

# PLANNING PROPOSAL – PP043

## Shoalhaven Local Environmental Plan 2014

### *Dwelling House as an Additional Permitted Use on Particular Land – South Nowra Industrial Expansion*

Prepared by  
Planning, Environment & Development Group  
Shoalhaven City Council

File: 59133E  
Version 1.1: Pre-Gateway  
Date: March 2019

Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541  
telephone (02) 4429 3111  
facsimile (02) 4422 1816  
e-mail [planning@shoalhaven.nsw.gov.au](mailto:planning@shoalhaven.nsw.gov.au)  
internet [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au)

---

### **Disclaimer**

Every effort has been made to provide accurate and complete information. However, Shoalhaven City Council assumes no responsibility for any direct, indirect, incidental, or consequential damages arising from the use of information in this document.

### **Copyright Notice**

No part of this publication may be reproduced in any form, or stored in a database or retrieval system, or transmitted or distributed in any form by any means, electronic, mechanical photocopying, recording, or otherwise without written permission from Shoalhaven City Council. All rights reserved.

Copyright © 2019, Shoalhaven City Council

---

## Table of Contents

Table of Contents .....	3
Tables .....	4
Figures.....	4
1 Introduction.....	5
1.1 Subject Land.....	5
1.2 Background .....	11
2 Part 1 –Intended Outcome.....	23
3 Part 2 – Explanation of Provisions.....	23
4 Part 3 – Justification .....	24
4.1 Need for the Planning Proposal (Section A) .....	24
4.1.1 Is the Planning Proposal a result of any strategic study or report? .....	24
4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way? .....	24
4.2 Relationship to strategic planning framework (Section B).....	25
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)?.....	25
4.2.2 Is the Planning Proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan? .....	27
4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies? .....	29
4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)? .....	29
4.3 Environmental, Social and Economic Impact (Section C).....	33
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? .....	33
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? .....	33
4.3.3 How has the Planning Proposal adequately addressed any social and economic effects? .....	34
4.4 State and Commonwealth Interests (Section D) .....	35
4.4.1 Is there adequate public infrastructure for the Planning Proposal? .....	35
The PP will have a negligible impact on public infrastructure. ....	35
4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination? .....	35
5 Part 4 – Mapping .....	36
6 Part 5 - Community Consultation .....	36

7	Part 6 – Project Timeline .....	37
---	---------------------------------	----

## Tables

Table 1: Subject Land Properties.....	8
Table 2: Industrial Land Desktop Review.....	16
Table 3: Consistency with Ministerial Direction 1.1 .....	29

## Figures

Figure 1: Location Map .....	6
Figure 2: Subject Land.....	7
Figure 3: Subject Land Aerial Photo .....	7
Figure 4: Current Land Use Zones – SLEP 2014 .....	10
Figure 5: Area of Land Use Zones at Subject Land .....	10
Figure 6: SLEP1985 Land Use Zones .....	11
Figure 7: Projected Employment – South Nowra .....	14
Figure 8: Projected Employment Land – South Nowra .....	15
Figure 9: Nowra Bomaderry Structure Plan .....	28
Figure 10: Flood Affectation.....	33
Figure 11: Bushfire Prone Land .....	34
Figure 12: Proposed Mapping Amendment .....	36

## 1 Introduction

This Planning Proposal (PP) seeks to amend *Schedule 1 Additional Permitted Uses* (and the associated Additional Permitted Uses Map) of Shoalhaven Local Environmental Plan 2014 (SLEP 2014) to confirm the allowance of a *dwelling house*, as an *additional permitted use on particular land*, in accordance with Clause 2.5 of SLEP 2014, for a limited time period.

The particular land is in South Nowra within the IN1 – General Industrial zone, in accordance with SLEP 2014. Under SLEP 2014, *Residential accommodation* which includes *dwelling houses* are generally a nominated prohibited use within this zone. Prior to commencement of the SLEP 2014, the subject land was zoned for rural residential uses, via Zone 1(c) Rural Lifestyle Zone and 1(d) General Rural Zone under Shoalhaven Local Environmental Plan 1985. The IN1 Zone in this location provides for a longer term supply of industrial land.

The PP was initiated from a Council resolution following ongoing consultation with affected land owners.

The PP recognises the existing and historical use of the subject land for rural residential purposes and acknowledges the projected requirements for employment and industrial related growth within Shoalhaven. The PP demonstrates that formalising an approval mechanism for the existing and lawful use (*dwelling house* or the like) for a limited period will not detract from potential future employment and industrial growth. Furthermore, it demonstrates that the outcome will not have a material impact on the current and potential future use of the land.

The intended outcome of this PP will afford a level of security to the land owners of the subject land, via a recognised dwelling entitlement, which balances community expectation with the probable long term growth capacity requirements for employment and industrial lands in Shoalhaven.

Given the local nature of this issue, Council requests delegation of local plan making functions for this PP.

### 1.1 Subject Land

The subject land is located within the land identified for the ongoing and longer term expansion of the existing Flinders Industrial Estate in South Nowra. The southern portion of the subject land is within the locality of Nowra Hill. South Nowra and Nowra Hill are located approximately 5km south of Nowra Central Business District (CBD) and largely consist of land centrally dissected by the Princes Highway. The location, in its regional context, is shown in **Figure 1** below.

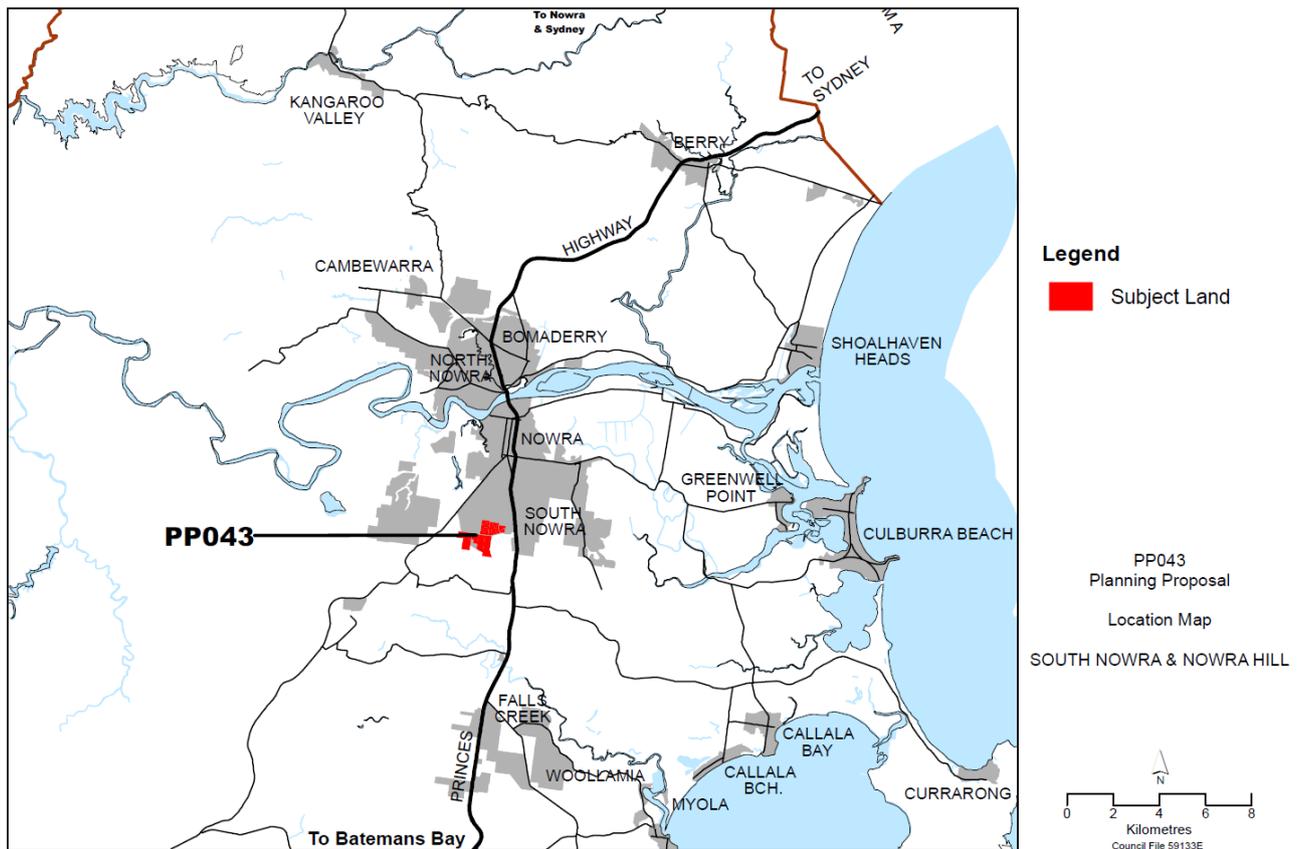


Figure 1: Location Map

The wider area is characterised by general industry and warehousing, large format and bulky good retail outlets, service stations and fast food retailing, new residential subdivisions and historic rural residential uses, and the South Coast Correctional Centre.

On the eastern fringe of the suburb is an emerging residential area, merging to warehousing, general industry, large format retailing and service station and fast food retailing flanking the Princes Highway. To the west of the Princes Highway is general industry giving way to historical large lot and rural residential properties (including home business). In the northern portion of the suburb there is a large area for public recreation and a High School. To the south is a correctional centre.

The subject land is located in the south west portion of South Nowra/northern portion of Nowra Hill and is identified in **Figure 2** and **Figure 3** (cadastre map and aerial photo) below.

Pre-Gateway Planning Proposal – Shoalhaven LEP 2014 – PP043 – Dwelling House as an Additional Permitted Use – South Nowra Industrial Expansion

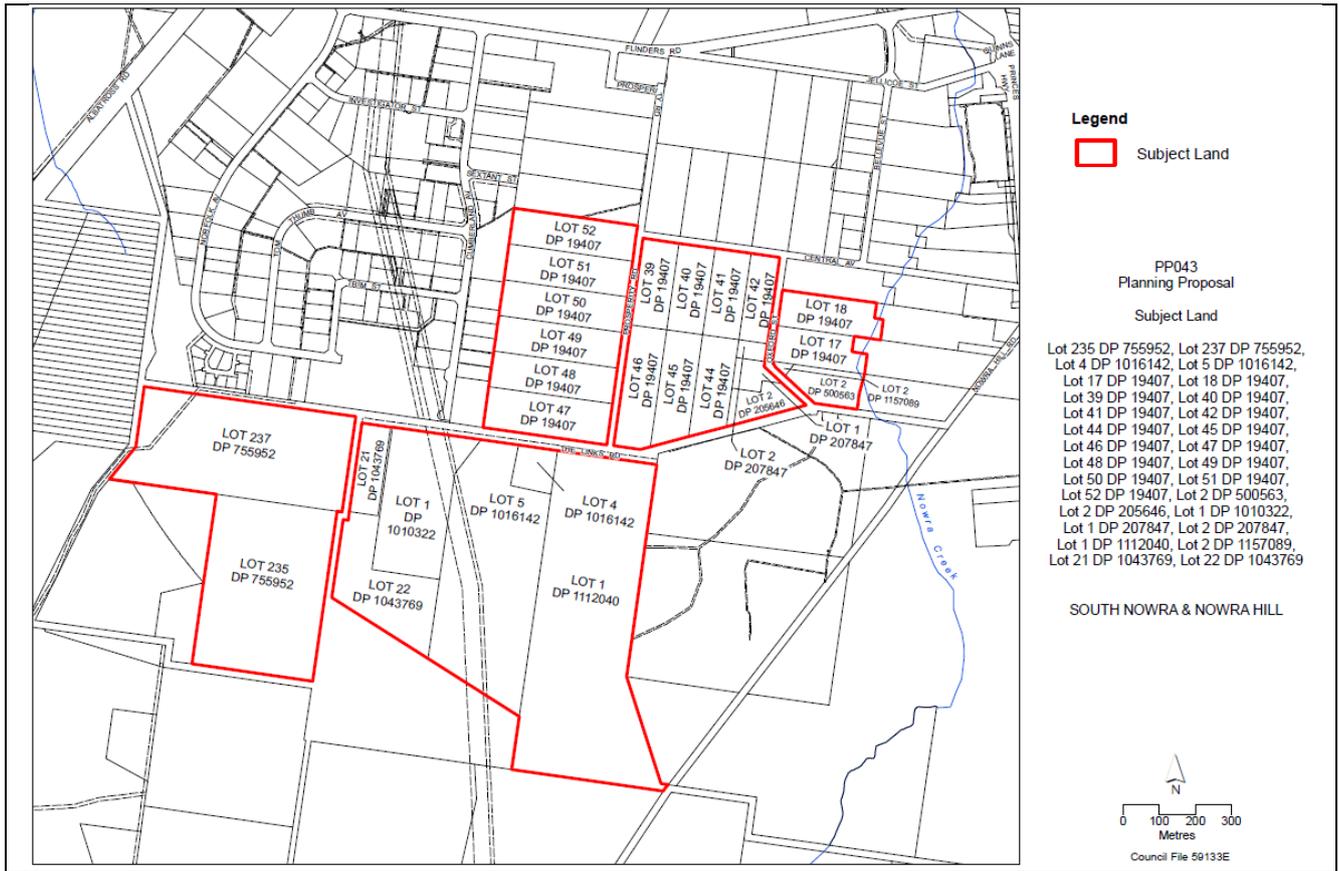


Figure 2: Subject Land

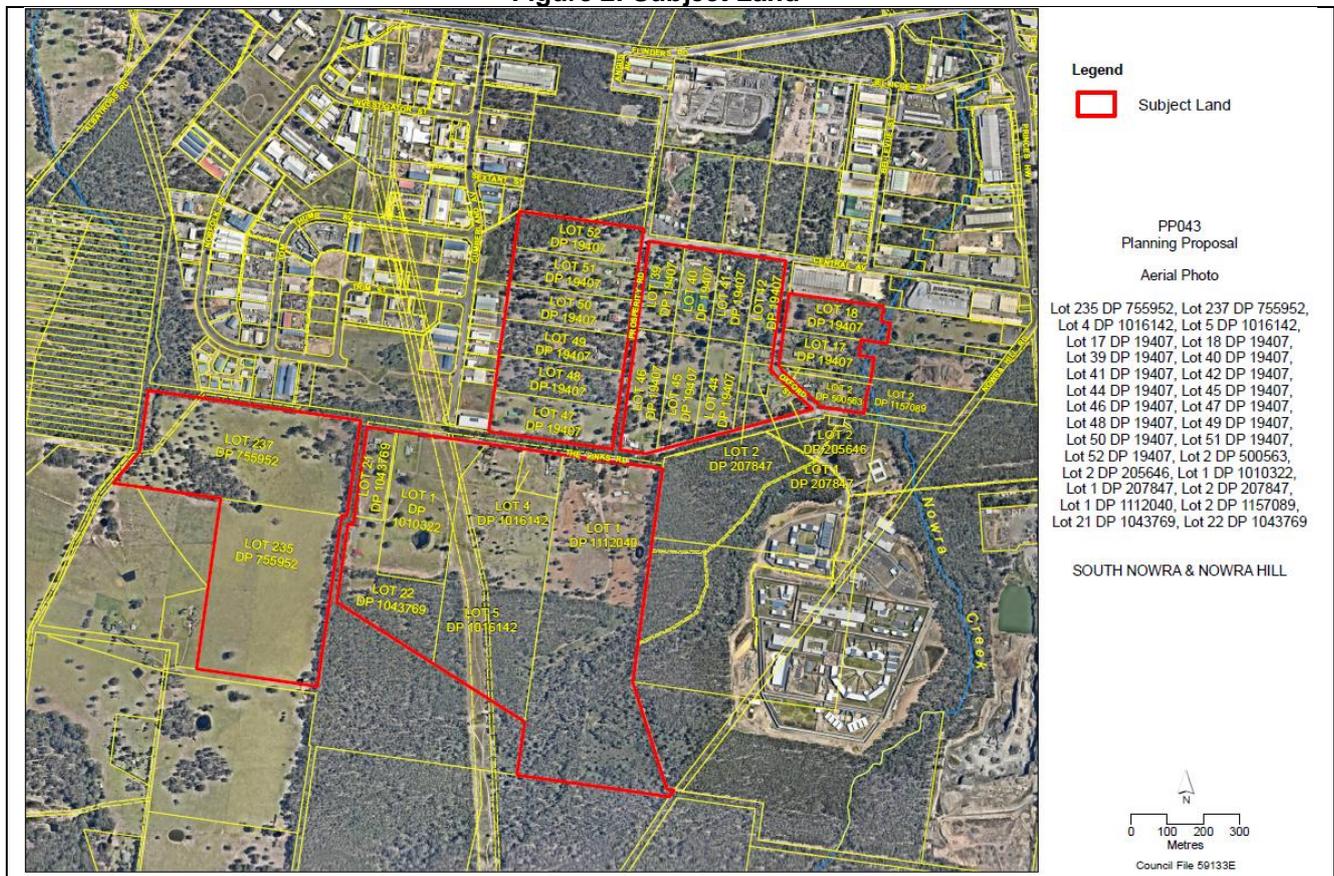


Figure 3: Subject Land Aerial Photo

The subject land itself consists of 28 existing properties as identified in **Figure 2** and **Figure 3** above **Table 1** below. The Table also includes information on whether the property is considered to have a lawful dwelling entitlement under Shoalhaven Local Environmental Plan 1985.

