

Planning and Assessment

IRF20/5194

Gateway determination report

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| LGA | Shoalhaven |
| PPA | Shoalhaven City Council |
| NAME | Shoalhaven Housekeeping 2018 Mapping Planning Proposal (0 homes, 0 jobs) |
| NUMBER | PP_2020_SHOAL_009_00 |
| LEP TO BE AMENDED | Shoalhaven LEP 2014 |
| ADDRESS | Various addresses |
| DESCRIPTION | Various lots and DPs |
| RECEIVED | 28 October 2020 |
| FILE NO. | EF20/30454 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose and a political donation disclosure is not required. |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal. |

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Shoalhaven LEP 2014 to improve the operation and accuracy of the Plan. The amendment responds to a range of mapping issues and errors that have arisen.

1.2 Site description

The planning proposal applies to various sites across the Shoalhaven LGA. Maps identifying the subject sites are provided in the planning proposal document.

1.3 Existing planning controls

There are various planning controls applying to the subject sites. The existing planning controls are shown on maps provided in the planning proposal document.

1.4 Surrounding area

The subject sites are surrounded by a variety of land uses. Maps identifying the wider area and surrounding land uses are provided in the planning proposal document.

1.5 Summary of recommendation

It is recommended that the planning proposal proceeds as submitted.

2. PROPOSAL

2.1 Objectives or intended outcomes

The stated objectives and intended outcomes of the planning proposal are to:

- Correct identified anomalies or inconsistencies in the LEP mapping.
- Correct administrative errors (e.g. items incorrectly or incompletely identified in mapping).
- Respond to the registration of new land titles, landowner requests and development assessment processes.
- Help improve the overall operation of the Shoalhaven LEP 2014.

It is considered that the stated objectives and intended outcomes of the proposal are clear and do not require amendment prior to community consultation.

2.2 Explanation of provisions

The planning proposal identifies 37 items for various housekeeping amendments to the following LEP maps:

- Minimum lot size maps
- Zoning maps
- Buffers maps
- Land Reservation Acquisition maps
- Terrestrial Biodiversity maps
- Natural Resource Sensitivity maps
- Local Clauses maps

The proposed mapping changes are generally minor in nature involving correction of errors and anomalies or updating maps to reflect recent land acquisitions or dedications. The specific amendments are described in the planning proposal document.

It is considered that the proposed amendments are clear and do not require amendment prior to community consultation.

2.3 Mapping

The planning proposal includes maps that show the current and proposed controls. The maps do not require updating prior to community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the proposal is needed to address a number of mapping related matters identified as housekeeping issues relating to Shoalhaven LEP 2014. It states that the planning proposal process is the appropriate mechanism to facilitate the required map amendments.

It is considered that the planning proposal is needed to facilitate the correction of map errors and omissions and improve the operation of the Shoalhaven LEP 2014. It is considered that the planning proposal process is the appropriate mechanism to facilitate the amendments to the LEP.

4. STRATEGIC ASSESSMENT

4.2 Regional

The planning proposal states that it is consistent with the broad objectives and actions of the Illawarra Shoalhaven Regional Plan to grow the economy, provide affordable housing, secure agricultural land, build infrastructure and protect natural and cultural environments. It states that the proposal will improve the efficiency and operational integrity of the LEP which will enable more streamlined development assessment processes which will help achieve the objectives and actions of the Regional Plan

It is considered that the proposal is consistent with the Regional Plan for the reasons provided in the proposal.

4.3 Local

The proposal states that it is consistent with the local strategic planning framework, notably the:

- Shoalhaven Community Strategic Plan.
- Shoalhaven Growth Management Strategy.
- Nowra Bomaderry Structure Plan.
- Jervis Bay Settlement Strategy.
- Milton Ulladulla Structure Plan.
- Sussex Inlet Settlement Strategy.

Council considers the proposal is consistent with the above strategic plans because it seeks to correct errors and improve the operational efficiency of the Shoalhaven LEP 2014 which will help implement the objectives and actions of Council's strategic plans.

Council's view that the proposal is consistent with its strategic planning framework is supported for the reasons provided in the planning proposal. Although not mentioned in the proposal, it is also considered that the proposal is consistent with the Shoalhaven Local Strategic Planning Statement as it will help implement many of the aims and objectives of the LSPS via more efficient operation of the LEP.

4.4 Section 9.1 Ministerial Directions

The planning proposal identifies that it is inconsistent with the following Section 9.1 Directions:

Direction 1.1 Business and Industrial Zones

The proposal identifies that item 19 (Lot 16 DP 259169 Railway Street Bomaderry) may be inconsistent with the Direction because it proposes to rezone the site from IN1 General Residential and RU1 Primary Production to SP2 Infrastructure. The proposal, however, states that the inconsistency with the Direction is of minor significance because the lot forms part of Council's sewerage treatment plant and is more appropriately zoned SP2 Infrastructure.

Council's view that any inconsistency with the Direction is of minor significance is supported for the reasons provided in the proposal.

Recommendation: That the Secretary's delegate can be satisfied that the planning proposal's inconsistency with Direction 1.1 Business and Industrial Zones is of minor significance.

Direction 1.5 Rural Lands

The proposal identifies that items 7,8,17, 20 may be inconsistent with the Direction because they affect land within an existing or proposed rural or environmental zone. The proposal, however, states that the inconsistencies are of minor significance because the proposal is seeking to correct errors or anomalies in the zoning of the subject sites.

