

# PLANNING PROPOSAL – PP005

## Shoalhaven Local Environmental Plan 2014

Lots 21-24 DP 714096 Warrah Road,  
Bangalee  
Deferred Land within the  
'Crams Road Investigation Area'

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## 1 Introduction

This Planning Proposal (PP005) 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 land is proposed to be rezoned to a mix of E2 - Environmental Conservation, RU2 - Rural Landscape R5 – Large Lot Residential, and R2 - Low Density Residential.

This PP is submitted in support of a request for a new Gateway determination to enable it to be publicly exhibited and considered for finalisation. The PP details the comprehensive body of work that has been carried out over several years to support the proposed zoning. This work 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 (DPIE) has agreed that the BCAR can be exhibited concurrently with the PP in accordance with the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The original Gateway determination for this PP was issued on 12 July 2016. The original timeframe of 12 July 2017 was extended three times and the PP was required to be completed by 12 July 2020. However, a letter from DPIE dated 1 October 2020, advised Council that all PP's with Gateway's older than four years would need to be finalised by 31 December 2020. (The Warrah Road PP is one of five PP's older than four years being progressed by Council.)

On 22 October 2020, DPIE advised that while it would not issue a further Gateway extension for the Warrah Road PP, Council was encouraged to work towards exhibiting and finalising the PP. *Note:* Unless either Council has withdrawn a PP, or the Gateway has been terminated by DPIE under section 3.34 of the EP&A Act, a PP can still be progressed if a Gateway has lapsed.

The report to Council on DPIE's letter of 1 October 2020 and the five legacy PP's it covers, that was considered on 1 December 2020 can be accessed [here](#). The resulting Council resolution (MIN20.887) can be viewed [here](#). DPIE however issued an altered Gateway determination on 15 December 2020, terminating the Gateway (see Attachments). Thus, despite the advanced status of the Warrah Road PP, a new Gateway determination is required to enable the PP to be publicly exhibited and considered for finalisation. *Note:* The Gateways for the other four 'legacy' PP's were also terminated.

On 18 January 2021 Council considered a follow-up report on timing and progression of the five 'legacy' PP's detailing the actions taken in response to Council's decision of 1 December 2020. The report can be accessed [here](#). In relation to this PP, Council resolved to:

*“...seek a new Gateway determination immediately and if the outcome is favourable, place the PP and supporting documentation on public exhibition.”*

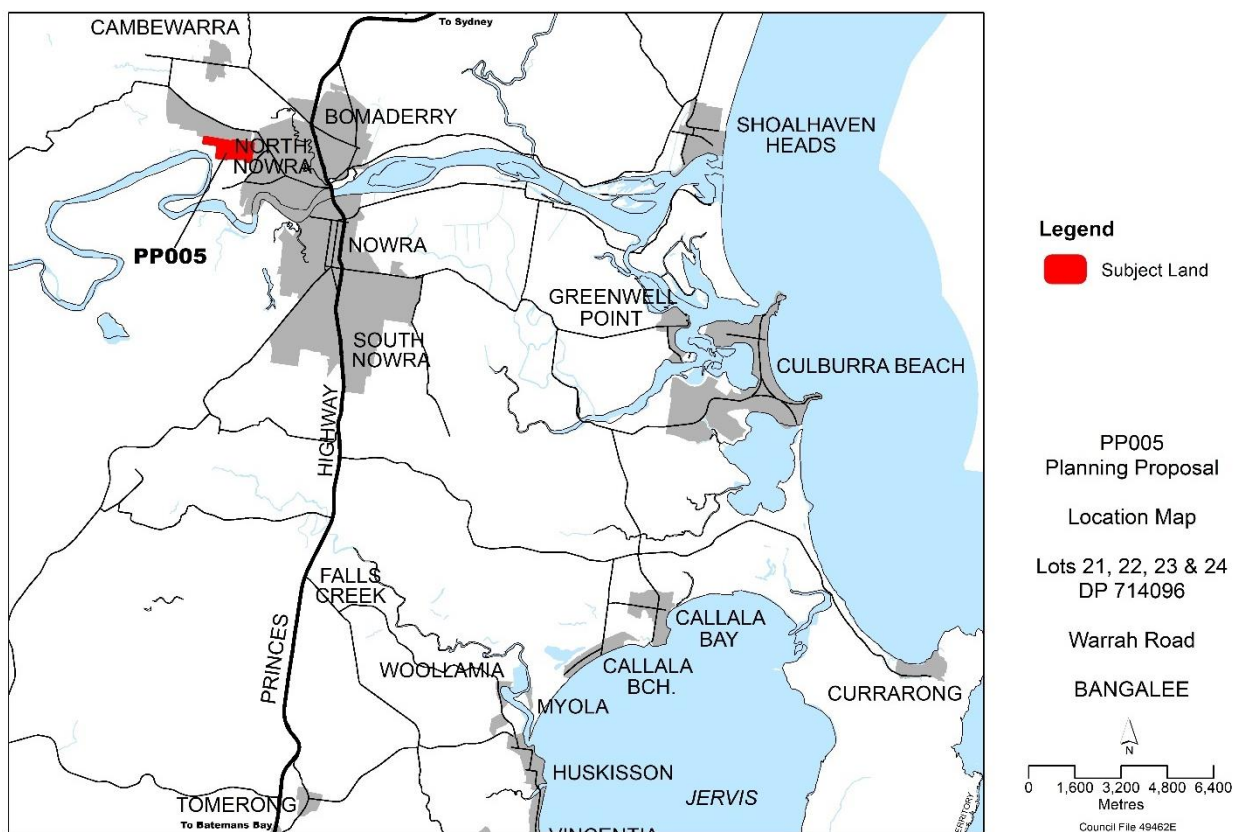
The resolution (MIN21.6, part 2a) can be viewed [here](#).

This PP includes the suite of technical studies that were required in the original Gateway determination (as amended prior to termination by DPIE on 15/12/20). The new Gateway determination should recognise the status of all existing technical studies completed by the proponent, acknowledge the previous work of relevant government agencies and Council, and support exhibition of the PP in its current form.

The status of agency consultation required to be undertaken in accordance with the original Gateway determination of 12 July 2016 (as amended) is outlined in the PP. Outstanding comments from government agencies such as the Rural Fire Service (RFS) and Natural Resources Access Regulator (NRAR) will be pursued and considered in detail during exhibition of the PP.

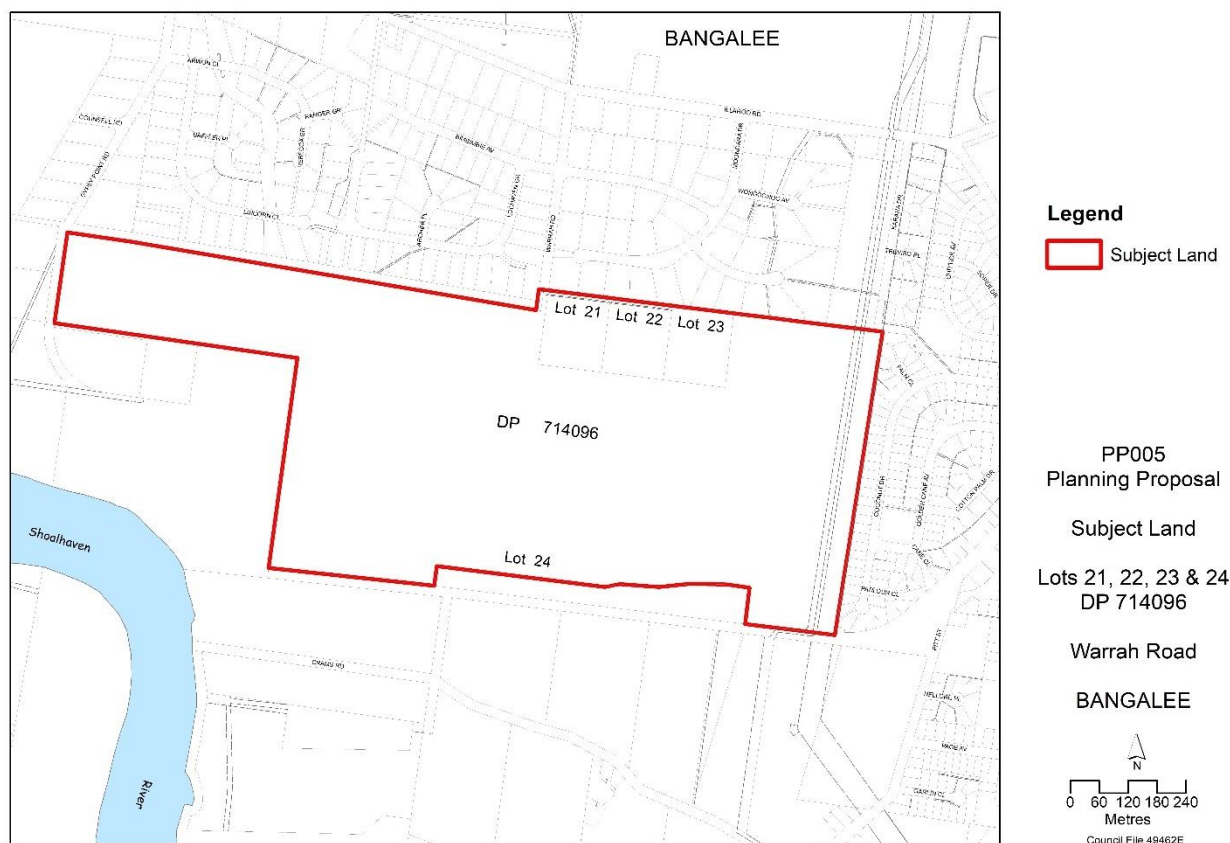
## 1.1 Subject Land

The subject land is located at Bangalee, approximately 3.5 km north west of the Nowra town centre, within Shoalhaven LGA. The site location is shown in Figure 1 below:





The subject land comprises Lots 21-24 DP 714096. The subject land is bordered by existing large lot residential development to the north (R5 - Large Residential), small lot residential to the east (R2 - Low Density Residential) and small rural holdings (E2 - Environmental Conservation and E3 - Environmental Management) to the south and west. Part of the Crams Road Urban Release Area (URA) zoned R1 (General Residential) adjoins the land to the south separated by a Crown Road. The subject land covers an area of approximately 80 hectares, and is shown in Figure 2 below.



**Figure 2 – Subject Land**

The subject land is predominately vegetated with cleared and partially cleared areas in the east as shown in Figure 3 below. There are no existing improvements on site. The site generally drains to the south and west and is part of the catchment of the Shoalhaven River. The land drains to the Shoalhaven River via a small network of intermittent watercourses .





**Figure 3 – Aerial Photo**

The land was 'deferred' from Shoalhaven LEP 2014, as shown in Figure 4 below, and as such the provisions of Shoalhaven LEP 1985 continue to apply. Under Shoalhaven LEP 1985, the site is currently zoned Rural 1(d) (General Rural).

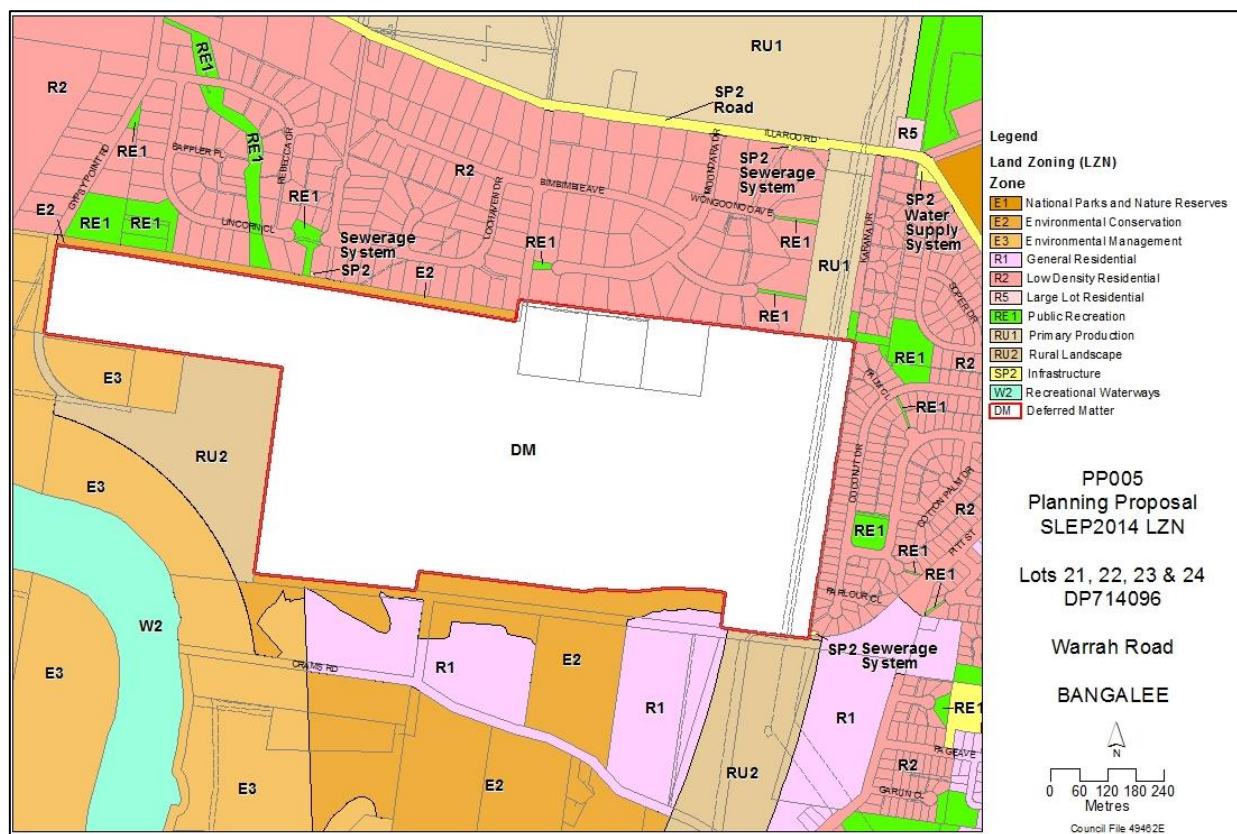


Figure 4 – Current Land Use Zones

## 1.2 Background

The Crams Road Investigation Area (CRIA) of 90 ha (Figure 5 below) was initially identified as one of seven (7) potential Urban Release Areas (URAs) in the Nowra-Bomaderry Structure Plan (NBSP) adopted by Council in 2006/2007 and endorsed by the NSW Government in 2008. Release of the CRIA was subject to completion of several studies, including biodiversity and bushfire risk assessments. The NBSP applied a notional dwelling density of 12 dwellings/ha to estimate a total dwelling yield of 1080 dwellings.

The NBSP states that the URAs will be released in phases, having regard to a range of factors such as road and traffic issues. The CRIA was identified as 'phase 4' in recognition of the need to resolve traffic congestion associated with the Shoalhaven River crossing. The NBSP specifically links the release of the CRIA with completion of a new river crossing.





**Figure 5 – Extract from NBSP - Crams Road Future Living Area**

In 2008, Council engaged Allison Hunt and Associates (AHA) to undertake a strategic biodiversity assessment of the CRIA in accordance with the requirements of the NBSP. This was done as part of a broader assessment that considered possible bio-certification of the NBSP area. Based on the findings of the AHA assessment, a significant reduction in the proposed Crams Road URA was proposed in the exhibited draft Shoalhaven LEP 2014, as shown in Figure 6 below.

