

RECORD OF DECISION – APPLICATION TO AMEND A DEVELOPMENT APPLICATION UNDER S37 OF THE *ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021*

SOUTHERN REGIONAL PLANNING PANEL

DATE OF PANEL DECISION	31 July 2026
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
DECLARATIONS OF INTEREST	Nil

Application to Amend a Development Application under section 37 and 38 of the *Environmental Planning and Assessment Regulation 2021*

REQUEST TO AMEND DEVELOPMENT APPLICATION PPSSTH-412 (AMDR-190)

Application Details

PPSSTH-412 - SHOALHAVEN – DA2024/1201 220 Moss Vale Road Badagarang

- *Subdivision into 165 Torrens Title lots comprising:*
 - *164 residential allotments;*
 - *1 residual allotment.*
- *Site preparation works including dewatering of farm dams, and associated earthworks.*
- *Vegetation removal.*
- *Civil and site landscaping works, including:*
 - *Bulk earthworks and retaining walls.*
 - *Landscaping along the proposed road network.*
 - *Infrastructure and services to lots (sewer, water, electrical and telecommunications).*
- *Construction of an internal road network including the connection from the Moss Vale Road roundabout, and a portion of the central collector road.*

Background

On 29 July 2024, the Panel resolved, in accordance with section 2.16(6)(c) of the *Environmental Planning and Assessment Act 1979 (the Act)*, to delegate to the General Manager of the Shoalhaven City Council the power to determine the development application under section 4.16 of the Act on the basis that:

- the level of Council interest in the application is minor and relates specifically to the construction of sewer infrastructure under Bells Lane to accommodate ongoing residential development in the area,
- the development proposal is generally consistent with what is envisaged in the URA,
- the EDDC is not significant (in relation to the Council interest trigger),
- Council has sufficient processes to ensure transparency and accountability for its decision,
- there is negligible risk to the integrity of the planning process.

On 12 June 2026, the applicant lodged an amendment to the development application request (AMDR-190) under section 37 and 38 of the *Environmental Planning Regulation 2021*.

Assessment Status Briefing

On 28 July 2026, Council's assessment planners briefed the Panel on the AMDR and the status of the development application. In particular, the following key issues were discussed:

- the request to amend the development application (AMDR-190),
- the NSW Rural Fire Service's requirement for secondary emergency access,
- the need to obtain agreement on a VPA Letter of Offer for s7.11 Development Contributions,
- assessment matters including engineering and biodiversity requirements.

Request to amend the development application (AMDR-190)

In accordance with s38 of the *Environmental Planning and Assessment Regulation 2021*, the Panel, as the consent authority, may, through the NSW planning portal, approve or reject an application for an amendment to a development application submitted under section 37 of the EP&A Reg 2021.

Panel Resolution

The Panel considered the proposed amendments outlined in Schedule 1 against the development as originally proposed and approved the amendment in accordance with section 38 of the *Environmental Planning and Assessment Regulation 2021*.

In making its decision, the panel determined that:

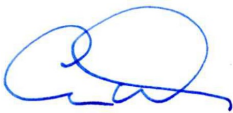
- no one would be prejudiced by the proposed amendments, and
- a thorough merit assessment would still be required in accordance with section 4.15 of the *Environmental Planning and Assessment Act, 1979* before any decision could be made, including consideration of submissions made on the amended proposal.

For the purpose of section 38(2) of the *Environmental Planning and Assessment Regulation 2021*, the Panel did not consider the amendments to the development application to be minor, and consequently, the development application is taken to be lodged on the day on which the applicant applied to Council for the amendment.

Discussion

Whilst accepting the amended application, the Panel was of the view that approval of the proposal without a secondary access (emergency access) as required by Planning for Bush Fire Protection 2019 (PBP), the approved rezoning of the site and the applicable DCP, would be unlikely, particularly in the absence of compelling justification and/or the RFS General Terms of Approval. The Panel was of the view that this matter should be resolved prior to re-exhibition of the amended application.

The resolution of the Panel was made on 31 July 2026.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	

Amendment request



Portal application number: PAN-420150

Consent authority application number: DA2024/1201

Amendment request number: AMDR-190

Amendment details

Amendment details	DA2024/1201 was formally lodged with Shoalhaven City Council on 3 April 2024. Several referrals were sent, however due to the status of the Moss Vale Road North Development Control Plan, the assessment was largely put on hold. Council adopted the Moss Vale Road North Urban Release Area (MVRN URA) Development Control Plan at its meeting of 23 September 2025 with a commencement date of 1 April 2026. On 30 March 2026, a response to the information requests available on the Council DA tracker and to respond to the adopted version of the Chapter NB4 Moss Vale Road Urban Release Area Development Control Plan was uploaded to the Planning Portal. That response included an amendment to the proposal to amend the total number of lots proposed from 147 to 164 residential lots, along with amendments to the road network, intersection design, works adjoining the riparian corridor and associated landscaping and service provision. On 6 May 2026, a letter requesting additional information regarding the development was received from Shoalhaven City Council. This letter and the associated attachments seek to respond to the matters raised in that letter, however noting that a number of the matters were addressed as part of the amendment made in March 2026. The Table included in the attached letter provides a detailed response to each matter raised within the 6 May letter. This request seeks to formally amend the subdivision pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021.
Request submission date	12/06/26

Application documents

The following documents support the application

Document type	Document file name
Request for amendment	MKR01235 - 220 Moss Vale Road - Response to Information - 300326
Request for amendment	MKR01235 - 220 MVR - May RFI Response - 100626