CHAPTER 2: GENERAL AND ENVIRONMENTAL CONSIDERATIONS
Chapter 2: General and Environmental Considerations

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<tr>
<th>Version Number</th>
<th>Date Adopted by Council</th>
<th>Commencement Date</th>
<th>Amendment Type</th>
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<tr>
<td>1</td>
<td>14 October 2014</td>
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<td>2</td>
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<td>Amendment</td>
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Table 4: CPTED - planning instruments, policies and guidelines for consideration
1 Purpose

The purpose of this Chapter is to outline a number of general and environmental matters for you to consider when preparing your development application. These matters include:

- Potentially contaminated land;
- European heritage;
- Aboriginal cultural heritage; and
- Crime Prevention Through Environmental Design.

2 Potentially contaminated land

Contaminated land can have major economic, legal and planning implications for the community. Contamination can limit land use potential or increase costs for developers and councils. Their investigation and clean-up is important to protect human health and the environment.

Although contaminated sites may occur anywhere, they are typically clustered in areas which have been used for heavy industry, mining, chemically intensive agriculture and the storage of chemicals, petroleum based products or waste products. They may also include residential properties, for example, from flaking of lead-based paints, use of contaminated fill, or excessive pesticide use.

2.1 Application

This Section applies to all land within the City of Shoalhaven.

2.2 Objectives

The objectives are to:

i. Consider the likelihood of contamination upfront in the planning and development process.

ii. Ensure that planning decision-making takes into account all relevant information relating to the likelihood of site contamination.

iii. Ensure that any proposed development on an identified contaminated site will not result in any unacceptable levels of risk to human health or the environment.

iv. Avoid inappropriate restrictions on the development of known or potential contaminated sites.

v. Ensure site investigations and remediation work is carried out in a satisfactory manner and where appropriate is subject to independent validation and site audit certification by contaminated site remediation experts.

vi. Ensure Council exercises its functions relating to the assessment of known or potentially contaminated sites with a reasonable standard of care and due diligence.

2.3 Advisory information

Council must give consideration to a range of planning instruments, policies and guidelines when assessing rezoning and development applications over land that is potential
contaminated. These documents are outlined in Table 1 below for you to consider when preparing your application. Council’s Contaminated Lands Policy (POL12/326) clearly explains the initial investigation process and subsequent remediation action (if required) for your development. In the first instance you should review Appendix 1 of this Policy which contains a minimal initial evaluation checklist.

Table 1: Potentially contaminated land - planning instruments, policies and guidelines for consideration

<table>
<thead>
<tr>
<th>Council Policies &amp; Guidelines</th>
<th>POL12/326 Contaminated Land Policy</th>
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<tr>
<td></td>
<td>Guidelines for the Vertical Mixing of Soil on Former Broad-acre Agricultural Land (January 1995)</td>
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<td></td>
<td>Sampling Design Guidelines (September 1995)</td>
</tr>
<tr>
<td></td>
<td>Guidelines for Consultants Reporting on Contaminated Sites (reprinted August 2011)</td>
</tr>
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<td></td>
<td>Guidelines for Assessing Former Orchards and Market Gardens (June 2005)</td>
</tr>
<tr>
<td></td>
<td>Guidelines for the NSW Site Auditor Scheme, 2nd edition (April 2006)</td>
</tr>
<tr>
<td></td>
<td>Guidelines for the Assessment and Management of Groundwater Contamination (March 2007)</td>
</tr>
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<td></td>
<td>Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997 (June 2009)</td>
</tr>
<tr>
<td>Legislation</td>
<td>State Environmental Planning Policy No. 55 – Remediation of Land</td>
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<td></td>
<td>Contaminated Land Management Act 1997</td>
</tr>
<tr>
<td></td>
<td>Environmental Planning &amp; Assessment Act 1979</td>
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</tbody>
</table>

3 European heritage

There are a number of heritage items and heritage conservation areas identified throughout the Shoalhaven. These buildings, works, relics, places and conservation areas hold heritage significance because of their associations, their history, or their intrinsic qualities. Any new development is to maintain the heritage significance that already exists and conservation is encouraged.

