

PLANNING PROPOSAL – PP073

Shoalhaven Local Environmental Plan 2014

Local Character

Prepared by
City Futures Group
Shoalhaven City Council

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1 Introduction

This Planning Proposal (PP) seeks to amend Shoalhaven Local Environmental Plan 2014 (SLEP 2014) by amending the Aims of the Plan and the Land Use Zone objectives of certain zones that permit residential development, to elevate the consideration of character within the assessment process.

It is requested that Council be given delegation for plan making functions for this PP. The evaluation criteria for delegation is located at **Attachment A**.

This PP has been prepared in accordance with the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2023).

1.1 Subject Land

The PP applies to all land in the Shoalhaven Local Government Area (LGA).

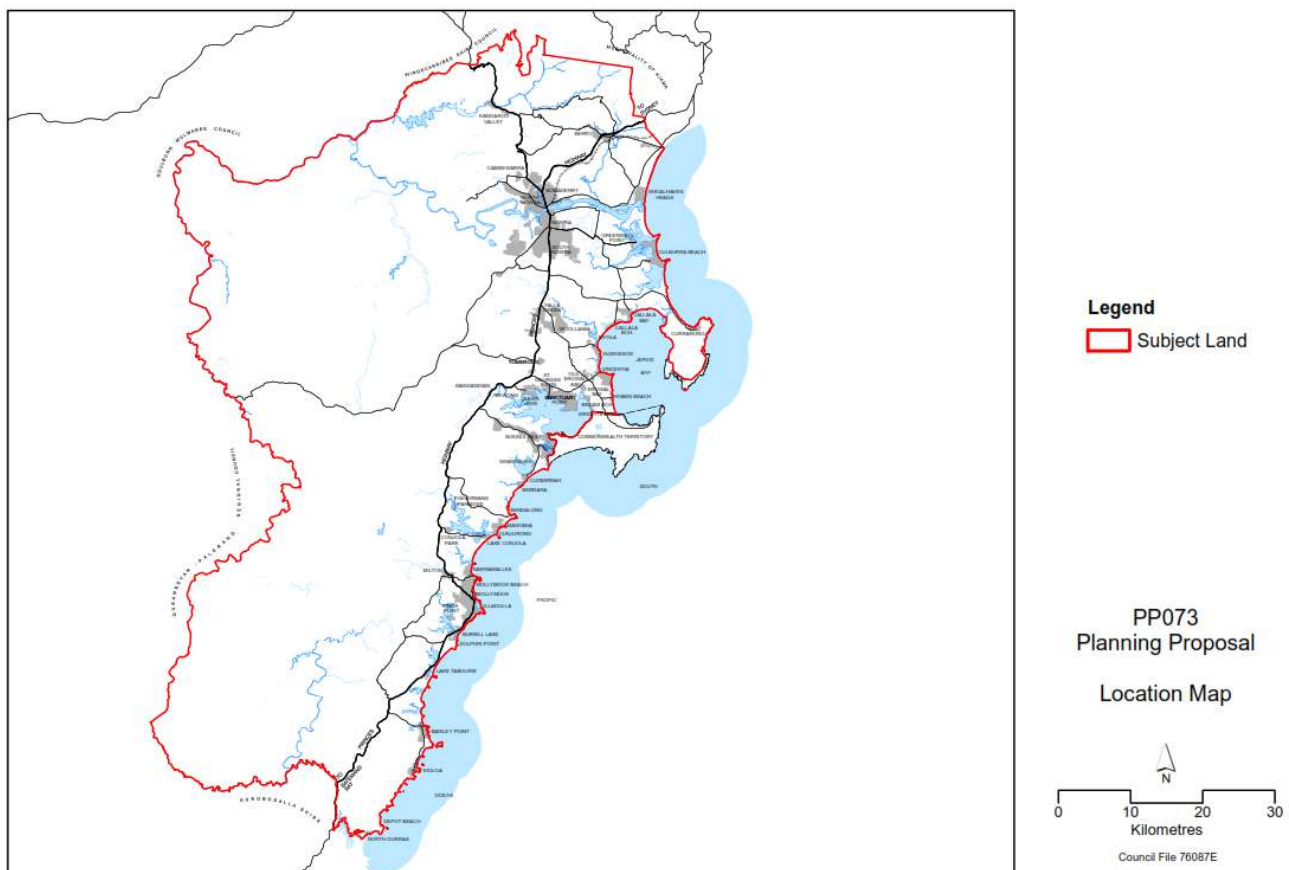


Figure 1: Subject land

1.2 Background

Historically, the NSW planning system has relied on a discretionary approach to manage the impacts of development, supported by land use zones, which has been able to respond to community and individual circumstances and provide for flexibility to ensure responsive development. Over time, the flexibility in the assessment of development has decreased with the adoption of the Standard Instrument LEP.

