

7 September 2009

Department of Planning - Southern Region
PO Box 5475
WOLLONGONG NSW 2520

Attention: Brett Whitworth

Dear Mr Whitworth

Doc. no	CW09/295.....
Officer	Lisa.....
Due/Comment	F41 - A.....
File no	W02/00066.....

**Draft Local Environmental Plan No. LP225 -
Lot 29 DP874275 Seaspray Street, Narrawallee,
Draft Local Environmental Plan No. LP 338 - Lot 300 DP 792411 Ross
Avenue, Narrawallee and associated Deed of Agreement**

This letter is to inform you that draft Local Environmental Plan's (LEP's) No. LP225, No. LP338 and the Deed of Agreement that relates to the draft LEP's will be on public exhibition from 10 September 2009 until 9 October 2009 (inclusive).

The purpose of draft LEP No. LP 225 is to rezone that part of Lot 29 DP 874275 zoned Environment Protection 7(d2) (Special Scenic) to part Residential 2(a1) and part Environment Protection 7(d2) (Special Scenic), and the inclusion of scenic preservation area over part of the land to which the draft LEP applies. The draft Plan allows for some residential development while protecting landscape values and the habitat of the threatened species, ensuring that the risk to life and property from bush fire is minimised, and ensuring that the visual impact of development is reduced through the protection and establishment of appropriate landscaping.

Council resolved to undertake the rezoning of Lot 29 DP 874275 as the landowner of Lot 29 has agreed to surrender a 17 lot subdivision consent over Garrads Lagoon (Lot 300 DP 792411 Ross Avenue, Narrawallee) and will dedicate Lot 300 to Council.

Draft LEP LP No. 225 was previously publicly exhibited in late 2001, however, the draft Plan did not progress as Council felt it necessary to have a Deed of Agreement emplace to ensure the dedication of Garrads Lagoon to Council. The terms of the Deed of Agreement between Council and the landowner were finally endorsed by Council on 12 August 2008.

Due to the time that had elapsed between the initial public exhibition of draft LEP No. LP 225 and the finalisation of the Deed of Agreement the Department of Planning recommended that Council re-exhibit draft LEP No. LP 225 concurrently with draft LEP No. LP 338 because of the link between the LEPs and the considerable time had passed since the public exhibition of draft LEP No. LP 225.

The purpose of draft LEP LP No. 338 is to rezone that part of Lot 300 DP 792411 zoned Residential 2(c) (Living Area) to Environmental Protection 7(a) (Ecology). The aim of the LEP is to protect Garrads Lagoon from further development. Once the land is rezoned the Deed of Agreement, in part, requires Lot 300 will be dedicated to Council.

Please find enclosed copies of the Section 65 Certificate, draft Instruments, maps, explanatory statements, Deed of Agreement and advertisement which will be placed in the local papers.

Any person making a public submission or relevant planning application, regardless of whether the submission is objecting to or supporting a plan or proposal, is now required by law, under Section 147 of the Environmental Planning & Assessment Act 1979 (EP&A Act), to disclose all political donations or gifts made within the two (2) years before the plan or submission is made. If the political donations or gifts have been made after the plan or submission was made, a Disclosure Statement must be made within seven (7) days after the donations or gifts were made. Failure to do so is an offense under the EP&A Act. To disclose political donations and/or gifts, you are required to fill out a Disclosure Statement Form, which is available to download on Council's website or can be obtained from Shoalhaven City Council's administration centres at Nowra & Ulladulla. The NSW Department of Planning has produced two planning circulars, PS 08-007 & PS 08-009, which can viewed at <http://www.planning.nsw.gov.au> for further information.

If you need further information about the above issues, please contact Glen Weekley, Strategic Planning & Infrastructure Group on (02) 4429 3553. Please quote Council's reference 1787-04 in any correspondence.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Cinnamon Dunsford', with a stylized flourish at the end.

Cinnamon Dunsford
Senior Strategic Planner/DA Co-ordinator

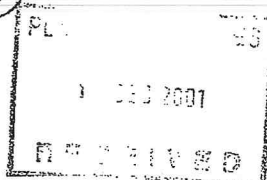
Encl

FAXED
04 12 2001

Shoalhaven City Council

Received

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10 DEC 2001

File No. 1787-02
Reference to Joanne GouldDepartment of
Urban Affairs and Planning

Certificate to enable Public Exhibition

Environmental Planning and Assessment Act, 1979 (Section 65)

As a delegate of the Director General of the Department of Urban Affairs and Planning, I, MARK PARKER certify that the Draft Local Environmental Plan Amendment No. LP225 for Lot 29 DP 874275 Seaspray Street, Narrawallee may be publicly exhibited.