In undertaking this research, a basic desktop assessment was carried out to review the property details, development approvals and/or existing dwellings, land area and previous zone in Shoalhaven LEP 1985. The large majority of the properties have existing approved dwellings and may meet the definition of an *existing use right* by Division 4.11 of the *Environmental Planning and Assessment Act 1979* and the continued use and possible modification of the use may be permissible under Part 5 Existing Uses in the *Environmental Planning and Assessment Regulation 2000*.

**Table 1: Subject Land Properties**

	<b>Property Description</b>	<b>Address</b>	<b>Existing Approved Dwelling</b>	<b>SLEP1985 LZN</b>	<b>Land Area (ha)</b>
1.	Lot 52, DP 19407	21 Prosperity Road, South Nowra	YES	1(c)	3.48
2.	Lot 51, DP 19407	25 Prosperity Road, South Nowra	YES	1(c)	3.48
3.	Lot 50, DP 19407	29 Prosperity Road, South Nowra	YES	1(c)	3.48
4.	Lot 49, DP 19407	33 Prosperity Road, South Nowra	YES	1(c)	3.48
5.	Lot 48, DP 19407	37 Prosperity Road, South Nowra	YES	1(c)	3.48
6.	Lot 47, DP 19407	148 The Links Road, South Nowra	YES	1(c)	3.99
7.	Lot 46, DP 19407	106 The Links Road, South Nowra	YES	1(c)	3.42
8.	Lot 45, DP 19407	92 The Links Road, South Nowra	YES	1(c)	3.11
9.	Lot 44, DP 19407	80 The Links Road, South Nowra	YES	1(c)	2.68
10.	Lot 42, DP 19407	8 Central Avenue, South Nowra	YES	1(c)	1.96
11.	Lot 41, DP 19407	6 Central Avenue, South Nowra	YES	1(c)	2.45
12.	Lot 40, DP 19407	4 Central Avenue, South Nowra	NO	1(c)	2.45
13.	Lot 39, DP 19407	2 Central Avenue, South Nowra	YES	1(c)	2.45

14.	Lot 2, DP 500563	41 Oxford Street, South Nowra	YES	1(c)	1.80
15.	Lot 2, DP 205646	40 Oxford Street, South Nowra	YES	1(c)	1.58
16.	Lot 2, DP 1157089	33 Oxford Street, South Nowra	YES	1(c)	0.12
17.	Lot 1, DP 207847	32 Oxford Street, South Nowra	YES	1(c)	0.81
18.	Lot 17, DP 19407	21 Oxford Street, South Nowra	YES	1(c)	2.40
19.	Lot 2, DP 207847	20 Oxford Street, South Nowra	YES	1(c)	0.40
20.	Lot 18, DP 19407	13 Oxford Street, South Nowra	NO	1(c)	2.80
21.	Lot 1, DP 112040	109 The Links Road, Nowra Hill	YES	1(d)	27.28
22.	Lot 4, DP 1016142	129 The Links Road, Nowra Hill	YES	1(d)	1.34
23.	Lot 5, DP 1016142	147 The Links Road, Nowra Hill	Likely pre IDO* dwelling	1(d)	17.14
24.	Lot 1, 1010322	167 The Links Road, Nowra Hill	YES	1(d)	7.91
25.	Lot 22, DP 1043769	175 The Links Road, Nowra Hill	YES	1(d)	6.15
26.	Lot 21, 1043769	181 The Links Road, Nowra Hill	YES	1(d)	2.00
27.	Lot 237, DP 755952	183 The Links Road, Nowra Hill	NO	1(d)	16.19
28.	Lot 235, DP 755952	The Links Road, Nowra Hill	NO	1(d)	16.19

The individual properties relatively large (over 2ha on average). The total land area of the combined properties is 144.13ha. The majority of the site is within zone IN1 General Industrial under the provisions of SLEP 2014. The remaining land is comprised of some land in zone RU2 Rural Landscape (22.33ha), zone E2 Environmental Conservation (9.39ha) and Zone E3 Environmental Management (2.47ha).

The land use zoning of the subject land and surrounding land in the locality is identified in **Figure 4** below. **Figure 5** includes a breakdown of the land use zones of the subject land, including their total area. It is noted that in Figure 5, the land has been broken down into 5 sections for the purposes of calculating land area only.

Pre-Gateway Planning Proposal – Shoalhaven LEP 2014 – PP043 – Dwelling House as an Additional Permitted Use – South Nowra Industrial Expansion

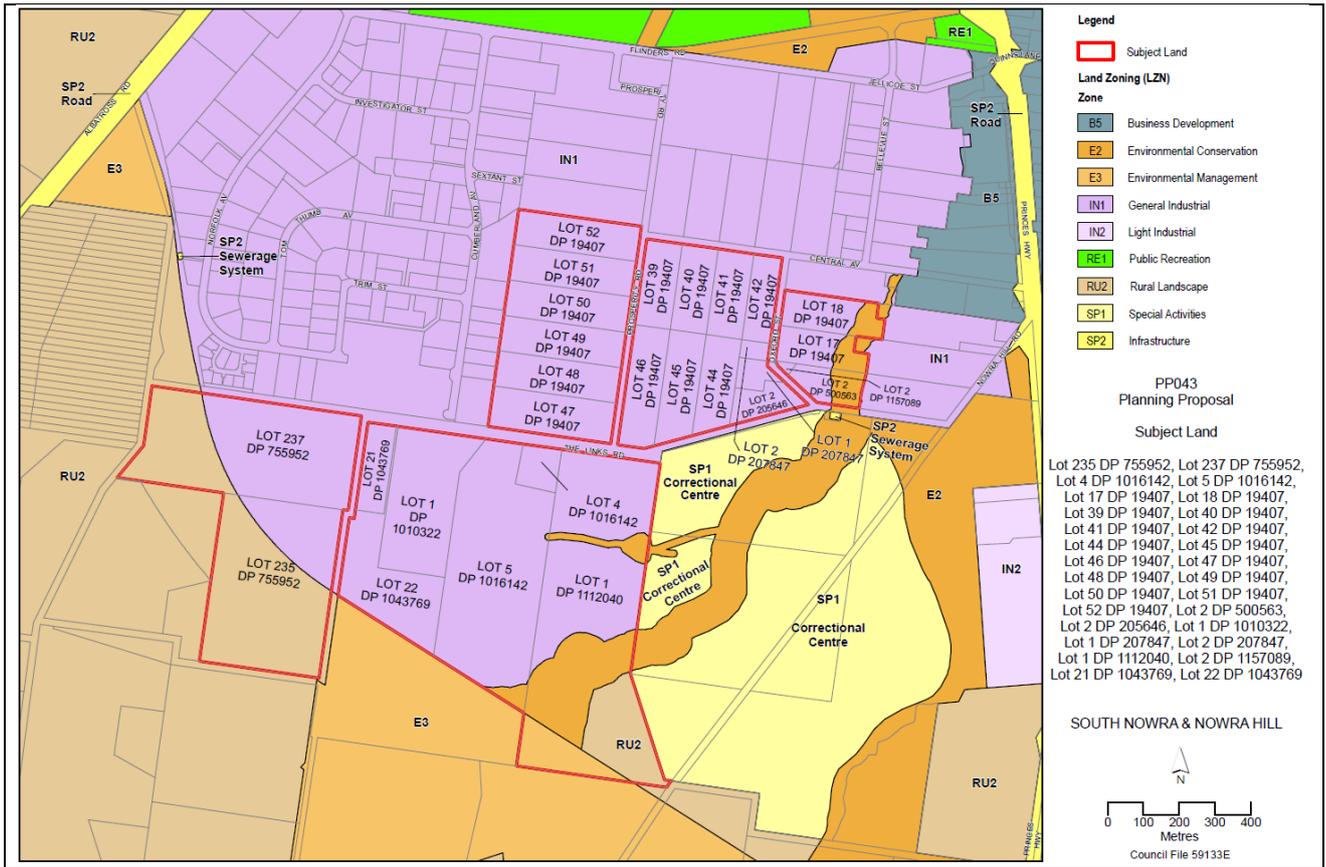


Figure 4: Current Land Use Zones – SLEP 2014

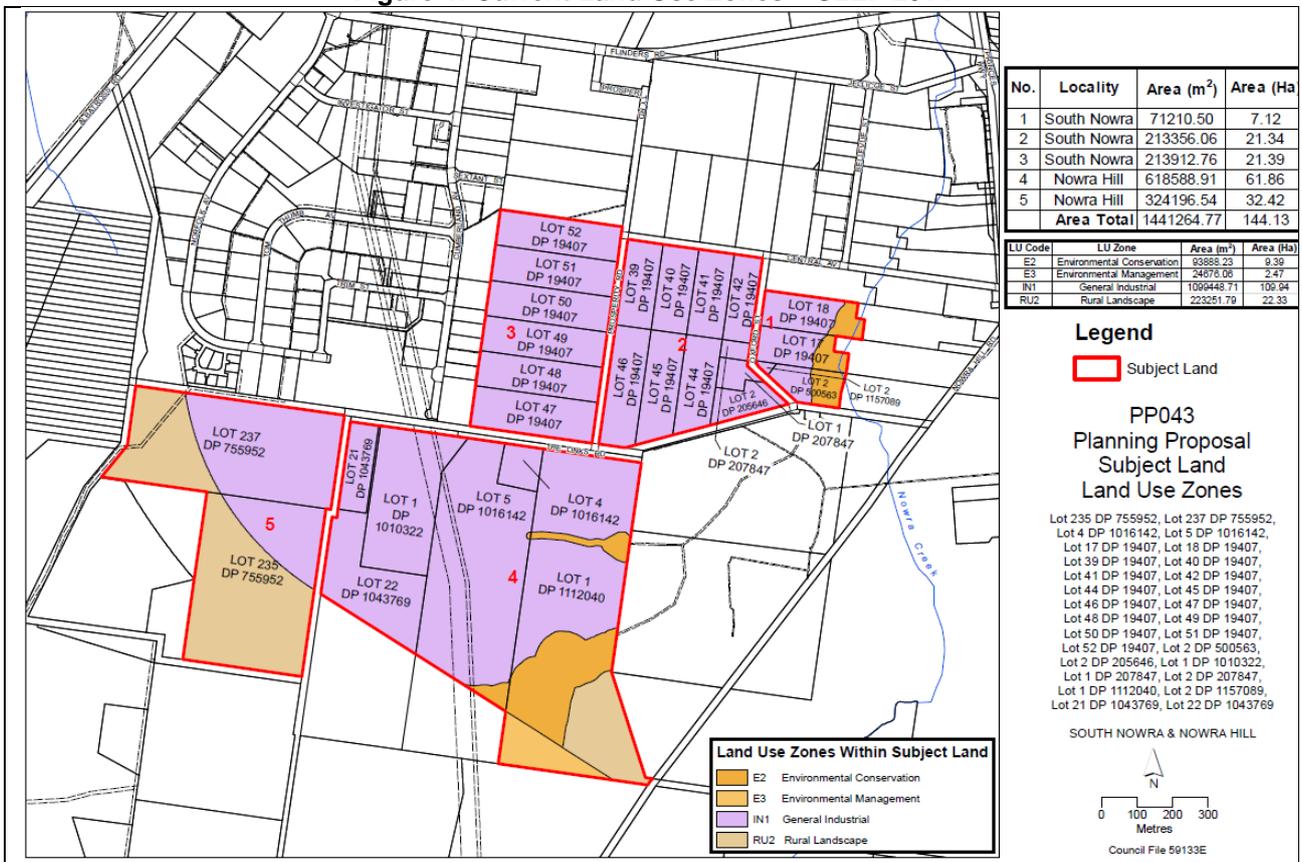
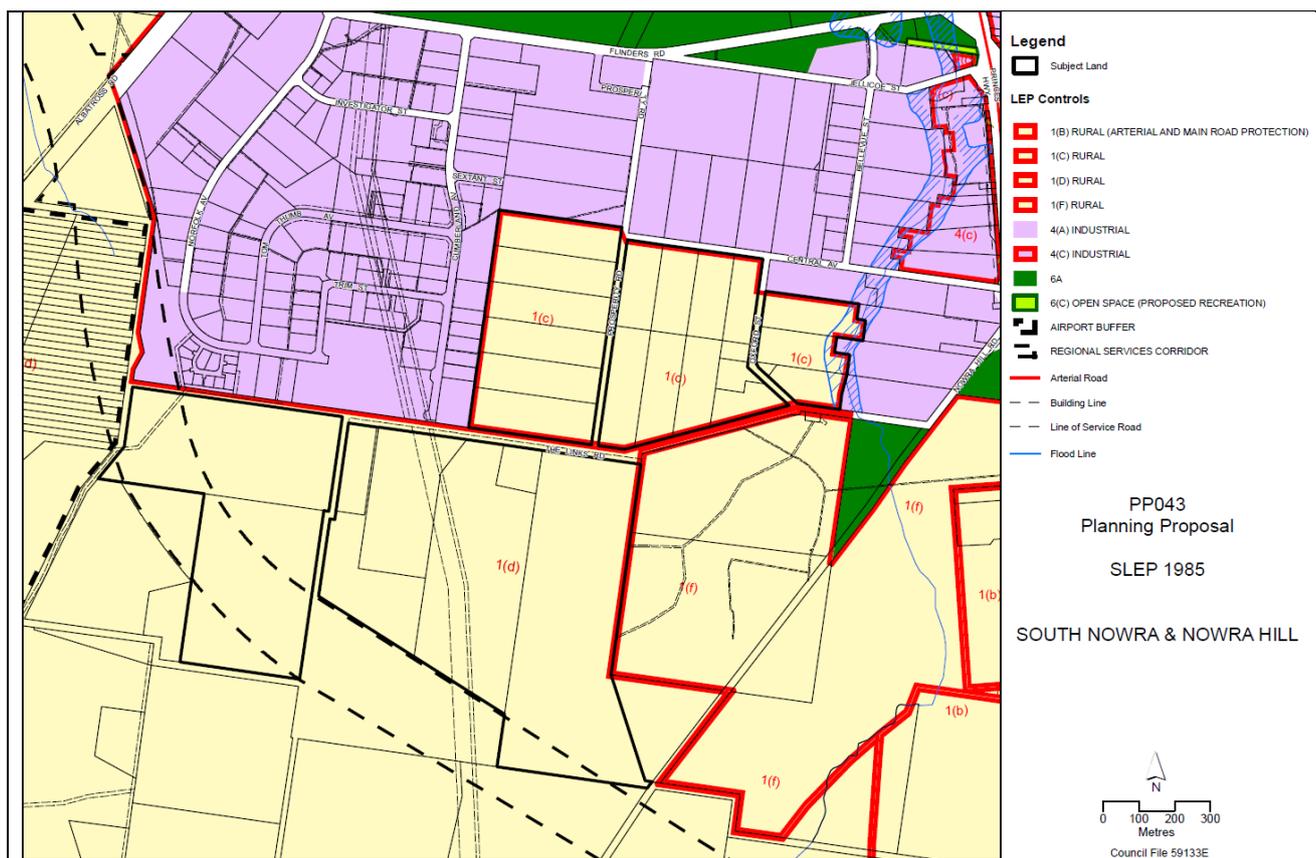


