

PLANNING PROPOSAL – PP032

Subdivision and dwelling entitlement provisions
for residue lots adjoining Urban Release Areas in
Shoalhaven Local Environmental Plan 2014

Prepared by
Planning, Environment & Development Group
Shoalhaven City Council

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1 Introduction

This Planning Proposal (PP) seeks to amend the provisions in Clause 6.5 Urban Release Areas – *Erection of dwelling houses on residual lots in certain zones* Shoalhaven Local Environment Plan (LEP) 2014 in which an anomaly has been identified.

Legal advice on the application of the Clause has confirmed that Clause 6.5(1) has no application to the subdivision of land that is not within a mapped “urban release area”. As a result, the Clause only has effect in the Badgee Lagoon Urban Release Area, which does not accord with the intention in the recommendation made to the Special Development Committee of the Council on 17 July 2013, and subsequently resolved, and forwarded to the NSW Department of Planning and Environment (DP&E) (see below).

Issue	Recommendation
Need to include a Clause to deal with residue rural or similar land resulting from the subdivision of the URAs under the draft LEP. A number of the lots that form the new urban release areas (URA) are proposed to have a split zoning of rural and residential and subdivision will require the creation of lots smaller than the minimum lot size specified for rural land (this has been raised as a specific issue at Mundamia URA). Discussions have been held with DP&E who has advised that other councils have had this issue and have included an additional Clause in Part 6 to cover the situation.	Request that the DP&E include an additional Clause in Part 6 to deal with residue land resulting from the subdivision of the URAs under the draft LEP.

Extract from Special Development Committee Report – 17 July 2013, Table 13.14 – Summary of Issues and Recommendation, p. 48.

The intention of the PP is to amend the wording of the current LEP Clause to create a legal mechanism for the non-urban portion of lots that are part of an urban release area to be subdivided below the minimum lot size to create a residue lot, as originally intended.

The Planning Proposal also seeks to remove Part (2) from Clause 6.5 as it is considered inappropriate for dwelling houses to be potentially permissible on every resultant residual lot, particularly given the environmental and agricultural sensitivities of land within the zones prescribed by the Clause (RU1 Primary Production, RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management). A review of all the potential residue lots which could be created through this amendment found that there is certain residue lots which would be suitable for a dwelling entitlement. These potential lots would already meet existing provisions under Clause 4.2D(3)(a) (is a lot that meets the minimum lot size) or Clause 4.2D(5) (there is already a lawfully erected dwelling house on the land) without any further amendments through this PP.

A previous version of this Planning Proposal was originally submitted to the DP&E on 26 February 2018. Following an initial review of the PP, DP&E consulted with NSW Office of Environment and Heritage (OEH) to seek initial comment on the proposal.

OEH raised objections with that version of the PP and were concerned that it would encourage dwellings and subdivision in environmentally constrained areas, particularly Environmental zoned land and land that is flood and bushfire prone.

In response to the concerns raised by OEH, the PP has been amended to better reflect the original intention of the Clause as resolved in 2013. The amended PP seeks to enable Clause 6.5 to deal with the subdivision aspect only, and for sub Clause (2) dealing with dwelling entitlements to be deleted. Existing provisions under Clause 4.2(D) will enable certain residue lots to be eligible for a dwelling entitlement.

Maps from the review of all potential resulting residue lots are included to illustrate the affected areas within the Nowra-Bomaderry Urban Release Areas (URAs), location of existing dwellings within the non-urban portion, and the intended outcome of the PP.

It is requested that Council be given delegation for the plan making functions for this PP. The evaluation criteria for delegation is provided as **Attachment A**.

The PP has been prepared in line with '*A guide to preparing local environmental plans*' and '*A guide to preparing planning proposals*'.

1.1 Subject Land

The subject land includes all relevant allotments affected by the URA map layer in Shoalhaven LEP 2014 located in the Shoalhaven Local Government Area (LGA) including Mundamia, Moss Vale Road South, Moss Vale Road North, Crams Road, Cabbage Tree Lane and Badgee as illustrated in **Figures 1 to 7**.

Specifically, the PP will affect allotments which are partially mapped 'URA' and partially zoned non-urban that is prescribed by Clause 6.5, including RU1 Primary Production, RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management.

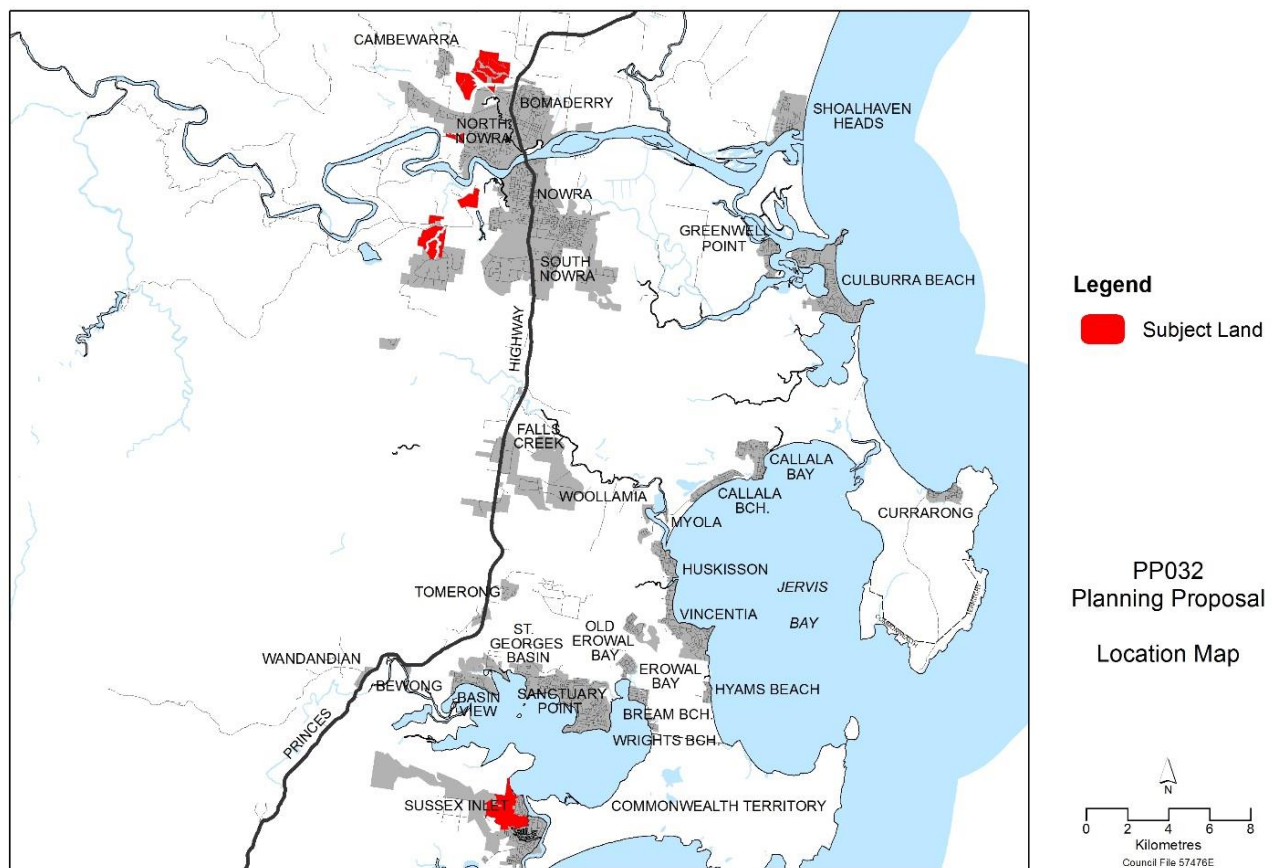
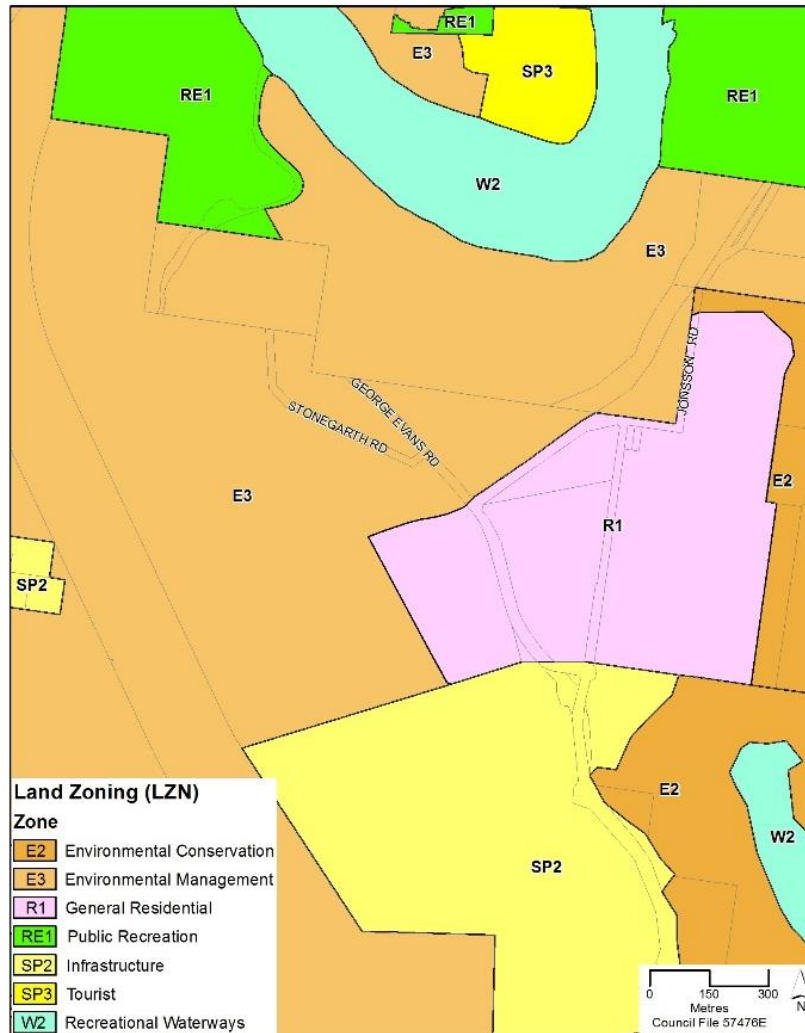


