

# PLANNING PROPOSAL – PP005

## Shoalhaven Local Environmental Plan 2014

Lots 21-24 DP 714096 Warrah Road  
Bangalee  
Deferred Land within the  
‘Crams Road Investigation Area’  
and  
Part unmade Council Road Reserve,  
Bangalee

Prepared by  
Strategic Planning Section  
City Futures

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## 1 Introduction

This Planning Proposal (PP005) seeks to resolve the long term development potential of land within the Crams Road Investigation Area (CRIA) identified in the Nowra Bomaderry Structure Plan (NBSP) (Shoalhaven City Council, 2006).

Lots 21-24, DP 714096 were 'deferred' from Shoalhaven LEP 2014 and, as such, the provisions of Shoalhaven LEP 1985 continue to apply. Under Shoalhaven LEP 1985, the deferred land is currently zoned Rural 1(d) (General Rural). PP005 proposes to rezone the deferred land to a mix of R2 – Low Density Residential, R5 – Large Lot Residential, C2 – Environmental Conservation and RU2 – Rural Landscape.

The PP also applies to approximately 6,000 m<sup>2</sup> (300 m x 20 m) of unmade Council road reserve (Council road) situated between the proposed residential area on Lot 24 DP 714096 west of Warrah Road and the existing residential land to the north. This road reserve is currently zoned C2 Environmental Conservation under Shoalhaven LEP 2014 and is proposed to be included in the R5 – Large Lot Residential zone, consistent with the Department's Practice Note PN 10-001.

The previous version of this PP (DEP Ref: PP2021-2068) was publicly exhibited between 12 May 2021 and 25 June 2021. An application for Biodiversity Certification (BCA) of the urban footprint and associated Biodiversity Certification Assessment Report (BCAR) were exhibited concurrently. The Exhibition Outcomes - Revision and Proposed Re-Exhibition were [reported to Council \(CL22.119\)](#) for consideration on 14 March 2022. Council resolved [Min22.170] to:

1. *Endorse the revised proposal and modified Local Environmental Plan (LEP) maps contained in this Report and prepare an updated Planning Proposal (PP) that also includes:*
  - a. *Information about the proposed biodiversity certification of the development land and proposed conservation arrangements for the environmental land as outlined in recommendation 2 below;*
  - b. *A revised subdivision concept plan 2022;*
  - c. *Current agency comments.*
2. *Endorse, **in principle**, the transfer/dedication of the proposed C2 Environmental Conservation zoned land (part of Lot 24 DP 714096) to Council at the appropriate point in the future with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA), registered on Title.*
3. *Forward an updated PP to the NSW Department of Planning and Environment (DPE) with a request for a further Gateway extension to permit re-exhibition and finalisation of the PP.*
4. *Publicly exhibit the updated PP in accordance with legislative requirements and consult relevant agencies (provided Gateway extension is issued), with costs accrued to date to be invoiced and paid by the Proponent prior to exhibition commencing.*
5. *Concurrently exhibit the Biodiversity Certification Application (BCA) and updated BCAR with the PP for 30 days in accordance with s8.6 of the Biodiversity Conservation Act 2016.*
6. *Receive a future report on the outcomes of the re-exhibition and proposed finalisation process.*

7. *Advise the proponent and previous submitters of this resolution.*

All public submissions received, the issues raised and Council responses are documented in [Attachment 1 to the Council Report](#). No submissions were received in relation to the BCAR.

The revised proposal, illustrated and described at Section 3.2:

- responds to most issues and concerns raised during community consultation and submissions received during the original exhibition;
- has the support of the key NSW Government agencies; and
- is a superior planning outcome compared to the exhibited PP.

The extent of the changes is such that concurrent re-exhibition of the revised PP and BCA is necessary. This approach will allow the PP/BCA to be resolved/finalised to achieve the best overall planning outcome.

A new Gateway determination was issued on 25 February 2021 with a 12-month timeframe and an expiry date of 25 February 2022. A [revised Gateway \(21 January 2022\)](#) expiring on **25 May 2022** allowed Council: *“sufficient time to complete the updated reports and revise the planning proposal and to confirm whether the elected Council supports an altered planning proposal.”*

An updated PP was prepared with Council endorsement. In the spirit of the NSW Department of Planning and Environment’s (DPE’s) 3 month Gateway extension granted on 21 January 2022, a further extension was requested from DPE on 23 March 2022 (two months prior to Gateway expiry on 25 May 2022) to allow time for the revised PP/BCA to be exhibited and the outcomes to be considered by Council for finalisation.

However, DPE declined the extension request and instead terminated the PP by issuing an “Alteration of Gateway Determination” on 13 April 2022. DPE’s letter accompanying the Gateway Alteration stated:

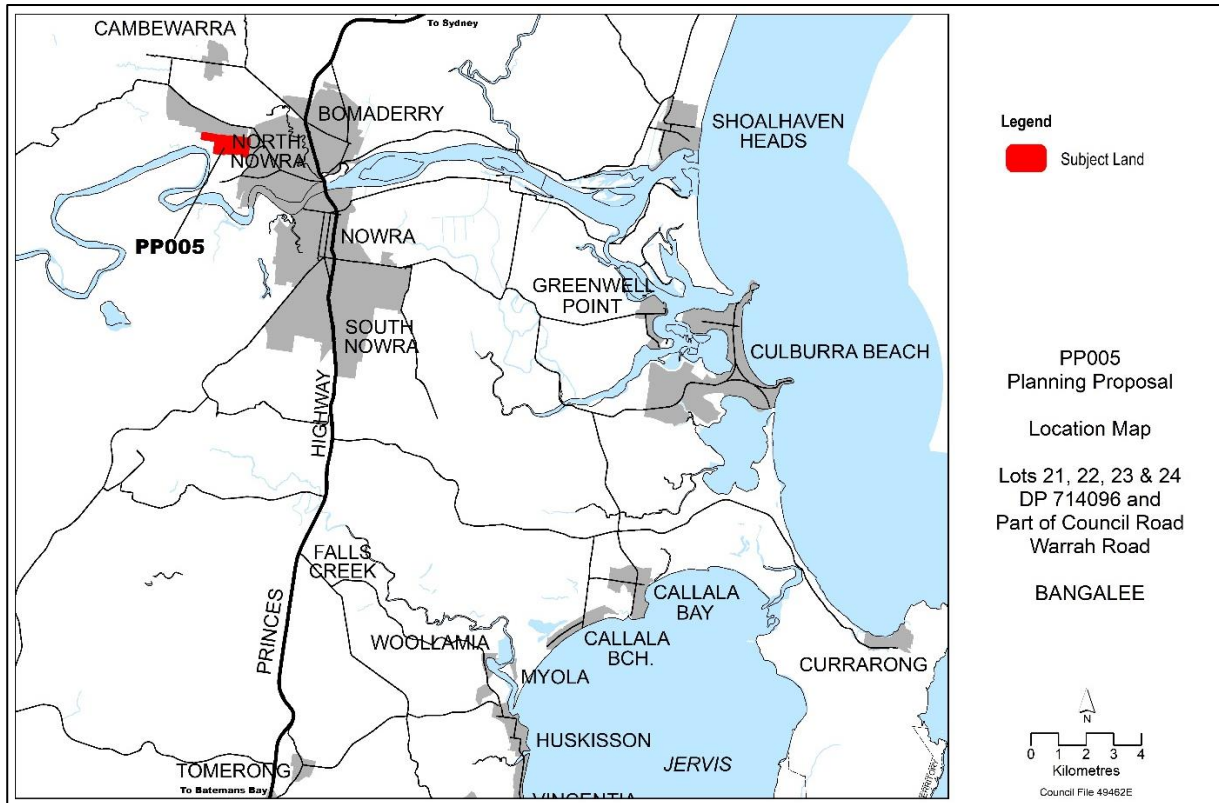
*“Council is encouraged to submit a new planning proposal and to seek a fresh Gateway determination once the proposal has been updated to allow it to proceed to exhibition.”*

A new Gateway request, supported by a revised PP, was forwarded to DPE on 4 May 2022. A new Gateway determination was issued on 11 May 2022 to allow Council to publicly exhibit the revised PP/BCAR, consult with the community and relevant stakeholders (as necessary) and ultimately to finalise the PP. The LEP must be completed on or before 13 February 2023. Copies of all Gateway determinations since February 2021 can be accessed at Part 7 – Background Resources below.

The Project Timeline, with anticipated milestones is at Part 6 of the PP.

## 1.1 Subject Land

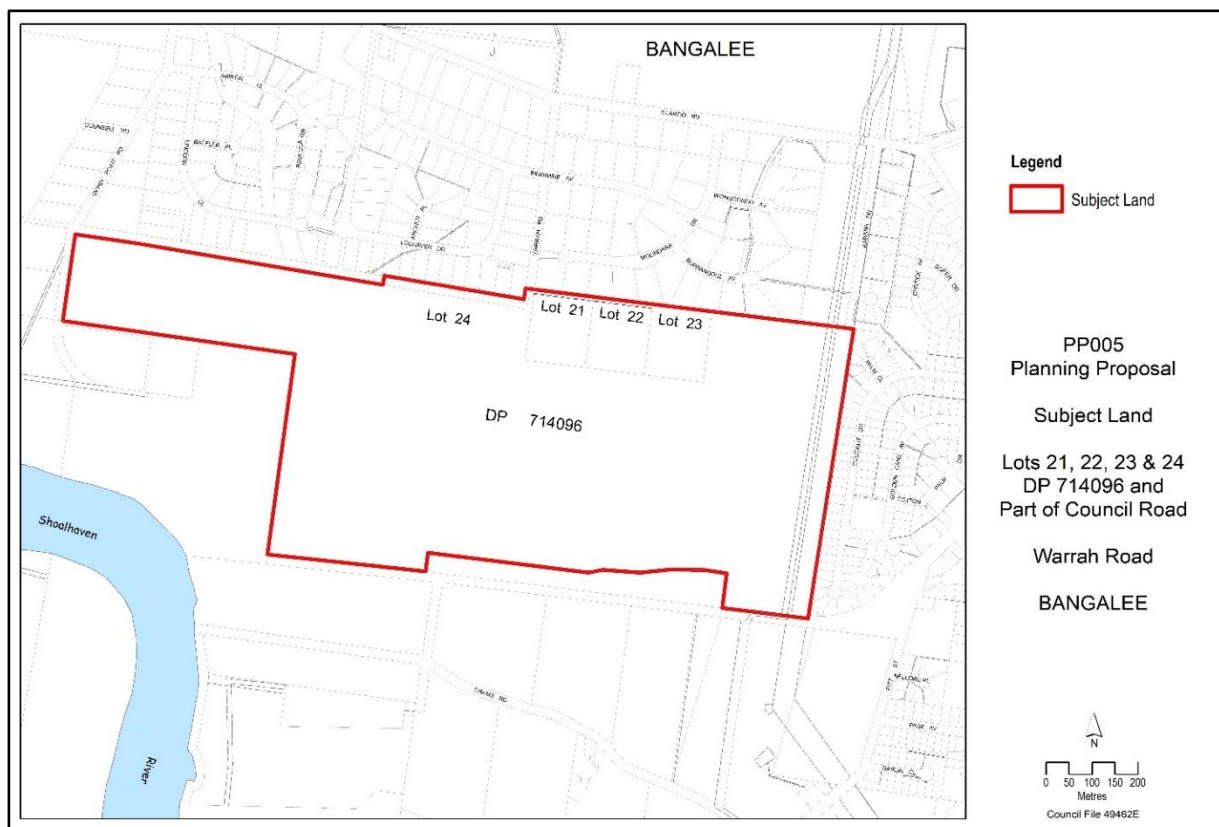
The subject land is located at Bangalee, approximately 3.5 km north-west of the Nowra town centre, within Shoalhaven LGA. The location of the subject land is shown in **Figure 1**.