3.1 Application

This Section applies to heritage items and heritage conservation areas identified in the Shoalhaven Local Environmental Plan 2014.
3.2 Objectives

The objectives are to:

i. to ensure the significance of heritage items is identified and retained;

ii. to ensure the special streetscape, pastoral or natural character of the conservation areas is maintained:

iii. to ensure alterations and extensions to existing buildings respect those buildings and do not compromise the significance and character of the individual items or of the conservation areas;

iv. to ensure new development respects its context and is sympathetic in terms of form, scale, bulk, fabric, colours and textures and does not mimic or adversely affect the significance of heritage items and conservation areas and their settings;

v. to encourage a high quality of design for any new development in achieving compatibility with the heritage significance of individual heritage items and conservation areas;

vi. To provide guidelines for assessment of demolition applications.

3.3 Advisory information

3.3.1 Assessment considerations

Note: Clause 5.10 of Shoalhaven Local Environmental Plan 2014 outlines the assessment and consent requirements for heritage items and heritage conservation areas, including development in the vicinity of these items/areas.

Council must give consideration to a range of matters when assessing an application in relation to any heritage items or within any heritage conservation area including natural and pastoral landscapes. Council will make an assessment of:

- the heritage significance of the item as a heritage item or as a component of a heritage conservation area of the City of Shoalhaven (urban, pastoral or natural); and
- the impact the proposed development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the heritage item and its site or the heritage conservation area (urban, pastoral or natural); and
- the impact the proposed development will have on any stylistic, horticultural or archaeological features of the heritage item or its site or the heritage conservation area (urban, pastoral or natural); and
- the measures proposed to conserve the heritage significance of the item and its setting or the conservation area; and
- The extent to which the carrying out of the proposed development would affect the form of a historic subdivision.

When assessing an application to alter a building that is a heritage item or is a component of a heritage conservation area, including natural and pastoral landscapes, Council will assess:
3.3.2 Demolition

Council will generally not support the demolition of heritage items or significant buildings in conservation areas.

All development applications for the total demolition of a heritage item or a property within a conservation area are to be supported by a heritage impact statement (see Section 3.3.5) justifying the proposed demolition and are to include:

- a detailed analysis of the cultural heritage significance of the item, and/or its contribution to a conservation area; and
- a report from a structural engineer specialising in work on heritage items detailing the structural condition of the item (if you are proposing that it is beyond repair); and
- evidence from a structural engineer specialising in work on heritage items that stabilisation and/or the retention of the building is unreasonable; and
- an assessment showing that adoptive reuse of the building is not feasible; and
- a statement showing the description and location of other representative examples of the item in the locality; and
- Other consultants’ reports where relevant eg archaeologist, historian.

Note: If an application for demolition of a heritage item is made, the preparation of a full archival and photographic record of the existing buildings and grounds (in accordance with the NSW Heritage Manual Guidelines) may be required to be submitted with the application.

3.3.3 Development in the Vicinity of a Heritage Item

Where development is to occur within the vicinity of a heritage item Council must make an assessment of the effect the carrying out of that development would have on the significance of the heritage item, its site and its setting. Such developments will need to provide a heritage impact statement (see Section 3.3.5) addressing the effect of the development.

Note: Most developments that adjoin or are close to a heritage item or heritage conservation area will require consent and you will, therefore, need to provide a heritage impact statement. If in doubt, discuss your proposal with Council’s Development Services Section.
3.3.4 Subdivision

Subdivision applications for land containing heritage items or which are in the vicinity of should be accompanied by adequate plans showing existing contours or levels, buildings, works, trees, and site features (e.g. dams), future building envelopes and the siting and setbacks of any proposed buildings. A heritage impact statement (see Section 3.3.5) should also be provided and demonstrate to Council’s satisfaction:

- that the proposed curtilage allowed around the heritage item is appropriate; and
- That the subdivision will not compromise the significance of the heritage item.

When assessing subdivisions applications, Council will consider:

- the allotment and building spacing (e.g. frontage widths, side and front boundary setbacks) that maintain the rhythm of buildings in the streetscape or conservation areas;
- The potential for vistas and views of heritage items, especially the principal elevations of buildings, to be interrupted or obscured;
- The landscape quality of the streetscape, pastoral or natural landscape in heritage conservation areas, the setting of the heritage item and a satisfactory curtilage, including important landscape and garden elements;
- The subdivision will not require demolition of existing building stock, which contribute to the heritage significance of the item, rearranged vehicular access or car parking (on or off the site of the proposal), which would adversely affect the streetscape in heritage conservation areas or the significance of any heritage item;
- That the subdivision patterns prevailing in the area have been considered.

