

ADOPTED AT COUNCIL MEETING HELD ON TUESDAY 28 JUNE 2016

489. Further Report - Planning Proposal (Rezoning) - 5C Creston Grove Bomaderry (Ride Australia) File 52920e

Note: Mr Justin Sanders made a deputation regarding this item.

MOTION:

Moved: Wells / Second: Kearney

That Council:

- a) **Support** a Planning Proposal over 5C Creston Grove, Bomaderry that enables the proposed boat and merchandise showroom and associated office space via a suitably worded inclusion in Schedule 1 (Additional Permitted Uses) of Shoalhaven Local Environmental Plan (LEP) 2014 that “sunsets” in 12 months if not acted upon;
- b) **Submit** the Planning Proposal to the Department of Planning & Environment to request a ‘Gateway determination’.
- c) **Encourage** the proponent to also lodge a development application for the proposed use to be considered and advanced alongside the Planning Proposal so that the adjoining landowners/residents can get greater certainty on the proposed development outcome; and
- d) **Notify** the NSW Roads & Maritime Service and the adjoining landowners/residents who participated in the early discussions surrounding this matter of this resolution.

AMENDMENT:

Moved: Guile / Second: Findley

That Council give consideration to a restriction placed on a section of the right of way on the site to control potential commercial usage on the residential amenity

AMENDMENT LOST

FOR: Kitchener, Watson, Guile, Findley, Robertson

AGAINST: Tribe, Kearney, Anstiss, White, Wells, Baptist, Gash

FURTHER AMENDMENT:

Moved: Findley

That Council:

- a) **Support** a Planning Proposal over 5C Creston Grove, Bomaderry that enables the proposed boat and merchandise showroom and associated office space via a suitably worded inclusion in Schedule 1 (Additional Permitted Uses) of Shoalhaven Local Environmental Plan (LEP) 2014 that “sunsets” in 12 months if not acted upon;
 - b) **Submit** the Planning Proposal to the Department of Planning & Environment to request a ‘Gateway determination’.
 - c) **Encourage** the proponent to also lodge a development application for the proposed use to be considered and advanced alongside the Planning Proposal so that the adjoining
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- landowners/residents can get greater certainty on the proposed development outcome; and
- d) **Notify the NSW Roads & Maritime Service and the adjoining landowners/residents who participated in the early discussions surrounding this matter of this resolution.**
 - e) **Should the planning proposal be approved a subsequent DA not be dealt with under delegated authority and be brought to the Council for consideration in relation to the right of way on the site.**

The further amendment was taken on by the mover and seconder of the motion.

MOTION:

Moved: Wells / Second: Kearney

That Council:

- a) **Support a Planning Proposal over 5C Creston Grove, Bomaderry that enables the proposed boat and merchandise showroom and associated office space via a suitably worded inclusion in Schedule 1 (Additional Permitted Uses) of Shoalhaven Local Environmental Plan (LEP) 2014 that “sunssets” in 12 months if not acted upon;**
- b) **Submit the Planning Proposal to the Department of Planning & Environment to request a ‘Gateway determination’.**
- c) **Encourage the proponent to also lodge a development application for the proposed use to be considered and advanced alongside the Planning Proposal so that the adjoining landowners/residents can get greater certainty on the proposed development outcome; and**
- d) **Notify the NSW Roads & Maritime Service and the adjoining landowners/residents who participated in the early discussions surrounding this matter of this resolution.**
- e) **Should the planning proposal be approved a subsequent DA not be dealt with under delegated authority and be brought to the Council for consideration in relation to the right of way on the site.**

CARRIED

FOR: Tribe, Robertson, Kearney, Anstiss, White, Wells, Baptist, Findley, Watson, Kitchener, Gash

AGAINST: Guile

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 28 JUNE 2016

PLANNING AND DEVELOPMENT

1. **Further Report - Planning Proposal (Rezoning) - 5C Creston Grove Bomaderry (Ride Australia)** **File 52920e**
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SECTION MANAGER: Gordon Clark.

PURPOSE:

Obtain direction on the Planning Proposal (PP) for 5C Creston Grove, Bomaderry and a possible way forward.

Note: this matter is reported direct to Council to enable its timely consideration given it was the subject of a previous report and resolution.

RECOMMENDED, that Council:

- a) **Support a Planning Proposal over 5C Creston Grove, Bomaderry that enables the proposed boat and merchandise showroom and associated office space via a suitably worded inclusion in Schedule 1 (Additional Permitted Uses) of Shoalhaven Local Environmental Plan (LEP) 2014 that “sunsets” in 12 months if not acted upon;**
- b) **Submit the Planning Proposal to the Department of Planning & Environment to request a ‘Gateway determination’.**
- c) **Encourage the proponent to also lodge a development application for the proposed use to be considered and advanced alongside the Planning Proposal so that the adjoining landowners/residents can get greater certainty on the proposed development outcome; and**
- d) **Notify the NSW Roads & Maritime Service and the adjoining landowners/residents who participated in the early discussions surrounding this matter of this resolution.**

OPTIONS

1. **Adopt the recommendation - this is consistent with the previous resolution that sought to use Schedule 1 (Additional Permitted Uses) in this instance to facilitate the requested development outcome, with some limited future flexibility. Whilst this option does not remove previous concerns related to precedent and impact it is more manageable and limits the potential range of land uses and potential outcomes that**

could have arisen from a general zoning change (e.g. B5 Business Development zoning) and provides a time limit to take up the additional use.

2. Adopt an alternative resolution to support a PP that seeks to change the zoning of the land to a business zone to facilitate the requested development outcome. This option was largely detailed in the previous report and discounted due to the broader potential range of potential impacts that could follow.
3. Adopt an alternative resolution to not support a PP to facilitate the proposed use in this location. This would remove the potential concerns related to precedent and potential impact. However it is likely that this lot will continue to be problematic given its location next to the service station and the desire of the current owners to develop it for a high profile boat and merchandise showroom and associated office space that has been acknowledged by Council.

DETAILS

Background

This matter was triggered by the lodgement of a PP by Ride Australia to rezone 5C Creston Grove, Bomaderry to allow for a new commercial premises comprising of a boat and merchandise showroom with associated office space. The original PP sought to rezone the subject land from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development under Shoalhaven LEP2014.

- # The PP was reported to Councils Development Committee on 3rd May 2016 for initial consideration – see **Attachment “A”**.

Just prior to this matter being considered by the Development Committee, the proponents advised that they were willing to consider the inclusion of the property in Schedule 1 of the LEP with an additional permitted use that would provide for their desired development. Also prior to the meeting a number of submissions were also received from adjoining landowners raising concerns with the proposal.

The Development Committee resolved (under delegation) on 3rd May 2016 (MIN16.341) that:

- a) *Consideration of the Planning Proposal be deferred to allow:*
 - i) *A further report being provided to Council on the Proponents amended proposal and approach regarding the use of Schedule 1 of the LEP*
 - ii) *Council to consult with Department of Planning regarding the use of schedule 1 for the proposed rezoning.*
 - iii) *Council to further consult with Roads and Maritime Services given the scale and activity of the proposed development*
 - iv) *Council and the proponent undertaking further consultation with the local residents*

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- b) *That Council write to MP Gareth Ward to advise him of Councils decision in relation to the proposal.*

Council in not accepting the previous staff report recommendation (ie. not to support the PP) and adopting the abovementioned resolution, have given direction to staff that a PP utilising a Schedule 1 clause should be pursued.

