

## **Attachment A: Development Committee Report and Resolution**

**RESOLVED** (Clr Findley / Clr Gartner)

MIN19.289

That Council:

1. Prepare and submit a revised PP to seek a revised Gateway determination for the Warrah Road PP that:
  - a. Reflects the revised zone and lot size maps provided in this report
  - b. Includes provisions relating to the subdivision of the residual environmental and rural land into no more than four allotments
2. Apply to the NSW Office of Environment and Heritage to biodiversity certify the PP.
3. Not commence the requirements under Part 6 of the LEP to actually release this land for urban development until after BOTH the duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.
4. Place the PP and biodiversity certification application on public exhibition, subject to the receipt of a satisfactory revised Gateway determination.
5. Advise the proponent, affected land owners and previous submitters of this resolution.
6. Consider adding the review of the southern component of the Crams Road Urban Release Area as a new project to the Strategic Planning Works Program that is developed for 2019/2020, with a further report back from the General Manager.

FOR: Clr Findley, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Watson, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED

## DE19.33 Update - Planning Proposal - Warrah Road, Bangalee

**HPERM Ref:** D19/39829

**Group:** Planning Environment & Development Group  
**Section:** Strategic Planning

**Attachments:**

1. Traffic Assessment Report (under separate cover)
2. Proponent's Bushfire Assessment Report (under separate cover)
3. Proponent's request to biodiversity certify the Warrah Road PP
4. Aboriginal Cultural Heritage Assessment (Confidential - under separate cover)

### Purpose / Summary

Update Council on the Planning Proposal (PP) covering land at Warrah Road, Bangalee, and obtain approval to proceed to publicly exhibit the PP.

### Recommendation (Item to be determined under delegated authority)

That Council:

2. Prepare and submit a revised PP to seek a revised Gateway determination for the Warrah Road PP that:
  - a. Reflects the revised zone and lot size maps provided in this report
  - b. Includes provisions relating to the subdivision of the residual environmental and rural land into no more than four allotments
3. Apply to the NSW Office of Environment and Heritage to biodiversity certify the PP.
4. Not commence the requirements under Part 6 of the LEP to actually release this land for urban development until after BOTH the duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.
5. Place the PP and biodiversity certification application on public exhibition, subject to the receipt of a satisfactory revised Gateway determination.
6. Advise the proponent, affected land owners and previous submitters of this resolution.
7. Consider adding the review of the southern component of the Crams Road Urban Release Area as a new project to the Strategic Planning Works Program that is developed for 2019/2020.

### Options

1. As recommended.

Implications: This will essentially result in the following outcomes:

- a) The PP will be updated based on the revised lot size and zoning maps provided in this report. These maps are consistent with the results of the specialist studies that have been undertaken for the PP.
- b) The PP will be updated to include arrangements for the private management of the residual rural and environmental land.

- c) The necessary steps will be taken to have the PP biodiversity certified, locking in the development footprint and conservation areas.
  - d) The PP and biodiversity certification application will be publicly exhibited concurrently. The outcomes of the exhibitions will be reported back to Council for consideration.
2. Not seek a revised Gateway determination

Implications: The current Gateway determination provides some flexibility with lot sizes. It is also possible to biodiversity certify and exhibit the PP without a new Gateway determination. However, some of the proposed changes to the zone map will require an amendment to the Gateway determination to secure a more certain outcome, as will the proposed outcomes in respect of the residual private land. It is considered that these outcomes warrant seeking of a new Gateway determination.
3. Adopt different arrangements for the PP

Implications: Advice can be provided as needed if Council wish to consider different arrangements for the PP.
4. Not proceed with the PP

Implications: The PP is consistent with the strategic planning framework. It has previously been supported by Council and will resolve the deferred status of the land under the current LEP. As such this option is not favoured.

## Background

### Introduction

The overall Crams Road Urban Release Area (URA) was originally identified in the Nowra-Bomaderry Structure Plan (NBSP). The subject land was part of the original URA.

The NBSP stated that a range of investigations, including biodiversity, would need to be completed to determine the potential extent of residential development.

Due to conflicting biodiversity studies, part of the Crams Road URA was ultimately 'deferred' from the Shoalhaven LEP 2014 to enable further investigations to be undertaken to determine an appropriate development footprint for the subject land.

In 2014, the owners (Southbank Land Pty Ltd/Huntingdale Developments Pty Ltd) of Lot 24 DP714096, Warrah Road, Bangalee submitted a PP to commence the process to resolve the zoning of the site. In an attempt to reconcile the conflicting biodiversity studies over the subject land, Council engaged NGH Environmental Pty Ltd in early 2015 to undertake an independent peer review of the biodiversity studies that existed over the site and make recommendations to inform a PP.