Through the Community Strategic Plan process and submissions/consultations on development applications and strategic planning processes, the community has identified a range of concerns regarding the impacts of development on local character and the need for strategic plans and processes that help to maintain, enhance, and cultivate the unique character and identity of places.

Although the NSW Government's focus on character has been redirected to other matters in recent times, the NSW Government has recognised the unique character of the Shoalhaven LGA. The Department of Planning and Environment partnered with Council in 2018 through the [Shoalhaven Character Assessments](#) process, a document prepared by Roberts Day (Roberts Day SCA). The Roberts Day SCA is a tool to help identify the current and desired future character of the 57 identified towns and villages in the Shoalhaven LGA. In August 2023 (MIN23.451), Council resolved to adopt the Roberts Day SCA document as 'interim' character statements to support the proposed planning controls for managing local character.

In November 2022 Council resolved (MIN22.856) to investigate the immediate steps that could be incorporated into future projects to consider local character as a key consideration in key planning instruments and documents. This followed a Notice of Motion highlighting the communities concerns regarding the impacts of inappropriate development on local character. Importantly:

- The character statements (informed by the Roberts Day SCA) will be embedded in the Shoalhaven Development Control Plan in due course, consistent with Action 13.1 of the Shoalhaven 2040 Local Strategic Planning Statement.
- In April 2024, Council resolved (MIN24.176) to endorse the preparation of this PP to address character in a more intentional way in the SLEP 2014. Refer to **Attachment B** for a copy of the Council Report and Minutes.

The focus of the proposed SLEP 2014 amendments are consistent with the Department of Planning, Industry and Environment's [Planning and designing for better places: respecting and enhancing local character](#) Planning Circular PS21-026.

2 Part 1 – Intended Outcome

The intended outcome of this PP is to elevate the consideration of the identified existing and desired future character of the many different localities across the Shoalhaven LGA, in the assessment of development applications.

3 Part 2 – Explanation of Provisions

Note: The exact wording of the proposed amendments will be determined in conjunction with the NSW Parliamentary Counsels Office.

The Department of Planning, Industry and Environment's [Planning and designing for better places: respecting and enhancing local character](#) Planning Circular PS21-026 outlines that:

The aims of an LEP can reflect character (clause 1.2 of the Standard Instrument LEP), where a council can describe the characteristics of the LGA, through zone objectives, principal development standards (such as height and FSR controls), additional local provisions and requirements for design excellence.

New Aims of Plan

An additional aim is proposed to be introduced into Clause 1.2(2) the Aims of Plan to ensure that the protection and enhancement of the unique character and scenic landscapes of the localities within the Shoalhaven LGA is considered in the assessment process.

SLEP 2014 currently does not provide specific provision for character in the Aims of Plan. As such, the ability to manage the ongoing protection and enrichment of Shoalhaven's unique character across its various towns, villages and neighbourhoods and its scenic landscapes is compromised.

The proposed addition aim is as follows:

to protect and enhance the unique character of Shoalhaven's towns, villages and neighbourhoods, and the characteristic scenic landscapes that contribute to its liveability and identity.

New Land Use Table Objectives

Additional zone objectives are proposed to be included in six land use zones in Part 2 of SLEP 2014, where medium/high density housing typologies (e.g., attached dwellings, dual occupancy, multi dwelling housing, residential flat buildings) are permissible with consent. At this point in time, these land use typologies present the greatest concern to the community due to the increased density and scale being experienced in traditionally lower density residential areas.

SLEP 2014 currently does not provide specific provisions relating to character in the objectives of the relevant zones. This weakens the identification and consideration of the existing and/or desired future character in the assessment process.

Table 1 categorises the six relevant zones into four groups relating to the permissible uses and desired development outcomes for these areas. Table 1 also details the proposed additional objectives that are proposed to be inserted into SLEP 2014.

Table 1: Proposed Instrument Changes

Category	Affected Land Use Zones		Development outcomes	Proposed Additional Zone Objectives
Rural Village	RU5 Village		Development that is consistent with the existing character of the area or the future desired character (if identified) and continue to provide flexibility to ensure the rural village services the local rural community.	To ensure development is compatible with the identified existing or future desired character of the area.
General Residential	R1 General Residential		Development that is consistent with the identified future desired character to support a broad range of residential uses and non-residential facilities to support these residential uses.	To ensure development is compatible with the identified future desired character of the area
Low Density Residential	R2 Low Density Residential R5 Large Lot Residential		Development that is consistent with the existing character of the area or the future desired character (if identified) and considers amenity impacts for areas intended for the establishment and maintenance of low-density housing.	To provide for development that is compatible with the identified existing or future desired character and amenity of the surrounding area.
Medium to high density residential	R3 Medium Density Residential MU1 Mixed Use		Development that enhances the existing character of the area or the future desired character (if identified) and provides for a high standard of urban design and built form with a high	To promote a high standard of urban design and built form that enhances the identified existing or future desired character of the area and achieves a high

			consideration amenity.	of	level of amenity.
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4 Part 3 – Justification

4.1 Need for the Planning Proposal (Section A)

4.1.1 Is the Planning Proposal a result of any endorsed local strategic planning statement, strategic study or report?

The PP is an extension of the Shoalhaven 2040 Local Strategic Planning Statement (LSPS) Planning Priority 13: Protecting and enhancing neighbourhoods, specifically collaboration Activity CA13.1:

Work with the NSW Government to identify opportunities for proposed special character planning controls to help guide in-fill development in Berry, Kangaroo Valley, Milton and other area as appropriate.

