

Planning and Assessment

IRF20/989

Gateway determination report

LGA	Shoalhaven LGA
PPA	Shoalhaven City Council
NAME	Danjera Dam Camping and Recreation Area, Yalwal. (0 homes, 0 jobs)
NUMBER	PP_2020_SHOAL_002_00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Yalwal Road, Yalwal
DESCRIPTION	part Lot 1 DP252335, Lot 1 DP217080, part Lot 4 DP252335, Part Lot 5 DP252335, Lot 1 DP874512, Part Lot 15 DP1216343, Part Lot 11 DP755931 and part Lot 122 DP1255641
RECEIVED	21 & 25 February 2020, 6 & 10 March 2020
FILE NO.	EF20/9027 & IRF20/989
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 to insert 'camping ground' as an additional permitted use on Council land at Danjera Dam Camping and Recreation Area, Yalwal Road, Yalwal. (Figure 1).

The planning proposal seeks to formalise a longstanding existing use to enable it to continue lawfully and enable future upgrades to existing camping and day use/picnic areas at the property.

1.2 Site description

The site consists of eight parcels of land – part Lot 1 DP252335, Lot 1 DP217080, part Lot 4 DP252335, Part Lot 5 DP252335, Lot 1 DP874512, Part Lot 15 DP1216343, Part Lot 11 DP755931 and part Lot 122 DP1255641. (Figure 2)

It forms approximately 45 hectares of land adjoining the eastern side of Danjera Dam (Shoalhaven water supply storage dam) some 30km west of Nowra. The land is owned by Shoalhaven City Council, administered by Shoalhaven Water and classified as operational land under the Local Government Act 1993.

The site incorporates the operational dam, existing camping and picnic/day use areas and entry road and extensive areas of woodlands. It has been used for

camping and picnic/day use since the dam was constructed in 1971. The camping and day use areas are located within Lot 4.

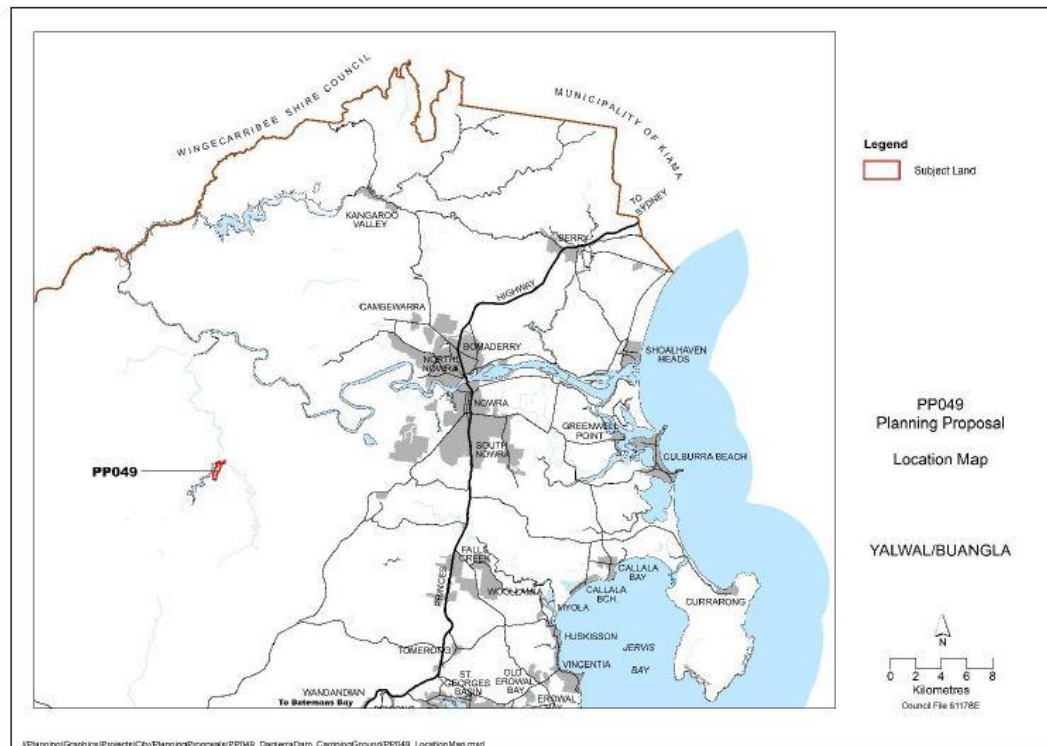


Figure 1: Subject site and locality plan (Source: Shoalhaven City Council)

