8 Castle Glen,
North Nowra NSW 2541
24th May, 2016.

Subject. Disposal of council-owned land
Corner Bridge Road and Princes Highway
Nowra.
Ref. 52523E

Dear Sir,

Reference is made to the proposal to dispose of the land at the above site. I note that the notice of the proposal states " the property has been assessed and considered not essential for the carrying out of councils functions...." There is no qualification as to the acceptability of any development of the land which seems to indicate that providing an acceptable price is offered the land will simply be sold and can be developed at any standard within zoning and building constraints or held for speculation.

As you are aware this is an iconic strategic site at the gateway to Nowra. The development of this site should reflect its importance. I doubt at this time the population of the area would support any development of any substance or significance.

This site is one of the very few close to the river. There needs to be consideration to the future development demands of the area and it may not be feasible for some form of iconic development to be financially viable for many years to come. The council should consider the macro development of the city. Such development may not evolve for many years even 20 to 50 years and could include Hotel, Commercial Offices including meeting councils future needs or further development associated with the arts etc.

Any development should comprise public areas with views over the river and include such uses as cafes, restaurants etc. However it would even be prudent leave the land in its present form for future use to meet demands at that time which maybe open space close to the river. I am aware of the town park and the proposed development of parkland on the eastern side of the highway but these are remote from the river.

There is limited land that can be developed on the edge of the CBD overlooking the river whether council owned or private. All the above comments also apply to the visitors centre site. The eventual development of all the land close to the river in this area will tend the land lock the river in an area that will be most in demand. Similar situations exist throuthout the city from lack of forsight for future needs and demands.

Council has a responsibility to have regard to the future and not sell strategic land for a quick dollar.

As the owner of the land council is in the most prominent position to control and dictate its future use as opposed to any private development on private owned land.

It also seems premature in view of the proposed construction of another bridge crossing and the associated road works to access the bridge. I am not aware of the stage of planning for these works and until the project reaches the commencement of construction anything can change which may impact on this site or open opportunities.

I therefore lodge a strong objection to this proposal.

Yours sincerely,

Graham Napper.

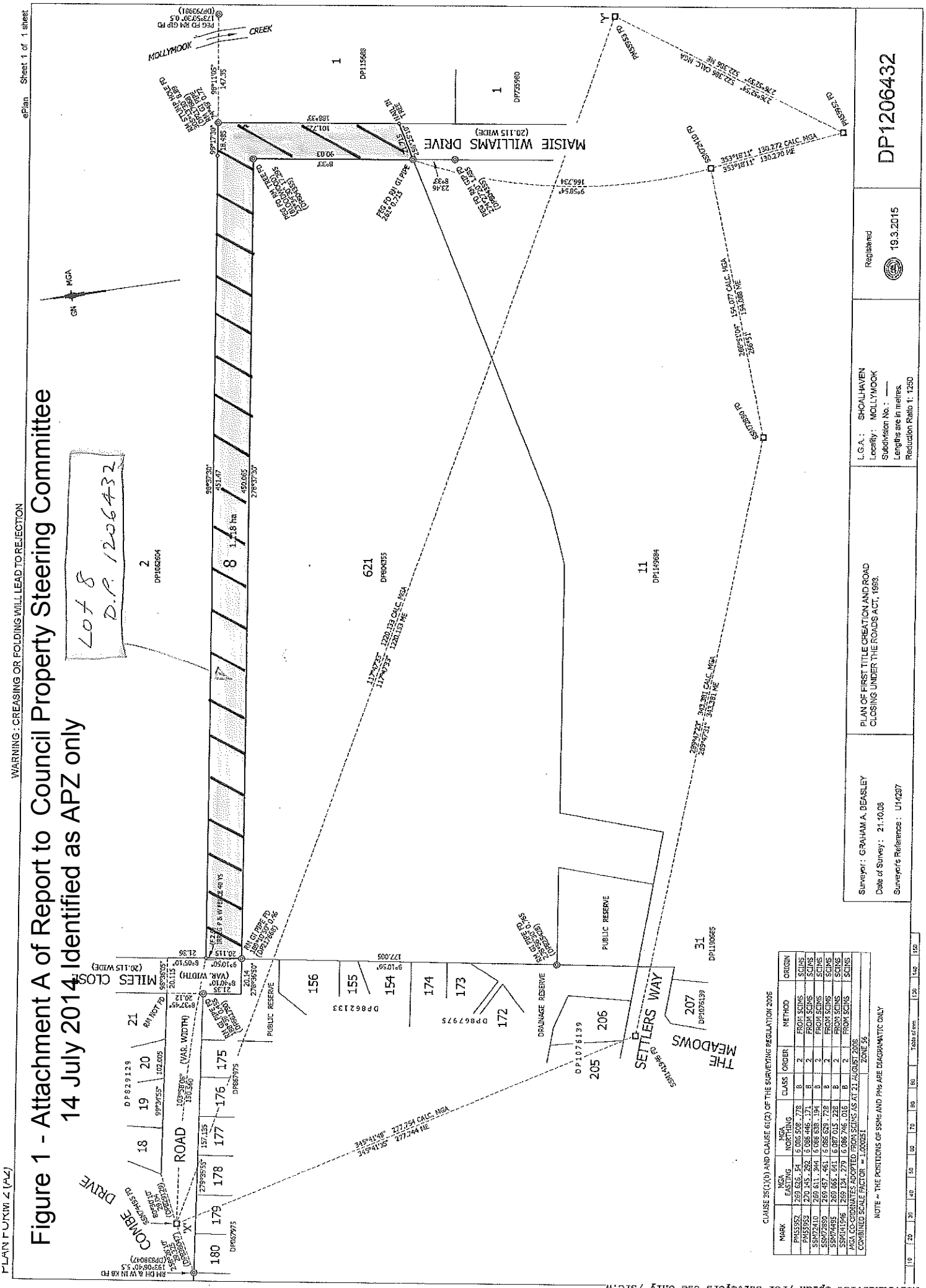
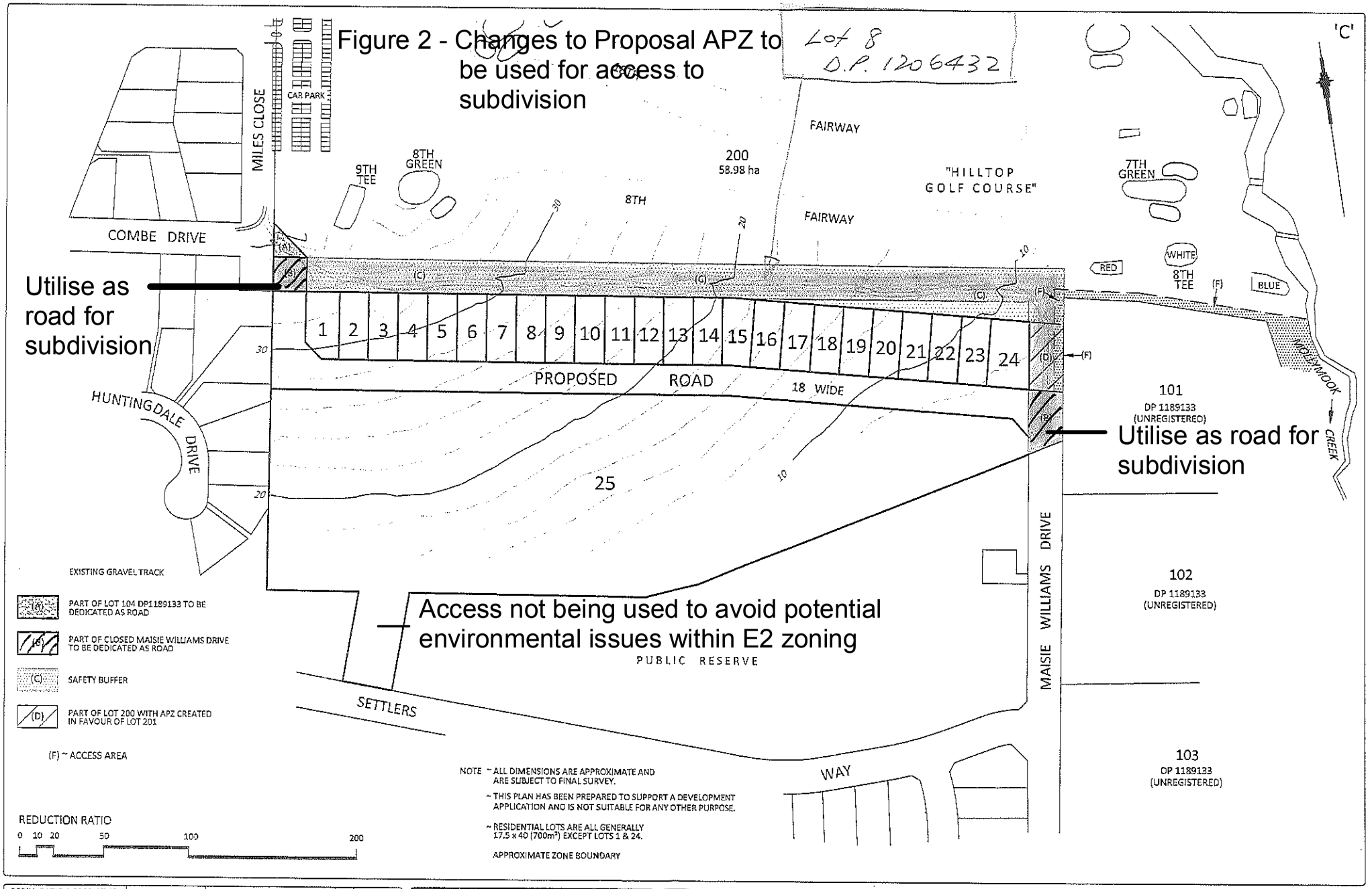


