

## Development & Environment Committee

**Meeting Date:** Tuesday, 07 May, 2019  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.00pm

**Membership** (Quorum - 5)  
Clr Joanna Gash - Chairperson  
Clr Greg Watson  
All Councillors  
General Manager or nominee

**Please note:** The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

## Agenda

1. **Apologies / Leave of Absence**
2. **Confirmation of Minutes**
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3. **Declarations of Interest**
4. **Call Over of the Business Paper**
5. **Mayoral Minute**
6. **Deputations and Presentations**
7. **Notices of Motion / Questions on Notice**

Nil
8. **Reports**
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## 9. Confidential Reports

Nil

## Development & Environment Committee

### Delegation:

Pursuant to s377 (1) of the Local Government Act 1993 the Committee is delegated the functions conferred on Council by the Environmental Planning & Assessment Act 1979 (EPA Act), Local Government Act 1993 (LG Act) or any other Act or delegated to Council, as are specified in the attached Schedule, subject to the following limitations:

- i. The Committee cannot make a decision to make a local environmental plan to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the LG Act;
- ii. The Committee cannot review a section 8.11 or section 8.9 EPA Act determination made by the Council or by the Committee itself;
- iii. The Committee cannot exercise any function delegated to the Council which by the terms of that delegation cannot be sub-delegated;
- iv. The Committee cannot exercise any function which s377(1) of the LG Act provides cannot be delegated by Council; and
- v. The Committee cannot exercise a function which is expressly required by the LG Act or any other Act to be exercised by resolution of the Council.

### Schedule

- a. All functions relating to the preparation, making, and review of local environmental plans (LEPs) and development control plans (DCPs) under Part 3 of the EPA Act.
- b. All functions relating to the preparation, making, and review of contributions plans and the preparation, entry into, and review of voluntary planning agreements under Part 7 of the EPA Act.
- c. The preparation, adoption, and review of policies and strategies of the Council in respect of town planning and environmental matters and the variation of such policies.
- d. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which seeks to vary a development standard by more than 10% and the application is accompanied by a request to vary the development standard under clause 4.6 of Shoalhaven Local Environmental Plan 2014 or an objection to the application of the development standard under State Environmental Planning Policy No. 1 – Development Standards.
- e. Determination of variations from the acceptable solutions and/or other numerical standards contained within the DCP or a Council Policy that the General Manager requires to be determined by the Committee
- f. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
- g. Review of determinations of development applications under sections 8.11 and 8.9 of the EP&A Act that the General Manager requires to be determined by the Committee.
- h. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.
- i. The preparation, adoption, and review of policies and strategies of the Council in respect to sustainability matters related to climate change, biodiversity, waste, water, energy, transport, and sustainable purchasing.
- j. The preparation, adoption and review of policies and strategies of the Council in respect to management of natural resources / assets, floodplain, estuary and coastal management.

## MINUTES OF THE DEVELOPMENT & ENVIRONMENT COMMITTEE

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

The following members were present:

Clr Amanda Findley  
Clr Joanna Gash - Chairperson  
Clr John Wells  
Clr John Levett  
Clr Nina Digiglio  
Clr Annette Alldrick  
Clr Kaye Gartner  
Clr Bob Proudfoot  
Mr Russ Pigg - General Manager

### Apologies / Leave of Absence

Apologies were received from Clr White, Clr Pakes, Clr Kitchener, Clr Guile and Clr Watson.

### Confirmation of the Minutes

**RESOLVED** (Clr Findley / Clr Digiglio) MIN19.204

That the Minutes of the Development & Environment Committee held on Tuesday 05 March 2019 be confirmed.

CARRIED

### Declarations of Interest

Nil

### Call Over of the Business Paper

**RESOLVED** (Clr Gash / Clr Wells) MIN19.205

That the Chairperson Call Over all the items on the Agenda.

CARRIED



## MAYORAL MINUTES

Nil

## DEPUTATIONS AND PRESENTATIONS

### DE19.18 - Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry

Mr Matt Philpott, representing Allen Price & Scarratts, addressed the meeting and spoke for the recommendation.

### DE19.21 - Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855

Mr Greg Edwards, representing Basin View Forum and Sanctuary Point Community Pride, addressed and spoke against the recommendation.

Dr Judith Stubbs, representing the owners of the land, addressed the meeting and spoke to the recommendation.

### DE19.24 - Further Update - Possible Heritage Listing - Former Huskisson Anglican Church

Dr Shirley Fitzgerald addressed the meeting and spoke for the heritage listing.

Mr Ian Deck, representing the Anglican Church, addressed the meeting and spoke against the recommendation.

Mr Stephen Bartlett, representing Kamsley Pty Ltd, addressed the meeting and spoke against the recommendation.

## Procedural Motion - Bring Item Forward

**RESOLVED** (Clr Wells / Clr Digiglio)

MIN19.206

That the following matters be brought forward for consideration:

- DE19.18 - Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry
- DE19.21 - Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855
- DE19.24 - Further Update - Possible Heritage Listing - Former Huskisson Anglican Church

CARRIED

## REPORTS

**DE19.18 Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry**

**HPERM Ref: D19/40102**

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

That Council:

1. Amend the Planning Proposal (PP) for Lot 4 DP83425, Beach Road, Berry to:
  - a. Reflect the revised maps provided with the report; and

- b. List the Aboriginal Scarred Tree identified on the site as an item of Aboriginal Heritage
2. Submit the revised PP to the NSW Department of Planning and Environment for consideration as required by the Gateway determination.
3. Undertake the necessary Government Agency consultation prior to public exhibition as required by the Gateway determination.
4. Prepare a draft site-specific Development Control Plan (DCP) chapter to support the PP.
5. Publicly exhibit the PP and supporting draft DCP chapter, subject to completion of the above matters.
6. Advise the proponent of this resolution.

**RESOLVED** (Clr Proudfoot / Clr Wells)

MIN19.207

That Council:

1. Amend the Planning Proposal (PP) for Lot 4 DP83425, Beach Road, Berry to:
  - a. Reflect the revised maps provided with the report; and
  - b. List the Aboriginal Scarred Tree identified on the site as an item of Aboriginal Heritage
2. Submit the revised PP to the NSW Department of Planning and Environment for consideration as required by the Gateway determination.
3. Undertake the necessary Government Agency consultation prior to public exhibition as required by the Gateway determination.
4. Prepare a draft site-specific Development Control Plan (DCP) chapter to support the PP.
5. Publicly exhibit the PP and supporting draft DCP chapter, subject to completion of the above matters.
6. Advise the proponent of this resolution.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

Against: Nil

CARRIED

**DE19.21 Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855**

**HPERM Ref: D19/70515**

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

That Development Application No.18/1844 be determined by way of approval subject to the imposition of suitable conditions of consent as contained in attachment 1.

**RESOLVED** (Clr Findley / Clr Proudfoot)

MIN19.208

That:

1. Council defer consideration of DA18/1844 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855, pending the General Manager providing a supplementary report to Council in respect of
  - a. restrictions on smoking in the area near the nursery/garden centre
  - b. stormwater

c. the ongoing management of the boarding house

2. The report be brought to the April Ordinary meeting of Council.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

**DE19.24 Further Update - Possible Heritage Listing - Former  
Huskisson Anglican Church**

**HPERM Ref:  
D19/99451**

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

That Council

1. Receive the report for information.
2. Note the letter received from the Heritage Council of NSW on 27 March 2019.
3. Decide whether it wishes to reconsider its previous resolved position in this regard and consider the possible heritage significance of the site through the LEP listing process.

MOTION (Clr Wells / Clr Gash)

That Council

1. Receive the report for information.
2. Note the letter received from the Heritage Council of NSW on 27 March 2019.

FOR: Clr Gash, Clr Wells and Russ Pigg

AGAINST: Clr Findley, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner and Clr Proudfoot

LOST

**RESOLVED** (Clr Levett / Clr Alldrick)

MIN19.209

That Council

1. Receive the report for information
2. Note the letter received from the Heritage Council of NSW on 27 March 2019
3. Seek to list the site in the Local Environmental Plan (LEP) as a Local Heritage Item through the formal planning proposal process.
4. Authorise staff to endeavour to add this to the next Housekeeping Amendment dealing with Heritage in June 2019.
5. Encourage the proponents (i.e. the land owner and the proposed developer) and the community to come together in an endeavour to reach an agreed outcome.

FOR: Clr Findley, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner and Clr Proudfoot

AGAINST: Clr Gash, Clr Wells and Russ Pigg

CARRIED

Note: A rescission motion was received on this item.

**DE19.19 Draft Planning Proposal - Review of Subdivision Provisions - Shoalhaven LEP 2014**

**HPERM Ref:  
D19/59990**

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

That Council:

1. Endorse the Review of Subdivision Provisions Planning Proposal (PP027) (Attachment 1) and submit it to the NSW Department of Planning and Environment for a Gateway determination.
2. Following receipt of the Gateway determination, exhibit PP027 as per legislative and Gateway determination requirements.
3. Receive a further report following the conclusion of the public exhibition period.
4. Advise key stakeholders of this decision, including relevant Community Consultative Bodies and Development Industry representatives.

**RESOLVED** (Clr Findley / Clr Digiglio)

MIN19.210

That Council:

1. Endorse the Review of Subdivision Provisions Planning Proposal (PP027) (Attachment 1) and submit it to the NSW Department of Planning and Environment for a Gateway determination.
2. Following receipt of the Gateway determination, exhibit PP027 as per legislative and Gateway determination requirements.
3. Receive a further report following the conclusion of the public exhibition period.
4. Advise key stakeholders of this decision, including relevant Community Consultative Bodies and Development Industry representatives.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

**DE19.20 Sustainability Program Update**

**HPERM Ref:  
D19/58433**

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

That Council:

1. Adopt the recommendations outlined in the report – Attachment 1.
2. Endorse the development of a Sustainability Policy for Council.
3. Endorse the development of a Sustainability Action Plan for Council.

Authorise the General Manager (Director Planning, Environment & Development) to establish a reference Group consisting of interested Councillors and appropriate staff to advance 1, 2 and 3 above, and that at least quarterly progress reports are provided to Council.

**RESOLVED** (Clr Wells / Clr Findley)

MIN19.211

That Council:

1. Adopt the recommendations outlined in the report – Attachment 1.
2. Endorse the development of a Sustainability Policy for Council.
3. Endorse the development of a Sustainability Action Plan for Council.

4. Authorise the General Manager (Director Planning, Environment & Development) to establish a reference Group consisting of interested Councillors and appropriate staff to advance 1, 2 and 3 above, and that at least quarterly progress reports are provided to Council.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

**DE19.21 DEVELOPMENT APPLICATION NO.18/1844 – 120  
MACLEANS POINT ROAD, SANCTUARY POINT – LOT  
653 DP 27855**

**HPERM REF:  
D19/70515**

Item dealt with earlier in the meeting see MIN19.208

**DE19.22 Shoalhaven River Estuary Coastal Management  
Program - Acceptance of NSW OEH Grant - Coast and  
Estuary Grant Program**

**HPERM Ref:  
D19/82267**

### **Recommendation**

That Council:

1. Accept the NSW OEH grant funds of \$75,000, for the preparation of Shoalhaven River Estuary Coastal Management Program, over two (2) years.
2. Provide matching funds of \$75,000 over two (2) years from the existing coastal management planning budget as previously resolved (MIN17.1087) to match the \$75,000 offered by the NSW Government, to prepare Shoalhaven City Council's Coastal Management Program (CMP) for the Shoalhaven River Estuary.
3. Write to the NSW Minister for Environment, Heritage and Local Government, thanking them for the grant funding offer.

### **Recommendation (Clr Findley / Clr Wells)**

That Council:

1. Accept the NSW OEH grant funds of \$75,000, for the preparation of Shoalhaven River Estuary Coastal Management Program, over two (2) years.
2. Provide matching funds of \$75,000 over two (2) years from the existing coastal management planning budget as previously resolved (MIN17.1087) to match the \$75,000 offered by the NSW Government, to prepare Shoalhaven City Council's Coastal Management Program (CMP) for the Shoalhaven River Estuary.
3. Write to the NSW Minister for Environment, Heritage and Local Government, thanking them for the grant funding offer.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

**DE19.23 Exhibition Outcomes and Proposed Finalisation -  
Shoalhaven Contributions Plan 2019**

**HPERM Ref:  
D18/375094**

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

That Council:

1. Adopt the Shoalhaven Contributions Plan 2019 as exhibited with the proposed amendments described in Table 2 of this report and proceed to finalise the plan.
2. Give effect to the Shoalhaven Contributions Plan 2019 by publishing a written notice in local newspapers in accordance with legislation.
3. Notify development industry representatives, Community Consultative Bodies and those who made submissions, of Council's decision.
4. Endorse the position that all funds from deleted projects are to remain within each relevant planning area and be transferred to a "recoupment fund", with those funds used as Council's apportionment towards projects and to provide seed funding for community infrastructure projects identified in the revised contributions plan.
5. Endorse the preparation of a future amendment to the adopted Shoalhaven Contributions Plan 2019 to:
  - a. update project costings, apportionment, and timeframes,
  - b. clarify calculation of credits, when contributions are charged for industrial/commercial subdivision, dedication of land and works in kind, and how merit assessment for miscellaneous development types is to be undertaken; and
  - c. address general housekeeping matters that may arise.

**RESOLVED** (Clr Findley / Clr Proudfoot)

MIN19.212

That Council:

1. Adopt the Shoalhaven Contributions Plan 2019 as exhibited with the proposed amendments described in Table 2 of this report and proceed to finalise the plan.
2. Give effect to the Shoalhaven Contributions Plan 2019 by publishing a written notice in local newspapers in accordance with legislation.
3. Notify development industry representatives, Community Consultative Bodies and those who made submissions, of Council's decision.
4. Endorse the position that all funds from deleted projects are to remain within each relevant planning area and be transferred to a "recoupment fund", with those funds used as Council's apportionment towards projects and to provide seed funding for community infrastructure projects identified in the revised contributions plan.
5. Endorse the preparation of a future amendment to the adopted Shoalhaven Contributions Plan 2019 to:
  - a. update project costings, apportionment, and timeframes,
  - b. clarify calculation of credits, when contributions are charged for industrial/commercial subdivision, dedication of land and works in kind, and how merit assessment for miscellaneous development types is to be undertaken; and
  - c. address general housekeeping matters that may arise.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

**DE19.24 FURTHER UPDATE - POSSIBLE HERITAGE LISTING -  
FORMER HUSKISSON ANGLICAN CHURCH****HPERM REF:  
D19/99451**

Item dealt with earlier in the meeting see MIN19.209

**DE19.25 Two (2) Bushcare Group Action Plans - Review****HPERM Ref:  
D19/99736****Recommendation (Item to be determined under delegated authority)**

That Council adopt the following two (2) reviewed Bushcare Group Action Plans:

1. Warden Head; and
2. Bangalee Reserve.

**RESOLVED** (Clr Findley / Clr Gash)

MIN19.213

That Council adopt the following two (2) reviewed Bushcare Group Action Plans:

1. Warden Head; and
2. Bangalee Reserve.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

AGAINST: Nil

CARRIED

Note: A Rescission Motion was received in relation to DE19.24 - Further Update - Possible Heritage Listing - Former Huskisson Anglican Church signed by Clr Wells, Clr Gash and Clr Pakes.

There being no further business, the meeting concluded, the time being 8.15pm.

Clr Gash  
CHAIRPERSON

## DE19.26 Outcomes - Shoalhaven Local Heritage Assistance Fund 2018-2019

**HPERM Ref:** D19/66849

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:** 1. 2018-2019 Final Project Report - Local Heritage Assistance Fund [↓](#)  
2. Revised Shoalhaven Heritage Strategy 2019-2022 [↓](#)

### Purpose / Summary

Detail the outcomes of the Shoalhaven Local Heritage Assistance Program 2018-2019 and adopt the revised Shoalhaven Heritage Strategy for 2019-2022 to enable the program to continue.

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

That Council:

1. Receive the annual Summary Project Report (Attachment 1), detailing the outcomes of the Local Heritage Assistance Fund Program 2018-2019, for information.
2. Adopt the revised Shoalhaven Heritage Strategy 2019-2022 (Attachment 2).

### Options

1. Adopt the recommendation.

Implications: This is preferred as it will enable the outcomes of the 2018-2019 Program to be received for information (via the Summary Project Report – **Attachment 1**) and enable Council's Heritage Strategy for the years 2019-2022 to be adopted to enable the program to continue.

It will allow this year's program to be finalised so that Council can claim reimbursement of NSW Heritage Grant funding.

2. Adopt an alternative recommendation.

Implications: Depending on the nature of any alternative recommendation, this may not be in keeping with the established process and will possibly prevent the finalisation of this year's program. This may prevent Council making a claim for reimbursement under the NSW Heritage Grants funding, particularly if Council's Heritage Strategy is not revised.

### Background

Council has continued its commitment to local heritage projects by supporting the NSW Heritage Grants. The grant funding provided by the NSW Government assists the Council to employ a Heritage Advisor and to run an annual Local Heritage Assistance Fund to provide grants of up to \$5,000 for a wide range of small heritage projects including general maintenance, adaptive reuse, or sympathetic alterations/additions to heritage items.

The conservation of Shoalhaven's cultural heritage by its owners is clearly beneficial to the broader community and visitors to the area. These grants, although small, show that Council



and the NSW State Government are committed to helping owners to conserve and enhance their properties for future generations. These heritage projects contribute to heritage conservation management, promote cultural sustainability and encourage heritage tourism.

### **NSW Heritage Grants Program 2018-19**

NSW Heritage Grant funding was accepted under the following streams:

- Local Heritage Places (Shoalhaven Local Heritage Assistance Fund) – Council has accepted a grant offer of up to \$7,500 (ex GST) for the 2018-19 financial year, with a funding formula of \$1: \$1 (OEH: Council). The claim for reimbursement needs to be made by 15 May 2019.
- Local Government Heritage Advisors – Council has accepted a grant offer of up to \$8,000 (ex GST) for the 2018-19 financial year towards providing a Heritage Advisory Service for Shoalhaven. The claim for reimbursement needs to be made by 15 May 2019.

### **Community Engagement**

The Shoalhaven Local Heritage Fund Program 2018-2019 was advertised in local newspapers on 20 June 2018 and included a link to Council's website for relevant information on eligibility and assessment criteria. Direct advice was also provided to persons who had previously expressed an interest in the program.

### **Policy Implications**

As part of the funding agreement for the Local Government Heritage Advisors Grant and to enable a claim for re-imbursement, Council is required to submit a four-year Heritage Strategy covering 2018-2019.

As such, the [Shoalhaven Heritage Strategy 2018-2021](#) requires minor revisions to ensure it is correct to cover the required period. A few minor edits are also proposed. Refer to **Attachment 2**.

The Shoalhaven Heritage Strategy notes that the Heritage Advisor is to inspect all completed projects to ensure compliance with the application details and sound conservation practice. In the current absence of a Heritage Advisor, this process has been undertaken by Council staff, with input from a Heritage Consultant as required.

### **Financial Implications**

#### *Shoalhaven Local Heritage Assistance Fund (Local Heritage Places Grant)*

The funding offer from the NSW Government for the 2018-2019 financial year is up to \$7,500 (ex GST) per annum, with a funding formula of \$1: \$1 (NSW Government: Council). Therefore, Council needs to ensure it maintains its matching contribution in the budget of up to \$7,500.

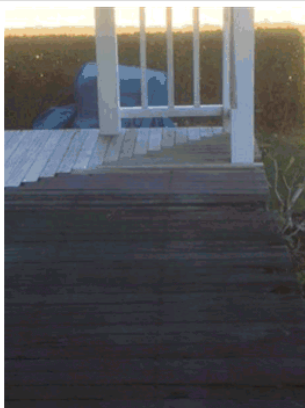
#### *Local Government Heritage Advisors Grant*

The funding offer from the NSW Government for the 2018-2019 financial year is up to \$8,000 (ex GST), with a funding formula of \$1: \$1 (NSW Government: Council). Therefore, Council needs to ensure it maintains its matching contribution in the budget of up to \$8,000.

**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	117 Pyree Lane, Pyree
Project description:	Repairs to front verandah
Reason for the project:	Verandah is badly deteriorated
Heritage item listing:	Local (Item 448)
Applicant name:	John and Christine Tyrrell
Date commenced:	October 2018
Date completed:	November 2018
Total project cost:	<b>\$5,190.57</b> (excl. GST)
Applicant contribution:	<b>\$4,065.57</b> (excl. GST)
Local heritage fund contribution:	<b>\$1,125.00</b>

**Before**



**After**



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	85 Ryans Lane, Pyree
Project description:	Reinstate original front verandah
Reason for the project:	Existing verandah was tiled with circa 1970s tiles and was widened
Heritage item listing:	Local (Item 451)
Applicant name:	Karen Terry and Russell Merrick
Date commenced:	September 2018
Date completed:	September 2018
Total project cost:	<b>\$23,860.00</b> (excl. GST)
Applicant contribution:	<b>\$20,735.00</b> (excl. GST)
Local heritage fund contribution:	<b>\$3,125.00</b>

**Before**



**After**



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	137 Princes Highway, Milton
Project description:	Garden restoration
Reason for the project:	To increase the heritage value of the front garden which is highly visible from the Princes Highway.
Heritage item listing:	Local (Item 287)
Applicant name:	Karen and Ben Donaldson
Date commenced:	December 2018
Date completed:	January 2019
Total project cost:	<b>\$9,721.00</b> (excl. GST)
Applicant contribution:	<b>\$7,596.00</b> (excl. GST)
Local heritage fund contribution:	<b>\$2,125.00</b>

**Before**



**After**





**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	91 Osborne Street, Nowra
Project description:	Reroof and new guttering
Reason for the project:	The roof is in very poor condition and needed replacing. The replacement is an important conservation outcome.
Heritage item listing:	Local (Item 383)
Applicant name:	Greg and Jane Brennan
Date commenced:	December 2018
Date completed:	December 2018
Total project cost:	<b>\$19,156.82</b> (excl. GST)
Applicant contribution:	<b>\$15,031.82</b> (excl. GST)
Local heritage fund contribution:	<b>\$4,125.00</b>

**Before**



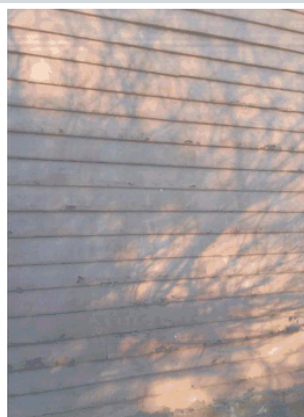
**After**



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	110 Berry Street, Nowra
Project description:	Paint exterior of house
Reason for the project:	The timber house was in need of painting
Heritage item listing:	Local (Item 329)
Applicant name:	Greg Freudenstein and Anne-Marie Powderly
Date commenced:	February 2019
Date completed:	February 2019
Total project cost:	<b>\$18,664.25</b> (excl. GST)
Applicant contribution:	<b>\$15,539.25</b> (excl. GST)
Local heritage fund contribution:	<b>\$3,125.00</b>

**Before**



**After**



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	1180 Bolong Road, Coolangatta
Project description:	Restoration of Old Coolangatta School
Reason for the project:	Urgent repairs needed
Heritage item listing:	Local (Item 167)
Applicant name:	Clare and Richard Mills
Date commenced:	February 2019
Date completed:	March 2019
Total project cost:	<b>\$18,799.25</b> (excl. GST)
Applicant contribution:	<b>\$13,799.25</b> (excl. GST)
Local heritage fund contribution:	<b>\$5,000.00</b>

**Before**



**After**



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	31 Worrigeer Street, Nowra
Project description:	Exterior Painting
Reason for the project:	Maintenance
Heritage item listing:	Local (Item 408)
Applicant name:	Peter and Donna Hewat
Date commenced:	March 2019
Date completed:	March 2019
Total project cost:	<b>\$7,000.00</b> (excl. GST)
Applicant contribution:	<b>\$5,875.00</b> (excl. GST)
Local heritage fund contribution:	<b>\$1,125.00</b>

**Before**



**After**



DE19.26 - Attachment 1



**Shoalhaven City Council 2018–2019 Local Heritage Fund  
Final Project Report**

Heritage item address:	22 Jervis Street, Nowra
Project description:	Initiating heritage garden conservation plan
Reason for the project:	Garden conservation
Heritage item listing:	Local (Item 344)
Applicant name:	John Hallihan
Date commenced:	November 2018
Date completed:	March 2019
Total project cost:	<b>\$5,818.50</b> (excl. GST)
Applicant contribution:	<b>\$4,193.50</b> (excl. GST)
Local heritage fund contribution:	<b>\$1,625.00</b>

**Before**



**After**





City Administrative Centre  
Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra  
Phone: (02) 4429 3111 - Fax: (02) 4422 1816

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Deering Street, Ulladulla - Phone: (02) 4429 8999 - Fax: (02) 4429 8939

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For more information contact the Planning, Environment & Development Group

## Shoalhaven Heritage Strategy ~~2018~~2019-20212022

**Policy Number:** POL18/79 • **Adopted:** 24/02/2009 • **Amended:** 28/06/2011, 9/05/2017, 8/05/2018, [Insert date]  
• **Reaffirmed:** 21/05/2013, 24/06/2014 • **Minute Number:** MIN09.245, MIN11.575, MIN13.494, MIN14.409,  
MIN17.382, MIN18.339, [Insert MIN] • **File:** 39336E • **Produced By:** Planning, Environment & Development  
Group • **Review Date:** May 2020

### 1. PURPOSE

Shoalhaven City Council has reviewed the best practice advice contained in the NSW Office of Environment and Heritage and Heritage Council of NSW publication 'Recommendations for local council heritage management' and has resolved to:

#### 1.1. Increase awareness and appreciation of heritage in the local area.

Council will work with local history groups and historical societies to promote heritage conservation particularly in regard to heritage items and conservation areas listed in the Shoalhaven Local Environmental Plan (LEP) 2014. Links to heritage organisations are contained on Council's website.

Council has a page on its website dedicated to heritage information which contains links to studies, conservation management plans, databases, and has general information for property owners.

The heritage information webpage also provides a link to the NSW Office of Environment and Heritage directory of professional consultants, services and trades specialising in heritage.

#### 1.2. Identify places of heritage significance in Shoalhaven and list them in Shoalhaven Local Environmental Plan 2014

Heritage listed items in Shoalhaven are listed in Schedule 5 Environmental Heritage of Shoalhaven LEP 2014. This schedule also includes heritage conservation areas and archaeological sites.

Schedule 5 of Shoalhaven LEP 2014 will be amended and updated as new studies are undertaken and new heritage places and areas are identified.

#### 1.3. Appoint a heritage and urban design advisor to assist the Council, the community and owners of listed heritage items

Council will continue to provide a free heritage advisory service to property owners and others using the services of an experienced heritage consultant on a monthly basis. The Heritage Advisor is expected to meet with property owners and others to assist in understanding the

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heritage values of their properties and to provide on the spot advice on suitable forms of development and the maintenance of heritage items and their fabric.

The Heritage Advisor will also provide strategic and detailed advice to Council's Planning, Environment and Development Group on heritage issues and prepare a range of studies and strategy documents to guide Council's development policies and works on Council owned heritage assets.

The Heritage Advisor will also run internal and external workshops to improve an understanding of heritage and provide guidance on specific heritage issues and planning controls applying to heritage items and in conservation areas.

#### **1.4. Manage local heritage in a positive manner**

Much of Shoalhaven is undeveloped and contains a range of natural and modified landscapes that are an important reminder of both Indigenous and early colonial settlement. Following colonisation, the landscape was quickly transformed as it was developed for timber supplies and farming and the resulting landscape is an important element in the character of the area.

Development pressures close to towns and villages, and subdivision and development in rural areas can lead to a loss of buildings, plantings and landscape features that can erode this character.

Council will seek funds to prepare a study with the aim to identify common characteristics for the rural and semi-rural areas of the Shoalhaven, to provide an understanding of important components of the landscape and provide guidelines for the study of these landscapes to allow for better development outcomes.

#### **1.5. Introduce a local heritage incentives fund to provide small grants to encourage local heritage projects**

Council has an annual local heritage grants programme known as the 'Shoalhaven Local Heritage Assistance Fund' to assist owners of heritage listed properties with basic repairs and conservation works. The grants programme is intended to continue for the period 2018-2022.

Submissions will be called from heritage owners and the applications will be assessed by Council's Heritage Advisor and Council staff. Successful applicants are required to complete their projects by the end of the following March and these will be inspected by Council's Heritage Advisor to ensure compliance with the application details and sound conservation practice.

These small monetary assistance grants may be used for a wide range of small local heritage projects such as:

- Sympathetic alterations/additions to heritage items;
- Conservation works and general maintenance works;
- Adaptive reuse;
- Urban design projects that support heritage;
- Interpretation projects; and
- Conservation management plans.

#### 1.6. Run a heritage main street programme

Shoalhaven is endowed with over 40 towns and villages including many of which still retain an unspoilt character such as Berry, Milton and Kangaroo Valley.

Council runs a Nowra CBD Façade Improvement Financial Assistance Program providing building and business owners the opportunity to apply to receive financial assistance for labour and materials to improve their façades. Council has also prepared a Streetscape Design Technical Manual for various towns in Shoalhaven.

Council will actively pursue monetary grants that are available to assist with developing a detailed landscape master plans to ensure that projects are “shovel ready” when implementation funding becomes available.

#### 1.7. Present educational and promotional programmes

The Heritage Advisor will provide presentations and training sessions to Planning, Environment ~~and~~ Development Group staff, as required, to improve understanding of the following heritage matters:

- The heritage planning framework;
- Statutory controls relating to heritage;
- An understanding of heritage terminology (fabric, curtilage etc);
- Heritage issues relating to development of heritage items and in conservation areas; and
- Specific treatment of development of heritage items and items in conservation areas.

#### 1.8. Set a good example to the community by properly managing places owned or operated by the Council

The Heritage Advisor will provide advice and assistance to Council in the management of its assets that are of heritage significance. It is Council's aim to carry out its own development projects, or assist in larger projects, to ensure that it sets a benchmark for heritage development in Shoalhaven. The projects are aimed at protecting heritage assets and encouraging a public appreciation of heritage.

#### 1.9. Promote sustainable development as a tool for heritage conservation

Council is committed by its Community Strategic Plan to ensure that land use and related strategies for future growth are based on the principles of connectivity, ecological sustainability, flexibility and accessibility.

### 2. IMPLEMENTATION

The policy will be administered by Council's Planning, Environment & Development Group within the limits of State Government Funding.

### 3. REVIEW

The policy will be reviewed in ~~March 2019~~May 2020 or as required.

### 4. APPLICATION OF ESD PRINCIPLES

This policy ~~now~~ reflects the requirements for ESD.



## DE19.27 Proposed Amendment - Shoalhaven Development Control Plan 2014 - Low Density Residential

**HPERM Ref:** D19/106139

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:** 1. Draft Chapter G12: Dwelling Houses and Other Low Density Residential Development (under separate cover) [↗](#)  
2. Draft Dictionary (under separate cover) [↗](#)

### Purpose / Summary

Obtain the required resolution to exhibit the draft amendment to the Low Density Residential Chapter (G12) of Shoalhaven Development Control Plan (DCP) 2014.

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

That Council:

1. Support the exhibition of the draft Low Density Residential Amendment to Shoalhaven Development Control Plan 2014 for a period of 28 days as per legislative requirements.
2. Receive a further report on the draft Low Density Residential Amendment following the conclusion of the public exhibition period.
3. Continue to investigate the possibility of an off-site mature tree replacement scheme for Shoalhaven in line with MIN18.955(4) and receive a future report on this matter.
4. Advise key stakeholders, including relevant industry representatives, of this decision.

### Options

1. As recommended.

Implications: This is the preferred option as it will enable the resolution of operational issues and matters that require clarification to improve the function of the Chapter.

The Amendment will also result in provisions that holistically consider local character and context, good quality design, amenity, universal design (optional) and more broadly the public interest.

2. As recommended with the Councillor-suggested changes (in part or full) as outlined in Table 2 and Table 3 of this report.

Implications: This will depend on the extent of any changes. The staff comments in Table 2 - 3 explain the intent of the proposed provisions and resulting implications as appropriate. Any changes to Attachment 1 and 2 should be considered in the context of the DCP as a whole, and more specifically the Medium Density DCP Amendment ([Chapter G13 of the DCP](#)), as a number of the provisions in this draft Amendment are the same or similar.

3. Adopt an alternative recommendation.

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Implications: This will depend on the extent of any changes and could delay the implementation of updated and more appropriate low density residential development provisions.

4. Not adopt the recommendation.

Implications: This could stop the implementation of more appropriate and better structured low density residential development provisions.

## Background

### Amendment Context

Council resolved on 2 June 2015 to commence a large-scale systematic review/amendment of Shoalhaven DCP 2014 to address several existing Council resolutions and other matters identified since the commencement of the original plan on 22 October 2014.

Stage 5 of the review/amendment included the review of the DCP Chapters related to subdivision and residential development, namely:

- Chapter G11: Subdivision of Land.
- Chapter G12: Dwelling Houses, Rural Workers' Dwellings, Additions and Ancillary Structures.
- Chapter G13: Dual Occupancy Development.
- Chapter G14: Other Residential Development.

The Medium Density Amendment to Shoalhaven DCP 2014 addressed Chapter G13 and G14; and came into effect on 31 October 2018. An amendment to Chapter G11 is identified as a priority project on the Strategic Planning Works Program and will be reported separately to Council for consideration in due course.

The updating of Chapter G12 is considered as part of this reported amendment.

### The Draft Low Density Residential Amendment

The proposed draft Low Density Residential Amendment includes:

- The repeal of existing [Chapter G12](#).
- Proposed new Chapter G12: Dwelling Houses and Other Low Density Residential Development (**Attachment 1**).
- Proposed consequential amendment to the DCP Dictionary (**Attachment 2**).

The proposed new Chapter G12 applies to:

- Dwelling houses, including additions and alterations.
- Rural workers' dwellings, including additions and alterations.
- Relocation of second-hand dwellings.
- Detached habitable rooms.
- Secondary dwellings.
- Ancillary structures.
- Non-habitable structures on vacant land.

Essentially, the draft Amendment proposes to improve the function of low density residential and ancillary development controls, address policy gaps and operational issues or matters

that need clarification that have been identified since the Shoalhaven DCP 2014 originally became effective on 22 October 2014.

In January 2019, the draft Low Density Residential Amendment was initially reported to the Development & Environment Committee seeking a resolution to exhibit. The most notable components of the draft Amendment are outlined in the following table:

**Table 1: Summary of the Draft Amendment**

Theme	Proposed content
General	<ul style="list-style-type: none"> <li>• Introduction of a more logical layout, consisting of general controls that apply to all low density residential (and ancillary) development and further controls based on the proposed land use.</li> </ul>
General Controls	<ul style="list-style-type: none"> <li>• Introduction of provisions that encourage the retention where possible of mature shade/large canopy trees, vegetation and shrubs.</li> </ul>
Dwelling Houses, Rural Workers' Dwellings and Associated Development	<ul style="list-style-type: none"> <li>• Introduction and/or clarification of provisions relating to: <ul style="list-style-type: none"> <li>- Noise generating equipment.</li> <li>- Minimum landscape requirements (based on Codes SEPP complying development requirements).</li> <li>- Private open space requirements.</li> <li>- Laundries in garages.</li> <li>- Storage.</li> <li>- Detached habitable rooms/studios.</li> <li>- Universal design (only applies when an applicant designs a dwelling to be accessible or adaptable).</li> <li>- Bin storage, presentation and collection.</li> </ul> </li> <li>• Refinement of provisions relating to the relocation of secondary dwellings.</li> </ul>
Secondary Dwellings	<ul style="list-style-type: none"> <li>• Deletion of existing provisions relating to 'granny flats'.</li> <li>• Introduction of provisions for 'secondary dwellings' to supplement the relevant provisions within the Affordable Rental Housing SEPP; e.g. visual and acoustic privacy, solar and daylight access.</li> </ul>
Ancillary Structures	<ul style="list-style-type: none"> <li>• Introduction of eave height for garages (or similar structures) in the R1, R2 and SP3 (&gt; 2000m<sup>2</sup>), R3 and RU5 zones.</li> <li>• Greater consideration of solar and daylight access.</li> <li>• Introduction of provisions regarding swimming pools.</li> </ul>
Non-Habitable Structures on Vacant Land	<ul style="list-style-type: none"> <li>• Introduction of new provisions regarding non-habitable structures on vacant land, e.g. density, height, setbacks and solar/daylight access.</li> </ul>
Dictionary	<ul style="list-style-type: none"> <li>• Introduction of new terms to support draft Chapter G12: Detached habitable room, Detached studio, Solar access and Solar collector.</li> <li>• Deletion of the Detached habitable room (existing definition) and Granny flat definitions.</li> </ul>

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The Committee resolved (MIN19.5) to “defer this matter pending a workshop of Councillors, before the Proposed Amendment – Shoalhaven DCP 2014 – Low Density Residential is placed on draft exhibition”.

In accordance with the resolution, a Councillor workshop was held on 25 March 2019, with six (6) Councillors were in attendance. Feedback from the Councillor workshop was generally supportive; however, some changes were suggested as outlined in the following table.

**Table 2: Summary of Suggested Changes from Councillor Workshop**

Issue	Suggested Change	Staff Comment
<b>1</b>	<b>Section 5.6 Trees and Vegetation</b> Opportunity for replacement trees to be replanted elsewhere (e.g. Council owned land or public land) and at the scale of 2-3 replacement trees for each mature tree lost.	This suggestion has merit and has been successfully implemented in other local government areas in NSW (e.g. <a href="#">Sutherland Shire</a> ).  On 11 December 2018, Council also resolved (MIN18.955(4)) to “Consider a subsequent report on the detail of a possible ‘tree replacement policy’ in line with those of other Councils and the previous Council resolution (MIN18.733).”  It is recommended that these investigations be undertaken and reported back to Council prior to any amendments to the DCP being made in this regard.
<b>2</b>	<b>Section 6.2.3 Landscaping</b> Amend the note associated with Acceptable Solution A19.1 to make it clear that decks and hardstand areas are counted towards meeting landscape requirements.	This change could be made; however, it is noted that Shoalhaven LEP 2014 defines landscaped area as:  <i>a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area</i>  The definition in the LEP excludes decks and hardstand areas from landscaped areas and prevails to the extent of <u>any</u> inconsistency with the DCP.
<b>3</b>	<b>Section 6.2.4 Private Open Space</b> In relation to Acceptable Solution A20.1, replace “at least 50m <sup>2</sup> ” with “not less than 50m <sup>2</sup> ”.	This change appears to have minimal implications and the wording has been updated at <b>Attachment 1</b> .

Councillors were also provided the opportunity to submit further feedback on the proposed Amendment during a two-week period following the workshop. One set of comments was received from Cllr Watson.

The following table provides a summary of Cllr Watson’s comments, as well as staff commentary in relation to the issues presented.

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Table 3: Summary of Councillor Submission

Issue	Submission Summary	Staff Comment
1	The DCP is too prescriptive. It should be clearly performance based to avoid assessment staff taking a tough line on everything.	<p>The draft Amendment follows the established 'performance-based' model where the acceptable solutions represent the preferred solution, but not necessarily the only solution.</p> <p>It is reasonable for a DCP to guide applicants in regard to desired outcomes in that these can be considered in the design process. If an acceptable solution cannot be readily achieved, a performance solution is always able to be put forward.</p> <p>Further advice would be required to identify which provisions within the Chapter require modifications, beyond those outlined below.</p>
2	<p><b>Section 5.6 – Trees and Vegetation</b></p> <p>The whole of Section 5.6 should be removed as large shade trees can cause structural damage, harbour white ants and breach the 45-degree rule. There is no space for large shade trees on small blocks.</p>	<p>The basis of the comment is acknowledged. The whole section has been established to retain existing mature shade/large canopy trees, vegetation and shrubs <u>wherever practicable</u>.</p> <p>This has been drafted into the commentary, objectives, performance criteria and acceptable solution. Applications would be assessed on a site by site basis as to the practicality of retention.</p>
3	<p><b>Section 6 Dwelling Houses, Rural Workers' Dwellings and Associated Development</b></p> <p>On large properties, rural workers dwellings should provide for separation depending on the site and the location of services.</p>	There is nothing in the proposed Amendment that restricts the separation of a rural workers dwelling from a dwelling house. It would be more appropriate for the DCP to remain silent and allow applicants to respond accordingly.
4	<p><b>Section 6.1.2 Height and Setbacks</b></p> <p>It is too restrictive; if most of the houses in a street are single story a two-story dwelling cannot be erected.</p>	Acceptable Solution A13.3 <u>does not</u> act to prohibit a two-storey dwelling next to a single storey dwelling. It is noted that this provision has also been adopted in the recent Medium Density Amendment to the DCP (refer to <a href="#">Chapter G13</a> ).
	The restriction on overshadowing recreation space is over the top and cannot always be complied with on small lots.	Acceptable Solution A13.2 seeks only to <u>minimise the shading</u> of adjacent private open space. Acceptable Solution A18.3 further quantifies that 10m <sup>2</sup> of private open space for the adjacent dwelling should receive at least 3 hours of direct sunlight at the winter solstice. It is reasonable for a DCP to guide applicants in regard to desired outcomes in that

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		these can be considered in the design process.
	Front setbacks are too restrictive. Insert the word 'generally'.	Except for introducing general rear and battle-axe setbacks, the provisions in the draft Amendment are <u>as existing</u> . Instead of adding the word 'generally' to Acceptable Solutions A14.1-A14.3, it is suggested more appropriate to rely on the existing mechanism in the DCP which enables provisions to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP).
5	<b>Section 6.2.3 Landscaping</b> 35% landscaping is too restrictive and should be flexible because of other restrictions.	<u>This provision is existing</u> and has also been adopted in the recent Medium Density Amendment to the DCP (refer to <a href="#">Chapter G13</a> ). It would be more appropriate for the DCP to retain this provision for consistency with Chapter G13 and rely on the mechanism in the DCP which enables provisions to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP). It is reasonable for a DCP to guide applicants in regard to desired outcomes, in that these can be considered in the design process.
6	<b>Section 6.2.4 Private Open Space</b> Insert the word "generally" to enable a private open space forward of the building line where there are constraints behind the front building line.	The provisions in the draft Amendment relating to private open space seek to ensure privacy, safety, opportunities for active and passive outdoor recreational activities and consider impact on the streetscape. These matters are generally best achieved when the private open space is located behind the building line. It would be more appropriate for the DCP to retain the proposed private open space provisions and rely on the mechanism in the DCP which enables provisions to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP). Again, It is reasonable for a DCP to guide applicants in regard to desired outcomes, in that these can be considered in the design process.
7	<b>Section 6.2.5 Storage and Laundry Facilities</b> Supports the provisions, however notes that the garage dimensions are too small.	Section 6.2.5 does not prescribe garage dimensions, except to demonstrate minimum dimensions of a car and circulation space where a laundry is proposed in a garage. <a href="#">Chapter G21</a> sets a 2.6m x 5.5m dimension per space in a garage, however Council could decide to set larger garage space dimensions. Further direction would be required in this regard and any changes may require an amendment to Chapter G21.

8	<p><b>Section 6.2.6 Car parking</b></p> <p>This section should be less prescriptive particularly in respect of carports where they are being retrospectively added.</p>	<p>It is assumed that this comment relates to Acceptable Solution A24.2 which requires car parking to be wholly located behind the building line.</p> <p>Where a carport is proposed, the setbacks in the DCP are to be considered which would set the structure behind (or aligned) with the front building line. To require otherwise may have the result that parking in front of the building line becomes the norm, and as such it is considered more appropriate to rely on the mechanism in the DCP which enables provisions to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP).</p>
9	<p><b>Section 6.3.1 Building Form, Design and Materials</b></p> <p>Defeats in some cases the ability to have a two-car garage.</p>	<p>Acceptable Solution A26.2 specifies that the width of garage facades, where they address the street, shall not exceed 9m or 50% of the length of the frontage, whichever is the lesser. The purpose of this provision is to balance the elements along the front façade and to also enable the integration of elements (like doors and windows) which enhance the streetscape and promote passive surveillance. This provision has been adopted in the recent Medium Density Amendment to the DCP (refer to <a href="#">Chapter G13</a>).</p>
	<p>Same with front door, some designs look good with a side entrance. It is not possible for all balconies to overlook a public space.</p>	<p>Front doors, windows and balconies enable passive surveillance opportunities which is in the broader public interest. It would be more appropriate to rely on the mechanism in the DCP which enables provisions in the DCP to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP). Again, it is reasonable for a DCP to guide applicants in regard to desired outcomes, in that these can be considered in the design process.</p>
10	<p><b>Section 6.3.2 Detached Habitable Rooms and Studios</b></p> <p>The controls on detached rooms should purely be performance-based dependant on the site constraints. There is nothing wrong with the current provisions.</p>	<p>The provisions for detached habitable rooms have been strengthened and made more specific.</p> <p>Following consideration of legal advice submitted by an applicant in relation a development application for a detached habitable room, it is considered appropriate to include:</p> <ul style="list-style-type: none"> <li>• Specific objectives relating to detached habitable rooms.</li> <li>• An all-weather connection between the principal dwelling and the detached habitable room.</li> </ul>

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		<ul style="list-style-type: none"> <li>A numeric standard to define what 'close proximity' means in relation to the principal dwelling.</li> </ul>
	Should be re-worded to generally be no further than 10m from the dwelling. There are often cases where structures exist which may be converted to studios etc.	The purpose of this provision is to reinforce that detached habitable rooms are to function as part of the principal dwelling. Council will consider applications on a case by case basis and it would be more appropriate to rely on the mechanism in the DCP which enables provisions to be varied (refer to <a href="#">Chapter 1: Introduction</a> of the DCP).
11	<b>Section 8.2 Building Form and Design</b> There should be more flexibility with garages.	It is assumed that this comment relates to Acceptable Solution A40.2 which specifies that the width of garage façades, where they address the street, shall not exceed 9m or 50% of the length of the frontage, whichever is the lesser. Refer to the related commentary at Issue 9 in this table.  This provision could be changed by Council; however, it would be appropriate to consider A26.2 and A40.2 together.

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### Conclusion

The recommendation seeks to proceed with Option 1 which reflects the general consensus that Council staff took from the Councillor workshop. However, it is noted that Option 2 would see the changes suggested in the workshop (issues 1 and 2 at Table 2) and the Councillor submission (Table 3) made to the draft Amendment package prior to exhibition (in part or full), should Council wish to pursue that option. It is noted that Option 2 requires some clarification in relation to certain content which can be sought prior to proceeding to exhibition.

### **Community Engagement**

The draft Low Density Residential Amendment will be publicly exhibited for at least 28 days in accordance with legislative requirements at the Nowra Administrative Building. Documentation will also be available on Council's website and at the Ulladulla Administrative Buildings. Development Industry representatives will be directly notified of the exhibition arrangements.

### **Policy Implications**

The draft Low Density Residential Amendment seeks to introduce user-friendly DCP provisions in a logical structure that address gaps in policy and respond to operational matters that have arisen following the passing of time. Should the Amendment not proceed, these fundamental concerns will not be addressed.

