

PLANNING PROPOSAL – PP048

Shoalhaven Local Environmental Plan 2014

Moss Vale Road North Urban Release Area

Prepared by
City Futures Directorate
Shoalhaven City Council

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1 Introduction

This Planning Proposal (PP) seeks to amend Shoalhaven Local Environmental Plan (LEP) 2014 for the Moss Vale Road North (MVRN) Urban Release Area (URA).

The intention of the MVRN URA as well as the other URAs identified in the Nowra-Bomaderry Structure Plan is to meet the changing housing needs of the wider Nowra-Bomaderry community and provide for the continued growth of this regional growth centre.

The PP seeks to amend and add provisions to Shoalhaven LEP 2014 to facilitate the intended development outcome of this regionally significant URA.

1.1 Subject Land

The PP applies to land within the Shoalhaven Local Government Area (LGA) as shown in **Figure 1**.

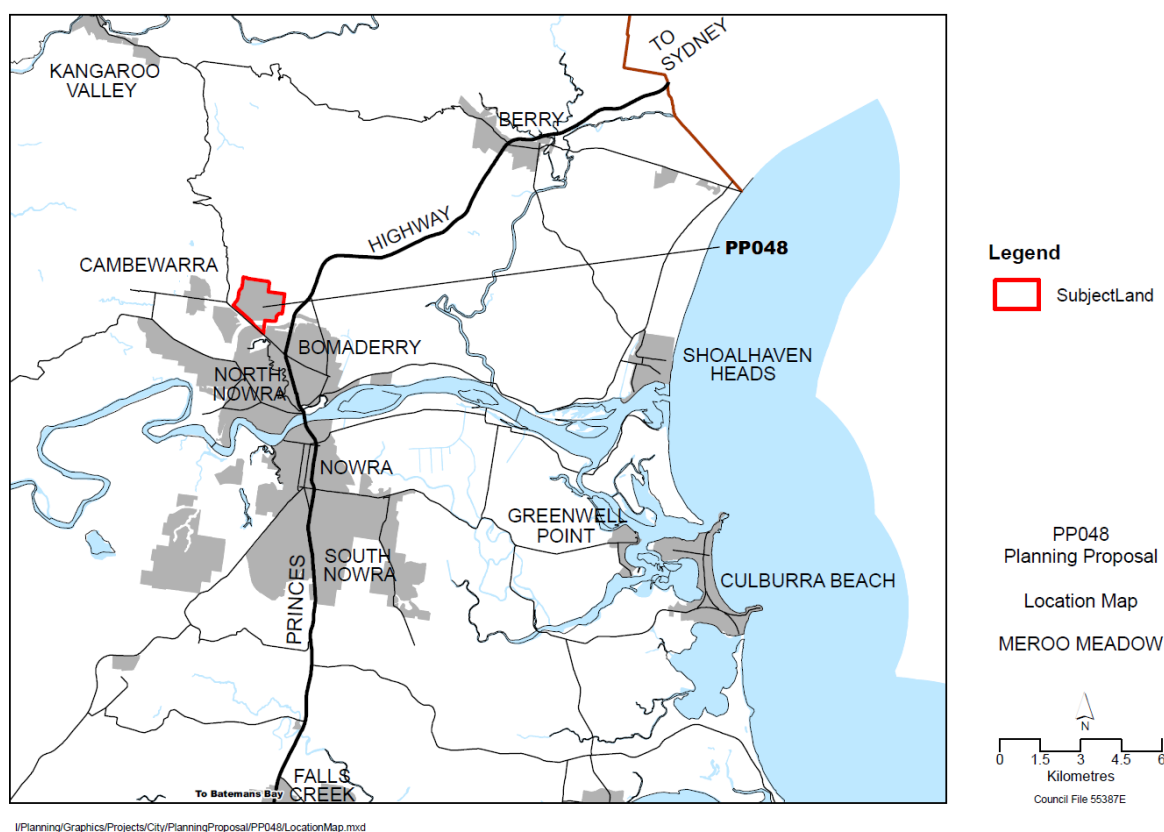
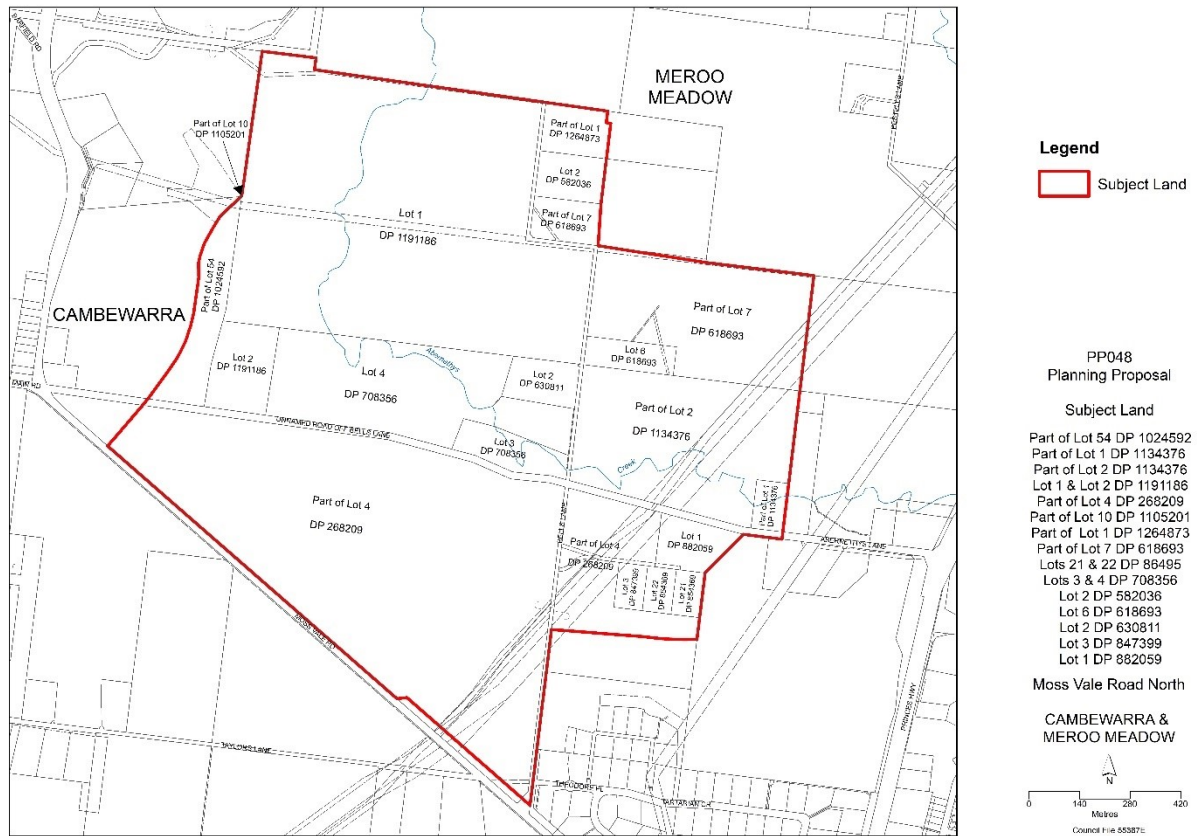


Figure 1: Location Map

The MVRN URA was identified as a 'New Living Area' in the Nowra-Bomaderry Structure Plan, adopted by Council in 2006 and endorsed by the NSW Government in 2008.

The site is bordered by Moss Vale Road to the south, Princes Highway to the east, rural lands to the north-east and Cambewarra Range Nature Reserve to the north west. The subject land is shown in **Figure 2** and **Figure 3**.



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Figure 2: Subject Land



Figure 3: Aerial Photo

With the commencement of Shoalhaven Local Environmental Plan (LEP) 2014, the site was rezoned from 1A Rural under the former Shoalhaven LEP 1985 to predominately R1 General Residential with parts RE1 Public Recreation, B1 Neighbourhood Centre, C2 Environmental Conservation and C3 Environmental Management, as shown in **Figure 4**.

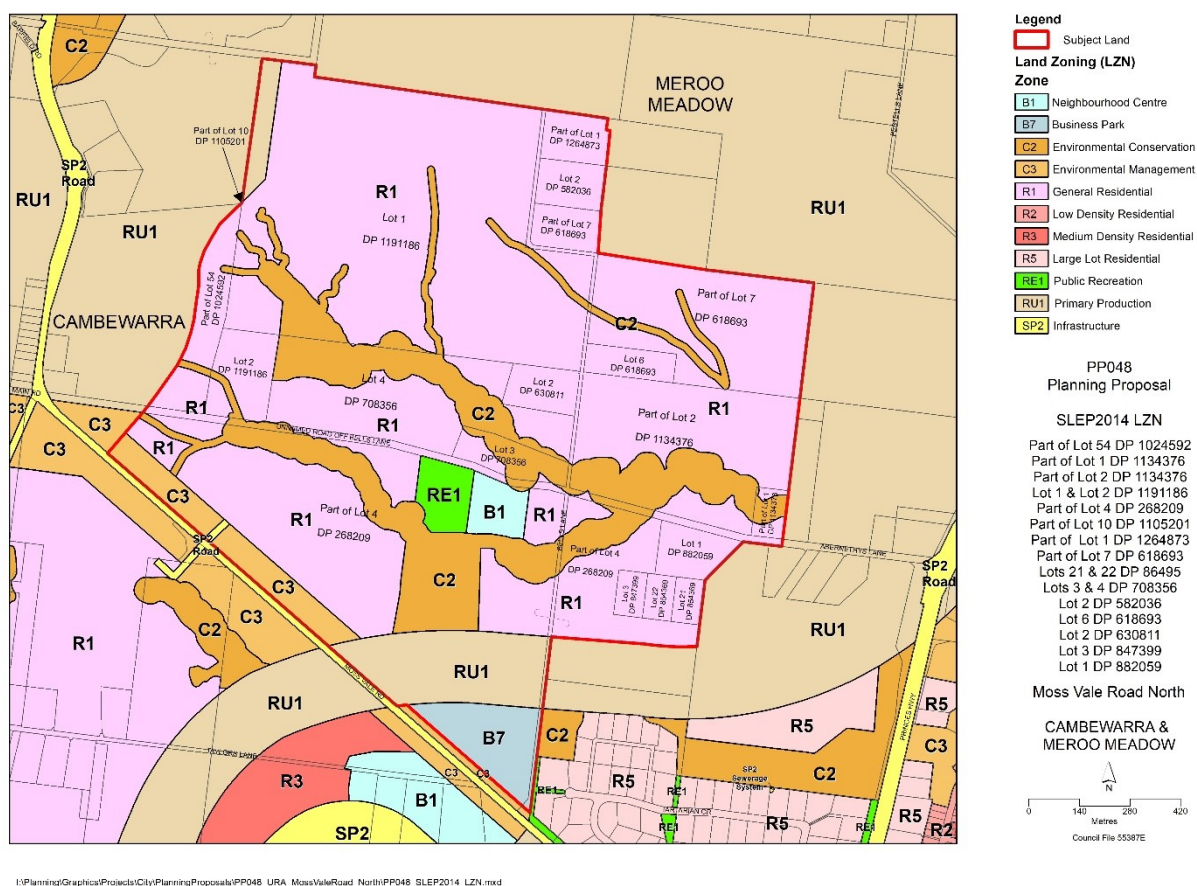


Figure 4: Current Land Use Zones

The current URA boundary totals 266.1ha of land with approximately 165 hectares of developable land providing an estimated dwelling yield of about 1,300 dwellings. The URA is subject to Part 6 of Shoalhaven LEP 2014 which requires a DCP and infrastructure plans to be in place before development can be considered.

1.2 Background

The Nowra-Bomaderry Structure Plan set the timing for the release area to be within Phase 5. On 28 March 2017, following a Councillor Notice of Motion, this was brought forward to Phase 2 in line with Moss Vale Road South URA. Council resolved to formally commence the process required under Part 6 of Shoalhaven LEP 2014 for the MVRN URA on 22 August 2017.

In April 2019, 5 landowners comprising the Moss Vale North Owners Group (MVRNOG) submitted an alternative outcome for the release area, which included an alternate retail outcome (reduced from 2.35 to 1.6 ha), expanded URA footprint, and realignment of riparian corridors based on updated technical studies. This alternate outcome had the potential to increase the potential number of new dwellings from 1,300 to between 2,500-3,000, resulting in an increase in population from around 3,120 to between 6,000-7,200 people.

The alternate outcome was supported by a package of information submitted by the landowner group including:

- Aboriginal Archaeological Study (May 2018)
- Flora & Fauna Assessment (May 2018)

- Flood Study & Riparian Lands Concept Design and Assessment (December 2018)
- Fauna Survey (February 2019)
- Stage 1 Contamination Assessment (February 2019)
- Indicative Layout Plan (February 2019)
- Bushfire constraints advice for Masterplan and DCP (March 2019)
- Traffic & Transport Report (April 2019)
- Draft Development Control Plan (April 2019)
- Landscape Study (April 2019)
- Visual Impact Assessment (April 2019)
- Infrastructure Report (April 2019)

This package of plans was reported to Council's Development & Environment Committee and given 'in-principle' support to continue with the planning for the release area, noting a number of opportunities and issues still to be resolved (MIN19.533).

To fill a number of 'gaps' in the MVRNOG package of plans, and to provide a strong evidence base for the planning proposal and ensure that the increased yield would be properly supported by the appropriate public infrastructure, Council commissioned the following technical studies or reviews:

- Retail analysis (completed February 2020) to justify the proposed changes to the size, type, and location of land use zones and to inform the amount and type of retail floorspace required by the future community.
- High level gas pipeline safety management study (completed March 2020) to confirm the type and scale of development possible adjacent to the Eastern Gas Pipeline and to comply with the NSW DPIE Planning Circular PS 18-010 *Development adjacent to high pressure pipelines transporting dangerous goods*.
- Peer review of the visual impact assessment (completed May 2020) with a focus on the key scenic corridor along Moss Vale Road. This review was required to justify proposed/potential changes to the size, type, and location of land use zones.
- Community infrastructure needs analysis (completed June 2020) to identify the community infrastructure required to service the future community and inform the indicative layout plan (ILP).
- Updated Bushfire Advice to consider the updated *Planning for Bushfire Protection 2019* and future APZs required for the revegetated riparian corridors.
- Integrated Water Cycle Assessment (IWCA) (completed March 2022) to provide a strategy for stormwater management on the site.
- Internal and external traffic impact study (completed July 2020) to inform the ILP and confirm the type and location of roads and connections to the existing road network.

Links to the technical studies relevant to this PP are provided in **Attachment 1**.

Council considered a report on the progress of planning for the release area including indicative layout plan and proposed content of this Planning Proposal at its 6 Oct 2020 Development and Environment Committee Meeting and resolved as follows (MIN20.619):

That Council:

- 1. Endorse the preparation of a Planning Proposal to amend the provisions and mapping in Shoalhaven Local Environmental Plan 2014 relating to the Moss Vale Road North Urban Release Area as outlined in Table 2 of this report.*
- 2. That the Planning Proposal initially identify both options (Council one and relevant landowner one) for the proposed 'local centre' and associated zones/provisions, noting that Council will engage an independent report post Gateway from an agreed consultancy to assess both options to identify the optimal location for the commercial/retail centre that will be included in the Planning Proposal before exhibition.*
- 3. Submit the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.*
- 4. Adopt the proposed Indicative Layout Plan provided as Figure 1 as the basis for developing detailed Development Control Plan Chapter and a development contributions framework for the release area.*
- 5. Not proceed with an application for strategic Biodiversity Certification of the release area and continue to consider opportunities for managed biodiversity outcomes.*
- 6. Receive a further report on the outcomes of the Gateway determination, draft Development Control Plan Chapters, development contribution framework, and various other planning matters relating to the delivery of the Moss Vale Road North Urban Release Area.*

A copy of the Council report and minute supporting the PP is provided in **Attachment 2**.

In accordance with Part 2 of the resolution, the PP submitted for Gateway assessment identified two (2) options for the proposed 'local centre' and associated provisions concerning small lot housing outcomes (Clause 4.1H). An independent report was commissioned to identify the optimal location for the commercial/retail centre, which is included in this version of the PP and shown on the Indicative Layout Plan below. This report recommended:

- a centre location,
- an activation precinct of flexible planning controls around the centre to encourage the early delivery of the centre,
- consequential adjustments to the application area of the proposed controls encouraging small lot housing to reflect the walkable catchment of the retail centre, and
- realignment of indicative roads and open space adjacent to the centre location.

A copy of the indicative layout plan is shown below in Figure 5.

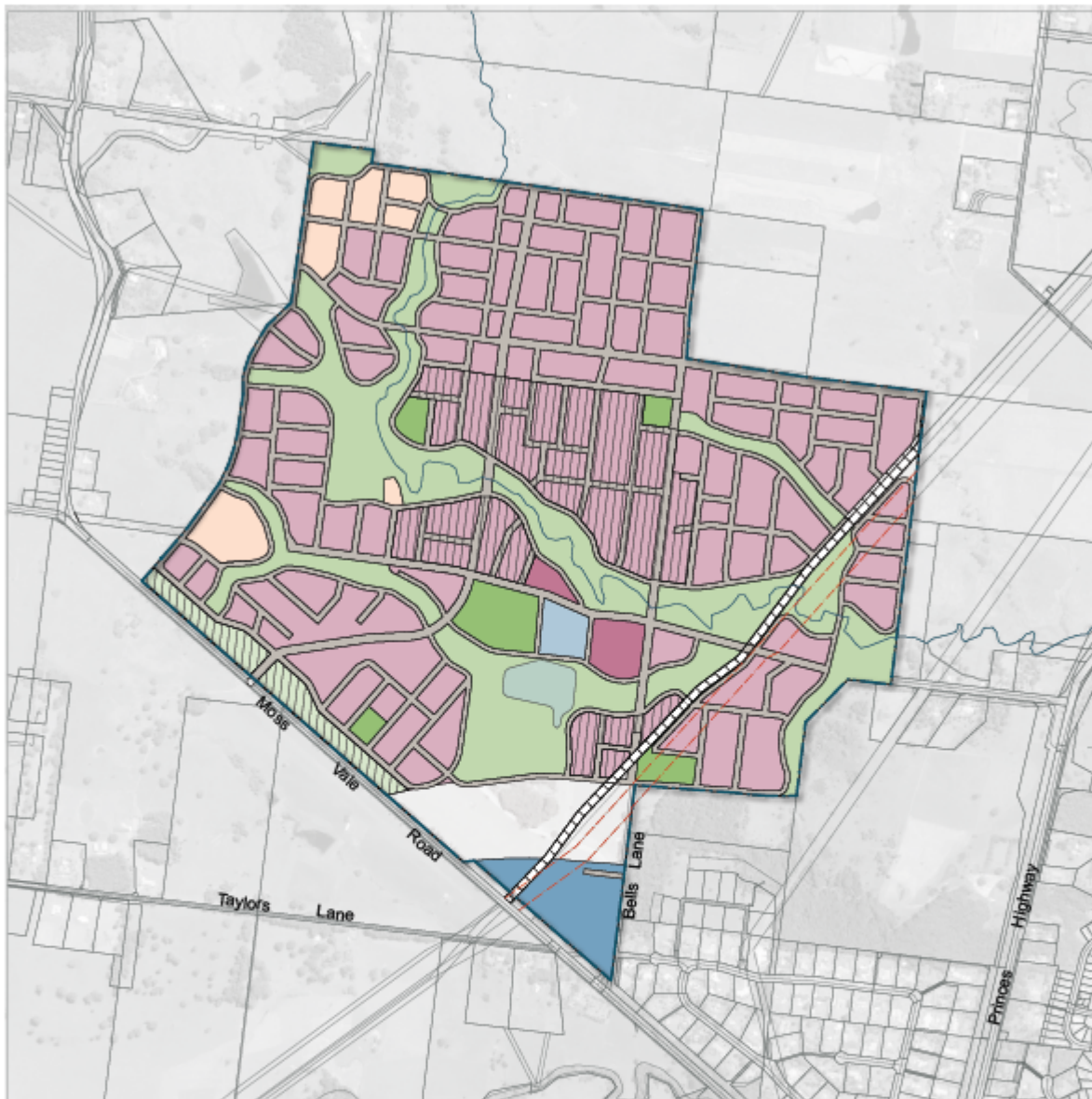


Figure 5: Indicative Layout Plan

1.3 Proposed Plan Making Process

In accordance with the Gateway determination dated 21 December 2020 (modified 3 November 2021), Council has been given delegation for the plan making functions for this PP. The evaluation criteria for delegation is provided as **Attachment 5**.

2 Part 1 –Intended Outcome

The intended outcome of this Planning Proposal (PP) is to amend and add provisions to Shoalhaven LEP 2014 to meet the changing housing needs of the wider Nowra-Bomaderry community and facilitate development of the Moss Vale Road North (MVRN) Urban Release Area (URA).

A summary of provisions sought to be included in the PP are provided in **Table 1** below.

Table 1: Summary of Provisions

Component of Shoalhaven LEP 2014	Proposed Amendment
Land Zoning Map	Adjustment to land use zones to match the Indicative Layout Plan.
Height of Building Map	<ul style="list-style-type: none"> • Apply an 8.5m height to land zoned R5 Large Lot Residential. • No mapped height for other zones – defaulting to 11m.
<p>Minimum Lot Size Map</p> <p>Clause 4.1H Exceptions to minimum subdivision lot sizes for dual occupancies and dwelling houses (<i>Enabling clause for small lots</i>)</p>	<p>Apply the following lot sizes to corresponding zones:</p> <ul style="list-style-type: none"> • R1 General Residential: 500m² • R5 Large Lot Residential: 1,000m² • C2 Environmental Conservation: 40 hectares • C3 Environmental Management: 40 hectares • C4 Environment Living: 2 hectares • RU1 Primary Production: 40 hectares <p>No minimum lot size for land zoned B2 Local Centre, or RE1 Public Open Space.</p> <p>Apply Clause 4.1H in identified locations close to the retail centre, open space, and main roads to permit subdivision into 300-499m² lots.</p>
Scenic Protection Area Map	Remove the application of this map from land zoned B7 Business Park.
Urban Release Area Map	Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.
Clauses Map	Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.
Riparian Lands and Watercourses Map	Amend the current map to apply to the watercourses proposed to be zoned C2 Environmental Conservation.
Terrestrial Biodiversity Map	Apply a biodiversity overlay (significant vegetation) for three areas of moderate-high condition vegetation.

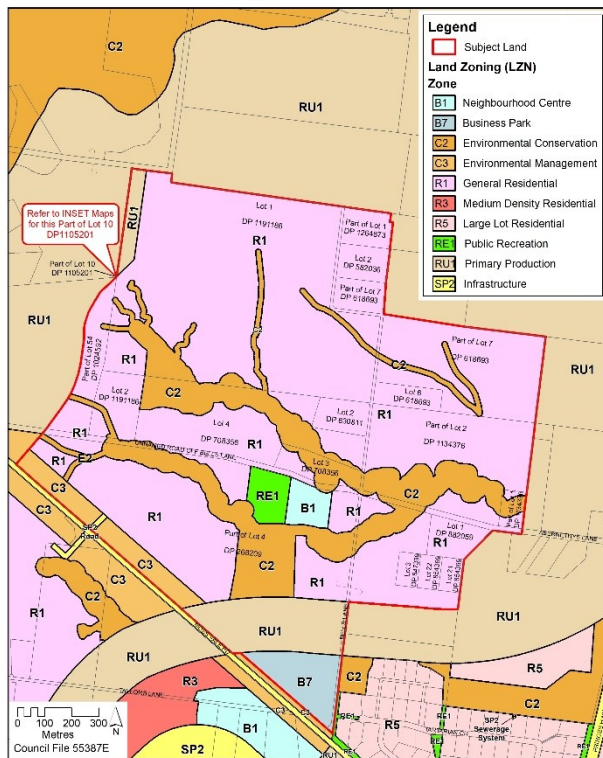
3 Part 2 – Explanation of Provisions

To achieve the intended outcome in Section 2 (Part 1) it is proposed to amend Shoalhaven LEP 2014 as outlined in Table 1 and 2, with mapping changes included in **Attachment 7**.