Figure 2 - Changes to Proposal APZ to be used for access to subdivision



REG'N. RATIO 1:2000 AT A3			AMENDMENTS	BY	DATE
DATUM : A.H.D.	SURVEYED	B.B.	ZONE BDY & EDGE VEGET'N	J.B.	12.12.13
CONTOUR INTERVAL : 0.2	DESIGNED	G.B.	(C) LOT LAYOUT	J.B.	06.03.14
ORIGIN : PM	DRAWN	C.C.	(D) ROAD CLOSURE DETAILS	J.B.	28.05.14
: RL	CHECKED	G.B.	(E) VARIOUS	J.B.	24.08.14
DATE : 05.09.2013					

RYGATE & WEST
(ULLADULLA) ABN 56 056 675 355
CONSULTING SURVEYORS, PLANNERS ROAD & DRAINAGE ENGINEERS
P.O. BOX 307, ULLADULLA N.S.W. 2539
266 GREEN ST. PH 02 44542137 FAX 02 44552916
mail@rygatewest.com.au

MOLLYMOOK GOLF CLUB & HAZCORP PTY LIMITED

PLAN
OF CONCEPTUAL RESIDENTIAL SUBDIVISION OF PROPOSED LOT 201.
MOLLYMOOK | CITY OF SHOALHAVEN

REFERENCE No.	U14288_RES
DRAW. No.	U.14288_CONCEPT.dwg
ISSUE	E
SHEET	1 OF 1 SHEET
COUNCIL REF. No	

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 MAY 2016

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

1. Planning Proposal (Rezoning) - 5C Creston Grove, Bomaderry (Ride Australia)
File 52920E

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.