Figure 1 - Location Map

PP032
Planning Proposal
Existing SLEP2014 LZN
Mundamia



PP032
Planning Proposal
Existing SLEP2014 URA
Mundamia

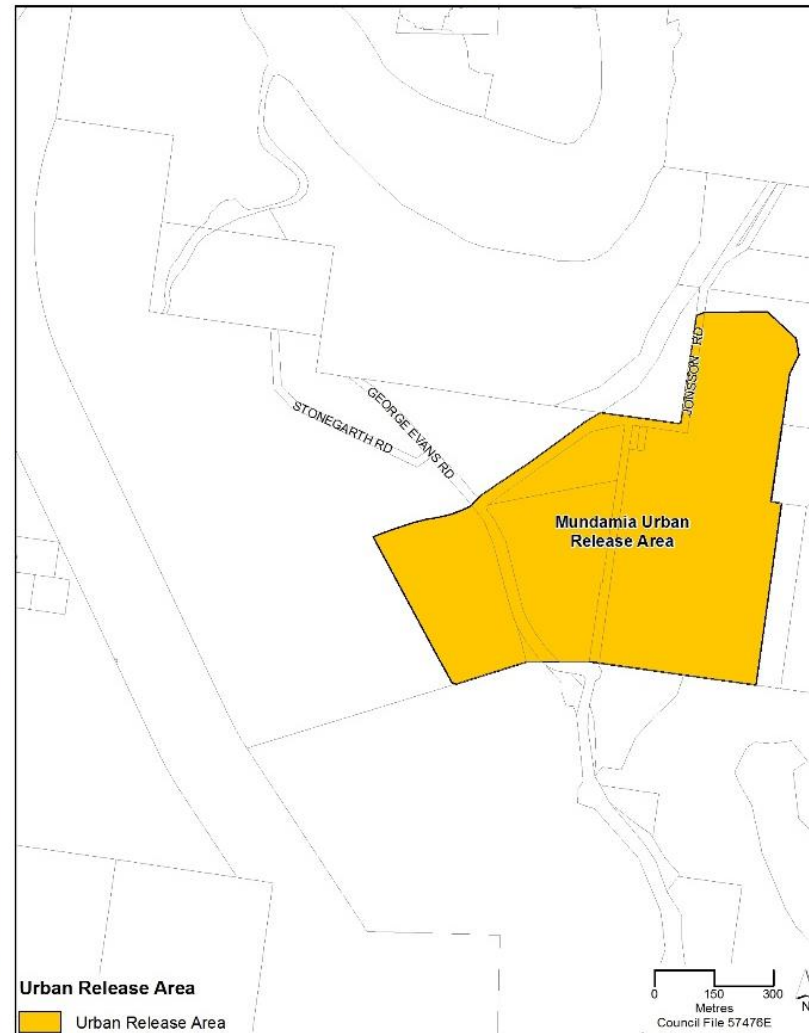


Figure 2 - Mundamia Land Use Zone and URA Map

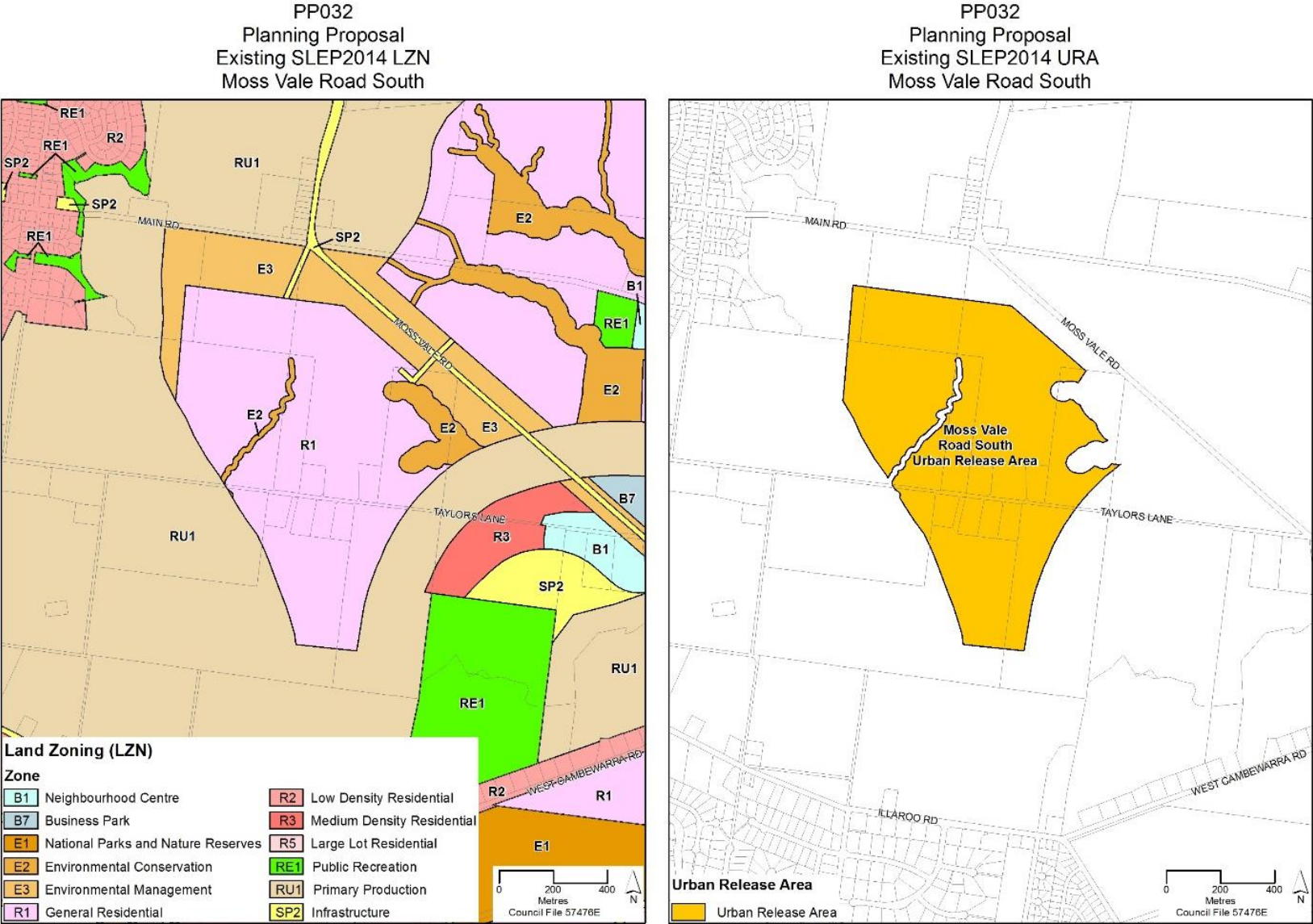


Figure 3 - Moss Vale Road South Land Use Zone and URA Map

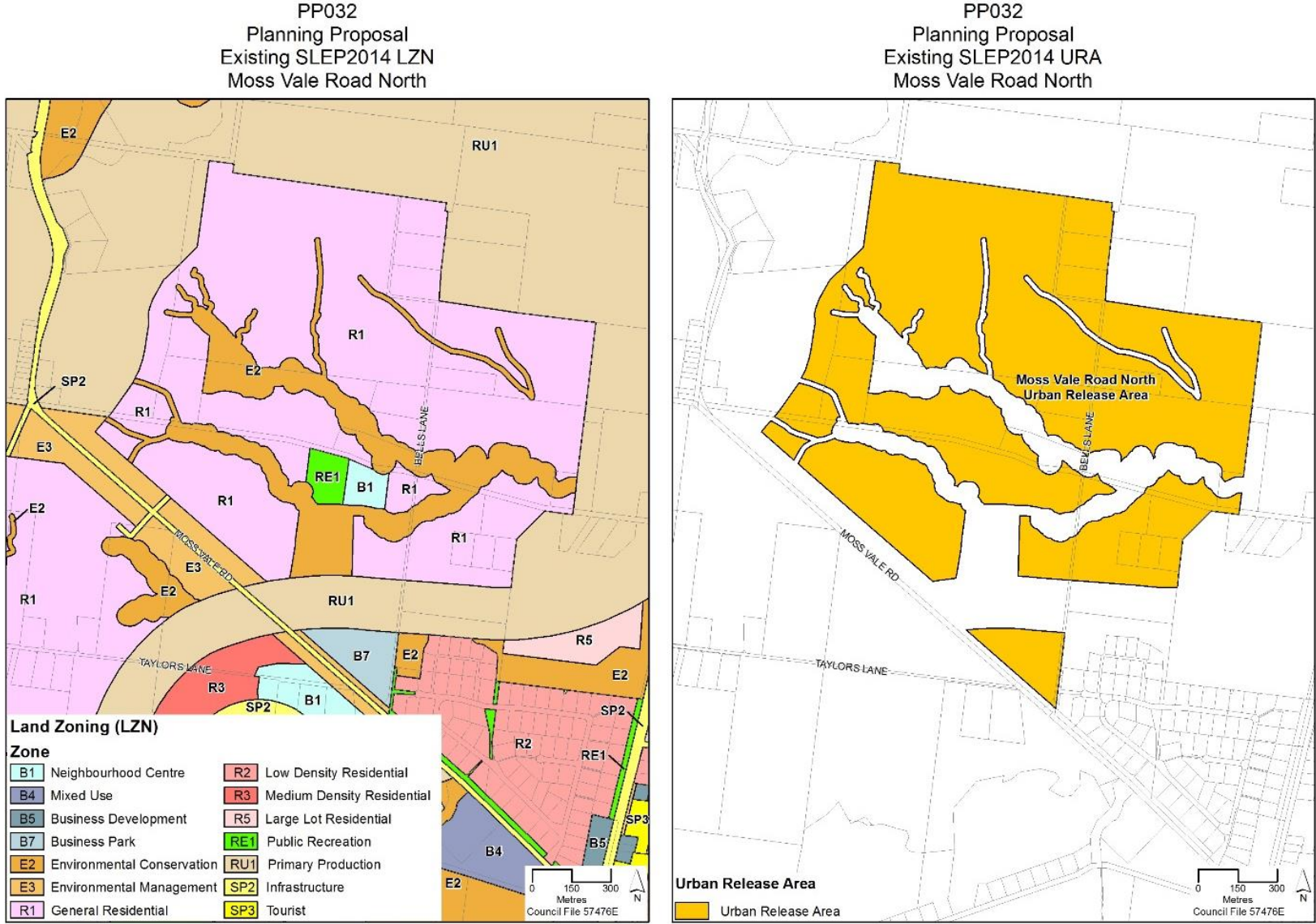


Figure 4 - Moss Vale Road North Land Use Zone and URA Map

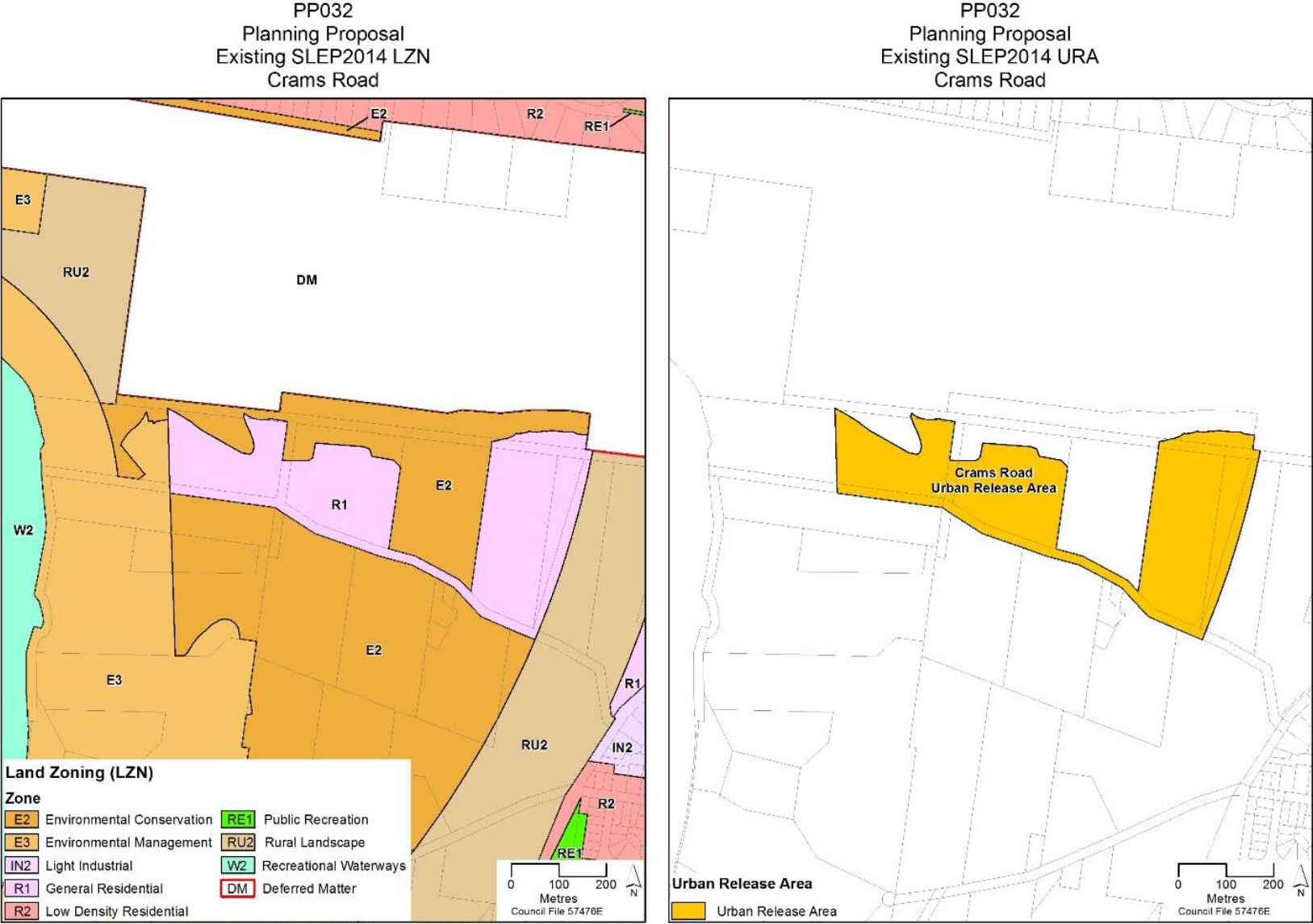


Figure 5 - Crams Road Land Use Zone and URA Map

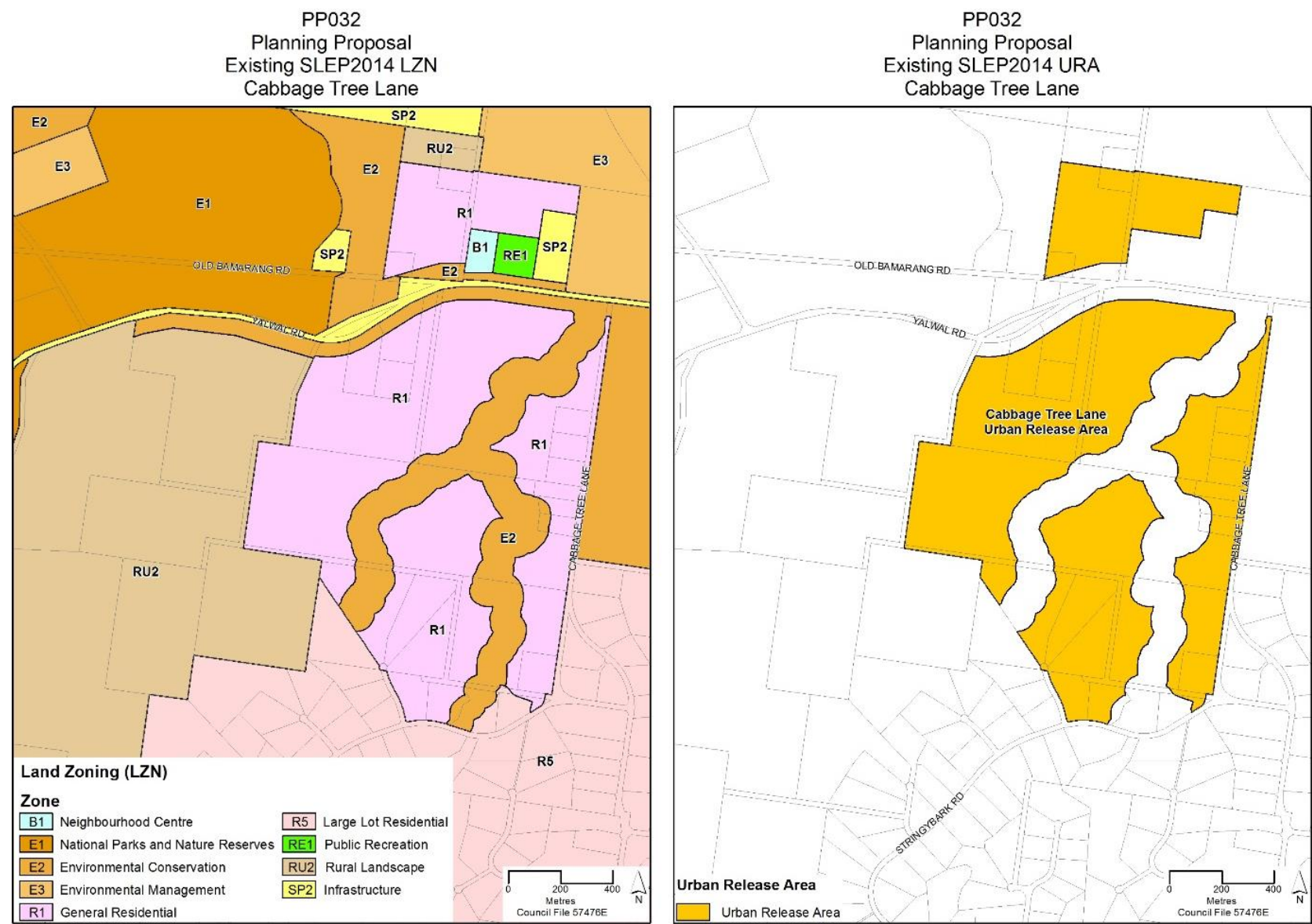


Figure 6 - Cabbage Tree Lane Land Use Zone and URA Map

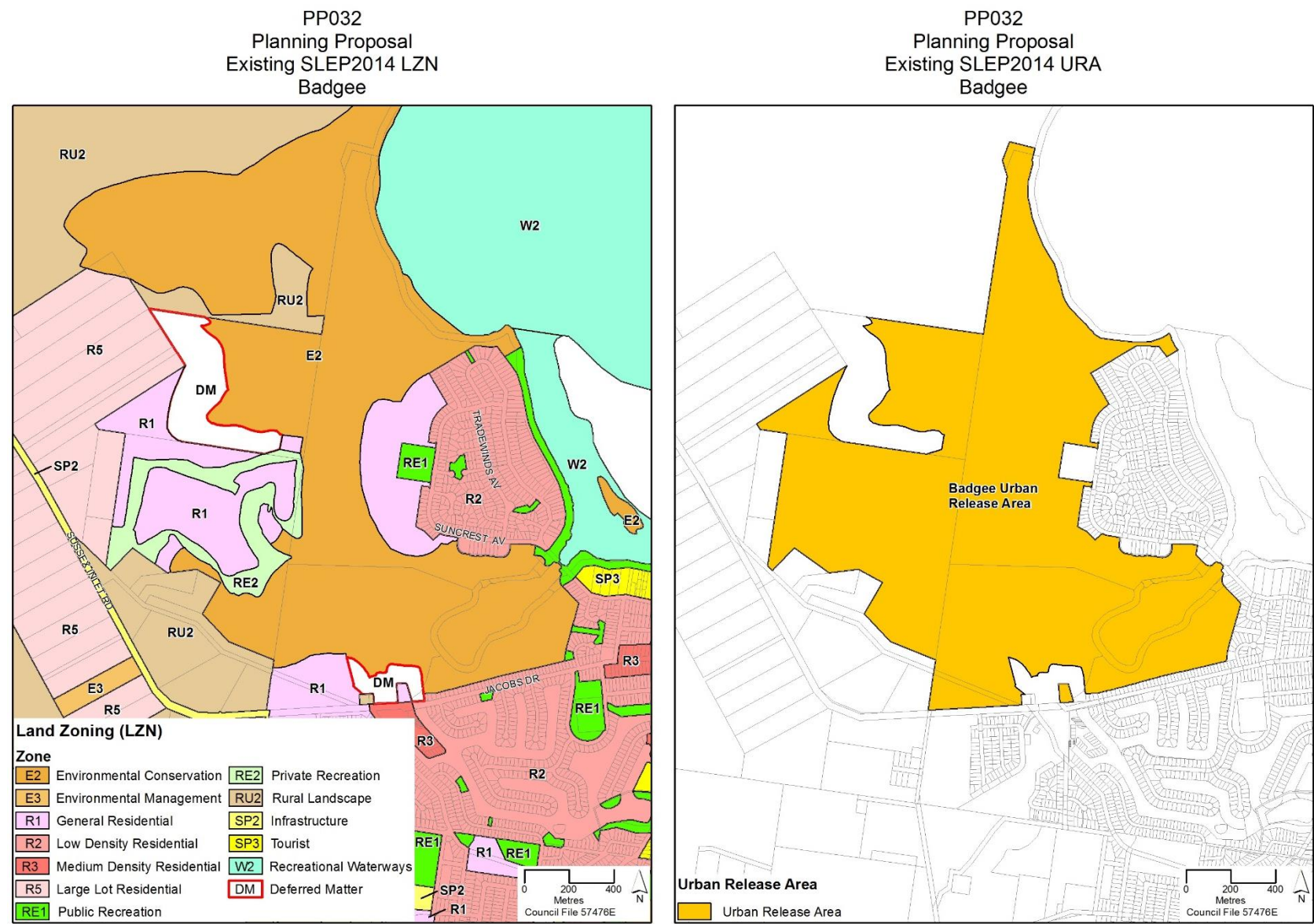


Figure 7 - Badgee Land Use Zone and URA Map

1.2 Background

Part 6 *Urban Release Areas* of the LEP when originally proposed was informed by a 'Model Clause' provided by the DP&E. In preparing Shoalhaven LEP 2014, an additional Clause 6.5 was added to Part 6 *Urban Release Areas* to deal with residual lots in relevant (non-urban) zones. These zones are RU1 Primary Production, RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management.

