

## Planning and Assessment

IRF20/4097

### Gateway determination report

<b>LGA</b>	Shoalhaven
<b>PPA</b>	Shoalhaven City Council
<b>NAME</b>	Planning Proposal – Exceptions to minimum lot sizes in urban release areas
<b>NUMBER</b>	PP_2020_SHOAL_007_00
<b>LEP TO BE AMENDED</b>	Shoalhaven LEP 2014
<b>ADDRESS</b>	Moss Vale Road South Urban Release Area
<b>DESCRIPTION</b>	Multiple Lots and DPs
<b>RECEIVED</b>	31 July 2020
<b>FILE NO.</b>	EF20/25888
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The proposal seeks to amend Clause 4.1H *Exceptions to subdivision lot sizes for dual occupancies and dwelling houses on certain land in the Moss Vale Road South urban release area* of the Shoalhaven LEP 2014.

### 1.2 Site description

The subject land is located on Moss Vale Road between Bomaderry and Cambewarra Village in the Shoalhaven LGA as shown in Figure 1 of the planning proposal document. The subject land comprises multiple lots and is located within the Moss Vale Road South Urban Release Area (refer Figure 2 of the planning proposal document).

### 1.3 Existing planning controls

The site is zoned R1 General Residential Zone under the Shoalhaven LEP 2014. A 500m<sup>2</sup> minimum lot size and 8.5m height of building control currently apply to the site under the LEP. A current zoning map is shown in Figure 4 of the planning proposal document.

### 1.4 Surrounding area

The site is surrounded by Moss Vale Road and rural land to the north and north east, rural land to the west and south west and rural land and the proposed western bypass of Nowra to the south east.

## 1.5 Summary of recommendation

It is recommended that the planning proposal proceed as per submitted for the following reasons:

- The proposal will simplify the provisions relating to exceptions to minimum lot sizes in the Moss Vale Road South URA and improve operation of the clause.
- The proposal will facilitate a mix of housing supply, including smaller dwellings on smaller lots, in the Moss Vale Road South URA.
- The proposal is consistent with endorsed strategic planning for the area.

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The intended outcome of the proposal is to provide more flexibility where ‘small lots’ (being lots generally in the range of 300sqm to 500sqm in size) can be provided in Urban Release Areas under Clause 4.1H of Shoalhaven LEP 2014.

This will involve amending Clause 4.1H by:

- Removing the locational criteria from the clause and instead using the Lot Size Map to define the land on which small lots may be provided.
- Making it generic (not specific to Moss Vale Road South URA) so that it can be applied to other urban release areas as desired by amending the Lot Size Map.

Comment: It is considered that the intended outcome provided in the proposal is clear and does not require amendment prior to community consultation.

### 2.2 Explanation of provisions

The planning proposal states that it seeks to:

1. Amend Clause 4.1H of the Shoalhaven LEP 2014 by replacing the current clause 4.1H with the following clause:

***Clause 4.1H Exceptions to minimum subdivision lot sizes for dwelling houses on certain land in urban release areas.***

- (1) This clause applies to land identified as “Clause 4.1H” on the Lot Size Map.*
- (2) Despite clause 4.1(3), development consent may be granted for the subdivision of land to which this clause applies into 2 or more lots (the resulting lots) if each resulting lot meets the following requirements –*
  - (a) The lot comprises only land to which this clause applies,*
  - (b) The lot has a primary street frontage,*
  - (c) If the size of the lot is less than 400 square metres – the lot is accessed by vehicle using a rear lane or shared driveway,*
  - (d) The size of the lot is at least 300 square metres.*

2. Make a corresponding change to the applicable Lot Size Map to adjust the land to which the clause applies in Moss Vale Road South URA to apply the clause to land generally:

- Identified as 'small lot residential' on the Moss Vale Road URA Indicative Layout Plan (ILP) provided in Chapter NB3 "Moss Vale Road URA" of the Shoalhaven DCP 2014.
- Within 50m of tree lined boulevards on the ILP;
- Within 70m of future public open space on the ILP.

3. Delete the current Development Area Map (DEA) from the LEP.

4. Make minor amendments to Chapter NB3 of the Shoalhaven DCP 2014 to update the small lots criteria in accordance with the amended LEP Clause 4.1H provisions.

Comment: The current Clause 4.1H is provided below.

