

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

Proposal Title :	Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)		
Proposal Summary :	The Planning Proposal covers a variety of relatively minor matters and seeks to amend the Shoalhaven LEP 2014 to improve its operation and accuracy to respond to a range of issues that were identified during the 2016 calendar year.		
PP Number :	PP_2017_SHOAL_003_00	Dop File No :	17/06988

Proposal Details

Date Planning Proposal Received :	17-May-2017	LGA covered :	Shoalhaven
Region :	Southern	RPA :	Shoalhaven City Council
State Electorate :	KIAMA SOUTH COAST	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Shoalhaven LGA wide		

DoP Planning Officer Contact Details

Contact Name :	George Curtis
Contact Number :	0242249465
Contact Email :	george.curtis@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Patrick Connor
Contact Number :	0244293213
Contact Email :	patrick.connor@shoalhaven.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Graham Towers
Contact Number :	0242249467
Contact Email :	graham.towers@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Illawarra-Shoalhaven	Consistent with Strategy :	Yes
	Regional Plan 2036		

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

MDP Number :		Date of Release :	
Area of Release (Ha) : 0.00		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 0		No. of Dwellings (where relevant) :	0
Gross Floor Area : 0		No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The intended outcome of the Planning Proposal (PP) is to:

- Add or amend provisions to the LEP instrument and maps to improve the plan's operation and address issues that have arisen through registration of new land titles, landowner requests, staff identified anomalies, development assessment processes and as resolved by Council; and

- Amend a number of maps to correct identified anomalies or inconsistencies in the LEP mapping.

It is considered that the statement of the objectives is adequate and meets the requirements of the Department's guide to preparing planning proposals.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The PP identifies that it is seeking 5 LEP instrument changes, namely to:

- The IN1 and IN2 Land Use Tables by inserting landscape materials supplies as permitted with consent.

- Schedule 5 Environmental Heritage by changing two property descriptions for heritage items and correcting an error in another property description.

- Clause 4.1E (8) 'Minimum lot size for certain split zones' to refer to land that is below the

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

Flood Planning Level consistent with Clause 7.3 'Flood Planning' in the Shoalhaven LEP 2014.

The PP also identifies 26 minor housekeeping changes to LEP Zoning, Lot Size, Land Reservation Acquisition, Urban Release Area, Terrestrial Biodiversity, Height of Building, Coastal Risk Maps.

The proposed amendment to clause 4.1E is potentially inconsistent with Shoalhaven City Council's Review of Flood Controls Planning Proposal which received a Gateway determination on 8 June 2017. This is because the current PP is seeking to amend clause 4.1E to refer to "flood prone land that is in the Flood Planning Area extent and/or below the Flood Planning Level", whereas the Review of Flood Controls PP is seeking to remove the Flood Planning Area maps from the Shoalhaven LEP 2014 and remove reference to Flood Planning Area from clause 7.3 'Flood Planning'. It is recommended that Council liaise closely with PC to ensure consistency in the drafting of the LEPs for the two PPs in relation to proposed amendments to clause 7.3 'Flood Planning' and clause 4.1E.

Recommendation: That Council liaise closely with Parliamentary Counsel to ensure consistency in the drafting of the LEPs for the two PPs in relation to proposed amendments to clause 7.3 'Flood Planning' and clause 4.1E.

Subject to addressing the above during the drafting of proposed amendments to clause 4.1E, it is considered that the explanations of provisions is adequate and meets the requirements of the Department's guide to preparing planning proposals.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Is the Director General's agreement required? Yes

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified?

- SEPP No 1—Development Standards
- SEPP No 14—Coastal Wetlands
- SEPP No 21—Caravan Parks
- SEPP No 26—Littoral Rainforests
- SEPP No 30—Intensive Agriculture
- SEPP No 33—Hazardous and Offensive Development
- SEPP No 36—Manufactured Home Estates
- SEPP No 44—Koala Habitat Protection
- SEPP No 50—Canal Estate Development
- SEPP No 55—Remediation of Land
- SEPP No 62—Sustainable Aquaculture
- SEPP No 64—Advertising and Signage
- SEPP No 65—Design Quality of Residential Flat Development
- SEPP No 70—Affordable Housing (Revised Schemes)
- SEPP No 71—Coastal Protection
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007

e) List any other matters that need to be considered :

Council has requested to use its delegated plan making functions for the PP. Given the local significance of the PP it is considered that Council's request is reasonable and should be supported.

Recommendation: That Council's request to use its delegated plan making functions for the PP is supported.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

SEPP 55 – Remediation of Land

The PP identifies that land at 7 and 8 Laurina Place Bewong, which is proposed to be rezoned from RE1 Public Recreation to R2 Low Density Residential with a 4,000 sq.m minimum lot size (Map change 26), is potentially contaminated. The PP states that the current RE1 Public Recreation zoning of the subject land is not considered an appropriate zoning as it is currently in private ownership and Council has no intention to acquire the land. A Stage 1 Preliminary Site Investigation Report for the subject land is required to be prepared and included in the exhibition materials in accordance with the "Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land". An R2 Zone for the land is considered to be consistent with the adjoining zones.