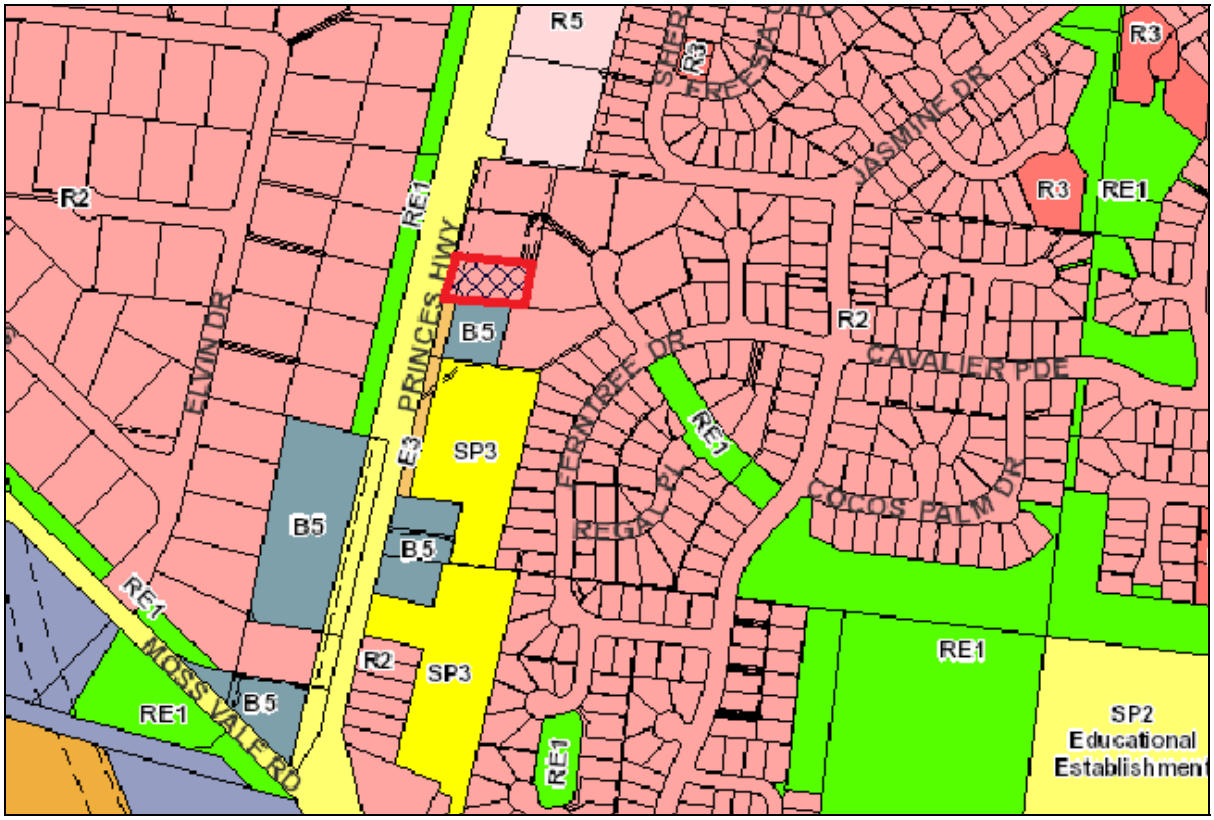


Figure 1 – Subject Lot and existing zones

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 4000m^2 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 (3,345m^2) 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.
- 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

Our Ref: STH15/00009
Contact: Melissa Steep 4221 2771

Transport Roads & Maritime Services

18 February 2015

Matthew Lennartz
mattlennartz@gmail.com

LOT 393 DP 1144727,5C CRESTON GROVE, BOMADERRY, PROPOSED REZONING, BOAT SHOWROOM AND HEADQUARTERS

Dear Sir

Roads and Maritime Services (RMS) refers to your email dated 28 January 2015 regarding the subject pre-development application.

RMS has reviewed the submitted information and wishes to advise that the proposal for rezoning the site is not supported. In this regard the following comments are provided for your consideration:

- RMS is currently planning the future upgrade of the Princes Highway between Berry and Bomaderry. The design of the upgrade will include a central median along the frontage of the subject site limiting access to left in/left out only with U-turn facilities provided at the existing Cambewarra Road roundabout to the south and a proposed U-turn/bus facility near Abernethy's Lane to the north. RMS recognises that there will be an increased demand for U-turn movements once the Berry to Bomaderry upgrade is constructed as turning movements are limited.
- RMS is concerned that increased commercial development along this section of the Highway will place further pressure on the proposed U-turn facilities, which may result in a reduction in efficiency and increased safety risk at these locations. On this basis RMS does not wish to encourage further ribbon development along the Highway and is concerned that the proposed rezoning and development of the subject site will have flow on effects to the surrounding residential areas.

In addition, RMS provides the following information as requested:

Advice regarding access design

- RMS does not support the rezoning of the subject location to allow for commercial development and as such does not support direct site access to the Princes Highway.

Advice regarding proposed road widening and future road works at this location

- RMS advises that part of the property is zoned Arterial Road Widening (SP2) on Shoalhaven Local Environment Plan 2014. The extent of the zoning is shown in pink colour on the attached copy of DP 1144727.
- A preferred option for the Berry to Bomaderry Upgrade was announced in June 2009.

In November 2013, RMS displayed the review of environmental factors (REF) and the concept road design of the proposed upgrade for community feedback and comment. Since the display, RMS has carefully considered the feedback received and has determined the REF. RMS will continue to make changes to the road design as a result of feedback from the community and stakeholders. The detailed design is underway and is expected to be completed in early 2016.

Detailed project information, including the REF and submissions report, can be viewed on the RMS homepage at www.rms.nsw.gov.au/bbu

- The planning completed to date indicates that the subject property is unlikely to be required for the project. However, the proposal may change, as the detailed design has not yet been completed and it is not possible at this date to provide any more definite information as to the likely requirement for any part of the property.
- At this stage the timing of the construction of the Berry to Bomaderry Upgrade is unknown. As a result, development along the Highway such as that proposed is likely to require upgrades to the Highway to facilitate safe turning movements as an interim measure. This would be at cost to the developer.

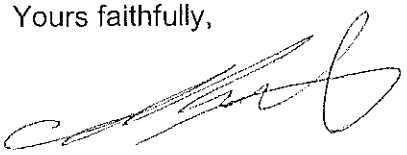
Advice regarding a future bypass of Bomaderry

- Whilst RMS has no current plans to provide a bypass of Bomaderry, detailed investigations are underway in order to identify future infrastructure needs of the Nowra-Bomaderry area.

Please note that the above is pre DA advice based on the information provided by the proponent. RMS position is subject to change, dependent on the information provided in any future development application.

