

Development & Environment Committee

Meeting Date: Tuesday, 04 June, 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**
 - Planning Environment & Development
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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, 7 May 2019
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.00pm

The following members were present:

Clr Greg Watson - Chairperson
Clr Amanda Findley
Clr Patricia White
Clr John Levett
Clr Nina Digiglio
Clr Kaye Gartner
Clr Mitchell Pakes
Clr Bob Proudfoot
Stephen Dunshea – Acting General Manager

Procedural Motion

RESOLVED (Clr Pakes / Clr Findley) MIN19.282

That Ms Niki Willdig be permitted to make a deputation in relation to item DE19.33 – Update – Planning Proposal – Warrah Road, Bangalee.

CARRIED

Apologies / Leave of Absence

Apologies were received from Clr Gash, Clr Wells, Clr Guile, Clr Alldrick and Clr Kitchener.

Confirmation of the Minutes

RESOLVED (Clr Findley / Clr Digiglio) MIN19.283

That the Minutes of the Development & Environment Committee held on Tuesday 02 April 2019 be confirmed.

CARRIED

Declarations of Interest

Clr White – DE19.39 New Item - Tree Removal - Power Lines - Endeavour Energy - less than significant non pecuniary interest declaration - her son works for Endeavour Energy – will remain in the room and take part in discussion and vote.

Call Over of the Business Paper

RESOLVED (Clr Gartner / Clr Digiglio)

The following items were called up for debate:

DE19.28, DE19.33, DE19.34, DE19.36. DE19.37, DE.26, DE.27, DE.29, DE.30, DE.31, DE.32, DE.34, DE19.35

The following item was resolved (Clr Gartner / Clr Digiglio) at this time. It is marked with an asterisk (*) in these minutes:

DE19.38

CARRIED

MAYORAL MINUTES

Nil.

DEPUTATIONS AND PRESENTATIONS

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

Mr Stuart Coughlan, representing Berry Forum, addressed the meeting and spoke against the recommendation.

Ms Elizabeth Clark addressed the meeting and spoke against the recommendation.

DE19.30 - Public Exhibition Outcomes - Planning Proposal (PP023) - Anson Street, St Georges Basin - Building Heights

Ms Maureen Webb, representing the Basin Villages Forum, addressed the meeting and spoke in favour of the recommendation.

DE19.34 - Options - Review of Proposed Service Lane, St Georges Basin Village Centre - Shoalhaven DCP 2014 and Shoalhaven Contributions Plan 2010

Mr Travis Harpley addressed the meeting and spoke against the recommendation.

Mr Russell Byrnes addressed the meeting and spoke against the recommendation.

Mr Peter Chrisafis addressed the meeting and spoke against the recommendation.

DE19.36 - RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260

Mr Kim Jones, representing JSA Architects, and Mr Andrew Robinson, representing Andrew Robinson Planning Services, addressed the meeting and spoke against the recommendation.

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

Ms Niki Willdig addressed the meeting and spoke in relation to Point 6 of the recommendation.

REPORTS

Procedural Motion - Bring Item Forward

RESOLVED (Clr Pakes / Clr Gartner)

MIN19.284

That the matter of the following items be brought forward for consideration:

- DE19.28 - Proposed Review - Shoalhaven LEP 2014 - Clause 2.8 Temporary Use of Land
- DE19.30 - Public Exhibition Outcomes - Planning Proposal (PP023) - Anson Street, St Georges Basin - Building Heights
- DE19.34 - Options - Review of Proposed Service Lane, St Georges Basin Village Centre - Shoalhaven DCP 2014 and Shoalhaven Contributions Plan 2010
- DE19.36 - RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260
- DE19.33 - Update - Planning Proposal - Warrah Road, Bangalee

CARRIED

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

HPERM Ref:
D19/109574

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.

MOTION (Clr White / Clr Proudfoot)

That Council receive the report for information and not adopt the recommendation.

FOR: Clr White, Clr Pakes, Clr Proudfoot and Clr Watson

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

LOST

FORESHADOWED MOTION (RESOLVED) (Clr Findley / Clr Gartner)

MIN19.285

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.

FOR: Clr Findley, Clr Levett, Clr Digiglio, Clr Gartner, and Stephen Dunshea

AGAINST: Clr White, Clr Watson, Clr Pakes and Clr Proudfoot

CARRIED

**DE19.30 Public Exhibition Outcomes - Planning Proposal (PP023)
- Anson Street, St Georges Basin - Building Heights**

**HPERM Ref:
D19/106974**

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.

RESOLVED (Clr Proudfoot / Clr Findley)

MIN19.286

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.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

**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**

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 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.

RESOLVED (Clr Proudfoot / Clr Findley)

MIN19.287

That Council

1. Commence the necessary steps to remove the proposed service lane from the Shoalhaven Development Control Plan 2014 and Shoalhaven Contributions Plan 2019 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.
2. Request a further urgent report on the options arising from this decision on the possible development of 148 Island Point Road St Georges Basin that is the subject of a recent development approval (DA17/2435).

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

Against: Nil

CARRIED

DE19.36 RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260

HPERM Ref: D19/114426

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.

MOTION (Clr Findley / Clr Gartner)

That Council defer RD18/1007, 315 Princes Highway, for further report to the Meeting of Council on 28 May 2019. In deferring this item, the applicant is to:

1. Submit an acoustic engineers report showing how the proposed development will comply with the provisions of the Division 17 subdivision 2 of State Environmental Planning Policy (Infrastructure) 2007, such report to be provided within 7 days from today's resolution;
2. Provide advice to Council as to how turf cell 'pavement' will be removed from the design and an alternative pavement be incorporated;
3. Confirm that an amended stormwater design and report will be submitted to ensure that drainage will be achieved compliant with Council's requirements for "Sustainable Stormwater Management and Erosion / Sediment Control", Chapter G2 of the Shoalhaven Development Control Plan 2014 in light of the turf cell pavement being removed;
4. Outline modifications to be made to the design to include adequate landscape buffers to the boundaries and increase landscape provision to provide for occupants' and neighbours' residential amenity, to improve outlooks, privacy and private recreation opportunities.

FOR: Clr Findley, Clr Levett, Clr Digiglio, Clr Gartner

AGAINST: Clr Pakes, Clr Proudfoot, Clr White, Clr Watson and Stephen Dunshea

LOST

RESOLVED (Clr Pakes / Clr White)

MIN19.288

That Council defer the determination of this matter to allow the applicant to provide the information required with an addendum report to be submitted to the Council meeting on 28 May 2019.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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

HPERM Ref: D19/39829

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, with a further report back from the General Manager.

RESOLVED (Clr Findley / Clr Gartner)

MIN19.289

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, with a further report back from the General Manager.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D19/66849**

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)

RESOLVED (Clr Findley / Clr Gartner)

MIN19.290

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).

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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

**HPERM Ref:
D19/106139**

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.

MOTION (Clr Proudfoot / Clr White)

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, and that an investigation be made as to the inclusion of private rural property owners as potential recipients of an off-site mature tree planting program.
4. Advise key stakeholders, including relevant industry representatives, of this decision.

FOR: Clr White and Clr Proudfoot

AGAINST: Clr Findley, Clr Pakes, Clr Levett, Clr Digiglio, Clr Gartner, Clr Watson and Stephen Dunshea

LOST

FORESHADOWED MOTION (RESOLVED) (Clr Findley / Clr Gartner)

MIN19.291

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.

FOR: Clr Findley, Clr Levett, Clr Digiglio, Clr Gartner and Stephen Dunshea

AGAINST: Clr White, Clr Pakes, Clr Watson and Clr Proudfoot

CARRIED

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

**HPERM REF:
D19/109574**

Item dealt with earlier in the meeting see MIN19.285

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

**HPERM Ref:
D19/121980**

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.

RESOLVED (Clr Findley / Clr Digiglio)

MIN19.292

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.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

**DE19.30 Public Exhibition Outcomes - Planning Proposal (PP023)
- Anson Street, St Georges Basin - Building Heights**

**HPERM REF:
D19/106974**

Item dealt with earlier in the meeting see MIN19.286

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

**HPERM Ref:
D19/47332**

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.

RESOLVED (Clr Gartner / Clr Digiglio)

MIN19.293

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.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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

HPERM Ref: D19/103982

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.

RESOLVED (Clr White / Clr Digiglio)

MIN19.294

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.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

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

**HPERM REF:
D19/39829**

Item dealt with earlier in the meeting see MIN19.289

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**

Item dealt with earlier in the meeting see MIN19.287

DE19.35 Development Application – SF10671 proposed 2 lot subdivision at Lot 9 DP792386 (no.96) Princes Hwy Milton

**HPERM Ref:
D19/84342**

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.

RESOLVED (Clr White / Clr Findley)

MIN19.295

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.

FOR: Cllr Findley, Cllr White, Cllr Levett, Cllr Digiglio, Cllr Gartner, Cllr Pakes, Cllr Watson, Cllr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

DE19.36 RD18/1007 – 315 Princes Highway Bomaderry – Lot 2 DP 777260

HPERM REF: D19/114426

Item dealt with earlier in the meeting see MIN19.288

DE19.37 Lake Tabourie Boardwalk Replacement

HPERM Ref: D19/119129

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.

RESOLVED (Cllr Findley / Cllr White)

MIN19.296

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.

FOR: Cllr Findley, Cllr White, Cllr Levett, Cllr Digiglio, Cllr Gartner, Cllr Pakes, Cllr Watson, Cllr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

DE19.38 Timeframes and Status for Lake Conjola Coastal Management Program Application - NSW Coast and Estuary Grant Program

**HPERM Ref:
D19/124684**

Recommendation (Item to be determined under delegated authority)

That Council receive the Lake Conjola Coastal Management Program Application report for information.

RESOLVED* (Clr Gartner / Clr Digiglio)

MIN19.297

That Council receive the Lake Conjola Coastal Management Program Application report for information.

CARRIED

Procedural Motion - Matters of Urgency

RESOLVED (Clr White / Clr Proudfoot)

MIN19.298

That an additional item Tree Removal – Power Lines be introduced as a matter of urgency.

CARRIED

The Chairperson ruled the matter as urgent as consideration is in the public interest.

DE19.39 Additional Item - Tree Removal - Power Lines - Endeavour Energy

Clr White – less than significant non pecuniary interest declaration - her son works for Endeavour Energy – remained in the room and took part in discussion and voted.

RESOLVED (Clr White / Clr Proudfoot)

MIN19.299

That Council

1. Note the Press Release regarding tree removal - power lines.
2. Note that consent was not granted by Council for the removal of each individual tree or removal of trees that were not deemed high risk.
3. Be provided with a definition from Endeavour Energy as to what is a high-risk tree.
4. Note that the tree removals currently being undertaken by Endeavour Energy are outside of the scope of the discussions with Council.
5. Request that Endeavour Energy suspend the removal of trees and stop work.
6. Prior to any further works occurring, request that a comprehensive list of proposed tree removals be provided by Endeavour Energy.
7. Note the reference to Council's consent will be removed from future letters delivered to residents by Endeavour Energy.
8. Report back on discussions with Endeavour Energy to request that property owners be

provided with tube stock (trees/shrubs) that would be suitable to plant in their private property as a replacement.

9. Request Endeavour Energy to grind the stumps of trees they have removed in the Shoalhaven.
10. Make representations to our State Members regarding the legislation under which the trees are being removed.
11. Congratulate staff and especially the Director, Assets & Works for their response to residents on this matter.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

There being no further business, the meeting concluded, the time being 8.21pm.

Clr Watson
CHAIRPERSON

DE19.40 Development Application – 17 Hawke Street & 22 Currambene Street, Huskisson - Lot 7 & 8 DP 758530 Sec 3E - Relocation of the former church on the subject site and demolition of the existing associated hall and shed

DA. No: DA18/2102/4

HPERM Ref: D19/145092

Group: Planning Environment & Development Group
Section: Development Services

Attachments:

1. Planning Report – S4.15 Assessment (under separate cover) [⇒](#)
2. Draft Determination (under separate cover) [⇒](#)
3. Site Plan - Demolition [↓](#)
4. Site Plan - Tree Location [↓](#)
5. Letter - NSW OEH - Heritage Branch - received by Council 1 March 2019 [↓](#)
6. Ground Penetrating Radar Survey Plans [↓](#)

Description of Development: Relocation of the former church and demolition of the existing associated hall and shed

Owner: Anglican Church Property Trust Diocese of Sydney
Applicant: Stephen Bartlett

Notification Dates: 23 October – 7 November 2018

No. of Submissions: At the time of finalisation of the Report there were a total of 137 submissions:
64 submissions in objection
73 submissions in support

Purpose / Reason for consideration by Council

On 16 October 2018, at the Ordinary Meeting of Council it was resolved in relation to MIN18.826 that Council:

1. *Reaffirm its strong opposition to the Heritage listing of the abandoned Anglican Church at Huskisson and notify the NSW Heritage Office of the decision, as in Council's opinion nothing has changed.*
2. *Include with the letter a copy of its earlier submission opposing the listing of the item as an item of local significance.*
3. *Call in the determination of the DA relating to the demolition of the Church to the full Council for the reason of public interest.*

This Council Report is prepared in response to Item 3 of the Council's resolution.

DE19.40

Recommendation (Item to be determined under delegated authority)

That Council approve Development Application DA18/2102 for the relocation of the former church and demolition of the existing associated hall and shed on the land at 17 Hawke Street and 22 Currambene Street, Huskisson - Lots 7 and 8 DP 758530 Sec 3E subject to the recommended conditions of consent contained in Attachment 1 to this report.

Options

1. Approve the development application (DA) in accordance with the recommendation.

Implications: This would allow the applicant to progress this proposal.

2. Refuse the application.

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.15 considerations of the Environmental Planning and Assessment Act 1979 (the Act) (this section sets the evaluation framework for the assessment of applications).

The applicant would have the ability to request a review of any refusal by Council and/or pursue an appeal through the NSW Land and Environment Court (L&EC).

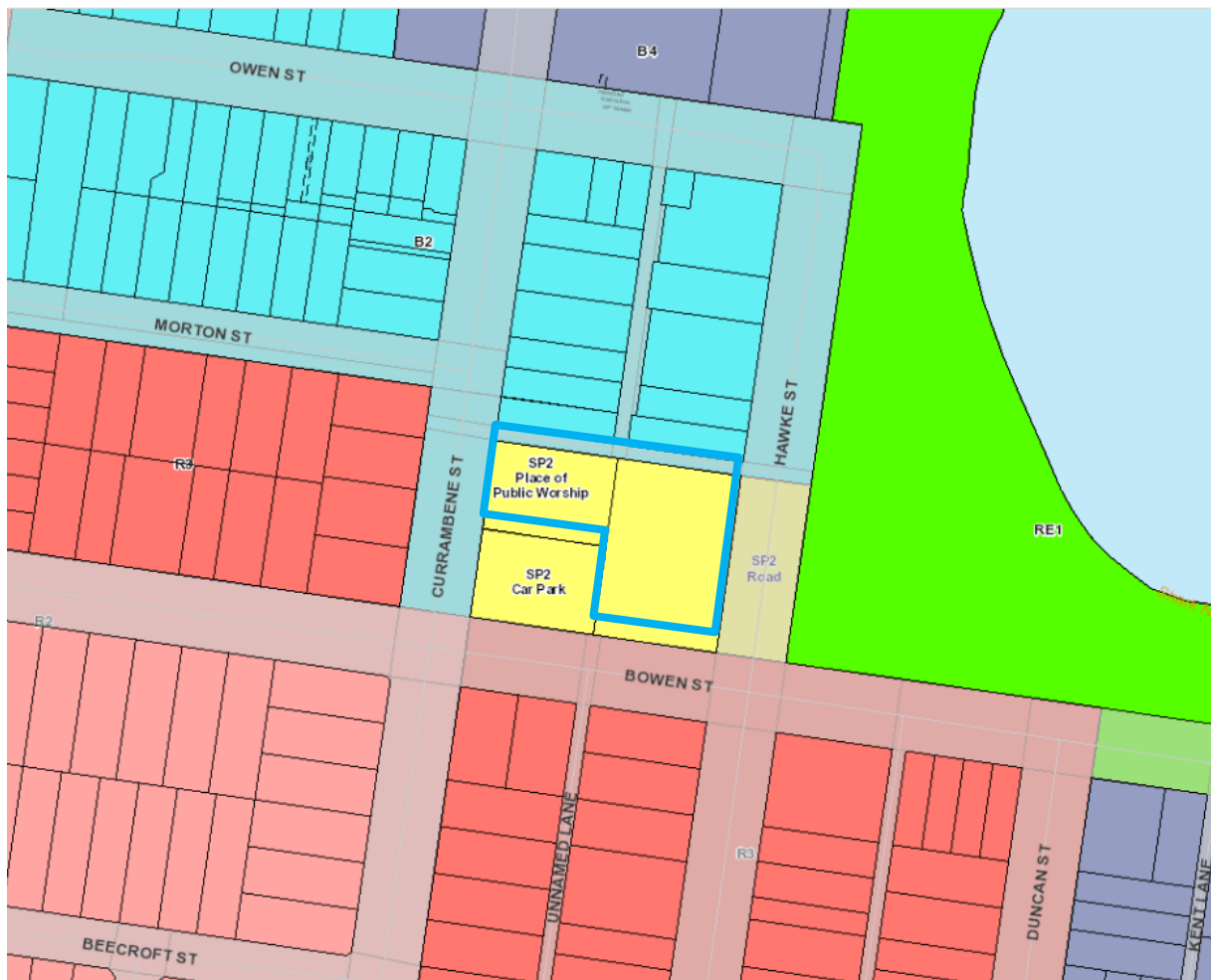
3. Alternative recommendation.

Implications: Would depend on the nature of any alternate resolution

Figure 1 – Location Map



Figure 2 – Zoning Map



DE19.40

Background

Post lodgement of the DA

On 27 September 2018, the DA was lodged with Council to demolish the former Holy Trinity Church building and associated hall and shed.

On 16 October 2018, at the Extra Ordinary Meeting of Council, Council considered Notice of Motion CL18.280 Notice of Motion - Abandoned Anglican Church – Huskisson. The Notice of Motion CL18.280 was resolved as follows (MIN18.826):

That Council:

1. *Reaffirm its strong opposition to the Heritage listing of the abandoned Anglican Church at Huskisson and notify the NSW Heritage Office of the decision, as in Council's opinion nothing has changed.*
2. *Include with the letter a copy of its earlier submission opposing the listing of the item as an item of local significance.*
3. *Call in the determination of the DA relating to the demolition of the Church to the full Council for the reason of public interest*

On 17 October 2018, Save Husky Church notified Council of additional claims that there were Indigenous burials in the graveyard, including James Golding, known as "King Bud Billy, King of Jervis Bay".

On 18 October 2018, the Applicant amended the application to relocate the church within the site instead of demolition. Amended plans and supporting information were submitted to support the amended proposal.

On 19 October 2018, Council's Strategic Planning Manager wrote to the NSW Office of Environment & Heritage (OEH) to reaffirm Council's strong opposition to the Heritage listing of the Anglican Church at Huskisson, as in Council's opinion nothing had changed.

On 23 October 2018, the DA was notified in accordance with Council's Community Consultation Policy for a period of 14 days. A total of 137 submissions were received, being 73 submissions in support and 64 submissions in opposition to the application.

On 7 November 2018, the State Heritage Committee resolved in relation to the Former Holy Trinity Anglican Church, Huskisson (Resolution 2018-117) as follows:

- 1. Advises the Heritage Division that further research is required to determine potential state significance of this site*
- 2. Recommends that the Minister for Heritage make an Interim Heritage Order for the Former Holy Trinity Church Group, 17 Hawke Street, Huskisson.*
- 3. Note that the full twelve-month option for assessment would be required for this site.*

On 22 November 2018, Council received correspondence from Graham Quint, Director, Conservation, the National Trust of Australia (NSW). The correspondence outlined the National Trust's intent to finalise a proposal for listing on the National Trust Register of the Holy Trinity Group and the National Trust's strong support for the making of this Interim Heritage Order to allow the full heritage significance of this site to be investigated.

On 29 November 2018, the applicant submitted the results of ground penetrating radar investigations titled "*GPR – Non Destructive Testing*" prepared by Peter Ellsmore & Associates Pty Ltd. The report on the site was undertaken on accessible parts of the site, excluding (under) existing buildings and some curtilage around the perimeter of the site and buildings.

On 2 January 2019, Council received correspondence from Paul McKenzie, Executive Director, Heritage Division, of the OEH (D19/5628) to confirm that the Heritage Council's State Heritage Committee considered and resolved to recommend that the Minister place an Interim Heritage Order (IHO) over the subject site at the 7 November 2018 meeting. The letter went on to confirm that the matter would be brought back before the State Heritage Register Committee in February 2019 for further consideration.

Furthermore, on page 2 of the letter from the OEH it states as follows:

I note your previous correspondence and ask you to revisit Council's decision to consider development of the site without further public consultation or investigation of the site's potential cultural values. We understand this is a polarising issue in the community, and further consultation, especially with the local Aboriginal people, could go some way towards reuniting the planning requirements of a developing coastal area and the local community aspirations.

On 5 February 2019, Council's Development and Environment Committee considered a report (DE19.7) on the possible heritage listing of the Former Huskisson Anglican Church. The report recommended the following:

That Council:

- 1. Receive the report for information.*
- 2. Note the correspondence received from the Heritage Division of the NSW Office of Environment & Heritage dated 2 January 2019.*

3. *If necessary, reconsider this matter following the further consideration of the site by the NSW Heritage Council's State Heritage Register Committee during February 2019.*

The Development and Environment Committee resolved in relation to a Motion (MIN19.49) as follows:

That Council:

1. *Receive the report for information.*
2. *Note the correspondence received from the Heritage Division of the NSW Office of Environment & Heritage dated 2 January 2019.*

On 6 February 2019, the State Heritage Committee considered the Interim Heritage Order relating to the Former Holy Trinity Anglican Church, Huskisson, including additional information provided to OEH since the November meeting.

The State Heritage Committee resolved **not** to recommend an IHO to the Minister for Heritage, the Hon. Gabrielle Upton. The committee concluded that this site was not likely to be of state heritage significance but is highly likely to be of local heritage significance. As local heritage is the responsibility of the local council, the Committee determined to write to the Shoalhaven City Council to strongly encourage Council to consider the heritage significance of the site when reviewing any development proposals.

On 1 March 2019, Council received a letter from Frank Howarth, the Chair of the NSW Heritage Council. The letter provides commentary from the State Heritage Committee on the following matters:

- Indigenous heritage
- Church History
- Landscape
- Ground penetrating radar

The letter goes on to request that Council review the material that is available and consider the following matters ('dot' points):

- *whether other areas of the site require investigation for the presence of graves, and review the techniques that would be best employed;*
- *whether the Cyril Blackett church could be retained in its current location;*
- *whether any development that proceeds, could provide an opportunity for the interpretation of those graves and of Aboriginal heritage in the area;*
- *the heritage value of the landscape and plantings and the importance of this open green space to the local community in a town that is so rapidly developing.*

The letter concludes by asking Council to revisit its previous decision to consider the development of the site without further consultation or investigation of its cultural values and again notes that further consultation with local Aboriginal people could go some way towards reuniting planning requirements of a growing area and local community aspirations.

On 2 April 2019, Council's Development and Environment Committee considered a report titled *Further Update - Possible Heritage Listing - Former Huskisson Anglican Church* (DE19.24). The report provided a further update following Council's resolution of 5 February 2019 and requested that further direction be given to Council staff, given the nature of subsequent advice received from the Heritage Council of NSW in their undated letter received by Council on 1 March 2019 (Attachment 5).

Council resolved (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.*

A rescission motion was received on this item.

On 8 April 2019, Council wrote to the applicant to request that the applicant address the final four 'dot' points (see earlier in this report) raised in the letter signed by Frank Howarth, the Chair of the NSW Heritage Council.

On 10 April 2019, the applicant provided a written response to Council's additional information request dated 8 April 2019.

On 26 April 2019, Graham Quint, Director, Conservation, The National Trust of Australia (NSW), wrote to Council:

[I]n support of local community efforts to conserve the heritage significance of the Former Huskisson Anglican Church. This matter has been ongoing for some time and it is our understanding that sections of the local community continue to argue strongly for the retention of this church and the recognition of the site for its social history and its associations with important local historical figures.

On 30 April 2019, Councillor Levett presented a petition containing 2851 signatures to the Ordinary Meeting of Council. The petition states as follows:

We the undersigned petition the Shoalhaven City Council to reconsider the heritage listing of the Church and its grounds (Holy Trinity Church Group), which it deleted from the Draft LEP2004 despite "strong objections" from the NSW Heritage Office.

We ask the Anglican Church and the relevant government bodies to acknowledge the architectural, religious, social, environmental and aesthetic significance of the Holy Trinity Anglican Church and its surrounding land, including historical trees and burial ground, located at Huskisson Lot 7 Section 3 DP758530 17 Hawke Street, Lot 8 Section 3 DP758530 22 Currambene Street, Lot 9 Section 3 DP758530 26 Currambene Street (Jerrinja Local Aboriginal Land Council).

At the Ordinary Meeting Council also considered *Rescission Motion - DE19.24 Further Update - Possible Heritage Listing - Former Huskisson Anglican Church*. The recommendation of the Rescission Motion was that Council rescind the Motion relating to Item DE19.24 of the Development and Environment Committee held Tuesday 2 April 2019.

Council resolved in relation to the rescission motion as follows (MIN19.230):

That Council rescind the Motion relating to Item DE19.24 Further Update - Possible Heritage Listing - Former Huskisson Anglican Church of the Development & Environment Committee held Tuesday 2 April 2019.

A further Notice of Motion was duly submitted (CL19.92) to re-affirm Council's previously resolved position in relation to this site and buildings.

Council resolved as follows (MIN19.231):

That Council:

1. *Re-affirm its previously resolved position in relation to the Former Huskisson Anglican Church site and building*
2. *Resolve to not support the inclusion of the site known as the former Huskisson Anglican Church and grounds, as a listed item, in either SLEP or the State Government Heritage register of Buildings of State Significance.*

On 1 May 2019, the applicant provided additional information as follows:

- *Huskisson Anglican Church – Unmarked Graves GPR Survey* prepared by GBG Australia dated 18 April 2019;
- *Response to Heritage Council Letter* prepared by GBA Heritage dated 5 April 2019; and
- *Tree Location Plan* prepared by Tree Management Strategies dated 21 November 2018.

On 9 May 2019, the applicant provided further additional information as follows:

- *Letter from the applicant* dated 8 May 2019. The letter provides a response to the National Trust of Australia (NSW) letter dated 26 April 2019 and further detail on the proposed method of relocation and site management relating to the church building;
- *Final plans in relation to the ground penetrating radar* prepared by BGB Australia; and
- *Letter from GBA Heritage* dated 8 May 2019 in response to the landscape heritage issue raised in the recent letter received by Council on 1 May 2019 from Mr Frank Howarth, Chair of the Heritage Council of NSW (Attachment 5)

On 22 May 2019, in a late submission to the application, Alfred Wellington, Chief Executive Officer, Jerrinja Local Aboriginal Land Council (Jerrinja LALC), wrote to Council to express the importance of Aboriginal cultural heritage, particularly where there are possible ancestral remains on the subject site and to request the protection of burials if present. Furthermore, the Jerrinja LALC strongly requests that adequate consultation should be afforded the Jerrinja LALC and the broader Aboriginal Community with family connections to the ancestors that could be buried there. The Jerrinja LALC submission requested that the following three points be addressed as part of the development application:

- *Council through its DA processes to ensure due diligence is afforded by way of a minimum six-month community consultation period taking place before any on ground works can commence on site.*
- *Further investigations are recommended, through oral history research with the Carpenter and Speechly families. This recommendation must be followed.*
- *I also note Dr Feary's precautionary principle in her Executive Summary - 'The logical outcome is to avoid ground disturbance where Ground Penetrating Radar has identified possible grave sites'. This principle is not only logical but more importantly highly respectable to avoid desecration of burials which will be considered sacrilegious to the family and Aboriginal people in general.*

Council has considered the above submission in the s4.15 Assessment Report (Attachment 1).