At the time of writing the LSPS, this action related to the character work the NSW Government was preparing to recognise the importance of character and the need to improve the built environment. However, this work has been largely suspended by the NSW Government. This PP is the only logical way to address character in SLEP 2014, within the current constraints of the Standard Instrument LEP.

The proposed adjustments to SLEP 2014 flow on from the Roberts Day SCA, which was a partnership effort between the Department and Council.

4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The PP is the best and only means of addressing the SLEP 2014 instrument adjustments that are proposed as part of the PP.

4.2 Relationship to strategic planning framework (Section B)

4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The PP is not inconsistent with the goals and initiatives outlined in the Illawarra-Shoalhaven Regional Plan (ISRP) 2041, which encompasses the entire Shoalhaven Local Government Area (LGA). The Plan aims to achieve necessary objectives, such as promoting economic growth, facilitating accessibility to affordable housing, preserving agricultural land, upgrading infrastructure, and safeguarding the natural and cultural heritage of the region. The vision of the plan is a strong commitment to community which drives vibrant and healthy places.

The PP is consistent with the ISRP and the relevant objectives below:

- Objective 18: Provide housing supply in the right locations.

This objective recognises that the unique character of the cities, towns and villages in the Illawarra Shoalhaven region is contingent on protecting the scenic, non-urban spaces in-between. Apart from identified growth areas, the plan concentrates new development and intensive uses in existing centres, rather than the scenic hinterland that defines the coastal rural character of the region.

- Objective 21: Respond to the changing needs of local neighbourhoods.
This objective recognises that some centres and local neighbourhoods have competing land use pressures and require a clear direction.
- Objective 22: Embrace and respect the region's local character.
This objective recognises that neighbourhoods in the Illawarra-Shoalhaven are rich in diversity, heritage and character and considering local character in the planning and development process looks at how people and places interact to create an area's distinctive character.

The proposed amendments will better align SLEP 2014 with the aims of the ISRP and cater for sympathetic appropriate future development more effectively.

4.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Community Strategic Plan - Shoalhaven 2032

The PP is consistent with Council's Community Strategic Plan, Shoalhaven 2032, and the relevant themes and actions below:

- Theme 2: Sustainable, liveable environments
2.2 - Manage growth and development with respect for environmental & community values. A specific outcome is that "development contributes to and enhances neighbourhood character".
- Theme 4: Effective, Responsible & Authentic Leadership
4.3 Inform and engage with the community about the decisions that affect their lives.

The CSP is the corporate strategic planning framework which has been developed by Council in collaboration with the Shoalhaven Community. It provides insights into what is important to the Shoalhaven Community, including consideration and enhancement of neighbourhood character.

Shoalhaven 2040 Local Strategic Planning Statement

The Shoalhaven Local Strategic Planning Statement (LSPS) sets out the vision and priorities for land use planning in Shoalhaven over the next 20 years.

The LSPS specifically outlines that:

Shoalhaven's urban areas have their own character and new development needs to be managed to ensure it contributes to or retains the neighbourhood character.

The PP is consistent with the LSPS and the relevant planning priorities within, including:

- Planning Priority 8: Supporting agriculture and aquaculture.

Priority 8 identifies that the Shoalhaven's rich agricultural history, the mix of activity, and the range in the intensity of use, provides varied and attractive rural landscapes. These features are valued by residents and help attract tourists. The proposed amendments recognise that suitable planning and development controls to manage impacts on the rural character of towns are required to support the wider agricultural community. This includes supporting desired development and managing conflict between land uses.

- Planning Priority 10: Protecting the environment.

Priority 10 identifies the environment provides significant opportunities to enhance the health and wellbeing of our communities. The priority recognises the significant pressure on the coastal environment in the Shoalhaven Coastal Zone Management Plan which addresses desired development and conflict between land uses. The proposed amendments ensure the unique character of the Shoalhaven's towns, villages, neighbourhoods and characteristic scenic landscapes are better protected.

- Planning Priority 13: Protecting and enhancing neighbourhoods.

Priority 13 identifies that neighbourhood character is influenced by far more than heritage and building design. There is strong desire for good management of development in towns and villages to ensure development respects existing and future desired character. The proposed amendments provide appropriate mechanisms to ensure the consideration of character in development decisions.

