

Planning and Assessment

IRF20/2180

Gateway determination report

LGA	Shoalhaven
PPA	Shoalhaven City Council
NAME	55 Wire Lane Berry (29 homes, 0 jobs)
NUMBER	PP_2020_SHOAL_003_00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	55 Wire Lane, Berry
DESCRIPTION	Lot 1 DP 1246435
RECEIVED	7 April 2020
FILE NO.	IRF20/2180
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to rezone 55 Wire Lane, Berry from an RU1 Primary Production and RU4 Primary Production Small Lots Zone to an R5 Large Lot Residential Zone under the Shoalhaven LEP 2014. It also seeks to establish a 1 hectare minimum lot size for the site.

1.2 Site description

The 41-ha site is located at 55 Wire Lane Berry 4.6km east of Berry (Figure 1 – Site Map).



Figure 1 – Site Map (source: Proponent's planning proposal document Indesco March 2020)

1.3 Existing planning controls

The site is mainly zoned RU1 Primary Production with a small portion of RU4 Primary Production Small Lots zone under the Shoalhaven LEP 2014 (Figure 2 – Current zoning map).

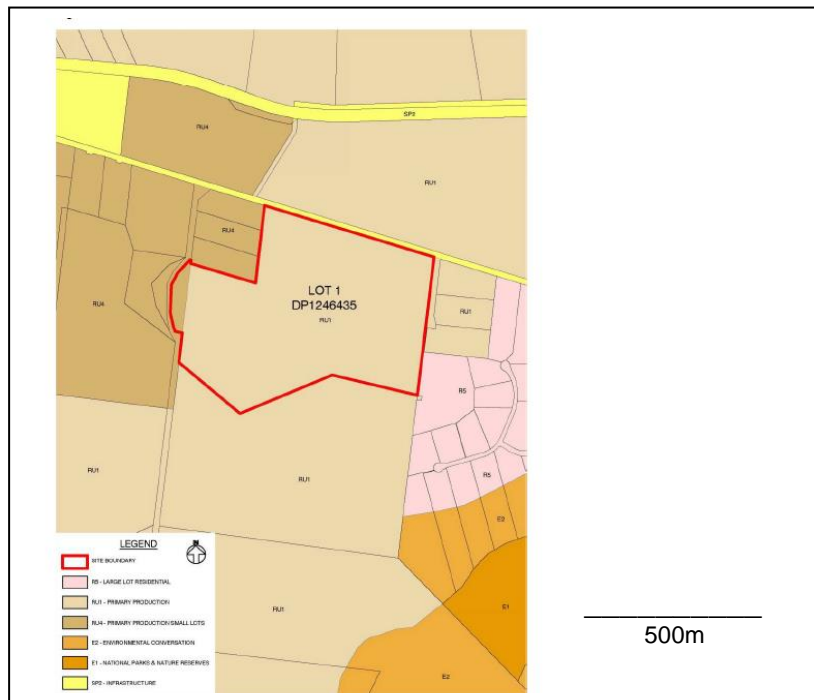


Figure 2 – Current zoning map (source: Proponent's Planning Proposal document Indesco March 2020)

A 40-hectare minimum lot size applies to the land zoned RU1 while a 10ha minimum lot size applies to the land zoned RU4 (Figure 3).

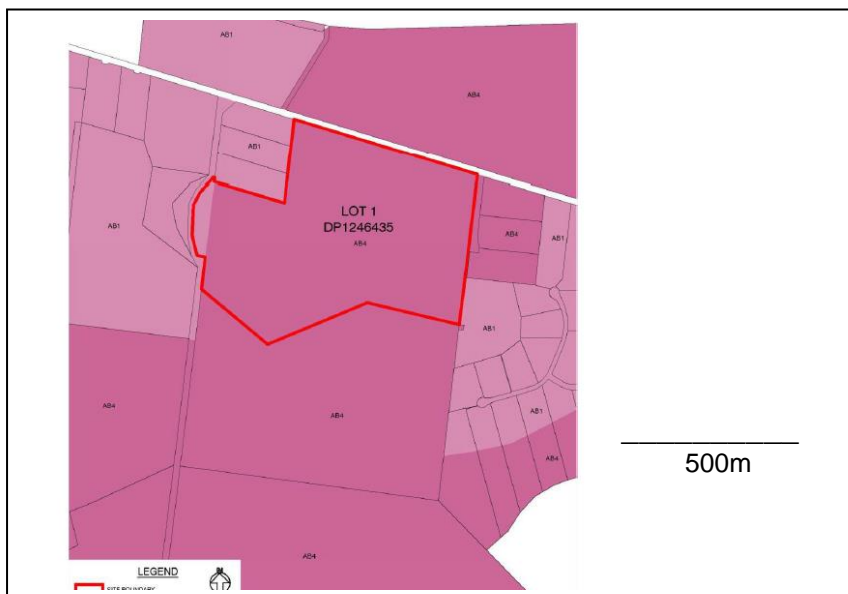


Figure 3 – Lot size map (source: Proponent's Planning Proposal document Indesco March 2020)

Part of the site is mapped on the Terrestrial Biodiversity Map in the LEP (Figure 4 – Terrestrial biodiversity map).