3.3.5 Heritage Impact Statements

The key objective of your application is to provide clear information in drawings, text and photographs which will explain your intentions in the simplest way. Council is required to assess the impact of the proposed works on the heritage significance of any heritage item or conservation area. This is best addressed in a Heritage Impact Statement as part of your development application.

The Heritage Impact Statement should be prepared in accordance with NSW Heritage Manual “Statements of Heritage Impact” and “Assessing Heritage Significance Guidelines” and the principles of The Burra Charter. It should include a Statement of Significance which is a concise summary of the cultural significance of a place and includes an assessment of aesthetic, historic, scenic and cultural values and comparative criteria. The Heritage Impact Statement should address:

- The history and development of the place.
- The fabric of the place in terms of its original configuration and later alterations.
- The cultural significance of the place.
- A description of the proposed works.
- An assessment of the impact of the proposed works on the cultural significance of the item or place.
Note: The assessment of significance should be carried out using the seven criteria developed by the Heritage Branch. An item may not meet all of the criteria to be assessed as being of local or state significance and this should be stated in the assessment.

For larger or more complex development, or for development involving items of state significance, Council may require the preparation of a Conservation Management Plan.

Council's heritage advisor can advise on the type of supporting document required for a development.

3.3.6 Planning instruments, policies and guidelines for consideration

Table 2: European Heritage - planning instruments, policies and guidelines for consideration

<table>
<thead>
<tr>
<th>Council Policies &amp; Guidelines</th>
<th>Shoalhaven Heritage Study</th>
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<tbody>
<tr>
<td></td>
<td>The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013</td>
</tr>
<tr>
<td>Legislation</td>
<td>Shoalhaven Local Environmental Plan 2014</td>
</tr>
<tr>
<td></td>
<td>Heritage Act 1977</td>
</tr>
</tbody>
</table>

4 Aboriginal cultural heritage

Aboriginal cultural heritage is legally protected in NSW. There are many sites of special significance to Aboriginal communities in the Shoalhaven. These sites should be preserved for all people, as a part of our heritage.

The National Parks and Wildlife Act 1974 (NPW Act), administered by the NSW Office of Environment and Heritage (OEH) is the primary legislation for managing and conserving Aboriginal objects or places. It is your responsibility to seek the necessary approval under the NPW Act, separate to Council’s Development Assessment process.

OEH maintains a register of notified Aboriginal objects and declared Aboriginal places in NSW - the Aboriginal Heritage Information Management System (AHIMS). You can search AHIMS to discover if an Aboriginal object has been recorded or an Aboriginal place declared on a parcel of land.

4.1 Application

This Section applies to all land within the City of Shoalhaven.
4.2 Objectives
The objectives are to:

i. Consider the effect of the proposal on the heritage significance of any Aboriginal object or site known or reasonably likely to be located at the site.

**Note:** Clause 5.10(8) of Shoalhaven Local Environmental Plan 2014 outlines the consent requirements for carrying out development in an Aboriginal place of heritage significance.

4.3 Assessment considerations
Aboriginal sites may exist on a parcel of land in the Shoalhaven even though they have not been recorded in AHIMS. For this reason, you should exercise due diligence under the NPW Act and you should consider submitting an aboriginal heritage assessment if your application is affected by any of the following:

- Recorded Aboriginal objects or places on AHIMS; or
- within 200m of a waterbody; or
- within a sand dune system; or
- on a ridge top, ridge line or headland; or
- within 200m below or above a cliff face; or
- within 20m of or in a cave, rock shelter, or a cave mouth.

**Note:** You should also consider contacting the local Aboriginal Land Council for additional information relating to Aboriginal cultural heritage at your site.

