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Submission: Draft Shoal Bay Place Plan

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About TRRA

The Tomaree Ratepayers and Residents Association Inc (TRRA) represents the community on a range of issues which affects the Tomaree Peninsula in Port Stephens LGA, including planning and development, economic development, cultural infrastructure and resources, the built and natural environment, tourism and other grass roots issues.

Introduction

The Shoal Bay Place Planning process has been underway for more than 2 years. TRRA has been involved throughout, and also in the overlapping processes of consultation on the introduction of smart parking, on foreshore improvements, and on the NPWS Tomaree Coastal Path project.



We compliment Council on the thoroughness of the process to date, and acknowledge the comprehensive community engagement report as a generally fair reflection of community views. However, we have a major reservation in relation to the presentation of the feedback which is that it significantly underplays the clear community concerns about stormwater drainage, building heights, limited road access and long-term solutions to significant traffic and parking problems. We refer you to our recent Discussion Paper on Housing in Tomaree, which sets out conditions for community acceptance of higher density development.¹

We are also mindful of current State government proposals for low and mid-rise housing reforms being marketed as ‘Diverse and well-located homes’.² These would potentially override most existing planning controls and allow up to 6-storey apartments in R3 zones adjacent to local centres, including, we think, the R3 zone around the Shoal Bay centre. We have submitted to the State Government that these proposals are fundamentally misconceived.³ But if they go ahead, they will require a further re-think of those aspects of this Place Plan dealing with building heights and other planning controls. There will be no point in Council adopting this Plan if the State Government is about to change important parts of the underpinning planning framework.

Key statements in the Plan

We submit that two key statements in the draft Place Plan deserve specific comment – these are the ‘Character Principles’ on p7, and the ‘Character: Look and Feel’ objective on p13.

P7

Character principles

	Shoal Bay has the right mix of transport infrastructure in the right locations to enable a range of options for people to access and move around Shoal Bay.		Safe and accessible pathways create a network for pedestrians and bike riders to key shopping, recreational and beach areas.
	New development respects the coastal character and village feel that is valued by the community. Building design that contributes to an interesting streetscape and provides visual variety.		Development aims to achieve a neutral or beneficial effect on water quality and no increase in flooding impacts.
	The highly valued natural environment in Shoal Bay is protected and enhanced.		Targeted landscaping with species suitable for a coastal environment is used to soften the built environment, create habitat, and reduce urban heat effect.
	Local business is supported, and new commercial activity is encouraged to service the local community and tourism.		The topography informs drainage and development opportunities, including maximum building height.
	The foreshore is the centre of activity and a welcoming and vibrant space for locals and visitors.		
	View corridors are part of what makes Shoal Bay unique; water and hill views will be celebrated.		

We submit that Principles 2,3,6,8 &10 would all be threatened by excessive building height, while a lack of imaginative and forward-thinking solutions to traffic and parking issues would compromise the delivery of Principle 1.

¹ TRRA Discussion Paper entitled *The Future for Housing On The Tomaree Peninsula*, submitted to Port Stephens Council on 7 February 2024

² See <https://www.planning.nsw.gov.au/policy-and-legislation/housing/diverse-and-well-located-homes>

³ TRRA submission on the NSW State Government Low- and Mid-rise housing reforms, February 2023

P13

Character: enhance the look and feel of Shoal Bay

Existing and new development can impact the character of a place through bulk and scale, look and feel, context and height. Planning controls should be established to protect and enhance Shoal Bay's character while facilitating growth for new housing.

While this acknowledges the very issue we have highlighted, of building heights and housing density, we do not think the draft Plan as it stands would deliver the planning controls required to achieve this objective.

Transformational Projects

The draft Plan proposes several 'Transformational Projects'. We address 4 of these 'projects' separately below, with reference to other projects embedded where appropriate.

Facilitate appropriate infill housing (pp 15-16)

TRRA has no issue with the preamble on p15, except to question the implicit assumption that Council has to deliver a significant number of extra dwellings in Shoal Bay – this may not be realistic given the many development constraints and clear community expectations.

The detailed proposals on p16 are particularly contentious.

The current planning guidelines limit the maximum height of buildings within the E1 and R3 zones (maximum heights are 15 and 9 meters respectively).

The right planning controls need to ensure that new development contributes to creating a vibrant and active town centre, that uses space efficiently, and facilitates greater density closer to services, shops, public space and public transport"

While we still need to have some more detailed discussions with the community to set the vision for future housing growth in Shoal Bay through the review of the Port Stephens Housing Strategy, our initial analysis suggests that there is opportunity to increase building heights in a way that mitigates the visual impact.

