

# PLANNING PROPOSAL – PP019

Shoalhaven Local Environmental Plan 2014  
Lots 1, 29 & 30 DP 25114 Albatross Road &  
Kinghorne Street Nowra

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## Table of Contents

Table of Contents .....	3
1 Introduction .....	5
1.1 Subject Land.....	5
1.2 Background .....	7
2 Part 1 –Intended Outcome.....	8
3 Part 2 – Explanation of Provisions .....	8
4 Part 3 – Justification .....	9
4.1 Need for the Planning Proposal (Section A) .....	9
4.1.1 Is the Planning Proposal a result of any strategic study or report? .....	9
4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way? .....	9
4.2 Relationship to strategic planning framework (Section B).....	9
4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?.....	9
4.2.2 Is the Planning Proposal consistent with the local council’s Community Strategic Plan, or other local strategic plan? .....	10
4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies? .....	10
4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)? .....	11
4.3 Environmental, Social and Economic Impact (Section C).....	13
4.3.1 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?.....	13
4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed? .....	13
4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?.....	14
4.4 State and Commonwealth Interests (Section D) .....	14
4.4.1 Is there adequate public infrastructure for the Planning Proposal? .....	14
4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination? .....	14
5 Part 4 – Mapping .....	14
6 Part 5 - Community Consultation.....	16
7 Part 6 – Project Timeline .....	16

## **Figures**

Figure 1 – Location Map

Figure 2 – Subject Land

Figure 3 – Aerial Photo

Figure 4 – Current Zoning

Figure 5 – Proposed Zoning

## 1 Introduction

This Planning Proposal (PP) seeks to rezone land at the intersection of Albatross Road and Kinghorne Street, Nowra (Lot 1, 29 & 30 DP 25114) from B5 Business Development to B4 Mixed Use under Shoalhaven Local Environmental Plan 2014 (SLEP 2014) with a corresponding amendment to the Height of Buildings Map to increase the height from 11 metres to maximum of 15 metres.

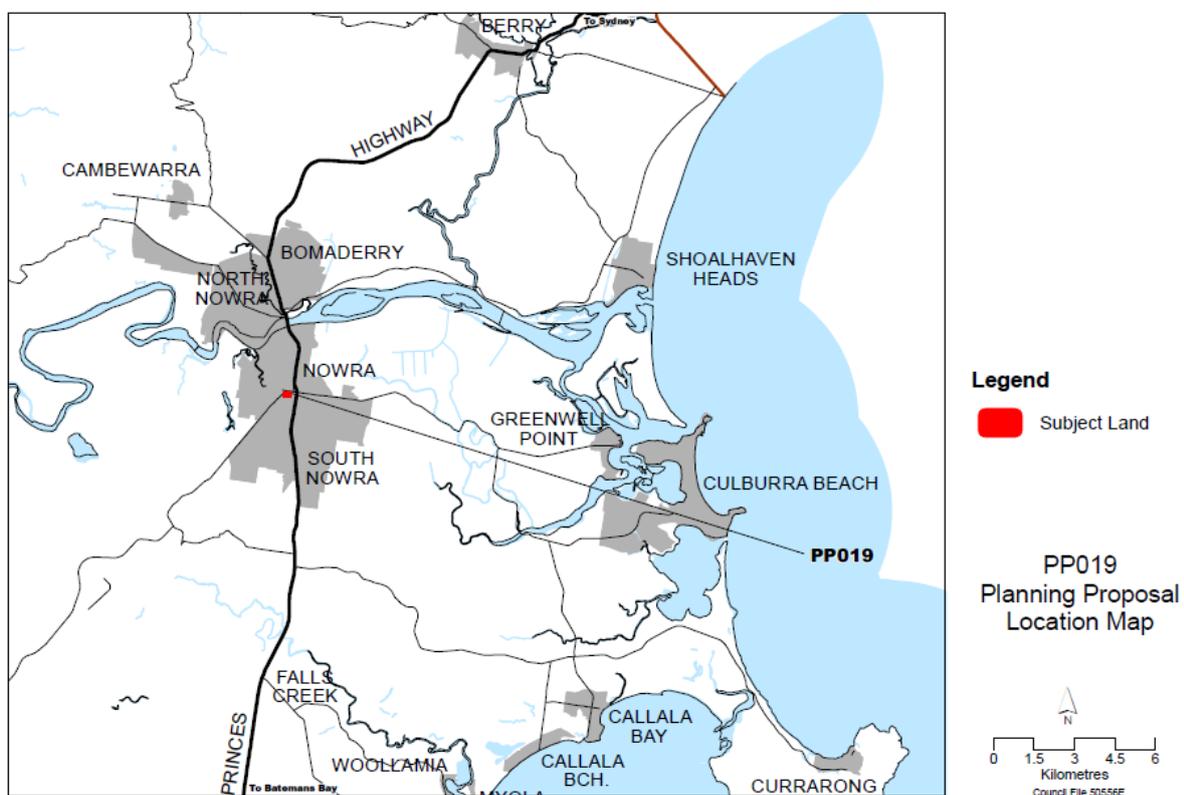
The intention of the PP is to enable a mixed use development consisting of a residential flat building with an element of commercial space at the ground floor. The proposed increase to the maximum building height to 15m would accommodate this development.

