

# Public Exhibition for the Explanation of Intended Effect New State Environmental Planning Policy (Design and Place)

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Stakeholder group	<input type="checkbox"/> Industry <input type="checkbox"/> Council <input type="checkbox"/> Aboriginal Community <input checked="" type="checkbox"/> Community <input type="checkbox"/> State Agency
Age demographic	██████ ██████████ ██████████ ██████████

## Your feedback

### How to make a formal submission

We welcome your feedback on the Explanation of Intended Effect for a New Design and Place State Environmental Planning Policy. **Submissions close on 31 March 2021.**

Feedback is sought on all parts of the document. Please consider if the proposal:

- Reflects contemporary understanding and practices
- Clearly articulates the intentions of the policy
- Should consider other opportunities.

## Explanation of intended effect (EIE)

### PART 1 Introduction

The Berry & District Historical Society's Heritage Sub-Committee aims to:

1. Preserve Berry's heritage;
2. Respond to DAs on behalf of the Society;
3. Set up a DCP like Milton, as the DCP for Berry's Town Centre is considered inadequate to protect Berry's heritage;
4. Investigate heritage listing the whole of Berry.

Such a new SEPP is desperately needed to control rapacious residential development that is destroying our environment and heritage.

Our Heritage Sub-Committee fully supports the Draft Illawarra Shoalhaven Regional Plan 2041 provided it is incorporated into the SEPP, otherwise it will be ignored.

### PART 2 Proposed new State Environmental Planning Policy (Design and Place)

The Shoalhaven Heritage Strategy 2019-2022 states:

Much of Shoalhaven is undeveloped and contains a range of natural and modified landscape that are an important reminder of both Indigenous and early colonial settlement. Following colonisation, the landscape was quickly transformed as it was developed for timber supplies and farming. The resulting landscape is an important element in the character of the area. Development pressures close to rural towns and villages, including subdivision, can lead to a loss of buildings, plantings and landscape features that can erode this character.

The Shoalhaven City Council is seeking funds to prepare a study with the aim of identifying common characteristics for rural and semi-rural areas of the Shoalhaven, to provide an understanding of important components of the landscape and provide guidelines for the study of the landscape to allow for better development outcomes.

### *Mananga DA*

In this document, Council identifies some growing problems around development and makes some commitments to dealing with them; however, the recent and ongoing developments on Mananga Homestead and its farm complex, a heritage listed property on the northern entrance to Berry, regarded as “aesthetically rare” at a State level and assessed as “historically rare” locally, have already led to “an erosion of character” that will only be exacerbated by its proposed use as a wedding and events function centre.

It is clear that the purpose of DA20/2172 submitted to Shoalhaven Council in regard to Mananga, as well as ongoing tourist accommodation developments, are designed to turn most of the property into a commercial enterprise, without proper regard for its historic, cultural and aesthetic value and the overall integrity of the site in relation to the nearby Pulman Street Heritage Conservation Area, and to Mananga’s importance as a part of the northern gateway to Berry.

Mananga Homestead and its associated historic lands is an important cultural landmark in the Shoalhaven. The surrounding landscape provides a bucolic setting for the house, which is listed in the State Register as a rare example of Federation Queen Anne style. This rarity has not been respected by the current owners and the authenticity and the integrity of the whole site has been compromised by their actions.

There were previous opportunistic DAs concerning properties in the Berry area that aimed to use Clause 2.8 of the LEP, “Temporary Use of Land” to gain approval for function centres in RU1 zones. These were refused in line with the Land and Environment Court’s decision, *Marshall Rural Pty Ltd v Hawkesbury City Council and Ors [2015] NSWLEC 197*, in which it was held that there must be an absence of *any* adverse impact on the neighbourhood of the proposed venue.

### *275 Bong Bong Road DA*

Another DA submitted to Shoalhaven Council, DA20/2056 regarding a Tourist Resort on 275 Bong Road is a totally unsuitable development as the existing rural character is in a pristine location at the end of the valley and road, with a large lot, a single dwelling and

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agricultural buildings. It is a good example of development impacting the escarpment and causing tree felling.

It is difficult to find any aspect of this DA that complies with the DCP.

