

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Shoalhaven
<b>RPA</b>	Shoalhaven City Council
<b>NAME</b>	Hitchcocks Lane Berry Residential Investigation Area (approx. 150 homes)
<b>NUMBER</b>	PP_2018_SHOAL_004_00
<b>LEP TO BE AMENDED</b>	Shoalhaven LEP 2014
<b>ADDRESS</b>	Hitchcocks Lane Berry
<b>DESCRIPTION</b>	Lots 762 and 763 DP 1224932
<b>RECEIVED</b>	18 December 2017 (further information received on 28 March 2018)
<b>FILE NO.</b>	EF18/3497
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required OR a political donation disclosure statement has been provided
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal OR include details of meetings or communications with registered lobbyists.

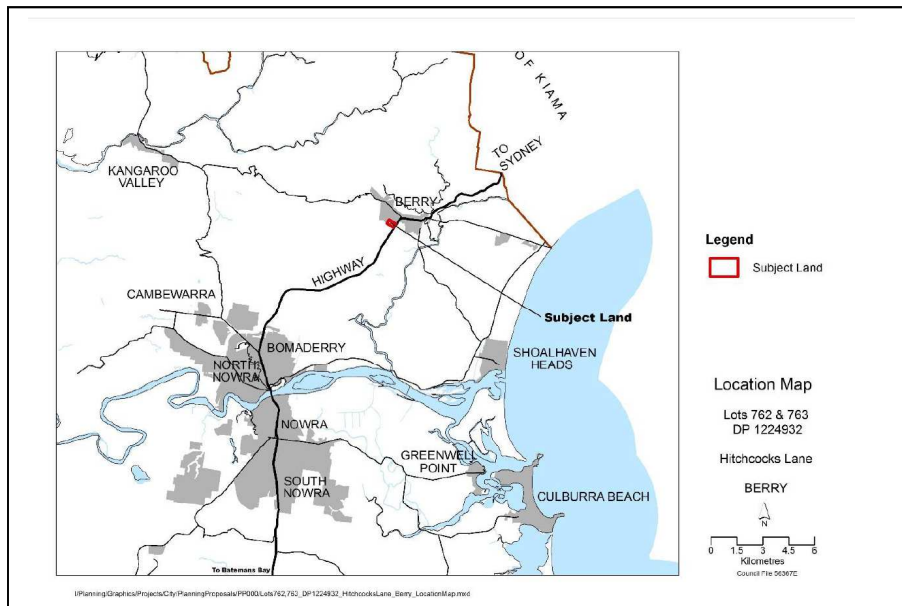
### INTRODUCTION

#### Description of planning proposal

The planning proposal (PP) seeks to rezone land at Hitchcocks Lane at the southern edge of the town of Berry to allow low density residential development.

#### Site description

The 11.8 hectare site is located at the southern edge of the Berry urban area and is approximately 18 km north east of Nowra in the Shoalhaven LGA (refer Figure 1 – site map).