**Figure 1 - Site location**

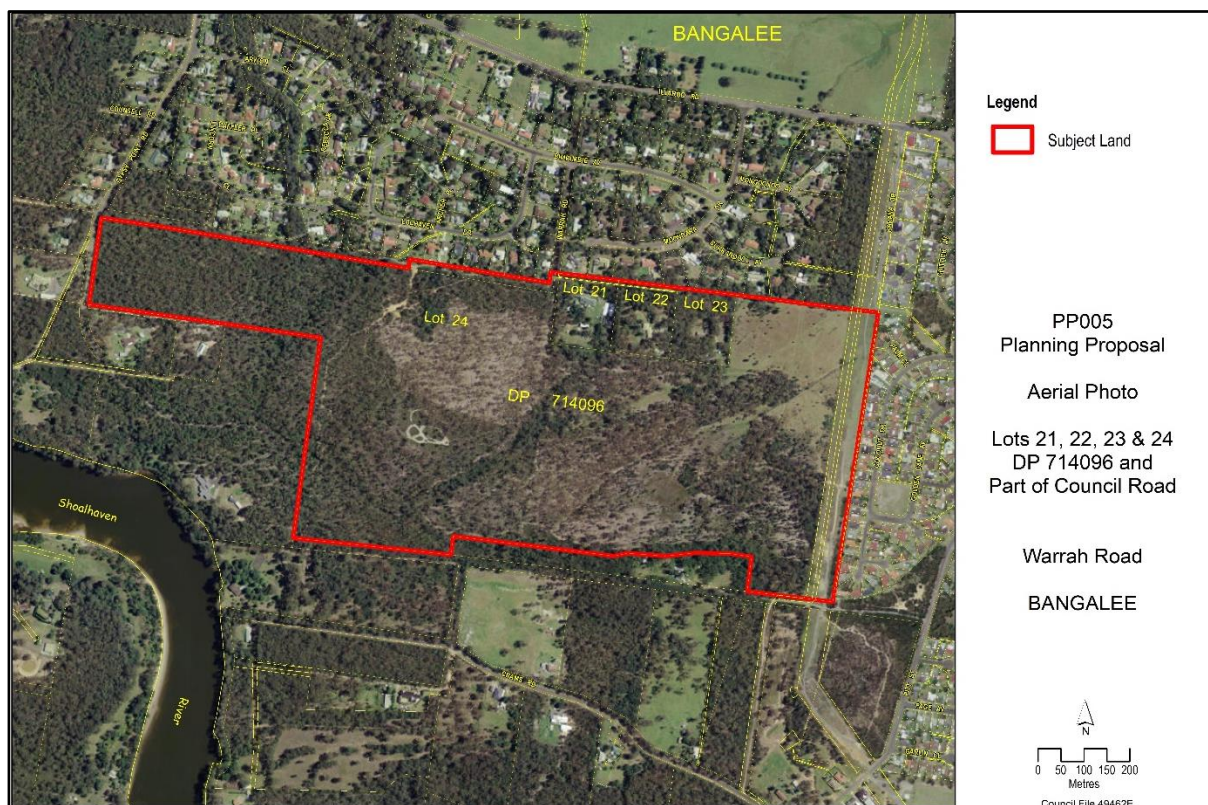
The subject land comprises Lots 21-24 DP 714096 (i.e. the 'Deferred' land) and part of the Council road reserve adjoining the northern boundary of Lot 24 – see Figure 2.





**Figure 2 – Subject Land**

The boundary of the subject land is overlaid on the aerial photo at **Figure 3**.



**Figure 3 - Subject land overlaid onto aerial photograph**



There are no existing improvements on site. The site generally drains from the north and east to the Shoalhaven River via a small network of intermittent watercourses.

The 'Deferred' land (Lots 21-24 DP 714096) has an area of approximately 80 ha and is predominately vegetated with cleared and partially cleared areas in the east.

The Council road reserve is approximately 300 m long and 20 m wide (6,000 m<sup>2</sup>). Approximately half this area is cleared with exotic grasses. The south side of the road reserve includes intact native canopy and understorey vegetation comprising some mature and hollow bearing trees. Feed trees (*Allocasurine littoralis*) for the threatened Glossy Black Cockatoo (GBC) are also noted.

This section of the road reserve is proposed to be included in the R5 – Large Lot Residential zone, consistent with DPE's Practice Note PN 10–001.

Current land use zones adjoining the subject land are shown in **Figure 4**.

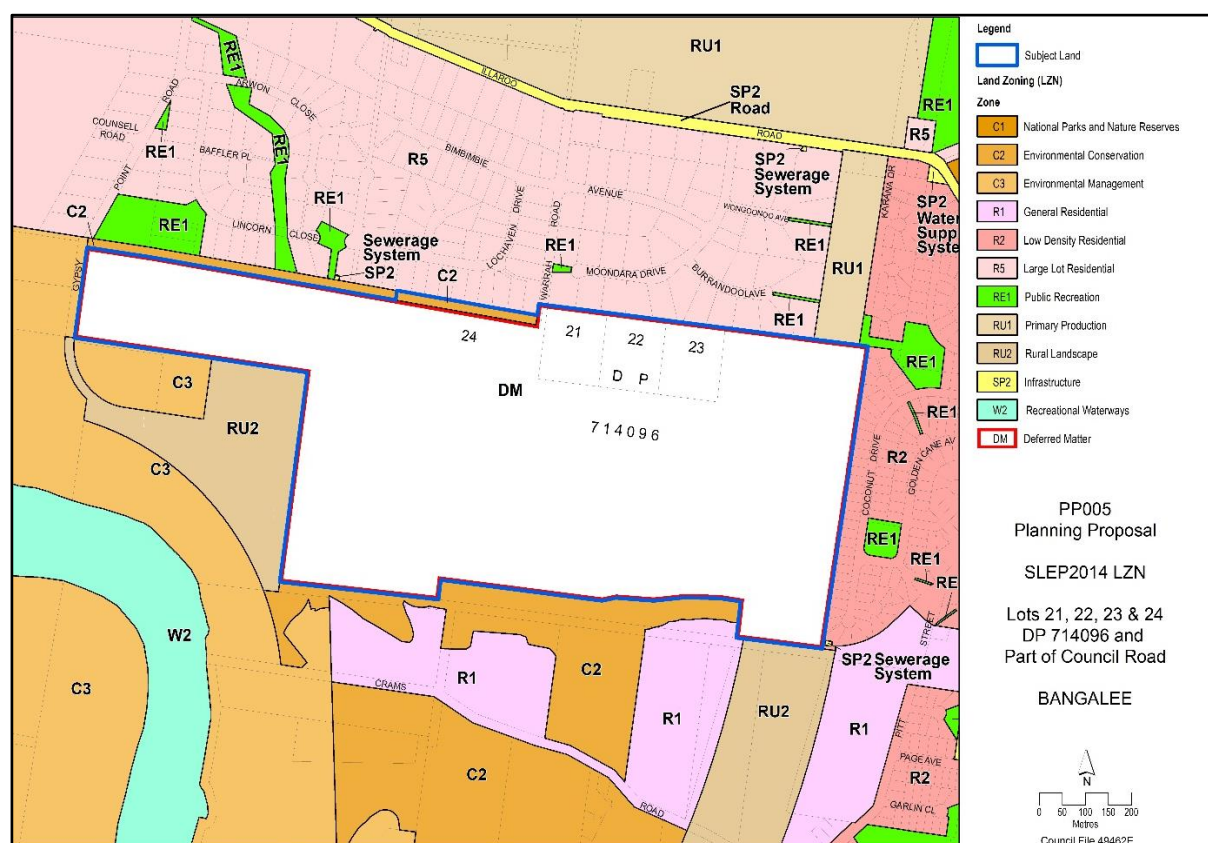


Figure 4 – Current Land Use Zones

## 1.2 Background

The PP has a long and complex history dating back to Nowra-Bomaderry Structure Plan (NBSP) and draft Shoalhaven LEP processes, including in 2013 when the proponent made a submission to the draft Shoalhaven LEP. The history of the PP and Gateway process is fully documented in the previously exhibited PP:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D21/189510>.

In addition, copies of all Gateway determinations are available in the document library on Council's [Get Involved webpage for this project](#).

## Agency consultation

As required by the original and new (25 February 2021) Gateway determinations, consultation has been undertaken with a number of government agencies. Responses are documented at Section 4.4 of this PP.

Crucially, the NSW Rural Fire Service (RFS) objected (after the exhibition) on the basis that the proposal did not meet the subdivision requirements of Planning for Bushfire Protection (PBP) 2019 and therefore was not consistent with Ministerial Direction 4.3 under s 9.1 of the *Environmental Planning & Assessment Act, 1979*.

## Planning Delivery Unit (DPE) involvement to resolve RFS objection

The RFS's objection to the exhibited PP due to inconsistency PBP 2019 (and therefore Ministerial Direction on Bushfire Prone Land) meant that the PP, as exhibited, could not proceed. Assistance was sought from DPE's Planning Delivery Unit (PDU) to help resolve this impasse and lead discussions between the RFS, Biodiversity & Conservation Division (DPE), DPE's Regional Office, Council and the proponent. The following plans were prepared to inform and assist these discussions:

- A sketch plan of a possible footprint for the proposed URA prepared by Council - ["Suggested Option"](#); and
- A revised ["Subdivision Concept Plan"](#) (indicative) prepared by the proponent.

For additional information about these discussions see: [PDU-led discussions summary](#)

## Specialist Studies

The following technical studies have been completed to inform the PP (as required by the Gateway determinations).

Title	Prepared by	Date
<a href="#">Biodiversity Certification Assessment Report</a>	OMVI Ecological	April 2022
<a href="#">Bushfire Protection Assessment Report</a>	Australian Bushfire Protection Planners	14/12/2021
<a href="#">Stage 1 Contamination Assessment</a>	Network Geotechnics	19/11/2013
<a href="#">Aboriginal Cultural Heritage Assessment</a>	Mary Dallas Consulting Archaeologists	October 2018
<a href="#">Traffic Impact Assessment</a>	TDG	May 2018

Capacity of water and sewerage infrastructure was assessed by Shoalhaven Water. Endeavour Energy raised no objections in relation to electricity infrastructure. Details are provided in section 4.4.2. Further information resources are provided in Part 7.

Condition 2 of the new Gateway determination (11 May 2022) states:

*No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the EP&A Act as this has already occurred.*

## **2 Part 1 – Objective and Intended Outcomes**

The objectives of this PP are to:

- resolve the planning status of the ‘deferred’ land at Warrah Road, Bangalee
- protect the environmentally sensitive land and Aboriginal cultural heritage values
- facilitate the provision of housing within the remaining land, consistent with the Council’s strategic plans while also minimising impacts on surrounding land
- ensure that arrangements are in place for the provision of services and infrastructure

These objectives will be achieved by:

- rezoning the High Conservation Value (HCV) land to C2 Environmental Conservation.
- securing the long term future tenure and management of the environmental land by facilitating the dedication/transfer of the land to Council with a single, fully funded and costed Biodiversity Stewardship Agreement (BSA) registered on Title.
- protecting the corridor and alignment of the future Western Bypass by rezoning the affected land to RU2 - Rural Landscape.
- ultimately enabling residential development to occur on the Biodiversity Certified non-HCV land (subject to satisfaction of Part 6 of Shoalhaven LEP 2014).
- rezoning part (approx. 300 linear metres) of the Council road adjoining the northern boundary of Lot 24 in the R5 – Large Lot Residential zone to reflect the intention to perimeter road access to the development to satisfy the subdivision requirements of Planning for Bushfire Protection 2019 (PBP2019).

## 3 Part 2 – Explanation of Provisions

### 3.1 The Proposed LEP Amendment

Lots 21-24, DP 714096 are currently zoned Rural 1(d)(General Rural) under Shoalhaven LEP 1985. It is proposed to incorporate this land into the Shoalhaven LEP 2014. The Council road is currently zoned C2 Environmental Conservation under Shoalhaven LEP 2014. It is proposed to amend the following map overlays in Shoalhaven LEP 2014:

1. Land Use
2. Minimum lot size
3. Urban Release Area
4. Height of Buildings
5. Local Clauses
6. Land Application Map
7. Riparian Lands and Watercourses
8. Acid Sulfate Soils

The subject land boundary has been updated in all of the above maps to include the 300 linear metres of the Council road adjoining the northern boundary of Lot 24, DP 714096.

In addition to changing the subject land boundary on all the PP maps, the following four (4) PP maps have been modified to reflect a new development footprint as adopted by Council on 14 March 2022 (MIN22.170):

- LZN – Land use zones (Map 1)
- LSZ – Minimum Lot Size (Map 2)
- Proposed Urban Release Area (URA) (Map 3)
- HOB – Height of Buildings (Map 4)

With the exception of the subject land boundary, Maps 5, 6, 7 & 8 are unchanged from the exhibited proposal. They are included and described below for completeness.

The eight (8) map overlays are illustrated in [5 Part 4 – Mapping of this PP](#).

### 3.2 The Revised Proposal

Essentially, the revised proposal is the outcome of the [PDU-led discussions](#) summarised in the Background to this PP (section 1.2). The PDU's role was critical in bringing together the parties, allowing the proposal to be reshaped to help overcome concerns raised by the RFS. The revised development footprint is substantially different but presents a superior planning outcome compared to the exhibited PP.

