

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Shoalhaven
<b>PPA</b>	Shoalhaven City Council
<b>NAME</b>	Amend Shoalhaven LEP 2014 to include the land use term 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village zones.
<b>NUMBER</b>	PP_2018_SHOAL_001_00
<b>LEP TO BE AMENDED</b>	Shoalhaven Local Environment Plan 2014
<b>ADDRESS</b>	The planning proposal applies to all land in the Shoalhaven LGA that is zoned R2 Low Density Residential or RU5 Village under Shoalhaven LEP 2014
<b>DESCRIPTION</b>	N/a – applies to LGA
<b>RECEIVED</b>	29 January 2018 (but not registered until 7 March due to an administrative oversight)
<b>FILE NO.</b>	IRF18/1324
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

#### INTRODUCTION

The planning proposal seeks to amend Shoalhaven Local Environment Plan 2014 to include the land use term 'semi-detached dwelling' as permitted with consent in the land use tables for both the R2 Low Density Residential zone and the RU5 Village zone.

Dual occupancy (attached) is currently identified as permissible with consent in the land use tables for the R2 Low Density Residential and RU5 Village zones. Shoalhaven LEP 2014 enables subdivision of a 'Dual occupancy (attached)' which results in a land use best defined as a 'semi-detached dwelling'. However, 'semi-detached dwelling' is currently identified as a prohibited land use in the land use tables for both the R2 Low Density Residential and RU5 Village zones.

The proposal intends to resolve the current inconsistency regarding semi-detached dwellings in the R2 Low Density Residential and RU5 Village zones under Shoalhaven LEP 2014.

Council submitted the proposal on 29 January 2018, however due to an administrative error it was not registered until 7 March 2018.

## **Site description**

The planning proposal applies to all land in the Shoalhaven Local Government Area that is zoned R2 Low Density Residential or RU5 Village under Shoalhaven LEP 2014.

## **Summary of recommendation**

It is recommended that the planning proposal should proceed as submitted, subject to conditions.

## **PROPOSAL**

---

### **Objectives or intended outcomes**

The intended outcome of the planning proposal is for semi-detached dwellings to be permissible within R2 Low Density Residential and RU5 Village zones under Shoalhaven LEP 2014. It is considered that the objectives and intended outcomes are adequate.

### **Explanation of provisions**

The explanation of provisions are clearly outlined in Council's planning proposal.

The intent of this amendment to Shoalhaven LEP 2014 is to recognise that subdivision of a Dual occupancy (attached) will create a semi-detached dwelling. Semi-detached dwelling is defined as '*a dwelling that is on its own lot of land and is attached to only one other dwelling*' under Shoalhaven LEP 2014.

To provide clarity and consistency with regard to the permissibility of semi-detached dwellings within R2 Low Density Residential and RU5 Village zones, the following amendments to Shoalhaven LEP 2014 are required:

1. R2 Low Density Residential Land Use Table, Item 3. insert term 'semi-detached dwelling' as permissible with consent
2. RU5 Village Land Use Table, Item 3. Insert term 'semi-detached dwelling' as permissible with consent.

It is considered that the explanation of provisions provided is adequate.

### **Mapping**

The proposal does not require any amendments to Shoalhaven LEP 2014 maps. The description provided in the planning proposal is sufficient for the purposes of public consultation.

## **NEED FOR THE PLANNING PROPOSAL**

---

The planning proposal is not the result of a strategic study or report. It is considered a housekeeping matter that ensures the intended development outcomes relating to semi-detached dwellings within the Shoalhaven Local Environment Plan 2014 are consistent and provided for.

The planning proposal is the best means of achieving the inclusion of 'semi-detached dwelling' within R2 Low Density Residential and RU5 Village zones under Shoalhaven LEP 2014.

It is noted that Kiama Municipal Council received a Gateway determination in June 2017 to enable a similar LEP matter to be resolved, and that this planning proposal is consistent with the intent and policy direction of PP\_2017\_KIAMA\_003\_00.

## **STRATEGIC ASSESSMENT**

---

### **Regional - Illawarra Shoalhaven Regional Plan (ISRP)**

The ISRP provides guidance with regard to housing type and choice for the region and applies to the planning proposal. Council has stated that the planning proposal is consistent with the ISRP, particularly with regard to Direction 2.1:

- Plan for a mix of housing that suits the projected growth, changing demographics and market demand particular to their area.
- Increase capacity for housing where appropriate to promote development opportunities.

