

SHOALHAVEN CITY COUNCIL
D E V E L O P M E N T C O M M I T T E E

To be held on Tuesday, 3 May, 2016
Commencing at 4.00 pm.

27 April, 2016

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 the Council Chambers, City Administrative Centre, Bridge Road, Nowra on Tuesday, 3 May, 2016 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. Adoption of Minutes of Previous Meeting**
- 3. Declarations of Interest**
- 4. Mayoral Minutes**
- 5. Deputations**
- 6. Report of the General Manager**
 Planning and Development
- 7. Notices of Motion**
- 8. Addendum Reports**

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 s82A or s96AB 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

1. 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.
2. 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 4 of the EPA Act.
3. 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.
4. Determination of variations to development standards related to development applications under the EPA Act where the development application involves a development which breaches 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.
5. 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
6. Determination of development applications that Council requires to be determined by the Committee on a case by case basis.
7. Review of all determinations of development applications under sections 82A and 96AB of the EP&A Act.
8. Preparation, review, and adoption of policies and guidelines in respect of the determination of development applications by other delegates of the Council.

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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MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD ON TUESDAY, 5 APRIL, 2016 IN THE COUNCIL CHAMBERS, CITY ADMINISTRATIVE CENTRE, BRIDGE ROAD, NOWRA COMMENCING AT 4.00 PM

The following members were present:

Clr Baptist - Chairperson
Clr Tribe
Clr Robertson
Clr Kearney
Clr Gash
Clr Wells
Clr Findley
Clr Guile – arrived 4.36pm
Clr Watson
Clr Kitchener
Clr McCrudden
Ben Stewart – Acting General Manager

1. Election of Acting Chairperson [Index](#)

MOTION: Moved: Gash / Second: Kearney

That Clr Baptist be appointed as the Acting Chairperson for the meeting of Development Committee, held on Tuesday 5 April 2015.

CARRIED

Apologies:

Apologies were received from Clr White and Clr Anstiss.

2. Confirmation of the Minutes of the Development Committee meeting held on Tuesday 1 March 2016 [Index](#)

MOTION: Moved: Wells / Second: Robertson

(MIN16.224) RESOLVED that the Minutes of the Development Committee meeting held on Tuesday 1 March 2016 be confirmed.

CARRIED

3. Declarations of Interest [Index](#)

Conflict of Interest Declaration - Clr Watson - Pecuniary interest – Item 2, this matter relates to a rezoning proposal for Falls Creek/Woollamia area where both he and his wife own property which could lead to a positive or negative gain – left the room, did not take part in discussion or vote.

4. Deputations [Index](#)

Conflict of Interest Declaration - Clr Watson - Pecuniary interest – Item 2, this matter relates to a rezoning proposal for Falls Creek/Woollamia area where both he and his wife own property which could lead to a positive or negative gain - left the room, did not take part in discussion.

Item 2 – Update - Planning Proposal - Falls Creek/Woollamia Deferred Rural Residential Area - Rezoning investigations

- Mr Leigh Carmichael spoke against the recommendation.
- Ms Narelle Day spoke against recommendation

5. Procedural Motion – Bring item forward [Index](#)

MOTION: Moved: Gash / Second: McCrudden

That Item 2, Page 7 – Update – Planning Proposal – Falls Creek/Woollamia Deferred Rural Residential Area – Rezoning investigation be brought forward.

CARRIED

6. (Item 2, Page 7) Update - Planning Proposal - Falls Creek/Woollamia Deferred Rural Residential Area - Rezoning investigations File 38279E [Index](#)

Item 2 Brought forward

Note: Clr Guile was absent from the meeting.

Conflict of Interest Declaration - Clr Watson - Pecuniary interest – this matter relates to a rezoning proposal for Falls Creek/Woollamia area where both he and his wife own property which could lead to a positive or negative gain - left the room, did not take part in discussion or vote.

MOTION: Moved: Robertson / Second: Wells

(MIN16.225) RESOLVED that, in accordance with the Committee’s delegated authority from Council, that the Committee:

1. Provide an eight (8) week period for the landowners in each of the five (5) clusters of properties to collectively provide their own detailed bushfire report prepared by a

suitably qualified consultant, addressing PBP 2006 and the RFS specific comments/concerns with the aim of maximising the lot yield.

2. Where full cooperation of land owners in the respective clusters cannot be achieved part clusters or individual fire reports be considered subject to the reports satisfying PBP 2006 requirements for protection from bushfire.
3. Council seek a further extension from the Department of Planning and if that extension is not forthcoming then Council revert to Option 1 (staff recommendation outlined in report).

CARRIED

FOR: Tribe, Robertson, Kearney, Wells, Findley, Kitchener, McCrudden, Baptist

AGAINST: Gash and Ben Stewart

7. Deputations Continued [Index](#)

Item 6 – Stage 3 Housekeeping Amendment Planning Proposal – Shoalhaven Local Environmental Plan 2014 – Consideration of submissions

Note: Clr Watson returned to the meeting.

- Ms Kerry Rourke addressed the Committee to speak against the recommendation

8. Procedural Motion – Bring item forward [Index](#)

MOTION: Moved: Gash / Second: Kearney

That Item 6 be brought forward for consideration.

CARRIED

9. (Item 6, Page 33) Stage 3 Housekeeping Amendment Planning Proposal – Shoalhaven Local Environmental Plan 2014 Consideration of submissions File 50828E [Index](#)

Item 6 brought forward

Note: Clr Guile arrived at the meeting.

MOTION: Moved: Watson / Second: Tribe

(MIN16.226) RESOLVED that, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Adopt the Planning Proposal with the amendments outlined in this report, with the exception of the following:

-
- i) Defer the changes proposed in regard to Instrument change No.2 (Battle Axe Blocks) for further consideration and report back to Council on this item;
 - ii) Amend the proposed wording of Instrument change No.4 (Boundary Adjustment Clause) to read “considers” connectivity of riparian and vegetation corridors rather than “does not affect”
- b) Forward the Planning Proposal to the Parliamentary Counsel to draft the required amendment to Shoalhaven Local Environmental Plan 2014; and
 - c) Make the resulting amendment to the Local Environmental Plan using the delegations issued under Section 23 of the NSW Environmental Planning & Assessment Act 1979 related to plan making.

CARRIED

FOR: Tribe, Robertson, Kearney, Gash, Wells, Guile, Watson, Kitchener, McCrudden, Baptist and Ben Stewart

AGAINST: Findley

10. Update on land use at Lot 2, DP1154597 Woncor Avenue, Nowra Hill File ON2016/4099 [Index](#)

MOTION: Moved: Robertson / Second: Wells

(MIN16.227) RESOLVED that in accordance with Committee’s delegated authority from Council, the Committee receive the report for information.

CARRIED

11. Update - Planning Proposal - Falls Creek/Woollamia Deferred Rural Residential Area - Rezoning investigations [File 38279E Index](#)

This item was brought forward for consideration.

12. Draft Planning Proposal (PP010) - Council Land Reclassification (Housekeeping) [File 50767e Index](#)

MOTION: Moved: Wells / Second: Tribe

(MIN16.228) RESOLVED that, in accordance with the Committee’s delegated authority from Council, the Committee

- a) Reclassify the following parcels of land from “operational” to “community” in accordance with Section 33 of the Local Government Act 1993:
 - Lot 21 DP 252581 – 50 Shoalhaven Heads Road, Shoalhaven Heads
 - Lot 12 DP 617101 – Bolong Road, Coolangatta
 - Lot 3 DP 597223 – Bolong Road, Coolangatta

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- Lot 4 DP 550354 – Island Point Road, St Georges Basin
 - Lot 2081 DP 216860 – Lively Street, Vincentia
- b) Prepare an LEP amendment in accordance with Section 73A of the EP&A Act to reclassify the following parcels of land from “community” to “operational”, with interests removed:
- Lot 21 DP 252581 – 50 Shoalhaven Heads Road, Shoalhaven Heads
 - Lot 12 DP 617101 – Bolong Road, Coolangatta
 - Lot 3 DP 597223 – Bolong Road, Coolangatta
 - Lot 4 DP 550354 – Island Point Road, St Georges Basin
 - Lot 2081 DP 216860 – Lively Street, Vincentia (land along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street, Vincentia only)
- c) Write to the NSW Minister for Planning to request the LEP amendment be made in accordance with Section 73A(1)(c) of the EP&A Act for the following reasons:
1. An error occurred in the drafting of Shoalhaven Local Environmental Plan 2014 whereby the following parcels of land (subject land) were inadvertently listed in Schedule 4 Part 1 – ‘Part 2 - Land classified, or reclassified, as operational land—no interests changed’ instead of ‘Part 2 - Land classified, or reclassified, as operational land—interests changed’:
 - Lot 21 DP 252581 – 50 Shoalhaven Heads Road, Shoalhaven Heads
 - Lot 12 DP 617101 – Bolong Road, Coolangatta
 - Lot 3 DP 597223 – Bolong Road, Coolangatta
 - Lot 4 DP 550354 – Island Point Road, St Georges Basin
 - Lot 2081 DP 216860 – Lively Street, Vincentia

In addition, only part of Lot 2081 DP 216860 (land along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street, Vincentia) was meant to be reclassified to operational and the remainder of the lot should have remained as “community”.
 2. Council needs to extinguish the interests in the subject land to enable the sale, lease or licensing of the land.
 3. The LEP is proposed to be amended to include Lot 21 DP 252581, Lot 12 DP 617101, Lot 3 DP 597223, Lot 4 DP 550354, Lot 2081 DP 216860 (land along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street only) at Schedule 4 ‘Part 2 - Land classified, or reclassified, as operational land—interests changed’.
 4. The proposed amendment is suitable to be made in accordance with s73A due to it being of a minor nature and not having any adverse impact on the environment or adjoining land.
- d) If the Minister for Planning does not agree to make the LEP amendment under Section 73A, prepare a Planning Proposal to reclassify the following parcels of land to “operational” with interests removed under Section 30 of the Local Government Act:
1. Lot 21 DP 252581 – 50 Shoalhaven Heads Road, Shoalhaven Heads
 2. Lot 12 DP 617101 – Bolong Road, Coolangatta
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3. Lot 3 DP597223 – Bolong Road, Coolangatta
 4. Lot 4 DP 550354 – Island Point Road, St Georges Basin
 5. Lot 2081 DP 216860 – Lively Street, Vincentia (land along the rear of Nos. 83-109 Frederick Street and No. 7 Sutton Street only).