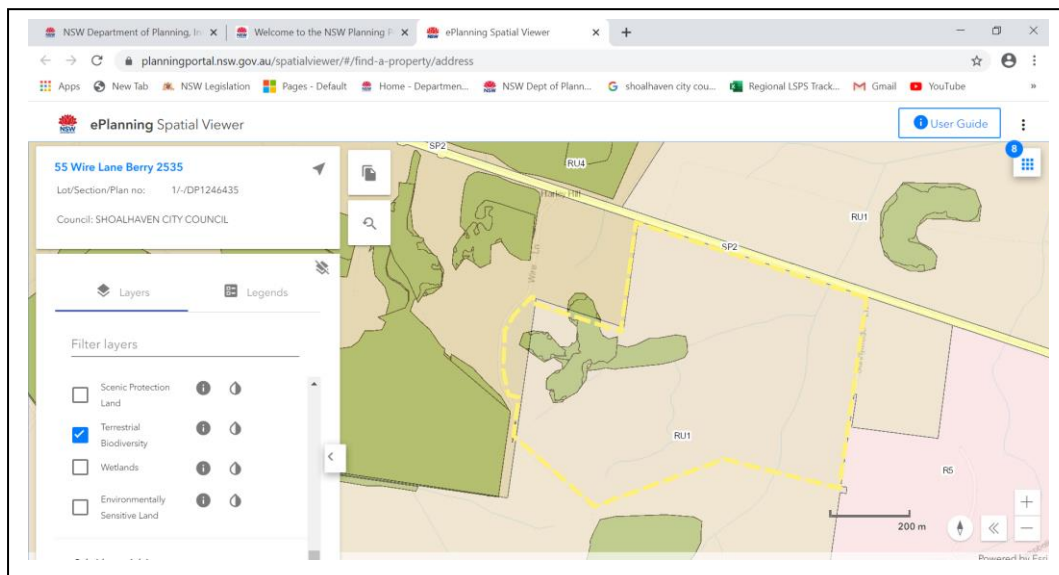


Figure 4 - Terrestrial Biodiversity Map (source: NSW Planning Portal).

A part of the western side of the site is mapped on the Scenic Protection Land Map in the LEP.

1.4 Surrounding area

The site is surrounded by Beach Road and rural land to the north, rural residential development to the east, rural land to the south and Wire Lane and rural land to the west (Figure 5 - Surrounding Area Map).



Figure 5 – Surrounding Area Map (source: Proponent's planning proposal document Indesco March 2020)

1.5 Summary of recommendation

It is recommended that the planning proposal is refused for the following reasons:

- The proposal is not consistent with the endorsed strategic planning for the area, several Section 9.1 Ministerial Directions and the Joint Regional Planning Panel's recommendations in relation to a rural residential rezoning in the area;
- The proposal will lead to the loss of viable agricultural land on the site and would create a precedent for the rezoning of adjoining rural lots located south of the site;
- The proposal is not consistent with the planning controls or character of the surrounding area; and
- The rezoning of any rural land in this location should be considered through a Council led strategic approach rather than as a spot rezoning.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal states that it seeks to amend the Shoalhaven LEP 2014:

- To facilitate a rural residential development on the site to address a specific market demand for rural lifestyle lots in the northern Shoalhaven.
- To protect the existing mapped wildlife corridor in perpetuity through an E2 Environmental Conservation Zone, and to protect enhance, restore and establish new wildlife corridors associated with the riparian areas running east-west and north-south through the site, consistent with the Illawarra Shoalhaven Regional Plan and the South Coast Regional Conservation Strategy; and
- To identify a longer-term strategy for rural residential development in the area that will allow a more efficient use of non-viable farmland and facilitate the transfer of a large area of Coomonderry Swamp into public ownership.

It is considered that the objectives of the proposal are generally clear and do not require amendment if the proposal was to proceed to public exhibition.

However, it is unclear how this proposal can achieve the third objective relating to a longer-term strategy for rural residential development in the area or the transfer of part of Coomonderry Swamp into public ownership. It is noted that the proposal relates to a single site only, which does not contain or adjoin Coomonderry Swamp.