This report details the actions and outcomes in regard to this resolution and presents a possible way forward for Councils consideration.

Development Committee – Resulting Actions

The Member for South Coast, Gareth Ward MP was advised of the resolution in this regard in writing on 12th May 2016.

Department of Planning Consultation – The views of the NSW Department of Planning & Environment (DP&E) were sought regarding the possible use of Schedule 1 in this instance. Staff asked the following questions of the DP&E and received the following responses (in italics):

- What would the view of the DP&E be on the use of a Schedule 1 inclusion in the LEP in this circumstance?
Not appropriate to pre-empt our position on a specific proposal. While the Department would prefer to see the most appropriate zone applied, the Department would be willing to consider the use of schedule 1 if this can be justified by Council. It may be the case that Council believes that no new zone is suitable for the site due to the range of uses permitted, but the use proposed would be appropriate and therefore the use of schedule 1 is justified.
- If a Schedule 1 is likely to be considered is it possible to:
“Sunset” the provision? For example if the proposed use is ultimately approved, but it discontinues, the reuse or redevelopment of the site could only be for a purpose consistent with the underlying residential zone?
Understand that it is possible to apply a limited time period to an additional use.
- Tailor the inclusion in schedule 1 whilst still using the dictionary definition, for example: “Business Premises, being a boat and merchandise showroom and associated office space”?
It is possible to tailor the Schedule 1 entry as described and these details should be included in the Planning Proposal.

Comments – The advice confirms that a Schedule 1 inclusion can be considered, but Council will need to justify its use when submitting a PP. The additional questions regarding ‘sun setting’ or tailoring the provision were sought so that they could be considered moving forward when constructing a possible Schedule 1 inclusion. Tailoring the provision and/or including a “Sunset” ability will be discussed later in the report.

NSW Roads and Maritime Services (RMS) Consultation – further feedback was sought from the RMS on the changed nature of the PP (possible use of Schedule 1) and

also whether a U-turn bay or roundabout as part of the future highway upgrading in this location would provide a better opportunity to manage safe access in this area in future. For context RMS were also advised of the questions that had also been asked on DP&E.

- # RMS provided written comments on 25th May 2016 - see **Attachment “B”**. In this letter it is noted that essentially the RMS view on the proposal has not changed and they still have strong concerns with the proposed use in this location, even with the proposed tightening of the LEP inclusion.

It is also noted in the letter that a U-turn treatment north of this site is currently the preferred option, but there is the potential for the preferred treatment to be adjusted during the development of the proposed highway upgrade. However RMS does not believe that it would be appropriate for a spot zoning change to influence broader network planning.

RMS concluded by advising that in the event that Council decides that it is appropriate to amend the LEP to allow the proposed use via Schedule 1 then there are a range of matters that need to be considered:

- Would support a tailored Schedule 1 inclusion which tightened the controls – limit the permitted uses as much as practical and restricting what can be developed beyond the life of a boat showroom.
- If a development application is lodged prior to the Berry to Bomaderry Princes Highway Upgrade then access needs to be constructed to RMS satisfaction. At a minimum the RMS would require: locating development wholly outside the SP2 zone; access located adjacent to the southern boundary; provision of kerb and gutter along the full frontage and pavement upgrading; and an appropriate right turn treatment on the Highway.

Comments – the further feedback received from RMS advises that their position has not changed and strongly raises concerns in relation to the PP, even with the possible utilisation of a tailored Schedule 1 inclusion. Ideally the RMS would not like to see the proposed change occur to provide for the proposed use. However they have advised that if Council wishes to pursue amending the LEP via an inclusion in Schedule 1 that there are detailed matters related to access that will need to be considered.

Local Residents Consultation – Council staff arranged to meet with adjoining landowners/residents and the proponents on 26th May 2016 to discuss the PP and possible adjustments to it to alleviate any concerns they may have prior to it being reported back to Council. Invitations were sent to the eight (8) property owners who immediately adjoin the site or make up Creston Grove.

Owners of four (4) properties attended the meeting and written advice was also received from the immediate owner to the north (1) and the tenant to the south (1) prior to the meeting advising that they supported the venture and their concerns had been alleviated.

At the meeting with the adjacent owners, staff provided an update on the status of the PP, explained the Gateway process and likely timing and also discussed the possibility of using Schedule 1 in this circumstance. The owners noted that the proponents had

discussed their plans with them. It was identified that the three main concerns arising from the previous submissions received by Council related to:

- Access
- Impact on amenity
- Design of development

There was a general acceptance at the meeting that the proposal in question is generally acceptable subject to the detail, however 'future proofing' the site was important. Specifically if a general business zoning was implemented then it could change through time into a less acceptable outcome. Thus, the use of a tailored Schedule 1 inclusion appears to be a more favourable way forward.

There was some criticism about the lack of notification from Council regarding the proposal. Staff outlined the PP process and that formal consultation is supposed to occur later in the process. The opportunity for further involvement moving forward was also discussed.

The ability to concurrently submit a development application for assessment alongside the PP was also discussed and there was general support for this as it provides an opportunity to see and comment on the detail associated with the proposal, noting that most of their interest relates to detailed aspects.

Comments – the meeting was positive and there does not appear to be concern regarding the proposal being put forward by Ride Australia. The residents concern primarily relates to what use or uses could eventuate on the site in the future under a broader business zone. This should be able to be managed and minimised through the use of a Schedule 1 inclusion. The adjoining owners are obviously interested in the detailed aspects of the proposal related to access, impact on amenity (noise, hours of operation etc.) and the design of the development (e.g. landscaping, building scale etc.). Thus it was suggested that the proponents look at concurrently lodging a development application for the use to run alongside the PP so its detail can be seen and commented on. The proponents indicated that they were happy to consider this approach.

Key Issues

In considering moving this PP forward the following issues are relevant and are commented on below:

Precedent – there is still a concern that undertaking a PP in this location on the Princes Highway may trigger further requests of a similar nature in the future, particularly when the known highway upgrades are considered. However this has been somewhat lessened by the change of the PP from a general rezoning (to B5) to the possible use of a tailored Schedule 1 inclusion. This would see the underlying R2 Low Density Residential zone remain and an additional use added.

Schedule 1 Additional Use – the key will be identifying an additional use that can be added to Schedule 1 in the LEP that provides for the proponents development, which is tight enough to control impacts and also allows some level of flexibility should Ride Australia's operation cease or need to move.

Noting that use terms from the Standard LEP Instrument need to be used, but there is the ability to provide further detail on them, it was initially considered that the following wording could be used: “Business Premises, being a boat and merchandise showroom and associated office space”

This wording would limit the proposed additional use specifically to the one being sought by Ride Australia, however it would potentially constrain or limit any future reuse to a business related to boats. This lack of flexibility may be unduly limiting in the future.

