

Attachment 2: Proponent's Planning Proposal

PLANNING REPORT TO SUPPORT PLANNING PROPOSAL

Lot 3 DP 846470
48 Jervis Bay Road
Falls Creek

Prepared for
Mr T. Pasialis

November 2017

Planning Report to Support Planning Proposal

Address	Lot 3 DP 846470, Jervis Bay Rd, Falls Creek
Our ref:	15/97
Prepared by	Stuart Dixon
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EXECUTIVE SUMMARY

This Planning Report supports a Planning Proposal that is to be made to Shoalhaven City Council on behalf of Mr Theo Pasialis regarding Lot 3 DP 846470, No. 48 Jervis Bay Road, Falls Creek.

The subject land comprises a mixture of cleared grazing land, forested areas, and an un-named watercourse. The site is bounded by Jervis Bay Road to the east, private lands to the north comprising large lot residential/rural residential development, the Tomerong State Forest to the south, whilst opposite Jervis Bay Road are privately owned lands comprising both forested and cleared areas and which contain rural residential development. The land associated with this Planning Proposal comprises an area of 25.21 ha.

The subject site is mostly zoned R5 Large Lot Residential, with a small portion being RU2 – Rural Landscape. A minimum lot size of 2 ha currently applies to the part zoned R5, which would allow for the creation of up to 12 lots with the area of land available. However, rather than subdividing the entire site, it is considered that an improved planning outcome would result from a subdivision that would enable the protection of the watercourse and forested lands, with the predominantly cleared portion of the site being utilised to contain the developable allotments. To that end, it is considered appropriate that the land be subdivided by way of Community Title, with a Community Lot containing the forested lands with an area of some 13.5 ha, and the balance of the site being developed with up to 12 lots having a minimum area of 5635 m² up to 1.54 ha.

The purpose of the Planning Proposal is to request that Shoalhaven City Council:

- Including the subject site in Schedule 1 (Additional Permitted Uses) of the Shoalhaven LEP as follows:
 - Development for the purposes of a Community Title Subdivision allowing up to a maximum of 12 allotments with a minimum area of 5635 m², and one Community Title Lot,
 - the erection of a dwelling on each allotment being created.

The subject site is already identified under the Shoalhaven LEP 2014 for Large Lot Residential purposes, and the Planning Proposal simply seeks to excise the provided yield from that part of the site that is less constrained. The Planning Proposal will ensure that the features of the site having greater environmental attributes are suitably conserved to avoid adverse impacts.

The formulation of this Planning Proposal has been the subject of consultation between the land owner and Council. This report has been prepared having regard to issues arising from this consultation.

The proposal is consistent with relevant state, regional and sub-regional planning strategies and policies, and is generally consistent with the thrust of the Shoalhaven Growth Management Strategy.

Overall, the subject land is considered to be eminently suitable for the large lot residential development proposed and will ensure an on-going supply of large residential land anticipated by the Shoalhaven LEP 2014, however in a more environmentally sustainable manner than that currently allowed that is considerate of that part of the site containing attributes of greater significance.

1.0 INTRODUCTION

This Planning Report supports a Planning Proposal that is to be made to Shoalhaven City Council on behalf of Mr Theo Pasialis (for Cafabe Pty Ltd ATF Pasialis Family Trust and Pasialis Superannuation Fund) concerns Lot 3 DP 846470, No 48 Jervis Bay Road, Falls Creek.

This Planning Report has been prepared by Cowman Stoddart Pty Ltd, Town Planning, Environmental and Agricultural Consultants based in Nowra. The Planning Report is supported by a number of other plans and reports, namely:

- Subdivision Sketch Plan prepared by Leslie & Thompson (**Annexure 1**).
- A Flora and Fauna Assessment Report prepared by Eco Logical Australia examining the ecological constraints associated with the development of the site (**Annexure 2**);
- A Bushfire Protection Assessment undertaken by Eco Logical Australia which has examined the threat of bushfire hazards (**Annexure 3**);
- A Report on Effluent Disposal prepared by Cowman Stoddart which addresses the suitability of the proposed lots to accommodate the onsite disposal of effluent waste water (**Annexure 4**).

The purpose of the Planning Proposal is to request that Shoalhaven City Council:

- Insert in Schedule 1 of the Shoalhaven LEP Modify the Minimum Lot Size Map that applies to the subject site. The minimum allotment size for subdivision under the existing zoning applying to the subject land is 2 hectares. This Planning Report seeks to reduce the minimum lot mapping for the subject land to 5635 m² to enable up to a maximum of 12 allotments, and a Community Lot in accordance with the Plan of Subdivision (**Annexure 1**);
- Enable the erection of dwelling house on each allotment.

The subject site is already identified by the Shoalhaven LEP 2014 as an area where rural residential development is appropriate, being mostly zoned R5 – Large Lot Residential allowing for lots with an area of 2 ha, and thus allowing for up to 12 lots to be created. This Planning Proposal is generally consistent with the thrust of this zone, with the exception that it seeks to develop the predominantly cleared portion of the site with 12 smaller lots, with the balance of the site being retained as a Community Lot and managed for its ecological and passive recreational value.

This Planning Report will provide justification for the nature of subdivision now envisaged.

The Report also details the environmental investigations and consultation that have been undertaken in support of this proposal.

This Report has been prepared in support of a Planning Proposal for the subject site. In preparing this report consideration has had regard to:

- the Department of Planning's "*A Guide to Preparing Planning Proposals*" dated 2009;
- Shoalhaven City Council's *Planning Proposal (Rezoning) Guidelines* revised and dated 18th January 2016.

2.0 SITE DESCRIPTION

2.1 THE SUBJECT SITE

The subject land comprises Lot 3 DP 846470 and is located at No. 48 Jervis Bay Road, Falls Creek. The subject land is an irregular shaped allotment with an area of 25.21 ha.

Figure 1 below is a locality plan identifying the subject land, **Figure 2** is a topographic map of the area, whilst **Figures 3** and **4** are aerial photos of the subject site and locality.

The subject site currently contains an existing dwelling house, shed and driveway and otherwise comprises cleared land with scattered mature trees and also a large area of forested land within the western part of the site. The site includes a farm dam in the southern part of the site and an unnamed watercourse that runs east to west across the northern part of the site.

The subject land has frontage to Jervis Bay Road, from which access to the existing dwelling house is provided by a private driveway. Jervis Bay Road is a sealed road maintained by Shoalhaven City Council.

According to Council mapping, endorsed by the NSW Rural Fire Service, the majority of the subject land is identified as being bushfire prone.

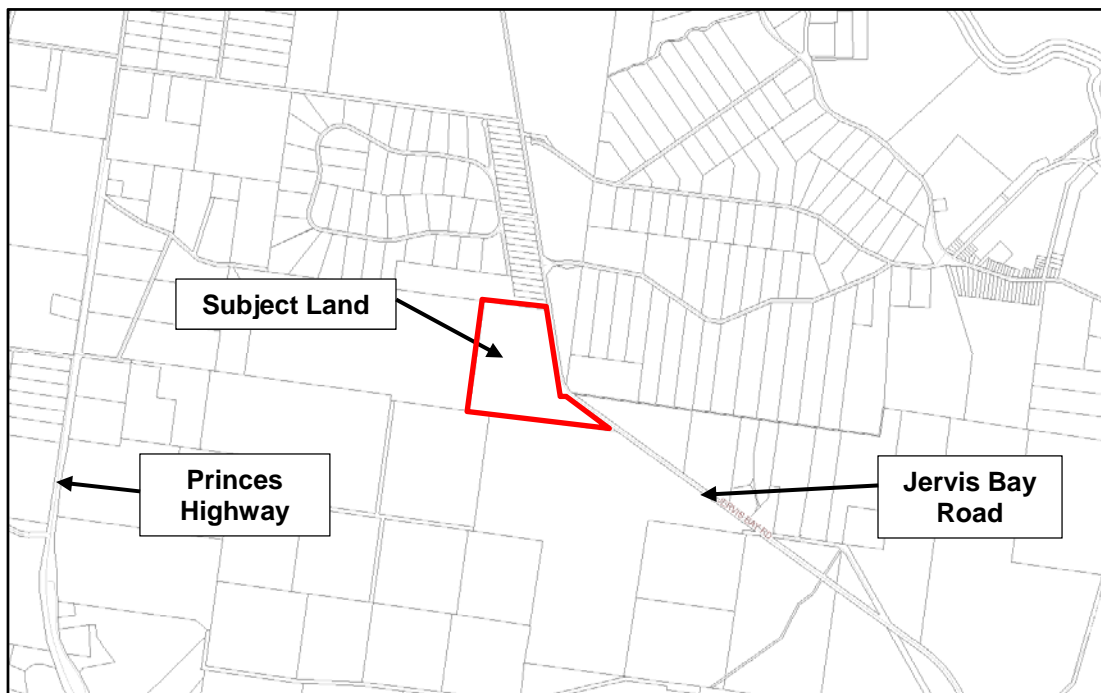


Figure 1: Locality plan.

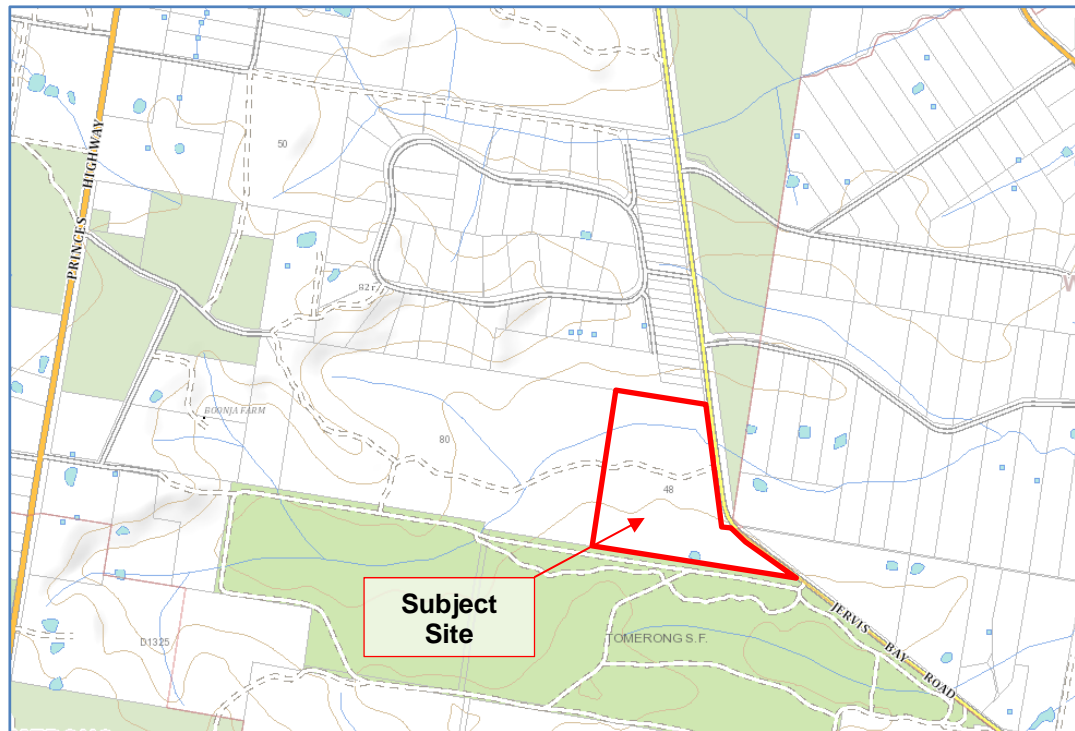


Figure 2: Topographic map.

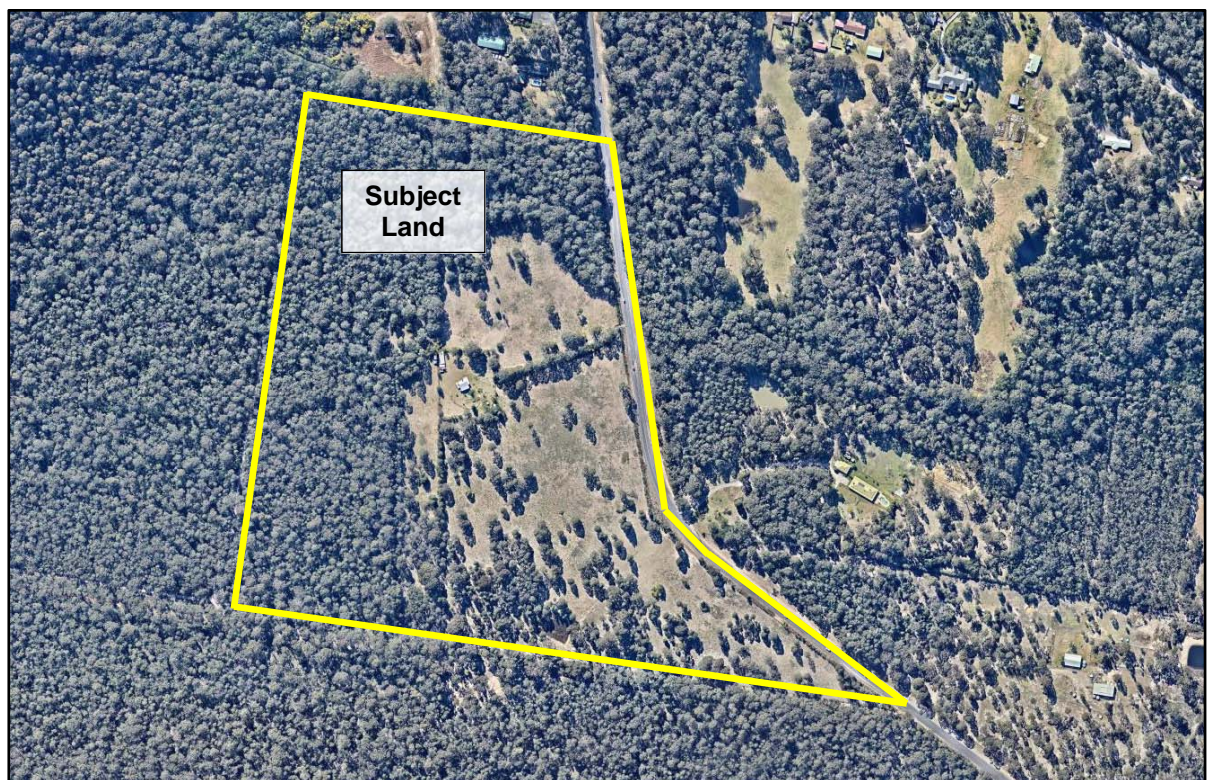


Figure 3: Aerial photo of subject land.

