

Attachment 1 - Council Resolutions and Reports

MAYORAL MINUTES

Nil

DEPUTATIONS AND PRESENTATIONS

DE19.18 - Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry

Mr Matt Philpott, representing Allen Price & Scarratts, addressed the meeting and spoke for the recommendation.

DE19.21 - Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855

Mr Greg Edwards, representing Basin View Forum and Sanctuary Point Community Pride, addressed and spoke against the recommendation.

Dr Judith Stubbs, representing the owners of the land, addressed the meeting and spoke to the recommendation.

DE19.24 - Further Update - Possible Heritage Listing - Former Huskisson Anglican Church

Dr Shirley Fitzgerald addressed the meeting and spoke for the heritage listing.

Mr Ian Deck, representing the Anglican Church, addressed the meeting and spoke against the recommendation.

Mr Stephen Bartlett, representing Kamsley Pty Ltd, addressed the meeting and spoke against the recommendation.

Procedural Motion - Bring Item Forward

RESOLVED (Clr Wells / Clr Digiglio)

MIN19.206

That the following matters be brought forward for consideration:

- DE19.18 - Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry
- DE19.21 - Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855
- DE19.24 - Further Update - Possible Heritage Listing - Former Huskisson Anglican Church

CARRIED

REPORTS

DE19.18 Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry

HPERM Ref: D19/40102

Recommendation (Item to be determined under delegated authority)

That Council:

1. Amend the Planning Proposal (PP) for Lot 4 DP83425, Beach Road, Berry to:
 - a. Reflect the revised maps provided with the report; and

- b. List the Aboriginal Scarred Tree identified on the site as an item of Aboriginal Heritage
2. Submit the revised PP to the NSW Department of Planning and Environment for consideration as required by the Gateway determination.
3. Undertake the necessary Government Agency consultation prior to public exhibition as required by the Gateway determination.
4. Prepare a draft site-specific Development Control Plan (DCP) chapter to support the PP.
5. Publicly exhibit the PP and supporting draft DCP chapter, subject to completion of the above matters.
6. Advise the proponent of this resolution.

RESOLVED (Clr Proudfoot / Clr Wells)

MIN19.207

That Council:

1. Amend the Planning Proposal (PP) for Lot 4 DP83425, Beach Road, Berry to:
 - a. Reflect the revised maps provided with the report; and
 - b. List the Aboriginal Scarred Tree identified on the site as an item of Aboriginal Heritage
2. Submit the revised PP to the NSW Department of Planning and Environment for consideration as required by the Gateway determination.
3. Undertake the necessary Government Agency consultation prior to public exhibition as required by the Gateway determination.
4. Prepare a draft site-specific Development Control Plan (DCP) chapter to support the PP.
5. Publicly exhibit the PP and supporting draft DCP chapter, subject to completion of the above matters.
6. Advise the proponent of this resolution.

FOR: Clr Findley, Clr Gash, Clr Wells, Clr Levett, Clr Digiglio, Clr Alldrick, Clr Gartner, Clr Proudfoot and Russ Pigg

Against: Nil

CARRIED

DE19.21 Development Application No.18/1844 – 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855

HPERM Ref: D19/70515

Recommendation (Item to be determined under delegated authority)

That Development Application No.18/1844 be determined by way of approval subject to the imposition of suitable conditions of consent as contained in attachment 1.

RESOLVED (Clr Findley / Clr Proudfoot)

MIN19.208

That:

1. Council defer consideration of DA18/1844 120 Macleans Point Road, Sanctuary Point – Lot 653 DP 27855, pending the General Manager providing a supplementary report to Council in respect of
 - a. restrictions on smoking in the area near the nursery/garden centre
 - b. stormwater

DE19.18 Update - Planning Proposal - Lot 4 DP83425, Beach Road, Berry

HPERM Ref: D19/40102

Group: Planning Environment & Development Group
Section: Strategic Planning

Attachments: 1. Draft DCP N28 - Beach Road, Berry [↓](#)

Purpose / Summary

Provide an update on this Planning Proposal (PP) and seek direction on obtaining an amended Gateway determination. Given the nature of the site, the report also presents a draft supporting Development Control Plan (DCP) chapter and seeks a resolution to exhibit it concurrently with the PP upon completion of the Gateway requirements.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Amend the Planning Proposal (PP) for Lot 4 DP83425, Beach Road, Berry to:
 - a. Reflect the revised maps provided with the report; and
 - b. List the Aboriginal Scarred Tree identified on the site as an item of Aboriginal Heritage
2. Submit the revised PP to the NSW Department of Planning and Environment for consideration as required by the Gateway determination.
3. Undertake the necessary Government Agency consultation prior to public exhibition as required by the Gateway determination.
4. Prepare a draft site-specific Development Control Plan (DCP) chapter to support the PP.
5. Publicly exhibit the PP and supporting draft DCP chapter, subject to completion of the above matters.
6. Advise the proponent of this resolution.

