

**Submission
No 51**

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: Shoalhaven City Council

Date Received: 19 March 2024

Dear Sir/Madam,

We attach documents relating to Shoalhaven City Council's submission to the Department of Planning, Housing & Infrastructure - Diverse and well-located housing program:

1. Submission to the Diverse and well-located housing program
2. NSW Planning Minister Letter and Mayoral Response (referenced in 1)
3. Council report and minute on the proposed submission

Please accept this as Council's submission to the Inquiry into Development of the Transport Oriented Development Program. Thank you for the opportunity to provide comments.

Should you have any enquiries please contact Ryan Jameson, City Futures Directorate, at the details below.

Yours faithfully,



Ryan Jameson
Coordinator - Local Planning Team

shoalhaven.nsw.gov.au

RESPECT | INTEGRITY | ADAPTABILITY | COLLABORATION

Council Reference: 31157E (D24/106556)

15/03/24

Department of Planning, Housing & Infrastructure -
Diverse and well-located housing program

By email: lowandmidrisehousing@planning.nsw.gov.au

Dear Sir/Madam

FINAL SUBMISSION

Explanation of Intended Effect: Low and Mid-rise Housing

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) relating to the proposed changes to create additional opportunities for low-and mid-rise housing.

Council made a draft submission on 23 February 2024, pending the elected Council's consideration of the draft submission on 11 March. The Department granted Council an extension to 15 March for its final submission.

Council resolved on 11th March 2024 to:

1. *Endorse and finalise the draft submission on the Explanation of Intended Effect (EIE) for Low and Mid - Rise Housing at **Attachment 1** and submit it to the NSW Department of Planning Housing and Infrastructure, with the following additions:*
 - a. *Concerns that this approach will impede genuine community input,*
 - b. *Concerns that this may result in unfettered tourism developments or other similar developments that are out of character with the locality.*
2. *Receive a further report at the appropriate point on the progression or outcome of the proposed reforms.*

This is Council's final submission including the additional comments raised in the above resolution.

Introduction

The proposals outlined in the exhibited EIE focus principally on increasing housing diversity in the R2 Low Density Residential (R2), R1 General Residential (R1) and R3 Medium Density Residential (R3) zones in the Six Cities Region.

Council notes that:

- these proposals are a significant policy reform of the NSW Government aimed at helping addressing the housing crisis;
- the NSW Government wishes to enable and encourage more density and diverse housing options across the Six Cities Region (which includes Shoalhaven) in "well located areas" including where there is "good public transport"; and

Council acknowledges that:

- there is a need to increase housing supply and It also has a desire to see additional affordable and appropriate housing opportunities provided for Shoalhaven’s growing and changing population;
- more diverse, well-designed, low-rise and mid-rise housing should be facilitated through collaboration in suitable well located areas, including near higher order town centres and in areas with good public transport connections to employment precincts and other services.
- The majority of Shoalhaven’s urban zones that would be affected by the current proposals (R1, R2 and R3 zones) are potentially not well located, near higher order town centres or serviced by what could be considered good public transport.

In October 2023 the Mayor responded to a letter from the NSW Minister for Planning & Public Spaces dated 8 August 2023 that covered the shared responsibility to address Housing Crisis and promoting the need to collaborate to accelerate the supply of new housing. The Mayor’s letter is attached and it outlines how Council is responding to the delivery of new housing.

Council Feedback – Proposed Reforms

1. The proposals released for consultation on 15 December 2023 present a blunt ad hoc approach to planning policy for housing and are at somewhat at odds with the collaborative narrative indicated in the Minister’s letter of 8 August 2023.

No evidence base has been presented to support the scale of changes proposed, nor any modelling released to help determine the potential impacts on the various areas they could possibly apply to. There is also a lack of detail on the range of suggested supporting measures/mechanism, for example the proposed ‘pattern book’ that will include endorsed designs for new low-rise housing and mid-rise apartment buildings of up to 6 storeys. The early material notes that developers who use it will have access to an accelerated approval pathway.

