

## DE21.69      **Exhibition Outcomes and Finalisation - Planning Proposal - Huntingdale Park Estate Large Lot Residential Areas, Berry (PP060)**

**HPERM Ref:**      D21/228774

**Department:**      Strategic Planning

**Approver:**      Robert Domm, Director - City Futures

**Attachments:**    1. Summary of Submissions - PP060 (under separate cover) [⇒](#)  
                             2. Final Planning Proposal (PP060) Huntingdale Park Estate Large Lot Residential Areas (under separate cover) [⇒](#)

### **Reason for Report**

- Consider the outcomes of the public exhibition of Planning Proposal (PP060).
- Obtain Council endorsement to finalise PP060 and amend the Shoalhaven Local Environmental Plan (LEP) 2014 to rezone the large lot areas of Huntingdale Park Estate in Berry to R5 Large Lot Residential and amend the minimum subdivision lot size to 2000m<sup>2</sup> to ensure the envisaged outcome is reflected.

### **Recommendation (Item to be determined under delegated authority)**

That Council:

1. Adopt Planning Proposal (PP060 - Huntingdale Park Estate Large Lot Residential Areas) as exhibited, with the minor changes outlined in this report, and proceed to amend the Shoalhaven LEP 2014 to rezone the large lot areas of Huntingdale Park Estate in Berry to R5 Large Lot Residential and amend the minimum subdivision lot size to 2000m<sup>2</sup>.
2. Advise submitters and key stakeholders of this decision when the LEP has been amended.

### **Options**

1. As recommended.

Implications: This is the preferred option. The resulting LEP amendment will ensure planning controls remain consistent with established strategic planning objectives for the Huntingdale Park Estate.

2. Adopt an alternative recommendation/change the PP.

Implications: This would depend on the nature of any proposed change, and may require an alteration to the NSW State Government-issued Gateway determination and re-exhibition of the PP.

3. Do not adopt the PP.

Implications: This would result in the large lot areas on the periphery of the Estate retaining the R1 General Residential zone. The R1 zone allows (with consent) the additional subdivision of large lot areas associated with higher density housing types and the Low Rise Housing Diversity Code applies to the R1 zone, allowing for certain forms of higher density development as Complying Development. Additional residential

DE21.69

subdivision and development in the area, beyond that which was originally intended, planned and approved, could have character, environmental and infrastructure implications. This option is not recommended.

## Planning Proposal

In January 2021, Council resolved to rezone the large lot areas of Huntingdale Park Estate (the Estate) in Berry to better align planning controls with the desired character of the area that was originally established through strategic planning processes and community engagement going back to at least the Development Control Plan (DCP) No.70 that was first prepared for the area in 1998. The January 2021 resolution (MIN21.5) reads:

*That Council:*

1. *Endorse the preparation of a Planning Proposal with the following scope, and proceed to submit it to the NSW Government for a Gateway determination, and if this is favourable, proceed to exhibition as per the legislative and any determination requirements:*
  - a. *Huntingdale Park Estate Precinct (Berry):*
    - i. *Rezone the subject land to R5 Large Lot Residential.*
    - ii. *Set a 2,000m<sup>2</sup> minimum lot size for the entirety of the subject land.*
2. *Receive a further report following the conclusion of the public exhibition period or if the Gateway determination is not favourable.*
3. *Advise key stakeholders of this decision and the resultant exhibition arrangements, including affected landowners, relevant Community Consultative Bodies and Development Industry representatives.*

The resolved Planning Proposal (PP) was subsequently prepared (PP060) and a Gateway determination was issued by the NSW Department of Planning, Industry and Environment (DPIE) on 16 April 2021.

The PP relates to the large lot areas of the Estate (i.e. where property lot sizes are 2000m<sup>2</sup> or larger). There are forty-three (43) properties affected by the PP as shown on the subject land map on the following page – the approved large lot areas located on the western periphery, along Parker Crescent and Connors View. These areas are generally consistent with the provisions of the DCP No.70 that were originally established in 1998 and identified that the desired outcome for subdivision on the western and northern edges was ‘larger lots – minimum 2000m’. It is also noted that the remainder of Huntingdale Park was identified in the DCP as ‘low density lots’.

The PP proposes the following amendments to Shoalhaven Local Environmental Plan 2014:

- Rezone forty-two (42) existing large lots along the western and northern boundary of the Estate from R1 General Residential to R5 Large Lot Residential.
- Increase the minimum lot size to 2000m<sup>2</sup> across the entire area proposed to be zoned R5 Large Lot Residential.
- Apply a minimum lot size of 500m<sup>2</sup> across Lot 712 DP 1247531 (60 Parker Crescent). This lot is currently 784m<sup>2</sup> and is not a large lot. The current R1 General Residential zone will be retained over this property. This change rectifies a minimum lot size mapping anomaly over this lot as it is currently mapped as having two different minimum lot size restrictions.