Clause 6.5 was prepared to enable the subdivision of the non-urban zoned land tied to a URA (generally in one ownership) to a size less than the mapped lot size on the Shoalhaven LEP 2014 Lot Size Map. The current wording of the Clause is provided below:

"6.5 Erection of dwelling houses on residual lots in certain zones

- 1) *Development consent may be granted for the subdivision of land in an urban release area to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land or less than the minimum lot size permitted for the land immediately before it became, or became part of, an urban release area if the lot is comprised entirely of land in one or more of the following zones (the residual lot):*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone E2 Environmental Conservation,*
 - (d) *Zone E3 Environmental Management*
- 2) *Development consent may be granted for the erection of a dwelling house on a residual lot."*

Whilst the Clause references prescribed zones, it also specifically refers to land that is in an URA. Shoalhaven LEP 2014 defines an 'urban release area' as "*the area of land identified as 'urban release area' on the Urban Release Area Map*". Therefore, the current wording of the Clause restricts its application to land that is within a mapped URA. There are currently six (6) mapped URAs including Mundamia, Moss Vale Road South, Moss Vale Road North, Crams Road, Cabbage Tree Lane and Badgee Lagoon identified in the Shoalhaven LEP 2014.

Table 1 provides an overview of the zones that make up the mapped URAs in Shoalhaven LEP 2014, demonstrating that in the majority of URAs, the referenced prescribed zones are not mapped as URA and the Clause is therefore inoperable as originally intended.

Table 1 - URA mapped areas and their surrounding non-URA mapped lands

URA	Zones within mapped URA	Zones part of the overall URA but not in the mapped URA
Mundamia	R1 General Residential	E2 Environmental Conservation E3 Environmental Management
Moss Vale Road South	R1 General Residential SP2 Infrastructure (Road)	E2 Environmental Conservation E3 Environmental Management
Moss Vale Road North	R1 General Residential SP2 Infrastructure (Road) RE1 Public Recreation B1 Local centre B7 Business Park	E2 Environmental Conservation E3 Environmental Management
Crams Road	R1 General Residential	E2 Environmental Conservation E3 Environmental Management
Cabbage Tree Lane	R1 General Residential	B1 Local centre RE1 Public Recreation E2 Environmental Conservation SP2 Infrastructure (Educational Establishment)
Badgee	R1 General Residential RE2 Private Recreation E2 Environmental Conservation*	RE1 Public Recreation

**Badgee is the only URA where the non-urban zones prescribed by Clause 6.5 are mapped as an URA, making it the only URA where Clause 6.5 is operable.*

The PP seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped Urban Release Area. Without such a mechanism, the development of the URAs is significantly disadvantaged as there is no mechanism to legally approve subdivisions that include a residue lot that is less than the minimum lot size. Many landowners who own land in the URA are also unable to sell off the urban zoned part of their lot and continue residing in their existing dwelling on the non-urban portion of the land. Council is already in receipt of two Development Applications (DAs) for land in the Moss Vale Road South URA which would rely on this Clause to subdivide the non-urban from the urban zone (URA) and create a practical residual lot.

The PP also seeks to remove subClause (2) of Clause 6.5 as it is considered inappropriate for a dwelling house to be erected on every resultant residual lot, particularly given the environmental and agricultural sensitivities of land zoned RU1, RU2, E2 and E3. A review of all potential residue lots in the URAs found that those lots suitable for a dwelling entitlement would be able to exercise this right under Clause 4.2D(3)(a) or Clause 4.2D(3)(5) without any further amendments through this PP.

It is clear that the Clause was intended to apply to all URAs, to enable the non-urban portion of a lot that is part of an urban release area to be subdivided to create a residue lot.

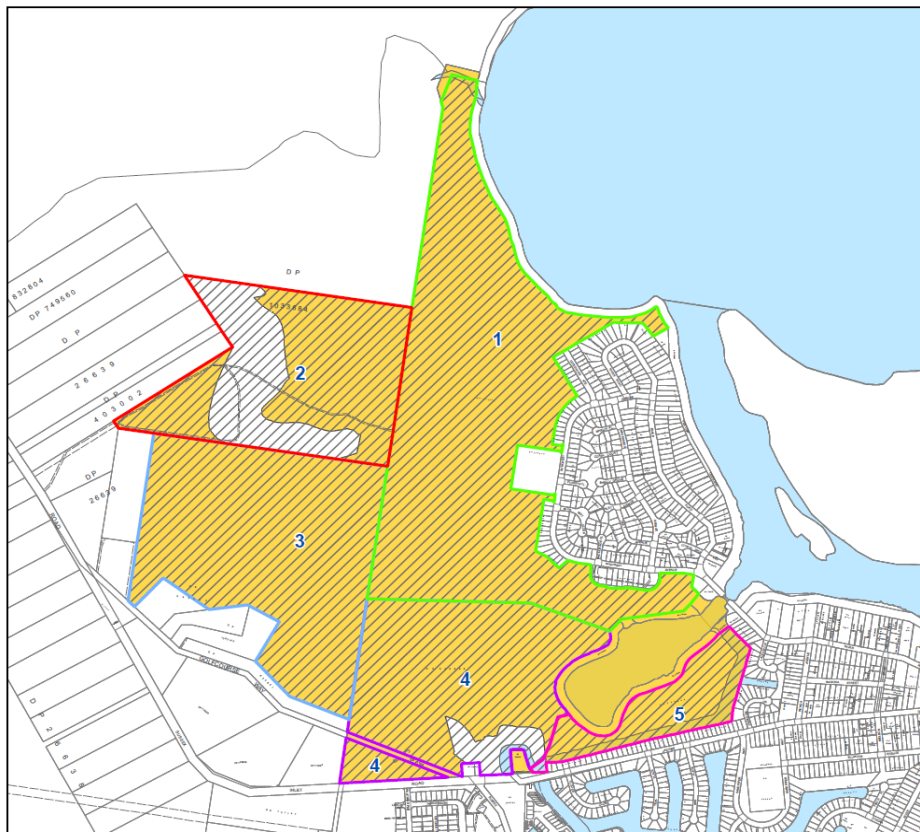
This interpretation is supported by legal advice which found that the Clause does not accord with the intention in the recommendations made by Council staff to the Special Development Committee of the Council on 17 July 2013, and that the Clause has no application to the subdivision of land that is not within an 'urban release area'. The Clause is considered to be an anomaly given that it does not operate as originally intended.

On 22 January 2018, Council's Development Committee resolved under delegation (MIN18.8) to submit the PP to the DP&E for a Gateway determination. Refer to **Attachment B** for a copy of the Council Report and Minutes.

2 Part 1 – Intended Outcome

- To rectify an anomaly in Clause 6.5 of Shoalhaven LEP 2014 to reflect its original intended outcome and create a legal mechanism in Part 6 of Shoalhaven LEP 2014 for a residue lot subdivision below the minimum lot size where lots have a split urban/rural zoning that are either partly or wholly within a mapped Urban Release Area.
- To remove subClause (2) and rely on existing provisions under Clause 4.2D(3)(a) or Clause 4.2D(3)(5) for the erection of dwelling houses on residual lots.

Maps from the review of all potential residue lots, illustrating the potential outcome of the Planning Proposal, are provided below.



No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 2442 DP 1074478	Pt E2, Pt R1, Pt RE2	838147.28	83.81
2	Lot 51 DP 1033684	Pt DM, Pt E2, Pt R1, Pt RE2	419400.66	41.94
3	Lot 5 DP 568283	Pt E2, Pt R1, Pt RE2	545253.03	54.53
4	Lot 125 DP 528699	Pt DM, Pt E2, Pt R1	431750.06	43.18
5	Lot 124 DP 528699	Pt DM, Pt E2	119714.49	11.97

Legend

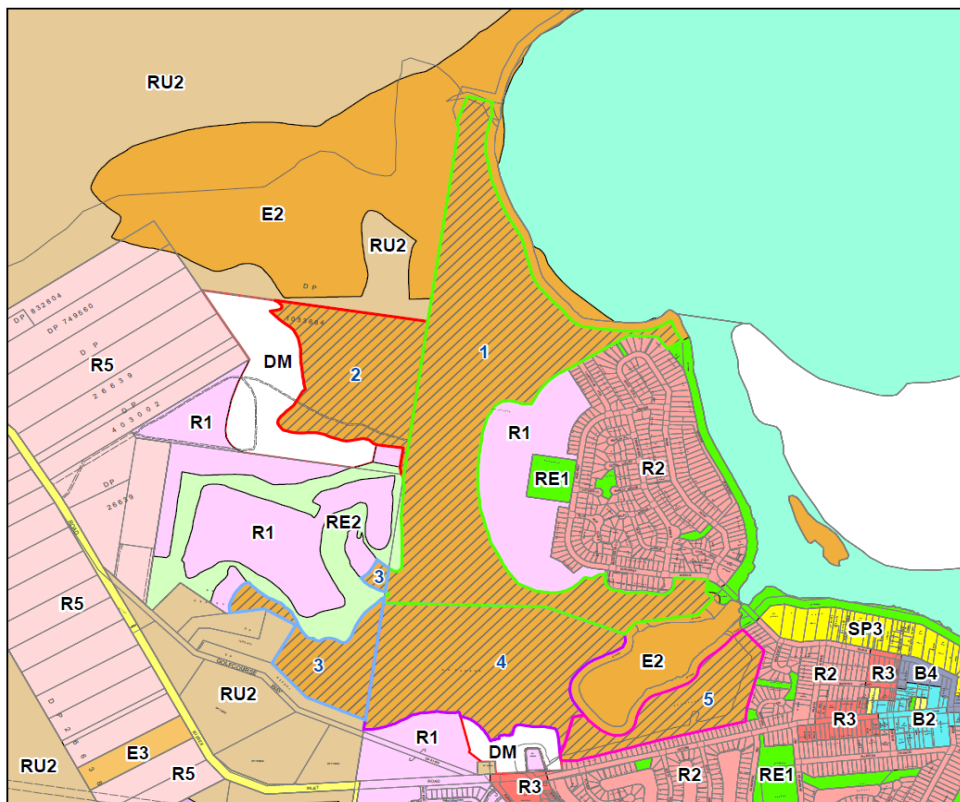
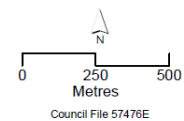
Affected Areas

- Lot 2442 DP 1074478
- Lot 51 DP 1033684
- Lot 5 DP 568283
- Lot 125 DP 528699
- Lot 124 DP 528699
- Urban Release Area

PP032
Planning Proposal

Affected Areas

Badgee
Map 1



No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 2442 DP 1074478	E2	649145.64	64.91	No
2	Lot 51 DP 1033684	E2	203816.47	20.38	No
3	Lot 5 DP 568283	E2	104482.99	10.45	No
4	Lot 125 DP 528699	E2	318765.22	31.88	No
5	Lot 124 DP 528699	E2	117917.84	11.79	No

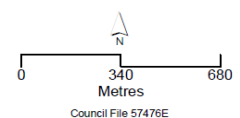
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Affected Areas

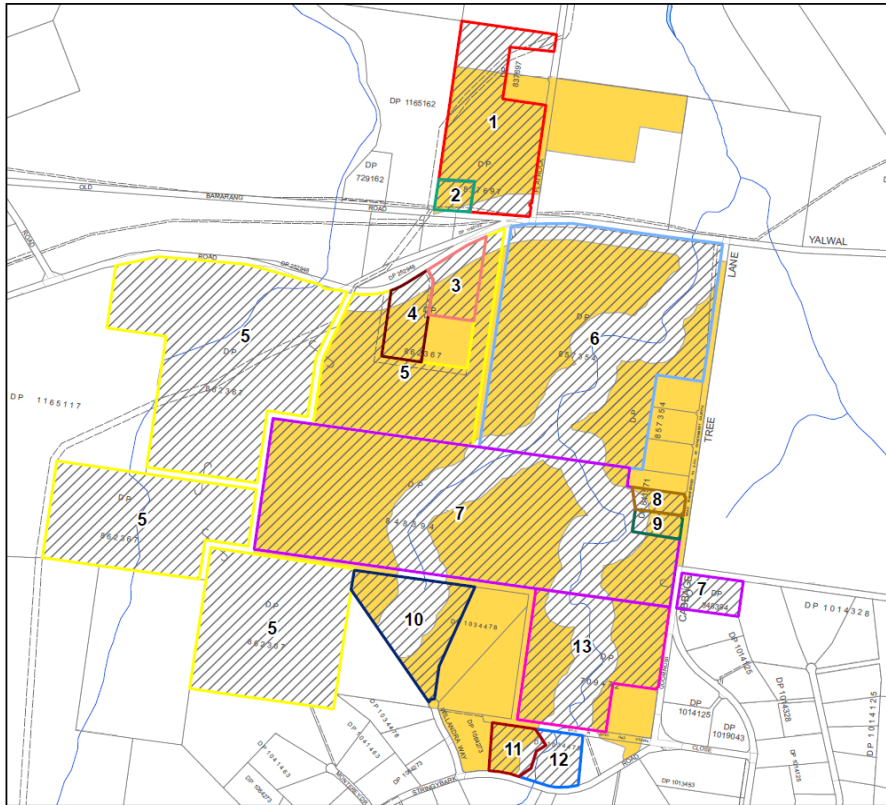
- Lot 2442 DP 1074478
- Lot 51 DP 1033684
- Lot 5 DP 568283
- Lot 125 DP 528699
- Lot 124 DP 528699

