



IRF24/2970

Gateway determination report – PP-2024-1869

Rezoning, removal of minimum lot size and amending the heritage listing of The Berry Inn at 17 Prince Alfred Street, Berry.

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal**Relevant reports and plans**

Attachment A – Planning proposal (Allen Price Pty Ltd, November 2024)

Attachment A1 – Ordinary Meeting of the Shoalhaven City Council (12 November 2024) Agenda and Minutes

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Shoalhaven
PPA	Shoalhaven Shire Council
NAME	Rezoning, removal of minimum lot size and amending the heritage listing of land at 17 Prince Alfred Street, Berry.
NUMBER	PP-2024-1869
LEP TO BE AMENDED	Shoalhaven Local Environmental Plan 2014
ADDRESS	17 Prince Alfred Street, Berry
DESCRIPTION	Lot CP SP 93194
RECEIVED	27/11/2024
FILE NO.	EF24/19157; IRF24/1877
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 (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Apply uniform controls across the site
- Ensure controls reflect the existing approved use of the site
- Ensure the heritage listing accurately reflects items of heritage significance

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 by:

- Changing a local heritage listing in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage) to ensure only Lot 1 SP93194, 122 Queen Street, the former bank building with heritage values is listed
- Amend the LEP map to remove Lot 2 SP93194, 17 Prince Alfred Street, Berry from existing heritage item No 88.

- Rezoning Lot 2 SP93194 from R2 Low Density Residential to E1 Local Centre
- Removing the 500m² minimum lot size that applies to Lot 2 SP93194

As a result of the planning proposal there will be consistent zoning and minimum lot size provisions across the entirety of SP93194.

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

1.4 Site description and surrounding area

The site was subdivided on 6 May 2024 under DA23/3181 into the following two lots:

1. Lot 1, SP93194 is located at 122 Queen Street, Berry and contains the former CBC Bank.
2. Lot 2, SP93194 is located at 17 Prince Alfred Street, Berry and contains The Berry Inn. This lot is the subject of the planning proposal and does not have heritage values.

The site in its entirety is identified as local heritage item 88 in the Shoalhaven LEP 2014 and the State Heritage Register describes the site thus:

“A two storey former bank building in the Victorian Free Classical style, constructed of rendered brick with a hipped, corrugated metal roof and sturdy chimneys. There is a two storey verandah to the front, with skillion roof. The upper verandah features a small central pediment, and decorated Classical columns on pillars, with cast iron lace balustrade. Three sets of French windows with fanlights open onto the upper verandah. The lower verandah features a projecting arched portico with scrolled keystone over entrance door; and iron fencing rails between Classical columns on pillars. The lower storey windows are paired and arched; all windows feature heavy mouldings and sill decorations. Pitched roof wing to the rear. Car park at the rear with modern accommodation in the ‘stables’ building. The building is prominently located at the entrance to the main shopping strip”.

This heritage description relates to Lot 1, which is occupied by the former CBC Bank and continues to operate for commercial purposes. This lot is 888m² and contains a two-storey heritage listed building. It is zoned E1 Town Centre with no minimum lot size.

Lot 2 is 514m² and contains The Berry Inn which demonstrates no heritage significance. The site is currently occupied by six units, used for the purposes of tourist and visitor accommodation. This lot is zoned R2 Low Density Residential and has a 500m² minimum lot size.

The site is located within the Berry Town Centre, approximately 400m south of the Princes Highway. The site forms the eastern boundary of the Berry main street, located on Queen Street and is mostly bound by low density residential uses.



Figure 1 Subject site (Planning proposal, November 2024)