Signed

A handwritten signature in cursive script, appearing to read 'Mark Parker'.

Mark Parker
Acting Assistant Director Illawarra & South Coast

As a delegate of the Director-General of the Department of Urban Affairs and Planning and I certify that I have no notice of the revocation of such delegation.

Date 4 December 2001

Draft Local Environmental Plans
No. LP 225 Seaspray Street and No. LP 338 Ross Avenue, Narrawallee

Notice is given that draft Local Environmental Plan (LEP) No. LP 225 for:

- Part of Lot 29 DP 874275 Seaspray Street, Narrawallee (File 1787-04)

And draft LEP No. LP 338 for:

- Lot 300 DP 792411 Ross Avenue, Narrawallee (File 26448)

And the Deed of Agreement that relates to the abovementioned draft LEPs, will be on public exhibition from 10 September 2009 until 9 October 2009 (inclusive) between 9am and 5pm at the City Administrative Centre, Bridge Road, Nowra. Information is also available on Council's website at <http://www3.shoalhaven.nsw.gov.au/applications/lepdcp94/pex.asp> and at Ulladulla Administrative Centre, Deering Street, Ulladulla.

The purpose of draft LEP No. LP 225 is to rezone that part of Lot 29 DP 874275 zoned Environment Protection 7(d2) (Special Scenic) to part Residential 2(a1) and part Environment Protection 7(d2) (Special Scenic), and the inclusion of scenic preservation area over part of the land to which the draft LEP applies. The draft Plan aims to allow for some residential development while protecting landscape values and the habitat of the threatened species, ensuring that the risk to life and property from bush fire is minimised, and ensuring that the visual impact of development is reduced through the protection and establishment of appropriate landscaping.

Draft LEP LP No. 225 was previously publicly exhibited in late 2001, however the draft Plan did not progress until such time that a Deed of Agreement was in place to ensure the dedication of Garrads Lagoon to Council. The terms of the Deed of Agreement between Council and the landowner were endorsed by Council on 12 August 2008.

Due to the time that had elapsed between the initial public exhibition of draft LEP No. LP 225 and the finalisation of the Deed of Agreement, the Department of Planning recommended that Council re-exhibit draft LEP No. LP 225 concurrently with draft LEP No. LP 338 because of the link between the LEPs.

The purpose of draft LEP No. LP 338 is to rezone that part of Lot 300 DP 792411 zoned Residential 2(c) (Living Area) to Environment Protection 7(a) (Ecology). The aim of the LEP is to protect Garrads Lagoon from further development. Once the land is rezoned, in part, the Deed of Agreement requires Lot 300 to be dedicated to Council.

Written comments are invited and should be lodged to the undersigned by 5 pm on Friday 16 October 2009. Submissions should clearly indicate to which site and Council file number the comments relate. Please note the substance of submissions made to Council on this matter may be made available to the public or included in a Council report without notifying the correspondent. Pre-printed form letters, which have been individually signed, will be considered but not formally acknowledged.

Any person making a public submission or relevant planning application, regardless of whether the submission is objecting to or supporting a plan or proposal, is now required by law, under Section 147 of the Environmental Planning & Assessment Act 1979 (EP&A Act), to disclose all political donations or gifts made within the two (2) years before the plan or submission is made. If the political donations or gifts have been made after the plan or submission was made, a Disclosure Statement must be made within seven (7) days after the donations or gifts were made. Failure to do so is an offense under the EP&A Act. To disclose political donations and/or gifts, you are required to fill out a Disclosure Statement Form, which is available to download on Council's

website or can be obtained from Shoalhaven City Council's administration centres at Nowra & Ulladulla. The NSW Department of Planning has produced two planning circulars, PS 08-007 & PS 08-009, which can viewed at <http://www.planning.nsw.gov.au> for further information.

Enquires regarding the draft LEPs should be directed to Glen Weekley at Council's Strategic Planning and Infrastructure Group on (02) 4429 3553 quoting file numbers 1787-04 and/or 26448 in any correspondence.