- e) Write to the NSW Government and raise Council's concerns with the land reclassification process, and suggest associated changes to the Local Government Act 1993 which is currently under review.

CARRIED

13. Nowra CBD Urban Design Development Controls Report - Adoption and next steps File 48168E [Index](#)

MOTION: Moved: Wells / Second: Gash

(MIN16.229) RESOLVED that, in accordance with the Committee's delegated authority from Council, that the Committee

- a) Adopt the Nowra CBD Urban Design Development Controls Report as exhibited with the following minor changes:
 - i) Include a note in Section 3.2 of the report to ensure corner building setbacks do not impact on planned intersection upgrades in the CBD.
 - ii) Include a note in Section 3.9 of the report that outlines the requirements for active ground floor uses under Clause 7.16 of Shoalhaven Local Environmental Plan 2014.
- b) Advise the NSW Department of Planning and Environment and those who made submissions on the draft report of Council's resolution in this regard.
- c) Report back to Council following the public exhibition of the resulting Nowra CBD Planning Proposal and Shoalhaven Development Control Plan 2014 chapter.

CARRIED

14. Nebraska Estate Planning Proposal - Landowner Survey Outcomes File 1013E [Index](#)

MOTION: Moved: Wells / Second: Robertson

(MIN16.230) RESOLVED that, in accordance with the Committee's delegated authority from Council, that the Committee

- a) Adopt revised version 2 of Option 1 – Lower Density Residential Development outlined in this report and provided in Attachment D, as the preferred option to move forward with, and the Planning Proposal be amended accordingly.
- b) Prepare the required water cycle assessment.
- c) On completion of a) and b) publicly exhibit the Planning Proposal.

CARRIED

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15. Stage 3 Housekeeping Amendment Planning Proposal – Shoalhaven Local Environmental Plan 2014 Consideration of submissions File 50828E [Index](#)

This item was brought forward for consideration.

CONFIDENTIAL REPORT

PLANNING AND DEVELOPMENT

CONSIDERATION OF ITEMS OF A CONFIDENTIAL NATURE

Item	Reason
Legal Advice – Draft Planning Proposal (PP010) – Council Land Reclassification (Housekeeping)	Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege 10A(2)(g)

Pursuant to Section 10(A)(4), the public were invited to make representations to the Development Committee before any part of the meeting is closed, as to whether that part of the meeting should be closed. The Chairperson asked the General Manager if any written representations had been received as to whether that part of the meeting should be closed.

MOTION:

Moved: Wells / Second: Kearney

That the Development Committee Meeting exclude the press and public from the Meeting pursuant to Section 10(A)(1)(a) of the Local Government Act, 1993 as it was to consider items of a confidential nature in relation to matters pursuant to Section 10(A)(2)(g).

The public interest in preserving the confidentiality of information outweighs the public interest in maintaining openness and transparency in Council decision making, as it may impact on the ability of Council to conduct appropriate legal proceedings.

- Legal Advice – Draft Planning Proposal (PP010) – Council Land Reclassification (Housekeeping)

CARRIED

The meeting moved into confidential the time being 5.05pm.

The meeting moved into open session, the time being 5.08pm.

16. Legal Advice - Draft Planning Proposal (PP010) - Council Land Reclassification
(Housekeeping) File 50767e [Index](#)

The following resolution of the Confidential Development Committee Meeting was made public.

(MIN16.231) RESOLVED in accordance with the Committee's delegated authority from Council, the Committee receive the report for information.

There being no further business, the meeting concluded, the time being 5.08pm.

Clr Baptist
CHAIRPERSON

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 MAY 2016

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

1. **Development Application - Stage 2 Subdivision of Dual Occupancy at Lot 2 DP539865 (no.28) The Wool Road, Vincentia. Applicant: Lee Carmichael Town Planning (LCTP). Owner: J Rawlins** **File DA15/2576 [Index](#)**

SECTION MANAGER: Cathy Bern / Colin Wood.

PURPOSE:

The purpose of this report is to seek Council's direction with respect to a policy issue. This application seeks to enable the proposed Torrens Title subdivision of a dual occupancy development. The policy issue relates to the applicant's request for an exception to a development standard, (minimum lot area), specified in the Shoalhaven Local Environmental Plan 2014 (SLEP 2014). Further, because the size of the exception exceeds 10% it is appropriately dealt with by the Development Committee.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) **Confirms support for the proposed exception; and**
- b) **The application be determined under delegated authority.**

OPTIONS

1. **Resolve to support the proposed exception to the development standard (minimum lot size).**

This would enable the approved dual occupancy development to be subdivided, subject to development consent.

2. **Resolve to defer support for the proposed exception to the development standard (minimum lot size) until such time as the Stage 3 Planning Proposal to include this area in Area 1 for the purposes of Clause 4.1A has been finalised.**

This would defer the determination until such time as the development is able to be considered under Clause 4.1A. This would reduce the extent of exception being considered. The current minimum lot size being 500m², but the future minimum lot size standard under Clause 4.1A would be reduced to 350m².

-
3. Resolve not to support the proposed exception to the development standard (minimum lot size).

The result would be that the subdivision could not proceed and the dual occupancy development would have to remain in one land title.

DETAILS

Background

- # The subject land is Lot 2 DP 539865 (no.28) The Wool Road, Vincentia. It is located within a predominantly residential area that is in close proximity to the existing Vincentia shops. (**Attachment A**). The land is zoned R1 – General Residential.
- # The application is for a Torrens Title Subdivision of an approved, and currently under construction, dual occupancy development, (Stage 1 – as approved under DA15/2576). (**ATTACHMENT B**).

Minimum Lot Sizes – Shoalhaven Local Environmental Plan (SLEP 2014)

The land is within an area that has been mapped with a minimum lot size overlay of 500m². The land is currently not within either Area 1 or 2, therefore Clause 4.1A *Exceptions to minimum lot sizes for dual occupancies and multi dwelling housing* which has a minimum lot size of 350m² is currently, not applicable.

Council has resolved to support the amendment of the SLEP 2014 mapping through the Stage 3 Planning Proposal to include the subject land, and some other lots in this area into Area 1 for the purposes of Clause 4.1A.

The applicant is seeking approval for subdivision of the dual occupancy dwellings by way of a Torrens Title subdivision. The proposed lots would both have areas of 332.6m².

Table 1 – Lot Sizes

Lot number	Proposed lot size	% variation or exception to the <u>500m²</u> minimum lot size development standard	% variation or exception to the <u>350m²</u> minimum lot size development standard
1	332.6m ²	33.5%	5%
2	332.6m ²	33.5%	5%

The subdivision of the dual occupancy development will not alter the appearance of the development, nor adversely impact upon the amenity of future occupants of the development or adjoining properties. In accordance with Shoalhaven Development Control Plan 2014 (SDCP 2014), attached dual occupancy development is permissible on lots with a minimum area of 500m².

The subdivision will enable the creation of separate land titles and individual sale for each dwelling. This development achieves the relevant objectives of the R1 – General Residential zone objectives.

Clause 4.6 – Exception to Development Standard

The applicant has lodged a submission pursuant to Clause 4.6 of the SLEP 2014. (**ATTACHMENT C**). The applicant seeks exception to the **500m²** minimum lot size development standard under Clause 4.6 of the SLEP 2014. The applicant also supplemented the submission with advice from “Planning Law Solutions”.

In accordance with the Department of Planning and Environment (EP&E) publication – *Varying development standards: A Guide 2011* (The Guide), any development application that proposes a variation under clause 4.6 greater than 10% of the development standard must be determined by the Development Committee or full Council, not the General Manager, or nominated staff. This application includes 2 lots both 33.5% less than the development standard.

Clause 4.6(3) provides for exceptions to a development standard subject to a written request that adequately justifies the exception (variation) from that standard by demonstrating that:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- b) *There are sufficient environmental planning grounds to justify contravening a development standard.*

Further, according to Clause 4.6(4) the consent authority must be satisfied that:

- i) *The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3) and,*
- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.”*

SLEP2014 – Clause 4.1A, Area 1 / Area 2

The proposed lots would represent only a minor exception to the 350m² lot size, had the land been mapped as Area 1 as per Clause 4.1A. Such a minor exception would be able to be dealt with under delegated authority.

FINANCIAL IMPLICATIONS:

Should the application be determined by way of refusal, there is the possibility of a challenge by the applicant in the Land and Environment Court. If that were to occur, there would be costs with such action.

