

## Planning and Assessment

IRF19/5879

### Gateway determination report

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| <b>LGA</b>                      | Shoalhaven LGA   |
| <b>PPA</b>                      | Shoalhaven City Council  |
| <b>NAME</b>                     | Planning Proposal to amend Shoalhaven LEP 2014 to permit an adjustment of boundaries for Lots 21 and 22 DP 1113675 and Lot 202 DP 1180659. |
| <b>NUMBER</b>                   | PP_2019_SHOAL_005_00   |
| <b>LEP TO BE AMENDED</b>        | Shoalhaven Local Environmental Plan 2014   |
| <b>ADDRESS</b>                  | 16A and 16B Appleberry Close Bomaderry and 1095 Meroo Road, Meroo Meadow   |
| <b>DESCRIPTION</b>              | Lots 21 and 22 DP 1113675 and Lot 202 DP 1180659   |
| <b>RECEIVED</b>                 | 14 August 2019   |
| <b>FILE NO.</b>                 | IRF19/5879   |
| <b>POLITICAL DONATIONS</b>      | There are no donations or gifts to disclose and a political donation disclosure is not required.   |
| <b>LOBBYIST CODE OF CONDUCT</b> | There have been no meetings or communications with registered lobbyists with respect to this proposal.                                     |

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The Planning Proposal seeks to amend Clause 4.1G of Shoalhaven LEP 2014 to permit boundary adjustments between 16A (Lot 21) and 16B (Lot 22) Appleberry Close, Bomaderry and 1095 (Lot 202) Meroo Road, Meroo Meadow, while not allowing the creation of additional lots or dwelling entitlements.

### 1.2 Site description

The subject area is located on the boundary of the Meroo Meadow/Bomaderry localities at the end of Appleberry Close (Figure 1).

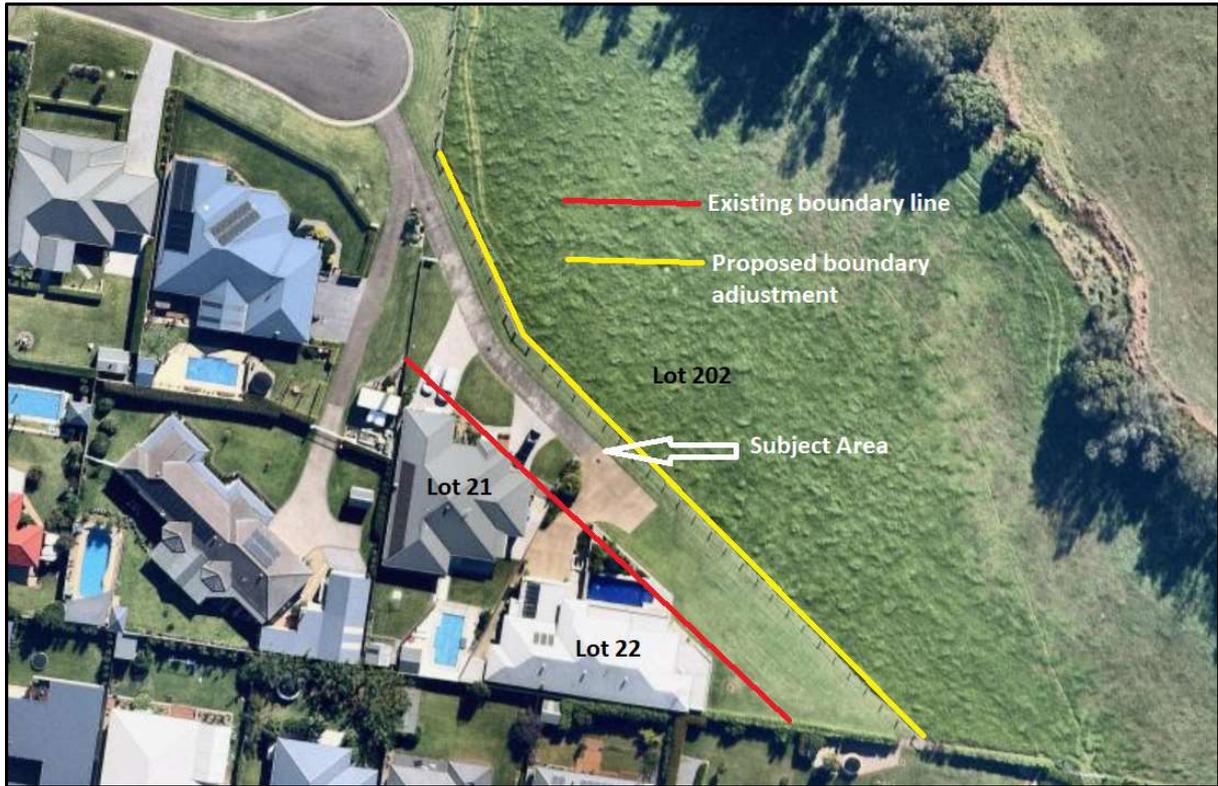


Figure 1 Aerial Photo

### 1.3 Existing planning controls

Lots 21 and 22 are zoned RI general residential while the adjoining parcel, being Lot 202 DP 1180659 is zoned RU2 rural landscape (Figure 2).

