

10.2.2 Shellharbour Planning Proposal No. 4/2016 - Proposed Heritage Item - Shellharbour City Council Local Government Area Northern Boundary (10747003)

To the General Manager

Directorate: City Outcomes

Department: City Strategy

Manager: Geoff Hoynes – Acting Director City Outcomes

Author: Cheryl Lappin – Acting Group Manager City Strategy

Summary

The purpose of this report is to seek Council's resolution to prepare a Planning Proposal to amend *Shellharbour Local Environmental Plan (LEP) 2013* to bring the Northern Boundary of the Shellharbour City Council Local Government Area (LGA) into Schedule 5 (Environmental Heritage) as an Item of Local Heritage Significance.

In addition, it is recommended that Council undertake further comparative research to determine conclusively all aspects of the rarity of the boundary at a State level. If at the completion of the research it is considered of state significance Council lodge a nomination for the Shellharbour City Council Local Government Area Northern Boundary to be added to the State Heritage Register.

The location of this boundary is shown in **Attachment 1** and a list of affected properties can be found in **Attachment 2**. It is worth noting that the land affected by the Calderwood Major Project Approval is unable to be included in the proposed listing as it falls under the Major Projects Environmental Planning Policy and not the Local Environmental Plan.

The report also recommends that the Planning Proposal be submitted to the NSW Planning & Environment (DPE) seeking a Gateway determination to enable the public exhibition of the Proposal. A copy of this report will form part of Council's submission to the NSW Department of Planning & Environment.

Background

On 16 February 2016 Council received a request from a resident for Council to make an Interim Heritage Order over the existing boundaries of the Local Government Area (LGA).

This request was made due to the imminent threat to these boundaries as a result of the State Government's current merger proposal to amalgamate Shellharbour City Council with Wollongong City Council. The Shellharbour Local Government Boundaries were proclaimed on 4 June 1859. This proclamation appeared in the supplement to the NSW Government Gazette of 8 June 1859 and the boundaries have remained largely unchanged since that date.

On 23 February 2016 Council resolved to:

- '1. Make an Interim Heritage Order in accordance with Section 25 of the Heritage Act 1977, over the properties listed in Attachment 1 of this report in order to immediately protect the historic integrity of the local government area which is under imminent threat as a result of the current merger proposal by the State Government for Shellharbour City Council and Wollongong City Council.*
- 2. Arrange for the gazettal of the Interim Heritage Order in the NSW Government Gazette.*
- 3. Advise the affected property owners of Council's resolution.*
- 4. Advise the Heritage Office of the Department of Planning and Environment NSW of Council's resolution.*
- 5. Advise the Acting Chief Executive of the NSW Office of Local Government and his delegate of Council's resolution.*
- 6. Advise the Minister for Local Government of Council's resolution.'*

On 26 February 2016, Shellharbour Interim Heritage Order 1/2016 was published in the NSW Government Gazette No 15 which can be found as **Attachment 3**.

The NSW Heritage Branch Guidelines state that:

'The intent of an Interim Heritage Order is to provide temporary protection for a potential heritage item under threat. After the order has been placed, Council has 6 months to finalise the assessment of the item, including to resolve to prepare a local environmental plan that will list the item in a heritage schedule and finalise preparation of that plan. Interim Heritage Orders can only be used to provide short-term protection for potential heritage items. Local Councils should protect heritage items in the longer term through the planning system'.

Council could only consider placing an Interim Heritage Order on private properties affected by the existing boundary which is under threat. Areas where the existing boundary is located on Crown Land, Council owned land or land affected by the Major Projects State Environmental Planning Policy are not identified to be included in the IHO; this is because under specified conditions attached to authorisation for Council to make an IHO Council is unable to affect these lands.

However, heritage listings may be placed over all relevant land with the exception of land affected by the Major Projects State Environmental Planning Policy as they are excluded from the Local Environmental Plan. It is therefore intended to place the listing over all other land located on the boundary.

Council subsequently engaged a suitably qualified Heritage Consultant to undertake a more detailed assessment of the heritage significance of the proposed heritage

item (Northern Boundary of the Shellharbour LGA). This report has been used to assist and inform Council on the suitability of placing the proposed heritage item on schedule 5 of the LEP to ensure its protection through the planning system. The full report can be found in **Attachment 4**.

In summary, the detailed heritage assessment has made the following conclusions and recommendations:

‘The heritage significance assessment contained in this report has shown that the northern boundary of Shellharbour City Council as defined in the Interim Heritage Order has significance at a local level and potentially at a State level.