Nil other budgetary matters.

COMMUNITY ENGAGEMENT:

The application was notified to adjoining and nearby property owners in accordance with Council’s Community Consultation Policy. Nil submissions were received.

CONCLUSION

In summary:

- Both of the proposed lots would be 332.6m², which represents a 33.5% exception to the 500m² minimum lot size;
- The SLEP 2014 mapping is to be amended, which would have the result of reducing the minimum lot size to 305m², in accordance with provisions of Clause 4.1A of the SLEP 2014.
- A variation to the minimum lot size development standard is required to enable the creation of both proposed lots.
- The proposed subdivision would not result in any perceivable change to the approved, and under construction dual occupancy development.
- The proposed subdivision encourages the construction of dual occupancy development, which adds to the diversity of housing stock available in an urban environment, which satisfies the zone objectives.
- Maintenance of the minimum lot size development standard is unreasonable because it will not
 - Facilitate the orderly development of land, which achieve the zone objectives;
 - Facilitate the subdivision of dual occupancy development that are in accordance with the R1 – General Residential Zone, and provisions of SDCP2014, Chapter 13 – Dual Occupancy Development.

2. **Development Application - Proposed Community Title Subdivision of a Multi Dwelling Housing Development at Lot 201 DP 1173331 (No.54A) Hillcrest Avenue, South Nowra. Applicant: Lee Carmichael Town Planning. Owner: Blue Mantle Pty Ltd. File DA15/2588 [Index](#)**
-

SECTION MANAGER: Cathy Bern.

PURPOSE:

The purpose of this report is to seek Council direction with respect to a policy issue that concerns a proposed community title subdivision. The issue relates to a proposed exception (variation) to the minimum lot size specified in Shoalhaven Local Environmental Plan 2014 (SLEP 2014).

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) **Confirms support for the proposed exception; and**
- b) **The application be determined under delegated authority.**

OPTIONS

1. Resolve to support the proposed exception (variation) to the development standard: This would enable the proposed six multi dwelling housing development to be subdivided;
2. Resolve **not** to support the proposed exception (variation) to the development standard. The result would be that the community title subdivision could not proceed and the proposed six dwelling development would have to remain with one (1) land title.

DETAILS

Background

- # The subject land is known as Lot 201 DP 1173331 (No.54A) Hillcrest Avenue, South Nowra. It is located on the southern side of Hillcrest Avenue, has an area of 2,788m², is bushfire prone, is partially flood affected and is zoned R1 General Residential under the Shoalhaven Local Environmental Plan 2014 (refer to **Attachment A**).
- # The development application (DA15/2588) that is currently being assessed by Council is seeking approval for a medium density development comprising 6 x 3 bedroom dwellings, retention of the existing dwelling, car parking, landscaping, associated infrastructure and community title subdivision (refer to **Attachment B**). The proposal is permissible within the zone and is considered compatible with the character of the area.

Minimum lot sizes - Shoalhaven Local Environmental Plan 2014 (SLEP2014)

The subject site is located within an area that has a minimum lot size of 500m². However, in accordance with Clause 4.1A (4):

“Development consent may be granted to the subdivision of land in Zone R1 General Residential on which development for the purpose of multi dwelling housing has been carried out if the area of each resulting lot will be equal to or greater than 350 square metres.”

The proponent as part of DA15/2588 is seeking to subdivide the proposed development by way of a community title subdivision. In this particular case, seven (7) lots are proposed with five (5) of the proposed lots being over 350m² and two (2) of the proposed lots being under 350m² (i.e. proposed lot 2 is 169.16m² and lot 3 is 180.93m²).

Whilst the proposed subdivision generally complies with the performance criteria of Shoalhaven Development Control Plan 2014 (SDCP 2014) Chapter G11, Section 5.15 *Strata and Community Title Subdivision*, the subject allotments do not have sufficient land to achieve the development standard minimum lot size, that is, 350m².

The acceptable solutions include:

- *Create separate sites for each dwelling with their own public street frontage;*
- *Limit communal land to driveways only;*

- *Design dwellings to minimise the need for corporate building management;*
- *Ensure cost-effective management of communal open space or shared facilities;*
- *Provide separate utility service metres to each dwelling and, if necessary, any common area;*
- *Attach all private open space areas to a dwelling unit;*
- *Meet all requirements of any development application which may apply to the building proposed to be subdivided.*
- *The street and lot layout clearly define the public, communal and private areas of a development, including the function, ownership and management of open spaces and communal area.*

Two (2) of the proposed community lots are less than the minimum lot size of 350m². Table 1 below provides a summary of the proposed lots sizes and the variations sought.

Table 1 – Lot Sizes

Lot number	Lot size (m ²)	% variation from 350m ² standard
1	350.16m ²	Complies
2	169.16m ²	51.67%
3	180.93m ²	48.57%
4	350.09m ²	Complies
5	353.97m ²	Complies
6	355.58m ²	Complies
7	350.19m ²	Complies
Common lot	678.18	N/A

This application seeks to vary the 350m² minimum lot size development standard under Clause 4.1A (4) of the SLEP 2014 for proposed Lot 2 and Lot 3 detailed above.

The subdivision of the development will not alter the appearance of the development or adversely impact upon the amenity of future occupants or adjoining properties. It will enable land title to be created and therefore the sale of the proposed dwellings. The development will provide a type of housing which will add another type thus providing diversity which will enable the objective of the R1 zone to be achieved which includes (but is not limited to):

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*

Clause 4.6 – Exception to Development Standard

The NSW planning system provides flexibility in planning controls by providing the ability for Council to vary development standards in certain circumstances. In this regard, the concurrence of the Secretary of the Department of Planning and Environment (DP&E) can be assumed, with regard to the DP&E publication – Varying development standards: A Guide – August 2011 (the Guide). Clause 4.6 enables a development standard to be “contravened”, provided the applicant has submitted a written request that adequately justifies the exception (variation) from the development standard by demonstrating that:

-
- *Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
 - *There are sufficient environmental planning grounds to justify contravening a development standard.*

Further, the consent authority must be satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective for development within the zone in which the development is proposed to be carried out,*

The concurrence of the DP&E can be assumed for clause 4.6 variations, excluding certain situations. These situations relate to certain zones/circumstances and do not apply to this particular case which can be considered under clause 4.6.

Varying the development standards under clause 4.6 is addressed as part of the assessment of a development application, and includes the submission of a written request from the applicant to vary the development standard in accordance with clause 4.6(3). The extent of the proposed variations and the number of lots to be varied need to be considered.

In accordance with the DP&E requirements and guidelines, any development application that proposes a variation under clause 4.6 greater than ten percent (10%) of the development standard must to be determined by the Development Committee or full Council (rather than General Manager or nominated staff member). In this regard, 2 of the proposed lots seek a variation which is greater than 10%. The DP&E requirements are designed as part of corruption risk management measures.

Applicants submission – request for exception (variation) to development standard

- # The applicant has made a submission pursuant to clause 4.6 of the SLEP 2014. The submission contends that compliance with this development standard is considered to be unreasonable and unnecessary in the circumstances of this case, for the following reasons:
- a. *The site is within an established area comprising a range of lot sizes and development types.*
 - b. *As outlined above, the proposed subdivision if approved will not result in development taking place that would be contrary to the objectives of the R1 zone or the objectives of Clause 4.1.*
 - c. *It is clear that the proposed subdivision element of the proposal will not impact on either the built or natural environment in any way.*
 - d. *Being located so close to the major commercial areas of Nowra, the site is suitable for the development proposed.*
 - e. *The proposal to subdivide the finished development will enable each new dwelling to be on-sold to new owners following completion of the build. There is a well-documented need for smaller dwellings, located on smaller low maintenance lots in well-serviced*

localities throughout the Shoalhaven. This demand is mainly being driven by the Shoalhaven's ageing population.

- f. The extent of the variation sought may seem significant, however, the Council is in the process of amending the current LEP such that the 350m² minimum lot size would not apply for subdivision of an approved multi-dwelling housing development by way of Community (or Strata) title. Once Council successfully amends the SLEP 2014, no such variation request would be necessary.*

In addition, the applicant has advised in their submission that the proposal is consistent with, the objectives of the development standard for subdivision and that the proposal does not represent a substantial departure to said standard.

FINANCIAL IMPLICATIONS:

Should the application be determined by way of approval or refusal, there is the possibility of action in the Land Environment Court by the objector or the applicant. Accordingly, there would be costs associated with such action.

Nil other budgetary concerns.

COMMUNITY ENGAGEMENT:

In accordance with Council's Community Consultation Policy the development application was notified from 17 December 2015 to 4 January 2015. One (1) submission was received from the adjoining property owner to the east. This submission did not specifically object to the proposed development., The objection sought to remind Council to have regard for works that have been approved on the adjoining property to the east (i.e. subdivision and a ten (10) dwelling medium density development) and requested that Council have regard for the works along the common boundary of both lots in its assessment.

CONCLUSION

In summary:

- The proposed variations exceed 10%;
- Strict compliance with the development standard will hinder attainment of the objects of the Environmental Planning and Assessment Act 1979 and objectives of the R1 zone which include the provision of a variety of housing types and densities;
- A variation to the development standard is necessary to facilitate the orderly development of land, provide for a different type of housing therefore adding to the diversity of housing stock available in an urban environment and achieving the zone objectives. Further, the performance criteria of Council's SDCP 2014 with a variation to the minimum statutory lot size are satisfied;
- Maintenance of the minimum lot size development standard is unreasonable because it will not facilitate the subdivision of the approved medium density – which is clearly in accordance with the objectives of the R1 zone; and

-
- The subdivision of the land would not result in any change to the approved development. The subdivision enables land title to be created and would provide for a type of housing adding to the diversity of housing stock available in an urban environment and as noted above satisfies a zone objective.