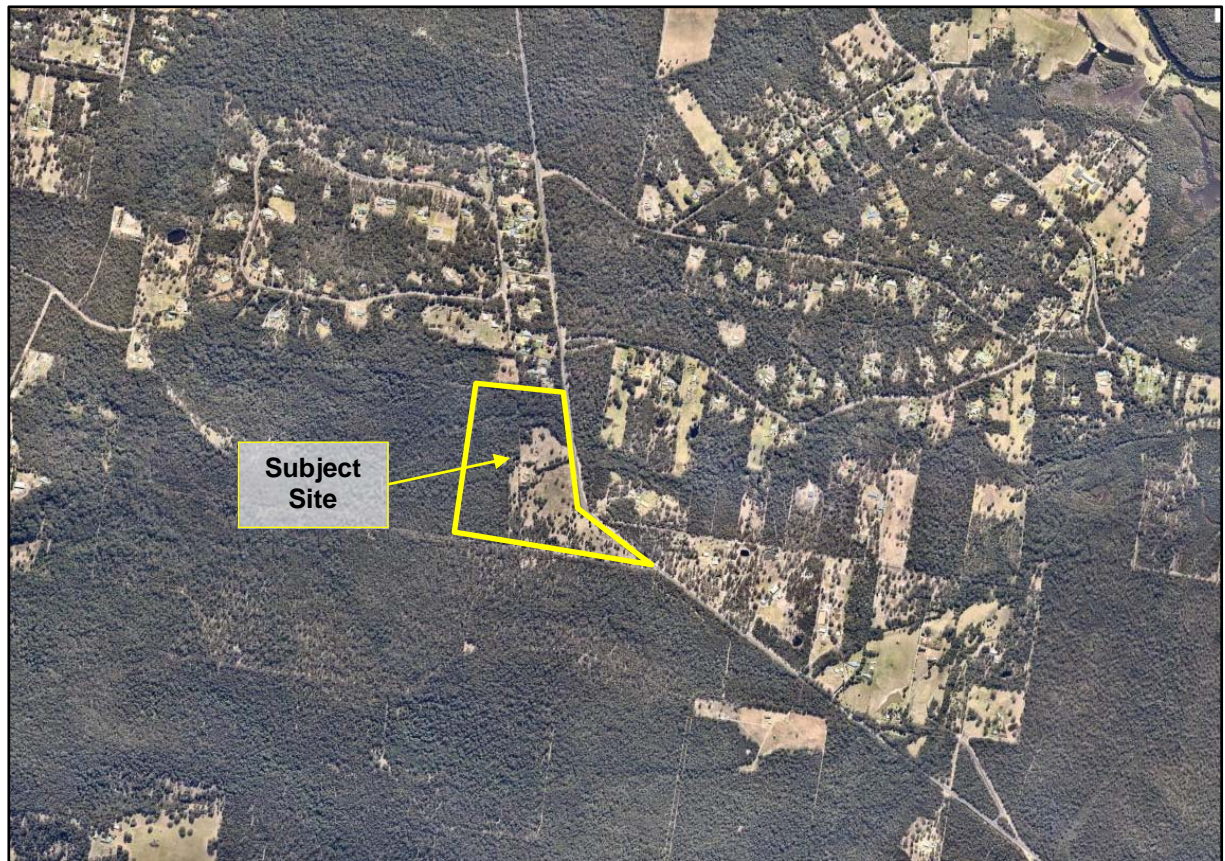


Figure 4: Aerial photo of locality.

2.2 EXISTING CONTEXT

The site is surrounded by:

- To the north, rural residential properties fronting Jervis Bay Road also zoned R5;
- To the north-west are many rural residual allotments zoned R5 which front MacArthur Drive which intersects with Jervis Bay Road to the north of the subject site;
- To the east, Jervis Bay Road and beyond this forested land and rural residential properties fronting Seasongood Road;
- To the south, forested land that is part of the Tomerong State Forest; and
- To the west, forested land in private ownership.

The development of the subject site as proposed will result in the southern extent of this R5 zone being completed. Beyond this, the land is in public ownership (Tomerong State Forest) and contains forested land that is not expected to be developed for rural or residential purposes.

2.3 A BROADER CONTEXT OF THE LOCALITY

The subject property is located at Falls Creek which is a rural residential area located some 16 km to the south of Nowra.

The site and surrounding lands are within the catchment of Jervis Bay. Jervis Bay is a region recognised for its highly valued recreation, scenic and cultural attributes that is well known through Australia and internationally. The area is one that is relatively unspoilt, featuring large areas of forested lands and which includes various National Parks and the Jervis Bay Marine Park, along with riparian and estuary ecosystems.

The Jervis Bay Region features a total of 17 towns and villages and three recognised rural residential areas (of which Falls Creek together with Woollamia forms one).

The subject site is located some 6 km to the north-west from Huskisson, which is known as the Gateway to Jervis Bay. Huskisson contains the primary existing commercial precinct, and which includes tourist accommodation and wharf facilities to access the Bay itself.

The immediate district also features Vincentia which comprises the older township on the shores of Jervis Bay, plus the more recently developed Bayswood residential area, and the Vincentia Marketplace which comprises a Woolworths and Aldi Supermarket and a number of small specialty shops.

Figure 5 identifies the site in its regional context.

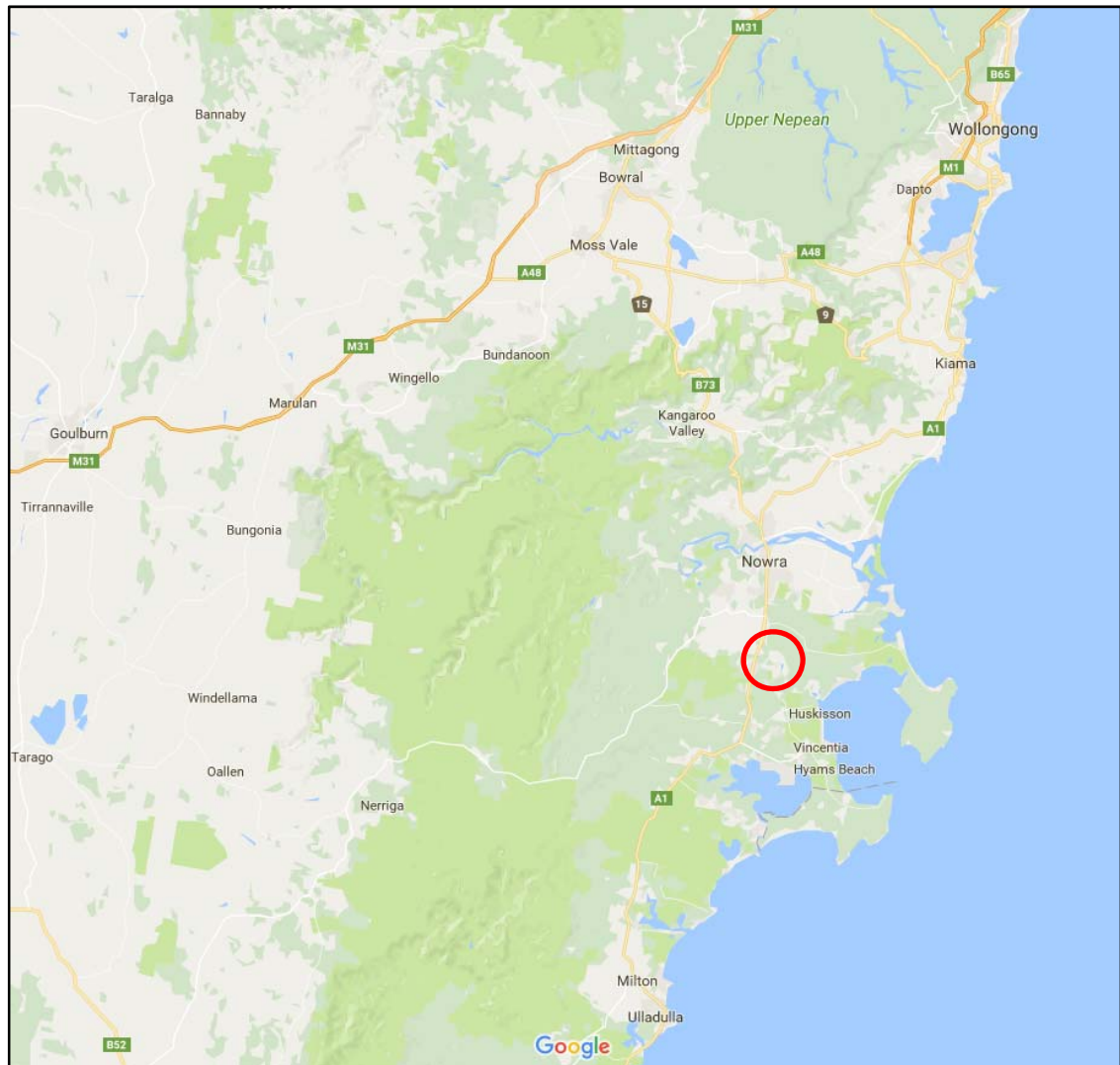


Figure 5: Plan of Region.

2.4 EXISTING PLANNING PROVISIONS

2.4.1 Shoalhaven Local Environmental Plan 2014

The subject land is currently zoned mostly R5 Large Lot Residential and partly RU2 Rural Landscape under the Shoalhaven Local Environmental Plan (LEP) 2014 (refer **Figure 6**).

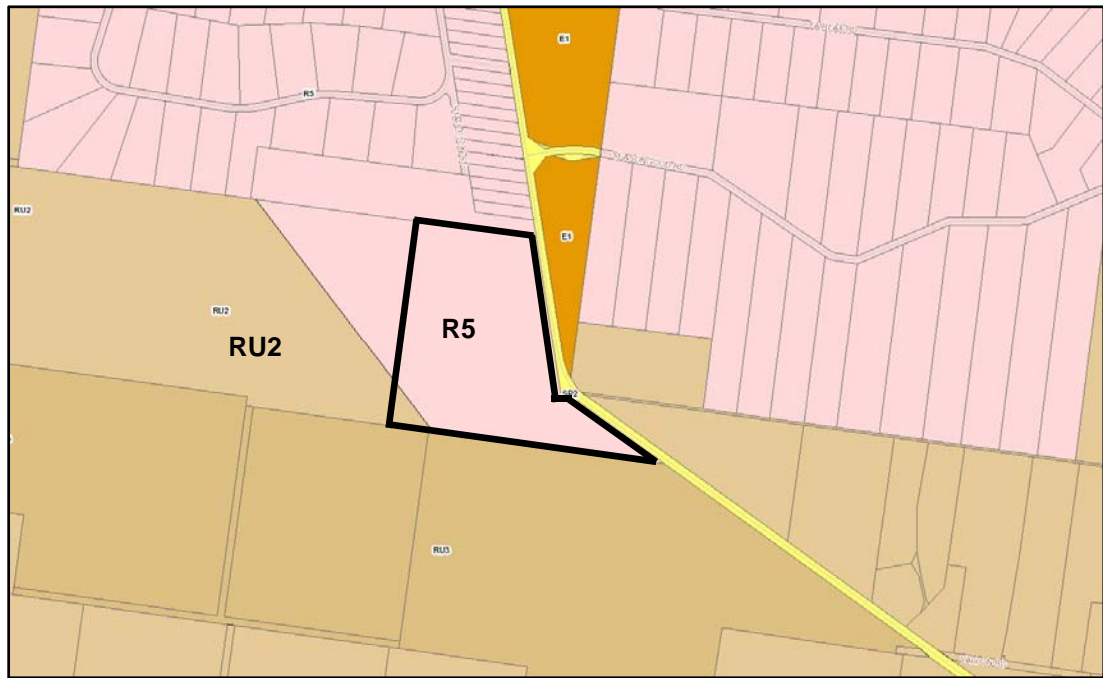


Figure 6: Zoning under Shoalhaven LEP 2014.

Zone Objectives

The objectives of the R5 zone are:

R5 zone

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The objectives of the RU2 zone are as follows:

RU2 zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

The following land use tables (**Tables 1 and 2**) applies to the R5 and RU2 zones respectively under the Shoalhaven LEP 2014.

Table 1
Land Use Permissibility R5 Zone – Shoalhaven LEP 2014

Permitted without consent	Home occupations
Permitted with consent	Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Extensive agriculture; Group homes (transitional); Home-based child care; Home businesses; Home industries; Horticulture; Neighbourhood shops; Recreation areas; Roads; Sewerage systems; Water supply systems
Prohibited	Any development not specified above

Table 2
Land Use Permissibility RU2 Zone – Shoalhaven LEP 2014

Permitted without consent	Extensive agriculture; Forestry; Home occupations
Permitted with consent	Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Crematoria; Depots; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Food and drink premises; Freight transport facilities; Funeral homes; Group homes; Hazardous industries; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Marinas; Markets; Mooring pens; Moorings; Offensive industries; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Tourist and visitor accommodation; Veterinary hospitals; Water recreation structures; Water supply systems
Prohibited	Hotel or motel accommodation; Pubs; Serviced apartments; Any other development not specified above

The SLEP 2014 also has a number of specific provisions that apply to the land; the implications that these provisions have in relation to this proposal are discussed in **Table 3** below.

Table3
Shoalhaven LEP 2014 Provisions

SLEP 2014 Clause	Provisions	Comments
<i>Clause 4.1 Minimum subdivision lot size</i>	<p>(1) <i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to ensure that subdivision is compatible with, and reinforces the predominant or historic subdivision pattern and character of, an area,</i></p> <p>(b) <i>to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,</i></p> <p>(c) <i>to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.</i></p> <p>(2) <i>This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.</i></p> <p>(3) <i>The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</i></p> <p>(4) <i>This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.</i></p>	<p>The Lot Size Map identifies a minimum lot size of 2 ha for that part zoned R5, and 40 ha applying to that part zoned RU2.</p> <p>This Planning Proposal seeks to overrule this minimum lot size by allowing for the creation of lots with areas of 5635 m², up to a maximum of 12 such lots, with a large Community Lot allotment containing all forested lands, and which will remain undeveloped. This effectively excises the yield for the site within that land which is predominantly cleared/disturbed, and enables the current vegetated land to remain in this condition.</p>
<i>Clause 4.3 Height of Buildings</i>	<p>(1) <i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of a locality,</i></p> <p>(b) <i>to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</i></p> <p>(c) <i>to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.</i></p> <p>(2) <i>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p>(2A) <i>If the Height of Buildings Map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.</i></p>	<p>The Height of Buildings Map does not identify a specific building height applying to the subject land.</p> <p>No buildings are proposed in this Planning Proposal. Any future dwellings or other buildings would be subject to the planning controls applying at that time.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
<p><i>Clause 5.5</i></p> <p><i>Development within the coastal zone</i></p>	<p>(1) <i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,</i></p> <p>(b) <i>to implement the principles in the NSW Coastal Policy, and in particular to:</i></p> <p>(i) <i>protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and</i></p> <p>(ii) <i>protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and</i></p> <p>(iii) <i>provide opportunities for pedestrian public access to and along the coastal foreshore, and</i></p> <p>(iv) <i>recognise and accommodate coastal processes and climate change, and</i></p> <p>(v) <i>protect amenity and scenic quality, and</i></p> <p>(vi) <i>protect and preserve rock platforms, beach environments and beach amenity, and</i></p> <p>(vii) <i>protect and preserve native coastal vegetation, and</i></p> <p>(viii) <i>protect and preserve the marine environment, and</i></p> <p>(ix) <i>ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i></p> <p>(x) <i>ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and</i></p> <p>(xi) <i>protect Aboriginal cultural places, values and customs, and</i></p> <p>(xii) <i>protect and preserve items of heritage, archaeological or historical significance.</i></p> <p>(2) <i>Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered</i></p> <p>(a) <i>existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</i></p>	<p>Subject site is not identified by mapping supporting the SLEP 2014 to be within the coastal zone. As such, these provisions have no implications.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
5.5 continued	<ul style="list-style-type: none"> (i) maintaining existing public access and, where possible, improving that access, and (ii) identifying opportunities for new public access, and (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account: <ul style="list-style-type: none"> (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and (ii) the location, and (iii) the bulk, scale, size and overall built form design of any building or work involved, and (c) the impact of the proposed development on the amenity of the coastal foreshore including: <ul style="list-style-type: none"> (i) any significant overshadowing of the coastal foreshore, and (ii) any loss of views from a public place to the coastal foreshore, and (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and (e) how biodiversity and ecosystems, including: <ul style="list-style-type: none"> (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, can be conserved, and (f) the cumulative impacts of the proposed development and other development on the coastal catchment (3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that: <ul style="list-style-type: none"> (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and 	Not applicable.

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
5.5 continued	<p>(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(d) the proposed development will not:</p> <p>(i) be significantly affected by coastal hazards, or</p> <p>(ii) have a significant impact on coastal hazards, or</p> <p>(iii) increase the risk of coastal hazards in relation to any other land</p>	
Clause 5.10 Heritage Conservation	<p>(1) The objectives of this clause are:</p> <p>(a) to conserve the environmental heritage of Shoalhaven; and</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views; and</p> <p>(c) to conserve archaeological sites; and</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(2) Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,,</p>	There are no heritage items identified within the subject land and the subject site is not located within a heritage conservation area. No identified heritage items are located within the vicinity of the site.