Figure 5: Area of Land Use Zones at Subject Land

## 1.2 Background

The land that is the subject of this PP was zoned for rural and rural lifestyle purposes—Zone 1(c) Special Rural Lifestyle and Zone 1(d) General Rural under *Shoalhaven Local Environmental Plan 1985* (SLEP 1985)- as identified in **Figure 6**.

The existing development of the subject land reflects the zoning of SLEP 1985 – it is largely rural residential type development with some home business uses.



**Figure 6: SLEP1985 Land Use Zones**

The subject land has been earmarked for industrial lands growth in Council and State Government strategic plans (see **Section 4.2**) and as such the land was rezoned IN1 – General Industrial (as shown in **Figure 6** above) in the preparation of Council’s standard instrument principal local environmental plan, which when made became SLEP 2014. It is noted that *residential accommodation* is a nominated prohibited use within the IN1 General Industrial zone under SLEP 2014, and therefore *dwelling house* is a prohibited use in the IN1 zone generally.

Prior to the commencement of SLEP 2014, two draft SLEPs were prepared and widely exhibited. Extensive community consultation was undertaken and so the impact of the rezoning was not considered inappropriate, with the owners of land in this particular area likely to be afforded existing use rights to continue and expand their existing residential use until they were ready to redevelop or sell their land consistent with the IN1 zoning.

Notwithstanding the above, the expansion and delivery of industrial land is being generally managed by Council's Economic Development Unit. The intent stated by the Economic Development Unit is for the subject land to be delivered for industrial purposes over the next 30-40 years. It is noted that the land has the following minimum constraints in relation to infrastructure:

- Domestic water only;
- Domestic electricity only;
- Unsewered;
- No stormwater drainage infrastructure; and
- Unsealed roads.

Concern exists amongst the land owners of the subject land that they cannot lawfully continue or expand their current residential land use. It is acknowledged however that most of the existing lots most likely benefit from existing use rights given the existence of dwellings. Despite this, there is considerable concern amongst landowners that the current zoning does not afford a dwelling entitlement. It is considered that providing for the proposed additional permitted use on the subject land will make clear that the current lawful residential uses can be continued and expanded/be replaced.

The Department of Planning's Circular issued 31 March 2006 ([PS06-007](#)) "Changes to existing use rights" provides advice on changes to the existing use rights in the EP&A Amendment (Existing Uses) Regulation 2000. The circular includes the following statement:

*"Where possible, councils will be encouraged to identify development that would have existing use rights and include 'permitted additional uses' on that land in their LEP, so that the land use is no longer prohibited (in effect, remove existing use rights)."*

This approach was also taken in the transfer of the Standard Instrument LEP in identifying existing uses and amending the zone or including additional permitted uses to facilitate the existing use.

In addition to security of current use, it has been identified by the landowners that the change of zone has seen their properties devalued on the property market and demand for the properties is low. Letters from local real estate agents supporting this notion were submitted to Council and are included as **Appendix 5**.

### ***Illawarra Industrial Lands Study – Industrial Lands Audit and Constraints Analysis***

The Illawarra Industrial Lands Study – Industrial Lands Audit and Constraints Analysis, prepared by Cardno for the NSW Department of Planning and Environment, dated June 2014 has been considered. The key points of consideration from this Study are summarised below:

- Shoalhaven will be a key LGA in future industrial development, containing the second highest supply of industrial land in the region.
- Shoalhaven has 264 hectares of industrial land supply vacant, or 30%.
- The majority of the subject land is NOT considered vacant in this Study

### **Department of Planning and Environment’s Employment Lands Development Monitor**

The Department of Planning and Environment’s (DPE) Employment lands monitor defines employment lands as lands that are “zoned for industrial or similar purposes in planning instruments. They are generally lower density employment areas containing concentrations of businesses involved in: manufacturing; transport and warehousing; service and repair trades and industries; integrated enterprises with a mix of administration, production, warehousing, research and development; and urban services and utilities”. The Employment Lands Development Monitor tracks the total stock and development status of land within the following land use zones:

- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- IN4 Working Waterfront
- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park.

It is noted that there is no land in Shoalhaven zoned IN3 Heavy Industrial or B6 Enterprise Corridor.

As at January 2018 the characteristics of Shoalhaven’s Employment Lands, as defined by the DPE Employment Lands Monitor, were as follows:

- Total zoned: 808ha
- Zoned and developed: 581ha
- Zoned and undeveloped 227ha

It is highlighted that almost 30% of all of Shoalhaven’s zoned employment lands is currently undeveloped, suggesting appropriate capacity in the short to medium term.

When considering the Cardno Industrial Land’s Audit with the DPE’s Employment Lands Monitor data, it appears that they are consistent. One key difference is that the subject land would be considered developed in the Cardno report but undeveloped according to the parameters of the employment lands monitor.

### **Industrial lands supply – Desktop Analysis, December 2018**

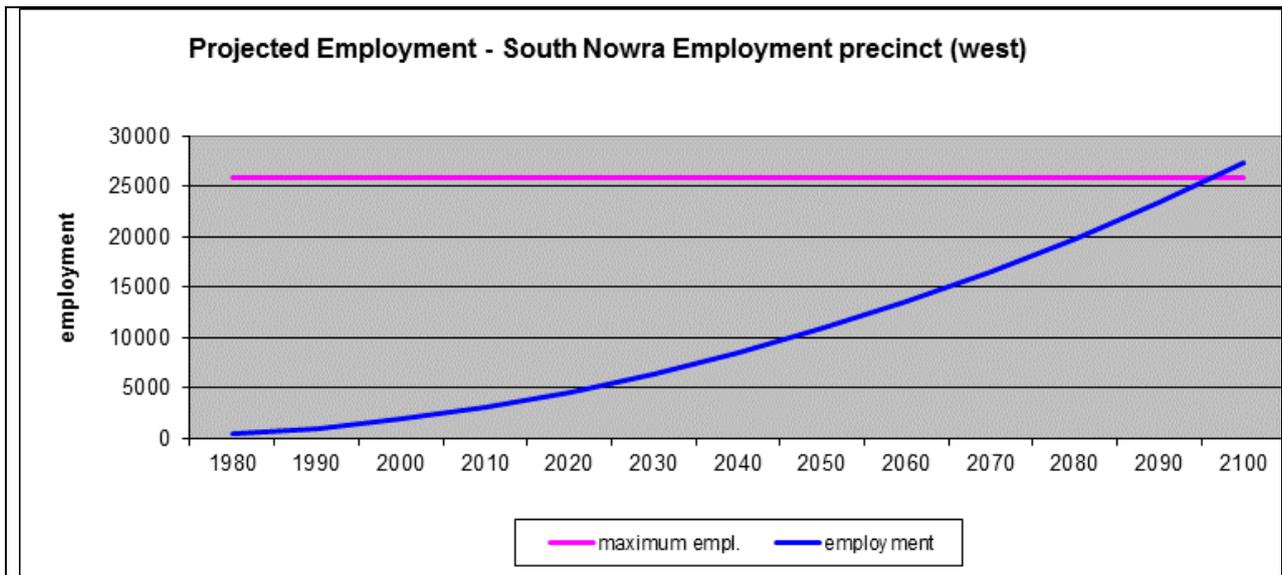
Council’s Economic Development Unit provided the following statement in relation to industrial land supply and demand in South Nowra:

*At South Nowra there is a range of IN1, B5 and some IN2 land that is currently available for development for employment purposes. The availability of utilities and services to some areas is not adequate to support industrial development and some augmentation may be required.*

*Across all applicable zones there is some fully serviced lots however, depending on demand, this may satisfy the need for at least 5 years. After this, some land requiring augmentation of services will be needed on a gradual basis.*

*Demand for serviced industrial land in Shoalhaven is not just dependent on local economic conditions but is linked to national and international economic trends and cycles.*

Council’s Economic Development Unit has undertaken projected employment growth and employment related development in the South Nowra area and this is highlighted in the **Figure 7** and **Figure 8** below.



**Figure 7: Projected Employment – South Nowra**

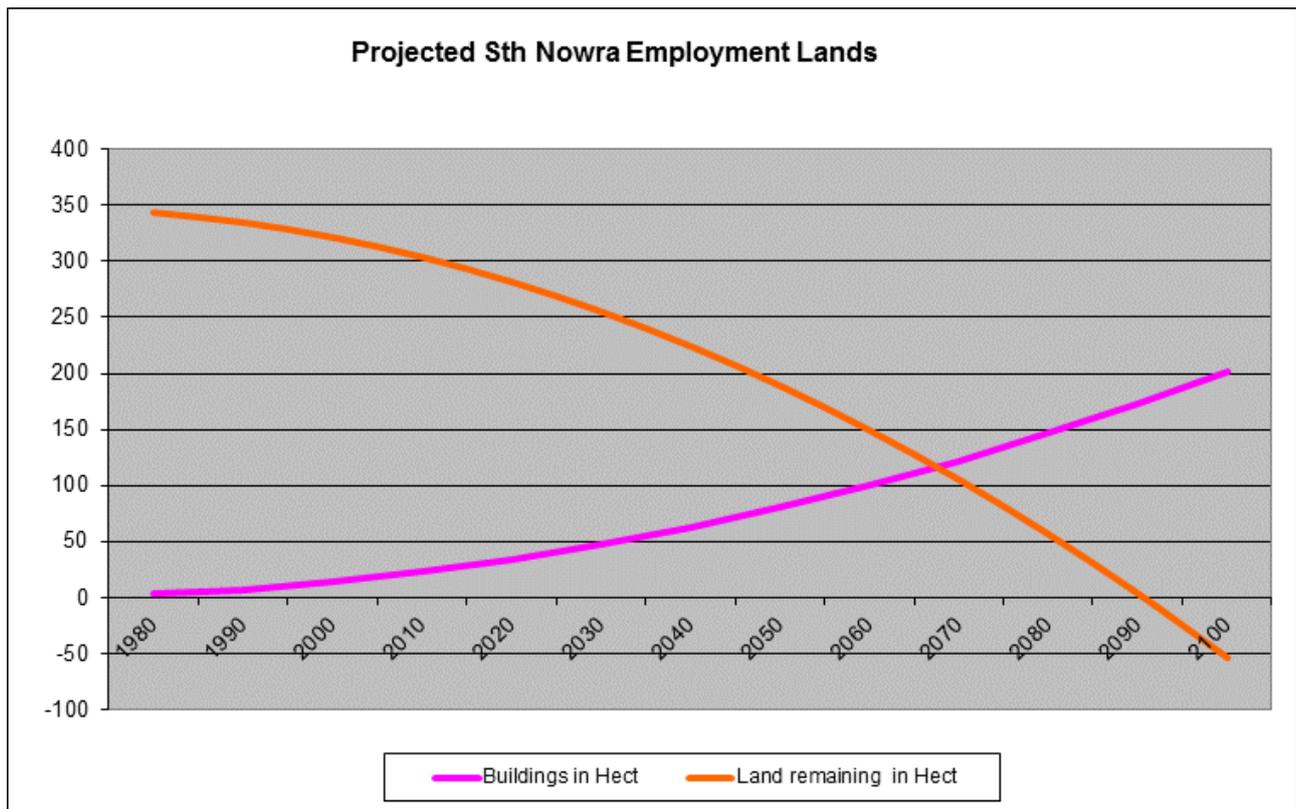


Figure 8: Projected Employment Land – South Nowra

As shown in the **Figure 7** and **Figure 8** above, a conservative assessment would suggest there is capacity in South Nowra’s employment use related land for at least the next 50 years.

In addition to the above information provided by Council’s Economic Development Unit, a summary of industrial land available within 30 minutes (journey by car) of the subject land is provided in **Table 2**.

