



**RMS - PROPERTY TRANSFER PROPOSAL
BERRY**

SHOALHAVEN CITY COUNCIL

1. Overview

This proposal is intended to assist all parties associated with the Berry bypass project of an outcome that ensures community land access and value is retained for the community of Berry and surrounds.

This proposal is prepared in three stages, covering current situation, community land descriptions, and guiding policies and plans. The information collated from the three stages offers Council's preferred recommendation for consideration.

Stage 1: Current Situation

The current situation covers Berry bypass design, community consultation, Council's existing resolutions and stakeholder meetings

Stage 2: Subject Land - Descriptions and Acquisitions

The second stage sets out the descriptions of the land for which this proposal relates too. This stage illustrates the intent for which the land is current utilised, listing of existing assets, community value and impact due to the bypass. The stage also prescribes to acquisition requests received from RMS for the purchasing of public owned land as well as land in RMS ownership which is to be considered as part of the transfer proposal.

Stage 3: Guiding and Supporting Documentation

The Property Transfer Proposal is underpinned by various strategies, studies and recommendations. The third stage acknowledges and makes reference to these existing plans and policies in a local and regional context.

Direction for Negotiation

The final section of the Property Transfer Proposal is a recommendation for consideration. The recommendation will outline the option and rationale behind the option. Benefits will detail.

Objective

The main objective of the proposal is to highlight key project criteria's and strategic alignment in the best practice of community asset delivery.

The proposal will highlight an opportunity that will develop and sustain the communities overall benefits in the tourism and local economic industries.

Ultimately the community of Berry, and potentially the equine industry of the South Coast, will have long term benefits outlined in the proposal; however there are potential opportunities for both Council and RMS during the construction phases and design. The specific benefits will not be prescribed within this proposal as this will require further negotiation and planning.

Stage 1: Current Situation

The township of Berry is located 150km south from the Sydney CBD in the Shoalhaven region of the NSW South Coast. It is located in the State electorate of Kiama, and the Federal division of Gilmore.

Berry, as a township, thrives on tourism and regular events including markets, shows and festivals. Berry is surrounded by rural farm holdings, giving its aesthetics as a rural escape and lifestyle.

With its short distance to the coast and the ability to be in Sydney in less than 2.5 hours, Berry is becoming a popular sea/tree change location.

Currently, the main highway, being the Princes Highway, navigates through the main centre of town. Through Berry Township, the highway is reduced to one lane with a speed limit of 50km.

During peak travel times Berry becomes a major bottleneck, which ultimately adds major delays to destinations as well as the safety of pedestrian and travellers.

The Roads and Maritime Service (RMS) project to improve and upgrade the Princes Highway has commenced, with the proposed Foxground and Berry bypass being assessed as a transitional project by the NSW Department of Planning and Infrastructure under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the finalisation of a concept design as well as the preparation of a Review of Environmental Factors Plan for the Berry to Bomaderry upgrade.

The Foxground and Berry bypass is to provide a four lane divided highway (two lanes in each direction) with median separation for 11.6 kilometres of the Princes Highway between Toolijooa Road and Schofields Lane. The RMS has undertaken community and stakeholder engagement commenced since March 2006 and has included public displays, meetings, participation in value management workshops, distribution of community updates, letters to householders and telephone calls to property owners.

In 2012, RMS established several further community working groups to continue to address issues raised by the wider community in response to the design changes. RMS has refined the concept design (Appendix 1) for the Foxground and Berry bypass. These changes address community feedback and issues raised in submissions received in response to the display of the environmental assessment. RMS has adopted the following changes to the proposed concept design and the below points are a snapshot of those changes that directly relate to community land that is listed within this proposal.

- a) A new junction arrangement at Schofields Lane providing both northbound and southbound left-in / left out access to the highway via a vehicular under pass
- b) Victoria Street to remain open with a two-way connection between Queen and Victoria Streets and a southbound on-ramp south of Victoria Street. A change has been made to the private property access south of Victoria Street which would be via an access road to a new vehicular underpass at Schofields Lane; and
- c) Retaining the location of the Berry Riding Club at its current site, with a revised facility design

Amendments to the bypass design identified in item 1 will impact community owned land referred to as Andersons Lane. Item 2 will impact community owned land referred to as Mark Radium Park and item 3 will impact community owned land known and utilised by the Berry Riding Club (equestrian grounds).