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments												
Clause 7.1 Acid sulfate soils	<p>(1) <i>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</i></p> <p>(2) <i>Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works, except as provided by this clause.</i></p> <p>(3) <i>Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</i></p> <table><tr><th>Class</th><th>Works</th></tr><tr><td>1</td><td><i>Any works.</i></td></tr><tr><td>2</td><td><i>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</i></td></tr><tr><td>3</td><td><i>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</i></td></tr><tr><td>4</td><td><i>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</i></td></tr><tr><td>5</td><td><i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i></td></tr></table> <p>(4) <i>Despite subclause (2), development consent is not required under this clause for the carrying out of works if:</i></p> <p>(a) <i>a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</i></p>	Class	Works	1	<i>Any works.</i>	2	<i>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</i>	3	<i>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</i>	4	<i>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</i>	5	<i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i>	<p>Mapping supporting the SLEP 2014 identifies the subject land as being affected by Class 5 Acid Sulfate Soils.</p> <p>No works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height is anticipated to be required to be undertaken for development associated with this Planning Proposal. This provision will not apply to this proposal.</p>
Class	Works													
1	<i>Any works.</i>													
2	<i>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</i>													
3	<i>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</i>													
4	<i>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</i>													
5	<i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i>													

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
7.1 continued	<p>(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):</p> <p>(a) emergency work, being the repair of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,</p> <p>(b) routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil).</p> <p>(c) minor work, being work that costs less than \$20,000 (other than drainage work)</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:</p> <p>(a) the works involve the disturbance of less than 1 tonne of soil, and</p> <p>(b) the works are not likely to lower the watertable.</p>	
Clause 7.2 Earthworks	<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>(2) Development consent is required for earthworks unless:</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	<p>The subject land consists of gently sloping terrain and does not present significant physical constraints to development. It would be expected that only very minor earthworks would be undertaken with any future subdivision of the subject land to create roads.</p> <p>The subject land does not have slopes in excess of 20% or that have been identified as susceptible to other forms of land degradation.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
7.2 continued	<p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <ul style="list-style-type: none"> (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, 	<p>The site has been considerably disturbed where development is proposed to be undertaken, due to its past history of use for animal grazing.</p> <p>It is unlikely relics will be disturbed by the development proposed.</p> <p>Subject to the implementation of standard soil and water management measures being implemented as part of any future development of the site it is not expected that the development would result in adverse impacts on local waterways.</p>
Clause 7.3 Flood Planning	<p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, (c) to avoid significant adverse impacts on flood behaviour and the environment. <p>(2) This clause applies to:</p> <ul style="list-style-type: none"> (a) land identified as "Flood Planning Area" on the Flood Planning Area Map, and (b) other land at or below the flood planning level. 	<p>The site is not identified as being flood prone. This clause has no further implications.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
7.3 continued	<p>(3) <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</i></p> <ul style="list-style-type: none"> (a) <i>is compatible with the flood hazard of the land, and</i> (b) <i>will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i> (c) <i>incorporates appropriate measures to manage risk to life from flood, and</i> (d) <i>will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i> (e) <i>is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and</i> (f) <i>will not affect the safe occupation or evacuation of the land</i> <p>(4) <i>A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.</i></p> <p>(5) <i>In this clause:</i> flood planning level <i>means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</i></p>	
Clause 7.4 Coastal Risk Planning	<p>(1) <i>The objectives of this clause are as follows:</i></p> <ul style="list-style-type: none"> (a) <i>to avoid significant adverse impacts from coastal hazards,</i> (b) <i>to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,</i> (c) <i>to enable the evacuation of land identified as coastal risk in an emergency,</i> (d) <i>to avoid development that increases the severity of coastal hazards.</i> <p>(2) <i>This clause applies to the land identified as “Coastal Risk Planning Area” on the Coastal Risk Planning Map.</i></p> <p>(3) <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</i></p>	The Coastal Risk Planning Map that accompanies the SLEP 2014 does not identify the subject land as a “Coastal Risk Planning Area”. The provisions of this clause do not apply.

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
7.4 continued	<p>(a) will avoid, minimise or mitigate exposure to coastal processes, and</p> <p>(b) is not likely to cause detrimental increases in coastal risks to other development or properties, and</p> <p>(c) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and</p> <p>(d) incorporates appropriate measures to manage risk to life from coastal risks, and</p> <p>(e) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, and</p> <p>(f) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and</p> <p>(g) has regard to the impacts of sea level rise.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the NSW Coastal Planning Guideline: Adapting to Sea Level Rise (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.</p> <p>(5) In this clause: coastal hazard has the same meaning as in the Coastal Protection Act 1979.</p>	
7.5 Terrestrial Biodiversity	<p>(1) The objective of this clause is to maintain terrestrial biodiversity, by:</p> <p>(a) protecting native flora and fauna,</p> <p>(b) protecting the ecological processes necessary for their continued existence, and</p> <p>(c) encouraging the recovery of native flora and fauna, and their habitats</p> <p>(2) This clause applies to land:</p> <p>(a) identified as “Biodiversity—habitat corridor” or “Biodiversity—significant vegetation” on the Terrestrial Biodiversity Map, and</p> <p>(b) situated within 40m of the bank (measured horizontally from the top of the bank) of a natural waterbody.</p> <p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:</p>	<p>Mapping supporting the SLEP 2014 does identify that land zoned RU2 as containing significant vegetation and habitat corridor (Figure 7).</p> <p>This land is to be retained wholly within the Community Lot, along with a large tract of other forested lands and will remain undeveloped. As such, no disturbances will occur to this land.</p> <p>This Planning Proposal is supported by an ecological assessment undertaken by Eco Logical Australia which has assessed the impacts of the proposal. This is shown in Annexure 2.</p> <p>This assessment recognises the positive measures resulting from a subdivision of the type envisaged (Community Title) in comparison to a conventional subdivision.</p>

Table 3 (continued)


SLEP 2014 Clause	Provisions	Comments
7.5 continued	<p>(a) whether the development is likely to have:</p> <ul style="list-style-type: none"> (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and (iv) any adverse impact on the habitat elements providing connectivity on the land, and <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid any significant an adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact. <p>(5) For the purpose of this clause:</p> <p>bank means the limit of the bed of a natural waterbody.</p> <p>bed, of a natural waterbody, means the whole of the soil of the channel in which the waterbody flows, including the portion that is alternatively covered and left bare with an increase or diminution in the supply of water and that is adequate to contain the waterbody at its average or mean stage without reference to extraordinary freshets in the time of flood or to extreme droughts.</p>	 <p style="text-align: center;">Figure 7: Biodiversity Mapping – SLEP 2014.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
<p><i>Clause 7.6</i> <i>Riparian land and watercourses</i></p>	<p>(1) <i>The objective of this clause is to protect and maintain the following:</i></p> <ul style="list-style-type: none"> (a) <i>water quality within watercourses,</i> (b) <i>the stability of the bed and banks of watercourses,</i> (c) <i>aquatic and riparian habitats,</i> (d) <i>ecological processes within watercourses and riparian areas</i> <p>(2) <i>This clause applies to all of the following:</i></p> <ul style="list-style-type: none"> (a) <i>land identified as “Riparian Land” on the Riparian Lands and Watercourses Map,</i> (b) <i>land identified as “Watercourse Category 1”, “Watercourse Category 2” or “Watercourse Category 3” on that map,</i> (c) <i>all land that is within 50 metres of the top of the bank of each watercourse on land identified as “Watercourse Category 1”, “Watercourse Category 2” or “Watercourse Category 3” on that map.</i> <p>(3) <i>Before determining a development application for development on land to which this clause applies, the consent authority must consider:</i></p> <ul style="list-style-type: none"> (a) <i>whether or not the development is likely to have any adverse impact on the following:</i> <ul style="list-style-type: none"> (i) <i>the water quality and flows within the watercourse,</i> (ii) <i>aquatic and riparian species, habitats and ecosystems of the watercourse,</i> (iii) <i>the stability of the bed and banks of the watercourse,</i> (iv) <i>the free passage of fish and other aquatic organisms within or along the watercourse,</i> (v) <i>any future rehabilitation of the watercourse and its riparian areas, and</i> (b) <i>whether or not the development is likely to increase water extraction from the watercourse, and</i> (c) <i>any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i> <p>(4) <i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</i></p>	<p>The <i>Riparian Lands and Watercourses Map</i> that accompanies the SLEP 2014 does not identify a watercourse or other riparian lands as affecting the subject site.</p> <p>This clause has no implications on a Planning Proposal.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
7.6 continued	<p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p> <p>(5) For the purpose of this clause: bank means the limit of the bed of a watercourse. bed, of a watercourse, means the whole of the soil of the channel in which the watercourse flows, including the portion that is alternatively covered and left bare with an increase or diminution in the supply of water and that is adequate to contain the watercourse at its average or mean stage without reference to extraordinary freshets in the time of flood or to extreme droughts.</p>	
Clause 7.8 Scenic protection	<p>(1) The objective of this clause is to protect the natural environmental and scenic amenity of land that is of high scenic value.</p> <p>(2) This clause applies to land identified as “Scenic Protection” on the Scenic Protection Area Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must:</p> <p>(a) consider the visual impact of the development when viewed from a public place and be satisfied that the development will involve the taking of measures that will minimise any detrimental visual impact, and</p> <p>(b) consider the number, type and location of existing trees and shrubs that are to be retained and the extent of landscaping to be carried out on the site, and</p> <p>(c) consider the siting of the proposed buildings.</p>	<p>The subject land is <u>not</u> identified as being within a “Scenic Protection” area by <i>Scenic Protection Area Mapping</i> that accompanies the SLEP 2014.</p> <p>The provisions of this clause therefore do not apply to the subject site.</p>

Table 3 (continued)

SLEP 2014 Clause	Provisions	Comments
<p><i>Clause 7.20</i></p> <p><i>Development in the Jervis Bay region</i></p>	<p>(1) <i>The objectives of this clause are as follows:</i></p> <p style="padding-left: 20px;">(a) <i>to protect the natural and cultural values of the Jervis Bay region,</i></p> <p style="padding-left: 20px;">(b) <i>to ensure that development in the region contributes to the natural and cultural values of the region.</i></p> <p>(2) <i>This clause applies to land in the Jervis Bay region identified as “CI 7.20” on the Clauses Map.</i></p> <p>(3) <i>Development consent must not be granted to development in a coastal sand dune area, on a rocky headland or on a flat, well-drained area along a major creekline unless the consent authority is satisfied that there will be no significant adverse impact on the natural or cultural values of the area.</i></p> <p>(4) <i>Development in the vicinity of the Point Perpendicular lighthouse group (including the lighthouse, generator, annexe, three residences and ancillary structure), being land to which this clause applies, must be compatible with that group and be complementary to that group in terms of design and external colour.</i></p> <p>(5) <i>Development in the vicinity of the Huskisson Tapalla Point rock platform, being land to which this clause applies, must be compatible with that geological site.</i></p> <p>(6) <i>Development on land to which this clause applies and identified as “Biodiversity—habitat corridor” on the Terrestrial Biodiversity Map must be designed to:</i></p> <p style="padding-left: 20px;">(a) <i>minimise disturbance to the existing structure and species composition of native vegetation communities, and</i></p> <p style="padding-left: 20px;">(b) <i>allow native fauna and flora to feed, breed, disperse, colonise or migrate (whether seasonally or nomadically), and</i></p> <p style="padding-left: 20px;">(c) <i>regenerate and revegetate degraded lands with local native species.</i></p> <p><i>Evidence of how these criteria are achieved is to be submitted with any application to develop land that is subject to this subclause.</i></p>	<p>The subject site is located within that area affected by Clause 7.20.</p> <p>The proposal is not sited in a coastal dune area or rocky headland. The site does contain a creek line, and this proposal has been designed to ensure that no impacts arise on this feature.</p> <p>The site is not in the vicinity of Point Perpendicular.</p> <p>The site is not in the vicinity of Huskisson Tapalla Point.</p> <p>The site is identified as containing habitat corridor, restricted to a small portion at the rear of the site. It is the desire to retain all forested and riparian areas which has driven the layout and the need for this Planning Proposal. The application avoids disturbances to forested areas to ensure preservation of native vegetation communities.</p> <p>Accompanying the proposal is a Flora and Fauna Assessment prepared by Eco Logical Australia (Annexure 2) which has examined the ecological impacts of the proposal.</p>

2.4.2 Shoalhaven Development Control Plan (DCP) 2014

The Shoalhaven DCP 2014 at Chapter G11 – Subdivision of Land contains principles and general development requirements for the development of land, including subdivision. The provisions of Chapter G11 applying to large lot residential subdivision are considered in **Annexure 7** attached to this report. This demonstrates that the proposal is consistent with the requirements of the Shoalhaven DCP.

Having regard to Chapter G8 dealing with Onsite Sewerage Management, accompanying this Report (**Annexure 4**) is an assessment prepared by Cowman Stoddart Pty Ltd which has reviewed the suitability of the site. This Assessment has concluded that the proposed lots are of an appropriate size and suitably located in order to accommodate the onsite disposal of effluent wastewater. This is further addressed in Section 6.6.1.

There are no area or site specific chapters that apply to the subject property.

3.0 BACKGROUND

3.1 INITIAL CONSIDERATIONS

Consideration was initially given to the development of a conventional Torrens Title Subdivision with lot sizes that accorded with the 2 ha minimum lot size prevailing under the Shoalhaven LEP 2014. In order to advance such a proposal, initial assessments were undertaken having regard to the constraints applying to the development of the site. In particular, the vegetated nature of much of the site was identified as a constraint requiring further consideration. On that basis, Eco Logical Australia were engaged to undertake a Flora and Fauna Constraints Analysis. Mapping accompanying the analysis (shown as **Figure 8**) identified areas with low, medium and high constraints as follows:-

- Low constraint being established cleared land;
- Medium constraint being forested lands; and
- High constraint being water course and adjacent riparian area.

The analysis of Eco Logical Australia also identified further species requiring targeted surveys and species requiring greater consideration.

Given the initial analysis undertaken by Eco Logical Australia, a preferred subdivision of the site that results in the development of the land with low constraints, with the land having high and medium constraints being protected from development, was considered a preferred outcome and will result in a superior planning outcome.

This has resulted in the preparation of this Planning Proposal.

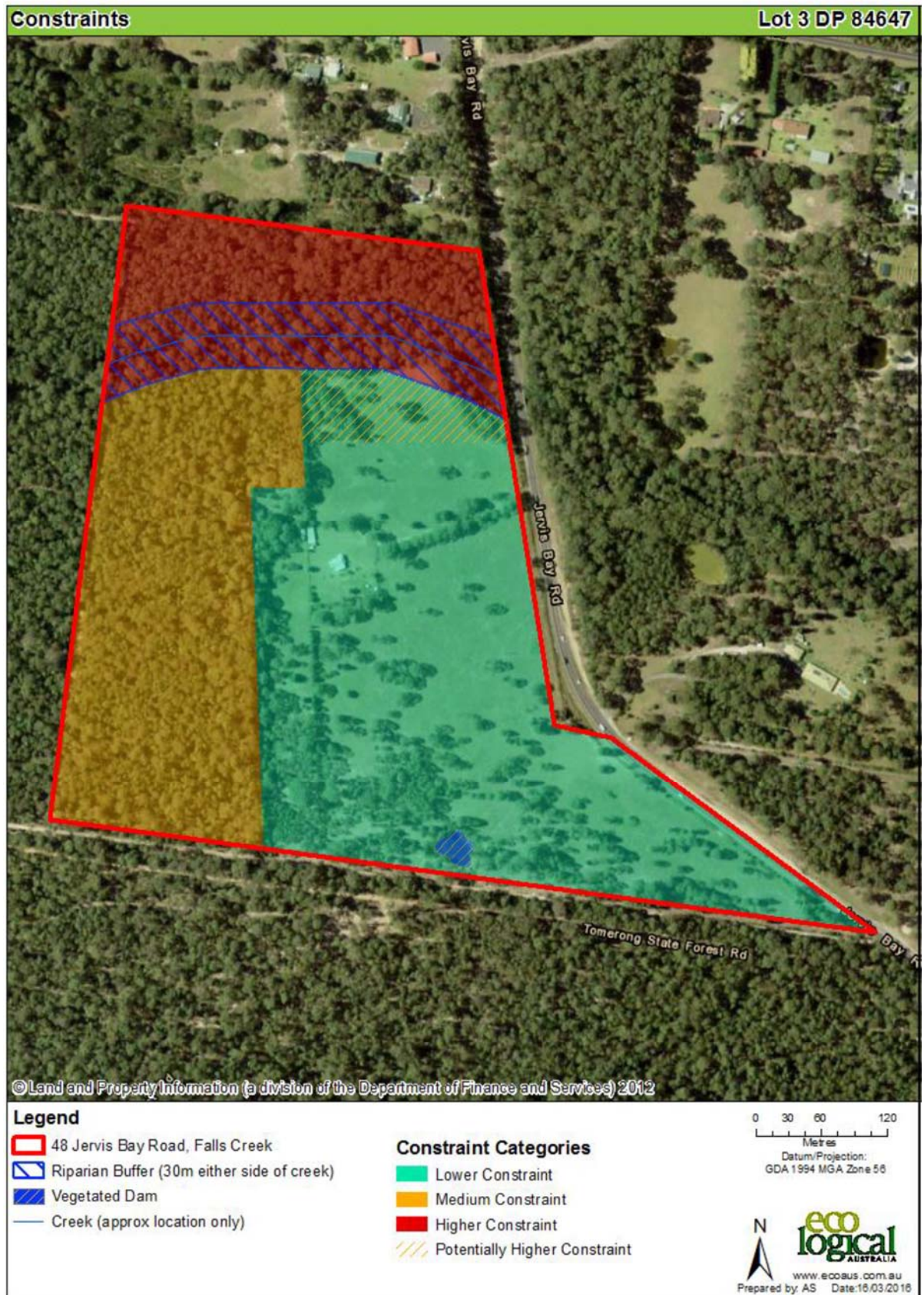


Figure 8: Ecological Constraints Mapping – Eco Logical Australia.