2. It is concerning that the changes resulting from the exhibit EIE could be implemented around the middle of this year. It is essential that Councils are fully engaged on the nature and detail of any changes that result and are provided the opportunity to review any draft legislation. This will enable the operation of any actual changes to be considered and any unintended consequences to be identified/resolved.
3. The proposals will impose blanket planning controls, via a de facto rezoning/LEP amendment mechanism, that will allow the potential for virtually unfettered higher density residential development of a scale, height and bulk that could be at odds with the character and context of most urban communities in the Shoalhaven. The proposed controls and their blanket nature may not ultimately facilitate “doing good design well”.
4. The proposals have the potential to have significant adverse impacts on many of Shoalhaven’s town centres and coastal villages that may, arguably, meet the “town centre precinct” requirements, particularly those areas with distinct character and heritage values such as Berry and Milton. The potential cumulative impact of increased densities through significantly inflated building heights, coupled with higher floor space ratios (FSR) and reduced minimum site requirements, would most likely result in poor development outcomes that do not align with communities’ values and sense of liveability.
5. There are significant concerns about the potential impact the resultant unplanned growth would have on Shoalhaven’s existing infrastructure capacity. As a large regional area with limited public transport options and no regular commuter rail service, the majority of the area is heavily car dependent and this is likely to continue for the foreseeable future. The proposed non-refusal standards have the potential to place additional pressures on local road networks through

increased uptake of traffic generating development, and car parking standards that are well below the requirements currently specified in Council's own local planning controls.

There are also significant concerns about the potential impacts on Council's waste management services and water and wastewater networks, as well as State and other key infrastructure including schools, hospitals, electricity and telecommunications networks.

6. The proposals have the potential to undermine Council's existing planning controls and powers. They will also conflict with and/or make redundant many current and recent and state and local strategic planning and policy initiatives aimed at ultimately helping deliver a range of housing options in appropriate locations, including:
 - City-wide Housing Strategy preparatory work
 - Affordable Housing Strategy review
 - New Character and Heritage planning controls being prepared for Berry
 - Shoalhaven Contributions Plan 2019
 - Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)
 - Illawarra-Shoalhaven Regional Plan 2041 (DPHI)
 - Nowra City Centre Strategic Roadmap work (DPHI)
 - Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)
 - Nowra-Bomaderry Movement & Place Framework (TfNSW)
 - The Six Cities Region Discussion Paper (Sept 2022)
7. Council is extremely concerned that this approach will impede genuine community input on proposed planning and developments and may also result in unfettered tourism (e.g. further Short term rental accommodation) and other similar developments that are out of character with the locality.

Conclusion

1. Council has significant concerns about the reforms foreshadowed in the EIE and requests that more collaboration and engagement occur with Councils before the resultant reforms progress and eventuate.
2. Council does not support the two train stations in Shoalhaven (Bomaderry and Berry) being included in the "definition" of "*station and town centre precincts*". These train stations are not currently serviced by regular, reliable commuter passenger services. Further investigation and discussion should be undertaken before either or both stations are included.
3. The Shoalhaven Local Environmental Plan 2014 (LEP 2014) already permits *Residential flat buildings* (RFBs) with consent in both the R1 and R3 zones. Council however opposes the proposed changes that are intended to permit RFBs of between 16m and 21m in height in a blanket manner across the R1 and R3 zones near "*station and town centre precincts*" without further detailed work and engagement.

The density and scale of development enabled by the proposed controls is considered highly out character. Further, most Shoalhaven communities are not well located to receive the increase in housing density enabled by such changes and that could result. Council opposes any change to housing density and building heights affecting the R1 and R3 zones until the completion of a range of current strategic planning work including and identified in the following:

- *City-wide Housing Strategy*
- *Affordable Housing Strategy review*

- *Draft DCP for the area of Berry east of the Princes Highway and Princess Street, Berry Heritage Conservation area*
- *Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)*
- *Illawarra-Shoalhaven Regional Plan 2041 (DPHI)*
- *Nowra City Centre Strategic Roadmap (DPHI)*
- *Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)*
- *The Six Cities Region Discussion Paper (Sept 2022)*

Parts of Nowra and Bomaderry near the E2 zone and near some limited E1/MU1 zones may prove suitable for some increased housing density opportunities following the completion of current and proposed strategic planning work.