Explanatory Statement

DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) NO. LP 225

Lot 29 DP 874275, Seaspray Street, Narrawallee

File 1787-04

Lot 29 DP 874275 is currently zoned part Environment Protection 7(d2) (Special Scenic), part Residential 2(a3) and part Residential 2(c) (Living Area) under Shoalhaven LEP 1985. The draft LEP aims to rezone that part of Lot 29 DP 874275 which is currently zoned Environmental Protection 7(d2) (Special Scenic) to part Residential 2(a1) and part Environmental Protection 7(d2) (Special Scenic), and the inclusion of "scenic preservation area" hatching over part of the land to which the draft LEP applies.

Background

On the 18 July 1995 Council resolved to prepare a Local Environmental Plan (LEP) over Lot 29 DP 874275 to rezone part of the lot, as detailed above. The decision to prepare the LEP was based on the fact that the owners of Lot 29 also own a parcel of land fronting onto Garrads Lagoon off Ross Avenue, Narrawallee (Lot 300 DP 792411) which has an existing subdivision consent for 17 lots. However, the subdivision of the 17 lots would require filling of part of the Lagoon, therefore, Council resolved to undertake this rezoning on the basis that the owners surrender the 17 lot subdivision and dedicate the land (Garrads Lagoon) to Council in return.

The draft LEP was previously publicly exhibited from 2 December 2001 to 18 January 2002. To ensure the surrender of the 17 lot subdivision consent and the dedication of Lot 300 DP 792411 to Council, Council resolved to prepare a Deed of Agreement to ensure this was facilitated. The terms of the Deed of Agreement between Council and Hanson South Coast were finally endorsed by Council on 12 August 2008.

Due to the time that has elapsed between the original public exhibition of draft LEP No. LP 225 and the finalisation of the Deed of Agreement, Council sought the *Department of Planning's* advice on the progression of draft LEP No. LP 225. The Department recommended that Council re-exhibit draft LEP No. LP 225 concurrently with draft LEP No. LP 338 (which rezones Garrads Lagoon to an environment protection zone) because of the link between the LEPs and the considerable time that had passed since the public exhibition of draft LEP No. LP 225.

Therefore, as resolved by Council on 11 August 2009, the concurrent exhibition of draft LEP No. LP 225, draft LEP No. LP 338 and the Deed of Agreement is now being carried out.

Please note that this exhibition includes zone maps showing the draft zone under both the current LEP (Shoalhaven LEP 1985) and proposed Citywide LEP (draft Shoalhaven LEP 2009).

SEPPs, Section 117 Directions and other Policy Documents

The following Environmental Planning Instruments and other government policies form the context for the draft LEP:

- Shoalhaven LEP 1985, Clause 9, Division 6;
- State Environmental Planning Policies (SEPPs): 71 – Coastal Protection, Deemed SEPP – Illawarra Regional Environmental Plan No. 1 Clauses 20 and 58;
- South Coast Regional Strategy;
- Milton-Ulladulla Structure Plan;
- Ministerial Directions under Section 117 of the *Environmental Planning & Assessment Act 1979*, 1.5, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, 3.4, 4.4, 5.1, 6.1, 6.2 and 6.3;
- Environmental Planning & Assessment Model Provisions.

These documents are available for viewing with the draft LEP and any submissions made to Council during the exhibition period should take these documents into consideration.



Director Strategic Planning & Infrastructure

Shoalhaven Local Environmental Plan 1985 (Amendment No)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

*Kristina Keneally, M.P.
(Minister for Planning)*

Shoalhaven Local Environmental Plan 1985 (Amendment No)

Under the Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Shoalhaven Local Environmental Plan 1985 (Amendment No)*.

2 Aim of plan

The aims of this plan are to:

- a) rezone part of the land from 7(d2) Environment Protection "D2" (Special Scenic) zone to part 2(a1) Residential "A1" zone under Shoalhaven Local Environmental Plan 1985; and
- b) permit a residential subdivision in the vicinity of Seaspray Street, Narrawallee; and
- c) protect landscape values; and
- d) ensure that the habitat of the Powerful Owl is generally protected; and
- e) ensure that the risk to life and property from bushfire is minimised; and
- f) ensure that the visual impact of development is reduced through the protection and establishment of appropriate landscaping, and
- g) provide building sites with sufficient area to accommodate a dwelling house, effluent disposal, vehicular access, water quality control and drainage wholly within the Residential 2(a1) zone.

3 Land to which plan applies

This plan applies to land situated in the City of Shoalhaven, being part of Lot 29 DP 874275, shown edged heavy black on the map marked "City of Shoalhaven Local Environmental Plan 1985 (Amendment No.)" deposited in the office of the Council of the City of Shoalhaven.

