

Planning and Assessment

IRF20/2353

Gateway determination report

LGA	Shoalhaven LGA
PPA	Shoalhaven City Council
NAME	Bushfire Heritage Lot 30 DP792994, E435 Princes Highway, Yatte Yattah (1 home, 0 jobs)
NUMBER	PP 2020 SHOAL 005 00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	E435 Princes Highway, Yatte Yattah
DESCRIPTION	Lot 30 DP792994
RECEIVED	11 May 2020
FILE NO.	EF20/21877 & IRF20/2353
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. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Shoalhaven LEP 2014 by removing Lot 30 DP792994, E435 Princes Highway Yatte Yattah, as a heritage item listed in Schedule 5 and shown on the heritage map. The heritage item – ‘Currawar Victorian Georgian style farmhouse’, was destroyed by the recent Currowan Bushfire and the property no longer has heritage significance.

1.2 Site description

Lot 30 DP792994 is 43.82 hectares of land on the western side of the Princes Highway at Yatte Yattah. (Figures 1 & 2). Prior to the bushfire, the farmhouse and outbuilding were located on the lot. The farmhouse was indicative of the dairying cultural landscape, illustrated the subdivision of large estates and was a low key element on the pastoral landscape of the Milton district.

NSW Public Works have confirmed that the farmhouse was destroyed by the bushfire. Whilst the fireplace, chimney, chimney breast and concrete stairs remain, the context of these elements have been compromised following the loss of the rest of the dwelling.

1.3 Existing planning controls

The land is zoned RU1 Primary Production with a 40 ha minimum lot size under the Shoalhaven LEP 2014.

The Lot is listed under Shoalhaven LEP 2014 Schedule 5 Environmental Heritage as Heritage Item 535 – Victorian Georgian Style Farmhouse’ as well as being mapped on the Heritage Map - Map Sheet HER_015. Clause 5.10 Heritage Conservation of the LEP applies to the listed lots.

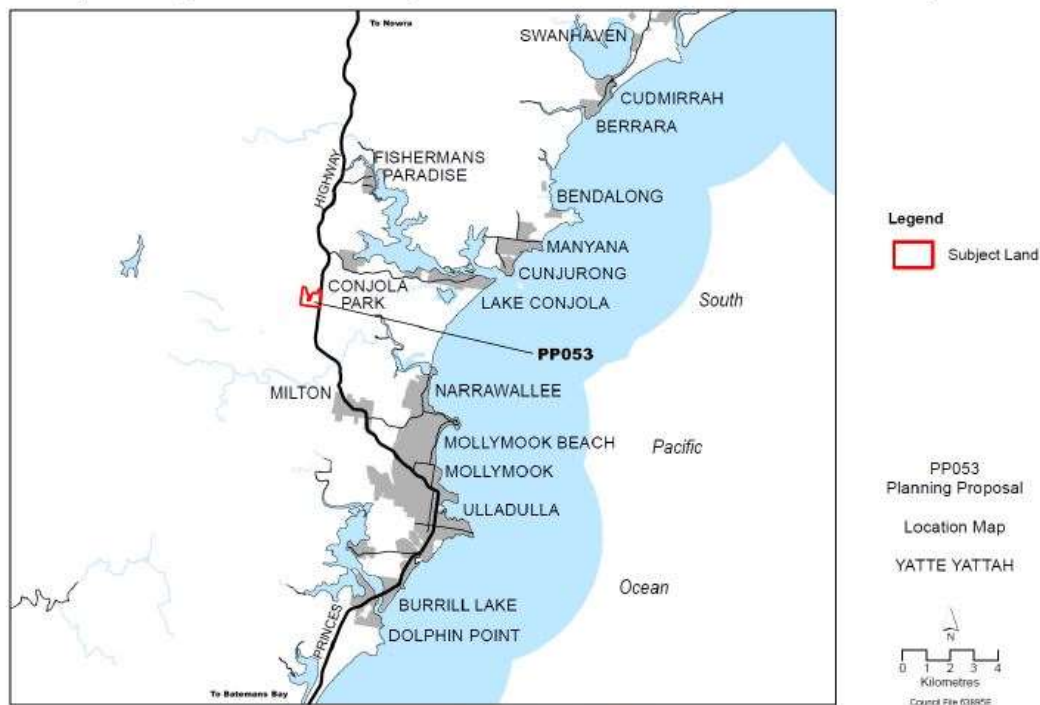


Figure 1: Location Map

Figure 1: Subject site and locality plan (Source: Shoalhaven City Council)



Figure 2: Subject site prior to Currowan Bushfire (Source: Shoalhaven City Council)

1.4 Surrounding area

The land is located in a rural area with cleared farming lands on the lower flats and native vegetation on the hillslopes.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the planning proposal is to remove Lot 30 DP792994, E435 Princes Highway Yatte Yattah, (Item 535) listed in Schedule 5 and shown on the heritage map, as the heritage item (farmhouse) was destroyed in the Currowan bushfire.

The objective is clear and concise.

2.2 Explanation of provisions

It is proposed to:

- Remove Item 535 from Schedule 5 of SLEP 2014; and
- Amend the Heritage Map Sheet (HER_015) by removing Item 535.

The explanation of provisions are clear and concise.