4. The LEP 2014 already permits *Dual occupancies* with consent in the R2 zone. Council supports the proposals to make *Dual occupancies* permissible with consent in all R2 zones across NSW. However, it notes that in the case of the Shoalhaven this specific proposal does not by itself create any additional housing opportunities.
5. Council supports the limited application only of the *manor house* and *multi dwelling housing* (MDH) proposals in its R2 zones. It supports making *manor houses* and MDH (including MDH (Terraces) permissible with consent in appropriate R2 zones in Nowra, North Nowra, Bomaderry, Worrigea, South Nowra and Ulladulla. Further work and detailed engagement should occur in this regard.

Council does not support the 9.5m maximum building height (HoB) non-refusal standard. Current and long established HoB standards (generally 8.5m for most R2 zoned areas and 7.5m in some instances) should be respected and maintained.

6. Council requests that the non-refusal standards be turned off for development on land that adjoins a heritage item or is within a Heritage Conservation Area.
7. Council requests that if these proposals proceed then, at least, a draft instrument is provided for review by local government. Many aspects of the proposals are currently unknown/uncertain and further detail needs to be released for review and comment to enable the full range of possible implications to be considered and understood.

Finally, Council strongly requests that the NSW Government take the necessary steps to fully engage and collaborate with Councils to ensure that the changes that ultimately result from these reforms actually encourage additional housing in appropriate locations, are well designed and supported by necessary infrastructure.

Council is also working hard to deliver new housing opportunities and its current and proposed strategic planning will continue to provide new housing opportunities, including increased density in appropriate locations.

Should you require further information about this matter, please contact Ryan Jameson, City Futures, on [redacted] Please quote Council's reference 31157e in any correspondence.

Yours faithfully

Gordon Clark
Strategic Planning Manager



The Hon Paul Scully MP
Minister for Planning and Public Spaces

Ref: IRF23/1420

Clr Amanda Findley
Mayor
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541
[Via: council@shoalhaven.nsw.gov.au;](mailto:council@shoalhaven.nsw.gov.au)

Dear Clr Findley, *Amanda*

We have a shared responsibility to address the housing crisis and meet the goals of the National Housing Accord, and I want to thank you for the collaborative effort you have made and continue to make on behalf of the communities you represent.

The urgency is real — as we return to strong population growth in challenging market conditions, we are seeing housing pressures impacting housing supply, diversity and diminishing housing choice.

Delivering a fair distribution of housing, jobs, and social and economic infrastructure for the people of NSW is going to take effort from all levels of government.

Our decisions, whether at state or council level, need to be supported by a planning system that makes decisions based on current needs, circumstances, and priorities.

While governments at all levels have undertaken substantial work to implement strategic plans and deliver housing targets, it's clear to me that past strategic plans didn't anticipate or account for the scale of the housing crisis we now face.

The immediate need is for us to make sure the planning system presents no impediment to dwelling approvals and construction in appropriate locations.

I am asking councils and planning panels to factor this into their decision-making and prioritise the delivery of housing when assessing development applications and rezoning schemes, so that the entire planning system is geared to addressing the housing shortfall.

While I await the publication of updated region and cities plans by the Greater Cities Commission, I ask that you and your council teams prioritise the opportunity to deliver homes as part of merit considerations where, on balance, dwelling numbers may warrant a scale or built form that is different to or greater than the outcome originally anticipated.

The [Strategic Merit Test](#) (referenced in the [Local Environmental Plan Making Guideline](#)) exists for such times and provides a framework for responding to a change in circumstances, such as the investment in new infrastructure or changing population and demographic trends.

I do not deny this is a difficult and challenging time, but it is critically important we undertake this shared responsibility and work together to meet that challenge. I look forward to working with each of you to create cities and regions that deliver fair opportunities for all.

Should you have any questions, Malcolm McDonald, Executive Director, Local and Regional Planning, at the Department of Planning and Environment can be contacted on

Yours sincerely

Paul Scully MP

Minister for Planning and Public Spaces

5/8/23



19 October 2023

The Hon Paul Scully MP
Minister for Planning & Public Spaces
GPO Box 5341
SYDNEY NSW 2001
By email: office@scully.minister.nsw.gov.au
Cc: wollongong@parliament.nsw.gov.au

Dear Minister,

Shared Responsibility to address Housing Crisis

Thank you for your letter dated 5 August 2023, promoting the need to collaborate to accelerate the supply of new housing.