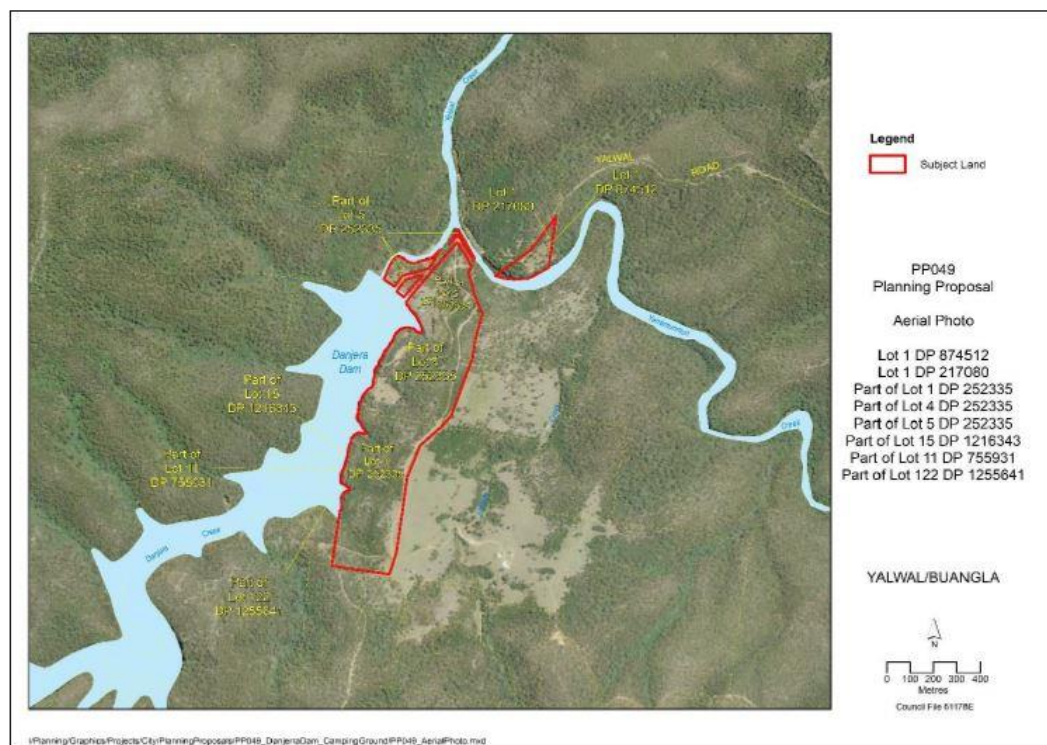


Figure 2: Subject site (Source: Shoalhaven City Council)

1.3 Existing planning controls

The land is zoned E2 Environmental Conservation with no minimum lot size under the Shoalhaven LEP 2014. (Figure 3) The E2 zone does not permit camping ground.

