

**Subject 11.2.2 Proposed amendment to Planning Proposal
No. 13 - Places of public worship and associated
community facilities (10285156)**

To the General Manager

Directorate: **City Outcomes**

Department: **City Strategy**

Manager: Geoff Hoynes – Group Manager, City Strategy

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Summary

This report seeks Council's approval to amend Planning Proposal 13. Council resolved to prepare Planning Proposal 13 at its meeting of 1 July 2014 as follows:

amend Shellharbour Local Environmental Plan 2013 to include Place of Public Worship as a use permissible with development consent in the IN2 Light Industrial Zone.

This report proposes to amend the planning proposal by:

1. permitting as an additional permitted use, places of public worship only in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct; and
2. permitting as an additional permitted use, community facilities in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct, but only in association with places of public worship.

If Council adopts the recommendations of this report, an amended planning proposal will be prepared and submitted to the Department of Planning and Environment for a gateway determination.

Background

The current planning proposal and a proposal by Shellharbour City Baptist Church

The preparation of Planning Proposal 13 was in part triggered by a proposal by the Shellharbour City Baptist Church to develop 10A Commerce Drive in the IN2 Light Industrial Zone precinct in Lake Illawarra/Warilla. The planning proposal was prepared and submitted to the Department of Planning and Environment requesting a gateway determination. A gateway determination was issued allowing the planning proposal to be processed.

Subsequent to this, Council officers had discussions with the Shellharbour City Baptist Church about the specific activities they propose to carry out. These uses are a church, a soup kitchen and welfare assistance. The welfare assistance is proposed to be carried out by Shellharbour City Baptist Church Assist and would provide practical items to relieve financial hardship and refer clients to specific counsellors.

The welfare assistance and soup kitchen does not fall under the definition of place of public worship, instead falling under the definition of community facility in Local Environmental Plan

2013. The current IN2 Light Industrial zoning prohibits both places of public worship and community facilities. Planning Proposal 13 currently proposes permitting (only) place of public worship throughout the entire IN2 Light Industrial Zone.

Therefore, the current planning proposal would not facilitate the full extent of the church's proposal and hence has not been publicly exhibited.

Place of public worship is defined in LEP 2013 as follows:

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

Community facility is defined in LEP 2013 as follows:

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Modern churches

Modern churches play a more varied community role than the churches of yesteryear which were essentially a place of public worship. Increasingly and like the Shellharbour City Baptist Church, they provide services such as welfare assistance in the form of food parcels, payment for utilities/rent, medical and pharmaceutical payment assistance and soup kitchens.

They also provide referrals to other services for financial counselling, addiction issues, homelessness, crisis counselling. Hence they are conducting activities defined as a community facility. Typically, as is the case with the Shellharbour City Baptist Church, these activities cannot be defined as ancillary to place of public worship, because they form a significant proportion of the overall operations.

Is it appropriate to permit places of public worship with community facilities activities in all or just part of the IN2 Light Industrial zone?

Many users of community facilities offered by churches such as the Shellharbour City Baptist Church are likely to be socially and economically disadvantaged and more reliant on public transport.

Due to industrial areas generally being less active at night and on weekends, this has the potential to associate with an increased risk of crime/anti-social behaviour and a diminished perception of safety. Access to other services including public transport may also be less in industrial areas.

Bounded by Woolworth's Avenue, Commerce Drive and Veronica Street, the Lake Illawarra/Warilla IN2 Light Industrial precinct has characteristics which can mitigate these concerns. See Attachment 1.

Unlike other IN2 Light Industrial precincts in our Council area, the Lake Illawarra/Warilla precinct adjoins a major retail area being Warilla Grove which has major stores open to 9pm daily.

To the precinct's north east, east and south lies R3 Medium Density zoned land which has either single or multiple dwelling development.

To the precinct's north is Keith Fletcher Park.

The surrounding Warilla Grove and residential development brings activity to the area less present in other industrially zoned areas after normal business hours. Generally development in the precinct faces the street system which has good inter and intra precinct connectivity. Other industrially zoned areas are on cul-de-sacs or have interface barriers such as major roads, rail line or rear fences, making them less connected and less safe after business hours.

The Lake Illawarra/Warilla IN2 Light Industrial precinct is also close to a major bus route along Shellharbour Road which is serviced after normal business hours.

The current planning proposal for allowing places of public worship throughout the IN2 Light Industrial zone was supported partly on the basis of the limited potential for a place of public worship to be adversely impacted by incompatible land use(s). The same reasoning applies to any amended planning proposal to allow community facilities in association with places of public worship in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct, although surrounding land use compatibility would need to be considered with any development application.

Reciprocally, if a community facility in association with a place of public worship was established, it would not have significant potential to prevent the nearby establishment of more of the same types of industries currently in the precinct.

These factors justify a proposed amendment to the planning proposal limiting the permitting of places of public worship to just the Lake Illawarra/Warilla IN2 Light Industrial zoned precinct.