The northern boundary of the City of Shellharbour has local heritage value and should be included in Shellharbour Local Environmental Plan 2013 as a heritage item in Schedule Five. The boundary meets all seven heritage significance criteria at a local level.

The northern boundary of the City of Shellharbour also has the potential to have State heritage significance under the criteria of history and rarity. Further comparative research is required to determine conclusively all aspects of the rarity of the boundary at a State level. A nomination to the State Heritage Register is recommended.’

Financial / Resources Implications

If Council resolves to prepare a Planning Proposal, there is no Financial or Resource Implications except for staff time to prepare and process the proposal.

There are no fees applicable to this Planning Proposal as it has been initiated by Council.

Legal and Policy implications

Should Council support the preparation of a Planning Proposal, the Planning Proposal will need to be sent to the NSW Department of Planning & Environment for Gateway assessment and approval to place the Planning Proposal on public exhibition.

The Planning Proposal will need to be prepared, exhibited and assessed in accordance with the requirements of the *Environmental Planning & Assessment Act* and *Regulations*, the *Guide to Preparing Planning Proposals* and the *Guide to Preparing Local Environmental Plans* prepared by the NSW Department of Planning & Environment.

Council Decision Making During Merger Proposal Periods – Section 23A of the Local Government Act 1993

The Office of Local Government's (OLG) document *Council Decision Making During Merger Proposal Periods* includes general principles and a number of specific guidelines. The general principles and regulatory guidelines of relevance are:

Councils and council officials should not make decisions during a merger proposal period that:

- Seek to damage or impede the operational effectiveness of a new council including by (but not limited to)
- Make significant and/or ongoing financial commitments that will be binding on a new council
- Make other significant undertakings or commitments that will be binding on a new council
- Make decisions that are designed to limit the flexibility or discretion of a new council
- Would not otherwise withstand legal challenge on the basis that the new council and not the outgoing one would need to defend any such challenge.

These guidelines have been considered and the progression of the Planning Proposal does not conflict with the guidelines.

Delegations

It is not recommended that Council use any of its Planning Proposal delegations for this proposal.

Public / Social Impact

Placing the Northern Boundary of the LGA on Schedule 5 Environmental Heritage of Shellharbour LEP 2013 will ensure its recognition as an item of Environmental Heritage with Local Heritage Significance. It will ensure that any potential impact on this heritage significance is considered as part of any proposed development on the affected properties. Most importantly it is an acknowledgement of the significance of this item to the local community and ensures that the story behind the significance is documented in legislation.

Placing the Planning Proposal on public exhibition will provide an opportunity for interested parties to provide their views for Council's consideration.

Link to Community Strategic Plan

This report supports the following objectives and strategies of the Community Strategic Plan:

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

2.3.5 Recognise, protect and celebrate our heritage.

Consultations

Internal

Nil

External

Affected landowners were advised by letter of the Interim Heritage Order that was placed on their properties. A meeting was also held with a group of affected landowners to explain the implications of the Interim Heritage Order.

Affected landowners will also be consulted during the public exhibition period of the Planning Proposal.

Political Donations Disclosure

Not Applicable

Recommendation

1. That Council confirm its consideration of the guidelines issued by the NSW government in accordance with Section 23A of the Local Government Act, 1993, in resolving on this matter.
2. That Council prepare Planning Proposal No 4/2016 to amend Shellharbour Local Environmental Plan 2013 in the following manner:
 - a. Amend Shellharbour LEP 2013 Schedule 5 – Environmental Heritage by inserting the Shellharbour City Council Local Government Area Northern Boundary and required information as outlined in Attachment 5
 - b. Amend Shellharbour LEP 2013 Heritage Map in accordance with Attachment 1
3. That Council authorise the General Manager to submit Shellharbour Local Environmental Plan 2013 Planning Proposal No 4/2016 to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.

4. That Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Shellharbour Local Environmental Plan 2013 Planning Proposal No 4/2016 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
5. That Council and Council staff not use the plan-making delegations from the Minister for Planning on this Planning Proposal.
6. That Shellharbour Local Environmental Plan 2013 Planning Proposal No 4/2016 be publicly exhibited in accordance with the gateway determination.
7. After the public exhibition period has closed, that a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations regarding adoption.
8. That Council undertake further comparative research to determine conclusively all aspects of the rarity of the boundary at a State level. If considered to meet the criteria of a Stage Heritage Item, Council lodge a nomination for the Shellharbour City Council Local Government Area Northern Boundary to be added to the State Heritage Register. This would be subject to a further report to Council.