3.2 CONSULTATION WITH COUNCIL

3.2.1 Development Assessment Planner

Initially, a meeting was held with Council's Senior Development Planner – Subdivisions (Elizabeth Downing) on 12th February 2016 to discuss the site and the proposed method of subdivision. No objection in principle was made to the subdivision as proposed, however it was noted that a Planning Proposal would be required to enable its consideration due to the number of lots being proposed, and the extent of variation to the minimum lot size that would be required.

3.2.2 Strategic Planning

In accordance with Council's "Planning Proposal (Rezoning) Guidelines" (2016), a subsequent meeting was held between Council staff (Mr Gordon Clark and Mr Michael Park) and Stuart Dixon and Angela Jones (Cowman Stoddart Pty Ltd) on the 29th April 2016. At this meeting the following issues were raised in relation to this Planning Proposal (with our comments included):

- ***Jervis Bay Road is a classified road and early consultation with the Roads and Maritime Services (RMS) is recommended.***

Comment

Consultation was had with the RMS who indicated that traffic issues are a matter for Council's consideration (**Annexure 5**).

Traffic and Transports matters are further addressed in Section 6.1 of this Report.

- ***Consider the provisions of the Jervis Bay Settlement Strategy.***

Comment

The subject property is identified in the Jervis Bay Settlement Strategy (JBSS) dated October 2003 as an existing Rural Residential Deferred Area, being subject to further studies to determine suitability for rural residential development. Since this time, the subject site has been zoned by the Shoalhaven LEP 2014 to R5 Large Lot Residential. The provisions of the JBSS are further addressed in Section 4.3 of this Report.

- ***The subject site is within the area of the Jervis Bay Marine Park and the identification of suitable areas for the onsite disposal of wastewater is critical in determining minimum allotment size.***

Comment

The Planning Proposal has been prepared following detailed consideration of effluent disposal requirements. In this regard, a Report on Effluent Disposal has been prepared assessing the site conditions and accompanies this Report as **Annexure 4**.

This is further addressed in Section 6.6.1 of this Report.

- ***The provision of a Concept Layout would assist in assessing overall impacts.***

Comment

In consideration of this matter, a Subdivision Plan has been prepared (and indeed is being lodged as a separate Development Application for Council's concurrent consideration). This plan has been prepared following detailed consideration of site constraints and is mindful of:

- On-site effluent disposal requirements;
- Bushfire hazards;
- Desire to conserve established area predominantly cleared of native vegetation; and
- Provide suitable vehicular access to the site.

This has been further explained in Section 4.0 of this Report.

3.2.3 Traffic and Transport

In addition to consultation undertaken with Council's Strategic Planning team, consultation was also had with Council's Traffic and Transport Unit. As will become evident in Section 3.2 below, the response from the RMS placed responsibility for consideration of traffic matters with Shoalhaven Council. As a result, Stuart Dixon and Angela Jones of Cowman Stoddart Pty Ltd met with Mr Mark Poulton of Council's Traffic and Transport Unit on 11th August 2016. At that meeting, advice was provided of the need to consider applicable sight distances given the history of traffic accidents in the locality. In this regard, although Jervis Bay Road is provided with a 100 km/hr speed zone, motorists may exceed this in the vicinity of the site, particularly given the downhill grade of Jervis Bay Road in this location. As a consequence of this advice, in consultation with Council, the proponent funded the installation of traffic counters in order to obtain traffic speeds in the vicinity of the site.

Traffic matters are further discussed in Section 6.1.1 of this Report.

3.3 CONSULTATION WITH ROADS AND MARITIME SERVICES

In light of initial comments from Council's Strategic Planners, consultation was had with the RMS having regard to traffic issues associated with the proposal. The RMS by letter dated 29 July, 2016 advised that Jervis Bay Road is a regional classified road managed by Shoalhaven Council and on that basis, entrust Council with responsibility for assessing traffic implications of the proposal. A copy of their response is included in **Annexure 5**.

As outlined above, consultation with staff of Council's Traffic and Transport Unit was subsequently undertaken.

4.0 THE PLANNING PROPOSAL

This Planning Proposal relates to Lot 3 DP 847470 being No. 48 Jervis Bay Road, Falls Creek. **Annexure 1** to this report includes the Subdivision Plan the subject of this Planning Proposal.

4.1 OBJECTIVES AND INTENDED OUTCOMES

The purpose of this section of the Planning Proposal is to provide a concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved.

The objectives or intended outcomes of this draft Planning Proposal are to:

- *Insert a Schedule 1 use to enable the land to be subdivided and developed for large lot residential purposes in a manner that reflects the environmental capacity of the land and which conserves environmentally significant lands; and*
- *Allow for the erection of a dwelling on each of the resultant allotments*
- *Apply a minimum allotment size of 5635 m² in lieu of the existing 2 hectare minimum lot size.*
- *Identify constrained land to include in a Community Property allotment to ensure its ongoing conservation*
- *Enable development of large lot residential accommodation that will provide a broader range of residential accommodation within Falls Creek, and maintains Council's commitment to the supply of large lot residential land.*

This Planning Report argues that the subject land is eminently suitable for large lot residential development.

4.2 EXPLANATION OF PROVISIONS

The purpose of this section of the draft Planning Proposal is to provide a statement of how the objectives or intended outcomes outlined above are to be achieved.

Under the provisions of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014), the subject land is zoned mostly R5 Large Lot Residential and partly RU2 Primary Production.

The minimum allotment size for subdivision within the R5 zone under the existing provisions is 2 hectares.

In order to achieve the objectives and intended outcomes stated above, this report requests that Shoalhaven City Council:

- Include the subject site in Schedule 1 (Additional Permitted Uses) of the Shoalhaven LEP as follows:
 - Development for the purposes of a Community Title Subdivision allowing up to a maximum of 12 allotments with a minimum area of 5635 m², one Community Title Lot,
 - the erection of a dwelling on each allotment being created (not including the Community Lot).

In order to assist Council, this Planning Proposal report includes a detailed Plan of Subdivision (**Annexure 1**).

4.3 NEED FOR PLANNING PROPOSAL

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

The Planning Proposal stems from a Preliminary Investigation into the subdivision of the site in accordance with the current provisions of the Shoalhaven LEP 2014 and other relevant planning legislation that applies. This identified constraints and opportunities associated with the subdivision of the site, and identified such as matters as:

- ecological constraints and desire to retain predominantly forested lands and other sensitive areas;
- need to conserve and protect the watercourse located in the northern portion of the site;
- desire to obtain the optimum yield in accordance with that allowed to provide large lot residential allotments consistent with Council's plans;
- need to consider natural hazards, particularly bushfire;
- need to consider the site's capacity for disposal of effluent wastewater; and
- need to provide suitable vehicular access to the site.

The subdivision layout (**Annexure 1**) suitably addresses these matters.

Consequently, it is considered that the Planning Proposal is consistent with the thrust of the Shoalhaven LEP 2014, providing a Large Lot Residential subdivision, albeit with smaller lots than that envisaged, but mitigated through the provision of a large tract of forested land in common ownership to be retained for ecological and passive recreational use. The subdivision maintains the yield allowed for under the Shoalhaven LEP 2014,

thus maintains the commitment to the supply of large lot residential lands as has been anticipated.

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

The Planning Proposal seeks to amend the Shoalhaven LEP 2014 by inserting into Schedule 1 (additional allowable uses) the ability for Council to consider a Community Title Subdivision allowing up to a maximum of 12 allotments with a minimum area of 5635 m², with one Community Lot and the erection of a dwelling on each of the 12 developable allotments being created.

Consideration was given to using the provisions of Clause 4.6 of the Shoalhaven LEP in order to seek a variation to the Minimum Lot Size Map, however the extent of departure having regard to the number of lots necessary for it to apply to, coupled with the extent of variation (i.e. greater than 10%), is such that this approach was not lawful.

It is considered therefore that this Planning Proposal is the most effective approach to ensure that the subdivision of the site occurs in a sustainable fashion that ensures the objectives are met, and which will result in the best planning outcome.

Relationship to Strategic Planning Framework

4.3.1 Jervis Bay Settlement Strategy

As outlined above, the Planning Proposal does not seek to amend the planning objectives for the subject site, which are to enable large lot residential development. This has been established following identification of the site under the Jervis Bay Settlement Strategy (JBSS) as an area of Existing Rural Residential Deferred Areas – Investigate Increased Density” and which was zoned to enable Large Lot Residential Development under the Shoalhaven LEP 2014.

The provisions of the JBSS recognises the demand for large lot residential development, or as it is referred to in this document, rural residential development. **Figure 9** (over page) is an extract from the JBSS identifying the subject site. The JBSS goes on to state that for those areas identified as ‘deferred’ and requiring further investigation, that should “*the existing rural residential “deferred” areas are rezoned to the Rural 1(c) zone (thus enabling subdivision down to an absolute minimum of 1 ha), it may be possible to increase the density of rural residential development in some of these existing areas and to use this process to also achieve biodiversity, riparian areas and so on*”. It is this rationale that has driven the Planning Proposal where a desire to develop the already cleared and disturbed lands more intensively to enable the retention of forested and riparian areas is proposed.

The subject site was subsequently investigated and identified as being suitable for inclusion as a rural residential area, as evidenced by the fact that it was zoned R5 Large Lot Residential under the Shoalhaven LEP 2014. The JBSS makes the following recommendations for rural residential development:

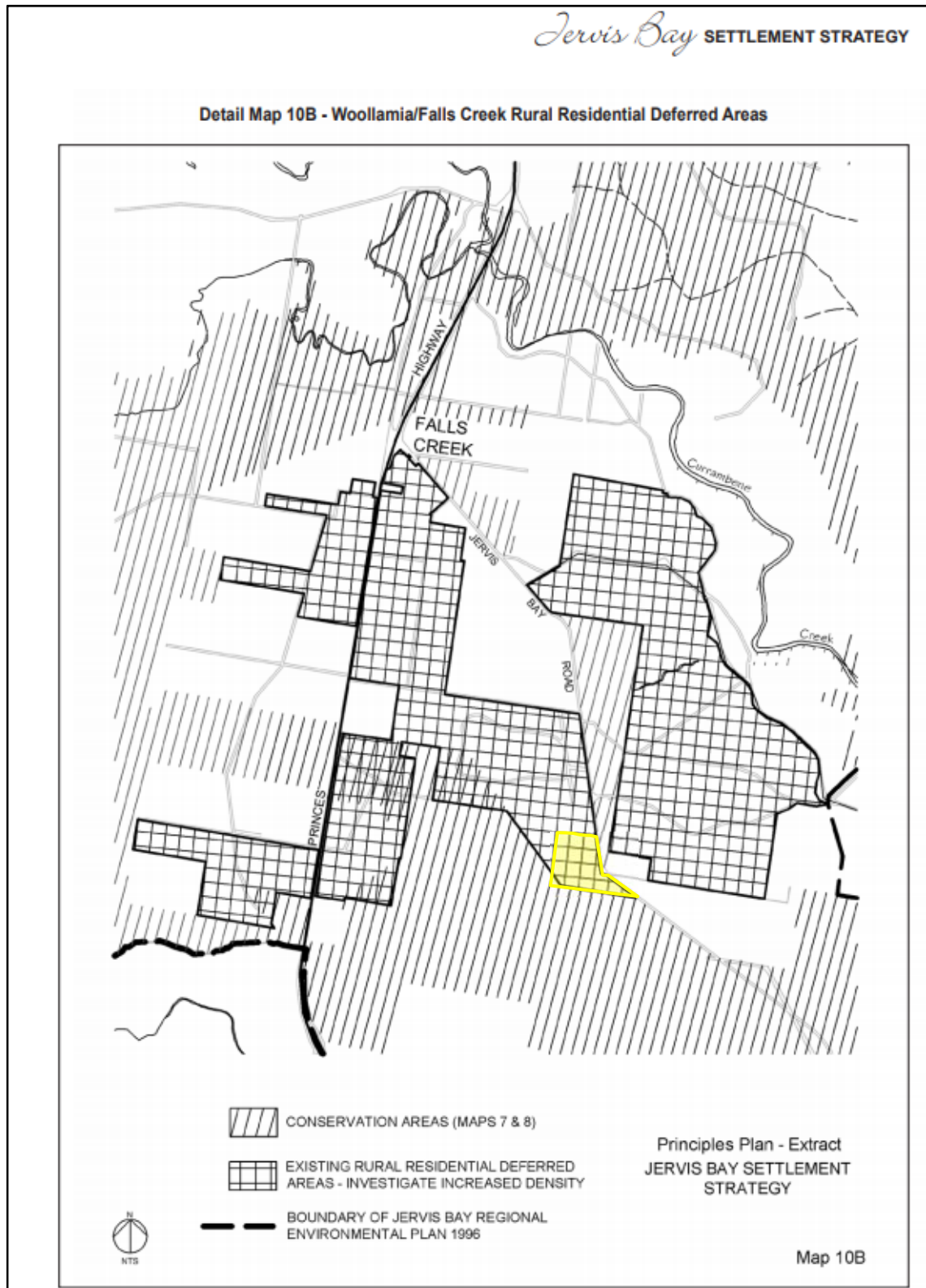


Figure 9: Extract from Jervis Bay Settlement Strategy.

RURAL RESIDENTIAL DEVELOPMENT

Objective – To ensure that rural residential deferred areas are resolved, and that new opportunities for rural residential development are in keeping with the region’s natural and cultural attributes.

Actions

- i. The potential for the existing rural residential deferred areas to accommodate increased densities will be resolved in accordance with the guiding principles and policy actions outlined in this Strategy. In order to achieve increased densities, an understanding of the baseline environmental condition should be investigated and the potential cumulative impacts should be addressed.*
- ii. Worrowing – the possibility of limited development that also provides for the protection and management of the habitat corridor in the locality will be investigated.*
- iii. The potential for contaminated land to be present within areas identified for new rural-residential development will be investigated and if necessary addressed early on in the rezoning process in accordance with the provisions of SEPP No. 55 – Remediation of Land and Councils Contaminated Land Policy.*

The assessments undertaken in conjunction with this Report have confirmed the suitability of the site for Large Lot Residential development, and also justify the more intensive development for the lands which are already predominantly cleared. These include the Flora and Fauna Assessment (**Annexure 2**) and Bushfire Protection Assessment (**Annexure 3**) all prepared by Eco Logical Australia, and the Report on Effluent Disposal (**Annexure 4**) prepared by Cowman Stoddart Pty Ltd. In particular, the Flora and Fauna Assessment acknowledges the improved environmental outcomes that arise from the nature of the Community Title subdivision proposed, whilst the Report on Effluent Disposal identifies that the proposed lot sizes can readily accommodate the onsite disposal of effluent wastewater.