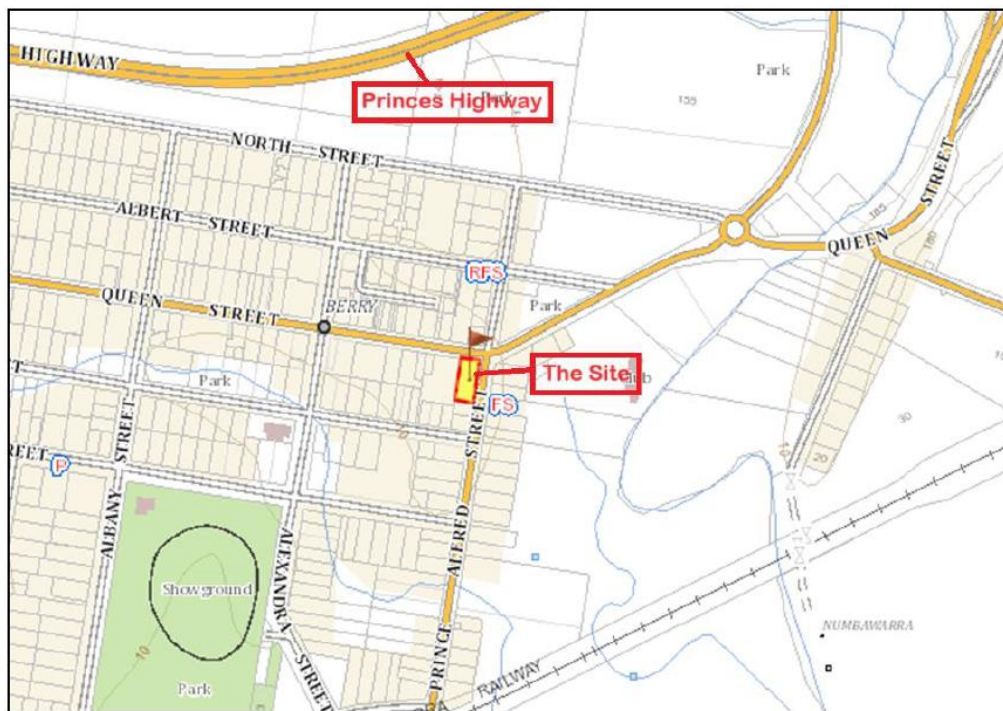


Figure 2 Site context (Planning proposal, November 2024)

1.5 Background

Development Application (DA) No. DA23/3181 was approved on 6 May 2024 for the “Dissolution of strata subdivision and Torrens Title subdivision resulting in two (2) lots”. This consent removed the strata subdivision and allows the two separate uses to be sited on their own freehold Torrens title. The subdivision will support the businesses to continue to operate independently or to develop separately. It is expected the registration of the subdivision, refer to Figure 3, will be completed mid 2025.

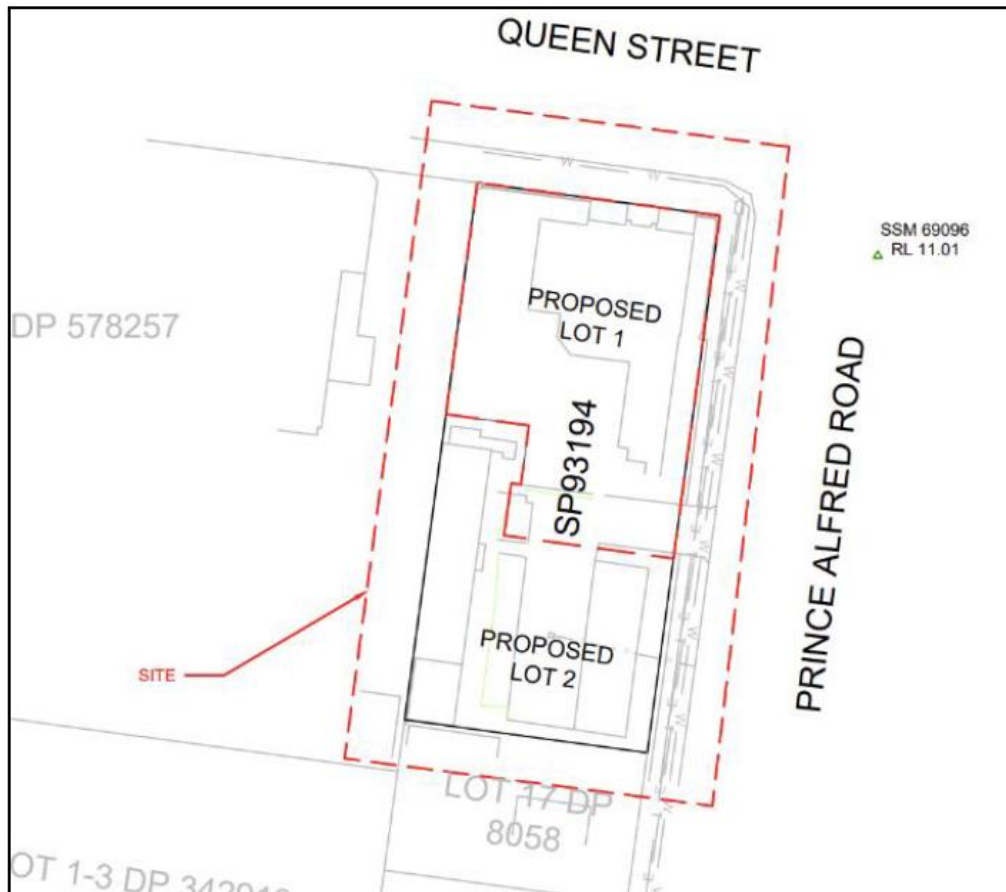


Figure 3 Approved subdivision of site (Planning proposal, November 2024)

1.6 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Use Zone, Minimum Lot Size and Heritage maps, which are suitable for community consultation.



