

## Planning and Assessment

IRF20/1050

### Gateway determination report

<b>LGA</b>	Shoalhaven
<b>PPA</b>	Shoalhaven City Council
<b>NAME</b>	Planning Proposal – Huskisson Former Anglican Church (32 homes, 72 jobs)
<b>NUMBER</b>	PP_2020_SHOAL_001_00
<b>LEP TO BE AMENDED</b>	Shoalhaven LEP 2014
<b>ADDRESS</b>	17 Hawke and 22 Currumbene Streets, Huskisson
<b>DESCRIPTION</b>	Lots 7 and 8, Section 3, DP 758530
<b>RECEIVED</b>	14 February 2020
<b>FILE NO.</b>	IRF20/1050
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The proposal seeks to rezone the site from SP2 Place of Public Worship to B4 Mixed Use under the Shoalhaven LEP 2014, extend the proposed B4 zoning to include the adjacent section of Hawke Street currently zoned SP2 Road and increase the maximum height of buildings on site.

### 1.2 Site description

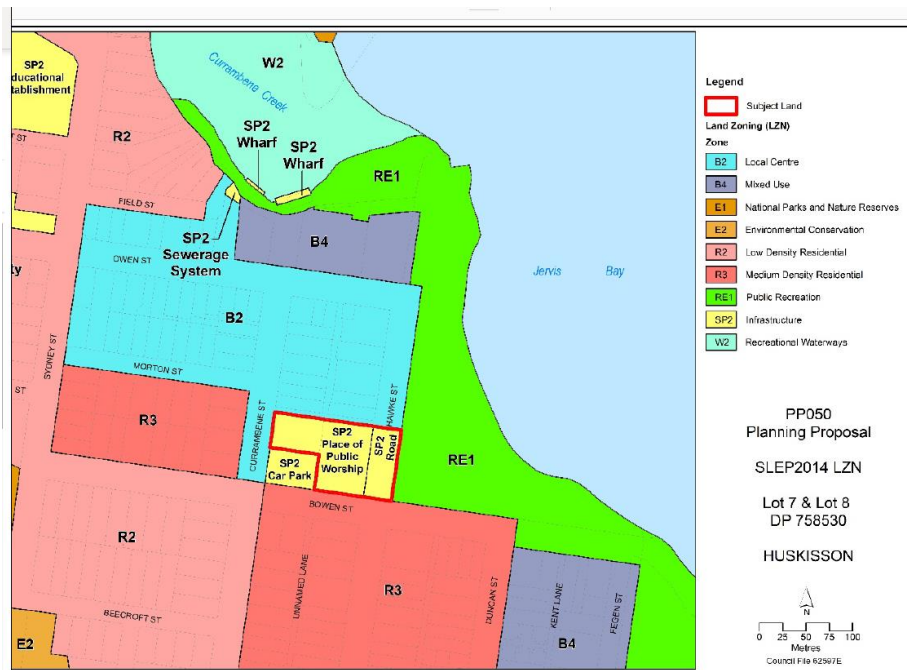
The 8,437m<sup>2</sup> site is located at 17 Hawke and 22 Currumbene Streets, Huskisson (Lots 7 and 8 Section 3, DP 758530), approximately 23.8km south east of Nowra (Figure 1 Site Map). The site also includes the adjacent section of Hawke Street.



**Figure 1 – Site Map** (source: Shoalhaven City Council, Planning Proposal document, February 2020)

### 1.3 Existing planning controls

The site is zoned SP2 Place of Public Worship and SP2 Road under the Shoalhaven LEP 2014 (Figure 2 – Zoning Map).



**Figure 2 – Zoning Map** (source: Shoalhaven City Council, Planning Proposal document February 2020)

A 10m maximum height of building control applies to Lots 7 and 8 (Figure 3 – Height of Building Map). Subject to meeting the following requirements, the lots are also mapped as 13m on the Incentive Height of Building Map (Figure 4) to which Clause 7.26 “Increased building height Huskisson Town Centre” of the LEP applies:

- If a single lot, the area is greater than 2,000m<sup>2</sup>.
- Or if more than one lot, each lot is greater than 1,200m<sup>2</sup>.
- Only 50% of the building can have the maximum building height.
- The basement of the building will contain car parking and will provide for two-way traffic flow.
- The design and form of the building follows good urban design; will improve the quality and amenity of the public domain; and will minimise overshadowing of public places and residential premises.