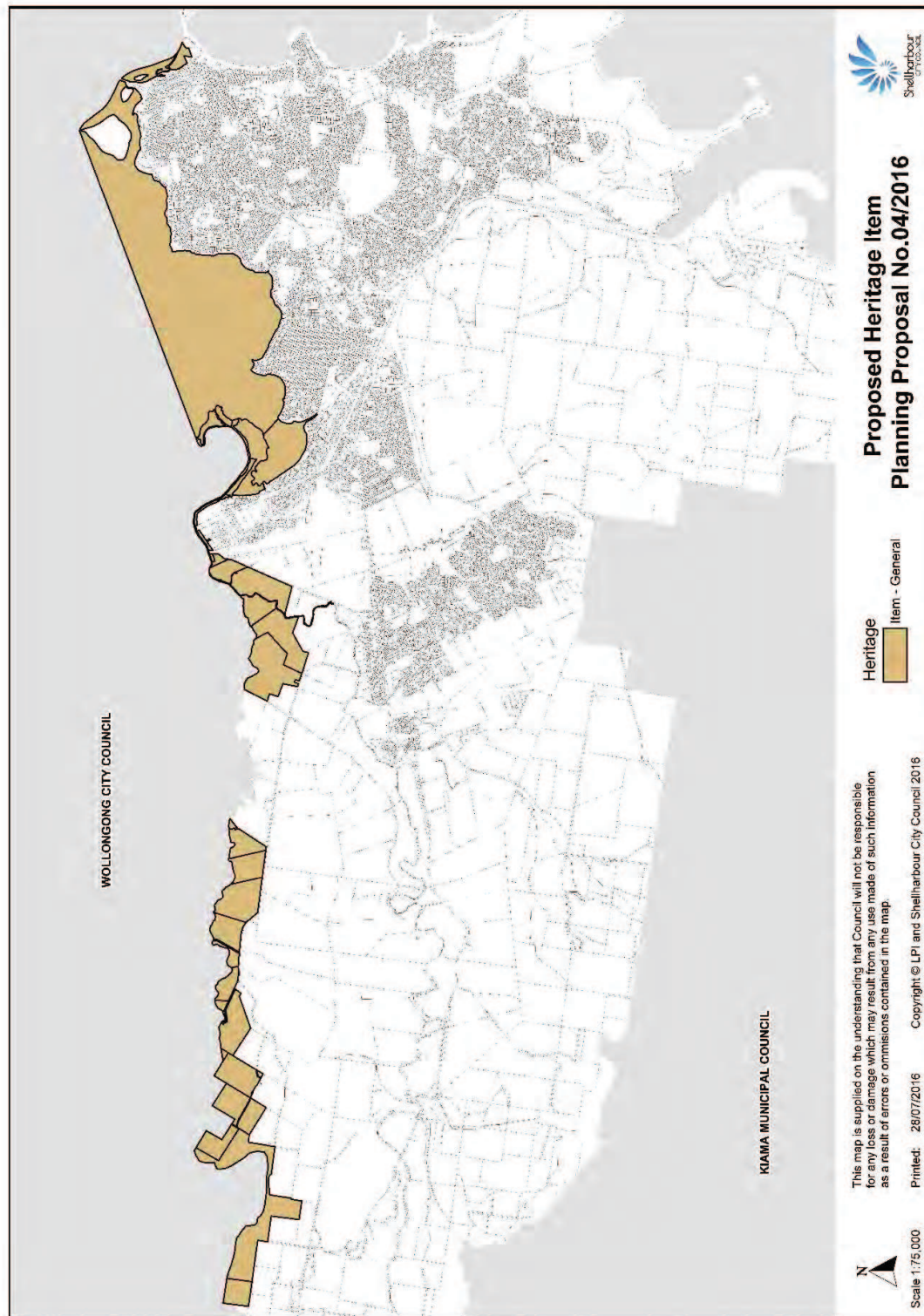
Approved for Council's consideration: _____

Date of Meeting: 9 August 2016

Attachments

1. Proposed Shellharbour LEP 2013 Heritage Map
2. List of Affected Properties
3. Shellharbour Interim Heritage Order 1/2016 Gazettal Notice
4. Heritage Assessment (under separate cover)
5. Proposed Schedule 5 Amendment

