

PLANNING PROPOSAL – PP055

Shoalhaven Local Environmental Plan 2014

Exceptions to minimum lot size provisions in Urban Release Areas

Prepared by
Planning, Environment & Development Group
Shoalhaven City Council

File: 64718E
Version 1 – Pre-Gateway
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1 Introduction

This Planning Proposal (PP) seeks to amend Clause 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* of Shoalhaven Local Environmental Plan (LEP) 2014.

Council considered a report on the Planning Proposal at its Development and Environment Committee Meeting on 20 July 2020 and resolved as follows:

That Council:

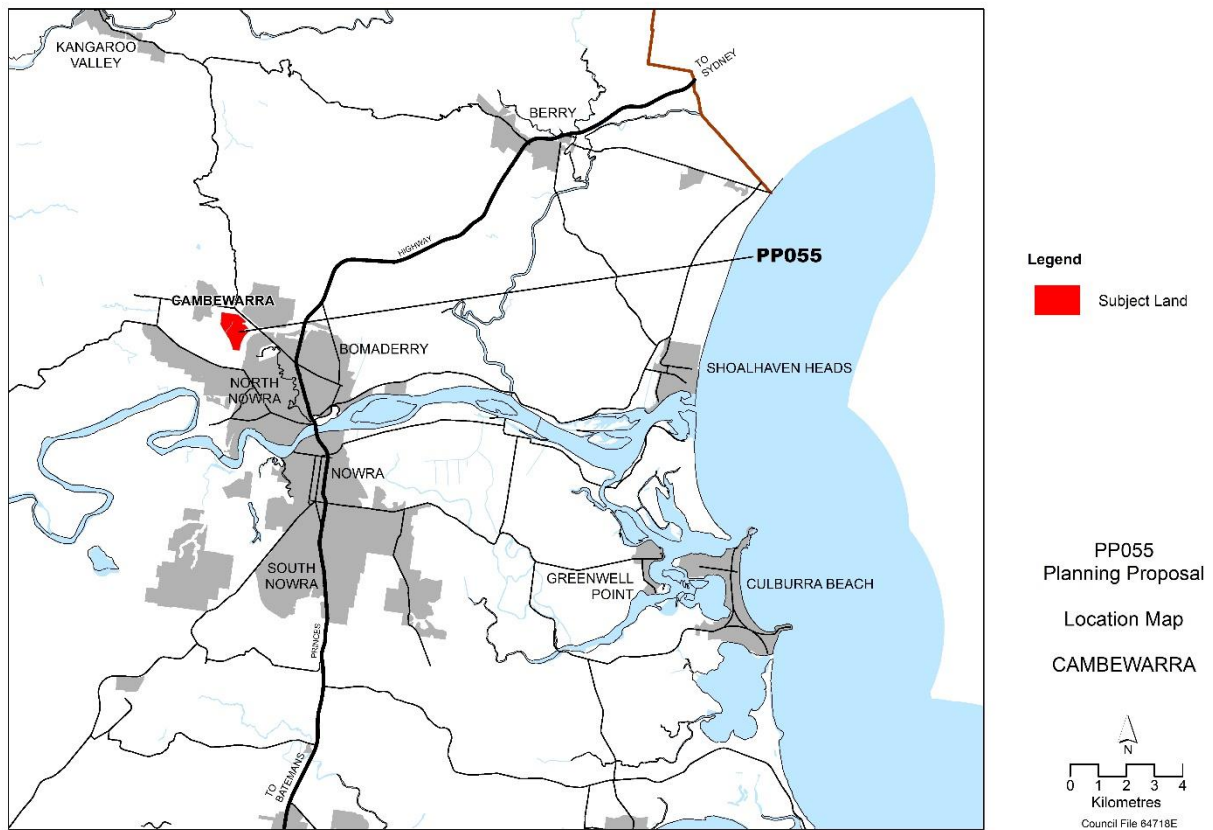
1. Endorse the preparation of a draft Planning Proposal to amend Clause 4.1H of Shoalhaven LEP 2014 as detailed in this report.
2. Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for an initial Gateway determination.
3. Subject to a favourable Gateway determination, proceed to publicly exhibit the Planning Proposal for community comment in accordance with the determination.
4. Receive a subsequent report on the outcome of the public exhibition and to enable the Planning Proposal to be finalised.
5. Prepare a draft amendment to Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA to update the relevant sections in accordance with the amended Clause 4.1H provisions and exhibit the draft amendment with the Planning Proposal.
6. Advise all affected and adjoining landowners, the Cambewarra Residents and Ratepayers Association and development industry representatives of this resolution

A copy of the Council report and minute is provided in **Attachment 1**.

It is requested that Council be given delegation for the plan making functions for this PP. The evaluation criteria for delegation is provided as **Attachment 4**.