Lots 7 and 8 both comply with the above requirements, hence clause 7.26 allows the 13m maximum building height control.



**Figure 3 – Height of Building Map** (source: Shoalhaven City Council, Planning Proposal document February 2020) (N1=13m, K=10m, I2=8.5m, H=7.5m)



**Figure 4 – Incentives Height of Building Map** (source: Shoalhaven City Council, Planning Proposal document February 2020) (N1=13m, O=16m)

#### 1.4 Surrounding area

The site is surrounded by the Huskisson commercial area to the north, residential development to the south and west and public open space and Jervis Bay to the east (Figure 5 – Surrounding Area Map). Immediately adjoining to the south and west is 26 Currambene Street (Lot 9) which is undeveloped land owned by the Jerrinja Local Aboriginal Land Council (Figure 5).



**Figure 5 – Surrounding Area Map** (source: Shoalhaven City Council, Planning Proposal Document, February 2020).

### 1.5 Summary of recommendation

It is recommended that the planning proposal proceed as per submitted, subject to conditions, for the following reasons:

- The proposal will encourage housing diversity, tourism and local employment in Huskisson.
- The proposal adjoins the Huskisson commercial area and has access to infrastructure and services.
- The proposal is generally consistent with the Illawarra Shoalhaven Regional Plan and Council's Community Strategic Plan and Shoalhaven Growth Management Strategy.

There are outstanding issues that will need to be resolved and Gateway conditions are recommended including an independent ground penetrating radar survey to determine the location of graves; an Aboriginal Cultural Heritage Assessment; confirmation of whether the proposal should also apply to the adjoining site owned by the Jarrinja LALC; independent peer reviews of the proponent's feasibility analysis and urban design study as well as consultation with traditional owners.

These conditions will ensure that concerns raised by the community in relation to protection of graves, cultural heritage, urban design and local character are addressed through the planning proposal process.

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The stated intended outcomes of the proposal are to enable:

- Mixed-use development comprising a residential apartment building, tourist and visitor accommodation (hotel and serviced apartments), and retail premises (including food and beverage) on Lots 7 and 8, Section 3, DP 758530 (No. 17 Hawke Street and No.22 Currambene Street) Huskisson.

- Lot 7 Section 3, DP 758530 (No. 17 Hawke Street) to potentially be developed up to 16m above natural ground level.

Comment: It is considered that the intended outcomes provided in the proposal are clear and do not require amendment prior to community consultation.

## **2.2 Explanation of provisions**

The proposal states that the outcomes would be achieved by amending the Shoalhaven LEP 2014 to:

1. Rezone the subject land from SP2 Infrastructure (Place of Public Worship) to B4 Mixed Use.
2. Increase the mapped height of buildings controls for Lot 7 Section 3, DP 758530 (No. 17 Hawke Street) as follows:
  - a. 'maximum height of buildings from 10m to 13m; and the
  - b. 'incentive building height' from 13m to 16m.

The proposal also states that Council has resolved to amend the Shoalhaven DCP 2014 Chapter N18 – Huskisson Town Centre, as required, in conjunction with the Planning Proposal process.

Comment: It is considered that the explanation of provisions provided is generally clear. The explanation of provisions, however, needs to be updated to include the proposed rezoning of the section of Hawke Street from SP2 Road to B4 Mixed Use.

Recommendation: That the explanation of provisions in the proposal is updated to include the proposed rezoning of the adjacent section of Hawke Street from SP2 Road to B4 Mixed Use.

## **2.3 Mapping**

The proposal includes amendments to LEP zoning, height of building and incentive height of building maps. Maps are included that show the current and proposed controls. The maps are considered adequate for the purposes of community consultation.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The proposal states that it is the result of a proponent-initiated application that was supported by several reports and studies provided by the proponent. The proposal states that the site ceased to be used as a 'place of public worship' several years ago and as such the current SP2 zoning is no longer appropriate. The land will need to be rezoned via a planning proposal to enable the intended outcome to be achieved.

