1980s and the site was used by the University of Wollongong for education until the early 2000s. The subject land was first investigated for housing as part of growth planning in 2002. In 2014, the land was designated as a “Long-term Investigation Area” in the *Shoalhaven Growth Management Strategy (Version 1)*, based upon the assumption that the neighbouring Huntingdale Park subdivision would provide the required housing supply for the following 15 years. However, as of early 2020, the final stages of lots within Huntingdale Park have been released sold out in November 2020, and there is limited supply of new housing lots available in Berry, especially suburban-sized lots ($\leq 600 \text{ m}^2$).

The subject land is cleared and relatively flat and is located between the modern housing estate of Huntingdale Park and the recently constructed Princes Highway Berry Bypass. Future housing in this area will be screened from view by densely planted landscaping along the southern boundary. This landscape screen will minimise the visual impacts of development whilst enhancing the southern gateway into Berry and delineating the south-western edge of the town. Due to the location next to the Princes Highway, noise mitigation barriers (walls and / or earth mounds including landscaping) will need to be installed for development in the eastern portion of the site.

6.1 Indicative Layout Plan

6.1.1 Objectives

The objectives are to:

- i. Encourage a subdivision design that provides a sense of place and provides links to surrounding neighbourhoods and destinations, including the Berry Town Centre.
- ii. Ensure residential development and accompanying infrastructure is planned and constructed in a coordinated manner.

Performance Criteria	Acceptable Solutions
P2 Development is consistent with the Indicative Layout Plan (ILP) (Figure 4).	<p>A2.1 The subdivision is designed and delivered in accordance with the ILP (Figure 4).</p> <p>Note: Variations to the ILP will only be considered where the applicant provides sound justification for the variation and can demonstrate that the subdivision meets the objectives and controls within this Section and can accommodate development consistent with Section 7 of this Chapter.</p>

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Development Control Plan 2014
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Chapter N3 - Berry - West of the Princes Highway

Figure 4: Indicative Layout Plan

Shoalhaven
City Council

February 2021
Scale 1:4000 @ A4
0 25 50 75
Metres

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6.2 Aboriginal Cultural Heritage

6.2.1 Objective

The objective is to:

- i. Ensure consultation with Aboriginal people and organisations is carried out in relation to **development** that may affect Aboriginal cultural and environmental heritage.

Performance Criteria	Acceptable Solutions
P3 Impacts to culturally significant places and/or objects are avoided. Where culturally appropriate, Aboriginal cultural heritage and knowledge is incorporated into project design or interpretation.	A3.1 Acceptable solutions will vary as each situation requires an individual approach, consultation with stakeholders and culturally appropriate responses.

6.3 Views, Landscape Screening and Noise Mitigation

6.3.1 Objectives

The objectives are to:

- i. Protect important **views** of natural and pastoral landscapes and minimise visual impacts from **development**.
- ii. **Reduce road noise impacts from the Princes Highway.**
- iii. Provide positive visual outcomes at the southern gateway to Berry with an emphasis on maximising soft landscaping features and enhancing the natural environment.
- iv. Consider and reduce potential bushfire and flooding **risks** associated with landscape screening features **and noise barriers**.
- v. Ensure landscape screening areas, **noise barriers** and **associated** plantings are low maintenance.

Performance Criteria	Acceptable Solutions
P4 The appearance of the housing area as viewed from the Princes Highway is effectively screened using trees and landscaping.	<p>A23.1 A densely planted landscape screen is provided directly adjacent to the southern boundary (shown in Figure 4). The entire landscape screen must be established before any housing development occurs and shall incorporate all the following elements:</p> <ul style="list-style-type: none"> a. A minimum 12 m wide area, of which 8 m is densely planted and 2 m either side is managed for easy access and maintenance. b. Vegetation screening that will be at least 15 m high at maturity and

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	<p>provides layered planting, including groundcovers, shrubs and trees.</p> <p>c. Landscaping on top of small earth mounds to assist with screening and to reduce potential noise impacts from the highway.</p> <p>c. Large trees positioned in a staggered manner and slightly offset from the centre of the planted area.</p> <p>d. Fencing required for stock control on the southern edge of the screen with minimal visual impact. such as post and wire.</p> <p>e. Arrangements to ensure the landscape screen will be maintained in perpetuity.</p> <p>Note: The establishment and maintenance of a landscape screen along the southern boundary (see Figure 4) is proposed to be implemented via a Planning Agreement prepared in accordance with the Environmental Planning & Assessment Act 1979 and regulations.</p> <p>A condition of any consent issued for subdivision will require the Landscape Screen (Figure 4) to be established prior to the issue of the first subdivision certificate within the site to ensure the screen is established before any dwelling construction.</p> <p>Tree planting/landscaping is to be provided along the entire eastern boundary of the site that:</p> <p>a. Reduces visual impacts of development as viewed from the Princes Highway.</p> <p>b. Complements the proposed landscaping within the subdivision and provides amenity to residents.</p>
<p>P5 Noise impacts from the Princes Highway are ameliorated at subdivision stage to:</p> <p>a. minimise the need for acoustic treatments to be incorporated into dwelling construction; and</p> <p>b. provide indoor and outdoor amenity for future residents.</p>	<p>A5.1 An Acoustic Assessment (Noise Impact Report), including a Noise Barrier Assessment prepared by a suitably qualified acoustic consultant is to be submitted with any subdivision application for Lot 763 DP 1224932 / or within 170 m of the western boundary of</p>

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	the Princes Highway, to detail how P5 will be achieved.
	Note: The Acoustic Assessment/Noise Barrier Assessment must consider the EPA Road Noise Policy (2011) or equivalent update.
A5.2	Noise barriers shall be located outside the Princes Highway road reserve and cannot impact adversely on the state road network or result in maintenance obligations for the state roads authority.
A5.3	Noise barriers need to be permanent solutions requiring minimal maintenance (e.g. earth mounds and/or concrete walls) and arrangements to ensure the barriers will be maintained in perpetuity need to be included in the subdivision application.
	Note: Noise barriers can be landscaped earth mounds or acoustic walls or a combination of both. Any required noise barriers should have regard to TfNSW specification D&C R271 – Design and Construction of Noise Walls.
P6	Noise barriers are designed to contribute to the landscape setting.
	A13.1 Landscaped mounds/berms are the preferred method for acoustic treatment.
A6.1	All noise barriers (earth mounds and/or walls) must be suitably landscaped to minimise visual impacts when viewed from public areas on each side (i.e. from both external roads and internally from adjacent public land/streets within the Hitchcocks Lane subdivision area).
	Note: Landscaping is not generally an effective noise mitigation measure and should not be relied upon to reduce noise. Landscaping shall be used to minimise the visual impacts of any required noise barrier.
A6.2	Any required noise barriers and accompanying landscaping must be constructed at subdivision stage for any subdivision of Lot 763 DP 1224932 / or within 170 m of the western boundary of the Princes Highway.
P7	Landscape screen and noise barrier design minimises bushfire and flooding risks.
A7.1	The landscape screen and landscaping associated with the noise barriers consist

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		of plant species chosen to minimise bushfire risk.
	A7.2	Any works and plantings to establish the landscape screen and noise barriers must not block stormwater overland flow paths or create or exacerbate flood impacts.
P8	Landscape screening and noise barrier boundary planting is low maintenance once established.	<p>A8.1 Species selection and plant densities minimise future maintenance requirements.</p> <p>A6.2 Durable heavy duty garden edging is provided to the planted areas.</p> <p>A8.2 Landscaping in the public domain is accessible for maintenance purposes including provision of parking spaces for required plant/machinery and having slopes no steeper than 1:3.</p> <p>A8.3 The maintenance period for the landscape screen and landscaping in the public domain shall be at least 3 years and maintenance activities are to be detailed in a Landscape Plan submitted with any subdivision application.</p> <p>Note: Landscape maintenance activities include (but are not limited to): weed control, stock control, watering, fertilising, mulching, pruning and replacement of any unsuccessful plants. Any planted areas to be dedicated to Council must be weed-free and consist of healthy, established plants at the appropriate densities.</p>



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Figure 5: Artist Impression of mature vegetation screen looking north



Figure 6: Artist impressions of mature vegetation screen along southern boundary, looking west

6.4 Subdivision and Landscape Design

6.4.1 Objectives

The objectives are to:

- Provide a mix of lot sizes designed to support a range of high-quality housing choices.
- Promote subdivision layouts that respond to the natural environment and complement the historic and walkable subdivision patterns of Berry.
- Enhance the landscape qualities of the area and reinforce the character of Berry as “the Town of Trees”.
- Ensure lot design facilitates high quality dwelling design to provide amenity to residents and neighbours.

Mandatory Controls

- Subdivision provides for small lots measuring between 350 m² and 500 m² as shown in Figure 3; however, no more than 25% of the total site area is to be subdivided into small lots.

6.4.2 Performance Criteria and Acceptable Solutions

Performance Criteria	Acceptable Solutions
P9 The subdivision pattern reflects and reinterprets the historic layout of Berry whilst responding to natural features and site constraints.	A9.1 The subdivision layout design reflects the following historical attributes of Berry, including: <ol style="list-style-type: none"> Small and easily navigated street blocks.

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	<ul style="list-style-type: none"> b. Connected streets that encourage walking. c. Regular, rectangular shaped lots wherever possible. d. Maximised opportunities for landscaping in the public domain and on private properties. e. Road reserves that maximise and frame views to natural and rural landscapes.
	A9.2 Cul-de-sacs or no-through-roads shall be avoided.
	A9.3 Battle-axe lots shall be avoided.
	A9.4 Despite A6.2 and A6.3, cul-de-sacs and battle-axe lots will only be considered in very limited circumstances where design benefits are clearly justified, e.g. to allow dwellings to face the drainage reserve. Any cul-de-sac or no-through-road must provide paths for pedestrians, directly linked to the surrounding path network. Provision of rear laneway access to lots is preferred; therefore, multiple battle-axe lots in a row will not be permitted.
P10 Subdivision design is sensitive to the landscape and environmental qualities of the area.	<p>A10.1 A Landscape Plan, including a Landscape Maintenance Plan/Schedule, shall be submitted with any subdivision application. The Landscape Plan is to be prepared by a suitably qualified person and comply with the requirements of this Chapter and Chapter G3: Landscaping Design Guidelines of this Development Control Plan.</p> <p>A10.2 The Landscape Plan for the subdivision considers bushfire risk.</p>
P11 Reinforce the character of Berry as “a Town of Trees” through generous planting of street trees.	<p>A11.1 Existing mature trees are retained across the site wherever possible.</p> <p>A11.2 Street trees are required on all streets, except laneways, and are to be planted within the road reserve verge (nature strip).</p> <p>A11.3 Street trees are to be planted approximately every 15-20 m along streets, except laneways, with consideration given to location of</p>

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	<p>underground services, driveways, sight distances and waste collection.</p> <p>A11.4 Street trees shall be chosen and maintained to enhance the public domain, including to provide shade along pedestrian paths.</p> <p>Note: A landscaping species list for Berry contains a list of trees suited to local conditions and to compliment the culture and aesthetics of the town. Other street tree species can also be considered.</p> <p>A11.5 Street trees are required to be proactively maintained throughout the development of the area to ensure robust growth habits and longevity. Maintenance activities shall be detailed in the Landscape Maintenance Plan/Schedule.</p> <p>Note: Maintenance of the street trees can include watering, weeding, mulching, tree guard maintenance, crown lifting/pruning, disease and pest management and replacement of failed specimens.</p> <p>Street trees must be in good condition upon dedication of road reserves to Council.</p>
<p>P9 Subdivision is designed to minimise bushfire risks in accordance with Planning for Bushfire Protection 2019 (NSW RFS).</p>	<p>A9.1 The subdivision layout is designed in accordance with standards published by the NSW Rural Fire Service (e.g. the provisions of Planning for Bushfire Protection 2019 or any future update), including provision of adequate Asset Protection Zones (APZs), perimeter roads and subdivision infrastructure and services.</p>
<p>P12 Subdivision lot layout and design optimises solar access to future dwellings to:</p> <ol style="list-style-type: none"> Provide comfortable temperatures to living areas year-round, Promote energy efficiency and reduce energy costs associated with artificial heating and cooling, Protect solar access for all dwellings and private open spaces by minimising overshadowing impacts, and 	<p>A12.1 The dimensions, orientation and layout of lots in a subdivision are designed:</p> <ol style="list-style-type: none"> In accordance with the requirements of Chapter G11: Subdivision of Land of this Development Control Plan. To ensure future dwellings and associated private open spaces can capture northern sun in winter for passive (natural) heating and natural light. To ensure future dwellings and associated private open spaces can be effectively oriented and shaded to

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- d. Provide opportunities for rooftop solar systems.

passively (naturally) reduce heat gains in summer.

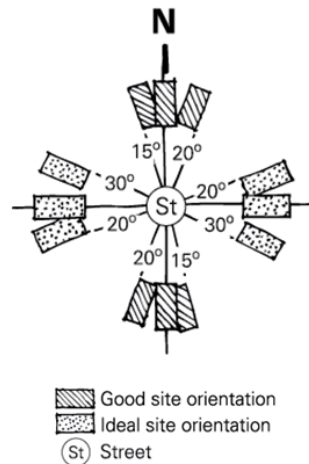


Figure 7: Lot orientation for optimal solar access.

Source: <https://www.yourhome.gov.au/passive-design/orientation>

Note: Subdivision design should maximise provision of lots with favourable orientation as shown in Figure 7. Lots that are orientated (angled) to face north-south or east-west provide good opportunities to design energy efficient solar passive homes (homes that can be heated and cooled naturally). In most climates, the ideal orientation for living areas is within the range 15°W–20°E of true or 'solar' north (although 20°W–30°E of true north is also considered acceptable). Some lots with may need to be bigger and wider than the allowable minimum, due to site features such as orientation, to allow for energy-efficient dwelling designs that provide optimal passive heating and cooling opportunities.

- P13 Ensure each lot within the subdivision can accommodate an efficient and comfortable dwelling that is consistent with the desired character of the area.

- A13.1 The minimum width of lots is in accordance with Table 1.

Table 1: Minimum lot widths

Lot type	Minimum lot width*
----------	--------------------

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Small lot (<400 m ²), vehicle access via rear laneway	8 m
Small lot (<400 m ²) vehicle access from primary street frontage	10 m
Lot ≥400 m ² <500 m ²	12 m
Lot ≥500 m ²	16 m
Corner lots (primary street frontage)	As for above +4 m

*measured at the front building line.

Note: The desired character of the area, including building lines/setbacks is described in **Section 7** of this Chapter.

Council may request indicative building envelopes and driveway crossovers / garage locations be shown on the subdivision plan to illustrate compliance with this Performance Criterion.

Lot widths can influence solar passive design opportunities and small lot design should ensure all future dwellings can optimise solar access and natural ventilation opportunities (i.e. provide access to natural light, warmth (in winter) and airflow/breezes).

P14 Dwellings face towards streets and (where applicable) the drainage reserve, to provide casual observation over public spaces, improving safety and amenity.

A14.1 Subdivision layout enables dwellings to face and look over:

- Streets (excluding laneways used for rear vehicle access)
- The drainage reserve, where applicable (either directly or separated by a road) as shown in the ILP (Figure 4).

A14.2 Rear boundaries and rear fences must not face the drainage reserve.

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Figure 8: Example of dwellings with outlooks over public space (top: Huntingdale Park, Berry; bottom: Bayswood, Vincentia).

6.5 Street Network and Streetscape Design

6.5.1 Objectives

The objectives are to:

- i. Provide an efficient and safe street network.
- ii. Encourage walking and cycling journeys by providing convenient links within the neighbourhood and to surrounding areas and key destinations.
- iii. Create attractive streetscapes that reflect a sense of place and maximise landscaping opportunities.
- iv. Ensure the orderly development of land with coordinated and timely provision of necessary infrastructure.

6.5.2 Mandatory Controls

1. Direct vehicular or pedestrian access to/from the Princes Highway is prohibited.
2. The major new road connections required to be constructed are the Entry Road and upgraded Unnamed Link Road as illustrated in the ILP (Figure 4). If subdivision occurs in stages, the entire Entry Road and Unnamed Link Road will need to be constructed before the capacity of the existing local road network is reached, exceeded.

Note: The Traffic Study submitted with any subdivision application shall detail any required upgrades for roads and intersections outside the

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Hitchcocks Lane subdivision area to cater for the increased traffic flows from development. Any required upgrades shall be provided by the developer.

Note: The upgrade of the Unnamed Link Road will be triggered based on the capacity of the surrounding road network to efficiently cater for proposed development (which may be delivered in stages), with particular focus given to managing traffic at the Huntingdale Park Road – Brangus Close – Connors View intersection.

3. Each stage of the subdivision will need to provide access to an flood free access road for vehicles and pedestrians above the 1% AEP flood extent (i.e a road that is flood free during a 1% AEP event) in accordance with Chapter G9: Development on Flood Prone Land of this Development Control Plan.
 4. The Unnamed Link Road must comply with the following design requirements:
 - a. If the Unnamed Link Road forms the only access road for a subdivision, it will be required to be flood free in a 1% AEP flood event.
 - b. The Unnamed Link Road may be able to be constructed to be flood free in a 10% AEP flood event only if there is another road that is flood free in a 1% AEP event. A lower level of service may be acceptable. In this case, a minimum 10% AEP event level of service from flooding must be achieved. This lower level of service for flooding for the Unnamed Link Road is only allowable if there is another site access that is flood free in a 1% AEP event.
- Note:** Transport for NSW specifications to avoid flood impacts to the State Road (Princes Highway) may influence the level of service required for flood
- c. The construction of the Unnamed Link Road must result in zero afflux in existing urban areas in a 1% AEP event and no more than 100mm afflux in land zoned RE1 Public Recreation in a 1% AEP event.
 - d. Any potential afflux within the Princess Highway road corridor needs to comply with Transport for NSW specifications.
 - e. Huntingdale Park Road must remain flood free during a 1% AEP event.
 - f. Pedestrian and cyclist connections will be required along the Unnamed Link Road.
5. Any drainage reserve road crossing must provide flood free access above the 1% AEP extent for vehicles and pedestrians and must be designed so as not to worsen flood conditions elsewhere in accordance with Chapter G9: Development on Flood Prone Land of this Development Control Plan.
 6. All shared user paths, cycleways and pedestrian paths must be designed as follows with regard to flooding:

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- a. The entire shared use path, cycleway or pedestrian path surface must be located above the 20% AEP event flood level based on the projected 2050 scenario.
- b. The shared use path, cycleway or pedestrian path must be located within an area of H1 Hazard Vulnerability Classification in a 1% AEP event. The H1 Hazard Vulnerability Classification limits the velocity-depth product to 0.3 m²/s, the depth of floodwaters shall not be more than 0.3m and the velocity of floodwaters must not exceed 2 m/s in a 1% AEP event.
- c. Flood warning signage must be provided for all shared use paths and cycleways adjacent to a waterway or any form of permanent or flood water with a Hazard Vulnerability Classification greater than H1.

Note: A shared path/cycleway/footpath can be constructed in the drainage reserve provided the above flood-related requirements are met.

7. Streets are to be designed in accordance with the road specifications within Tables 3 2 to 6 and Figures 9 to 14.

Note: The road reserve widths in this Section describe the minimum acceptable. Carriageway widths are measured from lip to lip. In some areas, additional widths may be required, for example to accommodate large or emergency vehicle movements or parking bays.

Types of Streets

The local street network will be designed to safely accommodate people walking, cycling and driving. Streets will also be designed to maximise opportunities for landscaping and street tree planting to complement the leafy character of the area. Below is a brief description of the types and characteristics of the streets that will be constructed.

Unnamed Link Road

The Unnamed Link Road runs alongside the western edge of the Princes Highway and links Huntingdale Park Road with the Hitchcocks Lane subdivision area (Figure 4). The road was constructed by Transport for NSW as part of the Princes Highway Berry Bypass and will be dedicated to Council.

Entry Road (Local Street - Collector)

The proposed subdivision will have a minimum of two entry points as shown in the Indicative Layout Plan (ILP) (Figure 4) to maximise connectivity and cater for expected traffic volumes. The Entry Road (see Figures X and X and Table 2) will have a relatively wide road reserve width of at least 20 metres, to include a separated shared path for walking and cycling along its entire length, as well as underground services, street trees and generous verge widths (wide nature strips). The Entry Road will be designed to maximise connectivity and accommodate a future potential bus route.

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Table 2: Minimum widths - Entry Road

Verge			Carriageway		Verge	Total	Kerb
Offset	Path	Planting	Lane	Lane	Planting		
1 m	2 m	2.5 m	4.5 m	4.5 m	5.5 m	20 m	Layback / barrier
5.5 m			9 m		5.5 m		

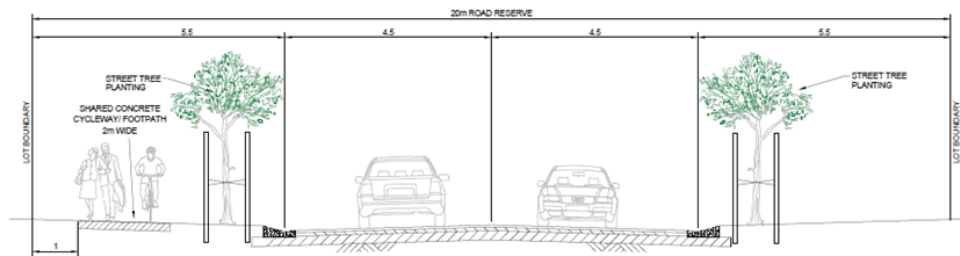


Figure 9: Entry Road Cross-Section – Minimum widths

Source: Allen Price & Scarratts Conceptual Road Cross Sections 14/9/2020

Note: See Figure 4 for an indicative location for the Entry Road. The Entry Road will form the main Local Street (Collector) road for the area and will be designed to maximise connectivity and accommodate a future potential bus route.

Streets adjacent to Drainage Reserve (Access Streets)

A drainage reserve will be provided to convey flood and stormwater as shown in the ILP (Figure 4). The subdivision can should include streets that adjoin the drainage reserve, allowing dwellings to face the street and the reserve. This arrangement provides for casual observation over the reserve and paths, improving safety and giving dwellings an attractive natural outlook. In addition, streets alongside the drainage reserve provide easy access for maintenance. Lower traffic volumes on these streets, combined with traffic calming design, can create a pleasant and safe shared environment between pedestrians, cyclists, and vehicles.

Table 3: Minimum widths - Drainage Reserve - Access Streets

Verge (adjacent to housing)	Carriageway		Verge (adjacent to reserve)	Drainage Reserve	Total (approx.)	Kerb
Planting	Lane	Lane	Planting			
5 m	3 m	3 m	1.5 m		12.5 m	Layback / barrier
5 m	6 m		1.5 m			

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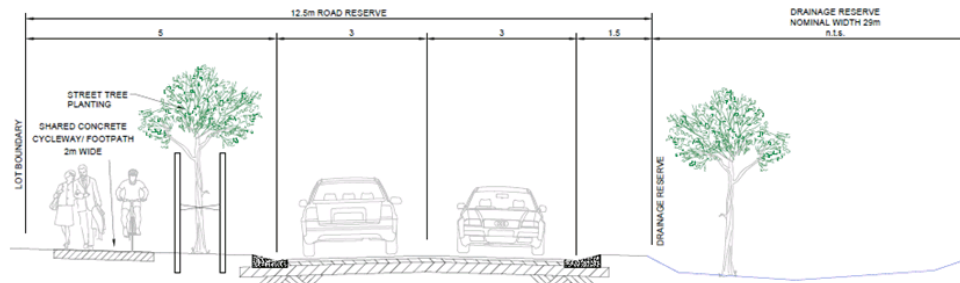


Figure 10: Minimum widths - Drainage Reserve Streets Cross Section

Source: Allen Price & Scarratts Conceptual Road Cross Sections 14/9/2020

Note: Where roads are provided directly adjacent to the drainage reserve, except for the Entry Road, the verge width next to the drainage reserve may be reduced to a minimum of 1.5 m subject to adequate provision of shared paths, utilities, street trees, bollards and compliance with safety standards and any bushfire management requirements.

Note: As part of the active transport network, a shared path is required to run along the southern side of the drainage reserve as shown in the Indicative Layout Plan (Figure 4). This shared path can be provided within the road reserve (as shown in Figure 10 above) or within the drainage reserve provided flood risks are managed in accordance with Shoalhaven DCP 2014 and any relevant state policy.

Laneways

Laneways are encouraged when small and/or narrow lot layouts justify access to garages/car ports at the rear of properties, and where alternative vehicle access is necessary or desirable for properties fronting main streets or green spaces.

Laneways are narrow public roads that have very low traffic volumes and are designed to be shared by all users whether they are walking, cycling or driving. Laneways do not provide separate footpaths or on-street car parking.

A common character feature in older and historic streets is the unobtrusiveness or absence of driveways and garages in the streetscape. Providing rear laneways creates safe and attractive residential streets by removing garages and driveway crossovers from the street frontages, improving the street presentation of houses and maximising on-street parking spaces and street tree plantings.

Table 4: Minimum widths - Laneways

Verge	Carriageway	Verge	Total (approx.)	Kerb
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Planting	Lane	Lane	Planting		Layback / barrier
2.5 m	3 m	3 m	2.5 m		
2.5 m	6 m		2.5 m	11 m	

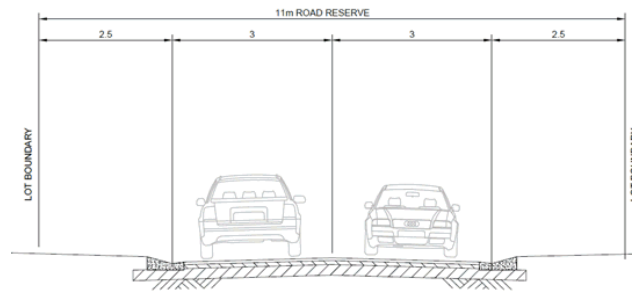


Figure 11: Laneways Cross Section - Minimum widths

Source: Allen Price & Scarratts Conceptual Road Cross Sections 14/9/2020

Note: Laneways are secondary frontages providing rear vehicular access to properties. They do not act as a primary street frontage. Conditions will be included on any consent issued to designate laneways as no stopping/no parking zones. All lots with rear laneway access must have frontage to a road.



Figure 12: Examples of rear laneway access

Perimeter Road for Bushfire Management Requirements

A perimeter road to meet bushfire management requirements is required to be provided along the southern boundary of the Hitchcocks Lane subdivision area. This will ensure

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separation between homes and the landscape screen along the boundary and provide access for firefighting vehicles.

Table 5: Minimum widths - Perimeter Roads

Verge	Carriageway		Verge	Total (approx.)	Kerb
Planting	Lane	Lane	Planting		Layback / barrier
3 m	4 m	4 m	5 m		
3 m	8 m		5 m	16 m	

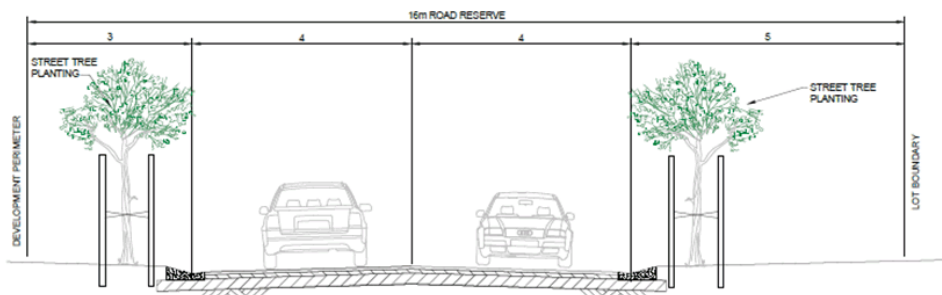


Figure 13: Perimeter Road Cross Section - Minimum widths

Source: Allen Price & Scarratts Conceptual Road Cross Sections 14/9/2020

Note: A reduced verge width (e.g. of 3m) may be acceptable between the road carriageway and the development perimeter.

A perimeter road is located on the outer extremity of a local area or subdivision and usually runs parallel to the bush or grass land interface. The perimeter road provides space to conduct active firefighting operations. Non-perimeter roads are the interconnecting roads between the perimeter roads and the existing and/or broader road network.

Other Streets Specifications

All other streets within the subdivision will be planned and managed to reduce traffic volumes and speeds, to increase amenity and improve safety for residents, especially pedestrians and cyclists.

Table 6: Minimum widths – Other Streets

Verge	Carriageway		Verge	Total (approx.)	Kerb
Planting	Lane	Lane	Planting		Layback / barrier
5 m	3 m	3 m	5 m		
5 m	6 m		5 m	16 m	

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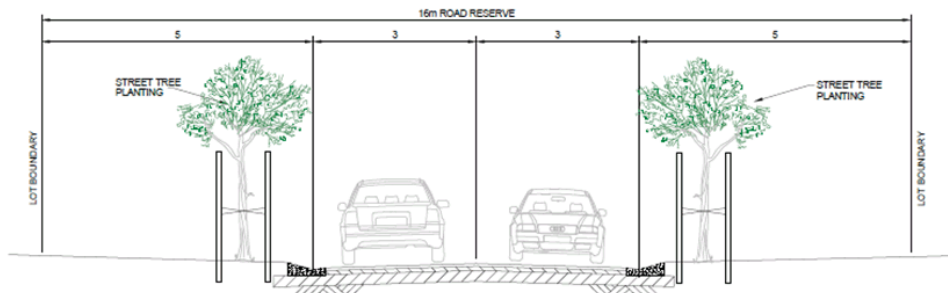


Figure 14: Other Streets Cross Section - Minimum widths

Source: Allen Price & Scarratts Conceptual Road Cross Sections 14/9/2020

6.5.3 Performance Criteria and Acceptable Solutions

Performance Criteria	Acceptable Solutions
P15 The street network safely accommodates all modes of transport (walking, cycling, public transport and driving) and efficiently caters for anticipated traffic volumes.	<p>A15.1 A Traffic Study is to be prepared in accordance with the controls within this Development Control Plan and relevant Australian standards and submitted with applications for subdivision. The Traffic Study must detail:</p> <ol style="list-style-type: none"> How the proposal will cater for active forms of transport (encourage walking and cycling and maximise safety for pedestrians and cyclists). How the proposal will effectively distribute and manage traffic volumes including assessment of traffic impact on all affected intersections. How local traffic speeds will be managed through road design and, where necessary, through use of traffic calming devices. Safe crossing points for pedestrians and cyclists, especially at the entry from Hitchcocks Lane. How the subdivision will accommodate a possible future bus route, through Huntingdale Park. On-street parking provisions.

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	g. Emergency vehicle access to all parts of the subdivision.
	A15.2 Any Traffic Study must address the cumulative impacts of development . The Traffic Study must detail any required infrastructure upgrades to the surrounding road network to cater for traffic generated by the development .
	A15.3 Any Traffic Study must consider impacts of proposed staging of development on the surrounding road network.
	Note: Chapter G11: Subdivision of Land and Chapter G21: Car Parking and Traffic of this Development Control Plan provide additional design requirements to be considered in the preparation of a Traffic Study.
P16 Street layout and design provides for safe and convenient links within the subject site and to surrounding areas.	A16.1 All streets within the subject site are to be designed to produce a low speed environment, considering road geometry, sight distances and resident amenity. Where traffic management and calming devices are required, these must be identified on the subdivision plans.
	A16.2 The street network maximises connectivity to efficiently distribute traffic flows, minimise travel distances and encourage walking and cycling.
P17 Walking and cycling is convenient, safe, accessible and pleasant.	A17.1 Shared paths (accommodating pedestrians and cyclists) and footpaths are to be provided as shown in the Walking and Cycling Links Map (Figure 15).
	A17.2 Shared paths and footpaths are designed and constructed to be accessible for a wide range of users at all stages of life and comply with Council's Engineering Design Specifications.
	A17.3 Footpath links are used to minimise travel distances around the subdivision area and to key destinations such as the Berry town centre.
	A17.4 Street trees are planted to shade walking and cycling links.

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|---|--|
| <p>P18 Laneways are used to provide safe vehicle access to the rear of some properties (especially small or narrow lots) and to enhance neighbourhood character by:</p> <ul style="list-style-type: none"> a. Enabling diverse housing types and ensuring small lots have a strong relationship with the street. b. Improving street presentation of houses (kerb appeal). c. Removing garages and driveways from primary roads thereby maximising on-street parking and street tree planting opportunities along primary streets. d. Providing more space on primary roads and in front yards for soft landscaping, reminiscent of historic streetscapes in Berry. | <p>A18.1 Laneways are utilised to provide rear access to small lots (<400 m²) and / or narrow lots: (<12 m frontage)</p> <p>A18.2 Despite A18.1, laneways may not be required for small lots (<400 m²) which have access to a street that directly adjoins the drainage reserve.</p> <p>A18.3 Laneways are short in length (generally <70 m long) to reduce visual impacts, provide for sight distances, casual surveillance ('eyes over the street') and well-connected streets.</p> <p>A18.4 Laneways are designed in accordance with AUSTROADS standards and Crime Prevention Through Environmental Design (CPTED) principles, including provision of lighting where necessary.</p> <p>A18.5 Laneways are designed to enable safe and efficient waste collection.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Note: The following will be included as a condition of consent for any subdivision which includes lots that have laneway access: A restriction as to user is to be included on property titles via a Section 88B instrument to restrict driveways on the front boundary where lots have vehicle access via a rear laneway.</p> <p>Laneways are to be designated no stopping zones and parking within the carriageway will not be permitted.</p> </div> |
|---|--|
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- | | |
|---|---|
| <p>P19 Streetscapes are designed to reflect a sense of place and be compatible with the character of Berry, through:</p> <ul style="list-style-type: none"> a. Maximising soft landscaping opportunities on street verges and in front yards b. Minimise the visual dominance of hardstand areas and ensure vehicle access does not interfere with landscaping opportunities. | <p>A19.1 Verge widths within the road reserve (excluding for laneways) are a minimum of 5 m wide to accommodate street tree plantings and soft landscaped areas compatible with the character of Berry (except where otherwise specified in section 6.5.2(7)).</p> <p>A.19.2 Despite A19.1, where roads are provided directly adjacent to the drainage reserve, except for the Entry Road, the verge width next to the drainage reserve may be reduced to a minimum of 1.5 m subject to adequate provision of shared paths, utilities, street trees, bollards and compliance with safety standards and any bushfire management requirements.</p> <p>A19.3 Despite A19.1, the verge width for a perimeter road may be reduced to 3 m</p> |
|---|---|

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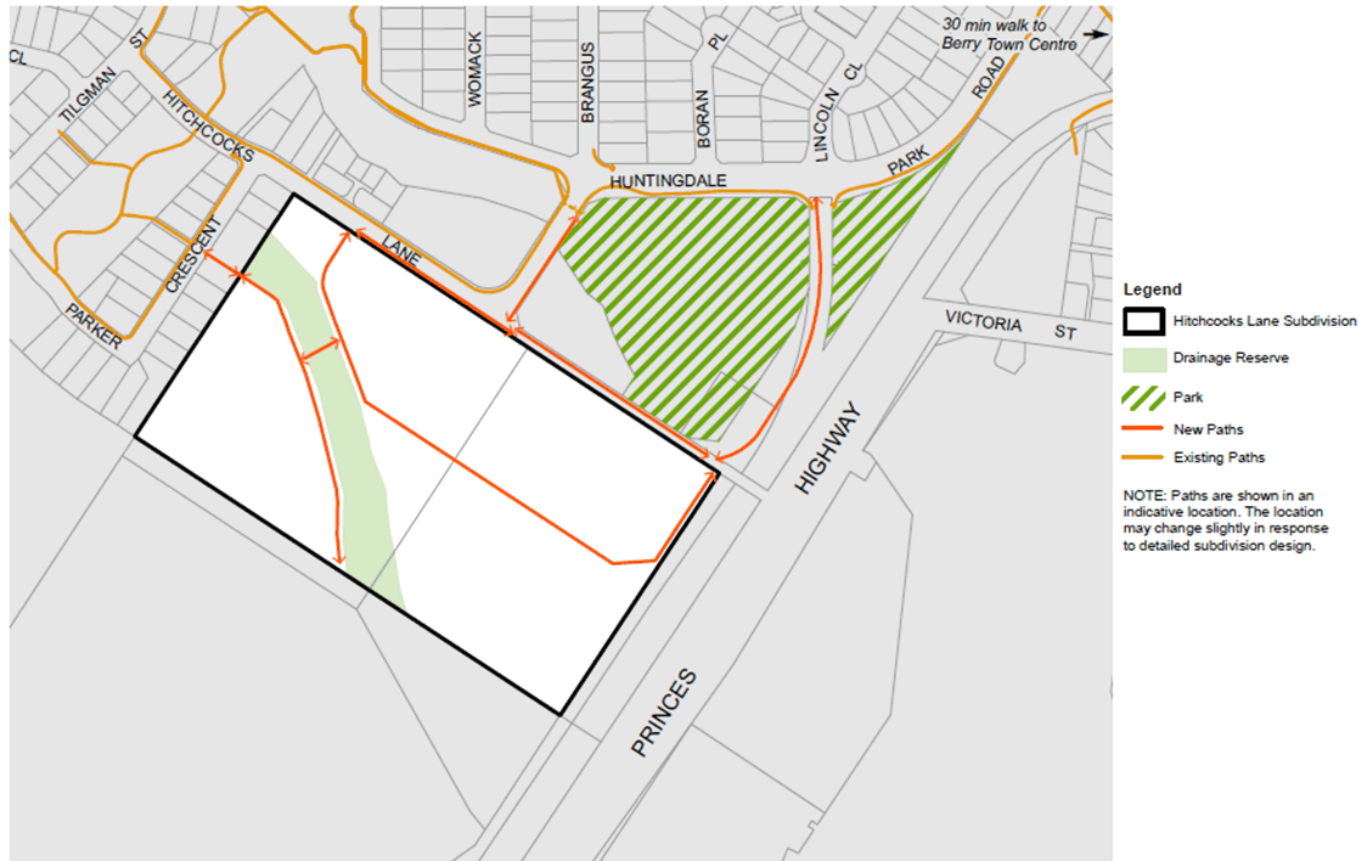
~~adjacent to the development perimeter
subject to adequate provision of utilities
and compliance with safety standards
and any bushfire management
requirements.~~

A19.2 All utility services are provided underground within the verge of the **road** reserve.

A19.3 Where narrow **lots** (<12 m) have vehicle access on a primary **road** frontage (and not via rear **laneway** access), indicative driveway locations are to be identified on subdivision applications to ensure future driveways do not conflict with the **Landscape Plan** and street **tree** planting.

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Amendment No 44
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Figure 15: Indicative Walking and Cycling Links

Shoalhaven City Council February 2021
Scale 1:4000 @ A4

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6.6 Flood and Stormwater Management

A **drainage** depression runs from the north-western corner of the site to the south-east, eventually joining to Broughton Creek. Land within the **drainage** depression is classified as **flood affected** land within the 1% **AEP flood** extent by the Broughton Creek **Floodplain Risk Management Study** (2012). The **drainage** depression will be managed as a reserve to mitigate **flood risk**, convey **stormwater** flows and manage water quality impacts (see **Figure 4** for location of **drainage** reserve). A shared path (for pedestrians and cyclists) is to be provided along one edge of the **drainage** reserve, to promote active transport and add to the existing network of paths in Huntingdale Park (see **Figure 4** for the indicative location of the shared path).

Development within the Hitchcocks Lane subdivision area (**Figure 4**) will occur above the **Flood Planning Level** and be designed and managed to ensure there are no off-site flooding impacts and to maintain water quality.

6.6.1 Objectives

The objectives are to:

- i. Manage **flood risks** and **stormwater** flow paths and systems to ensure the safety of people and property.
- ii. Mitigate the impacts of **development** on water quality.
- iii. Integrate **water sensitive urban design** measures to maximise amenity and enhance riparian ecology.
- iv. Ensure **stormwater** systems are appropriately designed and installed to minimise the ongoing maintenance costs as much as possible.

6.6.2 Mandatory Controls

1. All land within the 1% **AEP flood** extent is to be included within a **drainage** reserve (refer to **Figure 4**), which is designed and managed to convey floodwaters and **stormwater** flows in accordance with the requirements of Chapter G9: Development on Flood Prone Land and Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control of this **Development Control Plan**.

6.6.3 Performance Criteria and Acceptable Solutions

Performance Criteria	Acceptable Solutions
P20 Risks associated with flooding are minimised.	A20.1 Subdivision proposals must comply with the requirements of Chapter G9: Development on Flood Prone Land in this Development Control Plan .
P21 Stormwater is managed using Water Sensitive Urban Design (WSUD) principles and water quality in local watercourses is protected.	A21.1 Subdivision proposals must comply with the requirements of Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control of this Development Control Plan .

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P22 Stormwater and flood management infrastructure is designed to manage flood and stormwater flows effectively, whilst minimising ongoing maintenance costs.

A22.1 Ongoing maintenance costs are considered in the design of stormwater systems and infrastructure and an Operation and Maintenance Plan shall be submitted to Council for all stormwater treatment measures proposed, whether the asset is to remain in private ownership or to be handed over to Council.

Note: The maintenance period for the stormwater treatment devices shall be at least 3 years and maintenance activities are to be detailed in the submitted Landscape Plan.

A22.2 All flood and stormwater infrastructure related to residential development must be accommodated on the development land (i.e. the area shown as Hitchcocks Lane Subdivision area in Figure 4).

A22.3 Subdivision design makes provision for access to the drainage reserve for ease of maintenance purposes.

P23 The drainage reserve is suitably landscaped to enhance residential amenity whilst minimising flood risks and maintenance costs.

A23.1 Tree planting within the drainage reserve is permitted to minimise visual impacts of development and provide shade and amenity, where:

- a. Trees are planted on the upper half of the waterway batters, and
- b. The selected species and planting density will have no adverse flood impacts during a 1% AEP flood event.

Note: Some considerations for landscaping within the drainage reserve include:

- Limiting tree/stem density to reduce turbulence and resistance,
- Use of species with flexible stems able to bend under flow,
- Adequate spacing of vegetation, and,
- Limiting the height of vegetation (lower heights can reduce the amount of debris created during a large flood). Crown lifting of larger

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trees, or choosing clear-trunk species can allow for water to flow below branches and limit debris.

7 Housing Development Hitchcocks Lane

This Section applies if you are building a dwelling or ancillary building within the Hitchcocks Lane subdivision area (see Figure 4).

Good design adds to local character by respecting and enhancing features that make a place special. It is important to respect the historic and heritage character of Berry when designing new dwellings. This can be achieved through simple design choices, such as:

- Taking cues from the natural environment,
- Preserving views,
- Sensitive material and colour choice,
- Providing generous landscaping, and
- Designing homes to have a similar or smaller bulk and scale to existing houses.

Preserving the authenticity of a place is an important consideration as places with heritage character undergo change, as is occurring with new housing development in Berry. Best-practice heritage-sensitive design can interpret or reference certain character features from period homes and traditional streetscapes but does not need to exactly replicate heritage facades and make new buildings appear as if they were old (ICOMOS Burra Charter 2004). Therefore, the following controls do not provide rigid or prescriptive requirements to reproduce historical architecture in a modern setting. This Section offers flexibility to accommodate a range of dwelling designs compatible with the local character of Berry.

The desired character for the Hitchcocks Lane Subdivision is to provide a variety of well-designed dwellings that are cohesive with traditional streetscapes and which have generous landscaped areas. Plentiful areas of soft landscaping (including trees, shrubs, gardens and lawns) are a defining feature of Berry. Planning controls in this Section therefore focus on setting parameters for bulk and scale of development and optimising provision of soft landscaped areas (green space around buildings).



Figure 16: Landscaping examples

Note: The examples in Figure 16 show how landscaping has been used to integrate mid-century

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and contemporary housing forms into older, traditional streetscapes.

In the event of any inconsistency between this Chapter and the Generic Chapters, the provisions in this Chapter will prevail.

7.1 Building Form – Bulk and Scale

7.1.1 Objectives

The objectives are to:

- Provide **dwelling**s similar in bulk and **scale** to existing **development** in Berry,
- Provide sufficient space around **dwelling**s for landscaping, front and rear yards and to soften the visual impacts of **building**s and hard surfaces.
- Promote **diverse-attractive** and varied streetscapes that reflect a sense of place.
- Provide a range of housing types and sizes to suit a wide range of households and encourage smaller-sized **dwelling**s on small **lots** to improve housing choice and mitigate any potential impacts on the streetscape.

Note: The provision of small **lots** in this area seeks to encourage smaller-sized **dwelling**s to suit a wide range of households, noting 2-bedroom **dwelling**s are currently in short supply.

Performance Criteria	Acceptable Solutions				
<p>P24 Housing is comparable in bulk and scale to existing development, to maintain amenity for residents and neighbours and protect the village character of the area.</p> <p>The bulk and scale of a dwelling is proportionate to lot size.</p>	<p>A24.1 The maximum gross floor area of all buildings on a lot must not exceed 50% of the lot area.</p> <p>Note: For guidance on calculating gross floor area (including exclusions) see the definition in Shoalhaven LEP 2014.</p>				
<p>P25 Adequate separation is provided between buildings to provide access-to for natural light, solar access, ventilation, landscaping, views and privacy and to mitigate the potential visual impacts of development.</p>	<p>A25.1 Side setbacks are progressively increased in accordance with Table 7 and Figure 17 to reduce bulk and overshadowing impacts while maintaining adequate sunlight and ventilation to adjoining dwellings and private open spaces.</p> <p>Table 7: Side setbacks for dwelling houses</p> <table border="1"> <tr> <th>Lot width</th><th>Minimum side setback</th></tr> <tr> <td>9 m or less</td><td>900 mm on each side</td></tr> </table>	Lot width	Minimum side setback	9 m or less	900 mm on each side
Lot width	Minimum side setback				
9 m or less	900 mm on each side				

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Greater than 9 m	One minimum side setback equivalent to 10% of the width of the allotment, up to a maximum of 2.5 m. 900 mm on the remaining side.
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A25.2 For dual occupancy or semi-detached dwellings, side setbacks to (measured from the boundaries of neighbouring lots) are to be 10% of the width of the allotment, up to a maximum of 2.5m.

Note: The width of the allotment for the purposes of calculating the side setback is the average width of the allotment over the length of the building.

Where setbacks are not specified in this Section, setbacks from the Generic Chapters of this Development Control Plan apply according to the type of development proposed.

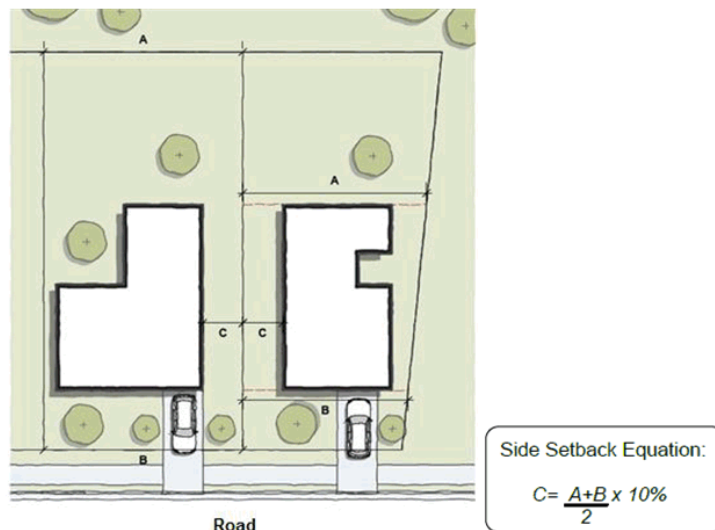


Figure 17: Side setback calculation

P26 Provide adequate on-site car parking for dwellings whilst minimising the visual dominance of garages, car parking spaces and hardstand driveways on the streetscape.

A26.1 As much as possible, limit the amount of hardstand area used for driveways, parking and vehicle circulation. forward of the front building line (in the front setback/yard area).

A26.2 Triple fronted garages are not permitted.

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	<p>A26.3 Where lots have rear lane access, vehicular parking and access must be provided from the laneway.</p> <p>A26.4 Permeable paving for driveways and parking spaces can be considered to support stormwater infiltration with the choice of product to be approved by Council's Engineering Section. Areas of permeable paving will not be counted as landscaped area.</p> <div data-bbox="874 656 1273 1086"> <p>Note: The character of Berry is reflective of its history and many of the historic dwellings were built before households had a car or cars. Therefore, modern dwellings with multiple car parking spaces need to carefully consider the location and appearance of parking structures and driveways to provide complementary streetscapes.</p> <p>On-site car parking and vehicle access is to be provided in accordance with the Generic Chapters (in particular Chapter G21: Car Parking and Traffic) in this Development Control Plan.</p> <p>Before constructing a driveway, you need to obtain a Section 138 approval permit to undertake construction.</p> </div>
<p>P27 Roof treatments are integrated into the building design, making a positive contribution to the streetscape and minimising urban heat island effects.</p>	<p>A27.1 Minimum roof pitch is to be 22.5 degrees for hips and gables or 5 degrees for mono pitched skillions.</p> <p>A27.2 Roof materials and colours that minimise the retention of heat from the sun are encouraged. Roof colours and materials must be chosen to minimise glare to neighbours and stark, highly reflective white and bright colours are not appropriate due to the visually sensitivity of the area.</p> <p>A27.3 Any proposed green roof will need to conform to relevant technical and engineering standards.</p> <div data-bbox="874 1496 1273 1697"> <p>Note: Roof design is a key external house feature and needs to balance many factors to optimise building performance and add to streetscape character.</p> <p>Important considerations when designing a roof include appearance, bulk, climate (wind, drainage), eave design, internal space (ceiling heights and servicing space),</p> </div>

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insulation, maintenance, budget and solar collector efficiency.

Consider local climate and heating and cooling needs when choosing a roof. Light coloured roofs reflect sunlight and reduce solar absorption, providing a cooling effect on roof spaces, dwellings and outdoor air temperatures (reducing the urban heat island effect and minimising insulation costs). Roofing manufacturers will provide solar absorption values for colours and materials to meet BASIX commitments (BASIX provides state-wide building sustainability requirements).

P28 Encourage new development that provides visual interest to the streetscape and is sympathetic to the surrounding landscape.

A28.1 Building design shall use detail and articulation of building elements to add visual interest and a balanced appearance to facades.

A28.2 Minimise the length of unbroken walls and / or continuous glazing (windows).

A28.3 Building articulation with lightweight materials is encouraged to minimise the visual impacts of elements that exaggerate the built form and add unnecessary building bulk.



Figure 18: Modern sensitive design examples

7.2 Landscaping, Amenity and Sustainability

7.2.1 Objectives

The objectives are to:

- i. Maximise opportunities for landscaping on private property to soften the appearance of the built form and provide streetscapes that are sensitive to the character of Berry.
- ii. Protect important landscape views by complementing landscaping and tree planting in the public domain.
- iii. Provide useable outdoor areas, to provide residents with a range of health and lifestyle benefits.

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- iv. Encourage water and energy efficient dwellings.

Note: Sustainable house design is recognised as a priority in the community-led Berry Strategic Plan. Good resources to assist with energy efficient, cost-effective sustainable house design include:

- yourhome.gov.au, and
- builtbetter.org

Designing efficient dwellings includes considering size to meet household needs. Smaller homes can cost less to build and reduce waste, enhance energy efficiency, reduce bulk and character impacts and increase diversity, contributing to greater affordability and housing choices for a range of households.

Performance Criteria	Acceptable Solutions
P29 Landscaped areas provide outdoor space for residents and green space around buildings and: <ol style="list-style-type: none"> add interest and appeal to the neighbourhood, reflect the well-landscaped character of Berry, limit building footprints and ensure a balance between built and landscaped elements, assist in managing stormwater and microclimate impacts, and support biodiversity. 	<p>A29.1 At least 35% of the lot must be landscaped area.</p> <p>A29.2 Each landscaped area shall have a minimum dimension of 1.5 m in any direction.</p> <p>A29.3 A minimum of one (1) tree must be planted in the front or rear yard of each housing lot. The location of the tree to be planted is to be shown on the site plan. Alternatively, retaining an existing, healthy tree on the subject lot will fulfil this requirement.</p> <p>A29.4 Consideration should be given to planting deciduous trees on smaller blocks to allow for winter sunlight to living areas and private open space areas.</p> <p>A29.5 Site Analysis Plans / Site Plans submitted with the development application must show the extent of landscaped area and nominate the location of any trees to be retained or planted.</p> <p>Note: Landscaped areas must be pervious (capable of water infiltrating through and capable of growing plants or grass) in accordance with the landscaped</p>

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area definition in Shoalhaven Local Environmental Plan 2014.

A landscaping species list for Berry contains a list of trees and plants chosen to suit the local climate and compliment the culture and aesthetics of the town. Other tree species will also be considered.

P30 Sustainable house design provides comfortable, healthy and efficient homes that save residents' energy, water and money (by reducing ongoing running costs).

A30.1 The orientation of dwellings, location of living areas and the positioning, size and shading of windows and other openings takes advantage of free sunlight and air movement (breezes) to passively (naturally) heat and cool rooms.

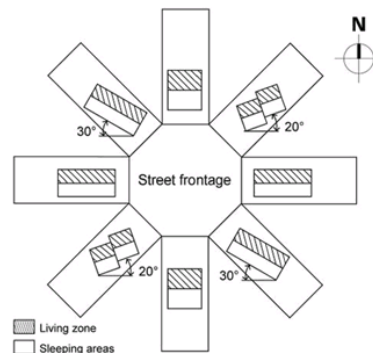


Figure 19: General dwelling orientation principles.

Source: <https://www.yourhome.gov.au/passive-design/orientation>

Note: Careful siting of dwellings on the block to make best use of sunlight and winds and other passive design features minimises the need for costly mechanical heating and cooling and increases energy efficiency. As a general rule, design living spaces to take advantage of northern sun in winter (and exclude summer sun through eave design and other shading) and place bedrooms on the southern side for cooling comfort. Minimise or shade west-facing windows to living areas which receive hot afternoon summer sun, or locate utility rooms (garages, storage, laundries etc) on the western side of homes. Considering site specific opportunities such as views and access to breezes is another important factor in passive design. Passive design also focuses on increasing natural ventilation

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opportunities, contributing to healthy indoor air.

Additional information on passive design for homes (maintaining comfortable indoor temperatures naturally) can be found at: www.yourhome.gov.au/passive-design

A30.2 External clothes line drying facilities are required for all dwellings and must be located behind the building line.

A30.3 For new dwellings, the installation of a rainwater tank a minimum of 6000 L in size is required for stormwater detention with 100% of the roof area of the dwelling draining to the tank.

Note: Larger rainwater tanks may be required to satisfy BASIX (Building Sustainability Index) requirements and stormwater detention functions. Council allows up to 50% of the BASIX rainwater tank volume to be included in the Onsite Stormwater Detention volume storage.

Additional rainwater tank guidance can be found in Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control of this Development Control Plan.

Reuse of stormwater generated by development is encouraged, and rainwater can be used to minimise potable water usage for outdoor use, and toilets and laundry.

P31 Ensure dwelling design minimises noise impacts from the Princes Highway and protects residential amenity.

A31.1 Dwellings should be designed and constructed to minimise noise in living and sleeping areas and private open space areas.

Note: An Acoustic Assessment (Noise Impact Report) prepared by a suitably qualified acoustic consultant may be required for dwelling applications (with specific requirements and considerations to be detailed in the acoustic assessment submitted with the subdivision application).

Any required Acoustic Assessment shall propose design or construction noise mitigation measures where necessary to ensure future residents are afforded an acceptable residential noise environment. The acoustic assessment shall consider

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		relevant planning policies and guidelines, and relevant Australian Standards. Noise sensitive design guidance can be found in the NSW Department of Planning document: <i>Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008</i> .
P32	Dwellings look over and address street frontages and, where applicable, face the drainage reserve to:	<p>A32.1 Dwellings are sited to face the street with visible front entries and with a habitable room/s fronting the street.</p> <p>A32.2 Dwelling design features that encourage people to use their front yard spaces are promoted.</p> <p>Note: Features such as porches, verandas, decks, balconies, pergolas, and front gardens encourage people to use their front yard spaces and encourage neighbourhood interactions, making for friendly, safe and attractive streetscapes.</p> <p>A32.3 Dwellings on lots that directly adjoin the drainage reserve or lots fronting a road adjacent to the drainage reserve, must be designed to face and look over the drainage reserve. Dwelling design shall avoid rear yards, backyard fences, garages, and inactive frontages (blank walls) facing the drainage reserve.</p> <p>A32.4 On corner lots, dwellings must address both the primary and secondary road frontage and carports or garages must be accessed from the secondary road frontage.</p> <p>A32.5 On lots with rear laneway access, carports and garages must be located and accessed from the laneway and opportunities for looking over and casual observation of the laneway should be considered in design (e.g. windows, balconies).</p>
P33	Boundary fencing is of a high quality, promotes safety and surveillance and does not detract from the streetscape or public domain.	<p>A33.1 All fences adjoining the public domain (public spaces such as streets and the drainage reserve) must contain open elements that make them at least 50% transparent.</p> <p>A33.2 Colorbond or solid timber paling or lapped / capped fencing can only be</p>

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used internally between dwelling lots or facing laneways.

Note: Refer to Chapter G12: Dwelling Houses and Other Low Density Residential Development and Chapter G13: Medium Density and Other Residential Development of this Development Control Plan for more fencing provisions.



Figure 20: Fencing examples

8 Advisory Information

8.1 Other legislation or policies you may need to check

Note: This Section is not exclusive, and you may be required to consider other legislation, policies and other documents with your application.

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**Council Policies
& Guidelines**

- Shoalhaven Contributions Plan 2019

**External Policies
& Guidelines**

- Planning for Bushfire Protection, NSW RFS
- Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008, NSW Department of Planning
- EPA Road Noise Policy 2011, Department of Environment, Climate Change and Water NSW
- [Berry Community Strategic Plan](#) 2016, The Berry Forum and partners
- Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter, 2013 (Burra Charter)
- Your home: Australia's guide to environmentally sustainable homes, Australian Government: yourhome.gov.au
- Built Better: the low carbon living knowledge hub for a better built environment, Swinburne University of Technology, CRC for Low Carbon Living & Global Buildings Performance Network: builtbetter.org/

Legislation

- State Environmental Planning Policy (Infrastructure) 2007 (cl.102 Impact of road noise or vibration on non-road development)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy Exempt and Complying Development Codes

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
Berry, 8 April 2021

**Draft - Summary of Planning Agreement Terms – Landscape Screen
for development south of Hitchcocks Lane Berry**

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Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane, Berry, 8 April 2021**What is proposed as part of this agreement?**

The establishment and ongoing maintenance of a Landscape Screen, consisting of native trees, shrubs and groundcover plants, adjacent to the southern boundary of the Hitchcocks Lane Planning Proposal (PP029) at Berry. The Planning Agreement will cover:

- Establishment specifications including ground preparation, species composition and density, pot size (shown on the Landscape Plan – see Attachment A)
- Short term maintenance requirements (developer responsibility) (as detailed in the Maintenance Schedule – See Attachment B)
- Handover timeframe for ongoing maintenance by Shoalhaven City Council
- Timing and amount of costs to be paid by the landowner/developer to Council in lieu of ongoing management
- Provisions enabling ongoing management of the Landscape Screen

Who are the parties to this agreement?

Shoalhaven City Council and the landowners of Lot 762 DP 1224932 and Lot 763 DP 1224932.

What are the objectives of the Landscape Screen?

The overall aim of the Landscape Screen is to obscure the proposed development from view when travelling northwards along the Princes Highway to Berry, consistent with the recommendations of the Visual Impact Assessment for the Hitchcocks Lane Planning Proposal, prepared by Peter Andrews & Associates (May 2019).

Specific objectives include:

- To mitigate visual impacts associated with future development by screening views of future development from the Princes Highway.*
- To protect the landscape and scenic quality of the area and preserve the natural and rural views*.
- Enhance privacy and local amenity for future residents of the subdivision(s) by obscuring views of the highway and associated light pollution.
- To provide a natural screen using soft landscaping features to complement the surrounding landscape and leafy character of Berry and create a subtle and attractive entry statement into Berry.
- To provide cost-effective landscape screening of development over the long-term (e.g. rationalising future maintenance requirements and costs).

**it is noted that some existing development associated with Huntingdale Park Estate is visible from this viewpoint and that the establishment of the screen will provide wider benefits to also screen some of the existing recent development in the area, providing a more natural and complementary interface and entry to Berry. A discounted rate of contributions towards maintenance costs will therefore be applied recognising the wider community benefits of the screen.*

**Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
Berry, 8 April 2021**

Where will the Landscape Screen be located?

The Landscape Screen will be located on Part Lot 762 DP1224932 and Part Lot 763 DP 1224932.

The Landscape Screen will be located within a 12 m wide strip adjacent to the southern boundary of the Hitchcocks Lane subdivision development land which is proposed to be rezoned as part of PP029.

Refer to Location Plan below.

The Landscape Screen must extend across the entire southern boundary of the development land (across the two properties being Lots 762 and 763, shown on the Location Plan as 'Landscape Screen Management Land') except in the following areas:

- Across the flood-prone area, i.e. where the drainage line bisects the screen, to allow for water to flow freely and drain effectively through the property. This area is labelled 'Excluded Area – Flood Affected Land' on the Location Plan and represents the 1% AEP Flood Extent.
- Where a noise barrier will be constructed in the south-eastern corner. The form, final design and landscaping of the noise barrier will be completed at the subdivision stage. This area is labelled 'Landscape Screen – Noise Mound & / or Barrier' on the Location Plan. This area extends 100 m from the south-eastern corner of Lot 763. The Noise Barrier Assessment by Harwood Acoustics (dated 24 February 2021) found a barrier at least 88 m long would be required in this location and an additional 12 m has been added to allow for tapering and batters to be installed if the noise mitigation takes the form of an earth mound (to be landscaped).

An assessment at subdivision stage of development of Lot 763 will resolve the treatment of the Landscape Screen within the noise barrier location.

The Landscape Screen measures approx. 292 m in length. The area covered by the Landscape Screen Management Land is approximately 3,504 m² (excluding the Flood Affected Land and Noise Mound/Barrier area). The total planted area of the landscape screen is 2,336 m² (excluding the Flood Affected Land and Noise Mound/Barrier area).

The area covered by the Excluded area – Flood Affected Land is approx. 565.2 m².

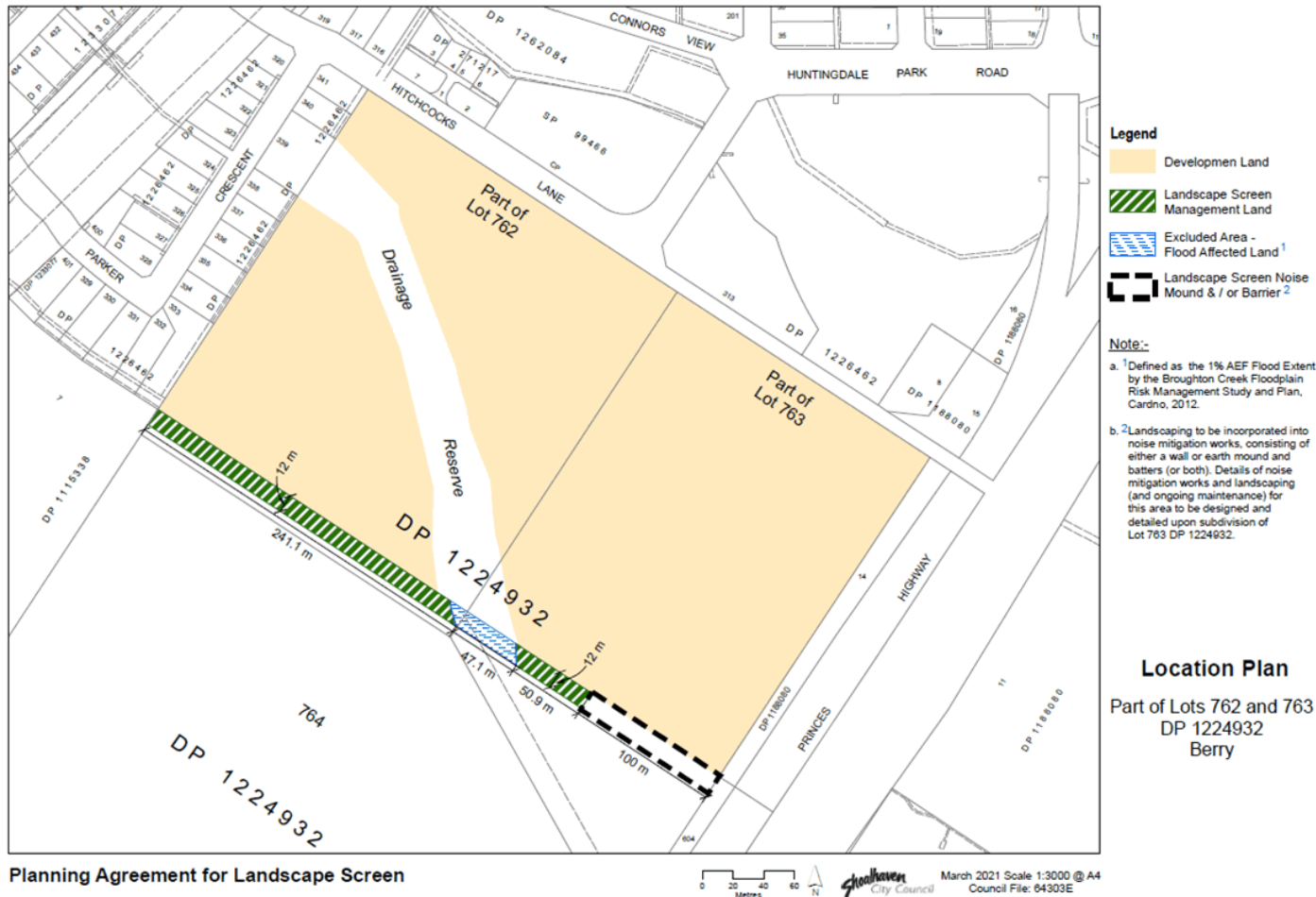
The area covered by the Landscape Screen – Noise Mound & / or Barrier is approximately 1,200 m² (the noise barrier will extend ~100 m from the south-eastern corner of Lot 763 but may be wider than 12 m with details to be worked out at subdivision stage).

The Landscape Screen will be located on land zoned RU1 Primary Production which is not part of the Planning Proposal (rezoning).

What are the design principles for the screen?

- Low maintenance
- As self-sustaining as possible after establishment and upon maturity
- Natural appearance / bushland type with trees, shrubs and groundcovers
- Natives (preferably local native)
- Allow for water drainage and not adversely influence flooding conditions on the development land or Princes Highway
- Fire resistant
- Cost effective

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane, Berry, 8 April 2021



For legal drafting - v.5 - 8 April 2021

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
Berry, 8 April 2021

What will the screen look like? (What are the specifications of the Landscape Screen?)

Specifications

The following specifications are to be incorporated into a Landscape Plan and Maintenance schedule.

The Landscape Plan (included at Attachment A) is an attachment to the Planning Agreement and sets out the specifications of the screen and what it will look like when mature. Some flexibility is proposed to be included within the planning agreement to allow changes to the Landscape Plan that are minor (e.g. replacement of a plant species because one is not available etc) provided any such changes are consistent with the objectives and design principles, and are agreed to in writing by Council.

Dimensions

The Landscape Screen will be 12 metres wide, with 8 metres wide of planted area and 2 metres either side for root growth and access for maintenance. The planted area within the Landscape Management Land will measure approximately 2,363 m².

The dimensions of the Landscape Screen are shown in the above Location Plan.

Plant species

A mix of native trees and shrubs to provide effective screening from ground level to canopy level. Large trees shall achieve at least 15 metre high growth at maturity with very slow-growing tree species avoided. The primary purpose of the groundcovers is to help suppress weeds, while also supporting the ecosystem. The following species are considered acceptable by Council:

Large trees:

- *Eucalyptus robusta* – Swamp Mahogany
- *Lophostemnon confertus* – Brushbox
- Some *Casuarina littoralis* and *Casuarina glauca* – these are densely growing and allelopathic (suppress weed growth beneath, are self mulching and provide habitat and feed trees for species such as Glossy Black Cockatoos)
- *Melaleuca linarifolia* and *Melaleuca stypheloides* (as well as *E. robusta*) are appropriate in low-lying/wetter areas.

Small trees and shrubs:

- *Tristaniopsis laurina* (small tree)
- *Backhousia myrtifolia* (small tree)
- *Acacia longifolia*, also *Acacia binervata*, *maidenii binervia* (aesthetic – silver leaf), *floribunda*
- *Acmena smithii* or *Syngizium austral* 'Resilience'
- *Melaleuca hypericifolia*
- *Dodonea spp*
- *Hakea spp*

A mix of these is acceptable (you do not need to use all species but can choose between)

Groundcovers/native grasses:

- *Dianella caerulea* – flax lily;
- *Themeda australis* – kangaroo grass;

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**Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
Berry, 8 April 2021**

- *Lomandra longifolia* – mat rush;
- *myoporum insulare* or *parvifolium* – boobialla/creeping boobialla;
- *hardenbergia violacea* – happy wanderer
- *Microlena stipoides* – weeping grass or
- *Kennedia prostrata* - running postman.
- In lower lying or damp areas can use *Carex appressa* – Tall sedge and *Gahnia sieberiana* – Saw Sedge

A mix of these is acceptable (do not need to use all species but can choose between)

Plant spacing and placement

Suggested spacing of plants:

- 1 tree every 10 m²
- 1 shrub every 4 m²
- 1 groundcover every 1m²

This translates to approx. 234 trees, 585 shrubs, 2336 groundcovers, plus assume 10% replacement plants to cover the 2,336 m² planted area of Landscape Screen.

Position large trees staggered and closely offset from the centre of the planted area.

Pot sizing at planting

- 25 L is appropriate and preferred for canopy/larger tree species
- 200mm (5 L) for small trees
- 150 mm pot size for shrubs
- 75 mm x 50 mm or 50 mm x 50 mm x 150 mm tubestock for groundcovers and native grasses

Will not accept micro/hiko tubestock due to lower survival rates.

Utilising self-propagated plants is acceptable provided species are correct, specimens are healthy and appropriate sizing at planting can be achieved.

Site preparation & timing

Remove exotic grasses in area by spraying planting area with glyphosate (will need multiple applications and spraying of exotic grass well before planting time) . Mulch around plants at establishment using high quality fibrous/fine grain mulch. Hard wood chip should not be used around plants because it is not beneficial for growth, can be used on edges/unplanted areas however.

Autumn planting is preferred as summer planting will require additional watering and plant attrition likely to be higher in hot weather.

Watering

The watering schedule provided in the maintenance schedule is acceptable (for dry weather) – once a week for the first 13 weeks after establishment then twice monthly in the first year, with watering once monthly in the second year. Additional watering may be required in extreme weather – e.g. extreme heat or drought if plants become stressed.

Edging and fencing

Will accept a heavy woodchip mulch (outside of planting area) in lieu of hard edging – just need to ensure weeds are managed, do not allow kikuyu to invade the screen.

**Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
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Stock exclusion fence - stock need to be effectively excluded from the screen area with a robust, barbed wire cattle-proof fence constructed and maintained by the landowner(s) in perpetuity. No fence required on development side.

Comments on mounding / site levels and drainage

Prefer planting at or close to natural ground level so as not to interfere with site drainage. Do not require plantings on top of an earth mound.

Any earthworks associated with Landscape Screen are to be minor and not to disrupt flow of stormwater or floodwaters.

Maintenance

- Landowners to maintain the entire Landscape Screen (Landscape Screen Management Land) for 3 years after the release of the Subdivision Certificate for the first stage of the subdivision of the development land.
- Provision must be made for effective access for maintenance to all areas of the screen
- Ongoing construction in the area must be managed so not as to cause damage to the Landscape Screen
- Council will take over maintenance responsibilities only after 3 years from the release of the Subdivision Certificate for the first stage of the development, and only when:
 - the asset is in a satisfactory state
 - suitable legal access arrangements for maintenance are put in place
 - after agreed maintenance funding has been provided.

Handover terms

Council will accept handover of maintenance on the following terms:

- Large tree species in good health with a maximum spacing between large trees of 10 metres.
- 90% shrubs and trees established and healthy.
- 80% Weed free.
- Min 80 % groundcover established.
- Stock exclusion fence constructed to specification and in good repair.
- When suitable legal access arrangements for maintenance are put in place.
- When maintenance funds have been received.

Comments on planting in the drainage reserve / flood affected area

The area where the Landscape Screen is dissected by drainage reserve is of significant width and leaving area without plantings could compromise visual screening effect of screen overall. However, there is a need to keep the 1% AEP flood extent free of tree and shrub plantings until the post-development scenario is known (engineering details relating to drainage reserve will be assessed at subdivision stage). The Location Plan shows this area as 'Excluded area – Flood Affected Area'. This area requires a different planting regime due to flood affectation and drainage corridor and any plantings in this area are to have no adverse impact on flood behaviour. Any plantings in this area will need to be delayed and resolved at subdivision stage.

When will the screen be provided?

The entire Landscape Screen within the Landscape Screen Management Land must be established before any housing development occurs, therefore the Landscape Screen will be required to be planted before the release of the Subdivision Certificate for the first stage of the

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane, Berry, 8 April 2021

Hitchcocks Lane subdivision area development (i.e. the first subdivision of the development land rezoned as part of PP029).

The establishment of the screen across the Landscape Screen Management Land must be established at the one time and planting cannot be split or developed at different times (besides planting associated with the Noise Mound/Barrier and any planting within the flood affected area which will be resolved at the appropriate subdivision application stage of development*).

*Landscaping will be required in conjunction with the required noise barrier in the south-eastern corner of the site. However due to the specifications of the noise barrier needing to be worked out at subdivision stage of development (as it will be influenced by earthworks, ground level and finished floor levels of homes) any planting in this area will need to also be considered at subdivision application stage.

Who will maintain the screen?

- Landowners – until release of Subdivision Certificate for first stage subdivision of development land then additional period of 3 years. If the lots are subdivided at different times, the Landscape Screen will be required to be established across both lot areas (over the Landscape Management Land) to ensure effective visual impact mitigation. Suitable arrangements for maintenance will also need to be arranged – including legal arrangements for access for maintenance.
- Council – after screen handed over in a state that is deemed satisfactory to Council and no less than 3 years after establishment and the release of the Subdivision Certificate for the first stage subdivision of the development land.

What will be the responsibilities of the developers/landowners of the Landscape Screen?

- To establish the Landscape Screen, including plantings as per the Landscape Plan and complete all required establishment works.
- Maintain the Landscape Screen in accordance with the Maintenance Plan/Schedule, during the subdivision and for at least a period of 3 years following the release of Subdivision Certificate for first stage subdivision of Development Land.
- Replacement of any failed plantings in the initial 3 year maintenance period and carry out any *reasonable* directions from Council relating to maintenance works specified in approved maintenance schedule.
- Handover asset to Council ensuring maintenance has been carried out and plantings are in good health.
- Provision of a lump sum payment at handover of Landscape Screen Asset to cover future costs of maintenance and capital replacement costs.*
- Ensure any future earthworks, subdivision, construction works and development does not impact adversely on the Landscape Screen and health of the plantings. I.e.,

**Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
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appropriately protect the screen from any future construction impacts associated with the subdivision of the area.

- Ongoing maintenance of the stock exclusion fence.
- Arrange and fund suitable legal arrangements for access for maintenance of the Landscape Screen, where required.

What will be the responsibilities of Council?

- Maintain the Landscape Screen after the initial maintenance period and after asset has been formally handed over, in perpetuity.
- Utilise funds received from developers to cover future maintenance costs.

What are the associated projected costs?

The costs of establishment include the plant costs, site preparation costs and costs of engaging contractors for the works. Ongoing maintenance will also have associated costs.

A lump sum payment calculated in two parts will be required at the handover of the maintenance of the Landscape Screen to Council.

Part 1: The present value amount sufficient to provide at least fifteen (15) years* of maintenance indexed from 2020/2021 financial year at 3% per year.

*Note: Council's Property Division typically request funding to cover up to thirty (30) years of maintenance for assets to be handed over to Council as part of a planning agreement. However, recognising the low maintenance design of the screen, and additional benefit of the screen to mitigate visual impact of existing development in Huntingdale Park and contribution of screen to landscape amenity of the area, a discounted rate will be applied, equivalent to half the usually required maintenance costs.

Part 2: The present value amount sufficient to cover capital replacement costs (i.e. to cover costs in case the screen is required to be replaced at some point in the future, e.g. in the event of a bushfire) indexed from 2020/2021 financial year at 3% per year.

Who will own the land where the screen is located?

It is recognised that the proponents are requesting the option to retain ownership of the land whilst passing on the long-term maintenance obligations to Council, with Council able to access the private land for maintenance via an easement and public positive covenant.

An alternative option is for Council to receive the land as a dedication upon the handover of maintenance of the Landscape Screen asset.

What securities are proposed?

At this time, it is considered that tying the establishment of the screen to the Subdivision Certificate provides sufficient security if there is a Planning Agreement for the screen in place and adopted by Council. A mechanism will be included in the Planning Agreement to ensure

**Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
Berry, 8 April 2021**

any future landowners of Lots 762 and 763 are obligated to establish the Landscape Screen.
Council reserves the right to request a bank guarantee or bond should circumstances change
before a Planning Agreement is signed.