It is proposed that draft Chapter G12: Dwelling Houses and Other Low Density Residential Development will ultimately replace existing Chapter G12: Dwelling Houses, Rural Workers' Dwellings, Additions and Ancillary Structures.

### **Financial Implications**

The draft Low Density Residential Amendment to Shoalhaven DCP 2014 will continue to be resourced within the existing Strategic Planning budget.

### **Risk Implications**

Should the draft Low Density Residential Amendment not proceed, there is a risk that Council will not be able to respond to low density residential development in a way that holistically considers matters such as local character and context, good quality design and amenity and more broadly the public interest. This could result in poor built form and liveability outcomes for both residents and the broader community. There are also matters that need to be revised to ensure the planning controls continue to operate as expected/intended and resolve inconsistencies.

## DE19.28 Proposed Review - Shoalhaven LEP 2014 - Clause 2.8 Temporary Use of Land

HPERM Ref: D19/109574

Group:

Section: Strategic Planning

### Purpose / Summary

Obtain direction from Council regarding a potential review of Clause 2.8 (Temporary use of land) in Shoalhaven Local Environmental Plan (LEP) 2014.

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

That Council:

1. Proceed to review the operation and effect of the current Clause 2.8 (Temporary use of land) in Shoalhaven Local Environmental Plan 2014.
2. Advise relevant stakeholders (all CCBs, Development/Tourism Industry, Shoalhaven Tourism Advisory Group) of this decision and engage them during the Review.
3. Receive a further report outlining the findings of the Review and options to revise the clause as appropriate.

### Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will provide Council with the necessary information to adequately respond to community concerns and make an informed decision on whether any amendments to Clause 2.8 are required.

2. Adopt an alternative recommendation.

Implications: The implications will depend on the extent of any changes. Depending on its nature, an alternative recommendation could either delay any proposed amendments to Clause 2.8 or result in amendments with unforeseen implications.

3. Not adopt the recommendation.

Implications: This option is not preferred as the community continue to raise concerns regarding the approval of Development Applications made under Clause 2.8. Without a wholistic review, Council will continue to potentially react individually to community submissions and complaints during the assessment and operation of these temporary uses.

### Background

Clause 2.8 is an optional Clause within the NSW Government's Standard Instrument LEP, which means that Councils can choose whether to include it within their LEP. Council opted to include the clause as part of the preparation of Shoalhaven LEP 2014.

Clause 2.8 allows development consent to be granted for any development in any zone for a maximum period of 52 days in any 12-month period. Under this Clause, consent may be granted regardless of land use permissibility and any other land use restrictions within the

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LEP. For example, a function centre may be able to obtain consent in the RU1 or RU2 zones under Clause 2.8 even though it is not expressly permissible via the relevant land use table.

The current wording of Clause 2.8 in the Shoalhaven LEP 2014 is as follows:

### **“2.8 Temporary use of land**

- 1) *The objective of this clause 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.*
- 2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- 3) *Development consent must not be granted unless the consent authority is satisfied that:*
  - 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, and*
  - b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
  - 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, 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.*
- 4) *Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*
- 5) *Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).”*

Since the commencement of Shoalhaven LEP 2014, community concerns have been raised in relation to various development applications made under Clause 2.8. Most of these concerns are focused around applications for temporary function centres (e.g. wedding venues) in rural and environmental zones and/or relate to issues such as:

- Inappropriate location.
- Undesirable behaviour.
- Amenity (noise, dust, light spill).
- Flora and fauna impacts.
- Actual “Temporary” nature of the use/development.
- Lack of services.
- Waste collection.

Recent examples of community concerns in relation to function centre applications under Clause 2.8 include:

- 2819A Moss Vale Road, Barrengarry - 25 submissions received – majority raised issues.
- 179 Cedar Springs Road, Kangaroo Valley - 26 submissions received – majority raised issues.

- 171B Strongs Road, Jaspers Brush - 105 submissions received (at date of writing) – majority raised issues. It is noted that this application has been ‘called-in’ for determination by Council (MIN19.161).

Initial investigations have found that several Councils across NSW have amended Clause 2.8 over time by:

- Reducing the allowable timeframe from the standard 52 days.
- Limiting the application of Clause 2.8 so that it does not apply to certain zoned land (e.g. land zoned RU2 Rural Landscape).
- Creating specific land use exceptions to Clause 2.8. (i.e. defining uses that the clause does not apply to).

## Conclusion

Given the current community concern regarding the ongoing application of Clause 2.8 it would be prudent for Council to investigate the merit of these concerns and consider possible adjustments to the current clause.

It is intended that the further report to Council would summarise the findings of the more detailed review and identify whether any amendments to Clause 2.8 would be beneficial, and if so, their nature.

## Community Engagement

The review will include consultation with relevant stakeholders (all CCBs, Development/Tourism Industry representatives, Shoalhaven Tourism Advisory Group etc.) to ensure that any amendments are responsive to the broader interests of the wider community.

It is noted that the tourism sector utilises Clause 2.8 for events including weddings, functions and temporary markets. These events are primarily located in rural and environmental zones due to the amenity of the natural landscape and are a large driver for out-of-season visitors to Shoalhaven.

As such, the Shoalhaven Tourism Advisory Group and Tourism Industry will be directly consulted to ensure that the proposed amendments balance the concerns of both the businesses operating under the Clause and the residents/ratepayers impacted by the temporary developments.

Should the review recommend amendments to Clause 2.8, any resulting Planning Proposal would ultimately be exhibited for comment in accordance with Council’s Community Engagement Policy to ‘inform’ and ‘consult’ and relevant legislative requirements.

## Financial Implications

Based on the recommended approach, there are no immediate financial implications for Council and the review will be resourced within the existing Strategic Planning budget.

## Risk Implications

There is currently an increase in community objections to temporary use developments (predominantly function centres) being considered under Clause 2.8 of Shoalhaven LEP 2014.

Reviewing Clause 2.8 will allow Council to be proactive in considering community objections whilst balancing the interests of the tourism industry.



## **DE19.29 Proposed Council Submission - Discussion Paper: Proposed Standard Instrument LEP Local Character Overlay**

**HPERM Ref:** D19/121980

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:** 1. Proposed Council Submission - Discussion Paper on a Proposed Standard Instrument LEP Local Character Overlay [↓](#)  
2. Discussion Paper - Local Character Overlays [↓](#)

### **Purpose / Summary**

Advise of the public exhibition by the NSW Department of Planning and Environment (DP&E) of a Discussion Paper on a proposed Standard Instrument LEP Local Character Overlay and obtain endorsement to make the submission at **Attachment 1**.

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

That Council make a submission (Attachment 1 of this report) to the NSW Department of Planning and Environment in relation to its Discussion Paper on a proposed Standard Instrument LEP Local Character Overlay.

### **Options**

1. Endorse **Attachment 1** as Council's submission on the Discussion Paper and proposed Local Character Overlay.

Implications: This is the preferred option as it will enable Council to provide a submission highlighting matters that should be considered.

2. Amend **Attachment 1** and include additional comments as necessary and submit.

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

3. Not make a submission.

Implications: This is not recommended as it would prevent Council from having any input and the opportunity to identify issues for consideration or resolution would potentially be missed.

### **Background**

As part of the amendments to the NSW Environmental Planning & Assessment Act 1979 that commenced in March 2018 the following new objectives were added to the Act:

- *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)*
- *to promote good design and amenity of the built environment*

DE19.29

The NSW Government is working to strengthen the role of ‘character’ in the NSW planning system in recognition of its importance to local communities and the need to appropriately manage the effects of population growth and change on local character and amenity. A range of material on local character is now available in the DP&E website at the following link:

<https://www.planning.nsw.gov.au/Policy-and-Legislation/Local-Character>

The DP&E have also released a Discussion Paper for comment which explores the proposal to introduce a ‘local character overlay’ in the form of a map and supporting local clause into the Standard Instrument Local Environmental Plan (LEP). A copy of the Discussion Paper is at **Attachment 2**. The Discussion Paper is also available on the internet at the above link and any feedback needs to be provided by 20 May 2019.

The Discussion Paper is one of several tools and resources released by the DP&E and the NSW Government Architect to ensure that strategic planning recognises and enhances the local character of places and is informed by what the community values about its area.

Local character overlays were first identified as a potential mechanism for embedding local character into the planning framework in the DP&E’s January 2018 Planning Circular *PS 18–00 Respecting and enhancing local character in the planning system*.

The Planning Circular, which is also available via the above link, acknowledges that:

- *areas with a strong sense of local character are desirable places to live and work and support strong communities. A strong sense of local character should be an objective in planning for all communities;*
- *areas that build on existing local character contribute to the vitality and viability of centres;*
- *investing in local character can drive economic development and opportunity, particularly in regional areas;*
- *respecting character does not mean that new development cannot occur; instead, it means that a design-led approach needs to be implemented which builds on the valued characteristics of individual neighbourhoods and places;*
- *communities are concerned about the effects of new development on the character and amenity of their neighbourhood;*
- *local community engagement is essential in defining and planning for a desired future character of an area.*

The proposed character overlay consists of an additional map layer and a supporting local clause in the LEP. The map layer would identify defined character areas and the supporting clause would establish additional assessment requirements to ensure that development proposals meet local character aspirations. The proposed clause could require applicants to:

- meet development controls within the LEP clause; and/or
- meet development controls within a DCP; and/or
- submit a ‘statement of consistency’ with the desired future character for the area, as set out in a desired future character statement adopted by Council.

Should the proposed change come to fruition, it will be up to Council to decide whether it wants to use the overlay and clause in the Shoalhaven LEP 2014 (SLEP). To do this Council would need to prepare a Planning Proposal (PP) addressing criteria established by the DP&E.

Ideally any PP of this nature would follow Council’s draft Local Strategic Planning Statement (LSPS) and Growth Management Strategy and would need to consider any community feedback received on local character as part of these projects. Council would also need to

undertake character assessments for each proposed character area and provide a summary of community feedback received on those assessments.

At this stage the proposed character overlay is only intended for specific or defined areas with significant or exceptional character values where the broader zone objectives in the LEP do not provide sufficient direction to manage change and support local character.

The Discussion Paper suggests that the proposed character overlay could trigger local variations and, in exceptional circumstances, local exclusions, from state-wide policy. For instance, Complying Development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* could be subject to alternate local development standards or could be excluded altogether in character areas. Local variations or exclusions would not be automatic but would need to be specifically requested and justified by Council.

### Draft Council Submission

Given the nature of this proposal it is recommended that Council make a submission on the Discussion Paper.

The proposed Council submission (see **Attachment 1**) provides responses to key questions asked in the Discussion Paper. The key comments in the proposed submission are as follows:

- the character of many of Shoalhaven's towns and villages is valued highly by the community. Local character was raised more than any other issue in community submissions received in the recent exhibition of Council's Growth Management Strategy review (GMS). There was also substantial community interest in the draft settlement character statements that were exhibited alongside the GMS.
- the proposed local character overlay and supporting clause in the Standard Instrument LEP is generally supported. Council may consider introducing it in the SLEP for certain areas in Shoalhaven, subject to consultation with affected communities and endorsement from the elected Council to prepare PPs on a case by case basis.
- the LEP is considered to be the most appropriate place for character controls because it has the statutory weight to ensure that they are considered and implemented effectively. This is important given how important local character is to many communities in Shoalhaven.
- linking the LEP clause to a statement of desired future character for each character area would be a good way to implement the community's character aspirations set out in the LSPS and other Council strategies. Council recently exhibited a set of draft character statements for each of its settlements to inform the preparation of the GMS review and LSPS. The final character statements could inform a future character overlay in the SLEP.
- any local character overlay should be accompanied by clear and measurable development controls so that development proposals can be meaningfully assessed against it and uncertainty is minimised;
- a local character overlay should automatically exclude or vary State Environmental Planning Policies (SEPPs) such as Complying Development under *SEPP (Exempt and Complying Development Codes) 2008*. These SEPPs permit a wide range of significant and comparatively homogenous developments without requiring adequate consideration of local character. Since the overlay is only intended for areas with significant or exceptional character values, it is considered self-evident that it should automatically exclude or vary these SEPPs in the same way that the heritage conservation overlay does.

## Conclusions

At present there is limited opportunity in the LEP, other than through individual heritage listing or establishment of Heritage Conservation Areas, to strengthen consideration of character impact. Council has been grappling with how to manage character impacts arising from development in areas like the older part of Berry and the medium density zones to the west of the Nowra CBD. This proposal could ultimately provide an additional opportunity for Council to consider and to appropriately manage this issue through the LEP.

## Community Engagement

The Discussion Paper is on public exhibition between 28 February and 20 May 2019 to provide an opportunity for Council, community members and industry stakeholders to provide comments and feedback.

## Policy Implications

None at this stage. If the DP&E introduce the proposed character overlay and local clause into the Standard Instrument LEP in the future, Council would have the option to prepare a Planning Proposal to introduce it into the Shoalhaven LEP for selected areas or settlements. Any amendments in this regard will be separately considered and reported to Council as needed in the future.



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Council Reference: 14690E (D19/124005)

**INSERT DATE**

Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

By email only: [localcharacter@planning.nsw.gov.au](mailto:localcharacter@planning.nsw.gov.au)

Dear Sir/Madam

#### **Submission to the Discussion Paper - Local Character Overlays**

Thank you for the opportunity to comment on the Discussion Paper - Local Character Overlays. Council acknowledges the NSW Government's recognition of the importance of place character to local communities and its commitment to embedding and strengthening the consideration of character in the NSW planning system.

On 7 May 2019, Council at its Development and Environment Committee meeting resolved (MIN19. **INSERT**):

**INSERT**

#### **General Comments**

Shoalhaven is a large and diverse local government area on the NSW south coast with an area of approximately 4,600km, 170km of coastline, 100 beaches and 49 towns and villages. It is well known for its spectacular natural environment, pristine beaches, historic villages, scenic rural landscapes and relaxed lifestyle.

These characteristics have made Shoalhaven a drawcard for new residents and tourists alike. It is the most visited region in NSW outside of Sydney and has experienced consistently strong population growth. The estimated resident population of 104,371 in 2018 is projected to grow by an average of 0.9% per annum to 126,513 in 2041.

The character of Shoalhaven's towns and villages is valued highly by the community. In community engagement undertaken in late 2018 as part of Council's review of its local growth management strategy, the issue of place character was commented on more than any other issue in community submissions.

There was much concern about the design quality of new developments and a perceived erosion of local character in some settlements by developments that don't necessarily respect or reflect the history, architecture, streetscape, natural qualities and other attributes of those settlements.

In a high growth LGA like Shoalhaven it is critical that future growth is managed in a way that, wherever possible, respects and enhances the characteristics that local residents and visitors value.

Thus, Council welcomes the NSW Government's recognition of the importance of place character to local communities and its commitment to embedding and strengthening the consideration of character in the NSW planning system. The addition of new "tools" to assist in this regard is also supported.

### **Responses to the Discussion Paper's Key Questions**

#### **1. Do you think the inclusion of a standard approach to local character overlays within LEPs will be effective at balancing growth with supporting local character?**

The LEP is possibly the most appropriate place for character considerations because it has the statutory weight to ensure that they are effective. This is important given how important local character is to many communities in Shoalhaven. Relying solely on character controls in a Development Control Plan (DCP) may not ensure effective consideration of character.

At present there is limited opportunity in the LEP, other than through individual heritage listing or establishment of Heritage Conservation Areas, to strengthen consideration of character impact. Council has been grappling with how to manage character impacts arising from development in areas like the older parts of Berry and the medium density zones west of the Nowra CBD. This proposal could ultimately provide an additional opportunity for Council to consider to appropriately consider and manage this issue through the LEP.

A local character overlay in the LEP has the potential to balance growth and support local character, provided that:

- a) it is accompanied by clearly defined and measurable development controls in the supporting local LEP clause that enable development proposals to be meaningfully assessed against it and minimise uncertainty;
- b) the desired future character of areas mapped in the overlay is clearly articulated. The specific elements of character in each area (built form, architectural style, subdivision pattern etc.) will need to be clearly described. This detail would be best captured in a 'statement of desired future character' prepared in accordance with the Local Character & Place Guideline and adopted by Council. The 'statement of desired future character' could be referenced (linked) in the local LEP clause.
- c) It automatically excludes or varies Complying Development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, *State Environmental Planning Policy (Infrastructure) 2007* and *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. These SEPPs permit a range of significant and comparatively homogenous developments with limited consideration of local character. Since the overlay is intended for areas with significant or exceptional character values, it is considered self-evident that it should automatically exclude or vary Complying Development under these SEPPs in the same way that the

heritage conservation overlay does. Council suggests that a local character overlay would have limited effect without a variation or exclusion from these SEPPs.

**2. What functions of a local character overlay would be helpful in supporting local character?**

The local character map overlay should:

- a) identify defined character areas and map their boundaries;
- b) identify how the character in each area is to be managed (i.e. character should be “changed”, “enhanced”, “maintained” or “conserved”); and
- c) should trigger local variations or exclusions from statewide policy (e.g. the SEPPs referred to above in question 1).

The ability to introduce alternate, local development standards within statewide policies for the key attributes that strongly influence the character of the area is supported. Alternate standards should be able to address matters such as building design and siting, articulation requirements, materials, external finishes, gross floor area and landscaped area, which all influence local character.

The local LEP clause should:

- a) require applicants to submit a statement of consistency with the desired future character statement adopted by Council;
- b) require the consent authority to not grant consent to a proposed development unless it has considered the statement of consistency and is satisfied that the proposed development is consistent with the desired future character statement;
- c) include development controls that proposals are required to meet;
- d) implement the community’s future vision for areas as articulated in the Local Strategic Planning Statement (LSPS) and local growth management strategies. The clause could do this by linking to a ‘statement of desired future character’ adopted by Council for each character area. Council recently prepared and exhibited a set of draft character statements for each of its settlements which are intended to inform its next growth management strategy and LSPS. The final character statements could form part of a future local character overlay for relevant areas in the Shoalhaven LEP 2014.

**3. What are your thoughts on a “statement of consistency” for development applications to identify a proposal’s consistency with desired future character?**

This approach is supported. It would be helpful if DP&E developed a standard format ‘statement of consistency’ requiring applicants to separately address the elements of character identified in the ‘statement of desired future character’. This would provide clarity and clear direction to applicants, Councils and the community and help to ensure that development applications properly address the statement of desired future character adopted by Councils.

It is suggested that the Statement of Consistency should be required to be endorsed by a suitably qualified professional (for example an architect or town planner) registered with the NSW Government Architect or NSW Department of Planning & Environment. This would give the community further confidence that character requirements are being taken seriously and properly considered in development applications.

**4. Do you anticipate introducing a local character overlay into your LEP?**

Council would consider introducing a local character overlay into the Shoalhaven LEP 2014 for certain areas and settlements, subject to consultation with affected communities and endorsement from the elected Council to prepare a planning proposal. Feedback received during initial community engagement on Council's growth management strategy and draft character statements indicates that a local character overlay would be supported in several towns and villages.

Council has also been considering ways to manage growth, whilst also respecting character, in areas such as the older parts of Berry and medium density zones adjacent to the Nowra CBD. The ability to consider using a character overlay in these circumstances may be of assistance.

**5. Are you able to provide detail on any potential overlays to assist with developing the policy?**

In Shoalhaven LGA, a character overlay would need to address a diversity of settlements with different character and apply development controls accordingly i.e. a 'one size fits all' approach to development controls would not be suitable. A 'statement of desired future character' which clearly articulates the elements of character in each character area (built form, architectural style, subdivision pattern etc.) may be appropriate. The local LEP clause could require applicants to submit a 'statement of consistency' separately addressing each element of character in the statement of desired future character.

There are several rural and coastal towns and villages in Shoalhaven that could be suitable for a potential character overlay. These places are valued by local residents and visitors for their low-key, traditional village charm, connection to the natural environment and scenic amenity. They are sensitive to new development and there is a desire among local communities to preserve their character.

An overlay could also provide a suitable mechanism or option to manage character impacts of development in the older parts of Berry, the medium density zones adjacent to the Nowra CBD and in new urban release areas where a certain character is being planned for.

**6. The proposed overlay would be a map layer in the Standard Instrument LEP with a supporting standard optional clause to give weight to local character considerations. Do you think this is the right approach?**

Yes, this approach is supported. The LEP is possibly the most appropriate place for character considerations. Relying solely on character controls in a Development Control Plan (DCP) may not ensure effective consideration of character. At present there is limited opportunity in the LEP, other than through individual heritage listing or establishment of Heritage Conservation Areas, to strengthen consideration of character impact. This proposal could ultimately provide an additional opportunity for Council to consider to appropriately consider and manage this issue through the LEP.

It is suggested that the LEP clause link to 'statements of desired future character' adopted by Council for each character area. Applicants could then be required to submit a 'statement of consistency' with the desired future character with development applications.



**7. Are the proposed criteria and supporting information for a planning proposal to introduce a local character overlay reasonable?**

Yes, they are generally supported. The relevance/intent of the last bullet point under the 'Indicative Supporting Information' for Criteria 1 is questioned: *"will the addition of a local character overlay on the site increase the regulatory burden on the land owners / potential applicants?"* Given that a character overlay would introduce additional requirements for developments, it is evident that the answer is yes, but this doesn't necessarily mean that the introduction of a character overlay isn't justified. It is suggested that this question should not form part of the criteria.

**8. Are the proposed criteria for determining a local character variation or in exceptional circumstances an exclusion from a SEPP appropriate?**

Given that the character overlay is intended for areas with significant or exceptional character values, should it not be granted an automatic variation or exclusion from SEPPs in the same way that the LEP heritage conservation overlay has? It is considered self-evident that complying development under several SEPPs will impact places with significant or exceptional character (see further comments above under question 1c).

Should criteria for variations and exclusions from SEPPs be retained, the following comments are made:

- The requirements under Part 2 "compelling reason for variation or exclusion" are overly complex for what is considered to be relatively self-evident, in the same way that it is self-evident that complying development should not apply to heritage conservation areas. Council could address the proposed requirements but questions the need to submit *"modelling of existing and proposed controls"* in addition to detailed analysis and comparison of existing and proposed controls, examples and case studies, character assessments and community feedback.
- Why is an *"explanation of impact on property values"* relevant? Besides the fact that it is not a consideration for planning/environmental assessments under the EP&A Act, there is much evidence to suggest that places with a strong sense of local character enjoy higher property values on average. Planning Circular [\*PS 18-00 Respecting and enhancing local character in the planning system\*](#) (January 2018) acknowledges that:
  - *areas with a strong sense of local character are desirable places to live and work and support strong communities. A strong sense of local character should be an objective in planning for all communities;*
  - *areas that build on existing local character contribute to the vitality and viability of centres;*
  - *investing in local character can drive economic development and opportunity, particularly in regional areas.*

Thank you again for the opportunity to comment on the Discussion Paper for a proposed Local Character Overlay. Council appreciates the Department of Planning and Environment's consideration of the comments made in this submission.

If you need further information about this matter, please contact Ryan Jameson of Council's Planning Environment & Development Group on (02) 4429 3570. Please quote Council's reference D19/124005.

Yours faithfully

**INSERT SIGNATURE**

**Gordon Clark**  
**Strategic Planning Manager**  
**INSERT DATE**



# ***Discussion Paper – Local Character Overlays***

*February 2019*

DE19.29 - Attachment 2

We wish to acknowledge Aboriginal people as the traditional custodians of this land. Through thoughtful and collaborative planning, we seek to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

February 2019

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DE19.29 - Attachment 2

## Implementing local character into Local Environmental Plans (LEPs)

The Local Character Planning Circular released in January 2018 flagged preparing amendments to the Standard Instrument (Local Environmental Plan) Order 2006 (SI LEP) to establish overlays for additional considerations of local character in areas of significance. Using the SI LEP to give effect to local character strengthens local character and gives it statutory weighting.

The Department's work on local character is based on the sentiment that everywhere has character. Local character is the look and feel of the area and we should consider how it should be managed either to change, maintain or enhance that character. The introduction of local character overlays could be integrated into the broader suite of initiatives around managing change and growth to ensure it occurs within the context of how a neighbourhood looks and feels.

The purpose of this Paper is to outline an option for supporting local character within the SI LEP and to seek feedback on the proposal.

## Local Character and Place Guideline

The Local Character and Place Guideline outlines what local character and place is, why it is important, and how it fits into the planning system. The Guideline aims to support the work that councils are already doing to bring about the benefits of change in neighbourhoods, cities and regions to meet the aspirations people have for their places.

### Key questions

Do you think the inclusion of a standard approach to local character overlays within LEPs will be effective at balancing growth with supporting local character?

## Existing use of overlays within NSW

In NSW several councils have a map layer (an overlay) in their LEP identifying character areas; however, there is no standard approach, and this doesn't yet align with the strategic plan-led planning framework. A local character overlay could effectively align the development outcomes to the strategic vision and plans that sit above the LEP.

## What will a local character overlay do?

A local character overlay consists of a map layer and an associated clause within a LEP which identifies the additional assessment requirements. The map layer details the boundaries of character areas and the associated clause establishes development considerations to ensure development proposals address council's local character aspirations and development controls. This Paper proposes a standardised map layer and clause through the SI LEP.

A local character overlay could support local character through a LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a development control plan (DCP), or to exclude or vary statewide policy.

A local character overlay could have a few functions.

The map layer could:

- identify the defined character area and map its boundaries
- identify the characterisation for the area (as outlined in the Local Character and Place Guideline)
- trigger local variations and in exceptional circumstances local exclusions from statewide policy.

The clause could:

- require applicants to meet development controls within the DCP for a proposed development within the character area
- require applicants to submit a statement of consistency with the desired future character (where council has set a desired future character)
- include consideration of the statement of consistency as part of the assessment of a development application
- identify local character requirements for development proposals (additional requirements, development controls and/or statement addressing consistency with the desired future character)
- implement the local strategic planning statement reflecting the community's future vision for an area

#### Key questions

- Are the functions listed above helpful in supporting local character?
- Are there any other functions that a local character overlay could deliver?
- What are your thoughts on a "statement of consistency" for development applications to identify a proposal's consistency with desired future character?

## Where should local character overlays be introduced?

If councils wish to support local character through their LEP they could submit a planning proposal in line with the standardised map layer and associated clause that would be included within the SI LEP Order. The Department would review all submitted planning proposals against published criteria to evaluate the benefits and impacts of introducing a local character overlay.

Character areas needn't be everywhere, only where councils and their community feel that the broader zone objectives don't provide sufficient guidance or direction to manage change while supporting local character. Further direction on local character and how to identify, describe and support it is provided in the Local Character and Place Guideline.

#### Key questions

- Councils – do you anticipate introducing a local character overlay into your LEP?
- Are you able to provide detail on any potential overlays to assist with developing the policy?



## How will an overlay be included in the SI LEP?

A proposed amendment to the SI LEP Order would introduce an optional (standard) clause and a map layer to accommodate a local character overlay. Once this amendment to the SI LEP Order is made, then councils would be able to choose to prepare a planning proposal to adopt the clause and apply a local character overlay within their LEP.

Prior to submitting a planning proposal, it is strongly recommended that councils consult with the Department in the drafting of the map layer. Once the planning proposal has been submitted the Department would evaluate what is proposed against the criteria below.

The proposed overlay would be a map layer within the SI LEP with a supporting [standard optional clause](#) to give weight to local character considerations. Do you think this is the right approach?

## Criteria for introducing a local character overlay

Where a council intends to prepare a planning proposal for a local character overlay the Department will evaluate each proposed local character overlay, the extent of the overlay and anticipated effects. The Department would establish criteria that councils must satisfy when submitting a planning proposal to add a local character overlay. These requirements would be centred on having undertaken a strategic planning process and ideally will follow councils' draft local strategic planning statement and local housing strategy. Below are draft criteria for consideration.

The below table outlines the criteria that could be submitted with any planning proposal for a local character overlay.

**Table 1: Proposed criteria and supporting information for a planning proposal to introduce a local character overlay**

Criteria	Indicative supporting Information
1 Proposal	<ul style="list-style-type: none"> <li>What is the intended purpose of the overlay? (If the purpose includes varying statewide policy, additional criteria detailed in Table 2 will need to be met).</li> <li>What functions will the overlay seek to deliver? (i.e. introduce local character controls/exclude statewide policy/introduce a test of consistency with desired future character).</li> <li>What other mechanisms are being utilised to support local character? (i.e. update the controls within the DCP/implement the cultural plan &amp; public domain improvement plan). Please provide detail (including development controls where proposed).</li> <li>Why is a local character overlay required, could no other mechanism within the planning system better support local character? (i.e. review of DCP controls/character statement within the local strategic planning statement).</li> <li>How many lots (for houses, businesses, assets) will be captured?</li> <li>Is it a joint proposal across local government boundaries?</li> </ul>

		<ul style="list-style-type: none"> <li>Will the addition of a local character overlay on the site increase the regulatory burden on the land owners/potential applicants?</li> </ul>
<b>2</b>	Alignment to the strategic content	<ul style="list-style-type: none"> <li>How does the proposed local character overlay align to the directions within the regional and district strategic plan? The character overlay must be aligned to the wider strategic context. It is important when classifying character that the broader influences are considered within regional strategic plans and in Greater Sydney, district plans.</li> <li>Has residential, commercial and industrial land supply been sufficiently planned for? Where a downzoning is being considered it must be demonstrated that the overall land supply needs can still be effectively met and for residential that the local housing strategy can be delivered.</li> <li>Has local character been raised through the integrated planning and reporting framework engagement?</li> </ul>
<b>3</b>	Has community consultation on local strategic planning statements, and if applicable, local housing strategies been undertaken?	<ul style="list-style-type: none"> <li>Summary of the feedback received on local character through local strategic planning statements engagement.</li> <li>Where the character area incorporates residential, summary of feedback received on local housing strategy engagement.</li> </ul>
<b>4</b>	Have completed a character assessment in conjunction with their community for the area and have characterised the character area and its attributes of the place that are cherished and to be supported.	<ul style="list-style-type: none"> <li>Provide a copy of the character assessment undertaken in accordance with the Local Character and Place Guideline Part 2 – Character assessment toolkit.</li> <li>Provide a summary of the community feedback received during the character assessment.</li> <li>Provide a copy of the desired future character statement for the area where the local character overlay is proposed.</li> </ul>
<b>5</b>	Have prepared the map layer in accordance with the standard technical requirements for spatial datasets and maps and drafted a clause in accordance with the local character optional (standard) clause of the SI LEP (yet to be drafted).	<ul style="list-style-type: none"> <li>Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format.</li> <li>Proposed clause be drafted in accordance with the optional (standard) clause under the SI LEP order.</li> </ul>

Are these criteria reasonable for determining and evaluating the result of adding a local character overlay?

## Local character overlay versus complying development

Local character controls prepared for development assessment (within either the SI LEP or DCP) can not apply to complying development under relevant state-wide policy.

Within state-wide policy there is an existing mechanism that allows the introduction of local variations. This would enable, for certain Department endorsed character areas, the ability to introduce alternative development standards within the state-wide policy for the key attributes that strongly influence the character of the area. For instance, requiring a certain roof design (gable in a federation suburb).

Local variations would need to be considered by the Department in terms of their impact including any implications for uptake of complying development and additional costs where standard housing product would need to be tailored to meet the controls which increases costs for a typical project home.

In certain (limited) circumstances character areas may warrant substantial variation to complying development standards beyond the scope of a local variation. In these circumstances councils in collaboration with their community may seek a local exclusion from individual codes of the state-wide policy to better manage the desired future character of those areas. A local exclusion is an existing mechanism within the state-wide policy. Councils will be asked to encourage complying development as the preferred approval pathway elsewhere within the local government area to offset any reduction in uptake because of a local exclusion.

## Criteria and supporting information for local variations and exclusions for the relevant state-wide policy

A State-wide set of clear criteria is already used to consider proposed local exclusions and variations to achieve a consistent State-wide approach. This existing approach could also be applied for local character initiated local variations and exclusions.

Requests would need to demonstrate how each of the criteria has been addressed and satisfied. If a request cannot address one or more criteria, it would not be considered for inclusion in the state-wide policy.

The following criteria are proposed for the consideration of proposed local exclusions and variations to statewide policy:

**Table 2: Proposed criteria and supporting information for local variations and exclusions**

Criteria	Indicative supporting Information
1 Must demonstrate supply and diversity of housing across local government area which will meet current and future needs of community	<ul style="list-style-type: none"> <li>Current and historical complying development take up (from Local Development Performance Monitor).</li> <li>Statistics on development type (issued CDCs and DAs) for a five-year period.</li> <li>Number of lots affected specified for each code (in effect at the time of application and following the deferred period for the Low-Rise Medium Density Code).</li> <li>Compelling reason (see criteria 2).</li> </ul>

- Local character assessment undertaken in accordance with the Local Character and Place Guideline indicating that relevant state-wide policy will impact on the desired future character.
  - Evidence of local community and industry views.
  - Provide a copy of the local strategic planning statement and if relevant the local housing strategy.
  - Any consideration of a trigger for local variations will need to demonstrate that without complying development the housing needs can still be effectively met.
  - For lots proposed to be excluded from the relevant statewide policy what is the rationale, and could a local variation introduce a development standard that aligned to local character attributes?
  - Where within the local government area will councils be encouraging complying development as the approval pathway so as to offset any reduction in complying development uptake because of a proposed local character overlay?
- 
- 2** Compelling reason for variation or exclusion
- Detailed analysis and comparison between what is proposed and the controls in the policy and the local character assessment undertaken in accordance with the Local Character and Place Guideline.
  - Strategic basis within an adopted council policy, supported by evidence.
  - Desired future character and why it is not supported by standards within statewide policy.
  - Providing real examples and where applicable case studies.
  - Modelling of existing and proposed controls, shadows, impacts on neighbours (where dealing with heights, setbacks, location of upper level).
  - Evidence of local community and industry views from preparation of strategic plans where high standard of consultation has been recently undertaken (including explanation of impact on property values).
- 
- 3** Variation or exclusion is quantifiable and can be mapped - map prepared in accordance with the standard technical requirements for spatial datasets and maps
- Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format.

All requests will be reviewed by the Department of Planning and Environment in consultation with the relevant council. Where a request for a local variation or exclusion is endorsed by the Minister, it will be included in the next draft amendment to the relevant statewide policy. The Minister may seek advice from the Greater Sydney Commission or the Independent Planning Commission with regards to making a decision on permitting a variation or exclusion. In preparing draft amendments, the Department may consult further with the relevant council and its community.

Are these criteria appropriate for determining a local character variation or in exceptional circumstances an exclusion?

DE19.29 - Attachment 2

### Have your say

This discussion paper outlines an option for supporting local character within the SI LEP. A local character overlay could support local character through the SI LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a DCP or for statewide policy.

The Department of Planning and Environment welcomes feedback.

### How to make a comment

This discussion paper is available on the Department of Planning and Environment's website at [www.planning.nsw.gov.au/localcharacter](http://www.planning.nsw.gov.au/localcharacter)

You can make a comment online at the website or you can write to:

Director, Local Planning Policy

NSW Department of Planning and Environment

GPO Box 39, Sydney NSW 2001

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- how personal information collected by the department will be used.

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- the content of your submission – including any personal information about you which you have chosen to include in those documents, and
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## **DE19.30 Public Exhibition Outcomes - Planning Proposal (PP023) - Anson Street, St Georges Basin - Building Heights**

**HPERM Ref:** D19/106974

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:** 1. Submissions Summary - 2019 Exhibition - Planning Proposal - Anson Street, St Georges Basin [↓](#)

### **Purpose / Summary**

Detail the outcomes of the recent exhibition of this Planning Proposal (PP) and consider the resultant next steps to finalise this proposal.

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

That Council

1. Proceed to organise a Public Hearing for Planning Proposal No. PP023 that applies to part of Lot 1 and Lot 6 DP 1082382, Anson Street, St Georges Basin.
2. Consider a further report on this matter and its possible finalisation following the Public Hearing.

### **Options**

1. Resolve not to hold Public Hearing (with reasons), adopt the PP as exhibited and exercise delegation to make the resultant Plan.

Implications: This option is open to Council and would enable the PP to be finalised by Council. In resolving not to hold the Public Hearing, as requested by one of the submissions, it will be necessary to indicate the reasons. These could include:

- One submission requested a Public Hearing (being the landowner's town planner).
- Council considers that the issues raised are not of such significance that they should be the subject of a public hearing
- Community and landowner views are established and well known
- Landowner has had the opportunity to provide comment, the detail of which is clear
- Holding a Public Hearing is unlikely to change the overriding community view or to raise any new issues not already known/considered.

If Council resolves to proceed to finalise the PP as exhibited, it also needs to decide whether, as either a standalone PP or as part of the regular Housekeeping PPs, to consider establishing a consistent mapped height of buildings (8.5m) for the other B4 and R1 zoned land to the north and south of the subject land. This is flagged in the letter from the Department that accompanied the Gateway determination and is also raised in the landowner's submission to the PP. It may also be supported by the broader

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community given the concerns that have arisen with the potential development of the subject land.

2. Resolve not to hold a Public Hearing (with reasons), resolve to adopt the PP, but not exercise the delegation to make the Plan.

Implications: This option is also open to Council and would enable the PP to be finalised by Council. Given the contentious nature of this PP, the Council could opt not to use its delegations to make the Plan and write to the NSW Department of Planning & Environment and advise them of this decision. This would essentially mean that Council adopts and finalises the PP and then requests the Department to consider and make the resulting Plan.

3. Proceed to hold a Public Hearing prior to considering whether to adopt the PP.

Implications: If it was considered that the issues raised are of such significance that a public hearing should be held, the hearing would need to be independently chaired and a report prepared. The outcomes of the public exhibition period and the Public Hearing would then be reported back to Council to consider.

4. Proceed with an amended PP

Implications: Depending on the nature of any amendments, for example changing the proposed height from 8.5m to another height, the PP may require an amended Gateway determination and need to be re-exhibited to enable the community and landowner to comment.

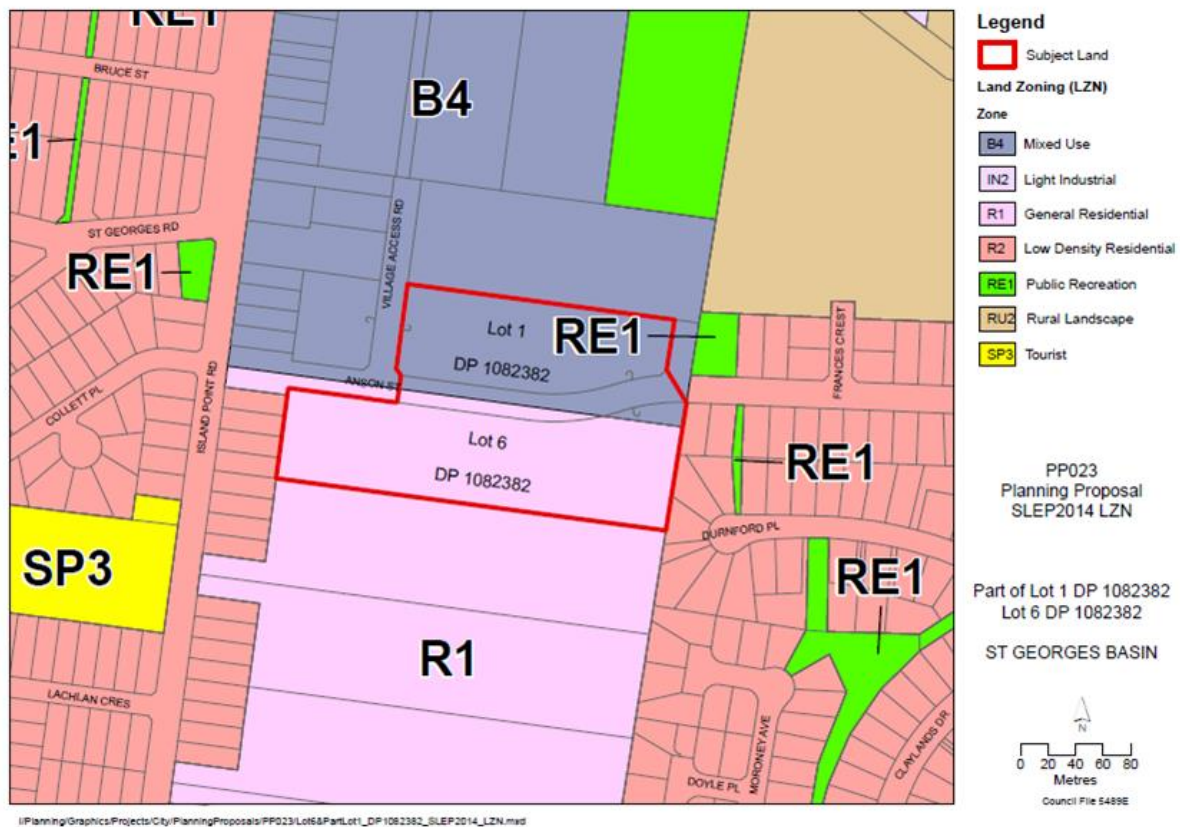
5. Discontinue the PP process

Implications: This would see the existing height limit of 13m remain in place contrary to the Council's original intent when it proposed the PP and contrary to community opposition.

## Background

The PP covers part (eastern) of Lot 1 and Lot 6 DP 1082382, Anson Street, St Georges Basin, both of which are owned by Mr D DeBattista.

The subject land is currently zoned B4 Mixed Use and R1 General Residential under Shoalhaven LEP2014 as shown on the following map from the PP:



Current Land Use Zones – Shoalhaven LEP2014

**Note:** the zoning of the subject land is not proposed to be changed via this PP.

As part of the Shoalhaven Local Environmental Plan (LEP) 2014 process a 13-metre mapped height of buildings control was applied to the subject land following a submission from the landowner. The height in the surrounding areas under the LEP is a mix of 8 metres, 8.5 metres and up to 11 metres – see map below.

Council resolved on 6 December 2016 to:

*Retain the current 8m height control over the western part of Lot 1 DP 1082382 and prepare a planning proposal to amend the height of buildings map over the remainder of Lot 1 and the whole of 6 DP1082382 Anson Street, St Georges Basin and remove the current 13m height and replace with 8.5m mapped height.*

This triggered the start of a PP process to reduce the mapped height of buildings control from 13 metres to 8.5 metres. The following maps from the PP show the current and proposed height of buildings in this location:

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### Comparison Maps – Height of Buildings

#### Current Shoalhaven LEP2014 and Planning Proposal

**Note:** 'uncoloured' or white on the above maps means the current general height control under LEP Clause 4.3(2A) of up to 11 metres applies in these areas.

Following the December 2016 Council resolution, the Gateway determination for the PP was signed on 29 November 2017. The determination enabled the PP to proceed with conditions, including Government Agency consultation, community consultation (minimum 28 days) and a completion timeframe of 12 months (extended until 29 November 2019).

The accompanying letter from the NSW Department of Planning & Environment (DP&E) also confirmed that the 'Plan making powers' had been delegated to Council and recommended that Council also consider reviewing the adjoining 11 metre building height control to ensure a consistent approach in the area.

Following the issuing of the Gateway determination, the PP was publicly exhibited from 20 December 2017 until 2 February 2018.

On 14 December 2018 the Land and Environment Court of NSW declared in [DeBattista v Minister for Planning and Environment \[2018\] NSWLEC 202](#) that the community consultation process was void and of no effect.

Council elected to address the defects in the PP and recommence the community consultation process. As a result, this report presents the outcomes of the most recent public exhibition process.

### Public Exhibition

The PP was publicly exhibited for review and comment from 27 February until 29 March 2019 (31 days) inclusive. The PP was available at Council's Administrative Centre in Nowra and on Council's website during this time.

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The exhibition package contained:

- Newspaper Public Notice
- Explanatory Statement
- Planning Proposal document

The exhibition package can still be viewed on Council's internet site at the following link under the heading "Planning documents on exhibition":

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

In addition to the public notice in the South Coast Register, the affected land owner, local Community Consultative Body (CCB) (Basin Villages Forum) and others were directly advised in writing of the public exhibition arrangements.

As a result of the public exhibition period a total of 217 submissions were received. The next section of this report provides further commentary with regard to the submissions received.

## Overview - Submissions

**Attachment 1** provides a summary of each of the submissions received during the exhibition period. Copies of the actual submissions will also be available for review in the Councillors' Room prior to the meeting.

The following is the numerical break-up of the 217 submissions received:

- Support: 167 (includes 3 community petitions containing 483 signatures)
- Comment: 49
- Oppose: 1

In addition to the detail in **Attachment 1**, the following is an overview of the submissions and where relevant staff comment is provided.

### Support (167)

The bulk of the submissions received were of a brief nature and detailed the following main themes or reasons for supporting the exhibited PP or opposing the current 13m height:

*Overall* – believe proposed 8.5m will be a better and more appropriate planning outcome that still recognises the intent of strategic planning documents. Do not want overdevelopment.

*Previous Decision* – decision to raise the height to 13m as part of the new LEP was wrong and needs to be corrected. Current height is not soundly based and was against staff advice.

*Character* – current height is inconsistent with the existing and future desired character of area. Concerned about the development that could result – 4 storey developments inappropriate for the area. Destroy its character and create an undesirable precedent. Development should be set at 8.5m consistent with other developments and buildings that are 1-2 storeys in height.

*Amenity* – 13m development will have a range of amenity impacts including noise, overshadowing, loss of village feel and privacy concerns, particularly on adjacent development. Some mentioned overcrowding and a move to the area to get away from high rise development. Believe 8.5m development will enable amenity to be maintained.

*Visual Impact* – 13m or 4 storey developments will be out of place in area and will have visual impacts. Will potentially block views to St Georges Basin. 8.5m is more in keeping with existing development and will help minimise visual impacts.

*Environment* – 13m will have environmental impacts. Concerns raised regarding potential stormwater impacts and associated impacts on the water quality of St Georges Basin. Some submissions refer to illegal clearing that may have occurred.

*Infrastructure/Services* – current and proposed infrastructure does not support development that is possible under the current 13m height. Proposed height of 8.5m is more manageable. Traffic and parking concerns raised. Inadequate public transport. Impacts and pressure on existing schools, community services and emergency services.

*Viability/Land values* – questions over the viability of development under the 13m height. Proposed height does not sterilise the land by encouraging economically unviable development. Smaller development of villas/townhouses and some commercial more suitable. Concerns about impact of 13m development on existing land values.

*Social Impacts* – Multi level development more suited to larger centres of Nowra and Ulladulla. Question who will occupy the proposed units, is there even a demand? Concerned about potential for low cost housing next to hotel/bottle shop. Will there be employment opportunities for the new residents? Not convinced development (13m) is in the community interest.

The following community groups made submissions in support of the PP:

*Basin Villages Forum (CCB)* – Believe the current 13m height control was an erroneous decision previously made without supporting planning basis.

The proposed 8.5m height is supported by infrastructure, is consistent with the existing and desired character, is sympathetic with existing built form and natural features, allows sustainable growth that is planned and managed, provides an appropriate density, protects and improves scenic quality, does not sterilise the land by allowing economically non-viable development and also recognises the intent of strategic planning documents for the site. Look forward to approval of the PP.

*Jervis Bay Regional Alliance* – PP will resolve an erroneous decision. Believe there was no justification for the original change that occurred.