Options

1. Proceed with the PP and new supporting DCP chapter as recommended.

Implications: This will allow the PP to proceed to exhibition and will also seek to set the subject land for a future subdivision that is responsive to the constraints of the land. This is the recommended option. Note: a specific resolution to prepare the DCP amendment is necessary to ensure it is legally created.

2. Proceed with a PP that is based on provisions in the original request.

Implications: This would see the PP potentially proceeding without provisions to address the constraints of the land. This will create less certainty for the developer and the community and as such is not recommended.

3. Proceed with the PP subject to other amendments.

Implications: Further advice can be provided if other amendments are considered warranted.

4. Defer the consideration of the PP for additional Aboriginal Heritage advice.

Implications: At time of writing this report further advice is pending in relation to Aboriginal heritage. This advice may be received prior to the Committee meeting. If this occurs and the advice alters the recommendation of this report, further information will be provided. If this advice is not received prior to the meeting, the Committee may wish to consider deferring this item.

Background

Subject Land

Council initially received a proponent-initiated PP request for Lot 4 DP 834254 Beach Road, Berry on 3 October 2015.

The request was submitted originally by Michael Brown Planning Strategies on behalf of owner EN Hall. The Proponent is now Allen Price & Scarratts Pty Ltd for Hall.

The subject land is located east of the township of Berry as shown in the figure below:



The request sought to rezone the land from:

- RU1 - Primary Production, and
- E2 - Environmental Conservation

To:

- R5 - Large Lot Residential,
- E1 - National Parks and Nature Reserves,
- E2 – Environmental Conservation, and

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- E3 - Environmental Management.

It is proposed that the part of the land within the Coomonderry Swamp would be dedicated to the NSW government and incorporated into the Seven Mile Beach National Park as an outcome of the rezoning. The NSW National Parks and Wildlife Service (NPWS) have reached an agreement in principle with the landowner for a planning agreement to facilitate this transfer.

History

Following lodgement of the PP request Council sought initial community feedback. Council's Development Committee considered a report on this PP on 18 January 2016 and resolved under delegation to:

- a) *Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:*
 - i) *Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;*
 - ii) *Revision of the proposed zoning to ensure appropriate environmental zoning for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as "Jim's Forest" and Berry Wildlife Corridor.*
 - iii) *Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites*
 - iv) *Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.*
- b) *Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process; and*
- c) *Receive a further report following the Gateway determination, if necessary.*