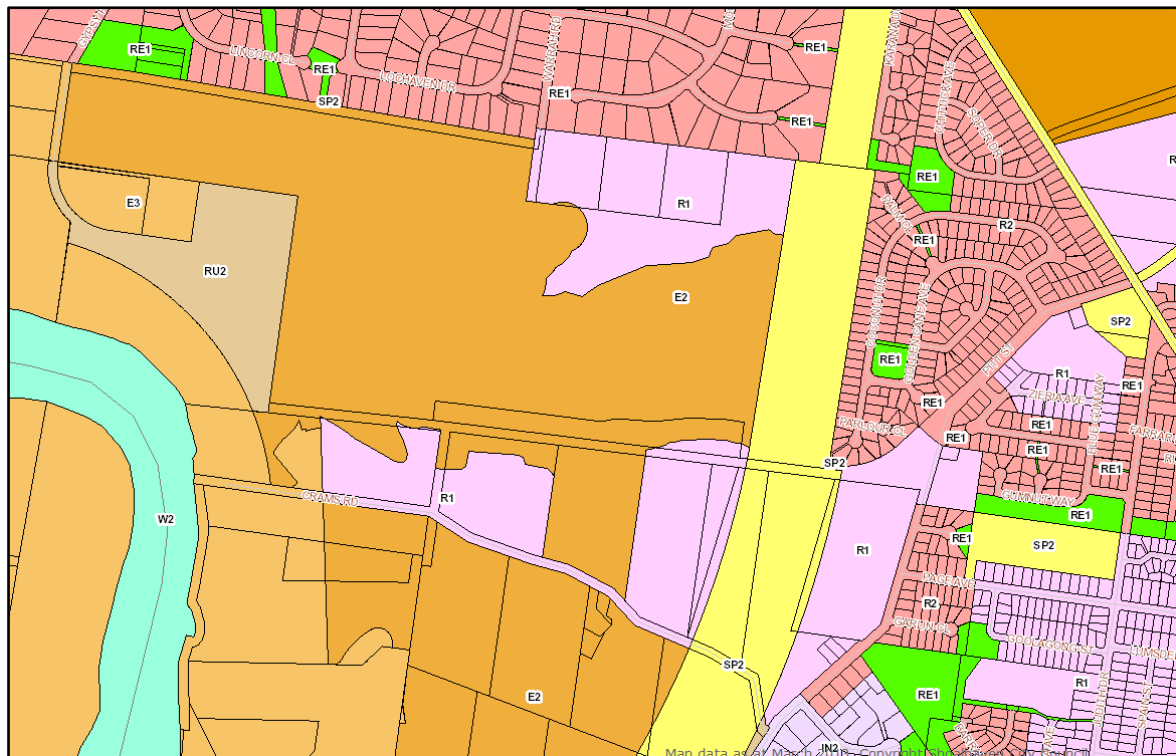
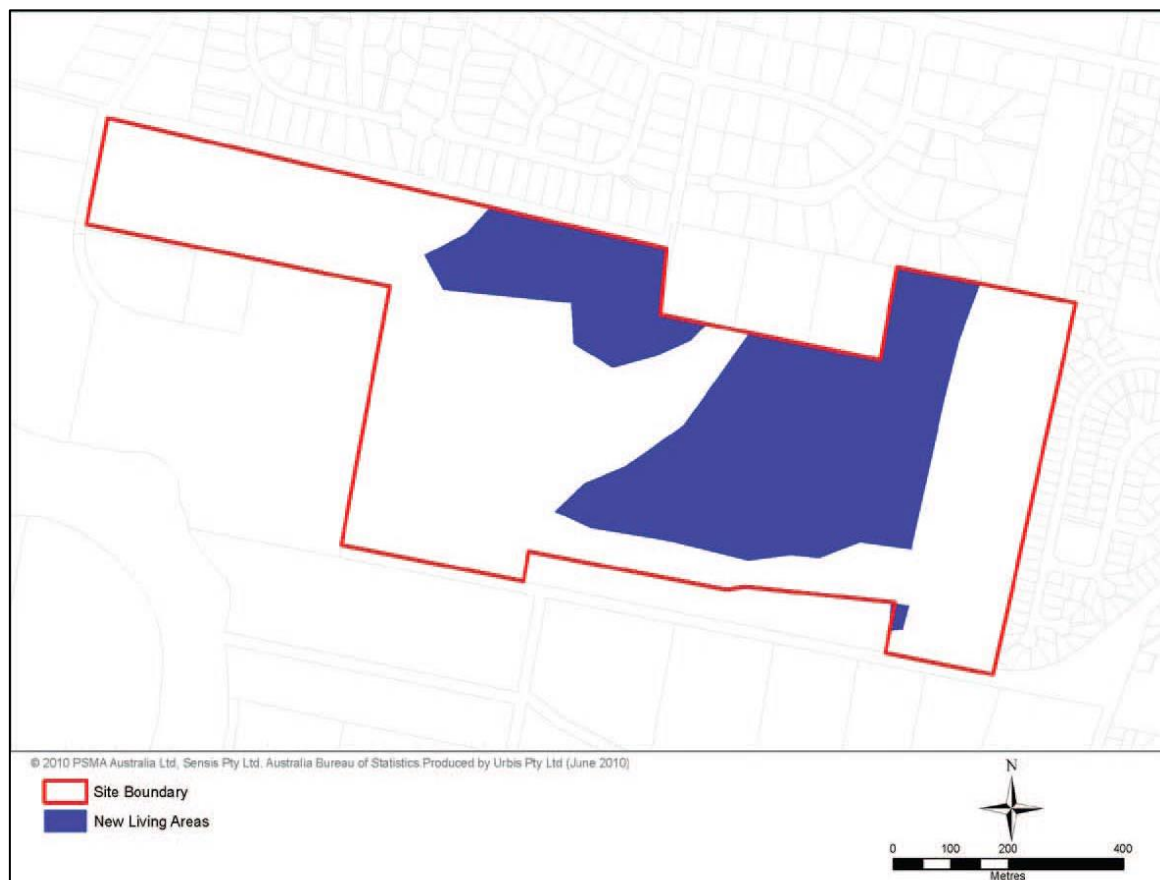


Figure 6 – Extract from draft Shoalhaven LEP 2014 as exhibited - Crams Road URA

The proponent made a submission to the draft Shoalhaven LEP 2014 that requested additional areas outside the exhibited zone boundaries be considered for rezoning to R1 - General Residential as shown in Figure 7 below.



**Figure 7 – Extract from proponent's submission to draft Shoalhaven LEP 2014 - proposed 'New Living Area'**

Following exhibition of the draft Shoalhaven LEP 2014, at the Special Development Committee Meeting of 29 July 2013, Council resolved (Recommendation 7.7) to:

- a) *Defer the area identified as Lots 21, 22, 23, 24 DP 714096 from the Draft LEP 2013 to enable further specific consideration*
- b) *Remove the deferred area from all relevant overlays; and*
- c) *Consider a planning proposal for the site after the completion of the investigations into alleged illegal clearing*

Accordingly, the subject land was 'deferred' from the exhibited Shoalhaven LEP 2014.

Information about the status of the "illegal clearing" is contained in Section 3.2 – Remediation Order.

In 2014 the proponent submitted a PP to Council that sought to rezone a larger proportion of the subject land to R1 as shown in Figure 8 below. The proponents original PP submission dated June 2014 is at [Attachment 1.1](#).

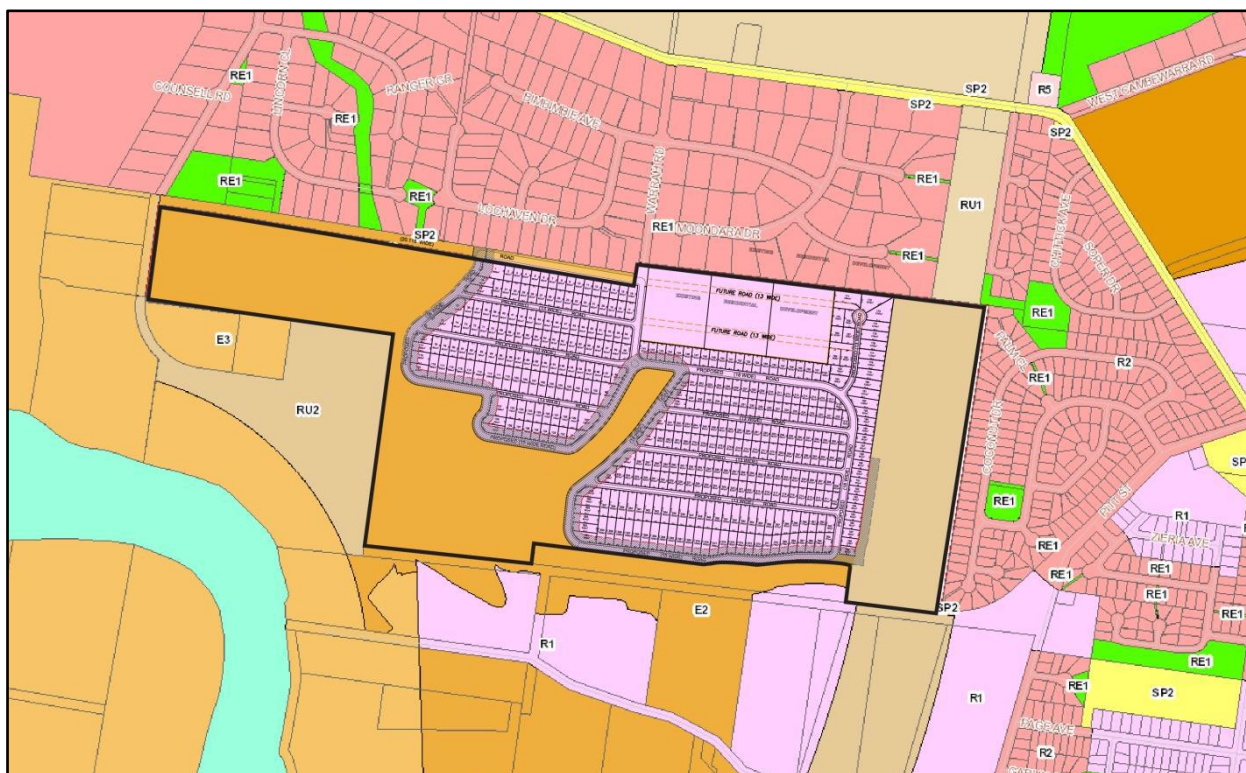


Figure 8 – Extract from the proponent's PP - Proposed land use zones

The proposed increase in the R1 area was based on ecological assessments commissioned by the proponents in 2010 and 2011. (The findings of the proponents' ecological assessments differed from the findings of the earlier AHA assessment commissioned by Council).

The proponents' PP was considered by Council's Development Committee meeting on 2 September 2014. It was resolved that:

- d) *Council support the draft Warrah Road, Bangalee Planning Proposal in principle, pending an independent peer review of the conflicting threatened species and biodiversity assessments that exist over the site – prior to submitting the proposal for Gateway determination;*
- e) *Council engage an independent consultant (to be funded by the proponent) to peer review the existing threatened species and biodiversity assessments related to the site of the Warrah Road, Bangalee Planning Proposal and make recommendations on the biodiversity significance of the site;*
- f) *A report of the findings of the peer review be reported back to Council with recommendations on the preferred approach to continue the proposal; and*
- g) *Council advise the proponent of the above resolution*

### 1<sup>st</sup> Peer Review of Biodiversity Studies

Council subsequently engaged NGH Environmental to undertake an independent peer review of the biodiversity studies (Council's and proponents') to determine the extent of high conservation value (HCV) land. The peer review did not involve further surveys/studies over the site.



NGH Environmental applied the 'precautionary principle': areas in doubt due to a lack of detailed surveys were categorised as HCV. The NGH Environmental report also outlined the survey requirements and information to map the extent of HCV land more accurately.

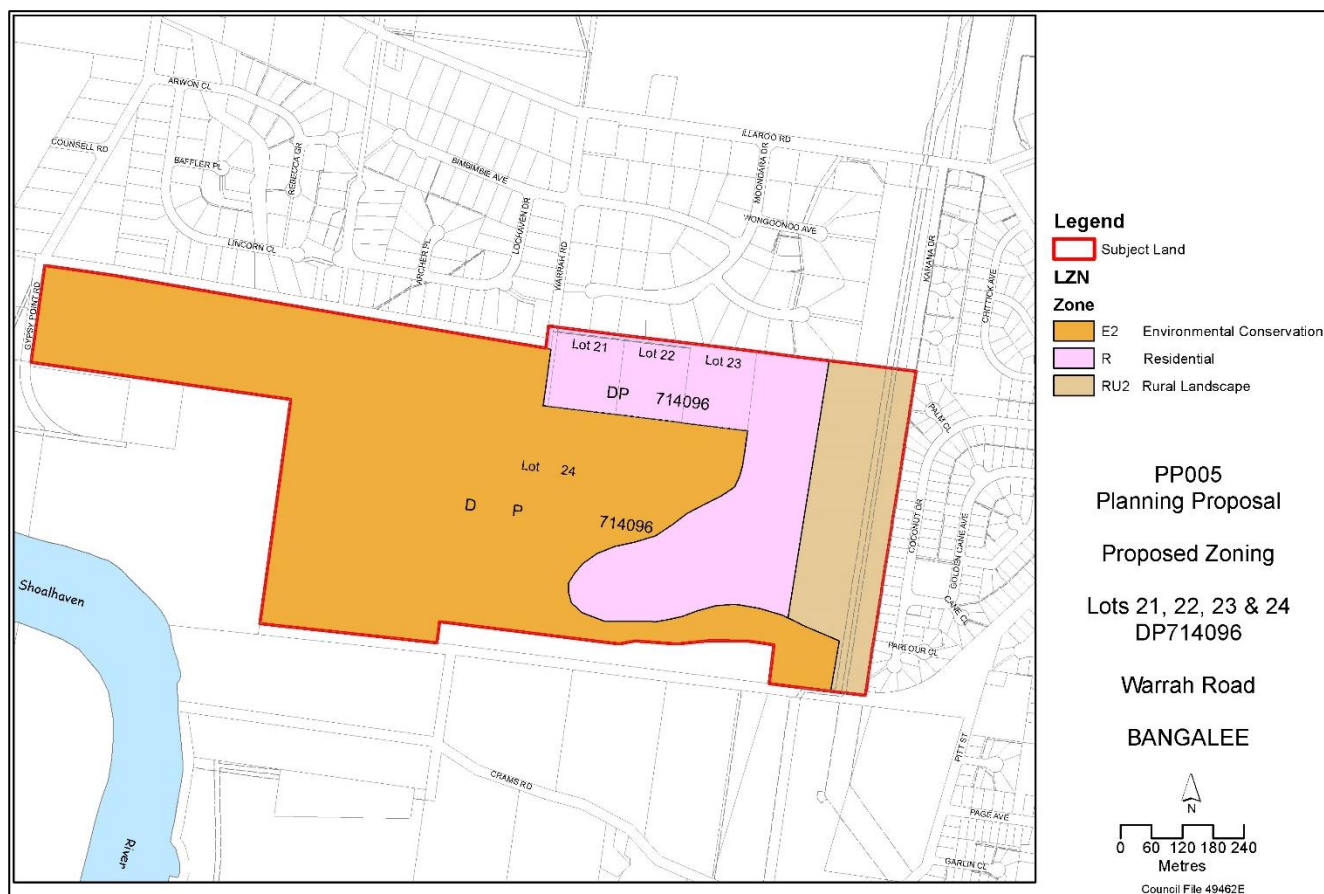
The extent of HCV land recommended by NHG is shown in Figure 9 below.