Like many local government areas in NSW, the Shoalhaven has a number of housing challenges. Council anticipates the requirement to construct a minimum of 14,200 new homes by 2051. Additionally, our goals include bolstering the availability of affordable rental housing and social housing while also focusing on enhancing housing affordability in a broader sense.

Council is fully committed to continuing to meet identified housing needs by facilitating the delivery of a sustainable supply of all housing types throughout the city. Whilst acknowledging housing as a significant current and ongoing need, the strategic merit of rezoning and development proposals will continue to be based on consistency with Shoalhaven's existing and robust strategic planning framework. This framework has been thoroughly tested with the Shoalhaven community and seeks to ensure good planning outcomes; namely, sustainable, and resilient homes in areas of low environmental risk and close to jobs, shops and services.

Our priority work to increase housing supply includes the preparation and implementation of local planning documents and delivery of infrastructure to support the delivery of over 3,000 new homes in the Nowra-Bomaderry Regional Release Area. There have been several challenges in realising this Urban Release Area, including delays in receiving advice from NSW Government agencies, as well as the complexity of impacts of that advice on local planning documents.

Council's ongoing and strong efforts to address housing affordability includes the preparation of an Affordable Housing Strategy and an Affordable Housing Development Contribution Scheme. The Strategy is funded through the NSW Government's Regional Housing Strategic Planning Fund and includes testing of

targets, development feasibility, and the identification of other barriers to the delivery of dwelling diversity.

Future strategic work is focussed on the preparation of a new City-wide Housing Strategy which will identify contemporary housing need, examine options to manage growth, consider the Greater City Commission's proposed housing targets, and other NSW Government land use planning policy.

Council has taken significant steps to enhance its development assessment efficiency. These efforts involve investing in software, expanding its team of planners, and addressing various aspects through the Faster Local Assessment Grant.

Despite Council's proactive efforts in planning for and facilitating housing supply into the future, there are a range of forecasted external challenges around timely supply that needs to be recognised, including:

- The new Greater Cities Commission requirements,
- Ongoing planning reform,
- Shortage of planners in regional areas,
- Ongoing market uncertainty,
- Finance concerns and
- Labour/materials shortages.

If you need further information about this matter, please contact Jenna Tague, Strategic Planning Manager (Acting) on (02) Please quote Council's reference 31157E (D23/419106).

Yours sincerely

Amanda Findley
Mayor

31157E
D23/419106

Subject: Submission - NSW Planning Reforms - Low & Mid-Rise Housing - Report request - Outcome
Related Report Item Number D24/57113
CL24.57

RESOLVED (Clr White / Clr Christen)

MIN24.111

That Council:

1. Endorse and finalise the draft submission on the Explanation of Intended Effect (EIE) for Low and Mid - Rise Housing at **Attachment 1** and submit it to the NSW Department of Planning Housing and Infrastructure, with the following additions:
 - a. Concerns that this approach will impede genuine community input,
 - b. Concerns that this may result in unfettered tourism developments or other similar developments that are out of character with the locality.
2. Receive a further report at the appropriate point on the progression or outcome of the proposed reforms.

FOR: Clr Findley, Clr Boyd, Clr Norris, Clr Kotlash, Clr Copley, Clr Ell, Clr Christen, Clr White, Clr Wells, Clr Kitchener and Clr Gray

AGAINST: Nil

CARRIED

CL24.57 Proposed Submission - NSW Planning Reforms: Low and Mid-Rise Housing

HPERM Ref: D24/57113

Department: Strategic Planning
Approver: Coralie McCarthy, Acting Director - City Futures

Attachments:

1. Draft Submission
2. Relevant Land Use Terms, Shoalhaven LEP2014
3. Future Housing Challenges - NSW Planning Ministers Letter & Mayoral Response

Reason for Report

The purpose of this report is to enable Council to consider a proposed submission on planning reforms aimed at providing opportunities to increase housing supply. The proposed reforms aim to generally permit a range of higher density and taller forms of residential development in certain residential zones that are near train stations, town centres and employment (business) zones.