The land transfer proposal is predominately being driven due to the access, safety and operational issues related to item 3, being the location of the Berry Riding Club at its current site. During the community consultation period managed by RMS, RMS and Council were advised that the design of the Berry bypass threatened the continuation of equestrian at this location. Council discussed with RMS representatives (project managers) options that would permit the continuation of equestrian at this precinct. However, the design options developed (Appendix 2 and 3) would not support or sustain equestrian elements to the existing standards currently on offer.

At Council's Ordinary meeting held 26 March 2013, Council resolved (MIN13.336) that:

- a) In respect of providing a response concerning the Part 3A application
 - I. Council advise Department of Planning and Infrastructure and Road and Maritime Service that Council support in principle the use of the balance of the existing North Street Berry Riding Club site for the short term needs of the Club, and
 - II. Council advise the Department of Planning and Infrastructure and the Roads and Maritime service that the current options for an equivalent area of land adjacent to North Street for use by the Berry Riding Club are unacceptable due to the increased impacts for horse activity and rider safety, and there be further discussions with RMS to address these matters including additional screening of the horse activity from the road and an extension of the site area to enable improved vehicle movement

- b) In respect of a request from the Berry Riding Club for a long term establishment of expanded equine facilities in the Berry area:
 - I. Council continue investigations for the development of facilities suitable for equine activity; and
 - II. Council make representations to the Minister for Transport, the Honourable Duncan Gay and Member for Kiama, Gareth Ward MP, for the residue of Lot 7 DP 815023 not required for road purposes being transferred to Council

On 18 June 2013, Deputy Mayor, Councillor John Wells and Shoalhaven City Council staff representative, Ms Claire Scott met with the Member for Kiama, Gareth Ward MP, The Hon. Paul Green, MLC and Staff representatives for the Treasury to discuss part B of the above Council resolution. The meeting was well received with the outcome to submit a proposal outlining the request to the Minister for consideration.

Stage 2: Subject Land - Description and Acquisitions

Shoalhaven City Council has received a request from RMS to acquire community owned land for the Berry bypass project. This is a preliminary letter acknowledging further discussion. In parallel, Council has commenced broad discussions with RMS to obtain a parcel of RMS land for the continuation of equestrian in the Berry precinct.

RMS has identified three particular parcels of land being:

- a) Lot 45 DP 651034 – 151 North Street, Berry
- b) Lot 1 DP 925241 – Victoria Street, Berry and
- c) Lot 87 DP 48603 – Andersons Lane, Berry

Details for all above three parcels are provided in the following pages. The information is a snap shot of the description, current use of the land, classification, categorization, assets, quality, location, bypass impact and other relevant details that contributes to the section of the proposal 'Direction for Negotiation' to an informed decision .

In addition to the Council owned land, RMS has sought and acquired privately owned property in and around the Township of Berry. The Property Transfer Proposal recognises such a property. In context, it is this RMS owned land which is the primary purpose in the development of this proposal. This RMS parcel of land is described as Lot 7 DP 815023, 59 Woodhill Mountain Road, Berry.

Council acknowledges that land that is classified as 'Community' land would normally undertake a re-classification process. This would involve approximately 6 – 8 months of administration and consultation. Subject to the Roads Act and the process of the RMS to acquire land for the purpose of road widening, the re-categorisation process include timeframe may not be applicable, allowing Council to commence negotiations with RMS immediately. To appreciate the impact on the public land, Appendix 1 exhibits the location of the Berry bypass.

The red outlines indicated on the below map are the community land areas which are part of the land proposal and impacted by the Berry bypass.



Existing Berry Riding Club Grounds

The Berry Riding Club currently utilise the grounds for the purpose of equestrian events. Events are held weekly, both on the weekends and during the week. Events include dressage, hacking, show jumping, symposiums, camps and carriage. The grounds are developed to a condition that meets the safety standards for both horse and rider. The grounds are well drained fertile soil with excellent cover and growing medium. Events are run all year therefore provide an economic benefit to the community.



The bypass would impact greatly on the grounds continuing as an equestrian complex due to the area set aside for the arena being acquired for the bypass and ultimately the loss of assets. Other issues identified for concern by Council and user groups included but not limited to noise, event logistics, loss of quality open space, access, parking, soil profile, drainage, relocation nearer to skate park and other proposed infrastructure plus the inability to provide a diversified events calendar.

Council was offered an informal option to re-orientate the equestrian grounds along North Street. The orientation identified and extended into land which RMS had already purchased or due to acquire as part of the bypass project. A local architect was engaged to draft up options (Appendix 2 and 3) after consultation with the user group to identify their needs. These two master planned options were not supported by the equestrian user group as the orientation was buffered between two main roads and the design did not mitigate safety concerns and event/logistic issues.