2.3 Mapping

It is proposed to amend the Heritage Map Sheet (HER_015) by removing Item 535.

The Heritage Map (existing and proposed) is included in the planning proposal.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal arises from the need to remove the heritage listing from the property to enable the landholder to demolish the destroyed farmhouse, utilising NSW Government assistance and to rebuild via NSW Government approval pathways.

The planning proposal is the best and only way of achieving the intended outcomes.

4. STRATEGIC ASSESSMENT

4.1 State – N/A

4.2 Regional

The planning proposal is consistent with Illawarra Shoalhaven Regional Plan's (the Plan) Direction 3.4 Protect the Region's Cultural Heritage and Action 4.3.1 Conserve heritage sites when preparing local planning proposals as it is removing an item that no longer has heritage significance.

4.3 Local

The proposal is consistent with Council's Community Strategic Plan in that it meets Action 2.2 Plan and manage appropriate and sustainable development.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with the s9.1 Directions 1.5 Rural Lands, 2.3 Heritage Conservation and 5.1 Implementation of Regional Strategies. The planning proposal is updating the heritage status of the item which has been destroyed by bushfire.

The land is mapped as bushfire prone. The s9.1 Direction 4.4 Planning for Bushfire Protection requires Council to consult with the NSW Rural Fire Service after the issuing of a Gateway determination. This is to ensure the planning proposal is consistent with the Objectives of the Direction:

- To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land use in bush fire prone areas, and
- To encourage sound management of bushfire prone areas.

The planning proposal however seeks to remove a heritage item already destroyed by bushfire and is therefore consistent with the Objectives of the Direction.

Consistent with similar heritage bushfire planning proposals and previous advice from the NSW Rural Fire Service, consultation with the NSW Rural Fire Service is unnecessary because the proposal is consistent with the objectives of the Direction, it seeks to expedite the removal of a destroyed heritage item from the LEP and to remove planning impediments for complying and exempt development on the site.

Bushfire risk will be considered through the assessment of any future applications for a dwelling on the site.

Recommendation: That the Secretary approve any inconsistency with section 9.1 Direction 4.4 Planning for Bushfire Protection because the planning proposal is not inconsistent with the Objectives of the Direction.

Whilst the planning proposal identifies that s9.1 Acid Sulphate Soils applies to the proposal, the Direction is not relevant in the circumstances.

4.5 State environmental planning policies (SEPPs)

The planning proposal has identified that the SEPPs BASIX 2004, Exempt and Complying Development Codes 2008, Koala Habitat Protection 2019 and Primary Production and Rural Development 2019 apply to the proposal.

Removal of the heritage item from the Shoalhaven LEP 2014 does not apply or raise any issues with any SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The removal of the heritage item from the Shoalhaven LEP will have a positive impact for the landholder as it will enable them to move on and tidy up their property after the bushfire. It will also allow them to access NSW Government assistance to undertake the recovery and rebuilding works.

5.2 Environmental

The planning proposal has no environmental impacts, other than to clean up the destroyed building.

5.3 Economic

The removal of the heritage item from the Shoalhaven LEP will enable the landholder to access NSW Government assistance (saving dollars) to demolish and remove the destroyed building.

5.4 Infrastructure

The planning proposal does not involve any changes to the access to public infrastructure or servicing of the land

6. CONSULTATION

6.1 Community

Council is requesting no public exhibition for the planning proposal, consistent with similar planning proposals in bushfire affected areas. Council has undertaken direct consultation with the affected landowner prior to the proposal being endorsed by Council.

Council's request has merit because it seeks to remove items destroyed by bushfire.

It is therefore recommended that no community consultation is required.

6.2 Agencies

Council has already consulted with NSW Heritage who have raised no issues with the planning proposal. No further consultation with NSW Heritage is required. No other agency consultation is considered necessary.

It is therefore recommended that a Gateway determination be issued without requiring consultation with agencies.

TECHNICAL STUDIES

Council has completed a revised inventory sheet for the heritage item which describes the current state of the item and provided photographic evidence of the destroyed building. Heritage NSW has reviewed the sheet and has raised no issues with it.

No other technical studies are required.

7. TIME FRAME

Council has proposed a 3-month project timeframe to complete the planning proposal process.

A 6 month timeframe is proposed to allow any unexpected delays and to provide enough time for Council to obtain an Opinion on a draft LEP from Parliamentary Counsel's Office.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested in its letter of 11 May 2020 to be the local plan making authority

Due to the minor, local nature of the proposal and the support of NSW Heritage to remove the heritage item from the Shoalhaven LEP, it is considered appropriate for Council to be the local plan making authority.

9. CONCLUSION

It is concluded that a Gateway determination should be issued to enable the

planning proposal to proceed without the requirement for community or agency consultation. This will enable Council to expedite removal of the heritage item listed in the LEP that has been destroyed by bushfire and remove planning impediments for complying and exempt development on the sites.

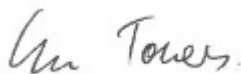
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is of minor significance and justified.

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

1. Community consultation is not required.
2. Consultation with public authorities is not required.
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



2/6/20

Graham Towers
Team Leader, Southern Region



3/6/20

Sarah Lees
Director Southern Region
Local and Regional Planning

Assessment officer: Lisa Kennedy
Planner, Southern Region
Phone: 4247 1827