



Planning,  
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## Gateway determination report – PP-2021-2380

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Huntingdale Park Large Lot Residential Precinct, Berry  
Planning Proposal

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**Table 1 Reports and plans supporting the proposal**

## Relevant reports and plans

*Planning Proposal (PP027) – Review of Subdivision Provisions – Post Exhibition Consideration and Proposed Finalisation, Ordinary Meeting 23 June 2020*

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

LGA	Shoalhaven LGA
PPA	Shoalhaven City Council
NAME	Huntingdale Park Large Lot Residential Precinct, Berry Planning Proposal
NUMBER	PP-2021-2380
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Forty-three properties in Huntingdale Park Estate in Parker Crescent and Connors View, Berry
DESCRIPTION	Various lots and DPs
RECEIVED	24/03/2021
FILE NO.	EF21/4339
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

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal which is to update planning controls applying to the large lot residential areas of Huntingdale Park Estate in Berry to maintain the current and desired future character of the area as a low-density transition to the surrounding rural and bushland areas.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 as per the changes in the table below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	R1 General Residential	R5 Large Lot Residential
Minimum lot size	500 m <sup>2</sup> 2,000 m <sup>2</sup> (for Lot 712, DP 1247531)	2,000 m <sup>2</sup> for subject area and 500m <sup>2</sup> for Lot 712, DP 1247531 (60 Parker Crescent) to rectify a mapping anomaly on this lot.
Number of dwellings	43	43
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The proposed rectification of a minimum lot size mapping anomaly for Lot 712, DP 1247531 60 Parker Crescent is considered appropriate.

## 1.4 Site description and surrounding area

The subject site is located on the edges of Huntingdale Park, a new residential estate which received subdivision approval from Shoalhaven City Council in 2019. The estate is located west of the Princes Highway and approximately 850m west of the Berry Town Centre. The site subject to the planning proposal comprises forty-three properties in the western corner of Parker Crescent and along the north-western section of Connors View, Berry. Relevant site maps are provided in the planning proposal.

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the relevant zoning and lot size maps, which are suitable for community consultation.

## 2 Need for the planning proposal

The planning proposal states that the planning proposal is the result of a strategic review of subdivision provisions across the Shoalhaven LGA that was undertaken by Shoalhaven City Council in 2019 (Planning Proposal PP\_2019\_SHOAL\_003\_00 / Shoalhaven LEP 2014 (Amendment No.35)). Submissions received from residents in the Huntingdale Park Estate during the exhibition of the planning proposal requested that Council consider the subject land for rezoning to R5 Large Lot Residential as it displays similar large lot residential characteristics that could be compromised by planning control changes introduced by the Low Rise Housing Diversity Code and Shoalhaven LEP 2014 (Amendment No.35). At the time Council resolved to defer consideration of this matter to a future planning proposal.

It is considered that the planning proposal is needed to protect the identified large lot residential character of the subject site consistent with Council's strategic review of subdivision provisions and the current and desired future character of this part of the Estate.

The planning proposal states that an R5 Large Lot Residential Zone is the most appropriate to secure the low-density intentions of the identified parts of the Estate as the Low-Rise Housing Diversity Code does not apply to an R5 zone and medium density opportunities will be limited under this zone. Applying a 2,000 m<sup>2</sup> minimum lot size to the site reflects the subdivision pattern and will also prevent future fragmentation of the large lots and mitigate any loss of intended character and amenity. Council also considered other potential options such as rezoning the site to an R2 Low Density Residential Zone however, Council prefers the option of applying an R5 Zone as it best reflects the current and desired future large lot residential character of the subject site.

It is considered the planning proposal process is the best means to achieve the intended R5 Large Lot Residential Zoning of the site for the reasons provided in the planning proposal.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the current and draft Illawarra Shoalhaven Regional Plan.

**Table 4 Regional Plan assessment**

Current Illawarra Shoalhaven Regional Plan Objectives	Justification
Goal 1 - A prosperous Illawarra-Shoalhaven	Consistent – the planning proposal seeks to protect the local character on the urban fringes of Berry which contributes to Berry's appeal as a tourist destination.
<p>Goal 2 - A variety of housing choices, with homes that meet needs and lifestyles.</p> <p>Direction 2.1 - Provide sufficient housing supply to suit the changing demands of the region.</p> <p>Direction 2.2 - Support housing opportunities close to existing services, jobs and infrastructure in the region's centres.</p> <p>Direction 2.3 - Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact.</p> <p>Direction 2.4 - Identify and conserve biodiversity values when planning new communities.</p>	<p>Consistent - The Huntingdale Estate is identified for development in the endorsed Shoalhaven Growth Management Strategy. The planning proposal will protect the intended large lot residential housing supply on the periphery of the Estate. The proposal will also provide housing choice through allowing secondary dwellings and dual occupancy (attached).</p> <p>The planning proposal does not affect the current planning controls which facilitate higher density development in the Huntingdale Park Estate that are located closer to Berry Town Centre.</p> <p>Consistent - The proposal will facilitate protection of the local character and amenity.</p> <p>Consistent - The proposal will not impact on any biodiversity values on the subject land.</p>

