

Planning Proposal (PP003) - Shoalhaven LEP 2014 Housekeeping Amendment - Stage 2

Proposal Title : **Planning Proposal (PP003) - Shoalhaven LEP 2014 Housekeeping Amendment - Stage 2**

Proposal Summary : **The planning proposal is the second part of housekeeping amendments to the Principal Shoalhaven LEP 2014 and intends to improve the operation and accuracy of the plan by:**

- **correcting various minor errors and oversights in the heritage mapping overlay;**
- **correcting grammatical anomalies in Schedule 5 – Environmental heritage;**
- **including 'light industries' as permitted with consent in the RU5 Village Zone;**
- **removing 'restricted premises' as a prohibited use for the B2 Local Centre, B3 Commercial Core, and B4 Mixed Use zones.**
- **Correcting various minor mapping errors and oversights; and**
- **Updating mapping arising from various Roads and Maritime Service land acquisitions for the Berry Bypass.**

PP Number : **PP_2015_SHOAL_004_00**

Dop File No : **15/09259**

Proposal Details

Date Planning Proposal Received : **04-Jun-2015**

LGA covered : **Shoalhaven**

Region : **Southern**

RPA : **Shoalhaven City Council**

State Electorate : **KIAMA
SOUTH COAST**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Various (refer to planning proposal for detailed list of affected land)**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Various (refer to planning proposal for detailed list of affected land)**

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Southern Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes : **The Shoalhaven Local Environmental Plan 2014 was notified on 8 April 2014 and legally commenced on 22 April 2014. The plan consolidated previous planning controls into one local environmental plan and also transitioned existing controls into the NSW Government's Standard Instrument Local Environmental Plan format.**

As part of the completion and also since the Shoalhaven LEP 2014 has been in force, Council has identified a number of housekeeping type changes or adjustments that are needed to improve the operation and accuracy of the plan.

This is the second of four proposed housekeeping planning proposals that Council proposes to prepare, namely:

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Stage 1 (PP008) inserts 'shop top housing' and 'serviced apartments' as permitted with consent in the B3 Commercial Core Zone and inserts a provision to enable the subdivision of split zoned land to create a residue lot that is smaller than the minimum lot size. This planning proposal received a Gateway determination on 9 January 2015 and is currently with the Parliamentary Counsel's Office to draft a Local Environmental Plan.

Stage 2 (PP003), this planning proposal, includes all of the heritage map and heritage schedule changes, Land Use Table changes and the majority of the minor mapping changes.

Stage 3 (PP011) will include policy changes, rezoning, and more complex mapping changes; and

Stage 4 (PP012) will update the flood mapping for Broughton Creek, St Georges Basin, Lake Conjola, and Burrill Lake.

External Supporting
Notes :

As part of the completion and also since the Shoalhaven LEP 2014 has been in force, Council has identified a number of housekeeping type changes or adjustments that are needed to improve the operation and accuracy of the plan.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The statement of the objectives is as follows:

- correct errors in Schedule 5 – Environmental Heritage and the associated map overlays made during the drafting of Shoalhaven LEP 2014;
- Include 'light industries' as permitted with consent in the RU5 Village Zone;
- remove 'restricted premises' as a prohibited use for the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones (it is currently listed as both permitted with consent and prohibited in these zones);
- correct various mapping errors made during the drafting and finalisation of the Shoalhaven LEP 2014 and ensure the mapping related to the Berry Bypass is accurate.

It is considered that the statement of the objectives is adequate and meets the Department's guide to preparing planning proposals.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :

The planning proposal provides a detailed table explaining each of the 80 proposed minor amendments to provisions of the Shoalhaven LEP 2014 to achieve the stated objectives, namely:

- 59 largely administrative corrections to Schedule 5 – Environmental heritage, Part 1 Heritage Items such as correcting property descriptions or descriptions of heritage items;
- 4 minor changes to land use tables such as including "light Industries" as permitted with consent in the RU5 Village Zone;
- 17 administrative mapping corrections such as to the Urban Release Area Map for Moss Vale Road North to ensure consistency with the relevant zoned areas. Many of the mapping changes relate to changes required due to changes in cadastre, or through road acquisitions by Council or Roads and Maritime Services.

It is considered that, with the following two exceptions, the explanation of provisions is

adequate and meets the Department's guide to preparing planning proposals.

The two exceptions are the proposal to change the heritage significance in Schedule 5 of the Shoalhaven LEP 214 for two existing heritage items, namely the Bundanon - homestead including outbuildings and natural landscape (item 215) which the proposal seeks to change from 'local' to 'State' significance and the Nowra General Cemetery (item 361) whose significance was accidentally left blank in the notified Shoalhaven LEP but the proposal now seeks to change to 'State' significance.

It is, however, noted that neither the Bundanon - homestead or the Nowra General Cemetery heritage items are currently listed on the State Heritage Register as a State Heritage item. Listing on the State Heritage Register as a State Heritage item is required for the listing of an item as having 'State' significance on Schedule 5 of an LEP.

