

DE21.57 Proponent Initiated Planning Proposal - Taylors Lane, Cambewarra (Moss Vale Road South URA) - Exhibition Outcomes and Proposed Finalisation

HPERM Ref: D21/188736

Department: Strategic Planning
Approver: Robert Domm, Director - City Futures

Attachments: 1. Submissions from Public Authorities (under separate cover) [↗](#)
2. Public submission [↓](#)

Reason for Report

- Present the outcomes from the public exhibition of the Planning Proposal (PP) and supporting exhibition material related to Lot 1 DP 949932, Taylors Lane, Cambewarra; and
- Enable the resulting amendment to Shoalhaven Local Environmental Plan (SLEP) 2014 and the related amendments to Shoalhaven Development Control Plan (DCP) 2014, Shoalhaven Contributions Plan (CP) 2019 and Integrated Water Cycle Assessment (IWCA) for Moss Vale Road South URA to proceed to finalisation.

The PP seeks to reclassify a watercourse and rezone part of an existing riparian corridor from E2 Environmental Conservation to R1 General Residential to provide additional land for residential development in Moss Vale Road South URA.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt and finalise the Planning Proposal (PP054): Rezoning of Riparian Land at Lot 1 DP 949932, Taylors Lane, Cambewarra, as exhibited.
2. Forward PP054 to NSW Parliamentary Counsel's Office to draft the required amendment to Shoalhaven Local Environmental Plan 2014.
3. Make the resulting amendment to the Shoalhaven Local Environmental Plan 2014 using Council's delegation.
4. Adopt and finalise the amendment to Shoalhaven DCP 2014 Chapter NB3 - Moss Vale Road South URA as exhibited and give the required public notice advising of its commencement date.
5. Adopt and finalise the amendment to Shoalhaven CP 2019 as exhibited and give the required public notice advising of its commencement date.
6. Amend the exhibited IWCA Addendum Report to identify the subject land as "medium density / integrated housing", consistent with the exhibited DCP amendment, then proceed to finalise it.
7. Advise key stakeholders, including the Proponent, adjoining landowners, the Cambewarra Residents and Ratepayers Association, development industry representatives and those who made a submission, of this decision and when the LEP, DCP and CP amendments will be made effective.

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Options

1. As recommended.

Implications: This is the preferred option as it will enable the LEP amendment to be finalised and the subject land rezoned from E2 Environmental Conservation to R1 General Residential and help facilitate the supply of additional housing in Moss Vale Road South URA. The residue will remain protected as a riparian corridor in the E2 zone and will be revegetated and enhanced as part of the future development application. The proposed amendments to Shoalhaven DCP 2014, Shoalhaven CP 2019 and the IWCA for Moss Vale Road South URA will satisfy the requirements of Part 6 of Shoalhaven LEP 2014 by helping ensure that the resulting development contributes towards the provision of essential infrastructure.

2. Make an alternate resolution.

Implications: This is not the preferred option. Depending on the nature of any alternative, this may delay or prevent the LEP amendment. The changes sought in the PP are based on an independent riparian lands study and have the support of the Natural Resource Access Regulator (NRAR). Any further changes may be at odds with the findings of the riparian lands study and require a revised Gateway determination, re-exhibition of the PP and further consultation with State Government agencies. Council may not have the ability to grant development consent to a future subdivision of the subject land if the related amendments to Shoalhaven DCP 2014, Shoalhaven CP 2019 and the IWCA for Moss Vale Road South URA are delayed or do not proceed with the PP.

3. Not adopt the recommendation.

Implications: This is not the preferred option. The amendment to the LEP would not proceed and the subject land would remain zoned E2 Environmental Conservation. This would potentially be a missed opportunity to provide additional housing in an appropriate location to meet the needs of a growing population and to facilitate the correct identification and enhancement of an existing riparian corridor.