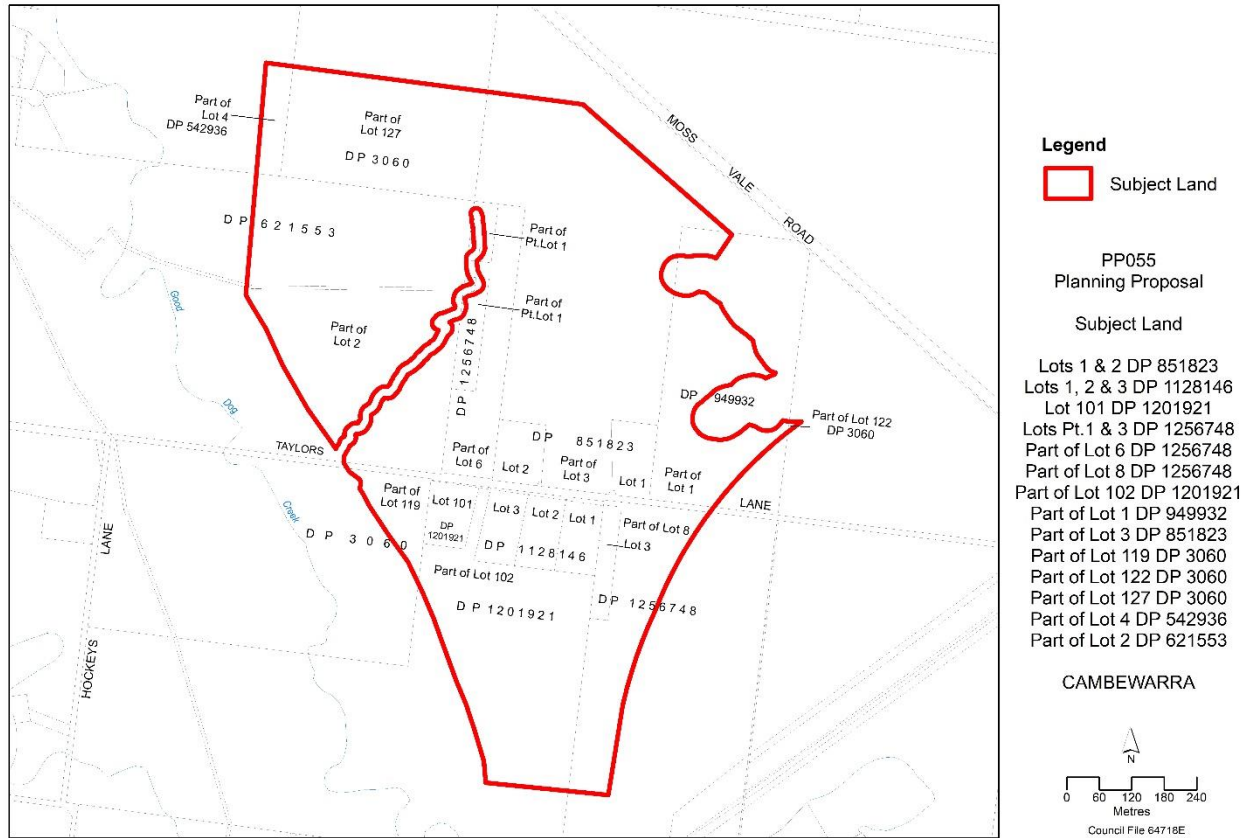
1.1 Subject Land

The subject land is located on Moss Vale Road between Bomaderry and Cambewarra Village in the Shoalhaven Local Government Area, as shown in **Figure 1** below. The subject land specifically is located within the Moss Vale Road South Urban Release Area (URA).



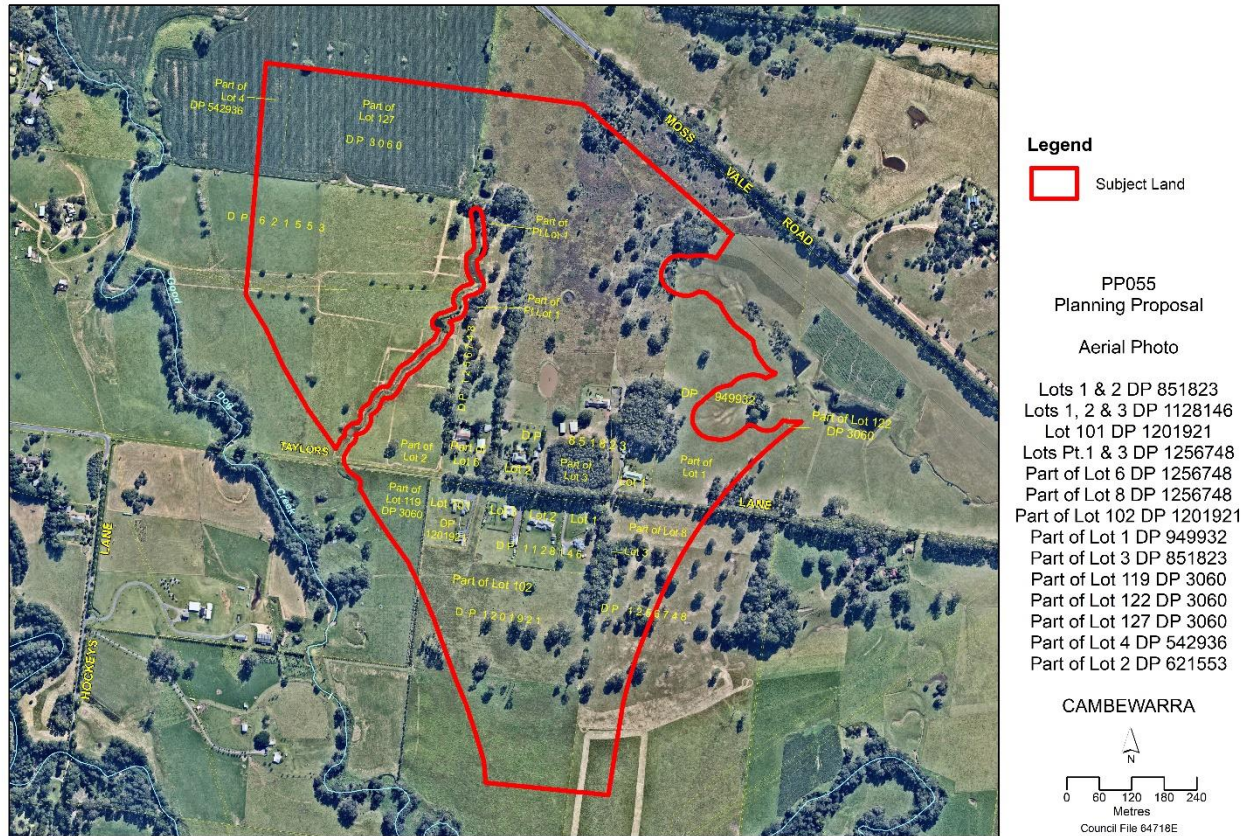
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Figure 1: Location Map