- Planning Priority 14: Heritage items and places.

Priority 14 recognises the valuable contribution heritage makes to places both in providing important connections to our past, and in creating distinct cultural identities for towns and villages. The proposed amendments further reinforce and protect the identified heritage items, heritage conservation areas and areas with historical significance from uncharacteristic unsympathetic development.

- Planning Priority 15: Scenic and cultural landscapes.

Planning Priority 15 identifies that scenic landscapes make a significant contribution to the unique character and amenity of our Region. The proposed amendments aim to protect the scenic landscapes of the Shoalhaven area and support the scenic amenity and contribution to the Shoalhaven's diverse towns and villages.

The PP is not considered inconsistent with the LSPS.

Shoalhaven Growth Management Strategy

The Shoalhaven Growth Management Strategy (GMS) recognises the distinct natural qualities and lifestyle that the Shoalhaven offers. There is a need to ensure that the future growth of the City is managed in a way that is ecologically sustainable and which does not erode the existing characteristics and features, which draw people and business to this area.

- Strategic Direction C.2 identifies the challenge of ensuring settlement growth will be ecologically sustainable, carefully planned and managed to meet the needs of the community.

- Strategic Direction C.5. identifies an opportunity to create connected urban areas that reinforce the strengths, individual character, and identity of each place.
- Strategic Direction C.13 seeks to support community participation in planning processes, enabling local communities to articulate their future aspirations and enhance their sense of place and wellbeing.

The proposed amendments further reinforce the consideration and protection of character consistent with the strategic directions of the GMS. The PP is not considered inconsistent with the GMS.

Nowra Bomaderry Structure Plan

The goals and principles of the Nowra Bomaderry Structure Plan (NBSP) relevant to this PP include:

- Principle 1 Sustainable living, to manage growth in a manner which endorses community values and where development responds to local features.
- Principle 3, Community wellbeing, to maximise lifestyle quality and choice by engendering a healthy, caring and harmonious society where development responds to community needs.

The proposed amendments further reinforce the consideration and protection of character consistent with the principles of the NBSP. Where higher density development is expected, the proposed additional Plan aim and land use zone objectives provide a higher level of consideration of character and amenity.

The PP is not considered inconsistent with the NBSP.

Milton Ulladulla Structure Plan

The principle of the Milton Ulladulla Structure Plan (MUSP) relevant to this PP is:

- Principle 1: Keeping Our Lifestyle and safeguarding the liveability of villages by maintaining and enhancing the unique identities of each village.

The proposed amendments further reinforce the identification of the characteristics of localities and reinforcing the unique characteristics through compatible and appropriate development.

The PP is not considered inconsistent with the MUSP.

Jervis Bay Settlement Strategy

The vision of the Jervis Bay Settlement Strategy (JBSS) is to maintain and enhance the marine, estuarine and natural resources by providing balanced future living and visiting opportunities which are environmentally, socially and economically sustainable. The JBSS recognises that sensible infill development, urban consolidation and urban renewal within existing urban areas provide the most appropriate settlement option to manage future population growth. The strategy identifies that urban renewal should be designed to complement rather than detract from the Regions character. The proposed amendments support the vision that development must consider the unique characteristics of localities

and ensure development that is compatible. The PP is not considered inconsistent with the JBSS.

Sussex Inlet Settlement Strategy

The objectives and principles of the Sussex Inlet Settlement Strategy (SSIS) relevant to this PP include:

- **Future Settlement:** The principle is for future settlements to ensure that a range of living opportunities for future and existing residents is provided, and urban growth is managed sustainably. This will be achieved through the establishment of guidelines, where appropriate, to ensure development compliments existing residential character and set performance standards to ensure that the bulk and scale of infill and new urban development protects or enhances residential amenity.

The PP is not considered inconsistent with the SISS.

4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

The PP is consistent with the applicable State Environmental Planning Policies (SEPPs). A full list of SEPPs is provided at **Attachment C** and those most relevant to this PP are addressed below.

SEPP (Exempt and Complying Development) Codes 2008

The SEPP sets out a number of Codes which enable certain development to be undertaken without Council approval via the exempt or complying development streams. The Low-Rise Medium Density Design Guide includes identification and consideration of existing character observations and the intended future character of areas in the design guidance, although not a mandatory consideration. The PP is not inconsistent in this regard.

SEPP (Housing) 2021

The Housing SEPP facilitates the development of affordable and diverse housing in the right locations and for all stages of life. The principles of this SEPP reinforce the importance of designing housing in a way that reflects and enhances the locality, provides residents with a reasonable level of amenity and minimises adverse environmental impacts of new housing development. The PP is not inconsistent in this regard.

SEPP (Resilience and Hazards) 2021

Chapter 2 of the SEPP sets out matters for consideration for development in the coastal zone. Several lots within the City fall within the coastal zone area, as defined by the *Coastal Management Act 2016*.