Currently, the Breakwater Tower is the highest building in Shoal Bay and we understand that it may seem out of place compared to the rest of the area. That's why we want to use it as a reference point for the maximum building height, which is about 8 storeys, and gradually taper building heights down to the existing 2 – 3 storey height limit (refer to map on page 14).

By tapering the heights, we can balance the need for additional housing with the desire to limit the visual impact of new buildings, particularly as experienced at the street level.

These tapered buildings will appear less imposing, improve design outcomes and continue to respect the character of Shoal Bay. They will also mean that the Breakwater Tower won't stand out as much.

Robust engagement with the community will be undertaken before we make any changes to building heights in Shoal Bay.

Before we increase density however, the right infrastructure needs to be in place. Insufficient drainage infrastructure in Shoal Bay has meant that during periods of heavy rain residents in Shoal Bay experience issues related to storm water management and nuisance flooding. Along with affecting existing residents and property, this also affects the potential to build new housing. Without finding solutions for these issues, further development will only exacerbate the impacts of these problems.

Council has commissioned a Shoal Bay Drainage Study to inform investigations into higher density development opportunities. Outcomes from this study may include using existing Council land to support improvements in drainage management. If suitable drainage solutions cannot be identified, infill development may not be feasible.

Building heights

In particular, we question the use of the Breakwater Tower as a ‘reference point’ that justifies ‘... gradually tapering building heights down ...’.

We submit that many residents would agree that the Tower ‘... *seems out of place compared to the rest of the area*’. There was overwhelming community opposition to the height of the Breakwater Tower as an aspect of the original Shoal Bay Country Club development. It was approved at a time when Local Government standards and planning constraints were far less evolved than they are today, and clearly contrary to the wishes of the Shoal Bay community.

The assertion that tapering will ‘mean that the Breakwater Tower won’t stand out as much’, while self-evidently true (bad development will not stand out as much if surrounded by other bad developments!), it is not a valid justification for permitting major increases to building heights across the entire Shoal Bay village centre.

Shoal Bay derives its particular and precious character from the way it is framed by the sands of its beach and its surrounding mountains and natural landmarks. Any man-made development higher than the predominantly low-rise built form of Shoal Bay inevitably competes with these natural features and threatens to degrade the whole experience of the place.

We suggest the following approach to building heights in the centre of Shoal Bay.:

- The Breakwater Tower should be explicitly recognised as a historical anomaly – a past planning mistake which should not be used as a precedent or justification for even similar height buildings, and certainly not to justify even buildings with the same number of storeys, but greater overall height because of changed design standards.
- In the business core bounded by Shoal Bay Road, Tomaree Road, Messines Street and Government Road (mostly zoned E1 – business centre) a height limit that allows for 5 storeys should remain (this limit could be extended to the small area of R3 zoning on this block, which currently has a lower limit).
- In the adjoining R3 zoned area to the south and east of the centre, the maximum building height that allows for up to 3 storey buildings (including apartments in this zone) should remain. This would mean that there would no longer be a need for special treatment of the lots along Shoal Bay Road East, overlooking the foreshore reserve, although other design considerations would be particularly important in this prominent strip.

Housing availability and affordability

Our other major concern about the infill housing proposals related to the types of housing that will be allowed/encouraged. We refer to our recent Discussion Paper on Housing in Tomaree⁴, in which we make the case for Council to be much more pro-active about facilitating housing which will meet the need for genuinely and permanently affordable dwellings, both for sale and for rent.

We submit that this Place Plan (and others) needs to specifically address the issue of housing types and propose actions which will ensure that a fair share of any new infill development provides accommodation for low and middle income residents – not least to ensure that local children can aspire to live in the area they grew up in, and that there is housing for essential workers, including employees of tourist businesses which are the mainstay of the local Tomaree economy.

⁴ The Future for Housing on the Tomaree Peninsula, February 2024

TRRA believes that for significant infill development to be accepted by the Shoal Bay community, it cannot just be 'more of the same' high end duplexes and apartments designed and priced for affluent incomers or investors, with many such properties standing empty for much of the year.