3. Variation to Shoalhaven Development Control Plan 2014, Chapter G9 Development on Flood Prone Land, to permit a two lot residential subdivision of flood free land in Lot 2 DP1196876, Bindaree Street, Greenwell Point. File SF10495 [Index](#)

SECTION MANAGER: Cathy Bern.

PURPOSE:

To seek Council's direction with respect to variation to Chapter G9 Development on Flood Prone Land (G9) of Shoalhaven Development Control Plan 2014 (SDCP14), concerning a two lot residential subdivision of flood free land of Lot 2 DP1196876, Bindaree Street, Greenwell Point.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Support the variation to Chapter G9 to permit subdivision of flood free land within Lot 2 DP1196876, Bindaree Street, Greenwell Point.**
- b) Application to be determined under delegated authority.**

OPTIONS

#

1. Support the variation to Chapter G9 to permit subdivision of flood free land within Lot 2 DP1196876, Bindaree Street, Greenwell Point. Application to be determined under delegated authority.
2. Do not support the variation to Chapter G9 to permit subdivision of flood free land within Lot 2 DP1196876, Bindaree Street, Greenwell Point. Application to be determined under delegated authority in accordance with current SDCP14. (**ATTACHMENT A** is a zoning location map).
3. Defer determination of subdivision application until such time as G9 of SDCP14 is modified in accordance with Council's resolution of 15 December 2015. Application to be determined under delegated authority.

DETAILS

- # The application is for a two lot residential subdivision of flood free land within Lot 2 DP 1196876 (**ATTACHMENT B**). Access to the land is by way of Bindaree Street and the access into Greenwell Point Village are severely flood affected (**ATTACHMENT C**).

There are currently specific development controls for Greenwell Point in SDCP 2014, G9. G9 Part D states “No subdivision, dual occupancy or strata development even on flood free land will be permitted”.

In addition, G9 Section 5.3, performance criteria P3.3, states that “the proposed subdivision will not increase the potential population density in any areas (flood prone or flood free) with restricted evacuation access”. It also states in Schedule 6, that reliable emergency vehicle and pedestrian access is required during a 1% AEP flood event. The proposed subdivision has restricted evacuation access and, due to the flooding pattern and geographic location of this lot, residents may be stranded for multiple days during a rare (1% AEP) flood event. However this is also true for a significant number of residents in the next village.

Therefore, according to the current provisions of SDCP14, this application should not be supported unless it can be demonstrated that the relevant criteria can be met.

Council resolved at its Ordinary Meeting held 15 December 2015:

“That the Shoalhaven City DCP Chapter G9 Part (D) be varied to allow the subdivision of land and the creation of strata title lots within the Village of Greenwell Point subject to the lots whether strata or real property having access to flood free land, in compliance with the Shoalhaven LEP 2014”. This amendment has not yet been placed on public exhibition and adopted as part of Chapter G9 housekeeping amendment. The proposed amendments to Chapter G9 form part of a report on this business paper

Therefore, this application has been reported to Council to seek direction in respect to variation of the Shoalhaven City DCP.

FINANCIAL IMPLICATIONS:

In the event of a refusal, the applicant may choose to exercise a right of to appeal the determination in the Land and Environment Court. This would have financial implications associated with legal action.

COMMUNITY ENGAGEMENT:

The subdivision application notified to adjoining properties in accordance with Council’s Community Consultation Policy. No submissions have been received.

CONCLUSION

While the proposal is inconsistent with the current flooding provisions in Chapter G9 of SDCP14, it is consistent with Council’s resolution of 15 December 2015. However, Council must be aware that access to the lots, both Bindaree Street and Greenwell Point Road, are not flood free.

4. Shoalhaven Local Heritage Assistance Fund Program 2015/2016 File 1110E [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

Detail the outcome of the Shoalhaven Local Heritage Assistance Fund Program 2015-2016.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee receive the outcome of the Shoalhaven Local Heritage Assistance Fund Program 2015-2016 for information.

OPTIONS

1. Adopt the recommendation - this is preferred as it will allow Council to claim reimbursement of NSW Heritage Grants funding.
2. Adopt an alternative recommendation - this would not be in keeping with the established process and will prevent Council making a claim for reimbursement of the NSW Heritage Grants funding.

DETAILS

Background

Council provides support for local heritage projects through the provision of funds to match grant funding from the NSW Office of Environment & Heritage (OEH). This funding assists Council to employ a Heritage Advisor and to run a Local Heritage Assistance Fund to provide grants to a wide range of small local heritage projects including general maintenance, adaptive reuse, or sympathetic alterations/additions for heritage items.

Council received NSW Heritage Grant Program funding for the 2015-2016 financial year under two 'streams':

- Local Heritage Places Grants (Local Heritage Places Assistance Fund); and
- 2015-2016 Local Government Heritage Advisors (Heritage Advisory Service).

Local Heritage Places Grants

Ten (10) local heritage assistance grants were approved by Council on 8 September 2015 (MIN D15/266320). The successful applicants were required to at least match the value of the grant offered on a dollar for dollar basis and to complete the required works by 26 February 2016. A copy of the funding allocation for 2015/2016 is provided as **Attachment "A"**.

Council's Heritage Advisor has inspected the items to ensure the heritage works have been appropriately completed and has prepared the annual report *Local Heritage Fund for 2015/2016 Financial Year: Summary Project Report* which is provided as **Attachment "B"**.

As part of the funding agreement for the NSW Local Heritage Places Grant for the 2015-2016 financial year, in order to claim reimbursement of grant funds, Council is required to submit a list of completed projects and an annual report to OEH by 15 May 2016.

Local Government Heritage Advisors Grants

As part of the funding agreement for the Local Government Heritage Advisors grant, in order to claim reimbursement of the grant funds, Council is required to submit one annual report - *Heritage Strategy Annual Report* for 2015-2016 and a 3 Year Heritage Strategy – *Shoalhaven Heritage Strategy 2014-2017* to OEH by 15 May 2016.

NSW Heritage Grant Program 2016/2017

The 2016/2017 NSW Heritage Grants funding round has now opened and funding offers for 2016/2017 are expected to be received shortly.

Council applied for NSW Heritage Grant funding under the following streams:

- Local Heritage Places Grants (Local Heritage Assistance Fund).
- Local Government Heritage Advisors.
- Local Government Heritage Planning Studies Application (Heritage Conservation Area: Berry Township. Note: arose from a resolution as part of the Local Environmental Plan process).

FINANCIAL IMPLICATIONS:

Local Heritage Places Grants - 2015/2016

The OEH funding is based on a dollar basis for every two dollars Council spends. The overall funding of \$22,500 included the Local Government Heritage Places grant of \$7,500 ex GST and \$15,000 in the Council budget (Job No. 15263). The project at 94B Tannery Road, Berry was unable to commence due to unforeseen circumstances and so these funds will not be paid and will be returned to general funds.

Local Government Heritage Advisors Grants - 2015/2016

The OEH funding agreement for the Heritage Advisor grant also has a funding formula of \$1 for \$2 with Council being granted an amount of \$4,500.00 (ex GST). The cost of providing the Heritage Advisor service is generally more than the required minimum amount of \$9,000 and this is funded through the Planning & Development Group budget.

To claim reimbursement of the Local Government Heritage Advisors Grants funding, Council will submit an annual Heritage Strategy Action Report and the Shoalhaven Heritage Strategy 2014-2017 to OEH by 15 May 2016.

2016-2017 Financial Year

The Shoalhaven Local Heritage Fund Program for 2016/2017 is expected to again be fully funded, with the required budget allocation to be included in the 2016/2017 budget. A further report will be provided once the grant funding offers have been received.

COMMUNITY ENGAGEMENT:

No community engagement is required in relation to this report. The Local Heritage Fund Program 2015-2016 has been carried out consistent with the established process. Funding

opportunities for 2016-2017 will be advertised in local newspapers, and will include a link to Council's website for relevant information on eligibility and assessment criteria. Direct advice will also be provided to people who have previously expressed an interest in the program.

5. Stage 2 Housekeeping Amendments - Shoalhaven Development Control Plan 2014
File 50013e [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

To adopt the draft Stage 2 Housekeeping Amendments to Shoalhaven Development Control Plan (DCP) 2014 and enable it to proceed to public exhibition.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) **Adopt the draft Stage 2 Housekeeping Amendments to Shoalhaven Development Control Plan 2014 which includes proposed amendments to the Development Control Plan dictionary and the following existing Shoalhaven Development Control Plan 2014 Chapters as detailed in Attachment "A":**
- **Chapter G6 – Coastal Management Areas**
 - **Chapter G9 – Development on Flood Prone Land**
 - **Chapter G10 – Caravan Parks in Flood Prone Areas**
 - **Chapter G17 – Business, Commercial and Retail Activities**
 - **Chapter G20 – Industrial Development**
 - **Chapter NB1 – Mundamia Urban Release Area**
- b) **Exhibit the draft amendments for a minimum period 28 days in accordance with legislation; and**
- c) **Consider a further report after public exhibition of the draft amendments to:**
- **Consider any submissions received,**
 - **Rescind POL 12/118 – Flinders Estate – Zincalume Roofs**
 - **Adopt the Stage 2 Housekeeping Amendments for finalisation**

OPTIONS

1. Proceed with the Stage 2 Housekeeping Amendments as recommended - this is the preferred option as it will enable Shoalhaven DCP 2014 to be updated in accordance with existing Council resolutions to deliver better planning outcomes through improved legibility and the inclusion of relevant updated information.
2. Adopt an alternative recommendation - depending on its nature, this could delay the progress of Shoalhaven DCP 2014 Housekeeping Amendments works program (Stages 2 – 6).