In December 2015, Council resolved to prepare and advance a PP based on the findings of the peer review. The Warrah Road PP (PP005) was subsequently submitted to the NSW Department of Planning and Environment (DP&E) and a Gateway determination issued on 12 July 2016. The Gateway determination allowed the PP to proceed subject to several terms and conditions.

On 8 August 2017 the Development Committee considered a report on this PP and resolved that Council:

1. *Adopt the attached Land Use Zone (Attachment 5) and Lot Size (Attachment 6) maps as the basis for preparing the specialist studies required to enable public exhibition of the Planning Proposal.*
2. *Forward these maps to the NSW Department of Planning and Environment with a request to revise the Gateway determination that:*
  - a. *Reflects the proposed new development footprint;*
  - b. *Removes condition 1, which is covered by the new footprint;*
  - c. *Removes items (c) and (d) from condition 2 in the current determination; and*
  - d. *Adds a condition allowing the minimum lot size of 1500 m<sup>2</sup> to be revised if appropriately supported by the traffic and bushfire assessments undertaken for the planning proposal.*
3. *That the proposal be reported back to Council prior to exhibition.*

A revised PP was sent to DP&E on 5 September 2017. On 10 April 2018 DP&E issued a revision to the Gateway determination that rejected Council's proposed zoning and lot size maps. Specifically, DP&E rejected the proposed 'squaring up' of the development footprint where it would have resulted in some residential development occurring within the 'remediation area' under the former Native Vegetation Act 2003 that affects part of the subject land.

The PP area, as amended by the requirements of the 2018 Gateway determination, was then investigated in relation to Aboriginal Heritage, Traffic and Bushfire. The traffic and bushfire studies are provided as attachments to this report. The Aboriginal Heritage assessment contains sensitive information and will be provided to Councillors separately to this report.

#### Aboriginal Cultural Heritage Assessment

The Aboriginal Cultural Heritage Assessment prepared for the proponent concluded:

*"The current ACHA report is sufficient supporting documentation to inform the Aboriginal archaeological assessment of the Gateway Planning Proposal. There are no Aboriginal archaeological constraints to the rezoning of the subject land and no further archaeological work is required prior to the submission of the Planning Proposal."*

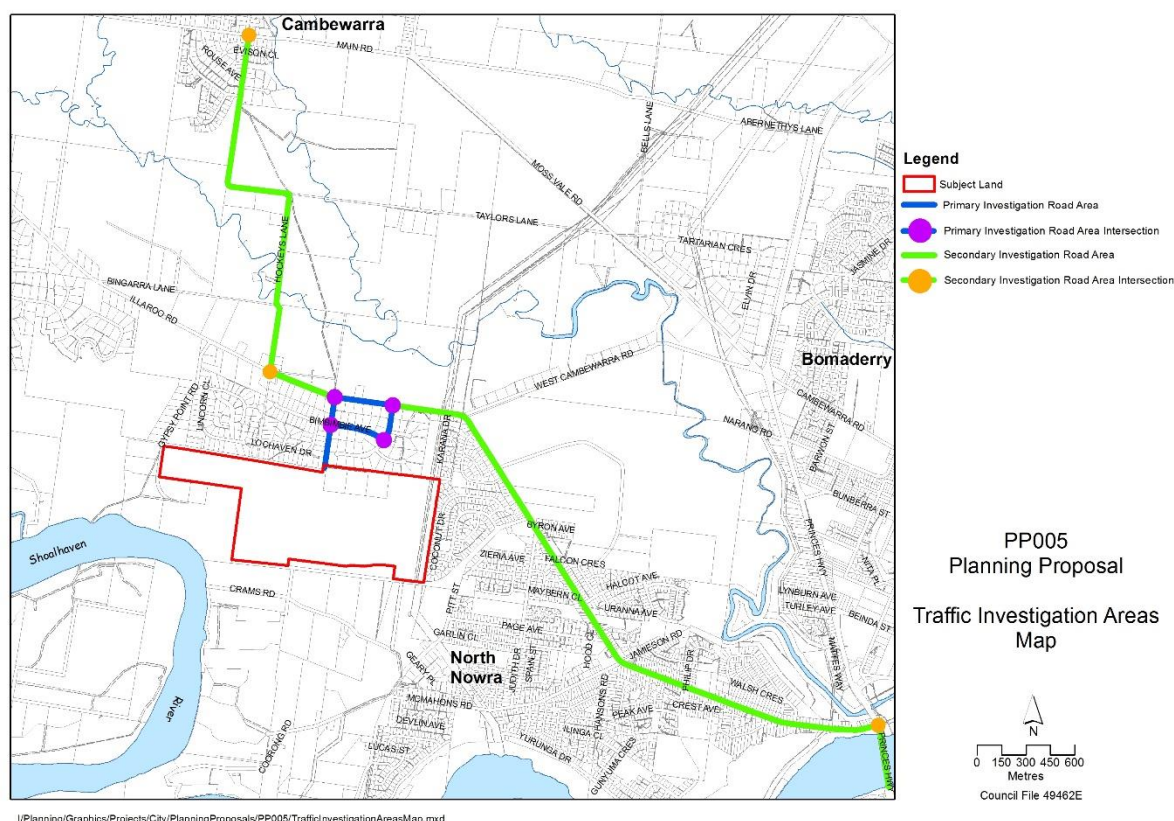
It is considered that this ACHA report is suitable to allow the public exhibition of the PP and referral to the NSW Office of Environment and Heritage (OEH).

