

# PLANNING PROPOSAL – PP046

## Shoalhaven Local Environmental Plan 2014

### Appleberry Close, Meroo Meadow - Boundary Adjustment

Prepared by  
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Shoalhaven City Council

File: 60461E

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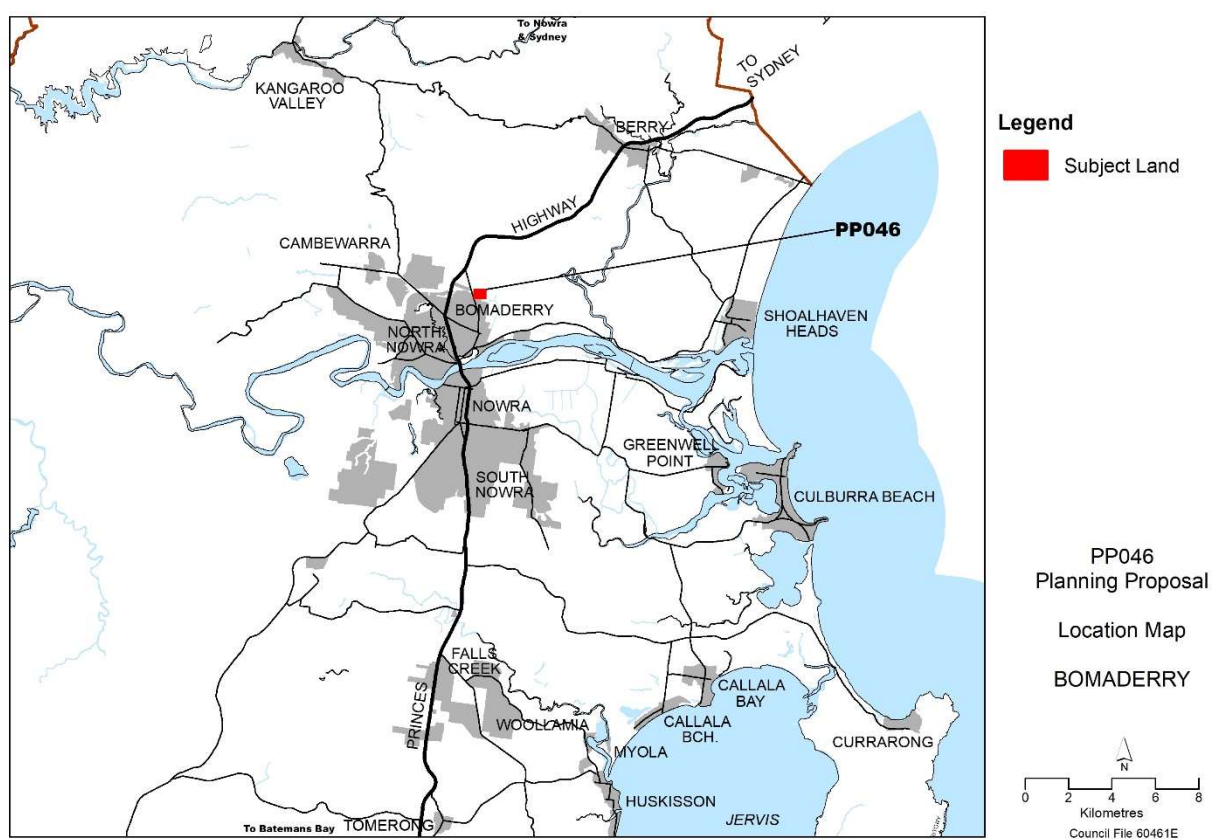
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## 1 Introduction