DETAILS

Background

Shoalhaven DCP 2014 was prepared to meet the requirements of the planning reforms, initiated by the NSW Government in 2006 requiring only one DCP to apply to a parcel of land.

The new Shoalhaven DCP 2014 became effective on 22 October 2014. As a result of the tight six month time frame to finalise the document, Council resolved on 14 October 2014 to consider all major issues raised in submissions as future amendments to Shoalhaven DCP 2014.

Housekeeping Amendments - Shoalhaven DCP 2014

Given the wide range and scope of proposed amendments to Shoalhaven DCP 2014, the required amendments are being completed in a staged fashion. The Stage 1 Housekeeping Amendment captured the major issues that could be addressed within a short timeframe and with a normal community consultation approach; it became effective on 1 July 2015.

- # Council initially adopted a staging plan for the remaining 5 stages of the housekeeping amendments on 9 June 2015. Since then the staging plan/works program has been revised to accommodate State Government policy changes, subsequent decisions, and the re-evaluation of resourcing and sequencing. The revised works program is provided as **Attachment "A"**.

Stage 2 Housekeeping Amendments:

After further consideration, some amendments proposed to be included in Stage 2 Housekeeping Amendments are no longer required. Stage 2 now includes proposed amendments to six chapters and the dictionary, and will also result in one Council policy being rescinded. The proposed amendments are summarised below:

G6: Coastal Management Areas

The State Government is currently in the process of preparing new legislation relating to coastal management which may require a major revision of this chapter in the future. In the short term, minor amendments are proposed to clarify minor anomalies and to remove content in Section 5.1.2 Areas of Cliff/Slope Instability to make the DCP consistent with the recommendations of the Douglas Partners report that was adopted by Council.

G9: Development on Flood Prone Land

A number of amendments are proposed to this chapter to clarify and improve its operation, including:

- Correct errors and anomalies in the original chapter;
- Update reference to sea level rise to be consistent with Council's adopted position;

-
- Remove reference to Shoalhaven Local Environmental Plan (LEP) 2014 Flood Planning Area Map as this is the incorrect map for the DCP;
 - Move definitions to the dictionary and remove redundant definitions; and
 - Remove additional controls that seem to have been erroneously included post adoption

Council also resolved on 15 December 2015 for Part (D) of Schedule 5 of the Chapter to be varied (taken to be amended) to allow the subdivision of land and the creation of strata title lots within Greenwell Point subject to the lots, whether strata or real property, having access to flood free land. This amendment is included in the proposed DCP changes to be exhibited.

G10: Caravan Parks in Flood Prone Areas

It is proposed to update this chapter to:

- Ensure consistency with Chapter G9 (Development on Flood Prone Land);
- Update reference to 'sea level rise' to be consistent with Council's adopted position;
- Add definition of 'safari tent' as these are becoming an increasingly popular form of accommodation in caravan parks, and
- Correct minor formatting errors.

The associated local approvals policy will also be updated to reflect the final changes to this chapter.

G17: Business, Commercial and Retail Activities

This chapter is proposed to be updated to include a reference to the State Government's Smoke Free Legislation which was introduced in 2015.

G20: Industrial Development

The content of existing POL 12/118 – Flinders Estate – Zincalume Roofs is proposed to be incorporated into the chapter. As part of the ultimate finalisation of the DCP amendments, POL 12/118 will also need to be rescinded as it will be redundant.

NB1: Mundamia

Minor typographic errors have been identified in the chapter and these are proposed to be rectified through this amendment. The content and operation of the chapter is not changing.

Dictionary

Definitions in the chapters being amended are also proposed to be transferred to the dictionary for consistency with the overall format of the DCP.

- # **Attachment "B"** contains a detailed table of changes which summarises the proposed changes to each chapter. Should Councillors wish to view the changes in context, each draft DCP chapter and the dictionary with 'track changes' can be accessed via the Councillors share point site.

FINANCIAL IMPLICATIONS:

This project is being managed within the existing Strategic Planning Budget utilising existing staff resources.

COMMUNITY ENGAGEMENT:

The exhibition of the Stage 2 Housekeeping Amendments to Shoalhaven DCP 2014 will be undertaken in accordance with Council's Community Engagement Policy to 'inform' and 'consult', and the relevant legislative requirements. Community Consultative Bodies, relevant industry representatives and others will be directly advised of the exhibition arrangements.

6. **Proposed submission - State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - New Controls for rural and regional NSW**

File 31157E [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

To obtain endorsement to make a submission on the proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) to introduce new exempt and complying development controls for rural and regional NSW.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the comments contained within this report form the basis of Council's submission on the proposed amendments to the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008 - New exempt and complying development controls for rural and regional NSW.

OPTIONS

1. Endorse making a submission to the NSW Department of Planning & Environment (DP&E) based on the comments contained in this report. This is the preferred option as it will establish Council's position on the proposed changes relevant to Shoalhaven and will enable a submission to be made within the required timeframe.
2. Adjust the proposed submission points and include additional comments as necessary and submit to DP&E
3. Not make a submission. This is not favoured as the proposed changes to the Codes SEPP could have potential implications for Shoalhaven.

DETAILS

Background:

The proposed amendment to the Codes SEPP will see the introduction of a new 'Inland Code' which is intended to apply to all local government areas located west of the Great Dividing Range. This is intended to reduce complexity and ensure that the resulting residential development controls recognise and respond to the differences in built form between metropolitan, rural and regional NSW. The proposed changes mean that the existing General Housing Code and Rural Housing Code will no longer apply in the western local government areas covered by the Inland Code.

In addition to the proposed Inland Code, it is also proposed to make amendments to the General Exempt Development Code (the Exempt Code) which will apply to rural lots state-wide. These amendments are intended to enable low impact development to support agricultural activities on rural zoned land to be undertaken without planning or building approval if applicable pre-determined development standards can be met. These activities include the erection of farm buildings, grain storage bunkers and silos.

The exhibition material in regard to the proposed amendments can be viewed on the DP&E's website at

http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=7373

Proposed Submission Points:

Given that the Inland Code is not proposed to apply to Shoalhaven (LGA), Council has no comments on the proposed Inland Code.

Council however has concerns with the proposed NSW wide changes to the Exempt Code in relation to *farm sheds and outbuildings*, and *grain storage bunkers and silos*. These concerns are outlined below.

Inclusion with Inland Code

Council is disappointed that the changes to the Exempt Code, which apply State wide, have not been highlighted in the proposed Inland Code which may limit the number of coastal councils that are aware of the changes.

Visual impacts

The proposed changes to the Exempt Code have the potential to have substantial visual impacts in our rural areas. Council objects to the proposal to more than double the size of exempt farm sheds covered by the code, as the full assessment of the bulk and scale of the proposed development is an essential requirement for larger farm sheds in potentially sensitive or significant landscapes (e.g. Berry, Kangaroo Valley, Milton). The criteria for farm buildings and grain storage bunkers do not address important visual considerations such as siting, colour, reflective surfaces, and clustering of buildings. Strong community concerns have been expressed regarding the visual impact of development in a number of locations (eg. Mt Hay, Berry).

Setbacks

There should be greater setbacks for grain storage bunkers, given their potential large size of up to 7000m². For lots larger than 4 hectares, a setback greater than the 20 metres

proposed for farm buildings should be required e.g. 50 metres. This will help minimise the visual impacts from rural roads.

Building heights

The proposed height of 12 metres for farm sheds is greater than the height set through the Shoalhaven Local Environmental Plan (LEP) 2014 for rural areas of 11 metres. The SEPP should specify that the building be no higher than the height set in the relevant LEP or be a maximum of 12 metres if no height is set in the LEP.

Impacts on flooding

There is no consideration of the flood impacts of exempt farm buildings located in flood prone areas. In Shoalhaven, a large proportion of our primary farm land is located on the floodplain. Some level of assessment of these structures is required to prevent or minimise impacts within, and external to, the site. For example displacement of flood waters into adjoining properties.

The proposed changes are not in line with the NSW Government's Floodplain Development Manual, specifically its objectives. The changes are potentially inconsistent with the following objectives of the manual:

- i. Reduce risk to life and property resulting from floods;*
- ii. Ensure that the impacts of the full range of flood sizes up to and including the Probable Maximum Flood (PMF) are considered when assessing development on flood prone land;*
- iv. Ensure the future use of flood prone land does not cause undue distress to individuals or unduly increases potential flood liability to individuals or the community; and*
- v. Incorporate site specific floodplain management recommendations from local floodplain risk management plans into Council's overall planning framework.*

The proposed changes do not support or encourage developers to plan for and mitigate against flooding. Development controls are a way to ensure people, stock and property are offered some level of protection from floods. By reducing the need to meet development controls, individuals place themselves, their businesses and potentially their neighbours at more risk from floods.