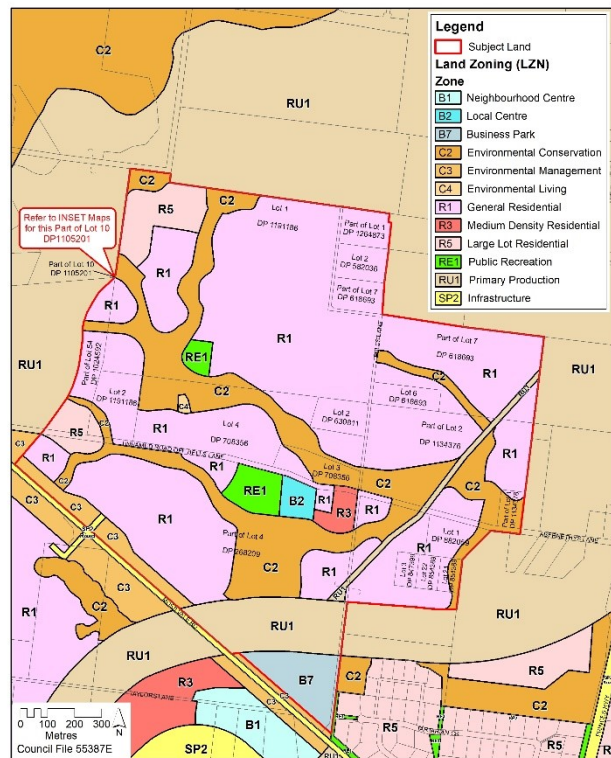
Table 2: SLEP 2014 Map Changes

Land Zoning Map Sheet LZN_013D

PP048
Planning Proposal
Existing SLEP2014 LZN



PP048
Planning Proposal
Proposed LZN Changes



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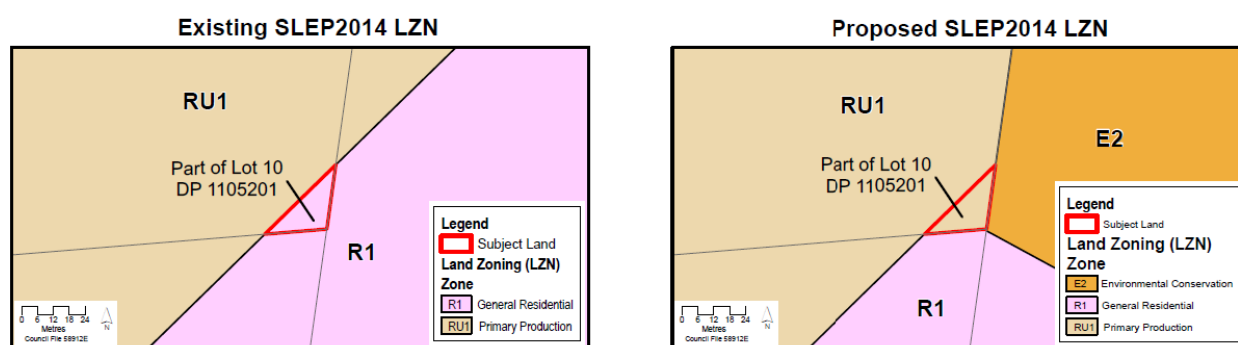
Proposed Amendment and Justification:

1. Rezone approximately 2ha of land in the north-western corner of Lot 1 DP 1191186, 191 Bells Lane Merroo Meadow from RU1 Primary Production to R5 Large Lot Residential and C2 Environmental Conservation to line up with cadastral / property boundaries.

The existing URA boundary does not line up with cadastral boundaries and leaves a narrow, isolated strip of RU1 land immediately adjoining the URA. There are no physical / topographical constraints making the land unsuitable for development. Including this strip as part of the URA will offset the loss of other developable land in locations proposed to be rezoned from R1 to C2.

2. Rezone approximately 4m² of land in Lot 10 DP 1105201, 410C Moss Vale Road, Cambewarra, from R1 General Residential to RU1 Primary Production to line up with cadastral / property boundaries.

This area is not of a significant size to be developed and altering the zone will enable development of the lot without the need to consider Part 6 of SLEP 2014.



3. Rezone areas of R1 General Residential to C2 Environmental Conservation to reflect the location of watercourses.

A Category 2 watercourse is on Lot 1 DP 1191186 and is currently zoned R1 General Residential. As a result of the Citywide LEP process, the MVRN URA was extended beyond the watercourse investigation area. Site specific investigations through the supporting Flood Study and Riparian Lands Concept Design and Assessment and Maps (**Attachment 1** – item I, J, K) confirm the presence of a watercourse and support its rezoning to C2.

Part of Lot 2 DP 1134376, Lot 21 DP 854369 and Lot 1 DP 882059 are also proposed to be rezoned from R1 to C2 to reflect the presence of a Category 3 watercourse in the south-east portion of the site which is currently zoned R1 General Residential.

4. Rezone areas of C2 Environmental Conservation to R1 General Residential where the riparian/watercourse has limited significance and can be appropriately reconfigured as a drainage opportunity for stormwater collection beneath a collector road.

Site specific investigations have shown several reaches of Category 3 watercourses (currently zoned C2) that are highly compromised by human intervention and have limited biological or riparian significance. These adjustments are justified by the rezoning of a more significant, Category 2 watercourse in this general location from R1 to C2 which will

improve overall connectivity and watercourse function across the URA. The PP results in a net increase of C2 zoned land, from approximately 39ha to 48ha as a result of the PP.

Further consultation with NRAR and DPIE – Environment, Energy and Science will be undertaken as part of the Gateway requirements.

The amendments are consistent with DPIE's updated riparian corridor requirements (DPI, 2012). Further justification is provided in Section 6.3 and 7.3 of the Flood Study and Riparian Lands Concept Design and Assessment and Maps (provided in **Attachment 1** – items I, J, K) and of the Section 5.2.2 of the Flora and Fauna Assessment and Surveys (provided in **Attachment 1** – items E, F, G).

5. Rezone and relocate the existing B1 Neighbourhood Centre zone to B2 Local Centre.

A B2 Local Centre zone is considered the most appropriate zone for the Centre as this will provide a wider range of business and retail uses than the B1 Neighbourhood Centre zone, helping to encourage early delivery, improve feasibility, and provide flexibility to respond to changing retail practices. The final location of the centre is based on a review by consultants, WestonWilliamson+Partners, dated January 2021 and provided in **Attachment A** – item R.

6. Rezone an area of land in Lot 4 DP 268209, 220 Moss Vale Road, Cambewarra, forming part of the scenic protection area buffer along Moss Vale Road, from C3 Environmental Management to R1 General Residential.

The Scenic Protection Area buffer was first identified along Moss Vale Road in the Nowra-Bomaderry Structure Plan 2008. Its width was reduced through the Citywide LEP process in response to submissions. Given the topography of the land, the original intent of this buffer in the Structure Plan was to lessen the visual impact of the future development looking north when travelling along Moss Vale Road. The original proposed buffer provided the opportunity to site dwellings below the level of the road, assisted with road noise management and also acknowledged the size of the existing trees that are located on that side of the road.

The MVRNOG originally proposed that the buffer be reduced from its current 75m to 30m, based on their Visual Impact Assessment (**Attachment A** – item C) which concluded there is potential for rezoning part of this C3 corridor to R1 without impacting the visual quality of the URA as viewed from Moss Vale Road. A peer review of the Visual Impact Assessment (**Attachment A** – item D) recommended that a 30m buffer was insufficient to provide the required asset protection zones (APZs) to homes in the area. The width of the proposed C3 buffer is 45m.

7. Rezone the easement relating to the Eastern Gas Pipeline to RU1 Primary Production.

An RU1 zoning is appropriate for the limited land uses able to be carried out over the pipeline, and is consistent with the zoning of other regionally significant infrastructure, such as the Nowra-Bomaderry Bypass, allowing the transfer of land to public ownership to be considered at a future date.

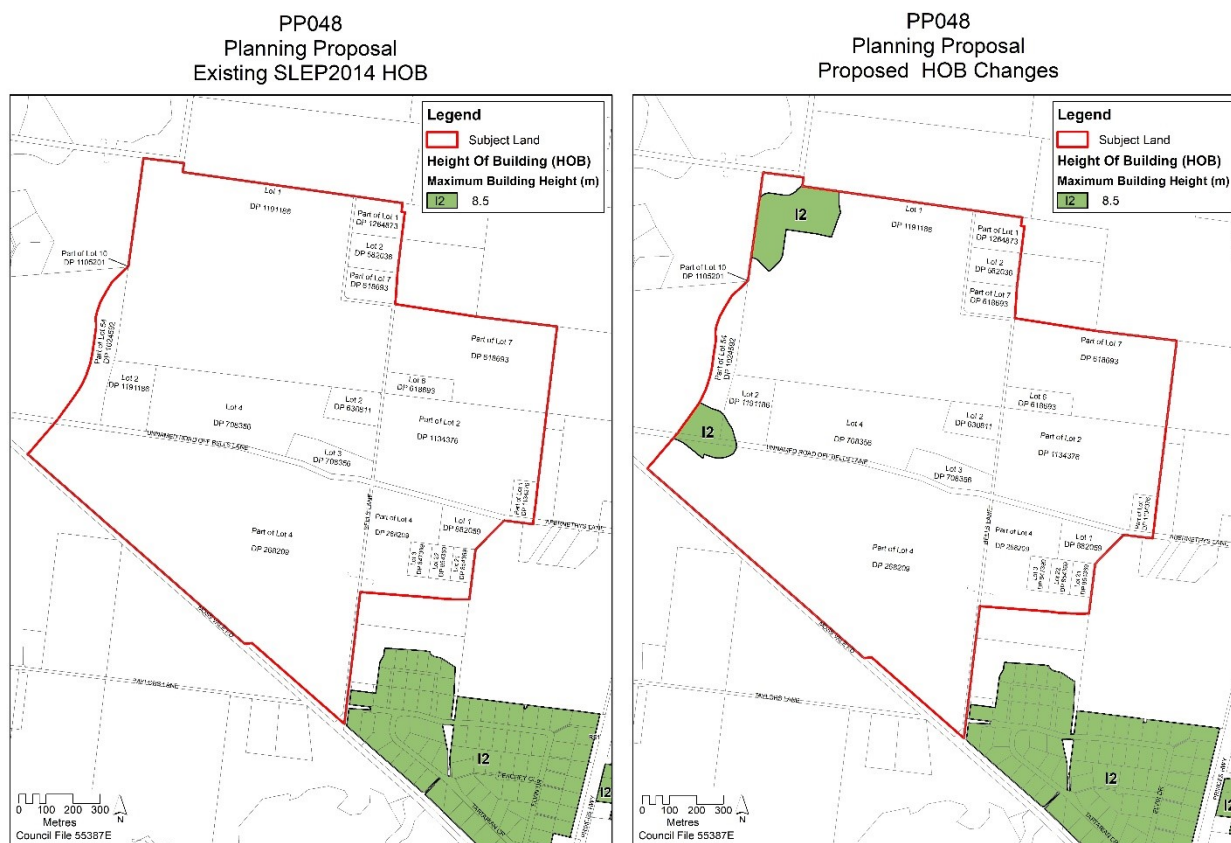
8. Rezone an additional area of open space (RE1 Public Recreation).

The community infrastructure needs analysis (**Attachment A** – item Q) identified the need for 12 hectares of open space to service the future community, with two thirds as formal parks and sports fields and the remaining third as natural areas. The current 2.6ha RE1 size is not sufficient to support the future passive open space needs of the release area, hence the need for an additional area. As a consequential change from the Retail Centre Location Report (Attachment A – Item R), the size of the main RE1 Public Recreation area has also been increased to 3.01ha.

9. Rezone an area of approximately 1.76ha containing significant vegetation on the western boundary of the URA to R5 Large Lot Residential.

This additional area of large lot residential is in response to feedback received from the Environment, Energy and Science division of the NSW Department of Planning, Industry and Environment, to provide additional opportunities to retain significant vegetation through larger lots (with a minimum lot size of 1,00m²). This will be supported by a proposed sensitive vegetation overlay which will promote the retention of this vegetation, its biodiversity values, and contribute to urban vegetation in the release area. They will also require additional development considerations.

Height of Buildings Map Sheet HOB_013D



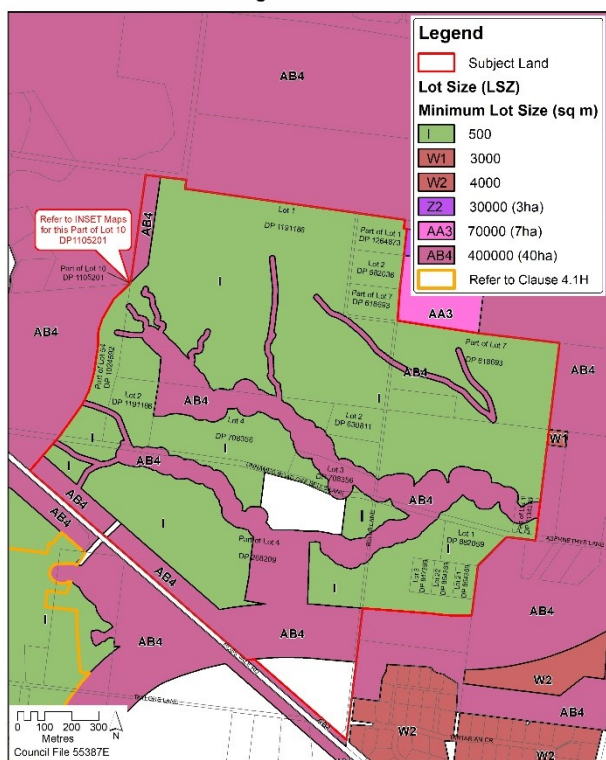
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Proposed Amendment and Justification:

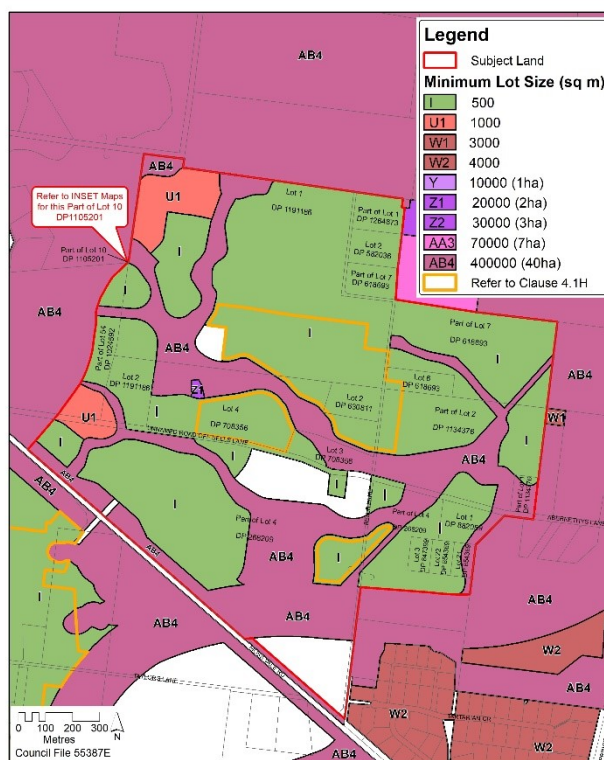
1. Apply an 8.5m height to land zoned R5 Large Lot Residential to be consistent with other R5 zoned land under Shoalhaven LEP 2014.

Lot Size Map Sheet LSZ_013D

PP048
Planning proposal
Existing SLEP2014 LSZ



PP048
Planning Proposal
Proposed LSZ Changes



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Proposed Amendment and Justification:

1. Apply the following lot sizes to corresponding zones:

- R1 General Residential: 500m²
- R5 Large Lot Residential: 1,000m²
- C2 Environmental Conservation: 40 hectares
- C3 Environmental Management: 40 hectares
- C4 Environment Living: 2 hectares
- RU1 Primary Production: 40 hectares

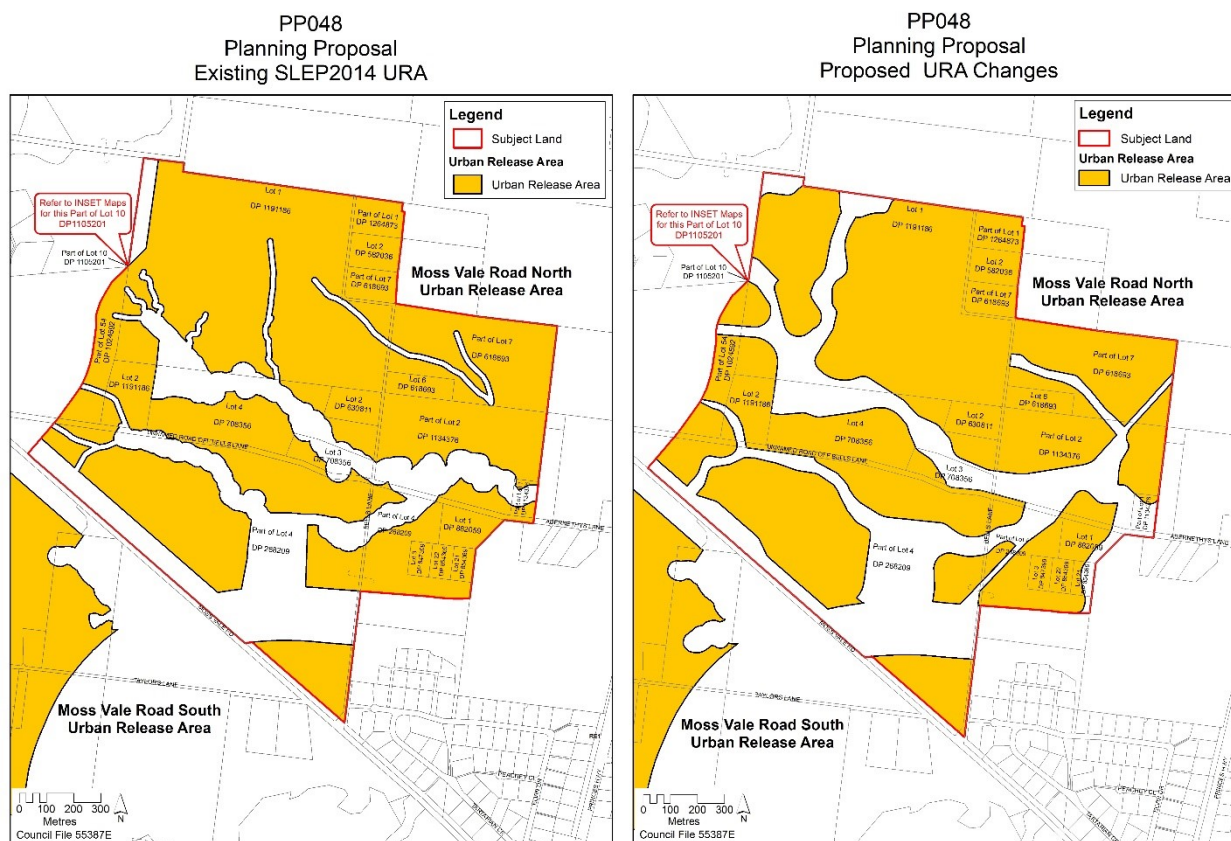
No minimum lot size will be set for land zoned B2 Local Centre or RE1 Public Open Space consistent with other B2, RE1 sites across Shoalhaven LEP 2014.

2. Apply the Clause 4.1H subject land outline in identified locations close to the retail centre, open space, and main roads, to permit subdivision into small lots from 300m² up to 500m².

Locating small lots close to the retail centre, open space, main roads and future public transport routes will ensure that future small lots enjoy a superior amenity to offset any trade-offs as a result of reduced land area.

The introduction of controls encouraging the delivery of small lots will help facilitate a mix of housing types and lot sizes to meet the community's housing needs. Small lots are also more likely to be priced more affordably than larger lots and may contribute to increased housing affordability in the area.

Urban Release Area Map Sheet URA_013D



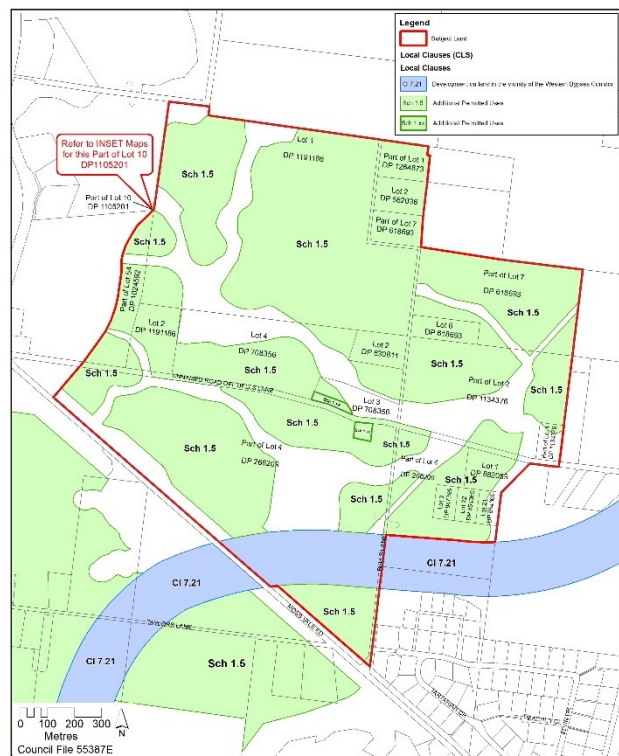
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Proposed Amendment and Justification:

1. Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.

This will ensure that Part 6 of Shoalhaven LEP 2014 continues to apply to the adjusted zone boundaries for the assessment of future DAs in the release area.

PP048
Planning Proposal
Proposed CLS Changes



Proposed Amendment and Justification:

1. Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.