2.2 Explanation of provisions

The planning proposal states that the intended outcomes will be achieved via the following provisions:

- Amending the Land Zoning Map Sheet LZN_019E to modify the land use zone of 55 Wire Lane from part RU1 Primary Production and part RU4 Primary Production Small Lots to part R5 Large Lot Residential and part E2 Environmental Conservation Zone; and
- Amending Lot Size Map Sheet LSZ_019E to modify the minimum lot size of 55 Wire Lane from part 40ha and part 10ha to a minimum lot size of 1ha.

It is considered that the explanation of the provisions provided in the proposal is clear.

It is, however, considered that the proposed planning controls are not consistent with the controls on adjoining land. Notably, adjoining land to the north and south are zoned RU1 with a 40ha minimum lot size while adjoining land to the west is zoned RU4 with a 10ha minimum lot size. Land adjoining to the east, although zoned R5, also has a 10ha minimum lot size (refer Figures 2 and 3).

2.3 Mapping

The proposal includes amendments to LEP maps that show the current and proposed controls which would be adequate, if the proposal was to proceed to public exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The proposal states that it is needed to address a specific market demand for rural lifestyle lots in the northern Shoalhaven, consistent with Direction 2.1 of the Illawarra Shoalhaven Regional Plan. The planning proposal is supported by a Strategic Market Assessment Report that considers the supply and demand of rural lifestyle lots in the northern Shoalhaven as well as an Agricultural Assessment Report that concludes that the site is not agriculturally viable due to the physical characteristics of the site.

It also states that the planning proposal process is the most appropriate means of achieving the objectives and intended outcomes of the proposal. Several different options were considered to address the demand for rural lifestyle lots, including a potential RU4 Primary Production Small Lot Zone and/or mix of zones across the site.

The proposal, however, concludes that it is the most appropriate outcome, given the agricultural limitations of the land, potential for land use conflict and the need to protect the existing biodiversity corridor.

Comment: A planning proposal relating to a single site is not the best mechanism to explore housing needs, rather this should be done strategically, by Council. The Illawarra Shoalhaven Regional Plan (Regional Plan) identifies there is enough potential for the market to supply housing needs across a range of locations and housing types for the long term and no new release areas are required for Shoalhaven beyond those already identified under the Shoalhaven Growth Management Strategy (GMS).

The Regional Plan and the GMS identify the Berry centre as the focus for increased housing activity in this area. The land between Berry and Seven Mile Beach has high amenity and there would likely be high demand for additional rural residential housing in this area.

Council is currently reviewing its Growth Management Strategy and preparing a draft Local Strategic Planning Statement. Council, has advised it intends to include preparation of a rural residential strategy as an action in its draft LSPS, to identify the need for and appropriate locations for rural residential development across the LGA. This work is expected to be completed over the medium term. This is the appropriate mechanism to explore the merits of further development in this area.

The subject site is considered to be viable agricultural land which is identified for protection in the Regional Plan and GMS.

The Southern Regional Planning Panel's November 2016 report on the Rezoning Review of the Beach Road Planning Proposal recommends:

“there should not be further consideration of rezoning proposals for rural residential subdivision in the area until Shoalhaven City Council has developed a rural residential strategy (it is understood that there is a current resolution to develop a new position on rural residential land) and has identified regionally important agricultural lands” (Attachment 1 – JRPP Report).

The report states “In considering the strategic merit of the proposal, a key question is whether the achievement of strategic biodiversity objectives and the increase in rural residential land outweighs the strategic impact of the loss of agriculturally viable land.”

It is understood the Panel was concerned about the lack of strategic planning around rural residential development in the area and the potential impacts of ad hoc rural residential development on agricultural land.

It is considered that the planning proposal pre-empt's the outcomes of Council's strategic work.

4. STRATEGIC ASSESSMENT

4.1 Regional

Illawarra Shoalhaven Regional Plan

The proposal states that it is consistent with the following Directions of the Illawarra Shoalhaven Regional Plan:

- Direction 2.1 - Provide sufficient housing supply to suit the changing demands of the region.
- Direction 4.1 - Protect regionally important agricultural lands as an asset to food and fibre production.
- Direction 5.1 - Protect the region's environmental values by focusing development in locations with the capacity to absorb development.

The proposal states it is consistent with Direction 2.1 because it addresses a specific market demand for rural lifestyle lots in the northern Shoalhaven. The proponent's strategic market assessment found there is currently insufficient supply to meet the market demand for this housing product and there is sufficient demand to warrant the rezoning of the subject site.

