

Planning Services

Gateway Determination Report

LGA	Shellharbour LGA
RPA	Shellharbour City Council
NAME	Planning Proposal to reclassify Lot 1 DP 211127 and part of Lot 5 DP 218551 from Community to Operational and include Function Centres as a Permissible use for the site in Schedule 1 of the SLEP2013.
NUMBER	PP_2017_SHELL_001_00
LEP TO BE AMENDED	Shellharbour LEP 2013
ADDRESS	115 Junction Road, Shellharbour
DESCRIPTION	Lot 1 DP 211127 and part of Lot 5 DP 218551
RECEIVED	1 st December 2017
FILE NO.	EF17/13640
QA NUMBER	
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.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to reclassify Lot 1 DP 211127 and part Lot 5 DP 218551 at the Shellharbour Surf Club, 115 Junction Road, Shellharbour from Community to Operational land and to insert Function Centres as an Additional Permitted Use on the site under Schedule 1 of the Shellharbour LEP 2013. The planning proposal will permit a Function Centre at the local surf club and adjoining car park.

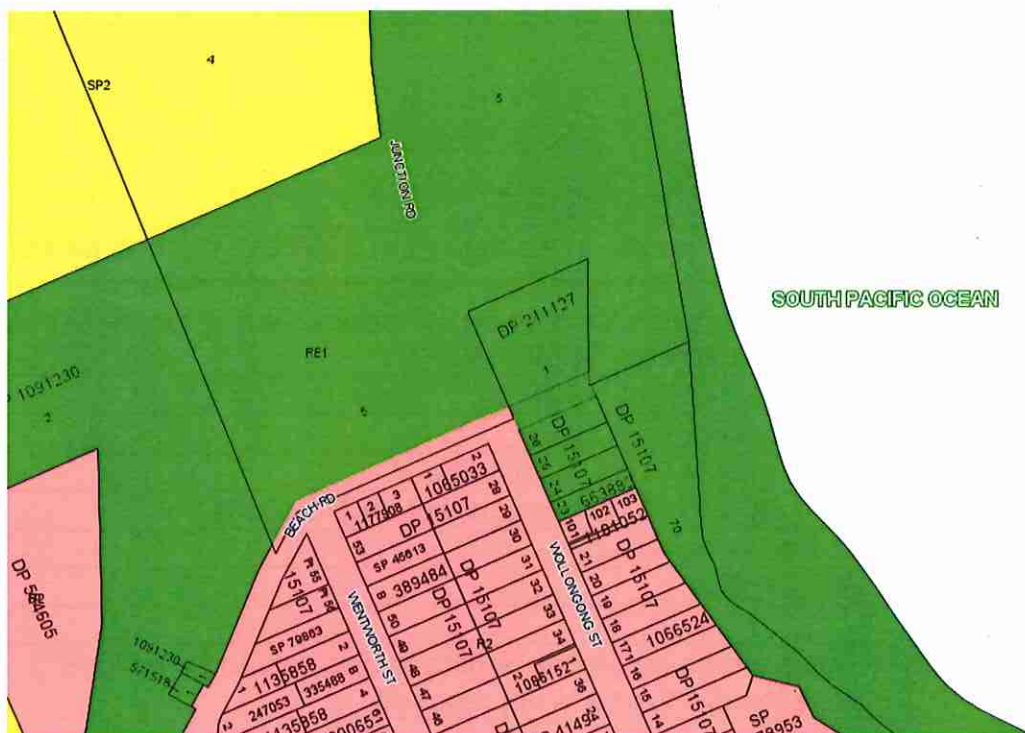
Site Description

The site is Lot 1 DP 211127 and Lot 5 DP 218551, and consists of the Shellharbour Surf Club buildings, the former "Seaspray Function Centre" building and an adjacent car park. The land has a total area of 6440m². The buildings are directly adjacent to Shellharbour beach and are part of an extensive recreational area. The site was purchased by Council in 1958 however it was never dedicated as a public reserve. It has a number of interests, including a lease with the Shellharbour Surf Club Incorporated, and a sewerage easement. No interests will be discharged.

The two surf club buildings are currently leased by Shellharbour City Council to the surf club. This lease also includes the land the buildings occupy which is Lot 1 DP 211127 with an area of 4047m².

The remainder of the subject land is occupied by the existing paved car parking area to the north of the buildings. This has an area of approximately 2400m² and is described as Part of Lot 5 DP 218551.

Figure 1 – Site map



Surrounding Area

The site is north east of the Shellharbour Village residential area. The car park forms part of Beverly Whitfield Park to the west, to the north of the site is parkland and to the east is a natural beach foreshore area. Junction Road continues to the north to service the Shellharbour Sewerage works. The site, immediately adjacent to the Pacific Ocean, whilst not specifically dedicated as a public reserve, is part of an extensive open space network including Shellharbour Beach.