**Table 2: Industrial Land Desktop Review**

<b>Location:</b> Subject land, South Nowra Earmarked Industrial Expansion	
<b>Land Use Zone:</b>	IN1 General Industrial
<b>Land Area</b>	80ha
<b>Discussion</b>	<p>Although the land is currently identified and appropriately zoned for industrial purposes, there are factors that constrain this in the short term, including but not limited to:</p> <ul style="list-style-type: none"><li>• Existing supply of industrial zoned land in established industrial areas</li><li>• Inadequate road infrastructure</li><li>• Inadequate services</li><li>• Environmental constraints.</li></ul> <p>The uptake of the subject land for industrial use cannot realistically occur until the infrastructure upgrades take place. Given the scale of the upgrades required this is an unlikely outcome in the short term. As stated previously, the Economic Development Unit of Council has identified an indicative timeframe of at least 30-40 years for the subdivision, sale and development of this land for industrial purposes.</p>

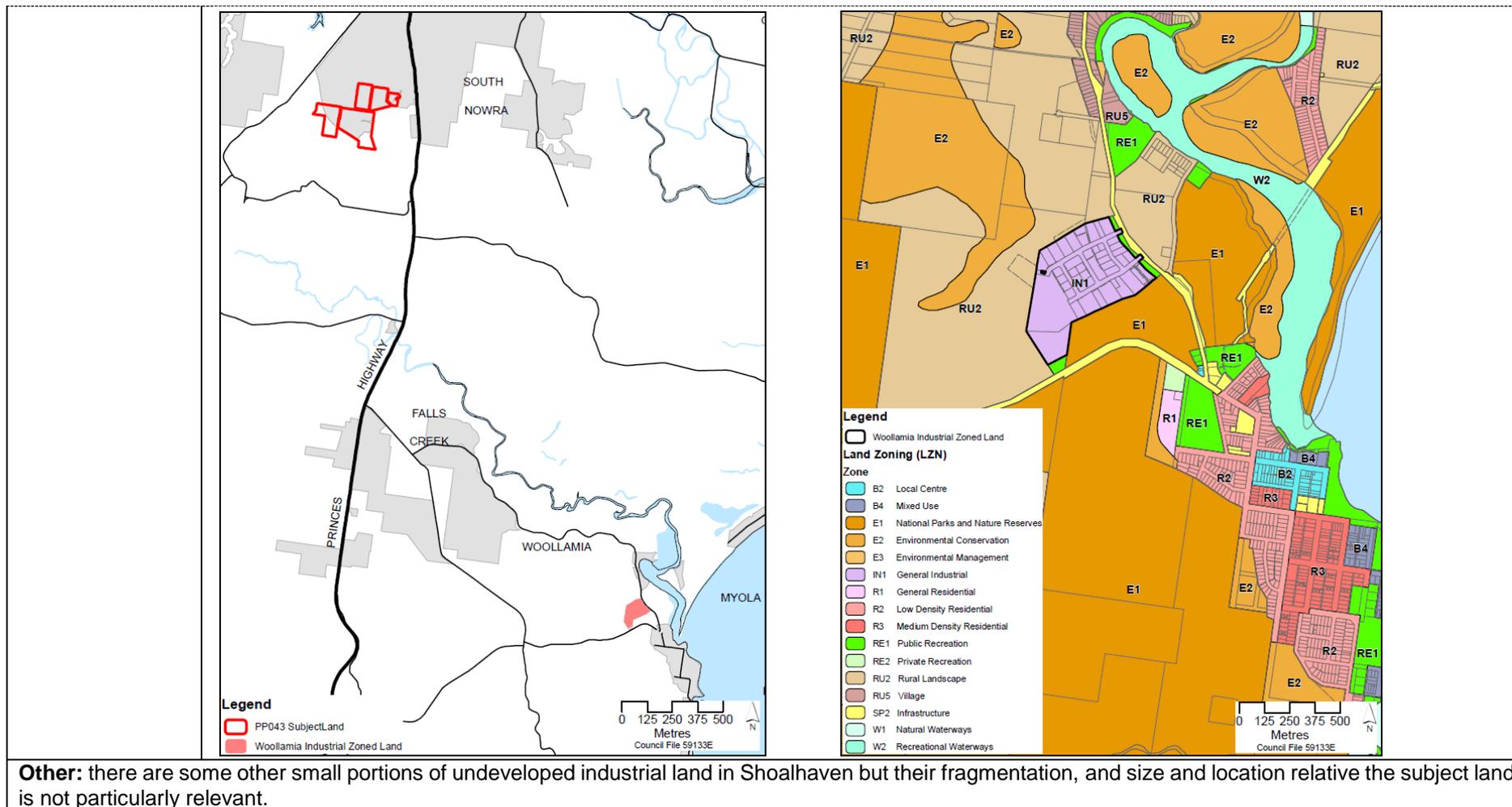
<b>Location:</b> Flinders Industrial Estate (adjoining to the north)	
<b>Land Use Zone:</b>	IN1 General Industrial and IN2 Light Industrial
<b>Undeveloped Land Area</b>	>40ha
<b>Discussion</b>	The land in the existing industrial area to the north (Flinders) is not completely developed and has the capacity to accommodate employment and industrial growth for the locality in the short to medium term (and is the logical location to support growth at the present

<b>Location:</b> South Nowra B5 Zoned Land	
<b>Land Use Zone:</b>	B5 Business Development
<b>Undeveloped Land Area</b>	>50ha
<b>Discussion</b>	There is existing B5 Business Development zone located to the east of the subject land (and east of the Princes Highway) in South Nowra. The nominated permissible uses in this zone can accommodate some of the uses that require an industrial type zone. Some of this land will require infrastructure augmentation.

<b>Location:</b> Bomaderry Industrial Zoned Land	
<b>Land Use Zone</b>	IN1 General Industrial
<b>Undeveloped Land Area</b>	0.5ha
<b>Discussion:</b>	The land in the Bomaderry Industrial Area is largely developed. It is noted that there is a 0.5ha lot that in 2018 had an incomplete staged DA for <i>General Industries/Storage Units</i> . There are some other occupied land/existing development however this is not considered significant in this analysis.
<p>The table contains two maps. The left map is a regional map showing the location of Bomaderry relative to North Nowra, Nowra, and South Nowra. A red outline indicates the 'PP043 Subject Land' within the 'Bomaderry Industrial Zoned Land - Lot 6 DP 248150'. The right map is a detailed zoning map of the industrial area, showing various zones: IN1 (General Industrial, purple), R1 (General Residential, pink), R2 (Low Density Residential, red), RE1 (Public Recreation, green), RE2 (Private Recreation, light green), RU1 (Primary Production, tan), and SP2 (Infrastructure, yellow). A yellow line indicates 'Rail Infrastructure Facs'. Both maps include a scale bar (0-120 metres) and a north arrow.</p>	

<b>Location:</b> Berry Industrial Zoned Land	
<b>Land Use Zone:</b>	IN1 General Industrial
<b>Undeveloped Land Area:</b>	4.8ha
<b>Discussion:</b>	A development application has been lodged for a subdivision of this land and if approved will mean 15 serviced industrial zoned lots becoming available to the market. As such this is likely to be a practical option for employment related uses in the short to medium term.
	<p>The image contains two maps. The left map is a regional map of the Shoalhaven area, showing the location of Berry Industrial Zoned Land (highlighted in red) in South Nowra. It includes labels for North Nowra, Bomaderry, Nowra, Greenwell Point, and South Nowra, along with a highway and a river. A legend identifies the red outline as 'PP043 Subject Land' and the red shaded area as 'Berry Industrial Zoned Land - Lot 2 DP 546670'. A scale bar shows 0, 30, 60, 90, and 120 metres, with a north arrow and 'Council File 59133E'.</p> <p>The right map is a detailed zoning map of the Berry Industrial Zoned Land. It shows various zones: E3 (Environmental Management, orange), IN1 (General Industrial, purple), R2 (Low Density Residential, pink), RE1 (Public Recreation, green), RU1 (Primary Production, tan), and SP2 (Infrastructure, yellow). A yellow line indicates 'Rail Infrastructure Facs'. A legend identifies the white outline as 'Berry Industrial Zoned Land - Lot 2 DP 546670' and lists the zones. A scale bar shows 0, 30, 60, 90, and 120 metres, with a north arrow and 'Council File 59133E'.</p>

<b>Location:</b> Woollamia	
<b>Land Use Zone:</b>	IN1 General Industrial
<b>Undeveloped Land Area:</b>	6.5ha
<b>Discussion:</b>	<p>Expansion of the Woollamia Industrial Estate, located near Huskisson, which is approximately 17km to the south east of the subject land, is imminent. This land is managed by Council's Economic Development Office. The land is zoned IN1 General Industrial under SLEP 2014. The next release is Stage 5, with works expected to be completed January 2019, and a registered plan projected to be available by April 2019. This land will be fully serviced at time of sales. There are 11 lots as part of Stage 5, and an additional 6 lots to be delivered as Stage 5A. The total land area for Stage 5 is over 4ha. Stage 5A will deliver an additional 2.35ha.</p> <p>(image on next page)</p>



With consideration of the information contained in **Table 3**, and in association with Council’s Economic Development Unit’s assertion that the subject land is anticipated to be delivered for industrial and employment related uses over the next 30-40 years, and consideration of the existing land use situation, it is evident that the outcome of this PP will not have a material impact on the growth capacity of the area or projected supply requirements for employment related uses in the region.

## **Growth Management Strategy Review**

Council is currently undertaking a review of its Growth Management Strategy (GMS). Industrial and employment lands growth is a consideration. The Discussion Paper concerning the GMS has been exhibited from 7 November 2018 to 02 January 2019. The Discussion Paper states that there is an Industrial Land Bank that could last for the next 20 years. It also identifies that an Industrial Lands Audit may be required to confirm this capacity. Formal exhibition of the GMS Review is expected to occur in mid-late 2019.

## **Nowra-Bomaderry Retail Hierarchy Review**

Council is currently considering a review of the Nowra-Bomaderry Retail Hierarchy. A recommendation of the review is to place a cap on the retail floor space in the B5 Business Development Zone in South Nowra (located to the east of the Princes Highway). This has implications for the capacity of this land to absorb a proportionally greater number of industrial and employment related uses. The Review was publicly exhibited in November 2018-February 2019. Council has made no decision on how to progress the review at this point.

## **2 Part 1 –Intended Outcome**

The intended outcome of this PP is to amend SLEP 2014 to secure a dwelling entitlement for each property in the subject land for a limited period of time, being 10 years from when this plan is made.

## **3 Part 2 – Explanation of Provisions**

To achieve the intended outcome of this PP an amendment to Schedule 1 of SLEP 2014 will be required so as Clause 2.5 can be enacted to permit an *additional permitted use* on the subject land. The properties that make up the subject land are identified in **Table 1**, and **Figure 3** and **Figure 4** above.

The following amendments are proposed to SLEP 2014:

- Amend ‘Schedule 1 Additional Permitted Uses’ of SLEP 2014 by the addition of a new clause, numbered sequentially at the time this plan is made, to include:

### ***XX. Use of Certain Land at Prosperity Road, The Links Road, Central Avenue, and Oxford Street, South Nowra, and The Links Road, Nowra Hill.***

*(1) This clause applies to the land identified as “Sch 1.XX” on the Clauses Map, being Lot 52, DP 19407, 21 Prosperity Road, South Nowra; Lot 51, DP 19407, 25 Prosperity Road, South Nowra; Lot 50, DP 19407, 29 Prosperity Road, South Nowra; Lot 49, DP 19407, 33 Prosperity Road, South Nowra; Lot 48, DP 19407, 37 Prosperity Road, South Nowra; Lot 47, DP 19407, 148 The Links Road, South Nowra; Lot 46, DP 19407, 106 The Links Road, South Nowra; Lot 45, DP 19407, 92 The Links Road,*

*South Nowra; Lot 44, DP 19407, 80 The Links Road, South Nowra; Lot 42, DP 19407, 8 Central Avenue, South Nowra; Lot 41, DP 19407, 6 Central Avenue, South Nowra; Lot 40, DP 19407, 4 Central Avenue, South Nowra; Lot 39, DP 19407, 2 Central Avenue, South Nowra; Lot 2, DP 500563, 41 Oxford Street, South Nowra; Lot 2, DP 205646, 40 Oxford Street, South Nowra; Lot 2, DP 1157089, 33 Oxford Street, South Nowra; Lot 1, DP 207847, 32 Oxford Street, South Nowra; Lot 17, DP 19407, 21 Oxford Street, South Nowra; Lot 2, DP 207847, 20 Oxford Street, South Nowra; Lot 18, DP 19407, 13 Oxford Street South Nowra; Lot 237, DP 755952, 183 The Links Road, Nowra Hill; Lot 235; DP 755952, the Links Road, Nowra Hill; Lot 21, DP 1043769; 181 The Links Road, Nowra Hill; Lot 22, DP 1043769, 175 The Links Road, Nowra Hill; Lot 1, DP 1010322, 167 the Links Road, Nowra Hill; Lot 5, DP 1016142, 147 The Links Road, Nowra Hill; Lot 4, DP 1016142, 129 The Links Road, Nowra Hill; and Lot 1, DP 1112040, 109 The Links Road, Nowra Hill.*

*(2) Development for the purposes of a dwelling house is permitted with consent on each lot referred to in subclause (1).*

*(2)(a) No more than one (1) dwelling house is permitted to be erected on each lot referred to in subclause (1).*

*(3) Development consent under subclause (2) must not be granted after 10 years from the commencement of this plan/clause.*

- Amend the Clauses Map to identify the site as being subject to “Sch 1.XX” of SLEP 2014 (see **Section 5** of this draft PP for the proposed mapping amendment).

## **4 Part 3 – Justification**

### **4.1 Need for the Planning Proposal (Section A)**

#### **4.1.1 Is the Planning Proposal a result of any strategic study or report?**

No, this PP is the result of a Council resolution resulting from landowner concern.

Allowing *dwelling houses* as an additional permitted use on the subject land for next 10 years, is a measured approach that balances the current land use situation and community expectations with projected longer term future need for industrial land.

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

To ensure that the subject land is afforded security of a dwelling entitlement without relying on existing use rights, SLEP 2014 needs to be amended.

An amendment to Schedule 1 of SLEP 2014 to enact Clause 2.5 for the subject land, is considered the most appropriate mechanism to achieve the intent. The alternatives may be:

- Change the zoning of the land to a zone that permits residential development; or
- Amend the land use table for the IN1 – General Industrial zone to allow residential accommodation or dwelling houses as a permissible use, with consent.

The first of these options is not consistent with the identified strategic planning framework (see Section 4.2 below) for future industrial growth. However, it is unlikely to be required to accommodate this growth in the short to medium term.

The second of these options is also undesirable as it may result in land use conflicts and other negative impacts in other locations, outside the subject land, that are within the IN1 – General Industrial zone. This is inconsistent with the objectives of the zone and Section 9.1 Ministerial Direction 1.1 Objectives, if executed without consideration of the local circumstances, as has been done for the subject land in this Planning Proposal.

## **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)?**

#### ***A. Does the proposal have strategic planning merit?***

The *Illawarra Shoalhaven Regional Plan (ISRP)* applies to the subject land. It identifies that the region is the third largest economic contributor to regional growth in NSW. It goes on to identify that manufacturing supplies more than 10% of local jobs, and is a critical sector of the region's economy. Furthermore, the priority economic growth sectors are largely classified as employment and industrial related uses.

The ISRP considers the viability of industrial and employment lands in the region. The subject land is located within land identified as 'industrial lands' in the ISRP. It has been earmarked for future industrial growth.

Particularly relevant is Direction 1.4 – Support new and expanded industrial activity by providing well located and serviced supplies of industrial land.

The intent of the PP is inconsistent with Direction 1.4 in the ISRP, however the following justification is provided:

- The program for delivery of the subject land for employment and industrial uses, including new and upgraded infrastructure, is likely to be over the next 30-40 years. The PP is not contrary to the ISRP as there is no change proposed to the industrial zone of this land.
- Residential uses are the current uses on the subject land. This PP will only formalise the legality of the continuation of those uses.
- Development consent can only be granted (subject to the outcome of this PP) for the additional permitted use (dwelling house) for a 10 year period.

- The additional permitted use will not preclude development for industrial or employment related uses on the subject land.
- The land will remain zoned IN1 General Industrial under the provisions of Shoalhaven Local Environmental Plan 2014.

The Department of Planning and Environment's ***Employment Lands Guidelines for the Illawarra 2008 (the Guidelines)*** has also been considered. This document provides guiding principles for the delivery of lands for employment uses in the region. The key message of this document is to preserve land for employment related uses taking into consideration projected future demand.

The Guidelines also highlight that compatible uses should be provided for at such land in the interim period (prior to the land taken up for employment uses) to ensure the viability and economic potential of the land is maintained. Given that the land is not anticipated to be developed for employment related uses for potentially the next 30-40 years, depending on demand and economic activity, formalising the existing use of the land, without restricting the future potential of the land, is considered to be an appropriate and compatible use of the land in the interim period.

