

# Explanatory Document

## Shoalhaven Local Environmental Plan (LEP) 2014 Clause 4.2B - Lot Averaging and subdivision in certain zones

### Affected Land

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This effects the subdivision of land in the following zones:

- Zone RU1 Primary Production
- Zone RU2 Rural Landscape
- Zone RU4 Primary Production Small Lots
- Zone R5 Large Lot Residential
- Zone E4 Environmental Living

### Background & Overview

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Shoalhaven LEP 2014 provides an opportunity, in specific identified and mapped localities, to subdivide land using a flexible method of subdivision which can create a variety of lot sizes for non-agricultural residential uses in a low-density rural setting.

The concept of lot averaging was first introduced to provide a pre-set total for potential subdivision capacity of a defined locality as a whole or for land parcels, providing equity between landholders and flexibility in actual design of subdivision and lot size mix. These localities, where appropriate, were included as a Principal Development Standard in clause 4.2B of Shoalhaven LEP 2014.

The intention of the clause is:

- To provide a consistent and sustainable pattern of subdivision that can match the landscape features, providing protection of valuable biodiversity or agricultural capable land for future generations
- To provide an opportunity for a range of rural lifestyles in appropriate locations, without threatening the character or rural towns and rural scenic landscapes.

The clause **is not** intended to reflect urban development outcomes where the maximum potential number of lots are created.

## Calculating Density

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The lot densities and minimum lot sizes consider the individual character and attributes of the locality and initially established an area (extent based on the sum of individual land holdings or part of holdings) identified as broadly suitable for rural residential development. Consistent with the rationale, the calculation of overall locality areas excludes undevelopable land such as road and watercourse reserves.

Where land is only partially mapped within a locality, only the area of land located within the mapped perimeter is included in the overall density provisions.

**Table 1** gives a summary of the maximum density provisions of each locality.

## Prime crop and pasture land

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High capability agricultural land is an invaluable, natural resource that provides the capacity to meet increasing demands of our community for food and other products.

For the purpose of land use planning, the Department of Primary Industries (DPI) defines this land as *Prime Crop and Pasture Land* (PCPL). PCPL has the best quality soil and water resources, topography, and is naturally capable of sustaining high levels of agricultural productivity. Fragmentation of PCPL affects future agricultural production capacity and has social and economic impacts on NSW's food security and economic prosperity.

The footprint of any development is greater than just its land mass area, which is particularly true of residential developments within a rural environment. For this reason, all areas of PCPL should be protected from environmental impacts of residential development such as noise, odour and dust which can lead to an irreversible loss of agricultural resources.

Any proposal to subdivide land, which has been identified either wholly or partially as containing PCPL, must demonstrate compliance with Clause 4.2B(2) of Shoalhaven LEP 2014. The proposed subdivision will need to ensure that each and every lot created will contain at least 10 hectares of PCPL.

Consequently, land identified as PCPL must have a minimum of 20 hectares of PCPL to have the capability of further subdivision. Clause 4.2B(2) applies to all subdivisions involving land in a zone to which clause 4.2B applies that has been identified as containing PCPL, irrespective of whether the land is located within or outside a locality to which the lot averaging provisions identified in clause 4.2B(3) apply.

The Department of Primary Industries has exhibited the [NSW Preliminary Draft State Significant Agriculture Land Map](#). This mapping is in the **early draft** stage and should be used as a guidance tool only to assess the agricultural capability of land prior to considering subdivision potential.