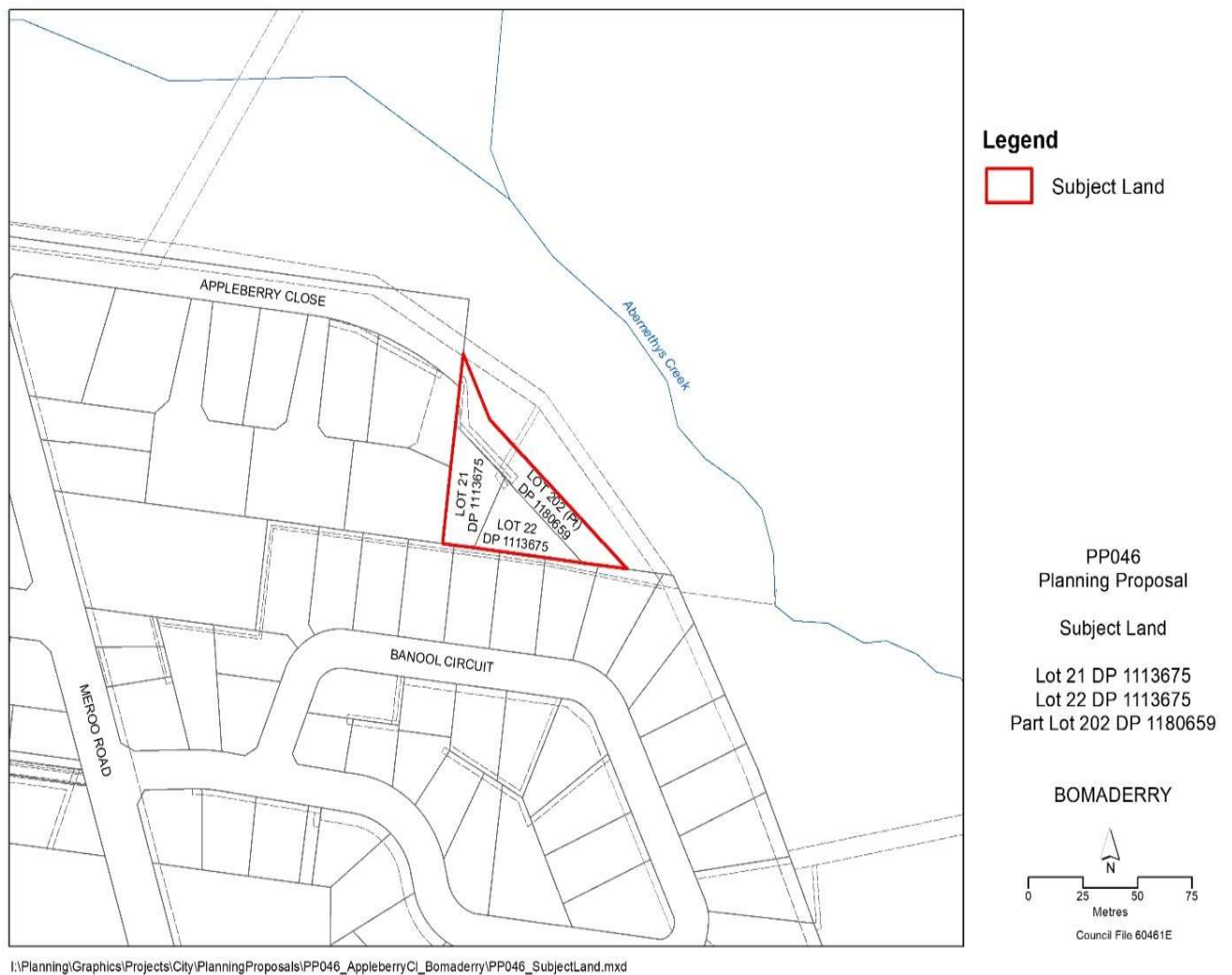
This Planning Proposal (PP) seeks to amend Shoalhaven Local Environmental Plan (LEP) 2014 to permit an adjustment of the boundaries between Lots 21 and 22 DP 1113675 and Lot 202 DP 1180659. This will allow Lots 21 and 22 to own their access handles and private open space, as opposed to it being secured by covenants over land in another ownership (Lot 202 DP 1180659) as is currently the case.

### 1.1 Subject Land

The subject land is located in the Meroo Meadow locality, at the end of Appleberry Close and comprises Lots 21 and 22, DP 1113675 and Part of Lot 202 DP 1180659. Maps showing the location of the land are provided below:



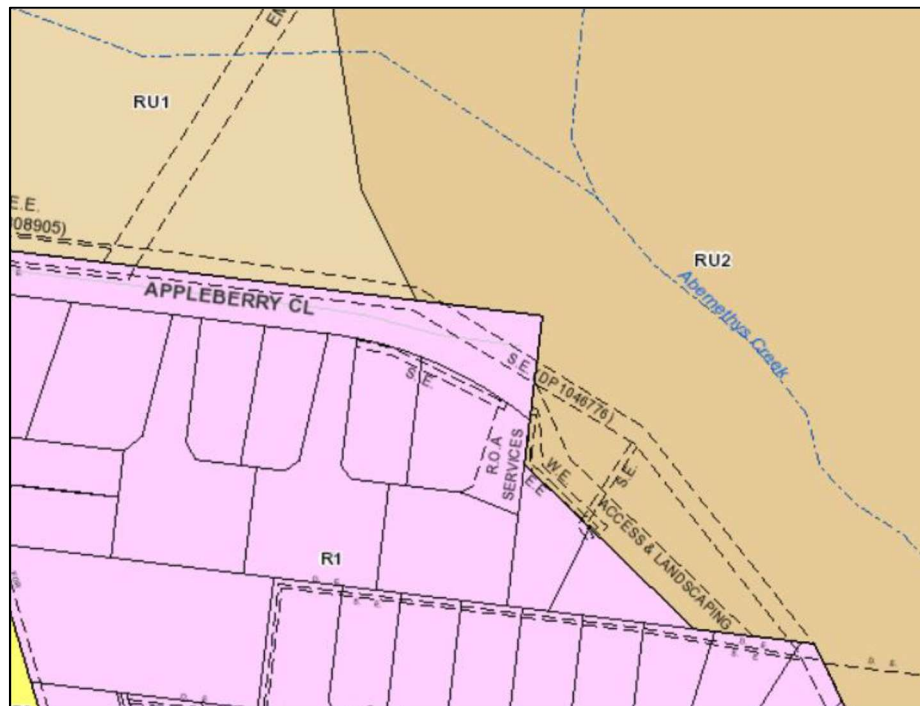
**Figure 1: Locality Map**



**Figure 2: Subject Land Map**

The subject land comprises Lots 21 and 22 DP 1113675, which are currently zoned R1 - General Residential under the Shoalhaven LEP 2014, and part of Lot 202 DP 1180659, which is zoned RU2 – Rural Landscape under the LEP. Lot 202 DP 1180659 is a larger rural lot that is subject to covenants (access, landscaping etc) benefiting the smaller residential lots.

The following map shows the zoning of the subject land the immediate area:



**Figure 3: Current Land Use Zones Map**

Both residential lots (Lots 21 and 22) are occupied by an existing approved dwelling. The covenants over the rural lot give Rights of Carriageway and use of the land for private open space to the smaller lots.