The proponents have subsequently advised that they would be happy with a Schedule 1 inclusion that allows for “vehicle sales or hire premises”. This use is defined in the LEP as: “means a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there”.

They believe this definition will enable their current business to operate compatibly within the local context while allowing a scope for suitable uses to occupy the site in the future should their operations no longer require the site. While they cannot foresee this occurring, for financial reasons this definition offers them some security to the viability of the site.

The suggested use term would provide for their proposed operation and a range of similar display/sales operations, the potential for the servicing, repair etc. will need to be considered as this could potentially create amenity impacts. It is noted that the LEP contains separate definitions for “vehicle body repair workshop” and “vehicle repair station”, however the potential for servicing or repair functions to be carried out as an “ancillary” use will need to be further considered should the PP proceed.

The inclusion of a “Sunset” provision within the resulting LEP Amendment will require that the ability is acted on within 12 months. This provision provides a window within which the LEP provision is to be utilised and ensure the proponents act on the provision in a timely manner and the site is not ultimately left undeveloped and subject to further change.

Traffic Impact – the PP will need to be supported by an appropriate traffic impact statement that considers the various matters raised in the relevant advices from the RMS to date. In addition, should the development eventuate there are a range of works that will be required to provide safe access at the proponents cost.

It is noted that the current right of way of Creston Grove will be kept open to provide for any future residential development of the property consistent with the underlying R2 zone. However access to the proposed development sought by the PP should only be via the Princes Highway and the need to condition this should be considered as part of the subsequent development application.

Detailed Impacts – the detailed impacts of this proposal cannot really be managed in any detail within the PP. The matters that the adjoining residents are interested in relate to the detailed design and operation of the development. As such the proponents should be encouraged to lodge a development application for consideration and advancement alongside the PP so that the adjoining landowners/residents get greater certainty on the proposed development outcome.

Conclusion

Given the Council's non-acceptance of staff's previous report recommendation, it is clear that there is a desire to see some middle ground reached in regard to this PP that enables the specific development proposed by Ride Australia to eventuate and the potential broader impacts to be managed. The adjacent landowners are obviously also interested in specific outcomes related to the actual development that could impact on their amenity.

Thus whilst there is still no fundamental support from RMS to a PP in this location, it appears that there is acknowledgement that using an additional permitted use in Schedule 1 of the LEP to provide for the development would limit the potential impact of a change in zone. As discussed in the report there is a need to keep the use relatively narrow, but still provides some limited future flexibility for the proponents. The option to also encourage the proponents to concurrently lodge a development application also has merit as it will enable the adjoining landowners to see and comment on the detail of the proposal. The use of a "Sunset" clause may also help to ensure that the applicants are bona fide and the property is not on sold after any amendments to the LEP.

Whilst the views of DP&E have been sought on the use of Schedule 1 the PP will now need to be prepared and submitted to the Gateway for initial determination. This will determine the likely passage of this PP and Council will be kept advised in this regard.

FINANCIAL IMPLICATIONS:

The proponent has paid the initial PP lodgement fee in accordance with Council's Fees and Charges. Should the PP proceed then additional fees will be payable.

COMMUNITY ENGAGEMENT:

The surrounding landowners were advised of the receipt of the PP and it was made available on Council's website for viewing. Following the previous consideration of this matter, Council staff and the proponents met with landowners to discuss the proposal on the 26th May 2016. Should the PP proceed there will be additional opportunities for community comment.

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 MAY 2016

PLANNING AND DEVELOPMENT

ITEMS TO BE DEALT WITH UNDER DELEGATED AUTHORITY

1. **Planning Proposal (Rezoning) - 5C Creston Grove, Bomaderry (Ride Australia)**
File 52920E
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SECTION MANAGER: Gordon Clark.

PURPOSE:

Obtain direction on a Planning Proposal (PP) that has been received for 5C Creston Grove, Bomaderry.

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

- a) **Not support the Planning Proposal to rezone 5C Creston Grove, Bomaderry to B5 Business Development;**
- b) **Advise the proponent of this resolution and their options of a pre-Gateway review; and**
- c) **Notify the NSW Roads & Maritime Service and the NSW Department of Planning and Environment of this resolution.**
- d) **Council staff work with the proponent to identify potential sites that are appropriately zoned for the proposed use.**

OPTIONS

1. Adopt the recommendation - this is consistent with concerns identified in the report and the advice received from the NSW Roads and Maritime Service (RMS).
2. Adopt an alternative resolution to support a modified version of the PP that could enable the proposed use to be considered via an 'additional permitted use' in Schedule 1 of Shoalhaven Local Environmental Plan (LEP) 2014. This option would enable the proposed use on the site, but would limit development (if possible) to a boat showroom and associated uses. It is noted that RMS have raised concerns that this option would also create a precedent for incremental extensions of commercial zoned land along the highway.
3. Adopt an alternative resolution to support the PP as submitted. This option has the potential to create a rezoning precedent for land on the Princes Highway and create ribbon development along the highway. Given the RMS have objected to the

proposal, it is unlikely that the NSW Department of Planning and Environment (DP&E) would support the proposal in its current form.

DETAILS

Background

- # Council has received a PP from Ride Australia to rezone 5C Creston Grove, Bomaderry (as outlined in red in Figure 1) to allow a new commercial premises comprising boat and merchandise showroom with associated office space. A copy of the proponents PP will be available in the Councillor's room and on the Councillor's share point site prior to the meeting.

