

	Aerodromes				
4	Hazard and Risk				
4.1	Acid Sulfate Soils	Y	Y	Y	The draft LEP is consistent with this direction. Some of the subject sites may contain Acid Sulfate soils, however, the Planning Proposal is not proposing intensification of development on any of the sites.
4.2	Mine Subsidence and Unstable Land	N			
4.3	Flood Prone Land	Y	Y	N	The draft LEP is inconsistent with this direction. However, given the developed nature of the sites and the intent of the proposal not to change the development the proposal is considered of minor significance.
4.4	Planning for Bushfire Protection	Y	Y	Y	The draft LEP is consistent with this direction. The proposal is not intended to change development over the sites, and initial consideration was given to NSW Planning for Bushfire Protection during preparation of draft Shoalhaven Local Environmental Plan 2013 which this will amend.
5	Regional Planning				
5.1	Implementation of Regional Strategies	Y	Y	Y	The draft LEP is broadly consistent with the Regional Strategy.
5.2	Sydney Drinking Water Catchments	N			
5.3	Farmland of State & Regional Significance on Far North Coast	N			
5.4	Commercial & Retail Development, Pacific Hwy	N			
5.5	Development in the vicinity of Ellalong, Paxton & Millfield	N			
5.6	Sydney to Canberra Corridor	N			
5.7	Central Coast	N			
5.8	2 nd Sydney Airport: Badgerys Creek	N			
6	Local Plan Making				
6.1	Approval and Referral Requirements	N			
6.2	Reserving Land for Public Purposes	N			
6.3	Site Specific Provisions	N			

Attachment D – Draft SLEP 2013 Submissions

Submission to Draft SLEP 2013 – Planning Proposal Site 5



13260
9 May 2013

Shoalhaven City Council

Received

The General Manger
Shoalhaven City Council
PO Box 42
NOWRA 2541

16 MAY 2013

File No. _____

Referred to: MLF

Dear Sir

**SUBMISSION TO DRAFT LEP 2013
LAKE CONJOLA LAKESIDE VAN PARK-DP 413352 NOMAN STREET LAKE CONJOLA**

This submission is made on behalf of the owner of the above property Mr. Ross McIntosh. The property is known as the Lake Conjola Lakeside Van Park and has been used for that purpose over many years. The draft LEP proposes to zone the land E3 Environmental Management which would have the effect of making the caravan park use prohibited..

This provision would be contrary to the existing 7(f3) Environmental Protection (Foreshores Protection) zone which allows for the caravan park use.

This submission therefore requests Council to reconsider the proposed zoning and considers the following issues:

- The objectives of the proposed E3 zone;
- The permissible land uses proposed within the E3 zone;
- The staged development proposed under DA 94/1558
- The master plan prepared for the development of the site; and
- The reliance upon "existing use " rights should the E3 zone prevail.

The Objectives of the E3 Zone

The draft LEP suggests that the following objectives will apply to the zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values
- To protect the natural and cultural features of the landscape, including coastal and foreshore areas which contribute to scenic value and visual amenity.
- To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.

Any future development application will need address the objectives of the zone. The highly disturbed nature of the property makes the meeting of these objectives extremely difficult. Pairing the objectives with the land use tables does not consider the development which exists on the land.

The Permissible Land Uses Proposed within the E3 Zone

The draft land use tables make no provision for caravan parks. There is provision for tourist and visitor accommodation but this is defined to mean a building or place that provides temporary or short term accommodation on a commercial basis, and includes any of the following:

- a) Backpackers accommodation;

- b) Bed and breakfast accommodation;
- c) Farm stay accommodation;
- d) Hotel or motel accommodation; serviced apartments;
- e) Serviced apartments
But does not include
- f) Camping grounds,
- g) Caravan parks, or
- h) Eco-tourist facilities.

Obviously this proposition provides little comfort to the current van park operator particularly as there are future plans to expand the operations of the facility.

The Staged Development under DA94/1558

Development Consent was provided for extensions to an existing caravan park to be carried out over a 3 stages on the 21 October 1996. Advice given is that there has been physical commencement which appears to be verified by the fact that a subsequent modification was provided on 10 November 2005. The consent along with its commencement would suggest that the operators hold long term plans for the future of the park.