Council considered the application in January 2020 and resolved to support it in principle subject to a number of independent studies and investigations being undertaken including a new independent ground penetrating radar survey over the entire site by a grave detection specialist and independent reviews of the proponent's urban design and feasibility studies.

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Council considers the B4 zone is appropriate rather than other zones given the surrounding mix of residential and business zones and the B4 zone provides more

options for both permanent and tourist accommodation and related uses than the SP3 zone. The B4 zone is also seen as enabling an appropriate mix of the uses that are already permissible in both the R3 and B2 zones that adjoin this site.

Council advises there are also no other existing SP3 zones in Huskisson, there are however existing B4 zones. Council has recently reviewed a range of sites throughout the City historically zoned SP3 and revised their zoning to enable additional flexibility or an alternative outcome.

Council notes there are several other SP2 zones in the Huskisson township. This proposal was proponent-initiated and seeks to change the zoning of the subject land from SP2 'places of public worship' because the site is no longer used as a church. Council has advised there is no compelling reason to undertake a broader review of the other SP2 zones in Huskisson as most of these lands are in public ownership and are used for a range of community, educational and infrastructure purposes.

Council also noted the adjacent Lot 9 is zoned SP2 'car park'. Council has advised this land is not included in the proposal as the Jerrinja Local Aboriginal Land Council (LALC) owns Lot 9 and has expressed strong opposition to the proposal.

Comment: The planning proposal is the appropriate mechanism to facilitate a proposed mixed-use development on the former Anglican Church site which will provide hotel accommodation, apartments/serviced apartments and retail (food and beverage). Council has justified why it is proposing the B4 zone for the site. It is recommended that the Jerrinja LALC are consulted, should a Gateway determination be issued.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional**

The proposal states that it is consistent with Direction 2.2 of the Illawarra Shoalhaven Regional Plan "Support housing opportunities close to existing services, jobs and infrastructure in the region's centres" for the following reasons:

- Huskisson is identified in the Regional Plan as one of the centres for increased housing activity.
- The proposed B4 Mixed Use zoning of the site would permit attached dwellings, residential flat buildings, seniors housing and shop top housing. The development proposed includes residential accommodation (residential flat building).

Comment: It is considered that the proposal is consistent with Direction 2.2 of the Regional Plan because it will facilitate 32 apartments in Huskisson adjoining the town centre.

It is also considered that the following Regional Plan Directions and Actions are relevant to the proposal, namely:

Direction 1.3 "Grow regional strategic assets to support economic growth across the region"

The Regional Plan (p.26) identifies Jervis Bay as an important regional asset which provides tourism growth opportunities such as trails and experiences, marine based

tourism and events-based visitation. The Regional Plan (p.26) identifies the need to boost the amount of accommodation to position the region as a year-round destination. The proposal is consistent with the Direction because it will facilitate the development of a hotel and serviced apartments in Huskisson which will support tourism in the area.

Direction 1.5 “Strengthen the economic self-determination of Aboriginal communities

The Regional Plan identifies the importance of providing greater economic opportunities for Aboriginal people by supporting the establishment of a pipeline of potential projects. The Jerrinja LALC owns the land immediately adjoining the subject site. The LALC site is vacant, vegetated and zoned SP2 Car Park. Rezoning the subject site to B4 would result in the LALC site being surrounded on 3 sides by business zoned land.

The view of the LALC regarding the inclusion of their land is unknown, although the LALC has advised Council that it objects to the proposal. Shoalhaven Council has an established process for engaging with the Jerrinja LALC via Council’s Aboriginal Advisory Committee and the LALC’s position would be most appropriately confirmed through that existing and agreed process.

Recommendation: Council be requested to seek the Jerrinja LALC’s views on whether its adjoining land should be included in the planning proposal and, if necessary, the planning proposal be updated to reflect their views.

Direction 3.4 “Protect the region’s cultural heritage”.