Council was requested to reconsider the request for State listing of these two items and on 11 June 2015 confirmed that it was willing to list the Cemetery as an item of Local significance and retain the listing of Bundanon as Local significance.

It is recommended that the proposed changes to the heritage significance of the two items are reflected in the planning proposal prior to exhibition.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.1 Business and Industrial Zones
1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
2.4 Recreation Vehicle Areas
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
5.2 Sydney Drinking Water Catchments**

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 1—Development Standards
SEPP No 21—Caravan Parks
SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
SEPP No 33—Hazardous and Offensive Development
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008
Drinking Water Catchments Regional Environmental Plan No. 1
SEPP (Affordable Rental Housing) 2009**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Section 117 Directions:

Direction 1.1 Business and Industrial Zones:

Council has identified that the Direction applies to the planning proposal because the planning proposal seeks to alter existing or proposed business or industrial zones, namely the addition of restricted premises as a permissible landuse in the B2, B3 and B4 zones (refer pp 48-49 of planning proposal). The planning proposal, however, states that it is consistent with the Direction because it achieves the requirements set out under section 4 of the Direction including the achievement of the objectives of the Direction. Council's view is supported.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

Direction 1.2 Rural Zones:

Council has identified that the Direction applies to the planning proposal because it affects land within an existing or proposed rural zone, notably the:

- proposed addition of light industries in the RU5 Village Zone (p.47 of planning proposa);
- mapping changes to rural land acquired for the purposes of the Berry Bypass (pp57-62); and
- correcting the urban zone boundary on Lot 4 DP 834440 56 Scott Street, Shoalhaven (p.63).

The Planning Proposal states that it is consistent with the Direction because it does not rezone land from a rural zone to other zones or seek provisions that will increase the permissible density of land within a rural zone. It is noted that the planning proposal would result in a minor reduction of rural zoned land such as to reflect change in land use as a result of the Berry Bypass acquisitions and loss of rural land at Scott Street, Shoalhaven Heads. It is, however, considered that these reductions in rural zoned land are of a minor significance. Council has also advised that the Roads and Maritime Service has advised Council of their land acquisitions for the Berry Bypass, the mapping changes are administrative only, and that no further consultation is proposed with RMS.

Recommendation: the Secretary's delegate can be satisfied that any inconsistency of the planning proposal with the Direction is of minor significance.

1.5 Rural Lands:

Council has identified that the Direction applies to the planning proposal because the proposal would affect land within an existing or proposed rural or environmental zone and is proposing to change the existing minimum lot size on land within a rural or environmental protection zone such as:

- changes to Land Reservation Acquisition, Land Zoning and Lot Size Maps to reflect rural land that has been acquired for the purposes of the Berry Bypass.
- changes to Lot Size Maps to correct errors associated with Clause 4.2B 'Subdivision of certain land in Zone RU1, zone RU4, Zone R5 and Zone E4' (p68).

The Planning Proposal states that it is consistent with the Direction because it is consistent with the Rural Planning and Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008. Council's view is supported.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

2.1 Environmental Protection Zones:

Council has identified that the planning proposal does not apply as it does not propose to change any environmental protection zones. It is, however, noted that it is proposed to change the zone of a narrow slither of Crown land located along Currarong Road, Currarong, that has been acquired by Council for the purpose of sewer and water infrastructure, from E1 National Parks and Nature Reserves to SP2 Infrastructure (p53-54). It is considered, however, that any inconsistency with the Direction is of minor significance. Council has also advised that the National Parks and Wildlife Service is fully aware of the land acquisition, the proposed mapping changes are administrative only, and that no further consultation with NPWS is required.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal's inconsistency with the Direction is of minor significance.

2.2 Coastal Protection

Council has identified that the planning proposal is consistent with the Direction because it is consistent with the NSW Coastal Policy, Coastal Design Guidelines and the Coastline Management Manual. Council's view is supported.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

2.3 Heritage Conservation:

Council has identified that the planning proposal is consistent with the Direction because it will not significantly affect heritage provisions in the current Shoalhaven LEP 2014. Council's view is generally supported. It is also noted that the proposed changes are generally administrative corrections to property descriptions of listed items.

As mentioned previously, Council proposed to change the significance of the Bundanon Homestead and the Nowra General Cemetery to State significance, based on Council's assessment of the heritage significance of these items. The items are, however, not currently identified on the State Heritage Register, which is the requirement for identification as having State heritage significance in an LEP. It is considered that the appropriate significance for the heritage items, at this stage, is 'local'. Council has reviewed its proposal concerning these two heritage items and now wishes to list the items as 'local' significance. Council could consider nominating the items for State heritage listing under the NSW Heritage Act.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

2.4 Recreational Vehicle Area:

Council has identified that the planning proposal is consistent with the Direction. Council's view is supported.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

3.1 Residential Zones:

Council has identified that the Direction applies to the planning proposal because it affects land within an existing or proposed residential zone, notably:

- corrections to the Urban Release Area Map to accurately reflect the Moss Vale Road Urban Release Area identified on the relevant Land Zoning Map (p51).
- Height and FSR changes to two lots in the Ulladulla Town Centre (p55).

