

The Planning Proposal

Local Government Area: Shellharbour City Council

Property Details: Lots 1 and 3, DP 1144885, Dunmore Road, Dunmore and adjoining roads

Part 1 Objectives or intended outcomes.

To enable the use of the land for mainly residential development with a small area of the site identified for neighbourhood businesses. The subject land contains two sites, Lot 1, DP 1144885 and Lot 3, DP 1144885 and the immediately adjoining roads

Lot 1 has an area of 20.75 hectares and is proposed to be zoned R2 Low Density Residential. Lot 3 has an area of 18.62 hectares and is proposed to be zoned B1 Neighbourhood Business (about 8,000m²) and the remainder of the site R2 Low Density Residential. Both lots have a proposed Floor Space Ratio of 0.5:1, a Height of 9.0 metres and a Minimum Lot Size of 450m².

The adjoining roads are proposed to be zoned the same as the adjoining land R2 Low Density Residential and have a Height of 9.0 metres, a Minimum Lot Size of 450m² and no Floor Space Ratio is proposed.

Part 2 An explanation of the Provisions that are to be included in the proposed local environmental plan.

The proposed outcome will be achieved by amending on Lots 1 & 3, DP 1144885 and the adjoining roads:

- The Shellharbour LEP 2013 Land Zoning Map in accordance with the proposed zoning map shown in **Attachment 8**;
- The Shellharbour LEP 2013 Floor Space Ratio Map in accordance with the proposed floor space ratio map in **Attachment 9**;
- The Shellharbour LEP 2013 Height of Building Map in accordance with the proposed height map shown in **Attachment 10**; and
- The Shellharbour LEP 2013 Lot Size Map in accordance with the proposed lot size map shown in **Attachment 11**.

Part 3 Justification for the objectives, outcomes, provisions and the process for their implementation.

A. Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

No.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A Planning Proposal is the only means to achieve the intended outcomes.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Illawarra Regional Strategy (IRS) applies to the Shellharbour Local Government Area.

The IRS identifies these lands as being investigated to determine appropriate land uses (page 22). This investigation was the Urban Fringe Local

Environmental Study and this Planning Proposal is a further investigation of the lands.

2. Is the planning proposal consistent with a councils' local strategy, or other local strategic plan?

The Planning Proposal is consistent with the following Objectives and Strategies of Council's Community Strategic Plan 2013 - 2023:

Objective: 2.1 - Protects and promotes its natural environment.

Strategy: 2.1.1 - Manage catchments effectively to improve the cleanliness, health, and biodiversity of creeks, waterways and oceans.

Objective: 2.3 - A liveable City that is connected through places and spaces.

Strategy: 2.3.2 - Undertake all land use planning addressing social, economic and environmental principles whilst reflecting the current and future community's needs.

Strategy: 2.3.4 - Facilitate the provision of development that meets the changing needs and expectations of the community.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, see **Attachment 12**.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

No, see **Attachment 12**. The Planning Proposal is inconsistent with the following Directions:

1. Rural Zones (1.2)

This proposal is inconsistent with this Direction as it is proposing to rezone Rural land to Residential and is not in accordance with a strategy approved by the Department of Planning of justified by a specific study in accordance with this Direction.

The proposal is also not in accordance with the Illawarra Regional Strategy (IRS). The IRS identifies that the land is being investigated by Council to determine appropriate land uses and zonings. This investigation was the Urban Fringe LES.

Whilst this Planning Proposal is not in accordance with the IRS, the Strategy (page 22) identifies that these lands are being investigated to determine appropriate land uses. That investigation was the Urban Fringe LES and this Planning Proposal is a further investigation of the lands.

The agricultural classification of the land, predominantly Class 3 and a small area of Class 4, identifies the land as having some rural use significance. NSW Agriculture, as part of the Section 62 of the *Environmental Planning & Assessment Act* consultations for the Urban Fringe LES, noted that generally within the study area, land was amongst other things, most likely Class 3 or 4 agricultural lands and not suited to cropping.

Being located near urban lands will restrict some forms of agriculture, particularly traditional forms of agriculture that rely on the use of chemical based products. The land is currently used for grazing cattle and has a combined total area of 39.37ha in two separate lots.