It is unclear at this stage whether the proposal is consistent with Direction 3.4 “Protect the region’s cultural heritage”. Although the site is not currently listed as a local or State heritage item, the planning proposal states that the site could have heritage values associated with the Church building, graves and mature trees/green space. It is possible that an Aboriginal leader named Jimmy Golding/King Bud Billy was buried on the site in 1905.

Council has previously considered listing the site as a local heritage item in the LEP but has resolved not to pursue a local heritage listing.

The site was also nominated for State heritage listing by the community in November 2018. The Heritage Council’s State Heritage Register Committee, however, decided not to recommend an Interim Heritage Order to the Minister for Heritage on the basis that the site is not likely to be of state heritage significance but is highly likely to be of local heritage significance.

An Aboriginal cultural heritage due diligence assessment prepared for the proponent concluded that a formal Aboriginal Cultural Heritage Assessment is not required. The proponent has also undertaken a ground penetrating radar survey to identify the location of graves on the site. The proponent intends to protect identified and suspected graves by providing two memorial gardens at the site as a buffer.

Council intends to undertake the following independent cultural heritage investigations prior to public consultation:

- a new independent Ground Penetrating Radar survey over the site to determine if any other potential graves are present.
- an assessment by a heritage specialist of the status of the graves to determine if they are “relics” under the NSW Heritage Act in consultation with

the Jerrinja LALC, Council's Aboriginal Advisory Committee and Heritage NSW.

- independent historical research and consultation to determine if an Aboriginal Cultural Heritage Assessment Report (ACHAR) should be undertaken.

It is considered that there is sufficient grounds to justify a full ACHAR to be prepared in order to properly investigate heritage matters. This would provide information from both an Aboriginal community consultation and archaeological assessment to allow the proper consideration of how Aboriginal heritage may be affected by the proposal.

Council's survey methodology may need to be updated if the Jerrinja LALC requests that its land be included in the planning proposal.

Recommendation: That the independent investigations proposed to be undertaken by Council prior to public consultation are supported and that Council undertake a full Aboriginal Cultural Heritage Assessment Report of the entire site prepared in accordance with relevant guidelines including the "Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW", Office of Environment and Heritage, April 2011.

Direction 5.1 "Protect the region's environmental values by focusing development in locations with the capacity to absorb development" and Action 5.11 "Avoid, minimise and mitigate the impact of development on significant environmental assets".

It is considered that the proposal is consistent with Direction 5.1 and Action 5.11 of the Regional Plan. The site is not mapped as having high environmental values under the Regional Plan. The proponent's Urban Design Study indicates that approximately 13 mature trees are proposed to be removed and approximately 9 trees will be retained as part of a landscaping plan for the proposed development on Lots 7 and 8.

#### **4.2 Local**

The proposal states that it is broadly consistent with the actions of the following local strategic plans:

##### Shoalhaven Community Strategic Plan:

Theme 2 "Sustainable liveable environments and Action 2.2 "Plan and manage appropriate and sustainable management".

Council's view that the proposal is broadly consistent with its Community Strategic Plan is supported. The proposal will facilitate new housing and short-term accommodation and employment opportunities for the local community and visitors adjoining the Huskisson town centre.

##### Shoalhaven Growth Management Strategy

The proposal states it is consistent with the strategic outcome for Huskisson identified in the Growth Management Strategy (GMS), namely:

"promote as the gateway to the Jervis Bay Region by providing a range of integrated housing opportunities for both tourist accommodation and permanent living, through a combination of urban consolidation and higher densities".

The Growth considerations within the GMS for several settlements including Huskisson are:

- Development within settlement boundaries must be compatible with existing building forms and subdivision pattern.
- Outward expansion of settlements must protect and maintain landscape vistas for their visual and cultural heritage values
- Minimise adverse impacts in terms of hazards and environmental values
- Commercial development to enrich tourism potential

The proposal states that the B4 Mixed Use Zone allows a mix of uses that are generally consistent with the strategic outcome for Huskisson. The proposal also states that it is consistent with the growth considerations provided in the GMS in relation to compatibility with existing building forms and subdivision pattern, protection of landscape vistas, minimising hazards and commercial development to enrich tourism potential.