Description: Lot 45 DP 651034
Address: 151 North Street, Berry
Reserve Number: NBE013
Classification: Operation Land
Purpose: Sports Ground
Common Name: Berry Sporting Complex
Area: 4.15 hectares

Fixed Assets:	<i>Building Shed</i>	<i>Storage Shed</i>
	<i>Containers</i>	<i>Fencing</i>
	<i>Water</i>	<i>Power</i>
	<i>Hose bay</i>	<i>Arena grounds</i>
	<i>Gates</i>	<i>Pathway</i>

Mark Radium Park

Mark Radium Park is a valued social passive public reserve utilised by local and tourist. It has been embellished to a standard that represents the community of Berry. The proposed design of the bypass will impact on the current use and purpose of the park. The formal layout of the pond and gardens to be disturbed which will have a direct impact on the aesthetics of the parkland. Access to the playground, picnic facilities, car park and amenities will be constrained and potentially inaccessible.



Based on the proposed design of the bypass, the tourist value of this park being a rest spot will be discontinued. Similar to the Apex Park, Mark Radium Park is an aesthetically pleasing gateway to Berry.

Description: Lot 1 DP 925241
Address: Victoria Street, Berry
Reserve Number: NBE018
Classification: Community Land
Categorisation: Park
Purpose: Public Reserve
Common Name: Mark Radium Reserve
Area: 1.25 Hectares

Fixed Assets:

<i>Public Amenities</i>	<i>Sewerage</i>
<i>Bollards</i>	<i>Pond</i>
<i>Water</i>	<i>Car Parking</i>
<i>Picnic Tables</i>	<i>Picnic Shelters</i>
<i>Playground</i>	<i>Barbeques</i>
<i>Formal Gardens</i>	<i>Maintained open space</i>
<i>Drainage easement</i>	<i>Power</i>
<i>Pathways</i>	

Andersons Lane

The land is currently leased for the purpose of grazing. The site is predominately undulating pasture improved land with natural and manmade water courses. The soil is rich and fertile with minimal weed infestation. The land has a section of remnant timber.



As a site is does have excellent street frontage / surveillance and good access and location to the township of Berry. When Council purchased the land, Council agreed to a condition of sale being the land must continue to be used for agricultural purposes.

Council’s Economic Development Unit created an Agricultural Hub Business Plan (Appendix 4). This plan is a strategic plan for the future development of this site

At Council Ordinary Meeting held 14 December 2012, Council resolved that:

- a) the report of the General Manager (Assistant General Manager / Strategic Planning and Infrastructure) regarding the Agricultural Hub Business Plan be received for information
- b) the report and its outcomes be endorsed for the purposes of community engagement
- c) a further report on an appropriate planning framework, financial and legislative parameters, options and outcomes be presented to Council; and
- d) Current agistment / leasing arrangement to be maintained for immediate future

RMS has sought to purchase the flat portion of the site that fronts the Princes Highway. The acquisition of this parcel of land was identified in the strategic plan indicating Council’s in principle support of the road widening.

Description:	<i>Lot 87 DP 48603</i>	
Address:	<i>Andersons Lane, Berry</i>	
Reserve Number:	NBE018	
Classification:	Community Land	
Categorisation:	General Community Use	
Purpose:	Public Purposes	
Area:	37.50 Hectares	
Fixed Assets:	<i>Pasture improved land</i>	<i>Drainage easement</i>
	<i>Perimeter fencing</i>	

RMS Land – Turf Farm

RMS purchased the Berry Turf Farm in 2012 as the site was necessary in the delivery of the Berry bypass project.

The site is relatively flat with a 2 metre fall from the western boundary to the eastern boundary. The site is liable to periodic inundation by floodwaters as indicated by flood maps (1:100 year). The property has constraints with the physically division created by Broughton Creek. The property has approximately 2 hectares that is land locked due to adjoining properties and Broughton Creek.



The southern portion of the 25 hectare property that adjoins the existing equestrian park and the Berry Sporting Complex is subject to development as the (new) Princes Highway in the Berry bypass design. It is envisaged that the surplus land for this property, which is not required as part of the Berry bypass, is approximately 18 hectares.

Taking into consideration the land locked parcel and new road development, an approximate figure of 16.5 would remain in RMS surplus ownership. It is foreseen that the Property value for this land would decline due to the decrease in available acreage, land locked area, zoning restrictions to subdivide, the close proximity of the bypass and reduction of suitable land for agricultural productivity.