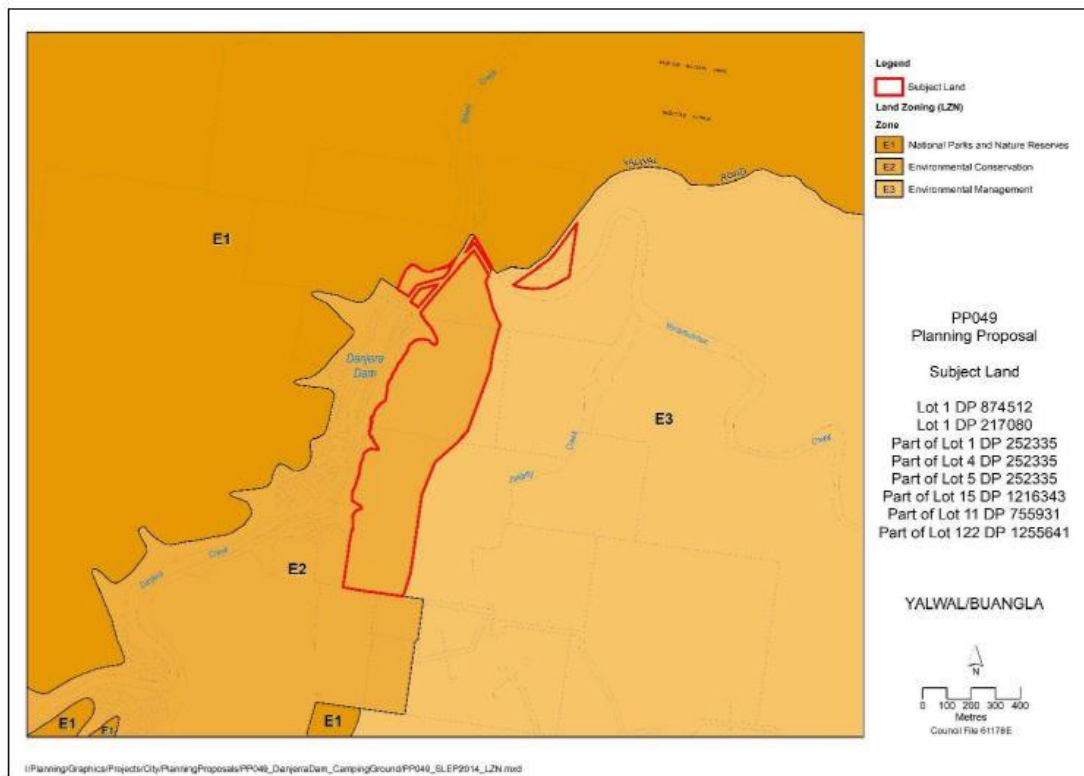


Figure 3: Subject site showing existing site and surrounding land zoning
(Source: Shoalhaven City Council)

Part of the land is also listed under Shoalhaven LEP 2014 Schedule 5 Environmental Heritage as heritage item 527 'Former Yalwal gold mine and township site'. Yalwal operated as a gold mining town from 1870 until 1939. The town was flooded in 1972 following the construction of the dam. The abandoned gold mines are located on Crown lands to the south of the site. Clause 5.10 Heritage Conservation of the LEP applies to the listed lots.

1.4 Surrounding area

The land is surrounded by a vast expanse of bushland. It is adjoined by large areas of Crown Land to the south and south-west; National Parks and Wildlife Service (NPWS) land (Morton national Park) to the north and west; and private land to the east.

1.5 Summary of recommendation

It is recommended that the planning proposal should proceed as submitted with conditions.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the planning proposal is to enable the continued use of, and future improvements to, the existing camping ground and day use/picnic areas at Danjera Dam Camping and Recreation Area, Yalwal Road, Yalwal.

The objective is clear and concise.

2.2 Explanation of provisions

It is proposed to:

- Insert “camping ground” as an Additional Permitted Use within Schedule 1 of SLEP 2014 for the subject land; and
- Amend the Clauses Map Sheet to refer to the Additional Permitted Use in Schedule 1.

The explanation of provisions are clear and concise.

2.3 Mapping

Additional permitted uses in Schedule 1 of Shoalhaven LEP 2014 are mapped on the Clauses Map. It is proposed to amend the Clauses Map to identify the subject land as having an additional permitted use.

The Clauses Map will need to be prepared in accordance with the Department's 'Standard technical requirements for LEP maps' and incorporated into the planning proposal prior to public exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal arises from the need to formalise the existing use of the land and enable future upgrades and improvements to the existing camping ground and day use/picnic areas.

Over the years Council has prepared several strategies related to upgrading and improving the management of the site which include the Yalwal Management Plan 1999, Yalwal Conservation Management Plan 1999, Yalwal Concept Development Plan 2001 and Yalwal/Danjera Dam Preliminary Site Assessment Report 2014.

Although the land has historically been used as a camping ground, existing use rights may not provide a suitable basis to continue the use as Council is uncertain whether the use was lawful prior to being prohibited by Shoalhaven LEP 2014.

The land's E2 zoning under Shoalhaven LEP 2014 does not include “camping ground” as a permitted use. As such, an amendment to Shoalhaven LEP 2014 via a planning proposal is considered to be the best way of enabling the camping ground to continue and be upgraded lawfully in the future.

