

## **DE21.37 Proposed 2020/2021 Housekeeping Amendment to Shoalhaven Local Environmental Plan 2014 (PP044)**

**HPERM Ref:** D20/537903

**Department:** Strategic Planning

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

**Attachments:** 1. Proposed Planning Proposal PP044 - Housekeeping Amendment 2020-2021 (under separate cover)

### **Reason for Report**

Obtain the required resolution to progress the 2020-2021 Housekeeping Amendment Planning Proposal (PP044) which covers a range of instrument and mapping amendments of a housekeeping nature to Shoalhaven Local Environmental Plan (LEP) 2014.

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

That Council:

1. Submit Planning Proposal PP044 to the NSW Department of Planning, Industry and Environment for an initial Gateway determination, and if favourable:
  - a. Proceed to formal exhibition in accordance with the terms of the determination/legislative requirements; and
  - b. Receive a further report following the conclusion of the public exhibition to enable its finalisation.
2. Advise key stakeholders, including relevant Community Consultative Bodies and any directly affected landowners, of the public exhibition agreements.

### **Options**

1. As recommended.

Implications: This is the preferred option. Since the commencement of Shoalhaven LEP 2014, anomalies and minor issues continue to be identified that need to be resolved. The matters in PP044 relate to LEP instrument and mapping issues that were generally identified in the 2020 calendar year. This PP will enable the matters to be resolved to ensure the LEP remains accurate.

2. Adopt an alternative recommendation.

Implications: Depending on its nature, an alternative recommendation could delay the resolution of the identified housekeeping matters.

3. Not proceed with the PP.

Implications: This is not the preferred option as the identified housekeeping matters will not be resolved.

## Background

Shoalhaven LEP 2014 first commenced on 22 April 2014. As part of the completion of the Citywide LEP process, and since the LEP has been in force, housekeeping amendments have been undertaken annually and as needed to continue to improve the operation and accuracy of the Plan. These regular amendments and associated reviews help maintain the currency of the Plan.

## 2020-2021 Housekeeping Amendment

The intended outcome of the PP is to amend a number of clauses in the LEP instrument and associated maps in order to correct identified anomalies or inconsistencies within the LEP and improve the Plan's operation, specifically:

- Ten (10) items have been identified that require administrative amendments to the written instrument of Shoalhaven LEP 2014. These amendments include updates to clauses, land use zones and Schedule 5 Environmental Heritage.
- Twenty-nine (29) items have been identified that require amendments to the Shoalhaven LEP 2014 maps, covering a variety of minor mapping issues relating to land zoning, lot size, height of building, buffer and heritage.
- Two (2) items have been identified for amendment that relate to both the instrument (Schedule 5 of Shoalhaven LEP 2014) and the associated heritage mapping.

The proposed amendments will help to improve the overall operation of the Plan. The proposed PP is included at **Attachment 1** and contains the detail of the proposed LEP amendments, with the key matters/issues summarised in **Table 1** below for convenience.

**Table 1: Summary of the 2020-2021 Housekeeping PP key issues.**

Proposed Instrument Amendments	
<b>Instrument Item 1:</b> Insert 'secondary dwellings' as a land use permitted with consent in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones.	Under the <i>State and Environmental Planning Policy (Affordable Rental Housing) 2009</i> (AHSEPP), 'Secondary Dwellings' are permissible with consent within the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones. It is considered appropriate to amend Shoalhaven LEP 2014 to be consistent with the AHSEPP and increase alternative housing opportunities within the Shoalhaven.
<b>Instrument Item 2:</b> Insert 'artisan food and drink industry' as a land use permitted with consent in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones.	<p>'Artisan food and drink industry' is currently not permissible in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones. It is however considered appropriate for the term to be permissible with consent in these zones to support the growing artisan/craft food and drink industry in Shoalhaven. This approach has been taken by other regional Councils, for example Orange.</p> <p>The proposed amendment is supported by Council's Nowra CBD Revitalisation Strategy Committee, which resolved (CBD21.3) on 3 February 2021 to:</p> <ol style="list-style-type: none"> <li>1. <i>Support the preparation and progression of a Planning Proposal to add 'Artisan Food &amp; Drink Industry' as a permissible use in the B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones in the Shoalhaven Local Environmental Plan 2014.</i></li> </ol>