Background

This PP is the result of a request from the proponent, Biara Grove Developments Pty Ltd, to reclassify a watercourse and also rezone part of an existing riparian corridor from E2 Environmental Conservation to R1 General Residential. This will potentially enable the land if rezoned to be developed for residential purposes (approximately 30 lots) in association with adjoining land. The subject land is outlined red in **Figure 1**. It adjoins the eastern boundary of the existing Moss Vale Road South Urban Release Area (URA) and is part of Lot 1 DP 949932. The existing LEP zoning and watercourse on the subject land is shown in **Figure 2**.

In June 2020, the proponent received development approval for a proposed 50 lot residential subdivision on the surrounding R1 zoned land which comprises Stage 1 of the Moss Vale Road South URA. The approved development is being undertaken in two stages (stages 1a and 1b). Dependent on the progression of this PP, the subject land is the proposed future third stage (1c) of this subdivision.



Figure 1: Subject land

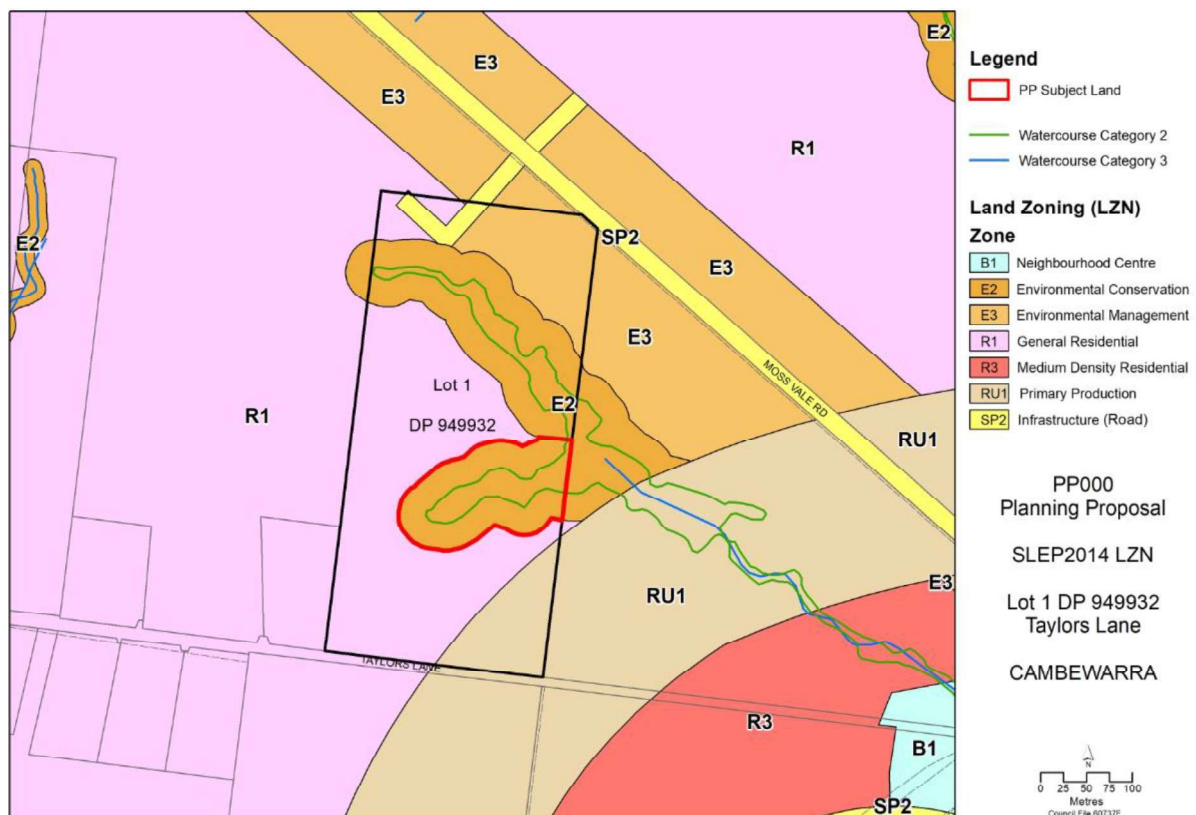


Figure 2: Existing LEP zoning & watercourse classification

The PP is supported by an independent riparian lands study commissioned by Council. It concluded that the LEP zoning & watercourse classification is inaccurate and that not all of the subject land has riparian land characteristics.