DE21.42 - Attachment 4

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
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ATTACHMENT A – LANDSCAPE PLAN

Landscape Screen for development south of Hitchcocks Lane, Berry

DE21.42 - Attachment 4

Draft Planning Agreement Terms – Landscape Screen for development south of Hitchcocks Lane,
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ATTACHMENT B – MAINTENANCE PLAN

Landscape Screen for development south of Hitchcocks Lane, Berry

DE21.42 - Attachment 4



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P and P Bice
C/- Cowman Stoddart Pty Ltd
29 to 31 Kinghorn Street
Nowra NSW 2541

Reference: 1806001t-l2.docx

Attention: Mr Stephen Richardson
Telephone: 02 4423 6198
Email: stephen@cowmanstoddart.com.au

24 February, 2021

Dear Stephen,

PROPOSED PLANNING PROPOSAL – LAND REZONING

LOT 762 AND LOT 763 DP 1224932, PRINCES HIGHWAY, BERRY, NSW 2535

ACOUSTICAL ADVICE

Cowman Stoddart Pty Ltd has recently submitted a planning proposal application to Shoalhaven City Council on behalf of Mr and Mrs Bice and Mr Somers seeking approval for the rezoning of land at Lot 762 and 763 in DP 1224932, Princes Highway, Berry, NSW.

The land is currently zoned RU1 Primary Production under Shoalhaven City Council's Local Environment Plan (LEP) 2014 and the planning proposal seeks to have the land rezoned to permit residential development.

At the time of the application Harwood Acoustics prepared a Traffic Noise Intrusion Assessment to accompany the application (the TNIA). The TNIA predicted traffic noise levels across the Site based on measurements at the time and provided advice in relation to the construction of future dwellings to meet internal noise levels set by Clause 102 of the *State Environment Planning Policy (Infrastructure) 2007*.

Following submission of the application Transport for NSW has requested that an assessment of external noise controls be undertaken to demonstrate what would be required to achieve external traffic noise limits prescribed in the NSW EPA's *Road Noise Policy 2011 (RNP)*, Section 4.4.

Section 4.4 of the RNP sets target noise abatement levels of 60 dBA (Leq, 15 hour) and 55 dBA (Leq, 9 hour) during the daytime and night periods respectively.

This letter provides advice in relation to those requirements.



Environmental
Acoustics

Occupational
Acoustics

Architectural
Acoustics

Transportation
Acoustics



Assessment Location

The Policy in Section 2.5.4 states:-

The noise level should be assessed at 1 metre from the façade and at a height of 1.5 metres from the floor.

Separate noise criteria should be set and assessments carried out for each façade of a residence, except in straightforward situations where the residential façade most affected by road traffic noise can be readily identified.

The residential noise level criterion includes an allowance for noise reflected from the façade ('façade correction'). Therefore, when taking a measurement in the free field where reflection during measurement is unlikely (as, for instance, when measuring on open land before a residence is built), an appropriate correction – generally 2.5 dB – should be added to the measured value.

The assessment location for external noise levels is therefore at 1.5 metres above the first floor façade of any potential future two storey dwellings.

A + 2.5 dB correction factor is also then applied to the measured or predicted external traffic noise levels at the assessment location.

External Traffic Noise Levels

Harwood Acoustics has undertaken additional extensive noise monitoring at typical future façade locations around the site in proximity to the eastern and southern boundaries to the Highway.

Noise measurements have been carried out at a height of 1.5 metres above the ground level and at 4.5 metres above the ground level at the same location simultaneously.

Noise measurements were taken at various locations along the frontage of the Site to the Highway as the ground level varies relative the level of the Highway and there is also an existing earth berm covering a portion of the Site.

The most exposed area of the Site to traffic noise is the south western corner of the Site and it is the noise levels at this location that will drive the minimum required height of any noise barrier.

Preliminary traffic noise results at this location are shown in Table 1 below.

Table 1 **Leq Traffic Noise Levels – South Western End of the Site**

Description	Traffic Noise Levels Leq, period (dBA)			
	Current as measured		With 2.5 dB façade correction	
	Day	Night	Day	Night
1.5 metres	59	57	62	60
4.5 metres	61	59	64	62
Target	60	55	60	55
Reduction required	1	4	4	7

Calibrated Noise Model – Current Traffic Noise Levels

We have carried out computer noise modelling based on relative ground levels provided by Allan Price and Scarratts. Levels were provided for various locations across the development site, across the exiting RMS earth mound and on the two carriage ways of the Princes Highway. The model has been calibrated to the existing traffic noise levels, as measured on Site at 1.5 metres (ground floor) and 4.5 metres (first floor) at the most likely location of future facades that will be closest to the Highway.

Modelling includes an increase of 2.5 dB to account for façade reflection as required under the Road Noise Policy and as shown in Table 1. See Figures 1 and 2 below as examples of the calibrated model.

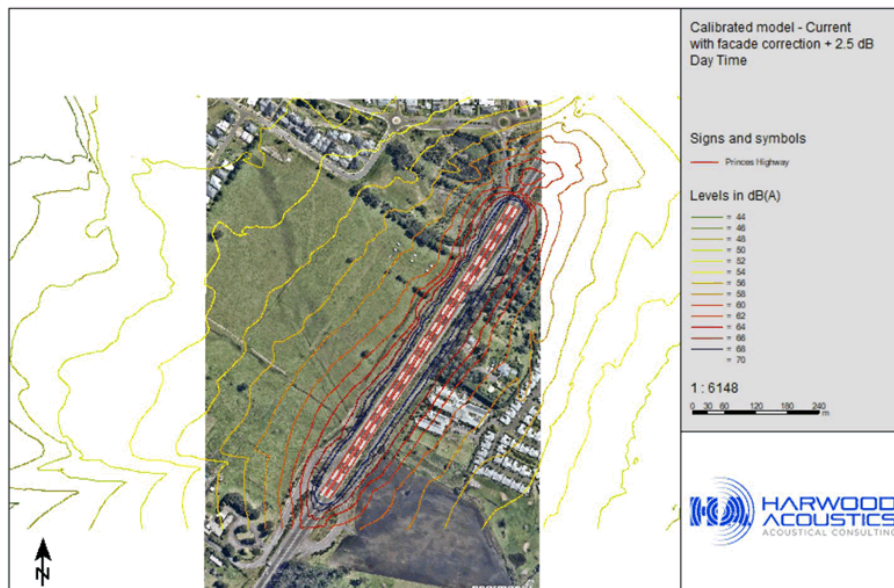


Figure 1. Calibrated Noise Model – Day Time + 2.5 dB Correction over Near Map Site Image

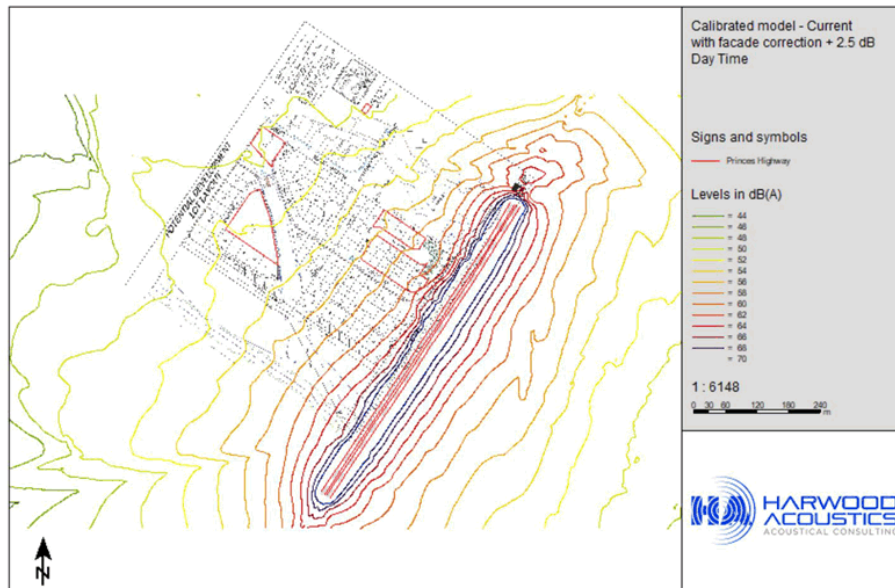


Figure 2. Calibrated Noise Model – Day Time + 2.5 dB Correction over Concept Layout

Sound Barrier Theory

The effectiveness of any noise barrier depends on a number of factors, including but not limited to:-

- The height of the noise source (cars or trucks, etc),
- The height of the receptor relative the noise source,
- The height of the barrier,
- The distance of the barrier from the noise source and from the receptor (equidistant being the least effective)
- The frequency content of the noise source, and
- To a lesser extent the material the barrier is made from.

The most influencing factor at this Site is the difference in height between the natural ground level and the Highway itself.

In this instance the natural ground level of the Site undulates from its lowest point in the south west corner to its highest point in the centre of the site and drops again toward the north east.

Barrier in landscape Buffer Zone and Along South Eastern Boundary

We have modelled a noise barrier based on the current natural ground levels of the Site.

In order to meet the external noise design goals of:-

- 60 dBA Leq, 15 hour in the day time, and
- 55 dBA Leq, 9 hour in the night time

... at the first floor façade of future dwellings, i.e. at a height of 4.5 metres above the current natural ground level, a barrier will be required that is to be constructed to a minimum height of **5 metres** above the natural ground level of the Site at the south western corner.

- The barrier must return along the south western boundary of the Site from the south western corner and maintain the height of 5 metres relative to the natural ground level for the width of the fir allotment and taper down from there to natural ground level providing that the barrier is a minimum 3 metres in height above the natural ground level at the south western corner of the fourth allotment (see Figure 5),
- The barrier will taper as it traverses the Site along the south eastern boundary fronting the highway and the required finished height will depend significantly on the finished ground level of future dwellings,
- Barrier may be a combination of earth mounding with a wall / fence erected on top to ensure the finished height is achieved,
 - The wall fence may be constructed from, for example, masonry, any property modular wall system with a minimum weighted sound reduction index (R_w) rating of 20 or lapped and capped timber with rails at minimum 600 mm centres and minimum 25 mm thick timber palings.
- Noise barrier design will be finalised at the development application stage once the finished ground levels across the Site are finalised.

Figures 2 and 3 below show the predicted noise levels after construction of the barrier.



Figure 3. Predicted Noise Levels – Day Time – With 5 m Barrier over Near Map Site Image

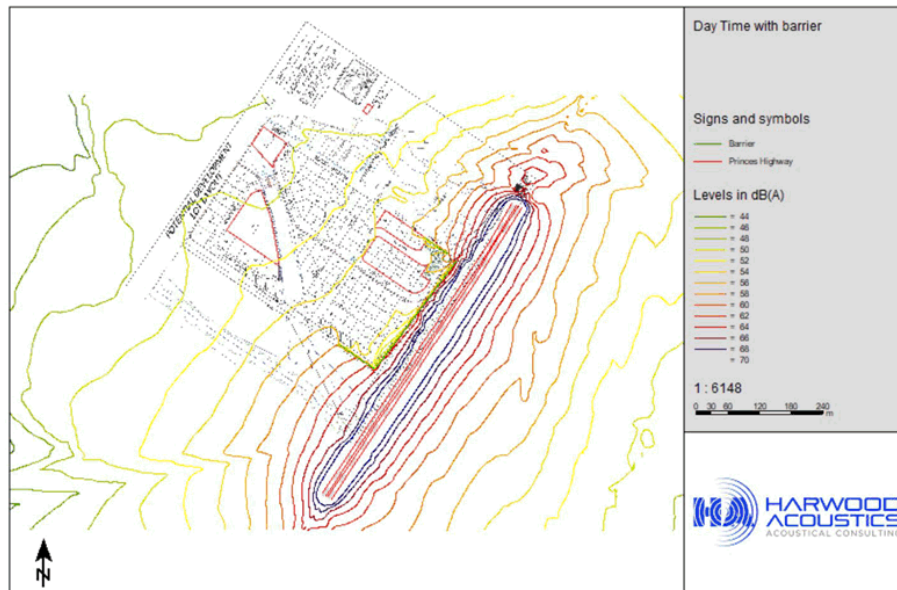


Figure 4. Predicted Noise Levels – Day Time – With 5 m Barrier over Concept Layout

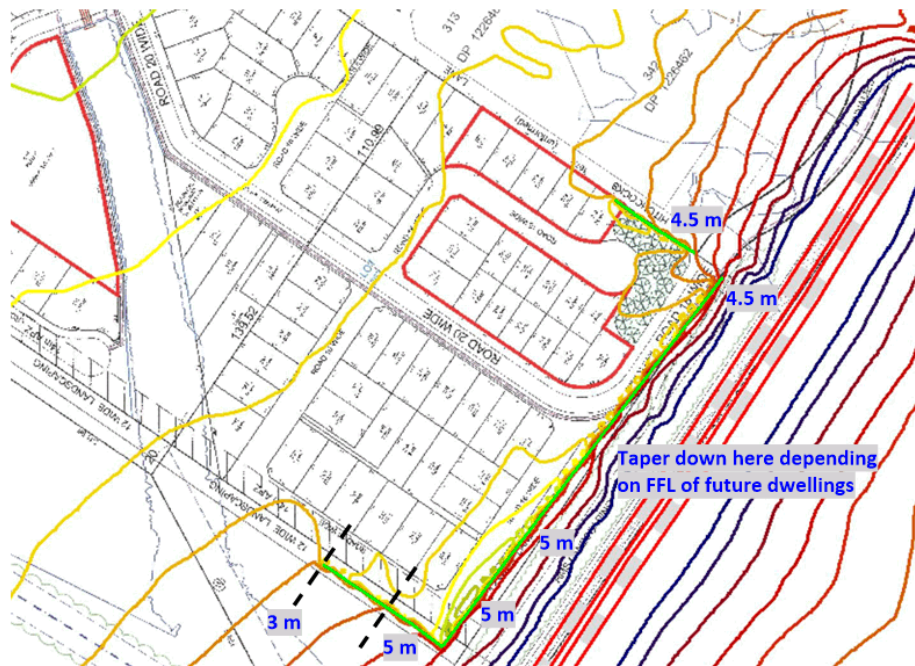


Figure 5. Barrier Location and Height Requirements – South Western Corner

- At this stage, a barrier will also be required to be constructed to a minimum height of **4.5 metres** above the natural ground level at the north eastern allotment along the northern boundary with Hitchcock's Lane and extend the length of the first allotment, then taper down from there,
- This will need to be finalised based on lot layout and location as there is potential for the need to address the opening for the service road, where the barrier will be less effective,
 - In any event however, the barrier required at the Hitchcock's Lane end of the Site will be lower in overall height than the south western end.


Please do not hesitate to contact the undersigned should you require any additional information or clarification at this stage.

Yours faithfully



Matthew Harwood, MAAS
Principal Acoustical Consultant

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	Section 4.15 Assessment Report <i>Environmental Planning & Assessment Act 1979</i>
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Property Address	39 The Lake Cct, CULBURRA BEACH
Lot and DP	Lot 1553 DP 12278
Applicant(s)	Nest Residential Design Pty LtdNest Residential Design Pty Ltd
Owner(s)	P A McGuire & S L McGuire

1. Detailed Proposal

The proposal is the construction of a detached garage

The proposed development seeks an alternative solution to Acceptable Solution A33.2 (Table 4) in Chapter G12 of Shoalhaven DCP 2014:

- Wall Height = 17% departure
- Floor Area = 9% departure

Note: During the Assessment process the design was revised to reduce the size and overall building footprint of the proposed garage.

Information Referred – *New Plans Required – reduce floor area*

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Site Plan	1 of 2	Nest Residential Design	16.02.2021
Site Management Plan	2 of 2	Nest Residential Design	16.02.2021
Floor Plans and Elevations	1 / 2 Drawing Number Nowra1-12100	RANBUILD	-
Elevations and Section	2 / 2 Drawing Number Nowra1-12100	RANBUILD	-
Waste Management Plan	Pages 1 to 5	Nest Residential Design	7/10/2020

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2. Subject Site and Surrounds

Site Description

The subject site is situated at 39 The Lake Cct, Culburra Beach. The site has a 15m frontage to The Lake Circuit and a depth of 45m with a total site area of 708.20m.

The subject site is zoned R2 Low density Residential and the surrounding character is comprised of residential development.

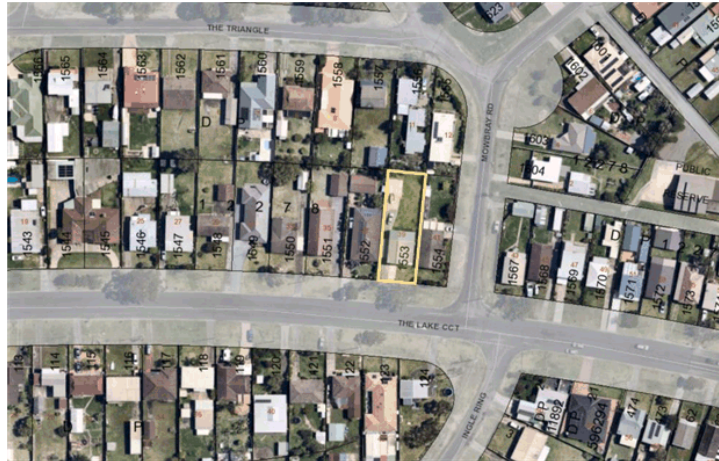


Figure 1: GIS Ariel Image

Site Inspection Observations

Please refer to iAuditor – Site Inspection Report (D21/78377) which includes photos from adjoining neighbours

GIS Map Layer		
	Lot Area	708.20m ²
	Zone	R2 Low Density Residential
Topographic Layer	Fall direction of land	Fall of land away from street
	Slope of land >20%?	No
Site Inspection	Works within proximity to overhead electricity line?	No
Utility Network	Access to reticulated sewer	Yes
	Building over sewer policy applicable?	Yes

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	Access to reticulated water	Yes
Environmental Layers	Aboriginal Cultural Heritage	No
	Bush Fire	No
	Coastal Hazard Lines (applies to location of proposed development)	No
	Coastal Hazard Area	No
	Potentially Contaminated Land	No
	Flood	No
	Development within 40m of a watercourse?	No
	SEPP (Coastal Management) 2018	Yes <ul style="list-style-type: none"> Coastal Environment area Coastal use area
Shoalhaven LEP 2014	SEPP (Sydney Drinking Water Catchment 2011) (e.g. NorBE)	No
	Acid Sulfate Soils	Class 5
	Terrestrial Biodiversity	No
	Coastal Risk Planning	No
	Heritage	No
BV Map	Scenic Protection	No
	Biodiversity Values Map	No

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Deposited Plan and 88B Instrument

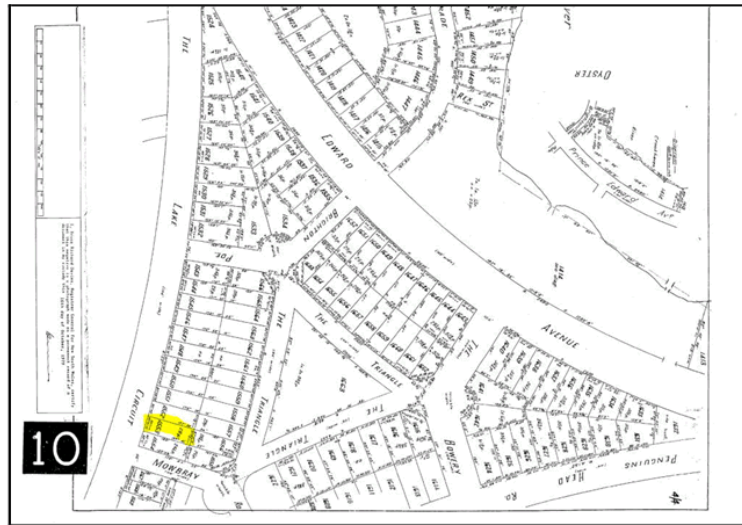


Figure 2: Deposited Plan

There are no identified restrictions on the title that would limit or prohibit the proposed development.

3. Background

Post-Lodgement Information

Date	Action
23/10/2020	Application lodged
12/11/2020	Preliminary email sent
12/11/2020	Application notified (12/11/2020 – 28/11/2020)
3/12/2020	Email sent to applicant advising a number of submissions have been received and advising that design should be amended to address concerns raised in submissions.
14/12/2020	Amended plans and information provided by Applicant.
27/1/2021	Application and revised plans re notified (11/1/2021 – 27/1/2021)
19/1/2021	Meeting with applicant at Council building to discuss submissions and way forward.
12/02/2021	DA “called in” for determination by Development and Environment Committee
16/02/2021	Amended plans provided by Applicant.

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Site History and Previous Approvals

GIS Property Information

Owner: UTE: 4567 Ordinary Title - (Active) Property ID: 31107
 Related Titles: Assessment: 91098 08100 Rateable
 T1 Associations: Description: Lot 1553 DP 12278 Area: 708.20 m2
 Address: 39 The Lake Cct, CULBURRA BEACH 2540 (Origin of Road & Locality name) Street: 2
 Sales: Parish: WOLLUMBOOLA County: ST. VINCENT Ext Ref:
 Water: Property Name:
 Zones/Controls:
 Subdivisions:
 Development:
 Drawings/Images:
 Certificates:
 PCL:
 Special Notes:
 Misc Description:
 Council Land:
 Council Assets:
 Kiosk & Other:

Building and Development Applications

Notes Recurring

Darts - since 1st July 2005

Application	Appl. Date	Application Type	Proposal	Status	Completed
D20/2003	23/10/2020	Sewer Connection (Amended)	Garages & Carports - detached garage with bathroom facilities	Incomplete	
D420/2120	23/10/2020	Development Application	Garages & Carports - detached garage with bathroom facilities	Incomplete	
OC20/1181	26/02/2020	Final Occupation Certificate	Dwelling Alterations and Additions	Approved	26/02/2020
D518/1019	22/01/2019	Section 94 Amendment	Dwelling Alterations and Additions - \$4.55 Increase in Size of Rear Deck	Approved	19/03/2019
BC18/1017	19/03/2018	Building Certificate	Building Certificate	Approved	10/04/2019
D817/2305	14/12/2017	Sewer Connection (Amended)	Dwelling Alterations and Additions	Approved	16/04/2018
C217/2873	14/12/2017	Construction Certificate	Dwelling Alterations and Additions	Approved	16/04/2018
D417/2660	14/12/2017	Development Application	Dwelling Alterations and Additions	Approved	16/04/2018

Old Applications prior to 2nd Sept 1996

Application	Proposal	Decision	Owner	Original Lot
BA50/2637	Fibro Dwelling	Approved	Isaac ZKM	
ST81/0272		Approved	Isaac ZKM	

BA data prior to the 2nd Sept 1996

Application	Appl. Date	Proposal	Status	Status Date
BA50/2081	18/10/1983	URBAN DWELLING ADDITIONS	Approved	27/10/1983
BA50/0218	14/04/1986	URBAN DWELLING ADDITIONS	Approved	23/04/1986
BA50/2218	21/07/1989	GARAGES AND CARPORTS	Approved	03/08/1989
SD04/0332	10/01/1985			
SD04/1202	11/12/1985			

4. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Shoalhaven Water Group	<input checked="" type="checkbox"/>	No objection subject to compliance with Shoalhaven Water Development Application Notice (see D20/491479)	Shoalhaven Water Development Application Notice issued. Conditions to be imposed accordingly.
Development Engineers	<input checked="" type="checkbox"/>	No objection raised subject to recommended conditions (see D21/41542)	Conditions to be imposed

5. Other Approvals

Not Applicable

6. Statutory Considerations

Environmental Planning and Assessment Act 1979

Section 4.14 Consultation and development consent – certain bush fire prone land

Is the development site mapped as bush fire prone land?	No
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Section 4.46 Integrated Development

N/A

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Biodiversity Conservation Act 1979

Does the application include works or vegetation removal within the Biodiversity Values mapped area ?		No										
Does the application involve clearing of native vegetation above the area clearing threshold?		No										
<div><div>Area clearing threshold</div><p>The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).</p><table><tr><th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr><tr><td>Less than 1 ha</td><td>0.25 ha or more</td></tr><tr><td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr><tr><td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr><tr><td>1000 ha or more</td><td>2 ha or more</td></tr></table><p>The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.</p><p>If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.</p></div>	Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more		
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply											
Less than 1 ha	0.25 ha or more											
1 ha to less than 40 ha	0.5 ha or more											
40 ha to less than 1000 ha	1 ha or more											
1000 ha or more	2 ha or more											
Will the proposed development have a significant impact on environmental values of the site (i.e. 'test of significance')?		No										
If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to <u>any</u> of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR).		No										

Fisheries Management Act 1994

The proposed development would not have a significant impact on the matters for consideration under Part 7A of the *Fisheries Management Act 1994*.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental planning instrument

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*. The following planning instruments and controls apply to the proposed development:

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Environmental Planning Instrument	Relevant
<i>Shoalhaven Local Environmental Plan 2014</i>	<input checked="" type="checkbox"/>
<i>State Environmental Planning Policy (Coastal Management) 2018</i>	<input checked="" type="checkbox"/>
<i>State Environmental Planning Policy No 55 – Remediation of Land</i>	<input checked="" type="checkbox"/>

State Environmental Planning Policy No 55 – Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	<input type="checkbox"/>	Proceed to Question 3 <input checked="" type="checkbox"/> Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	<input type="checkbox"/>	Proceed to Question 3 <input checked="" type="checkbox"/> Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	<input type="checkbox"/>	Proceed to Question 5 <input checked="" type="checkbox"/> Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	<input type="checkbox"/>	Proceed to Question 5 <input checked="" type="checkbox"/> Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	<input type="checkbox"/>	Request contaminated site assessment <input checked="" type="checkbox"/> Proposal satisfactory under SEPP 55 and DCP.

State Environmental Planning Policy (Coastal Management) 2018

The subject land is mapped as "coastal use area" under the SEPP.

Development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

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Consideration	Comment
<i>existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The proposal is will not restrict access.
<i>overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	The proposal will not impact on overshadowing and wind funnelling and will not result in the loss of views from public places to foreshores.
<i>the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposal will not impact on the visual amenity and scenic qualities of the coast.
<i>Aboriginal cultural heritage, practices and places,</i>	There are no identified impacts.
<i>cultural and built environment heritage, and</i>	The proposal is considered appropriate with regard to cultural and built environmental heritage.

It is considered that the proposal is designed appropriately and will avoid adverse impact on the issues discussed above.

Land Zoning

The land is zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan 2014*.

Characterisation and Permissibility

The proposal is best characterised as detached garage ancillary to an existing dwelling house under the *Shoalhaven Local Environmental Plan 2014*. The proposal is permitted within the zone with the consent of Council.

Zone objectives

Objective	Comment
To provide for the housing needs of the community within a low-density residential environment	The detached garage complies with the objective of low-density development Providing safe and secure parking for the residents use
To enable other land uses that provide facilities or services to meet the day to day needs of residents	The proposed development provides adequate amenities and facilities for the residents
To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.	The detached garage is compatible with existing development within the area. A number of secondary dwellings and detached garage are located within the vicinity of the proposed development.

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Applicable Clauses

Clause		Comments	Complies/ Consistent						
Part 2 Permitted or prohibited development									
4.3	<input checked="" type="checkbox"/>	The set by the Height of Buildings Map is 8.5m The proposed development does not exceed a height of 4.2m.	Complies						
Part 5 Miscellaneous provisions									
Part 7 Additional local provision									
7.1	<input checked="" type="checkbox"/>	<table><tr><td colspan="2">The subject land is mapped as acid sulfate soils:</td></tr><tr><td>Class</td><td>Commentary</td></tr><tr><td>Class 5</td><td>The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.</td></tr></table>	The subject land is mapped as acid sulfate soils:		Class	Commentary	Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.	Complies
The subject land is mapped as acid sulfate soils:									
Class	Commentary								
Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.								
7.2	<input type="checkbox"/>	The proposal involves some cut and filling and construction of retaining walls to create a level building pad. Consideration has been given to the matters outlined in clause 7.2 and it is considered that the proposed earthworks are suitable and can be managed appropriately.	Complies						
7.11	<input checked="" type="checkbox"/>	All relevant services are available to the site.	Complies						
7.20	<input checked="" type="checkbox"/>	The proposal is considered satisfactory with regard to the considerations set out in clause 7.20.	Complies						

ii) Draft Environmental Planning Instrument

Not Applicable to this development

Draft Illawarra Shoalhaven Regional Plan 2041

iii) Any Development Control Plan

Shoalhaven Development Control Plan 2014

Generic DCP Chapter	Relevant
G1 : Site Analysis, Sustainable Design and Building Materials	<input checked="" type="checkbox"/>
Has the application been supported by an appropriate site analysis plan prepared in accordance with Chapter G1?	Yes
G2 : Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>

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Has the application been supported appropriate stormwater drainage details?	Yes
Has the application been supported by appropriate erosion and sediment control details?	Yes
G3: Landscaping Design Guidelines	<input checked="" type="checkbox"/>
Has the application been supported by an appropriate landscape plan prepared in accordance with Chapter G3 and appropriate landscaping details?	No - Landscape plan not required
G4: Tree and Vegetation Management	<input checked="" type="checkbox"/>
Does the application involve tree removal or vegetation clearing?	No
G5: Biodiversity Impact Assessment	<input checked="" type="checkbox"/>
Is the proposal biodiversity compliant development?	Yes
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
Has the application been supported by an appropriate waste minimisation and management plan?	Yes
G8: Onsite Sewage Management	<input checked="" type="checkbox"/>
Does the development site have access to reticulated sewer?	Yes
G9: Development on Flood Prone Land	<input checked="" type="checkbox"/>
Is the subject site mapped as below the flood planning level?	No
G12: Dwelling Houses and Other Low Density Residential Development	<input type="checkbox"/>
See Appendix A	
The proposed development does not give rise to additional parking requirements. Existing vehicle parking and vehicle manoeuvring areas are maintained on site.	
G26: Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines	<input checked="" type="checkbox"/>
Is the development site mapped as acid sulfate soil?	Yes
Class	Commentary
Class 5	The proposal does not involve work within 400m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.

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Does the application involve the erection of any buildings or structures on land with a slope >20% or on land with stability problems?	No
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iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no planning agreements applying to this application.

iv) Environmental Planning and Assessment Regulation 2000

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

Any coastal zone management plan

The proposed development is not impacted by any coastal zone management plan

Other Shoalhaven Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is not considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan).

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	The proposed development will not have a significant adverse impact on the natural environment.
Built Environment	The proposed development will not have a significant adverse impact on the built environment.
Social Impacts	The proposed development will not have a negative social impact in the locality.
Economic Impacts	The proposed development will not have a negative economic impact in the locality.

(c) Suitability of the site for the development



The site is suitable for the proposed development.

- The site is zoned R2 - Low Density Residential and the development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Local Environmental Plan 2014*.
- The proposal is consistent with the objectives and requirements of the *Shoalhaven Development Control Plan 2014*.
- The intended use is compatible with surrounding/adjoining land uses

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(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
11 The Triangle CULBURRA BEACH NSW 2540 – Genevieve Waugh	
Objection Raised	Comment
Stormwater Concerns	<p>The proposed development will improve how stormwater is managed onsite.</p> <p>The existing stormwater is sent to an old absorption trench within the rear yard.</p> <p>The applicant proposes to install a charged line to the street.</p>
Impact on birdlife	<p>The proposed development maintains an appropriate setback from the existing mature trees on adjoining properties.</p> <p>The application proposes planting to encourage birdlife and soften the proposed development.</p>
<div style="text-align: center;">  <p>Site Photos – view from 11 The Triangle (adjoining property to the north) rear yard looking toward the proposed location of the detached garage</p>  <p>Site Photos - 11 The Triangle (adjoining property to the north). Structures building within 900mm of rear boundary.</p> </div>	

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Site Photos - 11 The Triangle (adjoining property to the north). - Garden shed built on rear boundary

37 The Lake Circuit, Culburra Beach – Josef & Kirsten Pichler

Objection Raised	Comment
Bulk and Scale	The floor space ratio FSR including the proposed development equates to 0.40: 1. The development is compatible with existing development within the vicinity and complements to existing two storey dwelling.
Overshadowing	The site is orientated North to South. The development is sited 2.8m from the western boundary and the proposed development will not unreasonably overshadow adjoining dwellings. The proposed development complies with the NSW Land and Environment Court – Planning Principle: Sunlight – Access to Sunlight.
Overlooking - Privacy	The proposed structure is a non-habitable building and it is considered that privacy to adjoining properties will be maintained.



Site Photos - 37 The Lake Circuit – View to the east. Location of the proposed detached garages western elevation

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11 The Triangle CULBURRA BEACH– Anthony & Maria Taranto Phone Call 8/2/2021	
Objection Raised	Comment
Stormwater	<p>The proposed development will improve how stormwater is managed onsite.</p> <p>The existing stormwater is sent to an old absorption trench within the rear yard.</p> <p>The applicant proposes to install a charged line to the street.</p>
41 The Lake Cct, CULBURRA BEACH 2540 – Carol Whitby	
Objection Raised	Comment
Privacy	The proposed structure is a non-habitable building and it is considered that privacy to adjoining properties will be maintained.
Aesthetic of the development	The development is compatible with adjoining development. The proposed structure will not detract from the existing streetscape character.
Would like a 1.8m boundary fence	Council is not involved in boundary fence disputes. Property owners may wish to discuss boundary fence issues separately.
<div data-bbox="624 1061 970 1317" data-label="Image"> </div> <p>Site Photos - 41 The Lake Cct – View from rear of dwelling to 39 The Lake Cct</p> <div data-bbox="628 1402 965 1653" data-label="Image"> </div>	

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Site Photos - 41 The Lake Cct – View to the west. Location of the proposed detached garages eastern elevation



Site Photos - 41 The Lake Cct – Private open space. View to the west. Proposed development will be screened due to existing structures and landscaping.

(e) The Public Interest

The proposal is considered to be in the public interest.

Delegations

Are any clause 4.6 exceptions proposed?		No
Are any DCP performance-based solutions proposed?		Yes
Acceptable Solution	Numerical Extent of Departure	Percentage (%) Extent of Departure
A33.2 The gross floor area and eave height of a garage, or other similar structure, complies with the provisions in Table 4.	Floor Area 9.82m Wall Height 0.5m	Floor Area 9% Variation Wall Height 17% Variation

Guidelines for use of Delegated Authority

Level of Delegation	Assessing Officer	Team Supervisor	Unit Manager	Section Manager
Extent of DCP performance-based solutions	≤25%	≤50%	≤75%	100%

The application has been “called in” for determination by Council’s Development and Environment Committee (MIN21.75)

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Development Application No. DA20/2120 be approved subject to appropriate conditions of consent.

Development Assessment Officer

City Development

17/02/2021

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Appendix A – Assessment Checklist: Chapter G12: Dwelling Houses and Other Low Density Residential Development

Objectives of Chapter G12			
<p>The objectives of are to:</p> <ul style="list-style-type: none"> i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity. ii. Maintain and enhance the amenity of existing and future residential areas. iii. Ensure development is compatible with the bulk, scale and character of the area, including scenic, landscape, pastoral or environmental qualities. iv. Set appropriate environmental criteria for energy efficiency, solar access, privacy, noise, vehicular access, parking, landscaping and open space. v. Ensure that development has due regard and is sympathetic to the physical constraints of the site. vi. Allow for efficient use of existing services and facilities, including utility services transport systems and community facilities. vii. Promote wider and more affordable housing choice in Shoalhaven. Implement agreed strategic directions and respond to demographic needs. 			
5 General Controls			
5.1 Building Envelope			
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Provide practical building envelopes for development to ensure that the height and scale of new development is not excessive, relates well to the local context/ streetscape and is compatible with the existing or desired future environmental character within the locality. ii. Minimise the visual impacts of elements of the development that exaggerate the built form and impacts negatively on desired future streetscapes. 			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
P1.1 The bulk and scale of development is compatible with the	A1.1 Buildings are sited within a building envelope determined by the		Complies

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<p>existing or desired future character of the area and minimises adverse amenity impacts on neighbours, the streetscape and public domain.</p>	<p>following method: planes are projected at 45 degrees from a height of 5m above ground level (existing) at the front, side and rear boundary as shown in Figure 1.</p>	<p>The proposed garage is sited within the building envelope.</p> <p>The development is sited on a level site with a wall height of 3.5m above existing ground level.</p>	
<p>P1.2 Development enables view sharing with neighbours and the public domain.</p>	<div data-bbox="748 507 1084 756" data-label="Image"> </div> <p>Figure 1: Building envelope</p> <div data-bbox="748 810 1128 1219" data-label="Text"> <p>Note: Exemptions to building envelope encroachments include gutter, fascias, downpipes, eaves up to 0.6m, aerials and masonry chimneys.</p> <p>For site slopes greater than 10%, or involving cut, fill or site excavations, the ground level (existing) and proposed building levels must be clearly identified on the plans and verified by a registered surveyor.</p> </div>		
<p>5.2 Orientation and Siting</p>			

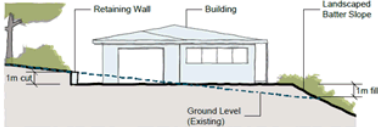
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<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Allow flexibility in the siting of dwellings and other buildings/structures. Ensure that design and site placement of dwellings and other buildings/structures is compatible with and enhances the existing and future streetscape. Locate dwellings and other buildings/structures to ensure minimal loss of amenity (e.g. privacy, views, overshadowing, solar access or the like) to adjoining development. Achieve a site layout that provides a pleasant, attractive, manageable and resource efficient living environment. Ensure that development reflects the physical constraints prevalent on the site to minimise site disturbance. 			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P2.1 The site analysis informs the site design and layout.</p> <p>P2.2 The site layout integrates with the surrounding environment through:</p> <ul style="list-style-type: none"> Adequate pedestrian, cycle and vehicle links to street and open space networks. Buildings that face and address streets and the public domain. Buildings, streetscape and landscape design that relates to the site topography and to the 	<p>A2.1 A site analysis plan is submitted with the development application which:</p> <ul style="list-style-type: none"> Meets the requirements of Chapter G1: Site Analysis, Sustainable Design and Building Materials Rural, Coastal and Environmental Areas of this Development Control Plan. Clearly provides the following detail for the site and adjoining/adjacent development: Height and use of buildings. Predominant building line of the street. 	<p>A site analysis plan has been provided demonstrating how the proposed development integrates with the surrounding environment and constraints.</p> <p>The sit analysis plan identifies the location of the sewer main, how stormwater is to be treated onsite and tree planning to reduce the visual impact of the western wall.</p>	<p>Complies</p>

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<p>surrounding neighbourhood character.</p> <p>P2.3 The site layout enhances personal safety and minimises potential for crime and vandalism.</p>	<ul style="list-style-type: none"> • Driveways. • Boundary treatments (including retaining walls). • Easements. • Stormwater management. • Trees to be retained, removed and replaced (site only). • Landscaped area/s that can support deep soil plantings for mature tree and shrub growth (site only). 		
	<p>A2.2 The proposed site layout responds to and implements the findings of the site analysis prepared in accordance with A2.1</p>	<p>The siting of the shed responds to the site constraints.</p>	<p>Complies</p>
<p>P3 Buildings and structures are sited and designed to utilise construction techniques that:</p> <ul style="list-style-type: none"> • Are sympathetic to the natural slope of the land. • Minimise excessive disturbance of the site. • Do not impact upon adjoining land. Minimise the need for 	<p>A3.1 Buildings and structures are designed and sited so that:</p> <ul style="list-style-type: none"> • Floor construction methods do not require cut and fill; or • Cut and fill is limited to 1m (refer to Figure 2). <p><i>Note: The development application must take into</i></p>	<p>Cut and fill will be limited to site preparation and slab construction.</p>	<p>Complies</p>

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<p>structural retaining walls and changes to drainage systems.</p>	<p><i>consideration the visual impact of retaining walls.</i></p> <p><i>Refer also to Chapter G26: Acid Sulfate Soils and Geotechnical (Site Stability) Guidelines of this Development Control Plan.</i></p>  <p>Figure 2: Maximum cut and fill</p>		
<p>5.3 Local Character and Context</p>			
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure that development enhances and makes a positive contribution to the character of existing buildings and streetscapes. ii. Ensure that development is sensitive to the landscape, built form and environmental conditions of the locality, particularly where there is a distinctive character, view or heritage significance. iii. Minimise adverse impacts on the existing visual amenity and character of residential areas when relocating second-hand dwellings. iv. Retain, incorporate and sympathetically treat existing dwellings or buildings that contribute to streetscape character (including items of heritage significance or conservation significance). v. Encourage the sharing of views, while not restricting the reasonable development potential of a site. 			

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Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P4 The scale and appearance of new development (including a relocated second-hand dwelling) is compatible with, and sympathetic to existing and future desired:</p> <ul style="list-style-type: none"> • Development in the locality; and • Amenity and character of the locality; <p>particularly where the development site or its surrounds has some heritage significance or distinctive character.</p>	<p>A4.1 The statement of environmental effects must identify:</p> <ul style="list-style-type: none"> • The local character/context of the area and streetscape. • How the proposal is sympathetic and compatible with the existing development, amenity and character of the locality. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Note: Where planning controls anticipate a change of character for an area, compatibility with the desired future character of the area should be regarded as more relevant than compatibility with the existing character.</p> </div> <ul style="list-style-type: none"> • How the visual appearance and articulation of the development contributes to the existing or future desired character, development and amenity of the locality. 	<p>The statement of environmental effects addresses how the scale and appearance of the development will be compatible with the existing and future streetscape.</p>	<p>Complies</p>

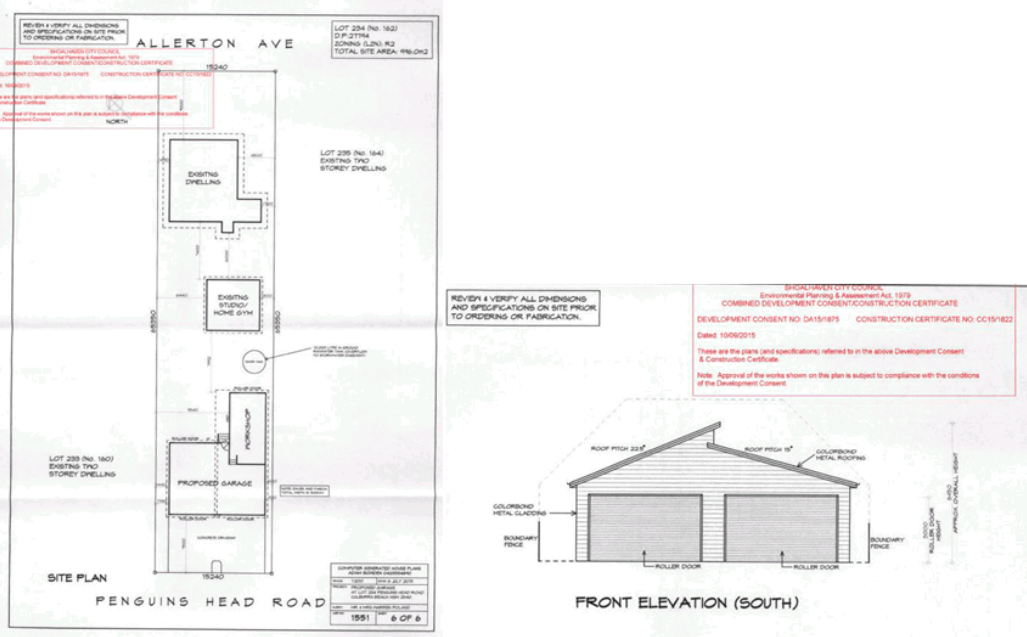
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	<p>A4.2 The building design is sympathetic to the rural, environmental or coastal landscape and the character of the area.</p>	The building is compatible with existing development within the area.	Complies
	<p>A4.3 The development must demonstrate that items of heritage significance or conservation significance are retained and sympathetically treated.</p> <p><i>Note: If the property is a heritage item, within a heritage conservation area or in the vicinity of a heritage item, the applicant must comply with Clause 5.10 Heritage Conservation of Shoalhaven LEP 2014. Area Specific chapters of this Development Control Plan may also include additional provisions relating to heritage (e.g. Kangaroo Valley, Berry, Milton).</i></p>	The development is not within the vicinity of an item of heritage significance or conservation significance.	Complies
P5 Existing or future views from the private or public domain (including heritage or familiar dominant landmarks that are recognised and valued by the community) are not substantially or unreasonably	A5.1 Any reduction in views from existing dwellings or the public domain is not to be severe or devastating based on the following NSW Land & Environment Court Planning Principles:	<p>The proposed development will not unreasonably impact adjoining developments views.</p> <p>Views would not be considered iconic, adjoining development do not enjoy views of water or significant landmarks.</p>	Complies

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affected where it is possible to design for the sharing of views.	<ul style="list-style-type: none"> Views - General principles. Views - Impact on public domain views. <p>Note: Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to existing views is considered unreasonable.</p>		
5.4 Building Form, Design and Materials			
<p>Note: Buildings in rural, environmental and coastal areas must also comply with:</p> <ul style="list-style-type: none"> Chapter G1: Site Analysis, Sustainable Design and Building Materials in Rural, Coastal and Environmental Areas. Chapter G6: Coastal Management Areas. 			
<p>The specific objectives are to:</p> <ol style="list-style-type: none"> Ensure the provision of low-maintenance development that will retain an attractive appearance. Ensure the materials used in construction are sound and suitable for the intended use. Ensure that new development enhances and makes a positive contribution to the character of existing buildings and streetscapes and reinforces the built form and environmental conditions of the locality. Ensure that in rural/environmental areas and scenic protection area, buildings complement the existing landscape value rather than detracting from it, particularly where visible from public vantage points. 			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies With AS?
P6.1 The selection of building materials and design complements existing development and is	A6.1 New development, including alterations and additions to existing development, shall complement	The proposed detached garage is sympathetic to existing development within the vicinity.	

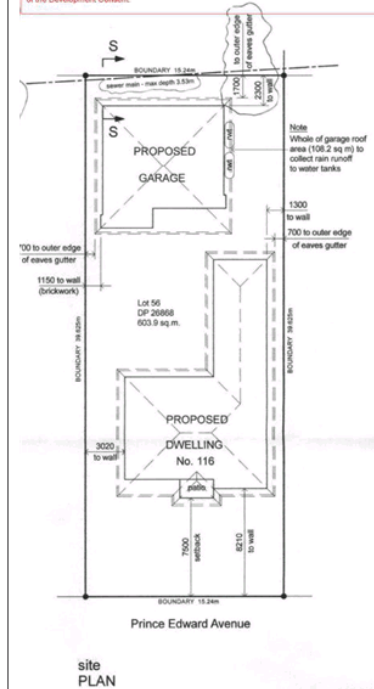
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sympathetic to the streetscape and existing landscape.	existing built form and be sympathetic to the streetscape.		
	<p>DA15/1875 - 162 Penguins Head Rd, Culburra Beach</p>  <p>Site Plan & Front Elevation</p>		

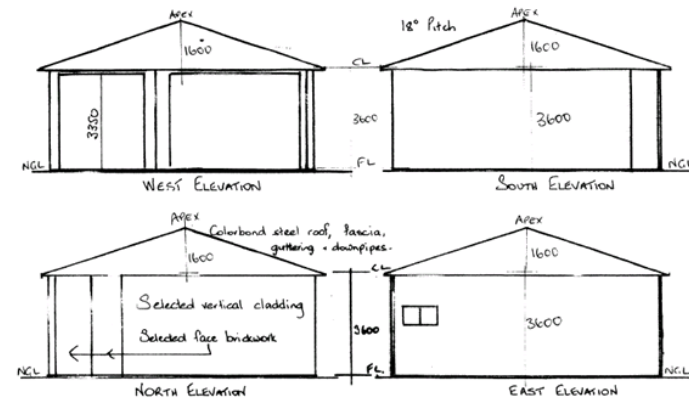
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DA16/1456 – 116 Prince Edward Avenue, Culburra Beach

Environmental Planning & Assessment Act, 1979
COMBINED DEVELOPMENT CONSENT/CONSTRUCTION CERTIFICATE
DEVELOPMENT CONSENT NO: DA16/1456 CONSTRUCTION CERTIFICATE NO: CC16/144
Dated: 15/09/16
These are the plans (and specifications) referred to in the above Development Consent & Construction Certificate.
Note: Approval of the works shown on this plan is subject to compliance with the conditions of the Development Consent.



Site Plan & Elevations



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<p>P6.2 The building design, detailing, finish, articulation and modulation of building facades provide visual interest that enhances the streetscape and complements good quality surrounding development.</p> <p>P6.3 Roof treatments are integrated into the building design and make a positive contribution to the streetscape.</p>		<div data-bbox="745 316 1919 790"> <p>DA18/1872 – 10 Woodland St, Culburra Beach</p> <p>Site Plan & Elevations</p> </div> <div data-bbox="745 790 1919 1284"> <table border="1"> <tr> <td data-bbox="745 790 1137 1284"> <p>A6.2 Roof design is to be integrated harmoniously with the overall building form through the incorporation of:</p> <ul style="list-style-type: none"> Complimentary building materials. Design proportionate to overall building size, scale and form. Balanced composition of solid and void elements. Integration of service elements. </td><td data-bbox="1137 790 1709 1284"> <p>The roof design incorporates articulation into its design.</p> <p>Opposed walls are sited at different levels 3.5m and 3m above ground level, allowing the roof to be stepped and pitched creating a design feature.</p> <p>The selection of different wall and roof colours will balance the overall design and incorporate modulation within the building design.</p> </td><td data-bbox="1709 790 1919 1284"> <p>Complies</p> </td></tr> </table> </div>	<p>A6.2 Roof design is to be integrated harmoniously with the overall building form through the incorporation of:</p> <ul style="list-style-type: none"> Complimentary building materials. Design proportionate to overall building size, scale and form. Balanced composition of solid and void elements. Integration of service elements. 	<p>The roof design incorporates articulation into its design.</p> <p>Opposed walls are sited at different levels 3.5m and 3m above ground level, allowing the roof to be stepped and pitched creating a design feature.</p> <p>The selection of different wall and roof colours will balance the overall design and incorporate modulation within the building design.</p>	<p>Complies</p>
<p>A6.2 Roof design is to be integrated harmoniously with the overall building form through the incorporation of:</p> <ul style="list-style-type: none"> Complimentary building materials. Design proportionate to overall building size, scale and form. Balanced composition of solid and void elements. Integration of service elements. 	<p>The roof design incorporates articulation into its design.</p> <p>Opposed walls are sited at different levels 3.5m and 3m above ground level, allowing the roof to be stepped and pitched creating a design feature.</p> <p>The selection of different wall and roof colours will balance the overall design and incorporate modulation within the building design.</p>	<p>Complies</p>			

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		<p>Basalt®</p> <p>A powerful, modern grey with a neutral cast, Basalt® deliberately lacks the green tones that would soften its impact when used in ultra-modern designs. Exuding the strength and solidity of the rock after which it is named, the use of Basalt® lends buildings a feeling of being anchored to the earth.</p>		
		<p>Windspray®</p> <p>Windspray® is mid-strength, neutral grey with a blue undertone that brings to mind a gentle breeze, soft shadows and the misty sea on a cloudy day.</p>		
P6.4 Building walls use modulation and articulation and are limited in length to minimise massing and bulk issues as well as impact on neighbours and the public domain/streetscape.	A6.3 Building design shall use detail, modulation and articulation of building elements to articulate facades and to minimise the length of unbroken walls and glazed areas.	<p>The building incorporates fenestration within its design, the northern, eastern and southern elevations are broken by windows or doors.</p> <p>The elevation to the west will have the rainwater tank site along the wall and the owner will plan trees to screen/ soften the development.</p>	Complies	
P6.5 External metallic wall and roof materials are suitable and minimise reflectivity.	A6.4 In rural, environmental, foreshore and scenic protection areas, external materials (including windows and other glazing), textures	<p>The colours selected are suitable for the coastal / residential environment.</p>	Complies	

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<p>P6.6 Second hand building materials are suitable for the intended use and the appearance is compatible with surrounding development.</p>	<p>and colours are to blend with the surrounding landscape.</p>		
<p>P6.7 The development incorporates passive environmental design.</p>	<p>Note:</p> <ul style="list-style-type: none"> • <i>A restriction as to user (i.e. 88B Instrument) may specify or restrict certain building materials, textures and colours.'</i> • <i>Council may require the provision of a colour and external material schedule to support a development application.</i> • <i>A colour and external material schedule may be included as a condition of consent.</i> • <i>White and bright colours are not acceptable in rural, environmental, foreshore or scenic protection areas.</i> • <i>Metal roofing, wall cladding and rainwater tanks should be pre coloured at the manufacturing stage.</i> <p>A6.5 External metallic walls and roof surfaces shall consist of colours and finishes that will minimise the reflectivity of the surface when</p>		

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viewed from the public domain or another dwelling.		
<p>Note: Use of traditional building materials, such as galvanised steel may be permitted in certain circumstances if it is justified in the context of the design of the building and/or it complements the heritage character of the building or area.</p>		
A6.6 Second hand materials shall be sound, appropriate and compatible with surrounding development.	Not Applicable	N/A

5.5 Visual and Acoustic Privacy

Note: Visual and acoustic privacy is important for the residents of proposed and existing dwellings. The design of new development must protect the privacy of residents and minimise the impact of existing and future dwellings within proximity of the development.

A privacy screen may be considered exempt development. Refer to Privacy Screen Development Standards in Clause 2.62 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The specific objectives are to:

- i. Ensure the design of the site and buildings minimises impacts on the amenity of future and adjoining/adjacent living areas and principal private open space in relation to visual privacy, overlooking and noise.
- ii. Reduce the impacts of freestanding privacy screens on surrounding development.
- iii. Ensure the thoughtful location of noise generating plant, equipment and sources.

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Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P7.1 The visual privacy of indoor living areas and private open space is protected.</p>	<p>A7.1 Direct views between living area windows of adjacent dwellings shall be screened or obscured where:</p> <ul style="list-style-type: none"> • Ground and first floor windows are located within the privacy sensitive zone area, being a 9m radius from any part of the window of the adjacent dwelling (Figure 3). • In the case of a dwelling with three or more storeys, windows are within the privacy sensitive zone described by a 12m radius (Figure 3). 	<p>The development is non-habitable and not considered to overlook adjoining dwellings.</p>	<p>Complies</p>
<p>P7.2 Direct overlooking of main internal living areas and private open space of other dwellings and adjoining properties is minimised by building layout, location and design of windows, balconies, screening devices, landscaping or other effective means.</p>			
<p>Note:</p> <ul style="list-style-type: none"> • <i>Direct views may be obscured by fencing, dense landscape screening (effective in 3 years), offsetting or splaying windows, 1.7m sill heights, fixed translucent glazing and/or vertical or horizontal fixed louvres or the like.</i> • <i>Privacy screens can also provide a screen or visual barrier between a window of a</i> 	<p>A7.2 Direct views from living areas of dwellings into the principal area of private open space of adjacent dwellings shall be screened or obscured where located within a privacy sensitive zone within a 12m radius from the living area windows (Figure 4).</p>	<p>Not applicable to this development, direct views are obscured by a 1.8m boundary fence.</p>	<p>Complies</p>

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<i>habitable room or an outdoor area and will only be considered when building separation and orientation cannot reduce privacy impacts.</i>			
<p>P8.1 The number of freestanding privacy screens does not constitute a composite structure that is out of character in the locality or allotment.</p> <p>P8.2 The location, height, dimensions and materials of freestanding screens and ancillary structures do not cause significant loss of amenity for occupants of surrounding dwellings.</p>	<p>A8.1 Freestanding privacy screens shall meet the following minimum standards:</p> <ul style="list-style-type: none"> • A maximum of two (2) freestanding privacy screens are permitted on each lot. • Any freestanding screen is located behind the primary and secondary building line. • The screen is freestanding and is not attached to any common boundary fence. • The maximum height of a freestanding screen is 2.4m above ground level (existing) or the adjacent boundary ground level whichever is the lower. • The maximum length of a freestanding screen is 6m; except where providing privacy for a swimming pool where maximum length is equal to the adjacent side of the pool plus 2m. • Materials on both sides are new, a consistent colour, shape and 	Not Applicable	N/A
<p>P8.3 The height of the freestanding privacy screen is sufficient for its purpose taking into account site terrain and ground levels and the relative location of a person standing on either side of the screen.</p>			

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	<p>design to the development and do not produce excessive glare.</p> <ul style="list-style-type: none"> The privacy screen is structurally stable, constructed with quality workmanship and complies with the Building Code of Australia. The design ensures that solar access to the principal private open space area of adjoining dwellings is not reduced to less than 3 hours of continuous sunlight between 9am and 3pm on 21 June. 		
<p>P9 Site layout and building design:</p> <ul style="list-style-type: none"> Protects and minimises noise transfer and nuisance. Does not adversely impact the amenity of residents or adjoining properties. 	<p>A9.1 The noise level generated by any equipment must not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary.</p> <p><i>Note: Noise generating equipment includes, but is not limited to, air conditioning units, swimming pool filters, hot water systems, fixed vacuum systems, mechanical gates and garage doors.</i></p>	Not Applicable	N/A
	<p>A9.2 All noise generating (mechanical) plant and equipment must be:</p> <ul style="list-style-type: none"> Acoustically screened (where appropriate). Sited to minimise noise impacts. 	The garage is sited greater than 3m from adjoining dwellings bedrooms.	Complies

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	<ul style="list-style-type: none"> Located at least 3m away from bedroom windows. <p>Note: High levels of external noise may be generated from sources such as classified/main roads, railway line, aircraft noise, industrial landuses.</p>		
	A9.3 Dwellings adjacent to high levels of external noise shall be designed to minimise the entry of that noise.	The development is not expected to generate high noise levels	Complies

5.6 Solar and Daylight Access

Adequate solar and daylight access to living areas, especially to north facing windows and solar collectors, is an important aspect of ecological sustainability. It enables reduced reliance on artificial lighting and heating, reduced energy consumption and provides cost savings. Solar access to living spaces and private open space has also been shown to provide positive benefits to health and psychological wellbeing.

Passive solar design is the use of building design and construction that reduces the need for artificial ventilation, heating and cooling by maximising solar access to retain heat and light in winter and to exclude and dissipate heat in summer. These features can include the use and location of glazing (e.g. windows, sliding doors), insulation, natural ventilation, external shading including vegetation and thermal mass.

A reduction in solar access to north facing windows, solar collectors and the principle open space of an adjoining dwelling may create an adverse impact for residents and should be avoided by careful design. New development should not have an unreasonable impact on the solar access of an adjoining property and must carefully consider any impacts on solar collectors or passive solar design of adjoining properties.

Note: Refer to the NSW Land and Environment Court – Planning Principle: Sunlight – Access to Sunlight.

The specific objectives are to:

- Ensure that opportunities for passive solar design for energy efficiency are maximised.
- Minimise overshadowing impacts and reductions in the solar access of adjoining properties.
- Protect and maintain solar access to solar collectors and limit impacts on the solar access of north-facing roof areas on adjoining and neighbouring properties.

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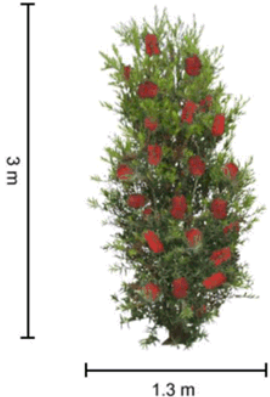
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
P10 Dwellings are sited and designed to: <ul style="list-style-type: none"> • Maximise solar access to living areas and private open space. • Incorporate passive solar design features. • Minimise overshadowing of neighbouring properties. • Minimise impacts on the solar access and energy efficiency of adjoining properties including to private open space and solar collectors. 	A10.1 Passive solar design features shall be incorporated to maximise the efficient use of sunlight, energy, water, ventilation and heating and cooling for thermal comfort.	Not Applicable	N/A
	A10.2 Dwellings are sited and designed to maximise solar access by: <ul style="list-style-type: none"> • Locating living areas and private open space on the northern side of the development; and • Locating non-habitable rooms/ areas to the south and west of the development. 	Not Applicable	N/A
	A10.3 The design ensures that each adjoining and adjacent dwelling retains at least 3 hours of direct sunlight between 9am and 3pm on June 21 to: <ul style="list-style-type: none"> • 10m² of private open space; and • 50% of windows and glazed doors of north facing living areas; and • North facing roofs and existing solar collectors. <p><i>Note: Where sunlight to these areas is restricted, the setbacks of the proposal may need to be</i></p>	Due to the orientation of the development, North to South, and the 3.5m wall height, the development will not reduce adjoining development access to sunlight to less than three hours between 9am and 3pm.	Complies

Note: Solar access for new development should consider the potential future development form on adjacent properties which may impact solar access to proposed living areas and solar collectors.

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	<p><i>increased accordingly until the minimum requirement is met.</i></p> <p><i>Solar collectors may require more than 3 hours of continuous direct sunlight for proper functioning. Building design and boundary setbacks should not unreasonably compromise existing performance of solar collectors on adjoining developments. New development may need to be modified to protect solar access to existing solar collectors.</i></p> <p><i>A reliable and accurate shadow diagram may be required for:</i></p> <ul style="list-style-type: none"> <i>• Two storey developments, particularly development of streets running north-south.</i> <i>• Development on sloping lots with south-east to south-west aspects.</i> <i>• Development within the minimum setbacks to southern boundaries.</i> <p><i>The shadow diagram shall demonstrate compliance with solar access requirements in this Chapter, including the location of adjacent buildings affected by shadow as well as the location of its living areas, private open space areas and any solar collectors.</i></p>		
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	<i>In determining extent of overshadowing, the impact of fences, roof overhangs and changes in level should be taken into consideration.</i>		
	<p>A10.4 Proposed tree/vegetation plantings with similar properties to a solid fence must not unreasonably restrict solar access to adjoining properties.</p> <p><i>Note: Tree plantings along boundaries should be limited to deciduous species.</i></p>	<p>Trees selected will mature to 3 metres in height</p> 	Complies
5.7 Vehicle and Pedestrian Access			
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Encourage driveway design that minimises visual impact, stormwater runoff and retains established trees and vegetation. ii. Encourage an approach to access design that considers the site and its elements holistically (e.g. landscaping). iii. Provide adequate and safe vehicular and pedestrian access from the street to the site, development and parking spaces. iv. Ensure the safety of pedestrians and bicycle riders in proximity to the driveway area. 			

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Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P11.1 Access arrangements are suitable for the development.</p> <p>P11.2 The design of access from the roadway to the lot, the site and driveways, including manoeuvring areas, has regard to the safety of pedestrians, cyclists and vehicles.</p> <p>P11.3 The access driveway onto and within the lot provides all-weather access for vehicles.</p> <p>P11.4 Driveways are designed to:</p> <ul style="list-style-type: none"> • Minimise the volume of stormwater runoff. • Increase the area available for landscaping. • Retain established trees and vegetation. • Accommodate public services and infrastructure. 	<p>A11.1 The site is designed to encourage pedestrian access by providing a continuous path of travel from the street to the dwelling.</p> <p>A11.2 Driveways must be designed to:</p> <ul style="list-style-type: none"> • Be all-weather. • Minimise the hardstand/paved footprint. • Be setback a minimum of 0.5m from the side and/or rear boundary to accommodate appropriate landscape elements. • Retain adjacent trees, established shrubs and vegetation, wherever possible, by locating the driveway outside the drip line. 	<p>Vehicle and pedestrian access will not be impacted by the proposed development</p> <p>Driveways are existing</p>	<p>Complies</p> <p>Complies</p>

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<p>P11.5 The visual dominance of driveways is minimised by:</p> <ul style="list-style-type: none"> • The selection of paving materials e.g. decorative paving and brick banding. • Breaking up the appearance of driveways with landscaping and screen planting. <p>P11.6 The crossover is suitable for the development.</p>	<ul style="list-style-type: none"> • Accommodate all public services and infrastructure (e.g. street gully pits). • A grade no greater than 1:4, with transitions in accordance with the relevant Australian Standard. • Maximise the availability of on-street parking. • Achieve minimum sight lines for pedestrian safety in accordance with AS2890.1 (Figure 3.3). <p><i>Note: A long section of the driveway (including the secondary frontage on corner blocks) must be provided prior to the issue of the construction certificate.</i></p>		
	<p>A11.3 The total maximum vehicle crossover width for the site is 6m.</p> <p><i>Note: All works in the road reserve require approval by Council (section 138 of the Roads Act 1993).</i></p> <p><i>Vehicular access (driveway and associated footpath crossing) must be designed in accordance with the relevant Australian Standards.</i></p>	Existing	N/A

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5.8 Trees and Vegetation

Good design ensures that natural features, including mature shade trees and vegetation, are incorporated into the development where possible to:

- Enhance the amenity of the streetscape.
- Improve microclimates.
- Reduce the heat island effect, particularly in urban areas.

Whilst a landscape plan is generally not required for a low density residential development, it is important that the design takes into consideration trees and landscaping elements.

The specific objectives are to:

- i. Retain, protect and incorporate as many mature shade trees as possible within and adjacent to the development.
- ii. Improve the amenity and energy efficiency of new development and reduce the heat island effect by retaining (or replanting) mature shade trees.
- iii. Encourage the planting of replacement semi-mature trees.
- iv. Incorporate landscaped areas that are sufficient for the retention and planting of mature trees.
- v. To ensure appropriate landscaping in bushfire prone areas to reduce the likelihood of building loss during a bushfire event.

Note: Refer to Chapter G4: Tree and Vegetation Management of this Development Control Plan for information on tree removal and required approvals. In bushfire prone areas, careful plant selection is required to meet bushfire requirements for asset protection zones. A landscape plan will be required for assessment against Planning for Bushfire Protection.

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Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P12.1 Existing mature/canopy trees, vegetation and shrubs are retained wherever practicable, through appropriate siting of development including driveways.</p> <p><i>Note: Conditions may be applied to ensure retention of mature shade trees or for planting of replacement trees.</i></p>	<p>A12.1 Wherever practicable, existing mature shade/large canopy trees, vegetation and shrubs shall be retained in the vicinity of side, rear and front setbacks (including on adjoining land).</p>	<p>Landscaping is existing, no tree removal proposed</p>	<p>Complies</p>
<p>P12.2 The development is designed to:</p>	<p>A12.2 The development shall provide appropriate setbacks to existing mature shade/large canopy trees.</p>	<p>The dwelling is sited 4m from the rear boundary. A large tree is located in the property to the north. The proposed development maintains an adequate setback from the mature tree.</p>	<p>Complies</p>

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- Preserve established tree and vegetation corridors and networks.
- Provide a sufficient landscaped area for the retention, planting and replacement of semi-mature shade trees.



View from 11 The Triangle, Culburra Beach



View from first floor 39 The Lake Cct, Culburra Beach

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	A12.3 For each mature shade tree proposed to be removed, a replacement semi-mature tree planting of at least a 75L pot size shall be incorporated into the landscaping of the development.		N/A
5.9 Servicing			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P13.1 Development is adequately and safely serviced.</p> <p>P13.2 The design and provision of public utilities, including sewerage, water, electricity, street lighting, telecommunication/ internet and gas services conform to the cost-effective performance measures of the relevant servicing authority.</p>	<p>A13.1 Services and utilities including electricity, gas, water, sewer, roads and drainage must be available for the initial development and ongoing development needs.</p>	Services are existing	Complies
<p>P13.3 Compatible public utility services are co-ordinated in common trenching in order to minimise construction costs for underground services.</p> <p>P13.4 Water supply for domestic and firefighting purposes is appropriate for the location and development type.</p>	<p>A13.2 Where connection to the services outlined in A13.1 is not available, the development application must provide alternatives to Council's satisfaction.</p> <p><i>Note: Refer to Chapter G8: Onsite Sewage Management of this Development Control Plan for further details on the management</i></p>	Not Applicable	N/A

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		of sewerage in areas without reticulated services.	
5.10 Water Management and Conservation			
<p>Note: Refer to Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control of this Development Control Plan for further information on stormwater management, and erosion and sediment control.</p>			
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure the protection of public health, surrounding land and the natural environment including soils, groundwater and surface waters. ii. Encourage harvesting of rainwater and the incorporation of pervious areas. iii. Protect the integrity of services, utilities, pipelines and associated infrastructure located within an easement. 			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P14 Stormwater is appropriately accommodated in the design including:</p> <ul style="list-style-type: none"> Stormwater from roofed areas is collected, stored and/ or conveyed to appropriate discharge points or disposal areas. Paved areas associated with buildings and driveways are graded and drained to minimise the discharge of surface water onto adjoining land. 	<p>A14.1 Roof water is to be collected by gutter and downpipe systems, or other equivalent means, and conveyed to an approved discharge point in accordance with the requirements of Part 3.1.3 of the Building Code of Australia to an approved discharge point. This could be:</p> <ul style="list-style-type: none"> a) A gutter or table drain in a road reserve, or b) A stormwater easement or easement to drain water, or c) A disposal/absorption trench, where (a) and (b) above are not 	<p>Stormwater overflow will be sent to the street via a charged line.</p> <p>Conditions of consent to be added.</p>	<p>Complies</p>

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<ul style="list-style-type: none"> • Permeable areas are utilised to reduce stormwater runoff. • Stormwater is allowed to permeate into the ground to facilitate healthy levels of ground waters. 	<p>available, and soil conditions are suitable, or</p> <p>d) A water tank / on-site detention system with an overflow connected to a disposal method in (a), (b) or (c) above.</p> <p><i>Note: Harvesting roof water for toilet, laundry and garden use is encouraged. BASIX and/or plumbing requirements may apply.</i></p>		
	<p>A14.2 Surface water from paved areas in urban areas, including driveways, is to be directed to an approved discharge point (see A14.1) that minimises impact on adjoining land.</p> <p><i>Note: The method selected for the discharge point in A14.1 and A14.2 above will be assessed against the suitability and hydraulic capability including pipe size and/or soil type. Pervious paving should be considered for infrequently trafficked areas.</i></p>	<p>Conditions to be added</p>	<p>Conditions to achieve compliance.</p>

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	<p>A14.3 Where the area of buildings, pavement and other impervious areas exceeds 65% of the site area, the proposal is to include details of the methods to be used to harvest rainwater and minimise increased runoff to surrounding land and public stormwater infrastructure. The details are to include assessment of pre-development and post development stormwater flows.</p> <p><i>Note: The calculation of the 65% area may include reasonable assumption of future paved areas such as driveways not shown on plans at development application stage.</i></p>	<p>Impervious areas are less than 65% of the site.</p> <p>Site Area 708.20m² Combined Hardstand 432m² TOTAL 61%</p>	Complies
5.11 Waste Management – Demolition and Construction			
<p><i>Note: Refer to Chapter G7: Waste Minimisation and Management Controls of this Development Control Plan for information on management of demolition and construction waste.</i></p> <p>The specific objectives are to:</p> <p>i. Minimise the impact of the demolition and construction of buildings on residents, adjoining land, pedestrians and the environment.</p>			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?

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P15 Buildings are demolished or constructed in a manner that minimise the impact upon residents, adjoining land, pedestrians and the environment, especially when they contain or may contain asbestos.	A15.1 A Waste Management Plan is required to be submitted with the development application.	A waste management plan has been provided addressing lawful disposal of building waste	Complies
	A15.2 Demolition shall comply with the requirements of: <ul style="list-style-type: none"> • The relevant Australian Standards relating to demolition. • Council's Asbestos Policy. 	Propose development does not include demolition.	Complies
6 Dwelling Houses, Rural Worker's Dwellings and Associated Development			
Not applicable to this development			
7 Secondary Dwellings			
Not applicable to this development			
8 Ancillary Structures and Non-Habitable Structures on Vacant Land			
Sections 8.1 - 8.3 apply to ancillary structures which includes carports, garages, sheds, freestanding pergolas, swimming pools, tennis courts and the like.			
<i>Note: Although the principal dwelling is usually the main building, a number of ancillary structures may be built to provide additional facilities or features for use by the residents.</i>			
Section 8.4 applies to non-habitable structures on vacant land prior to the construction of a dwelling. The construction of non-habitable structures on vacant land will only be considered where the structure is permissible with development consent.			
<i>Note: Council may consider a proposal for a non-habitable structure on vacant land subject to the owner of the land furnishing Council with a written undertaking that the structure will not be used for habitable/residential purposes.</i>			

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For rural zoned land, it is appreciated that some structures may be justified to enable maintenance of, or operation of the land, in conjunction with a lawful use.

This Section must be considered in addition to **Section 5** of this Chapter.

The objectives of **Sections 8.1 – 8.3** are to:

- i. Minimise the impacts of ancillary structures on adjoining properties.
- ii. Ensure that residents have access to ancillary buildings and structures that are consistent with domestic needs.

8.1 Density, Height and Setbacks

The specific objectives are to:

- i. Ensure that the bulk and scale of new development is compatible with the existing streetscape amenity and the existing or desired future character of the area.
- ii. Minimise the visual impacts of elements of the development that exaggerate the built form and impacts negatively on desired future streetscapes.
- iii. Encourage design that ensures that the amenity of surrounding development is properly considered and not adversely impacted.
- iv. Allow adequate separation between buildings to promote natural light, solar access, ventilation, landscaping and privacy.
- v. Minimise the impacts upon the site and surrounding land following construction of non-habitable structures before the construction of a dwelling.
- vi. Retain the amenity of the public domain.

Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P33.1 The bulk and scale of new development, particularly on the perimeter of the development site, or where that locality or development site has heritage significance and/or distinctive character, is:</p> <ul style="list-style-type: none"> Compatible, consistent and sympathetic to the bulk and scale 	<p>A33.1 The maximum floor space ratio for the site is 0.5:1, where the site is located in the following zones:</p> <ul style="list-style-type: none"> R1 General Residential. R2 Low Density Residential. R5 Large Lot Residential, where the site area is less than 2000m². 	<p>Site Area 708.20m²</p> <p>habitable floor area of existing dwelling 216m²</p> <p>Proposed garage 119m²</p> <p><i>There is no existing garage onsite to accommodate residents' vehicles 50m² concession applied. 69m²</i></p>	<p>Complies</p>

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<p>of existing development in the locality.</p> <ul style="list-style-type: none"> Sympathetic with the streetscape and complements the existing and desired future character of the area. <p>P33.2 The size of a garage, or other similar structure, used in conjunction with a dwelling is appropriate for the garaging of resident's vehicles.</p>	<ul style="list-style-type: none"> RU5 Village. 	FRS 0.40:1		
	<p>A33.2 The gross floor area and eave height of a garage, or other similar structure, complies with the provisions in Table 4.</p>	Zoning	R2 - Low Density Residential	
		Lot size	708.20m ²	
			Acceptable Solution	Proposed
		Gross Floor Area	110m ²	119.82m ²
		Wall Height	3m	3.5m

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P33.3 The size of the non-habitable structure is appropriate for its purpose.

Table 4: Gross floor area and wall height

	Gross Floor Area	Wall Height From ground level (existing) to eave
R1, R2 and SP3 (2000m ²), R3 and R5 Zones	110m ²	3.0m Refer to Figure 10
R2 and SP3 (2000m ²)	To be assessed on merit	To be assessed on merit
RU1, RU2, RU4, E2, E3, E4, and R5 Zones	Site area up to 1 hectare - 140m ²	To be assessed on merit

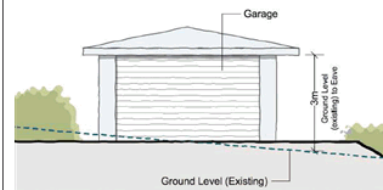


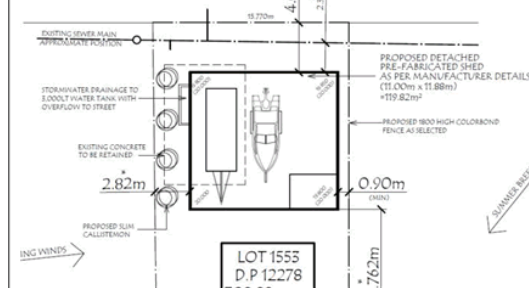
Figure 10: Wall height (example garage)

Note:

- Where an area is mapped on the floor space ratio map in Shoalhaven LEP 2014, the Shoalhaven LEP 2014 floor space ratio provisions for these sites prevail.
- Refer to the following for guidance on calculating floor space ratio (including exclusions):

The applicant has demonstrated how the proposed development is appropriate for its purposes.

The detached garage will be used to store residents' vehicles including a boat and caravan. A small workshop area is then available for the applicants tools.