The proposed changes do not allow Council to track the cumulative impact of development on the floodplain. A number of Council's Floodplain Risk Management Studies and Plans identify a percentage of the floodplain which can be filled/developed without negatively altering the cumulative effect of flood affectation. If Council does not have an accurate record of development occurring, the impact it has on the whole floodplain cannot be calculated or managed.

In addition, the proposed changes do not require the developer to demonstrate the immediate impact the development may have on flood affectation on or adjoining the site.

Conclusion:

Whilst the Governments desire to free up development on rural lands is acknowledged, the issues raised in this report need to be raised given the potential impacts that could be finally created.

Thus, the proposed Council submission should be based on the contents of this report to ensure that the issues are adequately considered by State government before any changes are made to the Exempt Code in the Codes SEPP.

FINANCIAL IMPLICATIONS:

There are no financial implications for Council in making a submission on the proposed changes to the Codes SEPP.

COMMUNITY ENGAGEMENT:

The proposed changes to the Codes SEPP are on exhibition for community comment until 13 May 2016. Given the nature of the exhibition (i.e. General NSW changes within a document related to the 'Inland Code') members of the Shoalhaven community may have been unaware of the proposed changes.

7. Huskisson Foreshore Precinct Masterplan and Development Concepts – Proposed Public Exhibition of Masterplan Concepts File 50840E [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

Obtain endorsement to publicly exhibit the Draft Huskisson Foreshore Precinct Masterplan.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Publicly exhibit the Draft Huskisson Foreshore Masterplan, including the four potential Development Concepts, for a minimum period of 40 days;**
- b) Notify the Community Reference Group members, relevant Community Consultative Bodies, Business Chambers and landowners within the precinct of this resolution and the exhibition arrangements;**
- c) Receive a further report following the completion of the public exhibition which comments on a preferred Masterplan option.**

OPTIONS

1. Adopt the recommendation and proceed to exhibit the draft Masterplan, including the four potential development concepts. This is preferred as it provides the community an opportunity to comment on the range of options for the site, and enables feedback on all four options.
2. Adopt an alternative resolution which involves publicly exhibiting all four options, and also identifying a preferred option at this point. This is not recommended. Identifying a preferred option may potentially limit community feedback to that option, rather than encourage meaningful feedback on all four options.
3. Adopt an alternative resolution which involves publicly exhibiting only one option. This is not preferred as it would limit community feedback to a single option.

DETAILS

Background

Council purchased 59 Owen Street, Huskisson in early 2015 and resolved on 17 March 2015 to prepare a masterplan for the Huskisson Foreshore precinct and investigate preliminary development concepts for 59 Owen Street. The precinct includes the subject site (59 Owen Street) through to the existing Huskisson Hotel and the foreshore area to the north, as shown in Figure 1 below.



Figure 1 - Subject Land

Council subsequently engaged SJB Architects in August 2015 to prepare a masterplan for the Huskisson Foreshore Precinct and a range of development concepts for 59 Owen Street to guide the future use/development of the area. As part of the process, Council established a Community Reference Group (CRG) made up of representatives from the local Business Chamber, Tourism group, CCB, general public, adjoining land owners and wharf operators.

The project consultant has worked with the CRG to identify the key strengths and opportunities of the precinct which were then used to develop a set of key design principles. The key design principles have been used as a foundation to develop the draft Masterplan and potential development concepts.

Draft Masterplan and Development Concepts

- # The draft Masterplan presents a vision and principles for the precinct, a wider town centre concept plan and four development concepts for 59 Owen Street, the adjoining road reserve and the Club Jervis Bay site. A copy of the draft Masterplan will be available on Councillors share point site and in the Councillors room prior to the meeting.

The development concepts were informed by the key design principles developed with the CRG and represent different potential development outcomes and densities for 59 Owen Street (and adjoining road reserve) and 2 Currambene Street (Club Jervis Bay). Each option contains different access arrangements and open space treatments to show a range of options of the precinct. The four options are shown in Figures 2-5 below.



Figure 1 - Option 1a – Pavilion not included at 59 Owen Street



Figure 2 - Option 1b – Pavilion included at 59 Owen Street



Figure 4 - Option 2



Figure 5 - Option 3

As part of the process, the CRG were asked to assess each of the development concepts against the key design principles. This assessment has been incorporated into the draft Masterplan and an overview of the outcomes is provided below:

- Option 1A scored highest in Character, Activity and Living design principles
- Option 1B scored highest in Activity, Movement and Living design principles
- Option 2 scored highest in Movement, Activity and Development design principles
- Option 3 scored highest in Movement and Development design principles

The development concepts have also been informed by a preliminary geotechnical investigation and preliminary environmental site assessment by SMEC Australia and a market analysis and feasibility assessment completed by Charter Heck Kramer. The primary findings of the two investigations were that residential floor space has the greatest potential for return and that providing basement car parking would significantly impact development feasibility. These studies were developed to support and inform the development concepts and ultimately enable Council to make an informed decision on a preferred option and way forward.

Public Exhibition Period

The Council resolution of 17 March 2015 indicated that as part of the master planning process that there was also a need to “engage in broad community consultation on the preferred options adopted by Council”. Thus the draft Masterplan and development concepts will be publicly exhibited for a minimum period of 40 days.

It is recommended that all four options prepared by the project consultant are publicly exhibited to encourage meaningful feedback on all of the options. The draft Masterplan will be exhibited with a customised survey to seek feedback on specific aspects of all four options. This is aimed at generating greater discussion on the strengths and weaknesses of each option and facilitate a better informed decision when a preferred option is identified after the public exhibition period. The draft Masterplan will be available to view at Council’s administrative centre in Nowra as well through Council’s website. A viewing location is Huskisson will also be investigated

A community ‘drop in stall’ will be held on site during the exhibition period and include the display of exhibition boards and physical models. This will to occur in the first half of the exhibition period and go over two consecutive days. The project consultants and Council staff will be available on these days to answer any questions and talk to the community about the draft Masterplan and development concepts. A copy of the survey will also be available for people to complete and submit.

FINANCIAL IMPLICATIONS:

The public exhibition of the draft Huskisson Foreshore Masterplan and Development Concepts will be managed within existing budgets.

Moving forward, should one of the four concepts be considered favourable as an outcome of the public exhibition and by Council, the following table provides a summary of the feasibility outputs. Based on the preliminary assessment completed by CKK, Options 1a, 1b and 2 are considered not feasible, and Concept 3 is considered feasible.

Feasibility Outputs				
Concept	Concept 1A	Concept 1B	Concept 2	Concept 3
Area Summary (GFA)	Retail: 481 sq.m. Residential: None Basement parking: None	Retail: 562 sq.m. Residential: None Basement parking: None	Retail: 558 sq.m. Residential: 859 sq.m. Basement: 919 sq.m. (GBA)	Retail: 861 sq.m. Residential: 2,142 sq.m. Basement: 919 sq.m. (GBA)
Key inputs (approx.)	Net Revenue: \$2.8m Land Purchase Price: \$3m Development Costs: \$1.8m	Net Revenue: \$3.3m Land Purchase Price: \$3m Development Costs: \$2m	Net Revenue: \$8.6m Land Purchase Price: \$3m Development Costs: \$6.2m	Net Revenue: \$18.4m Land Purchase Price: \$3m Development Costs: \$11.9m
Key Outputs	Profit: -\$1.9m Profit Margin: -39.54% IRR: -35.87% Project Related Land Value: \$914k*	Profit: -\$1.6m Profit Margin: -32.22% IRR: -27.52% Project Related Land Value: \$1.1m*	Profit: -\$498k Profit Margin: -5.35% IRR: -2.36% Project Related Land Value: \$1.27m*	Profit: \$3.6m Profit Margin: 23.81% IRR: 20.30% Project Related Land Value: \$3m*
Preliminary Feasibility Outcome	Not Feasible	Not Feasible	Not Feasible	Feasible Based upon land purchase price of \$3m

* Residual Land Value is calculated based on a target development margin and IRR of 20% (Exclusive of GST)

COMMUNITY ENGAGEMENT:

The draft Huskisson Foreshore Masterplan and Development Concepts will be publicly exhibited for a minimum period of 40 days. In addition, the project consultants and Council staff will undertake a community 'drop-in' stall on site over two consecutive days to provide a greater opportunity for people to view the options and provide feedback on the draft masterplan.

The draft Masterplan was developed with extensive community consultation, including regular consultation with the CRG and a two-day Enquiry by Design workshop with the wider community which took place in late October 2016.

8. Planning Proposal (Rezoning) - 5C Creston Grove, Bomaderry (Ride Australia) File 52920E [Index](#)

SECTION MANAGER: Gordon Clark.

PURPOSE:

Obtain direction on a Planning Proposal (PP) that has been received for 5C Creston Grove, Bomaderry.

RECOMMENDED, in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Not support the Planning Proposal to rezone 5C Creston Grove, Bomaderry to B5 Business Development;**
- b) Advise the proponent of this resolution and their options of a pre-Gateway review; and**
- c) Notify the NSW Roads & Maritime Service and the NSW Department of Planning and Environment of this resolution.**
- d) Council staff work with the proponent to identify potential sites that are appropriately zoned for the proposed use.**

OPTIONS

1. Adopt the recommendation - this is consistent with concerns identified in the report and the advice received from the NSW Roads and Maritime Service (RMS).
2. Adopt an alternative resolution to support a modified version of the PP that could enable the proposed use to be considered via an 'additional permitted use' in Schedule 1 of Shoalhaven Local Environmental Plan (LEP) 2014. This option would enable the proposed use on the site, but would limit development (if possible) to a boat showroom and associated uses. It is noted that RMS have raised concerns that this option would also create a precedent for incremental extensions of commercial zoned land along the highway.
3. Adopt an alternative resolution to support the PP as submitted. This option has the potential to create a rezoning precedent for land on the Princes Highway and create ribbon development along the highway. Given the RMS have objected to the proposal, it is unlikely that the NSW Department of Planning and Environment (DP&E) would support the proposal in its current form.