***4.1H Exceptions to minimum subdivision lot sizes for dual occupancies and dwelling houses on certain land in Moss Vale Road South urban release area***

- (1) This clause applies to land identified as "Clause 4.1H" on the [Lot Size Map](#).*
- (2) Despite clause 4.1(3), development consent may be granted for the subdivision of land to which this clause applies into 2 or more lots (the **resulting lots**) if each resulting lot meets the following requirements—*
  - (a) the lot adjoins land identified as "Public open space" on the [Development Area Map](#), or is separated from that land only by a public road, or adjoins land identified as "Tree-lined boulevard" on that Map,*
  - (b) the lot has a primary street frontage,*
  - (c) if the size of the lot is less than 400 square metres—the lot is accessed by vehicle using a rear lane or shared driveway,*
  - (d) if a dual occupancy is proposed to be erected on the lot—the size of the lot is at least 500 square metres,*
  - (e) if a dwelling house is proposed to be erected on the lot—the size of the lot is at least 300 square metres.*

It is considered that the explanation of the proposed amendments provided in the planning proposal is clear and doesn't require amendment prior to community consultation.

The proposed amendments will simplify the provisions relating to exceptions to minimum lot sizes in the Moss Vale Road URA and provide greater flexibility for Council during the assessment of development applications. Council proposes to remove subclause (2) (d) from Clause 4.1H because minimum lot size controls for dual occupancies are provided elsewhere in the Shoalhaven LEP 2014, notably in Clause 4.1A Exceptions to minimum subdivision lots sizes for dual occupancies and multi-dwelling housing. The proposed removal of subclause 2(d) from Clause 4.1H is supported as it will avoid duplication.

## **2.3 Mapping**

The current and proposed lot size maps provided in the planning proposal are considered adequate for the purposes of community consultation.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The proposal states that it is the result of Council's consideration of recent development applications in Moss Vale Road South URA which seek to use Clause

4.1H to create small lots as an exception to the minimum lot size. This has identified that the clause may not provide an appropriate level of flexibility to facilitate small lots where the location of tree lined boulevards for open space areas vary slightly from what is mapped on the Development Area Map (DEA)/Indicative Layout Plan.

Comment:

Council's view that the planning proposal is needed to improve the flexibility and operation of Clause 4.1H is supported. It is considered that the planning proposal process is the appropriate mechanism to facilitate the required amendments to the Shoalhaven LEP 2014.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional**

The proposal states that it is consistent with the Illawarra Shoalhaven Regional Plan, particularly:

- Direction 2.1 "Provide Sufficient housing supply to suit the changing demands of the region" and that Councils are to "plan for the mix of housing that suits the projected growth, changing demographics and the market demand particularly to the Region".
- Direction 2.2 "Support housing opportunities close to existing services, jobs and infrastructure in the region's centres" and
- Direction 2.3 "Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact".

Comment: It is considered that the proposal is consistent with the Regional Plan, particularly Directions 2.1, 2.2 and 2.3, as it will facilitate a mix of housing supply, including smaller dwellings on smaller lots, in the Moss Vale Road South URA. It is considered that the proposal is not inconsistent with other Directions and Actions of the Regional Plan.

### **4.2 Local**

The proposal states that it is broadly consistent with the following local strategic plan:

Shoalhaven Community Strategic Plan 2027:

The proposal states that it is consistent with Theme 2 "Sustainable liveable environments and Priority 2.2 "Plan and manage appropriate and sustainable development" of the Shoalhaven CSP.

Comment: Council's view that the proposal is broadly consistent with its CSP is supported because it will facilitate small lot housing at the Moss Vale Road South URA which will contribute to sustainable liveable environments including greater housing choice and affordability. Although not addressed in the planning proposal, it is also considered that the proposal is consistent with the Nowra Bomaderry Structure Plan, Shoalhaven Growth Management Strategy and draft Shoalhaven Local Strategic Planning Statement as the proposal will facilitate a mix of housing in the Moss Vale Road South URA and meet identified needs and lifestyles.

### **4.3 Section 9.1 Ministerial Directions**

The planning proposal identifies the following Directions are relevant to the planning proposal but does not identify any inconsistencies:

- Direction 3.1 Residential Zones
- Direction 3.4 Integrating Land Use and Transport
- Direction 4.3 Flood Prone Land
- Direction 5.10 Implementation of Regional Plans

Regarding Direction 4.3, the planning proposal states that, based on Council's Bomaderry Creek Floodplain Management Study 2016, the north western portion of Moss Vale Road URA is flood prone. The planning proposal, however, identifies that the proposed clause 4.1H areas does not include the area affected by flooding. The high hazard flood area is identified on the ILP as part of an open space riparian corridor network (which is currently zoned E2 Environmental Conservation Zone) and is not intended for residential development.