Whilst there are no State Government adopted policies for the urban development of this land, the continued viability of this land for traditional forms of agriculture may be limited.

This Planning Proposal is inconsistent with this Direction but the inconsistency may be justified by the information in the Housing and settlement section of the IRS identifying this land for investigation to determine appropriate land uses. This inconsistency is required to be assessed by the Department of Planning and the decision outlined in the Gateway determination.

2. Mining, Petroleum Production and Extractive Industries (1.3)

The proposal is inconsistent with this Direction.

The proposal may restrict the potential development of extractive materials which are of State or regional significance by permitting a land use (Residential and Neighbourhood Business) that is likely to be incompatible with extracting sand and hard rock.

The Department of Trade & Investment have previously advised that a study (to address potential noise, dust and visual impacts from quarrying activities) is required to confirm that residential development on the land won't adversely impact on the ability to extract the resource.

If the Planning Proposal is supported, referral to the Department of Trade & Investment is required. Based on previous advice from that Department, it is recommended that the proponent undertake a study to confirm that residential development on the land won't adversely impact on the ability to extract the resource that is located on other land. This assessment should be undertaken if the proposal is supported the LEP Review Panel. The Gateway determination from the Department of Planning will include whether the study is required or not.

3. Heritage Conservation (2.3)

The Planning Proposal is inconsistent with this Direction as a thorough study to assess the presence or not of Aboriginal areas, places, landscapes or objects have not been carried out.

An Aboriginal heritage assessment is required to be carried out in accordance with the Cultural heritage assessment undertaken as part of the Urban Fringe LES and the LES recommendations.

This assessment can be carried out by the proponent prior to exhibition of the Planning Proposal if the proposal is supported by the LEP Review Panel. The Gateway determination from the Department of Planning will include whether the study is required or not.

4. Residential zones (3.1)

The Planning Proposal is inconsistent with this Direction as it proposes urban development on the urban fringe and is not in accordance with a strategy approved by the Department of Planning or justified by a specific study in accordance with this Direction.

Whilst this Planning Proposal is not in accordance with the IRS, the Strategy (page 22) identifies that these lands are being investigated to determine

appropriate land uses. That investigation was the Urban Fringe LES and this Planning Proposal is a further investigation of the lands.

This Planning Proposal is inconsistent with this Direction but the inconsistency may be justified by the information in the Housing and settlement section of the IRS identifying this land for investigation to determine appropriate land uses.

The Illawarra Urban Development Program 2012 Update states that Shellharbour LGA has a sufficient supply of strategy identified greenfield land (10,706 lots). This is well above the required 3,135 lots needed according to the 15 year benchmark. There are 7,806 lots zoned which means Shellharbour LGA also meets the 8 year benchmark of 1,672 lots zoned. Based on the 7.3 year benchmark for zoned and service ready lots, Shellharbour LGA would require 1,526 lots. There are 4,151 lots zoned and service ready.

There is no shortage of zoned and serviced ready land in the Shellharbour LGA. This land is not required to meet a shortage of supply in the Shellharbour LGA, however, the supply of Greenfield land in this part of the LGA is diminishing as the Flinders subdivision nears completion. The land available at Shell Cove is for a designated Concept Plan development which may provide for a different range of housing types and housing markets.

Support for this Planning Proposal will provide another source of land supply in the eastern part of our LGA and provide development opportunities close to the proposed new Railway Station adjoining part of this site.

The inconsistency that this proposal has with this Local Planning Direction is required to be assessed by the Department of Planning and the decision outlined in the Gateway determination.

5. Acid Sulfate Soils (4.1)

The Planning Proposal is inconsistent with this Direction.

A Planning Proposal must not be prepared that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Under the Planning Act a copy of any such study is required to be provided to the Department of Planning prior to undertaking community consultation.

A study hasn't been completed and so the proposal is currently inconsistent with this Direction.

This study can be carried out by the proponent prior to exhibition of the Planning Proposal if the proposal is supported by the LEP Review Panel. The Gateway determination from the Department of Planning will include whether the study is required or not.

6. Flood Prone Land (4.3)

This Planning Proposal is currently inconsistent with this Direction.

