

The Planning Proposal

Local Government Area: Shellharbour City Council

Property Details: Lot 101, DP 785139, Crest Road, Albion Park

Lot 252, DP 1047669, Pleasant View Close, Albion Park

Lot 220, DP 1123859, access of Crest Road, Albion Park

Lot 153, DP 1089661, Esperance Drive, Albion Park

Lot 4250, DP 1057886, Jamberoo Road, Albion Park

Lot 4300, DP 1058963, Ulan Place, Albion Park

Lot 22, DP 1004173, 1521 Jamberoo Road, Albion Park

Lot 50, DP 1013688, 2 James Road, Croom

Lot 301, DP 1092270, James Road, Croom

Lot 71, DP 837462, 35 James Road, Croom

Lot 20, DP 1035074, 7 Buckleys Road, Croom

Lot 102, DP 566417, 21 Dunmore Road, Dunmore

See **Attachment 4** - Site identification map.

Part 1 Objectives or intended outcomes.

To introduce the Standard Instrument LEP zoning and provisions for some of the land that is currently deferred in Shellharbour LEP 2013.

It is intended to introduce provisions that permit the subdivision and construction of a dwelling house on each of the subdivided lots.

The Urban Fringe Local Environmental Study supports the development of the land and Council at its meeting of 30 April 2013 resolved to support the number of allotments on each parcel. See **Attachment 1** for the Council resolution and report.

Part 2 An explanation of the Provisions that are to be included in the proposed local environmental plan.

The proposed outcome will be achieved by:

- Amending Shellharbour LEP 2013 by introducing Standard Instrument zoning and provisions for lands that are currently deferred matters in Shellharbour LEP 2013.
- The zoning and planning controls outlined in Table 1 in **Attachment 2**. The maps to be included are Zoning, Height of buildings, Lot size, Floor space ratio, Terrestrial biodiversity, Mineral resource transition area, Acid Sulfate Soils, Heritage item - general.

The report to Council for the properties at Lot 101, DP 785139, Crest Road, Albion Park and Lot 252, DP 1047669, Pleasant View Close, Albion Park included Terrestrial Biodiversity mapping as shown in **Attachment 7**. This mapping doesn't take into account the proposed Residential zoning on the land. Should the gateway determination support the Residential zoning on these lands, consideration needs to be given as to whether the Terrestrial Biodiversity mapping is appropriate for the land zoned Residential prior to, or after, public exhibition.

The report to Council for the property at 21 Dunmore Road, Dunmore:

- o Did not include a floor space ratio. This was an oversight and will mean that this property is the only one in this locality without a floor space ratio. This is not intended and a floor space ratio of 0.5:1 is appropriate to be consistent with neighbouring properties. As Council did not resolve to include a floor space ratio on this property, the relevant map in **Attachment 8** doesn't show a floor space ratio. It is requested that the LEP Review Panel recommend, for the purpose of public exhibition, that a floor space ratio of 0.5:1 be applied to 21 Dunmore Road, Dunmore; and
- o Included a building height of 9.0 metres. The surrounding properties have been recommended to have a building height of 6.0 metres in a separate Planning Proposal provided to the Department (Shellharbour LEP 2013 Planning Proposal No 4). The building height proposed in this Planning Proposal and shown on the map in **Attachment 10** is inconsistent with the neighbouring properties and it is requested that the LEP Review Panel recommend, for the purpose of public exhibition, that a building height of 6.0metres be applied to 21 Dunmore Road, Dunmore.
- Introducing a clause as outlined in **Attachment 3**. The purpose of this clause is to permit flexibility in lot size and be able to take into account a range of topography and vegetation communities in subdivision design that will facilitate a superior environmental and planning outcome than could be achieved using the minimum lot size map and the model clause.
- Add two local heritage items in Schedule 5 as outlined in Table 1 in **Attachment 2**. The two properties are 2 and 35 James Road, Croom.
- Include two properties in the Mineral Resource Transition Area. These properties are 7 Buckleys Road, Shell Cove and 21 Dunmore Road, Dunmore.
- Remove four properties from the existing Quarry Buffer (Shellharbour Rural LEP 2004). The four properties are 2 James Road, Croom, 35 James Road, Croom, Lot 301, DP 1092270, James Road, Croom and Lot 4300, DP 1058963, Ulan Place, Albion Park.

Part 3 Justification for the objectives, outcomes, provisions and the process for their implementation.

A. Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

Yes. The properties are in the Urban Fringe Local Environmental Study. This LES identifies the development opportunities for the land.

The LES and draft LEP was originally placed on public exhibition as part of the City-wide Principal LEP exhibition. Council at its meetings on 29 May and 3 July 2012 resolved to defer zoning and planning controls for these lands. As such, they have been deferred from the recently notified Shellharbour LEP 2013.