Description: Lot 7 DP 815023
Address: 59 Woodhill Mountain Road, Berry
Owner: Roads & Maritime Services
Purpose: Prior to acquisition – Turf Farm
Area: 25.18 Hectares
Zone: 1(g) – Rural (Agricultural Production)
 1(b) – (Arterial and Main Road Protection)
 Draft zoning – RU1 – Primary Production

Fixed Assets: *Rural Dwelling* *Fencing*
Machinery Shed *Broughton Creek*
Lawn improved land (for the purpose of farming)

Stage 3: Guiding and Supporting Documentation

3.1 Equine Industry Scoping Report

In January 2011, a number of stakeholders within the equine industry of the Far South Coast of NSW held discussion regarding the need for a cohesive industry representative group to grow this sector within the area. An Equine Industry Steering Committee was formed consisting of local people experienced in the business, voluntary and competitor equine areas.

This Steering committee identified the need for an Equine Industry Scoping Report to identify and quantify the diverse industry groups, their level of activity in the region and supply chain linkages which make up this important industry.

The Equine Industry Scoping report (appendix 5) identified key outcomes such as:

- a) A comprehensive audit of the region
- b) Number of direct and indirect equine industry jobs in the region
- c) The dollar value of the south coast equine industry (both real and including the multiplier effect)
- d) Identification of obvious skills shortages within the industry

It was estimated that the industry value to the region's economy is more than \$56 million and with the cooperation of both industry and government, there is an exciting opportunity for the south coast to become nationally and internationally recognized as a centre of excellence for all equine services.

Following are extracts from the Equine Industry Scoping report

Page 5

The Shoalhaven's proximity to Sydney and Canberra makes it an ideal day trip for all equestrians, both amateur and professional. There is strong interest in this region in all horse related activities including training and breeding, thoroughbred racing, performance horse activities in all the Olympic disciplines as well as endurance riding, polo cross, showing, pony clubs and leisure riding.

Page 8

There are a large number of equestrian events throughout the far south coast attended by fully trained and groomed performance horses. Association members involved in these vents are estimated at close to 500 with horse numbers of approximately 700. Events and meetings provide immediate economic benefit to the region and support many local businesses including transport, tourism and retail.

Page 10

The South Coast Region offer many opportunities for the equine industry.... Opportunities

- a) Investigate development of a “Centre of Excellence” for the region
- b) Development and promotion of the industry through local TAFE and tertiary training courses that provide students with national and international accreditation
- c) Establishment of an internal standard indoor, all weather facility to secure events and support a range of new training opportunities
- d) Improvement of facilities for equine industry training and events to a similar level to those located at Orange and Tamworth
- e) Development of additional signature events across the region
- f) Encourage high profile and elite equine industry people to relocate to the region

Page 15

The equine industry plays a significant if unquantified role in the regions Tourism and Events industry. In 2010 Shoalhaven Dressage Club submitted a proposal to the NSW Dressage Council to host the State Championships. Unfortunately a lack of adequate facilities meant the opportunity was lost to another region.

3.2 Shoalhaven City Council – Community Strategic Plan

Council overarching strategic document, Shoalhaven City Council Community Strategic Plan, has identified the following objectives, strategies and activities that aligns with the overall proposal outcomes.

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| Objective 1.3 | Healthy and active communities that feel safe |
| Strategy 1.3.2 | Develop sporting and recreation facilities for maximum community use and value |
| Activity 1.3.2.3 | Seek and apply value added initiatives and create community partnership opportunities through policy structure and delivery program |
| Activity 1.3.2.4 | Ensure social infrastructure strategies inform land use planning policies and guide sustainable development that meet benchmark standards |
| Objective 4.3 | Respectful, professional, trusted and united community and Council leadership |
| Strategy 4.3.1 | Provide timely and effective advocacy and leadership on key community issues |
| Activity 4.3.1.1 | Establish relationships with key State and Federal Government MP's and Ministers |
| Strategy 4.3.2 | Where possible, align Council's plans with the State Plan – NSW 2021 to improve community benefits and minimize detrimental impacts |
| Activity 4.3.2.1 | Liaise with Premier's cabinet Regional office to achieve local outcomes |

3.3 RMS – Princes Highway - Foxground and Berry bypass documentation

The RMS Environmental Assessment Report for the Foxground and Berry bypass project has identified key criteria, outcome and actions that reinforce and support the final recommendation.