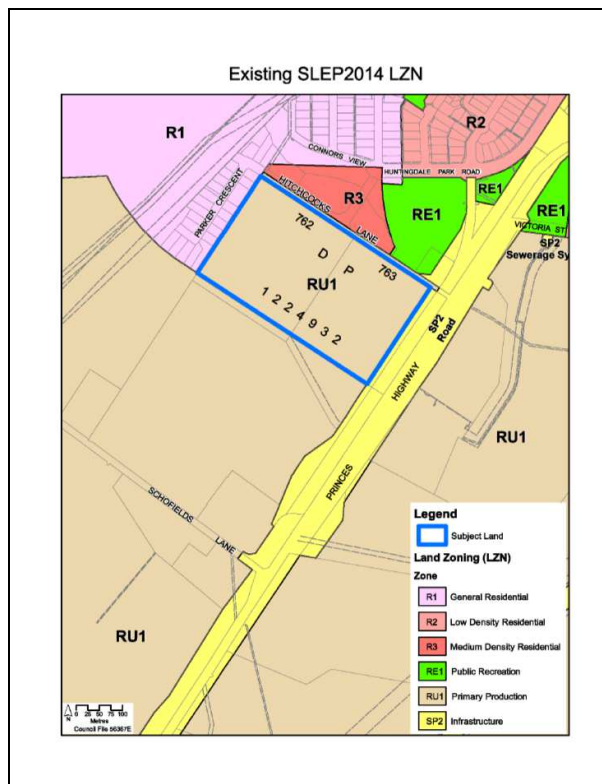


**Figure 1 – Site map** (source Council's planning proposal)

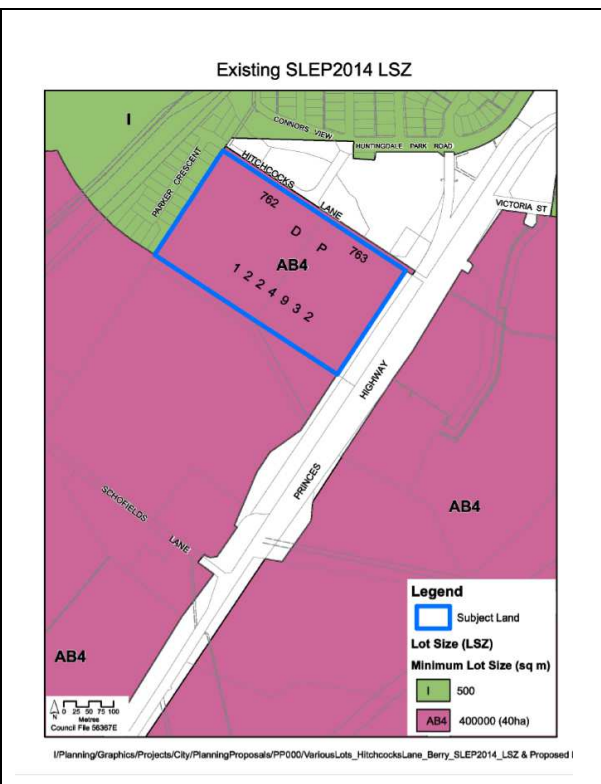
### Existing planning controls

The site is currently zoned RU1 Primary Production with a 40 ha minimum lot size under the Shoalhaven LEP 2014 (refer Figure 2 - Current Zoning and Figure 3 - Minimum Lot Size).

