
**PSR23/003 PLANNING PROPOSAL 20 - HERITAGE CONSERVATION AREA AT
BRIERLEY'S BOAT RAMP**

**S017-
T00008**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Planning Proposal - Heritage Amendment - ELEM 2012 Amendment No. 20

Community Goal: 3 Our region of vibrant places and spaces

Community Strategy: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.1 Review, prepare and deliver planning instruments that support sustainable social, environmental and economic outcomes as guided by our Local Strategic Planning Statements

Operational Plan Link: 3.1.1.4 Conduct ongoing reviews and update planning controls

EXECUTIVE SUMMARY

Council has prepared Planning Proposal 20 (see attached) that explains the effect of, and justification for, a proposed amendment to the *Eurobodalla Local Environmental Plan 2012* (ELEM) involving the identification of a new Heritage Conservation Area (HCA) for the Brierley's Boat Ramp area at Bruce Cameron Drive, North Head.

The effect of the planning proposal is to afford the Brierley's Boat Ramp area further protection. The Plan aims to enhance the amenity of the area including upgrades to the boat ramp and associated facilities.

The historical significance of the former Brierley's homestead previously located on land adjacent to the boat ramp, will be acknowledged as part of the interpretative signage, as will the cultural values of the surrounding landscape and the economic contribution Aboriginal people have made to the region. The eastern and western portions of the proposed HCA will remain accessible native grassland and bushland to enable cultural practices to be sustained.

The planning proposal is the result of a range of studies, all of which have involved extensive consultation with the Aboriginal community, including the:

- Eurobodalla Aboriginal Cultural Heritage Study
- Aboriginal Cultural Heritage Assessment for the Moruya Airport redevelopment
- Moruya Regional Airport Redevelopment, Intangible Aboriginal Cultural Heritage Assessment Report.

The planning proposal process must be undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and NSW Government guidelines inclusive of the public exhibition period. All submissions will be reported to Council for consideration before the changes to the ELEM are finalised. As this planning proposal meets the definition of a 'basic' planning proposal, Council intends to be the local plan making authority.

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RECOMMENDATION

THAT Council:

1. Endorse the attached Planning Proposal 20 to include AH14 Aboriginal Heritage Conservation Area in Schedule 5 Part 3 'Conservation Area' of the *Eurobodalla Local Environmental Plan 2012*.
2. Forward the planning proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*.
3. Following receipt of a Gateway Determination, undertake further consultation as required by the Determination.
4. Receive a report back on the planning proposal following community engagement.

BACKGROUND

Planning proposal process

A planning proposal is required to identify heritage conservation areas in the ELEP. The planning proposal process must be in accordance with the *Environmental Planning and Assessment Act 1979* and NSW Government guidelines. The steps include:

1. The planning proposal is submitted to the Department of Planning and Environment (DPE) for a Gateway Determination (permission to commence the process)
2. Council implements the requirements of the Gateway Determination eg, additional studies, stakeholder engagement
3. Public exhibition of the proposal
4. Council consideration of all submissions received during the exhibition period
5. Submission of the outcomes of public exhibition (and any changes to the planning proposal) to the Department of Planning and Environment (DPE) to finalise the amendments to the LEP.

The planning proposal process is an extensive and thorough process, which provides opportunity for adjacent land holders and the broader community to comment. All submissions will be reported to Council for consideration before the changes to the ELEP are finalised.

Brierley's Boat Ramp

Between 2005 and 2008, Council undertook a shire-wide Aboriginal Cultural Heritage Study. This study identified the Moruya North Head – Garland Town area as one of significant Aboriginal Heritage, requiring protection and acknowledgement.

A Master Plan for Moruya Airport was publicly exhibited and approved by Council in early 2015. Extensive engagement was undertaken with the Aboriginal community as part of an Aboriginal Cultural Heritage Assessment (ACHA) prepared for the proposed airport redevelopment. The ACHA subsequently supported multiple Aboriginal Heritage Impact Permit (AHIP) applications to the Office of Environment and Heritage (OEH, now Heritage NSW) to undertake and implement a range of investigations and management strategies to conserve Aboriginal cultural heritage.