It is requested that Council be given delegation for plan making functions for this PP. The evaluation criteria for delegation is located at **Attachment A**.

This PP has been prepared in line with ‘*A Guide to preparing Local Environmental Plans*’ and ‘*A Guide to preparing planning proposals*’.

### 1.1 Subject Land

The subject site is located in the suburb of Nowra in the Shoalhaven Local Government Area. It is approximately 1 km south of the Nowra CBD, as shown in **Figure 1** below.



**Figure 1: Location Map**

The subject site has an approximate area of 3497m<sup>2</sup> and comprises 3 lots:

- Lot 29 DP 25114 – 4 Albatross Road, Nowra
- Lot 30 DP 25114 – 2 Albatross Road, Nowra
- Lot 1 DP 25114 – 173 Kinghorne Street, Nowra

The site currently operates as a car servicing workshop that services and repairs motor vehicles in association with local car dealerships. The site is adjacent to a residential area to the south and west, a tyre service and residential area to the north and a public open space to the east.



**Figure 2: Subject Land**



Figure 3: Aerial Photo

## 1.2 Background

In April 2016, Council received a PP from Lee Carmichael Town Planning (the Proponent) on behalf of the landowner Mr B Zervos, to rezone Lots 1, 29 & 30 DP 25114 Albatross Road and Kinghorne Street, Nowra.

Prior to receiving the PP, Council staff had been involved in preliminary discussions with the Proponent and advised that the proposed rezoning could be considered subject to the lodgement of a formal PP that considered:

- Potential site contamination; and
- The increase in height, which would need to be justified in relation to the streetscape and character of the surrounding residential area.

The PP was lodged on 18 April 2016 concurrently with a development application for a four storey residential flat building with an element of ground floor commercial space and basement car parking. The PP was supported by Council's Development Committee under its delegated functions on 18 July 2016, subject to requesting that a character assessment of the site and surrounds be required as a condition of the Gateway determination. The possibility of stepping the building heights down towards the adjoining properties would also be considered as part of the assessment.

The proponent's PP is located at **Attachment B**. The report to Council's Development Committee and subsequent minutes are located at **Attachment C**.

## 2 Part 1 -Intended Outcome

The intended outcome of this PP is to rezone the site from B5 Business Development to B4 Mixed Use to enable the development of a residential flat building with an element of commercial floor space at ground level. The current B5 zoning only permits this type of development as 'shop top housing' which would restrict the entire ground floor would be restricted to a commercial use. Development of the site in this way would result in an excessive quantity of commercial floor space that would not only impact on the viability of the Nowra CBD but also on the viability of the development itself. Consequently, a more desirable outcome would be a residential flat building with a smaller element of commercial floor space that complements the residential development in the area.

The Proponent has argued that a rezoning and increase in building height will allow for a well-designed 4 storey development that can proceed in a logical way and addresses the public domain without the need to excessively cut the higher areas of the site.