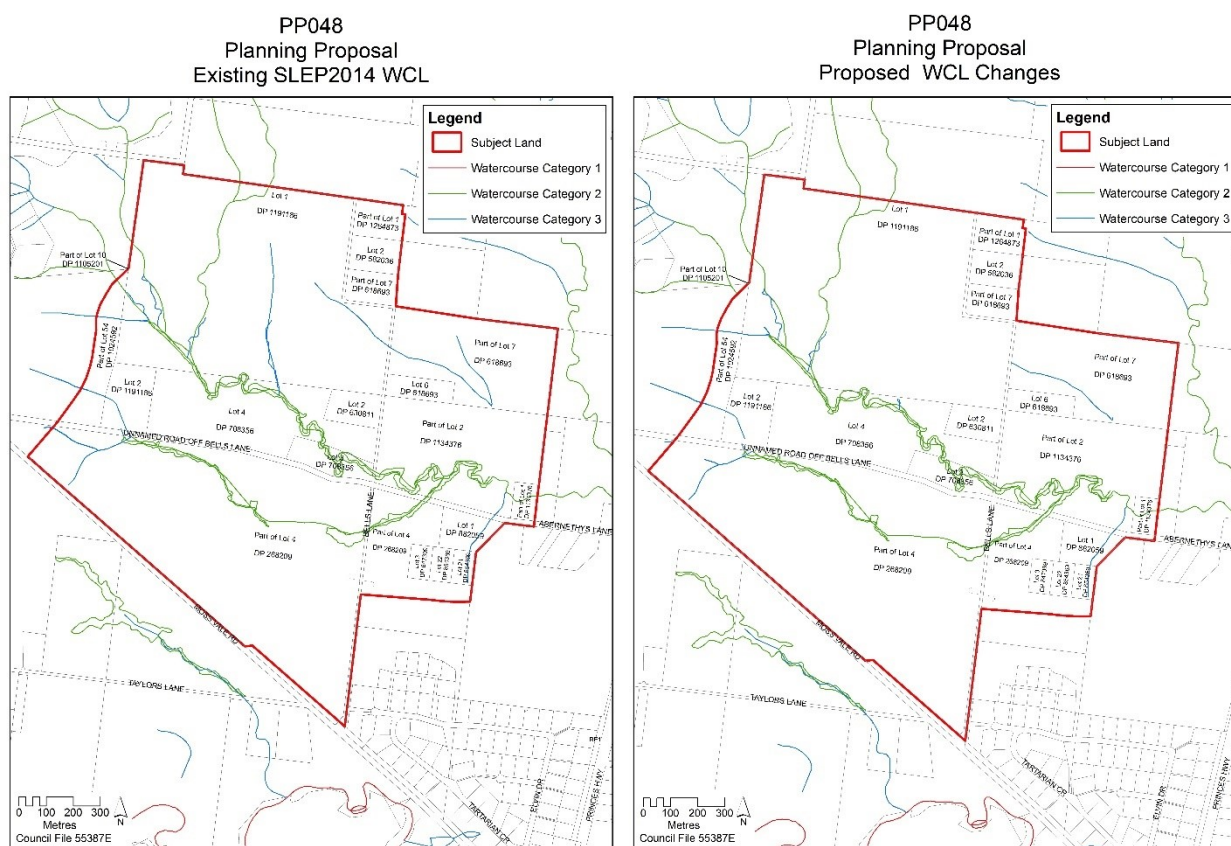
The clauses map identifies existing Additional Permitted Uses (*office premises* and *service stations*) on land within the Nowra-Bomaderry Urban Release Area. This change will ensure the APU continues to apply to the adjusted zone boundaries.

2. Insert '*food and drink premises*' and '*business premises*' as additional permitted uses over part of the land adjoining the B2 Business Centre zone to complement and encourage activation around the core Village Centre (shown as Sch 1.xx).

This is a consequential change recommended by the Retail Centre Location Review (**Attachment 1** – Item R), suggesting the area surrounding the proposed centre should allow more flexible land uses, including cafes and small-scale retail uses. This would complement the core village centre and provide additional opportunities to support the future MVRN community.

The R1 zone already permits neighbourhood shops, but does not permit food and drink premises or business premises. Changing the zone to a zone that already permits this use is not supported as this would result in other land uses being permissible which are not desirable in this location, and would compete with and undermine the proposed, predominantly residential outcome. An additional permitted use is therefore considered the best means of achieving this flexibility to support the retail centre.

Riparian Lands and Watercourses Map Sheet WCL_013D



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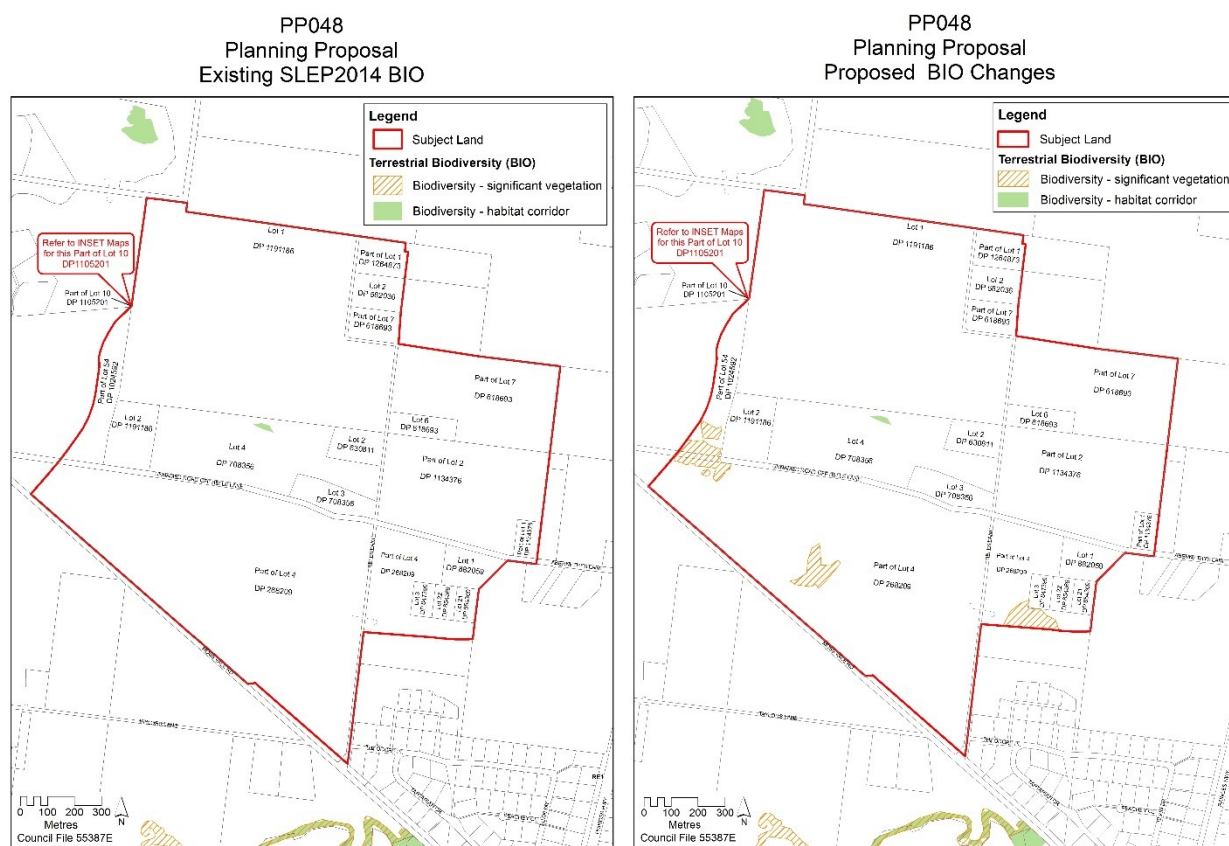
Proposed Amendment and Justification:

1. Amend the riparian lands and watercourses map to remove all watercourses outside the C2 zone boundaries.

As discussed above, the PP results in a net increase of C2 zoned land, from approximately 39ha to 48ha as a result of recognising more significant, Category 2 watercourses in the proposed zoning, whilst less significant watercourses that are highly compromised and have limited biological or riparian significance can be appropriately reconfigured as a drainage opportunity for stormwater collection beneath a collector road.

Further consultation with NRAR will be undertaken as part of the Gateway process, however the amendment is consistent with DPIE's updated riparian corridor requirements (DPI, 2012). Further justification is provided in Section 6.3 and 7.3 of the Flood Study and Riparian Lands Concept Design and Assessment (provided in **Attachment 1** – items I, J, K) and of the Section 5.2.2 of the Flora and Fauna Assessment and Surveys (provided in **Attachment 1** – items E, F, G).

Terrestrial Biodiversity Map Sheet BIO_013D



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Proposed Amendment and Justification:

1. Include three areas of moderate-high condition significant vegetation as ‘Biodiversity – significant vegetation’ on the Terrestrial Biodiversity map.

This change is in response to DPIE (EES) submission which recommended an C2 Environmental Conservation zone for a number of areas of moderate-high condition significant vegetation. Although an C2 zone would potentially provide the best protection for the vegetation, a more balanced approach has been adopted, by rezoning the western patch to R5 Large Lot Residential (with a 1,000m² minimum lot size), and incorporating the two other patches into local parks on the Indicative Layout Plan.

This will promote the retention of the vegetation in open space and gardens whilst still allowing some development through larger lots. The overlay also “switches off” the alternative development approval pathway provided by the NSW Government’s Complying Development Code from these areas.

4 Part 3 – Justification

4.1 Need for the Planning Proposal (Section A)

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

Yes. The PP recommends a contemporary set of planning controls to implement the recommendations of the adopted Nowra-Bomaderry Structure Plan. It is informed by the following technical studies, provided in **Attachment A** (Items A – R):

A1.	Bushfire Constraints Report (PBP 2006)	March 2019
A2.	Updated Bushfire Advice (PBP 2019)	June 2021
B.	Infrastructure Report	April 2019
C.	Visual Impact Assessment	April 2019
D.	Visual Assessment Peer Review	May 2020
E.	Biodiversity/Flora & Fauna Report	May 2018
F.	Fauna Survey – Spring/Summer	February 2019
G.	Spring/Summer Survey Results	February 2019
H.	Stage 1 Contamination Assessment	February 2019
I.	Flood Study	December 2018
J.	Flood Maps Existing	December 2018
K.	Flood Maps Design	December 2018
L.	Aboriginal Archaeology Report	May 2018
M.	Retail Centres Impact Study	February 2020
N.	Internal Traffic Analysis Report	July 2020
O.	External Traffic Analysis Report	July 2020
P.	Land Use Change & Encroachment SMS Workshop	March 2020
Q.	Community Infrastructure Needs Analysis	June 2020
R.	Independent Review of Potential Retail Centre Location	January 2021

These studies provide a more detailed technical understanding of the site than when the land was first identified for growth in the Nowra-Bomaderry Structure Plan and rezoned for residential development in SLEP 2014. The studies have found some land is not appropriately zoned to reflect the current topography, physical characteristics or proposed urban design outcomes of the land, hence the need for the PP.

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

The PP is considered to be the best and only means of achieving the intended outcome.

4.2 Relationship to strategic planning framework (Section B)

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

Illawarra-Shoalhaven Regional Plan (ISRP)

The PP is consistent with the following goals of the Plan:

Goal 1 – A prosperous Illawarra-Shoalhaven.

The PP allows consistent use of the URA which in turn provides security for the associated dwellings and businesses that contribute to the prospering opportunities which support the wider Illawarra-Shoalhaven area. The ISRP supports the coordinated roll-out of infrastructure required to support development of this priority growth area.

Goal 2 – A variety of housing choices, with homes that meet needs and lifestyles

The PP will enable the URA to offer a variety of housing choices, supported by open space and recreation opportunities close to a business centre. The PP will result in:

- Increased range of housing opportunities close to existing services, jobs and infrastructure.
- Delivering housing in a new release area which provides housing choice and avoids environmental impact.
- Coordinated infrastructure delivery to support the URA.

Goal 3 – A region with communities that are strong, healthy and well-connected

The PP allows for the future community on this URA to be connected to supporting infrastructure and services both locally and regionally. The indicative road layout demonstrates how the URA provides opportunities for investment and activity to support the region whilst building socially inclusive, safe and healthy communities around a business centre.

Goal 4 – A region that makes appropriate use of agricultural and resource lands

The recommend planning controls facilitate an increase in the potential dwelling yield of the release area, concentrating development within a planned urban area with coordinated infrastructure investment and delivery. This reduces the pressure to develop sensitive or resource lands.

The indicative layout plan identifies either a road reserve or C2 land interface with the adjacent agricultural land which will allow for better integration and avoidance of impacts to the adjacent agriculture lands. The impact to the adjacent agricultural land will be limited by having no dwellings directly adjacent to this land.

Goal 5 – A region that protects and enhances the natural environment

The PP contributes to protecting and enhancing the natural environment by a net increase of environmental land from 46.94 ha to 51.41 ha (4.47 ha increase). This results in protection of the region's environmental values by focusing development in locations with the capacity to absorb development. The associated land use adjustments contribute to achieving a

better water quality outcome for the URA with all significant watercourses proposed to be contained within an environmental land zone.

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

Shoalhaven 2027 Community Strategic Plan

This plan identifies objectives and strategies for a prosperous Shoalhaven where sustainable urban growth is supported. The PP is consistent with the following CSP Themes and Key Priorities:

Theme 1. Resilient, safe and inclusive communities

- 1.1 Build inclusive, safe and connected communities
- 1.3 Support active, healthy liveable communities

Theme 2. Sustainable, liveable environments

- 2.1 Improve and maintain road and transport infrastructure
- 2.2 Plan and manage appropriate and sustainable development
- 2.3 Protect and showcase the natural environment

Theme 3. Prosperous communities

- 3.1 Maintain and grow a robust economy with vibrant towns and villages

Nowra-Bomaderry Structure Plan (NBSP)

The NBSP provides a framework for growth and development opportunities in the Nowra-Bomaderry area, identifying the MVRN URA as a New Living Area for future development providing a variety of housing options, characterised by a mix of detached houses and some terrace / town house type dwellings. The PP is consistent with the NBSP.

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

The PP is consistent with the applicable state environmental planning policies (SEPP). A full list of SEPPs is provided as **Attachment 3** and the relevant SEPPs are discussed below.

State Environmental Planning Policy (Vegetation in Non-Rural Area) 2017

The Vegetation SEPP will apply to the R1 and C2 zones on the site post-development for non-DA works. The SEPP would only be triggered if clearing of native vegetation were to exceed the Biodiversity Offset Scheme thresholds or involve Sensitive Biodiversity Value Lands. If not, clearing approval will fall under the SLEP 2014 Development Control Plan.

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

The Section 9.1 Ministerial Directions are considered in **Attachment 4** and those that are most relevant are discussed below.

1.1 Business and Industrial Zones

This Direction applies as the PP affects land within an existing business zone. The objectives of the Direction are threefold: to encourage employment growth in suitable locations; protect employment land in business and industrial zones; and support the viability of identified centres.

The PP proposes the zoning of the centre be changed from B1 Neighbourhood Centre to B2 Local Centre, and also proposes an alteration of the zoning location and size of the proposed centre. The B2 Local Centre zone provides a wider range of business and retail uses compared to the B1 Neighbourhood Centre zone, helping to encourage early delivery, improve feasibility, and provide flexibility to respond to changing retail practices.

A Retail Centres Impact Study (**Attachment A** – item M) was undertaken to identify and provide advice on the amount, type and optimal location of retail floorspace required to service the future community of the Moss Vale Road Urban Release Areas. The Study recommended two options for a future retail centre to service the Moss Vale Road release areas and surrounding area:

- a) A single centre at the intersection of the Princes Highway, Moss Vale Road and West Cambewarra Road, Bomaderry (currently zoned B4 Mixed Use and about 50% undeveloped) – no centre within MVRN URA.
- b) In conjunction with Option 1, a smaller site within MVRN URA.

Option b is the preferred option due to the highly walkable catchment of both north and south release areas, providing opportunities to service the day to day needs of residents through a suitably sized, viable neighbourhood retail centre. This ensures that the PP is consistent with the Direction which requires Planning Authorities to “retain the areas and locations of existing business and industrial zones”.

In accordance with Council’s resolution on 6 October 2020 (MIN20.712), Council engaged consultants, WestonWilliamson + Partners to undertake an independent review of the commercial/retail centre (**Attachment A** – Item R).

The PP proposes a reduction in the size of the centre from 2.31ha in the current B1 zone, to 1.73 in the proposed B2 zone. The alteration of zoning, location and size is justified by the Retail Centres Impact Study (**Attachment A** – item M) and Retail Centre Location Review (**Attachment A** – Item R) and ensures a more robust and commercially viable centre that will not reduce the viability of other existing centres in the Nowra-Bomaderry area.

The PP is consistent with the Direction.

1.2 Rural Zones

The direction applies as the PP affects land within an existing rural zone. It states that a PP must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.

The PP proposes to rezone 1.98 hectares in the north western corner of the URA from RU1 Primary Production to a combination of C2 Environmental Conservation with a minimum lot size of 40ha and R5 Large Lot Residential with a minimum lot size of 1,000m². The current zoning and URA map are not consistent with cadastral boundaries in this area. As subdivisions progress over the site, this would result in a fragmented area of RU1 land which would be better incorporated as part of the URA. The C2 zoning recognises the riparian function and environmental attributes of the land, while the R5 zoning will provide opportunities for larger lots on the fringe of the URA.

This change is considered to be minor and therefore the PP is consistent with the terms of the Direction.

1.5 Rural Lands

The Direction applies as the PP affects land within an existing rural or environment protection zone and proposes to change the existing minimum lot size on land within a rural or environmental protection zone.

As discussed under 1.2 Rural Zones, the PP proposes to rezone and change the existing minimum lot size for a small portion of RU1 land in the north western corner of the URA. This change will minimise the fragmentation of rural land and is consistent with the terms of the Direction due to its minor significance.

The PP also proposes several adjustments to the C2 Environmental Conservation zone boundaries reflective of the current riparian function of Abernethys Creek and associated tributaries. These adjustments are supported by the Flora and Fauna Assessment and Surveys (**Attachment A** – items E, F, G) and Flood Study and Riparian Lands Concept Design and Assessment and Maps (**Attachment A** – items I, J, K). The proposed zoning seeks to identify and protect the site's environmental values and maintain and improve the riparian function and biodiversity corridors through the site to/from Cambewarra escarpment down to the Bomaderry Creek catchment.

The proposed reconfiguration of riparian corridors through a C2 zoning arrangement is considered to provide better connectivity and watercourse function across the URA. It also proposes greater recognition of the riparian and watercourse functions in the north-west corner of the site which is not reflected in the R1 General Residential zoning. Further consultation with NRAR will be undertaken as part of the Gateway process, however at this stage the PP is considered to be consistent with the terms of the Direction.

2.1 Environment Protection Zones

This Direction applies to all PPs. The PP proposes to adjust the zoning around the riparian corridors to reflect the requirements of the *Water Management Act 2000* using the 2012 DPI riparian corridor requirements. This includes removing four reaches of Category 3 watercourse (zoned C2 Environmental Conservation) over Lot 1 DP 1191186 and Lot 4 DP 268209. The PP also proposes to map a new Category 3 watercourse (to be zoned C2 Environmental Conservation) on Lot 1 DP 1191186.

The PP is inconsistent with the Direction because it reduces the environmental protection standards of some land by rezoning it from C2 Environmental Conservation to R1 General Residential. The PP also proposes to increase the environmental protection standards of other lands by rezoning some areas from R1 to C2, including identifying new reaches of Category 3 Watercourse which will be zoned C2 Environmental Conservation. The changes

to the zoning are justified by Section 6.3 and 7.3 of the Flood Study and Riparian Lands Concept Design and Assessment and Maps (provided in **Attachment 1** – items I, J, K) and of the Section 5.2.2 of the Flora and Fauna Assessment and Surveys (provided in **Attachment 1** – items E, F, G) and are consistent with the updated riparian corridor requirements (DPI, 2012).

Further consultation with NRAR will occur as part of the Gateway process, however at this stage the inconsistency is considered minor as it will result in a net increase in environmental protection standards applying to the URA, a better protected riparian system and an improved environmental outcome.

2.3 Heritage Conservation

This Direction applies to all PPs. The PP does not remove any existing heritage conservation provisions.

There are no Schedule 5 Environmental Heritage items within the URA.

An Aboriginal Archaeological Study has been prepared for the site by NSW Archaeology Pty Ltd (provided in **Attachment 1** – item L), which identified one previously recorded AHIMS Aboriginal site and four potentially sensitive landforms in the study area. It recommended that a full Aboriginal Cultural Heritage Assessment (ACHA) be undertaken in respect of all proposed impacts (inclusive of corridor enhancement works) at DA stage.

This recommendation was not supported by Heritage NSW, who advised in their response dated 9 April 2021 (provided in **Attachment 6**) that the ACHA should be prepared at the Planning Proposal stage to inform the proposed rezoning. However, the proposed rezoning is predominately a minor housekeeping amendment which seeks to adjust existing zone boundaries which have been in place since the commencement of Shoalhaven LEP 2014. On this basis, the inconsistency is justified by 5(b) of the Direction, “the provisions of the planning proposal that are inconsistent are of minor significance”, as the land is already zoned for development.

The Aboriginal Archaeological Study also assessed the archaeological sensitivity of the area to be generally low, and the land is mostly disturbed through a history of clearing and agricultural land uses. The PP proposes to retain the C2 Environmental Conservation zoning around creek lines and other landscape features most likely to contain Aboriginal objects. In addition, existing legislation, regulation, and environmental planning instruments, including Shoalhaven LEP 2014 Clause 5.10 Heritage Conservation, contain provisions which facilitate the conservation of heritage items, areas, objects and places.

The need for an ACHA is supported, however this is proposed to be included as a requirement of the area-specific DCP for the site, to be undertaken at DA stage as recommended in the Aboriginal Archaeological Study.

The PP is inconsistent with the Direction, however the inconsistency is justified as the provisions of the PP that are inconsistent are of minor significance.

2.6 Remediation of Contaminated Land

This Direction applies as the PP affects land on which agriculture, including a former orchard, has been carried out.

A Stage 1 Contamination Assessment has been carried out (provided in **Attachment 1** – item H). Based on the site's history and existing use as agricultural/residential land, the Assessment concluded that the site presents a low contamination risk, and a Stage 2 assessment was not considered necessary. Individual geotechnical and contamination assessments will need to be undertaken in support of any development application(s).

The PP is consistent with the Direction.

3.1 Residential Zones

This Direction applies as the PP affects land within an existing residential zone in which significant residential development is permitted. The PP affects land that is recognised as a regionally significant Urban Release Area (URA).

The PP seeks a number of minor adjustments to the existing R1 General Residential zoning, including flow on effects from the reconfigured C2 zoning around the riparian corridors, where some R1 areas will be zoned C2, will some C2 mapped areas will be zoned R1. It also seeks to increase the R1 General Residential area by reducing the C3 visual buffer to Moss Vale Road from 75m to 45m, and expanding the URA by 1.98ha in the north west to resolve potential future rural land fragmentation issues and to line up with cadastral boundaries. Two areas in the west and north-west of the site will be zoned R5 Large Lot Residential with a minimum lot size of 1,000m² and will increase housing diversity.

The PP seeks to maximise dwelling yield in a considered and responsible way to make efficient use of already zoned land, removing pressure for development in more sensitive locations. The PP maximises the use of existing and planned infrastructure investment.

High and low scenarios have been used to identify an indicative dwelling yield. These scenarios account for variation and flexibility in the subdivision design required in response to physical constraints, such as topography, retained vegetation; and the land required for easements, services, and infrastructure. It also allows for variation in the residential densities and products, including dual occupancies and secondary dwellings, the market might demand, or industry chooses to deliver. Application of the high and low scenarios indicates a potential dwelling yield of 2,380 – 3,360 new dwellings.

The PP will not remove the current requirements under Part 6 of SLEP 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), until the PP is finalised alongside the DCP and CP.

The PP is consistent with the Direction.

3.3 Home Occupations

This direction applies to all PPs. The PP does not alter any existing provisions that enable home occupations to be carried out in dwelling houses without the need for development consent. The PP is consistent with the Direction.

3.4 Integrating Land Use and Transport

This direction applies to PPs which create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The PP meets the objectives of the Direction by making efficient use of the land and providing housing within a highly walkable neighbourhood with good access to the wider Nowra-Bomaderry area and Princes Highway to the east.

The PP supports the principles and objectives of *Improving Transport Choice – Guidelines* and *The Right Place for Business and Services – Planning Policy*. The DCP proposes objectives and controls that promote good urban design for the subdivision layout that incorporates a collector road network that will support public bus transport generally within 400m walking distance to residential allotments. A well-connected and legible movement network will provide a variety of routes for vehicles, pedestrian and cyclists both within the proposed neighbourhood and to surrounding locations.

An Internal and External Traffic Analysis (**Attachment A** – items N & O) have been completed for the URA for the purpose of informing and developing the Development Control Plan (DCP) and to assess key intersections surrounding the URA.

The PP is consistent with the Direction.

4.1 Acid Sulphate Soils

The site is mapped as Class 5 Acid Sulphate Soils (ASS) and is located over 500m from any land with a higher ASS classification. A Stage 1 Contamination Assessment (provided in **Attachment 1** – item H) found that parts of the site underlain by Alluvial deposits may be acid sulphate in nature, and recommended that further geotechnical and ASS investigations be undertaken as part of the future development of the land.

