



IRF22/3626

Gateway determination report - PP-2022-3325

Planning Proposal – PP058 Shoalhaven Local
Environmental Plan 2014 – Housekeeping 2022

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Contents

1	Planning proposal	1
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
1.4	Mapping	2
2	Need for the planning proposal	2
3	Strategic assessment	2
3.1	Regional Plan	2
3.2	Local	2
3.3	Section 9.1 Ministerial Directions	3
3.4	State environmental planning policies (SEPPs)	6
4	Site-specific assessment	7
4.1	Environmental	7
4.2	Social and economic	7
4.3	Community	7
4.4	Agencies	7
5	Timeframe	7
6	Local plan-making authority	7
7	Assessment summary	8
8	Recommendation	8

Table 1 Reports and plans supporting the proposal

Relevant reports and plans

“Shoalhaven City Council, 12 September 2022, Proposed Planning Proposal – 2022 Housekeeping Amendment – Shoalhaven Local Environmental Plan 2014 (PP058)”.

Louise Thom Heritage, 14 January 2022, “Amendment to Shoalhaven Local Environmental Plan 2014 – Review of mapping and description for Heritage Item 407 (General): Former Nowra Sailing Club site and Timber Wharf and Heritage Item A7 (Archaeological): Nowra Wharf”.

Louise Thom Heritage, undated “Former BTU Torpedo Workshop Heritage Assessment, Timber Mill, 50 BTU Road, Nowra Hill”.

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Shoalhaven
PPA	Shoalhaven City Council
NAME	Housekeeping 2022 Planning Proposal
NUMBER	PP-2022-3325
LEP TO BE AMENDED	Shoalhaven LEP 2014 (SLEP 2014)
ADDRESS	Various - LGA-wide
DESCRIPTION	Various - LGA-wide
RECEIVED	20/09/2022
FILE NO.	IRF22/3626 (EF21/12488)
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend clauses and maps in the SLEP 2014 in order to correct identified anomalies or inconsistencies within the LEP and improve the Plan's operation.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the SLEP 2014 as described in detail in Tables 1-11 in Part 2 of the Planning Proposal. The proposed amendments can be summarised as follows:

Changes to existing provisions – instrument only

- update Schedule 2 Exempt Development to update references to correct the relevant Australian Standards concerning solid fuel heaters (Table 1, Item 1).

Changes to existing provisions – mapping only

These comprise 30 items (Tables 2- 10) including minor housekeeping amendments to the Land

Zoning, Lot Size, Land Zoning, Height of Building, Clauses, Terrestrial Biodiversity, Land Reservation Acquisition, Scenic Protection Area and Heritage maps.

There are a variety of changes including several relating to acquisition of land no longer being required, related to private ownership of land rather than public and to address anomalies.

Changes to existing provisions – instrument and mapping

- Five items are proposed to be amended that relate to both the instrument (Schedule 5 “Environmental Heritage” of SLEP 2014) and the associated heritage mapping.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Mapping

The planning proposal includes changes to SLEP 2014 maps as described in section 1.3 of this report. Extracts of the current and proposed maps are provided in the planning proposal which are considered adequate for the purposes of public consultation.

2 Need for the planning proposal

The planning proposal is needed to address several mapping and instrument related matters that have been identified by Council as housekeeping issues that need to be addressed to ensure the SLEP 2014 operates as originally intended or to improve its operations.

The planning proposal process is the appropriate mechanism to facilitate the proposed housekeeping amendments to the SLEP 2014.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is consistent with the environmental, social, cultural and economic objectives and actions of the Illawarra Shoalhaven Regional Plan because it will improve the accuracy and operation of the SLEP 2014, which will allow it to more efficiently deliver the objectives and actions of the Regional Plan.

3.2 Local

The proposal is consistent with the following local plans and endorsed strategies as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Shoalhaven 2027 Community Strategic Plan (CSP)	The proposal is consistent with the relevant themes and actions of Council's CSP, namely to provide resilient, safe and inclusive communities; sustainable liveable environments; prosperous communities and responsible governance.
Local Strategic Planning Statement Shoalhaven 2040 (LSPS)	The proposal is consistent with Council's LSPS particularly planning priority 10 – Protecting the environment, 13: Protecting and enhancing neighbourhoods and 14: Heritage items and places.