#### Traffic Assessment

Council commissioned and managed the Traffic Assessment (**Attachment 1**) for this PP because of the community concerns with this aspect of the proposal. This assessment considered the impacts of development of the subject land on the existing road network and the road infrastructure requirements for the development. It also modelled and considered the time it would take to evacuate the development area in the event of a bushfire.

The assessment investigated seven (7) intersections between the subject land, Moss Vale Road and the Princes Highway as shown below:

#### **Intersections Considered in Traffic Assessment**



The traffic assessment did not recommend the opening of the current closed section of Warrah Road between Bimbimbie Avenue and Illaroo Road. All modelling assumed that this road would not be opened.

The intersection modelling found that all the intersections except for the intersection of Illaroo Road and the Princes Highway (IRPH intersection) will continue to satisfactorily operate with relatively minor augmentation if development were to proceed. The modelling predicts that the IRPH intersection will fail (reach a peak time level of service F) in 2022 without the development and in 2021 with the development. That is, the release of this land will accelerate the failure of this intersection by one year.

The report also modelled the traffic conditions following the duplication of the Princes Highway Bridge and associated intersection improvements at the IRPH intersection. The report assumed this work would follow the Far North Collector Road. It predicts that after the bridge duplication (and therefore the Far North Collector Road) the intersection will satisfactorily operate with or without the development.

Under the Urban Release Area (URA) provisions in the LEP, Council can rezone this land but defer its release until such time that infrastructure issues are resolved and a DCP is in place. In this scenario, Council would rezone the land but its actual 'release' would be deferred until a later date when a DCP is prepared to allow development and satisfactory infrastructure is planned/provided.

The release of this URA (Crams Road) is currently envisaged as the **last** phase in the current planning for growth in the Nowra-Bomaderry area that was identified under the Structure Plan. In late 2017 Council adopted the following phasing approach:

*Phase 1 – Mundamia and Worrigea*

*Phase 2 – Moss Vale Road South and Moss Vale Road North*

*Phase 3 – Cabbage Tree Lane*

*Phase 4 – Crams Road*

All landowners within the URAs were written to and advised of this phasing.

Council is currently actively working to release the URAs in Phase 2 and staff time is currently dedicated to that. It is not envisaged at this stage that the detailed planning for Phase 4 will commence for some time and will need to be considered in the preparation of future Council Strategic Planning Works Programs.

As such It is recommended that in this case, Council proceed with the PP to finalise the zoning of land whilst also resolving not to prepare a DCP (under Part 6 of the LEP) and associated infrastructure plans until after both the duplication of the Princes Highway Shoalhaven River bridge and the Far North Collector Road are complete and actual 'release' is needed in terms of the overall area.

The traffic assessment otherwise found no issues that significantly impact on the progression of the PP.

### Bushfire Assessment

The proponent's Bushfire Assessment (**Attachment 2**) concluded:

*"The (proposal) exceeds the minimum "Deemed-to-Satisfy" specifications set out in Chapter 4 (Performance Based Control) and the aim and objectives of Planning for Bushfire Protection 2006 and affords occupants of the future dwellings adequate protection from exposure to a bushfire."*

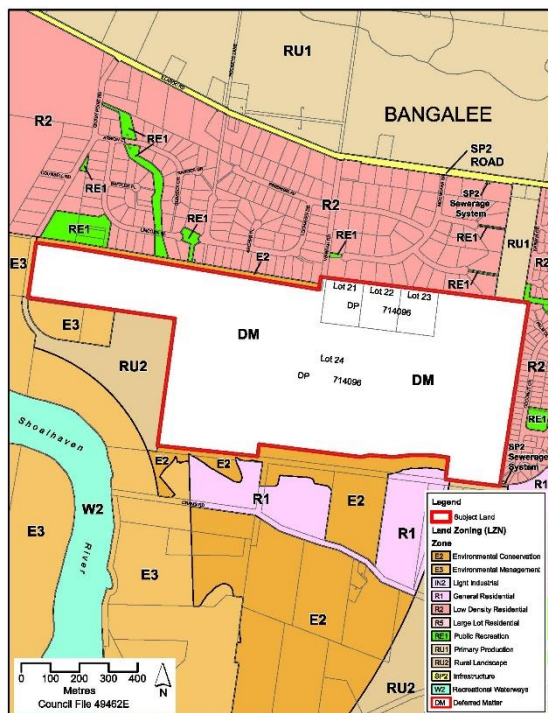
It is considered that this bushfire report is suitable to allow the public exhibition of the PP after referral to the NSW Rural Fire Service (RFS). Additional work may be required at the Development Control Plan stage of the process to ensure a satisfactory bushfire planning outcome, including access/egress.