The PP is not inconsistent with this Direction.

4.3 Flood Prone Land

This Direction applies as the PP affects land identified as being flood prone. The flood risk presented by Abernethy's Creek and other minor watercourses within the URA is largely contained in the proposed C2 zones. Flood risk elsewhere will be mitigated through a program of bulk earthworks and the use of road and drainage infrastructure to manage flows. This is supported by a Flood Study and Riparian Lands Concept Design and Assessment and Maps provided in **Attachment 1** (items I, J, K).

The PP is not inconsistent with the Direction.

4.4 Planning for Bushfire Protection

This direction applies as the PP affects land that is mapped as being Bushfire Prone. The PP does not seek to remove or alter any provisions relating to Bushfire Prone Land.

A Bushfire Constraints report was undertaken by EcoLogical for the MVRNOG and is provided as a supporting document in **Attachment 1** (item A1). This advice was prepared under Planning for Bushfire Protection 2006 (and not contemporary guidelines) and also did not have information on the revegetation of the riparian corridors, so an updated bushfire report was prepared and is provided in **Attachment 1** (item A2). The report identified the primary bushfire risk as external grassfire or fire within riparian areas or relatively small patches of forest. It identified suitable bushfire protection measures to be incorporated into the Indicative Layout Plan (ILP), including Asset Protection Zones (APZs), perimeter roads

adjoining internal bushfire prone lands and external perimeter roads adjoining the surrounding grassland. These measures have been incorporated into the ILP.

Consultation was undertaken with the NSW Rural Fire Service following the issue of any Gateway Determination and their comments are provided in **Attachment 6**. In summary, RFS raised no objections to the PP subject to the future subdivision complying with Planning for Bushfire Protection 2019. This includes, but is not limited to:

- Provision of asset protection zones to comply with Table A1.12.2 for residential development and Table A1.12.1 for Special Fire Protection Purpose (SFPP) developments.
- Access to be provided in accordance with Table 5.3b which will include, but not limited to:
 - Staging plan demonstrates more than one access road in and out of the development at Stage 1 for future subdivisions of three or more allotments.

They also stated that short fire run modelling providing smaller APZs in the updated Bushfire advice is not considered appropriate at the strategic planning stage. Hence, the ILP has been based on the larger Acceptable Solution Asset Protection Zones.

5.10 Implementation of Regional Plans

The PP demonstrates its consistency with this Direction through achieving the goals of the Illawarra Shoalhaven Regional Plan (ISRP) as outlined above in Section 4.2.1. The PP is consistent with the Direction.

4.3 Environmental, Social and Economic Impact (Section C)

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

The PP will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

A Flora and Fauna Assessment and targeted flora and fauna surveys (provided in **Attachment 1** – items E, F, G) have been carried out across the site. These detected no threatened flora, and none considered likely due to lack of or condition of potential habitat, and lack of close proximity records. The only locally threatened flora species with some potential to occur may have been *Cryptostylis hunteriana* (Leafless Tongue Orchid), however after targeted survey and considering the failure to detect even common species of orchids, this cryptic species is not considered a potential occurrence.

The only precisely definable Threatened Ecological Community (TEC) on site is *Freshwater Wetlands on Coastal Floodplains* which appear to be a derived form, occupying the central channel of the watercourses which have undoubtedly altered via erosion and sedimentation since clearing of the original vegetation.

No threatened fauna species were detected in the flora and fauna assessment, however further fauna surveys did detect the presence of some threatened bat species.

Overall, the PP will result in an increase in the amount of C2 zoned land, and an improved riparian corridor system to protect threatened species which may be present in the area. Revegetation of the riparian corridors, which are extremely degraded, through development

controls and conditions of development consent, will lead to an improvement in the riparian system and provide habitat for flora and fauna species.

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

Biodiversity Values Map

Abernethys Creek which runs through the URA is mapped on the Biodiversity Values (BV) map published by the Chief Executive of the NSW Office of Environment and Heritage. This means the Biodiversity Assessment Method (BAM) may need to be applied to assess the associated impacts of creek crossings/clearing in these affected parts of the site.

For residential zoned land with a lot size <1ha (as will be the case in the release area), the area threshold for triggering the BAM is >0.25ha, or >2,500m², of clearing. Such actions will trigger a BDAR report by a suitably qualified assessor at the DA stage.

Future development and use of the land will consider environmental impacts as part of the development assessment or complying development process.

Eastern Gas Pipeline / Planning Circular PS18-010

A gas pipeline safety management study (**Attachment 1** – item P) was undertaken to assess the proposed land use change and associated encroachment activities, adjacent to the existing Jemena Eastern Gas Pipeline (EGP). The study confirmed the pipeline is constructed to a standard suitable for the proposed development (non-rupture). To ensure the ongoing integrity of the pipeline, the study identified the need for development controls:

- for road and utility crossings,
- referring subdivision and development applications within the identified measurement length (identified as ML on the adjusted development outcome) to the pipeline operator, and
- requiring more detailed safety management studies for construction activity adjacent to the pipeline.

These will be included in the site specific DCP chapter for the area. The pipeline is proposed to be zoned RU1 Primary Production, consistent with the zoning of other regionally significant infrastructure, such as the Nowra-Bomaderry Bypass, allowing transfer to public ownership to be considered in the future.

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

The PP is supported by technical studies analysing social and economic effects of the PP. The recommendations of the Retail Centres Impact Study have been implemented to ensure the proposed retail centre is of a size and scale that is viable and appropriate to the area and does not impact on the economic viability of other existing centres in the Nowra-Bomaderry area.

The overall increased residential opportunities of the URA will have positive social and economic impacts for the community with additional housing supply and choice, with good access to existing or planned open space, services, jobs and infrastructure.

The Community Infrastructure Needs Assessment has identified the community infrastructure required to support the future community and these will be secured through a development contributions framework.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The land subject of the PP has existing or is in the process of negotiating connection to necessary public infrastructure, including sewer treatment, water, electricity, telecommunications and stormwater drainage.

The PP is supported by an Infrastructure Report (**Attachment A** – item B) which concludes that the provision of all essential services (water, sewer, electricity) are on track and will not be a constraint to the timing or delivery of development in the URA.

The PP is also supported by a Community Infrastructure Needs Analysis (**Attachment A** – item Q) which identifies the community infrastructure required to service the future community.

Reticulated gas is available to the URA from Bolong Road (adjacent to Manildra).

No additional changes to the current URA public infrastructure connections are proposed as part of the PP.

Clause 6 of SLEP2014 addresses State Infrastructure Issues.

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

Condition 2 of the Gateway determination required consultation with the following public authorities/organisations:

- NSW RFS
- Natural Resources Access Regulator (NRAR)
- DPIE (Environment, Energy and Science)
- NSW Fisheries
- Heritage NSW
- Relevant Local Aboriginal Land Council/s
- Transport for NSW
- Endeavour Energy
- Jemena

All agencies apart from RFS were provided with a copy of the PP and supporting documentation on 13 January 2021. Following completion of the updated bushfire advice, RFS were provided a copy of the PP and supporting documentation on 27 July 2021. Comments from NRAR remain outstanding.

Copies of agency submissions are provided in **Attachment 6**.

5 Part 4 – Mapping

The PP will require the amendment to the following map sheets within Shoalhaven LEP 2014 as outlined in Part 2 – Explanation of Provisions:

- Land Zoning Map Sheet LZN_013D
- Height of Buildings Map Sheet HOB_013D
- Lot Size Sheet LSZ_013D
- Scenic Protection Area Sheet SCP_013D
- Urban Release Area Sheet URA_013D
- Clauses Sheet CLS_013D
- Riparian Lands and Watercourses Sheet WCL_013D
- Terrestrial Biodiversity Sheet BIO_013D

6 Part 5 – Community Consultation

Council proposes to exhibit the planning proposal in accordance with the requirements of any Gateway Determination (minimum of 28 days) as a package alongside the Development Control Plan (DCP) and satisfactory arrangements for infrastructure for the area. Public notification of the exhibition would include letters to affected and adjoining land owners, relevant Community Consultative Bodies (CCBs) and a notice on Council's website. Electronic copies of the planning proposal and supporting documentation will be made available online and at the City Administrative Centre, Bridge Road, Nowra.

At the conclusion of the public exhibition, a report will be prepared and presented to Council to allow for the consideration of any submissions received from the community.

7 Part 6 – Project Timeline

The anticipated timeline for the Planning Proposal is outlined below.

Task	Anticipated Timeframe
Commencement date (anticipated date of Gateway Determination)	December 2020
Commencement of Agency consultation	January 2021
Finalisation of technical studies – updated bushfire advice, Integrated Water Management Strategy, riparian analysis	April 2022
Completion of any Gateway Determination requirements (including any Agency consultation)	April 2022
Public exhibition	April-May 2022
Consideration of community submissions	June 2022
Post exhibition consideration of PP	July 2022
Finalisation and notification of Plan	August 2022

Attachment 1 – Links to Supporting Technical Studies

A1	Bushfire Constraints Report
A2	Updated Bushfire Constraints Report
B	Infrastructure Report
C	Visual Impact Assessment
D	Visual Assessment Peer Review
E	Biodiversity/Flora & Fauna Report
F	Fauna Survey – Spring/Summer
G	Spring/Summer Survey Results
H	Stage 1 Contamination Assessment
I	Flood Study
J	Flood Maps Existing
K	Flood Maps Design
L	Aboriginal Archaeology Report
M	Retail Centres Impact Study
N	Internal Traffic Analysis Report
O	External Traffic Analysis Report
P	Land Use Change & Encroachment SMS Workshop
Q	Community Infrastructure Needs Analysis
R	Independent Review of Potential Retail Centre Location

Attachment 2 – Council report and minute supporting the PP

DE20.101 Moss Vale Road North Urban Release Area - Progressing Planning for Release

HPERM Ref: D20/386419

Section: Strategic Planning

Approver: Robert Domm, Director - City Futures

Attachments:

1. Comparison of current and Owners Group's proposed zones
2. Adjusted Development Outcome
3. Comparison of Owner Group Proposal and Adjusted Development Outcome
4. Alternative Centre Location

Reason for Report

1. Provide an update on the planning of the Moss Vale Road North Urban Release (URA) Area, including:
 - testing and refining of the Moss Vale North Owners Group's 2019 proposal,
 - collaboration activity between Council officers, the Owners Group, and other significant landowners, and
 - ability to pursue Biodiversity Certification for the release area.
2. Obtain Council's endorsement to prepare a Planning Proposal (PP), recommending adjusting changes to the planning controls, to progress the release area and submit it for initial Gateway determination. This will also enable work to continue on the required Development Control Plan (DCP), development contributions framework and other related matters to advance with some certainty.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Endorse the preparation of a Planning Proposal to amend the provisions and mapping in *Shoalhaven Local Environmental Plan 2014* relating to the Moss Vale Road North Urban Release Area as outlined in Table 2 of this report.
2. Submit the Planning Proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.
3. Adopt the proposed Indicative Layout Plan provided as Figure 1 as the basis for developing detailed Development Control Plan Chapter and a development contributions framework for the release area.
4. Not proceed with an application for strategic Biodiversity Certification of the release area and continue to consider opportunities for managed biodiversity outcomes.
5. Receive a further report on the outcomes of the Gateway determination, draft Development Control Plan Chapters, development contribution framework, and various other planning matters relating to the delivery of the Moss Vale Road North Urban Release Area.

Options

1. Support the recommendation.

Implications: This is the preferred option and will enable the submission of a PP to adjust and update the planning controls for the URA to the NSW Department of Planning, Industry & Environment (DPIE) for Gateway determination. It also allows work to continue on preparing the detailed DCP and development contributions framework that will guide the future delivery of the URA and its required infrastructure. Completing the release of this area is a high priority project, confirmed by Council's earlier decisions and in the adopted Strategic Works Program. It will facilitate subdivision activity and the release of residential lots, helping to meet identified housing demand.

Investigations into the viability of a strategic Biodiversity Certification application for the URA indicate a significant chance of net financial loss for Council. As a result it is not recommended that this application proceed. Alternative options for funding the restoration of biodiversity resources within the release area will continue to be investigated.

2. An alternative resolution.

Implications: The implications will be subject to the nature and content of the alternative resolution, but any decision requiring further analysis, studies, or an alternative outcome for the URA, will add time (and delay) to the work delivering the URA. The current timeframe for submitting a PP for a Gateway determination before the end of 2020 would likely not be met.

3. Not support a recommendation.

Implications: This would effectively cease the project and the planning controls currently applying to the URA would be maintained, including the requirement to a DCP and make suitable provision for infrastructure before the area can be developed, meaning no subdivision development applications could be determined.

Background

The 266-hectare URA was identified as a 'New Living Area' in the *Nowra-Bomaderry Structure Plan* (2006) with the identified potential at that point to provide about 1,300 dwellings. The URA was confirmed with land use zones, an enlarged footprint providing for additional lots/dwellings and other related provisions guiding its release in *Shoalhaven Local Environmental Plan 2014*. Council considered the timing for the delivery of the URA in March and August 2017, resolving to accelerate its delivery.

In 2019, the Moss Vale North Owners Group, comprising several major landowners within the URA, submitted an alternative outcome for the area for Council's consideration. This sought to deliver about 2,500 dwellings (an increase on the outcomes facilitated by the current planning controls), adjusted the size and function of the retail centre, refine the *E2 Environmental Conservation* zones applied to the riparian corridors and adjust other components of the URA. **Attachment 1** provides a comparison of the current LEP zones, being a mix of residential, public recreation, business and environmental and those proposed under the Owners Group's proposal.

The Owners Group supported its proposal with an indicative layout plan, draft development controls and a range of technical studies relating to bushfire, infrastructure (including transport), scenic values, contamination and biodiversity. The Owners Groups' package of information can be viewed online at:

<https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Planning-Proposals-Pre-gateway>

In August 2019, Council considered the alternative outcome and supporting information and resolved to work collaboratively with the Owners Group, giving 'in principle' support to the package being used as the basis for the documents guiding the delivery of the URA (LEP amendment, new DCP chapter, and a development contributions framework). Given the Owners Group subsequent split into two major groups representing 47% and 34% respectively of development land in the release area, Council officers have been engaging collaboratively but separately with both. This is discussed in more detail later in the report.

Council also resolved to investigate the possible biodiversity certification of the URA, development of an affordable housing development contributions scheme and suburb naming options.

Preparation of Planning Documents

The selection of planning controls (for inclusion in a PP), detailed development controls (to make up the DCP Chapter) and identification of development contributions framework rely on an evidence base of technical documents. Some of these documents were provided by the Owners Group and others have been directly commissioned by Council. The review of the Owners Group's information identified some information gaps and the need for additional studies to ensure that a robust, achievable and defensible PP could be submitted for Gateway determination.

The following studies have now been completed:

1. **Retail analysis** – to inform the amount and type of retail floorspace needed by the future community. This analysis is required to justify proposed changes to the size, type, and location of commercial zones. *Note: analysis not included in the Owners Group's information.*
2. **Urban design guidance** – to assist with the consideration of an optimal location and orientation of the proposed retail centre.
3. **Gas pipeline safety management study** – to confirm the type and scale of development possible adjacent to the Eastern Gas Pipeline located that runs through the URA. This study is required to comply with the NSW Government's Planning Circular on controlling development near pipelines. *Note: study not included in the Owners Group's information.*
4. **Visual Analysis** – a peer review of the visual analysis provided by the Owners Group, with a focus on the scenic/visual corridor along Moss Vale Road. This review is required to confirm the appropriate corridor and justify proposed changes to the size of related land use zones.
5. **Community infrastructure needs analysis** – to identify the community infrastructure required by the future population. This analysis is required to inform the amount and location of open space to be included on the indicative layout plan and in the development contributions framework. *Note: analysis not included in the Owners Group's information.*

6. **Traffic study** – to add value to the information provided by the Owners Group and confirm the type and location of roads and connections to the existing network, informing an indicative layout plan and the development contributions framework.
7. **Integrated water management study** – to identify options, including land requirements and infrastructure, to sustainably manage stormwater run-off (quantity and quality). This study was directly commissioned by Council for efficiency as the consultants had just completed a similar study for the Moss Vale Road South URA.

These studies can be viewed online at:

<https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Planning-Proposals-Pre-gateway>

The consideration of these studies suggests some adjustment of the Owners Group's proposal to ensure the delivery of a responsible and sustainable development outcome that meets the needs of the future community. Other adjustments are required to improve the commercial viability of the development outcome, helping secure its timely delivery by industry. The proposed refinements are summarised and explained later in this report.

Other technical studies may still be required as related detailed work progresses, such as the design and costing of identified infrastructure for development contributions, or to inform consultation with Government Agencies as the PP progresses through the Gateway process. Potential examples include an additional bushfire assessment to address recently published guidelines, and a riparian lands study to justify proposed changes to existing watercourses.

Collaboration with Landowners

The ownership of the URA is currently split amongst 17 owners, each with a varying share of the 165.5 hectares currently zoned for development (with a residential or business zone). The Owners Group has 4 members who own 79.4 hectares or about 47% of the area currently zoned for development. The majority of the URA is split amongst the other 13 owners, including one significant land holding of 55.4 hectares (or about 34% of the area currently zoned for development). Engagement with the owner of the significant 34% land holding has included written updates, the sharing of completed studies and several digital meetings. This owner has expressed verbal support for the continued planning and the adjusted development outcome identified for the URA.

A professional working relationship has been established with the remainder of the original Owners Group and its project team (including planning and technical consultants). This has been used to inform the preparation and refinement of technical studies, consideration of related findings, and adjustment of development outcomes. Collaboration activities have included regular dialogue with a single owner representative and a planning consultant but also other members of the Owners Group. Activities include:

- Monthly written progress updates on the preparation of planning documents, findings of technical studies, and refinements to potential development outcomes.
- Monthly meetings (in person or online) with the Owners Group to discuss progress and matters arising.
- A workshop and exchange of information to refine the development control chapter.
- Representatives of the Owners Group attended the workshop informing the Gas Pipeline Safety Management Study.

- Provision of copies of the completed studies, an opportunity to provide feedback on findings, and the consideration of any feedback.
- Two technical workshops to discuss the integrated water management study.
- Confirmation of a shared intent to investigate options to contribute to the supply of affordable housing in Shoalhaven.

Finally, a workshop to discuss an adjusted development outcome responding to the findings of the technical studies was held with the remaining members of the Owners Group on 31 July 2020. This examined key changes to the development outcome, including, the location of the proposed retail centre, areas of medium density development, open space provision, and water management infrastructure. The Owners Group was invited to respond to the alternative outcome and provide feedback on the studies about traffic, visual analysis, and community infrastructure.

Documentation from the workshop was also contemporaneously provided to significant landowners no longer part of the Owners Group.

On 10 September 2020, the Owners Group responded to the workshop, providing a response on several matters, including the proposed integrated water management solution, location of the retail centre, and the findings of the traffic study. It also provided a revised Indicative Layout Plan (amending the 2019 proposal). This information has received further consideration in the development of the adjusted development outcome which is outlined and discussed below.

Adjusted Development Outcome

Wherever possible, the Owners Group's proposed outcomes have been maintained, for example, the extent of the proposed environmental zone applied to riparian corridors in the original 2019 submission or the greater range of uses sought for the local retail centre in the September 2020 update. This includes the Owners Group's desired dwelling yield outcome – about 2,500 dwellings.

The adjusted development outcome maximises dwelling yield in a considered and responsible way to make efficient use of already zoned land (in the URA), removing pressure for development in more sensitive locations elsewhere. It also maximises the use of existing infrastructure and planned infrastructure investment. Adopting comparable development assumptions to those being delivered in the Moss Vale Road South URA, a rate of dwellings per hectare has been identified for the various residential areas. High and low scenarios have been used to identify an indicative number of new homes. These scenarios or the range in the potential dwelling yield accounts for:

- variation and flexibility in the subdivision design required in response to physical constraints, such as topography and retained vegetation,
- the land required for easements, services, and infrastructure, such as electricity substations, drainage, and open space, and
- the residential densities and products, including dual occupancies and secondary dwellings, the market might demand, or industry chooses to deliver.

Application of the high and low scenarios to the adjusted development outcome indicates the potential for between 2,380 and 3,360 new dwellings. The ultimate number of new dwellings depends on the final lot layout given the above variables, which will only be determined when a developer commences detailed subdivision planning. Further

opportunities to increase the potential dwelling yield are provided by the retail centre, where the planning controls allow 1-2 storeys of units above ground floor commercial premises. This would also increase the diversity of new homes within the release area.

The Owners Group's proposal has been adjusted in response to the findings of the technical studies and subsequent planning considerations. Adjustments include:

1. The design of the water management infrastructure (type and location of devices) to ensure an easy and cost-effective maintenance regime and avoid similar issues and costs experienced, for example, with the drainage infrastructure at the Bayswood Estate, Vincentia.
2. The location of the retail centre to help ensure it is commercially viable (to construct and operate) and secure its early delivery for the future community, avoiding delays such as those observed at Worrigee (approximately 30 years between initial subdivision and centre construction).
3. Securing the land for increased infrastructure requirements to service the future community, such as open space and wider roads to manage traffic, car parking, pedestrian, and cyclists.

Other significant factors considered and addressed in the adjusted development outcome are commercial viability and opportunities to accelerate subdivision activity. The adjusted outcome optimises these by taking advantage of and building on the planned roundabout on Moss Vale Road to service both northern and southern release areas. NSW Government funding has been secured for the design and construction of this roundabout, with completion expected in the second half of 2021. The roundabout provides a logical starting point for initial subdivision activity while the associated North-South road into the release area will provide early access to the retail centre and other residential zoned land, including an 18-hectare site owned by an experienced development company.

Figure 1 (and **Attachment 2**) identify the adjusted development outcome (including the indicative roundabout location) and the following table (Table 1) provides more detailed rationale for the key changes. **Attachment 3** provides a comparison of the Owners Group's proposal and the adjusted outcome.

There are two key components of the adjusted development outcome that the remaining members of the original Owner's Group have issues with. These are the:

- Design of the integrated water management solution, with the Owners Group identifying concerns with water quality outcomes, efficient management of flows, and potential loss of developable area/dwelling yield due to the size of the infrastructure.
- Location of the retail centre, with the Owners Group identifying its preferred location to increase exposure to passing traffic and concerns with perceived loss of links with open space and landscape features (a farm dam and a stand of mature trees).

The Owners Group also has issues with some of the findings of the traffic study, relating to the recommended road types and cross sections, and potential impacts on developable area/dwelling yield. However, it must be noted that the PP will not confirm any outcomes for road types and cross sections and these matters can continue to be discussed and settled during the preparation of the more detailed development controls.