PP032
Planning Proposal
Non-Urban Zoned Portion
of Affected Areas

Badgee
Map 2



Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014



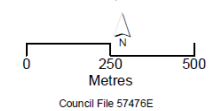
No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 4 DP 837697	Pt E2, Pt R1, Pt RU2	130759.05	13.08
2	Lot 3 DP 837697	Pt E2, Pt R1	10028.58	1.00
3	Lot 1 DP 862367	Pt E2, Pt R1	29358.18	2.94
4	Lot 2 DP 862367	Pt E2, Pt R1	29185.91	2.92
5	Lot 4 DP 862367	Pt E2, Pt R1, Pt RU2	817377.21	81.74
6	Lot 8 DP 857354	Pt E2, Pt R1	407553.79	40.76
7	Lot 4 DP 848394	Pt E2, Pt R1, Pt R5	493564.23	49.36
8	Lot 2 DP 841571	Pt E2, Pt R1	10008.51	1.00
9	Lot 3 DP 841571	Pt E2, Pt R1	10007.13	1.00
10	Lot 313 DP 1034478	Pt E2, Pt R1	73719.88	7.37
11	Lot 305 DP 1034478	Pt E2, Pt R1	19750.75	1.98
12	Lot 304 DP 1034478	Pt E2, Pt R1, Pt R5	22386.95	2.24
13	Lot 101 DP 709472	Pt E2, Pt R1, Pt R5	142007.53	14.20

Legend

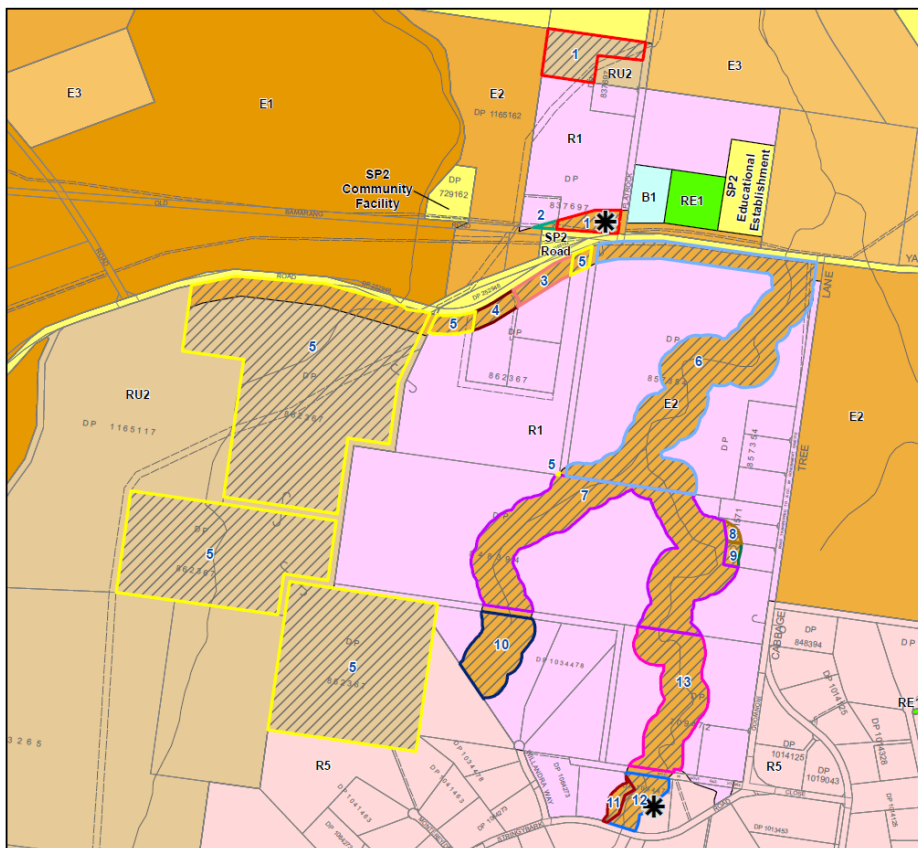
Affected Areas

Lot 4 DP 837697	Lot 2 DP 841571
Lot 3 DP 837697	Lot 3 DP 841571
Lot 1 DP 862367	Lot 313 DP 1034478
Lot 2 DP 862367	Lot 305 DP 1034478
Lot 4 DP 862367	Lot 304 DP 1034478
Lot 8 DP 857354	Lot 101 DP 709472
Lot 4 DP 848394	Urban Release Area

PP032 - Planning Proposal
Affected Areas
Cabbage Tree Lane
Map 1



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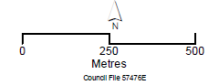
No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 4 DP 837697	RU2	37838.49	3.78	Yes*
2	Lot 3 DP 837697	E2	866.67	0.09	No
3	Lot 1 DP 862367	E2	9301.31	0.93	No
4	Lot 2 DP 862367	E2	6954.27	0.70	No
5	Lot 4 DP 862367	Pt E2, Pt RU2	669478.77	66.95	No*
6	Lot 8 DP 857354	E2	165849.07	16.58	No
7	Lot 4 DP 848394	E2	138253.04	13.83	No
8	Lot 2 DP 841571	E2	2046.26	0.20	No
9	Lot 3 DP 841571	E2	2938.31	0.29	No
10	Lot 313 DP 1034478	E2	32692.49	3.27	No
11	Lot 305 DP 1034478	E2	4301.60	0.43	No
12	Lot 304 DP 1034478	E2	14109.98	1.41	Yes*
13	Lot 101 DP 709472	E2	58130.04	5.81	No

* Lot has dwelling entitlement potential under Clause 4.2D(3)(a) if at least the minimum lot size
* Lot has dwelling entitlement potential under Clause 4.2D(5) if the existing dwelling is lawfully erected

Legend

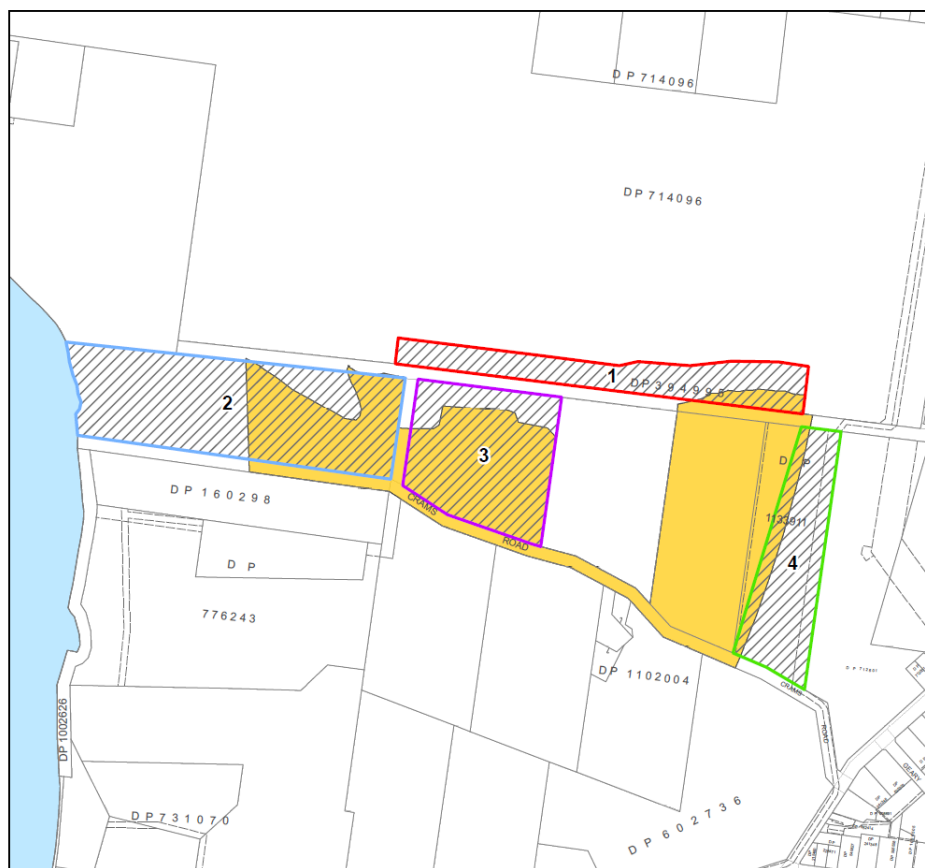
Existing Dwellings	Lot 4 DP 848394
Lot 4 DP 837697	Lot 2 DP 841571
Lot 3 DP 837697	Lot 3 DP 841571
Lot 1 DP 862367	Lot 313 DP 1034478
Lot 2 DP 862367	Lot 305 DP 1034478
Lot 4 DP 862367	Lot 304 DP 1034478
Lot 8 DP 857354	Lot 101 DP 709472

PP032 - Planning Proposal
Non-Urban Zoned Portion
of Affected Areas
Cabbage Tree Lane
Map 2



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Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014



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No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 1 DP 394995	Pt E2, Pt R1	33172.60	3.32
2	Lot 121 DP 751273	Pt E2, Pt E3, Pt R1	79005.16	7.90
3	Lot 267 DP 751273	Pt E2, Pt R2	48587.63	4.86
4	Lot 292 DP 1133911	Pt R1, Pt RU2	36220.06	3.62

Legend

Affected Areas

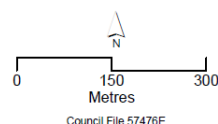
- Lot 1 DP 394995
- Lot 121 DP 751273
- Lot 267 DP 751273
- Lot 292 DP 1133911
- Urban Release Area

PP032
Planning Proposal

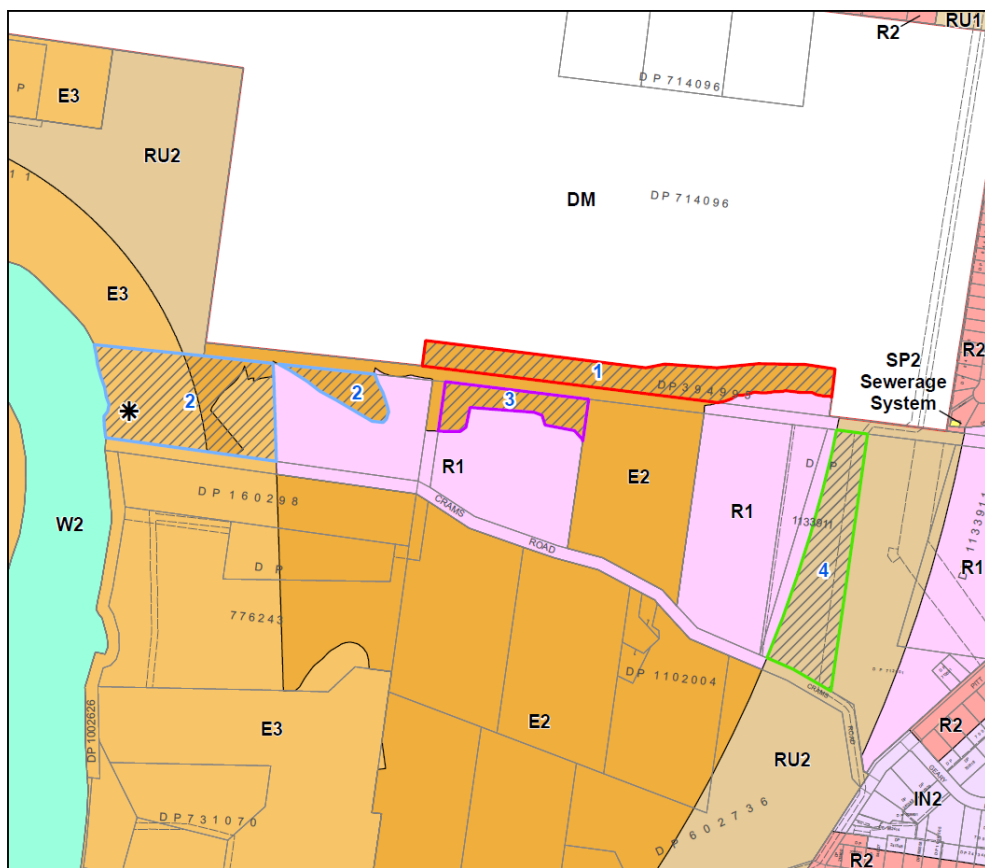
Affected Areas

Crams Road

Map 1



Council File 57476E



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No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 1 DP 394995	E2	28842.73	2.88	No
2	Lot 121 DP 751273	Pt E2, Pt E3	48022.06	4.80	Yes*
3	Lot 267 DP 751273	E2	10784.30	1.08	No
4	Lot 292 DP 1133911	RU2	29110.05	2.91	No

* Lot has dwelling entitlement potential under Clause 4.2D(5) if the existing dwelling is lawfully erected