Recommendation

That Council:

1. Endorse and finalise the draft submission on the Explanation of Intended Effect (EIE) for Low and Mid - Rise Housing at **Attachment 1** and submit it to the NSW Department of Planning Housing and Infrastructure.
2. Receive a further report at the appropriate point on the progression or outcome of the proposed reforms.

Options

1. As recommended.

Implications: This is the preferred option and will enable Council to finalise its submission on the proposed planning reforms. The submission highlights a range of concerns and matters requiring clarification in relation to the proposed reforms.

2. Make changes to the draft submission and submit it or adopt an alternate recommendation.

Implications: Will still enable Council to make changes to the submission after considering the proposed reforms or could delay the provision of a final submission, noting it is due by 15 March.

Background

The NSW Department of Planning Housing and Infrastructure (DPHI) released an Explanation of Intended Effect (EIE) outlining planning reforms that aim “to encourage more low and mid-rise housing options for NSW households that are in the right places and designed well” for comment. The exhibition period commenced on 15 December 2023.

No draft legislation or policy instruments to enact the proposed changes have been released for comment at this stage.

Key elements of the proposed state-wide reforms outline in the EIE include:

1. Permitting *dual occupancies* (two dwellings on the same lot) in the R2 Low Density Residential zone across NSW.
2. Permitting low-rise terraces, townhouses and two storey apartment blocks near transport hubs and town centres in the R2 zone across the Six Cities Region (which includes Shoalhaven).
3. Permitting mid-rise residential flat buildings near transport hubs and town centres in the R3 Medium Density Residential zone and R1 General Residential zone across the Six Cities Region.
4. Proposing numeric “Non-refusal standards” for building height, floor space ratio, site area, lot width and car parking on which Council cannot refuse a development if it complies with the standard.

The housing types that the proposals seek to specifically enable include:

1. **Low-rise:** dual occupancies, manor houses, multi-dwelling housing (terraces) and multi-dwelling housing up to 9.5m high.
2. **Mid-rise:** residential flat buildings and shop top housing ranging from 16m to 21m high.

The EIE, which is on exhibition until 23 February 2024, states that under the August 2023 National Accord, the NSW Government is committed to deliver at least 314,000 new homes by 2029, with a ‘stretch’ goal of 377,000 new homes. The EIE however does not state how many new homes it aims to deliver through the proposed reforms and does not propose housing targets for Local Government Areas in the Six Cities Region.

DPHI has extended the due date for Council’s submission to 15 March 2024 but requested Council provide a draft submission by 23 February 2024. The draft submission provided is at **Attachment 1** and will be finalised/submitted inclusive of any amendments made by Council.

The EIE and related exhibition material are available to view at the following link:

<https://www.planningportal.nsw.gov.au/draftplans/exhibition/explanation-intended-effect-changes-create-low-and-mid-rise-housing>

EIE Overview

The details of the proposed changes in the EIE are provided below. The relevant current Shoalhaven Local Environmental Plan 2014 (the LEP) definitions of the various land use terms are also provided for reference as **Attachment 2**.

- *Dual Occupancies* permitted in the R2 Low Density Residential zone. (Note: dual occupancies are already permissible in the R2 zone in Shoalhaven via the Shoalhaven LEP2014);
- Maximum building height of 9.5m and Floor Space Ratio (FSR) of 0.65:1 for *Dual Occupancies* in the R2 zones of Greater Sydney only.
- *Manor Houses* permitted in the R2 zone within “Station and Town Centre Precincts” (see definition below), with a maximum building height of 9.5m and FSR of 0.8:1; other Non-refusal standards are also proposed as documented in Table 1 below.
- *Multi-dwelling housing* and *Multi-dwelling housing (terraces)* comprising three or more dwellings permitted in the R2 zone within “station and town centre precincts”, with a maximum building height of 9.5m and FSR of 0.7: 1; other Non-refusal standards are also proposed as documented in Table 1 below.

- *Residential flat buildings* (RFBs) permitted in the R3 Medium Density Residential zone and R1 General Residential zone within certain distances of “station and town centre precincts”:
 - Within 0-400m: maximum building height of 21m and FSR of 3:1
 - Within 400-800m: maximum building height of 16m and FSR of 2:1
- *Shop-top housing* developments will have the same controls as RFBs wherever they are already permitted excluding the R2 Low Density Residential zone.