Figure 1 – Adjusted Development Outcome

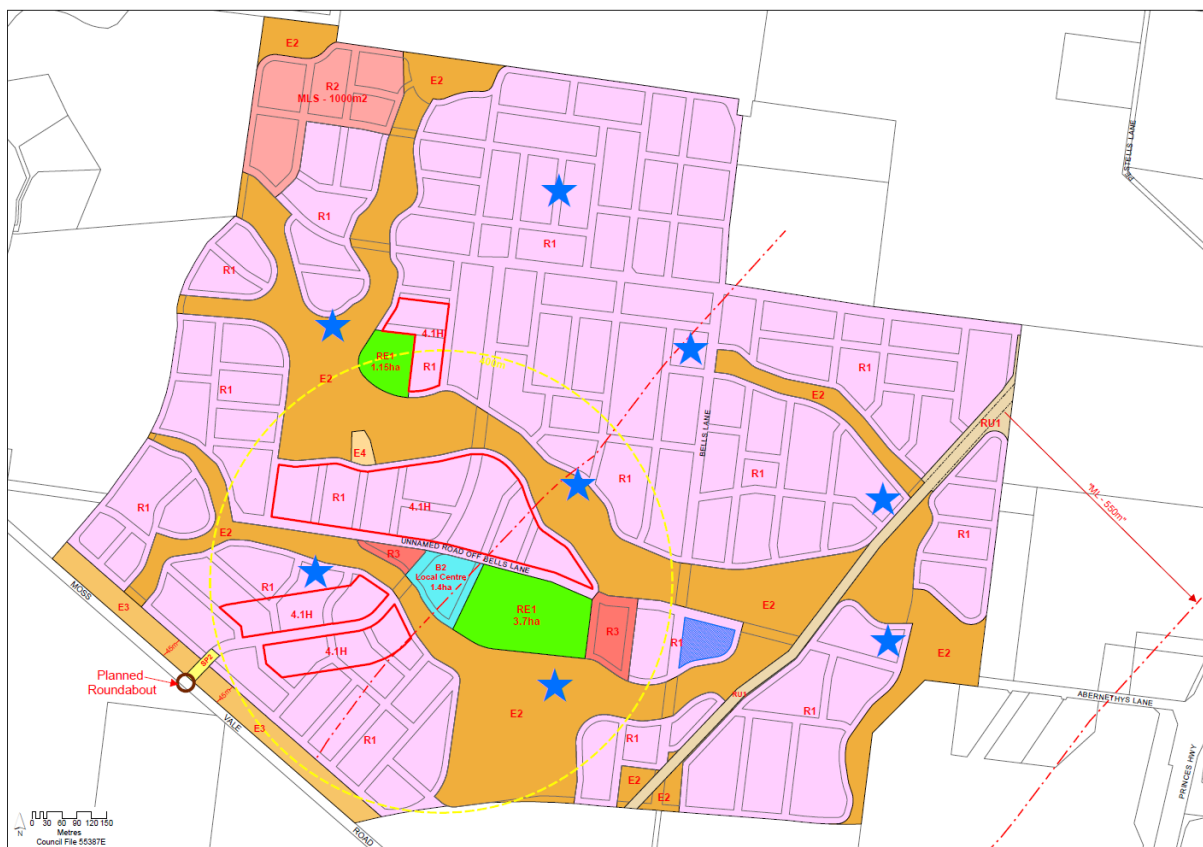


Table 1: Discussion of adjusted layout

Component	Discussion
Water management Infrastructure	<p>The Owners Group proposed solution focusses on managing flows with treatment provided by a complex system of many devices dispersed throughout the release area with the majority located within identified riparian corridors. The ability of the proposed system to maintain or improve water quality needs to be tested.</p> <p>This solution has several potential implications, including high construction and Council maintenance costs (for lots of devices), and the effectiveness of the devices in areas at risk from flooding. Thorough consideration of these implications is required to avoid similar and potentially larger, issues and rectification works such as experienced with the Bayswood Estate, Vincentia.</p> <p>The integrated water management study identified an alternative, outcome with a smaller number of larger devices, including basins and wetlands, to manage flows and improve water quality. Other potential benefits include:</p> <ul style="list-style-type: none"> • Lower construction cost as there are less devices, • Easier and cost-effective maintenance (for Council),

	<ul style="list-style-type: none"> • Greater function as infrastructure is above the area at risk from flooding, • Increased amenity through integration of drainage with landscaping and open space, • Consistency with development controls and standards, including systems delivered in other release areas, and • Reducing the cost of subdivision activity by removing the need for temporary drainage solutions. <p>A greater area of land proposed to be zoned for residential purposes is required for this outcome – 35,000m².</p> <p>To address the Owners Group's position, Council staff have incorporated two design changes to better align the Owner's Group proposal and the recommendation of the study. These include the use of an existing dam, subject to suitability testing, and replacing 2 large wetlands with 4-6 smaller devices. An indicative location for the proposed drainage infrastructure is provided in Figure 1 – the blue stars and blue shaded area (to east/left of Bells Lane).</p> <p>The adjusted development outcome will provide an environmentally responsible and attractive scheme compliant with Council's adopted controls and standards. It also ensures a cost-effective and financially sustainable management regime, avoiding significant burden on Council or the future community. Importantly, the adjusted outcome requires a smaller amount of land, requiring about 25,000m² with possible further reductions to be gained through the integration of basins within public open space.</p>
<p>Retail Centre</p>	<p>The retail analysis recommends a neighbourhood-scale centre in a central location to service the future community. It confirms 1,000-2,000m² of retail floorspace on about 1-1.5 hectares of land would be commercially viable and would adequately meet identified need. It also predicts a larger centre would be unfeasible, leading to no/late delivery or later failure, due to the size of the future population and established and the new or planned retail centres (the nearby Woolworths and Aldi supermarkets). The urban design advice also recommended an optimal location.</p> <p>The Owners Group's proposed B2 Local Centre zone is considered the most appropriate zone for the Centre. It will provide a range of business and retail uses greater than normally found in a neighbourhood centre, helping to encourage early delivery, improve feasibility, and provide flexibility to respond to changing retail practices. However, interim residential uses of retail premises are not recommended due to the complexity of controls required to manage this outcome, difficulties in reversing the temporary use, length of tenancies,</p>

	<p>the quality of temporary dwellings, land use conflict, and loss of amenity during transition from residential to retail.</p> <p>The adjusted outcome will potentially provide a more commercially achievable and superior outcome to the Owners Group's proposal as it provides a centre size, location and zone that delivers:</p> <ul style="list-style-type: none"> • Optimal exposure and ease of access at the intersection of two main roads, elements critical to the feasibility of the centre, • Early delivery, as the adjacent main road will be delivered during the earliest subdivision stages, • A walkable catchment (400m walking distance) to service the future community containing about 40 hectares of residential zoned land, • Equitable and early access for the future community of Moss Vale Road South URA (950 households) from the roundabout and associated road, helping to support the early delivery and feasibility of the centre, and • Links to public open space and other community uses. <p>The Owners Group's preferred location has less benefits. It is on the intersection of two roads – Bells Lane and Abernethys Lane – and has links to open space containing an existing dam and stand of vegetation. However, the roads (existing) are due to be upgraded during later stages of the subdivision, potentially delaying the delivery of the centre or complicating its operation. It is also likely the existing landscape features will change or could be lost through subdivision activity and associated earthworks as experienced with the Taylors Lane redesign in the southern release area. The existing farm dam is also likely to go through significant upgrades as it is made suitable for integration into the drainage system.</p> <p>The proposed location does not provide the same level of access to the immediate community or surrounding suburbs as the recommended centre location, containing 33 hectares of residential land in its walkable catchment and being further away from the southern release area (a 2km drive along Moss Vale Road and Bells Lane – about the same distance to the current Woolworths supermarket). These factors may decrease its long-term viability.</p> <p>The Owners Group rely on the future delivery of the Far North Collector Road facilitating increased traffic flows past the centre. An interim intersection of this new road with Moss Vale Road, but not servicing the release areas, is planned for delivery by June 2022 (up to 12-months after the Moss Vale Road/Release Area roundabout). No timeframe has been set for the upgrade of Bells Lane and an improved intersection to service the release</p>
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	<p>area. In addition, the potential support for the centre from the delivery of this road is uncertain, as it will improve access and shorten journey times from the release area to higher-order retail centres (the established Woolworths supermarket), i.e. retail expenditure could be lost from the release area.</p> <p>Attachment 4 provides an indicative layout plan with the Owners Group's proposed centre location and corresponding adjustments to areas of small lots and medium density residential areas.</p> <p>The detailed design of the centre will be considered during the continued preparation of the DCP chapter.</p>
Dwelling Diversity	<p>Dwelling diversity is achieved throughout the URA with:</p> <ul style="list-style-type: none"> • 5.9 hectares of R2 Low Density Residential zoned land at 10-14 dwellings per hectare provides between 60 and 80 dwellings (rounded). • 1.8 hectares of R3 Medium Density Residential at 21-35 dwellings per hectare provides between 40 and 60 dwellings (rounded). • 147 hectares of R1 General Residential at 15-20 dwellings per hectare provides between 2,200 and 2,940 dwellings (rounded). • The proposed small lot controls provide opportunities for an extra 80 to 280 dwellings. <p>The adjusted development outcome has the potential for upwards of 2,380 new dwellings (with a potential upper limit of 3,360 dwellings). This is considered to deliver a measured and responsible increase in dwelling yield while providing the land required for necessary drainage infrastructure, open space, and increased bushfire asset protection zones.</p>
Open Space	<p>The community infrastructure needs analysis identified the need for 12 hectares of open space to service the future community, with two thirds as formal parks and sports fields and the remaining third as natural areas (extent and location to be determined on biodiversity values and ability to support recreation).</p> <p>For the passive space, two large parks are zoned for public recreation – one near the village centre and one adjacent to the riparian corridor in the north of the release area. Four smaller parks (0.5 hectares) are proposed within the residential areas (no open space zoning required), consolidating the pocket parks proposed by the Owners Group and returning them to the development area.</p> <p>For the active space, a 3-4-hectare sportsground is required. This can be provided on-site in the central open space providing</p>

	<p>a hub of missed-use open space (active and passive) or provided off-site (through development contributions) to provide equity of access to surrounding communities.</p> <p>The level of embellishment and funding mechanisms will be addressed in the proposed development contributions framework.</p>
Scenic corridor	<p>The peer review of the visual analysis found the proposed buffer and bund to provide a suitable scenic corridor. It also provided several other recommendations to be considered during the preparation of DCP controls (subject of a future report).</p> <p>The peer review did highlight the need for greater asset protection zones for adjacent homes. The provision of suitable asset protection zones is being examined in an additional bushfire assessment (an assessment also required to consider updated NSW RFS guidance). In the interim, the adjusted development outcome increases the width of the E3 Environmental Management zoned land along Moss Vale Road (from 32m to 45m) to provide the required asset protection zone. This can be reviewed upon receipt of the additional bushfire assessment.</p> <p>The peer review also recommended improvements to the road layout and landscaping. These will be considered during the preparation of development controls.</p>
Gas Pipeline	<p>The gas pipeline safety management study confirmed the pipeline is constructed to a standard suitable for the proposed development (non-rupture). To ensure the ongoing integrity of the pipeline, the study identifies the need for development controls:</p> <ul style="list-style-type: none"> • for road and utility crossings, • referring subdivision and development applications within the identified measurement length (identified as ML on the adjusted development outcome) to the pipeline operator, and • requiring more detailed safety management studies for construction activity adjacent to the pipeline. <p>The pipeline is proposed to be zoned RU1 Primary Production, consistent with the zoning of other regionally significant infrastructure, such as the Nowra-Bomaderry Bypass, allowing dedication to be addressed at a future time.</p>
Traffic	<p>The traffic study confirmed the existing, external road network will only need minor upgrades to continue to operate efficiently when the release area is delivered. The study also recommends an internal road network, road typologies or cross sections,</p>

	potential public transport routes, and a shared user pathway network. It has been used to inform the adjusted development outcome, but the details of the road and pathway infrastructure will be settled during the preparation of development controls.
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Proposed next steps

To ensure the timely advancement of the planning framework for the release area, a PP needs to be prepared and submitted for a Gateway determination. Table 2 lists the amendments required to the current LEP planning controls to deliver the adjusted development outcome identified in Figure 1 – the basis of the recommended PP.

Table 2: Proposed content of the PP

Component of Shoalhaven LEP 2014	Proposed Amendment
Land Zoning Map	Adjustment to land use zones to match Figure 1.
Height of Building Map	<ul style="list-style-type: none"> • Apply an 8.5m height to land zoned R2 Low Density Residential. • No mapped height for other zones – defaulting to 11m.
Minimum Lot Size Map Clause 4.1H Exceptions to minimum subdivision lot sizes for dual occupancies and dwelling houses (<i>Enabling clause for small lots</i>)	<p>Apply the following lot sizes to corresponding zones:</p> <ul style="list-style-type: none"> • R1 General Residential: 500m² • R2 Low Density Residential: 1,000m² • E2 Environmental Conservation: 40 hectares • E3 Environmental Management: 40 hectares • E4 Environment Living: 2 hectares • RU1 Primary Production: 40 hectares <p>(No minimum lot size is set for land zoned R3 Medium Density Residential, B2 Local Centre, or RE1 Public Open Space)</p> <p>Apply Clause 4.1H in identified locations close to the retail centre, open space, and main roads to permit subdivision into 300-499m² lots.</p>
Scenic Protection Area Map	Remove the application of this map from land zoned B7 Business Park.
Urban Release Area Map	Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.

Clauses Map	Amend the current map to apply to all residential and business zoned land in the adjusted development outcome.
Riparian Lands and Watercourses Map	Amend the current map to apply to the watercourses proposed to be zoned E2 Environmental Conservation.

As the PP progresses through the Gateway process, work will continue on the remaining planning documents – the DCP Chapter and development contributions framework. The endorsement at this point of the adjusted development outcome will allow finalisation of draft:

- development controls to guide future subdivision and development activity (including village centre controls, road typologies, and development staging plans).
- development contributions to fund and deliver the infrastructure and facilities to support the future community.

Council staff will also continue to progress investigations into biodiversity planning outcomes, affordable housing opportunities and suburb name/boundary. It is intended that a further report will be provided to Council in early 2021 to:

- Provide the results and a summary of the PP Gateway determination.
- Seek endorsement of a draft DCP chapter and development contribution framework for public exhibition.
- Provide an update on various other matters relating to the delivery of the release area (e.g. affordable housing, and suburb naming).
- Seek endorsement to publicly exhibit the planning package (PP, DCP chapter and development contributions framework).

Biodiversity Certification

When considering the Owners Group's 2019 submission, Council resolved to investigate the strategic biodiversity certification of the release area to help fast-track future subdivision applications. The technical study provided by the Owners Group's consultant, JB Enviro, stated Biodiversity Stewardship may not be practical given the cost of the required assessment, application fee, the few credits generated, and management costs.

Council staff engaged JB Enviro consultants to undertake some further work to estimate the credit potential of the biodiversity resource in the release area and the size of the fund deposit required to manage the resulting stewardship site. This work found the limited size and quality of the biodiversity resource would not generate sufficient credits. The current market value of the 108 credits does not cover the costs to properly rehabilitate the area through a Vegetation Management Plan (VMP), with a potential shortfall of between \$57,000 (under the moderate VMP scenario) and \$687,000 (under the intensive VMP scenario – most likely).

The timeframes observed for biodiversity certification investigations for similar release areas in Wollongong indicate 5-6 years or longer to implement. There are no other current

examples under the current process on which to provide an improved estimate of the time required to settle biodiversity certification for the release area.

Biodiversity Certification is fully supported because of its strategic conservation outcomes and quicker development approvals. However, as it is financially unviable for Council, the absence of funding sources, as well as uncertain and significant timeframes, it is recommended to not proceed with current investigations and instead examine other options for funding restoration of the biodiversity resources within the release area.

Community Engagement

Subject to the Gateway determination, the PP will be publicly exhibited for at least 28 days. The draft development controls, and contributions framework would be exhibited at the same time to present a comprehensive array of documents for community and stakeholder feedback. The proposed exhibition process will be outlined in the next Council report. As outlined in this report, Council staff have worked collaboratively with all major landowners to progress the planning of the release area.

Policy Implications

The adjusted development outcome outlined in this report builds on the original Owner Group's proposal to deliver a high quality and much needed new living area in the Nowra-Bomaderry Area. The finalisation of the planning documents to guide the delivery of the release area is a high priority project, confirmed by Council's earlier decisions and the adopted Strategic Works Program. The documents, when finalised, will facilitate subdivision activity and the release of lots, helping to meet identified housing demand.

Financial Implications

In response to the high priority placed on the project, a dedicated project team has been created within the Strategic Planning Team. Significant funds have also been spent on necessary technical studies to ensure the investigation and preparation of a well-founded and responsible development outcome. There is likely to be a range of longer-term financial and resourcing considerations for Council associated with the delivery of the release area which will be addressed in future reports.

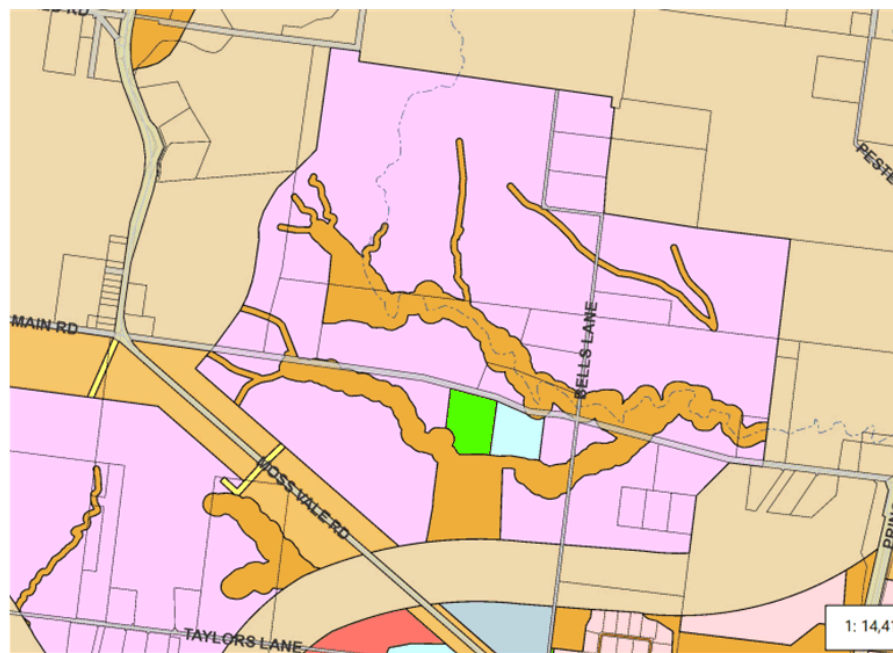
Delay to the delivery of the planning documents also has implications for the current landowners who continue to pay "holding costs" and other associated ownership costs.

Risk Implications

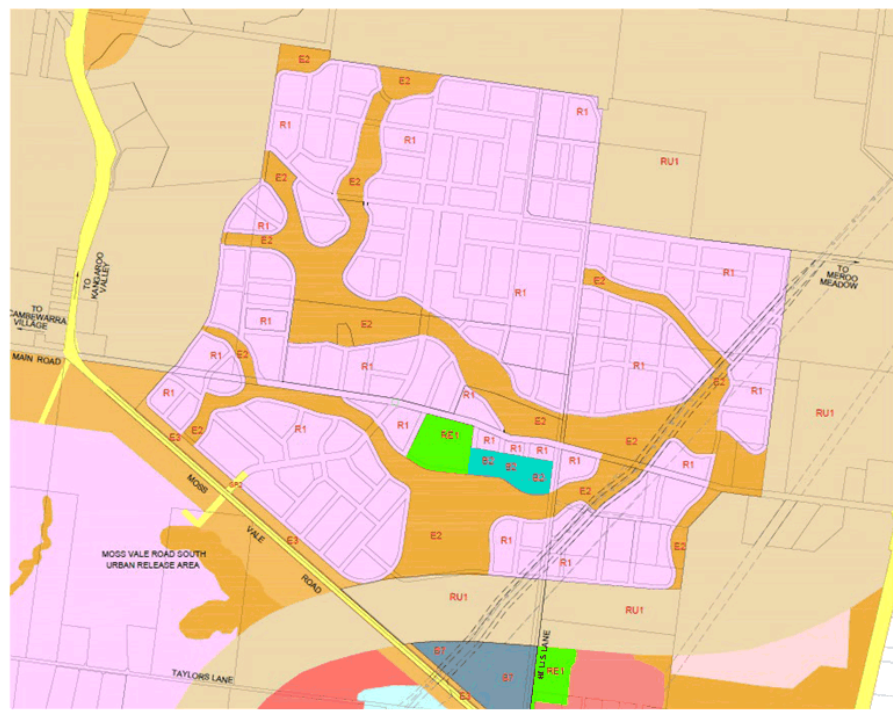
This report and the work leading to it ensures a Planning Proposal recommending contemporary planning controls for the release area can be submitted for a Gateway determination in October 2020. Delays to the project ultimately delay the delivery of new homes in the Nowra-Bomaderry URAs. They could also delay start of other strategic planning projects whilst further work is undertaken for the release area. Other risks include the emergence of higher priority projects and the subsequent allocation of resources away from the release area.