**Figure 2 – Current Zoning**



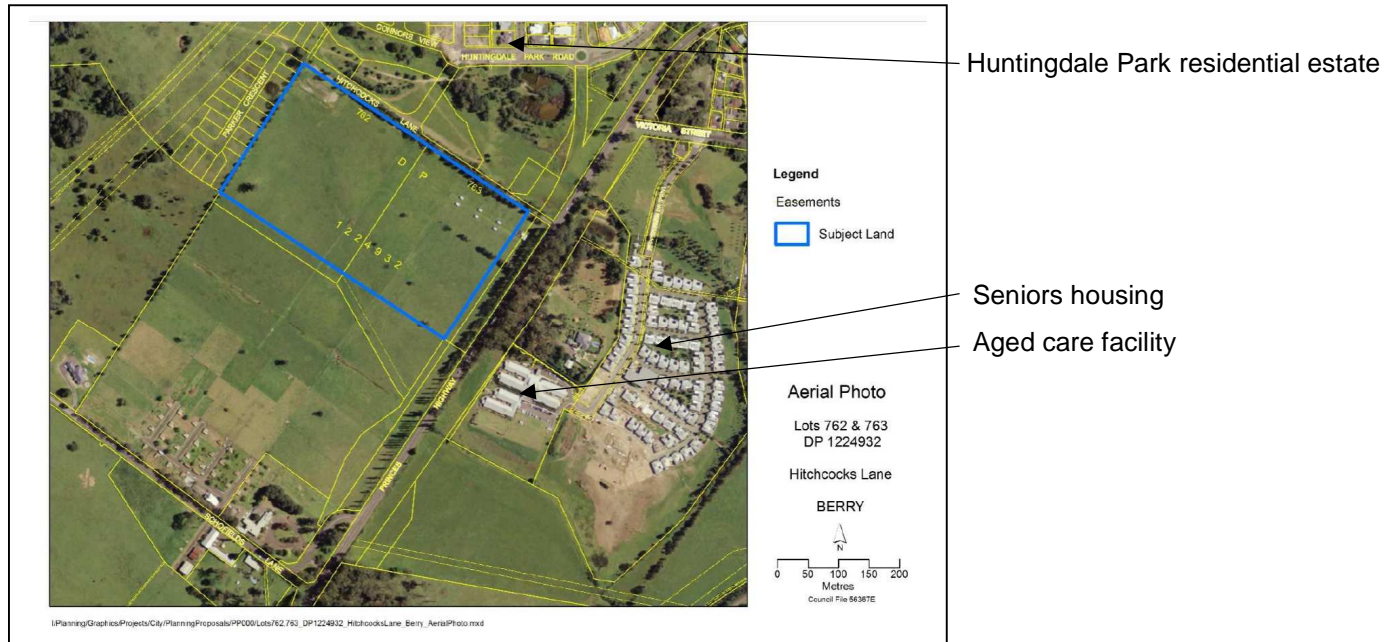
**Figure 3 – Current Minimum Lot Size**



(source: Council's Planning Proposal)

## Surrounding area

The land is adjoined to the south east by the Princes Highway and seniors housing, to the north by residential development (Huntingdale Park Estate) and parkland, undeveloped residential zoned land to the west and rural land to the south west (refer figure 4 – surrounding land use).



**Figure 4 – Surrounding land use** (source: Council's Planning Proposal)

## Summary of recommendation

It is recommended that the PP is allowed to proceed as submitted as it will provide additional housing opportunities for Berry consistent with the endorsed Shoalhaven Growth Management Strategy.

## PROPOSAL

### Objectives or intended outcomes

The intended outcome of the PP is to rezone the subject land to allow it to be developed for residential purposes. It is considered that the intended outcomes of the PP provided is adequate and meets the requirements of the Department's guide to preparing planning proposals.

### Explanation of provisions

The proposed provisions are to amend the Shoalhaven LEP 2014 as follows:

- Amend the applicable Land Zoning Map from RU1 Rural Landscape to R2 Low Density Residential Zone for the site.
- Amend the applicable Lot Size Map from 40 hectares to 500 square metres for the site.

- Amend the applicable Height of Building Map to show 8.5 metres for the site.

Council also proposes to:

- investigate allowing up to 25% of the site to be provided with a lot size as small as 350 sq.m subject to specialist studies and community consultation, and
- consider the most appropriate way to deal with flood prone land.

Comment: It is considered that the explanation of the provisions are adequate and meet the requirements of the Department's guide to preparing planning proposals. The proposed zoning, lot size and building height controls are considered to be consistent with the adjoining urban zoned land.

Council's resolution to investigate allowing up to 25% of the site to be provided with smaller lot sizes would allow for a variety of housing types.

Council has advised that if it revises the proposed minimum lot sizes and/or potentially changes the proposed zoning of flood prone land it would prepare a revised planning proposal and provide this to the Department for approval prior to public exhibition. These changes may require an alteration to any Gateway.

## **Mapping**

The PP includes a range of maps including locality, aerial photo, Growth Management Strategy Map, current and proposed zoning, lot size and height of buildings maps. It is considered that the maps are adequate for the purposes of public exhibition. Final maps will need to be prepared that comply with the Department's technical mapping guidelines prior to finalising the PP.

## **NEED FOR THE PLANNING PROPOSAL**

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The PP states that the proposal is needed because the subject land is identified as a long term investigation area for urban residential development in the Shoalhaven Growth Management Strategy.

The PP states that an LEP amendment or a SEPP are the only statutory mechanisms available to facilitate the release of the land for urban residential development. Council considers that, due to the small scale and local nature of the proposal, a PP is the most appropriate approach to achieve the required LEP amendment.

Comment: It is considered that the PP is required to provide for additional housing at Berry consistent with the endorsed strategic planning for the area. The PP process is the appropriate means for achieving the intended outcomes.

## **STRATEGIC ASSESSMENT**

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### **Regional**

#### **Illawarra Shoalhaven Regional Plan**

The PP states that the proposal is consistent with the relevant actions of the Illawarra Shoalhaven Regional Plan.

Comment: It is considered that the PP is consistent with the Illawarra Shoalhaven Regional Plan, and in particular with the following directions:

- Direction 2.1 “Provide sufficient housing supply to suit the changing demands of the region”.

Comment: The Direction supports housing release areas identified in the Shoalhaven Growth Management Strategy, which includes the land at Berry.

- Direction 2.2 “Support housing opportunities close to existing services, jobs and infrastructure in the region’s centres”.

Comment: The Direction specifically identifies Berry as a focus for increased housing activity.