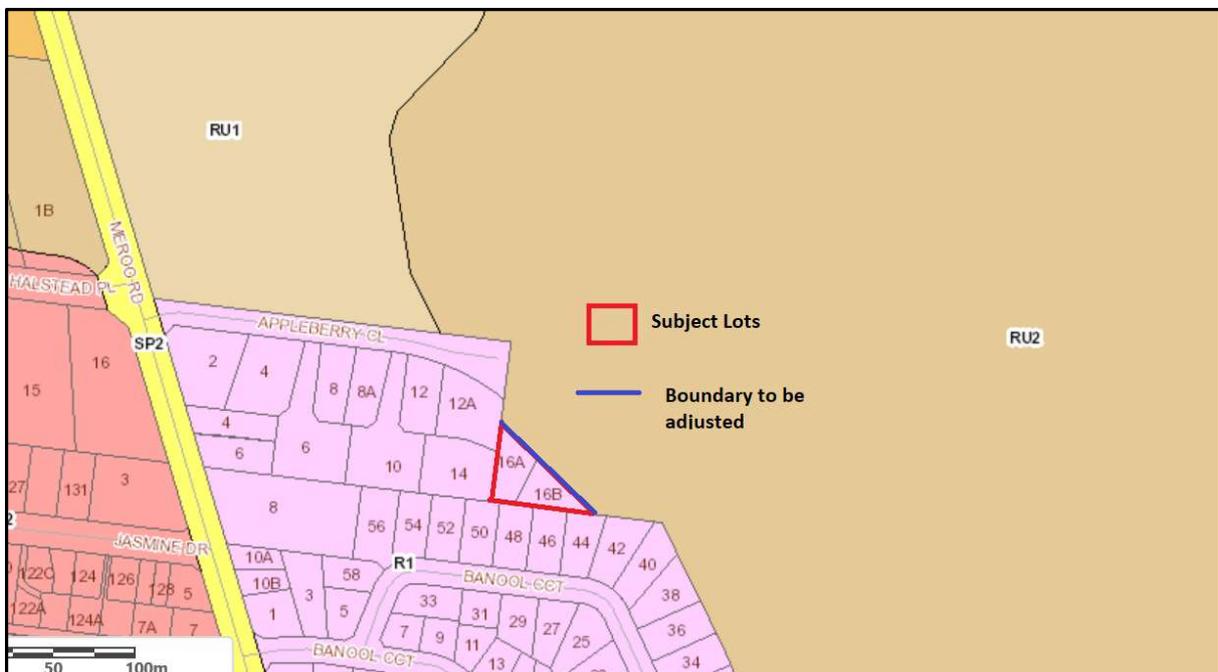


Figure 2 Shoalhaven Local Environmental Plan 2014

## 1.4 Surrounding area

The subject site is located approximately 5km North of the Nowra CBD and is surrounded by residential uses to the west and south and rural uses to the north and east (Figure 3).