The proposed height is supported by infrastructure, will provide an appropriate density, recognises the intent of strategic planning documents, allows for careful urban growth and does not sterilise the land. Congratulate Council on the initiative.

#### Comment (49)

The submissions that are categorised as ‘comments’ do not expressly note support or otherwise for the exhibited PP. Rather they generally comment negatively or in opposition to high rise unit development generally or as proposed under the approved and proposed developments that relate to the site.

Like the submissions in support, the ‘comment’ submissions raise jobs, infrastructure, traffic, parking, character, services, social impacts, appropriate height, school capacity, overshadowing, environmental and various other concerns

#### Oppose (1)

The submission from Cowman Stoddart Pty Ltd on behalf of affected landowner, Mr D DeBattista, provides the following reasons for objecting to the PP:

*Ad hoc Planning Proposal* – Is not being pursued for proper planning reasons. Trying to thwart development proposal currently before Court. Height reduction would have effect of prohibiting the development. Client invested money based on existing controls.



Acknowledge can amend planning controls – should occur strategically, following due process. Should review height limits in the overall area, not just client's land. Gateway determination includes statement about revising the 11m height control on adjacent land to ensure a consistent approach in the area.

Have failed to undertake broader review. Propose a more stringent height on the subject land when compared to adjacent and same R1 and B4 zones without strategic justification.

The 2016 Council resolution on Strategic Planning Works Program included the following: *undertake assessment of the urban areas in the Bay and Basin area*. Height should be considered in an exercise like this. Have failed to act on the resolution. The July 2017 Works Program does not include the project - suggests there is not a high priority or need to review the planning provisions in this locality, including building heights.

Failure to undertake this broader consideration reinforces view that PP is premature and specifically intended to thwart the proposal before Court. There is no strategic process underpinning. It should result from a broader review. PP has not been subject of such an assessment and is premature.

*Staff Comments – The PP does not thwart development of the land, though it would mean that the concept proposals currently the subject of appeals in the Court would be hard to justify unless a savings provision was included in the Plan. It is unusual to include savings provisions in amendments to LEPs and the Department has not required one to be included. Should the PP be adopted and the LEP be amended then the new height becomes one of the principal controls for consideration for the Court but does not necessarily prohibit the development.*

*The Council resolved to request the General Manager prepare a report considering options for reducing the height limit for this land on 25 October 2016 and then to prepare the PP on 6 December 2016. The development application currently before the NSW Land and Environment Court was lodged with the Council on 24 March 2017, some months after the date the Council resolved to prepare the PP. There is therefore no substance in the suggestion that the PP was specifically intended to thwart the proposal before the Court.*

*Councils are able to undertake amendments to their planning controls following the processes set in legislation. This does not necessarily need to follow or be an outcome of a strategic planning process. In this regard, for example, it is noted that the current 13m height control resulted from an individual submission received during the Shoalhaven LEP2014 process. It did not result from a strategic or more detailed investigation to establish a specific height for the subject land or the broader locality.*

*The actual Gateway determination that was issued for this PP dated 29 November 2017 does not, as suggested, require or recommend that Council review the current adjoining 11m building height controls to ensure a consistent approach in the St Georges Basin Area. This recommendation is actually in the covering letter from the NSW Department of Planning that accompanied the determination and it is noted in the letter for Council to 'consider'.*

*The recommendation from the Department regarding reviewing the overall 11m building height control is still open to Council to consider should it wish to ensure consistency in the area, but it was not a recommendation or requirement of the Gateway determination, otherwise this would have been addressed prior to the PP proceeding to public exhibition.*

*Undertaking a review of the 11m building height control that currently applies to the adjoining land that is similarly zoned B4 and R1 is discussed in this report as an option that Council can consider.*

*The current Strategic Planning Works Program that was adopted by Council on 5 June 2018 does include an active 'high priority' project to review the Shoalhaven Growth Management Strategy, as part of this the Jervis Bay Settlement Strategy will also be reviewed. This is the*

outcome of the previous Council resolution referred to in the submission re “an assessment of the urban areas in the Bay and Basin area”. This will essentially be a higher order consideration of the opportunities for additional new longer term urban areas in the Jervis Bay-St Georges Basin area and will not necessarily focus on reviewing or setting building heights in existing urban areas.

Council has commenced the review of the Shoalhaven Growth Management Strategy and an initial Discussion Paper was released for comment in late 2018.

Inconsistency with s117 Directions – PP must demonstrate consistency with Ministerial Directions, including Directions 1.1 Business & Industrial Zones and 3.1 Residential Zones.

The Directions outline circumstances where a PP may be inconsistent if the planning authority can satisfy the Department the inconsistencies are: justified by strategy, justified by study, in accordance with a Regional Plan or minor.

PP justifies Direction 1.1 and 3.1 inconsistencies on basis of minor significance (range of reasons provided in PP to support this). Have contrary view – PP cannot be considered minor.

Council’s own PP Guidelines define a ‘minor’ PP as needing one or more specialist study – this PP relies on two specialist studies. Thus, cannot be considered ‘minor’.

Just because the PP only applies to a small portion of the similarly zoned land in the area and City, this alone should not form the justification for the PP. Dangerous precedent for ad-hoc proposals that are not consistent with strategic planning.

No consideration given to potential lost housing yield. Reduced opportunity here will potentially lead to pressure on urban fringe - Contrary to objectives of Direction 3.1. Also, no broader review undertaken of similarly zoned land.

Fail to provide sufficient justification that PP is minor. If it is not minor, then needs to be justified by a strategy or study – in the absence of this justification, the PP should not proceed as it will be inconsistent with Directions 1.1 and 3.1.

Staff Comments – The views regarding the consistency of the PP with the Ministerial Directions are noted, however the PP contains Council’s justification for the inconsistency with the Directions. Briefly the justifications in the PP document are as follows:

*Direction 1.1 – inconsistencies are of minor significance because:*

- *PP relates to small defined area at St Georges Basin and does not propose to change its zone.*
- *The part in the B4 zone comprises a small portion (0.92%) of the overall B4 zoned land in the City.*
- *Proposed height is more consistent with existing provisions that apply to other B4 zoned land in the St Georges Basin Town Centre that is mapped at 8.0 metres in the LEP.*

*Feasibility analysis also considers the Direction’s objectives and the inconsistency is also potentially justified by this analysis.*

*Direction 3.1 - inconsistencies are of minor significance because:*

- *PP relates to small defined area at St Georges Basin and does not propose to change its zone.*
- *Existing zones will still provide for a variety of housing types and choices.*



- Affects only a 1.97ha portion, or approximately 19%, of the R1 zoned land in this location.
- Subject land comprises small portion (0.14%) of the total R1 zoned land within the City.

*The Feasibility analysis also provides some relevant commentary in this regard.*

*The covering letter from the NSW Department of Planning & Environment that accompanied the 2017 Gateway determination also indicates that “I have also agreed, as delegate of the Secretary, the Planning Proposal’s inconsistency with Section 117 Directions 1.1 Business and Industrial Zones and 3.1 Residential Zones are justified in accordance with the Directions”.*

*The Department is obviously comfortable with the PP’s inconsistency with the directions in question, otherwise they would not have issued the Gateway determination or would have required additional justified, possibly prior to exhibition, which was not the case.*

*In regard to the comments about not meeting the ‘minor’ designation under Council’s own PP Guidelines, it is noted in part in the ‘Purpose’ section of the Guidelines that:*

*“It provides a framework for all PPs within the City with a particular focus on issues associated with proponent initiated PPs”.*

*The focus of the Guidelines is mainly on circumstances when the Council will consider proponent-initiated PP’s and the process that they need to follow, not the present circumstances where the PP is initiated by the Council.*

*Irrespective of the submissions conclusion that the PP should not proceed on the basis that it will be inconsistent with Ministerial Directions 1.1 and 3.1, in issuing the Gateway determination the NSW Department of Planning & Environment concluded that any inconsistency is justified in accordance with the Direction. Thus, the PP can be considered.*

*Inconsistency with broader strategic planning framework* – PP is unable to demonstrate consistency with broader planning strategies: Illawarra-Shoalhaven Regional Plan, Jervis Bay Settlement Strategy and Coastal Design Guidelines.

*It does not articulate how reducing height (and residential density) will achieve the objectives of these strategies. The PP is not consistent with their objectives.*

*The Character Assessment and Urban Design Review states the strategies have strong themes around recognising existing character – this is not correct. Their objectives seek to meet changing demand, with development character to meet existing or desired future character (including up to 4 storeys in height).*

*Staff Comments* – *The PP is not considered to be inconsistent with the objectives of the strategies. The planning strategies in question are by their nature broad and high level. They are not specific about, for example, proposed heights of building at St Georges Basin. It is also noted that the underlying zones are not proposed to be changed and as such a range of activities are still able to be considered which is in keeping with the intent of the strategies.*

*The PP indicated that overall it is ‘not inconsistent’ with the broad goals of the Regional Plan. The Regional Plan does, for example, encourage growth in locations where population growth is already occurring, such as the Nowra Centre that is identified as a ‘major regional centre’ in the plan. Vincentia and Ulladulla are also identified under the Plan as ‘regional centres’, but St Georges Basin is not identified. Centres in Shoalhaven that are identified as a focus for increased housing activity include Nowra-Bomaderry, Huskisson and Ulladulla.*

*The Regional Plan goes on to note that, based on planning analysis of existing urban areas, and current market conditions multi-unit development is likely to occur in parts of*

Wollongong and Kiama, apartments in metro Wollongong and a lesser extent Kiama and dual occupancies in Huskisson and Berry. It also acknowledged that demand for multi-unit housing is uneven. It suggests that a 'place-based' approach consider centres that have access to transport.

It is noted that the 'urban renewal' section of the Jervis Bay Settlement Strategy does encourage "mixed use developments in commercial centres, including shop top housing". It is however not specific about setting heights in centres. The PP still allows growth or urban renewal as the underlying zones are retained unchanged. These zones combined with the proposed height of 8.5m still enable a range of development opportunities, including shop-top housing, town houses, dual occupancies and villas, all of which are more suitable and in character than four storey residential flat buildings and four-storey shop-top housing.

Under the NSW Coastal Design Guidelines, St Georges Basin on its own is considered to be a 'coastal town'. The Guidelines note that 'coastal towns' are small centres with populations between 3,000 and 20,000. Council's population forecast data indicates that the 2019 population of the combined St Georges Basin – Basin View area is estimated at 4,658.

If the 'coastal town' designation is accepted, the Guidelines note the following relevant issues:

- Under pressure to grow
- More at risk from impact of increased traffic and potential loss of identity
- Less likely to benefit from public transport and less able to accommodate large scale new buildings than cities
- Existing character can easily be lost to suburban sprawl or tall buildings

In the commentary on 'Desired Future Character' for 'coastal towns' the Guidelines, amongst other considerations, suggests the following are relevant in this circumstance:

#### Buildings

- Predominant building types in town centres are small apartment buildings, mixed use, shop top housing, town houses, terraces, detached houses/commercial/retail, education and civic buildings.
- Predominant building types in suburban area include small apartment buildings, town houses, semi-detached and detached dwellings.
- Development is predominantly low scale.

#### Height

- Generally heights of up to four storeys in town centres.
- Generally heights of up to two storeys in suburban areas.
- Heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement.

Thus, whilst it is noted that the Guidelines indicate that up to four storeys may be appropriate in town centres they also go on to advise that heights are also subject to place-specific urban design studies. The subject land also sits outside the 'neighbourhood centre' identified in the existing DCP.

In this case a specific urban design review was undertaken, and it concluded that a two-storey maximum on this site would create a modest transition of a maximum of one storey between existing and new development which is consistent with the existing character of the surrounding area.

*Regarding the suggestion in the submission that the Character Assessment and Urban Design Review is wrong and is suggesting the existing strategies have strong themes around recognising existing character, it is noted that the three documents in question include commentary (in some cases limited) on existing character and desired future character. For example, the Jervis Bay Settlement Strategy includes the following commentary in the 'Urban Renewal' Section:*

*"The challenge is to ensure that future demands for housing and accommodation can be achieved without detrimental impacts on the Region's natural attributes, are consistent with urban servicing and infrastructure capabilities, and are designed to complement rather than detract from the Region's Character".*

*The Coastal Design Guidelines also includes the following comment in the 'Forward' from the then NSW Minister for Planning, Dr Andrew Refshauge MP:*

*"This direction gives importance to the special qualities of each and every place. It recognises what these qualities are and offers design solutions which maintain a rich and diverse coast for everyone. The Guidelines provide a best practice framework for ensuring that design reflects the character of different places".*

Thus, the existing strategies recognise the importance of existing character and protecting it wherever possible. They equally also recognise desired future character and the need to establish this through appropriate processes giving due consideration to what is existing.

*Desired character of development* – Attempt to justify height reduction based on the surrounding development, particularly residential areas to east and west. The example areas are zoned R2.

The R2 zone focusses on low density development primarily of detached housing. Objectives of R1 and B4 zones focus on different development forms, not low-density housing, and a range of higher density housing forms are permissible.

The PP tries to justify the height also on the DCP for the adjacent neighbourhood centre which seeks to limit height to a bulk/scale related to existing surrounds/natural attributes. DCP provisions are subservient to LEP. Subject land not part of neighbourhood centre. DCP identifies higher density housing as suitable land use for site – reducing height would not be consistent with this.

Support material fails to integrate the desired future character for the land that is zoned differently to other referenced land. Zones permit higher density, not appropriate to set same height as is applied to lower density zones. Should also investigate similarly zoned lands.

Inappropriate to compare R2 zoned land with R1/B4 zoned land. Fail to demonstrate sufficient strategic planning merit to reduce height.

*Staff Comments* – *Irrespective of the zoning of surrounding or adjacent land it is still reasonable and appropriate to consider the existing and likely form (e.g. building height) of development in these areas to enable impacts associated with overshadowing, amenity etc. to be better managed. Not that this was the sole basis for justifying the height reduction.*

*The comment that DCPs are subservient to LEPs is acknowledged. However, the B4 zoned land (part of which is in the same ownership as the subject land) to the west of the subject land that is within the 'neighbourhood centre' identified in the DCP is already mapped at 8.0m in the LEP.*

*The part of the subject land that is zoned B4 is subject to the provisions of the DCP. In this area that is shown on the DCP map as "#Future Uses See Statement#", the following 'performance criteria' and 'acceptable solutions' are relevant:*

*Performance Criteria - The land adjoining the Neighbourhood Centre may be used for a number of uses which support the economic viability of the area.*

*Acceptable Solutions - Appropriate land use activities may include Seniors Living, Tourist accommodation establishments, Tourist and Recreation Facilities, Higher Density and Medium Density Housing.*

*There are a range of other provisions in the DCP that are relevant to this part of the subject land and that are also relevant regarding desired development outcomes, including:*

- need to retain vegetation to promote habitat for yellow bellied glider and treed amenity.*
- building design to reinforce neighbourhood character while promoting good innovative design which delights and interests the local community.*
- Building mass/scale should complement rather than dominate its natural surroundings.*

*Also looking back at the original Planning Statement (1985) for the then Business 3(g)(development) zoned part of the land (part now zoned B4) gives an insight into the original thinking behind the larger zone in this location and what it was envisaged it would become. The Statement notes the following ‘objective’:*

*“To promote the development of a small neighbourhood shopping centre, together with associated activities to serve the local area”.*

*The Statement goes on to note that “recreation/tourist accommodation/residential uses to be on the higher land towards the east and north”.*

*As such the original Statement was silent on the form of residential use and its height/density.*

*Character is not solely determined by the existing zoning of land; various considerations come into play and not just the fact that an existing zone allows a more intensive form of development. In this regard the long established DCP for this area includes various provisions relevant to character and development outcomes.*

*It is also still open to Council to consider whether it also wishes to review the current height of buildings control that applies to the other B4 and R1 zoned land in this area. Most of the other B4 zoned land to the north is currently vegetated and largely undeveloped. The other R1 zoned land to the south is currently occupied by a manufactured home village (Rosedale Village) made up of predominantly low scale single storey dwellings, large vegetated lots with single dwellings. Further south is another area of B4 zoned land that is occupied by the Aveo Retirement Village which is made up of predominantly single storey development.*

*The community has raised strong concerns about the nature of the development that could occur on the subject land under its current zoning and height of building control. Depending on the nature of future development on the remaining B4 and R1 zoned areas there is the potential for future community concern. As such it may also be appropriate to review the current general height provision of 11m that applies to these areas and determine whether it needs to ultimately be consistent with the subject land or a specific height applied.*

Feasibility analysis – Existing height could actually ‘sterilise’ land is not justified. There are various scenarios possible under current zones and height. If 13m development is not financial, will do something else that is permissible (e.g. multi dwelling housing) and that will deliver a suitable return.

Staff Comments – The Feasibility Assessment referred to is a reasonable assessment of what could eventuate if a potentially unrealistic height control is retained on the land and the expectations that are created as a result.

Concluding Comments – There is insufficient strategic planning merit to justify the change. It should not proceed and not be supported by Council. If Council decides to proceed, then a public hearing is requested, with the results to be considered before Council decides whether to make the plan.

Staff Comment: As noted, the existing underlying zones will be retained and along with the proposed building height of 8.5m; this will still enable a range of possible land uses that would complement and build on the existing St Georges Basin centre consistent with the broad intent of existing strategies.

In regard to the public hearing request, the Gateway determination that was issued on 29 November 2017 includes the following condition:

“A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).”

The previous Section 57(5) of the NSW Environmental Planning & Assessment Act also provided that, if:

- “(1) a person making a submission on a planning proposal requests a public hearing; and
  - (2) the Council considers that the issues raised in the submission are of such significance that they should be the subject of a hearing,
- the relevant planning authority (in this case Council) is to arrange a public hearing on the issues raised in the submission”.

However, this legislative provision has been repealed.

The NSW Department of Planning & Environment’s Guide to Preparing Local Environmental Plans however still includes Section 6.5.3 Public Hearings which says that a Planning Proposal Authority (PPA), in this case Council, can decide to conduct a public hearing into any issue associated with a PP. A person making a submission on a PP can also request that a public hearing be held into the issues raised in their submission. If the PPA considers that the issues raised are of such significance that they should be the subject of a hearing, then PPA must arrange a public hearing.

Whilst there is no legislative requirement to hold a public hearing, it is prudent for Council to consider whether the issues raised in this submission are significant enough that they need to be the subject of a public hearing. The following comments are offered on relevant considerations in this regard:

Give proper consideration to the issues raised – The submission received from Cowman Stoddart Pty Ltd on behalf of the affected landowner is detailed and documents various comments and concerns regarding the PP. An overview of the information contained in the submission (full copy available for review in Councillors’ Room prior to meeting) is provided above and where relevant Council staff comment is provided on the issues raised. Thus, Council can properly consider the issues raised in determining whether to proceed with the PP.

Has landowner had sufficient opportunity to make representations about the proposed height limit change – The submission received from the landowner is a detailed focus of this report and he (or his representatives) will be afforded an opportunity to give a deputation to the

Committee when this matter is considered. This will provide a further opportunity for the landowner to make direct representations to the Committee on the PP.

Whether a public hearing would facilitate public debate about the desirability of the proposed change – A public hearing is not an end in itself. Its function would be to inform potential outcomes where the views of the community are not otherwise known. In this instance a Public Hearing would provide an additional opportunity for both the landowner and the community to express their views on the PP. However as outlined in this report there is widespread community support for the PP and the proposed height of 8.5m, no alternative commentary was received, other than from the landowner and his representatives. The debate has been conducted by the community already. As such it is unlikely that a Public Hearing would result in a change in community views on the PP or greater understanding of the issues.

Issues raised with PP – only one (1) of the two hundred and seventeen (217) submissions received by Council objected to the PP, raising several issues to support this objection. This submission was received from Cowman Stoddart Pty Ltd on behalf of the landowner. The issues raised are detailed in this report, along with Council staff commentary where relevant.

Would a Public Hearing assist Council to consider the issues raised in the submission – This would potentially provide an opportunity for the issues raised in the submission to be further outlined, discussed and documented. However, it is envisaged that these will most likely be the same as the points already raised in the written submission that Council has received. As such holding a Public Hearing may not actually further assist Council consider the issues being raised and is not likely to result in new matters that have not been considered.

Council essentially has two options in this regard to the Public Hearing request:

*Option 1 – Not hold a Public Hearing and proceed to consider the finalisation of the PP without one. If this option is taken it will be necessary to record Council's consideration of the request and its reasons for deciding why a Public Hearing is not required in this instance.*

*Option 2 – Resolve to hold a Public Hearing on the PP. This would involve giving notice of the Public Hearing arrangements in a local newspaper and letting relevant parties know the arrangements at least twenty-one (21) days) before the date of the hearing. The hearing would need to be independently chaired and a report prepared. The outcomes of the public exhibition period and the Public Hearing would then be reported to Council to consider.*

## Conclusions

There is obviously community interest in the subject land and the PP that has been exhibited as shown by the number of submissions that supported or commented on the proposal.

Council needs to consider the next steps that it wishes to take regarding the PP. In this regard as part of the submission from the affected landowner, that objected to the PP, it was requested that Council hold a Public Hearing prior to considering the finalisation of the PP.

As discussed in the report it may prudent to hold the requested Public Hearing before considering the finalisation, or otherwise, of the PP, noting the principal reason for doing so is that the issues raised are of such significance that they should be the subject of such hearing.

Also, as discussed in the report, should Council ultimately decide to proceed to finalise the PP, it would also be appropriate to consider applying a consistent mapped height of

buildings (e.g. 8.5m) to the other adjacent B4 and R1 zones in this location. This could be done via a stand-alone PP or as part of one of the Housekeeping PP's.

### **Community Engagement**

The PP was formally public exhibited in accordance with the Gateway determination from 27 February until 29 March 2019 (31 days) inclusive. This report details the submissions received as a result of the public exhibition.

Council has received a request to hold a Public Hearing regarding the PP and needs to decide whether to hold one. If a Public Hearing is held, this will provide a further opportunity for comment engagement.

### **Policy Implications**

Given that similar zones exist to the north and south of the subject land, Council needs to decide whether to also adjust the height of buildings provision for this similarly zoned land to reflect the outcome of this PP when determined.

This would ensure that a consistent height control also applies to the adjacent B4 and R1 zones, that are currently unmapped and rely on the general 11m height provision. This could be done as a standalone PP or as part of a future Housekeeping PP.

It is noted that most of the remaining B4 zoned land is vegetated and undeveloped. The R1 zone is however already partially developed as 1 to 2 storey development, with the remainder undeveloped and vegetated. There is the potential that applying a lesser height control (e.g. 8.5m) may be resisted by the affected landowners but may also be supported by the broader community given the issues that have arisen with the proposed development of the subject land.

### **Financial Implications**

This PP is currently being managed within the existing Strategic Planning budget.

### **Risk Implications**

The December 2018 Land & Environment Court Judgement regarding this PP is the subject of an appeal to the NSW Court of Appeal, the outcome of which is unknown at this point.

There is also the potential that if a Public Hearing is not held this could create grounds for further legal challenge.



**Planning Proposal [PP023] – Anson Street, St. Georges Basin  
Public Exhibition – 27 February until 29 March 2019  
SUBMISSIONS SUMMARY**

Sub. No	Doc. No.	Comment
1	D19/67254	<b>Support.</b> Object to current proposal (assume means development) for a vast list of reasons – tree removal, stormwater impacts, noise, privacy, car parking, height was wrongly raised etc.
2	D19/70058	<b>Support.</b> Strongly oppose development monstrosity. Development is out of character. Traffic and parking impacts. Impact on local wildlife and waterways. No infrastructure to support. Not suburb of Sydney/Wollongong. Came here to get away from high rise flats. Will impact land values.
3	D19/70066	<b>Support.</b> Current 13m out of character with local environment. Detrimental impacts – ugly 4 story buildings and existing infrastructure will not cope.
4	D19/70070	<b>Support.</b> Village primarily 1/2 storeys – 4 storeys out of character. Insufficient infrastructure to support increased population. Resultant traffic would be horrendous. Do not spoil area with 13m buildings.
5	D19/70623	<b>Support.</b> Reduced height will alleviate concerns. 13m out of character with area, will be eyesore. Will place tremendous strain on infrastructure/services. Development that is sympathetic to surroundings will enhance area.
6	D19/70631	<b>Support.</b> Alleviates concerns. 13m inconsistent with surrounding area. Development should be set at 8.5m, same as other buildings. 4 storeys will destroy character of area. Council needs to support residents and correct this issue.
7	D19/70917	<b>Support.</b> 4 storeys do not fit with areas character. Do not have infrastructure to support higher density housing. Would set a dangerous precedent. Current infrastructure and services are already inadequate. No reason for height limit above 8.5m
8	D19/70926	<b>Support.</b> Current 4 storey height not well thought out. Inappropriate development for area. Potential for pollution of Basin waterways. Traffic impacts. Infrastructure and services unable to cope. Negative impact on adjacent homes. Should be limited to 2 levels.
9	D19/70936	<b>Support.</b> Small village has buildings no higher than 2 storeys. Flood of new people cannot be supported. Extra traffic would be nightmare.
10	D19/71289	<b>Support.</b> Proposed height reduction consistent with existing and future desired character for village.
11	D19/71296	<b>Support.</b> Area is mainly 1-2 storeys. 4 storeys do not fit - do not have facilities to support the extra people and would change character forever. Housing should be kept at 2 storeys.
12	D19/71300	<b>Support.</b> Want to see 8.5m written into LEP. People do not come here for Surfers Paradise. Large development out of place and will have visual impacts. There will be traffic issues and considerable impact on immediately adjacent residents (sun/shade).
13	D19/71840	<b>Support.</b> PP is in keeping with current village atmosphere, infrastructure and constraints. Significant population increase in a confined area could not be supported. Concerns with how current 13m ended up in the LEP – was an unfortunate and hasty decision against staff advice. Anomaly needs changed.
14	D19/72126	<b>Support.</b> 4 storey flats out of character in village of 1-2 storey houses. Socio-economic problems will be exacerbated by high density housing. Access issues will worsen. Infrastructure/services will be strained. Please retain character/amenity and restrict height in LEP.
15	D19/72876	<b>Support.</b> Reduction in height will ensure lots developed in character with village and supports appropriate density.

16	D19/72920	<b>Support.</b> Densification is useful, but not without its problems. Need adequate infrastructure/facilities, otherwise kill character and create slum. Keep lower height until there is a full plan for liveability etc. 4 storeys without major infrastructure will have negative consequences.
17	D19/73677	<b>Support.</b> Area is mainly 1-2 storeys; 4 storey buildings do not fit character. Do not have the facilities to support the extra people. 13 metre development will change character forever.
18	D19/75010	<b>Support.</b> Do not have infrastructure/services to support large development and no public transport. Is not in keeping with low rise housing. No room for development of this kind – please reduce it.
19	D19/75101	<b>Support.</b> Proposed development completely at odds with village, would destroy its amenity/character. Social infrastructure would not support magnitude of 13m development. Privacy issues for adjacent houses. 1-2 storey development will maintain village ambience. Waterways should not be compromised as occurred with past developments.
20	D19/75833	<b>Support.</b> Impact issues – character, amenity and adverse effect on social infrastructure. Adverse impact on present/future residents. Detrimental to whole area.
21	D19/75856	<b>Support.</b> Oppose potential 13m development. Also oppose potential 11m buildings in areas that are 'uncoloured'. Height of buildings should not have been 'gifted' in the first place.
22	D19/76017	<b>Support.</b> Impact on village atmosphere. Potential for cheap housing close to pub, bottle shop etc. Not enough infrastructure to support. Current traffic issues. Protect scenic quality.
23	D19/76019	<b>Support.</b> 4 storeys unsuited to the natural environment and contrary to current development. Completely out of character. Should learn from previous development without right infrastructure.
24	D19/76021	<b>Support.</b> Infrastructure would not be able to cope in such condensed area. Height reduction in keeping with existing ambience.
25	D19/76026	<b>Support.</b> Reduced height will reduce number of units. Help alleviate overpopulation of area and infrastructure support. Believe proposed reduction has unanimous support.
26	D19/76028	<b>Support.</b> Reasons – consistent with character, supports right density, allows managed growth, protects scenic quality, available infrastructure and sympathetic to existing.
27	D19/76048	<b>Support.</b> Positive action to stop masterplan DA. Horrified by proposal for high rise flats in small village. Will change visual amenity, traffic etc. Waterway impacts. Lower height in line with other development in area. Please bring to a fruition.
28	D19/76051	<b>Support.</b> Reasons – consistent with other residential zones, more sympathetic development, allows managed growth and supported by infrastructure
29	D19/76054	<b>Support.</b> Proposed height reduction sympathetic to existing dwellings and natural features.
30	D19/76311	<b>Support.</b> Will allow development that is more consistent with area. Need to consider sustainable development, infrastructure, community services etc. Even under the new proposal there will be impacts. Who will fill the units – is there even demand? Not convinced development is in community interest.
31	D19/76491	<b>Support.</b> 4 storeys out of character. If development goes ahead will destroy character of area. Traffic impacts/issues.
32	D19/77001	<b>Support.</b> Buildings should be consistent with existing character. Bigger is not better.
33	D19/77008	<b>Support.</b> Proposed height more in keeping with area. 4 storeys would be ridiculous – area will not cope. Design should not overshadow houses. Off street parking needs to be available.

34	D19/77668	<b>Support.</b> Local infrastructure does not support high density housing and it is not in keeping with the area.
35	D19/77670	<b>Support.</b> Lowering building heights is in keeping with rest of area.
36	D19/77673	<b>Support.</b> Existing height allows development that would totally contrast with surroundings. Loss of privacy and village atmosphere. Local roads and services are not adequate.
37	D19/77674	<b>Support.</b> Proposed height sympathetic to existing build form/natural environment. Helps retain character and allows appropriate growth given lack of infrastructure.
38	D19/78707	<b>Support.</b> 8.5m height is ok, not too much high rise – 4 storeys too high. Will the area, roads and services cope – hope so. Present proposal better.
39	D19/78712	<b>Support.</b> Do not support flats, live in area for natural settings/beauty.
40	D19/78717	<b>Support.</b> Area not large enough to carry density of 13m. Current proposal is correct height given inadequate infrastructure/services.
41	D19/79017	<b>Support.</b> Height more in keeping. Help overstretched infrastructure cope. Traffic congestion. Area cannot cope with high density development.
42	D19/79024	<b>Support.</b> Lower height crucial. Infrastructure cannot cope with high density. Services cannot cope with current proposed development. 1-2 storeys adequate.
43	D19/79340	<b>Support.</b> More in keeping with existing character. Infrastructure issues would be exacerbated. Pressure on local services. Speak to Police and community services re social issues. Listen to community. Precedent would extend to other villages.
44	D19/79465	<b>Support.</b> Will return to appropriate density/character. Will not overburden on services and community facilities.
45	D19/79467	<b>Support.</b> Is in keeping with existing homes/buildings. Sit in landscape better. Moved for quiet/relaxed development that single level dwellings allow.
46	D19/79469	<b>Support.</b> Developments need to be in sympathy with existing building form/beautiful natural features.
47	D19/79474	<b>Support.</b> Put adjacent retirement village first, even 2 storey developments will block sunlight. Put people first.
48	D19/80224	<b>Support.</b> Precedent concerns. Not sufficient infrastructure. Should be 2 storey development.
49	D19/80850	<b>Support.</b> More sympathetic and consistent with existing. Enable appropriate density. Infrastructure impacts.
50	D19/81057	<b>Support.</b> Proposed height in keeping with existing. Will sit better with what's there and be more sympathetic. Allows for appropriate growth consistent with infrastructure.
51	D19/81215	<b>Comment.</b> Not enough jobs or infrastructure to support number of flats.
52	D19/81216	<b>Support.</b> 4 storey flats do not fit in a 1-2 storey area. Infrastructure and facilities cannot support resulting influx.
53	D19/81218	<b>Support.</b> Trust Council will act according to the wishes of community and lower height to 8.5m. Numerous reasons this is the right decision – more sympathetic with existing built form/natural features, lessen impacts of population influx and 4 storey development does nothing for local community.
54	D19/81464	<p><b>Object.</b> <i>Cowman Stoddart Pty Ltd for Landowner Mr DeBattista.</i></p> <p>Change applies only to land owned by client – submission prepared on his behalf objecting to the PP. Note it does not propose to amend building heights over any other lands. The submission provides detail on the following reasons provided for objection:</p> <ul style="list-style-type: none"> <li>• Ad hoc Planning Proposal</li> <li>• Inconsistency with s117 Directions</li> <li>• Inconsistency with broader strategic planning framework</li> <li>• Desired character of development</li> <li>• Feasibility analysis</li> </ul>

		Submission concludes that there is insufficient strategic planning merit to justify the PP. As such suggests it should not proceed and not be supported by Council. If Council, however decides to proceed, request a public hearing, with results to be considered before Council decides whether to make the plan.
55	D19/81476	<b>Comment.</b> Traffic already horrendous, do not need extra. Height of buildings does not fit character. Will be eyesore.
56	D19/82572	<b>Support.</b> Area not set up for high rise buildings. Local infrastructure/services do not make 13m viable. As such support 8.5m.
57	D19/82710	<b>Support.</b> Height is more consistent with existing/future desired character. Allows reasonable growth. More appropriate density. Will correct short sighted 2011 decision.
58	D19/82723	<b>Comment.</b> Development should not be allowed to spoil area. Will be start of other similar proposals. Love the area and believe it should be kept as is.
59	D19/82955	<b>Support.</b> Height reduction will make development sympathetic to existing and future character. Realistic approach to development given infrastructure.
60	D19/82956	<b>Support.</b> Lower height will not take further from the natural environment. Is important to locals. Do not want high rise destroying Bay & Basin.
61	D19/82957	<b>Comment.</b> Totally against 14m, not needed in area. Service impacts. Nothing in area like this. Please let height be 8.5m
62	D19/82958	<b>Support.</b> Allows more careful planned growth. Will protect natural scenic quality. Present infrastructure doesn't support high density.
63	D19/83262	<b>Support.</b> Do not want/need the developers proposal. Seen ugliness of Sydney development. Lack of infrastructure. High level of vacant units/flats.
64	D19/83889	<b>Support.</b> Distressed about out of character 4 storey buildings. Put strain on services/infrastructure. Ambience should be protected.
65	D19/84153	<b>Support.</b> Character, introduction of overcrowding, uncertain use of housing, few jobs and other impacts (public transport, traffic and schools).
66	D19/84194	<b>Support.</b> Do not want grossly unnecessary over the top development. Aesthetically ugly and place pressure on the area.
67	D19/84202	<b>Support.</b> Continue to object to developer's proposals. Support height reduction, will lessen environmental impact. Will still potentially be eyesore and impact quality of life. Traffic already increased, and vegetation removed.
68	D19/84216	<b>Support.</b> Lowering height will address points of objection to previous DA. Will help ensure sympathetic development and appropriate density.
69	D19/84576	<b>Comment.</b> Development size/scale inappropriate. Burden roads and infrastructure. Proximity to licenced premises will foster anti-social behaviour.
70	D19/84951	<b>Support.</b> Objections to 4 storey developments well documented. Facilities cannot support. More services needed. Hundreds of valid reasons to deny.
71	D19/84959	<b>Support.</b> More consistent with existing/future character. More sympathetic building form. Allows suitable population growth. Hear community.
72	D19/84966	<b>Support.</b> More consistent with existing/future character. More sympathetic building form. Allows suitable population growth. Hear community.
73	D19/84984	<b>Support.</b> Make buildings more consistent with others and less out of character. More sustainable and supported by infrastructure.
74	D19/85070	<b>Support.</b> Was grave error to increase heights. Rectify. Current height encourages out of character development - Multi-level development will change completely. More suited to Nowra/Ulladulla. Social Impact issues – services cannot cope.
75	D19/85072	<b>Support.</b> Grave error to increase heights. Rectify. Current height encourages out of character development. Multi-level development will change completely – more suited to Nowra/Ulladulla. Social Impact issues – services cannot cope.
76	D19/86085	<b>Support.</b> <i>Basin Villages Forum (CCB).</i> 13m height was an erroneous previous decision without planning documents to support. The proposed height of 8.5m is supported by infrastructure, consistent with existing/desired

		character, sympathetic with existing built form and natural features, allows sustainable growth that is planned/managed, an appropriate density, protects/improves scenic quality, does not sterilise the land by allowing economically non-viable development and recognises intent of strategic planning documents for the site. Look forward to its approval.
77	D19/86445	<b>Comment.</b> Object to proposed development – too dense and does not blend with village environment. Too soon for area and available facilities. Local infrastructure and services are minimal or full. Area already has low cost housing. Run off will be exacerbated. Smaller development of villas/townhouses and some shops would be better.
78	D19/86451	<b>Comment.</b> Development should match current residential character. High rise will obstruct visual connection with Basin. Unprecedented departure from current 1-2 storeys. Infrastructure impacts. Lesser height will reduce impacts.
79	D19/86456	<b>Support.</b> Lowering height will benefit surrounding area, especially Rosedale Village. Keep beautiful area way it is.
80	D19/86701	<b>Comment.</b> Consistent with existing/future character. Protects/improves scenic quality. Supported by available infrastructure.
81	D19/87106	<b>Comment.</b> Live near, object to height. Block views to Basin. Area does not suit apartment blocks. 3 levels are more than should be allowed, but better than 4.
82	D19/87143	<b>Support.</b> Buildings will ruin village appearance/character. Large buildings in small area will lead to population increase that has not been catered for.
83	D19/87923	<b>Comment.</b> Condemn proposal for 14 blocks of 4 storey flats – inconsistent with existing/future character, not sustainable growth, not supported by infrastructure/services, destroy natural environment and create traffic impact.
84	D19/87978	<b>Support.</b> Development concerns – not enough infrastructure/services, buildings will detract from environment and should not be approved.
85	D19/88036	<b>Comment.</b> Spirit of compromise – reduce height to 8.5m at least. Will correct inadvertent previous decision. Insufficient services/infrastructure. Other impacts on adjoining residents – safety, noise, privacy etc.
86	D19/88463	<b>Comment.</b> Moved to area to get away from high density. Height is out of character with setting – 2 storeys better suited.
87	D19/88535	<b>Support.</b> Reaffirm previous objection to height above 8.5m. The lay of the land should be considered in setting a suitable height.
88	D19/88921	<b>Support.</b> Regional areas do not need buildings above 8.5m. Multi storey development will be a blight and place pressure on resources. Many reasons for supporting a reduced height.
89	D19/88932	<b>Comment.</b> High rise unwelcome. Left Sydney for quieter lifestyle – high rise not consistent with the area and environment.
90	D19/88938	<b>Support.</b> Out of character. Overcrowding that is not needed. Impact on services/infrastructure. Few employment opportunities. Limit to 8.5m
91	D19/89001	<b>Comment.</b> Social and infrastructure impacts. Water quality and noise impacts. Height will shade Rosedale Village.
92	D19/89001	<b>Comment.</b> Concerned about social and infrastructure impacts. Water quality impacts. Illegal vegetation removal. Height will shade Rosedale Village.
93	D19/89019	<b>Support.</b> 14 blocks of 4 storey flats will be totally out of character. No infrastructure. 8.5m is better fit.
94	D19/89031	<b>Support.</b> 4 Storey heights totally out of character. Would not fit.
95	D19/89041	<b>Support.</b> Regional areas no need for buildings above 8.5m. Multi storey development would be a blight and place pressure on resources. Many reasons for supporting a reduced height.
96	D19/89054	<b>Comment.</b> High rise units not answer. Parking issues. Lack of employment and public transport. School capacity. Shade impact on adjoining.
97	D19/89573	<b>Comment.</b> Current development density not suited to area. No infrastructure support. Mix of 1 - 2 storey developments better suit the area.



98	D19/90231	<b>Comment.</b> Not kind of development that's needed. Traffic/parking issues. Environmental impacts. No infrastructure/services support. Impacts on adjacent retirement village. Not suburb of Sydney – retain village feel.
99	D19/90242	<b>Support.</b> Consistent with character. Sympathetic to natural features. Allows appropriate density/population. Protects scenic quality.
100	D19/90510	<b>Support.</b> Current proposed development out of character.
101	D19/90735	<b>Support.</b> People will lose sun. Retain nice place to live and enjoy view.
102	D19/70631	<b>Support.</b> Will alleviate resident concerns. 13m totally inconsistent with surroundings. Apartment blocks not wanted/needed. Support appropriate density through lower height of 8.5m.
103	D19/70623	<b>Support.</b> Will alleviate concerns. 13m totally out of character. Apartment blocks not wanted or needed. Want development that compliments area and is sustainable
104	D19/91659	<b>Support.</b> 13m development will not benefit the community – damage amenity/character/ecology, lack of infrastructure support, lifestyle impacts and adverse impact on immediate neighbours. Height reduction essential.
105	D19/92621	<b>Support.</b> Do not have infrastructure to support 4 storey buildings and associated population increase.
106	D19/92646	<b>Comment.</b> Live close by. Want see height and mass lowered – reduce impact and provide outcome that is close to surrounding environment.
107	D19/92878	<b>Support.</b> Lower height of 8.5m consistent with existing character, amenity and infrastructure. Presents a compromise and more acceptable than the current 13m that will potentially create traffic, service and population impacts.
108	D19/92879	<b>Support.</b> Potential 30% increase in population - pressure on infrastructure and services (e.g. Schools, emergency services). Traffic impacts. Overshadow retirement village. Development should have regard to others. Potential precedent and lifestyle impacts.
109	D19/92880	<b>Support.</b> Apprehensions - threat to village community. Lower height will lessen this, still worried about population increase and associated consequences – pressure on infrastructure and precedent for similar developments. Protect amenity of small coastal villages.
110	D19/92934	<b>Support.</b> 4 storeys will ruin areas feel. Impacts on the Basin. No employment and potential social issues. Impacts on roads and services. More than 2 storeys will ruin areas look/feel.
111	D19/92941	<b>Support.</b> 2 storeys but nothing more. Don't ruin peaceful area. No employment and roads cannot cope. Medical facilities non-existent. Need careful planning/management, not 4 storey buildings.
112	D19/92962	<b>Comment.</b> Happy to hear 3 storeys. Would prefer 2. Do not need 4 storeys in such a beautiful area.
113	D19/93033	<b>Comment.</b> 4 storeys do not fit areas character.
114	D19/93766	<b>Support.</b> Lower height more consistent with existing/desired character. Will alleviate environmental concerns and more sympathetic. Allows planned/managed growth.
115	D19/93767	<b>Comment.</b> Object to proposal at Anson Street. Height is out of keeping with areas feel. Overshadow adjacent properties. Infrastructure will not cope, services overstretched.
116	D19/93768	<b>Support.</b> Inconsistent with existing and future desired character.
117	D19/93769	<b>Support.</b> Area mainly 1-2 storeys – 4 does not fit character. Area does not have facilities to support. Will change character of area forever.
118	D19/93770	<b>Support.</b> Would be in keeping with area. Sympathetic to existing built form. An appropriate density. Allows planned/managed development.
119	D19/93771	<b>Comment.</b> Grossly unsuitable. Shadow neighbours. Totally out of character. Insufficient infrastructure. Existing housing will lose value.

120	D19/93772	<b>Support.</b> Important to inhibit 4 storey developments – needs stopped/curtailed. Would be inconsistent and eyesore. Ecological impacts. Strain on infrastructure.
121	D19/93773	<b>Support.</b> 4 storey developments - ugly and inappropriate. Detract from areas natural beauty. Roads cannot cope either.
122	D19/94971	<b>Support.</b> Keeps to existing built form and natural features. Allows planned, managed and sustainable growth.
123	D19/94981	<b>Comment.</b> 4 storey flats do not fit natural areas features. Infrastructure does not support new tenants.
124	D19/95055	<b>Support.</b> Affects residents of Rosedale Village complex. Character impacts, overcrowding, uncertain use of apartments and few jobs/services to support. Precedent concerns.
125	D19/95312	<b>Support.</b> Affects residents of Rosedale Village complex. Character impacts, overcrowding, uncertain use of apartments and few jobs/services to support. Precedent concerns.
126	D19/96275	<b>Support.</b> Proposed height in keeping with single storey character. 4 storeys unnecessary and unwanted. Respect community wishes and lower
127	D19/96278	<b>Support.</b> Oppose development. Keep submitting same objections over.
128	D19/96280	<b>Support.</b> Help maintain character consistency. More acceptable than 13m – impact on road network, population pressures, service impacts etc.
129	D19/96289	<b>Support.</b> Help maintain character consistency. More acceptable than 13m – impact on road network, population pressures, service impacts etc.
130	D19/96293	<b>Support.</b> 13m inconstant with existing and detract from character.
131	D19/96296	<b>Comment.</b> Character impacts, not in keeping with surrounds, loss of privacy/overshadowing, noise impact, pressure on services, traffic impact etc.
132	D19/96298	<b>Support.</b> Character, traffic problems, local infrastructure/services etc. impacts. Social disaster that would only benefit developer.
133	D19/96301	<b>Support.</b> What was behind original height? Pleased to see area kept low density. Keep unreasonable development away.
134	D19/96303	<b>Support.</b> <i>No reasons given.</i>
135	D19/96318	<b>Support.</b> Consistent with existing/future charter, listen to locals.
136	D19/96322	<b>Comment.</b> Beauty of St.Georges Basin will be lost. Do not allow massive high-rise to be built. Listen to people and lower heights.
137	D19/96326	<b>Support.</b> 13m not in keeping. Protect existing/future character. Density and population increase concerns. Existing infrastructure does not support.
138	D19/96329	<b>Support.</b> Oppose 14 blocks of 4 storey flats. Concerned about construction impacts and shadowing on adjacent Rosedale Village. Other concerns – no employment, noise privacy, traffic impact and social services.
139	D19/96422	<b>Support.</b> Original development magnitude not conducive to area – infrastructure does not support. Maintain character of village.
140	D19/96429	<b>Support.</b> Over development would ruin village. Traffic, environment and social impact concerns.
141	D19/96466	<b>Support.</b> Out of character, introduce overcrowding, uncertain demand and few jobs/infrastructure/services. Precedent concerns.
142	D19/96469	<b>Support.</b> Infrastructure does not support 13m development. Would change character forever. No transport/employment options.
143	D19/96545	<b>Comment.</b> Oppose 13m development – infrastructure support, high unemployment, limited police present, health service impacts, stormwater drainage issues, pressure on schools and local traffic
144	D19/96638	<b>Support.</b> Current height inconsistent with existing character. Lead to overcrowding/congestion. No infrastructure support.
145	D19/96645	<b>Support.</b> In keeping with natural features/other dwellings. Consistent with infrastructure. Road system already congested.