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	<ul style="list-style-type: none"> ○ <i>Figure 3 (Section 6.1.1 of this Chapter).</i> ○ <i>Gross floor area definition.</i> ○ <i>Clause 4.5 of Shoalhaven LEP 2014 and Shoalhaven LEP (Jerberra Estate) 2014.</i> ● <i>When calculating the site area, the area of any access handle or right of way is to be excluded.</i> 		
<p>P34.1 The height of development:</p> <ul style="list-style-type: none"> ● Is compatible with the existing or desired future character of the area. ● Minimises adverse amenity impacts associated with overlooking and overshadowing of adjoining properties. ● Relates to the land form, with minimal cut and fill. 	<p>A34.1 Building heights must comply with Clause 4.3 of Shoalhaven LEP 2014 or Shoalhaven LEP (Jerberra Estate) 2014.</p>	<p>The maximum building height is 8.5m</p> <p>The proposed development complies being sited 4.2m above existing ground level.</p>	<p>Complies</p>
	<p>A34.2 Any two-storey (or equivalent) component is to be located to minimise the shading of adjacent private open space.</p>	<p>The proposed garage is sited to minimise shading of adjacent private open space.</p> <p>A 2.8m setback is proposed to ensure the adjacent property to the west's private open space will not be unreasonably overshadowed.</p>	<p>Complies</p>

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<p>P34.2 In rural zones, environmental and coastal locations, the height and bulk of dwellings is compatible with the rural, environmental or coastal context in which they are located.</p>	<p>A34.3 The difference in building height between existing buildings and new development is compatible when viewed from the public domain.</p>	<p>The existing dwelling onsite is two storey, sited 8.5m above existing ground level.</p> <p>The overall height of the proposed detached garage is 4.2m.</p> <p>The height of the proposed structure will be compatible with existing development when viewed from the public domain.</p> <p>The garage will not be visible from The Lake Circuit as it is sited behind the existing dwelling.</p>	
	<div data-bbox="748 651 1344 1102" data-label="Image"> </div> <p>View across the eastern boundary standing on Mowbray Road</p>		

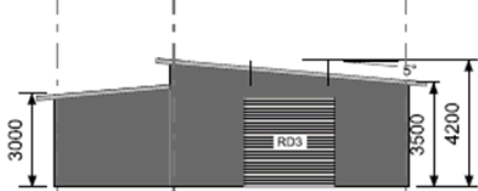
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<p>P35.1 The front setback is generally consistent with adjoining development and does not undermine the integrity of the prevailing building lines.</p> <p>P35.2 The location and siting of the building complements the existing setbacks in proximity to the site, foreshore (if applicable) and the streetscape.</p>	<p>Note:</p> <p>1. <i>The acceptable solutions for setbacks may need to be increased, reduced or modified depending upon factors such as:</i></p> <ul style="list-style-type: none"> <i>Slope of the land.</i> <i>Requirements for asset protection zones. Foreshore setbacks. The requirement for effluent disposal areas to</i> 	<p>The applicant has progressively increased the setback to the western boundary to mitigate the impact of the wall height variation.</p> <p>The detached garage has been sited 2.82m from the western boundary.</p>

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<p>P35.3 The proposed development is setback and of a scale that is relative to the street reserve width, in such a way to ensure pedestrians do not feel buildings are overbearing.</p>	<p><i>be contained wholly within the lot boundaries on unsewered residential lots.</i></p> <ul style="list-style-type: none"> • <i>Location of existing buildings.</i> • <i>The shape of the lot.</i> • <i>Desire to create streetscape and visual interest.</i> <p>2. <i>Down pipes, fascias, flues, pipes, domestic fuel tanks, cooling or heating appliances or other services, screens or sunblinds, light fittings, electricity or gas meters may encroach into the side or rear setback.</i></p> <p>3. <i>Additional building line and setback controls are included in the following Chapters of this Development Control Plan:</i></p>		
<p>P35.4 Setbacks avoid loss of view, undue overshadowing and provide/maintain privacy (visual and acoustic) and traffic safety.</p>		<p>The proposed development maintains adequate levels of light and ventilation to the adjoining buildings.</p> <p>The site is orientated North to South, the development has a wall height of 3.5m on the western elevations and 3m on the eastern elevation.</p>	<p>Complies</p>
<p>P35.5 Setbacks are progressively increased to reduce bulk and overshadowing while maintaining adequate daylight and sunlight.</p>			
<p>P35.6 Adequate levels of light and ventilation to adjoining buildings, landscaping, services and infrastructure are protected.</p>			


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<p>P35.7 The proposal maintains adequate provision for on-site car parking.</p>	<ul style="list-style-type: none"> • <i>Chapter G6: Coastal Management Areas.</i> • <i>Chapter V2: Building Lines.</i> • <i>Chapter V3: Miscellaneous Site Specific Issues.</i> • <i>Other area specific chapters.</i> <p>A35.1 Setbacks shall comply with the provisions in Table 1 (Section 6.1.2 of this Chapter), where the site is located in the following zones:</p> <ul style="list-style-type: none"> • RU1 Primary Production. • RU2 Rural Landscape. • RU4 Primary Production Small Lots. • E2 Environmental Conservation. • E3 Environmental Management. • E4 Environmental Living. • R2 Low Density Residential, where the site area is equal to or greater than 2000m². • R5 Large Lot Residential. <p>A35.2 Setbacks shall comply with the provisions in Table 2 (Section 6.1.2 of this Chapter), where the site is located in the following zones:</p> <ul style="list-style-type: none"> • R1 General Residential. 	
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	<ul style="list-style-type: none"> • R2 Low Density Residential, where the site area is less than 2000m². • RU5 Village. • SP3 Tourist. 		
	<p>A35.3 Despite A39.1 and A39.2, where the predominant setback of the same street is greater than the setback contained in Table 1 or Table 2 (as applicable, see Section 6.1.2 of this Chapter), the required setback must be compatible with the existing setbacks on the same street in the general vicinity of the subject land (see Figure 6, Section 6.1.2 of this Chapter).</p> <p><i>Note: If there is no obvious predominant building line, the setback must comply with Table 1 or Table 2 (as applicable, see Section 6.1.2 of this Chapter).</i></p>		
Zone	R2 - Low Density Residential		
Lot size	708.20m ²		
	Acceptable Solution	Proposed	
Building height (peak building height)	8.5m	4.2m	
Front setback	6m	Located behind the existing dwelling	

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Predominant building line setback		7.5m	<p>The detached garage is sited behind the existing dwelling, compliant with the predominant building line.</p> <p>The detached garage is located in line with adjoining ancillary development. Demonstrated by an Ariel view below</p> 
Side setback (s)		900mm	<p>Western Boundary 2.82m Eastern Boundary 900mm</p>
Rear setback		3m	4m
Gross Floor Area		110m2	119.82m2
Wall Height		3m	3.5m
Zone	FSR	0.5:1	0.40:1

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R1, R2, R5 or RU5	0.5:1		
Any other zone	Nil		
Floor Space Ratio			
8.2 Building Form and Design			
<p>The specific objectives are to:</p> <p>i. Ensure that new development enhances and makes a positive contribution to the character of existing buildings and streetscapes and reinforces the built form and environmental conditions of the locality.</p>			
Performance Criteria (PC)	Acceptable Solutions (AS)	Proposal	Complies with AS?
<p>P36 Ancillary structures are sited and designed to:</p> <ul style="list-style-type: none"> Add visual interest. Provide opportunity for passive surveillance. Not dominate the street frontage. 	<p>A36.1 Ancillary structures are compatible with the design of the principal dwelling.</p>	<p>The proposed detached garage has been skilfully designed to add visual interest.</p> <ul style="list-style-type: none"> Articulation incorporated through the pitching of the roof, The use of modulation, placement of voids, roller doors, windows and tree planning. The siting of the development behind the existing two storey dwelling. 	<p>Complies</p>

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	A36.2 The width of garage facades addressing the street shall not exceed 9m or 50% of the length of the frontage, whichever is the lesser.	The garage will not dominate the street frontage due to it being sited behind the existing dwelling,	Complies
8.3 Swimming Pools			
Not Applicable to this development			
8.4 Use of Non-Habitable Structures			
Not Applicable to this development			
9 Advisory Information			
9.1 Other legislation of policies you may need to check			
<p><i>Note: This Section is not exclusive and the applicant may be required to consider other legislation, policies and documents with the development application.</i></p>			
Council Policies and Guidelines	<ul style="list-style-type: none"> • Shoalhaven Contributions Plan • Asbestos Policy • The Shoalhaven Plant Species List 		
External Policies and Guidelines	<ul style="list-style-type: none"> • Building Code of Australia • Livable Housing Design Guidelines • NSW Land & Environment Court Planning Principles • Relevant Australia Standards • Planning for Bushfire Protection 		

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Legislation	<ul style="list-style-type: none">• Roads Act 1993• Swimming Pool Act 1992 (and associated regulations)• State Environmental Planning Policy (Affordable Rental Housing) 2009• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004• State Environmental Planning Policy (Exempt and Complying Development Codes) 2008• Shoalhaven Local Environmental Plan 2014• Shoalhaven Local Environmental Plan (Jerberra Estate) 2014
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Appendix B – Justification for Performance-Based Solution/s

The proposed development involves a departure from acceptable solution A33.2 A “variation statement” for the departure and justifying the performance-based solution is provided below.

Performance-based Solution to Acceptable Solution A33.2 in Chapter G12 - of Shoalhaven DCP 2014

Control being “varied”

The gross floor area and eave height of a garage, or other similar structure, complies with the provisions in Table 4.

Table 4: Gross floor area and wall height

	Gross Floor Area	Wall Height <i>From ground level (existing) to eave</i>
R1, R2 and SP3 (> 2000m ²), R3 and RU5 Zones	110m ²	3.0m Refer to Figure 10
R2 and SP3 (≤ 2000m ²)	To be assessed on merit	To be assessed on merit
RU1, RU2, RU4, E2, E3, E4, and R5 Zones	Site area up to 1 hectare - 140m ²	To be assessed on merit

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Extent of proposed departure from acceptable solution

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Acceptable Solution	Proposed Solution	Numerical Departure	% Departure
110m²	119.82m²	9.82m	9%
3.0m	3.5m	0.5m	17%

Unique circumstances as to why a departure from the acceptable solutions is being sought	
The applicant required weatherproof and secure storage for large vehicles, the vehicles are not practical to store anywhere else on the premises. The increase wall height is required to provide clearance of a motor home and boat through the garage door.	
Demonstrate how the relevant objectives and performance criteria are being met with the performance-based solution	
Objective	Commentary
<p>The specific objectives are to:</p> <ul style="list-style-type: none"> i. Ensure that the bulk and scale of new development is compatible with the existing streetscape amenity and the existing or desired future character of the area. ii. Minimise the visual impacts of elements of the development that exaggerate the built form and impacts negatively on desired future streetscapes. iii. Encourage design that ensures that the amenity of surrounding development is properly considered and not adversely impacted. iv. Allow adequate separation between buildings to promote natural light, solar access, ventilation, landscaping and privacy. 	<p>The proposed garage has been designed and sited to mitigate the impact of the proposed variations to adjoining development and the public domain,</p> <p>Proposed setbacks allow for adequate separation between boundaries to provide adequate levels of sunlight, ventilation, landscaping and privacy. Factors have been addressed on the site plan provided to support the application.</p> <p>The proposed detached garage provides secure and all-weather storage for personal vehicles, tools and gym equipment.</p>

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v. Minimise the impacts upon the site and surrounding land following construction of non-habitable structures before the construction of a dwelling.		
vi. Retain the amenity of the public domain.		
Performance Criteria		Commentary
P33.1	<p>The bulk and scale of new development, particularly on the perimeter of the development site, or where that locality or development site has heritage significance and/or distinctive character, is:</p> <ul style="list-style-type: none"> • Compatible, consistent and sympathetic to the bulk and scale of existing development in the locality. • Sympathetic with the streetscape and complements the existing and desired future character of the area. 	<p>The proposed development is sited within a residential area, the site is not identified as being a heritage item or within the vicinity of heritage significance.</p> <p>Detached ancillary structure are prevalent within the area.</p> <p>The bulks and scale of the proposed development is relative to development approved within Culburra Beach.</p>
P33.2	<p>The size of a garage, or other similar structure, used in conjunction with a dwelling is appropriate for the garaging of resident's vehicles.</p>	<p>The owner has demonstrated how the garage will be used to garage their vehicles.</p> <p>The dwelling does not include a garage, a small carport is sited to the west of the existing dwelling.</p>
P33.3	<p>The size of the non-habitable structure is appropriate for its purpose.</p>	<p>The owner has demonstrated how the non-habitable structure is appropriate for its purpose.</p>
Demonstrate how the development will not have any adverse impacts as a result of the performance-based solution		
<p>The proposed development incorporates articulation and modulation within its design making a positive contribution to the streetscape.</p> <p>The existing dwelling is two storeys therefore the increased wall height is compatible with the existing dwelling and two storey development within the vicinity.</p> <p>The proposed development is consistent with ancillary development within the area, therefore is compatible with the existing streetscape amenity and the existing or desired future character of Culburra Beach.</p>		



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council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

shoalhaven.nsw.gov.au     

NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979
DA20/2120

TO:

Nest Residential Design Pty Ltd
PO Box 902
NOWRA NSW 2541

being the applicant(s) for DA20/2120 relating to:

39 The Lake Cct, CULBURRA BEACH - Lot 1553 - DP 12278

APPROVED USE AND OR DEVELOPMENT:

Garages & Carports - Detached Garage

DETERMINATION DATE: Error! Unknown document property name.

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: Error! Unknown document property name.

CONSENT TO LAPSE ON: Error! Unknown document property name.

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

PART A: GENERAL CONDITIONS

1. General

The consent relates to the Detached Garage as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Site Plan	1 of 2	Nest Residential Design	16.02.2021
Site Management Plan	2 of 2	Nest Residential Design	16.02.2021
Floor Plans and Elevations	1 / 2 Drawing Number Nowra1-12100	RANBUILD	-
Elevations and Section	2 / 2 Drawing Number Nowra1-12100	RANBUILD	-
Waste Management Plan	Pages 1 to 5	Nest Residential Design	7/10/2020

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. Prescribed Conditions

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

3. Occupation / Use

The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

4. Class 10 Structure

The Class 10 structure is ancillary to the dwelling and is not permitted as a standalone structure without an established dwelling that is legally occupied.

5. Use of Shed

The detached garage has been approved as a Class 10 structure under the Building Code of Australia and must not be used for any industrial, commercial or habitable purposes without separate development consent, or unless otherwise exempt under the provisions of *State*

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Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for a change of use.

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

6. Construction Certificate

A Construction Certificate must be obtained from either Council or a certifier before any building work can commence.

7. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

8. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form ['Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'](#)

9. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an onsite effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

10. Works within the Road Reserve

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

11. Shoalhaven Water – Prior to the Commencement of Any Works

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Prior to the Commencement of any works, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Commencement of Any Works" must be complied with. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

12. Runoff and Erosion Controls

Prior to the commencement of site works, runoff and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

1. diverting uncontaminated runoff around cleared or disturbed areas.
 - f) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
 - g) preventing the tracking of sediment by vehicles onto roads.
- stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

13. Dilapidation Report

The developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. The repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

14. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

15. Access Driveway Design Standards - Urban

Prior to the issue of a Construction Certificate, design plans must be prepared by a suitably qualified person and approved by the Certifier. The access driveway and layback design must comply with the following:

- a) Council's Engineering Design Standard Drawings.

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- b) Constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with centrally placed slab of minimum 3 metres width and minimum 100mm depth.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material for the driveway layback with a minimum 300mm offset to the kerb lip line.

16. **Shoalhaven Water – Notice of Requirements**

Prior to the issue of a Construction Certificate, a Shoalhaven Water Notice of Requirements issued under Section 306 of the *Water Management Act 2000* must be obtained from Shoalhaven Water.

17. **Shoalhaven Water – Prior to the Issue of a Construction Certificate**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

18. **Erosion and Sediment Control Plan (ESCP)**

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) must be prepared by a Professional Engineer, (as defined in the National Construction Code) in accordance with the Landcom Manual – Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition March 2004 to the satisfaction of the Certifier.

All implemented measures must:

- i. not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO).
- ii. be maintained at all times.
- iii. not be decommissioned until at least 70% revegetation cover has been established

19. **Section 68 Application** (apply where plumbing and drainage works are proposed, but s68 has not been applied for)

Prior to the issue of a Construction Certificate, an application to carry out water supply works, sewerage works, and stormwater drainage works must be obtained from Council under section 68 of the *Local Government Act 1993*.

20. **Stormwater - New Urban Buildings**

Prior to the issue of a Construction Certificate stormwater plans must be prepared by a Licensed Plumber or professional engineer (as defined in the National Construction Code) and submitted to the Certifier for approval.

- 1. Drainage must be designed and constructed in accordance with:
 - i) the National Construction Code
 - ii) Council's [Engineering Design Specifications](#)
 - iii) [Development Control Plan G2](#)

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- h) Stormwater must be conveyed to the street gutter or registered drainage easement, as appropriate for the site conditions.
- i) Any charged system must have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked.

21. Existing Infrastructure

Any required alterations or repair of damaged infrastructure will be at the developer's expense.

Note: it is recommended prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on construction plans with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure this will potentially prevent unexpected costs and expenses.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS

22. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

23. Noise

The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

24. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately
- b) The Office of Environment, Energy and Science must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

25. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area

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- b) In accordance with the *Heritage Act 1997*, the Office of Environment, Energy and Science must be advised of the discovery.

26. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved soil water management / erosion and sediment control measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

27. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

28. Earthworks and Excavation

- a) Approved earthworks (including any structural support or other related structure for the purposes of the development):
 - i) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.
 - ii) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property.
 - iii) that is fill brought to the site, must contain only virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 to the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.

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- iv) that is excavated soil to be removed from the site, must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- b) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)* published by Safe Work Australia in October 2018

29. Acid Sulfate Soils - Unexpected Finds

If acid sulfate soils are encountered during excavation and/or construction works all work must cease and Shoalhaven City Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence.

30. Stormwater Connections in Road Reserve

Prior to completion of works, the site supervisor must ensure that stormwater connections between the property boundary and the kerb and gutter are inspected and approved by Council and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.

Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.

PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

31. Compliance

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with council (i.e. a security).

32. Colours and Materials

The development must be constructed in accordance with the approved schedule of colours and building materials and finishes.

33. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under section 307 of the Water Management Act 2000 must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water and sewerage, as listed on the Notice of Requirements.

If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

34. Works as Executed - Stormwater Drainage

Works as Executed Plans and certification must be submitted to the Council by a licenced plumber/ registered surveyor / professional engineer (as defined in the National Construction Code)

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certifying compliance of all drainage works with the approved design plans and the National Construction Code.

The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations &-sizes of all pipelines.

Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a professional engineer (as defined in the National Construction Code).

35. **Works in the Road Reserve - Evidence of Completion**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Construction Inspection Ticket provided by Council, confirming compliance with the requirements with the approval issued under of section 138 of the Roads Act 1993.

36. **Dilapidation Report – Evidence**

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

PART I: ONGOING USE OF THE DEVELOPMENT

37. **Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater**

All excavation, backfilling and landscaping works must not result in:

- a) any change to the overland stormwater flow path on your property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff shall be collected and directed to a legal point of discharge.
- b) the redirection and/or concentration of stormwater flows onto neighbouring properties.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

NIL (delete if s68 has been applied for)

1. **Approval to Connect to the Reticulated Sewerage System (apply where proposal is to connect to reticulated sewer)**

Approval for Sewerage, Plumbing and Stormwater Drainage is granted subject to the following conditions:

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- a) All plumbing and drainage work must comply with the Plumbing Code of Australia and AS/NZS 3500.1 Water services– 3500.2 Sanitary Plumbing and Drainage– 3500.4 Heated Water Services and 3500.3 Stormwater Drainage
- a) In accordance with the Plumbing and Drainage Act 2011, plumbers and drainers must submit the following documents to Shoalhaven City Council and to the person for whom the work was carried out.
 - i) Notice of Work no later than two (2) business days prior to the commencement of any work.
 - ii) a Certificate of Compliance for drainage works must be provided within seven days (7) after the external drainage works have been completed.
 - iii) A sewer service diagram, one for each dwelling, must be provided within seven days (7) of the drainage works have been completed.

2. **Inspections** (apply where s68 approval is being issued – delete highlighted items as appropriate)

Council, as the water authority, must be given at least 24 hours' notice to allow for the inspection of:

Type of Inspection:	Stage of Construction:
Internal Drainage	All internal drainage pipework, including stackwork, installed and under test as per AS 3500.2 Section 15, including any required bedding material as per AS3500.2 Section 5, and prior to any backfilling of the drainage lines. All pipework must be visible to the inspector.
Hot and Cold-Water Service (appropriately colour coded or identification markings)	All pipework installed and under hydraulic / pressure test, as per AS 3500.1 Section 18 - 18.3 – 18.3.1 prior to the installation of any insulation or any internal lining. Non – Drinking Water Service – Rainwater Lines to be installed as per AS 3500.1 Section 9.
External Drainage	Pipework installed and under test as per AS 3500.2 Section 15, including any required bedding material as per AS3500.2 Section 5. All pipework must be visible to the inspector.
Installation of Treatment Unit (ie AWTs, Septic Tank, worm farm system)	Unit installed and accreditation stamp visible for inspection. Where tank restraints are specified by the manufacturer, they must be visible.
Installation of Effluent Management Area	Effluent management area installed and ready to cover/backfill.
Operational Approval Inspection	Effluent Management System fully completed site landscaped and stabilised. Warning signs in place where required.
Final Inspection of Drainage Works	All drainage works, including stormwater installed as per AS 3500.3 where Council is the Principal Certifier, to be completed prior to the issue of an Occupation Certificate.

3. **Before Commencing Construction**

The builder must locate the position and depth of the sewer junction before commencing construction, to ensure that the top of the overflow gully is a minimum of 900mm above the soffit of the sewer main. Copies of sewer main diagrams issued by Council must be treated as a guide only when locating the junction position

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4. **Yard Gully** (apply where s68 approval is being issued for sewer – applies to both reticulated sewer and OSSM)

Must be installed as per AS3500.2 – Section 4. A minimum height of 150mm must be maintained between the top of the overflow yard gully riser and the lowest fixture connected to the drain. The height must be measured vertically from the overflow level of the gully riser, or from the invert level of the overflow pipe, to the appropriate point given in National Construction Code. The minimum height between the top of the overflow yard gully riser, or the invert of the overflow pipe, and the surrounding ground surface level must be 75mm, except where the gully riser is located in a path or a paved area where it must be finished at a level so as to prevent the ponding and ingress of water into the drainage system.

5. **Works as Executed - Stormwater Drainage** (apply where s68 approval is being issue – applies to both reticulated sewer and OSSM)

Works as Executed Plans and certification must be submitted to the Council by a licenced plumber/ registered surveyor / professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.

The Works as Executed be shown in red on a copy of the approved plans. This plan must verify locations &-sizes of all pipelines.

Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a professional engineer (as defined in the National Construction Code).

6. **Rainwater Facility** (apply for rainwater tanks - aboveground or belowground)

Water stored in the tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in accordance with the current edition of AS 3500.1 Water Services – Section 16.

It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS 3500.1 Water Services, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following:

- a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter.
- b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab.
- c) Pumps must be located and installed to minimize any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output.
- d) Overflow from the tank must be directed into the approved storm water system.
- e) Any town water top-up of the tank must be by indirect connection by means of a visible "air gap", external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, AS3500.1 – Minimum air gap requirements.
- f) Marking and labelling of rainwater services must be in accordance with AS 3500.1 Section 16.
- g) The charged line to the above ground rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked.
- h) For partially buried or fully buried rainwater tanks the property owner is required to have a dual check valve with atmospheric port valve installed at the boundary water meter. Zone protection

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will be required at the tank or cross connection point to be installed in accordance with AS3500.1 – Section 4.

7. **Stormwater** (check 88B to confirm lot benefits from drainage easement)

Stormwater from the [new urban dwelling] is to be conveyed to the [street gutter / drainage easement] via drainage designed and constructed in accordance with AS/NZS 3500 Plumbing and Drainage - Part 3: Stormwater drainage and the Building Code of Australia.

8. **Stormwater** (apply for where on-site stormwater absorption is proposed)

Stormwater runoff from all buildings and structures are to be disposed of via an onsite absorption/infiltration disposal system must be design and installed with the National Construction Code. The absorption trench is to comply with the following:

- a) Runoff from all buildings and structures will be directed to an onsite absorption/infiltration disposal system. Any absorption system must be a minimum distance of 3 metres to any building on the lot or adjacent lots.
- b) Collection, diversion and disposal of stormwater will not result in surface water being concentrated onto adjoining property either above or below ground.
- c) Stormwater will be captured in rainwater tank(s), pipes and/or pits and the like and overland flows will be equivalent to predevelopment overland flows.
- d) trench(s) will have sufficient capacity to store the inflow of a one in three months average recurrence interval design storm, with an emptying time of less than 24 hours.
- e) The design of the trench must include a documented maintenance program, copies of which are to be submitted to Council in hardcopy and PDF format with the design plans for the onsite stormwater disposal system.
- f) The trench is not to require excavation beneath the drip-line of any trees to be retained unless approved by a qualified arborist certifying that such excavation will not affect the longevity of the subject tree(s).
- g) Trench design must include a documented maintenance program, copies of which are to be submitted to Council for approval in hardcopy and PDF format with the design plans for the onsite stormwater disposal system.

9. **Stormwater Existing System** (does not apply to absorption system - for existing absorption use J*S6814)

Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system. Any existing component of the stormwater system that is to be relied upon must be checked and certified by a Licensed Plumber or a suitably qualified practicing engineer (as defined in the Building Code of Australia) to be in good condition and operating satisfactorily. A copy of the certification is to be provided to principal certifier & Council with within seven days (7) of the inspection.

If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded and discharged by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensuring no concentration of flows or nuisance to other properties.

PART K: REASONS FOR CONDITIONS

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The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- h) the objects of the Environmental Planning and Assessment Act, 1979.
- i) the aims, objectives and provisions of the applicable environmental planning instruments,
- j) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- k) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- l) the development will not result in unacceptable adverse impacts on the natural and built environments.
- m) the amenity and character of land adjoining and in the locality of the development is protected.
- n) any potential adverse environmental, social or economic impacts of the development are minimised.
- o) all traffic, car parking and access arrangements for the development will be satisfactory.
- p) the development does not conflict with the public interest.

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PART L: RIGHTS OF REVIEW AND APPEAL**Determination under Environmental Planning and Assessment Act, 1979**

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Review of Modification Decision

An application for a review under section 8.3 of the Act is to be made within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

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Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "*Design for Access and Mobility*".

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.


DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

SIGNED on behalf of Shoalhaven City Council:

Belinda Keech
Administrative Assistant
City Development

Planning Report – S4.15 Assessment – 1178 Comerong Island Rd, NUMBAA - Lot 2 DP 1077521

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/1970
Property	1178 Comerong Island Rd, NUMBAA - Lot 2 DP 1077521
Applicant(s)	JN (Qld)
Owner(s)	Shoalhaven City Marina Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Senior Development Planner 2/04/2021

1. Detailed Proposal

Construction of an industrial building for use as a boat building and repair facility

The DA seeks approval for the construction of an industrial building for use as a boat building and repair facility.

There is an existing development consent on the subject site (DA84/2166, as modified) for “*Boat Building and Repairs, Excavation of Boat Mooring Facilities and Ancillary Buildings*”. Approval was granted in May 2020 to modify the existing consent to increase the size of the existing boat basin to accommodate the servicing of larger marine craft, reflecting the current recreational boat market (DS18/1469).

This subject application has been prepared for a prospective tenant who is seeking to use the site for the manufacture of larger marine craft and maritime components than can be serviced in the originally approved building. The new tenant represents a different target market to that of the original development consent.

As indicated in the submitted Statement of Environmental Effects, the proposed activity on the site is not to operate beyond the standard hours of work, that being 7am to 6pm Monday to Friday; and 8am to 1pm Saturday.

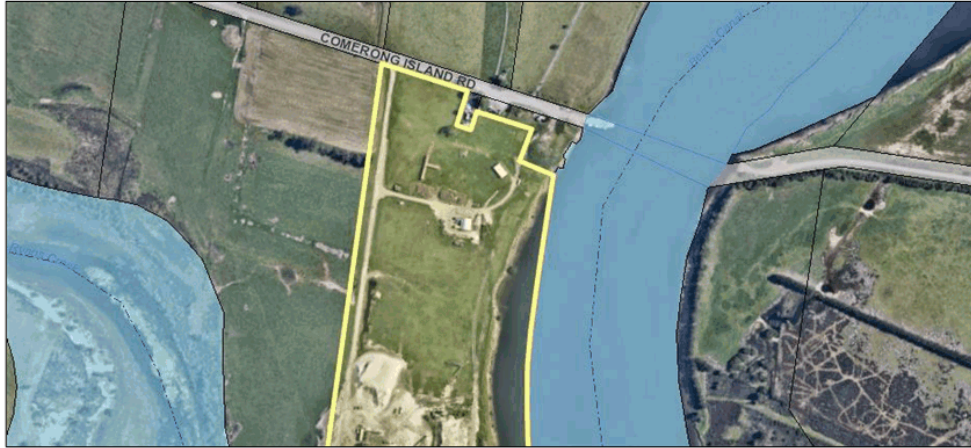
2. Subject Site and Surrounds

- The subject site contains an existing storage shed in the north-eastern corner along with other temporary structures associated with the approved boat building and repair facility. The existing boat basin is in the southern portion of the site.
- The subject site is zoned RU1 Primary Production. The site is 14.08ha in area.
- The subject site is identified as being wholly flood prone land.
- The subject site has existing access to Comerong Island Road.
- The subject site adjoins land comprising of dairy farms with the exception of the caretaker's residence on Comerong Island Road for the Comerong Island Ferry.
- The subject site directly adjoins land zoned SP2 Infrastructure (Port/Wharf/Boating Facilities, to the north), RU1 Primary Production (to the north and west), and E2 Environmental

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Conservation (to the south). The site is adjacent to Berry's Canal in the lower section of the Shoalhaven River.



3. Background

Post-Lodgement

- This application was lodged on 18 September 2020.
- As a result of detailed assessment of the application, additional information was requested from the applicant on five (5) occasions – 30 September 2020, 18 December 2020, 22 December 2020, 23 February 2021 and 9 March 2021.
- On 24 November 2020, 23 December 2020, 18 January 2021, 1 March 2021 and 11 March 2021, the applicant submitted additional information, which was subsequently referred to the relevant sections of Council for comment.
- Draft conditions of consent were forwarded to the applicant for comment on 26 March 2021.
- No comments were provided.

Site History and Previous Approvals

- DA84/2166 – Boat Building and Repairs, The Excavation of Boat Mooring Facilities and the Erection of Buildings Ancillary thereto.) – Approved: 13/09/1989
- In accordance with the provisions of Section 102 of the Environmental Planning and Assessment Act 1979 (EP&A Act) – Modification to DA84/2166 – Modifying Condition 3(a) – Approved: 10/11/1989

This was in relation to the required floor height of the caretakers flat.

- DS99/1229 – Modification to DA84/2166 – Modifying Conditions 1, 7 and 18 – Approved: 12/01/2000

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This modified the description of the development to 'Boat Building & Repairs & Excavation of Boat Mooring Facilities & Ancillary Buildings' and introduced staging of the development in three (3) stages being:

Stage 1: Assembly Factory Building, Administration Building and associated paving, landscaping, staff & visitor parking (10 spaces) and security fencing.

Stage 2: Moulding Factory Building, Building and associated paving, landscaping, staff & visitor parking (12 spaces) and security fencing.

Stage 3: Extension of Assembly Factory Building, Residence & opening of Boat Basin to Berry's Canal.

This also modified the car parking requirements and replaced the condition in relation to water supply and roadworks contributions with construction materials and colours requirements along with a requirement to ensure buildings are located and designed so as to have minimal visual impact on the existing landscape.

- DS12/1325 – Modification to DA84/2166 – Inserting Conditions 26 and 27 – Approved: 18/10/2012

This allowed the removal of excess stockpiled material from the site (i.e. material that is currently onsite that is in addition to what is required to allow the construction of the building platform as required by the issued development consent). The maximum amount of stockpiled material to be removed must not exceed 6,800m³. Screening and washing of the excess material on the site prior to its removal via road was permitted only for a period of six (6) months from the date of commencement, after which this was to cease and the area of works stabilised/revegetated. There were also other requirements included in relation to these works prior to the commencement of and during works. The submission of a dilapidation report for the section of road 0.5km east of Jindy Andy Lane to the subject site entrance; and survey of the area of the site where the remaining material is stockpiled were also required.

- DS14/1168 – Modification to DA84/2166 – Modifying Conditions 26(b), 26(d) and 26(e)l. – Approved: 02/07/2014

This extended the ability to process sand and remove from the subject site for a period of six (6) months from recommencement of haulage and notice being given to Council. It also permitted deferral of the preparation of a dilapidation report for a period of three (3) months from the recommencement of haulage to allow finalisation of the Voluntary Planning Agreement (VPA) which is proposed as part of modification application DS14/1014 to pay a road maintenance levy of between 75 cents and \$1.40 per tonne of material hauled along Comerong Island Road from the site. In the event that the VPA is finalised, the dilapidation reporting requirement of DS12/1325 was to be deleted from the consent.

This also required prior to the commencement of haulage, either an irrevocable bank guarantee or alternatively a cash deposit, to cover the cost of works that may be required if the road as identified above is damaged from the associate works; and also permitted extended hours and days of operation and haulage during the initial three (3) month period.

- DS14/1331 – Modification to DA84/2166 – Modifying 26(b), 26(d), 26(e)l., 26(f) and 26(g) – Approved: 06/01/2015

This extended the consent for screening, washing and removal of excess stockpiled material on the subject site for a period of two (2) months until 06/03/2015.

It also permitted deferral of the preparation of a dilapidation report for a period of one (1) month from approval of this application; permitted extended hours and days of operation and haulage until 06/03/2015; permitted deferral of stabilisation and revegetation of the area where works

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approved under DS12/1325 and other associated amendments proposed as part of this application have been undertaken within one (1) month of completion or within 30 months of informing Council of commencement of works, whichever comes first; and permitted deferral of the preparation of a new dilapidation report and survey of the area of the site where the remaining material is stockpiled, to within 30 months of informing Council of commencement of works.

- DS14/1014 – Modification to DA84/2166 – Modifying Conditions 1, 3(a), 3(b), 3(c), 26 (introductory paragraph before 26(a)), 26(a), 26(b), 26(d), 26(e)l., 26(f) and 26(g) and Inserting Conditions 28-35 – Approved: 22/04/2015

This modified the location and floor levels of the boat building factory and methods of construction. It also approved concurrent commencement of remaining stages and consideration of the VPA as referred to above. All works/requirements as detailed in this Agreement were to be complied with and completed prior to issue of the Occupation Certificate for the development.

- DS16/1568 – Modification to DA84/2166 – Modifying Conditions 1, 26 (introductory paragraph before 26(a)), 26(b), 26(e), 26(e)l., 33 and Inserting Condition 26(d)III. – Approved: 21/04/2017

This increased the size of the boat basin by 4,700sqm (as shown below).



- DS18/1469 – Modification to DA84/2166 – Modifying Conditions 1, 3(b) and 33 and Inserting Conditions 26(h), 32A and 36 – Approved: 04/05/2020

This reconfigured the location of the existing boat building factory pad and building structure and amended the geometry of the basin to allow for waterway access from the boat basin into the factory.

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4. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Development Engineer	<input checked="" type="checkbox"/>	<p>No objections subject to recommended conditions of consent (dated 12/02/2021).</p> <p>Recommended conditions relating to the detailed design of permanent stormwater quality improvement devices and adopted WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities are to be deleted as addressed by Council's Flood & Stormwater Engineer recommended conditions (email dated 15/03/2021).</p> <p><i>Note: Water Sensitive Urban Design = WSUD</i></p>	Conditions to be imposed should the application be determined by approval.
City Services (Traffic)	<input checked="" type="checkbox"/>	No objections (dated 18/02/2021) subject to Council's Development Engineer comments and recommended conditions of consent.	Noted.
Natural Resource & Floodplain Section	<input checked="" type="checkbox"/>	<p>No objections subject to recommended conditions of consent (dated 18/12/2020 in relation to flooding and 05/02/2021 in relation to WSUD).</p> <p>Recommended condition relating to Water Sensitive Urban Design Elements required prior to the issue of an Occupation Certificate is to be deleted as addressed by Council's Development Engineer recommended conditions (email dated 15/03/2021).</p>	Conditions to be imposed should the application be determined by approval.
Building Surveyor	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 12/12/2020).	Conditions to be imposed should the application be determined by approval.
Shoalhaven Water	<input checked="" type="checkbox"/>	<p>No objections (dated 01/03/2021).</p> <p>The waste collection system is to be managed by Council's</p>	Conditions and advisory note to be imposed should the application be determined by approval.

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		Environmental Health Officer recommended conditions with advice from Shoalhaven Water. Roadworks in Comerong Island Road would appear to impact the existing water main. Relocation requirements are to be included within any Notice to be provided once application is sought for a Certificate of Compliance, in accordance with the requirements of section 305, Water Management Act 2000.	
Environmental Health Officer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 08/03/2021).	Conditions to be imposed should the application be determined by approval.

External Referrals			
Agency	Required	Recommendation	Comment
Transport for NSW	<input checked="" type="checkbox"/>	No objections (dated 15/12/2020). TfNSW entrusts Council to assess and manage the traffic implications of this application.	Noted.
Endeavour Energy	<input checked="" type="checkbox"/>	No objections subject to recommendations and comments in advice dated 07/12/2020.	Noted. The applicant is to consider these recommendations and comments as part of the design of the development (as requested in Council's email dated 18/12/2020). Advisory note to be imposed, should the application be determined by approval.
DPI - Fisheries	<input checked="" type="checkbox"/>	No objections subject to recommendations and comments in advice dated 09/02/2021.	Conditions to be imposed should the application be determined by approval.

5. Other Approvals

Integrated Approvals and Concurrences

Not applicable.

6. Statutory Considerations

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This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Primary Production and Rural Development) 2019	<input checked="" type="checkbox"/>	State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>
State Environmental Planning Policy – (Coastal Management) 2018	<input checked="" type="checkbox"/>		<input type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development

Not applicable.

i) Environmental planning instrument

SEPP (Coastal Management) 2018

The subject site is identified as "proximity area for coastal wetlands". Council is satisfied that the development proposed with this application will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

The site is also within the coastal environment and coastal use areas and the provisions of clause 13 and 14 have been considered. Accordingly, the development is unlikely to cause any adverse impact on those matters listed under subclause (1). The development has been sited to avoid any adverse impact referred to in subclause (1) and Council is satisfied that the development will not cause any increased risk of coastal hazards on the subject site or other land.

SEPP (Infrastructure) 2007

Clause 45(1)(b)(iii) is applicable and the application referred to the *electricity supply authority for the area* (Endeavour Energy) on 02/12/2020 as required for comment. Comments were received and have been considered (as detailed under the 'Referrals' section of this report).

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Further to this, industrial development that is 20,000sqm in site area or (if the site area is less than the gross floor area) gross floor area is traffic-generating development in accordance with Schedule 3 of this Policy.

Clause 104(1)(b) is therefore applicable and the application referred to Transport for NSW (TfNSW) on 02/12/2020 as required by this Policy. A response was provided (as detailed under the 'Referrals' section of this report) and has been considered.

TfNSW did not consider that a referral was required. Comerong Island Road is a local road, managed by Council. Given this, TfNSW entrusts Council to assess and manage the traffic implications of this application.

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	X Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	X Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	X Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	X Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 16 December 2020, with there being no evidence of obvious contamination in the area to be developed.

Accordingly, it is considered that the proposal is satisfactory under SEPP 55 and SDCP 2014.

SEPP (Primary Production and Rural Development) 2019

In accordance with the provisions of clause 29(1), before determining a development application for any development, Council must consider whether, because of its nature and location, the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and if it suspects that the development may have that effect, must give notice of the application to the Secretary of the Department of Industry.

As it was considered that the development may have an adverse effect on priority oyster aquaculture areas in estuarine waters proximal to the proposed development, the application was referred to DPI Fisheries on 18/12/2020 for comment. Comments were received and have been considered (as detailed under the 'Referrals' section of this report).

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Shoalhaven LEP 2014

Land Zoning

The land is zoned RU1 Primary Production under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as a *boat building and repair facility* under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.

“boat building and repair facility means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.”

Zone objectives

Objective	Comment
• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Satisfies the nominated objective.
• To encourage diversity in primary industry enterprises and systems appropriate for the area.	Satisfies the nominated objective.
• To minimise the fragmentation and alienation of resource lands.	Satisfies the nominated objective.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.	Satisfies the nominated objective.
• To conserve and maintain productive prime crop and pasture land.	Satisfies the nominated objective.
• To conserve and maintain the economic potential of the land within this zone for extractive industries.	Satisfies the nominated objective.

SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/ Consistent
Part 4 Principal development standards			
4.3	<input checked="" type="checkbox"/>	<p>The subject site has a maximum permitted building height of 11m as per sub-clause (2A).</p> <p>The proposed building exceeds the height by a maximum extent of 4m (being 36.36%) for a total building height of 15m. The reason for the variation is due to the need to accommodate the size of vessels to be built and fitted out within the building.</p>	No

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		The applicant has requested the provisions of Clause 4.6 be applied.	
4.6	<input checked="" type="checkbox"/>	The provisions of this clause have been considered and adequately addressed (refer to Appendix A).	Yes
Part 7 Additional local provision			
7.1	<input checked="" type="checkbox"/>	The area of the subject site to be developed is identified as Class 2 land with the works proposed to facilitate the development below the natural ground surface however unlikely to lower the watertable. An acid sulfate soils management plan was submitted with this application and considered to be satisfactory, subject to a recommended condition of consent (should the application be determined by approval).	Yes
7.2	<input checked="" type="checkbox"/>	The provisions of subclause (3) have been considered. The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent should the application be determined by approval.	Yes
7.3	<input checked="" type="checkbox"/>	Council's Floodplain Engineer found the development to be satisfactory in relation to flood subject to recommended conditions of consent should the application be determined by approval (email dated 18/12/2020). Accordingly, the provisions of subclause (3) have been satisfied.	Yes
7.6	<input checked="" type="checkbox"/>	A watercourse (Berry's Canal) traverses the eastern boundary of the subject site, identified as "Watercourse Category 1". The development is to be sited and will be managed to avoid any significant adverse environmental impact on this watercourse. The area of proposed development is outside this land and distanced from the watercourse.	Yes
7.11	<input checked="" type="checkbox"/>	Services are available.	Yes

ii) **Draft Environmental Planning Instrument**

The Draft Illawarra Shoalhaven Regional Plan 2041 does not raise any additional matters for consideration as part of the assessment of this application.

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iii) Any Development Control Plan

Shoalhaven DCP 2014

Generic Chapters	Relevant
G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and adequately addressed.	
G2: Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Flood & Stormwater Engineer and Development Engineer have raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G3: Landscaping Design Guidelines	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and adequately addressed.	
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and no objections are raised with the submitted Waste Management Plan subject to conditions of consent being imposed should the application be determined by approval.	
G8: Onsite Sewage Management	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Environmental Health Officer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G9: Development on Flood Prone Land	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Floodplain Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G20: Industrial Development	<input checked="" type="checkbox"/>
The development generally complies with the provisions of this chapter.	
G21: Car Parking and Traffic	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Development Engineer has raised no objections subject to conditions of consent being imposed should the application be determined by approval. It is noted that there are no car parking rates listed in the car parking schedule for boat building and repair facilities.	

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

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Nil

iv) **Environmental Planning and Assessment Regulation 2000**

Clause		Comment
92 What additional matters must a consent authority take into consideration in determining a development application?		
1.	<p>For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:</p> <p>(a) (Repealed)</p> <p>(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,</p> <p>(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.</p>	<p>(a) Noted.</p> <p>(b) Not applicable.</p> <p>(c) Not applicable.</p>
2.	<p>In this clause:</p> <p>AS 2601 means the document entitled Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.</p> <p>Government Coastal Policy means the publication entitled NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast, as published by the Government (and including any maps accompanying that publication and any amendments to those maps that are publicly notified), a copy of which may be inspected during ordinary office hours:</p> <p>(a) at any of the offices of the Department, or</p> <p>(b) at the offices of any of the councils of the local government areas listed in the Table to this clause</p>	Noted.
98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989		
1.	<p>For the purposes of section 4.17 (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p>	Noted. Subject to conditions of consent (if approved).

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	(a) that the work must be carried out in accordance with the requirements of the Building Code of Australia, (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.	
98A Erection of signs		
1.	For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.	Noted. Subject to conditions of consent (if approved).
2.	A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: (a) showing the name, address and telephone number of the principal certifying authority for the work, and (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and (c) stating that unauthorised entry to the work site is prohibited.	Subject to condition of consent (if approved).
3.	Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.	Subject to condition of consent (if approved).

v) **Any [coastal zone management plan](#)**

The Coastal Zone Management Plan 2018 was adopted in October 2018. The proposed development is not considered to be impacted by the provisions of this Plan.

Council Policies

Shoalhaven Contribution Plan 2019

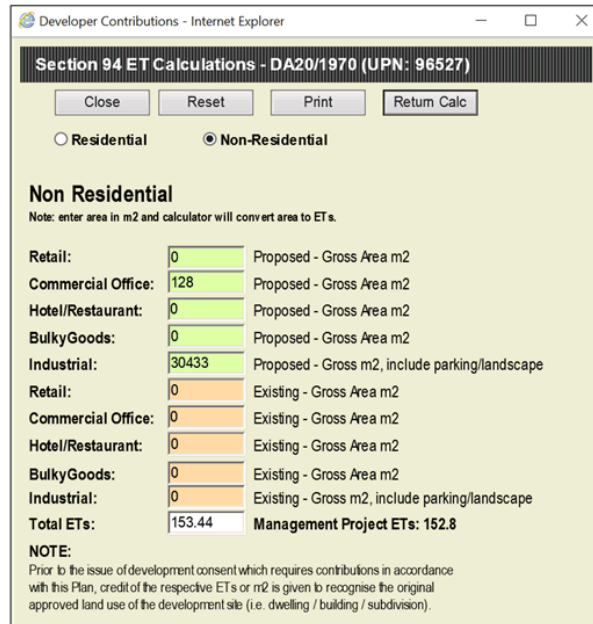
The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an Industrial and Commercial Office development for the purpose of calculating contributions under the Plan.

The Industrial component comprises the gross floor area of the building at approximately 7,867sqm and the area of proposed car parking, driveway access and landscaping at approximately 22,566sqm. This equates to a total area of 30,433sqm.

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The ancillary Commercial Office component comprises the gross floor area of the second floor, being approximately 128sqm.

Contributions are to be subject to a recommended condition of consent and payment required prior to the issue of a Construction Certificate (should the application be determined by approval).



Section 94 ET Calculations - DA20/1970 (UPN: 96527)

Close Reset Print Return Calc

☐ Residential ☒ Non-Residential

Non Residential

Note: enter area in m2 and calculator will convert area to ETs.

Retail:	0	Proposed - Gross Area m2
Commercial Office:	128	Proposed - Gross Area m2
Hotel/Restaurant:	0	Proposed - Gross Area m2
Bulky Goods:	0	Proposed - Gross Area m2
Industrial:	30433	Proposed - Gross m2, include parking/landscape
Retail:	0	Existing - Gross Area m2
Commercial Office:	0	Existing - Gross Area m2
Hotel/Restaurant:	0	Existing - Gross Area m2
Bulky Goods:	0	Existing - Gross Area m2
Industrial:	0	Existing - Gross m2, include parking/landscape
Total ETs:	153.44	Management Project ETs: 152.8

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	152.8	\$21,106.26	\$0.00	\$21,106.26
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	152.8	\$30,876.30	\$0.00	\$30,876.30
CWMGMT3001	Contributions Management & Administration	\$574.39	152.8	\$5,198.26	\$0.00	\$5,198.26
Sub Total:						\$57,180.82
GST Total:						\$0.00
Estimate Total:						\$57,180.82

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, should the application be determined by approval, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

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(c) Suitability of the site for the development

It is considered that the site will be suitable for the proposed development.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. One (1) submission was received by Council from DPIE Biodiversity & Conservation Division and National Parks & Wildlife Service in relation to the proposal. The comments raised are outlined below:

Summary of Public Submissions	
Comment Raised	Comment
<u>Consideration of DPIE guidelines</u> The site is opposite the Comerong Island Reserve in the NPWS estate. It is recommended Council consider the guidelines for works/development adjacent to NPWS estate.	There is to be no reduction of amenity or adverse impact on the Comerong Island Reserve from this development, subject to recommended conditions of consent being imposed should the application be determined by approval.
<u>How current proposal aligns with approved DA</u> The proposal is for a "construction of an industrial building for use as a boat building and repair facility". It is noted that there is an existing DA approval DS18/1469 for "Boat Building and Repairs, Excavation of Boat Mooring Facilities and Ancillary Buildings", and that Council has already requested further details regarding how this approved DA aligns with the current proposal. Considering this alignment is of particular importance given the potential for water quality and pollutants to impact on the lower Shoalhaven estuary and nearby NPWS estate.	The applicant has indicated in the submitted Statement of Environmental Effects that the original building structure remains as a viable proposal for the subject site. However, this current application has been prepared for a new tenant to the subject site for the manufacture of marine craft and maritime components. The proposed tenant is seeking to construct larger marine craft than can be serviced in the originally approved building and represents a different target market to that of the original development consent.
<u>Water Quality</u> The WSUD report (JN, Sep '20) models stormwater treatment indicating the Neutral or Beneficial Effect (NorBE), suggesting there would be no impact to water quality. The treatment train proposed consists of stormwater filters/cartridges placed in pits, which will require regular ongoing maintenance and replacement over time to perform to manufacturers specifications. Ongoing maintenance is therefore likely to be an issue, and in the case of system failure there will be an ongoing additional nutrient and sediment input into the river at this location over time. It is therefore recommended that, if this system is	The applicant has outlined how ongoing maintenance of the water quality system is proposed to be managed. Council's Flood & Stormwater Engineer and Development Engineer have raised no objections to the submitted design subject to conditions of consent being imposed should the application be determined by approval.

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approved, conditions are imposed requiring provision of maintenance service records for the stormwater pit and filtration cartridge at appropriate intervals throughout the life of the development.	
<p><u>Threatened Shorebirds</u></p> <p>There are records of threatened shorebirds within the surrounding area, although it appears the works are well away from the shoreline and any known shorebird locations. As such any direct impacts to shorebird nesting sites should be avoided. If any proposed works are likely to indirectly impact upon nearby shorebirds, works should be timed accordingly to avoid nesting and breeding season.</p>	<p>As detailed by DPIE, the extent of proposed works is over 60m away from the shoreline. Furthermore, as verified by DPIE, the works are clear of any known shorebird locations.</p>

(e) The Public Interest

Taking into consideration the above matters it is considered that the proposal is in the public interest.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given a variation exceeding 10% is proposed to a development standard, the application must be determined by the elected Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA20/1970 be approved subject to appropriate conditions of consent.

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Appendix A – Assessment Checklist: Clause 4.6

Clause 4.6 Exceptions to development standards

Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The development standard is not excluded from the operation of clause 4.6 as it is not listed within 4.6(8), SLEP 2014.

The application seeks a variation to clause 4.3 in accordance with clause 4.6, SLEP 2014.

The development standard is not expressly prohibited from the operation of this clause.

Development Standard to be Varied

Clause 4.3 Height of buildings. The subject site has a maximum permitted building height of 11m as per sub-clause (2A).

Extent of the Variation

The proposed building exceeds the height by a maximum extent of 4m (being 36.36%) for a total building height of 15m.

Written Request provided by the Applicant Requirements of Clause 4.6 to be met

Each of the following elements must be met before development consent can be granted for development that contravenes a development standard:

1. Clause 4.6(3) provides that the consent authority must have considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:
 - a) compliance with the development standard is **unreasonable or unnecessary** in the circumstances of the case; and
 - b) there are **sufficient environmental planning grounds** to justify contravening the development standard.
2. Clause 4.6(4) provides that the consent authority must be satisfied that:
 - a) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3);
 - b) the proposed development will be in the **public interest** because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,
 - c) the **concurrence** of the Planning Secretary has been obtained.

Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

To assess whether compliance with a development standard is unreasonable or unnecessary the Courts have provided guidance in the required assessment, with particular reference to the accepted

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"5 Part Test" for the assessment established by the NSW Land and Environment Court (L&EC)¹. The "5-part Test" is outlined as follows:

1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.

Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Applicant's response

"Having taken guidance from the court findings and having given consideration to the Judgements above, we submit the following facts under 4.6(3)(a) as to why it is unreasonable and unnecessary for our proposed development to comply with clause 4.3 of SLEP 2014 "Height of Buildings":

- *The length overall of the vessels to be built and fitted out in the proposed development is 72 foot (21 metres). The Navigation and telecommunications towers required to be fitted to these motorized yachts are unavoidable components of vessels of this size and will typically extend between 6 and 8 metres above the top deck on which they will be mounted. The total height of these vessels from the bottom of the hull to the top of the towers will be between 11 and 13 metres.*
- *The safe handling of the hulls and the major components required to complete the fit-out of these vessels inside the proposed building requires overhead gantries capable of lifting up to 20 tonne. These overhead gantry cranes will also be used to off load the sectioned hulls from the semi-trailers that will transport the sectioned hulls to the site and to transfer the completed vessel to a straddle carrier for transportation to the boat basin.*
- *The mechanized, hydraulic workings of the overhead gantry crane (motors, hydraulic power-packs, chains and sliding winches require two metres of working space, above the top beams that will transverse the width of the proposed building.*
- *Thirty one years ago when the development was originally approved, the median boat size was 24 feet in length. Today the median length of the most sold boat at the 2019 Sydney International Boat Show and Sanctuary Cove Boat shows was 52 foot in length overall. It is a known characteristic of the Australian boat owner to constantly tend towards larger and larger boats. The proposed 72' overall length of the boats to be built on the site has been especially agreed to ensure the participation of the boat builder in the current market but to also ensure the future -proofing of the boat fit-out activities to be conducted in the proposed development.*

Given these specific circumstances relating to our proposed development, strict compliance with the 11m height standard will render our intended purpose for the development,

¹ in *Wehbe v Pittwater Council* [2007] NSWLEC 827, the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 and further clarified by *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118

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unachievable. We therefore submit that under cl 4.6(3)(a) strict compliance to clause 4.3 is unreasonable and unnecessary for our proposed development given the specific circumstances of our boat fit-out activities."

Council assessment

To assess whether compliance with a development standard is unreasonable or unnecessary the Courts have provided guidance in the required assessment, with particular reference to the accepted "5 Part Test" for the assessment established by the NSW Land and Environment Court (L&EC) in *Wehbe v Pittwater Council* [2007] NSWLEC 827 the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 and further clarified by *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. The "5-part Test" and the applicant's response to the separate tests must be demonstrated:

- Test 1.** *The objectives of the development standard are achieved notwithstanding noncompliance with the standard.*
- Test 2.** *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- Test 3.** *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- Test 4.** *The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- Test 5.** *The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.*

Council's Consideration of the Written request relating to Clause 4.6(3)(a)

The consent authority must form the positive opinion of satisfaction that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(a).

1. The applicant's justification is supported as the objectives of the development standard are achieved notwithstanding noncompliance with the standard.
2. The proposed height of the building is directly correlated with the use of the building given the size of the vessels to be built and repaired within the building and specific circumstances of their boat fit-out activities. The increase in building height is necessary to accommodate a gantry crane which assists in the general construction operation for a new boat build and lowers the operational risks associated with workplace health and safety.
3. Council has previously approved the subject site for boat building and repairs and the proposed building is considered to be compatible with the height, bulk and scale of the desired future character of this locality and the RU1 zone.
4. Approval has been recently granted to increase the size of the existing boat basin to accommodate the servicing of larger marine craft reflecting the current recreational boat market. The height of this building will support this demand.
5. The proposed development of the site has been undertaken with due consideration of the existing and future redevelopment of neighbouring properties in the RU1 Primary Production.
6. Any potential physical impacts on surrounding development are capable of being acceptable (subject to the regulatory controls and conditions associated with the ongoing management of the site operations).

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Clause 4.6(3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Applicant's response

"We further submit the following facts under cl 4.6(3)(b) as to the sufficiency of the environmental planning grounds pertaining to our proposed development that justify the contravention of SLEP 2014 clause 4.3 "Height of Buildings":

- *The proposed development will generate ongoing direct and indirect jobs as well as regenerate a former anchor industry that has deteriorated to a threatened level of activity due to the absence of a suitable location adjacent to a water body with direct access to the ocean. The location of the proposed development adjacent to Berry's Canal will provide the necessary access to the ocean that is a requirement of boat building precincts. The scale of the proposed development will enable the fit-out of large vessels up to 72 foot that will ensure participation in the current demand for boats of 52 foot in overall length up to 60 foot in overall length as well as future proof the proposed development by ensuring it is able to continue to respond to the ever increasing boat length that characterizes boat ownership in Australia. The community outcomes related to the proposed development extend beyond the generation of ongoing jobs to the opportunity for direct engagement with the process of acquiring a locally assembled, large vessel that would otherwise only be available in Melbourne or Queensland.*
- *Navigable water bodies with direct access to the ocean and the appropriately zoned land adjoining a waterbody such as Berry's Canal form part of the State's natural and other resources: by locating the proposed development on land adjoining Berry's Canal as opposed to land that does not front a waterbody with direct access to the ocean, ensures optimal management of these natural and other resources.*
- *The proposed location of the development with a significant setback from Berry's Canal is the result of commitment to ecologically sustainable development that ensures the protection of the bank of Berry's Canal and the need to maintain and protect the existing revetment and riparian corridor.*
- *Orderly and economic use of land speaks to the alignment of infrastructure decision making and land use planning. The proposed development will provide the required opportunity for boat building that is the optimal use for this land that is adjacent to Council's current ferry infrastructure. As such, the proposed development will deliver the orderly and economic use of land that ensures that inappropriate uses are not placed in direct vicinity of each other.*
- *The environmental planning ground relating to delivery and maintenance of affordable housing is not relevant to the proposed development as it is not congruent with the existing land uses and provision of services to the vicinity.*
- *The proposed location of the development has taken into account the need to protect and conserve the mangroves and wetlands along the site's southern boundary. These commitments to the protection of the environment, including flora and fauna, their communities and habitats are integral to the proposed development and continue through the proposed landscape planning that is committed to using native plants to increase the quality and extent of the salt marsh species that form an important ecological transition zone away from the wetlands and into the riparian corridors.*
- *The proposed development will regenerate the Shoalhaven's oldest and first industry. Alexander Berry commenced boat building in the Shoalhaven in the 1870's and this cultural heritage will be recognised and preserved by the return of the activities of boat building and boat fitout to the actual location where it originated. Similarly the built heritage of Berry's Canal will be acknowledged and utilized in the exact way it was intended to be used when it was built in 1860 to afford safe passage to vessels through Orient Point.*
- *Sustainable design guidelines in the construction of the proposed development are evident in the modern industrial materials to be used in the construction of the building,*

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the selection of colours sensitive to the surrounding area and the use of native plants in the proposed landscaping. The amenity of the proposed development is delivered through the site and activity specific design of the building that will enable the required activities to be conducted entirely within the confines of the building and in accordance with best practice management plans and OH&S requirements.

- *Low maintenance materials will be used for the construction of the building and have been selected with a fifty year economic lifespan expectation,*
- *By engaging in this lengthy written request, factually motivated by the specific conditions of the proposed development, we are sharing the responsibility with Council for sound environmental planning pertaining to the proposed development.*
- *In addition to the formal process of community consultation that is part of the assessment process, we actively and continuously engage directly and indirectly with our adjoining landowners through the sharing of resources (pasture, power supply for neighbours' electrical fences, spontaneous maintenance of neighbours' fencing and sharing of all resources in times of strife eg. During the fires in December 2019 and January 2020 and the floods in February 2020 and is evidence of our commitment to the local communities whose participation we welcome and value.*

Given the above specific facts and circumstances of our proposed development, we therefore submit that there are sufficient environmental planning grounds to justify the contravention of the development standard in SLEP cl 4.3 "Height of Buildings".

Council assessment

The consent authority must form the positive opinion that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(b).

To demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, held that the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

The environmental planning grounds relied on in the written request under clause 4.6 must be "sufficient" (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [24]). In [24] of the judgment, Preston CJ outlined the two methods for demonstrating that a clause 4.6 is "sufficient at paragraph [24] of case as follows:

*First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The applicant's clause 4.6 variation report must provide a written justification that there are sufficient environmental planning grounds to justify contravening the development standard.

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Council's Consideration of the Written request relating to Clause 4.6(3)(b)

The consent authority must form the positive opinion of satisfaction that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(b).

Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047 Commissioner Gray found that a clause 4.6 request must "tether the stated environmental planning ground with the contravention of the development standard" (at [107]).

In this regard, the proposed portion of the development that contravenes the development standard is justified on environmental planning grounds because it is necessary to promote the orderly and economic use and development of land.

As the applicant has stated:

"It is appropriate to address the age of the existing consent for boat mooring, boat building and ancillary services. The original DA was granted in 1989 following the gazettal of the attachment of an enabling clause in the 80's that allowed for the development to be approved two years later. In the ensuing 31 years since the approval was granted, the Australian boat building industry has evolved to the point today where the median size of a leisure sailing or motorized vessel now exceeds 46 foot and is about to evolve further into the adoption of multihulls and the current median leisure boat class of 52 foot length overall. This development has been thwarted by a range of impediments and delays that have finally been able to be addressed.

The proposed development will provide the required opportunity for boat building that is the optimal use for this land that is adjacent to Council's current ferry infrastructure. As such, the proposed development will deliver the orderly and economic use of land that ensures that inappropriate uses are not placed in direct vicinity of each other."

That is, the orderly and economic use and development of land justifies the noncompliance.

Secondly, the orderly and economic use and development of land demonstrates that compliance would be unreasonable and unnecessary under clause 4.6(3)(a) because if the proposed building height was not to be supported, the building would not be able to be used to build boats of up to 72 foot and in so doing, would remove the viability of the development and existing approved operations onsite, and as stated by the applicant "make it impossible to keep abreast of current and future boat building market expectations".

Further to this, the proposal will aid the continuity and modernisation of the existing land uses, encourage additional employment opportunities, facilitates the continued utilisation of the boat building facility and has the potential to provide for a use that does not significantly conflict with the operation of existing or proposed development both on the site or surrounding properties (subject to full assessment by Council and regulatory authorities).

Additional environmental planning grounds which distinguish it from other potential requests to vary the height of building development standard are summarised below:

1. Consideration should be given to the height of building development standard only being a default height limitation. The default height is not the result of a detailed strategic review or visual impact assessment of the area.
2. The proposed development is of an overall height, scale, bulk, design and external appearance that is commensurate with the existing buildings and uses of the site.
3. The isolated and unique features of the site mean the additional height above the 11m maximum building height will not result in unreasonable overshadowing, overlooking or amenity impacts on neighbouring sites.

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Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

An assessment of the objectives of the zone and development standard is provided below. As detailed further below, the proposed departure from the development standard is considered to be in the public interest as the proposal is consistent with these objectives.

Zone Objectives

Pursuant to the provisions of the SLEP 2014, the land is zoned RU1 Primary Production.

The objectives of this zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To conserve and maintain productive prime crop and pasture land.*
- *To conserve and maintain the economic potential of the land within this zone for extractive industries.*

The proposal complies with the zone objectives as:

- It will enhance the natural resource of land adjacent to Berry's Canal by utilising this land for a purpose that is uniquely complementary to the existing uses of the canal (i.e. for boating and related marine leisure activities).
- It will provide boat building services that complement the existing industrial marine facility and services currently provided by Council through the Comerong Island Ferry; but will also diversify the current primary industry enterprises in the locality (i.e. dairy farming and cropping).
- The location of the development in relation to the Council-owned and operated Comerong Island Ferry and the approved boat basin on the subject site will ensure the integration of these complementing activities is not lost through fragmentation of the site and the adjoining land that would render the site unable to be developed in a way that supports and complements the existing land uses.
- The proposed development will not impact the primary industry enterprises on neighbouring agricultural lands or impact productive prime crop and pasture land.

Development Standard Objectives

Pursuant to the provisions of the SLEP 2014, the development standard proposed to be varied is clause 4.3 Height of buildings.

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The objectives of this standard are as follows:

- a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
- b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- c) *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The proposal complies with the standard objectives as:

- The height, bulk and scale of the building is consistent with the desired future marine industrial character of the Numbaa locality. Further to this, as indicated by the applicant, the proposed height is less than the height of grain silos and milking sheds located on neighbouring properties.
- The development is sufficiently sited to minimise visual impact, and any loss of privacy and solar access to existing development on adjoining land.
- There are no heritage items or heritage conservation areas proximate to the subject site.

Clause 4.6 (4)(b) – Concurrence of the Secretary has been obtained

Council may assume concurrence. In this instance, the extent of the contravention needs to be referred to the elected Council for consideration.

Clause 4.6 (5) – Decision to grant concurrence

Specific clauses must be considered. See below.

Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The contravention does not raise any matters of significance having regard to State or regional environmental planning. It does not have implications for any State Environmental Planning Policies in the locality or impacts which are considered of a State or regional scale.

Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?

In the judgement of *Ex Gratia P/L v Dungog Council* [2015] (NSWLEC 148), Commissioner Brown of the NSW LEC outlined that the question that needs to be answered in relation to the application of clause 4.6(5)(b) is "*whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development*".

The applicant is to demonstrate that there will be better planning outcomes achieved through variation to the development standard as opposed to strict compliance with the development standard or amending the application to reduce the extent of the variation.

In this regard, it is considered that strict compliance with the development standard a reduction of the building height to achieve compliance would not result in a better outcome. The extent of the departure from the height control, whilst numerically large is essential for the efficient operation of the boat building and repair facility. It is further noted that due to the unique circumstances of the site, and existing and proposed use, the contravention would not set a precedent for a departure of this development standard.

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Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

Nil

Summary and conclusion with regard to clause 4.6

The written submission provided by the applicant is considered to satisfy the requirements of clause 4.6(3), (4) and (5).



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Address all correspondence to

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shoalhaven.nsw.gov.au     

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979
DA20/1970

TO:

JN (Qld)
Ground Floor, 8 New St
NERANG QLD 4211

being the applicant(s) for DA20/1970 relating to:

1178 Comerong Island Rd, NUMBAA - Lot 2 DP 1077521

APPROVED USE AND OR DEVELOPMENT:

Construction of an industrial building for use as a boat building and repair facility

DETERMINATION DATE:

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

CONSENT TO LAPSE ON:

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

PART A: GENERAL CONDITIONS

1. General

The consent relates to **Construction of an industrial building for use as a boat building and repair facility** as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Overall Site Plan	Reference No. 20131616 Drawing No. A320A	Jones Nicholson (JN)	20/11/2020 Amendment A
Site Layout Plan	Reference No. 20131616 Drawing No. A300D	Jones Nicholson (JN)	23/12/2020 Amendment D
Ground Floor Layout Plan	Reference No. 20131616 Drawing No. A301D	Jones Nicholson (JN)	20/11/2020 Amendment D
First Floor Layout Plan	Reference No. 20131616 Drawing No. A302C	Jones Nicholson (JN)	09/10/2020 Amendment C
Second Floor Layout Plan	Reference No. 20131616 Drawing No. A303C	Jones Nicholson (JN)	09/10/2020 Amendment C
Mezzanine Floor Layout Plan	Reference No. 20131616 Drawing No. A304B	Jones Nicholson (JN)	07/09/2020 Amendment B
Elevations & Section Plan	Reference No. 20131616 Drawing No. A305D	Jones Nicholson (JN)	20/11/2020 Amendment D
Stormwater Layout Plan	Reference No. 20131616 Drawing No. A306C	Jones Nicholson (JN)	23/12/2020 Amendment C
Erosion and Sediment Management Plan	Reference No. 20131616 Drawing No. ESM1B	Jones Nicholson (JN)	07/09/2020 Amendment B
Erosion and Sediment Management Details Plan	Reference No. 20131616 Drawing No. ESM2B	Jones Nicholson (JN)	07/09/2020 Amendment B
Landscape Plan	Drawing No. 4028- FSP101B	Ochre Landscape Architects	11/03/2021 Revision B
Landscape Details Plan	Drawing No. 4028- FSP104	Ochre Landscape Architects	21/12/2020
WSUD Treatment Report	Reference No. CRPT- 20131616.05B	Jones Nicholson (JN)	18/01/2021 Revision B
Acid Sulphate Soil Management Plan	Reference No. W07/2894- B	Network Geotechnics Pty Ltd	31/07/2015
Waste Management Plan	Reference No. CRPT- 20131616.13A	Jones Nicholson (JN)	07/09/2020 Revision A

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. Prescribed Conditions

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

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3. **Acid Sulfate Soils**

Excavation of acid sulfate soils, or potential acid sulfate soils must be carried out in accordance with the approved Acid Sulfate Soils Management Plan (ASSMP) to the satisfaction of the Certifier. Excavated material must be treated on site in accordance with the ASSMP or taken to an approved waste disposal facility.

4. **Occupation / Use**

The development must not be occupied or used before an Occupation Certificate has been issued by the Certifier. If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e. a security).

PART B: INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

NIL

PART C: PRIOR TO THE COMMENCEMENT OF WORKS

5. **Construction Certificate**

A Construction Certificate must be obtained from either Council or an accredited certifier before any building work can commence.

6. **Appointment of Principal Certifier**

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

7. **Notice of Commencement**

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form ['Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'](#)

8. **Toilet Facilities - Temporary**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an onsite effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

9. **Run-off and Erosion Controls**

Prior to the commencement of site works, run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

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- a) diverting uncontaminated run-off around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

10. Dilapidation Report

The developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. The repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

11. Works within the Road Reserve

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent.
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million.
- c) Name and contact information of the person responsible for all relevant works.
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

PART D: PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**12. Evidence**

A Construction Certificate must not be issued until the Certifier has received notification from, or evidence of, any Council approval that is required Prior to the Commencement of Works.

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13. Local Infrastructure Contributions

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Calculation	Amount
CWFIRE2001	Citywide Fire & Emergency services	\$138.13 * 152.8	\$21,106.26
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07 * 152.8	\$30,876.30
CWMGMT3001	Contributions Management & Administration	\$574.39 * 152.8	\$5,198.26
			\$57,180.82

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Construction Certificate. Evidence of payment must be provided to the Certifying Authority.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

14. Long Service Levy

Prior to the issue of a Construction Certificate any long service levy payable under the [Building and Construction Industry Long Service Payments Act 1986](#) and prescribed by the [Building and Construction Industry Long Service Payments Regulation 2017](#) must be paid or, where such a levy is payable by instalments, the first instalment of the levy must be paid. Council is authorised to accept payment. Proof of payment must be submitted to the Certifying Authority.

15. Existing Infrastructure

Prior to the issue of a Construction Certificate, all infrastructure, existing and proposed, is to be shown accurately on the engineering plans including longitudinal sections with clearances clearly labelled confirming that the proposed works do not affect any existing infrastructure. Any required alterations to infrastructure will be at the developer's expense.

16. Soil and Water Management Plans (SWMP)

Prior to the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier.

All implemented measures must:

- not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO)
- be maintained at all times
- not be decommissioned until at least 70% revegetation cover has been established.

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17. Road Design Standards – Existing

Prior to the issue of a Construction Certificate, certified road design engineering plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by Council. The road design must comply with the following:

- a) The existing road pavement must be widened to a bitumen sealed standard within the road reserve at the 2 x 90-degree bends adjacent to Lot 211 DP 1081135 (known as 849 Comerong Island Road). The road widening design must:
 - i) Provide a sealed pavement width in accordance with AUSTROADS guidelines, with the design vehicle being an Australian Standard MRV / AUSTROADS Service Vehicle, and the checking vehicle being a 19m semi-trailer for a 20-30km/h design speed (based on current advisory speeds); or a suitable alternative in consultation with Council where this is not achievable.
 - ii) Include a pavement design in accordance with Council's Engineering Design Specifications - Section D2 - Flexible Pavement Design having a compacted pavement depth of 200mm minimum, subject to geotechnical testing.
 - iii) Include double barrier (BB) line marking of the road centreline at the bends, unless deemed unsuitable by Council.
- b) The existing road pavement must be adequately widened to a bitumen sealed standard within the road reserve at the property access, to provide for the swept path of a 19m semi-trailer, and allow an eastbound passenger vehicle to pass a stopped semi-trailer waiting to turn into the site. This widening will also require a pavement design in accordance with Council's Engineering Design Specifications - Section D2 - Flexible Pavement Design having a compacted pavement depth of 200mm minimum, subject to geotechnical testing.

18. Design Standards – Works Within Road Reserve

Prior to the issue of a Construction Certificate, all works proposed within road reserves must be approved by Council.

19. Stormwater Drainage Design Standards (Urban)

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with the Stormwater Layout Plan by Jones Nicholson (JN) (Reference No. 20131616, Drawing No. A306C, Amendment C, dated 23/12/2020).
- d) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

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20. Access Driveway Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Council. The access driveway design must comply with the following:

- a) Council's Engineering Design Standard Drawings.
- b) Constructed with a concrete or asphaltic concrete (AC) flexible pavement designed and constructed to a heavy duty standard for a minimum traffic loading of 1×10^6 ESA.
- c) Removal of sufficient width of existing road seal and pavement to allow placing of formwork and laying/compaction of suitable pavement material (300mm minimum overlap to existing).

21. Car Parking Design Standards

Prior to the issue of a Construction Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The car parking and access road from the road frontage to the access point to the proposed car park must comply with the following:

- a) With a concrete pavement designed and constructed for a minimum traffic loading of 1×10^6 ESA; or,
- b) With an asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of 1×10^6 ESA. Where asphaltic concrete surfaced pavements are likely to be subject to bogie-axle vehicles turning tightly, the asphaltic concrete is to include a rubber base to improve durability and manufacturer's product details.
- c) Bordered in accordance with Council's Standard Drawings by concrete kerbing, except where surface runoff is concentrated, in which case concrete integral kerb and gutter must be constructed.

22. Shoalhaven Water – Prior to the Issue of a Construction Certificate

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

23. WSUD Measures – Water Quality, Retention and Reuse

Prior to the issue of a Construction Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications is to be approved by Council. Specifications can be found on Council's website.

The stormwater treatment, retention and reuse design must comply with the following:

- a) WSUD devices must comprise of Oceanguard pit inserts and a StormFilter proprietary stormwater treatment device in accordance with the WSUD Treatment Report by Jones Nicholson (JN) (Reference No. CRPT-20131616.05B, Revision B, dated 18/01/2021) unless otherwise approved by Council.

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- b) The WSUD strategy must be able to remove litter greater than 40mm for flows up to the 4 Exceedances per Year (EY) event, 80% of Total Suspended Solids (TSS), 45% of Total Nitrogen (TN) and 45% of Total Phosphorus (TP) for the total site area as demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for acceptance.
- c) The WSUD strategy must have appropriate stormwater retention storage that is equal to or greater than a 6mm storage depth for increases in all impervious surfaces compared to the pre-development condition.
- d) The drainage design must also not include any uncoated metal (i.e. Copper etc.) surfaces such as roofs, facades and/or downpipes.
- e) For proprietary treatment devices, documentation from the supplier providing evidence that the proposed device has been appropriately sized for the contributing catchment must be submitted. Documentation from the supplier confirming the recommended MUSIC pollutant reduction targets must also be provided.

24. Water Sensitive Urban Design Operation and Maintenance Manual

Adopted WSUD Management, Operation, Maintenance and Monitoring Manual/s for the permanent water quality facilities must be submitted to Council for approval prior to issue of the Construction Certificate. The manuals must be prepared by a suitably qualified professional in accordance with the objectives and criteria identified in the approved Integrated Water Cycle Management Plan.

25. Flooding – Construction Certificate Requirements within Flood Prone Land

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the following items have been detailed on the construction drawings:

- a) All habitable floor levels must be constructed at or above the Flood Planning Level (FPL) (1% Annual Exceedance Probability (AEP) flood level plus 500mm freeboard) as documented on a Flood Certificate obtained from Council that is based on the latest flooding information held.
- b) Any proportion of the structure below the FPL must be built from flood compatible materials.
- c) All electrical installations must be constructed above the FPL or be able to be isolated prior to a flood event.
- d) A flood evacuation plan must be prepared to ensure permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure that the timely, orderly and safe evacuation of people is possible from the area and that it will not add significant cost and disruption to the community or the SES. This plan is to consider for pre-flood event planning the use of Flood Warning Products available from the Bureau of Meteorology.
- e) The location of all hazardous substances are located at or above the 1% AEP Flood Level.
- f) There is an area where animals can find refuge above the 1% AEP flood level.
- g) All fences must be designed with openings below the Flood Planning Level (FPL) to allow free flow of floodwater.

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26. Flooding – Construction Certificate Structural Soundness Requirements within Flood Prone Land

Prior to the issue of a Construction Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the building and associated structure(s):

- a) Can withstand forces of floodwaters including debris and buoyancy forces up to a 0.2% Annual Exceedance Probability (AEP) flood event.
- b) Will not become floating debris during a 1% AEP flood event.

PART E: PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

NIL

PART F: DURING WORKS**27. Hours for Construction**

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

28. Excavation

Excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)* published by Safe Work Australia in October 2018.

29. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately
- b) The Office of Environment, Energy and Science must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

30. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area
- b) In accordance with the *Heritage Act 1997*, the Office of Environment, Energy and Science must be advised of the discovery.

31. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

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- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) The developer must maintain the approved soil water management measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- d) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- e) At the completion of the works, the work site must be left clear of waste and debris.

32. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

33. Imported Fill - VENM or ENM Only

Where fill is imported to the site it must be characterised as virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 of the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.

34. Survey Report – Height

In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum must be prepared by a Registered Surveyor as follows:

- a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- b) At the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials.
- c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.
- d) Progress certificates in response to points (a) through to (c) must be provided to the Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

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PART G: PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**35. Fire Safety**

Prior to the issue of an Occupation Certificate the Certifier must be provided with a Final Fire Safety Certificate showing compliance with the Fire Safety Schedule.

36. WSUD Elements

Prior to the issue of the Occupation Certificate, the developer must:

- a) Create a restriction on use under the *Conveyancing Act 1919* over the water quality treatment system and provide it to the Certifier as follows:
 - i) The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater treatment system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat, remove gross pollutants or nutrients from or otherwise improve the quality of stormwater as well as all surfaces graded to direct stormwater to those structures. The name of the authority having the power to release, vary or modify the restriction referred to is Shoalhaven City Council.
- b) Create a positive covenant under the *Conveyancing Act 1919*, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved WSUD Operations and Maintenance Schedule.
- c) Provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the adequacy of the as-constructed stormwater system including water quality devices, and that the system has been constructed in accordance with the approved Construction Certificate plans.

37. Damage to Public Assets

Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve, along the frontage of the subject site, or in proximity, which has been damaged as a result of construction works, must be repaired by the developer to the satisfaction of Council.

38. Dilapidation Report – Evidence

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier and Council with evidence that any damage to neighbouring premises or adjacent public infrastructure, not previously identified as existing damage in the Dilapidation Report, has been repaired by the developer to the satisfaction of Council.

39. Landscaping Compliance

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with written evidence from a suitably qualified landscape professional that all landscape works have been completed in accordance with the approved landscape plans.

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40. Shoalhaven Water – Certificate of Compliance

Prior to the issue of any Occupation Certificate, a Certificate of Compliance under Section 307 of the *Water Management Act 2000* must be obtained from Shoalhaven Water to verify satisfactory compliance with all conditions for the supply of water, as listed on the Notice of Requirements.

If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

41. Works as Executed Plans

Prior to the issue of an Occupation Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to Council and the Certifier demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works
- c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
- d) Show the extent, depth and final levels of filling.
- e) Show any retaining walls including footings and agricultural drainage lines.
- f) Show the location of all underground service conduits.
- g) Include all deviations from the approved Civil Engineering Plans.

