



# Warrah Road, Bangalee Revised Planning Proposal (PP005) and Biodiversity Certification Application

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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 *NSW 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. Generally, development applications for the proposed use can be considered once the LEP is amended.

## Why is the Planning Proposal (PP005) being re-exhibited?

PP005 is being re-exhibited because the proposal has been substantially re-shaped to resolve bushfire issues raised by the NSW Rural Fire Service (RFS) after the first exhibition. The extent of the changes is such that re-exhibition is necessary.

Changes to the proposal resulted from discussions led by the Department of Planning & Environment's (DPE) Planning & Delivery Unit (PDU) with the RFS and:

- DPE's Biodiversity & Conservation Division (BCD)
- DPE's Regional Office
- the Proponent; and
- Council staff.

The revised proposal also seeks to respond to community feedback received during the original exhibition.

## FREQUENTLY ASKED QUESTIONS

### What were the RFS's concerns?

The key concerns raised by the RFS in May/June 2021 to the previously exhibited proposal included:

- Only one road in/out of the subdivision
- Extensive interface between the proposed houses and adjoining bushland
- Provision of perimeter road access

### How were the RFS's concerns addressed?

Key changes made to address the RFS concerns are:

- Provision for public road access in/out of the proposed residential area via Pitt Street to the south, in addition to the previously proposed access via Warrah Road to the north.
- The proposed residential area is smaller and more rectangular to reduce the interface between the proposed houses and adjoining bushland.
- Provision of perimeter road access, consistent with the NSW Planning for Bushfire Protection guidelines (PBP) 2019.

Other bushfire protection measures include:

- Asset protection zones (APZ)
- Access for firefighting operations, including perimeter road network and alternate public road access to Pitt Street;
- Water supplies; and
- Construction standards for future dwellings.

The revised proposal is illustrated in Figure 5 of the PP.

The proponent's Bushfire Assessment Report (BAR) and supporting Concept Subdivision Plan have been updated.

The RFS has confirmed that it generally supports the revised proposal and has raised no objection to the PP proceeding to public exhibition.

### What changes have been made to the proposal?

- PP maps 1-4 below have been modified to reflect the revised new development footprint, as adopted by Council on 14 March 2022 (MIN22.170).
  1. Land Use
  2. Minimum lot size
  3. Urban Release Area
  4. Height of Buildings
- Two small pockets of R5 zoned land with dwelling entitlements have been removed. The R5 land had been proposed to accommodate dwellings associated with three (3) 'caretaker lots' for the C2 land. Caretaker lots are no longer proposed because the C2 land is now proposed to be transferred to Council as a fully costed and funded biodiversity stewardship site.

- A more effective buffer/transition of R5-zoned land with a minimum lot size of 2,000m<sup>2</sup> is proposed between the existing development to the north and the proposed R2 zoned area within the subject land.
- Approx. 300 linear metres of the Council road situated between the proposed residential area on Lot 24 DP 714096 west of Warrah Road and the existing residential land to the north is proposed to be included in the R5 – Large Lot Residential zone. This road reserve is intended to accommodate perimeter road access.
- A minimum lot size of 700m<sup>2</sup> is proposed to apply along the R2/C2 interface to ensure that the bushfire Asset Protection Zones (APZs) can be accommodated within the lots adjoining the bushland.
- C2 Environmental Conservation land is proposed to be increased from 43ha to 45ha.
- Minimum lot sizes are proposed to be simplified as follows:
  - R2 zone – 500m<sup>2</sup> and 700m<sup>2</sup>
  - R5 zone – 2000m<sup>2</sup>
  - C2 and RU2 zones – 40ha
- The subject land boundary has been updated in all of the PP maps to include the 300 linear metres of Council road (approx 6000 m<sup>2</sup>) adjoining the northern boundary of Lot 24, DP 714096.

All map changes including those described above are shown and explained in more detail in the Planning Proposal document. See next question.

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

The following map amendments are proposed:

- Amend the Land Application Map – so that the subject land is no longer deferred from Shoalhaven LEP 2014.
- Apply the following Land Use Zones to the subject land:
  - R2 Low Density Residential,
  - R5 Large Lot Residential,
  - RU2 Rural Landscape and
  - C2 Environmental Conservation.
- Apply the following Minimum Lot Sizes:
  - R2 Low Density Residential: 500m<sup>2</sup> and 700m<sup>2</sup>
  - R5 Large Lot Residential: 2000m<sup>2</sup>
  - RU2 Rural Landscape: 40ha

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– C2 Environmental Conservation: 40ha

- Apply a maximum height of buildings of 8.5 m to all parts of the site proposed to be zoned R2 or R5. (The default maximum height is 11 m.)
- Map the proposed R2 or R5 areas as ‘Urban Release Area’ (URA) to which Part 6 of the LEP applies.
- 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 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.

### 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 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?

Mapping the proposed residential land (R2 and R5) as ‘Urban Release Area’ will mean that Part 6 of the LEP (Urban Release Areas) will need to be satisfied before the land can be subdivided and developed. The following matters need to be satisfied under Part 6:

- 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](#))

### What is Council’s 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 duplication of the Princes Highway/Shoalhaven River Bridge and the Far North Collector Road are complete.”**

According to TfNSW the Nowra Bridge upgrade project is expected to be complete by mid 2024.

Stage 1 of the Far North Collector Road was completed in March 2021 which saw the delivery of a new roundabout at the intersection of Illaroo Road and West Cambewarra Road. Please see Council’s [Get Involved](#) page for this project.