### Revised PP Maps

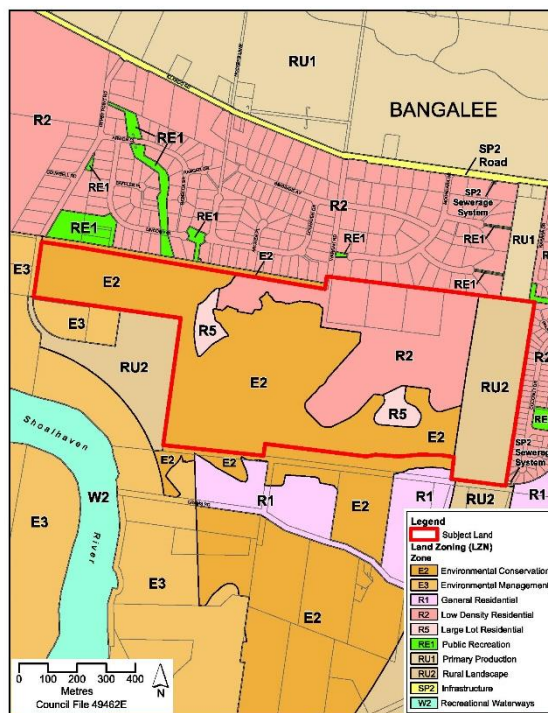
Following the completion of these studies the PP maps were reviewed considering the Gateway determination and a new set of maps were prepared that have been informed by the assessments. Noting that the subject land is currently "deferred" from the LEP various map layers are required. The proposed revised maps (and existing extracts) are provided below:



PP005  
Existing SLEP2014 LZN



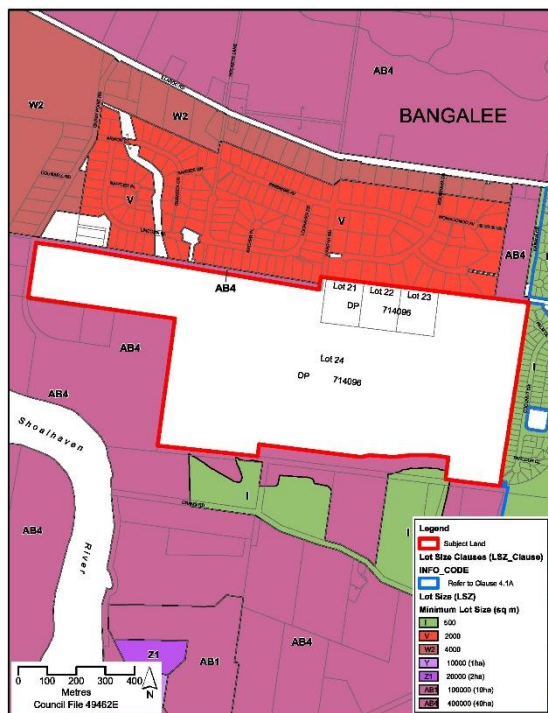
PP005  
Proposed LZN



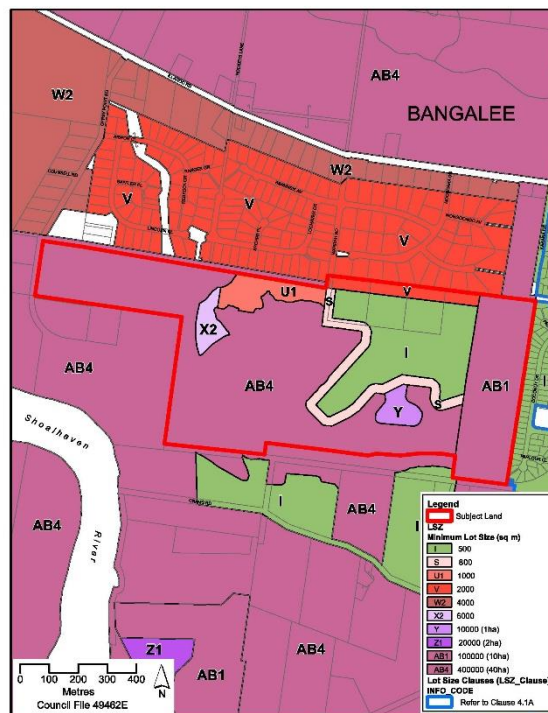
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## Existing and Proposed Zone Map