An alternate option of rezoning the site to an environmental zoning which allows camping ground is not preferred as the land has special environmental qualities consistent with the objectives of the E2 Environmental Conservation zone and its location in the drinking water catchment.

Council previously lodged a planning proposal (PP_2015_SHOAL_009_01) to amend Schedule 1 to permit camping ground on the site and a Gateway determination was issued on 24 November 2015. On 9 November 2017 the Gateway determination was altered to not proceed with the proposal following Council's request and advice that biodiversity constraints required further investigation.

4. STRATEGIC ASSESSMENT

4.1 State – N/A

4.2 Regional / District

The planning proposal is consistent with the aims of the Illawarra Shoalhaven Regional Plan 2015 (the Plan) as it is addressing eco-tourism and recreational activities for the area. The proposal has the potential to support growth in the recreation and camping tourism sector by facilitating the continuation and upgrade of an existing camping ground and day visitor area. Opportunities also exist for biodiversity offsets, certification and the establishment of a biodiversity stewardship site.

The proposal is consistent with:

- Action 1.3.4 which encourages the growth of the tourism industry and a section on “Tourism in the Illawarra” promotes trails and activity experiences such as those that are nature and eco-based.
- Actions 4.2.2 and 5.1.3 encourage the protection of biodiversity and investigating biodiversity certification and bio-banking agreements.

4.3 Local

The proposal is consistent with Council's Community Strategic Plan in that it meets:

- CSP Priority 1.3 Support active and healthy communities - Delivery Program Goal 1.3.02 Provide recreation and leisure facilities to meet community needs
- CSP Priority 2.3 Protect and showcase the natural environment
- CSP Priority 3.1 Maintain & grow a robust economy with vibrant towns & villages - Delivery Program Goal 3.1.03 Promote and service the Shoalhaven as a diverse tourist destination

The proposal is consistent with Council's Reports - Yalwal Management Plan, 1999; Yalwal Conservation Management Plan, 1999; Yalwal Concept Development Plan, 2001; Shoalhaven Growth Management Strategy, 2014; Shoalhaven Tourism Master Plan 2012-2017; and Draft Shoalhaven Destination Management Plan 2018-2023.

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 management reports for Yalwal have addressed the land's environmental and Aboriginal and cultural heritage values as well as considering the impacts of and opportunities for, tourism and recreational activities on the site. The planning proposal will enable the existing camping facilities to be upgraded which will provide for better environmental and cultural management. The LEP contains heritage provisions.

The planning proposal is inconsistent with the s9.1 Direction 2.1 Environmental Protection Zones. The land use of the site is being intensified via the amendment to allow camping grounds as a permitted use. This additional permitted use is in accordance with, and justified by, the local studies and the existing use of the site. Plans of the proposed camping ground upgrades and the supporting reports confirm that the camping area can occur on the site without environmental impacts or being impacted upon by natural hazards. The inconsistency is considered to be of minor

significance as the land use is already occurring and measures are proposed to better manage the facility.

The land is mapped as bushfire prone. It is unknown whether the planning proposal is consistent or justifiably inconsistent with the s9.1 Direction 4.4 Planning for Bushfire Protection. Council has already consulted with NSW Rural Fire Service and will consult again following the issue of a Gateway determination to meet the requirements of the Direction.

The previous planning proposal for the site identified that the land was flood prone and the proposal was consistent with the s9.1 Direction 4.3 Flood Prone Land. Council has clarified that the land was incorrectly identified previously as flood prone land. The land is not flood prone land and Direction 4.3 does not apply to the planning proposal.

4.5 State environmental planning policies (SEPPs)

The planning proposal has identified that SEPP 55 Remediation of Land applies.

The land has not been used for an activity identified in SEPP 55 Remediation of Land. The abandoned mines are to the south of the site. No further investigation is required under the SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Allowing the use of camping ground for the site will provide an opportunity to address the anti-social behaviour of some visitors through upgrades and improvements to the existing camping and picnic/day use areas.

5.2 Environmental

The planning proposal will allow the existing camping and picnic/day use areas to be upgraded to better manage environmental impacts. Potential new camping and picnic/day use areas could be established on the land, however the supporting studies to the planning proposal only identify upgrades to the existing camping site and recommend restricting camping to the main camp ground and closing all other informal camping areas which are scattered across the site. New sites would require further investigation through a development application.