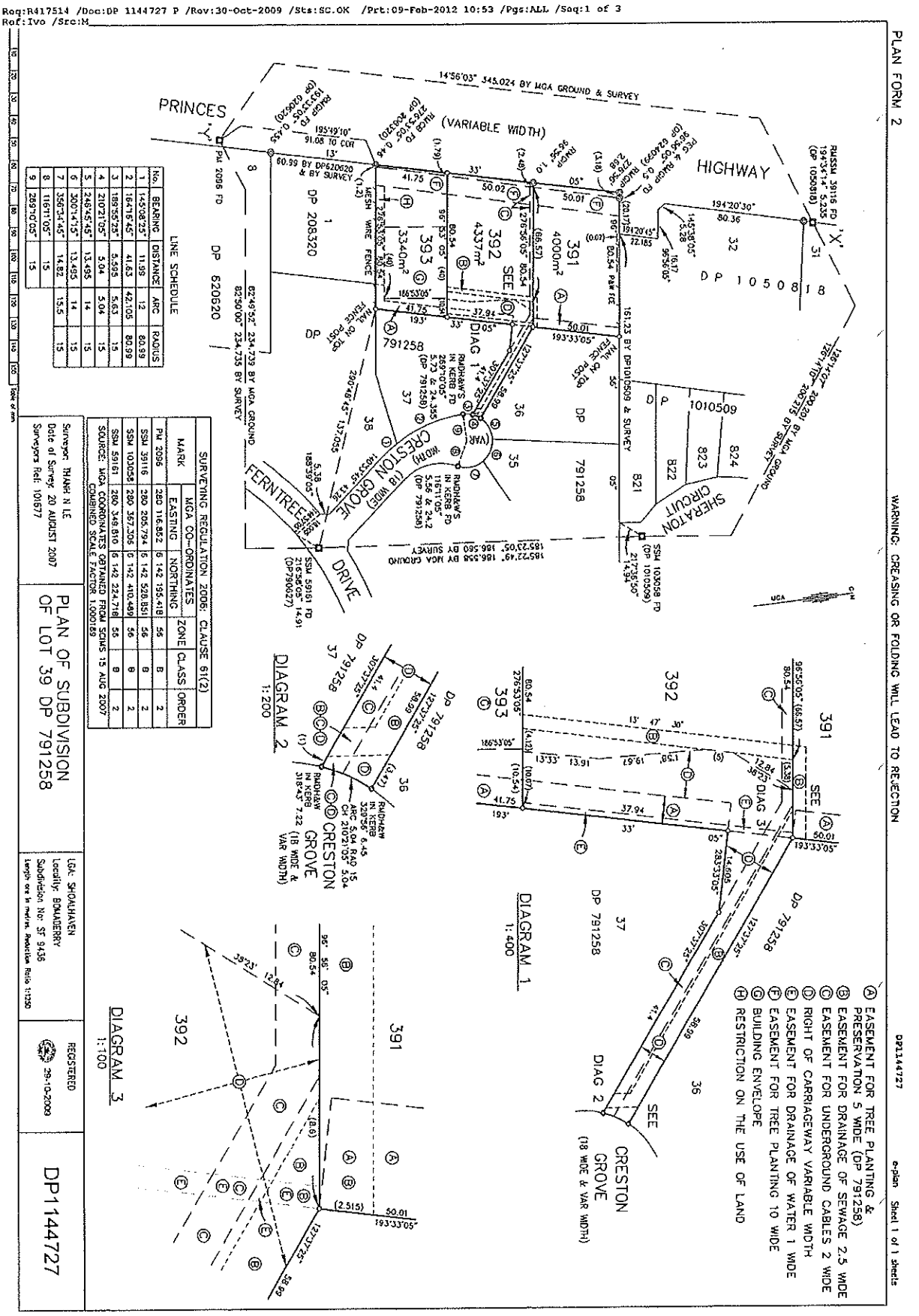
If you have any questions please contact Melissa Steep on 4221 2771.

Yours faithfully,



Chris Millet
Manager Land Use
Southern Region

18/2/15


Req:R417514 /Doc:DP 1144727 P /Rev:30-Oct-2009 /Sts:SC.OK /Prt:09-Feb-2012 10:53 /Pgs:ALL /Seq:1 of 3
Ref:Ivo /Src:M
PLAN FORM 2
WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION
DP1144727
e-plan Sheet 1 of 1 sheets
PRINCES HIGHWAY
(VARIABLE WIDTH)
14°56'03" 345.024 BY MGA GROUND & SURVEY
DP 208320
DP 620620
DP 1050818
DP 1010509
DP 791258
CRESTON GROVE (18 WIDE)
FERNTREE DRIVE
SHERATON CIRCUIT
DIAGRAM 1
1:400
DIAGRAM 2
1:200
DIAGRAM 3
1:100
A EASEMENT FOR TREE PLANTING & PRESERVATION 5 WIDE (DP 791258)
B EASEMENT FOR DRAINAGE OF SEWAGE 2.5 WIDE
C EASEMENT FOR UNDERGROUND CABLES 2 WIDE
D RIGHT OF CARRIAGEWAY VARIABLE WIDTH
E EASEMENT FOR DRAINAGE OF WATER 1 WIDE
F EASEMENT FOR TREE PLANTING 10 WIDE
G BUILDING ENVELOPE
H RESTRICTION ON THE USE OF LAND
LINE SCHEDULE
No. BEARING DISTANCE ARC RADIUS
1 145°08'25" 11.99 12 80.99
2 164°16'45" 41.83 42.105 80.99
3 189°55'25" 5.585 5.63 15
4 210°21'05" 5.04 5.04 15
5 249°45'45" 13.495 14 15
6 300°14'15" 13.495 14 15
7 356°34'45" 14.82 15.5 15
8 116°11'05" 15 15
9 289°10'05" 15
SURVEYING REGULATION 2006: CLAUSE 61(2)
MARK MGA CO-ORDINATES EASTING NORTHING ZONE CLASS ORDER
PM 2056 280 116.852 6 142 195.418 55 B 2
SSM 39116 280 205.794 6 142 528.851 56 B 2
SSM 103058 280 357.305 6 142 410.489 56 B 2
SSM 59161 280 348.810 6 142 224.718 56 B 2
SOURCE: MGA COORDINATES OBTAINED FROM SCIMS 15 AUG 2007
COMBINED SCALE FACTOR 1.000189
Surveyor: THANH N LE
Date of Survey: 20 AUGUST 2007
Surveyors Ref: 101677
PLAN OF SUBDIVISION OF LOT 39 DP 791258
LGA: SHOALHAVEN
Locality: BOMADERRY
Subdivision No: SF 9436
Lengths are in metres. Reduction Ratio 1:250
REGISTERED
29-10-2009
DP1144727

RMS notes that a number of issues raised in your submission relate to land use planning issues that would need to be considered by Council prior to endorsement of any planning proposal. Should Council be satisfied that a valid need to rezone the subject land exists, then further consultation with RMS should be undertaken.

Should you have any questions please contact Matt Adams on (02) 4221 2570.

Yours faithfully,

for Chris Millet
Manager Land Use
Southern Region

Cc: Council@shoalhaven.nsw.gov.au

Our Ref: STH15/00009/02
Contact: Melissa Steep 4221 2771

Transport Roads & Maritime Services

9 June 2015

Mr Matthew Lennartz
mattlennartz@gmail.com

LOT 393 DP 114427, 5C CRESTON GROVE, BOMADERRY, PROPOSED REZONING, BOAT SHOWROOM AND HEADQUARTERS

Dear Sir,

Roads and Maritime Services (RMS) refers to your emails dated 29 April and 19 May 2015 regarding the subject development application.

RMS has reviewed the submitted information and advises that a planning proposal would not be supported on access management principles as the rezoning of the subject land would necessitate creating a direct access to a classified (state) road. Under the current zoning, access to the site is available from the local road network and does not impact on the safety and efficiency of the classified road frontage.