146	D19/96651	<b>Support.</b> <i>Jervis Bay Regional Alliance</i> . Will resolve an erroneous decision. There was no justification for the original change. Proposed height is: supported by infrastructure, an appropriate density, recognises intent of strategic documents, allows careful urban growth and does not sterilise land. Congratulate Council on initiative
147	D19/96964	<b>Support.</b> <i>Form letter (x13 – some signed twice) – Residents of Aveo Retirement Village</i> . Affects their complex. Out of character, introduce overcrowding, uncertain demand and few jobs/infrastructure/services. Precedent concerns.
148	D19/96978	<b>Comment.</b> Worried about impact on village environment. Traffic impacts and weakening of social structures. Want sympathetic outcome.
149	D19/96980	<b>Comment.</b> Constructing units will change way of life. Area does not need high density – range of impacts that will impact on lifestyle.
150	D19/97384	<b>Comment.</b> 4 storeys outside CBD zoned areas ridiculous. People accept that other areas are less populated and have less services. Worried about Jervis Bay intersection. Limit height.
151	D19/97393	<b>Comment.</b> Must reduce height to curtail unfortunate development. 4 storeys not harmonious with character. Protect natural scenic quality. Listen to community. Curtail number of units and reduce strain on infrastructure/environment. Reduce to 8.5m.
152	D19/97400	<b>Comment.</b> Oppose 4 storey development. Infrastructure will not cope. Social problems. Protect village atmosphere.
153	D19/97404	<b>Support.</b> Interest of one person for capital gain – “one off” exemption made. Community want it undone. Impact concerns. More appropriate locations.
154	D19/97464	<b>Support.</b> 8.5m consistent with character, appropriate density, protects scenic quality, supported by infrastructure, sympathetic built form, allows growth, does not sterilise land and recognises intent of strategic planning documents.
155	D19/97498	<b>Comment.</b> Range of traffic/access issues. High density would add to this. Delay development to fund improve Kerry Street/Paradise Beach Road intersection.
156	D19/97518	<b>Comment.</b> Oppose development in any shape.
157	D19/97525	<b>Support.</b> Object to proposed development. Wrong in many ways – density, too much growth, impacts scenic quality, infrastructure support. Last resort reduce height.
158	D19/97533	<b>Comment.</b> Development not consistent with character, infrastructure and scenic quality.
159	D19/97536	<b>Support.</b> Buildings will no longer be aesthetically out of place, not same infrastructure pressure, detrimental impact on Rosedale Village reduced.
160	D19/97551	<b>Support.</b> Allows planned/sustainable growth, sympathetic to existing built form/natural features and consistent with character.
161	D19/97623	<b>Comment.</b> Oppose 13m development – infrastructure does not support, services cannot cope, high unemployment, lack of police, health service/school impacts, stormwater problems and traffic impacts.
162	D19/97809	<b>Support.</b> <i>No reasons given.</i>
163	D19/97820	<b>Support.</b> Overdevelopment should not be permitted – inadequate transport and employment opportunities.
164	D19/97825	<b>Support.</b> Aveo Retirement Village residents - affects their complex. Out of character, introduce overcrowding, uncertain demand and few jobs/infrastructure/services. Precedent concerns.
165	D19/97899	<b>Comment.</b> Object to development over 2 storeys. Protect scenic amenity.
166	D19/97905	<b>Support.</b> Lower height is in line with existing buildings/character. Also help infrastructure cope.
167	D19/98212	<b>Support.</b> Affects Rosedale complex. Out of character, overcrowding, uncertain demand and few jobs/infrastructure/services. Precedent concerns.

168	D19/98226	<b>Support.</b> 13m was erroneous decision. 8.5m supported by infrastructure, sympathetic to existing built form/natural features, allows managed growth, does not sterilise land through non-viable development and recognises strategic planning intent.
170	D19/99417	<b>Support.</b> Aveo Retirement Village residents. Affects their complex. Out of character, introduce overcrowding, uncertain demand and few jobs/infrastructure/services. Precedent concerns.
171	D19/99593	<b>Support.</b> 2 stores nothing more. Nice peaceful place – 4 storeys will ruin that. Flora/fauna impact. Water pollution. No employment. Road issues. Who will live there? Need careful planning that suits area.
172	D19/99598	<b>Support.</b> Height reduction essential. Development should fit community needs/desires.
173	D19/99608	<b>Support.</b> 4 storey developments incongruent to everything around – sudden population increase, limited infrastructure and to no one's advantage (other than developer). Precedent concern is great – risk character of areas. Height and number of units should be reduced.
174	D19/100309	<b>Support.</b> 1-2 storey character, ruin it with 4 storey apartments. Need infrastructure/amenities to support. Cart before horse.
174	D19/100310	<b>Comment.</b> Object to 4 storeys. Change character forever. Facilities/infrastructure do not support.
175	D19/100312	<b>Support.</b> Consistent with character and current built form. Protect scenic quality. Will reduce noise pollution and shadowing on adjacent.
176	D19/100529	<b>Support.</b> 4 storeys not in keeping with village atmosphere, block sunlight, create overcrowding, spoil holiday area an impact on tourism.
177	D19/100531	<b>Support.</b> 4 storeys not in keeping with village atmosphere, block sunlight, create overcrowding, spoil holiday area an impact on tourism.
178	D19/100532	<b>Support.</b> 4 storeys do not fit character. Infrastructure/facilities does not support. Would change character forever.
179	D19/100538	<b>Comment.</b> If approved area will be slum. High density not conducive. People come for relaxed life, don't want high rise – eyesore and devalue area.
180	D19/100541	<b>Comment.</b> If approved area will be slum. High density not conducive. People come for relaxed life, do not want high rise – eyesore and devalue area.
181	D19/100542	<b>Comment.</b> Against high rise apartments. Height/density will spoil area.
182	D19/100543	<b>Support.</b> Stop the building of high rise. Will spoil areas scenic nature.
183	D19/100546	<b>Comment.</b> Object to development. Unemployment, destroy views, no support infrastructure and cause traffic problems. Unfair to existing residents.
184	D19/100554	<b>Support.</b> Tall buildings – out of character, determinantal impact. Impact community/infrastructure. Crams people in - only benefits developer.
185	D19/100562	<b>Support.</b> Consistent height for broader area. Higher buildings will have negative impact and out of place. Bushland destruction. Negative impacts.
186	D19/99905	<b>Comment.</b> Influx of people – lack jobs, facilities, services. Set infrastructure in first before people come. Do not spoil area.
187	D19/99902	<b>Support.</b> Nowhere else is above 2 storeys locally. This is consistent with character. Question viability – 13 vacant buildings with no occupation?
188	D19/99897	<b>Comment.</b> Consistent with character. Sympathetic to natural/built features. Allows managed growth. Appropriate density. Infrastructure support. Social integrity. Hear community desires for village.
189	D19/99893	<b>Support.</b> 4 storeys do not fit. Facilities do not support. Will change character.
190	D19/99888	<b>Support.</b> 13m is out of character. Support urban consolidation but needs employment/infrastructure. Tourism impacts. Traffic problems. Water quality impacts on Basin. Visual eyesore. Poor decision – take back to 8.5m
191	D19/99883	<b>Comment.</b> Object to proposed development in low density area. Impact on adjacent Rosedale Village – sunlight/noise. Traffic impacts. Compromise wat of living. Put community before money.
192	D19/99880	<b>Support.</b> No reasons given.

193	D19/99873	<b>Comment.</b> Consistent with character. Sympathetic to natural/built features. Allows managed growth. Appropriate density. Infrastructure support. Social integrity. Hears community. Sense of space.
194	D19/99871	<b>Support.</b> Stop current proposal. Would be completely out of character. Lower heights more sympathetic, allow appropriate density etc.
195	D19/99866	<b>Support.</b> Change needs to be consistent with existing/desired future character. Not against progress, but development should be managed/appropriate.
196	D19/99863	<b>Support.</b> Infrastructure does not support population. Issues with roads and local services. Want to see area grow, but not with high density.
197	D19/104661	<b>Support.</b> <i>Community Petitions – 483 Signatures (2 written x 365 signatures and 1 online x 118 signatures).</i> Lower height consistent with existing zones. Buildings will be more sympathetic. Allows careful/managed growth supported by infrastructure.
198	D19/102219	<b>Comment.</b> 4 storey developments out of character. Create social issues, pressure on – transport, traffic congestion, employment, emergency services, medical services, schools, recreation area and community services. Noise pollution. Overshadowing.
199	D19/102220	<b>Support.</b> Proposed development not in keeping. Based on greed, not impacts on local population.
200	D19/102222	<b>Support.</b> 8.5m more appropriate for site. Bring it back in line with DCP No.17 – character and infrastructure support.
201	D19/10223	<b>Comment.</b> Cannot think of anything that's right with building proposal. Does not fit area. Unmanageable population increases. Facilities/infrastructure wont cope. Get development right.
202	D19/102225	<b>Support.</b> Oppose development in entirety, but proposal goes some way to be more in keeping with local environment/infrastructure.
203	D19/102226	<b>Support.</b> <i>No reasons given.</i>
204	D19/102227	<b>Support.</b> Current height out of character. Value current environment/community. Services will struggle. Traffic problems, limited childcare etc. High density more suitable in Nowra and Ulladulla CBD's close to amenities and where infrastructure exists.
205	D19/102229	<b>Support.</b> <i>No reasons given.</i>
206	D19/102232	<b>Support.</b> Multi story buildings a blight on landscape. Place additional load on services/infrastructure. Many aesthetic, engineering and social reasons for supporting reduced height.
207	D19/102235	<b>Support.</b> Responsible development that considers community. Height encourages more appropriate development. Development is a blatant attempt to exploit a favourable exception. 4 storey developments would set a dangerous precedent, be out of keeping with existing low density, impact on social/community infrastructure etc. No definitive presentation that makes current proposed development viable.
208	D19/102237	<b>Comment.</b> 4 storeys will impact on so many levels – environment, social and infrastructure.
209	D19/102284	<b>Support.</b> Affects Rosedale Village. Out of character, Overcrowding, Uncertain use. Few jobs. Infrastructure impacts. Precedent concerns.
210	D19/102363	<b>Support.</b> <i>No reasons given.</i>
211	D19/103329	<b>Support.</b> Current height is out of character. Will impact in a negative fashion – infrastructure, property values and quality of life.
212	D19/103371	<b>Support.</b> 8.5m consistent with character, an appropriate density, supported by infrastructure, protects/improves scenic quality, allows sustainable growth, does not sterilise land and recognises current strategic planning.
213	D19/103869	<b>Support.</b> 4 storeys out of character with existing height. Poor public transport. Infrastructure is inadequate, ratepayers would subsidise.

214	D19/103915	<b>Support.</b> Current concept will not fit in. Reduced height - more sympathetic/consistent. Managed growth supported by infrastructure.
215	D19/103921	<b>Support.</b> Current concept will not fit in. Reduced height - more sympathetic/consistent. Managed growth supported by infrastructure.
216	D19/104994	<b>Support.</b> 8.5m consistent with existing residential zones. Buildings will be more sympathetic to existing built form/natural features. Allows careful managed/planned growth. Supported by infrastructure.
217	D19/105009	<b>Support.</b> 8.5m consistent with existing residential zones. Buildings will be more sympathetic to existing built form/natural features. Allows careful managed/planned growth. Supported by infrastructure.

## DE19.31 Exhibition Outcomes - Draft Council Policy - Electric Vehicle (EV) Charging Stations on Public Land

**HPERM Ref:** D19/47332

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:** 1. Public Exhibition Submission Summary [↓](#)  
2. Draft Electric Vehicle Charging Stations on Public Land Policy - Post Exhibition Changes [↓](#)

### Purpose / Summary

Consider the submissions received during the public exhibition of the Draft Electric Vehicle Charging Stations on Public Land Policy (draft Policy) and finalise the Policy.

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

That Council:

1. Adopt and finalise the draft Electric Vehicle Charging Stations on Public Land Policy, as exhibited, with the inclusion of changes identified in **Attachment 2**.
2. Advise key stakeholders and those that made submissions of this decision.
3. Continue to consider Electric Vehicle policy developments and opportunities as they arise.

### Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will establish a policy position to guide the potential installation of electric vehicle (EV) charging stations on public land in Shoalhaven.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and/or could postpone the adoption of the policy regarding the installation of EV charging stations on public land.

3. Not proceed with the policy.

Implications: This option is not preferred as it will mean that Council does not have a policy position to guide prospective providers and decision makers in the installation of EV charging stations on public land.

## Background

Several prospective providers of EV charging stations (e.g. NRMA, ActewAGL) have previously approached Council to install EV charging stations on public land. As Council has no clear position on EV charging stations, the proposals have not progressed at this point.

On 27 March 2018, Council resolved (MIN18.199(2)) to:

*Prepare a policy position on the Electric Vehicle Charging facilities that seek to use public land, including public reserves, road reserves, car parks and other freehold land used as open space.*

On 13 November 2018, Council resolved (MIN18.917) to:

1. *Endorse the Draft Electric Vehicle (EV) Charging Station on Public Land Policy and publicly exhibit for a period of 28 days;*
2. *Notify key stakeholders of the exhibition arrangements; and*
3. *Receive a further report on the outcome of the public exhibition and to finalise the Policy.*

It is important to note that the following relevant developments have taken place since November 2018:

- The NRMA selected a private site (Berry Bowling Club) for the installation of an EV charging station in Berry and this has opened.
- Infrastructure Australia has identified that an EV charging network is a high priority.
- The NSW Government has released the [NSW Electric and Hybrid Vehicle Plan](#) which is a significant advancement in Government policy in support of EVs and EV charging infrastructure. In relation to EV charging stations the key actions include:
  - Co-invest in fast chargers in regional NSW on major regional corridors (this is largely private sector driven).
  - Co-invest in fast chargers in commuter car parks (this is largely private sector driven).
  - Adopt preferred charging standards (note: the draft Policy contains standards that are consistent with current NSW Government position).
  - Develop guidelines for the installation of charging points in road side service centres.
  - Support EV charging through strategic land use planning and guides.
- The NSW Government (Transport for NSW) has opened the 'NSW Electric Vehicle Charging Program' which aims to facilitate and engage in partnerships between the public and private sector for the delivery of EV charging stations across metropolitan commuter carparks and key regional road networks (including the Princes Highway, for example).

## Community Engagement

In accordance with the November 2018 resolution, the draft Policy was publicly exhibited for a period of forty-one (41) days, from 12 December 2018 to 1 February 2019. The exhibition period was extended to give ample opportunity for community and stakeholder feedback over the Christmas period.

The public exhibition material included an explanatory statement and a copy of the draft Policy which could be viewed at Council's:



- Administration centres in Nowra and Ulladulla.
- Website exhibition page.
- Website ‘Get Involved’ page (166 visits).

The following key stakeholders were directly notified of the exhibition and were invited to make comment:

- All Community Consultative Bodies (CCBs).
- Business and Tourism Chambers.
- Industry Representatives.
- All prospective providers of EV charging station infrastructure who had previously approached Council (e.g. NRMA).
- Member Councils of the ‘Cities Power Partnership’.
- Technical experts in the EV sphere.

Five (5) submissions were received during the exhibition period, including submissions from Clr Wells (No.1), Wingecarribee Shire Council (No.3) and Kangaroo Valley Community Association/Kangaroo Valley Chamber of Tourism & Commerce (No.5).

All submissions were supportive of the development of the policy and the provision of EV charging infrastructure in Shoalhaven.

A detailed summary of the submissions with Council staff comment is provided in **Attachment 1**. Copies of the actual submissions received will be available for review in the Councillors Room prior to the meeting.

Where relevant, the submissions have informed proposed amendments to the exhibited draft Policy which are shown at **Attachment 2** and are briefly summarised below:

- ‘draft’ will be removed from the Policy.
- Include provisions that link the Policy to the NSW Government’s *Future Transport 2056* document for consistency.
- Delete the following Glossary Items (as they are redundant and/or superseded):
  - CCS (Combo 2) Connector.
  - Type 1 Connector.
  - Type 2 Connector.
- Add the following Glossary Items:
  - Ancillary Infrastructure.
  - CCS2 (this replaces CCS (Combo 2) Connector)
  - CHAdeMO.
  - Type 2 Socket.
- Specify that Council does not have to be part of a competitive or expression of interest process if directly providing EV charging stations on public land.
- Specify that the electricity network can be upgraded to be suitable for a relevant EV charger (at the cost of the applicant) if it does not have existing capacity.
- Include provisions for consideration of reliable cellular/mobile network – efficient operation of an EV charging station relies on this.
- Clarify that any associated signage must be consistent with relevant standards.



- Update Section 6.3 for consistency with industry standards based on further advice from technical experts and consideration of *Future Transport 2056*.
- Update Section 7 to include Sub Section 7.1 *Terms of Lease Licence*, and Sub Section 7.2 *Public/Private Partnership* – to clarify that a lease/licence is required, fees may be charged and to provide a mechanism for Council to enter into partnership agreements for the installation and operation of EV charging station infrastructure, if desired.
- Associated administrative changes.

The proposed amendments to the exhibited document (deletions and additions) are clearly highlighted within **Attachment 2**.

### **Financial Implications**

The finalisation of the Policy will be managed within existing budgets.

All costs associated with the installation of EV charging stations (and related infrastructure) on public land will be at the cost of the applicant. This also applies to the maintenance and future decommissioning of any EV charging station (and related infrastructure) on public land, if required by Council.

Specific detail relating to financial charges, leases and licencing is not included in the draft Policy; however, there is adequate provision for Council to impose specific fees, lease and licence agreements and to enter into partnerships etc. on a case-by-case basis as proposals arise.

### **Risk Implications**

The draft Policy will assist to mitigate against the potential piecemeal use of public land for EV charging stations, unmitigated environmental impacts, inadequate network of EV infrastructure for users and loss of tourism potential.

The Policy will be revised and updated as needed when EV policy, provision, use etc. continues to evolve and emerge.

*Draft Electric Vehicle Charging Stations on Public Land Policy – Public Exhibition Submission Summary*

Number	Submission	Comments
1.	Do the fair and equity provisions apply if Council is proposing a station?	There would be merit in rewording the Policy to exclude Council from complying with the fair and equity process. Section 4 has been updated accordingly.
	Can Council receive a portion of the fees in addition to the lease fee or in lieu of?	It is intended that a lease agreement/contractual agreement would ensure there is at least neutral financial impact for Council. There would be merit in an amendment to Section 7 so that potential public/private partnerships are not discounted. A new Section 7.2 has been included in this regard.
	The policy is mute on promotion, marketing, signage (including associated infrastructure) at other locations – this is also to comply with relevant standards.	Section 6 of the draft Policy provides for this. Minor updates to Section 6 will clarify that it applies to associated infrastructure at the charging site and at other locations.
2.	Commendable. Anything to facilitate EV's is of benefit to the environment and economy.	Noted.
	Kangaroo Valley Tennis Club Carpark suggested as a potential EV charging station location.	Noted.
3.	Good information for providers interested in installing EV charging stations.	Noted.
4.	<p>The following changes should be made to the draft Policy to reflect the most up-to-date industry standards relating to EV charging technology:</p> <ul style="list-style-type: none"> <li>Glossary: <ul style="list-style-type: none"> <li>Change the term <b>CCS (Combo 2) Connector</b> to just read "<b>CCS2</b>", whilst keeping the same definition</li> <li>Remove <b>Type 1 Connector</b> and its definition</li> <li>Edit <b>Type 2 Connector</b> to read "<b>Type 2 socket</b>", keeping the same definition</li> <li>Add definition for "<b>CHAdeMO</b> means 'CHARge de MOve' as it is a DC charging standard.</li> </ul> </li> </ul>	<p>The technical aspects relating to plugs and connection hardware and electricity network capacity have been checked with industry experts and against the <a href="#">NSW Electric and Hybrid Vehicle Plan</a>.</p> <p>There is merit to the proposed changes as they are the current industry standard. The suggested changes are summarised below:</p> <ul style="list-style-type: none"> <li>Rename Section 6.3 to "Charging Technology".</li> <li>Include the most up-to-date industry standards for minimum charging technology (as indicated in the submission summary in the left-hand column) and electrical capacity requirements (industry standard for fast charge is 50kw) in both Section 6.3 of the draft Policy and the associated Glossary terms.</li> </ul>

*Draft Electric Vehicle Charging Stations on Public Land Policy – Public Exhibition Submission Summary*

	<ul style="list-style-type: none"> <li>Section 6.3 should be updated to reflect the changes to the above Glossary terms.</li> </ul>	<ul style="list-style-type: none"> <li>Be consistent with the <a href="#">NSW Electric and Hybrid Vehicle Plan</a> (this specifically relates to the charging technology terminology, minimum requirements for 'fast charge' facilities and a minimum 50kw electrical connection).</li> </ul>
5.	There may not be adequate provisional responsibilities e.g. responsibility for signage, lighting etc.	The policy states that the EV spaces, charging and related infrastructure are all the responsibility of the provider and not Council. There is merit in clarifying this in the draft Policy.
	Clause 7-7.1 is too onerous on the provider (unless an alternate arrangement is made).	<p><i>Note: this also refers to the proposed new 7.3 in the post exhibition version of the draft policy document (formerly 7.1 in the exhibited draft policy).</i></p> <p>The provisions in Section 7 are intended to clearly state that the proponent and not Council is responsible for all associated aspects. The policy makes adequate provision for alternate arrangements to be negotiated on a case-by-case basis.</p>
	Are the requirements outlined in the provisions in sections 4-6 what is intended as "ancillary infrastructure?"	An ancillary infrastructure definition will be included in the Glossary of the Policy. Ancillary infrastructure simply means any and all aspects (e.g. signage, parking bays, electrical infrastructure etc) associated with an EV charging station, whether at the site or another location. An exhaustive list of the types of ancillary infrastructure would not be appropriate as it may not capture unforeseen elements of EV charging station design and operation.
	Technical aspects requiring certain charging types may be too onerous and financially prohibitive. Possibly redundant.	This policy is for Public Land. It is strongly recommended that any EV charging station on public land by a private provider requires 'Fast charge' solutions as a minimum requirement. It is noted that this section (now Section 6.3) has been developed in consultation with industry experts and meets the minimum requirements set out in the <a href="#">NSW Electric and Hybrid Vehicle Plan</a> .
	The policy should include provision for suitable 3g/4g mobile network as required for wayfinding, servicing etc.	There would be merit in rewording the Policy to include provision for mobile networks.



## **DRAFT Electric Vehicle (EV) Charging Stations on Public Land Policy**

*Policy Number: POL18/32*  
*Adopted: [Click here to enter date]*

*Minute Number: [Click here to enter Minute number]*  
*File: 57740E*  
*Produced By: Planning Environment & Development Group*  
*Review Date: [Click here to enter date]*

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**Note:** Proposed changes are highlighted in yellow for convenience. Strikethrough indicates deletion.

## 1. PURPOSE

The purpose of this Policy is to provide criteria for the provision, installation, management, maintenance and removal of EV charging stations on public land in the Shoalhaven City Council Local Government Area (LGA). The Policy outlines the principles for planning EV charging infrastructure on public land and to support the selection of the correct type of infrastructure at the right location.

This policy does not apply to the provision of EV charging stations on private land. Council does not preference provision of EV charging stations on public land over private land.

## 2. CONTEXT

EVs are expected to become more established in the Australian market in the coming decades, with EVs predicted to be similar in terms of upfront costs as early as 2024. Research shows that the main barriers currently stalling greater uptake of EVs in Australia are the high cost of the vehicles, inadequate incentives, inadequate policy supports and the lack of public charging infrastructure away from home (this leads to 'range anxiety'). A suitable network of EV charging infrastructure will be required across Australia to support the use of EVs now and in the future.

The NSW Government has a number of initiatives aimed to facilitate the up-take of EVs in NSW. Two important documents are:

- [Future Transport 2056 - NSW Electric and Hybrid Vehicle Plan;](#)
- [State Infrastructure Strategy 2018-2038.](#)

As well as supporting the uptake of EVs by local residents, appropriately sited, installed and managed EV charging stations have the potential to encourage more visitors and boost regional tourism in the Shoalhaven.

To support and encourage the increased uptake of EVs, EV charging stations on public land in Shoalhaven may be considered in addition to the installation of EV charging stations on private land.

## 3. GLOSSARY

**Ancillary infrastructure** means any and all physical items that relate to the EV charging station, whether at the site of the EV charging station, or elsewhere.

**CCS (Combo 2) Connector** means a Combined Charging System Type 2 EV charging connector with both AC and DC option, allowing both DC fast charge and Level 2 AC Charge.

**CCS2** means a Combined Charging System Type 2 EV charging connector with both AC and DC option, allowing both DC fast charge and Level 2 AC Charge.

**CHAdeMO** means 'CHArge de MOve' and is a DC charging standard for EVs.

**Council** means Shoalhaven City Council or any officer authorised to act on behalf of Shoalhaven City Council.

**DDA Compliant** means compliance with the [Disability Discrimination Act 1992](#).

**Electric vehicle (EV)** means both fully (battery) electric vehicles and plug-in hybrid electric vehicles.

**Public land**, is as defined in the *Local Government Act 1993*, means any land (including a public reserve) vested in or under the control of the council, but does not include:

- a) a public road\*, or
- b) land to which the *Crown Lands Management Act 2016* applies\*, or
- c) a common, or
- d) a regional park under the *National Parks and Wildlife Act 1974*.

\* For the purpose of this Policy, a public road and Crown reserve may also be considered suitable for an EV charging station.

**Strategic tourism location** means:

- a) a place of recognised tourism significance, including a natural place or built form place; or
- b) a tourist visitor centre, or the like;
- c) a place zoned for tourism purposes under *Shoalhaven Local Environmental Plan 2014* or the relevant environmental planning instrument applying to that land.

**Town or village centre** means a centre in the Shoalhaven LGA that is zoned for business or village purposes under *Shoalhaven Local Environmental Plan 2014* or the relevant environmental planning instrument applying to that land.

**Type 1 Connector** means EV charging connectors designed to specification SAE J1772 (IEC Type 1).

**Type 2 Connector** means EV charging connectors designed to specification IEC 62196 (commonly referred to as Mennekes).

**Type 2 socket** means EV charging connectors designed to specification IEC 62196 (commonly referred to as Mennekes).

#### 4. FAIR AND EQUITABLE SELECTION OF PROVIDERS

The provision of EV charging stations on public land must be fair and equitable. This includes:

- Providing universal charging facilities, or reasonable provision made for the adaptation of the infrastructure to support all types of EVs (refer to Section 6.3 for preference of connector types); or
- An expression of interest process when an applicant (other than Council) proposes exclusive use of EV charging infrastructure on public land for a particular vehicle type, group of users or any other exclusionary particulars.



## 5. SITE SELECTION CRITERIA

A site may be considered suitable for an EV charging station where the proposal demonstrates to Council's satisfaction that:

- The land is public land, as defined in Section 3; and
- The land classification has been considered: Land classified as operational land is preferred, however community land may be considered suitable where the proposal is in accordance with the Local Government Act 1993, Crown Land Management Act 2016 and the relevant Plan of Management for that land; and
- EV charging stations are permissible under the relevant legislation at the proposed location (e.g. Shoalhaven Local Environmental Plan 2014, State Environmental Planning Policy (Infrastructure) 2007, the Roads Act 1993 and the like). Note: the provider is responsible for securing development consent or approval, where applicable, from the relevant planning authority on a case by case basis; and
- Environmental constraints and characteristics have been considered; and
- The electricity supply infrastructure capacity of the existing electrical supply network is suitable (or can be reasonably upgraded). Note: Council will bear no cost or responsibility for the provision of, or upgrade to, electrical supply infrastructure to service a proposed EV Charging site, unless by prior agreement with Council; and
- A reliable connection to a relevant mobile/cellular network can be established; and
- The land is located within a reasonable walking distance (generally within 400m) of a town or village centre or strategic tourism location; and
- The land has a reasonable connection to the wider road network; and
- The facility and its operation will not adversely impact upon the amenity of surrounding development or the public domain; and
- The facility is safe with adequate lighting, and pedestrian and vehicular access available at all times of day and night; and
- The facility and all ancillary infrastructure is compliant with relevant Australian Standards and road design guidelines; and
- The facility and all ancillary infrastructure is compliant with relevant Australian Standards and Regulations for occupational health and safety. Charging station hardware must be located a safe distance away from hazards (e.g. dangerous goods and fuels); and
- Consultation with the local community and relevant stakeholders is satisfactorily undertaken in conjunction with site selection.

## 6. EV CHARGING STATION DESIGN CONSIDERATIONS

### 6.1 Visibility and Identification

The facility and all ancillary infrastructure (inclusive of signage, parking bays and charging infrastructure) shall be easily visible and accessible for users to find, with consideration of the following:

- Wayfinding signage (white on blue) will be required to allow users to find the EV charging station from the main road network, similar to wayfinding signs for car parking (note: wayfinding signage shall be consistent with the Roads and Maritime Service standard, once developed); and
- All EV parking bays shall be clearly labelled with the words 'EV Charging Only' (or the like) painted on the ground. Note: Non-compliance with this provision may be considered in areas where it is inappropriate, provided sufficient alternative identification can be provided to the satisfaction of Council; and
- Appropriate pole signage must be installed to indicate the parking spaces are allocated for EV charging only. Pole signage shall be provided in accordance with *Transport Roads and Maritime Service* Sign No. r5-41-5, or equivalent; and
- Adequate lighting is to be provided for the safety and security of EV drivers/passengers, vehicles and infrastructure. Lighting should be sufficient to easily read associated signs, instructions, controls on the vehicles/EV infrastructure, identify all possible EV charging inlet locations, and for charging cable visibility; and
- Parking spaces shall be located to ensure that safe sight distances for pedestrians and vehicles are met.

## 6.2 Parking Configuration

The following must be considered at a minimum:

- All aspects of EV charging bays are to be designed and constructed in accordance with relevant Australian Standards; and
- All EV carparking spaces/charging bay pavements shall be constructed to Council's specifications including sealing, kerb and guttering, pram ramps, signage and line marking, where upgrades are required by Council; and
- Preference is given to the provision of EV charging infrastructure at a minimum of two (2) related (e.g. adjoining/adjacent) carparking spaces in any given location; and
- All EV charging bays are to be DDA compliant which includes compliance with current standards for access (AS2890.5/AS2890.6); and
- Where appropriate, the location of EV charging stations should not be in premium, high demand parking spaces that would encourage non-EVs to occupy the charging bay; and
- Note: This does not exclude the consideration of EV charging stations in high demand areas, however these areas will only be considered where other nearby locations have been demonstrated to be inappropriate.

## 6.3 Plugs and Connection Hardware

EVs currently in Australia have a mixture of Type 1 and Type 2 charging connectors. In order to work towards a single connector standard, most major infrastructure manufacturers of EVs

are in agreement that future EVs imported into Australia are Type 2 compliant, given this is most compatible with electrical infrastructure and allows for the fastest DC and Level 2 AC charging combination.

### 6.3 Charging Technology

Council's objective is to facilitate the provision of EV charging infrastructure in an efficient, inclusive and accessible manner. All EV charging stations on Public Land in the Shoalhaven are to provide fast charging capabilities.

Therefore, The installation of EV charging infrastructure on Public Land in the Shoalhaven shall be consistent with the State Government Policy *Future Transport 2056 – NSW Electric and Hybrid Vehicle Plan* and at a minimum include:

- Be Type 2 CCS (Combo 2) compliant hardware;
- Make provision for Type 1 connector adaptation;
- Consistent standards for charging connections based on European CCS2 and CHAdeMO for DC fast chargers, and Type 2 for AC charging; and
- Preference for connected and smart chargers, to allow the most efficient energy use for both consumers and network operators; and
- Preference for all EV charging infrastructure to have a minimum input power capacity of 50kw.

The charging cable shall have the capability to reach all points of the carparking space, to cater for EVs with front, rear or side charging ports. Cables should not be a hazard for pedestrians or other vehicles at any given time, whether in use or idle.

Note: This Provision 6.3 may be altered where future EV charging infrastructure supersedes that which is written in this Policy, or if an alternative is demonstrated to be suitable, to the satisfaction of Council.

## 7. LEASING ARRANGEMENTS

### 7.1 Terms of Lease/License

Any provision of EV charging stations on public land will be subject to licensing/leasing arrangements, or similar, between the provider and Council. Licence and/or lease terms shall be in accordance with Council Policy [Occupation of Council Owned or Managed Land](#).

Council reserves the right to require appropriate remuneration for use of Public Land for the purposes of EV charging stations. This may be in the form of a lease/licence fee, apportionment of user fees, or other. This is to be determined on a case-by-case basis as part of any licence/lease (or other) arrangement.

Entering into a lease or licence agreement with Council to utilise public land for installation and operation of an EV charging station in no way guarantees development consent or approval, where required.

## **7.2 Public/Private Partnership**

Council may consider entering into a Public/Private Partnership with relevant providers to deliver EV charging stations on Public Land. This will be subject to negotiation on a case-by-case basis.

## **7.3 Installation, maintenance and removal**

### **7.4**

The installation, maintenance and removal associated with the installation and operation of any given EV charging station is the responsibility of the provider, unless by prior agreement with Council. This includes ancillary infrastructure such as car parking spaces, signage, line marking, pavement marking, lighting and the like, and the future reinstatement of the site to the satisfaction of Council.

Prior to the commencement of any works, a security bond will be required to be paid to Council. This bond will be held by Council for the duration of any lease or licence agreement. Any costs incurred by Council in excess of the bond amount will be borne by the applicant/EV charging station operator. The detail will be specified within the lease or licence agreement.

The provider shall implement a maintenance schedule which includes regular inspections. All maintenance and works shall be carried out in a timely manner to avoid delays to service. Non-compliance with this provision may lead to the termination of any agreement between the provider and Council and may result in the forced removal of EV charging and ancillary infrastructure, at the cost and responsibility of the provider.

The specific terms are to be determined as part of any licence/lease arrangement, or similar.

## **8. RELATIONSHIP TO OTHER POLICIES**

Other Council policies may apply to particular aspects of the provision of EV charging stations on public land and must be considered.

## **9. IMPLEMENTATION**

This Policy will be implemented by the Assets and Works Group to facilitate the installation of EV charging stations on public land within the Shoalhaven LGA.

## **10. REVIEW**

In accordance with section 165(4) of the *Local Government Act 1993*, this Policy will be reviewed within one year of the election of every new Council, or more frequently as operationally necessary.

*Shoalhaven City Council – Draft Electric Vehicle (EV) Charging Stations on Public Land Policy*

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#### **11. APPLICATION OF ESD PRINCIPLES**

Many EV users aim to reduce their carbon emissions from driving. As such, preference is for the use of renewable energy for the EV charging station energy source (e.g. accredited GreenPower, solar panels/storage battery etc.), where practical.

## **DE19.32 Proposed Submission - Aboriginal Land Claim No.25421 and Part Claims No.42499, 42454, 42448 and 42485 - Ulladulla**

**HPERM Ref:** D19/103982

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:**

1. Request For Information - Aboriginal Land Claims (ALCs) 25421 / Part Claims 42454 / 42448 / 42499 / 42485 - Ulladulla [↓](#)
2. Map - Council Utilities - Aboriginal Land Claims (ALCs) 25421 / Part Claims 42454 / 42448 / 42499 / 42485 - Ulladulla [↓](#)
3. Overview of Contributions Plan 1993 Projects - 05ROAD0006 & 05ROAD0008 [↓](#)

### **Purpose / Summary**

Obtain endorsement to make a submission on Aboriginal Land Claim (ALC) Numbers 25421 (full) and part claims 42499, 42454, 42448 and 42485 at Ulladulla, which are now being investigated for determination by the NSW Government.

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

That Council notify the NSW Department of Industry – Crown Lands Aboriginal Land Claims Investigation Unit that:

1. In relation to part Claim Numbers 42448 and 42485 over Lot 16 DP 1105304:
  - a. Council has no objection to these claims subject to:
    - i. The exclusion of land identified for the planned future southern extension of St Vincent Street, which also contains Council infrastructure for drainage and wastewater disposal; and
    - ii. The exclusion of land on the western boundary that contains Council infrastructure for wastewater disposal.
2. In relation to Claim No. 25421 and part Claim Numbers 42499 and 42454 over Part Lot 245 DP 755967, and part Claim Numbers 42448 and 42485 over Lots 286 & 287 DP 755967 and Lot 2 DP 631894:
  - a. Council does not support these claims because at the date of claim lodgement:
    - i. The land was likely to be needed for an essential public purpose, being the planned future southern extension of St Vincent Street and connector road and roundabout to the Princes Highway; and
    - ii. The land contains a significant amount of Council infrastructure for drainage, water supply and wastewater disposal that services the southern Ulladulla area.

### **Options**

1. Advise the NSW Department of Industry (DoI) – Crown Lands Aboriginal Land Claims Investigation Unit (ALCIU) that Council has no objection to part ALC Numbers 42448 and 42485 over Lot 16 DP 1105304 subject to the exclusion of land identified for the planned future southern extension of St Vincent Street, and land on the western

**DE19.32**

boundary that contains existing Council infrastructure that is not currently protected by an easement. However, Council does not support ALC Number 25421 and Part Claims 42499 and 42454 over Part Lot 245 DP 755967, and Part Claims 42448 and 42485 over Lots 286 & 287 and Lot 2 DP 631894 because, at the date of claim lodgement, the land was likely to be needed for an essential public purpose and contained a substantial amount of drainage, water and wastewater infrastructure that services the south Ulladulla area.

Implications: This is the preferred option, as it enables Council to assist DoI with their investigations into the status of the land at the date the claims were lodged. This option ensures that the land that is subject to the planned future southern extension of St Vincent and associated connector road and roundabout to the Princes Highway is preserved for this significant project, which will enable the orderly development of the surrounding employment lands.

2. Provide alternative advice to the DoI as directed by Council.

Implications: This option is not preferred, having regard to the known history of the land at the date the claims were lodged.

3. Not respond to the invitation to comment on these ALCs.

Implications: This is not preferred as it does not enable Council to present evidence to DoI regarding the status of the land at the date the claims were lodged.

## Background

Council received advice from DoI on 5 March 2019 that ALC Number 25421 and part Claim Numbers 42499, 42454, 42448 and 42485 at Ulladulla, were under investigation for determination.

These claims were lodged over land in the Industrial / Bulky Goods precinct at South Ulladulla, which is subject to a future road project that has been identified for over forty (40) years. The investigation of these claims was initiated at Council's request to resolve the claims and provide some certainty for the future viability of the Council road project and the subsequent development of the surrounding employment lands.

The claims affect the land as follows (as shown in Figure 1):

- ALC No. 25421 – Part Lot 245 DP 755967
- Part ALC No. 42499 (blanket claim) – Part Lot 245 DP 755967
- Part ALC No. 42454 (blanket claim) – Part Lot 245 DP 755967
- Part ALC No. 42448 (blanket claim) – Lots 286 & 287 DP 755967, Lot 16 DP 1105304 and Lot 2 DP 631894
- Part ALC No. 42485 (blanket claim) - Lots 286 & 287 DP 755967, Lot 16 DP 1105304 and Lot 2 DP 631894





Figure 1: Aerial image of the subject land, outlined in orange.

Council has been asked to provide comment on the claims (see **Attachment 1**) and specifically whether, at the date the claims were lodged, the subject land was:

- Lawfully used or occupied
- Needed or likely to be needed for an essential public purpose.

Any comment, assertion or statement that is made by Council should be as at the date of claim lodgement (see below) and must be supported by evidence.

- ALC No. 25421 – lodged 3 June 2010
- Part ALC Nos. 42454 & 42448 – part of the blanket claims lodged 15 December 2016
- Part ALC Nos. 42499 & 42485 – part of the blanket claims lodged 19 December 2016

Council has been granted an extension of time until 17 May 2019 to respond to the claims to enable the matter to be reported for consideration.

### Overview Summary of the Subject Land

As noted above, the subject land consists of five (5) lots that are located within the Industrial / Bulky Goods Precinct at South Ulladulla. The land is bounded by the Princes Highway to the east, Camden Street to the west, and other Industrial / Bulky Goods-zoned land to the north and south, including the former Ulladulla Sewage Treatment Plant (STP). Council is not Trust Manager for any of the five lots affected by the claims.

The land is subject to a future Council road project that is identified within Council's *Contributions Plan (CP) 2010* (Project [05ROAD3008](#)), as shown in Figure 2 below. This project is recognised as a critical piece of infrastructure to enable the orderly development of the surrounding employment lands and provide connectivity to the future Milton-Ulladulla Bypass, with the land being earmarked for this project for over forty years.



Figure 2: Extract from Council's Contributions Plan 2010 Road Project 05ROAD3008, subject land outlined in black dashed line, future road shown in red.

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A summary of each of the affected lots is provided below.

#### *Lot 16 DP 1105304*

Has an area of approximately 8,647m<sup>2</sup> and is zoned IN2 Light Industrial. The land is reserved for "Future Public Requirements" and was gazetted as such on 29 June 2007. It adjoins the Dunn & Lewis Centre to the north and is affected by the proposed future extension of St Vincent Street along the south-western extent of the lot.

The land is heavily vegetated and does not contain any structures; however, it does contain some Council utilities for wastewater and drainage (as shown in **Attachment 2**), some of which are protected by existing easements measuring 2.4 and 20m wide.

#### *Lot 2 DP 631894*

Has an area of approximately 1.38ha and is zoned part IN2 Light Industrial and part B5 Business Development. The land is reserved for "Future Public Requirements" and was gazetted as such on 29 June 2007. It adjoins the former Ulladulla STP site and is affected by the proposed future extension of St Vincent Street and Connector Road to the Princes Highway. It should be noted that this lot was formerly owned by Council; however, it was transferred to Crown Lands on 7 November 1983.

The land is heavily vegetated except for a small clearing on the western corner, which is used for informal access to the adjoining land to the south. The land does not contain any structures; however, does contain a significant number of Council utilities for wastewater, water supply and drainage, which are not currently protected by any easements.

#### *Part Lot 245 DP 755967*

Has an area of approximately 5,950m<sup>2</sup> and is zoned part IN2 Light Industrial and part B5 Business Development. The land is reserved for "Future Public Requirements" and was gazetted as such on 15 May 1968. It adjoins the Princes Highway to the east, and the south-

western corner is affected by the proposed future Connector Road to the Princes Highway, although the final alignment is yet to be determined.

The land is predominantly vegetated, although there is a clearing with direct access from the highway that appears to be used for informal parking for neighbouring businesses. The land does not contain any structures; however, it does contain Council utilities for wastewater and drainage, which are not currently protected by any easements.

#### *Lot 286 DP 755967*

Has an area of approximately 3,430m<sup>2</sup> and is zoned part IN2 Light Industrial and part B5 Business Development. The land is reserved for “Future Public Requirements” and was gazetted as such on 29 June 2007. A large portion of the lot is affected by the proposed future Connector Road to the Princes Highway and the roundabout intersection.

The land is predominantly vegetated and does not contain any structures; however, it does contain Council utilities for wastewater and drainage, which are not currently protected by any easements.

#### *Lot 287 DP 755967*

Has an area of approximately 3,430m<sup>2</sup> and is zoned IN2 Light Industrial. The land is reserved for “Future Public Requirements” and was gazetted as such on 29 June 2007. A large portion of the lot is affected by the proposed future Connector Road to the Princes Highway and the roundabout intersection.

The land is predominantly vegetated and does not contain any structures; however, it does contain Council utilities for wastewater and drainage, which are not currently protected by any easements.

### Overview of Future Road Project

As noted earlier in this report, all five (5) lots are subject to a Council road project that is identified in Council’s *CP 2010*, being Project Code [05ROAD3008](#). The project involves:

- Southern extension of St Vincent Street;
- Connector road between Camden Street and the Princes Highway (which will be extended to the west to connect to the future Milton-Ulladulla Bypass); and
- Roundabout intersection at Connector Road / Princes Highway / Dowling Street.

This project was retained during the recent review of the *CP 2010* as it is deemed critical to enabling the orderly development of surrounding employment lands and connection to the future bypass. It should be noted that Council formally endorsed the revised *CP* on 2 April 2019, and this will become effective on 29 May 2019 as the *CP 2019*.

### *Project History*

The project was initially identified in the late 1970s-early 1980s during the preparation of the Milton-Ulladulla Planning Scheme Proposal, which was used to inform the preparation of the *Shoalhaven Local Environmental Plan (SLEP) 1985*. This report predicted that St Vincent Street would play a more important role in the local street network and proposed to extend the road to the south and link this to the Princes Highway, which was subsequently identified in the [SLEP 1985](#) (see Figure 3).



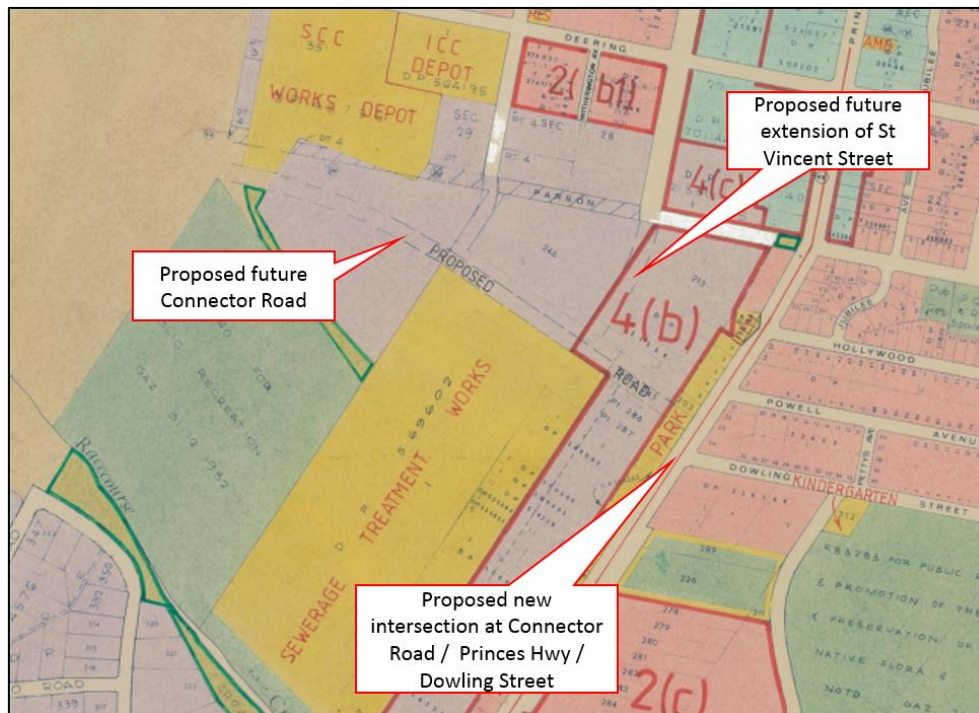


Figure 3: Extract from the SLEP 1985, dated 12/12/1984, identifying the proposed road alignment.

A further study of the Milton-Ulladulla arterial road system in 1987 predicted that future traffic demand in the Milton-Ulladulla area would increase significantly and recommended a two-stage solution, being the extension of St Vincent Street, and construction of a new Connector Road to the future bypass and intersection at the Princes Highway. The two projects were subsequently included in Council's [CP 1993](#) as Project Codes 05ROAD0006 and 05ROAD0008, with the aim of enabling the orderly and logical development of surrounding employment lands, diverting heavy vehicular traffic away from nearby residential areas and, in the longer term, connecting to the future Southern Link Road/Milton-Ulladulla Bypass and possible future urban expansion area. An overview of these projects is provided in **Attachment 3**. An [amendment to the CP 1993](#) in 2000 saw the two projects amalgamated to form the current project 05ROAD3008, which was then incorporated into the *CP 2010* and subsequently retained through the recent CP review.