42. Works in the Road Reserve - Evidence of completion

Prior to the issue of an Occupation Certificate, the developer must provide the Certifier with a Completion of Works in Road Reserve Letter provided by Council, confirming compliance with the requirements of the consent and the approval issued under section 138 of the *Roads Act 1993*.

43. Operational Approval for On-site Effluent Disposal System

Prior to the issue of an Occupation Certificate, the sewage management facility must be completed to the satisfaction of Council to enable Council to issue an Operational Approval for this facility.

44. Compliance

The Occupation Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with Council (i.e. a security).

All conditions under Section 68 of the Local Government Act will be required to be complied with.

PART H: PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

NIL

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PART I: ONGOING USE OF THE DEVELOPMENT**45. Fire Safety – Annual Statement**

A building owner must ensure that an annual fire safety statement prepared by a competent fire safety practitioner is issued each year and that a copy of the statement is provided to the Shoalhaven City Council and the Commissioner of Fire and Rescue NSW. An [application form](#) is available on Council's website.

Note: An annual fire safety statement is a declaration by, or on behalf of a building owner that a competent fire safety practitioner (CFSP) has:

- a) assessed, inspected and verified the performance of each existing essential fire safety measure that applies to the building
- b) inspected the exit systems serving the building and found that the exit systems within the building do not contravene the provisions of Division 7 of Part 9 of the Environmental Planning and Assessment Regulation 2000

Failure to give Council an annual fire safety statement by the due date constitutes a separate offence for each week beyond that date for which the failure continues. Substantial penalties for non-compliance apply under the Environmental Planning and Assessment Act 1979.

46. Overland Stormwater Flow, Redirecting and/or Concentrating Stormwater

All excavation, backfilling and landscaping works must not result in:

- a) any change to the overland stormwater flow path on your property and or a neighbouring property. If any change to the overland flow path occurs on a property, the stormwater runoff must be collected and directed to a legal point of discharge.
- b) the redirection and/or concentration of stormwater flows onto neighbouring properties.

47. Stormwater System – Ongoing Maintenance

The registered proprietor must ensure the ongoing operation and maintenance of the on-site stormwater system including all water quality improvement devices in accordance with the Construction Certificate approved Operations and Maintenance Plan, for the life of the development.

48. Hours of Operation

The use of the approved development is restricted as follows:

- a) 7am to 6pm Monday to Friday; and
- b) 8am to 1pm Saturday.

49. Operational Requirements

The following operational requirements apply to the development:

- a) All building and repair works are to be undertaken within the building.
- b) No components or tools are to be stored outside the building.
- c) All waste must be stored within the confines of the building until collection is to occur.

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- d) The treatment tank and sand filter must be housed in a bunded area that drains back to the first chamber in the case of a spill/leak or malfunction.
- e) The pump intake must be 200mm to 300mm from the bottom of the collection compartment when pumping to the treatment tank.
- f) The collection compartment of the treatment tank must be pumped out entirely every six (6) months.
- g) The sand filter backwash water must be directed into the collection compartment or to a separate collection well for later pump out.
- h) Council is to be notified in the event of a discharge of the effluent holding tank.

50. Spill kit

An absorbent spill kit is to be provided and maintained on the premises capable of containing and cleaning up petroleum products.

51. Preventing Spills

Oils, chemicals, paints and solvents must be stored in areas that will not allow spills to escape to the environment, either in a bunded area of the workshop, on bunded pallets or trays in a covered area, or in a chemical storage unit. The construction of a bund must comply with the requirements of AS 1940 *The storage and handling of flammable and combustible liquids*.

52. Mechanical Work

All mechanical work must be undertaken within the confines of the approved building.

53. Noise

The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's *Noise Policy for Industry* and *Noise Guide for Local Government* (guideline) and the *Protection of the Environment Operations Act 1997 (POEO Act)*.

PART J: OTHER COUNCIL APPROVALS AND CONSENTS

1. Approval to Connect to the Pumpout System

Approval for Sewerage, Plumbing and Stormwater Drainage is granted subject to the following conditions:

- a) All plumbing and drainage work must comply with the Plumbing Code of Australia and AS/NZS 3500.1 Water services– 3500.2 Sanitary Plumbing and Drainage– 3500.4 Heated Water Services and 3500.3 Stormwater Drainage.
- b) In accordance with the *Plumbing and Drainage Act 2011*, plumbers and drainers must submit the following documents to Shoalhaven City Council and to the person for whom the work was carried out.
 - i) Notice of Work no later than two (2) business days prior to the commencement of any work.

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- ii) A Certificate of Compliance for drainage works must be provided within seven days (7) after the external drainage works have been completed.
- c) A sewer service diagram must be provided within seven days (7) of the drainage works having been completed.

2. Inspections

Council, as the water authority, must be given at least 24 hours' notice to allow for the inspection of:

Type of Inspection:	Stage of Construction:
Internal Drainage	All internal drainage pipework, including stackwork, installed and under test as per AS 3500.2 Section 15, including any required bedding material as per AS3500.2 Section 5, and prior to any backfilling of the drainage lines. All pipework must be visible to the inspector.
Hot and Cold-Water Service (appropriately colour coded or identification markings)	All pipework installed and under hydraulic / pressure test, as per AS 3500.1 Section 18 - 18.3 – 18.3.1 prior to the installation of any insulation or any internal lining. Non – Drinking Water Service – Rainwater Lines to be installed as per AS 3500.1 Section 9.
External Drainage	Pipework installed and under test as per AS 3500.2 Section 15, including any required bedding material as per AS3500.2 Section 5. All pipework must be visible to the inspector.
Final Inspection of Drainage Works	All drainage works, including stormwater installed as per AS 3500.3 where Council is the Principal Certifier, to be completed prior to the issue of an Occupation Certificate.

3. Before Commencing Construction

The builder must locate the position and depth of the sewer junction before commencing construction, to ensure that the top of the overflow gully is a minimum of 900mm above the soffit of the sewer main. Copies of sewer main diagrams issued by Council must be treated as a guide only when locating the junction position

4. Yard Gully

A minimum height of 150mm must be maintained between the top of the overflow yard gully riser and the lowest fixture connected to the drain. The height must be measured vertically from the overflow level of the gully riser, or from the invert level of the overflow pipe, to the appropriate point given in National Construction Code. The minimum height between the top of the overflow yard gully riser, or the invert of the overflow pipe, and the surrounding ground surface level must be 75mm, except where the gully riser is located in a path or a paved area where it must be finished at a level so as to prevent the ponding and ingress of water into the drainage system.

5. Pumpout System

A dual audible and visual alarm system must be installed on the pumpout tank to notify of 50% and 75% capacity. Testing of the alarm must occur every six (6) months.

- 6. The pumpout tank must be appropriately sealed to prevent stormwater or flood water ingress into the system.

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7. The collection well is to be emptied at least once weekly and the contents removed in an approved vehicle to the sanitary depot for disposal.
8. The septic tank collection well suction pipe must be a minimum 50mm diameter galvanised iron for a horizontal distance, beneath ground level, for at least 1m beyond all bends and risers at both the collection well and service ends of the pipe.
9. The service pipe must be suitably encased in concrete at all bends beneath ground level.
10. This septic system must be installed strictly in accordance with Council's On-Site Sewage Management – Shoalhaven DCP 2014 (Chapter G8), the requirements under the Local Government Act (General) Regulations 2005.
11. In order for the effluent contractor to service the development the location/installation of the collection tank must be in accordance with the invert requirements of Annex K (Shoalhaven Water Effluent contract) available from Council.

To achieve this requirement an internal float switch pump may be needed to deliver the effluent to the collection tanks, that are located to comply with the invert requirements of Annex K (Shoalhaven Water Effluent contract).

Developments that cannot achieve the invert requirements need to provide an additional booster pump, the performance of the booster pump is to deliver 15 litres per second at the contractor tankers and include a switch for the booster pump to be available and maintained in an operational condition located at the standpipe.

PART K: REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

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Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

PART L: RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

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Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

PART M: GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*.

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

Shoalhaven Water – Building Plan Approval


A Water Development Notice must be obtained from Shoalhaven Water before any works commence. This allows Shoalhaven Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to <https://shoalwater.nsw.gov.au/planning-building/developers-consultants/water-development-notice> or call (02) 4429 3214 to learn more about applying.

Following application, Shoalhaven Water will assess the development and if required will issue a "Notice of Requirements" letter detailing all requirements that must be met. Please apply early as building of water and services can be time consuming and may impact on other parts of your development such as building, driveway or landscaping.

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SIGNED on behalf of Shoalhaven City Council:

Planning Report – S4.15 Assessment – 104 Taylors Lane, CAMBEWARRA - Lot 3 DP 851823

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	SF10804
Property	104 Taylors Lane, CAMBEWARRA - Lot 3 DP 851823
Applicant(s)	Watersplash Lane Pty Ltd
Owner(s)	KI & JG Tompson

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Senior Development Planner 14/04/2021

1. Detailed Proposal

Staged residential subdivision to create 217 Torrens Title allotments, including 213 residential allotments, three (3) open space allotments, one (1) residue lot, and demolition of existing structures, earthworks, and provision of roads, drainage and utility infrastructure along with associated landscaping works

The subdivision is proposed to be staged as follows:

- Stage 1A – Creation of 17 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 1B – Creation of 20 residential allotments and one (1) open space allotment and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 2A – Creation of 27 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 2B – Creation of 19 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 2C – Creation of 18 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 3 – Creation of 40 residential allotments and one (1) open space allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 4A – Creation of 46 residential allotments and one (1) open space allotment and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 4B – Creation of 26 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.

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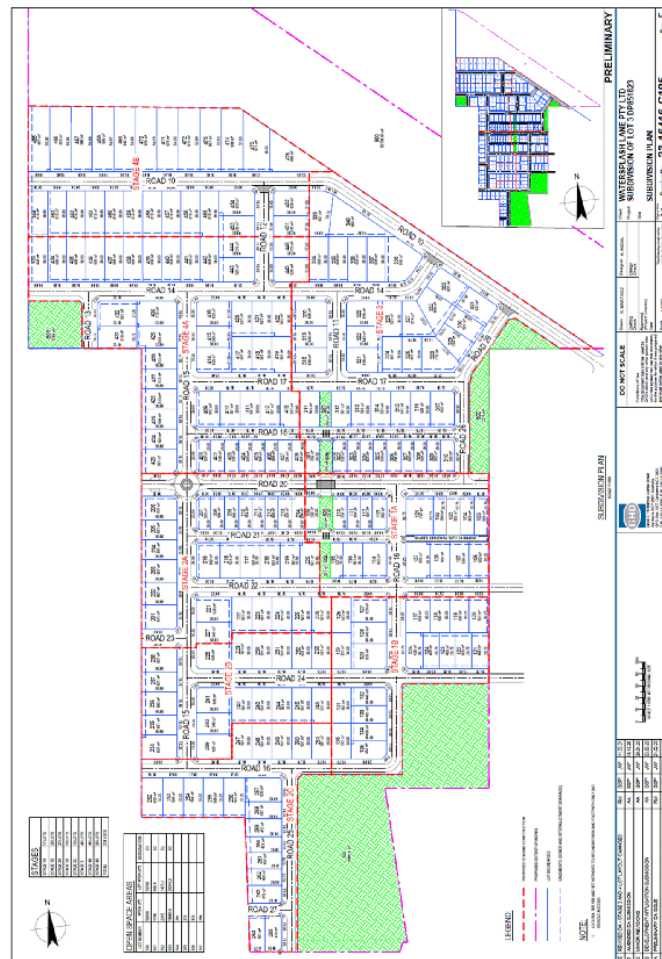


Figure 1 – Subdivision Plan

2. Subject Site and Surrounds

- The subject site is within the Moss Vale Road South Urban Release Area (URA) and contains an existing dwelling, with swimming pool, tennis court, and a number of associated outbuildings in the southern portion of the site.
- Dense pockets of mature stands of vegetation are present in the southern portions of the site. Scatterings of individual mature pasture trees are also present across the site. Six (6) dams are located across the site.
- Historically, the site has been used for rural residential and agricultural purposes, predominantly grazing.
- A central north/south ridgeline traverses the site, with the land generally sloping towards the Bomaderry Creek catchment.
- The subject site is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and SP2 Infrastructure. Only the R1 zoned portion of the site is within the Urban Release Area.
- The subject site is 25.25ha in area.

Planning Report – S4.15 Assessment – 104 Taylors Lane, CAMBEWARRA - Lot 3 DP 851823

- The subject site is identified as part flood prone land and being of aboriginal cultural heritage significance.
- The northern section of the subject site, adjacent to Moss Vale Road, is identified as “Scenic Protection”.
- The subject site has frontage to Moss Vale Road and Taylors Lane.
- The subject site adjoins land zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management, SP2 Infrastructure and RU1 Primary Production.



Figure 2 – Location Map

3. Background

Post-Lodgement

- This application was lodged with Council on 9 June 2020. The description of the application was as follows:

“Staged residential subdivision to create 232 Torrens Title allotments, including 228 residential and four (4) open space allotments, and demolition of existing structures, earthworks, and provision of roads, drainage and utility infrastructure along with associated landscaping works”

- In June 2020, Council resolved to defer a decision on the upgrade of Taylors Lane as part of the Far North Collector Road project and undertake a review of the zoning and planning controls applicable to land around Taylors Lane (MIN20.419). The review that is currently underway will consider options for how the existing trees along Taylors Lane could be retained and integrated into future urban development. At this stage the outcomes of the review are unknown. The consultant recently submitted its draft review report to Council following several workshops in March where input was sought from local stakeholders (landowners and developers) in the review area. It is acknowledged that the proposed layout plan has been prepared generally on the basis of the indicative layout plan for Moss Vale Road South URA and may or may not be consistent with the outcomes of the review. For completeness, the resolution is produced below.

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FORESHADOWED MOTION (RESOLVED) (Clr Wells / Clr Guile)

MIN20.419

That Council:

1. Undertake the following reviews, with the assistance of consultants if required given current Council staff commitments, considering both the required road project and desire for retention of the trees:
 - a. Review Shoalhaven Development Control Plan 2014 Chapter NB3: Moss Vale Road South Urban Release Area
 - b. Review the existing zoning and potential planning controls for the area between Moss Vale Road and the edge of the Urban Release Area
2. As part of the reviews consider all relevant options to retain the existing trees that are currently a feature of Taylors Lane and how they could be successfully retained and integrated into the future urban development enabled by the existing zones;
3. Reconsider the current appropriateness of the existing R3 Medium Density, B1 Neighbourhood Centre and SP2 Infrastructure (educational establishment) zones at the eastern end of Taylors Lane as part of the review process.
4. Receive a briefing, if appropriate/needed, and a subsequent report on the reviews and to enable decisions to be made regarding the interrelated Taylors Lane issues.
5. Defer the decision on the proposed upgrading of Taylors Lane, Cambewarra in association with the Far North Collector Road pending the reviews and further community consultation as part of them.

FORESHADOWED MOTION CARRIED

- Council amended the description of this application on 19 March 2021 to the following description as a result of amended DA documentation being submitted:
“Staged residential subdivision to create 222 Torrens Title allotments, including 214 residential allotments, seven (7) open space allotments, one (1) residue lot, and demolition of existing structures, earthworks, and provision of roads, drainage and utility infrastructure along with associated landscaping works”
- Council amended the description of this application on 19 April 2021 to the current description (with the agreement of the applicant), following detailed assessment and Council’s Subdivision Engineer recommendation.

4. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Subdivision Engineer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 26/03/2021 & emails dated 14/04/2021 & 15/04/2021).	Conditions to be imposed should the application be determined by approval. It is noted that an amended subdivision plan is required to include a stub for a local road on the western side of Road 25 between Road 16 and Road 27 generally in the location of Lot 261 as outlined in Figures 2 and 9 of Chapter NB3, SDCP 2014, or an alternative location as agreed to by Council.

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Traffic & Transport Unit	<input checked="" type="checkbox"/>	Concerns raised and additional information requested (dated 08/02/2021).	Conditions to be imposed, as recommended by Council's Subdivision Engineer, should the application be determined by approval.
Stormwater Quality Engineer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 05/02/2021).	Conditions to be imposed should the application be determined by approval.
Floodplain Engineer	<input checked="" type="checkbox"/>	No objections subject to recommended condition of consent (dated 05/02/2021).	Condition to be imposed should the application be determined by approval.
Environmental Assessment Officer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 29/03/2021).	Conditions (in general) to be imposed should the application be determined by approval.
Waste	<input checked="" type="checkbox"/>	No Waste Management Plan (WMP) submitted with application (dated 07/07/2020).	Conditions to be imposed, only in relation to the requirement for a WMP.
Shoalhaven Water	<input checked="" type="checkbox"/>	Notice provided (dated 29/03/2021).	Conditions to be imposed should the application be determined by approval.
Environmental Health Officer	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 06/07/2020).	Conditions to be imposed should the application be determined by approval. Dam decommissioning conditions to also be imposed, as recommended by Council's Subdivision Engineer.
Landscape Architect	<input checked="" type="checkbox"/>	No objections subject to recommendations (dated 08/07/2020).	Noted. Tree retention considered by Council's Environmental Assessment Officer.
Property Unit	<input checked="" type="checkbox"/>	No objections subject to recommendations (dated 23/07/2020). It is noted that the design has been revised since the comments were made.	Conditions to be imposed should the application be determined by approval.
Community & Recreation	<input checked="" type="checkbox"/>	No objections subject to recommendations (dated 20/07/2020).	Noted.

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		It is noted that the design has been revised since the comments were made.	
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External Referrals			
Agency	Required	Recommendation	Comment
Transport for NSW	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 24/03/2021).	Conditions to be imposed should the application be determined by approval.
Endeavour Energy	<input checked="" type="checkbox"/>	No objections subject to recommendations and comments (dated 27/01/2021 & 16/07/2020).	Conditions and advisory note to be imposed.
Heritage NSW	<input checked="" type="checkbox"/>	General Terms of Approval issued (dated 30/03/2021).	Conditions to be imposed should the application be determined by approval.
Nowra Local Aboriginal Land Council	<input checked="" type="checkbox"/>	Concerns raised and additional information requested (dated 27/07/2020). Following evidence of further consultation with the applicant, NLALC identified that there are opportunities to integrate aspects of the Aboriginal cultural landscape into the development design. The applicant indicated they are willing to work with Council to achieve this in relation to the proposed open space areas of the development.	Conditions to be imposed by Heritage NSW should the application be determined by approval. However, it is noted that embellishment of open space areas is not proposed as part of this application.
DPIE	<input checked="" type="checkbox"/>	Satisfactory arrangements certification, as required by clause 6.1 of SLEP 2014, has not been issued.	Council cannot grant development consent for the subject subdivision until the Secretary of NSW Planning Industry & Environment (DPIE) has provided written certification that satisfactory arrangements have been made.

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5. Other Approvals

Integrated Approvals and Concurrences			
Agency	Required	Recommendation	Comment
Heritage NSW	<input checked="" type="checkbox"/>	General Terms of Approval issued (dated 30/03/2021).	Conditions to be imposed should the application be determined by approval.
Transport for NSW	<input checked="" type="checkbox"/>	No objections subject to recommended conditions of consent (dated 24/03/2021).	Conditions to be imposed should the application be determined by approval.

6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>	State Environmental Planning Policy (Koala Habitat Protection) 2020	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Koala Habitat Protection) 2021	<input checked="" type="checkbox"/>		<input type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development			
Act	Provision	Approval	Relevant
National Parks and Wildlife Act 1974	S90	Grant of Aboriginal heritage impact permit	<input checked="" type="checkbox"/>

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i) Environmental planning instrument

SEPP (Infrastructure) 2007

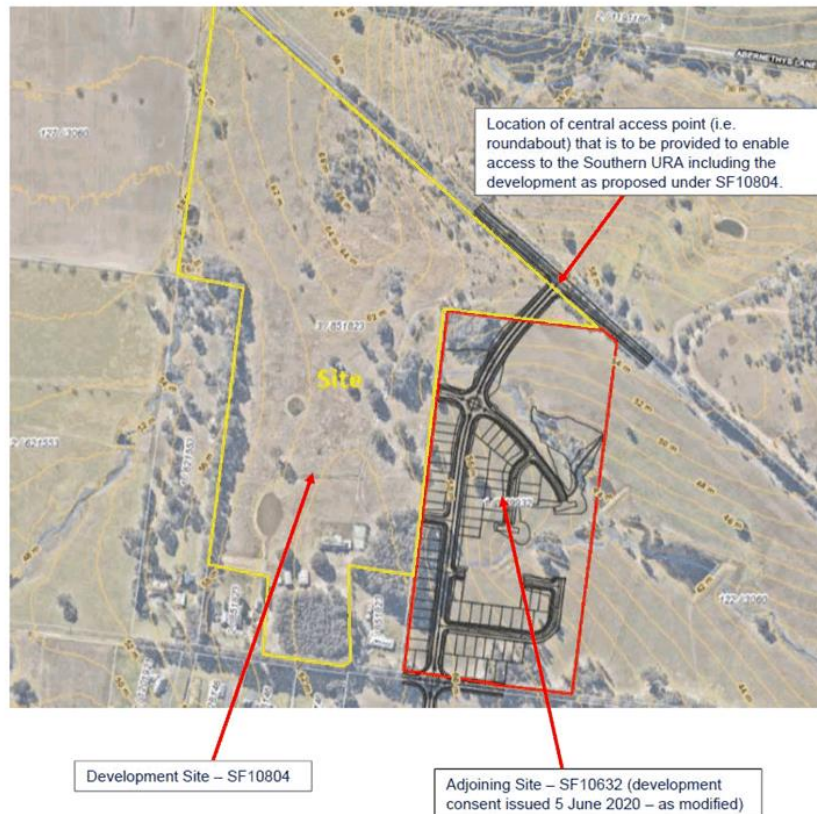
Clause 45(1)(b)(iii) is applicable and the application referred to the *electricity supply authority for the area* (Endeavour Energy) on 06/07/2020 and 18/01/2021 as required for comment. A response was provided (as detailed under the 'Referrals' section of this report) and has been considered.

Clause 101 is applicable as the subject site has frontage to a classified road (being Moss Vale Road). Clause 104 is also applicable as traffic-generating development as it involves subdivision of land that exceeds 200 allotments and includes the opening of a public road, and the application referred to Transport for NSW (TfNSW) on 06/07/2020, 18/01/2021 and 19/03/2021 as required by this Policy.

Vehicle access to the site is proposed via a single central access, being a new roundabout (refer to Attachment 1 below) that will service the larger Moss Vale Road Urban Release Areas (URA). This central access point to the state road network is yet to be constructed as part of an adjoining subdivision development (being Development Consent SF10632 as modified).

No new direct access to/from Moss Vale Road is proposed as part of this application including during its construction with all access to be gained via the above roundabout.

Attachment 1



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TfNSW has raised no objections with the latest design subject to recommended conditions of consent (dated 24/03/2021).

The measures are considered to be appropriate and the provisions of clause 101 satisfied. Council is satisfied that the safety, efficiency and ongoing operation of Moss Vale Road will not be adversely affected by the development as a result of the design of the vehicular access to the site, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using Moss Vale Road to gain access to the site; and the development is appropriately located and designed to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from Moss Vale Road.

In relation to clause 104, Council is satisfied that the matters listed in clause 104(3) have been addressed and no concerns are raised in terms of the traffic safety, road congestion or parking implications of the development.

SEPP (Koala Habitat Protection) 2020 & 2021

As there is no local population, there is likely to be low or no impacts on koalas or habitat. Council's Environmental Assessment Officer has raised no objections in relation to this matter subject to conditions of consent being imposed should the application be determined by approval.

SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	X Proceed to Question 3	Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	X Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	X Proceed to Question 5	Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	X Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 5 March 2021, with there being no evidence of obvious contamination. However, it is apparent that there is potential for contamination from agricultural uses on this site (predominantly grazing).

Council's Environmental Health Officer reviewed the submitted Preliminary Site Investigation by GHD. This investigation identified a number of potentially contaminating activities that were undertaken at the site (e.g. treatment of fence posts with sump oil) and potential pathways of exposure due to the nature of the redevelopment (passive recreation sites, downstream sensitive receptors and residential contact).

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Accordingly, no objections were raised subject to the Environmental Health Officer's recommended conditions of consent (dated 06/07/2020). The recommendations for a detailed site investigation were supported in order to further ascertain potential COPC and concentrations. It is considered that the proposal is satisfactory under SEPP 55 and SDCP 2014.

Shoalhaven LEP 2014

Land Zoning

The land is zoned R1 General Residential, E2 Environmental Conservation, E3 Environmental Management and SP2 Infrastructure under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as *Subdivision of land* including associated *Roads and Water supply systems* under the SLEP 2014. The proposal is permitted within the zones with the consent of Council.

R1 Zone objectives

Objective	Comment
• To provide for the housing needs of the community.	Satisfies the nominated objective as new residential lots will be created.
• To provide for a variety of housing types and densities.	Satisfies the nominated objective. The zone and design of the subdivision will influence the housing types.
• To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Satisfies the nominated objective. The zone will influence land uses.
• To identify land suitable for future urban expansion.	Satisfies the nominated objective.

E2 Zone objectives

Objective	Comment
• To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.	Satisfies the nominated objective.
• To prevent development that could destroy, damage or otherwise have an adverse effect on those values.	Satisfies the nominated objective.
• To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.	Satisfies the nominated objective.
• To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.	Satisfies the nominated objective.

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• To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.	Satisfies the nominated objective.
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E3 Zone objectives

Objective	Comment
• To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.	Satisfies the nominated objective.
• To provide for a limited range of development that does not have an adverse effect on those values.	Satisfies the nominated objective.
• To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.	Satisfies the nominated objective.
• To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.	Satisfies the nominated objective.

SP2 Zone objectives

Objective	Comment
• To provide for infrastructure and related uses.	Satisfies the nominated objective.
• To prevent development that is not compatible with or that may detract from the provision of infrastructure.	Satisfies the nominated objective.

SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/Consistent
Part 2 Permitted or prohibited development			
2.6	<input checked="" type="checkbox"/>	Consent sought as part of this application. Torrens Title subdivision proposed.	Yes
2.7	<input checked="" type="checkbox"/>	Consent sought as part of this application. Existing structures are to be demolished.	Yes
Part 4 Principal development standards			
4.1	<input checked="" type="checkbox"/>	Satisfied. All proposed allotments except for Lots 500 and 502 (as containing land outside of the URA and not meeting the relevant minimum lot size of 40ha) and Lots 102-105, 109-113, 116, 121-125, 132-135, 207-214, 258-265, 301-310, and 401-408 (as subject to the provisions of clause 4.1H) meet the minimum lot size of 500sqm.	Yes

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		It is noted that this clause is not applicable to Lots 504-507 (proposed linear parks) as they are to be considered road reserve as recommended by Council's Subdivision Engineer.	
4.1E	<input checked="" type="checkbox"/>	Satisfied. Proposed Lot 502 is to contain land in an urban zone that has an area that is not less than the relevant minimum lot size of 500sqm, and all of the land in the E2 zone that was in the original lot (the subject site). This meets the criteria of subclause (3).	Yes
4.1H	<input checked="" type="checkbox"/>	Satisfied. Proposed Lots 102-105, 109-113, 116, 121-125, 132-135, 207-214, 258-265, 301-310, and 401-408 meet the criteria of subclause (2). It is noted that as a result of Council's Subdivision Engineer recommendation, prior to the issue of a Subdivision Works Certificate, an amended subdivision plan will be required to include a stub for a local road on the western side of Road 25 between Road 16 and Road 27 generally in the location of proposed Lot 261 as outlined in Figures 2 and 9 of Chapter NB3, SDCP 2014, or an alternative location as agreed to by Council.	Yes
Part 5 Miscellaneous provisions			
5.16	<input checked="" type="checkbox"/>	Satisfied. The existing and approved uses of land in the vicinity of the development have been considered and the development is unlikely to have a significant impact nor incompatible, subject to recommended conditions of consent being imposed should the application be determined by approval.	Yes
Part 6 Urban release areas			
6.1	<input checked="" type="checkbox"/>	Council cannot grant development consent for the subject subdivision until the Secretary of NSW Planning Industry & Environment (DPIE) has provided written certification that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure for the development, as the land is within an urban release area. The Department has advised Council that satisfactory arrangements are not currently in place.	No
6.2	<input checked="" type="checkbox"/>	Satisfied. Public utility infrastructure essential for the development is either available or adequate arrangements have been made to make that infrastructure available when required.	Yes
6.3	<input checked="" type="checkbox"/>	Satisfied. Chapter NB3 of SDCP 2014 has been prepared.	Yes
6.5	<input checked="" type="checkbox"/>	This clause applies as the original lot (subject site) is in an urban release and in an approved land use zone, being the E2 and E3 zones.	Yes

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		Proposed Lot 500 (the residual lot) is compliant, although less than the minimum lot size, as it is wholly within the E3 zoned portion of the site.	
Part 7 Additional local provision			
7.1	<input checked="" type="checkbox"/>	The subject site is identified as Class 5 land and the works proposed to facilitate the development are not likely to lower the watertable. Acid sulfate soils management plan not required.	N/A
7.2	<input checked="" type="checkbox"/>	The provisions of subclause (3) have been considered. The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent being imposed should the application be determined by approval.	Yes
7.3	<input checked="" type="checkbox"/>	The subject site is affected by the 1% AEP flood event along the western boundary. The site typically comprises a Low Hazard Flood Fringe hazard/hydraulic category in accordance with the Bomaderry Creek Flood Risk Management Study (2016). The flooding is typically less than 0.2m deep and comprises a low velocity in a 1% AEP event. Filling will be required along the western side of the site to ensure that all lots and roads are constructed at or above the 1% AEP event flood level, or ideally flood planning level. Filling is permitted in this Low Hazard Flood Fringe area. The provisions of subclause (3) have been satisfied, subject to a recommended condition of consent being imposed should the application be determined by approval.	Yes
7.8	<input checked="" type="checkbox"/>	The provisions of subclause (3) have been considered. The development will involve the taking of measures that will minimise any detrimental visual impact. The proposed retention of trees and vegetation and extent of landscaping is considered appropriate.	Yes
7.11	<input checked="" type="checkbox"/>	Services are available.	Yes

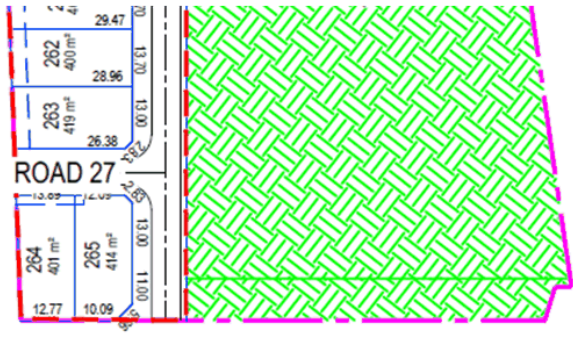

ii) **Draft Environmental Planning Instrument**

The Draft Illawarra Shoalhaven Regional Plan 2041 does not raise any additional matters for consideration as part of the assessment of this application.

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iii) Any Development Control Plan

Shoalhaven DCP 2014

Generic Chapters	Relevant
G2: Sustainable Stormwater Management and Erosion/Sediment Control	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Subdivision Engineer and Stormwater Quality Engineer have raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G3: Landscaping Design Guidelines	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Landscape Architect and Environmental Assessment Officer have raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G4: Removal and Amenity of Trees	<input checked="" type="checkbox"/>
<p>The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.</p> <p>Council's resolution in June 2020 is noted (as referenced earlier in this report), however, it has not been acted upon. Accordingly, the review that is considering options for how the existing trees along Taylors Lane could be retained and integrated into future urban development, is incomplete.</p> <p>The below excerpts from the submitted subdivision and demolition plans confirm the extent of the subject site that has frontage to Taylors Lane.</p>	
	
	

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G5: Threatened Species Impact Assessment	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed should the application be determined by approval.	
G7: Waste Minimisation and Management Controls	<input checked="" type="checkbox"/>
No Waste Management Plan (WMP) was provided with this application. Council's Waste Services has requested that a formal WMP be submitted regarding the waste management of the development and ongoing waste collection and subject to a condition of consent being imposed. This will be required prior to the commencement of any demolition or vegetation clearing works.	
G9: Development on Flood Prone Land	<input checked="" type="checkbox"/>
The provisions of this chapter have been considered and Council's Floodplain Engineer has raised no objections subject to a condition of consent being imposed should the application be determined by approval.	
G11: Subdivision of Land	<input checked="" type="checkbox"/>
The development generally complies with the provisions of this chapter (refer to Appendix A).	
NB3: Moss Vale Road South Urban Release Area	<input checked="" type="checkbox"/>
<p>The development generally complies with the provisions of this chapter (refer to Appendix B). However, there are non-compliances.</p> <p>There is a non-compliance with regard to A1.1 of Control 7.1 Indicative Layout Plan in relation to the Indicative Layout Plan (ILP). The ILP requires a number of roads to connect through to the adjoining properties to the west, Lot 6 DP 1256748 (known as 126 Taylors Lane, Cambewarra) and Lot 2 DP 851823 (known as 118 Taylors Lane, Cambewarra).</p> <p>The applicant has not proposed all of these road connections, with only Roads 13, 16, 20, 23 and 27 providing connection. The applicant has contended that this design conforms.</p> <p>It is considered that the proposed layout is still consistent with the objectives of this chapter and the relevant performance criteria. The design will provide a well-connected and legible movement network. Development will also be undertaken in a coordinated manner.</p> <p>However, although the Council's Subdivision Engineer is supportive of the current design, they have recommended that prior to the issue of a Subdivision Works Certificate, an amended subdivision plan be submitted to Council for approval. The amended plan is to include a stub for a local road on the western side of Road 25 between Road 16 and Road 27 generally in the location of proposed Lot 261 as outlined in Figures 2 and 9 of this chapter, or an alternative location as agreed to by Council.</p> <p>It is noted that pre-lodgement discussions have been held with the developer of the adjoining Lot 6 and their proposed road design appears to be consistent with this subject design and recommended amendment. The additional road will allow future allotments on this adjoining land to have road frontage.</p> <p>Accordingly, this variation can be supported by Council.</p>	

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There is also a non-compliance with **"Mandatory Control"(4) of Control 7.3 Subdivision Design** and the design of the street blocks. The blocks are to be rectangular in shape with the length and width (excluding road verges) to be a maximum of 100m x 70m in areas where small lots are proposed and rear lane access or shared driveways are located; and 200m x 70m in all other areas.

Three (3) blocks of small lots exceed 100m in length by approximately 5% and one (1) block of standard lots is split by a linear park and otherwise exceed the 200m length.

The applicant has provided the following justification in the submitted Design Verification Statement (dated 11/03/2021) for the proposed variation:

"The option to split this block with a road would create an undesirable connection to a laneway which would encourage use by traffic that was no accessing lots immediately fronting the laneway. The long block is visually split by the linear park and we believe this meets the intent of the standard."

It is considered that the variation proposed to the design of the street blocks is still consistent with the objectives of this chapter and the relevant performance criteria. The integrity of the outcome envisaged is maintained. Council's Subdivision Engineer has raised no concerns in relation to this matter.

Accordingly, this variation can be supported by Council.

Finally, there is a non-compliance with **A10.1 of Control 7.8 Open Space System** in relation to the proposed Lots 504-507 ('linear parks'). This is inconsistent with the Indicative Layout Plan (ILP).

The applicant has proposed these 'linear parks' to be landscaped with trees, shrubs and ground covers, and to contain pedestrian footpaths in order to provide links between the Boulevards and residential areas. The 'linear parks' are to also incorporate pedestrian seating for future residential amenity. The applicant believes these parks will provide considerable pedestrian connectivity and amenity. The parks are proposed to be handed back to Council post completion of construction as open space area, to form public realm areas for the estate.

Detailed assessment has confirmed that these four (4) lots are to be considered as road reserve and are not to be supported to be dedicated as open space. Council's Roads Assets Manager, as the future asset custodian of these proposed 'linear parks'/pathway reserves has however endorsed retaining these lots under public road dedication rather than public reserves. These will still provide the intended pedestrian permeability within the subdivision.

Subject to a condition of consent as recommended by Council's Subdivision Engineer (should this application be determined by approval) the 'linear parks' are to contain a meandering 2m wide concrete shared path for the full extent of the parks, to be embellished with turf and to be provided with public lighting for the entirety of the alignment of the shared path.

It is considered that the removal of the roads in this location that were envisioned under the DCP has resulted in pedestrian connectivity being greatly reduced through the central part of the subdivision and these pathways will provide a good outcome to offset this impact.

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Nil

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iv) **Environmental Planning and Assessment Regulation 2000**

Clause	Comment
92 What additional matters must a consent authority take into consideration in determining a development application?	
1. For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:	
(a) (Repealed)	(a) Noted.
(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,	(b) Considered.
(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.	(c) Not applicable.
2. In this clause:	Noted.
AS 2601 means the document entitled Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.	
Government Coastal Policy means the publication entitled NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast, as published by the Government (and including any maps accompanying that publication and any amendments to those maps that are publicly notified), a copy of which may be inspected during ordinary office hours:	
(a) at any of the offices of the Department, or	
(b) at the offices of any of the councils of the local government areas listed in the Table to this clause	
98A Erection of signs	
1. For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.	Noted. Subject to conditions of consent.

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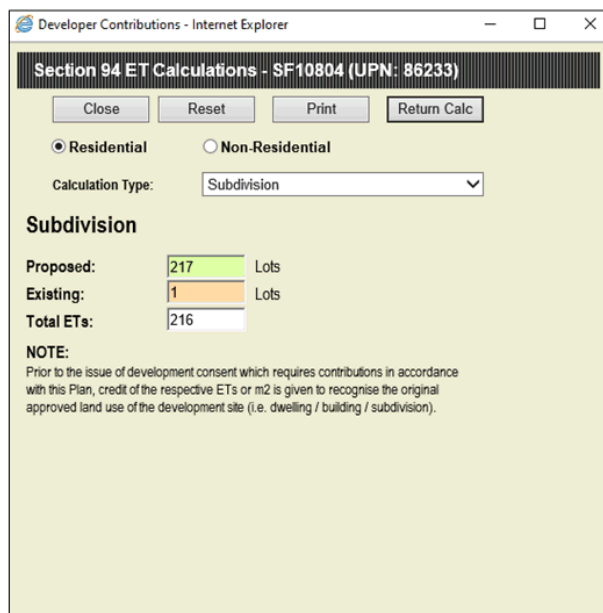
2.	A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: (a) showing the name, address and telephone number of the principal certifying authority for the work, and (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and (c) stating that unauthorised entry to the work site is prohibited.	Subject to condition of consent.
3.	Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.	Subject to condition of consent.

v) Any coastal zone management plan

Not applicable.

Shoalhaven Contributions Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as a Subdivision development for the purpose of calculating contributions under the Plan. Contributions are to be subject to a recommended condition of consent and payment required prior to the issue of a Subdivision Certificate.



Developer Contributions - Internet Explorer

Section 94 ET Calculations - SF10804 (UPN: 86233)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type: Subdivision

Subdivision

Proposed: 217 Lots

Existing: 1 Lots

Total ETs: 216

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

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The NSW Government sets a maximum amount of monetary contributions that are payable under s7.11 of the EP&A Act per dwelling or lot in a residential subdivision. The threshold (cap) is set at \$20,000 and the below contributions calculated.

Based on 216 ETs with a maximum chargeable amount of \$20,000, the total amount payable cannot be more than \$4,320,000.

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23	156.23	\$109,396.93	\$0.00	\$109,396.93
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04	156.23	\$84,839.14	\$0.00	\$84,839.14
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01	156.23	\$114,518.15	\$0.00	\$114,518.15
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghome & Plunkett Streets)	\$29.98	156.23	\$4,683.78	\$0.00	\$4,683.78
01DRAI0006	Moss Vale Road South URA Drainage	\$3,376.85	156.23	\$527,565.28	\$0.00	\$527,565.28
01OREC5015	Moss Vale Road South URA Passive Recreation	\$10,873.31	156.23	\$1,698,737.22	\$0.00	\$1,698,737.22
01ROAD0154	Moss Vale Road South URA Roads	\$5,736.36	156.23	\$896,191.52	\$0.00	\$896,191.52
CWAREC5005	Shoalhaven Community and Recreational Precinct ScaRP Cambewarra Road Bomaderry	\$1,931.92	156.23	\$301,823.86	\$0.00	\$301,823.86
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12	156.23	\$228,114.55	\$0.00	\$228,114.55
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	156.23	\$200,057.20	\$0.00	\$200,057.20
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	156.23	\$10,982.97	\$0.00	\$10,982.97
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	156.23	\$21,580.05	\$0.00	\$21,580.05
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	156.23	\$31,569.40	\$0.00	\$31,569.40
CWMGMT3001	Contributions Management & Administration	\$574.39	156.5834	\$89,939.94	\$0.00	\$89,939.94
				Sub Total:		\$4,319,999.99
				GST Total:		\$0.00
				Estimate Total:		\$4,319,999.99

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

(c) Suitability of the site for the development

Subject to recommended conditions of consent, it is considered that the site will be suitable for the development.

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(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. One (1) submission was received by Council raising concerns with the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
<p><u>Traffic Assessment</u></p> <p>There is particular concern as to the effect of this subdivision on the proposed use of Taylors Lane. There is a need for Council to identify construction phase proposals specifically and attach appropriate controls that are clear and capable of being monitored.</p> <p>The following requests are made of Council in any development approvals that may result from the application:</p> <ul style="list-style-type: none"> Make clear to the developer that following Council's decision earlier this year that Taylors Lane upgrade is no longer part of the Far Northern Collector Project, except for the most eastern end, which will intersect with Moss Vale Road. Council have stated previously that Taylors Lane, in its present form, is not safe or suitable for traffic associated with the development of the URA. The developer's assumption, that "access to the development site is currently provided via Taylors Lane... should not be approved, as it is access to the current residence, which will presumably be demolished early in the process, as it coincides with Stage 1 of the proposed development. Further, the current driveway will be/is part of declared open/green space, and therefore presumably under Council control, as such should not be used as 'interim', or 'preliminary' access pending works on Moss Vale Road As the construction phase represents the greatest risk to safety for such a project (heavy earth moving equipment and machinery), all development traffic should be via Moss Vale Road. Require the applicant to add a timeline to address specific phases of the project, not just a 'warm fuzzy' view of the finished product. 	<ul style="list-style-type: none"> The submitted assessment was revised, and this has been reviewed along with all other engineering relevant documentation. Council's Subdivision Engineer raised no objections to this development subject to recommended conditions of consent (if approved). <p>Chapter NB3 of SDCP 2014 requires that all construction access is to be provided via Moss Vale Road and that Taylors Lane will be suitable for use after the completion of the Far North Collector Road project.</p> <p>However, it is noted that Council engaged consultants to undertake a review of the zoning and other planning controls applicable to the land around Taylors Lane, Cambewarra. This includes the section of Taylors Lane within the Moss Vale Road South URA. This followed Council's resolution of 23 June 2020 to 'defer' a decision on the proposed upgrade of Taylors Lane as part of the Far North Collector Road (FNCR) project (MIN20.419).</p> <p>The review that is now underway will consider options to retain the existing trees that are currently a feature of Taylors Lane and also how they could be retained and integrated into the future urban development enabled by the existing zones. The review will also consider options for the planned upgrade and/or realignment of Taylors Lane.</p> <p>At this stage the outcomes of the review are unknown. The consultant recently submitted its draft review report to Council following several workshops in March where input was sought from local stakeholders (landowners and developers) in the review area. It is acknowledged that the applicant's proposed layout plan has been prepared generally on the basis of the ILP for the Moss Vale Road South URA and may or</p>

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<ul style="list-style-type: none"> The description and use of Taylors Lane was incorrect. 	<p>may not be consistent with the outcomes of the review.</p>
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(e) The Public Interest

The proposed development generally complies with the provisions of SLEP 2014 and is broadly consistent with the SDCP 2014 (albeit for the variation to the ILP under A1.1 of Control 7.1 *Indicative Layout Plan*, Chapter NB3, design of street blocks under Mandatory Control (4) of Control 7.3 *Subdivision Design*, Chapter NB3 and open space areas under A10.1 of Control 7.8 *Open Space System*, Chapter NB3). Subject to conditions of consent the development is not expected to have any unacceptable negative impacts on the environment or the amenity of the locality as detailed in this report warranting refusal of the development.

The proposal will provide additional housing supply and variety of housing.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given Councillors called in the DA on the basis of public interest the application must be determined by the elected Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. SF10804 be approved subject to appropriate conditions of consent, once satisfactory arrangements under clause 6.1 of the SLEP 2014 have been met.

Appendix A – Assessment Checklist: Chapter G11 - Subdivision of Land

5.9 – Utility Services

A66.1 Design and provision of utility services, including broadband, conforms to the requirements of the relevant service authorities.

Comment: Subject to recommended conditions of consent.

A67.2 Compatible services are located in common trenching.

Comment: Noted.

A67.3 Subdivisions are located where there is adequate water for domestic and fire-fighting purposes.

Comment: Satisfied.

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A67.4 Subdivision is staged to ensure that each stage is fully serviced before a new area is released.

Comment: Satisfied. The subdivision is proposed to be staged and proceed in the following order: Stage 1A, 1B, 2A, 2B, 2C, 3, 4A and 4B.

A67.5 Water supply and sewerage networks are accessible, easy to maintain and cost effective based on life cycle costs.

Comment: Subject to Shoalhaven Water requirements.

A67.6 Adequate buffers between utilities and houses are provided, to protect residential amenity and health provide.

Comment: Subject to Shoalhaven Water requirements.

A67.7 Underground electricity supply is provided to residential areas, except where major technical difficulties are encountered, such as the presence of significant rock.

Comment: Subject to Endeavour Energy requirements. This is to be satisfied prior to the issue of a Subdivision Certificate.

A67.8 Provision of reticulated gas is subject to requirements of the service provider.

Comment: Noted.

A67.9 Underground telecommunications service, including NBN, is to be installed where underground electricity is to be provided.

Comment: Noted.

A67.1 Where required, the subdivider is to provide, at no cost to Council:

- Suitable easements for water and sewer rising main;
- An agreed area of land for pumping stations;
- Easements or land for access to pumping stations;

Comment: Subject to Shoalhaven Water requirements.

5.10 – Stormwater Drainage

A68.1 Design and construction of systems is in accordance with the requirements of this Section and Council's *Engineering Design Specifications - D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

A69.2 Detention basins may be considered/required where downstream systems are inadequate. Design is to be based on the 1% AEP storm event.

Comment: Not applicable.

A69.1 Provide an overland flow path capable of containing the 1% AEP rainfall event and/or provide adequate detention storage.

Comment: Not applicable.

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A70.2 Connection of a new system to an existing system with capacity less than 1% AEP:

- Satisfies the requirement of the 1% AEP event; and
- Provides a suitable transition between the systems.

Comment: Not applicable.

A70.1 Habitable floor levels are consistent with the requirement in Chapter G9: Development on Flood Prone Land of this DCP.

Comment: Not applicable.

A71.2 Subdivision and engineering plans show minimum floor levels adjacent to drainage paths, including roads where they are used as overland flow paths in the design concept.

Comment: Not applicable. No buildings are proposed as part of this application.

A71.1 Waterways and riparian/wetland vegetation, where they exist, are incorporated into the drainage design, with respect to threatened species and their habitats.

Comment: Not applicable.

A72.2 Sports grounds and other less flood sensitive land uses are incorporated into the local drainage corridor.

Comment: Not applicable.

A72.3 Detention basins, where necessary, are located to control stormwater subject to preserving and/or enhancing the natural integrity of the stream.

Comment: The development is proposed to connect its stormwater network into stormwater management devices provided by Council in accordance with the Moss Vale Road South Integrated Water Cycle Management Strategy (IWCMS) and Contributions Plan 01DRAI0006.

Conditions of consent have been recommended by Council's Stormwater Quality Engineer.

A72.4 System design ensures there are no flow paths that increase the risk to public safety and property.

Comment: Satisfied.

A72.1 Design and construction of minor storm drainage systems is in accordance with this Section and *Engineering Design Specifications Section D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

A73.2 Drainage networks are well defined to ensure there are no hidden flow paths that could reduce their capacity to convey design flows.

Comment: Noted.

A73.3 Design of minor systems takes full account of existing downstream systems.

Comment: Noted.

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A73.1 Minor road drainage systems are designed for the 20% AEP event.

Comment: Noted.

A74.2 Low flow pipes within public reserves contain 25% of the 10% AEP flow.

Comment: Noted.

A74.1 Design and construction of minor storm drainage systems is in accordance with this Section and Engineering Design Specifications Section D5 Stormwater Drainage Design.

Comment: Subject to recommended conditions of consent.

A75.2 Access for maintenance is available where a portion of the minor system lies within a site.

Comment: Satisfied.

A75.3 Selection of materials is based on their suitability, durability, maintainability and cost effectiveness.

Comment: Noted.

A76.1 Where site topography prevents the discharge of stormwater directly to the street gutter or a Council controlled piped system, inter-allotment drainage is provided to accept runoff from all existing or future impervious areas that are likely to be directly connected.

Comment: Subject to recommended conditions of consent.

A77.2 Easements favouring the benefiting allotments are created over inter-allotment drainage.

Comment: Subject to recommended conditions of consent.

A77.3 Stormwater discharge from a development site, including inter-allotment drainage, is in accordance with *Engineering Design Specifications Section D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

5.11 – Stormwater Quality Management

Comment: The proposal is considered to satisfy the requirements of Chapter G2.

The development is proposed to connect its stormwater network into stormwater management devices provided by Council in accordance with the Moss Vale Road South Integrated Water Cycle Management Strategy (IWCMS) and Contributions Plan 01DRAI0006.

Conditions of consent have been recommended by Council's Stormwater Quality Engineer to ensure that temporary measures constructed as part of the Soil and Water Management Plan remain in place until the permanent stormwater treatment devices have been constructed as required under Chapter NB3 of SDCP 2014 and Project 01DRAI0006 of SCP 2019.

It is also noted that some swales are included in the CP within the subdivision extent. The submitted plans do not make provision for any stormwater treatment devices within the subdivision extent. A condition of consent has been recommended that requires the equivalent level of stormwater treatment to be provided within the subdivision extent or for the developer to enter into a satisfactory agreement with Council for stormwater treatment devices located outside the

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subdivision extent to accommodate treatment that may not be provided by swales within the subdivision as shown on the CP.

Council's Subdivision Engineer has recommended conditions of consent associated with the Soil & Water Management Plan, drainage network and OSD provisions that are required within the proposed subdivision.

5.12 – Residential Streetscape

Comment: The submitted landscape plans are considered satisfactory following review by Council's Landscape Architect and Environmental Assessment Officer, subject to recommended conditions of consent.

5.13 – Residential Allotment Layout

A78.1 Minimum standard residential lot size in any residential subdivision is 500m².

Comment: Satisfied, except for proposed Lots 102-105, 109-113, 116, 121-125, 132-135, 207-214, 258-265, 301-310, and 401-408, which meet the criteria of subclause (2) of clause 4.1H of SLEP 2014, relating to an exception to minimum subdivision lot sizes for dwelling houses to be constructed on certain land in urban release areas.

A79.2 Lot shape and dimension:

Rectangular non-corner lots

16m square width minimum
30m minimum depth

Rectangular corner lots

Square width 20 metres
Depth 30 metres

Irregular shaped lots

Square width 12m
Width at building line 16m
Mean width 18 m
Depth 30m

Corner Splays 4m minimum

Comment: Satisfied. All lots are designed to meet these dimensions.

A79.3 Small scale infill subdivision on flood prone land – For small scale infill subdivisions a nominal building envelope of approximately 15m wide and 21m deep, sited in accordance with the requirements of Chapter G12: Dwelling Houses, Rural Worker's Dwellings, Additions and Ancillary Structures be provided above the 1% flood level on each proposed lot in the subdivision.

Comment: Not applicable.

A79.1 The subdivision lot design positively responds to:

- Slope and desirability of minimising earthworks/retaining walls associated with dwelling construction.
- Natural or cultural features;
- Soil erosion and bushfire risk;

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- Special features such as trees and views, including identification of mature stands of trees to be retained and supplementary planting.

Comment: Satisfied. The proposed lot areas and dimensions have taken into account the subject site's natural opportunities and constraints.

A80.1 Each lot is to have coincidental legal and practical access in a rural and/or residential subdivision.

Comment: Satisfied.

Appendix B – Assessment Checklist: Chapter NB3 - Moss Vale Road South Urban Release Area

7.1 – Indicative Layout Plan

7.1.2 Performance Criteria and Acceptable Solutions

A1.1 Development within the URA is in accordance with the ILP (Figure 2).

Note: Variations to the ILP may be considered where the applicant provides sound justification and can demonstrate that the proposed development meets Sections 5, 6 and 7 of this Chapter.

Comment: Discussed earlier in the report.

A1.2 Subdivision must demonstrate consistency with the following of the below residential density targets in relation to the ILP:

- Large Lot Residential: 10-14 dwellings per hectare.
- Standard Lot Residential: 15-20 dwellings per hectare.
- Small Lot Residential and Medium Density/Integrated Housing: 21-35 dwellings per hectare.

Comment: Satisfied.

7.2 – Staging

7.2.2 Performance criteria and acceptable solutions

A2.1 The staging of the URA is undertaken in accordance with Figure 3.

Comment: Satisfied.

A2.2 Sub-stages within the stages identified in Figure 3 is acceptable where infrastructure delivery has not been compromised.

Comment: Noted.

7.3 – Subdivision Design

7.3.2 Mandatory Controls

1) Subdivision applications require the lodgement of a Design Verification Statement in support of the application.

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Note: See Section 8.1 of this Chapter for guidelines to preparing a Design Verification Statement.

Comment: Satisfied.

2) Lot widths are to be relative to the lot area as per Table 1 below:

Table 1 - Lot width requirements

Lot size (m ²)	Minimum Width (m)
300 – 399	>8 and <12
400 - 499	Equal to or >12 and <15
500+	In accordance with Chapter G11: Subdivision of Land

Comment: Satisfied.

3) Subdivision of small lots must have varying lot widths. No more than three consecutive lots shall have the same lot width. A minimum variation of 10% of the adjacent lot width is required.

Comment: Satisfied.

4) Street blocks are designed to be rectangular in shape to enable permeability. The length and width of street blocks (excluding road verges) are a maximum of:

- 100m x 70m in areas where small lots are proposed and rear lane access or shared driveways are located.
- 200m x 70m in all other areas.

Comment: Discussed earlier in the report.

5) The subdivision layout is designed to maximise the number of north facing dwellings as per the indicative subdivision patterns demonstrated in Figures 4 to 6. In the case of certain forms of medium density housing and zero-allotments, preference will be given to an east-west orientation in order to maximise solar access along the longest dwelling elevation.

Comment: Satisfied.

6) Subdivision of small lots in accordance with Shoalhaven LEP 2014 must:

- Have a primary street frontage;
- Adjoin land reserved for public open space (either directly or separated by a road) or be located along a tree-lined boulevard; and
- Access is provided via a rear laneway or shared driveway arrangement, except for lots equal to or greater than 400m².

Comment: Satisfied.

7) Lots less than 400m² include a restriction as to user via a Section 88B instrument that restricts vehicular access from the primary road frontage.

Comment: Subject to recommended condition of consent.

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8) Battle-axe lots are avoided unless the access handle provides rear access to small lots.

Comment: Noted.

7.3.3 Performance criteria and acceptable solutions

A3.1 The location of zero lot lines are based on orientation and topography. The zero lot line should be located on the most southern side of the lot (refer to Figure 7) to maximise solar access.

Comment: Not applicable.

A3.2 The location of proposed zero lot lines must be demonstrated on the subdivision plan.

Comment: Not applicable.

A4.1 Corner lots shall allow for a minimum splay of 2m x 2m to allow for pedestrian and vehicular sight distance.

Comment: Satisfied.

A5.1 Where residential development adjoins public spaces (excluding laneways) the subdivision design enables the configuration of dwellings or other residential accommodation uses to front the public space.

Comment: Satisfied.

A6.1 The street layout enables view lines to be established to open space areas within the URA, and to escarpment and pastoral landscapes beyond the URA as per Figure 8.

Comment: Satisfied.

A6.2 The subdivision layout considers views into the URA from Moss Vale Road, Main Road, Taylors Lane and North Nowra.

Comment: Satisfied.

7.4 – Street Network and Hierarchy

7.4.2 Mandatory Controls

1) The street network is to be provided in accordance with Figure 2 and Figure 9. Where a variation to the residential street network is proposed, achievement of the following principles must be demonstrated:

- Establish a defined street hierarchy and permeable street network as per the key development outcomes,
- Encourage walking and cycling by ensuring allotments are within 400m walking distance from the Collector Road,
- Maximise connectivity between residential areas and open space,
- Take account of topography and improve connectivity between significant and remnant vegetation through revegetation,
- Optimise solar access opportunities for dwellings,
- Provide frontage to and maximise surveillance of open space and riparian corridors,
- Provide views and vistas to key landscape features,
- Maximise the use of water sensitive urban design measures,

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- Minimise the use of four-way intersections, and
- Minimise the use of cul-de-sacs.

Comment: Satisfied.

2) Streets are designed in accordance with Tables 2 to 6 and Figures 10 to 14. Carriageway widths are measured from lip to lip. Where roads are adjacent to a public open space area, the verge widths may be reduced to a minimum of 1.5m subject to adequate provision of footpaths, utilities, fencing, required Asset Protection Zones or buffers to riparian corridors.

Comment: Satisfied.

3) No direct vehicular access or waste collection is permitted on Tree-lined Boulevards, except for the area to the far-west of the western Collector Road (as illustrated by the dashed line in Figure 9).

Comment: Satisfied.

4) The Collector Road is designed to allow for a future public transport route as per Figure 15.

Comment: Satisfied.

5) All streets must be designed to produce a low speed environment primarily governed by the road geometry, traffic management and calming devices may be considered if required. Such traffic management devices are to be identified at subdivision DA stage.

Comment: Satisfied. It is noted that a roundabout will be required to be designed at the intersection of Road 15 and Road 20 in accordance with Austroads Guidelines. The roundabout must permit movements of 14.5m rigid buses and include raised concrete splitter islands and pedestrian facilities on all legs in accordance with Austroads Guide to Road Design Part 4B (Clause 4.5.4).

6) Street trees are required on all streets and are to be placed within the verge as per Figures 10 to 14, and Tables 2 to 6. Placement of street trees will consider underground services, driveways and easements in accordance with Figure 16. Street tree species are to be selected from the Moss Vale Road South Species List in order to establish a distinct identity for the URA. Street trees are planted with appropriate root guards to protect underground infrastructure, pathways, kerb and gutters. Street tree planting is alternated with street lighting.

Comment: Subject to condition of consent, noting the submitted landscape plan is satisfactory.

7) Construction of verges provide adequate space for underground service allocation and street trees as per Figure 16.

Comment: Noted.

8) All construction access is to be provided via Moss Vale Road. Taylors Lane will be suitable for use after the completion of the Far North Collector Road project.

Comment: Noted.

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7.5 – Laneways

7.5.2 Performance criteria and acceptable solutions

A7.1 No more than two sets of continuous laneways are provided, except where they are transected by Tree-lined Boulevards or Collector Road.

Comment: Satisfied.

A7.2 The laneway verge (excluding driveway crossovers) is to be soft landscaped to improve overall amenity and stormwater infiltration.

Comment: Satisfied.

A7.3 Where a site is located on an access denied street, waste collection and general vehicular access is to occur from the laneway.

Comment: Noted.

A7.4 Laneways incorporate sufficient lighting to meet Crime Prevention Through Environmental Design (CPTED) principles.

Comment: Subject to recommended condition of consent.

A7.5 A restriction as to user via the Section 88B instrument to restrict driveways on the front boundary.

Comment: Subject to recommended condition of consent.

7.6 – Shared Driveways

Comment: The proposed shared driveway/right of way is satisfactory, subject to Council's Subdivision Engineer recommended conditions of consent. Proposed Lots 106 to 108 and 137 are to have access prohibited to this driveway at the rear of these lots. The design is also to incorporate soft landscape areas on either side at a minimum width of 1m, suitable for infiltration.

7.7 – Pedestrian and Cycle Routes

7.7.2 Performance criteria and acceptable solutions

A9.1 Shared user paths are located within the verge except for where located within the open space areas as per Figure 18.

Note: The location of shared user paths in the verge is to avoid any water supply mains.

Comment: Satisfied.

A9.2 The location of shared user paths in open space areas avoid any existing, established vegetation to ensure retention.

Note: The location of shared user paths within open space areas in Figure 18 are indicative only.

Comment: Satisfied.

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A9.3 Shared user paths are 2m wide except for the shared path parallel to Moss Vale Road which is to be 2.5m wide.

Note: Refer to Section 7.4 of this Chapter for locations and minimum widths.

Comment: Satisfied.

A9.4 Shared user paths are constructed as per Chapter G11: Subdivision of Land.

Comment: Satisfied.

7.8 – Open Space System

7.8.2 Performance criteria and acceptable solutions

A10.1 Open spaces areas are located in accordance with the ILP at Figure 2.

Comment: Satisfied, except for Lots 504-507 (linear parks) which are to be considered road reserve as recommended by Council's Subdivision Engineer. **Discussed earlier in the report.**

A10.2 Open space areas incorporate facilities such as seating, playgrounds, BBQs, paved areas and landscape planting.

Comment: Embellishment of open space areas is not proposed as part of this application.

A10.3 The open spaces act as gateways marking connections and transitions to adjoining areas.

Comment: Noted. The proposal includes open space areas as shown on the ILP.

A10.4 Open space areas are provided in accordance with Chapter G11: Subdivision of Land.

Comment: Satisfied.

A11.1 Significant areas of natural and environmental value are retained, enhanced and incorporated into the open space network.

Comment: Satisfied.

7.9 – Landscape Strategy

A12.1 A landscape strategy, prepared by a suitably qualified person, is submitted at the subdivision DA stage. The landscape strategy is to include as a minimum:

- Landscape Plan as per Chapter G3: Landscaping Design Guidelines;
- Entry treatment (only for stages that include entry from Moss Vale Road and Taylors Lane);
- Extensive landscaping and street tree planting that incorporates deep rooted canopy trees as per the Moss Vale Road South Species List;
- Protection of remnant vegetation and established trees primarily in the public domain (as per Figure 19);
- Protection of riparian corridors (See P15 and A15.1 below);
- Provision of landmark tree planting along the two tree-lined boulevards;
- Establishment of a street lighting and furniture palette;
- Inclusion of any relevant signage detailing local history, Aboriginal cultural values, environmental education themes and the like;
- Deep soil planting to enable a substantial tree cover to be created over time;

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- Removal of existing noxious and environmental weed species; and
- Rehabilitation of E3 Environmental Management zones.

Comment: The submitted landscape plans are considered satisfactory following review by Council's Landscape Architect and Environmental Assessment Officer, subject to recommended conditions of consent.

A12.2 Provision of landscaping does not impact sight distances for traffic and pedestrians. Minimum safe sight distances must be maintained.

Comment: Satisfied. Council's Subdivision Engineer has raised no concerns in relation to this matter.

A13.1 Landscaping is designed in consideration of existing established trees through their retention in the public domain, including road reserves and open spaces. Sufficient space around existing established trees is provided to minimise potential hazards to structures.

Comment: Noted.

A13.2 Flora and fauna assessment considers any trees for removal for risk and safe useful life expectancy (SULE).

Comment: Satisfied. Council's Environmental Assessment Officer has raised no concerns with the submitted Biodiversity Development Assessment Report and Arboricultural Development Assessment Report, subject to recommended conditions of consent.

7.10 – Environment

7.10.2 Performance criteria and acceptable solutions

A14.1 Significant and remnant vegetation (including native vegetation) within the public domain, including in open space areas, is retained and opportunities for enhancement are included.

Note: Threatened species have been identified in this URA. A comprehensive Flora & Fauna assessment is to be prepared by a suitably qualified and experienced person and is to include an analysis of constraints and opportunities, identify/map areas for rehabilitation and assessment to consider any trees for removal for risk and safe useful life expectancy.

Comment: Satisfied, subject to recommended conditions of consent. Council's EAO has reviewed the submitted documentation and advised that the proposal is satisfactory in this regard.

A14.2 Identify impact mitigation and management measures to protect threatened species including but not limited to bats.

Comment: Satisfied.

A15.1 Continuous riparian zones are provided along Bomaderry Creek, Good Dog Creek and unnamed creek.

Comment: Satisfied, subject to recommended conditions of consent.

A15.2 Riparian zones and associated buffers are to be retained and enhanced using local native species to improve the ecological functions of the watercourses.

Comment: Satisfied, subject to recommended conditions of consent.

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A15.3 Buffers are vegetated to protect the integrity of the riparian zone from weed invasion, littering, sedimentation, erosion control pollution and impacts of climate change.

Comment: Satisfied, subject to recommended conditions of consent.

A15.4 Fencing within riparian corridors are minimised and across watercourses is not permitted. Where fencing is required for safety purposes, the design must allow terrestrial and aquatic fauna to pass through.

Comment: Satisfied, subject to recommended conditions of consent.

A16.1 An Aboriginal Cultural Heritage Assessment is submitted at the subdivision DA stage.

Comment: Satisfied.

A16.2 Where culturally appropriate and acceptable any Aboriginal cultural heritage identified through the Aboriginal Cultural Heritage Assessment is used to develop interpretive signage to be located in the public spaces of the URA.

Comment: Subject to recommended condition of consent.

7.11 – Stormwater Management and Flood Minimisation

7.11.2 Performance criteria and acceptable solutions

A17.1 Development Applications must be supported by a Concept Stormwater Plan. The Concept Stormwater Plan must demonstrate:

- WSUD principles (including on-site stormwater detention/retention) as per Chapter G2: Sustainable Stormwater Management and Erosion and Sediment Control.
- Stormwater management primarily within the street network.

Comment: The submitted stormwater concept plans by GHD are satisfactory, subject to recommended conditions of consent.

A17.2 Stormwater management is to be designed and implemented within the URA boundaries unless the following can be demonstrated:

- suitable topography;
- good access to the WSUD/drainage infrastructure;
- ability to be combined with an adjacent WSUD element;
- ensure that flow rates and water quality do not adversely impact the waterway reach from the site to the offsite WSUD element; and
- WSUD element is increased in size to cater for the additional catchment.

Comment: Not applicable as stormwater management is to be implemented within the URA boundaries.

A17.3 WSUD measures are operational no earlier than 90% completion to avoid any bio-retention/filtration basins or wetlands being compromised.

Comment: Satisfied.

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A18.1 'Minor' flows are managed using piped systems for the 18.13% Annual Exceedance Probability (AEP) (5 year Average Recurrence Interval) (residential accommodation) and 10% AEP (10 year Average Recurrence Interval) (mixed use development/commercial premises). Management measures shall be designed to:

- control stormwater to minimise localised flooding and reduce nuisance flows;
- provide sufficient on-site storage to match pre peak flow rates for the 50% AEP (1.5 year), 18.13% AEP (5 year) and 5% AEP (20 year) rain events;
- ensure that the duration of stream forming flows are no greater than 2 times the pre-development duration of stream forming flows at the site discharge point;
- encourage the installation of rainwater tanks for residential accommodation that meet a portion of supply such as outdoor use, toilets, laundry;
- capture and retain a high level of urban water run-off pollutants to protect local watercourses;
- include sufficient WSUD elements to achieve the water quality targets listed in the table below.

Pollutant	Reduction
Gross pollutants	90%
Total Suspended Solids	85%
Total Phosphorus	65%
Total Nitrogen	45%
Total Hydrocarbons	0%

Comment: Satisfied.

A18.2 Major 'flows' are managed using dedicated overland flow paths such as open space areas, roads and riparian corridors for all flows in excess of the pipe drainage system capacity and above the 18.13% AEP (5 year Average Recurrence Interval). Management measures shall be designed to:

- prevent both short term and long term inundation of habitable dwellings;
- control localised flooding from storm events to maintain access to lots, maintain the stability of the land form and to control erosion;
- habitable floor levels to have a minimum of 0.5m freeboard above the 1% AEP (100 year) flood level;
- ensure that any proposed filling does not cause unacceptable afflux to adjacent properties for all events up to and including the probable maximum flood;
- provide for the orderly and safe evacuation of people away from rising floodwaters by providing reliable access ensuring that the water depth – velocity product is no greater than 0.3m²/s for events up to 1% AEP (100 year) storm;
- provide sufficient on-site storage to match pre development peak flow rates for the 1% AEP (100 year) rain event. This will be achieved using detention storage within water quality features and detention basins.

Comment: Satisfied.

Planning Report – S4.15 Assessment – 104 Taylors Lane, CAMBEWARRA - Lot 3 DP 851823

A18.3 Management measures for minor and major flows (including WSUD elements) must not result in obstruction/redirection of flood waters as per Chapter G9: Development on Flood Prone Land.

Comment: Satisfied.

A19.1 Stormwater outlets include an appropriate flow spreader/energy dissipater to replicate pre development flow conditions.

Comment: Satisfied.

A20.1 Stormwater discharge is designed to achieve targeted reductions as per Chapter G2: Sustainable Stormwater Management and Erosion and Sediment Control.

Comment: Satisfied.

7.12 – Residential Development

Comment: Not applicable. Only subdivision proposed.

7.13 – Fencing

Comment: Not applicable. No fencing proposed.

8.1 – Information required with subdivision applications

Subdivision Plans

Must demonstrate the location of proposed or potential zero-allotments.

Comment: Not applicable. This detail has not been provided.

Staging Plans

All subdivision applications must demonstrate consistency with the indicative staging plan at Figure 3 in this DCP Chapter. Staging plans must identify the indicative dwelling yield and provision of infrastructure to be delivered for that stage of the development.

Comment: Satisfied. The proposed staging is consistent with the indicative staging in this chapter.

Design Verification Statement (DVS)

A DVS is a document that provides clear and sound reasoning on how the proposed development meets the relevant objectives, performance criteria and acceptable solutions of this Chapter. A DVS is required to support a subdivision DA which includes small lots as per Shoalhaven LEP 2014. The DVS must include but is not limited to:

- A description of the proposed development (except for where the DVS is contained within a Statement of Environmental Effects).
- A robust explanation of the design of the subdivision and how it meets the individual key development outcomes (refer to Section 6 of this Chapter).
- Identify and justify any variations to the ILP.

Comment: The submitted Statement is generally satisfactory.

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DE21.47 - Attachment 1



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
Deering St, Ulladulla NSW 2539 | 02 4429 8999

[Address all correspondence to](#)

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**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979
SF10804

TO:

Watersplash Lane Pty Ltd
Suite 110, Level 1,
350 George Street

being the applicant(s) for SF10804 relating to:

104 Taylors Lane, CAMBEWARRA - Lot 3 DP 851823

APPROVED USE AND OR DEVELOPMENT:

Staged residential subdivision to create 217 Torrens Title allotments, including 213 residential allotments, three (3) open space allotments, one (1) residue lot, and demolition of existing structures, earthworks, and provision of roads, drainage and utility infrastructure along with associated landscaping works

DETERMINATION DATE:

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

CONSENT TO LAPSE ON:

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

PART A : GENERAL CONDITIONS

1. General

The consent relates to **Staged residential subdivision to create 217 Torrens Title allotments, including 213 residential allotments, three (3) open space allotments, one (1) residue lot, and demolition of existing structures, earthworks, and provision of roads, drainage and utility infrastructure along with associated landscaping works** as documented on the stamped plans/documentation, or as modified by the conditions of this consent. The development must be carried out in accordance with this consent. If there is inconsistency between the stamped plans/documentation and the conditions of consent, the conditions prevail to the extent of that inconsistency.

Stamped plans/documents	Ref/sheet no.	Prepared by	Dated
Lot Layout Plan	Drawing No. 23-16416-C108	GHD	11/03/2021 Revision D
General Arrangement Plans	Drawing No. 23-16416-C110 to C113 Drawing No. 23-16416-C114	GHD	11/03/2021 Revision E 18/12/2020 Revision D
Demolition Plan	Drawing No. 23-16416-C115	GHD	10/03/2021 Revision C
Bulk Earthworks Plan	Drawing No. 23-16416-C131	GHD	11/03/2021 Revision C
Stormwater Concept Plans	Drawing No. 23-16416-C150 to C153 Drawing No. 23-16416-C154	GHD	11/03/2021 Revision B 23/03/2020 Revision A
Subdivision Plan	Drawing No. 23-16416-C195	GHD	11/03/2021 Revision E
Landscape Master Plan	Project No. 18-036W Drawing No. 00 to 08	Taylor Brammer Landscape Architects Pty Ltd	12/03/2021 Revision H
Preliminary Site Investigation Report	Project No. 23-16416	GHD	20/03/2020 Revision 1
Aboriginal Cultural Heritage Assessment Report	Project No. 18-697	NGH Environmental Pty Ltd	19/06/2019

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act, or a new development application.

2. Staged Development

Consent is given for the approved development in the following stages:

- Stage 1A – Creation of 17 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 1B – Creation of 20 residential allotments and one (1) open space allotment and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.

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- Stage 2A – Creation of 27 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 2B – Creation of 19 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 2C – Creation of 18 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 3 – Creation of 40 residential allotments and one (1) open space allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 4A – Creation of 46 residential allotments and one (1) open space allotment and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.
- Stage 4B – Creation of 26 residential allotments and residue allotment, and provision of roads, drainage and utility infrastructure along with associated landscaping works.

Note: The conditions of this consent apply to all stages unless specified.

3. Prescribed Conditions

The development must comply with the [Prescribed Conditions of Development Consent](#), Division 8A, *Environmental Planning and Assessment Regulation 2000*, as applicable.

4. Native Vegetation and Habitat

The removal and/or disturbance of native vegetation and habitat on the property, including canopy trees, understorey and groundcover vegetation, is restricted to that required to construct and maintain the development in accordance with the approved plans.

5. Taylors Lane

No access is permitted to Taylors Lane at this time given Council's resolution to defer a decision on the upgrade of Taylors Lane as part of the Far North Collector Road project and undertake a review of the zoning and planning controls applicable to land around Taylors Lane.

PART B : INTEGRATED DEVELOPMENT AND CONCURRENCE CONDITIONS

6. Heritage NSW

The conditions of the General Terms of Approval issued by Heritage NSW, Reference No. DOC21/235657, dated 30 March 2021, are included as conditions of this consent and must be complied with.

7. Transport for NSW

The conditions issued by Transport for NSW, Reference No. STH17/00220/28, dated 24 March 2021, are included as conditions of this consent and must be complied with.

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PART C : PRIOR TO THE COMMENCEMENT OF WORKS**8. Subdivision Works Certificate**

A Subdivision Works Certificate must be obtained from either Council or an accredited certifier prior to commencement of any subdivision work.

9. Appointment of Principal Certifier

Prior to the commencement of building or subdivision work, a Principal Certifier must be appointed.

10. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building or subdivision work by completing and returning the form ['Commencement Notice for Building or Subdivision Work and Appointment of Principal Certifying Authority'](#)

11. Notice of Commencement – Responsible Person Subdivision

Prior to the commencement of works, written notice must be given to Council (at least two days prior) that includes the name and contact number of a professional engineer, (as defined in the National Construction Code) / surveyor responsible for all subdivision works.

12. Toilet Facilities - Temporary

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

13. Public Safety and Protection of Public Property - Hoarding

Prior to the commencement of works a Class A temporary hoarding must approved under section 138 and erected between the work site and adjoining lands in accordance with SafeWork NSW guidelines and AS 2601 *Demolition of structures*. The hoarding must be kept in place until completion of the works.

14. Construction Traffic Management Plan

Prior to the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council.

Details must include, but are not limited to:

- a) Avoid direct construction access to Moss Vale Road
- b) Stabilised site construction access location

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- c) Proposed haulage routes for delivery of materials to the site
- d) Proposed haulage routes for spoil disposal from the site
- e) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction
- f) Parking arrangements for construction employees and contractors
- g) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance
- h) Loading / unloading areas
- i) Requirements for construction or work zones
- j) Pedestrian and cyclist safety
- k) Speed zone restrictions.

15. Runoff and Erosion Controls

Prior to the commencement of site works, runoff and erosion controls must be implemented and maintained during construction to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated runoff around cleared or disturbed areas.
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties.
- c) preventing the tracking of sediment by vehicles onto roads.
- d) stockpiling topsoil, excavated materials, construction and landscaping supplies and debris within the lot.

16. Dilapidation Report

The developer must engage a competent person to prepare a dilapidation report in respect of the neighbouring premises and adjacent public infrastructure, including adjacent kerbs, gutters, footpaths (formed or unformed), driveways (formed or unformed), carriageway, reserves and the like to document evidence of any existing damage.

The dilapidation report must consider the impact of any excavation work that extends below the level of the base of the footings of any structure within 0.9metres of the shared boundary.

Before works commence, a copy of the dilapidation report must be provided to the Certifier and Council. The dilapidation report will be the benchmark for necessary repairs to damage caused during the development works. The repairs must be completed by the developer at the developer's cost.

Not less than seven (7) days before works commence, the developer must notify the owner of any affected property of the intention to carry out approved works. The developer must also furnish the owner with details of the approved work.

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17. Works within the Road Reserve

Prior to undertaking any works within an existing road reserve, the developer must obtain the consent of Council under *section 138 of the Roads Act, 1993*.

The following details must be submitted to Council as part of the application:

- a) Any civil works design required by this consent
- b) Evidence of the contractor's Public Liability Insurance to an amount of \$20 million
- c) Name and contact information of the person responsible for all relevant works
- d) A Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
- e) Where the Traffic Control Plan requires a reduction of the speed limit, a 'Application for Speed Zone Authorisation' must be obtained from the relevant road authority.