	2. <i>Receive future updates on the progress of the Planning Proposal.</i>
<b>Instrument Item 5:</b> Amend Clause 4.2D to include the term <i>waterbody</i> .	The proposed inclusion of 'waterbody' within the existing definition of a 'holding' relating to dwelling entitlements reflects Council's longstanding practice that a holding separated by water is still considered to be a holding.
<b>Instrument Item 10:</b> Insert a local clause that enables the creation of two residue lots containing all of the rural or environmental land within the parent lot.	<p>There are four identified lots within Nowra Hill and Sussex Inlet that cannot be practically subdivided under existing Clause 4.1E (split zone subdivision) provisions as the environmental or rural portion of land cannot be held within the one residue lot, as a result of environmental or other constraints.</p> <p>This is not Council's intent and can be rectified through the implementation of a proposed new local clause, aimed at enabling the creation of two residue lots that would contain the entirety of the rural or environmental zoned portion within the parent lot.</p>
<b>Proposed Mapping Amendments</b>	
<b>Mapping Item 1:</b> Lot 7 DP 731147 & Road UPN 103401, The Springs Road, Sussex Inlet	<p>The lot is currently zoned part RE1 Public Recreation, which is considered an inappropriate zoning for privately owned land.</p> <p>Historically, the portion of land has been set zoned as a buffer for visual amenity purposes. Rezoning the RE1 Public Recreation portion of both Lot 7 and the Road Casement to E3 Environmental Management will protect this function into the future.</p>
<b>Mapping Item 4:</b> Part of Lot 700 DP 1265509 & Lot 542 DP 1250028, Macquarie Drive, Burrill Lake	<p>The subject lots are zoned part E2 Environmental Conservation and part R1 General Residential and area within the Burrill Lake residential subdivision area. Rezoning part of the E2 zone that currently protrudes into the residential subdivision proposed for Lot 700 DP 1265509 will enable development approved to be undertaken in an efficient manner.</p> <p>Additionally, rezoning Lot 542 to RE1 Public Recreation reflects the land dedication as part of the approved subdivision.</p>
<b>Mapping Item 7:</b> Lot 17 DP 857006, Huskisson Road, Huskisson	The RE1 Public Recreation portion of the subject lot is considered an inappropriate zoning for privately owned land. Rezoning the RE1 portion to E2 Environmental Conservation will maintain and secure the naturally vegetated corridor that links the Jervis Bay National Park with Council's Huskisson BioBank site.
<b>Mapping Item 10:</b> Lots 116-120 DP 1248050 & Part of Road UPN 121947, Dune Crescent, Manyana	The subject lots are currently zoned E3 Environmental Management and R2 Low Density Residential, and form part of a recent residential subdivision. Rezoning the subject land to R2 will ensure that housing can be developed consistently with the intent of the subdivision, in an efficient manner.
<b>Mapping Item 13:</b> Lot 3 DP 1069042, Wallace Street, Nowra	The subject lot is zoned RE1 Public Recreation and R1 General Residential. Council has no intention to acquire the RE1 portion of the lot. Rezoning the RE1 portion of land to R1 is consistent with the land use and will assist in facilitating development.

