

Planning and Assessment

IRF20/3092

Gateway determination report

LGA	Shoalhaven LGA
PPA	Shoalhaven City Council
NAME	Riparian land and residential development part Lot 1 DP949932, Taylors Lane, Cambewarra (31 lots/homes, 0 jobs)
NUMBER	PP_2020_SHOAL_006_00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Taylors Lane, Cambewarra
DESCRIPTION	Part Lot 1 DP949932,
RECEIVED	17 June 2020 additional information 30 June 2020 and 15,16 & 17 July 2020
FILE NO.	EF20/23777 & IRF20/3092
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Shoalhaven LEP 2014 by changing the classification of a watercourse and redefining the associated riparian land on part Lot 1 DP949932, Taylors Lane, Cambewarra to allow land to be rezoned for residential purposes. The land to be rezoned is to be included in the Moss Vale Road South Urban Release Area (URA) and planning controls changed including the application of Clause 4.1H which allows subdivision down to 300m².

A Riparian Lands Study has identified the upper limit of the watercourse with two options for a minimum riparian extent and ultimate riparian corridor. The planning proposal has adopted the upper limit of the watercourse and ultimate riparian corridor however it is proposing to reduce the width of the riparian corridor between two clumps of native vegetation from 10m to 5m either side of the centreline of the watercourse.

1.2 Site description

The watercourse and riparian land subject to the planning proposal are a side tributary at the top of a watercourse on Lot 1 DP949932 Taylors Lane, Cambewarra. (Figures 1 & 2). The watercourse has a poorly defined channel however the high sides of the banks have been identified in a Riparian Lands Study. The vegetation within and along the watercourse is exotic grassland with two small clumps of native plantings.

The watercourse flows to the south east across the property before crossing other rural properties and eventually flowing into Bomaderry Creek. Two farm water supply dams have been constructed on the watercourse.

Lot 1 is part of a rural property located on the north western side of Taylors Lane, Cambewarra. The property is used for cattle grazing but was partially rezoned in 2014 as part of the Moss Vale Road South URA. Council is currently assessing two residential subdivision proposals covering the majority of the property.

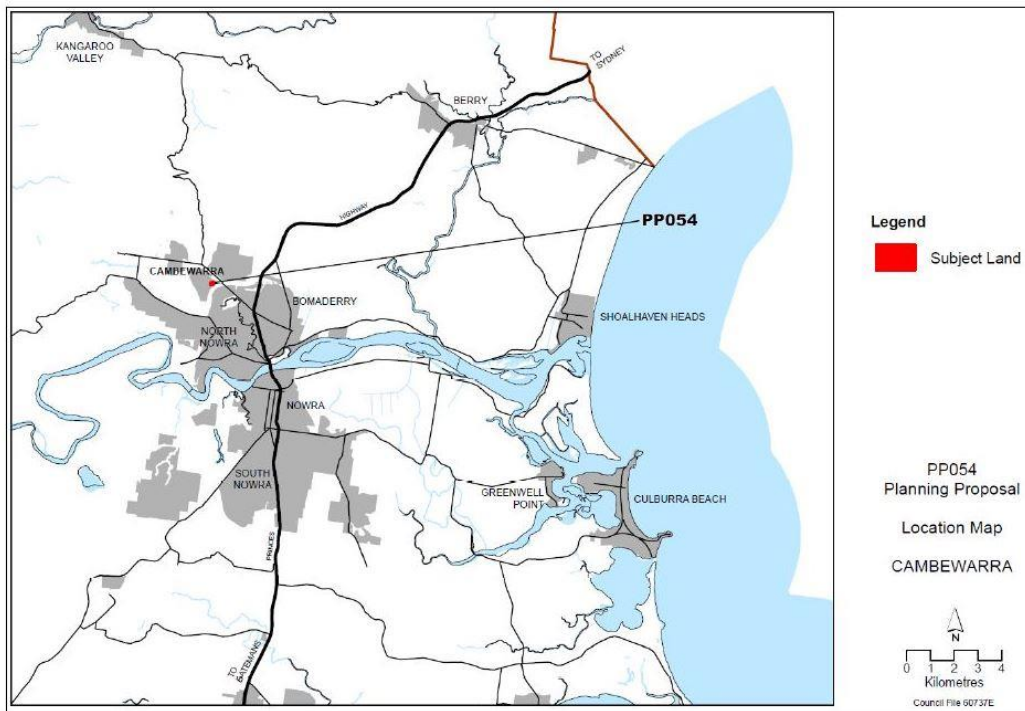


Figure 1: Subject site and locality plan (Source: Shoalhaven City Council)



Figure 2: Subject site (Source: Shoalhaven City Council)

1.3 Existing planning controls

The land subject to the planning proposal is zoned E2 Environmental Conservation with a 40 ha minimum lot size under the Shoalhaven LEP 2014. The watercourse is mapped as a Category 2 watercourse on the Riparian Lands and Watercourse Map.