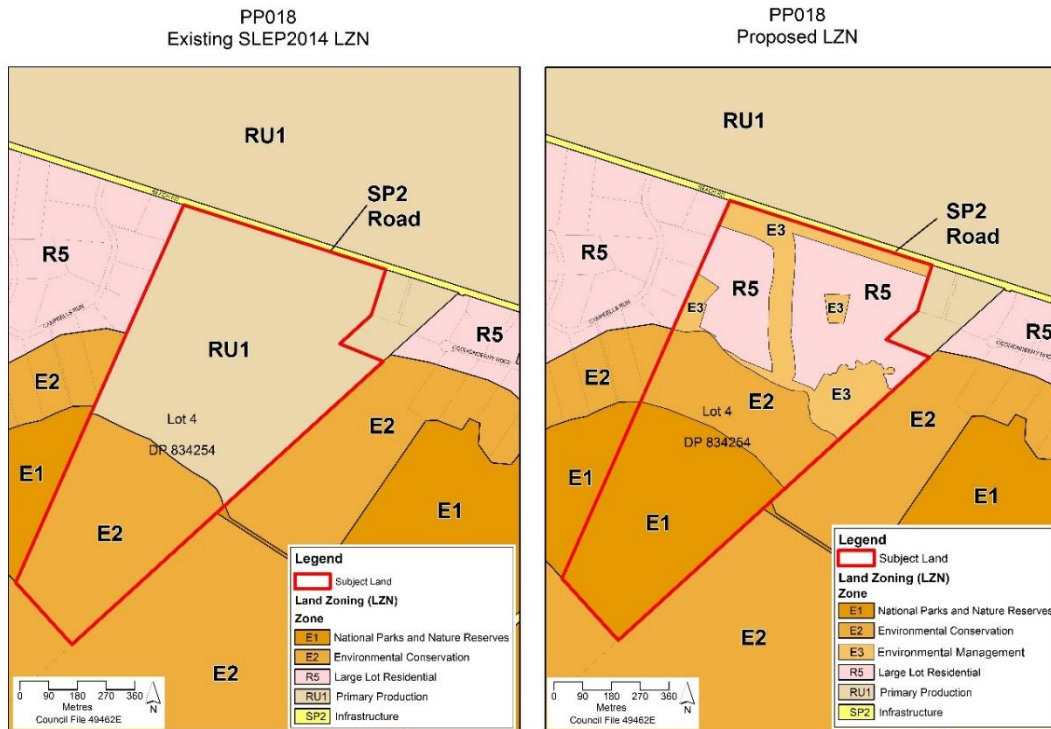
Following this resolution, the proponent opted to pursue a pre-Gateway review of the PP and Council's decision. This review was undertaken by the then Southern Joint Regional Planning Panel (JRPP). The JRPP's advice was provided to the NSW Minister for Planning in November 2016 and it did not contradict the Council resolution.

Work recommenced on the PP in March 2017 and it was submitted for a Gateway determination in April 2017. The Gateway determination was subsequently received in June 2017 and it required a range of information to be updated or prepared prior to public exhibition.

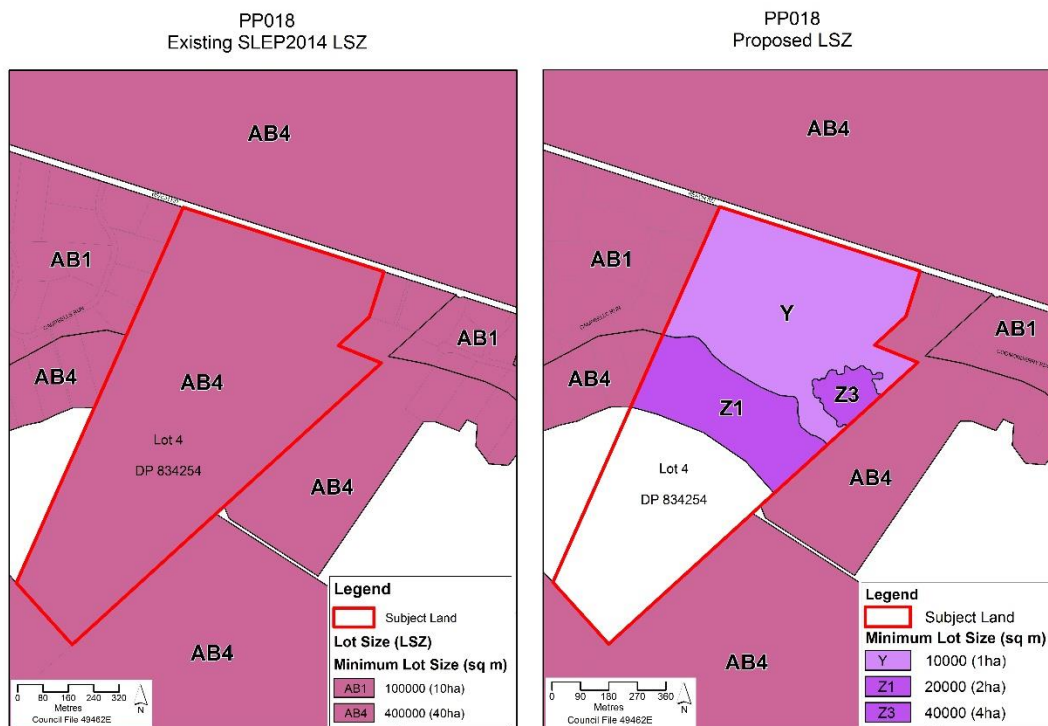
Accordingly, Council staff proceeded to address the conditions of the Gateway determination, working with the proponent, to prepare the PP for public exhibition.