The Urban Fringe LES didn't undertake any studies to determine flood planning areas or to determine consistency with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

This study can be carried out by the proponent prior to exhibition of the Planning Proposal if the proposal is supported by the LEP Review Panel. The Gateway determination from the Department of Planning will include whether the study is required or not.

7. Implementation of Regional Strategies (5.1)

The land is not identified in the Illawarra Regional Strategy for urban development.

The Illawarra Regional Strategy identifies these lands as being investigated by Council to determine appropriate land uses and zonings taking into account its urban, biodiversity and natural resource values (page 22). This investigation was the Urban Fringe Local Environmental Study that recommended minimal development on the land and this Planning Proposal is a further investigation of the lands.

This Planning Proposal is inconsistent with this Direction but the inconsistency may be justified by the information in the Housing and settlement section of the IRS identifying this land for investigation to determine appropriate land uses.

The Illawarra Urban Development Program 2012 Update states that Shellharbour LGA has a sufficient supply of strategy identified greenfield land (10,706 lots). This is well above the required 3,135 lots needed according to the 15 year benchmark. There are 7,806 lots zoned which means Shellharbour LGA also meets the 8 year benchmark of 1,672 lots zoned. Based on the 7.3 year benchmark for zoned and service ready lots, Shellharbour LGA would require 1,526 lots. There are 4,151 lots zoned and service ready.

There is no shortage of zoned and serviced ready land in the Shellharbour LGA. This land is not required to meet a shortage of supply in the Shellharbour LGA.

The main drivers for Residential development on these lands are not demand driven. It is as a result of the construction of a railway station adjoining the site and that there is only one other Greenfield site (Shell Cove) in the vicinity that will have Greenfield land available for development after 2014 (2014 from - Illawarra Urban Development Program 2012 Update).

The inconsistency that this proposal has with this Local Planning Direction is required to be assessed by the Department of Planning and the decision outlined in the Gateway determination.

C. Environmental, social and economic impact.

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

- The Urban Fringe Local Environmental Study undertook a cultural heritage assessment. That assessment identified the need to further investigate Aboriginal cultural heritage on specific sites identified as Potential Archaeological Deposits. That assessment has not been carried out by the proponent and is required to determine the potential impact on Aboriginal cultural heritage on this site.

- The Urban Fringe Local Environmental Study undertook a cultural heritage assessment. That assessment identified the need to undertake archival recording of the existing European farm structures. Archival recording of these structures has not been undertaken by the proponent and is required.
- A flood study is required to be undertaken to determine whether any part of the land is flood prone.
- An Acid Sulfate Soils study is required to be undertaken to determine whether the intensification of the land use is appropriate.
- A study is required to determine the impact the proposed zone and land use change will have on the ability to extract the identified State Extractive Resources in the area.
- Noise and vibration studies are required to determine the potential impact from classified and local roads and passenger and freight rail movements on the proposed future residential and neighbourhood business land uses.
- Assessment is required on the impact this proposal will have on the Indicative Habitat Corridor identified in the Illawarra Regional Strategy.
- Development of the land will require site works. These have the potential to cause soil erosion that may move off-site. The concept plan shows the location of water management and landscape buffers.

Potential erosion and water management impacts can be addressed in detail at future development application stages, should the Planning Proposal be supported.

3. How has the planning proposal adequately addressed any social and economic effects?

The NSW State Government has announced the construction of a new railway station adjoining Lot 3 in this Planning Proposal. The access road to, and car parking for the station, are located on part of Lot 3. It is understood that the NSW State Government is in discussions with the landowner to purchase land for the car park and associated site works. The access road will become a public road.

The Illawarra Urban Development Program 2012 Update states that Shellharbour LGA has a sufficient supply of strategy identified greenfield land (10,706 lots). This is well above the required 3,135 lots needed according to the 15 year benchmark. There are 7,806 lots zoned which means Shellharbour LGA also meets the 8 year benchmark of 1,672 lots zoned. Based on the 7.3 year benchmark for zoned and service ready lots, Shellharbour LGA would require 1,526 lots. There are 4,151 lots zoned and service ready.

There is no shortage of zoned and serviced ready land in the Shellharbour LGA. This land is not required to meet a shortage of supply in the Shellharbour LGA.