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

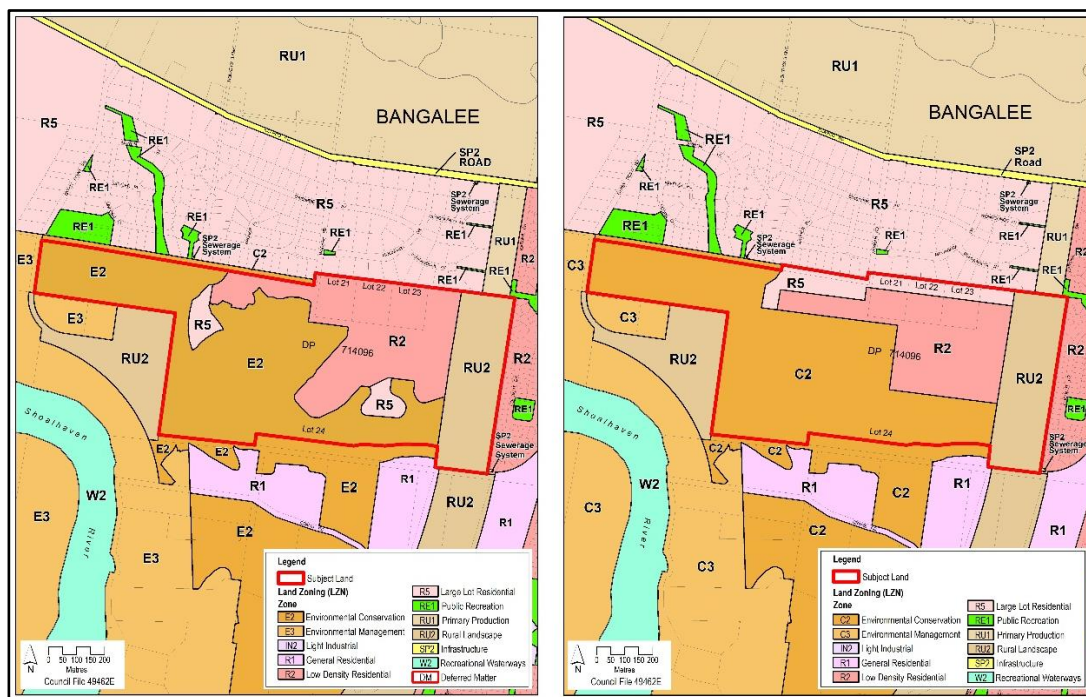
- A regular boundary and manageable interface between the proposed residential zones and environmental land that will facilitate consistency with the subdivision requirements of PBP19 and therefore Ministerial Direction 4.3.

- 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 fully-funded stewardship site.
- A more effective buffer/transition of R5-zoned land with a minimum lot size of 2,000 m<sup>2</sup> is proposed between the existing development to the north and the proposed R2 zoned area within the subject land.
- Approx. 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 m<sup>2</sup> 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.

Comparisons of the previously exhibited and revised land use zoning and minimum lot size LEP map overlays are shown in Figures 5 and 6 respectively. A full set of proposed LEP maps is provided in [Part 4](#).

### Land use zones (LZN)

The changes to proposed zone boundaries between the exhibited proposal (left) and the revised proposal (right) are illustrated in **Figure 5**.

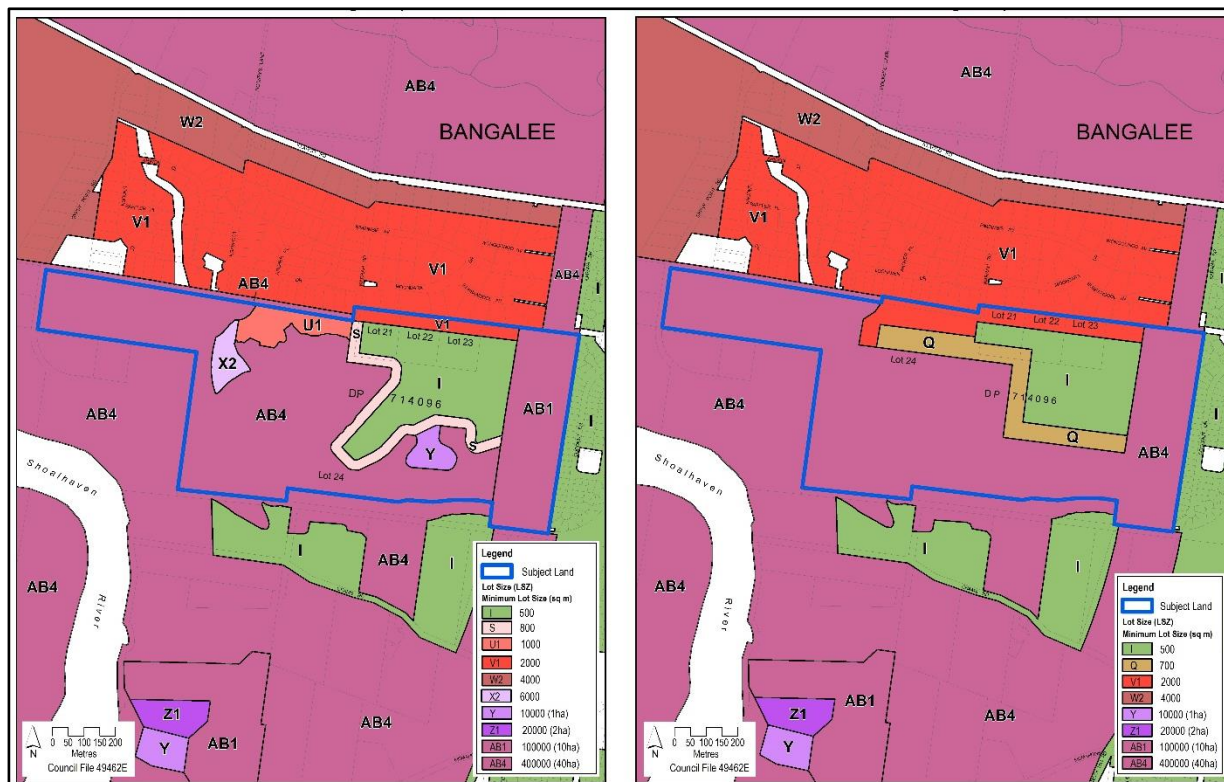


**Figure 5 - Land Use Zoning: Previously Exhibited Proposal (left) Revised Proposal (right)**



## Minimum Lot Size Zones (LSZ)

Minimum lot sizes are proposed to be simplified as illustrated below in **Figure 6**.



**Figure 6 – Lot Size Map: Previously Exhibited Proposal (left) Revised Proposal (right)**

The proposed Minimum Lot Size Map (LSZ) has the following specifications:

- R5 zone: The northern boundary of the site has been allocated a minimum lot size of 2,000 m<sup>2</sup> (V1) to complement the adjoining large lot residential development to the north and provide a buffer to new higher density residential within the urban release area to the south.
- R2 zone: A 500 m<sup>2</sup> lot size (I) is proposed for the least constrained part of the urban release area (R2 zone) for the provision of standard residential lots.
- R2 Zone: A 700 m<sup>2</sup> lot size (Q) is proposed for the land identified as a buffer between the 500 m<sup>2</sup> lot size area and adjoining environmental land. Larger lots are needed in this location to accommodate the required bushfire asset protection zones (APZs).
- RU2 zone: A 40 ha (AB1) minimum lot size is proposed to protect the corridor and alignment of the future Western Bypass and to allow this land to be excised and attached to a residential lot within the subdivision until Transport for NSW is ready to acquire the land.
- C2 zone: The balance of the site is environmental land and will be provided with a 40 ha (AB1) minimum lot size.

## Urban Release Area (URA)

The area of land to be identified as urban release area (URA) corresponds to the area of land proposed to be zoned R5 Large Lot Residential and R2 Low Density Residential.

With the exception of the Council road to the north of Lot 24 DP 714096, this is the area of land that is also subject to the Biodiversity Certification Application and revised BCAR, proposed to be re-exhibited concurrently with the PP. (See Section 4.3.1 for information about the biodiversity assessment requirements for the Council road.)

### **Height of Buildings (HOB)**

All parts of the site to be zoned R2 or R5 are proposed to be allocated a maximum building height of 8.5 m. The revised HOB map is aligned with the revised footprint for the proposed URA.

### **Clauses Overlay (CLS) (Map 5)**

That part of the site proposed to be zoned RU2 Rural landscape is also proposed to be mapped as being subject to Clause 7.21 of the LEP. This is an existing clause in the LEP that relates to the future use of the land for a road corridor. With the exception of the subject land boundary, this map has not changed from the previously exhibited PP.

### **Land Application Map (LAP)**

Lots 21-24, DP 714096 are currently 'deferred' from Shoalhaven LEP 2014. The Land Application Map will be amended to include the subject land (so that the land is no longer 'deferred'). With the exception of the subject land boundary, this map has not changed from the previously exhibited PP.

### **Riparian Lands and Watercourses (WCL)**

The existing watercourse and its tributaries are proposed to be mapped in the LEP. With the exception of the subject land boundary, this map has not changed from the previously exhibited PP.

### **Acid Sulfate Soils (ASS)**

Lots 21-24, DP 714096 are proposed to be mapped as Class 5 on the Acid Sulfate Soils Map under the LEP. This classification is consistent with all land surrounding the subject land. With the exception of the subject land boundary, this map has not changed from the previously exhibited PP.

## **4 Part 3 – Justification**

### **4.1 Need for the Planning Proposal (Section A)**

#### **4.1.1 Is the planning proposal a result of an endorsed local strategic statement, strategic study or report?**

YES. The land comprising lots 21-24, DP 714096, i.e. the 'Deferred' land is identified as one of seven Urban Investigation Areas in the endorsed NBSP.

#### 4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

YES. The current rural zoning of Lots 21-24 DP 714096 (the site) under SLEP 1985 does not permit this type of development. Council deferred the zoning of the site as part of the finalisation of Shoalhaven LEP 2014, to consider a site specific PP to resolve the differences between the biodiversity studies relating to the land. The land cannot be developed in the manner proposed without amending the LEP via a planning proposal. There is no matter of state significance that would warrant a SEPP process. The revised proposal offers a superior planning outcome compared to the exhibited PP.

### 4.2 Relationship to strategic planning framework (Section B)

#### 4.2.1 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

YES.

[Illawarra Shoalhaven Regional Plan 2041 \(May 2021\)](#)

The PP is generally consistent with the Illawarra Shoalhaven Regional Plan 2041 (ISRP), in particular, **Objective 18 – Provide housing supply in the right locations**. Strategy 18.2 encourages Councils to *“Facilitate housing opportunities in existing urban areas. Strategic planning and local plans should consider opportunities to review planning controls so that they are creating flexible and feasible conditions for housing supply”*.

The regionally significant growth area of Nowra-Bomaderry and specifically the Crams Road Investigation Area (CRIA), remains a focus for housing supply in the ISRP. Nowra-Bomaderry is identified as offering long-term capacity for 9,600 new dwellings. Some of this capacity can be met by this PP.

#### 4.2.2 Will the planning proposal give effect to Council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

YES. The PP is generally consistent with Council’s Strategic Land-use Planning Statement (SLPS), adopted 29 September 2020.

In particular, *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 a regionally significant urban release area. It is also generally consistent with *Planning Priority 3 – Providing jobs close to home*. The PP will release land for residential development thereby providing work to sustain local jobs in construction as well as supporting local businesses engaged in the supply of building materials.

### [Shoalhaven 2027 - Community Strategic Plan](#)

The PP 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*.

### [Nowra-Bomaderry Structure Plan \(NBSP\)](#)

The 'Deferred' land was originally identified as one of seven UIAs in the NBSP adopted by Council in 2006 and endorsed by DP&E in 2008. The NBSP identified ninety (90) hectares for potential rezoning subject to further studies, including a threatened species and biodiversity assessment. The NBSP projected that the Crams Road Investigation Area (CRIA) could provide an additional 350 dwellings, of these 35 would be medium density, acknowledging that environmental constraints may reduce this yield. Shoalhaven LEP 2014 incorporates the strategic directions outlined in the NBSP, noting that the subject land was deferred due to unresolved planning considerations at that time.

### [Shoalhaven Growth Management Strategy 2012](#)

The PP is generally consistent with Council's Growth Management Strategy (GMS) adopted in 2012 and endorsed by the NSW Government in 2014. The GMS guides the future growth of Shoalhaven and examines the number and type of new homes needed by the community over the next 20 years. The GMS is currently under review and a [Discussion Paper](#) has been released. The Discussion Paper notes that "all of the longer term supply of land is located in the Nowra-Bomaderry area".