Comment: Council's view that the planning proposal is consistent with relevant Section 9.1 Directions is supported for the reasons provided in the planning proposal.

Recommendation: That the Secretary's delegate can be satisfied that the planning proposal is consistent with applicable Section 9.1 Directions.

#### **4.5 State environmental planning policies (SEPPs)**

The planning proposal indicates that there are no SEPPs relevant to the assessment of the planning proposal.

Council's view that there are no SEPPs relevant to the planning proposal, regarding assessment of the planning proposal, is supported. Several SEPPs such as SEPP (Vegetation in Non -Rural Areas) 2017, however, apply to the subject site and will need to be considered by Council in the assessment of future development applications.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The proposal does not identify any adverse social effects. It states that the proposal will enable provision of a different and potentially more affordable housing product that will better meets the needs of the Nowra-Bomaderry community. The proposal is expected to specifically provide for Shoalhaven's ageing population who are looking to downsize; singles and couples looking for a smaller and more affordable housing product; and first home buyers looking to enter the market.

Comment: It is considered that the proposal will have positive social effects because it will facilitate development of smaller dwellings on smaller lots which will provide a greater housing mix in the Moss Vale Road South URA which will support housing choice and affordability.

### **5.2 Environmental**

The proposal states that the proposed amendment is not expected to impact on any critical habitat or threatened species, populations or ecological communities or their habitats. Future development of the URA, however, may require further investigations with respect to flora and fauna as part of the DA process. The proposal does not identify any other environmental effects as a result of the proposal.

Comment: Council's view that planning proposal will not impact on any critical habitat or threatened species, populations or ecological communities is supported. The site is an existing urban release area that was rezoned during the preparation of the Shoalhaven LEP 2014 consistent with the endorsed Nowra Bomaderry Structure Plan which addressed the relevant environmental issues located on the site.

### **5.3 Economic**

The proposal states that it is not expected to result in any adverse economic impacts, rather is likely to have a positive impact on employment and increase demand for services and commercial activities in the Nowra-Bomaderry area.

Regarding the availability of infrastructure and services to support the development of the site, the proposal states that Part 6 of the Shoalhaven LEP 2014 requires provision for or satisfactory arrangements for designated State public infrastructure and public utility infrastructure prior to issuing of a development consent.

Comment: Council's view that the proposal will have positive economic effects is supported for the reasons provided in the planning proposal.

## **6. CONSULTATION**

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### **6.1 Community**

Council intends to exhibit the planning proposal for a 14-day period due to the minor nature of the planning proposal.

Comment: It is considered that Council's proposed 14-day exhibition period is appropriate given the minor nature of the proposal. Although not stated in the planning proposal, Council has advised that it intends to notify the public of the exhibition through local media and via notice on Council's website. Due to risk of COVID-19 Council will not have hard copies available but will exhibit electronically during normal business hours at the Nowra and Ulladulla Council offices. It is considered that Council's proposed community consultation on the planning proposal is satisfactory.

Recommendation: That Council exhibit the planning proposal for a 14-day period.

### **6.2 Agencies**

Council does not intend to undertake any agency consultation on the proposal. Given the minor nature of the proposal it is considered unnecessary for Council to consult agencies on the proposal.

Recommendation: That Council is not required to consult agencies on the proposal.

## **7. TIME FRAME**

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Council proposes to finalise the planning proposal by April 2021. It is considered that a 9-month timeframe is appropriate.

Recommendation: That Council is required to complete the planning proposal and LEP within 9-months from the Gateway determination date.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority for the planning proposal. It is considered that Council should be authorised to be the local plan-making authority because the proposal is of local significance and consistent with endorsed strategic planning for the area.

Recommendation:

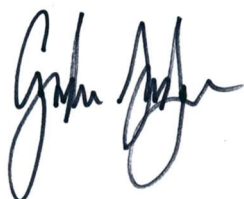
It is recommended that Council is authorised to be the local plan-making authority for the planning proposal.

**9. RECOMMENDATION**

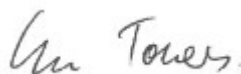
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It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is not required with any public authorities:
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



**27/08/2020**  
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2/9/2020

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