Lot 21 – has an existing area of 831 m<sup>2</sup> and is owned by Duncan Brown

Lot 22 – has an existing area of 761 m<sup>2</sup> and is owned by Peter Russell

Lot 202 – has an existing overall area of 37.29 ha and is owned by Allan Wallace

An aerial photograph of the subject land is provided below:





Figure 4: Aerial Photo

## 1.2 Background

Prior to the adoption of the Nowra-Bomaderry Structure Plan (NBSP) in 2007, the subject land was originally part of a road corridor for the proposed “Northern Industrial Road”. This road was intended to provide a new road for industrial traffic to avoid the residential areas of Bomaderry and a perimeter road for the residential area north of Edwards Avenue and east of Merroo Road. Some of the subdivisions in this area considered the alignment of the proposed road.

The NBSP process reconsidered the suitability of adjoining rural land which is flood affected and the need for the proposed road. The adopted NBSP did not include the “Northern Industrial Road” and identified the land as a “Scenic Protection Area”. The dwellings on Lots 21 and 22 were subsequently approved.

The decision not to proceed with the “Northern Industrial Road” did not, however, resolve the awkward geometry of these lots, nor did it provide road access to them. These issues were resolved by easements over the adjoining rural land.

This PP seeks to allow boundary adjustments so that each of the residential lots will own its access handle and private open space, as opposed to it being located on land in another ownership as is currently the case.

The PP seeks specifically ensure that no additional residential or dwelling entitlements will be created.

The PP was considered by Council’s Development and Environment Committee on 4 June 2019, at which it was resolved:

1. *Support the Planning Proposal to permit a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659 provided no additional lots or dwelling*



- entitlements will be created, and the mechanism to achieve this outcome be determined in consultation with the NSW Department of Planning and Environment.*
2. *Prepare and submit the Planning Proposal documentation to the NSW Department of Planning and Environment for Gateway determination, and dependent on the outcome proceed to exhibit the PP and report back to Council post-exhibition.*
  3. *Advance as a 'minor' proponent-initiated Planning Proposal and fees be charged in accordance with Council's adopted Fees and Charges.*
  4. *Advise the proponent of this resolution.*

## 2 Part 1 –Intended Outcome

The intended outcome of this PP is to amend Shoalhaven LEP 2014 to permit an adjustment of the boundaries between Lots 21 and 22 DP 1113675 and Lot 202 DP 1180659, while not allowing the creation of any additional lots or dwelling entitlements. This will allow Lots 21 and 22 to own their access handles and private open space, as opposed to it being secured by covenants over land in another ownership as is currently the case.

## 3 Part 2 – Explanation of Provisions

To ensure that no additional lots or dwelling entitlements are created, it is proposed to amend Clause 4.1G of Shoalhaven LEP 2014 as shown below, with deletions in red and additions in green.

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

(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 of 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 Worrige:**

- (i) 15 Aldous Place, being Lot 2, DP 1213693,**
- (ii) 23A Aldous Place, being Lot 586, DP 1048099,**
- (iii) 369 Worrige Road, being Lot 587, DP 1048099.**

**(b) at Merro Meadow and Bomaderry:**

- (i) 1095 Merro Rd, Merro Meadow, being Lot 202 DP 1180659,**
- (ii) 16A Appleberry Cl, Bomaderry, being Lot 21 DP 1113675,**
- (iii) 16B Appleberry Cl, 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 boundaries between existing lots where the size of one or more of the resulting lots will be less than the minimum subdivision 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.*

## **4 Part 3 – Justification**

### **4.1 Need for the Planning Proposal (Section A)**

#### **4.1.1 Is the Planning Proposal a result of any strategic study or report?**

No. The proposal seeks to enable a minor realignment of allotment boundaries and is not the type of proposal that would ordinarily result from a strategic study or report.

#### **4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Currently, Shoalhaven LEP 2014 does not permit the proposed boundary adjustment subdivision. A PP is required to permit this development. The recommended clause is considered to be the most appropriate means to achieve this because it uses an existing clause that was established for this type of situation. Council remains open to an alternative mechanism if a better way is available.

### **4.2 Relationship to strategic planning framework (Section B)**

#### **4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The proposal is minor and does not result in any inconsistency with these strategies.

#### **4.2.2 Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

➤ Shoalhaven City Council's Integrated Strategic Plan

The proposal is minor and does not result in any inconsistency with this plan.

#### **4.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?**

The proposal is minor and does not result in any inconsistency with any SEPP. A SEPP checklist is attached to this PP.

#### **4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The proposal is minor and does not result in any inconsistency with any Ministerial Direction. The proposed site-specific clause is an extension to an existing clause and is not a new provision. A checklist of s.9.1 Ministerial Directions is attached to this PP.

### **4.3 Environmental, Social and Economic Impact (Section C)**

#### **4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposal is minor and will not result in any adverse environmental impacts.

#### **4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

The proposal is minor and will not result in any adverse environmental impacts.

#### **4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?**

The proposal is minor and will not result in any adverse social or economic effects.

### **4.4 State and Commonwealth Interests (Section D)**

#### **4.4.1 Is there adequate public infrastructure for the Planning Proposal?**

The proposal is minor and will not require an additional public infrastructure.

#### **4.4.2 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The proposal is minor and will not require any agency consultation.

## **5 Part 4 – Mapping**

No mapping changes are required.

## 6 Part 5 - Community Consultation

Council proposes to exhibit the PP in accordance with the requirements of the Gateway determination. It is intended that an exhibition period of 28 days apply.

Public notification of the exhibition would include notification in the local newspapers, and a notice on Council's website. Hard copies of the PP would be made available at Council's Administrative Building in Nowra.