There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development

application on the land. This includes Part 2.2 which requires the Shoalhaven Coastal Zone Management Plan to be considered prior to the issuing of development consent for a development application in the coastal zone.

SEPP (Biodiversity and Conservation) 2021

Trees contribute significantly to the character and amenity of localities. Relevant sections in this SEPP include:

- Chapter 2 which seeks to protect the biodiversity values of trees and other vegetation in non-rural areas in Shoalhaven, as well as the amenity they provide.
- Chapter 6 which applies to the development of land within the Sydney Drinking Water Catchment area.

The SEPP will need to be taken into consideration prior to the clearing of prescribed vegetation in non-rural areas, and when development is proposed in the Sydney Drinking Water Catchment area, as specified by the SEPP. However, there are no provisions in this SEPP that directly apply to this PP, and therefore the PP is not inconsistent in this regard.

4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The s.9.1 Ministerial Directions are considered at **Attachment D** and those specifically relevant to this PP are discussed in greater detail below.

Direction 1.1 Implementation of Regional Plans

The Illawarra Shoalhaven Regional Plan (ISRP) applies to the Shoalhaven Local Government Area. The PP is not inconsistent with the ISRP as discussed in Section 4.2.1 above.

The PP is therefore not inconsistent with this direction.

Direction 3.3 Sydney Drinking Water Catchments

The direction applies as the PP affects land that is within the Sydney Drinking Water Catchment area. The scope of the PP will not materially impact upon the protection of water quality within the Sydney Drinking Water Catchment area. Therefore, the PP is not inconsistent with this direction.

Direction 4.3 Planning for Bushfire Protection

The direction applies as the PP affects land across the LGA that is (or is in proximity to) land mapped as bushfire prone land. The PP will not materially affect bushfire affectation or planning responses. Therefore, the PP is not inconsistent with this direction.

Direction 6.1 Residential Zones

This direction applies as the PP affects land within the existing R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones. The amendments seek to reinforce the identification of the characteristics of

localities and maintain these unique characteristics through development that is compatible. The amendments do not reduce the permissible residential density of land.

The PP is therefore not inconsistent with this direction.

Direction 7.1 Employment Zones

This direction applies as the PP affects land within the existing MU1 Mixed use zones. The amendments seek to:

- Reinforce the identification of the characteristics of localities and maintain the unique characteristics through development that is compatible.
- Provide a high standard of urban design and built form that achieves a high level of amenity.

The amendments will not reduce areas and locations of Employment zones or reduce the potential floor space area for employment uses. The PP is not inconsistent with this direction.

4.3 Environmental, Social and Economic Impact (Section C)

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

The likelihood that critical or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the PP is very low. The PP proposes to make amendments to SLEP 2014 that introduce additional aims and land use zone objectives only and does not directly impact critical or threatened species, populations or ecological communities, or their habitats.

4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Other environmental impacts are not anticipated due to the nature of the PP. Any future use of the land will consider environmental impacts as part of the assessment process.

4.3.3 Has the Planning Proposal adequately addressed any social and economic effects?

The PP is likely to have positive social and economic effects due to the intended protection of local character and unique identity of localities. It is anticipated that the PP will increase the social sustainability of places by ensuring well designed and located development that will promote social diversity and equity.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The PP does not directly create additional requirements for public infrastructure. The public infrastructure requirements for future development will be considered over time through the assessment process.

4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the act and in accordance with the Gateway determination.

5 Part 4 – Mapping

No mapping changes are proposed to support this PP.

6 Part 5 - Community Consultation

Council proposes to exhibit the PP in accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* and any other requirements as determined by the Gateway determination. It is intended that an exhibition period of 20 days will apply. The exhibition will include public notification and a package of exhibition material on Council's website. All stakeholders, including relevant Community Consultative Bodies will be advised of the public exhibition arrangements.

7 Part 6 – Project Timeline

The anticipated timeline for the PP is outlined in Table 2 below. A nine-month Gateway timeframe has been provided by the department with a completion date of 14 March 2025.

Table 2: Project Timeline, inclusive of caretaker period

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	June 2024
Completion of Gateway determination requirements	June 2024
Public exhibition	June – July 2024
Consideration of submissions	August 2024
Post exhibition consideration of PP	October / November 2024
Finalisation and notification of Plan	November / December 2024

ATTACHMENTS

Attachment A – Evaluation Criteria for the Delegation of Plan Making Functions

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP073 – Local Character

Address of Land (if applicable):

The PP applies to all land in the Shoalhaven Local Government Area.

Intent of draft LEP:

The intent of the Planning Proposal is to amend the Aims of the Plan and the Land Use Zone objectives of certain zones where residential development is permitted, to elevate the consideration of character within SLEP 2014.