Figure 4 Current zoning map (Planning proposal, November 2024)

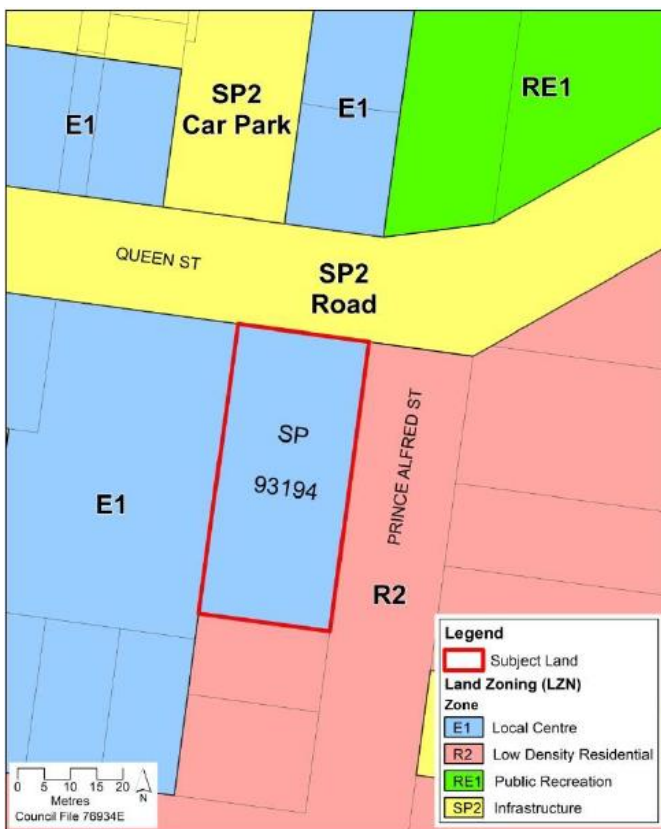


Figure 5 Proposed zoning map (Planning proposal, November 2024)



Figure 6 Existing minimum lot size map (Planning proposal, November 2024)



Figure 7 Proposed minimum lot size map (Planning proposal, November 2024)

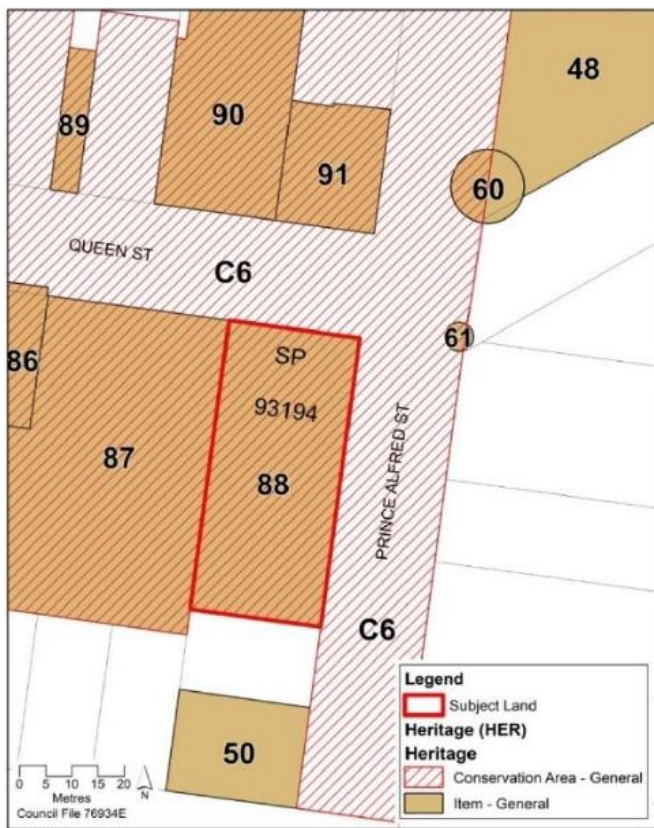


Figure 8 Existing heritage map (Planning proposal, November 2024)