LEP Maps

The PP has been revised in accordance with the Council resolution and the various specialist studies that have now been prepared or updated. For comparison, the current LEP maps and the proposed LEP maps for inclusion in the PP are provided below:



Current and Proposed Zoning



Current and Proposed Minimum Lot Size

The proposed LEP mapping changes are outlined in the table below, along with an explanation for each change.

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Change	Explanation
Apply E1 – National Parks and Nature Reserves Zone to part of the subject land.	The proponent and NPWS have reached an agreement on the land to be dedicated as an extension of Seven Mile Beach National Park. This land is proposed to be zoned E1.
Apply E2 – Environmental Conservation Zone to land between the ridge line and the E1 zone.	This land drains to Coomonderry Swamp and warrants a higher level of environmental protection than the land on the northern side of the ridge line. This is consistent with the zoning approach on adjoining land.
Apply E3 – Environmental Management Zone to the constrained land that will be retained in private ownership.	Land affected by one or more of the following constraints is proposed to be zoned E3: <ul style="list-style-type: none"> - Land with poor soil for wastewater management - Areas close to a watercourse - Areas close to a bore or natural spring - Areas with significant native vegetation including “Jim’s Forest” - Areas of Aboriginal Archaeological Potential The proposed DCP chapter (draft attached) that will support the PP will provide additional guidance to ensure eventual development responds to these values.
Apply R5 – Large Lot Residential Zone to part of the subject land.	The remainder of the land is relatively unconstrained and is suitable for a large lot residential zoning.
Apply no minimum lot size to part of the subject land to be zoned E1.	The part to be zoned E1 National Parks and Nature Reserves does not require a ‘minimum lot size’ in the LEP and so none is proposed.
Apply a 4 ha minimum lot size to part of the subject land known as “Jim’s Forest”.	The NSW Office of Environment & Heritage (OEH) in consultation has requested that the PP prevent the subdivision of “Jim’s Forest” into more than one lot. To achieve this, a 5 ha minimum lot size is proposed for this part of the land.
Apply a 1 ha minimum lot size to land north of the ridge line, excluding “Jim’s Forest”.	This will enable development that is generally consistent with the existing rural residential developments on either side of the site.
Apply a 2 ha minimum lot size to land between the ridge line and the E1 zone.	A larger lot size on the southern side of the ridge is necessary to ensure the subdivision responds to the site constraints and environmental values, and to ensure that the resulting lots that extend onto the southern side of the ridge have an appropriate width and a development area outside of the catchment of the Coomonderry Swamp catchment.

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Aboriginal Heritage

The Aboriginal Cultural Heritage Assessment of the land made two significant finds.

Firstly, an area of Aboriginal Archaeological Potential was found along the ridge that separates the catchments of Coomonderry Swamp to the south and Foys Swamp to the north. The extent of the Aboriginal Archaeological Potential area that is north of the ridge is

proposed to be zoned E3 with appropriate provisions being incorporated into the DCP to ensure that this is properly investigated prior to any actual development being undertaken.

Secondly, an Aboriginal Scarred Tree was found within the part of the subject land identified for development. The assessment report recommended that this tree be listed in the LEP as a heritage item because of its heritage significance. The location of the tree is shown in the figure below:



I:\Planning\Graphics\Projects\City\PlanningProposals\PP018\Lot 4 DP834254_AerialPhoto.mxd

The tree was however subsequently struck by lightning while this PP was under assessment and the scars were significantly damaged. At the time of writing this report a further report was pending to help determine whether the remains of the tree still warrant heritage listing. If this revised report is received prior to the Committee Meeting, further advice will be provided for consideration at the meeting.

Development Control Plan (DCP) Chapter

As outlined earlier in this report, the site is subject to several important environmental and Aboriginal cultural heritage values that need to be recognised and managed in future development. Thus, in addition to the LEP provisions, it is also proposed to have a supporting DCP Chapter that helps identify and protect these values. This will ensure they are given appropriate consideration at the subsequent development application stage. The draft proposed chapter is attached to this report (see **Attachment 1**).

To comply with legislative requirements in this regard It is also recommended that the Committee resolve to prepare and exhibit the DCP chapter. The exhibition will occur alongside the PP.