Planning proposal options to facilitate community facility activities operating with places of public worship

A change to the place of public worship LEP definition could facilitate community facilities activities operating with places of public worship by recognising the community facilities aspect of modern churches. As this is a standard instrument definition applying state wide, a planning proposal to change the definition just for this Council area cannot be undertaken. Further, the Department of Planning and Environment have indicated that changing the standard instrument definition while possible, is not its current or foreseeable future focus. Hence changing the LEP definition is not a viable option.

The most appropriate option to amend the existing Planning Proposal 13 involves two initiatives which would be included in the one amendment. That is to:

1. Permit as an additional permitted use, places of public worship only in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct. This recognises that generally only this light industrial precinct has the attributes to support modern churches with their community facility type activities.
2. Permit as an additional permitted use, community facilities in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct, but only in association with places of public worship.

This would allow community facilities in association with places of public worship to be considered in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct.

It is not proposed to allow stand - alone community facilities in any IN2 Light Industrial zoned area because these are already permissible in a wide range of zones. Noting their prevalence, there is also a need to prevent stand – alone community facilities detracting from the ability for industry and employment related uses to locate in the precinct.

Allowing places of public worship or community facilities in association with places of public worship in the precinct would provide a limited potential to reduce the number of vacant land/buildings in the precinct.

The Department of Planning and Environment

Options to amend the planning proposal in recognition of places of public worship having community facilities type uses have been discussed with the Department of Planning and Environment.

Subject to receiving adequate justification via an amended planning proposal, the department is open to considering the recommended option in this report.

The option of Council changing its LEP definition of place of public worship is not viable as it is a standard instrument definition applying state wide to local environmental plans. Changing the standard instrument while possible, is not a current or foreseeable future focus of the department.

Financial and resource implications

Should Council support an amended planning proposal to change Local Environmental Plan 2013, this will require Council staff and resources to amend and process the existing planning proposal.

Legal and policy implications

Planning Proposal 13 would ultimately amend Shellharbour Local Environmental Plan 2013 which is Council's principal legal planning instrument.

Public/social impact

Many users of community facilities offered by churches such as the Shellharbour City Baptist Church are likely to be socially and economically disadvantaged and more reliant on public transport. Industrial areas are generally less active at night and on weekends. This has the potential to associate with an increased risk of crime/anti-social behaviour and a diminished perception of safety. Access to other services including public transport may also be less in industrial areas.

The Lake Illawarra/Warilla precinct adjoins a major retail area being Warilla Grove. This is located to the precinct's north and has major stores open to 9pm daily. The precinct is also close to a major bus route along Shellharbour Road which is serviced after normal business hours.

The potential for places of public worship in association with community facilities to be adversely impacted by incompatible land use(s) in the Lake Illawarra/Warilla IN2 Light

Industrial zone precinct does not appear significant and could be managed through the development application process.

Places of public worship in association with community facilities in the Lake Illawarra/Warilla IN2 Light Industrial zone precinct would not have significant potential to prevent the nearby establishment of more of the same types of industries currently in this zone.

Introducing a new permissible use into the Lake Illawarra/Warilla IN2 Light Industrial zoned precinct has the potential to decrease the amount of vacant land and buildings.

The possibility of site demand increasing in the future for 'heavier' industries with potential to create land use conflict with places of public worship in association with community facilities is currently unlikely, but cannot be completely ruled out.

Link to Community Strategic Plan

The preparation of an amended planning proposal supports the following objective and strategy 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

Consultations

Internal

City Development Group
Community Connections

External

NSW Department of Planning and Environment

Political Donations Disclosure

Not applicable

Recommendation

1. That Council amend Planning Proposal (No.13) to allow place of public worship as an additional permitted use in the Lake Illawarra/Warilla IN2 Light Industrial Zone precinct and to allow community facility as an additional permitted use in the Lake Illawarra/Warilla IN2 Light Industrial Zone precinct, but only in association with a place of public worship.
2. The Council authorise the General Manager to submit an amended Planning Proposal (Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No.13) to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.

3. The Council delegate to the General Manager authority to make minor Local Environmental Plan instrument changes to Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 13 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
4. That Council as part of its gateway submission apply to the Department of Planning and Environment to use its plan making related delegations including making or not making the plan under section 59 of the *Environmental Planning and Assessment Act*, after any public exhibition of the draft plan.
5. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No.13 be publically exhibited in accordance with the gateway determination.
6. If submission(s) result from public exhibition of Planning Proposal 13 or there are substantial post public exhibition changes proposed for other reason(s), a report be submitted to Council detailing public exhibition outcomes for final consideration and with further recommendations regarding adoption.

If there are no submissions received as a result of public exhibition of Planning Proposal 13, or no substantial post public exhibition changes proposed for other reason(s), Council delegate authority to the General Manager the authority to finalise Planning Proposal 13 and amend Local Environmental Plan 2013.

Approved for Council's consideration:



Date of Meeting: 11 November 2014

Attachments

1. Location Map

Attachment 1 – Location Map