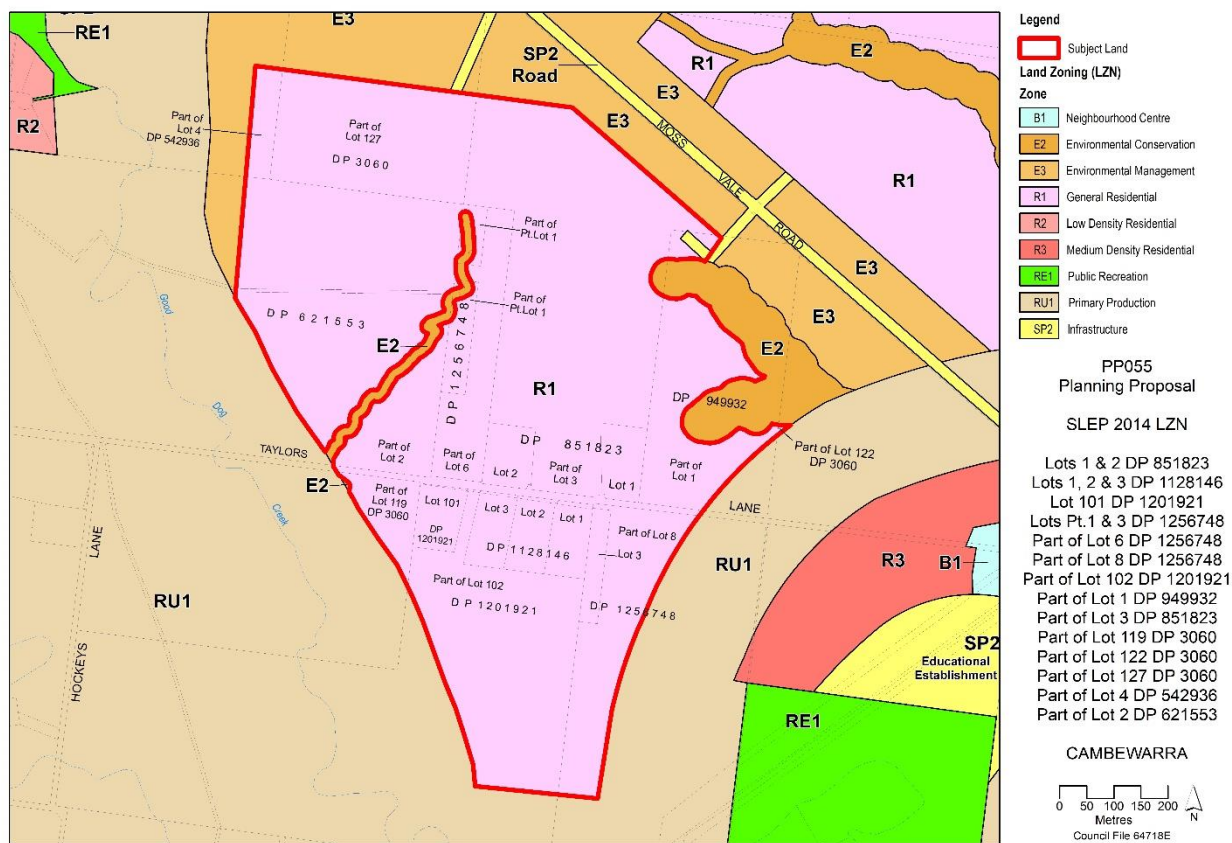
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Figure 2: Subject Land



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Figure 3: Aerial Photo



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Figure 4: Current Land Use Zones

1.2 Background

Clause 4.1H was inserted into Shoalhaven LEP 2014 on 30 November 2018, as a result of Planning Proposal PP024 (Department of Planning Industry & Environment reference PP_2017_SHOAL_005_00). The clause specifically relates to the Moss Vale Road South URA, and permits an ‘exception’ to the minimum lot size by allowing lots as small as 300m² in certain locations. The intention of the clause was to meet the changing housing needs of the wider Nowra-Bomaderry community by encouraging greater housing diversity/affordability and enable ageing in place.

The new clause was accompanied by a new Development Area (DEA) Map and an amendment to the Lot Size Map showing where Clause 4.1H applies.

A copy of the adopted 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.*

The Clause allows subdivision to vary the minimum lot size (500m²) to provide lots as small as 300m² near certain high amenity locations, being future public open spaces and tree lined boulevards. These are identified on the Development Area Map which is based on the Indicative Layout Plan (ILP) for Moss Vale Road South URA from [Shoalhaven Development Control Plan \(DCP\) Chapter NB3](#). **Figure 5** shows the ILP and the Development Area Map.



Figure 5: Indicative Layout Plan (ILP); SLEP 2014 Development Area (DEA) Map

Several issues have become apparent in the consideration of recent development applications in Moss Vale Road South URA which indicate that Clause 4.1H may not be operating as originally intended:

1. Small lots are only permitted on land that directly adjoins future public open space or tree lined boulevards. The intent of the original PP and the ILP was to enable

small lots over a wider area, for example, the street blocks identified as ‘small lot residential’ on the ILP. Under the current Clause 4.1H small lots are not permissible over most of these blocks.

2. The clause doesn’t allow for any variations from the ILP / Development Area Map, even where the variations are minor and retain the overall layout of the ILP. If a development proposed a minor variation to the size or location of a park, it would not be possible to provide small lots around it because the park no longer lines up with the Development Area Map. A variation couldn’t be granted under Clause 4.6 of the LEP as Clause 4.1H is specifically excluded from it.
3. The clause applies specifically to Moss Vale Road South URA and cant be readily applied to other areas (if desired) without amending the Development Area Map, Lot Size Map and the wording of the clause itself.

2 Part 1 –Intended Outcome

The intended outcome of this Planning Proposal is to provide more flexibility in 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.

It is proposed to redefine the land to which Clause 4.1H applies on the Lot Size Map for Moss Vale Road South URA to enable small lots to be provided in certain locations where it is currently not possible to provide them, for example, on land identified as ‘small lot residential’ on the Moss Vale Road South URA ILP and in high amenity locations (land close to tree lined boulevards and public open spaces on the ILP).

Enabling small lots in high amenity locations will provide for increased density without having an adverse impact on urban design, streetscape character and residential amenity. It is intended that all small lots will have a primary street frontage, and that lots between 300m² and 400m² will have vehicle access through either a rear laneway or shared driveway arrangement to preclude the location of garages on the front façade.

3 Part 2 – Explanation of Provisions

Based on legal advice, it is proposed that Clause 4.1H be amended to insert the wording as drafted below. The wording may be refined and updated as the PP progresses through community consultation and legal drafting.