The consent contained conditions relating to traffic management, flood requirements, stormwater drainage, soil and water management, bushfire hazard reduction, landscaping, visual and design and civil works, all matters which will dictate the land form and use. In effect the land use for property is pre ordained and it would be appropriate for an environmental planning instrument to recognise such a fact.

The Master Plan

Consideration for the holistic development of the van park has been considered by Council. The master plan appears as annexure A and clearly shows the current and proposed development. The planning regime should consider that the development has been subject to approvals, has partly been constructed and is planned for future expansion.

Reliance on Existing Use Rights

The immediate effect of the gazettal of the draft LEP with an E3 zone over the land would require any future development application to rely upon existing use rights.

Section 106 of the Environmental Planning and Assessment Act 1979 advises that **existing use** means:

- (a) The use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of the Part have the effect of prohibiting that use,
- (b) The use of a building, work or land:
 - (i) For which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
 - (ii) That has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

Reliance on existing use rights, particularly when an opportunity such as the gazettal of a new LEP exists, is not sound planning practice. It is clear that the land use has been established and is likely to continue to exist well into the future. The land and its characteristics have been formed through this development.

It is also clear that the objectives expressed for the E3 zone to not respond to the existing land use. To apply this zone is neither commercially or environmentally sound. Council is therefore requested to reconsider this position.

There is also concern that the rezoning of the property to one which relies upon the provision of existing use rights may adversely impact upon the value of the land. There has been considerable financial investment within the property with more intended.

Land zoning, especially one that delivers permissibility is a fundamental in securing financial assistance for commercially based operations. The owner has valuation advice that the value of the property may be impacted upon by the proposed rezoning.

A purpose of the proposed new planning legislation is to consider a framework for economic growth, environmental management and social wellbeing. These objectives should be carefully considered in the gazettal of the draft LEP as to how they will apply to this property

Summary

This submission requests that Council reconsider its recommended zoning for the subject land to E3 on the basis that:

- The objectives of that zone are not compatible with the existing and proposed development.
- The E3 land use table does not include **caravan parks** as a permissible use.
- The land is either developed or planned to allow that use to exist into the distant future.
- Council has agreed that the current land use is appropriate through the approvals granted to the site.
- The future reliance of **existing use rights** on such an established development and land form is not sound planning practice.
- There is a real concern that the application of the E3 zone could adversely impact upon the value of the property.

It is considered that the SP3 Zone would be the most appropriate for the site. This zone allows for caravan parks, camping grounds and tourist and visitor accommodation as suggested by the land use table within the draft LEP.