It is important to note that this project has been identified as part of the long-term strategy for the Milton-Ulladulla road network for forty (40) years and the project has been gradually refined over the years as Council moves closer toward project delivery. Although detailed survey and design works for this road have not yet been undertaken, Council still intends to construct this road and intersection at the appropriate time as demand increases and contributions are levied.

Thus, it is important for these claims to be resolved in a timely manner to enable Council to have some certainty over the viability of this future road project and also the development of surrounding employment lands.

#### *Impact of Native Title*

In addition to the subject ALCs, the land is also affected by the blanket Native Title Claim that was lodged by the South Coast People over the South Coast of NSW in August 2017. The Native Title Claim does not prevent Council from undertaking the necessary works required for the road if the land remains in public ownership. However, if the ALCs are granted, Council will be unable to negotiate land acquisition or the creation of easements with the benefitting Aboriginal Land Council until Native Title has been determined. This does have the potential to delay the project.

### Summary of Claims

As noted above, a total of five (5) ALCs have been lodged over the subject land and are now the subject of investigation by DoI. Four of these claims are part of the “blanket” claims that were lodged by the NSW Aboriginal Land Council in December 2016.

The following comments are provided regarding Council’s interests in relation to each claim.

#### *Claim Number 25421*

Lodged over the entire Part Lot 245 DP 755967 on 3 June 2010. At the date of claim lodgement, the land was vacant apart from some Council utilities, being a gravity-fed sewer main that was installed in 1976 and a stormwater drainage line that was installed in 1972. This infrastructure is not currently protected by an easement. As noted earlier in this report, the land has been identified for an essential public purpose, being a road, for over forty years.

Thus, Council should not support this claim on the basis that, at the date of claim, the land was likely to be needed for an essential public purpose.

#### *Part Claim Numbers 42454 and 42499*

Part of the blanket claims lodged on 15 and 19 December 2016, respectively, and affects the entire Part Lot 245 DP 755967. As noted above, at the date of claim lodgement the land was identified for a future Council road project and was vacant apart from some Council utilities that are not protected by an easement.

Thus, Council should not support this part of the claims on the basis that, at the date of claim, the land was likely to be needed for an essential public purpose.

#### *Part Claim Numbers 42485 and 42448*

Part of the blanket claims that were lodged on 15 and 19 December 2016, respectively, and affect Lots 286 & 287 DP 755967, Lot 16 DP 1105304 and Lot 2 DP 631894. As noted above, at the date of claim lodgement the land was vacant; however, it did contain a substantial number of Council utilities, being water supply, wastewater and stormwater drainage, as shown in **Attachment 2**.

As noted earlier in this report, the land has been identified for an essential public purpose, being a road, for over forty years. For Lot 16 DP 1105304, the proposed alignment of the future extension of St Vincent Street is relatively straightforward and can be accommodated within the 20m wide easement on the eastern portion of the lot. Thus, Council should not object to the part of the claims that affect Lot 16 subject to the exclusion of land identified for the future extension of St Vincent Street, and the area along the western boundary that contains Council wastewater infrastructure.

However, Council should not support the parts of the claims that affect Lot 286 & 287 DP 755967 and Lot 2 DP 631894, as detailed survey and design work has not yet been undertaken and the precise alignment of this section of the road is not known. Thus, to protect the future road corridor and existing Council utilities, it would be prudent to refuse these parts of the claims on the basis that, at the date of claim lodgement, the land was likely to be needed for an essential public purpose.

### **Financial Implications**

There are no direct financial implications in providing this advice to DoI. As Council is not Trust Manager for the land, there is no financial responsibility for Council regarding

maintaining the land; however, Council is responsible for the maintenance of all Council utilities located on the land.

Should the claims be refused (except for part of Lot 16 DP 1105304 noted above), the alignment of the future road reserve will be protected, which will provide certainty for the future viability of the road and development of the surrounding employment lands. Council will continue to be responsible for the maintenance of all Council utilities located on the land.

Should the claims be granted subject to the creation of easements for existing Council utilities, the future of the road project will be uncertain as Council will be unable to enter negotiations to acquire the land from the benefiting Aboriginal Land Council until Native Title has been determined, which could take many years.

### **Risk Implications**

There is no risk to Council in providing this information to DoI, as it ensures that all relevant information is made available to assist in determining these claims.

Should the claims be refused, the alignment of the future road corridor will be protected, which will provide some certainty for the future development of the surrounding employment lands and connection to the future Milton-Ulladulla Bypass.

Should the claims be granted, the land will be transferred into private ownership, which will present significant challenges for Council in acquiring the land at the appropriate time due to the land also being affected by the undetermined Native Title claim.



Our Reference: DOC19/044671

Reference to authorities and stakeholders via email:

Shoalhaven City Council	council@shoalhaven.nsw.gov.au
Endeavour Energy	geoff.riethmuller@endeavourenergy.com.au
Telstra	nativeitleservice.bne@au.kwm.com
Transgrid	alc@transgrid.com.au
NSW Department of Industry - Geological Survey NSW	landuse.minerals@geoscience.nsw.gov.au
NSW National Parks and Wildlife Services Roads/access team	OEH.Roads@environment.nsw.gov.au

To whom it may concern

**Aboriginal Land Claim 25421 and part Aboriginal Land Claims 42499, 42454, 42448 and 42485 at Ulladulla**

The Department of Industry (DoI) – Crown Lands, Aboriginal Land Claim Investigation Unit (ALCIU) is currently investigating the Aboriginal land claims shown on the attached list.

Lodging of an Aboriginal land claim creates an interest in the land. Prior to any future dealings in this land, consultation should be undertaken with DoI – Crown Lands.

Aboriginal Land Claims are investigated in accordance with the provisions of section 36(1) of the *Aboriginal Land Rights Act 1983*. Regardless of when an investigation is conducted the key date for the investigation is the **date the claim is lodged**.

The ALCIU is seeking information from your organisation as a relevant authority that may have evidence or hold an interest in the land at the **date of claim** that establishes:

- Lawful use or occupation
- Need or likely to be needed for an essential public purpose.

The Minister's decision is subject to appeal to the Land & Environment Court. It is important all information relevant to the claimed land be made available to the ALCIU to ensure the claim is properly and thoroughly assessed.



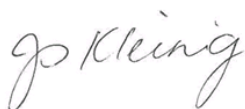
Any comment, assertion or statement you make should be as at the date of the claims and should be supported by documented evidence. Attached is an information sheet for your reference. The document also provides a definition of the assessment criteria mentioned above.

Please note, if the claimed land is subject to multiple claims, your response should address each claim and should provide evidence as at the date of each claim.

A response is requested to be provided by 3 April 2019. If you have no interest in the granting or refusal of this claim it would be appreciated if you could contact this office via e-mail advising of such. This will prevent unnecessary delays in processing claims, and we will not reference you further.

If you have any questions or require an extension of time to provide a response please contact the Aboriginal Land Claim Investigation Unit on (02) 6883 3396, or by email to [alc@crownland.nsw.gov.au](mailto:alc@crownland.nsw.gov.au)

Yours sincerely



Jo Kleinig  
Senior Case Manager  
Aboriginal Land Claim Investigation Unit

5 March 2019

Claim No	Land Council	Land Claimed	Lodged
25421	Ulladulla LALC	Lot 245 DP 755967	3 June 2010
Part 42499	NSWALC	Lot 245 DP 755967	19 Dec 2016
Part 42454	NSWALC	Lot 245 DP 755967	15 Dec 2016
Part 42448	NSWALC	Lot 286 & 287 DP 755967; Lot 16 DP 1105304; Lot 2 DP 631894	15 Dec 2016
Part 42485	NSWALC	Lot 286 & 287 DP 755967; Lot 16 DP 1105304; Lot 2 DP 631894	19 Dec 2016

NSWALC = New South Wales Aboriginal Land Council  
LALC = Local Aboriginal Land Council



**Information to assist you in your response**

**Lawful use and/or occupation**

"*Lawful use*" of claimed lands occurs when use is to more than a notional degree. The lands need to be used for its specified public purpose or for a purpose that furthers or is ancillary to the public purpose. The use needs to be actual, not just contemplated or intended.

"*Lawful occupation*" encompasses legal possession, conduct amounting to actual possession and some degree of permanence. It involves an element of control, of preventing or being in a position to prevent the intrusion of strangers. Continuous physical presence on every part of the land is not required, however some physical occupancy is required, mere activities of maintenance are insufficient.

Examples of evidentiary materials supporting lawful use and occupation include, but are not limited to;

- Copies of tenure documents (licences, leases, permits etc.)
- Receipts
- Rosters, sign in books, attendance sheets etc.
- Photographs taken at time
- Documents that prove activity at the location
- Evidence of improvements made and/or maintenance undertaken
- Utilities bills
- Anything that establishes a presence upon the lands
- Diary entries
- Media material

If reference is made to a document in the course of providing a response, it would be appreciated that the entire document be provided as an annexure/attachment to support the response.

**Needed or likely to be needed for an essential public purpose**

"*Needed*" means required or wanted. Where lands are needed for an essential public purpose, a manifestation of political will is required to establish need. Where lands are likely to be needed for an essential public purpose, it is a question as to whether it is likely that there will in the future be a government requirement; and if this addressed by considering a trajectory, then the trajectory needs to be towards a requirement at the appropriate government level at the specified time in the future.

"*Likely*" is a real or not remote chance, a real chance or possibility, not more probable than not (possibility being a lower legal standard than probability). The essentiality of the need has to be sufficient to counteract the beneficial intent of the *Aboriginal Land Rights Act*. A 25 to 30 year time frame is appropriate when establishing a likely need.

"*Essential public purposes*" are those that are required and created by the government of the country, or purposes of the administration of the government of the country. To be essential, the purpose must be indispensable, or at least material and important. The use of the word essential sets a high standard. Public purposes may be served by private interests. Purposes carried out under statutory authority or requirement, for example, the *Local Government Act* (Shire Councils) can be public purposes.

Examples of evidentiary materials supporting the need or likely need for an essential public purpose include, but are not limited to;

- Government materials stating the lands are required for the essential public purpose
- Material illustrating a trajectory towards the land being developed for the essential public purpose
- Any documentation relating to the development of the land in general
- Documentation supporting the lack of development of the kind proposed
- Documentation showing the lack of other suitable lands in the area
- Documentation illustrating why the purpose proposed is important and indispensable
- Documentation proving that the intended use for the claimed lands existed as at the date of claim lodgement

Again, if reference is made to a document in the course of providing a response, it would be appreciated that the entire document be provided as an annexure/attachment to support the response.

**If you have any questions regarding this information please contact the Aboriginal Land Claim Investigation Unit on 02 6883 3396 or email [alc@crowland.nsw.gov.au](mailto:alc@crowland.nsw.gov.au).**

DE19.32 - Attachment 1



## Aboriginal land claims

### Definition of terms

Over time, courts have provided some guidance on the definition of terms surrounding the *Aboriginal Land Rights Act 1983* (NSW) and the assessment of Aboriginal land claims. This fact sheet details two common terms and explains their interpretation.

### Lawful use and/or occupation

**Lawful:** The term lawful means the activity being conducted on the claimed land at the date of claim was being conducted with the appropriate authority to do so. For instance, if the activity required the approval of the reserve trust, then that approval had been granted.

**Lawful use:** Lawful use of claimed lands occurs when the use is to more than a notional degree. The level required to demonstrate the use is more than notional will depend on the purpose for which the land is reserved. For example, a reserve for public recreation would be expected to have a higher level of use than a reserve for tree plantation.

The use of the land needs to be consistent with the reserve purpose; for a purpose that is in furtherance of or ancillary to the reserve purpose; or an authorised secondary interest.

The use needs to be actual, not just contemplated or intended.

**Lawful occupation:** Lawful occupation encompasses legal possession, conduct amounting to actual possession and some degree of permanence. It involves an element of control, of preventing or being in a position to prevent the intrusion of strangers. Continuous physical presence on every part of the land is not required, however some physical occupancy is required. Mere activities of maintenance in isolation are insufficient.

### Needed or likely to be needed for an essential public purpose

**Needed:** Needed means required or wanted. Where lands are needed for an essential public purpose, a manifestation of political will is required to establish need. Where lands are likely to be needed for an essential public purpose, the question is whether it is likely that there will in the future be a government requirement; and if this is addressed by considering a trajectory, then the trajectory needs to be towards a requirement at the appropriate government level at the specified time in the future.

**Likely:** The term likely refers to a real, or not remote, chance; a real chance or possibility. It does not refer to something being more probable than not (possibility being a lower legal standard than probability). The essentiality of the need has to be sufficient to counteract the beneficial intent of the *Aboriginal Land Rights Act*. A 25 to 30 year time frame is appropriate when establishing a likely need.

**Essential public purposes:** Essential public purposes are those that are required and created by the government, or purposes of the administration of the government. To be essential, the purpose must be indispensable, or at least material and important. The use of the word essential sets a high standard. Public purposes may be served by private interests. Purposes carried out under statutory authority or requirement, for example, the *Local Government Act* (shire councils), can be public purposes.

© State of New South Wales through Department of Industry 2017. The information contained in this publication is based on knowledge and understanding at the time of writing (November 2017). However, because of advances in knowledge, users are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Industry or the user's independent adviser.





**ST VINCENT STREET, ULLADULLA - SOUTHERN  
EXTENSION TO NEW CONNECTOR ROAD  
05 ROAD 0006**

A coordinated approach, involving several property owners, is required to provide suitable access to this area and allow for full development of the industrial zone 4(a) and 4(b).

The connection of St. Vincent Street to the Princes Highway via the Connector Road will encourage heavy vehicles to use the Connector Road/Highway intersection rather than the more congested Deering Street/Highway intersection.

The continuation of St. Vincent Street to link Deering Street to the Connector Road will provide easy access from the commercial area to the industrial area and provide an internal connection between roads within the industrial area.

**Benefit Areas**

The benefit area is shown on the attached plan. The standard of road construction required to service this industrial area will need to be suitable for industrial traffic.

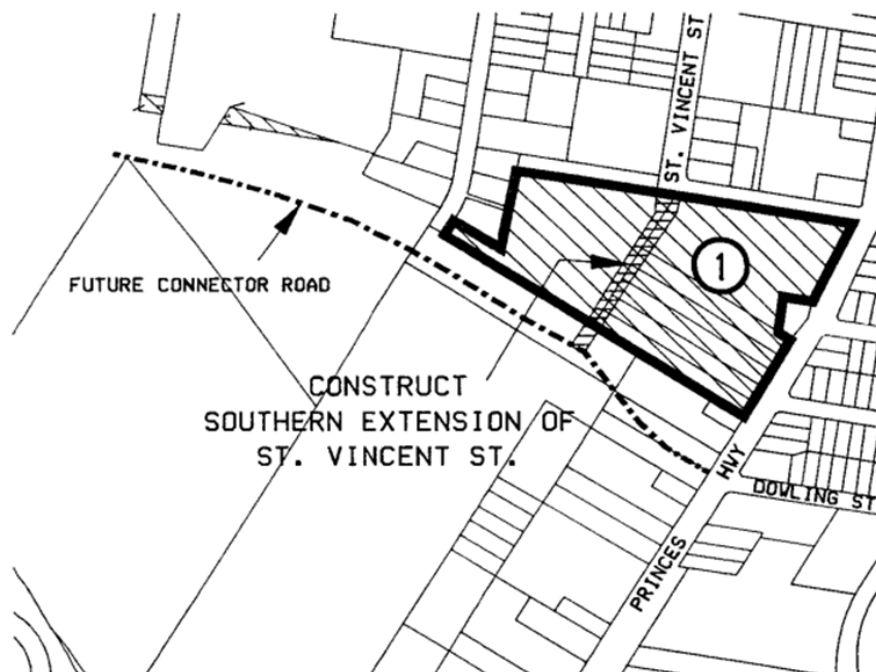
Contributions will be based on the apportionment of cost between all properties having access to this road on the basis of area. Traffic volumes generated from individual industrial properties cannot be accurately estimated in advance, however, the potential for traffic generation is proportional to the area of land available for development.

**Drainage**

It should be noted that drainage along this road will service a wider catchment area, including 2(b) zones off Deering Street. The cost of this drainage is not included in the cost of roadworks. The cost of drainage is included in a separate drainage contribution plan.

**Construction Staging**

- |          |                           |
|----------|---------------------------|
| Stage 1. | Acquisition               |
| Stage 2. | Construction of Roadworks |



**SHOALHAVEN CITY COUNCIL**  
**CONTRIBUTION PLAN AREA 5**

**FACILITY:** ROADS  
**PROJECT:** ST. VINCENT STREET, ULLADULLA -  
CONSTRUCT SOUTHERN EXTENSION

**DRAWING FILE:** SECT194:AREA5 (WINDOWS-FRAMER6 &R6)

**PROJECT No:**  
**05 ROAD 0006**





## **PART OF CONNECTOR ROAD, SOUTH ULLADULLA BETWEEN CAMDEN STREET AND PRINCES HIGHWAY 05 ROAD 0008**

This road from Camden Street to the Princes Highway will provide good access to the industrial area south of Deering Street. Further development in this area would lead to further congestion of the intersection of Deering Street and the Princes Highway if this section of the Connector Road is not constructed.

The connection to the Highway will also divert heavy vehicular traffic away from the residential and commercial areas of Deering Street and St. Vincent Street.

In the longer term, the road will provide access to possible future expansion of the urban area west of Camden Street and provide a link to the Southern Link Road.

### **Benefit Areas**

In the short to medium term, the existing industrial area will benefit. In the longer term, the urban expansion area, currently zoned 1(a) will benefit if rezoned, along with improved access to the West Ulladulla Sporting Complex.

It should be noted that the existing industrial area will also benefit from having the western section of the Connector Road completed in conjunction with the Southern Link Road. This route would allow heavy vehicles travelling north to Sydney, etc. to avoid the CBD area of Ulladulla.

It seems reasonable, therefore, to have the existing zonings contribute towards the first stage of the Connector Road and the future urban expansion area contribute towards the remainder (i.e. that section of the road in the 1(a) zone). If rezoning occurs, contributions would be calculated for that area, at that time.

### **Council Responsibility**

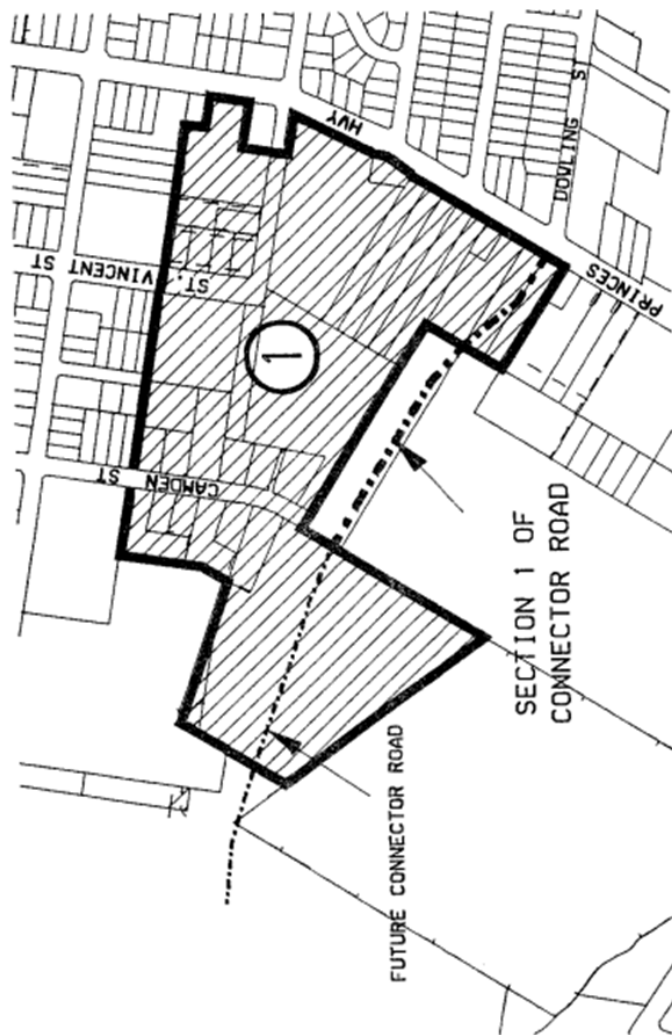
The road will have a wider benefit to the community in the longer term by providing a link to the West Ulladulla Sporting Complex and the Southern Link Road.

To account for this wider benefit, 20% of the cost of construction will be borne by Council before apportioning costs.

### **Construction Staging**

- |          |   |
|----------|---|
| Stage 1. | Acquisition   |
| Stage 2. | Construction from the Princes Highway to St. Vincent Street |
| Stage 3. | Construction from St. Vincent Street to Camden Street       |

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PROJECT No:  
05 ROAD 0008

**SHOALHAVEN CITY COUNCIL  
CONTRIBUTION PLAN AREA 5**

FACILITY: ROADS  
PROJECT: CONNECTOR ROAD FROM PRINCES HWY TO CAMDEN ST  
INCLUDING THE PRINCES HWY INTERSECTION, 8TH ULLADULLA  
DRAWING FILE: SECT14/AREAS (WINDOWS-FRAMES & RS)

## DE19.33 Update - Planning Proposal - Warrah Road, Bangalee

**HPERM Ref:** D19/39829

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:**

1. Traffic Assessment Report (under separate cover) [⇒](#)
2. Proponent's Bushfire Assessment Report (under separate cover) [⇒](#)
3. Proponent's request to biodiversity certify the Warrah Road PP [↓](#)
4. Aboriginal Cultural Heritage Assessment (Confidential - under separate cover)

### Purpose / Summary

Update Council on the Planning Proposal (PP) covering land at Warrah Road, Bangalee, and obtain approval to proceed to publicly exhibit the PP.

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

That Council:

1. Prepare and submit a revised PP to seek a revised Gateway determination for the Warrah Road PP that:
  - a. Reflects the revised zone and lot size maps provided in this report
  - b. Includes provisions relating to the subdivision of the residual environmental and rural land into no more than four allotments
2. Apply to the NSW Office of Environment and Heritage to biodiversity certify the PP.
3. Not commence the requirements under Part 6 of the LEP to actually release this land for urban development until after BOTH the duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.
4. Place the PP and biodiversity certification application on public exhibition, subject to the receipt of a satisfactory revised Gateway determination.
5. Advise the proponent, affected land owners and previous submitters of this resolution.
6. Consider adding the review of the southern component of the Crams Road Urban Release Area as a new project to the Strategic Planning Works Program that is developed for 2019/2020.

### Options

1. As recommended.

Implications: This will essentially result in the following outcomes:

- a) The PP will be updated based on the revised lot size and zoning maps provided in this report. These maps are consistent with the results of the specialist studies that have been undertaken for the PP.
- b) The PP will be updated to include arrangements for the private management of the residual rural and environmental land.

DE19.33

- c) The necessary steps will be taken to have the PP biodiversity certified, locking in the development footprint and conservation areas.
  - d) The PP and biodiversity certification application will be publicly exhibited concurrently. The outcomes of the exhibitions will be reported back to Council for consideration.
2. Not seek a revised Gateway determination
- Implications: The current Gateway determination provides some flexibility with lot sizes. It is also possible to biodiversity certify and exhibit the PP without a new Gateway determination. However, some of the proposed changes to the zone map will require an amendment to the Gateway determination to secure a more certain outcome, as will the proposed outcomes in respect of the residual private land. It is considered that these outcomes warrant seeking of a new Gateway determination.
3. Adopt different arrangements for the PP
- Implications: Advice can be provided as needed if Council wish to consider different arrangements for the PP.
4. Not proceed with the PP
- Implications: The PP is consistent with the strategic planning framework. It has previously been supported by Council and will resolve the deferred status of the land under the current LEP. As such this option is not favoured.

## **Background**

### Introduction

The overall Crams Road Urban Release Area (URA) was originally identified in the Nowra-Bomaderry Structure Plan (NBSP). The subject land was part of the original URA.

The NBSP stated that a range of investigations, including biodiversity, would need to be completed to determine the potential extent of residential development.

Due to conflicting biodiversity studies, part of the Crams Road URA was ultimately 'deferred' from the Shoalhaven LEP 2014 to enable further investigations to be undertaken to determine an appropriate development footprint for the subject land.

In 2014, the owners (Southbank Land Pty Ltd/Huntingdale Developments Pty Ltd) of Lot 24 DP714096, Warrah Road, Bangalee submitted a PP to commence the process to resolve the zoning of the site. In an attempt to reconcile the conflicting biodiversity studies over the subject land, Council engaged NGH Environmental Pty Ltd in early 2015 to undertake an independent peer review of the biodiversity studies that existed over the site and make recommendations to inform a PP.

In December 2015, Council resolved to prepare and advance a PP based on the findings of the peer review. The Warrah Road PP (PP005) was subsequently submitted to the NSW Department of Planning and Environment (DP&E) and a Gateway determination issued on 12 July 2016. The Gateway determination allowed the PP to proceed subject to several terms and conditions.

On 8 August 2017 the Development Committee considered a report on this PP and resolved that Council:

1. *Adopt the attached Land Use Zone (Attachment 5) and Lot Size (Attachment 6) maps as the basis for preparing the specialist studies required to enable public exhibition of the Planning Proposal.*
2. *Forward these maps to the NSW Department of Planning and Environment with a request to revise the Gateway determination that:*
  - a. *Reflects the proposed new development footprint;*
  - b. *Removes condition 1, which is covered by the new footprint;*
  - c. *Removes items (c) and (d) from condition 2 in the current determination; and*
  - d. *Adds a condition allowing the minimum lot size of 1500 m<sup>2</sup> to be revised if appropriately supported by the traffic and bushfire assessments undertaken for the planning proposal.*
3. *That the proposal be reported back to Council prior to exhibition.*

A revised PP was sent to DP&E on 5 September 2017. On 10 April 2018 DP&E issued a revision to the Gateway determination that rejected Council's proposed zoning and lot size maps. Specifically, DP&E rejected the proposed 'squaring up' of the development footprint where it would have resulted in some residential development occurring within the 'remediation area' under the former Native Vegetation Act 2003 that affects part of the subject land.

The PP area, as amended by the requirements of the 2018 Gateway determination, was then investigated in relation to Aboriginal Heritage, Traffic and Bushfire. The traffic and bushfire studies are provided as attachments to this report. The Aboriginal Heritage assessment contains sensitive information and will be provided to Councillors separately to this report.

#### Aboriginal Cultural Heritage Assessment

The Aboriginal Cultural Heritage Assessment prepared for the proponent concluded:

*"The current ACHA report is sufficient supporting documentation to inform the Aboriginal archaeological assessment of the Gateway Planning Proposal. There are no Aboriginal archaeological constraints to the rezoning of the subject land and no further archaeological work is required prior to the submission of the Planning Proposal."*

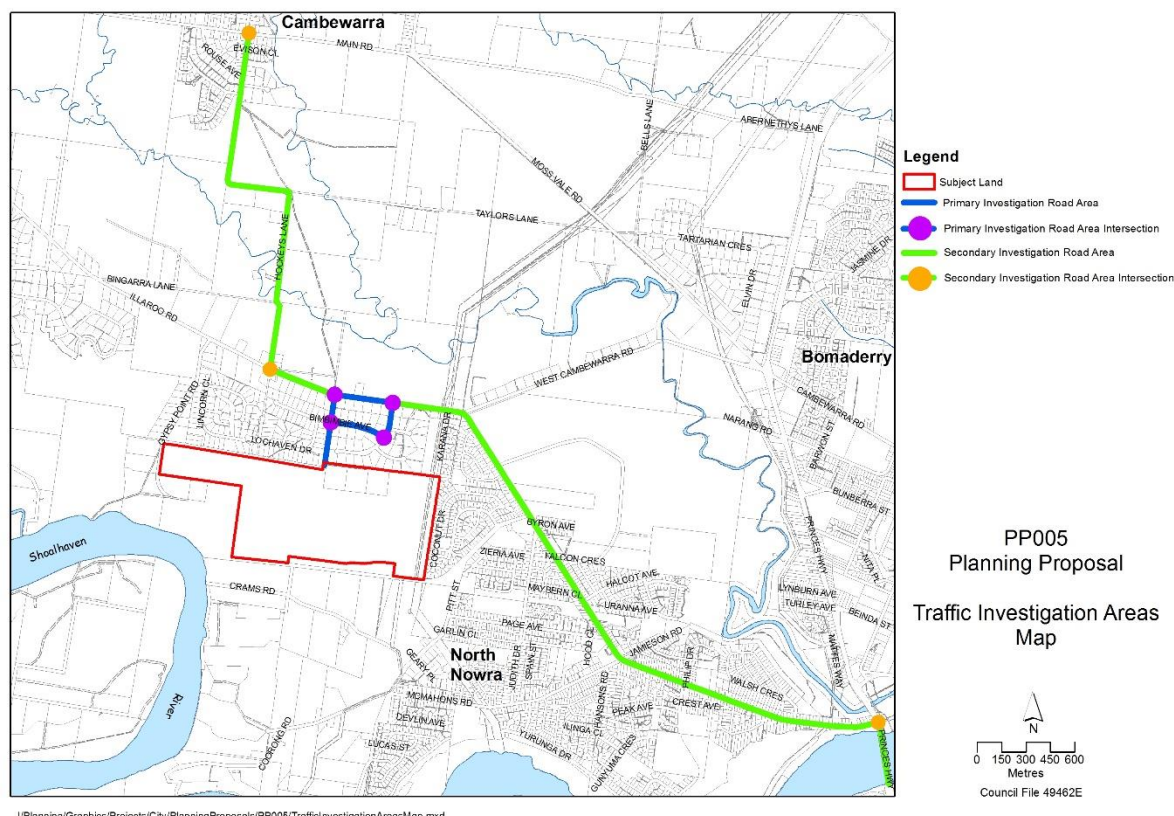
It is considered that this ACHA report is suitable to allow the public exhibition of the PP and referral to the NSW Office of Environment and Heritage (OEH).

#### Traffic Assessment

Council commissioned and managed the Traffic Assessment (**Attachment 1**) for this PP because of the community concerns with this aspect of the proposal. This assessment considered the impacts of development of the subject land on the existing road network and the road infrastructure requirements for the development. It also modelled and considered the time it would take to evacuate the development area in the event of a bushfire.

The assessment investigated seven (7) intersections between the subject land, Moss Vale Road and the Princes Highway as shown below:

### Intersections Considered in Traffic Assessment



The traffic assessment did not recommend the opening of the current closed section of Warrah Road between Bimbimbie Avenue and Illaroo Road. All modelling assumed that this road would not be opened.

The intersection modelling found that all the intersections except for the intersection of Illaroo Road and the Princes Highway (IRPH intersection) will continue to satisfactorily operate with relatively minor augmentation if development were to proceed. The modelling predicts that the IRPH intersection will fail (reach a peak time level of service F) in 2022 without the development and in 2021 with the development. That is, the release of this land will accelerate the failure of this intersection by one year.

The report also modelled the traffic conditions following the duplication of the Princes Highway Bridge and associated intersection improvements at the IRPH intersection. The report assumed this work would follow the Far North Collector Road. It predicts that after the bridge duplication (and therefore the Far North Collector Road) the intersection will satisfactorily operate with or without the development.

Under the Urban Release Area (URA) provisions in the LEP, Council can rezone this land but defer its release until such time that infrastructure issues are resolved and a DCP is in place. In this scenario, Council would rezone the land but its actual 'release' would be deferred until a later date when a DCP is prepared to allow development and satisfactory infrastructure is planned/provided.

The release of this URA (Crams Road) is currently envisaged as the **last** phase in the current planning for growth in the Nowra-Bomaderry area that was identified under the Structure Plan. In late 2017 Council adopted the following phasing approach:

*Phase 1 – Mundamia and Worrigea*

*Phase 2 – Moss Vale Road South and Moss Vale Road North*

*Phase 3 – Cabbage Tree Lane*

DE19.33

#### *Phase 4 – Crams Road*

All landowners within the URAs were written to and advised of this phasing.

Council is currently actively working to release the URAs in Phase 2 and staff time is currently dedicated to that. It is not envisaged at this stage that the detailed planning for Phase 4 will commence for some time and will need to be considered in the preparation of future Council Strategic Planning Works Programs.

As such It is recommended that in this case, Council proceed with the PP to finalise the zoning of land whilst also resolving not to prepare a DCP (under Part 6 of the LEP) and associated infrastructure plans until after both the duplication of the Princes Highway Shoalhaven River bridge and the Far North Collector Road are complete and actual 'release' is needed in terms of the overall area.

The traffic assessment otherwise found no issues that significantly impact on the progression of the PP.

#### Bushfire Assessment

The proponent's Bushfire Assessment (**Attachment 2**) concluded:

*"The (proposal) exceeds the minimum "Deemed-to-Satisfy" specifications set out in Chapter 4 (Performance Based Control) and the aim and objectives of Planning for Bushfire Protection 2006 and affords occupants of the future dwellings adequate protection from exposure to a bushfire."*

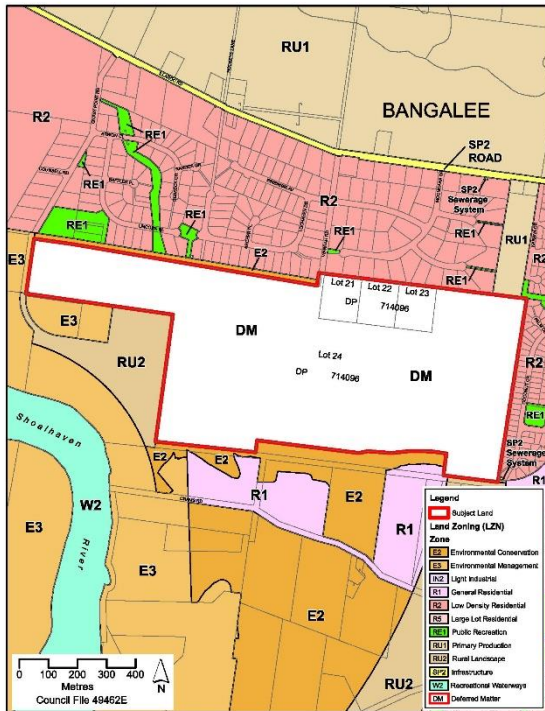
It is considered that this bushfire report is suitable to allow the public exhibition of the PP after referral to the NSW Rural Fire Service (RFS). Additional work may be required at the Development Control Plan stage of the process to ensure a satisfactory bushfire planning outcome, including access/egress.

#### Revised PP Maps

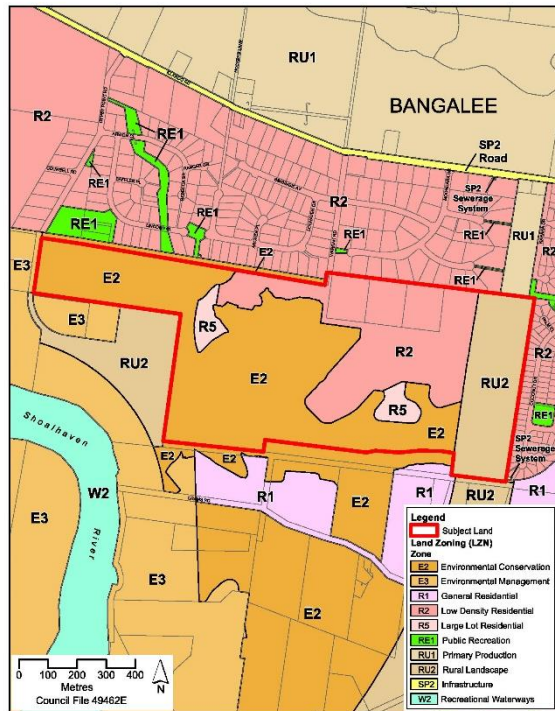
Following the completion of these studies the PP maps were reviewed considering the Gateway determination and a new set of maps were prepared that have been informed by the assessments. Noting that the subject land is currently "deferred" from the LEP various map layers are required. The proposed revised maps (and existing extracts) are provided below:



PP005  
Existing SLEP2014 LZN



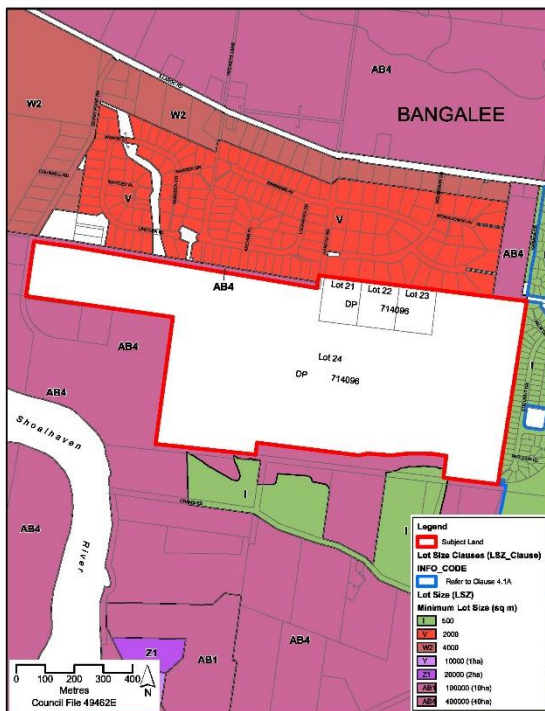
PP005  
Proposed LZN



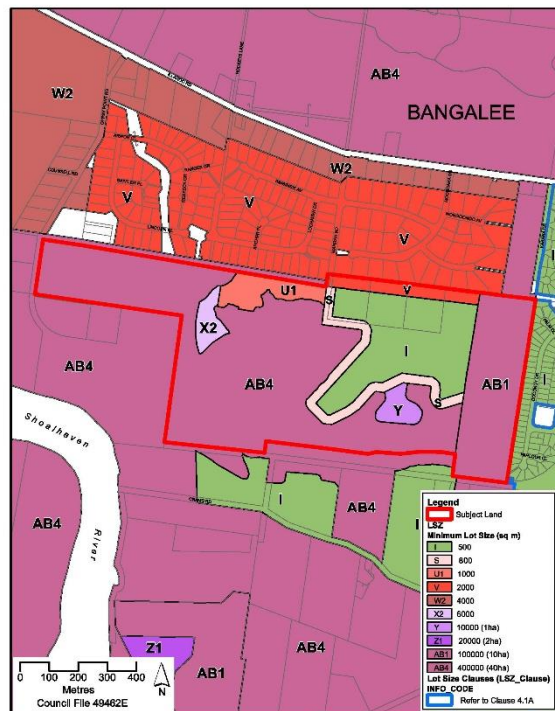
I:\Planning\Graphics\Projects\City\PlanningProposals\PP005\_WarrahRd\_NorthNowra\VariousLots\_SLEP2014LZN& ProposedLZN.mxd

### Existing and Proposed Zone Map

PP005  
Existing SLEP2014 LSZ



PP005  
Proposed LSZ

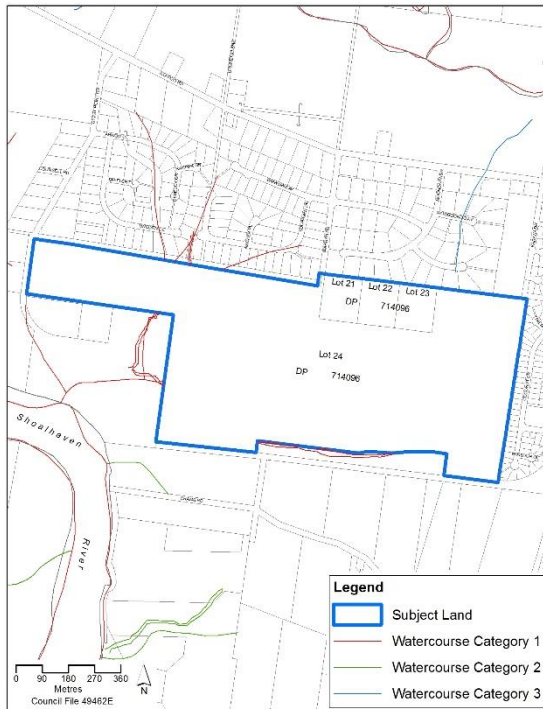


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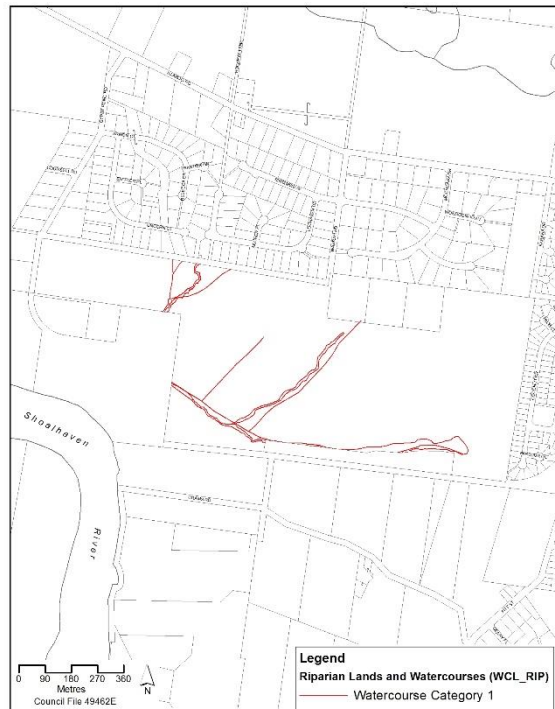
### Existing and Proposed Lot Size Map

DE19.33

PP005  
Existing SLEP2014 WCL



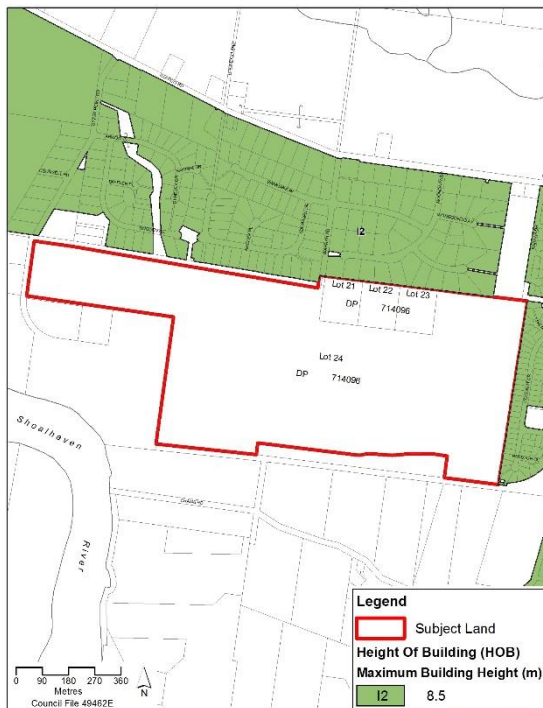
PP005  
Proposed WCL



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### Existing and Proposed Watercourses Map

PP005  
Existing SLEP2014 HOB



PP005  
Proposed HOB



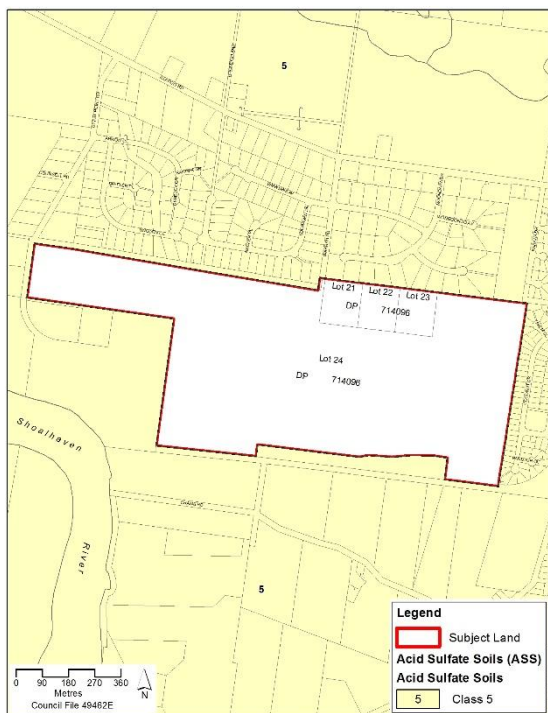
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### Existing and Proposed Height of Buildings Map

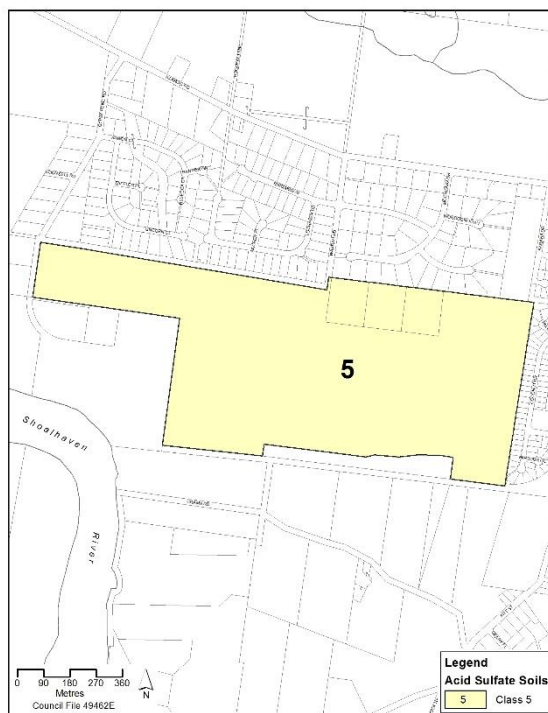
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PP005  
Existing SLEP2014 ASS

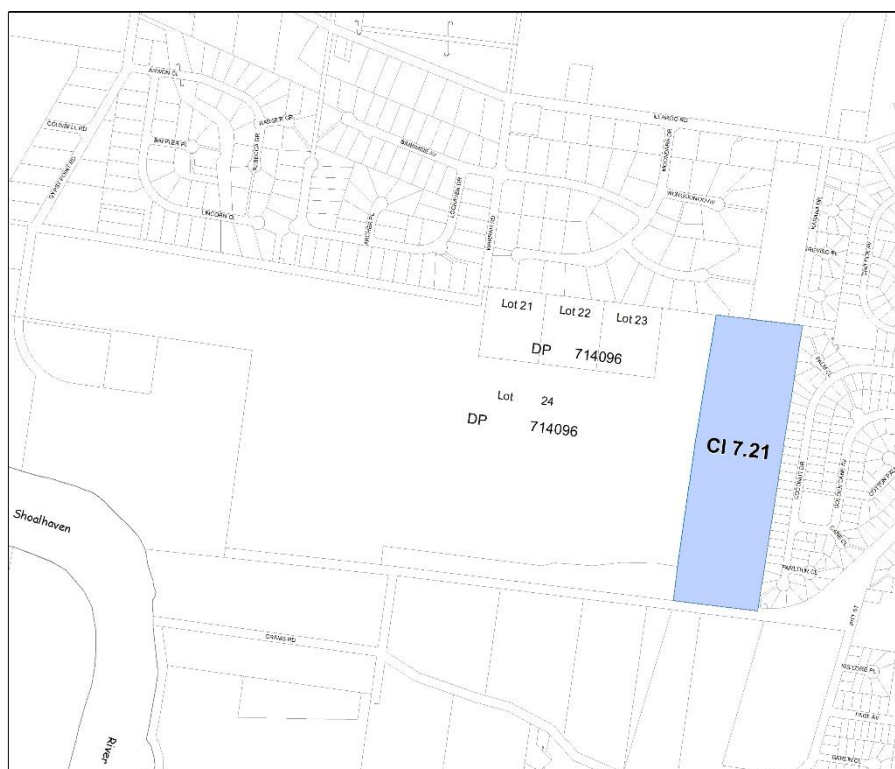


PP005  
Proposed ASS



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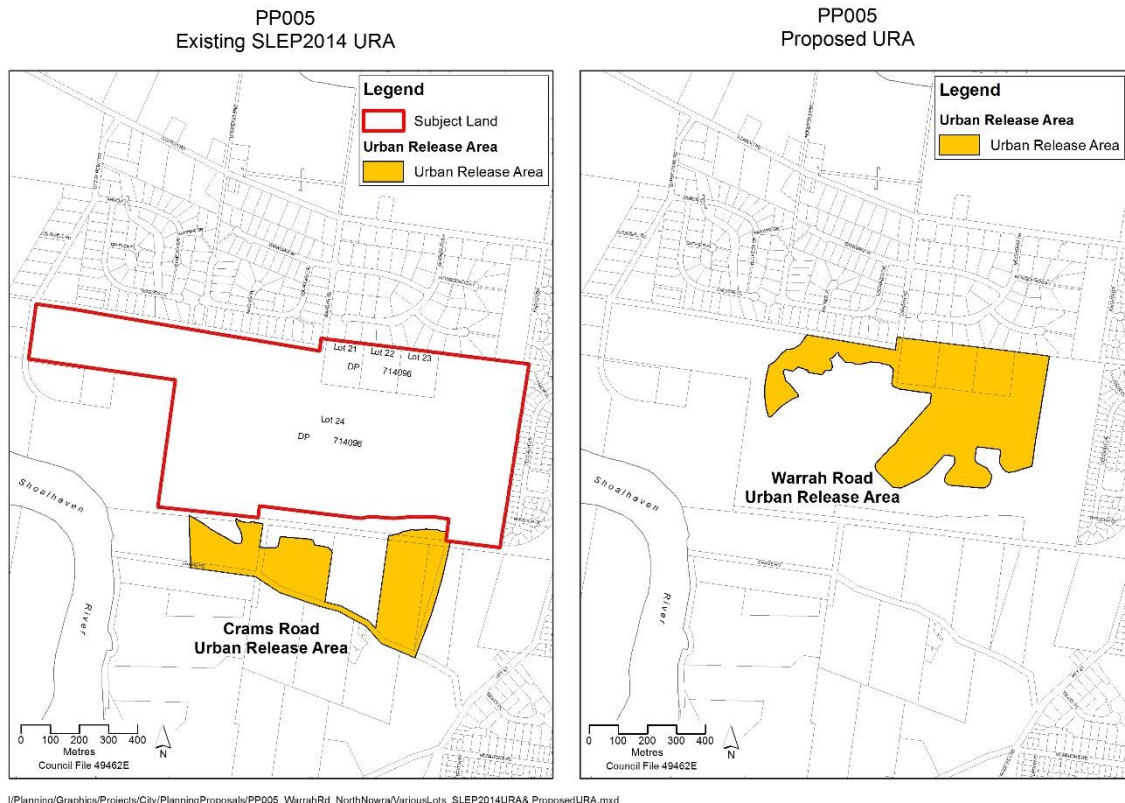
Existing and Proposed Acid Sulfate Soils Map



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Existing and Proposed Clauses Map

DE19.33



**Existing and Proposed Urban Release Areas Map**

Whilst the proposed zone and minimum lot size maps may look complicated/detailed they have been worked up to recognise various matters and set an outcome.