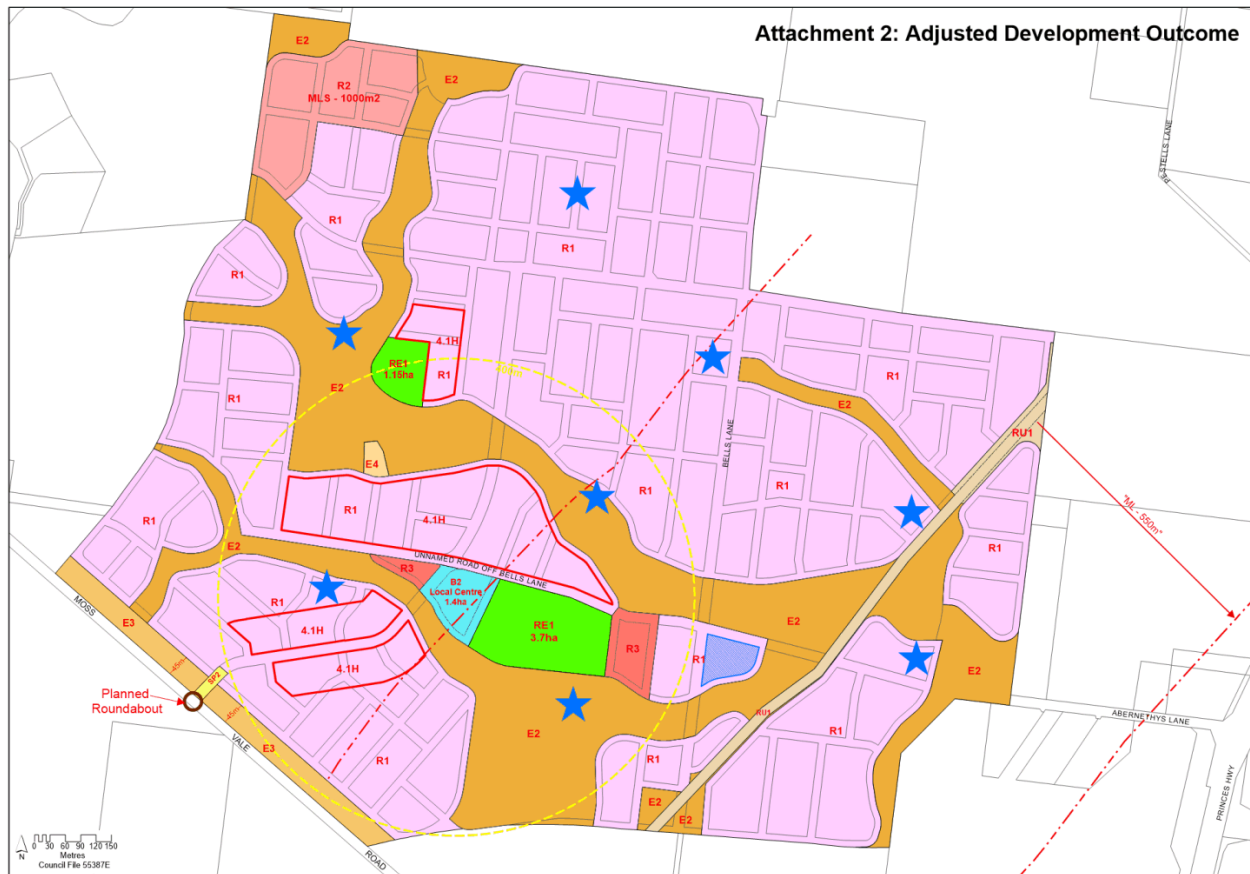
Attachment 1 – Comparison of current and Owners Group's Proposed Land Use Zones

Current Land Use Zones in Shoalhaven Local Environmental Plan 2014



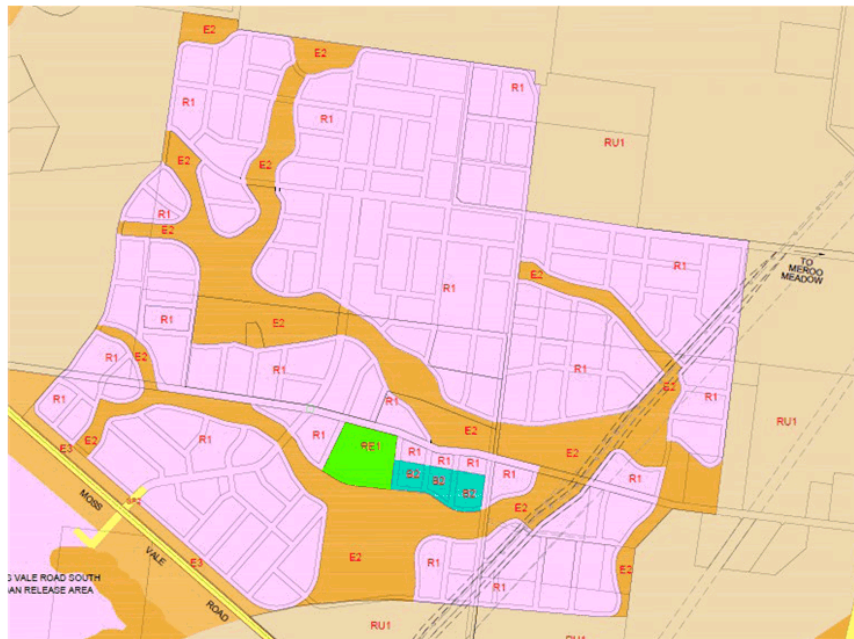
Moss Vale North Owners Group 2019 Proposal





Attachment 3 – Comparison of Owners Group Proposed Zones & Adjusted Development Outcome

Moss Vale North Owners Group 2019 Proposal



Adjusted Development Outcome





Attachment 3 – SEPP Checklist

(current at 8 October 2020)

SEPP	Name	Relevant	Not inconsistent
19	Bushland in Urban Areas	×	n/a
21	Caravan parks	×	n/a
33	Hazardous and Offensive development	×	n/a
36	Manufactured home estates	×	n/a
47	Moore Park Showground	×	n/a
50	Canal estate development	×	n/a
55	Remediation of land	×	n/a
64	Advertising and signage	×	n/a
65	Design quality of residential apartment development	×	n/a
70	Affordable Housing (Revised Schemes)	×	n/a
--	Aboriginal Land 2019	×	n/a
--	Activation Precincts 2020	×	n/a
--	Affordable Rental Housing 2009	×	n/a
--	BASIX 2004	×	n/a
--	Coastal Management 2018	×	n/a
--	Concurrences and Consents 2018	×	n/a
--	Educational Establishments and Child Care Facilities 2017	×	n/a
--	Exempt and Complying Development Codes 2008	×	n/a
--	Gosford City Centre 2018	×	n/a
--	Housing for Seniors or People with a Disability 2004	×	n/a
--	Infrastructure 2007	×	n/a
--	Koala Habitat Protection 2019	×	n/a
--	Kosciuszko National Park—Alpine Resorts 2007	×	n/a
--	Kurnell Peninsula 1989	×	n/a
--	Major Infrastructure Corridors 2020	×	n/a
--	Mining, Petroleum Production and Extractive Industries 2007	×	n/a
--	Penrith Lakes Scheme 1989	×	n/a
--	Primary Production and Rural Development 2019	×	n/a
--	State and Regional Development 2011	×	n/a
--	State Significant Precincts 2005	×	n/a
--	Sydney Drinking Water Catchment 2011	×	n/a
--	Sydney Region Growth Centres 2006	×	n/a
--	Three Ports 2013	×	n/a
--	Urban Renewal 2010	×	n/a
--	Vegetation in Non-Rural Areas 2017	✓	✓
--	Western Sydney Aerotropolis 2020	×	n/a
--	Western Sydney Employment Area 2009	×	n/a
--	Western Sydney Parklands 2009	×	n/a

Attachment 4 – S9.1 Checklist

(Current at 13 September 2020)

Direction		Applicable	Relevant	Not inconsistent
1 Employment and Resources				
1.1	Business and Industrial Zones	✓	✓	See s.4.2.4
1.2	Rural Zones	✓	✓	See s.4.2.4
1.3	Mining, Petroleum Production and Extractive Industries	✓	✗	✓
1.4	Oyster Aquaculture	✗	✗	n/a
1.5	Rural Lands	✓	✓	See s.4.2.4
2 Environment and Heritage				
2.1	Environment Protection Zones	✓	✓	See s.4.2.4
2.2	Coastal Management	✗	✗	n/a
2.3	Heritage Conservation	✓	✓	See s.4.2.4
2.4	Recreation Vehicle Area	✓	✗	✓
2.5	Application of E2 and E3 Zones in Environmental Overlays in Far North Coast LEPs	✗	✗	n/a
2.6	Remediation of Contaminated Land	✓	✓	See s.4.2.4
3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	✓	✓	See s.4.2.4
3.2	Caravan Parks and Manufactured Home Estates	✓	✗	✓
3.3	Home Occupations	✓	✓	See s.4.2.4
3.4	Integrating Land Use and Transport	✓	✓	See s.4.2.4
3.5	Development Near Regulated Airports and Defence Airfields	✓	✗	✓
3.6	Shooting Ranges	✓	✗	✓
3.7	Reduction in non-hosted short term rental accommodation period	✗	✗	n/a
4 Hazard and Risk				
4.1	Acid Sulphate Soils	✓	✓	See s.4.2.4
4.2	Mine Subsidence and Unstable Land	✗	✗	n/a
4.3	Flood Prone Land	✓	✓	See s.4.2.4
4.4	Planning for Bushfire Protection	✓	✓	See s.4.2.4

Direction		Applicable	Relevant	Not inconsistent
5 Regional Planning				
5.2	Sydney Drinking Water Catchments	x	x	n/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	x	x	n/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	x	x	n/a
5.9	North West Rail Link Corridor Strategy	x	x	n/a
5.10	Implementation of Regional Plans	✓	✓	See s.4.2.4
5.11	Development of Aboriginal Land Council land	x	x	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	✓	✓
6.2	Reserving Land for Public Purposes	✓	x	✓
6.3	Site Specific Provisions	✓	x	✓
7 Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	x	x	n/a
7.2	Implementation of Greater Macarthur Land Release Investigation	x	x	n/a
7.3	Parramatta Road Corridor Urban Transformation Strategy	x	x	n/a
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	x	x	n/a
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	x	x	n/a
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.9	Implementation of Bayside West Precincts 2036 Plan	x	x	n/a
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	x	x	n/a
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	x	x	n/a
7.12	Implementation of Greater Macarthur 2040	x	x	n/a

Attachment 5 – Evaluation Criteria for the Delegation of Plan Making Functions

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

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014

Address of Land (if applicable):

The subject land is legally described as:

- Pt Lot 54 DP 1024592
- Pt Lot 1 & Pt Lot 2 DP 1134376
- Lot 1 & Lot 2 DP 1191186
- Pt Lot 4 DP 268209
- Lot 2 DP 582036
- Pt Lot 5, Lot 6 & Pt Lot 7 DP 618693
- Lot 2 DP 630811
- Lots 3 & 4 DP 708356
- Lot 3 DP 847399
- Lots 21 & 22 DP 86495
- Lot 1 DP 882059

Intent of draft LEP:

The Planning Proposal seeks

Additional Supporting Points/Information:

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			

Does the Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any consistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the Planning Proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs				
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?		N/A		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		
Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the Planning Proposal?		N/A		
Has the council identified that it will exhibit the Planning Proposal in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of		N/A		

public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?				
Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		
Spot Rezoning				
Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?		N/A		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		N/A		
Will the Planning Proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		N/A		
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?		N/A		
Does the Planning Proposal create an exception to a mapped development standard?		N/A		
Section 73A matters				
<p>Does the proposed instrument:</p> <p>a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary works or a formatting error?</p> <p>b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?</p> <p>c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p>	N			

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

Not applicable.

Attachment 6 – Agency Submissions

DPIE (Environment, Energy and Science)



Planning,
Industry &
Environment

The Chief Executive Officer
Shoalhaven City Council
PO Box 42
Nowra NSW 2541
E-mail: council@shoalhaven.nsw.gov.au
Attn: Gordon Clark

Our ref: DOC20/21/66679

Your ref: PP048

9/2/2021

Dear Sir/Madam

Subject: Pre-Exhibition Agency Consultation Planning Proposal – Moss Vale Road North Urban Release Area

Thank you for your referral dated 13/1/2021 seeking comments regarding the abovementioned planning proposal. The planning proposal is to amend and add provisions to *Shoalhaven Local Environment Plan 2014* to facilitate development of the Moss Vale Road North Urban Release Area (URA) which was first zoned for development in 2014. We note this referral is only in relation to the planning proposal at this stage however feedback on the associated Development Control Plan (DCP) and infrastructure plans will be invited at the public exhibition phase.

We provide summary comments on the planning proposal in relation to flooding and biodiversity below, with detailed comment provided in Attachment A.

Floodplain Risk Management

We acknowledge Council's early attention to floodplain risk management considerations relevant to the planning proposal. We also note that Abernethy's Creek is a tributary of the Lower Shoalhaven River and work currently underway for the broader system could inform the flood risk management assessment for the planning proposal required under *Section 9.1 direction 4.3 - Flood Prone Land*.

Biodiversity

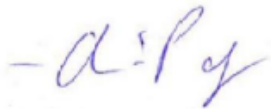
The planning proposal generally protects areas of biodiversity significance through the application of E2 zoning and we support the restoration of these areas as part of the URA development. Given the area has biodiversity values (including vegetation in mod-high condition, and vegetation with connective value), we consider the E2 zoning could be expanded to include more of the moderate to high condition vegetation on site, with further consideration given to protecting hollow-bearing trees within E2 zoned land.

A Vegetation Management Plan (VMP) will be developed to ensure E2 zoned land is managed and this needs to address how adequate and timely funding to restore these areas

will be sourced. We are happy to provide further input to development of the VMP and would welcome the opportunity to review the draft DCP if required.

If you have any questions about this advice, please do not hesitate to contact Vanessa Allen, Senior Conservation Planning Officer, via Vanessa.Allen@environment.nsw.gov.au or 4224 4179.

Yours sincerely



Chris Page

**Senior Team Leader, Planning (Illawarra)
Biodiversity & Conservation Division
Environment, Energy and Science**

Attachment A: Detailed Comments

1. Floodplain Risk Management

As the proposal relates to flood prone land, we acknowledge Council taking early action to satisfy itself that the proposal is in line with the principles of the Floodplain Development Manual. This includes flood risk management assessments required under section 9.1 direction 4.3 Flood Prone Land that address the following:

- the impact of flooding (up to & including the PMF) on the proposed development; and
- the impact of the proposed development on flood behaviour (up to & including the PMF) on and off site (particularly topography changes through land fill and levees); and
- the impact of flooding on the safety of people/users of both the subject and surrounding development for the full range of possible floods including issues linked with isolation, flood hazard and accessibility for emergency services; and
- the implications of climate change (particularly increased rainfall intensity) and cumulative development impacts on flooding.

The flood assessment indicates that the modelling of the Abernethy's Creek system uses Regional Flood Frequency Analysis in the absence of any historical flood information or flow records against which the models could be calibrated or validated.

We note that while Council has not previously studied flooding in Abernethy's Creek, it is a tributary of the Lower Shoalhaven River and Council is currently developing improved flood risk information in the broader system. We recommend that information relating to Council's Lower Shoalhaven River Floodplain Risk Management Study & Plan review be utilised to inform further flood assessments to satisfy section 9.1 direction 4.3 which applies to this planning proposal.

Council should not hesitate to contact the regional Water Floodplains & Coast team should it require any further advice on flood risk management.

2. Biodiversity

We support Council's early investigation of strategic biodiversity certification of the URA and acknowledge reasoning for not pursuing this option.

The planning proposal generally protects areas of biodiversity significance through the application of E2 zoning and we support the restoration of these areas as part of the URA development. While the site is modified, it currently provides connectivity value between Cambewarra Nature Reserve in the north and Bomaderry Creek Regional Park to the south and amelioration of habitat within the E2 zoned areas of the URA will have value for biodiversity conservation in the area.

The Planning Proposal covers an area of 266 ha which has been largely cleared for agriculture. Approximately 10 hectares of native vegetation will be cleared, while approximately 10 hectares of vegetation will be incorporated into E2 zoned areas. E2 areas generally comprise the higher condition vegetation, however, some patches of vegetation marked as "High" on Figure 7 of the Flora and Fauna Report are not included in the proposed E2 zoning. We also note that 46 hollow bearing trees fall in the development area and are assumed to be removed over time.

We therefore consider there may be further opportunities for Council to consolidate and enhance existing biodiversity values within the site. We encourage Council to consider whether the E2 zoning could be expanded to include more of the moderate to high condition vegetation on site

(see Figure 7 below), or areas containing a high density of hollow bearing trees. We are particularly unsure of the justification for why E2 zoning is not applied to the high condition vegetation in the south east corner of the URA (see Figure 7 below, with location marked in purple highlighter). In the absence of such justification, we would recommend this patch be connected to the larger E2 zoned patch to the west within the planning proposal area, and E2 zoning applied. There is also an opportunity to link the proposed E2 vegetation in the north-western corner of the site with the E2 riparian corridor to the east (marked in orange highlighter on Figure 7 below). We also recommend that the E2-zoned area in the south western corner of the URA incorporate as many hollow-bearing trees as possible. This may require fine scale mapping of the E2-zoned area and could also include any areas of moderate-high condition vegetation as well (as shown in figure 7 below).

As noted in the planning proposal report, a Vegetation Management Plan (VMP) needs to be developed, and issues around funding the works must be included. A Biodiversity Stewardship Agreement (BSA) over parts of the site could be investigated to source credits to meet offset obligations or generate credits for sale to fund biodiversity management actions. Alternately, a funded Conservation Agreement could be investigated. We recommend Council consult further with the Biodiversity Conservation Trust (BCT) if these options are to be pursued.

Biodiversity Development Assessment Report/s (BDAR) using the Biodiversity Assessment Method (BAM) are likely to be required at development application stage depending on whether clearing exceeds the Biodiversity Offset Scheme thresholds. We note that further survey work will be required for some threatened species (as stated in the supplementary letter, dated 22/2/2019). Council should also be aware that when applying the BAM, only surveys not more than 5 years old can be used.

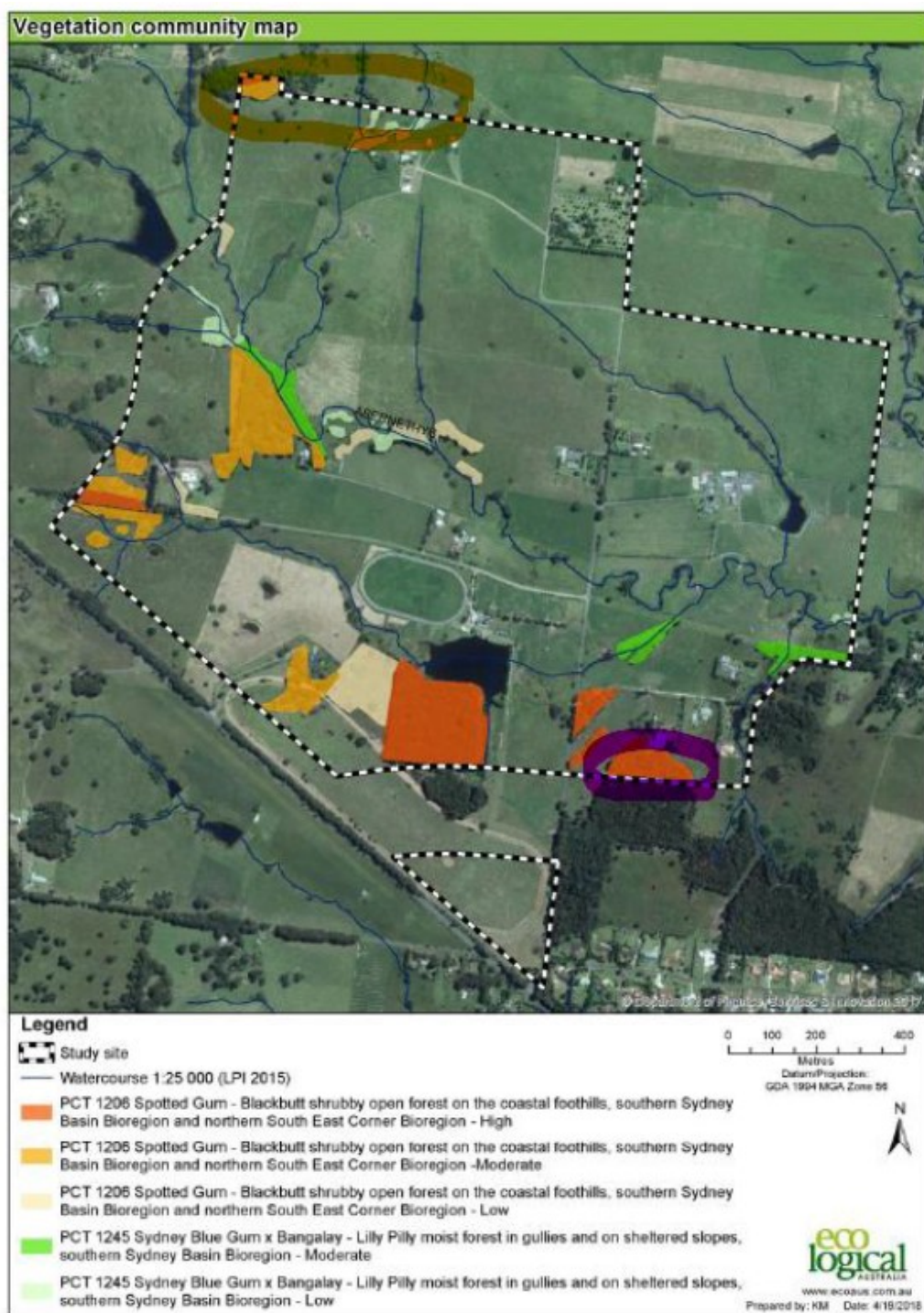


Figure 7: PCTs on the site

Heritage NSW (State Heritage and State Significant Archaeology)



Our ref: DOC21/13888

Mr Stephen Dunshea
Chief Executive Officer
Shoalhaven City Council
council@shoalhaven.nsw.gov.au

Attention: Ms Molly Porter, City Futures
molly.porter@shoalhaven.nsw.gov.au

Planning Proposal – Moss Vale Road North Urban Release Area

Dear Mr Dunshea

Thank you for the opportunity to comment on the planning proposal for the Moss Vale Road North Urban Release Area in Cambewarra and Meroo Meadow, to amend and add provisions under *Shoalhaven Local Environmental Plan 2014* to allow for residential development and environmental protection.

State Heritage and State Significant Archaeology

We have reviewed our records and believe that the planning proposal is not likely to have a direct physical or visual impact on any items listed on the State Heritage Register and/or State significant historic archaeology. Therefore, we have no specific comments to make in relation to heritage that is protected under the *Heritage Act 1977*.

Aboriginal Cultural Heritage

Our Aboriginal Cultural Heritage Regulation team may provide separate advice on the proposal in relation to Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974*.

Prior to finalisation of the planning proposal, Council should be satisfied that all necessary due diligence, assessments and notifications have been undertaken.

If you have any further questions regarding this matter please contact Andreana Kennedy, Senior Heritage Policy Officer, Strategic Relationships and Planning at Heritage NSW by email at andreana.kennedy@environment.nsw.gov.au.

Yours sincerely

Rochelle Johnston
Manager, Heritage Act Programs
Heritage NSW
22 January 2021

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

Heritage NSW (Aboriginal Cultural Heritage)



Our ref: DOC21/296706
Senders ref: 55387E (D21/11678), PP_2020_SHOAL_010_00

Ms Molly Porter
City Futures
Shoalhaven City Council
PO Box 42
Nowra NSW 2541

Email: molly.porter@shoalhaven.nsw.gov.au

Dear Ms Porter

Planning Proposal PP048 – Moss Vale Road North Urban Release Area, Shoalhaven Local Environmental Plan 2014, Pre-Exhibition Agency Consultation

Thank you for the opportunity to comment on the Aboriginal cultural heritage considerations of the Planning Proposal to rezone land known as the Moss Vale Road North Urban Release Area.

We understand the Gateway Determination for this Planning Proposal (dated 20 December 2020) requires consultation with Heritage NSW, among other agencies. We have prepared the following advice for Council to consider in relation to Aboriginal cultural heritage regulation matters with reference to the Ministerial Direction 2.3.

Please note that the following comments relate to Aboriginal cultural heritage matters only pursuant to the *National Parks and Wildlife Act 1974*. We understand that separate comments from Heritage NSW have been provided to Council in relation to matters under the *Heritage Act 1977*.

In preparing this advice we have reviewed the material provided with the referral including the Aboriginal due diligence assessment report prepared by New South Wales Archaeology Pty Ltd dated 28 May 2018 (NSW Archaeology, 2018) and the Shoalhaven City Council Planning Proposal PP048, version 2, dated December 2020 (SCC 2020).

Additional Aboriginal cultural heritage assessment is required

We support the recommendation in the due diligence assessment prepared by NSW Archaeology (2018, p.37) for a full Aboriginal Cultural Heritage Assessment Report (ACHAR) to be prepared. The ACHAR must include archaeological test excavation and Aboriginal community consultation in accordance with our guidelines (**Attachment A**).

The Aboriginal heritage assessment does not adequately address Direction 2.3

Direction 2.3, Heritage Conservation, requires Planning Proposals to address the conservation of Aboriginal objects. Given this, a full Aboriginal heritage investigation is required to inform this Planning Proposal.

The due diligence process does not adequately assess the impacts of this Planning Proposal on Aboriginal cultural heritage as required by Direction 2.3. This is because without test

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

excavation and Aboriginal community consultation the extent of the impacts on Aboriginal objects and heritage values through the proposed rezoning and future development is not known.

We do not agree with the statement in the Planning Proposal (SCC 2020, p.26) and the due diligence assessment (NSW Archaeology Pty Ltd 2018, p.37) that the ACHAR should be prepared at the development application stage. Rather, this assessment is required to inform the current Planning Proposal. We have provided additional comment on the ACHAR assessment requirements in **Attachment B**.

The Aboriginal cultural heritage assessment needs to inform the Planning Proposal

The results of the full Aboriginal cultural heritage assessment should inform the proposed rezoning. Early assessment provides the best opportunity to identify and protect Aboriginal cultural heritage values. It also provides certainty to all parties about any future Aboriginal cultural heritage management requirements.

The requirement for a full ACHAR to be prepared at the Planning Proposal stage is consistent with Direction 3.4 of the Illawarra Shoalhaven Regional Plan (2015). Action 3.4.1 under Direction 3.4 is to conserve Aboriginal heritage sites when preparing planning controls. It is important that such conservation mechanisms are developed at the Planning Proposal stage to help mitigate the cumulative impact of development in this region on Aboriginal cultural heritage.

If you have any questions regarding the above advice, please contact Rose O'Sullivan, Archaeologist, Aboriginal Cultural Heritage Regulation – South, at Heritage NSW, on 4224 4177 or rose.osullivan@environment.nsw.gov.au.