4.4 Planning instruments, policies and guidelines for consideration

Table 3: Aboriginal Heritage - planning instruments, policies and guidelines for consideration

<table>
<thead>
<tr>
<th>Council Policies &amp; Guidelines</th>
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<tr>
<td>External Policies &amp; Guidelines</td>
<td>NSW Atlas of Aboriginal Places</td>
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<tr>
<td></td>
<td>Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW</td>
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<tr>
<td></td>
<td>Due diligence code of practice for protection of Aboriginal objects in NSW</td>
</tr>
<tr>
<td>Legislation</td>
<td>Shoalhaven Local Environmental Plan 2014</td>
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<td></td>
<td>National Parks and Wildlife Act 1974</td>
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Crime Prevention Through Environmental Design

Crime Prevention Through Environmental Design (CPTED) incorporates basic design principles which contribute to the safety and security to users and the community and seek to minimise crime risk. There are four broad principles of CPTED: surveillance, access control, territorial re-enforcement and space management.

| Surveillance | People feel safe in areas when they can see and interact with others. This principle can be integrated into the design of a building or place through passive, technical or formal surveillance opportunities. Passive surveillance includes the orientation of buildings, use of windows and entrances, street design, landscaping, building layout, permeable fencing and natural lighting. Technical surveillance includes CCTV, mirrored building panels and lighting. Formal surveillance includes on-site supervisors (i.e. security guards). |
| Access Control | Access control refers to the use of physical, human or psychological barriers to discourage unauthorised access to a building or place. Clear distinctions between ‘public’ and ‘private’ area makes it clear where people can and cannot go and makes it difficult for criminals to target potential properties or victims. Access control can be integrated into the design of a building or place through garden strips, ground markings, fences, walls, boom-gates, and target hardening measures such as locks and alarms. |
| Territorial Re-enforcement | Territorial re-enforcement relates to the community ownership of a public space. Places that people have a connection or affinity to are cared for and are likely to be used, enjoyed and revisited. Territorial re-enforcement uses actual and symbolic markers and spatial legibility to ‘connect’ people with space, and to encourage communal responsibility for public areas and facilities. It is also used to convey to people where they should or should not be and what activities are appropriate. |
| Space Management | Space management involves the formal supervision, control and care of the development, e.g. ongoing maintenance / general cleanliness, graffiti abatement, and renewal of decayed physical elements. This principle encourages generation and maintenance of activity, opportunity for surveillance and natural community control. |

Crime prevention in relation to likely impacts of a development and the public interest is an assessment consideration under Section 79C of the Environmental Planning and Assessment Act 1979 (Act). Applications will need to consider CPTED and some may be referred to the NSW Police Local Area Command for assessment and comment.

5.1 Application

This Section applies to all land within the City of Shoalhaven.
5.2 Objectives
The objectives are to:
   i. enhance and improve community safety;
   ii. encourage a built environment that encourages a sense of community safety;
   iii. address community safety and crime prevention;
   iv. minimise crime risk in the City of Shoalhaven; and
   v. prevent the opportunity for crime and antisocial behaviour.

5.3 Assessment considerations
Council is required by legislation to consider crime prevention when determining all applications. Where issues of crime prevention are specifically relevant to a development, an application should address how the development incorporates principles of CPTED.

Each application will be considered on its individual merits, having regard to Section 79C of the Act, relevant Shoalhaven Local Environmental Plans, and other chapters in this DCP. Council will specifically consider how the principles of CPTED have been addressed in the Statement of Environmental Effects, and where relevant, comments received from the NSW Police Local Area Command.

Where a development is likely to create a risk or increase risk of crime, a formal crime risk assessment may be required as part of a Development Application. This may include the following development types:
- a new, extension or refurbishment of a shopping centre or transport interchange;
- residential flat buildings or medium density developments containing 20 or more dwellings;
- mixed use developments containing 20 or more dwellings;
- clubs or hotels;
- large sports or community facilities;
- service station or convenience stores;
- hospitals;
- miscellaneous developments (including sex services premises, restricted premises, twenty-four hour take away food and drink premises); and
- any other development considered on merit to create or increase crime risk.

5.4 Planning instruments, policies and guidelines for consideration

<table>
<thead>
<tr>
<th>Council Policies &amp; Guidelines</th>
<th>Nil</th>
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<td>Crime Prevention and the Assessment of Development Applications</td>
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<td>AS/NZS 4360:1999 - Risk Management - Principles and Guidelines</td>
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