PP005  
Existing SLEP2014 LSZ



PP005  
Proposed LSZ

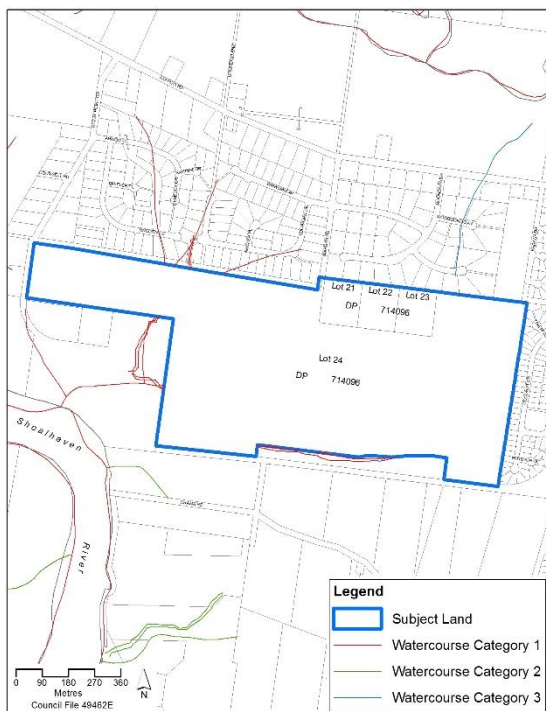


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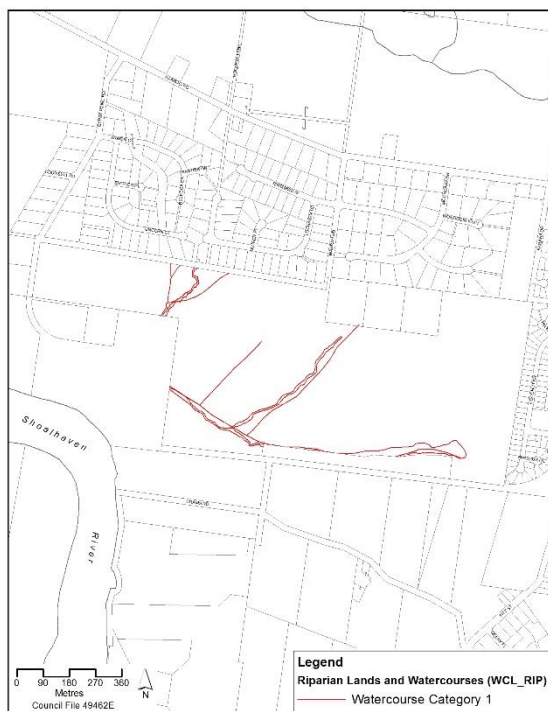
## Existing and Proposed Lot Size Map



PP005  
Existing SLEP2014 WCL



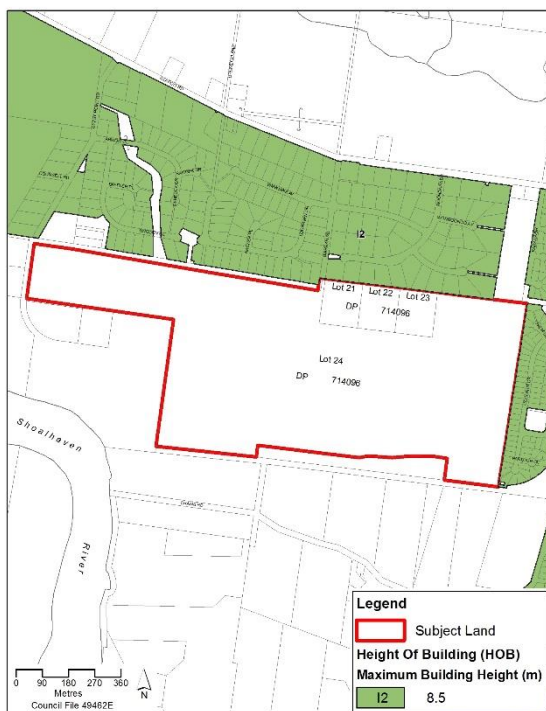
PP005  
Proposed WCL



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## Existing and Proposed Watercourses Map