Shoalhaven Growth Management Strategy	The planning proposal is not inconsistent with the aims and objectives of these local strategies and structure plans.
Nowra Bomaderry Structure Plan	
Jervis Bay Settlement Strategy	
Milton Ulladulla Structure Plan	
Shoalhaven Affordable Housing Strategy	

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 Section 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Yes	Refer to section 3.1 of this report.
Direction 1.2 Conservation Zones	No	The proposal seeks to make minor corrections to Environmental Conservation zone boundaries (items 8 and 11) and to update Terrestrial Biodiversity Maps (items 17, 26-28). It is considered that any inconsistency with the Direction is of minor significance due to the minor amount of land affected and the circumstances involved.
Direction 3.2 Heritage Conservation	Yes	The planning proposal seeks to make minor corrections and updates to several heritage property descriptions and associated heritage mapping. The proposal also seeks to list Former BTU Torpedo Workshop located at 50 BTU Road, Nowra Hill under Schedule 5 as a local heritage item (Table 11, Item 4). Council has prepared a heritage assessment in support of the proposed listing which is provided as Attachment F of the planning proposal. The planning proposal also seeks to remove a local heritage item (Turpentine Tree at 10 King Street Berry) from Schedule 5 because the tree has now been removed in accordance with a development consent granted by Council.
Direction 3.3 Sydney Drinking Water Catchment	Yes	The planning proposal seeks to make minor corrections to zoning and lot size maps on land located within the Sydney Drinking Water Catchment (mapping items 3, 5 and 6). Council has consulted WaterNSW as required by the Direction. WaterNSW has not raised any concerns with the proposal except to request that Council verify the cadastre for map item 6 (Touga Road, Touga and part of national park) and liaise with NPWS on the proposed zoning and minimum lot size boundary change.

Direction 4.1 Flooding	No	The planning proposal seeks to rezone parts of three lots to a residential zone (Table 2, mapping item 1 and 17) and to a special purpose zone (Table 2, mapping item 11) that are identified as flood prone. Any inconsistency with the direction are of minor significance due to the nature of the proposed changes. This includes the private ownership of land zoned as infrastructure and minor mapping amendments to more accurately reflect existing use of the land.
Direction 4.2 Coastal Management	Yes	The planning proposal seeks to make minor map changes to two sites that are affected by coastal hazards (Table 2, mapping item 19) and coastal wetlands (Table 2, mapping item 27). The proposed changes are not inconsistent with the <i>Coastal Management Act 2016</i> , the NSW Coastal management Manual and Toolkit, Coastal Design Guidelines or Council's Coastal Zone Management Plan. The proposal won't intensify development in areas subject to coastal hazards.
Direction 4.3 Planning for Bushfire Protection	Unknown	The planning proposal affects land that is, or is in proximity, to land as bushfire prone. The proposal, however, was prepared in consideration of the requirements of <i>Planning for Bushfire Protection 2019</i> ; it does not seek to place inappropriate developments in bushfire areas; nor does it seek to prohibit bushfire hazard reduction within an asset protection zone. Council intends to consult with RFS on the proposal prior to public exhibition stage.
Direction 4.4 Remediation of Contaminated Land	Yes	The planning proposal applies to land across the LGA, some of which may potentially be contaminated. The planning proposal is not inconsistent with the direction as the proposed changes are of a minor housekeeping nature.
Direction 4.5 Acid Sulphate Soils	Yes	The planning proposal does not seek to introduce provisions to regulate works in acid sulfate soils nor does it seek to intensify development on land that is mapped as containing acid sulphate soil.
Direction 5.1 Integrating Land Use and Transport	Yes	The planning proposal is of minor housekeeping nature and is not inconsistent with <i>Improving Transport Choice- Guidelines for Planning and Development 2001</i> and <i>the Right Place for Business and Services – Planning Policy 2001</i> .
Direction 5.2 Reserving Land for Public Purposes	No	The planning proposal seeks to remove existing zonings or reservations of land for public purposes namely: <ul style="list-style-type: none"> Proposed rezoning of two sites in Nowra from RE1 Public Recreation Zone to R3 Medium Density Zone (Table 2, map items 1 and 2). The land is privately owned and is incorrectly zoned RE1. The proposed