Yours sincerely



Jackie Taylor
Senior Team Leader, Aboriginal Cultural Heritage Regulation Branch - South
Heritage NSW
9 April 2021

Encl: Attachment A: Heritage NSW Guidelines for Aboriginal Cultural Heritage Assessment
Attachment B: Additional comments in relation to the Aboriginal Cultural Heritage assessment requirements

ATTACHMENT A: HERITAGE NSW GUIDELINES FOR ABORIGINAL CULTURAL HERITAGE ASSESSMENT

Heritage NSW recommend a comprehensive Aboriginal Cultural Heritage Assessment Report (ACHAR) be prepared in accordance with the following guidelines:

- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*. OEH 2011. Available online at: <https://www.heritage.nsw.gov.au/assets/Uploads/files/Guide-to-Investigating-Assessing-and-Reporting-on-Aboriginal-Cultural-Heritage-in-New-South-Wales.pdf>
- *Code of practice for archaeological investigation of Aboriginal objects in New South Wales*, DECCW 2010. Available online at: <https://www.heritage.nsw.gov.au/assets/Code-of-Practice-for-Archaeological-Investigation-in-NSW.pdf>
- *Aboriginal cultural heritage consultation requirements for proponents 2010*. DECCW 2010. Available online at: <https://www.heritage.nsw.gov.au/assets/Uploads/files/Aboriginal-Cultural-Heritage-Consultation-Requirements-for-Proponents.pdf>

ATTACHMENT B: ADDITIONAL COMMENTS IN RELATION TO THE ABORIGINAL CULTURAL HERITAGE ASSESSMENT REQUIREMENTS

The full Aboriginal cultural heritage assessment must include archaeological investigation and Aboriginal community consultation and must be conducted in accordance with our guidelines that are provided at **Attachment A**. The assessment needs to encompass the full Planning Proposal area.

Archaeological test excavation is required to determine whether there are Aboriginal objects present in the Urban Release Area. The test excavation should clarify the predicted potential identified by NSW Archaeology Pty Ltd (2018). We consider these predictive statements to be preliminary only. Test excavation must be conducted that adequately samples the identified landforms to ensure the Aboriginal cultural heritage values of the land are accurately understood.

We recommend the Planning Proposal also consider impacts to the Aboriginal cultural landscape including potential impacts on visual corridors, including to Cambewarra Mountain and Cullunghutti (Mount Coolangatta). These potential impacts can only be understood through consultation with the Aboriginal community. Measures to limit any impacts to identified Aboriginal cultural landscape values should be developed and integrated into the Planning Proposal.

The literature review prepared by NSW Archaeology Pty Ltd (2018) also needs to be updated to include the more recent assessments conducted for the nearby Princes Highway duplication and Moss Vale Road South / Taylors Lane Urban Release Areas.

If the Planning Proposal is approved and future development proceeds, any developer would need to ensure they consider Aboriginal cultural heritage impacts within their environmental assessments. Where harm to Aboriginal objects cannot be avoided an Aboriginal Heritage Impact Permit (AHIP) application must be prepared. Further information is available on our website: <https://www.heritage.nsw.gov.au/assets/Uploads/files/Applying-for-an-Aboriginal-Heritage-Impact-Permit-Guide-for-applicants..pdf>.

Nowra Local Aboriginal Land Council



NOWRA LOCAL ABORIGINAL LAND COUNCIL

ABN 73 721 213 191
59 Beinda Street | PO Box 2049 | Bomaderry NSW 2541
P 02 4423 3163 | F 02 4423 0083 | M 0455 053 300 | E nowralalc@bigpond.com

Wednesday 17th February 2021

Shoalhaven City Council

Via email development@shoalhaven.nsw.gov.au

**RE: Planning Proposal – Moss Vale Rd North URA; and
Subdivision Application SF10851**

Thank you for referring these matters to NLALC for comment and accommodating a late submission.

As you are aware we are currently under significant pressure to respond to requests for comment on planning and development issues, and we are operating in a resource constrained environment.

Obviously we are concerned with the protection of Aboriginal cultural heritage – indeed this is one of the core responsibilities of Land Councils – however please appreciate that a flow on effect of Council stimulating development in the City is an increased consultation burden on us.

We welcome and appreciate the importance of sustainable and appropriate development, however the protection of Aboriginal cultural heritage must be at the forefront. We support development which is sympathetic to the cultural landscape, and which celebrates rather than dismisses tens of thousands of years of custodianship of country.

We consider the URA for Moss Vale Rd both north and south (and related developments) an excellent opportunity for Council to incorporate that respect for culture into urban design, naming, public spaces, and planning decisions, and we look forward to continued opportunities to be involved.

We further note the opportunity to take a best practice (rather than statutory minimum) approach to protecting heritage – for example, we would not support reliance on Due Diligence assessments compared with requiring Aboriginal Cultural Heritage Assessments, particularly given the known significance in the area.

Nicole Moore

Chief Executive Officer

Transport for NSW



Transport
for NSW

Our ref: STH17/00220/23
Contact: Andrew Lissenden 0418 962 703
Your ref: 55387E (D21/11678)

11 February 2021

Molly Porter
Shoalhaven City Council
BY EMAIL: council@shoalhaven.nsw.gov.au

PLANNING PROPOSAL (PP048) – MOSS VALE ROAD NORTH URBAN RELEASE AREA – PRE EXHIBITION AGENCY CONSULTATION

Dear Molly,

Transport for New South Wales (TfNSW) refers to Council's email dated 13 January 2021 regarding the pre-exhibition of the above planning proposal (PP).

TfNSW has reviewed the information provided focusing on the impact to the state road network (i.e. Moss Vale Road and the Princes Highway). TfNSW notes:

- The PP is seeking to amend and add provisions to the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) to facilitate the Moss Vale Road North (MVRN) Urban Release Area (URA). Two options have been provided for the B2 zoned land and small lot housing; and
- Consultation is required under section 3.34 (2)(d) of the *Environmental Planning and Assessment Act 1979* and/or to comply with the requirements of relevant section 9.1 Directions.

Having regard for the above, TfNSW provides the comments in **Attachment 1** for Council's consideration.

If you have any questions please contact myself on 0418 962 703. Please ensure that any further email correspondence is sent to development.southern@rms.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Andrew Lissenden'.

Andrew Lissenden
Development Assessment Officer
Community and Place | South Region

Cc: molly.porter@shoalhaven.nsw.gov.au

Attachment 1

1. Access to/from Moss Vale Road: TfNSW is supportive of a single access point being provided to the MVRN URA that will also serve as the main access to the Moss Vale Road South (MVRS) URA. TfNSW notes that the submitted traffic assessment prepared by Bitzios Consulting (Ref: P4627.007R MVRN URA Traffic Study - External Traffic Analysis Report, dated 07/07/20) concludes, in part, that “a single lane roundabout approach is sufficient” for the Moss Vale Road central URA access. TfNSW understands that this access will be provided as part of the Stage 1 subdivision of the MVRS URA.

1. Road network upgrades/funding: TfNSW notes that the submitted traffic assessment factors in other upgrade work being undertaken along the road network at different times (e.g. Moss Vale Road/Bells Lane/Far North Collector Road signalised intersection, works to the Princes Highway/Boxsells Lane intersection, Bells Lane and Taylors Lane links to MVRN and MVRS URA's respectively). While TfNSW notes that the provisions of Section 6.1 of the SLEP 2014 apply to the land, consideration needs to be given to how these upgrades/works detailed in the traffic assessment will be delivered.

Council should be satisfied that appropriate mechanisms are in place for funding of the road network upgrades (e.g. is there a need for a Planning Agreement or an amendment to/creation of a Section 94 Plan). If appropriate planning mechanisms to obtain contributions for the upgrades are not established at the PP stage, the opportunity for developers to contribute to necessary upgrades may be lost. This is likely to lead to unacceptable impacts to the road network.

2. Active and public transport: TfNSW strongly supports development which will reduce car dependency and encourage the use of sustainable modes of travel including buses, bicycles and walking. TfNSW, therefore, recommends that the PP ensures that it supports, to the greatest extent possible, the aims and objectives of the State Government policies dealing with this matter.

3. Reduction in E3 Environmental Management zone: TfNSW notes that the proposal seeks to rezone a portion of the existing E3 zone adjacent to Moss Vale Road in Lot 4 DP 268209 to R1 General Residential. The width of the proposed E3 zone land to be 45m. TfNSW raises no concerns with this subject to Council being satisfied that it will not impact upon the strategic design work that Council may be undertaking for the future Moss Vale Road corridor (e.g. is it outside the future road corridor inclusive of any space required for service provision, cut and/or fill, landscaping, etc.).

4. Noise: Noting the increase in vehicular traffic along Moss vale Road as a result of the development in the URA, Council should consider potential noise impacts on the future residential development and the need to identify appropriate measures to mitigate any impacts. The identification of measures during the PP stage is important to allow the Council to consider how the measures would be funded, if sufficient space is available and enable the creation of appropriate planning mechanisms.

Endeavour Energy

From: Cornelis Duba <Cornelis.Duba@endeavourenergy.com.au>
Sent: Sunday, 31 January 2021 5:20 PM
To: Council Email
Cc: Kerrie Mackey; Molly Porter; Jeanette Saban
Subject: Shoalhaven City Council Pre-Exhibition Agency Planning Proposal PP048 within the Moss Vale Road North Urban Release Area Cambewarra
Attachments: EE FPJ 4015 Relocation Removal July 2013.pdf; SW08773 Work near underground assets.pdf; SW Work near overhead power lines.pdf; ENA EMF What We Know.pdf; EE Safety Plumbing.pdf; EE Safety on the job.pdf; EE MDI0044 Easements and Property Tenure.pdf; EE Guide for Padmount Substations.pdf; EE General Restrictions OH Power Lines Apr 2020.pdf; EE FPJ 6007 Technical Review Request Aug 2019.pdf; EE FPJ 4603 Permission to Remove Service July 2007.pdf

The General Manager
Shoalhaven City Council

ATTENTION: Molly Porter, City Futures

I refer to the Council's letter of 13 January 2021 regarding Pre-Exhibition Agency Planning Proposal PP048 within the Moss Vale Road North Urban Release Area Cambewarra [Council ref. 55387E (D21/11678)], which seeks to amend and add provisions to the Shoalhaven LEP 2014 to facilitate residential development and environmental protection of lands. Submissions need to be made to Council by 3 February 2021.

As shown in the below site plan from Endeavour Energy's G/Net master facility model there is extensive electricity infrastructure within Moss Vale Road North Urban Release Area. Due to the large area the scale required to show the entire area makes it difficult to see the detail in the plans. The plans show that the Moss Vale Road North Urban Release Area is predominantly serviced by overhead power lines with pole mounted distribution substations. However if Council require more detailed plans of any specific area they can be provided upon request.

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model.

Easements benefitting Endeavour Energy are indicated by red hatching. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kilovolts (kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). The main easements encumbering the Moss Vale Road North Urban Release Area is 132 kV high voltage overhead feeders 98L and 98U – Mt Terry to Shoalhaven and 33,000 volts / 33 kV high voltage overhead feeder 7512 - REC A0827 to USL D2798 (please also refer to the below extracts from Google Maps Street View). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).

In regard to the electricity infrastructure on private lots, although not held under easement, these are protected assets and deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the Electricity Supply Act 1995 (NSW). Essentially this means the owner or occupier of the land cannot take any action in relation to the presence in, on or over the land of electricity works ie. the electricity infrastructure cannot be removed to rectify the encroachment. These protected assets are managed as if an easement is in place in accordance with

the requirements of Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', Table 1 – 'Minimum easement widths' – please refer to the below point 'Easement Management / Network Access'.

In addition the following requirements of Endeavour Energy's 'Property Tenure Guidelines, Provision of Network Connection Services' will apply to the subdivisions to be facilitated by the Planning Proposal:

7.0 SUBDIVISIONS

Endeavour Energy will require the developer to create all necessary easements, restrictions, rights of access, and positive covenants.

The creation of property tenure is **not** required for any network asset located within a public road (unless it is a temporary road).

7.2 Urban property tenure requirements

Endeavour Energy will require the creation of property tenure for:

- all new transmission, high voltage and low voltage assets; and
- all existing transmission, high voltage and low voltage assets located within the developer's land.

Subject to the foregoing and the following recommendations and comments Endeavour Energy has no objection to the Planning Proposal.

- Network Capacity / Connection

Endeavour Energy has noted that the Planning Proposal

The Planning Proposal is supported by an Infrastructure Report (Attachment A – item B prepared by Allen Price and Scarratts, dated 5 April 2019) which concludes that the provision of all essential services (water, sewer, electricity) are on track and will not be a constraint to the timing or delivery of development in the Urban Release Area.

Endeavour Energy's Asset Planning & Performance Branch whilst not having undertaken a detailed assessment of the Planning Proposal have provided the following advice: of 25 August 2020 regarding Planning Proposal PP054 at Taylors Lane, CAMBEWARRA (Lot 1 DP 949932)

Endeavour Energy is planning to supply the Moss Vale Road South Urban Release Area (URA) and other nearby URAs from a future new zone substation.

Endeavour Energy has a draft network supply strategy for the greater Shoalhaven area. The draft strategic area plan sets out the preferred ultimate long-term network configuration. Within the strategic area plan staging scenarios include immediate short-term through to the ultimate long-term requirements. Ultimately, the mature load in the larger greenfield development area of Cambewarra will require the establishment of a new zone substation along with upstream transmission assets and downstream distribution feeders. To achieve this Endeavour Energy will need to acquire a suitable parcel of land for a network substation. (approximately 100m x 130m with road frontage).

Overall, an evidence-based approach on actual and forecast demand along with network constraints will ultimately determine the need date for each stage of network investment. The development of individual projects will be based on principles outlined in the strategic area plan when required.

Endeavour Energy is committed to making provisions for customers to connect to its network in a fair and equitable manner. This is in line with reasonable legislated user pays principles for connection works and in a manner, which will ensure an acceptable quality of supply for all existing and future customers.

In regard to the development of sites within the Moss Vale Road North Urban Release, in due course the applicant for the proposed development of the site will need to submit an appropriate application based on the maximum demand for electricity for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined. Straightforward applications can be completed online and permission to connect may be provided immediately if submitting a complying application.

Depending on the outcome of the assessment, any required padmount substation/s will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.

For more complex connections, advice on the electricity infrastructure required to facilitate the proposed development (including asset relocations) can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on business days on telephone: 133 718 or (02) 9853 6666 from 9am - 4:30pm or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/> .

Alternatively the applicant may need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development. The ASP scheme is administered by Energy NSW and details are available on their website via the following link or telephone 13 77 88:

<https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/asp-scheme-and-contestable-works> .

- Network Asset Design

'Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development:

5.11 Reticulation policy

5.11.1 Distribution reticulation

In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed below.

In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown branches and debris than bare conductors. CCT must only be used in treed² areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.

Non-metallic Screened High Voltage Aerial Bundled Cable (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.

² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown

5.11.1.1 Urban areas

Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either environmental or local council requirements.

Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.

Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final load requirements of the entire development plan.

Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in treed areas where CCT or NMSHVABC must be used.

Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.

- Flooding and Drainage

Endeavour Energy has noted that the draft Planning Proposal indicates that 'the Planning Proposal affects land identified as being flood prone. The flood risk presented by Abernethy's Creek and other minor watercourses within the Urban Release Area'.

Endeavour Energy requires the electricity network needed to service an area / development to be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a flood prone site. Risk control has focused typically on avoiding the threat, but where this is not possible, reducing the negative effect or probability of flood damage to assets by implementing good design and maintenance practices.

Distribution substations should not be subject to flood inundation or stormwater runoff ie. the padmount substation cubicles are weatherproof not flood proof and the cable pits whilst designed to be self-draining should not be subject to excessive ingress of water. Section 7 'Substation and switching stations' of Endeavour Energy's Mains Construction Instruction MCI 0006 'Underground distribution construction standards manual' provides the following details of the requirements for flooding and drainage in new padmount substation locations.

7.1.6 Flooding and drainage

Substations are to be located such that the risk of flooding or stormwater damage is minimal.

As a minimum the level at the top of the transformer footing, HV and LV switchgear, shall not be lower than the 1:100 year flood level.

All drains within the substation site area or in the vicinity shall be properly maintained to avoid the possibility of water damage to Endeavour Energy's equipment.

In areas where, as determined by the Network Substation Manager, there is a high water table or a heightened risk of flooding, indoor substations will not be permitted.

All materials used in the construction below the substation (ground level) shall be capable of withstanding prolonged immersion in water without swelling or deterioration.



Figure 51 - Example substation raised above 1:100 flood level

- Bushfire

Endeavour Energy has noted from the Planning Proposal that 'the Planning Proposal affects land that is mapped as being Bushfire Prone'. The accompanying Bushfire constraints advice for Masterplan and DCP which provides and assessment of the site having regards to NSW Rural Fire Service 'Planning for Bush Fire Protection 2019' does not appear to include any specific recommendations related to electricity services.

6 Gas and electrical supplies

In accordance with PBP, electricity should be underground wherever practicable. Where overhead electrical transmission lines are installed:

- Lines are to be installed with short pole spacing, unless crossing gullies; and
- No part of a tree should be closer to a powerline than the distance specified in the 'ISSC 3 Guideline for the Management of Vegetation in the Vicinity of Electricity Assets' (Industry Safety Steering Committee 2016).

The following is an extract of Endeavour Energy's Company Policy 9.1.1 Bushfire Risk Management:

9.1.1 BUSHFIRE RISK MANAGEMENT

1.0 POLICY STATEMENT

The company is committed to the application of prudent asset management strategies to reduce the risk of bushfires caused by network assets and aerial consumer mains to as low as reasonably practicable (ALARP) level. The company is also committed to mitigating the associated risk to network assets and customer supply reliability during times of bushfire whilst achieving practical safety, reliability, quality of supply, efficient investment and environmental outcomes. The company is committed to compliance with relevant acts, regulations and codes.

Accordingly the electricity network required to service the proposed development must be fit for purpose and meet the technical specifications, design, construction and commissioning standards based on Endeavour Energy's risk assessment associated with the implementation and use of the network connection / infrastructure for a bushfire prone site. In assessing bushfire risk, Endeavour Energy has traditionally focused on the likelihood of its network starting a bushfire, which is a function of the condition of the network. Risk control has focused on reducing the likelihood of fire ignition by implementing good design and maintenance practices. However the potential impact of a bushfire on its electricity infrastructure and the safety risks associated with the loss of electricity supply are also considered.

- Easement Management / Network Access

The following is a summary of the usual / main terms of Endeavour Energy's electrical easements requiring that the landowner:

- Not install or permit to be installed any services or structures within the easement site.
- Not alter the surface level of the easement site.
- Not do or permit to be done anything that restricts access to the easement site without the prior written permission of Endeavour Energy and in accordance with such conditions as Endeavour Energy may reasonably impose.

Endeavour Energy's preference is for no activities or encroachments to occur within its easements. However, if any proposed works (other than those approved / certified by Endeavour Energy's Network Connections Branch as part of an enquiry / application for load or asset relocation project) will encroach / affect Endeavour Energy's easements or protected assets, contact must first be made with the Endeavour Energy's Easements Officer, Jennie Saban, on business days on mobile 0417484402 or alternately via email Jennie.Saban@endeavourenergy.com.au.

For further information please find attached for the applicant's reference copies of Endeavour Energy's:

- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' which deals with activities / encroachments within easements.
- General Restrictions for Overhead Power Lines.

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

- Development Application Notification / Concurrence

The Council's notifications of development applications facilitated by the Planning Proposal need to comply with Clause 45 'Determination of development applications—other development' of *State Environmental Planning Policy (Infrastructure) 2007* (NSW) (please see the following extract) in order to enable Endeavour Energy to provide comments about potential safety risks.

45 Determination of development applications—other development

- (1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—
- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
 - (b) development carried out—
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
 - (ii) immediately adjacent to an electricity substation, or
 - (iii) within 5m of an exposed overhead electricity power line,
 - (c) installation of a swimming pool any part of which is—
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must—
- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

- **Subdivision of Easements**

Endeavour Energy's preference is to have continuity of its easements over the most direct and practicable route affecting the least number of lots as possible. The incorporation of electricity easements into privately owned lots is generally problematic for both Endeavour Energy and the future landowners and requires additional easement management to ensure no uncontrolled activities / encroachments occur within the easement. Therefore it generally does not support the incorporation of easements into multiple / privately owned lots. Accordingly Endeavour Energy's recommendation is that whenever reasonably possible, easements be entirely incorporated into public reserves and not burden private lots (except where they are remnant lots or not subject to development). This is also in keeping with a policy of prudent avoidance – please refer to the below point 'Prudent Avoidance'.

Where the foregoing cannot be reasonably achieved, in subdividing an easement consideration must be given to minimising the impact on the easement rights and ensure contiguous / ready access to the electricity infrastructure located within the easement. If a subdivision results in the incorporation of Endeavour Energy's easement into new or multiple lots, not only must the easements, rights and restrictions, covenants etc. be retained over the effected lots and in accordance with the requirements of NSW Land Registry Services (LRS). Depending on the age of the existing easement terms and the intended use of the site, Endeavour Energy may need to include additional requirements / restrictions to be registered on titles to each of the lots to ensure it can reasonably access and manage its existing electricity infrastructure within the easement.

To ameliorate any impacts arising from the subdivision of the easement, Endeavour Energy believes the easement should be treated as a restricted development area ie. the minimum lot area should exclude any easement / restricted areas with the resulting lots not to be less than the minimum lot size identified in the proposed subdivision. The implementation of such a principle will encourage a higher standard of aesthetically pleasing and functional residential development that sympathetically relates to the site constraints and provide a higher level of amenity for future residents eg. avoids principal private open space having to be located within the easement etc.

The subdivision of an easement / parallel to the overhead power lines or underground cables is generally not permitted as it effectively reduces the width of the easement. Dissecting the easement along its route results in restriction of access eg. every lot being potentially fenced on both sides, multiple gates / openings would be required. The number and length of crossings should be kept to a minimum eg. crossings should be or close to perpendicular to the overhead power lines or underground cables and must be at least half the easement width beyond any pole or structure.

In dissecting an easement along its length, as with the easement for a termination pole/structure or for an aerial / ground stay, the distance from the pole or stay to the new boundary must be at least half the easement width beyond the last pole or stay. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', Table 1 – 'Minimum easement widths'. Particularly with non-urban / large lot residential subdivision, the subdivision should be able to be designed with minimal impact on the easement and without overly restricting the development of the subdivided lots.

- Easement Release

Under Endeavour Energy's Company Policy 9.2.3 'Property Tenure for Network Assets', the company will assess all applications for the release of easements to identify and manage risks to its network, commercial and community interests. The company may seek compensation for the extinguishment of property tenure. No easement is considered to be redundant or obsolete until it is released under this policy.

Applications for the release / extinguishment of an easement can only be made by the registered landowners of the encumbered property and are usually done either:

- As part of an application for connection of load or capital works project for a development project eg. where alternative / new network arrangements are to be put in place, which is managed by Endeavour Energy's Network Connections Branch. Endeavour Energy's Network Connections Branch will make the applicant or their ASP aware of Endeavour Energy's requirements for the release of easement. Please refer to the above point 'Network Capacity / Connection'.
- At the request of landowners where the electrical assets within the easement have been removed or it has become apparent that the easement has possibly become redundant to Endeavour Energy's future network requirements eg. no electrical assets have ever been installed in the easement. Further details are available by contacting Endeavour Energy's Property Services Section via Head Office enquiries on business days on telephone: 133 718 or (02) 9853 6666 from 9am - 4:30pm or email network_property@endeavourenergy.com.au (underscore between 'network' and 'property'). The greater amount of detail provided will assist in the assessment of the application.