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		N/A		
Does the Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any inconsistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the Planning Proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		N/A		

Heritage LEPs				
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?		N/A		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		
Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the Planning Proposal?		N/A		
Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?		N/A		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		
Spot Rezoning				
Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?		N/A		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		N/A		
Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		N/A		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the Planning Proposal create an exception to a mapped development standard?		N/A		

Section 73A matters				
<p>Does the proposed instrument:</p> <p>a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?</p> <p>b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?;</p> <p>c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>		N/A		
		N/A		
		N/A		

Attachment B – Council report and resolution supporting the PP 8 April 2024

CL24.86 Proposed Local Character Planning Proposal - Shoalhaven LEP 2014

HPERM Ref: D24/112690

Department: Strategic Planning

Approver: Coralie McCarthy, Acting Director - City Futures

Reason for Report

The purpose of this report is to obtain endorsement to:

- Prepare a Planning Proposal to make amendments to the aims and land use table objectives in the Shoalhaven Local Environmental Plan 2014 (LEP) to enhance local character consideration, and to submit to the NSW Government for Gateway Determination.
- Obtain support to progress other supporting work in the character space.

Recommendation

That Council:

1. Endorse the preparation of a planning proposal relating to character, based on the scope in Table 1 of this report.
2. Submit the planning proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination and, if favourable:
 - a. Proceed to formal public exhibition in accordance with the terms of the determination and legislative requirements; and
 - b. Receive a further report on the following the conclusion of the public exhibition period.
3. Endorse the progression of heritage investigations for the following areas as part of stage 2 of the New Land Use Planning Scheme, subject to appropriate budget allocation:
 - a. Kangaroo Valley urban area.
 - b. Milton urban area.
 - c. The coastal areas of Currarong, Bandalong, North Bandalong, Depot Beach and North Durras.
4. Continue to advocate for the NSW Government to recommence and implement appropriate and flexible local character provisions in the Standard Instrument LEP or other mechanism that will enable local councils to better protect areas with unique character.
5. Advise key stakeholders, including relevant Community Consultative Bodies, of the resolution and public exhibition arrangements for the planning proposal.

Options

1. As recommended.

Implications: Local character continues to be a key concern for the community, particularly in residential areas with increased medium density residential pressure. The progression of a planning proposal to include additional aims and land use objectives in

the LEP relating to character will provide a mechanism for consideration of character in the development assessment process.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the enhancement of local character in the LEP.

3. Not proceed with the planning proposal.

Implications: This is not the preferred option as the identified local character protection matters will not be resolved.

Background

On 14 November 2022, a Notice of Motion was presented to Council highlighting community concern regarding the impacts of inappropriate development on local character. A primary focus was the investigation of how local character could be elevated as a key consideration in the assessment of development proposals through planning instruments and related documents.

Council resolved (MIN22.856) that the Strategic Planning Working Party (SPWP) investigate the immediate steps that could be incorporated into future projects. The SPWP identified that character is a strength for Shoalhaven's towns and villages and that future work was required to protect the character of these important places.

On 28 August 2023, Council resolved (MIN23.451) as part of the New Land Use Planning Scheme process to:

(Part 1) Endorse the preparation of a Planning Proposal to update the City-wide Local Environmental Plan with provisions elevating the consideration of character in the assessment of development applications. Potential updates could include new Aim(s) for the Plan and Land Use Zone Objectives

(Part 4) Adopt the "Existing Character Statements" and "Future Desired Local Character Statements" identified in the Shoalhaven Character Assessment Report (February 2020) as 'interim' character statements to support the proposed planning controls for managing local character. ([link to document](#))

Proposed Planning Proposal – Additional Aims and Objectives

An investigation into the most appropriate way to manage character consideration in the LEP has now been completed. The review focused on the land use zones in the LEP where medium density residential development opportunities were permissible with consent. It is in these areas that a large proportion of submissions relating to medium density development applications raised concern that the proposal did not reflect or was not consistent with the dominant local character.

The Strategic Planning Working Party (SPWP) was briefed on the potential opportunities at its February 2024 meeting with general support received for the proposal.

Council endorsement for the following planning proposal scope (Table 1) is now sought, so the preparation can be finalised.

Table 1: Scope of Proposed Planning Proposal

Part of Shoalhaven LEP 2014	Proposed addition
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Clause 1.2 Aims of Plan	Add additional aim: <i>To protect and enhance the unique character of Shoalhaven's towns, villages and neighbourhoods, and the characteristic scenic landscapes that contribute to its liveability and identity.</i>
Land Use Table: RU5 Village	Insert an additional objective: <i>To ensure development is compatible with the identified existing or future desired character of the area.</i>
Land Use Table: R1 General Residential	Insert an additional objective: <i>To ensure development is compatible with the identified future desired character of the area.</i>
Land Use Table: R2 Low Density Residential and R5 Large Lot Residential	Insert an additional objective: <i>To provide for development that is compatible with the identified existing or future desired character and amenity of the surrounding area.</i>
Land Use Table: R3 Medium Density Residential and MU1 Mixed Use	Insert an additional objective: <i>To promote a high standard of urban design and built form that enhances the identified existing or future desired character of the area and achieves a high level of amenity.</i>

The NSW Government have strongly indicated that a local clause or map overlay/s relating to character will not be supported and therefore is not recommended at this stage. Refer to advocacy opportunities below.

