



Planning,
Industry &
Environment

IRF21/490

Gateway determination report – PP-2021-2068

Lots 21-24 DP714096, Warrah Road Bangalee –
Deferred land within the Crams Road Investigation
Area Planning Proposal (240 homes and 0 jobs)

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1 Planning Proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Shoalhaven
PPA	Shoalhaven City Council
NAME	Lots 21-24 DP714096, Warrah Road Bangalee – Deferred land within the Crams Road Investigation Area.
NUMBER	PP-2021-2068
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Warrah Road, Bangalee
DESCRIPTION	Lots 21, 22, 23 and 24 DP714096
RECEIVED	16/02/2021
FILE NO.	OBJ13/08481-2 & IRF21/490
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to resolve the planning status of the ‘deferred’ land at Warrah Road, Bangalee. This will be achieved by:

- Protecting High Conservation Value (HCV) land by applying an appropriate environmental zone.
- Securing the future tenure and management of the environmental land.
- Protecting the corridor and alignment of the future A1/M1 (Western Bypass) by rezoning the affected land to RU2 - Rural Landscape.
- Ultimately enabling residential development to occur on the non-HCV land (subject to satisfaction of Part 6 of Shoalhaven LEP 2014).

The objective of this planning proposal is clear and adequate. The development footprint has been investigated and developed by Council and the landowner, in consultation with the Department.

1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 per the changes below. As the site is deferred from the LEP no controls apart from land zone and minimum lot size currently apply.

Table 1 Current and Proposed controls

Control	Current	Proposed
Zone	Rural 1(d) (General Residential)	<p>E2 Environmental Conservation – protecting high conservation areas</p> <p>RU2 Rural Landscape – area of Western Bypass Corridor</p> <p>R5 Large Lot Residential – areas to accommodate dwellings for 3 proposed caretaker lots covering the E2 lands.</p> <p>R2 Low Density Residential – area suitable for residential development</p>
Minimum lot size	40ha	<p>E2 Environmental Conservation – 40ha</p> <p>RU2 Rural Landscape – 10ha to allow the land to be excised and attached to a residential lot within the subdivision until such time it is required for the Western Bypass.</p> <p>R5 Large Lot Residential (western edge of URA/R2) – 6,000m² to allow two urban sized building envelopes as part of two larger caretaker lots each containing one third of the E2 land.</p> <p>R5 Large Lot Residential (south east corner of URA/R2) – 1ha to allow an urban sized building envelope as part of a larger caretaker lot containing one third of the E2 land.</p> <p>R2 Low Density Residential (northern boundary of site, east of Warrah Road) – 2,000m² to reflect adjoining large lot residential development and provide a buffer to higher density residential within the URA.</p>

Control	Current	Proposed
Minimum lot size	40ha	<p>R2 Low Density Residential (northern boundary of site, west of Warrah Road) – 1,000m² which is less than adjoining large lot residential development due to unformed road reserve between the developments and irregular shape of the area. It is proposed to construct the road as part of the future subdivision of the land.</p> <p>R2 Low Density Residential (buffer between development and adjoining E2 lands) – 800m² to allow for larger lots to provide for a buffer and accommodation of asset protection zones.</p> <p>R2 Low Density Residential (least constrained part of URA) – 500m² to allow for standard residential lots.</p>
Urban Release Area		Amend the current map to apply to the URA - all residential zoned land
Maximum height of building		Apply 8.5m to land zoned R2 and R5
Riparian lands and watercourses		Apply a watercourse category for the existing watercourse and its tributaries.
Acid Sulfate Soils		Apply Class 5 category to the site.
Clauses Map – Clause 7.21		Apply Clause 7.21 to land within the Western Bypass corridor
Land Application	Identified as DM Deferred Matter	Amend the current map so the land is no longer deferred.
Additional subclause to Clause 4.1E(3)		Apply a subclause to permit the required three caretaker lots.
Number of dwellings	2	199 lots with potential for 240 dwellings (allowing for dual occupancies)
Number of jobs	N/A	0

1.4 Site description and surrounding area

The site consists of three rural residential lots of 2ha (Lots 21 to 23 DP714096) and Lot 24 DP714096 (73ha), all in separate ownership and totalling a combined area of 80ha.