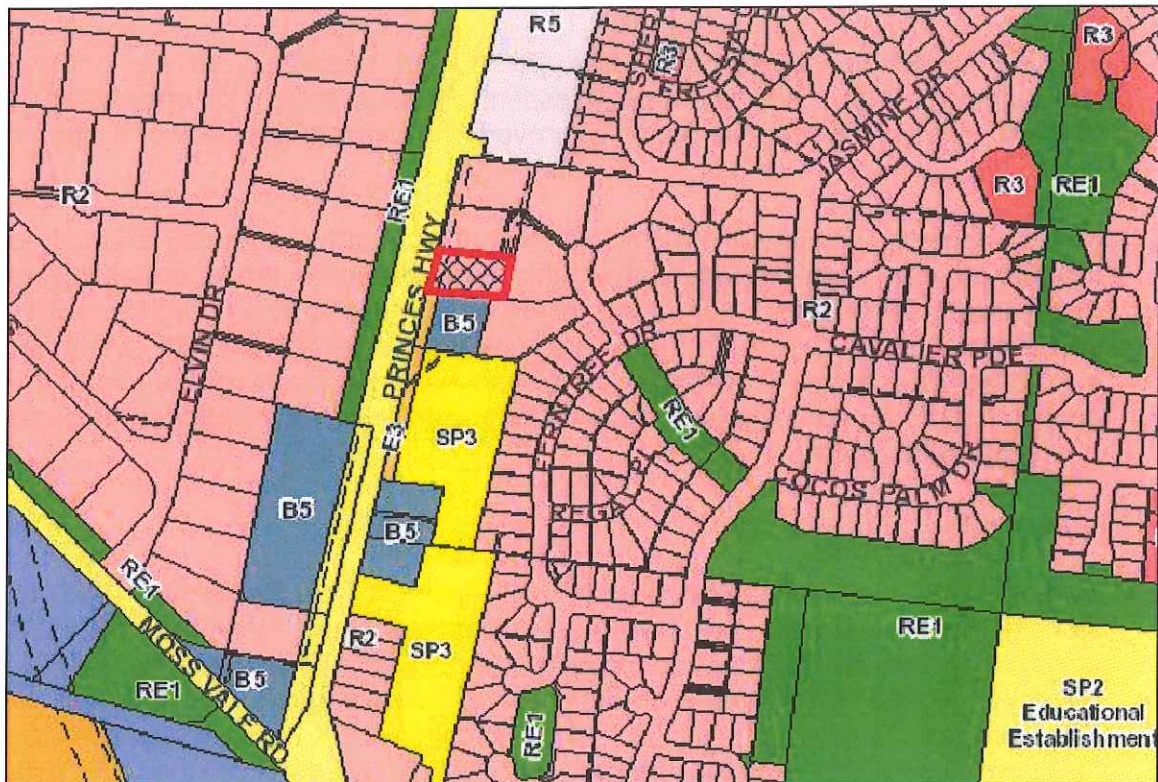


Figure 1 – Subject Lot and existing zones

Prior to receiving the PP, a pre-lodgement meeting was held between the proponent and Council staff. Staff advised that rezoning the subject land to allow for future commercial development has potential issues such as proximity to residential development and potential amenity impacts; precedent issues and establishment of ribbon development along the highway; access issues from the highway; potential land contamination issues; and justification, including whether there is an undersupply of business zoned land in the area. In addition, staff advised that should RMS not support the PP, it is unlikely that the PP would be supported.

- # The proponent also consulted RMS who provided advice on 18 February 2015 and 9 June 2015 that the PP would not be supported on access management principles, as well as precedent and potential to encourage further ribbon development along the

highway, which would contradict upgrades to the Princes Highway to optimise its future safety and efficiency. A copy of the RMS advice from 2015 is provided as **Attachment "A"**.

The PP was subsequently formally received on 15 February 2016.

Rezoning Proposal

The PP seeks to rezone the subject land from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development under Shoalhaven LEP 2014. The rezoning would extend the existing B5 Business Development zone that currently applies to the adjoining service station at 246 Princes Highway, to the south. The proponents PP states that the rezoning and subsequent commercial development will create a buffer between the existing service station and the surrounding residential areas, and provide an outcome that is more in keeping with the lands characteristics.

The PP seeks to address what the PP Report describes as an 'anomaly' issue surrounding the lot. An 'anomaly' is essentially an oversight or error where a current land use does not reflect the actual approved and existing land use or surrounding land uses.

The proponents PP Report argues that the subject land is a zoning anomaly due to its location adjacent to the service station which has resulted in the lot remaining unsold and undeveloped since it was zoned for residential purposes in Shoalhaven LEP 1985. It also states that the Site Audit Statement issued after the remediation of land **allows the site to be used for residential purposes** but with restrictions on the use of the land for growing plants for consumption, which is inconsistent with the large-lot residential nature of the current land use.

Comment

As part of the Citywide LEP a 'best fit' zone transfer from Residential 2(a3) to R2 Low Density Residential was applied to the subject land and a minimum lot size 4000m² in accordance with the established 'ground rules'. The adjacent service station site was previously zoned Residential 2(d) under the Shoalhaven LEP 1985 and was rezoned to B5 Business Development as part of Shoalhaven LEP 2014 in accordance with the 'ground rules' which required, in part that, "as far as practical the LEP include spot business zones that recognise existing use".

In this instance the R2 Low Density Residential zoning of the subject land is not considered to be an anomaly. The property has been zoned for residential purposes since the adoption of Shoalhaven LEP 1985 and 'commercial premises' have consistently been a prohibited use on the site since the Interim Development Order No. 1 in 1964. The Nowra-Bomaderry Structure Plan also identifies this area of Bomaderry as a 'living area'.

The PP Report also identifies the land use interface issue between the adjacent service station and residential development as one of the unique site characteristics which establish the suggested zoning anomaly. Whilst it is acknowledged that there are potential amenity, acoustic, lighting and odour impacts for residential development adjoining an existing service station, this does not however establish a zoning anomaly.

It is not unusual for service stations to share a common boundary with residential zoned land. A number of examples exist in Shoalhaven including the Shell Petrol Station at Queen Street, Berry; United Petrol Station at Larmer Avenue, Sanctuary Point; and the Caltex Petrol Station at Elizabeth Drive, Vincentia. The RMS have also provided similar advice in regard to other examples with their southern region.

In addition, the site has been remediated and a Site Audit Statement (SAS) issued certifying the land is able to be used for residential purposes with limitations on home-grown produce intake. The limitation is described in the SAS specifically as "minimal home-grown produce contributing less than 10% fruit and vegetable intake".

This is a large (3,345m²) block and therefore there is the ability to locate a dwelling in the northern part of the site and provide a substantial setback to the southern boundary. Mitigation measures such as erecting a shed between any potential dwelling and the southern boundary could be used to act as a buffer.

As such the lot is able to be developed for residential purposes consistent with the R2 zone. Ultimately the existing zone is not considered to be an anomaly.

Surrounding Neighbour Notification

Surrounding neighbours were informed of the PP and its intentions. In addition, the information submitted was made publicly available on Council's website for viewing.

At the time of writing, no submissions had been received.

Consultation with RMS

Given their prior involvement, Council notified RMS of receipt of the PP and sought their advice on it and specifically whether it addresses concerns previously raised by them on 18 February 2015 and 9 June 2015; and whether it is consistent with future planning of the Princes Highway, particularly with respect to the Berry to Bomaderry Highway Upgrade.

- # A detailed response was received from RMS on 12 April 2016 (see **Attachment "B"**). The advice states that the PP does not address the concerns raised in previous correspondence and on the basis of the information provided, objects to the PP as proposed and/or the inclusion of an allowance clause to allow the intended future use.

The issues raised in the RMS response relate to:

- The proposal is not consistent with plans for the future of the Princes Highway, in particular the Berry to Bomaderry Princes Highway Upgrade to optimise the future safety and efficiency of the highway for regional traffic movements. At this location, a central median is proposed with a turnaround facility to the north. It is vital that the traffic movements between the highway and properties at this location are minimised as much as possible. The current zoning and access arrangements for the land are considered appropriate.
- Wish to retain the portion of the land identified for Arterial Road Widening (SP2 Infrastructure). This will only be reconsidered following the completion of the Berry to Bomaderry Highway Upgrade.