Although this PP is not requesting a "Spot Rezoning", it does produce a similar outcome. As such, as Section 2.7 of the Guidelines provides 'Guiding Principles for Spot Rezonings', specific commentary is provided. This section suggests the future employment structure of the region is likely to be very different from what we see today and therefore a flexible approach is required, and the following should be considered assessment of spot rezoning applications:

- 1. Flexible application of employment land zonings must consider the relevant principles articulated above.*
- 2. A rezoning application must consider the compatibility of the existing zoning and its permitted uses to the surrounding uses, balanced with:*
  - the long term employment demands for the local area and availability of land to meet those needs*
  - the regional significance of these lands to economic growth and employment; and*
  - long term economic viability of that site for that operation.*
- 3. Note that long term economic viability does not refer to identifying the land value that provides the highest land value.*

This has been considered in this proposal formalising the approval mechanism for the continuation of the existing lawful land use scenario for a limited period of time (10 years) is a flexible approach balancing the current needs with the future need for employment land to support future economic growth in the region.

### ***B. Does the proposal have site specific merit?***

The proposal does have site specific merit, including:

- The previous zoning was for rural and residential uses; and

- The existing development of the subject land is generally for rural residential uses; and
- The land owners desire to continue their current rural residential use of the subject land until it is required for industrial use; and
- The land does not presently have adequate infrastructure (See **Section 1.2**) to accommodate industrial development; and
- The land is not proposed to be developed for industrial and employment use in the short to medium term.

Considering above, the intended outcome of this proposal has site specific merit as it will simply formalise the continuation of the current land use situation (that is allowing *dwelling houses* to legally continue and expand as a permissible use on the subject land). Additionally, the proposal will not remove the capacity for industrial related growth at the subject land to occur at any point time, now or in the future. Furthermore, should the market dictate that the land is developed for industrial or employment related uses in the short term, the outcome of this PP will in no way be prevent such an outcome.

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

##### ***Shoalhaven Integrated Strategic Plan***

Shoalhaven City Council’s Integrated Strategic Plan 2018 contains Council’s Community Strategic Plan (CSP).

This PP is broadly consistent with Council’s CSP.

Notwithstanding, this PP has some potential inconsistencies with Council’s CSP as discussed below:

- *Theme 3 – Prosperous communities* as employment related uses are important to the community; specific to Shoalhaven is:

*The City’s economy consists of a range of industry sectors resulting in a robust and resilient economy. Key industries that have, and will continue to have a significant role in maintaining and growing our economy include Defence and Public Administration; Manufacturing; Professional and Technical Services; Transport, Logistics and Wholesale Trade; Agriculture and Aquaculture; Health Care and Human Services; Education and Training; Tourism, Accommodation and Food Services; and Retail Trade.*

Although it has been identified, certainty of the extent of an inconsistency is unclear, as:

- the existing use at the subject land is unlikely to change in the short to medium term (irrespective of the outcome of this PP),
- an additional permitted use (dwelling house) only formalises the existing situation,

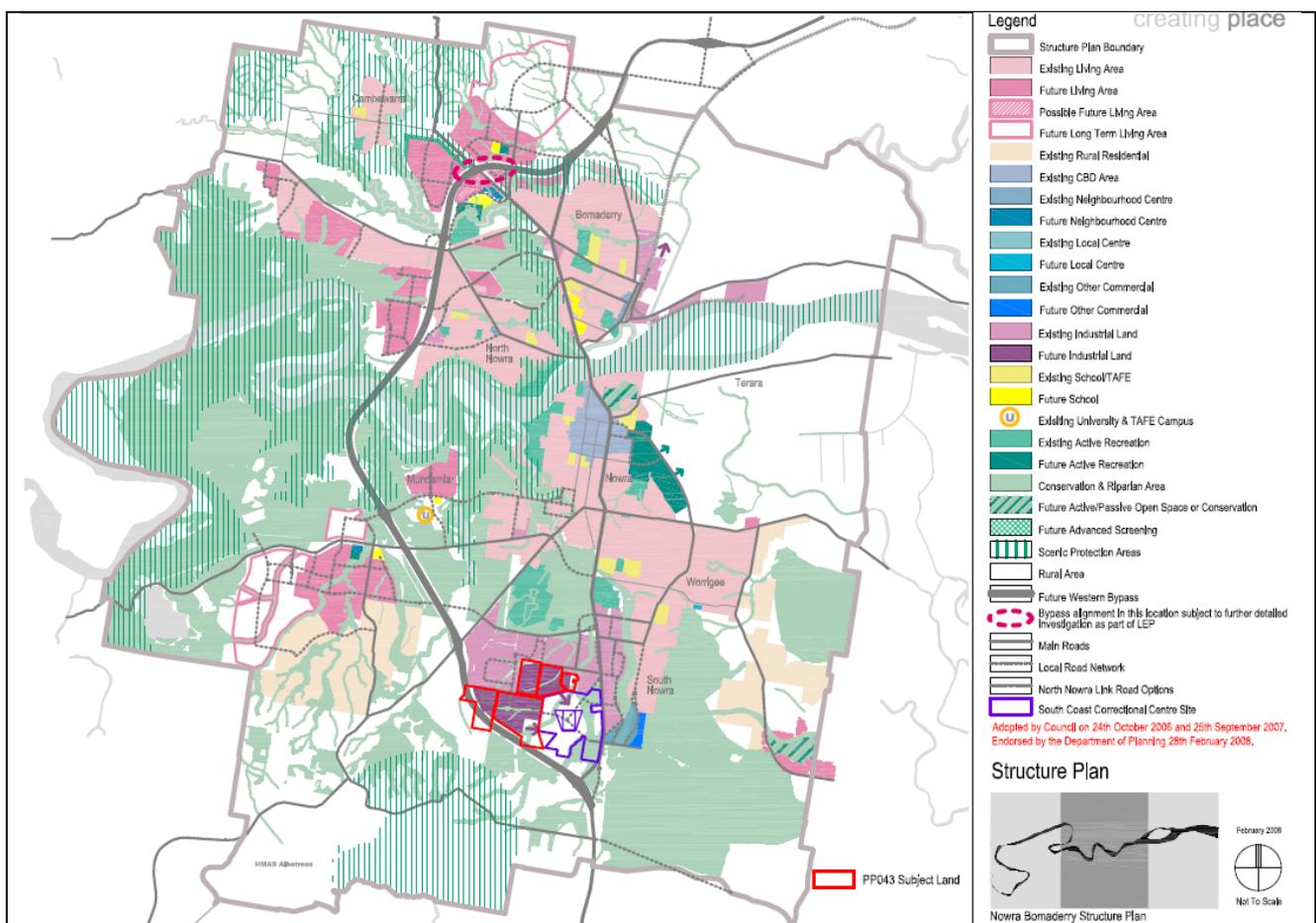
- an additional permitted use in no way restricts the consideration of other permissible uses (i.e. industrial and employment uses) at the subject land; and
- there is growth capacity in other locations to meet present requirements.

### Nowra Bomaderry Structure Plan

The Nowra Bomaderry Structure Plan (NBSP) is the guiding document for the strategic planning direction specific to the Nowra-Bomaderry area. It was endorsed by the Department of Planning on 28 February 2008.

The subject land has been identified in the NBSP for future industrial growth (see **Figure 9** below), at least since 2006, when the NBSP was first adopted by Council.

This PP is considered to be inconsistent with this plan but the inconsistency is only of minor significance as it will not actually exclude industrial development from occurring on the subject land. Furthermore, and as discussed above, there is present capacity of other industrial zoned locations in Shoalhaven which diminishes the relevance of this inconsistency in the short term.



**Figure 9: Nowra Bomaderry Structure Plan**

## **Shoalhaven Growth Management Strategy**

As discussed in **Section 1.2**, the Shoalhaven GMS is currently under review and may determine future requirements for industrial land. It is noted that the subject land is highlighted for industrial growth in the current GMS, only insofar as it references the Nowra-Bomaderry Structure Plan (discussed above).

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

A State Environmental Planning Policy (SEPP) consistency table has been provided at **Attachment 2**.

No specific inconsistencies have been identified and therefore no detailed discussion is provided in the body of this PP. Summary comments, where relevant, are provided in the table at **Attachment 2**.

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

All Section 9.1 Ministerial Directions have been considered in relation to this PP – see **Attachment 3**. The relevant and applicable Directions are discussed in detail below.

#### **Direction 1.1: Business and Industrial Zones**

This direction applies as the PP will affect land within an existing industrial zone. Consistencies with this direction are considered in **Table 3** below.

**Table 3: Consistency with Ministerial Direction 1.1**

<i>Direction requirement</i>	<i>Comment</i>
4.(a) give effect to the objectives of this direction, The Objectives are:  (a) encourage employment growth in suitable locations,  (b) protect employment land in business and industrial zones, and  (c) support the viability of identified centres.	Minor inconsistency as it could possibly undermine the employment land in the industrial zone by diminishing the uptake of employment related uses, maintaining a potential land use conflict environment and restricting the viability of the zone. It is noted that the potential for land use conflicts currently exists and this PP does not intend to exacerbate that potential for conflict. The market will continue to dictate the style of development and land use that occurs on the subject land within the planning framework.
(b) retain the areas and locations of existing business and industrial zones,	The PP is not inconsistent as it does not displace existing business or industrial zones.

<p>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</p>	<p>The PP has an inconsistency as it may in theory, reduce the potential floor space for employment related uses and related public services. However, in reality, the existing and historical use of the land is predominantly rural residential. This PP will not result in a noticeable change to the continuation of that use at the subject land. Nor does it restrict the opportunity for industrial development to occur at the subject land. Therefore the outcome has a neutral impact in relation to this consideration.</p>
<p>(d) not reduce the total potential floor space area for industrial uses in industrial zones,</p>	<p>The PP has an inconsistency - it reduces the potential floor space area for industrial uses in industrial zones. The PP allows for an alternate land use in an industrial zone. However, in reality, the existing and historical use of the land is residential and this PP will not result in a change to the continuation of that existing use at the subject land. Therefore the outcome has a neutral impact in relation to this consideration.</p>
<p>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.</p>	<p>This does not directly relate to the PP and therefore no inconsistencies have been identified.</p>

The inconsistencies result from a specific local situation and the intent of this PP is to allow the continuation of an existing lawful use in a local scenario in the interim period before the land is intended to be used for employment related uses. This is considered somewhat in line with the ISRP and the *Employment Lands Guidelines for the Illawarra*.

### **Direction 1.2 Rural Zones**

This direction has been identified as 2 of the existing lots in the subject land have split zones with a small portion of each of these 2 lots located within Zone RU2 (See **Figure 4**).

This PP is not proposing to rezone from a rural zone to any other zone.

### **Direction 1.5 Rural Lands**

This direction has been identified as 4 of the existing lots in the subject land have split zones with a small portion of each of these 4 lots located within Zone RU2, Zone E2 or Zone E3 (See **Figure 4**).

It is noted that the portion of the land within any these zones is generally within the nominated 'Western Bypass Corridor' (see **Figure 12**).

The outcome of this PP will afford a dwelling entitlement to these lots, however, the minimum lot size for the erection of a dwelling house will remain for the portion of the lots that are within the zones to which this direction applies.

No inconsistency has been identified.

### ***Direction 3.1: Residential Zones***

This direction is identified but not considered directly relevant as the PP does not involve residential zoned land nor propose a significant level of residential land use to be permitted.

However, an inconsistency with this direction has been identified, specifically part 4 as the PP does not contain provisions that encourage housing that (a) broadens the choice of housing types or locations, or (b) makes efficient use of existing infrastructure or services, or (c) reduces the consumption of land for housing and associated land on the urban fringe, or (d) is of good design.

Additionally, in relation to part 5 there may be an inconsistency as the PP does not contain provisions that ensures provision of adequate infrastructure.

These inconsistencies are justified as they are minor in nature and the PP only formalises an existing situation.

### ***Direction 3.3 Home Occupations***

The directions states that planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

Given many of the existing dwellings contain home business this Direction has been identified. The PP will not detract from the objective of this Direction.

### ***Direction 3.4: Integrating Land Use and Transport***

This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

*A PP must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:*

*(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and*

*(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).*

Given the PP intent is to formalise an existing situation and make no other alteration it is not considered to be inconsistent with this direction.

### ***Direction 3.5: Development Near Licensed Aerodromes***

The PP applies to land in the vicinity of HMAS Albatross. The requirements of this direction have been considered and determined that they do not apply in this instance.

### ***Direction 4.3: Flood Prone Land***

Some of the land the subject of this PP is flood prone and therefore this direction applies. The PP intends to formalise existing use rights and does not intend to increase residential development in the subject land. The PP is not proposing inconsistencies with the requirements of this direction. **Figure 10** below shows the flood affectation at the subject land.

### ***Direction 4.4: Planning for Bushfire Protection***

Some of the land the subject of this PP is bushfire prone and therefore this direction applies. The PP will be referred to the NSW Rural Fire Service prior to public exhibition. The PP will consider any requirements arising from this referral. The PP is not inconsistent with this direction. **Figure 11** below show the bushfire prone land at the subject site.

### ***Direction 5.10: Implementation of Regional Plans***

This direction requires PP's to be consistent with regional plans. Consistency with the ISRP is discussed in **Section 4.2.1**. The PP does not undermine the achievement of the ISRP vision, land use strategy, goals, directions or actions. This PP will provide for an appropriate and compatible use for the subject land in the interim period before it adequately augmented for its intended long term future use in some 30-40 years' time.

### ***Direction 6.1: Approval and Referral Requirements***

No new approval or referral requirements are proposed. Therefore, no inconsistencies with this direction have been identified.

### ***Direction 6.3: Site Specific Provisions***

The PP will allow for an additional permitted use without any special development controls for the land, consistent with this direction. Therefore, no inconsistencies with this direction have been identified.