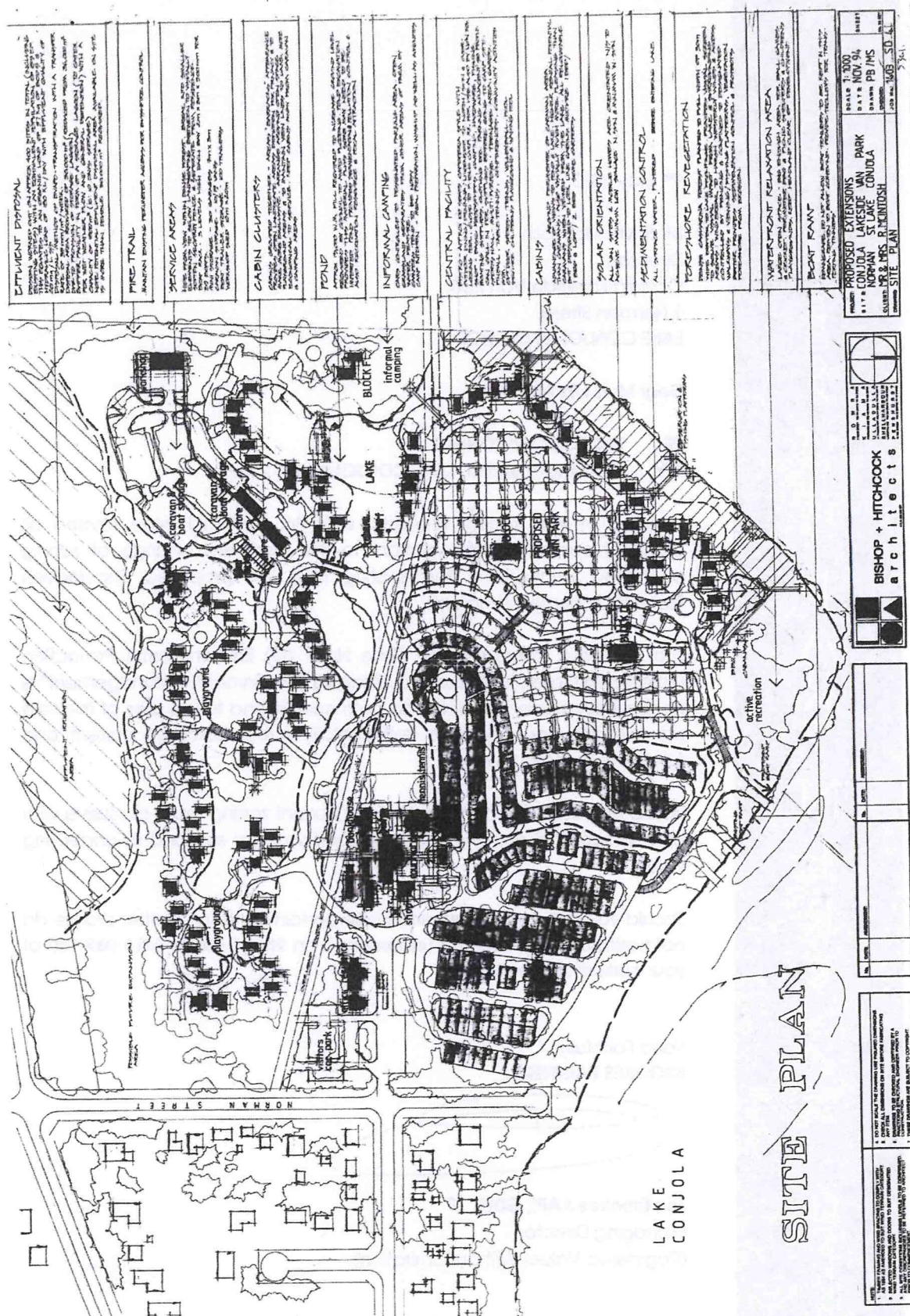
Council will appreciate that this is a matter of grave concern for the owner of the property. Such being the case we would request an urgent meeting with Council's officers to discuss this matter in some depth.

Could you please contact me on 0417241827 or twetherall@jbaplanning.com.au?

Yours faithfully,



Terry Wetherall
Director



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KEWSHELL PTY LTD
ABN 12 073 601 215

9th May 2013

Mr & Mrs McIntosh
Directors
Conjola Lakeside Van Park
1 Norman Street,
LAKE CONJOLA NSW 2539

Dear Mr & Mrs McIntosh,

RE: PROPOSED REZONING
PTY: 1 NORMAN STREET, LAKE CONJOLA NSW 2539

In terms of your recent request I write to confirm I have revised all pertinent documentation relevant to the proposed change of zoning contained within both the existing and the proposed Shoalhaven Planning Scheme instruments.

The proposed change from "Zone No 7 (f3) Environmental Protection (Foreshores Protection)" Zone to "Zone E3 Environmental Management" is not only considered restrictive to both current and future uses of the said site but also considered to detrimentally effect both the current and future value of the site.

Based on the foregoing I consider the current zoning more conjusive with both usage and also the financial viability of the site and its underlying value.

Should you require any furthers details pertaining to this matter please do not hesitate to contact the undersigned on **9546 8666** or **0416 069 169** at your earliest convenience.

Yours Faithfully
BROOKES PARTNERS

Jon Brookes AAPI, GDLE, JP
Managing Director
(Registered Valuer Without Limitation)