## 7 Part 6 – Project Timeline

The anticipated timeline for the PP

**Table 1 - Project tasks and timeline**

| <b>Task</b>                                       | <b>Anticipated Timeframe</b> |
|---|------------------------------|
| Commencement date (date of Gateway determination) | August 2019                  |
| Completion of Gateway determination requirements  | September 2019               |
| Public exhibition                                 | October 2019                 |
| Consideration of submissions                      | November 2019                |
| Post exhibition consideration of PP               | December 2019                |
| Finalisation and notification of Plan             | February 2020                |

**Attachment 1: Request for delegation of plan making functions to Council**

**Local Government Area:**

Shoalhaven City Council

**Name of draft LEP:**

Shoalhaven Local Environmental Plan 2014

PP046 Appleberry Close, Meroo Meadow - Boundary Adjustment

**Address of Land (if applicable):**

The subject land is Lots 21 and 22, DP 1113675 and Part of Lot 202 DP 1180659

**Intent of draft LEP:**

The PP seeks to permit a boundary adjustment of the subject land.

**Additional Supporting Points/Information:**

| <b>Evaluation criteria for the issuing of an Authorisation</b>   | <b>Council Response</b> |                     | <b>Department Assessment</b> |                  |
|--|-------------------------|---------------------|------------------------------|------------------|
|  | <b>Y/N</b>              | <b>Not relevant</b> | <b>Agree</b>                 | <b>Not agree</b> |
| <b>(Note: where the matter is identified as relevant and the requirement has not been met, Council is attach information to explain why the matter has not been addressed)</b> |                         |                     |                              |                  |
| Is the PP consistent with the Standard Instrument Order, 2006?   | Y                       |                     |                              |                  |
| Does the PP contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?   | Y                       |                     |                              |                  |
| Are appropriate maps included to identify the location of the site and the intent of the amendment?  | Y                       |                     |                              |                  |
| Does the PP contain details related to proposed consultation?  | Y                       |                     |                              |                  |
| Is the PP compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?  | Y                       |                     |                              |                  |
| Does the PP adequately address any consistency with all relevant S9.1 Planning Directions?   | Y                       |                     |                              |                  |
| Is the PP consistent with all relevant State Environmental Planning Policies (SEPPs)?  | Y                       |                     |                              |                  |
| <b>Minor Mapping Error Amendments</b>  |                         |                     |                              |                  |
| Does the PP seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?        | N                       | NA                  |                              |                  |
| <b>Heritage LEPs</b>   |                         |                     |                              |                  |
| Does the PP seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?  | N                       | NA                  |                              |                  |
| Does the PP include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?  | N                       | NA                  |                              |                  |
| Does the PP potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?  | N                       |                     |                              |                  |



| <b>Reclassifications</b>  |   |    |  |  |
|---|---|----|--|--|
| Is there an associated spot rezoning with the reclassification?   | N | NA |  |  |
| If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?  | N | NA |  |  |
| Is the PP proposed to rectify an anomaly in a classification?   | N | NA |  |  |
| Will the PP be consistent with an adopted POM or other strategy related to the site?  | N | NA |  |  |
| Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?   | N | NA |  |  |
| If so, has Council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the PP?  | N | NA |  |  |
| Has the Council identified that it will exhibit the PP in accordance with the Department's Practice Note (PN09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land? | N | NA |  |  |
| Has Council acknowledged in its PP that a Public Hearing will be required and agree to hold one as part of its documentation?   | N |    |  |  |
| <b>Spot Rezoning</b>  |   |    |  |  |
| Will the proposal result in a loss of development potential for the site (i.e. reduced FSR or building height) that is not supported by an endorsed strategy?   | N |    |  |  |
| Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?  | N |    |  |  |
| Will the PP deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?  | N |    |  |  |
| If yes, does the PP contain sufficient documented justification to enable the matter to proceed?  | N |    |  |  |
| Does the PP create an exception to a mapped development standard?   | N |    |  |  |
| <b>Section 73A matters</b>  |   |    |  |  |
| Does the proposed instrument:   |   |    |  |  |

|  |   |  |  |  |
|--|---|--|--|--|
| <p>a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;</p> <p>b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?;</p> <p>c. Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> | N |  |  |  |
|--|---|--|--|--|

**1. Any other relevant documentation e.g. letters of support from State Government agencies.**

**Attachment 2: Checklist of State Environmental Planning Policies (SEPPs)**

| SEPP | Name  | Applicable               | Not inconsistent         |
|------|---|--------------------------|--------------------------|
|      |   | □ / □                    | □ / n/a                  |
| 21   | Caravan parks   | <input type="checkbox"/> |                          |
| 26   | Littoral rainforests  | <input type="checkbox"/> |                          |
| 30   | Intensive agriculture   | <input type="checkbox"/> |                          |
| 33   | Hazardous and Offensive development                               | <input type="checkbox"/> |                          |
| 36   | Manufactured home estates   | <input type="checkbox"/> |                          |
| 44   | Koala habitat protection  | <input type="checkbox"/> | <input type="checkbox"/> |
| 50   | Canal estate development  | <input type="checkbox"/> |                          |
| 52   | Farm Dams and Other Works in Land and Water Management Plan Areas | <input type="checkbox"/> |                          |
| 55   | Remediation of land   | <input type="checkbox"/> | <input type="checkbox"/> |
| 62   | Sustainable aquaculture   | <input type="checkbox"/> | <input type="checkbox"/> |