Figure 2 – Site and surrounding area



Summary of Recommendation

It is recommended that the Planning Proposal should proceed as submitted.

PROPOSAL

Objectives or Intended Outcomes

The objectives of the planning proposal are to:

- Reclassify the land from community to operational to permit a full array of function centre activities;
- Formalise the existing use of the Shellharbour Surf Club buildings and carpark as a function centre by permitting a full array of function centre activities that are not constrained by definition of the current building as a community facility.

Explanation of Provisions

The explanations of provisions in the planning proposal refers to a Council report for details. The report contains details of the proposed amendments to Shellharbour LEP 2013:

Reclassification

Insert in Schedule 4, Part 1 Column 1- Land Classified, or Reclassified as Operational, no interests changed: Lot 1 DP 11127 and part of Lot 5 DP 218551;

Schedule 1- Additional Permitted Uses

To include in Schedule 1 of the Shellharbour LEP 2013, as Permissible with Consent, Function Centres on Lot 1 DP 11127 and part of Lot 5 DP 218551.

It is considered that the explanation of provisions, while adequate, should be provided within the planning proposal to meet the requirements of the Department's guide to preparing planning proposals. A condition will be included in the Gateway requiring this.

Mapping

The planning proposal requires amendments to the Shellharbour LEP 2013 Additional Uses and Land Reclassification maps as follows:

- Amend Additional Permitted Uses Map, Sheet APU_30, to identify Lot 1 DP 11127 and part of Lot 5 DP 218551.
- Insert Lot 1 DP 11127 and Part Lot 5 DP 218551 as Operational land in the Land Reclassification Map (Part Lots) Map sheet RPL 30.

The planning proposal provides draft amended maps for the Reclassification and Schedule 1 map changes, site and location map, and current zoning map, as well as land title plans and surveys.

It is considered that the mapping provided is suitable for the purposes of public consultation.

NEED FOR THE PLANNING PROPOSAL

The Surf Club has a 99 year lease with Shellharbour City Council to use the land and buildings. Under the Local Government Act community land can only have a 20 year lease and the definition of function centres relates to community and recreational uses. It does not provide for a full range of commercial activities or third party uses.

The RE1 zoning permits a community facility which includes functions held by a community group such as a meeting or club dinners. It does not provide for conventional function centre uses like a private party or a wedding which fall under the definition of a function centre.

The Surf Club has a current DA (DA 207/1989) to use the northern building for functions by surf club members only. The proposed additional permitted use and reclassification would enable the land to be lawfully used as a function centre and allow Council to enter a long term lease of the buildings.

Council resolved on the 31st of October 2017 to prepare a Planning Proposal for the site, and seek a Gateway determination. Council at that meeting also resolved not to use its plan-making delegations to finalise the planning proposal.

STRATEGIC ASSESSMENT

Regional - ILLAWARRA SHOALHAVEN REGIONAL PLAN

The planning proposal has identified that it is consistent with the Directions and Actions of the Illawarra-Shoalhaven Regional Plan. In particular Direction 1.3 - Grow regional strategic assets to support economic growth across the region, is addressed by the planning proposal as it provides for increased recreational and commercial use of the existing function centre.

Local

The planning proposal states that it is consistent with Council's Community Strategic Plan 2013 – 2023, in particular Strategies:

Strategy 1.1.1 – Encourage and support activities and events where communities can gather and celebrate.

Strategy 2.3.6 – Deliver sustainable management of the community's assets for current and future generations.

Strategy 3.2.4 – Support educational and employment opportunities that retain young people, attract new workers and provide opportunities for the unemployed.

The proposed Function Centre is consistent with the Shellharbour Surf Club/Sea Spray Function Centre Plan of Management within the parameters of the Local Government Act. The car park area is partly covered by Beverly Whitfield Park/Shellharbour Swamp Plan of Management. Council has advised that upon any reclassification to Operational, the Plan of Management will no longer apply to either site.

Section 117(2) Ministerial Directions

Whilst the planning proposal has identified that Section 117 Directions 2.3 Heritage Conservation, 2.4 Recreation Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, 3.4 Integrating Land Use and Transport, and 6.2 Reserving Land for Public Purposes apply, they are not considered to be relevant to this proposal.

The planning proposal is consistent with S117 Directions 2.2 Coastal Protection, 4.1 Acid Sulphate Soils, 5.10 Implementation of Regional Plans, and 6.3 Site Specific Provisions, which apply to the planning proposal.

2.2 Coastal Protection

The site is located within a sensitive coastal location. The planning proposal provides for an additional permitted land use within an existing building on the site.

The proposal will not restrict or alter existing access, amenity, scenic quality or have any additional impact on the coastal foreshore area.