Legend

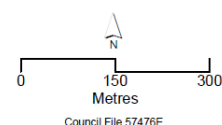
- Existing Dwelling
- Affected Areas

- Lot 1 DP 394995
- Lot 121 DP 751273
- Lot 267 DP 751273
- Lot 292 DP 1133911

PP032
Planning Proposal
Non-Urban Zoned Portion
Of Affected Areas

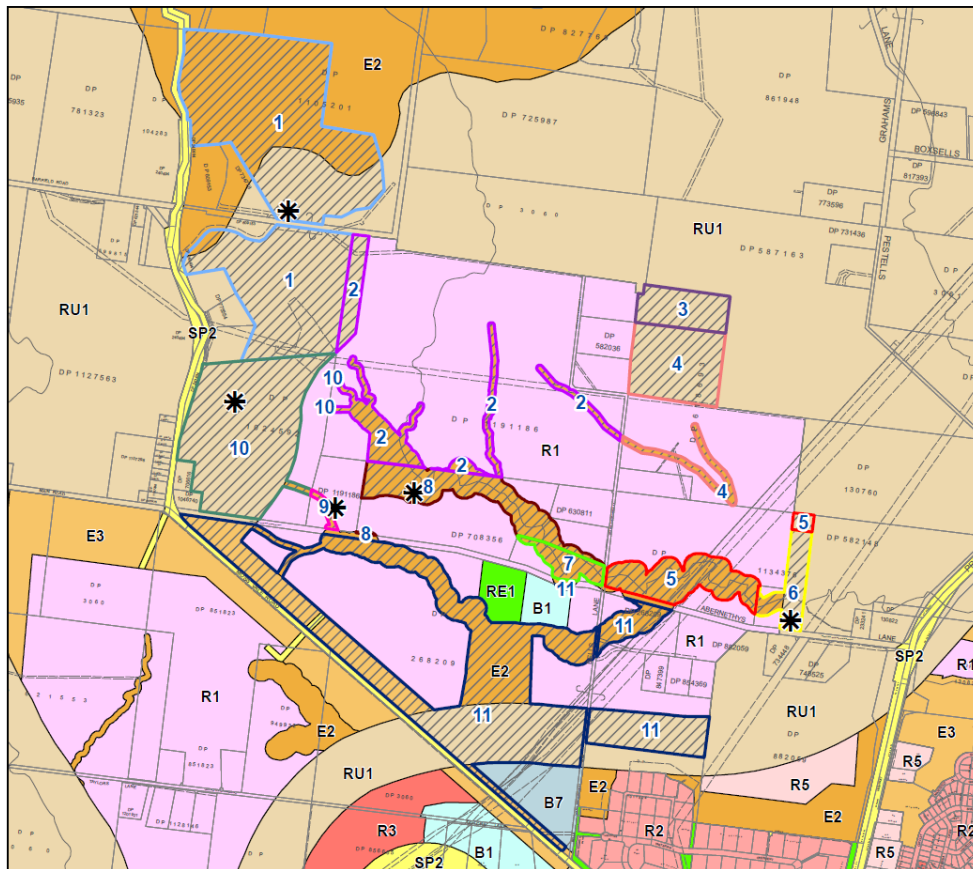
Crams Road

Map 2



Council File 57476E

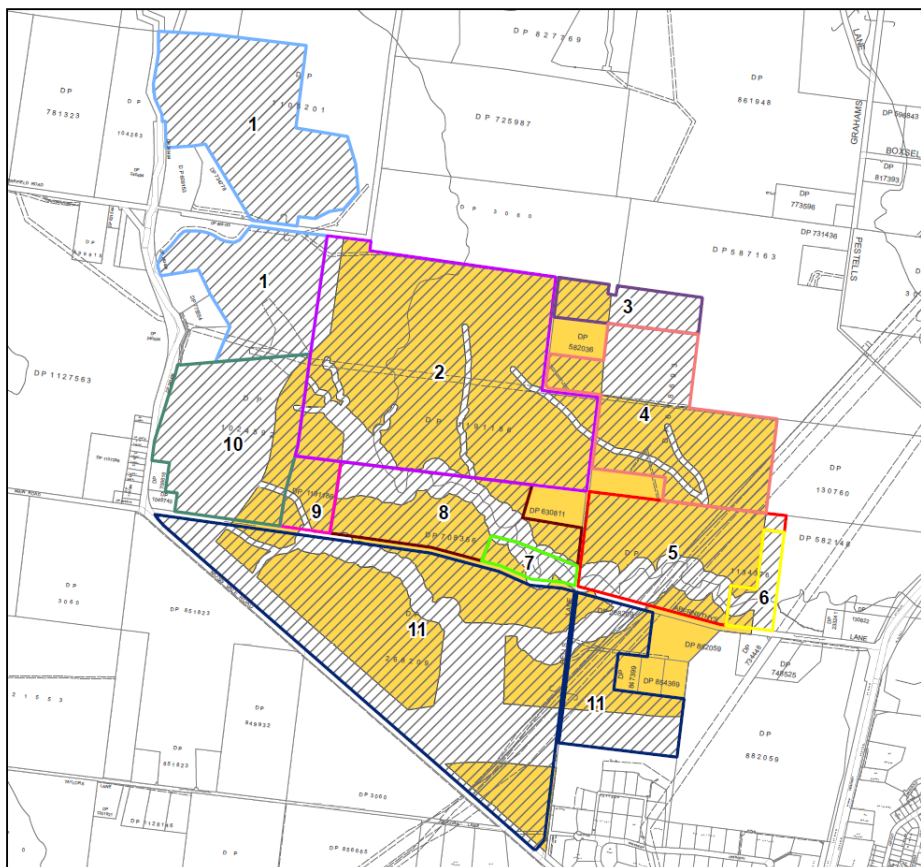
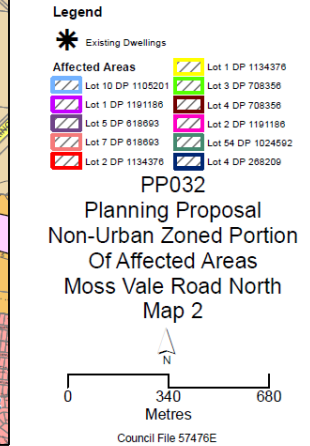
Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014



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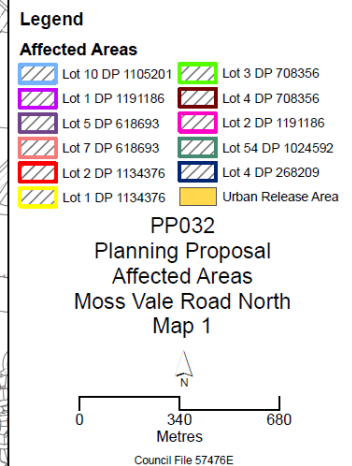
No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 10 DP 1105201	Pt RU1, Pt E2	459094.57	45.91	Yes ^a
2	Lot 1 DP 1191186	Pt E2, Pt RU1	79612.97	7.96	No
3	Lot 5 DP 618693	RU1	39145.62	3.91	No
4	Lot 7 DP 618693	Pt RU1, Pt E2	90503.23	9.05	No
5	Lot 2 DP 1134376	Pt E2, Pt RU1	62516.27	6.25	No
6	Lot 1 DP 1134376	Pt RU1, Pt E2	20708.19	2.07	Yes ^a
7	Lot 3 DP 708356	E2	18693.02	1.90	No
8	Lot 4 DP 708356	E2	70024.49	7.00	Yes ^a
9	Lot 2 DP 1191186	E2	3334.71	0.33	Yes ^a
10	Lot 54 DP 1024592	Pt RU1, Pt E2	189347.41	18.93	Yes ^a
11	Lot 4 DP 268209	Pt E2, Pt E3, Pt RU1	39128.99	39.13	No

^a Lot has dwelling entitlement potential under Clause 4.2D(3)(a) if at least the minimum lot size
^b Lot has dwelling entitlement potential under Clause 4.2D(5) if the existing dwelling is lawfully erected

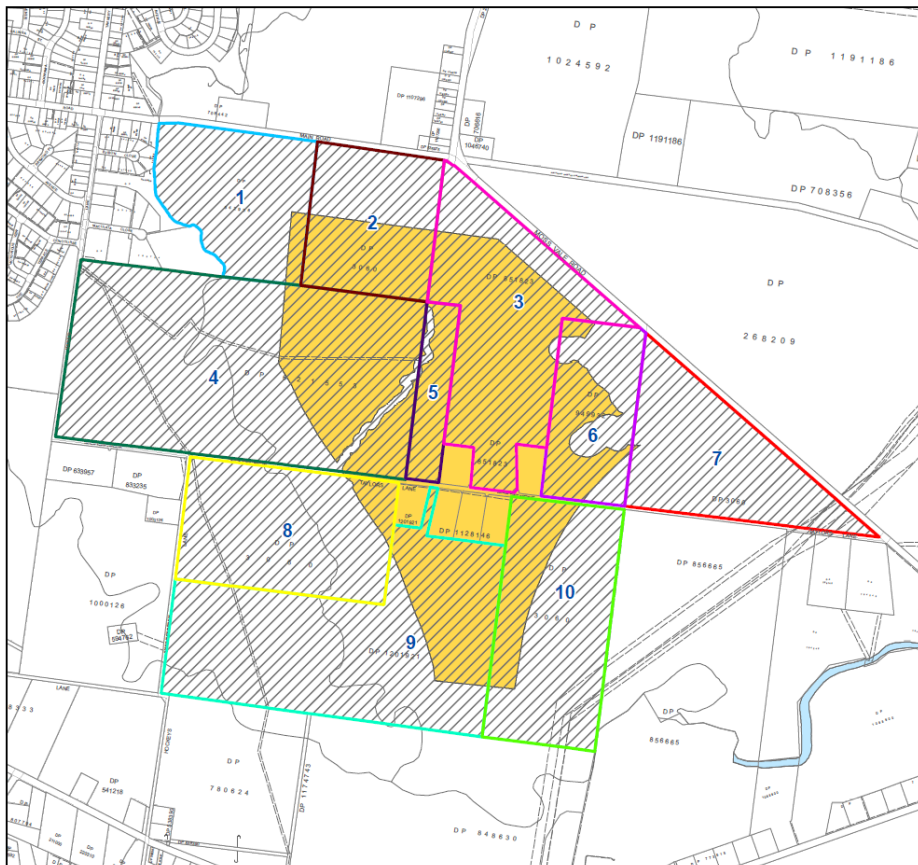


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No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 10 DP 1105201	Pt R1, Pt RU1 & Pt E2	459068.64	45.91
2	Lot 1 DP 1191186	Pt R1, Pt RU1 & Pt E2	636257.34	63.63
3	Lot 5 DP 618693	Pt R1, Pt RU1	63337.38	6.33
4	Lot 7 DP 618693	Pt R1, Pt RU1 & Pt E2	273437.60	27.34
5	Lot 2 DP 1134376	Pt R1, Pt RU1 & Pt E2	212136.63	21.21
6	Lot 1 DP 1134376	Pt R1, Pt RU1 & Pt E2	35557.06	3.56
7	Lot 3 DP 708356	Pt R1 & Pt E2	28013.79	2.80
8	Lot 4 DP 708356	Pt R1 & Pt E2	179234.40	17.92
9	Lot 2 DP 1191186	Pt R1 & Pt E2	40937.35	4.09
10	Lot 54 DP 1024592	Pt R1, Pt RU1 & Pt E2	237957.18	23.80
11	Lot 4 DP 268209	Pt B1, Pt B7, Pt R1, Pt E2, Pt E3, Pt RU1, Pt RE1	833713.54	83.37



Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014

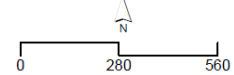


No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 4 DP 542936	Pt E3, Pt R1, Pt RU1	158176.01	15.82
2	Lot 127 DP 3060	Pt E3, Pt R1, Pt SP2	147231.62	14.72
3	Lot 3 DP 851823	Pt E3, Pt R1, Pt SP2	252932.47	25.29
4	Lot 2 DP 621553	Pt E2, Pt E3, Pt R1, Pt RU1	505499.70	50.55
5	Lot 1 DP 621553	Pt E2, Pt R1	47908.92	4.79
6	Lot 1 DP 949932	Pt E2, Pt E3, Pt R1, Pt RU1, Pt SP2	121600.17	12.16
7	Lot 122 DP 3060	Pt B1, Pt E2, Pt E3, Pt R1, Pt R3, Pt RU1	179849.16	17.98
8	Lot 119 DP 3060	Pt E2, Pt R1, Pt RU1	208204.41	20.82
9	Lot 102 DP 1201921	Pt R1, Pt RU1	376764.25	37.68
10	Lot 116 DP 3060	Pt R1, Pt RU1	221734.10	22.17

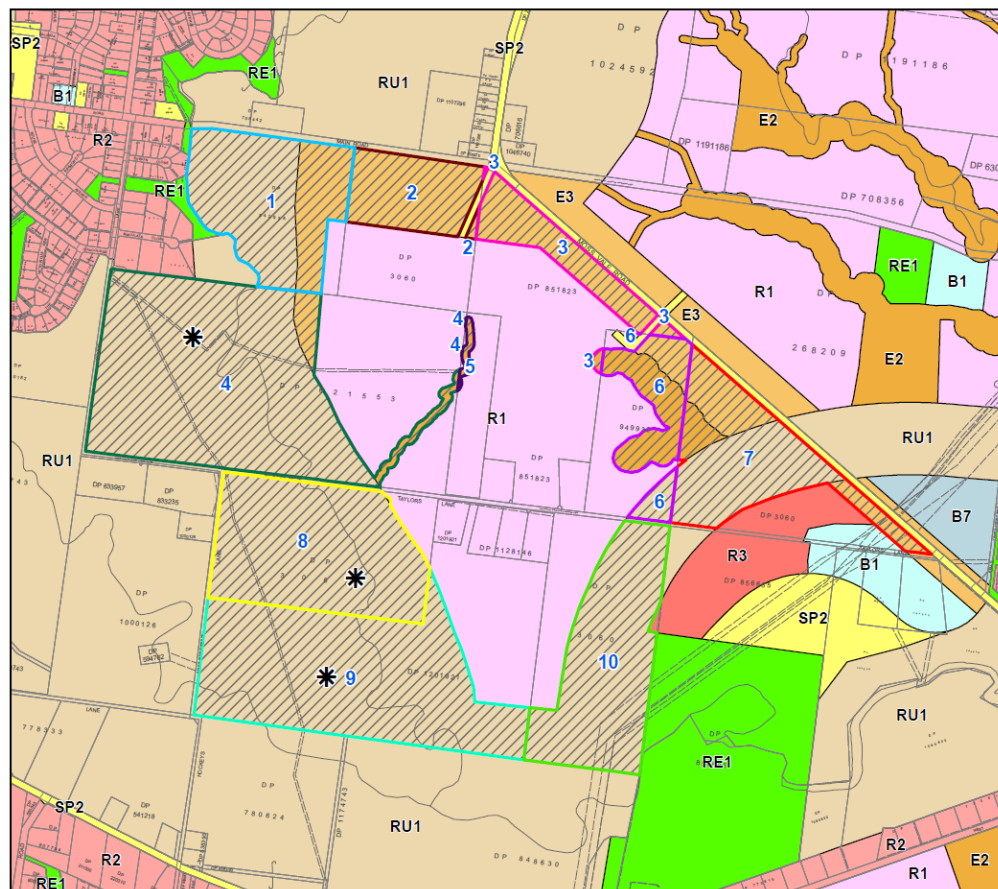
Legend

Affected Areas	
Lot 4 DP 542936	Lot 1 DP 949932
Lot 127 DP 3060	Lot 122 DP 3060
Lot 3 DP 851823	Lot 119 DP 3060
Lot 2 DP 621553	Lot 102 DP 1201921
Lot 1 DP 621553	Lot 116 DP 3060
	Urban Release Area

PP032
Planning Proposal
Affected Areas
Moss Vale Road South
Map 1



Council File 57476E



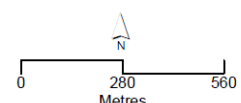
No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 4 DP 542936	Pt E3, Pt RU1	149446.00	14.94	No
2	Lot 127 DP 3060	E3	70837.97	7.08	No
3	Lot 3 DP 851823	Pt E2, Pt E3	58507.80	5.85	No
4	Lot 2 DP 621553	Pt E2, Pt E3, Pt RU1	340002.98	34.01	Yes*
5	Lot 1 DP 621553	E2	3770.72	0.38	No
6	Lot 1 DP 949932	Pt E2, Pt E3, Pt RU1	63261.67	6.33	No
7	Lot 122 DP 3060	Pt E2, Pt E3, Pt RU1	133060.71	13.31	No
8	Lot 119 DP 3060	Pt E2, Pt RU1	193369.52	19.34	Yes*
9	Lot 102 DP 1201921	RU1	274622.50	27.49	Yes*
10	Lot 116 DP 3060	RU1	160977.62	16.10	No

* Lot has dwelling entitlement potential under Clause 4.2D(3)(a) if at least the minimum lot size
* Lot has dwelling entitlement potential under Clause 4.2D(5) if the existing dwelling is lawfully erected

Legend

Affected Areas	
Lot 4 DP 542936	Lot 1 DP 949932
Lot 127 DP 3060	Lot 122 DP 3060
Lot 3 DP 851823	Lot 119 DP 3060
Lot 2 DP 621553	Lot 102 DP 1201921
Lot 1 DP 621553	Lot 116 DP 3060

PP032
Planning Proposal
Non-Urban Zoned Portion
Of Affected Areas
Moss Vale Road South
Map 2