Recommendation: That a Stage 1 Preliminary Site Investigation Report on the subject land is prepared and included in the exhibition materials in accordance with the "Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land".

SECTION 117 DIRECTIONS:

1.1 BUSINESS AND INDUSTRIAL ZONES

The PP states that the proposed rezoning of land at The Wool Road, Vincentia from B2 Local Centre to SP2 Road is inconsistent with the Direction but that the inconsistency is of minor significance because the land is part of the Naval College Road reserve and its rezoning to SP2 Zone would not reduce the potential floor space area for employment uses and related public services in business zones. Council's view that the inconsistency with the Direction is of minor significance is supported because the proposed SP2 zoning would better reflect the current use of the land.

Recommendation: The Secretary can be confident that any inconsistency with the Direction is of minor significance.

'Zoning for Infrastructure in LEPs Practice Note (PN10-001)':

The proposed zoning of the road to SP2 Road is not consistent with the Department's 'Zoning for Infrastructure in LEPs Practice Note (PN10-001)' which recommends that roads are zoned according to the adjoining zone, which in this case is the B2 zoning. Council expressed a strong preference to zone its major road network SP2 during the preparation of the Shoalhaven LEP 2014. Council's view was accepted by the Department. Given that the Naval College and Wool Roads are currently zoned SP2 Road it would be unreasonable to require that the subject land is retained as B2 without changing the zoning of the remainder of these roads to a B2 zone.

2.1 ENVIRONMENTAL PROTECTION ZONES

The PP identifies four matters that are potentially inconsistent with the Direction, namely:

- Change of zoning of Lot 1 DP 1026902 from E1 National Parks to E2 Environmental Conservation and apply a 40 sq.m minimum lot size (Map change 1) to reflect the private ownership of the land.

- Removal of the terrestrial bio-diversity layer over Lot 1 DP 1218456 – 245 Tindalls Lane, Broughton Vale and the hatching that covers Tindalls Lane to correct a mapping error (Map change 6).
- Change zoning Lot 2 DP 1204108, Gerroa Road, Coolangatta from E2 and RU1 to SP2 Road to allow for road widening (Map change 14).
- Removal of the Terrestrial Biodiversity (significant vegetation) overlay from Lot 18 DP 703426 and Lot 20 DP 251554, 19 Stewart Street Conjola Park and Havilland Street Road to correct an error in the mapping (Map change 16).

The PP identifies that the inconsistencies are of minor significance because the changes are intended to correct errors in the terrestrial biodiversity maps or to reflect change in tenure of the land and that the changes do not reduce the environmental protections over the subject sites as a whole. Council's view is supported for the above reasons. It is, however, recommended that Council consult with OEH on the proposals to confirm the accuracy of the Terrestrial Biodiversity Mapping and suitability of the proposed zones.

Recommendation:

It is recommended that:

1. The Secretary can be confident that the PP is consistent with the Direction or that any inconsistency is likely to be of minor significance; and
2. Council is to consult with OEH on the PP to confirm the accuracy of the Terrestrial Biodiversity Mapping and suitability of the proposed zones.

3.1 RESIDENTIAL ZONES

The PP identifies three matters that are potentially inconsistent with the Direction, namely:

- Change of zone of a small portion of R2 zoned land at Lot 232 DP 1040152 - 7 Labene Grove Cambewarra to RU1 Zone to be consistent with the RU1 zoning of the remainder of the lot and to be consistent with the requirements of DA consent (DS 16/1073) for the Lot (Map change 10).
- Change of zone of a small section of land zoned R2 on 58 Jonsson Road, Mundamia, to E2 Zone; change the minimum lot size to 40 ha and remove the Urban Release Area layer and Schedule 1.5 clause layer to correct an error in the cadastre layer and to reflect the E2 zoning of the remainder of the lot (Map change 11).
- Change of zone of Lot 12 DP 286581, Illarook Road, North Nowra from R2 to RE1 Zone to reflect that the lot has been dedicated to Council as a public reserve.

The PP indicates that the inconsistencies are of a minor nature because they correct mapping errors, address changes in the tenure of land and won't significantly impact on the supply of housing. Council's view that the inconsistencies are of minor significance are supported for these reasons.

Recommendation: The Secretary can be confident that the PP is consistent with the Direction or that any inconsistency is likely to be of minor significance.

4.4 PLANNING FOR BUSHFIRE PROTECTION:

This Direction applies to the PP as it will affect land mapped as bushfire prone land. At this stage of the PP it is neither consistent nor inconsistent as the Direction requires

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

consultation with the RFS post Gateway determination and prior to exhibition.