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Council previously considered this PP at the Development and Environment Committee meeting on 2 June 2020 (item [DE20.50](#)) where it resolved (in summary) to:

- 1) *prepare a PP and supporting draft amendments to Shoalhaven DCP 2014, CP 2019 and the IWCA for Moss Vale Road South;*
- 2) *seek a Gateway determination from the Department of Planning, Industry and Environment (DPIE);*
- 3) *place the PP on public exhibition;*
- 4) *receive a subsequent report on the outcomes of the public exhibition.*

The full resolution can be viewed [here](#) (MIN20.386).

The proposed zoning plan endorsed by Council on 2 June 2020 and included in the PP sent to DPIE prior to exhibition is at **Figure 3**. It is generally based on the findings of the riparian lands study, but proposed to use the 'averaging rule' from NRAR guidelines to reduce the width of the corridor in several places.

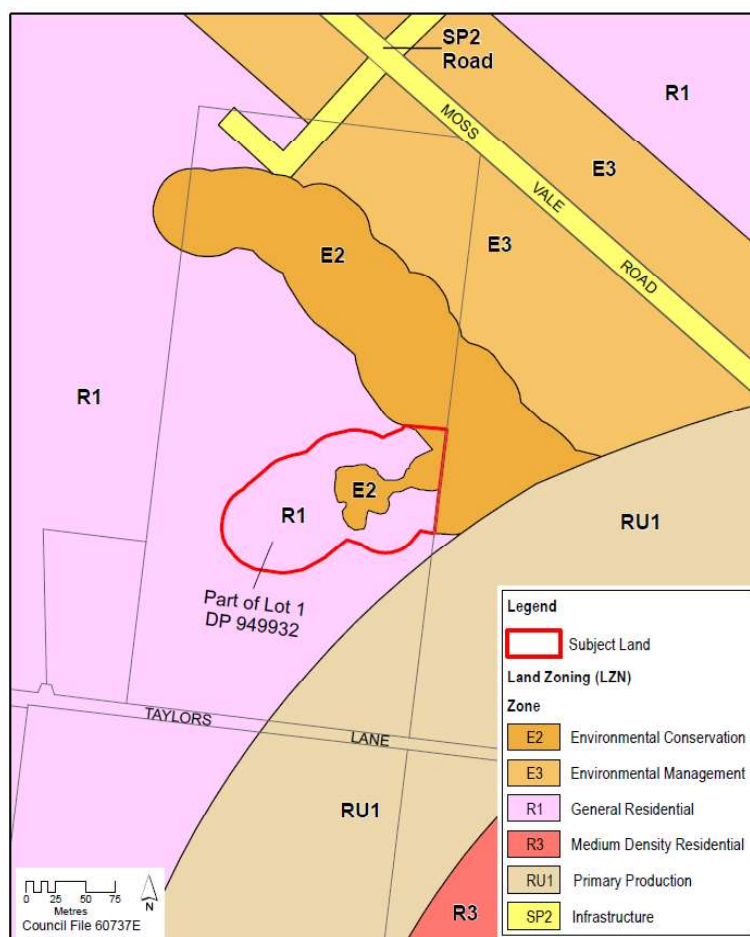


Figure 3: Proposed LEP zoning plan (pre-exhibition)

The PP received a favourable Gateway determination from DPIE on 23 July 2020 authorising it to proceed, subject to consultation with several public authorities and public exhibition. Council was given delegation to make the resulting LEP amendment.

The outcomes of the consultation with public authorities and the public exhibition are outlined below.

Consultation with Public Authorities

The PP was referred to the public authorities in **Table 1** for comment in August 2020. Copies of the submissions received from public authorities are provided as **Attachment 1**.