**Figure 9 – Extract from NGH Report - High Conservation Value Land**

On 1 December 2015, Council resolved to prepare a PP based on the findings of the NGH Environmental peer review (refer to Figure 10) and:

*Submit the Planning Proposal for Gateway determination and request the NSW Department of Planning and Environment determine the appropriateness of further biodiversity investigations over the site, to support the possible increase in residential zoned land...*



**Figure 10 – Proposed zoning adopted by Council on 1 December 2015 for submission to DP&E for Gateway Determination**

### Original Gateway Determination (July 2016)

Council submitted the PP to DP&E in March 2016 and received a Gateway determination in July that year. Meanwhile, a further biodiversity study prepared by OMVI on behalf of the proponents was submitted to Council. The Gateway determination permitted the PP to progress subject to 8 conditions which were:

1. *The planning proposal is to be revised to remove the proposed residential zoning over the lands in Sub-remediation Area B of the s.38 Remedial Direction under the Native Vegetation Act, 1993. An appropriate environmental zone is to be applied to this area.*
2. *The following studies are to be prepared (or existing studies revised) prior to exhibition of the planning proposal:*
  - (a) *Bushfire Hazard Study*
  - (b) *Aboriginal Archaeological Assessment*
  - (c) *Biodiversity Review of Lots 21-23*
  - (d) *Provision of infrastructure - water, sewerage and electricity to confirm demand and supply issues.*
3. *Following completion of the required studies, the planning proposal is to be revised to confirm the explanation of provisions, and update proposed zoning, floor space ratio, lot size, and height of building maps prior to public exhibition. A copy of the*



*updated proposal is to be provided to the Department for review prior to exhibition of the proposal.*

- 4. Council is to update its consideration of section 117 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection following consultation with the Office of Environment and Heritage and the NSW Rural Fire Service. The updated considerations are to be included in the exhibited planning proposal.*
- 5. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:*
  - (a) the planning proposal must be made publicly available for a minimum of 28 days; and*
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).*
- 6. Consultation is required with the following government agencies prior to exhibition, in accordance with the Act and to comply with the requirements of relevant section 117 Directions:*
  - NSW Rural Fire Service;*
  - Office of Environment and Heritage;*
  - Office of Water;*
  - Endeavour Energy;*
  - Shoalhaven Water; and*
  - Roads and Maritime Services.*

*The agencies are to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal. Any agency advice received and Council's proposed response to this advice should be placed on public exhibition with the planning proposal.*

- 7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
- 8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.*

There were several amendments and extensions to the original Gateway determination before it was terminated on 15 December 2020. These are tabulated and linked in the Attachments (Attachments 3.1 to 3.5).

## **2nd Peer Review of Biodiversity Studies**

A report to Council in December 2016 on the original Gateway determination noted that the proponents had requested that a further biodiversity study prepared by OMVI in 2016 on

their behalf be considered. Council resolved to consider the proponents additional biodiversity assessment prior to the public exhibition (MIN16.944).

Council engaged NGH Environmental to prepare an independent peer review of the OMVI 2016 study. The scope of the peer review was to:

- re-assess areas of High Conservation Value (HCV) land; and
- determine if further field studies are still required to accurately define HCV areas.

This peer review was completed in June 2017. It concluded that adequate survey has been undertaken to determine HCV lands at the subject site. A full copy of the [report prepared by NGH Environmental](#) is provided as Attachment 1.2. The revised HCV map prepared by NGH Environmental is shown in Figure 11 below.

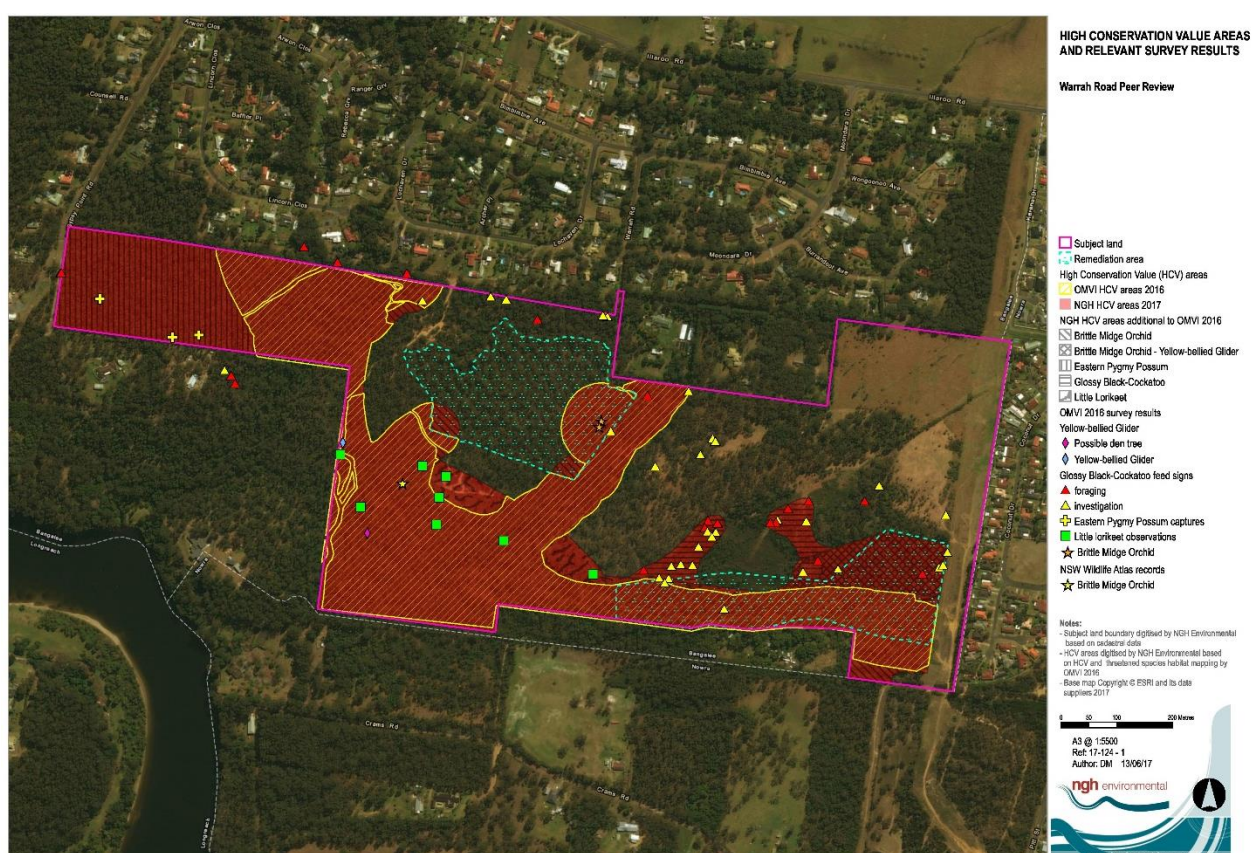


Figure 11 – Final HCV Map (Source: NGH environmental)

## The 2017 Revised Proposal

In September 2017 Council sought a revised Gateway determination for a reconfigured proposal as shown in Figure 12 below:

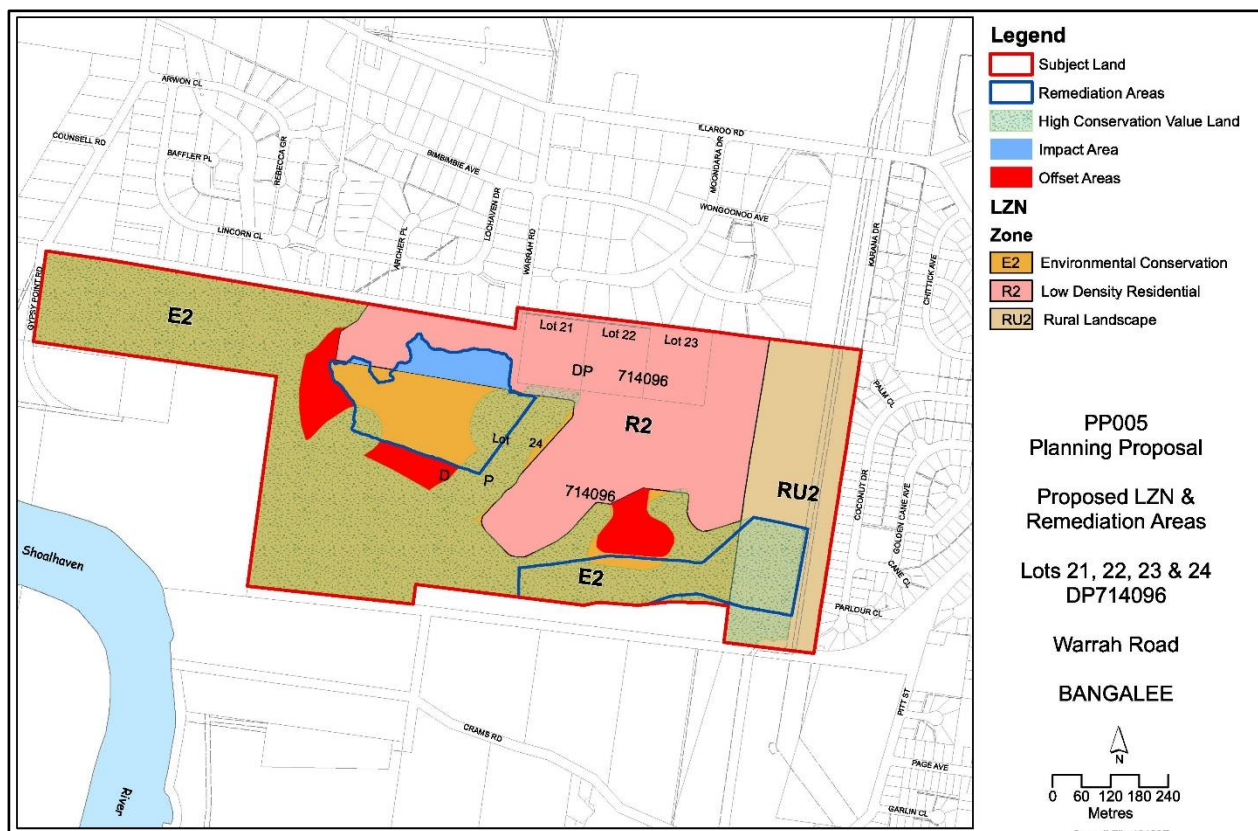


Figure 12 – Council's Proposed Zone Map in 2017 with Commentary on Remediation Areas

In April 2018, DP&E advised that the proposal to rezone land subject to remediation orders to a residential zone was not supported. DP&E did, however, remove the requirements for 2(c) *biodiversity review of Lots 21-23* and 2(d) *provision of infrastructure - water, sewerage and electricity to confirm demand and supply issues*.

**Note:** Information about the status of the remediation order is contained in Section 3.2.

## **2 Part 1 – Objective and Intended Outcomes**

The objective of this PP 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).



### 3 Part 2 – Explanation of Provisions

#### 3.1 The Proposed LEP Amendment

The subject land is currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985.

It is proposed to add an additional clause to Shoalhaven LEP 2014 and to amend the following map overlays:

- Land use
- Minimum lot size
- Height of Buildings
- Urban Release Area
- Local Clauses
- Acid Sulfate Soils
- Land Application Map

#### Land Use Zones

The proposed layout for residential development has been revised based on the outcomes of the second biodiversity peer review (NGH Environmental 2017) and the revised original Gateway determination (11 April 2018). Two areas are proposed to be zoned R5 Large Lot Residential to accommodate the dwellings for the proposed caretaker lots. This will help resolve the ongoing tenure of the environmental land. The proposed zones are shown in Figure 13 below.

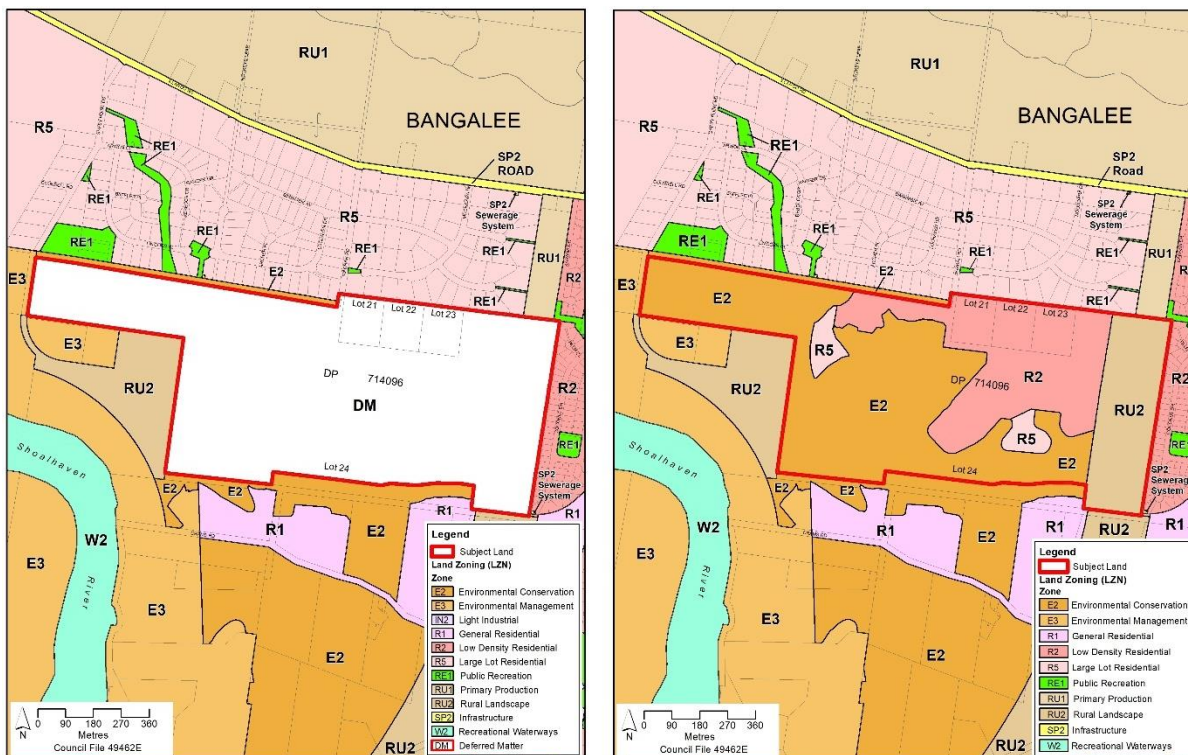


Figure 13 – Proposed Land Use Zone Map – Existing (left) Proposed (right)

## Minimum Lot Size Zones (LSZ)

The proposed changes to the minimum lot size map overlay are shown in Figure 14 below:

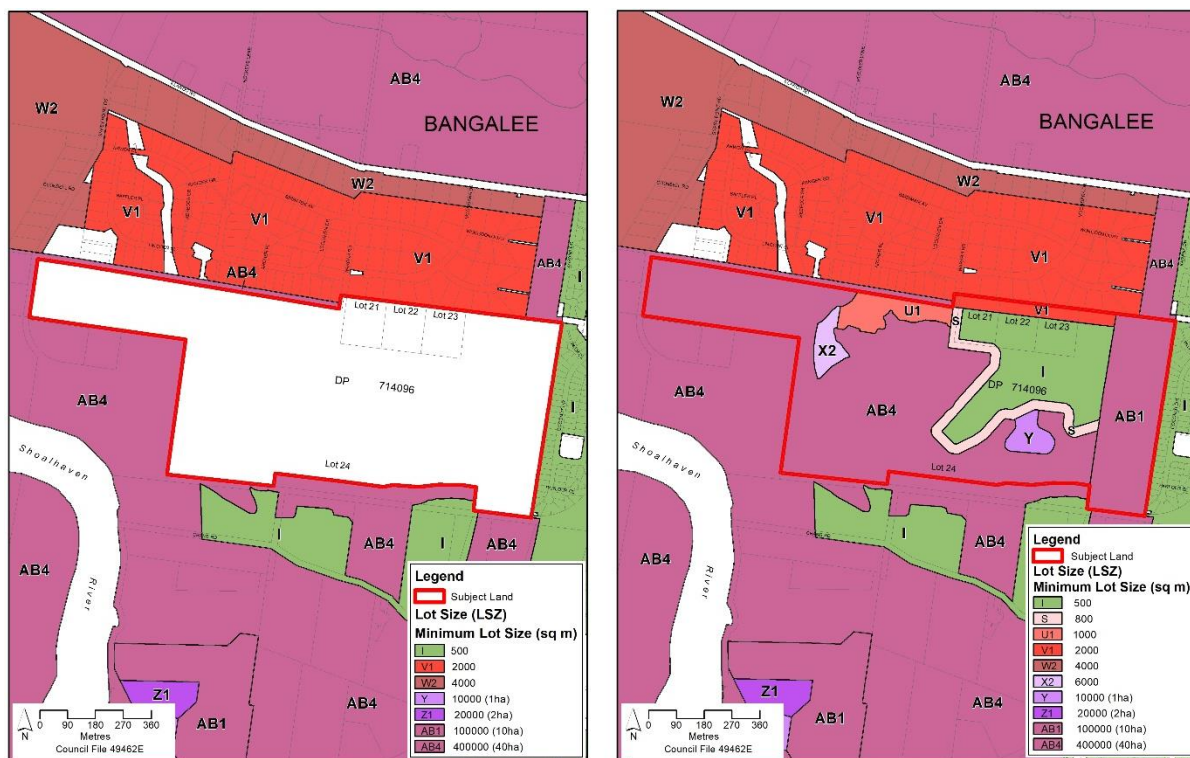


Figure 14 – Proposed Lot Size Map

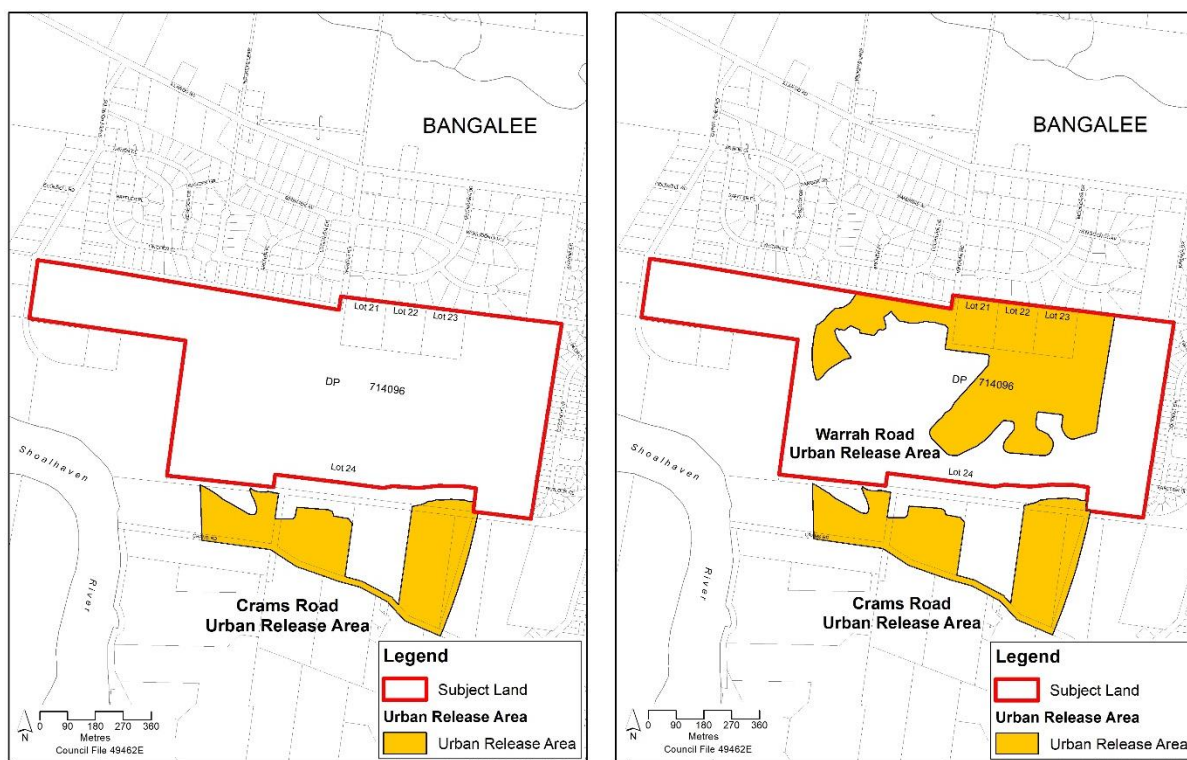
The specialist studies that have informed the PP can be accessed from the Attachments, including [Aboriginal cultural heritage](#) (Attachment 1.5), [bushfire risk](#) (Attachment 1.6), Biodiversity Certification Assessment Report (Attachments 1.7 & 1.8), [Stage 1 Contamination](#) (Attachment 1.9) and [traffic](#) (Attachment 1.10) assessments. Accordingly, a proposed Lot Size Map has been prepared with the following specifications:

- The northern boundary of the site east of Warrah Road has been allocated a minimum lot size of 2,000 m<sup>2</sup> (V1) to mirror the adjoining large lot residential development to the north and provide a buffer to new higher density residential within the urban release area to the south.
- The land immediately west of Warrah Road has been allocated a 1,000 m<sup>2</sup> lot size (U1) due to its proximity to the existing large lot residential to the north and its irregular geometry. A 2,000 m<sup>2</sup> lot size is not considered necessary as a buffer for the existing large lot residential development in this location because the development area is setback from that development by a crown road reserve.
- A 6,000 m<sup>2</sup> lot size (X2) is proposed for an area of land at the western edge of the urban release area to provide urban-zoned building envelopes as part of two larger “caretaker lots” each also containing approximately one-third of the environmental land.
- A 500 m<sup>2</sup> lot size (I) is proposed for the least constrained part of the urban release area for the provision of standard residential lots.

- An 800 m<sup>2</sup> lot size (S) is proposed for the land identified as a buffer between the 500 m<sup>2</sup> lot size area and adjoining environmental land. Larger lots are needed in this location to accommodate the required bushfire asset protection zones (APZs).
- A 1 ha lot size (Y) is proposed for an area of land near the south-eastern corner of the urban release area to provide an urban-zoned building envelope as part of a larger “caretaker lot” also containing approximately one third of the environmental land.
- A 10 ha (AB1) minimum lot size is proposed to protect the corridor and alignment of the future A1/M1 (Western Bypass) and to allow this land to be excised and attached to a residential lot within the subdivision until Transport for NSW is ready to acquire the land.
- The balance of the site is environmental land and will be provided with a 40 ha minimum lot size. A local clause is proposed to allow the E2 land to be subdivided into three lots, each with a dwelling entitlement located within the residential area.

### Urban Release Areas (URA)

A draft Urban Release Areas map is provided in **Figure 15** below:



**Figure 15 – Proposed Urban Release Area Map**

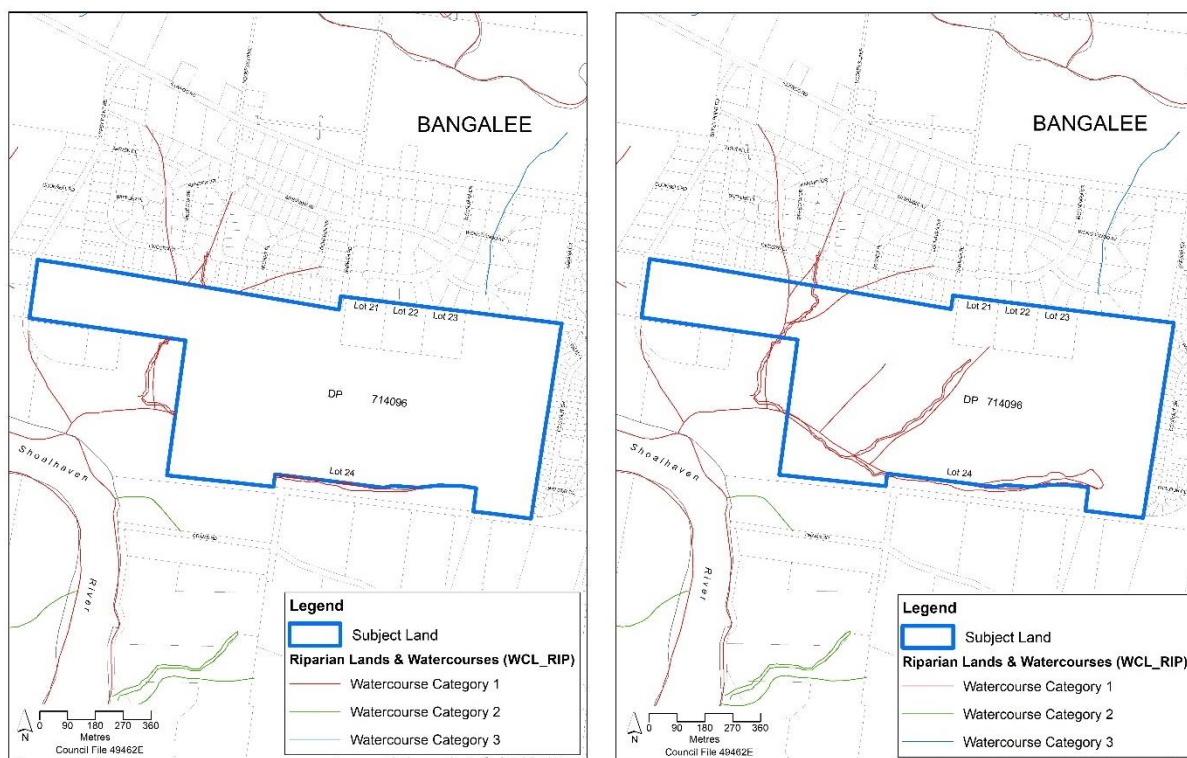
### Height of Buildings (HOB)

All parts of the site to be zoned R2 or R5 are proposed to be allocated a maximum building height of 8.5 m.



## Riparian Lands and Watercourses

The existing watercourse and its tributaries are to be mapped in the LEP as shown in **Figure 16** below:



**Figure 16 – Proposed Riparian Lands and Watercourses Overlay**

## Acid Sulfate Soils Overlay (ASS)

The subject land is proposed to be mapped as Class 5 on the Acid Sulfate Soils Map under the LEP. This classification is consistent with all land surrounding the subject land.

## Clauses Overlay (CLS)

That part of the site proposed to be zoned RU2 Rural landscape is also proposed to be mapped as being subject to Clause 7.21 of the LEP. This is an existing clause in the LEP that relates to the future use of the land for a road corridor.

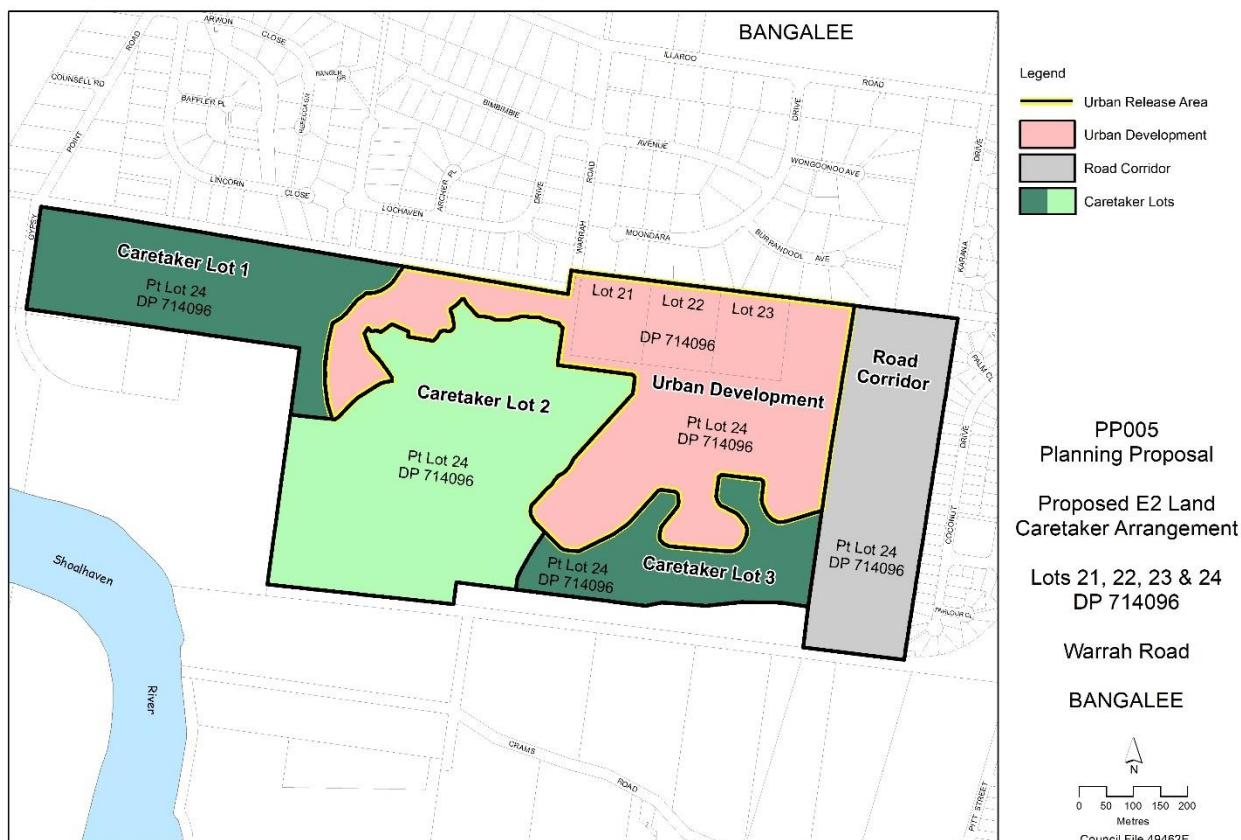
## Land Application Map (LAP)

The subject land is currently 'deferred' from Shoalhaven LEP 2014. It is proposed to amend the Land Application Map so that the land is no longer 'deferred'.

## Proposed Clause

The ultimate development of the subject land will result in a residual area of environmental land. No public authority has expressed an interest in acquiring this land. It is, therefore, proposed to permit its subdivision into three "caretaker lots". Each of these lots, comprising several hectares of environmental land, would be allocated a building envelope that would be wholly contained within the urban release area. A biodiversity stewardship agreement is

proposed for each “caretaker lot”. A map showing a conceptual layout for the “caretaker lots” is provided below as **Figure 17**.



**Figure 17 – Proposed Urban Release Area Map**

To permit this subdivision to proceed, it is proposed to add an additional subclause to Clause 4.1E, Subclause (3) of the LEP. The draft wording provided below would be refined and finalised in consultation with Parliamentary Counsel.

- (x) ***in relation to an original lot containing land within the Warrah Road Urban Release Area:***
- (i) ***no more than three of the resulting lots will:***
    - (a) ***each contain land in an urban zone that has an area not less than the minimum lot size shown on the Lot Size Map in relation to that land, and***
    - (b) ***contain all of the land (shared between them) in Zone E2 Environmental Conservation that was in the original lot, and***
    - (c) ***contain none of the land in Zone RU2 Rural Landscape that was in the original lot, and***
  - (ii) ***one of the resulting lots will contain:***
    - (a) ***land in an urban zone that has an area not less than the minimum lot size shown on the Lot Size Map in relation to that land, and***
    - (b) ***all of the land in Zone RU2 Rural Landscape that was in the original lot, and***
    - (c) ***none of the land in Zone E2 Environmental Conservation that was in the original lot.***

## 3.2 Remediation Order

### Original Order

During exhibition of the draft Shoalhaven LEP 2014, parts of the subject land were unlawfully cleared. As a result, on 1 July 2014 a [Remediation Order \(RO\)](#) (Attachment 1.3) was issued by the then NSW Office of Environment & Heritage requiring rehabilitation of parts of the site. The boundary of the RO is shown in **Figure 18** below.