Planning Proposal Proposed Instrument Changes

Provision	Proposed amended clause
Part 4 Principal development	<i>4.1H Exceptions to minimum subdivision lot sizes for</i>

standards - 4.1H Exceptions to minimum lot sizes for dual occupancies and dwelling houses on certain land in Moss Vale Road South urban release area	<p style="text-align: center;"><i>dwelling houses on certain land in urban release areas</i></p> <p>(1) <i>This clause applies to land identified as “Clause 4.1H” on the Lot Size Map.</i></p> <p>(2) <i>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—</i></p> <p style="padding-left: 40px;">(a) <i>the lot comprises only land to which this clause applies,</i></p> <p style="padding-left: 40px;">(b) <i>the lot has a primary street frontage,</i></p> <p style="padding-left: 40px;">(c) <i>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,</i></p> <p style="padding-left: 40px;">(d) <i>the size of the lot is at least 300 square metres.</i></p>
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The proposed clause does not include specific locational criteria for small lots. Instead, it is proposed to use the Lot Size Map to identify the land on which small lots are to be enabled under the clause. This can build in some flexibility to allow for minor variations in development layout to the relevant ILP. This proposed approach will make the Development Area Map redundant. As such, it is proposed to delete the Development Area Map from the SLEP 2014, which will simplify the overall provisions of SLEP 2014.

The proposed clause is not place-specific which will enable it to be applied to other URAs simply by adding them to the Lot Size Map (via separate PPs). The specific land to which the clause applies can be tailored for each new area as desired.

The existing subclause 4.1H(2)(d), relating to lot size for dual occupancies, has also been deleted. The minimum lot size for dual occupancies is set by other clauses of SLEP 2014; as such there is no need to duplicate it in Clause 4.1H.

A minor consequential amendment to Shoalhaven DCP Chapter NB3: Moss Vale Road South URA will be required to update the criteria for small lots in line with the amended Clause 4.1H provisions.

Planning Proposal Proposed Map Changes

The PP seeks to make a corresponding change to the Lot Size Map to adjust the land to which the clause applies in Moss Vale Road South URA. It is proposed to apply the clause to land generally:

- identified as ‘small lot residential’ on the Moss Vale Road South URA ILP;
- within 50m of tree lined boulevards on the ILP;
- within 70m of future public open space on the ILP.

Again, the exact distances from these areas may be refined and updated as the PP progresses through community consultation.

These proposed changes will enable small lots to be provided on land identified as ‘small lot residential’ on the ILP and high amenity land close to embellished open space areas

and tree lined boulevards, even if minor variations are proposed in the locations of these spaces through the development application (DA) stage.

As indicated earlier, the Development Area (DEA) Map will no longer be required and is proposed to be repealed from the LEP.

A copy of the proposed map changes is included in Part 4 – Mapping.

4 Part 3 – Justification

4.1 Need for the Planning Proposal (Section A)

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

No. The PP is not the result of any strategic study or report. Is the result of the 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 or open space areas vary slightly from what is mapped on the Development Area (DEA) Map / Indicative Layout Plan.

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

The PP is the best and only means of achieving the intended outcome. There is no other means of achieving the proposed change of wording to Clause 4.1H other than a PP.

4.2 Relationship to strategic planning framework (Section B)

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

Illawarra-Shoalhaven Regional Plan (ISRP)

The PP is consistent with Direction 2.2 ‘Support housing opportunities close to existing services, jobs and infrastructure’ and Direction 2.3 ‘Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact’. It directs Councils to plan for a mix of housing that suits the projected growth, changing demographics and the market demand particular to the Region.

The ISRP also recognises that housing affordability is an issue in the region with just over a quarter of all households in the region experiencing housing stress which presents a strong demand for housing that is more suitable for low-income households, students, single-person households and seniors. The ISRP also suggests that housing stress can be related to the lack of one-, two- and three-bedroom homes in the market. This PP would enable smaller lot sizes and therefore smaller dwellings to provide a different housing product in the URA.

The amendment proposed by this PP will increase the capacity of housing to promote development opportunities that will meet the needs of the Nowra-Bomaderry and wider Shoalhaven community.

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

Shoalhaven Community Strategic Plan 2027

The CSP identifies objectives and strategies for a prosperous Shoalhaven where sustainable urban growth is supported.

The PP is consistent with Theme 2- Sustainable, liveable environments and Priority 2.2 Plan and manage appropriate and sustainable development.

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

The PP is consistent with the applicable state environmental planning policies (SEPPs). A full list of SEPPs is provided as **Attachment 2**.

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

The Ministerial Directions are considered in **Attachment 3** and those specifically relevant to the PP are discussed in detail below.

3.1 Residential Zones

The PP proposes to amend Clause 4.1H in SLEP 2014 which permits an exception to the minimum lot size for the creation of lots as small as 300m² in certain locations in Moss Vale Road South URA. The clause is already in place and the PP seeks to make minor amendments to make it more flexible, so that it provides for minor variations to the ILP, and make it generic so that it can be applied to other URAs as appropriate. The PP also seeks to amend the land to which the clause applies in Moss Vale Road South so that small lots are enabled in additional locations where they were originally intended.

The PP is not inconsistent with this Direction.

3.4 Integrating Land Use and Transport

The amended Clause 4.1H area in Moss Vale Road South URA on the proposed Lot Size Map will enable lots as small as 300m² in certain locations, being land in close proximity to future treelined boulevards and public open spaces and land identified as 'small lot residential' on the ILP. These locations are all within close proximity to collector roads and planned public transport routes. Open space networks will be linked via a shared pedestrian and cycle way that will increase the choice of available transport modes and reduce the demand on private vehicles. The PP supports the principles and objectives of *Improving Transport Choice – Guidelines*.

The PP is not inconsistent with this Direction.

4.3 Flood Prone Land

The north western part of Moss Vale Road South URA is identified as flood prone as shown in the map below, from the Bomaderry Creek Floodplain Risk Management Study (2016). This investigated flood risk associated with Bomaderry Creek and its tributaries and identified the extent of the 1% AEP that affects the MVRSA area. Within the URA the primary source of flooding is Good Dog Creek and associated minor tributary flooding as a result of overland flows.

The proposed Clause 4.1H area in Moss Vale Road South URA on the proposed Lot Size Map does not include the area affected by the 1% AEP, with the exception of a small area which is located within the low hazard flood fringe and storage. The high hazard flood area is identified in the ILP as part of an open space riparian corridor network and not intended for residential development. The PP will not result in a significant increase in the development potential of the flood prone land.