The proposed R5 Large Lot Residential Zone complements the established strategic planning aims for the large lot areas of the Estate (established through the DCP and original approvals) and allows for compatible low-density housing types on the lots that have been created, orderly development, and efficient infrastructure planning and delivery. Extending a

2,000m<sup>2</sup> minimum lot size to all areas within the precinct (currently part 500m<sup>2</sup> and part 2,000m<sup>2</sup>) will prevent future fragmentation of the approved large lots and help mitigate any associated character, amenity and design concerns.

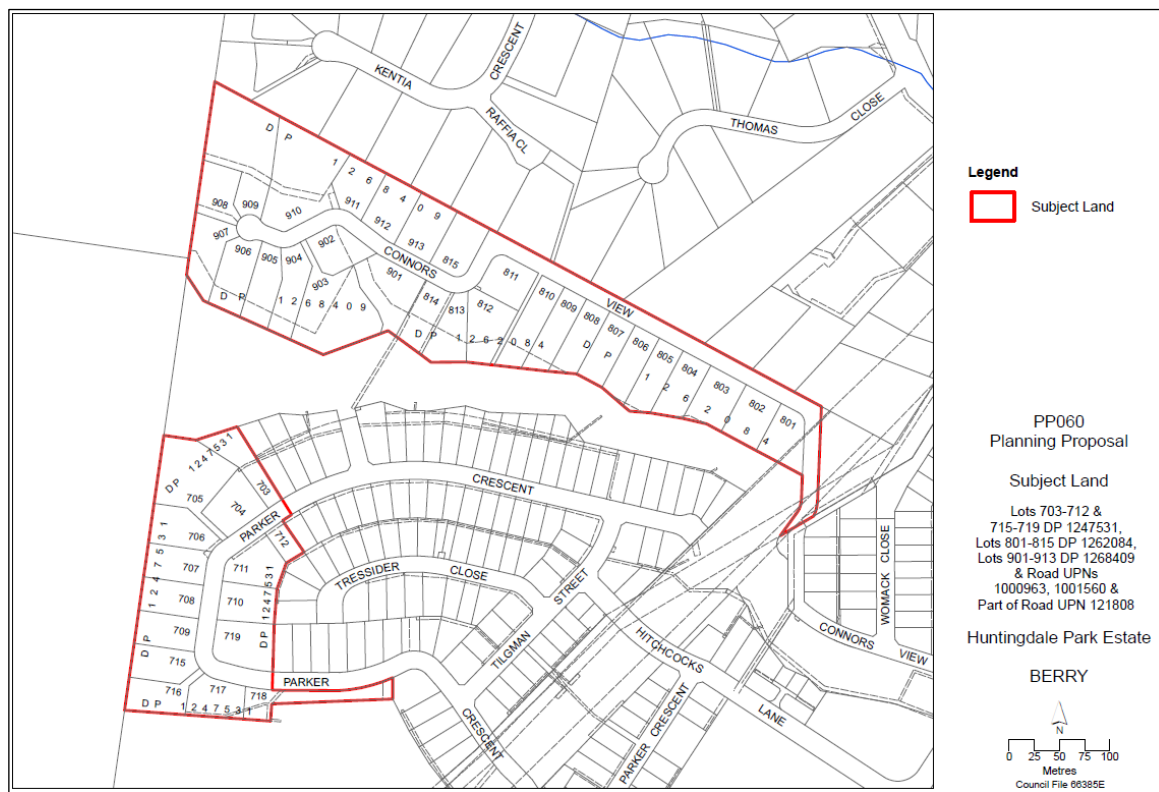


Figure 1: Subject Land Map PP060

## Community Engagement

The PP was exhibited for thirty-one (31) days between 26 May to 25 June 2021 (inclusive). The Gateway determination required a public exhibition period of a minimum of 28 days.

The exhibition was publicly notified via Council's website. Affected and adjoining landowners (74 households) were notified in writing. Key stakeholders were also notified in writing, including Berry Forum (Community Consultative Body); Huntingdale Park Resident Action Group; Berry Chamber of Commerce and Tourism; Nowra Local Aboriginal Land Council and development Industry representatives.

The PP package was available on Council's webpage and electronically at the Nowra Administration Building as well as on the NSW Planning Portal (PP2021-2380). The exhibition package comprised the following (Note: links will expire in August 2021):

- [1. PP060 - Exhibition Notification - \(110kb\)](#)
- [2. PP060 - Explanatory Statement - \(391kb\)](#)
- [3. PP060 - FAQ - \(328kb\)](#)
- [4. PP060 - Planning Proposal Document - \(5,844kb\)](#)
- [5. PP060 - Gateway Determination - \(125kb\)](#)
- [6. PP060 - Referral - Planning Industry & Environment - \(45kb\)](#)
- [7. PP060 - Referral - Rural Fire Service - \(229kb\)](#)
- [8. PP060 - Subject Land Map & Affected Properties List - \(364kb\)](#)

## Community Feedback/Submissions Overview

Eighty-seven (87) submissions were received during the exhibition period.