Comment: Council's view that the proposal is consistent with the GMS is generally supported for the reasons provided in the proposal. The justification provided by the proponent for increasing the proposed height controls on Lot 7, No. 17 Hawke Street is based on the proponent's Urban Design Study which in effect proposes to transfer some of the development potential (ie gross floor area and building height) from Lot 8, where the existing Church building is proposed to be relocated, to Lot 7. The Study does not identify any overshadowing of adjoining areas as a result of the proposed increase in height controls.

In addition, Council has advised that the proponent's information indicates that the increase in height will provide significant economic stimulus in terms of the viability of future development and this was a key reason why the Council supported the proposed increased height.

Council has resolved to support the proposed increase in height controls "in-principle" subject to an independent review of the Urban Design Study (along with a review of the feasibility assessment prepared by the proponent) being undertaken by Council. The feasibility study does not compare the feasibility of the development with or without the increase in height controls.

It is considered that Council's proposed independent review of the proponent's Urban Design and feasibility studies to test their robustness has merit. The review of the feasibility study should consider feasibility with or without the increase in height controls.

Council's independent review methodology may need to be updated if the Jerrinja LALC requests that its land be included in the planning proposal.

Recommendation: That Council undertake an independent review of the proponent's urban design and feasibility studies include a review of feasibility with or without the proposed increase in height controls for Lot 7.

#### Jervis Bay Settlement Strategy 2003 (JBSS)

The JBSS was prepared in collaboration with the NSW Government to guide strategic conservation and development outcomes for the area over a 15 to 20 year timeframe. This Strategy was adopted by the Council and endorsed by the NSW Government and is reflected in the adopted and endorsed Shoalhaven Growth Management Strategy.

The JBSS recognises that Huskisson is “the focal point for tourism in the Region”. It specifically acknowledges that Huskisson is a major tourist precinct within which there is demand for development sites to accommodate tourist and residential uses.

It recognises that physical and ecological constraints generally limit opportunities for linear expansion in the area and encourages the principle of urban renewal in this centre to meet future housing and accommodation needs. The JBSS includes the following urban renewal action in relation to Huskisson:

*“Huskisson will be promoted as the gateway to the Jervis Bay Region by providing a range of integrated housing opportunities that caters for both tourist accommodation and permanent living.”*

The Planning Proposal states it is consistent with the above action particularly given the prominent position of the subject land along Hawke Street, the main road through the centre.

Comment: Council’s view that the proposal is consistent with the JBSS is generally supported for the reasons provided in the proposal.

#### Shoalhaven Destination Management Plan 2018 – 2023 (DMP)

The DMP is a strategic document that prioritises key focus areas and actions within the following broader vision:

*“To be recognised as a year-round destination, valued for its quality environment and visitor experiences. A strong and vibrant tourism industry will be built on a diverse asset base that contributes to employment, economic benefit and the protection and enhancement of Shoalhaven’s natural environment.”*

The DMP identifies current needs/gaps in the region’s accommodation supply including the following:

- *high end boutique / eco / farmstay visitor accommodation of varying size*
- *large scale visitor accommodation (50 – 150 rooms) – particularly needed in Berry, Nowra, Bay and Basin*
- *resort style accommodation that has the flexibility to cater for large groups or traditional peak season couple and family market*

The Planning Proposal states it will enable development that will help to address the tourist accommodation needs identified in the DMP.

#### Guiding Future Growth - Shoalhaven Character Assessments

As part of Council’s work on reviewing the existing Shoalhaven Growth Management Strategy, character assessments of 57 settlements in the Shoalhaven LGA were prepared. “Guiding Future Growth - Shoalhaven Character Assessments” acknowledges the importance of Huskisson as a “a prime tourist destination with a welcoming local centre”. The report identifies several elements of Huskisson which should be retained, of which “varied built form including some medium density and several which should be improved” is relevant to the proposal. Of the elements to improve in Huskisson, “diversity of housing including medium density” was identified.

The report also recognises that Hawke Street serves as a north-south spine, connecting to Owen Street (which acts as the retail main street).

Comment: Council's view that the proposal is generally consistent with the DMP and Shoalhaven Character Assessments is generally supported for the reasons provided in the proposal.