Condition 1 of the original Gateway determination (5 April 2018) required:

*“The planning proposal to be revised to remove the proposed residential zoning over the lands in sub-remediation Areas A and B of the section 38 Remedial Direction under the Native Vegetation Act 1993. An appropriate environmental zone is to be applied to these areas.”*

### Amended Remediation Order

The [Remediation Order \(RO\) was amended on 25 September 2020](#) and the references to sub-remediation Areas A and B were removed. (Attachment 1.4). The RO was amended to remove a small area of land (less than 500 m<sup>2</sup>) as shown in **Figure 18**. The RO amendment enables an R2 zone to be applied to the affected land to provide for the construction of a future public road.

### Proposed zones for remediation areas (as amended)

**Figure 18** also illustrates the proposed zones as they affect the remediation areas. The RU2 zone proposed for the future western by-pass (hatched brown) is inconsistent with Condition 1 of the original Gateway Determination as it is not an environmental zone and includes land subject to the RO.

This inconsistency is, however, considered to be justified because the land supports cleared easements for a power-line and gas pipeline (DP1016598) and has been previously identified for road infrastructure in the NBSP (endorsed by NSW Government 2008) and the draft Shoalhaven Local Environmental Plan 2014.

An environmental zone would not be appropriate having regard to the proposed longer term use of this future western by-pass corridor.

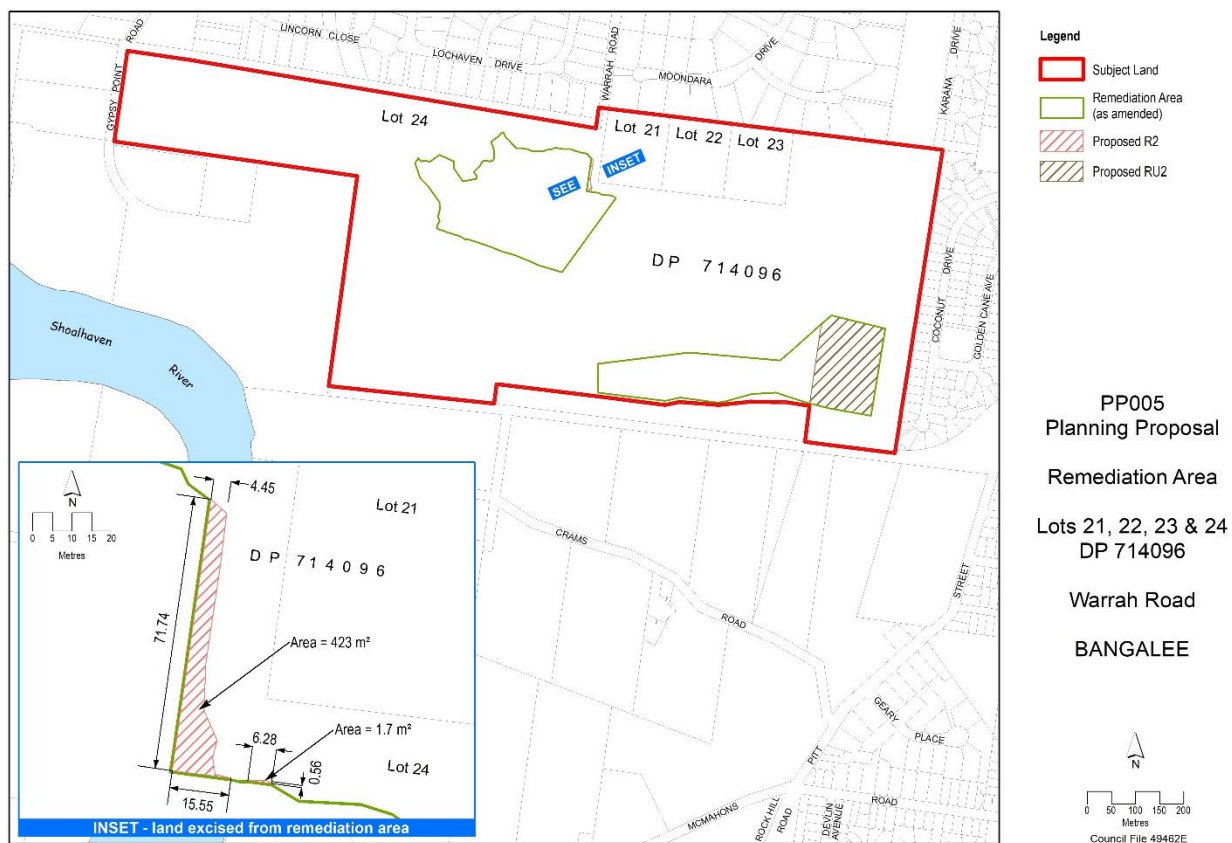


Figure 18 – Remediation Area (as amended) and Proposed Zones

## **4 Part 3 – Justification**

### **4.1 Need for the Planning Proposal (Section A)**

#### **4.1.1 Is the planning proposal a result of an endorsed local strategic statement, strategic study or report?**

YES.

The subject land is identified as one of seven URAs in the endorsed NBSP.

#### **4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

YES.

The current rural zoning under SLEP 1985 does not permit this type of development. Council deferred the zoning of the site as part of the finalisation of Shoalhaven LEP 2014, to consider a site specific PP to resolve the differences between the biodiversity studies relating to the land. The land cannot be developed in the manner proposed without amending the LEP via a planning proposal. There is no matter of state significance that would warrant a SEPP process.

### **4.2 Relationship to strategic planning framework (Section B)**

#### **4.2.1 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?**

##### **Illawarra Shoalhaven Regional Plan 2036**

The Illawarra Shoalhaven Regional Plan (ISRP) applies to the whole Shoalhaven LGA and was released in late 2015. It provides regional level guidance on the provision of suitable land to meet the Region's employment and housing needs. It seeks to ensure housing is well located, more diverse and more affordable.

The ISRP (Figure 3 – Strategy Map) identifies the CRIA as one of several regionally significant release areas which will contribute to housing supply in the Region. The ISRP identifies the Crams Road URA, although the footprint needs to be adjusted.

##### **Draft Illawarra Shoalhaven Regional Plan 2041 (November 2020)**

The updated draft strategic plan for the Illawarra Shoalhaven region 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 PP. Councils are encouraged (Strategy 18.2) 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 PP is consistent with this draft Strategy.

#### **4.2.2 Will the planning proposal give effect to Council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

##### Shoalhaven 2040 – Strategic Land-use Planning Statement

The Strategic Land-use Planning Statement (SLPS) was adopted by Council on 29 September 2020.

The PP 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. It is also generally consistent with *Planning Priority 6 – Providing jobs close to home*. The PP will release land for residential development thereby providing work to sustain local jobs in construction as well as supporting local businesses engaged in the supply of building materials.

##### Shoalhaven City Council’s Community Strategic Plan

The PP 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

The Shoalhaven Growth Management Strategy was adopted by Council in 2012 and endorsed by the NSW Department of Planning on 20 May 2014. In the Local Government Context, the Nowra-Bomaderry Structure Plan is recognised at Section 2.3.5 as providing a framework for the integrate development of the overall Nowra-Bomaderry area and specifically its long-term role as the City’s major urban area. Shoalhaven LEP 2014 incorporates the strategic directions outlined in the Nowra-Bomaderry Structure Plan, noting that the subject land was deferred due to unresolved planning considerations at that time. The Crams Road URA is listed in Table 18.

##### Nowra-Bomaderry Structure Plan (NBSP)

The subject land was originally identified as one of seven URAs in the NBSP that was adopted by Council in 2006 and 2007, and endorsed by DP&E in 2008. The NBSP identified an area of ninety (90) hectares for potential rezoning subject to further studies, including a threatened species and biodiversity assessment. The NBSP projected that the Crams Road URA would provide an additional 350 dwellings, of these 35 would be medium density, acknowledging that environmental constraints may reduce this yield.

#### **4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?**

The PP is generally consistent with the applicable State Environmental Planning Policies (SEPPs). A full list of the SEPPs is provided at Attachment 5. Commentary is provided below on SEPPs that are particularly significant to this proposal.

##### **SEPP – Koala Habitat Protection 2020**

This new SEPP was made on 30 November 2020 and applies to the City of Shoalhaven.

The SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

The subject land is not mapped as a koala management area under the SEPP.

The biodiversity field surveys conducted did not identify koala feed trees or any evidence of koalas inhabiting the area. Therefore, the land is not core koala habitat nor is it potential koala habitat under the Policy.

Therefore, this proposal is not inconsistent with this policy.

##### **SEPP 55 – Remediation of Land**

Clause 6 (Contamination and remediation to be considered in zoning or rezoning proposal) of SEPP 55 was repealed on 17/4/2020 and its requirements effectively transferred to a new Ministerial direction (No 2.6) under section 9.1 of the Environmental Planning and Assessment Act. The Ministerial direction is addressed in section 4.24 of this PP.

##### **SEPP (Infrastructure) 2007**

The PP could result in development classed as traffic generating development in accordance with the SEPP. To consider the aims and objectives of the SEPP, the Roads and Maritime Services (now Transport for NSW - TfNSW) was consulted, consistent with the original Gateway Determination.

On 19 October 2020, TfNSW advised that *“TfNSW has no objection to the PP in principle as it is unlikely to have a significant impact on the state road network.”* (Attachment 4.1)

##### **SEPP (Primary Production and Rural Development) 2019**

This policy applies because the subject land is currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985. The relevant aims of the policy are to:

- (a) facilitate the orderly economic use and development of lands for primary production,*
- (b) reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, and*



*(e) to encourage sustainable agriculture, including sustainable aquaculture.*

The subject land is not mapped as Class 1, 2 or 3 agricultural land. The site is heavily vegetated except for the cleared areas. The PP does not conflict with the aims of the SEPP because the site does not currently accommodate major agricultural uses nor provide for sustainable economic activities. Accordingly, 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.

#### **4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The Ministerial Directions are summarised at Attachment 6 and those that are most relevant are discussed below.

##### **Direction 1.2 Rural Zones**

The subject land is currently zoned Rural 1(d) General Rural under Shoalhaven LEP 1985. This Direction states that a planning proposal must:

- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

Clause (5) however states that PPs can be inconsistent with the above requirement under certain circumstances, including where justified by strategy. The subject land is part of the Crams Road Investigation Area in the Nowra Bomaderry Structure Plan. Hence, the inconsistency with this Direction is considered minor.

##### **Direction 1.5 Rural Lands**

The objective of this Direction is to protect the agricultural production value of rural land. Land zoned Rural must not be changed to urban use in the absence of a strategy to justify the proposal. This objective is not unlike the aims of the SEPP for Primary Production and Rural Development (2019) discussed in 4.3.2 above.

The subject land 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 land is an identified URA in the NBSP, an endorsed strategy, and use of part of the land for residential development forms a natural extension of the existing residential uses immediately to the north and east. 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 PP is consistent with the Direction.

## Direction 2.1 Environmental Protection Zones

The PP does not seek to reduce the environmental protection standards that apply to the land. The subject land is currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985 and the PP specifically includes provisions that facilitate the protection and conservation of the HCV land identified in the independent peer review of biodiversity assessments (NGH Environmental, 2017). The PP proposes to rezone land to an E2 Environmental Conservation zone as previously outlined. The PP is therefore considered consistent with this Direction.

## Direction 2.3 Heritage Conservation

This Direction requires that items of Aboriginal and other cultural heritage be identified in a study of the area's environmental heritage. An Aboriginal cultural heritage assessment (ACHA) has been completed by Mary Dallas Consulting Archaeologists (2018). Recommendation 1 states:

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

The ACHA was referred to Heritage NSW (HNSW) for review and comment as required by the original Gateway determination. HNSW advised, in part, as follows:

***“The Aboriginal cultural heritage assessment addresses Ministerial Direction 2.3***

*Based on our review, the MDCA (2018) report appears to address the requirements of Ministerial Direction 2.3. The assessment has included Aboriginal community consultation and archaeological survey in accordance with the relevant guidelines.*

*“The assessment has shown that there are two recorded Aboriginal cultural heritage sites within the planning proposal area. However, both sites are outside the proposed development footprint.*

*“We support the avoidance of direct harm to the recorded sites from the proposed development works. However, we have identified that further consideration of some works including vegetation management, bushfire protection works and maintenance of the existing transmission line, have potential to harm the recorded sites.”*

A copy of the ACHA can be accessed via this [link](#), also provided at Attachment 1.5. For further information and clarification, a complete copy of the advice received from HNSW is available via this [link](#), also provided at Attachment 4.2.

HNSW have identified that two recorded Aboriginal cultural heritage sites are within the planning proposal area. Although both sites are outside the proposed development footprint, HNSW is concerned to ensure that all works including vegetation management, bushfire protection and maintenance of the existing transmission line do not harm the recorded sites. HNSW recommends the following:

- *Preparing an Aboriginal Heritage Management Plan (AHMP) over the ‘Caretaker’ Lots 1, 2 and 3 within the E2 zoned land in consultation with the Registered Aboriginal Parties (RAPs).*

- *Ensuring there is an adequate buffer between site 52-5-0307 and the RU2 (Low Density Residential) zone. The buffer needs to ensure that any work to create a bushfire protection zone does not impact site 52-5-0307.*
- *Whether future land management works in the E2 (Environmental Conservation) land will require an AHIP to cover harm to site 52-5-0307.*
- *Whether future maintenance or upgrade work to the transmission line may require an AHIP if harm to site 52-5-0372 cannot be avoided.*
- *That if Aboriginal objects are found during future works then work must stop and the find must be reported immediately to Heritage NSW by calling Environment Line on 131 555 or emailing [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au). Where harm to Aboriginal objects cannot be avoided an AHIP application must be prepared.*

The proposed development area will be mapped as an Urban Release Area (URA) under Part 6 of the LEP and hence a site-specific DCP will need to be prepared before the land can be subdivided/released. HNSW's recommendations (and other development control issues) will be addressed when the DCP is prepared at the appropriate point (after the new bridge crossing and the Far North Collector Road have been completed).

## **Direction 2.6 Remediation of Contaminated Land**

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. Comments on this Direction are similar to those made in relation to SEPP 55.

A [Stage 1 Contamination Assessment](#) (Attachment 1.9) was undertaken by Network Geotechnics on behalf of the proponent. It found the site to be of medium risk of contamination in certain areas where illegal dumping of rubbish has occurred. Other potential sources of contamination derive from the possibility that at one stage an abattoir operated on the site as well as potential contamination resulting from building material stockpiles. Nevertheless, most of the site was assessed to be 'greenfield'.

The assessment concluded that a targeted Stage 2 Contamination Assessment is required for the proposed subdivision. SEPP 55 provides a statutory framework for further investigations and suitable remediation through the development application process.

The Network Geotechnics report was referred to Council's Environmental Services Unit for review. The following comments were received:

*"A targeted Stage 2 Contamination Assessment is required for the proposed subdivision at DA stage. Should the Stage 2 contamination report identify any contamination, remediation and validation will be required in accordance with Consultants reporting on contaminated Land: Contaminated land guidelines 2020."*

The PP is consistent with this Direction.