The Mineral Resource Transition Area amendments are based on audit mapping dated 20 November 2012 and written advice dated 7 February 2013 provided by the NSW Department of Trade and Investment. The Department undertook an audit of mineral resources across the State. A separate Planning Proposal was

supported by Council on 26 February 2013 and is being considered by the Department of Planning as a separate matter - Shellharbour LEP 2013 Planning Proposal No. 6.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. Introducing deferred land which will mean new maps and a clause can only be achieved by amending Shellharbour LEP 2013. A Planning Proposal is the only means to achieve the intended outcomes.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Illawarra Regional Strategy 2006 - 2031 applies to the Shellharbour LGA. The Planning Proposal is consistent with the Illawarra Regional Strategy 2006-2031 as outlined in the Summary of Planning Issues Checklist in **Attachment 13**.

The following specific actions are relevant:

- Economic development and growth. Resist the fragmentation of agricultural and employment lands.

The land identified for subdivision has limited agricultural potential and this has been addressed in the Urban Fringe LES.

- Housing and settlement. Urban development program - Shellharbour Council is investigating fringe lands at Dunmore and Albion Park to determine appropriate land uses and zonings taking into account its urban, biodiversity and natural resource values (page 22).

The Urban Fringe LES has investigated these lands and made recommendations for development potential.

- Natural environment.

The Urban Fringe LES has investigated relevant potential impacts on the natural environment. This Planning Proposal identifies land that may be appropriate for subdivision and dwelling construction and the remaining land that has significant environmental qualities would be protected with an appropriate environmental zone and Clause 6.5 Terrestrial biodiversity.

- Rural landscape and rural communities.

This Planning Proposal will be introducing the mechanism to create allotments less than 40 hectares. The Urban Fringe LES has considered the relevant issues and recommended development opportunities on specific properties. It is proposed that parts of land having environmental attributes such as Endangered Ecological Communities, be zoned an Environmental zone.

- Cultural heritage.

The Urban Fringe LES included a Cultural heritage assessment and a community based heritage study was undertaken in 2006. Two properties are proposed to be listed as local heritage items. These are 2 and 35 James Road, Croom .

2. Is the planning proposal consistent with a councils' local strategy, or other local strategic plan?

The proposal is consistent with the following Objectives and Strategies of Council's Community Strategic Plan:

Objective: 2.1 - a city that plans and maintains a sustainable, safe and healthy built environment.

Strategy: 2.1.1 - strategic and land use planning that guides the growth and development of the city to provide a positive balance of economic, social and environmental outcomes.

Objective: 2.2 - a city that maintains and protects its unique natural environment.

Strategy: 2.2.2 - Identify and protect environmentally significant lands.

Objective: 1.6 - a community which celebrates our local identity, rich cultural history and varied cultural pursuits.

Strategy: 1.6.4 - Plan for, preserve and promote our community's cultural and environmental heritage and assets for the enjoyment and appreciation of future generations.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. This Planning Proposal is consistent with applicable State Environmental Planning Policies, see **Attachment 13**.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is not consistent with all applicable Ministerial Directions, see **Attachment 13**.

The inconsistencies are outlined below:

1. Rural Zones (1.2)

The Planning Proposal will be inconsistent with this direction as it proposes to rezone rural zoned land to residential and in other areas, proposes increasing the density of rural zoned land by permitting subdivision and construction of dwelling houses.

The Urban Fringe LES justifies these inconsistencies and the recommendations of the LES are also in accordance with the Illawarra Regional Strategy, particularly the Chapter 6 - Housing and Settlement and Chapter 10 - Rural Landscape and Rural Communities.

2. Mining, Petroleum Production and Extractive Industries (1.3)

The Planning Proposal will be inconsistent with the mapping update provided by the NSW Department of Trade & Investment dated 20 November 2012 but consistent with written advice dated 7 February 2013 for specific properties.

This Planning Proposal will be prepared based on the written advice and will be confirmed with the Department of Trade & Investment as part of the consultation process, if supported by the LEP Review Panel and gateway determination.

3. Rural Lands (1.5)

The Planning Proposal will be inconsistent with this direction as it proposes to change the existing minimum lot sizes. These changes have been justified by the Urban Fringe LES. Also, some rural lands included in this Planning Proposal have been identified in the Illawarra Regional Strategy to be investigated to determine appropriate land uses and zonings.

4. Environmental Protection Zones (2.1)

The Urban Fringe LES recommends that some environmental zoned land be subdivided to permit dwelling houses and so will be inconsistent with this Direction. This inconsistency is justified by the LES and those recommendations are in accordance with the relevant actions within the Illawarra Regional Strategy Chapter 6 - Housing & Settlement, Chapter 7 - Natural Environment, Chapter 8 - Natural Hazards, Chapter 9 - Water, Energy & Waste, Chapter 10 - Rural Landscape & Rural Communities and Chapter 11 - Cultural Heritage.