Proposed Development

On 27 September 2018, Development Application No. DA18/2102 was lodged with Council for development described in the supporting covering letter as follows:

1. *Demolition of the former Church, Hall and Shed.*

2. *No ground works to be undertaken at this time.*
3. *The graves known to exist on the site, and indicated on the site plan, will be fenced as part of this process and will not be disturbed.*

On 18 October 2018, the applicant submitted additional information in support of an amended application. The applicant's amended Statement of Environmental Effects (D18/367325) described the development as follows:

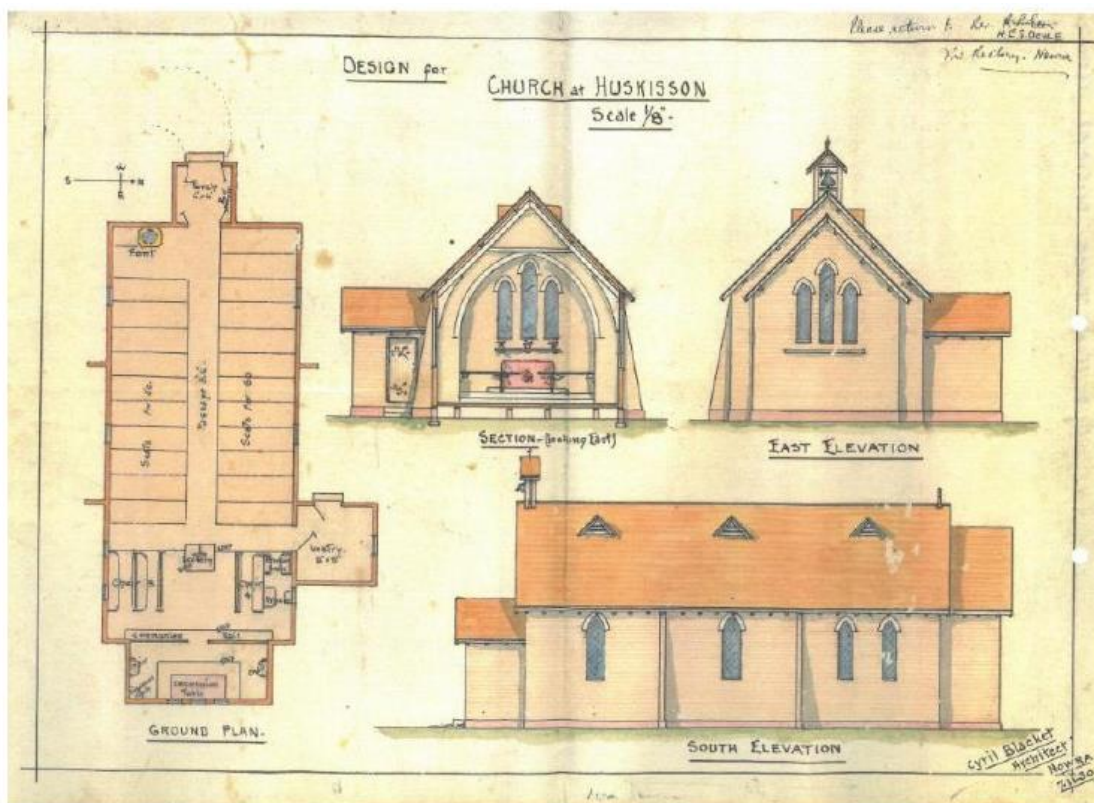
1. Relocation of the former church to a location straddling the sites (Lots 3 and 7, DP758560 Sec 3) and;
2. Demolition of the hall and shed.

The relocated church is proposed to be continued to be used for church-related activities and meetings from the new location. The applicant has advised that the relocation of the church building will allow for further ground assessment under the church and to open the corner of the site up to allow for additional site planning associated with the planning for a future planning proposal. It is anticipated that the church will continue to be used for religious purposes.

The relocation of the church will require the construction of 10 piers and a set of access stairs to provide access to the church building. Details of the location of piers and accessible ramp and stairs are to be provided on the construction certificate (CC) plans if the application is approved.

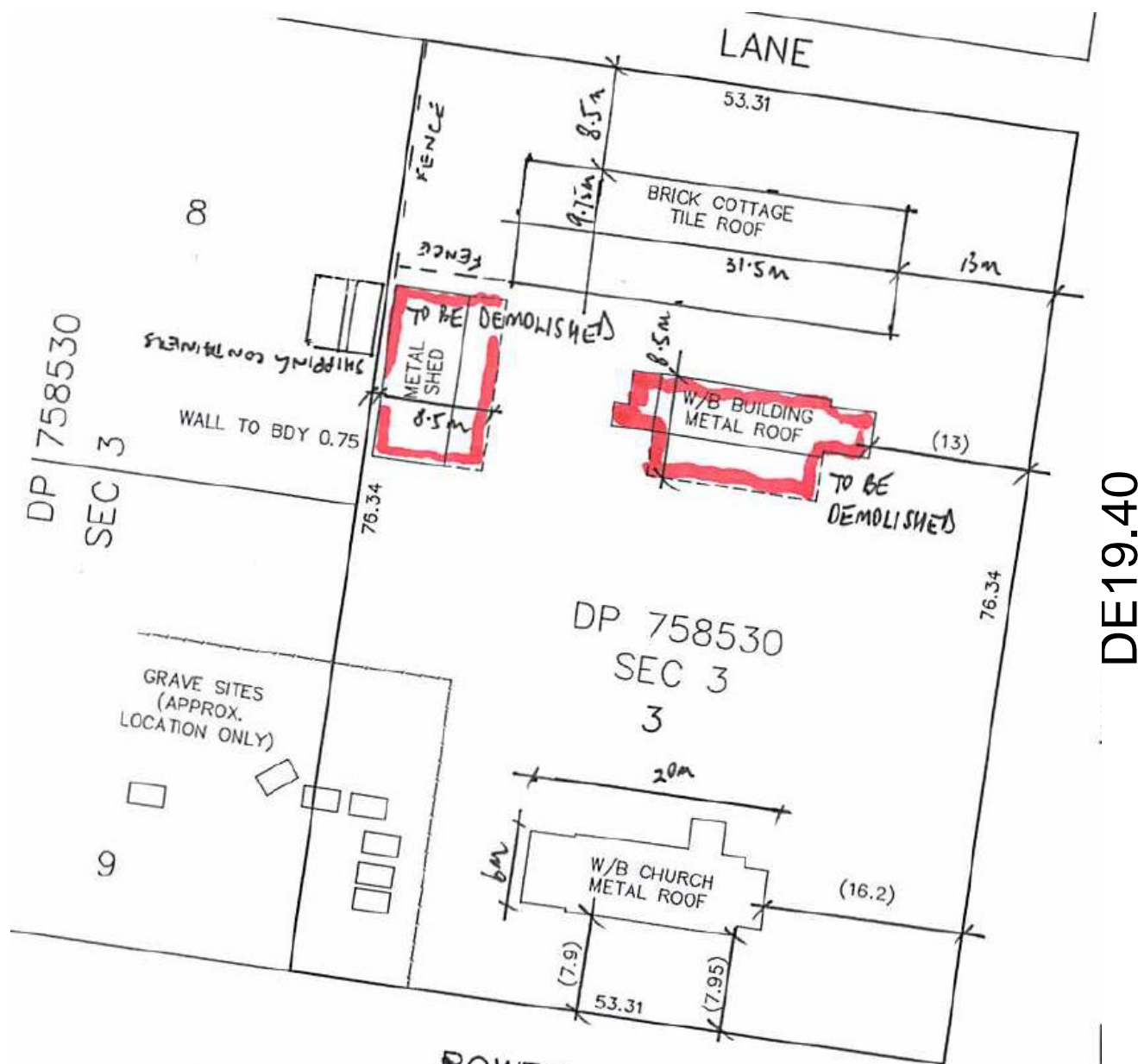
An extract of historic floor plans and elevations of the Holy Trinity Church and the applicant's proposed site plan are provided in **Figure 3 and 4** below:

Figure 3 - Historic Floor plans and elevations of the Holy Trinity Church proposed to be relocated.



DE19.40

Figure 4 – Site plan of the proposed development.



Subject Land

The land is in the coastal township of Huskisson.

The land consists of two regular shaped allotments legally identified as 7 and 8 of DP 758530 Sec 3E and known as 17 Hawke Street and 22 Currumbene Street. The land is bound by Bowen Street in the south, Currumbene Street in the west and Hawke Street in the East. The land is also bound by an unnamed and unformed lane in the north. The site has a total land area of 6,070.29m².

The site grades gradually from the east at Hawke Street to the west on Currumbene Street.

Access to the site is provided from Bowen Street in the South and the unformed lane to the north.

Site & Context

The Holy Trinity Church group of buildings is located on the site. It comprises the former Church, the Hall, the Rectory and equipment storage shed, approved pursuant to

Development Consent No. DA00/1957. There are also several unmarked graves located toward the southern and south-west corner of the site. Additional grave sites are also located on the adjoining land (26 Currumbene Street - Lot 9 DP 758530 Sec 3).

The site contains extensive native vegetation consisting of *Lophostemon confertus* (Brush Box), *Eucalyptus teriticornis* (Forest Red Gum), *Corymbia maculata* (Spotted Gum) and *Eucalyptus botryoides* (Bangalay).

No vegetation is proposed to be removed or disturbed as part of the application.

The broader development on the southern extent of the Huskisson commercial area is a mix of residential, commercial and retail, tourist accommodation and public open space.

The adjoining development is a mix of commercial, residential and public open space as follows:

- To the north of the site fronting Hawke Street (15 Hawke Street) is a single storey commercial building which is currently the subject of Development Application (DA18/2040) for the demolition of structures and construction of shop top housing, consisting of 3 retail tenancies at ground floor, 8 apartments on the first and second floor and basement car parking. Development running along the western side of Hawke Street to the north is a mix of commercial and tourist and visitor accommodation of two and three stories.
- The adjoining lot to the west (26 Currumbene St - Lot 9 DP 758530 Sec 3) remains undeveloped.
- To the east of the site is the public recreational area known as White Sands Park which fronts onto Jervis Bay and connects with Voyager Memorial Park further to the north.
- Land to the west on Currumbene Street is predominately single and two storey dwelling houses. A residential flat building is located at the corner of Currumbene and Morton Street (19 Currumbene Street) and a further residential flat building is constructed on the land at 12 Currumbene. There are also several commercial and retail uses on the western and eastern side of Currumbene Street approaching the intersection with Owen Street.
- To the south of the site running along Bowen Street is a mix of residential single and two storey dwelling houses, multi-dwelling housing and tourist and visitor accommodation.

History

On 19 March 1995, Council commissioned a heritage study of the Shoalhaven City area. The aim of the study was to guide appropriate development following on from the recent revival of towns such as Berry, Milton and Kangaroo Valley following relevant heritage studies being completed. The study was also to aid in the preparation of the draft local environmental plan (Shoalhaven Local Environmental Plan (SLEP) 1985 Draft Amendment) and draft development control plan.

The *Heritage Study 1995–1998* (Heritage Study) prepared by Peter Freeman Pty Ltd Conservation Architects/Planners In association with JRC Planning Services, Sydney dated February 2003 was published following lengthy investigative process.

The State Heritage Inventory sheet identified the Holy Trinity Anglican Church, hall and graves under Section 15.1 as an item of Local Significance (JB016).

In November 1997 owners of existing and proposed heritage items identified in the Heritage Study were notified by letter of the Council's intent to potentially heritage list their property under the Draft LEP. Furthermore, the letter invited landowners to attend several information sessions to learn about the implication of the heritage listing.

In June 2000, Council wrote to all owners of existing and proposed heritage items and adjoining landowners to notify them of proposed amendments to Shoalhaven Local

Environmental Plan 1985 to include additional heritage items in the schedule to the Plan. To assist in the management and impact of heritage items, Council prepared a Development Control Plan (DCP) Heritage Conservation Development Guidelines. The draft LEP and DCP were placed on exhibition for a period of two (2) months commencing in June 2000.

From the 785 items identified for protection (approximately 90 were already identified as heritage items under SLEP 1985), extensive submissions were received from Government Departments and landowners (28 letters objected to and 19 supported the listings or nominated additional or increased protection for items).

A letter of objection to the heritage listing of Holy Trinity Anglican Church, Hall and Graves, identified as an item of local Significance (JB016) was received by Council in relation to the proposed listing, from the Anglican Church. The concerns of the Church related to the possible future sale and restrictions imposed by the 'protection'. The concerns of the Anglican Church were considered in an Addendum Report of General Manager to the Policy and Planning Committee on 11 December 2001 as follows (File 1106 – 02). The Addendum Report provided the following comment in relation to their concerns:

Comment: There are many examples where churches and land have been sold and reused for several purposes. The conservation incentive clauses allowing adaptive reuse, whilst other incentives such as revaluation for rating and land tax purposes offsets some of the losses associated with maximising the potential of the land. Recommended for protection.

On 18 December 2001, the Policy and Planning Committee moved a motion to adopt the recommendations of the Policy and Planning Committee, that Council not adopt the Heritage LEP and proceed as follows:

- a) A Working Party comprising all Councillors be formed to examine the LEP and DCP in detail and the Working Party report back to Council at the conclusion of deliberations.*
- b) The first meeting of the Working Party to be held at the earliest opportunity in January.*
- c) Council communicate to the community changes to and implications of the model provisions and the draft DCP and that this communication contain a simplified response procedure relying on affirmative response.*
- d) The General Manager draft this communication in consultation with the Mayor.*

In September of 2002, Council commenced notification to landowners identified for inclusion in the SLEP (heritage amendments) in accordance with the adopted recommendations of the Policy & Planning Committee meeting on 18 December 2001. The notification sought to ensure that owners were made aware of the implications of the heritage SLEP amendments and the DCP and if it should proceed, whether the owner agreed to the potential heritage listing of their property. The Anglican Church Property Trust as owners of the land at 17 Hawke Street, Huskisson and the Holy Trinity Church were notified.

On 17 December 2002, following the establishment of a Councillor Heritage Working Party, Council considered a recommendation on the results of the surveys completed in September 2002 and resolved on 17 December 2002 to protect:

- a) Items already protected in State, Regional or Local LEP lists;*
- b) Draft items of Regional (State Significance);*
- c) Draft items of local significance where owner agreements were received; and*
- d) Items in Council's ownership agreed by the General Manager.*

On 10 July 2003, The Councillor Heritage Working Party considered those matters resolved at the 17 December 2002 meeting of Council. The Councillor Heritage Working Party identified that the Planning Services Manager had examined the objection listing again to determine whether additional items over and above the 99 items identified to the last Working Party could be justified on conservation grounds. The assessment had been carried

out by identifying those items where removal is not supported and included consideration of the Illawarra Heritage Study Review carried out by State Government but never completed. This amended retention list contained some 139 items (228 deleted).

The Councillor Heritage Working Group recommended: *that the Working Party make a recommendation to the Council's Policy & Planning Committee adopt the Heritage Draft Local Environmental Plan with the Schedule of proposed items as contained in attachments 'A', 'B' and 'D'.*

Attachment 'D' included the land at 17 Hawke Street, Huskisson - Holy Trinity Church.

On 1 September 2003, Council resolved to adopt the Draft LEP with the schedule of proposed items. This included draft heritage items of local significance where objections were not supported on heritage conservation grounds; Reference 1106 of July 2003. The Holy Trinity Church was included at this time despite objections being received.

On 7 May 2004, the Draft LEP was submitted to the Infrastructure Planning and Natural Resource Department (Department of Planning) in accordance with the then section 68(4) of the Act and included the required documents for gazettal. The draft LEP that was submitted to the Department of Planning for gazettal in 2004 included the following as a proposed "heritage item":

- *Huskisson - Holy Trinity Anglican Church Group, including Church Hall and Burial Site - 17 Hawke Street, Lots 7 and 9 DP 758530 Sec 3*

On 2 June 2005, the Assistant to the Bishop, Anglican Church Diocese of Sydney - Wollongong Region wrote to Council to express concern regarding any proposal to heritage list the Holy Trinity Church at 17 Hawke Street, Huskisson.

Following the representations to Council by Anglican Church Diocese of Sydney - Wollongong Region, Council commenced steps to have the item removed from the Draft LEP.

On 23 August 2005, Council resolved to amend the draft LEP previously submitted to the Department of Planning for gazettal to remove various proposed heritage items from the Draft LEP.

On 30 September 2005, Council wrote to the NSW Heritage Office advising of proposed changes to the Draft LEP. Although the Heritage Office was concerned at the reduction in the number of heritage items and conservation areas proposed for listing in the heritage schedule of the Draft LEP, it advised Council and the Department of Planning that it supported the draft plan on the basis that it would facilitate the conservation and protection of the remaining 583 heritage items and two conservation areas in the local government area.

The Holy Trinity Anglican Church Group including church hall and burial site (Hawke Street) was included as an item to be deleted from the draft LEP schedule. The deletion of the church from the heritage schedule to the Draft LEP was justified by Council on the basis that there was sufficient and adequate representation of similar items retained in the draft plan.

Shoalhaven Local Environmental Plan 2014 (SLEP 2014) was published on the legislation website on 8 April 2014 and commenced 14 days later.

The Holy Trinity Church Group including church hall and burial sites are not listed under Schedule 5 of SLEP 2014.

Issues

Impacts on Heritage Significance of the Site

As noted previously, The Holy Trinity Church Group including Church Hall and Burial Site are not listed under Schedule 5 of SLEP 2014.

Despite the site not being listed under Schedule 5 of SLEP 2014, the application is supported by the following heritage documents:

- Heritage Management Strategy prepared by GBA Heritage dated 12 August 2018 (D18/339362);
- Heritage Assessment prepared by GBA Heritage dated 6 December 2018 (D19/46699);
- Aboriginal Cultural Heritage Due Diligence Assessment (Due Diligence Assessment) prepared by Sue Feary dated December 2018 (D19/46707);
- Response to Heritage Council Letter Holy Trinity Anglican Church Site 17 Hawke Street, Huskisson prepared by GBA Heritage dated 5 April 2019 (D19/144044);
- Further Response to Heritage Council Letter Holy Trinity Anglican Church Site 17 Hawke Street, Huskisson prepared by GBA Heritage dated 8 May 2019 (D19/154542);

The heritage significance of the Holy Trinity Group has been considered by the OEH which resolved not to list the group as an item of State heritage significance.

Furthermore, Council has considered the potential listing of the Holy Trinity Church Group through two separate processes in the preparation of the Draft LEP in 2007 and more recently in 2018/2019 in consideration of the current application and community consultation process.

It is noted that there remains uncertainty in relation to the historic graves on the site, in particular, the possible resting place of James Golding. In this regard, it is recommended that further investigation into relevant archival records and oral history research is completed. Such investigation and research should be completed prior to further development on the site.

Observing the positive recommendation made regarding the proposed development, it is recommended prior to the commencement of demolition of the church hall and relocation of the church, a photographic survey be submitted to Council. The photographic survey to be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the NSW Heritage Office.

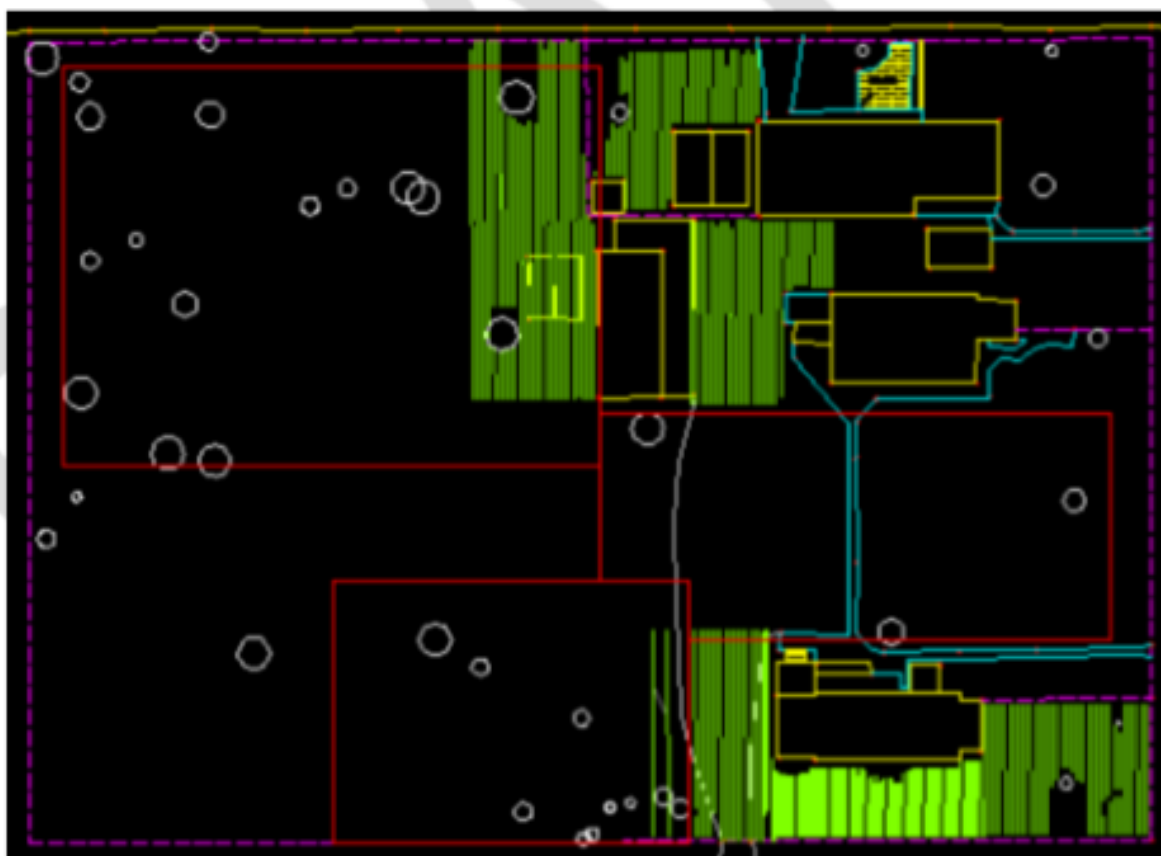
Impacts on unmarked or undiscovered graves on the site

The subject site has been the subject of three (3) ground penetrating radar investigations and subsequent written reports as follows:

1. Non-Destructive Subsurface Investigation Using Ground Penetrating Radar to Locate Unmarked Grave Sites at the Huskisson Church Ground, Huskisson, Report No. GBGA1800, prepared by GBG Australia Pty Ltd completed 13 April 2015.
2. GPR – Non-Destructive Testing prepared by Peter Ellsmore & Associates Pty Ltd. This report was lodged with the development application.
3. Huskisson Anglican Church – Unmarked Graves GPR Survey Report prepared by GBG Australia Pty Ltd, dated 18 April 2018, Job No. GBGA2255.

Figure 5 – CAD drawing of the church grounds.

(Areas surveyed by GBG and PEA previously shown in red. Lines surveyed recently presented in this report shown in green.)



DE19.40

The combined results of the ground penetrating radar survey results indicate that there is likely to be up to 10 graves on the Holy Trinity site (17 Hawke Street) and the adjoining Jerrinja land (26 Currumbene Street).

Due to the location of the potential grave sites relative to the proposed church (to be relocated) and buildings to be demolished, it is considered that appropriate exclusion areas and monitoring be implemented to ensure that these areas are not impacted by the proposed development.

Furthermore, if a subsequent application is lodged which would require additional soil disturbance in the location of existing structures, additional ground penetrating radar could and should be carried out where these structures are currently located to determine the potential for additional unmarked graves.

Possible negative impacts on the burial site of the grave of James Golding known as Butt Billy II, Jimmy [James] Golding or Goulding, Monaghans Jimmy, Jimmy Carpenter, Budd Billy II, Butt Billy II

As part of the field inspection carried out by Sue Feary in the *Due Diligence Assessment*, consideration and assessment was given to the possible location of the remains of Jimmy Golding on the site on page 27 of the Assessment and is extracted below as follows:

In regard to the possible grave of Jimmy Golding, this investigation has found no conclusive or irrefutable evidence that he is buried in the church grounds or on Lot 9. There is a single newspaper article which indicates he was buried in a churchyard in

Huskisson and another which indicates he was living in Huskisson while ill, shortly before his death. If the Anglican Church was the only church in existence in 1905 in Huskisson, and research by GBA Heritage indicates that it was, it can be deduced he probably is buried in Anglican Church grounds. However, which, if any of the seven graves located by GPR belong to him cannot be determined on currently available evidence.

Sue Feary concedes on page 29 of the *Due Diligence Assessment* that there exists the possibility of a historic grave of an Aboriginal person remains, and ongoing investigation into relevant archival records and oral history research is recommended to verify its location.

As previously stated, the subject site has been the subject of three (3) ground penetrating radar investigations and subsequent written reports.

The GPR survey results indicate that there may be up to 10 graves on the Holy Trinity site (17 Hawke Street) and the adjoining Jerrinja land (26 Currumbene Street).

In accordance with the advice of Sue Feary which was provided to Council prior to the finalisation of the *Huskisson Anglican Church – Unmarked Graves GPR Survey Report* prepared by GBG Australia Pty Ltd, dated 18 April 2018 (Job No. GBGA2255), Sue Feary notes that:

It is impossible to know which one without further information. The oral history research would be aimed at trying to find anyone who knows anything about where he is buried, whether it be on church grounds or anywhere else. Ideally, the informant would be able to say exactly where he was buried and also be able demonstrate the veracity of their information source. At the moment, the written records, that is the newspaper article, indicates he was buried in a church at Huskisson and the historical research done by Graham Brooks indicates that the Anglican church was the only church in existence in Huskisson in 1904, therefore, James Golding is likely to be buried in the Anglican church - this is the logic I am following.

Prior to any further development of the site that would result in additional disturbance of the soil or removal of vegetation, it is recommended that the applicant complete further investigation into the potential burial of Jimmy Golding on the subject site to confirm the veracity of the current claim contained in the historical newspaper record.

In accordance with the recommendation of the Jerrinja LALC, such consultation may include a 6-month community consultation period of the broader community.

Due to the limited scope of the current application, it is considered that further investigation or community consultation is not warranted at this time. The investigation could be carried out as part of any further development application or planning proposal for the site.

In order to protect the areas where potential graves may be located pending further investigation by the applicant it is recommended that prior to the commencement of demolition and / or relocation work on the site, the person benefitting from the consent must provide an updated site plan indicating the potential unmarked graves and appropriate exclusion zones to be physically marked and fenced on site to ensure that machinery is excluded from these areas from the period that physical works commence until the first use of the church building for community activities in the new approved location.

The heritage value of the landscape and plantings and the importance of this open green space to the local community in a town that is so rapidly developing

It is noted that during the submission process and in the undated letter from the OEH received by Council on 1 March 2019 (Attachment 5), it is requested that Council consider: *"the heritage value of the landscape and plantings and the importance of this open green space to the local community in a town that is so rapidly developing"*

In response the applicant has indicated in their letter dated 10 April 2019, that: “[a]n independent expert on heritage landscape is currently undertaking an investigation of the Huskisson Church site. Indications are that any heritage landscaping qualities on the site are insufficient to reach the level of a LEP heritage listing.”

In a letter dated 8 May 2019, prepared by GBA Heritage to Council, GBA Heritage has provided a response to the issue raised in the recent letter to Shoalhaven Council from Mr Frank Howarth, Chair of the Heritage Council. GBA Heritage’s response is extracted from their letter below:

CONCLUSION

Council dated 5 April 2018 and signed by Dr Cameron Hartnell, GBA Senior Heritage Consultant. The conclusion, with regard to the heritage significance of the trees was as follows:

- *There exists no known definitive evidence as to which trees were planted in 1938 but it is likely that they were pittosporums planted along the Hawke Street frontage. Only six of the original twelve pittosporum trees survive today.*
- *This local tree planting effort is best understood as an event of community interest, not one of historic significance that would justify heritage listing of the site.*
- *It is understood that the general layout of trees on the site is not an example of elevated landscape design and has little heritage significance.*

RECOMMENDATION

Based on the above evidence, Council has no reason to regard the 1938 tree planting as being of sufficient historic interest to warrant listing the site on Schedule 5 of the Shoalhaven LEP.

The Holy Trinity Group has not been considered by the OEH to warrant listing as a State significant item and Council has resolved to not list the Group as an item of local heritage significance. As previously mentioned, Council has considered the potential listing of the Holy Trinity Church Group through two separate processes in the preparation of the Draft Shoalhaven Local Environmental Plan in 2007 and more recently in 2018/2019 in consideration of the current development application.

The potential for the development to impact on the landscape setting of the site is not considered to be a significant consideration to the proposed development granted that the site and landscaping are not:

- listed as an item of local heritage significance under SLEP 2014;
- identified as “Biodiversity—habitat corridor” or “Biodiversity—significant vegetation” on the Terrestrial Biodiversity Map under clause 7.5 of SLEP 2014;
- vegetation forming part of a critically endangered ecological community (CEEC) or endangered ecological community (EEC).

The application does not involve the removal or disturbance of native vegetation.

Appropriate fencing is recommended to be put in place during the demolition and relocation process to ensure that no vegetation is damaged during the development.

Should a subsequent application be lodged for tree removal on the site, further assessment of the impacts and assessment of the significance of the vegetation will be required.

Public Submissions in relation to the Application

On 23 October 2018, the DA was notified in accordance with Council’s Community Consultation Policy for a period of 14 days.

At the time of finalisation of this Report Council a total of 137 submissions were received to the application. A total of 73 submissions in support and 64 submissions in opposition to the application.

A full assessment of the submissions is provided in the section 4.15 Assessment report (Attachment 1) to this Report.

Objections

The key issues identified in objection to the development through the notification process may be generally summarised as follows:

1. Heritage:

- a) Potential negative impact on the heritage significance of the Holy Trinity Group;
- b) The significance of the Holy Trinity Church as a representative example of Cyril Blackett architecture has not been appropriately considered;
- c) The potential burial site of James Golding known as Butt Billy II, Jimmy [James] Golding or Goulding, Monaghans Jimmy, Jimmy Carpenter, Budd Billy II, Butt Billy II has not been appropriately considered and the significance of this to Aboriginal cultural significance of the site should be reconsidered;
- d) Potential negative impact on unmarked graves on the site;
- e) The potential impact on potential culturally significant aboriginal site;
- f) Potential negative impacts on the landscape setting of the site;
- g) The landscape significance of the site has not been adequately considered as part of the consideration of the heritage significance of the site.
- h) Veracity, diligence and completeness of the European heritage and Aboriginal cultural heritage assessment provided;
- i) Suitability and completeness of the ground penetrating radar assessment of the site;
- j) The recommendation that additional investigation and reporting be completed for the site as a cautionary approach prior to further development on the site;

2. Asbestos:

- a) The buildings are highly impacted by asbestos and present a risk to the community through their demolition;

3. Built form and Social Impacts:

- a) The buildings are important to the coastal look and feel of the Huskisson township and their significance to the landscape setting should extend beyond their listing as a state or local heritage item;
- b) Potential loss of socially and culturally significant community building.