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Gateway Determination Conditions

The Gateway determination requires Council to include a range of information in the PP prior to community consultation to address potential impacts of the proposal. The determination also requires the NSW Department of Planning & Environment to consider the revised proposal prior to community consultation. As such, should Council resolve to proceed as recommended, then the required engagement with DP&E will occur prior to the formal community consultation.

Community Engagement

Initial community feedback was sought in November 2015, when the proponent's original PP request was first submitted to Council. No further community engagement has been undertaken since the first Council resolution on this matter.

It is considered that this PP is sufficiently advanced to be able to be publicly exhibited subject to confirmation from the DP&E that the conditions of the Gateway determination have been met. Assuming this is the case, it is recommended that Council place this PP and the supporting draft DCP chapter on formal exhibition once the required Government agency feedback is received.

Financial Implications

This PP is being funded by the proponent on a 100% cost recovery basis in accordance with Council's adopted Planning Proposal Guidelines and associated Fees and Charges.

3. Procedural Motion – Bring Forward Item

MOTION:

Moved: Robertson / Second: Guile

That the matter of Item 8 - Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry be brought forward.

CARRIED

PLANNING AND DEVELOPMENT

4. Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry File 52163e (PDR)

MOTION:

Moved: Anstiss / Second: Gash

(MIN16.2) RESOLVED That in accordance with the Committee's delegated authority from Council, that the Committee:

- a) Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:
 - i) Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;
 - ii) Revision of the proposed zoning to ensure appropriate environmental zoning for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as "Jim's Forest" and Berry Wildlife Corridor.
 - iii) Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites
 - iv) Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.
- b) Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process; and
- c) Receive a further report following the Gateway determination, if necessary.

AMENDMENT:

Moved: Watson / Second: Kitchener

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

The final report (185 pages) is available on the Parliament of New South Wales website at: <http://www.parliament.nsw.gov.au>

The State Government is now required to provide a response by 10 May 2016. When a response to the recommendations is released by State Government, it will be further reported to Council, along with any implications on Council's operations.

FINANCIAL IMPLICATIONS:

There are currently no financial implications associated with this report.

COMMUNITY ENGAGEMENT:

No community engagement is currently required. This is an information report coming out of a State Government inquiry to which Council provided a submission.

8. Planning Proposal (Rezoning) - Lot 4 DP 834254 Beach Road, Berry **File 52163e (PDR)**

SECTION MANAGER: Gordon Clark.

PURPOSE:

Obtain direction on the Planning Proposal (PP) that has been submitted for Lot 4 DP 834254, Beach Road, Berry.

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

- a) Give in principle support for the proposed rezoning of Lot 4 DP 834254, Beach Road, Berry and submit a revised Planning Proposal to the NSW Department of Planning and Environment for Gateway determination, subject to:**
 - i) Revision of the proposed minimum lot size to ensure the size of future lots is consistent with adjacent subdivisions and can adequately accommodate on site effluent disposal;**
 - ii) Revision of the proposed zoning to ensure continuation of the established buffer area to the wetland and appropriate protection of ecologically significant areas;**
 - iii) Development to be limited to the north of the ridgeline (i.e. no dwellings south of the ridge) to minimise any potential impact on Coomonderry Swamp, to maintain the integrity of the ridgeline, and to be consistent with the planning outcomes of the adjacent sites.**
 - iv) Resolution of the proposed transfer of land to National Parks and Wildlife Service, and the possible need for a Voluntary Planning Agreement.**

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- b) Advise the proponent and those who submitted comments of this resolution, noting the opportunity for formal comment later in the process; and**
 - c) Receive a further report following the Gateway determination, if necessary.**

OPTIONS

1. Adopt the recommendation - this will enable a revised PP to be submitted for initial Gateway determination on the rezoning proposal and whether any further studies are required. The outcome of any further studies may require the PP to be further adjusted/revised at a later point in the process.
2. Not support the PP - the land would retain its current rural zone and there would be no potential for subdivision of the land or transfer of the Coomonderry Swamp to the State Government. This could also result in the proponent requesting a review of Council's decision by the Joint Regional Planning Panel.
3. Adopt an alternative or revised recommendation - this could delay the process and could also trigger a possible request for a review by the proponents.

DETAILS

Background

Council received a PP for land located at Lot 4 DP 834254, Beach Road, Berry on 13th October 2015. The PP was submitted by Michael Brown Planning Strategies on behalf of the current landowner (EN Hall). The land and its current zoning is shown in Figure 1 below.