Table 1: Public authorities consulted

Authority	Reason
Natural Resource Access Regulator (NRAR)	Development in or near watercourses
NSW Department of Premier and Cabinet - Aboriginal Cultural Heritage Regulator (ACHR)	Aboriginal cultural heritage matters
Transport for NSW (TfNSW)	Impacts on State controlled roads
Shoalhaven Water	Water and sewer infrastructure planning
Endeavour Energy	Energy infrastructure planning

TfNSW, Shoalhaven Water and Endeavour Energy made submissions which raised no objections to the PP. No submission was received from the ACHR.

NRAR's initial submission dated 28 October 2020 objected to the PP on the basis that the:

- proposed riparian corridor (E2 zone) was not wide enough overall.
- 'averaging rule' should not be used to further reduce the corridor width in several places.

In response and after a dialogue the proponent agreed to amend the proposed zoning plan to make the riparian corridor wider and more uniform in width. The revised proposed zoning plan (**Figure 4**) was referred back to NRAR which subsequently advised that it was satisfied with the changes. The correspondence between Council and NRAR's assessing officer is included in **Attachment 1**.

NRAR also suggested that the proponent's proposed layout plan for stage 1c should be reconsidered so that:

- there is physical separation between proposed residential lots and the riparian corridor (e.g. with a perimeter road).
- roads, drainage and other subdivision works do not potentially encroach into the riparian corridor.
- the quality of runoff entering an adjacent farm dam is not potentially compromised.

The proponent has considered these matters at a conceptual level as part of the PP and will consider them in more detail at the appropriate point as part of any future development application, should the PP proceed.

Based on the assessment undertaken as part of the PP process, Council is satisfied that the infrastructure needed for the future stage 1c can be accommodated without encroachments into the riparian corridor. It is noted that the subsequent development application will also need approval from NRAR before consent can be granted. NRAR has acknowledged these comments and advised that it has no objection to the PP proceeding.

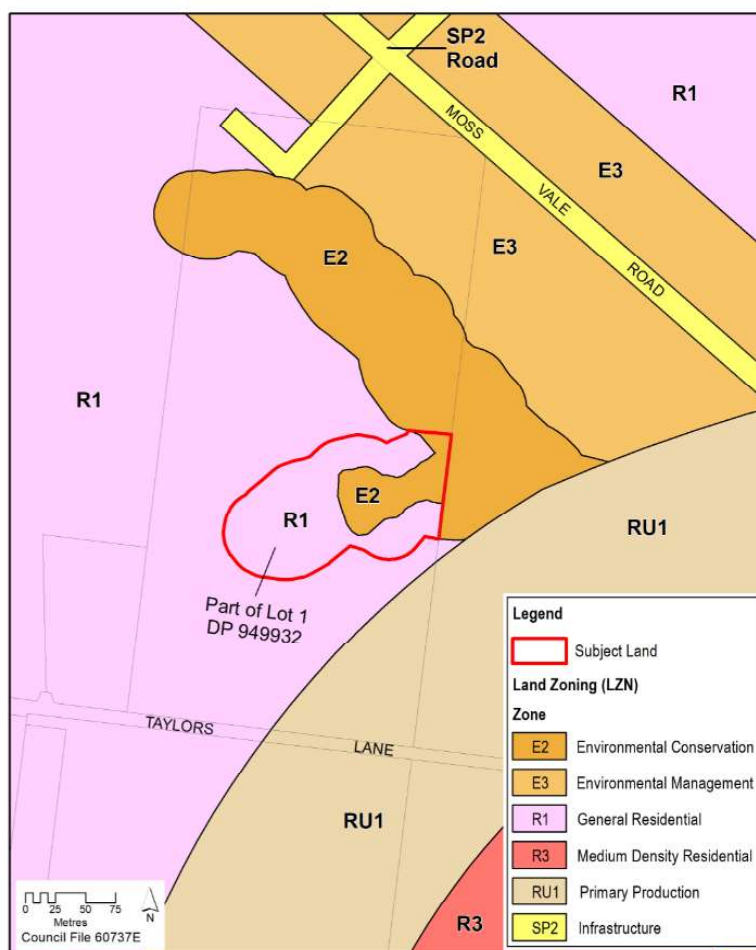


Figure 4: Revised LEP zoning plan (exhibition)

Error in Integrated Water Cycle Assessment Addendum Report

The exhibited IWCA Addendum Report incorrectly identifies the proposed R1 zone land as “small lot residential”. It should be identified as being “medium density / integrated housing”, consistent with how it is identified on the indicative layout plan in the exhibited DCP amendment.

