



Warrah Road, Bangalee Planning Proposal (PP005)

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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. An LEP is a legal document under Part 3 of the *Environmental Planning & Assessment 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 building height limits. Planning proposals may also seek to introduce new local clauses into the LEP. If/when the LEP is amended, development applications can then be considered

What mapping changes are proposed to the Local Environmental Plan (LEP)?

The following map amendments are proposed:

- Rezone the subject land to a mix of R2 Low Density Residential, R5 Large Lot residential, RU2 Rural Landscape and E2 Environmental Conservation.
- Change the future Minimum Lot Size Map to provide for a range of minimum lot sizes in the different zones. The minimum lot sizes proposed in each zone are:
 - R2 Low Density Residential = 500 m², 800 m², 1000 m² and 2000 m²
 - R5 Large Lot Residential = 6000 m² and 1 ha
 - RU2 Rural Landscape = 10 ha
 - E2 Environmental Conservation = 40 ha

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- Change the Height of Buildings Map to allocate a maximum building height of 8.5 m to all parts of the site proposed to be zoned R2 or R5.
- Map all land proposed to be zoned R2 or R5 as part of an Urban Release Area (URA).
- Include the land as Class 5 on the Acid Sulfate Soils Map, consistent with all adjoining land, to which clause 7.1 of the LEP applies.
- Amend the Land Application Map – so that the land is no longer deferred from Shoalhaven LEP 2014.
- Amend the Clauses Map to apply clause 7.21 of the LEP to protect land proposed to be zoned RU2 for future use as a road corridor for the Western Bypass.

The above map changes are shown and explained in more detail in the Planning Proposal document.

What other changes to the Local Environmental Plan (LEP) are proposed?

A local clause is proposed to allow the E2 land to be subdivided into three (3) lots. These “caretaker” lots would each also contain land within the residential-zoned area, upon which a dwelling could be built. The owner of the dwelling would be responsible for managing the E2 land for conservation in perpetuity.

Note: The subdivision design and configuration for the three (3) caretaker lots would be subject to assessment as part of a future development application.

To permit this subdivision to proceed, it is proposed to add an additional subclause to Clause 4.1E, Subclause (3) of the LEP – Minimum lot size for certain split zone lots. The draft wording for the clause can be found at section 3.1 of the Planning Proposal document. If the Planning Proposal is adopted by Council, the draft clause would be refined and finalised in consultation with NSW Parliamentary Counsel.

What is the Crams Road Investigation Area and why was it ‘deferred’ from the Shoalhaven Local Environmental Plan (LEP) 2014?

The Crams Road Investigation Area (CRIA) was identified as one of seven (7) potential Urban Release Areas (URAs) in the [Nowra-Bomaderry Structure Plan](#) (NBSP). The NBSP was adopted by Council in 2006/2007 and endorsed by the NSW Government in 2008.

While most of the other URAs were rezoned when the current Shoalhaven LEP commenced in 2014, part of the CRIA was deferred to enable the land’s biodiversity values to be further investigated and resolved before rezoning the land.

As a result, the subject land is ‘deferred’ from the Shoalhaven LEP 2014. Hence, the land is still currently zoned Rural 1(d)(General Rural) under [Shoalhaven LEP 1985](#).

Why will the proposed residential land be mapped as an ‘Urban Release Area’ in the LEP?

If the LEP is amended as proposed, the residential land (R2 and R5) will also be mapped as an ‘Urban Release Area’ and therefore Part 6 of the LEP (Urban Release Areas) will need to be satisfied before the land can actually be subdivided and developed. See next question.

Part 6 (Urban Release Areas) of the LEP requires that the following matters must be addressed/resolved before land in a mapped area is subdivided/developed:

- Arrangements for the provision of designated State public infrastructure ([clause 6.1](#))
- Public utility infrastructure ([clause 6.2](#))
- Preparation of a site-specific development control plan (DCP) ([clause 6.3](#))

Clause 6.2 (public utility infrastructure) states:

“Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.”

Part 6 of the LEP essentially exists to ensure that the future release of land is controlled and managed.

What is the position on the likely timing of development of the Crams Road Investigation Area?

The Nowra Bomaderry Structure Plan (NBSP) states that the proposed urban release areas will be released in phases, having regard to a range of factors such as road, traffic, and public utility infrastructure issues. The Crams Road Investigation Area (CRIA) which includes the subject land, is currently identified as ‘phase 4’ in recognition of the need to resolve traffic congestion associated with access to North Nowra and the Shoalhaven River crossing. Phase 4 is the last of the existing release area phases.

Council’s long-held position is that both the duplication of the Princes Highway Shoalhaven River bridge and the Far North Collector Road must be completed before the subject land is considered for development. Council reaffirmed this position in 2019 when it resolved (MIN19.289) to **“Not commence the requirements under Part 6 of the LEP to actually release this land for urban development until after BOTH the**

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duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete."

A plan showing the proposed alignment of the Far North Collector Road is at Figure 1.