<p>Goal 3 - A region with communities that are strong, healthy and well connected.</p> <p>Direction 3.2 – Enhance community access to jobs, goods and services by improving connections between centres and growth areas.</p> <p>Direction 3.3 – Building socially inclusive, safe and healthy communities</p>	<p>Consistent - The proposal seeks to maintain the intended large lot residential character of the subject site and will provide for greater open space, landscaping and amenity around homes in the area and provide a low-density transition between the smaller lot areas of the Estate and the rural and natural surrounds.</p>
<p>Goal 4 – A region that makes appropriate use of agricultural and resource lands.</p> <p>Action 4.1 Protect regionally important agricultural lands as an asset to food and fibre production.</p>	<p>Consistent – The proposal will minimise potential land use conflict between rural and residential land uses by providing a low-density buffer area between rural and higher density residential areas.</p>
<p>Goal 5 – A region that protects and enhances the natural environment.</p> <p>Direction 5.1 Protect the region's environmental values by focusing development in locations with the capacity to absorb development.</p> <p>Direction 5.2 Build the Illawarra-Shoalhaven's resilience to natural hazards and climate change.</p>	<p>Consistent – The planning proposal protects and enhances the natural environment by facilitating a low-density residential transition between higher density residential parts of the Estate and the rural fringe which will provide open space and landscaping and protect residents from bushfire.</p>
<b>Draft Illawarra Shoalhaven Regional Plan Objectives</b>	<b>Justification</b>
<p>Objective 5: Create a diverse visitor economy</p> <p>Objective 10: Sustainably maximise the productivity of resource lands.</p> <p>Objective 22: Embrace and respect the region's local character.</p>	<p>Consistent – The planning proposal reinforces the urban growth boundary for Berry and protects existing character and scenic rural and environmental landscapes which are highly valued by local residents and tourists.</p>

## 3.2 Local Strategies

The proposal states that it is consistent with the following local plans and endorsed strategies as stated in the table below:

**Table 5 Local strategic planning assessment**

Local Strategies	Justification
Shoalhaven 2027 – Community Strategic Plan	The planning proposal is consistent with Council's CSP, particularly Theme 2 – Sustainable liveable environments and Action 2.2 Plan and manage appropriate sustainable development.
Local Strategic Planning Statement – Shoalhaven 2040	<p>The planning proposal is consistent with Council's LSPS Vision Statement to support provision of well-located housing offering residents a relaxed lifestyle, including protection of the natural and rural character of the area and supporting the local economy including agriculture and tourism. The proposal is also consistent with the directions, priorities and actions including:</p> <p>Planning Priority 1 Providing homes to meet all needs and lifestyles</p> <ul style="list-style-type: none"> <li>Action CW1.1 Implementing the existing Shoalhaven Growth Management Strategy.</li> </ul> <p>Planning Priority 13 Protecting and enhancing neighbourhoods.</p> <ul style="list-style-type: none"> <li>Action CW 13.2 Support the implementation of Community Strategic Plans that are prepared by community groups and accepted by Council.</li> <li>Action CA13.1 Work with the NSW Government to identify opportunities for proposed special character planning controls to help guide in-fill development in Berry, Kangaroo Valley, Milton and other areas as appropriate.</li> </ul> <p>Planning Priority 15 Scenic and cultural landscapes</p> <ul style="list-style-type: none"> <li>Action A15.1 Consider, where appropriate, the identification of scenic and landscape values and the development of appropriate controls to protect and enhance identified values.</li> </ul>
Shoalhaven Growth Management Strategy 2014	The planning proposal is consistent with the Shoalhaven GMS because the GMS highlights the Estate will cater for growth in the area and notes the importance of protecting landscape qualities and character.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed in the table below:

**Table 6 Section 9.1 Ministerial Direction assessment**

Directions	Consistent	Reasons for Consistency or Inconsistency
2.1 Environmental Protection Zones	Yes	Areas of the subject land containing biodiversity value are protected via the 12 July 2019 conditions of development consent that were issued by Council for the subdivision of the Estate.
2.6 Remediation of Contaminated Land	Yes	Although the land has historically been used for grazing, Council has advised the land is not known to be contaminated.