It is recommended that the proposed maps shown above be adopted for inclusion in the PP that will be exhibited for comment.

### Biodiversity Certification

On 18 December 2018, Council received written advice (see **Attachment 3**) from the proponent that they wish to also biodiversity certify this PP. Biodiversity certification is an arrangement that allows a proponent to “lock in” environmental conservation and impacts at the PP stage so that these matters do not need to be addressed at the development application stage. It is the approach that Council has previously adopted for the Halloran Trust Lands PPs.

Council staff met with officers from DP&E and OEH to discuss this request and both agencies advised that they support the approach of biodiversity certifying this PP.

It is recommended that Council apply to OEH to biodiversity certify this PP.

### Management of the Residual Land

The eventual development of the land will most likely result in approximately 55 hectares of residual land. This includes 43 hectares of land to be zoned E2 – Environmental Conservation and 12 hectares of land to be zoned RU2 – Rural Landscape that will form part of the Western Bypass Corridor around Nowra-Bomaderry.

The landowner has indicated that they do not wish to dedicate the land to Council. This means that if Council wished to acquire it as a public reserve, which is not necessarily the case, it would need to purchase the land through an acquisition process.

The proponent has instead indicated they would wish to subdivide the residual E2 land into three (3) lots with each lot being partially in the urban release area. Essentially, the environmental land will then be connected to one of three dwelling sites within the development footprint.

This proposed arrangement is broadly considered satisfactory because:

- The E2 land is proposed as an offset as part of the biodiversity certification of the site. This means that the land will be subject to a binding conservation agreement with funding available in perpetuity for the future land owner.
- Council taking ownership of the land will not necessarily result in an improved conservation outcome.
- The proposed subdivision will allow for a subdivision into manageable parcels that can be better supervised by a land owner.
- Purchasing the land in this instance offers poor value for money because its purpose as a biodiversity reserve will be achieved with the land remaining in private ownership.

The proponent has also advised that they do not wish to dedicate the land identified as part of the future road corridor for the Princes Highway bypass of Nowra. Given the likely timeframe for the delivery of this bypass, it is not desirable to acquire this land at this time. The proponent instead proposes a similar arrangement to the E2 zoned land, with only one dwelling site being linked to the road corridor land. They are proposing to separate the ownership of road corridor land and the E2 land.

If Council is agreeable to this approach, it will be necessary to insert a subclause into Clause 4.1E of the LEP. This is recommended as an outcome of this report.

### The Gateway Determination

The proposed changes to the PP will require the current Gateway determination to be amended because:

- A new R5 zone is proposed for 3 lots on the edge of the development area (i.e. the R5 zone is not listed in the Gateway determination).
- A new clause is proposed to allow the subdivision of the E2 and RU2 as outlined above.
- There is a Gateway condition relating to the remediation areas on site that will be breached by a small amount (approx. 400 m<sup>2</sup>) to allow for roads into the development. OEH have verbally indicated that this would be acceptable if the PP is biodiversity certified.
- There are ambiguities in the current Gateway determination that could create difficulties when the PP reaches the finalisation step in the process.

Accordingly, it is recommended that Council seek an amended Gateway determination for this PP to enable it to then move forward to formal public exhibition.

### **Community Engagement**

Assuming DP&E issue a favourable Gateway determination for the proposed amendments the PP would be ready to refer to RFS and then place on public exhibition. This exhibition would be undertaken in accordance with Council's PP Guidelines as a *Broader Impact Major*

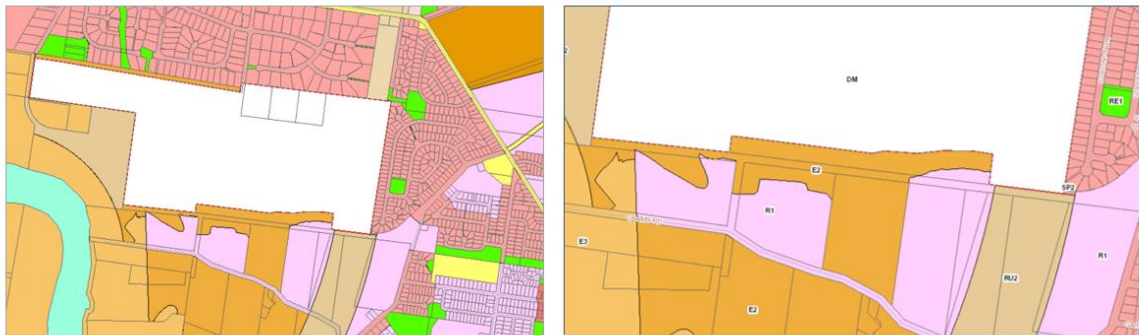
*PP.* It is noted that there has been considerable community interest in this PP previously and this is likely to be the case moving forward.

It is recommended that Council resolve to exhibit the PP if a favourable Gateway determination is received. If not, the matter will be reported back to Council.

### **Policy Implications**

Once the likely development future of the subject land is resolved, the other area that possibly requires Council's reconsideration is the other remaining component of the Crams Road URA.

The history of the Crams Road URA is covered in the earlier reports on this matter. Through the Shoalhaven LEP2014 process the southern parts of the URA were zoned R1 General Residential and the northern part was 'deferred' from the LEP. The following extracts from the LEP mapping provide an overview of the two areas.



Given the physical separation of the two parts of the URA and the zoned configuration of the southern part that is focussed along Crams Road there is a need to have a closer look at how the southern areas could possibly develop. This review will also need to consider whether it is practical, depending on potential yield, servicing etc. that this part (southern) is retained as a URA.

As such it is also recommended that Council consider adding the review of the southern part of the Crams Road URA as a new project on the Strategic Planning Works Program when it is reconsidered in coming months.

### **Financial Implications**

This PP is being funded on a 100% cost recovery basis by the proponent in accordance with Council's PP Guidelines.

DE19.33

**SOUTHBANK LAND PTY LTD &  
HUNTINGDALE DEVELOPMENTS PTY LTD**

17 December 2018

Mr G Rokobauer  
Shoalhaven City Council  
Bridge Road  
NOWRA NSW 2541

Dear Grant

**RE: LOT 24 WARRAH ROAD NORTH NOWRA – BIO-CERTIFICATION**

Further to our recent discussions we confirm that we wish to move forward with Bio-certification of the planning proposal area and attach a map prepared by our Environmental Consultant OMVI denoting the proposed Development and Environmental Stewardship areas.

Subject to Shoalhaven City Council's formal endorsement of the Draft LEP for exhibition our consultant will prepare the detailed report on Bio-certification for consideration by Council and NSW Office of Environment & Heritage.

Should you have any queries or require anything further please don't hesitate to contact the undersigned at your convenience on 02 4229 3693 or [ptaranto@bigpond.net.au](mailto:ptaranto@bigpond.net.au)

Yours sincerely  
**SOUTHBANK LAND PTY LTD AND  
HUNTINGDALE DEVELOPMENTS PTY LTD**



PETER TARANTO  
Director



**ATTACHMENT A – BIOCERTIFICATION PLAN**

**DE19.33 - Attachment 3**

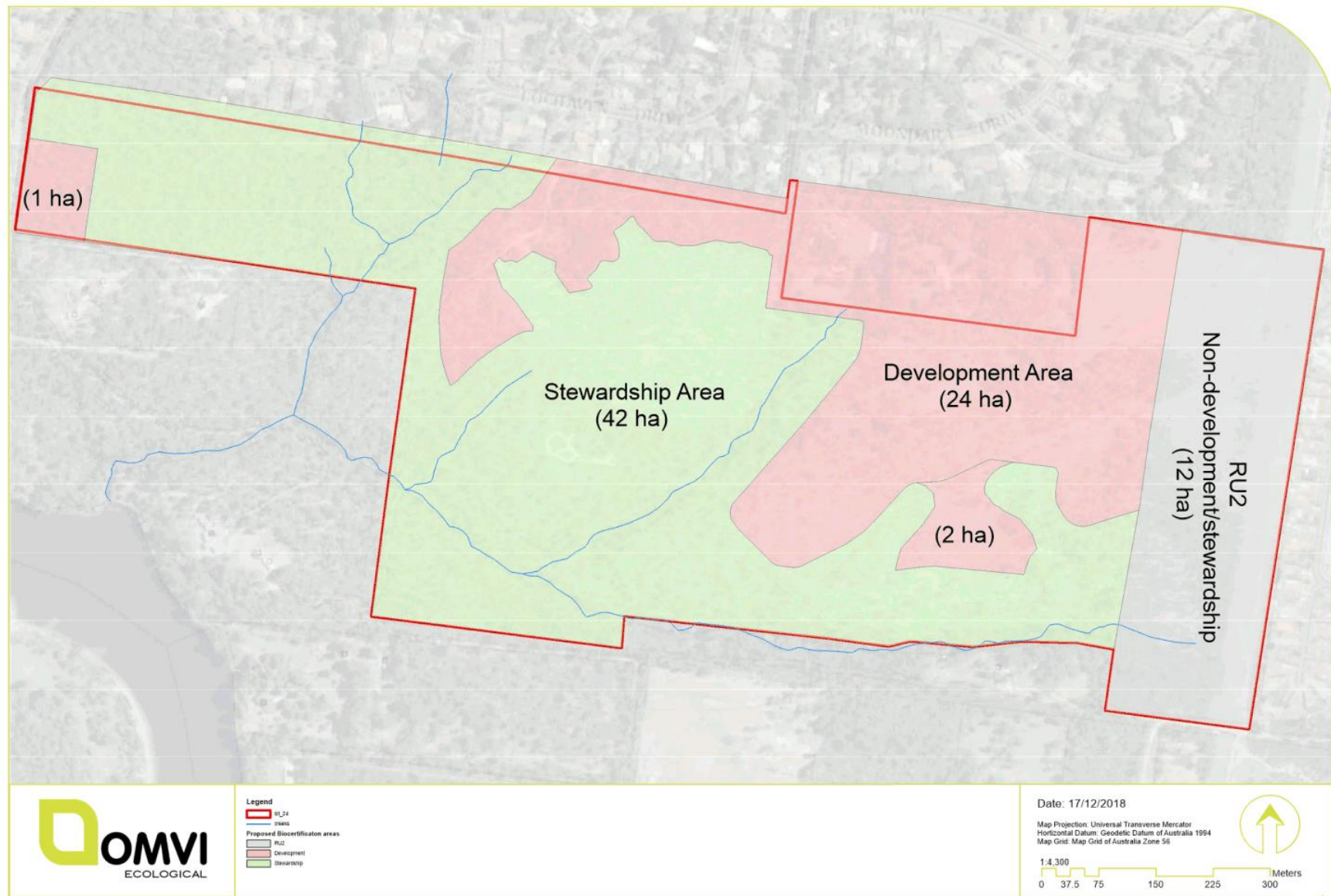


Figure X: Lot 24 showing proposed development area and stewardship areas (for Biocertification)

## DE19.34 Options - Review of Proposed Service Lane, St Georges Basin Village Centre - Shoalhaven DCP 2014 and Shoalhaven Contributions Plan 2010

**HPERM Ref:** D19/119586

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:**

1. Plans - Draft 90% Civil Engineering Drawings - Proposed Service Lane St Georges Basin (under separate cover) [↗](#)
2. Shoalhaven DCP 2014 Chapter N23 St Georges Basin Village Centre - Supporting Map [↓](#)

### Purpose / Summary

Review proposed service lane currently identified in Shoalhaven Development Control Plan (the DCP) 2014 Chapter N23: St Georges Basin Village Centre and Shoalhaven Contributions Plan (the CP) 2010 (Project 03ROAD2113) having regard to the updated engineering design, construction costs and land valuations.

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

That Council:

1. In recognition of the broader Strategic Plan for St Georges Basin Village Centre, reaffirm the proposed Service Lane identified in Shoalhaven Development Control Plan (DCP) 2014 Chapter N23: St Georges Basin Village Centre with minor changes following design approval of the updated engineering design plans.
2. Prepare an amendment to the Shoalhaven Contributions Plan (CP) 2019 to:
  - a. Delete the project 03ROAD2113 St Georges Basin Service Lane as a standalone project and include the proposed Service Lane in Project 03ROAD2023 St Georges Basin Village Access Road and Traffic Facilities that is part of the Village Road Network required to facilitate the development of the overall B4 Mixed Use zone and support the future population growth in St Georges Basin.
  - b. Include the updated engineering design, land valuation and construction cost estimates in the updated project.
  - c. Identify the remaining works for construction in the CP Project 03ROAD2023 Village Access Road and update the project cost estimates for the remaining works.
3. Depending on the outcome of the proposed amendment to Shoalhaven Contributions Plan 2019:
  - a. Fund initial expenditure on the first stage of the service lane works to provide essential rear lane access to the properties 144-152 Island Point Road and land acquisition using recoupment funds that may be available following the adoption of the Shoalhaven Contributions Plan 2019 or through general revenue allocations in the future Capital Works Program of up to \$600,000 (2018/19 Indexed Estimate for 63% of the Project Costs rounded up) and request a further report should more than this amount be required.
  - b. Include the construction of the remaining section of the St Georges Basin Village Centre Service Lane and Village Access Road in Council's capital works planning.
  - c. Recoup the expended funds through Section 7.11 development contributions levied

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by Shoalhaven Contributions Plan 2010 for future development.

4. Prepare a minor housekeeping amendment to Shoalhaven DCP 2014 Chapter N23: St Georges Basin Village Centre to reflect the updated design for the proposed service lane and include the final design approved engineering plans as a supporting document.
5. Undertake a broader review of Shoalhaven DCP Chapter N23: St Georges Basin Village Centre to complete/update the precinct planning for the “Future Uses” area identified in the DCP Chapter Supporting Map as part of Council’s Strategic Planning Works Program.
6. Advise the applicant of DA17/2435 of the intended changes and support a future application under Council’s Policy *Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments (under Special Circumstances)* to defer the payment of contributions levied in the development consent for Project 03ROAD2113 of \$45,541.91 (2018/19 Financial Year) until the future of the Service Lane is resolved and consider waiving of the requirement for a bank guarantee given the circumstances incurred by the applicant through this review process.
7. Advise the affected landowners of this resolution and the next steps.

## Options

1. Adopt the recommendation outlined above.

### Implications:

The detailed work arising from the Council resolution of 28 August 2018 has flagged a substantial potential increase to the total project cost. The resultant Equivalent Tenement (ET) amount would be a substantial development cost to landowners/developers and it would not be appropriate to burden landowners with this amount of contributions.

Demand still exists for the proposed service lane as part of the overall local road network that is critical for the longer-term development of the B4 Mixed Use zone area in St Georges Basin Village Centre identified in Shoalhaven DCP 2014 Chapter N23: St Georges Basin Village Centre

Amending the CP to combine the service lane and the village access road projects mean the wider Contribution Area would contribute to the service lane. The nexus between the wider Village Access Road and service lane to the anticipated development can be generally established/argued. The demand for both projects exists to deliver local roads and a service lane to facilitate coordinated and managed development of the overall village centre that will service the growing population and needs of the broader St Georges Basin community.

In planning for a wider village centre, the overall community need must be considered. It is acknowledged that the restriction on front access to properties along Island Point Road burdens 5 of the 8 commercial properties that adjoin the service lane; however, the future amenity, redevelopment potential and vehicle and pedestrian safety on Island Point Road must also be considered in the longer-term planning for the centre.

2. Retain the proposed service lane and front vehicular access restriction in Shoalhaven DCP 2014, remove Council’s intention to deliver the service lane as a Contributions Project and require each landowner/developer to design and construct rear service lane access from the existing partially constructed service lane with a ‘Right of Carriageway’ of 4.2m along the rear of each property to enable clear sight distances and vehicle manoeuvrability in the service lane.

Minor variations to the service lane design can be considered on a case by case basis to consider site constraints etc. Council could also consider removing the requirement to include a footpath and provide a low speed environment through this option, recognising the laneway as a service laneway only.

Implications:

This option would still potentially deliver the planned outcome and not require a financial contribution from Council. It however would potentially impact on the coordinated delivery of the service lane and would require each landowner/developer to facilitate the service lane as part of the development of their land. This may result in a “staggered” uptake of the rear lane pending development of individual allotments and would discourage pedestrian movements via the laneway. The issue of ongoing maintenance of the laneway would also need to be considered with a preference that a service lane of this type be ultimately transferred to Council and managed as a public road.

If Council resolves to retain the service lane in the DCP but remove the project from the CP, the DCP should be amended to require the creation of ‘Right of Carriageways’ or easements through future developments to ensure service lane access, site distances and that manoeuvrability is not restricted by future development close to the rear boundary.

3. Remove the proposed service lane from the DCP and CP and allow front access from Island Point Road to the four (4) relevant properties, excluding Lot 45 DP 25550 where vehicle access from Island Point Road would not be practical.

Implications:

Whilst this option can be pursued, the proposed service lane has existed in the DCP since 1998 as part of the St Georges Basin village centre plans and has been reinforced through subsequent Council decisions. As the broader B4 Mixed Use area is developed and the population increases, there will potentially be further demand for retail/commercial activities in this area to support the population. The proposed service lane allows for coordinated servicing arrangements and higher potential amenity, safety and capacity for redevelopment for the commercial properties on Island Point Road in the longer term.

If Council resolves to remove the proposed service lane from the DCP and CP and to allow front access from Island Point Road. Lot 45 DP 25550 should be excluded from this change given distance from the Tasman Road intersection and future roundabout at this intersection. Truck manoeuvrability for larger service vehicles will also be difficult to achieve on Island Point Road given the traffic volume and pedestrian/vehicle safety.

Council will ultimately need to update the relevant provisions via amendments to the DCP and CP that follow the legislative process. The applicant (Harpley) would also be required to redesign the development to provide access from Island Point Road.

## Background

This report seeks Council’s direction on the future of the proposed service lane in the St Georges Basin Village Centre. Following the Council resolutions of 28 August 2018 and 8 May 2018 (reproduced below), draft engineering design drawings and updated project costs have now been obtained and are detailed in this report.

Ordinary Meeting - 28 August 2018

*That Council, depending on the outcome of detailed design review, commit to funding the upfront costs for the construction of the remaining section of the St Georges Basin Village Centre Service Lane identified in Contribution Project (CP) 03ROAD2113 through:*

- 1. Funding the initial expenditure of the works and land acquisition using recoupment funds that may be available following the completion of the Shoalhaven Contributions Plan review or through general revenue allocations in the future Capital Works Program of up to \$200,000 (2018/19 Indexed Estimate for Project Costs rounded up) and request a further report should it require more than this amount.*
- 2. Recouping the expended funds through Section 7.11 development contributions levied by Shoalhaven Contributions Plan 2010 for future development.*
- 3. Including the design and construction of the remaining section of the St Georges Basin Village Centre Service Lane with an additional minimum width of 4.2m within properties that adjoin the existing service lane area adjacent to the IGA supermarket in Council's capital works planning.*
- 4. Commencing the process of land acquisition for land required for the ultimate construction of the service lane and existing service areas identified in CP 03ROAD2113 to allow full public access in the service lane.*

Development Committee Meeting - 8 May 2018

*That Council:*

- 1. Resolve to reaffirm the current requirements of Chapter N23: St Georges Basin, Village Centre, SDCP 2014 and Shoalhaven Contributions Plan 2010 (SCP 2010) in support of the rear service lane arrangement to have one-way access, noting the available width; and*
- 2. Receive a report on providing the road using recoupment of section 7.11 (former s 94) contributions funds once the review of the current contributions plan is complete.*

The proposed service lane in question has existed since 1998 when it was added to the then DCP 17 - St Georges Basin Village Centre. Prior to 1998 the previous DCP version included a shared access arrangement from Island Point Road.

Through the assessment of DA17/2435 (Harpley) for a commercial building in the area, there have been various and ongoing discussions including two reports to Council in 2018 on the future of the service lane and the controls in the DCP that currently restrict vehicle access from Island Point Road for five (5) properties along Island Point road.

The current DCP Chapter N23 can be viewed on the internet at:

<http://dcp2014.shoalhaven.nsw.gov.au/content/st-georges-basin-village-centre>

A copy of the supporting map that is part of the DCP is included as **Attachment 2** to this report.

The proposed service lane between Village Access Road and Island Point Road contained in the DCP was also included in Shoalhaven Contributions Plan 2010 in May 2010. The CP project detail can be viewed at:

<http://www3.shoalhaven.nsw.gov.au/Section94/Document1.aspx?ProjectCode=03ROAD2113>



## Recent Considerations

Development Application, DA17/2435 for a 2-storey commercial building at 148 Island Point Road, St Georges Basin was lodged in November 2017. During the assessment process, the DA was reported to Council in May 2018 and August 2018 (resolutions above) and the key issue of the proposed service lane was discussed at both meetings.

In August 2018, Council resolved to pursue the initial funding of \$200,000 for the Contributions Project, depending on the outcome of the detailed design, so that it could start ahead of schedule. The Contributions Project is 100% apportioned to development and the timeframe is 'development dependent'. This means that Council would recoup the full cost of the service lane through future development contributions levied on relevant landowners/developers through future development approvals on the land. The current project estimate for the CP is \$197,306.92 with a contribution rate of \$12,331.68 per Equivalent Tenement (ET). The number of ETs that are ultimately payable depends on the type of development proposed.

The current cost estimates in the CP Project were based on rough concept design costs and land valuations from 2010. The current estimates also assume that land was dedicated as part of the supermarket development, however the development consent allowed an option of dedication or providing a 'right of access'. The 'right of access' option has now been executed and therefore the land acquisition costs still need to be accounted for in the total project costs unless dedication occurs.

Following the resolution of August 2018, Council engaged an external firm to prepare engineering design drawings for the proposed service lane in accordance with the DCP and CP concept plans. A land valuation was also obtained to update the value of the area identified for acquisition in the CP Project map based on a m2 rate. The engineering design plans are now at 90% concept design stage and include plans for acquisition, demolition, traffic (including future one-way access to Island Point Road) and manoeuvrability for servicing vehicles (see **Attachment 1**).

Based on the updated/detailed design provided at **Attachment 1**, the construction estimates have now increased to \$530,000 and the total land valuation is now between \$178,000 and \$409,000 (approximate) based on a m2 rate.

Depending on the area required for possible land acquisition from the existing supermarket site, the revised project costs are now estimated between \$718,900 and \$950,000 (approximate). This is a substantial increase to the earlier cost estimate and would result in a contribution rate of between \$44,930 and \$59,365 per ET.

This ET amount would be a substantial development cost to landowners and Council now needs to decide whether the proposed service land is still viable as a standalone project and if the financial burden to landowners and future developers is acceptable/justifiable.

The following table provides a breakdown of the current (2010) and updated (2019) project costings.

**Table 1: Comparison table of updated and current cost estimates for CP project 03ROAD2113 – St Georges Basin Service Lane**

Project Estimates	2019 ex supermarket	2019 inc supermarket	2010 Remaining Works (indexed total 2018)
Land Valuation	\$ 178,192.19	\$ 409,167.49	\$ 87,459.00
Construction Costs	\$ 530,000.00	\$ 530,000.00	\$ 74,197.78
Engineering Plans	\$ 10,708.50	\$ 10,708.50	
Updated Total	\$ 718,900.69	\$ 949,875.99	\$ 197,306.92
Total Ets	\$ 16.00	\$ 16.00	\$ 16.00
ET Rate	\$ 44,931.29	\$ 59,367.25	\$ 12,331.68

Considering the updated project costs, the following possible funding arrangements could be considered for the proposed service lane:

**1. Amending the project to change the apportionment from 100% with Council contributing to some of the costs.**

This option would require funds from Council's general revenue (or from within the CP funding if possible) which is not recommended given other priorities and the fact that this service lane does not benefit the wider rate base.

Even if Council decided to pay 50% of the project costs, for example, there is still a substantial increase to ET rate.

**2. Deleting the project from the Contributions Plan and requiring landowners to facilitate the proposed service lane identified in the DCP.**

This option would not require a financial contribution from Council, but would reduce the coordination of the service lane and would require the landowner/developer to facilitate this service lane through the redevelopment of their land as part of the development assessment process.

This does not provide the best outcome for the amenity of Island Point Road and the village, the capacity of the site for redevelopment, or the safety of pedestrians/vehicles on Island Point Road. There have been other examples of private car parking/servicing arrangements that have resulted in poor outcomes. Right of Carriageways can often lead to civil disputes without clear plans for maintenance. Council would most likely still ultimately be drawn into this option if pursued.

**3. Including the proposed Service Lane in the larger project 03ROAD2023 St Georges Basin Village Access Road and Traffic Facilities (preferred option).**

Through a review of the recently adopted Shoalhaven Contributions Plan 2019 and the projects in St Georges Basin Village Centre, particularly 03ROAD2023, it has been identified that the demand still exists for the other proposed service lane and access road. This lane will support the retail and fringe commercial area as part of the local road network and is critical for the development of the broader B4 Mixed Use zone area in St Georges Basin Village Centre.

The option of amending the CP to combine the service lane in question with the Village Access Road means the wider Contribution Area would contribute to the service lane. There is a nexus between the future service lane and the wider contribution area.

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The existing nexus for the CP Project [03ROAD2023 St Georges Basin Village](#) is detailed below:

*“The project is a critical part of the local road network and necessary to enable land zoned 3(g) Business (Development Area) (now B4 Mixed Use in Shoalhaven LEP 2014) to the east of Island Point Road to develop”.*

The current indexed amount for this project is \$3,110,322.04 with an ET rate of \$7,672.23 spread across potentially 405 future ETs. The timing for delivery is 2012/2016 and part of the Village Access Road has been constructed at the entry points as a Council delivery project and through a ‘works-in-kind’ agreement in lieu of contributions though the Supermarket Development. The remaining costs given increases to construction costs in recent years should be estimated and included in any amendment to the CP.

If Council resolves to include the proposed service lane in with the Village Access Road project, the total cost will increase to \$4,056,200 (approximate) and the ET rate will increase to \$10,015.30.

This option is perhaps the most suitable to ensure the proposed service lane can continue as planned, be delivered through the CP and to provide the best outcome for the future development and resulting population growth in St Georges Basin.

## Conclusion

More detail has now been obtained on the potential cost and options to implement the service lane that is identified in the DCP and CP.

Given the costs involved Council needs to decide how to best take this matter forward, acknowledging that there is still merit in the thinking behind the original service lane concept. The preferred option presented in the report would see the service lane retained in the CP, with the cost spread over a larger area.

## Community Engagement

Any proposed amendments to DCP and CP will need to be publicly exhibited for a minimum period of 28 days and further landowner and broader community feedback will be undertaken at that point.

A letter was sent to landowners affected by the current Contributions Project 03ROAD2113 on 11 April 2019 providing background on the proposed service lane and advising that a report on the future of the service lane will be considered by Council at the May Development & Environment Committee Meeting. This letter provided an opportunity for initial feedback and any that is received will be presented to Councillors at a briefing before the Committee meeting.

## Policy Implications

Depending on the decision, Council will ultimately need to update the relevant provisions in the DCP and the CP. Council will be required to follow certain procedures to amend these plans including public exhibition.

## Financial Implications

There is currently no funding available or set aside for acquisitions or project delivery for the proposed Service Lane; however, Council previously resolved to consider the initial funding of \$200,000 through general revenue or potential CP recoupment funds.

Seed funding to deliver the remainder of the service lane will be required from general revenue or potential CP pool funds that may be available following the completion of the Contributions Plan review prior to development in this area and recoupment through levied development contributions.



## **DE19.35 Development Application – SF10671 proposed 2 lot subdivision at Lot 9 DP792386 (no.96) Princes Hwy Milton**

**DA. No:** SF10671

**HPERM Ref:** D19/84342

**Group:** Planning Environment & Development Group  
**Section:** Development Services

**Attachments:** 1. Draft Conditions of Development Consent (under separate cover) [↗](#)  
2. Section 4.15 Assessment Report (under separate cover) [↗](#)

**Description of Development:** Proposed 2 Lot subdivision of Lot 9 DP792386 Princes Hwy Milton

**Owner:** J & N Pryor

**Applicant:** Phillip Brown Surveyor

**Notification Dates:** 13 – 28 September 2018

**No. of Submissions:** One (1) objection

### **Purpose / Reason for consideration by Council**

This application is reported for determination, in accordance with Section 3.3.5. of the Council Policy– ‘*Dealing with Development Applications Lodged by Council Staff or Councillors*’, POL16/235. One of the land owners is a staff member within the development assessment section of the Planning, Environment and Development (PED) Group.

Additionally, the application involves the use of a narrow laneway as a primary frontage for a proposed vacant block of land, therefore is inconsistent with Council’s interim policy - *Development Adjoining Narrow Laneways* POL18/55.

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

Council resolve with respect to the development application SF10671, proposed 2 lot subdivision of Lot 9 DP792386 Gumley Lane, Milton, to:

1. Support the variation to Council Interim Policy 18/55, and use of Gumley Lane for access,
2. Support the development and determine the application by way of approval subject to conditions of consent, as outlined in the attached Draft Consent, Attachment 1.

### **Options**

1. Support the recommendation.

Implications: Should the application be approved, it would enable the subdivision to occur, providing an additional vacant block in the Milton Village.

**DE19.35**



2. Alternatively, the Council may choose to not support the application, and determine the application, by way of refusal.

Implications: Should the application be refused, the applicant is able to take the matter further, by way of a Section 8.2 Review of Determination or an Appeal to the Land and Environment Court (LEC).

## Location

The subject land is Lot 9 DP792386 (No.96) Gumley Lane, Milton. The land is situated between Church Street and Gordon Street, on the northern side of the Princes Highway, Milton. The land falls away from the Highway, to the north towards Gumley Lane.



Figure1 – Subject land – Location

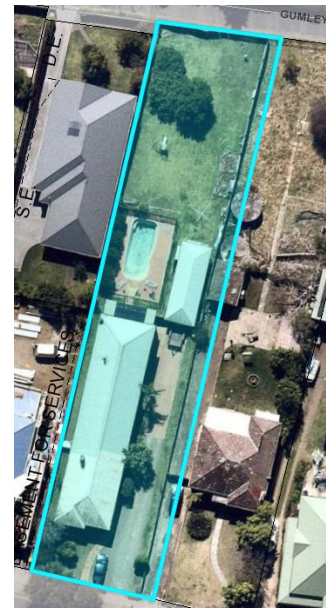


Figure 2 – Subject Land

## Background

### Proposed Development

The application is for a 2 lot Torrens title subdivision (and removal of 3 fruit trees). Proposed Lot 91 will continue to utilise existing access to/from the Highway, including the existing dwelling, garage and swimming pool, with an area of 929.5m<sup>2</sup>.

The proposed vacant lot, Lot 92 will have a total area of 502.8m<sup>2</sup>.

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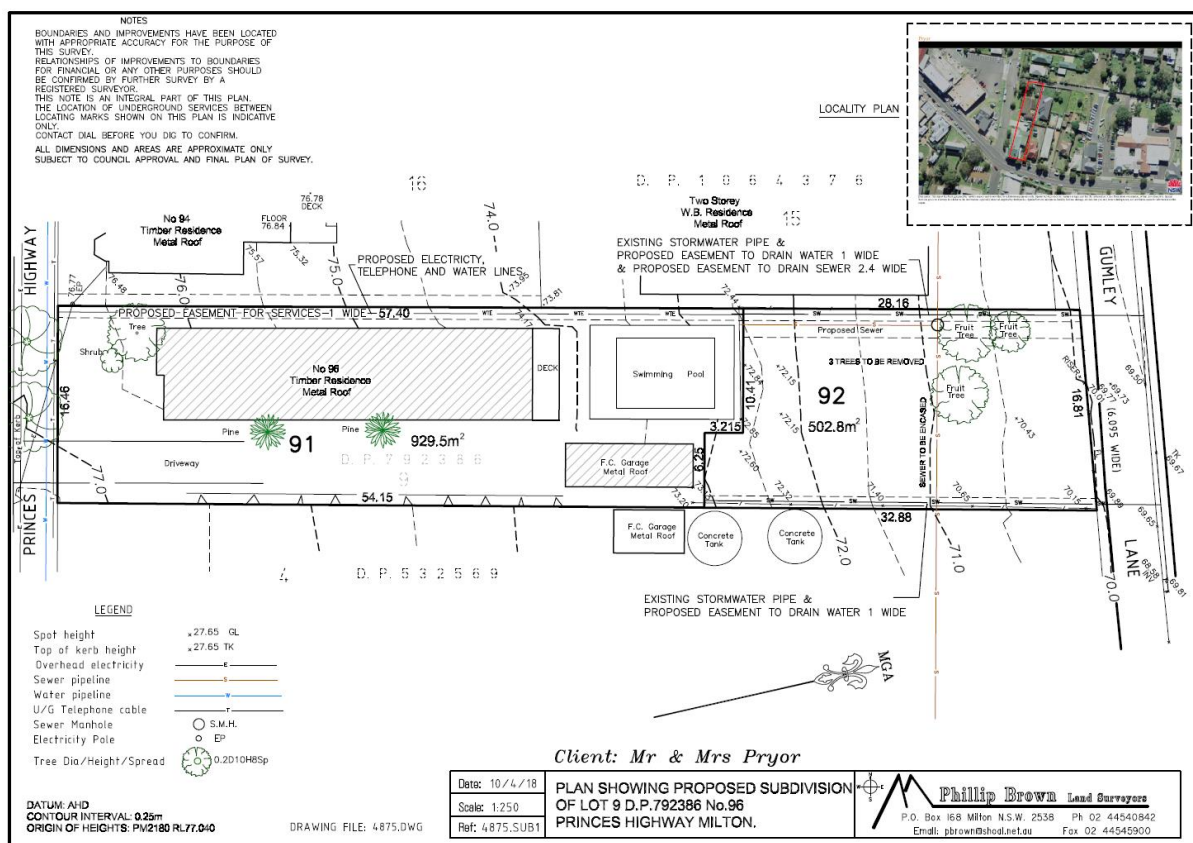


Figure 3 – Proposed Subdivision

## History

The application was lodged in April 2018. (Prior to exhibition and/or adoption of the interim policy for *Development Adjoining Narrow Laneways*.) Following requests for additional information, and receipt of that additional information, including revised plan and Statement of Environmental Effects (SEE), in May 2018, and later in September 2018, the application was notified, and referrals made. A further revised plan was submitted December 2018; however, the applicant has confirmed the original plan is the plan for assessment (see Figure 3 above).

Referral comments have been received from other sections of Council. Where appropriate and relevant, conditions have been included in the draft consent. Refer to Attachment 1.

## Zoning

The subject land is zoned R2 under Shoalhaven Local Environmental Plan 2014 (SLEP 2014). The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.*

The proposal is not inconsistent with the zone and the staff assessment is in agreement with the applicant's statement in support of the zone objectives:

- *"the proposal results in the creation of an allotment to contain a new detached residential dwelling and therefore increases the supply of available housing"*

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- The subject site is within an area developed with single dwelling houses on reasonably sized allotments, and this application continues this pattern of development;
- It will result in development that is compatible with the surrounding area, replicating the subdivision undertaken on the adjoining land to the west; and
- It is well located, being close to the commercial and health care facilities provided within Milton”

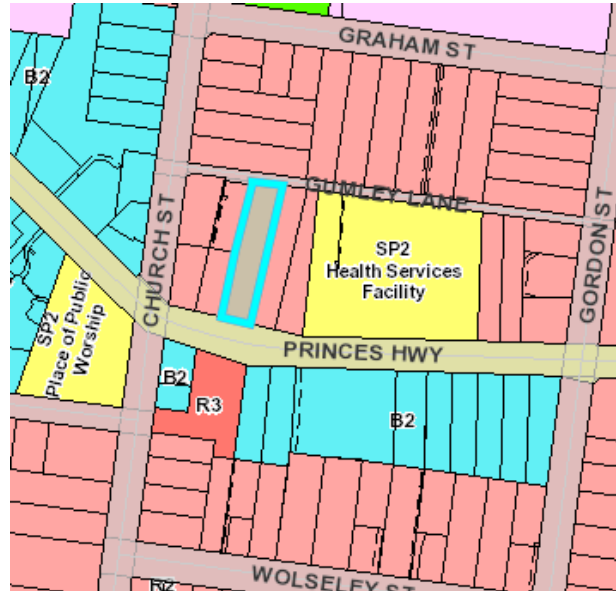


Figure 4 – Zoning of the land

### Issues

Clause 5.10 Shoalhaven Local Environmental Plan 2014 (SLEP 2014) – Heritage Conservation

There are several heritage items identified within the vicinity of the subject land.

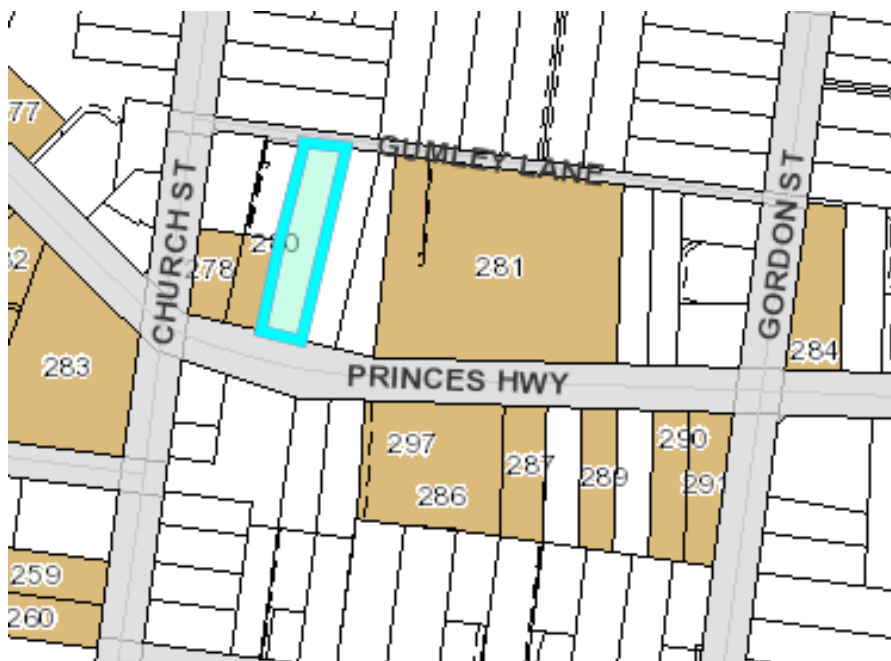


Figure 5 – extract of GIS Heritage mapping overlay

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### *Applicant's Submission*

The proposed lot will be vacant, future development will be undertaken in consideration of the requirements of SLEP 2014 and SDCP 2014. Further, the applicant notes that, *"it is not expected that any adverse impacts arise on the heritage significance of the identified heritage items located in the vicinity of the subject site"*.

### *Comment*

Council is required to consider the extent to which the proposal will affect the heritage significance of these heritage items. The proposal is for a 2-lot subdivision; in itself it will have little impact. To an extent, future impacts of any residential development will be mitigated by the size of the lot. Further, any future development will be assessed with regard to the relevant planning considerations at that point in time.

### *DCP 2014 Chapter G11*

Refer to the detailed assessment report, Attachment 2.

The development meets the objectives and performance criteria set out in G11.

With regard to A79.2 (lot dimensions / width): This issue is addressed in detail in the assessment report.

Importantly, the variation will not result in a lot with deficient area for a dwelling. Dimensions are acceptable taking into account the large variety of dwelling designs available.

### *Applicant's Submission & Comment*

A variation statement has been submitted. The applicant advises that the variation is sought due to location of a proposed common boundary to enable retention of existing dwelling, garage and pool, plus suitable setbacks.

As mentioned previously, the new lot will have adequate area and dimensions, suitable for future development. The departure is considered minor and will not result in any adverse impacts.

The proposed boundary enables the existing development, which is a substantial investment, including the garage, which is the only covered car accommodation for proposed lot 91, to be retained.

*"It is considered that the proposed allotment size and shape, whilst slightly less than the 30m required, will not adversely impact the amenity or environment of the locality and will, despite not strictly complying, still achieve the performance criteria of Section 5.13 of Chapter G11 of Shoalhaven DCP. Given these circumstances it is considered that the proposed allotment depth of Lot 92 is justified."*

## **Planning Assessment**

This application has been assessed in accordance with the requirements of section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act 1979). (Attachment 2.)

A draft consent has also been prepared, see Attachment 1, noting that a positive recommendation has been made in light of a favourable s4.15 assessment.

## **Policy Implications**

### Shoalhaven Development Control Plan 2014 (SDCP 2014)

The alternate solution to A79.2 of Chapter G11 of SDCP2014 is of a minor nature, for only part of the lot 92. The DCP requires the lot have a depth of 30m. Proposed lot 92 varies from 30.85m to 28.16m. The proposed lot would be readily able to be further developed and is of

sufficient area/dimensions to ensure such future development can be in compliance with relevant policies and requirements. The alternate solution meets the objectives and performance criteria of the acceptable solution.

Council Policy POL16/235 Dealing with Development Applications Lodged by Council Staff or Councillors.

As one of the landowners is a Council employee, the assessment of the development application has been undertaken considering Council Policy POL16/235 *Dealing with Development Applications Lodged by Council Staff or Councillors*. The Policy provides that development applications lodged by (or on behalf of) Council staff or Councillors must be dealt with in the normal manner in accordance with Council's policies and procedures and establishes a protocol for contact between the staff member (or Councillor) and the assessing officer.

Clause 3.3 of the Policy establishes criteria which, if triggered, require the reporting of the DA to Council for determination.

*"Generally, any DA lodged where the applicant and/or land owner is a Council staff member or Councillor, the DA should be processed in the normal manner, which may include determination under delegated authority. Nevertheless, if one (1) or more of the following matters are triggered, the DA is to be reported to the elected Council for determination:*

*3.3.5. The applicant and/or land owner is a staff member within the development assessment sections of the Planning, Environment and Development (PED) Group; and*

*3.3.6. The extent of any public perception of a possible conflict of interest that may exist between the DA lodged and the applicant's and/or landowner's relationship with the PED Group (i.e., relevant assessment staff)."*

In this instance, one of the landowners is an employee within the Development Section of the PED Group.

Interim POL18/55 - Development Adjoining Narrow Laneways

This interim policy was adopted by Council on 6 November 2018 and seeks to ensure that the use of laneways by new developments does not cause adverse effects, for example, traffic and amenity impacts.

The provisions of this Policy include:

- a. *Laneways are not to be used as primary frontages, except in cases where the laneway is the only legal and practical access.*
- b. *Development proposals to increase vehicular access and servicing along narrow laneways that have a road reserve width of less than 10m, are generally not supported. Intensification of lots with rear lane access would need to propose access and servicing from the primary street.*
- c. *Development proposals to increase vehicular access and servicing along laneways that have a road reserve width of 10m or greater may be supported where Council can be satisfied that:*
  - i. *The development results in minimal impact on existing residential amenity and*
  - ii. *Provision of infrastructure, car parking and waste collection is adequate to facilitate the development.*
- d. *Where Area Specific Development Control Plan Chapter exists, it prevails over the interim policy position.*

- e. *That this policy apply until suitable development controls are in place in Shoalhaven DCP 2014.*

#### Applicant's Submission

The applicant comments:

- *"Suitable amenity will be provided in the future development of proposed Lot 92";*
- *Proposed lot 92 can be developed in a manner consistent with the requirements of the Shoalhaven DCP Chapter G12 – Dwelling Houses, Rural Worker's Dwelling, Additions and Ancillary Structures;*
- *Gumley Lane is properly constructed, provided with a sealed surface, and kerb and gutter along the northern edge, and therefore adequate infrastructure is already available for waste collection. Indeed, waste collection is already required due to the extent of established development along the laneway;*
- *Gumley Lane is well utilised, providing access for a number of residential properties (including land to the west where it is the only access) and the Milton Ulladulla Hospital;*
- *The proposal will generate very little traffic along Gumley Lane (9 trips per day) when compared with traffic that is already generated by the Milton Ulladulla Hospital."*

#### Comment

The proposal is inconsistent with the interim policy, because it proposed that the laneway would be the primary frontage for a future dwelling.