|    |   |                          |  |
|----|---|--------------------------|--|
| 64 | Advertising and signage                                     | <input type="checkbox"/> |  |
| 65 | Design quality of residential apartment development         | <input type="checkbox"/> |  |
| 70 | Affordable Housing (Revised Schemes)                        | <input type="checkbox"/> |  |
|    | Coastal Management 2018                                     | <input type="checkbox"/> |  |
|    | Affordable Rental Housing 2009                              | <input type="checkbox"/> |  |
|    | BASIX : 2004  | <input type="checkbox"/> |  |
|    | Educational Establishments and Child Care Facilities 2017   | <input type="checkbox"/> |  |
|    | Exempt and Complying Development Codes 2008                 | <input type="checkbox"/> |  |
|    | Housing for Seniors or People with a Disability 2004        | <input type="checkbox"/> |  |
|    | Infrastructure 2007   | <input type="checkbox"/> |  |
|    | Mining, Petroleum Production and Extractive Industries 2007 | <input type="checkbox"/> |  |
|    | State and Regional Development 2011                         | <input type="checkbox"/> |  |
|    | State Significant Precincts 2005                            | <input type="checkbox"/> |  |
|    | Sydney Drinking Water Catchment 2011                        | <input type="checkbox"/> |  |
|    | Urban Renewal 2010  | <input type="checkbox"/> |  |
|    | Vegetation in Non-Rural Areas 2017                          | <input type="checkbox"/> |  |

### Attachment 3: Checklist of s.9.1 Ministerial Directions

| Direction                         |  | Applicable               | Relevant                 | Not inconsistent                       |
|-----------------------------------|--|--------------------------|--------------------------|--|
| <b>1 Employment and Resources</b> |  |                          |                          |  |
| 1.1                               | Business and Industrial Zones                          | <input type="checkbox"/> |                          |  |
| 1.2                               | Rural Zones  | <input type="checkbox"/> | <input type="checkbox"/> | It is not proposed to rezone the land. |
| 1.3                               | Mining, Petroleum Production and Extractive Industries | <input type="checkbox"/> |                          |  |
| 1.4                               | Oyster Aquaculture                                     | <input type="checkbox"/> |                          |  |
| <b>2 Environment and Heritage</b> |  |                          |                          |  |

|  |  |                          |                          |  |
|--|--|--------------------------|--------------------------|--|
| 2.1  | Environmental Protection Zones                                 | <input type="checkbox"/> | <input type="checkbox"/> | The land is not zoned environmental or identified as having environmental values in the LEP. |
| 2.2  | Coastal Management   | <input type="checkbox"/> |                          |  |
| 2.3  | Heritage Conservation  | <input type="checkbox"/> |                          |  |
| 2.4  | Recreation Vehicle Area  | <input type="checkbox"/> |                          |  |
| <b>3 Housing, Infrastructure and Urban Development</b> |  |                          |                          |  |
| 3.1  | Residential Zones  | <input type="checkbox"/> | <input type="checkbox"/> | Not inconsistent. This is discussed in detail in the PP.                                     |
| 3.2  | Caravan Parks and Manufactured Home Estates                    | <input type="checkbox"/> |                          |  |
| 3.3  | Home Occupations   | <input type="checkbox"/> |                          |  |
| 3.4  | Integrating Land Use and Transport                             | <input type="checkbox"/> |                          |  |
| 3.5  | Development Near Licensed Aerodromes                           | <input type="checkbox"/> |                          |  |
| 3.6  | Shooting Ranges  | <input type="checkbox"/> |                          |  |
| 3.7  | Reduction in non-hosted short term rental accommodation period | <input type="checkbox"/> |                          |  |
| <b>4 Hazard and Risk</b>                               |  |                          |                          |  |
| 4.1  | Acid Sulphate Soils  | <input type="checkbox"/> | <input type="checkbox"/> | The PP only seeks to enable a boundary adjustment. It will not intensify development.        |
| 4.2  | Mine Subsidence and Unstable Land                              | <input type="checkbox"/> |                          |  |
| 4.3  | Flood Prone Land   | <input type="checkbox"/> | <input type="checkbox"/> | The subject land is not identified as FPA.   |
| 4.4  | Planning for Bushfire Protection                               | <input type="checkbox"/> |                          |  |
| <b>5 Regional Planning</b>                             |  |                          |                          |  |
| 5.2  | Sydney Drinking Water Catchments                               | <input type="checkbox"/> |                          |  |

|                            |   |                          |                          |  |
|----------------------------|---|--------------------------|--------------------------|--|
| 5.10                       | Implementation of Regional Plans            | <input type="checkbox"/> | <input type="checkbox"/> | The PP is not inconsistent with the Illawarra-Shoalhaven Regional Plan.  |
| 5.11                       | Development of Aboriginal Land Council land | <input type="checkbox"/> |                          |  |
| <b>6 Local Plan Making</b> |   |                          |                          |  |
| 6.1                        | Approval and Referral Requirements          | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 6.2                        | Reserving Land for Public Purposes          | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 6.3                        | Site Specific Provisions                    | <input type="checkbox"/> | <input type="checkbox"/> | Not Boundary adjustment subdivisions are already permissible in the relevant zones (subject to development standards). Any inconsistency with this direction is of minor significance. |

#### Attachment 4: Council Report & Minutes

### New Proponent Initiated Planning Proposal – Appleberry Close, Meroo Meadow

#### Purpose / Summary

Present a new proponent-initiated Planning Proposal (PP) that has been received to enable a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659, Appleberry Close, Meroo Meadow, for consideration and obtain direction.

#### Recommendation (Item to be determined under delegated authority)

That Council:

1. Support the Planning Proposal to permit a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659 provided no additional lots or dwelling entitlements will be created, and the mechanism to achieve this outcome be determined in consultation with the NSW Department of Planning and Environment.
2. Prepare and submit the PP documentation to the NSW Department of Planning and Environment for Gateway determination, and dependent on the outcome proceed to exhibit the PP and report back to Council post-exhibition.
3. Advance as a 'minor' proponent-initiated Planning Proposal and fees be charged in accordance with Council's adopted Fees and Charges.
4. Advise the proponent of this resolution.