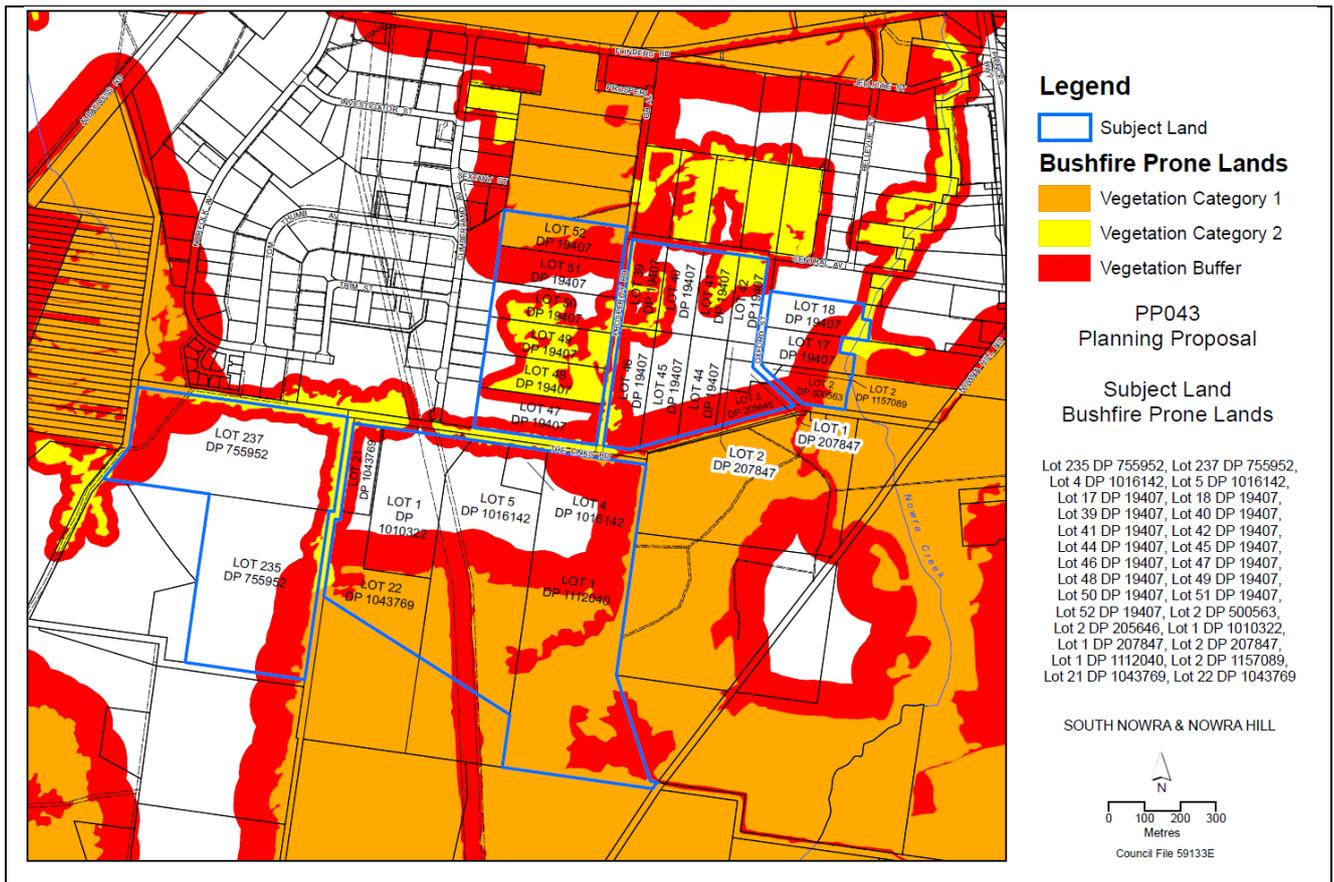


Figure 11: Bushfire Prone Land

#### 4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?

The PP may have a positive social effect as it will confirm the dwelling entitlements on the subject land – this is a positive outcome for the local landowners.

Notwithstanding the above comment, there is the potential for negative social effects as land use conflicts between residential uses and industrial uses may arise. However, as the potential for that land use conflict currently exists as the subject land is currently used for residential purposes, this is not seen as a new conflict scenario. This is seen to be a moot point as the current residential land use can continue, regardless of the outcome of this PP.

The PP may have a positive economic impact on the local landowners in relation to land valuation and market demand.

There may be less than positive long term economic impacts as industrial lands growth of the region may be impacted if the subject land is not developed for employment or industrial purposes in the future, and there may be wider economic impacts on the community if employment lands cannot be adequately delivered. However, irrespective of the outcome of PP, the continuation of the current residential land use cannot be prevented.

Also, the outcome of this PP does not restrict the land from being developed for industrial and employment related uses. The market will dictate the future development of the land and the outcome of this PP will not have a significant impact on these forces.

In light of the above, it is considered that providing a ‘sunset clause’, allowing consent to be granted for the additional permitted use for a period of 10 years from the notification of this plan, is an appropriate mechanism to manage the possible social and economic impacts relating to this PP.

#### **4.4 State and Commonwealth Interests (Section D)**

##### **4.4.1 Is there adequate public infrastructure for the Planning Proposal?**

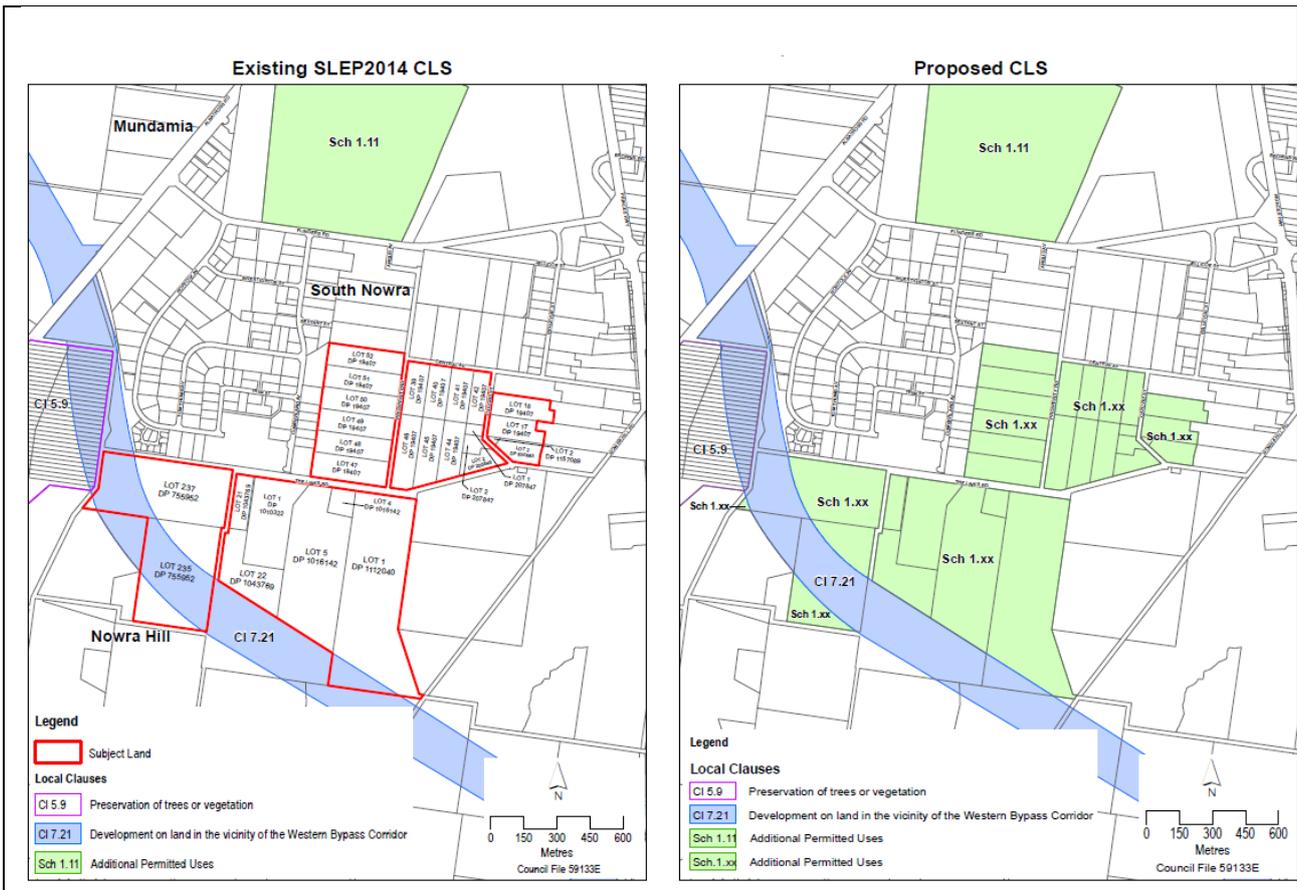
The PP will have a negligible impact on public infrastructure.

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

Any and all referral requirements will be undertaken in accordance with Gateway requirements.

## 5 Part 4 – Mapping

Additional permitted uses in Schedule 1 of Shoalhaven LEP 2014 are mapped on the Clauses Map. It is proposed to amend this map (SHEET CLS\_013F) to identify the subject land as having an additional permitted use as shown in **Figure 9**. As detailed below, it is proposed that the land affected by *Clause 7.21 Development on land in the vicinity of the Western Bypass Corridor* is excluded from the application of the proposed additional permitted use clause map.



**Figure 12: Proposed Mapping Amendment**

## 6 Part 5 - Community Consultation

Initial dialogue with the owners of the subject land has occurred and the preparation of this PP is a result of this. Land owners in the subject land are understood to be generally in favour of the intended outcome of this PP.

Council proposes to exhibit the planning proposal in accordance with the requirements of the Gateway determination. It is intended that a minimum exhibition period of 28 days apply.

Public notification of the exhibition would include notification in the local newspapers, and a notice on Council’s website and a mail out to affected and adjoining landowners. Hard copies of the PP would be made available at Council’s Administrative Building in Nowra.

## 7 Part 6 – Project Timeline

The anticipated timeline for the Planning Proposal is identified in Table 2 below.

<b>Task</b>	<b>Anticipated Timeframe</b>
Commencement date (date of Gateway determination)	April 2019
Completion of Gateway determination requirements	August 2019
Public exhibition	September 2019
Consideration of submissions	November 2019
Post exhibition consideration of PP	December 2019
Finalisation and notification of Plan	January 2020

## Attachment 1: Council report and minute supporting the PP

### DE18.64 South Nowra Industrial Zoned Area - Future Direction

HPERM Ref: D18/273390

Group: Planning Environment & Development Group  
Section: Strategic Planning

#### Purpose / Summary

Present representations from landowners in the South Nowra industrial zoned area and seek direction in this regard.

#### Recommendation (Item to be determined under delegated authority)

That Council

1. Receive the report on the representations made by landowners in South Nowra Industrial Zoned Area for information.
2. Engage a suitably qualified and experienced consultant/s to assist Council with the preparation of proposed development controls and engineering design investigations for required access roads, drainage infrastructure, land acquisition and water/sewerage in the South Nowra Industrial Zoned Area.
3. Support the preparation of an area specific chapter for South Nowra Industrial Zoned Area in Shoalhaven Development Contribution Plan (DCP) 2014.
4. Support the preparation of an amendment to Shoalhaven Contributions Plan (CP) 2010 to include additional Local Contribution Projects to facilitate required infrastructure works and recoup design and investigation costs.
5. Receive a future report to consider the draft DCP Chapter and draft CP amendment for South Nowra Industrial Zoned Area for public exhibition.

#### Options

1. Adopt the recommendation.

Implications: This will formally enable the preparation of an area specific DCP Chapter and Contributions Plan project for the South Nowra industrial area, which will enable a coordinated longer-term approach to the delivery of industrial land in the area and provide greater certainty to landowners/developers.

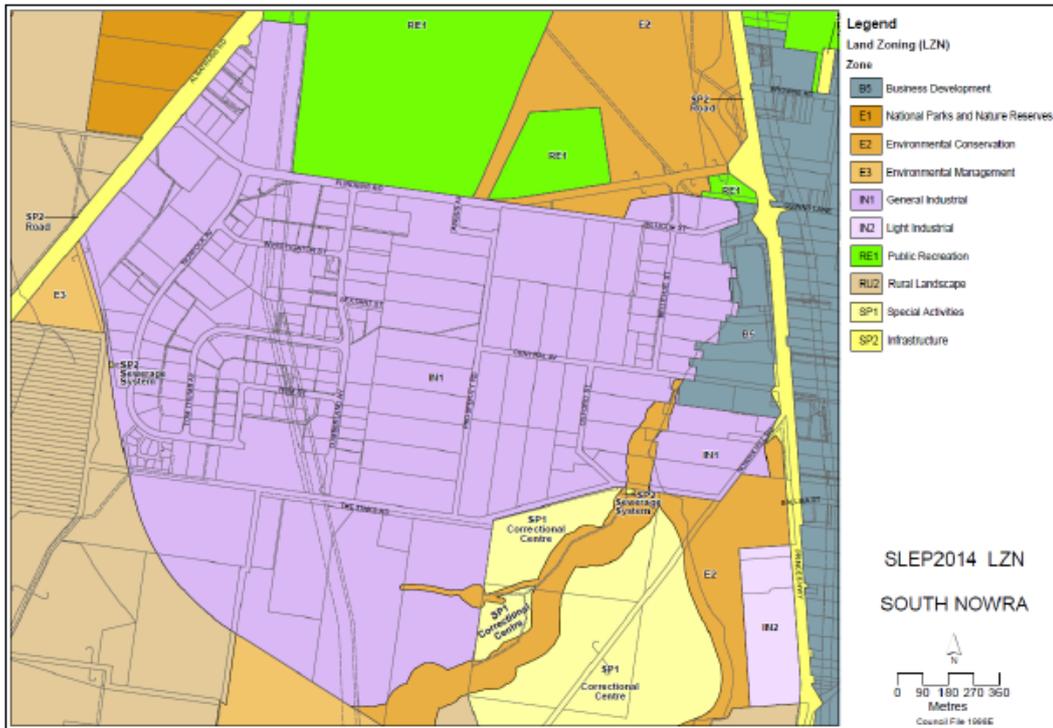
2. Not adopt the recommendation.

Implications: By not adopting the recommendation, no immediate planning work will be undertaken for the South Nowra industrial area and current circumstances will remain. Since the land is identified for long term industrial use, this planning work could be undertaken in subsequent years, enabling staff to continue working on other projects already identified in the 2018-2019 Strategic Planning Works Program.

3. Adopt an alternative recommendation.

Implications: Will be dependent on the nature of the alternative recommendation. However, it is noted in the body of the report that any proposal to remove the current industrial zone, for example, may be difficult to justify.



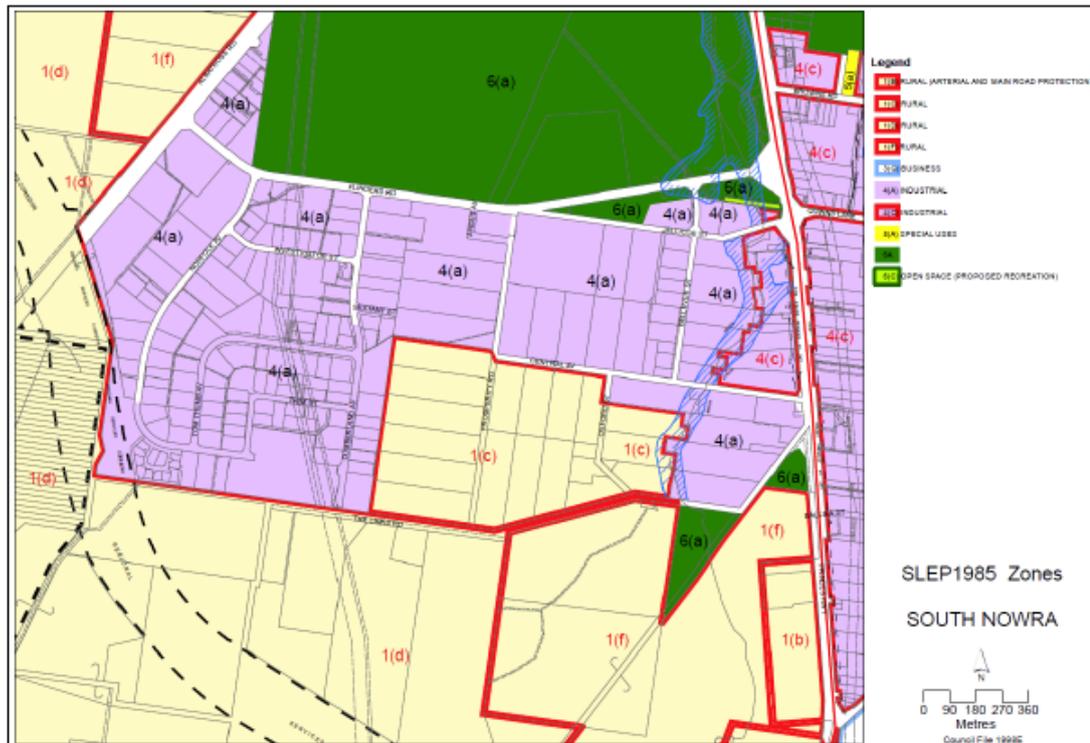


**Figure 2 – Land Use Zoning, Shoalhaven LEP 2014**

The IN1 zone aims to provide for a diverse range of industrial and warehouse land uses and activities, encouragement of employment opportunities, and to support and protect industrial land for industrial uses.