18. Tree and Vegetation Protection

Prior to the commencement of any clearing works the following requirements must be met to the satisfaction of the Certifier:

- a) The developer must identify the extent of clearing work as shown on the approved plans. A temporary protective barrier or similar visible material must be installed in accordance with the approved tree and vegetation plan and retained until all work are complete.
- b) The dripline of trees to be retained must be clearly identified and protected with temporary barrier fencing in accordance with *AS 4970: Protection of trees on development sites*.

Note: Tree protection fencing must remain in place for the extent of the approved onsite works.

19. Plan for The Dewatering of Dams

Prior to the removal or draining of any dams, a plan for the dewatering of the dams within the site must be provided to the Certifier and Council. This must include measures to ensure dam water or sediment does not leave the site and contaminate downstream environments. Protocols must be provided to minimise impacts to native fauna and safely translocate any wildlife (as required) to suitable habitat nearby.

20. Dam Decommissioning – Engineering Requirement

Prior to the commencement of works, a detailed report outlining a suitable method of compaction must be prepared by a professional engineer (as defined in the National Construction Code) and provided to the Certifier and Council.

Soil must be compacted in accordance with AS 1289 Methods of testing soils for engineering purposes - Definitions and general requirements.

Engineering Certification will be required on completion of the works.

21. Waste Management Plan

A Waste Management Plan (WMP) must be prepared in accordance with Chapter G7 of Shoalhaven Development Control Plan 2014. The WMP must be approved by Council or the Certifier prior to any demolition or vegetation clearing works commencing.

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PART D : PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

NIL

PART E : PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

22. Compliance with Conditions

A Subdivision Works Certificate must not be issued until the Certifier has received evidence that all relevant conditions have been met.

23. Amended Subdivision Plan

Prior to the issue of a Subdivision Works Certificate, an amended subdivision plan is to be submitted to Council for approval. The amended plan is to include the following amendments:

- a) The inclusion of a stub for a local road on the western side of Road 25 between Road 16 and Road 27 generally in the location of Lot 261 as outlined in Figures 2 and 9 of Chapter NB3, Shoalhaven Development Control Plan 2014, or an alternative location as agreed to by Council.
- b) The inclusion of a suitable turning head to ensure no access is provided to Taylors Lane.

24. Required credit obligation

The *NSW Biodiversity Conservation Act 2016* requires that a condition to retire credits is to be complied with before any development that would impact on biodiversity values is carried out (*BC Act* s7.13(5)). Evidence that credit obligations have been met must be provided to Council prior to issue of a Subdivision Works Certificate, for each of the four stages. A private certifier cannot assume the role of the consent authority in confirming compliance with offset conditions. The credit requirement is detailed below:

Credit Classes for PCT 1206	Like-for-like options		
	Any of the following PCT'S	Containing HBT	In the below IBRA subregions
	Southern Lowland Wet Sclerophyll Forests; This includes PCT's: 777, 1079, 1206, 1212, 1214, 1220, 1283	Yes	Illawarra, Ettrema, Jervis, Moss Vale, Sydney Cataract and Northern Basalts. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.
	Variation options		
Number of credits required: 78 in total. 21 prior to Stage 1 17 prior to Stage 2 23 prior to Stage 3 17 prior to Stage 4	Any PCT in the below formation and in any of below trading groups	Containing HBT	In the below IBRA regions/subregions
	Wet Sclerophyll Forests (Grassy sub	Yes (including artificial)	IBRA Region: Sydney Basin, or

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	formation) Tier 7 or higher		Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.
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Like for like credit obligations may be achieved through either:

- The purchase and retirement of credits

Evidence must be provided in the form of a credit retirement report issued by NSW Office of Environment and Heritage (OEH) confirming credit transactions. The credit transaction must correspond to the required like for like credits from an appropriate location.

- Payment into the Biodiversity Conservation Fund (BCF) administered by the Biodiversity Conservation Trust (BCT)

Evidence must be provided in the form of a section 6.33 Statement Confirming Payment into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The payment transaction must correspond to the appropriate class and number of credits required.

Note that the use of variation rules to utilise the "Variation options" under the Biodiversity credit obligation options, can only be approved following demonstration of reasonable steps to locate like for like offsets. Actions that constitute 'reasonable steps' are outlined in the ancillary rules <https://www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf>

25. Staging of credit retirement

The *NSW Biodiversity Conservation Act 2016* requires that a condition to retire credits is to be complied with before any development that would impact on biodiversity values is carried out (*BC Act* s7.13(5)). Evidence that credit obligations for each subdivision stage have been met (as detailed in Condition 21) must be provided to Council prior to issue of a Subdivision Works Certificate for each of the four (4) stages as detailed in the subdivision plan by GHD (Drawing No. 23-16416-C195, Revision E, dated 11/03/2021).

Where engineering works are proposed near retained trees detailed plans must be provided that show all trees to be retained surrounded by temporary protective fencing. Services (water, sewer etc.) must be aligned outside of the "drip line" of trees to be retained wherever possible.

26. Contamination

Prior to the issue of a Subdivision Works Certificate, a Stage 2 Contamination Assessment is to be submitted to Council in accordance with that recommended by the preliminary site investigation report by GHD (Project No. 23-16416, Revision 1, dated 20/03/2020). If this assessment reveals contaminant levels above the recommended health investigation levels (HILs), the soil investigation may be expanded or a Remedial Action Plan (RAP) required.

- If any remediation is required, it must be undertaken in accordance with the findings of the Stage 2 Contamination Assessment and RAP. A notice (i.e. validation report) must be issued and submitted to Council for this, pursuant to clause 18 of State Environmental Planning Policy No 55 – Remediation of Land. Note that separate development consent is required if the remediation work is Category 1.
- Such testing is to provide technical details for remedial works and to ensure the site is suitable for the proposed land use and adequately assess health risks and implement

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appropriate control measures. The further investigation must be conducted by a suitably qualified person in accordance with the *NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites*.

- c) The authority issuing the Subdivision Works Certificate for the development must obtain written approval from Council advising that the submitted RAP is satisfactory prior to the issue of a Subdivision Works Certificate.
- d) After completion of the remedial works (i.e. those works required by the RAP including those as updated in the above condition), a validation report for the development site must be prepared by a suitably qualified person in accordance with the "NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites". This report must be prepared with reference to the *NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites*, and must:
 - i) Describe and document all works performed;
 - ii) Include results of validation testing and monitoring;
 - iii) Include validation results of any fill imported on to the site;
 - iv) Show how all agreed clean-up criteria and relevant regulations have been complied with; and
 - v) Include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
- e) The authority issuing the Subdivision Works Certificate for the development must obtain written approval from Council advising that the submitted validation report is satisfactory prior to the issue of a Subdivision Works Certificate.
- f) Depending on the outcome of the further investigations as detailed above, Council reserves the right to call for a Site Audit Statement in accordance with the NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's "Guidelines for the NSW Site Auditor Scheme".

27. Design Standards - Subdivision Works

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor in accordance with Council's Engineering Design and Construction Specifications and approved by the Certifier. Specifications can be found on Council's web site.

28. Soil and Water Management Plans (SWMP)

Prior to the issue of a Subdivision Works Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer, (as defined in the National Construction Code) to the satisfaction of the Certifier.

All implemented measures must:

- a) not cause water pollution as defined by the [Protection of the Environment Operations Act](#) (POEO)
- b) be maintained at all times
- c) not be decommissioned until at least 70% revegetation cover has been established

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29. Agreement for Provision of Stormwater Infrastructure

Prior to the issue of a Subdivision Certificate, the developer is to provide the Certifier evidence that the developer has entered into a satisfactory agreement and arrangements with Council for the arrangement of stormwater treatment infrastructure as required under DCP Chapter NB3 and Contribution Plan 01DRAI0006.

30. Stormwater Treatment Infrastructure

Prior to the issue of a Subdivision Certificate, a detailed design of grassed swale stormwater quality improvement devices located within the development as per Contribution Plan 01DRAI0006 must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design in accordance with Council's Engineering Design and Construction Specifications and Contribution Plan 01DRAI0006 is to be approved by Council. Alternatively the developer is to provide the Certifier evidence that the developer has entered into a satisfactory agreement and arrangements with Council for the equivalent level of stormwater treatment to be provided outside of the subdivision extent as required under DCP Chapter NB3 and Contribution Plan 01DRAI0006.

31. Environmental Management

A detailed and fully costed Environmental Management Plan (EMP) prepared by a suitably qualified restoration ecologist or 'bush regenerator' for the restoration and enhancement of the E2 zoned riparian buffer as well as the E3 zoned area adjacent to Moss Vale Road as per the objectives of Chapter NB3, Shoalhaven Development Control Plan 2014, must be submitted to Council's Director of City Development Group for approval prior to the issue of a Subdivision Works Certificate.

The EMP must describe the composition and condition of the existing vegetation and address a number of issues including, but not limited to, restoration and enhancement of existing cleared areas, fencing, access, weed removal, and the extent and nature of riparian buffer zones and rehabilitation. The EMP must include mapping of vegetation management zones according to the varying management requirements of the site and zonings as well as objectives, management actions and performance measures for each zone. The EMP must also include a clear timetable of works for the implementation of the plan as part of the subdivision Stage 1A construction with the standard of rehabilitation to be reached prior to the issue of a Subdivision Certificate for this stage.

- 32.** To protect the significant environmental features on the site, prior to the issue of a Subdivision Works Certificate, written evidence must be submitted along with onsite contact details to Council that a suitably qualified environmental consultant has been engaged to supervise the clearing works.

Written approval must be obtained from Council that the submitted information is satisfactory prior to the issue of a Subdivision Works Certificate.

33. Design Standards – Works Within Road Reserve

Prior to the issue of a Subdivision Works Certificate, all subdivision works proposed within road reserves must be approved by Council.

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34. Subdivision Entry and Signage

Prior to the issue of a Subdivision Works Certificate, details of approved signs, fencing, and landscaping must be shown on the Subdivision Works Certificate plans and approved by Council or an accredited certifier.

35. Existing Services

Prior to the issue of a Subdivision Works Certificate, the developer must check that the proposed works are not affected by or do not affect any Council electricity, telecommunications, gas, or other service. All services existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services will be at the developer's expense.

36. Retaining Walls - Design (subdivision)

Prior to the issue of a Subdivision Works Certificate:

- a) design plans for retaining walls exceeding 0.6m in height above ground level (existing) must be prepared and submitted to the Certifier for approval.
- b) where a retaining wall exceeds 1m in height, a certificate prepared by a suitably qualified professional engineer, (as defined in the National Construction Code), must be submitted with the plans and specifications.
- c) exempt retaining walls not exceeding 0.6m in height above ground level (existing) must comply with the relevant exempt criteria listed in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note: *Construction within a registered easement is prohibited.*

37. Site Filling Design Standards - Subdivision

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The site filling design must comply with the following:

- a) The must be regraded generally in accordance with the concept bulk earthworks plan by GHD (Drawing No. 23-16416-C131, Revision C, dated 11/03/2021) having an absolute minimum grade of 0.5%.
- b) The filling specification must be approved by Council and require all allotment filling to be placed in accordance with AS 3798 Guidelines on earthworks for commercial and residential developments and compacted at least to the minimum relative compaction listed in the standard applicable to the type of development / subdivision.

38. Design Standards – Traffic Committee Referral

Prior to the issue of a Subdivision Works Certificate details of proposed traffic management and traffic control devices must be submitted to the satisfaction of Council for referral and endorsement of the Shoalhaven Traffic Committee.

Note: *This process can take six to eight weeks.*

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39. Road Design Standards (Urban) – Greenfield Subdivision

Prior to the issue of a Subdivision Works Certificate, certified road design engineering plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The road design must comply with the following:

- a) Council's Engineering Design Specifications sections D1 – Geometric Road Design and D2 – Flexible Pavement Design.
- b) AUSTRROADS Design Requirements and Specifications.
- c) In accordance with the concept general arrangement plans by GHD (Drawing No. 23-16416-C110 to C113, Revision E, dated 11/03/2021 and Drawing No. 23-16416-C114, Revision D, dated 18/12/2020) except where specified by relevant conditions of consent.
- d) Avoid trapped low points and ensure that overland flow is passed safely over public land.
- e) Design Vehicles – 14.5m rigid bus for all temporary and permanent bus routes.
- f) Local Area Traffic Management (LATM) devices to be provided on all roads that exceed the maximum street leg lengths outlined within Council's DCP Chapter G11. All LATM devices must be designed with consideration of the road's status as a bus route where relevant, and be in accordance with Chapter G11, Shoalhaven Development Control Plan 2014, Austroads Guidelines and/or AS1742.13.
- g) Integral kerb and gutter/layback kerb and gutter in accordance with Council's Standard Drawings.
- h) Frontages of all open space and linear park lots to be constructed with upright kerb and gutter.
- i) Subsoil drainage behind the kerb line on the high side of the road or both side if the cross fall is neutral or the road is in cut.
- j) A temporary vehicle turning area must be provided at the end of each terminating road and/or stage. The turning area must be designed to have a 9.5m radius and a minimum pavement thickness of 200mm. The turning area is to be delineated by the use of guide posts at maximum 5m spacing with a D4-4A sight board at the end on the centreline.
- k) Property boundaries at road intersections must have minimum 4m corner splays. The dimensions of splays on local access roads and other roads of a higher hierarchy must be based on the size of kerb returns needed to cater for the appropriate design vehicle.
- l) A roundabout must be designed at the intersection of Road 15 and Road 20 in accordance with Austroads Guidelines. The roundabout must permit movements of 14.5m rigid buses and include raised concrete splitter islands and pedestrian facilities on all legs in accordance with Austroads Guide to Road Design Part 4B (Clause 4.5.4), and appropriate lighting, signage and line markings.

40. Right of Way Design Standards – Urban

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier.

The right of way design must comply with the following:

- a) Council's Engineering Design Standard Drawings.

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- b) Centrally placed and constructed using 20 MPa reinforced concrete, reinforced with SL72 mesh, on a 75mm compacted fine crushed rock base with minimum:
 - i) 3 metre width for access to 1-2 lots,
 - ii) 3.5 metres with for access to 3-4 lots, and
 - iii) 5 metres width for access to 5-6 lots.
- c) Installation of conduits for services for the full length of the driveway.
- d) Ensure stormwater runoff is not concentrated on to adjoining lots.
- e) Provision of a turning facility suitable for manoeuvring of the Australian Standard 99% design vehicle located at the furthest end of the driveway from the public road.
- f) Incorporate soft landscape areas on either side at a minimum width of 1m, suitable for infiltration.

41. Cycleway and Footpath Design Standards

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The cycleway and footpath design must comply with the following:

- a) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
- b) Locations shown on the concept general arrangement plans by GHD (Drawing No. 23-16416-C110 to C113, Revision E, dated 11/03/2021 and Drawing No. 23-16416-C114, Revision D, dated 18/12/2020) with:
 - i) A 2.0m width on the northern side of the Tree Line Boulevard (Road 20) and 1.2m width elsewhere.
 - ii) 3% cross fall from the boundary to top of kerb.
 - iii) match existing footpath levels of adjoining footpaths and be a uniform grade or where this cannot be achieved, a longitudinal section must be designed.
 - iv) kerb ramps at intersections in accordance with Council's Engineering Design Specifications.
 - v) Constructed on a 75mm compacted fine crushed rock base with minimum 100mm thick 25MPa concrete and SL72 steel reinforcement mesh.
- c) Cross section design to be provided from road centreline to the boundary at each driveway access point.

42. Lighting Design – Street Lighting on Public Roads

Prior to the issue of a Subdivision Works Certificate, the developer must request a Public Lighting Design Brief from Council as per the requirements of the authority (Endeavour Energy).

43. Structural Design – Major Structures

Prior to the issue of a Subdivision Construction Certificate, a detailed structural design for the following works must be certified professional engineer, (as defined in the National Construction Code) and approved by Council.

- a) Bridges and other major drainage structures, including pre-cast concrete culverts, headwalls, wing walls and stormwater pits / structures that require steel reinforcement.
- b) Any proposed dams to be retained within the subject land to confirm structural adequacy. This must also be accompanied by certification from a geotechnical engineer or equivalent.

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- c) The structural design must comply with the Council's Engineering Design Specification – Chapter 3 – Structures/Bridge Design and relevant Australian Standards.

44. Stormwater Drainage Design Standards (Urban)

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans, specifications, and DRAINS model (or approved alternative) must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approved by the Certifier. The stormwater drainage design must comply with the following:

- a) Major and minor drainage systems in accordance with Council's Engineering Design Specifications - Section D5 - Stormwater Drainage Design and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines.
- b) The minor and major systems must be designed for a 18.13% AEP and 1% Annual Exceedance Probability (AEP) rainfall events, respectively.
- c) Generally, in accordance with stormwater concept plans by GHD (Drawing No. 23-16416-C150 to C153, Revision B, dated 11/03/2021 and Drawing No. 23-16416-C154, Revision A, dated 23/03/2020) except where specified by relevant conditions of consent.
- d) Where a pipe drains a public road through land adjoining the road, the pipe is to be designed to cater for the 1% AEP event with an overland flow path to provide for bypass/surcharge in the event of the pipe or pit inlet being 50% blocked.
- e) Interallotment drainage is to be provided for all lots within the subdivision which do not achieve fall to the street.
- f) The existing stormwater drainage system is to be adjusted to suit the new works. In this regard the following is required:
 - i) existing drainage systems through lots draining public roads are to be upgraded where necessary to contain flows in accordance with Council's Engineering Design Specifications - Section D5.04.
 - ii) all relevant calculations are to be noted on the drainage plans to confirm the adequacy of the existing system, or the upgraded design.
- g) Where temporary outlets for drainage lines that are to join with future stages are required, easements must be placed over the outlets and for a suitable distance over the remainder lot to allow stormwater to spread overland. Outlets must be protected against erosion. Details of temporary outlet treatments are to be included with the application for a Subdivision Works Certificate. Concentrated flow across adjacent lots which do not form part of the subdivision are to be avoided.
- h) Design of stormwater drainage is to include piping, swales and easements to facilitate future development of the site.

45. On-Site Detention – Greenfield Subdivision

Prior to the issue of a Subdivision Works Certificate, certified engineering design plans and specifications must be prepared by a professional engineer, (as defined in the National Construction Code) or surveyor and approve by the Certifier.

The on-site stormwater detention (OSD) design must comply with the following:

- a) Demonstrate compliance with DCP Chapters NB3 (including the supporting Integrated Water Cycle Management Plan) and G2.

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46. Stormwater Drainage Design – Trunk Drainage

Prior to the issue of a Subdivision Works Certificate, a detailed design including certified engineering plans, specifications and DRAINS model (or an approved alternative) for any major trunk drainage must be certified by a professional engineer, (as defined in the National Construction Code) demonstrating the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications and utilising Australian Rainfall and Runoff (ARR, 2019) Guidelines and approved by Council Specifications can be found on Council's web site.

47. Shoalhaven Water – Prior to the Issue of a Subdivision Works Certificate

Prior to the issue of a Subdivision Works Certificate, all conditions listed on the Shoalhaven Water, Water Development Notice under the heading "Prior to the Issue of a Subdivision Works Certificate" must be complied with and accepted by Shoalhaven Water. Written notification must be issued by Shoalhaven Water and provided to the Certifier (for each stage, where staged).

48. Flooding – Subdivision Works Certificate Requirements

Prior to the issue of a Subdivision Works Certificate, a professional engineer, (as defined in the National Construction Code) must submit to the satisfaction of the Certifier, certification that the following items have been detailed on the construction drawings:

- a) All roads will be constructed at or above the 1% Annual Exceedance Probability (AEP) Projected 2100 event flood level as documented on a Flood Certificate obtained from Council that is based on the latest flooding information held.
- b) All new lots are constructed at or above the 1% AEP event Projected 2100 flood level as documented on a Flood Certificate obtained from Council that is based on the latest flooding information held.
- c) Flood-free emergency vehicle access is provided to the subdivision for ambulance, SES, fire brigade, police and other emergency services during a 1% AEP flood event.
- d) Flood-free pedestrian access is provided during a 1% AEP flood event.
- e) All electrical installations (as defined in Schedule A4 (B) of DCP Chapter G9) must be constructed above the Flood Planning Level (FPL) or be able to be isolated prior to a flood event.
- f) The location of all hazardous substances are located at or above the 1% AEP Flood Level.

49. Design Standards – Linear Park

Prior to the issue of a Subdivision Works Certificate, landscaping design plans for the areas marked as linear parks on the approved plans must be prepared by an appropriate qualified person and approved by Council. The landscape design must comply with the following:

- a) A meandering 2m wide concrete shared path must be designed for the full extent of the linear parks in accordance with the following:
 - i) Councils Engineering Design Specifications Section D8 – Cycleway and Footpath Design.
 - ii) match existing levels and be a uniform grade over the length of the alignment, or where this cannot be achieved, a longitudinal section must be designed.

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- iii) kerb ramps at the public road intersections in accordance with Council's Engineering Design Specifications.
- b) The entirety of the linear park areas are to be embellished with turf and must be a suitable grass species as agreed by Council.
- c) Public lighting is to be provided for the entirety of the alignment of the shared path compliant with AS/NZS 1158.3.1 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements.

PART F : DURING WORKS

50. Hours for Construction

Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday. Proposed changes to hours of construction must be approved by Council in writing.

51. Demolition

Demolition work must be carried out in accordance with AS2601-2 [SafeWork NSW – Code of Practice, Demolition Work \[ISBN 978-0-642-78415-5\]](#) and [SafeWork NSW – Code of Practice, How to Safely Remove Asbestos \[ISBN 978-0-642-33317-9\]](#) as applicable.

52. Excavation

Excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-78544-2)* published by Safe Work Australia in October 2018.

53. Aboriginal Objects Discovered During Excavation

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) All excavation or disturbance of the area must stop immediately
- b) The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the [National Parks and Wildlife Act 1974](#).

54. Archaeology Discovered During Excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- a) All work must stop immediately in that area
- b) In accordance with the *Heritage Act 1997*, the Office of Environment and Heritage must be advised of the discovery.

55. Earthworks Cut, Fill and Grading

The maximum grading of cut or fill must be 2H:1V where there is no retaining wall or no other method of stabilising cut or fill during construction. The maximum depth of cut or fill on any portion

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of the allotment must be 2m except where identified within the concept bulk earthworks plan by GHD (Drawing No. 23-16416-C131, Revision C, dated 11/03/2021).

56. Dam Decommissioning

The existing dams must be decommissioned and filled to meet the following requirements:

- a) Soil must be compacted in accordance with the submitted professional engineer's report.
- b) Soil must be compacted in accordance with AS 1289 Methods of testing soils for engineering purposes - Definitions and general requirements.
- c) At any location, where fill is not flush with the adjoining ground, the maximum batter must be 25% (1V:4H).
- d) Temporary erosion controls must be retained in place until permanent control measures are stabilised.
- e) A lot classification, in accordance with *AS 2870 Residential slabs and footings* must be obtained to a standard not less than 'H'.

57. Waste Management Plan

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan (WMP) or removed to an authorised waste disposal facility. Waste must not be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site. Compliance with the WMP must be demonstrated by the submission of tip receipts to the Certifier.

Note: "Waste" is defined in the Dictionary to the Protection of the Environment Operations Act 1997 (POEO Act).

58. Maintenance of Site and Surrounds

During works, the following maintenance requirements must be complied with:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Where tree or vegetation protection measures are in place, the protected area must be kept clear of materials and / or machinery.
- d) The developer must maintain the approved soil water management measures to the satisfaction of the Certifier for the life of the construction period and until runoff catchments are stabilised.
- e) During construction:
 - i) all vehicles entering or leaving the site must have their loads covered, and
 - ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- f) At the completion of the works, the work site must be left clear of waste and debris.

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59. Imported Fill - VENM or ENM Only

Where fill is imported to the site it must be characterised as virgin excavated natural material (VENM) or excavated natural material (ENM) as defined in Part 3 of schedule 1 of the *Protection of the Environment Operations Act 1997 (POEO Act)*

Documentation must be provided to the Certifier certifying that imported fill material is not contaminated and does not contain contaminants such as asbestos, chemicals or building waste.

60. CCTV Inspection of Stormwater Pipes

Prior to the completion of works, all stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV and submitted to the Certifier for approval. The CCTV must be carried out in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia Version 3.1 after all earthworks and adjacent road pavement works have been completed.

Damaged pipes must either be replaced or repaired to the satisfaction of the Certifier prior to the issue of a Subdivision Certificate.

61. Stormwater Connections in Road Reserve

Prior to completion of works, the site supervisor must ensure that stormwater connections between the property boundary and the new kerb and gutter are inspected and approved by Council and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.

Note: A section 138 approval under the Roads Act 1993 will be required for any works within the road reserve.

62. Lot Filling

Prior to completion of works, the developer must ensure that the following requirements are met in relation to lot filling:

- a) The site supervisor must ensure that all fill outside the allotment areas must be placed in accordance with Council's Engineering Construction Specification.
- b) Performed under Level 1 supervision by a professional engineer, (as defined in the National Construction Code).
- c) A Level 1 Supervision Report is to be approved by Council prior to the release of the Subdivision Certificate.
- d) Obtain a lot classification, in accordance with AS 2870 *Residential slabs and footings*, of no worse than 'H'; a lot classification must be submitted to Council prior to the release of the Subdivision Certificate.
- e) Any fill must:
 - i) have a maximum batter of 25% (1v:4h) at any location.
 - ii) not encroach onto adjoining land.
 - iii) not cause the diversion or concentration of natural overland stormwater runoff onto adjoining property.
 - iv) be protected against erosion, with measures incorporated in the erosion and sediment control plan.

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- f) include adjustment of services (manholes, inter-allotment drainage, etc.) in the scope of works.

63. Tree Removal

Trees approved for removal must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.

64. Clearing works must be supervised by a suitably qualified environmental consultant.

65. Wildlife Protection

Wildlife protection measures must include:

- a) All vegetation to be removed must be inspected for wildlife prior to removal
- b) Works must cease until any wildlife present has relocated
- c) All vehicles and mechanical plant must be inspected for wildlife prior to operation
- d) All trenches must be inspected for wildlife prior to backfilling
- e) Any injured wildlife must be referred to Wildlife Rescue South Coast 0418 427 214

66. Management of Exclusion Zones

Fenced areas including the drip line of trees and areas of native vegetation as well as the riparian buffer within the E2 zoned area must be managed as exclusion zones during works. No storage of materials, tools, machinery, waste, disposal of liquid waste or washing of tools or equipment is to occur within these areas.

67. Dewatering of Dams

Dewatering and removal of dams must be conducted in accordance with the approved plan for the dewatering of the dams.

PART G : PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

NIL

PART H : PRIOR TO THE ISSUE OF A SUBDIVISION / STRATA CERTIFICATE

68. Subdivision Certificate

A Subdivision Certificate must be obtained from Council or an accredited certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.

69. Schedule of Compliance

The Subdivision Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with Council (i.e. a security). A schedule of compliance in table format must be submitted with the application for a Subdivision

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Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.

70. State Public Infrastructure Contributions

Prior to the issue of a Subdivision Certificate, the developer must demonstrate compliance with all relative obligations under the planning agreement (INSERT REF NO and PARTIES) for the provision of state public infrastructure contributions.

71. Local Infrastructure Contributions - Subdivision

This development will generate a need for the additional services and/or facilities described in Shoalhaven Contributions Plan 2019 and itemised in the following table:

Project	Description	Calculation	Amount
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23 * 156.23	\$109,396.93
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04 * 156.23	\$84,839.14
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01 * 156.23	\$114,518.15
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	\$29.98 * 156.23	\$4,683.78
01DRAI0006	Moss Vale Road South URA Drainage	\$3,376.85 * 156.23	\$527,565.28
01OREC5015	Moss Vale Road South URA Passive Recreation	\$10,873.31 * 156.23	\$1,698,737.22
01ROAD0154	Moss Vale Road South URA Roads	\$5,736.36 * 156.23	\$896,191.52
CWAREC5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,931.92 * 156.23	\$301,823.86
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12 * 156.23	\$228,114.55
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53 * 156.23	\$200,057.20
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30 * 156.23	\$10,982.97
CWFIRE2001	Citywide Fire & Emergency services	\$138.13 * 156.23	\$21,580.05
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07 * 156.23	\$31,569.40
CWMGMT3001	Contributions Management & Administration	\$574.39 * 156.5834	\$89,939.94
			\$4,319,999.99

The total contribution, identified in the above table or as indexed in future years, must be paid to Council prior to the issue of a Subdivision Certificate. Evidence of payment must be provided to the Certifying Authority.

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Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

72. Verification of Works

Prior to issue of a Subdivision Certificate, the developer is to provide the following documentation to the Certifier for approval:

- a) Notification from the developer verifying that all subdivisions works have been constructed in accordance with the approved plans and construction specifications.
- b) Written evidence from a suitably qualified landscape professional that all landscape works have been completed in accordance with the approved landscape plans.
- c) Completion of Works within the Road Reserve notification letter from Council.
- d) Certification from Council or an accredited certifier to verify that all inspections required by the Certifier have been completed in accordance with the approved plans and construction specifications.
- e) A structural certificate from a professional engineer, (as defined in the National Construction Code) submitted to Council to certify that all structural elements have been constructed in accordance with the approved plans and relevant Australian Standards.
- f) Level 1 Supervision Report and Lot Classification Report.
- g) Final pavement tests to confirm material depth and compaction complies with the pavement design.

73. Works as Executed Plans

Prior to the issue of a Subdivision Certificate, Works as Executed Plans must be prepared by a registered surveyor / professional engineer, (as defined in the National Construction Code) and be submitted to the Certifier demonstrating compliance with the approved design plans.

The Works as Executed dimensions and levels must be shown in red on a copy of the approved Subdivision Works Certificate plans and comply with the following requirements:

- a) Council's Development Engineering Construction Specification.
- b) Show compliance with the approved design plans of all road and drainage works
- c) Certify that all storm water pipes, and other services are wholly within an appropriate easement.
- d) Show the extent, depth and final levels of filling.
- e) Show any retaining walls including footings and agricultural drainage lines,
- f) Show the location of all underground service conduits,
- g) Include all deviations from the approved Civil Engineering Plans.

74. Works as Executed - Stormwater Drainage

Prior to the issue of a Subdivision Certificate, Works as Executed Plans and certification must be submitted to the Council by a licenced plumber/ registered surveyor / professional engineer (as defined in the National Construction Code) certifying compliance of all drainage works with the approved design plans and the National Construction Code.

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The Works as Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. This plan must verify surface and invert levels on all pits, invert levels and sizes of all pipelines, and finished surface levels on all paved areas. All levels must relate to Australian Height Datum.

Where the system includes an underground tank, a certificate of structural adequacy must be prepared and provided by a professional engineer (as defined in the National Construction Code).

75. Maintenance Bond – Subdivision Works

Prior to the issue of a Subdivision Certificate, the developer must submit a cash bond or irrevocable bank guarantee equal to 5% of the cost of the civil works (excluding water supply and sewerage) to Council to provide security and assurance that the developer will for a period of 12 months, repair any defective works or re-establish ground cover where this has not been maintained.

76. Maintenance Bond – Subdivision Signs

Prior to the issue of a Subdivision Certificate, the developer must submit a cash bond or irrevocable bank guarantee to Council to cover the cost of removal of any approved estate signs installed by the developer. The bond amount must also include restoration of the area to Council's satisfaction.

77. Property Addressing

Road naming and property addressing, whether for a public or private road within an urban, rural or community subdivision, must comply with the NSW Address Policy and NSW Addressing User Manual administered by the NSW Geographical Names Board and Council's Road Naming Policy and/or Property Addressing Policy.

An Application for Road Naming and/or an Application for Property Addressing must be submitted to Council and approved prior to submission of a Subdivision Certificate Application. For further information see Council's website or contact Council's GIS Group on (02) 4429 3479.

78. Utility Services

Prior to the issue of a Subdivision Certificate, utility services must be provided in accordance with the following:

- a) The provision of electricity to service allotments and street lighting in the subdivision must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.
- b) The submission of a Telecommunications Infrastructure Provisioning Confirmation from an approved telecommunications carrier to the Certifier or Council (as applicable) confirming that satisfactory arrangements have been made for the provision of telecommunication services to all individual lots.

79. Shoalhaven Water - Certificate of Compliance

A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water

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after satisfactory compliance with all conditions as listed on the Notice of Requirements and prior to the issue of a Subdivision Certificate.

80. Restrictions – Easements and Restrictions on Use of Land

An Instrument must be prepared under section 88B of the Conveyancing Act 1919 which will provide for the following Restrictions on the land when the subdivision is registered:

- a) where there is a shared access or common driveway, reciprocal rights of carriageway must be provided inclusive of any maintenance responsibilities and financial apportionments, where necessary.
- b) where there is shared infrastructure, landscaping, structures, and the like, arrangements must be made for access and maintenance.
- c) All lots less than 400sqm are to have restricted vehicular access from the primary road frontage.
- d) Lots 106 to 108 and 137 are to have access prohibited to the private Right of Way at the rear of these lots.
- e) All lots are to have access prohibited to the Tree Line Boulevard (Road 20) and Taylors Lane.
- f) Activities on the subject property must be in accordance with the approved Environmental Management Plan (EMP). Owners and occupiers must comply with the actions and requirements of the approved EMP.
- g) A positive covenant is to be created to facilitate the ongoing management of the scenic protection area/buffer on the subject property.
- h) There must be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey, and groundcover vegetation, without the prior written consent of the Council or as specified in an approved consent.
- i) The planting of plant species listed as state priority or environmental weeds in the NSW Weed Control Handbook is prohibited for the life of the development.

The Instrument must contain a provision that it cannot be varied, modified or released without the consent of the relevant parties as appropriate and without the consent of the Shoalhaven City Council.

The Instrument must not contain any restriction that prohibits development on the site allowed under the relevant environmental planning instruments.

A draft 88B Instrument must be submitted to the Certifier for approval before a Subdivision Certificate is issued.

81. Road reserves and other reserves (i.e. drainage areas incorporating sediment trap, bioretention basin and associated infrastructure, and open space, etc.) within the subdivision as shown on the approved plans are to be dedicated to Council, or in the case of reserves identified in the Contributions Plan, transferred to Council under the terms established within the Contributions Plan 2019.

82. Road Connection to Moss Vale Road

Prior to the issue of a Subdivision Certificate, the developer is to provide sufficient evidence to the Certifier that the public road dedication over the adjacent lot approved under SF10632 has

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occurred and that all connection roads (Roads 10, 20, 22 and 24) to that subdivision within this approval have been constructed in accordance with the conditions of this consent.

83. Agreement for Provision of Stormwater Infrastructure

Prior to the issue of a Subdivision Certificate, the developer is to provide sufficient evidence to the Certifier that the developer has entered into a satisfactory agreement and arrangements with Council for the provision of stormwater infrastructure as required under DCP Chapter NB3 and Contribution Plan 01DRAI0006.

84. Maintenance Period for Temporary Soil and Water Management Devices

The developer must retain all temporary stormwater management devices installed in accordance with the approved Soil and Water Management Plan until Council have constructed permanent stormwater treatment infrastructure as required under DCP Chapter NB3 and Contribution Plan 01DRAI0006. Where these devices are located outside the subdivision extent the developer is required to obtain consent from the landowner prior to construction.

85. Dam Decommissioning – Certification

Prior to the Issue of a Subdivision Certificate, the developer must provide the Certifier with certification from a professional engineer, (as defined in the National Construction Code) that the existing dams have been decommissioned and filled as required by this consent and the submitted professional engineer's report and that the soil is suitable for effluent disposal.

PART I : ONGOING USE OF THE DEVELOPMENT

86. Habitat Modification, Removal and Management

There must be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey, and groundcover vegetation, without the prior written consent of the Council or as specified in an approved consent.

87. Landscaping

The planting of plant species listed as state priority or environmental weeds in the NSW Weed Control Handbook is prohibited for the life of the development.

PART J : OTHER COUNCIL APPROVALS AND CONSENTS

NIL

PART K : REASONS FOR CONDITIONS

The application has been assessed as required by section 4.15 of the *Environmental Planning and Assessment Act 1979* and has been determined by the granting of conditional development consent.

Statutory requirements

The development proposal, subject to the recommended conditions, is consistent with:

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- a) the objects of the Environmental Planning and Assessment Act, 1979.
- b) the aims, objectives and provisions of the applicable environmental planning instruments,
- c) the aims, objectives and provisions of Shoalhaven Development Control Plan 2014 (SDCP 2014).
- d) the aims, objectives and provisions of relevant Council policies.

Public notification

The application was publicly notified in accordance with the *Environmental Planning and Assessment Regulation 2000* and Council's Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies (POL 16/230).

Submissions

Any submissions received during the public notification period are available on [DA Tracking](#)

Community views

Issues and concerns raised by the community in submissions have been considered in the assessment of the application and, where appropriate, conditions have been included in the determination to mitigate any impacts.

Suitability of the Site

The application has been approved because the development proposal is considered to be suitable for the site.

The relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.

The increased demand for public amenities and services attributable to the development has been addressed by the requirement to pay contributions in accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and Council's Contribution Plan 2019. Contributions under Section 307 of the Water Management Act 2000 have been applied as required.

Impacts of the Development

The application was considered to be suitable for approval. Conditions have been imposed to ensure that:

- a) the development will not result in unacceptable adverse impacts on the natural and built environments.
- b) the amenity and character of land adjoining and in the locality of the development is protected.
- c) any potential adverse environmental, social or economic impacts of the development are minimised.
- d) all traffic, car parking and access arrangements for the development will be satisfactory.
- e) the development does not conflict with the public interest.

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PART L : RIGHTS OF REVIEW AND APPEAL**Determination under Environmental Planning and Assessment Act, 1979**

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made within three (3) months of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

PART M : GENERAL ADVICE

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS1428.1 - Design for Access and Mobility*.

Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of *Shoalhaven Local Environmental Plan 2014* agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

SIGNED on behalf of Shoalhaven City Council:



Bridge Rd, Nowra NSW 2541 | 02 4429 3111
Deering St, Ulladulla NSW 2539 | 02 4429 8999

Address all correspondence to
The Chief Executive Officer, PO Box 42, Nowra NSW 2541 Australia
council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

shoalhaven.nsw.gov.au     

**NOTICE TO APPLICANT OF DETERMINATION OF MODIFICATION
APPLICATION BY WAY OF
CONSOLIDATED DEVELOPMENT CONSENT**

Environmental Planning and Assessment Act, 1979
DA18/2326
(Incorporating D20/1619)

Foxrun Commercial Building Pty Ltd
2/3 Bourrool St
KIAMA NSW 2533

being the applicant(s) for DA18/2326 relating to:

2 Lawrence Ave & 61 Kinghorne St, NOWRA – Lot 2 DP 1264717 (formally known as Lot 2 DP 1243710) & 1 DP 1243710

APPROVED USE AND OR DEVELOPMENT:

Four (4) storey shop top housing consisting of three (3) levels of commercial premises and one (1) level of residential units comprising 3 x 3 bedroom apartments (*modified by DS20/1619*)

DETERMINATION DATE: 4 October 2019

S4.55 DETERMINATION DATE: To be confirmed

Pursuant to Clause 122 of the Environmental Planning and Assessment Regulation 2000, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: 4 October 2019

CONSENT TO LAPSE ON: 4 October 2024

This consent is valid for five years from the date hereon.

In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.

DETAILS OF CONDITIONS

The conditions of consent and reasons for such conditions are set out as follows:

PART A – CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

1. General (modified by DS20/1619)

This consent relates to a four (4) storey shop top housing development consisting of three (3) levels of commercial premises and one (1) level of residential units comprising 3 x 3 bedroom units, as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED
Combined Site Layout Plan A	CC Mod – 001A	A.T. FCB	Oct 2020
Combined Site Layout Plan B	CC Mod – 001B	A.T. FCB	Oct 2020
Site Layout Plan	CC Mod L-001A	A.T. FCB	Oct 2020
Basement Floor Plan	CC Mod L-002A	A.T. FCB	Oct 2020
Ground Floor Plan	CC Mod L-003A	A.T. FCB	Oct 2020
First Floor Plan	CC Mod L-004A	A.T. FCB	Oct 2020
Second Floor Plan	CC Mod L-005A	A.T. FCB	Oct 2020
Third Floor Plan	CC Mod L-006A	A.T. FCB	Oct 2020
Elevations Plan	CC Mod L-007A	A.T. FCB	Oct 2020
Roof and Heights Plan	L-004-D	A.T. FCB	Jan 2019
Sections Plan	CC Mod L-008A	A.T. FCB	Oct 2020
Long Section – Combined Site Layout Plan	001 - A	A.T. FCB	Jan 2019
Landscape Plans	CC Mod 1482/1-A	Captive Landscape Design	Oct 2020
Erosion & Sediment Control Plan	Project 17020052, C40P1	JN Engineering	28/5/18
Stormwater Layout Plan	JN-Mod C02.3	JN Engineering	August 2020
BASIX Certificate	9634588M	Aspect Z	22/10/2018
Waste Management Plan	-	-	-
Services Plan	CC Mod L-S02	A.T. FCB	Oct 2020
Site Layout (Longsection) Plan	JN-Mod C01.2	JN Engineering	June 2020
Longitudinal Section Plan	JN-Mod C104.1	JN Engineering	June 2020

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Swept Path Analysis	JN-Mod C200.1	JN Engineering	August 2020
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Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.

2. The approved development must not be occupied or the use must not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. a security).
3. **Occupation Certificate**
An **Occupation Certificate** must be issued by the Principal Certifier (PC) before any of the approved development can be used or occupied.
4. **Construction within Boundary**
All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.
5. **Telecommunications / TV Antennae**
No more than one telecommunications/TV antenna will be provided to each building.

PART B – CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

6. **Principal Certifier, Construction Certificate and Notice of Commencement**
The following must be undertaken prior to the commencement of any construction works:
 - a) A Principal Certifier (PC) must be appointed,
 - b) A Construction Certificate must be obtained from an Accredited Certifier,
 - c) Notice must be given to Council at least two (2) days prior to the commencement of any works, and
 - d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for construction of all engineering works including erosion and sediment control measures and their maintenance.
 - e) Any clearing of vegetation approved under this consent is not permitted unless:
 - i) The erosion and sediment control measures required by this consent have been implemented and inspected by Council or the Accredited Certifier;
 - ii) Evidence of an application for a Construction Certificate is provided to Council;

The clearing is carried out in accordance with the relevant conditions of consent and the approved Waste Minimisation and Management Plans.
7. **Builders' Toilet**
Before commencing building operations, a builder's water closet accommodation must be provided to Council's satisfaction.

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A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational. Under no circumstances will pit toilets or similar be accepted by Council.

8. Shoalhaven Water

All conditions listed on the Shoalhaven Water Development Application Notice under the heading "Prior to Commencement of demolition works" must be complied with and accepted by Shoalhaven Water prior to the commencement of demolition works.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

9. Existing services/damage to public assets (Dilapidation Report)

Prior to the commencement of any work(s) associated with this development, the person benefitting from this consent must:

- a) Check that the proposed works are not affected by any Council, electricity, telecommunications, gas or other services. All services, existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services as a consequence of undertaking works under this consent or any repair to services will be at the expense of the person benefitting from this consent; and
- b) Undertake a site inspection and document any evidence of damage to the public assets prior to commencement of work. Any damage to the adjacent kerbs, gutters, footpaths (formed or unformed), walkways (formed or unformed), carriageway, reserves and the like, that occurs during development works must be repaired by the person benefitting from this consent. Failure to adequately identify existing damage will result in all damage detected by Council after completion of the building work being repaired at the expense of the person benefitting from this consent. A copy of the inspection documentation is to be submitted to Council prior to the commencement of works.

10. Works within the Road Reserve

Prior to undertaking any works within an existing road reserve, the contractor must obtain the consent of Council under section 138 of the *Roads Act, 1993* and have a set of Council approved plans and the letter of approval as per the development consent conditions. The following details must be submitted to Council to obtain the section 138 consent:

- a) Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the vehicular and pedestrian public. The TCP must comply with the current RMS's manual Traffic Control at Work Sites. Warning and protective devices must comply with the provisions of Australian Standard AS 1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared, signed and certified by a person holding the appropriate RMS accreditation, a copy of which is to be submitted with the plan.
- b) Insurance details.
- c) Name and contact information of the person/company appointed to supervise the construction.
- d) Should the contractor want a single section 138 approval to cover works additional to road, drainage and site regrading (e.g. water supply, sewerage, landscaping, etc), details of such works should be forwarded to the designer of the Traffic Control Plan. Copies of the layout plans and work method statements of these additional works are to be submitted to the

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Development Manager in conjunction with the section 138 application for road and drainage works.

Where the Traffic Control/Management Plan requires a reduction of the speed limit, a 'Direction to Restrict' must be obtained from the RMS - Traffic Operations Unit for RMS roads or Council for other roads and submitted with the section 138 application.

11. **Erosion and Sediment Control**

Prior to the commencement of works, a Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified and experienced person and based on the Landcom manual - *Soils and Construction, Managing Urban Stormwater*, Vol 1, 4th Edition, March 2004", must be submitted to the PC (for works within the development lot) and Council (for works within the road reserve) for approval.

12. Prior to the commencement of any works, the approved erosion and sediment control measures must be implemented by the contractor, and inspected and approved by the PC prior to the commencement of any other site works. The erosion and sediment measures must be maintained for the life of the construction period and until runoff catchments are stabilised.

13. **Earthworks**

Documentation from the supplier that certifies that imported fill material is not contaminated based on analyses of the material is to be provided to Council. Sampling and analysis of the imported fill material must be conducted in accordance with the EPA Sampling Design Guidelines. Details of fill storage, disposal and materials haulage routes to and from the site must be submitted to Council for approval. All surplus excavated material must be taken to an approved landfill site.

14. **Sign – Supervisor Contact Details**

A sign must be erected in a prominent position on any site where any building, subdivision or demolition work is being carried out:

- Showing the name, address and telephone number of the PC for the work;
- Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- Stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work is being carried out.

15. **Public Safety and Protection of Public Property**

The site/area where works are being undertaken is to be fenced in accordance with Safework NSW requirements prior to the commencement of works, suitable for keeping members of the public and unauthorised people out.

PART C – CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

16. **Shoalhaven Water**

Prior to the issue of a Construction Certificate and prior to making application for any water meters, a water meter servicing plan is to be submitted to Shoalhaven Water for assessment/approval.

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Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Development Application Notice under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. The authority issuing the Construction Certificate for the development must obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued.

Note: Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

17. **Contributions for Additional Services and/or Facilities (modified by DS20/1619)**

The applicant's request to recalculate contributions based on a revised calculation of 1 space per 24 square metres, is refused. The table below reflects a revised calculation taking into account the net increase of one (1) parking space and the reduction of 3.3m² in gross floor area on the ground, first, and second floor levels.

This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan 2019, as itemised in the following table.

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23	1.4	\$980.32	\$0.00	\$980.32
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04	1.4	\$760.26	\$0.00	\$760.26
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01	1.4	\$1,026.21	\$0.00	\$1,026.21
01CARP3001	Car parking provision at Egans Lane, 8 Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghome Street	\$27,722.47	18.2	\$504,548.95	\$0.00	\$504,548.95
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghome & Plunkett Streets)	\$29.98	1.4	\$41.97	\$0.00	\$41.97
CWAREC5005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$1,931.92	1.4	\$2,704.69	\$0.00	\$2,704.69
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12	1.4	\$2,044.17	\$0.00	\$2,044.17
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	1.4	\$1,792.74	\$0.00	\$1,792.74
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	1.4	\$98.42	\$0.00	\$98.42
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	5.88	\$812.20	\$0.00	\$812.20
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	5.88	\$1,188.17	\$0.00	\$1,188.17
CWMGMT3001	Contributions Management & Administration	\$574.39	5.88	\$3,377.41	\$0.00	\$3,377.41
Sub Total:						\$519,375.52
GST Total:						\$0.00
Estimate Total:						\$519,375.52

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment**. (ie contributions are calculated on the rate applicable at the date of payment, not the date of development consent.)

A total contribution, currently assessed as per the table above or as indexed in future years must be paid to Council before the issue of a Construction Certificate.

Contributions Plan 2019 can be accessed on Council's website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

18. **Hydraulic Engineering Details for Water, Sewer & Drainage**

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Prior to the issue of a Construction Certificate for building works, a hydraulic detail designed by a qualified Hydraulic Engineer for water, sewerage and drainage for the development, is to be provided to Council prior to any works commencing on any water, sewerage and drainage.

19. **Demolition Certification**

Following the removal of all friable asbestos and **prior to further works being carried out on the site**, a clearance certificate from an independent occupational hygienist in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

Note: *This relates to friable asbestos only.*

Following the removal of all bonded asbestos and **prior to further works being carried out on the site**, a clearance certificate from an independent competent person current WorkCover Class 2 (Restricted) Asbestos Licence in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

Documentary evidence in the form of tip receipts from an approved Waste Management Facility shall be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts shall be provided to Council at the completion of demolition works and prior to any further works on the site.

20. **Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.

21. **Amended Landscape Plan**

Prior to the issue of a Construction Certificate an amended landscape plan is to be submitted to the Accredited Certifier for approval. The amended plan is to delete the landscaping along the southern boundary to show the widened driveway in this location as per the approved site plan.

22. **Disabled Toilets**

Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the Building Code of Australia, and with regard to the Disability Discrimination Act 1992. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance. The plans must be approved by the Accredited Certifier prior to issue of a Construction Certificate.

23. **Dilapidation Report**

A Dilapidation Report is to be undertaken on all properties, which in the opinion of a suitably qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out prior to the issue of a Construction Certificate.

The Dilapidation Report is to be prepared by a suitably Qualified Chartered Professional Civil or Structural Engineer with current Institution of Engineers, Australia Corporate Membership and registered on the National Engineers Register (NER) or Geotechnical Practitioner.

The Report shall cover structural and geotechnical factors likely to arise from the development. A copy of this Report shall be submitted to the owners of all properties inspected and Council as a record.

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The person having the benefit of the development consent must, at their own cost, rectify any damage caused to other properties during the construction of the project.

Reason: Safety

24. Construction Management Plan

Prior to the issue of a Construction Certificate, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve – the proposed method of support is to be designed by a Chartered Civil Engineer.
- f) A Soil and Water Management Plan detailing all sedimentation controls.

25. Construction Traffic Management Plan (CTMP)

Prior to the issue of a Construction Certificate, the developer shall submit and have approved by Council's Engineers, a detailed Construction Traffic Management Plan (CTMP). The plan shall demonstrate how construction and delivery vehicles will access the development site during the demolition, excavation and construction phase of the development. The plan shall be certified by a suitably qualified and experienced traffic consultant and all traffic associated with the subject development shall comply with the terms of the approved Construction Traffic Management Plan.

The following matters (at a minimum) must be addressed in the CTMP:

- a) A detailed description and route map of the proposed truck/construction vehicle access routes.
- b) The locations of any proposed Construction Works Zones along the site frontage.
- c) Provide a construction schedule.
- d) Tradesperson parking (parking shall be provided on-site where possible).
- e) Provide relevant Traffic Control Plans (must be certified by a suitably qualified RMS ticket holder).
- f) Provide relevant Pedestrian Management Plans.

A site plan which indicates site entrances and exits, turning areas within the site for construction and spoil removal vehicles allowing a forward ingress and egress for all construction vehicles on the site (superimposed truck swept path diagrams). Site entrances and exits shall be controlled by a certified traffic controller.

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26. **Endeavour Energy requirements**

Prior to the issue of a Construction Certificate, the developer shall provide evidence to the PC of compliance with Endeavour Energy's requirements in relation to:

- a) Arrangements being made for achieving the required separation between the electricity supply pole and driveway at the corner of the site at Kinghorne Street;
- b) Achieving the required clearance from Endeavour Energy's electricity infrastructure for the proposed building and related construction activities.

27. **Support and Protection for Neighbouring Buildings**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: (a) and (b) of this condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

28. **Lighting Design**

Lighting is to be provided to the internal driveway, car parking area, pedestrian entrance from Kinghorne Street and to any gate providing vehicular or pedestrian access to the rear lane, in accordance with AS/NZS 1158 - Road Lighting Pedestrian Area, Category P Lighting, Performance and Installation Design Requirements. Lighting design plans are to be submitted to and approved by the private certifier prior to the issue of a Construction Certificate.

29. **Design Standards (modified by DS20/1619)**

Engineering design plans and specifications for civil works within the road reserve must be submitted to Council for approval, prior to the commencement of any further works. All work must be carried out in accordance with the approved plans.

Note: Plan checking and inspection fees will be required to be paid for the works within the road reserve as per Council's standard fees and charges.

30. Engineering design plans and specifications for all internal civil works referred to in this consent must be submitted to the nominated accredited certifier for approval with the Construction Certificate.

31. All civil works are to be in accordance with Council's Engineering Design Specifications and Development Construction Specifications current at the time of construction unless otherwise specified in this consent.

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32. Access Design Standards

Prior to the issue of a Construction Certificate by the Principal Certifier for works within the site, engineering design plans for a heavy-duty concrete gutter layback and footpath crossing must be designed at the driveway entrance in accordance with Council's Standard Drawings Plan Nos. 5104-07, 2026-05 and 2026-9 (Engineering Design Specification).

Where kerb and gutter exists, the plans must be detailed to ensure road seal and pavement is to be removed to a sufficient width to permit placing of formwork and the laying and compacting of suitable pavement material (1m minimum offset to lip line).

The Endeavour Energy infrastructure located close to the proposed driveway location is to be relocated or appropriate clearance provided in accordance with Endeavour Energy requirements.

33. Access Design Standards (modified by DS20/1619)

The applicant's request to delete part b of the condition is refused and is therefore retained in the condition below.

Prior to the commencement of any further works within the road reserve, engineering design plans for footpath works in the Lawrence Ave road reserve are to be submitted to Council for approval. Details are to be shown on the engineering design plans and must incorporate the following:

- a) Footpath levels must comply with a 3% cross fall from the boundary to top of kerb, or a design as approved by Council;
- b) Provision of a Type 4 part-width concrete pathway in accordance with the Streetscape Technical Manual;
- c) The level of the footpath must match existing footpath levels adjoining the site on Lawrence Avenue at the property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.

34. Stormwater Drainage Design and On-Site Detention (modified by DS20/1619)

Prior to the commencement of any further works, major and minor drainage systems must be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications section D5 (Stormwater Drainage Design) and DCP 2014 – Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control. The minor and major systems must be designed for 10% AEP for commercial areas and have consideration for the 1% AEP rainfall events respectively.

35. Stormwater Drainage Design and On-Site Detention (modified by DS20/1619)

The internal lot stormwater will need to connect to Kinghorne Street via an easement through Lot 1 DP1243710. The connection in Kinghorne Street will be at the kerb at the frontage to the development.

The adjacent southern lot stormwater lines which currently discharge into Kinghorne Street where the driveway is to be located are to be connected in Kinghorne St.

36. Stormwater Drainage Design and On-Site Detention

Prior to the issue of a Construction Certificate by the Principal Certifier, any services located within the road reserve must be surveyed and shown on the stormwater plans and stormwater long section to ensure clearance.

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37. **(modified by DS20/1619)**

On-site detention storage for stormwater runoff from the site must be provided such that the discharge from the site for design storm events up to and including the 100 year average recurrence interval does not exceed the pre-developed conditions. Details must be submitted to Council or an accredited certifier for approval prior to the commencement of any further works. All flow discharging from on-site detention is to be via gravity flow to an approved discharge location. Automatic pump-out systems from on-site detention will not be allowed.

38. **Carpark Design**

Prior to the issue of a Construction Certificate by the Principal Certifier for works within the site, engineering design plans demonstrating manoeuvring areas (excluding car parking spaces) for circulation from Kinghorne Street to Lawrence Avenue been designed in accordance with A.S. 2890 Parking Facilities for the 99% vehicle.

39. Prior to the issue of a Construction Certificate by the Principal Certifier for works within the site, engineering plans are detailing design for Light and or Heavy vehicular loadings depending on the usage. The pavement construction minimum standard as per below:

with a flexible compacted pavement minimum thickness of 200mm, surfaced with 30mm of AC10 asphaltic concrete on a primer seal or two coat bitumen seal using 14mm and 7mm aggregate, or to a concrete standard.

40. A total of twenty (20) car spaces must be provided for the development. At least five (5) of the on-site spaces must be available within the basement car park for the exclusive use of the residents and are to be signposted and linemarked to reflect their exclusive use.

41. The internal driveway and car park must be bordered by concrete kerbing, except where surface run-off is concentrated, in which case concrete integral kerb and gutter must be constructed. The work must comply with Council's Plan No. SC 2637-10 and SC 2637-09.

42. **Structural Design**

Detailed design 'where required internally' of any the following works must be certified by an NPER-III registered practising engineer and submitted for approval to the PC.

- a) major drainage structures, including OSD, stormwater pits/structures that require steel reinforcement.
- b) Retaining walls greater than 0.6 metre in height

Note: A NPER-III registered practising engineer will be required to certify that construction of the above structures has been completed in accordance with the approved plans prior to the release of the occupation certificate.

43. **Street Numbering of Dwellings**

Street numbering must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council's Property Address Numbering Policy. Street numbering for the development must be as follows:

Ground Floor
G01/2 Lawrence Avenue, Nowra

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First Floor
101/2 Lawrence Avenue, Nowra

Second Floor
201/2 Lawrence Avenue, Nowra

Third Floor
Unit 1 – 301/2 Lawrence Avenue, Nowra
Unit 2 – 302/2 Lawrence Avenue, Nowra
Unit 3 – 303/2 Lawrence Avenue, Nowra

The allocated house numbers must be shown on the Construction Certificate plans. Where plans and details are provided to service suppliers, numbers shall be in accordance with the above.

PART D - CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT

44. Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Note: This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

45. Access for People with Disabilities

Access for people with disabilities must be provided to the building in conformity with Part D3.2 of the Building Code of Australia and *Australian Standard AS1428.1-2009 "Design for access and mobility Part 1: General requirements for access – New building work"*.

46. Survey Certificate

In order to ensure compliance with approved plans, a Survey Certificate to Australian Height Datum shall be prepared by a Registered Surveyor as follows:-

- a) At the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries.
- b) At the completed height of the building, prior to the placement of concrete form work, or the laying of roofing materials.
- c) At completion, the relationship of the building and any penetrations thereto, to the boundaries.

Progress certificates in response to points a) through to c) shall be provided to the Council or the Principal Certifier at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the proposed works.

47. Nature Strip Reinstatement Works (modified by DS20/1619)

The disused gutter crossing is to be reinstated to the satisfaction of Council's Development Engineer or their nominee. The works are to be reinstated as follows:

- a) The road pavement is to be saw-cut parallel to the lip of the gutter;
- b) The existing layback and gutter is to be removed;

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- c) New cast in-situ kerb and gutter to match adjacent profile is to be poured and connected to the adjoining sections of kerb with suitable bitumen joining.
- d) Stormwater lines are to be connected to stormwater infrastructure in Kinghorne St via a connection as approved by Council

48. Details of Linemarking and Regulatory Signage

Details of proposed line markings and regulatory signs shall be submitted to Council for referral to the Shoalhaven Traffic Committee and subsequent recommendation to Council. Six to eight weeks should be allowed for this.

***Reason:** to ensure proposed access, onsite car parking, speed restrictions, turning bays, disabled parking, traffic movement's and/or loading facilities are clearly marked with signs, lines and arrows in accordance to AS2890.1.*

49. Speed Hump and Stop Sign on Exit

The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement prior to the issue of a Construction Certificate.

50. Zone of Influence

To prevent differential settlement of the proposed structures adjacent to or over the proposed pipeline, pier and beam footings shall be provided to at least the depth of the invert level of the pipe or solid rock. All other foundations shall be located so that buildings are founded below the zone of influence of the drainage line. The drainage line must be able to be repaired or replaced at any time without affecting the stability of the building. It may also be necessary to concrete encase the drainage pipe.

51. Letter Boxes

A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.

52. Colours and Materials

The development must be constructed in accordance with the approved schedule of colours, building materials and finishes.

53. Tree Removal

Trees to be cleared must be felled into the development area carefully so as not to damage trees to be retained in or beyond the development footprint.

- 54. Any hollow-bearing trees must be felled carefully in sections utilising a "cherry picker" or crane if necessary to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna.

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55. **Heritage**

Should any historical relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

56. Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

57. **Waste Minimisation and Management Plan**

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste must be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Note: "Waste" has the same meaning as the definition of "Waste" in the *Protection of the Environment Operations Act 1997*.

58. When implementing the Waste Management Plan the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e) Records are retained regarding the details and location of the disposal of all demolition and construction waste (including excavated material) and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal and confirmation of the waste disposal facility
- f) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

59. **Road Reserve, Footpath & Gutters**

The road reserve adjoining the development site must be kept clear of soil and debris.

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60. Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

61. Contaminated Land Unexpected Finds

In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.

The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

62. Work Hours and Noise

The following must be complied with during demolition and construction works:

- a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturday. No work is to take place on Sunday or Public Holidays. Any proposed change to hours must be approved by Council in writing; and
- b) The noise from all activities associated with any demolition works and construction of the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change *Interim Construction Noise Guideline*. The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

63. Disruption of Traffic

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

64. Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the

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recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

65. Acid Sulphate Soils

Any excavation works carried out on site should be closely monitored to ensure no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site is to be stopped immediately, Council is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.

66. Dust Management

Dust emissions shall be confined within the site boundary. The following dust control procedures may be employed to comply with this requirement.

- a) Erection of dust screens around the perimeter of the site;
- b) Securely covering all loads entering or exiting the site;
- c) Use of water sprays across the site to suppress dust;
- d) Covering of all stockpiles of soil remaining more than 24 hours; and
- e) Keeping excavation surfaces moist.

67. Clothes Drying Facilities

Each of the units must be provided with a clothes dryer within the laundry to remove the need for clothes drying racks on balconies.

PART E – CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED

68. Retaining Walls

Prior to the issue of an Occupation Certificate, all retaining walls must be designed and certified by a suitably qualified structural engineer. Retaining walls must be designed to meet long term serviceability requirements and must be provided with effective drainage systems.

69. Restrictions

The following must be created as restrictions-as-to-user under Section 88B of the Conveyancing Act.

- a) Easements for stormwater drainage, services and all public services / infrastructure on private and public property.
- b) Drainage Easements are to be placed over all subsurface drains, inter allotment drainage and swale drains benefitting and burdening property owners. The width of subsurface drain easements is to be a minimum of 1 metre wide, depending on the depth of pipe (refer to section D5.16 and D5.18 of Council's Engineering Design Specifications). Maintenance of the drains is to be included in the 88B instrument.
- c) Any Rights of Way must be maintained by each allotment benefitting, with the cost proportional to the length of the driveway used to gain access to each lot. The right of way is to be maintained in good trafficable condition for the life of the development.

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In preparing the Instrument setting out the terms of easements and restrictions affecting this land, ensure that such restrictions cannot be varied, modified or released without the consent of the necessary parties involved and without the consent of the Shoalhaven City Council, where appropriate.

Except those required by Council, the final plan and associated instruments must not contain restriction, that prohibit development allowed under the relevant environmental planning instruments applicable to the site.

70. Utility Services

Utility services must be provided in accordance with the following:

- a) The provision of electricity to service must be in accordance with the requirements of Endeavour Energy who are to confirm in writing that conditions of supply have been met.
- b) The submission of documentary evidence from an approved telecommunications carrier to the PC confirming that underground telecommunication services are available for this development.
- c) To facilitate broadband access, the application for broadband to the telecommunications provider.
- d) A Certificate of Compliance (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and prior to the issue of a Subdivision Certificate, as the case may be.

In the event that development is to be completed in approved stages or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

Note: Relevant details, including **monetary** contributions (where applicable) under the *Water Management Act 2000*, are given on the attached Notice issued by Shoalhaven Water. For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

71. Construction of Right of Way

The right of way is to be suitably paved and drained to the satisfaction of Council or the PC prior to the release of an Occupation Certificate. In this regard the applicant is to submit engineering design drawings to Council or the PC for approval and construct the works according to the plans as approved. The plans must take account of potential construction traffic, and include conduits to allow the later installation of services.

72. Covenant & Restriction as to User for Stormwater Controlled Systems (modified by DS20/1619)

Prior to occupation and the issuing of an Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (in regards to the on-site stormwater detention system (OSD).

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Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement of the required width over the proposed stormwater drainage line or service concurrently with any subdivision registration.

73. Fencing

The side boundaries of the site are to be fenced to a height of 1.8 metres and tapering 1.2m at the boundary. All fencing is to be installed in accordance with the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* prior to the issue of an Occupation Certificate.

74. Verification of Works

Prior to the issue of an Occupation Certificate, certification must be obtained from Council to verify that all works in the road reserve have been completed in accordance with the approved plans and construction specifications.

75. Works as executed' (WAE) plans certified by a consulting engineer or registered surveyor for all new works within the road reserve as required by this development consent must be submitted to Council for review and records upon completion of the works. The certification shall state the information shown on the plans is a true and accurate representation of the constructed works. The WAE information is to be marked in red is to be provided on a copy of the Council approved plans. Where works are not within the tolerances specified in Council's Development Construction Specifications, the certifying engineer / surveyor shall confirm, in writing, the works still comply with the intent of the original design, specifications and relevant Australian Standards.

76. Damage to public assets

Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged as a result of construction works, is to be repaired by the person benefitting from this consent and to the satisfaction of Council.

77. Fire Safety

The owner is to supply Council with a Final Safety Certificate for the fire safety measures specified in the Fire Safety Schedule. The fire safety measures must be implemented or installed in the building prior to its occupation. The building must not be occupied without a final Fire Safety Certificate being issued and an Occupation Certificate being issued.

78. BASIX

Prior to the issue of an Occupation Certificate, all the commitments listed in the relevant BASIX Certificates for the development must be fulfilled in accordance with Clause 97A of the *Environmental Planning and Assessment Regulation 2000*.

Prior to the final inspection being undertaken, the person benefitting from this consent must submit certification and/or documentation to the PC confirming that the buildings have been constructed in accordance with the details and commitments listed in the BASIX Certificate for the development.

Note: Clause 154B of the EPAR 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

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79. Landscaping

Prior to the issue of an Occupation Certificate, landscaping is to be installed in accordance with the approved plan. The landscaping must be maintained in accordance with the details provided on that plan at all times.

PART F – CONDITIONS THAT RELATE TO THE ONGOING MANAGEMENT OF THE APPROVED DEVELOPMENT

80. Fire Safety – Annual Statement

At least once in every twelve month period an annual Fire Safety Statement is to be submitted to Council and to the Fire Commissioner of the NSW Fire and Rescue, Fire Safety Division in relation to the fire safety measures listed in the Fire Safety Schedule.

81. Site Maintenance

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) Loading and unloading in relation to the use of the premises must occur in the designated loading areas;
- b) Goods or machinery must be stored, and all activities must occur, inside the building(s) and not in the carpark or drive way areas;
- c) Maintenance and replacement (if necessary) of all landscaping in accordance with the approved landscape plan;
- d) Maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent;
- e) Ongoing waste and recycling is to be managed in accordance with the approved Waste Management Plan (Operational). Waste bins are not to be stored within the loading area/space that is visible from a public place;
- f) Maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan;
- g) Maintenance of buildings, fencing, signage/markings to the standards specified in this consent; and

The removal of all graffiti within a maximum of 14 days of being notified by Council.

82. Garbage Bin Collection and Storage

Garbage bins (both general waste and recyclable waste) associated with the ongoing occupancy of the approved development must be stored in the on-site designated bin storage room. Collection of domestic waste by Council's contractor is not available within the development site due to vehicle mass and manoeuvrability restrictions so bins must be placed in Lawrence Avenue for collection.

83. The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.

84. The nominated kerbside collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. All mobile garbage bins that are left kerbside for collection must be taken back within the property boundary on the same day of service.

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85. Where the transport of waste to the kerbside collection point incorporates the use of a lift, a contingency plan should be in place for the development to allow for the continual disposal and collection of waste if the lift cannot be operated.
86. **Noise**
The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's *Industrial Noise Policy 2000* and the *Protection of the Environment Operations Act 1997* (NSW).
87. **Lighting**
Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.
88. **Car Parking**
All visitor parking spaces must not at any time be allocated sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation.
89. The car parking area must allow for unimpeded access and use and be available for use by patrons/clients of the development during operational hours.

PART G – OTHER APPROVALS
Section 68 – Local Government Act 1993

1. **General**
In accordance with the Plumbing and Drainage Act 2011, plumbers and drainers must submit the following documents to Shoalhaven City Council.
 - a) Notice of Work is to be issued to Shoalhaven City Council no later than two (2) business days prior to the commencement of any work.
 - b) A Certificate of Compliance is to be issued to Shoalhaven City Council and to the person for whom the work was carried out on completion of the final inspection **prior to the issue of an Occupation Certificate.**
 - c) A sewer service diagram, one for each dwelling, is to be issued to Shoalhaven City Council and the owner of the land or the owner's agent at the completion of the drainage works **prior to the issue of an Occupation Certificate.**
2. All plumbing and drainage work must comply with the Plumbing Code of Australia and Australian Standard AS/NZS 3500 and the relevant NSW amendments **prior to the issue of an Occupation Certificate.**
3. **Inspections**
Council must be given at least 24 hours' notice to allow for the inspections of:

Type of Inspection:

Stage of Construction:

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Internal drainage	All internal drainage pipework installed and under hydraulic test, including any required bedding material and stackwork, and prior to any backfilling or covering of the drainage lines.
Hot and cold water service (appropriately colour coded or identification markings)	All pipework installed and under hydraulic or pressure test, prior to the installation of any insulation or any internal lining.
External drainage	Pipework installed and under hydraulic test, septic tank installed or sewer connected (whichever is applicable), prior to any backfilling of the drainage lines.
Final inspection of drainage works prior to the issue of an Occupation Certificate	All drainage works (including stormwater where Council is the Principal Certifying Authority), prior to the issue of an Occupation Certificate.

4. **Before Commencing Construction**

The builder should locate the position and depth of the sewer junction before commencing construction, to ensure that the top of the overflow gully is a minimum of 900mm above the soffit of the sewer main. Copies of sewer main diagrams issued by Council must be treated as a guide only when locating the junction position.

5. **Yard Gully**

A minimum height of 150mm shall be maintained between the top of the overflow yard gully riser and the lowest fixture connected to the drain. The height shall be measured vertically from the overflow level of the gully riser, or from the invert level of the overflow pipe, to the appropriate point given in Table 4.3 of AS3500. The minimum height between the top of the overflow yard gully riser, or the invert of the overflow pipe, and the surrounding ground surface level shall be 75mm, except where the gully riser is located in a path or a paved area where it shall be finished at a level so as to prevent the ponding and ingress of water into the drainage system.

PART H – STATEMENT OF REASONS

Reasons for Approval

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, notably the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).
2. The proposed development is, subject to the recommended conditions, consistent with the objectives of the Shoalhaven Development Control Plan 2014 (SDCP 2014).
3. The proposed development is considered to be suitable for the site.
4. The proposed development, subject to the recommended conditions will not result in unacceptable adverse impacts on the natural and built environments.
5. Any issues raised in submissions have been considered in the assessment of the application and where appropriate, conditions have been included in the determination.

Determination Notice - Page 22 of 25 – DA18/2326 (Incorporating DS20/1619)

Conditions of Consent Have Been Imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

PART I – RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Determination Notice - Page 23 of 25 – DA18/2326 (Incorporating DS20/1619)

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.

PART J – GENERAL ADVICE TO APPLICANT

In this consent the term developer means any person or corporation who carries out the development pursuant to that consent.

Nature of Determination

This is a s4.55 modification determination. It does not constitute a new development consent. Its form incorporates the modified conditions into the original development consent for ease of interpretation.

Private Use of Public Parking Spaces

If the temporary use of public parking spaces (either on street or off street) for private purposes is proposed to be undertaken during development construction and/or for maintenance purposes, a formal request for use of public parking must be submitted to Council, in accordance with Council's Policy – "Private use of public parking, policy No. POL08/408". Such request must be submitted to Strategic Planning and Infrastructure Group of Council, with the relevant application fee.

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

Trees Located on Public Land

Please note that any works carried out on the subject property or within the road reserve, such as construction of a driveway, that damages or otherwise detrimentally impacts on the health or safety of any tree located on public land may result in the applicant incurring the costs of any remedial action or removal of the tree(s). If you are proposing to carry out any works that may impact on any tree on public land, it is recommended that you contact Council for advice before carrying out those works.

Disability Discrimination Act 1992

This application has been assessed in accordance with the *Environmental Planning & Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *Australian Standard AS1428.1 - "Design for Access and Mobility"*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Endeavour Energy Advice

Earthing

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The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

Prudent Avoidance

The electricity network is operational 24/7/365 ie. all day, every day of the year. The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to locating them where exposure to the more sensitive uses is reduced and increasing separation distances. Endeavour Energy believes that likewise Council should also adopt a policy of prudent avoidance by the siting of more sensitive uses away from any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development. Even with less sensitive non-residential development, Endeavour Energy believes that a policy of prudent avoidance should be considered.

Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <http://www.ena.asn.au/> and contains the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps), and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

Vegetation Management

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure (at least the same distance from overhead power lines as their potential full grown height) and even with underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure may become a potential safety risk, cause of bush fire, restrict access, reduce light levels from streetlights or result in the interruption of supply. Such landscaping may be subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

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Endeavour Energy has noted that as shown in the following extracts of the Landscape Plan, the proposal involves the removal of the existing street trees to facilitate the proposed road widening and the planting of a new street tree. Due to the large mature size of the proposed street tree in proximity of the overhead power lines, Endeavour Energy's recommendation is that it be replaced with an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning. Alternatively, depending on the timing of the proposed road widening and if the existing overhead power lines are undergrounded, then the mature size of the street tree is not an issue.

Disclaimer – Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

DBYD Enquiry – 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or www.dialbeforeyoudig.com.au prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.


Inspections

If Council is the appointed Principal Certifier for this project, a minimum twenty-four (24) hours' notice must be given to Council to make an inspection of the work.

SIGNED on behalf of Shoalhaven City Council:

City Development

Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710 & Lot 1 DP 1243710

	Planning Report – S4.55(1A) – Environmental Planning & Assessment Act 1979
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Parent Consent	DA18/2326
DS Number	DS20/1619
Property	2 Lawrence Av, NOWRA & 61 Kinghorne St, NOWRA - Lot 2 DP 1264717 (formally Lot 2 DP 1243710) & 1 DP 1243710
Applicant(s)	Foxrun Commercial Building Pty Ltd
Owner(s)	Kingla Property Pty Ltd

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Senior Development Planner

25/03/2021

1. Detailed Proposal

Development Approval: Development Consent No. DA18/2326 was issued by Shoalhaven City Council on 4th October 2019 for a Four (4) Storey Mixed Use Commercial and Residential Building (refer TRIM Ref No.s D19/346880 – Development Consent and D19/348149 – Approved Plans).

Current Application: The applicant (Foxrun Commercial Building Pty Ltd, acting on behalf of the owner Kingla Property Pty Ltd) has lodged a Modification Application under s4.55(1A) of the Environmental Planning and Assessment (EP&A) Act 1979. The purpose for the lodgement of the application is to seek minor alterations and additions to the layout of the approved development as well as modification to certain conditions listed within the development consent.

A meeting was held between Council and the applicant on 17th March 2021 to clarify which conditions of consent the applicant is seeking to modify. Following the meeting, the applicant advised via email to Council on 17th March 2021 (refer TRIM Ref No. D21/107175) that they agree that the following is an accurate representation of the conditions of consent they are seeking to modify:

The applicant proposes to modify Condition 1 to read as follows:

General

This consent relates to a four (4) storey shop top housing development consisting of three (3) levels of commercial premises and one (1) level of residential units comprising 3 x 3 bedroom units. as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED
Combined Site Layout Plan A	001-A CC Mod – 001A	A.T. FCB	Sept 2019 Oct 2020

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Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710) & Lot 1 DP 1243710

Combined Site Layout Plan B	CC Mod – 001B	A.T. FCB	Oct 2020
Site Layout Plan	L-004 CC Mod L-001A	A.T. FCB	Jan 2019 Oct 2020
Basement Floor Plan	L-003-A-1 CC Mod L-002A	A.T. FCB	June 2019 Oct 2020
Ground Floor Plan	L-003-B-1 CC Mod L-003A	A.T. FCB	June 2019 Oct 2020
First Floor Plan	L-004-A-1 CC Mod L-004A	A.T. FCB	June 2019 Oct 2020
Second Floor Plan	L-004-B-1 CC Mod L-005A	A.T. FCB	June 2019 Oct 2020
Third Floor Plan	L-004-C-1 CC Mod L-006A	A.T. FCB	June 2019 Oct 2020
Elevations Plan	L-005-A CC Mod L-007A	A.T. FCB	Sept 2019 Oct 2020
Roof and Heights Plan	L-004-D	A.T. FCB	Jan 2019
Sections Plan	L-006 CC Mod L-008A	A.T. FCB	Jan 2019 Oct 2020
Long Section – Combined Site Layout Plan	001 - A	A.T. FCB	Jan 2019
Landscape Plans	Project 1482, Issue 1, DA1, DA2, DA3, DA4 CC Mod 1482/1-A	Captivate Landscape Design	13/7/18 Oct 2020
Erosion and Sediment Control Plan	Project 17020052, C40P1	Jones Nicholson Consulting Engineers	28/5/18
Stormwater Layout Plan	Project 17020052, CQ2P1 JN-Mod C02.3	Jones Nicholson Consulting Engineers	28/5/18 August 2020
BASIX Certificate	9634588M	Aspect Z	22/10/2018
Waste Management Plan	-	-	-
Street Frontage Plan	JN-Mod C101	JN Engineering	Dec 2019
Services Plan	CC Mod L-S01	A.T. FCB	Oct 2020
Site Layout (Longsection) Plan	JN-Mod C01.2	JN Engineering	June 2020
Longitudinal Section Plan	JN-Mod C104.1	JN Engineering	June 2020
Swept Path Analysis	JN-Mod C200.1	JN Engineering	August 2020

Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.

