



17th June 2024

Department of Planning and Environment
PO Box 5475,
Wollongong NSW 2520

Attention: Ian Woods

29 Sheraton Circuit, Bomaderry – RR-2023-26

Dear Mr Woods,

Thankyou for the opportunity to respond to the submissions made during the consultation period for the subject PP.

Response to Submissions

NSW Rural Fire Service

Submission Noted. No Concerns raised.

Transport for NSW

Transport for NSW have raised the following concerns:

- 1) The potential for a more intensive land use to that of a single dwelling house
- 2) Site access
- 3) Precedent

Land Use Potential

The object of the proposal is to facilitate site subdivision so the owners of the land may remain on their property, sell their existing large family home and construct a new more suitable home of a smaller size so they can 'age in place'. There are no other intended uses of the site.

Concerns have been raised by both TfNSW and the local council that more intensive land uses could occur on the site, and this would have unacceptable traffic impacts.

These concerns are recognised and respected, however, our position on the matter of land use is consistent with that of the Regional Planning Panel.

"The Panel accepts Transport for NSW's advice that the additional lot should only accommodate one additional dwelling and not more intensive development such as group homes. The Panel does not share Shoalhaven City Council's concerns that the planning system lacks the safeguards to deliver this outcome on the basis that subdivision would require development consent and hence a merit assessment of all relevant matters (including traffic and safety) under the Environmental Planning and Assessment Act. The suitability of conditions to mitigate impacts would be considered as part of the assessment process."

In short, it is only the Shoalhaven City Council that can grant consent to anything on the future allotment other than a single dwelling house. It is not possible to obtain a CDC for a secondary dwelling, a dual occupancy, or a group home on the land. All of these land uses require a development application.

Building Type	Development Application (DA) COUNCIL APPROVE OR REFUSE	Complying Development (CDC) PRIVATE CERTIFICATION
Single House	✓	✓
Attached Dual Occupancy	✓	✗
Secondary Dwelling (granny flat)	✓	✗
Group Home	✓	✗

Part 3B of the Codes SEPP (The Low Rise Housing Diversity Code) does not apply to the R5 zone. Therefore **Attached Dual Occupancies** cannot be approved by way of a CDC. See Part 3B, Division 1, Section 3B.1 (3).

Secondary Dwellings cannot be approved within the R5 zone by way of CDC pursuant to the provisions of SEPP Housing. See Chapter 3, Part 1, Division 3, Section 54 (1) (a).

Group Homes cannot be approved by way of CDC on bushfire prone land. See Chapter 3, Part 2, Section 64. A note is provided within this section which states: *Development specified as complying development under this section may not be undertaken as complying development if the development is on bush fire prone land—see the [Rural Fires Act 1997](#), section 100B.*

Shoalhaven City Council would be the consent authority for any form of development other than a single dwelling house that met the provisions of the Codes SEPP.

If a future land owner made an application to the Council for, say, a dual occupancy on the land, the Council would have the ability to refuse the same. In our view, if the Council formed the opinion that the construction of a dual occupancy, or a secondary dwelling would generate unacceptable traffic movements to and from the site, it would have good grounds for refusing the same.

We are therefore unclear as to why TfNSW remain concerned with a more intensive form of development occurring on the land when the Shoalhaven Council is the consent authority for any such application. Furthermore, whilst it is not a requirement to seek the concurrence of TfNSW for a development application for a dual occupancy, for example, it would be highly unusual and inconsistent with Shoalhaven City Council's practices not to have any such application referred for comment.

Site Access

"More intensive forms of development on the eastern side of the Princes Highway between the Moss Vale Road/Cambewarra Road/Princes Highway intersection and the existing U-turn facility to the north of Lot 415 DP 1210520/Sheraton Reserve, that have direct access to and from the Princes Highway will adversely impact the existing U-turn facility and the safety and efficiency of the Princes Highway in the vicinity of the U-turn facility."

Response:

In the event that 'more intensive forms of development' are proposed on the site, traffic impacts would be a sound reason for refusal of any such application. There is no intention of the proponent to construct anything on the land other than a single dwelling. Any other form of development would require a development application and the same may be refused by the consent authority if traffic impacts are unacceptable.