In some circumstances the release of easement may be for nil compensation eg. the affected land is subject to dedication as public road or as part of an asset relocation / capital works project where the alternative network arrangements occur at the same voltage and level of easement affectation. Otherwise the release will be subject to monetary compensation paid by the applicant having regard to the potential increase in value of the land as a result of the easement release / reduction in the extent of easement affectation (with appropriate consideration given to the applicant's alternative network arrangements).

- Earthing

The construction of any building or structure (including fencing, signage, flag poles, hoardings, material stockpiles etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. It applies to all electrical installations including temporary builder's supply / connections.

Inadequate connection to the earth to allow a leaking / fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury. The earthing system is usually in the form of an earth electrode consisting of earth rods or mats buried in the ground. It should be designed by a suitably qualified electrical engineer / ASP following a site-specific risk assessment having regard to the potential number of people could be simultaneously exposed, ground resistivity etc.

For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.

- Prudent Avoidance

The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to reducing exposure and increasing separation distances to more sensitive uses such as residential or schools, pre-schools, day care centres or where potentially a greater number of people are regularly exposed for extended periods of time.

These emissions are usually not an issue but with Council's permitting or encouraging development with higher density, reduced setbacks and increased building heights, but as the electricity network operates 24/7/365 (all day, every day of the year), the level of exposure can increase.

Endeavour Energy believes that irrespective of the zoning or land use, applicants (and Council) should also adopt a policy of prudent avoidance by the siting of more sensitive uses eg. the office component of an industrial building, away from and less susceptible uses such as garages, non-habitable or rooms not regularly occupied eg. storage areas in a commercial building, towards any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Where development is proposed near electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development.

Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <https://www.energynetworks.com.au/electric-and-magnetic-fields> and provides the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps), and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

- Vegetation Management

The planting of large trees near electricity infrastructure is not supported by Endeavour Energy. Particularly for overhead power lines, ongoing vegetation management / tree trimming is a significant network cost and falling trees and branches during storms are a major cause of power outages.

Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure (at least the same distance from overhead power lines as their potential full grown height) and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure may become a potential safety risk, cause of bush fire, restrict access, reduce light levels from streetlights or result in the interruption of supply. Such landscaping may be subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

Endeavour Energy's recommendation is that existing trees which are of low ecological significance in proximity of overhead power lines be removed and if necessary replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.

- Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the **Dial Before You Dig 1100** service in accordance with the requirements of the Electricity Supply Act 1995 (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Demolition

Demolition work is to be carried out in accordance with Australian Standard AS 2601—2001: 'The demolition of structures' as updated from time to time. All electric cables or apparatus which are liable to be a source of danger, other than a cable or apparatus used for the demolition works shall be disconnected ie. all electrical apparatus shall be regarded as live until isolated and proved de-energised by approved means.

Depending on the extent of the demolition works, the low voltage service conductor and customer connection may need to be isolated and/or removed during demolition. Please refer to the below point 'Removal of Electricity Supply' for further information.

Appropriate care must be taken to not otherwise interfere with any electrical infrastructure on or in the vicinity of the site eg. streetlight columns, power poles, overhead power lines and underground cables etc.

- Site Remediation

Endeavour Energy's Environmental Business Partner Team have advised that the remediation of soils or surfaces impacted by various forms of electricity infrastructure is not uncommon but is usually not significant eg. transformer oil associated with leaking substations, pole treatment chemicals at the base of timber poles etc. The method of remediation is generally the removal of the electricity infrastructure, removal of any stained surfaces or excavation of any contaminated soils and their disposal at a licensed land fill. The decommissioning and removal of the redundant electricity infrastructure will be dealt with by Endeavour Energy's Network Connections Branch as part of the application for the connection of load for the new development – please refer to the above point 'Network Capacity / Connection'.

If the applicant has any concerns over the remediation works related to redundant electricity infrastructure they should contact Environmental Business Partner Team via Head Office enquiries on business days on telephone: 133 718 or (02) 9853 6666 from 9am - 4:30pm.

- Removal of Electricity Supply

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on business days on telephone: 133 718 or (02) 9853 6666 from 9am - 4:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:

- The disconnection and removal of an underground service cable or overhead service line,
- Removal of metering equipment.

The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply.

For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/saf>

If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

- Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours / 7 days. Endeavour Energy's contact details should be included in the Risk & Safety Management Plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Planning Proposal. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

With the current COVID-19 health risk, as many as possible of Endeavour Energy staff are working from home. As a result there is only a small contingent located at the Huntingwood head office for essential operations. Although working from home, access to emails and other internal stakeholders is now somewhat limited and as a result it may take longer than usual to respond to enquiries. Thank you for your understanding during this time.

Yours faithfully

Cornelis Duba

Development Application Specialist

Network Environment & Assessment

M: 0455 250 981

E: cornelis.duba@endeavourenergy.com.au

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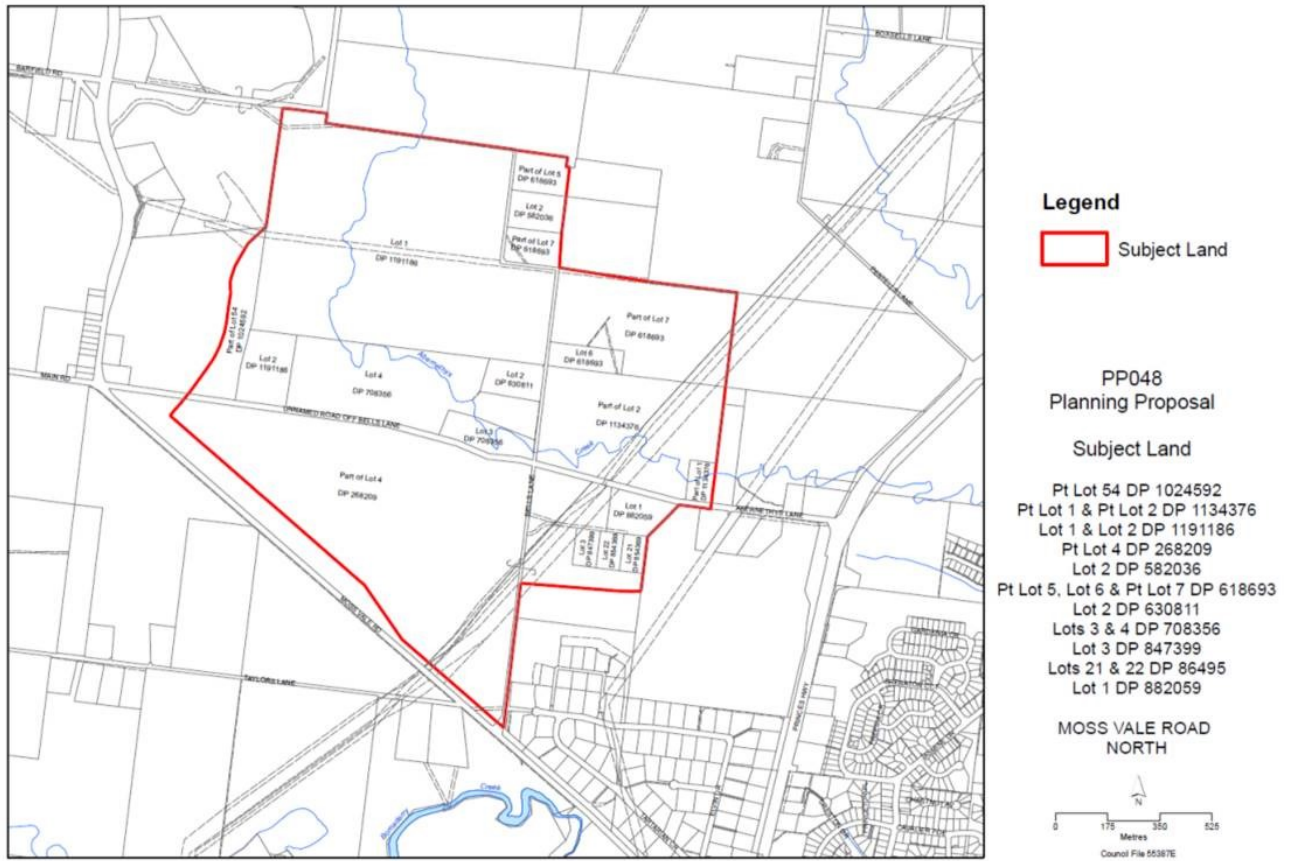
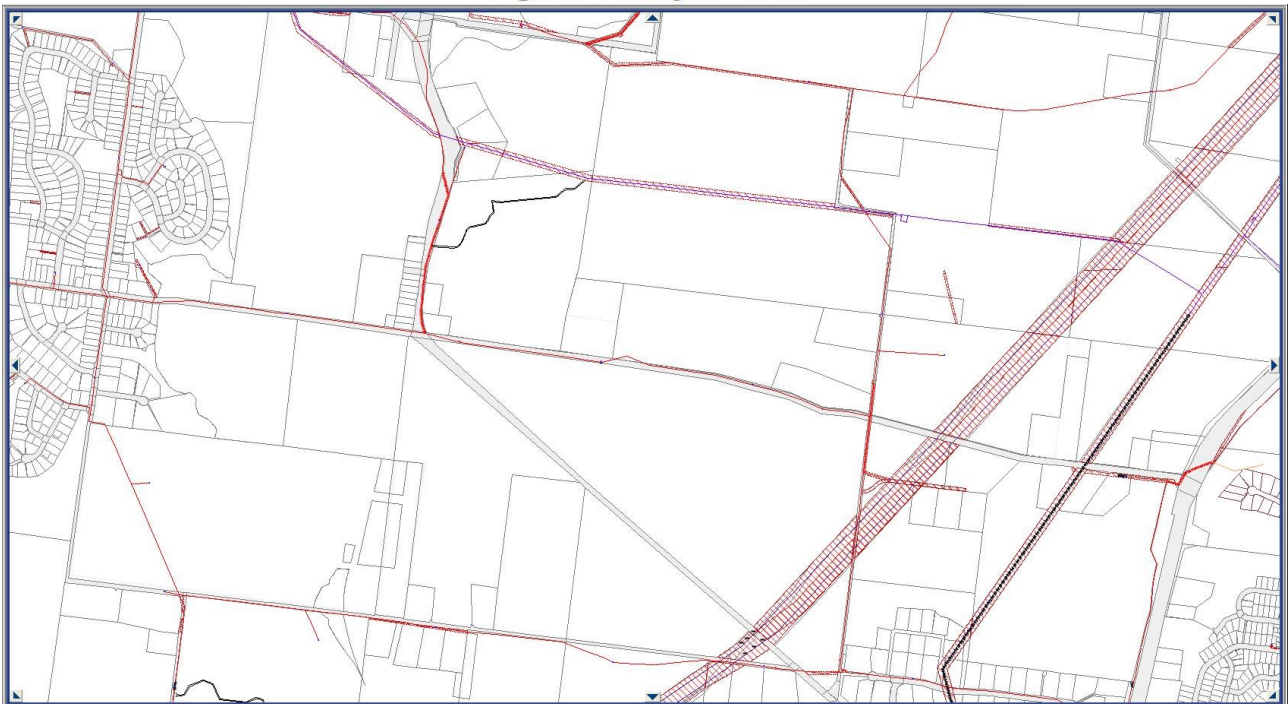
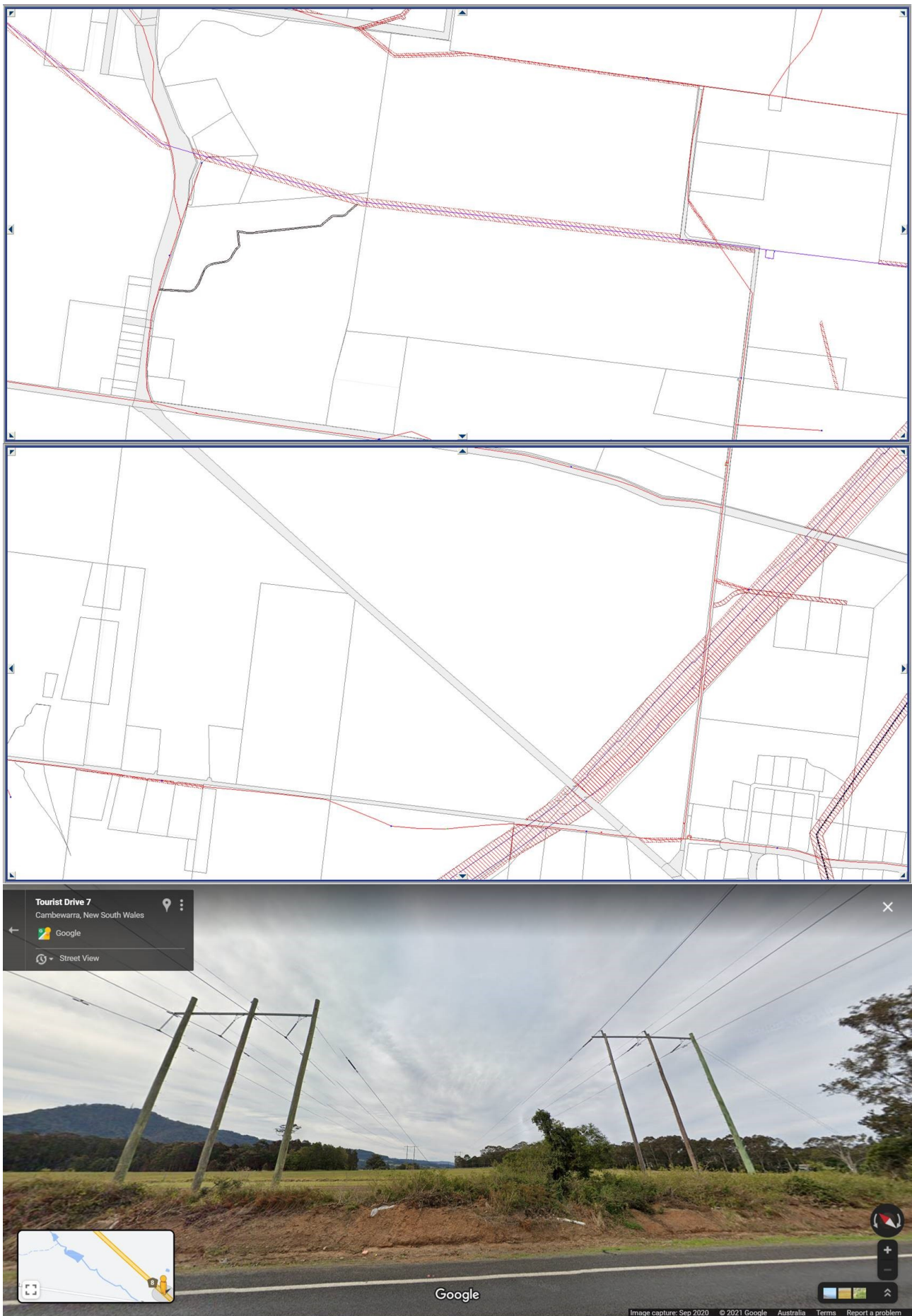


Figure 2: Subject Land





132 kV high voltage overhead feeders 98L and 98U – Mt Terry to Shoalhaven.



33 kV high voltage overhead feeder 7512 - REC A0827 to USL D2798

Jemena

17th February 2021



Shoalhaven City Council
PO Box 42
Nowra NSW 2541

Attention: Strategic Planning Department

Eastern Gas Pipeline
Joint Venture

Jemena Eastern Gas Pipeline (1)
Pty Ltd
ABN 15 068 570 847
Jemena Eastern Gas Pipeline (2)
Pty Ltd
ABN 77 006 919 115

Level 16, 567 Collins Street
Melbourne, VIC 3000
PO Box 16182
Melbourne, VIC 3000
T +61 3 9173 7000
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www.jemena.com.au

**Re: 55387E (D21/11678) - Planning Proposal – Moss Vale Road North Urban
Release Area (Proposal) – PP048**

I make reference to the above planning proposal received by email on 13th January 2021.

Jemena Eastern Gas Pipeline (1) Pty Ltd & Jemena Eastern Gas Pipeline (2) Pty Ltd, (together '**Jemena**'), own and operate the Eastern Gas Pipeline (**EGP**), a high-pressure gas pipeline that is critical infrastructure for the supply of gas to both residential and industrial users in NSW. Jemena notes that it holds statutory rights to operate and protect the Eastern Gas Pipeline.

Jemena has undertaken a detailed engineering and land use assessment of the Proposal, and does not object to the development subject to the following conditions and comments:

- Jemena requires a construction safety management study (SMS) to determine the threats presented by the development, and the controls required to mitigate the threats. The SMS shall occur once civil contractors have been selected, as the civil contractors will be required to participate.
- Jemena accepts that there may be additional road crossings, however these crossings have not been contemplated as part of this assessment. Any new road crossing shall be subject to a detailed design review by Jemena. Jemena reserves the right to direct the proponent to install mechanical protection over the pipeline, as well as further integrity testing of the pipeline, at the proponents expense.
- In relation to Planning Proposal PP048, Jemena's position is that Indicative Layout Plan No.1 is preferable, as the local centre (B2) is located further away from the EGP. Further, it is preferable that areas zoned Clause 4.1 H are also located farther from the EGP.

- Jemena strongly objects to the inclusion of medical centres within the area zoned B1 along with any educational institutions, child care and aged care facilities.
- Jemena strongly objects to Centre Location Option 4, contained within Appendix M: Retail Centres Impact Study. The location of a retail precinct over and immediately adjacent to the EGP is unacceptable.
- The Planning proposal – PP0488 notes that the height limit that applies to R2 is 8.5m, while a height limit is not referenced to apply to R3. Jemena seeks clarification as to whether a maximum height limit will be applied to R3.
- Jemena does not object to an amendment to the zoning over the EGP to RU1 Primary Production, and to the possible subsequent transfer to public ownership. However, any enhancement of this area, such as vegetation planting, fencing, pathways or public furniture within the Jemena easement will require assessment by Jemena.
- Access along the EGP easement must be maintained for Jemena vehicle patrols. Consequently, gates and fence lines must be installed in consultation with Jemena, and Jemena shall be given any required keys or combinations to allow unfettered access to the EGP.
- Vegetation planting over the Jemena easement can pose unacceptable risk to the pipeline. Consequently, any vegetation planting must be undertaken only after consultation and acceptance from Jemena.
- The creation of wetlands, water retention basins and/or stormwater management infrastructure on or near the easement requires Jemena review and approval.
- During the construction of the subdivision, the EGP easement boundaries are to be clearly marked by flagging and or temporary fencing to ensure the safety of the EGP from the threats presented by heavy machinery.
- All excavation, penetration, civil and subdivision works around the EGP easement should refer to and be in accordance with Jemena's *GAS-960-GL-PL-001 - Guideline to Designing, Constructing and Operating Around Existing AS2885 Natural Gas Pipelines*.

Jemena is willing to discuss the proposed development further in consultation with the proponent and the Shoalhaven City Council.

If you have any queries, or require any additional information, please do not hesitate to contact me.

Yours faithfully,



Gavin Sherriff
Lands Management – EGP VIC/NSW

Jemena
Level 16, 567 Collins Street, Melbourne VIC 3000
P: 03 9173 7825 M: 0428 805 300
gavin.sherriff@jemena.com.au

NSW Fisheries



Department of
Primary Industries

Our Ref: C22/143

Your Ref: 55387E (D21/11678)

4 March 2022

The Chief Executive Officer
PO Box 42
NOWRA NSW 2541
Emailed to: council@shoalhaven.nsw.gov.au

Attn: Gordon Clark, Strategic Planning Manager

Dear Mr Clark,

Pre-Exhibition Agency Consultation

Planning Proposal – Moss Vale Road North Urban Release Area

Thank you for your referral of 13 January 2021 seeking comment on the proposal from DPI Fisheries, a division of NSW Department of Primary Industries.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. DPI Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

DPI Fisheries has reviewed the proposed amendments to the Planning Proposal for the Moss Vale Road North Urban Land Release Area and has no objections to the proposed riparian buffer zone areas. It is that aspect of the proposed amendments that can have the most influence on DPI Fisheries interests at this stage of the Planning Proposal development.

It is noted that numerous waterway crossings are proposed in this land release area. Waterway crossings are to be designed in accordance with NSW DPIs Fish Passage Requirements for Waterway Crossings (available from: [Council and Developer Toolkit \(nsw.gov.au\)](http://councilanddeveloper.nsw.gov.au)).

Further, potential erosion and sedimentation impacts during the creation of urban land release areas can have a significant impact on aquatic habitats within and downstream of the greenfield development area. It is important that works are appropriately staged to minimise the area of exposed earth in forming these areas and that appropriate erosion and sedimentation controls are used during the earth forming stages and maintained until the site is fully developed.

If you require any further information, please contact me on 4222 8342.

Yours sincerely,

Carla Ganassin
Senior Fisheries Manager, Coastal Systems

NSW RFS



NSW RURAL FIRE SERVICE

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Your reference: 55387E (D21/311836)
Our reference: SPI20210729000116

ATTENTION: Molly Porter

Date: Friday 27 August 2021

Dear Sir/Madam,

Strategic Planning Instrument

LEP Amendment – Planning Proposal

1. Rezone approximately 2ha of land in the north-western corner of Lot 1 DP 1191186, 191 Bells Lane Meroo Meadow from RU1 Primary Production to R5 Large Lot Residential and E2 Environment Conservation.
2. Rezone approximately 4m2 of land in Lot 10 DP 1105201, 410C Moss Vale Road, Cambewarra, from R1 General Residential to RU1 Primary Production
3. Rezone areas of R1 General Residential to E2 Environmental Conservation to reflect the location of watercourses.
4. Rezone areas of E2 Environmental Conservation to R1 General Residential where the riparian/watercourse has limited significance
5. Rezone and relocate the existing B1 Neighbourhood Centre zone to B2 Local Centre.
6. Rezone an area of land in Lot 4 DP 268209, 220 Moss Vale Road, Cambewarra, forming part of the scenic protection area buffer along Moss Vale Road, from E3 Environmental Management to R1 General Residential.
7. Rezone the easement relating to the Eastern Gas Pipeline to RU1 Primary Production.
8. Rezone an additional area of open space (RE1 Public Recreation).
9. Rezone an area of approximately 1.76ha containing significant vegetation on the western boundary of the URA to R5 Large Lot Residential.
10. Apply the Clause 4.1H subject land outline in identified locations close to the retail centre, open space, and main roads, to permit subdivision into small lots from 300m2 up to 500m2.

I refer to your correspondence dated 27/07/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the *Environmental Planning and Assessment Act 1979*. Documents assessed include:

- Planning Proposal report Version 4 dated July 2021

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Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- Bushfire Opportunities and Constraints Advice, dated 30 June 2021 (to be amended prior to exhibition - see below)
- Street Hierarchy and Network Plan from draft DCP

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision of the land complies with *Planning for Bush Fire Protection 2019*. This is to include, but is not limited to, the following:

- Provision of asset protection zones to comply with Table A1.12.2 for residential development and Table A1.12.1 for Special Fire Protection Purpose (SFPP) developments.
- Access to be provided in accordance with Table 5.3b which will include, but not limited to:
 - Staging plan demonstrates more than one access road in and out of the development at Stage 1 for future subdivisions of three or more allotments.

It is requested that the Bush Fire Opportunities and Constraints Advice provided by Ecological ref:20HNG_15967 dated 30 June 2021 be amended prior to the exhibition of the Planning Proposal by deleting all reference to short fire run models as the inclusion of performance assessment at the strategic planning stage is not considered appropriate by NSW RFS.

For any queries regarding this correspondence, please contact Anna Jones on 1300 NSW RFS.

Yours sincerely,

Martha Dotter
**Supervisor Development Assessment & Plan
Built & Natural Environment**

Natural Resources Access Regulator (NRAR)