Attachment 1 – Proposed Shellharbour LEP 2013 Heritage Map



Attachment 2 – List of Affected Properties

LIST OF AFFECTED PROPERTIES			
Lot & DP	House No.	Street	Suburb
LOT: 17, AP: 804242	1914	Illawarra Highway	ALBION PARK RAIL
LOT: 3, AP: 533684	0	Illawarra Highway	ALBION PARK RAIL
LOT: 302, DP: 849257	48	Shearwater Boulevarde	ALBION PARK RAIL
LOT: 36, DP: 1188110	0	Princes Highway	ALBION PARK RAIL
LOT: 1, DP: 364006	0	Princes Highway	ALBION PARK RAIL
LOT: 32, DP: 244040	0	Rivulet Crescent	ALBION PARK RAIL
LOT: 230, DP: 844852	0	Shearwater Boulevarde	ALBION PARK RAIL
LOT: 332, DP: 849257	0	Spoonbill Place	ALBION PARK RAIL
LOT: 152, DP: 831222	0	Shearwater Boulevarde	ALBION PARK RAIL
LOT: 72, DP: 543194	582 - 594	Calderwood Road	CALDERWOOD
LOT: Pt 13, DP: 2534	610	Calderwood Road	CALDERWOOD
LOT: 4, DP: 658267	604	Marshall Mount Road	CALDERWOOD
LOT: 1, DP: 746581	102	Mellows Road	CALDERWOOD
LOT: Pt 3, DP: 24143	142	Calderwood Road	CALDERWOOD
LOT: Pt 1, DP: 372848	0	Illawarra Highway	CALDERWOOD
LOT: 121, DP: 998189	0	Illawarra Highway	CALDERWOOD
LOT: 16, AP: 804242	0	Illawarra Highway	CALDERWOOD
LOT: Pt 3, DP: 2534	0	Marshall Mount Road	CALDERWOOD
LOT: 2, DP: 651377	144	Calderwood Road	CALDERWOOD
LOT: 2, DP: 568285	719	Calderwood Road	CALDERWOOD
LOT: 121, DP: 858284	672	Calderwood Road	CALDERWOOD
LOT: 46, DP: 751263	0	Calderwood Road	CALDERWOOD
LOT: Pt 5, DP: 2534	448	Calderwood Road	CALDERWOOD
LOT: 1121, DP: 1067963	682	Calderwood Road	CALDERWOOD
LOT: 47, DP: 751263	0	Calderwood Road	CALDERWOOD
LOT: Pt 6, DP: 2534	532	Calderwood Road	CALDERWOOD
LOT: 77, DP: 751263	0	Illawarra Highway	MACQUARIE PASS
Part Lake Illawarra			

Attachment 3 – Shellharbour Interim Heritage Order 1/2016 Gazettal Notice

Council Notices

GUNNEDAH SHIRE COUNCIL

ROADS ACT 1993
Section 162

ROADS REGULATION 2008
Part 2, Division 2

New Road Names

Notice is hereby given that Gunnedah Shire Council, in accordance with the above, has gazetted the roads created as part of the subdivision of Lot 5 DP 1179687, 39 Goodwin Road, Gunnedah, NSW. The gazetted roads are named "Parkview Drive" and "Turner Close". Parkview Drive is expected to become a through road and is oriented north/south to the south of existing Baxter Street, Gunnedah. Turner Close is a cul-de-sac road oriented east/ west to the east of newly created Parkview Drive, Gunnedah.

No objections were received during the required 28 day exhibition period.

ERIC GROTH, General Manager, Gunnedah Shire Council,
PO Box 63, Gunnedah NSW 2340. [8428]

LIVERPOOL CITY COUNCIL

ERRATUM

ROADS ACT 1993

Naming of Council Roads

The road originally gazetted in the *NSW Government Gazette* of 2 July 2010 for the suburb of Edmondson Park:

Mustard Road should be spelt as Mustard Court

C WULFF, Chief Executive Officer, Liverpool City Council
Locked bag 7064 Liverpool BC 1871. [8429]

MAITLAND CITY COUNCIL

ERRATUM

In the notice referring to the Naming of Public Roads in the Maitland Local Government Area in *NSW Government Gazette* No 3 of 15 January 2016, Folio 8369, the road layout has been changed. Skylark Loop footprint has changed and is now known as Skylark Avenue. Firetail Street footprint has changed and Monarch Street and Logrunner Street will no longer be used. Refer to amended Road Naming Plan. This notice corrects those changes. [8430]

MAITLAND CITY COUNCIL

ROADS ACT 1993
Section 16

Dedication of Land as Public Road

Notice is hereby given that Maitland City Council, in pursuance of section 16 of the *Roads Act 1993*, the land as described in the Schedule below is hereby dedicated as Public Road.

DAVID EVANS, General Manager, Maitland City Council,
PO Box 220, Maitland NSW 2320.