The site is not within the Worrowing area so this action has no effect.

The potential for contamination is addressed in Table 4 in Section 5.3 of this Report.

As a consequence, it is considered that the Planning Proposal is entirely consistent with the recommendations of the JBSS, the preferred outcome for rural residential lands, and its stated actions.

4.3.2 NSW 2021 – A PLAN TO MAKE NSW NUMBER ONE

NSW 2021 is the NSW Government's 10 year plan to guide policy and decision making to, in conjunction with the NSW budget, deliver community priorities. NSW 2021 drives the government's agenda to:

- *Restore economic growth*
- *Return quality health, transport, education, police, justice and community services;*
- *Build infrastructure that drives the economy and improves peoples lives*
- *Strengthen local environments, devolve decision making and return planning powers to the community.*
- *Restore accountability and transparency to government and give the community a say in decisions affecting their lives.*

The Planning Proposal is not inconsistent with this policy.

4.3.3 Illawarra – Shoalhaven Regional Plan

The Illawarra-Shoalhaven Regional Plan (ISRP) will guide strategic planning for this nationally significant region over the next 20 years.

The new plan is focussed on:

- *creating a robust, diversified economy, including access to high quality jobs*
- *delivering greater housing choice to suit the changing population needs*
- *growing the capacity of the port of Port Kembla as an international trade gateway*
- *developing strong and vibrant communities through improved public transport and urban design*
- *protecting the landscape and environment*
- *growing the national competitiveness of Metropolitan Wollongong to provide more jobs, housing and lifestyle opportunities*
- *increasing capabilities of key sites in Nowra and Shellharbour City Centres, Illawarra Regional Airport, Albatross Aviation Technology Park and the Waterfront Shell Cove*

The ISRP provides a range of "Directions" supported by specific "actions".

With respect to this Planning Proposal, Direction 2.1 states:

"Provide sufficient housing supply to suit the changing demands of the region"

The Planning Proposal seeks to enable the supply of large lot residential development at a yield consistent with that provided for under the Shoalhaven LEP 2014. Consequently, the

proposal will lead to the supply of alternative housing choices. Whilst it is noted that rural residential development is seen as less efficient than other forms of housing in meeting overall housing targets, this proposal does not seek to introduce a rural residential development, as this is already allowed under the Shoalhaven LEP 2014, but rather it seeks to excise the yield in a more environmentally sustainable manner by enabling the retention of a large area of the site which will remain undeveloped, with existing cleared, disturbed lands being used at a higher, albeit appropriate, density.

With respect to this Planning Proposal, Direction 2.4 states:

“Identify and conserve biodiversity values when planning new communities”

The Planning Proposal is consistent with this Direction as it proposes the rural residential development of the property consistent with the provisions of the Shoalhaven LEP 2014, yet in a manner that enables the preservation of forested and riparian areas which have greater environmental values.

With respect to this Planning Proposal, Direction 4.1 states:

“Protect regionally important agricultural lands as an asset to food and fibre production”

The subject site is zoned mostly Large Lot Residential R5 and partly RU2 Rural Landscape. Agricultural land classification mapping prepared by NSW Agriculture identifies the site as containing all Class 5 agricultural land. This is the lowest class, and which has little agricultural value. As such, the proposal will not affect important agricultural lands and will not be inconsistent with this Direction.

With respect to this Planning Proposal, Direction 5.1 states:

“Protect the region’s environmental values by focusing development in locations with the capacity to absorb development”

The Planning Proposal is consistent with this Direction given that the proposed allotment size has been identified following careful consideration and assessment of the sites capacity having regard to its ability to contain development, particularly having regard to the onsite disposal of effluent wastewater, and provision of asset protection for bushfire mitigation purposes. These have all concluded that the allotment size that has been recommended can adequately accommodate the development proposed, and as such is within this site’s capacity.

4.3.4 South Coast Regional Strategy

The primary purpose of the South Coast Regional Strategy 2006-2031 (SCRS) is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

In summary the aims of the strategy include:

- *Protect high value environments including pristine coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that no new urban development occurs in these important areas and their catchments.*
- *Cater for a housing demand of up to 45,600 new dwellings by 2031 to accommodate the additional 60,000 people expected in the Region over the next 25 years.*
- *Increase the amount of housing in existing centres to ensure the needs of future households are better met, in particular the needs of smaller households and an ageing population.*
- *Prioritise and manage the release of future urban lands to ensure that new development occurs in and around existing well serviced centres and towns.*
- *Use the recommendations of the Sensitive Urban Lands Panel to guide the finalisation of the development form and environmental management of the 17 'sensitive urban lands'.*
- *Manage the environmental impact of settlement by focusing new urban development in existing identified growth areas such as Nowra-Bomaderry, Milton-Ulladulla, Batemans Bay and Bega.*
- *Only consider additional development sites if it can be demonstrated that they satisfy the Sustainability Criteria (Appendix 1).*
- *No new towns or villages will be supported unless compelling reasons are presented and they can satisfy the Sustainability Criteria.*
- *No new rural residential zones will be supported unless as part of an agreed structure plan or settlement strategy.*
- *Ensure an adequate supply of land to support economic growth and provide capacity to accommodate a projected 25,800 new jobs, particularly in the areas of finance, administration, business services, health, aged care and tourism.*
- *Limit development in places constrained by coastal processes, flooding, wetlands, important primary industry resources and significant scenic and cultural landscapes.*
- *Protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes.*

Where development or rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution to the provision of such infrastructure, having regard to the State Infrastructure Strategy and equity considerations.

According to this Regional Strategy an additional 26,300 dwellings will be required within the Shoalhaven over the next 25 years, of which approximately 15,800 can potentially be accommodated within existing urban land.

Specific actions; detailed within Section 6 “Housing and Settlement” which have relevance to this project include:

- *Infill housing and new residential subdivisions located adjacent to existing well serviced centres and towns will be given priority in land release planning.*

Comment

The proposal represents the natural extension of the existing Large Lot Residential development sited to the north of the subject property. Indeed, this proposal represents an opportunity to complete the extent of Large Lot Residential zoned land in the immediate locality.

- *Only urban areas which are/will be identified in the final versions of the following documents are supported (once endorsed by the Director General of planning).*

Comment

The documents referred include:

- Nowra-Bomaderry Structure Plan;
- Sussex Inlet Settlement Strategy;
- Jervis Bay Settlement Strategy; and
- Milton-Ulladulla Structure Plan.

The Jervis Bay Settlement Strategy affects the subject lands, and this has been addressed above in Section 4.3.1 of this Report.

4.3.5 Settlement Planning Guidelines – South Coast Regional Strategy

The Settlement Planning Guidelines were produced by the NSW Department of Planning in 2007 to support the South Coast Regional Strategy by providing guidelines to Councils in the identification and delivery, management and monitoring of housing and employment lands within the Regional over the next 25 years.

Having regard for rural residential development, the Guidelines support the South Coast Strategy in limiting additional rural residential development to those areas already identified by a growth management strategy. In this instance, the subject site is already zoned Large Lot Residential R5 by the Shoalhaven LEP 2014 following identification in the JBSS. This proposal simply represents a sustainable method of subdivision to enable an improved planning outcome.

4.3.6 Shoalhaven 2023 – Community Strategic Plan

The Community Strategic Plan (CSP) sits at the top of Council's strategic plan hierarchy and identifies the community's main priorities and expectations for the future. The CSP aligns with strategies and directions contained within the NSW State Plan (NSW 2021) and the Illawarra / South Coast Regional Action Plan and other federal, state and local plans and strategies.

To realise the CSP, 4 key direction areas are established, as follows:

- **People**

As Shoalhaven evolves, grows and changes it will be vital for Council to provide for and help create sustainable, resilient and adaptable communities across the diverse settlements of the City. This Key Result Area focuses on providing services and facilities that enhance equity, social inclusion and cultural diversity; enhanced lifestyle opportunities and community engagement.

Comment

The Planning Proposal will be consistent with this objective as it will provide rural residential lifestyle opportunities adjacent an established area.

- **Place**

Shoalhaven contains unique and diverse environments that provide a significant lifestyle, community and economic asset for the City. Shoalhaven is susceptible to environmental change and natural disasters that can negatively impact our extensive natural qualities and manmade structures. Management and mitigation of these risks is required.

Place focuses on enhancing, managing and maintaining Shoalhaven's distinct and exceptional natural and built environments. This will be achieved by adequately funding maintenance and renewal programs for its built assets, supporting biodiversity, planning for future impacts of climate change and population expansion, pursuing innovative, ecologically and economically sustainable policies and approaches to development and community living, and where required creating new infrastructure to meet the growing needs of Shoalhaven's people.

Comment

The Planning Proposal is consistent with the objective of sustainable population growth through the provision of a rural residential development that enables the preservation of land having greater environmental significance in a Community Lot.

- **Prosperity**

To support a changing and growing community the City must build a sustainable, varied and competitive economy. This Key Result Area

focuses on creating an economy that is linked to the unique characteristics and advantages of Shoalhaven, ensuring that a variety of employment and training opportunities are available, the workforce is supportive of innovation and business excellence and in which skill-based and sustainable operations, transactions and development will occur.

Comment

Additional development opportunities will provide scope for additional population within the Shoalhaven, thereby increasing spending and growing the economic potential.

- **Leadership**

Leadership in practice must involve engagement with the community and other stakeholders. It can involve making hard decisions, often balancing a number of different interests, including the role of the City in the wider regional, national and international communities. This Key Result Area focuses on excellence in leadership, governance, community engagement and asset and resource management, while acknowledging Council's financial and legislative limitations within which it works.

Comment

No applicable to this Planning Proposal.

4.3.7 Shoalhaven Housing Strategy 2006

The Shoalhaven Housing Strategy was adopted by Shoalhaven City Council on the 27th June 2006. The Strategy has six broad objectives:

- I. Increase the supply of housing appropriate for people whose needs are poorly met by the existing stock (eg. aged, disabled, youth);*
- II. Manage local housing supply to minimise unsustainable peaks and troughs in dwelling prices;*
- III. Support local providers to increase the supply of housing for special needs groups;*
- IV. Increase the supply of affordable housing in the Shoalhaven and retain existing affordable housing;*
- V. Ensure maximum accessibility of available community services and facilities to Shoalhaven residents, particularly those with special needs;*
- VI. Pursue an active housing strategy for the Shoalhaven.*

Comment

The Planning Proposal is consistent with these objectives given it will offer an increase, albeit a modest one, in the housing supply and offer a broader range and greater supply of rural residential accommodation within the Shoalhaven than currently exists.

Furthermore such additional supply will be situated adjacent an established rural residential area. And will in essence complete the supply in this immediate locality.

4.3.8 Shoalhaven Growth Management Strategy Version 1

The purpose of the Shoalhaven Growth Management Strategy (GMS) is to manage the social and economic implications of future growth in Shoalhaven whilst protecting and preserving the environmental values of the City. The GMS specifically provides direction for the settlements outside the main urban settlements which already have settlement strategies in places such as the Nowra-Bomaderry Structure Plan, Jervis Bay Settlement Strategy, Sussex Inlet Settlement Strategy and the Milton-Ulladulla Structure Plan.

The GMS indicates that the population of the Shoalhaven LGA will grow from 92,347 in 2006 to 135,165 in 2036, an increase of 42,818 in a 30 year period. The GMS states:

“The relatively high rate of net migration into the Shoalhaven has driven the City’s high rates of population growth in the past. This will continue to be the key driver of population change, influenced by qualitative factors that shape decisions to migrate. A range of policy influences, across all spheres of government and beyond, will continue to affect this important aspect of Shoalhaven.

A continuing relatively high rate of population growth is forecast to at least 2036. Council has adopted a series of population projections for the purposes of forward planning, which forecast the Shoalhaven population growing to some 135,000 by 2036, although it is not assumed that the population number will necessarily stabilise at that time.

While a range of factors – not entirely predictable, nor entirely controllable – will impact on the ultimate rate and location focus of future population growth, the trend is clearly upwards.

Whether or not the growth occurs at the predicted rate, development of the scale implied by this population growth will need to be planned carefully and delivered responsibly, to ensure that communities and environments of a quality appropriate to the Shoalhaven will result from this future growth.”

Clearly the GMS identifies that the LGA will continue to grow, however that this must be undertaken in a planned and sustainable manner. Section 7 of the GMS provides details of the proposed growth directions of settlements not covered by structure plans or settlement strategies mentioned above.

Having regard to the subject site, it is covered by the Jervis Bay Settlement Strategy, further detailed in Section 4.3 above. As contained therein, the Planning Proposal is consistent with the JBSS. The Planning Proposal is therefore consistent with Council’s overall Growth Management Strategy.

5.0 LEGISLATIVE REQUIREMENTS

5.1 COMMONWEALTH LEGISLATION

5.1.1 Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999

The Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* specifies that approval is required from the Commonwealth Minister for the Environment for actions that have, will have or are likely to have a significant impact on a matter of “national environmental significance”, including:

- (i) declared World Heritage Areas;
- (ii) declared Ramsar wetlands;
- (iii) listed threatened species and ecological communities;
- (iv) listed migratory species;
- (v) nuclear actions; and
- (vi) the environment of Commonwealth marine areas.

Actions on or outside Commonwealth land that have, will have or are likely to have a significant impact on the environment on or outside Commonwealth land must also be referred to the Commonwealth Minister for assessment and approval.

The Department of Environment and Heritage (2005) has published guidelines to assist in determining whether an action will have or is likely to have a significant impact on a matter of national environmental significance and, hence, whether a referral should be submitted to the Department for a decision by the Minister on whether assessment and approval is required under the EPBC Act.

The subject land comprises both cleared and forested lands. The purpose of this Planning Proposal is to enable the cleared land to be developed with a subdivision yielding the number of lots available under the Shoalhaven LEP 2014, whilst conserving the forested lands in the vegetated state, sited within a commonly owned Community Property lot where further development will not be undertaken. The ecological impacts of this Planning Proposal are considered in the Flora and Fauna Assessment undertaken by Eco Logical Australia (**Annexure 2**). Eco Logical Australia have indicated that the assessment of significance undertaken with respect to the EPBC Act which indicated that, for most species, no significant impacts arise having regard to threatened or migratory species. However, as the proposed development is adjacent to Green and Golden Bell Frog Habitat, referral to the Federal Minister for Sustainability, Environment, Water, Populations and Communities is triggered. This will be undertaken as a separate process.

5.2 STATE LEGISLATION

5.2.1 Section 5A of the Environmental Planning and Assessment Act 1979 and Threatened Species Conservation Act

Section 5A of the *Environmental Planning and Assessment Act 1979* requires that an assessment be undertaken to determine whether a proposed action is likely to have a significant effect on threatened species, populations and communities listed on the *TSC Act*.

This legislation was introduced with the objectives of conserving threatened species, populations and ecological communities of animals and plants. The Act amends the Environmental Planning & Assessment Act and the National Parks & Wildlife Act. With respect to this proposal, the legislation introduces the need for a proposal to address certain matters in respect of threatened species and their habitats.

The seven part test is the informal title for the process set out in Section 5A of the *Threatened Species Conservation Act 1995*. It details how to determine where there is likely to be a 'significant effect' on threatened species, endangered populations or communities or their habitats. If a 'significant effect' is forecast, a more specific Species Assessment is required. The subject land is largely cleared of native vegetation and consists of cleared grazing land comprising a range of grasses. The site offers little in the way of habitats for native fauna. As the proposal involves the utilisation of the existing cleared areas of the site only, it is not expected that the proposal would have any adverse impacts on threatened fauna or flora species or their habitats.