This is a minor error which will not materially change the outcomes of the IWCA Addendum Report, however, it should be corrected prior to it being finalised.

Change to Proposed Lot Size Map

A minor revision was made to the proposed Lot Size Map prior to public exhibition to reflect changes made in Shoalhaven LEP 2014 (Amendment No. 39) which took effect on 19 March 2021. Amendment No. 39 made changes to Clause 4.1H and the associated layer on the Lot Size Map which enables the provision of small lots (300-500sqm) in certain high amenity locations in urban release areas. The revised proposed Lot Size Map would enable small lots along the western side of the subject land (opposite a future park), should the PP proceed.

Community Engagement

The overall PP package was publicly exhibited from Wednesday 24 March to Friday 23 April 2021 inclusive (31 days) on Council's website. The package was also available for viewing electronically at the City Administration Centre, Nowra and at the Ulladulla Service Centre. Letters advising of the public exhibition were sent to all adjoining landowners at Moss Vale

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Road South URA, development industry representatives, the Cambewarra Residents and Ratepayers Association and all previous submitters.

The exhibited PP package is still available for viewing on Council's website and included:

1. [Public Notice](#)
2. [Explanatory Statement](#)
3. [Planning Proposal \(PP054\) – Rezoning of Riparian Land at Taylors Lane, Cambewarra](#)
4. [Riparian Lands Study \(Niche Environment & Heritage, 2020\)](#)
5. [Aboriginal Cultural Heritage Assessment \(Biosis, 2018\)](#)
6. [Flora and Fauna Assessment \(Ecoplanning, 2017\)](#)
7. [Submissions from public authorities](#)
8. [Gateway Determination dated 23 July 2020](#)
9. [Draft Amendment to Shoalhaven DCP Chapter NB3: Moss Vale Road South URA](#)
10. [Draft Amendment to Shoalhaven Contributions Plan 2019 projects](#)
11. [Draft Addendum to the Integrated Water Cycle Assessment for Moss Vale Road South URA \(SEEC 2021\)](#)

As a result of the exhibition, one (1) submission was received which objected to the PP. A summary of the main issues raised in the submission and staff comments is provided below. A copy of the submission is provided as **Attachment 2**.

As a result of the submission received, no changes are recommended to the exhibited PP.

1. *This PP and other recent Council decisions at the Moss Vale Road South URA (for example, enabling 300sqm lots; removal of trees along Taylors Lane for the Far North Collector Road) seek to maximise returns for development at the expense of the environment.*

Staff Comment: The PP is supported by an independent riparian lands study which included detailed site survey and assessment of the watercourse condition and function. The study concluded that the watercourse classification in the LEP is inaccurate and that not all of the subject land has riparian characteristics. Thus, there is merit in rezoning part of the site from environmental to residential. The PP will also facilitate the revegetation and enhancement of the riparian corridor remaining in the E2 zone. The PP has been reviewed by NRAR which has no objection to its progression.

The provision of small lots (300-500sqm) in URAs is also consistent with Council's Affordable Housing Strategy 2017 that aims to provide more diverse and affordable lot sizes. Importantly, the 'small lots' are only permitted in certain high amenity locations (near future parks and tree lined boulevards).

In regard to the Far North Collector Road, Council resolved to defer a decision on the upgrade of Taylors Lane in June 2020 and undertake a review of options that would retain the trees. The review is in progress and will be reported to Council in due course.