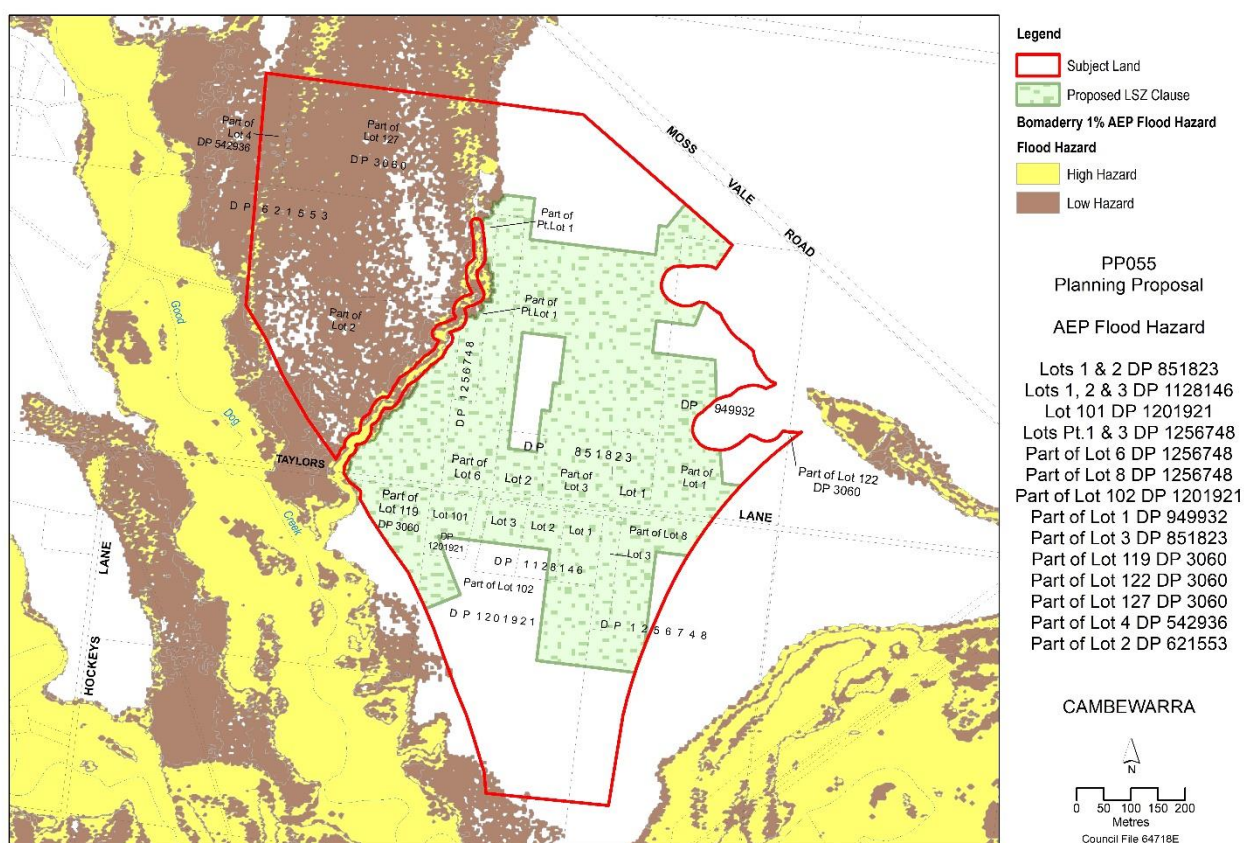


Figure 6: 1% AEP Flood Hazard Map (Bomaderry Creek FRMS)

Development within the low hazard flood areas is able to be managed appropriately with stormwater management systems. Council has site specific DCP provisions in place for stormwater management within the URA that will mitigate the exacerbation of potential flooding. Future development of this area will need to comply with the relevant DCP controls within DCP Chapters NB3: Moss Vale Road South URA and G9: Development on Flood Prone Land; and Clause 7.3 Flood planning of SLEP 2014.

The PP is not inconsistent with this Direction.

5.10 Implementation of Regional Plans

The PP demonstrates its consistency with this Direction through achieving the goals of the ISRP discussed in section 4.2.1.

4.3 Environmental, Social and Economic Impact (Section C)

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

The 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 may require further investigations with respect to flora and fauna as part of the DA process.

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

There are no other likely environmental effects envisaged as a result of the PP. The supporting site specific DCP Chapter NB3 contains controls and provisions to assist with managing and minimising environmental impacts.

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

The PP is not expected to result in adverse economic impacts. The PP will enable the provision of a different and potentially more affordable housing product that will better meet the needs of the Nowra-Bomaderry community. The PP 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.

Building activity will also have a positive impact on employment and increase demand for services and commercial activities in the Nowra-Bomaderry area.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