1.4 Surrounding area

The land subject to the planning proposal and Lot 1 are in a rural area with a mix of grazing lands and rural residential housing. The Lot adjoins Moss Vale Road, the main road from Nowra to the Southern Highlands via Kangaroo Valley.

The area is about to undergo significant change as the Moss Vale Road urban release areas develop.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to amend the classification and extent of the watercourse and rezone previously identified riparian land, to allow for urban residential purposes.

The intended outcome is clear and concise.

2.2 Explanation of provisions

It is proposed to amend the Shoalhaven LEP 2014 by:

- Amending the extent of the watercourse and reclassifying the watercourse from Category 2 to Category 3 on the Riparian Lands and Watercourse Map;
- Rezoning part of the land from E2 Environmental Conservation to R1 General Residential;
- Reducing the minimum lot size for the rezoned land from 40ha to 500m² and including the land in the area subject to Clause 4.1H on the Lot Size Map to permit subdivision down to 300m² in certain circumstances; and
- Including the rezoned land in the Moss Vale Road South URA on the Urban Release Area Map.

The Riparian Lands Study has reviewed the characteristics of the watercourse and recommends its categorisation from Strahler Stream order 2 to 1. This corresponds to changing Shoalhaven Council's mapping which uses a different classification from Category 2 to Category 3.

The area proposed in the Riparian Lands Study to be retained as riparian land has been reduced. The recommendation of the Study applied a 10m buffer from the watercourse centreline. This recommendation does not reflect the site assessment which identified a 'high side of bank, although there is no clearly defined channel'.

Council received preliminary advice from the Natural Resource Access Regulator that the width of the riparian corridor is measured from the bank of the watercourse not the centreline. The planning proposal states that it may be revised if any concerns are raised by the Natural Resource Access Regulator. This may include a change to the area to be rezoned for residential development.

Only future lots along the western side of the land to be rezoned would be able to meet the criteria to use Clause 4.1H to subdivide to higher densities as resulting lots need to adjoin land identified as public open space on the Development Area Map.

The inclusion of the land in the Moss Vale Road South URA and its mapping on the Urban Releases Map means the land will be subject to the requirements of Part 6 of the Shoalhaven LEP 2014. This requires satisfactory arrangements to be in place for the provision of State, local and public utility infrastructure before consent can be granted to the subdivision of the land.

The explanation of provisions are clear and concise.

2.3 Mapping

It is proposed to amend the Riparian Lands and Watercourse, Land zoning, Lot Size and Urban Release Area Maps. The Maps (existing and proposed) are included in the planning proposal. The proposed maps may be changed following consultation and consideration of NRAR's advice.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal arises from a request by the landholder to review the classification of watercourses on his property to facilitate a greater area of land for residential development. On 28 March 2019, Council received a request from the landholder to prepare a planning proposal. The request included a draft planning proposal document.

On 3 September 2019 Council resolved to prepare an independent riparian lands study before proceeding with the planning proposal. The landholder has submitted a revised rezoning proposal in response to the findings of the Study.

The rezoning will enable the landholder to implement Stage 1c of a three staged subdivision development. Stages 1a and 1b are currently being assessed by Council.

The planning proposal is the only way of achieving the intended outcomes of correcting the watercourse's classification and changing the land zoning and development controls.

4. STRATEGIC ASSESSMENT

4.1 State – N/A

4.2 Regional

The planning proposal is consistent with Illawarra Shoalhaven Regional Plan's Actions:

- 2.1 provide sufficient housing supply to suit the changing demands of the region;
- 2.2 support housing opportunities close to existing services, jobs and infrastructure in the region's centres;
- 2.3 deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact; and
- 5.1 protect the region's environmental values by focusing development in locations with the capacity to absorb development.

The planning proposal will provide an additional area of housing supply in the Moss Vale Road South Urban Release Area whilst still protecting the values of the watercourse and riparian lands.

4.3 Local

The proposal is consistent with Council's Community Strategic Plan in that it meets the following actions:

- 1.1 build inclusive, safe and connected communities;
- 1.3 support active, healthy and liveable communities; and
- 2.2 Plan and manage appropriate and sustainable development.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with s9.1 Directions 2.6 Remediation of Contaminated Land, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.1 Implementation of Regional Strategies. Preliminary investigations of the land have not identified any land contamination. Additional housing will be provided in an urban release area with appropriate servicing and infrastructure.