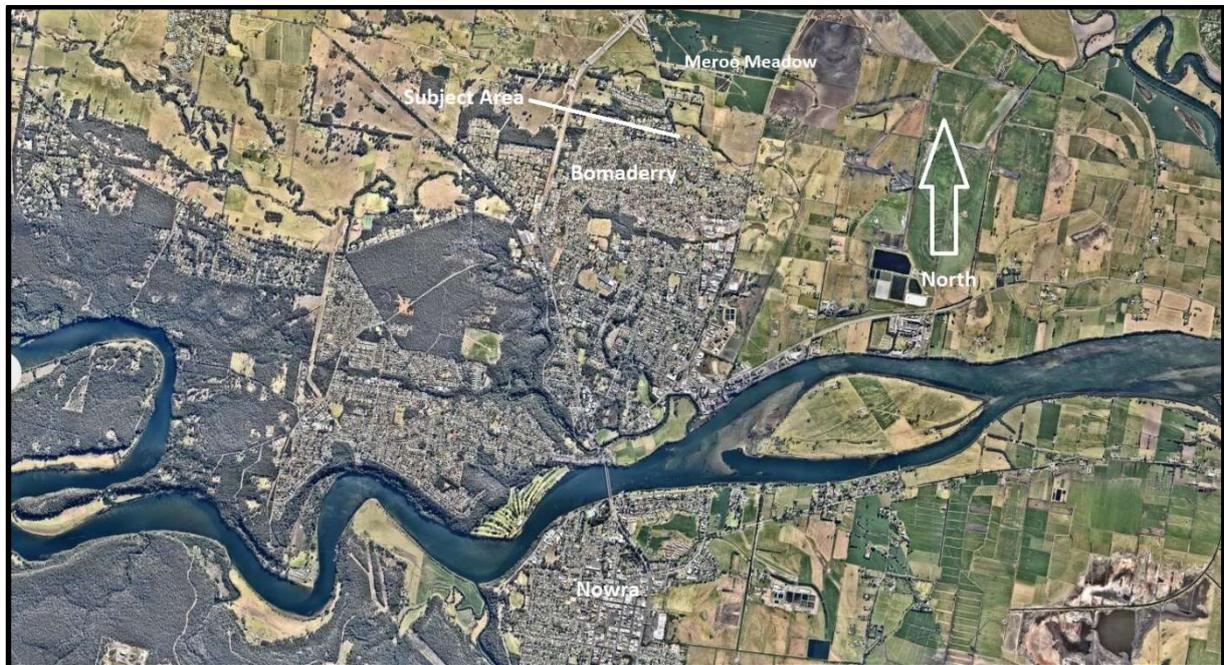


Figure 3 Location Map

## 1.5 Summary of recommendation

It is recommended that the planning proposal proceed to Gateway determination as proposed because:

- a) The proposal is of a minor nature and is resolving an existing issue;
- b) There are no significant social, environmental or economic impacts; and
- c) The proposal will enable the residents of Lots 21 and 22 to gain ownership of the access handles and open space easement to their properties.

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The intended outcome of the proposal is to amend Shoalhaven LEP 2014 to enable a boundary adjustment between Lots 21 and 22 DP 1113675 and Lot 202 DP 1180659, while not allowing the creation of additional lots or dwelling entitlements. This will enable Lots 21 and 22 to own the access and private open space associated with their properties, as opposed to it being secured by covenants over land in another ownership, as currently exists.

It is considered that the objectives and intended outcomes of the planning proposal are clear and adequate.

### 2.2 Explanation of provisions

The Planning Proposal aims to achieve the intended outcome by amending Shoalhaven LEP 2014, Clause 4.1G as shown below to include the affected land (new paragraphs shown in blue):

#### **4.1G Minimum subdivision lot size for boundary adjustments on certain land at Werrigee**

- 1) *The objectives of this clause are as follows:*
  - a) *To permit boundary adjustment subdivision between existing lots where one or more of the resulting lots would be less than the minimum subdivision lot size,*
  - b) *To ensure that the subdivision does not create additional lots or additional opportunities for dwelling houses,*
  - c) *To ensure that the boundary adjustment subdivision will result in:*
    - i) *A minimisation or further fragmentation and alienation of resource lands or lands with natural or ecological values,*
    - ii) *The minimisation of land use conflict,*
    - iii) *The maintenance of the rural character, environmental heritage and scenic quality of the land.*
- 2) *This clause applies to the following land:*
  - a) *At Werrigee:*
    - i) *15 Aldous Place, being Lot 2, DP 1213693,*
    - ii) *23A Aldous Place, being Lot 586 DP 1048099,*
    - iii) *369 Werrigee Road, being Lot 587 DP 1048099.*
  - b) *At Meroo Meadow and Bomaderry:*
    - i) *1095 Meroo Road, Meroo Meadow, being Lot 202 DP 1180659,*
    - ii) *16A Appleberry Close, Bomaderry, being Lot 21 DP 1113675,*
    - iii) *16B Appleberry Close, Bomaderry, being lot 22 DP 1113675.*
- 3) *Despite clause 4.1, development consent may be granted for a subdivision that consists of an adjustment of the boundaries between existing lots where the size of one or more of the resulting lots will be less than the minimum lot size shown on the Lot Size Map in relation to those lots, if:*
  - a) *The subdivision will not result in the creation of any additional lots or the opportunity for additional dwellings (or both), and*
  - b) *The subdivision will minimise the further fragmentation and alienation of resource lands or lands with natural and ecological values, and*
  - c) *The subdivision is likely to minimise actual or potential land use conflict, and*
  - d) *The subdivision is not likely to adversely affect the rural character, environmental heritage or scenic quality of the land, and*
  - e) *In the case of land referred to in subclause (2)(b), the area of at least one of the lots has an area greater than 37.1 ha and does not include any land within zone R1 General Residential.*

The proposed amendments are clear and it is considered that the explanation of provisions is adequate.