- Does not share the view that it is a zoning anomaly. The development history of the property relates to a three lot residential subdivision where sound planning principles from a road network perspective were employed which resulted in a condition of consent and restriction-as-to-user that stipulated that “there shall be no access from the Princes Highway to Lots 391-393”. If access to the site was proposed via the Princes Highway, a referral to the RMS would have been required, in such circumstance RMS would have objected to the subdivision on the basis that it would create an unnecessary conflict point with a State road which is inconsistent with the RTA Guide to Traffic Generating Developments (RTA Guide), and after 1 January 2008, inconsistent with State Environmental Planning Policy (Infrastructure) 2008 (SEPP Infrastructure).
- The rezoning will create a precedent for incremental extension of commercially zoned land to the north of Bomaderry which would have significant impacts for traffic and access management along the Princes Highway. Commercial development would generate significantly more traffic than the existing low density residential development to the north of the subject site. The same precedent for incremental extensions of commercial zoned land exist should an allowance clause be pursued to permit only the intended future use.
- The B5 Business Development zone allows for a range of permissible uses with more intensive forms of traffic generating development and there is no guarantee that the proponent will carry out the intended future use. The intended future use and other permissible uses would compromise plans to optimise the future safety and efficiency of the Highway.
- Accept that access off Creston Grove would not be suitable for a commercial use however do not accept that the alternative option (access from Princes Highway) addresses the intentions of clause 101(2)(a) of the SEPP. Satisfied that practical vehicular access is available via Creston Grove for the current zone.
- It is common for residential properties to be located adjacent to service stations, whilst it may be undesirable, it is inevitable that this will occur in infill areas. A desktop study was completed to support this analysis and provided as an attachment to the advice.
- The Traffic Statement submitted has not adequately addressed clause 101(2)(a) of the SEPP Infrastructure and the traffic analysis used is not supported by RMS.

Relevant Strategies, Policies and Ministerial Directions

Illawarra-Shoalhaven Regional Plan (ISRP)

The ISRP is a high level strategic planning document which currently applies to Shoalhaven. The ISRP addresses the provision of suitable land for employment and housing needs. While the ISRP applies to Shoalhaven, it does not contain any specific provisions related to the subject land. As such the PP is not inconsistent with the broad goals of the ISRP.

Nowra Bomaderry Structure Plan (NBSP)

The NBSP provides a framework for growth and development opportunities in the Nowra-Bomaderry area. The NBSP identifies the area where the subject site is located in Bomaderry as an ‘existing living area’. The intended future commercial use is inconsistent with this. The NBSP also outlines a preferred commercial hierarchy that aims to support existing and proposed centres in the Nowra-Bomaderry area, and this

site is not identified as an existing or proposed commercial area. Therefore the PP is considered to be inconsistent with the NBSP.

State Environmental Planning Policies (SEPPs)

The SEPP Infrastructure and SEPP 55 – Remediation of land apply to this PP. The PP is not inconsistent with SEPP 55, however RMS in their advice have identified that the future development of the site would be inconsistent with clause 101(2)(a) of SEPP Infrastructure.

Section 117 Directions

The PP is potentially inconsistent with the following 117 directions:

Direction 1.1 Business and Industrial Zones - the subject site is outside a strategic centre and as a result is potentially inconsistent with the objectives of this Direction.

Direction 3.1 Residential Zones - rezone land from residential to business has the potential to reduce housing choice and residential land availability. It is however acknowledged that this inconsistency is of a minor nature.

Direction 3.4 Integrating Land Use and Transport - precedent for subsequent ribbon development along the Highway has the potential to create a new business/service centre and dispersing trip-generating development. This is potentially inconsistent with this direction.

Key Issues

Traffic Impact and Access Issues

Whilst it is noted that the visits to the proposed development would be by appointment only the rezoning has the potential to create traffic impacts on the Princes Highway as the largely commercial / light industrial uses permissible in the proposed zone would require access via the highway.

The Traffic Statement submitted with the PP states that the proposed development will not compromise the effective ongoing operation and function of a classified road. RMS has identified some concerns with the traffic statement, as highlighted earlier.

RMS has advised that further commercial development in this location would have an impact on the highway and contradict future plans to optimise future safety and efficiency of the highway. These concerns relate to the creation of an unnecessary conflict point on a state road which is inconsistent with the RTA Guide and inconsistency with clause 101(2)(a) of SEPP Infrastructure.

Further traffic impacts could occur as a result of the proposed Berry to Bomaderry highway upgrade and the construction of a central median strip at this point on the highway. The proposed median strip will impede right-hand turns into the site, creating potential for an increased number of U-turns performed at the designated (proposed) U-turn bay to the east of highway south of Abernathy's Lane.

The traffic statement submitted by the proponent states that as the future intended development would not be classed as traffic generating development, no referral to the RMS would be required. However, the RMS would be a concurrence authority under

Section 91 of the *Environmental Planning and Assessment Act 1979* and an approval would be required from RMS as the road authority under Section 138 of the *Roads Act 1993*. Given the concerns raised by RMS in relation to the PP, there is potential that they may not issue a concurrence for future development on the site.

Precedent and subsequent ribbon development

The proposed rezoning has the potential to create a precedent for future rezoning proposals further north along the highway. Should Council resolve to support this PP, it has the potential to generate interest to rezone further properties to the north and essentially create ribbon development, similar to South Nowra, particularly as a result of the planned highway upgrades ultimately to Bomaderry.

The PP Report states that the proposal would not set a precedent as it is the only undeveloped residential land in the immediate neighbourhood that has a direct boundary with the service station and that the individual site constraints set it apart from others.

Whilst other sites further north may not share a boundary with the existing service station that has a commercial zone, there are other existing large lots with relatively low capital investment that could use similar arguments to justify a rezoning as a minor extension of the existing business zone nearby. This could result in ribbon development along the highway and would be inconsistent with the RTA Guide which states that roads should provide a service to existing and planned development rather than promoting inappropriately located development. The justification given in the PP Report for the purchase of this land was related to its exposure to the highway regardless of its zoning for residential purposes. Thus the proponents were aware of its residential zoning and contamination issues when they purchases the land. It is considered that the intended future use and flow on potential for further ribbon development is an example of inappropriately located development.

RMS strongly believe that ribbon development along the highway would generate significantly more traffic than the existing low density residential development. The impact of potential ribbon development would also unnecessarily compromise plans to optimise the future safety and efficiency of the highway for regional traffic movements.

The proponent provided subsequent advice suggesting that Council have previously undertaken rezoning of similar properties at 149 and 151 Larmer Avenue, Sanctuary Point and therefore should support this proposal on the same basis. Whilst the nature of the rezoning at Larmer Avenue is similar as it is an extension of an existing B5 Business Development zone related to a service station, the concerns here relate to the fact that the subject land is located on a classified (state) road, whereas Larmer Avenue is a local road and the rezoning in that circumstance sought to improve the safety and operation of an existing service station.

Amenity Impact

Rezoning the subject land to B5 Business Development has the potential to open the site up to land uses with greater amenity impacts than those permitted within the R2 Low Density Residential zone. Whilst a commitment has been made by the proponent to deliver their intentions on the subject site, a PP does not have the ability to securely deliver a specific outcome.

The proximity of the subject land to residential land has the potential to create amenity impacts. The range of permissible uses within the B5 zone could generate odour, acoustic, lighting and other impacts on existing adjacent dwellings; these would typically be considered in detail as part of any future development application.