The proposal has been considered by Eco Logical Australia in a Flora and Fauna Assessment (**Annexure 2**) and which having regard to the provisions of the TSC Act, concludes as follows:

An assessment of significance under Section 5A of the EPA Act was undertaken on those species observed on the site or with potential to occur on the site (Appendix C). The outcome of this assessment was that the proposed development is unlikely to have a significant impact on those threatened species and communities assessed. A Species Impact Statement is not required.

This is further discussed in Section 6.2.4 of this report.

5.3 STATE ENVIRONMENTAL PLANNING POLICIES

Table 4 below provides a review of the Planning Proposal in relation to current State Environmental Planning Policies.

Table 4
Checklist of State Environmental Planning Policies

State Environmental Planning Policy		Compliance	Comments
SEPP No. 1	Development Standard	N/A	
SEPP No. 4	Development Without Consent and Miscellaneous Exempt and Complying Development	N/A	
SEPP No. 6	Number of Storeys in a Building	N/A	
SEPP No. 10	Retention of Low-Cost Rental Accommodation	N/A	
SEPP No. 14	Coastal Wetlands	N/A	
SEPP No. 15	Rural Land Sharing Communities	N/A	
SEPP No. 19	Bushland in Urban Areas	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 21	Caravan Parks	N/A	
SEPP No. 22	Shops and Commercial Premises	N/A	
SEPP No. 26	Littoral Rainforests	N/A	No littoral rainforests within the subject site or surrounding area.
SEPP No. 29	Western Sydney Recreational Area	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 30	Intensive Agriculture	N/A	
SEPP No. 33	Hazardous and Offensive Development	N/A	
SEPP No. 36	Manufactured Home Estates	N/A	
SEPP No. 38	Olympic Games and Related Projects	N/A	
SEPP No. 39	Spit Island Bird Habitat	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 41	Casino/Entertainment Complex	N/A	Does not apply to Shoalhaven LGA.

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP No. 44	Koala Habitat Protection	Yes	<p>This SEPP requires a judgement to be made about whether the subject land is potential and/or core koala habitat based on the proportion of trees present that are listed as Koala Feed Tree Species in Schedule 2 of the policy and/or the presence of koalas. These listed feed trees must constitute at least 15% of the total number of trees in the upper or lower strata of the tree component for the vegetation to be classified as potential koala habitat. Core koala habitat is land where there is a resident population of koalas including breeding females.</p> <p>Advice from Eco Logical Australia (Annexure 2) is such that the “study area does not contain any listed feed tree species. Therefore, the study area does not constitute Potential Koala Habitat pursuant to SEPP 44. No further aspects of SEPP 44 apply to the proposal.”</p>
SEPP No. 47	Moore Park Showground	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 50	Canal Estate Development	N/A	
SEPP No. 52	Farm Dams, Drought Relief and Other Works	N/A	
SEPP No. 53	Metropolitan Residential Development	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 55	Remediation of Land	Yes	<p>Clause 7 of the SEPP requires that a consent authority must not consent to any development unless:</p> <ul style="list-style-type: none"> • it has considered whether the land is contaminated; • if the land is contaminated whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which development is proposed; and • if the land requires remediation to be made suitable, it is satisfied that the land will be remediated before the land is used for that purpose. <p>Furthermore if a change of use of land for residential purpose is proposed, where:</p>

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP 55 <i>continued</i>	Remediation of Land		<ul style="list-style-type: none"> there is no knowledge (or incomplete knowledge) of past uses; on which it would have been lawful to carry out such past uses during any period in respect of which there is no knowledge (or incomplete knowledge). <p>The subject site is not identified as being contaminated. Furthermore, the subject site has not been subject to land use practices potentially causing concern with these being restricted to residential (existing dwelling which is being retained in the subdivision layout) and passive grazing of the cleared areas, currently by horses.</p> <p>On this basis, it is considered that the subject site is suitable for the Large Lot Residential use now proposed.</p>
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 59	Central Western Sydney Economic and Employment Area	N/A	Does not apply to Shoalhaven LGA.
SEPP No. 60	Exempt and Complying Development	N/A	
SEPP No. 62	Sustainable Aquaculture	N/A	
SEPP No. 64	Advertising and Signage	N/A	
SEPP No. 65	Design quality of residential flat development	N/A	
SEPP No. 70	Affordable Housing (revised schemes	N/A	
SEPP No. 71	Coastal Protection	N/A	
SEPP	Housing for Seniors or People with a Disability 2004	N/A	
SEPP	Building Sustainability Index: BASIX 2004	N/A	
SEPP	Major Projects 2005	N/A	
SEPP	Development on Kurnell Peninsular 2005	N/A	Does not apply to Shoalhaven LGA.
SEPP	Sydney Region Growth Centres 2006	N/A	Does not apply to Shoalhaven LGA.

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A	
SEPP	Infrastructure 2007	N/A	<p>Under the provisions of clause 104 of this SEPP development involving the subdivision of land:</p> <ul style="list-style-type: none"> • into more than 200 allotments; or • into more than 50 allotments with either direct access to a classified road or to a road that connects to classified road (if access within 90 m of connection, measured along alignment of connecting road); <p>are required to be referred to the RMS.</p> <p>The Planning Proposal involves the creation of up to 12 allotments only.</p> <p>Under these circumstances the Planning Proposal, or any future development of land in accordance with the Planning Proposal would not require formal referral to the RMS under this SEPP.</p>
SEPP	Temporary Structures 2007	N/A	
SEPP	Kosciuszko National Park – Alpine Resorts	N/A	Does not apply to Shoalhaven LGA.
SEPP	Rural Lands 2008	Yes	<p>A portion of the subject site is zoned RU2 Rural Landscape. As such, this SEPP applies.</p> <p>Clause 7 of this SEPP outlines the Rural Planning Principles as follows with comments in connection with this Planning Proposal:</p> <p style="padding-left: 40px;"><i>(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i></p> <p><u>Comment</u></p> <p>The subject land has been mapped as Class 5 agricultural land by NSW Agricultural mapping, which is not considered to be prime crop and pasture land, and indeed represents</p>

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP	Rural Lands		<p>the lowest class in the classification. Class 5 land, according to the NSW Agriculture AGFACTS is <i>"Land not suited for agriculture or only light grazing. Agricultural production, if any, is low due to major environmental constraints."</i></p> <p>Under these circumstances it is envisaged that this Planning Proposal will <u>not</u> undermine potential productive and sustainable economic activities having regard to the site and within this locality.</p> <p style="padding-left: 40px;"><i>(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i></p> <p><u>Comment</u></p> <p>It is not envisaged that this Planning Proposal will undermine the importance of rural lands and agriculture. As outlined above, the subject site contains no prime crop and pasture lands, and on the contrary, is identified as being of the lowest class that can be applied. As such, there are no impacts on viable agricultural lands.</p> <p style="padding-left: 40px;"><i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i></p> <p><u>Comment</u></p> <p>This Planning Proposal will not undermine the social and economic benefits of rural lands given the very limited agricultural capacity of the site. Furthermore, the Planning Proposal seeks to optimise the subdivision yield in conjunction with preserving ecologically sensitive and other important lands. On this basis, it is considered that the proposal will not undermine the economic and social benefit of rural land.</p>

Table 4 (continued)

State Environmental Planning Policy			Compliance	Comments
SEPP	Rural Lands	continued		<p><i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,</i></p> <p><u>Comment</u> The Planning Proposal seeks a subdivision layout that is considerate of the constraints and development opportunities afforded to the site by enabling the allotments to be sited on cleared land, with the ecologically constrained and more sensitive lands being conserved within a Community Lot, thereby appropriately balancing the environmentally constraints with the demand for a rural residential lifestyle.</p> <p><i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i></p> <p><u>Comment</u> The proposal involves the utilisation of the existing cleared areas of the site, with the protection of forested and riparian areas.</p> <p>Under these circumstances it is our view that the Planning Proposal will protect and potentially improve natural resources, biodiversity, constrained land and water resources.</p> <p><i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i></p>

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP	Rural Lands		<p><u>Comment</u></p> <p>The objective of this Planning Proposal is to enable the development of the subject site with a number of appropriately sized large lot residential properties consistent with the current yield provided by the Shoalhaven LEP 2014. Such will result in the provision of a rural residential lifestyle consistent with the JBSS and Shoalhaven LEP 2014.</p> <p><i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i></p> <p><u>Comment</u></p> <p>It is not envisaged that the Planning Proposal will have any adverse impacts on local services and infrastructure.</p> <p><i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i></p> <p><u>Comment</u></p> <p>As outlined in Section 4.3.4 above, it is our view that the Planning Proposal is consistent with the South Coast Regional Strategy. In particular, it is noted that the Planning Proposal does not seek to use lands for rural residential proposes that have not already been so identified (by both the JBSS and the Shoalhaven LEP 2014), whilst it does appropriately site allotments on cleared land enabling the conservation of the sensitive environments.</p> <p>Clause 8 of this SEPP 8 outlines the Rural Subdivision Principles as follows, with respective comments.</p>

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP <i>continued</i>	Rural Lands		<p><i>(a) the minimisation of rural land fragmentation,</i> <u>Comment</u> The Planning Proposal seeks to enable the development of a Large Lot Residential subdivision area consistent with the overall yield allowed under the provisions of the Shoalhaven LEP 2014. The subject site contains Class 5 agricultural land which is the poorest land with little value. Under these circumstances, the Planning Proposal will not fragment agricultural productive rural land.</p> <p><i>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i> <u>Comment</u> The proposal is for a Large Lot Residential proposal, resulting in lots consistent with that surrounding, and with a residential land use compatible with the established character of this locality. Under these circumstances it is considered that the Planning proposal will not conflict with surrounding land uses.</p> <p><i>(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i> <u>Comment</u> This Planning Proposal reinforces the current Large Lot Residential zoning which applies to the site, and the supply of allotments to meet the rural residential lifestyle encouraged by the JBSS and South Coast Regional Strategy. The site has very limited agricultural viability given it comprises all Class 5 land.</p>

Table 4 (continued)

State Environmental Planning Policy		Compliance	Comments
SEPP <i>continued</i>	Rural Lands		<p>(d) <i>the consideration of the natural and physical constraints and opportunities of land,</i></p> <p><u>Comment</u> The Planning Proposal has considered the natural and physical constraint and attributes of the site. Refer to Section 6.0 of this report.</p> <p>(e) <i>ensuring that planning for dwelling opportunities takes account of those constraints.</i></p> <p><u>Comment</u> The Planning Proposal has been formulated having regard to the natural and physical constraints of the subject land. Refer to Section 6.0 of this report.</p>
SEPP	Sydney Drinking Water Catchment 2011	N/A	
SEPP	State and Regional Development 2011	N/A	<p>Schedules 1 and 2 of the SEPP outline those developments that are considered state significant development for the purposes of the SEPP. The proposed subdivision does not trigger any of the criteria listed within these schedules and is therefore not a state significant development.</p> <p>The SEPP also makes provisions for Regional Development for which the Joint Regional Planning Panel are the consent authority. The SEPP stipulates that development referred to within Schedule 4A of the EP&A Act are Regional Development. The proposed Subdivision is not listed within Schedule 4A of the Act and therefore does not constitute Regional Development.</p>
SEPP	Affordable Rental Housing 2009	N/A	
SEPP	Western Sydney Employment Lands 2009	N/A	Does not apply to Shoalhaven LGA.
SEPP	Exempt and Complying Development Codes 2008	N/A	
SEPP	Western Sydney Parklands 2009	N/A	Does not apply to Shoalhaven LGA.

Table 4 (continued)

<i>State Environmental Planning Policy</i>		<i>Compliance</i>	<i>Comments</i>
Deemed SEPPS (Former Regional Plans)			
Illawarra REP 1		N/A	Pursuant to clause 1.8 of the Shoalhaven LEP 2014 this REP no longer applies to the Shoalhaven LGA.
Illawarra REP 2	Jamberoo	N/A	Does not apply to subject land.
REP	Sustaining the catchments	N/A	
Greater Metropolitan REP No.2	Georges River catchment	N/A	Does not apply to Shoalhaven LGA.

5.4 MINISTERIAL DIRECTIONS

The Minister for Planning, under section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) issues directions that local councils must follow when preparing planning proposals for new LEPs. The directions cover the following broad categories:

1. employment and resources;
2. environment and heritage;
3. housing, infrastructure and urban development;
4. hazard and risk;
5. regional planning;
6. local plan making.

Table 5 is a list of Directions issued by the Minister for Planning to relevant planning authorities under section 117(2) of the *Environmental Planning and Assessment Act 1979*. These directions apply to planning proposals lodged with the Department of Planning on or after the date the particular direction was issued.

Table 6 which follows **Table 5** provides comments in relation to those specific Directions that have relevance to this Planning Proposal.

Table 5
S.117 Directions and their Applicability to this Planning Proposal

<i>Direction</i>	<i>Applicable (yes / No)</i>	<i>Issue date/ date effective</i>
1. Employment and resources		
1.1 Business and Industrial zones	No	1 July 2009 (except for new Direction 1.2 effective 14 April 2016; and 1.1 effective 1 May 2017).
1.2 Rural zones	Yes	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	Yes	
2. Environment and heritage		
2.1 Environment Protection zones	No	1 July 2009 (except for new Direction 2.5 effective 2 March 2016; Direction 2.1, 2.2 and 2.4 effective 14 April 2016).
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	

Table 5 (continued)

<i>Direction</i>	<i>Applicable (yes / No)</i>	<i>Issue date/ date effective</i>
3. Housing, infrastructure and urban development		
3.1 Residential zones	Yes	1 July 2009 (except for new Direction 3.6 effective 16 February 2011; Direction 3.1, 3.2, 3.4 and 3.5 effective 14 April 2016).
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	Yes	
3.5 Development near licensed aerodromes	No	
3.6 Shooting ranges	No	
4. Hazard and risk		
4.1 Acid Sulfate Soils	No	1 July 2009 (except for new Direction 4.2 effective 14 April 2016).
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	Yes	
4.4 Planning for Bushfire Protection	No	
5. Regional planning		
5.1 Implementation of Regional Strategies	Yes	1 July 2009 (except for new Direction 5.2 effective 3 March 2011; Direction 5.9 effective 30 September 2013; Direction 5.4 effective 21 August 2015; Direction 5.8 and 5.10 effective 14 April 2016; Direction 5.1 and 5.3 effective 1 May 2017).
5.2 Sydney Drinking water catchments	No	
5.3 Farmland of state and regional significance on the NSW far north coast	No	
5.4 Commercial and retail development along the Pacific Highway, north coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (revoked 18 June 2010)	No	
5.6 Sydney to Canberra corridor (revoked 10 July 2008. See Amended direction 5.1)	No	
5.7 Central coast (revoked 10 July 2008. See Amended Direction 5.1)	No	
5.8 Second Sydney airport: Badgerys Creek	No	
5.9 North West Rail Link Corridor Strategy	No	
5.10 Implementation of Regional Plans	No	
6. Local plan making		
6.1 Approval and referral requirements	Yes	1 July 2009.
6.2 Reserving land for public purposes	No	
6.3 Site specific provisions	Yes	
7. Metropolitan planning		
7.1 Implementation of the metropolitan plan for Sydney 2036	No	14 January 2015 (except for Direction 7.2 effective 22 September 2015), 19 December 2016, 15 May 2017.
7.2 Implementation of Greater Macarthur Land Release Investigation	No	
7.3 Parramatta Road Corridor Urban Transformation Strategy	No	
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	No	

S.117 Directions Relevant to this Planning Proposal

Relevant Direction	Comments
<p>1.2 Rural Zones</p> <p>Objective</p> <p>(1) The objective of this direction is to protect the agricultural production value of rural land.</p> <p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect and within an existing or proposed rural zone (including the alteration of any existing rural zone)</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). <p>Consistency</p> <p>(5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</p> <ul style="list-style-type: none"> (a) justified by a strategy which: <ul style="list-style-type: none"> (i) gives consideration to the objectives of this direction, (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning, or (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) is of minor significance. 	<p>The Planning Proposal will affect land that is presently zoned RU2.</p> <p>The Planning Proposal is consistent with the recommendations of the Shoalhaven Growth Management Strategy which identifies the subject land for urban investigation.</p> <p>The small portion of the site zoned R2 is to be contained wholly within that part for the site which is to remain undisturbed and forested, being within the Community Property.</p> <p>This issue is further addressed in Section 4.3 of this report.</p>