PP005  
Existing SLEP2014 HOB



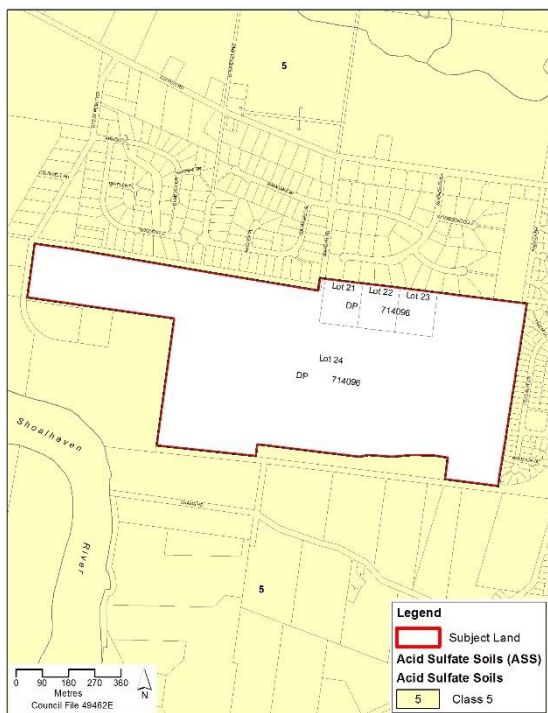
PP005  
Proposed HOB



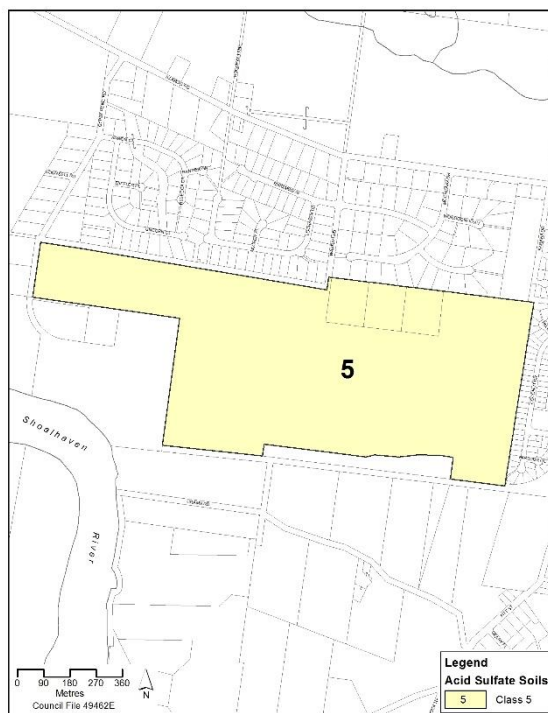
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## Existing and Proposed Height of Buildings Map

PP005  
Existing SLEP2014 ASS

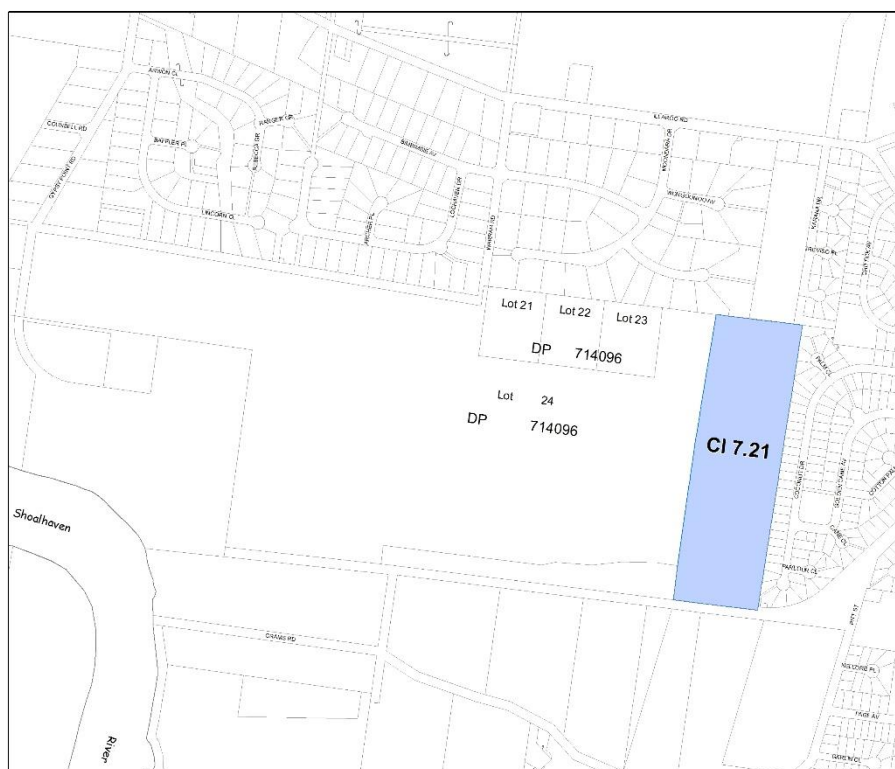


PP005  
Proposed ASS



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## Existing and Proposed Acid Sulfate Soils Map