4 Amendment of City of Shoalhaven Local Environmental Plan 1985

Shoalhaven Local Environmental Plan 1985 is amended as set out in Schedule 1.

Schedule 1 Amendments

[1] Clause 6 Interpretation

Insert in appropriate order in the definition of *the map* in clause 6 (1)

City of Shoalhaven Local Environmental Plan 1985 (Amendment No.)

[2] 40N Development in the vicinity of Narrawallee

Insert after clause 40M the following clause:

40N Development in the vicinity of Narrawallee

- (1) This clause applies to land shown edged heavy black on the map marked "City of Shoalhaven Plan 1985 (Amendment No.).
- (2) The consent authority shall not consent to an application to subdivide or otherwise carry out development of land to which this clause applies unless:
 - (a) it has considered a plan of management showing how the fire management issues are conducted as a result of carrying out development in the allotments to be created by the proposed subdivision or from carrying out other development;
 - (b) it has taken into consideration a landscape management plan that is of a standard satisfactory to the Council. The landscape plan must show how the visual quality of the land is to be protected through the retention of existing vegetation;
 - (c) it is satisfied that issues relating to visual quality, drainage control, building bulk and scale, threatened species and habitat and control of erosion are adequately addressed and provided for as part of any development;
 - (d) all buildings above the 35 metre contour are no higher than 8.5 metres above natural ground level; and,
 - (e) a road is located on the western edge of any subdivision within the Residential 2(a1) zone.

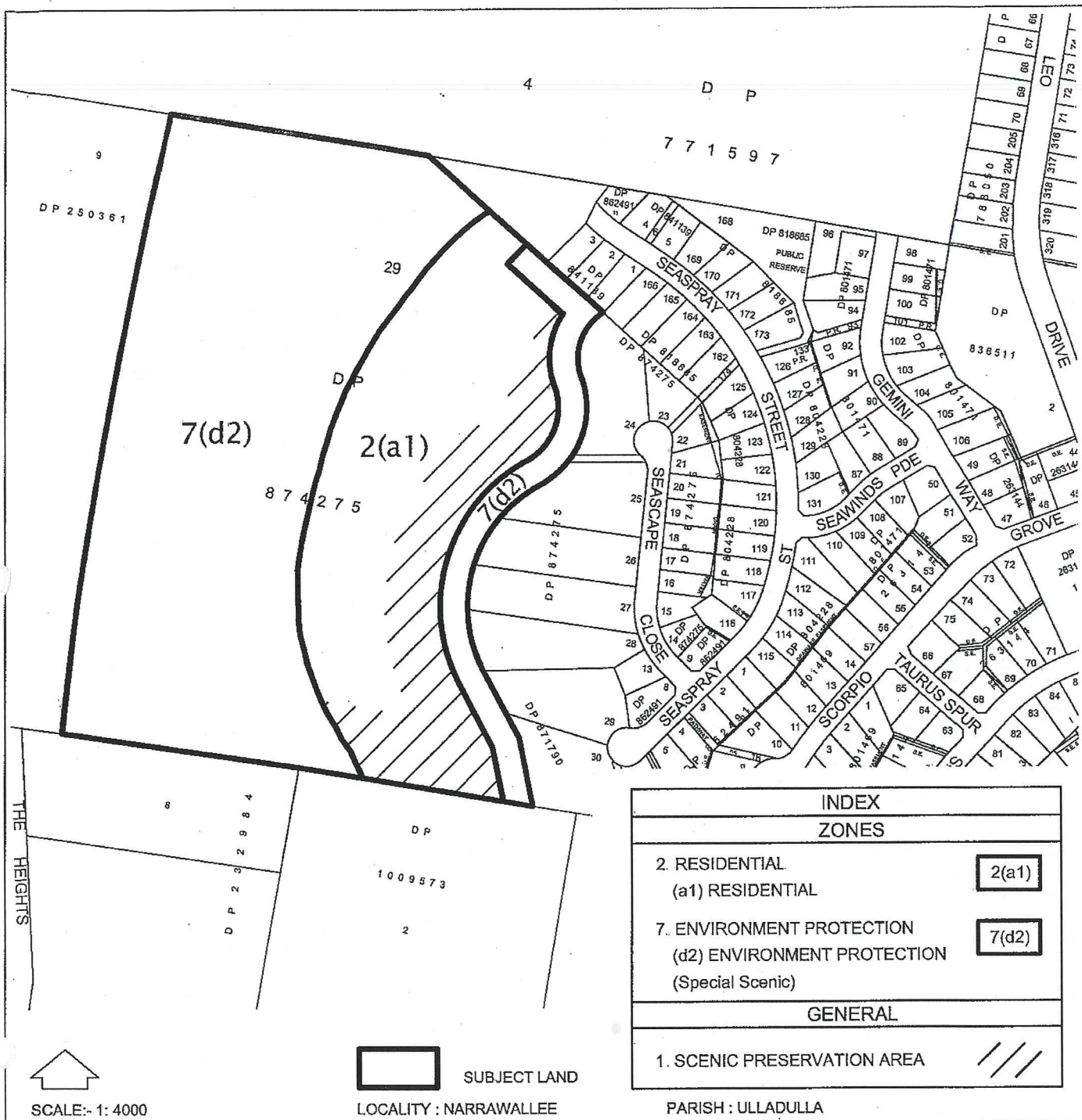
[3] Schedule 9 Development for certain additional purposes