### **Local**

#### **Shoalhaven City Council Integrated Strategic Plan 2017**

The PP states that the proposal is consistent with Council’s Integrated Strategic Plan 2017, namely:

1.1 Build inclusive, safe and connected communities

1.3 Support active, healthy and liveable communities

2.2 Plan and manage appropriate and sustainable development.

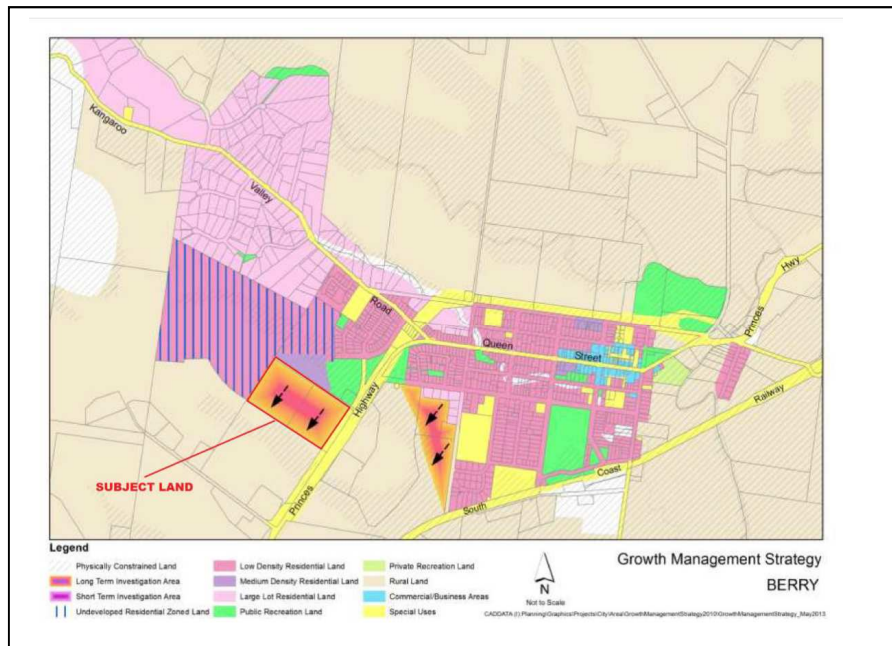
It is considered that the PP is consistent with Council’s Strategic Plan because the subject land adjoins the existing Berry urban area and has the potential to provide for the development of an inclusive, safe, well connected, healthy and sustainable community.

#### **Shoalhaven Growth Management Strategy 2012**

The PP indicates that the subject land at Berry is identified as a long term (15 year timeframe) investigation area in the Shoalhaven Growth Management Strategy (Figure 5 – Growth Management Strategy extract).

#### **Figure 5 – Growth Management Strategy**





The Shoalhaven GMS was adopted by Council in 2012 and endorsed by the Department in 2014.

Comment: It is considered that the PP is consistent with

the Shoalhaven GMS because it identifies the land at Berry as an investigation area. Council has advised that it considers the site suitable to accelerate for investigation because:

- Development of the Huntingdale Park residential estate, which adjoins the site to the north, has progressed faster than expected.
- There is strong demand for additional housing in Berry.
- The landowner has provided a range of supporting documentation that addresses many of the issues identified in the GMS requiring investigation, including an assessment of infrastructure and servicing needs.

It is considered that accelerating the investigation of the subject site has merit for the reasons discussed above.

## Section 9.1 Ministerial Directions

The PP identifies that the proposal may be inconsistent with the following section 9.1 Directions:

### 1.2 Rural Zones

The PP states that the land is zoned RU1 Primary Production under the Shoalhaven LEP 2014 and rezoning this land to an R2 Low Density Residential Zone will be inconsistent with the Direction. Council considers that the inconsistency with the Direction is justified under the terms of the Direction because the land is identified for urban expansion of Berry in the endorsed Growth Management Strategy. Council also considers that the loss of rural land is minor in the context of the surrounding rural zones.

Comment: The inconsistency with the Direction is justified under the terms of the Direction because the subject land is identified for investigation under the endorsed Shoalhaven Growth Management Strategy.

Recommendation: That the Secretary's delegate can be satisfied that the PP's inconsistency with the Direction is justified under the terms of the Direction.