The interim policy is an interim measure until specific measures and development controls for development fronting laneways are in place.

However, in this case:

- a) The lot has frontage to both the Princes Highway and Gumley Lane. Access to the Princes Highway for the proposed lot is not practical because;
  - a. There is an existing dwelling/garage etc that is to be retained, preventing physical access the Princes Hwy, and
  - b. In accordance with the State Environmental Planning Policy (SEPP) Infrastructure 2007, where there is alternate access, development must not be approved with access to a classified road, i.e. the Highway.
- b) Gumley Lane currently has a road reserve width of 6.095m. The lane is used to access several rear/side yards for dwellings, and the Milton Hospital and associated carpark.





Figure 6 – Gumley Lane Milton

- c) One additional lot is a minimal impact in this location; and
- d) The proposed lot layout and size will adequately address provision of infrastructure and future onsite car parking. Currently waste collection services do not service the laneway, it is possible for waste to be collected via Church Street to the west, approx. 40m away.



Figure 7 Gumley Lane (14/3/19)



Figure 8 Gumley Lane (14/3/19)

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Figure 9 - Looking west along Gumley Lane – subject land on left, past carpark exit

### **Consultation and Community Engagement:**

One (1) public submission was received in relation to Council's notification of the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a 25m buffer of the site. The notification was for a 2-week period, from 14 till 28 September 2019.

Key issues raised in that submission include heritage and Gumley Lane.

#### *Heritage*

Concern expressed relating to comments made by the applicant regarding the heritage listing of the adjacent property at 94 Princes Hwy, as being dismissive, particularly regarding views.

#### *Comment*

The potential impact on the adjoining and nearby Heritage items has been considered.

The proposed vacant lot is the lower part of the land. There is an existing 2 storey modern (2008 approved) dwelling erected immediately to the west of the proposed vacant lot, which also faces Gumley Lane. This proposal, (i.e. subdivision) by itself will not have a visual impact. Future development on the proposed lot will be assessed on its own merit.

#### *Use of Gumley Lane*

Council needs to upgrade Gumley Lane. The rapid growth of the community and hospital does and will put pressure on the lane.

If the application is approved, a request has been made that:

- 1) Gumley Lane be made one way.
- 2) *"foot traffic needs also to be looked at as there is not formed footpath for pedestrians"*
- 3) *"No parking" restriction would have to be applied in the lane to prevent vehicles from parking in the lane and further impeding traffic flow*

*"As a regular user of this lane I can assure you that there is no room for two cars to pass without one moving onto what is an unformed pedestrian footpath/unformed gutter on the*

*northern side of the road. Cars leaving the IGA parking area often use the lane to access Gordon Street.”*

#### *Comment*

This proposal is consistent with land / development immediately to the west.

Further, SEPP (Infrastructure) 2007 states:

*“(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....”*

Gumley Lane provides a practicable and safe alternative.

#### **Financial Implications:**

In the immediate term, there are unlikely to be any cost implications or issues for Council noting that this development will only generate approximately 9 vehicle trips per day. Noting that the hospital uses the lane along with an existing approved dwelling, the additional lot will not have a significant impact.

In the longer term, should other like applications be received/approved, then there may be reason for Council to undertake improvements to Gumley Lane, including potential road widening, directional signage, drainage and kerb and gutter works.

At this point in time however there is no specific DCP or contributions plan for potential future engineering works, such as kerb and gutter on the southern side of the lane.

Observing the proposed lot is on the southern side of the lane, which does not have kerb and gutter, the draft consent includes a requirement for provision of kerb and guttering for the lot frontage.

It is likely however that this *may* need to be deferred to enable Council to consider whether it will consider further road widening in the laneway. In previous applications for subdivisions in proximity to the site, one of the subdivisions did not require widening, in relation to another widening was required. With the latter application, monies were paid for kerb and gutter works, however these works did not eventuate.

The kerb and gutter issue could be resolved post-determination. For example, a bond / bank guarantee arrangement with respect to the kerb and gutter (southern side).

#### **Legal Implications**

Should the application not be approved, the applicant has the right to seek a formal Review and/or Appeal.

#### **Summary and Conclusion**

With regard to the interim policy for Development adjoining Narrow Laneways, it is noted that the application was lodged in April 2018, prior to the policy being adopted in November 2018. Irrespective, this policy has been taken into account. Whilst the laneway will be the main frontage for the lot, the laneway has been sealed and kerbed on one side and services a major development, being the hospital. Additionally, the laneway access satisfies the provisions of a SEPP which provides a safe an alternative access to the classified road, being the Highway.

Proposed Lot 91 comprises the southern portion of the site and there will be no change to the existing access and use of that part of the land. Proposed lot 91 will have an area of

929.5m<sup>2</sup>. Proposed Lot 92 comprises the northern portion of the site, fronting Gumley Lane, and will have an area of 502.8m<sup>2</sup>, compliant with lot size controls.

The application includes

- Consideration under Council's Interim Laneway policy POL18/34; and
- An alternate solution to A79.2 of Chapter G11 SDCP 2014.

Gumley Lane is different to many other laneways:

- It has been used for many years as access for the Hospital;
- It is sealed;
- the northern side of the lane does have kerb and gutter and stormwater is provided;
- Pedestrians can access the hospital via either the Highway or Gumley Lane;
- This proposal, for one additional lot when compared to the number of vehicles using the Hospital/carpark. Whilst no counts have been made of the lane, the additional lot adding 9 potential extra movements is relatively insignificant; and
- It provides for a safe and practical alternative access for development observing the requirements of the SEPP (Infrastructure) 2007.

The application has been favourably assessed having regard to section 4.15 (Evaluation) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. SF10671 be approved subject to appropriate conditions of consent.



## DE19.36 RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260

**DA. No:** RD18/1007/4

**HPERM Ref:** D19/114426

**Group:** Planning Environment & Development Group  
**Section:** Development Services

**Attachments:**

1. Determination of Development Application - Refusal [↓](#)
2. Site Plan [↓](#)
3. Landscape Plan [↓](#)
4. Aerial Perspective [↓](#)
5. Assessment Report (under separate cover) [⇒](#)
6. Water Quality Report (under separate cover) [⇒](#)
7. Amended Landscaping Plan - Review of Determination [↓](#)

**Description of Development:** Demolition of existing structures and construction of a staged multi-dwelling housing development comprising 40 dwellings

**Owner:** Sabra Company Pty Ltd

**Applicant:** Sabra Company Pty Ltd

**Notification Dates:** 12 March 2019 to 27 March 2019

**No. of Submissions:** Two (2) in Objection

### Purpose / Reason for consideration by Council

In accordance with section 8.3(4)(b) of the *Environmental Planning and Assessment Act 1979* (the Act), a Review of Determination Application lodged in accordance with section 8.2 of the Act is to be conducted by another delegate of Council who is not subordinate to the delegate who made the determination or decision. A determination of such review must be made within 6 months of the original determination date.

As the initial Development Application was determined by way of Refusal by Council's Acting Group Director – Planning, Environment, & Development Group, the subject application is required to be determined by the Development & Environment Committee.

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

That Council:

1. Reaffirm the determination (refusal) of DA18/1000, dated 30 November 2018, for the demolition of existing structures and construction of a staged multi-dwelling housing development comprising 40 dwellings at Lot 2 DP 777260, 315 Princes Highway, Bomaderry.
2. Reissue the determination notice removing the first reason for refusal as Endeavour Energy has conditionally supported the proposal.

## Options

1. Reaffirm the decision to refuse the application in accordance with the recommendation of this report.

Implications: This would result in the determination remaining in place. An appeal with the Land and Environment Court is possible in the event of a refusal of the application. There is no ability for further review (section 8.2(3)).

2. Support the development.

Implications: Council could choose, following the consideration of the section 8.2 application, to support and ultimately approve the development application if it considers that the provisions of section 4.15(1) have been satisfactorily addressed. Council would need to provide reasons for supporting the development. Any such approval would be conditional and require a further report to Council detailing draft conditions.

3. In considering this report and supporting information, Council may express general support for the proposed development and, having regard to the legislative timeframes associated with the Review process, invite the applicant to submit a new development application, particularly addressing the issues of noise attenuation within residential units (*Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007*), increase in landscaping and reduction of impact on adjoining development and acceptable stormwater disposal concept.

Implications: This option would need to be adopted in conjunction with option 1, due to legislative timeframes; it would also provide a general direction for the applicant to achieve a positive outcome.

## Background

### Division 8.2 Reviews, Environmental Planning and Assessment Act 1979

An application lodged under section 8.2 allows an applicant to request a consent authority to review a determination or decision which they made. After conducting its review, the relevant consent authority (in this instance Council) may reaffirm or change its determination or decision.

### Proposed Development

The applicant sought approval as part of the Development Application (DA18/1000) to develop the site by undertaking the following works:

- **Demolition** – Demolition of existing structures including a disused commercial building (southern part) and concrete slab (northern part).
- **Staged Multi-Dwelling Development** – Construction of a multi-dwelling housing development consisting of a total of 40 x 3-bedroom, two storey dwellings together with an internal road network, visitor car parking areas, and landscaping/open space.

Plans and documentation depicting the proposed development are provided at **Attachments 2, 3 and 4**. The Assessment Report of DA18/1000 is provided at **Attachment 5**.

### Subject Land

The development site is described as Lot 2 in DP 777260 and is located at No. 315 Princes Highway Bomaderry. **Figure 1 – Location Map** (see below) depicts the property and its location with respect to the surrounding locality.

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**Figure 1 – Location Map**

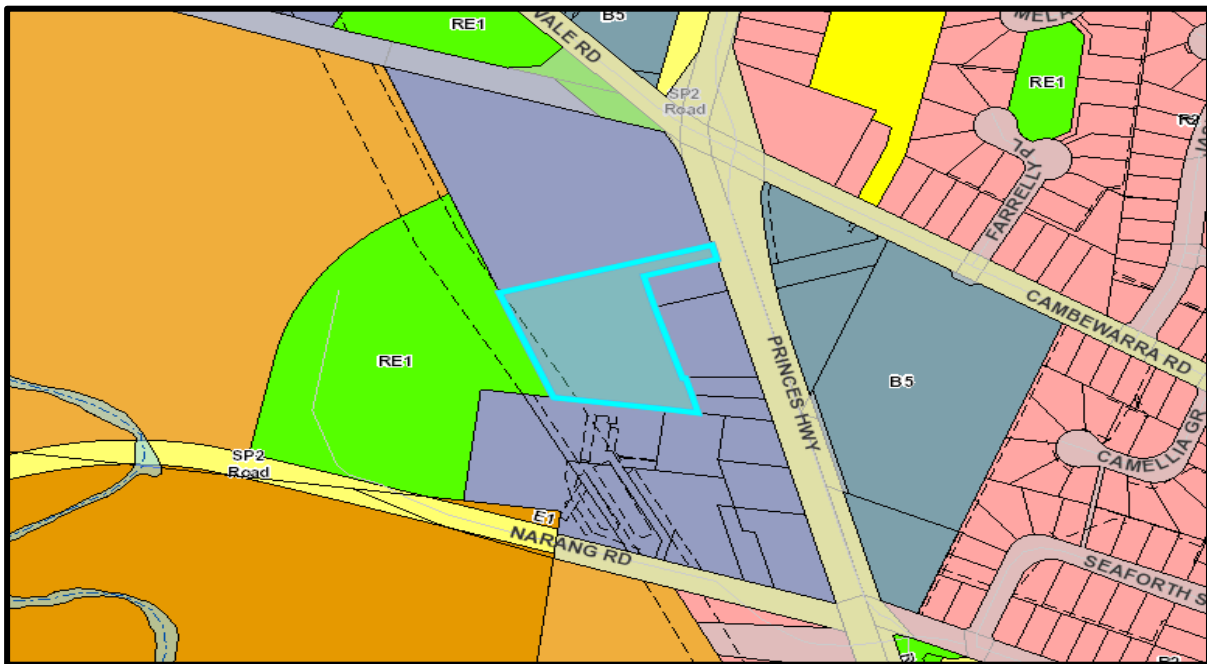


#### Site & Context

The following provides a description of the property and its context with respect to neighbouring and surrounding development sites:

- Contains an existing disused industrial building in the southern part and disused concrete pad in the northern part with the remainder of the site being vacant;
- Has a minor slope downwards from a high point adjacent to Princes Highway towards a low point at the western rear boundary;
- Is a battle-axe lot where the sole point of vehicular access is obtained via the access handle to the Princes Highway;
- Is zoned B4 Mixed Use subject to the Shoalhaven Local Environmental Plan (SLEP) 2014 (refer **Figure 2 – Zoning Extract** below);
- Is surrounded by a mix of uses including Council-owned land occupied by tennis courts to the west, an existing building used for indoor recreation purposes to the south, an existing commercial building occupied by several tenants to the north, and a mixture of existing detached residential development and tourist and visitor accommodation to the east; and
- The site is located within close vicinity to the location of the approved Aldi Supermarket (Lot 54 DP 747129 Narang Road, Bomaderry) and Woolworths Supermarket (320 Princes Highway, Bomaderry).

Figure 2 – Zoning Extract



### History

The following provides details on post-lodgement actions and general site history for context:

- The Development Application was determined by way of refusal on 30 November 2018 for the following reasons:
  - “1. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of Environmental Planning and Assessment Act, 1979)
  2. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of Environmental Planning and Assessment Act, 1979)
  3. The information submitted with the development application does not satisfy the objectives of the B4 Mixed Use zone, which Council must have regard for under Clause 2.3(2) of the Shoalhaven Local Environmental Plan 2014. (Section 4.15(1)(a)(i) of Environmental Planning and Assessment Act, 1979)
  4. Insufficient information has been submitted to demonstrate compliance with the requirements of chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014, particularly as it relates to the design of the drainage system. (Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act, 1979)
  5. The development in its current form does not satisfy the objectives and performance criteria of chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014. (Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act, 1979)
  6. The development in its current form does not satisfy the objectives and performance criteria of chapter G14: Other Residential Accommodation of

*Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density. (Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act, 1979)*

7. *The development in its current form does not satisfy the objectives and performance criteria of chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.7 Landscape Design and 5.9 Construction Requirements. (Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act, 1979).*
  8. *The information submitted with the development application does not satisfactorily demonstrate that there will not be significant adverse amenity affects upon adjoining properties or upon the future residents of the development. (Section 4.15(1)(b) of Environmental Planning and Assessment Act, 1979)*
  9. *The information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed development. (Section 4.15(1)(c) of Environmental Planning and Assessment Act, 1979)*
  10. *Having regard to the variations to planning controls within the Shoalhaven Development Control Plan 2014 and the inconsistency with the objectives of the zone under Shoalhaven Local Environmental Plan 2014, 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)."*
- A section 8.2 Application to review this determination was lodged on 4 December 2018 disagreeing with the determination and offering up the following as addressing the reasons for refusal:

1. *Clause 45 of State Environmental Planning Policy (Infrastructure) 2007 relates (in part) to development to be carried out within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists). Subclause 45(2) states that before determining an application, the consent authority must:*

- (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

*The stated reason for refusal is that the information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 45 of State Environmental Planning Policy (Infrastructure) 2007.*

*Therefore, the onus for satisfying the requirements of Clause 45 lies with Council as the consent authority, rather than being a requirement for information to be provided by an applicant.*

*As such, it is considered that the basis for this reason for refusal is flawed and is therefore invalid.*

2. *Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 relates to the impact of road noise or vibration on non-road development and applies to development for residential accommodation, where it is adjacent to a road with an average annual daily traffic (AADT) volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS). Under this clause, a consent authority must not grant to development unless it is satisfied that appropriate measures will be taken to achieve the nominated noise criteria.*

The RMS data indicates that the Princes Highway at Bomaderry carries an AADT volume of 22,000 vehicles. However, although the site has a narrow battle-axe handle that fronts the Princes Highway and provides vehicular and pedestrian access to the site, the site itself, is not located adjacent to the road corridor and is separated by the allotments on which the Avaleen Lodge Motor Inn and Bomaderry Motor Inn are located. As such, these buildings provide an acoustic buffer and separation between the Princes Highway and the proposed development and it is considered that the proposed development will not be adversely affected by road noise or vibration.

3. The stated objectives of the B4 Mixed Use zone are:

- (a) To provide for a mixture of compatible land uses.
- (b) To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.

The proposed residential land use is considered to be compatible with the surrounding land uses. Further, it is noted that the proposed residential land use of the land was chosen in preference to a significantly larger mixed-use development that incorporated a commercial component – as was discussed with Council at the Pre-DA stage. Having regard to the B4 Mixed Use zoning, the 11m height limit set under Shoalhaven DCP 2014 and that a maximum floor space ratio for the site is not prescribed under the LEP, three different concept schemes (Options A, B & C) were presented at the Pre-DA meeting, as detailed below. The proposed built form in each of these options were between 3 and 6 storeys and incorporated both residential and non-residential floor space.

- Option A – 4 storey mixed use development comprising 150 apartments in 4 blocks, 2,124m<sup>2</sup> commercial/retail floor space, including a child care centre.
- Option B – 3-4 storey mixed use development comprising 100 apartments in 6 blocks, 1,822m<sup>2</sup> commercial/retail floor space including a child care centre.
- Option C - 3-6 storey mixed use development with a green roof and 'punched' courtyards, comprising 165 apartments and 2,992m<sup>2</sup> of commercial/retail floor space.

Despite not all schemes complying with the 11m height limit, it was noted that each of these development types were permissible with consent. However, following a discussion with Council's (then) Section Manager – Development after the meeting, Council's officer advised that the concept schemes could not be supported in the form presented at the Pre-DA meeting and a built form more compatible with the existing surrounding scale should be investigated.

- 4. The applicant has continuously worked with Council officers to address all requests for additional information regarding the stormwater drainage design for the proposed development and on several occasions, further information was sought. It is considered that the stormwater drainage design can be amended to satisfy all concerns raised by Council.
- 5. The proposed landscaping for the site incorporates a combination of soft and hard landscaping, as well as turf cell and is considered to provide a suitable landscaping scheme for the site. The objectives of Chapter G3 of Shoalhaven DCP 2014 are to:
  - i. Blend new developments, where appropriate, into the existing streetscape and neighbourhood character.

- ii. *Enhance the appearance, amenity and energy efficiency of new developments for the users and for the community in general.*
- iii. *Provide landscaping within a development that relates to the scale and type of existing elements in the neighbouring landscape.*

*It is considered that the landscape scheme for the proposed development achieves these objectives and provides a suitable landscape context and setting for the proposed development.*

6. *The applicant decided not to pursue a commercial component on the site and instead, proposed a purely residential scheme, that took advantage of the sites B4 Mixed Use zoning (i.e. not within an R3 Medium Density Residential environment), but proposed a built form similar to multi dwelling housing set in the context of an 'integrated community'. The design 'ideology' is that while the height of the proposed development has been capped at two storeys to be more in keeping with the existing surrounding built form, in terms of density, it is more akin to a residential flat building that could otherwise be built with consent on the site. However, for the purpose of categorising the proposed development under the LEP land use table, the development is referred to as a multi-dwelling housing development.*

*As a consequence of this categorisation, Council's assessment of the proposed development has been based on the provisions for multi dwelling housing set out in Chapter G14: Other Residential Accommodation of Shoalhaven DCP 2014. However, it is respectfully submitted that while these controls would be suitable for a multi-dwelling housing development in an R3 Medium Density Residential zone, to seek to rely on these controls for a development in a B4 Mixed Use zoning is contrary to the zoning objectives.*

*Council has indicated that the scale and density of the proposed development is unsatisfactory and is contrary to the objectives and performance criteria of Chapter G14: Other Residential Accommodation in Shoalhaven DCP 2015. However, it is considered that the site has the environmental capacity to support a higher residential density than would be acceptable in an R3 Medium Density Residential zone and the proposed density is appropriate for this site, where it is located on a major traffic thoroughfare, with good access to public transport and in proximity to a range of retail and commercial facilities accessible by walking and cycling.*

*Council's attention is drawn to the provisions of Section 4.15(3A) of the Environmental Planning & Assessment Act 1979 which states:*

**(3A) Development control plans**

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

- (a) *if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) *if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) *may consider those provisions only in connection with the assessment of that development application.*



In this subsection, **standards** include performance criteria.

Having regard to subclause 4.15(3A)(b), it is considered that the flexible application of the DCP controls is appropriate with respect to the proposed development.

It is considered that the proposed development, when considered in its context, has sufficient planning merit such that the strict application of the DCP controls is unwarranted in the circumstances. The proposed development will add to the housing choice and diversity in the locality, consistent with the emerging and desired mixed-use environment.

There is currently no dominant character or built form in the locality. However, commensurate with the above objectives, as an emergent mixed use urban area, the proposed multi dwelling housing development will contribute to the achievement of this mixed-use character through the integration of residential development in a location with good access to public transport services.

The redevelopment of this site will provide a quality multi dwelling housing development that represents an appropriate scale and built form in this location. The relationship of the building to the surrounding residential and non-residential development is acceptable and the proposed development will not have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking etc.

7. The proposed on-site parking provision complies with the numerical requirements of Shoalhaven DCP 2014. The internal circulation design provisions including aisle widths, bay dimensions will accord with the requirements of AS2890.1 & 6. There will be a two-way circulation arrangement with quite satisfactory provision for turning and manoeuvring.
8. The proposed development is considered to be appropriate for the existing and likely future context and setting of the locality. The redevelopment of this site will provide a quality multi dwelling housing development that represents an appropriate scale and built form in this location. The relationship of the building to the surrounding residential and non-residential development is acceptable and the proposed development will not have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking etc. The proposed development is considered to be a significantly more modest scheme than the zoning and environmental capacity of the site would allow for.

The proposed development is considered to be appropriate for the existing and likely future context and setting of the locality. The redevelopment of this site will provide a quality residential development that represents an appropriate scale and built form in this location. The relationship of the building to the surrounding residential and non-residential development is acceptable and the proposed development will not have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking etc. The two-storey built form is compatible with the height of surrounding residential development and the relationship and separation between the proposed development and the adjoining residential properties is such that appropriate visual and acoustic privacy will be maintained. There will also be no overshadowing impacts on the adjoining residential uses arising from the proposed development.

9. The site is considered suitable for the proposed development for the following reasons:
  - the site has the environmental capacity to support the proposed residential density and built form.



- *the site is zoned to accommodate this type and form of development;*
  - *the nature and form of the proposed development is generally consistent with the development controls which apply to the site;*
  - *the scale and nature of the development is compatible with existing and anticipated future development in the locality;*
  - *the size and dimensions of the land are suitable for the scale of the proposed development;*
  - *the site will have access to all utility services to accommodate the demand generated by the proposed development;*
  - *the proposed development is unlikely to result in any adverse traffic impacts; and*
  - *the proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation.*
10. *As discussed earlier, it is considered that the proposed development is entirely consistent with the objectives of the B4 Mixed Use zone and the proposed development is in the public interest. The proposed development represents the orderly, economic use and development of the subject land, and the proposed density is well within the environmental capacity of the site. The development proposed under this application is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating additional resident population that will in turn support local businesses and services. The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.*

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## Issues

### Review of Determination

#### **Reason for Refusal No. 1 – Non-Compliance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007**

The Development Application (DA18/1000) was externally referred to Endeavour Energy for comment on 15 January 2018 due to the vicinity of the development to an existing easement (30.48m wide) for transmission lines which partially traverses the southern and western corner of the site.

The following pertinent comments were raised by Endeavour Energy in their referral response provided on 5 February 2018:

*“Some of the dwellings (Blocks 4 and 6) are proposed to be constructed against the easement area. All parts of the building must be outside of the easement i.e. porches, verandahs, awnings, pergolas, balconies, architectural features as well as the eaves and gutters / downpipes or any type of projections from external walls such as stairs, chimneys, services etc. must not encroach the easement area and this applies regardless of the Council’s allowable building setbacks etc. under its development controls. From the elevations and the Parking Floor Plan it appears parts of the dwellings may encroach the easement area?”*

*There are driveways, stormwater pipes, onsite stormwater detention tank, fencing, landscaping etc. located within the easement area.*

*Endeavour Energy's preference is for no activities or encroachments to occur within its easement areas. However, if this is not reasonably possible and the proposed works (as is the case here) will encroach/affect Endeavour Energy's easements, contact must first be made with the Endeavour Energy's Easements Officer, Jennie Saban."*

Council referred revised plans to Endeavour Energy for further comment, however the applicant failed to address the original concerns with the following comments provided by Endeavour Energy in correspondence received on 31 October 2018:

*Comparing the original and revised site plans below there appears to be no revisions made to the plans in regard to the easement area. Endeavour Energy has noted that the request for additional information etc. does not appear to address the easement. Endeavour Energy's Easements Officer, Jennie Saban, has advised that the applicant has not contacted her to discuss the proposed controlled activities and encroachments in the easement area.*

*Accordingly, the objection to the Development Application and the recommendations and comments previously made by Endeavour Energy remain valid.*

In accordance with Clause 45 of the ISEPP, the consent authority is required to 'take into consideration any response to the notice that is received within 21 days after the notice is given'. Considering Endeavour Energy's above objection to the proposal, the assessment officer (as the consent authority) considered that Clause 45 of the ISEPP had not been satisfactorily addressed.

Following lodgement of the s8.2 Review of Determination Application, Council conducted a further external referral with Endeavour Energy on 3 March 2019 who provided the following pertinent comments:

*Since Endeavour Energy's submission made to Council on 5 February 2018 the applicant has been in contact with Endeavour Energy's Easements Officer, Jennie Saban, who has provided the following advice regarding progress in resolving the easement management issues related to the Development Application:*

- *27 February 2019. Email to Council copied to Sabra Company advising that:*  
*After careful review, Endeavour Energy will give conditional approval for the DA18/1000 with the following requirements to be confirmed at construction certificate phrase:*
  1. *That low voltage service conductor running parallel to the side boundary will be placed underground.*
  2. *A report is provided by an electrical engineer/ASP that the earthing of any structures (e.g.; drainage pits etc.) complies with Australian/New Zealand Standards As/NZS 3000:2018.*
- *25 March 2019. Email received from the Director of AA Power Engineering, Ali Alaouie, including the attached earthing design. The email indicates 'Please note this earthing is to comply with AS3000 and a certificate is to be provided by the electrician at the end of the job'.*

*The applicant has advised Endeavour Energy that no parts whatsoever of the proposed dwellings / town houses will encroach the easement area for the 33 kV high voltage overhead power lines. Based on the foregoing and the further recommendations and comments Endeavour Energy's submission made to Council on 5 February 2018, Endeavour Energy has no objection to the Development Application.*

Based upon the above advice provided by Essential Energy and the requirement of Clause 45 of the ISEPP to 'take into consideration any response to the notice that is received within 21 days after the notice is given', it is considered that the applicant has now demonstrated compliance with Clause 45 of the ISEPP.

Conclusion: Reason for Refusal No. 1 be should be removed from the determination notice, if the recommendation is adopted.

***Reason for Refusal No. 2 – Non-Compliance with Clause 102 of State Environmental Planning Policy (Infrastructure) 2007***

Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007 provides that this section is applicable to land in or adjacent to the road corridor for a freeway, tollway or transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) *residential accommodation,*
- (b) *a place of public worship,*
- (c) *a hospital,*
- (d) *an educational establishment or centre-based child care facility.*

It was noted by the assessment officer that the proposed development is for the purpose of residential accommodation (being a multi-dwelling housing development) and has direct frontage to a freeway with a traffic volume of more than 20,000 vehicles.

Clause 102(3) of the ISEPP requires that a consent authority is not permitted to grant consent to a development unless it is satisfied that appropriate measures would be undertaken to ensure that;

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Given the very high traffic volume of the Princes Highway and the sensitive nature of the proposed land use, the development has the potential to be adversely affected by traffic noise. It was noted in the initial assessment of the Development Application that the applicant has not addressed how the development would comply with the requirements of Clause 102.

In their submission provided as part of the Review of Determination Application, the applicant provided that given the separation of the allotment by the Avaleen Lodge Motor Inn and Bomaderry Motor Inn the development would not be adversely affected by road noise or vibration.

Whilst this is noted, no evidentiary proof (such as the submission of an Acoustic Noise Report) has been provided to confirm that the ambient noise levels of the dwellings located closest to the Princes Highway would comply with the specified noise levels stated within Clause 102(3).

As such Council's position that the applicant has not satisfactorily demonstrated compliance with Clause 102 of the ISEPP has not changed.

Conclusion: Reason for Refusal No. 2 should therefore be retained within the determination notice issued to the applicant.

***Reason for Refusal No. 3 – Non-Compliance with the objectives for the B4 Mixed Use Zone under the Shoalhaven Local Environmental Plan (SLEP) 2014.***

In the assessment of the initial Development Application, the assessment officer identified that insufficient consideration was given to the impact of the development on the amenity of adjoining properties and the treatment of common boundaries. Further, whilst the residential development is in an accessible location, it was identified that the proposal would have the

potential to result in land use conflicts. The assessment officer therefore determined that the proposal does not satisfy the objectives of Zone B4.

The zone objectives are:

- *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 applicant provides within the Review of Determination Application that *'the proposed residential land use is considered to be compatible with the surrounding land uses'*. However, it is noted that no further reasoning was provided as to why/how the proposal would be compatible with the surrounding land uses. It is also noted that no further consideration was given to the treatment of common boundaries as a measure to reduce amenity impacts upon sensitive land uses within the locality.

No changes have been proposed to the design of the development, including the number of proposed dwellings, the layout, or positioning of perimeter roads with respect to the property boundaries. In this regard it is assessed that the proposal still does not provide for a mixture of compatible land uses where *suitable* business, office, residential, retail, and other development are integrated.

Given the vastly differing nature of land uses bordering the site, it is assessed that the interface between neighbouring land uses is not sufficient and needs to be further addressed through increased separation and/or buffering through landscaping to maintain suitable levels of visual and acoustic amenity within the locality. It is considered that the current proposal would result in a reduction in acoustic and visual amenity for residents of the site as well as for occupants of neighbouring properties and is therefore not considered to be *compatible* or *suitable* in its current form.

Conclusion: Reason for Refusal No. 3 should be retained within the determination notice issued to the applicant.

***Reason for Refusal No. 4 – Insufficient information submitted to demonstrate compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014.***

As part of the initial Development Application, the applicant submitted a Concept Stormwater Drainage Plan detailing how stormwater would be disposed from the impervious surface areas associated with the development. As per the submitted plan, a series of pits and pipes were proposed to collect runoff throughout the development, discharging to an on-site detention tank in the north-western corner of the site via a gross pollutant trap.

Overflow drainage from the detention tank was then proposed to be discharged via a pipe over the adjoining Council reserve, discharging to an existing Council stormwater main.

As part of Council's response to the submitted concept plan, the applicant was advised of the following issues relating to the submitted drainage design (following a review of the proposal by Council's Development Engineer):

*Consideration should be given to the layout of the line, which includes several changes of direction (some up to 90 degrees). As per Council's engineering design specifications, pits are required at all changes of direction. A drainage long section plan should be provided to assess the suitability of the proposal, taking into account the effect of the deflections in the line.*

*The capacity of the existing pit and outlet pipe on the south-western corner of the tennis courts is also unknown. It appears that (at least a proportion of) the drainage from the tennis courts enters this pit.*

It was noted by the assessment officer that Council's Development Engineer was generally satisfied with the proposal, subject to the submission of amended drainage concept plans and consideration given to assessing pollutant loads from the development, and the provision of calculations to ensure that Council's stormwater main has the capacity to cater for the additional loads produced by the proposed development.

A further information request was sent to the applicant seeking to address the matters raised by the Development Engineer; however, further design detail to the satisfaction of the Development Engineer was not provided.

The assessment officer therefore determined that insufficient information was submitted to permit compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014.

As part of their Review of Determination Application, the applicant provided the following documentation to assist in satisfying the concerns raised by the Development Engineer:

- Amended Stormwater Drainage Concept Plans depicting pits at each change of direction;
- Drainage long section plan and associated velocity/flow calculations;
- Plans for a proposed stormwater drainage easement through the Council reserve area; and
- Water Quality Report identifying pre-and post-development flow calculations (**Attachment 6**).

Whilst the applicant has submitted amended drainage documentation addressing the Development Engineer's concerns, specific reference is made to the submitted Water Quality Report which provides the following:

- The post-developed site would increase the pollutant load (TSS volume) from the pre-developed state from 27.447kg to 40.478kg which represents a 47.5% per annum increase. The report further states that, with the inclusion of turf cell paving, the pollutant load would be reduced to below the pre-developed levels.

Council's Development Engineer's advice regarding the turf cell pavement is noted, in particular the following comments:

*Evidence provided by the applicant supports Council's initial view that the proposed paving is not suitable for the proposed purpose, i.e. as a high use circulation roadway within a medium density development. It is more suitable as a parking bay, i.e. where a vehicle is likely to park and remain all day, rather than a roadway which is subject to traffic. This is a situation that will see the surface subject to potentially hundreds of vehicle movements each day. Regardless of the strength of the product, this is a level of traffic that will lead to the turf wearing out.*

Given the above comments, it is assessed that whilst pollutants may be reduced initially, given the likelihood that the turf cell would wear out, it is likely that pollutant loads would eventually increase to above the pre-developed levels.

As such the concerns raised by the Development Engineer remain outstanding and Council's position that insufficient information has been submitted to demonstrate compliance with Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014 has not changed.

Conclusion: Reason for Refusal No. 4 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 5** – *The development in its current form does not satisfy the objectives and performance criteria of chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014.*

As part of the assessment of the initial Development Application, the assessment officer noted the following with regard to deficiencies with the submitted Landscape Plan:

- *The development is well set back from the Princes Hwy with only the access handle providing an interface with the streetscape. However, with regard to the adjoining development it is noted that only a minor landscaping buffer is proposed as a transition between adjoining developments. Along the eastern boundary there is an approximate 1m landscaping strip with mainly shrubs proposed and one tree. Further to the south, where the development adjoins dwelling houses, this increases to allow for more substantial plantings.*
- *Along the southern and western boundaries there is largely no landscape buffer, excepting the corners of the site. Although it is noted that there is commercial development to the south and a Council public reserve to the west (buffered by an electricity easement). Along the northern boundary there is an approximate 0.55m landscape buffer, which is an insufficient width for substantial plantings. This does increase along the access handle.*
- *Personal safety has been sufficiently considered as landscaping will not provide opportunities for concealment and is generally consistent with CPTED principles.*
- *Landscaping must be in accordance with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006' as per NSW RFS comments.*

Further to the above comments regarding the submitted Landscape Plan, it was also noted by the assessment officer that, under Chapter G14 of the SDCP 2014, 35% of the site must be landscaped.

In October 2018 Chapters G13 – Dual Occupancy Development and G14 – Other Residential Development were combined into one Chapter being G13 – Medium Density and Other Residential Development.

While Chapter G13 does not apply in this instance, as the application was lodged prior to its adoption, it is worth noting that it would require 10% of the site to be high quality landscaping and a further 20% of the site to be landscaped. While this additional 20% may include areas such as decks, terraces, swimming pools and other recreation areas/structures it does not include driveways or parking spaces. It was estimated that only 19% of the site was proposed to be landscaped when not including 'turf-cell' paved driveway and parking spaces given their intended use fundamentally conflicts with the functioning of landscaped areas.

Going to the point made by the applicant about the role of a Development Control Plan, it is acknowledged that a Development Control Plan is a document providing guidance for developers and Council and that there are options to conform to acceptable solutions or satisfy performance solutions and ability to assess development with some flexibility. In this instance, observing the number of units, building footprint and concentration of development, amenity for occupants is important and to this end the provision of good quality landscaping would be beneficial for occupants, and in this regard, the original assessment not supporting the design remains relevant.



Figure 3 – Landscape Plan extract



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As part of the Review of Determination Application, the applicant submitted an updated Landscape Plan (**Attachment 7**). However, it was noted that minimal changes were made to the landscape design as was recommended by the assessment officer in the initial assessment. It is therefore assessed that the amended Landscape Plan still does not satisfactorily address the objectives and performance criteria of Chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014.

Conclusion: Reason for Refusal No. 5 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 6** – *The development in its current form does not satisfy the objectives and performance criteria of chapter G14: Other Residential Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density.*

As part of the assessment of the initial Development Application, the assessment officer found that the proposed floor space ratio for the development would be 0.46:1, which represents a 31% variation to Acceptable Solution A4.1 of Chapter G14 of the SDCP 2014 which states a maximum floor space ratio of 0.35:1. This equates to a numerical departure of 1,258m<sup>2</sup>.

In the response to Reason for Refusal No. 6, the applicant provides the following:

*While the height of the proposed development has been capped at two storeys to be more in keeping with the existing surrounding built form, in terms of density, it is more akin to a residential flat building that could otherwise be built with consent on the site. However, for the purpose of categorising the proposed development under the LEP land use table, the development is referred to as a multi-dwelling housing development.*

Council disagrees with the statement that the development is more akin to a residential flat building than a multi-dwelling housing development. For the purpose of the assessment, the SLEP 2014 defines a multi-dwelling housing development as ‘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’ and a residential flat building as ‘a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing’.

As per the above comments, the definitions for multi-dwelling housing and a residential flat building are not interchangeable. They are completely different developments and separately and distinctly characterised (legally defined in planning definitions).

It is assessed that the proposal is a multi-dwelling housing development given there are more than three dwellings, all of which are accessed at ground level whereas the development could not be accurately described as a single building which contains dwellings where such dwellings are not necessarily accessed at ground level.

Whilst there may be capacity to consider a higher density, this should not be at the expense of future residential amenity of the intended occupants.

It is noted that no alteration has been made to the design of the development as it pertains to site coverage and the proposed site coverage remains 0.46:1, which is a 31% departure from the stated acceptable solution. It is therefore assessed that the development as proposed does not satisfactorily address the objectives or performance criteria of chapter G14: Other Residential Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density.

Conclusion: Reason for Refusal No. 6 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 7** – *The development in its current form does not satisfy the objectives and performance criteria of Chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.7 Landscape Design and 5.9 Construction Requirements.*

In their response to Reason for Refusal No. 7, the applicant provides the following:

*The internal circulation design provisions including aisle widths, bay dimensions will accord with the requirements of AS2890.1 & 6. There will be a two-way circulation arrangement with quite satisfactory provision for turning and manoeuvring.*

The reasons given by the assessment officer for the refusal of the Development Application are due to non-compliance with Section 5.7 – Landscape Design and Section 5.9 – Construction Requirements.

The following comments are provided with regard to the proposal's non-compliance with these sections:

#### Section 5.7

The amended Landscape Plan submitted by the applicant maintains a nominal setback of 1.0m to the eastern side boundary and 0.55m to the northern side boundary. However, no buffer has been provided to either the southern or western boundaries. It is further noted that there is a general lack of landscaping throughout the development – reference is also made in this regard to the aforementioned variation proposed to the general landscaping requirements of the development.

#### Section 5.9

The applicant has maintained their proposal for the use of turf paving throughout the development which does not meet the general design and construction standard for a medium density residential development specified within A13.4 – Chapter G21 of the SDCP 2014. The aforementioned comments provided by the Development Engineer are noted

where it was identified that the evidence provided by the applicant supports Council's initial view that the proposed paving is not suitable for the proposed purpose.

Given that no alterations have been made to the proposal which would enable compliance Sections 5.7 and/or 5.9, the reason for refusal remains valid.

Conclusion: Reason for Refusal No. 7 should be retained within the determination notice issued to the applicant.

***Reason for Refusal No. 8 – The development in its current form does not satisfactorily demonstrate there will not be significant adverse amenity affects upon adjoining properties or upon future residents.***

The applicant identifies in their response to Reason for Refusal No. 8 that:

*'the proposed development will not have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking etc'* and further that *'the relationship and separation between the proposed development and the adjoining residential properties is such that appropriate visual and acoustic privacy will be maintained'*.

No evidentiary proof has been provided by the applicant that the proposal would not have an unreasonable impact upon the amenity of neighbouring properties, as it relates to visual amenity, acoustic amenity, and traffic.

To the contrary, it is noted that submissions have been received either from neighbours or by representatives acting on behalf of neighbours, formally objecting to the development on amenity grounds.

It is considered that the proposal would have an unreasonable impact on the adjoining properties in terms of aural and visual privacy, overshadowing, traffic and parking due to the following reasons;

- No interface (i.e. such as landscaping) separating the proposal and the adjoining uses being tourist and visitor accommodation, residences, indoor recreation facility, open space, and commercial premises.
- No landscaping or buffer between the perimeter road and the southern and western side boundaries and the minimal landscaping and buffer to the eastern and northern side boundaries.
- Forty proposed dwellings would result in a large number of traffic movements per day along the perimeter road and would result in impacts associated with acoustic amenity.
- Lack of landscaping or separation along boundaries would provide reduced visual and acoustic privacy for guests of neighbouring motor inns and residences.

It is further noted that no redesign of the development has been undertaken from the original proposal.

It is therefore considered that the proposal does not satisfactorily demonstrate that there will not be significant adverse amenity affects upon neighbouring and surrounding properties.

Conclusion: Reason for Refusal No. 8 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 9** – *The information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed development.*

As part of the assessment of the initial Development Application, the assessment officer noted that the site would not be suitable for the proposed multi-dwelling housing development for the following reasons:

- *It will result in poor amenity for adjoining properties.*
- *It will result in inadequate amenity for the future residents of the development.*
- *There has been insufficient consideration of the interface with adjoining properties and land uses and will likely result in land use conflicts.*
- *The development in its current format is an overdevelopment of the site.*

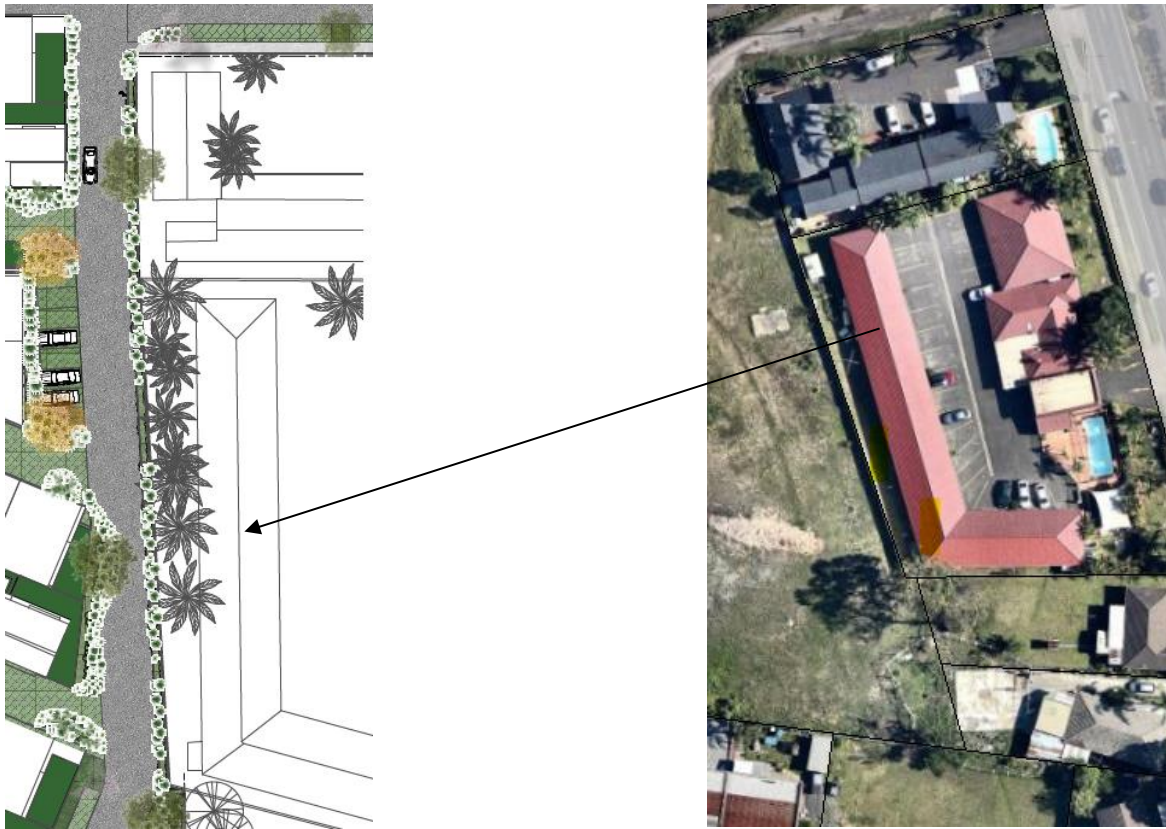
As part of their Review of Determination Application, the applicant provided that the site would be suitable for the proposed development for the following reasons:

- *The site is zoned to accommodate this type and form of development;*
- *The nature and form of the proposed development is generally consistent with the development controls which apply to the site;*
- *The scale and nature of the development is compatible with existing and anticipated future development in the locality;*
- *The size and dimensions of the land are suitable for the scale of the proposed development;*
- *The site will have access to all utility services to accommodate the demand generated by the proposed development;*
- *The proposed development is unlikely to result in any adverse traffic impacts; and*
- *The proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation.*

It is agreed that the site is suitably zoned, is of a configuration that could accommodate multi dwelling development however the review of the determination made by the assessment officer found that the proposed development would not provide a quality residential development with respect to amenity for occupants. In particular it is found that the current format provides for a substantial development footprint (31% variation to site coverage requirement and a 46% variation to landscaping requirement).

The extent of the development on the site means that there is significant site coverage to the detriment of amenity. There is insufficient separation between the development and land uses on neighbouring sites. An example of the insufficient separation is the lack of landscaping buffer provided between the development and surrounding land uses, particularly as it pertains to the perimeter road.

**Figure 4 – Landscape Plan extract showing permitter road relative to boundary and adjoining motel development**



DE19.36

**Conclusion:** Reason for Refusal No. 9 should be retained within the determination notice issued to the applicant.

**Reason for Refusal No. 10 –** *Having regard to variations to planning controls and inconsistency with objectives, the granting of development consent is not considered to be in the public interest.*

As part of their assessment of the initial Development Application, the assessment officer noted that the development would not be within the public interest for the following reasons:

*There has been insufficient consideration of the amenity afforded to future residents of the development. Similarly, there has been insufficient consideration of the impacts upon adjoining properties and how the development is compatible with the future desired character of the area.*

As part of their Review of Determination Application, the applicant provided that the development would be within the public interest, with the following response being provided:

*The proposed development represents the orderly, economic use and development of the subject land, and the proposed density is well within the environmental capacity of the site. The development proposed under this application is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating additional resident population that will in turn support local businesses and services. The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.*



Whilst it is acknowledged that an increased resident population would potentially provide an economic benefit to local businesses within the locality, it is considered that the proposed density is of concern. The scale of development having regard to the density and site cover is likely to result in impacts upon both residents within the locality and residents/guests of surrounding developments due to the limited setback and buffering/separation between structures and in particular the limited separation between neighbouring properties and the perimeter road.