The NBSP is recognised at Section 2.3.5 of the GMS as providing a framework for the integrated development of the Nowra-Bomaderry area and specifically its long-term role as the City's major urban area. The CRIA is included at Table 18.

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

The PP is generally consistent with the applicable consolidated State Environmental Planning Policies (SEPPs). A full list of the applicable SEPPs is provided at [Attachment A](#). Commentary is provided below on SEPPs relevant to this proposal.

#### **Housing SEPP 2021**

This SEPP consolidates, transfers and repeals five (5) existing housing-related policies: Affordable Rental Housing 2009; Affordable Housing (Revised Schemes SEPP 70; Seniors & Disability SEPP 2004; Caravan Parks SEPP 21 and Manufactured Home Estates SEPP 36. The Housing SEPP includes provisions for secondary dwellings, short term rental accommodation and other forms of affordable rental housing. This SEPP enables schemes to levy developer contributions for Affordable Housing. The SEPP will apply to development proposals on residential land when the land is rezoned; the provisions of Part 6 of SLEP

2014 have been satisfied; and the land has been released. The PP is generally consistent with the principles of the SEPP, specifically to enable diversity in housing types and to promote delivery of housing in locations where it will make good use of existing and planned infrastructure services. Multi dwelling housing<sup>1</sup> and residential flat buildings<sup>2</sup> would NOT be permitted if the land is rezoned as proposed.

### **Biodiversity and Conservation SEPP 2021**

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) consolidates and transfers 11 repealed SEPPs (or deemed SEPPs) into Chapters. No policy changes have been made. The SEPP consolidation did not change the legal effect of the former SEPPs.

Chapter 3 applies to the City of Shoalhaven but is not applicable to this PP as the subject land is not currently zoned RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry

Chapter 4 applies to the City of Shoalhaven and aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The subject land is not within a koala management area.

The biodiversity field surveys within the Biodiversity Certification Assessment Area (BCAA) conducted for the Biodiversity Conservation Assessment Report (BCAR) did not identify any potential koala habitat and koalas were not observed/recorded during field surveys.

The land is not core Koala habitat or potential Koala habitat. Therefore, the PP is not inconsistent with this Chapter of the Biodiversity and Conservation SEPP.

A SEPP checklist is attached and assesses the PP against the consolidated planning policies implemented by the former Minister for Planning and Public Spaces Rob Stokes on 2 December 2022. The new consolidated planning policies came into effect on 1 March 2022 prior to lodgement of the PP with the Department of Planning and Environment.

#### **4.2.4 Is the Planning Proposal consistent with Local Planning Directions (s.9.1 directions)?**

The applicability, relevance and consistency of Local Directions are summarised at Attachment B and those that are most relevant are discussed below.

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<sup>1</sup> **multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building. (Source: SLEP 2014, accessed 14/3/22)

<sup>2</sup> **residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing. (SLEP 2014, accessed 14/3/22)



### **Direction 1.1 Implementation of Regional Plans**

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions, and actions contained in Regional Plans.

The PP is consistent with the [Illawarra Shoalhaven Regional Plan 2041 \(ISRP\)](#) as Map 10 of the ISRP identifies the CRIA as one of several regionally significant release areas which will contribute to housing supply in the Region. The PP is, therefore, consistent with this direction.

### **Direction 1.4 Site Specific Provisions**

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. This PP seeks to protect the corridor and alignment of the future Western Bypass by rezoning the affected land to RU2 - Rural Landscape and applying Local Clause 7.21 of Shoalhaven LEP 2014 to the land. The PP does not propose any additional development standards and is therefore consistent with this direction.

### **Direction 3.1 Conservation Zones**

This direction requires that a PP must include provisions that facilitate the protection and conservation of environmental sensitive areas. This PP specifically includes provisions that facilitate the protection and conservation of high conservation value (HCV) land identified in the independent peer review of biodiversity assessments (NGH Environmental, 2017). It is proposed that approximately 45 ha of environmentally sensitive land will be zoned C2 Environmental Conservation and ultimately transferred to Council with a single, fully costed and funded Biodiversity Stewardship Agreement.

Transfer of the land and accompanying funding would be set out in the Biodiversity Certification Agreement as part of any conferral by the NSW Minister for the Environment and Heritage under Part 8, Division 2 of the *Biodiversity Conservation Act 2016*. The timing of transfer is yet to be determined but it would potentially be a set period after Part 6 of the LEP (requirements relating to Urban Release Areas) is satisfied, or some other key point in the process (e.g., prior to release of subdivision works certificate). Council and DPE (Biodiversity & Conservation Division) will continue to work closely on this timing aspect. The PP is consistent with this direction.

### **Direction 3.2 Heritage Conservation**

This direction requires that items of Aboriginal and other cultural heritage be identified in a study of the area's environmental heritage. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

An [Aboriginal Cultural Heritage Assessment \(ACHA\)](#) was referred to Heritage NSW (HNSW) for review, as required by the original Gateway determination. [Comments](#) dated 20 November 2020 are discussed in Section 4.2.4 of the [Exhibited Planning Proposal](#). HNSW advised, in part, as follows:

*“The Aboriginal cultural heritage assessment addresses Ministerial Direction 2.3. Based on our review, the MDCA (2018) report appears to address the requirements of [former] Ministerial Direction 2.3. The assessment has included Aboriginal community consultation and archaeological survey in accordance with the relevant guidelines.*

HNSW was further consulted during exhibition of the PP and [comments](#) received on 25 June 2021 confirmed their previous advice.

Consultation with HNSW, the Local Aboriginal Council and the Jerrinja Tribe will continue during re-exhibition of the PP. The PP is consistent with this direction.

#### **Direction 4.3 Planning for Bushfire Protection**

This direction applies because the site is bushfire prone land. The objectives are to protect life, property, and the environment from bushfire hazards, by discouraging incompatible land uses in bushfire prone areas, and to encourage sound management of bush fire prone areas.

Consultation with the NSW Rural Fire Service (RFS) was undertaken as required by the previous Gateway determination of 25 February 2021.

On [18 October 2021](#), the RFS responded to the revised proposal and provided, in summary, the following advice:

*“The NSW RFS recognises that the proposal has been part of discussions since 2018 and can be considered somewhat of a legacy proposal. The proposal seeks to amend the current zoning and provides a concept subdivision plan with surrounding perimeter roads to all hazard interfaces, construction of public access within the Crown Road Reserve and public access roads to the north of the site, in the centre of the site and to the south east of the site connecting to Pitt Road. In recognition of the history of the site and recent amendments to the concept plan - the proposal is considered to be generally consistent with subdivision requirements of **Planning for Bush Fire Protection 2019 (PBP 19)**”*

The PP is therefore consistent with this direction. In correspondence dated 11 May 2022, the Director, Southern Region, Local and Regional Planning, as delegate of the Secretary, agreed that the inconsistency of the PP with s9.1 Ministerial Direction – 4.3 Planning for Bushfire Protection is justified and that further approval is not required in relation to this Direction.

#### **Direction 4.4 Remediation of Contaminated Land**

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. The direction applies because it is proposed to carry out development on the subject land for residential purposes.

A Stage 1 Contamination Assessment was undertaken by Network Geotechics on behalf of the proponent. The Assessment can be accessed here:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D20/520331>

The site was found to be of medium risk of contamination in certain areas where illegal dumping of rubbish has occurred. Other potential sources of contamination derive from the possibility that at one stage an abattoir operated on the site as well as potential contamination resulting from building material stockpiles. Nevertheless, most of the site was assessed to be 'greenfield'.

The assessment concluded that a targeted Stage 2 Contamination Assessment is required for the proposed subdivision. SEPP (Resilience and Hazards) 2021 provides a statutory framework for further investigations and suitable remediation through the development application process.

The Network Geotechnics report was referred to Council's Environmental Services Unit for review. The following comments were received:

*"A targeted Stage 2 Contamination Assessment is required for the proposed subdivision at DA stage. Should the Stage 2 contamination report identify any contamination, remediation and validation will be required in accordance with Consultants reporting on contaminated Land: Contaminated land guidelines 2020."*

The PP is consistent with this direction.

#### **Direction 4.5 Acid Sulfate Soils**

Part (3) of this direction states that:

*A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.*

The subject land is not mapped on the State Government's Acid Sulfate Soils Planning Maps.

The subject land is proposed to be mapped as Class 5 on the Acid Sulfate Soils Map under Shoalhaven LEP 2014, to which clause 7.1 of the LEP applies. This would be considered in any future development application. This classification is consistent with all land surrounding the subject land. As such the PP is consistent with this direction.

#### **Direction 5.1 Integrating land use and transport**

This direction requires PPs to give effect to and be consistent with the aims, objectives, and principles of:

- *Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and*

- *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

In context of the Nowra-Bomaderry area, options to reduce dependency on private motor vehicles are discussed in sections 6.3 and 6.4 the NBSP, which was adopted by Council and endorsed by the State Government in 2008. These options include expanding the network of cycleways and pathways, priority lanes for bus services etc. These, and any other available integrated transport options, are being reviewed and advanced as the URAs are progressively investigated.

As already noted, the Crams Road / Warrah Road UIA is identified in the NBSP as a longer-term release area that is contingent on traffic congestion at the river crossing being addressed. A detailed traffic study has been undertaken and can be accessed here:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D18/186133>. The 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 (MIN19.289) 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”*.

The PP is consistent with this direction.

### **Direction 6.1 Residential Zones**

This direction applies as the PP seeks to rezone part of the land for residential purposes. The subject land 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 (URA). The PP is consistent with this direction because it will ultimately increase the availability of residential land by rezoning land zoned Rural 1(d)(General) under Shoalhaven LEP 1985 to R2 – Low Density Residential and R5 – Large Lot Residential under Shoalhaven LEP 2014 and provide some diversity of housing choice.

### **Direction 6.2 Caravan Parks and Manufactured Home Estates**

This direction is relevant because a caravan park is a permitted use in the Rural 1(d) (General Rural) zone that currently applies to the subject land under Shoalhaven LEP 1985. The PP proposes to zone the land to a combination of R2 – Low Density Residential, R5 – Large Lot Residential, C2 Environmental Conservation and RU2 Rural Landscape. A caravan park is not a permitted use in any of the aforementioned zones with the exception of RU2 Rural Landscape (RU2). It is proposed, however, that Local Clause 7.21 of Shoalhaven LEP 2014 will be applied to the RU2 zone to protect the corridor and alignment for the future Western Bypass.

The inconsistency between the PP and this direction is justified and minor. The CRIA has been identified in the NBSP and the Illawarra-Shoalhaven Regional Environmental Plan

2041 (both endorsed by DPE) as a regionally significant release area which will contribute to housing supply in the Region.

### **Direction 9.1 Rural Zones**

The subject land is currently zoned Rural 1(d) (General Rural) under Shoalhaven LEP 1985.

This direction states that a planning proposal must:

- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

PPs can be inconsistent with the above requirement under certain circumstances, including where justified by strategy. The subject land is part of the Crams Road Investigation Area (CRIA) in the Nowra Bomaderry Structure Plan (NBSP), endorsed by DEP in 2008. Further, the Illawarra-Shoalhaven Regional Environmental Plan 2041 identifies the CRIA as a regionally significant release area which will contribute to housing supply in the Region. Hence, the inconsistency with this direction is justified.

In correspondence dated 11 May 2022, the Director, Southern Region, Local and Regional Planning, as delegate of the Secretary, agreed that the inconsistency of the PP with s9.1 Ministerial Direction – 9.1 Rural Zones is justified and that further approval is not required in relation to this Direction.

### **Direction 9.2 Rural Lands**

An objective of this direction is to protect the agricultural production value of rural land. Land zoned Rural must not be changed to urban use in the absence of a strategy to justify the proposal. This objective is not unlike the aims of the Primary Production SEPP 2021.

The subject land 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 land is an identified Urban Investigation Area in the NBSP, an endorsed strategy, and use of part of the land for residential development forms a natural extension of the existing residential uses immediately to the north and east. The proposed change of land use from Rural 1(d) (General Rural) to a mix of environmental, rural landscape and residential would not be detrimental to the rural economy of the Shoalhaven. 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?

Although there had been conflicting biodiversity assessments of the site, an independent peer review by NGH Environmental (2017) satisfactorily resolved this issue. The PP is accompanied by a Biodiversity Certification Application and supporting biodiversity certification assessment report (BCAR), prepared in accordance with the Biodiversity Assessment Methodology (BAM).

The revised proposal increases the area of land to be fully protected within the proposed C2 Environmental Conservation zone. Further, it is proposed that the C2 land will be transferred to Council with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA) registered on Title as detailed in the response to above to Direction 3.1 (s9.1).