Comment:

Heritage

The heritage impacts of the development have been addressed earlier in this report and as part of the section 4.15 Assessment Report (Attachment 1). The applicant has responded to and provided additional information and justification to address concerns associated with details and additional reports to clarify any of the assumptions and conclusions made in the reports.

The reports, plans and documentation provided by the applicant in support of the application are sufficient to enable the assessment of the development application in its present form. The applicant's future intentions for the site are beyond the scope of the current application and cannot be considered as part of this application. The applicant's 'future' intentions which are yet to be formalised, do not justify additional assessment and investigation which would be either unreasonable or unnecessary to enable assessment of this DA. In short, Council can only consider the application before it.

It is noted that additional investigation and research, including, heritage (European and Aboriginal), ground penetrating radar and archaeological assessment will be expected to accompany any future planning proposal for the land.

Had Council resolved to reconsider the heritage significance of the site and review the potential for the site to be listed as a heritage item, additional reports and investigation would be required to support the current application. However, OEH and Council have both resolved not to list the items as State or locally significant heritage items and therefore the level of assessment and reporting required to assess the application is acceptable and reasonable in this circumstance.

Asbestos

The concerns raised in relation to the potential impacts of asbestos products used in the construction of the church and hall were largely associated with the potential for friable asbestos to impact on the health of persons during the demolition or continued use of the church building following its relocation.

The potential impacts of asbestos on human health (while well documented) are capable of being addressed throughout the demolition and relocation process through the implementation of appropriate site management development consent conditions in accordance with the guidelines prepared by Safework NSW, NSW Environment Protection Authority Guidelines and *Protection of the Environment Operations (Waste) Regulation 2014*.

Built Form and Social Impacts

Despite the decision of the OEH and Council to not list the Holy Trinity Group as an item of State or Local heritage significance, the community has identified that the buildings and their previous use are significant to the Huskisson township and the social and cultural history of the area based upon the shared history of the site to the Aboriginal and local community.

The requirements for assessing and reporting on the impacts of development on the heritage significance of a statutorily listed item is well defined under the current regulatory regime. However, assessment requirements for an applicant and Council in relation to a place which does not meet the threshold for State or local statutory listing requires a merit-based assessment, which includes a consideration of the likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality, as required under s4.15(b) of the Act.

A detailed consideration of the likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality, as required under s4.15(b) of the Act is provided in the s4.15 Assessment Report (Attachment 1). The likely environmental impacts are extracted below:

Natural Environment

The application does not include any significant impact on the natural environment. Vegetation is proposed to be retained and protected throughout the demolition and relocation process.

Built Environment

The proposed development will have an impact on the built environment through the relocation of the church and demolition of the church hall and the shed.

The demolition of the church hall will not have a significant impact on the built environment. The heritage value of the church hall (forming part of the Holy Trinity Heritage Group) was considered by Council as part of the Shoalhaven Heritage Study, prepared by Peter Freeman Pty Ltd for Shoalhaven City Council. 'Holy Trinity Heritage Group', was originally informally recorded in State Heritage Register, SHI Number 239389. However, as mentioned in this report, the listing of the Holy Trinity Heritage Group was later removed from the Heritage Register and subsequent schedule of Heritage items listed in the Draft LEP following consideration of a submission made by the Anglican Church.

The shed to the rear of 17 Hawke Street is a recent unsympathetic addition to the site and does not add any significant value to the existing structures on the site. The shed is of simple design and typical of other Colorbond outbuildings built in the last 20 years.

The relocation of the church building is unlikely to have a significant impact on the built environment with the church proposed to be relocated to the existing locality of the Colorbond shed which is proposed to be demolished and removed from the site. The relocation of the church with an increased setback to Hawke Street will however reduce the prominence of the structure when viewed from the public domain and adjoining public recreation areas.

The limited scope of the proposed works is unlikely to have an overall negative impact on the built environment.

Social Impacts

The development has gathered significant social interest in the application from members of the public who are supportive of the redevelopment of the site and the establishment of a new Anglican Church on another site and conversely from members of the public opposed to the demolition and relocation of the building, citing the strong or special association with the community and cultural groups for social and spiritual reasons.

While the site has not been statutorily listed as an item of heritage significance the assessment guideline prepared by the OEH, titled *Assessing Heritage Significance* provides guidance in considering whether an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons. Types of items which meet this criterion may include:

- items which are esteemed by the community for their cultural values;
- items which if damaged or destroyed would cause the community a sense of loss; and/or;
- items which contribute to a community's sense of identity.

The types of items that may be excluded:

- they are valued only for their amenity (service convenience); and/or
- the community seeks their retention only in preference to a proposed alternative.

The *Assessing Heritage Significance* guidelines notes on page 18 that:

[c]are must be taken not to confuse heritage significance with amenity or utility. For example, a community may seek the retention of an older building in preference to its replacement with a more intensive development of a site.

It is considered that the proposed development will not have a significant impact on the social value of the church building which is to be retained on the site and will be preserved for a future adaptive reuse.

Economic Impacts

The proposed development is unlikely to have a significant economic impact.

Summary

Based upon the above assessment the development is unlikely to have a significant impact on both the natural and built environments. The development is not considered to result in unreasonable and unacceptable social and economic impacts in the locality.

Comments made in support of the proposal – during notification

The key issues raised in support of the development through the notification process may be generally summarised as follows:

- The heritage significance of the Holy Trinity Group is overstated and there are better examples of this form of church in the local area;
- The congregation has outgrown the existing church and facilities and is better served by a new church in a location that would better serve the majority of the congregation that reside outside of Huskisson;
- The sale and redevelopment of the church grounds will finance the future church for the congregation;
- The church was deconsecrated in 2014 and has fallen into disrepair and therefore it is not currently being utilised as a place of public worship;
- Relocation and redevelopment of the site provides an opportunity for the adaptive reuse of the church to aid in the ongoing maintenance of the building and its retention;
- The unmarked graves are not proposed to be touched but may be relocated to another site with due process afforded to the remains under the common law;
- The current opposition to the development of the site and relocation of the church has generally come from persons outside of the church congregation who do not participate in the church.

Comment:

Council's s4.15 Assessment Report (Attachment 1) has provided due consideration of the reasons for supporting the development application. It is noted that some of the matters raised in support of the development application which relates to the heritage significance of the site have been addressed by the applicant in the supporting reports and through the consideration by Council and the OEH as part of the consideration of the State and local heritage listing of the site.

Regarding the sale and subsequent distribution of such finances, this is not a planning consideration as prescribed in section 4.15 of the Act, (a head of consideration to be taken into account as part of the technical assessment).

Planning Assessment

The application has been assessed under section 4.15 of the Act, with all necessary heads of consideration reviewed. (Attachment 1.)

Community Engagement

The notification of the application was undertaken in accordance with Council's Community Consultation Policy with letters being sent within a 100m radius of the site and Community Consultative Bodies. On 23 October 2018, the Development Application was notified in accordance with Council's Community Consultation Policy for a period of 14 days.

A total of 137 submissions were received to the application. A total of 73 submissions in support and 64 submissions in opposition to the application.

Policy Implications

There are no specific policy implications that arise from this matter. It is noted that there are no specific planning controls that apply to this site or to the application that is proposed other than the Asbestos Policy

Financial Implications

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending any appeal in the L&EC.

Legal Implications

Pursuant to section 8.2 of the Act a decision of the Council may be subject of a review by the applicant in the event of approval or refusal. Alternatively, an applicant for development consent who is dissatisfied with the determination of the application by the Council may appeal to the Court against the determination pursuant to section 8.7 of the Act.

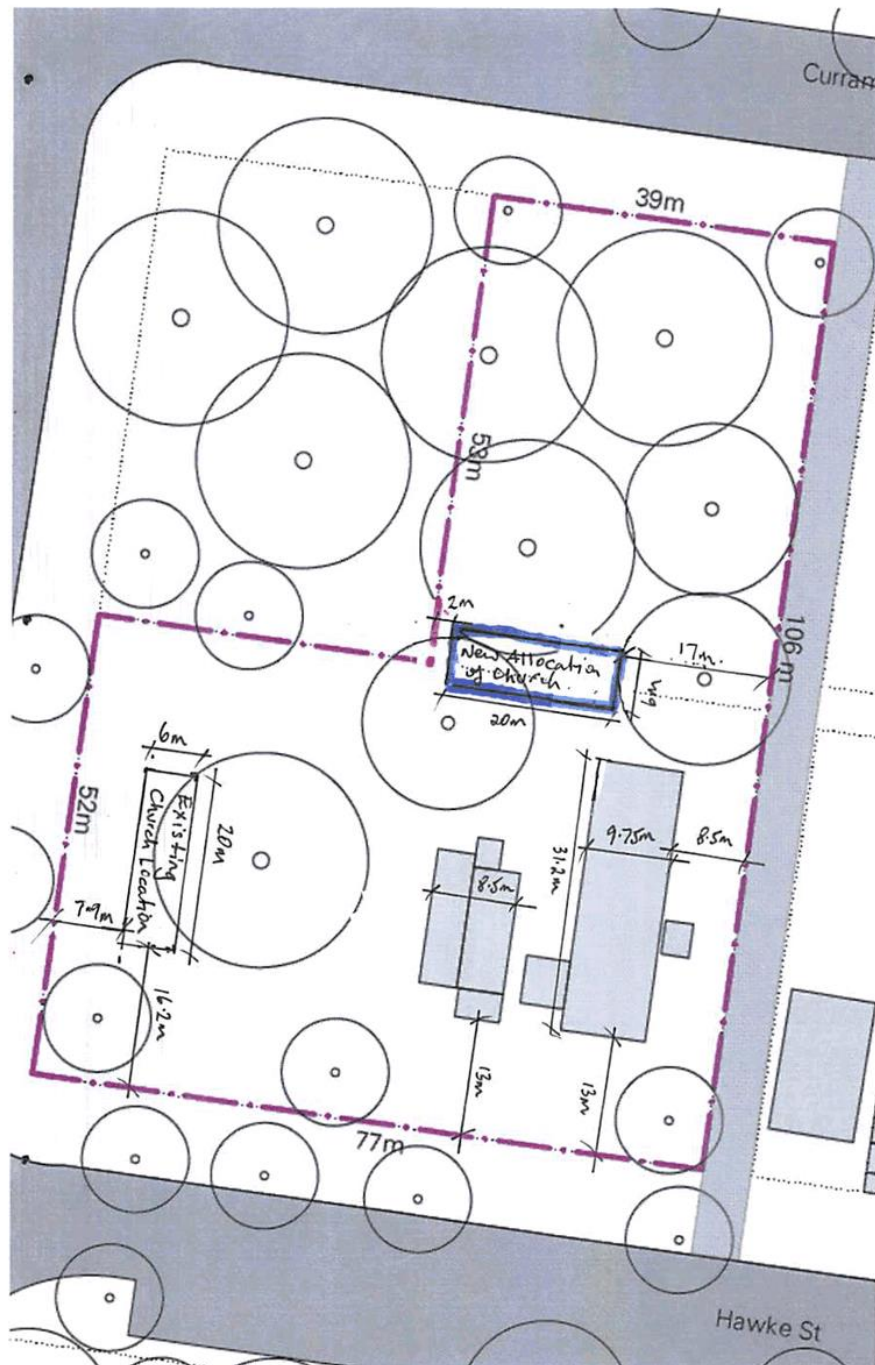
Summary and Conclusions

The proposed development has been assessed in accordance with section 4.15 of the Act.

- The proposal is consistent with the relevant environmental planning instruments and the Shoalhaven Development Control 2014;
- The proposed development is unlikely to result in significant adverse environmental impacts on both the natural and built environments, or result in unacceptable social and economic impacts in the locality; and
- The development will not have a significant adverse impact on the landscape character of the area and streetscape of Hawke, Bowen and Currambene Streets.

Regarding the above, the proposal is not considered unacceptable, objectionable or warranting refusal. Accordingly, a positive recommendation is made.





APPENDIX 2.
17 HAWKE ST. VEGETATION PLAN.

DE19.40 - Attachment 4



DOC19/150203

Attention Gordon Clark
Russ Pigg
General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Dear Mr Pigg

I am writing to you again regarding the Interim Heritage Order (IHO) request for 17 Hawke Street, Huskisson.

The Heritage Council's State Heritage Register Committee (Committee) first considered this request on 7 November 2018 and resolved to recommend that the Minister place an IHO over the four lots bounded by Hawke, Bowen and Currumbene streets for a period of 12 months (letter from the Office of Environment and Heritage (OEH) to Shoalhaven City Council sent 21 December 2018).

As forecast in that letter, the matter was returned to the Committee for further consideration on 6 February 2019, so that additional information provided to OEH since November could be considered. At this meeting the Committee also heard presentations from the initiators of the IHO and the site proponent.

On 6 February 2019, the Committee decided not to recommend an IHO to the Minister for Heritage, the Hon. Gabrielle Upton. This decision was made after much discussion, with the conclusion being that this site is not likely to be of state heritage significance but is highly likely to be of local heritage significance. As local heritage is the responsibility of the local council, the Committee determined to write to the Shoalhaven City Council to strongly encourage you to consider the heritage significance of the site when reviewing any development proposals.

The Committee heard from the proponent and Save Husky Church and each provided historical information. At times this information was in conflict, indicating areas where further investigation may be required. The Committee believes there are a range of issues that require further consideration at a local level, including:

Indigenous history:

- while the Aboriginal due diligence report is itself useful information, the *National Parks and Wildlife Act* is not an appropriate framework for considering more contemporary Aboriginal cultural heritage issues;

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TTY: (02) 9211 4723
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www.environment.nsw.gov.au

- we agree with the previous assessment of this report by the Office of Environment and Heritage (OEH), and the recommendation that further investigation and consultation with the local Aboriginal people take place;

Church history:

- the 1931 Cyril Blackett church is likely to be of local heritage significance;
- there are two conflicting versions of how the c1890 church has moved across the site over time. An understanding of the original location of the c1890 church and its subsequent relocation requires more work;

Landscape:

- we note this is a rare green space within the growing centre of Huskisson;
- arborist reports indicate the potential rarity and landscape quality of these trees;
- the heritage reports do not consider the plantings as part of the sesquicentenary celebrations in 1938 – this information could contribute to likely local significance of the trees;

Ground-Penetrating Radar:


- this report is inadequate as the site survey was partial and it used technology better adapted to other purposes.

We ask that Shoalhaven City Council (Council) review the information available to them via both parties and consider:

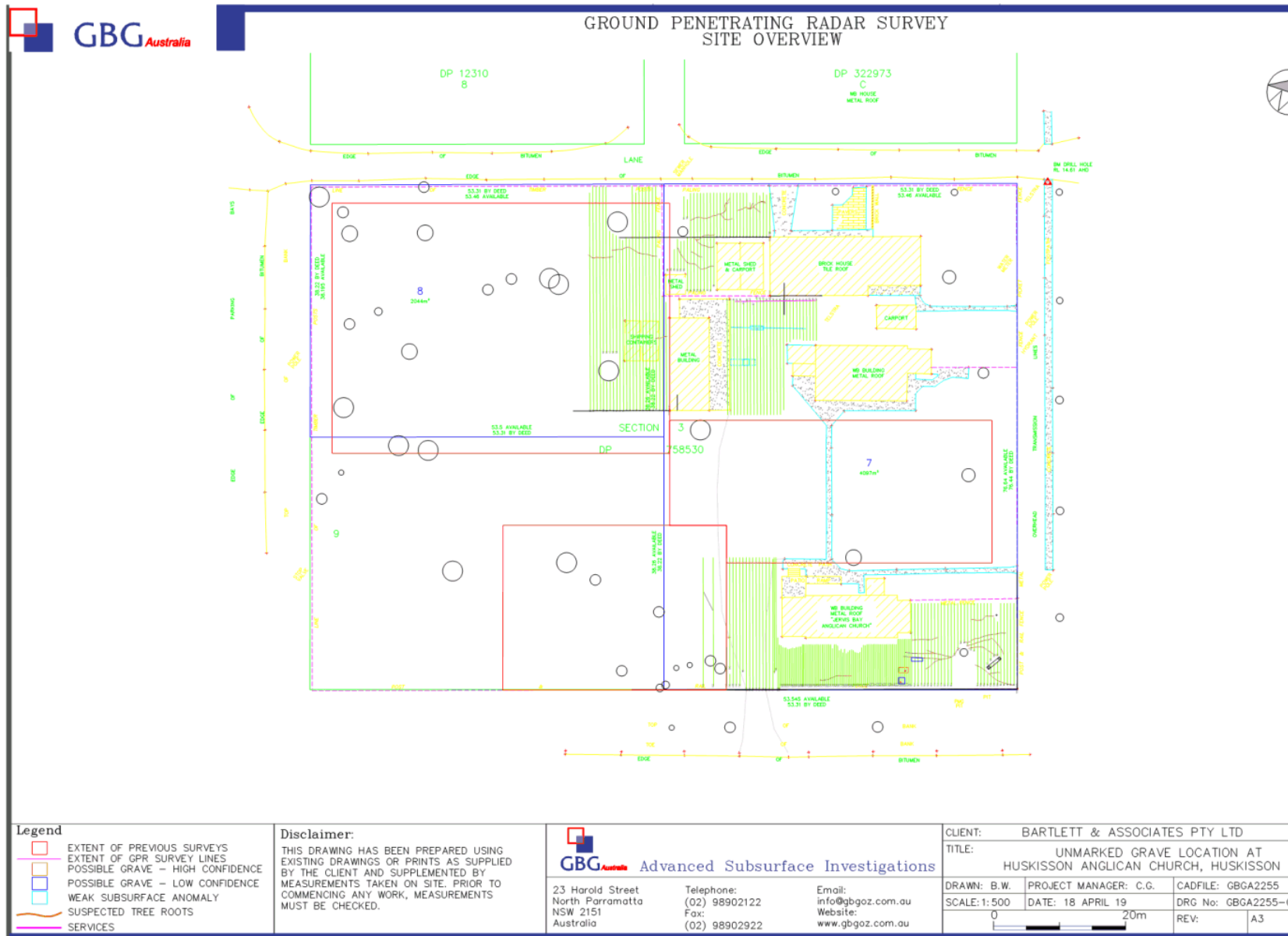
- whether other areas of the site require investigation for the presence of graves, and review the techniques that would be best employed;
- whether the Cyril Blackett church could be retained in its current location;
- whether any development that proceeds, could provide an opportunity for the interpretation of those graves and of Aboriginal heritage in the area;
- the heritage value of the landscape and plantings and the importance of this open green space to the local community in a town that is so rapidly developing.

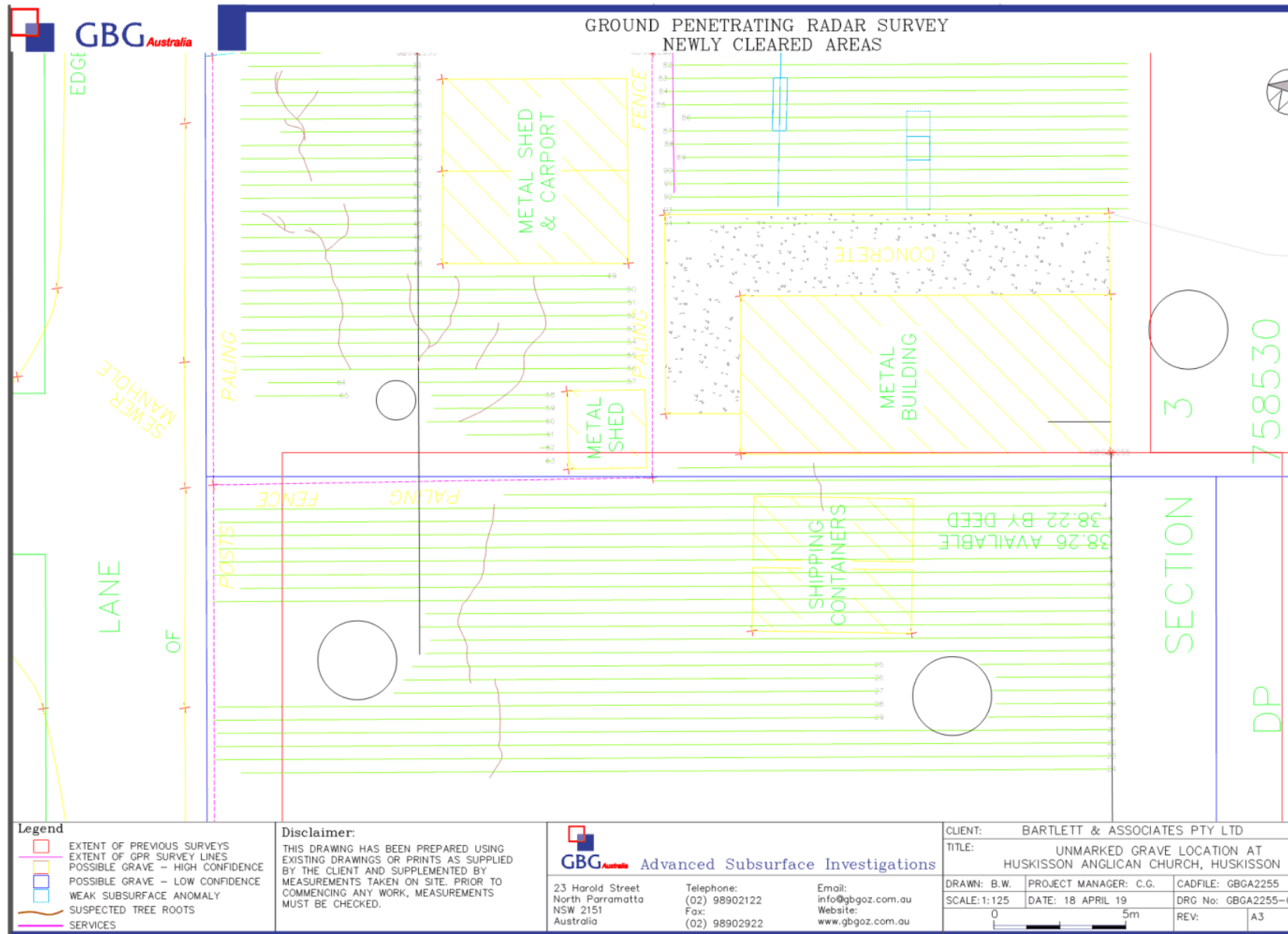
We note your previous correspondence and again ask you to revisit Council's decision to consider development of the site without further public consultation or investigation of the site's potential cultural values. We understand that this is a polarising issue in the community, and further consultation, especially with the local Aboriginal people, could go some way towards reuniting the planning requirements of a developing coastal area and the local community's aspirations.

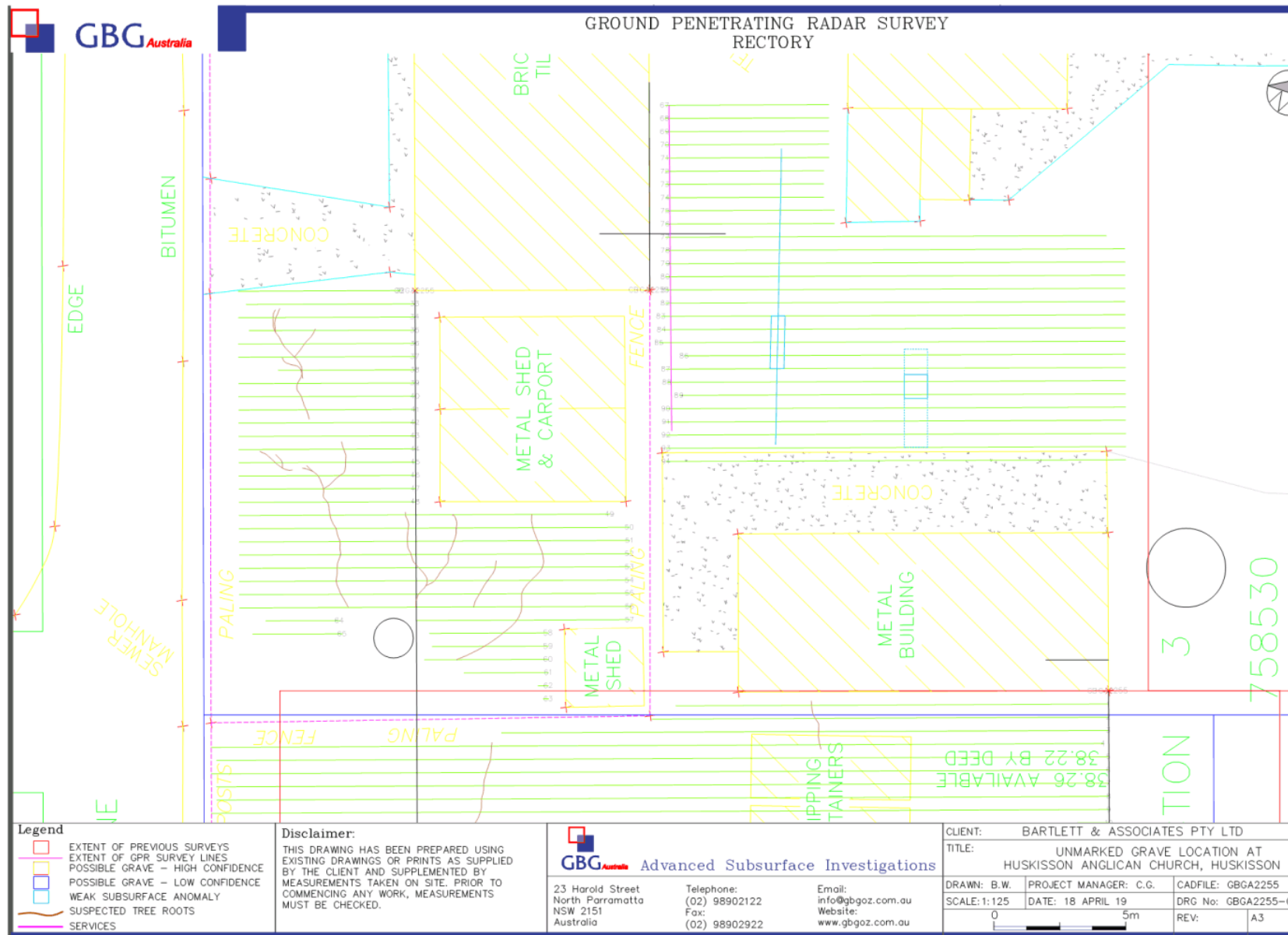
Yours sincerely

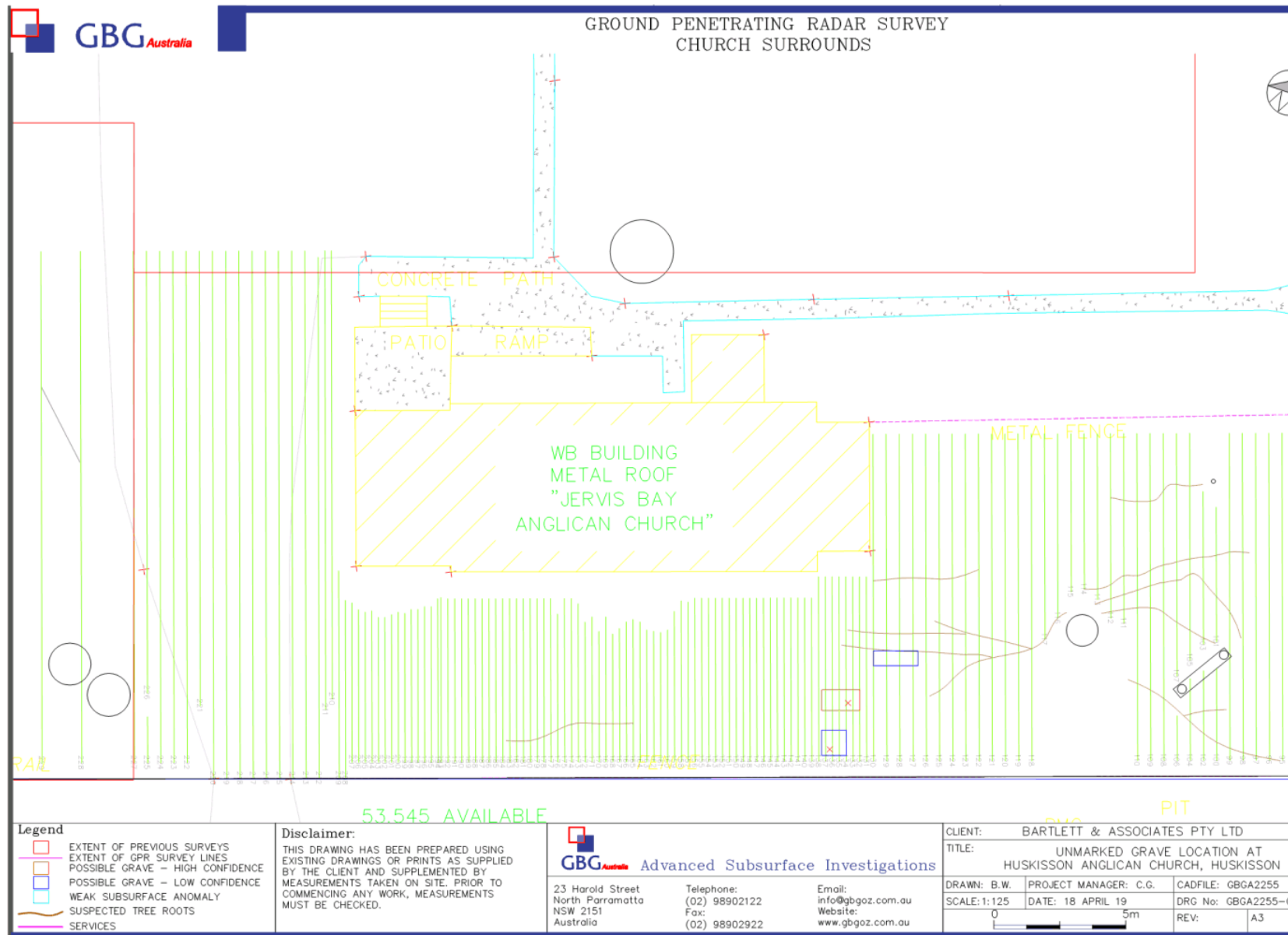


Frank Howarth
Chair
Heritage Council of NSW









DE19.41 Development Application – 43 Willowford Road WOOLLAMIA – Lot 80 & DP 9289

DA. No: DA18/2020/4

HPERM Ref: D19/6384

Group: Planning Environment & Development Group
Section: Building & Compliance Services

Attachments:

1. Section 4.15 assessment (under separate cover) [⇨](#)
2. Amended plans lodged in February 2019 [↓](#)
3. Draft Determination (under separate cover) [⇨](#)
4. Statement of Environmental Effects (under separate cover) [⇨](#)
5. Bushfire Assessment Report (under separate cover) [⇨](#)
6. Photographic record of unapproved works [↓](#)
7. Applicant's letter re staging dated 1 February 2019 [↓](#)

Description: This application seeks consent to regularise unauthorised works, selective demolition and renovation of the primary dwelling and use of the reconstructed Blacksmiths Shed as detached habitable rooms.