## Options

1. Proceed with the PP as recommended.

Implications: This will allow the tenure of the land to be resolved without any significant broader planning impacts. This option is recommended.

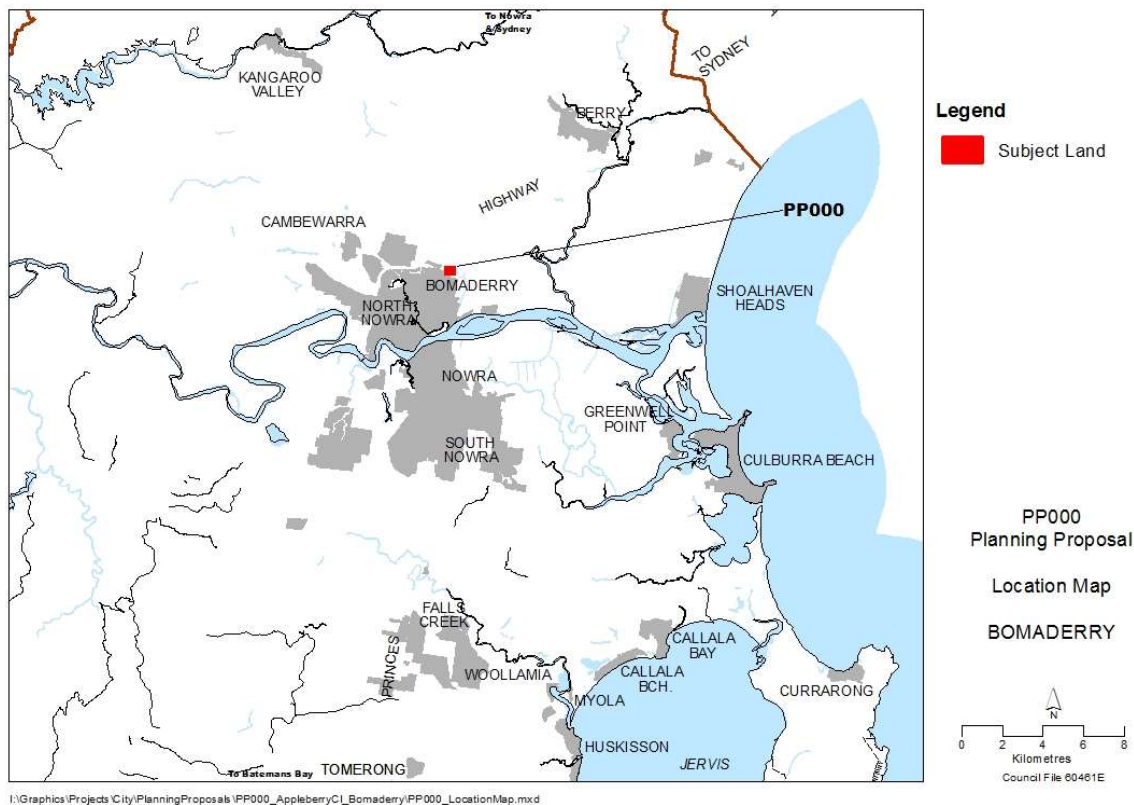
2. Not proceed with the PP.

Implications: The current, undesirable easement arrangements will continue for this land.