The following comments are provided in response to the issues raised in your submission;

- RMS recognises that the proposal is to rezone a single parcel of land and is concerned about the precedent it a rezoning may set for incremental extensions of commercially zoned land to the north of Bomaderry and subsequent implications for traffic and access management along the Princes Highway. RMS will not support a rezoning with the potential to encourage further ribbon development along the highway in this location.
- It is understood that the current proposal to rezone the subject site is to facilitate the development of a commercial premise, which is proposed to result in minimal traffic generation. However, the proposed commercial zoning of the subject site would enable a range of permissible uses with the potential for more intensive forms of traffic generating development should the site change ownership in the future.
- The retention of the existing residential zoning and access to the local road network is considered consistent with the *State Environmental Planning Policy (Infrastructure) 2007* and the Minister for Planning's Section 117 Directions.
- Significant public investment is being directed towards an upgrade of the Princes Highway under the Berry to Bombaderry Upgrade Project. This investment is intended to optimise the future safety and efficiency of the Highway for regional traffic movements. The project seeks to rationalise access and improve travel times. Further information can be obtained online at:

  http://www.rms.nsw.gov.au/projects/south-coast/berry-to-bomaderry/index.html

Our Ref: STH15/00009/04
Contact: Chris Millet 4221 2570

Transport Roads & Maritime Services

12 April 2016

Mr Michael Park
Acting Team Coordinator – Strategy Planning North
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au

PLANNING PROPOSAL – 5C CRESTON GROVE, BOMADERRY

Dear Sir

Roads and Maritime Services (RMS) refers to your letter dated 21 March 2016 regarding the subject planning proposal.

RMS has reviewed the information and does not believe that the planning proposal addresses the concerns raised in previous correspondence dated 18 February 2015 and 9 June 2015.

The following comments are provided for your consideration:

Highway upgrade

- RMS highlights that significant public investment is being directed towards planning for an upgrade of the Princes Highway at this location, known as the Berry to Bomaderry Princes Highway Upgrade. This investment is intended to optimise the future safety and efficiency of the Highway for regional traffic movements.
- This project will rationalise access and improve travel times. At this location, a central median is proposed with a turnaround facility to the north. In order to optimise the future safety and efficiency at this location, it is vital that the traffic movements between the Highway and properties at this location are minimised as much as possible. In this regard, the current zoning and access arrangements for the land are considered appropriate. In response to the question raised in your letter, question (iii), the proposal is not consistent with RMS' plans.

Property

- RMS advises that part of the property is zoned Arterial Road Widening (SP2) on Shoalhaven Local Environmental Plan 2014. The extent of the zoning is shown by pink colour on the attached copy of DP 1144727 (**Attachment 1**).
- While the land affected by this zoning is unlikely to be required as part of the Berry to Bomaderry Upgrade Princes Highway Upgrade, RMS wishes to retain this zoning. This position will be reconsidered following the completion the project.

History

- RMS does not share the applicant's view that the current zoning is an anomaly. RMS notes that this lot was registered on 29 October 2010 as a result of a three lot subdivision of the previous lot (lot 39 of DP791258). This subdivision created lots 391, 392 and 393 of DP1144727. The subject site is Lot 393. The consent for this subdivision was issued on 28 November 2004.
- RMS notes that the Statement of Environmental Effects for this three lot subdivision stated that no access to the highway was proposed and that access would be to Creston Grove, via a right of carriageway.
- RMS notes condition 16a) of the consent for the subdivision reinforced this access arrangement. RMS also notes condition 16i) of the consent includes a restriction relating to visual amenity and noise reduction between the site and the southern boundary (the service station).
- RMS notes the subdivision was not referred to RMS. Following a review of the process undertaken, RMS considers that both the developer and Council (at the time) applied sound planning principles from a road network perspective in proposing and allowing the subdivision to occur in the manner that it did. RMS considers it was appropriate for Council to make the determination of the subdivision without referring the matter to RMS.
- If the proposed subdivision had proposed direct access to the Princes Highway, a referral to RMS would have been required. In such a circumstance RMS would have objected to the subdivision on the basis that the subdivision was creating an unnecessary conflict point with the State road, inconsistent the Section 1.3.2 of the RTA Guide to Traffic Generating Developments, and if the referral was made after 1 January 2008, inconsistent with Clause 101(2)(a) of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure).

Precedence

- RMS believes rezoning this land would create a precedent for incremental extensions of commercially zoned land to the north of Bomaderry. Such incremental extension would have significant implications for traffic and access management along the Princes Highway. Commercial development would generate significantly more traffic than the current low density residential development located to the north of this site, attracting local trips to this precinct and creating circulating movements. The resulting ribbon development environment would unnecessarily compromise RMS' plans to optimise the future safety and efficiency of the Highway for regional traffic movements.
- RMS considers the same precedent for incremental extensions of commercially zoned land to the north of Bomaderry could be facilitated by amendments to the provisions in the LEP (such as the discussed allowance clause) to allow a boat showroom within the current zoning.

Potential for a change of use

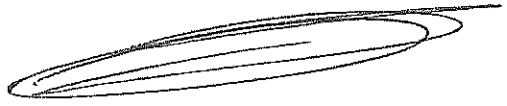
- RMS notes and accepts that the owner of the land intends to utilise the land for a boat show room and office.
- RMS recognises that once the land is rezoned there is no guarantee that the site would be occupied by the proposed boat show room and office. The proposed commercial zoning of the subject site would enable a range of permissible uses with the potential for more intensive forms of traffic generating development should the intended development not proceed, proceed but close down, change ownership etc. The intended use would compromise RMS' plans to optimise the future safety and efficiency of the Highway for regional traffic movements. Such future uses would further compromise these plans.