An assessment of the flora and fauna has identified vegetation surrounding the existing camping ground as the Illawarra and South Coast Lowlands Grassy Woodland Critically Endangered Ecological Community (CEEC) which requires 0.82ha of clearing. A Biodiversity Development Assessment Report (BDAR) has been prepared under the Biodiversity Conservation Act. The Report concludes that the proposal would not result in significant impact and referral under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is not required. The removal of 0.82ha of native vegetation is above the clearing threshold for the lots and subsequently triggers entry into the Biodiversity Offset Scheme.

The assessment also identifies 14 flora and 23 fauna threatened species recorded or predicted to occur in the locality.

The entire site is mapped as bushfire prone and the area has been subject to significant bushfires in the past. Bushfire threat is present from all directions and access to the site is via a single road. A detailed bushfire assessment has been prepared to address the s9.1 Direction 4.4 Planning for Bush Fire Protection. The

Report identifies appropriate bushfire protection measures including APZs, structure design and access upgrades.

An archaeological survey of the area was carried out as part of the draft Yalwal Management Plan. No Aboriginal sites were found during the survey.

The planning proposal includes an onsite sewage management report to address impacts of the proposal on water quality and hydrological processes affecting Danjera Dam. The report recommends an effluent disposal system that minimises impacts on the Dam.

5.3 Economic

The planning proposal identifies that the proposal may generate flow-on economic benefits in the area of nature-based tourism.

The proposal will require funding to implement the works, identified in the planning proposal and supporting studies, as being essential to establish a compliant camping ground and day use areas including access tracks and bushfire management controls.

5.4 Infrastructure

The planning proposal states that the proposal does not create further requirements for public infrastructure. The draft Yalwal Management Plan states that water is pumped directly from the dam to serve the camping and picnic area. There are no electricity or sewerage connections. Sewage is to be managed on-site.

There will be upgrades to Yalwal Road to address bushfire management access requirements.

6. CONSULTATION

6.1 Community

Council requests that the planning proposal be publicly exhibited for a minimum of 14 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website, hard copies will be available at Council's administration buildings.

6.2 Agencies

Shoalhaven Water has held discussions with Department of Planning, Industry and Environment - Crown Lands and NPWS who have provided letters supporting and commenting on the planning proposal. Consultation has also occurred with NSW RFS as part of the preparation of the Bushfire Assessment Report.

Council is proposing to consult with the NSW Rural Fire Services, Department of Planning, Industry and Environment - Crown Lands, and NPWS. Consultation is also required with the Department of Planning, Industry and Environment - Environment, Energy and Science Division.

TECHNICAL STUDIES

The planning proposal includes a Biodiversity Development Assessment Report, Bushfire Assessment and On-Site Sewage Management Options Analysis. No other technical studies are required.

7. TIME FRAME

Council has proposed a 9-month project timeframe to complete the rezoning process.

A 12 month timeframe is proposed to allow for consultation with the Department of Planning, Industry and Environment - Environment, Energy and Science Division, RFS and any unexpected delays as part of the agency consultation.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested in its letter of 21 February 2020 to be the local plan making authority

Due to the local significance of the proposal and its consistency with local strategies and plans it is considered appropriate for Council to be the local plan making authority.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions.

The planning proposal addresses the Department's 'A guide to preparing planning proposals'.

The planning proposal has strategic and local merit given its ability to formalise existing recreation and camping uses and to support tourism in the Shoalhaven. The proposal implements strategies and plans for the Yalwal Area and Shoalhaven tourism.

Authority for plan making functions are recommended to be given to Council.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 2.1 Environmental Protection Zones are minor or justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection 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. The planning proposal is to be revised to include an amended Clauses Map, prior to public exhibition.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authorities:
 - NSW Rural Fire Services
 - Department of Planning, Industry and Environment - Crown Lands
 - National Parks and Wildlife Service; and

- Department of Planning, Industry and Environment - Environment, Energy and Science Division
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
 5. Given the nature of the planning proposal, Council should be the local plan-making authority.



25/3/20

Graham Towers
Team Leader, Southern



1/04/20

Sarah Lees
Director Southern Region
Local and Regional Planning

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