## **Direction 3.1 Residential Zones**

This Direction applies as the PP seeks to rezone part of the land for residential purposes. The subject land 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 (URA). The PP is consistent with this Direction because it will ultimately increase the availability of residential land by rezoning land zoned Rural 1(d)(General) to Residential R2 and Residential R5 and provide some diversity of housing choice.

### **Direction 3.4 Integrating land use and transport**

This Direction requires PP's to give effect to and be consistent with the aims, objectives, and principles of:

- *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and
- *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

In context of the Nowra-Bomaderry area, options to reduce dependency on private motor vehicles are discussed in sections 6.3 and 6.4 the NBSP, which was adopted by Council and endorsed by the State Government in 2008. These options include expanding the network of cycleways and pathways, priority lanes for bus services etc. These, and any other available integrated transport options, will be reviewed and advanced as the URAs are progressively investigated.

As already noted, the Crams Road / Warrah 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. A detailed [traffic study](#) has been undertaken and is attached to this PP (Attachment 1.10). It 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 (MIN19.289) 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”*.

The PP is not inconsistent with this Direction.

### **Direction 4.1 Acid Sulfate Soils**

Part (6) of this Direction states that:

*A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.*

The subject land is not mapped on the State Government's Acid Sulfate Soils Planning Maps. As such the PP is consistent with this Direction.

The subject land is proposed to be mapped as Class 5 on the Acid Sulfate Soils Map under Shoalhaven LEP 2014, to which clause 7.1 of the LEP applies. This would be considered

in any future development application. This classification is consistent with all land surrounding the subject land.

#### **Direction 4.4 Planning for Bushfire Protection**

This direction applies because most of the area to which this PP applies is mapped as bushfire prone land. The objective is to protect life, property, and the environment from bushfire hazards, by discouraging incompatible uses in bushfire prone areas and to encourage sound management of those areas. A bushfire constraints assessment was included with the material submitted by the proponent and concluded:

- The vegetation within the development site and on adjoining land is recorded on the Shoalhaven Bushfire Prone Map as constituting Category 1 Bushfire Prone vegetation.
- The characteristics of the site, together with the bushfire protection measures recommended, provide that the rezoning and subsequent subdivision of the land for residential development is suitable in terms of its intended land use.

A [revised bushfire assessment](#) (Attachment 1.6) was prepared to:

- Reflect the new layout responding to the environmental (HCV) constraints
- Determine appropriate asset protection zones and lot sizes
- Consider the impact of the limited egress from the site if evacuation is required.

The revised report utilised traffic modelling undertaken as part of the traffic study to model the time to evacuate the proposed development and existing development between the site and Illaroo Road. The report has addressed requirements to Council's satisfaction and the reports were referred to the NSW Rural Fire Service for comment on 21 September 2020. To date, no response has been received. Further clarification is provided in Section 4.4.2.

RFS comments will determine if the PP is consistent with this Direction.

#### **Direction 5.10 Implementation of Regional Plans**

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions, and actions contained in Regional Plans.

As discussed earlier in 4.2.1, the PP is consistent with the Illawarra Shoalhaven Regional Plan (ISRP) as Figure 3 – Strategy Map of the ISRP identifies the CRIA as one of several regionally significant release areas which will contribute to housing supply in the Region. The ISRP identifies the Crams Road URA, although the footprint needs to be adjusted.

#### **Direction 6.3 Site Specific Provisions**

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. This direction requires that:

- (4) *A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*
- (a) allow that land use to be carried out in the zone the land is situated on, or*
  - (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
  - (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*
- (5) *A planning proposal must not contain or refer to drawings that show details of the development proposal.*
- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning*

This PP does not seek to impose any additional development standards. A clause is intended to facilitate the subdivision of the residual land into a total of four lots, each of which will have a dwelling entitlement within the residential area. The PP is therefore consistent with this 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?**

Detailed consideration has been given to assessing the likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected by the proposal. Although there had been conflicting biodiversity studies over the site, an independent peer review by NGH Environmental (2017) has essentially resolved this.

The revised PP ensures that all HCV land identified on the site will be protected. It is considered that these investigations have now been satisfactory completed, and the proposed layout is satisfactory regarding these matters. Further, it is proposed that a biodiversity stewardship agreement will be put in place to manage the environmental land.

### **4.3.2 Are there any other likely environmental effects as a result of the planning proposal to be managed?**

#### **Traffic**

A detailed [traffic study](#) has been undertaken and is attached to this PP (Attachment 1.10). It found that if the land were released for urban development before the Princes Highway Shoalhaven River Bridge is duplicated, that it would hasten the failing of the intersection of Illaroo Road by approximately one year. Accordingly, Council has resolved (MIN19.289)



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”*.

It further found that minor widening and intersection improvements are required to the local road network to support the development. The provision of this infrastructure will be a matter for the future area release planning to be undertaken under Part 6 of the LEP.

There were no other matters identified in the traffic study that would impact on the progression of this PP and TfNSW has supported the PP based on release being delayed until the identified transport infrastructure has been completed.

#### **4.3.3 Has the planning proposal adequately addressed any social and economic effects?**

The PP will provide certainty for the community on the site's intended development outcomes and land supply. This is particularly important given concerns raised by members of the local community regarding the retention of character of the existing residential area immediately north of the site. The planning proposal incorporates a 2,000 m<sup>2</sup> minimum lot size zone along part of the northern boundary of the site to limit impacts on the amenity and character of the existing adjoining residential area. To the west of Warrah Road this area is separated from the proposed residential use by a Crown road reserve.

Community consultation undertaken as part of the formal public exhibition process will help to identify and address any specific social and economic issues. All adjoining landowners and landowners who made submissions on the draft Shoalhaven LEP 2014 will be notified of the public exhibition.

### **Aboriginal cultural heritage**

An Aboriginal cultural heritage assessment (ACHA) has now been completed and concluded that:

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

Comments from HNSW on the ACHA via the link at Attachment 4.2.

## **4.4 State and Commonwealth Interests (Section D)**

### **4.4.1 Is there adequate public infrastructure for the planning proposal?**

Issues regarding the provision of infrastructure will 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. As discussed in 4.3.2 Council has resolved



(MIN19.289) 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”*.

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

Council has consulted with the following public authorities identified in the original Gateway determination (Table 3).

**Table 1: Public Authorities consulted**

| Public Authority                          | Reason   |
|---|--|
| NSW Rural Fire Service                    | As per s 9.1 Direction 4.4   |
| Heritage NSW                              | Aboriginal Cultural Heritage   |
| Biodiversity & Conservation (DPIE)        | Biodiversity certification   |
| Natural Resources Access Regulator (NRAR) | Riparian corridors – Shoalhaven River  |
| Transport for NSW                         | Traffic impact on Princes Highway, the Shoalhaven River crossing and the corridor and alignment of the future A1/M1 (Western Bypass) |
| Endeavour Energy                          | Electricity Infrastructure   |
| Shoalhaven Water                          | Water and Sewerage Services  |

#### NSW Rural Fire Service

The PP was referred to the NSW Rural Fire Service (RFS) for comment on 21 September 2020. To date, no formal response has been received.

The RFS has expressed concerns (verbally) about the conceptual subdivision plan included in the PP. A key issue is the proposed road layout and the lack of alternate ingress/egress. Further consultation with the RFS, including in relation to an acceptable road layout, will be undertaken during public exhibition of the PP and before the Plan is made.

The land is, however, proposed to be mapped as an Urban Release Area (URA) to which Part 6 of the LEP would apply. This will prevent the land from being developed until satisfactory arrangements are in place for the provision utilities and infrastructure, and a site-specific development control plan (DCP) has been prepared. This means that the provision of alternate road access (and any other bushfire issues raised by the RFS) will need to be considered and addressed in the DCP which is to be prepared at the appropriate point in the future (in accordance with Part 6 of the LEP).

Furthermore, a bushfire assessment will need to be prepared at subdivision stage, and a Bushfire Safety Authority will be required from the RFS.

## **Heritage NSW**

The ACHA was referred to Heritage NSW (HNSW) for review and comment as required by the original Gateway determination. The comments received are discussed above in Section 4.2.4 – Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Comments in full are at Attachment 4.2 as required by the original Gateway determination.

## **Biodiversity & Conservation Division DPIE**

Biodiversity & Conservation Division (BCD) has been consulted extensively in relation to the Biodiversity Conservation Assessment Report and the Biodiversity Certification process. BCD advised that the BCAR and PP can be exhibited concurrently in accordance with the *Environmental Planning & Assessment Act, 1979*. BCD further advised that additional comments would be provided during the exhibition. (Attachments 1.7 & 1.8)

## **Natural Resources Access Regulator**

The PP was referred to the NSW Natural Resources Access Regular (NRAR) for comment regarding the riparian corridors on 29 September 2020. An acknowledgement was received on 16 December 2020. However, to date, no comments have been received.

Any comments received from NRAR prior to conclusion of the public exhibition period will be considered and incorporated into the final PP, consistent with this Direction.

## **Transport for NSW**

On 19 October 2020, Transport for NSW (TfNSW) advised that “*TfNSW has no objection to the PP in principle as it is unlikely to have a significant impact on the state road network.*” Comments in full at Attachment 4.1 as required by the original Gateway Determination.

## **Endeavour Energy**

Detailed comments were received from Endeavour Energy (EE) on 18 November 2020. These are included in full at Attachment 4.3 as required by the original Gateway Determination. EE has no objection to the Planning Proposal, subject to the comments and recommendations contained in the advice.

The following electrical infrastructure/easements benefitting EE have been identified:

- 132,000 volt / 132 kilovolt (kV) high voltage overhead power lines to the eastern side of Lot 24 DP714096;
- Low voltage and 11,000 volt / 11 kV high voltage overhead power lines over Lots 21 and 22 DP 714096 including pole mounted substation no. 51469. The low voltage

overhead power lines extend beyond the easement to provide the low voltage overhead service conductors and customer connection points for the existing dwellings; and

- Low voltage and 11 kV high voltage overhead power lines to the Warrah Road road verge / roadway.

EE suggests that the proponent may need to engage an appropriately Accredited Service Provider (ASP) to assess the electricity load of the proposed development. Existing easements must be protected and any future subdivision of Lots 21 and 22 DP714096 is likely to require the undergrounding/relocation of the existing overhead powerlines and the release of the easement. EE does not support subdivision of existing easements and none is proposed.

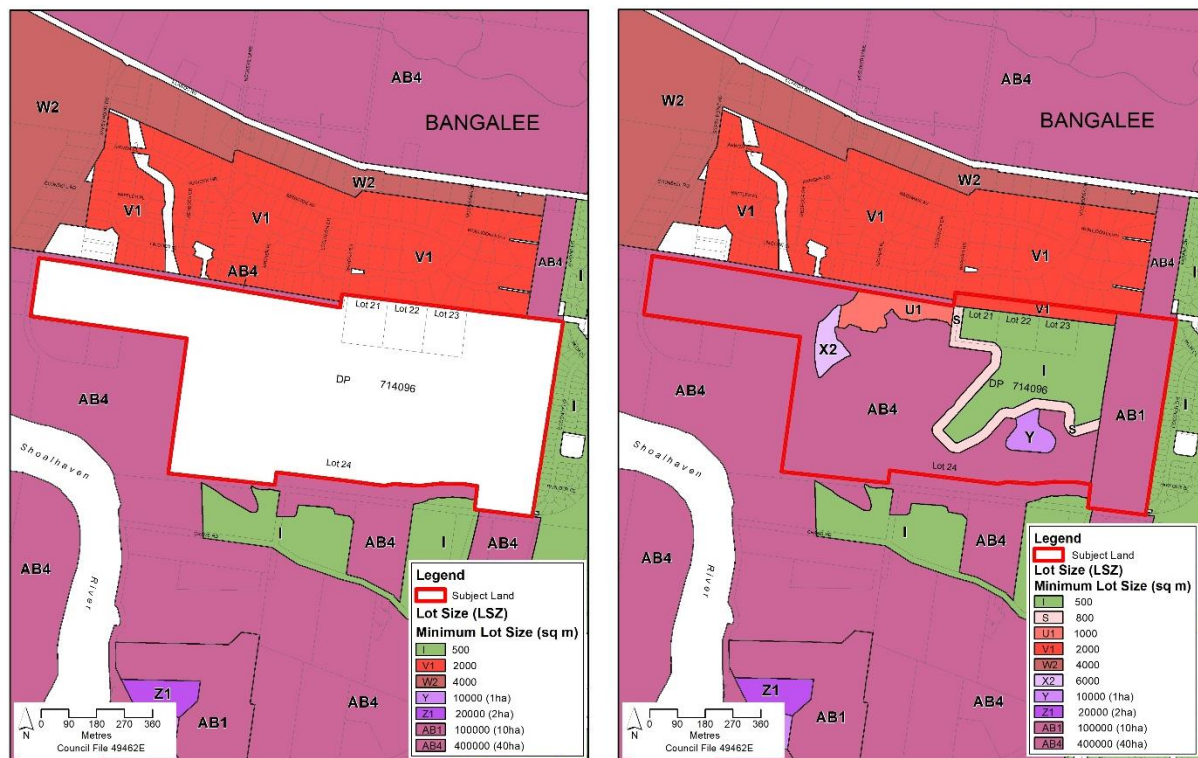
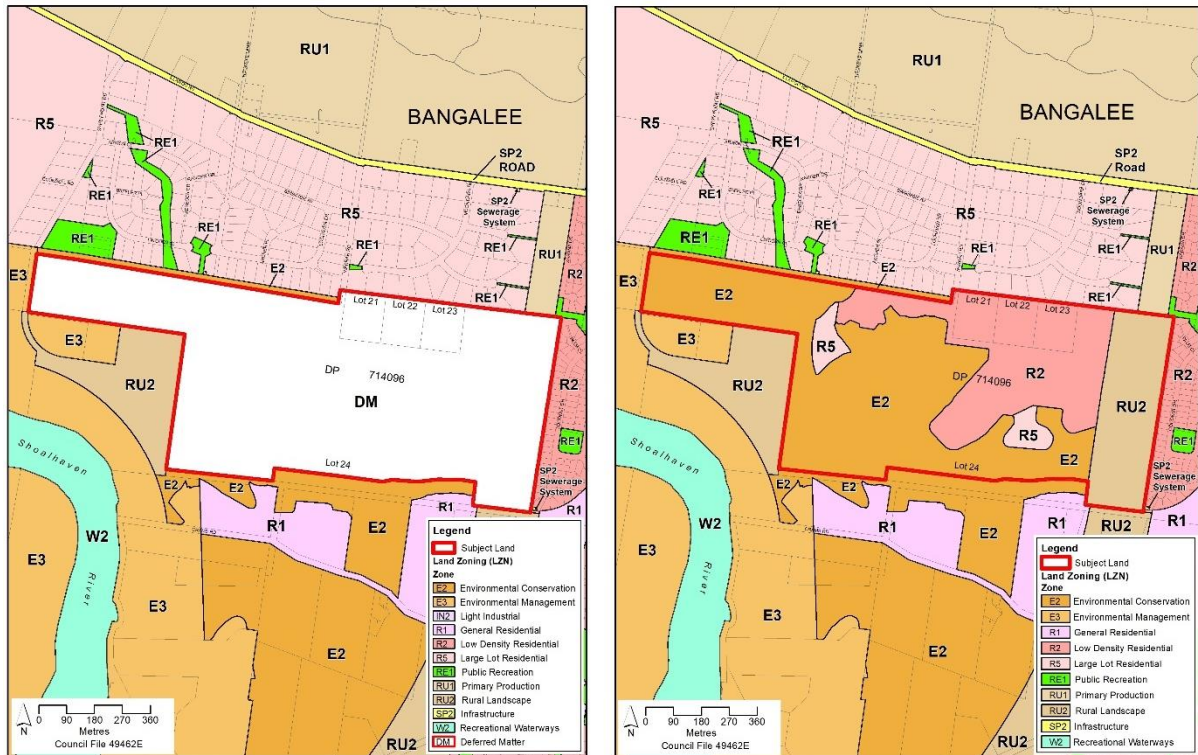
The provision of electrical infrastructure will be considered further under the Part 6 of the LEP before the land can be subdivided/developed. There is no impediment to the Planning Proposal as EE has not raised any objections.