Supply of appropriate zoned land

The PP Report states that there was no other appropriate sites for purchase for the intended future use except for the subject land. The site was considered to meet their requirements in terms of being for sale; based in Bomaderry, Nowra or South Nowra; and have good / direct Princes Highway exposure and access. The criteria for purchase did not take into consideration whether the land was appropriately zoned. The purchase of the land on the basis that Council would support an ad hoc rezoning to suit their development intentions is inconsistent with Council's endorsed PP (Rezoning) Guidelines.

Advice was provided prior to the lodgement of this PP that there is existing appropriately zoned land in suitable locations for this type of development. In addition, there are a number of properties which meet the above criteria and are suitably zoned for the future intended use. An example of a block of land sold around the same time as the subject site is Lot 7 Princes Highway, Bomaderry (previous Plants Plus) which is currently zoned B5 Business Development.

Council is supportive of employment generating land uses in appropriately zoned and located areas within Shoalhaven, therefore Council staff will work with the proponent to identify potential sites suitable for the boat showroom and associated office space should the rejection of the submitted PP be supported.

Conclusion

The PP seeks to rezone 5C Creston Grove from R2 Low Density Residential and SP2 Infrastructure to B5 Business Development to permit commercial premises for a boat and merchandise showroom with associated office space.

As detailed the requested rezoning has the potential to result in a number of impacts due its location on a classified (state) road, including but not limited to traffic impact, precedent (subsequent ribbon development along the highway) and amenity impacts. The proposal is also potentially inconsistent with existing Section 117 Directions. Thus it is recommended that the PP not be supported.

FINANCIAL IMPLICATIONS:

The proponent has paid the initial PP lodgement fee in accordance with Council's Fees and Charges.

COMMUNITY ENGAGEMENT:

Council notified surrounding landowners of receipt of the PP and made the information submitted available on Council's website for viewing. At the time of writing, no submissions were received.

Tim Fletcher
DIRECTOR PLANNING & DEVELOPMENT SERVICES

R.D Pigg
GENERAL MANAGER

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



Transport
Roads & Maritime
Services

18 February 2015

Matthew Lennartz
mattlennartz@gmail.com

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

Dear Sir

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

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

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

In addition, RMS provides the following information as requested:

Advice regarding access design

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

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

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

Roads & Maritime Services

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

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

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

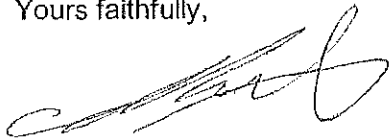
Advice regarding a future bypass of Bomaderry

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

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

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

Yours faithfully,



Chris Millet
Manager Land Use
Southern Region

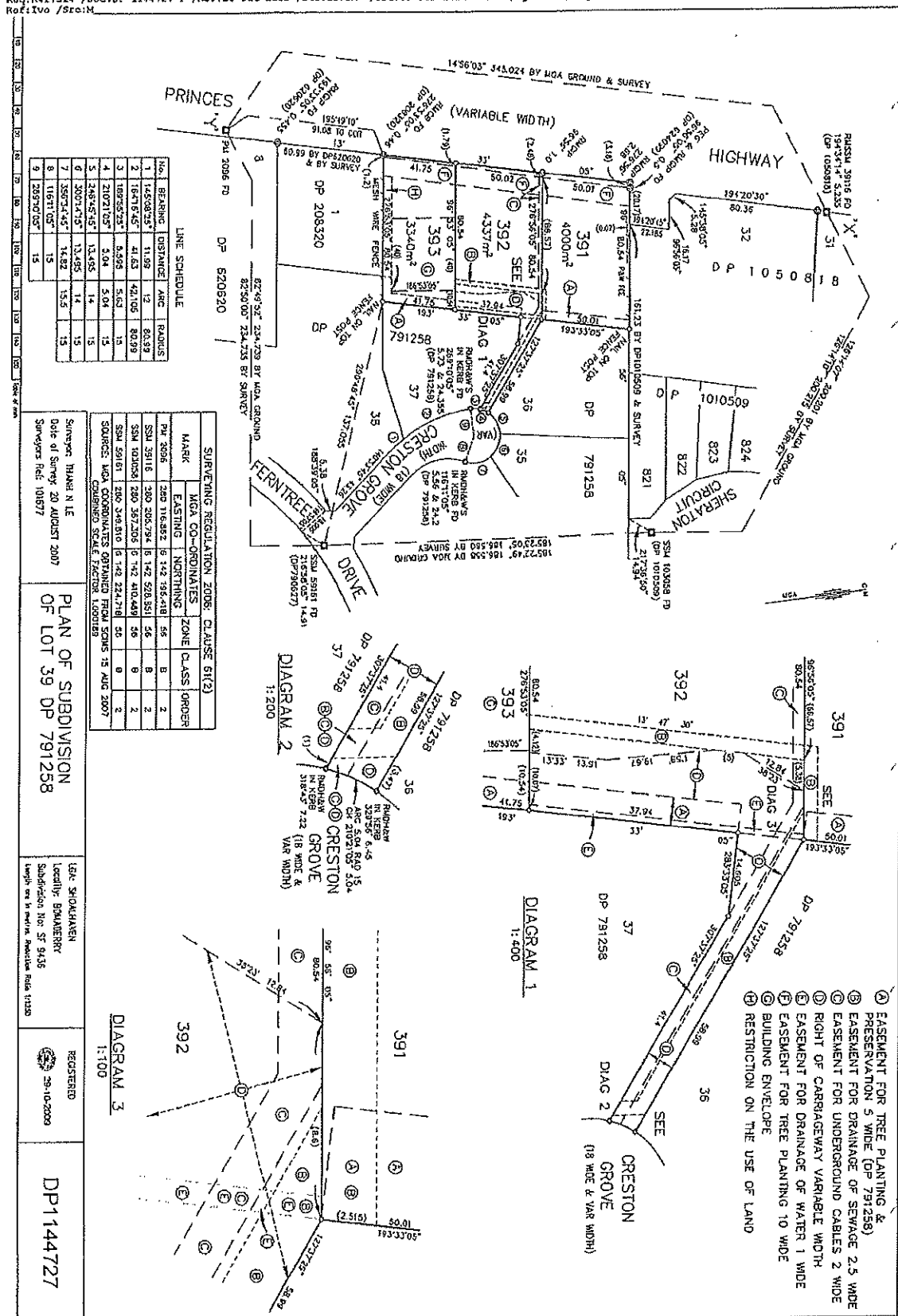
18/2/15

PLAN FORM 2

WARNING: CREAMING OR FOLDING WILL LEAD TO REJECTION

021144727

Sheet 1 of 1 sheets



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

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

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Chris Millet', with a long horizontal flourish extending to the right.

for Chris Millet
Manager Land Use
Southern Region

Cc: Council@shoalhaven.nsw.gov.au

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



Transport
Roads & Maritime
Services

9 June 2015

Mr Matthew Lennartz
mattlennartz@gmail.com

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

Dear Sir,

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

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

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

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

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

Roads & Maritime Services

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



Transport
Roads & Maritime
Services

12 April 2016

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

PLANNING PROPOSAL – 5C CRESTON GROVE, BOMADERRY

Dear Sir

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

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

The following comments are provided for your consideration:

Highway upgrade

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

Property

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

Roads & Maritime Services

History

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

Precedence

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

Potential for a change of use

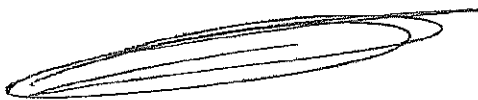
- RMS notes and accepts that the owner of the land intends to utilise the land for a boat show room and office.
- RMS recognises that once the land is rezoned there is no guarantee that the site would be occupied by the proposed boat show room and office. The proposed commercial zoning of the subject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

A boat showroom and office

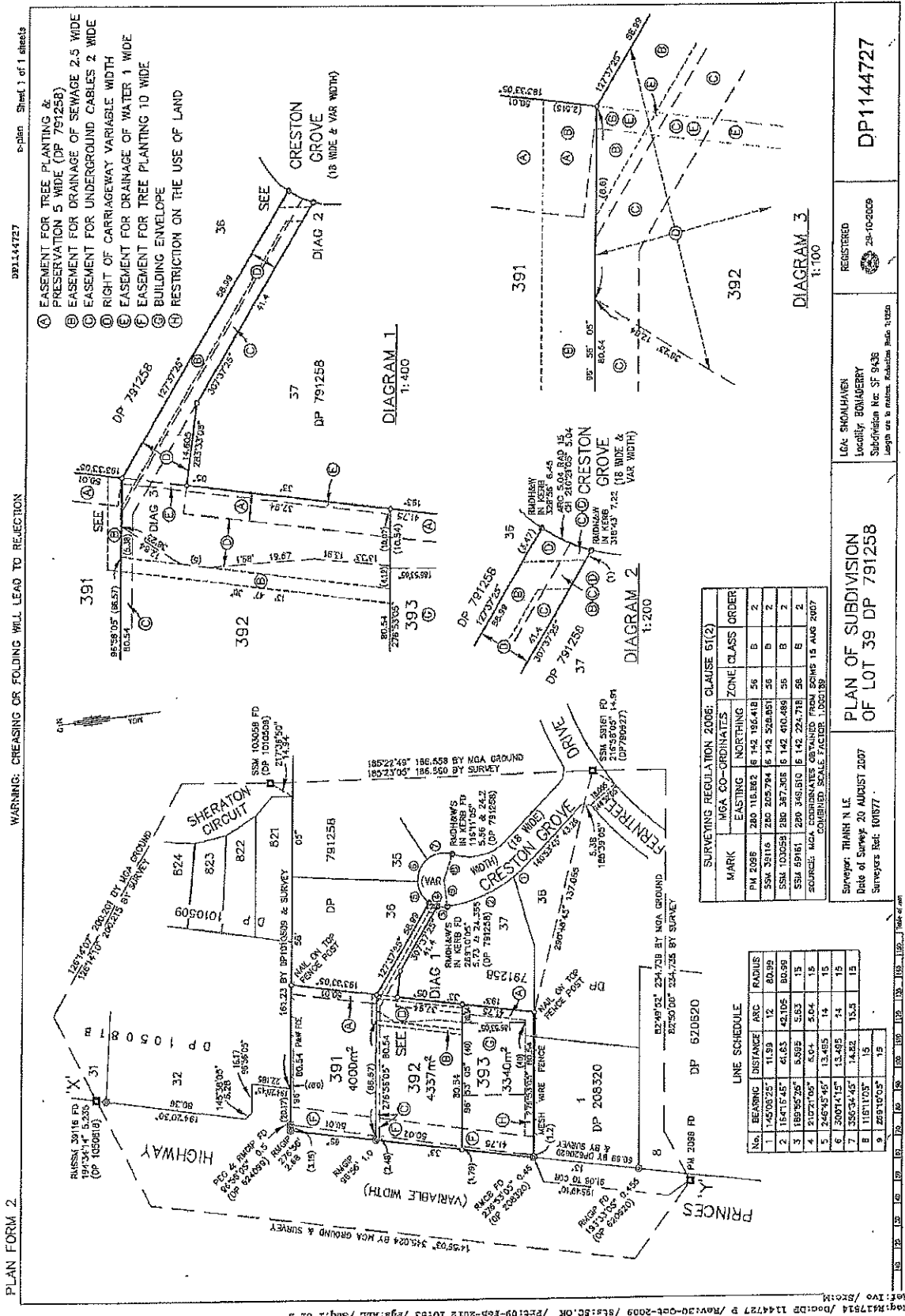
- Notwithstanding RMS' concerns relating to precedence and change of use, RMS does not consider it appropriate to rezone the land, or make amendments to the provisions in the LEP (such as the discussed allowance clause) to allow a boat showroom within the current zoning.
- Allowing direct access to the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

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

Yours faithfully,



Adam Berry
Manager Network & Safety
Southern Region



Location: Westside Petroleum, Parkes St, Helensburgh



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



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



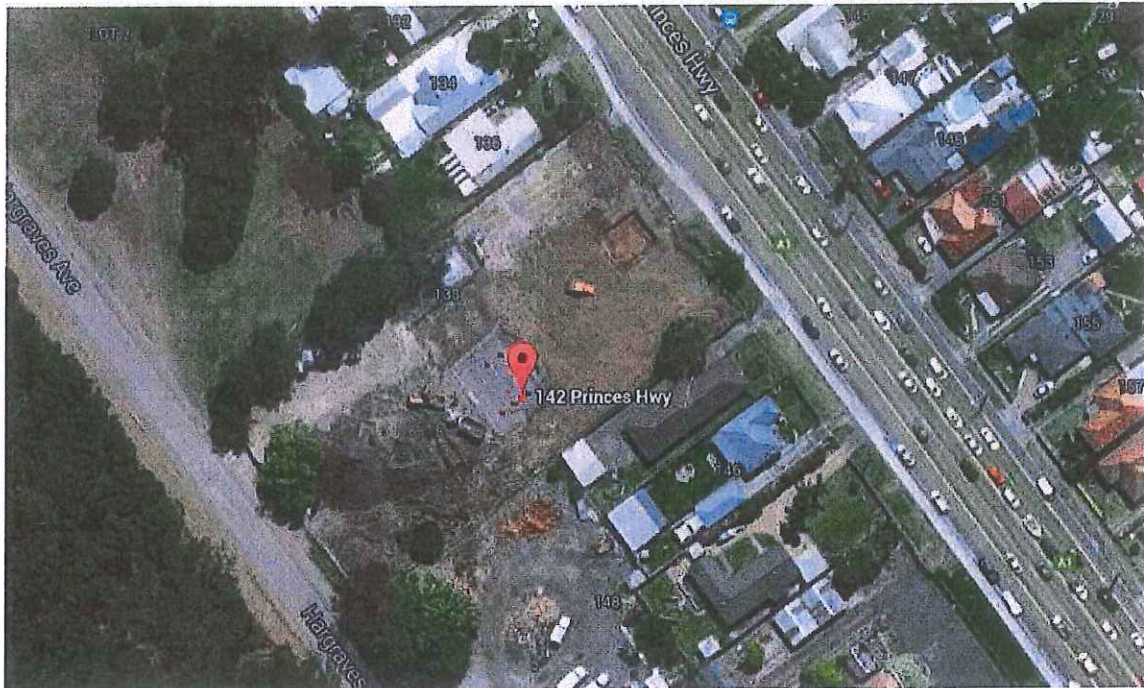
Location: Enhance Petrol Station, Princes Hwy, Albion Park Rail