The PP proposes to include part of the Council road adjoining the northern boundary of Lot 24 DP714096, within the R5 – Large Lot Residential zone. This road is necessary for perimeter road access to the development to meet the subdivision requirements of PB2019. This land is not included in the BCAR and has not been surveyed. A Biodiversity Development Assessment Report (BDAR) would be required for constructing the road on land that is not biodiversity certified, i.e. within this road reserve. Survey requirements for the BDAR would be determined by an accredited assessor in accordance with the BAM and would need to be completed prior to release of the land for development. Opportunities to retain hollow bearing trees and Glossy Black Cockatoo feed trees along the southern edge of the road reserve should be surveyed, mapped and considered as part of the design process.

Arrangements for the provision of all public utility infrastructure will need to be in place before the land can be subdivided/developed. Consultation will continue after the land has been rezoned, during preparation of the Development Control Plan (DCP) that is required to address Part 6 of the LEP.

#### 4.3.2 Are there any other likely environmental effects as a result of the planning proposal to be managed?

##### Traffic

A [traffic study](#) was completed by TDG, 2018.

The study identified 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 resolved (MIN19.289) 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”.*

In addition, some minor widening and intersection improvements to the local road network were identified as being required to support the development.

No other matters were identified in the traffic study that would impact this PP and, based on the land release being delayed until the identified transport infrastructure has been completed, TfNSW has also supported the PP.

Post exhibition of the PP the RFS identified the necessity for an alternative access (other than Warrah Road) to connect to a perimeter road system. Alternative access from the southeast of the proposed URA to Pitt Street is proposed schematically in the [Suggested Option](#). It is anticipated that this fully constructed access road would be wholly contained within land proposed to be zoned RU2 Rural Landscape. Although construction will impact the remediation area, the Biodiversity Conservation Division of DPE supports the PP and has stated that:

*“... on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply.”*

Construction of the northern extension of Warrah Road, to reduce traffic impacts on Bimbimbe Avenue and Moondara Drive, will be considered as part of the future area release planning under Part 6 of the LEP. Consultation will continue after the land has been rezoned, during preparation of the DCP, and prior to release.

#### **4.3.3 Has the planning proposal adequately addressed any social and economic effects?**

The PP will provide certainty for the community on the site's intended development outcomes and land supply. To address concerns raised by the local community about impacts on the amenity and character of the existing residential area, the planning proposal incorporates an R5 – Large Lot Residential zone with a 2,000 m<sup>2</sup> minimum lot size along part of the northern boundary. The purpose of the larger lots is to create a buffer between the existing development in Bangalee and the proposed smaller, more urban, 500-700 m<sup>2</sup> lots as shown in the indicative [‘Subdivision Concept Plan’](#).

The need for social infrastructure to support the proposed URA such as public open space, a playground and shared paths, etc was raised in submissions during public exhibition of the PP and is addressed in the [Council Report 14 March 2022](#).

A key issue to arise is the need for a local park. Council supports the dedication of a minimum of 4,000 m<sup>2</sup> as public open space within the proposed URA for use by both future (approx. 500) and existing residents. A local park is considered to be justified based on projected population increase as there are no suitable existing parks in Bangalee or its

immediate surrounds. Ideally, a park would be centrally located to be accessible to all residents of Bangalee.

A Development Control Plan (DCP) must be prepared before the land can be ‘released’ for subdivision in accordance with Part 6 of the Shoalhaven LEP 2014. The community will be invited to engage in this process. The DCP will provide more detailed planning provisions and will help achieve beneficial outcomes, for example, those relating to local/social infrastructure provision (e.g., a local park, cycleways, shared paths, and sustainability infrastructure such as high-quality stormwater management, and subdivision design). Council may also prepare/consider other supporting documents (such as a Voluntary Planning Agreement and Contributions Plan Amendment). In this case, the community will also be engaged if/when these documents are prepared.

The urgent need for additional and affordable housing in the Shoalhaven is well documented in Council’s [Affordable Housing Strategy, 2017](#). If the PP is not finalised, the negative flow on effects would impact both the housing economy and the economy generally through the loss of business income and jobs.

## 4.4 State and Commonwealth Interests (Section D)

### 4.4.1 Is there adequate public infrastructure for the planning proposal?

Issues regarding the provision of infrastructure will 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. As previously discussed, Council has resolved (MIN19.289) 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”*.

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

**Table 1: NSW Government Agencies consulted**

Public Authority	Reason
NSW Rural Fire Service	As per s 9.1 Direction 4.3
Biodiversity & Conservation (DPE)	Biodiversity certification
Transport for NSW	Traffic impact on Princes Highway, the Shoalhaven River crossing and the corridor and alignment of the future A1/M1 (Western Bypass)
Heritage NSW	Aboriginal Cultural Heritage
Natural Resources Access Regulator (NRAR)	Riparian corridors – Shoalhaven River
Endeavour Energy	Electricity Infrastructure

*Note: Consultation with Commonwealth Government Agencies was not required for this PP.*

## **NSW Rural Fire Service**

The NSW Rural Fire Service (RFS) was consulted as required by the previous Gateway determination of 25 February 2021. [Comments dated 16 July 2021](#) (summarised) were received after close of exhibition:

- *“the subject site incorporates significant access and ecological constraints.*
- *The information provided to support the Proposal has not adequately addressed the strategic bush fire planning principles and bush fire study requirements detailed in section 4 of Planning for Bushfire Protection 2019 (PBP).*
- *The concept plans and preliminary bush fire assessment detail a significant departure from the specifications and requirements for residential development outlined in PBP 2019. While the parameters of the report could not be verified, the substantial reliance on performance-based solutions to demonstrate compliance with PBP 2019 at this stage of land use planning, is not considered appropriate.*
- *Based upon an assessment of the information provided, the NSW RFS is not satisfied that the proposal is consistent with the directions.*

The RFS concern that the exhibited PP was not consistent with s 9.1 Ministerial Direction 4.4 (now 4.3) applying to bushfire prone land, meant that the PP, as exhibited, could not be finalised.

The revised proposal, described at section 3.2 of this PP, was triggered by the RFS comments and subsequent discussions led by the Planning Delivery Unit (PDU) with the RFS, the Biodiversity & Conservation Division (BCD) and the Wollongong Regional Office of the Department of Environment and Planning (DPE), the proponent and Council. Additional information about the PDU-led discussions that framed the revised proposal is included at section 1.2 – Background to this PP.

To conclude and confirm the outcomes, the revised proposal was formally referred to the RFS for comment.

Correspondence from the RFS dated [18 October 2021](#) included the following advice on the revised proposal:

*“The NSW RFS recognises that the proposal has been part of discussions since 2018 and can be considered somewhat of a legacy proposal. The proposal seeks to amend the current zoning and provides a concept subdivision plan with surrounding perimeter roads to all hazard interfaces, construction of public access within the Crown Road Reserve and public access roads to the north of the site, in the centre of the site and to the south east of the site connecting to Pitt Road. In recognition of the history of the site and recent amendments to the concept plan - the proposal is considered to be generally consistent with subdivision requirements of Planning for Bush Fire Protection 2019 (PBP 2019)”.*

RFS also required a revised Bushfire Assessment Report (BAR), consistent with PBP 2019, to be prepared if the proposal was to proceed to public [re]exhibition. An [updated BAR](#) was

received on 15 December 2021 and referred to the RFS. [Comments](#) were received on 30 March 2022 as follows:

*Based upon an assessment of the bush fire assessment report by Australian Bushfire Protection Planners P/L dated 14 December 2021 and the concept subdivision plan by Allen Price & Scarratts P/L Revision 10 dated 17 January 2022, NSW RFS raises no objection to the proposal proceeding to exhibition stage. The following comments are made in relation to the submitted concept plan:*

- The note regarding access to Pitt Street should read 'Public road access connecting to Pitt Street'. It is the preference of NSW RFS that this notation be made prior to the re-exhibition of the planning proposal.*

The [subdivision concept plan](#) has been amended as requested.



## **Biodiversity & Conservation Division, DPE**

Biodiversity & Conservation Division (BCD)(DPE) has been consulted extensively on the Biodiversity Certification Application (BCA), the associated BCAR and the PP. BCD's input was critical to framing the revised proposal. To conclude and confirm the outcomes of the PDU-led discussions referred to above, the revised proposal was formally referred to BCD for comment. BCD stated that:

*“... on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply.”*

Critical to BCD's support for the revised proposal is for all the land proposed to be zoned C2 Environmental Conservation to be transferred/dedicated to Council with a single fully-funded Biodiversity Stewardship Agreement (BSA) registered on the Title. In contrast, the exhibited proposal was for the C2 land to be subdivided into three (3) privately-owned caretaker lots each with a separate BSA. Each caretaker lot would also have included a parcel of land zoned R5 – Large Lot Residential for future construction of a dwelling.

An updated [BCAR](#), reflecting the revised proposal, was received on 8 April 2022 and is proposed to be re-exhibited concurrently with the PP.

As noted above, additional information about the PDU-led discussions that framed the revised proposal is included at section 1.2 – Background to this PP.

Comment about the provisions of the PP designed to facilitate protection of the environmental C2 land and the proposed transfer to Council, can be viewed at section 4.2.4 (Direction 3.1) and in the [Council Report of 14 March 2022](#).

## **Transport for NSW (TfNSW)**

Transport for NSW (TfNSW) has been consulted on two occasions. Comments were first received on 19 October 2020 in response to consultation undertaken in accordance with the original Gateway determination.

On 14 May 2021, TfNSW confirmed their previous [advice](#):

*“TfNSW has no objections to the PP in principle as it is unlikely to have a significant impact on the state road network.”*

No further consultation with TfNSW is necessary.

## **Heritage NSW**

An [Aboriginal Cultural Heritage Assessment \(ACHA\)](#) was prepared by Mary Dallas Consulting Archaeologists (2018). Recommendation 1 of the ACHA states:

*The current ACHA report is sufficient supporting documentation to inform the Aboriginal archaeological assessment of the Planning Proposal. There are no Aboriginal archaeological constraints to the rezoning of the subject land and no further archaeological work is required prior to the submission of the Planning Proposal.*

The ACHA was referred to Heritage NSW (HNSW) for review, as required by the original Gateway determination. Comments dated 20 November 2020 are discussed in Section 4.2.4 of the [Exhibited Planning Proposal](#). HNSW was further consulted during exhibition of the PP. HNSW confirmed their previous advice. The comments received on 25 June 2021 are available in the document library on the Get Involved webpage or here:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D21/280423>.

HNSW, the Registered Aboriginal Parties (RAPs), Nowra Local Aboriginal Council and the Jerrinja Tribe will be consulted again when the revised PP is exhibited.

#### Heritage items

Items of environmental heritage significance are protected under Shoalhaven LEP 2014 – Schedule 5 – Environmental Heritage. No new items requiring conservation have been identified.

#### **Natural Resources Access Regulator**

The Natural Resources Access Regulator (NRAR) was previously consulted (in relation to the previous version of the PP) as required by the original Gateway determination.

[Comments](#) were received from on 22 February 2021. Specifically:

*“It is NRARs preference riparian corridors across the subject site are handed over to Council or retained under public ownership to assist in ongoing protection of watercourses and to prevent detrimental impacts from private landholders.”*

The revised proposal, in particular, the transfer/dedication of the C2 land to Council is consistent with NRAR’s comments. No further consultation with NRAR is proposed.