A boat showroom and office

- Notwithstanding RMS' concerns relating to precedence and change of use, RMS does not consider it appropriate to rezone the land, or make amendments to the provisions in the LEP (such as the discussed allowance clause) to allow a boat showroom within the current zoning.
- Allowing direct access to the Princes Highway would create an unnecessary conflict point with the State road, inconsistent the Section 1.3.2 of the RTA Guide to Traffic Generating Developments and inconsistent with Clause 101(2)(a) of SEPP Infrastructure.
- The Traffic Statement submitted in support of the proposal correctly identifies that Clause 101 of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) is relevant to this matter. RMS does not believe the applicant has adequately addressed Clause 101(2)(a). The applicant's Traffic Statement (page14) states "Vehicular access to the proposed development can only be provided via a classified road".
- While RMS accepts that for such a business to operate it would not be practical (or viable) for the business to obtain access via Creston Grove, RMS in no way accepts that this addresses the intention of this clause. RMS is satisfied that practical vehicular access to the land is available via Creston Grove for the current zoning.
- RMS highlights it is common for residential properties to be located adjacent to service stations. While RMS accepts that it would not be desirable to be located next to a service station, it is inevitable this will occur where residential zones abut a zoning that allows a service station. In this regard, RMS undertook a quick desktop analysis which identified numerous residential developments adjacent to services stations. These are provided in **Attachment 2.**
- The applicant's Traffic Statement (page 13) states that "a future DA does not need to be referred to RMS for comment". While a referral to RMS for a boat show room and office would not be required under Schedule 3 of SEPP Infrastructure, RMS concurrence under Section 138 of the Roads Act, 1993 would be required for the driveway and associated works within road reserve.
- RMS notes that the Traffic Statement accompanying the proposal predicts that the boat showroom business would only generate approximately 2 peak hour movements. While RMS objects to the provision of the access itself, the following are comments on the traffic analysis. RMS notes the analysis is based on applying a 10% factor to predicted daily movements. RMS does not support this approach. RMS considers that the likely peak traffic generation rates should be based on the rate for motor showrooms contained in the RTA Guide to Traffic Generating Developments. If the applicant considers these are inappropriate, the traffic generation rates would ideally be supported by surveys of other similar sites and a first principles analysis to determine peak hour movements (not daily movements). For instance, how many staff are likely to arrive/depart in the peak hour, how many customers, how many service vehicles etc.

On the basis of the information set out above, RMS objects to this planning proposal. Should you have any questions please contact Chris Millet on (02) 4221 2570.

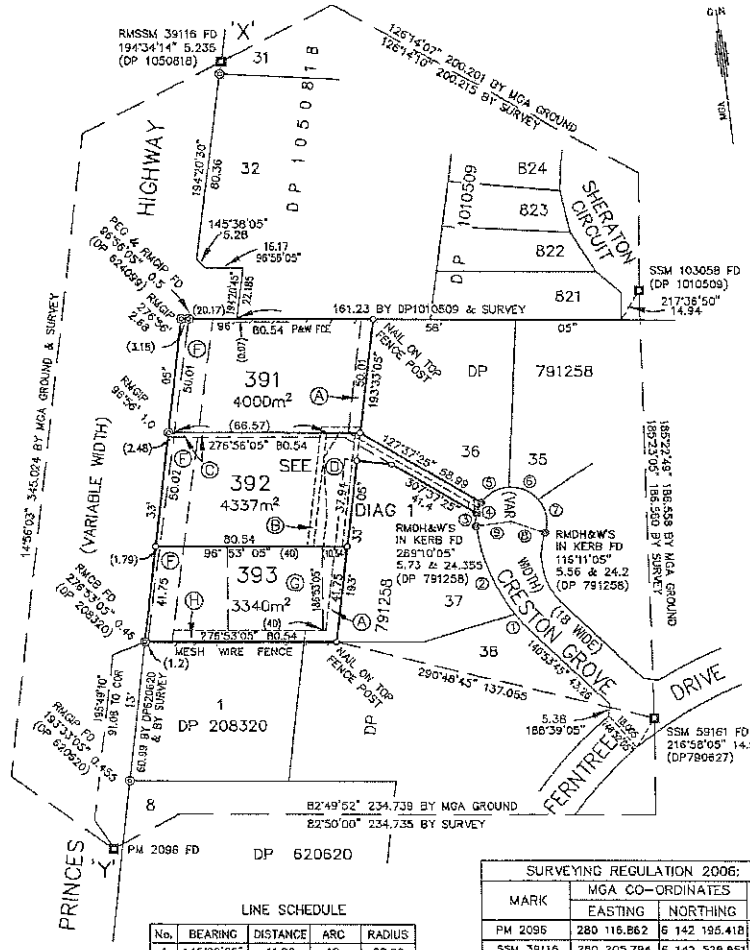
Yours faithfully,

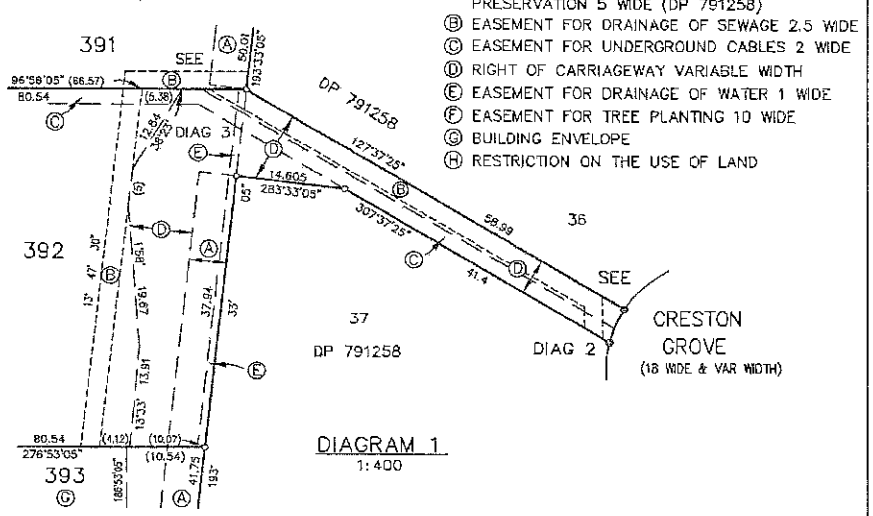


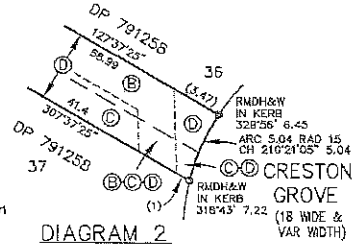
Adam Berry
Manager Network & Safety
Southern Region

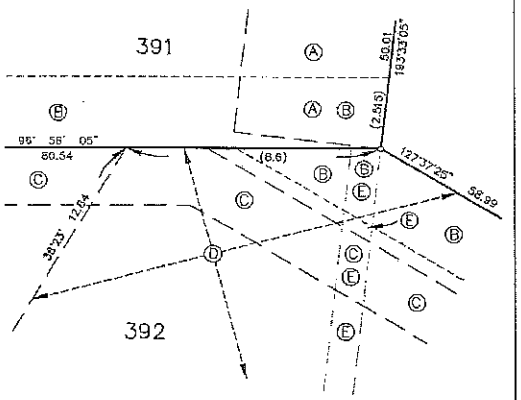
PLAN FORM 2 | WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION | DP1144727 | e-plan | Sheet 1 of 1 sheets