RECOMMENDATION: The Secretary's delegate can be satisfied that the requirements of the Direction will be met when Council has consulted with the Rural Fire Service post Gateway determination and prior to exhibition in accordance with the Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : The PP provides site maps and indicative LEP maps for each of the proposed map changes. The maps are considered to be adequate for the purposes of public exhibition and to explain the PP. Draft LEP Maps, that meet the Department's technical mapping requirements, will need to be prepared during the finalisation of the PP.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council intends to exhibit the PP for a 28 day period and provide notification of the exhibition via letters to affected landowners, in local newspapers, via Council's website and Council's Nowra and Ulladulla offices. It is considered that the community consultation proposed is adequate.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : It is considered that overall the PP is adequate and meets the requirements of the Department's guide to preparing planning proposals in relation to the six parts of a PP.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The principal LEP for the Shoalhaven LGA is the Shoalhaven LEP 2014 which commenced on 22 April 2014.

Assessment Criteria

Need for planning proposal : The PP is needed to facilitate an amendment of the Shoalhaven LEP 2014 to correct a number of minor mapping errors and minor instrument changes.

Consistency with strategic planning framework : The PP states that it is consistent with the objectives and actions of the Illawarra Shoalhaven Regional Plan to grow the local economy, provide affordable housing, secure agricultural land, build infrastructure and protect natural and cultural environments. This is because it will improve the accuracy and operation of the Shoalhaven LEP 2014 which seeks to implement the RP objectives and actions. Council's view that the PP is consistent with the Illawarra Shoalhaven Regional Plan is supported for the above reason.

It is also considered that the PP is consistent with local strategies and structure plans (namely the Shoalhaven Growth Management Strategy, Nowra Bomaderry Structure Plan, Jervis Bay Settlement Strategy, Sussex Inlet Settlement Strategy and Milton Ulladulla Structure Plan) by more accurately and efficiently delivering the aims and objectives of these local strategies and structure plans via the Shoalhaven LEP 2014.

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

Environmental social economic impacts : The PP will have a positive environmental, social and economic impact as a result of improved accuracy and operation of the Shoalhaven LEP 2014.

Assessment Process

Proposal type : Minor Community Consultation Period : 28 Days

Timeframe to make LEP : 12 months Delegation : RPA

Public Authority Consultation - s56(2)(d) : Office of Environment and Heritage - NSW National Parks and Wildlife Service
NSW Rural Fire Service

Is Public Hearing by the PAC required? No

(2)(a) Should the matter proceed ? Yes

If no, provide reasons : The PP should proceed to facilitate the necessary corrections and administrative changes to the Shoalhaven LEP 2014 to improve its accuracy and operation.

Resubmission - s56(2)(b) : No

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? No

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal May 2017.pdf	Proposal	Yes
Council's cover letter.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

Additional Information : It is **RECOMMENDED** that the Director Regions, Southern at the Department of Planning and Environment as delegate of the Minister for Planning determines under Section 56(2) of the Environmental Planning and Assessment Act 1979 that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2014 to make a number of minor mapping and instrument changes should proceed subject to the following conditions:

CONSULTATION

1. Prior to community consultation a "Stage 1 Preliminary Investigation" Report of Lot 21 DP 1170383 – D2399 Princes Highway, Lot 3 DP 778240 – 7 Laurina Place and Lot 2 DP 778240 – 8 Laurina Place, Bewong is to be prepared in accordance with the "Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land". The Preliminary Investigation Report is to be placed on public exhibition with the planning proposal.

2. Community consultation is required under Sections 56(2)(c) and 57 of the EP&A Act as follows:

- (a) the Planning Proposal must be made publicly available for a minimum of 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).

3. Consultation is required with the Office of Environment and Heritage under Section 56(2)(d) of the EP&A Act. The OEH is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

TIMEFRAME

5. The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination.

DELEGATION

6. The Council is authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

SECTION 117 DIRECTIONS

7. It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions, 1.2 Rural Zones, 1.5 Rural Lands, 2.3 Heritage Conservation, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans.

(b) The Secretary's delegate can be satisfied that the planning proposal's inconsistency with s117 Directions 1.1 Business and Industrial Zones, 2.1 Environmental Protection Zones and 3.1 Residential Zones are of a minor significance.

(c) The Secretary's delegate can be satisfied that the planning proposal will be

Planning Proposal - Minor Mapping and Instrument Changes (no housing or jobs)

consistent with s117 Direction 4.4 Planning for Bushfire Protection when Council has consulted with the Rural Fire Service post Gateway determination and prior to undertaking community consultation.

(d) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance.

(e) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

SEPPs

8. The planning proposal is considered to be consistent with the requirements of all relevant SEPPs.

Supporting Reasons : The PP is considered to be worthy of support as it will facilitate improvements to the accuracy and operation of the Shoalhaven LEP 2014.

Signature:



Printed Name:

KAREN ARMSTRONG

Date:

13/6/17.