The proposed amendment to the Shoalhaven LEP 2014 to include semi-detached dwellings within R2 Low Density Residential and RU5 Village zones will broaden the range of housing options across the LGA and is considered to be consistent with the ISRP.

### **Local**

Shoalhaven City Council have prepared a number of strategies that encourage the provision of increased housing type and density across the LGA:

1. Shoalhaven City Council's Community Strategic Plan 2013-2017 identifies the following relevant actions:

- Theme 2. Sustainable, liveable environments
  - 2.2 Plan and manage appropriate and sustainable development
  - 2.3 Protect and showcase the natural environment
- Theme 3. Prosperous Communities
  - 3.1 Maintain and grow a robust economy with vibrant towns and villages

2. Council's Growth Management Strategy 2012

3. Nowra Bomaderry Structure Plan 2006

The planning proposal is consistent with the above mentioned local strategies. The proposal may also positively contribute towards delivering outcomes identified in Council's Affordable Housing Strategy, including the need for an increase in the number of smaller, well located dwellings that are at least 'lower cost' if not affordable, and are near existing transport and services.

### **Section 9.1 Ministerial Directions**

As the planning proposal applies to all land zoned R2 Low Density Residential and RU5 Village within Shoalhaven a number of Ministerial Directions apply. The Directions that are most relevant to the planning proposal are discussed in further detail below:

## 2.2 Coastal Protection

Ministerial Direction 2.2 Coastal Protection applies to significant areas of land within the Shoalhaven region. Council has stated that the planning proposal is not inconsistent with Ministerial Direction 2.2 as the intended outcome of making semi-detached dwellings permissible on land zoned R2 Low Density Residential and RU5 Village is consistent with the NSW Coast Policy: A Sustainable Future for the NSW Coast, the NSW Coastline Management Manual 1990 and Coastal Design Guidelines 2003.

**Comment:** It is considered that the planning proposal will not restrict or alter access, amenity, scenic quality or have any additional impact on the land identified for coastal protection and is consistent with Ministerial Direction 2.2 Coastal Protection.

## 3.1 Residential Zones

Ministerial Direction 3.1 Residential Zones applies as the planning proposal affects land within an existing residential zone. Council has advised that the proposed inclusion of 'semi-detached dwelling' as permissible with consent within existing R2 Low Density Residential zone is consistent with the Direction.

**Comment:** It is considered that the proposal will broaden the choice of building types and locations available, and make efficient use of existing infrastructure and services, and is therefore consistent with Ministerial Direction 3.1 Residential Zones.

## 3.4 Integrating Land Use and Transport

Ministerial Direction 3.4 Integrating Land Use and Transport applies as the planning proposal alters a zone relating to urban land; R2 Low Density Residential. Council has stated that the proposed amendment to Shoalhaven LEP 2014 to include 'semi-detached dwellings' on land zoned R2 Low Density Residential and RU5 Village is consistent with the Ministerial Direction as it is in keeping with the principles and objectives 'Improving Transport Choice – Guidelines for planning and development' and 'The Right Place for Business and Services – Planning Policy'.

**Comment:** Land currently zoned R2 Low Density Residential permits attached dual occupancy and subdivision. Any potential traffic impacts would be considered as part of the development assessment process. The planning proposal is consistent with Ministerial Direction 3.4 Integrating Land Use and Transport.

## 4.1 Acid Sulphate Soils

Land within the Shoalhaven LGA is mapped as being affected by acid sulphate soils. Council has advised that the proposed amendment to Shoalhaven LEP 2014 will not intensify the land use beyond what is already permissible, not increase the potential impact on surface groundwater quality / quantity, ecosystems or biodiversity.

**Comment:** It is considered that the planning proposal is consistent with Ministerial Direction 4.1 Acid Sulphate Soils.

## 4.4 Planning for Bushfire Protection

Land within the R2 Low Density Residential and RU5 Village zones is identified as bushfire prone. Council has stated that where relevant, future development will be assessed against Planning for Bushfire Protection during the development assessment process.

**Comment:** The proposal is considered to be consistent with Ministerial Direction 4.4, subject to the required consultation under section 3.34 (2)(d) of the Act with the Commissioner of the Rural Fire Service.