The proposal states it is consistent with Direction 4.1 because the land is not considered to be regionally important agricultural land as it does not appear to be mapped as Biophysical Strategic Agricultural Land (BSAL). An Agricultural Assessment prepared by Edge Planning for the proponent also concludes the size of the land (40ha) is too small to make a sustainable profit from cattle grazing which is the only form of agriculture that can be practised on the property given the physical constraints and limitations of the land.

The proposal states it is consistent with Direction 5.1 because, based on a land capability assessment and supporting environmental studies prepared for the

proposal, the site is considered suitable for the proposed use. The proposal also seeks to protect the area of native vegetation, which is currently identified on the Shoalhaven LEP Terrestrial Biodiversity Map, by applying an E2 Environmental Conservation Zone to this area.

Comment: The proposal's view that it is consistent with Direction 2.1 is not supported. As discussed in section 3 of this report, the Regional Plan identifies that there is enough potential for the market to supply housing across a range of locations and housing types for the long term and that no new release areas are required for Shoalhaven beyond those already identified under the Shoalhaven GMS.

The Regional Plan and GMS specifically identify the Berry centre as a focus for increased housing activity and identify an urban investigation area on the southern side of Berry. Council is currently progressing two planning proposals in the investigation area at Hitchcocks Lane (PP_2018_SHOAL_004_01) and Victoria Street (PP_2020_SHOAL_004_00).

The subject site is not located within the Berry centre and is not close to existing services, jobs and infrastructure. It is considered that the proposal is not consistent with Direction 2.2 of the Regional Plan - "Support housing opportunities close to existing services, jobs and infrastructure in the region's centres".

The proposal's view that it is consistent with Direction 4.1 is not supported. The Department of Regional NSW (DPI Agriculture) has advised the land is Class 3 agricultural land that is suitable for grazing and cropping in rotation as well as other types of small-scale agriculture including vegetable growing, apiary, free range eggs and mushrooms. The north eastern part of the subject site is identified as Biophysical Strategic Agricultural Land under SEPP (Mining, Petroleum Production and Extractive Industries) 2007 (Figure 6 – BSAL Map).

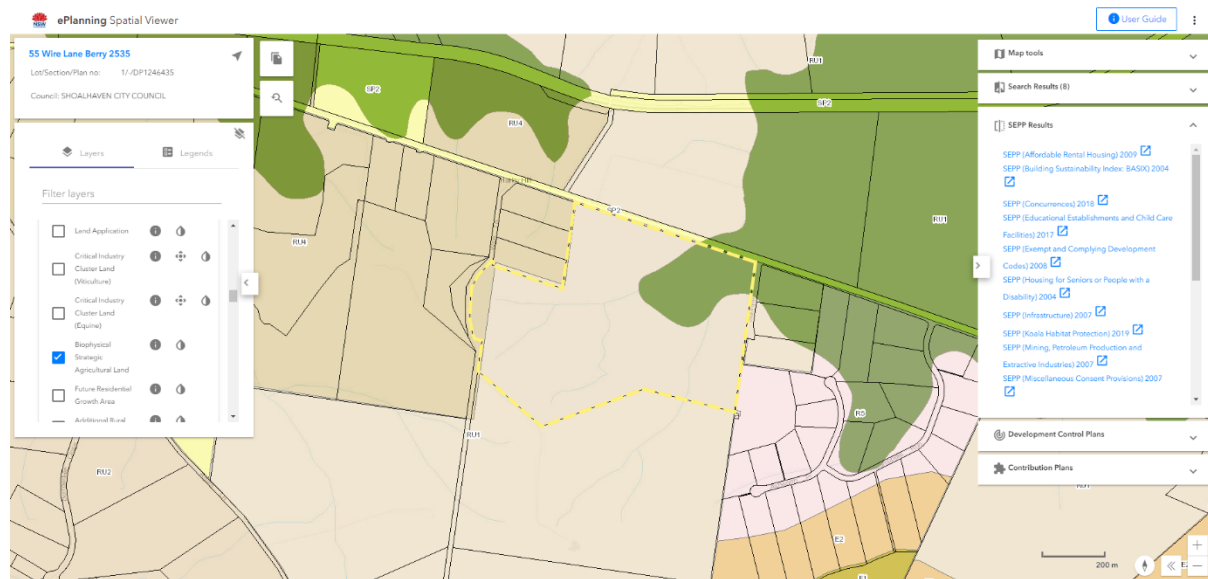


Figure 6 – BSAL Map (source: NSW Planning Portal)

The proposal's view that it is consistent with Direction 5.1 is generally supported as it seeks to protect part of the Berry wildlife corridor, which is identified as important environmental land, via an E2 Environmental Conservation zoning. There is potential

for impacts on environmental land from future clearing of vegetation around dwellings and other edge effects.

