

CL26.113 New Land Use Planning Scheme - First Planning Proposal (Housekeeping - PP082) - Shoalhaven LEP 2014 Update

HPERM Ref: D26/159862

Department: Strategic Planning

Approver: Emma Struys, Director - City Development

Attachments: 1. Pre-Gateway Instrument & Mapping Planning Proposal PP082 (under separate cover) [↗](#)

Purpose:

This report is to seek Council resolution to submit a Housekeeping Planning Proposal (PP082) to the NSW Department of Planning, Housing and Infrastructure (DPHI) for initial Gateway determination.

Recommendation

That Council:

1. endorse the progression of Planning Proposal PP082 (**Attachment 1**) for submission to the NSW Department of Planning, Housing and Infrastructure for an initial Gateway determination and, if favourable:
 - a. Proceed to formal public exhibition in accordance with the terms of the determination/legislative requirements; and
 - b. Receive a further report following conclusion of the public exhibition to enable its finalisation.
2. Advise key stakeholders and interested parties of the public exhibition arrangements.

Community Strategic Plan:

- 4 Transparent leadership with good governance
 - 4.3 Effective collaboration and engagement
- 3 Resilient local economies and enabling infrastructure
 - 3.3 Housing for all

Delivery Program / Operational Plan:

- 4.3.1 Develop community trust and respect through transparent interactions and reporting
- 4.3.2 Provide opportunities for the community to have genuine engagement on Council planning and decision making
- 3.3.1 Develop and implement plans which will enable a variety of affordable and appropriately serviced housing options within the City

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Background

Council resolved on 25 November 2026 (MIN25.601) to progress Stage 2 of the New Land Use Planning Scheme, specifically to (relevant components):

1. *Continue to focus its Strategic Land Use Planning Work Program on the delivery of a new Land Use Planning Scheme (including prioritising a new Local Environmental Plan) for the City via a staged approach.*
4. *Commit to the focussed delivery, as outlined in the report, of the following project components of an adjusted new Land Use Planning Scheme Stage 2 during this term of Council:*
 - b. *New Local Environmental Plan - involving review and retention/adjustment of the current LEP provisions, inclusion of relevant outcomes from the new Strategy (e.g. new residential zoned land) and also any consequential resulting amendments to the Development Control Plan and Contributions Plan arising from new zoned areas.*
5. *Undertake a shorter term housekeeping review Planning Proposal to resolve key more pressing issues that have arisen with the Local Environmental Plan (LEP) and that cannot necessarily wait for the overall project, some of which are outlined in the report.*

Historically, Council had an ongoing process of annual housekeeping amendments to improve the operation and maintain accuracy of the Shoalhaven Local Environmental Plan 2014 (LEP). The New Land Use Planning Scheme program has essentially restarted this process in a more intensive way. Several Planning Proposals are now being prepared and will be reported to Council in due course to review, update and resolve as many LEP related matters prior to end June 2027.

This Planning Proposal (PP) is the first of the proposed staged update adjustments to the LEP. The PP addresses the more 'urgent' matters requiring early progression, consistent with Part 5 of the above resolution, that seek to align the LEP with strategic documents, resolve outstanding matters, ensure it functions as intended, remains accurate and results in positive planning outcomes delivered for the community.

This PP intends to make five instrument changes and mapping changes to 7 sites in the LEP as outlined in Table 1. A full copy of the PP is at **Attachment 1**.

Table 1: Summary of the PP082 Key Issues

Item	Issue / Proposed Amendment
Instrument Changes	
1	Clause 4.1A Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings Enable a development application for the concurrent approval of a medium density development and its subdivision, rather than the required current two applications. This addresses a current impediment to efficient housing delivery.
2	Clause 4.2A Subdivision of land in Zone RU1, Zone RU2 or Zone C3 Adjust clause to refer to each resulting lot with a frontage to a classified road, rather than the parent lot, relating to subdivision for the purpose of tourist and visitor accommodation. This resolves an unintended consequence in the original drafting of the current clause.
3	Clause 4.2D Erection of dual occupancies (attached) and dwelling houses on land in certain rural, residential and conservation zones Adjust clause to recognise an existing dwelling entitlement on a residual lot created under clause 6.5 (subdivision of land around Urban Release Areas), had it not been