- (a) Stage 1 is the completion of works on the existing dwelling, and temporary use of the existing blacksmith's shed as detached habitable rooms until the works on the existing dwelling have been completed and it is habitable.
- (b) Stage 2 is the relocation of the Blacksmith's shed to a position 47.33 metres from the front boundary.

Owner: Robert Dominic Lacopetta and Sharyn Ann Lacopetta

Applicant: SET Consultants

Notification: 10/10/2018 and 13/02/2019 (following amended plans)

Submissions: One

Purpose / Reason for consideration by Council

On 06 November 2018 this application was called into Council for determination by Councillor Watson (Refer MIN18.894).

Recommendation (Item to be determined under delegated authority)

That Council:

1. Approve Development Application DA18/2020 subject to the conditions provided at Attachment 1; and
2. Officers give notice of its intention to serve a "Demolish Works Order" under Section 9.34 of the Environmental Planning and Assessment Act 1979 in respect of the Blacksmith's Shed and the pergola. The order that follows any representations received will be suitably aligned with the recommended conditions of approval.

DE19.41

Options

1. Council support the recommendation as submitted.

Implications: The proposal can proceed subject to the staging and recommended conditions.

2. Refuse the Development Application.

Implications: Council would need to provide reasons to refuse the application. The applicant would have the ability to request a review of any refusal by Council and/or pursue an appeal through the NSW Land and Environment Court (L&EC).

3. Alternative recommendation.

Implications: Council will need to specify an alternative recommendation and advise staff accordingly. Should the applicant be dissatisfied with Council's decision, they would have the ability to request a review of the determination and/or pursue an appeal through the NSW Land and Environment Court (L&EC).

Location

The subject land is identified as Lot 80, DP9289, 43 Willowford Road, Woollamia. The site is highlighted in yellow at Figure 1 below.



Figure 1 - Location map with the allotment highlighted in yellow.

Background

The application was submitted to Council on 12 September 2018. The application was submitted to address Council's Compliance investigation on the property where it was identified there were unauthorised structures on the site including;

- the main dwelling,
- the detached habitable rooms and
- timber pergola.

Council's compliance action commenced following a complaint concerning the reconstruction of the Blacksmith's shed at the front of the property. This shed is located only 0.13 metres from the front boundary.

Proposed Development

The initial application sought to regularise all unauthorised works, provide alterations and additions to the primary dwelling (also unauthorised) and use the Blacksmith's shed as a detached habitable room.

Council Officers did not support the existing location of the Blacksmith's shed and the pergola due to non-compliance with the provisions of SDCP 2014 which require a minimum setback from the road frontage of 30 metres.

The applicant has agreed to demolish the unauthorised pergola and to relocate the Blacksmith's shed to 47.33 metres from the front boundary (see applicant's letter at **Attachment 7**). Amended plans illustrating the changes were submitted on 13 February 2019 (see amended plans at **Attachment 3**).

The development is now proposed to be staged as follows:

- (a) Stage 1 involves the completion of works to the existing dwelling and seeks approval for the temporary use of the existing Blacksmith's shed as detached habitable rooms. This will allow its use as worker's accommodation during the completion of works to the existing dwelling.
- (b) Stage 2 involves the deconstruction of the Blacksmith's shed and its relocation to the new position on site 47.33m from the front boundary.

Site and context

The subject land is identified as Lot 80, DP9289, No.43 Willowford Road, Woollamia. The site has a total area of approximately 5.15 ha, with a street frontage of 119.99m to Willowford Road, a south western (side) boundary of 487.78m, a north eastern (side) boundary of 370.68m, and a rear boundary of 167.64m.

The land is zoned RU2 Rural Landscape under Shoalhaven LEP 2014. The minimum lot size is 40 Ha; however, this allotment has a dwelling entitlement. The proposal is permissible with consent.

The site is located on the southern side of Willowford Road. The area surrounding the land is characterised by rural residential development, predominantly single storey dwelling houses, varying in age, style and character.

The subject site currently contains a dwelling house under construction, unauthorised detached habitable rooms (the Blacksmith's shed) and associated outbuildings.



Figure 2 - The site highlighting the existing structures
(Note: only the colorbond shed has approval).

Photographs showing the extent of the existing development are contained in **Attachment 6**.

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). Please refer to the detailed Assessment Report at **Attachment 2**.

Issues

Compliance with front setback under Shoalhaven Development Control Plan 2014, Chapter G12.

The proposal initially sought approval to retain the reconstructed Blacksmith's shed only 0.13 metres from the front boundary with Willowford Road.

The amended, staged proposal lodged in February 2019 provides for the relocation of the Blacksmith's shed to a position of 47.33 metres from the front boundary. This will be compliant with Chapter 12 of SDCP2014.

The pergola, which is also located at less than 30 metres from the front boundary, is proposed to be demolished.

Separate occupation of the Blacksmith's Shed

The applicant has sought a period of up to 12 months for the temporary occupation of the Blacksmith's shed in its current location. This will enable its use for accommodation for workers completing the alterations to the main dwelling. Under the circumstances this temporary use is considered to be acceptable.

The conditions of consent by themselves are not sufficient to ensure the removal of the pergola and the relocation of the Blacksmith's Shed. For example, if the application is approved and the applicants chose not to proceed with the development, then there is nothing to trigger the demolition of either structure. It is therefore recommended that a Demolish Works Order be served on the owners of the premises to ensure this happens. In the event that additional time is needed to complete the main dwelling, then the order can be adjusted accordingly by mutual consent between the owners and Council's Compliance Officers.

Adequacy of existing septic system

Both the main dwelling and the Blacksmith's Shed are proposed to be connected to the existing septic system. While the system is registered with Council, it may not be adequate to cater for the number of bedrooms and potential occupants of both buildings. The septic system was approved in 1999.

A condition is recommended to require the submission of a waste water report that addresses the likely effluent production, assesses the ability of the existing system to adequately treat and dispose of the effluent and makes recommendations for any necessary upgrades of the system (see recommended conditions at **Attachment 1**).

Bushfire protection

The existing buildings on site do not comply with the requirements of Planning for Bushfire Protection 2006 and Australian Standard AS3959-2009.

The applicant has submitted a Bushfire Assessment Report prepared by a BPAD Accredited Practitioner which addresses the bush fire risk and makes recommendations relating to the provision of an Asset Protection Zone, construction standards, provision of water and utilities, access and landscaping. The Bushfire Assessment Report can be viewed at **Attachment 5**.

Suitable draft conditions are included at **Attachment 1**.

Policy Implications

Provided that the issues of separate occupation of the Blacksmith's Shed and compliance with the front setback are dealt with as recommended in this report, there are no policy implications that arise from this application.

Consultation and Community Engagement

The application was notified in accordance with Council's Community Consultation Policy with letters being sent to the owners of properties within a 100 metre buffer of the site.

The development application was notified between 10 and 25 October 2018 and renotified from 13 to 28 February 2019 following the receipt of amended plans.

No submissions were received during the first notification period and only one submission was received during the second notification period.

The submission is reproduced below:

The development at 43 Willowford Road, Woollamia refers to a "Stage 2". "Stage 2" is not detailed in the documents provided by Shoalhaven City Council. And it's not clear if the Council has or has not approved "Stage 2", or if "Stage 2" will be exhibited and available for review and comment. Can the Council clarify Stage 2, what it is and if it will be exhibited?

Comment

The decision to stage the proposal was communicated to Council by the applicant (SET Consultants) in an email dated 1 February 2019. Attached to that email was a supporting letter which clearly outlined the proposal to stage the development (see copy at **Attachment 7**).

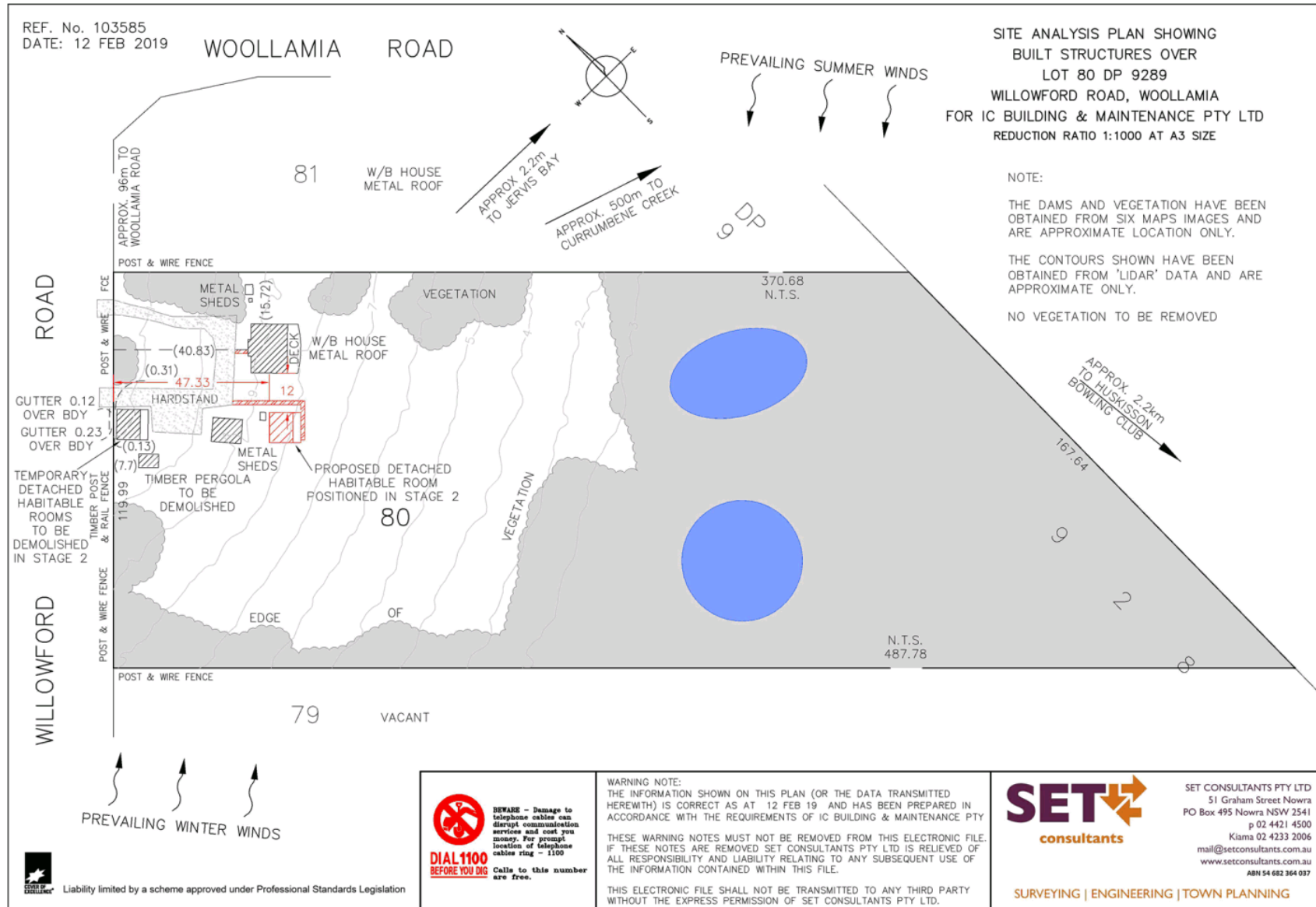
The amended site plan (see **Attachment 3**) also contains notes that show which parts of the development are to be included in Stage 2 (i.e. "Temporary detached habitable rooms to be demolished in Stage 2" and "Proposed detached habitable room positioned in Stage 2"). Council officers have emailed the objector and confirmed this advice.

Summary and Conclusion

This application has resulted from the applicant seeking to regularise construction works that were undertaken without the necessary approvals. Council became aware of the construction works through a complaint. Following the intervention of Council's Compliance officers and discussion and negotiation with Development Assessment officers, a proposal has been received and amended. This proposal is now considered suitable for approval.

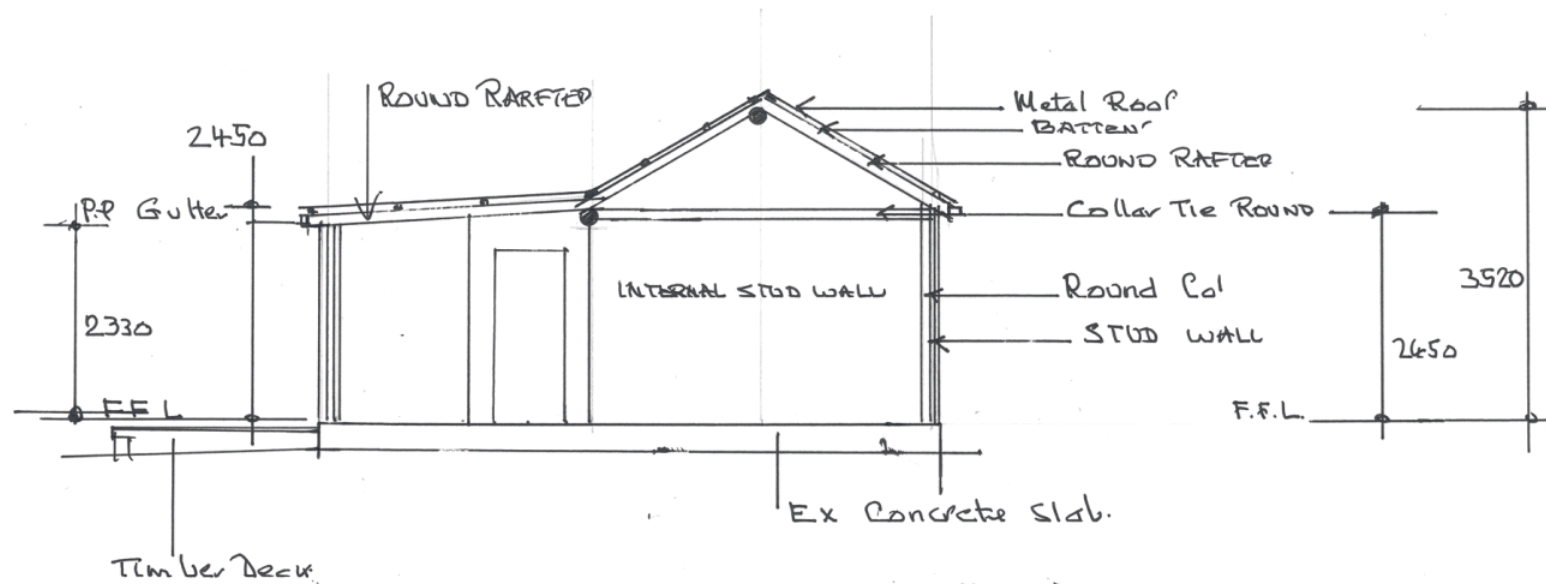
Issues such as compliance with the setback requirements of Chapter G12 of SDCP2014 and with bushfire protection standards have been considered in the assessment of the application. Appropriate draft conditions have been included in **Attachment 1** to address these issues.

The application is recommended for approval.





Scale: 1:100 Date: 2-2-18 Sheet No: 4 No Sheets: 6688 CHP No: CC



SECTION

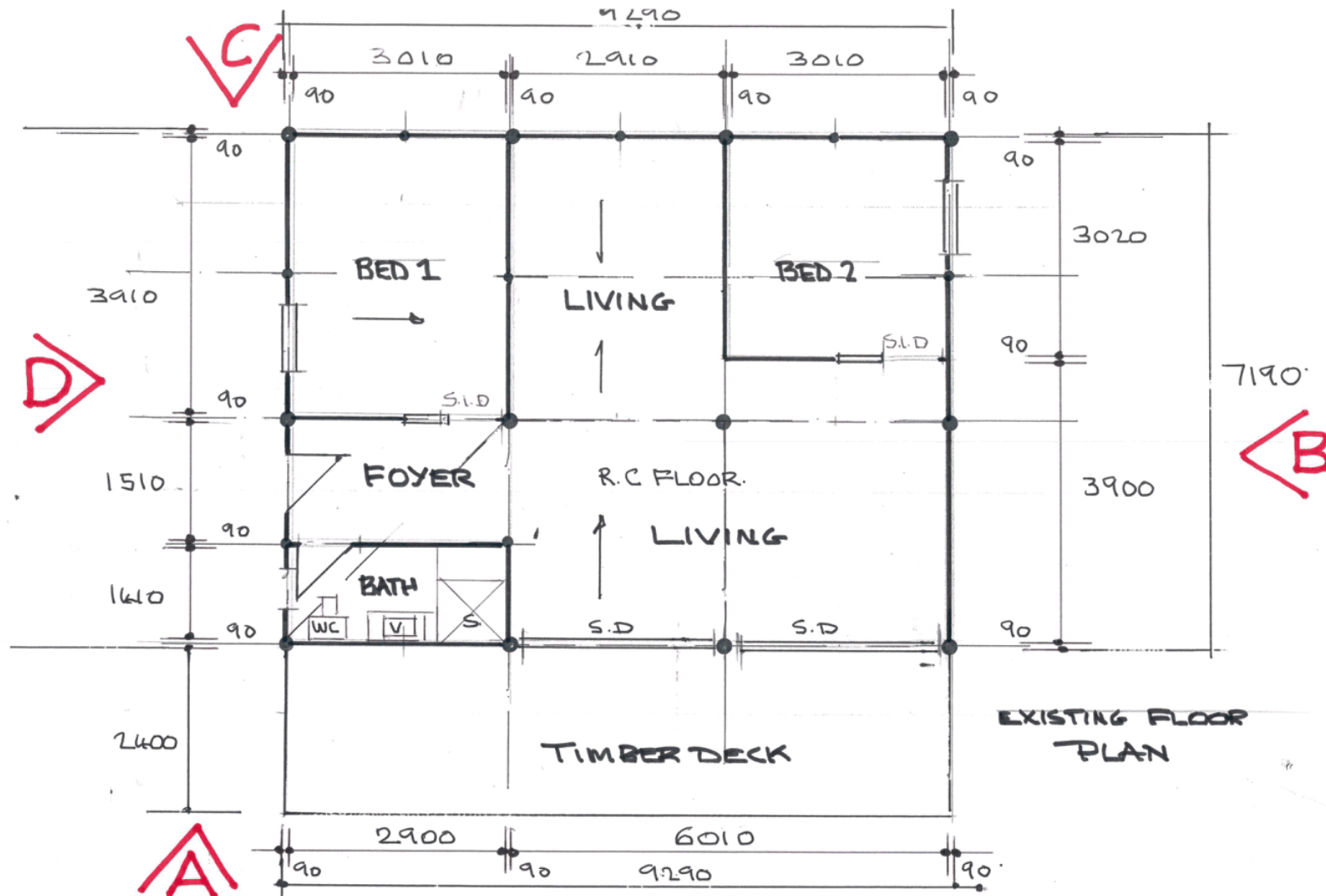
Builders must verify all boundaries, levels, locations of easements & on site services prior to setout. Crescent Home Plans shall not be responsible for any misconstruction or warrant the construction in any way. Unauthorized use of this document in any form is prohibited. All work comply with local authority & all other relevant authorities requirements.

PROJECT: **DWELLING APPROVAL**
Lot 80 Dp 9289
No 43 Willowford Road
Wollamia
 CLIENT: **IACOPELLA**

CRESCENT HOME
Plan & Design Service
 DESIGN & BUILDING CONSULTANTS
 88 Walsh Crescent North Nowra
 Ph (02) 44210323
 E-Mail crshome@bigpond.net.au
www.crescenthomeplans.com.au

Check all dimensions & windows on site before fabricating any item. All site levels & conditions are to be confirmed on site. Figured Dimensions take preference to Scale DO NOT SCALE. All work to be carried out to the Australian Building Code & Standards.

Scale: 1:100 Date: Sheet No: No Sheets: CHP No: 6667 CC



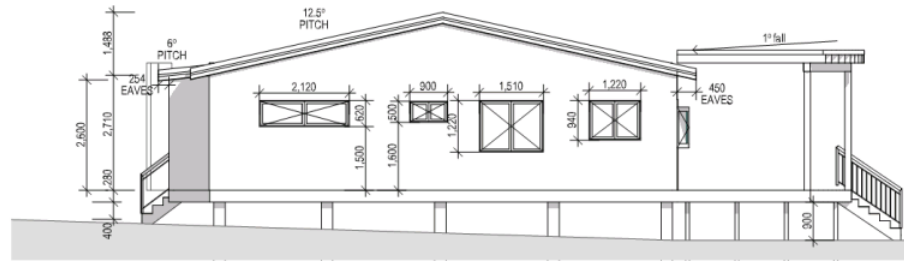
Builders must verify all boundaries, levels, locations of easements & on site services prior to setout. Crescent Home Plans shall not be responsible for any misconstruction or warrant the construction in any way. Unauthorized use of this document in any form is prohibited. All work comply with local authority & all other relevant authorities requirements.

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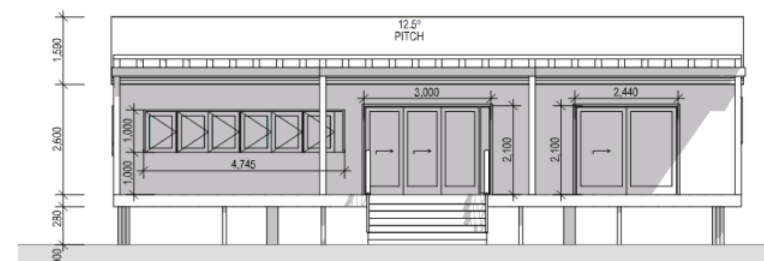
Check all dimensions & windows on site before fabricating any item. All site levels & conditions are to be confirmed on site. Figured Dimensions take preference to Scale. DO NOT SCALE. All work to be carried out to the Australian Building Code & Standards.

Scale: 1:50 Date: Sheet No: 6667 CC
No Sheets:



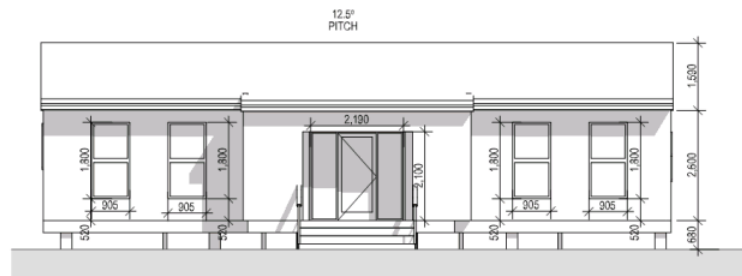
South Elevation

1:100



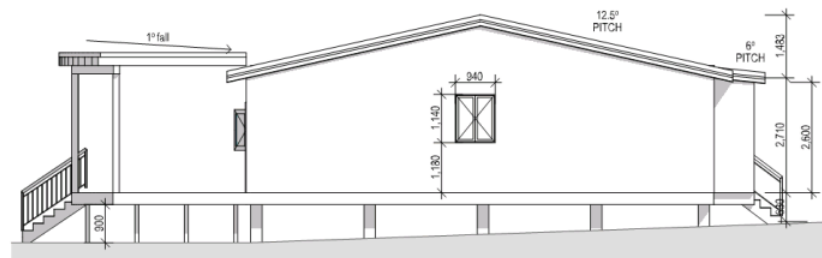
West Elevation

1:100



East Elevation

1:100



North Elevation

1:100

| LEGEND | |
|----------------|--------------------------|
| EXTERNAL WALL: | FC DURAGROOVE WIDE |
| | BGC 3000X1200X9MM INNOVA |
| | DGVW93012 |
| INTERNAL WALL: | TIMBER STUDS |
| FLOOR: | TIMBER FLOORING |
| ROOF: | METAL SHEET ROOFING |
| | WITH TIMBER FRAMING |

| | | |
|---|------------------|----------|
| C | General Revision | 12/07/18 |
| B | DA SUBMISSION | 12/08/17 |
| A | PRELIMINARY | 28/07/17 |

| Rev | Description | Date | App'd |
|-----|-------------|------|-------|
|-----|-------------|------|-------|

Project

RESIDENTIAL DWELLING

43 Willawood Rd
NW Woorah

URBANLINK

Business Address: Level 15-17 Dora Street, Burwood NSW 2124
Postal Address: PO BOX 222 Burwood North NSW 2124
Phone Number: +61 2 9515 2014

Nominated Architects:
Zed Rozumerski Reg no 8008
Yusep El Khawaja Reg no 8022

Nominating Authority Reg no 2226

Drawing Title

ELEVATION

| | |
|---------|----------|
| Checked | Approved |
| TJ | T2 |

Date
AS SHOWN
25/07/2018

Project Number
2017-099

Drawing Number/Revision
17

DEVELOPMENT APPLICATION

43 Willowford Road WOOLLAMIA – Lot 80 & DP 9289

Unapproved works



0.13m front setback.

(The requirement is 30m)

Construction materials do not reflect the requirements under "Planning for bushfire protection 2006.

Amended drawing complies to boundary setback requirement.



Cooking facilities in detached habitable rooms.

Cooking facility in the detached habitable room will appear as a secondary dwelling.

A detached secondary dwelling or detached dual occupancy is prohibited under this zone.



Unapproved main dwelling house.

Construction materials do not reflect the requirements under "Planning for bushfire protection 2006.

43 Willowford Road WOOLLAMIA – Lot 80 & DP 9289



Construction of timber frame has not been followed according to the Rural Fire Services Terms and Conditions.

43 Willowford Road WOOLLAMIA – Lot 80 & DP 9289



Internal framing



Electric Wiring



Deck materials do not comply with requirements of construction materials.

Timber pergola does not comply with the setback requirement to the front boundary line.
Construction materials do

43 Willowford Road WOOLLAMIA – Lot 80 & DP 9289



not reflect the requirements under "Planning for bushfire protection 2006.

SURVEYING | ENGINEERING | TOWN PLANNING



DIRECTORS

S.H. APPERLEY RFD, B.SURV, M.I.S.NSW, M.S.S.I.

A.A. RIEPSAMEN B.E. (Civil) (Hons), B.SURV. (Hons), M.I.E Aust.

D. CANNON M.Env.Eng.Sc, GradDip.Bushfire Protection, B.Env.Sc.Adv (Hons I), BPAD-Level 3, M.P.L.A

SET CONSULTANTS PTY LTD
51 Graham Street Nowra
PO Box 495 Nowra NSW 2541
p 02 4421 4500
Kiama 02 4233 2006
mail@setconsultants.com.au
www.setconsultants.com.au
ABN 54 682 364 037

1 February 2019

Your Reference: DA18/2020
Our Ref: L103585

Unit Manager - Building & Compliance
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Attention: Garon Irwin

Dear Mr Irwin

RE: Request for Additional Information for DA18/2020 - Development Application for the continued use and legitimisation of the unauthorised works, selective demolition and renovation of the primary dwelling and use of old blacksmiths shed as detached habitable rooms - Lot 80 DP 9289 - 43 Willowford Road, Woollamia

We refer to your request for additional information received by email from Garon Irwin dated the 09/10/2018. This letter and the attached documents provide response to all points raised in Council's email. This letter has been prepared on behalf of *Robert & Sharyn Iacopetta* to support the development application, which is for the continued use and legitimisation of the unauthorised works, selective demolition and renovation of the primary dwelling and use of old blacksmiths shed as detached habitable rooms - Lot 80 DP 9289 - 43 Willowford Road, Woollamia

Specifically, the following points have been raised by Council in their email. Each of the points raised has been addressed below, with a response under each heading being provided.

1. ***The development application description of the proposal will need to be modified as discussed today.***

An Amended Development Application has been submitted with this response letter. The Development application now describes the proposed development as the following:

“Continued use of existing shed as detached habitable rooms, selective demolition and renovation of the primary dwelling.”

2. ***As advised previously, if a development application was lodged to demolish and rebuild a detached habitable building 120mm from the front boundary, it is highly unlikely it would not be supported in its current location, due to precedent, public interest, etc. In this regard, further information may be required to address this component of the application or Council may determine the application as currently proposed.***

Due to the current location of the existing shed to be used as detached habitable rooms, a significant variation to the DCP front setback was originally proposed. Discussion with council has suggested that the proposed detached habitable rooms located in its current position is unlikely to be supported with a 0.13m front setback. Therefore the existing structure to be used as detached habitable rooms will be demolished and reconstructed with a front setback of 47.33m. Therefore no longer seeking a variation to the front setback requirement under the DCP. The proposed location of the detached habitable rooms will be adjacent the existing shed structure, and connected to the existing dwelling by an all-weather access path.