Table 6 (continued)

Relevant Direction	Comments
1.5 Rural Lands	
<p>Objectives</p> <p>(1) <i>The objectives of this direction are to:</i></p> <ul style="list-style-type: none"> (a) <i>protect the agricultural production value of rural land,</i> (b) <i>facilitate the orderly and economic development of rural lands for rural and related purposes.</i> <p>When this direction applies</p> <p>(3) <i>This direction applies when:</i></p> <ul style="list-style-type: none"> (a) <i>a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</i> (b) <i>a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</i> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p>(5) <i>A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p>Note: <i>State Environmental Planning Policy (Rural Lands) 2008 does not require a relevant planning authority to review or change its minimum lot size(s) in an existing LEP. A relevant planning authority can transfer the existing minimum lot size(s) into a new LEP. However, where a relevant planning authority seeks to vary an existing minimum lot size in an LEP, it must do so in accordance with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p>Consistency</p> <p>(6) <i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p>	<p>The Planning Proposal will affect land that is presently zoned RU2. It is noted however that the RU2 zoned land will be left undisturbed in the Community Property Lot.</p> <p>The provisions of SEPP (Rural Lands) 2008 are discussed in Table 4 above.</p> <p>The Planning Proposal is entirely consistent with the recommendations of the Shoalhaven Growth Management Strategy which identifies the subject land for urban investigation.</p>

Table 6 (continued)

Relevant Direction	Comments
<p>(a) <i>justified by a strategy which:</i></p> <ul style="list-style-type: none"> i. <i>gives consideration to the objectives of this direction,</i> ii. <i>identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and</i> iii. <i>is approved by the Director-General of the Department of Planning and is in force, or</i> <p>(b) <i>is of minor significance.</i></p>	<p>This issue is further addressed in Section 4.3 of this report.</p>
3.1 Residential Zones	
<p>When this direction applies</p> <p>(3) <i>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</i></p> <ul style="list-style-type: none"> (a) <i>an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</i> (b) <i>any other zone in which significant residential development is permitted or proposed to be permitted.</i> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>A planning proposal must include provisions that encourage the provision of housing that will:</i></p> <ul style="list-style-type: none"> (a) <i>broaden the choice of building types and locations available in the housing market, and</i> (b) <i>make more efficient use of existing infrastructure and services, and</i> (c) <i>reduce the consumption of land for housing and associated urban development on the urban fringe, and</i> (d) <i>be of good design.</i> 	<p>The Planning Proposal seeks to amend the Shoalhaven LEP 2014 for a site which is currently zoned R5 Large Lot Residential.</p> <p>The Planning Proposal seeks to enable the subdivision of the subject site with a yield consistent with that allowed under the Shoalhaven LEP 2014, however in a more sustainable manner by developing only within the predominantly cleared areas, with the more environmentally significant lands conserved in Community Property. The site is already zoned Large Lot Residential, and within an area that has an established rural residential character.</p> <p>The proposal will broaden the choice of housing types, increasing the supply of Large Lot Residential allotments. The mixture of allotment sizes will also offer the opportunity to provide some diversity.</p> <p>The proposal makes more efficient use of infrastructure by restricting the size of lots and the area where they are being developed compared to that allowed under the current Shoalhaven LEP 2014 provisions.</p> <p>The site is in a location such that the subdivision will complete the development of the immediate locality, filling in the current gap between the existing Large Lot Residential properties to the north of the site and the Tomerong State Forest to the south.</p>

Table 6 (continued)

Relevant Direction	Comments
<p>(5) <i>A planning proposal must, in relation to land to which this direction applies:</i></p> <p>(a) <i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</i></p> <p>(b) <i>not contain provisions which will reduce the permissible residential density of land.</i></p>	<p>Future development of the site will not be permitted until land is adequately serviced.</p> <p>The proposal will not reduce the permissible residential density of land.</p>
3.4 Integrating Land Use and Transport	
<p>Objectives</p> <p>(1) <i>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i></p> <p>(a) <i>improving access to housing, jobs and services by walking, cycling and public transport, and</i></p> <p>(b) <i>increasing the choice of available transport and reducing dependence on cars, and</i></p> <p>(c) <i>reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i></p> <p>(d) <i>supporting the efficient and viable operation of public transport services, and</i></p> <p>(e) <i>providing for the efficient movement of freight.</i></p> <p>Where this direction applies</p> <p>(2) <i>This direction applies to all relevant planning authorities.</i></p> <p>When this direction applies</p> <p>(3) <i>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</i></p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</i></p>	<p>It is our view that this Planning Proposal is consistent with the objectives and thrust of this Direction.</p> <p>This Planning Proposal does not seek to increase the allotment yield above that currently allowed under the provisions of the Shoalhaven LEP 2014. The proposal simply seeks to increase the intensity for development for that part of the site which is currently cleared, with the more environmentally constrained portions of the site (forested and riparian areas) conserved within a Community Lot.</p> <p>Traffic and transport matters are discussed in Section 6.1 of this Report.</p>

Table 6 (continued)

Relevant Direction	Comments
<p>(a) <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p>(b) <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p> <p>Consistency</p> <p>(5) <i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p> <p>(a) <i>justified by a strategy which:</i></p> <p style="padding-left: 40px;">(i) <i>gives consideration to the objective of this direction, and</i></p> <p style="padding-left: 40px;">(ii) <i>identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</i></p> <p style="padding-left: 40px;">(iii) <i>is approved by the Director-General of the Department of Planning, or</i></p> <p>(b) <i>justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or</i></p> <p>(c) <i>in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</i></p> <p>(d) <i>of minor significance.</i></p>	
5.1 Implementation of Regional Strategies	
<p>When this direction applies</p> <p>(3) <i>This direction applies when a relevant planning authority prepares a planning proposal.</i></p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>Planning proposals must be consistent with a regional strategy released by the Minister for Planning.</i></p>	<p>The proposal is consistent with the relevant Regional Strategies that apply. This is discussed in Section 4.3 of this Planning Report.</p>
5.10 Implementation of Regional Plans	
<p>Objective</p> <p>(1) <i>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</i></p>	<p>As discussed in Section 4.3, it is our view that this Planning Proposal will be consistent with the provision of the Illawarra – Shoalhaven Regional Plan.</p>

Table 6 (continued)

Relevant Direction	Comments
<p>Where this direction applies</p> <p>(2) <i>This direction applies to land to which a Regional Plan has been released by the Minister for Planning.</i></p> <p>When this direction applies</p> <p>(3) <i>This direction applies when a relevant planning authority prepares a planning proposal.</i></p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</i></p> <p>Consistency</p> <p>(5) <i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:</i></p> <ul style="list-style-type: none"> (a) <i>is of minor significance, and</i> (b) <i>the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</i> 	
6.1 Approval and referral requirements	
<p>When this direction applies</p> <p>(3) <i>This direction applies when a relevant planning authority prepares a planning proposal.</i></p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) <i>A planning proposal must:</i></p> <ul style="list-style-type: none"> (a) <i>minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</i> (b) <i>not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</i> <ul style="list-style-type: none"> (i) <i>the appropriate Minister or public authority, and</i> (ii) <i>the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),</i> 	<p>This Planning Proposal does not seek to introduce concurrence or additional consultation provisions to any public authority.</p>

Table 6 (continued)

Relevant Direction	Comments
<p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <p>(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</p> <p>(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</p>	<p>This Planning Proposal does not seek to identify development as designated development.</p>
6.3 Site Specific Provisions	
<p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>The Planning Proposal seeks to insert an allowance Clause in Schedule 1 of the Shoalhaven LEP 2014 to:</p> <ul style="list-style-type: none"> • reduce the minimum lot mapping for the subject land to 5635 m² to enable up to a maximum of 12 allotments, and a Community Lot; • Enable the erection of dwelling house on each allotment. <p>The Planning Proposal is therefore consistent with this direction.</p>

6.0 ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

6.1 TRAFFIC AND TRANSPORT CONSIDERATIONS

6.1.1 Traffic

The subject land has road frontage to Jervis Bay Road which is a classified road. Jervis Bay Road links the Princes Highway to the north with the Jervis Bay Region to the south, and facilitates access to other towns and village including Huskisson and Vincentia.

The subdivision layout the subject of the Planning Proposal identifies a new access road to intersect with Jervis Bay Road at a location that optimises sight distances, supported by a secondary access along the southern boundary of the site to be used only in times of emergency and bushfire.

The Planning Proposal seeks to enable up to 12 allotments to be developed, consistent with that allowed under the current provisions of the Shoalhaven LEP 2014. Under the “Guide to Traffic Generating Development” prepared by the RTA (now RMS) new subdivisions have a daily vehicle traffic generation rate of 10 movements per dwelling site, with 10% of that taking place during the commuter peak period.

Under these circumstances, it is expected that the subdivision of the subject land with up to 12 lots, would result in a daily traffic generation rate of 120 trips, with a peak hour period of 12 vehicles, which is not a significant increase.

The provision of safe and efficient access to the site has significantly shaped the subdivision layout, particularly due to the limited sight distances that are available in various locations along the site’s frontage due to the winding and undulating nature of the current road alignment. Consideration was given to the provision of two intersections to enable alternative access/egress, however the need to provide appropriate separation, coupled with the limited sight distances that are available, prevented this outcome. This has resulted in the one principal intersection, supplemented by a secondary access which will be available only for emergency/bushfire purposes. At the point of the principal intersection, in excess of 500 m sight distance is provided along Jervis Bay Road to the south-east, and at least 300 m is provided to the north. Jervis Bay Road is currently provided with a 100 km/hr speed limit.

In consultation with Shoalhaven Council, speed monitors were installed in order to gauge actual speeds of vehicles passing the site. These identified a maximum V85 speeds in the vicinity of the site of 98.3 km/h to 101.9 km/h northbound, and 101.2 km/h to 103.7 km/h southbound. Sight distances of 310 m are available to the north, and in excess of 500 m to the south-east. These sight distances exceed that required for by Table 3.2 in the *Guide*

to Road Design, even when allowing for a 2.5 second reaction time, and for vehicle speed monitoring which shows that motorists exceed the speed limit in this location.

It is anticipated that the geometry of the local roads should be able to accommodate this level of additional traffic. Given the very modest increase in traffic resulting from this subdivision proposal, it is considered that a BAL/AUR intersection will be appropriate. This is consistent with the current intersection of McArthur Drive/Jervis Bay Road to the north of the site which accommodates significantly more allotments. The width of the road reserve where sight distances are optimised is very wide and able to accommodate any intersection upgrade that may be necessary. Detailed engineering plans will be prepared in due course showing the intersection upgrade that will be required.

6.1.2 Public Transport

The Bay and Basin area is provided with limited public transport facilities in the form of a private bus route (732 and 733) operated by Nowra Coaches. These routes operate between Bomaderry and Jervis Bay, and Bomaderry and St Georges Basin respectively. This route utilises Jervis Bay Road and Woollamia Road (to access greater population base within Woollamia) and therefore does not pass the subject site. The closest bus stop is near the intersection of Jervis Bay Road and Woollamia Road some 2.5 km to the north of the site.

6.1.3 Cycle and Pedestrian Movement

There are no established cycle or pedestrian routes within proximity of the subject land given its rural residential character. The Planning Proposal therefore does not include scope for any formal cycle and pedestrian movements.

In practice, it is expected that the future road will be utilised by residents to access the passive recreational facilities provided within the Community Lot when needed.

6.2 ENVIRONMENTAL CONSIDERATIONS

6.2.1 Ecological Issues

The primary purpose of this Planning Proposal is to enable the development of a subdivision with the yield allowed under the Shoalhaven LEP 2014, but in a sustainable manner that also conserves all environmentally sensitive lands including native forest and riparian areas in a Community Lot. This approach conserves the more environmentally sensitive development from development pressure and individual ownership which may compromise its values.

The development the subject of this Planning Proposal has been assessed against the relevant threatened species legislation by Eco Logical Australia (ELA) and accompanies this Report as **Annexure 2**.

ELA acknowledge the enhanced environmental outcomes of the subdivision layout envisaged, as opposed to a conventional subdivision that divides the entire site and state that the *"subdivision design has considered environmental features of the property and will avoid direct disturbance to intact vegetation or higher value habitats. The most fundamental design consideration was to locate the proposed development footprint entirely within cleared parts of the property. Bushfire asset protection zones will be contained within the perimeter roadway / fire trail and adjacent lots, so no additional clearing of intact native forest will be required."*

This Assessment concludes as follows:-

The proposal has appropriately been limited to previously cleared areas of the property in order to retain intact vegetation and sensitive habitats. A number of recommendations are provided to further mitigate potential impacts of the proposal on surrounding habitats. These are expected to be implemented as consent conditions and hence form part of the proposal.

The site was assessed under SEPP 44 – Koala Habitat Protection, and deemed not to contain Potential Koala Habitat due to complete absence of fee tree species listed in Schedule 2. No further provisions of SEPP 44 apply.

Following the application of Section 5A of the EPA Act and in accordance with relevant assessment guidelines, it is concluded that the proposal is unlikely to have a significant effect on threatened species, endangered populations, ecological communities, or their habitats. A Species Impact Statement is not likely to be required for the proposal.

Following consideration of the administrative guidelines for determining significance under the Commonwealth EPBC Act, it is concluded that apart from the Green and Golden Bell Frog, the proposal is unlikely to have a significant impact on matters of National Environmental Significance. The proposed removal or modification of habitat adjacent to dams used by the Green and Golden Bell Frog triggers the requirement to refer the proposal to the Commonwealth Minister. Therefore a referral is recommended as part of the EPBC Act approval process.

Furthermore ELA make the following recommendations for mitigation:-

1. *A management plan for the Green and Golden Bell Frog on the property should be prepared to guide the clearing and construction process and longer term protection of Green and Golden Bell Frog habitat. The plan should address issues including temporary and permanent fencing of the main dam, access, road design adjacent to the main dam, enhancement of frog habitat and connectivity to adjoining forest, pre-clearing surveys, hygiene protocols, monitoring and reporting.*

2. *The extent of the development footprint is to be clearly and accurately defined prior to any vegetation removal.*
3. *Known weeds or other plant species with potential to spread into adjoining bushland are not be used on the property for landscaping or other purposes.*
4. *Appropriate sediment and erosion control measures are to be implemented prior to any clearing or construction work and retained in place until exposed areas of soil are stabilised and/or revegetated.*
5. *External residential and street lighting is to avoid light spill into areas of retained vegetation.*
6. *Any currently cleared areas that fall within the 30 m riparian buffer shall be revegetated.*

These recommendations are supported and can be implemented.

6.2.2 Soil Stability and Erosion

The subject land consists of a gently sloping land that drains into an unnamed watercourse that traverse the site and ultimately flows to the north joining with other tributaries of Currumbene Creek. However the site does not present any significant physical constraints to development and would be eminently suitable for residential development.

Any future physical works will need to be supported by appropriate soil and water management measures which can be subject of separate detail.

6.2.3 Agricultural Land

The subject site, whilst containing cleared lands which are used for grazing of stock, currently horses, as outlined above the site is identified as comprising Class 5 agricultural land, which is the lowest class. Consequently, the site is considered to have little agricultural capacity and the development of the site for Large Lot Residential purposes will not result in any adverse impacts.

6.2.4 Riparian Land

A review of the mapping supporting the Shoalhaven LEP 2014 does not identify any watercourses affecting the subject site. This is shown in **Figure 10** below.

