



48 Jervis Bay Road, Falls Creek Planning Proposal - Enable Community Title Subdivision (PP035)

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What is a Planning Proposal / rezoning?

A Planning Proposal is a plain English document which explains proposed changes to the *Local Environmental Plan (LEP)* applying to the land. The LEP is a legal document under Part 3 of the *Environmental Planning and Assessment (EP&A) Act 1979*.

Planning Proposals may seek to change the land use zoning and/or other provisions in the LEP such as minimum lot sizes required for subdivision and biodiversity protection mapping.

What is proposed in PP035?

The proposal seeks to adjust the zones that apply to enable rural residential housing (up to 13 lots no smaller than 4,000 m²) via a future community title subdivision of Lot 3 DP 846470 (48 Jervis Bay Road) Falls Creek.

The area of land zoned R5 Large Lot Residential is proposed to be reduced to the largely cleared part of the property adjacent to Jervis Bay Road.

The remaining bushland is proposed to be zoned E2 Environmental Conservation with a minimum lot size for subdivision of 40 ha (ensuring the bushland will not be subdivided/fragmented). A strip of land 15 m wide extending approximately 200 m along Jervis Bay Road is proposed to be rezoned to E2 Environmental Conservation to provide for landscape screening and visual impact mitigation. The area of E2 land (excluding the strip adjacent to the road) is proposed to be mapped as habitat corridor to protect biodiversity values.

A site-specific legal mechanism is proposed to enable a community title subdivision comprising a cluster of up to 13 residential lots no smaller than 4,000 m² within the largely cleared part of the site (zoned R5). The proposed E2-zoned area (encompassing the forested part of the site and a proposed vegetation screen along Jervis Bay Road) will be collectively owned and managed by a body corporate comprising the residents of the subdivision.

Where is the proposal located?

The subject land is located on the western side of Jervis Bay Road at Falls Creek approximately 4 km south of the Princes Highway - Jervis Bay Road intersection. The site is located south of existing rural residential lots on McArthur Drive, Stapleton Street and Seasongood Road.

The land is legally described as Lot 3 DP846470. The subject land has an area of 25.21 ha.

What does an R5 Low Density Residential zone allow?

The R5 Large Lot Rural Residential Zone in the Shoalhaven LEP 2014 has the following objectives:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

The Land Use Table outlining the uses that are permitted in the R5 zone is reproduced below.

Table 1: R5 Land Use Table

R5 Large Lot Residential Zone
Permissible without consent
<i>Home occupations</i>
Permissible with consent
<i>Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Extensive agriculture; Group homes (transitional); Home-based child care; Home businesses; Home industries; Horticulture; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Sewerage systems; Tank-based aquaculture; Water supply systems</i>
Prohibited
<i>Any development not specified as 'permissible without consent' or 'permissible with consent'.</i>

* The Dictionary in the [Shoalhaven LEP 2014](#) contains the legal definitions of these land uses. Additional uses may be permitted by State Environmental Planning Policies (SEPPs).

What does an E2 Environmental Conservation zone allow?

The E2 Environmental Conservation Zone in the Shoalhaven LEP 2014 has the following objectives:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

The Land Use Table outlining the uses that are permitted in the E2 zone is reproduced below.

Table 2: E2 Land Use Table

E2 Environmental Conservation Zone
Permissible without consent
<i>Nil</i>
Permissible with consent
<i>Bed and breakfast accommodation; Boat sheds; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Home businesses; Oyster aquaculture; Recreation areas; Research stations; Roads; Sewerage systems; Water recreation structures; Water supply systems</i>
Prohibited
<i>Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; any development not specified as 'permissible without consent' or 'permissible with consent'.</i>

* PP035 seeks to introduce a provision that will prohibit dwelling houses and dual occupancies on the E2 land in a community title subdivision, to ensure the land will be managed for conservation purposes.

What is community title subdivision?

Community title is a form of land subdivision with individually owned properties and a common area shared between all owners in the subdivision.

As is the case with Strata legislation, common areas within a community title scheme are owned and managed by a body corporate comprising all lot owners within the scheme. Common land is managed according to management or neighbourhood plans within a community title scheme and site-specific bylaws or rules can also be applied. Lot owners within a community title contribute maintenance levies to manage and upkeep common areas and communal infrastructure.