Lots 21 to 23 contain existing residential dwellings and associated structures whilst Lot 24 is vacant land. Lot 24 is predominately vegetated with two areas subject to a remediation order to revegetate, and the eastern area cleared grasslands under the electricity lines. Four watercourses traverse the Lot flowing in a south westerly and westerly direction to the Shoalhaven River.

The site is located at Bangalee, approximately 3.5 kilometres north-west of Nowra town centre, within the Shoalhaven LGA. It is bordered by existing large lot residential development to the north (R2 Low Density Residential); the Western Bypass Corridor to the east which adjoins the western small lot residential boundary of North Nowra (R2 Low Density Residential); and small rural holdings (combination of RU2 Rural Landscape, E2 Environmental Conservation, E3 Environmental Management and R1 General Residential) to the south and west.

The site is the northern area of the Crams Road Urban Release Area (URA). Two undeveloped parcels of R1 General Residential to the south make up the Crams Road URA.

The site is shown in **Figure 1** and **Figure 2**.

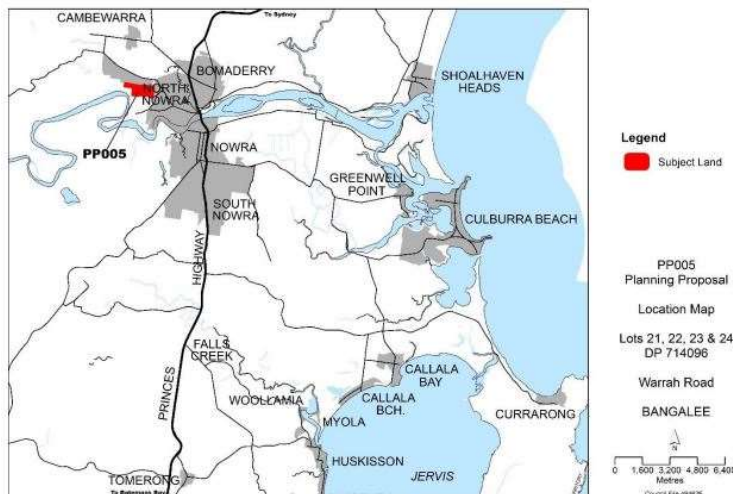


Figure 1 Subject site (Shoalhaven City Council – Planning proposal)



Figure 2 Site context (Shoalhaven City Council – Planning proposal)

1.5 Mapping

The planning proposal includes mapping showing the current maps and proposed changes to the following maps:

- Land Zoning Map Sheet LZN_013A, 013D & 013E (**Figure 3**)
- Lot Size Sheet LSZ_013A, 013D & 013E (**Figure 4**)
- Urban Release Area Sheet URA_013A, 013D & 013E (**Figure 5**)
- Height of Buildings Map Sheet HOB_013A, 013D & 013E (**Figure 6**)
- Riparian Lands and Watercourses Sheet WCL_013A, 013D & 013E (**Figure 7**)
- Acid Sulfate Soils Sheet ASS_013A, 013D & 013E (**Figure 8**)
- Clauses Sheet CLS_013A, 013D & 013E (**Figure 9**)
- Land Application Sheet LAP_001 (**Figure 10**)

The maps are suitable for public consultation.