Eighty-five (85) submissions expressed support for the proposal. The submissions of support included twelve (12) form letters. One (1) submission was neutral on the proposal and related to growth concerns in Berry generally. One (1) objection was received.

The submissions of support were made by seventy-nine (79) households (representing 117 people) and of these households, sixty-three (63) live in Huntingdale Park Estate (representing 85 people).

The submissions of support agreed the proposal would align the planning controls in the LEP with the original strategic planning intent and desired future character of the large lot areas. The submissions reiterated that many people bought in the area because of the approved large lot characteristics. Many submissions expressed concern about permissibility of medium density development, additional further subdivision of large lots and the risk of overdevelopment. The submissions in support noted the following additional benefits of the PP:

- Protection of existing vegetation and wildlife habitat;
- Estate will have a less built-up appearance and a positive interface with surrounding rural landscapes and bushland (more in keeping with the character of Berry); and
- Fewer traffic and amenity impacts.

One (1) submission (PDC Lawyers & Planners on behalf of an affected property owner) objected to the proposal on the following grounds (summary):

- Will devalue land - purchased it knowing multi-dwelling development was permitted.
- Will limit housing supply in Berry which has little land available for in-demand multi-dwelling development. Will limit affordability.
- Argue that multi-dwelling housing was permissible under previous planning controls as area was zoned 2(c) under previous Shoalhaven LEP1985.
- Disagree that permitted development (under R1 zoning) will have adverse visual impacts – Estate established and largely screened by current and proposed future landscaping.
- Disagree that significant portion of community object to multi-dwelling development in area (argue that the proportion of objections to the overall population size is low).
- Disagree that land is too far from public transport – it is a short drive to train station.
- Disagree need to protect rural land in this area, state neighbouring land unlikely to be used for agriculture, mapped as severely limited in soil capability.
- Unsustainable as large houses will be built on large lots and this is an underutilisation of scarce land.
- Economic impacts - will limit construction activity and Council will not meet housing targets.

Overall, the proposal is supported by strategic plans for, and relating to, the area generally. These plans emphasise the importance of protecting rural land and scenic landscapes around towns such as Berry. The PP seeks to preserve the approved large lot character of the western edge of the Huntingdale Park Estate.

The PP has attracted strong support from residents in the Estate with these residents commonly stating they value these blocks because of the low-density character, rural and bushland outlook and amenity, as well as their rarity, with some describing paying a premium for these characteristics.

Berry, including Huntingdale Park Estate, is a high value area, with a median house price of \$1,365,000 and a median rental of \$730 per week (June 2021, [www.realestate.com.au](http://www.realestate.com.au)).

Affordability is a concern, and as a result of the PP if adopted/finalised, future multi-dwelling housing will be prohibited on the 42 affected properties. However, housing affordability is complex, with one housing type not necessarily always more affordable than another, as affordability depends on size, specification, tenure and local market and economic conditions.

Attached dual occupancy and secondary dwellings (granny flats) will remain permissible in the R5 zone, providing for some housing diversity and *relative* affordability. In particular, secondary dwellings (granny flats) are size-restricted and most likely to provide affordable housing options. Attached dual occupancy and secondary dwellings are considered a compatible housing type with the low-density character of the subject land.

Huntingdale Park Estate, and the new release area south of Hitchcocks Lane, have been planned to provide a new housing supply for Berry with a variety of housing types. The PP reflects a place-based planning approach, recognising land constraints and opportunities to protect and enhance local character whilst providing new housing.

The PP is also consistent with Council's approach to larger subdivision areas that were initially zoned Residential 2(c) under Shoalhaven LEP1985 (now zoned R1 General Residential under LEP2014) that saw the zoning of the area change when appropriate to reflect the nature/character of the subdivision once approved. The initial 2(c)/R1 zoning provided some initial flexibility until the final subdivision pattern is known or established and then areas rezoned accordingly. This has occurred in various areas throughout the city and as such is not an unusual approach.

Whilst it is acknowledged that more intensive forms of housing were permissible under the previous general 2(c) zoning, Council had a practice of using its DCP's to identify areas where other forms of housing would be encouraged/allowed and/or encouraged the identification of more intensive lots (e.g. dual occupancy or medium density) at the subdivision stage where possible. This was aimed at providing up front certainty to potential purchasers in relevant areas. In this case the original DCP No.70 that applied to the area from 1998 through to 2014 identified the area as 'low density lots' and 'larger lots – minimum 2000m'. It also identified a defined 'medium density' area adjacent to Hitchcock Lane (essentially the area that is now zoned R3 Medium Density).