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Concurrent with the airport redevelopment ACHA, at the request of the Aboriginal community and OEH (now Heritage NSW), Council undertook an Intangible ACHA to investigate the Aboriginal cultural landscape, including and surrounding the Moruya Airport.

Through this process, it was confirmed that an area on the north side of the Moruya River contained a complex of highly significant traditional and contemporary Aboriginal cultural values, and as such recommended the following:

“Council commitment to scheduling the Brierley’s boat ramp homestead / foreshore complex a Heritage Conservation Area in the Eurobodalla Local Environment Plan and develop an associated management plan as a way to formally recognise and preserve the identified Aboriginal cultural heritage values, in conjunction with ongoing public / council use of the area” (Donaldson 2017:60).

At the Ordinary Meeting of Council on 12 December 2017 (Minute No: 17/416), Council endorsed the creation of an 8.3ha Heritage Conservation Area (HCA) between Birches Creek and the North Head Camping Ground, adjacent to the Moruya Airport between, Bruce Cameron Drive and the Moruya River, and that a planning proposal be prepared to amend Part 3 of Schedule 5 of the ELEP to include the subject land as an HCA. The proposed HCA aims to encompass the cultural values associated with Brierley’s Boat Ramp and the former Brierley’s homestead.

Between April 2017 and March 2020, the proposed HCA was the subject of extensive consultation with the Aboriginal community and saw the development of a Heritage Nomination Report, which identified cultural heritage management objectives. During this period, engagement occurred with the Mogo Local Aboriginal Land Council, Cobowra Local Aboriginal Land Council, the Gadu Elders, Native Title applicants and members of the Brierley-Duren-Holmes family closely associated with the site.

Engagement included the co-design of proposed upgrades to the Brierley’s Boat Ramp area, within the proposed Aboriginal Heritage Conservation Area (boat ramp, toilet, cultural interpretive signage, BBQ shelter, etc). Council and the Aboriginal community collaboratively developed a Landscape Management Plan for the proposed HCA, which aims to maintain the identified Aboriginal values, whilst ensuring public use of the site continues.

After an 18-month pause in engagement due to the bushfires, Covid-19 pandemic and sorry business, engagement with the Aboriginal community resumed in April 2022 to confirm the HCA boundary, associated cultural values and Landscape Management Plan for the proposed HCA.

These documents were finalised in June 2022 and funds were secured to implement the plan. The plan aims to enhance the amenity of the area for everyone to enjoy, including upgrades to the boat ramp and associated facilities. The historical significance of the former Brierley’s homestead previously located on the elevated portion of land adjacent to the boat ramp, will be acknowledged as part of the interpretative signage, as will the cultural values of the surrounding landscape and the economic contribution Aboriginal people have made to the region. The eastern and western portions of the proposed HCA will remain accessible native grassland and bushland to enable cultural practices to be sustained.

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Seeking Gateway Determination from the NSW Government is the next step in the process of establishing this area as a designated Aboriginal Heritage Conservation Area. If approved, the Brierley's Boat Ramp HCA will be the twelfth HCA scheduled in the ELEP protecting important Aboriginal cultural values. The area will be shown by yellow edging in the Eurobodalla LEP and labelled AH14.

CONSIDERATIONS

Legal

A planning proposal has been prepared in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979*. The purpose of the planning proposal is to explain the effect of, and justification for, the proposed amendments to the ELEP involving the identification of a new HCA for the Brierley's Boat Ramp area at Bruce Cameron Drive, North Head.

The effect of the planning proposal is to afford the Brierley's Boat Ramp area further protection in accordance with clause 5.10 of the ELEP. Any future development of the area would need to be assessed in accordance with clause 5.10 and, in particular sub-clause (8), as outlined below:

- (8) ***Aboriginal places of heritage significance*** - *The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—*
- (a) *consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
 - (b) *notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

The land proposed to be an HCA is currently owned by Eurobodalla Shire Council, with a small part of the HCA extending into the foreshore of the Moruya River (Crown land). Prior to 1943, the land was owned by the Duren–Brierley (Aboriginal) family before it was compulsorily acquired by the Australian Government. In 1964 when the land was no longer required by the Australian Government, the title was transferred to Council.