The EIE currently proposes to define “**Station and Town Centre precincts**” as:

- a) Within 800m walking distance of a railway station;
- b) Within 800m walking distance of the E2 Commercial Centre zone;
- c) Within 800m walking distance of the E1 Local Centre zone or MU1 Mixed Use zone if the zone contains a wide range of frequently needed goods and services, such as a full line supermarket, shops and restaurants.

This definition is crucial as the majority of the reforms focus on “Station and Town Centre precincts”. When applied to Shoalhaven it could potentially include:

- a) areas within 800m walk of the Berry and Bomaderry railway stations. A concern here is that the definition does not appear to consider the frequency of passenger services. Both stations, it could be argued, are not serviced by high frequency, reliable passenger services to employment precincts, making them potentially unsuitable locations for higher density residential without service improvements.
- b) Areas within 800m walking distance of Nowra and Ulladulla commercial centres.
- c) Potentially areas within 800m walking distance of E1 and MU1 zones in the following locations. The criteria is ambiguous and it is currently unclear where the changes would and would not apply. Unless this is ultimately clarified it will lead to confusion and uncertainty at the development application stage if the reforms proceed. It is also likely to raise community concerns given the nature and character of some of the locations.

Berry, Bomaderry, Meroo Meadow, Badagarang (Moss Vale Road North area), Cambewarra Village, Greenwell Point, North Nowra, Nowra, Shoalhaven Heads, South Nowra, West Nowra, Worrigea, Callala Bay, Callala Beach, Myola, Culburra Beach, Orient Point, Currarong, St Georges Basin & Basin View, Erowal Bay, Old Erowal Bay, Wrights Beach, Huskisson, Sanctuary Point, Vincentia, Sussex Inlet, Berrara, Cudmirrah, Swanhaven, Bawley Point, Burrill Lake, Dolphin Point, Manyana, Cunjurong Point, Mollymook, Mollymook Beach, Narrawallee Milton and Ulladulla.

Shoalhaven context and existing controls

Shoalhaven Local Environmental Plan 2014 (the LEP)

Dual occupancies are already currently permitted with consent in the R2 zone under the LEP. Most of Shoalhaven’s towns and villages include R2 zones.

Manor Houses, Multi-dwelling housing or Multi-dwelling housing (terraces) are currently prohibited in the R2 zone under the LEP. The EIE however proposes to make these higher density residential forms permitted with consent within “Station and Town Centre precincts”.

Residential flat buildings are already permitted with consent under the LEP in the R3 and R1 zones, with maximum building height generally ranging between 8.5m to 11m.

The tables below compare Council’s existing LEP and DCP controls with the proposed controls suggested in the EIE.

The proposed “Non-refusal standards” are shown in ***bold italics*** in the third column of the tables.

Table 1: R2 Low Density Residential Zone

	Existing Shoalhaven LEP 2014 / DCP Controls	EIE Proposed controls Non-refusal standards in <i>bold italics</i>
Dual Occupancy	Permitted with consent	Permitted with consent
• Max Building Height	8.5m	As per Council’s LEP/DCP
• Max FSR	-	-
• Min Site area	500m ²	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	2	As per Council’s LEP/DCP
Manor Homes	Prohibited	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<i>9.5m</i>
• Max FSR	-	<i>0.8:1</i>
• Min Site area	-	<i>500m²</i>
• Min lot width	-	<i>12m</i>
• Min car parking - space per dwelling	-	<i>0.5</i>
Multi-dwelling housing	Prohibited by SLEP 2014	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<i>9.5m</i>
• Max FSR	-	<i>0.7:1</i>
• Min Site area	-	<i>600m²</i>
• Min lot width	-	<i>12m</i>
• Min car parking - space per dwelling	-	<i>1</i>
Multi-dwelling housing (terrace)	Prohibited	Permitted within “Station and Town Centre precincts”
• Max Building Height	-	<i>9.5m</i>
• Max FSR	-	<i>0.7:1</i>
• Min Site area	-	<i>500m²</i>
• Min lot width	-	<i>18m</i>
• Min car parking - space per dwelling	-	<i>0.5</i>