The development is now proposed to be staged in two parts. Stage 1 will include the completion of works on the existing dwelling, and temporary use of the existing blacksmiths shed as detached habitable rooms until the works on the existing dwelling has been completed and habitable. Stage 2 will include the demolition of the detached habitable rooms, and reconstruction setback 47.33m from the front setback. An amended Site Analysis Plan has been submitted with this response letter which shows the existing position of the structure to be used temporarily as detached habitable rooms, and the proposed position of its reconstruction.

3. ***Provide full details of the existing sewage management system including manufactures specifications and a site plan showing the proposed effluent disposal areas demonstrating compliance with Shoalhaven Development Control Plan 2014 Chapter G8- On-site Sewage Management.***

It is to our knowledge that the existing effluent disposal system has been approved by Council, and has sufficient capacity for both the dwelling and detached habitable rooms effluent disposal demands. For the reconstruction of the detached habitable rooms a construction certificate application will be lodged accompanied with a Section 68 application under the *Local Government Act 1993 No 30* for the connection to the existing effluent disposal system.

4. ***Provide details demonstrating dwelling entitlement by completing one of the following options:***

- a. *A positive Dwelling Entitlement Potential Certificate is provided; OR*
- b. *A rigorous statement or detailed evidence is provided outlining how the land meets the requirements of clause 4.2D(3)/4.2A(3) of the relevant LEP. Reliance on a s149(5) certificate is not acceptable. If the statement provided is not to Council's satisfaction, the applicant should be advised to apply for a Dwelling Entitlement Potential Certificate otherwise their application could face significant delays and they will be required to provide further information to support their application.*

A Dwelling Entitlement Potential Certificate dated the 12th December 2018 has been submitted with this development application. The Certificate concludes that the site complies with Clause 4.2D(3) of Shoalhaven Local Environmental Plan (LEP) 2014 and therefore the erection of a dwelling house is permissible with consent.

- 5. *Provide details on the plans of how the existing and proposed works will be brought into full compliance with the requirements of BCA, Planning for Bushfire Protection 2006 and AS3959-2009 including NSW variations.*

The Bushfire Risk Assessment prepared by *SET Consultants Pty Ltd* and submitted as part of this application outlines the building requirements for the structures to comply with the BCA, Planning for Bushfire Protection 2006 and AS3959-2009. The BCA Assessment Report prepared by *Ian Williams & Associates* assesses the structures on site, and the required standards to ensure compliance with the requirements of the BCA, Planning for Bushfire Protection 2006 and AS3959-2009. All structures on sight will be compliant with these requirements.

The relocation of the detached habitable rooms will require a construction certificate for its reconstruction, where compliance with the BCA, Planning for Bushfire Protection 2006 and AS3959-2009 will be ensured. This will be obtained at the time of its reconstruction.

We would be pleased for Council to give consideration to this matter and continue the assessment of the application as soon as possible.

Yours faithfully
SET CONSULTANTS PTY LIMITED



Nicholas Reddy
Graduate Town Planner (B.Arts, Urban & Regional Planning (Hons))

DE19.42 Collingwood Beach - Action Plan Progress Report

HPERM Ref: D19/77369

Group: Planning Environment & Development Group
Section: Environmental Services

Attachments: 1. Monitoring Data [↓](#)
2. Arborist Report (under separate cover) [↔](#)

Purpose / Summary

To provide Councillors with a 6-monthly progress update on implementation of the Collingwood Beach Dune Vegetation Two-Year Trial Action Plan.

Recommendation (Item to be determined under delegated authority)

That Council

1. Receive the report on the progress of the Collingwood Beach Dune Vegetation Two-Year Trial Action Plan for information; and
2. Revote any of the remaining funds in job number 15857 to the 2019/20 budget to allow implementation of the Collingwood Beach Dune Vegetation Two-Year Trial Action Plan until the end of the two-year trial period.

Options

1. Council receive the report for information.

Implications: Nil. The Action Plan continues as scheduled.

2. Choose an alternative recommendation.

Implications: This would depend on the alternative recommendation and may delay progress of the implementation of the Action Plan.

Background

On 14 August 2018, Council's Development Committee resolved the following (MIN18.607):

That Council endorse the Draft Collingwood Beach Dune Vegetation two-year trial Action Plan to enable implementation of the actions contained within the Plan.

Section 6, Communication Strategy, of the adopted Action Plan (the Plan) requires 6-monthly progress reports to Council. The final report will be available on December 2020, after the 2-year trial period has expired.

Council has commenced implementing the Plan, as adopted by Council. The Plan provides a framework for the restoration and future management of the Collingwood Beach dune vegetation system using two trial study sites. The purpose is to achieve a positive outcome in terms of protecting the health and resilience of the dune system, as per the *NSW Coastal Management Act 2016*, whilst also meeting the desires and expectations of the community and other key stakeholders.

Table 1 (below) outlines the progress of the Collingwood Beach Action Plan to date. A previous progress report to Council (D18/348101) documents actions completed prior to November 2018. A copy of the Plan can be viewed on Council's website at <https://shoalhaven.nsw.gov.au/Environment/Collingwood-Beach>

Table 1. Progress of Collingwood Beach Action plan to date

| Action | Progress | Timeline for completion |
|---|----------|---|
| Pruning works undertaken at trial site and cut wood felled throughout foreshore reserve. | 100% | Completed |
| Pruning site fencing works | 100% | Completed (Figure 1) |
| Install seating at both trial sites | 100% | Completed (Figure 2 & 3) |
| Install viewing platform at revegetation site with access ramp | 100% | Completed (Figure 4) |
| Community and school planting days. Planting of trial site. | | Completed |
| Drone footage of trial sites | 100% | Completed February 2019 and likely to be on-going D19/56382 – Pruning overhead D19/56336 – Pruning panoramic D19/56250 – Revegetation overhead D19/56239 – Revegetation panoramic |
| <i>Vegetation Vandalism Strategy</i> presented to Council | 100% | Completed (MIN19.107) and resolved – the matter is to be referred to a Councillor Workshop |
| CCTV research undertaken and presented to Councillors | 100% | Completed (MIN19.109) and resolved – Council not install surveillance cameras along Collingwood Beach |
| Collingwood Beach 'Get Involved' page (community engagement) | 100% | Completed |
| Monitoring of revegetation site | 33% | Monitoring undertaken in February 2019. Ongoing for 2 years (length of trial). 4 planted shade trees have doubled in size. Less than 10% plant loss. |
| Weed monitoring | 33% | Weed monitoring undertaken in October 2018 and March 2019 Weed density has reduced significantly |
| Photo monitoring of both trial sites | 33% | Monitoring undertaken in February 2019. Ongoing for 2 years (length of trial) |
| Poster/signage program for community appreciation of native vegetation to be implemented citywide | 90% | Posters have been drafted and presented to Council in the <i>Vegetation Vandalism Strategy</i> |
| Project management | Ongoing | |
| Internal costs and charges (wages, stores, fleet inventory, miscellaneous) | Ongoing | |

DE19.42



Figure 1: Fencing at revegetation trial site



Figure 2: Seat at pruning site

DE19.42



Figure 3: Seat at revegetation site



Figure 4: Viewing Platform

DE19.42

Monitoring Data

Council's Staff have undertaken the following monitoring actions:

1. Pictorial records of Trial site 1 and 2. Aerial imaging of Trial site 1 and 2.
2. Plant species monitoring
3. Survival of planted specimens
4. Record of vandalism
5. Condition of pruned vegetation
6. Weed diversity

Refer to Attachment 1.

Additionally, Bushcare volunteers committed a total of 144 hours between August 2018 and March 2019. There were 6 working bees with 8 participants.

Community Engagement

Council's Staff have undertaken the following community engagement actions:

1. Door-knocked property owners living adjacent to the two trial sites;
2. Sent letters to all affected property owners near the trial sites;
3. Multiple media releases;
4. Met with the Reference Group to discuss the Action Plan and the implementation of the two trial sites; and
5. Held two public planting days – one with the students of Vincentia Public School and one with the general public.
6. Completed a 'Get Involved' project page on Council's website to inform the public and interest groups of updates to the project. This platform allows individuals to subscribe for project updates, ask questions and report vandalism at Collingwood Beach.

Table 2: Communication Strategy

| Action | Strategy | |
|--|---|--|
| Develop a strong engagement and communication strategy with identified stakeholders including a program of public consultation and education throughout trial period | Incorporate multi-media, information displays and signage and/or presentations. | |
| Implementation | Status | |
| Meet with adjacent property owners | Letter contact and invite to owners of properties adjacent to trial sites to meet with Councillors and staff. | Door knocked property owners living adjacent to the two trial sites. Sent letters to all affected property owners near the trial sites. |
| Website and Facebook updates to Vincentia and Huskisson communities | Liaised with SCC website developers. | February 2019 and ongoing Completed a 'Get Involved' project page on Council's |

| | | |
|--|---|---|
| | | website to inform the public and interest groups of updates to the project. This platform allows individuals to subscribe for project updates, ask questions and report vandalism at Collingwood Beach. |
| Information posters in local villages | Display information posters at local shopping centres and notice boards. | Not yet completed – subject to development as part of the Draft Vegetation Vandalism Strategy/Policy |
| Erect explanatory signs at trial sites | Encourage the local community to take ownership of the plan. | Installed – refer to Figure 4 |
| Planting day | Inclusion of local schools, liaised with property owners and contact high profile promotional person/s for event ('Wombat' from 'The Block') with assistance from SCC media team. | Held two public planting days – one with the students of Vincentia Public School and one with the general public. |
| Progress Report to Council | 6 month reporting period. Final report to be available in Dec 2020 after the 2-year trial period has expired. | November 2018, May 2019 and ongoing |

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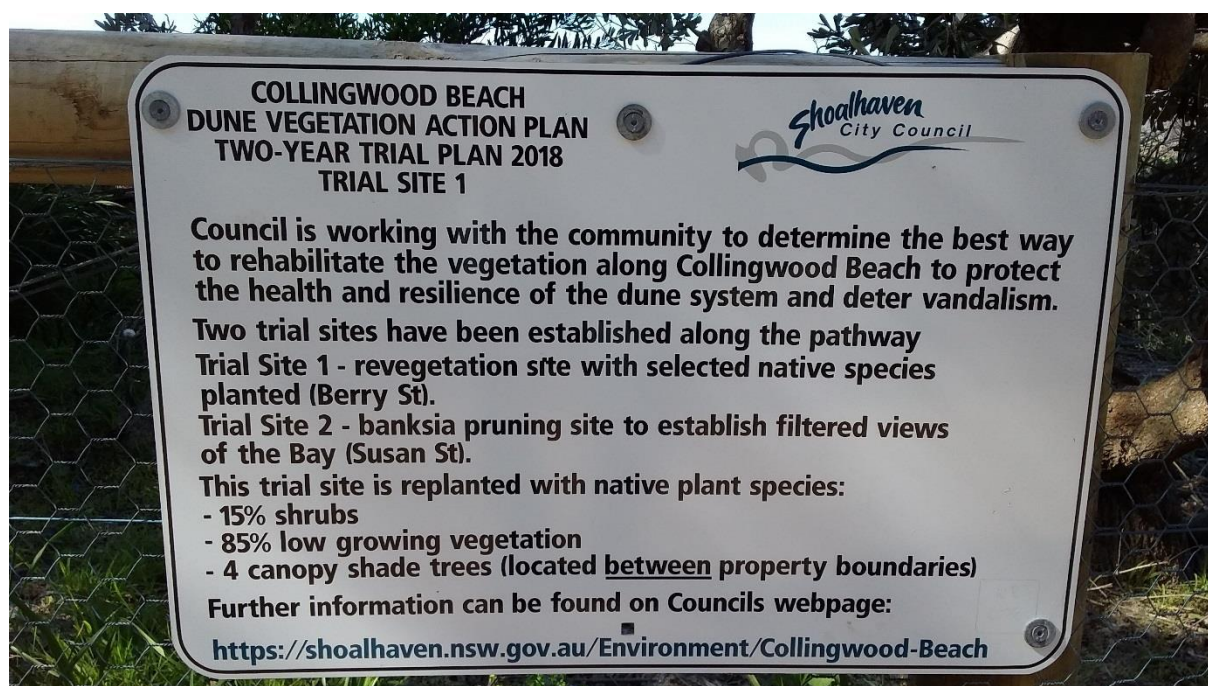


Figure 4: Explanatory sign at trial site

Table 3: Evaluation

| Success | Measure | Status |
|--|--|--|
| Pruned Banksias in good health | Assessment by arborist at 6 monthly intervals and prior to pruning. | Refer to Arborist report – refer to Attachment 2 |
| Surviving plant specimens | Percentage of survival of planted specimens. | >90% |
| Positive social response | Number and opinion of unsolicited posts, letters, etc. | Yet to be completed |
| Plant diversity | Number of weed vs native species. | Weed species have dramatically decreased |
| Filtered views | Cost effectiveness of view window maintenance - time and money spent. | Total cost \$4,339 to date |
| Decreased vandalism on trial sites: - A control site in Vincentia will be chosen for comparison | Percentage of known vandalism decreasing over time across trial sites. | Evidence of vandalism within pruning trial site |
| Acceptance by the community of the outcome of the trial | Community survey to be undertaken (web-based). | To be conducted August 2019 |

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Policy Implications

If the Shoalhaven Tree Vandalism Strategy or Policy is adopted, as recommended by the Council resolution (MIN17.974), the Shoalhaven Foreshore Reserve Policy will need to be updated and show the links between Council's policies that relate the management of trees and vegetation as well as Council's Compliance Policy.

Financial Implications

Council allocated a budget of \$99,296 (Job number: 15857) for 2018/19 to fund implementation of the Collingwood Beach Dune Vegetation 2-year Trial Action Plan. Most actions within the Plan have been implemented, with ongoing monitoring (including arborist assessment of trial pruning site), weed management and replacement failed plantings where required to be carried out throughout the two-year trial. A budget of \$39,859 currently remains which will fund these ongoing monitoring actions, a new signage program and education. It is recommended that any remaining funds from Job number 15857 be revoted and carried forward to the 2019/20 financial year.

Risk Implications

There are risks in not taking action to implement a citywide Vegetation Vandalism Strategy in the Shoalhaven. The vegetation vandalism occurring at Collingwood Beach is extensive and ongoing. A lack of action will likely result in further destruction to the health and resilience of the existing dune system that provides coastal hazard protection to public and private assets.

A lack of action from Council may also be seen by the community as 'doing nothing' in terms of implementing Council's previous resolutions to adopt a robust policy/strategy and

addressing the many community submissions Council has received in recent years requesting that vegetation vandalism occurring at Collingwood Beach and other hotspots across the Shoalhaven be addressed.

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| Action | Timing | Implementation |
|--|---|---|
| Pictorial records will be made of the beachfront from the land and air (aerial photography) in order to have a means of measurement of outcome. | Prior to commencement of management actions; during implementation of management actions; at completion of management actions and at 8 weekly intervals. | Pictorial Records Trial Site 1 – Revegetation site <ul style="list-style-type: none"> - Revegetation pictorial record taken in August 2018, December 2018 and February 2019 Trial Site 2 – Pruning site <ul style="list-style-type: none"> - Pre pruning pictorial record taken in August 2018 - Post pruning pictorial record taken in November 2018 and February 2019 <p>Refer to D19/104214</p> Drone Records Drone imaging undertaken in February 2019 D19/56382 – Pruning overhead D19/56336 – Pruning panoramic D19/56250 – Revegetation overhead D19/56239 – Revegetation panoramic |
| Quadrats through each site to monitor plant species diversity and species natural recruitment and to specifically include natural regeneration of banksias in revegetation trial site. | Before and after implementation of management actions and at 6 monthly intervals. | Point transect method used due to time constraints but gives similar comparable data. Method is as efficient to measure abundance of species but not as accurate for percentages. Aerial footage is used to determine percentages. Same transect is assessed each time and GPS located. |
| Survival of planted specimens. | Before and after implementation of management actions and at 3 monthly intervals. Replacement specimens will be planted in the next appropriate planting season. | Planted tube stock survival rate is over 90% |
| Vandalism | Before and after implementation of management actions and at 2 monthly intervals. A volunteer network (e.g. Bushcare) will monitor vandalism weekly and report findings/observations to Council via Council's public contact links. | August 2018 on the first day of the trial project, approximately 30 banksia trees were noted as being sawn off, with some dying, likely poisoned due to their sudden death. Other damaged trees are re-sprouting new growth. September 2018 Four mature large banksia at Montague St intersection suddenly died. These trees were growing outside the trial sites. On |

| | | |
|---|---|---|
| | | <p>inspection, all four trees had been drilled and likely poisoned. These trees had previously been under-pruned up to 3m to allow for water views beneath the canopies -</p> <p>March 2019 one very large banksia started dying. The tree was likely poisoned since a large branch quickly turned yellow and died within days. On inspection fresh drill holes were evident. Inspection revealed another two small banksia trees were drilled and likely poisoned as they too died suddenly. These trees were only juvenile banksias approximately 60mm in diameter with minimal foliage and less than 3m tall.</p> <p>The only Eucalypt tree on the entire dune north of Susan St was also drilled and showed signs of dying quickly, hence likely poisoned also during the same vandalism event</p> |
| <p>The health condition of trees that have been pruned including:</p> <ul style="list-style-type: none"> Decline in health e.g. dieback, increased fungal &/or insect attack, branch failure Regrowth patterns Vandalism | <p>Before and after implementation of management actions and at 6 monthly intervals.</p> | <p>Arborist Site Assessment undertaken on the 16th of April 2019 identified that the overall effect by the pruning has not compromised any trees, and no epicormic growth has formed as a result of this pruning – refer to Appendix 2.</p> |
| <p>Abundance and diversity of weed species at trial sites.</p> | <p>Before and after implementation of management actions and at 12 monthly intervals.</p> | <p>Weed monitoring undertaken in October 2018 and March 2019</p> <p>Weed density has reduced significantly</p> |
| <p>Photo monitoring of pruned banksia regrowth. Before and after pruning & throughout trial period.</p> | <p>Photo comparison over time to determine created Bay views – 2 month photo periods</p> | <p>Trial Site 2 – Pruning site</p> <ul style="list-style-type: none"> Pre pruning pictorial record taken in August 2018 Post pruning pictorial record taken in November 2018 and February 2019 <p>Refer to D19/104214</p> |

Revegetation Site Monitoring Data - Survey date: 25/08/2018

Native vegetation cover has increased, and hence bare patches of sand have been reduced.

Monitoring undertaken in three areas

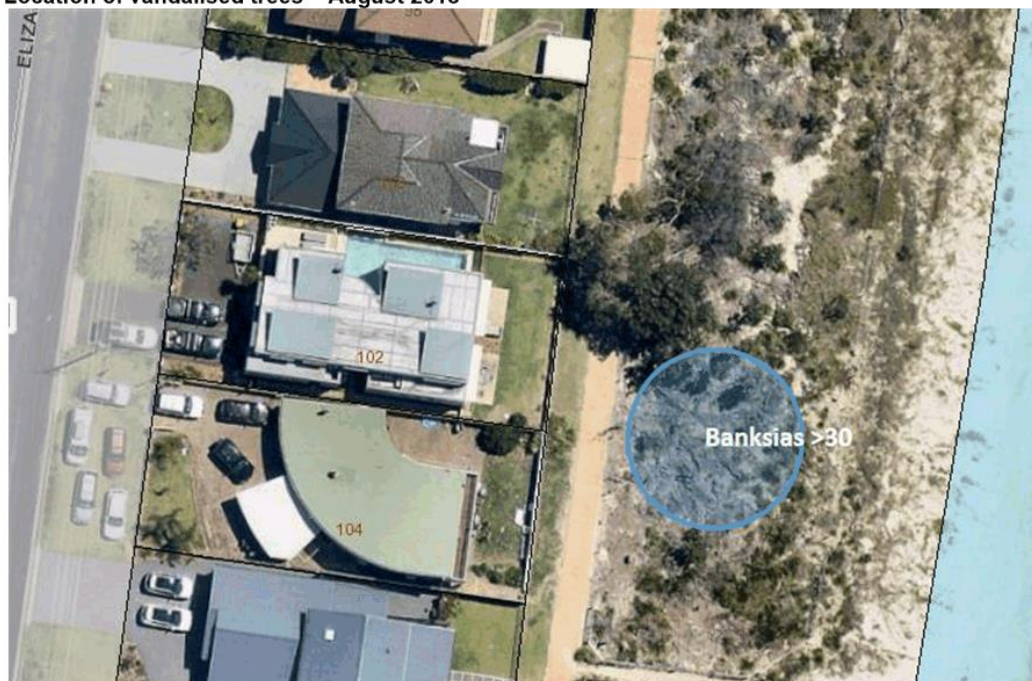
- 1) 5m east from western fence strainer on Berry St beach access
- 2) 10m east from western fence strainer on Berry St beach access
- 3) 15m east from western fence strainer on Berry St beach access

| Survey Date 25/08/19 | | Survey date: 21/02/2019 | |
|----------------------|------------------------------|-------------------------|------------------------------|
| Overall | % dead of each species | Overall | % dead of each species |
| 47% specimens dead | 72% banksia | 27% specimens dead | 54% banksia |
| 53% specimens alive | 100% leptospermum laevigatum | 73% specimens alive | 100% leptospermum laevigatum |
| 15% weeds | 38% ficinia nodosa | 13% weeds | 60% ficinia nodosa |
| 19% bare sand | 25% lomandra longifolia | 2% bare sand | 9% lomandra longifolia |
| | 20% weeds | | 46% weeds |

Vegetation Vandalism Monitoring

| Date | Site | Extent |
|------------|--|---|
| 18/08/2018 | Opposite 102 & 104 Elizabeth Dr | 30-40 banksia trees sawn down 100mm-200mm dia |
| 26/09/2018 | Montague St | 4 large banksias 400mm dia |
| 10/03/2019 | Berry St Opposite 100 & 102 Elizabeth Dr | 1 large banksia 500mm dia drilled & poisoned |
| | Opposite 100 Elizabeth Drive | 1 euc botryoides drilled & poisoned |
| | Opposite 98 Elizabeth Dr | 3x small banksias drilled & poisoned |

Location of vandalised trees – August 2018



Location of vandalised trees – September 2018



Location of vandalised trees – March 2019



Weed species present at revegetation site

| Weed species as follows with abundance rating: 1=low density 5=high density | | |
|---|--------|--------|
| | Oct-18 | Mar-19 |
| Buffalo grass | 5 | 2 |
| Nightshade | 3 | 1 |
| Fleabane | 4 | 1 |
| Chickweed | 4 | 1 |
| Sow thistle | 1 | 1 |
| Asparagus fern | 4 | 1 |
| Formosan lily | 1 | 0 |
| Gazania | 2 | 1 |
| Oxalis | 1 | 0 |

Banksia Count at revegetation site

| Revegetation Trial Site Banksia Count | | | |
|---|-----------|-------------------|---------------|
| | 07-Dec-18 | NOTES | Due 07-May-19 |
| Mature | 63 | | |
| Resprouting off vandalised trees roots - suckering | 6 | 9.5% reproduction | |
| Seedlings | 0 | | |

No banksia seedlings were found at the site in December 2018. All new banksia plants have grown only from root suckers* off previously vandalised banksia trees with a 9.5% reproduction rate.

The drought at the time could account for no seedlings found at the site.

**Banksias species typically react to pruning/lopping/branch damage by shooting suckers from root systems as a survival mechanism. The suckers grow into mature independent trees over time.*

DE19.43 Two (2) Bushcare Group Action Plans - Review

HPERM Ref: D19/124016

Group: Planning Environment & Development Group
Section: Environmental Services

Attachments: 1. The Grotto Bushcare Group Action Plan Review (under separate cover)
2. [Camp Quality Bushcare Group Action Plan Review \(under separate cover\)](#) [⇒](#)

Purpose / Summary

The purpose of the report is to present two (2) reviewed Bushcare Group Action Plans for adoption – for The Grotto (North Nowra) and Camp Quality (Berry) Bushcare Group Action Plans

Recommendation (Item to be determined under delegated authority)

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

1. The Grotto; and
2. Camp Quality.

Options

1. As recommended.

Implications: The two (2) Bushcare Group Action Plans have been reviewed by Council's Environmental Services Section and State Government agencies. All plans have been sent to relevant Council Consultative Bodies (CCBs) and all residents and ratepayers within 200 metres of the reserve affected. This is as per the requirements of the Bushcare/Parkcare Policy and Procedures and in line with Council's Community Engagement Strategy.

2. Adopt one of the reviewed Bushcare Group Action Plan and seek further changes to the other.

Implications: The positive and negative implications of choosing this option would depend on what the proposed changes are.

3. Not adopt any of reviewed Bushcare Group Action Plans.

Implications: This decision would significantly affect volunteer morale and may result in a loss of volunteer participation in Council's Bushcare program.

Background

Part C of MIN08.117 Ordinary Council meeting dated 29 January 2008 states that:

"Council affirms its direction that planting and other associated pursuits should only be done by abovementioned groups in accordance with Bushcare and Parkcare action plans as approved by Council".

This part of the Council resolution requires that all Bushcare and Parkcare Groups that operate on Council owned or managed land, prepare action plans that are to be reported to Council for adoption.

Part D of MIN08.1552 Ordinary Council meeting dated 25 November 2008 states that:

“An all-embracing Consultation Policy be developed that will include nearby residents, the wider community, Tourism Shoalhaven, CCBs, Chambers of Commerce, community groups, church groups and local schools.”

The level of consultation required is dependent on the actions outlined within the plan and is specified in chapter 6, Community Consultation, of the Bushcare/Parkcare Group Policy 2018 and Bushcare/Parkcare Group Procedures 2012 (The Policy was updated in 2018; the procedures separated and are currently being revised). The Policy requires Group Action Plans to be reviewed every six (6) years.

Under the Council’s Community Engagement Policy engagement matrix, all Bushcare Action Plans are classed as a local low impact project. Therefore, combined with the requirements of the Bushcare Policy and Procedure, both reviewed Bushcare Action Plans used direct communication via a mail-out to all residents/ratepayers and the CCB’s and were made available through the Shoalhaven City Council website.

The Bushcare Group Action Plans were mailed to 693 adjoining residents/ratepayers near the affected public reserves, the Nowra Local Aboriginal Land Council and, for the Camp Quality plan, the Berry Forum.

There were no submissions received as a result of the consultation process.

Community Engagement

CCBs, residents, ratepayers and Local Aboriginal Land Councils were informed of the opportunity to comment on the two (2) Bushcare Action Plans via mail. A total of 693 letters were mailed to residents and ratepayers within 200 metres of the reserves affected by the reviewed Bushcare Action Plans.

Residents/Ratepayers were able to view the draft Bushcare Action Plans via a “Documents on Exhibition” web link on Council’s website and were given 28 days to make a submission. People without internet access were able to contact Council and request a hard copy of the plan and make a submission via the mail. This community engagement is in line with Council Community Engagement Policy for low impact local projects.

Financial Implications

Over the six years of the two (2) Bushcare Actions Plans, the cost of implementation will be a total of \$24,100. These costs include an allocation of existing staff resources which support the Bushcare Program, which will be funded from the existing annual operation budget (job number 15915). A materials and equipment contribution of \$400 per annum per group is also included in these costs.

The in-kind volunteer contribution over the six years of the two Bushcare plans is estimated at \$128,000. This is a significant contribution from our volunteers in meeting the objectives of Council’s Community Strategic Plan.

DE19.44 Strategic Planning Works Program - Proposed 2019-2020 Version

HPERM Ref: D19/94513

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Adopted 2018-2019 Strategic Planning Works Program - June 2018 [↓](#)
2. Proposed 2019-2020 Strategic Planning Works Program - June 2019 [↓](#)

Purpose / Summary

Report the proposed 2019-2020 Strategic Planning Works Program (SPWP) to Council for consideration and adoption.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise Attachment 2 as Council's 2019-2020 Strategic Planning Works Program.
2. Receive a report on the 2020-2021 Strategic Planning Works Program in June 2020 to coincide with the new financial year.
3. Make future changes or additions to the Strategic Planning Works Program only after considering the current program, project priority, staff workload and resources.

Options

1. As resolved.

Implications: This option is favoured as it builds on the 2018-2019 SPWP to guide Council's strategic planning effort and ensure that we are proactively undertaking forward planning. The SPWP will assist in the prioritisation of projects and management of staff workload.

2. Adopt an alternative recommendation.

Implications: The 2019-2020 SPWP has been prepared taking into consideration current and expected strategic planning tasks and known planning challenges/expectations. Modifications to the SPWP at this stage may, depending on the nature of the modification, delay its adoption.

3. Not adopt the 2019-2020 SPWP and react to requests, opportunities etc. as they arise in the future.

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

DE19.44

Background

Strategic Planning Works Program - History

The SPWP originally emerged from an internal tool that was used to track and manage strategic and land use planning projects being undertaken by Council. It was formally reported to Council from 2003 onward for information and to enable priorities to be considered. The SPWP was initially reported to Council quarterly and then moved to twice yearly.

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

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

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

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

In July 2017, Council resolved (MIN17.612) under delegation to adopt and finalise the new iteration of the SPWP (2017-2018).

The SPWP for 2018-2019 was adopted in June 2018 (MIN18.419) and is located at **Attachment 1** for convenience. As part of the 2018-2019 SPWP adoption, Council resolved to report the SPWP back to the Development Committee (now Development and Environment Committee) annually in June to coincide with each new financial year. As such, this report is provided consistent with this resolution.

