



IRF22/1435

Gateway determination report – PP-2022-1589

Lots 21-24 DP 714096, Warrah Road (and part
unmade Council road reserve) Bangalee – revised
proposal (240 homes and 0 jobs)

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	LGA name
PPA	Shoalhaven City Council
NAME	Warrah Road and part road reserve, Bangalee
NUMBER	PP-2022-1589
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	Warrah Road, Bangalee
DESCRIPTION	Lots 21 – 24 DP 714096 + part unmade road reserve
RECEIVED	4/05/2022
FILE NO.	IRF22/1435 (SF22/61876 in OBJ13/08481-2)
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to resolve the planning status of the ‘deferred’ land at Warrah Road, Bangalee. This will be achieved by:

- Protecting High Conservation Value (HCV) land by applying an appropriate environmental zone.
- Securing the future tenure and management of the environmental land by facilitating the dedication/transfer of land to Shoalhaven City Council (Council).
- Protecting the corridor and alignment of the future A1/M1 (Western Bypass) by rezoning the affected land to RU2 - Rural Landscape.
- Ultimately enabling residential development to occur on the non-HCV land
- Rezoning part (approx. 300 linear meters) of the Council road adjoining the northern boundary of Lot 24

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 as described below. The land (apart from the unmade road reserve) is currently deferred from the Shoalhaven LEP 2014.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	Rural 1(d) (General Residential) under Shoalhaven LEP 1985 Road reserve zoned C2 Environmental Conservation under Shoalhaven LEP 2014	C2 Environmental Conservation – protecting high conservation areas RU2 Rural Landscape – area of Western Bypass Corridor R5 Large Lot Residential – buffer between existing R5 and proposed R2 lands; and road reserve land R2 Low Density Residential – area suitable for residential development. NB. The development area (R2 & R5 lands) has been reconfigured and reduced from the original proposal.
Minimum lot size	40ha	C2 Environmental Conservation – 40ha RU2 Rural Landscape – 40ha R5 Large Lot Residential – 2000m ² . R2 Low Density Residential – 700m ² on land adjoining R5 area; 500m ² for remaining R2 land.
Urban Release Area		Amend the current map to apply the URA controls (excluding road reserve)
Maximum height of building		Apply 8.5m to land zoned R2 and R5
Riparian lands and watercourses		Apply a watercourse category for the existing watercourse and its tributaries.
Acid Sulfate Soils		Apply Class 5 category to the site.
Clauses Map – Clause 7.21		Apply Clause 7.21 to land within the Western Bypass corridor
Land Application	Identified as DM Deferred Matter	Amend the current map so the land is no longer deferred.
Number of dwellings	2	Up to 240 dwellings

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site consists of three rural residential lots each of 2ha (Lots 21 to 23 DP714096) and Lot 24 DP714096 (73ha), all in separate ownership and totalling a combined area of approximately 80ha.

There are no existing improvements or structures on the land. Lot 24 is predominately vegetated with two areas subject to a remediation order to revegetate, and the eastern area cleared grasslands under the electricity lines. Four watercourses traverse the Lot flowing in a south westerly and westerly direction to the Shoalhaven River.

The site is located at Bangalee, approximately 3.5 kilometres north-west of Nowra town centre, within the Shoalhaven LGA. It is bordered by existing large lot residential development to the north; the Western Bypass Corridor to the east which adjoins the western small lot residential boundary of North Nowra; and small rural holdings (combination of RU2 Rural Landscape, C2 Environmental Conservation, C3 Environmental Management and R1 General Residential) to the south and west.

The site is the northern area of the Crams Road Urban Release Area (URA).

The site is shown in **Figure 1** and **Figure 2**.