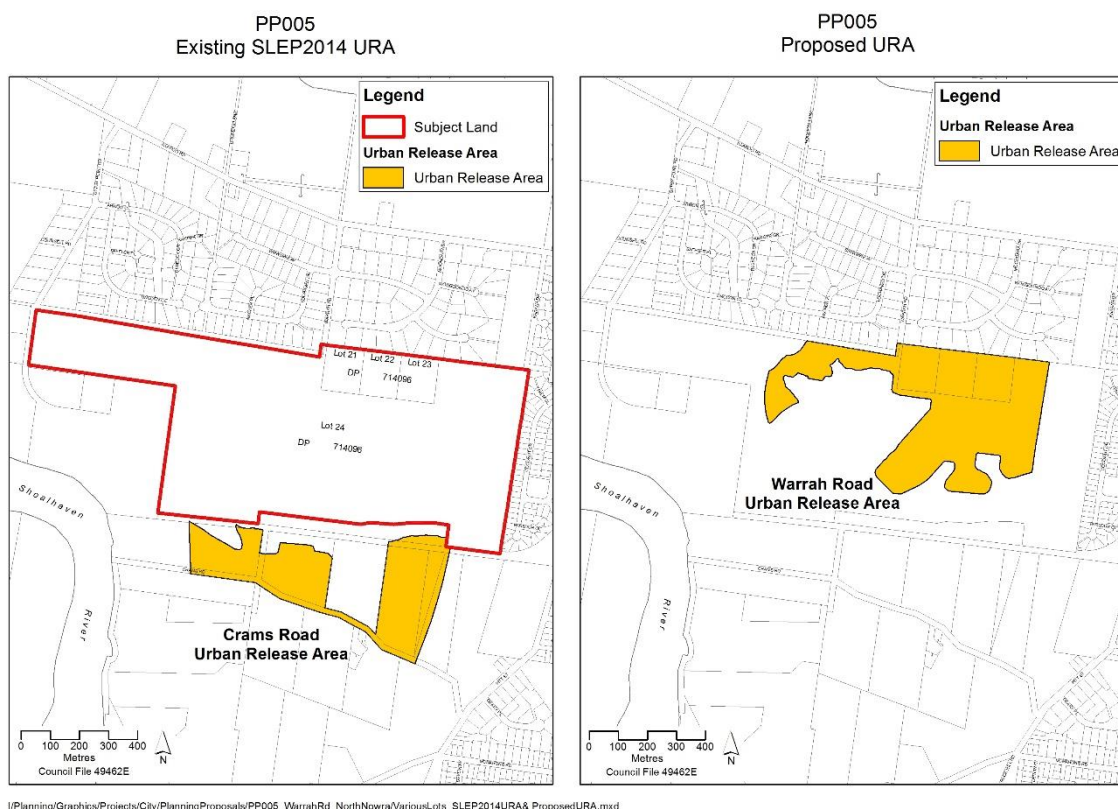
**Legend**  
**Local Clauses**  
CI 7.21 Development on land in the vicinity of the Western Bypass Corridor

PP005  
Planning Proposal  
Proposed CLS  
Lots 21, 22, 23 & 24  
DP714096  
Warrah Road  
BANGALEE

0 60 120 180 240  
Metres  
Council File 49462E

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## Existing and Proposed Clauses Map



### Existing and Proposed Urban Release Areas Map

Whilst the proposed zone and minimum lot size maps may look complicated/detailed they have been worked up to recognise various matters and set an outcome.

It is recommended that the proposed maps shown above be adopted for inclusion in the PP that will be exhibited for comment.

### Biodiversity Certification

On 18 December 2018, Council received written advice (see **Attachment 3**) from the proponent that they wish to also biodiversity certify this PP. Biodiversity certification is an arrangement that allows a proponent to “lock in” environmental conservation and impacts at the PP stage so that these matters do not need to be addressed at the development application stage. It is the approach that Council has previously adopted for the Halloran Trust Lands PPs.

Council staff met with officers from DP&E and OEH to discuss this request and both agencies advised that they support the approach of biodiversity certifying this PP.

It is recommended that Council apply to OEH to biodiversity certify this PP.

### Management of the Residual Land

The eventual development of the land will most likely result in approximately 55 hectares of residual land. This includes 43 hectares of land to be zoned E2 – Environmental Conservation and 12 hectares of land to be zoned RU2 – Rural Landscape that will form part of the Western Bypass Corridor around Nowra-Bomaderry.

The landowner has indicated that they do not wish to dedicate the land to Council. This means that if Council wished to acquire it as a public reserve, which is not necessarily the case, it would need to purchase the land through an acquisition process.

