

Contact: Department of Planning and Environment—Water
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Our ref: V15/2812-5#57
Your ref: PP048

15 August 2022

The General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Attention: Matthew Rose

Emailed: Matthew.Rose@shoalhaven.nsw.gov.au

Dear Matthew,

Re: V15/2812-5#57 - Planning Proposal
Dev Ref: PP048
Description: Moss Vale Road North Urban Release Area
Location: Moss Vale Road

Thank you for your referral of the above Planning Proposal (PP). Please note that the Licensing and Approvals function within the Natural Resources Access Regulator was transferred to the Department of Planning and Environment—Water (the Department) in April 2022. The Department apologises for the delay in providing a response.

The Department of Planning and Environment – Water (Licencing and Approvals) has now reviewed the proposal and provides the following comments for your attention and consideration. The Department has focussed its review on the Riparian Assessment but has considered:

- Planning Proposal – PP048 Shoalhaven Local Environmental Plan 2014 Moss Vale Road North Urban Release Area by Shoalhaven City Council dated April 2022.
- Moss Vale Road North Urban Release Area Riparian Assessment by ecological dated 13 April 2022.
- Integrated Water Cycle Assessment for Moss Vale Road North Urban release Area by SEEC dated 29th March 2022.
- Shoalhaven Development Control Plan 2014.
- MVRN URA Flood Study, Concept Design and Assessment By Allen Price and Scarratts dated 14 December 2018.

The Departments assessment indicates that a number of matters relating to riparian corridors require further consideration. The Department recommends that the PP establishes riparian corridors throughout the subject site which are of uniform width and in accordance with the respective stream orders for the respective watercourses with less emphasis on applying the averaging rule. At this stage, the existing riparian scenario under the existing SLEP 2014 provides for a better riparian outcome along the 2 main watercourses on the site. Further consideration of riparian matters and amendment to the PP is required.

General comments.

- The PP and ultimate development footprint should seek to identify all waterfront land and establish riparian corridors for the respective stream orders in accordance with the Departments Riparian Corridor Guidelines and as outlined in Table 1 of the Riparian Assessment.
- The application of the Guideline matrix allows for encroachments and offsets into the riparian corridor to be considered however this should not be applied as a general rule. While riparian offsetting can be a tool to allow more flexibility with development footprints, the intent should not be to reduce the entire corridor through the site in exchange for a few large offset areas or which do not contribute to riparian values or function.
- Encroachments should be minimised so as to establish the recommended corridors as much as possible. Where encroachments are sought, these should be appropriately justified and offset. Offsets should be provided which are attached and contribute to riparian values and function and not just identifying areas which are otherwise constrained and/or not suitable/available for development.
- All development/works on waterfront land should be in accordance with the Guidelines for Controlled Activities. This includes setbacks from watercourses which are measured from top of bank, outlets, vegetation management plans and watercourse crossings.
- Online detention basins are discouraged. Where online dams are present the Department's preference is to restore the watercourse to a naturally functioning stream. Water Quality structures and water treatment must not occur online. The Development footprint/ layout should consider and provide for stormwater and water quality treatment outside of the designated riparian corridors.
- Riparian corridors shall be preserved and enhanced via the implementation of a Vegetation Management Plan (VMP) to establish a fully structured native riparian vegetation corridor.
- Riparian Corridors shall ideally be zoned as C2 for Environmental Conservation.

Specific comments and considerations.

- The Department considers that the land zoning changes proposed in the Riparian Assessment and illustrated in Figure 2, do not provide improved riparian outcomes for the two main watercourses in the site as compared to that provided under the existing Shoalhaven LEP 2014. The existing SLEP2014 provides for uniform width corridors along the full extent of the watercourses which is the Departments preferred outcome. The Department accepts that it may be desirable to "smooth" the alignment of the zone boundary to provide a more practical and uniform riparian/development boundary. The riparian corridors illustrated in Figure 7 of the riparian assessment are more consistent with this advice.
- By applying the averaging rule, the PP proposes the narrowest width riparian corridors in the vicinity of those R zones which are proposed to be of the highest density especially along the central section of Abernethys Creek which is not desirable and not supported. As a result, offsets areas are congregated in upper catchment areas or downstream. Maintaining a uniform width corridor corresponding to the appropriate stream order as occurs under the current SLEP2014 is preferred.