Location: Shell Petrol Station, Princes Hwy, Corrimal



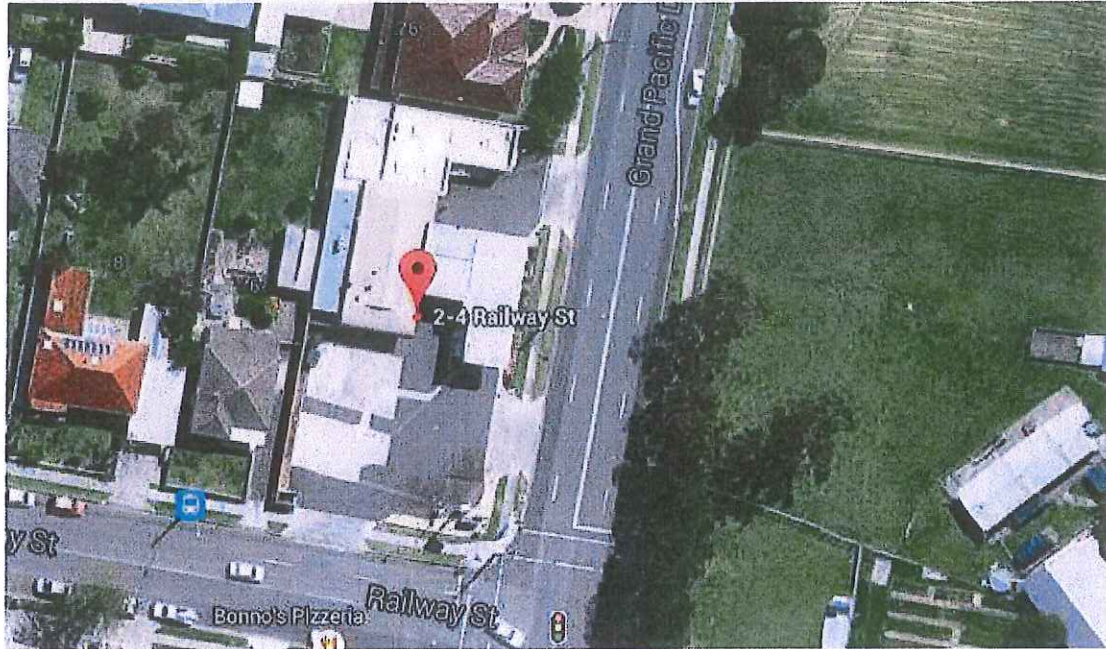
Location: 7-Eleven, Princes Hwy, Albion Park Rail



Location: Caltex Oil, Princes Hwy, Fairy Meadow



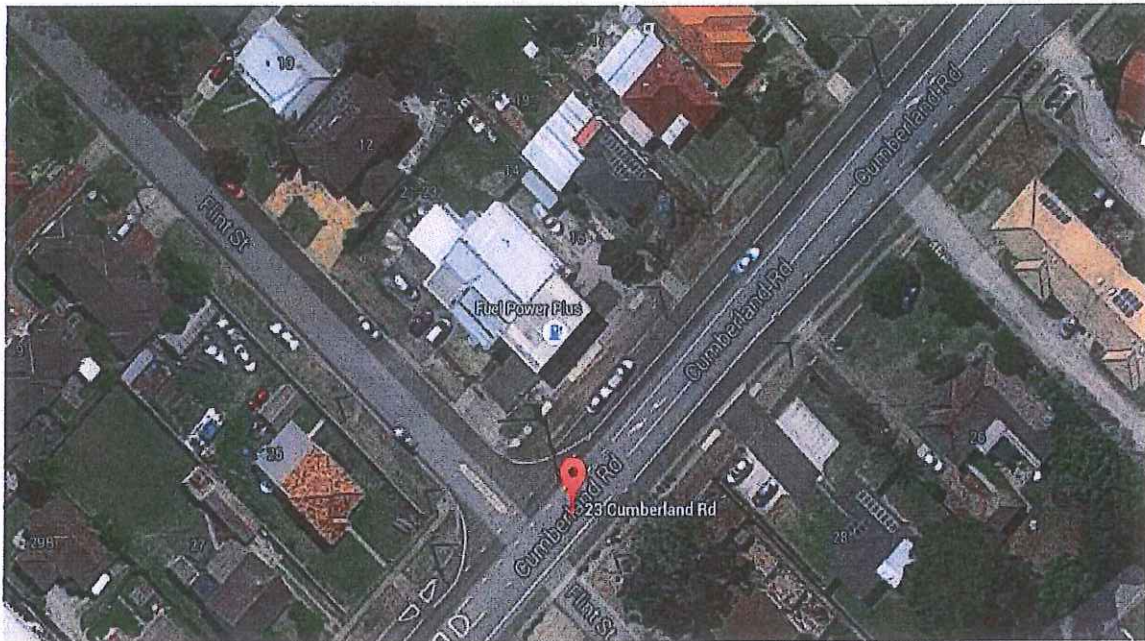
Location: Caltex, Railway St, East Corrimal



Location: Speedway Petrol Station, Hawkesbury Road, Westmead



Location: Fuel Power Plus, Cumberland Rd, Ingleburn



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

25 May 2016

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

PLANNING PROPOSAL – 5C CRESTON GROVE, BOMADERRY

Dear Gordon

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- RMS would support the use of a tailored Schedule 1 inclusion which tightened the controls. In this regard, RMS would support limiting the permitted uses as much as practical and restricting what development can occur beyond the life of a boat showroom.
- Should a development application be lodged on the site prior to the construction of the Berry to Bomaderry Princes Highway Upgrade, RMS would require the access with the Princes Highway to be constructed to RMS' satisfaction. While the treatments would depend on the traffic generation and distributions, at a minimum, RMS would require the following:
 - The development to be located wholly outside of the land zoned Arterial Road Widening (SP2) on Shoalhaven Local Environmental Plan 2014.
 - The access would need to be located adjacent to the southern boundary of the site.
 - Kerb and gutter would need to be provided across the full frontage of the site located a minimum of 6.5m from the existing centre line of the Princes Highway and consistent with adjacent development. The pavement would need to be upgraded.
 - At a minimum, the right turn treatment would need to comply with a Basic Right turn treatment (BAR), however the treatment would need to be determined based on traffic generation, distributions and the *Warrants for Ba, AU and CH Turn Treatments* outlined in Section 4.8 of *Austrroads Guide to Road Design – Part 4A; Unsignalised and Signalised Intersections*. RMS notes these requirements are consistent with the methodology used to

Ordinary Meeting-28 June 2016 - Item 27

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

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

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

Yours faithfully



Adam Berry
Regional Manager
Southern Region