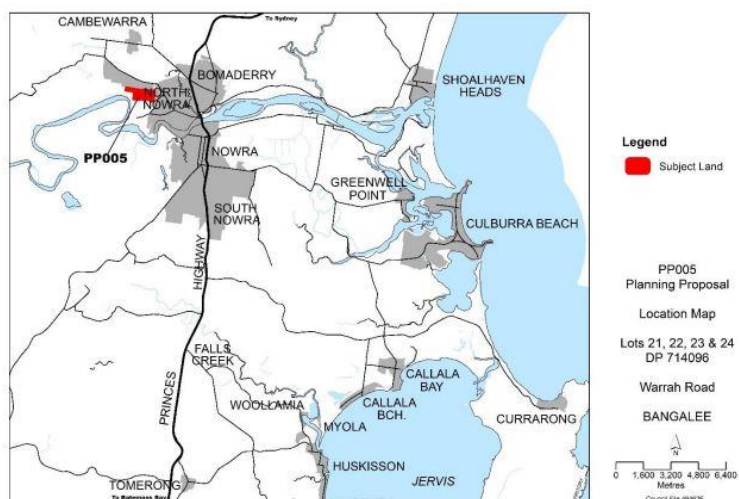


Figure 1 Site context (Shoalhaven City Council – Planning proposal)

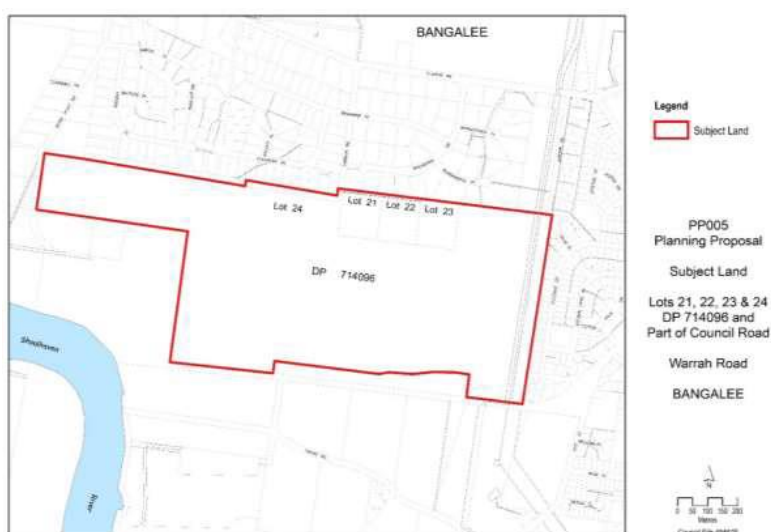


Figure 2 Subject land (Shoalhaven City Council – Planning proposal)

1.5 Mapping

The planning proposal includes mapping that identifies the current maps, previously exhibited maps and proposed mapping. The following maps will be amended by the proposal:

- Land Zoning Map (**Figures 3 & 4**)
- Lot Size Sheet (**Figure 5**)
- Urban Release Area
- Height of Buildings Map
- Riparian Lands and Watercourses
- Acid Sulfate Soils
- Land Application

The maps are suitable for public consultation.

Land is currently deferred from Shoalhaven LEP 2014.

As discussed elsewhere in this report, a planning proposal (PP-2021-2068) to rezone the land for residential uses and environmental protection was exhibited in May 2021. Following agency consultation and community exhibition the proposal was revised to reduce the development footprint. This has resulted in changes to the area to which the proposal applies, zoning, lot size, URA, and height maps. The change to the footprint can be seen in figures 4 and 5.

The Land application map has also been updated to include a section of unformed road reserve. Acid Sulfate Soil (ASS) and Riparian Lands mapping remains unchanged from the previous proposal.