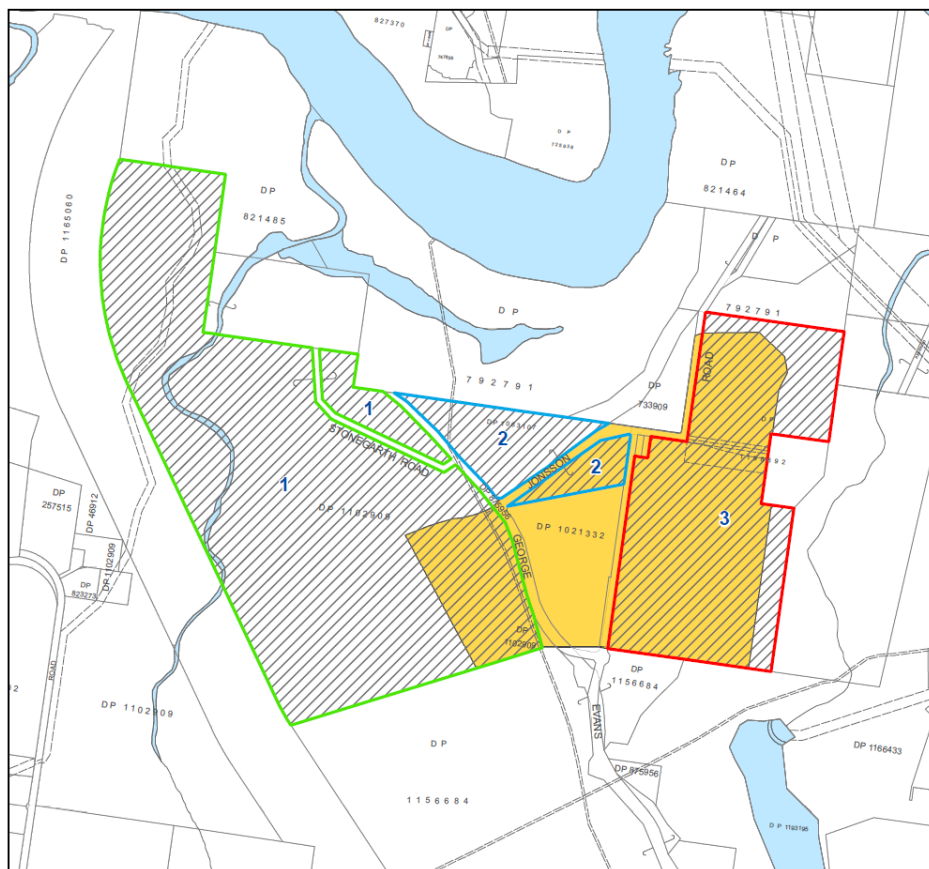


Council File 57476E

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Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014



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No.	Lot/DP	Zone	Area (m ²)	Area (Ha)
1	Lot 473 DP 1102909	Pt E3, Pt R1	920756.86	92.08
2	Lot 458 DP 1063107	Pt E3, Pt R1	103966.69	10.40
3	Lot 30 DP 1198692	Pt E2, Pt R1	403864.33	40.39

Legend

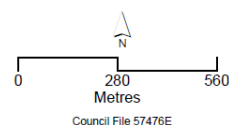
Affected Areas

- Lot 473 DP 1102909
- Lot 458 DP 1063107
- Lot 30 DP 1198692
- Urban Release Area

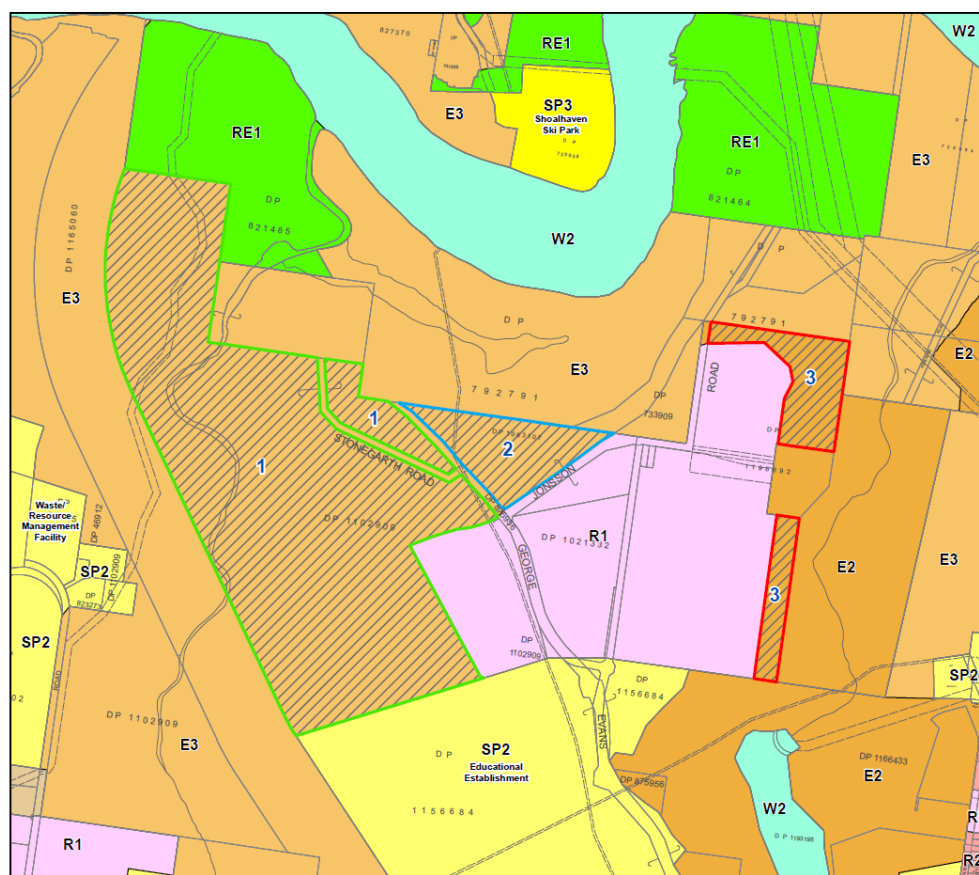
PP032
Planning Proposal

Affected Areas

Mundamia
Map 1



Council File 57476E



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No.	Lot/DP	Zone	Area (m ²)	Area (Ha)	Existing Dwelling
1	Lot 473 DP 1102909	E3	820624.96	82.06	No
2	Lot 458 DP 1063107	E3	75714.33	7.57	No
3	Lot 30 DP 1198692	E2	91703.10	9.17	No

Legend

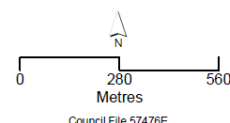
Affected Areas

- Lot 473 DP 1102909
- Lot 458 DP 1063107
- Lot 30 DP 1198692

PP032
Planning Proposal

Non-Urban Zoned Portion
of Affected Areas

Mundamia
Map 2



Council File 57476E

3 Part 2 – Explanation of Provisions

Based on legal advice in respect of the operation of the Clause, it is proposed that Clause 6.5 be amended to insert the wording as drafted in Table 2 below.

Table 2 - Planning Proposal Proposed Changes

Provision	Proposed amendment
Part 6 Urban release areas - 6.5 Erection of dwelling houses on residual lots in certain zones	<p>6.5 Subdivision of residual lots in certain zones</p> <p>1) <i>Despite any other provision of this Plan, the size of a lot created in a subdivision of land that is partly or wholly within an urban release area may be less than the minimum lot size shown on the Lot Size Map in relation to the land if the lot:</i></p> <p><i>(a) contains only land that is within the urban release area, or land that is within the urban release area and land immediately adjoining that land; and</i></p> <p><i>(b) contains only land that is within one or more of the following zones (the residual lot):</i></p> <p style="padding-left: 40px;"><i>(a) Zone RU1 Primary Production,</i> <i>(b) Zone RU2 Rural Landscape,</i> <i>(c) Zone E2 Environmental Conservation,</i> <i>(d) Zone E3 Environmental Management</i></p> <p>It is proposed that Clause 6.5(2) be deleted since potential residue lots that are considered suitable for a dwelling entitlement would be able to satisfy existing provisions in Clause 4.2D(3)(a) or Clause 4.2D(3)(5).</p>

4 Part 3 – Justification

4.1 Need for the Planning Proposal (Section A)

4.1.1 Is the Planning Proposal a result of any strategic study or report?

No. This PP is not a result of any strategic study or report. This PP seeks to rectify an anomaly in Clause 6.5 of Shoalhaven LEP 2014 to reflect its original intended outcome and create a legal mechanism for the creation of a ‘residue lot’ containing land zoned RU1, RU2, E2 or E3, where a lot is either wholly or partly within an URA in Shoalhaven LEP 2014. The PP is consistent with Council’s policy position and will help achieve the expected outcomes of the Shoalhaven LEP 2014 and delivery of the Nowra-Bomaderry URAs.

It should be noted that although this specific PP is not a result of any strategic study or report, the Nowra-Bomaderry URAs were the direct result of the Nowra-Bomaderry Structure Plan 2005, a Council and NSW Government endorsed strategy, which ultimately led to the provision of Part 6 in Shoalhaven LEP 2014, including Clause 6.5.

4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The PP is the best and only means of achieving the intended outcome. A similar provision exists in Clause 4.1E *Minimum lot size for certain split zone lots*, however Part 6 *Urban release areas* prevents the subdivision or development of land affected by the URA map prior to Part 6 requirements being completed.

The provisions in Part 6 prevail over any other provision of Shoalhaven LEP 2014 to the extent of any inconsistency.

There is no other means of achieving the proposed change of wording to Clause 6.5 other than a PP.

4.2 Relationship to strategic planning framework (Section B)

4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Illawarra-Shoalhaven Regional Plan (ISRP)

One of the goals of the ISRP is to provide sufficient housing supply and choice to meet the Regions changing housing demands over the next 20 years. The ISRP specifically identifies the Nowra-Bomaderry URAs as regionally significant and priority release areas.

The PP is consistent with multiple directions in the ISRP including Direction 2.1 *Provide sufficient housing supply to suit the changing demands of the region* and Direction 2.3 *Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact* as it will rectify an anomaly in Part 6 of Shoalhaven LEP 2014 to enable the subdivision of residue lots. Without such a mechanism, housing supply in the Nowra-Bomaderry URAs is significantly hindered as there is no legal mechanism to approve subdivisions that include a residue lot less than the 40ha minimum lot size.

The PP is consistent with the ISRP.

4.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Shoalhaven Community Strategic Plan (CSP)

The Shoalhaven CSP identifies objectives and strategies for a prosperous Shoalhaven where sustainable urban growth is supported. The PP is consistent with the Shoalhaven CSP and the relevant theme and action:

- Theme 2. Sustainable, liveable environments
 - 2.2 Plan and manage appropriate and sustainable development

4.2.3 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The PP is consistent with all applicable State Environmental Planning Policies (SEPPs). A full list of the SEPPs is provided in **Attachment C**.

4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (Section 9.1 directions)?

Ministerial Directions are considered in **Attachment D** and those that are most relevant are discussed below.

1.2 Rural Zones

The direction applies as the PP affects land within an existing rural zone.

The PP is consistent with the terms of the Direction as the PP does not seek to rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

1.5 Rural Lands

The Direction applies as the PP affects land within an existing rural or environment protection zone (Clause 3(a)). The PP does not seek to change the existing minimum lot size on land within a rural or environmental protection zone (Clause 3(b)).

The PP seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped URA. Without such a mechanism, the development of URAs is hindered as there is no mechanism to legally approve subdivisions that include a residue lot that is less than the minimum lot size. The original intent of the Clause has not been carried through in the wording of the Clause, as it has no application to the subdivision of land that is not within a URA, even if part of the lot is mapped as a URA.

The PP is considered minor in nature as it seeks to rectify this anomaly and enable the original intent of the Clause to have effect.

The PP is consistent with the Direction.

2.1 Environmental Protection Zones

This Direction applies to all PPs. The PP does not remove any existing provisions that facilitate the protection and conservation of environmentally sensitive areas (Clause 4). The PP does not reduce the environmental protection standards that apply to the land (Clause 5).

The PP seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped URA. Without such a mechanism, the development of URAs is hindered as there is no mechanism to legally approve subdivisions that include a residue lot that is less than the minimum lot size.

The original intent of the Clause has not been carried through in the wording of the Clause, as it has no application to the subdivision of land that is not within a URA, even if part of the lot is mapped as a URA.

The PP is considered minor in nature as it seeks to rectify this anomaly and enable the original intent of the Clause to have effect.

The PP is consistent with the Direction.

2.2 Coastal Protection

This Direction applies as the PP affects land within the coastal zone, specifically the Mundamia, Crams Road and Badgee URA.

The PP does not seek to amend any coastal management controls that already relate to the land, including maps under the SEPP (Coastal Management) 2018. The PP does not seek to rezone land that would enable increased development or more intensive land use on land within a coastal vulnerability area or coastal hazard area.

The PP is consistent with the Direction.

2.3 Heritage Conservation

This Direction applies to all PPs. The PP does not remove any existing heritage conservation provisions.

The PP is consistent with the Direction.

3.1 Residential Zones

This Direction applies as the PP affects land within an existing residential zone in which significant residential development is permitted. The PP affects land that is recognised as a regionally significant urban release area.

The PP seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped URA. Without such a mechanism, the development of URAs is hindered as there is no mechanism to legally approve subdivisions that include a residue lot that is less than the minimum lot size. The original intent of the Clause has not been carried through in the wording of the Clause, as it has no application to the subdivision of land that is not within a URA, even if part of the lot is mapped as a URA.

The PP is consistent with the Direction.

3.3 Home Occupations

This direction applies to all PPs. The PP does not alter any existing provisions that enable home occupations to be carried out in dwelling houses without the need for development consent.

The PP is consistent with the Direction.

4.1 Acid Sulfate Soils

This Direction applies as the PP affects land with a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. The PP does not seek to remove any provisions controlling development on Acid Sulfate Soils.

The PP is consistent with the Direction.

4.3 Flood Prone Lands

This Direction applies as the PP affects land identified as being flood prone. The PP does not seek to remove or alter any existing flood controls in relation to flood prone land, and does not seek to rezone land. It does not impose flood related development controls above the residential flood planning level.

The PP is consistent with the Direction.

4.4 Planning for Bushfire Protection

This direction applies as the PP affects land that is mapped as being Bushfire Prone. The PP does not seek to remove or alter any provisions relating to Bushfire Prone Land.

The PP seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped URA. Without such a mechanism, the development of URAs is hindered as there is no mechanism to legally approve subdivisions that include a residue lot that is less than the minimum lot size. The original intent of the Clause has not been carried through in the wording of the Clause, as it has no application to the subdivision of land that is not within a URA, even if part of the lot is mapped as a URA.

The PP is considered minor in nature as it seeks to rectify this anomaly and enable the original intent of the Clause to have effect.

Consultation will be undertaken with the NSW Rural Fire Service following receipt of a Gateway determination, and prior to undertaking community consultation as required by this Direction.

The PP is consistent with the Direction.

5.10 Implementation of Regional Plans

This Direction applies to all PPs.

The PP is consistent with the aims, directions and actions of the Illawarra-Shoalhaven Regional Plan (ISRP) as it seeks to create a legal mechanism in Part 6 of Shoalhaven LEP 2014 to enable a residue lot subdivision for lots that have a split urban/rural zoning that are either partly or wholly within a mapped URA.

The Nowra-Bomaderry URAs are recognised as being regionally significant in the ISRP. Without a mechanism to create a residue lot as originally intended by the Clause, the development of the URAs is at risk as there is no legal mechanism for the relevant planning authority to approve a subdivision that includes a residue lot comprised entirely of land

zoned RU1, RU2, E2 or E3 that is less than the minimum lot size. At present, Clause 6.5 has no application to the subdivision of land that is not within a mapped URA, even if part of the lot is mapped as a URA. The PP is considered minor in nature as it seeks to rectify this anomaly and enable the original intent of the Clause to have effect.

The PP is consistent with the Direction.

4.3 Environmental, Social and Economic Impact (Section C)

4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The PP is not considered to impact any critical habitat or threatened species, populations or ecological communities, or their habitats as it involves amending a wording anomaly in Clause 6.5 of Shoalhaven LEP 2014. The intent of the Clause is to enable the subdivision of land that is partly within a URA and is also partly zoned a prescribed non-urban zone to create a residue lot where the non-urban zoned portion may be subdivided to a size less than the mapped minimum lot size (generally 40ha). The updated Clause will also prevent dwellings from being situated in unsuitable locations such as rural or environmentally sensitive land and enable the erection of dwelling houses with development consent in certain circumstances where they either meet the minimum lot size or have an existing lawfully approved dwelling house on the land.