The proponent has instead indicated they would wish to subdivide the residual E2 land into three (3) lots with each lot being partially in the urban release area. Essentially, the environmental land will then be connected to one of three dwelling sites within the development footprint.

This proposed arrangement is broadly considered satisfactory because:

- The E2 land is proposed as an offset as part of the biodiversity certification of the site. This means that the land will be subject to a binding conservation agreement with funding available in perpetuity for the future land owner.
- Council taking ownership of the land will not necessarily result in an improved conservation outcome.
- The proposed subdivision will allow for a subdivision into manageable parcels that can be better supervised by a land owner.
- Purchasing the land in this instance offers poor value for money because its purpose as a biodiversity reserve will be achieved with the land remaining in private ownership.

The proponent has also advised that they do not wish to dedicate the land identified as part of the future road corridor for the Princes Highway bypass of Nowra. Given the likely timeframe for the delivery of this bypass, it is not desirable to acquire this land at this time. The proponent instead proposes a similar arrangement to the E2 zoned land, with only one dwelling site being linked to the road corridor land. They are proposing to separate the ownership of road corridor land and the E2 land.

If Council is agreeable to this approach, it will be necessary to insert a subclause into Clause 4.1E of the LEP. This is recommended as an outcome of this report.

### The Gateway Determination

The proposed changes to the PP will require the current Gateway determination to be amended because:

- A new R5 zone is proposed for 3 lots on the edge of the development area (i.e. the R5 zone is not listed in the Gateway determination).
- A new clause is proposed to allow the subdivision of the E2 and RU2 as outlined above.
- There is a Gateway condition relating to the remediation areas on site that will be breached by a small amount (approx. 400 m<sup>2</sup>) to allow for roads into the development. OEH have verbally indicated that this would be acceptable if the PP is biodiversity certified.
- There are ambiguities in the current Gateway determination that could create difficulties when the PP reaches the finalisation step in the process.

Accordingly, it is recommended that Council seek an amended Gateway determination for this PP to enable it to then move forward to formal public exhibition.

### **Community Engagement**

Assuming DP&E issue a favourable Gateway determination for the proposed amendments the PP would be ready to refer to RFS and then place on public exhibition. This exhibition would be undertaken in accordance with Council's PP Guidelines as a *Broader Impact Major PP*. It is noted that there has been considerable community interest in this PP previously and this is likely to be the case moving forward.

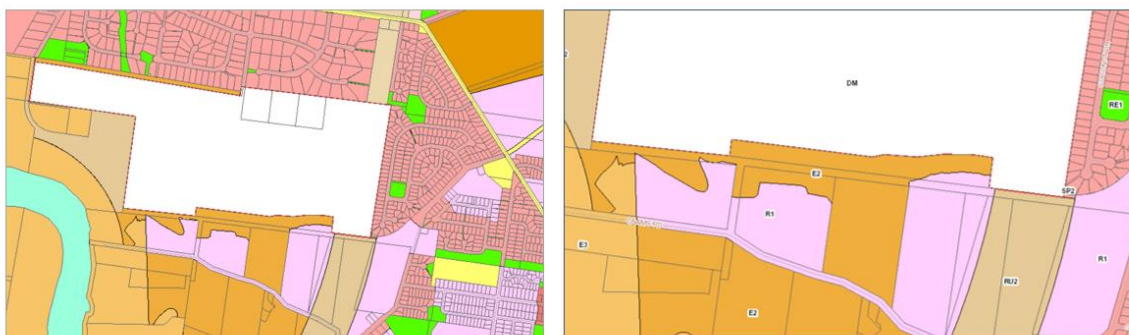
It is recommended that Council resolve to exhibit the PP if a favourable Gateway determination is received. If not, the matter will be reported back to Council.



## Policy Implications

Once the likely development future of the subject land is resolved, the other area that possibly requires Council's reconsideration is the other remaining component of the Crams Road URA.

The history of the Crams Road URA is covered in the earlier reports on this matter. Through the Shoalhaven LEP2014 process the southern parts of the URA were zoned R1 General Residential and the northern part was 'deferred' from the LEP. The following extracts from the LEP mapping provide an overview of the two areas.



Given the physical separation of the two parts of the URA and the zoned configuration of the southern part that is focussed along Crams Road there is a need to have a closer look at how the southern areas could possibly develop. This review will also need to consider whether it is practical, depending on potential yield, servicing etc. that this part (southern) is retained as a URA.

As such it is also recommended that Council consider adding the review of the southern part of the Crams Road URA as a new project on the Strategic Planning Works Program when it is reconsidered in coming months.

## Financial Implications

This PP is being funded on a 100% cost recovery basis by the proponent in accordance with Council's PP Guidelines.