

The Planning Proposal – Ref: 0005/2018

Local Government Area: Shellharbour City Council

Property Details:

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 (Road reserves):

- Chaffey Way road reserve
- Ulan Place road reserve

PART 1 OBJECTIVES OR INTENDED OUTCOMES.

The objectives of the Planning Proposal are to address miscellaneous mapping anomalies within the Shellharbour Local Environmental Plan (LEP) 2013 and Shellharbour Rural Local Environmental Plan (Rural LEP) 2004 that have occurred due to a misalignment between the planning control boundaries and the cadastre. The planning proposal seeks to amend Shellharbour LEP 2013 and Shellharbour Rural LEP 2004 to realign the LEP planning control boundaries with the cadastre to ensure the underlying planning intent of the subject lands is reflected in the LEP controls.

PART 2 AN EXPLANATION OF THE PROVISIONS THAT ARE TO BE INCLUDED IN THE PROPOSED LOCAL ENVIRONMENTAL PLAN.

The proposed outcomes will be achieved by amending Shellharbour LEP 2013 and Shellharbour Rural LEP 2004 as outlined in the Table of Affected Lands and Controls at **Attachment 2**.

PART 3 JUSTIFICATION FOR THE OBJECTIVES, OUTCOMES, PROVISIONS AND THE PROCESS FOR THEIR IMPLEMENTATION.

A. Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not a result of a strategic study or report.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, to resolve the current mapping anomalies a planning proposal is the only means to achieve this.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Illawarra Shoalhaven Regional Plan applies to the Shellharbour LGA. The planning proposal is considered to be consistent with the Regional Plan as outlined in the Summary of Planning Issues Checklist at **Attachment 4**.

2. Is the planning proposal consistent with a councils' local strategy, or other local strategic plan?

Shellharbour City Council currently does not have a local strategy or other local strategic plan. Council's Community Strategic Plan 2013 – 2023 has been considered and the Planning Proposal is consistent with the following Objectives and Strategies:

Objective: 2.3 A liveable City that is connected through places and spaces.

Strategy: 2.3.2 Undertake all land use planning addressing social, economic and environmental principles whilst reflecting the current and future community's needs.

2.3.4 Facilitate the provision of development that meets the changing needs and expectations of the community.

3. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is considered to be consistent with the applicable State Environmental Planning Policies. The Summary of Planning Issues Checklist at **Attachment 4** provides further detail on the consistency of the proposal with the applicable State Environmental Planning Policies.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The assessment of the Planning Proposal by Council has identified possible inconsistencies with some of the s.9.1 Directions (see **Attachment 4** Summary of Planning Issues Checklist). Specifically the following directions have been identified:

2.1 Environmental Protection Zones

The Planning Proposal seeks to rezone areas of E3 Environmental Management and E4 Environmental Living land to R2 Low Density Residential and RU1 Primary Production. This Local Planning Direction states that a planning proposal must not reduce the environmental protection standards that apply to the land. The two road reserves included in the Planning Proposal are currently zoned E4, however they are located in existing roadways and it is not considered that rezoning this land will

result in any adverse outcomes. The other sites included as part of the Planning Proposal are minor adjustments of the planning control boundaries that seek to align the LEP controls with the underlying planning intent and the cadastre. Given the minor nature of the planning proposal and the small portions of land involved, the inconsistency is considered to be of minor significance.

4.3 Flood Prone Land

The Planning Proposal is inconsistent with this Direction as one of the properties included in the Whistlers Run area (Lot 109 DP 1170763, 33 Whistlers Run, Albion Park) is identified as flood prone land. This Planning Proposal seeks to rezone a small portion of the property from E4 Environmental Living to R2 Low Density Residential Development. The majority of the property is zoned R2, including the majority of the mapped flood prone area of the site. Additionally, the site is currently developed for residential purposes, as such, it is not considered that the rezoning will cause any adverse impacts. The inconsistency is considered to be of minor significance.

4.4 Planning for Bushfire Protection

The Planning Proposal is inconsistent with this Direction as some of the included sites are mapped as bushfire prone land. In accordance with the Direction, the Planning Proposal will be referred to the Commissioner of the NSW Rural Fire Service following receipt of the gateway determination prior to any required exhibition period.

As the planning proposal is to address minor mapping anomalies to realign LEP planning control boundaries with the cadastre, the inconsistencies with the s.9.1 Directions are considered to be of minor significance and to meet the criteria that permit inconsistency with the relevant directions.