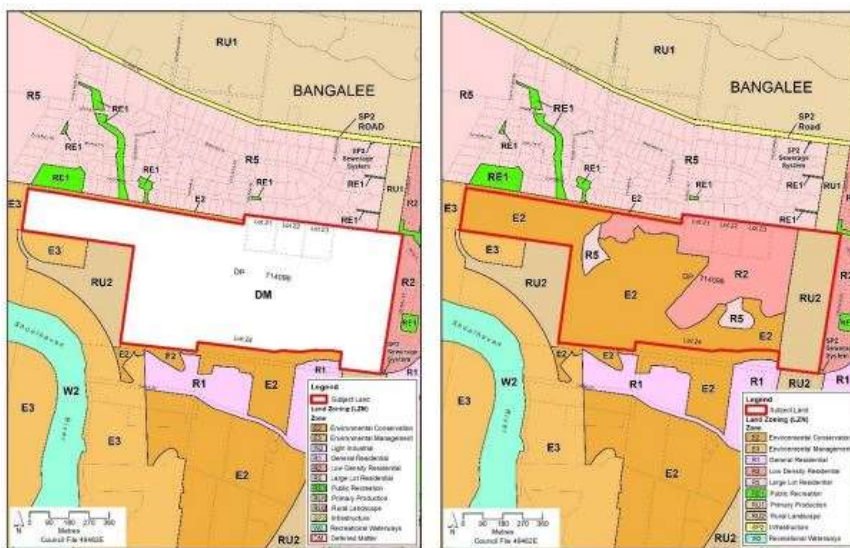


Figure 3 Current and proposed zoning maps

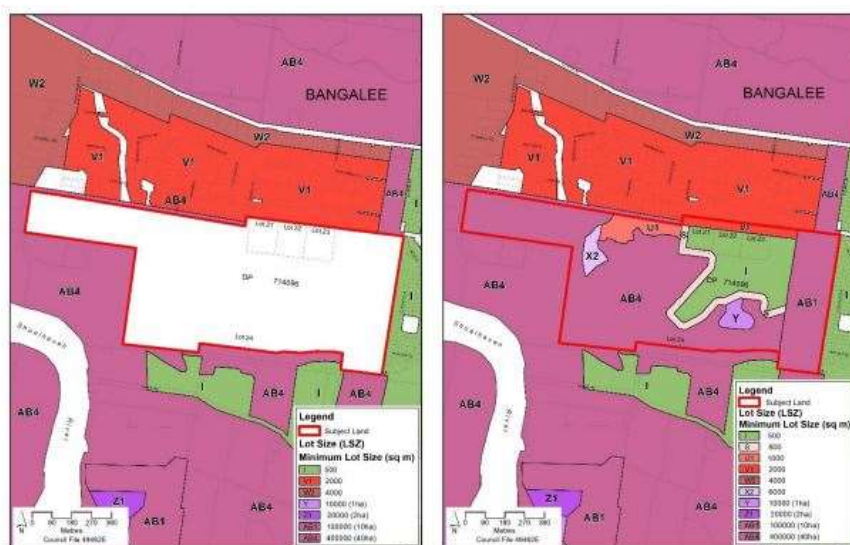


Figure 4 Current and proposed lot size maps

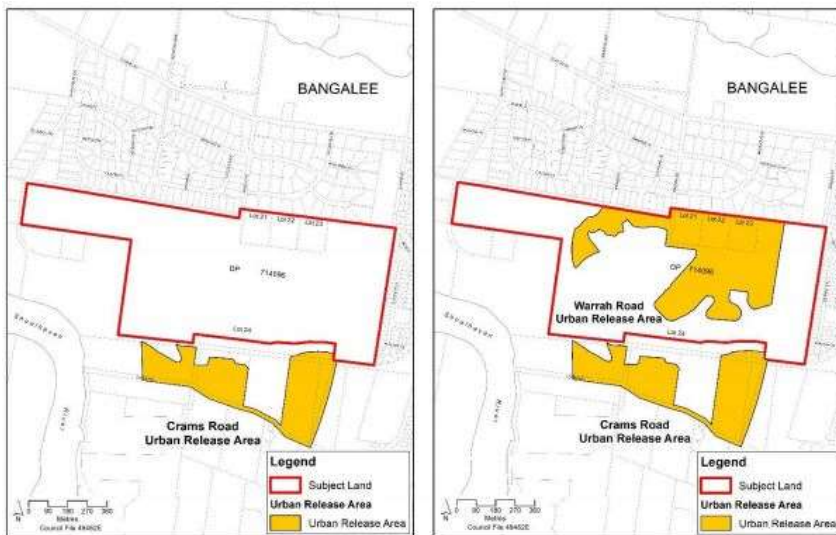


Figure 5 Current and proposed urban release area maps

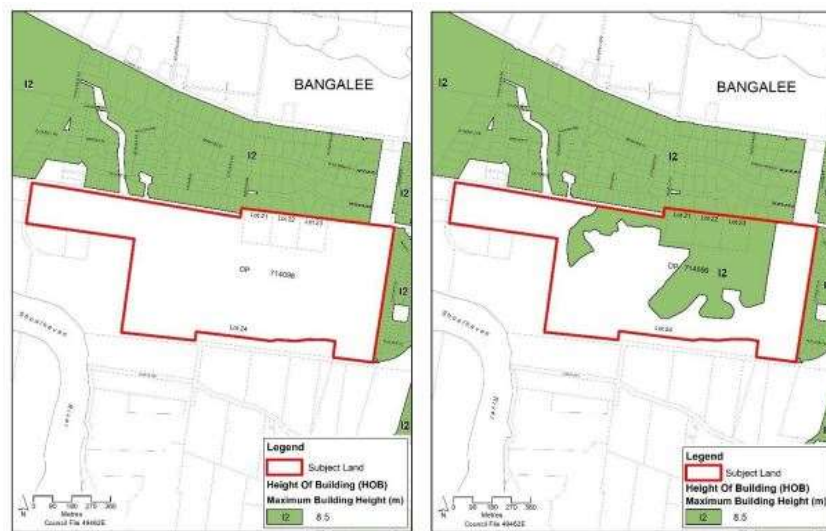


Figure 6 Current and proposed height of building maps

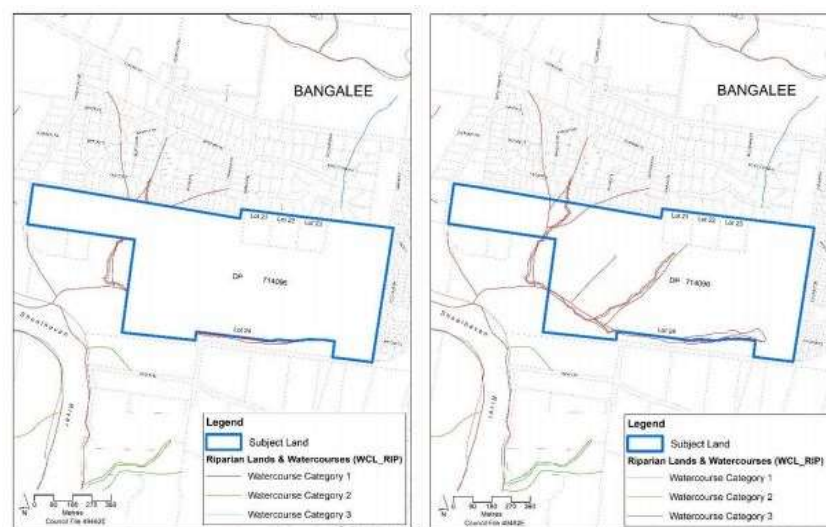


Figure 7 Current and proposed riparian lands and watercourses maps

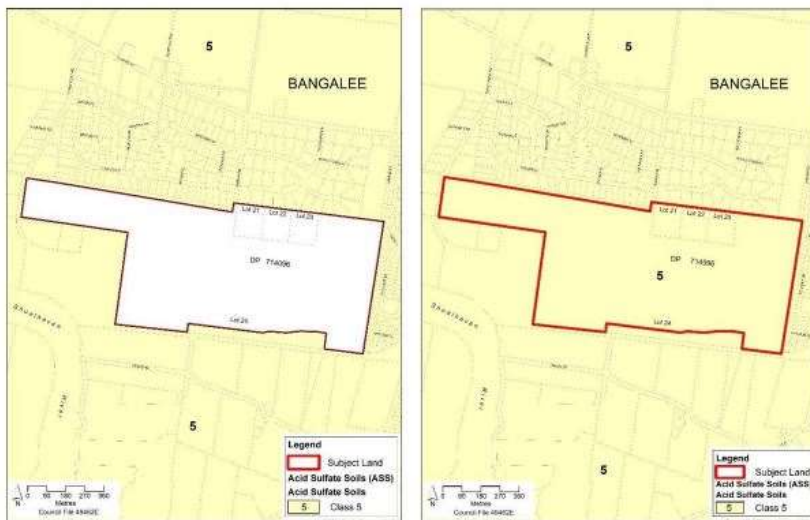


Figure 8 Current and proposed Acid Sulfate Soils maps

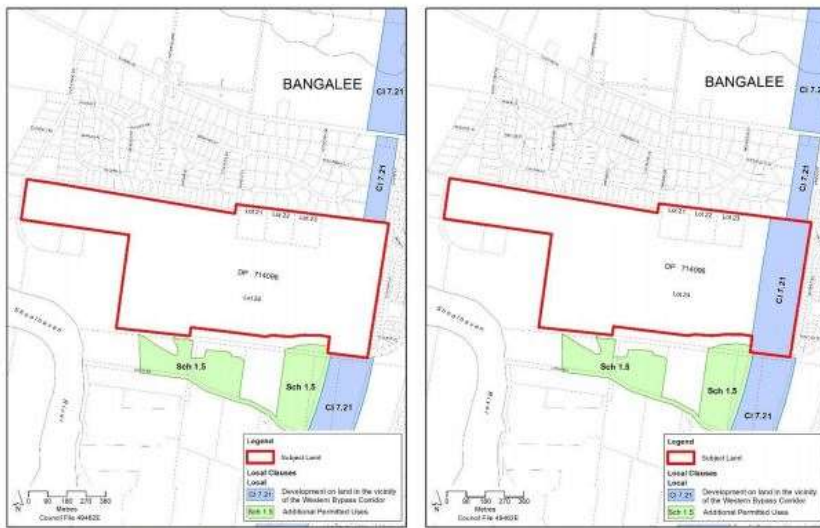


Figure 9 Current and proposed Clause maps

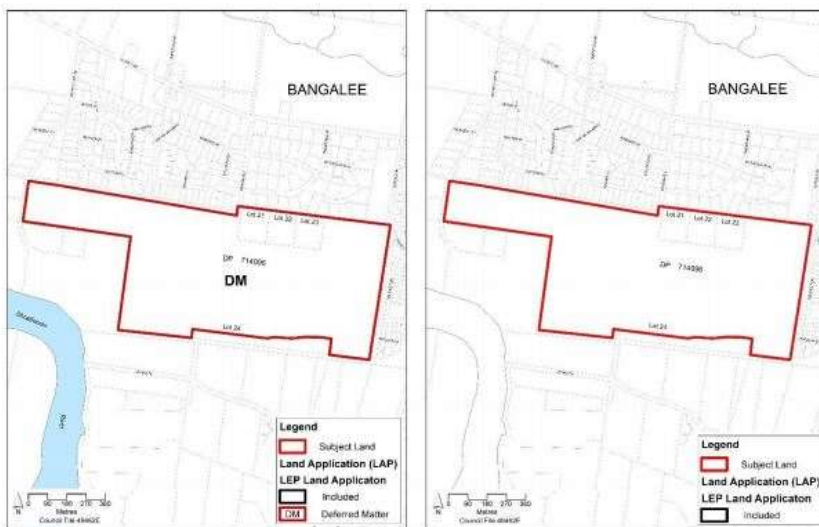


Figure 10 Current and proposed land application maps

1.6 Background

The planning proposal seeks to resolve the long-term development potential of land within the 'Crams Road Urban Investigation Area' identified in the Nowra Bomaderry Structure Plan (Shoalhaven City Council, 2007) that was 'deferred' from Shoalhaven Local Environmental Plan (LEP) 2014. As a result, the land is still currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985.

The planning proposal follows an earlier planning proposal which received a Gateway determination on 12 July 2016 to investigate rezoning the site. The original timeframe of 12 July 2017 was extended three times and the planning proposal was required to be completed by 12 July 2020.

A comprehensive body of work was carried out over several years to define a suitable development footprint and includes, amongst many other studies, a Biodiversity Conservation Assessment Report (BCAR) prepared under section 6.13 of the Biodiversity Conservation Act, 2016. The Biodiversity Conservation Division of the NSW Department of Planning, Industry & Environment has agreed that the BCAR can be exhibited concurrently with the planning proposal in accordance with the Environmental Planning and Assessment Act, 1979 (EP&A Act).

Council had sought agency consultation on the planning proposal and supporting studies.

On 15 December 2020 the Department issued an altered Gateway determination terminating the Gateway determination due to the inability of the planning proposal to be finalised by 31 December 2020.

