



PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Shoalhaven Local Environmental Plan 2014 (Amendment No 6)

Your ref: Marie-Louise Foley
Our ref: AE e2015-101.d10

In my opinion the attached draft environmental planning instrument may legally be made.

When the environmental planning instrument is made, a map cover sheet that lists the final form of the maps adopted by the instrument should be signed by the person making the instrument.



(D COLAGIURI)
Parliamentary Counsel

6 November 2015



New South Wales

Shoalhaven Local Environmental Plan 2014 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979.

Gordon Cleverly, Strategic Planning Manager

As delegate for Minister for Planning

Shoalhaven City Council

Shoalhaven Local Environmental Plan 2014 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Shoalhaven Local Environmental Plan 2014 (Amendment No 6)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to the land to which *Shoalhaven Local Environmental Plan 2014* applies.

4 Maps

The maps adopted by *Shoalhaven Local Environmental Plan 2014* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

Schedule 1 Amendment of Shoalhaven Local Environmental Plan 2014

[1] Land Use Table

Insert "Shop top housing;" in alphabetical order in item 3 of the matter relating to Zone B3 Commercial Core.

[2] Clause 4.1E

Insert after clause 4.1D:

4.1E Minimum lot size for certain split zone lots

- (1) The objectives of this clause are as follows:
 - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1 or 4.1A,
 - (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.
- (2) This clause applies to each lot (an *original lot*) that contains:
 - (a) land in Zone RU4 Primary Production Small Lots, Zone RU5 Village, Zone E4 Environmental Living or a residential, business, industrial, special purpose or recreation zone (an *urban zone*), and
 - (b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation or Zone E3 Environmental Management.
- (3) Despite clauses 4.1 and 4.1A, development consent may be granted to subdivide an original lot to create other lots (the *resulting lots*) if:
 - (a) in relation to an original lot containing land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, one of the resulting lots will contain:
 - (i) land in an urban zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
 - (ii) all of the land in Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and
 - (b) in relation to an original lot containing less than 36 hectares of land in Zone RU1 Primary Production or Zone RU2 Rural Landscape but no land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, one of the resulting lots will contain:
 - (i) land in an urban zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
 - (ii) all of the land in Zone RU1 Primary Production or Zone RU2 Rural Landscape that was in the original lot, and
 - (c) in relation to an original lot containing land in Zone E2 Environmental Conservation or Zone E3 Environmental Management and less than 36 hectares of land in Zone RU1 Primary Production or Zone RU2 Rural Landscape, one of the resulting lots will contain:
 - (i) land in an urban zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and

- (ii) all of the land in Zone E2 Environmental Conservation or Zone E3 Environmental Management and Zone RU1 Primary Production or Zone RU2 Rural Landscape that was in the original lot, and
- (d) all other resulting lots will contain:
 - (i) land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, or
 - (ii) land in Zone RU1 Primary Production or Zone RU2 Rural Landscape that has an area of at least 36 hectares.
- (4) Despite subclause (3), development consent must not be granted to the subdivision of an original lot that contains flood prone land unless:
 - (a) one of the resulting lots will contain:
 - (i) land in an urban zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
 - (ii) all of the flood prone land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and
 - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.
- (5) A resulting lot referred to in subclause (3) or (4) must not be subdivided under this clause.
- (6) A dwelling cannot be erected on the part of a resulting lot referred to in subclause (3) (a) (ii), (b) (ii) or (c) (ii).
- (7) In this clause, a resulting lot contains land in an urban zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
 - (a) the resulting lot contains an area of land in an urban zone that is appropriate for the erection of a dwelling house, and
 - (b) the resulting lot has an area that is not less than the minimum size shown on the Lot Size Map in relation to the urban zone.
- (8) In this clause, *flood prone land* means land that is identified as “Flood Planning Area” on the Flood Planning Area Map.

[3] Clause 4.2D Erection of dwelling houses on land in certain rural, residential and environment protection zones

Insert after clause 4.2D (3) (c):

- (ca) is a lot created under clause 4.1E (3) (d) (ii), or

[4] Clause 4.6 Exceptions to development standards

Insert after clause 4.6 (8) (b):

- (ba) clause 4.1E, to the extent that it applies to land in a rural or environment protection zone,