Pre-conditions for significant development

There should be no approval for any significant scale infill development in Shoal Bay until alternative road access, adequate public transport & parking and sufficient stormwater drainage capacity have been provided. Two of these constraints are identified in the draft Plan (pp 17 and 16 respectively), with drainage expressly recognised as a potential 'blocker' of infill development⁵. We remind Council of the report it commissioned from Cardno, Geotechnical Specialists, after the super storm of 2015. Cardno recommended not to increase impervious surfaces. Also, major increases in stormwater flow from any new development, even if adequately drained, could have serious adverse effects on water quality in Shoal Bay and the wider Marine Park.

We also note the recent State Disaster Mitigation Plan⁶ identifies Port Stephens as one of 3 LGAs with highest level of coastal hazard risk, and Shoal Bay is very much in front line in this respect.

We comment further on all 3 major constraints below.

Harbourside Haven Village (p17)

Any proposal to change the height limit for any part of the Harbourside Haven site (currently 9 metres and R2 zoning) to allow for a multi-level seniors living development is bound to be controversial. Hence any such proposal should be subject to further consultation and consideration in particular of the potential threat to the site and to Shoal Bay Road from rising sea level and extreme weather events.

Better access to Shoal Bay (p17)

The consultation to date has highlighted the importance of providing alternative access from Nelson Bay to Shoal Bay and Fingal Bay. Continued reliance on Shoal Bay Road alone is unacceptable, both because a single major accident or natural disaster east of the Gowrie Avenue roundabout would completely isolate the several thousand residents living further east, (including those residing in Harbourside Haven site and the Holiday Park), and because the existing road is highly vulnerable to the likelihood of sea level rise and flooding with the increased frequency and severity of storms resulting from Climate change as well as the proximity of the marshlands to the south of Shoal Bay Road. We note that the draft Coastal Management Program to be placed on exhibition in March clearly identifies the vulnerability of this access road as a specific issue needing further risk assessment.

The draft Plan includes consideration of alternative road access to the south of the main Harbourside Haven site and Holiday Park. TRRA does not think this is a realistic solution – it would require significant resumption of land either from the Holiday Park and/or the Bernie Thomson part of Harbourside Haven, would eliminate the valuable shared path, and would impose traffic noise and fumes upon both the Holiday Park and Harbourside Haven. It is not even clear if a road in this location would be safe from potential inundation.

⁶ NSW Reconstruction Authority, February 2024 - <https://www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority/reducing-risk/state-disaster-mitigation-plan>

The draft Plan says that this proposal ‘... *isn't proposed as an alternative to the Fingal Bay bypass project...* (p17), but we submit that it cannot be considered in isolation from the bypass plans – promised multiple times by successive State Governments, but apparently stalled, with no current budget allocations. Council must insist on Transport for NSW (TfNSW) co-operating on this issue if it wishes to advance any significant infill development in Shoal Bay.

We submit that the only practical and realistic solution to the need for alternative access to Shoal Bay and Fingal Bay is the ‘Austral Street extension’ option put forward by TfNSW. Even this option has some significant environmental impacts, including separation of the wetland area South of Shoal Bay Road from the rest of the Tomaree National Park, that would require good solutions and amelioration. It would be both a better environmental option, and significantly cheaper, than the other TfNSW options for a so-called ‘Fingal Bay by-pass’ (more accurately a Shoal Bay by-pass providing access to Fingal Bay).

Tomaree Lodge (p19)

The future use of the Tomaree Lodge site will have major implications for Shoal Bay. As a member of the Tomaree Headland Heritage Group we emphasise the urgent need for State Government decisions on the site, and fully support Council’s position on this issue as set out on p.19

Traffic and parking

TRRA submits that the draft Plan, while recognising the problems of traffic management and parking, does not canvass an adequate package of solutions. The introduction of smart parking⁷ and potentially of a one-way circuit around the Shoal Bay local centre⁸ can both make a contribution. But any further housing or commercial development in Shoal Bay (and Fingal Bay) will only compound existing capacity limits at peak holiday times. Intended promotion of the enhanced Tomaree Coastal Path⁹ will inevitably add to the problem, as will any re-purposing of the Tomaree Lodge site (see above).