4.2 Local

Shoalhaven Community Strategic Plan

The planning proposal states that it is consistent with the Shoalhaven Community Strategic Plan (CSP), particularly priority 2.2 “Plan and manage appropriate sustainable development” because the proposal seeks to provide well planned and appropriate rural residential development located between two existing rural residential areas and is consistent with the priorities outlined in the CSP.

Comment: The proposal’s view that it is consistent with Shoalhaven CSP, particularly priority 2.2 is not supported. This development of the site is not identified in any of Council’s adopted strategic planning documents. Rather the area is identified as rural land to be protected for its agricultural value and local character. As mentioned previously in section 4.1 of this report the adopted strategic planning for the area identifies the Berry centre for increased housing activity which has access to infrastructure, services and jobs.

As discussed in section 3 of this report, the proposal’s view that the site is located between two rural residential areas is questioned. The proposed 1 ha minimum lot size would provide a much greater density of development than adjoining rural residential development.

Shoalhaven Growth Management Strategy

The planning proposal states that the Shoalhaven Growth Management Strategy (GMS) provides a strategic framework for how the Shoalhaven LGA will grow over the next 20 years with a focus on the growth of existing urban areas. Further the proposal states the GMS does not consider rural residential development and the planning proposal is not inconsistent with the GMS.

The proposal identifies that Council is currently reviewing the GMS and has exhibited a draft GMS 2019-2041 Discussion Paper. It considers the analysis of rural residential style lots provided in the Discussion Paper is likely to be a significant overstatement of the supply of rural residential land in the Shoalhaven. The Market Analysis prepared for the proposal concludes there is a very limited supply and a high level of demand of rural residential land in the northern part of the Shoalhaven in an otherwise weak housing market.

Comment: It is not surprising there is high demand for rural residential development in this area of high amenity located between Berry and Seven Mile Beach. Council’s Shoalhaven Growth Management Strategy (GMS) was adopted by Council in December 2012 and endorsed by the Department in May 2014 and is the relevant strategic planning document for the Berry area.

The planning proposal’s view that it is not inconsistent with the Shoalhaven GMS is not supported. The GMS identifies that prime crop and pasture land surrounding Berry, including the subject site, should be retained for agricultural purposes. It states there are opportunities for increasing densities within the existing urban framework of Berry and in an investigation area located on the south western edge of the town without undermining landscape, rural and heritage values. As previously mentioned in section 4.1 of this report, Council is currently progressing two planning proposals to rezone land to provide housing in this investigation area.

It is considered the planning proposal pre-empts Council's review of the GMS which will include an investigation of the need for and suitable locations of any additional rural residential development across the LGA. The strategic review is the appropriate mechanism to consider any further rural residential development in the area.

4.3 Section 9.1 Ministerial Directions

The planning proposal identifies that the following Directions apply to the proposal:

1.2 Rural Zones

The proposal states it is potentially inconsistent with the Direction because it proposes to rezone the subject site from an RU1 Primary Production and an RU4 Primary Production Small Lots Zone to an R5 Large Lot Residential and an E2 Environmental Conservation zones.

The proposal states any inconsistency is minor in nature as the proposal represents an infill type development and is reflective of the zoning of the adjoining land. In addition, the proposal states it is justified by a study prepared in support of the proposal, consistent with the requirements of this Direction. The proposal states that the 1 ha minimum lot size control is consistent with the existing lot sizes of the adjoining rural residential development immediately to the east and only slightly smaller than the lots to the west.

Comment: As previously discussed in Section 4.1 of this report, the proposal is not considered to be minor in nature because the proposed R5 zoning of the site and 1 ha minimum lot size will allow much denser development than the zoning and minimum lot sizes (10ha and 40ha) on adjoining land. Nor is the proposal considered to be infill development.

The inconsistency is also not considered to be justified by the proponent's Agricultural Assessment as the conclusions of the study in relation to the agricultural viability of the land are debatable and differing advice was received from DPI Agriculture.

Recommendation: That the Secretary's delegate form the view the planning proposal is inconsistent with the Direction and the inconsistency is not justified under the terms of the Direction.

1.5 Rural Lands

The planning proposal states it is potentially inconsistent with the Direction as it will result in a loss of rural zoned land and reduction in the minimum lot size. It also states the proposal is consistent with the rural planning and subdivision principles provided in the Direction.

Comment: It is considered that the proposal is not consistent with the planning and subdivision principles provided in the Direction, particularly:

- 4(a) Be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement.

As previously discussed in sections 4.1 and 4.2 of this report, it is considered that the proposal is not consistent with the Illawarra Shoalhaven Regional Plan or the Shoalhaven GMS. Council is yet to exhibit its draft LSPS.