Figure 3 Current LEP 2014 zoning map

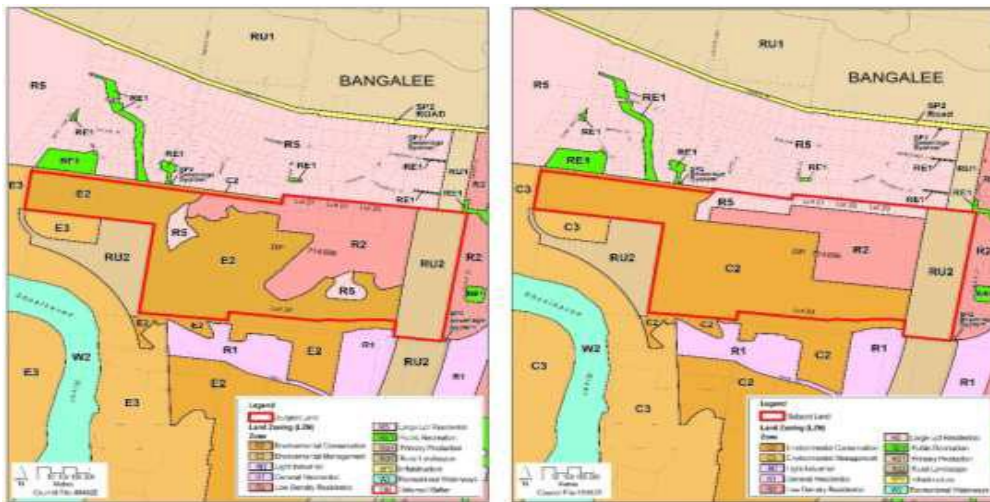


Figure 4 Previous exhibited zoning map and Proposed zoning map

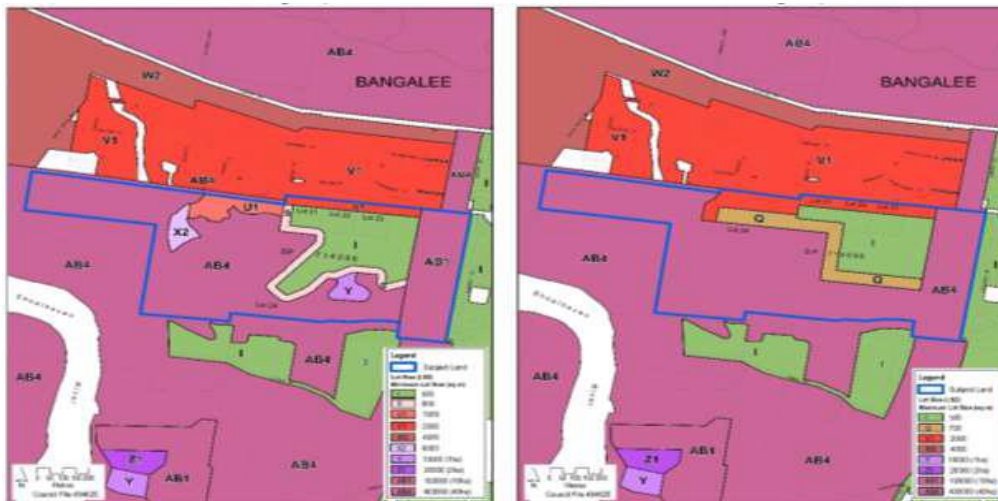


Figure 5 Previous exhibited minimum lot size map and Proposed minimum lot size map

1.6 Background

The planning proposal seeks to resolve the long-term development potential of land within the 'Crams Road Urban Investigation Area' identified in the Nowra Bomaderry Structure Plan (Shoalhaven City Council, 2007) that was 'deferred' from Shoalhaven Local Environmental Plan (LEP) 2014. As a result, the land is still currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985.

On 25 February 2021 a Gateway determination was issued for a planning proposal to rezone the land for residential and environmental outcomes. The proposal had a timeframe of 12 months. The proposal was exhibited in May/June 2021. Following exhibition, RFS objected to the proposal noting that it did not comply with relevant bush fire legislation. The Department's Planning Delivery Unit (PDU) worked with Council, RFS and DPE – Biodiversity and Conservation to address concerns and allow finalisation of the proposal.

The proposal was revised to reduce the development footprint and include a section of unformed road reserve to allow perimeter road access.

There are no agency objections to the revised proposal.

Council considered that changes to the proposal warranted re-exhibition and sought an extension of time to complete the process.

Given the timeframes and changes to the proposal, the Department felt that it was appropriate to instead cancel the previous Gateway and encourage Council to initiate a new planning proposal process.

Council has requested a new Gateway determination to enable the revised planning proposal to be publicly exhibited and finalised.