Proposed Future Character Work

The proposed planning proposal will provide an immediate response that will partially assist in addressing character concerns for the Shoalhaven. Despite this, there are a range of other ways Council could further address character into the future, as follows:

- Integration of the Roberts Day “interim” character statements into the DCP , with further investigation and community consultation to refine. Council has already resolved to undertake this work as part of Stage 2 of the New Land Use Planning Scheme (MIN23.451).
- Consistent with the recommendations of the [Shoalhaven Heritage Study 1995-1998](#), undertake further heritage investigations (e.g., heritage conservation area potential) for the Kangaroo Valley urban area, Milton urban area and the coastal areas of Currarong, Bandalong, North Bandalong, Depot Beach and North Durras. This could be progressed as part of Stage 2 of the New Land Use Planning Scheme. If favourable, this would require an amendment to the LEP.
- In 2018, the NSW Government presented a proposed approach for respecting and enhancing local character that would involve amendments to the Standard Instrument LEP, providing an opportunity for councils to identify areas of significance and establish optional provisions and map overlays. The NSW Government’s proposed Design and Place SEPP also presented opportunities for appropriate responses to context and local character. Both these reform opportunities have been discontinued

by the NSW Government; however, there is scope to undertake longer-term advocacy in this area by continuing representations to the NSW Government for state driven character consideration.

Internal Consultation

High level consultation has occurred with relevant City Development staff on the scope of the proposed planning proposal.

External Consultation

Should the PP proceed further, the Gateway determination will require consultation with relevant State Agencies, including Heritage NSW.

Community Consultation

Should the PP proceed further, it will be publicly exhibited in accordance with the relevant legislative and any Gateway requirements. The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted. It is anticipated that the timeframe will be a minimum of 28 days.

All Community Consultative Bodies (CCB's) and relevant stakeholders will be advised of the exhibition arrangements.

Formal community consultation on the proposed future heritage and character statement work would be as per legislative requirements. It would also be beneficial to undertake early engagement activities with Shoalhaven's town and village communities to inform the preparation of these projects, especially the character statement work.

Policy Implications

The progression of a planning proposal to include additional aims and land use objectives in the LEP relating to character will provide a mechanism for consideration of character in the development assessment process.

The proposed future heritage and character statement work would be addressed as part of Stage 2 of the New Land Use Planning Scheme. The exact nature of this work will be reported to the SPWP in due course, when that stage commences.

Advocacy opportunities relating to character reform at the State level may result in future opportunities to address character in the LEP.

Financial Implications

There are no immediate financial implications for Council relating to the proposed amendment to the LEP or the character advocacy work. This will be resourced from the existing Strategic Planning budget.

Budget needs for the proposed future heritage and character statement work will need to be considered as part of Stage 2 of the New Land Use Planning Scheme.

HPERM Reference	1021E
Related Report	D24/112690
Item Number	CL24.86

RESOLVED (Clr Christen / Clr Wells)

MIN24.176

That Council:

1. Endorse the preparation of a planning proposal relating to character, based on the scope in Table 1 of this report.
2. Submit the planning proposal to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination and, if favourable:
 - a. Proceed to formal public exhibition in accordance with the terms of the determination and legislative requirements; and
 - b. Receive a further report on the following the conclusion of the public exhibition period.
3. Endorse the progression of heritage investigations for the following areas as part of stage 2 of the New Land Use Planning Scheme, subject to appropriate budget allocation:
 - a. Kangaroo Valley urban area.
 - b. Milton urban area.
 - c. The coastal areas of Currarong, Bendalong, North Bendalong, Depot Beach and North Durras.
 - d. The Berry Township
4. Continue to advocate for the NSW Government to recommence and implement appropriate and flexible local character provisions in the Standard Instrument LEP or other mechanism that will enable local councils to better protect areas with unique character.
5. Advise key stakeholders, including relevant Community Consultative Bodies, of the resolution and public exhibition arrangements for the planning proposal.

