

## Planning Services

IRF19/444

### Gateway determination report

<b>LGA</b>	Shellharbour
<b>PPA</b>	Shellharbour City Council
<b>NAME</b>	Correct mapping anomalies between cadastre and LEP (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_SHELL_001_00
<b>LEP TO BE AMENDED</b>	Shellharbour LEP 2013; and Shellharbour Rural LEP 2004
<b>ADDRESS</b>	Multiple properties at Tullimbar, Albion Park and Whistlers Run
<b>DESCRIPTION</b>	Details in report
<b>RECEIVED</b>	23 January 2019
<b>FILE NO.</b>	EF19/1657
<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

## INTRODUCTION

### Description of planning proposal

This proposal will rectify minor misalignment between cadastral information (i.e. accurate lot and property boundaries) and LEP maps to ensure that the original/intended zones and controls continue to apply to the subject lands.

The misalignment has occurred due to updated survey of property boundaries and a creek line that have been provided to Council in support of development applications. In some cases, this has resulted in slivers of a property encroaching onto an area that is mapped as a different zone.

### Subject lands

Crest Road properties:

- Lot 1 DP 1238120, Crest Road, Albion Park
- Lot 87 DP 1229526, 115 Crest Road, Albion Park

Yellow Rock Road / Tullimbar Lane Properties:

- Lot 201 DP 1230191, 120 Yellow Rock Road, Tullimbar
- Lot 202 DP 1230191, Yellow Rock Road, Tullimbar
- Lot 1 DP 724362, 58 Tullimbar Lane, Tullimbar
- Lot 81 DP 634605, 7 Tullimbar Lane, Tullimbar

Whistlers Run properties:

- Lot 112 DP 1170763, Red Gum Road, Albion Park
- Lot 13 DP 1205920, 33 Whistlers Run, Albion Park
- Lot 113 DP 1170763, Whistlers Run, Albion Park
- Lots 101 to 109 DP 1170763, 13 Valley View Crescent, 13, 15, 17, 19, 21, 23, 25 & 27 Whistlers Run, Albion Park
- Red Gum Road Reserve adjoining Lot 112 DP 1170763

Various:

- Chaffey Way road reserve
- Ulan Place road reserve

## **Summary of recommendation**

Proceed as submitted.

## **PROPOSAL**

---

### **Objectives or intended outcomes**

This proposal will rectify minor mapping anomalies to align LEP zone boundaries with the cadastre to ensure that appropriate zones and controls continue to apply to the subject lands.

It is not intended that the planning outcomes for the affected lands will change as a result of the proposal, rather that the existing controls are accurately mapped.

### **Explanation of provisions**

This proposal involves changes to maps for the Shellharbour LEP 2013; and Shellharbour Rural LEP 2004.

There are no changes to either of the written instruments.

### **Mapping**

The proposal involves changes to the following maps:

- Land zoning
- Lot size
- Floor space ratio
- Additional Permitted Uses
- Terrestrial Biodiversity
- Land application
- Height of buildings

## **NEED FOR THE PLANNING PROPOSAL**

This proposal will ensure that the original/intended zones and controls apply to the subject lands.

This will assist the development application process for the subject lands which has been complicated in circumstances where there are additional/inappropriate zones and controls that apply to small parts of a property.

## **STRATEGIC ASSESSMENT**

---

### **Illawarra Shoalhaven Regional Plan**

The proposal is not inconsistent with the objectives or actions in the regional plan.

#### **Local**

The proposal is considered to be consistent with the Community Strategic Plan 2013 – 2023.

### **Section 9.1 Ministerial Directions**

Council has identified the applicable Directions and noted that the proposal is inconsistent with the following:

#### **2.1 Environmental Protection Zones**

The Direction states that a proposal must not reduce environmental protection standards for land within an environmental zone.

Council has identified that the proposal is inconsistent with this Direction as small slivers of land that are currently (albeit incorrectly) zoned E3 Environmental Management and E4 Environmental Living will be rezoned to R2 Low Density Residential and RU1 Primary Production.

While the proposal is inconsistent with this Direction as it does rezone land that is currently zoned for environmental protection, the proposal only applies to very small strips of land and will not have an adverse environmental impact. Prior to the accurate survey of the area the relevant lands were not considered to have an environmental zoning.

The Secretary's delegate can be satisfied that any inconsistency with this Direction is of minor significance as the proposal only corrects mapping anomalies.

#### **4.3 Flood Prone Land**

The proposal is inconsistent with this Direction as one of the properties (in the Whistlers Run area) is identified as flood prone land.

This proposal will rezone a narrow strip of this property from E4 Environmental Living to R2 Low Density Residential. Most of the property is zoned R2 – including the areas identified as flood prone land – and the land has already been developed for residential purposes.

The proposal will not result in any adverse flood impact.

The Secretary's delegate can be satisfied that any inconsistency with this Direction is of minor significance as the proposal only corrects mapping anomalies.

#### **4.4 Planning for Bushfire Protection**

The direction requires consultation with the commissioner of the NSW Rural Fire Service (RFS) for proposals that affect bushfire prone land.

Some of the subject lands are mapped as bushfire prone land.

While this is a minor proposal, the Direction requires consultation with RFS for any proposal on bushfire prone land. Council has identified that it will consult with the RFS.

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

The proposal is consistent with applicable SEPPs.

## **SITE-SPECIFIC ASSESSMENT**

---

### **Social and economic**

The proposal will have a positive social and economic effect by ensuring that zones and controls for the subject lands reflect the original intent for those lands, thereby removing a potential impediment to the development of the land.

### **Environmental**

The proposal involves minor adjustments to zone boundaries to accurately reflect environmental attributes so is not expected to have a negative environmental impact.

## **CONSULTATION**

---

### **Community**

Council has contacted the owners of lots affected by the proposal. Given the minor nature of the proposal – and the fact that the proposal will not affect the wider community – Council has requested that no public exhibition be required.

Community consultation is not considered necessary as this proposal simply aligns the zones and controls with those that the community and, until recently, the landowners and Council would have assumed applied to the lands.

### **Agencies**

Council has identified its intention to consult with the NSW RFS to satisfy Section 9.1 Direction 4.4. Planning for Bushfire Protection.

No further agency consultation is considered necessary.

## **TIME FRAME**

---

Council has noted that it is assessing current development applications for the subject lands that cannot be determined until the zoning and lot size anomalies are rectified.

It is considered that Council be granted 6 months to finalise the plan however it is anticipated that the proposal will be finalised within the next 3 months.

## **LOCAL PLAN-MAKING AUTHORITY**

---

Council has requested to be the local plan making authority. This is considered reasonable due to the minor nature of the proposal.

## **CONCLUSION**

---

This is a minor proposal that rectifies small misalignments between the cadastre and the LEP maps.

It is recommended that the proposal be supported.

## RECOMMENDATION

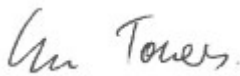
---

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 2.1 Environmental Protection Zones; and 4.3 Flood Prone Land are minor; and
2. agree that the proposal will be consistent with section 9.1 Direction 4.4 Planning for Bushfire Protection following consultation with NSW RFS.

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

1. There is no requirement for community consultation.
2. Consultation is required with the following public authorities to ensure consistency with Direction 4.4 Planning for Bushfire Protection:
  - Rural Fire Service.
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



11/02/19

**Graham Towers**  
Team Leader, Southern



15/02/2019

**Luke Musgrave**  
Director Regions, Southern  
Planning Services

Assessment officer: Louise Myler  
Planning Officer, Southern  
Phone: 4247 1822