The 2019-2020 Strategic Planning Works Program

In preparing the 2019-2020 SPWP (**Attachment 2**), the following matters were considered:

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

The 2019-2020 SPWP retains the existing program structure, notably the priority areas and overarching strategies outlined in Table 1 (these were established through the original 2017 Councillor workshop process).

Table 1: Retained SPWP priority areas and overarching strategies

| Priority | Priority Area | Overarching Strategy |
|----------|---|--|
| 1 | Managing Future Growth | <ul style="list-style-type: none"> • Developing and maintaining a Growth Management Strategy (GMS) to provide continued residential development and infrastructure 'ahead of the game'. |
| 2 | Economic Development, Retailing, Town Centres and Tourism | <ul style="list-style-type: none"> • Balance commercial development with cultural and recreation opportunities. |

| | | |
|----|--|--|
| 3a | Natural Environment/Agriculture | <ul style="list-style-type: none"> Maintain an ‘unspoilt’ environment, plan for infrastructure to manage high use areas, maintain sustainable agriculture sector focusing on diversity and quality of output. |
| 3b | Affordable Housing | <ul style="list-style-type: none"> Work to increase affordable housing opportunities in Shoalhaven. |
| 4 | Population, Ageing and Social Infrastructure | <ul style="list-style-type: none"> Facilitate a healthy, active and accessible community. Identify and respond to demonstrated need and create best practice liveable communities for all ages and stages. |
| 5 | Heritage and Events | <ul style="list-style-type: none"> Maintain, investigate and bring forward our Aboriginal and European heritage into the future. |
| 6 | Legislation and Policy | <ul style="list-style-type: none"> Maintain Shoalhaven LEP, DCP and Contributions Plan. Monitor and respond to legislative and policy changes/proposals – consistent with Council’s strategic direction. |

For each priority area, current and future (yet to commence or on hold) projects are again identified. The proposed 2019-2020 SPWP contains a total of 92 projects - 59 current projects and 33 projects that are yet to commence or are on hold.

The priority projects in Table 2 (also shown in red at **Attachment 2**) will be advanced ahead of other projects on the SPWP. A brief update on the priority projects is provided for convenience.

Table 2: 2019-2020 SPWP priority projects

| Priority Project | Brief Update |
|---|---|
| Moss Vale Road North URA (PP, DCP and CP) | Various technical studies are currently being completed by the proponents (and submitted) and Council to enable the preparation of a master plan and development controls for the URA. Council will be briefed on this project shortly. |
| Review of Strategies and Structure Plans: <ul style="list-style-type: none"> GMS (including review of Milton-Ulladulla Structure Plan and the Jervis Bay Settlement Strategy. Nowra-Bomaderry Structure Plan. | <p>GMS - Report being prepared for Council on outcomes of initial exhibition of the GMS Discussion Paper.</p> <p>Nowra-Bomaderry Structure Plan – not actively being worked on as project outcomes will depend on Council direction on overall GMS.</p> |
| Planning Proposal PP028 - Callala Bay and Kinghorne Point (Halloran). | Stormwater, infrastructure, geotechnical and traffic investigations all underway. Awaiting Biodiversity Certification (combined with PP006). |
| Planning Proposal PP006 - Culburra Beach (Halloran). | Awaiting Groundwater Study (due early 2020). Aboriginal Cultural Heritage Assessment and stormwater investigations have commenced. Awaiting Biodiversity Certification (combined with PP028). |
| DCP Chapter G12 Low Density Residential Review. | Recent resolution (MIN19.291) to exhibit draft DCP amendment. |
| DCP Chapter G11 Subdivision | Project on hold – staff currently focussing on other priority |

| | |
|--|---|
| Review. | projects. |
| Shoalhaven Riverfront Precinct <ul style="list-style-type: none"> Planning Proposal PP041 – Mandalay Avenue Sub Precinct. Planning Proposal PP042 – Hyam Street, Pleasant Way and Wharf Road Sub Precinct. | Masterplan adopted by Council in late 2018 – PPs on hold awaiting additional detail from proponent and the Nowra Bridge project alignment. |
| Tourist and Visitor Accommodation Planning Review | Recent resolution (MIN19.113) to instigate an amendment Chapter G15 of Shoalhaven DCP 2014, with possible PP to amend Shoalhaven LEP 2014. |
| Coastal hazard review (PP and DCP Chapter review). | Recently exhibited and will be reported to Council for finalisation. |
| Implementation of the Illawarra-Shoalhaven Regional Plan and Shoalhaven Affordable Housing Strategy. | Ongoing actions as required. |
| Nowra CBD Fringe Medium Density Study. | Gateway determination has been received and additional heritage work undertaken – will be reported to Council for direction. |
| Local Strategic Planning Statements | Initial scoping work has commenced in association with the GMS project. |
| Respond to legislative change. | Ongoing and generally reactionary. However, it is noted that this has taken up significant staff time in the 2018-2019 financial year due to the range of detailed and widespread reforms being advanced by the NSW Government. |

DE19.44

The Nowra-Bomaderry Retail Hierarchy Review (exhibited for public comment late 2018/early 2019) and Cambewarra Escarpment Character Assessment (Council resolution in December 2018 to commence investigations and report back) were identified as priority projects in the 2018-2019 SPWP; however, this status is now not considered necessary due to the nature of the projects. As such, the status has been downgraded as shown in **Attachment 2**. Further direction from Council is however welcomed in regard to these projects.

Table 3 identifies the projects that have been removed from (completions etc.) or added (Council resolutions etc.) to the SPWP, as well as projects that have been consolidated. Changes have also been made to the descriptions of some of the projects to enhance readability and recognition.

Table 3: Projects added and removed from the SPWP

| 1. Managing Future Growth | |
|---------------------------|--|
| Added | <ul style="list-style-type: none"> DCP - Chapter G13 Medium Density Residential Housekeeping. Infrastructure Delivery/Implementation: Moss Vale Road South URA. Review Southern Component of Crams Road URA. (Note: Not considered to be a priority given that Crams Road URA identified as last phase of release). |
| Removed | <ul style="list-style-type: none"> Priority Project: Moss Vale Road South URA (PP, DCP and CP). Completed. Priority Project: DCP - Medium Density Review (Chapters G13/G14). |

| | |
|---|---|
| | <p>Completed.</p> <ul style="list-style-type: none"> 1310 Naval College Road (and precinct plan). PP not supported by Council. South Nowra Caravan Park Planning Proposal. Completed. |
| Consolidated | <ul style="list-style-type: none"> Priority Project: The following have been consolidated into the GMS Version 2 project: <ul style="list-style-type: none"> Outstanding investigation areas. Relationship with commercial and industrial land. Higher density in existing settlements. Additional development opportunities (e.g. Berry Expansion). LEP 2014 – additional matter for future investigation - Burton Street, Vincentia shopping centre. Actions resulting from community led Strategic Plans (i.e. Shoalhaven Heads, Berry, Sanctuary Point). |
| 2. Economic Development, Retailing, Town Centres and Tourism | |
| Added | <ul style="list-style-type: none"> Yalwal/Danjera Dam PP – recently received. St. Georges Basin Service Lane removal (DCP & CP) – Council resolution. |
| Removed | <ul style="list-style-type: none"> Draft Chapter G18: Streetscape Design for Town Centres. Completed. Worworing Heights Precinct Plan and Future Directions. Completed. |
| 3a. Natural Environment/ Agriculture | |
| Added | <ul style="list-style-type: none"> Nil. |
| Removed | <ul style="list-style-type: none"> PP and DCP - Review of flood controls. Completed. Resolving Jerberra and Verons Estate Biodiversity Act issues. Completed. |
| Consolidated | <ul style="list-style-type: none"> Priority Project: The 'Biodiversity Certification Application (Biobanking) for the Halloran Planning Proposal' project has been consolidated into the two associated planning proposal projects: <ul style="list-style-type: none"> PP006 - Culburra Beach (Halloran). PP028 - Callala Bay and Kinghorne Point (Halloran). |
| 3b. Affordable Housing | |
| Added | <ul style="list-style-type: none"> Nil. <p>Note: Actions arising from the Housing Strategy continuing to be worked on.</p> |
| Removed | <ul style="list-style-type: none"> Homeless Shelter PP - Kinghorne Street, Nowra. Completed. |
| 4. Population, Ageing and Social Infrastructure | |
| Added | <ul style="list-style-type: none"> Shoalhaven DCP 2014 – Consider accessibility requirements throughout the DCP, or a separate chapter (MIN18.1009). |
| Removed | <ul style="list-style-type: none"> Well Being Strategy (in conjunction with other Sections of Council). Now known as the 'Community Health and Wellbeing Plan' - has received grant funding and is now being managed by another section of Council. |
| 5. Heritage and Events | |
| Added | <ul style="list-style-type: none"> Berry Heritage Investigations. |
| Removed | <ul style="list-style-type: none"> Chinaman's Island Heritage Significance. Completed – heritage listings to be addressed in Heritage Housekeeping Planning Proposal (PP036). |
| 6. Legislation and Policy | |
| Added | <ul style="list-style-type: none"> Priority Project: Local Strategic Planning Statement (needs to be in place by mid-2020). LEP Clause 2.8 Review. |

| | |
|---------|--|
| | <ul style="list-style-type: none"> Community Participation Plan (will be delivered as part of a broader review of Councils Community Engagement Strategy). Shoalhaven Contribution Plan 2019 – Amendment 1. |
| Removed | <ul style="list-style-type: none"> Priority Project: Contribution Plan Review. Completed. Semi-detached Dwelling Housekeeping. Completed. Council and Crown Land Reclassification (Land Review). Discontinued. Manage proponent submitted planning proposals. PPs outlined throughout SPWP. ePlanning – responding to DP&E requirements and improving Council’s ability to process online request and electronic payment. Component completed and now managed in the S10.7 Certificate process. |

Using and interrogating the new SPWP

Councillors and key Council staff have direct access to the [Interactive SPWP](#) on Council’s Intranet. The SPWP is generally updated on a fortnightly basis and includes the following detail (where relevant):

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

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

Councillors were briefed in August 2018 on how to use the interactive SPWP.

Process for adding/removing projects from the 2019-2020 SPWP

The 2019-2020 SPWP will assist with Council’s decision making regarding new planning related projects. Ideally, the 2019-2020 SPWP will be proactive and not reactionary. It is inevitable, however, that changes will be required through time and this needs to be done in a considered manner.

Prior to changing the 2019-2020 SPWP (e.g. adding a project), consideration should be given to the likely impact on the current program, priorities, staff workload and resources. Projects should only be included on the 2019-2020 SPWP (or reprioritised) after consideration by Council and following a formal resolution. Ideally, consideration should be given to how they sit against the overarching strategies identified in the SPWP. The exception would be matters that must be resolved operationally (legislative directions, reactive policy submissions etc.).

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

Monitoring and reporting

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

Community Engagement

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

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

Policy Implications

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

Financial Implications

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

Proposed 2018-2019 Strategic Planning Works Program

| Priority | Priority Area | Overarching Strategy | Current Projects | Projects yet to commence or on hold |
|----------|------------------------|--|--|--|
| 1 | Managing Future Growth | Developing and maintaining a Growth Management Strategy to provide continued residential development and infrastructure ‘ahead of the game’. | <ul style="list-style-type: none"> • Moss Vale Road South URA (and DCP 2014 Chapter): <ul style="list-style-type: none"> – Planning proposal - Clause 6.5 Housekeeping. • Moss Vale Road North URA (and DCP 2014 Chapter). • Nowra-Bomaderry Structure Plan: <ul style="list-style-type: none"> – Additional development opportunities. – Review phasing and dwelling yields. • Growth Management Strategy version 2: <ul style="list-style-type: none"> – Outstanding investigation areas. – Relationship with commercial and industrial land. – Higher density in existing settlements. – Additional development opportunities (e.g. Berry Expansion). – Inclusion of Milton-Ulladulla Structure Plan and Jervis Bay Settlement Strategy (MIN16.950), including review of additional development opportunities. – LEP 2014 – additional matter for future investigation - Burton Street, Vincentia shopping centre. – Actions resulting from community led Strategic Plans (i.e. Shoalhaven Heads, Berry, Sanctuary Point). • DCP 2014 – Residential and Subdivision Review: <ul style="list-style-type: none"> – Medium Density Review (G13/G14). – Chapter G12 Review. – Chapter G11 Review. • Culburra/citywide – development on narrow laneways review. • Establishment of a design review panel. • Rezoning/Planning Proposal – <ul style="list-style-type: none"> – Badgee Lagoon Deferred Matters. – Inyadda Drive, Manyana (formally Kylor). – Nebraska Estate, St Georges Basin. – Beach Road, Berry. – Warrah Road, Bangalee. – Island Point Rd (Anson St) building heights. – 1310 Naval College Road (and precinct plan). – Hitchcock’s Lane, Berry. – South Nowra Caravan Park. – Jervis Bay Road, Falls Creek. – Culburra Beach, Callala Bay and Kinghorne Point (Holloran). • Infrastructure Implementation - Verons Estate, Sussex Inlet. • Mundamia URA – Works in Kind Agreement. | <ul style="list-style-type: none"> • Rezoning/Planning Proposal – <ul style="list-style-type: none"> – Goodland Road, Woollamia (awaiting landowner agreement). – The Wool Road, St Georges Basin. • LEP 2014 – additional matters for consideration - future investigations: <ul style="list-style-type: none"> – Rural Residential Strategy. – Milton/Ulladulla deferred 2(a1) areas. • Outstanding investigations resulting from strategies. |

Proposed 2018-2019 Strategic Planning Works Program

| | | | | |
|---|--|--|---|--|
| 2 | Economic Development, Retailing, Town Centres and Tourism | Balance commercial development with cultural and recreation opportunities. | <ul style="list-style-type: none"> • Shoalhaven Riverfront Precinct (including future DCP chapter). • Nowra/Bomaderry Retail Hierarchy review. <ul style="list-style-type: none"> – Investigate developing provisions in Shoalhaven LEP 2014 to strengthen Nowra CBD (centre/retail primacy). • Planning Proposal – <ul style="list-style-type: none"> – SP3 Tourist Zone Review. – St Vincent and Deering Streets, Ulladulla (Babington)/ Ulladulla Heights (Southern Part of Ulladulla CBD). • DCP 2014: <ul style="list-style-type: none"> – Draft Chapter G18: Streetscape Design for Town Centres. – Ensure appropriate and relevant references to Disability Discrimination Act in DCP. • S94 Contribution – Huskisson Town Centre Service Lanes Review. • Nowra CBD Revitalisation Strategy – coordinating implementation and supporting Committee. <ul style="list-style-type: none"> – Potential annual event research. – Parklet. – Façade and access improvement. – Nowra CBD Murals Policy and Branding: Placards and new murals. • South Nowra Internal Service Lane (Contribution Plan and DCP Amendments). • Enterprise Avenue Contribution Plan Amendment. | <ul style="list-style-type: none"> • DCP 2014 Chapter N18: Huskisson Town Centre: <ul style="list-style-type: none"> – Amendments following Huskisson Foreshore Masterplan. – Car parking review (includes Contribution Plan review). • South Nowra – zoning and land use review. • CBD/ Retail strategy: <ul style="list-style-type: none"> – Responding to e-retailing, department stores, entertainment centres, changing nature of CBDs. – Escape spending. • Refine and use outcomes of Employment Lands Monitor (to be established with DP&E) to understand existing supply of industrial land (particularly Milton-Ulladulla) and undertake strategic exercise to identify appropriate industrial land for future expansion. • Berry car parking review. • Flinders Industrial Estate expansion DCP. • Economic Development Strategy – implement relevant actions. <ul style="list-style-type: none"> – Strategy to activate key waterfront locations. |
|---|--|--|---|--|

Proposed 2018-2019 Strategic Planning Works Program

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

Proposed 2018-2019 Strategic Planning Works Program

| Priority | Priority Area | Overarching Strategy | Current Projects | Projects yet to commence or on hold |
|----------|------------------------|---|--|--|
| 6 | Legislation and Policy | <ul style="list-style-type: none"> Maintain Shoalhaven LEPs, DCP and Contributions Plan. Monitor and respond to legislative and policy changes/proposals – consistent with Council's strategic direction. | <ul style="list-style-type: none"> Respond to legislative change. Maintain LEPs, DCP, CP, s10.7 (s149) certificates, dwelling entitlements. Contributions Plan Review. Implement Illawarra Shoalhaven Regional Plan Actions (includes ongoing representation at the Coordinating and Monitoring Committee jointly chaired by the Department of Planning and Environment and the Illawarra Pilot Joint Organisation). LEP 2014 /Planning Proposals: <ul style="list-style-type: none"> 2017/8 Housekeeping (minor mapping and instrument changes). Semi-detached Dwelling Housekeeping. <i>Council and Crown Land Reclassification (Land Review).</i> Subdivision Review, including review of dual occupancy subdivision opportunities outside Areas 1 and 2 (LEP). DCP 2014 Amendment 7 – Generic Chapter Review. S149 Policy Note Review. Manage proponent submitted planning proposals. Prepare submissions to respond to legislation and policy proposals. | <ul style="list-style-type: none"> DCP 2014: <ul style="list-style-type: none"> Amendment 10 – Various/Area Specific Chapter Review. Amendment 12 – General Housekeeping. Sussex Inlet Canal Easements. ePlanning – responding to DP&E requirements and improving Council's ability to process online request and electronic payment. 2020 Local Approvals Policy Review. Local Area Planning Statements. |

Proposed 2019-2020 Strategic Planning Works Program

| Priority | Priority Area | Overarching Strategy | Current Projects | Projects yet to commence or on hold |
|----------|---|--|---|---|
| 1 | Managing Future Growth | Developing and maintaining a Growth Management Strategy to provide continued residential development and infrastructure 'ahead of the game'. | <ul style="list-style-type: none"> • Moss Vale Road North URA (PP, DCP and CP). • Growth Management Strategy version 2 (includes consideration of higher density in existing settlements and the Milton-Ulladulla Structure Plan and Jervis Bay Settlement Strategy reviews). • Planning Proposals: <ul style="list-style-type: none"> – PP028 - Callala Bay and Kinghorne Point (Halloran). – PP006 - Culburra Beach (Halloran). – LP407 - Badgee Lagoon Deferred Matters. – PP007 - Inyadda Drive, Manyana (formally Kylor). – LP145.1 - Nebraska Estate, St Georges Basin (and DCP). – PP018 - Beach Road, Berry (and DCP). – PP005 - Warrah Road, Bangalee. – PP023 - Island Point Rd (Anson St) building heights. – PP029 - Hitchcock's Lane, Berry. – PP032 - Clause 6.5 Housekeeping. – PP035 - Jervis Bay Road, Falls Creek. – PP043 - South Nowra – Industrial Zoned Land Dwelling Entitlements. – PP045 – Callala Bay – Sealark Road. • Shoalhaven DCP 2014: <ul style="list-style-type: none"> – Chapter G12 Low Density Residential Review. – Chapter G14 Development of Narrow Laneways. – Chapter G13 Medium Density Residential Housekeeping. – Chapter V4 Local Character Statements. • Establishment of a design review panel. • Infrastructure Delivery/Implementation: <ul style="list-style-type: none"> – Moss Vale Road South URA. – Verons Estate, Sussex Inlet. • Mundamia URA – CP Review/Works in Kind Agreement. | <ul style="list-style-type: none"> • Shoalhaven DCP 2014 - Chapter G11 Subdivision Review. • Nowra-Bomaderry Structure Plan Review. • Rezoning/Planning Proposal – <ul style="list-style-type: none"> – Goodland Road, Woollamia (awaiting landowner agreement). – The Wool Road, St Georges Basin (awaiting landowner). • LEP 2014 – additional matters for consideration - future investigations: <ul style="list-style-type: none"> – Rural Residential Strategy. – Milton/Ulladulla deferred 2(a1) areas. • Other outstanding investigations resulting from strategies. • Review southern component of Crams Road URA. |
| 2 | Economic Development, Retailing, Town Centres and Tourism | Balance commercial development with cultural and recreation opportunities. | <ul style="list-style-type: none"> • Shoalhaven Riverfront Precinct Planning Proposals: <ul style="list-style-type: none"> – PP041 – Mandalay Avenue Sub Precinct. – PP042 – Hyam Street, Pleasant Way and Wharf Road Sub Precinct. • Nowra/Bomaderry Retail Hierarchy Review. • PP025/PP030 - St Vincent and Deering Streets, Ulladulla (Babington)/ Ulladulla Heights (Southern Part of Ulladulla CBD). • SP3 Tourist Zone Review (PP013 and DCP provisions for site 6). • Shoalhaven Contribution Plan - Huskisson Town Centre Service Lanes Review. • Tourist and Visitor Accommodation Review (Review of Chapter G15 and possible PP). • Nowra CBD Revitalisation Strategy – Relevant Projects. • South Nowra Internal Service Lane (DCP and CP). • South Nowra Industrial Zoned Area (Flinders Estate Expansion) (DCP and CP). • Enterprise Avenue Voluntary Planning Agreement. • St Georges Basin Service Lane (DCP and CP). | <ul style="list-style-type: none"> • Shoalhaven DCP 2014 Chapter N18: Huskisson Town Centre. • South Nowra – zoning and land use review. • CBD/ Retail strategy: <ul style="list-style-type: none"> – Responding to e-retailing, department stores, entertainment centres, changing nature of CBDs. – Escape spending. • Refine and use outcomes of Employment Lands Monitor (to be established with DP&E) to understand existing supply of industrial land (particularly Milton-Ulladulla) and undertake strategic exercise to identify appropriate industrial land for future expansion. • Berry car parking review. • Economic Development Strategy – implement relevant actions. <ul style="list-style-type: none"> – Strategy to activate key waterfront locations. • Yalwal/Danjera Dam PP. |

June 2019

Proposed 2019-2020 Strategic Planning Works Program

| Priority | Priority Area | Overarching Strategy | Current Projects | Projects yet to commence or on hold |
|----------|--|---|---|---|
| 3a | Natural Environment/Agriculture | Maintain an 'unspoilt' environment, plan for infrastructure to manage high use areas, maintain sustainable agriculture sector focusing on diversity and quality of output. | <ul style="list-style-type: none"> • Tourist and Visitor Accommodation Review (MIN16.979) (DCP and possible PP). • Coastal Hazard Review (PP and DCP). • Cambewarra Escarpment Character Assessment. • 'Heritage Estates', Worroving Heights (land/water degradation and land tenure). | <ul style="list-style-type: none"> • Strategic review of agricultural development opportunities (LEP). • Respond to outcomes of Council's natural resources plans and strategies. |
| 3b | Affordable Housing | Work to increase affordable housing opportunities in Shoalhaven. | <ul style="list-style-type: none"> • Implement Shoalhaven Affordable Housing Strategy actions. | <ul style="list-style-type: none"> • Tiny Homes Project, Nowra – detailed investigation. • Expand Affordable Housing Strategy Framework to include affordable university student accommodation. • Investigate implications of dual occupancy provisions on affordable housing. • Reconsider position on short term rental accommodation following release of the Government's final position. • Citywide density review of existing residential areas to identify higher density opportunities |
| 4 | Population, Ageing and Social Infrastructure | <ul style="list-style-type: none"> • Facilitate a healthy, active and accessible community. • Identify and respond to demonstrated need and create best practice livable communities for all ages and stages | <ul style="list-style-type: none"> • Undertake an assessment of the City's ageing demographic. | <ul style="list-style-type: none"> • Shoalhaven DCP 2014: <ul style="list-style-type: none"> – Consider accessibility requirements throughout the DCP, or a separate chapter (MIN18.1009). – Include appropriate references to Disability Discrimination Act. • Nowra Medical precinct master plan. • Illawarra Age Friendly Alliance work. • Labour force review. |
| 5 | Heritage and Events | Maintain, investigate and bring forward our Aboriginal and European heritage into the future. | <ul style="list-style-type: none"> • Nowra CBD Fringe Medium Density Study (PP and DCP). • Assist Local Aboriginal Land Councils (e.g. Land Asset Reviews and Jerrinja Memorandum of Understanding and Action Plan.). • Managing response to Aboriginal Land Claims. • Run annual Local Heritage Grants Scheme (including annual Heritage Strategy Review). • PP036 - Heritage Housekeeping. • Berry Heritage Investigations. | <ul style="list-style-type: none"> • Review heritage strategy: Consideration of Aboriginal Cultural Heritage. |
| 6 | Legislation and Policy | <ul style="list-style-type: none"> • Maintain Shoalhaven LEPS, DCP and Contributions Plan. • Monitor and respond to legislative and policy changes/proposals – consistent with Council's strategic direction. | <ul style="list-style-type: none"> • Local Strategic Planning Statement. • Respond to legislative change (e.g. Prepare submissions to respond to legislation and policy proposals). • Implement Illawarra Shoalhaven Regional Plan Actions (includes ongoing representation at the Coordinating and Monitoring Committee jointly chaired by DP&E and the Illawarra-Shoalhaven Joint Organisation). • Community Participation Plan. • Maintain LEPS, DCP, CP, s10.7 (s149) certificates, dwelling entitlements. • Shoalhaven Contribution Plan 2019 – Amendment 1. • Planning Proposals: <ul style="list-style-type: none"> – PP040 - 2017 Minor Mapping Housekeeping. – PP033 - 2017 Minor Mapping Housekeeping. – PP027 - Subdivision Review. • Clause 2.8 Review. • DCP 2014 Generic Chapter Review (Amendment 7). • S10.7 (formerly s149) Policy Note Review. | <ul style="list-style-type: none"> • Clause 4.2B – Original Holdings – Lot Averaging Subdivision. • DCP 2014: <ul style="list-style-type: none"> – Amendment 10 – Various/Area Specific Chapter Review. – Amendment 12 – General Housekeeping. – Sussex Inlet Canal Easements. • 2020 Local Approvals Policy Review. |

DE19.45 Draft Medium Density Amendment (Chapter G13) - Shoalhaven DCP 2014 - Post Exhibition Consideration and Finalisation

HPERM Ref: D19/132724

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. External Consultation Submission Summary [↓](#)
2. Proposed Post Exhibition Changes to Chapter G13 (under separate cover) [⇒](#)

Purpose / Summary

Consider the submissions received as a result of the public exhibition of the draft Amendment to Chapter G13: Medium Density and Other Residential Development of Shoalhaven Development Control Plan 2014 (the Amendment); and consider the finalisation of the Amendment.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt the amendment to Chapter G13: Medium Density and Other Residential Development of Shoalhaven Development Control Plan 2014 (the Amendment) as exhibited, with the changes outlined in **Attachment 2**.
2. Notify the adoption of the Amendment in local newspapers in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations.
3. Advise key stakeholders, including all Community Consultative Bodies, relevant industry representatives and those who made a submission, of this decision, and when the Amendment will be made effective.

Options

1. As recommended.

Implications: This is the preferred option as it will enable Council to respond, where appropriate, to issues raised in submissions and finalise the Amendment which largely reflects Council's resolution of 18 December 2018 (MIN18.993).

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could postpone the finalisation of the Amendment.

3. Not adopt the recommendation.

Implications: This could stop or postpone the Amendment which largely reflects Council's resolution of 18 December 2018 (MIN18.993).

DE19.45

Background

The draft Amendment seeks to action changes resolved by Council following a Councillor Notice of Motion dated 18 December 2018 ([MIN18.993 – see CL18.351, page 12](#)). The key components of the Amendment include:

- Amending performance criteria P1.1 to address isolation of lots through land amalgamation to ensure medium density development may still occur on those lots.
- Changes to Table 2 and Figure 3, which apply setback provisions for dual occupancy development.
- Clarification that only water tanks and storage/clothes drying areas are to be excluded from landscaping calculations.
- Clarification that the provision of storage is encouraged.
- Deletion of the provision requiring 50% of the storage space to be located in the dwelling.
- Deletion of two performance criteria relating to Universal Design which are duplications of two objectives in that Section.

Chapter G13 applies where dual occupancy, multi dwelling housing, multi dwelling housing (terraces), attached dwellings, semi-detached dwellings, manor houses, integrated housing development, residential flat buildings, shop top housing, seniors housing, boarding houses, group homes and hostels are permissible with development consent.

Public Exhibition

In accordance with the resolution (MIN18.993), the Amendment package was publicly exhibited for a period of 30 days from 13 March to 12 April 2019 (inclusive).

Notices appeared in local newspapers on 13 March 2019. All Community Consultative Bodies (CCBs) and 89 development industry representatives were notified directly in writing.

The Amendment was exhibited at Council's Administrative Office, Bridge Road, Nowra during business hours, and could also be viewed at the Ulladulla Administrative Office and on Council's website. The exhibition material included: Explanatory Statement, Newspaper Advertisement and Draft Chapter G13: Medium Density Development and Other Residential Development detailing the proposed amendments.

As a result of the exhibition, nine (9) formal submissions were received including:

- Three (3) submissions from development industry representatives.
- Five (5) submissions from the community.
- One (1) submission from Council's Inclusion and Access Advisory Group (Note: not endorsed Group submission).

A detailed summary of the submissions with a Council staff response to all comments raised is provided in **Attachment 1**.

Copies of the actual submissions will also be available for review in the **Councillor's Room** prior to the meeting.

Resulting from the submissions received, two minor amendments are proposed to draft Chapter G13 as shown at **Attachment 2** - for convenience, the proposed post-exhibition changes are highlighted in yellow, with strikethroughs to note deletions.