The key differences between the previously exhibited and revised proposal are:

- A regular boundary and manageable interface between the proposed residential zones and environmental land that will facilitate consistency with the subdivision requirements of PBP19 and therefore Ministerial Direction 4.3.
- Two small pockets of R5 zoned land with dwelling entitlements have been removed.
- The R5 land had been proposed to accommodate dwellings associated with three (3) 'caretaker lots' for the C2 land. Caretaker lots are no longer proposed because the C2 land is now proposed to be transferred to Council as a stewardship site.
- A more effective buffer/transition of R5-zoned land with a minimum lot size of 2,000 m² is proposed between the existing development to the north and the proposed R2 zoned area within the subject land.
- Approximately 300 linear metres of the Council road adjoining the northern boundary of Lot 24 is proposed to be included in the R5 – Large Lot Residential zone. This road reserve is intended to accommodate perimeter road access to the development.
- A minimum lot size of 700 m² is proposed to apply along the R2/C2 interface to ensure that the bushfire Asset Protection Zones (APZs) can be accommodated within the lots adjoining the bushland.
- C2 Environmental Conservation land is proposed to be increased by 2 ha from 43 ha to 45 ha.

2 Need for the planning proposal

Council deferred the zoning of the site as part of the finalisation of Shoalhaven LEP 2014 to consider a site-specific planning proposal which resolves long standing issues and differences between biodiversity studies and allows some form of residential development.

The land cannot be developed in the manner proposed without amending the LEP via a planning proposal. The Planning Proposal is the best way of achieving the intended outcomes.

3 Strategic assessment

3.1 Illawarra Shoalhaven Regional Plan 2041

The regionally significant growth area of Nowra-Bomaderry is identified as a focus for housing supply in the Illawarra Shoalhaven Regional Plan 2041. Nowra-Bomaderry is identified as offering long-term capacity for 9,600 new dwellings. Some of this capacity (approximately 600 dwellings) can be met by the Crams Road URA and, specifically, this planning proposal.

Strategy 18.2 encourages councils to "Facilitate housing opportunities in existing urban areas [...] through local strategic planning and local plans by regularly reviewing planning controls so that they are creating flexible and feasible conditions for housing supply". The planning proposal is consistent with this Strategy.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies in the table below:

Table 3 Local strategic planning assessment

Local Strategies	Justification
Shoalhaven 2040, Strategic Land Use Planning Statement	<p>The site is identified as a new residential area. The planning proposal is consistent with Planning Priority 1 – Providing homes to meet needs and lifestyles as it will increase the availability and diversity of housing and add to the supply of homes by providing infill development in an identified urban release area.</p> <p>It is also consistent with Planning Priority 3 – Providing jobs close to home. The planning proposal will release land for residential development thereby providing work to sustain local jobs in construction as well as supporting local businesses.</p>
Shoalhaven 2027 Community Strategic Plan	The planning proposal is broadly consistent with Council's Community Strategic Plan, specifically Theme 2 - Sustainable, liveable environments, and Action 2.2 - Plan and manage appropriate and sustainable development.
Shoalhaven Growth Strategy, 2012	The Shoalhaven Growth Management Strategy (endorsed by the Department in 2014) provides a framework for the integrated development of the overall Nowra-Bomaderry area and specifically its long-term role as the City's major urban area. It identifies that "the development of new living areas will be staged in order to capitalise on the pattern and form of the existing urban fabric and to avoid prematurely crossing infrastructure cost thresholds". The Crams Road URA is listed in Table 18.
Nowra Bomaderry Structure Plan 2006	<p>The Nowra Bomaderry Structure Plan was endorsed by the NSW Government in 2008. The site was originally identified as one of seven new living areas suitable for a potential rezoning subject to further studies, including a threatened species and biodiversity assessment, Aboriginal archaeological assessment, bushfire management, infrastructure provision and subdivision staging. The NBSP projected that the Crams Road URA would provide an additional 350 dwellings acknowledging that environmental constraints may reduce this yield and the residential capacity will be determined at the completion of the studies.</p> <p>The Structure Plan also identified a possible development phasing plan for the new living areas. The phasing recognises that the Shoalhaven River bridge crossing when combined with development requiring access from Illaroo Road, is a key constraint on the development of new living areas north of the River. The Crams Road URA has thus been listed in phase 4 of 5 phases when it is assumed that the river crossing issue would have been resolved. Council has since confirmed that the site is not an immediate priority for urban release, it is longer term of 10+ years.</p>

3.3 Section 9.1 Ministerial Directions.

The Gateway determination report for the previous proposal determined that – with the exception of direction 4.3 Planning for Bushfire Protection - the proposal was consistent or justifiably inconsistent with relevant section 9.1 Directions. That assessment – with the exception of direction 4.3 Planning for Bushfire Protection (which is discussed separately) – remains valid for the current proposal and has been reproduced below:

NB. Direction numbers have changed since the original assessment – new reference numbers are included in brackets.