The following milestones demonstrate the improvements to the Princes Highway, which will ultimately increase the tourism and ability to hold major events within a two hour catchment from Sydney. The improvement to the road network will encourage more participation to local livestock events as the existing road is a deterrent to participants.

Key needs:

The project would provide a safer and more efficient road network to better serve current and future road users by:

- a) Addressing the high crash history and poor road safety record of this section of the Princes Highway and delivering immediate road safety benefits
- b) Ensuring compliance with current design, safety and traffic efficiency requirements or RMS
- c) Removing through traffic from Berry town centre, improving the amenity of the town and road safety of the local road network
- d) Delivering improved traffic efficiency by catering for projected traffic volumes in the design year (2037) which is 20 years after the project becomes operational
- e) Delivering a highway design consistent with that of the majority of the remainder of the highway between Waterfall and Jervis Bay Road

Following are extracts from the action plan identified in Chapter 10, Environmental Assessment Report.

Page 17

Outcome (Ref - P1)

Appropriate compensation will be paid for property acquisition.

Key action

- *Negotiation for all property acquisitions will be in accordance with the RMS' Land Acquisition Information Guide (RTS 2011)*
- *Compensation assessment will be in accordance with the Land Acquisition (Just Terms Compensation) Act 1991*

Outcome (Ref – P2)

Property access will be maintained

Key Action

- *Property access will be maintained during construction*

- *If temporary or alternative access is require, it will be provided in consultation with the affected landowner/s*

Outcome (Ref - S1)

Minimise impacts on agricultural businesses

Key Action

- *Ongoing consultation with affected agricultural business owners will be undertaken*
- *RMS will acquire properties in accordance with Land acquisition (Just Terms Compensation) Act 1991*
- *Impact on business is considered in accordance with this Act*

Page 19

Outcome (Ref - S6)

Minimising impacts to recreation facilities during construction and operation

Key Action

- *Access to recreation facilities will be maintained during construction and operation of the project, where practicable*
- *Negotiations will be conducted with Berry Riding Clun and Shoalhaven City Council to determine a new location for Berry Riding Club and the two smaller riding clubs (where impact is likely) and if necessary to determine a temporary location during construction*
- *Access to local creeks including access to the existing Broughton creek bridge during construction and operation to provide access for recreational fishers*

4. Direction for Negotiation

The detail in the above stages underpins the strategic direction for Council to negotiate with the RMS a positive solution in relation to access, use and value community land within the township of Berry.

The stages have provided an overview of the existing situation as well as an opportunity for both Council and the RMS to meet strategic objective and aims that are in alignment with the broader community (and diverse representatives) of Berry.

Council's proposal is to recommend that RMS and Council commence land acquisitions negotiations in accordance with the Roads Act for the provision of the Berry bypass.

The proposal recommends that Council consolidate the land acquisitions requisitions identified and in lieu of monetary contribution that takes into the consideration land value, community value, segregation of sporting assets as well as loss of physical assets, Council agree to exchange the surplus RMS land known as the Berry Turf Farm (Lot 7 DP815023).

Council's based benchmark for negotiation discussions with RMS are:

- a) Council will only consider an exchange of surplus land (including all existing assets) as a minimum of 15 hectares
- b) Total land not to include any easement or land that is not suitable for the use of equestrian
- c) Council not to be responsible for any construction, vegetation or management plan costs that are associated with the transferrable land
- d) RMS will be responsible for all costs associated with the transfer of ownership, including surveys and legal costs
- e) Land meets competition standards and is suitable for the development and continuation of various equine sports
- f) Land acquisition / negotiations are finalised prior to construction
- g) Any existing leases or licenses are void
- h) Land that remains in Council's ownership that is required by RMS during construction phase has an allocation of nil user/access fees in lieu of embellishment to that particular parcel of land. RMS to consider Council's Concept Plans
- i) Council negotiate use of surplus soil from the Berry bypass construction for the purpose of local open space development, at no charge to Council
- j) RMS will permit access to land which Council is seeking to allow the undertaking of Concept/ Master plans

Furthermore, Council will undertake concept plans underpinned by the proposal, on receipt that RMS has agreed to enter into negotiations with Council.

Appendices

- Appendix 1 Foxground and Berry bypass design – RMS Plan
- Appendix 2 Option 1 Draft Schematic Plans – Berry Riding Club – Joint RMS and Council
- Appendix 3 Option 2 Draft Schematic Plan – Berry Riding Club – Joint RMS and Council
- Appendix 4 Agricultural Business Hub Plan – Council Plan
- Appendix 5 Equine Industry Scoping Report – Regional Development Australia – Far South Coast