Any future subdivision / development may require further flora and fauna investigations as part of the DA process.

4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Other environmental impacts are not anticipated specifically as a result of this PP. Any future development would require consideration of environmental impacts as part of the DA process.

4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?

The social and economic impacts are considered minimal. Additional housing opportunities may increase housing choice and improve the viability of the resultant residual lots by enabling the potential for dwelling houses to be erected subject to development consent.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The PP does not create additional need for infrastructure as the impacts are considered minimal. Further, the amendment will better utilise existing or proposed infrastructure with the potential for the small number of additional dwellings being created by the amendment.

4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council has already been in contact with the DP&E and they have concurred that the wording of Clause 6.5 does not enable the intended outcome to be achieved. Council will further consult with other relevant State and Commonwealth authorities (e.g. NSW Rural Fire Service as per Section 117 Direction 4.4 Planning for Bushfire Protection) in accordance with the conditions of the Gateway determination. The PP will be updated prior to public exhibition, if required, to incorporate the view of the any public authority.

5 Part 4 – Mapping

No mapping changes are proposed as part of this PP.

6 Part 5 - Community Consultation

Council proposes to exhibit the PP in accordance with the requirements of Section 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and any other requirements as determined by the Gateway process. It is intended that an exhibition period of 14 days apply as the PP is considered low impact and minor in nature to rectify an identified anomaly.

Public notification of the exhibition would include notification in the local newspaper, and a notice on Council's website. The statutory exhibition will be at Council's City Administration Centre in Nowra. Copies of the PP will be made available for viewing at Council's Administrative Building and on Council's website.

7 Part 6 – Project Timeline

Task	Anticipated Timeframe
Submission of original PP to DP&E	February 2018
Resolution of pre-gateway issues with DP&E and OEH	March – December 2018
Preparation of mapping and provision of further information to the DP&E	February 2019
Resubmission of Revised PP	May 2019
Gateway determination	June 2019
Completion of Gateway determination requirements	July 2019
Public exhibition	August 2019
Consideration of submissions	August/September 2019
Post exhibition consideration of PP	September 2019
Finalisation and notification of Plan	October 2019

Attachments

Attachment A - Evaluation Criteria for the Delegation of Plan Making Functions

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP032

Address of Land (if applicable):

The PP applies to land that is partly in URAs located in the Shoalhaven LGA including Mundamia, Moss Vale Road South, Moss Vale Road North, Crams Road, Cabbage Tree Lane and Badgee.

Intent of draft LEP:

The PP seeks to make an amendment to the wording of Clause 6.5 in Shoalhaven LEP 2014 to include allotments that are connected to an URA, although not mapped as such. In this way, the PP intends to increase the useability of the Shoalhaven LEP 2014 and remove uncertainty and confusion from Clause 6.5.

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the PP consistent with the Standard Instrument Order, 2006?	Y			
Does the PP contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		NR		
Does the PP contain details related to proposed consultation?	Y			
Is the PP compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the PP adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the PP consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			

Minor Mapping Error Amendments				
Does the PP seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		NR		
Heritage LEPs				
Does the PP seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?		NR		
Does the PP include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NR		
Does the PP potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NR		
Reclassifications				
Is there an associated spot rezoning with the reclassification?		NR		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management POM) or strategy?		NR		
Is the PP proposed to rectify an anomaly in a classification?		NR		
Will the PP be consistent with an adopted POM or other strategy related to the site?		NR		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		NR		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the PP?		NR		
Has the council identified that it will exhibit the PP in accordance with the DP&E Practice Note (PN09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?		NR		
Has council acknowledged in its PP that a Public Hearing will be required and agree to hold one as part of its documentation?		NR		
Spot Rezonings				
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		NR		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		NR		
Will the PP deal with a previously deferred matter in an existing LEP and if so, does it provide enough information		NR		

to explain how the issue that lead to the deferral has been addressed?				
If yes, does the PP contain sufficient documented justification to enable the matter to proceed?		NR		
Does the PP create an exception to a mapped development standard?		NR		
Section 73A matters				
<p>Does the proposed instrument:</p> <p>a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary works or a formatting error?;</p> <p>b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?;</p> <p>c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>	Y			

Attachment B – Council Development Committee Report and Minute

DE18.4 Proposed Planning Proposal - Clause 6.5 of Shoalhaven Local Environmental Plan 2014

HPERM Ref: D17/424832

Group: Planning Environment & Development Group
Section: Strategic Planning

Purpose / Summary

To obtain the required resolution to prepare and submit a Planning Proposal (PP) to amend Clause 6.5 of Shoalhaven Local Environmental Plan (LEP) 2014 to rectify an anomaly that has been identified.

Clause 6.5 deals with the erection of a dwelling on residue lots associated with identified Urban Release Areas (URAs).

Recommendation (Item to be determined under delegated authority)

That the Committee:

1. Support the preparation and submission of a Planning Proposal for Gateway determination to amend Clause 6.5 of Shoalhaven Local Environmental Plan 2014 to include reference to land associated with Urban Release Areas to rectify the identified anomaly.
2. If Gateway determination is received, proceed to public exhibition to at least the requirement specified in the Gateway determination

Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will enable this anomaly to be rectified in a timely manner, consistent with Council's Planning Proposal Guidelines and related DP&E Guidelines.

Council is currently in receipt of two development applications for land in the Moss Vale Road South Urban Release Area (URA). On review the current Clause does not allow for the subdivision of the part of the land that has a non-urban zone and that is less than the general mapped minimum lot size. Unless the anomaly is rectified, the significant variations to the minimum lot size exceed Council's delegation to approve variations under Clause 4.6, and as such concurrence may need to be sought from DP&E for these development applications and subsequent other ones within the URAs.

2. Adopt an alternative recommendation to amend the URA maps to include the Environment Protection zones contained within URAs (i.e. those generally associated with buffers and riparian corridors).

Implications: This is not preferred as it would still not resolve the current issue for land on the periphery of URAs where existing lots are partly in the URA and a residue will be created.

3. Not support the preparation of a PP to rectify this anomaly.

Implications: This would leave the identified matter unresolved and this will create ongoing problems as land within and associated with the URAs is subdivided.

Background and Issue Overview

Part 6 Urban Release Areas of the LEP when drafted was informed by a 'Model Clause' provided by DP&E. Model Clauses were provided for Councils to use to reduce the time required to amend Standard Instrument LEP's given that the wording was settled by the Parliamentary Counsel's Office and they address common topics raised by Councils in the preparation of their new LEP's.

In preparing Shoalhaven LEP 2014, an additional Clause 6.5 was added to Part 6 Urban Release Areas to deal with the erection of dwelling houses on residual lots in relevant zones. The relevant zones are RU1 Primary Production, RU2 Rural Landscape, E2 Environmental Conservation and E3 Environmental Management.

The Clause in question was prepared to enable the subdivision of the non-urban zoned land tied to a URA (generally in one ownership) to a size less than the lot size map generally specifies. It also enables development consent to be granted for the erection of a dwelling house on the newly created non-urban zoned lot (the residual lot).

The current wording of Clause 6.5 is as follows:

6.5 Erection of dwelling houses on residual lots in certain zones

- 1) *Development consent may be granted for the subdivision of land in an urban release area to create a lot of a size that is less than the minimum size shown on the [Lot Size Map](#) in relation to that land or less than the minimum lot size permitted for the land immediately before it became, or became part of, an urban release area if the lot is comprised entirely of land in one or more of the following zones (the residual lot):*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone E2 Environmental Conservation,*
 - (d) *Zone E3 Environmental Management*
- 2) *Development consent may be granted for the erection of a dwelling house on a residual lot.*

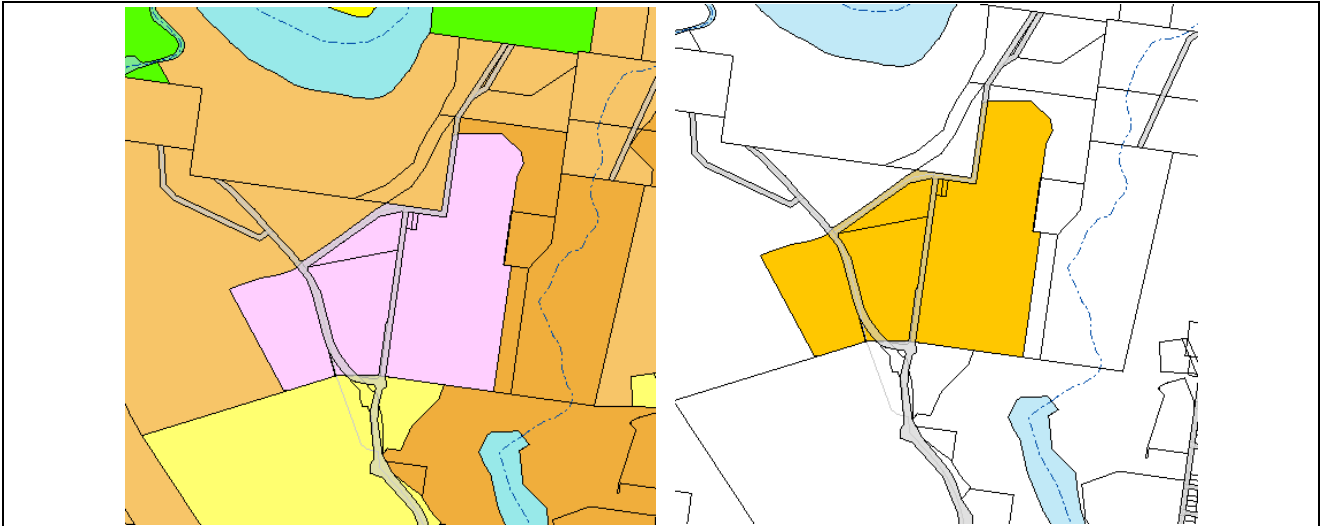
Whilst the above Clause references prescribed zones, it also specifically refers to land that is in an URA. Shoalhaven LEP 2014 defines an "urban release area" as "*the area of land identified as "Urban Release Area" on the [Urban Release Area Map](#).*" Therefore, it appears that the current wording of the Clause restricts its application to the land that is within a mapped URA. This interpretation has been discussed with DP&E and concurred with.

Within Shoalhaven LEP 2014 there are currently six mapped URAs including Mundamia, Moss Vale Road South, Moss Vale Road North, Crams Road, Cabbage Tree Lane and Badgee.

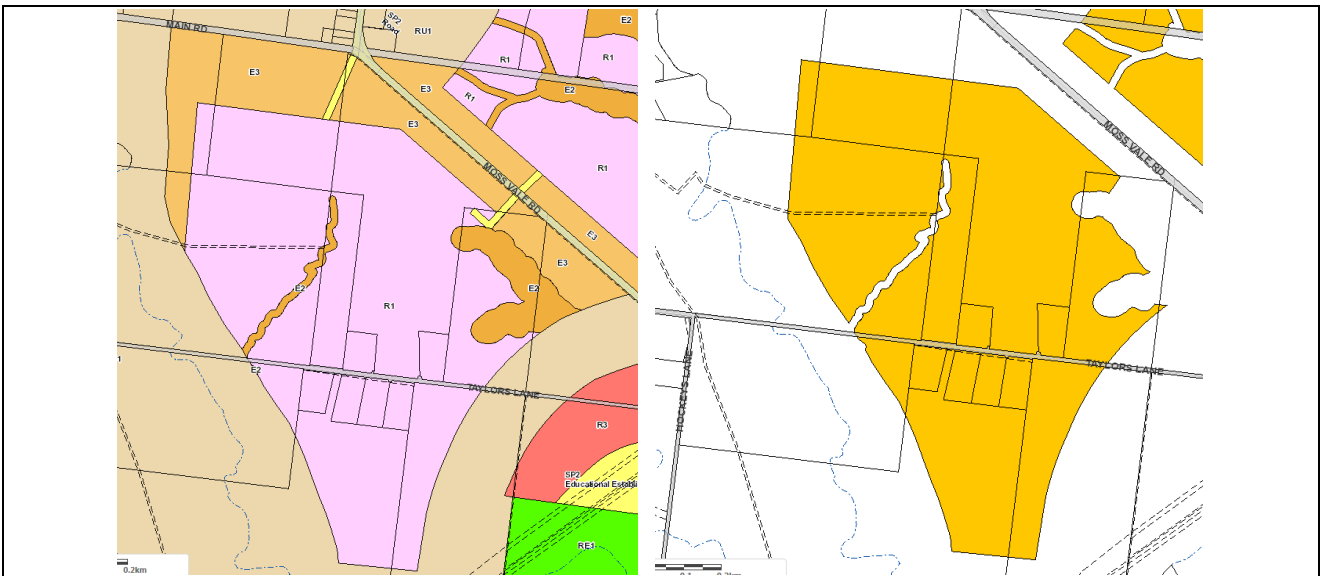
The following table and supporting maps identify the six URAs and provide an overview of the zones of the area mapped as URA, and land that is 'within' the overall URA but excluded from the URA map in Shoalhaven LEP 2014.

URA	Zones within mapped URA	Zones part of the overall URA but not in the mapped URA
Mundamia	R1 General Residential	E2 Environmental Conservation E3 Environmental Management
Moss Vale Road South	R1 General Residential SP2 Infrastructure (Road)	E2 Environmental Conservation E3 Environmental Management
Moss Vale Road North	R1 General Residential RE1 Public Recreation B1 Local Centre B7 Business Park SP2 Infrastructure (Road)	E2 Environmental Conservation E3 Environmental Management
Crams Road	R1 General Residential	E2 Environmental Conservation E3 Environmental Management
Cabbage Tree Lane	R1 General Residential	B1 Local Centre RE1 Public Recreation E2 Environmental Conservation SP2 Infrastructure (Educational Establishment)
Badgee	R1 General Residential RE2 Private Recreation E2 Environmental Conservation	RE1 Public Recreation