Council has resolved to continue with the rezoning process and is requesting a new Gateway determination to enable the planning proposal to be publicly exhibited and considered for finalisation.

2 Need for the planning proposal

Council deferred the zoning of the site as part of the finalisation of Shoalhaven LEP 2014 to consider a site-specific planning proposal which resolves long standing issues and differences between biodiversity studies and allows some form of residential development.

The land cannot be developed in the manner proposed without amending the LEP via a planning proposal. The Planning Proposal is the best way of achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The **Illawarra Shoalhaven Regional Plan** identifies the Crams Road Urban Release Area as one of several regionally significant release areas which will contribute to housing supply in the Region. The map in Figure 3 – Strategy Map in the Plan identifies the Crams Road URA, although the footprint needs to be adjusted.

The updated **draft Illawarra Shoalhaven Regional Plan 2041** was publicly exhibited from 2 November to 17 December 2020. The regionally significant growth area of Nowra-Bomaderry remains a focus for housing supply in the Plan. Nowra-Bomaderry is identified as offering long-term capacity for 9,600 new dwellings. Some of this capacity (approximately 600 dwellings) can be met by the Crams Road URA and, specifically, this planning proposal.

Strategy 18.2 encourages councils to "Facilitate housing opportunities in existing urban areas [...] through local strategic planning and local plans by regularly reviewing planning controls so that

they are creating flexible and feasible conditions for housing supply”. The planning proposal is consistent with this draft Strategy.

The planning proposal does not include an assessment against specific goals or actions of the Illawarra Shoalhaven Regional Plan or the draft Illawarra Shoalhaven Regional Plan.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies in the table below:

Table 3 Local strategic planning assessment

Local Strategies	Justification
Shoalhaven 2040, Strategic Land Use Planning Statement	<p>The site is identified as a new residential area. The planning proposal is consistent with Planning Priority 1 – Providing homes to meet needs and lifestyles as it will increase the availability and diversity of housing and add to the supply of homes by providing infill development in an identified urban release area.</p> <p>It is also consistent with Planning Priority 6 – Providing jobs close to home. The planning proposal will release land for residential development thereby providing work to sustain local jobs in construction as well as supporting local businesses.</p>
Shoalhaven 2027 Community Strategic Plan	The planning proposal is broadly consistent with Council's Community Strategic Plan, specifically Theme 2 - Sustainable, liveable environments, and Action 2.2 - Plan and manage appropriate and sustainable development.
Shoalhaven Growth Strategy, 2012	The Shoalhaven Growth Management Strategy (endorsed by the Department in 2014) provides a framework for the integrated development of the overall Nowra-Bomaderry area and specifically its long-term role as the City's major urban area. It identifies that “the development of new living areas will be staged in order to capitalise on the pattern and form of the existing urban fabric and to avoid prematurely crossing infrastructure cost thresholds”. The Crams Road URA is listed in Table 18.
Nowra Bomaderry Structure Plan 2006	<p>The Nowra Bomaderry Structure Plan was endorsed by the NSW Government in 2008. The site was originally identified as one of seven new living areas suitable for a potential rezoning subject to further studies, including a threatened species and biodiversity assessment, Aboriginal archaeological assessment, bushfire management, infrastructure provision and subdivision staging. The NBSP projected that the Crams Road URA would provide an additional 350 dwellings acknowledging that environmental constraints may reduce this yield and the residential capacity will be determined at the completion of the studies.</p> <p>The Structure Plan also identified a possible development phasing plan for the new living areas. The phasing recognises that the Shoalhaven River bridge crossing when combined with development requiring access from Illaroo Road, is a key constraint on the development of new living areas north of the River. The Crams Road URA has thus been listed in phase 4 of 5 phases when it is assumed that the river crossing issue would have been resolved. Council has since confirmed that the site is not an immediate priority for urban release, it is longer term of 10+ years.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below.