## **1.5 Rural Lands**

The PP states that rezoning the subject rural land to an R2 Low Density Residential Zone will be inconsistent with the terms of the Direction. Council, however, considers that the inconsistency is justified because:

- The land has been identified for urban expansion of Berry in the endorsed GMS which is also referred to in the Illawarra Shoalhaven Regional Plan.
- The loss of land is minor in the context of the surrounding rural zones.

Comment: It is considered that the PP is consistent with the Rural Lands and Rural Subdivision Planning Principles. Namely the proposal:

- balances the social, economic and environmental interests of the community as it will provide housing opportunities, support the local economy and create demand for jobs and services in Berry. The proposal will not impact on natural resources, biodiversity, native vegetation or water resources.
- is consistent with the Shoalhaven GMS and Illawarra Shoalhaven Regional Plan which identify the subject land for urban investigation.
- will minimise rural land fragmentation by providing for planned new housing opportunities on suitable unconstrained land adjoining Berry.
- will minimise rural land use conflicts by providing a suitable southern urban edge to the Berry township which will protect prime agricultural land located south of Berry.

Recommendation: That the Secretary's delegate can be satisfied that the PP is consistent with the Direction or that any inconsistency is justified by the Shoalhaven GMS.

## **4.3 Flood Prone Land**

The PP identifies that part of the site contains a drainage line that is subject to short duration flooding. The PP states that the proposal is inconsistent with the Direction because it proposes to rezone the drainage line to an R2 Low Density Residential Zone. Council has advised that it intends to undertake the following studies post Gateway determination to resolve the inconsistency with the Direction:

1. Stormwater assessment including conceptual design details for the proposed drainage reserve.
2. Flood risk assessment.

Following completion of the assessments Council intends to update the PP, prior to public exhibition, to rezone any flood prone land to a non-residential zone or to include suitable justification for the inconsistency with the Direction.

Comment: It is considered that the PP is currently inconsistent with the Direction because it proposes to rezone an area of flood prone land to a residential zone. It is recommended that Council provide further information, including undertaking the

proposed stormwater and flood assessments, to justify compliance with the Direction prior to public exhibition of the PP.

Recommendation: That Council provide further information to demonstrate compliance with the Direction prior to exhibition of the PP.

## **6.2 Reserving Land for Public Purposes**

Although not identified in the PP, it is considered that the Direction may be relevant to the PP because the proposal identifies that flood prone land could be rezoned to an RE1 Public Recreation Zone. Council has also identified that it may prepare a voluntary planning agreement to facilitate the transfer of the ownership of the land to the public.

The Direction requires the approval of the Secretary of the Department for any PP that creates zonings of land for public purposes. Following the completion of the proposed stormwater and flood assessments, Council would need to seek the Secretary's approval if it decides to revise the PP to zone the flood prone component of the subject land to an RE1 Public Recreation Zone.

Recommendation: That if the Direction is applicable, Council provide further information to demonstrate compliance with the Direction prior to exhibition of the PP.

## **State Environmental Planning Policies**

### **SEPP 55 – Remediation of land**

The PP identifies that the subject land was previously used for agricultural purposes. The proposed rezoning of the land to a residential zone requires the preparation of a preliminary site assessment in accordance with clause 6 of SEPP 55 to consider the potential for the site to be contaminated. Council has indicated that it intends to undertake a preliminary site assessment of the subject land post Gateway determination.

Recommendation: That Council be required to prepare a preliminary site assessment of the subject land in accordance with the requirements of SEPP 55 – Remediation of Land.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The PP states that the proposal has the potential to achieve positive social outcomes by allowing a modest increase in population in the area. The PP indicates that a number of social impact assessments will be undertaken namely:

- An Aboriginal cultural heritage assessment
- Soft/community infrastructure study and delivery plan



Comment: It is considered that the proposal will provide positive social benefits by providing additional housing opportunities in Berry as well as supporting the local economy and creating jobs. The proposal will create a suitable southern edge to the Berry urban area which will protect prime agricultural land to the south. The development of the subject site was identified through the Shoalhaven Growth Management Strategy process and is generally supported by the local community.

### **Environmental**

The PP identifies that the site has been cleared and grazed and does not anticipate any ecological impacts as a result of the planning proposal.