Why has a concept subdivision plan been submitted with the rezoning?

The concept subdivision plan included in PP035 shows how the land could potentially be subdivided if the LEP is amended as proposed. A subdivision application would be assessed separately.

In this case, a subdivision application was submitted concurrently with the Planning Proposal (PP) application (SF10637) but has been held to allow the PP to first be resolved.

Should PP035 be finalised and the planning controls changed, the subdivision concept could require adjustment or change; however, any future subdivision would not be able to provide more than 13 housing lots and must comply with relevant planning controls.

What are the risks of bushfire and how are they proposed to be managed?

The site is 'bushfire prone' and bushfire planning issues must be considered as part of the Planning Proposal (rezoning) process to address the relevant Ministerial Direction under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, and *Planning for Bushfire Protection 2019* (NSW RFS).

Detailed information on bushfire risks and proposed design and management features is provided in the following studies that can be downloaded from the public exhibition webpage:

- Strategic Bushfire Study by Eco Logical dated 16 September 2020.
- Bushfire Protection Assessment by Eco Logical dated 30 August 2019.

A range of bushfire risk mitigation measures are proposed to be provided in accordance with PBP 2019, including:

- clustering the lots adjacent to the road
- provision of appropriate bushfire asset protection zones (APZs)
- provision of access roads
- provision of water supply for fire fighting

In addition to the above, a community title arrangement will enable a more coordinated and resourced approach to bushfire risk management.

Council has obtained initial feedback from the NSW Rural Fire Service and additional feedback will be sought during the public exhibition period.

What are the likely impacts of the proposal and where can I find more detailed information?

As well as bushfire risk (discussed above) the Planning Proposal is accompanied by a range of technical studies exploring potential impacts of the proposal, which include biodiversity, water quality, visual impact, and traffic safety considerations.

These studies (listed below) can be viewed on or downloaded from the public exhibition webpage:

- **Flora and Fauna Assessment** – Eco Logical – Aug 2019
- **Visual Impact Assessment** – Envisage – Aug 2019
- **NorBE Assessment (Stormwater treatment and water quality report)** – SEEC – Aug 2019
- **Onsite Wastewater Management Report** – Cowman Stoddart – Nov 2017, updated Aug 2019 (*Water quality management*)
- **Traffic Intersection (Turning Warrants) Assessment** – Allen Price & Scarratts – Feb 2020 (*traffic safety and management*)

Ultimately, the findings and recommendations of these studies have informed the proposed Planning Proposal provisions and are discussed further within the Planning Proposal document. Should the land be rezoned, additional detail will be required to support a development design and development application for subdivision.

Why is Council exhibiting the Planning Proposal during the COVID-19 Pandemic?

PP035 has been under consideration since late 2017 and all required technical studies were completed in late 2020. Council has been advised by the NSW Department of Planning, Industry and Environment that timely finalisation of Planning Proposals is a priority.

The current Gateway determination deadline to finalise this proposal is 10 March 2021. PP035 is required to be exhibited for a minimum of 28 days.

Due to current COVID-19 safety measures, the Planning Proposal will only be available for viewing online. Printed copies can be made available for stakeholders with limited access to a computer, on request (noting that fees may apply for large printing requests).

For more information about Council's services and response to Covid-19 (including health and wellbeing resources) please visit:

<https://www.shoalhaven.nsw.gov.au/COVID-19/Our-Response-to-COVID-19>

How do I make a submission if needed?

Written comments are invited and should be addressed to:

- The Chief Executive Officer, Shoalhaven City Council, PO Box 42, Nowra 2541 or
- emailed to council@shoalhaven.nsw.gov.au

Submissions are to be received before 5pm on **Friday, 5 February 2021**. Please quote Council's reference **57076E** in your submission.

Council is also accepting online submissions on the project webpage:

<https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Documents-on-Exhibition>

Where can I find more information?

Council staff are available via phone or email to answer your enquiries about PP035. Please contact Rebecca Jardim, Strategic Planner, on 4229 3426 or via email Rebecca.Jardim@shoalhaven.nsw.gov.au for more information.