Insert the following text:

Part of Lot 29, DP 874275, Seaspray Street, Narrawallee being part of the land shown edged heavy black on the map marked "City of

Shoalhaven Local Environmental Plan 1985 (Amendment No) and designated as 7(d2) Environmental Protection "D2" (Special Scenic) Zone on the eastern boundary:

- (a) subdivision of less than 40 hectares provided measures are taken to the satisfaction of Council to preserve vegetation and that the land to which the subdivision applies forms part of an allotment mostly located in the adjoining Residential 2(a1) zone; and
 - (b) any building or works (including a dwelling house, effluent disposal, vehicular access, water quality control and drainage) will be located wholly within the Residential 2(a1) zone.
-



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CITY OF SHOALHAVEN

DRAFT LOCAL ENVIRONMENTAL PLAN

DRAWN BY : J. GRANT & D. J. ADAMS

DATE : 03/04/2002

SUPERVISING DRAFTSPERSON

PLANNING OFFICER

CERTIFICATE PLAN NO. LP225

COUNCIL FILE NO. 1787

AUTOCAD FILE \\P:\Graphics\Projects\City\LEP\DLEP\Draft\LP225

DEPT FILE NO.

CERTIFICATE ISSUED UNDER SEC 65 E P A ACT
DATE

STATEMENT OF RELATIONSHIPS WITH OTHER PLANS

THIS PLAN AMENDS LOCAL
ENVIRONMENTAL PLAN 1985.

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT 1979, & REGULATIONS.

GENERAL MANAGER

DATE



Deacons

Dated

Deed of escrow

Parties

The Council of the City of Shoalhaven

Hanson South Coast Pty Limited
ACN 001 079 385

Peter Rigg
Deacons
225 George Street
Sydney NSW 2000
Tel: +61 (0)2 9330 8502
peter.rigg@deacons.com.au
Our ref: PRR:2533438

Deed dated

Parties **The Council of the City of Shoalhaven**
of City Administrative Centre, Bridge Road, Nowra NSW 2541
(Council)

Hanson South Coast Pty Limited ACN 001 079 385
of PO Box 73, Jannali NSW 2226
(Hanson)

Introduction

- A. Hanson is the owner of certain land at Ross Avenue, Narrawallee in the state of New South Wales, being lot 300 in deposited plan 792411 (the **Ross Avenue Land**)
- B. The Ross Avenue Land is zoned part Residential 2(c) (Living Area) and part Open Space 6(c) (**Proposed Recreation**).
- C. Hanson is also the owner of land at Seaspray Street, Narrawallee in the state of New South Wales being lot 29 in deposited plan 874275 (the **Seaspray Street Land**)
- D. The Seaspray Street Land is zoned Environment Protection 7(d2) (**Special Scenic**) but part of that land has characteristics that would permit residential subdivision and development
- E. Discussions between Hanson and Council has resulted in a proposal from Council for Hanson to surrender an approval to further subdivide the Ross Avenue Land and to transfer the Ross Avenue Land other than the land previously comprising Lot 473 DP 226125 to Council and Council support the re-zoning of the Seaspray Street Land (the **re-zoning**)
- F. The Council has identified a public benefit if the Ross Avenue Land was transferred to Council for public use
- G. It is proposed that Hanson hold the Ross Avenue Land other than the land previously comprising Lot 473 DP 226125 on trust for Council pursuant to this Deed.