**Table 1:** Density provisions of Clause 4.2B of Shoalhaven Local Environmental Plan 2014.

Locality	Lot Density Guidance
<b>Locality 1</b> Vicinity of Bundewallah Road Berry *	Locality 1 has an approximate area of <b>83 hectares</b> . The provisions of cl 4.2B(a) provide a maximum density over the locality of no more than <b>33 lots</b> (four lots per 10 hectares of land), with each lot no smaller than 1 hectare.
<b>Locality 2</b> Vicinity of Little Forest Road * **	The part of locality to the north of Little Forest Road has an approximate area of <b>70 hectares</b> . The provisions of cl 4.2B(b)(i) provide a maximum density over the part of the locality of <b>7 lots</b> (1 lot per 10 hectares of land) with each lot no smaller than 1 hectare.
	The part of the locality to the south of Little Forest Road has an approximate area of <b>86 hectares</b> . The provisions of cl 4.2B(b)(ii) provide a maximum density over the part of the locality of <b>25 lots</b> (3 lots per 10 hectares of land), with each lot no smaller than 1 hectare.
<b>Locality 3</b> Vicinity of Wandandian Road, Wandandian *	The locality has an approximate area of <b>804 hectares</b> . The provisions of cl 4.2B(c) provide a maximum density of <b>80 lots</b> (1 lot per 10 hectares of land) with each lot no smaller than 2 hectares. Additionally, where the overall density provisions of the locality and minimum lot size can be satisfied, a lot with an area of between 4 and 19 hectares can be subdivided into a maximum of 2 lots.
<b>Locality 4</b> Vicinity of Illaroo Road *	The part of the locality to the North of Illaroo Road has an approximate area of <b>624 hectares</b> . The provisions of cl 4.2B(d)(i) provide a maximum density over the part of the locality of <b>62 lots</b> (1 lot per 10 hectares of land) with each lot no smaller than 1 hectare.
	The part of the locality to the South of Illaroo Road has an approximate area of <b>189 ha hectares</b> . The provisions of cl 4.2B(d)(ii) provide a maximum density over the part of the locality of <b>75 lots</b> (4 lots per 10 hectares of land) with each lot no smaller than 1 hectare. Additionally, where the density provisions can be satisfied, a lot with an area of between 3 and 5 hectares can be subdivided into a maximum of 2 lots.
<b>Locality 5</b> Vicinity of Yatte Yattah *	The locality has an approximate area of <b>133 hectares</b> . The provisions of clause 4.2B(e) provide a maximum of <b>13 lots</b> (1 lot per 10 hectares of land) with each lot no smaller than 1 hectare.
<b>Locality 6</b> Vicinity of Termeil	The provisions of cl 4.2B(d)(i) Eligible land must be a <b>minimum of 20 hectares</b> in size with each lot created no smaller than 10 hectares. Each additional lot created requires a further 10 hectares (minimum). Additionally, where the minimum lot size provisions can be satisfied, lots created must not have vehicular access from the Princes Highway.
<b>Locality 7</b> Vicinity of Conjola Park *	The locality has approximately area of <b>36 hectares</b> . and can be subdivided into no more than <b>14 lots</b> with each lot no smaller than 1 hectare.
<b>Locality 8</b> Windward Way Milton, Lot 1 DP 780801 *	The locality has approximately <b>14.6 hectares</b> which can be subdivided into no more than three lots with each lot no smaller than 2 hectares.

\* Certain land in this locality, which may be eligible for subdivision under this clause, may contain land that is highly productive *prime crop and pasture land*.

\*\* Land located to the west of Little Forest Road, with an area of 16.99 hectares is not considered part of the locality area when determining density in this locality.

## Other considerations – Natural hazards and biodiversity

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It is important that any rural residential development is designed and located to respond to the environmental opportunities and constraints of the land, is safe in the event of natural hazards, and is ecologically sustainable.

Rural and environmentally sensitive areas are often at higher risk of natural disasters and the consideration of future natural disaster risk must be considered in the location and design of rural residential subdivisions.

The protection of environmentally sensitive land from land uses that threaten biodiversity is an important consideration when planning increased density in environmentally sensitive areas. Impacts to biodiversity loss **must be avoided** in the design and location of rural residential subdivisions.

The following guidance should be considered early in the planning stage:

- [Planning for Bushfire Protection 2019](#)
- [Biodiversity conservation framework](#)

### Request For Further Information

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