

PLANNING PROPOSAL – PP047

Shoalhaven Local Environmental Plan 2014
Part of Lot 502 DP 1221372
C130 Princes Highway, Meroo Meadow

Prepared by
Planning, Environment & Development Group
Shoalhaven City Council

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- Attachment D – s9.1 Ministerial Direction Checklist
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1 Introduction

This Planning Proposal (PP) applies to part of Lot 502 DP 1221372, C130 Princes Highway, Merroo Meadow (the subject land). The subject land has a split zoning under Shoalhaven Local Environmental Plan (LEP) 2014, consisting of land zoned part: R1 General Residential, E3 Environmental Management and RU1 Primary Production. The PP seeks to amend Shoalhaven LEP 2014 as follows:

- Rezone the existing R1 General Residential component of Lot 502 to R5 Large Lot Residential.
- Amend the minimum lot size applying to the existing R1 General Residential zoned land from 500m² to 1500m².
- Apply a maximum building height of 8.5m over the existing R1 General Residential zoned land.

The remaining land zoned E3 Environmental Management and RU1 Primary Production will remain unchanged.

Council has been given delegation for plan making functions for this PP. The evaluation criteria for delegation is located at **Attachment A**.

This PP has been prepared in line with '*A Guide to preparing Local Environmental Plans*' and '*A Guide to preparing planning proposals*'.

1.1 Subject Land

The subject land is located north of Bomaderry, situated between the Princes Highway and the western end of Emerald Drive in the suburb of Merroo Meadow. The land is legally identified as part of Lot 502 DP 1221372 (formerly Lot 1 DP 130825) and is described as C130 Princes Highway, Merroo Meadow.

The subject land is currently zoned R1 General Residential and consists of an area of approximately 2.83 hectares. Surrounding land, making up the remainder of the lot is predominantly zoned E3 Environmental Management, with a small portion of RU1 Primary Production land located in the north western corner of the lot. There is an existing dwelling house located on the site, which is intended to be retained on a resulting lot as part of a future subdivision. The lot is skirted by the Princes Highway to the west and there is an established R2 Low Density Residential development located on Emerald Drive, to the east. A Council owned reserve is located to the south of the site and acts as a buffer between some existing residential land at Gardenia Estate. Land to the north of the site has a rural zone and character. **Figure 1, 2 and 3** shows the location of the subject land.