5. Residential Zones (3.1)

The Planning Proposal will remove some residential zoned land and therefore will be inconsistent with this Direction. Most of these lands are irregular in shape and are residues from previous subdivisions. The Urban Fringe LES justifies this inconsistency.

6. Caravan Parks and Manufactured Home Estates (3.2)

This Planning Direction states that Planning Proposals will be inconsistent where they prohibit development for the purposes of a caravan park to be carried out.

The Planning Proposal is inconsistent in that some land prohibits caravan parks. The Urban Fringe LES has justified the appropriate zone and land uses. The Planning Proposal will be based on the Standard Instrument. The Standard Instrument doesn't contain a standard provision to satisfy this Direction (in not prohibiting caravan parks) and so the Planning Proposal is inconsistent with this Direction.

This is considered to be of minor significance as there has been minimal urban development potential recognised on these lands as supported by the LES.

7. Integrating Land Use and Transport (3.4)

The Urban Fringe LES recommends development that may consist of separate/discrete pockets of housing that are not on existing bus routes. A bus service may potentially be available but the number of dwellings likely to be delivered may mean that it is not cost-effective to re-route an existing bus service or provided a new one.

8. Flood Prone Land (4.3)

Some land within the Urban Fringe LES that is located on top of plateaus or land that is at a higher level than existing residential zoned land, has been proposed to be zoned Residential without a flood study.

This proposed zoning will be inconsistent with this Direction and in these instances is considered to be of minor significance.

C. *Environmental, social and economic impact.*

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?

There is likelihood that an endangered ecological community on Lot 101, DP 785139, Crest Road Albion Park may be affected. This is outlined in the Council report in **Attachment 1**. The proponent is considering entering into a Biobanking Agreement as a means to address the potential impact on the vegetation. It is recommended that this Planning Proposal be referred to the Office of Environment and Heritage to consider this concept.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is proposed to protect the land with the more significant vegetation by zone, generally E3 Environmental Management, and use of a Terrestrial Biodiversity map. The clause proposed to be used restricts the location of dwellings to the land generally zoned E4 Environmental Living.

There are no major likely environmental effects.

3. How has the planning proposal adequately addressed any social and economic effects?

The Urban Fringe LES included an assessment of the potential public and social impacts. This assessment is considered adequate.

D. *State and Commonwealth interests.*

1. Is there adequate public infrastructure for the planning proposal?

Yes. Any additional development will need to provide infrastructure such as roads and utilities.

2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

To be determined after the gateway determination and consultation. Consultation with the Office of Environment & Heritage (flora and fauna - biobanking concept) and the Department of Trade & Investment (Mineral Resource and Transition Areas) is considered necessary.

Part 4 Maps, where relevant to identify the intent of the planning proposal and the area to which it applies

- Site identification map - **Attachment 4**
- Current zoning map - **Attachment 5**
- Proposed zoning and planning control maps - Attachments **6 - 12**

Part 5 Details of the community consultation that is to be undertaken on the planning proposal.

It is anticipated that a 28 day consultation period is appropriate. To be finalised as part of the gateway determination.

Part 6 Project timeline.

- Anticipated gateway determination - August/September 2013
- Anticipated timeframe for completion of required technical information - Not applicable
- Timeframe for government agency consultation September/October 2013
- Commencement and completion of public exhibition - Commence September and complete October/November 2013
- Dates for public hearing - Not applicable
- Timeframe for consideration of submissions - November/December 2013
- Timeframe for consideration of proposal post exhibition - Report to Council February 2014 (Council meeting - 3 week cycle and no meeting in January 2014)
- Date of submission to the Department to finalise LEP - March/April 2014
- Anticipated date RPA will make the plan (if delegated) - Not applicable, no delegation
- Anticipated date RPA will forward to the department for notification - Not applicable, no delegation

ATTACHMENTS

- Attachment 1 - Council resolution and report 30 April 2013
- Attachment 2 - Table of proposed zoning and planning controls
- Attachment 3 - Proposed clause to enable subdivision of land
- Attachment 4 - Site Identification Map
- Attachment 5 - Current Zoning Map
- Attachment 6 - Acid Sulfate Soils Map
- Attachment 7 - Terrestrial Biodiversity Map
- Attachment 8 - Floor Space Ratio Map
- Attachment 9 - Heritage Map
- Attachment 10 - Height Map
- Attachment 11 - Lot Size Map
- Attachment 12 - Zoning Map
- Attachment 13 - Significant Mineral Resource Map
- Attachment 14 - Summary of Planning Issues Checklist