#### **4.3 Section 9.1 Ministerial Directions**

The planning proposal states that it is consistent with relevant Directions particularly:

##### Direction 1.1 Employment and Resources

The proponent's feasibility analysis prepared in support of the proposal concludes that the proposal:

- represents the highest and best use of the site and could produce a significant benefit over the medium to long term for Huskisson.
- is likely to produce a mixture of development that limits impact on the existing retail centre. A focus on tourist and visitor accommodation is likely to complement the existing retail centre and maximise employment benefits within Huskisson.

Council considers that, subject to an independent peer review of the proponent's feasibility analysis, the proposal will have a positive economic impact on the Huskisson town centre and is broadly consistent with the Direction.

Comment: Subject to an independent review of the proponent's feasibility analysis, the proposal is generally consistent with the Direction. It is considered the proposal will encourage employment growth, including tourism and accommodation in the Huskisson commercial area.

Recommendation: That Council undertake an independent review of the proponent's feasibility analysis to determine its robustness and to confirm whether the proposal meets the requirements of the Direction.

##### Direction 2.2 Coastal Management

The proposal states that the subject land is within the Coastal Zone, but it is not affected by Sections (5) or (6) and is not otherwise inconsistent with the Direction.

Comment: Council's view that the proposal is consistent with the Direction is supported. The subject land is located within Coastal Use and Coastal Environment areas as defined in the Coastal Management SEPP. The planning proposal is not considered to be inconsistent with the objectives of these areas. The site is not identified as at risk of coastal hazards under Council's Coastal Zone Management Plan 2018.

##### Direction 2.3 Heritage Conservation

The planning proposal states that it is not inconsistent with the Direction, subject to further investigation in relation to the graves to determine their status under the NSW Heritage Act.

Comment: As previously discussed under Section 4.1, at this stage it is unknown whether the planning proposal is consistent with the Direction. The independent investigations and research on graves proposed to be undertaken by Council are

supported. Council should also prepare a full Aboriginal Cultural Heritage Assessment Report in accordance with published guidelines.

Council should be required to provide its assessment work to the Department prior to public exhibition.

Recommendation: That Council undertake the proposed independent assessments and research on graves as well as prepare a full Aboriginal Cultural Heritage Assessment Report in accordance with published guidelines and provide this to the Department prior to public exhibition.

#### Direction 3.4 Integrating Land Use and Transport

Council considers that the proposal is consistent with the Direction because:

- The site is located within Huskisson town centre which is serviced by way of pedestrian infrastructure and public transport.
- The site is within close proximity to a population base who then can travel less for employment.
- The proposal aims to facilitate a form of development that, if approved, will increase the viability of public transport in the area.

Comment: Council's view that the proposal is consistent with the Direction is supported for the reasons provided in the proposal.

#### Direction 4.4 Planning for Bushfire Protection

The proposal states that the subject land is adjacent to, and marginally affected by, land currently mapped as bushfire prone. Council intends to refer the proposal to the NSW Rural Fire Service prior to exhibition as required by the Direction.

Comment: Further information is required to be provided by Council to demonstrate compliance with the Direction.

Recommendation: That Council provide further information to demonstrate compliance with the Direction prior to finalisation of the planning proposal.

#### Direction 5.10 Implementation of Regional Plans

The proposal states that it is consistent with the Direction because the proposal is consistent with the Illawarra Shoalhaven Regional Plan.

Comment: It is considered that the proposal is generally consistent with the Regional Plan, however, as discussed in Section 4.1 of this report, Council should provide additional information to demonstrate consistency with Regional Plan Direction 3.4 "Protect the region's cultural heritage".

Recommendation: That Council provide further information to demonstrate compliance with the Direction prior to finalisation of the planning proposal.

### **4.5 State environmental planning policies (SEPPs)**

The planning proposal identifies that it is not inconsistent with applicable SEPPs and identifies the following SEPPs as particularly relevant to the proposal:

#### SEPP 55 – Remediation of Land

The proposal identifies that the SEPP applies and states that a preliminary investigation report will be required prior to public exhibition of the planning proposal.

