

## SHOALHAVEN CITY COUNCIL

### SPECIAL DEVELOPMENT COMMITTEE

To be held on Tuesday, 20 August, 2013  
Commencing at 4.00 pm.

14 August, 2013

Councillors,

#### NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, **to be held in Council Chambers, City Administrative Centre, Bridge Road, Nowra on Tuesday, 20 August, 2013 commencing at 4.00 pm** for consideration of the following business.

R D Pigg  
General Manager

#### Membership (Quorum – 5)

Clr White – Chairperson  
All Councillors  
General Manager or nominee

#### BUSINESS OF MEETING

1. Apologies
2. Declarations of Interest
3. Deputations
4. Notices of Motion

Dolphin Reserve, Currarong  
116 & 118 St Vincent Street, Ulladulla, 22 Prince Alfred Street, Berry and  
53 Isa Road, Worrigeer

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:

- a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
- b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
- c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP's or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

#### Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

# **LOCAL GOVERNMENT ACT 1993**

## **Chapter 3**

### **Section 8(1) - The Council's Charter**

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

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**NOTICES OF MOTION**  
**SPECIAL DEVELOPMENT COMMITTEE**

**TUESDAY, 20 AUGUST, 2013**

**1. Dolphin Reserve, Currarong**

**File 33363E**

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The following Notice of Motion is submitted for the committee's consideration:

**That the following item be introduced as item of business before the Special Development Committee.**

**The zoning and classification of Dolphin Reserve Currarong.**

Signed  
Clr Watson  
Clr Guile

**Background:**

The following representation has been received:

"My husband and I own a tourism property, the "Seafarers Cottages" - the three cottages opposite the shops at Currarong. We have written to council (G. Clark) and spoken to the previous head of planning (P. Adams) about the possibility of including a re-zoning of a small portion of this property in the LEP but as yet have had no response. We are contacting you directly in the hope that some urgent action can be taken.

All the beachfront reserve properties backing onto the Dolphin Reserve have fence lines supposedly "encroaching" approx. 10 feet into the reserve. This is because Henry Halloran made an error when he marked out the subdivision in the 1930s. Our cottages were the first dwellings to be built and as such contribute significant heritage value to the village.

The encroachment issue came to light when we put in a development application to renovate the cottages in 2010. The main issue is that the cottage closest to the beach has a footprint encroaching about 4 ft into the 10 ft zone.

Whether the error was on Mr Halloran's original subdivision drawings or in the marking out of the blocks, no one can be certain. The 10 ft zone has always been fenced and has never been accessible to the public as all property owners were not aware of the mistake and were of the understanding that it was their true boundary.

The matter was further complicated when the Dolphin Reserve land was given to the council in 1965 by Mr Halloran. It appears that at this time the encroachment remained unknown and the all assumed the existing fence lines etc to reflect the actual legal land

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boundaries. Thus the 10 foot strip at the rear of these five properties was unknowingly transferred into council ownership.

In 1985 the land of the park which was now made up of several land titles, was amalgamated into one lot and gazetted as community land. The fact that the actual boundary was 10 foot inside the five properties still remained unknown.

**POINTS:**

- This 10 ft zone has never been accessible to the public.
- The land is behind the public toilet block
- The Seafarers Cottages have been recognised as having significant heritage value as the original holiday cabins in the village. The cottages have been renovated maintaining their character and are now popular holiday rentals providing year-round income for the local retailers, cleaners and maintenance people.

Proposed ACTION: We would like this 10 ft zone re-zoned from Community title to Operational land in the LEP so that we may be given the opportunity to purchase this land from council.

- # Attachments: arial photo showing land in question, photos of the property.

We thank you for your urgent consideration of this matter.

regards  
Catherine Shields  
SOUTH COAST ESCAPES”

**Note by General Manager:** It is not considered that this matter can be legally deemed to be a “matter of urgency” as it has not been the subject of a submission in either of the public exhibition periods of the Draft LEP in 2011 & 2013. Hence it should not be dealt with at this meeting as there has been no public notification that it would be an Item on the business paper.