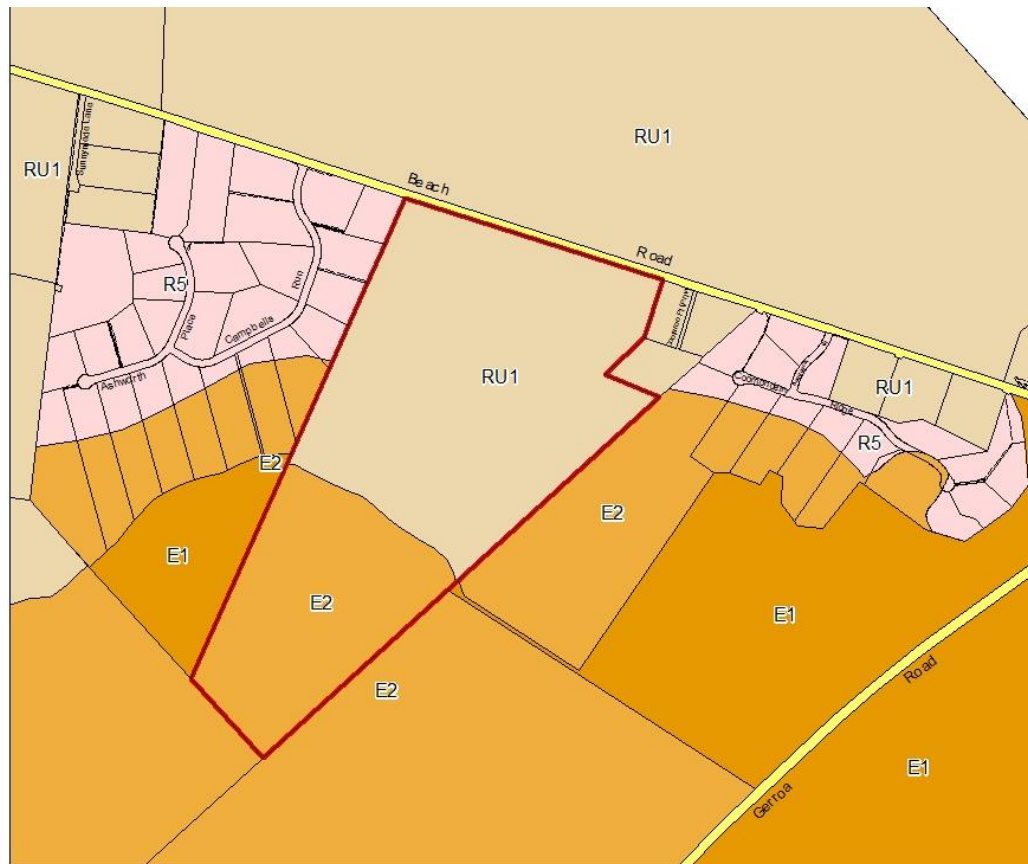


Figure 1: Subject land - current zoning - Shoalhaven Local Environmental Plan 2014

The PP seeks to rezone the land from RU1 Primary Production and E2 Environmental Conservation to R5 Large Lot Residential, E1 National Parks and Nature Reserves, and E2 Environmental Conservation. The proponents PP document includes a concept subdivision plan (Figure 2) to show how the land could be developed if rezoned. It is proposed that the part of the land within the Coomonderry Swamp would be dedicated to the State government and incorporated into the Seven Mile Beach National Park as an outcome of the rezoning.



Figure 2: Concept Subdivision Plan

The proponents PP document can be accessed on the internet at:

<http://shoalhaven.nsw.gov.au/My-Council/Public-exhibition/Documents-on-exhibition>

- # A hard copy of the proponents PP document will be available in the **Councillor's Room** prior to the meeting.

The adjacent land to the east and west of the subject land, was rezoned via an Amendment (No. 166) to the previous Shoalhaven LEP 1985 which was gazetted on 7 July 2000. The objectives of the rezoning were to permit rural smallholding subdivision on the land to facilitate public acquisition of Coomonderry Swamp, to protect landscape values and to preserve as much of the existing forest cover as possible. The subject land would have been included in the rezoning process, however, the landowner requested that their lot not be included.