Table 2: R1 General Residential and R3 Medium Density Residential Zones

	Existing Shoalhaven LEP 2014 / DCP Controls	EIE Proposed controls Non-refusal standards in <i>bold italics</i>
Residential flat buildings	Permitted with consent	Permitted with consent within 400m walk to “Station & town centre precincts” Would potentially apply to parts of Berry, Bomaderry & Meroo Meadow, Badagarang (Moss Vale Road North), Greenwell Point, North Nowra, Nowra, South Nowra, West Nowra, Worrigeer, Shoalhaven Heads, Culburra Beach & Orient Point, Huskisson, Sanctuary Point, Sussex Inlet, Burrill Lake & Dolphin Point, Mollymook & Mollymook Beach, Ulladulla & Milton
• Max Building Height	7.5-11m	21m
• Max FSR	1:1 and 1.5:1 (Ulladulla only)	3:1
• Min Site area	-	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	1	As per Council’s LEP/DCP
Residential flat buildings	Permitted with consent	Permitted with consent within 400-800m walk to “Station & town centre precincts” Would potentially apply to parts of Berry, Bomaderry & Meroo Meadow, Badagarang (Moss Vale Road North), Greenwell Point, North Nowra, Nowra, South Nowra, West Nowra, Worrigeer, Shoalhaven Heads, Culburra Beach & Orient Point, Huskisson, Sanctuary Point, Sussex Inlet, Burrill Lake & Dolphin Point, Mollymook & Mollymook Beach Ulladulla and Milton.
• Max Building Height	7.5-11m	16m
• Max FSR	1:1 and 1.5:1 (Ulladulla only)	2:1
• Min Site area	-	As per Council’s LEP/DCP
• Min lot width	-	-
• Min car parking - space per dwelling	1	As per Council’s LEP/DCP

Discussion

The need to facilitate and deliver additional housing opportunities is acknowledged. However the proposals outlined in the EIE are a concern and appear to be a somewhat blunt and ad-hoc policy response to the housing crisis, that if implemented could have a range of impacts and consequences. They also appear to be somewhat at odds with the NSW Minister for Planning and Public Spaces' 8 August 2023 letter to NSW Councils which emphasised State and Local Government's shared responsibility to address housing crisis and advocated a collaborative approach to accelerate new housing supply. The Minister's letter and Mayoral response are provided as **Attachment 3**.

No modelling has been released as yet to demonstrate that the extra housing capacity created by the suggested changes will actually be delivered. The work undertaken recently for DPHI's Nowra City Centre Strategic Roadmap process has shown that planning controls are only one of a range of factors influencing development. The reforms do not appear to consider the range of other factors such as land prices, construction costs, financing, access to public transport and amenity that influence development feasibility and opportunities.

The proposals will impose standard State-wide changes to local planning controls with limited regard to the constraints and characteristics of the places they affect. They are likely to generally enable higher density forms of residential development of a scale, height and bulk that is out of character and context with many of Shoalhaven's communities. There are currently no design standards accompanying the proposals to ensure that new housing developments are indeed "in the right place and designed well".

The proposed "Non-refusal standards" would overrule Council's local LEP and DCP provisions, that have often been prepared with extensive community input, to the extent of any inconsistency. This would remove Council's ability to refuse development applications that comply with the Non-refusal standards. The EIE states that all other applicable planning controls in LEPs and DCPs such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with the Non-refusal standards. If compliance with non-refusal standards causes a development to contravene other LEP controls (e.g. local character, heritage) it is not currently clear if Council would be able to refuse the development.

The EIE proposals unfortunately do not appear to consider and potentially undermine a range of existing state and local strategic planning initiatives including:

- City-wide Housing Strategy preparatory work
- Affordable Housing Strategy review
- New Character and Heritage planning controls being prepared for Berry
- Shoalhaven Contributions Plan 2019
- Shoalhaven 2040 - Our Strategic Land-use Planning Statement (LSPS)
- Illawarra-Shoalhaven Regional Plan 2041 (DPHI)
- Nowra City Centre Strategic Roadmap work (DPHI)
- Illawarra-Shoalhaven Regional Transport Plan (Aug 2021)
- Nowra-Bomaderry Movement & Place Framework (TfNSW)
- The Six Cities Region Discussion Paper (Sept 2022)

Comments and Recommendations for Council's submission

1. Shoalhaven's two railway stations (Bomaderry and Berry) should be excluded from the definition of "*station and town centre precincts*". They currently lack the high frequency,

reliable public transport connections to employment precincts and other key locations that would make them suitable for higher density housing.