## 3 Part 2 - Explanation of Provisions

The subject land is currently zoned B5 Business Development under SLEP 2014. It is proposed to rezone the subject land to B4 Mixed Use with a corresponding increase in building height to enable the development of a residential flat building with an element ground floor commercial space. The existing and proposed zones are demonstrated in **Figures 4 and 5** in **Part 4 - Mapping**.

The site is not currently subject to height mapping under SLEP 2014; however provisions for maximum building height apply to the site via Clause 4.3(2A) where an 11m blanket height provision is prescribed. The PP seeks to replace this blanket provision with a more specific height control for the site once a character assessment has been completed post Gateway. The character assessment will look at managing impact on adjoining lower density residential development with the view to step down the development to transition into the adjoining R2 Low Density Residential zone. A maximum height of 15m would be considered.

In addition, as this PP is being considered concurrently with a development application for the site, a savings provision with a specific exception to clause 1.8A of SLEP 2014 will need to be included to enable the development application to be determined in accordance with the provisions of the SLEP 2014 amendment.

The proposed outcome of this PP will be achieved by amending the Land Zoning and the Height of Buildings maps:

1. *Land Zoning* – Sheet LZN\_013E - amend zoning of subject land from B5 Business Development to B4 Mixed Use.
2. *Height of Buildings* – Sheet HOB\_013E - amend maximum height of building from no maximum building height to a height determined by the outcome of the character assessment (maximum of 15m).

## **4 Part 3 – Justification**

### **4.1 Need for the Planning Proposal (Section A)**

#### **4.1.1 Is the Planning Proposal a result of any strategic study or report?**

The PP is not a result of a strategic study or report. The Proponent initiated PP arose from the land owner wishing to construct a residential flat building with a smaller element of commercial floor space than what is permitted in the current zone, with a corresponding increase in height to enable a well-designed four storey building.

A development application for the proposal is being assessed concurrently with this PP which will provide Council and the community a greater level of certainty regarding the impacts of the proposal.

#### **4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

A change in zoning and an increase in building height to a maximum of 15m is the only way to achieve the proposed 4 storey residential flat building with a smaller element of commercial floor space at ground level as the B4 zone provides greater flexibility in terms of permissibility. The height increase will also enable a more feasible and appropriate mixed used development.

### **4.2 Relationship to strategic planning framework (Section B)**

#### **4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

##### *Illawarra-Shoalhaven Regional Plan (ISRP)*

The ISRP provides for a region with a variety of housing choice and homes that meet varying needs and lifestyles. It incorporates a series of directions and actions promoting sustainable housing development. This PP is consistent with Direction 2.2 ‘Support housing opportunities close to existing services, jobs and infrastructure in the region’s centres’, as it

will provide a medium density residential development in an appropriate location close to the Nowra CBD.

The PP is not inconsistent with the ISRP.

#### **4.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

The following strategies are relevant to this PP:

- Nowra Bomaderry Structure Plan
- Shoalhaven City Council's Community Strategic Plan, Shoalhaven 2023

##### *Nowra Bomaderry Structure Plan (NBSP)*

The NBSP applies to the Nowra Bomaderry area and establishes a set of principles to manage growth in the area. The NBSP identifies Nowra as the primary commercial and administrative centre and supports an increase in people living in higher densities in existing areas, in a range of dwelling types, in close proximity to the Nowra CBD.

By limiting the overall commercial floor space in the development, the commercial primacy and vibrancy of the Nowra CBD will be maintained and enhanced.

The PP is not inconsistent with the NBSP.

##### *Shoalhaven City Council's Community Strategic Plan, Shoalhaven 2023 (CSP)*

The CSP identifies objectives and strategies for a prosperous Shoalhaven that creates opportunities for growth to existing services. The Proponent's PP notes that the rezoning of the land will satisfy the following objectives and strategy:

- Objective 2.2 Population and urban settlement growth that is ecologically sustainable and carefully planned and managed
- Objective 2.5 Major town centres that are attractive, vibrant and popular destinations
- Strategy 2.4.2 Develop land use and related plans for the sustainable growth of the City which use the core principles of the Growth Management Strategy and ESD principles, also carefully considering community concerns and the character of unique historic townships.