DETAILS

Background

- # Council has received a PP from Ride Australia to rezone 5C Creston Grove, Bomaderry (as outlined in red in Figure 1) to allow a new commercial premises comprising boat and merchandise showroom with associated office space. A copy of the proponents PP will be available in the Councillor's room and on the Councillor's share point site prior to the meeting.

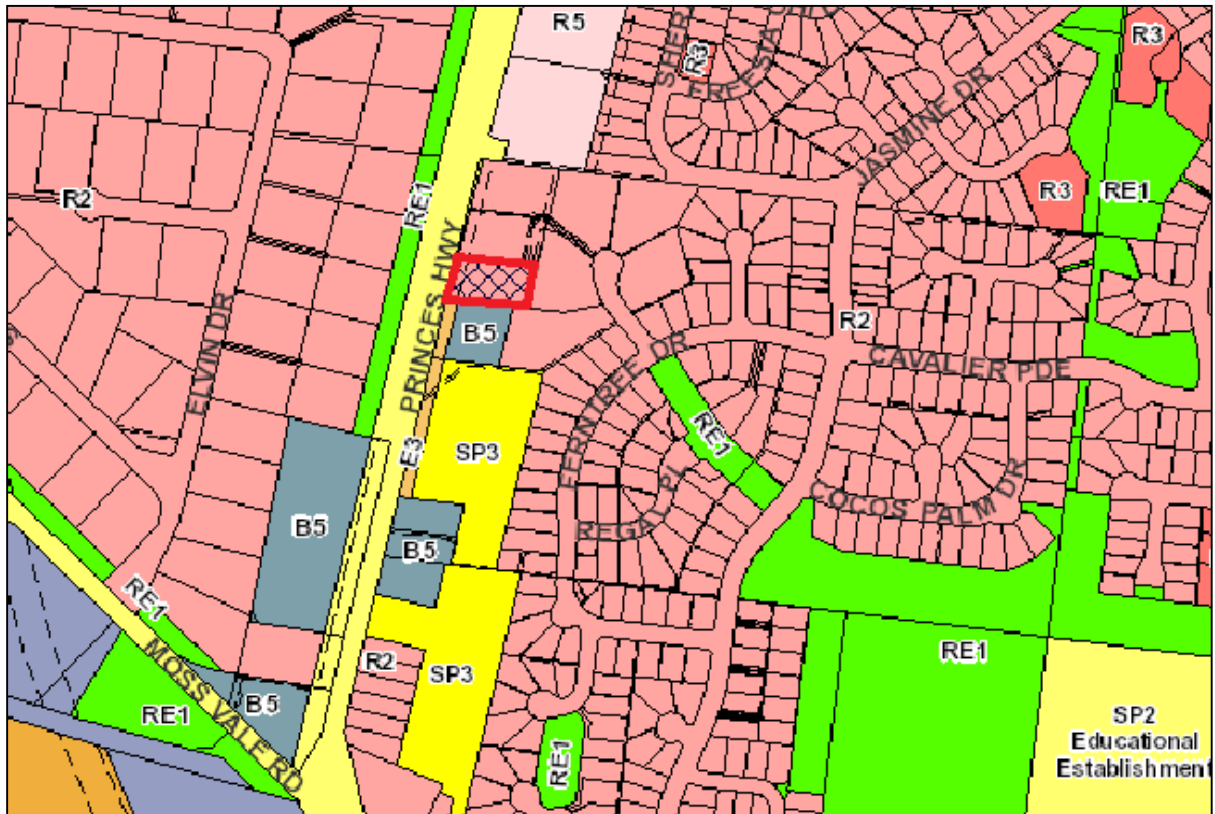


Figure 1 – Subject Lot and existing zones

Prior to receiving the PP, a pre-lodgement meeting was held between the proponent and Council staff. Staff advised that rezoning the subject land to allow for future commercial development has potential issues such as proximity to residential development and potential amenity impacts; precedent issues and establishment of ribbon development along the highway; access issues from the highway; potential land contamination issues; and justification, including whether there is an undersupply of business zoned land in the area. In addition, staff advised that should RMS not support the PP, it is unlikely that the PP would be supported.

The proponent also consulted RMS who provided advice on 18 February 2015 and 9 June 2015 that the PP would not be supported on access management principles, as well as precedent and potential to encourage further ribbon development along the highway, which would contradict upgrades to the Princes Highway to optimise its future safety and efficiency. A copy of the RMS advice from 2015 is provided as **Attachment “A”**.

The PP was subsequently formally received on 15 February 2016.

Rezoning Proposal

The PP seeks to rezone the subject land from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development under Shoalhaven LEP 2014. The rezoning would extend the existing B5 Business Development zone that currently applies to the adjoining service station at 246 Princes Highway, to the south. The proponents PP states that the rezoning and subsequent commercial development will create a buffer between the existing service station and the surrounding residential areas, and provide an outcome that is more in keeping with the lands characteristics.

The PP seeks to address what the PP Report describes as an ‘anomaly’ issue surrounding the lot. An ‘anomaly’ is essentially an oversight or error where a current land use does not reflect the actual approved and existing land use or surrounding land uses.

The proponents PP Report argues that the subject land is a zoning anomaly due to its location adjacent to the service station which has resulted in the lot remaining unsold and undeveloped since it was zoned for residential purposes in Shoalhaven LEP 1985. It also states that the Site Audit Statement issued after the remediation of land **allows the site to be used for residential purposes** but with restrictions on the use of the land for growing plants for consumption, which is inconsistent with the large-lot residential nature of the current land use.

Comment

As part of the Citywide LEP a ‘best fit’ zone transfer from Residential 2(a3) to R2 Low Density Residential was applied to the subject land and a minimum lot size 4000m² in accordance with the established ‘ground rules’. The adjacent service station site was previously zoned Residential 2(d) under the Shoalhaven LEP 1985 and was rezoned to B5 Business Development as part of Shoalhaven LEP 2014 in accordance with the ‘ground rules’ which required, in part that, “as far as practical the LEP include spot business zones that recognise existing use”.

In this instance the R2 Low Density Residential zoning of the subject land is not considered to be an anomaly. The property has been zoned for residential purposes since the adoption of Shoalhaven LEP 1985 and ‘commercial premises’ have consistently been a prohibited use on the site since the Interim Development Order No. 1 in 1964. The Nowra-Bomaderry Structure Plan also identifies this area of Bomaderry as a ‘living area’.

The PP Report also identifies the land use interface issue between the adjacent service station and residential development as one of the unique site characteristics which establish the suggested zoning anomaly. Whilst it is acknowledged that there are potential amenity, acoustic, lighting and odour impacts for residential development adjoining an existing service station, this does not however establish a zoning anomaly. It is not unusual for service stations to share a common boundary with residential zoned land. A number of examples exist in Shoalhaven including the Shell Petrol Station at Queen Street, Berry; United Petrol Station at Larmer Avenue, Sanctuary Point; and the Caltex Petrol Station at Elizabeth Drive, Vincentia. The RMS have also provided similar advice in regard to other examples with their southern region.

In addition, the site has been remediated and a Site Audit Statement (SAS) issued certifying the land is able to be used for residential purposes with limitations on home-grown produce intake. The limitation is described in the SAS specifically as “minimal home-grown produce contributing less than 10% fruit and vegetable intake”.

This is a large (3,345m²) block and therefore there is the ability to locate a dwelling in the northern part of the site and provide a substantial setback to the southern boundary. Mitigation measures such as erecting a shed between any potential dwelling and the southern boundary could be used to act as a buffer.

As such the lot is able to be developed for residential purposes consistent with the R2 zone. Ultimately the existing zone is not considered to be an anomaly.

Surrounding Neighbour Notification

Surrounding neighbours were informed of the PP and its intentions. In addition, the information submitted was made publicly available on Council's website for viewing.

At the time of writing, no submissions had been received.

Consultation with RMS

Given their prior involvement, Council notified RMS of receipt of the PP and sought their advice on it and specifically whether it addresses concerns previously raised by them on 18 February 2015 and 9 June 2015; and whether it is consistent with future planning of the Princes Highway, particularly with respect to the Berry to Bomaderry Highway Upgrade.

A detailed response was received from RMS on 12 April 2016 (see **Attachment "B"**). The advice states that the PP does not address the concerns raised in previous correspondence and on the basis of the information provided, objects to the PP as proposed and/or the inclusion of an allowance clause to allow the intended future use.