Public infrastructure will also be considered and addressed when the site-specific DCP is prepared.

### Why is a mix of lot sizes proposed?

A mix of lot sizes is proposed within the residential area to respond to the character of the surrounding development and the constraints presented by the interface with the C2 Environmental land.

For the proposed R2 zone:

- A 500m<sup>2</sup> lot size (I) is proposed for the least constrained part of the urban release area;
- A 700m<sup>2</sup> lot size (Q) is proposed for the land identified as a buffer between the 500m<sup>2</sup> lot size area and adjoining environmental land. Larger lots are needed in this location to accommodate the required bushfire asset protection zones (APZs).

For the proposed R5 zone:

- A minimum lot size of 2000m<sup>2</sup> (V1) has been allocated on the northern boundary of the site to complement the adjoining large lot residential

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development to the north and provide a buffer to new higher density residential within the urban release area to the south.

For the RU2 and C2 zone:

- A minimum lot size of 40ha is proposed. None of this land is being considered for residential use. The RU2 land is proposed to be protected for the western bypass corridor and all of the C2 Environmental Conservation land is proposed to be dedicated to Council as a fully-funded biodiversity stewardship site to protect its environmental values.

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

Two residential zones are proposed: *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 Tables for the R2 and R5 zones in the Shoalhaven LEP 2014 are reproduced in Tables 1 and 2 below.

*Note: Secondary dwellings are currently permitted with consent in the R2 and R5 zones under the State and Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP). For the purpose of consistency, the use of secondary dwelling will be added to the LUTs below when PP004 – Housekeeping 2020-21 is finalised.*

Table 1: R2 Land Use Table (as at 1 June 2022)

<b>R2 Low Density Zone</b>
<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 care centres; Roads; Semi-detached dwellings; Sewerage systems; Tank-based aquaculture; Water supply systems</i>
<u>Prohibited</u>
<i>Any development not specified as ‘permitted without consent’ or ‘permitted with consent’.</i>

Table 2: R5 Land Use Table (as at 1 June 2022)

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

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.

### 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 areas that can be developed after they are ‘certified’, and measures to offset the impacts of development. If land is ‘biodiversity certified’, development may proceed without the usual requirement for site-by-site biodiversity assessment as part of the DA process.

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.

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Ultimately, if the development area is biodiversity certified, the biodiversity credits calculated in the BCAR would have to be secured by the developer and retired prior to the development proceeding.

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

### Who will determine the Biodiversity Certification Application?

The Biodiversity Certification Application will be exhibited concurrently with the Planning Proposal and assessed and determined in accordance with the biodiversity certification provisions of the BC Act. The NSW Minister for Environment and Heritage (currently the Hon Mr James Griffin, MP) is responsible for determining biodiversity certification applications, in consultation with the NSW Minister for Planning, currently the Hon Mr Anthony Roberts, MP.

### How will the environmental values of the proposed C2 land be protected and managed for conservation in perpetuity?

Under the biodiversity certification process, the NSW Minister for Environment and Heritage can require the applicant to enter into a Biodiversity Certification Agreement to secure the approved conservation measures. Transfer of the C2 land and accompanying funding would be set out in the Biodiversity Certification Agreement for the development site as part of the conferral.

The Biodiversity & Conservation Division (BCD) of the Department of Planning and Environment (DPE) supports the revised proposal on the basis of the C2 land (approx 45 ha) being dedicated to Council with a single fully costed and funded Biodiversity Stewardship Agreement (BSA) registered on the Title. This approach was also endorsed by Council (MIN22.170).

A BSA is a legal document linked to the land title in perpetuity. It provides for the permanent protection, improvement and management of the biodiversity stewardship site which would have to be managed in accordance with the agreement. The BSA would specify:

- 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.

In contrast, the previous proposal was for the C2 land to be the subject of three separate BSA's and split into the three (3) privately owned caretaker lots. BCD stated that:

- *"... on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply."*

The timing of the transfer would potentially be for a set period after Part 6 of the LEP (requirements relating to Urban Release Areas) is satisfied, or some other key point in the process (e.g., prior to release of subdivision works certificate).

Council and BCD will continue to work closely on this timing aspect. Further reports on the mechanism for and the environmental/financial benefits arising from the transfer of the land to Council will be prepared and submitted to Council in due course when the appropriate milestones are reached.

### 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 and Environment (DPE) up to and including 30 July 2029. There are financial penalties for non-compliance. Progress is assessed by DPE (BCD) 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](mailto:info@environment.nsw.gov.au).

### How do I give feedback on the Revised 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:

- **Email:** [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)
- **Post:** The Chief Executive Officer, Shoalhaven City Council, PO Box 42, Nowra 2541

Submissions must be received within the exhibition period – refer to the [Documents on Exhibition](#). 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 its

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ecological consultant, OMVI. A separate feedback form is provided on Council's [Get Involved project](#) webpage to facilitate this. If you have any feedback on the proponent's biodiversity certification application, please use this separate form.

### How can I get more information?

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Council staff are available to answer your enquiries about the Planning Proposal and supporting documentation. Please contact either:

- Eric Hollinger on (02) 4429 3320 or via email [Eric.Hollinger@shoalhaven.nsw.gov.au](mailto:Eric.Hollinger@shoalhaven.nsw.gov.au) or
- Maggie Chapman on (02) 4429 3485 via email [Maggie.Chapman@shoalhaven.nsw.gov.au](mailto:Maggie.Chapman@shoalhaven.nsw.gov.au)