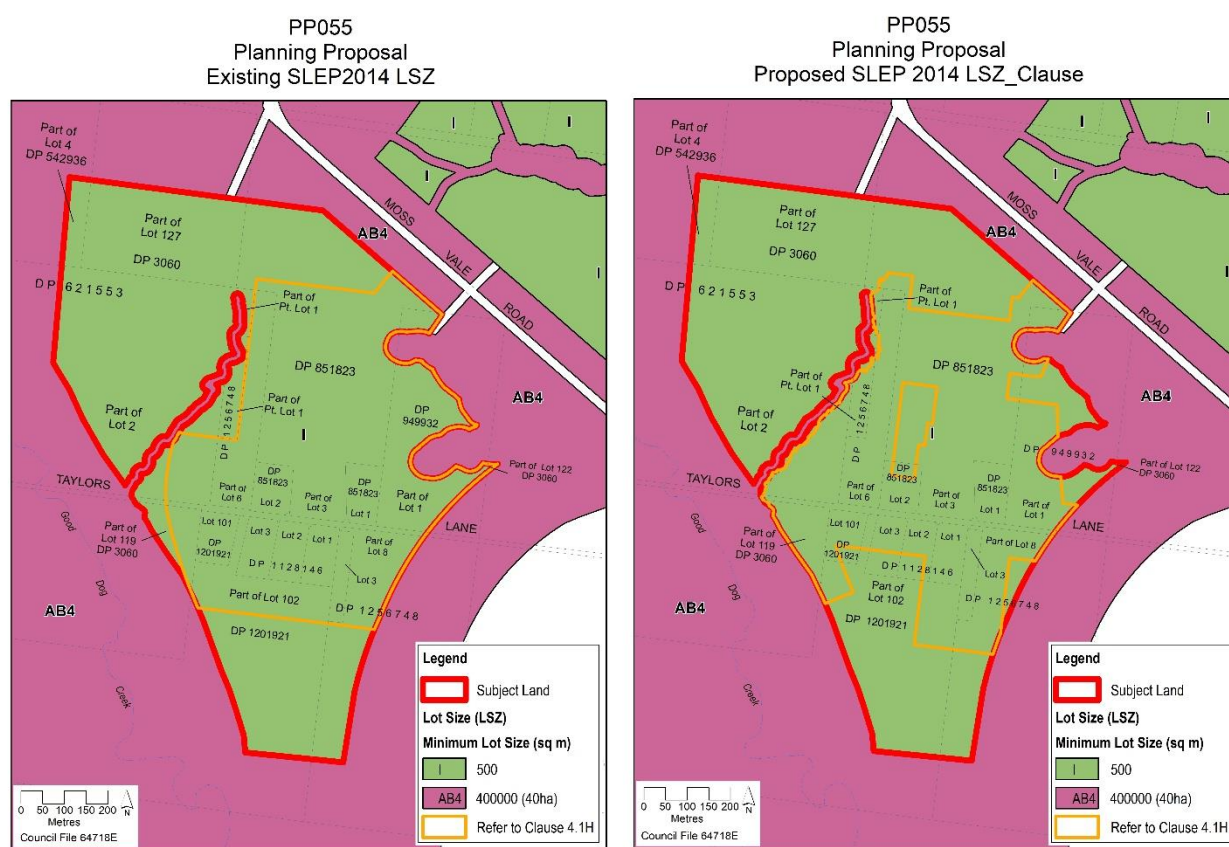
The PP applies to land mapped as an Urban Release Area under Shoalhaven LEP (SLEP) 2014. Part 6 of SLEP 2014 requires provision for or satisfactory arrangements for designated State public infrastructure and public utility infrastructure prior to the issuing of a development consent. The PP proposes to make minor adjustments to Clause 4.1H and will not significantly alter the planned yield of Moss Vale Road South URA or the infrastructure and services required for the future population.

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

No consultation has been undertaken at this stage as a Gateway determination has not been granted. Consultation with State or Commonwealth public authorities will be undertaken in accordance with the conditions of the Gateway determination.

5 Part 4 – Mapping

It is proposed to amend the SLEP 2014 Lot Size Map to adjust the area of land where Clause 4.1H applies in Moss Vale Road South URA, see the existing and proposed Lot Size Maps for Moss Vale Road South URA below. The Development Area (DEA) Map is proposed to be deleted from SLEP 2014.



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Map 1: Existing and Proposed SLEP 2014 Lot Size Map

6 Part 5 – Community Consultation

Council proposes to exhibit the planning proposal in accordance with the requirements of the Gateway determination. Due to the minor nature of the PP an exhibition period of 14 days is considered appropriate.

Public notification of the exhibition will include notification on Council's website and direct letters to affected landowners. The planning proposal will be available for viewing

electronically at Council's Administrative Buildings in Nowra and Ulladulla and on Council's website.

7 Part 6 – Project Timeline

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	Late August 2020
Completion of Gateway determination requirements	October 2020
Public exhibition	November 2020
Consideration of submissions	December 2020
Post exhibition consideration of PP	February 2021
Finalisation and notification of Plan	Early April 2021

Attachments

Attachment 1 - Council report and minute supporting the PP

DE20.71 Proposed Planning Proposal - Clause 4.1H Amendment - Shoalhaven Local Environmental Plan 2014

HPERM Ref: D20/234480

Section: Strategic Planning

Approver: Phil Costello, Director Planning Environment & Development Group

Reason for Report

Outline proposed amendments to Clause 4.1H of Shoalhaven Local Environmental Plan (LEP) 2014 and obtain Council's endorsement to proceed with a draft Planning Proposal (PP).

This LEP clause currently enables small lots to be considered on certain land in the Moss Vale Road South Urban Release Area (URA). It however requires adjustment to enable it to operate as intended/expected.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the preparation of a draft Planning Proposal to amend Clause 4.1H of Shoalhaven LEP 2014 as detailed in this report.
2. Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for an initial Gateway determination.
3. Subject to a favourable Gateway determination, proceed to publicly exhibit the Planning Proposal for community comment in accordance with the determination.
4. Receive a subsequent report on the outcome of the public exhibition and to enable the Planning Proposal to be finalised.
5. Prepare a draft amendment to Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA to update the relevant sections in accordance with the amended Clause 4.1H provisions and exhibit the draft amendment with the Planning Proposal.
6. Advise all affected and adjoining landowners, the Cambewarra Residents and Ratepayers Association and development industry representatives of this resolution.

Options

1. As recommended.

Implications: This is the preferred option as it will enable the current LEP Clause 4.1H to be amended so that it can be applied more flexibly to the Moss Vale Road South URA, in cases where a development proposes minor, reasonable variations from Council's Indicative Layout Plan (ILP) for a proposed subdivision. The proposed amendments will also enable Clause 4.1H to be applied more easily to other URAs,

where appropriate, and will remove resultant redundant provisions from the LEP such as the Development Area Map.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes to the recommendation and as a result is not desirable. The recommended option provides for an appropriate degree of flexibility where small lots can be provided under Clause 4.1H while simplifying the LEP provisions.

3. Not proceed with the PP.

Implications: This is not the preferred option as the existing Clause 4.1H provisions will remain in place. The existing provisions are not flexible and do not always enable small lots to be provided in high amenity locations when a development seeks minor, reasonable variations from the ILP in a proposed subdivision. It also means Council would need to insert additional, duplicate clauses in the LEP if it wished to enable small lots in other urban release areas, which is not desirable.

Background

Council resolved on 9 May 2017 to prepare a PP to create a clause enabling exceptions to the mapped minimum lot size in certain circumstances in the new Moss Vale Road South URA. The intention was to enable smaller lots to be provided near high amenity locations - land near future public open space and/or on the intended tree lined boulevards identified on the indicative layout plan for the URA. The proposed clause also contained several other criteria.

The PP was subsequently prepared and exhibited in accordance with the Gateway determination received, and the resulting Clause 4.1H was inserted into Shoalhaven LEP 2014, commencing on 30 November 2018. This new LEP clause was accompanied by a new Development Area Map and an amendment to the Lot Size Map showing where the clause applies.

