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Department Generated Correspondence (Y)

DEPARTMENT OF PLANNING*Southern Region***SUBJECT: DRAFT SHOALHAVEN LEP LP 338 ROSS AVENUE NARRAWALLEE -
CONVERSION TO PART 3 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT
ACT****PURPOSE**

- To enable the conversion of Draft Shoalhaven LEP 1986 LP No. 338 Ross Avenue, Narrawallee from a pending LEP to a planning proposal under the current Part 3 of the EP&A Act.

RECOMMENDATION

- That the Deputy Director General as a delegate of the Director General and Minister for Planning:
 1. Under clause 12(2) of the EP&A Regulations notify Shoalhaven City Council that the plan making provisions for a pending LEP cease to apply to Draft Shoalhaven LEP 1986 LP No. 338 Ross Avenue, Narrawallee; and
 2. Under clause 122(2) of Schedule 6 to the EP&A Act, Draft Shoalhaven LEP 1986 LP No. 338 Ross Avenue, Narrawallee be converted to a planning proposal, and dispense with conditions precedent for the making of the LEP prior to section 59(1) of the Act.

CURRENT POSITION

- Shoalhaven City Council has made a formal request to convert Draft Shoalhaven LEP 1986 LP No. 338 Ross Avenue, Narrawallee to a planning proposal under Part 3 of the Act.
- The draft LEP will enable Garrads Lagoon (subject to a 17 lot subdivision consent) to be rezoned from Residential 2(c) Living Area to Environment Protection 7(a) Ecology.
- A Deed of Agreement has been prepared between Shoalhaven Council and the landowner to ensure the dedication of Garrads Lagoon to Council should the Department of Planning support the rezoning of the landowner's land at Seaspray Street and issue development approval under Part 3A of the EP&A Act for the subdivision of that land.
- The land in Seaspray Street is to be rezoned from Environmental Protection 7(d2) Special Scenic to part Residential 2(a1) and Environmental Protection 7(d2) Special Scenic to allow residential development in lieu of the surrendered 17 lots in Ross Avenue.
- The draft LEP and Deed of Agreement were placed on public exhibition from 10th September to 9th October 2009.
- Council considers that the Deed will need to be amended, possibly in the form of a Voluntary Planning Agreement following legislative change and recent Land and Environment Court precedents.
- Council has placed the processing of the draft LEP on hold until the validity of the Deed of Agreement is confirmed and/or another Agreement is negotiated and signed.
- A Parliamentary Counsel (PC) Opinion has not been requested for the draft LEP and thus there is a need for instructions concerning drafting of the LEP to be prepared. Council will need to be consulted on the final drafting, as required by section 59(1) of the Act.
- The draft LEP has not been prepared in accordance with the applicable standard instrument under S33A - *Standardisation of local and other environmental planning instruments* as it amends an existing LEP.

BACKGROUND

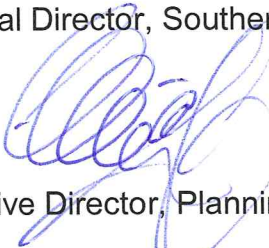
- Garrads Lagoon has been identified as an EEC by DECCW.
- Shoalhaven City Council commenced the preparation of the draft LEP in April 2002.
- S62 consultation was sought in May and October 2002. There were no objections to the rezoning proposal.
- The draft LEP was placed on hold whilst the Deed of Agreement was negotiated and finalised between the landowner and Council.
- The Deed was signed in late 2008.
- Council requested a S65 certificate to exhibit the draft plan on 18th May 2009.
- On the 13th June 2009 Council received written authorisation to exercise delegation under S65(1) and S69(1) to process the draft LEP.

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25 June 2010

Regional Director, Southern Region



29.6.10.

Executive Director, Planning Operations



30/6/10

Deputy Director General, Plan Making and Urban Renewal
As delegate of the Minister and the Director-General