The main drivers for Residential development on these lands are not demand driven. It is as a result of the construction of a railway station adjoining the site and that there is only one other Greenfield site (Shell Cove) in the vicinity that will have Greenfield land available for development after 2014 (2014 from - Illawarra Urban Development Program 2012 Update).

The provision of a Neighbourhood Business zone within this development, located near the future railway station site, would benefit both commuters and future residents.

The Shellharbour Retail Commercial Centres Study (2008) did not identify this land for retail/commercial purposes. A site was identified in the adjoining Residential subdivision to the north of these properties. The Draft Shellharbour LEP 2011 was exhibited with a Neighbourhood Zone on land in the adjoining subdivision. The proposed Neighbourhood Business zone was resolved to be removed by Council at its Extraordinary Meeting held on 29 May, 6 June and 3 July 2012, as a result of a review of public submissions.

Whilst a Neighbourhood Business zone may be appropriate in this area if Residential zoning is supported, the size of the proposed Neighbourhood Business zoning needs further investigation to determine whether the size proposed is excessive based on the catchment area, possible future uses and similar zoned land elsewhere in the LGA. Further details on this issue should be provided by the proponent to support the area of the proposed Neighbourhood Business zone.

D. State and Commonwealth interests.

1. Is there adequate public infrastructure for the planning proposal?

Development of the land for the uses proposed will require the provision of utility, road and service infrastructure to the site.

2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

To be decided after the Gateway determination and consultation.

Consultation should occur with:

- NSW Trade & Investment -Mineral Resources and Energy (Extractive Resources);
- Transport NSW (proposed railway station and associated works and potential noise attenuation issues required by proposed development);
- Roads & Maritime Services (potential noise attenuation issues required by proposed development); and
- Office of Environment & Heritage (Aboriginal and European heritage and impact on Indicative Habitat Corridor - Illawarra Regional Strategy).

Part 4 Maps, where relevant to identify the intent of the planning proposal and the area to which it applies

- Site Identification Map - **Attachment 3**
- Current Zoning Map - **Attachment 4**
- Current Acid Sulfate Soils Map - **Attachment 5**
- Current Significant Extractive Resources Map - **Attachment 6**
- Proposed Mineral Resources and Transition Area Map as included in Shellharbour LEP 2013 Planning Proposal No 6 [DoPI file PP_2013_Shell_002_00 (13/10368)] - **Attachment 7**
- Proposed Zoning and planning control maps - **Attachments 8 - 11**

Part 5 Details of the community consultation that is to be undertaken on the planning proposal.

It is anticipated that a 28 day consultation period is appropriate. To be finalised as part of the gateway determination.

Part 6 Project timeline.

As this Planning Proposal may require additional information to be prepared and provided by the proponent, it is not possible to be able to provide an anticipated timeline. The additional information is dependent on the Gateway determination and if required, the proponent undertaking the work. For this reason, the project timeline can't be completed by Council at this time.

- Anticipated gateway determination - September/October 2013
- Anticipated timeframe for completion of required technical information - Not applicable
- Timeframe for government agency consultation - Pending Gateway Determination
- Commencement and completion of public exhibition - Pending Gateway Determination
- Dates for public hearing - Not applicable
- Timeframe for consideration of submissions - Pending Gateway Determination
- Timeframe for consideration of proposal post exhibition - Pending Gateway Determination
- Date of submission to the Department to finalise LEP - Pending Gateway Determination
- Anticipated date RPA will make the plan (if delegated) - Not applicable, no delegation
- Anticipated date RPA will forward to the department for notification - Not applicable, no delegation

ATTACHMENTS

Attachment 1	Council resolution and report 23 July 2013
Attachment 2	Table of proposed zoning and planning controls
Attachment 3	Site Identification Map
Attachment 4	Current Zoning Map
Attachment 5	Current Acid Sulfate Soils Map
Attachment 6	Current Significant Extractive Resources Map
Attachment 7	Proposed Mineral Resources and Transition Area Map [DoPI file PP_2013_Shell_002_00 (13/10368)]
Attachment 8	Zoning Map
Attachment 9	Floor Space Ratio Map
Attachment 10	Height Map
Attachment 11	Lot Size Map
Attachment 12	Summary of Planning Issues Checklist