- Minor correction to the urban zone boundary at 56 Scott Street, Shoalhaven Heads.

The Planning Proposal states that it is consistent with the Direction because it supports the intent of the Direction including encouraging the provision of housing, makes more efficient use of existing infrastructure and services and reduces the consumption of land for housing and development on the urban fringe. Council's view is supported. It is noted that the proposal will improve the operation and efficiency of the Shoalhaven LEP including the provision of new urban development.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

3.4 Integrating Land Use and Transport

Council's view that the proposal is consistent with the Direction is supported for reasons provided or any inconsistency is likely to be of minor significance.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction or any inconsistency is likely to be of minor significance.

4.1 Acid Sulphate Soils

Council's view that the proposal is consistent with the Direction is supported for reasons provided.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

4.4 Planning for Bushfire Protection

Council's view that the proposal is consistent with the Direction is supported for reasons it has provided including that the proposal does not propose development and the LEP was prepared having regard to Planning for Bushfire Protection.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

5.1 Implementation of Regional Strategies

Council's view that the proposal is consistent with the Direction is supported due to the minor nature of the proposed amendments.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

5.2 Sydney Drinking Water Catchment

Council's view that the proposal is consistent with the Direction is supported for reasons provided.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is consistent with the Direction.

State Environmental Planning Policies:

The planning proposal identifies that 16 SEPPs apply and that it is not inconsistent with any of these. Council's view is supported.

Recommendation: the Secretary's delegate can be satisfied that the planning proposal is not inconsistent with applicable SEPPs.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal seeks a large number of changes, largely of a minor nature, to a large number of LEP maps, namely to Heritage, Land Reservation Acquisition, Minimum Lot Size, Land Zoning, Height of Building Maps, Clauses and Terrestrial Biodiversity Maps. A number of example maps are provided in the proposal to explain the proposed changes. These maps are considered adequate for the purposes of public exhibition. Council will need to prepare LEP maps to comply with the Department's standard technical requirements for LEP maps, when the planning proposal is finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The proposal indicates that Council proposes to exhibit the proposal for a period of 14 days. This is considered appropriate given the relatively minor housekeeping nature of the planning proposal.

The proposal also indicates that the exhibition would include notification in the local newspapers and a notice provided on Council's website. Hard copies of the proposal would be made available at Council's Nowra and Ulladulla administration buildings. The community consultation proposed is considered satisfactory.

Council does not propose to consult with any State or Commonwealth agencies given the minor administrative nature of the proposed changes. Council has advised that the proposed mapping changes to reflect change in land use associated with land acquisitions at Currarong Road Currarong (formerly Jervis Bay National Park land) and for the Berry Bypass are administrative matters only which the Authorities are aware of and therefore do not require further consultation with the NPWS or the RMS.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : It is considered that the proposal meets the adequacy criteria provided in the Department's guide to preparing planning proposals in that it addresses each of the six requirements of a planning proposal.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Shoalhaven LEP 2014 is in place.

Assessment Criteria

Need for planning proposal : The planning proposal is needed to facilitate a number of amendments, which are largely of a minor housekeeping nature, to the Shoalhaven LEP 2014 which are intended to improve the operation of the LEP.

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Consistency with strategic planning framework :

As discussed previously, the proposal is considered to be consistent with the strategic planning framework, namely the draft Illawarra and Shoalhaven Regional Growth and Infrastructure Plan, South Coast Regional Strategy, Council's endorsed local strategies and applicable State Environmental Planning Policies and Section 117 Directions.

Environmental social economic impacts :

The proposed amendments are of a minor housekeeping nature and are not likely to have any negative environmental, social or economic impacts.

The proposal is, however likely to have positive environmental, social and economic impacts as a result of the improved operation of the Shoalhaven LEP 2014.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **It is reasonable for the matter to proceed.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies are required due to the nature of the proposal.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Housekeeping Stage 2.docx	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**

2.2 Coastal Protection
 2.3 Heritage Conservation
 2.4 Recreation Vehicle Areas
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 4.1 Acid Sulfate Soils
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 5.2 Sydney Drinking Water Catchments

Additional Information :

It is **RECOMMENDED** that the General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Shoalhaven Local Environmental Plan 2014 to undertake a number of housekeeping amendments should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 14 days; and
 (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

2. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

5. Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

6. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Area, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulphate Soils, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.2 Sydney Drinking Water Catchment.

(b) The Secretary's delegate can be satisfied that the planning proposal's inconsistency with s117 Direction 2.1 Environmental Protection Zones is of minor significance.

(c) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

7. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

The proposal will improve the operation of the Shoalhaven LEP 2014.

Signature:

G. Towers Team Leader, Southern Region

Printed Name:

Graham Towers

Date:

15/6/15.