Community Comment

To assist Council in making a decision on advancing this PP, community feedback on the proposal was sought through an informal consultation process. The PP was made publicly available on Council's website from 23 November to 7 December 2015 (inclusive), and adjoining landowners were notified in writing. A total of 25 written submissions were received including ones from the Berry Forum Committee, Berry Landcare, Gerroa Environment Protection Society and one representation from the Member for Kiama, Gareth Ward MP.

- # A summary of the submissions received is included as **Attachment "A"**. Copies of the actual submissions will also be available in the Councillor's Room prior to the meeting.

Of the 25 submissions received, one (1) submission supported the proposal, 10 submissions were against the proposal and 14 submissions opposed the PP in its current form but provided a number of suggestions as to how issues and concerns could be better addressed. Thus, 15 submissions provided general support for rezoning and subdivision of the land, provided that key issues are addressed.

The key issues raised in the submissions includes:

- Lot sizes – too small, density is too high, suggestions included a 1-2 hectare minimum lot size;
- Siting of lots - locate lots on the north east facing side only, not on the south west slopes that drain towards the swamp and ensure no lots encroach on the swamp or other ecologically significant areas;
- Rezoning – continue the established buffer to the wetland following the planning principles for the adjacent large lot subdivisions;
- Precedent – concerns that development of the land will create a precedent that results in further residential subdivision of the Beach Road, Berry area;
- Visual impacts – the proposed subdivision will have a negative effect on the visual amenity and character of the area, proposal does not suit the existing surrounding rural character of the area;
- Waste water/effluent management and drainage issues - effluent management and runoff is an issue, sufficient space on lots is required for efficient absorption from onsite sewage management systems. May create issue of runoff into neighbouring properties. Water quality and ecology of Coomonderry Swamp which may be impacted by runoff from development combined with overflowing natural springs on the subject and surrounding land;
- Coomonderry Swamp - need to protect the swamp, buffer areas, and ecologically significant flora and fauna from development; buffer area needed around wetland to protect vegetation;
- Traffic and road impacts – proposal will create increased traffic on Beach Road which requires an upgrade/repairs; concerns about impacts on safety and need for a footpath/cycleway;
- Additional consultant studies – undertake flora and fauna; cultural heritage assessment/studies and place on public exhibition;
- Tourism industry impacts – if visual amenity and surrounding rural character is negatively impacted by over development it would impact the local tourism industry;
- Inconsistencies with plans and strategies – inconsistencies of the proposal with completed plans and strategies such as the Shoalhaven LEP 2014 and Shoalhaven Growth Management Strategy and respecting the community consultation undertaken as part of these planning processes;
- Berry Wildlife Corridor – impacts on fauna and habitat, the subject land is within the wildlife corridor, funding was recently received from NSW Environment trust to Berry Landcare;
- Impacts on a patch of forest, known as “Jim’s Forest” on the land with environmental and community significance should be protected;
- Sustainability – house designs, water tanks; and
- Bush fire risk, flooding and other site constraints being addressed.

Key Issues

The PP was reviewed by Council staff and the key issues and inconsistencies identified with the PP that would need to be addressed or outlined in detail in the Gateway submission, should Council resolve to support the advancement of the PP. These are outlined in the following table:

Issue	Comment
Minimum lot size	The size and location of lots should be consistent with the established subdivision pattern adjoining the subject land. This includes increasing the minimum lot size of the proposed lots and ensuring the subdivision and any resulting dwellings do not extend onto land beyond the ridgeline, which drains into the Coomonderry Swamp.
Proposed Zoning	The proposed zoning should continue the established buffer to the swamp, protection of ecologically significant areas, and limit development south of the ridgeline.
Visual impacts	Larger lot sizes located on the north west slope would reduce visual impacts in conjunction with appropriate screening provided by planting of trees, together with specific development controls.
Waste water, soils, geology, runoff & drainage issues	Larger lot sizes located on the north west slope would better address drainage and waste water issues. Further study of the impacts of natural springs, water cycle management, assessment of the capability of lot sizes for efficient absorption of waste water, and protecting the swamp from run off is required. Clarification of water and sewage infrastructure is required.
Environmental issues & constraints	Appropriate environmental zoning would be required for the swamp and buffer area and other ecologically significant areas on the subject land including, but not limited to, protection of Coomonderry Swamp/SEPP 14 wetland and ecologically significant areas such as the patch of forest known as "Jim's Forest" and Berry Wildlife Corridor.
Traffic & road impacts	A traffic and transport study would need to be undertaken to address impacts on the road network and safety.
Consultant studies	Additional studies or revisions of existing preliminary studies may be identified if the PP is supported and submitted for Gateway determination. These studies may include flora and fauna, cultural heritage, traffic and transport, site contamination, water cycle, onsite effluent management, etc.
Strategic justification of the proposal	The subject land would have been included in the rezoning process for adjacent land to the west and east, had the landowner not requested in 1995 that their land not be included. The PP is inconsistent with the planning principles for the rezoning of the adjacent land and may also be inconsistent with aspects of regional plans and strategies. It is however considered to be an infill proposal.
Land transfer to National Parks and Wildlife Service	The equity of the NPWS land gifting proposal needs to be further justified regarding the value of the land to be transferred and the benefit that will be gained through the rezoning (ie the value of the land to be transferred vs the value of the development potential