- 4(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses.
- 5(a) is consistent with the priority of minimising rural land fragmentation and land use conflict particularly between residential and other rural land uses.
- 5(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries and supply chains.

It is considered that the proposal will lead to fragmentation of rural land and increase land use conflict between residential and other rural land uses. One of the stated objectives of the planning proposal is to identify a longer-term strategy for rural residential development in the area that will allow a more efficient use of non-viable farmland and facilitate the transfer of a large area of Coomonderry Swamp into public ownership (Figure 7 – Proposed Rural Residential Strategy). The longer-term strategy would remove approximately 85ha of viable agricultural land on the adjoining properties to the south (70 and 181 Wire Lane).

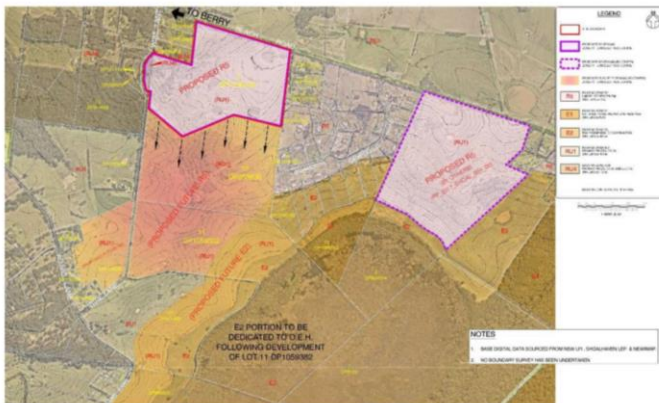


Figure 7 – Proposed Rural Residential Strategy (source: Proponent's planning proposal document Indesco March 2020)

- 5 (c) Where it is for rural residential purposes:
 - I. Is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres.
 - II. Is necessary taking account of existing and future demand and supply of rural residential land.

As previously discussed, the site is remotely located from Berry centre and is not connected to the sewer. Council's analysis undertaken as part of its review of the Growth Management Strategy indicates that the LGA has an oversupply of rural residential type development.

The proposal's view that it is consistent with the rural planning and subdivision principles provided in the Direction is not supported. It is also considered that the inconsistency is not justified via a strategy that has been endorsed by the Secretary and is not of minor significance.

Recommendation: That the Secretary's delegate form the view that the proposal is inconsistent with the Direction and the inconsistency has not been justified.

2.1 Environment Protection Zones

The planning proposal states that it is not inconsistent with the Direction because most of the subject land is in a cleared state dominated by pasture grasses and the proposal will not impact on any critical habitat or threatened species, populations or ecological communities or their habitats. An area of remnant native vegetation located on the central western portion of the site is mapped on the Terrestrial Biodiversity Map in the Shoalhaven LEP 2014. The proposal does not seek to amend the mapping.

Comment: The proposal's view that it is consistent with the Direction is supported. The proposed zoning of the area of important native vegetation located on the site, which is part of the Berry Wildlife Corridor, to an E2 Environmental Conservation Zone is consistent with the Direction.

3.1 Residential Zones

The planning proposal states it is not inconsistent with the Direction because it seeks to encourage a variety of housing types to provide for existing and future housing needs consistent with the objective of the Direction. The proposal also states that the subject land is located between two existing rural residential areas and will utilise existing infrastructure networks and services.

Comment: The Direction requires proposals to:

- Broaden the choice of building types and locations available in the housing market;
- Make more efficient use of existing infrastructure and services;
- Reduce the consumption of land for housing and associated urban development on the urban fringe; and
- Be of good design.

It is considered that the proposal is not consistent with the requirement to reduce the consumption of land for housing and associated urban development on the urban fringe. The site is located on the outskirts of Berry in a mainly rural area that is identified in the adopted strategic planning for the area to be protected for agriculture. As discussed previously, the findings of the proponent's market and agricultural assessment studies are debated and are not considered to adequately justify the inconsistency with the Direction.

Recommendation: That Secretary's delegate form the view that the proposal is inconsistent with the Direction.

3.4 Integrating Land Use and Transport

The proposal states it is not inconsistent with the Direction because the subject land is located on Beach Road in Berry and is accessible by bus.

Comment: It is considered that the proposal is consistent with the Direction because the subject land is accessible by public transport.

4.1 Acid Sulfate Soils

The proposal states it is not inconsistent with the Direction as the land is mapped as a low probability of occurrence of acid sulphate soil risk by the NSW Office of Environment and Heritage.

Comment: The proposal's view that it is not inconsistent with the Direction because it is mapped as having a low probability of occurrence of acid sulphate soil risk is supported.