Table 4 Section 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.2 Rural Zones	No – justified inconsistency	The planning proposal proposes to rezone the rural lands for environmental protection and residential development. The site has not been used for agricultural purposes in recent years and its high biodiversity values limit its ability to be cleared for agricultural uses. The proposal's inconsistency with the Direction is justified by the endorsed Nowra Bomaderry Structure Plan identifying the site for urban development and environmental conservation.
1.5 Rural Lands	Yes	The planning proposal is consistent with the endorsed Nowra Bomaderry Structure Plan (NBSP) and is identified as part of the Crams Road URA. The site is not mapped as Class 1, 2 or 3 agricultural land and the primary use is not for agricultural production. It has minimal value as rural zoned land. The proposed change of land use from general rural to a mix of environmental, rural landscape and residential would not be detrimental to the rural economy of the Shoalhaven. The change of minimum lot size for the area to be maintained as rural land is to ensure protection of the Western Bypass corridor whilst at the same time allowing limited development and use of the land.
2.1 Environment Protection Zones	Yes	The high conservation vales lands and waterways are to be protected with an E2 Environmental Conservation zoning. A draft BACR assessment has been prepared to justify the clearing of other areas containing native vegetation. The draft BCAR will be placed on public exhibition with the planning proposal.
2.3 Heritage Conservation	Yes	An Aboriginal Cultural Heritage Assessment, including Aboriginal community consultation, has been prepared for the site which identified two previously recorded AHIMS Aboriginal sites Consultation with Heritage NSW has confirmed the proposal's consistency with the Direction.

2.6 Remediation of Contaminated Land	Yes	A Stage 1 Contamination Assessment has been carried out which found the site to be of medium risk of contamination in certain areas where illegal dumping of rubbish has occurred and the possibility that an abattoir operated on the site. A targeted Stage 2 Contamination Assessment is required for the proposed subdivision.
3.1 Residential Zones	Yes	The planning proposal provides for a variety and diversity of housing choice. The site is proposed to be identified as a URA under Shoalhaven LEP 2014, which contains requirements for residential development to provide appropriate public utility infrastructure under Part 6 Urban Release Areas.
3.4 Integrating Land Use and Transport	Yes	The Crams Road URA is identified in the NBSP as a longer-term release area that is contingent on traffic congestion at the river crossing being addressed. The traffic study found that if the land were released for urban development before the Princes Highway Shoalhaven River Bridge is duplicated, it would hasten the failing of the intersection of Illaroo Road by approximately one year. Accordingly, Council has resolved that the release of the land under Part 6 of the LEP should not occur until after both the duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.
4.4 Planning for Bushfire Protection	Unknown until consultation with, and advice from, NSW Rural Fire Service occurs.	<p>The planning proposal includes land mapped as bushfire prone. A Bushfire Protection Assessment Report, 2018 has been prepared to reflect the final development footprint. The Report has been prepared in accordance with Planning for Bushfire Protection 2006.</p> <p>Council has initiated consultation with RFS and is awaiting their response. RFS has advised the Department that comments will be provided shortly and in accordance with Planning for Bushfire Protection 2019. Confirmation as to whether the planning proposal is consistent with the Direction will also be provided.</p>
5.10 Implementation of Regional Plans	Yes	Refer to Point 3.1 above

6.3 Site Specific Provisions	No, minor	Whilst the planning proposal states it is not seeking to impose any additional development standards, the proposal is applying Clause 7.21 to land within the Western Bypass Corridor and inserting a new subdivision subclause to Clause 4.1E(3) to permit the required three care-taker lots. These Clauses will enable the lands to be developed and managed accordingly to protect the environmental lands and Western Bypass Corridor.
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3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 5 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP Koala Habitat Protection 2020	Part 4 Other environmental planning measures – surveying of land, zoning land, preparation of local environmental studies and development control plans.	Yes	The site is not mapped as a koala management area under the SEPP. The biodiversity surveys did not identify any koala feed trees or any evidence of koalas inhabiting the area. Therefore, the land is not core koala habitat nor potential koala habitat under the SEPP.
SEPP (Infrastructure) 2007	Division 17 Roads and Traffic Subdivision 2 Development in or adjacent to road corridors and road reservations Clause 104 – Traffic-generating development to be referred to Roads and Maritime Services	Not Applicable	The planning proposal identifies that it could result in development classed as traffic generating development in accordance with the SEPP and therefore the SEPP may apply at a development application stage. Transport for NSW have been consulted and have advised that “TfNSW has no objection to the planning proposal in principle as it is unlikely to have a significant impact on the state road network.”