#### **Endeavour Energy**

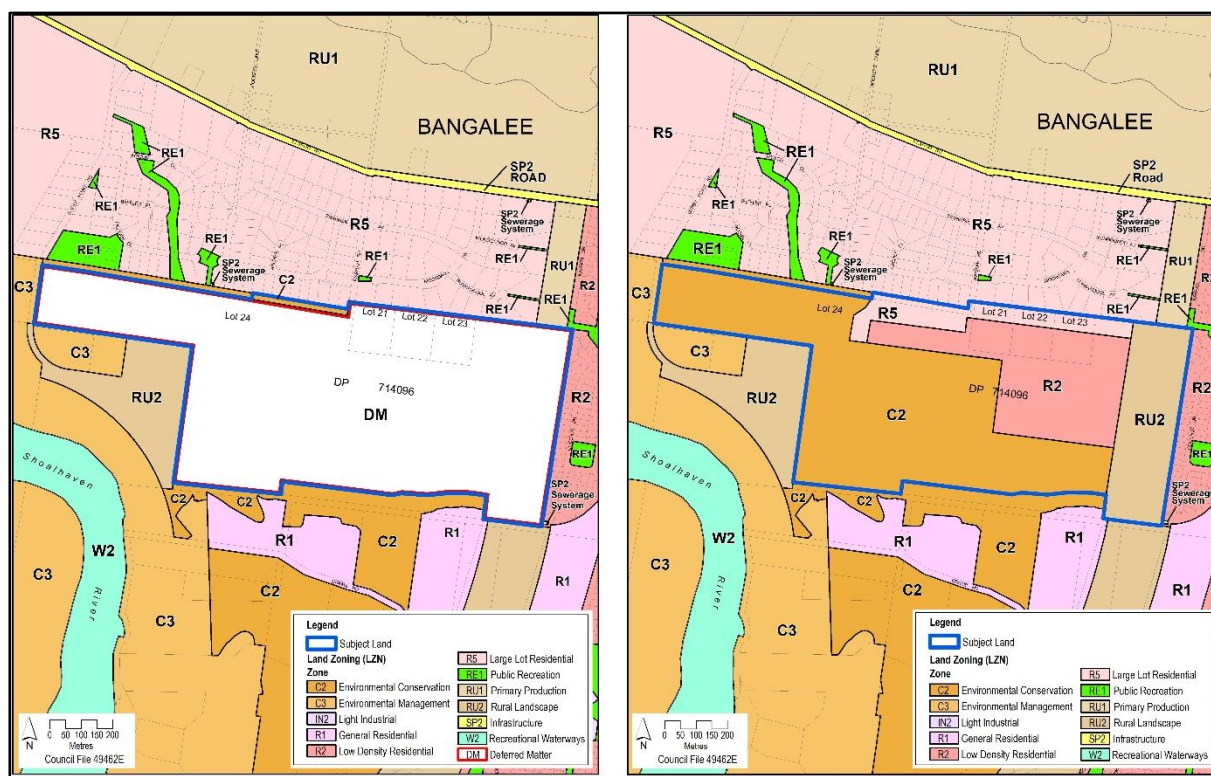
[Endeavour Energy](#) (EE) was consulted as required by the original Gateway Determination and comments were received on 18 November 2020. EE has no objection to the PP, subject to the comments and recommendations contained in the advice. No further comments have been sought and no further consultation on the PP is necessary.

#### **Shoalhaven Water**

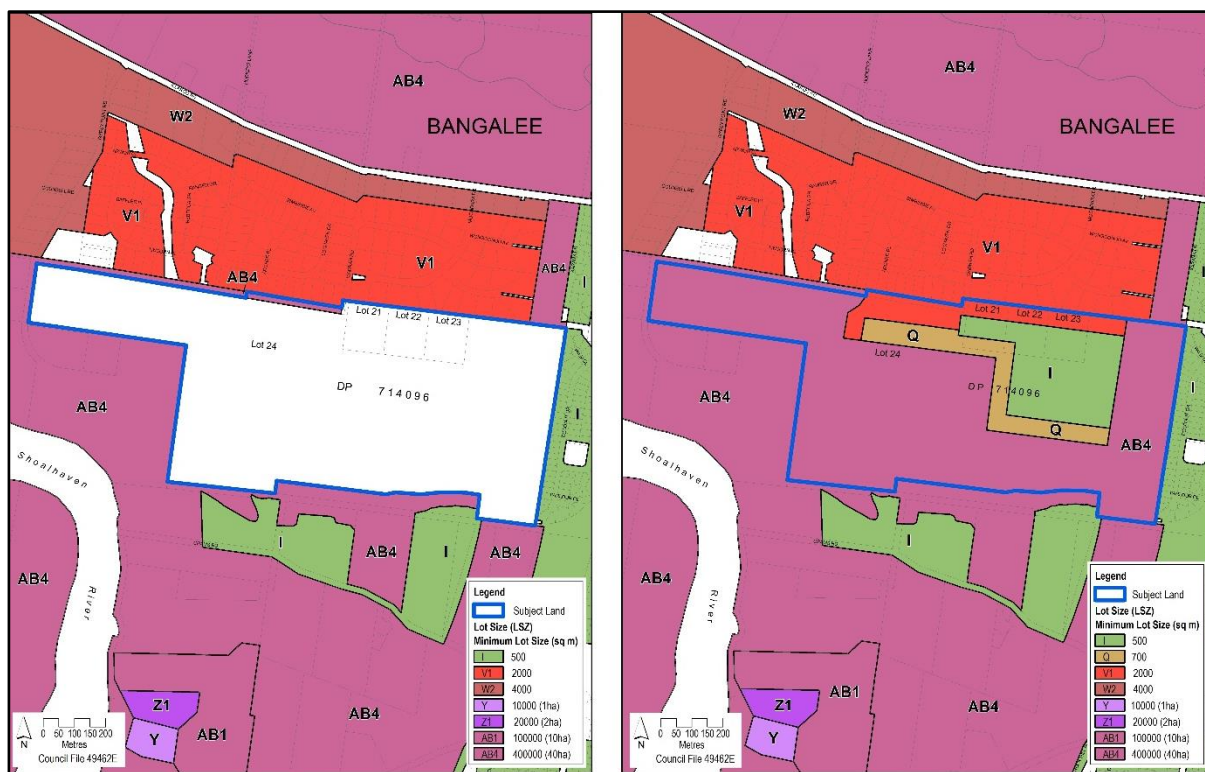
Consultation with Shoalhaven Water about servicing requirements continues. In April 2021 Shoalhaven Water advised that it is currently preparing its new Developer Servicing Plans (DSPs) for Water and Sewerage. Advice received on 1 February 2022 was that the DSP review is ongoing. Shoalhaven Water is aware of the reduction in the expected yield arising from the environmental constraints. The land is proposed to be mapped as an Urban Release Area and hence will be subject to Part 6 of the LEP. This means that arrangements for the provision of public utility infrastructure will need to be in place before the land can be subdivided/developed. Consultation will continue after the land has been rezoned, during preparation of the DCP, and prior to release.

## 5 Part 4 – Mapping

This PP is supported by the following maps:

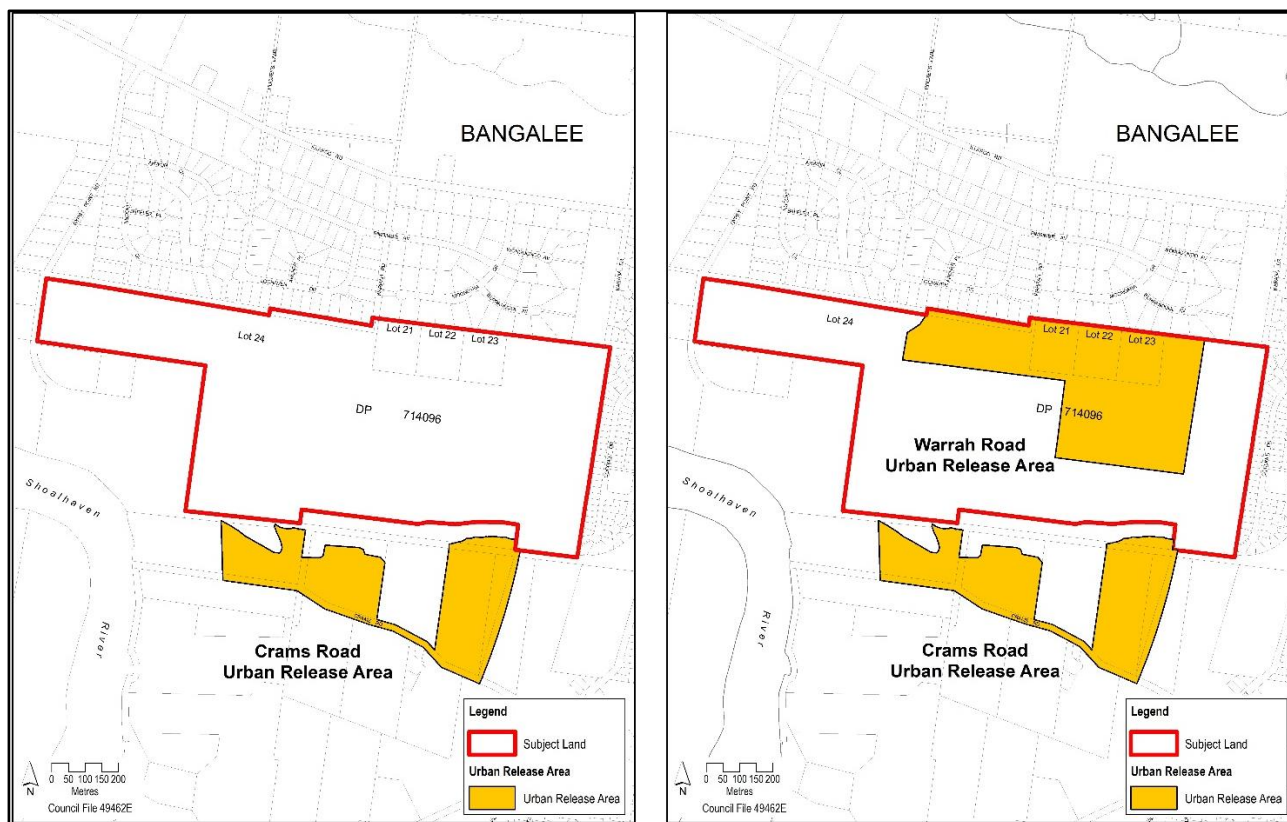


Map 1 – Existing (left) and proposed (right) Land Use Zoning (LZN)

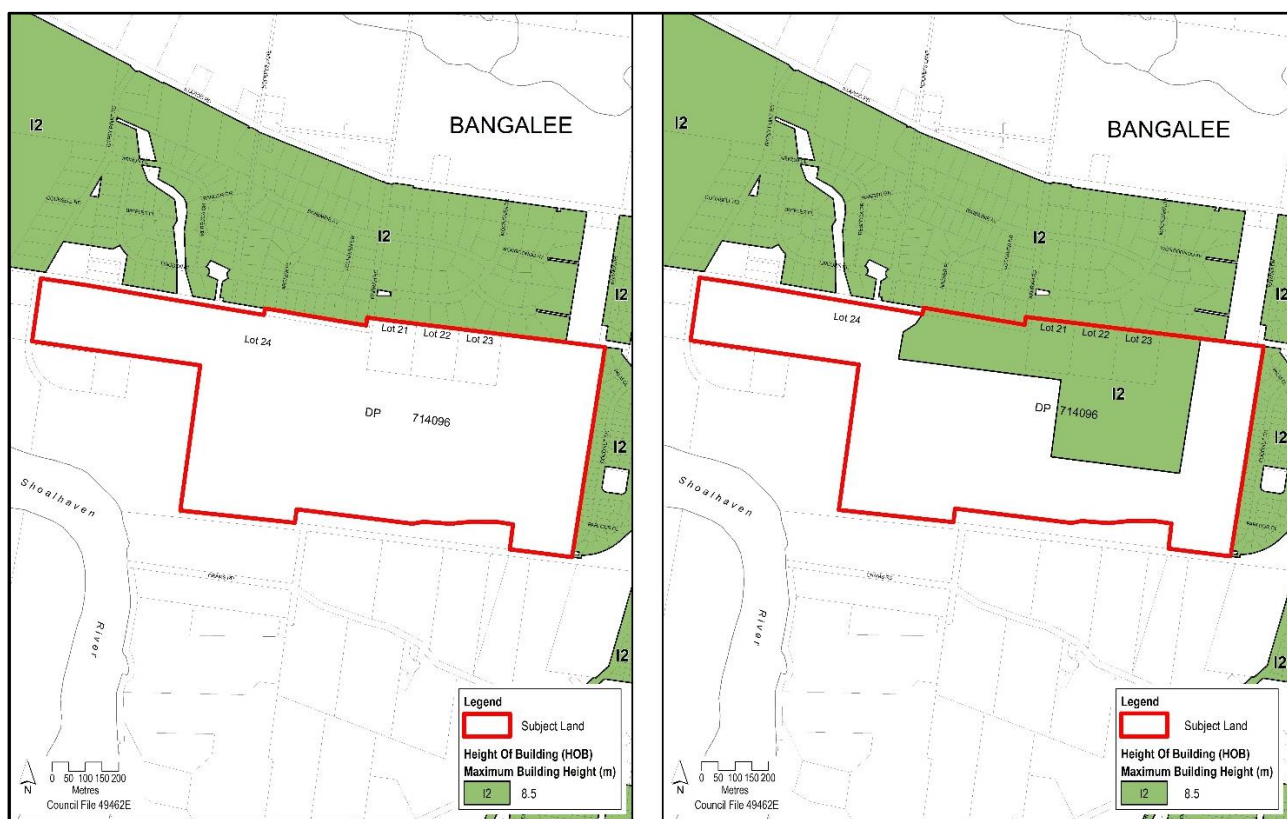


Map 2 – Existing (left) and proposed (right) Lot Sizes (LSZ)