C. Environmental, social and economic impact.

1. *Is there any likelihood 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 is for a minor adjustment of the LEP mapping boundaries to realign the planning controls with the underlying planning intent. As such it is not anticipated to have an impact on any critical habitats or threatened species, populations or ecological communities or their habitats.

2. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The planning proposal is not anticipated to have any adverse environmental effects. The Planning Proposal seeks to realign the LEP planning controls with the underlying planning intent of the subject properties. The proposal is considered to be minor in nature.

3. *How has the planning proposal adequately addressed any social and economic effects?*

While the proposal is minor in nature it is considered that there will be a positive economic effect. The current split zoning of the subject lands is impacting potential development opportunities. Through addressing the mapping

anomalies, the planning proposal will allow development to occur in accordance with the original planning intent of the subject lands.

D. State and Commonwealth interests.

1. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal is not considered to create a need for additional state or commonwealth public infrastructure.

2. *What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?*

If required, this will be determined following gateway determination.

PART 4 MAPS, WHERE RELEVANT TO IDENTIFY THE INTENT OF THE PLANNING PROPOSAL AND THE AREA TO WHICH IT APPLIES

The maps included in the planning proposal are:

Attachment 4 – Locality and current zoning maps:

Maps 1 and 2: Crest Road Properties

Maps 3, 4 and 5: Yellow Rock Road / Tullimbar Lane Properties

Maps 6 and 7: Whistlers Run Properties

Map 8: Ulan Place Road Reserve

Map 9: Chaffey Way Road Reserve

PART 5 DETAILS OF THE COMMUNITY CONSULTATION THAT IS TO BE UNDERTAKEN ON THE PLANNING PROPOSAL.

Owners of the lots affected by the mapping anomalies have been advised in writing about the Council resolution to prepare the Planning Proposal.

Given the planning proposal only affects the subject properties identified on Page 1 of this report, Council is seeking an exemption from formal public exhibition with newspaper notices and letters to land owners/adjoining land owners in accordance with s3.22 of the *Environmental Planning and Assessment Act*. The Planning Proposal is considered to be minor in nature and seeks to realign the planning control boundaries with the underlying planning intent of the affected properties.

PART 6 PROJECT TIMELINE.

To be provided following gateway determination.

ATTACHMENTS

Attachment 1 – Information Checklist

Attachment 2 – Table of Affected Lands and Controls

Attachment 3 – Council report and resolution of 11 December 2018

Attachment 4 – Summary of Planning Issues Checklist

Attachment 5 – Locality Plans and current zoning maps:

Maps 1 and 2: Crest Road Properties

Maps 3, 4 and 5: Yellow Rock Road / Tullimbar Lane Properties

Maps 6 and 7: Whistlers Run Properties

Map 8: Ulan Place Road Reserve

Map 9: Chaffey Way Road Reserve

ATTACHMENT 1 - INFORMATION CHECKLIST

> STEP 1: REQUIRED FOR ALL PROPOSALS

(under s3.33(2)(a) – (e) of the EP&A Act)

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|---|---|
| • Objectives and intended outcome | • Explanation of provisions |
| • Mapping (including current and proposed zones) | • Justification and process for implementation (including compliance assessment against relevant section 9.1 direction/s) |
| • Community consultation (agencies to be consulted) | |

> STEP 2: MATTERS - CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
• Demonstrated consistency with relevant Regional Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Existing site plan (buildings vegetation, roads, etc)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with relevant sub-regional strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Lighting impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with Threshold Sustainability Criteria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Development yield analysis (potential yield of lots, houses, employment generation)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site Description/Context			Economic Considerations		
• Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Economic impact assessment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Site photos/photomontage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Retail centres hierarchy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Traffic and Transport Considerations			• Employment land	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Local traffic and transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Social and Cultural Considerations		
• TMAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Heritage impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Public transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Aboriginal archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Cycle and pedestrian movement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Open space management	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Considerations			• European archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Bushfire hazard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Social and cultural impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Acid Sulphate Soil	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Stakeholder engagement	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Noise impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Infrastructure Considerations		
• Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Infrastructure servicing and potential funding arrangements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Miscellaneous/Additional Considerations		
• Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	List any additional studies		
• Stormwater management	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Flooding	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
• Land/site contamination (SEPP55)	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
• Sea level rise	<input type="checkbox"/>	<input checked="" type="checkbox"/>			