We believe Council needs to consider a radical new approach to visitor and traffic management for Shoal Bay and Fingal Bay. Consideration needs to be given to a number of options:

- Limitations on vehicular access – including ‘resident only’ access at peak holiday times, and/or limits on the number of vehicles that visitors can bring into the area.
- Provision of ‘park and ride’ facilities for visitors (and also residents) at suitable site(s) further west¹⁰, with regular shuttle bus services to and from Shoal Bay and Fingal Bay.
- Subject to technical feasibility and cost-benefit studies, provision of a new jetty at Tomaree Lodge and/or upgrading of the Shoal Bay jetty, to allow the introduction of regular ferry services to Shoal Bay and the Tomaree Lodge site to relieve pressure on road access.
- Further encouragement of cycling and mobility scooter use as an alternative mode of transport by the creation of an integrated network of safe dedicated cycle or shared paths.¹¹

⁷ Recognised as another ‘Transformational project’ on p 18

⁸ Smart Parking Infrastructure Project no 6 on p 25 – but only scheduled for 2030

⁹ Recognised as another ‘Transformational project’ on p 17

¹⁰ Unnumbered Smart Parking Infrastructure project on p 25 – but only scheduled for 2034 with ‘location unknown’ – we submit that Council need to bite the bullet on identifying potential park and ride sites much sooner.

¹¹ Already recognised in two other ‘Transformational projects’ on p18

- Exploration of more radical alternatives such as shared use 'golf buggies', autonomous driverless electric buses or similar vehicles.

The 'self-contained' character of Shoal Bay and Fingal Bay, geographically separated from the rest of the Tomaree Peninsula and seeking to be a viable place for both residents and tourists to coexist, makes it a potentially ideal location for a 'demonstration project' which could showcase new and imaginative transport technologies and approaches.

Keeping Shoal Bay green

We are disappointed that the draft Plan does not have more to say about maintaining and enhancing tree cover in Shoal Bay, which the consultation showed is highly valued. Tree cover has multiple benefits including shade and cooling as well as being a carbon sink. The references to planting on p31 appear to assume that this will be left to land care volunteers. We submit that planting in recreational reserves and of street trees needs to be included in a public domain plan, as it is in the Nelson Bay Plan, with a specific planting program to be included in the list of projects to be funded from Smart Parking revenue.

If there is to be significant infill development, this will inevitably lead to the loss of mature trees currently located on low density residential blocks. We submit that planning controls need to ensure retention of existing mature trees wherever possible (for instance by negotiating options for site layouts with applicants for DAs), and to require that infill development has sufficient provision for deep soil planting of replacement trees. We note that Council proposes a new Shoal Bay Chapter in the Development Control Plan (DCP)¹², but we are also aware that DCPs provide guidance only and DCP controls are not binding. We submit that new binding controls relating to tree clearing and landscaping (as well as other design considerations such as setbacks) are required.

The specific project relating to the car park at the corner of Shoal Bay Road and Government Road¹³ should ensure that as many as possible of the mature trees that give the corner its character and provide much needed shade are retained, even if this requires some adjustment of an 'efficient' smart parking layout.

Conclusion

The draft Plan has some good components, but in important respects is fundamentally inconsistent with clearly expressed community wishes.

TRRA is concerned that the draft Plan seems to focus upon two major initiatives:

- Introduction of smart parking both as a way of better managing parking and to raise revenue for future public works.
- Changing planning controls for some parts of Shoal Bay to facilitate higher density infill development, including significant increases in building height limits.

We submit that the first of these, while welcome, goes only a little way towards addressing the major problems of drainage and access, traffic and parking.

¹² Proposed Action 15, p41

¹³ Smart Parking Infrastructure projects 1&2, p25

The second initiative, in our view, would be contrary to 5 of the 10 'Character Principles' in the Plan, and would not be acceptable in its current form to the community.

We call on Council to revise the Plan to first provide serious consideration of definitive solutions to access, traffic and parking issues and then to revise its proposed infill development proposal so as to provide for only modest new development within the obvious major constraints. This could be achieved with an imaginative mix of housing based upon a variety of housing types within existing height limits. This might be provided for example by pockets of terrace style development or, in the R3 zone, with up to 3 storey apartments, interspersed with small tree shaded pocket parks, and with adequate street trees, so as to preserve both the visual amenity and the valued village character of Shoal Bay.

We submit that only in this way will government obtain a social licence from the community to significantly increase the housing capacity of Shoal Bay.

Council also needs to clearly identify the extent to which stormwater drainage capacity limits implementation of any significant new development in Shoal Bay.

Given the current critical tourist time traffic chaos in and around Shoal Bay, provision of adequate transport infrastructure, including public transport, traffic and car management and well maintained roads must *precede* any further development not lag behind.

Higher density infill development must also be implemented in a way that ensures maintenance of sufficient tree cover, green space, permeable surfaces and deep soil planting, both to maintain the local character and to ensure continued 'liveability' in a warming climate.

We have no objection to this submission being made public, in full and unredacted.

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