It is considered that Council's intention to prepare a preliminary investigation report for the subject site to determine the potential for contamination is appropriate given the proposed rezoning from a special use zone to a mixed-use zone which will permit residential and tourist accommodation.

Recommendation: That a preliminary investigation report is prepared for the site prior to public exhibition.

#### SEPP 65 – Design quality of residential apartment development

The proposal states that the SEPP is relevant to the proposal because the SEPP provides design principles, objectives and criteria for residential apartments and shop top housing developments which could be facilitated by the planning proposal.

Council is required to assess future development applications on the site against the requirements of the SEPP.

#### SEPP – Coastal Management

As previously discussed under section 4.4 the site is mapped as Coastal Environment Area and Coastal Use Area. Council is required to assess future development applications on the site against the matters for consideration provided in the SEPP for the two coastal use areas.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The proposal states that the Huskisson Church site has been the subject of considerable community interest since the development application to demolish the Church hall was received by Council in 2018. Approximately 136 submissions on the DA were received by Council during the exhibition period which raised significant concerns about the impact of proposed development on local character, concerns about increase in height controls and impacts on Aboriginal and European cultural heritage. As previously discussed, Council proposes to undertake independent reviews of the proponent's studies and investigations and to undertake additional studies to address the issues of concern raised by the community.

The proponent considers that the proposal will provide positive social benefits by facilitating the transformation of an underutilised site which provides no jobs into a property that will have the potential to significantly increase total employment opportunities in the area, generating up to 72 jobs.

Comment: The community's concerns about the impact of the proposal on local character, tree canopy, historical and cultural values are acknowledged. There are potential social benefits of the proposal namely new housing and employment opportunities in Huskisson.

Council proposes independent reviews of the proponent's feasibility, urban design studies to test their robustness as well as undertaking a new ground penetrating radar survey to identify the location of graves, which are supported. The preparation of an Aboriginal Cultural Heritage Assessment Report will require consultation with traditional owners including the Jerrinja Local Aboriginal Land Council.

## 5.2 Environmental

A flora and fauna assessment prepared for the proponent in support of the proposal states that vegetation within the site comprises remnant trees (including Spotted Gum and Forest Red Gum) and planted vegetation (landscaping and garden). The assessment concludes that the proposal is not likely to significantly affect any threatened species or endangered or critically endangered species or ecological community and that the proposal would not trigger entry into the Biodiversity Offsetting Scheme. Council does not consider that further work is necessary in relation to threatened biodiversity on the site.

The proponent's proposal states that the site is not adversely affected by bushfire, flooding, acid sulphate soil, steep land, unstable land or site contamination.

As previously discussed, Council has identified the need to investigate potential bushfire and contamination issues prior to public exhibition.

Comment: It is considered unlikely that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal. The proposal may lead to the loss of several mature trees on the subject land which are highly valued by the community for local amenity and local character. Tree removal is not directly related to this planning proposal and if associated with development would be considered through the development assessment process. The proponent's urban design strategy includes the retention of mature trees in the future development of the site including along Hawke Street (Figure 6). The preservation of mature trees on site is supported to protect local amenity and character.



**Figure 6 – Proposed removal and retention of trees** (source: 19 Hawke Street Urban Design Study, DOMA, 30 October 2019).

## 5.3 Economic

The proponent's economic analysis states that the proposal will provide positive economic impacts to Huskisson during both construction and redevelopment phase and then ongoing operation of future development including up to 72 jobs. As previously discussed, Council intends to undertake an independent review of the proponent's feasibility analysis to verify its robustness.

An Infrastructure Assessment prepared for the proponent in support of the proposal concludes that all essential services (water, sewer, electricity) are readily available to the site and will not be a constraint to the timing or delivery of development.

Comment: As previously discussed it is considered that, subject to the proposed independent review of the proponent's feasibility analysis, the proposal is likely to have positive economic benefits to the local economy by supporting tourism and local jobs. The site adjoins the Huskisson commercial area and has access to the necessary infrastructure and services.

## **6. CONSULTATION**

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### **6.1 Community**

Council has set up a "Get Involved project page" on its website for the Huskisson Church planning proposal to keep the community informed and engaged at the appropriate stages.