The site adjoins the Princes Highway and is subject to vehicle noise from the Highway. The PP states that traffic noise will be investigated as part of the planning proposal process.

The PP identifies that the site is located at the southern entrance to Berry and forms an important part of the setting for the town and is visually prominent when viewed from the Princes Highway. Council intends to undertake a visual impact assessment during the investigations for the planning proposal.

Comment: It is considered that the PP will not have any significant environmental impacts. The proposed noise and visual impact assessments have merit in the further consideration of the PP.

### **Economic**

The PP states that it will have a positive economic impact by providing growth in Berry and in ensuring sustainability of existing services. In relation to the availability of infrastructure and services the PP indicates that:

- no traffic investigations have been completed for the proposal at this stage. Council intends to undertake a traffic impact assessment during the investigations for the PP.
- the adequacy of existing water and sewer infrastructure to accommodate the future growth has yet to be determined. Shoalhaven Water is aware of the PP and will be consulted during the public exhibition period.
- an infrastructure delivery plan study, that addresses all of the required public infrastructure, will be prepared and exhibited with the PP.

Comment: It is considered that the PP will have a positive economic impact on Berry, as it will create local jobs and demand for goods and services. It is considered that the subject site has the capacity to be connected to infrastructure and services.

## **CONSULTATION**

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### **Community**

Council proposes to exhibit the PP, and an accompanying DCP, for a 60 day period in recognition of the level of detail intended to be prepared and the level of anticipated community interest. The pp is proposed to be notified in the local newspaper and on Council's website. Hard copies are to be made available at Council's administration building in Nowra.

Comment: It is considered that a 60 day exhibition period is appropriate given the large number of studies and information proposed to be exhibited and the likely level of interest from the local community in the PP.

It is considered that the community consultation proposed by Council is adequate.

### **Agencies**

Council proposes to consult with Roads and Maritime Services, Shoalhaven Water, Endeavour Energy, DPI Agriculture and DPI Fisheries. It is considered that the agency consultation proposed is appropriate. Council proposes to consult with DPI Fisheries because the site drains to Broughton Creek/Crookhaven River which contains an important fishing industry.

### **TIME FRAME**

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The PP identifies that an LEP will be finalised and notified by September 2019 (approximately 18 month timeframe). It is considered that, given the complexity of the planning proposal, the proposed 18 month timeframe is appropriate.

### **LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested to be the local plan-making authority. Given the local significance of the proposal and its consistency with the endorsed strategic planning for the area, it is considered that Council should be authorised to be the local plan-making authority.

Recommendation: That Council is authorised to be the local plan-making authority.

### **CONCLUSION**

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The preparation of the PP is supported to proceed as submitted because it will provide additional housing opportunities (approximately 150 lots) in Berry and is consistent with the endorsed strategic planning for the area. The proposal will create a suitable southern edge to the Berry urban area which will protect prime agricultural land to the south.

### **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 1.5 Rural Lands are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.3 Flood Prone Land, 6.2 Dedication of Land for Public Open Space is unresolved and will require further consideration/justification.

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

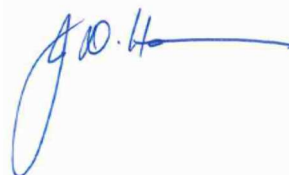
1. Council undertake the following investigations and studies:
  - a) Stormwater assessment including the conceptual design details for the proposed drainage reserve.
  - b) Stage 1 preliminary contaminated site assessment.
  - c) Aboriginal cultural heritage assessment.

- d) Flood risk assessment
  - e) Traffic study
  - f) Noise assessment
  - g) Visual impact assessment
  - h) Infrastructure study and delivery plan (including community infrastructure)
  - i) Masterplan preparation including detailed urban design and built form guidelines.
2. Council is required to provide a copy of the final studies and investigations, as well as any revised planning proposal, to the Department for review prior to public exhibition.
  3. Copies of the studies and investigations are required to be placed on public exhibition.
  4. The planning proposal should be made available for community consultation for a minimum of **60** days.
  5. Consultation is required with the following public authorities:
    - Roads and Maritime Services
    - Shoalhaven Water
    - Endeavour Energy
    - DPI Agriculture
    - DPI Fisheries
  6. The timeframe for completing the LEP is to be 18 months from the date of the Gateway determination.
  7. Given the nature of the planning proposal, Council should be the local plan-making authority.



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