The proposal to rezone and reclassify the council reserve from ‘community’ to ‘operational’ should not be included in the draft LEP at this stage because it was not advertised or included in the public hearing. The necessary reclassification is not currently part of the draft LEP.

Procedurally the safest way to deal with this is to invite the proponent to lodge a planning proposal, pay the fees and have it resolved with full and proper community engagement.

**2. 116 & 118 St Vincent Street, Ulladulla – 22 Prince Alfred Street, Berry - 53 Isa Road, Worrigeer File 33363E**

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The following Notice of Motion is submitted for the committee’s consideration:

**That the following items be introduced as items of business before the Special Development Committee.**

- a) **The submission on behalf of Babington St Vincent St Ulladulla, 4.4 – Request 22**
- b) **The submission in respect of the Medical Practise Prince Alfred St Berry. 4.5B**
- c) **An apparent drafting error Lot 100 DP 1145297, 53 Isa Road, Worrigeer which has made the Medical Centre a non-conforming use.**

Signed  
Clr Watson  
Clr Guile  
Clr White

**Note:** The following resolutions were adopted at the Special Development Committee meeting.

Recommendation 4.4 – Request 22

RESOLVED that the Special Development Committee, in accordance with its delegated authority:

- a) Not support Request No 22 (4.4), retain existing exhibited controls and receive for information; and
- b) Review the zone on the corner of Deering and St Vincent Streets Ulladulla as part of a future planning proposal with the intent of extending the B4 zoning.

This is the recommendation related to the property owned by G Babington Pty Ltd at Lots 1 & 2 DP 21597, 116 & 118 St. Vincent Street, Ulladulla.

Recommendation 4.5B

RESOLVED that the Special Development Committee, in accordance with its delegated authority, include the request to amend the zoning of Lot 12 DP 816490 22 Prince Alfred St, Berry from R2 to B2 or R1 in the list of matters for consideration/review following finalisation of draft SLEP 2013.

This is the recommendation related to the Berry Medical Practice which is currently zoned Residential 2(a1) in LEP1985 and is currently shown as a proposed R2 Low Density Residential.

**Note:** Lot 100 DP 1145297, 53 Isa Road, Worrigeer – approved use as a medical centre. The property is currently zoned Residential 2(c) in LEP1985. The LEP 2013 foreshadows an R2 zone which would make the Medical Centre a non-conforming use which is contrary to the LEP guidelines set by Council.

**Note by General Manager:** In relation to part c) this is not a drafting error as such and no submission was made to the 2011 & 2013 exhibitions of the draft LEP. The property in question was previously 2 residential sized lots (until early 2011 when consolidated) and is currently zoned Residential 2(c) in LEP1985. As has been accepted practice, because

this general area has now been subdivided to essentially single residential development it is proposed through the draft LEP2013 to change the zone of the area to R2 Low Density Residential. It is acknowledged that the site is currently occupied by a medical centre and this use would benefit from 'existing use rights' if the R2 zoning eventuates.

**REPORT OF GENERAL MANAGER**  
**SPECIAL DEVELOPMENT COMMITTEE**

**TUESDAY, 20 JULY 2013**

**PLANNING AND DEVELOPMENT SERVICES**

**1. Draft LEP2013 – Final Adoption**

**File 45262E**

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**SECTION MANAGER:** Gordon Clark.

**PURPOSE:**

The Special Development Committee previously resolved to adopt the draft LEP2013 following the final consideration of the submissions. Should the Notices of Motion be considered and an additional motion adopted, it will be necessary to also again consider adoption of the draft plan with any subsequent changes arising.

**RECOMMENDED that Council adopt draft Shoalhaven LEP 2013 (with any changes made via the individual motions to date) and submit the draft LEP to the Director General of the Department of Planning and Infrastructure under Section 68 of the Environmental Planning and Assessment Act 1979 (EP&A Act) for commencement.**

Tim Fletcher

**DIRECTOR PLANNING & DEVELOPMENT SERVICES**

R.D Pigg

**GENERAL MANAGER**