The PP is not inconsistent with the CSP.

#### **4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?**

The PP is consistent with the applicable state environmental planning policies (SEPP). A full list of SEPPs is provided as **Attachment D**, the most relevant of which are discussed below.

### *SEPP 55 – Remediation of Land*

SEPP 55 requires that contamination and remediation of land be considered in a PP. Specifically, it requires that a relevant planning authority not rezone land for the purposes of residential development unless it has considered whether the land is contaminated and whether the land is suitable (or will be after remediation) for a residential land use.

The proponent has provided a Phase 2 site assessment report (**Attachment E**) which has concluded that the site is acceptable for redevelopment in respect of potential site contamination issues.

### *SEPP 65 – Design Quality of Apartment Development*

SEPP 65 sets out development controls of relevance to the assessment of development applications. The proponent has provided information with the development application which demonstrates that the impact of the proposed increase in height to 15m is acceptable within the tolerances of SEPP 65, particularly in relation to boundary setbacks and overshadowing.

## **4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The Ministerial Directions are considered in **Attachment F** and those specifically relevant to the site and the proposal are discussed in greater detail below.

### 1.1 Business and Industrial Zones

- The PP is consistent with this Direction in that it does not reduce the total potential floor space area for employment uses and related public services in business zones. The proposal to rezone the site from B5 Business Development to B4 Mixed Use will allow for a more suitable development mix of residential and commercial. The proposal will provide some employment without compromising the viability of the Nowra CBD.

### 3.1 Residential Zones

- The PP proposes to rezone land from one business zone to another business zone. The proposal will provide for a greater variety of housing types in close proximity to the Nowra CBD and aims to make use of existing infrastructure and services.

The PP will enable the provision of 57 well designed apartments providing housing choice in Nowra. The proposal will not affect the residential potential of surrounding R2 land.

### 3.4 Integrating Land Use and Transport

- The PP is consistent with this direction as the site is located in an area which is serviced by pedestrian infrastructure and public transport which should reduce car dependency and increase the viability of public transport services.

The PP supports the principles and objectives of *Improving Transport Choice — Guidelines for planning and development* and *The Right Place for Business and Services — Planning Policy*.

The proponent has supplied a traffic report as part of the development application for the proposed development. Should the PP be successful in obtaining Gateway determination, traffic impacts would be considered as part of the development assessment process.

### 4.1 Acid Sulfate Soils

- The site is mapped as Class 5 acid sulfate soils and is located over 500m from any land with a higher acid sulfate soil classification.

The PP seeks to rezone the land from one business zone to another (with similar permissible land uses) so the potential for intensification resulting in significant adverse environmental impact is limited.

The PP is not inconsistent with the *Acid Sulfate Soils Planning Guidelines*.

### 4.4 Planning for Bushfire Protection

- The site is not classified as bushfire prone, however is in proximity to land mapped in the bushfire buffer zone (buffer is approximately 50m to the west).

The term proximity is subjective, however consultation can be undertaken with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination if required prior to community consultation.

### 5.10 Implementation of Regional Plans

- The consistency of the PP with the Illawarra-Shoalhaven Regional Plan is discussed in Section 4.2.1. The PP is consistent with this Direction.

### 6.1 Approval and Referral Requirements

- The PP does not include provisions that require concurrence, consultation or referral of the PP, nor does it identify development as designated development. The PP is consistent with this Direction.

### 6.3 Site Specific Provisions

- To enable the proposed development to proceed, the PP seeks to rezone the site to the B4 zone, a zone which already applies in the SLEP 2014 instrument. This approach is consistent with Section (4)(b) of Direction 6.3.

## 4.3 Environmental, Social and Economic Impact (Section C)

### 4.3.1 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?

The brownfield site is located in an urbanised area and as such, there is no anticipated impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

### 4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The current B5 zoning of the site means that the site enjoys a number of business related opportunities. A rezoning to B4 Mixed Use zone will give the site a greater selection of land uses and allows for greater flexibility to combine residential and commercial land uses.