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	affected by the subdivision. This has emerged from contemporary consideration of development of the identified Urban Release Areas and related residue land.
4	Schedule 1 Additional Permitted Uses – (9) Use of certain land in Maisie Williams Drive, Mollymook Remove the current additional permitted use provision for a dwelling house and dual occupancies over the land. This follows the proposed rezoning of the land in mapping item 7 outlined below.
5	Schedule 5 Environmental Heritage - Item 41 George Street, Berry Following further investigation/refinement and survey, increase number of trees applying to the listing (remnant old growth eucalypts) along George Street from two to nine. Refer also to mapping item 3 below. This follows an affected landowner request for clarity.
Mapping Changes	
1	Donovan Road, Broughton Village Adjust zoning and minimum lot size mapping following the finalisation of the NSW Government's Foxground and Berry bypass project.
2	Homestead Lane, Berry Adjust zoning and minimum lot size mapping following the finalisation of the NSW Government's Foxground and Berry bypass project.
3	George Street, Berry Update heritage mapping to ensure that the trees of significance are appropriately identified and mapped in the correct location.
4	Appleberry Close, Bomaderry Adjust zoning and minimum lot size mapping to reflect recent boundary adjustment that has occurred.
5	Old Southern Road, South Nowra Adjust terrestrial biodiversity, clauses, zoning, lot size and riparian lands and watercourses mapping to reflect recent approved residential subdivision.
6	Villagewood Drive, Sussex Inlet Adjust terrestrial biodiversity, zoning, lot size and riparian lands and watercourses mapping to reflect recent approved residential subdivision.
7	Maisie Williams Drive, Mollymook Adjust terrestrial biodiversity, clauses, height of buildings, zoning, lot size and scenic protection mapping to reflect recent approved residential subdivision and current additional permitted uses.

Following initial endorsement by Council, the PP will be submitted to DPHI for Gateway determination. Should a favourable determination be received, it is anticipated that the resultant LEP amendment would proceed to exhibition and then be finalised by February 2027 (or possibly earlier).

Risk Implications

Not proceeding with this PP will mean that the relevant matters will not be resolved in a timely manner. Best practice includes regular amendments to the LEP to correct identified anomalies or inconsistencies in the Plan and improve its operation. Not proceeding would also be inconsistent with established intent of MIN25.601 and delay delivery of this resolution.

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Internal Consultations

Internal consultation relating to several matters in this PP has occurred with the Development Services and Technical Services teams.

External Consultations

Transport for NSW (TfNSW) has been consulted initially regarding the changes to its land (mapping items 1 and 2) and support the change.

In accordance with the requirements of the relevant Ministerial Direction, WaterNSW has been consulted regarding impacts of the PP on the Sydney Drinking Water Catchment. At the time of writing, a response has not been received from them, but it is considered unlikely that they will object to the PP given its housekeeping nature. The PP will be updated, if needed, with any response received prior to Gateway.

Community Consultations

Should the PP proceed further, it will be formally publicly exhibited in accordance with the relevant legislative and any Gateway requirements. The Gateway determination will specify the minimum exhibition period and any government agencies who should be consulted. It is anticipated that the timeframe will be a minimum of 28 days.

Key stakeholders will be advised of the exhibition arrangements in writing.

Council staff have prepared and are now using a new and improved format for Council initiated PP documents – this is first one of the new format.

Policy and Statutory Implications

This PP addresses several mapping and instrument amendments to the LEP.

Council will continue to receive separate reports for the other PPs that make up the delivery of the LEP Review Program and form part of the New Scheme's LEP component/program. In this regard, it is noted that DPHI has advised that Council is not able to prepare a 'new' LEP, meaning that a series of PP's is the only way to update the LEP and make required/desired changes.

Financial Implications

There are no immediate financial implications for Council and the PP/LEP amendment will be resourced through the current Strategic Planning budget.

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RESOLVED* (Clr Norris / Clr Boyd)

MIN26.165

That Council:

1. Endorse the progression of Planning Proposal PP082 (**Attachment 1**) for submission to the

NSW Department of Planning, Housing and Infrastructure for an initial Gateway determination and, if favourable:

- a. Proceed to formal public exhibition in accordance with the terms of the determination/legislative requirements; and
- b. Receive a further report following conclusion of the public exhibition to enable its finalisation.

2. Advise key stakeholders and interested parties of the public exhibition arrangements.

FOR: Mayor White, Cllr Wilkins, Cllr Killian, Cllr Boyd, Cllr Tribe, Cllr Krikstolaitis, Cllr Norris, Cllr Dunn, Cllr Proudfoot, Cllr Casmiri, Cllr Clancy, Cllr Steele and Cllr Kemp

AGAINST: Nil

CARRIED