	created). An independent valuation of the land and analysis is required. The transfer will need to be achieved through a Voluntary Planning Agreement (VPA).
Infrastructure provision	The provision of infrastructure and availability of services such as water and sewer needs to be clarified.
Consistency with Adjacent Subdivision	<p>The PP for the subject land is inconsistent with the planning principles for the adjacent land which included:</p> <ul style="list-style-type: none"> • Transfer into the ownership of the National Parks and Wildlife Service (NPWS) areas of Coomonderry Swamp and adjacent forest; • Rezone areas outside the Coomonderry Swamp catchment to a rural zone with a minimum lot size of 1 hectare; and • Rezone the balance of the area to an environmental and scenic protection zone. • Specify the maximum number of residential lots.

Recommended Studies

Consistent with the above comments, should the PP be supported by Council, the following studies are recommended to be undertaken following the Gateway determination:

- Independent valuation analysis of the equity of land dedication;
- Flora and fauna impact assessment;
- Agricultural assessment;
- Soils and geology assessment;
- Water cycle assessment;
- On-site effluent management assessment;
- Cultural heritage assessment; and
- Traffic and transport assessment.

The DP&E may also recommend additional studies as part of their Gateway determination.

Next Steps

If Council supports the PP with the recommended changes, staff will submit a revised PP to DP&E for Gateway determination.

As part of the advancement of the PP, should it be supported by Council and receive a favourable Gateway determination, a meeting will be arranged with the NSW Office of Environment and Heritage (OEH), DP&E, and the proponents to discuss the range of matters related to the PP, including the proposed transfer of land to the State Government and the need for a VPA.

CONCLUSION

The PP submitted by the proponents seeks to rezone Lot 4 DP 834254, Beach Road, Berry to enable its subdivision. There are a number of concerns with the submitted PP, particularly in relation to the density and extent of the concept subdivision. The PP should be revised to be consistent with adjacent subdivisions in terms of continuing a similar character of subdivision and the protection of the ecologically significant values of the land. The comments received from the community as a result of initial consultation indicates

there is some support for the PP on the land, provided that the issues raised in this report are adequately addressed in any revised PP.

FINANCIAL IMPLICATIONS

The proponent has paid the initial PP lodgement fee in accordance with Council's Fees and Charges. Fees for the remaining stages of the PP will be charged in accordance with Council's Fees and Charges should Council support the proposal advancing. The proponent is also required to fund any studies or staff resources required to progress the PP.

COMMUNITY ENGAGEMENT

Pre-consultation was undertaken from 23 November to 7 December 2015 (inclusive). Should the PP advance formal public exhibition (community consultation) occurs later in the process in accordance with any Gateway determination requirements, relevant legislation and Council's Community Consultation Policy. This will involve notifying all adjoining landowners, the local CCB, and other interested parties.

9. **Development Application - Proposed Neighbourhood Title Subdivision of Dual Occupancy Development at Lot 3 DP 38171, No. 60 Journal Street, Nowra. Applicant: Allen Price & Scarratts. Owner: David Lovett File SF10484 (PDR)**
-

SECTION MANAGER: Cathy Bern.

PURPOSE:

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

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

- a) **Confirm that it supports the proposed exception; and**
- b) **The applications be determined under delegated authority.**

OPTIONS:

1. **Resolve to support the proposed exception (variation) to the development standard:**

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