Applicant Note:

The modification to the plans are required for the following reasons:

Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710) & Lot 1 DP 1243710

- Depiction of an amended stormwater layout with discharge via Kinghorn St.
- Revision of FFL levels within the proposed building.
- Construction of a fire rated access door and jamb within the lift shaft on each level as recommended.
- Minor alterations to the building as it relates to the location of windows, balustrades, and balconies.
- Deletion of garden bed upon entry to the basement carpark to permit installation of an electrical substation.

The applicant proposes to modify Condition 17 to read as follows:

Contributions for Additional Services and/or Facilities

This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan 2019, as itemised in the following table.

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC0009	Planning Area 1 recreational facilities upgrades various locations	\$730.69	1.4	\$1,022.97	\$0.00	\$1,022.97
01AREC2006	Northern Shoalhaven Sports Stadium	\$570.62	1.4	\$798.87	\$0.00	\$798.87
01AREC3007	Nowra Swimming Pool Expansion	\$406.19	1.4	\$568.67	\$0.00	\$568.67
01CARP3001	Car parking provision at Egans Lane, 8 Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghorn Street	\$27,178.89	11	\$298,967.79	\$0.00	\$298,967.79
01CFAC2012	Nowra District Integrated Youth Services Centre	\$32.51	1.4	\$45.51	\$0.00	\$45.51
CWAREC0005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,473.36	1.4	\$3,462.70	\$0.00	\$3,462.70
CWCFAC0007	Shoalhaven Regional Gallery	\$70.87	1.4	\$99.22	\$0.00	\$99.22
CWCFAC2002	Shoalhaven Multi-Purpose Cultural & Convention Centre	\$1,510.35	1.4	\$2,114.49	\$0.00	\$2,114.49
CWCFAC2006	Shoalhaven City Library Extensions, Berry Street, Nowra	\$850.55	1.4	\$1,190.77	\$0.00	\$1,190.77
CWFIRE2001	Citywide Fire & Emergency services	\$135.42	7.32	\$991.27	\$0.00	\$991.27
CWFIRE2002	Shoalhaven Fire Control Centre	\$198.11	7.32	\$1,450.17	\$0.00	\$1,450.17
CWMGMT3001	Contributions Management & Administration	\$563.13	7.32	\$4,122.11	\$0.00	\$4,122.11
Sub Total:						\$546,126.89
GST Total:						\$0.00
Estimate Total:						\$546,126.89

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment.** (ie contributions are calculated on the rate applicable at the date of payment, **not** the date of development consent.)

A total contribution, currently assessed as per the table above or as indexed in future years must be paid to Council before the issue of a Construction Certificate.

Contributions Plan 2019 can be accessed on Councils website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

Applicant Note: The applicant provided a detail summary with their reasoning for the proposed modification to the car parking contribution provided in the above condition – refer TRIM Ref. No. D20/566455.

The applicant proposes to modify Condition 29 to read as follows:

Design Standards

"Engineering design plans and specifications for civil works within the road reserve must be submitted to Council for approval, prior to ~~the issue of a Construction Certificate~~ the commencement of works. All work must be carried out in accordance with the approved plans"

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Applicant Note: Refer to submitted Jones Nicholson Drawing "Street Frontage Plans C101 & C102 and Drawing No. CC Mod – 001B.

The applicant proposes to modify Condition 33 to read as follows:

Access Design Standards

~~Prior to the issue of a Construction Certificate for works within the site the commencement of works within the road reserve, engineering design plans for footpath works in the Lawrence Ave road reserve are to be submitted to Council for approval. Details are to be shown on the engineering design plans and must incorporate the following:~~

- a) ~~Footpath levels must comply with a 3% cross fall from the boundary to top of kerb, or a design approved by Council;~~
- b) ~~Provision of a Type 4 part-width concrete pathway in accordance with the Streetscape Technical Manual Deleted;~~
- c) ~~The level of the footpath must match existing footpath levels adjoining the site on Kinghorne Street Lawrence Avenue at the property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.~~

Applicant Note:

Part A – The 3% cross fall was not able to be achieved (reference to onsite meeting with Council on 2nd December 2020).

Part B – There is no road design available for construction levels. Propose existing pathway to remain until Council design levels are determined.

Part C – Incorrect property nominated.

The applicant proposes to modify Condition 34 to read as follows:

Stormwater Drainage Design and On-Site Detention

~~"Prior to the commencement of works, major and minor drainage systems must be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications section D5 (Stormwater Drainage Design) and DCP 2014 – Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control. The minor and major systems must be designed for 10% AEP for commercial areas and have consideration for the 1% AEP rainfall events respectively."~~

Applicant Note: Refer Drawing C02.3 for OSD and stormwater drainage & CC Mod – 001B for revised stormwater separate discharge to kerb.

The applicant proposes to modify Condition 35 to read as follows:

Stormwater Drainage Design and On-Site Detention

~~The internal lot stormwater will need to connect to extended stormwater infrastructure in Kinghorne Street via an easement through Lot 1 DP1243710. The connection in Kinghorne Street will be via a grated kerb inlet pit at kerb at the frontage to the development.~~

~~The adjacent southern lot stormwater lines which currently discharge into Kinghorne Street where the driveway is to be located are to be connected to the extended stormwater infrastructure in Kinghorne St via a trafficable grated inlet pit.~~

Applicant Note: Refer Drawing C02.3 for OSD and stormwater drainage & CC Mod – 001B for revised stormwater separate discharge to kerb.

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The applicant proposes to modify Condition 37 to read as follows:

Stormwater Drainage Design and On-Site Detention

*"On-site detention storage for stormwater runoff from the site must be provided such that the discharge from the site for design storm events up to and including the 100 year average recurrence interval does not exceed the pre-developed conditions. Details must be submitted to Council or an accredited certifier for approval prior to the ~~issue of a Construction Certificate~~ **the commencement of works**. All flow discharging from on-site detention is to be via gravity flow to an approved discharge location. Automatic pump-out systems from on-site detention will not be allowed."*

Applicant Note: Refer drawings JN Mod C02 & CC Mod – 001B for OSD/ Stormwater drainage lines and discharge to Kinghorne street.

The applicant proposes to modify Condition 47 to read as follows:

Nature Strip Reinstatement Works

The disused gutter crossing ~~and pipe outlets are~~ is to be reinstated to the satisfaction of Council's Development Engineer or their nominee. The works are to be reinstated as follows:

- a) The road pavement is to be saw-cut parallel to the lip of the gutter;*
- b) The existing layback and gutter is to be removed;*
- c) New cast in-situ kerb and gutter to match adjacent profile is to be poured and connected to the adjoining sections of kerb with suitable bitumen joining.*
- d) Stormwater lines are to be connected to stormwater infrastructure in Kinghorne St via ~~a trafficable grated inlet pit~~ **a connection as approved by Council**.*

Applicant Note: The modification is proposed as there are no piped crossings within Lawrence Avenue.

The applicant proposes to modify Condition 72 to read as follows:

Covenant & Restriction as to User for Stormwater Controlled Systems

Prior to occupation and the issuing of an Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (in regards to the on-site stormwater detention system (OSD), ~~mechanical pump-out system, charged lines (which are related to the OSD system), etc.~~

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement of width of the required width over the proposed stormwater drainage line or service concurrently with any subdivision registration.

Applicant Note: The modification is proposed as there are no mechanical pump out systems or charged lines proposed and makes a correction for double wording.

2. Background

Subject Site

The site is described as Lot 2 DP 1264717 (formally known as Lot 2 DP 1243710) at No. 2 Lawrence Ave Nowra and Lot 1 DP 1243710 at No. 61 Kinghorne St Nowra. Together the site has a total area of 1,965.5m² and is located within Zone B3 – Commercial Core in accordance with the Shoalhaven Local Environmental Plan (SLEP) 2014.

Proposed works including the approved four (4) storey mixed commercial and residential development and basement car parking area would all be located within No. 2 Lawrence Ave Nowra.

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Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710) & Lot 1 DP 1243710

The neighbouring property located at No. 61 Kinghorne St, Nowra forms part of the subject site as services including driveway access, stormwater disposal, and electricity are integrated with the approved development on this lot.

Development Approval History and Assessment Timeline

The following provides a summary of the approval history for the subject development and a timeline of events following the lodgement of DS20/1619 with Council:

- Development Approval No. DA18/2326 issued by Shoalhaven City Council on 4 October 2019 for a four storey mixed use commercial and residential building.
- Modified Development Application No DS20/1001 – seeking a reduction in the car parking contributions payable under Condition 17 of the consent, was formally refused by Council on 7 April 2020.
- Partial Construction Certificate No. CC20/1109 issued for the construction of the basement car parking area and up to the ground floor level of the building issued by Shoalhaven City Council on 24 February, 2020.
- This Modification Application No. DS20/1619 lodged with Council seeking minor alterations and modifications to conditions of consent on 22 December 2020.
- Internal referral of DS20/1619 to Shoalhaven Water, Development Engineer, and City Services on 12 January 2021.
- Response to internal referrals received by Development Services on 5 March 2021. Recommendations provided (refer report at Attachment 2) include partial approval and partial refusal of the proposed modification to conditions.
- Meeting between Development Services, Development Engineering, Building & Compliance and applicant on 10 March 2021 to identify key conditions required to be modified in light of Construction Certificate timeframes.
- Email from applicant dated 15 March 2021 seeking to amend the proposed Modification Application to include additional conditions to be modified.
- Further meeting between Development Services, Development Engineering, and applicant on 17 March 2021 to confirm the conditions of consent being sought to be modified. Note: confirmation was also provided in writing in this regard on 17 March 2021.
- 17 March 2021 – Email correspondence between applicant and Council staff confirming conditions to be amended. In this email exchange, the applicant concurred with Council's following statement:

"Please be aware that where the requirement has been removed from prior to CC to now prior to the commencement of works, that this at some (your) risk. In the event that there is an unexpected finding Council is unable to foreshadow how that situation may be dealt with or resolved. Prior to CC affords due process and opportunity for peer review and checking".

3. Consultation and Referrals

Internal Referrals		
Referral	Recommendation	Comment
	<p>Referral response provided by the Development Engineer on 1st March 2021.</p> <p>The following comments were made regarding the proposed modifications to the conditions of the consent:</p> <p>Condition 1 – Whilst no objections were raised regarding proposed modifications to the Combined Site Layout Plans, Site Plan, submitted floor plans, or Elevations /</p>	<p>The comments provided by the Development Engineer would be incorporated into Council's response regarding this matter.</p>

Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710) & Lot 1 DP 1243710

	<p>Sections, the following objection was raised in relation to the submitted 'Street Frontage Plan':</p> <p><i>The applicant now proposes not to undertake works on the Lawrence Avenue frontage in accordance with the DCP due to the existing levels and obstructions of the neighbouring properties as outlined in the modification request and the previous site inspection. Further advice provided by Council's Design staff indicates that Council has not undertaken a design for the future widening of Lawrence Avenue and would be unlikely to do so in the distant future. Without further specific advice from Council's City Design Manager – this modification cannot be supported as there isn't sufficient evidence to indicate that Council would undertake this work within a (sic) ascertainable timeframe.</i></p> <p>Assessment Officer Note: The requirement for the provision of a Type 4 part-width concrete footpath is a requirement from Council's Streetscape Technical Manual and would be enforced. Not providing the required footpath would also represent a non-compliance with Acceptable Solutions A6.3/Performance Criteria P6 of Chapter G18 – Streetscape Design for Town and Village Centres of the Shoalhaven Development Control Plan (SDCP) 2014 (further discussion provided in the Report below).</p> <p>Condition 17 – This matter was referred to the Development Planner for review and assessment. Detailed review of Council's position in relation to this matter can be found under Chapter G21 – Car Parking and Traffic of the SDCP 2014 in the Report below.</p> <p>Condition 29 – As discussed in Council's meeting held between Council's development services and development engineering staff and the applicant, Council agreed that an amendment to the wording to read 'prior to the commencement of works' would be a suitable outcome.</p> <p>The applicant was advised however, that where the requirement has been removed from prior to CC to prior to the commencement of works, that this at some (their) risk. Council advised that, where there is an unexpected finding they would be unable to foreshadow how that situation may be dealt with or resolved as a prior to CC assessment affords due process and opportunity for peer review and checking.</p> <p>Condition 33 – The proposed modification to Parts A and C of this condition were supported, however an objection was raised regarding the proposed modification to Part B of this condition (proposed deletion by the applicant). The following comments were provided:</p>	
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Planning Report – S4.55(1A) Assessment – DS20/1619 - 2 Lawrence Av, NOWRA - Lot 2 DP 1243710) & Lot 1 DP 1243710

	<p><i>Modification of sub-conditions a and c above are supported. Sub-condition b has been discussed further with Council's City Services department who have indicated that due to Council not yet undertaking any design for the Lawrence Avenue widening works, this condition should still be fulfilled by the applicant. Removal/modification of sub-condition b is not supported unless specific advice is sought from Council's City Design Manager.</i></p> <p>As stated above in relation to Condition 1, the requirement for a Type 4 footpath is a requirement of the Streetscape Technical Manual and would be enforced. This would also represent a non-compliance with A6.3/P6 of Chapter G18 – Streetscape Design for Town and Village Centres of the Shoalhaven Development Control Plan (SDCP) 2014).</p> <p>Council therefore supports the following amended wording to Condition 33 as recommended by the Development Engineer:</p> <p><i>Prior to the issue of a Construction Certificate for works within the site, engineering design plans for footpath works in the Lawrence Ave road reserve are to be submitted to Council for approval. Details are to be shown on the engineering design plans and must incorporate the following:</i></p> <p><i>a) Footpath levels must comply with a 3% cross fall from the boundary to top of kerb, or a design as approved by Council;</i></p> <p><i>b) Provision of a Type 4 part-width concrete pathway in accordance with the Streetscape Technical Manual;</i></p> <p><i>c) The level of the footpath must match existing footpath levels adjoining the site on Lawrence Avenue at the property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.</i></p> <p>Condition 34 – As discussed in Council's meeting held between Council's Development Services and development engineering staff and the applicant, Council agreed that an amendment to the wording to read 'prior to the commencement of works' would be a suitable outcome.</p> <p>The applicant was advised however, that where the requirement has been removed from prior to CC to prior to the commencement of works, that this at some (their) risk. Council advised that, where there is an unexpected finding they would be unable to foreshadow how that situation may be dealt with or resolved as a prior to CC assessment affords due process and opportunity for peer review and checking.</p> <p>Condition 35 – The proposed modified wording for Condition 35 was supported by the Development Engineer and would form part of the recommendation.</p>	
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	<p>Condition 37 – As discussed in Council's meeting held between Council's development services and development engineering staff and the applicant, Council agreed that an amendment to the wording to read 'prior to the commencement of works' would be a suitable outcome.</p> <p>The applicant was advised however, that where the requirement has been removed from prior to CC to prior to the commencement of works, that this at some (their) risk. Council advised that, where there is an unexpected finding they would be unable to foreshadow how that situation may be dealt with or resolved as a prior to CC assessment affords due process and opportunity for peer review and checking.</p> <p>Condition 47 – The proposed modification to Condition 47 was supported with the following comments being provided:</p> <p><i>There are no stormwater outlets on Lawrence Avenue or Kinghorne Street in the vicinity of the proposed driveway location so the requirement to re-instate any pipe outlets on the existing kerb and gutter is supported for removal.</i></p> <p><i>In relation to the stormwater discharge location, the revised stormwater plan shows this connection being made directly to the kerb and gutter through an approved connection.</i></p> <p>Condition 72 – The proposed modified wording for Condition 35 was supported by the Development Engineer and would form part of the recommendation.</p>	
City Services – Traffic & Transport Unit	<p>Referral response provided by City Services on 5th March 2021.</p> <p>Response given advising that the Traffic and Transport Unit's comments have been incorporated within the comments provided as part of the referral response given by the Development Engineer.</p> <p>Nil further requirements or recommendations were given further to the comments provided by the Development Engineer.</p>	The comments provided by the Development Engineer would be incorporated into Council's response regarding this matter.
Shoalhaven Water	<p>Referral response provided by Shoalhaven Water on 12th February 2021.</p> <p>A response was provided objecting to the proposed modification to Condition 18. The following reasoning was given for the objection:</p> <ul style="list-style-type: none"> • Due to the complexity of the development a suitably qualified <u>engineer</u> is required to complete the design. 	The applicant advised that a design was prepared by a qualified engineer. Hence no modification to Condition 18 was necessary.

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	No further comments or objections were raised regarding the proposed modifications to any of the other conditions of consent.	
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4. Other Approvals

External Referrals

No external referrals were required to be undertaken to inform the assessment of the Development Application.

Council further notes that the modified development proposal was not identified as being an Integrated Development pursuant to section 4.46 of the Environmental Planning and Assessment (EP&A) Act 1979. Accordingly, no integrated development referrals were required to be carried out to inform the assessment of the Development Application.

5. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls are relevant to the proposed modification:

Instrument
State Environmental Planning Policy No 55 - Remediation of Land
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Infrastructure) 2007
Shoalhaven LEP 2014

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 6 of this report.

6. Section 4.55(1A) Modification of Consent - Considerations

This application is seeking to modify Development Consent No. DA18/2326 and is classified as **S4.55(1A) – Modifications involving minimal environmental impact** under the EP&A Act.

The following provides an assessment of the submitted application against the matters for consideration under Sections 4.55(1A) & 4.15(1) of the EP&A Act.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact

Council is satisfied that the proposed modification is of minimal environmental impact.

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(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)

Council is satisfied that, subject to the recommendations provided in this Report, the proposed modification would be substantially the same as the development which was originally approved.

The modified development as recommended by Council will result in no significant changes and the proposal is considered to be quantitatively and qualitatively the same as the development as originally approved.

(c) it has notified the application in accordance with the regulations or a DCP

Notification was carried out in accordance with Council's Community Consultation Policy for a period two weeks between 12th and 28th January 2021.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan

Nil submissions objecting to the proposal were received during the designated notification period.

6. Section 4.55(3) – Matters Relevant to the Application

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental planning instrument

EPI	Provision	Comment
SEPP No. 55 – Remediation of Land		No further issues have been raised in relation to contamination as part of the subject modification application.
SEPP (Building Sustainability Index: BASIX) 2004		No amendments to the stamped approved BASIX Certificate were requested by the applicant, nor do the amendment under this modification require the approved BASIX to be amended.
SEPP (Infrastructure) 2007		The requirements listed under Clause 45 of the policy were considered. DS20/1618 – 61 Kinghorne St was referred to Endeavour Energy having regard for the proposed relocation of the power pole on this frontage. DS20/1619 was not required to be referred to Endeavour Energy as no additional building works were proposed which would encroach towards the overhead power lines than that which has already been consented to.
SLEP 2014	Cl. 2.7	No further demolition works are proposed to be carried out as part of the subject modification.

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	Cl. 4.3	No additional increase of the building height over and above that which has already been consented to is proposed.
	Cl. 4.4	No floor space ratio which applies to the site.
	Cl. 4.6	Not applicable.
	Cl. 5.1	The land to the Lawrence Avenue frontage of the site has been acquired by Council on 3 December 2020. Accordingly, the site no longer is affected by the land acquisitions map and is not affected by this clause any longer.
	Cl. 5.10	The amended proposed layout of the development would maintain consistency with cl. 5.10 and would not have an additional impact upon nearby heritage items over and above that which has already been consented to.
	Cl. 7.1	It remains that any earthworks already consented to would not occur below 5m AHD or result in a lowering of the water table. No amendment to the existing condition relating to ASS is proposed to be undertaken.
	Cl. 7.2	No further earthworks are proposed to be undertaken over and above that which has already been consented to.
	Cl. 7.3	The subject site remains outside the designed 1% AEP flood level and flood planning area.
	Cl. 7.5	The property remains outside of any mapped areas of terrestrial biodiversity.
	Cl. 7.6	The property remains outside of 40m to any Category 1, 2, or 3 water courses.
	Cl. 7.7	The property remains unaffected by slopes exceeding 20% or Council's landslide risk / land degradation mapping.
	Cl. 7.8	The property remains unaffected by Council's scenic protection area mapping.
	Cl. 7.11	All essential services remain accessible to the subject development.
	Cl. 7.16	The amended proposed layout of the development would maintain consistency with Cl. 7.16 – no residential development is proposed on the ground floor level.

ii) Draft Environmental Planning Instrument

Draft EPI	Provision	Comment
Draft Illawarra-Shoalhaven Regional Plan 2041		The modified development proposal is consistent with the objectives of the Draft Regional Plan 2041.

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iii) Any Development Control Plan

SDCP 2014 Chapter	Comment
Chapter G1 – Site Analysis	The submitted Site Plan remains consistent with the provisions contained within Chapter G1 and the Environmental Planning and Assessment Regulation 2000.
Chapter G2 – Stormwater	As discussed in the Report above, Council's Development Engineer has assessed the modified stormwater design in accordance with the requirements listed under Chapter G2 of the SDCP 2014 and has found the development to be consistent with these controls.
Chapter G3 – Landscape Design Guidelines	<p>An amended Landscape Design Plan was provided by a qualified landscape architect (Drawing No. CC Mod – 1282/1A drawn by Captivate Landscape Design, dated Oct 2020).</p> <p>The amended Landscape Design Plan modifies the design by removing the proposed garden bed adjacent to car parking space no.s 15 to 20 (23 x Coastal Rosemary plants – height up to 0.8m).</p> <p>The purpose for the removal of this garden bed is to cater for the placement of an electrical substation within former car parking space 20 and the replacement of these parking spaces on the southern side of the driveway.</p> <p>Whilst the amended proposal represents a reduction in landscaping, the layout provided is considered to maintain compliance with the provisions of Chapter G3 of the SDCP 2014. No reduction in landscaping visible from the public street frontage is proposed to occur.</p> <p>The landscaping is considered to maintain compliance with the requirements of the Apartment Design Guide as the remaining elements of the landscape proposal are considered to be viable and sustainable.</p>
Chapter G4 – Removal and Amenity of Trees	No further vegetation is proposed to be removed from the site over and above that already undertaken as part of the original consent.
Chapter G7 – Waste Minimisation and Management Controls	Compliance with the approved Waste Management would continue to be required.
Chapter G13 – Medium Density and Other Residential Accommodation	The proposal is considered to maintain compliance with the applicable provisions of the Apartment Design Guide. No further departures are proposed further to those which were originally consented to.
Chapter G18 – Streetscape Design for	<p>Chapter G18 of the SDCP 2014 applies as the development includes a proposal for a commercial, mixed use, residential flat building development.</p> <p>The applicant wishes to delete Condition 33(b) which states the following:</p>

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Town and Village Centres	<p><i>Provision of a Type 4 part-width concrete pathway in accordance with the Streetscape Technical Manual;</i></p> <p>The proposed deletion of this condition would result in a non-compliance and departure from Acceptable Solution A6.3 of Chapter G18 which states the following:</p> <p><i>“Where the footpath/pathway design in the Streetscape Technical Manual differs to the existing footpath design, the new footpath is to be provided as per the Streetscape Technical Manual”.</i></p> <p>The existing footpath design differs from the design listed under the Streetscape Technical Manual and therefore requires a design which accords with the Manual.</p> <p>Whilst the Lawrence Avenue frontage of the site is mapped on the Land Reservation Acquisition Map and has since been acquired, Council's City Services clarified that no redesign plan has been undertaken for this area – and further that a redesign is not planned in the near future. Therefore compliance with the required standard as specified within the acceptable solution is considered to be appropriate.</p> <p>Performance Criteria P6 states the following:</p> <p><i>“Allow for convenient and equitable pedestrian travel through provision of footpaths/pathways in centres. Footpath design is consistent to encourage visual continuity and legible centres”.</i></p> <p>It is considered that the proposal is non-compliant with Performance Criteria P6 for the following reasons:</p> <ul style="list-style-type: none"> • The incorporation of the site on the Acquisition Map and formal acquisition of the land for road widening is not considered to be an appropriate alternative to the provision of a footpath that complies with the Technical Manual given the acquisition and a redesign of this street frontage is not planned over the short term future (as clarified with City Services). • The Type 4 Manual as presented within the Streetscape Technical Manual represents Council's technical standard for footpaths and non-compliance with this standard would deviate from Council's consistency and conformity in relation to this matter. This would result in: <ul style="list-style-type: none"> ○ An inequitable solution which does not accord with the design of footpaths through the Nowra CBD area and potentially inaccessible. ○ Visual continuity and would support of a legible centre has the potential to be compromised. ○ The potential for a non-conforming design to be in place for an indefinite period of time. While Council has acquired the subject land for road widening, a full acquisition for the length of Lawrence Ave is unknown. ○ A precedent being set whereby any future development along Lawrence Avenue could be excused from meeting the technical manual standards. • Therefore Council should not be waiving the requirements of the applicant to provide a footpath per Council's technical manual standards for this reason and compliance with the required standard as specified within the acceptable solution is considered to be appropriate.
Chapter G21 – Car Parking and Traffic (Version 3)	<p>5.1 Car Parking Schedule</p> <p>The land use table in this Chapter specifies the following parking requirements:</p> <ul style="list-style-type: none"> • <i>Shop Top Housing</i> – 1.5 spaces per dwelling of 56m²-85m² and 2 spaces per dwelling of 86m² or greater with a 25% discount applicable as the site is within 200m radius of the Nowra CBD.

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<ul style="list-style-type: none"> <i>Commercial Premises</i> – 1 space per 24m² at ground level and 1 space per 40m² of floor space above ground level. <p>Table 1 – Development Data below provides the modified and updated car parking calculations for the development which incorporate the following:</p> <ul style="list-style-type: none"> The net increase of one (1) parking space proposed by the applicant as depicted on the modified plans (Spaces 21 and 22 are proposed whilst Space 20 is proposed to be turned into an electrical substation). The designation of a second future lift and shaft between the Ground Floor Level and Second Floor Level as part of the modified proposal. The incorporation of the future lift and shaft results in a reduction in the size of the presently approved lift and results in the removal of the 'store' which is presently marked on the approved plans. 					
Table 1 – Development Data					
DS20/1619 – 2 Lawrence Avenue, Nowra					
Level	Land Use	Area	Parking Rate	Required parking	Total Car parking required
Ground	Comm.	319.7m ²	1 / 24m ²	319.7/24 = 13.32	39.20
First	Comm.	453.7m ²	1 / 40m ²	453.7/40 = 11.34	
Second	Comm.	401.7m ²	1 / 40m ²	401.7/40 = 10.04	
Third	Resid.	Unit 1 106m ² Unit 2 125m ² Unit 3 106m ²	2 spaces 2 spaces 2 spaces	6 x .75 = 4.5 or 5 spaces	
Total Car Parking provided					21 spaces
<p>21 car spaces are provided, 5 for the residential component, the remaining 16 for commercial. The modification proposes a net increase of one (1) parking space as depicted on the modified plans (Spaces 21 and 22 are proposed whilst Space 20 is proposed to be turned into an electrical substation).</p> <p>The above calculations also account for the designation of a second future lift and shaft between the Ground Floor Level and Second Floor Level as part of the modified proposal. The incorporation of the future lift and shaft results in a reduction in the size of the presently approved lift and results in the removal of the 'store' which is presently marked on the approved plans. These works result in a reduction of 9.9m² in gross floor area across the entire development (3.3m² across the ground, first, and second floor levels).</p> <p>The 18.20 space shortfall is proposed to be paid through s7.11 car parking contributions. The reduced car parking contribution rate is listed within the Report below (refer Shoalhaven Development Plan 2019).</p>					
<p>It is noted that car parking for the development is required to be calculated in accordance with the below requirement as specified within s5.1 – Car Parking Schedule of Chapter G21 of the SDCP 2014:</p> <p><i>"Within land zoned B3 Commercial Core at ground level or where access to the development is from ground level above an underground level of car parking 1 space per 24m² gross floor area. At 1st floor and above 1 space per 40m² gross floor area.</i></p> <p><i>Elsewhere 1 space per 40m² gross floor area".</i></p>					

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	<p>The applicant has requested that the car parking rate for the ground floor level of the development be instead determined at the rate given for 'Elsewhere 1 space per 40m² of gross floor area' (i.e. rate given for developments located outside of the B3 Commercial Core Area). They provided the following justification for this interpretation:</p> <ul style="list-style-type: none"> • <i>The attached plans indicate a reworking of the carparking layout, where an additional 2 x spaces are provided -(Nos 21 & 22 - located adjacent "Centrelink" Boundary)</i> • <i>With the addition of a second lift shaft, and minor re-configuration of the connecting floors there is a reduction in floor space which impacts on car parking area calculations.</i> • <i>Discussions, which have been on foot for the duration of this application, the proponents and all others involved, (including Council officers, and various Councillors) recognise that while being technically within the CBD, Lawrence Avenue is unquestionably NOT a retail precinct.</i> • <i>it is unfortunately within a zoning that technically identifies the Lot for retail on the ground floor level, which in turn attracts a carparking space / m2 ratio of 1 per 24 m2, vs 1 per 40m2 for commercial office space.</i> • <i>It is our position that the ground floor space will only be used for commercial office space. We have deliberately NOT made any provision in the design for café type development as neither that type of operation, nor any other retail activity will ever be suitable for the building that is being built, and the location as noted is not attractive in any way to retail activity.</i> <p>Council staff disagree with this interpretation and considers that the development has been appropriately calculated under the required rate for developments located within B3 Commercial Core. The following points are made:</p> <ul style="list-style-type: none"> • Council has acknowledged that a reworking of the parking spaces has resulted in two additional parking spaces being provided. However when considering that space 20 would be repurposed as an electricity substation – a net increase of one (1) space has occurred. This has been reflected in a reduction to the parking contributions. <p>It is noted the need for a substation was flagged by Endeavour Energy in their submission to the original Development Application under DA18/2326 (dated 21/03/2019) where they stated: <i>"Given the type and size of the proposed development, an extension and/or augmentation of the existing local network will be required. However the extent of the work required will not be determined until the final load assessment is completed"</i>. This is not uncommon for development of this size and type to require a substation to be developed as part of the intensification of the use of the land.</p> <ul style="list-style-type: none"> • Council has acknowledged the second lift shaft which has resulted in a reduction of 3.3m² of gross floor area on each of the ground, first, and second floor levels which has resulted in a reduction in the parking contributions and is reflected in the amended Condition 17 as recommended for approval at Attachment 1. • The site is mapped within the B3 Commercial Core Zone in accordance with the SLEP 2014 and is therefore formally part of the CBD area. There is nothing preventing the area becoming a retail precinct in the future in accordance with its zoning potential. Council also notes that clause 2.20A of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 permits a change of use from an 'office premises' to 'shop' as exempt development under Subdivision 1A - which reflects its potential as a retail precinct and also waives the requirement for further consideration of parking or relevant car parking contributions to be made in the future.
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	<ul style="list-style-type: none"> • Council notes that retail development already exists in this area of the CBD, highlighting its viability and potential for the proposed ground floor commercial spaces to similar be used as a retail premises. Food and drink premises, restaurants and shops are well established on Kinghorne Street , right up to the intersection with Plunkett Street; while around the corner along Worrigee Street, a range of retail premises operate down to the corner of Kinghorne Street. • There are no environmental planning instruments, plans or policies (i.e. such as the SLEP 2014, SDCP 2014, or SEPPs) which prevent retail development from being established in the ground floor section of this building. Further, a restrictive s88B covenant would be highly likely to be varied or set aside if development is otherwise considered appropriate for approval, as was reflected in the case of <i>D'Alterio v Newcastle City Council</i> [2017] NSWLEC 1058. • There are no controls which are able to be established which would formally prevent the ground floor from being used for a retail purpose (further discussion in this regard is made as part of Council's assessment of DS20/1001 for the adjoining 2 Lawrence Street). Council cannot impose a condition of consent restricting the use of the ground floor to a specific type of commercial premises. The Bitzios Report was presented by the applicant as part of the previous application (DS20/1001) and was already considered by and refused by Council. • While the development is mapped as requiring a 1 space per 24m² for ground floor B3 Commercial Core Commercial Premises, it also benefits from a 25% discount for being within the nominated concession area. <p>The calculations given in the above Table identifying a shortfall of 18.20 spaces is therefore considered to be appropriate.</p>
Chapter N8 – Nowra CBD Urban Design Development Controls	No further non-compliances with the acceptable solutions of Chapter N8 of the SDCP 2014 are proposed in addition to those already consented to.

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Nil

iv) **Environmental Planning and Assessment Regulation 2000**

No additional matters for consideration.

Shoalhaven Contribution Plan 2019

The proposed development would be unlikely to increase demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan) above and beyond that which was already consented to as part of the original approval given as part of DA18/2326.

Discussion regarding the car parking contributions is provided in the Report above (refer Chapter G21 – Car Parking and Traffic) – there is a reduction in the shortfall of parking spaces from 19.51 spaces to 18.20 spaces which has resulted in the following reduction in s7.11 Development Contributions charges for the development:

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Section 94 ET Calculations - DS20/1619 (UPN: 121510)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type: Medium Density/Dual Occupancy

Medium Density/Dual Occupancy

Proposed:

0 1 Bedroom Units

0 2 Bedroom Units

3 3 Bedroom Units

0 4 Bedroom Units

Existing:

1 Lots/Dwellings

0 1 Bedroom Units

0 2 Bedroom Units

0 3 Bedroom Units

0 4 Bedroom Units

Total ETs: 1.4

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Section 94 ET Calculations - DS20/1619 (UPN: 121510)

Close Reset Print Return Calc

☐ Residential ☒ Non-Residential

Non Residential

Note: enter area in m2 and calculator will convert area to ETs.

Retail: 0 Proposed - Gross Area m2

Commercial Office: 1175.1 Proposed - Gross Area m2

Hotel/Restaurant: 0 Proposed - Gross Area m2

BulkyGoods: 0 Proposed - Gross Area m2

Industrial: 0 Proposed - Gross m2, include parking/landscape

Retail: 0 Existing - Gross Area m2

Commercial Office: 0 Existing - Gross Area m2

Hotel/Restaurant: 0 Existing - Gross Area m2

BulkyGoods: 0 Existing - Gross Area m2

Industrial: 0 Existing - Gross m2, include parking/landscape

Total ETs: 11.75 **Management Project ETs: 5.88**

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23	1.4	\$980.32	\$0.00	\$980.32
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04	1.4	\$760.26	\$0.00	\$760.26
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01	1.4	\$1,026.21	\$0.00	\$1,026.21
01CARP3001	Car parking provision at Egans Lane, 8 Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghorne Street	\$27,722.47	18.2	\$504,548.95	\$0.00	\$504,548.95
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghorne & Plunkett Streets)	\$29.98	1.4	\$41.97	\$0.00	\$41.97
CWAREC5005	Shoalhaven Community and Recreational Precinct SCarP Cambewarra Road Bomaderry	\$1,931.92	1.4	\$2,704.69	\$0.00	\$2,704.69
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12	1.4	\$2,044.17	\$0.00	\$2,044.17
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	1.4	\$1,792.74	\$0.00	\$1,792.74
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	1.4	\$98.42	\$0.00	\$98.42
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	5.88	\$812.20	\$0.00	\$812.20
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	5.88	\$1,188.17	\$0.00	\$1,188.17
CWMGMT3001	Contributions Management & Administration	\$574.39	5.88	\$3,377.41	\$0.00	\$3,377.41
Sub Total:						\$519,375.52
GST Total:						\$0.00
Estimate Total:						\$519,375.52

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	The minor modifications would be unlikely to have an adverse impact upon the natural environment over and above that which resulted from the original development approval.
Built Environment	The minor modifications would be unlikely to have an adverse impact upon the built environment over and above that which resulted from the original development approval.

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Head of Consideration	Comment
	In particular the development would not result in an increase in the building footprint nor the building height and would generally have the same appearance top that which was originally approved.
Social Impacts	Subject to Council's recommendation (i.e. enforcement of requirement for a Type 4 Footpath in accordance with the Streetscape Technical Manual), the modifications would be unlikely to have an adverse social impact upon the surrounding locality.
Economic Impacts	No further adverse economic impacts are envisaged to take place as a result of the proposed modifications.

(c) Suitability of the site for the development

The subject site continues to be an appropriate site for the proposed development.

(d) Submissions made in accordance with the Act or the regulations

The s4.55 Modification Application was notified in accordance with the Community Consultation Policy for a period of two (2) weeks between 12th and 28th January 2021. No submissions were received during this period.

(e) The Public Interest

Consideration has been given to the wider public interest in terms of both environmental and economic impact.

Subject to the recommendations given by Council in relation to the proposed modification, the development would remain within the public interest.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed. Council's resolution of 7 April 2020 (MIN20.240) which states the following is noted:

"The delegation to the CEO be rescinded to determine a development application by refusal until the end of COVID 19 crisis.

The refusal of a development application must only be by Council/Committee resolution."

Given this report recommended part approval, part refusal, the s4.55(1A) Modification Application is required to be determined by the Development & Environment Committee of Council.

Recommendation

This application has been assessed having regard to the Heads of Consideration for Section 4.55(1A) under the *Environmental Planning and Assessment Act 1979*. As such, it is recommended that Modification Application No. **DS20/1619** relating to Development Consent No. DA18/2326 be approved in part and refused in part.

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The following provides further detail regarding the nature of Council's recommendation:

The proposed modification to Condition 1 would be modified to read as follows:

General

This consent relates to a four (4) storey shop top housing development consisting of three (3) levels of commercial premises and one (1) level of residential units comprising 3 x 3 bedroom units. as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED
Combined Site Layout Plan A	CC Mod – 001A	A. T. FCB	Oct 2020
Combined Site Layout Plan B	CC Mod – 001B	A. T. FCB	Oct 2020
Site Layout Plan	CC Mod L-001A	A. T. FCB	Oct 2020
Basement Floor Plan	CC Mod L-002A	A. T. FCB	Oct 2020
Ground Floor Plan	CC Mod L-003A	A. T. FCB	Oct 2020
First Floor Plan	CC Mod L-004A	A. T. FCB	Oct 2020
Second Floor Plan	CC Mod L-005A	A. T. FCB	Oct 2020
Third Floor Plan	CC Mod L-006A	A. T. FCB	Oct 2020
Elevations Plan	CC Mod L-007A	A. T. FCB	Oct 2020
Roof and Heights Plan	L-004-D	A. T. FCB	Jan 2019
Sections Plan	CC Mod L-008A	A. T. FCB	Oct 2020
Long Section – Combined Site Layout Plan	001 - A	A. T. FCB	Jan 2019
Landscape Plans	CC Mod 1482/1-A	Captivate Landscape Design	Oct 2020
Erosion and Sediment Control Plan	Project 17020052, C40P1	Jones Nicholson Consulting Engineers	28/5/18
Stormwater Layout Plan	JN-Mod C02.3	JN Engineering	August 2020
BASIX Certificate	9634588M	Aspect Z	22/10/2018
Waste Management Plan	-	-	-
Services Plan	CC Mod L-S02	A. T. FCB	Oct 2020
Site Layout (Longsection) Plan	JN-Mod C01.2	JN Engineering	June 2020
Longitudinal Section Plan	JN-Mod C104.1	JN Engineering	June 2020
Swept Path Analysis	JN-Mod C200.1	JN Engineering	August 2020

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Note: Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.

The proposed modification to Condition 17 would be modified to read as follows:

Contributions for Additional Services and/or Facilities

This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan 2019, as itemised in the following table.

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC5006	Northern Shoalhaven Sports Stadium	\$700.23	1.4	\$980.32	\$0.00	\$980.32
01AREC5007	Nowra Swimming Pool Expansion (Scenic Drive)	\$543.04	1.4	\$760.26	\$0.00	\$760.26
01AREC5009	Planning Area 1 recreational facilities upgrades (various locations)	\$733.01	1.4	\$1,026.21	\$0.00	\$1,026.21
01CARP3001	Car parking provision at Egans Lane, 8 Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghome Street	\$27,722.47	18.2	\$504,548.95	\$0.00	\$504,548.95
01CFAC5012	Nowra Integrated Youth Services Centre (Cnr Kinghome & Plunkett Streets)	\$29.98	1.4	\$41.97	\$0.00	\$41.97
CWAREC5005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$1,931.92	1.4	\$2,704.69	\$0.00	\$2,704.69
CWCFAC5002	Shoalhaven Entertainment Centre (Bridge Road Nowra)	\$1,460.12	1.4	\$2,044.17	\$0.00	\$2,044.17
CWCFAC5006	Shoalhaven City Library Extensions (Berry Street, Nowra)	\$1,280.53	1.4	\$1,792.74	\$0.00	\$1,792.74
CWCFAC5007	Shoalhaven Regional Gallery	\$70.30	1.4	\$98.42	\$0.00	\$98.42
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	5.88	\$812.20	\$0.00	\$812.20
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	5.88	\$1,188.17	\$0.00	\$1,188.17
CWGMGT3001	Contributions Management & Administration	\$574.39	5.88	\$3,377.41	\$0.00	\$3,377.41
				Sub Total:		\$519,375.52
				GST Total:		\$0.00
				Estimate Total:		\$519,375.52

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied will be adjusted accordingly at the time of payment. (ie contributions are calculated on the rate applicable at the date of payment, not the date of development consent.)

A total contribution, currently assessed as per the table above or as indexed in future years must be paid to Council before the issue of a Construction Certificate.

Contributions Plan 2019 can be accessed on Council's website www.shoalhaven.nsw.gov.au or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

The proposed modification to Condition 29 would be modified to read as follows:

Engineering design plans and specifications for civil works within the road reserve must be submitted to Council for approval, prior to the commencement of any further works. All work must be carried out in accordance with the approved plans.

Note: Plan checking and inspection fees will be required to be paid for the works within the road reserve as per Council's standard fees and charges.

The proposed modification to Condition 33 would be modified to read as follows:

Access Design Standards

Prior to the commencement of any further works within the road reserve, engineering design plans for footpath works in the Lawrence Ave road reserve are to be submitted to Council for approval. Details are to be shown on the engineering design plans and must incorporate the following:

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- a) Footpath levels must comply with a 3% cross fall from the boundary to top of kerb, or a design as approved by Council;
- b) Provision of a Type 4 part-width concrete pathway in accordance with the Streetscape Technical Manual;
- c) The level of the footpath must match existing footpath levels adjoining the site on Lawrence Avenue at the property frontages and be a uniform grade over the length of the development site frontage, or where this cannot be achieved, a longitudinal section must be designed.

The proposed modification to Condition 34 would be modified to read as follows:

Stormwater Drainage Design and On-Site Detention

Prior to the commencement of any further works, major and minor drainage systems must be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications section D5 (Stormwater Drainage Design) and DCP 2014 – Chapter G2: Sustainable Stormwater Management and Erosion/Sediment Control. The minor and major systems must be designed for 10% AEP for commercial areas and have consideration for the 1% AEP rainfall events respectively.

The proposed modification to Condition 35 would be modified to read as follows:

Stormwater Drainage Design and On-Site Detention

The internal lot stormwater will need to connect to Kinghorne Street via an easement through Lot 1 DP1243710. The connection in Kinghorne Street will be at the kerb at the frontage to the development.

The adjacent southern lot stormwater lines which currently discharge into Kinghorne Street where the driveway is to be located are to be connected in Kinghorne St.

The proposed modification to Condition 37 would be modified to read as follows:

On-site detention storage for stormwater runoff from the site must be provided such that the discharge from the site for design storm events up to and including the 100 year average recurrence interval does not exceed the pre-developed conditions. Details must be submitted to Council or an accredited certifier for approval prior to the commencement of any further works. All flow discharging from on-site detention is to be via gravity flow to an approved discharge location. Automatic pump-out systems from on-site detention will not be allowed.

The proposed modification to Condition 47 would be modified to read as follows:

Nature Strip Reinstatement Works

The disused gutter crossing is to be reinstated to the satisfaction of Council's Development Engineer or their nominee. The works are to be reinstated as follows:

- a) The road pavement is to be saw-cut parallel to the lip of the gutter;
- b) The existing layback and gutter is to be removed;
- c) New cast in-situ kerb and gutter to match adjacent profile is to be poured and connected to the adjoining sections of kerb with suitable bitumen joining.
- d) Stormwater lines are to be connected to stormwater infrastructure in Kinghorne St via a connection as approved by Council

The proposed modification to Condition 72 would be modified to read as follows:

Covenant & Restriction as to User for Stormwater Controlled Systems

Prior to occupation and the issuing of an Occupation Certificate, the Applicant shall register a Positive Covenant and a Restriction as to User, under section 88E and or section 88B of the

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Conveyancing Act as appropriate in favour of Council ensuring the ongoing retention, maintenance and operation of the stormwater facility (in regards to the on-site stormwater detention system (OSD).

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement of the required width over the proposed stormwater drainage line or service concurrently with any subdivision registration.

All other conditions are to remain unchanged.

Development Services
City Development
15/03/2021

Planning Report – S4.15 Assessment - 29 Strongs Rd, JASPERS BRUSH - Lot 215 DP 1210788

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA20/1966
Property	29 Strongs Rd, JASPERS BRUSH - Lot 215 DP 1210788
Applicant(s)	Foundation Law Group
Owner(s)	Robert Bruce Drewitt Smith

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

Name

Elliott Weston

20/01/2021

1. Detailed Proposal

The applicant seeks development consent to erect a single, temporary, and mobile A-frame advertising sign with a combined signage area of 24m² (12m² front and back) and image of the relevant signage is provided in Figure 2 and 3 below. The signage is in relation to a business identified as "Hotondo Homes".

The signage is proposed to be placed on the south-western corner of the land adjoining the Princes Highway (refer to Figure 1).

The signage is proposed to be placed on the land for no more than 52 days in a year in accordance with cl. 2.8 of *Shoalhaven Local Environmental Plan 2014*.

The applicant originally proposed that the sign be placed on the location identified on the Site Plan for the period specified below, which was designed to reflect school holiday season, during which vehicle traffic along the Princes Highway would be likely to be at its peak:

- Saturday 26 September – Sunday 11 October (18 days)
- Saturday 19 December – Saturday 22 Jan 2021 (34 days)

Following discussion with the applicant and delays in the provision of additional information, the applicant has proposed that the signage be limited to 52 days in a 12-month period and not limited to specific dates.

The applicant has been advised from the outset that Council staff would not be likely to support the proposal, with this advice being reiterated in telephone discussions and multiple emails between 1 December 2020 and 17 December 2020.

Through this correspondence, the applicant also suggested that as an alternative, the proposal relates to a business being conducted on the land (i.e. construction of a Hotondo development) and could thus be defined as 'business identification signage', having regard to the provisions of the State Environmental Planning Policy No 64—Advertising and Signage. As detailed in this report, Council staff advised that this interpretation was flawed and would not be supported by Council.

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Figure 1 - Extract of the proposed site plan with area for the erection of the proposed temporary signage nominated.



Figure 2 - Elevation of the proposed signage and relevant dimensions.

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Figure 3 - elevations of the proposed signage.

2. Subject Site and Surrounds

The land is identified as No. 29 Strongs Road, Jaspers Brush and is legally described as Lot 215 DP1210788 (the Site). The land is an irregular-shaped allotment with dual frontages to Strongs Road in the north and the Princes Highway in the east. The land has a total area of 24.89ha.

The land is largely cleared of vegetation with stands of tree located along several drainage depressions and proximate to the dams located on the site. The site is not mapped as containing any endangered ecological communities (EEC) or critically endangered communities (CEEC). The land drains to the existing dams and drainage depressions located on the site.

The site has been developed for rural/residential land use with a dwelling, inground pool, detached garage and associated shed located toward the Strongs Road frontage. Council has approved (Development Consent No. DA16/1393) five (5) tourist cabins on the subject site.

The site is largely free of easements and restrictions that would otherwise impede the development of the site as proposed. It is however noted that an easement for transmission lines 30.48m wide is located along the length of the south-eastern boundary of the site. The signage is proposed within this easement.

The surrounding land is a mix of rural (extensive agriculture) and residential land uses. It is noted that the land to the south-west of the site (No. B510 Princes Highway) has been developed along its south-eastern boundary for an RMS site office and car park for workers associated with the construction of the Berry-Bomaderry By-Pass.

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Figure 4 - Aerial image of the subject site in the local context.

Deposited Plan and 88B Instrument

The site is burdened by an easement for electricity (overhead power infrastructure). The temporary signage is proposed to be placed within the easement. The applicant was requested to relocate the signage as it was likely that Endeavour Energy would not support the location of such a structure (albeit temporary) within the easement for safety and operational reasons.

The applicant has elected to retain the signage in the location in **Figure 1**.

3. Background

Post-Lodgement

On 29 September 2020, Council requested additional information from the applicant, which included a request to relocate the advertising signage outside of the easement for electricity (overhead power infrastructure).

On 29 September 2020, the application was notified for a period of 14 days in accordance with the Council's Community Consultation Policy.

On 19 November 2020, the applicant responded to Council and elected to retain the signage in its current location.

On 1 December 2020, Council wrote to the applicant to notify them that the application was inconsistent with the following s. 4.15 assessment matters:

1. State Environmental Planning Policy No 64—Advertising and Signage;
2. Shoalhaven Local Environmental Plan 2014 – cl. 2.8; and
3. Shoalhaven Development Control plan 2014 – Chapter G22: Advertising Signage.

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On 2 December 2020, the applicant notified Council that they did not agree with Council's interpretation and were of the view that the signage could be supported and was not contrary with the relevant environmental planning instruments and Council policy.

Site History and Previous Approvals

The site has been developed for rural/residential land use with a dwelling, inground pool, detached garage and associated shed located toward the Strongs Road frontage. Council has approved (Development Consent No. DA16/1393) five (5) tourist cabins on the subject site.

4. Consultation and Referrals

External Referrals			
Agency	Required	Recommendation	Comment
Endeavour Energy	<input checked="" type="checkbox"/>	<p>On 1 February 2021, Endeavour Energy provided their written response (D21/49875) to the application and recommended the following:</p> <p><i>"Endeavour Energy's recommendation is that the proposed advertising sign be positioned as far as possible to the front boundary to be located outside of the easement as much as possible and so that it is not directly under any of the overhead power lines / conductors. The Statement of Environmental Effects indicates in the section on the Shoalhaven Development Control Plan 2014, Chapter G22 – Advertising Signs and Structures, A5.6 Minimum front boundary setback is 1m.</i></p> <p><i>Accordingly the applicant must contact Endeavour Energy's Easements Officer and satisfactorily address the foregoing requirements in order to seek the required approval for the proposed controlled activity"</i></p>	<p>Were the application recommended for approval a condition could be imposed for the relocation of the signage outside (as far as possible) of the easement (taking into account the setback requirements for signage under SDCP 2014).</p>

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5. Other Approvals

N/A.

6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 64 - Advertising and Signage	<input checked="" type="checkbox"/>	State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

i) Environmental planning instrument

SEPP (Infrastructure) 2007

The SEPP ensures that Endeavour Energy is given the opportunity to comment on development close to its transmission easement. Council referred the application to Endeavour Energy.

On 1 February 2021, Endeavour Energy provided their written response (D21/49875) to the application and recommended the following:

"Endeavour Energy's recommendation is that the proposed advertising sign be positioned as far as possible to the front boundary to be located outside of the easement as much as possible and so that it is not directly under any of the overhead power lines / conductors. The Statement of Environmental Effects indicates in the section on the Shoalhaven Development Control Plan 2014, Chapter G22 – Advertising Signs and Structures, A5.6 Minimum front boundary setback is 1m.

Accordingly the applicant must contact Endeavour Energy's Easements Officer and satisfactorily address the foregoing requirements in order to seek the required approval for the proposed controlled activity"

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SEPP 55 Remediation of Land

Question	Yes	No
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	Proceed to Question 3	X Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	X Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Childcare facility Educational use Recreational use Health care use Place of public worship Residential use in a commercial or industrial zone 	Proceed to Question 5	X Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	Proceed to Question 5	X Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	Proposal satisfactory under SEPP 55 and DCP.

SEPP 64 – Advertising and Signage

SEPP 64 applies to the land and the Development and in accordance with cl. 7, *In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.*

Consideration of the Development against the provisions of cl. 13 of SEPP 64 is required.

Clause 13(1) states as follows:

“13 Matters for consideration

- (1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:
- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
 - (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
 - (c) satisfies any other relevant requirements of this Policy.”

The proposed development is not considered to satisfy subclauses 13(1)(a) & (b) for the following reasons:

3 Aims, objectives etc

- (1) This Policy aims:
- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and

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- (ii) provides effective communication in suitable locations, and
(iii) is of high quality design and finish, and

The application is not compatible with the desired amenity and visual character of an area (cl. 3(1)(a)(i)).

The proposed advertising is not a suitable location for the proposed advertising signage in the rural setting (cl. 3(1)(a)(ii)).

In accordance with cl. 3(1)(b) the development has been assessed by Council in accordance with the assessment criteria in Schedule 1 (refer to the table below) and the consent authority is not satisfied that the proposal is acceptable in terms of its impacts.

SEPP 64 – Schedule 1	Comment
1 Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	No. The area is likely to remain predominately rural/residential and is unlikely (in the near term) to have any significant changes to land use patterns.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No. Advertisements in the locality are generally prohibited and discouraged. The small number of signs that have been erected include tourist signage and a limited number of unregulated signage that Council is aware of and is (through Council's Compliance Section) looking to investigate and where appropriate, seek their removal or regularisation where signage is permissible with consent. Strategically, advertising signage is most appropriate in the business, industrial, private recreation and working waterway zones which is reflected in the SLEP 2014.
2 Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Yes. The signage is considered to detract from the amenity or visual quality of the rural landscape. Jaspers Brush is characterised by its rural landscape and extensive agricultural uses. The erection of signage is likely to detract from the visual quality of the rural landscape.
3 Views and vistas	
Does the proposal obscure or compromise important views?	No.
Does the proposal dominate the skyline and reduce the quality of vistas?	No.
Does the proposal respect the viewing rights of other advertisers?	No.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	No. As stated previously the signage is not considered to be appropriate for the rural landscape setting and generally detracts from the agricultural setting and is of a scale and

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SEPP 64 – Schedule 1	Comment
	form that is inconsistent with Council's development control plan for advertising.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	No. The signage is likely to diminish the visual interest of the streetscape and rural landscape setting.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No. There is no existing (legal) advertising signage on this stretch of the Princes Highway that the advertising would be seeking to simplify and consolidate on a single sign.
Does the proposal screen unsightliness?	No.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.
Does the proposal require ongoing vegetation management?	No. Ongoing site maintenance through grass cutting may occur but would not be necessary.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	No. The 12m ² or 24m ² (total sign face area) is a large advertising structure that is not consistent with the low-scale rural/residential area where there is not existing (approved) signage in the locality.
Does the proposal respect important features of the site or building, or both?	No special features of the site are identified.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	No. The sign is a simple A-frame on a trailer and does not show innovation and imagination in its relationship to the site. Furthermore, the advertising signage does not relate to the site which is being advertised.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	None proposed.
7 Illumination	
Would illumination result in unacceptable glare?	No illumination proposed.
Would illumination affect safety for pedestrians, vehicles or aircraft?	No illumination proposed.
Would illumination detract from the amenity of any residence or other form of accommodation?	No illumination proposed.
Can the intensity of the illumination be adjusted, if necessary?	No illumination proposed.
Is the illumination subject to a curfew?	No illumination proposed.
8 Safety	
Would the proposal reduce the safety for any public road?	No.
Would the proposal reduce the safety for pedestrians or bicyclists?	No.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No.

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In accordance with cl. 13(1)(c) Council must assess whether the advertising signage satisfies any other relevant requirements of this Policy.

Clause 15 applies to land that is within a rural or non-urban zone and on which an advertisement is permissible. The sign is prohibited in the RU1 zone but permissible only under cl. 2.8 of SLEP 2014.

Sub-clause (2) of cl. 15 states that Council as the consent authority must not grant consent to display an advertisement on land to which this clause applies:

"(a) unless a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct in consultation with:

(i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and

(ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,

and the display of the advertisement is consistent with the development control plan, or

(b) if no such development control plan is in force, unless:

(i) the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and

(ii) specifies one or more of the following particulars:

(A) the purpose for which the land or premises is or are used,

(B) the identification of a person residing or carrying on an occupation or business on the land or premises,

(C) a description of an occupation or business referred to in sub-subparagraph (B),

(D) particulars of the goods or services dealt with or provided on the land or premises, or

(E) (Repealed)

(c) if no such development control plan is in force, unless the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest."

Chapter G22: Advertising Signs and Structures of SDCP 2014 provides controls and guidelines relating to advertising signs and structures. Chapter G22 has been made in accordance with Section 3.43 of the *Environmental Planning Assessment Act 1979* (EP&A Act), with appropriate consultation before adoption and coming into effect on 22 October 2014.

Chapter 22 is **not** a development control plan that has been *prepared on the basis of an advertising design analysis for the relevant area or precinct*. Chapter G22 provides controls with broad application across the whole of the Shoalhaven and does not provide area or precinct development controls (except for Signage at Ulladulla Harbour in the W3 Working Waterways zone).

There is no such development control plan in place and therefore Council must consider subclause (2)(b) of clause 15 and therefore consider whether: *the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land*.

The advertisement does not satisfy sub-clause (2)(b)(i) as it does not relate to the subject land or to premises situated on that land or adjacent land. Notwithstanding that the advertisement does not relate to the subject land or adjacent land, and the proposed advertising signage does not satisfy sub-clause (2)(b)(ii), in that the proposed advertising signage does not specify one or more of the following particulars:

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- (A) the purpose for which the land or premises is or are used,
- (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
- (C) a description of an occupation or business referred to in sub-subparagraph (B),
- (D) particulars of the goods or services dealt with or provided on the land or premises.

The land is used for rural/residential purposes presently. Council has approved (Development Consent No. DA16/1393) for five (5) tourist cabins, with a construction certificate (CC16/2003) issued by a private certifier.

The land is not approved for use as a Hotondo Homes sales office or business premises and therefore the purposes for which the land or premises on the land are used is not for Hotondo Homes.

Hotondo Homes is not a person residing or carrying on an occupation or business on the land or premises. The owner of the land is Robert Bruce Drewitt Smith and is not Hotondo Homes. Furthermore, it could not and should not be construed that the act of building a structure or building on the land i.e. the construction of the approved tourist cabins, amounts to the carrying on of an occupation or business on the land or premises. Such an interpretation is erroneous and would result in an interpretation that would have broader implications for the interpretation of the definition of a "business premises", "occupation" and "business identification sign" under SLEP 2014. Such an interpretation would allow for the placement of a sign on any land where a service had been or is being provided by a business, not at the premises or place at which the sign is displayed. Thus, allowing business identification signage contrary to the definition of "business identification signage".

Furthermore, the signage does not describe an occupation or business carrying on an occupation or business on the land or premises, or any particulars of the goods or services dealt with or provided on the land or premises.

Notwithstanding the foregoing, subclause 15(2)(c) enables Council to approve advertising signage in a rural or non-urban area despite not having such a development control in place, where the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest. Council does not consider the proposed advertisement to be any of these specific places or things and does not satisfy subclause 15(2)(c).

Finally, the land does not meet the definition of "transport corridor land" under clause 4 of SEPP 64 and therefore it also appears that subclause (3) of Clause 15 does not apply.

The signage is not supportable and would be contrary to SEPP 64. Council does not have any authority to approve the advertisement on the land by virtue of Clause 15. Clause 2.8 of SLEP 2014 does not grant Council the power to approve the advertisement where there is an inconsistency with SEPP 64, which prevails over SLEP 2014.

Shoalhaven LEP 2014

Land Zoning

The land is zoned RU1 Primary Production under the SLEP 2014.

Characterisation and Permissibility

The proposal is best characterised as "advertising signage" under the SLEP 2014. The proposal is prohibited within the zone.

"Advertising signage" is defined in the Dictionary to SLEP 2014 as follows:

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“advertising structure has the same meaning as in the Act.

Note—

The term is defined as a structure used or to be used principally for the display of an advertisement.

*Advertising structures are a type of **signage**—see the definition of that term in this Dictionary.”*

“Advertisement” is further defined in the Dictionary to SLEP 2014 as follows:

“advertisement has the same meaning as in the Act.

Note—

The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.”

Due to the nature of the signage and the information provide on the sign, the signage is not capable of being defined as a form of “business identification sign”. A “business identification sign” is defined in the Dictionary to SLEP 2014 as follows:

business identification sign means a sign—

(a) that indicates—

(i) the name of the person or business, and

(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Note—

Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

Hotondo Homes does not carry on a business at the premises or place at which the sign is displayed.

The relevant location for the carrying on of the business of selling homes the public is at Unit 5/176 Princes Highway, South Nowra and Unit 1/6 Shaban Street, Albion Park Rail. 29 Strongs Road, Jaspers Brush is not a sales office of Hotondo Homes and therefore it should naturally follow that they are not carrying on their business from this premises.

Zone objectives

Objective	Comment
<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To encourage diversity in primary industry enterprises and systems appropriate for the area. To minimise the fragmentation and alienation of resource lands. 	<p>The proposed signage would not be inconsistent with the zone objectives and would not limit (significantly) the use of the land for rural/residential land use and is unlikely to result in land use conflicts within the zone or adjoining zones.</p>

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<ul style="list-style-type: none"> • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To conserve and maintain productive prime crop and pasture land. • To conserve and maintain the economic potential of the land within this zone for extractive industries. 	
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SLEP 2014 Clauses

Clause	Comments	Complies/Consistent
Part 2 Permitted or prohibited development		
2.8	<p>The applicant proposes to erect the advertising signage on the subject land for no more than 52 in a 12-month period in accordance with cl. 2.8 of SLEP 2014.</p> <p>The stated objective of cl. 2.8 is to provide for the temporary use of land if the use does not <i>"compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land"</i>.</p> <p>Clause 2.8(3) requires Council to be satisfied of each matter listed in cl. 2.8(3), i.e.:</p> <ul style="list-style-type: none"> a) that the temporary use will not prejudice the future use of the land in accordance with SLEP 2014 or any other environmental planning instrument; b) that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood; c) that the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land; and d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use. <p><u>Comment:</u></p> <p>The advertising signage is consistent with sub-clause 2.8(3)(a)-(b) and (d).</p> <p>The proposed temporary use does not satisfy sub-clause 2.8(3)(c). The location of the signage is planned in a prominent location adjoining the Princess Highway in a rural setting at the entry to the Shoalhaven and Nowra and will have a visual impact on the locality. The test imposed by Clause 2.8(3)(c) is in absolute terms and is different from the test that is conventionally applied to the assessment of an ordinary development application. The higher threshold reflects the fact that the development for which consent is sought is otherwise prohibited.</p> <p>Relevantly, there must be no adverse impact on environmental attributes or features of the land by virtue of the visual impacts on the</p>	No.

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<p>rural setting views to the sweeping grazing lands and Cambewarra Mountains.</p> <p>Where there is any impact on <i>environmental attributes or features of the land</i> Council must <u>not</u> grant consent to the application.</p> <p>Council is guided in their interpretation of cl. 2.8 by the leading judgements of:</p> <ul style="list-style-type: none"> • <i>Marshall Rural Pty Limited v Hawkesbury City Council</i> [2015] NSWLEC 197; and • <i>EMRR Pty Limited v Murray Shire Council</i> [2016] NSWLEC 144. <p>This is the first application that Council has assessed where an applicant has sought to rely on cl. 2.8 to enable prohibited “advertising signage”. Were Council to support the use of the cl. 2.8 in the manner proposed this would likely result in further signage applications throughout the LGA and along the Princes Highway.</p>	
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ii) **Draft Environmental Planning Instrument**

The following draft environmental planning instruments (EPI) apply to the site:

- State Environmental Planning Policy No. 44 - Koala Habitat Protection - Review
- Draft State Environmental Planning Policy (Environment) 2017
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Short-term Rental Accommodation)

No additional assessment required under these draft EPIs

iii) **Any Development Control Plan**

Shoalhaven DCP 2014

Generic Chapters	Relevant
G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas	<input checked="" type="checkbox"/>
An appropriate site plan/site analysis plan has been submitted to Council in support of the Development Application.	
G22: Advertising Signs and Structures	<input checked="" type="checkbox"/>
<p>The purpose of this Chapter is to outline controls and guidelines relating to advertising signs and structures.</p> <p>The applicant proposes to erect a single, temporary and mobile A-frame advertising sign with a combined signage area of 24m² (12m² front and back)</p> <p>In accordance with Section 3.1 of this Chapter, strategically, advertising signage is most appropriate in the business, industrial, private recreation and working waterway zones which is reflected in the Shoalhaven LEP 2014.</p> <p>The proposed advertising signage is inconsistent with this chapter regarding the following sections:</p> <p>Notwithstanding that the application is non-compliant with SEPP 64 and cl. 2.8 of SLEP 2014 and the application cannot be approved, it is prudent to consider the proposed signage against the provisions of Chapter G22 of SDCP 2014. A consideration of the proposed signage against the</p>	

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relevant provisions Chapter G22 reveals that the signage is not consistent with a number of provisions for the following reasons:

1. The signage is inconsistent with the objectives set out under Section 4 of Chapter G22 in that the signage is not considered to:
 - a. Provide opportunities for business to advertise effectively in a manner that does not detract from the character of the area; and
 - b. Minimise visual clutter caused by the proliferation of signs and encourage the rationalisation of existing and proposed signage; and
 - c. Be well designed and consistent with this Chapter; and
 - d. Be consistent with the architectural character and heritage significance of heritage items or buildings, heritage conservation areas or pastoral landscapes.
2. The proposed signage is not consistent with the design guidelines under Section 5.1.1, for the following reasons:
 - a. The signage does not reinforce the architectural design of the building or its streetscape; or
 - b. The signage does not contribute to a new image for the building and its streetscape.
3. The form of signage that is proposed is discouraged by Council under section 5.3, being a motor vehicle sign (including signage on a trailer) that is not exempt, which is stopped on private property for the primary purpose of displaying such sign. While it is noted that Section 5.3 does stipulate that: *[a]pplications for some signs, however, may be considered on their merits provided Council is satisfied that the proposed sign is appropriate in the circumstances*, the signage proposed does not present any unique or persuasive arguments that would persuade Council in the consideration of the discouraged signage. While the COVID crisis resulted in temporary downward pressure on overall property prices, regional NSW's property prices rose amid the uptake of remote working conditions. Council also experienced a significant increase in s10.7 certificates (required for property exchanges). Development applications have continued to be lodged with significant applications in the mix. The Property Council has also released high level data stating that private sector house approvals rose for the "sixth consecutive month in December" 2020 and reached "a record high". Accordingly, there appears to be confidence in the property market and development industry.
4. When considered against the Section 5.5 General, Performance Criteria P7 is relevant to the proposed development, being a form of other free-standing sign the signage is not consistent with the performance criteria as the signage has not been designed to:
 - a. be associated with a lawful use of the adjoining or adjacent land;
 - b. specify the purpose(s) for which the adjoining or adjacent land or premises is or are used;
 - c. are consistent with the design guidelines outlined in this Chapter;
 - d. be in scale with the development on the adjoining or adjacent land; or
 - e. not adversely affect the amenity or character of the area.

Furthermore, the type of signage and the use of clause 2.8 of SLEP 2014 is likely to result in the creation of an undesirable precedent and may result in the proliferation of undesirable and unsightly advertising signage along public road.

- iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

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No planning agreement relates to the proposed development or site.
iv) **Environmental Planning and Assessment Regulation 2000**

No additional matters for consideration.

v) **Repealed**

Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is not considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan).

Nowra Bomaderry Structure Plan 2008

The proposed development is not inconsistent with the Structure Plan.

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	The development is unlikely to have an impact on the natural environment.
Built Environment	<p>The signage is likely to have a negative impact on the built environment with the signage, detracting from the rural character of the area. Jaspers Brush is characterised by its rural landscape and extensive agricultural uses. The erection of signage is likely to detract from the visual quality of the rural landscape.</p> <p>The signage is of a scale, proportion and form which is inconsistent with the streetscape, setting and landscape characteristics of the locality. There is no existing (legal) advertising signage on this stretch of the Princes Highway that the advertising would be seeking to simplify and consolidate on a single sign.</p>
Social Impacts	No detrimental social impacts are likely to result from the proposed signage.
Economic Impacts	No detrimental economic impacts are likely to result from the proposed signage.

(c) Suitability of the site for the development

The advertising signage is located on a rural/residential lot proximate to the Princes Highway in the predominately agricultural land of Jaspers Brush.

Development for the purpose of "advertising signage" is prohibited in all RU1 Primary Production zones under SLEP 2014. Strategically, advertising signage is most appropriate in the business, industrial, private recreation and working waterway zones which is reflected in the Shoalhaven LEP 2014.

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The signage is not supportable and would be contrary to SEPP 64, cl. 2.8(3) of SLEP 2014 and Chapter G22 of SDCP 2014.

Advertising signage of this scale and form is most appropriate in the aforementioned zones. Council has adopted a system of supplementary signage to ensure the positive promotion of tourism and ensure tourist, community and other information is available to the travelling public, such signage is reflected in other tourist and destination signage along the Princes Highway and may be located outside of business, industrial and private recreation zones. The proposed signage is purely related to the promotion of a business in a rural area significantly isolated from the business it is advertising. This form of signage is specifically discouraged by Council's Development Control Plan for advertising signage.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified In accordance with Council's Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

(e) The Public Interest

It is considered that granting approval to the proposed development will have significant adverse impact on the public interest.

The public interest is best served through the proper application of the planning legislation and Council's Policies relating to the form of development proposed. The assessment report outlines how the proposed signage would be contrary to SEPP 64, cl. 2.8(3)(c) of SLEP 2014 and Chapter G22 of SDCP 2014.

The public interest is not served through development which is consistent with the relevant planning legislation and Council Policies and is capable of being approved under such planning legislation. The current proposal cannot be approved by Council and therefore the public interest is not served by such an application.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Council Resolved on 7 April 2020 (MIN20.240) with respect to COVID- 19 Response, that:

7. To maintain, continue and encourage as much economic activity as possible Council adopt the following policies, to be followed by an implementation report from the CEO:

...

k. The delegation to the CEO be rescinded to determine a development application by refusal until the end of COVID 19 crisis

The refusal of a development application must only be by Council/Committee resolution

Planning Report – S4.15 Assessment - 29 Strongs Rd, JASPERS BRUSH - Lot 215 DP 1210788

This s. 4.15 assessment report recommends refusal of the above application and is therefore prepared for consideration by the Development & Environment Committee in accordance with the 7 April 2020 Resolution of Council.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA20/1966 be refused for the following reasons:

1. The proposed development is inconsistent with the aims of the *Shoalhaven Local Environment Plan 2014*, specifically cl. 1.2(2)(c). The development does not ensure that suitable land for beneficial and appropriate uses is made available as required. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*).
2. The proposed development is inconsistent with the objects of the *Environmental Planning and Assessment Act, 1979*, specifically Section 1.3(c) and (g). the development does not promote the orderly and economic use and development of land or promote good design and amenity of the built environment.
3. The development does not comply with all of the assessment criteria of clause 3(1)(a)(i)(i) contained in *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP 64) (section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*). The application is not *compatible with the desired amenity and visual character of an area* (cl. 3(1)(a)(i)). The proposed advertising is not a suitable location for the proposed advertising signage in the rural setting (cl. 3(1)(a)(ii)). (section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*).
4. The development does not comply with cl. 13(1)(a)-(c) of SEPP 64, which requires that Council must not grant consent to an application for advertisement to which SEPP 64 applies unless the advertisement or the advertising structure:
 - is consistent with the objectives of this Policy as set out in cl. 3(1)(a), and
 - has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
 - satisfies any other relevant requirements of this Policy.

(section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*).
5. The proposal does not comply with cl. 15(2)(b) of SEPP 64. (section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*).
6. The development does not satisfy cl. 2.8(3), which Council must be satisfied of when granting development consent to an application for the temporary use of land under *Shoalhaven Local Environment Plan 2014*, (section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*).
7. The development is inconsistent with the following sections of Chapter G22: Advertising Signs and Structures of Shoalhaven Development Control Plan 2014:
 - Section 4 Objectives;
 - Section 5.1.1 Matters for consideration;
 - Section 5.3 Discouraged signs; and

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- Section 5.5 General.
(section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
- 8. The development is likely to have a negative impact on the built environment (section 4.15(1)(b) of *Environmental Planning and Assessment Act, 1979*).
- 9. The site is suitable for the proposed development. (Section 4.15(1)(c) of *Environmental Planning and Assessment Act, 1979*).
- 10. The granting of development consent is not considered to be in the public interest. (Section 4.15(1)(e) of *Environmental Planning and Assessment Act, 1979*).

**DE21.12 DA20/1966 - 29 Strongs Road, Jaspers Brush -
Lot 215 DP 1210788 - Single A-Frame Advert
Sign**

DA. No: DA20/1966/4

HPERM Ref: D21/5069

Department: Development Services

Approver: Phil Costello, Director - City Development

Attachments: 1. Section 4.15 Assessment Report (under separate cover)
2. Determination Document - Refusal (under separate cover)

Description of Development: Temporary use of land for the placement of an A-frame
advertising sign on a trailer

Owner: Robert Bruce Drewitt Smith

Applicant: Foundation Law Group

Notification Dates: 29 September 2020 – 15 October 2020

No. of Submissions: Nil (0)

Purpose / Reason for consideration by Council

Council Resolved on 7 April 2020 (MIN20.240) with respect to COVID- 19 Response, that:

*7. To maintain, continue and encourage as much economic activity as possible Council
adopt the following policies, to be followed by an implementation report from the CEO:*

...

*k. The delegation to the CEO be rescinded to determine a development application by
refusal until the end of COVID 19 crisis*

The refusal of a development application must only be by Council/Committee resolution

This Report recommends refusal of the above application and is therefore prepared for
consideration by the Development & Environment Committee in accordance with the 7 April
2020 Resolution of Council.

Recommendation (Item to be determined under delegated authority)

That DA20/1966, for the temporary use of land for the placement of an A-frame advertising
sign on a trailer, be determined by way of refusal for the reasons set out in the Notice of
Determination, Attachment 1 to this report.

Options

1. Refuse the Modification Application in accordance with the recommendation.

Implications: The proposal would not proceed. The applicant can however apply for a
section 8.2 review of Council's decision and/or could lodge an appeal with the NSW
Land and Environment Court against Council's decision.

2. Obtain legal advice regarding potential for the approval of the application.
Implications: Staff will pursue obtaining legal advice to explore mechanisms for the approval of such a development, noting that in the opinion of staff the development is not capable of a positive recommendation.
3. Alternative recommendation.
Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

Location Map



Figure 1 - Aerial image of the subject site in the local context.

Background

Proposed Development

The applicant seeks development consent to erect a single, temporary, and mobile A-frame advertising sign with a combined signage area of 24m² (12m² front and back) and image of the relevant signage is provided in Figure 3 and 4 below. The signage is in relation to a business identified as "Hotondo Homes".

The signage is proposed to be placed on the south-western corner of the land adjoining the Princes Highway (refer to Figure 2).

The signage is proposed to be placed on the land for no more than 52 days in a year in accordance with cl. 2.8 of Shoalhaven Local Environmental Plan 2014.

The applicant originally proposed that the sign be placed on the location identified on the Site Plan for the period specified below, which was designed to reflect school holiday season, during which vehicle traffic along the Princes Highway would be likely to be at its peak:

- Saturday 26 September – Sunday 11 October (18 days)

- Saturday 19 December – Saturday 22 Jan 2021 (34 days)

Following discussion with the applicant and delays in the provision of additional information, the applicant has proposed that the signage be limited to 52 days in a 12-month period and not limited to specific dates.

The applicant has been advised from the outset that Council staff would not be likely to support the proposal, with this advice being reiterated in telephone discussions and multiple emails between 1 December 2020 and 17 December 2020.

Through this correspondence, the applicant also suggested that as an alternative, the proposal relates to a business being conducted on the land (i.e. construction of a Hotondo development) and could thus be defined as 'business identification signage', having regard to the provisions of the State Environmental Planning Policy No 64 – Advertising and Signage. As detailed in this report, Council staff advised that this interpretation was flawed and would not be supported by Council.



Figure 2 - Extract of the proposed site plan with area for the erection of the proposed temporary signage nominated.



Figure 3 - Elevation of the proposed signage and relevant dimensions.



Figure 4 - Elevations of the proposed signage.

Subject Land and Context

The land is identified as No. 29 Strongs Road, Jaspers Brush and is legally described as Lot 215 DP1210788 (the Site). The land is an irregular-shaped allotment with dual frontages to Strongs Road in the north and the Princes Highway in the east. The land has a total area of 24.89ha.

The land is largely cleared of vegetation with stands of tree located along several drainage depressions and proximate to the dams located on the site. The site is not mapped as containing any endangered ecological communities (EEC) or critically endangered communities (CEEC). The land drains to the existing dams and drainage depressions located on the site.

The land is zoned RU1, Primary Production under the Shoalhaven Local Environmental Plan 2014..

The site has been developed for rural/residential land use with a dwelling, inground pool, detached garage and associated shed located toward the Strongs Road frontage. Council has approved (Development Consent No. DA16/1393) five (5) tourist cabins on the subject site.

The site is largely free of easements and restrictions that would otherwise impede the development of the site as proposed. It is however noted that an easement for transmission lines 30.48m wide is located along the length of the south-eastern boundary of the site. The signage is proposed within this easement.

The surrounding land is a mix of rural (extensive agriculture) and residential land uses. It is noted that the land to the south-west of the site (No. B510 Princes Highway) has been developed along its south-eastern boundary for an RMS site office and car park for workers associated with the construction of the Berry-Bomaderry Highway Upgrade.

History

The site has historically been used for rural/residential land uses with ancillary structures (pool and sheds) also constructed on the site. As noted previously Council has approved (Development Consent No. DA16/1393) five (5) tourist cabins on the subject site. The location of the signage would not impact on the existing approved development and uses on the site.

Issues

State Environmental Planning Policy No 64—Advertising and Signage

Clause 2.8 of SLEP 2014 gives Council the power to grant development consent (not unconditionally) for development on land in any zone for temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

Notwithstanding the ability for Council to approve an otherwise prohibited development (subject to satisfaction of sub. Cl 2.8(3)(a)-(d)), Council must consider the effect of relevant state environmental planning policies which apply to the land and the form of development.