Council intends to exhibit the planning proposal for at least a 28-day period. It intends to notify the public of the exhibition through the local media, notice on Council's website and will provide hard copies of the proposal at Council's Nowra office.

It is considered that Council's proposed community consultation is appropriate.

Recommendation: That Council exhibit the planning proposal for a 28-day period.

### **6.2 Agencies**

Council intends to consult with the following agencies:

- Heritage NSW (in relation to the legal status of the graves)
- NSW Department of Planning, Industry and Environment (Biodiversity and Conservation)
- NSW Rural Fire Service
- Jerrinja Local Aboriginal Land Council

It is considered that Council's proposed agency consultation is appropriate.

Recommendation: That Council consult with the agencies/organisation listed above.

## **7. TIME FRAME**

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Council proposes to finalise the planning proposal by March 2021. It is considered that a 12-month timeframe is appropriate.

Recommendation: That Council is required to complete the planning proposal and LEP within 12-months from the Gateway determination date.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority for the planning proposal. It is considered that Council should be authorised to be the local plan-making authority because, although the proposal is contentious within the local community, the proposal is not a matter of state or regional significance.

Notably, the NSW Heritage Office has not supported an interim state heritage listing of the site as it does not consider the site to be of state heritage significance.

### Recommendation:

It is recommended that Council is authorised to be the local plan-making authority for the planning proposal.

## **9. CONCLUSION**

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

- The proposal will encourage housing diversity, tourism and local employment in Huskisson.
- The proposal adjoins the Huskisson commercial area and has access to infrastructure and services.
- The proposal is generally consistent with the Illawarra Shoalhaven Regional Plan, Council's Community Strategic Plan, the Shoalhaven Growth Management Strategy, the Jervis Bay Settlement Strategy, the Shoalhaven Destination Management Plan and the Shoalhaven Character Assessments.

Gateway conditions are recommended to address matters raised by the community to date such as impacts on cultural heritage and loss of amenity/local character. There is also the requirement for formal consultation on the proposal.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

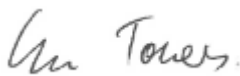
1. note that the consistency with section 9.1 Directions 1.1 Business and Industrial Zones, 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans is unresolved and will require justification.

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

1. Council shall prepare the following assessments prior to public exhibition:
  - a. A new independent Ground Penetrating Radar (GPR) survey over the entire site to which the Planning Proposal applies by a grave detection specialist using best practice methodology.
  - b. An independent assessment by an appropriately qualified historical archaeologist of the entire area to which the Planning Proposal applies that must determine the status of the graves and if they are "relics" under the NSW Heritage Act in compliance with Heritage Council of NSW Guidelines including "Assessing Significance for Historical Archaeological Sites and Relics, 2009".
  - c. A full Aboriginal Cultural Heritage Assessment Report of the entire area to which the Planning Proposal applies prepared in accordance with the "Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW" (Office of Environment and Heritage, April 2011) that includes Aboriginal community consultation and archaeological survey and reporting in accordance with the "Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010" (DECCW, April 2010)

and the “Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW” (DECCW September 2010).

- d. Independent peer reviews of the Feasibility Analysis prepared by Walsh and Monaghan (including a review of the feasibility with or without the proposed increase in height controls) and the Urban Design Study prepared by SJB Urban.
  - e. A “Stage 1 Preliminary Assessment” to determine the potential for contamination of the site.
2. Council shall update the explanation of the provisions section of the Planning Proposal prior to public exhibition to include the proposed rezoning of the section of Hawke Street from SP2 Road to B4 Mixed Use.
  3. The planning proposal should be made available for community consultation for a minimum of 28 days.
  4. Consultation is required with the following public authorities:
    - Department of Premier and Cabinet (Heritage NSW)
    - NSW Department of Planning, Industry and Environment (Biodiversity and Conservation)
    - NSW Rural Fire Service
    - Jerrinja Local Aboriginal Land Council, as an adjoining land owner
  5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
  6. Given the nature of the planning proposal, Council should be the local plan-making authority.



30/3/2020

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1/4/2020

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