### **Shoalhaven Water**

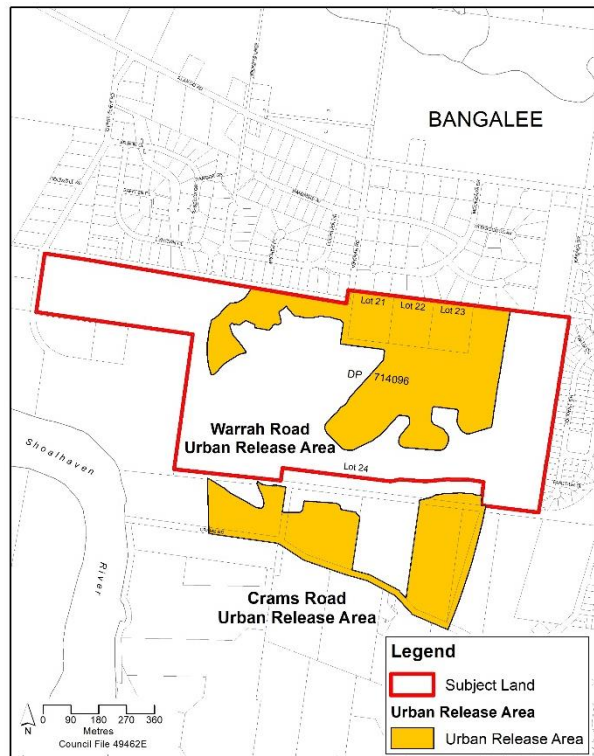
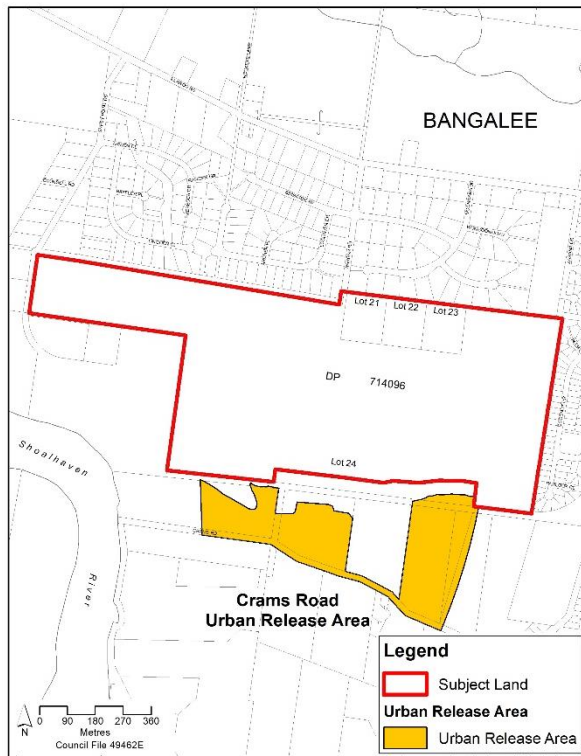
The PP was referred to Shoalhaven Water for comment on 21 September 2020. To date, no response has been received. The land is proposed to be mapped as an Urban Release Area and hence will be subject to Part 6 of the LEP. This means that arrangements for the provision of public utility infrastructure will need to be in place before the land can be subdivided/developed.

## 5 Part 4 – Mapping

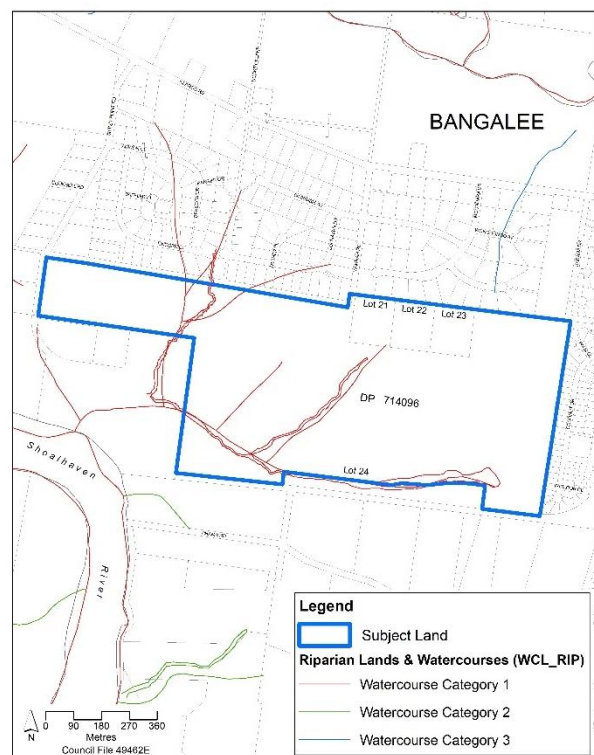
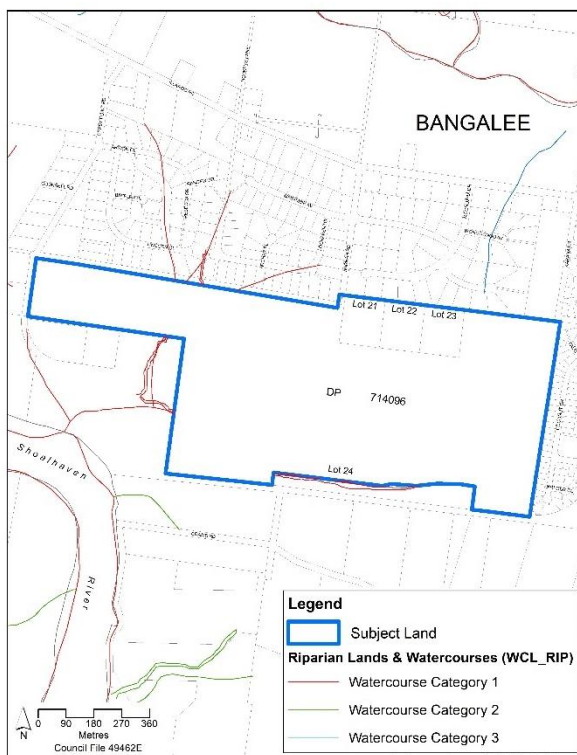
This PP is supported by the following maps:



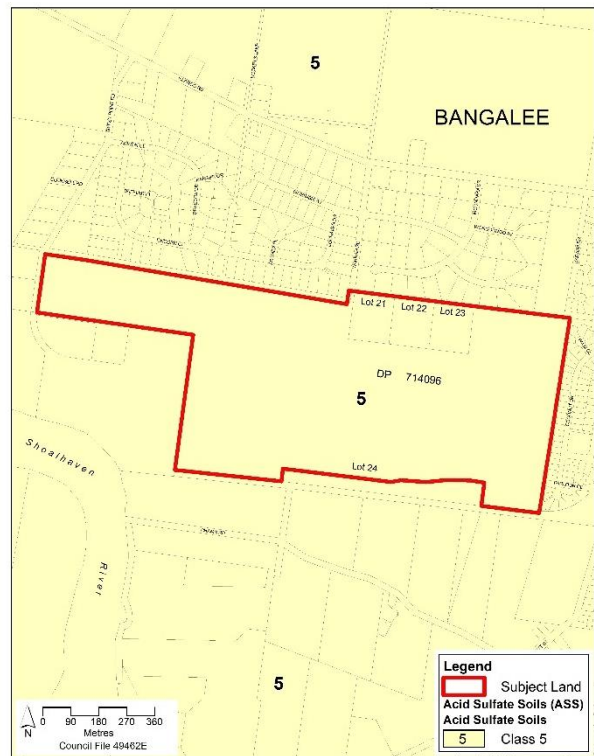
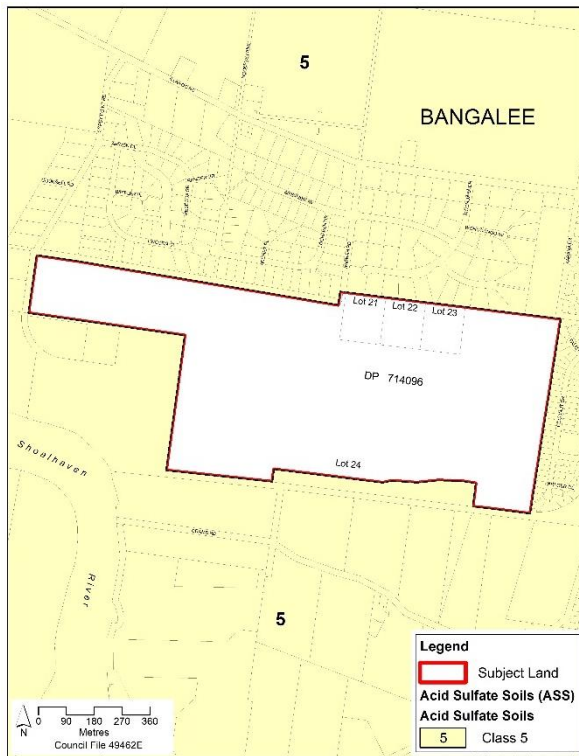




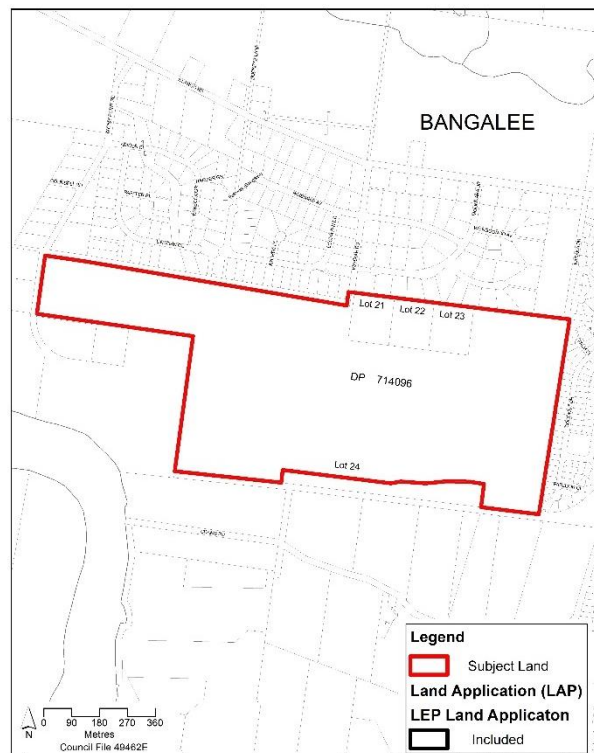
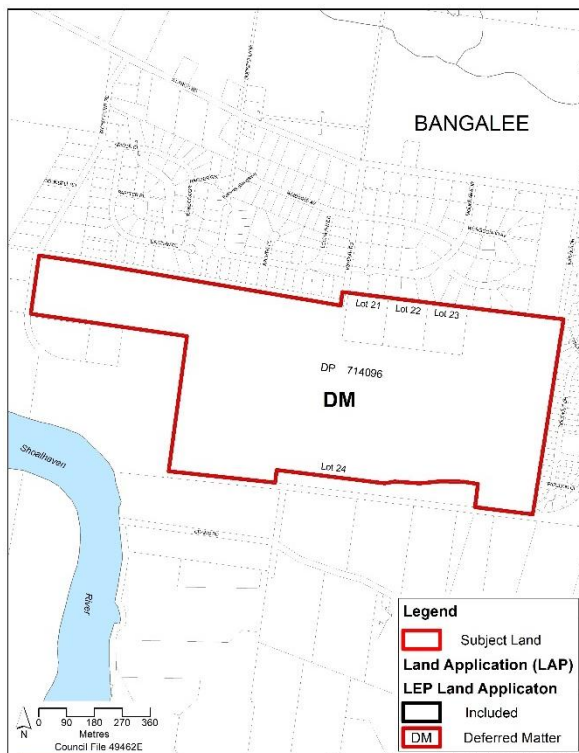
**Map 3 – Existing (left) and proposed (right) Urban Release Areas (URA)**



**Map 4 – Existing (left) and proposed (right) Riparian Lands and Watercourses (WCL)**

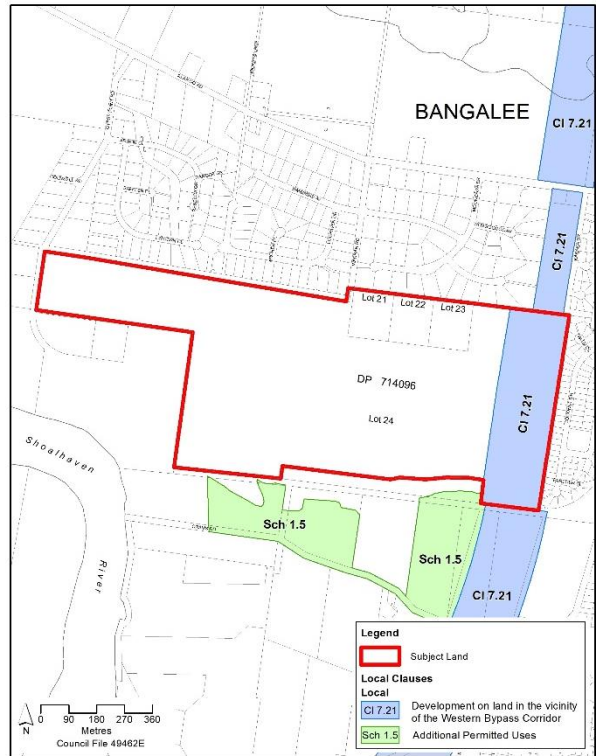
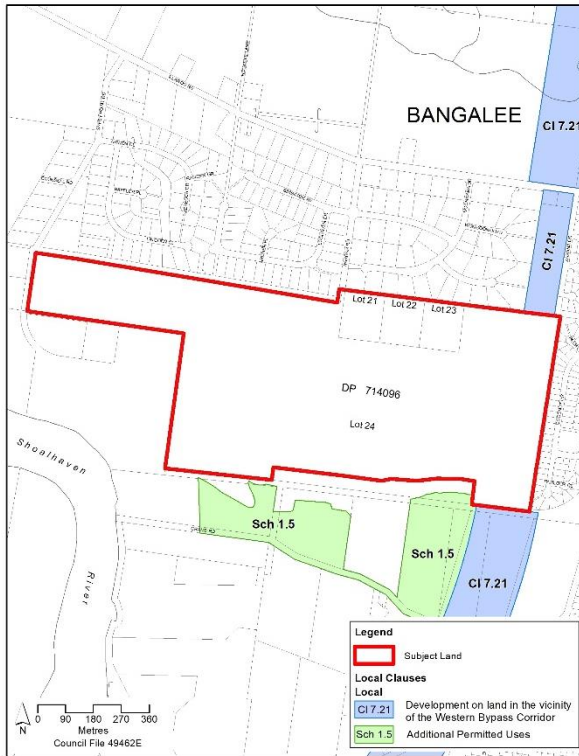