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**PART 3**

**Key components of the new State Environmental Planning Policy**

Fully support prioritisation of urban design, public space and green infrastructure for all urban land in NSW. It should also cover adjacent rural land.

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**PART 4**

**Proposed amendments to existing State Environmental Planning Policies**

The Affordable Housing SEPP is not working as intended, and is causing over-development of existing lots

The new Design & Place SEPP must be co-ordinated with LEPs and DCPs; currently the latter are largely ignored.

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**PART 5**

**Relationship with other planning instruments and policies**

The Low Rise Housing Diversity Code imposed by the government in July 2020 is impacting Berry. There has been a steep rise in house knockdowns, and the movement towards smaller lot sizes that are destroying local character and landscape views. The DCP for Berry is ineffective in this regard with very few controls.

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**PART 6**

**Planning pathways**

Whatever the planning pathway, the onus is on local councils to adhere to the legislation and enforce compliance.

Some developers will use any perceived loophole to achieve the outcome they want. They threaten to take Land and Environment Court proceedings which councils are ill equipped to deal with, and/or afford.

We see that councils appear to be under undue influence to support developers at any cost. Alternatively, they fail to impose appropriate Conditions of Approval or if they do, they fail to enforce them.

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**APPENDIX A**

**Proposed Amendments to the Apartment Design Guide and SEPP 65**

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No comment

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**APPENDIX B**

**Proposed New Public Spaces and Urban Design Guide**

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- Strengthen the Shoalhaven LEP to ensure the Berry Cambewarra Escarpment is protected against inappropriate development. The visual amenity, aesthetic values and delicate environment must be protected via a Scenic Preservation Overlay or something similar.

[Approximately half of the land in the vicinity of the escarpment is already zoned E2 or E3, but this does not apply to rural-zoned lands.]

- Strengthen DCP controls so that they are 'called up' in the LEP. These controls should relate to visual amenity, view sharing and visual impact on public domain views to and from the village of Berry. Local character is key.

Development in Berry, the "Town of Trees", should be controlled via reduced site ratios and greater setbacks. Form and character of built elements should be developed to cover gable roofs, colours and materials to reflect some elements of Federation character.

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## APPENDIX C

### Sustainability in Residential Buildings

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Sustainability cannot be achieved generally or cost effectively on smaller and smaller lot sizes with high site ratios where there is no ability to plant trees or even large shrubs.

The "heat island" effect is real and highlighted by climate change.

Berry, as The Town of Trees, will suffer irreparably with the loss of existing tree cover from development; for example, the town houses recently constructed on the corner of North Street and Prince Alfred Street, Berry.

Rural views to and from the village, highlighted in work done by the National Trust, are/will be destroyed.

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### Additional comments

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The historic town of Berry was part of the 1822 Coolangatta Estate established by Alexander Berry and partner, Edward Wollstonecraft. Its 40,000 acre holding was prime dairy land, which much of the landscape remains. However, with rising tourist trade, day and weekend visitors/owners from Sydney, highway bypass upgrades and a Council that seems to under-

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value its real “asset” , the integrity of this lush farming landscape in contrast to its town boundaries, is being eroded. There is a risk of precedent in approvals, leading to piecemeal strip development and sprawl south to Bomaderry as rural blocks are bought, and subdivisions not-otherwise-permitted in zonings are somehow approved.

The National Trust of Australia (NSW) has classified the Berry District Landscape Conservation Area for its heritage values, but it lacks legal protection, serious planning and heritage leadership, vigilance and active management (National Trust of Australia NSW *Classification Report - Berry Township Urban Conservation Area (Draft)* November 2010). The area from the Kiama Bends to Orient Point should be listed as an Area of Outstanding Natural Beauty (AONB) with strict zoning as “rural” with non-variable minimum lot size, and strict urban boundaries.

The area of England and Wales is approximately 151,000 square kilometres with a population of approximately 59 million. The “Area of Outstanding Natural Beauty” is 18%. Compare this to NSW: 801,150 square kilometres in area with a population of 8.2 million. An equivalent area in NSW to be covered by an “Area of Outstanding Natural Beauty” would be over 144,000 square kilometres.

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**Thank you for your time in preparing this submission.**