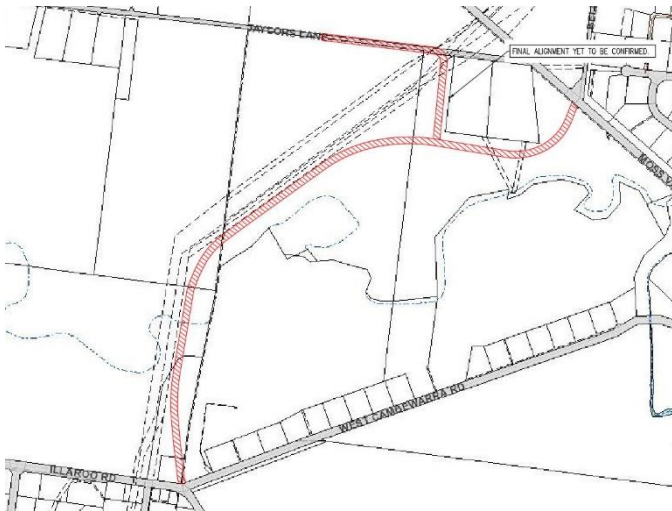


Figure 1 - Proposed Alignment of Far North Collector Road (indicative only)

The CRIA is identified in Council's *Development Servicing Plans (DSP) for Water Supply Services and Sewerage Services* completed in November 2005. Shoalhaven Water is in the process of updating the DSP's for Water Supply and Sewerage Services. The requirements for public utility infrastructure will also be addressed in the DCP at the appropriate time in the future.

Why is a mix of lot sizes proposed?

A mix of lot sizes is proposed within the residential area to respond to the constraints and character of the surrounding development.

For the proposed R2 zone, the following lot sizes are proposed:

- The northern boundary of the site east of Warrah Road has been allocated a minimum lot size of 2,000 m² (V1) to mirror the adjoining large lot residential development to the north and provide a buffer to smaller residential lots within the urban release area to the south.
- The land immediately west of Warrah Road has been allocated a 1,000 m² lot size (U1) due to its proximity to the existing large lot residential to the north and its irregular geometry. A 2,000 m² lot size is not considered necessary as a buffer for the existing large lot residential development in this location because the development area is setback approximately 20 m from that development by an existing Crown road reserve.

- A 500 m² lot size (I) is proposed for the least constrained part of the urban release area for the provision of standard residential lots.
- An 800 m² lot size (S) is proposed for the land identified as a buffer between the 500 m² lot size area and adjoining environmental land. Larger lots will be required here to accommodate required bushfire asset protection zones (APZs).
- Larger lots are proposed within the proposed R5 – Large Lot Residential zoned area to accommodate a building envelope and surrounding bushfire asset protection zone for the three proposed 'E2 caretaker lots'.
 - 1 ha lot size (Y) is proposed for an area of land near the south-eastern corner of the urban release area to provide an urban-zoned building envelope as part of a larger 'caretaker lot' also containing approximately one third of the environmental land; and
 - 6,000 m² lot size (X2) is proposed for an area of land at the western edge of the urban release area to provide urban-zoned building envelopes as part of two larger 'caretaker lots' each also containing approximately one-third of the environmental land.

What kind of housing development is likely to occur on the land?

Two residential zones are proposed by the PP. These are R2 – Low Density Residential and R5 – Large Lot Residential. All parts of the site to be zoned R2 or R5 are proposed to be allocated a maximum building height of 8.5 m. Therefore, a mix of single and two-storey development is expected to be constructed on the land in the future.

The Land Use Table outlining the uses that are permitted in the R2 zone is reproduced below.

Table 1: R2 Land Use Table

R2 Low Density Zone
<u>Permitted without consent</u>
<i>Home occupations</i>
<u>Permitted with consent</u>
<i>Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Jetties; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day</i>

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care centres; Roads; Semi-detached dwellings; Sewerage systems; Tank-based aquaculture; Water supply systems

Prohibited

Any development not specified as 'permitted without consent' or 'permitted with consent'.

Uses that are permitted in the R5 zone are outlined in Table 2.

Table 2: R5 Land Use Table

R5 Large Lot Residential
<u>Permitted without consent</u>
Home occupations
<u>Permitted with consent</u>
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
<u>Prohibited</u>
Any development not specified as 'permitted without consent' or 'permitted with consent'.

The following housing types are prohibited in both the R2 and R5 zones:

- Attached dwellings
- Hostels
- Multi-dwelling housing (townhouses, terraces, villas)
- Residential flat buildings
- Rural workers' dwellings
- Shop top housing.

How is bushfire risk addressed?

The land is currently mapped as bushfire prone land on the Shoalhaven Bushfire Prone Land Map certified by the NSW Rural Fire Commissioner. Therefore, the requirements of [Ministerial Direction 4.4](#) Planning for Bushfire Protection must be satisfied before the Planning Proposal can be finalised.

Council has been seeking formal comment from the NSW RFS on the Planning Proposal and supporting technical reports in accordance with Ministerial Direction 4.4 and will continue to do so in parallel with the public exhibition.

The proponent commissioned a bushfire assessment by Australian Bushfire Protection Planners P/L who incorporated feedback from the NSW Rural Fire Service (RFS) before finalising their final report dated 24 September 2018. The bushfire assessment also refers to a traffic assessment prepared by TDG which incorporated input from the RFS. The bushfire and traffic assessments are provided in the document library for the exhibition.