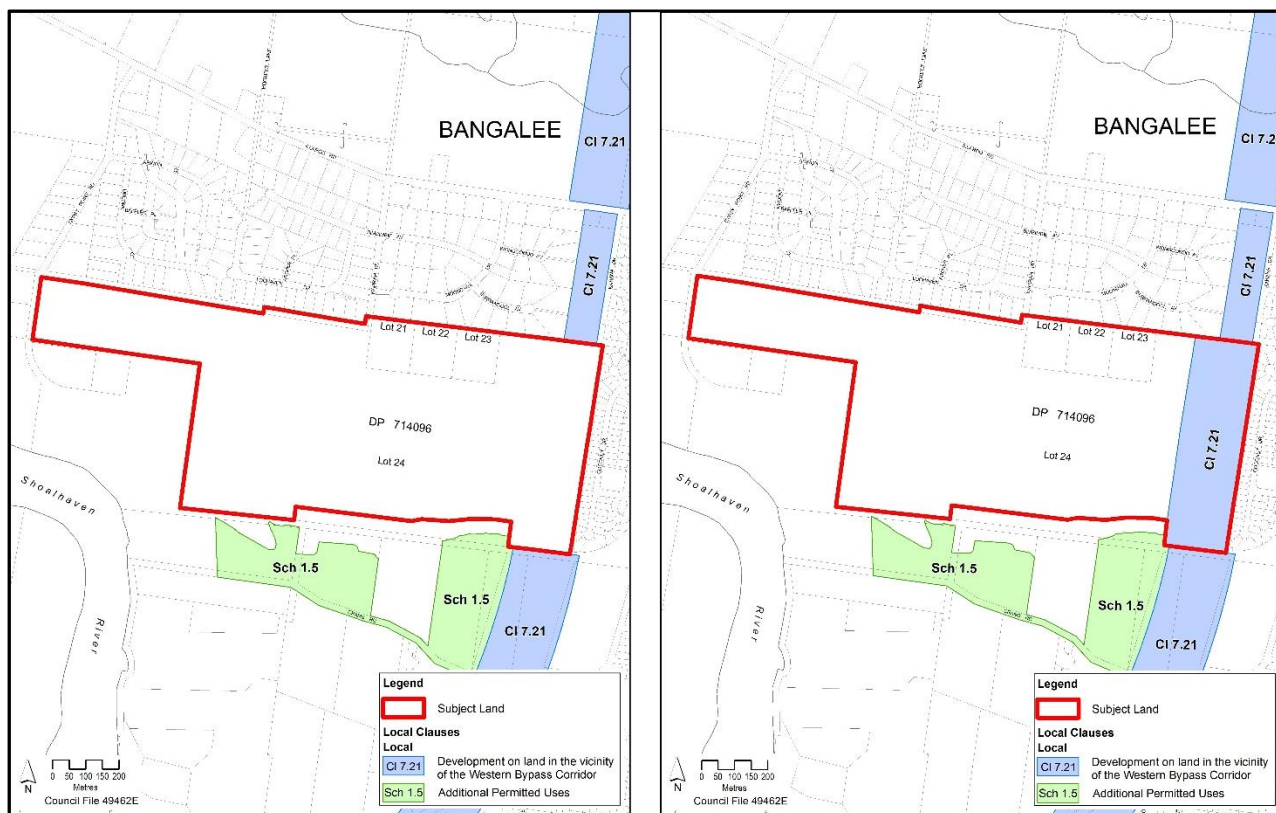




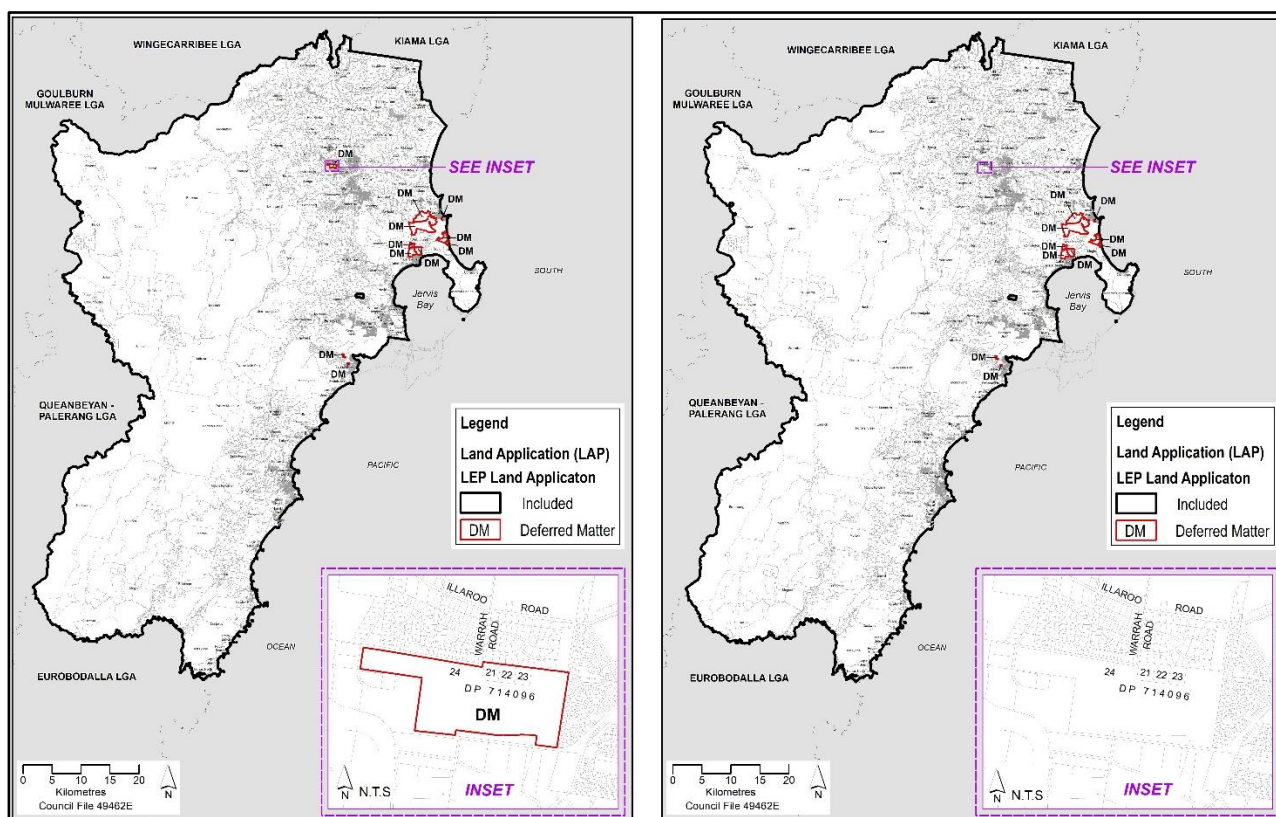
**Map 3 – Existing (left) and proposed (right) Urban Release Areas (URA)**



**Map 4 – Existing (left) and proposed (right) Height of Buildings (HOB)**

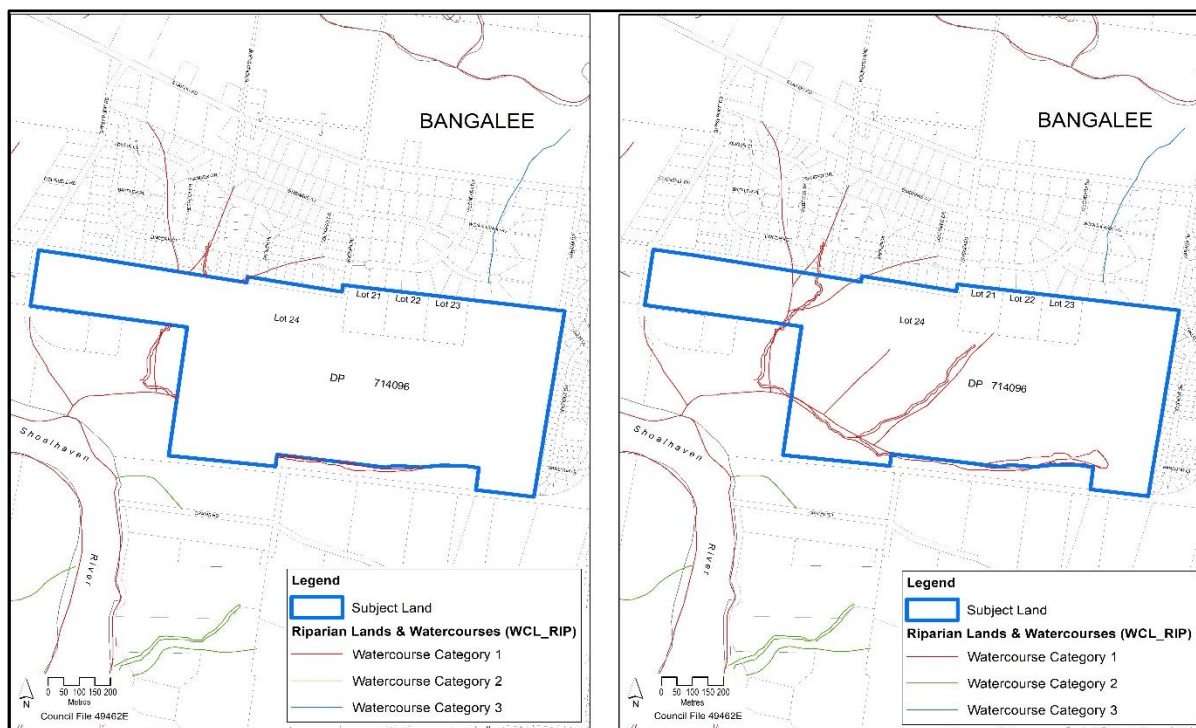


Map 5 – Existing (left) and proposed (right) Local Clauses (CLS)

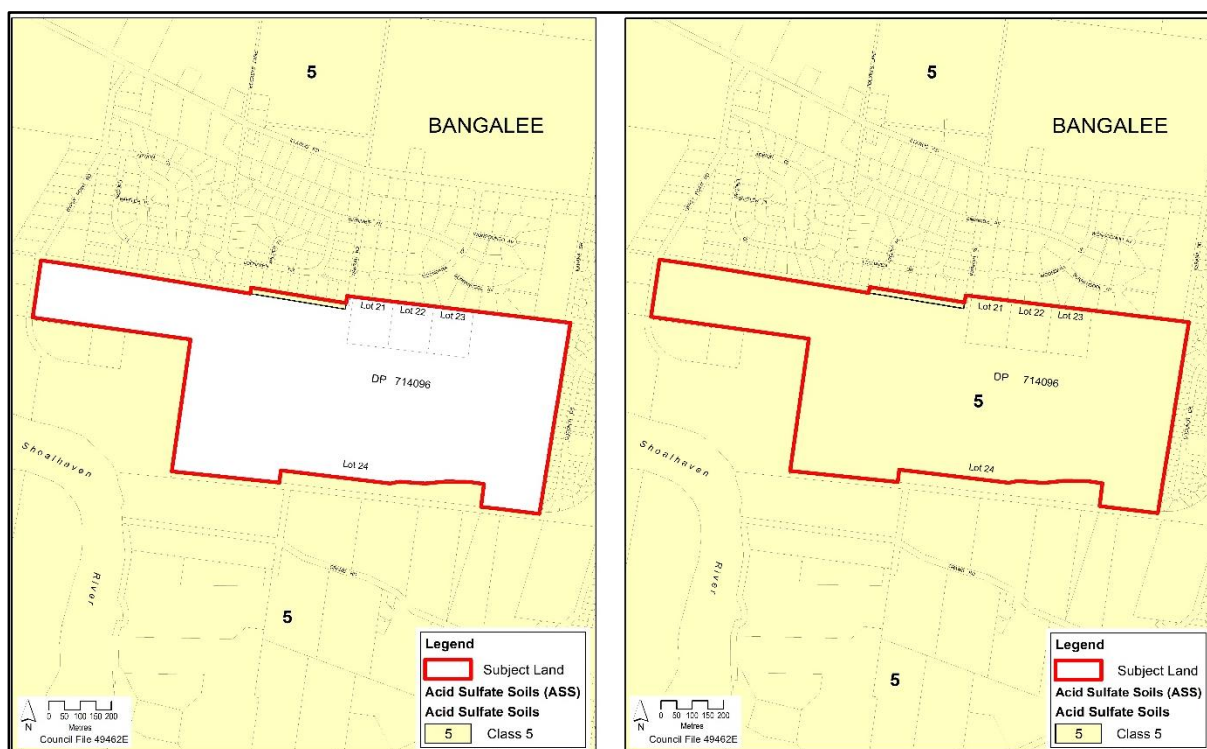


Map 6 – Existing (left) and proposed (right) Land Application (LAP)





**Map 7 – Existing (left) and proposed (right) Riparian Lands and Watercourses (WCL)**



**Map 8 – Existing (left) and proposed (right) Acid Sulfate Soils (ASS)**

## 6 Part 5 - Community Consultation

The revised Planning Proposal and accompanying BCAR will be publicly exhibited concurrently via the [Documents on Exhibition](#) page on Council's website: [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au) and the NSW Planning Portal.