As this planning proposal meets the definition of a 'basic' planning proposal, Council intends to be the local plan making authority.

The planning proposal has considered:

- Ministerial Directions issued under s9.1 of the *Environment Planning and Assessment Act 1997*
- State Environmental Planning Policies (SEPPs)
- local and regional strategies
- social, economic, and environmental values.

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Policy

The planning proposal:

- will deliver on the objectives of the Aboriginal Action Plan 2020-2024 with respect to building relationships, respect, and opportunity. The planning proposal allows Council and the Aboriginal community to resolve long-standing conflict around the history of the place and promote healing within the Aboriginal community
- will help in the delivery of Activity 2.11 of the Community Strategic Plan by 'acknowledging and involving the traditional custodians of the Eurobodalla'
- is consistent with Action 2.1.2.4 to 'investigate opportunities to celebrate and showcase our indigenous heritage'
- is consistent with the vision and strategies in the Heritage Strategy
- delivers on Action 2.1 in the Local Strategic Planning Statement to engage with the local Aboriginal community in best interpreting Aboriginal cultural heritage in settlements.

Environmental

The recognition of the heritage significance of this place will positively influence the environmental aspects associated with this proposal. The continued recognition and management of the environment in the Eurobodalla contributes to our amenity and character of the area.

Asset

The Plan aims to enhance the amenity of the area for everyone to enjoy, including upgrades to the boat ramp and associated facilities.

Social Impact

The recognition of the heritage significance of this place will positively influence the social and economic environment of the Eurobodalla. The continued recognition and management of heritage in the Eurobodalla contributes not just to amenity and character, but more importantly, the healing between local families and government.

Financial

No cost implications of the proposal.

Community and Stakeholder Engagement

Between April 2017 and March 2020, the proposed HCA was the subject of extensive engagement with the Aboriginal community and saw the development of a Heritage Nomination Report, which identified cultural heritage management objectives. During this period, engagement occurred with the Mogo Local Aboriginal Land Council, Cobowra Local Aboriginal Land Council, the Gadu Elders, Native Title applicants, and members of the Brierley-Duren-Holmes family closely associated with the site.

Engagement included the co-design of proposed upgrades to the Brierley's Boat Ramp area within the proposed Aboriginal Heritage Conservation Area (boat ramp, toilet, cultural interpretive signage, BBQ shelter, etc). Council and the Aboriginal community collaboratively

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developed a Landscape Management Plan for the proposed HCA, which aims to maintain the identified Aboriginal values, whilst ensuring public use of the site continues.

After an 18-month pause in consultation due to the bushfires, Covid-19 pandemic and sorry business, engagement with the Aboriginal community resumed in April 2022 to confirm the HCA boundary, associated cultural values, and Landscape Management Plan for the proposed HCA.

CONCLUSION

A planning proposal has been prepared in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979* to identify a new Heritage Conservation Area for the Brierley's Boat Ramp area at Bruce Cameron Drive, North Head, Moruya. It is considered appropriate that Council progress the planning proposal to a Gateway Determination.

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23/4 MOTION Councillor Worthington/Councillor Schutz

THAT Council:

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4. Receive a report back on the planning proposal following community engagement.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs T Dannock, P Diskon, D Grace, T Harrison, M Hatcher, A Mayne, R Pollock OAM, A Schutz and A Worthington.

Against the Motion: Nil.

23/5 RESUMPTION OF STANDING ORDERS Councillor Mayne/Councillor Diskon

That Standing Orders be resumed.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs T Dannock, P Diskon, D Grace, T Harrison, M Hatcher, A Mayne, R Pollock OAM, A Schutz and A Worthington.

Against the Motion: Nil.