In summary, the recommended post exhibition changes to the draft Chapter G13 are:

- Delete the following note in Table 2 of Chapter G13 to enable separation between the front and rear dual occupancy dwellings (in a detached arrangement) to provide and protect amenity:

Note: *No rear setback applies for the front dwelling (i.e. dwelling closest to the street) in a 'one behind the other' arrangement.*

- Insert new Acceptable Solution A5.2 as follows, and renumber following acceptable solutions accordingly:

A5.2 *Despite A5.1, where the predominant setback of the same street is greater than the setback contained in Table 2, the required setback must be compatible with the existing setbacks on the same street.*

Community Engagement

The draft Amendment was publicly exhibited for 30 days at the Nowra Administrative Building in accordance with legislative requirements. Nine (9) submissions were received which are summarised at **Attachment 1**.

Financial Implications

The finalisation of the Amendment will continue to be resourced within the existing Strategic Planning budget.



Summary of Submissions

Amendment 33: Chapter G13 Housekeeping Amendment

Public Exhibition: 13 March – 12 April 2019

| Number | Summary of Submission | Comments |
|--|--|---|
| 1 Hotondo South Coast Pty Ltd 3 PDC Lawyers and Planners 4 G.J. Gardner Homes Shoalhaven | Sections 5.1.3, 5.1.4, 5.3.4 Supports: <ul style="list-style-type: none"> Amended setback requirements for dual occupancies. Encouraging internal storage instead of mandating. Changes to landscaping exclusions. | Support noted. |
| 2 Individual | Section 5.1.3 The proposal deletes reference to lot length and infill development in determining front setbacks. The proposed changes permit higher density development that does not consider the existing character of the street, i.e.: <ul style="list-style-type: none"> Lot area does not necessary reflect the capacity or suitability of a lot to provide a specified setback. A 900m² corner or irregularly shaped lot may be unsuited to provide 7.5m setback. Alternatively, a 700m² regular shaped lot in an established neighbourhood can provide such a setback; By deleting "Infill development" the established character of a street, that is, the prevailing setbacks can be ignored; Existing residents will be disenfranchised from the development application process because the reduced setback to the established street frontage will no longer be a variation and will not be notified; This proposal is inconsistent with other Council policy, e.g.G12. | Supported in part. It is acknowledged that the exhibited changes to Chapter G13 are a large departure from the established characterisation of localities based on subdivision nature and size, which is also reflected in Chapter G12 (dwelling houses) of the DCP. Where a lot does not have the capacity or suitability to provide the specified setbacks, the variation mechanism in the DCP may be appropriate. There may be unforeseen implications relating to prevailing streetscape setback characteristics, however Performance Criteria P5.1 and P5.2 seek to protect prevailing building lines as follows: P5.1 The front setback is generally consistent with adjoining development and does not undermine the integrity of the prevailing building lines. |

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| | | <p>P5.2 The location and siting of the building complements the existing setbacks in proximity to the site, foreshore (if applicable) and the streetscape.</p> <p>To respond to this valid submission, it is appropriate to consider introducing a new acceptable solution similar to that in Chapter G12 for all medium density development, as follows:</p> <p>Despite A5.1, where the predominant setback of the same street is greater than the setback contained in Table 2, the required setback must be compatible with the existing setbacks on the same street.</p> <p>The note in Table 2 alludes to the fact that Council may consider a variation to the front setback where the “prevailing street character permits and the future desired character of the area is not prejudiced”.</p> |
| | <p>Section 5.1.3</p> <p>The removal of a 3m rear boundary setback to the front dwelling of a dual occupancy:</p> <ul style="list-style-type: none"> Compromises the provision of the private recreation to the (PRA) front dwelling; Presumes that the front dwelling can benefit from open space forward of the building line; Implies that the amenity of the front dwelling is less important than the more constrained rear dwelling. | <p>Supported. The removal of the 3m rear setback to the front dwelling of a dual occupancy development is likely to result in negative amenity impacts in relation to both the front and rear dwelling as well as flow on implications outlined in the submission.</p> <p>Importantly, private open space forward of the building line is not favoured due to the impact of that space on the streetscape, security and privacy concerns, and the expectation for 1.8m perimeter fencing.</p> <p>It is recommended that the following note in Table 2 be deleted:</p> <p>Note: No rear setback applies for the front dwelling (i.e. dwelling closest to the street) in a ‘one behind the other’ arrangement.</p> |
| 5 | <p>General</p> <p>Does not support Multi dwelling housing at Lake Tabourie and requests that the village “be exempt from these Development Plans”.</p> | <p>Not supported. Permissibility of development at Lake Tabourie is addressed via Shoalhaven LEP 2014. Shoalhaven DCP 2014 is not the appropriate mechanism to do this. The DCP cannot attempt to prohibit development that the LEP allows. Relevant matters will be considered as appropriate through the DA process.</p> |
| 6 | <p>Section 5.1.3</p> <p>Suggests that 30% of the boundary should be made available for zero setbacks.</p> | <p>Not supported. It is assumed that the submission relates to zero lot line development along a side boundary. Usually, as is the case with Moss Vale Road South URA, zero lot line development has one wall built on or close to one side boundary. Standard setbacks would apply to the other side boundary. Zero lot lines work best in relation to small lots and there are significant implications that would need to be considered more broadly, including:</p> <ul style="list-style-type: none"> Amenity impacts on adjoining properties. Whether easements for support and maintenance would be required. Compliance with Building Code of Australia requirements. |

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| | | The application of zero lot lines in a blanket fashion across Shoalhaven is not considered appropriate, without more detailed and specific design requirements. |
| 7 Individual | Section 5.3.3 The issue of private open space must be strictly adhered to. The area of private open space provided should not be “the lesser” unless Council is willing to provide parks so that “active and passive outdoor recreational activities and landscaping” is available in residential areas. | Not supported. The provision provides for a flexible approach to private open space which responds to the size of the dwelling. This acceptable solution means that a dwelling with a gross floor area (GFA) of 100m ² or above would be required to provide 50m ² of private open space. Dwellings with a GFA of 99m ² or less would need to provide private open space at a rate of 50% of the GFA. |
| | Section 8 Suggests that a private open space requirement for boarding houses should be applied at a size similar to dual occupancy development. | Not supported. State Environmental Planning Policy (Affordable Rental Housing) 2009 sets out a number of standards that cannot be used to refuse consent for a boarding house. One such standard is private open space. As such, as long as the following private open space is provided, consent cannot be refused: <ul style="list-style-type: none"> (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager— one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation, It is noted that where a DCP and SEPP provision conflict, the provisions in the SEPP will always prevail. As such, prescribing a large private open space area in the DCP would have no effect. |
| | Section 8 Suggests inclusion of a fourth objective as follows: “Encourage development that responds to the site and surrounding streetscape characteristics”. | Not supported. Due to the influence of the State Environmental Planning Policy (Affordable Rental Housing) 2009 in the assessment of boarding houses, it would be more appropriate to rely on the following overarching objectives of the chapter which apply to all development types within: <ul style="list-style-type: none"> i. Ensure a comprehensive design-oriented approach to housing resulting in high quality urban design, development and residential amenity. iv. Maintain and enhance the amenity of existing and future residential areas. |
| 8 Individual | Section 5.4.3 Suggests a hybrid for universal design, being the combination of the silver and gold (basic silver elements and essential gold) Liveable Housing standards, rather than just the silver, as this will make a place usable, adequate, and will deliver affordable, accessible and retrofittable dwellings that will suit the vast majority of people. | Not supported as part of this amendment. There is merit in reviewing the universal design standards in line with Council’s previous resolution of 18 December 2018, being (MIN18.1009): <i>That when Council considers the 2019/20 Strategic Planning Works Program, Council consider the preparation of a DCP Chapter related to</i> |

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|---|---|---|
| <p>9</p> <p>Certain members of the Inclusion & Access Advisory Group</p> | <p>Section 5.4.3</p> <p>Requests a gold Liveable Housing standard, rather than the silver. Alternatively, a hybrid, being the combination of the silver and gold, would be more appropriate than silver.</p> | <p><i>accessibility or the integration of accessibility requirements into relevant DCP Chapters.</i></p> <p>This project has been identified on the Strategic Planning Works Program.</p> |
|---|---|---|

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

HPERM Ref: D19/113261

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. External Consultation Submission Summary (under separate cover) [↗](#)
2. Proposed Post Exhibition Changes to Chapter G6 (under separate cover) [↗](#)

Purpose / Summary

- Report the outcomes of the combined public exhibition of Planning Proposal PP026 – Coastal Hazards Review (PP) and Development Control Plan (DCP) Amendment No. 20 Chapter G6: Coastal Management Areas.
- Enable the amendments to Shoalhaven Local Environmental Plan (LEP) 2014 and Shoalhaven DCP 2014 to proceed to finalisation.

Recommendation (Item to be determined under delegated authority)

That Council:

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

Options

1. As recommended.

Implications: This is the preferred option as it will ensure the amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014 proceed to finalisation. This will increase the dependability of Council's coastal risk information and address several housekeeping matters within Chapter G6: Coastal Management Areas.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, this could delay the progress of the amendments to Shoalhaven LEP 2014 and Shoalhaven DCP 2014.

3. Not adopt the recommendation.

Implications: This option is not preferred as the coastal risk planning maps will remain in Shoalhaven LEP 2014 resulting in lengthy delays to update these maps. The housekeeping matters for consideration in Chapter G6: Coastal Management Areas of

Shoalhaven DCP 2014 will remain outstanding, which will negatively impact upon the overall application and use of the Chapter.

Background

Public and private properties along the coast are at risk from coastal hazards such as beach erosion, shoreline recession, coastal entrance instability, sand drift, coastal inundation, storm water erosion, and slope instability. Council's planning instruments assist to manage this risk.

On 14 August 2018, Council's Development Committee resolved (MIN18.609) to:

1. *Endorse the Coastal Hazards Review Planning Proposal (PP026) (Attachment 1) and submit it to the NSW Department of Planning and Environment for Gateway determination*
2. *Following receipt of the Gateway determination, concurrently exhibit PP026 and draft Chapter G6: Coastal Management Areas of Shoalhaven Development Control Plan 2014 (Attachment 2), for a period of 28 days as per legislative requirements.*
3. *Support the preparation of the online coastal hazard mapping based on current coastal risk data.*
4. *Receive a further report on PP026 and draft Chapter G6: Coastal Management Areas following the conclusion of the public exhibition period.*
5. *Advise key stakeholders, including relevant Community Consultative Bodies, of this decision.*

The following is an overview of the PP and DCP amendment.

Planning Proposal

Seeks to amend the current coastal hazard related controls in the LEP by:

- Removing the Coastal Risk Planning Maps from the LEP (Note: detailed coastal hazard mapping is now publicly available on [Council's website](#));
- Amend Clause 7.4 Coastal Risk Planning to apply to all land at risk of coastal hazards identified within the Shoalhaven Coastal Zone Management Plan, coastal management programs and/or supporting studies.

The PP was submitted to the NSW Department of Planning and Environment (DP&E) following the August 2018 resolution and was granted a favourable Gateway determination on 24 October 2018. Council was not granted delegated authority to finalise the LEP amendment which means the PP will ultimately need to be submitted to DP&E for finalisation.

DCP Amendment

The proposed amendments to DCP Chapter G6: Coastal Management Areas respond to operational issues and matters that require clarification. The key changes are summarised below:

- Insert references to the Shoalhaven Coastal Hazard Interactive Mapping.
- Replace references to 2025 Zone of Reduced Foundation Capacity (ZRFC) with 2030 ZRFC throughout.
- Clarify that sites landward of Precinct 2 (i.e. 2100 ZRFC) have limited restrictions, not no restrictions.
- Include additional commentary and provisions relating to wave runup.

- Include Bendalong Boat Harbour Beach as a known area of beach erosion and/or oceanic inundation, and Narrawallee as a known area of cliff/slope instability.
- Insert references to recently adopted studies (e.g. Royal Haskoning DHV Report – Shoalhaven Coastal Cliffs and Slopes Risk Management Program – 2018).
- Clarify that the side setback requirements also apply to lots on the landward side of an unformed road that adjoins a waterfront reserve.
- Include several provisions adopted from Council Policy POL12/217 Coastal Areas – Planning and Development relating to mitigating loss of public amenity and managing aesthetic and environmental impacts on the foreshore and other public areas.
- Expand foreshore development controls in Section 5.2 to also apply to non-residential development.
- Include new provisions relating to public infrastructure on public land.
- Include provisions to reflect the revised content of the Generic Community Lands Plan of Management – Natural Areas and Foreshore Reserves Policy (e.g. Stormwater from adjoining residences should be managed via inter-allotment drainage and discharged directly into a stormwater facility of Council).
- Update all images to enhance the readability of the Chapter and consistency across the DCP.

Government Agency Feedback

Prior to public exhibition, the PP was referred to the NSW Office of Environment and Heritage (OEH) as required by the Gateway determination. The comments from OEH and the Council staff response is summarised in Table 1 below.

Table 1: OEH Comments on the Planning Proposal

| OEH Comments | Council Staff Response |
|---|---|
| Clearly demonstrate that removing the coastal hazard mapping will not affect or remove existing development controls for development on land subject to coastal hazards. | The PP was updated prior to exhibition to include the following additional commentary in Section 3.2 Map Change: <i>"It (the online coastal mapping) will be updated as and when Council adopts new or updated coastal risk data (for example, Coastal Zone Management Plan). The removal of the CRP Map from SLEP 2014 will not affect or remove existing development controls on land subject to coastal hazards."</i> |
| Clearly demonstrate that there is a legal planning mechanism in place to trigger and apply appropriate coastal hazard related development controls for land subject to coastal hazards. | The PP was updated prior to exhibition to include the following additional commentary in Section 2 Part 1 Intended Outcome: <i>"The SLEP 2014 will then be used in conjunction with the Shoalhaven Coastal Management Plan (CZMP) 2018 and the Shoalhaven Development Control Plan 2014 (SDCP) to apply appropriate development controls to areas at risk of coastal hazards as identified in the online coastal risk mapping."</i> |
| Clarify how the proposed mapping will be linked to the development controls within Shoalhaven LEP 2014 and Shoalhaven DCP 2014. | |
| Update the proposed amendment to Clause 7.4(2) as follows: "This clause applies to the land identified as being at risk of coastal hazards in Council's | The PP was updated prior to exhibition to reflect this request. |

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| Coastal Zone Management Plan, Coastal management programs and/or supporting studies.” | |
| Outline how the intent of the PP is consistent with the Shoalhaven Coastal Management Plan. | <p>The following additional commentary was included in Section 4.2.2 of the PP prior to exhibition: <i>“It is more appropriate to remove the CRP Mapping from SLEP 2014 and move the mapped coastal risk data to Council’s online mapping system. This will allow for more timely updates of new risk data in perpetuity.</i></p> <p><i>“The PP is considered consistent with this Action, as although the mapping is not included in SLEP 2014 or SDCP 2014, both draft documents refer to all risk areas, including the revised Advisian Risk Assessment Maps, via the content and relationship to the proposed online coastal risk mapping.”</i></p> |

Public Exhibition

In accordance with the Council resolution (MIN18.609) and Gateway determination, the PP and proposed DCP amendment were publicly exhibited for a period of 30 days, from 6 February to 8 March 2019 (inclusive).

Notices appeared in local newspapers on 6 February. All CCBs, Development Industry Representatives and affected landowners were notified directly in writing.

The combined PP and DCP amendment were exhibited at Council’s Administrative Office, Bridge Road, Nowra during business hours, and could also be viewed at the Ulladulla Administrative Office and on Council’s website. The exhibition material consisted of the following:

- [Planning Proposal \(PP026\) – Coastal Hazards Review.](#)
- [Draft DCP 2014 Amendment No. 20 Chapter G6: Coastal Management Areas.](#)
- [Explanatory Statement.](#)
- [Gateway determination, dated 24 October 2018.](#)
- [Agency consultation responses.](#)
- Newspaper advertisement.

As a result of the exhibition, twelve (12) formal submissions were received including:

- One (1) submission from a consultancy firm.
- Nine (9) submissions from the community.
- Two (2) internal Council submissions: Environmental Services and Strategic Planning Sections.

A detailed summary of the submissions with a Council staff response to all comments raised is provided in **Attachment 1**.

Copies of the actual submissions will also be available for review in the **Councillor’s Room** prior to the meeting.

Post-Exhibition Amendments

Resulting from the submissions received, various minor amendments are proposed to the Draft Chapter G6 as shown at **Attachment 2**. For convenience, the proposed changes are highlighted in yellow, with strikethroughs to note deletions.

The recommended post exhibition amendments to Draft Chapter G6 are summarised briefly below:

- Include a link to the Shoalhaven Coastal Hazard Interactive Mapping in Section 1.
- Amend the purpose to apply to development in areas of coastal risk instead of development in areas of coastal management.
- Amend the context to correct the number of beaches, bays and headlands and include a link to the Shoalhaven Coastal Zone Management Plan 2018.
- Remove the word physical from objective ii in section 4 Key Objectives.
- Remove reference to planned retreat in acceptable solution A1.9.
- Include the Narrawallee – Surfers Avenue/Bannister Head Road/Tallwood Avenue, Geotechnical Scoping Study and Stability Assessment, Douglas Partner 2012 within acceptable solution A2.1.
- Include additional wording to section 5.2 to correct a grammatical error.
- Remove reference to the Advisian hazard mapping and Shoalhaven Coastal Zone Management Plan as examples of properties identified but not studied.
- Include the 2016 Shoalhaven Coastal Mapping Review within Section 6.2.

No changes are required to the Coastal Hazard Review Planning Proposal following exhibition.

Policy and Risk Implications

Council will no longer rely upon the Coastal Risk Planning maps within Shoalhaven LEP 2014 to identify land subject to coastal risk. Instead, land subject to coastal risk will be identified by the Shoalhaven Coastal Zone Management Plan, coastal management programs and/or supporting studies.

This approach better manages coastal hazard risk for Shoalhaven. As information is obtained or updated the online mapping can be updated in a timely manner.

Financial Implications

Finalisation of the PP and draft DCP amendment will continue to be undertaken within the existing Strategic Planning budget.

DE19.47 New Proponent Initiated Planning Proposal - Appleberry Close, Meroo Meadow

HPERM Ref: D19/130924

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

Present a new proponent-initiated Planning Proposal (PP) that has been received to enable a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659, Appleberry Close, Meroo Meadow, for consideration and obtain direction.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Support the Planning Proposal to permit a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659 provided no additional lots or dwelling entitlements will be created, and the mechanism to achieve this outcome be determined in consultation with the NSW Department of Planning and Environment.
2. Prepare and submit the PP documentation to the NSW Department of Planning and Environment for Gateway determination, and dependent on the outcome proceed to exhibit the PP and report back to Council post-exhibition.
3. Advance as a 'minor' proponent-initiated Planning Proposal and fees be charged in accordance with Council's adopted Fees and Charges.
4. Advise the proponent of this resolution.

Options

1. Proceed with the PP as recommended.

Implications: This will allow the tenure of the land to be resolved without any significant broader planning impacts. This option is recommended.

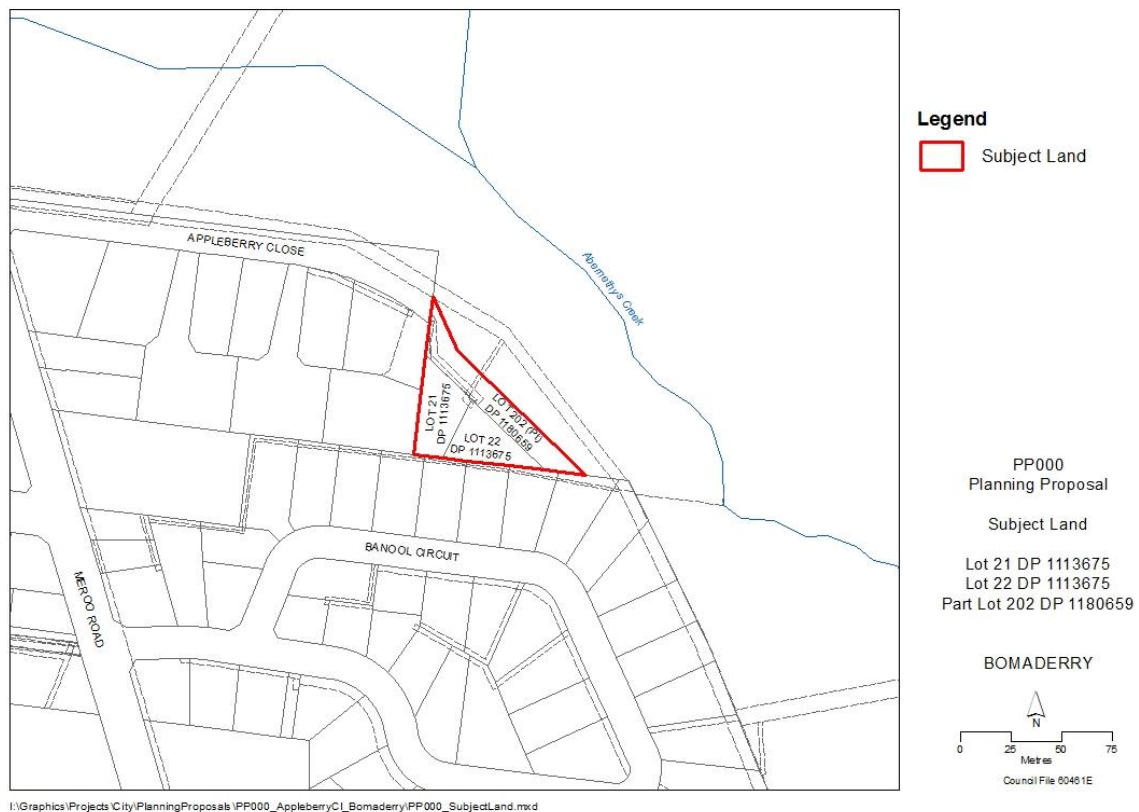
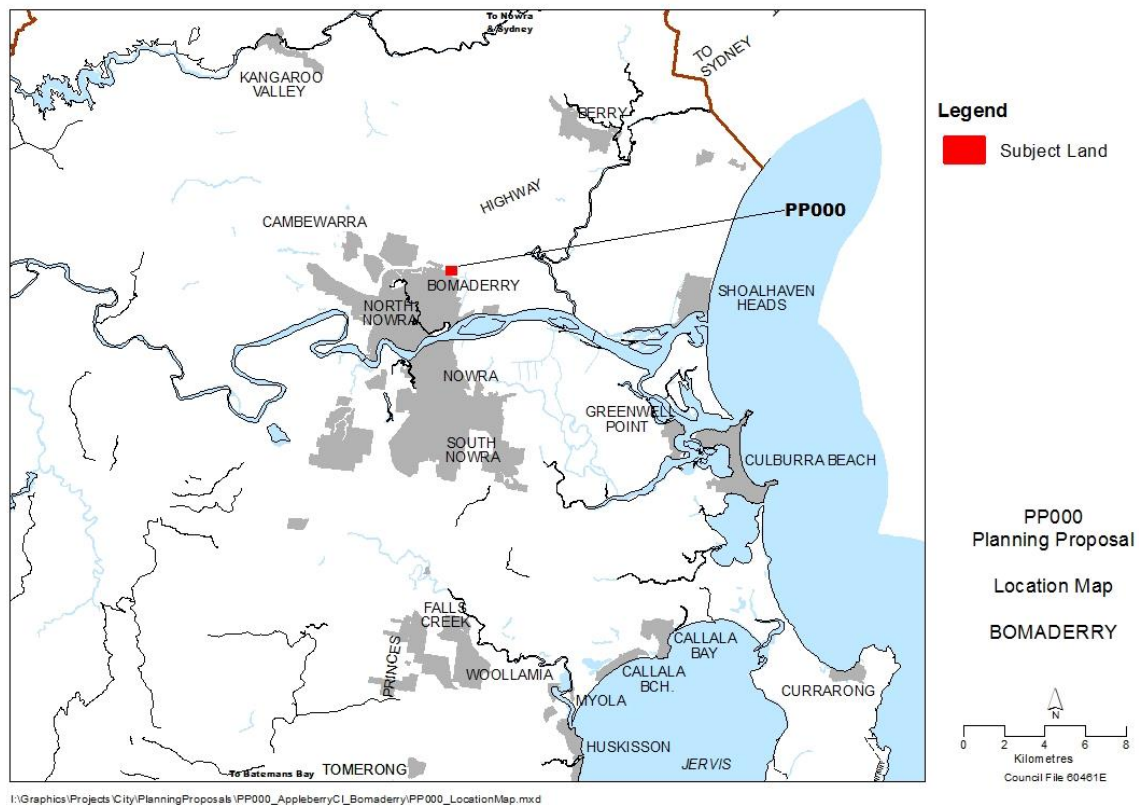
2. Not proceed with the PP.

Implications: The current, undesirable easement arrangements will continue for this land.

Background

The Subject Land

The subject land is located on the boundary of the Meroo Meadow/Bomaderry localities at the end of Appleberry Close and comprises Lots 21 & 22, DP 1113675 and Part of Lot 202 DP 1180659. Maps showing the location of the land are provided below:

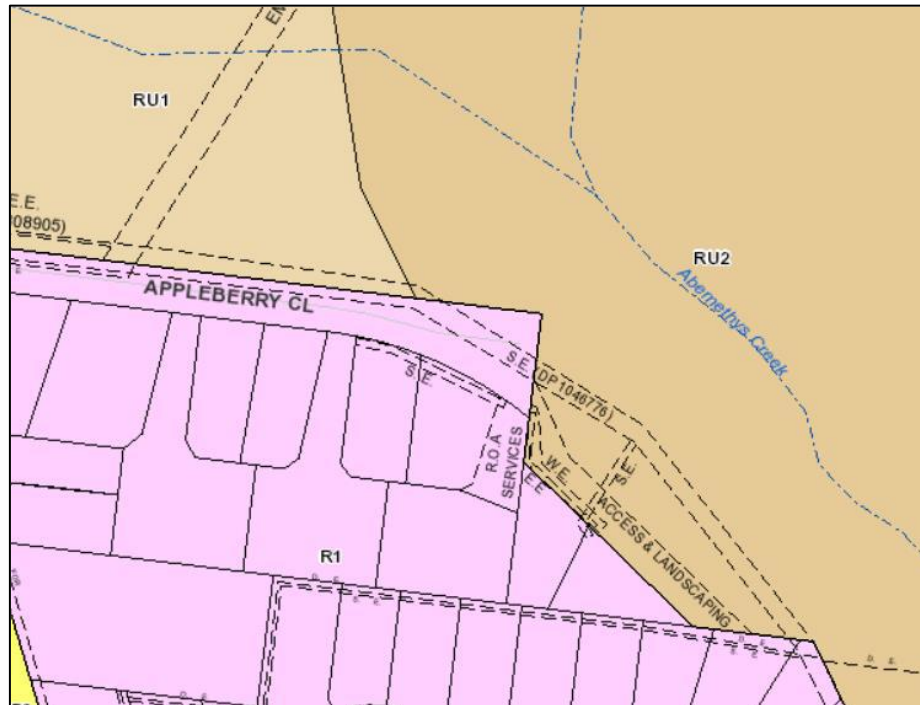


The subject land comprises Lots 21 and 22 DP 1113675, which are currently zoned R1 - General Residential under the Shoalhaven Local Environmental Plan (LEP) 2014, and part of Lot 202 DP 1180659, which is zoned RU2 – Rural Landscape under the LEP and is a larger

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rural lot that is subject to covenants (access, landscaping etc) benefiting the smaller residential lots.

The following map shows the zoning of the subject land the immediate area:



Each residential lot (Lots 21 & 22) is occupied by an existing approved dwelling. The covenants over the rural lot give Rights of Carriageway and use of the land for private open space to the smaller lots.

Lot 21 – has an existing area of 831 sq. metres and is owned by Duncan Brown

Lot 22 – has an existing area of 761 sq. metres and is owned by Peter Russell

Lot 202 – has an existing overall area of 37ha and is owned by Allan Wallace

An aerial photograph of the subject land is provided below:

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Planning History

Prior to the adoption of the Nowra-Bomaderry Structure Plan (NBSP) in 2007, the subject land was originally part of a road corridor for the proposed “Northern Industrial Road”. This road was intended to provide a new road for industrial traffic to avoid the residential areas of Bomaderry and a perimeter road for the residential area north of Edwards Avenue and east of Meroo Road. Some of the subdivisions in this area considered the alignment of the proposed road.

The NBSP process reconsidered the suitability of adjoining rural land which is flood affected and the need for the proposed road. The adopted NBSP did not include the “Northern Industrial Road” and identified the land as a “Scenic Protection Area”. The dwellings on Lots 21 and 22 were subsequently approved.

The decision not to proceed with the “Northern Industrial Road” did not, however, resolve the awkward geometry of these lots, nor did it provide road access to them. These issues were resolved by easements over the adjoining rural land.

A PP request was submitted to Council on 5 February 2019 and can be accessed on Council’s website at: <https://shoalhaven.nsw.gov.au/Planning-amp-Building/Strategic-planning/Planning-Proposals>

This PP seeks to allow boundary adjustments so that each of the residential lots will own its access handle and private open space, as opposed to it being located on land in another ownership as is currently the case. The PP was submitted by Allen Price & Scarratts Pty Ltd on behalf of the landowners.

The PP notes that no additional residential or dwelling entitlements will result from the proposed minor rezoning and extension of the existing residential zone.

Strategic Planning Overview

A preliminary strategic planning assessment of the proposal is provided below:

Shoalhaven Local Environmental Plan 2014

The current provisions of Shoalhaven LEP 2014 do not permit a boundary adjustment of this nature to resolve this issue. The boundary adjustment would result in two undersized allotments within the rural zone and this is not permissible under the LEP. The land is not identified as a scenic protection area under the LEP.