SEPP 64 applies to the land and the Development and in accordance with Clause 7, *In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.*

Consideration of the Development against the provisions of Clause 13 of SEPP 64 is required.

Clause 13(1) states as follows:

“13 Matters for consideration

- (1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:
- (a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
 - (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
 - (c) satisfies any other relevant requirements of this Policy.”

The proposed development is not considered to satisfy subclauses 13(1)(a) & (b) for the following reasons:

3 Aims, objectives etc

- (1) This Policy aims:
- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high-quality design and finish, and

The application is not compatible with the desired amenity and visual character of an area (cl. 3(1)(a)(i)). The signage is considered to be an ad-hoc sign, which is not typical to the rural character of the area.

The proposed advertising is not a suitable location for the proposed advertising signage in the rural setting (cl. 3(1)(a)(ii)). The area is rural in character and part of the scenic drive and landscape into the Shoalhaven. It is acknowledged that there are roadworks; however, these are temporary and will result in a highway creating for a pleasant and efficient trip / mode of transport into the Shoalhaven.

In accordance with cl. 3(1)(b) the development has been assessed by Council in accordance with the assessment criteria in Schedule 1 (refer to the table below) and the consent authority is not satisfied that the proposal is acceptable in terms of its impacts.

SEPP 64 – Schedule 1	Comment
1 Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	No. The area is likely to remain predominately rural/residential and is unlikely (in the near term) to have any significant changes to land use patterns. The zone, land sizes and location will limit business opportunities and development. In this regard, it is important to protect the rural ambience of the landscape and ensure that the landscape does not fill with adhoc signage to the detriment of the quality and image of the Shoalhaven.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No. The small number of signs that have been erected include tourist signage and a limited number of unregulated signage that Council is aware of and is (through Council's Compliance Section) looking to investigate and where appropriate, seek their removal or

SEPP 64 – Schedule 1	Comment
	regularisation where signage is permissible with consent. Strategically, advertising signage is most appropriate in the business, industrial, private recreation and working waterway zones which is reflected in the SLEP 2014.
2 Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Yes. The signage is considered to detract from the amenity or visual quality of the rural landscape. Jaspers Brush is characterised by its rural landscape and extensive agricultural uses. The erection of signage is will detract from the visual quality of the rural landscape.
3 Views and vistas	
Does the proposal obscure or compromise important views?	No.
Does the proposal dominate the skyline and reduce the quality of vistas?	No.
Does the proposal respect the viewing rights of other advertisers?	No.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	No. As stated previously the signage is not considered to be appropriate for the rural landscape setting and detracts from the agricultural setting and is of a scale and form that is inconsistent with Council's development control plan for advertising.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	No. The signage will diminish the visual interest of the streetscape and rural landscape setting.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No. There is no existing (legal) advertising signage on this stretch of the Princes Highway that the advertising would be seeking to simplify and consolidate on a single sign.
Does the proposal screen unsightliness?	No.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.
Does the proposal require ongoing vegetation management?	No. Ongoing site maintenance through grass cutting may occur but would not be necessary.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	No. The 12m ² or 24m ² (total sign face area) is a large advertising structure that is not consistent with the low-scale rural/residential area where there is not existing (approved) signage in the locality.
Does the proposal respect important features of the site or building, or both?	No special features of the site are identified.
Does the proposal show innovation and	No. The sign is a simple A-frame on a trailer

SEPP 64 – Schedule 1	Comment
imagination in its relationship to the site or building, or both?	and does not show innovation and imagination in its relationship to the site. Furthermore, the advertising signage does not relate to the site which is being advertised.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	None proposed.
7 Illumination	
Would illumination result in unacceptable glare?	No illumination proposed.
Would illumination affect safety for pedestrians, vehicles or aircraft?	No illumination proposed.
Would illumination detract from the amenity of any residence or other form of accommodation?	No illumination proposed.
Can the intensity of the illumination be adjusted, if necessary?	No illumination proposed.
Is the illumination subject to a curfew?	No illumination proposed.
8 Safety	
Would the proposal reduce the safety for any public road?	No.
Would the proposal reduce the safety for pedestrians or bicyclists?	No.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No.

In accordance with cl. 13(1)(c) Council must assess whether the advertising signage satisfies any other relevant requirements of this Policy.

Clause 15 applies to land that is within a rural or non-urban zone and on which an advertisement is permissible. The sign is prohibited in the RU1 zone but permissible only under cl. 2.8 of SLEP 2014.

Sub-clause (2) of cl. 15 states that Council as the consent authority must not grant consent to display an advertisement on land to which this clause applies:

“(a) unless a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct in consultation with:

(i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and

(ii) if the land to which the development control plan relates is within 250 metres of a classified road, the Roads and Traffic Authority,

and the display of the advertisement is consistent with the development control plan, or

(b) if no such development control plan is in force, unless:

(i) the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and

(ii) specifies one or more of the following particulars:

- (A) the purpose for which the land or premises is or are used,
- (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
- (C) a description of an occupation or business referred to in sub-subparagraph (B),
- (D) particulars of the goods or services dealt with or provided on the land or premises, or
- (E) (Repealed)

(c) if no such development control plan is in force, unless the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest."

Chapter G22: Advertising Signs and Structures of SDCP 2014 provides controls and guidelines relating to advertising signs and structures. Chapter G22 has been made in accordance with Section 3.43 of the *Environmental Planning Assessment Act 1979* (EP&A Act), with appropriate consultation before adoption and coming into effect on 22 October 2014.

Chapter 22 is **not** a development control plan that has been *prepared on the basis of an advertising design analysis for the relevant area or precinct*. Chapter G22 provides controls with broad application across the whole of the Shoalhaven and does not provide area or precinct development controls (except for Signage at Ulladulla Harbour in the W3 Working Waterways zone).

There is no such development control plan in place and therefore Council must consider subclause (2)(b) of clause 15 and therefore consider whether: *the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land*.

The advertisement does not satisfy sub-clause (2)(b)(i) as it does not relate to the subject land or to premises situated on that land or adjacent land. Notwithstanding that the advertisement does not relate to the subject land or adjacent land, and the proposed advertising signage does not satisfy sub-clause (2)(b)(ii), in that the proposed advertising signage does not specify one or more of the following particulars:

- (A) the purpose for which the land or premises is or are used,
- (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
- (C) a description of an occupation or business referred to in sub-subparagraph (B),
- (D) particulars of the goods or services dealt with or provided on the land or premises.

The land is used for rural/residential purposes. Council has approved (Development Consent No. DA16/1393) for five (5) tourist cabins, with a construction certificate (CC16/2003) issued by a private certifier.

The land is **not** approved for use as a Hotondo Homes sales office or business premises and therefore the purposes for which the land or premises on the land are used is not for Hotondo Homes.

Hotondo Homes is **not** a person residing or carrying on an occupation or business on the land or premises. The owner of the land is Robert Bruce Drewitt Smith and is not Hotondo Homes. Furthermore, it could not and should not be construed that the act of building a structure or building on the land, i.e. the construction of the approved tourist cabins, amounts to the carrying on of an occupation or business on the land or premises. Such an interpretation is erroneous and would result in an interpretation that would have broader

implications for the interpretation of the definition of a “business premises”, “occupation” and “business identification sign” under SLEP 2014. Such an interpretation would allow for the placement of a sign on any land where a service had been or is being provided by a business, not at the premises or place at which the sign is displayed. Thus, allowing business identification signage contrary to the definition of “business identification signage”.

Furthermore, the signage does not describe an occupation or business carrying on an occupation or business on the land or premises, or any particulars of the goods or services dealt with or provided on the land or premises.

Notwithstanding the foregoing, subclause 15(2)(c) enables Council to approve advertising signage in a rural or non-urban area despite not having such a development control in place, where the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest. Council does not consider the proposed advertisement to be any of these specific places or things and does not satisfy subclause 15(2)(c).

Finally, the land does not meet the definition of “transport corridor land” under clause 4 of SEPP 64 and therefore it also appears that subclause (3) of Clause 15 does not apply.

The signage is not supportable and would be contrary to SEPP 64. Council does not have any authority to approve the advertisement on the land by virtue of Clause 15. Clause 2.8 of SLEP 2014 does not grant Council the power to approve the advertisement where there is an inconsistency with SEPP 64, which prevails over SLEP 2014.

Applicant's Submission

In an email from the applicant dated 4 December 2020 (D20/537632) the applicant has provided the following response to clause 15 of SEPP 64:

“It seems to me that if the applicant need only satisfy subclause 15(2)(b) of SEPP 64, compliance can be readily achieved and Council is not prevented from granting consent.

In order to satisfy subclause (2)(b), the applicant need only show at a minimum that:

- 1. The advertisement relates to the land or to premises situated on that land; and*
- 2. Identify a person (which includes a corporation) which carries on a business or occupation at the premises.*

On 24 June 2016, Council approved DA16/1393 for a staged tourist and visitor accommodation development - comprising five (5) one-bedroom tourist cabins, on the subject land.

Hotondo Homes (South Coast) Pty Limited is delivering this development. The work the subject of the development consent has been physically commenced with the construction of piers.

Construction is the business of Hotondo Homes and it is on this site that this occupation or business will be carried out until completion. Hotondo Homes does not carry out its business in a single office or site. The business is carried out over various sites as projects arise. This is one of those sites.

It follows that:

- 1. the sign relates to the land or premises on that land, being an Hotondo project; and*
- 2. the sign identifies the person (Hotondo) which is carrying on its business at the premises.*

Clause 15 is satisfied. Council can approve the proposed development.

If Council is not minded to approve the development on the basis of the position outlined above, please let me know if there is a suitable date and time on which I and my client could meet with Council officers face to face to discuss further before Christmas."

Discussion

In relation to the request to meet with staff, Council has discussed the planning staff's interpretation of the legislation with the applicant at length. The applicant has been provided with the opportunity to withdraw the application and has been made aware that the application will be reported to the Development & Environment Committee for determination if the application is not withdrawn. The applicant has not elected to withdraw the application.

With regard to the permissibility of the development, as stated previously in the discussion of the application of cl. 15 of SEPP 64, it is not considered that the proposed advertising signage is consistent with the subclause 15(2)(a) or (b) despite the applicant's argument that the carrying out of construction works on the subject land by Hotondo Homes amounts to the carrying on of a business on the land or premises. SLEP 2014 does not define business, however, the Dictionary to SLEP 2014 defines a "*business premises*" as follows:

"business premises means a building or place at or on which—

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital."

The act of constructing a structure or building on the land is not a use of the land which would otherwise amount to the conducting of a business. Such an interpretation would result in a flawed interpretation and is incorrect.

Hotondo Homes does carry out a business of selling homes from their premises at Unit 5/176 Princes Hwy South, Nowra and Unit 1/6 Shaban Street, Albion Park Rail, 29 Strongs Road, Jaspers Brush is not a sales office of Hotondo Homes and therefore it should naturally follow that they are not carrying on their business from this premises and an advertising sign associated with the aforementioned business premises cannot under cl. 15 of SEPP 64 be erected on the subject land.

Based on the above assessment, Council must not grant consent to display of the advertisement on the subject land where cl. 15 is not satisfied.

Clause 2.8 of SLEP 2014

The applicant proposes to erect the advertising signage on the subject land for no more than 52 days in a 12-month period in accordance with cl. 2.8 of SLEP 2014.

The stated objective of cl. 2.8 is to provide for the temporary use of land if the use does not "*compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land*".

Clause 2.8(3) requires Council to be satisfied of each matter listed in cl. 2.8(3), i.e.:

- a) that the temporary use will not prejudice the future use of the land in accordance with SLEP 2014 or any other environmental planning instrument;
- b) that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood;

- c) that the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land; and
- d) at the end of the temporary use period, the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Applicant's Submission

The applicant has provided an assessment of the proposed development against the provisions of cl. 2.8 of SLEP, and sub-clause (3) as follows:

- | | |
|--|--|
| <p>(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument</p> | <p>The proposed sign is mobile and can be wheeled on and off the Site with very short notice. Its placement requires no permanent footings or other permanent impact of any kind.</p> |
| <p>(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood</p> | <p>The sign is proposed to be placed within a cluster of other existing and historic business signs. The land most affected by the sign is the Princes Highway, which is littered with other signs. The proposal is not out of place in any way.</p> |
| <p>(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land</p> | <p>The sign poses no impact on the environment. It is to be located in an open grass land, with no temporary footings. It obviously emits no odour, liquid or other offensive material. The impact on the environment is completely neutral.</p> |
| <p>(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use</p> | <p>At the end of the proposed use, the land will be restored exactly to the state that it was prior to the temporary use being carried out.</p> |

Discussion

The proposed temporary use does not satisfy sub-clause 2.8(3)(c). The location of the signage is planned in a prominent location adjoining the Princess Highway in a rural setting at the entry to the Shoalhaven and Nowra and will have a visual impact on the locality. The test imposed by Clause 2.8(3)(c) is in absolute terms and is different from the test that is conventionally applied to the assessment of an ordinary development application. The higher threshold reflects the fact that the development for which consent is sought is otherwise prohibited.

Relevantly, there must be no adverse impact on environmental attributes or features of the land by virtue of the visual impacts on the rural setting views to the sweeping grazing lands and Cambewarra Mountains.

Where there is any impact on environmental attributes or features of the land Council must not grant consent to the application.

Chapter G22: Advertising Signs and Structures – Shoalhaven Development Control Plan 2014 (SDCP 2014)

Notwithstanding that the application is non-compliant with SEPP 64 and cl. 2.8 of SLEP 2014 and the application cannot be approved, it is prudent to consider the proposed signage

against the provisions of Chapter G22 of SDCP 2014. A consideration of the proposed signage against the relevant provisions Chapter G22 reveals that the signage is not consistent with a number of provisions for the following reasons:

1. The signage is inconsistent with the objectives set out under Section 4 of Chapter G22 in that the signage is not considered to:
 - a. Provide opportunities for business to advertise effectively in a manner that does not detract from the character of the area; and
 - b. Minimise visual clutter caused by the proliferation of signs and encourage the rationalisation of existing and proposed signage; and
 - c. Be well designed and consistent with this Chapter; and
 - d. Be consistent with the architectural character and heritage significance of heritage items or buildings, heritage conservation areas or pastoral landscapes.
2. The proposed signage is not consistent with the design guidelines under Section 5.1.1, for the following reasons:
 - a. The signage does not reinforce the architectural design of the building or its streetscape; or
 - b. The signage does not contribute to a new image for the building and its streetscape.
3. The form of signage that is proposed is discouraged by Council under section 5.3, being a motor vehicle sign (including signage on a trailer) that is not exempt, which is stopped on private property for the primary purpose of displaying such sign. While it is noted that Section 5.3 does stipulate that: *[a]pplications for some signs, however, may be considered on their merits provided Council is satisfied that the proposed sign is appropriate in the circumstances*, the signage proposed does not present any unique or persuasive arguments that would persuade Council in the consideration of the discouraged signage. While the COVID crisis resulted in temporary downward pressure on overall property prices, regional NSW's property prices rose amid the uptake of remote working conditions. Council also experienced a significant increase in s10.7 certificates (required for property exchanges). Development applications have continued to be lodged with significant applications in the mix. The Property Council has also released high level data stating that private sector house approvals rose for the "sixth consecutive month in December" 2020 and reached "a record high". Accordingly, there appears to be confidence in the property market and development industry.
4. When considered against the Section 5.5 General, Performance Criteria P7 is relevant to the proposed development, being a form of other free-standing sign the signage is not consistent with the performance criteria as the signage has not been designed to:
 - a. be associated with a lawful use of the adjoining or adjacent land;
 - b. specify the purpose(s) for which the adjoining or adjacent land or premises is or are used;
 - c. are consistent with the design guidelines outlined in this Chapter;
 - d. be in scale with the development on the adjoining or adjacent land; or
 - e. not adversely affect the amenity or character of the area.

Planning Assessment

The DA has been assessed under s. 4.15 of the *Environmental Planning and Assessment Act 1979*. Please refer to **Attachment 1** to this Report.

Policy Implications

There are no policy implications as a result of the development as proposed.

Consultation and Community Engagement:

Due to the nature of the modification application, the application was not required to be notified in accordance with Council's Community Consultation Policy.

Financial Implications:

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending any appeal in the Land and Environment Court, should the applicant utilise appeal rights afforded under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Legal Implications

According to section 8.2 of the EP&A Act, a decision of the Council may be subject of a review by the applicant in the event of approval or refusal. If such a review is ultimately pursued (if the recommendation is not adopted), the matter would be put (again) to Council for consideration.

Alternatively, an applicant may also appeal to the Court against the determination according to section 8.9 of the EP&A Act.

Summary and Conclusion


This Report and the attached s. 4.15 Assessment Report (**Attachment 1**) provides an assessment of a proposal to erect a single, temporary and mobile A-frame advertising sign with a combined signage area of 24m² (12m² front and back) for no more than 52 days in a 12-month in accordance with cl. 2.8 of *Shoalhaven Local Environmental Plan 2014*, on the land identified as No. 29 Strongs Road, Jaspers Brush and is legally described as Lot 215 DP1210788.

The signage has been assessed against all relevant environmental planning instruments and SDCP 2014.

The signage does not demonstrate compliance with SEPP 64, cl. 2.8(3)(c) of SLEP 2014 and the relevant provisions of the Chapter G22 of SDCP 2014.

The application is recommended for refusal in accordance with the attached determination document (**Attachment 2**).

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114

	Planning Report S4.15 Environmental Planning & Assessment Act 1979
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DA Number	DA16/1465
Property	173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114
Applicant(s)	Lee Carmichael Town Planning NTA PDC Planners
Owner(s)	Bill Zervos and Jasmine Anne Simpson & John Irwin Gould

Conflict of interest declaration

I have considered the potential for a conflict of interest under the [Code of Conduct](#) and to the best of my knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists.

NOTE: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be countersigned by the section manager.

1. Detailed Proposal

Council is in receipt of a Development Application (DA) seeking development consent for the demolition of existing structures and construction of a mixed-use development consisting of 55 apartments, including:

- 8 x one-bedroom apartments
- 31 x two-bedroom
- 16 x three-bedroom
- 3 commercial tenancies (total commercial floor area 259m² (267m² including bathroom i.e. GFA) at ground floor with frontage to both Kinghorne Street and Albatross Road
- A basement car parking area accessed via Albatross Road with 93 car parking spaces.
- Construction of a left turn slip lane (removal of on-street parking) for access into the basement car park off Albatross Road.
- Construction of a central median and signage be constructed along Albatross Road to control the movement of traffic in and out of the proposed development (left in and left out movements only).

A site plan, ground floor, elevations, landscape plan and photomontages are provided in **Figures 1 – 12**.

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA -
Lot 1, 29 & 30 DP 25114

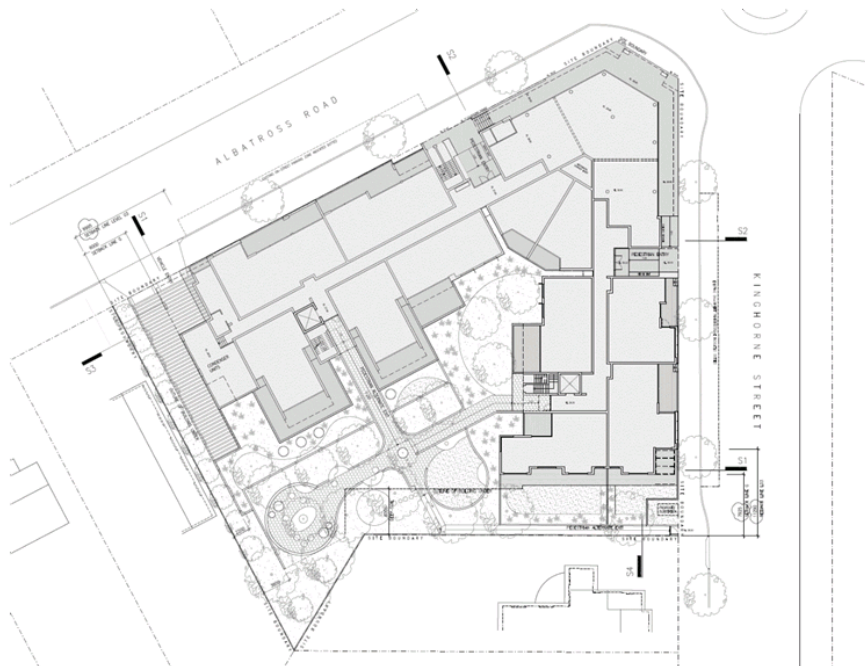


Figure 1 - Site Plan of the proposed development.

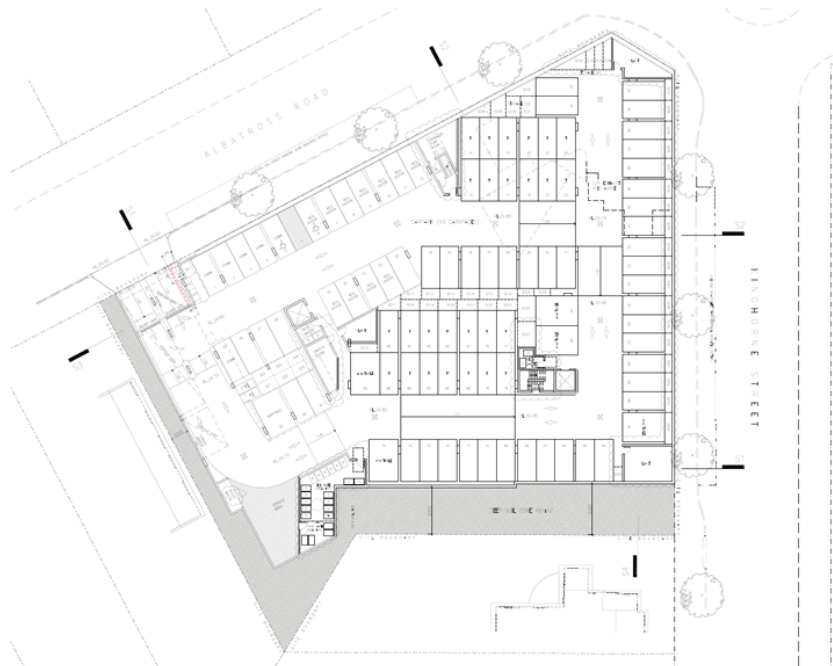


Figure 2 - Basement floor plan of the proposed development.

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Lot 1, 29 & 30 DP 25114

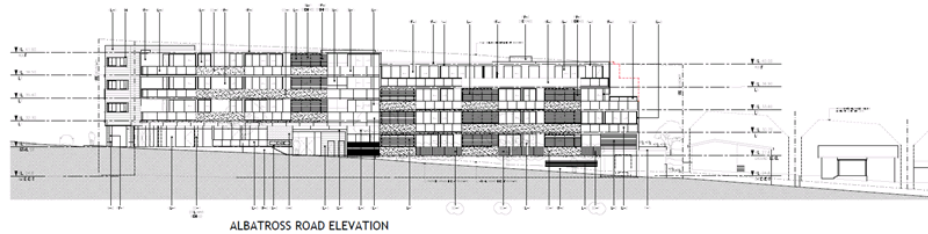


Figure 3 – Elevation of the proposed development (western elevation – Albatross Road).



Figure 4 - Elevations of the proposed development (eastern elevation – Kinghorne Street).

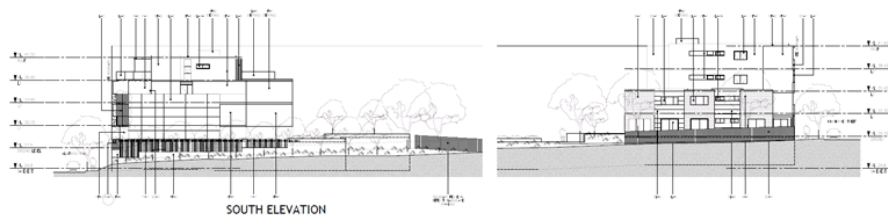


Figure 5 - Elevation of the proposed development (southern elevation)

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114

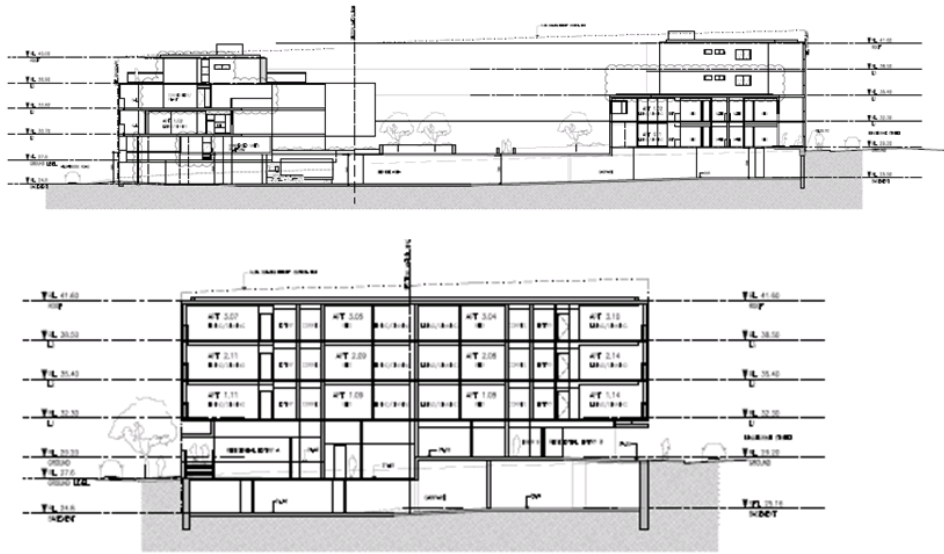
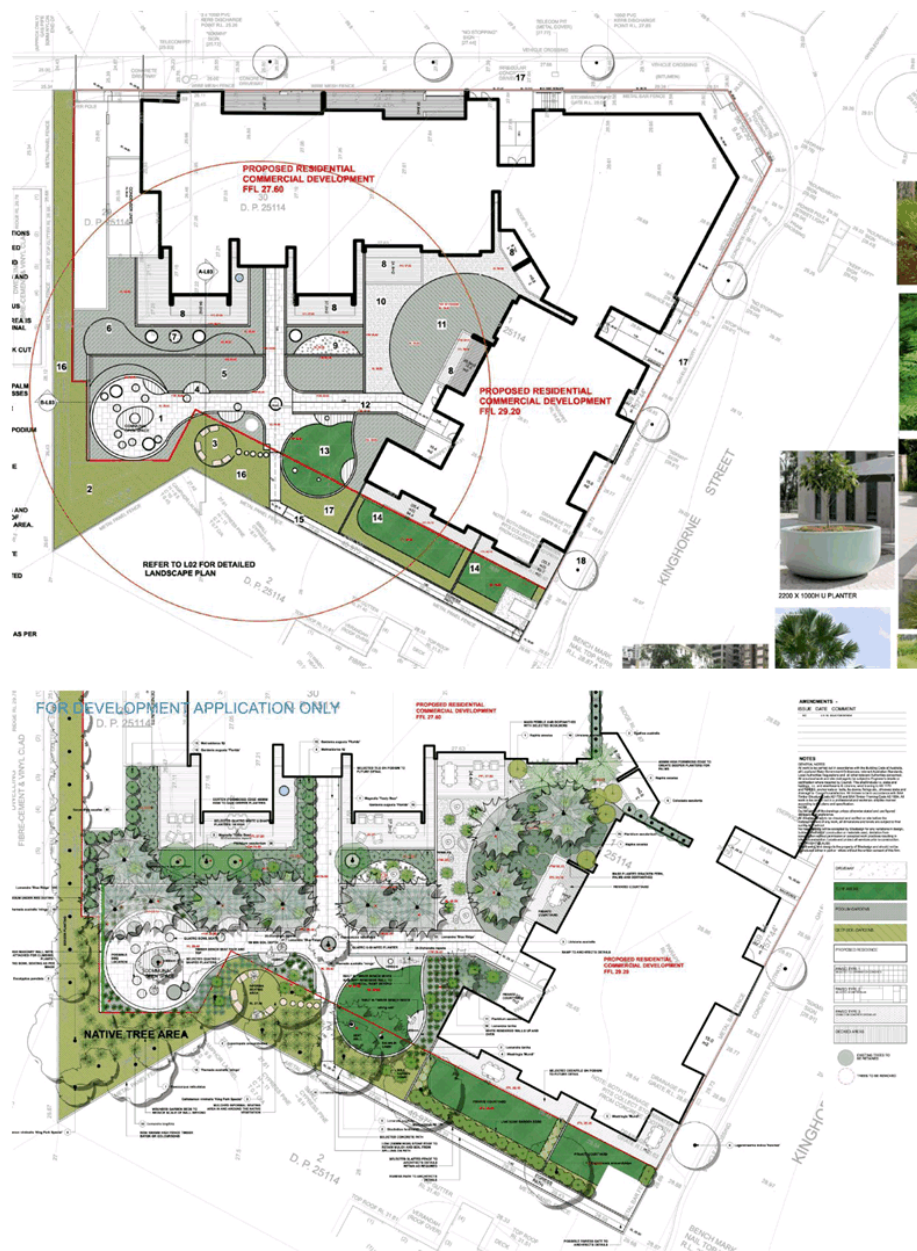


Figure 6 - Section plans of the proposed development.



Figure 7 - Section plans of the proposed development.

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Lot 1, 29 & 30 DP 25114



DE21.50 - Attachment 1

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA -
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Figure 9 - Photomontage view from the south-eastern (Kinghorne Street).



Figure 10 - Photomontage view from the north-eastern corner of Kinghorne and Kalandar Street.

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Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114

2. Subject Site and Surrounds

The subject site comprises 3 lots (subject site) and is located on the south-western corner of the intersection of Kinghorne Street, Albatross Road and Kalandar Street. The subject site is described as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra and legally identified as Lot 1, 29 and 30 DP 25114.

The subject site is an irregular shaped lot with a frontage of 74m to Albatross road and 60m to Kinghorne Street with a 9.5m corner splay. The combined land area of the lots is approximately 3497m². The site grades gradually to the south-western corner of the site.

The site previously operated as a car servicing workshop that serviced and repaired motor vehicles in association with local car dealerships, however, the site is now operating as an electrical supplies wholesaler (L&H Electrical Supplies). The site is adjoined by established residential uses to the south and west, a tyre service and residential uses to the north and public open space to the east. On the northern side of the intersection of Albatross Road and Kinghorne Street on the western side of Kinghorne Street is an existing tyre shop. On the eastern side of Kinghorne Street at the intersection with Kalandar Street Council has recently approved (DA19/1846) two - four storey residential flat buildings, consisting of 91 apartments and basement car park.

The surrounding land uses are a mix of residential, commercial and public open space. An aerial image of the subject site is provided in **Figure 13** below.

Deposited Plan and 88B Instrument

A review of the deposited plans reveals that there is no impediment to the development of the site as proposed.

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114



Figure 13 - Aerial image of the subject site in the local context.

3. Background

Post-Lodgement

On 18 April 2016, the DA was lodged with Council.

On 9 August 2016, Council requested additional information from the applicant in relation to the design and access arrangements from Albatross Road.

On 16 December 2016, revised plans and additional information was submitted by the applicant in response to Council's letter dated 9 August 2016. The amended plans included modifications to the southern portions of each building 'wing' and deletion of two apartments (reducing the unit yield from 57 to 55 apartments). The reduction in units on the southern portion of the development was proposed in an effort to achieve a more appropriate transition to the adjoining low-density development.

On 27 February 2017, Council requested additional information from the applicant, with continued concerns raised in relation to design elements and major concerns raised in relation to the proposed access/agrees onto Albatross Road.

On 7 March 2017, Council met with the applicant to discuss the Planning Proposal over the site (described below) and continued concerns with the design and location of access/egress onto Albatross Road.

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114

On 22 March 2017, a further additional information letter was sent to the applicant to detail the outcomes of the 7 March 2017 meeting and to express continued concerns the proposed access/egress onto Albatross Road.

10 July 2018, Council met again with the applicant to discuss design and traffic issues.

On 12 September 2018, the applicant lodged concept plans for access/egress to the development from Kinghorne Street for Council's consideration (refer to **Figure 14**).

On 12 October 2018, Council provided feedback to the applicant on the concept plan, noting that the concept plan addressed the main concern that had been raised by Council being the relocation of the access from Albatross Road to Kinghorne Street frontage.

On 18 April 2019, the applicant confirmed that they would not be pursuing any change to the design of the development which would relocate the access from Albatross Road to Kinghorne Street frontage.

On 12 August 2019, the applicant submitted a further amended *Traffic Report* prepared by Jones Nicholson (D19/280251) to justify the retention of access on the Albatross Road frontage and to address concerns raised in relation to the designs apparent inconsistency with *State Environmental Planning Policy (Infrastructure) 2007*.

On 1 October 2019, the Development and Environment Committee resolved in relation to the Development Application (DA) 'DA16/1465 – Residential Units and Commercial Space – 173 Kinghorne Street, Nowra be called in to Council for determination due to significant public interest.' (DE19.107)

On 26 November 2019, the applicant submitted amended plans, acoustic report, and clause 4.6 variation statement.

On 6 October 2020, the Development & Environment Committee resolved (MIN20.728):

"That consideration of Development Application DA16/1465 – Mixed Use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) be deferred to the January 2021 Development and Environment Committee Meeting to allow Council to undertake further traffic investigations in consultation with the developer."

Council has taken the following action in relation to the above matter, following the Council resolution:

1. On 18 November 2020, relevant council staff met to discuss critical aspects of the Development Application in particular the *Traffic Management Report* prepared by Jones Nicholson Consulting Engineers dated 27 February 2021 (Reference: CRPT-16020003.01B). The outcomes of the meeting were provided to the applicant on 26 November 2021 (D20/526133).
2. On 21 December 2020, council provided additional information to the applicant in the form of: Outputs from Council's traffic modelling and Council's requirements for a future 4 lane cross section of Albatross Road (D20/563561). Council also offered as part of the forwarding of this additional information the opportunity to meet further to ensure that all matters have been addressed relating to traffic and planning issues.
3. On 15 January 2021, Council notified the applicant via email (D21/16222) that the information requested in Council's 21 December 2020 was required to be submitted to Council in 7 days.
4. On 4 February 2021, Council emailed the applicant (D21/43579) offering to meet to discuss the additional information.

Planning Report – S4.15 Assessment - 173 Kinghorne Street and 2 & 4 Albatross Road, NOWRA - Lot 1, 29 & 30 DP 25114

5. On 10 February 2021, Council notified the applicant via email (D21/52704) that the information requested in Council's 21 December 2020 was required to be submitted to Council in 7 days as the applicant had not responded to Council in relation to the offer of a meeting and the information had not been submitted.
6. On 23 February 2021, the applicant's traffic consultant (Stephen Falkner) emailed Council, to request the following:
 - traffic data on the existing road network from their records; and
 - projected traffic data for 10-year projections (2031).
7. On 12 March 2021, Council emailed the applicant's traffic consultant (Stephen Falkner) (D21/99332) with the following:
 - Council's most recent tube traffic count for the area; and
 - projected traffic data for 10-year projections (2031).
8. On 24 March 2021, council emailed the applicant (D21/117366) to inform them that the application would be required to be reported to council in the absence of a formal response to Council's email dated 21 December 2020.
9. On 31 March 2021, the applicant was emailed (D21/127622) to inform them that the additional information was required to be submitted to Council within 7 days.

Site History and Previous Approvals

In April 2016, a Planning Proposal (PP) was lodged concurrently with this DA to rezone the subject site to enable the development of the land as currently proposed. The previous land zoning (B5 Business Development) only permitted development for the purpose of 'shop top housing' which would require the entire ground floor to be developed for commercial use.

The PP sought to amend the following Land Zoning and Height of Buildings maps in *Shoalhaven Local Environmental Plan 2014* (SLEP 2014):

- Land Zoning – Sheet LZN_013E - amend zoning of subject land from B5 Business Development to B4 Mixed Use.
- Height of Buildings – Sheet HOB_013E - amend maximum height of building from no mapped maximum building height to a height determined by the outcome of the character assessment (maximum of 15m). *Note: the current height for the site is up to 11m as per clause 4.3(2A) of Shoalhaven Local Environmental Plan (LEP) 2014.*

On 12 September 2017, the Development Committee resolved (MIN 17.776) to adopt the PP as exhibited with the following addition: *to avoid uncertainty, the width of the part of the site with an 8.5m maximum building height is 9m, as measured from the southern boundaries of Lot 1 and Lot 30 DP 25114, and south-eastern and south-western boundaries of Lot 29 DP 25114.*

Under Council's delegation, the PP was forwarded to NSW Parliamentary Counsel to draft the amendment to SLEP 2014 under Section 59(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

On 6 October 2017, Amendment No. 16 to SLEP 2014 was published on the NSW Legislation website and commenced, bringing into effect the zoning and building height changes outlined above.

The following is a list of relevant approvals for the subject site:

- BA73/1794: Showroom additions

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- BA74/0275: Storage Shed
- BA76/0601: Car yard additions
- DA01/2756: Car service centre – alterations and additions – approved – 9 October 2001
- DA02/2244: Commercial Workshop/Shed – approved – 30 August 2002

The subject site has operated in the capacity of vehicle servicing, repairs and sales for a significant period of time. A site inspection revealed that the use is ongoing.

4. Consultation and Referrals

Internal Referrals		
Referral	Recommendation	Comment
Development Engineer	Concerns raised in relation to the design of the access/egress, pedestrian safety and servicing of the development.	Noted. Conditions have not been provided.
Traffic & Transport Unit	<p>Council's Traffic & Transport Unit have reviewed the proposal along with the following reports:</p> <ul style="list-style-type: none"> • <i>Traffic SIDRA Analysis</i> prepared by Jones Nicholson Consulting Engineers dated 31 July 2019 (D19/280251); • <i>Traffic Management Report</i> prepared Jones Nicholson Consulting Engineers dated 27 February 2018 (D18/89444); • <i>Traffic Management Report</i> prepared Jones Nicholson Consulting Engineers dated 23 November 2016 (D17/38303); and • <i>Assessment of Traffic and Parking Implications</i> prepared by Transport and Traffic Planning Associates dated April 2016 (Revision C) reference 16029 (D16/110933) <p>In summary, the applicant has not provided sufficient justification as to why access for the proposed development should not satisfy the requirements of Clause 101(2)(a) of <i>State Environmental Planning Policy (Infrastructure) 2007</i> (ISEPP), pertaining to development with frontage to a classified road.</p> <p>Clause 101(2)(a) of ISEPP is a mandatory requirement that necessitates that the vehicular access to be via a local road (Kinghorne Street), being part of the unclassified road network and to which the site has an extensive street frontage.</p> <p>The desired outcome is for access to the land via the unclassified local road – Kinghorne Street, which will ensure that the development does not compromise the effective and ongoing operation and function of the classified road (Albatross Road).</p>	Noted. Conditions have not been provided.

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	Council's Traffic and Transport Unit has considered the applicant's submitted Traffic Reports and has concluded that the information provided does not establish that the safety, efficiency and ongoing operation of the classified road would not be adversely affected by the development as a result of: the design of the vehicular access to the land, and the nature, volume or frequency of vehicles using the classified road to gain access to the land.	
Building Surveyor	<p>The BCA Report and the Access Report have identified several non-compliances with the Building code of Australia (BCA). The reports make recommendations that these matters be addressed at Construction Certificate stage. Some of these matters are non-compliances with the Deemed to Satisfy provisions of the BCA. Where compliance with the Deemed to Satisfy provisions of the BCA is not achieved, an alternative solution addressing the Performance Provisions of the BCA must be provided. Any fire engineered alternative solution must be prepared by a C10 Accredited Fire Engineer and approved by an A1 Accredited Certifier (accredited by the Building Professionals Board).</p> <p>The building is required to be accessible in accordance with Part D3 of the BCA and the requirements of AS1428.1-2009.</p> <p>The accessible car parking space required by Clause D3.5 of the BCA to service the shops are located within a secure parking area and has not been made readily available/accessible to the public that may use the shops. This will need to be addressed prior to determination of the development application as additional spaces may be required to be provided.</p> <p>Subject to the imposition of the recommended conditions to address the above matters, the Building Surveyor has not objected to the development application.</p>	If approved conditions are recommended to be imposed as required to reflect the conditions recommended.
Waste	Subject to the imposition of the recommended conditions, the Waster Services Section has not objected to the development application.	If approved conditions are recommended to be imposed as required to reflect the proposed conditions.
Shoalhaven Water	Shoalhaven Water has issued a Shoalhaven Water Notice for the proposed development.	The Shoalhaven Water Notice is to be issued with the Development Consent if approved.
Environmental Health Officer – Acoustic Assessment	Environmental Services has reviewed the <i>Acoustical Report – Proposed Residential Unit Development At – 172 Kinghorne Street, Nowra NSW</i> by Koikas Acoustics Pty Ltd – Ref:	If approved conditions are recommended to be imposed as required to

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	<p>3907R20191105PD173KinghorneStNowra_DA – 6NOV2019.</p> <p>The report has concluded that “there is sufficient scope within the proposed building design to achieve the applied acoustic planning guidelines.” The conclusion has also stated that sufficient insulation against external sources of noise can be dealt with through acoustic glazing and internal insulation of the building complies with the BCA-although verification of the system should be given prior to constructing.</p> <p>The design as outlined in the architectural drawings submitted by Kannfinch Architects are the basis for the noise assessment and as such any deviation from the designs may change the outcomes of the noise report.</p> <p>Condition should also be included as follows:</p> <p><i>1. A detailed assessment of mechanical plant noise must be prepared for the development prior to construction.</i></p> <p><i>2. In-situ noise assessment must be undertaken by a suitable qualified sound engineer on a fully installed floor/ceiling assembly to ensure adequate acoustic insulation prior to the installation of floors/ceilings throughout the building. A report must be submitted to Council's Senior Environmental Health Officer outlining findings of the investigation.</i></p>	reflect the proposed conditions.
Environmental Health Officer – Contamination	<p>Environmental Services has reviewed the following contamination reports:</p> <ul style="list-style-type: none"> • <i>Validation of Remediation Works – 173 Kinghorne, Nowra NSW 2541– REP-19-8156 – 12th July 2019 by Envirotech.</i> • <i>Environmental Site Assessment (Targeted Phase II Site Investigation) 173 Kinghorne Street, Nowra NSW – 1st March 2016 by Envirotech</i> <p>It is noted that the <i>Environmental Site Assessment</i> conducted additional sampling around the property to ascertain if there was contamination at sites other than the underground petroleum storage (UPPS) tanks. This report clears the site from requiring additional remediation other than at the UPSS.</p> <p>Conditions have been recommended to deal with any unexpected finds and to reflect the recommendations of the submitted contamination and validation reports.</p>	If approved conditions are recommended to be imposed as required to reflect the proposed conditions.
Landscape Architect	No objection has been raised, subject to consideration of the following:	If approved conditions are recommended to be imposed as required to

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	<p><u>Plants</u></p> <p>The choice of plants although very densely planted is generally suitable for the development. However, they may want to consider the following:</p> <ul style="list-style-type: none"> • The native area planting appears to be overplanted. Planting of 4 large Eucalyptus trees plus other native trees in an area approx. 5 x 10m will cause future issues to the property owner. The proposed understorey planting will not succeed here as there will be too much shade plus the fact that the garden is south facing. • The proposed hedge – <i>Metrosideros thomasi</i> will require regular pruning to keep it a suitable height as it is a small tree. Perhaps consider the Fuji Fire variety which is smaller in habit <p><u>Streetscape</u></p> <p>There is no proposed streetscape treatment along Kinghorne Street and Albatross Road. The development should be in keeping with similar developments in Nowra such as the Quest Apartments. Street trees must be included the proposal and a minimum of 100Litre pot size – <i>Lagerstroemia indica</i> 'Natchez' is existing on Kinghorne Street and should continue on this development.</p> <p><u>Building</u></p> <p>Panel on Southern end of building is a bit stark and imposing. Suggest using a softer colour or same treatment as front – Timber look</p> <p><u>Further Action</u></p> <p>Please provide details of the streetscape on Kinghorne Street and Albatross Road.</p>	reflect the proposed conditions.
GIS	Recommended unit numbering has been provided and is to be included on the Development Consent if approved.	If approved conditions are recommended to be imposed as required to reflect the proposed conditions.

External Referrals		
Agency	Recommendation	Comment

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Endeavour Energy	Endeavour Energy have raised no objection to the Development Application subject to the recommendations and comments in their letter dated 23 July 2020 (D20/331930).	If approved conditions are recommended to be imposed as required to reflect the recommendations and comments of Endeavour Energy.
Transport for NSW (formerly RMS)	<p>On 30 March 2017, RMS provided a letter to Council (D17/105493) to clarify the RMS' position in relation to the proposed development and access arrangements onto the Regional Classified Road (Albatross Road) as follows:</p> <p><i>"RMS has reconsidered its previous advice (i.e. letter dated 14 July 2016) and wishes to advise that Albatross Road (at this location) is a regional classified road, and Kinghorne Street (at this location) is an unclassified road, both managed by Shoalhaven City Council.</i></p> <p><i>RMS has reviewed its level of involvement on classified regional roads and considers that it is more appropriate for councils to determine if proposed access arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency).</i></p> <p><i>Given the above, RMS entrusts Council to assess the traffic implications of this development application.</i></p> <p><i>RMS recognises that the proposed access arrangements to Albatross Road would require Section 138 consent from Council and concurrence from RMS under Section 138 of the Roads Act, 1993. Should the developer be able to demonstrate to Council that the proposed access arrangements to Albatross Road are acceptable and comply with relevant standards, RMS would issue its concurrence under Section 138 of the Road Act, 1993.</i></p> <p><i>RMS highlights that in determining the application under Part 4 of the Environmental Planning and Assessment Act, 1979, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are</i></p>	<p>Council has assessed the traffic implications of the development in accordance with ISEPP, SDCP 2014 and the relevant standards. Council's Traffic and Transport Unit does not believe that the applicant has demonstrated that the proposed access arrangements to Albatross Road are acceptable and comply with relevant standards, and therefore RMS may not be in a position to issue their concurrence under Section 138 of the Roads Act 1993.</p>

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	<i>deemed necessary to include as requirements in the conditions of development consent. Depending on the level of environmental assessment undertaken to date and nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works."</i>	
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5. Other Approvals

Integrated Approvals and Concurrences		
Agency	Recommendation	Comment
NRAR	On 17 July, NRAR notified Council, that to avoid any further delays NRAR would be acceptable to impose your condition requiring that the applicant be required to apply for and obtain a Controlled Activity Approval under the <i>Water Management Act 2000</i> prior to the issue of a CC (D20/325590)	Should the application be approved, a condition is recommended to be imposed to require the applicant to apply for and obtain a Controlled Activity Approval under the <i>Water Management Act 2000</i> prior to the issue of a CC

6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

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The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development		
Act	Provision	Approval
Water Management Act 2000	ss 89, 90, 91	Water use approval, water management work approval or activity approval under Part 3 of Chapter 3
Roads Act 1993	S138	Consent to: (a) erect a structure or carry out a work in, on or over a public road, or (b) dig up or disturb the surface of a public road, or (c) remove or interfere with a structure, work or tree on a public road, or (d) pump water into a public road from any land adjoining the road, or (e) connect a road (whether public or private) to a classified road

i) Environmental planning instrument

SEPP (Infrastructure) 2007 (ISEPP)

Subdivision 2 of ISEPP outlines the requirements for referral to the electricity supply authority for development likely to affect an electricity transmission or distribution network. The development is proposed within 5m of an exposed overhead electricity power line and therefore referral to Endeavour Energy is required (clause 45(1)(d)). Endeavour Energy have raised no objection to the DA subject to the recommendations and comments in their letter dated 23 July 2020 (D20/331930).

The subject site has frontage to Albatross Road (MR92), being a classified regional road. Accordingly, clause 101 of ISEPP applies and reads as follows:

101 Development with frontage to classified road

(1) The objectives of this clause are—

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

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(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Under sub-clause 2 the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the subsequent considerations have been met by the proposal.

The three (3) preconditions in subclause 101(2) are collective. Therefore, anyone pre-condition in subclause 101(2) about which council is not satisfied prevents the issue of consent:

- Subclause 101(2)(a) is relevant because the site has frontage to Kinghorne Street (unclassified at this location) and Albatross Road (regional classified road at this location). The applicant has submitted concept plans (D18/355817) (refer to **Figure 14**) to demonstrate that practicable and safe, vehicular access to the land can be provided by a road (Kinghorne Street) other than the classified road.

In order to determine whether the access to the development is “practicable”, the Court has established the test in the case of *Modern Motels Pty Ltd v Fairfield City Council* [2013] NSWLEC 138, Preston CJ at paragraph [42]:

The phrase “where practicable” regulates the desired outcome (“vehicular access to the land is provided by a road other than a classified road”). The consent authority is precluded from granting consent to a development on land that has frontage to a classified road unless it is satisfied that the desired outcome will be achieved, where that desired outcome is practicable. That is to say, the practicability is as to the outcome of providing vehicular access to the land by a road other than the classified road.

The desired outcome is for access to the land via the unclassified local road – Kinghorne Street, which will ensure that the development does not compromise the effective and ongoing operation and function of the classified road (Albatross Road).

- Subclause 101(2)(b) is relevant and the applicant’s submitted traffic reports do not (in the view of Council Traffic and Transport Unit) establish that the safety, efficiency and ongoing operation of the classified road would not be adversely affected by the development as a result of: the design of the vehicular access to the land, and the nature, volume or frequency of vehicles using the classified road to gain access to the land.

It is noted that on Page 15 of the *Traffic Management Report* prepared by Jones Nicholson, dated 27 February 2018 (D18/89444) that concerning the Albatross Road access:

The proposed Albatross Road access is considered satisfactory in that it will not impact upon the safety, efficiency and ongoing operation of Albatross Road. Furthermore, practicable access for all traffic movements is not achievable from Kinghorne Street to the proposed development. Therefore, the proposed access from Albatross Road can be approved in meeting the requirements of SEPP Infrastructure clause 101.

Council’s Traffic and Transport Unit have considered all of the applicant’s detailed traffic reports and is not satisfied that the access onto Albatross Road demonstrates compliance with subclauses 101(2)(b)(i) and (iii) of the Infrastructure SEPP. It follows that the development has failed to meet preconditions 101(2)(a) and (b) and Council does not have the ability under the ISEPP to approve the development application in its current form.

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- Subclause 101(2)(c) is relevant, the noise criteria have been addressed in the submitted *Acoustic Report* prepared by KA Acoustics dated 6 November 2019 (D19/423688). The recommendations of the report to ensure internal noise levels comply with those specified in Subclause 101(2)(c) are capable of being addressed by appropriate development consent conditions.

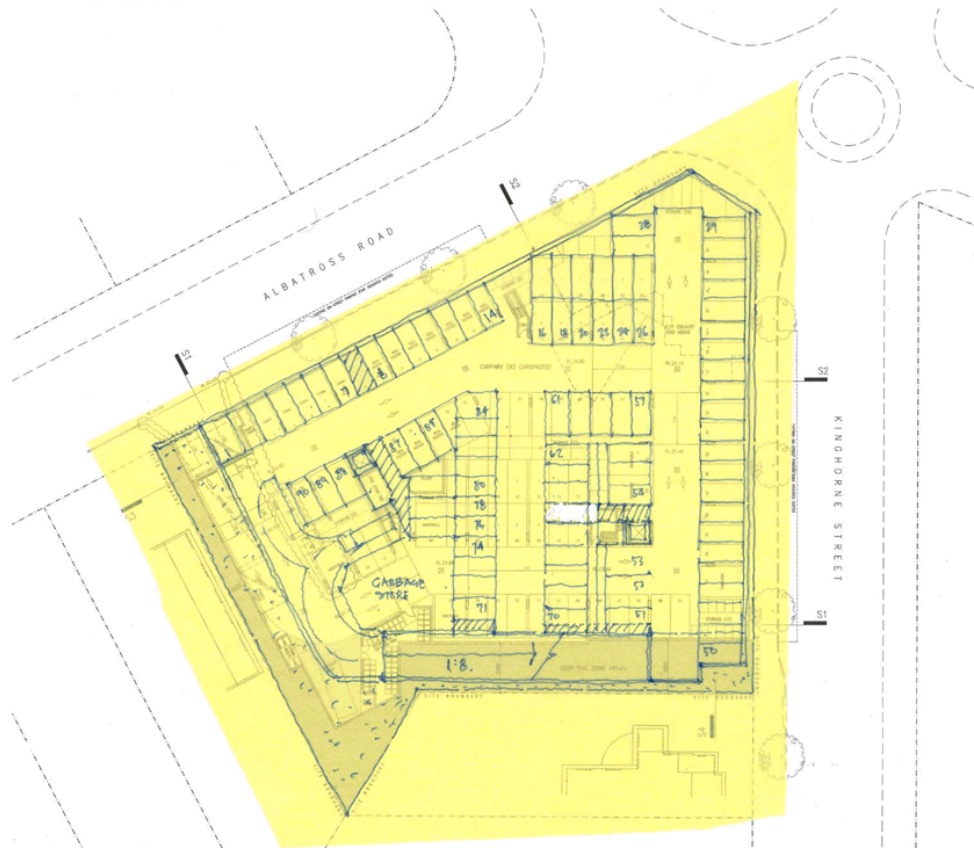


Figure 14 - applicant's submitted concept plan, demonstrating that access via Kinghorne Street (local road) is capable of being achieved.

SEPP 55 Remediation of Land

Question	Yes		No	
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	X	Proceed to Question 3	to	Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3	to	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> Child care facility Educational use Recreational use 		Proceed to Question 5	to X	Proceed to Question 4

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Question	Yes	No
<ul style="list-style-type: none"> Health care use Place of public worship Residential use in a commercial or industrial zone 		
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	X	Proceed to Question 5
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	X	Request contaminated site assessment

Comment:

In accordance with Clause 7 of SEPP 55 Council must consider the potential for contamination on the site and its suitability for the proposed use. In accordance with Council's mapping, the site is listed as potentially contaminated land. The aim of the investigation was to assess whether there is soil contamination adjacent to an underground storage tank. The site previously operated as a car servicing workshop that serviced and repaired motor vehicles in association with local car dealerships, however, the site is now operating as an electrical supplies wholesaler (L&H Electrical Supplies).

The applicant submitted a report in support of the application titled *Environmental Site Assessment (Targeted Phase II Site investigation)* by Envirotech (Ref: REP-277015-A – 1/3/2016). Believed to be located within the site is an underground petrol storage system (UPSS) tank and associated fuel bowers.

The report recommends that the decommissioned Underground Petroleum Storage System (UPSS) tank be removed and disposed of off-site. Removal of the tank must be undertaken in accordance with NSW legislation and guidance, relevant Australian Standards and applicable work health and safety legislation.

Soil sample results were compared to the Health Investigation Levels (HILs) Guidelines and Ecological Screening Levels (ESLs) for residential allotments with limited soil access (NEPM 2013). The report concludes that chemically, the results meet the criteria of the Health Investigation Limits for all of the analyses contaminants across the site. In relation to the area of investigation, this area is deemed suitable for the proposed development.

An additional report titled *Validation of Remediation Works* prepared by Enviro Tech dated 12 July 2019 (D19/388658). The additional validation report has been considered by Council's Environmental Services unit to be satisfactory and appropriate conditions are recommended should the application be approved.

State Environmental Planning Policy (SEPP) (Building Sustainability Index: BASIX) 2004

The provisions of SEPP (BASIX) apply to the site. In accordance with the requirements of SEPP BASIX, Certification for each dwelling has been submitted with the development application.

Clause 55A of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) allows for a development application to be amended provided a new BASIX certificate is submitted to account for those amendments. An amended BASIX Certificate, to reflect amended plans was not submitted with the amended application.

Council cannot issue development consent without the provision of a new BASIX Certificate that reflects the amended application i.e. 55 residential units.

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State Environmental Planning Policy (State and Regional Development) 2011

At the time of lodgment Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EPA Act) was operative.

The proposed development has a capital investment value of (excluding GST) of \$15,197,610.

As the development does not meet or exceed the nominated CIV that would trigger determination by the Southern Regional Planning Panel and Council is the determining authority for the application.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65) applies to the proposed development which consists of a new building, of at least 3 storeys and containing at least 4 or more dwellings.

Council does not have a Design Review Panel constituted by the Minister of Planning.

In accordance with Clause 28(2) of the SEPP 65, *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

A SEPP 65 Design Statement has been prepared by a Registered Architect (D20/6044) addressing the requirements of SEPP 65 and was submitted with the application accordance with Clauses 50(1A) & 50(1AB) of the *EP&A Regulation*. The *SEPP 65 Design Statement* has address Schedule 1 of SEPP 65. Council's assessment of the design quality principles is provided in the table below:

Schedule 1 Design quality principles	
Design quality principle	Comment
<p>Principle 1: Context and neighbourhood character</p> <p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those</i></p>	<p>It is noted that the surrounding development may be broadly characterised as low-density residential housing, consisting of single and two-storey dwelling houses. The development immediately to the south on Albatross Road and Kinghorne Street consists of free-standing single storey dwellings and associated outbuildings.</p> <p>Beyond these dwellings and on land bound by Albatross Road, Kinghorne Street and Albert Street is low-density residential development – mainly of single-storey construction.</p> <p>To the west and on the opposite side of Albatross Road is a continuation of predominately freestanding low-density dwellings with examples of established multi-dwelling housing developments.</p> <p>To the east, on the opposite side of Kinghorne Street, is a Council park and cemetery.</p> <p>On the northern side of the intersection of Albatross Road and Kinghorne Street on the western side of Kinghorne Street is an existing tyre shop. On the eastern side of Kinghorne Street at the intersection with Kalandar Street, Council has</p>

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<p><i>undergoing change or identified for change.</i></p>	<p>recently approved two - four storey residential flat buildings, consisting of 91 apartments and basement car park (DA19/1846).</p> <p>It is noted that the subject site was the subject of a planning proposal to zoning of subject land from B5 Business Development to B4 Mixed Use and amend maximum height of building to part 14m and 8.5m (transition to low density development to the south. The Planning Proposal was supported by a Character Assessment prepared by Urbanac Dated May 2017 (D17/257485) which informed the building heights for the site.</p> <p>While it is acknowledged that the desired future character of the locality will include higher density residential development over a small foot print commercial space at ground floor it is not considered that the current design which includes an exceedance into the 8.5m maximum building height provides an appropriate representation of that future character along the southern elevation of the Albatross Road frontage.</p> <p>Despite council's concerns with the transition of the development to the low scale development to the south, the development is considered to satisfy this design principle.</p>
<p>Principle 2: Built form and scale</p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The scale and bulk of the building is generally appropriate for the locality when considering the development in the strategic context of the site and the desire for a higher density of development to occur from the site.</p> <p>However, the proposed setback of the building to the adjoining lower density R2 Low Density Residential zone does not provide an appropriate transition in built form or resolve the associated amenity impacts that are associated with the reduced setback.</p> <p>The southern portion of the building does not provide an appropriate transition to the low-density development to the south. While the applicant has made an attempt to reduce the bulk and scale of the development through the removal of two (2) apartments on the southern elevation, this has not overcome the need for a more suitable transition to the adjoining low density environment.</p> <p>The aesthetics of the building are acceptable with appropriate colours and finishes.</p> <p>The development is <u>not</u> considered to satisfy this design principle</p>
<p>Principle 3: Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population.</i></p>	<p>55 units on a site area of 3,509m², has a dwelling density of approximately 1 dwelling per 64m².</p> <p>SLEP 2014 does not provide a floor space ratio under Clause 4.4 of the plan.</p> <p>While the density of development is consistent with that previously approved by Council in relation to the site on the north-eastern corner of Kinghorne and Kalandar Street (DA19/1846), it is not considered that the development achieves a high level of amenity for residents and each</p>

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<p><i>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>apartment. The lack of solar access and ventilation to the single bedroom apartments is of particular concern and is likely to result in poor liveability associated with these units which is not consistent with this principle.</p> <p>Furthermore, the design of the development does not demonstrate comprehensive compliance with the ADG as it relates to standards for solar access, apartment size and layout, private open space, landscaped deep soil zone for larger blocks (15% deep soil zone for sites exceeding 1500m²), setbacks to the adjoining low density development, common circulation and spaces, apartment mix and car parking. These non-compliances suggest an overdevelopment of the site and an inappropriate density.</p> <p>It is likely that the proposed density can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> <p>The development is <u>not</u> considered to satisfy this design principle</p>
<p>Principle 4: Sustainability</p> <p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>37 of 55 apartments (67%) receive at least 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter</p> <p>13 of 55 apartments (24%) of apartments receive no sunlight between 9am and 3pm in mid-winter.</p> <p>The majority of the proposed apartments have been designed to achieve satisfactory natural cross ventilation. for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. However, the design of single bedroom apartments results in poor solar access and natural ventilation. There is likely to be a reliance on mechanical heating and cooling for these apartments.</p> <p>The central courtyard and the principal area of communal open space will receive inadequate solar access during winter. Due to the design of the development and location of the communal open space areas on the southern side of the building, the communal open space areas will receive poor access to sunlight and this cannot be resolved without a complete reconsideration of the design of the buildings and location of communal open space.</p> <p>The proposed development is supported by a BASIX Certificate as required under the EP&A Regulation.</p> <p>Stormwater is proposed to be reused for gardens in the communal area.</p> <p>The development is <u>not</u> considered to satisfy this design principle as it relates to the design of single bedroom units.</p>
<p>Principle 5: Landscape</p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in</i></p>	<p>The proposed landscaping meets the minimum deep soil requirements under the ADG. The total area of deep soil area is 461m² (13% of the site area). 328m² (9% of the site area) has a minimum dimension of 6m or larger. These areas have been designed to accommodate larger trees.</p>

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<p><i>attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>The site exceeds 1500m² and therefore it may be appropriate to require 15% of the site as deep soil landscaped area. Additional deep soil planting could have been provided through the removal of the single bedroom apartments and redistribution of these units throughout the development and the potential for additional landscaping along the Kinghorne and Albatross Road frontages.</p> <p>Landscape plans have been reviewed by Council's landscape architect and are considered to be generally satisfactory when considering the plantings and maintenance arrangements (subject to recommended conditions if approved).</p> <p>There are no existing landscape features of note that would warrant retention</p> <p>The development is <u>not</u> considered to satisfy this design principle.</p>
<p>Principle 6: Amenity</p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>The proposed development does not achieve compliance with the ADG as it relates to the minimum standard for solar access, apartment size and layout, deep soil landscaping for larger sites, private open space, common circulation and spaces, apartment mix, car parking as detailed in the ADG compliance table – Appendix A.</p> <p>The development is <u>not</u> considered to satisfy this design principle</p>
<p>Principle 7: Safety</p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is</i></p>	<p>The design is considered to appropriately address Crime Prevention through Environmental Design (CPTED) matters and reduces areas of potential concealment/entrapment. Passive surveillance opportunities are available in the development.</p> <p>There are defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose. Entry points are located adjacent to the activated retail zone and designed to minimise the opportunity for loitering.</p>

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<p><i>achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The residential lobbies and car park are proposed to operate on secured access. The car park access doors will operate individually via remote control (or similar) for residents and retail tenants, with an intercom system for visitors.</p> <p>The development is considered to satisfy this design principle.</p>
<p>Principle 8: Housing diversity and social interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>The proposed development provides additional dwellings, with a range of sizes, in an area where additional housing is needed and is near a variety of services.</p> <p>The development provides both communal open space and a communal room. It is noted that the resident's room located on the south-west wing of the development has a compromised and diminutive floor area (20m²) that is not likely to be used by a broad range of people and is unlikely to provide opportunities for social interaction among residents.</p> <p>Despite the deficiencies in the design of the communal room, the development is considered to satisfy this design principle.</p>
<p>Principle 9: Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape</i></p>	<p>The architectural treatment is satisfactory.</p> <p>The development is considered to satisfy this design principle.</p>

Clause 30(2) of SEPP 65 requires residential apartment development to be designed in accordance with the Apartment Design Guide (ADG).

The development has been assessed against the Apartment Design Guide and a full assessment is provided under **Appendix A** of this Report.

Shoalhaven LEP 2014

The land is zoned B4 Mixed Use under the SLEP 2014.

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Characterisation and Permissibility

The proposal is best characterised as a '*mixed use development*' consisting of '*commercial premises*' on the ground floor and '*residential flat building*' under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.

The above terms are defined in the Dictionary to SLEP 2014 as follows:

commercial premises means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

mixed use development means a building or place comprising 2 or more different land uses.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.


Zone objectives

Objective	Comment
<i>To provide a mixture of compatible land uses.</i> <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	The development is considered to satisfy the objectives of the B4 zone. The development would provide a mixture of compatible uses (commercial and residential accommodation). the development would likely provide the potential for the use of the ground floor commercial tenancies for the purpose of business, office or retail land uses below residential units. The site is in an accessible location on the southern fringe of the Nowra town centre with opportunities for walking and cycling to the CBD.

SLEP 2014 Clauses

Clause	Comments	Complies
Part 2 Permitted or prohibited development		
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Yes.
Part 4 Principal development standards		
4.3 Height of Buildings	<p>Clause 4.3 Height of Buildings</p> <p>The objectives of this clause are stated in subclause (1) as follows:</p> <ul style="list-style-type: none"> (a) <i>to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,</i> (b) <i>to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</i> (c) <i>to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.</i> 	No.

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	<p>In accordance with subclause (2), the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>The Height of Buildings Map indicates that the subject site has split height standards of 14m (N2) and 8.5m (I2). An extract from the Height of Building Map is provided in Figure 15 below.</p> <p>The development proposed exceeds the 14m height limit for the portion of the building located in this mapped area where the maximum building height is 14m – I2. The application seeks a variation to clause 4.3 in accordance with clause 4.6 of SLEP 2014.</p>  <p><i>Figure 15 - Extract from the SLEP 2014 Height of Building Map.</i></p>	
4.4 Floor Space Ratio	<p>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>There is no Floor Space Ratio Map that relates to the subject site.</p>	N/A.
4.6 Exceptions to development standards	<p>Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p> <p>The development standard is not excluded from the operation of clause 4.6 as it is not listed within 4.6(8) of SLEP 2014.</p> <p>The application seeks a variation to Clause 4.3 in accordance with Clause 4.6 of SLEP 2014.</p> <p>An assessment of the applicant's request under Clause 4.6 to vary the development standard relating to building height under Clause 4.3 is provided immediately following this table.</p>	No.

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Part 5 Miscellaneous provisions		
5.10 Heritage Conservation	<p>The objectives of this clause are as follows:</p> <p>(a) to conserve the environmental heritage of Shoalhaven,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>The subject site is not identified as a heritage item or within a heritage conservation area under Schedule 3 of SLEP 2014. It is noted that the development site is opposite and nearby an item of local heritage significance under Schedule 3 of SLEP 2014, the item is listed as Item 361 - Nowra General Cemetery.</p> <p>The development is consistent with the objectives of the heritage provisions in that does not directly or indirectly adversely impact on the cemetery.</p>	Yes.
Part 7 Additional local provision		
7.1	<p>It is unlikely that the proposed works would disturb, drain or expose acid sulfate soils to the atmosphere to cause environmental damage.</p> <p>The subject works are proposed to be undertaken on Class 5 acid sulphate soil. The works would not involve disturbing the earth at a depth of 5 metres or the lowering of the watertable</p> <p>Despite this, a precautionary condition to ensure that if acid sulfate soils are identified during site preparatory works or excavation an acid sulfate management procedure is to be put in place should the application be recommended for approval.</p>	Yes.
7.2	The development will include significant earthworks to facilitate the construction of the basement separate consent for these works is not required outside of this consent.	Yes.
7.3	The subject land is not identified as a Flood Planning Area by mapping supporting the SLEP 2014.	N/A.
7.5	The subject property is not identified as being affected by areas of terrestrial biodiversity under this clause. In this regard, no adverse environmental impacts are likely to arise. Given these circumstances, the provisions of this clause, therefore, do not apply to the proposal.	N/A.
7.6	<p>The subject property is not identified as containing or within 40m of any watercourses under the provisions of Clause 7.6.</p> <p>However, the proposed drainage works which include drainage works within 40m of Nowra Creek will require the issue of a CAA from NRAR. The proposed development is considered to be</p>	N/A.

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	consistent with this clause (subject to appropriate conditions if approved).	
7.7	The site of the proposed development is <u>not</u> subject to a slope in excess of 20% and is not identified as a 'Sensitive Area' by Natural Resource Sensitivity - Land Mapping that supports the Shoalhaven LEP 2014.	N/A.
7.8	The Scenic Protection Area Map that accompanies the Shoalhaven LEP 2014 does not identify the subject land as being located within a 'Scenic Protection' area.	N/A.
7.11	The subject site has access to all essential services. All services are to be augmented as required.	Yes

Clause 4.6 Variations Assessment

Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The development standard is not excluded from the operation of clause 4.6 as it is not listed within 4.6(8) of SLEP 2014.

The application seeks a variation to Clause 4.3 in accordance with Clause 4.6 of SLEP 2014.

Development Standard to be Varied

Clause 4.3 stipulates the objective and development standard for the height of buildings in Shoalhaven. Relevantly Clause 4.3(2) & (2A) state as follows:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The SLEP 2014, through Clause 4.3 sets an 8.5m (I2) height limit for part of the site and a 14m (N2) height limit for rest of the site.

The 8.5m height limit applies to a 9m portion of the south-eastern portion of the site extending across all lots subject of the development application where the lot adjoins the lower density R1 General Residential land to the south.

The Extent of the Variation

Parts of the building exceed the 8.5m (I2) and 14m (N2) height limit for a portion of the development.

The development proposed exceeds the maximum building height as follows:

- 14m height limit by 480mm or 3.4%;
- 8.5m height limit 1.465m or 17.2%; and
- The percentage exceedance of the maximum building height ranges from 1.4% to 17.2% with the average height limit exceedance being 4.83%.

The submitted height plane diagrams prepared by Kannfinch Architects illustrate that the height limit breach and indicate the percentage breach at each point.

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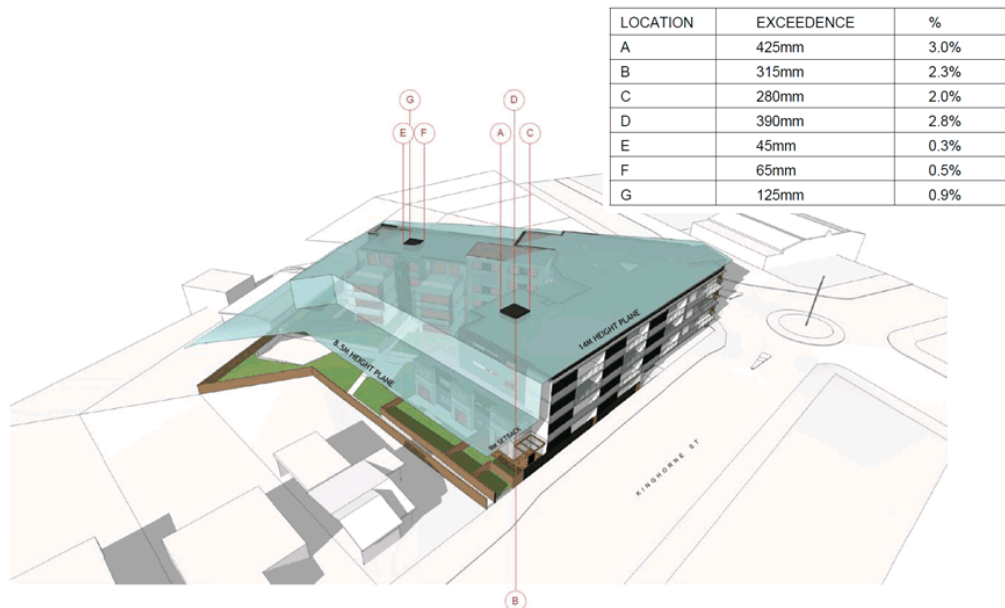


Figure 16 - Height plane instructions relating to the 14.0m (N2) maximum building height - south-eastern view from Kinghorne Street.

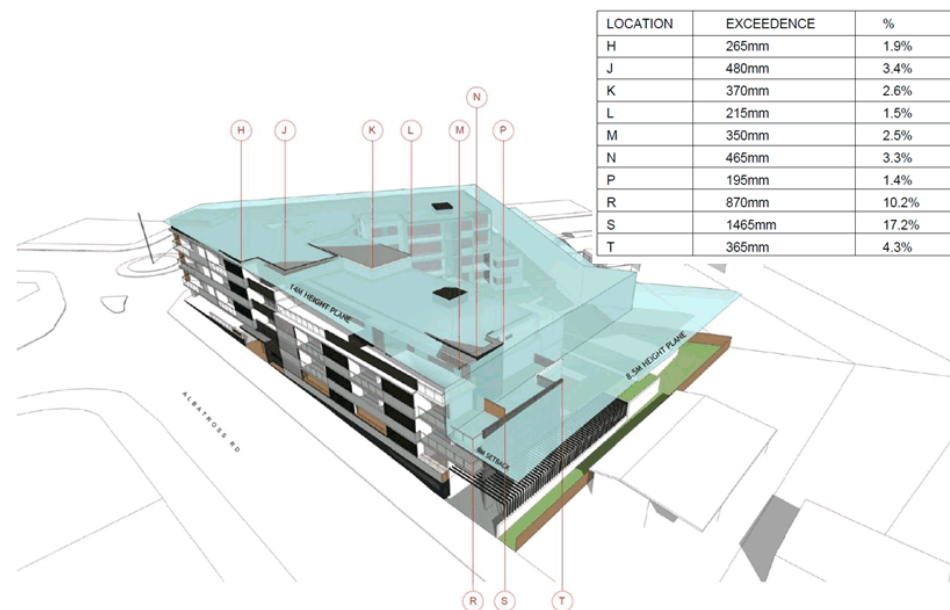


Figure 17 - Height Plane instructions relating to the 14.0m (N2) and 8.5m (I2) maximum building height - southwestern view from Albatross Street.

The applicant has submitted an amended written request to justify the contravention of the development standard under the requirements of clause 4.6 of SLEP 2014 (D19/423702)

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Council is required to consider sub-clauses (3), (4) and (5) of Clause 4.6. Clause 4.6(3) -(5) are extracted from SLEP 2014 below:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence."*

Council must be satisfied that clause 4.6(4)(a)(i) and (ii) have been addressed prior to the grant of development consent.

The first step in satisfying clause 4.6(4)(a)(i), is to consider whether the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). Sub-clause (3) requires the following two matters to be addressed:

1. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)); and
2. That there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). The written request needs to demonstrate both of these matters.

Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

To assess whether compliance with a development standard is unreasonable or unnecessary the Courts have provided guidance in the required assessment, with particular reference to the accepted "5 Part Test" for the assessment established by the NSW Land and Environment Court (L&EC) in *Wehbe v Pittwater Council* [2007] NSWLEC 827 the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 and further clarified by *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. The "5-part Test" is outlined as follows:

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1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.

The "5-part Test" and the applicant's response the separate tests is provided below:

Test 1. *The objectives of the development standard are achieved notwithstanding noncompliance with the standard.*

This single test relied upon by the applicant to demonstrate that compliance with the standard in the circumstances of the case would be unreasonable or unnecessary. The applicant's position is extracted from their Clause 4.6 Variation Report below:

In this instance it is considered that the best way to demonstrate compliance is both unreasonable and unnecessary is because the underlying objectives of the development standard (Clause 4.3) are achieved.

The objectives of Clause 4.3 are to.

- i. to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
- ii. to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- iii. to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The proposal is consistent with the above objectives for the following reasons:

- 1) The arrangement of the development on the site, together with the site orientation, ensures that no overshadowing, significant view loss, or other amenity impacts arise out of the proposed height exceedance.*
- 2) The proposed development is setback from boundaries to adjacent lower-density zoned land and stepped to minimise the bulk and scale in relation to surrounding development. The points of exceedance are minor in nature and largely oriented along the Albatross Road frontage away from adjacent residential development. With the exception of the handrail and privacy screen that exceeds the 8.5m height limit the remainder of the exceedance points are located such that they would not be readily detectable from the public domain. The privacy screens are the building elements located the closest to adjoining residential properties. These building elements are in place to protect the amenity of neighbouring properties. Removing these building*

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elements in order to comply with the height limit would have an adverse impact on adjoining property.

- 3) *The proposed development has architectural merit and provides an attractive streetscape to a prominent intersection whilst providing amenity for occupants and existing/future neighbours.*
- 4) *The proposed development addresses the emerging neighbourhood character and desired future character by:*
 - *Providing a greater number of dwellings in order to address housing growth and in recognition of the site's location west of the Princes Highway and approximately 1km south of the CBD within the existing urban area providing access to a wide range of services, community facilities and shopping.*
 - *The development includes business premises at the ground floor which will be capable of supplying services and facilities to this development, as well as existing and future development in the area.*
 - *Responding to the site's location at the edge of the identified urban consolidation areas (particularly Nowra CBD South) and at one of the area's more significant intersections by accentuating this significant corner with a larger and appropriately scaled development in keeping with the scale of development anticipated by the planning controls.*
 - *Providing larger building form reflecting the likely future increasing urban character of the area and helping include a greater diversity of housing types and housing choice in Nowra. The development provides additional housing, of differing sizes, to fulfil a need identified by several strategic plans.*
 - *The stepping of subsequent floors of the building protects solar access and privacy for existing and future adjacent development.*
- 5) *Photomontages have been prepared and submitted. The photomontages illustrate how the new building will sit within the street and the extent to which it enhances the built environment.*
- 6) *The building will not obstruct any important views. Privacy impacts associated with the development have been managed through ensuring compliance with SEPP 65 and the associated ADG. The design is consistent with the relevant ADG design criteria relating to privacy.*
- 7) *Overshadowing studies have been undertaken the results of which have been depicted on shadow diagrams which form part of the architectural plan set. The shadow diagrams demonstrate that the proposal is acceptable with respect to how it impacts on the adjoining residential properties. The diagrams demonstrate that the proposal does not unduly impact on solar access to adjoining properties.*
- 8) *The proposal will have no adverse impacts on any heritage items.*

For these reasons it is considered that the proposal meets the objectives of Clause 4.3 of the SLEP 2014.