#### **2.3 Mapping**

The Planning Proposal will not result in amendments to LEP maps.

### **3. NEED FOR THE PLANNING PROPOSAL**

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Prior to the adoption of the Nowra Bomaderry Structure Plan (NBSP), the subject area (see figure 1) was part of a road corridor for the proposed Northern Industrial Road. However, the adopted NBSP removed this road, resulting in dwellings on Lots 21 and 22 DP 1113675 being subsequently approved. As these lots did not contain

road access, an easement was placed over the adjoining rural land to enable road access to the dwellings. The land remained in the ownership of the adjoining rural land holder. The affected area, although zoned RU2, is not able to be used for rural purposes as a result of the access and open space easement for 16A and 16B Appleberry Close.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional / District**

Due to the minor nature of the planning proposal which does not allow further development, Council's view that the planning proposal is generally consistent with the Illawarra Shoalhaven Regional Plan is supported.

### **4.2 Local**

The planning proposal will not alter the boundary of the Bomaderry urban area as identified in the Nowra-Bomaderry Structure Plan.

The planning proposal is not inconsistent with the following local strategic planning framework documents; Nowra-Bomaderry Structure Plan; Shoalhaven Growth Management Strategy, and the Shoalhaven Community Strategic Plan due to its minor nature.

### **4.3 Section 9.1 Ministerial Directions**

Due to the minor nature of the planning proposal it is not inconsistent with the following applicable Section 9.1 Ministerial Directions - Direction 1.5 Rural Lands; Direction 2.1 Environmental Protection Zones; Direction 3.1 Residential Zones; Direction 4.1 Acid Sulphate Soils; Direction 4.3 Flood Prone Land; Direction 5.2 Sydney Drinking Water Catchment; Direction 5.10 Implementation of Regional Plans; Direction 6.1 Approval and Referral Requirements; Direction 6.2 Reserving Land for Public Purposes and Direction 6.3 Site Specific Provisions.

### **4.4 State environmental planning policies (SEPPs)**

Councils view that the planning proposal is not inconsistent with relevant and applicable SEPPs is supported due to the minor nature of the proposal.

Council has identified a number of SEPPs in Attachment 2 that have been repealed, namely SEPP 30 Intensive Agriculture; SEPP 62 Sustainable Aquaculture; SEPP BASIX 2004; SEPP Urban Renewal 2010. It is recommended that the planning proposal is updated to reflect current SEPPs before proceeding to public exhibition.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

No additional lots or dwelling entitlements will be created as a result of this planning proposal. As the proposal is resolving an existing situation and no additional dwelling entitlements will be created, there will be no social impacts as a result of this planning proposal.

### **5.2 Environmental**

The land is not identified as critical habitat. The subject area has previously been cleared for pasture farming purposes and does not contain any native vegetation communities or significant habitat features. Current use of the subject area has resulted in the land being cleared and developed for residential purposes with no threatened species, populations or ecological communities or their habitats identified.

### **5.3 Economic**

The economic impacts of the proposal will be restricted to the landowners. There will not be an increase on infrastructure as a result of this planning proposal. Existing sewer, water, electricity telecommunications and stormwater will be maintained. The planning proposal will not result in any additional road infrastructure requirements.

## **6. CONSULTATION**

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### **6.1 Community**

It is proposed to exhibit the planning proposal for a period of 28 days. Public notification of the exhibition will include local newspapers, notice on Council's website and hard copies available at Council's administration building.

### **6.2 Agencies**

The proposal is minor and will not require agency consultation.

## **7. TIME FRAME**

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Council proposed to complete the process by February 2020.

It is considered that a 12-month timeframe from the date of the Gateway determination to finalise the LEP amendment is appropriate.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested in the planning proposal to be authorised as the local plan making authority. Due to the simple, local nature of the proposal it is considered that Council's request should be supported.

## **9. CONCLUSION**

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The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal is consistent with relevant state, regional and local planning frameworks;
- no additional dwelling entitlements will be created;
- the subject area cannot be used for rural purposes as a result of the access and open space covenants for Lots 21 and 22;
- the outcome of the proposal will result in Lots 21 and 22 owning the access and private open space associated with their land.

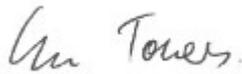
## **10. RECOMMENDATION**

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It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
3. Given the nature of the planning proposal, Council should be the local plan-making authority.

4. Reference to superseded State Environmental Planning Policies in Attachment 2 of the planning proposal should be removed prior to any public notification.



10/09/19

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10/09/2019

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