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Protection of high Biological conservation lands	<p>The planning proposal ensures that all High Conservation Value (HCV) land will be protected via the proposed E2 Environmental Conservation zone and a biodiversity stewardship agreement.</p> <p>The draft BCAR has been prepared to justify the clearing of other areas containing native vegetation.</p>
Protection of waterways and riparian lands	The four watercourses have been excluded from the proposed development footprint.
Bushfire Management	The site is mapped as bushfire prone land and a Bushfire Assessment has been prepared. Refer to Table 5 and detail under 9.1 4.4 Planning for Bushfire Protection.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Certainty for community	The planning proposal will provide certainty for the community on the site's intended development outcomes and land supply. All adjoining landowners and landowners who made submission on the draft Shoalhaven LEP 2014 will be notified of the public exhibition.
Visual	Community members have raised concerns with the retention of character of the existing residential area to the north of the site and the visual impact of having a higher density residential development adjoining their larger, landscaped lots. The planning proposal incorporates appropriate minimum lot sizes along the northern boundary of the site to limit impacts on amenity and character of the existing residential area.
Aboriginal Cultural Heritage	Refer to Table 5 and detail under 9.1 2.3 Heritage Conservation
Traffic	Community members have also raised concerns with traffic management particularly only having one access point via Warrah Road into and out of the development and the impact of increased traffic on the local roads within the existing Warrah Road subdivision. A detailed traffic study has been completed. Minor road works are required to the local road network to support the development. The provision of this infrastructure will be a matter for the DCP and planning under Part 6 of the Shoalhaven LEP.

4.3 Infrastructure

The provision of infrastructure for the site is to be addressed in detail through Part 6 of Shoalhaven LEP 2014, which requires the State Government to sign off on the satisfactory provision of infrastructure, and allows Council to prepare a contributions plan for essential infrastructure prior to the land being released.

Preliminary advice from Transport for NSW and Endeavour Energy has been received as part of the agency consultation. Advice has also been sought from Shoalhaven Water.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms part of the conditions of the Gateway determination.

5.2 Agencies

Council has initiated agency consultation in accordance with the previously issued Gateway determination. Agency comments are included in the planning proposal. Comments are still to be received from NSW Rural Fire Service (RFS) and Natural Resources Access Regulator (NRAR). RFS has expressed concerns verbally about the conceptual subdivision plan included in the planning proposal. The Biodiversity Conservation Division (DPIE) has advised it will provide comments during the public exhibition period.

Further consultation with RFS, NRAR and Biodiversity Conservation Division will be undertaken during the public exhibition period and before the Plan is made.

It is recommended that the Gateway determination require that NSW RFS be consulted on the planning proposal to address the S9.1 Direction 4.4 Planning for Bush Fire Protection.

6 Timeframe

Council proposes a nine month time frame to complete the LEP.

The Department recommends a time frame of 12 months due to the potential risk of further delays in receiving and negotiating bushfire issues, including the need for an updated bushfire report and to allow for the drafting of a site-specific clause.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance, has defined a development footprint which has resolved the biodiversity issues and is now at the final stages of commencing public exhibition, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

It is noted that delegation was not provided to the earlier planning proposal due to the contentious and previously unresolved government, landholder and community issues associated with the planning proposal. These issues were also raised during and after the public exhibition of the draft Shoalhaven LEP 2014 when the rezoning was subsequently deferred from the final Shoalhaven LEP 2014.

The local State Member for Kiama also made representations during the public exhibition of the draft Shoalhaven LEP 2014, on behalf of the landholder of Lot 24 to the then Minister of Planning concerning the biodiversity and rezoning investigations.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is resolving a Deferred Matter in the Shoalhaven LEP 2014 and will achieve a better outcome of residential development and environmental protection across the urban release area;
- The planning proposal will assist in meeting housing targets identified in regional and local planning strategies; and
- The proposed amendments to the Shoalhaven LEP 2011 will be supported by a DCP and contributions plan for residential development and subdivision of the site.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 6.3 Site Specific Provisions; are minor or justified; and
- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Consultation is required with the following public authorities:
 - NSW RFS
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



22/2/2021

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25/02/2021

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