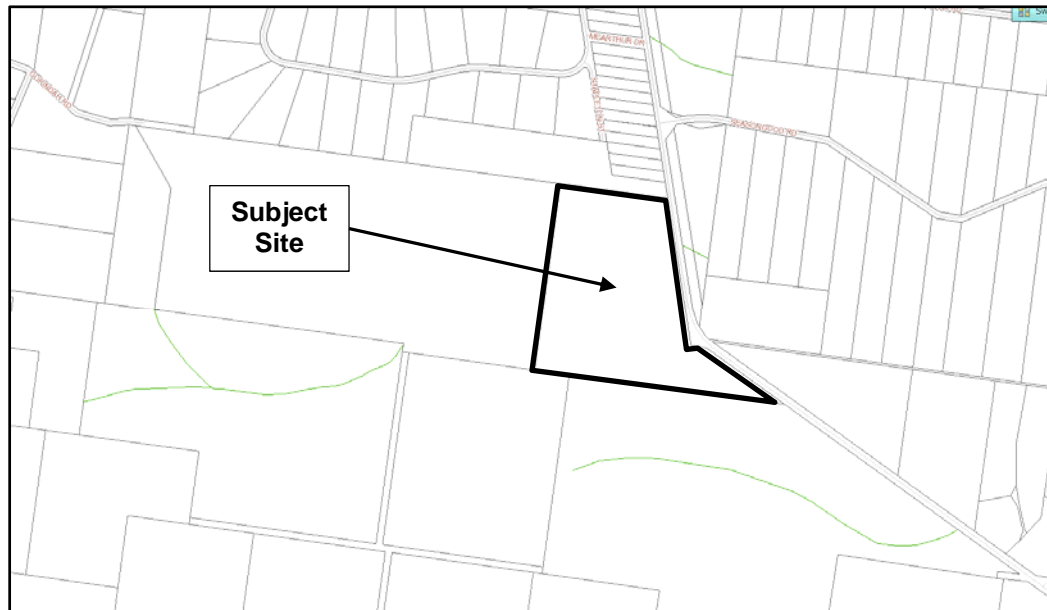


Figure 10: Riparian Areas and Watercourses Mapping – Shoalhaven LEP 2014

Notwithstanding this, assessment of the site and referral to **Figure 2** above (topographic map sourced from Six Maps) reveals an un-named watercourse traversing the site in a general west to east manner. This watercourse has been identified in mapping supporting the Planning Proposal, and has been utilised as a constraint requiring protection from development. In conjunction with a preference to retain vegetated lands, it is the desire to also preserve the watercourse and riparian area by siting it in common ownership which has led to this Planning Proposal. To that end, the Subdivision Plan (**Annexure 1**) retains the riparian lands and watercourse in the Community Property, separated from the Large Lot Residential properties by the proposed access road which will provide a physical buffer and minimise edge impacts of development on this environmentally sensitive area.

6.3 HAZARDS

6.3.1 Bushfire Hazard

The subject land is identified as bushfire prone land by mapping prepared by Shoalhaven City Council and endorsed by the NSW RFS (refer **Figure 11**). Accompanying this Report is a Bushfire Protection assessment prepared by Eco Logical Australia (**Annexure 3**) which has considered the impact of bushfire on the subdivision of the site.

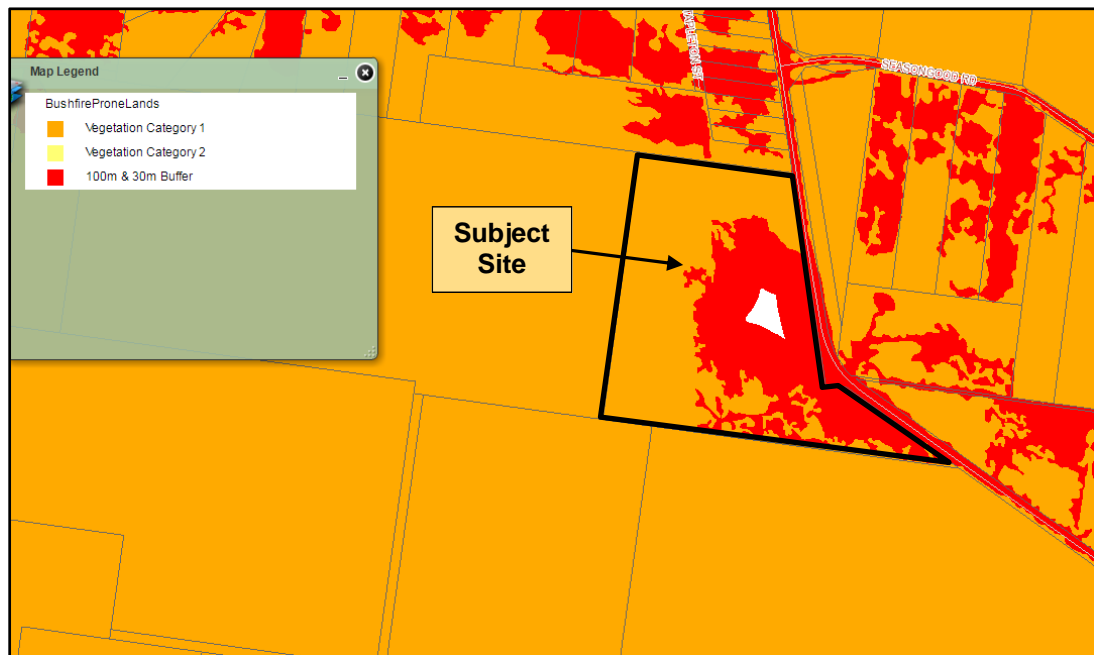


Figure 11: Bushfire Prone Lands Mapping (SLEP 2014)

The assessment of Eco Logical Australia has concluded that the proposal complies with the acceptable solutions contained within “*Planning for Bushfire Protection 2006*”. Furthermore, it is noted that the layout is such that the Asset Protection Zones are contained within the proposed perimeter road and the standard setbacks Council applies for further development on the resultant lots.

6.3.2 Acid Sulphate Soils

Mapping supporting the Shoalhaven LEP 1985 identifies the land as Class 5 land with respect to acid sulphate soils (refer **Figure 12**).

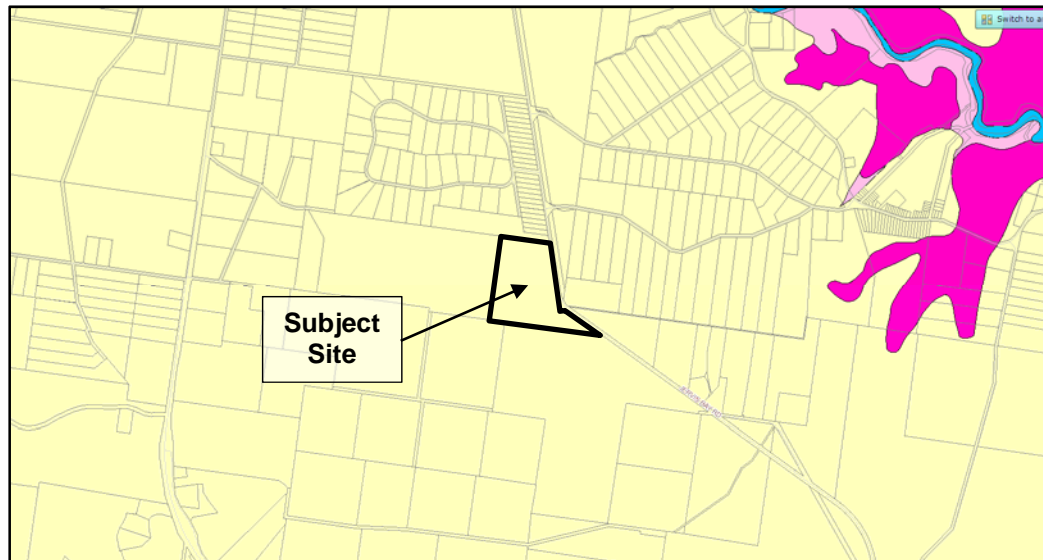


Figure 12: Acid Sulphate Soils mapping (Shoalhaven LEP 2014).

As detailed in Section 2.4.1 of this report, clause 7.1 of the Shoalhaven LEP 2014 deals with Acid Sulphate Soils. Under the provisions of clause 7.1 works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to obtain development consent.

As is evident from **Figure 12** above there are identified Class 2 lands located to the east of the subject land. These lands are well in excess of 500 m from the subject site and as such, have no implications for the proposal.

6.3.3 Flooding

Mapping supporting the Shoalhaven LEP 1985 does not identify any part of the land as flood liable land.

Furthermore, whilst the unnamed watercourse may be subject to localised flooding, the development the subject of the Planning Proposal sites development well clear of this feature on higher lands. As such, no impacts from flooding are expected to affect the Proposal.

6.3.4 Land Contamination

The subject site is not identified as being contaminated. Furthermore, the subject site has not been subject to land use practices potentially causing concern with land uses being restricted to residential use (existing dwelling which is being retained in the subdivision layout) and passive grazing of the cleared areas, currently by horses.

On this basis, it is considered that the subject site is suitable for the Large Lot Residential use now proposed.

6.4 ECONOMIC CONSIDERATIONS

6.4.1 Staging

The proposal will result in the release of up to 12 Large Lot Residential allotments. At this stage, the intention is to implement the development in one stage given its relatively modest scale. The implications of this will see the release of 12 lots onto the market at the time of completion. Given this very modest scale, it is not expected that this will have any significant impacts on the local real estate market.

6.4.2 Retail Centres Hierarchy

The Planning Proposal involves residential development only. This matter is not relevant to the Planning Proposal.

6.4.3 Employment Land

The Planning Proposal does not involve or affect any employment lands.

6.5 SOCIAL AND CULTURAL CONSIDERATIONS

6.5.1 Heritage Impact

Indigenous Cultural Heritage

The subject land consists of cleared land currently used for grazing horses and rural residential occupation, and forested areas. The forested and riparian areas are proposed for retention in their current condition.

A search has been undertaken of the Office of the Environment and Heritage's "Aboriginal Heritage Information Management System" (AHIMS). The results of this search are included as **Annexure 6** to this report.

This search did not identify any Aboriginal sites or places within the vicinity of the subject site.

Non-indigenous Heritage

The subject land is not identified by Shoalhaven Local Environmental Plan 2014 as containing any items of heritage significance. There are no items of heritage significance identified within vicinity of the subject land.

6.5.2 Social and Cultural Impacts

Given the nature of this Planning Proposal, which simply seeks to develop the Large Lot Residential allotments within the existing cleared and disturbed lands, whilst retaining all

forested and riparian areas in an undisturbed state in Community Property ownership, the proposal is unlikely to result in any adverse social or cultural impacts.

As demonstrated in this report the Planning Proposal will be consistent with a range of state and local planning strategies demonstrating it will have a positive social and economic contribution to the Shoalhaven.

6.6 INFRASTRUCTURE CONSIDERATIONS

6.6.1 Infrastructure Servicing and Potential Funding Arrangements

The Department of Planning's "A Guide to Preparing Planning Proposals" (2009) advises that consideration should be given to whether there is adequate public infrastructure for the Planning Proposal. The guideline states that this question typically applies to planning proposals that involve:

- residential subdivisions of 150 lots;
- substantial urban renewal; and
- infill development.

The Planning Proposal does not involve any of the above scenarios.

Sewerage

Reticulated sewerage is not available to the subject site. Consequently, the Planning Proposal is accompanied by a Report on Effluent Disposal prepared by Cowman Stoddart Pty Ltd (**Annexure 4**). This assessment has reviewed the effluent requirements for both the existing dwelling on the site (which may be retained within one of the resultant lots), as well as the effluent disposal requirements for future dwellings on the lots to be created.

With respect to the existing dwelling, it is recommended that this be upgraded from the current septic tank and trench to an AWTs and effluent disposal irrigation area of some 390 m², with a reserve of 389 m². This can be undertaken in conjunction with any subdivision works.

With respect to the proposed lots, the assessment concludes that:

"for each of these lots, effluent from a four bedroom dwelling can be satisfactorily disposed of on-site via an AWTs and subsequent surface or subsurface irrigation on an area of 480 m² with a reserve area of 470 m². Alternatively a septic tank and mound system is a possibility where the EDA has a slope of < 7%."

Consequently, a maximum total area of 950 m² is required to meet the effluent irrigation requirements from a 4 bedroom dwelling (ie. 480 m² primary + 470 m² reserve). The

Planning Proposal recommends an absolute minimum lot size of 5635 m², however most lots exceed this minimum, with an average lot size of 7580 m² prevailing across the 12 developable lots. Allowing for this, this results in at least 4600 m² of area being available for the erection of a dwelling and ancillary rural residential development, which is considered generous and will facilitate a large Lot Residential lifestyle.

Water Supply

The subject site is not serviced with reticulated water. Furthermore, the allotments are of a size where the onsite collection and storage of stormwater can be readily accommodated. Consequently, this Planning Proposal is not expected to impact on the water supply system or its capacity.

Electrical Power Supply

Reticulated power is available in the locality supplied by way of overhead power lines within the Jervis Bay Road road reserve. This Planning Proposal does not seek to increase the yield of allotments beyond that allowed for under the current provisions of the Shoalhaven LEP 2014. The Planning Proposal seeks to enable the creation of up to 12 allotments, which is a modest increase which can be addressed by way of detail electrical engineering design in conjunction with the implantation of the subdivision.

7.0 CONSULTATION

7.1 SHOALHAVEN CITY COUNCIL

As outlined in Section 3.0, consultation has been undertaken with staff from Council in relation to this Planning Proposal. This Planning Proposal Report has been prepared having regard to the issues raised during that consultation.

7.2 VIEWS OF GOVERNMENT AGENCIES

Consultation has been had with the RMS, and correspondence from this agency is included in **Annexure 6**.

Additional agency consultation will be confirmed by the Department of Planning & Environment with the Gateway Determination. One of the aims of the plan making process is to reduce the number of unnecessary referrals to government agencies. The Planning Proposal should nominate the State and Commonwealth agencies to be consulted and outline the particular land use issues or site conditions which have triggered the need for the referral.

7.3 COMMUNITY CONSULTATION

At this stage, no community consultation has been undertaken given the location of the property in a relatively isolated area with no formal consultation group sited nearby, and the nature of the proposal which does not seek to develop land beyond the current yield provided by the Shoalhaven LEP 2014. The proposal could be considered low impact.

Any additional community consultation for this Planning Proposal will also be confirmed by the Department of Planning & Environment with the Gateway determination.

8.0 CONCLUSION

The purpose of the Planning Proposal is to request that Shoalhaven City Council to:

- Include the subject site in Schedule 1 (Additional Permitted Uses) of the Shoalhaven LEP as follows:
 - development for the purposes of a Community Title Subdivision allowing up to a maximum of 12 allotments with a minimum area of 5635 m², one Community Title Lot;
 - the erection of a dwelling on each allotment being created.

The land associated with this Planning Proposal comprises Lot 3 DP 846470, known as No. 48 Jervis Bay Road, Falls Creek. The site is currently zoned R5 Residential Large Lot under the Shoalhaven LEP 2014.

The subject site is already identified by the Shoalhaven LEP 2014 as an area where rural residential development is appropriate, being mostly zoned R5 – Large Lot Residential allowing for lots with an area of 2 ha, and thus allowing up to 12 lots to be created. This Planning Proposal is generally consistent with the thrust of this zone, with the exception that it seeks to develop the predominantly cleared portion of the site with 12 smaller lots, with the balance of the site being retained in Community ownership and managed considerate of its more sensitive nature.

This Planning Report provides justification for the nature of subdivision now envisaged. The Planning Proposal is considered to have substantial merit, enabling the rural residential subdivision of the property, yet conserving all features which have greater environmental significance. As such, it enables the Council's strategic planning goal regarding the provision of a rural residential lifestyle in certain areas to be realised, in conjunction with the broader environmental goals concerning the preservation of ecological significant areas such as native forest and riparian areas.

The subject land immediately adjoins other Large Lot Residential properties which have already been developed and consequently, the locality has an established rural residential character.

This planning report has also demonstrated that the subject land is not significantly physically constrained for the Large Lot Residential development proposed, particularly having regard to bushfire, onsite disposal of effluent wastewater and ecological constraints.

Council is therefore requested to undertake the necessary steps to commence the required process to amend the Shoalhaven LEP 2014 by inserting an allowance Clause in Schedule 1 in regard to the subject land to enable the land to be developed for residential subdivision.

Council, as the responsible Planning Authority, is therefore requested to support and to create a Planning Proposal to be submitted to the Department of Planning & Environment for progressing through for Gateway Determination.



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