The objective of the B4 zone is to combine a mixture of compatible uses in accessible locations so as to maximise public transport patronage and encourage walking and cycling. Due to the location of the site on an arterial road, in close proximity to Nowra CBD, it is considered that any future redevelopment of the site would be able to support the objectives of this zone. A B4 zoning would likely produce a good development outcome for the site.

The increase in height from 11m to a maximum of 15m, could potentially allow an increase in bulk and scale of any development on the site which may have streetscape and character implications considering the site adjoins a low density residential area (8.5m height limit). To support the increase in building height, the proponent has provided shadow diagrams and photomontages which demonstrate that the impacts would be acceptable, and states that the bulk and scale of the development will have minimal impacts as most of the building sits below the 15m height limit with only lift overruns and the like proposed to be at 15m.

The Proponent has not provided any assessment of the impact of a height increase on the streetscape and character of the surrounding residential area. If the Department supports the PP in principle by issuing Gateway determination, it is requested that a character assessment be required as a condition of the Gateway determination with a view to stepping down the development so to improve the transition with the adjoining R2 Low Density Residential zone.

### **4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?**

The PP seeks to facilitate development of a site that would allow for a greater diversity of housing choice in the Nowra area which will be of social benefit to the community.

The PP would enable the proponent to potentially develop the site as a well-designed 4 storey residential flat building with an element of commercial floor space at ground level. The Proponent has argued that the 4 storeys are necessary for the proposal to be viable. The Proponent has submitted a development application to be considered concurrently, which proposes a residential flat building containing 57 residential apartments with basement car parking and approximately 250m<sup>2</sup> of commercial floor space at ground level.

The limited ground floor commercial space will not negatively impact on the commercial viability of the Nowra CBD.

## **4.4 State and Commonwealth Interests (Section D)**

### **4.4.1 Is there adequate public infrastructure for the Planning Proposal?**

The PP is for a site which is located in an area well serviced by existing infrastructure and does not trigger the need for additional infrastructure.

### **4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

As Gateway determination has not yet been granted, consultation has not yet occurred with State or Commonwealth public authorities.

## **5 Part 4 – Mapping**

The SLEP 2014 Land Zone Map for the site will require amendment from B5 Business Development (**Figure 4**) to B4 Mixed Use (**Figure 5**).

Planning Proposal – Shoalhaven LEP 2014 – *Rezoning of Lots 1, 29 & 31 DP 25114 Albatross Road & Kinghorne Street, Nowra*



**Figure 4: Current Shoalhaven LEP 2014 zoning**



**Figure 5: Proposed Zoning**

Following the outcome of the character assessment, the Height of Buildings Map may need to be amended from no mapped height to a mapped height up to 15m as determined by the character assessment.

## 6 Part 5 - Community Consultation

Preliminary consultation has been undertaken with the most affected property owners adjacent to the site. Letters were sent at various stages including:

- At lodgement;
- Consideration of the PP by Council's Development Committee; and
- Resolution to support the PP by Council's Development Committee.

Council proposes to exhibit the PP in accordance with the requirements of Section 57 of the *Environmental Planning and Assessment Act 1979* and any other requirements as determined by the Gateway process. As the proposal is in a high profile position, an exhibition period of 28 days is considered appropriate.

Public notification of the exhibition would include notification in the local newspapers, and a notice on Council's website. Hard copies of the PP would be made available at Council's Administrative Buildings in Nowra and Ulladulla.

## 7 Part 6 – Project Timeline

The anticipated timeline for the PP is as follows:

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	September 2016
Completion of Gateway determination requirements	October 2016
Public exhibition	November 2016
Consideration of submissions	December 2016
Post exhibition consideration of PP	January 2017
Finalisation and notification of Plan	February 2017

**Attachment A: Evaluation Criteria for the Delegation of Plan Making Functions**

**Attachment B: Proponents Planning Proposal**

**Attachment C: Council Report and Minute**

**Attachment D: State Environmental Planning Policies**

**Attachment E: Environmental Site Assessment (Phase 2 Contamination Assessment)**

**Attachment F: Ministerial Directions**