### 5.2 Sydney Drinking Water Catchments

Areas of R2 Low Density Residential and RU5 Village zoned land located in Kangaroo Valley fall within the Sydney drinking water catchment area. Council has advised that the planning proposal will not adversely impact on water quality in the catchment area, nor disturb land and water capability in this area.

**Comment:** The proposal is considered consistent with Ministerial Direction 5.2, subject to the required consultation under section 3.34 (2)(d) of the Act with The Sydney Catchment Authority.

### 5.10 Implementation of Regional Plans

As discussed earlier in this report, the planning proposal is consistent with the applicable Illawarra-Shoalhaven Regional Plan and with the Direction.

**Recommendation:** The Secretary's delegate can be satisfied that the Ministerial Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulphate Soils, 4.4 Planning for Bushfire Protection, 5.2 Sydney Drinking Water Catchments and 5.10 Implementation of Regional Plans apply and the planning proposal is consistent with these directions subject to agency consultation required under Directions 4.4 and 5.2.

### **State environmental planning policies**

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 applies. The planning proposal states that it is consistent with the SEPP and outcomes of the Strategic Land and Capability Assessment (Sydney Catchment Authority) and it will have neutral effect on water quality and provides for development that is compatible with providing healthy water catchments.

**Comment:** It is considered that the proposal is consistent with SEPP (Sydney Drinking Water Catchment) 2011. Any future development will require full assessment by Council, inclusive of the SEPP and its requirements.

## **SITE-SPECIFIC ASSESSMENT**

---

### **Social**

The planning proposal can provide for increased housing type and density, which may generate a positive impact on regional housing choice and affordability. Housing affordability remains a significant issue for the Shoalhaven region as outlined in Council's Affordable Housing Strategy 2017.

### **Environmental**

The planning proposal will not generate adverse impacts on critical habitat, threatened species or ecological communities or their habitats. Any future use of land will consider environmental impacts as part of the development assessment process.

## **Economic**

The provision of additional housing within the Shoalhaven Region at potentially a lower cost than a typical detached dwelling is expected to be of a beneficial economic impact to the region.

## **CONSULTATION**

---

### **Community**

Council proposes to exhibit the planning proposal for 14 days as it is considered to be of low impact in nature. Public notification of the exhibition will include local newspaper notifications, notice on Council's website and hard copies will be available at Council's administration buildings.

It is considered that the proposed community consultation arrangements for the planning proposal are appropriate.

### **Agencies**

It is recommended that consultation is required with the NSW Rural Fire Service and Sydney Catchment Authority under section 3.42(2)(d) of the Environmental Planning and Assessment Act and to comply with the requirements of Ministerial Directions 4.4 Planning for Bushfire Prone Land and 5.2 Sydney Drinking Water.

## **TIME FRAME**

---

Council has sought a five month timeframe to finalise and notify the plan. As the plan relates to the entire LGA and there may be a high level of interest in the proposal during the exhibition period, a 12 month timeframe is considered to be more appropriate address the risks associated with potential delays.

## **LOCAL PLAN-MAKING AUTHORITY**

---

Council is seeking delegation to make the plan and this is supported as the proposed amendment to Shoalhaven LEP 2014 is minor in nature, consistent with the strategic planning for the region and will not require the approval of the Governor.

## **CONCLUSION**

---

The planning proposal provides for consistency with regard to 'semi-detached dwellings' under Shoalhaven LEP 2014 and is unlikely to generate adverse impacts within the R2 Low Density Residential and R5 Rural Village Zones.

The planning proposal is considered adequate for a Gateway determination with conditions.

## RECOMMENDATION

---

It is recommended that the delegate of the Secretary:

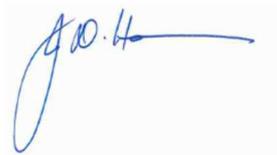
1. As delegate of the Minister of Planning, determines under section 3.34(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act), that an amendment to Shoalhaven Local Environment Plan 2014 to include the land use term 'semi-detached dwelling' as permitted with consent in the land use tables for the R2 Low Density Residential and the RU5 Village Zones should proceed, subject to the following conditions:
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authorities:
  - o NSW Rural Fire Service
  - o Sydney Catchment Authority
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.

*Graham Towers*

21/3/18

**Graham Towers**

**Team Leader, Southern Region**



**16.04.2018**  
**Jeffrey Horn**

**Acting Director Regions,  
Southern  
Planning Services**

Contact Officer: Karen Kirk-Torresan  
Senior Planning Officer, Southern  
Phone: 4224 9450