Table 4 9.1 Ministerial Direction assessment (PP-2021-2068)

Directions	Consistent	Reasons for Consistency or Inconsistency
1.2 Rural Zones (9.1 Rural Zones)	No – justified inconsistency	The planning proposal proposes to rezone the rural lands for environmental protection and residential development. The site has not been used for agricultural purposes in recent years and its high biodiversity values limit its ability to be cleared for agricultural uses. The proposal's inconsistency with the Direction is justified by the endorsed Nowra Bomaderry Structure Plan identifying the site for urban development and environmental conservation.
1.5 Rural Lands (9.2 Rural Lands)	Yes	The planning proposal is consistent with the endorsed Nowra Bomaderry Structure Plan (NBSP) and is identified as part of the Crams Road URA. The site is not mapped as Class 1, 2 or 3 agricultural land and the primary use is not for agricultural production. It has minimal value as rural zoned land. The proposed change of land use from general rural to a mix of environmental, rural landscape and residential would not be detrimental to the rural economy of the Shoalhaven. The change of minimum lot size for the area to be maintained as rural land is to ensure protection of the Western Bypass corridor whilst at the same time allowing limited development and use of the land.
2.1 Environment Protection Zones (3.1 Conservation Zones)	Yes	The high conservation value lands and waterways are to be protected with an E2 Environmental Conservation zoning. A draft BACR assessment has been prepared to justify the clearing of other areas containing native vegetation. The draft BCAR will be placed on public exhibition with the planning proposal.
2.3 Heritage Conservation (3.2 Heritage Conservation)	Yes	An Aboriginal Cultural Heritage Assessment, including Aboriginal community consultation, has been prepared for the site which identified two previously recorded AHIMS Aboriginal sites Consultation with Heritage NSW has confirmed the proposal's consistency with the Direction.

2.6 Remediation of Contaminated Land (4.4 Remediation of Contaminated Land)	Yes	A Stage 1 Contamination Assessment has been carried out which found the site to be of medium risk of contamination in certain areas where illegal dumping of rubbish has occurred and the possibility that an abattoir operated on the site. A targeted Stage 2 Contamination Assessment is required for the proposed subdivision.
3.1 Residential Zones (6.1 Residential Zones)	Yes	The planning proposal provides for a variety and diversity of housing choice. The site is proposed to be identified as a URA under Shoalhaven LEP 2014, which contains requirements for residential development to provide appropriate public utility infrastructure under Part 6 Urban Release Areas.
3.4 Integrating Land Use and Transport (5.1 Integrating Land Use and Transport)	Yes	The Crams Road URA is identified in the NBSP as a longer-term release area that is contingent on traffic congestion at the river crossing being addressed. The traffic study found that if the land were released for urban development before the Princes Highway Shoalhaven River Bridge is duplicated, it would hasten the failing of the intersection of Illaroo Road by approximately one year. Accordingly, Council has resolved that the release of the land under Part 6 of the LEP should not occur until after both the duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.
5.10 Implementation of Regional Plans (1.1 Implementation of Regional Plans)	Yes	Refer to Point 3.1 above

4.3 Planning for Bushfire Protection

This direction aims to encourage good management of fire prone land; and to protect life, property and the environment by discouraging inappropriate land uses in bush fire prone areas.

The direction requires consultation with the Commissioner of the NSW Rural Fire Service following a Gateway determination being issued and before community consultation. The planning proposal authority must take into account any comments made by the RFS.