The future development of the adjacent Hitchcocks Lane subdivision, south-east of the subject land, as outlined in Shoalhaven Growth Management Strategy 2014, will also provide additional greenfield housing supply and construction for the Berry area, including efficient use of land through provision of some smaller lot sizes. By contrast, the steep, elevated ridgelines of the periphery of Huntingdale Park Estate that are proposed to be rezoned were always intended to be developed for large lot housing, as a physical and visual transition between rural land, bushland and suburban development and the PP upholds this policy position.

The submissions are summarised and commented on in detail in **Attachment 1: Summary of Submissions**. The actual submission can be made available to Councillors if needed.

Minor changes to the PP document have been made (see **Attachment 2: Final Planning Proposal**), to add commentary regarding the PP's consistency with the following strategic plans: the recently adopted Illawarra-Shoalhaven Regional Plan 2014, Shoalhaven Character Statements by Roberts Day (2019) and the Berry Community Strategic Plan (2016). These changes have been made in response to concerns raised within the objection regarding consistency with strategic plans. Importantly, these changes add context to the proposal but do not affect the proposed planning control amendments, and the proposal therefore remains the same as exhibited.

## State Agency Consultation

The Gateway determination required consultation with the NSW Rural Fire Service (RFS) and DPIE's Biodiversity and Conservation Division (BCD).

These agencies were consulted prior to the public exhibition.

On 7 May 2021, the RFS issued advice stating they had considered the information and raised no concerns or issues in relation to bushfire.

Comments from BCD were received on 6 May 2021 and they did not object to the PP, recognising the proposed rezoning will (in principle) reduce pressure to remove trees and vegetation given the lower density and intensity of permitted uses.

BCD noted the riparian (creek) corridors in the area contain significant vegetation and provide a link to remnant vegetation west of the Estate. The BCD requested that the riparian areas within the upper reaches of the Estate be rezoned from their current R1 General Residential Zone to E3 Environmental Management or similar to better reflect their environmental character and function. The riparian corridor will remain unchanged as part of this PP, and the corridor has been dedicated to Council so is not under any development pressure. This suggested zoning change to the riparian corridor is not within the scope of the current PP, but will be considered as part of a future housekeeping amendment to the LEP.

## Policy Implications

### Consistency with strategic plans and policies

This PP seeks to ensure planning controls align with the established strategic planning intent for the large lot residential areas of the Estate. The PP is consistent with relevant State and Council strategies and policies, including (but not necessarily limited to): the Illawarra Shoalhaven Regional Plan 2041; Shoalhaven Local Strategic Planning Statement (Shoalhaven 2040) and the Shoalhaven Growth Management Strategy 2014. Further detailed discussion on consistency with strategic planning and development assessment decisions for the area is provided in the PP document.

### Dwelling Entitlements

The PP will maintain the dwelling entitlements on all existing and approved lots. Lots within the R5 zone trigger clause 4.2D(3)(a) of Shoalhaven LEP 2014, which requires a lot to have a dwelling entitlement prior to the erection of a dwelling house or dual occupancy. As a result of this, all lots would be required to be greater than 2000m<sup>2</sup> (the minimum lot size for the land) to meet the requirements of clause 4.2D(3) or the lots would need to meet the requirements of another part of clause 4.2D(3).

All lots proposed to be rezoned from R1 General Residential to R5 Large Lot Residential contain an area greater than 2000m<sup>2</sup>, exceeding the minimum lot size for the land, and will therefore continue to benefit from a dwelling entitlement.

### Low Rise Housing Diversity Code (Complying Development)

The Low Rise Housing Diversity Code (part of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) does not apply to the R5 zone and medium density opportunities are therefore limited. The Estate was planned to provide a variety of lot sizes and housing types and medium density was not intended within the areas designated for larger lots. Medium density development and low-density housing opportunities are provided in the central, less constrained areas within the Estate.

## Conclusion

This PP will ensure planning controls for large lots in Huntingdale Park Estate in Berry align with the current and future desired character of the area that was first established through detailed community engagement in 1998. In addition, this PP responds to community

concerns about recent planning changes that impact the area and community support for the proposed change was expressed during the public exhibition period. All requirements of the Gateway determination have been met and it is recommended that the PP be adopted and the associated amendments to Shoalhaven LEP 2014 be made.

**Financial Implications**

There are no financial implications resulting from this PP. As described above, this PP is aligned with strategic plans. The PP is being resourced within the Strategic Planning budget.

**Risk Implications**

The proposal aligns with strategic plans and development decisions for the area. Should the PP not proceed, medium density housing types and further subdivision will remain permissible (including as complying development) and development of this type could impact on the area's desired large lot character and scenic quality.