If:

- (1) the Minister makes an amending LEP in substantially the same form as the draft Local Environmental Plan annexed and marked "B" (the **Draft LEP**); and
- (2) the Minister consents to the part 3A Major Project Application under the *Environmental Planning and Assessment Act* (the **Act**).

in respect of the Seaspray Street Land, Hanson will transfer the Ross Avenue Land other than the land previously comprising Lot 473 DP 226125 to the Council subject to the terms of this Deed

Now this deed witnesseth

- 1 The Council shall prepare the Draft LEP and take all steps necessary pursuant to the provisions of the Act for the submission of the Draft LEP to the Director-General of the Department of Planning (the Director General) pursuant to section 64 of the Act
- 2 The Council will use its best endeavours to ensure that the Draft LEP is made as a local environmental plan by the Minister or Minister assisting the Minister for Planning pursuant to the provisions of section 70 of the Act and shall take all reasonable steps as may be necessary to lawfully enable the Draft LEP to be gazetted as a local environmental plan. Hanson shall raise no objection to any rezoning of the Seaspray Street Land to take the form of drafting similar to clause 39BB(4) of the Shoalhaven LEP1985 such that any development consent following rezoning cannot be acted upon unless Council obtains the Ross Avenue Land
- 3 Hanson agrees that immediately upon execution of this Deed, it shall thereafter hold the Ross Avenue Land other than the land previously comprising Lot 473 DP 226125 upon trust for the Council subject to this Deed
- 4 The former Lot 473 DP226125 will be subdivided from Lot 300 DP792411. Hanson shall prepare and lodge the Development Application and subsequent Construction Certificate for the subdivision of the former Lot 473 DP226125 from Lot 300 DP792411. The application fees and section 94 contributions shall be reduced to nil in relation to the development application and Construction Certificate, the subject of this clause. Following such subdivision the new Certificate of Title and Transfer of the Ross Avenue Land shall be held in escrow by a firm of lawyers agreed upon by Council and Hanson
- 5 Hanson shall cause a Restriction as to User under section 88E of the *Conveyancing Act* to be registered over the Seaspray Street Land prohibiting subdivision following its rezoning until the Ross Avenue Land is transferred to Council
- 6 If the Minister gazettes any plan in substantially the same form as the Draft LEP which has the effect of rezoning the Seaspray Street Land and the Minister consents to the part 3A application, Hanson must provide the new Title documentation for Certificate of Title Folio Identifier 300/792411 less Lot 473 DP226125 to Council within 28 days of the gazettal and part 3A consent and then Council shall thereafter be at liberty to submit the Certificate of Title documents for registration
- 7 Hanson hereby acknowledges that as and from the date which is 28 days after Hanson has been issued with part 3A consent it shall, by virtue of this Deed, have surrendered any entitlement to further develop the Ross Avenue Land save for former Lot 473 DP 226125 and shall, if called upon by Council to do so, thereby execute any further documentation which Council may require to more fully give effect to this surrender and do all such things and execute all such documents as may be necessary to give effect to the transfer to Council of the Ross Avenue Land (less former Lot 473 DP 226125)
- 8 If the Minister does not concurrently make an LEP permitted residential development and issue a part 3A approvals to subdivision affecting the Seaspray Street Land this Deed shall lapse.
- 9 The Council further agrees that the terms of the consent to the proposed subdivision in relation to the Seaspray Street Land shall provide for a credit equivalent to all Section 94 Contributions under the Act and Section 64 Water and Sewerage Charges applicable to the first seventeen allotments. Executed as a deed and delivered on the date shown on the first page.

- 10 Council shall undertake to notify the Department of Planning of Council's commitment to recognising a maximum equivalent of 17 lots, section 94 and section 64 credits applicable to the future part 3A approval

Executed as a deed and delivered on the date shown on the first page

Signed for and on behalf of **Council of the City of Shoalhaven** by its authorised representative in the presence of:


Signature of witness

MARIE VELLACOTT
Name of witness
(BLOCK LETTERS)

589 COOLANGATTA RD,
Address of witness BERRY


Signature of authorised representative

RUSSELL PIGLI
Name of authorised representative
(BLOCK LETTERS)

Signed for and on behalf of **Hanson South Coast Pty Limited**
ACN 001 079 385 by its authorised representative in the presence of:


Signature of witness

LUKE HANSON
Name of witness
(BLOCK LETTERS)

11 FLORA ST, OYSTER BAY
Address of witness NSW 2225


Signature of authorised representative

ALLAN HANSON
Name of authorised representative
(BLOCK LETTERS)