2. *The increase in lots proposed in the PP makes the provision of open space even more important. Keeping the current E2 and E3 zones as open areas not only adds to the rural character of the development but also adds recreational areas for families whose houses will have small, if any, yard space.*

Staff Comment: DCP Chapter NB3 establishes a public open space network to meet the recreation needs of future residents of the URA. It incorporates significant patches of existing remnant vegetation, helping to enhance the landscape and environmental values of the URA. Council is currently acquiring these open spaces using low cost loans to help facilitate their

early delivery. As the subject land is not part of the planned public open space network, it would not be accessible to future residents for recreation.

3. *I have attached photos of the current area and what could be created. Note that most of the trees in the 1st photo would be gone.*

Staff Comment: This comment contains some inaccuracies. The trees in the foreground of the first photo are part of the subject riparian corridor and will be retained in the E2 zone under this PP. The patch of trees further back to the right will be largely retained within a planned public open space reserve in that location. Some of the trees in the background on the left are part of the Taylors Lane corridor. Options for the retention of those trees are currently being reviewed.

Conclusion

It is now appropriate to finalise this PP and proceed to amend the LEP accordingly. The finalisation of the supporting amendments to the DCP 2014, CP 2019 and IWCA for Moss Vale Road South will also ensure that the subsequent development of the subject land is coordinated with development of the wider Moss Vale Road South URA and contributes to the provision of essential infrastructure.

Policy Implications

If the rezoning proceeds, in addition to relevant amendments to the LEP, as noted earlier, updates will be made to:

- Shoalhaven DCP 2014 Chapter NB3: Moss Vale Road South URA – to include the rezoned land in the indicative layout plan, staging plan and other relevant sections.
- the Integrated Water Cycle Assessment for MVRs – to factor the rezoned land into the stormwater management and water quality treatment system for MVRs URA.
- Shoalhaven Contributions Plan 2019 – to include the rezoned land in the catchment area for local roads, drainage and public open space projects for the MVRs URA.

Financial Implications

The PP is a 'major' proposal in accordance with Council's Planning Proposal (rezoning) Guidelines and has been processed on a full cost recovery basis, including staff time for preparation of the associated amendments to Shoalhaven DCP 2014, CP 2019 and the IWCA for MVRs URA.

From: [REDACTED] <[REDACTED]>
Sent: Monday, 29 March 2021 9:58 PM
To: Amanda Findley <findleya@shoalhaven.nsw.gov.au>; Annette Alldrick <Annette.Alldrick@shoalhaven.nsw.gov.au>; Nina Digiglio <Nina.Digiglio@shoalhaven.nsw.gov.au>; John Levett <John.Levett@shoalhaven.nsw.gov.au>; Kaye Gartner <Kaye.Gartner@shoalhaven.nsw.gov.au>
Subject: Planning Proposal PP054. Lot 1 DP 949932 Taylors Lane Cambewarra

Dear Councillors,

Another sad DA variation to convert environmental land for residential development. (see [displaydoc.aspx \(nsw.gov.au\)](#))

I am not surprised that Council supported the developer rather than the environment.

Many residents submitted objections to this DA variation. Council had a choice to approve, not approve or seek further information. Council chose the latter. Not surprising, the consultant's report supports the developer.

Thus we have the following variations over the last few years that have been supported by Council on this development:

- Reduce lot sizes from 500 square meters to 300 square metres.
- Rezone environmental zone E2 to residential.
- Remove all the trees along Taylors Lane. (Although Council has back-peddled on this one due to considerable opposition from Cambewarra residents).

My perception of these changes is that the development is to maximise returns at the expense of the environment.

Council would also gain a financial advantage through increases in rates.

However, this increase in lots makes the argument of retaining recreational and open space areas more important. Keeping the current E2 and E3 zones open areas not only adds to the rural character of the development but also adds recreational areas for the enjoyment of families whose houses will have small, if any, yard space.

I have attached photos of the current area and what could be created. Note that most of the trees in the 1st photo would be gone. The proposal photo is an example of a recreational area in a large residential area. A walking track was around this parkland. Just imagine what could be done with the current environmental zoning in the Taylors Lane Development.

Thanks for your time.

[REDACTED]



DE21.57 - Attachment 2