		<p>R3 zone better reflects the existing and/or adjoining land use of the sites.</p> <ul style="list-style-type: none"> Proposed rezoning of two sites, one in South Nowra (Table 2, Map item 12) and one in Bendalong (Table 2, map item 13), from RE1 Public Recreation Zone to C2 Environmental Conservation Zone (Table 2, map item 12). The sites are in private ownership and the current RE1 zoning is inappropriate. The proposed C2 zoning of the sites is consistent with the environmental values of the land. Removal of the Land Reservation Acquisition Map from seven sites located at Culburra Beach, Mundamia, Berry (two sites), Bomaderry and Jaspers Brush (Table 8, map items 19-25). Council no longer intends to acquire the subject land, some are now owned by Transport for NSW, so inclusion of the sites on the LRA Map is not appropriate. The RE1 zoning of a number of the sites have been removed via a previous planning proposal. <p>It is considered the proposal to remove the zonings and reservations for public purposes for the sites listed above have merit and should be supported because the current RE1 zonings are not appropriate and the proposed zones better reflect the current and intended use of the land. The land currently mapped on the LRA Map for public purposes is no longer needed to be acquired by Council and is appropriately removed.</p>
Direction 5.3 Development Near Regulated Airports and Defence Airfields	Yes	The planning proposal affects land near HMAS Albatross, which is a regulated airport and defence airfield. The proposal is however consistent with the direction because it is of a minor housekeeping nature and is unlikely to impact the facility.
Direction 6.1 Residential Zones	No	The planning proposal seeks to rezone four sites from a residential zone to a non-residential zone (mapping items 7, 14, 15, 30) or tidy up residential zone boundaries (map item 17). Any inconsistency with the direction is of minor significance due to the minor nature of the proposed changes.
Direction 7.1 Business and Industrial Zones	No	The planning proposal is of minor housekeeping nature and any inconsistency with the direction is of minor significance.
Direction 9.2 Rural Lands	Yes	The planning proposal affects land within an existing or proposed rural or conservation zone or makes changes to minimum lot size on land within those zones. The planning proposal is however consistent with the direction as it is of a minor housekeeping nature and is consistent with the rural planning and subdivision principles provided in the direction.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Resilience and Hazards) 2021	There are no provisions in the SEPP that directly relate to planning proposals, rather the SEPP sets out matters for consideration for development applications occurring in the Coastal Zone.	Consistent	The planning proposal addresses minor housekeeping matters which will have minimal impact on issues relating to resilience and hazards.
Exempt and Complying Development Codes 2008	There are no provisions in the SEPP that directly relate to planning proposals. The SEPP, however, provides a number of development codes which enable certain exempt and complying development to be undertaken without Council approval.	Consistent	The proposal seeks to add a new local heritage item, and remove an existing item, as well as change the E2 zoning of some properties, which will impact on the application of exempt and complying development under the SEPP to the affected properties.
SEPP (Biodiversity and Conservation) 2021	The SEPP does not specifically relate to planning proposals. The SEPP, however, provides development controls relating to protection of trees and other native vegetation as well as protection of the Sydney Drinking Water Catchment, which need to be taken into consideration during the assessment of development applications.	Consistent	The planning proposal addresses minor housekeeping matters which will have minimal environmental impact. It is noted that WaterNSW has reviewed the planning proposal and has not raised any concerns regarding consistency with the SEPP.

4 Site-specific assessment

4.1 Environmental

The planning proposal addresses minor housekeeping matters, which are unlikely to impact any important environmental areas, including threatened species, populations or endangered ecological communities or their habitats. The proposal is likely to have a positive environmental outcome as it seeks to update/improve the accuracy of C2 Environmental Conservation Zone and Terrestrial Biodiversity maps for several sites across the Shoalhaven LGA which will improve the effectiveness of SLEP 2014 to protect the environment in the Shoalhaven.

4.2 Social and economic

The proposal is unlikely to have any negative social or economic impacts. Rather the proposal will provide positive social and economic effects by improving accuracy of the SLEP 2014 maps and provisions which will more effectively deliver on the social and economic aims and objectives of the SLEP 2014.

4.3 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

4.4 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

It is recommended the following agency be consulted on the planning proposal and given 21 days to comment:

- Rural Fire Service
- National Parks and Wildlife Service
- Department of Planning and Environment - Biodiversity and Conservation Division
- WaterNSW
- Transport for NSW

5 Timeframe

Council proposes a 10 -11 month time frame to complete the LEP.

The Department considers a 12 month time frame is appropriate to complete the LEP.

6 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is low impact/local significance and is consistent with local and regional strategic planning, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

7 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It will facilitate correction of minor errors and anomalies in maps and provisions in the SLEP 2014 that have been identified by Council staff during the administration of the SLEP 2014.
- It will facilitate the listing of the former BTU Torpedo Workshop located at 50 BTU Road, Nowra Hill as a local heritage item.
- It is consistent with local and regional strategic planning.

8 Recommendation

It is recommended the delegate of the Secretary:

- Approve the inconsistency of the planning proposal with section 9.1 Directions 1.2 Conservation Zones, 4.1 Flooding, 6.1 Residential Zones and 7.1 Business and Industrial Zones in accordance with the terms of the Directions.
- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.
- Approve the proposed alteration of existing zonings and reservations of land for public purposes under section 9.1 Direction 5.2 Reserving Land for Public Purposes.

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

- Consultation is required with the following agencies:
 - Rural Fire Service
 - National Parks and Wildlife Service
 - Department of Planning and Environment – Biodiversity and Conservation Division
 - Water NSW
 - Transport for NSW
- The planning proposal should be made available for community consultation for a minimum of 28 days.
- The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
- Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



20/10/22

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