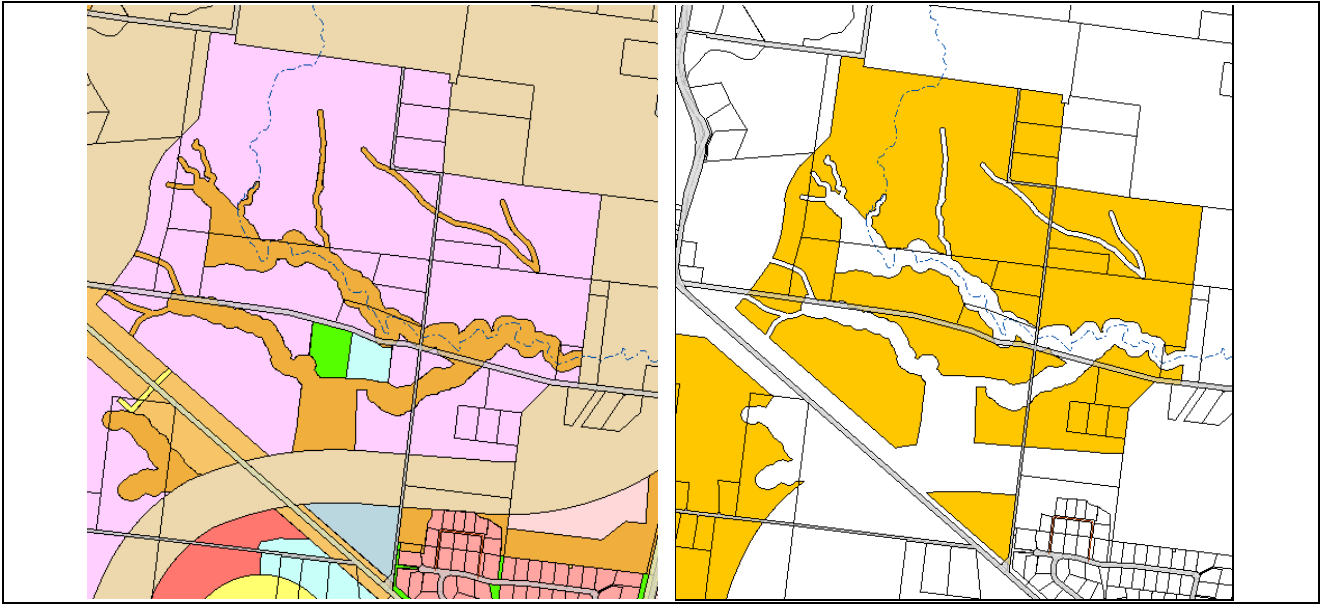
Mundamia URA



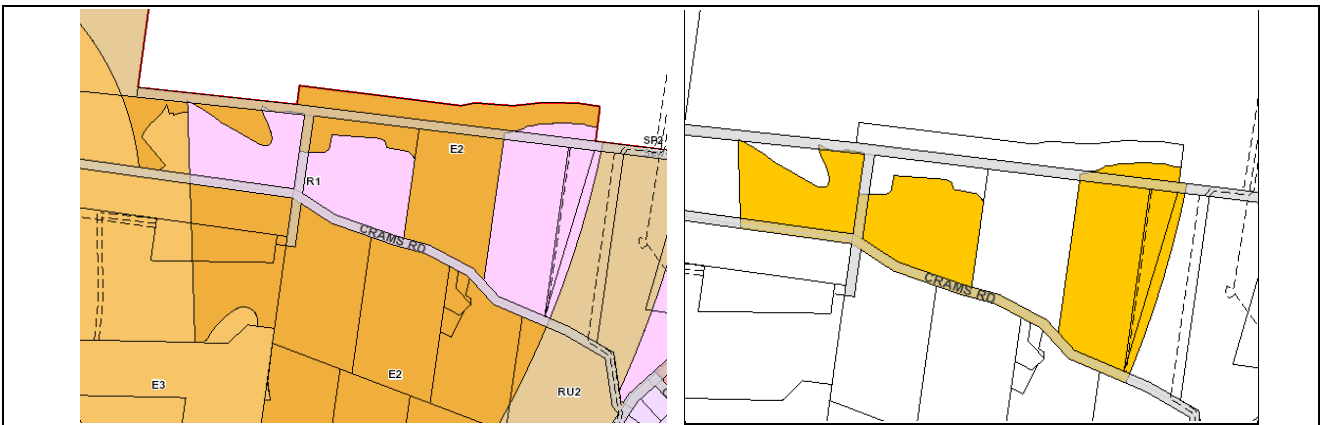
Moss Vale Road South URA



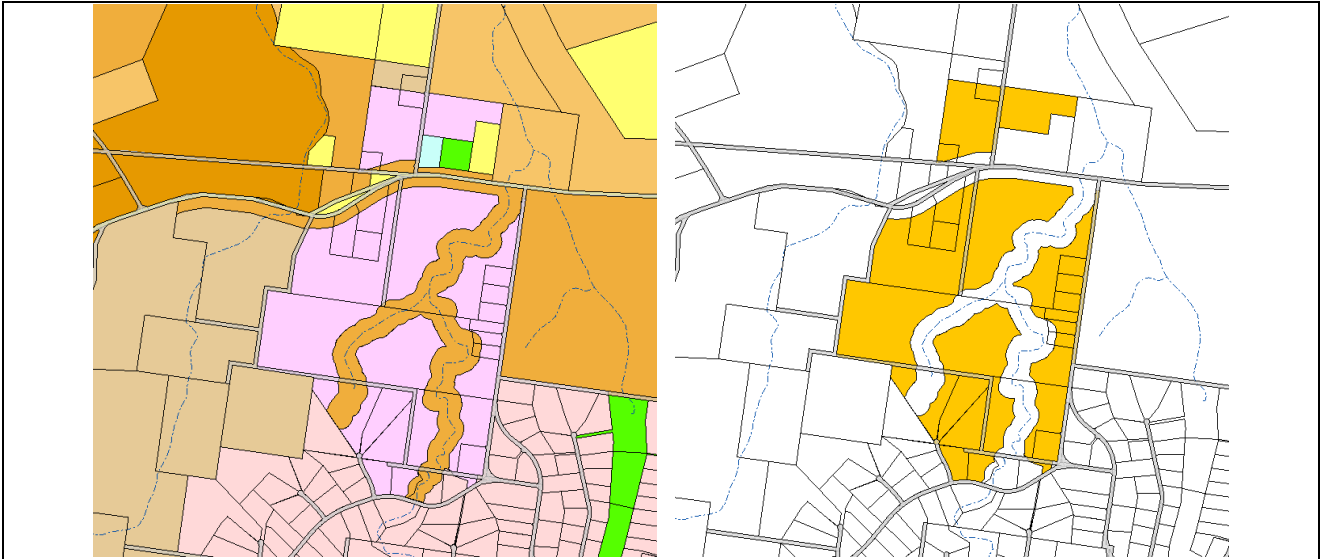
Moss Vale Road North URA



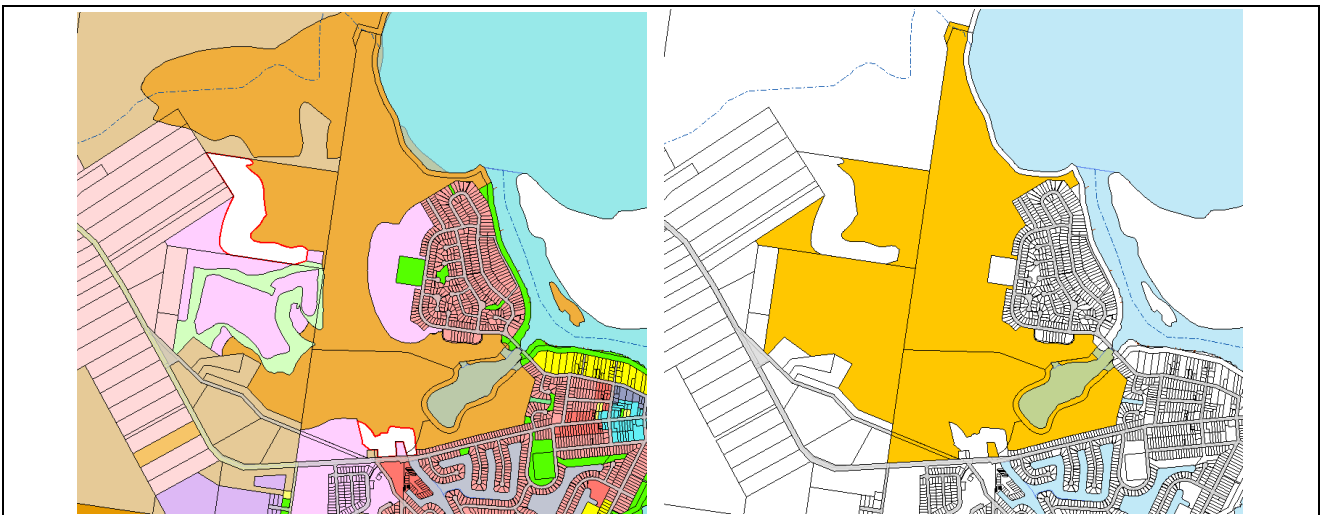
Crams Road URA



Cabbage Tree Lane URA



Badgee URA



In addition to the information contained in the above table and maps, it is noted that land on the periphery of the Moss Vale Road South and North URAs, where only part of the existing lots are within the mapped URA, is zoned RU1 Primary Production. Council is currently in receipt of two development applications for land in the Moss Vale Road South URA which would rely on this Clause to subdivide the non-urban zone from the urban zone and create a practical residual lot.

When considering the prescribed zones currently listed in Clause 6.5, the actual zones within the mapped URA and the land that is 'within' the overall URA but excluded from the mapped URA, it is clear that the Clause can only really apply to Badgee URA and has no effect to the Nowra-Bomaderry URAs.

Conclusion

As such, in simple terms, the current clause does not enable residue parcels to be dealt with as originally envisaged or intended.

Unless the clause is amended to improve its usability, there are likely to be problems with the future URA subdivisions. Thus, it is recommended that a PP be prepared in accordance with DP&E Guidelines and submitted for Gateway determination to rectify this anomaly. The two options available are:

Option 1: Amend Clause 6.5 to reference all land associated with the URA.

This is the preferred option as it enables all land that is wholly or partly mapped (including allotments on the periphery) as a URA to utilise the provisions of the Clause if required. Residual lots which are created from subdivisions under this Clause may also be granted development consent for the erection of a dwelling house.

Option 2: Amend the URA maps to include the Environment Protection zones contained within URAs (i.e. those generally associated with buffers and riparian corridors).

This is not preferred as it would really only deal with land that is essentially within the URAs and it would not assist with land that is on their periphery.

The above options will be discussed with DP&E prior to submission of the PP for the required Gateway determination, but Option 1 is the preferred approach.

Community Engagement

Should the proposed PP receive a Gateway determination, it will be publicly exhibited in accordance with the requirements of the determination and the Environmental Planning & Assessment Regulations 2000.

Policy Implications

The PP will amend Clause 6.5 of Shoalhaven LEP 2014 to rectify an anomaly and clarify future URA subdivisions.

Financial Implications

The PP will be prepared within the existing Strategic Planning budget.

Risk Implications

Clause 6.5 is intended to allow for situations where lots that are partly mapped as a URA and are partially a non-urban zone (RU1, RU2, E2 and E3) can be subdivided to a size that is less than specified general minimum lot size (40ha) for those zones. The clause also enables development consent to be granted for the erection of a dwelling house on the residual lot. However, on review, if the current Clause remains unchanged, it appears that this will be prohibited. Thus, to achieve the original intent there is a need to amend the Clause.

INFORMATION ONLY

DEVELOPMENT COMMITTEE

22/01/2018

TO: Strategic Planning Manager (Gordon Clark)

Subject: Planning Proposal - Shoalhaven LEP 2014 - Clause 6.5 amendment
- Preparation - Gateway determination - Public exhibition
Target Date: 21/02/2018
Notes: This item has been assigned to Jessica Volkanovski for action.
Please finalise your 'Information only' action in Infocouncil to
acknowledge receipt.
HPERM 38647E D17/424832
Reference

RESOLVED (Clr Findley / Clr Wells)

MIN18.8

That Council:

1. Support the preparation and submission of a Planning Proposal for Gateway determination to amend Clause 6.5 of Shoalhaven Local Environmental Plan 2014 to include reference to land associated with Urban Release Areas to rectify the identified anomaly.
2. If Gateway determination is received, proceed to public exhibition to at least the requirement specified in the Gateway determination.

FOR: Clr Findley, Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Cheyne, Clr Alldrick, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Carmel Krogh

AGAINST: Nil

CARRIED

Attachment C – SEPP Checklist

SEPP	Name	Applicable	Not inconsistent
1	Development Standards	✓	✓
14	Coastal wetlands	✓	✓
19	Bushland in Urban Areas	✗	n/a
21	Caravan parks	✗	n/a
26	Littoral rainforests	✗	n/a
30	Intensive agriculture	✗	n/a
33	Hazardous and Offensive development	✗	n/a
36	Manufactured home estates	✗	n/a
44	Koala habitat protection	✓	✓
50	Canal estate development	✗	n/a
52	Farm Dams and Other Works in Land and Water Management Plan Areas	✗	n/a
55	Remediation of land	✓	✓
62	Sustainable aquaculture	✗	n/a
64	Advertising and signage	✗	n/a
65	Design quality of residential apartment development	✗	n/a
70	Affordable Housing (Revised Schemes)	✗	n/a
71	Coastal protection	✓	✓
--	Affordable Rental Housing 2009	✗	n/a
--	BASIX : 2004	✓	✓
	Educational Establishments and Child Care Facilities 2017	✗	n/a
--	Exempt and Complying Development Codes 2008	✓	✓
--	Housing for Seniors or People with a Disability 2004	✗	n/a
--	Infrastructure 2007	✗	n/a
--	Integration and Repeals 2016	✗	n/a
--	Kosciuszko National Park—Alpine Resorts 2007	✗	n/a
--	Kurnell Peninsula 1989	✗	n/a
--	Mining, Petroleum Production and Extractive Industries 2007	✗	n/a
--	Miscellaneous Consent Provisions 2007	✗	n/a
--	Penrith Lakes Scheme 1989	✗	n/a
--	Rural Lands 2008	✗	✓
--	State and Regional Development 2011	✗	n/a
--	State Significant Precincts 2005	✗	n/a
--	Sydney Drinking Water Catchment 2011	✗	n/a

Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014

--	Sydney Region Growth Centres 2006	✖	n/a
--	Three Ports 2013	✖	n/a
--	Urban Renewal 2010	✖	n/a
	Vegetation in Non-Rural Areas 2017	✖	n/a
--	Western Sydney Employment Area 2009	✖	n/a
--	Western Sydney Parklands 2009	✖	n/a

Attachment D – S9.1 Directions Checklist

Direction		Applicable	Relevant	Not inconsistent
1 Employment and Resources				
1.1	Business and Industrial Zones	✗	✗	n/a
1.2	Rural Zones	✓	✓	✓
1.3	Mining, Petroleum Production and Extractive Industries	✓	✗	n/a
1.4	Oyster Aquaculture	✗	✗	n/a
1.5	Rural lands	✓	✓	✓
2 Environment and Heritage				
2.1	Environmental Protection Zones	✓	✓	✓
2.2	Coastal Protection	✓	✓	✓
2.3	Heritage Conservation	✓	✓	✓
2.4	Recreation Vehicle Area	✗	✗	n/a
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	✗	✗	n/a
3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	✓	✗	✓
3.2	Caravan Parks and Manufactured Home Estates	✗	✗	n/a
3.3	Home Occupations	✓	✓	✓
3.4	Integrating Land Use and Transport	✓	✗	✓
3.5	Development Near Licensed Aerodromes	✗	✗	n/a
3.6	Shooting Ranges	✗	✗	n/a
3.7	Reduction in non-hosted short term rental accommodation period	✗	✗	n/a
4 Hazard and Risk				
4.1	Acid Sulfate Soils	✓	✓	✓
4.2	Mine Subsidence and Unstable Land	✗	✗	n/a
4.3	Flood Prone Land	✓	✓	✓
4.4	Planning for Bushfire Protection	✓	✓	✓
5 Regional Planning				
5.1	Implementation of Regional Strategies	✗	✗	n/a

Planning Proposal – Shoalhaven LEP 2014 – Subdivision and dwelling entitlement provisions for residue lots adjoining Urban Release Areas in Shoalhaven Local Environmental Plan 2014

5.2	Sydney Drinking Water Catchments	x	x	n/a
5.3	Farmland of State & Regional Significance Far North Coast	x	x	n/a
5.4	Commercial & Retail Development Far North Coast	x	x	n/a
5.8	Second Sydney Airport: Badgerys Creek	x	x	n/a
5.9	North West Rail Link Corridor Strategy	x	x	n/a
5.10	Implementation of Regional Plans	✓	✓	✓
5.11	Development of Aboriginal Land Council land	x	x	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	✓	✓
6.2	Reserving Land for Public Purposes	x	x	n/a
6.3	Site Specific Provisions	x	x	n/a