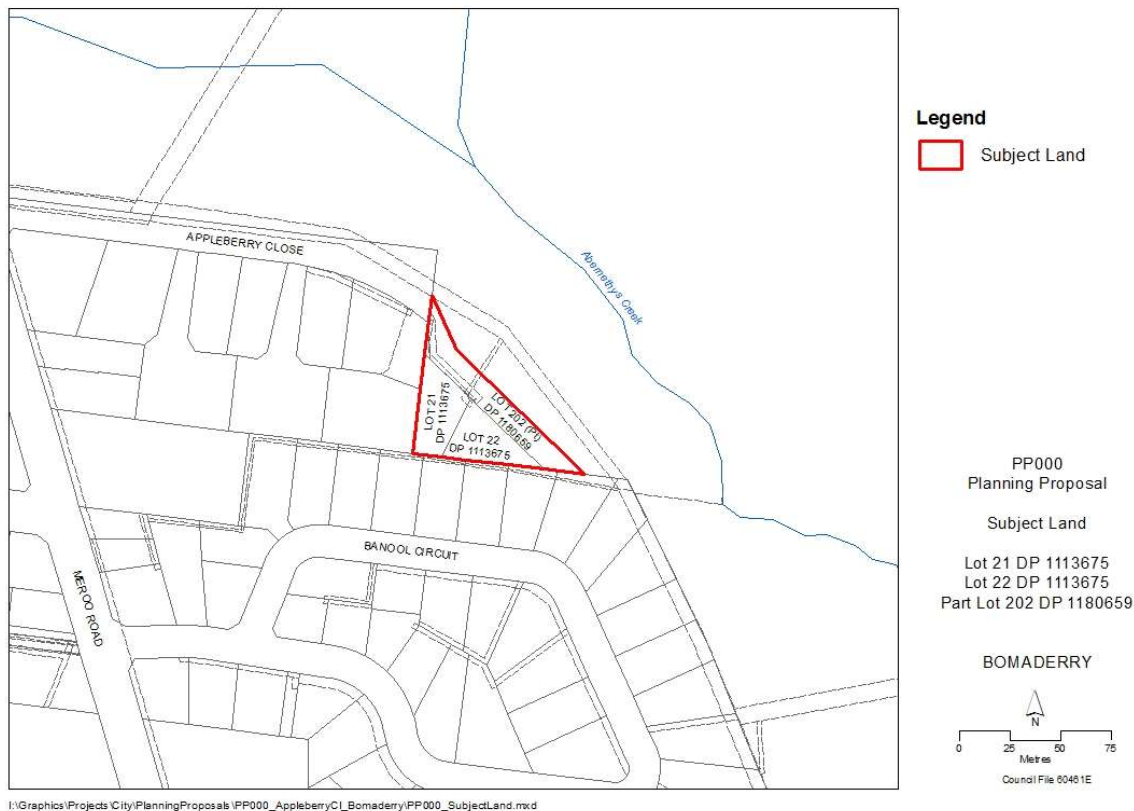
## Background

### The Subject Land

The subject land is located on the boundary of the Meroo Meadow/Bomaderry localities at the end of Appleberry Close and comprises Lots 21 & 22, DP 1113675 and Part of Lot 202 DP 1180659. Maps showing the location of the land are provided below:

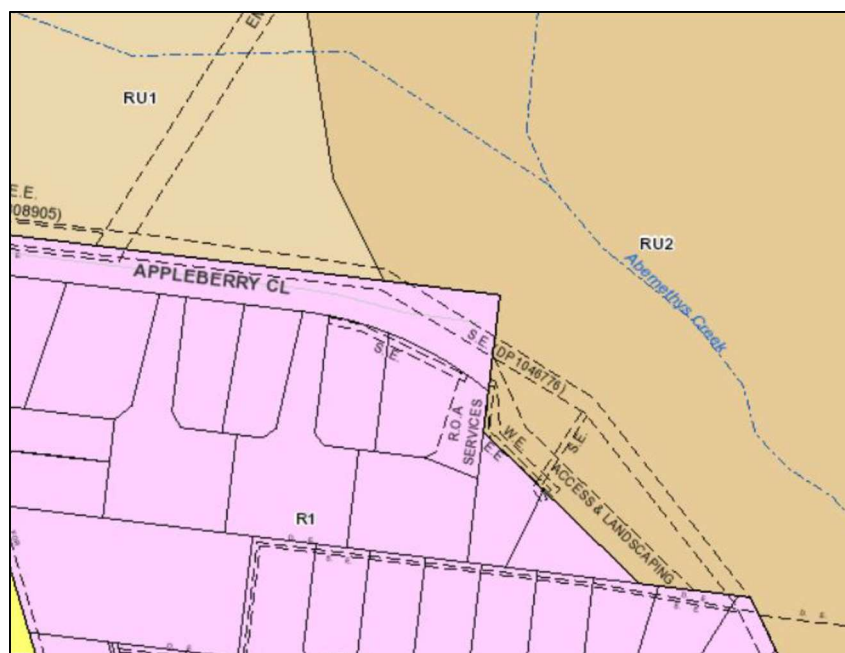






The subject land comprises Lots 21 and 22 DP 1113675, which are currently zoned R1 - General Residential under the Shoalhaven Local Environmental Plan (LEP) 2014, and part of Lot 202 DP 1180659, which is zoned RU2 – Rural Landscape under the LEP and is a larger rural lot that is subject to covenants (access, landscaping etc) benefiting the smaller residential lots.

The following map shows the zoning of the subject land the immediate area:



Each residential lot (Lots 21 & 22) is occupied by an existing approved dwelling. The covenants over the rural lot give Rights of Carriageway and use of the land for private open space to the smaller lots.

Lot 21 – has an existing area of 831 sq. metres and is owned by Duncan Brown

Lot 22 – has an existing area of 761 sq. metres and is owned by Peter Russell

Lot 202 – has an existing overall area of 37.29 ha and is owned by Allan Wallace

An aerial photograph of the subject land is provided below:



## Planning History

Prior to the adoption of the Nowra-Bomaderry Structure Plan (NBSP) in 2007, the subject land was originally part of a road corridor for the proposed “Northern Industrial Road”. This road was intended to provide a new road for industrial traffic to avoid the residential areas of Bomaderry and a perimeter road for the residential area north of Edwards Avenue and east of Meroo Road. Some of the subdivisions in this area considered the alignment of the proposed road.

The NBSP process reconsidered the suitability of adjoining rural land which is flood affected and the need for the proposed road. The adopted NBSP did not include the “Northern Industrial Road” and identified the land as a “Scenic Protection Area”. The dwellings on Lots 21 and 22 were subsequently approved.

The decision not to proceed with the “Northern Industrial Road” did not, however, resolve the awkward geometry of these lots, nor did it provide road access to them. These issues were resolved by easements over the adjoining rural land.

A PP request was submitted to Council on 5 February 2019 and can be accessed on Council's website at: <https://shoalhaven.nsw.gov.au/Planning-amp-Building/Strategic-planning/Planning-Proposals>

This PP seeks to allow boundary adjustments so that each of the residential lots will own its access handle and private open space, as opposed to it being located on land in another ownership as is currently the case. The PP was submitted by Allen Price & Scarratts Pty Ltd on behalf of the landowners.

The PP notes that no additional residential or dwelling entitlements will result from the proposed minor rezoning and extension of the existing residential zone.

### Strategic Planning Overview

A preliminary strategic planning assessment of the proposal is provided below:

#### *Shoalhaven Local Environmental Plan 2014*

The current provisions of Shoalhaven LEP 2014 do not permit a boundary adjustment of this nature to resolve this issue. The boundary adjustment would result in two undersized allotments within the rural zone and this is not permissible under the LEP. The land is not identified as a scenic protection area under the LEP.