**Map 5 – Existing (left) and proposed (right) Acid Sulfate Soils (ASS)**

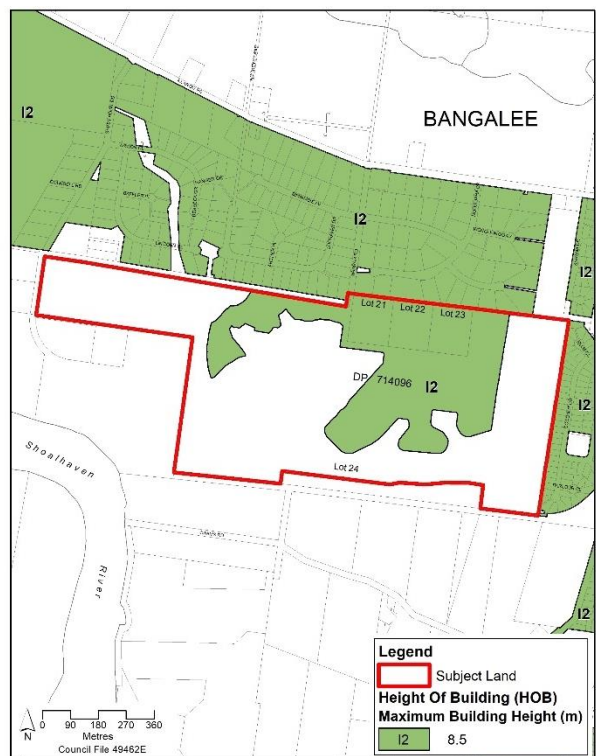
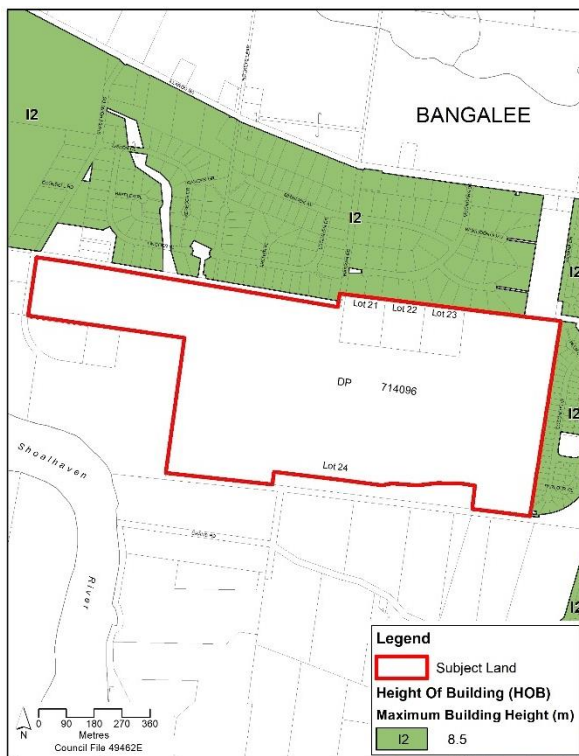


**Map 6 – Existing (left) and proposed (right) Land Application (LAP)**





Map 7 – Existing (left) and proposed (right) Local Clauses (CLS)



Map 8 – Existing (left) and proposed (right) Height of Buildings (HOB)

## 6 Part 5 - Community Consultation

Council proposed to exhibit the PP in accordance with the requirements of the NSW Environmental Planning and Assessment Act 1979 and any other requirements as required by the original Gateway determination. It is intended that the PP will be publicly exhibited for at least 28 days, acknowledging that extensive exhibition/consultation was undertaken as part of the process of finalising Shoalhaven LEP 2014.

The Planning Proposal will be publicly exhibited via the [Documents on Exhibition](#) page on Council's website: [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au). The Planning Proposal will also be available for viewing **electronically** if needed at the City Administration Centre, Bridge Road, Nowra.

Council has received representations from several landowners in the Bangalee area and it is intended that all surrounding landowners would be directly notified of the public exhibition.



## 7 Part 6 – Project Timeline

The following milestone timeframes are anticipated and will be revised if any significant delays are encountered during the process.

**Table 2: Projected Timeline**

| <b>Task</b>  | <b>Anticipated Timeframe</b> |
|--|------------------------------|
| DPIE - Request for new Gateway determination                     | January 2021                 |
| Completion of studies required by original Gateway Determination | Completed                    |
| Public exhibition (minimum 28 days)                              | March 2021                   |
| Post exhibition consideration of PP                              | June 2021                    |
| Finalisation and notification of Plan                            | August 2021                  |

## Attachments

### Proponents PP, Remediation Order, and any Studies

| Item # | Title   |
|--------|---|
| 1.1    | <a href="#">Proponent's PP Document June 2014</a>                             |
| 1.2    | <a href="#">NGH Environmental– Biodiversity Assessment 2017 – Peer Review</a> |
| 1.3    | <a href="#">Remediation Order 1 July 2014</a>                                 |
| 1.4    | <a href="#">Remediation Order Amendment 25 September 2020</a>                 |
| 1.5    | <a href="#">Aboriginal Cultural Heritage Assessment</a>                       |
| 1.6    | <a href="#">Revised Bushfire Assessment</a>                                   |
| 1.7    | <a href="#">Biodiversity Certification Assessment Report – Part 1</a>         |
| 1.8    | <a href="#">Biodiversity Certification Assessment Report – Part 2</a>         |
| 1.9    | <a href="#">Network Geotechnics – Stage 1 Contamination Report</a>            |
| 1.10   | <a href="#">Traffic Report</a>  |

### Council reports and minutes supporting the PP

|      |   |
|------|---|
| 2.1  | <a href="#">Report to Development Committee - 2 September 2014</a>                                |
| 2.2  | <a href="#">Minutes of Development Committee – 2 September 2014</a>                               |
| 2.3  | <a href="#">Report to Development Committee – 1 December 2015</a>                                 |
| 2.4  | <a href="#">Minutes of Development Committee – 1 December 2015</a>                                |
| 2.5  | <a href="#">Report to Development Committee – 6 December 2016</a>                                 |
| 2.6  | <a href="#">Minutes of Development Committee – 6 December 2016 (MIN16.944)</a>                    |
| 2.7  | <a href="#">Report to Development Committee – 8 August 2017</a>                                   |
| 2.8  | <a href="#">Minutes of Development Committee – 8 August 2017 (MIN17.677)</a>                      |
| 2.9  | <a href="#">Report to Development &amp; Environment Committee – 7 May 2019</a>                    |
| 2.10 | <a href="#">Minutes of Development &amp; Environment Committee – 7 May 2019 (MIN19.289)</a>       |
| 2.11 | <a href="#">Report to Development &amp; Environment Committee – 1 December 2020</a>               |
| 2.12 | <a href="#">Minutes of Development &amp; Environment Committee – 1 December 2020 (MIN 20.887)</a> |
| 2.13 | <a href="#">Report to Development &amp; Environment Committee – 18 January 2021</a>               |

|      |  |
|------|--|
| 2.14 | <a href="#">Minutes of Development &amp; Environment Committee – 18 January 2021 (MIN21.005)</a> |
|------|--|

### Original Gateway Determinations

|     |   |
|-----|---|
| 3.1 | <a href="#">Gateway Determination 12 July 2016</a>                  |
| 3.2 | <a href="#">Gateway Determination – Alteration 5 April 2018</a>     |
| 3.3 | <a href="#">Gateway Determination – Extension 1 March 2019</a>      |
| 3.4 | <a href="#">Gateway Determination – Alteration 8 August 2019</a>    |
| 3.5 | <a href="#">Gateway Determination – Alteration 15 December 2020</a> |

### Agency Comments

|     |                                   |
|-----|-----------------------------------|
| 4.1 | <a href="#">Transport for NSW</a> |
| 4.2 | <a href="#">Heritage NSW</a>      |
| 4.3 | <a href="#">Endeavour Energy</a>  |

## 1. SEPP Checklist – Consistency Summary

| SEPP  | Subject  | Inconsistent | Not Inconsistent | Not Applicable |
|---|--|--------------|------------------|----------------|
| IREP1   | Deemed SEPP Illawarra Regional Plan No.1             |              | ✓                |                |
| 19  | Bushland in Urban Areas                              |              |                  | ✓              |
| 21  | Caravan Parks  |              |                  | ✓              |
| 33  | Hazardous and Offensive Development                  |              |                  | ✓              |
| 36  | Manufactured Home Estates                            |              |                  | ✓              |
| 50  | Canal Estate Development                             |              |                  | ✓              |
| 55  | Remediation of Land                                  |              | ✓                | ✓              |
| 64  | Advertising and Signage                              |              |                  | ✓              |
| 65  | Design Quality of Residential Apartment Development  |              |                  | ✓              |
| 70  | Affordable Housing (revised schemes)                 |              |                  | ✓              |
| 2004  | Housing for Seniors or People with a Disability 2004 |              |                  | ✓              |
| 2004  | BASIX  |              |                  | ✓              |
| 2005  | Major Projects                                       |              |                  | ✓              |
| 2007  | Mining, Petroleum & Extractive Industries            |              |                  | ✓              |
| 2007  | Infrastructure                                       |              | ✓                |                |
| 2008  | Exempt and Complying Development Codes               |              |                  | ✓              |
| 2009  | Affordable Rental Housing                            |              |                  | ✓              |
| 2010  | Urban Renewal  |              |                  | ✓              |
| 2011  | Sydney Drinking Water Catchment                      |              |                  | ✓              |
| 2011  | State and Regional Development                       |              |                  | ✓              |
| 2017  | Vegetation in Non-Rural Areas                        |              |                  | ✓              |
| 2017  | Educational Establishments and Child Care Facilities |              |                  | ✓              |
| 2018  | Coastal Management                                   |              |                  | ✓              |
| 2018  | Concurrences and Consents                            |              |                  | ✓              |
| 2020  | Koala Habitat Protection                             |              | ✓                |                |
| 2019  | Primary Production and Rural Development             |              | ✓                |                |
| 2020  | Major Infrastructure Corridors                       |              |                  | ✓              |
| Note: SEPPs that do not apply to the Shoalhaven LGA are not listed, E.g. Activation Precincts |  |              |                  |                |



## 2. Ministerial Directions (s.9.1) Checklist – Consistency Summary

| MD   | Subject   | Applies | Relevant | Consistent            |
|--|---|---------|----------|-----------------------|
| <b>1. Employment &amp; Resources</b>                     |   |         |          |                       |
| 1.1  | Business & Industrial Zones   |         |          |                       |
| 1.2  | Rural Zones   | ✓       | ✓        | Minor inconsistency   |
| 1.3  | Mining, Petroleum & Extractive Industries   |         |          |                       |
| 1.4  | Oyster Aquaculture  |         |          |                       |
| 1.5  | Rural Lands   | ✓       | ✓        | ✓                     |
| <b>2. Environment &amp; Heritage</b>                     |   |         |          |                       |
| 2.1  | Environment Protection Zones  | ✓       | ✓        | ✓                     |
| 2.2  | Coastal Protection  |         |          |                       |
| 2.3  | Heritage Conservation   | ✓       | ✓        | ✓                     |
| 2.4  | Recreation Vehicle Areas  | ✓       | ✓        | ✓                     |
| 2.5  | Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs |         |          |                       |
| 2.6  | Remediation of Contaminated Land  | ✓       | ✓        | ✓                     |
| <b>3. Housing Infrastructure &amp; Urban Development</b> |   |         |          |                       |
| 3.1  | Residential Zones   | ✓       | ✓        | ✓                     |
| 3.2  | Caravan Parks & Manufactured Home Estates   |         |          |                       |
| 3.3  | Home Occupations  |         |          |                       |
| 3.4  | Integrated Land Use & Transport   | ✓       | ✓        | ✓                     |
| 3.5  | Development Near Licensed Aerodromes  |         |          |                       |
| 3.6  | Shooting Ranges   |         |          |                       |
| 3.7  | Reduction in non-hosted short term rental accommodation period                    |         |          |                       |
| <b>4. Hazard &amp; Risk</b>                              |   |         |          |                       |
| 4.1  | Acid Sulfate Soils  | ✓       | ✓        | ✓                     |
| 4.2  | Mine Subsidence & Unstable Land   |         |          |                       |
| 4.3  | Flood Prone Land  |         |          |                       |
| 4.4  | Planning for Bushfire Protection  | ✓       | ✓        | Awaiting RFS comments |
| <b>5. Regional Planning</b>                              |   |         |          |                       |
| 5.1  | Revoked 17 October 2017   |         |          |                       |
| 5.2  | Sydney Drinking Water Catchments  |         |          |                       |
| 5.3  | Farmland of State & Regional Significance Far North Coast                         |         |          |                       |
| 5.4  | Commercial & Retail Development – Pacific Hwy North Coast                         |         |          |                       |
| 5.5  | Development in Cessnock LGA (revoked 2010)  |         |          |                       |
| 5.6  | Sydney to Canberra Corridor (revoked 2008)  |         |          |                       |
| 5.7  | Central Coast (revoked 2008)  |         |          |                       |
| 5.8  | Second Sydney Airport: Badgerys Creek (Revoked 2018)                              |         |          |                       |
| 5.9  | North West Rail Link Corridor Strategy  |         |          |                       |
| 5.10   | Implementation of Regional Plans  | ✓       | ✓        | ✓                     |
| <b>6. Local Plan Making</b>                              |   |         |          |                       |
| 6.1  | Approval & Referral Requirements  |         |          |                       |
| 6.2  | Reserving Land for Public Purposes  |         |          |                       |
| 6.3  | Site Specific Provisions  | ✓       | ✓        | ✓                     |
| <b>7. Metropolitan Planning</b>                          |   |         |          |                       |
| 7.1 to 7.10  | These Ministerial Directions do not apply to Shoalhaven LGA                       |         |          |                       |

## Evaluation Criteria for the Delegation of Plan Making Functions

| Evaluation criteria for the issuing of an Authorisation<br><br>(Note: where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed) | Council Response |              | Department Assessment |           |
|---|------------------|--------------|-----------------------|-----------|
|   | Y/N              | Not relevant | Agree                 | Not agree |
| Is the Planning Proposal consistent with the Standard Instrument Order, 2006?   | Y                |              |                       |           |
| Does the Planning Proposal 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?   | Y                |              |                       |           |
| Does the Planning Proposal contain details related to proposed consultation?  | Y                |              |                       |           |
| Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?  | Y                |              |                       |           |
| Does the Planning Proposal adequately address any consistency with all relevant S9.1 Planning Directions?   | Y                |              |                       |           |
| Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?  | Y                |              |                       |           |
| <b>Minor Mapping Error Amendments</b>   |                  |              |                       |           |
| Does the Planning Proposal 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?  |                  | NA           |                       |           |
| <b>Heritage LEPs</b>  |                  |              |                       |           |
| Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?  |                  | NA           |                       |           |
| Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?  |                  | NA           |                       |           |
| Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?  | N                |              |                       |           |
| <b>Reclassifications</b>  |                  |              |                       |           |
| Is there an associated spot rezoning with the reclassification?   |                  | NA           |                       |           |
| If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?  |                  | NA           |                       |           |
| Is the Planning Proposal proposed to rectify an anomaly in a classification?  |                  | NA           |                       |           |
| Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?   |                  | NA           |                       |           |
| Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?   |                  | NA           |                       |           |
| 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 Planning Proposal?                            |                  | NA           |                       |           |
| Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of public land through a local                                     |                  | NA           |                       |           |

|  |   |    |  |  |
|--|---|----|--|--|
| environmental plan and Best Practice Guidelines for LEPs and Council Land?   |   |    |  |  |
| Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?   |   | NA |  |  |
| <b>Spot Rezoning</b>   |   |    |  |  |
| Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?  | N |    |  |  |
| 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?   | N |    |  |  |
| Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?  | Y |    |  |  |
| If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?  | Y |    |  |  |
| Does the Planning Proposal create an exception to a mapped development standard?   | N |    |  |  |
| <b>Section 3.22 matters</b>  |   |    |  |  |
| Does the proposed instrument:  |   |    |  |  |
| 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 words or a formatting error?; | N |    |  |  |
| b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?   | N |    |  |  |
| 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?   | N |    |  |  |