- (A) EASEMENT FOR TREE PLANTING & PRESERVATION 5 WIDE (DP 791258)
- (B) EASEMENT FOR DRAINAGE OF SEWAGE 2.5 WIDE
- (C) EASEMENT FOR UNDERGROUND CABLES 2 WIDE
- (D) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (E) EASEMENT FOR DRAINAGE OF WATER 1 WIDE
- (F) EASEMENT FOR TREE PLANTING 10 WIDE
- (G) BUILDING ENVELOPE
- (H) RESTRICTION ON THE USE OF LAND









LINE SCHEDULE

No.	BEARING	DISTANCE	ARC	RADIUS
1	145°08'25"	11.99	12	80.99
2	154°16'45"	41.63	42.105	80.99
3	189°55'25"	5.595	5.63	15
4	210°21'05"	5.04	5.04	15
5	246°45'45"	13.495	14	15
6	300°14'15"	13.495	14	15
7	356°34'45"	14.82	15.5	15
8	116°11'05"	15		
9	269°10'05"	15		

SURVEYING REGULATION 2006: CLAUSE 61(2)

MARK	MGA CO-ORDINATES EASTING	MGA CO-ORDINATES NORTHING	ZONE	CLASS	ORDER
PM 2096	280 116.862	6 142 195.418	56	B	2
SSM 39116	280 205.794	6 142 526.651	56	B	2
SSM 103058	280 367.306	6 142 410.489	56	B	2
SSM 59161	280 349.810	6 142 224.718	56	B	2

SOURCE: MGA COORDINATES OBTAINED FROM SCIMS 15 AUG 2007
COMBINED SCALE FACTOR 1.000189

Surveyor: THANH N LE
Date of Survey: 20 AUGUST 2007
Surveyors Ref: 101677

PLAN OF SUBDIVISION OF LOT 39 DP 791258

LGA: SHOALHAVEN
Locality: BOMADERRY
Subdivision No: SF 9436
Length are in metres. Reduction Ratio 1:1250

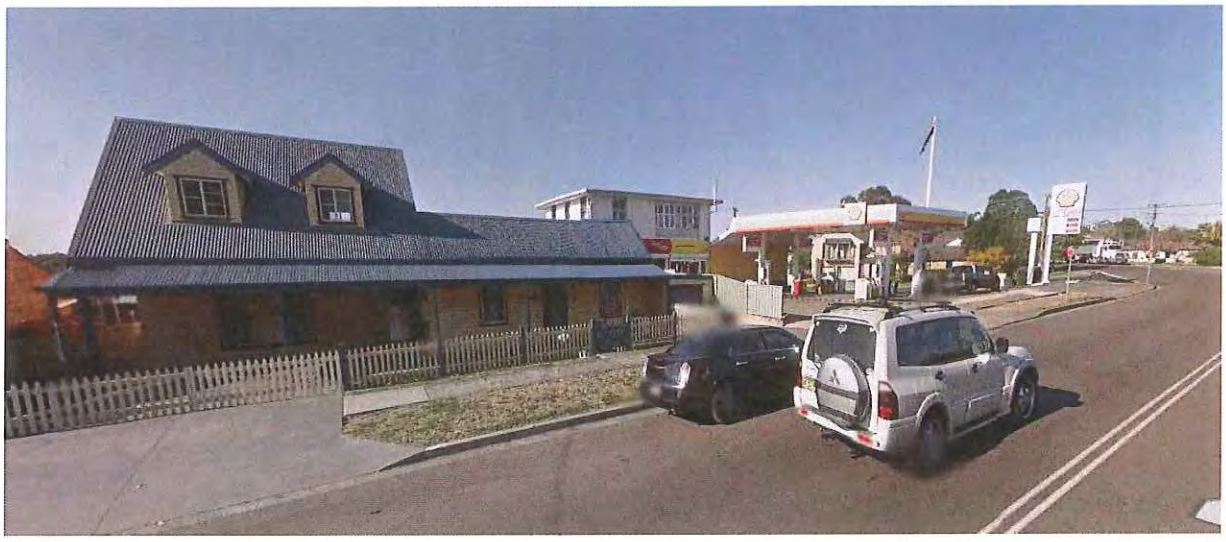
REGISTERED 29-10-2009

DP1144727

Req:R417514 /Doc:DP 1144727 P /Rev:30-Oct-2009 /Sts:SC.OK /Prt:09-Feb-2012 10:53 /Pgs:ALL /Seq:1 of 3
Ref:Ive /Src:M