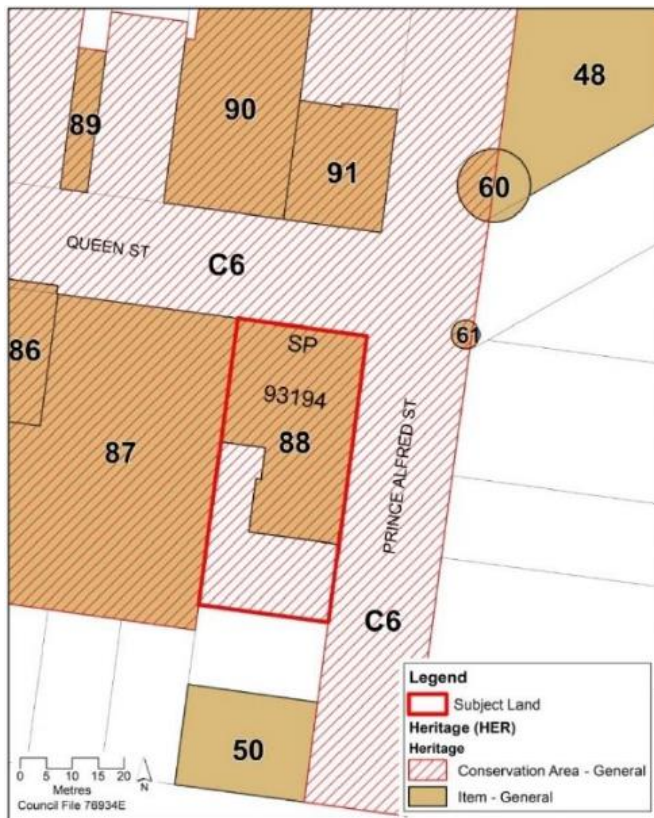


Figure 9 Proposed heritage map (Planning proposal, November 2024)

2 Need for the planning proposal

The planning proposal has been prepared by Allen Price Pty Ltd in November 2024 and endorsed by Shoalhaven Council at its meeting on 12 November 2024 (**Attachment A2**). The planning proposal has not been prepared in response to a strategic study.

The planning proposal seeks to adopt the zoning and minimum lot size that is consistently applied to the land uses along the main street. The planning proposal notes that the use of clause 5.3 Development near zone boundaries could be utilised to assist in redevelopment of the site. Tourist and visitor accommodation is prohibited in the existing R2 zone, the site currently relies on existing use rights. These planning controls are not long term solutions to achieve the objectives of the planning proposal or best outcomes for the site.

The planning proposal will amend the Shoalhaven LEP 2014 to ensure the current uses of the site are reflected in the zone, the heritage protection is accurately applied to the site and the density provisions are consistent with the area. The planning proposal is consistent with the strategic framework. A planning proposal is the most effective means of achieving the objectives of the planning proposal.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Illawarra Shoalhaven Regional Plan 2041.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Create a diverse visitor economy Objective 7: Respond to the changing nature of retail	The planning proposal highlights the proposed amendments will create flexibility to adapt to changing market conditions and site specific circumstances. The proposal will support the ongoing use of the site as tourist and visitor accommodation.
Objective 21: Respond to the changing needs of local neighbourhoods	The proposed amendment will remove heritage restrictions and the minimum lot size, promoting flexibility. The planning proposal states the rezoning of the site will enable the long term economic viability of The Berry Inn and support any future commercial use, delivering the economic needs and character of the Berry Town Centre.
Objective 22: Embrace and respect the region's local character	The planning proposal states that the proposal will support the role of The Berry Inn in the tourism sector of Berry and allow the site to adapt, in keeping with the economic vision for Berry.

3.2 Local

The proposal states that it is consistent with the Shoalhaven Local Strategic Planning Statement (LSPS) 2040.

The planning proposal seeks to amend local heritage item 88, apply a commercial zone and remove the minimum lot size that applies to the site. This is consistent with the following planning priorities of the Shoalhaven LSPS:

- 6 – Strengthening commercial centres
- 7 – Promoting a responsible visitor economy
- 13 – Protecting and enhancing neighbourhoods
- 14 – Heritage items and places

The planning proposal states the proposal will support the long term viability of the site by aligning the controls with the current lawful use. The continued operation and supply of accommodation within the Berry Town Centre is important. It supports the activity, economic growth and vibrancy of Berry, which relies heavily on the tourism sector. Additionally, the planning proposal notes the change in controls will provide financial certainty for the future development and use of the site.

The removal of Lot 2 from Schedule 5 assists in accurately focusing funding to enable the ongoing management of local heritage items.