2. Express concern about the blunt and ad-hoc nature of the proposed reforms on the basis that:
 - They do not consider and potentially undermine a range of existing state and local strategic planning initiatives.
 - Councils should continue to lead the planning for additional housing options that address the specific constraints, characteristics and needs of their communities.
 - They do not consider and are likely to undermine the local character, heritage and amenity of many of Shoalhaven’s communities.
 - The Government has not sought to meaningfully engage or collaborate with Councils or their communities in designing and drafting the proposals.
3. Council should oppose the blanket proposal to permit *residential flat buildings* and *shop-top housing* between 16m and 21m high in all R3 and R1 zones in “*station and town centre precincts*”. The density and scale of development potentially enabled by this proposal would most likely be highly out of character in many locations. Further, most communities that would be affected are not well located or well serviced (infrastructure etc) to accommodate such increases in density without more detailed planning and the provision of necessary supporting infrastructure/upgrades. Any changes to residential density and building heights in “*station and town centre precincts*” should be led by or at least informed by Council’s strategic planning work including:
 - *City-wide Housing Strategy*
 - *Affordable Housing Strategy*
 - *New Character and Heritage Controls for Berry (and similar work in other communities)*
 - *Contributions Plan 2019 review and other servicing strategies*

If Council has the opportunity to nominate “*station and town centre precincts*”, it is suggested that only the area around the Nowra CBD and Ulladulla CBD Commercial Centre (E2) zones are considered suitable for further discussion at this point.

4. The reforms do not include any framework to provide the essential community infrastructure (e.g. roads, drainage, public transport, parks) needed to support higher density residential development.

Council’s existing contribution plan provides for a level of servicing based on existing zoned development capacity. The reforms create a significant amount of additional unplanned/unpredictable capacity without any arrangements to fund and provide the essential supporting infrastructure.
5. The proposals include no obligation on developers to provide or contribute to actual affordable housing and in the longer term.
6. Cautious support should be expressed for the possible limited application of the *Manor House* and *Multi dwelling housing* proposals in appropriate R2 zones. The R2 zones in Nowra, North Nowra, Bomaderry, Worrigeer, South Nowra and Ulladulla are potentially suitable. However, Council should oppose the proposed 9.5m maximum building height “Non-refusal standard”. 9.5m is excessive for development that is meant to be limited to two storeys. The existing LEP building height of 7.5m-8.5m in the R2 zone should apply.
7. Request that the “Non-refusal standards” do not apply to development on land that adjoins a heritage item or that is in a heritage conservation area.
8. It is imperative that the draft legal instrument be exhibited for review/comment prior to enacting any of the proposed changes. Some aspects of the proposals are ambiguous

and further actual detail needs to be released to resolve uncertainties and enable the full range of implications to be understood.

9. If the reforms come in they need to include savings and transitional arrangements. The scale and nature of the proposals may require updates to Council's local planning documents (DCPs and Contributions Plan). Savings and transitional arrangements need to provide a suitable timeframe for that. The government should also provide funding to Councils to enable any resulting local planning changes to be implemented in a timely manner.

Internal Consultations

Comments from the City Development Directorate have been incorporated into this report and the draft submission.

External Consultations

Council's Community Consultative Bodies were notified of the exhibition of the EIE and advised to direct any submissions and enquiries to DHPI.

The Red Head Villages Association provided Council with a copy of its submission on the EIE. The submission raises concerns about the provisions related to dual occupancy development, non-refusal standards and car parking rates. It suggests that the Government should focus supportive mid-rise development in the Nowra-Bomaderry CBD areas and incentivise good regional planning outcomes.

Policy Implications

The EIE proposals, if enacted, would override and potentially undermine a range of local planning controls in Shoalhaven LEP 2014 and Shoalhaven DCP 2014. The full range of potential implications is not known due to the lack of detail on some proposals, as a draft legal instrument has not been released for comment.