4.4 Planning for Bushfire Protection

The proposal states that it is not inconsistent with the Direction. A small portion of the subject land is mapped as being within a designated bushfire prone area under the NSW Rural Fire Service mapping. The proposal is supported by a Bushfire Assessment Report which demonstrates that the proposal can satisfy the Direction and the requirements of the Planning for Bushfire Protection Guideline (2016).

Comment: The Direction requires Council to consult with the RFS on the proposal following a positive Gateway determination and to reflect any RFS issues in the proposal.

Recommendation: That further information is required to demonstrate compliance with the Direction.

5.10 Implementation of Regional Plans

As previously discussed at Section 4.1 of this report, it is considered that the proposal is inconsistent with the Illawarra Shoalhaven Regional Plan, particularly Directions 2.1, 2.2 and 4.1.

Recommendation: That the Secretary's delegate form the view that the proposal is inconsistent with the Direction.

6.1 Approval and Referral Requirements

The proposal states that it is not inconsistent with the Direction because it does not propose any concurrence or referral requirements.

Comment: The proposal's view that it is consistent with the Direction is supported for the reasons provided in the proposal.

6.3 Site Specific Provisions

The proposal states that it is consistent with the Direction because it does not propose any site-specific provisions.

Comment: The proposal's view that it is consistent with the Direction is supported because it does not propose any site-specific provisions such as additional permitted uses.

4.4 State environmental planning policies (SEPPs)

The proposal identifies that the following SEPP is relevant:

SEPP No.55 – Remediation of Land

The proposal states it is not inconsistent with the SEPP. A Stage 1 Preliminary Site Investigation was prepared for the proponent in support of the proposal. The Investigation found that, subject to further ground testing and environmental assessment of an area of environmental concern which includes a stockpile of material alongside Wire Lane, the site is suitable for the proposed subdivision and residential land use.

Comment: The proposal's view that, subject to further testing and assessment of the area of environmental concern identified in the Stage 1 Preliminary Investigation report, the proposal is not inconsistent with the SEPP is supported.

SEPP (Primary Production and Rural Development) 2019

The proposal identifies that the SEPP is relevant but does not provide any further explanation.

It is considered that the proposal is inconsistent with the second aim of the SEPP “to 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.” The proposal has the potential to facilitate the sterilisation of rural land on the subject lot and create a precedent for adjoining rural lots to the south under consideration for similar proposals.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The proposal states that the SEPP is not relevant. The SEPP, however, identifies Biophysical Strategic Agricultural Land (BSAL) for the purposes of mining assessments. As previously mentioned in section 4.1 of this report, part of the site is mapped under the SEPP as containing BSAL.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal states that it will assist in providing a housing product that meets the needs of the Shoalhaven community.

Comment: The proposal would provide a specific housing product being rural residential development. Given the high amenity of this location land prices are likely to be high which would not assist with housing affordability.

5.2 Environmental

An Ecological Constraints Assessment of the site which was prepared for the proponent in support of the planning proposal concludes there are no environmental effects envisaged as a result of the proposal. The subject site consists predominantly of land that is of low ecological value.

An area of moderate ecological constraint being areas of Blackbutt-Turpentine-Bangalay moist open forest occur on the central part of the site which correspond to the area shown on the Terrestrial Biodiversity Map in the Shoalhaven LEP 2014. No areas of high ecological constraint were identified.

The proposal states a Water Cycle Management Report that was prepared in support of the proposal determined the proposed lot sizes would allow for the on-site management of waste-water with no negative environmental effects.

Comment: The proposal's view that no environmental effects are envisaged as a result of the proposal is generally supported. The proposal will facilitate the rezoning of land containing important native vegetation currently identified on the Terrestrial Biodiversity Map in the Shoalhaven LEP 214 to an E2 Environmental Conservation Zone which will support protection of the Berry wildlife corridor.

5.3 Economic

The planning proposal states it will provide economic benefit through the supply of additional rural residential land and housing opportunities. It also states there is adequate public infrastructure to support the proposed low-scale rural residential development of the site, including:

- Water supply - The adjoining development is connected to an existing reticulated water supply. It is expected that future development of the site will be able to connect to this water supply.
- Sewer - The nearest sewer main is located 3.4km away on Tannery Road. It is not considered feasible for the subject site to connect to sewer and it is intended for each dwelling to manage their own waste-water on-site.
- Electricity – There is sufficient capacity in the existing Endeavour Energy high voltage feeder line to support the proposed development. It is anticipated that a padmount substation may be required on the site.
- Traffic – Minor upgrades may be required around proposed access points to the site. Council has identified the need for upgrades to local roads in its local contributions plan.