Nowra-Bomaderry Structure Plan 2007

The NBSP mapping shows the land as being the boundary of urban Bomaderry with rural Meroo Meadow. It also shows the land as part of a “Scenic Protection Area”.

The boundary adjustment that would be permitted by this PP will not significantly alter the intended boundary for Bomaderry’s urban area nor will it change the visual character of the landscape given that the land is currently being used in association with the existing dwellings.

The PP is considered to be minor and not inconsistent with any provisions of this plan.

Shoalhaven Growth Management Strategy 2012

The GMS largely adopts the findings and provisions of the NBSP and does not contain any additional provisions that are relevant to this PP.

Planning Proposal (Rezoning) Guidelines 2018

Council’s PP guidelines provide that Council is “more likely to support a PP request” if it meets one of three criteria of which, the third is “Council is satisfied that the proposed amendment is minor and has sound justification”.

The subject PP will not result in any additional dwelling opportunities nor will it alter the pattern of development of the land. It is considered to be of a minor nature.

The PP will, however, provide a better outcome for the tenure of the land and this provides adequate justification for a PP of this nature.

The PP will not require any specialist studies and therefore classified as ‘minor’ under the PP guidelines.

NSW Guide to Preparing Planning Proposals

The NSW Government’s Guide to Preparing Planning Proposals provides an assessment framework for PPs. This framework requires the planning authority (Council) to consider several questions in determining the merit of a PP. These are considered below:

Q1. Is the PP a result of any strategic study or report?

The PP is not the result of a strategic study or report. The PP is minor and is not of a kind that would generally be identified in a broad strategic planning process.

Q2. Is the PP the best means of achieving the intended outcome or is there a better way?

The proposed boundary adjustments are prohibited under Shoalhaven LEP 2014. There is no State Environmental Planning Policy that provides a mechanism to permit the boundary adjustments. A PP is the only way to achieve the desired outcome.

The form of the plan amendment is to be determined in consultation with DP&E as part of the Gateway determination process. It is intended to find the best possible form for the PP before it is finalised.

Q3. Is the PP consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategy)?

The PP is minor and is not of a kind that would result in any inconsistencies with a regional, sub-regional or district plan or strategy.

Q4. Is the PP consistent with a council's local strategy or other local strategic plan?

As previously noted in this report, the PP is consistent with the NBSP and GMS.

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

The PP is minor and not of a kind that would result in any inconsistencies with a State Environmental Planning Policy.

Q6. Is the PP consistent with applicable Ministerial Directions?

The PP is not inconsistent with any Ministerial Direction. In the drafting of any plan amendment, careful consideration will need to be given to Direction 6.3 Site Specific Provisions to ensure the detail of the instrument is consistent with this direction.

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

The PP will not result in the removal of any native vegetation or habitat. No adverse biodiversity impacts are anticipated.

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

No adverse environmental impacts are anticipated.

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

No adverse social or economic effects are anticipated.

Q10. Is there adequate public infrastructure for the PP?

The PP will not give rise to any additional infrastructure needs.

Q11. What are the views of the state and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been undertaken at this early stage.

Conclusion

The PP is minor and consistent with applicable State Government and Council policies and plans.

Community Engagement

Adjoining and directly affected land owners were advised on the PP. One resident met with Council staff to discuss the PP but did not raise any concerns with it progressing further. No written submissions were sought or received.

Should the PP receive a favourable Gateway determination it will be formally publicly exhibited as part of the process.

Policy Implications

The PP is consistent with Council's Planning Proposal (Rezoning) Guidelines.

Financial Implications

The PP is proposed to be managed as a minor, proponent funded PP. It is to be funded by the proponent on a 100% cost recovery basis.

DE19.48 Jerberra and Verons Estates - Biodiversity Assessment - Clause 34A Certification

HPERM Ref: D19/140355

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments:

1. Clause 34A Biodiversity Conservation (Savings & Transitional) Regulation 2017 [↓](#)
2. Follow-up correspondence to OEH (under separate cover) [⇒](#)
3. Jerberra Estate cl 34A certification & cover letter [↓](#)
4. Verons Estate cl 34A certification & cover letter [↓](#)

Purpose / Summary

To advise Council that the planning controls for Jerberra Estate (Tomerong) and Verons Estate (Sussex Inlet) have each been certified as 'relevant planning arrangements' under Clause 34A of the Biodiversity Conservation (Savings and Transitional) Regulation; outline the implications of this; and initiate the process of amending the respective site-specific chapters in Shoalhaven Development Control Plan (DCP) 2014.

Recommendation (Item to be determined under delegated authority)

1. Receive the update on the Clause 34A certification provided for Jerberra and Verons Estates for information.
2. As a way of removing uncertainty, adopt a policy position for Jerberra Estate that requires appropriate covenants to be registered on property titles as part of the development approval process to ensure the areas listed below are managed for conservation into the future:
 - a. Bushland Management Area (BMA)
 - b. Bushland Conservation Area (BCA)
 - c. Orchid Management Area (OMA)
3. Commence to amend the Shoalhaven Development Control Plan (DCP) 2014 to update Chapter N20 (Jerberra Estate) and S1 (Verons Estate) because of the Clause 34A certification for each Estate, including the following:
 - a. the addition of a specific provision in Chapter N20 to establish covenants outlined in part 1. to ensure the clause 34A certification remains legally valid in Jerberra Estate
 - b. update references to legislation
 - c. make other changes as required to improve the effectiveness and readability of both chapters.

Options

1. Update the DCP Chapters to reflect changes to legislation including the Clause 34A certification.

Implications: Changes to both chapters are needed to clarify the assessment process because of the Clause 34A certification, to assist landowners/applicants and development assessment staff. In respect of the Jerberra Estate chapter (Chapter N20), including a specific requirement for covenants to be placed on the relevant property titles

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will clarify the situation for all stakeholders and ensure that the Clause 34A certification remains legally valid.

2. Amend DCP Chapters N20 or S1 but not include a requirement for covenants to be placed on the relevant property titles in Jerberra Estate (Chapter N20).

Implications: The Clause 34A certification applies to the LEP and DCP controls in effect at the day of certification. Hence, amending the DCP and not including a requirement for the establishment of covenants will make the 34A certification invalid.

3. Not amend DCP Chapters N20 or S1.

Implications: This will result in uncertainty and confusion for both landowners and assessment staff.

Background

Widespread changes were made to biodiversity laws by the NSW Government in 2016. Central to this is the Biodiversity Conservation Act 2016 (BC Act), which includes a new Biodiversity Assessment Methodology (BAM) for assessing the impact of development on biodiversity and a biodiversity impact offset scheme.

The supporting regulations include a savings provision that allows development applications in areas where a 'relevant planning arrangement' was in place prior to commencement of BC Act to be assessed under the previous legislation. Clause 34A of the Biodiversity Conservation (Savings & Transitional) Regulation 2017 is provided as **Attachment 1**.

To be certified as a relevant planning arrangement, the NSW Office of Environment & Heritage (OEH) must be satisfied that:

1. the biodiversity impacts of the proposed development were assessed before the commencement of the BC Act; and
2. conservation measures have been secured into the future to offset the residual impact of the proposed development on biodiversity values.

Jerberra Estate and Verons Estate are 'paper subdivisions' for which planning proposals (PPs) were finalised in 2014. The biodiversity values in each Estate were comprehensively assessed and considered as part of the PP process, and detailed planning provisions were developed for each estate to ensure that biodiversity will be protected in conjunction with allowing limited residential development. Both PPs were finalised in 2014 and the resulting Local Environmental Plan (LEP) provisions are supported by detailed site-specific chapters in the Shoalhaven Development Control Plan (DCP) 2014.

While the planning controls for each Estate have the same overall objective of achieving a balance between allowing appropriate development while protecting important environmental values, there are some differences in the detailed controls for each estate given their different natures. These differences largely reflect the differences in lot sizes between the two subdivisions. The lots in Jerberra Estate are considerably smaller (less than 1,000 m² up to 1.7 ha) and therefore the planning controls are more prescriptive and 'master-planned' in detail compared to Verons Estate, where all the lots are 8 ha.

Detailed information on the planning controls for each Estate is available on Council's webpage via the following link:

<https://shoalhaven.nsw.gov.au/Planning-and-Building/Strategic-planning/Paper-subdivisions>

Infrastructure and development update

Special rates are in place to fund the provision of essential infrastructure in each Estate, so that they can be safely and appropriately developed. Information on the special rate arrangements is also available via the above link. Brief updates on the status of the infrastructure and development of the lots in each Estate is provided below.

Jerberra Estate

The provision of road and electricity infrastructure in the Estate is essentially complete.

The planning controls enable up to 87 dwellings to be approved, of which 56 were on 'stand-alone' lots and 31 require amalgamation of 2 or more lots. Of the 31 property amalgamations that are needed to secure a 'dwelling entitlement', 15 have occurred and significant progress has been made in respect of another 2 (both involve more than 2 lots).

At the time of writing, 11 dwellings have been approved in Jerberra Estate under the new planning controls, and another 13 are being assessed. It is understood that several other landowners are in the process of preparing applications.

Verons Estate

Upgrading of the road infrastructure in the Estate commenced in April 2019.

The planning controls enable one dwelling per lot to potentially be approved on Lots 1 to 19. It has also been confirmed that Lots 20, 28 and 29 are '1964 holdings' and therefore a dwelling can potentially be approved on each of these Lots.

One application for a dwelling has been approved under the new planning controls and no applications are under assessment. An increase in development activity is expected once the road infrastructure has been completed.

Certification requested under Clause 34A - March 2018

On 15 March 2018, Council wrote to OEH requesting that the planning controls for Jerberra and Verons Estates be certified as 'relevant planning arrangements' under Clause 34A.

A lengthy delay ensued despite consistent follow up to have the matter resolved. It later became clear that the primary reason for the delay was that OEH's legal services division had reservations in relation to the Jerberra Estate planning controls and certainty.

Council staff were advised that OEH's concern was that the conservation measures detailed in the Jerberra Estate DCP did not include a requirement to establish a legally-binding conservation mechanism over the land (this is already a requirement in the Verons Estate DCP chapter). It was suggested that to secure the desired 34A certification, it may be necessary to amend the existing DCP to include a specific requirement for owners to establish covenants over their land as part of the development approval process.

To break the deadlock, Council's wrote to OEH on 27 February 2019 and advised that Council could resolve to require the establishment of positive covenants on the relevant properties in the Estate as part of their development. The letter noted that Council did not necessarily need to amend the DCP to impose this requirement on consents. The letter stated that:

While we have no issue with amending the DCP to make this requirement explicit, the process of doing this will take at least 5-6 months. This delay would have a major impact on the landowners seeking to develop their land. We currently have 8 development applications that cannot be assessed because of this issue (without BDARs) and many other landowners are seeking to lodge applications.

To ensure the Jerberra Estate matter was prioritised, the letter was sent to the CEO of OEH and also to Shelley Hancock MP and Gareth Ward MP. Council's letter to OEH dated 27

February 2019 (and preceding letters to OEH) is provided in **Attachment 2** (under separate cover).

Outcomes and implications

Verons Estate

The Verons Estate planning controls were certified as a 'relevant planning arrangement' by OEH on 11 March 2019. A copy of the certification order is provided in **Attachment 3**.

Thus, development applications that comply with the biodiversity provisions in Shoalhaven LEP 2014 and Shoalhaven DCP 2014 Chapter S1, will be assessed under the legislation that applied before the BC Act commenced.

Development applications that comply with the Estate's planning controls need to be accompanied by an assessment of significance, known as a '7-part test' prepared by an appropriately qualified person. To satisfy this requirement landowners would need to approach the NSW Biodiversity Conservation Trust to request that a draft Conservation Agreement (CA) be prepared and then submit the draft CA with their application.

Applications that do not strictly comply with the biodiversity controls must be assessed under the BC Act. In most, if not all cases, a Biodiversity Development Assessment Report (BDAR) will be required. As is required by the legislation, any resulting credit requirements must be retired before a construction certificate can be issued.

DCP Chapter S1 will need to be amended to reflect these changes. Several other updates are needed to reflect other legislative changes and make improvements identified since the Chapter commenced in 2014.

Jerberra Estate

The Jerberra Estate planning controls were certified as a 'relevant planning arrangement' by OEH on 12 April 2019. A copy of the certification order is provided in **Attachment 4**.

As noted in OEH's cover letter, the certification is based on the understanding that Council will commit to condition approvals to require establishment of covenants on those properties with bushland conservation area (BCA) or bushland management area (BMA); and that DCP Chapter N20 will also be amended to make this a specific requirement.

Some landowners have expressed concerns about this requirement. At the time of preparing this report, Council staff were in the process of drafting conditions of consent to ensure consistency with Clause 34A. To facilitate the process, a covenant template is also being prepared. The process will not be overly onerous or costly, particularly in comparison to the cost of preparing a BDAR and meeting the offset requirements. Furthermore, this will not affect any land which is not already identified for conservation purposes in the existing planning controls, but importantly, the restrictions and management obligations should be disclosed to prospective purchasers prior to purchase.

Development applications which meet the biodiversity provisions in the Jerberra Estate planning controls will be assessed under the legislation that was in place prior to the BC Act. Council previously commissioned an overall 7-part test to minimise the need for individual landowners to commission their own assessment. The Clause 34A certification enables this streamlined approach to be used again. This approach was not appropriate for Verons Estate because the precise location and extent of development on each lot is to be determined at development application stage (because the lots are considerably larger).

Any applications that do not strictly comply with the Estate's planning controls will need to be assessed under the BC Act, which in most cases will require a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor. As is required by the legislation, any resulting credit requirements must be retired before a construction certificate can be issued. If a BDAR is not required, the owner will require a 5-part test prepared in

accordance with the BC Act. Regardless of the assessment pathway, appropriate conditions will be included in consents to ensure the BMA/BCA/OMA are managed for conservation purposes into the future.

Proposed amendments to DCP Chapters N20 and S1

The biodiversity sections of both DCP Chapters now need to be amended because of the Clause 34A certification to clarify the biodiversity assessment pathways. As outlined above, it is intended to clarify the requirement in Chapter N20 for covenants to be established over the BMA and BCA.

Several other changes are proposed to both Chapters such as updating references to legislation which has changed, changes to improve readability and effectiveness, and to respond to other issues that have been identified through application of each Chapter since commencement (this primarily concerns Chapter N20).

This report includes a recommendation to initiate the process of amending Chapters N20 and S1 of Shoalhaven DCP 2014.

Community Engagement

Council has written to landowners in each Estate advising of the Clause 34A certification. Should Council resolve to initiate the process of amending the DCP as recommended, the following steps will be undertaken:

1. Prepare the draft revised Chapters and report to Council before formally engaging with the community.
2. Publicly exhibit the draft changes to DCP Chapters N20 and S1 and consult with the relevant stakeholders.
3. Report the outcomes of the formal community engagement process to Council for adoption.

Policy Implications

This report includes a recommendation to establish a policy position to require the establishment of covenants on the relevant properties in Jerberra Estate. This will avoid any uncertainty regarding Council's position prior to amendment of the DCP and is consistent with the outcome expected by OEH that allowed the Clause 34A Certification to be issued.

Financial Implications

The proposed amendment to the DCP will be resourced within the existing Strategic Planning budget.

Biodiversity Conservation (Savings and Transitional) Regulation 2017

Current version for 8 February 2019 to date (accessed 6 May 2019 at 11:50)

[Part 7](#) ▶ [Clause 34A](#)

34A Part 3A concept plan approvals, or other planning arrangements, subject to previous assessment and offsetting

- (1) This clause applies to a development application that is made under the *Environmental Planning and Assessment Act 1979* in respect of proposed development that is certified under this clause.
- (2) Part 7 of the Act does not apply to the determination of a development application to which this clause applies but the former planning provisions apply instead.
- (3) The Secretary of the Department of Planning and Environment may certify, by order in writing:
 - (a) that the proposed development the subject of a development application is part of a concept plan approval and the biodiversity impacts of the proposed development were satisfactorily assessed before the commencement of the Act as part of the concept plan approval, and
 - (b) that conservation measures have been secured into the future (by a planning agreement, a land reservation or otherwise) to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts.
- (4) The Environment Agency Head may certify, by order in writing:
 - (a) that the proposed development the subject of a development application is part of a relevant planning arrangement and the biodiversity impacts of the proposed development were satisfactorily assessed before the commencement of the Act as part of the relevant planning arrangement, and
 - (b) that conservation measures have been secured into the future (by a planning agreement, a land reservation or otherwise) to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts.
- (5) Proposed development the subject of a specified development application, or proposed development the subject of all or any pending or future development applications that are part of a specified concept plan approval or relevant planning arrangement, may be certified under this clause.
- (6) This clause applies in addition to any other provision of this Part that applies the former planning provisions to the determination of a development application.
- (7) In this clause:

concept plan approval means an approved concept plan (whether approved before or after the repeal of Part 3A of the *Environmental Planning and Assessment Act 1979*) in respect of a transitional Part 3A project within the meaning of Schedule 6A to that Act.

Biodiversity Conservation (Savings and Transitional) Regulation 2017 [NSW]

development application includes an application for the modification of a development consent.

relevant planning arrangement means an arrangement associated with the making of an environmental planning instrument or development control plan under the [*Environmental Planning and Assessment Act 1979*](#), the grant of concurrence under that Act or the making of any other application or request under that Act.

DE19.48 - Attachment 1



Office of
Environment
& Heritage

DOC19/214992
2653E (D18/75904)

Mr Russ Pigg
General Manager
Shoalhaven City Council

By email: council@shoalhaven.nsw.gov.au

Dear Mr Pigg

Thank you for your letters regarding certification of the Jerberra Estate Development under clause 34A of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.

I am writing to advise that following a detailed review of the information provided, I am satisfied the planning arrangements for the Jerberra Estate Development meet the requirements of clause 34A. I have therefore decided to certify the planning arrangement as set out in the attached certification order.

While the order certifies the Development Control Plan and Local Environment Plan as they are currently made, I also note Shoalhaven City Council is committed to further improving the security of the Bushland Conservation Area and Bushland Management Area identified in the Shoalhaven Development Control Plan. These areas are considered to form the conservation measures to offset biodiversity impacts of the proposed development under the certification.

Consistent with your letter of 12 March 2019, I am pleased that council is committed to ensuring these areas are further secured through positive covenants registered on title, such as section 88B certificates under the *Conveyancing Act 1919*, as the lots are developed. I understand this will be achieved through an amendment to the Development Control Plan, and through conditions of consent for any development granted consent before the Development Control Plan amendment is made.

The implication of the clause 34A certification is that all future development applications for the Jerberra Estate Development, identified as land in the Shoalhaven Local Environment Plan (Jerberra Estate) 2014, do not require assessment under the *Biodiversity Conservation Act 2016*.

Instead, the former planning provisions apply with respect to assessment of biodiversity impacts. If the planning arrangements were to be weakened or revoked, future developments would no longer have the benefit of this certification.

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Page 2

Should you have any further queries regarding this matter, please contact Michael Saxon, Director South East, on 6229 7107 or at michael.saxon@environment.nsw.gov.au. I would also be grateful if you could consult with Mr Saxon on the amendment to the Development Control Plan.

Yours sincerely



Anthony Lean
Chief Executive 12/4/2019

Enclosure: Certification order

DE19.48 - Attachment 3

ORDER PURSUANT TO CLAUSE 34A (4) OF THE BIODIVERSITY CONSERVATION (SAVINGS AND TRANSITIONAL) REGULATION 2017

I, Anthony Lean, Chief Executive of the Office of Environment and Heritage (OEH), certify under clause 34A(4) of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* that:

- a) the Jerberra Estate Development is part of a relevant planning arrangement for which the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and
- b) conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future.

Proposed development the subject of a development application is only certified by this order if it strictly complies with the provisions of the relevant planning arrangement.

For the purposes of this order:

- 1) the **Jerberra Estate Development** comprises development on land identified in clause 1.3 of the *Shoalhaven Local Environmental Plan (Jerberra Estate) 2014*.
Note: the land has been identified on the map at Attachment A to this Order.
- 2) The **relevant planning arrangement** is the *Shoalhaven Local Environment Plan (Jerberra Estate) 2014* as in force on the day this Order is made and Chapter N20: Jerberra Estate in the *Shoalhaven Development Control Plan 2014* as in force on the day this Order is made.

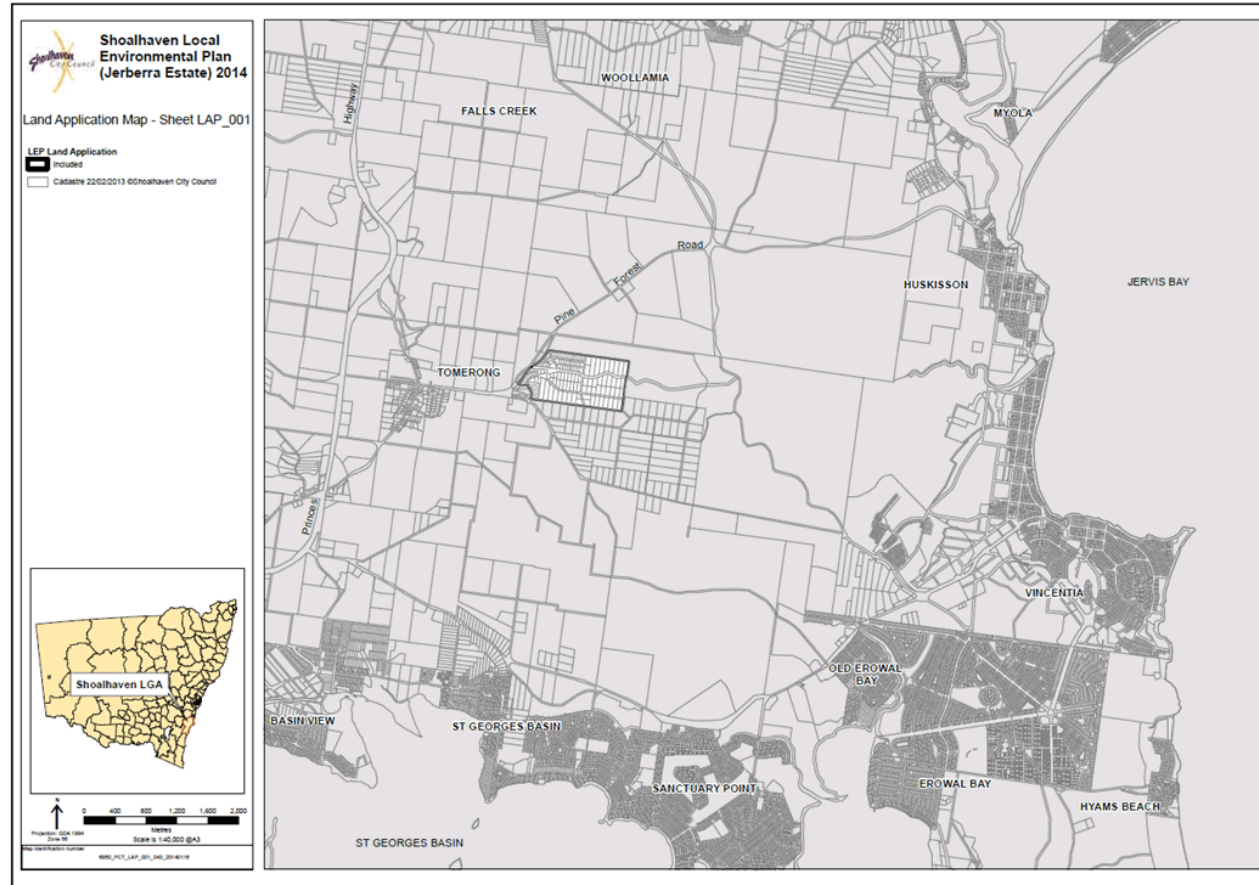


Anthony Lean
Chief Executive
Office of Environment and Heritage

12 APRIL 2019

Date

Attachment A





**Office of
Environment
& Heritage**

Our reference: DOC18/838711-9
Your reference: 2653E (D18/75904)

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

By email: council@shoalhaven.nsw.gov.au

Dear Mr Pigg

**RE: Request to certify Verons Estate Development under clause 34A of the Biodiversity Conservation
(Savings and Transitional) Regulation 2017**

Thank you for your letter of 15 March 2018, and further letter of 5 October 2018, requesting certification of the Verons Estate Development under clause 34A of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.

I am writing to advise you that following a detailed review of the information provided, I am satisfied that the planning arrangements for the Verons Estate Development meet the requirements of clause 34A. I have therefore decided to certify the development as set out in the attached certification order.

The implication of this order is that all future development applications for the Verons Estate Development, identified as land in the Shoalhaven Local Environment Plan – Amendment 1, do not require assessment under the *Biodiversity Conservation Act 2016*. Instead the former planning provisions apply with respect to assessment of biodiversity impacts.

The certification sets out a requirement for all proposed development to comply with the relevant planning arrangement. The relevant planning arrangement is Chapter S1: Verons Estate, Sussex Inlet in the Shoalhaven Development Control Plan 2014 (DCP). Page 13, A7.1 of the DCP prescribes three options for applying a legally binding conservation agreement or equivalent to secure offsets. These mechanisms are no longer available following the introduction of the Biodiversity Conservation Act 2016. Instead equivalent conservation measures will need to be used, as provided for in the DCP. OEH considers that the following mechanisms under the Biodiversity Conservation Act 2017 to be equivalent to those listed in the DCP:

1. Biodiversity Stewardship Agreements
2. Conservation Agreements

Should you have any further queries regarding this matter please contact Kelly Carbery, A/Senior Team Leader Planning on 02 9995 6727 or at kelly.carbery@environment.nsw.gov.au.

Yours sincerely

Jane Gibbs
Director

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ORDER PURSUANT TO CLAUSE 34A(4) OF THE BIODIVERSITY CONSERVATION (SAVINGS AND TRANSITIONAL) REGULATION 2017

I, Jane Gibbs, Director, Planning and Risk of the Office of Environment and Heritage (**OEH**), as delegate of the Chief Executive of OEH, certify under clause 34A(4) of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* that:

- a) the Verons Estate Development is part of a relevant planning arrangement for which the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and
- b) conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future.

Proposed development the subject of a development application is only certified by this order if it strictly complies with the provisions of the relevant planning arrangement.

For the purposes of this order:

- 1) the **Verons Estate Development** comprises development on land at Sussex Inlet, being Lots 1-32, DP 9897 identified on the map at Attachment A to this Order.
- 2) the **relevant planning arrangement** is the Shoalhaven Local Environmental Plan 2014 (Amendment No 1) as in force immediately before its repeal and Chapter S1: Verons Estate, Sussex Inlet in the Shoalhaven Development Control Plan 2014 as in force on the day this Order is made.

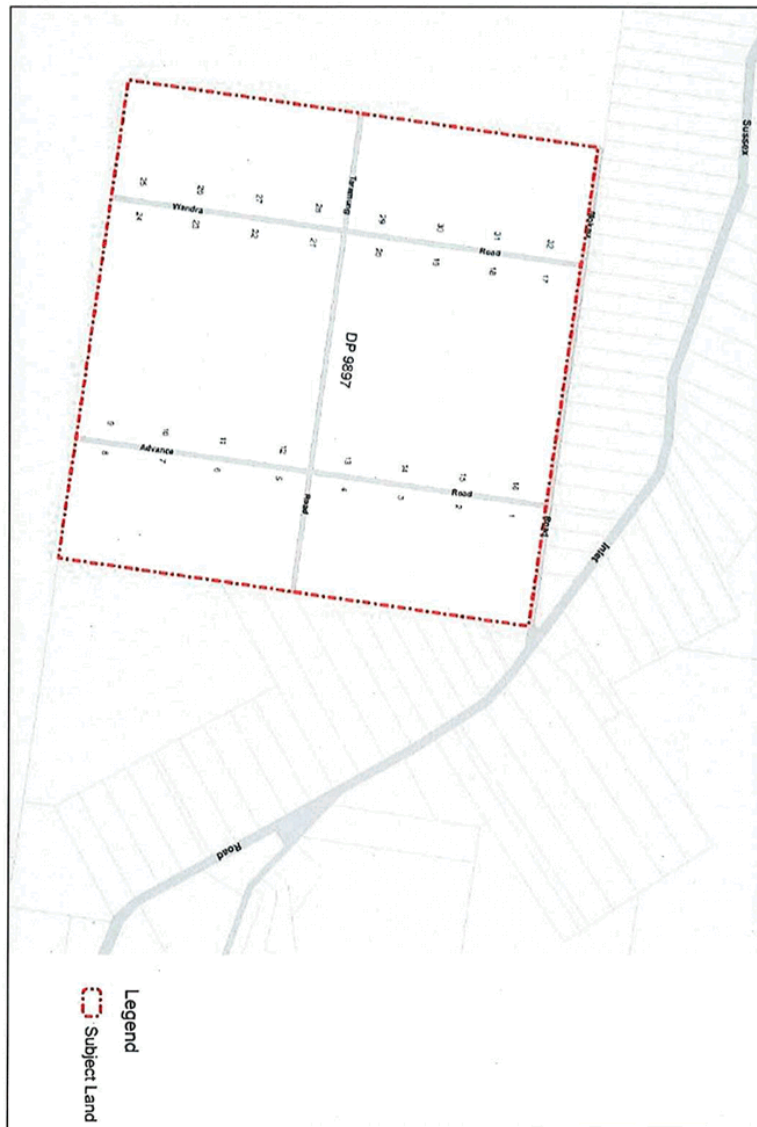
Jane Gibbs

Jane Gibbs
Director Planning and Risk
Office of Environment and Heritage

4.3.2019

Date

Attachment A: Verons Estate Development



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.