Council's view that any inconsistency with the Direction is of minor significance is supported for the reasons provided in the proposal.

Recommendation: That the Secretary's delegate can be satisfied that the planning proposal's inconsistency with Direction 1.5 Rural Lands is of minor significance.

Direction 2.1 Environment Protection Zones

The planning proposal identifies that item 37 may be inconsistent with the Direction because it proposes to remove clause 5.9 preservation of trees mapping from the Shoalhaven LEP. Council, however, considers that any inconsistency with the Direction is of minor significance because clause 5.9 was previously repealed from the LEP, via an amendment to the Standard Instrument LEP Order, and was replaced by SEPP (Vegetation in Non-Rural Areas) 2017. The existing clause 5.9 mapping in the LEP Local Clauses mapping is therefore an anomaly.

Council's view that any inconsistency with the Direction is of minor significance is supported for the reason provided in the proposal.

Recommendation: That the Secretary's delegate can be satisfied that the planning proposal's inconsistency with Direction 2.1 is of minor significance.

Direction 3.1 Residential Zones

The planning proposal identifies that items 9-15, 22, 23 and 25 may be inconsistent with the Direction because they propose to rezone the subject sites from residential to another zone which will have the effect of reducing the permissible residential density of the subject land. Council, however, considers that any inconsistency with the Direction is of minor significance because it relates to only a handful of lots compared to the significant amount of residential lots available across the LGA. Additionally, most of the sites are proposed to be rezoned from residential to public recreation zones to reflect the dedication of land resulting from development applications.

Council's view that the inconsistency with the Direction is of minor significance is supported for the reasons provided in the proposal.

Recommendation: That the Secretary's delegate can be satisfied that the planning proposal's inconsistency with Direction 2.1 Residential Zones is of minor significance.

Direction 4.3 Flood Prone Land

The planning proposal identifies that items 26 and 29 may be inconsistent with the Direction because the proposal seeks to rezone the subject sites, which are identified as flood prone land, from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose zone. Council considers that any inconsistency with the Direction is of minor significance because the proposal is seeking minor realignments to zone boundaries.

Council's view that the inconsistency with the Direction is of minor significance is supported for the reasons provided in the proposal.

Direction 5.2 Sydney Drinking Water Catchment

The proposal identifies that the proposal (specifically item 1) is located within the Sydney Drinking Water Catchment. The proposal states that council is currently consulting with WaterNSW in relation to the requirements of the Direction. Council does not consider the proposal is inconsistent with the Direction because any impact on water quality is likely to be minor due to the minor housekeeping nature of the proposal.

Council's view that the proposal is likely to have a minimal impact on water quality is supported for the reasons provided in the proposal.

Council will, however, need to demonstrate that it has addressed the requirements of the Direction, including consulting with WaterNSW on the proposal, prior to finalising the planning proposal.

4.5 State environmental planning policies (SEPPs)

The planning proposal identifies the following relevant SEPPs:

- SEPP (Coastal Management) 2015
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The planning proposal identifies that there are no provisions of the above SEPPs that directly relate to the preparation of planning proposals. The SEPPs will, however, need to be taken into consideration as part of any future development application applying to any of the identified sites.

It is considered that the planning proposal is consistent with the applicable SEPPs for the reasons provided in the proposal.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and Economic

The planning proposal states that the proposal is likely to have positive social and economic effects due to the LEP operating in a more efficient manner which will better align the objectives of the instrument with appropriate development.

Council's view that the proposal will have positive social and economic effects is supported for the reasons provided in the proposal.

5.2 Environmental

The proposal states that, given its minor housekeeping nature, there is a low likelihood that critical or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the planning proposal. Any future use of the land will need to consider environmental impacts as part of the DA process.

Council's view that the proposal is unlikely to have any negative environmental effects is supported for the reasons provided in the proposal.

6. CONSULTATION

6.1 Community

Council proposes to exhibit the planning proposal for 28 days and to advertise the proposal on its website. All stakeholders including directly affected landowners and community consultative bodies will be advised of the public consultation arrangements.

It is considered that the community consultation proposed by Council is appropriate.

6.2 Agencies

Council intends to consult with relevant State government agencies including the Rural Fire Service and WaterNSW and any other agencies required by the conditions of the Gateway determination.

It is considered that Council should consult with the following agencies on the planning proposal:

- Rural Fire Service (Section 9.1 Direction 4.4 Planning for Bushfire Protection).
- WaterNSW (Section 9.1 Direction 5.2 Sydney Drinking Water Catchment/item 5).
- DPIE (Biodiversity and Conservation Division)
- NSW EPA (item 19).
- National Parks and Wildlife Service (item 28)
- Transport for NSW (items 7,8 17, 20, 21, 30, 31, 33, 34)

7. TIME FRAME

Council proposes to complete the LEP by June 2021. It is considered that, given the minor nature of the proposal, a 9-month period is an appropriate timeframe to complete the LEP.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. It is considered that, given the minor housekeeping nature of the proposal, Council should be authorised to be the local plan-making authority.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed as it will correct a number of mapping errors and anomalies in the Shoalhaven LEP 2014 which will improve its operation.

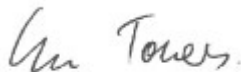
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 3.1 Residential Zones and 4.3 Flood Prone Land are minor or justified.
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchment are unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - WaterNSW
 - DPIE (Biodiversity and Conservation Division)
 - NSW EPA
 - National Parks and Wildlife Service
 - Transport for NSW
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



11/11/20

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12/11/2020

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