4.1 Acid Sulphate Soils.

The site is mapped as potentially being affected by acid sulphate soils. There is no proposed intensification of the land use on the site. Any subsequent development application involving works would need to address acid sulphate soils.

5.10 Implementation of Regional Plans

The planning proposal states that it is consistent with the applicable Illawarra-Shoalhaven Regional Plan and with the Direction. As discussed previously, this view is supported.

6.3 Site Specific Provisions

The planning proposal allows the additional land use on the land without imposing any development standards or requirements in addition to those already contained in the local environmental plan.

Recommendation: The Secretary's delegate can be satisfied that the S117 Directions, 2.2 Coastal Protection, 4.1 Acid Sulphate Soils, 5.10 Implementation of Regional Plans, and 6.3 Site Specific Provisions apply and the planning proposal is consistent with these Directions.

The planning proposal is inconsistent with S117 Direction 4.3 Flood Prone Land. The north-west corner of the lot is identified as affected by the Probable Maximum Flood. This area is currently occupied by the Surf Club and carpark. While it is not proposed to change the zoning it is proposed to broaden the use of the site for private functions and in this way will alter a provision that affects flood prone land.

The inconsistency is considered to be of minor significance and justified as the use of the site will remain essentially the same. Any further development of the site would need to address flooding.

Recommendation: The Secretary's delegate can be satisfied that the proposal's inconsistency with S117 Direction 4.3 Flood Prone Land is of minor significance.

State Environmental Planning Policies

The planning proposal identifies that SEPP 71 as identified under s117 Direction 2.2 Coastal Protection, the planning proposal will not impact on the coastal foreshore area. The Coastal Protection and Draft SEPP Coastal Management apply to the planning proposal.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with SEPP 71 and the Draft Coastal Management SEPP.

SITE SPECIFIC ASSESSMENT

Social

The social impact of the planning proposal will arise out of the ability for the Surf Club to hold more events and fundraising activities in their building in the future. This will increase the capacity for the club to potentially increase their active role in the community while providing additional resources for the future needs of the club and its members.

Environmental

The planning proposal will have no impacts on the environment, critical habitat or threatened species as it is only allowing for private functions to be held in the existing building.

Economic

The Shellharbour local government area experiences significant unemployment and underemployment, especially for young people. If the Function Centre proceeds additional employment may be offered to staff the club, and local business should benefit from the fit out and future supply of goods and services required to maintain and manage the club and function centre activities.

CONSULTATION

Community

Council proposes to exhibit the planning proposal for 28 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website and hard copies will be available at Council's administration buildings.

A public hearing will also be required to be held by Council as part of the reclassification process.

It is considered that the proposed community consultation arrangements for the PP are appropriate.

Agencies

The planning proposal identifies consultation with the following agencies:

- Office of Environment and Heritage,
- Sydney Water, and
- Endeavour Energy.

Recommendation: As the proposal is formalising the use of an existing building, no agency consultation is required.

TIMEFRAME

Council has sought a 12 month timeframe to finalise and notify the plan. This is considered reasonable.

DELEGATION

Council has not sought the use of plan making delegations for the PP but has not justified why it should not be given delegation to complete the planning proposal.

As the planning proposal is minor in nature, consistent with the strategic planning for the area and will not require the approval of the Governor it is considered that delegations should be given to Council.

CONCLUSION

The planning proposal is facilitating the additional use of public recreation zoned land that is currently the clubhouse and car park for the Shellharbour Surf Lifesaving Club. The addition of Function Centres as a permissible use, and the reclassification from Community to Operational will not have any impacts on the current community use of the site, and will provide the Surf Lifesaving Club with additional resources to invest in their activities to benefit the community as a whole.

The planning proposal addresses the Department's "A guide to preparing planning proposals" and is considered adequate for a Gateway determination with conditions.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. As delegate of the Minister for Planning, determines under section 56(2) of the EP&A Act that an amendment to the Shellharbour Local Environmental Plan 2013 to enable Lot 1 DP 211127 and part of Lot 5 DP 218551, to be reclassified from Community to Operational, and to include an additional permitted use as Function Centres in Schedule 1 of the SLEP2013 should proceed subject to the following conditions:
2. The planning proposal shall be amended to include a detailed explanation of provisions prior to exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is to be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2012).

4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

6. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 1.1 Acid Sulphate Soils, 2.2 Coastal Protection, 5.10 Implementation of Regional Plans, 6.2 Reserving land for Public Purposes and 6.3 Site Specific Provisions.

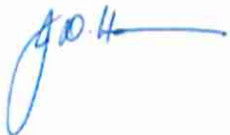
Any request by Council for site specific provisions in the legal drafting of the LEP will need to be justified by Council to the satisfaction of the Secretary's delegate.

7. The Secretary's delegate can be satisfied that the planning proposal's inconsistency with s117 Direction 4.3 Flood Prone Land is of minor significance.

8. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.

 20/12/17

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