3.1 Residential Zones	No	<p>The planning proposal is inconsistent with the Direction because it proposes to reduce the permissible residential density of the land by prohibiting higher density developments for the subject 42 large lots, namely multi-dwelling housing and detached dual occupancies, which are not permitted in land zoned R5 Zone under the Shoalhaven LEP 2014.</p> <p>The inconsistency with the Direction is, however, considered to be justified by the current and draft Illawarra Shoalhaven Regional Plan and the Shoalhaven Growth Management Strategy which provide objectives to protect the current and future desired character of the Berry area. Housing diversity will still be available on the subject land by allowing large lots, attached dual occupancy and secondary dwellings.</p>
3.4 Integrating Land Use and Transport	Yes	The planning proposal seeks to limit higher density development (including multi dwelling housing and detached dual occupancy) to the more accessible parts of the Estate and promote lower density development on the subject land which is less accessible for public transport.
4.3 Flood Prone Land	Yes	The planning proposal does not seek to facilitate urban development on land identified as flood prone.
4.4 Planning for Bushfire Protection	TBD once Council has consulted with the NSW RFS.	The subject land is identified as bushfire prone. Council intends to consult with the NSW RFS on the proposal prior to public exhibition as required by the Direction.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 7 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Vegetation in Non-Rural Areas) 2017	Clearing of important vegetation identified in Council's Development Control Plan (Chapter G4: "Tree and vegetation management") requires Council approval.	Yes	The planning proposal does not seek to facilitate the removal of any important vegetation on the subject land.

SEPP (Exempt and Complying Development Codes) 2008	Provides exempt and complying development that meets development codes set out in the SEPP including the Housing Code and Low-Rise Housing Diversity Code.	Yes	The Housing Code and Low-Rise Housing Diversity Code will not apply in the subject land (43 lots) proposed to be rezoned R5 Large Lot Residential in accordance with the requirement of the SEPP. Development of these lots will still be available via the DA pathway. The housing codes will continue to apply in the remainder of the Estate which is zoned R1 General Residential.
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## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 8 Environmental impact assessment**

Environmental Impact	Assessment
Biodiversity	The proposal will not impact on any critical habitat or threatened species, populations or ecological communities or their habitats as the existing significant vegetation on the subject site is protected from removal by conditions of development consent for the Estate that were issued by Council in 2019.
Stormwater	The proposal will not have a negative impact on stormwater, rather it will have a positive effect as the proposed R5 zoning of the subject lots will provide larger landscaped areas and greater opportunities for stormwater infiltration.
View and character impacts	The proposal will facilitate the protection of views and local character in the Estate, which is located at the foot of Berry Mountain and will protect the amenity of the area for local residents and tourists.

### 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 9 Social and economic impact assessment**

Social and Economic Impact	Assessment
Dwelling entitlements and development potential	The proposal will maintain dwelling entitlements to all existing and approved lots. As discussed previously in this report, the proposal will result in reduced development capacity for certain types of development on the subject 43 lots proposed to be zoned R5 Large Lot Residential, namely multi-dwelling housing and dual occupancy (detached) which are not permissible in the R5 Zone under the Shoalhaven LEP 2014. The proposal will, however, retain the ability for secondary dwellings and attached dual occupancies to be built on the land, providing development options for landowners.
Housing choice and (relative) affordability	<p>The proposal will facilitate large lot residential/lifestyle lots which are in high demand in the Berry area. These large residential lots are appropriate in this area as a transition from urban to rural lands and are strategically justified. Secondary dwellings and dual occupancy (detached) housing options will continue to be available on the subject lots.</p> <p>Higher density options including multi-dwelling housing will be available in the remainder of the Estate which have better pedestrian and public transport connections.</p>

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

### 5.2 Agencies

Council has nominated the following public agencies to be consulted about the planning proposal.

- NSW Rural Fire Service
- DPIE – Biodiversity and Conservation Division

It is recommended the agencies nominated by Council are consulted on the planning proposal and given 21 days to comment.

## 6 Timeframe

Council proposes an 8 month time frame to complete the LEP.

The Department recommends a time frame of 12 months which should be adequate to allow completion of the LEP including any unforeseen delays.

## 7 Local plan-making authority

Council has requested to be the local plan-making authority for this proposal. As the site/planning proposal is of local significance and is consistent with endorsed strategic planning for the area the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It will maintain the current and desired future character of the subject area of the Huntingdale Estate as a low-density residential transition to the surrounding rural and bushland areas.
- It is consistent with the endorsed strategic planning for the Berry area including the current and draft Illawarra Shoalhaven Regional Plan and the Shoalhaven Growth Management Strategy.


## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Residential Zones is justified under the terms of the Direction.
- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require consideration of RFS comments.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - DPIE Biodiversity and Conservation Division
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



16/4/21

**Graham Towers**

**Manager, Southern Region**



16/04/2021

**Sarah Lees**

**Director, Southern Region**

Assessment officer

George Curtis

Senior Planner, Southern Region 4247 1824