10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 Table of mm

Location: Westside Petroleum, Parkes St, Helensburgh

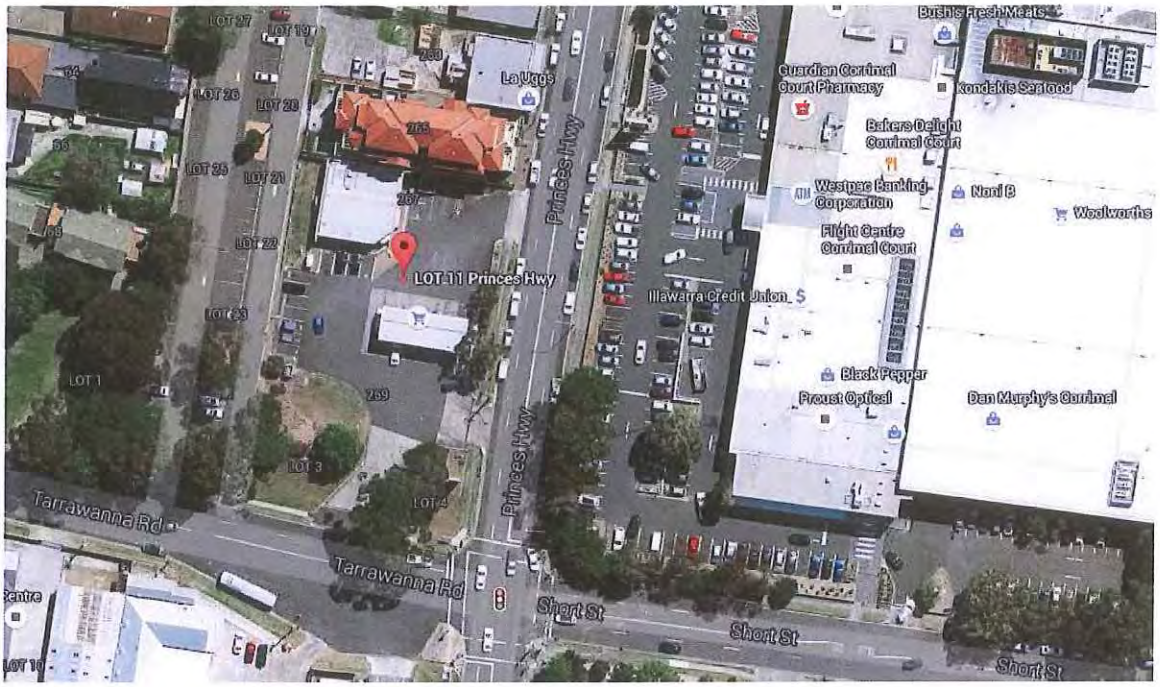


Location: Caltex Star Mart, Shellharbour Road, Barrack Heights / Part 1 of 2

Location: Caltex Star Mart, Shellharbour Road, Barrack Heights / Part 2 of 2

Location: Enhance Petrol Station, Princes Hwy, Albion Park Rail

Location: Shell Petrol Station, Princes Hwy, Corrimal



Location: 7-Eleven, Princes Hwy, Albion Park Rail

Location: Caltex Oil, Princes Hwy, Fairy Meadow

Location: Caltex, Railway St, East Corrimal

Location: Speedway Petrol Station, Hawkesbury Road, Westmead

Location: Fuel Power Plus, Cumberland Rd, Ingleburn

Our Ref: STH15/00009/04
Contact: Chris Millet 4221 2570

25 May 2016

Mr Gordon Clark
Strategic Planning manager
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au

PLANNING PROPOSAL – 5C CRESTON GROVE, BOMADERRY

Dear Gordon

Roads and Maritime Services (RMS) refers to your email to Chris Millet, RMS Land Use Manager dated 10 May 2016 regarding the subject planning proposal.

RMS has reviewed the information provided. RMS notes the proponent is no longer seeking to rezone the land from R2 Low Density Residential to B5 Business Development, but rather seeking to amend the Shoalhaven Local Environmental Plan (LEP) to allow their proposed boat showroom as an additional permitted use under Schedule 1 of the LEP.

RMS' previous correspondence to Council, dated 12 April 2016, was prepared cognisant of the fact the developer was considering the additional permitted use option as an alternative to their proposed rezoning.

The current proposal does not change RMS' concerns outlined in our previous correspondence under the headings *Highway upgrade*, *History*, *Precedence* and *A boat showroom and office*.

The current proposal, as outlined by the developer in their letter 2 May 2016, does not change RMS' concerns outlined in our previous correspondence under the heading *Potential for a change of use*. In this regard, RMS recognises permitting the uses of *bulky goods premises*, *business premises*, *office premises* and *vehicle sales and hire premises* would allow numerous business type developments to occur in the future.

Based on the above, RMS' position has not changed.

RMS notes Council is seeking advice from the Department of Planning and Environment on the use of a tailored Schedule 1 inclusion in the LEP to create tighter controls. Tighter controls have the potential to reduce RMS' concerns associated with *Potential for a change of use*. However, even very tight controls would not address the other RMS' concerns raised in our correspondence while the site operated as a boat showroom. Furthermore, beyond the life of the boat showroom, once the direct access to the Highway is constructed RMS considers it would be very difficult (if not impossible) to eliminate the highway access and revert to access via Creston Grove. On this basis, tighter controls would not change RMS' overall position.

In regards to the proposed U-turn bay on the Princes Highway north of the site (associated with the Berry to Bomaderry Princes Highway Upgrade), the U-turn treatment is currently

considered RMS' preferred option. There remains potential for the preferred treatment and its location to be adjusted during continued development of the Berry to Bomaderry Princes Highway Upgrade.

RMS does not believe it would be appropriate to allow a spot rezoning or additional permitted use LEP amendment to influence a much broader network planning decision. As RMS previously advised Council:

- *RMS highlights that significant public investment is being directed towards planning for an upgrade of the Princes Highway at this location, known as the Berry to Bomaderry Princes Highway Upgrade. This investment is intended to optimise the future safety and efficiency of the Highway for regional traffic movements.*

- *This project will rationalise access and improve travel times. At this location, a central median is proposed with a turnaround facility to the north. In order to optimise the future safety and efficiency at this location, it is vital that the traffic movements between the Highway and properties at this location are minimised as much as possible. In this regard, the current zoning and access arrangements for the land are considered appropriate. In response to the question raised in your letter, question (iii), the proposal is not consistent with RMS' plans.*

Regardless of the treatment associated with the Berry to Bomaderry Princes Highway Upgrade, an additional access would introduce an unnecessary additional access and conflict point as well as additional movements. In the short to medium term, it would also be a conflict point that allowed right turn movements.

More significantly, RMS considers that providing a roundabout to facilitate this planning proposal would exacerbate RMS' precedence concerns. It would encourage all other land owners to seek similar amendments to their zoning or permitted uses, potentially creating the ribbon development environment RMS has a strong desire to avoid.

Notwithstanding the above, in the event Council determine it appropriate to amend the LEP to allow a boat showroom as an additional permitted use with consent under Schedule 1 of the LEP, RMS provides the following advice:

- RMS would support the use of a tailored Schedule 1 inclusion which tightened the controls. In this regard, RMS would support limiting the permitted uses as much as practical and restricting what development can occur beyond the life of a boat showroom.

- Should a development application be lodged on the site prior to the construction of the Berry to Bomaderry Princes Highway Upgrade, RMS would require the access with the Princes Highway to be constructed to RMS' satisfaction. While the treatments would depend on the traffic generation and distributions, at a minimum, RMS would require the following:

    - The development to be located wholly outside of the land zoned Arterial Road Widening (SP2) on Shoalhaven Local Environmental Plan 2014.

    - The access would need to be located adjacent to the southern boundary of the site.

    - Kerb and gutter would need to be provided across the full frontage of the site located a minimum of 6.5m from the existing centre line of the Princes Highway and consistent with adjacent development. The pavement would need to be upgraded.

    - At a minimum, the right turn treatment would need to comply with a Basic Right turn treatment (BAR), however the treatment would need to be determined based on traffic generation, distributions and the *Warrants for Ba, AU and CH Turn Treatments* outlined in Section 4.8 of *Austroads Guide to Road Design – Part 4A; Unsignalised and Signalised Intersections. RMS notes* these requirements are consistent with the methodology used to

determine the access treatments for the service station at 272 Princes Highway, Bomaderry.

- The pavement would need to be constructed to be to the satisfaction of RMS, consistent with the existing lanes and in accordance with Austroads Standards.

If you have any questions please contact Chris Millet on 4221 2570.

Yours faithfully

Adam Berry
Regional Manager
Southern Region