Comment: The proposal would have a positive economic impact through the provision of additional housing. However, housing is not strategically supported in this area.

There would be potential negative economic impacts as a result of the loss of productive agricultural land and impacts on local tourism as a result of loss of rural character and amenity.

The proposal would place additional demand on Council and other utilities to provide the required infrastructure and servicing to support the development.

6. CONSULTATION

6.1 Community

While not part of the planning proposal process, Council notified adjoining landowners and the Berry Forum of the receipt of the planning proposal and received seventeen submissions, with sixteen submissions strongly objecting to the proposal.

Concerns raised in relation to social impacts include:

- Inconsistency with current strategic land-use policy documents and the advice of the Regional Planning Panel;
- Incompatibility of the proposal with the prevailing rural character;

- Potential precedent for additional rezoning request from other rural landholders;
- Negative impacts on scenic values, local amenity and rural character;
- Increased traffic and impacts on local infrastructure.

The Department also met with the Berry Forum on 7 May 2020, at the request of the Forum, which also raised similar concerns to those listed above.

Council intends to exhibit the planning proposal over a 28-day period and to notify the community of the exhibition via local media and Council's website. Council had proposed to provide hard copies of the planning proposal in its administration buildings. The availability of hard copy documents is, however, largely dependent on timing of any consultation period in relation to the COVID-19 restrictions. If Council's administration buildings are still closed to the public, the consultation will be digital with hardcopies only provided on request.

Comment: It is considered that Council's proposed community consultation on the planning proposal, if it progresses, is appropriate.

6.2 Agencies

Council intends to consult with the Department of Primary Industries (Agriculture), the Rural Fire Service, Roads and Maritime Service and DPIE (Biodiversity and Conservation).

Comment: It is considered that Council's proposed agency consultation is appropriate, if the planning proposal progresses.

7. TIME FRAME

Council proposes an 18-month timeframe for completing the LEP, allowing for a longer period due to COVID-19 restrictions.

An 18-month timeframe proposed by Council is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given the spot zoning nature of the proposal it is considered Council's should be the local plan-making authority should the proposal be supported.

9. CONCLUSION

Preparation of the planning proposal is not supported to proceed for the following reasons:

1. The proposal is inconsistent with the Illawarra Shoalhaven Regional Plan and the Shoalhaven Growth Management Strategy.
2. The proposal is inconsistent with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones and 5.10 Implementation of Regional Plans and the inconsistencies have not been adequately justified.
3. The proposal is inconsistent with the Southern Regional Planning Panel's November 2016 report on the nearby Beach Road Rezoning Review which recommended "there should not be further consideration of rezoning proposals for rural residential subdivision until Shoalhaven City Council has developed a

rural residential strategy (it is understood that there is a current resolution to develop a new position on rural residential land) and has identified regionally important agricultural lands.”

4. The proposal will lead to the loss of viable agricultural land on the site and may create a precedent for the rezoning of adjoining rural lots located south of the site under consideration for similar proposals.
5. The proposal is not consistent with the planning controls or local character of the surrounding area.
6. The rezoning of any rural land in this location should be considered through a Council led strategic approach rather than as a spot rezoning.

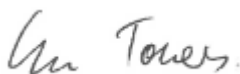
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones and 5.10 Implementation of Regional Plans have not been adequately justified.

It is recommended that the delegate of the Minister determine that the planning proposal should not proceed for the following reasons:

1. The proposal is inconsistent with the Illawarra Shoalhaven Regional Plan and the Shoalhaven Growth Management Strategy.
2. The proposal is inconsistent with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones and 5.10 Implementation of Regional Plans and the inconsistencies have not been adequately justified.
3. The proposal is inconsistent with the Southern Regional Planning Panel’s November 2016 report on the nearby Beach Road Rezoning Review which recommended “there should not be further consideration of rezoning proposals for rural residential subdivision until Shoalhaven City Council has developed a rural residential strategy (it is understood that there is a current resolution to develop a new position on rural residential land) and has identified regionally important agricultural lands.”
4. The proposal will lead to the loss of viable agricultural land on the site and may create a precedent for the rezoning of adjoining rural lots located south of the site under consideration for similar proposals.
5. The proposal is not consistent with the planning controls or local character of the surrounding area.
6. The rezoning of any rural land in this location should be considered through a Council led strategic approach rather than as a spot rezoning.



4/6/2020

Graham Towers
Team Leader, Southern Region



5/6/2020

Sarah Lees
Director, Southern Region
Local and Regional Planning

Assessment officer: George Curtis
Senior Planner, Southern Region
Phone: 42471824