Council and the RFS have worked together – in collaboration with the Department's PDU – to resolve bush fire issues relating to the proposal. On 18 October 2021 RFS provided advice that the proposal is consistent with relevant bush fire legislation, including Direction 4.3 Planning for Bushfire Protection, and that it has no objection to the proposal.

A proposal may be inconsistent with this direction if the Secretary is satisfied that there is written advice from the RFS that it does not object to the proposal.

This proposal is technically inconsistent with the direction due to the timing of the consultation – which occurred with the previous proposal and before the issuing of a Gateway determination for this revised proposal. However, as written advice from RFS that it does not object to the proposal has been received, the Secretary may be satisfied that this inconsistency is minor and justified.

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 5 Environmental impact assessment

Environmental Impact	Assessment
Protection of high Biological conservation lands	<p>The planning proposal ensures that all High Conservation Value (HCV) land will be protected via the proposed C2 Environmental Conservation zone and a biodiversity stewardship agreement.</p> <p>A draft BCAR has been prepared to justify the clearing of other areas containing native vegetation.</p>
Protection of waterways and riparian lands	The four watercourses have been excluded from the proposed development footprint.
Bushfire Management	The site is mapped as bushfire prone land and a Bushfire Assessment has been prepared. A reduction in the future development footprint – and the addition of land to facilitate a permitter road – has allowed RFS to determine that the proposal is adequate from a bush fire management perspective. The issue will be further considered through future subdivision and development application processes.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 6 Social and economic impact assessment

Social and Economic Impact	Assessment
Certainty for community	The planning proposal will provide certainty for the community on the site's intended development outcomes and land supply.
Visual	Community members have raised concerns with the retention of character of the existing residential area to the north of the site and the visual impact of having a higher density residential development adjoining their larger, landscaped lots. The planning proposal incorporates appropriate minimum lot sizes along the northern boundary of the site to limit impacts on amenity and character of the existing residential area.

Aboriginal Cultural Heritage	An ACHA has been prepared and consultation with the Local Aboriginal Land Council and the Jerrinja people will occur as the proposal progresses and through development of a DCP for the land.
Traffic	<p>Community members have also raised concerns with traffic management particularly only having one access point via Warrah Road into and out of the development and the impact of increased traffic on the local roads within the existing Warrah Road subdivision.</p> <p>The proposal has been revised to allow alternative access to connect to a perimeter road system.</p> <p>Minor road works are required to the local road network to support the development. The provision of this infrastructure will be a matter for the DCP and planning under Part 6 of the Shoalhaven LEP.</p>

4.3 Infrastructure

The provision of infrastructure for the site is to be addressed in detail through Part 6 of Shoalhaven LEP 2014, which requires the State Government to sign off on the satisfactory provision of infrastructure and allows Council to prepare a contributions plan for essential infrastructure prior to the land being released.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate.

5.2 Agencies

Council consulted with the following agencies as the previous proposal was exhibited and revised:

- NSW Rural Fire Service
- DPE - Biodiversity and Conservation
- Transport for NSW
- Heritage NSW
- Natural Resources Access Regulator
- Endeavour Energy
- Shoalhaven Water

There are no agency objections to the revised proposal.

Council has argued that additional pre-exhibition consultation is not required. This position is considered reasonable due to previous consultation and changes to the proposal to address previous comments/concerns raised by agencies. Agencies will have an opportunity to comment on the proposal during exhibition and will be involved in the preparation of the DCP prior to any development of the land.

It is recommended that no additional agency consultation be required in the Gateway determination.

6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

This timeframe is considered adequate as all relevant studies have been prepared and agency consultation has already been undertaken.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

The Department authorised Council to be the local plan-making authority for the previous proposal. There have been no changes that would alter this position. The Department therefore recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is resolving a Deferred Matter in the Shoalhaven LEP 2014 and will achieve a better outcome of residential development and environmental protection across the urban release area;
- The planning proposal will assist in meeting housing targets identified in regional and local planning strategies; and
- The proposed amendments to the Shoalhaven LEP 2011 will be supported by a DCP and contributions plan for residential development and subdivision of the site.

9 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Directions 9.1 Rural Zones and 4.3 Planning for Bushfire Protection are minor or justified.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
3. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



11/5/22

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