FOR: Clr Findley, Clr D'Ath, Clr Boyd, Clr Norris, Clr Kotlash, Clr Copley, Clr Ell, Clr Christen, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

Attachment C - SEPP Checklist

SEPP	Name	Applicable	Relevant	Not inconsistent
--	Exempt and Complying Development Codes 2008	✓	✓	Refer to s4.2.3
--	Housing 2021	✓	✓	Refer to s4.2.3
--	Primary Production 2021	✗	✗	n/a
--	Resources and Energy 2021	✗	✗	n/a
--	Resilience and Hazards 2021	✓	✗	Refer to s4.2.3
--	Industry and Employment 2021	✓	✗	n/a
--	Transport and Infrastructure 2021	✗	✗	n/a
--	Biodiversity and Conservation 2021	✓	✗	Refer to s4.2.3
--	Planning Systems 2021	✓	✗	n/a
--	Precincts – Eastern Harbour City 2021	✗	✗	n/a
--	Precincts – Central River City 2021	✗	✗	n/a
--	Precincts – Western Parkland City 2021	✗	✗	n/a
--	Precincts – Regional 2021	✗	✗	n/a
--	Sustainable Buildings 2022	✗	✗	n/a

Attachment D – s9.1 Ministerial Direction Checklist (10 November 2023 Version)

Direction		Applicable	Relevant to scope of PP	Not inconsistent
1 Planning Systems				
1.1	Implementation of Regional Plans	✓	✓	Refer to s.4.2.4
1.2	Development of Aboriginal Land Council land	✗	✗	n/a
1.3	Approval and Referral Requirements	✓	✗	n/a
1.4	Site Specific Provisions	✗	✗	n/a
1.4A	Exclusion of Development Standards from Variation	✓	✗	n/a
1 Planning Systems – Place-based				
1.5	Parramatta Road Corridor Urban Transformation Strategy	✗	✗	n/a
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	✗	✗	n/a
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	✗	✗	n/a
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	✗	✗	n/a
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	✗	✗	n/a
1.10	Implementation of Western Sydney Aerotropolis Plan	✗	✗	n/a
1.11	Implementation of Bayside West Precincts 2036 Plan	✗	✗	n/a
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	✗	✗	n/a
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	✗	✗	n/a
1.14	Implementation of Greater Macarthur 2040	✗	✗	n/a
1.15	Implementation of the Pymont Peninsula Place Strategy	✗	✗	n/a
1.16	North West Rail Link Corridor Strategy	✗	✗	n/a
1.17	Implementation of the Bays West Place Strategy	✗	✗	n/a
1.18	Implementation of the Macquarie Park Innovation Precinct	✗	✗	n/a
1.19	Implementation of the Westmead Place Strategy	✗	✗	n/a
1.20	Implementation of the Camellia-Rosehill Place Strategy	✗	✗	n/a
1.21	Implementation of South West Growth Area Structure Plan	✗	✗	n/a
1.22	Implementation of the Cherrybrook Station Place Strategy	✗	✗	n/a
2 Design and Place				
3 Biodiversity and Conservation				

Direction		Applicable	Relevant to scope of PP	Not inconsistent
3.1	Conservation Zones	✓	✗	n/a
3.2	Heritage Conservation	✓	✗	n/a
3.3	Sydney Drinking Water Catchments	✓	✓	Refer to s.4.2.4
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	✗	✗	n/a
3.5	Recreation Vehicle Areas	✓	✗	n/a
3.6	Strategic Conservation Planning	✗	✗	n/a
3.7	Public Bushland	✗	✗	n/a
3.8	Willandra Lakes Region	✗	✗	n/a
3.9	Sydney Harbour Foreshores and Waterways Area	✗	✗	n/a
3.10	Water Catchment Protection	✗	✗	n/a
4 Resilience and Hazards				
4.1	Flooding	✓	✗	n/a
4.2	Coastal Management	✓	✗	n/a
4.3	Planning for Bushfire Protection	✓	✓	Refer to s.4.2.4
4.4	Remediation of Contaminated Land	✓	✗	n/a
4.5	Acid Sulfate Soils	✓	✗	n/a
4.6	Mine Subsidence and Unstable Land	✗	✗	n/a
5 Transport and Infrastructure				
5.1	Integrated Land Use and Transport	✓	✗	n/a
5.2	Reserving Land for Public Purposes	✓	✗	n/a
5.3	Development Near Regulated Airports and Defence Airfields	✓	✗	n/a
5.4	Shooting Ranges	✓	✗	n/a
6 Housing				
6.1	Residential Zones	✓	✓	Refer to s.4.2.4
6.2	Caravan Parks and Manufactured Home Estates	✓	✗	n/a
7 Industry and Employment				
7.1	Employment Zones	✓	✓	Refer to s.4.2.4
7.2	Reduction in non-hosted short-term rental accommodation period	✗	✗	n/a
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	✗	✗	n/a
8 Resources and Energy				
8.1	Mining, Petroleum Production and Extractive Industries	✗	✗	n/a
9 Primary Production				
9.1	Rural Zones	✓	✗	n/a

Direction		Applicable	Relevant to scope of PP	Not inconsistent
9.2	Rural Lands	✓	✗	n/a
9.3	Oyster Aquaculture	✗	✗	n/a
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	✗	✗	n/a