The bushfire assessment outlines a range of bushfire protection measures including:

- asset protection zones (APZ)
- access for fire fighting operations
- water supplies; and
- construction standards for future dwellings.

The traffic assessment includes a detailed analysis of evacuation times in the event of an emergency.

The land is also proposed to be mapped as an Urban Release Area (URA) to which Part 6 of Shoalhaven LEP 2014 would apply. Therefore, it cannot be developed until satisfactory arrangements are in place for the provision of utilities and infrastructure, and a site-specific development control plan (DCP) has been prepared. These also provide further mechanisms that can consider and address bushfire risk.

The provision of alternate road access (and any other bushfire issues raised by the RFS) will need to be considered and addressed in the DCP which will be prepared at the appropriate point in the future (in accordance with Part 6 of the LEP). Furthermore, a bushfire assessment will need to be prepared at subdivision stage, and a Bushfire Safety Authority will be required from the RFS.

What is Biodiversity Certification?

Biodiversity certification offers a streamlined biodiversity assessment process under the NSW Biodiversity Conservation Act 2016 (BC Act) for areas of land that are proposed for development.

The process identifies both areas that can be developed after they are 'certified', and measures to offset the impacts of development. Where land is 'certified', development may proceed without the usual requirement for site-by-site assessment as part of the DA process.

Because biodiversity certification addresses the potential impacts on biodiversity during the early planning of land use change, it encourages planning authorities and landholders to design their development footprint in a way that avoids and minimises impacts on land with biodiversity values. Ideally these areas are protected from the impacts of future development, in accordance with the "avoid, minimise, offset" framework of the BC Act.

More information about Biodiversity Certification is available on the NSW Environment website [here](#).

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Who will decide the Biodiversity Certification Application?

The NSW Minister for Energy and Environment, currently the Hon Mr Matthew Kean, MP will determine the Biodiversity Certification Application (BCA) in consultation with the NSW Minister for Planning and Public Spaces, currently the Hon Mr Robert Stokes, MP. The application will be assessed and determined in accordance with the biodiversity certification provisions of the BC Act.

How will the environmental values of the proposed E2 land be protected?

The E2 land will be used to generate the Biodiversity Credits needed under the NSW Biodiversity Offsets Scheme to offset the impacts of developing the proposed residential area. Biodiversity stewardship agreements will be established for future management of the E2 land.

How do we know that the 'E2 caretaker lots' will be managed for conservation in perpetuity?

A biodiversity stewardship agreement is proposed to be established for each caretaker lot to ensure that the E2 land is managed for conservation purposes into the future. A Biodiversity Stewardship Agreement is an agreement that will provide for the permanent protection and management of biodiversity. It also allows for the creation of biodiversity credits for future sale to offset impacts of the proposed development.

A Biodiversity Stewardship Agreement is a legal document linked to the land title in perpetuity. The Agreement specifies:

- the number of biodiversity credits created
- the agreed management actions
- the amount that must be deposited into the Biodiversity Stewardship Payments Fund when the credits are sold.

Who is responsible for carrying out the work required by the Remediation Order and who is responsible for assessing progress?

A Remediation Order (RO) was issued by the NSW Government in July 2014 to restore native vegetation on part of the land that had been unlawfully cleared. The landowner is responsible for carrying out the work required by the Remediation Order. Annual reports are required to be provided to the Department of Planning, Industry and Environment (DPIE) up to and including 30 July 2029. There are financial penalties for non-

compliance. Progress is assessed by the Biodiversity, Conservation and Science Directorate of DPIE which is also responsible for enforcement.

Any enquires about the Remediation Order should be directed to NSW Environment on 1300 361 967 or info@environment.nsw.gov.au.

How do I give feedback on the Planning Proposal?

Feedback must be in writing and can be provided by using the online feedback form on Council's [Documents on Exhibition](#) webpage.

Written feedback can also be provided by:

- Mail: The Chief Executive Officer, Shoalhaven City Council, PO Box 42, Nowra 2541
- Email: council@shoalhaven.nsw.gov.au

Submissions must be received within the exhibition period – refer to the [Documents on Exhibition](#) or the Public Notice. Please quote Council's reference **49462E** in your submission.

How do I give feedback on the Biodiversity Certification Application?

Council is required to forward any written feedback on the proponent's Biodiversity Certification Application to their ecological consultant, OMVI. A separate feedback form is provided on Council's [Get Involved project](#) webpage to facilitate this. The Biodiversity Certification Application will be assessed concurrently with the Planning Proposal and determined by the Minister for Energy and the Environment. If you have any feedback on the proponent's biodiversity certification application, please use this separate form.

How can I get more information?

Staff in Council's City Futures Directorate are available to answer your enquiries about this Planning Proposal and supporting documentation. Please contact either:

- Eric Hollinger on (02) 4229 3320 or via email Eric.Hollinger@shoalhaven.nsw.gov.au or
- Maggie Chapman via email Maggie.Chapman@shoalhaven.nsw.gov.au