#### *Nowra-Bomaderry Structure Plan 2007*

The NBSP mapping shows the land as being the boundary of urban Bomaderry with rural Merroo Meadow. It also shows the land as part of a "Scenic Protection Area".

The boundary adjustment that would be permitted by this PP will not significantly alter the intended boundary for Bomaderry's urban area nor will it change the visual character of the landscape given that the land is currently being used in association with the existing dwellings.

The PP is considered to be minor and not inconsistent with any provisions of this plan.

#### *Shoalhaven Growth Management Strategy 2012*

The GMS largely adopts the findings and provisions of the NBSP and does not contain any additional provisions that are relevant to this PP.

#### *Planning Proposal (Rezoning) Guidelines 2018*

Council's PP guidelines provide that Council is "more likely to support a PP request" if it meets one of three criteria of which, the third is "Council is satisfied that the proposed amendment is minor and has sound justification".

The subject PP will not result in any additional dwelling opportunities nor will it alter the pattern of development of the land. It is considered to be of a minor nature.

The PP will, however, provide a better outcome for the tenure of the land and this provides adequate justification for a PP of this nature.

The PP will not require any specialist studies and therefore classified as 'minor' under the PP guidelines.

### *NSW Guide to Preparing Planning Proposals*

The NSW Government's Guide to Preparing Planning Proposals provides an assessment framework for PPs. This framework requires the planning authority (Council) to consider several questions in determining the merit of a PP. These are considered below:

#### *Q1. Is the PP a result of any strategic study or report?*

The PP is not the result of a strategic study or report. The PP is minor and is not of a kind that would generally be identified in a broad strategic planning process.

#### *Q2. Is the PP the best means of achieving the intended outcome or is there a better way?*

The proposed boundary adjustments are prohibited under Shoalhaven LEP 2014. There is no State Environmental Planning Policy that provides a mechanism to permit the boundary adjustments. A PP is the only way to achieve the desired outcome.

The form of the plan amendment is to be determined in consultation with DP&E as part of the Gateway determination process. It is intended to find the best possible form for the PP before it is finalised.

#### *Q3. Is the PP consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategy)?*

The PP is minor and is not of a kind that would result in any inconsistencies with a regional, sub-regional or district plan or strategy.

#### *Q4. Is the PP consistent with a council's local strategy or other local strategic plan?*

As previously noted in this report, the PP is consistent with the NBSP and GMS.

#### *Q5. Is the PP consistent with applicable State Environmental Planning Policies?*

The PP is minor and not of a kind that would result in any inconsistencies with a State Environmental Planning Policy.

#### *Q6. Is the PP consistent with applicable Ministerial Directions?*

The PP is not inconsistent with any Ministerial Direction. In the drafting of any plan amendment, careful consideration will need to be given to Direction 6.3 Site Specific Provisions to ensure the detail of the instrument is consistent with this direction.

#### *Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The PP will not result in the removal of any native vegetation or habitat. No adverse biodiversity impacts are anticipated.

#### *Q8. Are there any other likely environmental effects as a result of the PP and how are they proposal to be managed.*



No adverse environmental impacts are anticipated.

*Q9. Has the PP adequately addressed any social and economic effects?*

No adverse social or economic effects are anticipated.

*Q10. Is there adequate public infrastructure for the PP?*

The PP will not give rise to any additional infrastructure needs.

*Q11. What are the views of the state and Commonwealth public authorities consulted in accordance with the gateway determination?*

No consultation has been undertaken at this early stage.

### Conclusion

The PP is minor and consistent with applicable State Government and Council policies and plans.

### Community Engagement

Adjoining and directly affected land owners were advised on the PP. One resident met with Council staff to discuss the PP but did not raise any concerns with it progressing further. No written submissions were sought or received.

Should the PP receive a favourable Gateway determination it will be formally publicly exhibited as part of the process.

### Policy Implications

The PP is consistent with Council's Planning Proposal (Rezoning) Guidelines.

### Financial Implications

The PP is proposed to be managed as a minor, proponent funded PP. It is to be funded by the proponent on a 100% cost recovery basis.

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## MINUTES

|                        |   |
|------------------------|---|
| <b>Subject:</b>        | Planning Proposal - Boundary Adjustment - Lots 21 & 22 DP 1113675 & Lot 202 DP 1180659 Meroo Meadow - Gateway Determination - Public Exhibition |
| <b>Target Date:</b>    | 04/07/2019  |
| <b>Notes:</b>          |   |
| <b>HPERM Reference</b> | 60461E  |
| <b>Related Report</b>  | D19/130924  |
| <b>Item Number</b>     | DE19.47   |

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**RESOLVED** (Clr Wells / Clr Gartner)

MIN19.378

That Council:

1. Support the Planning Proposal to permit a boundary adjustment between Lots 21 and 22 in DP 1113675 and Lot 202 in DP 1180659 provided no additional lots or dwelling entitlements will be created, and the mechanism to achieve this outcome be determined in consultation with the NSW Department of Planning and Environment.
2. Prepare and submit the Planning Proposal documentation to the NSW Department of Planning and Environment for Gateway determination, and dependent on the outcome proceed to exhibit the PP and report back to Council post-exhibition.
3. Advance as a 'minor' proponent-initiated Planning Proposal and fees be charged in accordance with Council's adopted Fees and Charges.
4. Advise the proponent of this resolution.

FOR: Clr Findley, Clr Gash, Clr White, Clr Wells, Clr Levett, Clr Aldrick, Clr Gartner, Clr Guile, Clr Pakes, Clr Watson, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Nil

CARRIED