Prior to the commencement of SLEP 2014 on 22 April 2014, the land was partly zoned Rural 1(c)(Rural Lifestyle) and Rural 1(d)(General) under the previous SLEP 1985, as shown in **Figure 3** below.

The previous 1(c) zone was essentially a rural residential zone and enabled a range of agricultural uses and rural lifestyles as an alternative to urban development forms and servicing levels. The previous 1(d) General Rural zone provided opportunities for a range of rural land uses and other development which require siting away from urban areas.



**Figure 3 – Land Use Zoning, Shoalhaven LEP 1985**

The Nowra-Bomaderry Structure Plan (NBSP) 2006 was adopted by Council on 25 September 2007 and endorsed by the NSW Department of Planning on 28 February 2008. One of the key objectives of the NBSP is to provide sufficient industrial land to meet longer term future demands (20-30 years), and the Plan was informed by detailed industrial land supply and demand analysis work.

To meet projected demand, the NBSP identified an additional 91.8 hectares of land at South Nowra as “Future Industrial Land”, as an extension of the Flinders Industrial Estate. As a result, SLEP 2014 zoned this additional area IN1 General Industrial. An additional area between South Coast Correctional Centre and the future Western Bypass Corridor was also zoned IN1 following landowner submissions made during the exhibitions of the draft citywide LEP and in response to the placement of the correctional centre.

The current IN1 General Industrial zoning is supported by the NSW Governments Illawarra-Shoalhaven Regional Plan, which aims to support new and expanded industrial activity by providing well-located and well serviced supplies of industrial land. The South Nowra industrial zoned area is one of the largest banks of industrial land in the region and is of strategic importance in meeting the demand for future employment land in the region in the long term. A key action for the NSW Government, identified in the Plan, is to support the development of new industrial land through ongoing collaboration between State and Local Government and servicing authorities to coordinate infrastructure delivery.

The Regional Plan is also supported by the *Employment Land Guidelines for the Illawarra* that contains principles to help guide land use planning decisions regarding employment lands.

Both the Regional Plan and its supporting Guidelines can be viewed on the internet at:

<http://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Illawarra-Shoalhaven/Resources>

### **Landowner Concerns**

At the meeting held on 30 July 2018, landowners within the South Nowra IN1 General Industrial area presented Council with several concerns/issues they are facing because of the zoning and other factors. A copy of the document provided at this meeting has been separately provided to Councillors.

The concerns/issues are summarised below along with comments from Council staff.

#### *1. Strategic Planning for Flinders Industrial Estate*

Landowners raised concern that Council has no strategic plans in place for the South Nowra industrial area. Landowners feel they have suffered an unknown outcome for an extended period.

#### *Staff Comment*

As discussed earlier in the report, the IN1 zoning was introduced with the commencement of SLEP 2014. The background and strategic justification for the zoning change is based upon the extensive work under the Nowra-Bomaderry Structure Plan, which is endorsed by both Council and the NSW Government. This Plan looks to the needs of the area for the next 20-30 years. It was never envisaged that land zoned because of this plan would, in all cases, be developed or needed immediately. The take up of land will be somewhat dependent on demographics, market forces and opportunities (for example significant industry relocating to the area).

It is noted that, different to the new Urban Release Areas, there is no legal requirement to have supporting plans (e.g. DCP and CP) in place to directly facilitate or enable the development of new industrial zoned land. Under Part 6 of the LEP supporting plans need to be in place for identified URAs before they can be released (developed). In the case of this land it is acknowledged that development applications can be lodged and considered now for development that is consistent with the IN1 zoning, however matters that could require coordinated or planned outcomes, such as road access and stormwater management, would need to be considered on a development by development basis. The required outcomes would most likely then need to be managed on site (e.g. stormwater) or as conditions of consent (e.g. access).

In the four years since the commencement of SLEP 2014, several priority strategic planning projects have been completed and are currently underway. Council's 2018-2019 Strategic Planning Works Program that was adopted in June 2018 does not currently include work on a possible DCP and/or CP for this area, given the existing supply of industrial land and other priority projects at this time.

However, Council's Economic Development section has commenced preliminary strategic planning work for the South Nowra industrial land expansion and with the assistance of Locale Consulting have prepared potential draft development controls and concept plans to inform overall longer-term planning of the Flinders Industrial Estate.

This preliminary planning work will potentially form part of a new area specific chapter within Shoalhaven DCP 2014, which will provide for the timely and coordinated development and delivery of industrial land in the South Nowra industrial area in the longer term. Until these more detailed/specific controls are finalised, development applications can still be lodged and assessed against the generic controls within Shoalhaven DCP 2014 Chapter G20 Industrial Development and other generic chapters relating to industrial development and subdivision including (but not limited to) Stormwater, Site Analysis and Environmental Considerations, Car Parking, Subdivision, Landscaping, Flooding, Removal of Trees and Waste Management.

## 2. Section 7.11 Developer Contributions and DA Works

Concern was raised over the costs of developer contributions and development application works, which make even low scale industrial development unviable for landowners.

### *Staff Comment*

Shoalhaven Contributions Plan 2010 allows Council or an accredited certifier to levy contributions through the development approval process to help provide community infrastructure or additional infrastructure to meet demand created by the development.

Shoalhaven Contributions Plan 2010 applies across the entire LGA; however, it does not currently include any specific projects in the South Nowra industrial area. Any development applications lodged now for industrial development must provide any additional infrastructure at full cost to the developer creating the demand, both on and off site.

However, future planning work will include the preparation of a lot layout plan and staging plan to help facilitate a coordinated subdivision, infrastructure planning for the road hierarchy and drainage, and a Development Contribution Plan project/s to include access roads, drainage infrastructure and land acquisition.

## 3. South Nowra Correctional Centre

Landowners raised concern over the impacts of the South Nowra Correctional Centre including a decline in property values, increases in traffic flows and road safety concerns. Additionally, there were concerns that no contributions were levied on the Correctional Centre development.

### *Staff Comment*

The South Nowra Correctional Centre was a State Significant Development (SSD) assessed under the former Part 3A approval process. Being a State Development, there was no requirement for the Government to pay developer contributions or ability for Council to levy them. Despite this, significant infrastructure upgrades were however directly provided to support the development (access, water/sewer etc).

The South Nowra industrial area currently supports approximately 247 businesses and the employment of 2,358 persons, which is expected to increase by a further 300-400 businesses which will provide employment for approximately 3000-4000 people over the next 40/50 years. As further development occurs in this area, it is expected that the level of traffic will continue to increase. Infrastructure to support these increased levels of traffic, both on and off site, must be provided for by the developer as a condition of development consent.

It is noted that property valuations are based on several factors, including planning controls, environmental constraints, structures on the site, servicing, supply and demand factors, marketability, surrounding development and locational factors. Fully serviced lots would receive a higher land valuation than englobo lands.

## 4. Development Requirements Under IN1 General Industrial Zoning

Most of the existing lots have dwellings and current landowners are concerned that they cannot build, extend or rebuild houses on their land because of the IN1 General Industrial zoning. Also because of the zoning potential sales have been reduced to those who can afford a commercial mortgage with a 60% Loan to Value Ratio and a 40% deposit and ability to service a higher loan. The customer base has also been reduced to less than 5% of the overall market.

Industrial land values have not been realised. Any improvements require a development application, supported by Aboriginal cultural heritage, bushfire, flora and fauna, hydrology, and environmental impact studies.

The land should be rezoned Residential (R1, R2, R3, R5) or Environmental (E2, E3, or E4) and owners should be able to lodge a development application under previous zoning to enable home extensions, sheds, pools, etc. and be exempt from the current industrial planning controls.

It has also been suggested that the land should be given some form of 'transitional' zoning or similar special zoning mechanism that sees it reverting to being able to be used as it previously was to maintain resident's lifestyle, whilst also enabling it to be transitioned to industrial zoning/development as needed.

#### *Staff Comment*

Despite the IN1 General Industrial zone prohibiting uses such as 'agriculture' and 'dwelling houses' which were permissible under the former 1(c) and 1(d) zones in SLEP 1985, the Environmental Planning and Assessment (EP&A) Act 1979 and the EP&A Regulation 2000 contains provisions which enable the continuation of existing lawful uses through 'existing use rights'.

The objective of 'existing use rights' is to compromise between the legitimate expectations of occupiers with the public interest in implementing the objectives of the new LEP and land zoning. They play an important role where the zoning of an area has changed through a rezoning or LEP review.

Existing uses can continue to operate in perpetuity without the need for further approval, provided that the nature of the use remains the same as that which existed prior to the new LEP coming into force. The definition of what constitutes an 'existing use' in section 4.65 of the EP&A Act must be carefully applied to the facts of each case and the onus of establishing 'existing use rights' is on the applicant. It is also noted under 4.66 of the Act that the existing use is considered abandoned if it ceases to be used for a continuous period of 12 months.

Part 5 of the EP&A Regulation that deals with existing uses also provides for the modification of existing uses, with development consent, including any alteration, extension to, or rebuilding of a building or work, or any enlargement, expansion or intensification of the use.

The regulations (Clause 41) specifically note that an existing use, for example an existing dwelling, may be:

- a) Enlarged, expanded or intensified, or
- b) Altered or extended, or
- c) Be rebuilt, or
- d) Be changed to another use, but only if the use may be carried out with or without development consent

The regulations also provide that an existing use that is commercial or light industrial must not be changed to a similar use unless that change:

- a) involves only alterations or additions that are minor in nature, and
- b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and
- c) does not involve the rebuilding of the premises associated with the existing use, and
- d) does not involve a significant intensification of that existing use.

As such the concerns regarding extending or rebuilding existing houses are unfounded given that most existing circumstances are assumed to benefit from 'existing use rights', noting that this would need to be established and confirmed on a case by case basis as needed.

Even though they are zoned for different uses, large areas in Shoalhaven are affected by constraints such as flooding, bushfire and biodiversity. As part of the approval process, the consent authority must be satisfied that the development is compatible with the hazard and be designed to avoid or minimise any adverse impacts. It is acknowledged that they do add additional complexity in bringing land to market, but this is no different to other zoned development land in the City.

Rezoning of the land is not recommended, as this would be inconsistent with the NSW Government's Illawarra-Shoalhaven Regional Plan and would be unlikely to receive support from the NSW Department of Planning and Environment. As noted previously in this report, the South Nowra industrial area is one of the largest reserves of industrial land in the region and is of strategic importance in meeting the demand for employment land in the region. There are a range of other NSW Government planning provisions that aim to protect existing industrial land including the *Employment Land Guidelines for the Illawarra* and Section 9.1 (formerly Section 117) Direction 1.1 – Business and Industrial Land.

It is specifically noted that under this Direction 1.1 a Planning Proposal (rezoning) must retain areas and locations of existing industrial zones, not reduce total potential floor space areas for industrial uses in industrial zones and ensure new employment areas are in accordance with an approved strategy. Planning Proposals can only be inconsistent with this direction when justified by a strategy, a study or are of minor significance. As such given the strategic planning background and the requirements of this direction any rezoning of the subject land out of an industrial zone would be difficult to justify.

The request for a 'transitional' zone or approach is also not possible under the Standard LEP Instrument approach set by the NSW Government as there is no zone or approach of this nature that can be used. An approach of this nature would also be problematic as it increases the potential for land use conflict and reduces the certainty and responsiveness that is provided by a clear zoning. The comments above in regard the Section 9.1 Direction are also relevant in this regard.

##### *5. Competition from Flinders Industrial Estate and Lack of Infrastructure*

Landowners are concerned that the Flinders Estate is in direct competition with them for industrial land sales and they are disadvantaged because lots in the Flinders Estate are fully serviced. As ratepayers they believe Council should provide them with sealed roads, street lighting, stormwater and sewer constructed to industrial standards. Council should cease all sales and marketing of Flinders Estate and move works allocations to the subject area.

##### *Staff Comment*

To assist bringing industrial land to market, one of the functions of Council's Economic Development section is to develop land in the Flinders Industrial Estate and other Industrial Estates in the City. Ratepayer funds are not used to provide infrastructure improvements in the area, rather they are funded directly through industrial land sales in the Estate. Council provides this service to assist with the supply of industrial land to support employment growth and economic development in the City. It is considered inappropriate for Council to cease all sales and marketing of the Flinders Estate.

Australia operates under a free market economic system, where land prices are determined by the forces of supply and demand in the open market. There is nothing stopping other developers entering the market, developing the infrastructure for a single lot or group of lots, and submitting a development application for a subdivision for industrial lots. Council

recognises that this can sometimes be difficult, which is why Council can design and cost the necessary infrastructure and levy a contribution on a pro rata basis across the development precinct through a Developer Contributions Plan. As discussed previously, given the number of other priority projects and existing supply of industrial land, this work is not included in Council's adopted 2018-2019 Strategic Planning Works Program as a current high priority project.

### **Timeframes**

Noting the issues of the landowners above and the Council staff comments on them, it is recommended that Council formally resolve to prepare an area specific DCP Chapter and Development Contributions project for the area to assist with the coordinated delivery of industrial land in the South Nowra area and provide greater certainty for landowners and developers.

Given the number of other priority projects of Council have already committed to in the 2018-2019 Strategic Planning Works Program, consultancy assistance will be required to complete the work required for the DCP and CP project. Estimated timeframes for the completion of this work should Council resolve to proceed with it are 12 months to 2 years.

### **Community Engagement**

Wider community engagement has not been undertaken at this stage. Landowners will continue to be informed of Council's decisions as the planning for this area progresses.

It is noted that no detailed engagement has been undertaken with the affected landowners regarding the preparatory investigation and planning work that has already been undertaken.

### **Policy Implications**

The proposed DCP and CP for the South Nowra industrial area is not included in the 2018-2019 Strategic Planning Works Program which was adopted by Council in June 2018.

The adoption of the recommendation will see work on this project commence and the projected added to the Work Program. Given existing staff workloads and other priority projects, additional resources will be required to complete the work, particularly in preparing the Contributions Plan project. A recommendation is included to enable the engagement of a consultant to assist in this regard.

### **Financial Implications**

The engagement of a consultant to assist with the contributions plan project for the South Nowra industrial area can be funded initially within the existing Economic Development Budget and ultimately recouped through Section 7.11 contributions levied on future development.

Other work associated with this project will be managed within the existing Strategic Planning Budget.

### **Risk Implications**

The South Nowra Disadvantaged Landowners Group noted possible legal action in the discussion points provided at the recent meeting. These points are not covered in this report and Council's insurers have been advised.