The issues raised in the RMS response relate to:

- The proposal is not consistent with plans for the future of the Princes Highway, in particular the Berry to Bomaderry Princes Highway Upgrade to optimise the future safety and efficiency of the highway for regional traffic movements. At this location, a central median is proposed with a turnaround facility to the north. It is vital that the traffic movements between the highway and properties at this location are minimised as much as possible. The current zoning and access arrangements for the land are considered appropriate.
- Wish to retain the portion of the land identified for Arterial Road Widening (SP2 Infrastructure). This will only be reconsidered following the completion of the Berry to Bomaderry Highway Upgrade.
- Does not share the view that it is a zoning anomaly. The development history of the property relates to a three lot residential subdivision where sound planning principles from a road network perspective were employed which resulted in a condition of consent and restriction-as-to-user that stipulated that "there shall be no access from the Princes Highway to Lots 391-393". If access to the site was proposed via the Princes Highway, a referral to the RMS would have been required, in such circumstance RMS would have objected to the subdivision on the basis that it would create an unnecessary conflict point with a State road which is inconsistent with the RTA Guide to Traffic Generating Developments (RTA Guide), and after 1 January 2008, inconsistent with State Environmental Planning Policy (Infrastructure) 2008 (SEPP Infrastructure).
- The rezoning will create a precedent for incremental extension of commercially zoned land to the north of Bomaderry which would have significant impacts for traffic and access management along the Princes Highway. Commercial development would generate significantly more traffic than the existing low density residential development to the north of the subject site. The same precedent for incremental extensions of commercial zoned land exist should an allowance clause be pursued to permit only the intended future use.

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- The B5 Business Development zone allows for a range of permissible uses with more intensive forms of traffic generating development and there is no guarantee that the proponent will carry out the intended future use. The intended future use and other permissible uses would compromise plans to optimise the future safety and efficiency of the Highway.
 - Accept that access off Creston Grove would not be suitable for a commercial use however do not accept that the alternative option (access from Princes Highway) addresses the intentions of clause 101(2)(a) of the SEPP. Satisfied that practical vehicular access is available via Creston Grove for the current zone.
 - It is common for residential properties to be located adjacent to service stations, whilst it may be undesirable, it is inevitable that this will occur in infill areas. A desktop study was completed to support this analysis and provided as an attachment to the advice.
 - The Traffic Statement submitted has not adequately addressed clause 101(2)(a) of the SEPP Infrastructure and the traffic analysis used is not supported by RMS.

Relevant Strategies, Policies and Ministerial Directions

Illawarra-Shoalhaven Regional Plan (ISRP)

The ISRP is a high level strategic planning document which currently applies to Shoalhaven. The ISRP addresses the provision of suitable land for employment and housing needs. While the ISRP applies to Shoalhaven, it does not contain any specific provisions related to the subject land. As such the PP is not inconsistent with the broad goals of the ISRP.

Nowra Bomaderry Structure Plan (NBSP)

The NBSP provides a framework for growth and development opportunities in the Nowra-Bomaderry area. The NBSP identifies the area where the subject site is located in Bomaderry as an 'existing living area'. The intended future commercial use is inconsistent with this. The NBSP also outlines a preferred commercial hierarchy that aims to support existing and proposed centres in the Nowra-Bomaderry area, and this site is not identified as an existing or proposed commercial area. Therefore the PP is considered to be inconsistent with the NBSP.

State Environmental Planning Policies (SEPPs)

The SEPP Infrastructure and SEPP 55 – Remediation of land apply to this PP. The PP is not inconsistent with SEPP 55, however RMS in their advice have identified that the future development of the site would be inconsistent with clause 101(2)(a) of SEPP Infrastructure.

Section 117 Directions

The PP is potentially inconsistent with the following 117 directions:

Direction 1.1 Business and Industrial Zones - the subject site is outside a strategic centre and as a result is potentially inconsistent with the objectives of this Direction.

Direction 3.1 Residential Zones - rezone land from residential to business has the potential to reduce housing choice and residential land availability. It is however acknowledged that this inconsistency is of a minor nature.

Direction 3.4 Integrating Land Use and Transport - precedent for subsequent ribbon development along the Highway has the potential to create a new business/service centre

and dispersing trip-generating development. This is potentially inconsistent with this direction.

Key Issues

Traffic Impact and Access Issues

Whilst it is noted that the visits to the proposed development would be by appointment only the rezoning has the potential to create traffic impacts on the Princes Highway as the largely commercial / light industrial uses permissible in the proposed zone would require access via the highway.

The Traffic Statement submitted with the PP states that the proposed development will not compromise the effective ongoing operation and function of a classified road. RMS has identified some concerns with the traffic statement, as highlighted earlier.

RMS has advised that further commercial development in this location would have an impact on the highway and contradict future plans to optimise future safety and efficiency of the highway. These concerns relate to the creation of an unnecessary conflict point on a state road which is inconsistent with the RTA Guide and inconsistency with clause 101(2)(a) of SEPP Infrastructure.

Further traffic impacts could occur as a result of the proposed Berry to Bomaderry highway upgrade and the construction of a central median strip at this point on the highway. The proposed median strip will impede right-hand turns into the site, creating potential for an increased number of U-turns performed at the designated (proposed) U-turn bay to the east of highway south of Abernathy's Lane.

The traffic statement submitted by the proponent states that as the future intended development would not be classed as traffic generating development, no referral to the RMS would be required. However, the RMS would be a concurrence authority under Section 91 of the *Environmental Planning and Assessment Act 1979* and an approval would be required from RMS as the road authority under Section 138 of the *Roads Act 1993*. Given the concerns raised by RMS in relation to the PP, there is potential that they may not issue a concurrence for future development on the site.

Precedent and subsequent ribbon development

The proposed rezoning has the potential to create a precedent for future rezoning proposals further north along the highway. Should Council resolve to support this PP, it has the potential to generate interest to rezone further properties to the north and essentially create ribbon development, similar to South Nowra, particularly as a result of the planned highway upgrades ultimately to Bomaderry.

The PP Report states that the proposal would not set a precedent as it is the only undeveloped residential land in the immediate neighbourhood that has a direct boundary with the service station and that the individual site constraints set it apart from others.

Whilst other sites further north may not share a boundary with the existing service station that has a commercial zone, there are other existing large lots with relatively low capital investment that could use similar arguments to justify a rezoning as a minor extension of the existing business zone nearby. This could result in ribbon development along the highway and would be inconsistent with the RTA Guide which states that roads should

provide a service to existing and planned development rather than promoting inappropriately located development. The justification given in the PP Report for the purchase of this land was related to its exposure to the highway regardless of its zoning for residential purposes. Thus the proponents were aware of its residential zoning and contamination issues when they purchases the land. It is considered that the intended future use and flow on potential for further ribbon development is an example of inappropriately located development.

RMS strongly believe that ribbon development along the highway would generate significantly more traffic than the existing low density residential development. The impact of potential ribbon development would also unnecessarily compromise plans to optimise the future safety and efficiency of the highway for regional traffic movements.

The proponent provided subsequent advice suggesting that Council have previously undertaken rezoning of similar properties at 149 and 151 Larmer Avenue, Sanctuary Point and therefore should support this proposal on the same basis. Whilst the nature of the rezoning at Larmer Avenue is similar as it is an extension of an existing B5 Business Development zone related to a service station, the concerns here relate to the fact that the subject land is located on a classified (state) road, whereas Larmer Avenue is a local road and the rezoning in that circumstance sought to improve the safety and operation of an existing service station.

Amenity Impact

Rezoning the subject land to B5 Business Development has the potential to open the site up to land uses with greater amenity impacts than those permitted within the R2 Low Density Residential zone. Whilst a commitment has been made by the proponent to deliver their intentions on the subject site, a PP does not have the ability to securely deliver a specific outcome.

The proximity of the subject land to residential land has the potential to create amenity impacts. The range of permissible uses within the B5 zone could generate odour, acoustic, lighting and other impacts on existing adjacent dwellings; these would typically be considered in detail as part of any future development application.

Supply of appropriate zoned land

The PP Report states that there was no other appropriate sites for purchase for the intended future use except for the subject land. The site was considered to meet their requirements in terms of being for sale; based in Bomaderry, Nowra or South Nowra; and have good / direct Princes Highway exposure and access. The criteria for purchase did not take into consideration whether the land was appropriately zoned. The purchase of the land on the basis that Council would support an ad hoc rezoning to suit their development intentions is inconsistent with Council's endorsed PP (Rezoning) Guidelines.

Advice was provided prior to the lodgement of this PP that there is existing appropriately zoned land in suitable locations for this type of development. In addition, there are a number of properties which meet the above criteria and are suitably zoned for the future intended use. An example of a block of land sold around the same time as the subject site is Lot 7 Princes Highway, Bomaderry (previous Plants Plus) which is currently zoned B5 Business Development.

Council is supportive of employment generating land uses in appropriately zoned and located areas within Shoalhaven, therefore Council staff will work with the proponent to identify potential sites suitable for the boat showroom and associated office space should the rejection of the submitted PP be supported.

Conclusion

The PP seeks to rezone 5C Creston Grove from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development to permit commercial premises for a boat and merchandise showroom with associated office space.

As detailed the requested rezoning has the potential to result in a number of impacts due its location on a classified (state) road, including but not limited to traffic impact, precedent (subsequent ribbon development along the highway) and amenity impacts. The proposal is also potentially inconsistent with existing Section 117 Directions. Thus it is recommended that the PP not be supported.

FINANCIAL IMPLICATIONS:

The proponent has paid the initial PP lodgement fee in accordance with Council's Fees and Charges.

COMMUNITY ENGAGEMENT:

Council notified surrounding landowners of receipt of the PP and made the information submitted available on Council's website for viewing. At the time of writing, no submissions were received.

Tim Fletcher
DIRECTOR PLANNING & DEVELOPMENT SERVICES

R.D Pigg
GENERAL MANAGER