The wording of 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.*

In appropriate circumstances the clause allows the mapped minimum subdivision lot size (500m²) to be varied to provide lots as small as 300m² near or adjacent to certain intended high amenity locations - the future public open spaces and tree lined boulevards. These are identified on a Development Area Map in the LEP which is based on the Indicative Layout Plan (ILP) for Moss Vale Road South URA from [Shoalhaven Development Control Plan \(DCP\) Chapter NB3](#). **Figure 1** below shows the DCP ILP and the LEP Development Area Map.



Figure 1 – Left: Indicative Layout Plan (ILP);
Right: Shoalhaven LEP 2014 Development Area (DEA) Map

Several issues have become apparent in the consideration of recent development applications in Moss Vale Road South URA which indicate that Clause 4.1H may not be operating as originally intended given its wording and the interpretation of it:

1. Small lots are only permitted on land that directly adjoins future public open space or tree lined boulevards. The intent of the original PP and the ILP was to enable small lots over a wider area, for example, the street blocks identified as 'small lot residential' on the ILP. However, under the wording of the current Clause 4.1H small lots are not permissible over most of these blocks.
2. The clause does not allow for any variations from the ILP / Development Area Map, even where the variations are minor and retain the overall intended layout of the ILP. If a development proposed a minor variation to the size or location of a park, it would not be possible to provide small lots around it because the park no longer

lines up with the Development Area Map. A variation cannot currently be granted under Clause 4.6 of the LEP as Clause 4.1H is specifically excluded from it.

3. The clause applies specifically to Moss Vale Road South URA and cannot be readily applied to other URA's or areas (if desired) in the future without amending the LEP Development Area Map, Lot Size Map and the wording of the clause itself.

The draft PP will seek to address these issues and consist of two parts:

1. Proposed amendment to the wording of Clause 4.1H;
2. Proposed amendment to the Lot Size Map to redefine the area where Clause 4.1H applies in Moss Vale Road South URA.

Part 1: Proposed Clause 4.1H Amendment

The intended draft PP will seek to replace the current Clause 4.1H with the draft proposed version below. The wording may be further refined and updated as the PP progresses through community consultation and legal drafting.

The proposed clause does not include specific locational criteria for small lots. Instead, the Lot Size Map will identify the land on which small lots may be located and will also provide some flexibility to allow for minor variations to the ILP. This change will also allow the Development Area Map to be deleted, simplifying the provisions of the SLEP 2014.

The reference to Moss Vale Road South URA has been removed which will enable the clause to be applied to other URA's as required, simply by adding them to the LEP Lot Size Map (via a separate PP) when ready or as required. The specific land to which the clause applies can be tailored for each new area as desired.

The existing subclause 4.1H(2)(d), relating to lot size for dual occupancies, has also been deleted. The minimum lot size for dual occupancies is set by other clauses of SLEP 2014; as such there is no need to duplicate it in Clause 4.1H.

Proposed Clause 4.1H:

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.*

A minor consequential amendment to Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA will be required to update the small lots criteria in accordance with the amended LEP Clause 4.1H provisions.

Part 2: Proposed amendment to Lot Size Map – Moss Vale Road South URA

The draft PP will seek to make a corresponding change to the Lot Size Map to adjust the land to which the clause applies to in this URA. It is proposed to apply the clause to land:

- Identified as ‘small lot residential’ on the Moss Vale Road South URA ILP;
- Within a certain distance (e.g. 50m-100m) of future public open space and tree lined boulevards on the ILP. The exact distance will be determined with more detailed consideration of the PP.

These proposed changes will enable small lots to be provided on land identified as ‘small lot residential’ on the ILP and higher amenity land in close proximity to intended public open spaces and tree lined boulevards, even if minor acceptable or agreed variations are proposed in the locations of these spaces in a proposed development.

As indicated earlier, the Development Area Map will no longer be required and is proposed to be deleted from the LEP.

Note: Council resolved during June 2020 to review the planning and proposed traffic provisions in the Moss Vale Road South URA with the intent of retaining the trees along Taylors Lane. This review work will be considered and factored into this PP as needed and to ensure that any outcomes are consistent.

Community Engagement

Should the proposed PP receive a Gateway determination, it will be publicly exhibited in accordance with the requirements of the determination and the Environmental Planning & Assessment Regulations 2000. Consultation would be undertaken with the broader community, relevant Community Consultative Bodies, the development industry and affected landowners in Moss Vale Road South URA.

Policy Implications

The PP proposes to amend Clause 4.1H of Shoalhaven LEP 2014 to enable more reasonable flexibility in the provision of ‘small lots’ in URA’s, particularly where a development application proposes a minor variation to the relevant Indicative Layout Plan (ILP). The proposed LEP amendment will enable the Clause to be more easily applied to other URA’s as desired, via a separate PP to identify the additional area/s on the Lot Size Map. It will also remove redundant provisions from Shoalhaven LEP 2014 such as the Development Area Map, simplifying the overall provisions of the LEP.

A minor consequential amendment to Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA will be required to update the small lots criteria in accordance with the amended Clause 4.1H provisions.

Financial Implications

There are no immediate financial implications for Council. The Planning Proposal will be resourced by Council’s existing Strategic Planning budget.

Plan 2014

RESOLVED* (Clr Wells / Clr White)

MIN20.1

That Council:

1. Endorse the preparation of a draft Planning Proposal to amend Clause 4.1H of Shoalhaven LEP 2014 as detailed in this report.
2. Forward the Planning Proposal to the NSW Department of Planning, Industry and Environment for an initial Gateway determination.
3. Subject to a favourable Gateway determination, proceed to publicly exhibit the Planning Proposal for community comment in accordance with the determination.
4. Receive a subsequent report on the outcome of the public exhibition and to enable the Planning Proposal to be finalised.
5. Prepare a draft amendment to Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA to update the relevant sections in accordance with the amended Clause 4.1H provisions and exhibit the draft amendment with the Planning Proposal.
6. Advise all affected and adjoining landowners, the Cambewarra Residents and Ratepayers Association and development industry representatives of this resolution.