It is considered that, whilst the design of each individual dwelling is sound, the design is not responsive in terms of its relationship with adjoining developments for the aforementioned reasons.

Additionally, whilst the development will provide a type of housing in addition to conventional single dwellings, there is no variety in housing form or choice within the proposed complex. The design is relatively homogenous in architecture and internal layout with all being 3 bedrooms.

Conclusion: Reason for Refusal No. 10 should be retained within the determination notice issued to the applicant.

### **Planning Assessment**

The DA has been assessed under s4.15 (as at the time of assessment) of the Act. This 'assessment' is a formal review under the relevant provisions of the Act, having specific regard to the reason for the refusal.

### **Consultation and Community Engagement:**

Notification was undertaken in reference to the proposed development as part of the original Development Application for a two (2) week period between 20 April 2018 and 5 May 2018 and as part of the Review of Determination Application for a two (2) week period between 12 March 2019 and 27 March 2019. Six (6) public submissions were received within these notification periods. Six (6) were in objection to the development. Zero (0) were in support of the development. The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a 120m buffer of the site.

Key issues raised as a result of the notification are provided below.

- Noise Impact;
- Amenity/Privacy Impact;
- Traffic Impact;
- Construction Sequence;
- Emergency Services Access;
- On-Site Waste Service Collection;
- Chapter G3 (Landscaping) Objectives;
- Chapter G14 (Other Development) Objectives;
- Commercial Impact;
- Floor Space Ratio Variation;
- Location of Car Parking;
- Lighting Impacts;
- Car Parking Impacts (Construction Period) upon Approved Aldi Development;
- Car Parking Impacts (Operational Period) upon Approved Aldi Development; and
- Amenity Impacts for Future Residents given the Close Proximity to Approved Loading Dock of Aldi Supermarket.



**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 of NSW.

**Legal Implications**

An appeal with the Land and Environment Court is possible in the event of a refusal of the application.

**Summary and Conclusion**

To summarise, the key issues concerning the proposal remain the same with the original application excepting concerns by Endeavour Energy.

The request to formally review the application DA18/1000 has been undertaken in accordance with Division 8.2 (Reviews) under the Act, also having regard to relevant provisions of section 4.15 (Evaluation). As such, it is recommended that the refusal be reaffirmed. If Council is inclined to support the recommendation for refusal, it is however recommended that the Determination be reissued removing the first reason for refusal. This matter has been resolved given that Endeavour has decided to conditionally support the proposal.



Bridge Rd, Nowra NSW 2541 02 4429 3111  
Deering St, Ulladulla NSW 2539 02 4429 8999

Address all correspondence to  
The General Manager, PO Box 42, Nowra NSW 2541 Australia  
DX5323 Nowra Fax 02 4422 1816

**NOTICE TO APPLICANT OF DETERMINATION OF DEVELOPMENT  
APPLICATION  
BY WAY OF REFUSAL**  
Environmental Planning and Assessment Act, 1979  
DA18/1000

**TO:**

Sabra Company Pty Ltd  
PO Box 240  
HURSTVILLE NSW 2220

being the applicant(s) for DA18/1000 relating to:

315 Princes Hwy, BOMADERRY - Lot 2 - DP 777260

**REFUSED USE AND OR DEVELOPMENT:**

Demolition of existing structures and construction of a staged Multi Dwelling Housing development comprising 40 dwellings

**DETERMINATION DATE:**

30 November 2018

**REFUSAL DATE:**

30 November 2018

Pursuant to Section 4.18 of the Act, notice is hereby given that the above application has been determined by **REFUSAL** for the reasons as outlined in Part A:

DE19.36 - Attachment 1



**Determination by way of Refusal - Page 2 of 3 - DA18/1000**

**PART A  
REASONS FOR REFUSAL**

1. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
2. The information submitted with the development application does not satisfactorily demonstrate that the development addresses the matters for consideration under Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
3. The information submitted with the development application does not satisfy the objectives of the B4 Mixed Use zone, which Council must have regard for under Clause 2.3(2) of the *Shoalhaven Local Environmental Plan 2014*. (Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act, 1979*)
4. Insufficient information has been submitted to demonstrate compliance with the requirements of chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control of the Shoalhaven Development Control Plan 2014, particularly as it relates to the design of the drainage system. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
5. The development in its current form does not satisfy the objectives and performance criteria of chapter G3: Landscaping Design Guidelines of Shoalhaven Development Control Plan 2014. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
6. The development in its current form does not satisfy the objectives and performance criteria of chapter G14: Other Residential Accommodation of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.22 Scale and Site Density. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
7. The development in its current form does not satisfy the objectives and performance criteria of chapter G21: Car Parking and Traffic of Shoalhaven Development Control Plan 2014, particularly as it relates to 5.7 Landscape Design and 5.9 Construction Requirements. (Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act, 1979*)
8. The information submitted with the development application does not satisfactorily demonstrate that there will not be significant adverse amenity affects upon adjoining properties or upon the future residents of the development. (Section 4.15(1)(b) of *Environmental Planning and Assessment Act, 1979*)
9. The information submitted with the development application does not satisfactorily demonstrate that the site is suitable for the proposed development. (Section 4.15(1)(c) of *Environmental Planning and Assessment Act, 1979*)
10. Having regard to the variations to planning controls within the Shoalhaven Development Control Plan 2014 and the inconsistency with the objectives of the zone under *Shoalhaven Local Environmental Plan 2014*, 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*)

Determination by way of Refusal - Page 3 of 3 - DA18/1000

**PART B**  
**ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL**

***Determination under Environmental Planning and Assessment Act, 1979***

*Under Division 8.2 – Reviews of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a Complying Development Certificate, Designated Development or Crown development. 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.*

*Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979 confer 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 Environmental Planning and Assessment Act 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.*

**PART C**  
**GENERAL ADVICE TO APPLICANT**

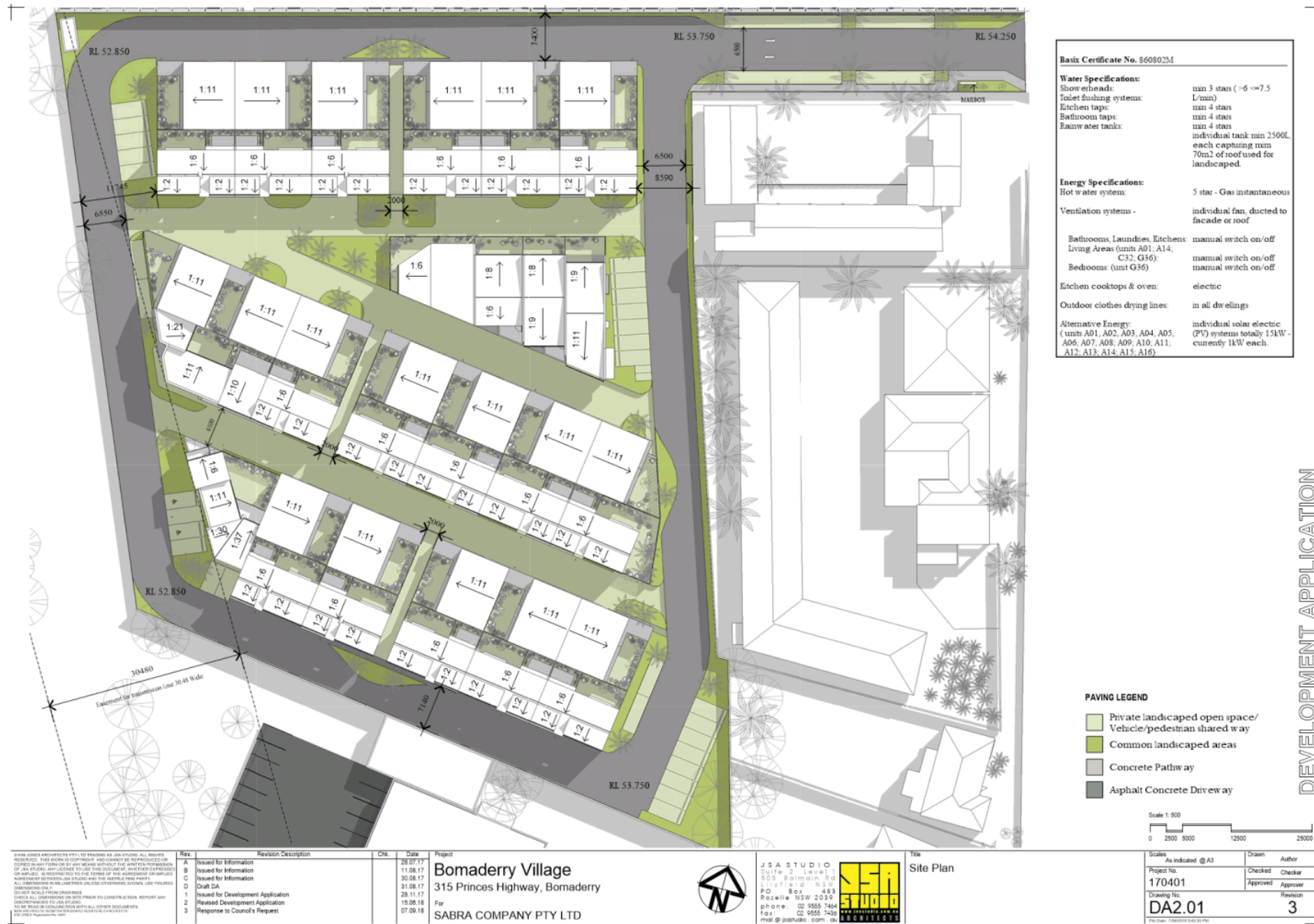
***Privacy Notification***

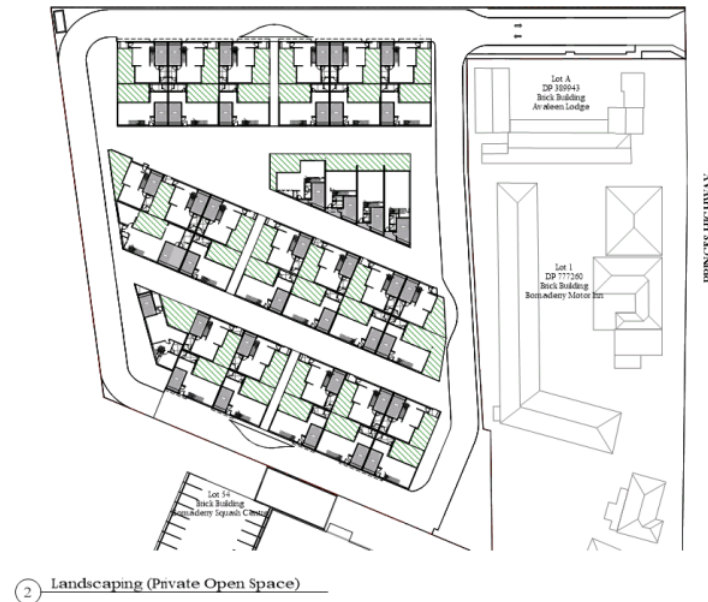
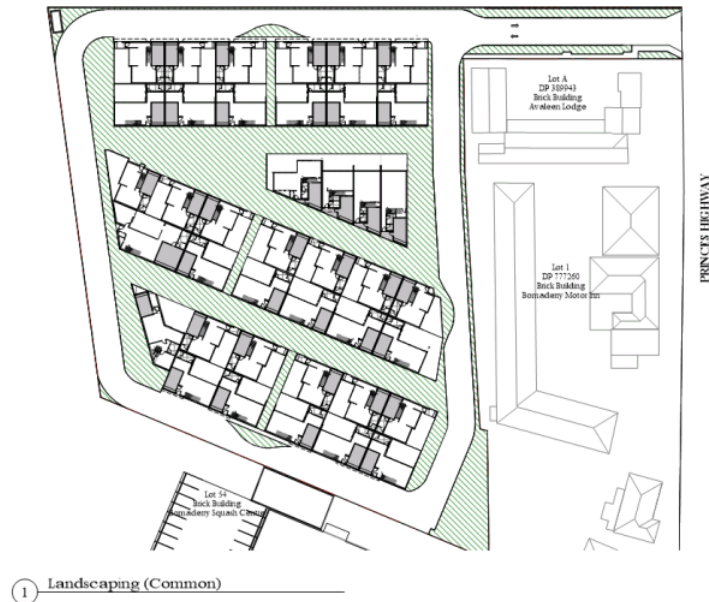
Personal information contained within this Determination and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

**SIGNED** on behalf of Shoalhaven City Council:

*Gordon Clark.*

Name **Gordon Clark**  
**Acting Group Director**  
**Planning, Environment & Development Group**





## DEVELOPMENT APPLICATION

SITE AREA (m <sup>2</sup> )	10933.3 m <sup>2</sup>
REQUIRED LANDSCAPED AREA (m <sup>2</sup> )	3826.6 m <sup>2</sup> (35%)

**PROPOSED**

COMMON (m <sup>2</sup> )	3052.6 m <sup>2</sup>
PRIVATE OPEN SPACE (m <sup>2</sup> )	1280.6 m <sup>2</sup>
TOTAL LANDSCAPED AREA (m <sup>2</sup> )	4333.2 m <sup>2</sup> (39%)

Scale 1: 1000



Rev	Revision Description	Chk	Date	Project		Title	Scales	As indicated @ A3	Drawn	Author
1	Response to Council's Request		27/08/16	<b>Bomaderry Village</b> 315 Princes Highway, Bomaderry		<b>Site Landscaping</b>	Project No <b>170401</b>	Checked <b>170401</b>	Approver	1
				For <b>SABRA COMPANY PTY LTD</b>			Drawing No <b>DA2.07</b>	Revision <b>1</b>		





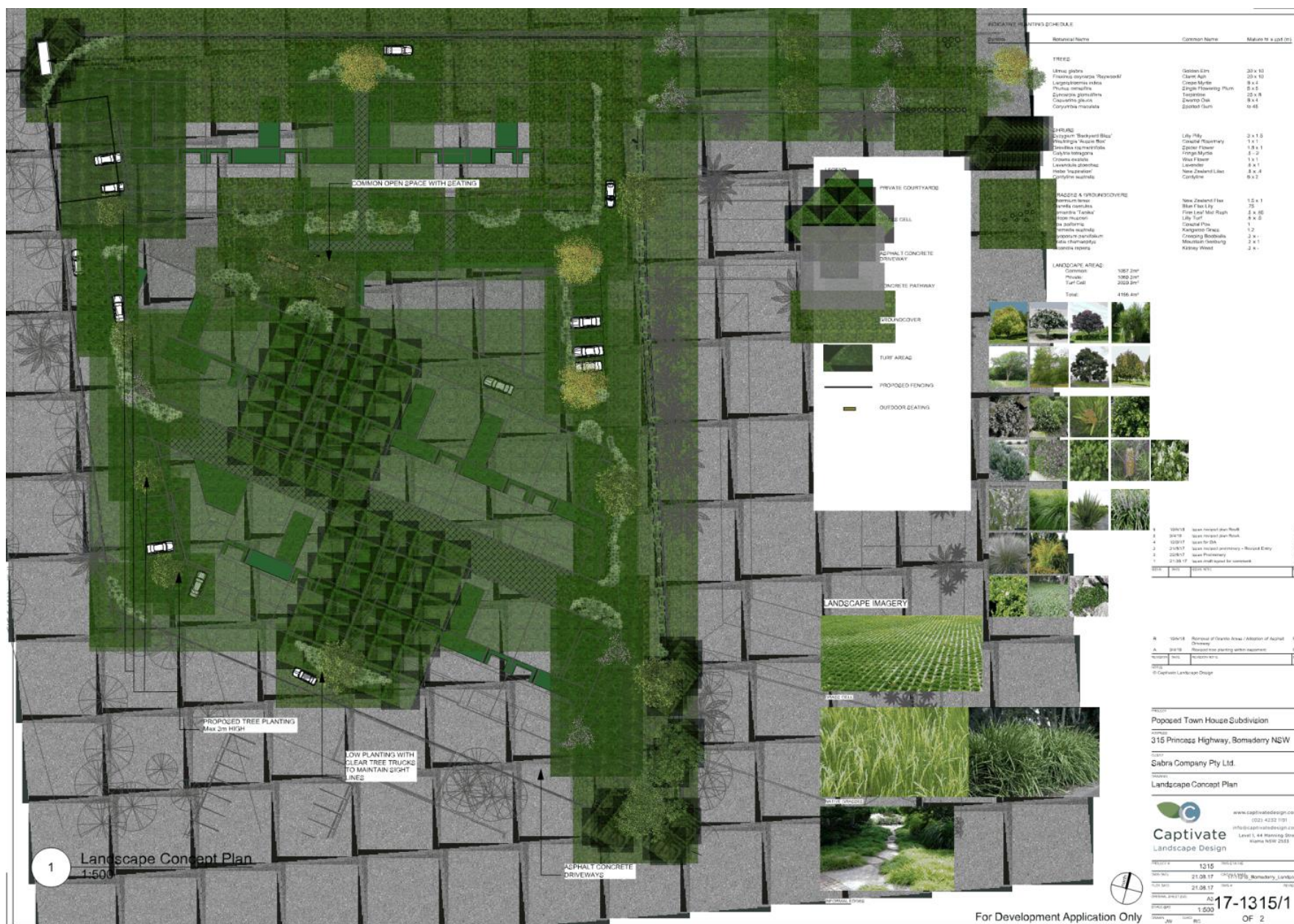
1 Aerial Perspective 1



2 Aerial Perspective 2

## DEVELOPMENT APPLICATION

[illegible]



## DE19.37 Lake Tabourie Boardwalk Replacement

**HPERM Ref:** D19/119129

**Group:** Planning Environment & Development Group  
**Section:** Environmental Services

**Attachments:** 1. Tabourie Lake Residents and Ratepayers Association - Request to Rebuild Lake Tabourie Boardwalk [↓](#)

### Purpose / Summary

Advise Council on the next stage of the Lake Tabourie Boardwalk replacement.

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

That Council:

1. Commit to revoting \$212,520 from Coastal Foreshore Erosion Works (75742) capital works budget from 2018/19 financial year to 2019/20 financial year to fund the design and construction of the replacement boardwalk.
2. Progress to design of a replacement boardwalk, to a standard that increases the asset resilience to future coastal hazards, and includes:
  - a. Geotechnical assessments and land survey
  - b. Review of Environmental Factors including
    - i. Aboriginal Heritage assessment
    - ii. Native Title claim assessment
3. Commit to construction of a new boardwalk at Lake Tabourie, to replace the previously destroyed one, using Fibreglass Reinforced Polymer (FPR) materials.

### Options

1. As recommended.

Implications: Meets community expectations and provides a public asset that will have a longer asset life and decreased “whole of life” cost. The boardwalk will also have a higher level of protection from coastal hazards.

2. Replace the boardwalk to previous standard (like for like/treated pine),

Implications: This would have a lower initial construction cost; however, the “whole of life” cost would be higher, and the asset life would be shorter. The asset would also be more vulnerable to coastal hazards.

3. Council determine an alternative recommendation.

Implications: unknown

### Background

The June 2016 an East Coast Low (ECL) storm demolished the existing timber boardwalk and caused minor erosion of the sandy southern shoreline of Lake Tabourie. Following the

DE19.37



storm Council assessed the damage and public risk. Due to the extent of the damage, the structure was removed.

At the time, it was decided not to replace the boardwalk, due to a lack of funds, given the financial strains placed on Council's coast and estuary budgets due to the extent of damage to coastal assets following the 2016 ECL. A decision was made at the time to install an interim measure of Holey Belt, underlain with sand nourishment to provide a relatively flat surface for access to the main beach.

The 2017 Interim works included the following

1. Removal of undermined trees and redundant fence assets essential to allow machine access
2. Sand nourishment, and
3. Installation of temporary Holey Belt, on the walk way of the alignment of the previous boardwalk.



Figure 1: Lake Tabourie Boardwalk, damaged following East Coast Low, July 2016



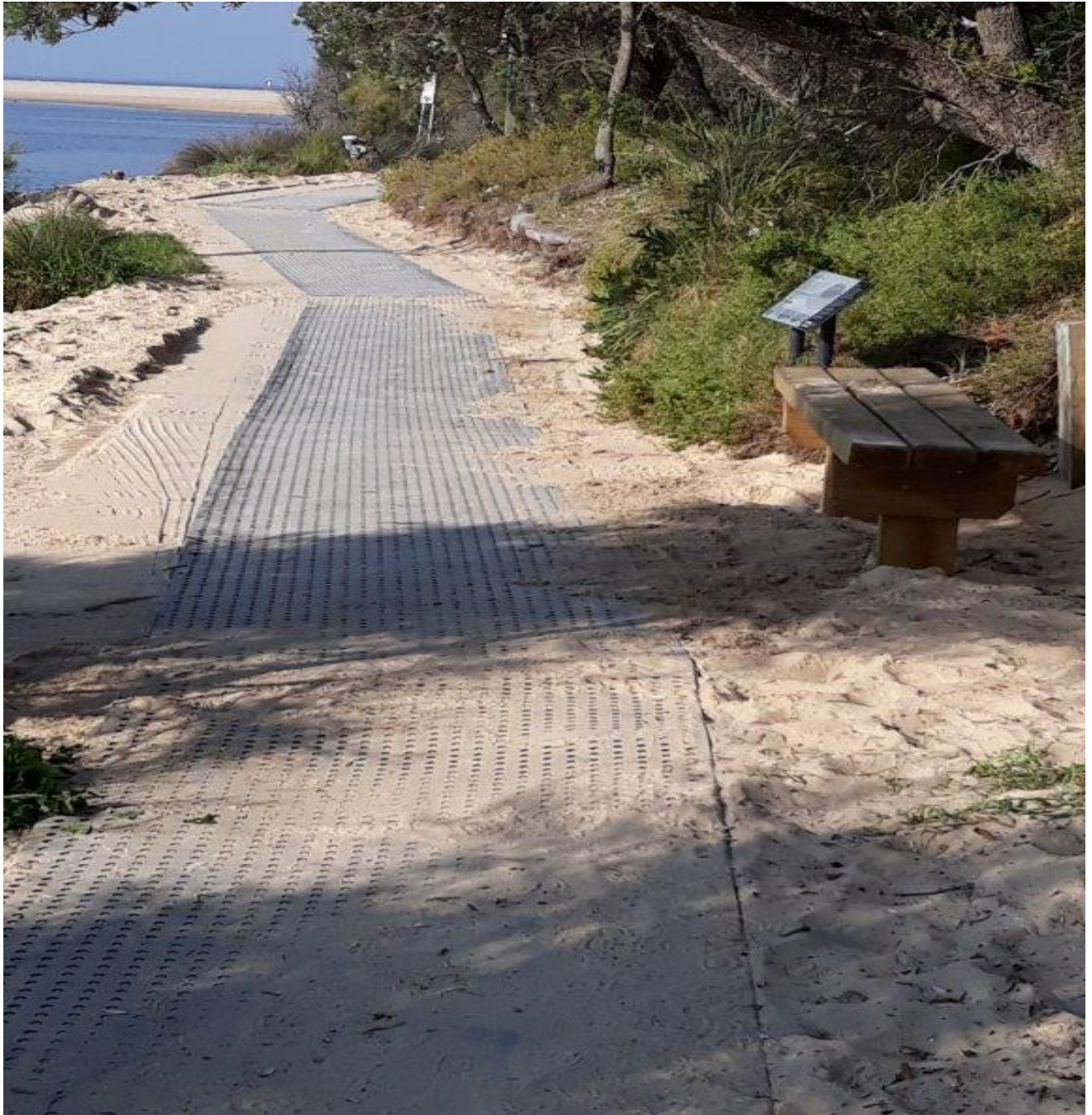


Figure 2, Interim Holey Belt in place, February 2018

Council has been undertaking on-going maintenance of the Holey Belt interim structure over the last 24 months, mainly in relation to the loss of sand caused by lake processes, that forms the foundations of the Holey Belt.

This initial interim measure has provided safe access for the less able people, elderly and prams to the main beach. All communication with the Tabourie Lake Residents and Ratepayers Association has been that the community see the Holey Belt as only a temporary solution, with an expectation that Council will replace the boardwalk.

### **Community Engagement**

Consultation with the Tabourie Lake Residents and Ratepayers started during the storm event and continued in the recovery phases where an interim placement of the Holey Belt

was undertaken and maintained. As per the attached correspondence from the Tabourie Lake Residents and Ratepayers Association in late 2016, the community requested that the boardwalk be replaced by a structure that provides the same functions as the previous boardwalk in the longer-term.

Council staff recently meet with the executive of the Tabourie Lake Residents and Ratepayers Association on 8 April 2019, to discuss the preferred options based on the following.

Option 1: Continue with the Holey Belt structure

Option 2: Design and construct the replacement of the boardwalk as per previous standard (treated pine).

Option 3: Design and construct the replacement boardwalk to a higher standard to be able to withstand coastal hazards, i.e. pier down to a depth that would make the structure more robust to impacts of future coastal storms. Construct the boardwalk out of Fibreglass Reinforced Polymer (FRP), with a guarantee 100-year life span on the material.

At the meeting the association were clear that the community preference was to replace the boardwalk. Given the instability of the lake entrance and higher frequency of intense coastal storms predicted by climate modelling, the preferred option was Option 3.

### **Financial Implications**

The estimated cost for Option 3, based on the Lake Conjola Boardwalk construction cost, would be as follows.

- Design (Inc. Geotech), surveys, Aboriginal Heritage assessment and Review of Environmental Factors = \$60,000
- Construction of the boardwalk, using a combination of FRP and Enviro Deck® = \$133,200 (based on \$1,800 per linear metres x 74 metres)

The total estimated cost for the replacement of the Lake Tabourie boardwalk would be \$193,200, allowing for a 10% contingency of \$19,320; the total project cost would be \$212,520. Currently Council's capital budget for Coastal Foreshore Erosion Works (75742) has a budget of \$401,390, with \$150,000 committed towards current capital projects in 2018/19 year.

To fund the replacement of the Lake Tabourie boardwalk would require Council to revote the \$212,520 into the 2019/20 year. Council has begun the preliminary design and geotechnical works; however, will need the funds revoted to allow time for the approvals and construction.

### **Risk Implications**

The interim Holey Belt option has served well to date; however, since installation, our region has had lower than average rainfall and no coastal storm events have occurred. However, the Holey Belt is likely to continue to fail once increased rainfall occurs, and will continue to pose a public risk when the lake level rises, and the foreshore sand base becomes less stable.



**TABOURIE LAKE RATEPAYERS & RESIDENTS ASSOCIATION INC.**  
**C/- Post Office, Tabourie Lake NSW 2539**  
**Phone: (02) 4480 1198**

10th October 2016

Mr RD Pigg  
General Manager  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

**Dear Mr. Pigg**

**Re: Boardwalk replacement at Lake Tabourie**

**Attention: Ray Massie (Coast and Estuaries officer)**

Council is aware the Lake Tabourie timber boardwalk was destroyed during the 2016 June East Coast Low.

So far SCC work has consisted of:

Stage 1 - The boardwalk was dismantled

Stage 2 - Remaining posts were removed and sand was placed down as a path.

I happened to meet Ray Massie as he surveyed the site for a stage 3 plan to use "Holey belt" recycled rubber matting

I took this plan to our most recent CCB General Meeting on September 27<sup>th</sup> 2016.

We understand that replacement with hard timber boardwalk maybe expensive and that SCC funds may be limited in the short term. However, some concerns were raised and the meeting resolved to write to you expressing these concerns.

The meeting resolved unanimously (24- 0);

"That the boardwalk be replaced by a structure that provides the same function as the former boardwalk. In particular that it provide:

- a safe, stable, firm and level surface for elderly walkers and prams/strollers and bikes
- allow for safe transition to the lake edge where the old boardwalk ended
- a pleasant aesthetic amenity in keeping with the crushed granite path and sand lake edge"

Ray has kindly accepted our invitation to attend our November 29<sup>th</sup> General meeting to outline this stage 3 plan and to field questions and hear suggestions from our community.

Yours sincerely,

David Swarts  
Acting Secretary

## DE19.38 Timeframes and Status for Lake Conjola Coastal Management Program Application - NSW Coast and Estuary Grant Program

**HPERM Ref:** D19/124684

**Group:** Planning Environment & Development Group  
**Section:** Environmental Services

**Attachments:** 1. Lake Conjola Coastal Management Program Preparation Application [↓](#)

### Purpose / Summary

To provide Council with an update on the Lake Conjola Coastal Management Program grant application to NSW Coast and Estuary – Planning Stream Grant Program 2018/19.

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

That Council receive the Lake Conjola Coastal Management Program Application report for information.

### Options

1. As per recommendation

Implications: The grant application will continue to be assessed by the NSW Office of Environment (NSW OEH) for value for money and technical rigour.

2. Propose an alternative recommendation

Implications: This would depend on the content of the recommendation

### Background

At the Ordinary meeting of Council on 26 March 2019, Council resolved (Part 8 MIN19.4) to receive the following report.

8. *Report timeframe and priority status for preparation of Coastal Management Plan for Lake Conjola to Council.*

At a meeting held on 5 February 2019, with the representatives of the Lake Conjola Community Association, Councillors, Council staff, State Government Agencies Staff and the Member for South Coast, Hon. Shelly Hancock MP, it was decided by consensus to prepare a standalone Coastal Management Program for Lake Conjola, as per the requirements of the NSW Coastal Management Manual and the Act.

Council officers then proceeded to prepare a draft application to the NSW OEH Coast and Estuary Planning Stream Grant Program. A meeting was held with representatives of the Lake Conjola Community Association on 14 February 2019, to get input into the scope and contents of the grant application.

Following this, the draft application was sent to the Lake Conjola Community Association to provide feedback on the draft application. The application was also sent to the Office of Environment and Heritage (OEH) for feedback via the Regional Coast and Estuary Senior Officer.

Council received feedback from both OEH and the Lake Conjola Community Association, in March 2019. This feedback and comments were incorporated into the grant application, which was submitted to NSW OEH on 10 April 2019.

The closing dates for the Coast and Estuary Planning Stream Application is 30 June 2019, Council has received a confirmation email from the NSW Coast and Estuary Grant Unit acknowledging the acceptance of the Preparation of Lake Conjola Coastal Management Program application.

### **Timeframe for the development of the CMP**

The project plan provided within the application for financial assistance outlines project milestones for the development of the CMP and their corresponding completion dates. This project plan was developed and reviewed with the assistance of NSW Office of Environment and Heritage, based on their knowledge and experience in the delivery of CMPs. The grant application sets the timeframe of commencement in April 2020 and preparation of the final document in August 2021, however this is dependent upon the grant application being successful and the timing of the grant determination and notification.

The milestones and activities that refer to assessing lake process, hazards and risks include flood risk and entrance management.

The project plan is presented in Section 12 of the attached document - Lake Conjola Coastal Management Program Preparation Application (D19/124621). This is an updated version of the grant application that was provided to OEH to include activity costs. A copy has been provided to the Conjola Community Association.

### **Community Engagement**

Council has undertaken the following community engagement in the preparation of the Lake Conjola Coastal Management Program application.

1. Initial meeting with Lake Conjola Community Association representatives to identify the need for a stand-alone Coastal Management Program for Lake Conjola – 6 February 2019
2. Follow up meeting with the Lake Conjola Community Association to develop the grant application – 14 February 2019
3. Draft application sent to the Lake Conjola Community Association for feedback and comments – 19 March 2019
4. Feedback received from the Lake Conjola Community Association on grant application and incorporated into application – 26 March 2019
5. Grant application submitted to NSW OEH – 10 April 2019

### **Policy Implications**

The preparation of the Coastal Management Plan for Lake Conjola, will incorporate an assessment of both the current Lake Conjola Interim Entrance Management Policy 2013 and the Lake Conjola Estuary Management Plan 2015.

### **Financial Implications**

If the Lake Conjola Coastal Management Program grant is successful, Shoalhaven Council will be required to fund 50% of the cost, which will be \$140,000 over two years.

**Risk Implications**

The preparation of a coastal management program is a requirement of the NSW Coastal Management Act 2016, the Coastal SEPP 2018 and the NSW Coastal Manual Part 1. Without a certified Coastal Management Program (CMP), Shoalhaven Council would not be eligible to apply for funding to undertake coastal management actions that are not identified in a CMP.

Any review of the Lake Conjola Estuary Management Plan or the Entrance Management Policy is required to be done as part of the development of a Coastal Management Program, as per the requirements of the NSW Coastal Management Act 2016.



**Office of Environment and Heritage**  
**Coastal and Estuary Grants Program**  
**Application for financial assistance 2018–19**  
**Coastal and Estuary Planning**

Open for applications at any time up until 30 June 2019

**General information**

- You will need the *Guidelines for Applicants 2018-19 - Coastal and Estuary Grants Program* prepared by the Office of Environment and Heritage (OEH) to help you fill out this application form. Guidelines are available on the OEH website at: [Coastal and Estuary Grants Program](#)
- To complete this form electronically, click in the shaded boxes and enter the required information. A cross in a box is equivalent to a tick.

**Applicant details**

**1a Name of organisation** Shoalhaven City Council

**1b Contact person for this project**

Title	Ms	First name	Kelie	Surname	Clarke
Position	Environmental Services Manager			Daytime phone	(02) 4429 3501
Email	kelie.clarke@shoalhaven.nsw.gov.au			Mobile No.	0421 332 200
Address	Bridge Road				
Suburb	Nowra			State	NSW
				Postcode	2541

**1c Project partner(s)**

Attach a letter of support from your partner(s), which outlines their financial commitment to the project

Project partner(s)	
--------------------	--

**1d Coastal Zone Management Plan for the project area**

Select only **ONE** of the following

<input type="checkbox"/>	Completed and Certified Coastal Zone Management Plan
<input checked="" type="checkbox"/>	Non-certified Coastal Zone Management Plan
<input type="checkbox"/>	No Coastal Zone Management Plan / Estuary Management Plan

**1e**

**If council is applying for funding for Investigation and Design or Cost Benefit Analysis/Distribution Analysis, are the proposed infrastructure works a recommended action in a certified coastal zone management plan / coastal management program?**

Yes ☐ or No ☐

If **yes**, provide details, including priority.

--

## Project details

**2 Project title** (maximum of 80 characters including spaces)

**Preparation of the Lake Conjola Coastal Management Program**

**3a Project category**

Relates to the funding priorities outlined in the Grant Application Guidelines. Select only **ONE** of the following

- ☒ Prepare Coastal Management Program (CMP)
- ☐ Prepare a scoping study
- ☐ Conversion of an existing Coastal Zone Management Plan (CZMP) to a Coastal Management Program
- ☐ Investigation and design of work recommended in a certified/approved Coastal Management Program or Coastal Zone Management Plan
- ☐ Cost benefit analysis or distribution analysis of work recommended in Coastal Management Program or Coastal Zone Management Plan

**3b Project significance**

For investigation and design or cost-benefit projects please outline the priority of the project in the certified plan?

**Priority**

**4 Project timeframe**

Please be realistic about the completion date as this will be used to set the term of your funding agreement if you are offered a grant.

Proposed commencement	1/09/2019	<ul style="list-style-type: none"> <li>Project start date cannot be prior to two months after the application is submitted but must commence within six months of the application submission date.</li> </ul>
Proposed completion	1/09/2021	<ul style="list-style-type: none"> <li>Project duration cannot exceed 36 months</li> <li>Please make sure the dates are the same as those in the project plan</li> </ul>

**5 Project location**

Enter location description and attach photos of the site where possible and attach a locality diagram or map. Where possible include town, nearby road, beach or other notable landmark etc.

Lake Conjola, south coast NSW

Please provide the latitude and longitude. This can be taken directly from a map, or from Google Maps. Go to <https://www.google.com.au/maps> and find your project location, right click on the map on the project location and in the menu that appears select "what's here". The co-ordinates will appear in the search box above the map.

**Latitude** 35°15'59.2

**Longitude** 150°28'53.

If the project location falls across more than one local government area (LGA), Local Land Services (LLS) region, electorate or catchment, please identify the primary one first.

LGA*	LLS*	State electorate/s*	Catchment (if applicable)
Shoalhaven City Council	South East Local Land Services	South Coast	Lake Conjola

\* LGA, LLS Region, State Electorate and Catchment information required for Program reporting purposes only.



**6 Budget overview**  
Please make sure the amount matches with the total in the project plan.  
(More details must be provided in the preliminary project plan at question 12.)  
Table below must include all funding sources. Partner contributions must be removed from the whole project cost prior to applying the funding ratio.

	Applicant's contribution (excluding GST)	Partner contributions (excluding GST)	Grant amount sought (excluding GST)	Total Project cost (excluding GST)	Funding level sought (up to 50% - must be within the limits above)
<b>Total</b>	<b>\$140,000</b>	<b>\$</b>	<b>\$140,000</b>	<b>\$280,000</b>	<b>50%</b>

**7 Project summary**  
Provide a brief project overview (**150 words or less**), including location and the issue that the project will address.  
**Please note** this summary will be used by OEH for all promotional material relating to the grant (i.e. media, web site etc.)

A Coastal Management Program will be prepared for Lake Conjola in consultation with the community and agency partners. The preparation of the CMP will review and update existing documents and gather new data and information about the ecological, lake and entrance processes. The CMP will provide guidance for Council to effectively and sustainably manage the natural and built assets of Lake Conjola.

**8 Other grants**  
Have you received previous funding for developing a coastal or estuary management plan? Yes ☒ or No ☐

If you have answered yes to the above, please provide details below

Project name	Funding source (e.g. State or Commonwealth Government)	Program name	Year of offer	Amount	Completion/expected completion date
South Mollmook coastal protection cost benefit analysis and impact assessment	NSW Government	Coastal & Estuary Grants Program	2016	\$50,000	29/03/2019
Preparation of Shoalhaven City Council's Coastal Management Program	NSW Government	Coastal & Estuary Grants Program	2017	\$100,000	27/09/2019
				\$	

**9 Other funding.** Do you have any current or planned proposals to other funding programs for this project or components of this project? Yes ☐ or No ☒

If you have answered yes to the above, please provide details below

**10 What is the background of the issue and demonstrated need for the project?**  
Specify why funding is needed for this project.

The 2015 Lake Conjola Estuary Management Plan needs updating and certifying in accordance with the NSW Coastal Management Act 2016. The Lake Conjola Interim Entrance Management Policy (LCIEMP) is now overdue for review. The project referred to in Q8, Preparation of Shoalhaven City Council's Coastal Management Program, initially included the open coast, St Georges Basin & Lake Conjola. Following a Council resolution to review the LCIEMP due to community and visitor concerns associated with closure of the lake, a meeting was held on 6.2.2019 with Shelley Hancock South Coast Member of Parliament, Councillors, Council officers, government agency representatives and Lake Conjola Community Association representatives. The decision was made to prepare a stand-alone CMP for lake Conjola which was supported by the OEH representatives in attendance.

#### 11 What will the project achieve?

Briefly outline the outcomes and objectives, impact or benefits (including any environmental benefits or improvements to resilience and adaptation to mitigate climate change) of the project i.e. its success.

**Note:** if your application is successful you will need to report against these outcomes in your final report.

The outcome of the project will be a certified Coastal Management Program for Lake Conjola which is supported by the community and that results in improved lake health and amenity. The CMP will include updated ecological, lake and entrance process studies, an updated Estuary Health Report Card (including saltmarsh and seagrass mapping), a review of the interim entrance management policy, assessment of other entrance management options, including ongoing dredging, and an estuary hazard risk assessment and mapping. Detailed objectives for these documents will be identified during the preparation of the Scoping Study.

#### Project plan

Please be realistic about the dates and costs you provide in your preliminary work plan and ensure that they match the completion date provided under **Question 4** and the total funds requested at **Question 6**.

**Note:** if you are awarded a grant, you will need to expand this plan to include projected outputs.

Milestone (e.g. Data collection; modelling undertaken; draft plan submitted; community consultation; final plan completed)	Activities (e.g. Form steering committee; community consultation/workshops; engage contractor; undertake study into environmental uses; conduct site survey; review and comment on draft plan)	Estimated cost of each activity (all contributions) <b>GST exclusive</b>	Projected completion for each milestone (dd-mm-yy)	Total estimated milestone cost (all contributions) <b>GST exclusive</b>	Grant amount sought for each milestone (maximum of 50% and within the limits at Question 6) <b>GST exclusive</b>
1(a) Prepare Scoping Study and community engagement plan. (b) Based on existing data and information including data gathered by the community, commence update of ecological, lake & entrance process	Staff & agency consultation	\$5,000	April 2020	\$80,000	\$40,000
	Prepare draft Scoping Study - including community engagement plan	\$25,000			
	Commence update of studies & Estuary Health Report Card and mapping	\$35,000			
	Commence hazard assessment & mapping & review of interim EMP	\$5,000			

studies and Estuary Health Report Card. (c) Commence hazard assessment and mapping. (d) Commence review of interim entrance management policy (EMP).	Prepare final scoping study	\$10,000			
2(a) Implement community engagement Plan. (b) Prepare draft CMP, including undertaking new data collection and studies and reviewing and updating existing documents.	Prepare draft CMP	\$55,000	December 2020	\$170,000	\$85,000
	Prepare ecological, lake and entrance processes study	\$30,000			
	Complete review & update of Estuary Health Report Card and entrance management policy. Complete hazard risk assessment.	\$45,000			
	Implement community engagement plan	\$35,000			
	Prepare exhibition draft of CMP with appendices	\$5,000			
3. Prepare final CMP and appendices	Public exhibition	\$4,000	August 2021	\$30,000	\$15,000
	Review submissions & prepare final CMP	\$17,500			
	Receive project deliverables	\$4,000			
	Council adoption of CMP	\$3,000			
	Certification	\$1,500			
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<b>Total estimated project cost</b> (all contributions)	\$280,000
<b>Grant amount sought</b> (must align with amount at Question 6)	\$140,000

**13 Outline council's capacity to deliver the project efficiently**  
Look at your past grants management history, available resources including staff and the proposed timeframe, and consider whether it is realistic based on completion of prerequisite consultant briefs, community consultation or approvals.

Shoalhaven City Council has secured, and successfully implemented, numerous OEH grants over many years.

**14 Does council agree to enter into, and be bound by, the conditions in a funding agreement?** (as outlined in the Grant Application Guidelines) Yes ☐ or No ☐

**15 Has technical advice been provided by a relevant OEH officer?** Yes ☒ or No ☐

If yes, provide the name of the OEH officer, and the nature of advice provided.

Daniel Wiecek has provided advice on the scope of the project.

**16 Has the proposed project been subject to public exhibition or consultative processes?** Yes ☒ or No ☐

If yes, provide details.

This project is a result of a Council resolution (MIN19.4) to review the Lake Conjola Entrance Management Plan as part of a CMP and seek NSW government funding to do this. Representatives of the Lake Conjola Community Association, Council's community consultative body (CCB), have participated in meetings with Council staff, Councillors and agency representatives from the end of 2018 into early 2019, which culminated in the meeting held on 6.2.2019 at which it was decided to remove Lake Conjola from the Shoalhaven CMP application and prepare a stand-alone Lake Conjola CMP application. Following this, a further meeting was held in Lake Conjola on 14.2.2019 with two key CCB representatives and three Council staff to discuss water quality and this application. It was agreed at that meeting to

1. provide them with a copy of the draft application for their comments
2. forward it to Danny Weicek for his review
3. provide the application, with Danny's comments included, to the CCB
4. if necessary, meet with the CCB representatives again

**17 Will the project be undertaken by contract after calling competitive tenders?** Yes ☒ or No ☐

If no, the applicant **must provide** justification for this.

### Authorisations

**Applicant** Provide the name of a senior officer in your organisation, with appropriate delegation, who has authorised the submission of this project and has the delegation to authorise the commitment of the resources and expenditure required to deliver this project.

**Note:** Signature **is not** required.

Name	Kelie Clarke
Title/position	Environmental Services Manager
Organisation	Shoalhaven City Council
Email	kelie.clarke@shoalhaven.nsw.gov.au
Phone no.	(02) 44293501
Date	10/04/2019

### Submission details

It is recommended that you read the *Guidelines for Applicants 2018-19 - Coastal and Estuary Grants Program*. Use the following checklist to make sure that your application is complete and accurately represents your project.

#### Grant application check list

- ☐ Answer **all** questions in the application form.
- ☐ Submit the entire application by **email**.
- ☐ Submit one application per project (**Note:** stages of works may be separate applications).
- ☐ Type only in the spaces provided in the application form. The boxes provided for answers to questions are a set size; the boxes will not expand to accommodate additional text if you continue to type beyond the bottom of the text box. Please ensure answers to questions are fully contained within the limits of the text boxes.
- ☐ Manually spell check your application (the Microsoft Word spelling and grammar function is disabled in this form).
- ☐ Enter the **state** (not federal) electorate(s) at Question 5.
- ☐ Enter monetary amounts in full, i.e. \$10,000 not \$10k.
- ☐ Check the budget amounts outlined in the project plan at Question 12 is consistent with the Budget Overview at Question 6.
- ☐ Have the application authorised by the appropriately delegated person.
- ☐ If council decide to undertake the project in-house at a later date you will need to submit a variation request, therefore it is in council's best interest to address Question 17 upfront.
- ☐ Attach letter(s) of support from project partner(s), if applicable.
- ☐ Include your organisation name then project name in the subject line of your email when lodging the application (e.g. XX Council – XX Coastal Zone Management Plan).
- ☐ Applications are open until 30 June 2019 for applications at any time. Please allow twelve weeks for applications to be assessed.

<b>Email to:</b>	<a href="mailto:coastalestuary.floodgrants@environment.nsw.gov.au">coastalestuary.floodgrants@environment.nsw.gov.au</a> <ul style="list-style-type: none"> <li>• Please email the <b>application form as a Word document - DO NOT PDF</b>. Attachments can be emailed as Word, Excel or PDF documents.</li> <li>• If the application form is not submitted in the format specified above, <b>it will not be accepted</b>.</li> <li>• Ensure you email your entire application, including all attachments, e.g. letters of support from project partners; maps; etc.</li> <li>• Emailed applications must not be larger than <b>10MB</b> including all attachments.</li> </ul>
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**Any application that is late, incomplete or ineligible will not be considered.**

**Budget overview (OFFICE USE ONLY – not to be completed by the applicant)**

Financial Year	Applicant's contribution (excluding GST)	Grant amount sought (excluding GST)	Total Project cost (excluding GST)	Funding level sought
2018-19	\$	\$	\$	%
2019-20	\$	\$	\$	
2020-21	\$	\$	\$	
2021-22	\$	\$	\$	
<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	



## LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

### Chapter 3, Section 8A Guiding principles for councils

#### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

#### (2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

#### (3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

### Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
  - (i) performance management and reporting,
  - (ii) asset maintenance and enhancement,
  - (iii) funding decisions,
  - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
  - (i) policy decisions are made after considering their financial effects on future generations,
  - (ii) the current generation funds the cost of its services

**Chapter 3, 8C Integrated planning and reporting principles that apply to councils**

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.