The planning proposal is consistent with the Shoalhaven LSPS.

3.3 Section 9.1 Ministerial Directions

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

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons
1.1 Implementation of Regional Plan	Consistent	The planning proposal is consistent with this Direction, as discussed in Section 3.1.
3.2 Heritage Conservation	Consistent	<p>The entirety of the site is currently listed as heritage item 88 in Schedule 5 of the Shoalhaven LEP 2014. The item is described as former CBC bank including fence and trees. It is proposed to delist the rear of the site that currently contains The Berry Inn. The amendment to the heritage map will improve its accuracy.</p> <p>The planning proposal states that the existing heritage listing of the site will continue to facilitate the conservation of items that demonstrate local heritage significance.</p> <p>The planning proposal is consistent with this Direction.</p>
4.5 Acid Sulfate Soils	Inconsistent – justified minor significance	This Direction is applicable as the site contains Class 5 acid sulfate soils. The planning proposal seeks to remove heritage restrictions and the minimum lot size provision from the site, which could increase the density of the site. There is no proposed amendment to height, the site is largely developed and the proposed amendments support the existing use and subdivision of the site. It is likely any further development of the site as a result of the planning proposal would be of minor significance.
6.1 Residential Zones	Inconsistent – justified minor significance	<p>This Direction applies as the site is located within a residential zone.</p> <p>The planning proposal seeks to apply an E1 Town Centre zone, replacing the existing R2 Low Density Residential zone. The proposal is inconsistent with this Direction given it will not</p>

Directions	Consistent	Reasons
		encourage the provision of housing. However, the site currently provides 6 units utilised for tourist and visitor accommodation purposes. The proposal would align the zone with the existing use of the site, as tourist and visitor accommodation is not currently permissible in the R2 zone. As the lot is only 514m ² in area and there are ample opportunities for residential development in Berry the inconsistency is of minor significance.
7.1 Employment Zones	Consistent	<p>This Direction applies as the site is partly located within an employment zone and it is proposed to expand this zoning to the entirety of the site.</p> <p>It is proposed to expand the employment zone and remove the minimum lot size. The planning proposal notes that the proposal will support the ongoing commercial viability of an existing business within the Berry Town Centre. It would also allow redevelopment of the site for further employment purposes.</p> <p>The proposal is consistent with this Direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with the State Environmental Planning Policy (Exempt and Complying Development Code) 2008. The planning proposal will not impact on the operation of the SEPP. However, as a result of the proposal the SEPP can be applied to any future works on Lot 2, generally creating an easier development pathway.

4 Site-specific assessment

4.1 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 5 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	It is not proposed to increase the density of the site as a result of the planning proposal, therefore there are no infrastructure or social demands expected. The planning proposal is seeking to align the existing use of the site with the provisions that apply.
Economic	The proposal will remove the heritage listing and apply an E1 Town Centre zone, in which tourist and visitor accommodation is permissible, to The Berry Inn. This will support the ongoing use of the site, allow redevelopment of the site for commercial purposes and remove the need for development consent for minor improvements. The planning proposal is considered to have a positive economic impact.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, an exhibition period of 20 working days will apply and forms a condition of the Gateway determination.

5.2 Agencies

The planning proposal recommends consultation with Heritage NSW be undertaken. Given the State Heritage Inventory clearly outlines the heritage significance of the site relates to Lot 1 only and this is a local heritage item that will remain listed, consultation with Heritage NSW is not required.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a basic.

The Department recommends an LEP completion date of 12 September 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 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 addresses matters of local significance and Council supports the progression of the planning proposal, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

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

- The proposal is consistent with the relevant objectives, directions and priorities of the Illawarra Shoalhaven Regional Plan 2041 and Shoalhaven Local Strategic Planning Statement 2040, as well as the applicable State Environmental Planning Policy and is mostly consistent with Section 9.1 Ministerial Directions.
- The proposal will align the lawful land use at the site with the principal controls, ensure consistency with the controls of the Berry Town Centre and improve the accuracy of Council's heritage item.

9 Recommendation

It is recommended the delegate of the Secretary agree that any inconsistencies with section 9.1 Directions 4.5 Acid Sulfate Soils and 6.1 Residential zones are minor or justified.

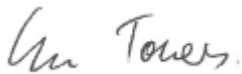
It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following condition is recommended to be included on the Gateway determination:

1. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 12 September 2025 be included on the Gateway.

The timeframe for the LEP to be completed is on or before 12 September 2025



9/1/25

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