CARRIED

Attachment 2 - SEPP Checklist

Checklist last updated 15 June 2020

SEPP	Name	Relevant	Not inconsistent
19	Bushland in Urban Areas	x	n/a
21	Caravan parks	x	n/a
33	Hazardous and Offensive development	x	n/a
36	Manufactured home estates	x	n/a
47	Moore Park Showground	x	n/a
50	Canal estate development	x	n/a
55	Remediation of land	x	n/a
64	Advertising and signage	x	n/a
65	Design quality of residential apartment development	x	n/a
70	Affordable Housing (Revised Schemes)	x	n/a
--	Aboriginal Land 2019	x	n/a
--	Activation Precincts 2020	x	n/a
--	Affordable Rental Housing 2009	x	n/a
--	BASIX 2004	x	n/a
--	Coastal Management 2018	x	n/a
--	Concurrences and Consents 2018	x	n/a
--	Educational Establishments and Child Care Facilities 2017	x	n/a
--	Exempt and Complying Development Codes 2008	x	n/a
--	Gosford City Centre 2018	x	n/a
--	Housing for Seniors or People with a Disability 2004	x	n/a
--	Infrastructure 2007	x	n/a
--	Koala Habitat Protection 2019	x	n/a
--	Kosciuszko National Park—Alpine Resorts 2007	x	n/a
--	Kurnell Peninsula 1989	x	n/a
--	Major Infrastructure Corridors 2020	x	n/a
--	Mining, Petroleum Production and Extractive Industries 2007	x	n/a

--	Penrith Lakes Scheme 1989	x	n/a
--	Primary Production and Rural Development 2019	x	n/a
--	State and Regional Development 2011	x	n/a
--	State Significant Precincts 2005	x	n/a
--	Sydney Drinking Water Catchment 2011	x	n/a
--	Sydney Region Growth Centres 2006	x	n/a
--	Three Ports 2013	x	n/a
--	Urban Renewal 2010	x	n/a
--	Vegetation in Non-Rural Areas 2017	x	n/a
--	Western Sydney Employment Area 2009	x	n/a
--	Western Sydney Parklands 2009	x	n/a

Attachment 3 – S9.1 Directions Checklist

This checklist is based on the 17 April 2020 version.

Direction		Applicable	Relevant	Not inconsistent
1 Employment and Resources				
1.1	Business and Industrial Zones	x	x	n/a
1.2	Rural Zones	x	x	n/a
1.3	Mining, Petroleum Production and Extractive Industries	x	x	n/a
1.4	Oyster Aquaculture	x	x	n/a
1.5	Rural lands	x	x	n/a
2 Environment and Heritage				
2.1	Environmental Protection Zones	✓	x	n/a
2.2	Coastal Management	x	x	n/a
2.3	Heritage Conservation	✓	x	n/a
2.4	Recreation Vehicle Area	✓	x	n/a
2.5	Application of E2 and E3 Zones in Environmental Overlays in Far North Coast LEPs	x	x	n/a
2.6	Remediation of Contaminated Land	✓	x	n/a

3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	✓	✓	See s.4.2.4
3.2	Caravan Parks and Manufactured Home Estates	✓	✗	n/a
3.3	Home Occupations	✓	✗	n/a
3.4	Integrating Land Use and Transport	✓	✓	See s.4.2.4
3.5	Development Near Regulated Airports and Defence Airfields	✓	✗	n/a
3.6	Shooting Ranges	✓	✗	n/a
3.7	Reduction in non-hosted short term rental accommodation period	✗	✗	n/a
4 Hazard and Risk				
4.1	Acid Sulphate Soils	✓	✓	n/a
4.2	Mine Subsidence and Unstable Land	✗	✗	n/a
4.3	Flood Prone Land	✓	✓	See s.4.2.4
4.4	Planning for Bushfire Protection	✗	✗	n/a
5 Regional Planning				
5.1	Implementation of Regional Strategies	✗	✗	n/a
5.2	Sydney Drinking Water Catchments	✗	✗	n/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	✗	✗	n/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	✗	✗	n/a
5.9	North West Rail Link Corridor Strategy	✗	✗	n/a
5.10	Implementation of Regional Plans	✓	✓	See s.4.2.4
5.11	Development of Aboriginal Land Council land	✗	✗	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	✗	n/a
6.2	Reserving Land for Public Purposes	✓	✗	n/a
6.3	Site Specific Provisions	✓	✗	n/a
7 Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	✗	✗	n/a
7.2	Implementation of Greater Macarthur Land Release Investigation	✗	✗	n/a

7.3	Parramatta Road Corridor Urban Transformation Strategy	x	x	n/a
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	x	x	n/a
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	x	x	n/a
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.9	Implementation of Bayside West Precincts 2036 Plan	x	x	n/a
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	x	x	n/a

Attachment 4 – Evaluation Criteria for the Delegation of Plan Making Functions

Checklist for the review of a request for delegation of plan making functions to Councils

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP055

Address of Land (if applicable):

The subject land is legally described as:

Lots 1 & 2 DP 851823
Lots 1, 2 & 3 DP 1128146
Lot 101 DP 1201921
Lots Pt.1 & 3 DP 1256748
Part of Lot 6 DP 1256748
Part of Lot 8 DP 1256748
Part of Lot 102 DP 1201921
Part of Lot 1 DP 949932
Part of Lot 3 DP 851823
Part of Lot 119 DP 3060
Part of Lot 122 DP 3060
Part of Lot 127 DP 3060
Part of Lot 4 DP 542936
Part of Lot 2 DP 621553

Intent of draft LEP:

The Planning Proposal seeks to amend Clause 4.1H of Shoalhaven LEP 2014 to enable the clause to be applied more flexibly, where minor variations to the ILP / Development Area Map are proposed in a development. It also seeks to make the wording of the clause generic to enable it to be applied to other Urban Release Areas (URAs) as desired. It also seeks to amend the Lot Size Map to adjust the land to which the clause applies in Moss Vale Road South URA.

Additional Supporting Points/Information:

The existing Clause 4.1H was inserted into Shoalhaven LEP 2014 as a result of PP024 ((Department of Planning Industry & Environment reference PP_2017_SHOAL_005_00).

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the 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			
Minor Mapping Error Amendments				
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?	N			
Heritage LEPs				
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?		N/A		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the		N/A		

views of the Heritage Office been obtained?				
Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
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?		N/A		
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 environmental plan and Best Practice Guidelines for LEPs and Council Land?		N/A		
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		
Spot Rezoning				
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/A		
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/A		
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?		N/A		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		N/A		

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

1. Any other relevant documentation e.g. letters of support from State Government agencies.

Not applicable.