The Planning Proposal will also be available for viewing **electronically** during business hours at the City Administration Centre, Bridge Road, Nowra and the Ulladulla Office at Deering Street. Council's '[Get Involved](#)' project page will continue to be maintained to assist with community engagement. Subscribers to the Get Involved page receive newsfeeds/updates directly via email. All those previously notified, and all those who made submissions and/or attended 'drop-in' sessions will be notified of the revised proposal.

The documentation will include relevant Council reports and resolutions, technical studies, including the Biodiversity Conservation Assessment Report (BCAR) and Gateway determinations.

## 7 Part 6 – Project Timeline

The following milestone timeframes are anticipated and will be revised if Gateway requirements so determine or any significant delays are encountered during the process.

**Table 2: Projected Timeline**

Activity / milestone	Anticipated Completion Date
New Gateway request, including re-loading of all supporting documentation to NSW Planning Portal	4 May 2022
Gateway determination	11 May 2022
Completion of Gateway requirements prior to public exhibition (if any)	N/A
Prepare exhibition package (if Gateway granted)	June 2022 - Completed
Public exhibition of updated PP and BCAR (in accordance with legislative requirements) and consult relevant agencies including Nowra LAC	15 June 2022 – 18 July 2022
Consideration of submissions and agency responses and prepare Council report	September 2022 – Completed August 2022
Report exhibition outcomes to Council	Oct/Nov 2022 – Completed 12 September 2022
Finalisation and notification of Plan	October/November 2022

## 8 Part 7 – Background resources

### Exhibited PP and Specialist studies, Council Report (March 2022) and Gateway Determinations (February 2021 and January 2022)

Item #	Title
7.1	<a href="#">Exhibited PP, January 2021 (Exhibited 12 May 2021 to 25 June 2021)</a>
7.2	<a href="#">Bushfire Assessment Report, 14 December 2021</a>
7.3	<a href="#">Biodiversity Certification Assessment Report – Part 1, December 2021</a>
7.4	<a href="#">Biodiversity Certification Assessment Report – Part 2</a>

### Council reports and minutes supporting the PP

All relevant Council reports up to and including 18 January 2021 are available in the exhibited PP: <https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D21/189510> or in the folder “Council reports and resolutions” on Council’s [‘Get Involved’ Project webpage](#). The Council report of 14 March 2022 and minutes are available here:

Item #	Title
7.5	<a href="#">Report to Ordinary Meeting – 14 March 2022 (CL22.119)</a>
7.6	<a href="#">Minutes of Ordinary Meeting – 14 March 2022 (MIN22.170)</a>

### Previous Gateway Determinations

All Gateway Determinations predating 25 February 2021 can be accessed from the previous PP located in the folder “Public Exhibition 2021” on the [‘Get Involved’ Project webpage](#). Gateway determinations issued since February 2021 are available via the following links:

Item #	Title
7.7	<a href="#">Gateway Determination – New Determination 25 February 2021</a>
7.8	<a href="#">Gateway Alteration – Extension – 21 January 2022 (Expiry 25 May 2022)</a>
7.9	<a href="#">Gateway Alteration – Termination – 13 April 2022</a>
7.10	<a href="#">Gateway Determination – New Determination 11 May 2022 (Expiry 13 February 2023)</a>

### Remediation Order

For details about the Remediation Order and the Amendment to the Order applying to the subject land, including mapping, please refer to Section 3.2 – Remediation Order of the exhibited PP:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D21/189510>

## 9 Part 8 – Attachments

### Attachment A – Council report and minute supporting re-exhibition of the revised PP

[Link To Business Paper 14/3/2022 \(Warrah Road report starts on p 85\)](#)

#### **Minute:**

RESOLVED (Clr Findley / Clr White)

MIN22.170

That Council:

1. Endorse the revised proposal and modified Local Environmental Plan (LEP) maps contained in this Report and prepare an updated Planning Proposal (PP) that also includes:
  - a. Information about the proposed biodiversity certification of the development land and proposed conservation arrangements for the environmental land as outlined in recommendation 2 below;
  - b. A revised subdivision concept plan 2022;
  - c. Current agency comments.
2. Endorse, in principle, the transfer/dedication of the proposed C2 Environmental Conservation zoned land (part of Lot 24 DP 714096) to Council at the appropriate point in the future with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA), registered on Title.
3. Forward an updated PP to the NSW Department of Planning and Environment (DPE) with a request for a further Gateway extension to permit re-exhibition and finalisation of the PP.
4. Publicly exhibit the updated PP in accordance with legislative requirements and consult relevant agencies (provided Gateway extension is issued), with costs accrued to date to be invoiced and paid by the Proponent prior to exhibition commencing.
5. Concurrently exhibit the Biodiversity Certification Application (BCA) and updated BCAR with the PP for 30 days in accordance with s8.6 of the Biodiversity Conservation Act 2016.
6. Receive a future report on the outcomes of the re-exhibition and proposed finalisation process.
7. Advise the proponent and previous submitters of this resolution.
8. Prepare any future DCP Chapter for the area in accordance with Part 6 of the LEP including requirements for appropriate tree retention within the subdivision area.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

### Attachment B – Council report and minute adopting the PP 12/9/2022

[Link To Business Paper 12/9/2022 \(Warrah Road Report starts p 72\)](#)

#### **Minute:**

RESOLVED (Clr Wells / Clr Christen)

MIN22.582

That Council:

1. Adopt and finalise the revised Planning Proposal (PP005) as exhibited between 15 June and 18 July 2022.
2. Forward PP005 to the Office of the NSW Parliamentary Counsel (PCO) with a request to draft the amendment to Shoalhaven LEP 2014.
3. Make the resulting amendment to Shoalhaven LEP 2014 (SLEP) using Council's delegation.
4. Issue a final invoice for the balance of fees outstanding, to be paid by the proponent prior to making the LEP amendment.
5. Recognises the importance of communication and community engagement during the Planning Proposal process and posts a 'Newsfeed' update to the 'Get Involved' project page and advise all subscribers and the proponent of this resolution.
6. Advise submitters of Council's decision once the LEP amendment has been notified.

FOR: Clr Findley, Clr Kotlash, Clr Norris, Clr Butler, Clr D'Ath, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Watson, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

## Attachment C - State Environmental Planning Policies Checklist

State Environmental Planning Policy	Applies?	Consistent?
Housing SEPP 2021	Yes	Yes – see 4.2.3
Transport and Infrastructure SEPP 2021	No	
Primary Production SEPP 2021	No	
Biodiversity and Conservation SEPP 2021	Yes	Yes – see 4.2.3
Resilience and Hazards SEPP 2021	No	
Draft Design and Place SEPP 2021	No	
Industry and Employment SEPP 2021	No	
Resources and Energy SEPP 2021	No	
Planning Systems SEPP 2021	No	
Precincts SEPPs 2021	No	
Exempt and Complying Development Codes 2008	No	

**Note:** The PP has been assessed against the consolidated planning policies and Local (s9.1) Planning Directions<sup>3</sup> both of which were implemented by the Minister for Planning and Public Spaces, Mr Rob Stokes, MP on 2 December 2022. These new planning

<sup>3</sup> Local Direction 1.1 – Minister's Planning Principles, were discontinued on 14 March 2022)



*guidelines came into effect on 1 March 2022 prior to lodgement of this PP with the Department of Planning and Environment.*

## Attachment D – Local (s9.1) Planning Directions Checklist

1 March 2022 Version

MD	Subject	Applies?	Relevant?	Consistent?
<b>Focus Area 1: Employment &amp; Resources</b>				
1.1	Implementation of Regional Plans	Yes	Yes	Yes – see 4.2.4
1.2	Development of Aboriginal Land Council Land	No	No	
1.3	Approval and Referral Requirements	No	No	
1.4	Site Specific Provisions	Yes	Yes	Yes – see 4.2.4
1.5 – 1.16	Planning Systems (Place based)	No	No	
<b>Focus Area 2: Design and Place – Directions for this Focus Area have not been finalised to date</b>				
<b>Focus Area 3: Biodiversity &amp; Conservation</b>				
3.1	Conservation Zones	Yes	Yes	Yes – see 4.2.4
3.2	Heritage Conservation	Yes	Yes	Yes – see 4.2.4
3.3	Sydney Drinking Water Catchments	No	No	
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	No	No	
3.5	Recreation Vehicle Areas	No	No	
<b>Focus Area 4: Resilience &amp; Hazards</b>				
4.1	Flooding	No	No	
4.2	Coastal Management	No	No	
4.3	Planning for Bushfire Protection	Yes	Yes	Yes – see 4.2.4
4.4	Remediation of Contaminated Land	Yes	Yes	Yes – see 4.2.4
4.5	Acid Sulfate Soils	Yes	Yes	Yes – see 4.2.4
4.6	Mine Subsidence and Unstable Land	No	No	
<b>Focus Area 5: Transport &amp; Infrastructure</b>				
5.1	Integrating Land Use and Transport	Yes	Yes	Yes – see 4.2.4
5.2	Reserving Land for Public Purposes	No	No	
5.3	Development Near Regulated Airports and Defence Airfields	No	No	
5.4	Shooting Ranges	No	No	
<b>Focus Area 6: Housing</b>				
6.1	Residential Zones	Yes	Yes	Yes – see 4.2.4
6.2	Caravan Parks and Manufactured Home Estates	Yes	Yes	Justified – see 4.2.4
<b>Focus Area 7: Industry and Employment</b>				
7.1	Business and Industrial Zones	No	No	
7.2	Reduction in non-hosted short-term rental accommodation period	No	No	
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	No	No	
<b>Focus Area 8: Resources and Energy</b>				
8.1	Mining, Petroleum Production and Extractive Industries	No	No	
<b>Focus Area 9: Primary Production</b>				
9.1	Rural Zones	Yes	Yes	Justified – see 4.2.4
9.2	Rural Lands	Yes	Yes	Yes – see 4.2.4
9.3	Oyster Aquaculture	No	No	
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	No	No	

## Attachment E - Evaluation criteria for the delegation of plan making functions

### Local Government Area:

Shoalhaven City Council

### Name of draft LEP:

Shoalhaven Local Environment Plan 2014

PP005 – Deferred Land, Warrah Road, BANGALEE - Rezoning

### Address of Land (if applicable):

The subject land is legally described as Lots 21-24, DP 714096 and includes part of the Council road adjoining the northern boundary of Lot 24, west of Warrah Road.

### Intent of draft LEP:

To resolve the long term development potential of land within the 'Crams Road Urban Investigation Area' identified in the NBSP that was 'deferred' from Shoalhaven Local Environmental Plan (LEP) 2014. The land is proposed to be rezoned to a mix of R2 - Low Density Residential, R5 – Large Lot Residential, C2 - Environmental Conservation, and RU2 - Rural Landscape.

## Evaluation Criteria for the Delegation of Plan Making Functions

Council is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979*, subject to the following.

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;*
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and*
- (c) there are no outstanding written objections from public authorities.*

The checklist for delegation requests that was submitted to DPE is provided below.

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Yes or No	N/A	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			
<b>Minor Mapping Error Amendments</b>				
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	N/A		
<b>Heritage LEPs – Does the heritage assessment meet these criteria</b>				
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	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	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	N/A		
<b>Reclassifications</b>				
Is there an associated spot rezoning with the reclassification?	N	N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?	N	N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?	N	N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?	N	N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?	N	N/A		

Evaluation criteria for the issuing of an Authorisation	Council Response		Department Assessment	
	Yes or No	N/A	Agree	Not agree
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	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 public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land?	N	N/A		
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	N/A		
<b>Spot Rezonings</b>				
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			
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			
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 led to the deferral has been addressed?	Y			
If yes, does the Planning Proposal contain sufficient documented justification to enable the matter to proceed?	Y			
Does the Planning Proposal create an exception to a mapped development standard?	N			
<b>Section 3.22 matters</b>				
Does the proposed instrument:	N			
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?				
b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?	N			
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?	N			