**DE18.64 South Nowra Industrial Zoned Area - Future Direction**

**HPERM Ref:  
D18/273390**

**Recommendation (Item to be determined under delegated authority)**

That Council

1. Receive the report on the representations made by landowners in South Nowra Industrial Zoned Area for information.
2. Engage a suitably qualified and experienced consultant/s to assist Council with the preparation of proposed development controls and engineering design investigations for required access roads, drainage infrastructure, land acquisition and water/sewerage in the South Nowra Industrial Zoned Area.
3. Support the preparation of an area specific chapter for South Nowra Industrial Zoned Area in Shoalhaven Development Contribution Plan (DCP) 2014.
4. Support the preparation of an amendment to Shoalhaven Contributions Plan (CP) 2010 to include additional Local Contribution Projects to facilitate required infrastructure works and recoup design and investigation costs.
5. Receive a future report to consider the draft DCP Chapter and draft CP amendment for South Nowra Industrial Zoned Area for public exhibition.

**RESOLVED** (Clr Findley / Clr Proudfoot)

MIN18.696

That Council

1. Receive the report on the representations made by landowners in South Nowra Industrial Zoned Area for information.
2. Engage a suitably qualified and experienced consultant/s to assist Council with the preparation of proposed development controls and engineering design investigations for required access roads, drainage infrastructure, land acquisition and water/sewerage in the South Nowra Industrial Zoned Area.
3. Support the preparation of an area specific chapter for South Nowra Industrial Zoned Area in Shoalhaven Development Contribution Plan (DCP) 2014.
4. Support the preparation of an amendment to Shoalhaven Contributions Plan (CP) 2010 to include additional Local Contribution Projects to facilitate required infrastructure works and recoup design and investigation costs.
5. Receive a future report to consider the draft DCP Chapter and draft CP amendment for South Nowra Industrial Zoned Area for public exhibition.
6. Directs the General Manager to prepare a planning proposal and submit it for Gateway determination seeking to confirm and establish a dwelling entitlement on each of the individual properties within the industrially zoned area.
7. Receive an additional report from the General Manager (Economic Development) on the business case of the proposition of the land bank of future industrial land.

FOR: Clr Gash, Clr Findley, Clr White, Clr Wells, Clr Cheyne, Clr Gartner, Clr Watson and Clr Proudfoot

AGAINST: Russ Pigg

CARRIED



## Attachment 2: SEPP Consistency Checklist

SEPP	Date	Name	Applicable	Not inconsistent	Comment
21	24.04.92	Caravan parks	x	NR	
33	13.03.92	Hazardous and Offensive development	✓	✓	
36	16.07.93	Manufactured home estates	x	NR	
44	06.01.95	Koala habitat protection	✓	✓	No clearing of native vegetation will directly result from the outcome of this PP.
47	17.11.95	Moore Park Showground	x	NR	
50	10.11.97	Canal estate development	x	NR	
55	28.08.98	Remediation of land	✓	✓	The provisions are not enacted as there is no change in zone. However, it may be considered a de facto change of zone. No properties in the subject land have been identified as potentially contaminated. With regard to Clause 6 of this SEPP, the PP is assessed to be consistent.
64	16.03.01	Advertising and signage	✓	✓	
65	26.07.02	Design quality of residential flat development	x	NR	
70	31.05.02	Affordable Housing (Revised Schemes)	✓	✓	
--	6.2.2019	Aboriginal Land 2019	x	NR	
--	31.07.09	Affordable Rental Housing 2009	✓	✓	
--	25.06.04	Building Sustainability Index: BASIX 2004	✓	✓	
--	03.04.18	Coastal Management 2018	x	NR	
--	28.2.2019	Concurrences 2018	✓	✓	
--	01.09.17	Educational Establishments and Child Care Facilities 2017	✓	✓	
--	27.02.09	Exempt and Complying Development Codes 2008	✓	✓	The outcome of this PP gives potential for the Housing Code to be called up for some development on the subject land. The application of the Industrial Code is not

Pre-Gateway Planning Proposal – Shoalhaven LEP 2014 – PP043 – Dwelling House as an Additional Permitted Use – South Nowra Industrial Expansion

					diminished by the outcome of this PP.
--	31.03.04	Housing for Seniors or People with a Disability 2004	✓	✓	
--	01.01.08	Infrastructure 2007	✓	✓	
--	12.12.07	Kosciuszko National Park – Alpine Resorts 2007	✗	NR	
--	30.06.89	Kurnell Peninsula 1989	✗	NR	
--	16.02.07	Mining, Petroleum Production and Extractive Industries 2007	✗	NR	
--	26.10.07	Miscellaneous Consent Provisions 2007	✓	✓	
--	21.11.86	Penrith Lakes Scheme 1989	✗	NR	
--	28.02.2019	Primary Production and Rural Lands	✓	✓	
--	01.10.11	State and Regional Development 2011	✓	✓	
--	25.05.05	State Significant Precincts 2005	✗	NR	
--	01.03.11	Sydney Drinking Water Catchment 2011	✗	NR	
--	28.07.06	Sydney Region Growth Centres 2006	✗	NR	
--	31.05.13	Three Ports 2013	✗	NR	
--	15.12.10	Urban Renewal 2010	✗	NR	
--	25.08.17	Vegetation in Non-Rural Areas	✓	✓	The subject land is within an Urban Zone. No clearing will directly result from the outcome of this PP.
--	21.08.09	Western Sydney Employment Area 2009	✗	NR	
--	06.03.09	Western Sydney Parklands 2009	✗	NR	

### Attachment 3: S9.1 Checklist

Direction		Applicable	Relevant	Not inconsistent
<b>1 Employment and Resources</b>				
1.1	Business and Industrial Zones	✓	✓	x Minor inconsistency as justified in Section 4.2.4
1.2	Rural Zones	✓	x	✓ Discussed in Section 4.2.4
1.3	Mining, Petroleum Production and Extractive Industries	x	x	NA
1.4	Oyster Aquaculture	x	x	NA
1.5	Rural lands	✓	x	✓ Discussed in Section 4.2.4
<b>2 Environment and Heritage</b>				
2.1	Environmental Protection Zones	x	x	NA
2.2	Coastal Management	x	x	NA
2.3	Heritage Conservation	x	x	NA
2.4	Recreation Vehicle Area	x	x	NA
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	x	x	NA
<b>3 Housing, Infrastructure and Urban Development</b>				
3.1	Residential Zones	✓	✓	✓ Discussed in Section 4.2.4
3.2	Caravan Parks and Manufactured Home Estates	x	x	NA
3.3	Home Occupations	✓	✓	✓
3.4	Integrating Land Use and Transport	✓	x	✓ Discussed in Section 4.2.4
3.5	Development Near Licensed Aerodromes	x	x	x
3.6	Shooting Ranges	x	x	NA
<b>4 Hazard and Risk</b>				
4.1	Acid Sulphate Soils	x	x	NA

4.2	Mine Subsidence and Unstable Land	x	x	NA
4.3	Flood Prone Land	✓	x	✓ Discussed in Section 4.2.4
4.4	Planning for Bushfire Protection	✓	x	✓ Discussed in Section 4.2.4
<b>5 Regional Planning</b>				
5.2	Sydney Drinking Water Catchments	x	x	NA
5.3	Farmland of State & Regional Significance Far North Coast	x	x	NA
5.4	Commercial & Retail Development Far North Coast	x	x	NA
5.8	2 <sup>nd</sup> Sydney Airport: Badgerys Creek	x	x	NA
5.9	North West Rail Link Corridor Strategy	x	x	NA
5.10	Implementation of Regional Plans	✓	✓	x Discussed in Section 4.2.4 with reference to Section 4.2.1
<b>6 Local Plan Making</b>				
6.1	Approval and Referral Requirements	✓	x	✓ Discussed in Section 4.2.4
6.2	Reserving Land for Public Purposes	x	x	NA
6.3	Site Specific Provisions	✓	✓	✓ Discussed in Section 4.2.4

## **Attachment 4: Evaluation Criteria for the Delegation of Plan Making Functions**

---

### **Checklist for the review of a request for delegation of plan making functions to Councils**

#### **Local Government Area:**

Shoalhaven City Council

#### **Name of draft LEP:**

Shoalhaven Local Environmental Plan 2014  
PP043

#### **Address of Land (if applicable):**

The subject land is known and is legally described as:

*Lot 52, DP 19407, 21 Prosperity Road, South Nowra; Lot 51, DP 19407, 25 Prosperity Road, South Nowra; Lot 50, DP 19407, 29 Prosperity Road, South Nowra; Lot 49, DP 19407, 33 Prosperity Road, South Nowra; Lot 48, DP 19407, 37 Prosperity Road, South Nowra; Lot 47, DP 19407, 148 The Links Road, South Nowra; Lot 46, DP 19407, 106 The Links Road, South Nowra; Lot 45, DP 19407, 92 The Links Road, South Nowra; Lot 44, DP 19407, 80 The Links Road, South Nowra; Lot 42, DP 19407, 8 Central Avenue, South Nowra; Lot 41, DP 19407, 6 Central Avenue, South Nowra; Lot 40, DP 19407, 4 Central Avenue, South Nowra; Lot 39, DP 19407, 2 Central Avenue, South Nowra; Lot 2, DP 500563, 41 Oxford Street, South Nowra; Lot 2, DP 205646, 40 Oxford Street, South Nowra; Lot 2, DP 1157089, 33 Oxford Street, South Nowra; Lot 1, DP 207847, 32 Oxford Street, South Nowra; Lot 17, DP 19407, 21 Oxford Street, South Nowra; Lot 2, DP 207847, 20 Oxford Street, South Nowra; Lot 18, DP 19407, 13 Oxford Street South Nowra; Lot 237, DP 755952, 183 The Links Road, Nowra Hill; Lot 235; DP 755952, the Links Road, Nowra Hill; Lot 21, DP 1043769; 181 The Links Road, Nowra Hill; Lot 22, DP 1043769, 175 The Links Road, Nowra Hill; Lot 1, DP 1010322, 167 the Links Road, Nowra Hill; Lot 5, DP 1016142, 147 The Links Road, Nowra Hill; Lot 4, DP 1016142, 129 The Links Road, Nowra Hill; and Lot 1, DP 1112040, 109 The Links Road, Nowra Hill.*

#### **Intent of draft LEP:**

The intent is to allow a *dwelling house* as an additional permitted use on the land identified above, for a limited period of time (10 years from the commencement of this plan).

#### **Additional Supporting Points/Information:**

Appropriate justification has been provided to support this PP.

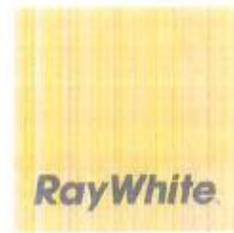
<b>Evaluation criteria for the issuing of an Authorisation</b>	<b>Council Response</b>		<b>Department Assessment</b>	
	<b>Y/N</b>	<b>Not relevant</b>	<b>Agree</b>	<b>Not agree</b>
<b>(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)</b>				
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?	Y			
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 consistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
<b>Minor Mapping Error Amendments</b>				
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?		NR		
<b>Heritage LEPS</b>				
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?		NR		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NR		

Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NR		
<b>Reclassifications</b>				
Is there an associated spot rezoning with the reclassification?		NR		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		NR		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		NR		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		NR		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		NR		
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?		NR		
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?		NR		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		NR		
<b>Spot Rezonings</b>				
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?		NR		
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?		NR		
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?		NR		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		NR		

Does the Planning Proposal create an exception to a mapped development standard?		NR		
<b>Section 73A matters</b>				
<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 works 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			

## **Attachment 5: Letters from Local Real Estate Agents**

---



To whom it may concern,

I am current acting as selling agent for Mr and Mrs Hughes at 2 Central Avenue, South Nowra. During the marketing campaign we have had a great deal of interest from a variety of buyers. Through talking to buyers looking at the property we have encountered a number of issues faced by potential purchasers.

They include;

1. Confusion from speaking to council as to what can be done now and in the future due to the current zoning change
2. Their capacity to borrow has been diminished due to the now Industrial zoning from Residential/Rural from 80% to as low as 50%
3. Uncertainty as to what will be approved in the future. i.e. renovations, sheds etc

My experience over the past 20 years with selling homes, is that uncertainty over future use is possibly the worst-case scenario for a buyer. The risk on taking on a property that may or may not be able to be used for its intended propose places a huge weight on a buyer and therefore any offer to buy will factor in the risk thus lowering any offer. I believe this is currently the case with the Hughes sale and I'm certain this will be the case on any other seller in the area until certainty is provided. If I can be of any further assistance, please feel free to contact me.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "C. Hadfield".

Craig Hadfield  
Director | Ray White South Coast

Callala Bay  
Shop 10,  
55 Emmett Street,  
Callala Bay NSW 2540  
T 02 4446 5799

Commercial Shoalhaven  
Suite 3,  
112 Kinghorne Street,  
Nowra NSW 2541  
T 02 4422 8677

Culburra Beach  
Shop 1,  
173 Prince Edward Avenue,  
Culburra Beach NSW 2540  
T 02 4447 3169

Gerringong  
94 Fern Street,  
PO Box 382,  
Gerringong NSW 2534  
T 02 4234 4000

Nowra  
112 Kinghorne Street,  
Nowra NSW 2541  
T 02 4422 1444



30/07/2018

To Whom it May Concern:

I am currently the listing agent for:  
29 Prosperity Lane, South Nowra  
41 Oxford Street, South Nowra

The problem I have encountered with every inspection is very simple, the Zoning that is currently on the properties and the area as a whole makes it just about impossible to move said properties due to the zoning restrictions, diminished borrowing capacity and uncertainty for future approval potential for buyers.

The current Zoning (IN1 Light Industrial) on said properties is not tenable for buyers or developers, thus making it impossible for the current owners to make any money on their property. In my opinion in the current market, I estimate the potential sale price is being reduced by \$500,000 off the current properties in the current market. When a buyer comes to me interested in the properties for sale or the area as a whole, I have been advised and am obligated to tell potential buyers you can't build anything residential on the property, you can not do alterations or additions to the home, if the current residence is damaged you can't replace the current structure, and bank loans are not a viable option for most buyers as you need a massive deposit of 60% of the sale price which is a massive negative and hindrance to potential sales. As a selling agent this limits the potential buyers and are negative components which I cannot negotiate around.

A Zoning change is the only chance of helping my owners and every resident in this community as the current Zoning is in my opinion is not beneficial. I have been an agent for 12 years and I can say without doubt that I have never encountered such a hard sell in front of me.

A change back to the old Zoning would help defiantly and allow the current owners to have a chance of securing an appropriate amount money which reflects the value if the land for their properties. Currently I would estimate the land is worth \$20 to \$30 per square metre, which is not profitable.

**Requested Zoning changes:**

**R1 Zoning – General Residential**

**R5 - Rural Zoning, with no penalty for building or adding to current residential property**

Kind Regard  
Gregory C Turner  
Principal

**Maple Leaf Realty Pty Ltd**

ABN 72 153 604 521

phone 02 4422 4336 fax 02 4006 3022 email [greg@mapleleafrealty.com.au](mailto:greg@mapleleafrealty.com.au)

address PO Box 722, Nowra NSW 2541 web [www.mapleleafrealty.com.au](http://www.mapleleafrealty.com.au)