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Council's Consideration of the written request relating to clause 4.6(3)(a)

The consent authority must form the positive opinion of satisfaction that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(a).

The applicant has provided an assessment of the proposed development in accordance with the "5 Part Test" established in the L&EC case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, to argue that the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has principally sought to argue that the 'the objectives of the standard are achieved notwithstanding non-compliance with the standard'.

Based upon a consideration of the applicant's written request, it is not considered that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(a).

- The variation to the development standard is not considered to have satisfied objective (i) and (ii) of clause 4.3 as it relates to the portion of the building that exceeds the 8.5m (I2) height limit,
 - i. to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,*
 - ii. to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

It is noted that the variation to the 8.5m (I2) height limit is not compatible with the height, bulk and scale of buildings located in this transitional zone of the site.

- The subject site was subject to a planning proposal to rezone the land and increase the maximum height of building limit from 11m to 15m. The planning proposal was approved; however, the height limit was increased only to 14m for the majority of the site. An 8.5m maximum building height associated with a 9m wide portion, as measured from the southern boundaries of Lot 1 and Lot 30 DP 25114, and south-eastern and south-western boundaries of Lot 29 DP 25114 was applied to the subject site. A *Character Assessment* was prepared on the proponent's behalf by Urbanac (D17/257485) which recommended a graduation in height, transitioning from two storeys at the southern interface to four storeys to the north. The *Character Assessment* acknowledges the importance for an appropriate transition from the low-density zone to the south and the higher density proposed on the subject site.
- While it is acknowledged that the desired future character of the locality will include higher density residential development over a small foot print commercial space at ground floor it is not considered that the current design which includes an exceedance into the 8.5m maximum building height provides an appropriate representation of that future character along the southern elevation of the Albatross Road frontage.
- The exceedance of the maximum building height as it relates to the 8.5m maximum building height is likely to result in a loss of privacy and has been demonstrated to result in a loss of solar access to the existing development (refer to the shadow diagrams prepared by Kannfinch Architects). The overshadowing of the adjoining residences (No. 6 Albatross Road and No. 175 Kinghorne Street) is exacerbated by the adoption of a 6m setback (opposed to the required 9m setback) for the portion of the building along the Albatross road frontage.
- It is noted that the portion of the building that exceeds the 14m (N2) height limit is considered to adequately address those matters required to be demonstrated by clause 4.6(3)(a), however, the request to vary the development standard must be considered on the whole and despite the non-compliance relating to the 14m maximum building height being supported, it is not considered that the non-compliance on a whole is supportable due to the exceedance of the maximum building height as it relates to the 8.5m development standard.

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Clause 4.6(3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Council must form the positive opinion that the applicant's written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(b).

The applicant's clause 4.6 variation report provides a written request that seeks to justify that there are sufficient environmental planning grounds to justify contravening the development standard. It states:

The Environmental Planning grounds in favour of the variation are as follows:

- a. Careful revision of the submitted plans and diagrams attached to this submission will reveal that the extent of the encroachment is reasonable and limited to only a small portions of the building that are located away from adjoining lands.*
- b. The physical form of the building is well articulated and a variety of building materials are proposed to be used in construction. The proposal will enhance the streetscape qualities of the area despite the encroachments made.*
- c. The parts of the structure that exceed the height limit will not be visually prominent compared to the remainder of the building from any important public places. The height of the structure will be compatible with the existing built environment despite the exceedance.*
- d. The site was subject to a planning proposal to rezone the land and increase the height limit from 11m to 15m. The planning proposal was approved, however the height limit was increased only to 14m, rather than the requested 15m. The design of the building has not changed and the 15m height limit was applied for specifically to allow for the lift overruns and roof features as indicated. It is not clear why the 14m limit was adopted as the planning proposal demonstrated that the site can accommodate a 15m height limit without unreasonable development impacts. In this regard, there are no documented urban design or planning reasons for the strict imposition of a 14m height limit for the subject land.*
- e. Despite the height limit exceedance, the scale of the building is not increased, nor is any additional floor space or habitable area created. From the public domain the areas of the building exceeding the 14m height limits are not readily identifiable and do not increase the perception of bulk.*
- f. There are no overshadowing, or significant view loss or other amenity impacts arising out of the proposed height exceedance g. Adjusting the building to achieve strict compliance with the building height limit would reduce internal amenity and result in greater cut into the site for no clear planning or developmental outcome benefit.*
- h. The development site is at the far southern end of the existing Nowra CBD with several B4 and R3 zoned lots to the north. While land to the south and west is predominantly low-density residential development the site itself remains suitable for the proposal given the proximity of the CBD and higher density development on the northern side of Kalendar Street. Where the site adjoins low density residential development the building has been setback and stepped to minimise the perception of bulk and avoid unnecessary amenity impacts.*
- i. The proposal remains consistent with the objectives of Clause 4.3 as outlined earlier in this report.*
- j. The proposal is consistent with relevant aims of the Shoalhaven Local Environmental Plan 2014 as;*
 - i. The proposal seeks to provide additional housing in the locality which in part is consistent with the aim to facilitate the social and economic wellbeing of the community (aim (b)). In this respect, without the variation to the applicable height limits being granted, there would likely be a loss of the number of apartments*

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proposed, a change the apartment mix, or a re-arrangement of the entire development that would likely result in a sub-standard design outcome.

- ii. The proposal, despite the breach to the maximum height limit does not harm the community (aim e)). The development proposed is permitted within the B4 zone and the design of the new building has no unreasonable negative impacts on the built or natural environment.*

- k. The proposal remains consistent with the relevant objects of the Environmental Planning and Assessment Act despite the variation to the development standard as it;*

- i. In relation to object (c) the proposal is representative of orderly and economic use and development of the land. The exceedance to the maximum height limits allows the building to maintain a consistent built form, with accessible internal circulation. One way of achieving compliance would be to have the offending building / part of the development cut into the site further. The benefits of this (i.e. achieving full compliance with the height limit) are outweighed by the disadvantages which would include increased excavation, a deeper basement, and uneven building floor levels. Further to this, no neighbouring properties would benefit in terms of noticeably reduced impacts with respect to overshadowing / solar access / privacy.*

Alternatively, less or smaller apartments could have been proposed, however, this is not considered representative of a good economic use of the land. The site is within a location where the provision of housing ought to be maximised as it is within an existing urban area providing access to a wide range of services, community facilities and shopping.

- ii. The design of the development incorporating the exceedance to the maximum height limits promotes good design and amenity of the built environment (object (g)).*

With respect to amenity of the built environment, the parts of the building that exceed the applicable height limits have no negative impacts on adjoining buildings with respect to overshadowing or privacy. In fact, the privacy screens which exceed the height limit aim to reduce impacts on adjoining properties. In terms of other potential amenity impacts on the surrounding built environment, the parts of the building that exceed the height limit would not reasonably increase the potential for additional and unacceptable acoustic impacts, visual impacts, or impacts on view sharing.

The design of the development is representative of good design not only due to the lack of impacts on the amenity of the built environment but the design with the proposed height exceedance allows the building to maintain a consistent built form, and provides for the internal circulation within buildings to be largely level and with a maximised accessibility.

- l. The proposal if approved, will not result in any inconsistencies with other environmental planning instruments.*

- m. The proposal if approved will not set an undesirable precedence for reasons outlined above.*

The applicant's written request has not adequately addressed those matters required to be demonstrated by clause 4.6(3)(b). The applicant's written request does not demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:

- The "environmental planning grounds" go chiefly toward the development as a whole as **opposed to the contravening elements of the development**;
- The contravention as it relates to the southern element of the building along the Albatross Road frontage results in potential overlooking and overshadowing in addition to that is inconsistent with the development standard and will result in **potential for amenity impacts** as a result of the non-compliance.

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- The non-compliance as it relates to the Albatross Road frontage could likely be eliminated from the development through the [adoption of a 9m setback](#) to the southern boundary in accordance with the ADG and reducing the height of the development to [two storeys as was anticipated by Council as part of supporting the PP for the site](#).
- The proposal is not considered to promote the objects of the EPA Act, namely: the orderly and economic use and development of land (Section 1.3(c)), and good design and amenity of the built environment (Section 1.3(g)).

Council cannot be satisfied that the written request has adequately addressed those matters required to be demonstrated by clause 4.6(3)(b). The requirement to demonstrate that there are sufficient environmental planning grounds to justify contravention has not been made out.

Were the application to be amended to remove the contravening element of the building which exceed the 8.5m (12) height limit i.e. through increasing the setback to the southern boundary and reconfiguration of the unit layout to remove the need for the use of privacy screening for POS areas associated with units on the southern portion of the building fronting Albatross Road it is likely that their would be sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development is not consistent with the objectives of the Height of Buildings development standard, for the reasons outlined above.

Pursuant to the provisions of the SLEP 2014, the land is zoned B4 – Mixed Use. The objectives of this zone are as follows:

- *To provide a mixture of compatible land uses*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

The proposal is consistent with each objective of the B4 – Mixed Use zone, for the following reasons:

1. The application includes compatible commercial floor area at ground level to activate the Kinghorne and Albatross Road frontage with residential units provided to the rear of the commercial units at ground floor and an additional three (3) levels of residential above.
2. The future use of the commercial floor space is likely to be consistent with the desired needs of the community in an accessible location approximately 950m from the centre of the Nowra CBD.
3. The location of the site and adjacent pathway network provides opportunities for walking to and from the Nowra CBD, bus and taxi connections.

While the development is considered to be consistent with the B4 zone objectives, for the reasons outlined previously, it is not considered that the development satisfies the objectives of the height of building development standard under Clause 4.3(1) and is therefore not considered to be in the public interest.

The identified departures proposed within the development demonstrate the development has not been properly considered for the site, given the site constraints and opportunities. The written request fails to demonstrate that there are sufficient environmental planning grounds to justify

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contravention of the development standard. The proposal fails to promote the objects of the EPA Act, namely: good design and amenity of the built environment (Section 1.3(g)).

Consequently, the applicant's written submission under clause 4.6 is not in the public interest under clause 4.6(4)(a)(ii) and is not supported.

Clause 4.6 (4) (b) – Concurrence of the Secretary has been obtained

Council has assumed concurrence.

Clause 4.6 (5) – Decision to grant concurrence

Specific clauses must be considered. See below.

Clause 4.6(5)(a) - Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The non-compliance with the maximum building height development standard will not raise any matter of significance for State or regional environmental planning.

Clause 4.6(5)(b) - Is There a Public Benefit of Maintaining the Planning Control Standard?

In the judgement of *Ex Gratia P/L v Dungog Council* [2015] (NSWLEC 148), Commissioner Brown of the NSW LEC outlined that the question that needs to be answered in relation to the application of clause 4.6(5)(b) is "*whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development*".

The applicant has failed to demonstrate that there will be better planning outcomes achieved through variation to the height standard as it relates to the 8.5m height of building standard associated with a 9m setback to the southern boundary, as opposed to strict compliance with the development standard or amending the application to reduce the extent of the variation.

Clause 4.6(5)(c) - Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

There no other matters required to be taken into consideration by the Secretary before granting concurrence.

Summary and conclusion with regard to clause 4.6

The clause 4.6 variation request does not adequately explore the issues. It is problematic for the following reasons:

- It does not demonstrate that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- Does not demonstrate there are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case;
- Does not demonstrate the development meets the objectives of the development standard; and
- Does not demonstrate that the proposed development is in the public interest and there is a public benefit in maintaining the standard.

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ii) Draft Environmental Planning Instrument

There are no Draft EPIs that require consideration by Council.

iii) Any Development Control Plan

Shoalhaven DCP 2014

Generic Chapters
G1: Site Analysis, Sustainable Design and Building Materials in Rural and Coastal Areas
<p>5.1 Site Analysis</p> <p>A1.1 A site analysis is provided with a development application with appropriate details for consideration of the site and the broader context.</p> <p>A1.2 For development other than for a single dwelling house and associated structures, your development application should show:</p> <ul style="list-style-type: none"> - Topographical features such as slope, existing natural vegetation and opportunities for the creation of views and vistas. - Opportunities to orientate buildings and private open spaces having regard to solar access, winds and views. - The character of the surrounding development, particularly to setbacks and subdivision layout. - The likely impact on surrounding development, particularly with regard to overshadowing, privacy and obstruction of views. - The extent to which driveways and/or parking areas are likely to dominate the appearance of the development. - The visibility, width and design speed of proposed roads and/or driveways. - Bush fire, flooding and drainage constraints, easements for services and extent of contaminated land. - The character of any adjacent public land/reserves, particularly the location of mature trees in relation to the proposed development. <p><u>Comment:</u> Adequate detail has been displayed within the submitted plans to ascertain compliance with the DCP.</p>
G2: Sustainable Stormwater Management and Erosion/Sediment Control
<p>Appropriate sediment and erosion controls will be required prior to the commencement of works and until such time as the site is stabilised.</p> <p>A stormwater plan will be required before a Construction Certificate can be granted and will be conditioned accordingly.</p> <p>All stormwater is to be disposed of via Albatross Road within street drainage upgrades required along the eastern side of Albatross road running south of the site with ultimate disposal via an existing drainage easement on the northern side of Albatross Road and discharge into Nowra Creek.</p> <p>On 17 July 2020, NRAR notified Council, that to avoid any further delays NRAR would be acceptable to impose a condition requiring that the applicant be required to apply for and obtain a Controlled Activity Approval under the Water Management Act 2000 prior to the issue of a CC (D20/325590).</p>

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G3: Landscaping Design Guidelines

5 Controls

A1.1 Existing trees and landscape elements which make a positive contribution to the character of the area should be retained and integrated into the redevelopment of the land. Proposals to remove existing trees and landscape elements must propose suitable landscaping to retain streetscape character.

Comment: Satisfied. Suitable landscaping is proposed and subject to recommended conditions of consent.

A2.1 For development other than a new dwelling house, alterations and additions to a dwelling house or a dual occupancy, landscaping must be in accordance with an approved landscape plan for the site, prepared by a qualified landscape architect or designer. The plans should meet the performance criteria.

Comment: The submitted plan is satisfactory in this regard, subject to recommended conditions of consent.

A3.1 A landscape plan must be submitted with the development application illustrating the following landscape principles:

- The location, height and species of all existing and proposed vegetation;
- Methods employed to minimise soil erosion; and
- Cross-section through entire site indicating major level changes, existing retained and proposed landscaping that demonstrates the proposed finished landscape (hard and soft).

Comment: The submitted plan is satisfactory in this regard. There are no major level changes. Additional commentary provided under **Appendix A** in relation to compliance with the ADG as it relates to landscaped areas and communal spaces.

G4: Tree and Vegetation Management

There are no significant trees on the site. The development is unlikely to require the removal or modification of vegetation on an adjoining lot.

G7: Waste Minimisation and Management Controls

5 Controls

A.1.1 A waste minimisation and management plan are submitted with the development application in accordance with Council's Waste Minimisation and Management Guidelines 2009.

Comment: Satisfied. The application is supported by a WMMP prepared by MRA Consulting Group. The WMMP addresses waste streams generated during the demolition, construction and ongoing operation.

Waste collection from the site will be facilitated via an 8.0m waste collection vehicle with basement collection of bins from the nominated service area in the south-eastern corner of the basement. The waste storage area provides an area for the storage of 56 x 240L bins.

Suez have previously indicated in a letter to Kannfinch Architects dated 1 April 2016 that their waste collection vehicles are capable of servicing the site (D16/110218). It is acknowledged that the design has been amended subsequent to the submission of the letter from Suez, however, the

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design changes are considered to be inconsequential for the purposes of waste contractor servicing.

G13: Medium Density and other Residential Development

A32.1 The development is designed in accordance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide.

Comment: The development is designed in accordance with SEPP 65 and the Apartment Design Guide (ADG) and an assessment against the Policy and the ADG are provided in this report and Appendix A.

It is noted that the development does not demonstrate full compliance with the Design Quality Principles of SEPP 65 or the objectives and acceptable design criteria and guidance of Chapter 3 and 4 of the ADG. A full assessment of the development against the ADG is provided in **Appendix A** of this Report.

G21: Car Parking and Traffic

5.1 Car Parking Schedule

In relation to the numerical requirements for car parking for residents and visitors associated with the residential component of the development, this is set by Part 3J (Objective 3J-1) of the Apartment Design Guide. Design Criteria 1 of Objective 3J-1 requires that; the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. Granted that the car parking rates under car parking schedule in Chapter G21: Car Parking and Traffic in Shoalhaven Development control Plan 2014 (SDCP 2014) are higher than the rate set by the Guide to Traffic Generating Developments, the Guide to Traffic Generating Developments applies.

Parking rate (Residential):

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.
- 1 space per 5 units (visitor parking).

Residential parking rate according to unit mix (55 units)

- | | | |
|------------------------------|------------|--------------|
| • 8 x 1-bedroom apartments | (0.6 x 8) | 4.8 spaces |
| • 31 x 2 bedroom | (0.9 x 13) | 41.65 spaces |
| • 16 x 3 bedroom | (1.4 x 16) | 22.4 spaces |
| • 55 Units (1 space/5 units) | (55 / 5) | (11 spaces) |

Total number of car parking spaces required for residential units = 79.85 spaces required.

Parking Rate (Commercial):

The car parking rate applying to the commercial component of the development is to be calculated according to Chapter G21: Car Parking and Traffic in SDCP 2014

Commercial development within land zoned B3 Commercial Core at ground level or where access to the development is from ground level above an underground level of car parking is 1 space per 24m² gross floor area.

The commercial floor of 267m² is located at ground level with frontage to both Kinghorne Street and Albatross Road and is located above an underground level of car parking. Therefore, 267m² divided by 24m² = 11.13 spaces.

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Total of Car Spaces Required: 79.85 (residential) + 11.13 (commercial) = 90.98 spaces or 91 spaces

Total of Car Spaces Proposed: 93 spaces

Note: In accordance with section 5.14 Loss of On-Street Car Parking – Major Developments/ Redevelopments of Chapter G21 of SDCP2014, it is noted that, where

“major development/ redevelopment is proposed that has frontage to two or more streets, Council will take into account the loss of on-street car parking spaces arising from the construction of access, bus embayments and car parking restrictions, where these are directly related to the development proposal and will require these to be replaced on site.”

The design of the development including slip lane to provide left turn access to the development from Albatross road will result in the removal of all on-street car parking spaces along the Albatross Road development frontage to facilitate access. This will result in the removal of approx. six (6) on-street car parking spaces.

Taking into account the loss of car parking along the Albatross Road frontage (six (6) on-street spaces) the development is required to provide a total of 97 car spaces. The development is arguably deficient four (4) spaces.

5.2 Traffic

P1 To ensure new development:

- can be accommodated without adverse impact on the surrounding road network.
- Does not jeopardise the provision of future network requirements.

P2 To provide safe and efficient circulation, manoeuvring and parking of vehicles

P3 To minimise potential for pedestrian conflict.

P4 To ensure that a vehicle can enter and leave the parking space in no more than two manoeuvres.

Comment: The development application has been assessed by Council's Traffic and Transport Unit. The development is not considered to meet the Performance Criteria. The development is not considered to provide sufficient information or justification for the anticipated adverse impact that the development will likely have on the surrounding road network. Furthermore, the development is likely to jeopardise the provision of future network requirements associated with Albatross Road and any upgrade works required to the adjoining intersection of Kinghorne Street and Albatross Road.

5.3 Parking Layout and Dimensions

Comment: Despite the shortfall in car parking the and subject to conditions being recommended by Council's Development Engineer, the layout and dimensions are likely to be capable of being conditioned to comply with AS 2890.1. The minimum car bay and aisle requirements stipulated in the AS 2890.1:2004 for user class 1A are 2.4m width, 5.4m length and 5.8m aisle width. All the proposed regular car spaces comply with the above dimensional requirements and could be conditioned to comply with the relevant Australian Standards.

5.4 Access

P5.1 To ensure that driveways relate to:

- i) Type of land use
- ii) Frontage road type
- iii) Size of parking facility
- iv) Type of vehicle likely to enter the development

P5.2 To ensure that traffic safety is preserved both on-site and within the local road network.

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Comment: The proposed site entry and exit have been designed to provide entry via Albatross Road. The proposed access to Albatross Road is not considered to facilitate and preserve traffic safety on Albatross Road. the submitted information does not satisfactorily demonstrate compliance with Australian Standard AS2890.1 Figure 3.2 (refer to **Figure 19** below). Council's Traffic and Transport Unit does not consider this will be possible for Albatross Road but can be satisfied on Kinghorne Street.

Frontage Road Speed (km/hr)	Domestic Property Absolute Minimum (m)	Minimum SSD (m)
40	30	55
50	40	69
60	55	83
70	70	97
80	95	111
90	125	130
100	139	160
110	153	190

Figure 18 - Minimum Sight Distance Requirements - adapted from AS 2890.1: Figure 3.2

The current speed limit is 50km/h. When assessing public road designs the RMS requires Council to consider designing for 10km/h greater than the prevalent speed zone, so in this case sight distance and designs should also be checked for a 60km/h speed environment.

Australian Standard AS 2890 requires domestic property access to have a sight distance of 40m (for a 50km/h speed zone) or 55m for a 60 km/h speed zone.

AS2890 (Figure 3.2) suggests an absolute minimum value of 40m however wherever practicable, domestic property accesses should try and achieve sight distances in the range 45-69m (for a 50 km/h speed zone) or 65-83m (for a 60 km/h speed zone).

If access to the development was from as far south as possible (at the developments southern boundary), sight distance looking back to the north, to approaching traffic, is approximately 40m on Albatross Road, and approximately 60m on Kinghorne Street (for traffic turning left into Kinghorne Street), but is significantly greater to southbound traffic approaching from the north. The sight distance restriction on Albatross Road is due to the bend immediately to the west of the intersection of Albatross Road/Kinghorne Street. There is no such restriction on Kinghorne Street.

Further, irrespective of whether a roundabout is retained, or future traffic signals are installed at the intersection of Albatross Road/Kinghorne Street, the movements of concern are:

- Albatross Road - traffic approaching from the northern or eastern legs would have the greater approach speeds, travelling quickly around the bend. This is a road safety concern, given the limiting sight distance downstream around the bend
- Kinghorne Street - traffic approaching from the north would have the greater approach speed, however, since there is very good sight distance to the north, this is less of a concern.

This means:

- AS2890 (domestic sight distance) cannot be achieved in all respects on Albatross Road
- AS2890 (domestic sight distance) can be achieved on Kinghorne Street

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The other type of sight distance that needs to be considered is 'approach sight distance'. This sight distance is also a concern on Albatross Road, due to the bend immediately to the east of the intersection of Albatross Road/Kinghorne Street.

For a 50km/h speed environment, AUSTROADS (Guide to Road Design Part 4A) states in Table 3.1 that approach sight distance (ASD) needs to be 48m (for a reaction time of 1.5 seconds) or 55m (for a reaction time of 2 seconds), and notes (3) that "a 1.5 second reaction time is only to be used in constrained situations where drivers will be alert ... the general minimum reaction time is 2 seconds".

The available sight distance is 40m on Albatross Road, AUSTROADS (Guide to Road Design Part 4A) Table 3.1 demonstrates that ASD cannot be achieved on Albatross Road, but can be achieved on Kinghorne Street, where there is considerably greater sight distance.

This sight distance assessment indicates that Kinghorne Street is the only option that could satisfy sight distance requirements and not compromise the ongoing safety and efficiency of the classified main road network (Albatross Road).

Council's Traffic and Transport Unit cannot support access from the development to Albatross Road based upon the current design which presents real safety risks in relation to sight distances. Alternative access to the development from Kinghorne Street would likely enable the satisfaction of the SDCP 2014 (as it relates to Section 5.4), Australian Standard AS2890.1 and AUSTROADS (Guide to Road Design Part 4A) Table 3.1

5.5 Manoeuvrability

Comment: Internal access driveways are designed to relevant standards and provide sufficient room for the manoeuvring of a vehicle.

Subject to Council's Development Engineer recommended conditions of consent, as amended the development is capable of satisfy the relevant performance criteria relating to manoeuvrability.

5.6 Service Areas

Comment: A loading bay is not provided within the basement. A shared services area is provided adjacent to the bin storage area. Swept paths for a medium rigid vehicle (MRV) have been provided demonstrating the ability of a garbage truck to manoeuvre in the basement car park area for garbage collection.

The applicant has not provided a dedicated loading bay on the site to service the commercial tenancies. The applicant has indicated that a loading bay could be provided on the western side Kinghorne Street to provide direct servicing access to the commercial units. Such an approach would be subject to Local Traffic Committee approval.

5.7 Landscape Design

A9.1 The application must include detailed landscape plans indicating dimensions, levels and drainage, existing vegetation as well as location, type and character of proposed plantings.

Comment: Satisfied. Plans included.

A10.1 Perimeter planting to screen the proposed car park is to be defined in your landscape plan. The minimum width of perimeter planting is 3m and 1m for driveways.

Comment: N/A. Basement car parking.

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A10.2 Internal plantings of car parking areas are to be of a nature to shade cars and soften the impact of hard paved surfaces without obscuring visibility.

Comment: N/A. Basement car park.

A10.3 Consideration should also be given to the types of trees planted within car parks. Plants which have a short life, tend to drop branches, gum or fruit or plants which interfere with underground pipes are not suitable for car parks.

Comment: Noted.

A10.4 Car parks should be located to complement existing streetscape qualities. Consideration should be given to the streetscape qualities of the locality and the possibility of locating a car park to the rear of a site, or the provision of suitable landscaping to minimise any visual intrusion.

Comment: While council has concerns with the proposed location of the access to the basement car park on Albatross Road, the access design and impact on the existing streetscape qualities are satisfactory when considered strictly from a landscape design perspective.

A10.5 Consideration should be given to incorporating stormwater control measures in the design of landscaped areas, to control and reduce the level of stormwater which enters Council's stormwater drainage systems.

Comment: Stormwater control measures are proposed to be incorporated into the development.

A11.1 Planting is to be designed appropriately so as not to impact upon minimum sight distance requirements (at access points, intersections, and around curves), clearance requirements (horizontal and vertical), and clear zone requirements.

Comment: Planting do not impact on minimum sight distance requirements. Concerns remain in relation to the proposed sight distances irrespective of compliance with the landscaping provisions of this section. Satisfied.

5.8 Drivers with a disability

Comment: The basement car parking has been designed with six (6) adaptable and two (2) disabled driver spaces have been provided within the basement car park.

5.9 Construction Requirements

Comment: Satisfied. Subject to Council's Development Engineer recommended conditions of consent if the application is approved.

5.10 Design of Driveways

Comment: Satisfied. Subject to Council's Development Engineer recommended conditions of consent if the application is approved.

5.14 Loss of On-Street Car Parking – Major Developments/ Redevelopments

Where major development/ redevelopment is proposed that has frontage to two or more streets, Council will take into account the loss of on-street car parking spaces arising from the construction of access, bus embayments and car parking restrictions, where these are directly related to the development proposal and will require these to be replaced on site.

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Comment:

The design of the development including slip lane to provide left turn access to the development from Albatross road will result in the removal of all on-street car parking spaces along the development frontage to facilitate access. This will result in the removal of approx. six (6) on-street car parking spaces.

The design of the development including slip lane to provide left turn access to the development from Albatross road will result in the removal of all on-street car parking spaces along the development frontage to facilitate access. This will result in the removal of approx. six (6) on-street car parking spaces.

The development makes no provisions for the replacement of these car parking spaces on-site. Taking this into consideration the development is arguably deficient four (4) spaces.

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

there are no relevant planning agreements relating to the subject site.

iv) Environmental Planning and Assessment Regulation 2000

There are no relevant considerations.

v) Repealed

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly described as a Medium Density/Dual Occupancy development for the purpose of calculating contributions under the Plan.

Commercial Land Use

Commercial gross floor area = 267m²

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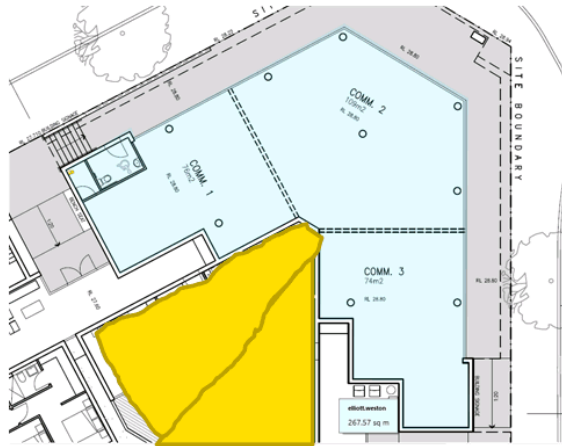


Figure 19 - Extract of Ground floor plan with the gross floor area of the commercial tenancies highlighted in blue with the floor area indicated. (yellow is a redaction of the internal floorplans of units).

Section 94 ET Calculations - DA16/1465 (UPN: 36570)

Close Reset Print Return Calc.

☐ Residential ☒ Non-Residential

Non Residential
Note: enter area in m2 and calculator will convert area to ET's.

Retail:	0	Proposed - Gross Area m2
Commercial Office:	267	Proposed - Gross Area m2
Hotel/Restaurant:	0	Proposed - Gross Area m2
BulkyGoods:	0	Proposed - Gross Area m2
Industrial:	0	Proposed - Gross m2, include parking/landscape
Retail:	0	Existing - Gross Area m2
Commercial Office:	0	Existing - Gross Area m2
Hotel/Restaurant:	0	Existing - Gross Area m2
BulkyGoods:	0	Existing - Gross Area m2
Industrial:	0	Existing - Gross m2, include parking/landscape
Total ETs:	2.67	Management Project ETs: 1.34

Residential Land Use

Floor	1-bedroom	2- bedroom	3-bedroom	Total
Ground Floor	2	6	3	11
First Floor	2	12	3	17
Second floor	2	9	4	15
Third floor	2	4	6	12
Total	8	31	16	55

Note: 3 ET credit is to be applied for the existing three lots.

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Section 94 ET Calculations - DA16/1465 (UPN: 36570)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type: Medium Density/Dual Occupancy

Medium Density/Dual Occupancy

Proposed:

8	1 Bedroom Units
31	2 Bedroom Units
16	3 Bedroom Units
0	4 Bedroom Units

Existing:

3	Lots/Dwellings
0	1 Bedroom Units
0	2 Bedroom Units
0	3 Bedroom Units
0	4 Bedroom Units

Total ETs: 31.6

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC 0009	Planning Area 1 recreational facilities upgrades various locations	\$745.30	31.6	\$23,551.48	\$0.00	\$23,551.48
01AREC 2006	Northern Shoalhaven Sports Stadium	\$582.03	31.6	\$18,392.15	\$0.00	\$18,392.15
01AREC 3007	Nowra Swimming Pool Expansion	\$414.31	31.6	\$13,092.20	\$0.00	\$13,092.20
01 CFAC 2012	Nowra District Integrated Youth Services Centre	\$33.16	31.6	\$1,047.86	\$0.00	\$1,047.86
CW AREC 0005	Shoalhaven Community and Recreational Precinct SCArP Cambewarra Road Bomaderry	\$2,522.83	31.6	\$79,721.43	\$0.00	\$79,721.43
CW CFAC 0007	Shoalhaven Regional Gallery	\$72.29	31.6	\$2,284.36	\$0.00	\$2,284.36
CW CFAC 2002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$1,540.56	31.6	\$48,681.70	\$0.00	\$48,681.70
CW CFAC 2006	Shoalhaven City Library Extensions, Berry Street, Nowra	\$867.56	31.6	\$27,414.90	\$0.00	\$27,414.90
CW FIRE 2001	Citywide Fire & Emergency services	\$138.13	32.94	\$4,550.00	\$0.00	\$4,550.00
CW FIRE 2002	Shoalhaven Fire Control Centre	\$202.07	32.94	\$6,656.19	\$0.00	\$6,656.19
CW MGMT 3001	Contributions Management & Administration	\$574.39	32.94	\$18,920.41	\$0.00	\$18,920.41
				Sub Total:		\$244,312.66
				GST Total:		\$0.00
				Estimate Total:		\$244,312.66

Nowra Bomaderry Structure Plan 2008 (Structure Plan)

The Structure plan applies to the Nowra Bomaderry area and establishes a set of principles to manage growth in the area. The Structure Plan identifies Nowra as the primary commercial and administrative centre and supports an increase in people living in higher densities in existing areas, in a range of dwelling types, in close proximity to the Nowra CBD.

By limiting the overall commercial floor space in the development, the commercial primacy and vibrancy of the Nowra CBD will be maintained.

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	The proposed development is unlikely to have an unsatisfactory impact on the natural environment. The site is cleared of vegetation and any associated impact through drainage works within the

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Head of Consideration	Comment
	Nowra Creek can be appropriately managed via a Controlled Activity Approval issued by NRAR
Built Environment	<p>The scale and bulk of the building is generally appropriate for the locality when considering the development in the strategic context of the site and the desire for a higher density of development to occur from the site.</p> <p>However, the proposed setback of the building to the adjoining lower density R2 Low Density Residential zone does not provide an appropriate transition in built form or resolve the associated amenity impacts that are associated with the reduced setback.</p> <p>The southern portion of the building does not provide an appropriate transition to the low-density development to the south and protrudes into the 8.5m maximum building height. While the exceedance of the maximum building height for the portions of the building which exceed the 14m building height are supportable, it is not considered that the design of the development suitably responds to the height controls relating to the transitional zone.</p> <p>While the applicant has made an attempt to reduce the bulk and scale of the development through the removal of two (2) apartments on the southern elevation, this has not overcome the desire for a more appropriate transition to the adjoining low density environment.</p> <p>the design of the development does not demonstrate comprehensive compliance with the ADG as it relates to standard for solar access, apartment size and layout, private open space, landscaped deep soil zone for larger blocks (15% deep soil zone for sites exceeding 1500m²), setbacks to the adjoining low density development, common circulation and spaces, apartment mix and car parking.</p> <p>The proposed aesthetics, materials and finishes are considered appropriate, however, further consideration of the design of the development would likely result in a substantially better built environment outcome.</p>
Social Impacts	It is considered that the development has the potential to have a positive contribution to the social context through the provision of an additional type of housing and the delivery of a small footprint commercial floor space.
Economic Impacts	The development has the potential to have a positive economic impact through the immediate construction jobs and ongoing use of the development, including, retail or commercial tenancies

(c) Suitability of the site for the development

The site is zoned B4 – Mixed Use zone which permits '*mixed use*' development along with '*commercial*' and '*residential flat buildings*' amongst a range of other uses.

The site is proximate to the public transport, shopping and other services in the Nowra CBD – 950 north of the site.

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The site is located at the southern edge of the Nowra township in a predominately low-density residential environment, however, there are a small number of commercial developments to the north of the site. The future character of the of the locality and area is changing with the approval of two-four storey residential flat building containing 91 apartments on the corner of Kinghorne and Kalandar Street (DA19/1846). Generally, the architectural design and aesthetics of the building are consistent with the existing and future character of the locality, albeit, that concerns remain in relation to the bulk and scale of the development as it relates to the Albatross Road frontage and transition R2 zone to the south.

The site is not identified as being encumbered by any potential constraints or natural hazards (excluding bushfire).

Whilst the site is suitable for this type of development, critical elements of the development, including: the vehicular access onto Albatross Road with the identified issues with road safety and impacts on the surrounding traffic network, deficiencies in car parking, specific non-compliances with the ADG and non-compliance with the maximum building height development standard (clause 4.3 of SLEP 2014) which is not supported under clause 4.6, mean that the design as presented to Council is not suitable for the subject site.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. Submissions were received by Council objecting to the proposal. The concerns raised are outlined below:

Notification period: 14 June – 14 July 2017

Submissions: Six (6) in objection and Nil (0) in support.

Summary of Public Submissions	
Objection Raised	Comment
The development is too large for the area. The height, density and mass are a concern.	The site has been the subject of a PP which considered the zoning and maximum building height associated with the site.
The site would be more appropriately developed for lower rise and townhouse/terrace style housing which would serve the area better and would provide a better streetscape and public amenity. The built form of the town is important. Larger buildings like these should be located by the river and closer to town.	It is considered that a development of this type and similar scale is appropriate for the site and reflects the future character of the area. However, it is considered that there are design elements that could be improved to create a more considered development.
Car parking on Kinghorne and Albatross Road will likely be negatively affected. The likely additional visitors and customers wishing to visit the commercial tenancies will be required to park on the surrounding streets where car parking is limited.	The application proposes 93 car parking spaces in a basement car park, accessed via Albatross Road. The design of the development including slip lane to provide left turn access to the development from Albatross road will result in the removal of all on-street car parking spaces along the Albatross Road development frontage to facilitate access. This will result in the removal of approx. six (6) on-street car parking spaces.

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	<p>Taking into account the car parking provided along the Albatross Road frontage (six (6) on-street spaces) the development is required to provide a total of 97 car spaces. Taking this into consideration the development is arguably deficient four (4) spaces.</p> <p>It is not considered that the deficiency in car parking should be supported and the applicant has provided no justification for the shortfall in car parking.</p>
The development will result in unreasonable overshadowing and would impact on the private open space areas of adjoining residents.	<p>The development will result in additional overshadowing of residential premises to the south of the site. The overshadowing will result in the loss of some solar access.</p> <p>It is apparent from the shadow diagrams prepared by Kannfinch (Sheet 1 – 7) that solar access to the glazed area of the window along the northern elevation of the dwelling located at No. 6 Albatross Road and No. 175 Kinghorne Street will be compromised, however, the north-facing living areas and principal open space of adjoining dwellings (No. 6 Albatross Road and No. 175 Kinghorne Street) will receive 3 hours of sunlight.</p>
The shadow diagrams prepared by Kannfinch do not detail the extent of the overshadowing of the Albatross Road portion of the development.	The shadow diagrams prepared by Kannfinch Architects have been reviewed and are considered provide all required information required for a shadow diagram.
The planning proposal to raise the maximum building height from 11m has been made solely for commercial gain without a sound planning purpose.	On 6 October 2017, Amendment No. 16 to SLEP 2014 was published on the NSW Legislation website and commenced, bring into effect the zoning and building height changes outlined above.
<p>The additional traffic associated with the development cannot be supported by the local road network, with particular concern being raised when Nowra Creek is in flood and additional traffic is prevented from using the Berry Street bridge and is forced to utilise Kinghorne Street roundabout.</p> <p>The number of residents that could be added to this area would greatly increase the traffic flow and create problems for locals and those travelling to and from the highway as well as future residents of the proposed apartments with exit and entry onto a busy road.</p>	<p>The applicant has not provided sufficient justification as to why access for the proposed development should not satisfy the requirements of Clause 101(2)(a) of <i>State Environmental Planning Policy (Infrastructure) 2007</i>, pertaining to development with frontage to a classified road. This mandatory requirement would require the vehicular access to be via Kinghorne Street, being part of the unclassified road network and to which, the site has an extensive street frontage.</p> <p>The desired outcome is for access to the land via the unclassified local road – Kinghorne Street, which will ensure that the development does not compromise the effective and ongoing operation and function of the classified road (Albatross Road).</p>

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	<p>The applicant's submitted Traffic Reports do not establish that the safety, efficiency and ongoing operation of the classified road would not be adversely affected by the development as a result of: the design of the vehicular access to the land, and the nature, volume or frequency of vehicles using the classified road to gain access to the land.</p>
<p>Servicing, waste collection and parking of trade vehicles associated with the commercial use does not appear to have been addressed.</p>	<p>All servicing associated with the development is proposed to be via the basement car park and service area.</p> <p>A loading bay is not provided within the basement. A shared services area is provided adjacent to the bin storage area. Swept paths for a medium rigid vehicle (MRV) have been provided demonstrating the ability of a garbage truck to manoeuvre in the basement car park area for garbage collection.</p> <p>The applicant has not provided a dedicated loading bay on the site to service the commercial tenancies. The applicant has indicated that a loading bay could be provided on the western side Kinghorne Street to provide direct servicing access to the commercial units. Such an approach would be subject to Local Traffic Committee approval.</p>
<p>The location of pedestrian access on the southern boundary on Kinghorne Street will result in noise and safety issues for the adjoining residents.</p>	<p>The proposed pedestrian access points are considered to be appropriate and consistent with Objective 3G-1 and 3G-2 of the ADG. The building entries and pedestrian access connects to and addresses the public domain.</p> <p>Pedestrian access and entries access, entries and pathways are accessible and easy to identify.</p>
<p>The setbacks of the development are insufficient and will impact on amenity and privacy of adjoining residents</p>	<p>In accordance with Objective 3F-2 of the ADG</p> <p>Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).</p> <p>The adjacent sites to the south of the development site are zoned R2 Low Density Residential and currently contain single dwelling houses per lot.</p> <p>Setback of the Kinghorne portion of the development to the adjoining southern property boundary requires a minimum setback of 9m.</p>

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	<p>the building varies in separation for the ground and first-floor elements between 8 – 9m.</p> <p>Setback of the Albatross portion of the development adjoining the south western boundary does not appear to comply with this requirement. 6m is proposed to the 3rd level, however as this is measured to a balcony it is considered that the setback must be a minimum of 9m.</p> <p>It is not considered that the setback of the development to the adjoining residential development is sufficient and will result in amenity impacts, overshadowing and does not provide for an appropriate transition from the low density (R2) development to the south and the proposed high density development on the subject site.</p>
The application is unlikely to result in a reduction in traffic noise is identified in the application.	Noted.
The development will obscure sight distances across the roundabout adjoining the site	Council's Traffic and Transport Unit have raised concerns with the required sight distances associated with the vehicular access/egress on Albatross Road.
The development will result in potential glare from reflected glass surfaces on traffic approaching the adjoining roundabout from the north and east.	An assessment of glare associated with the development has not been completed by the applicant, however, it is not considered that any associated glare would be significant or warrant amendment to the design of the development.

(e) The Public Interest

The development has been assessed against state and local environmental planning instruments, and the development control plan and related guidelines for the Shoalhaven City Council.

The assessment identified the development does not comply with:

- SEPP (infrastructure) as it relates to access,
- SEPP 65 as it relates to the specified Design Quality Principles outlined above.
- The ADG as it relates to standards for solar access, apartment size and layout, private open space, landscaped deep soil zone for larger blocks (15% deep soil zone for sites exceeding 1500m²), setbacks to the adjoining low density development, common circulation and spaces, apartment mix and car parking..
- The building does not meet the maximum building height development standard contained under Clause 4.3 of SLEP and the written request for variation of the development standard is not supported.
- SDCP 2014 Chapter G21: Car Parking and Traffic as it relates to the design of the vehicular access and car parking required to service the development.

Accordingly, the proposal is not considered to be in the public interest.

Delegations

Guidelines for use of Delegated Authority

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The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

On 1 October 2019, the Development and Environment Committee resolved in relation Item No. DE19.107 *'That DA16/1465 – Residential Units and Commercial Space – 173 Kinghorne Street, Nowra be called in to Council for determination due to significant public interest.'* (MIN 19.727).

The development application must be determined by the elected Council.

Recommendation

This application has been assessed having regard for section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA16/1465 be refused for the following reasons:

1. Non-compliance with SEPP 65 in relation to the Apartment Design Guide (s4.15(1)(a)(i) of the EPA Act);
The development fails to satisfy clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:
 - (a) the design quality principles (Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity), and
 - (b) the objectives specified in the Apartment Design Guide for the relevant design criteria (3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3H-1 Vehicle Access, 3J-1 Bicycle and Car Parking, 3J-2 Bicycle and Car Parking, 4A-1 Solar and Daylight Access, 4D-3 Apartment Size and Layout, 4E-1 Private Open Space and Balconies, 4F-1 Common Circulation and Spaces, 4K-2 Apartment Mix).
2. The proposal exceeds the maximum building height development standard under clause 4.3 of SLEP 2014. The applicant's written request to vary the maximum building height development standard has not adequately addressed matters required to be demonstrated by clause 4.6(3)(a) and (b) of SLEP 2014. The Clause 4.6 Variation Request does not provide sufficient environmental planning grounds to support the variation, nor that compliance is unnecessary or unreasonable. (s4.15(1)(a)(i) of the EPA Act).
3. The development has failed to satisfy Council of preconditions 101(2)(a) and (b) of the ISEPP (s4.15(1)(a)(i) of the EPA Act).
In accordance with Clause 101(2)(a) and (b) of the ISEPP, Council must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
 - (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - o the design of the vehicular access to the land, or
 - o the emission of smoke or dust from the development, or
 - o the nature, volume or frequency of vehicles using the classified road to gain access to the land
4. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G21: Car Parking and Traffic Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):

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- (a) 5.2 Traffic.
- (b) 5.4 Access.
- (c) 5.14 Loss of On-Street Car Parking – Major Developments/ Redevelopments.
- 5. Clause 55A of the *Environmental Planning and Assessment Regulation 2000* allows for a development application to be amended provided a new BASIX certificate is submitted to account for those amendments. An amended BASIX Certificate, to reflect amended plans was not submitted with the amended application.
- 6. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EPA Act).
- 7. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
- 8. The development is not in the public interest (s4.15(1)(e) of the EPA Act).

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Appendix A - Apartment Design Guide Compliance Table

Objective	Assessment	Achieved?
3A-1 Site Analysis Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	A site analysis was provided with the DA demonstrating the site constraints and required information and diagrams as stipulated in the	Yes
3B-1 Orientation Building types and layouts respond to the streetscape and site whilst optimising solar access within the development.	Building strongly defines Albatross Road and Kinghorne Street with direct access to both. The primary living and balcony areas provided for the majority of apartments are orientated to the north, north east or north west and front the street or private road. While, the development generally complies with this objective, further consideration of the location and redistribution of single bedroom apartments throughout the development is recommended to provide differing outlooks and improved solar access and cross ventilation	Yes
3B-2 Orientation Overshadowing of neighbouring properties is minimised during mid-winter.	The development follows the street frontage creating a V-shape building footprint. This assists in minimising overshadowing to the south. The orientation of the site and building layouts reduces overshadowing of adjoining buildings / properties. However, there will still be additional overshadowing impacts on the adjoining properties to the south. The overshadowing of the adjoining residences (No. 6 Albatross Road and No. 175 Kinghorne Street) is exacerbated by the adoption of a 6m setback (opposed to the required 9m setback) for the portion of the building along the Albatross road frontage. The development proposes a consistent building separation for the Ground floor and Level 1, with a	Yes

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	<p>greater separation for Levels 2 and 3.</p> <p>There are no solar collectors on the neighbouring buildings presently. A minimum of 4 hours solar access is available to adjoining rooftop areas should solar collectors be desired.</p>	
<p>3C-1 Public Domain Interface</p> <p>Transition between private and public domain is achieved without compromising safety and security.</p>	<p>Unit G.09 and G.10 have direct street entry.</p> <p>The primary residential entries are well defined by boundary fencing and secure entry gates/doors.</p> <p>Opportunities for people to be concealed have been minimised.</p>	<p>Yes. Subject to Conditions in relation to the treatment of ground floor balustrades to require appropriate materials and colours of those ground floor balustrades so they provide a positive interaction with the streetscape. This would include a 50% transparent design with premium materials with consistent finish to the building.</p> <p>A condition of consent is to be imposed requiring the screening of any substation from public view.</p>
<p>3C-2 Public Domain Interface</p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>New landscaping and footpaths are proposed to be established as part of the proposal.</p> <p>Landscape plan displays a substation in view of Kinghorne Street. A condition of consent is to be imposed requiring the screening of any substation from public view.</p> <p>The visual prominence of underground car park vents through location at ground level along Albatross Road and the colours utilise assist in mitigating any visual prominence.</p>	<p>Yes</p>

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	Protrusion of the basement car park is generally minimised without the need for split level parking. The basement and services entry is located at the lowest corner of the site and the general basement level is consistent with this level in order to minimise excavation across the site.	
3D-1 Communal and Public Open Space An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	25% of the site area comprises of communal spaces. The communal spaces are located at ground level The communal open space area is 987m ² or 28% of the site area. Based on the plans submitted the development complies. The communal seating area receives a minimum of 50% direct sunlight from 11am-1pm.	Yes
3D-2 Communal and Public Open Space Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	Communal open space areas comprise of soft landscaping, seating, BBQ area and hard stand areas which encourage a variety of passive uses and activities. The two principal communal open space areas are integrated well into the landscape design however the total area provided for usable communal activities that is not landscape gardens or otherwise used for pedestrian connection within the development is compact. The communal open space has been identified with a BBQ area with a variety of seating and the 'informal seating area'. The two primary communal open space areas provide a combination of sheltered and outdoor environments	Yes
3D-3 Communal and Public Open Space Communal open space is designed to maximise safety.	Communal spaces between buildings at the ground level are visible from habitable rooms and balconies of units facing into the communal area.	Yes

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	No public open spaces areas are proposed nor is a public communal open space desirable based on the current design.	
3E-1 Deep Soil Zones Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	The total area of deep soil landscaping is 461m ² (13% of the site area). 328m ² (9% of the site area) has a minimum dimension of 6m or larger. These areas have been designed to accommodate larger trees.	Yes
Deep soil zones are to meet the following minimum requirements: Minimum dimension: 6m Percentage of site area: 7%		
On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: • 10% of the site as deep soil on sites with an area of 650m ² - 1,500m ² • 15% of the site as deep soil on sites greater than 1,500m ²	The site exceeds 1500m ² and therefore it may be appropriate to require 15% of the site as deep soil landscaped area Landscape plans have been reviewed by Council's landscape architect and are considered to be satisfactory, subject to consideration of amended plantings	No.
3F-1 Visual Privacy Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows (for building heights up to 12m): Habitable rooms and balconies: 6m Non-habitable rooms: 3m Note: Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)	The adjacent sites to the south of the development site are zoned R2 Low Density Residential and currently contain single dwelling houses per lot. Setback of the Kinghorne portion of the development to the adjoining southern property boundary requires a minimum setback of 9m is required. Setback of the Albatross portion of the development adjoining the south western boundary does not appear to comply with this requirement. 6m is proposed to the 3rd level, however as this is measured to a balcony it is considered that the setback must be a minimum of 9m.	No. the development should have a 9m and 6m separation to habitable rooms and balconies and non-habitable rooms respectively.

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<p>3F-2 Visual Privacy</p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	<p>The building has been designed to enable access of light and air to private outdoor spaces. Balconies and courtyards are appropriately screened as required to limit views into private open space areas (balconies and courtyards).</p> <p>Vertical blades are used in the internal courtyard windows where required to direct views away from habitable rooms and balconies.</p> <p>The applicant has proposed privacy screening to the units with balconies facing to the south.</p>	<p>Yes.</p>
<p>3G-1 Pedestrian Access and Entries</p> <p>Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>Separate building entries are provided on Kinghorne Street and Albatross Street. Activated areas are appropriately located towards the northern intersection. Residential units at ground level or elevated above the street provide an appropriate transition to the R2 Low Density Residential adjoining the site to the south.</p> <p>Building entrances sufficiently relate to the street and existing pedestrian network.</p> <p>There is a clear line of sight between the street through the building entry into the main lobby space.</p>	<p>Yes</p>
<p>3G-2 Pedestrian Access and Entries</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>All building entrances are well defined through architectural elements to enable easy identification from the street. All entrances are level to the footpaths and do not include steps.</p>	<p>Yes</p>
<p>3H-1 Vehicle Access</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>Vehicle access is provided at the southern end of the development along Albatross Road. The vehicular access is generally incorporated into the building's façade. Security gates have been setback from the frontage. While Council does not raise any concern with the design or integration of the access into the building from a strictly aesthetic stand point it is noted that the car park entry and access should be located on secondary streets or lanes where available.</p>	<p>No.</p>

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	<p>The basement car park and manoeuvring are to be designed to comply with the Australian Standards and Chapter G21: Car Parking and Traffic.</p> <p>The proposal to access the development from the Regionally Classified Road (Albatross Road) is not supported and the applicant has been encouraged to provide access via the unclassified local road (Kinghorne Street).</p> <p>Under the ISEPP, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that, among other things, 'where practicable, vehicular access to the land is provided by a road other than the classified road'.</p> <p>It is considered that consent must not be granted for access off Albatross Road if practicable vehicular access is available to the site from a road other than the Albatross Road (that being Kinghorne Street). The applicant has submitted concept plans (D18/355817) indicating that was practicable vehicular access from Kinghorne Street. This approach is reflected in the Land and Environment Court judgements.</p>	
<p>3J-1 Bicycle and Car Parking</p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p>	<p>Total number of car parking spaces required for residential units = 79.85 spaces required.</p> <p>The car parking rate applying to the commercial component of the development is to be calculated according to Chapter G21: Car Parking and Traffic in SDCP 2014</p> <p>Commercial development within land zoned B3 Commercial Core at ground level or where access to the development is from ground level above an underground level of car parking is 1 space per 24m2 gross floor area.</p>	No.

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	<p>The commercial floor of 267m² is located at ground level with frontage to both Kinghorne Street and Albatross Road and is located above an underground level of car parking. Therefore, 267m² divided by 24m² = 11.13 spaces.</p> <p>Total of Car Spaces Required: 79.85 (residential) + 11.13 (commercial) = 90.98 spaces or 91 spaces</p> <p>Total of Car Spaces Proposed: 93 spaces</p> <p>Note: In accordance with section 5.14 Loss of On-Street Car Parking – Major Developments/ Redevelopments of Chapter G21 of SDCP2014, it is noted that:</p> <p>“major development/ redevelopment is proposed that has frontage to two or more streets, Council will take into account the loss of on-street car parking spaces arising from the construction of access, bus embayments and car parking restrictions, where these are directly related to the development proposal and will require these to be replaced on site.”</p> <p>The design of the development including slip lane to provide left turn access to the development from Albatross road will result in the removal of all on-street car parking spaces along the Albatross Road development frontage to facilitate access. This will result in the removal of approx. six (6) on-street car parking spaces.</p> <p>Taking into account the on-street car parking loss along the Albatross Road frontage (six (6) on-street spaces) the development is required to provide a total of 97 car spaces.</p> <p>The development is deficient four (4) spaces.</p>	
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<p>3J-2 Bicycle and Car Parking</p> <p>Parking and facilities are provided for other modes of transport.</p>	<p>Each resident has access to a secure storage cage which is large enough to accommodate a bicycle. It is proposed to provide residential visitor and customer bicycle spaces on the street in the form of post mounted bike rails attached to existing street does or signposts, should Council require them.</p>	<p>No. A condition is recommended for the provision of on-street bicycle parking should the application be approved.</p>
<p>3J-3 Bicycle and Car Parking</p> <p>Car park design and access is safe and secure.</p>	<p>All car parking is provided behind secure roller shutters. The car park design is in accordance with AS2890.</p>	<p>Yes</p>
<p>3J-4 Bicycle and Car Parking</p> <p>Visual and environmental impacts of underground car parking are minimised.</p>	<p>All car parking is below ground and accessed from Albatross Road, reducing any visual impacts.</p>	<p>Yes</p>
<p>4A-1 Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas. 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight 3. between 9 am and 3 pm at mid-winter. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. 	<p>37 of 55 apartments (67%) receive at least 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter</p> <p>13 of 55 apartments (24%) of apartments receive no sunlight between 9am and 3pm in mid-winter.</p> <p>While the applicant has argued that the non-compliance with the Design Criteria is "due to limitations imposed by the site configuration, southern slope and orientation" it is noted that there are limited site constraints and there is ample opportunity to reduce the number of internal facing apartments and the design of dual aspect apartments overlooking the internal communal open space area and either Albatross or Kinghorne Street.</p> <p>Of concern is that there are only two single bedroom apartments located on the third level that achieve the minimum daylight access with no lower level single bedroom apartments receiving any solar access.</p> <p>The minor non-compliance with the requirement that no less than 70% of apartments in a building receive a minimum of 3 hours direct sunlight could be readily accepted were the</p>	<p>No.</p>

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	<p>design to exceed the 15% of apartments in a building receiving no direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>The substantial non-compliance with the maximum number of apartments receiving no direct sunlight between 9 am and 3 pm at mid-winter is a significant concern and will significantly increase the reliance on artificial lighting and heating, reduce energy efficiency and residential amenity.</p> <p>The design attempts to maximise the number of north facing apartments and limit the number of single aspects south facing apartments, however, it is noted that the internal facing single aspect apartments provided limited or no solar access. It is considered further consideration of the design to further limit single aspect southerly facing apartments would provide increased solar access and amenity to future residents.</p> <p>It is noted that, where possible, the building design maximises the number of living areas with a northerly aspect ensuring a high level of amenity is achieved. Services areas are generally provided to the rear or in central locations minimising their impact on the most desirable areas of the apartments.</p>	
4A-2 Solar and Daylight Access Daylight access is maximised where sunlight is limited.		Yes
4A-3 Solar and Daylight Access Design incorporates shading and glare control, particularly for warmer months.	Screening and overhanging elements protect openings from direct sun impact and solar gain.	Yes
4B-1 Natural Ventilation All habitable rooms are naturally ventilated.	All habitable rooms are naturally ventilated.	Yes

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<p>4B-2 Natural Ventilation</p> <p>The layout and design of single aspect apartments maximises natural ventilation.</p>	<p>All units are provided with floor to ceiling sliding doors and windows are openable permitting many opportunities for natural ventilation.</p> <p>The single aspect apartments have been designed with a modulated glazed façade with operable elements to create opportunities for natural ventilation. The apartment depth is also limited to improve daylighting and ventilation.</p>	<p>Yes.</p>
<p>4B-3 Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents.</p> <p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Complies. 37 of 55 apartments (67%) of apartments are naturally cross ventilated in accordance with standard or previously proven design principles:</p> <ul style="list-style-type: none"> - corner apartments - through-apartments - single-aspect apartments with modulated facades and shallow floor plans <p>Despite the numerical compliance it is noted that single aspect and 1-bedroom apartments are generally not naturally ventilated and will therefore rely on mechanical ventilation. Of concern is that none of the proposed 1-bedroom apartments will be naturally ventilated. This is not considered to be a positive design outcome.</p> <p>Through apartment depths are a maximum of 14.7m from glass line to glass line.</p>	<p>Yes</p>
<p>4C-1 Ceiling Heights</p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p>	<p>All levels provide for 2.7m ceilings. Ground floor commercial is provided with a 3.5m ceiling height.</p>	<p>Yes</p>
<p>4C-2 Ceiling Heights</p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	<p>Ceiling heights are provided at 2.7m with few bulkhead intrusions etc.</p>	<p>Yes</p>
<p>4D-1 Apartment Size and Layout</p> <p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p>	<p>All units achieve minimum internal area requirements.</p>	<p>Yes. Condition to confirm that all units are provided with a total minimum glass area of not less than 10% of the</p>

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<p>Apartments are required to have the following minimum internal areas: Studio: 35m² 1 Bedroom: 50m² 2 Bedroom: 70m² 3 Bedroom: 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>		<p>floor area of the room.</p>
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>		
<p>4D-2 Apartment Size and Layout</p> <p>Environmental performance of the apartment is maximized.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>No.</p>	<p>All bedroom and living areas are located on the face of the building in order to allow for openable windows.</p> <p>The room depths are acceptable.</p>	<p>Yes</p>
<p>4D-3 Apartment Size and Layout</p> <p>Apartment layouts are designed to accommodate a variety of household activities and needs.</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m (excluding wardrobe space)</p> <p>1. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)/.</p> <p>2. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments 	<p>The open plan designs allow for a range of activities to happen in the kitchen and living spaces. Laundry, bedrooms and bathrooms have been collocated separately.</p> <p>1-bedroom apartment widths are 3.5m - this is marginally under 3.6m. The non-compliance is considered to be marginal and does not impede the usable area of the living rooms and would not likely have a significant detrimental impact on the amenity of the dwelling or resident use of the units impacted. However, it is noted that the design of the single bedroom units is once again impacted by the proposed design.</p>	<p>No.</p>

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3. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		
4E-1 Private Open Space and Balconies Apartments provide appropriately sized private open space and balconies to enhance residential amenity. 1. All apartments are required to have primary balconies as follows: Studio: 4m ² 1 Bedroom: 8m ² , 2m minimum depth 2 Bedroom: 10m ² , 2m minimum depth 3 Bedroom: 12m ² , 2.4m minimum depth The minimum balcony depth to be counted as contributing to the balcony area is 1m 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	All balconies exceed the minimum area for the respective unit types. All balconies have a minimum depth of 2m. A number of the ground floor units do <u>not</u> provide at least 15sqm (G.04, G.08 and G.09) while other apartments do <u>not</u> provide a minimum depth of 3m (G0.2, G.03, G.04, G.08, G.10).	No.
4E-2 Private Open Space and Balconies Primary private open space and balconies are appropriately located to enhance liveability for residents.	All balconies are located directly adjacent to living areas and master bedrooms.	Yes
4E-3 Private Open Space and Balconies Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	Balconies have been designed to respond to the location and to allow views while maintaining visual privacy.	Yes
4E-4 Private Open Space and Balconies Private open space and balcony design maximizes safety.	Private open spaces are located to ensure that passive surveillance is maximized to Albatross Road and Kinghorne Street and internal common areas.	Yes
4F-1 Common Circulation and Spaces Common circulation spaces achieve good amenity and properly service the number of apartments.	Common spaces are provided with solar access, natural ventilation and allow for universal access. Lobby B services 11 apartments on levels 01, 02, and 10 apartments on Level 03. The corridors have been	No. However, where design criteria 1 is not achieved, no more than 12 apartments should be provided off a

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1. The maximum number of apartments off a circulation core on a single level is eight	designed with light slots to capture natural light and ventilation to maintain a high level of amenity. * Note: Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	circulation core on a single level
2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		
4F-2 Common Circulation and Spaces Common circulation spaces promote safety and provide for social interaction between residents.	Circulation spaces are provided to each level of each building in the lift lobby, allowing for interaction of residents.	Yes
4G-1 Storage Adequate, well designed storage is provided in each apartments.	Storage spaces are provided within units and within the basement. All units meet the minimum requirement for storage space.	Yes
4G-2 Storage Additional storage is conveniently located, accessible and nominated for individual apartments.	Storage in apartment is located in dedicated built-in cupboards or in zones where future storage furniture could be reasonably provided. Storage cages are also provided in the basement (1 cage per apartment).	Yes
4H-1 Acoustic Privacy Noise transfer is minimized through the siting of buildings and building layout.	The separation of buildings as well as internal building layouts and materials used restrict noise transfer throughout the site.	Yes
4H-2 Acoustic Privacy Noise impacts are mitigated within apartments through layouts and acoustic treatments.	The applicant has provided an Acoustic Report prepared by KA Acoustics dated 6 November 2019 (D19/423688) addressing potential impact of road noise associated with the classified regional road (Albatross Road). the submitted <i>Acoustic Report</i> . The recommendations of the report ensure internal noise levels comply with those specified in Subclause 101(2)(c) of ISEPP and are capable of being addressed by appropriate development consent conditions.	Yes
4K-1 Apartment Mix A range of apartment types and sizes is provided to cater for different household types now and into the future.	The overall proposed development consists of the following units mix: 8 x 1-bedroom unit 31 x 2-bedroom units 16 x 3-bedroom units	Yes

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4K-2 Apartment Mix The apartment mix is distributed to suitable locations within the building.	The mix of one-bedroom units is not considered to provide an appropriate distribution to suitable locations within the building. The single bedroom units are limited to the southern elevation of the V-shaped building design which has resulted in units with severely compromised solar access, ventilation and private open space that will likely result in units with diminished amenity. The irregular floor plans will also result in odd shaped rooms and the potential loss of the use of usable space within these units. It is considered that the single bedroom units should be spread more evenly throughout the development to enable these units a greater likelihood for increased amenity	No.
4L-1 Ground Floor Apartments Street frontage activity is maximized where ground floor apartments are located.	Direct street access achieved where feasible (G.09 and G.10 are provided with access from Kinghorne Street). While it would be preferred that the units facing Albatross Road were also provided with pedestrian access it is noted that the grade separation would likely result in a reduction in associated POS areas with the necessity for stairs from street level. A reduction in the POS areas of these units would not result in a better design outcome.	Yes
4L-2 Ground Floor Apartments Design of ground floor apartments delivers amenity and safety for residents.	All ground floor units are screened with decorative fencing and secure entry gates (G.09 and G.10 are provided with access from Kinghorne Street).	Yes
4M-1 Facades Building facades provide visual interest along the street while respecting the character of the local area.	A range of building materials and articulation have been used to enhance the appearance of the buildings.	Yes
4M-2 Facades Building functions are expressed by the façade.	The architectural features ensure that the primary building entrances are well defined and private entrances are less defined (G.09	Yes

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	and G.10 are provided with access from Kinghorne Street).	
4N-1 Roof Design Roof treatments are integrated into the building designed and positive respond to the streets.	The roof treatments are integrated into the overall built form and massing of the proposal. The roof design is not considered to be a defining or strong element of the design. Complimentary roof material and façade cladding compliment the remainder of the building. Service elements are concealed from the building frontage behind a parapet wall.	Yes
4N-2 Roof Design Opportunities to use roof space for residential accommodation and open space are maximized.	N/A. The design does not include rooftop communal open space areas.	N/A.
4N-3 Roof Design Roof design incorporates sustainability features.	Roof elements and overhangs have been designed to provide suitable shading during the hot summer months while still allowing for good levels of solar access during the winter months.	Yes
4O-1 Landscape Design Landscape design is viable and sustainable.	The landscape design incorporates and number of plantings that range in scale and height. The proposed landscaping responds to the soil depths and areas provided, as well as functionality for different spaces. Council's landscape architect has reviewed the submitted landscape design and has provided the following comments: <ul style="list-style-type: none"> The native area planting appears to be overplanted. Planting of 4 large Eucalyptus trees plus other native trees in an area approx. 5 x 10m will cause future issues to the property owner. The proposed understorey planting will not succeed here as there will be too much shade plus the fact that the garden is south facing. The proposed hedge – <i>Metrosideros thomasi</i> will 	Yes

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	require regular pruning to keep it a suitable height as it is a small tree. Perhaps consider the Fuji Fire variety which is smaller in habit	
4O-2 Landscape Design Landscape design contributes to the streetscape and amenity.	Maintenance schedule provided on plans. Condition is to be imposed requiring adherence to that schedule or as modified.	Yes
4P-1 Planting on Structures Appropriate soil profiles are provided.	The landscape plans provided demonstrate appropriate soil profiles.	Yes
4P-2 Planting on Structures Plant growth is optimized with appropriate selection and maintenance.	The landscape plans provided demonstrate appropriate soil depths to facilitate the plantings proposed.	Yes
4P-3 Planting on Structures Planting on structures contributes to the quality and amenity of communal and public open spaces.	Planting is proposed for the communal spaces resulting in areas of high amenity.	Yes
4Q-1 Universal Design Universal design features are included in apartment design to promote flexible housing for all community members.	The proposal provides 20% of units the incorporate Liveable Housing Standard and 10% adaptable units.	Yes
4Q-2 Universal Design A variety of apartments with adaptable designed are provided.	All adaptable apartments have easy access to common areas (via common corridors and lift), and have appropriate parking as required by the relevant standards. Apartment layouts have been designed to ensure that minimal work is required to convert into adaption mode.	Yes
4Q-3 Universal Design Apartment layouts are flexible and accommodate a range of lifestyle needs.	The open style design and nonloadbearing rooms allow for future adaptations.	Yes
Part 4S – Mixed Use Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The commercial component of the proposed development is of a scale and in a located that is appropriate for its location and will provide convenience for the local community. The small-scale nature of the commercial floor area is unlikely to impact on the viability of the Nowra CBD.	Yes.

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Part 4S – Mixed Use Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	Residential units are integrated within the development, and safety and amenity is considered to be satisfactory.	Yes.
Part 4T – Awnings Awnings are well located and complement and integrate with the building design	Complies	Yes.
Part 4T – Awnings Signage responds to the context and desired streetscape character	No signage proposed as part of the development.	Yes.
4U-1 Energy Efficiency Development incorporates passive environmental design.	Natural light is provided to all habitable rooms in accordance with 4A, however, solar access to south facing (single aspect) units and single bedroom units which receive restricted solar access and in some cases no solar access during 9am and 3pm in winter.	Yes
4U-2 Energy Efficiency Development incorporates passive solar design to optimize heat storage in winter and reduce heat transfer in summer.	The use of shading devices, awnings and wall insulation ensure that temperature is controlled during summer and winter.	Yes
4U-3 Energy Efficiency Adequate natural ventilation minimises the need for mechanical ventilation.	All habitable areas are provided with openable windows to provide natural ventilation.	Yes
4V-1 Water Management and Conservation Potable water use is minimised.	Water efficient devices. Drip irrigation system proposed as per landscape plans.	Yes
4V-2 Water Management and Conservation Urban stormwater is treated on site before being discharged to receiving waters.	Rainwater tanks are proposed on the site to be used for irrigation.	Yes
4W-1 Waste Management Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Waste storage areas and temporary waste storage areas are provided within the building, minimizing the impacts on the streetscape and residents.	Yes
4W-2 Waste Management	Appropriately sized and located waste storage rooms are proposed. Waste collection is to be via a private contractor to be collected	Yes

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Domestic waste is minimised by providing safe and convenient source separation and recycling.	from the basement and accessed off Albatross Road.	
4X-1 Building Maintenance Building design detail provides protection from weathering.	A number of features such as roof overhangs, window hoods, drip groves / lines and cappings have been incorporated into the design to provide protection to areas of the building façade prolonging the need for building maintenance.	Yes
4X-2 Building Maintenance Systems and access enable ease of maintenance.	Awning windows with opening restrictors are used for safety, in accordance with BCA requirements. Window cleaning is envisaged to be performed from balcony areas, accessible ground floor levels or via safety harness system from the building's roof deck areas.	Yes
4X-3 Building Maintenance Material selection reduces ongoing maintenance costs.	The materials proposed are acceptable. The used of render and timber is minimised. Applicant to provide detail as to how graffiti is to be deterred on the ground floor surfaces or how materials are easily cleaned.	Yes



Terms of Reference North / Central / Southern Coastal Management Program Advisory Committees

*Policy Number: POL20/60
Adopted: 20/07/2020
Amended: 6/10/2020
Minute Number: MIN20.479, MIN20.736
File: 64354E, 64355E, 64356E
Produced By: City Development
Review Date: 1/12/2020*

DE21.51 - Attachment 1

For more information contact the City Development Directorate

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Southern District Office – Deering Street, Ulladulla • **Telephone (02) 4429 8999** • Fax (02) 4429 8939 • PO Box 737
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North Coastal Management Program Advisory Committee

Purpose

The principal objective of the North Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Program for the northern area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The north area applies to the following coastal areas and estuaries:

- All Council managed beaches from Seven Mile / Berry Beach to the most northern coastal boundary of the Shoalhaven LGA, to the southern end of Warrain / Currarong Beach
- Shoalhaven River Estuary
- Broughton Creek
- Crookhaven River/Curleys Bay
- Lake Wollumboola
- Shoalhaven Urban and Rural estuaries

Interpretation

For the purpose of this document:

Member means a member of the committee.

Committee means North Coastal Management Program Advisory Committee.

Council means Shoalhaven City Council.

Chairperson / Chair means the chairpersons of the Committee.

Elected members means the elected Councillors of Shoalhaven City Council.

Status of the Committee

The Committee provides non-binding advice to Council for consideration.

Role of the Committee

1. To assist the Council in the development and implementation of the coastal management programs for the areas listed under 'Purpose' (see above);
2. To assist the Council monitoring and assessing the effectiveness of the management program during and after its implementation;
3. To assist the Council providing input into known coastal event(s) and erosion behaviour as part of the Coastal Management Program;
4. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and
5. Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

Substantial issues and recommendations including expenditure of funds are to be accompanied by a separate report to Council from the Manager Environmental Services.

The committee does not have the power to incur expenditure, or the power to bind Council.

Membership

The Committee will be chaired by a Councillor, elected by Council. The Committee will comprise the following:

- Appointed Chair (Councillor);
- Elected members of Council;
- Chief Executive Officer or nominee;
- Council officers from engineering, planning and environmental disciplines;
- Community representatives;
- Department of Planning, Environment and Industry (DPIE) representatives;
- New South Wales State Emergency Services (NSW SES) representative;
- Local Aboriginal Land Council representative;
- Other relevant government agency representatives.

Councillors Representatives

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

Council Officers

Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.

Local Representatives

Following an expression of interest process, the Chief Executive Officer appoints a maximum of four (4) local community representatives, one (1) youth representative between ages 12 and 25, and one (1) local representative from the Aboriginal Community, that meet the following criteria:

*Shoalhaven City Council – Terms of Reference – North / Central / Southern Coastal Management Program
Advisory Committees*

- A broad interest, and understanding of coastal management;
- A commitment to coastal management in the nominated Council area;
- Local resident or business person living or working in or near a coastal area.

Local community representatives have voting rights.

Government Agencies

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate one (1) representative each.

The nominated agency representatives provide advice in relation to their functions and areas of expertise and do not have voting rights.

Chair and Deputy Chair

Council appoints one (1) Councillor to be the Chair of the Committee.

In the absence of the nominated Chair at a particular meeting, the members elect a Chair for that meeting.

Terms of Office

The term of the Chair will be one (1) year which will be reviewed annually in September. Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

Committee Meeting

Agenda

The agenda will be developed by the Director Planning, Environment and Development with support from the Section Manager Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director of Planning, Environment and Development.

Quorum

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representative are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

Voting

It is expected that the committee, and any working group to develop recommendations by consensus. If voting is required, the Chair has a casting vote.

Meeting Schedule

The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee. In general, meeting frequency should be conducted on an as required basis.

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Minutes

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected council. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

Code of Conduct

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

Document Control

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

Central Coastal Management Program Advisory Committee

Purpose

The principal objective of the Central Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Program plans for the central area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The central area applies to the following coastal areas and estuaries:

- All Council managed beaches from Callala Bay in the north, to Cunjurong Point in the South
- St Georges Basin
- Jervis Bay
- Currumbene Creek
- Moona Moona Creek
- Currarong Creek
- Callala Creek
- Sussex Inlet
- Swan Lake
- Berrara Creek
- Shoalhaven Urban and Rural estuaries

Interpretation

For the purpose of this document:

Member means a member of the committee.

Committee means Central Coastal Management Program Advisory Committee.

Council means Shoalhaven City Council.

Chairperson / Chair means the chairpersons of the Committee.

Elected members means the elected Councillors of Shoalhaven City Council.

Status of the Committee

The Committee provides non-binding advice to Council for consideration.

Role of the Committee

1. To assist the Council in the development and implementation of the coastal management programs for the areas listed under 'Purpose' (see above);
2. To assist the Council monitoring and assessing the effectiveness of the management program during and after its implementation;
3. To assist the Council providing input into known coastal event(s) and erosion behaviour as part of the Coastal Management Program;

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Advisory Committees*

4. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and
5. Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

Substantial issues and recommendations including expenditure of funds are to be accompanied by a separate report to Council from the Manager Environmental Services.

The committee does not have the power to incur expenditure, or the power to bind Council.

Membership

The Committee will be chaired by a Councillor, elected by Council. The Committee will comprise the following:

- Appointed Chair (Councillor);
- Elected members of Council;
- Chief Executive Officer or nominee;
- Council officers from engineering, planning and environmental disciplines;
- Community representatives;
- Department of Planning, Environment and Industry (DPIE) representatives;
- New South Wales State Emergency Services (NSW SES) representative;
- Local Aboriginal Land Council representative;
- Other relevant government agency representatives.

Councillors Representatives

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

Council Officers

Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.

Local Representatives

Following an expression of interest process, the Chief Executive Officer appoints a

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maximum of four (4) local community representatives, one (1) youth representative between ages 12 and 25, and one (1) local representative from the Aboriginal Community, that meet the following criteria:

- A broad interest, and understanding of coastal management;
- A commitment to coastal management in the nominated Council area;
- Local resident or business person living or working in or near a coastal area.

Local community representatives have voting rights.

Government Agencies

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate one (1) representative each.

The nominated agency representatives provide advice in relation to their functions and areas of expertise and do not have voting rights.

Chair and Deputy Chair

Council appoints one (1) Councillor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the meeting elects a Chair of the meeting.

Terms of Office

The term of the Chair will be one (1) year which will be reviewed annually in September. Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

Committee Meeting

Agenda

The agenda will be developed by the Director Planning, Environment and Development with support from the Section Manager Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director of Planning, Environment and Development.

Quorum

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representative are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

Voting

It is expected that the committee, and any working group to develop recommendations by consensus. If voting is required, the Chair has a casting vote.

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Meeting Schedule

The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee. In general, meeting frequency should be conducted on an as required basis.

Minutes

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected council. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

Code of Conduct

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

Document Control

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Southern Coastal Management Program Advisory Committee

Purpose

The principal objective of the Southern Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Program plans for the southern area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The southern area applies to the following coastal areas and estuaries:

- All Council managed beaches from Lake Conjola entrance in the north, reaching to the southern boundary of the Shoalhaven LGA in the south – North Durras Beach.
- Lake Conjola
- Narrawallee Creek
- Mollymook
- Ulladulla
- Burill Lake
- Lake Tabourie
- Lake Willinga
- Shoalhaven Urban and Rural estuaries

Interpretation

For the purpose of this document:

Member means a member of the committee.

Committee means Southern Coastal Management Program Advisory Committee.

Council means Shoalhaven City Council.

Chairperson / Chair means the chairpersons of the Committee.

Elected members means the elected Councillors of Shoalhaven City Council.

Status of the Committee

The Committee provides non-binding advice to Council for consideration.

Role of the Committee

1. To assist the Council in the development and implementation of the coastal management programs for the areas listed under 'Purpose' (see above);
2. To assist the Council monitoring and assessing the effectiveness of the management program during and after its implementation;
3. To assist the Council providing input into known coastal event(s) and erosion behaviour as part of the Coastal Management Program;
4. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and

5. Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

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The committee does not have the power to incur expenditure, or the power to bind Council.

Membership

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