- The riparian corridor guidelines require that waterfront land and riparian buffer zones are measured from the top of bank of a watercourse. Figure 3 of the Riparian Assessment illustrates that the riparian zone setback has not been measured from the top of bank. This is apparent in multiple sections along Abernethys Creek. As such, the edge of the riparian corridor indicated is not correct and therefore the minimum buffer requirement has not been met and may not have been appropriately offset.
- The Department has no objection to the proposed removal of the minor watercourses identified as red dotted lines in Figure 7 of the Riparian Assessment. These watercourses have been adequately assessed and the justification is considered acceptable. It is noted that the assessment indicates that equivalent areas have been included in proposed offsets.
- The Department concurs with the corridor proposed for the upper reaches of Abernethy's Creek as illustrated in Figure 3 of the Riparian Assessment as compared to the existing SLEP2014. This corridor links and establishes continuity with the watercourse/property to the north. The same approach should apply to all watercourses which provide a flow path/connectivity with watercourses beyond the subject site. This is an appropriate consideration and preferred outcome to that provided by the existing SLEP2014 where all upper catchment watercourses terminate within the subject site.
- Figure 3 of the Riparian Assessment labels all the riparian corridors as "Natural Open Space". The Department seeks confirmation that all riparian corridors will be maintained/enhanced and managed as fully vegetated riparian corridors.
- Figure 10 – Recommended riparian corridor overlaid draft ILP of the Riparian Assessment. The two layers obviously do not align at present and illustrates inconsistencies between the recommended corridors and the proposed development footprint. That is, parts of the development footprint extend into riparian areas. The layout plan will need to be amended to exclude development from the riparian corridors. (noting previous comment that the central section of Abernethy's Creek corridor does not appear to be accurate with corridor not measured from top of bank and/or the illustrated flow path.)
- The watercourse in the middle of the western boundary which is downstream of an existing large dam on the adjacent property should be retained as a flow path (even if not zoned C2). This comment relates to Recommendation A (Figure 9) of the Riparian Assessment which assumes the waterway entering the dam is to be diverted. Any diversions and future development should not be assumed and is inappropriate. Area A should be retained as a riparian corridor/flow path below the existing dam.
- Recommendation B of the Riparian Assessment indicates the potential to straighten the watercourse for a section of 160m but is only justified on the basis of the absence of trees. This is not considered to be sufficient justification.
- Concur with other listed recommendations C to L in the Riparian Assessment. Note that compliance with Departments Controlled Activity Guidelines for watercourse crossings are not referenced in Crossing recommendations H and I.
- Recommendation N – reiterate that riparian corridors shall be revegetated with fully structured native riparian vegetation.

- Figure 10 of the IWMA illustrates 2 online basins/wetland on the southern watercourse. Online basins are discouraged and the Department's preference is to restore the watercourse to a naturally functioning stream. However, where existing dams are serving a detention function from the catchment upstream, they can remain to the extent required to maintain the equivalent detention function but be modified to create riparian conditions to emulate naturally functioning streams to the greatest extent possible. It is noted that the SEEC IWCA (section 3.5 flooding) recommends a traditional offline storage (due to on-site soil erodibility risks) which is supported.
- Concur with MVRN URA Landscape Principles with respect to providing a robust planting regime to integrate into/with riparian zones. Also Section 5.1 Riparian corridor and open space areas adjacent to and within the riparian corridor network - landscape objectives keeping in mind Department Guideline buffer and VMP objectives for a fully vegetated riparian corridor.
- Flood considerations and waterfront land. Just to note that flood modelling should also give due consideration to, and allow for, the establishment of fully vegetated riparian corridors in the site. It is unclear if this aspect has been considered at this stage.
- The Flood Study indicates that creeks are to be retained and appropriately rehabilitated but then proceeds to advise of a trapezoidal channel design for low flow channels throughout the site (to allow for the flood modelling). However, with the exception of the upper catchment reaches of Abernethy's Creek, no other watercourses have been specified for modification. The Department requires that any consideration of channel modifications would need to be designed so as to establish conditions which emulate naturally function streams. Any consideration of landfilling on the site should ensure that riparian outcomes are not compromised.
- Asset Protection Zones (APZs) and waterfront land. Similar note that the PP should confirm that any bushfire requirements should be excluded from the designated riparian corridors.

The Departments review and assessment indicates that a number of matters relating to riparian corridors require further consideration. The department reiterates its recommendation to establish/maintain uniform width buffers/riparian corridors in accordance with the respective stream order with less emphasis on applying the averaging rule. At this stage, the existing riparian scenario under the existing SLEP 2014 provides for a better riparian outcome along the 2 main watercourses on the site. Further consideration of riparian matters and amendment to the PP is required.

If you have any questions regarding this correspondence, please use NRAR Assist to obtain further information or make an enquiry: <https://www.dpie.nsw.gov.au/nrar/nrar-assist>

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Bryson'.

For
Bryson Lashbrook
Manager
Licensing and Approvals
Department of Planning and Environment—Water