"Insufficient information has been provided to demonstrate that it is not practicable that safe vehicular access cannot be provided to the new lot to be created via a road other than the Princes Highway/a classified road and that the safety, efficiency and ongoing operation of the Princes Highway will not be adversely affected by the resulting development that will be permissible on the new lot created (e.g. access arrangements, volume and frequency of vehicles, etc); and"

Response:

It is not practicable for vehicular access to be provided to a road, other than the Princess Highway. The Council has stated that the existing Right of Way connecting the land to Sheraton is "at capacity". The existing right of way is of insufficient width to cater for an additional dwelling. There is no scope to widen the same.

A traffic impact assessment report was submitted with the PP. This provides a detailed analysis of likely traffic generation and suitability of the access arrangements proposed. Safe intersection sight distances are met / exceeded.

Precedent

The proposal won't set precedence because:

- a) The allotments near the subject land with the same land use zone and Minimum Lot Size (C120A, C120B, C98, C90, 29A) do not present the same opportunities that would warrant consideration for a similar LEP amendment.
- b) In relation to C120A – the land does not have an alternate access and can only rely on the Princes Highway for access for any new lots created.
- c) In relation to C120B – the allotment is only 3742m² and wouldn't benefit from a MLS change to 4000m². Further to this, there is no alternate vehicle access.

- d) In relation to C98 & C90, these allotments are 3916m² and 4766m² respectively. They would not benefit from a MLS change to 4000m². Again, there is no alternate access for these lots.
- e) In relation to 29A, this property was specifically mentioned by TfNSW in its submission. This allotment does not have any access available to the Princes Highway. Its only coincidental legal and practical access is via Sheraton Cct. **Furthermore, this site is burdened by a restriction on title which prohibits access to the Princes Highway (DP 845654).**

29A

No access available to the highway
Heavily vegetated highway frontage
Vegetated embankment within vegetated road reserve
Significant tree removal would be required



- f) The subject land is the only property in the area that would have both 1) two existing vehicle access points (one of which is off the highway) and 2) land over 8000m² in area.

Other Comments

A road noise impact assessment was submitted with the PP to demonstrate that the proposal is acceptable. The report is favourable.

Shoalhaven City Council

No new information has been outlined by Shoalhaven City Council in its submission. Nevertheless, the following comments are made in response:

Traffic-related concerns

Potential for more intensive development is noted. The comments made above in response to TfNSW's submission are applicable here.

More intensive forms of development could be applied for now and without the PP proceeding. For example, there is nothing preventing the land owner from lodging a development application for a group home on the site without a subdivision taking place. The same can be said for a dual occupancy. This is not the intention and if it was, it would have occurred by now without the time, trouble and expense of the PP process being endured.

There is nothing unsafe about the proposed vehicular access arrangements for any future allotment. This has been verified by the submitted traffic impact assessment report noting that the existing driveway (as constructed by TfNSW) is in a good state of repair, site distances significantly exceed minimum standards, the favourable design and configuration of the highway to the frontage of the site which facilitates safe access to and from the land. We therefore do not accept fanciful notion that this proposal disregards strategic transport planning, the protection of community safety and transport efficiency.

The statements made by the Council are at odds with its recent decisions to grant consent to other developments in the immediate vicinity of the site with direct access to the Princes Highway.

Nearby Development with Highway Access



The recommendation of the Council to amend the PP to instead include an additional permitted uses clause within the SLEP 2014 does nothing to minimise the risk of more intensive development occurring on the land. If anything, subdividing the site to create smaller allotments reduces the development potential of the land noting that no changes to the land use zone are sought. The 'more intensive land uses' council remains concerned with are permissible currently and could be proposed at a much larger scale if the site remained in its current configuration.

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Thankyou for the opportunity to respond to the concerns raised in the submissions received.

We look forward to the PP being finalised as proposed.

Please don't hesitate to contact me at any time to discuss the matter further.

Kind Regards,



Lee Carmichael

Jervis Bay Town Planning