The planning proposal is inconsistent with s9.1 Direction 2.3 Heritage Conservation. A 2017 Aboriginal cultural assessment identified a heritage item on Lot 1, however its location was not recorded. A subsequent 2019 Assessment could not locate the heritage item. The planning proposal is of a minor inconsistency with Direction 2.3 due to uncertainty associated with the presence or otherwise of a heritage item. The LEP contains heritage provisions and a permit will be sought for any future subdivision providing future opportunities to assess any impacts on Aboriginal heritage.

It is unknown whether the planning proposal is consistent or justifiably inconsistent with the s9.1 Directions 1.5 Rural Lands and 2.1 Environmental Protection Zones until consultation with NRAR has confirmed the appropriate application of a riparian corridor along the watercourse.

Whilst the planning proposal identifies that s9.1 Acid Sulphate Soils applies to the proposal, the Direction is not relevant in the circumstances.

It is noted that the land is not flood prone land or land mapped or in close proximity to land mapped as bushfire prone and as such the s9.1 Directions 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection are not applicable to the planning proposal.

4.5 State environmental planning policies (SEPPs)

The planning proposal has identified that the SEPPs Infrastructure 2007, Koala Habitat Protection 2019 and Primary Production and Rural Development 2019 apply to the proposal.

The planning proposal does not apply or raise any issues with the SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and Economic

The planning proposal will facilitate the delivery of a small amount of additional housing supply in the Moss Vale Road South URA. This will potentially result in positive social and economic effects including;

- increased affordability and housing choice;
- increased employment related to construction and supply of material for business in the area; and
- improved viability of retail/commercial sectors as a result of economic activity generated by future residents.

5.2 Environmental

The land is not affected by any hazards – bushfire, flood, acid sulfate soils. The planning proposal is retaining the native vegetation in and along the watercourse. No threatened flora or fauna species were recorded in this vegetation. The Flora and Fauna Assessment recommends development and implementation of a Vegetation Management Plan for the riparian zone. Water quality will be maintained and improved through the establishment of the riparian zone and stormwater treatment works as part of future subdivisions.

5.3 Infrastructure

The inclusion of the land as part of the Moss Vale Road South URA on the Urban Release Area Map requires satisfactory arrangements to be in place for the provision of State, local and public utility infrastructure before consent can be granted to the subdivision of the land.

Infrastructure providers are currently planning and delivering services for the URA. Consultation with these providers will confirm any issues with servicing up to an additional 31 lots.

Should the planning proposal proceed, Council will make an amendment to the Shoalhaven Contributions Plan 2019 to assist with local infrastructure projects – drainage, public open space and access roads.

6. CONSULTATION

6.1 Community

Council requests that the planning proposal be publicly exhibited for a minimum of 28 days. Public notification of the exhibition will include written notification to affected and adjoining landowners and notification and copies available to view on Council's website.

Council has advised that hard copies will no longer be available at Council's administration buildings and this statement will be removed from the planning proposal prior to public exhibition.

6.2 Agencies

Council undertook preliminary consultation with the Natural Resource Access Regulator (NRAR) however NRAR's advice was received after the planning proposal was drafted for reporting to Council. Hence the planning proposal has not been reviewed in light of NRAR's advice.

Council is proposing to consult with the Natural Resource Access Regulator, Department of Premier and Cabinet Aboriginal Cultural Heritage Regulation, Transport for NSW, Shoalhaven Water and Endeavour Energy. No other agency consultation is required.

TECHNICAL STUDIES

The planning proposal is supported by a Riparian Lands Study as well as a Fauna and Flora Assessment, Aboriginal Cultural Heritage Assessment and contamination report which were prepared for the subdivision application for the Lot.

No other technical studies are required.

7. TIME FRAME

Council has proposed a 6-month project timeframe to complete the planning proposal process.

A 12 month timeframe is recommended to confirm the area of riparian lands, allow for any unexpected delays and to provide enough time for Council to obtain an Opinion and a draft LEP from Parliamentary Counsel's Office.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested in its letter of 16 June 2020 to be the local plan making authority

Due to the minor, local nature of the proposal and the initial support from the Natural Resource Access Regulator to reduce the area currently mapped as watercourse and riparian land in the Shoalhaven LEP, it is considered appropriate for Council to be the local plan making authority.

9. CONCLUSION

It is concluded that a Gateway determination should be issued subject to conditions.

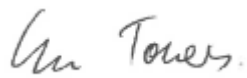
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Direction 2.3 Heritage Conservation is of minor significance; and
2. note that the consistency with section 9.1 Directions 1.5 Rural Lands and 2.1 Environmental Protection Zones are unresolved and will require justification.

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

1. The boundary of the riparian lands is to be confirmed and the proposed maps revised if required prior to public exhibition.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Natural Resource Access Regulator;
 - Department of Premier and Cabinet Aboriginal Cultural Heritage Regulation;
 - Transport for NSW;
 - Shoalhaven Water; and
 - Endeavour Energy.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



23/07/20

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23/07/20

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