<b>Mapping Item 15:</b> Lots 100 and 101 DP 1247844, Golf Course Way, Sussex Inlet	Lot 100 DP 1247844 is currently zoned R1 General Residential and RE2 Private Recreation. The lot is the subject of a residential subdivision. Rezoning Lot 100 to R1 is consistent with the intended future residential land use of the lot.
<b>Mapping Item 22:</b> Lots 1-5 DP 700116, Pitt Street, North Nowra	The subject land (part of the Pitt Street industrial precinct) is currently zoned R2 Low Density Residential and IN2 Light Industrial. Realigning the R2 zoning to the actual built industrial interface will facilitate future industrial development, accurately reflect the intention of the land and existing development character.
<b>Mapping Item 26:</b> Westhaven Avenue & Shoalhaven Street, Nowra	The subject land currently has no height of building applying. Council intended to apply a I2 (8.5m) height of building to the subject area as part of the Nowra CBD Fringe Planning Proposal (PP038), however the exhibited maps presented the subject land without a height of building. Applying the I2 (8.5m) height of building to the land will be consistent with Council's intentions.
<b>Mapping Item 28:</b> Lots 145-146 DP 1190108 & Lot 102 DP 1093762, Peacehaven Way & Sussex Inlet Road, Sussex Inlet	<p>The subject lots are currently zoned R1 General Residential.</p> <p>Lots 145 and 146 DP 1190108 were dedicated as open space for the purpose of community land, in accordance with SF9055. Rezoning Lots 145 and 146 to RE1 Public Recreation is considered to be more consistent with the public reserve land use.</p> <p>Additionally, Lot 102 DP 1093762 was acquired by Shoalhaven Water and subsequently classified as operational land for the purpose of a sewerage pumping station. Rezoning the lot to SP2 Infrastructure (Sewerage System) and applying a Sewerage Treatment Plant buffer (with a 400m radius) is consistent with the land use.</p>
<b>Mapping Item 29:</b> Lot 1 DP 1264873, Bells Lane, Meroo Meadow	The subject land is partially located within the Moss Vale North Urban Release Area (URA). Subsequent to a recent boundary adjustment, the zoning, minimum lot size, clauses (Schedule 1.5) and URA layer should be amended to reflect the consistent line and intent of the Moss Vale Road North URA.
<b>Mapping Items 6, 14, 17, 18:</b>	Four mapping items propose the rezoning of a number of lots around various classified roads, following works undertaken by Transport for New South Wales. The subject land is proposed to be rezoned to be consistent with the land use and surrounding land zonings.
<b>Proposed Instrument and Mapping Amendments</b>	
<b>Heritage Item No. 355:</b> Mafeking Boer War Memorial	Update Heritage Map Sheet (Sheet HER_013E) to remove the heritage overlay from Lot 2 DP 363266 and the adjoining road reserve (retaining on Lot 3 DP 363266), to assist the better identification the heritage item. This is consistent with the heritage data sheet.
<b>Heritage Item No. 407:</b> Former Nowra Sailing Club site and Timber Wharf	Update Heritage Map Sheet (Sheet HER_013E) to include additional lots (Lot 263 DP 755952 and Lot 383 DP 755952 – the current <i>Ponte Bar and Dining</i> ) and update the item name to reflect the history of the site and its components, to read: 'Site of

	former Illawarra Steam Navigation Co. store and wharf, Nowra Wharf, Sandstone ramp and sea walls, former Boatshed Restaurant and site of former boatshed, slipway and jetty’.
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Following initial endorsement from Council, the PP would be submitted to the NSW Department of Planning, Industry and Environment for a Gateway determination.

As detailed in the Project Timeline in the PP (**Attachment 1**), it is anticipated that the LEP amendment would be finalised by early 2022.

### **Community Engagement**

Should the PP receive a favourable Gateway determination, it will be exhibited in accordance with the relevant legislative and Gateway requirements. The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted.

Any directly affected landowners will be advised of the exhibition arrangements in writing, as will all Community Consultative Bodies and other relevant stakeholders.

### **Financial Implications**

There are no immediate financial implications for Council. The amendment to Shoalhaven LEP 2014 will be resourced from the existing Strategic Planning budget.