Schedule

Part of the land known as Christopher Road, Lochinvar described as that road shown on DP 976397 and named Boggs Road that runs easterly from Winders Lane to the eastern boundary of Lot 1422 DP 1204088. [8431]

SHELLHARBOUR CITY COUNCIL

HERITAGE ACT 1977

Interim Heritage Order No 1 of 2016

Under section 25 of the *Heritage Act 1977*, Shellharbour City Council does by this order:

- I. make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule 'A'; and
- II. declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- 1) in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- 2) in the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

Shellharbour 24 February 2016

CAREY MCINTYRE, General Manager, Shellharbour City Council

Schedule 'A'

The northern boundary of Shellharbour City Local Government Area on the land described in Schedule 'B'.

Schedule 'B'

All of those pieces or parcels of land listed below:

Land Title	House No	Street	Suburb
LOT: P13 DP: 2534		Marshall Mount Road	CALDERWOOD
LOT: P15 DP: 2524	448	Calderwood Road	CALDERWOOD
LOT: 4 DP: 659267	604	Marshall Mount Road	CALDERWOOD
LOT: P18 DP: 2534	532	Calderwood Road	CALDERWOOD
LOT: 72 DP: 543194	582	Calderwood Road	CALDERWOOD
LOT: P13 DP: 2534	610	Calderwood Road	CALDERWOOD
LOT: 121 DP: 659284	672	Calderwood Road	CALDERWOOD
LOT: 1121 DP: 1067963	682	Calderwood Road	CALDERWOOD
LOT: 2 DP: 568285	719	Calderwood Road	CALDERWOOD
LOT: 46 DP: 751263		Calderwood Road	CALDERWOOD
LOT: 47 DP: 751263		Calderwood Road	CALDERWOOD
LOT: 1 DP: 746561	102	Melleys Road	CALDERWOOD
LOT: 2 DP: 651377	144	Calderwood Road	CALDERWOOD
LOT: P13 DP: 24143	142	Calderwood Road	CALDERWOOD
LOT: P1 DP: 372848		Ilwarras Highway	CALDERWOOD
LOT: 121 DP: 996169		Ilwarras Highway	CALDERWOOD
LOT: 16 AP: 804242		Ilwarras Highway	CALDERWOOD
LOT: 17 AP: 804242	1814	Ilwarras Highway	ALBION PARK RAIL
LOT: 302 DP: 849257	48	Shearwater Boulevard	ALBION PARK RAIL

[8432]

By Authority
Government Printer

ISSN 2201-7534

Attachment 5 – Proposed Schedule 5 Amendment

Schedule 5 Environmental Heritage

Part 1 Heritage items

Suburb	Item Name	Address	Property Description	Item No.
Albion Park Rail	Shellharbour City Local Government Area Northern Boundary	1914 Illawarra Highway	Lot 17, AP 804242	I 359
Albion Park Rail		Illawarra Highway	Lot 3, AP 533684	
Albion Park Rail		48 Shearwater Boulevard	Lot 302, DP 849257	
Albion Park Rail		Princes Highway	Lot 36, DP 1188110	
Albion Park Rail		Princes Highway	Lot 1, DP 364006	
Albion Park Rail		Rivulet Crescent	Lot 32, DP 244040	
Albion Park Rail		Shearwater Boulevard	Lot 230, DP 844852	
Albion Park Rail		Spoonbill Place	Lot 332, DP 849257	
Albion Park Rail		Shearwater Boulevard	Lot 152, DP 831222	
Calderwood		582 – 594 Calderwood Road	Lot 72, DP 543194	
Calderwood		610 Calderwood Road	Lot Pt 13, DP 2534	
Calderwood		604 Marshall Mount Road	Lot 4, DP 658267	
Calderwood		102 Mellows Road	Lot 1, DP 746581	
Calderwood		142 Calderwood Road	Lot Pt 3, DP 24143	
Calderwood		Illawarra Highway	Lot Pt 1, DP 372848	
Calderwood		Illawarra Highway	Lot 121, DP 998189	
Calderwood		Illawarra Highway	Lot 16, AP 804242	
Calderwood		Marshall Mount Road	Lot Pt 3, DP 2534	
Calderwood		144 Calderwood Road	Lot 2, DP 651377	
Calderwood		719 Calderwood Road	Lot 2, DP 568285	
Calderwood		672 Calderwood Road	Lot 121, DP 858284	
Calderwood		Calderwood Road	Lot 46, DP 751263	
Calderwood		448 Calderwood Road	Lot Pt 5, DP 2534	
Calderwood		682 Calderwood Road	Lot 1121, DP 1067963	
Calderwood		Calderwood Road	Lot 47, DP 751263	
Calderwood		532 Calderwood Road	Lot Pt 6, DP 2534	
Macquarie Pass		Illawarra Highway	Lot 77, DP 751263	
Part Lake Illawarra				