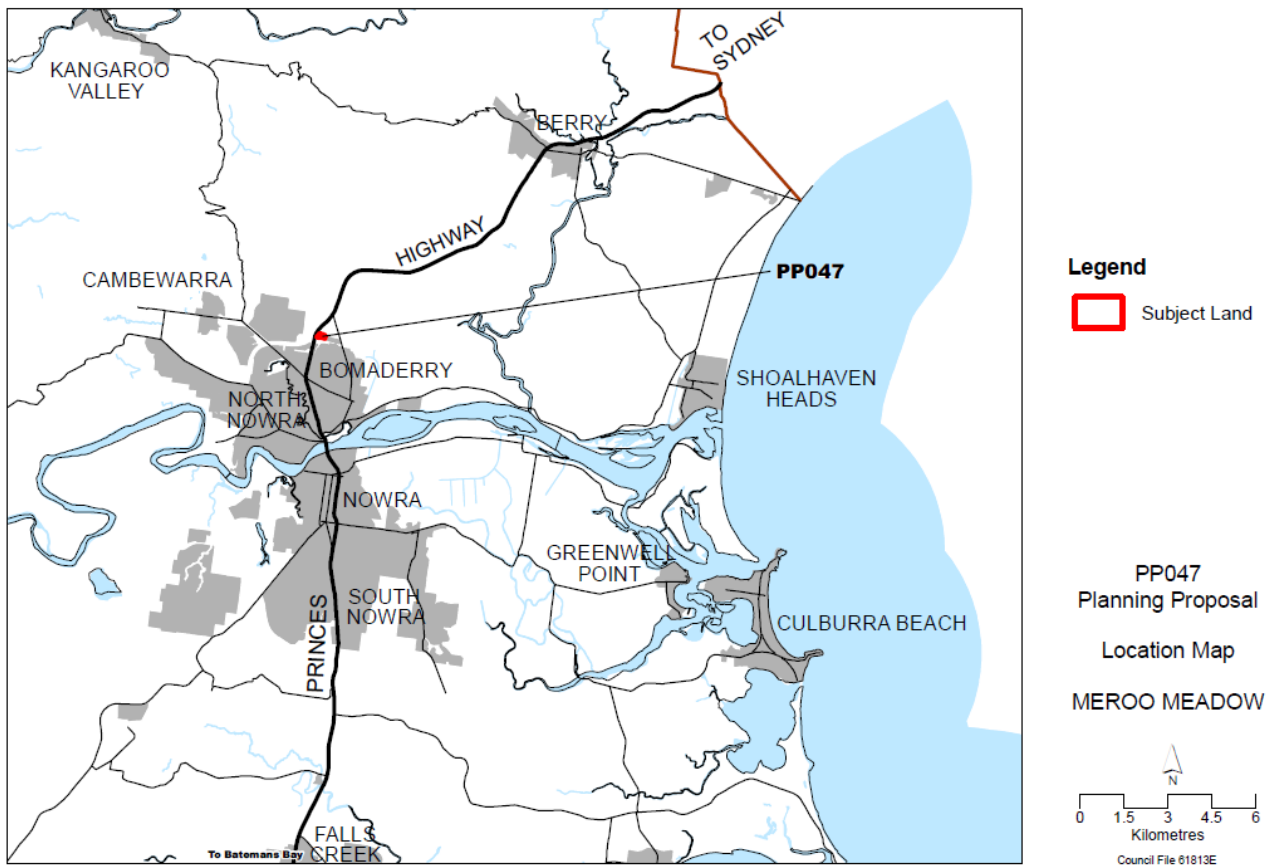


Figure 1: Location Map

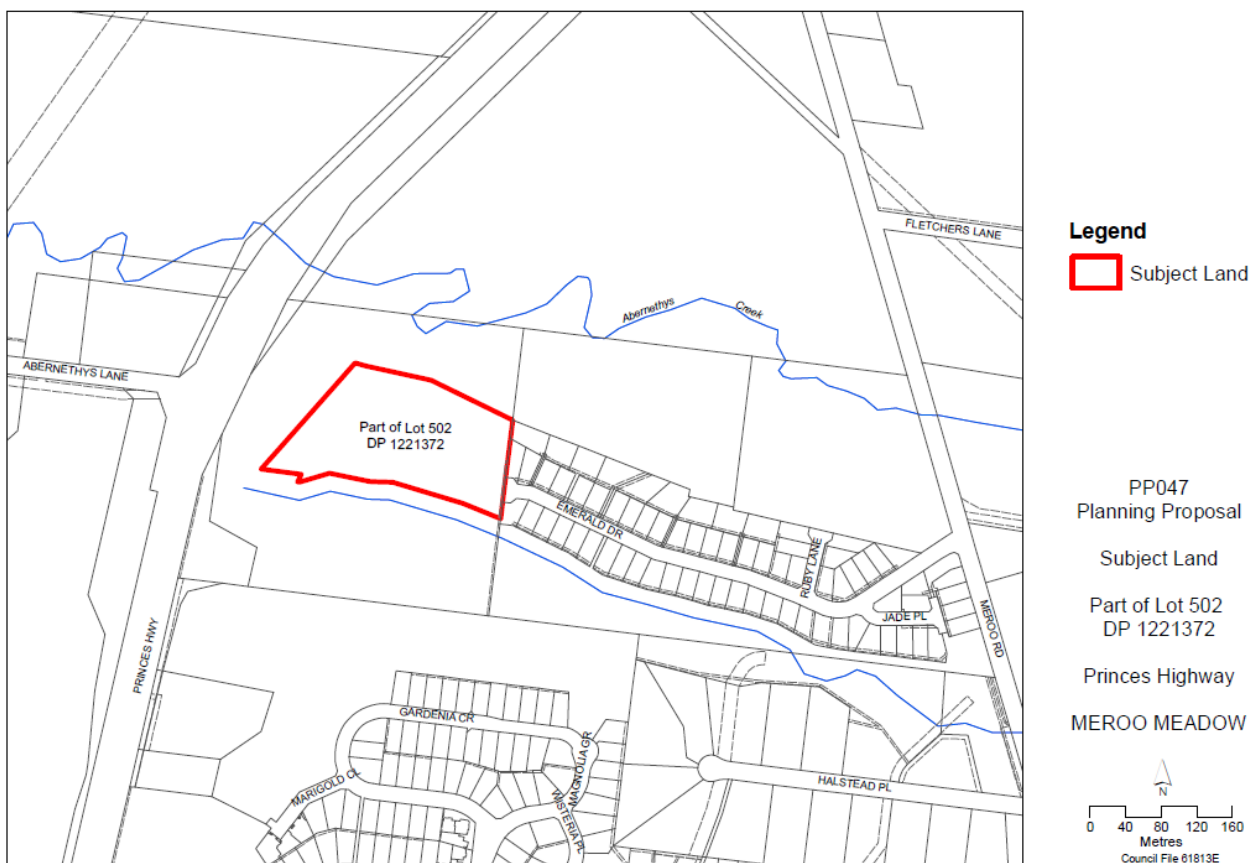


Figure 2: Subject Land



Figure 3: Aerial Photo

1.2 Background

There is considerable history associated with the site. Under Shoalhaven Local Environmental Plan 1985 the subject site was zoned 1(b) (Rural Arterial and Main Road Protection) Zone), however, the zoning was reconsidered and the R1 General Residential zone was adopted as part of the Shoalhaven LEP 2014 process following a number of rezoning requests.

Over time, a number of development applications (DAs) for subdivision have also been lodged over the site. These applications have all attracted considerable objection from adjoining residents, due to potential impacts associated with managing the future density of the land and relating to congestion and adverse impacts on the immediate road network.

There are a number of provisions under Part 4 Principal Development standards of Shoalhaven LEP 2014, which allow for subdivision of the land which would result in a lot less than the minimum lot size indicated on the Lot Size Map; they include the following provisions:

- Clause 4.1C Exceptions to minimum subdivision lot sizes for certain residential development; and
- Clause 4.1F Minimum subdivision lot size for community scheme and strata plan lots.

On Tuesday 6 August 2019, Council's Development and Environment Committee approved subdivision application (SF10541) for 15 residential lots over the site by way of a Deferred Commencement consent subject to a condition requiring preparation and lodgement of this

PP. The Committee also resolved (MIN19.532) to prepare this PP and submit it to the NSW Department of Planning, Industry and Environment (PIE) for a Gateway determination.

Refer to **Attachment B** for a copy of the Council report and associated resolution.

The creation of additional lots in excess of the 15 approved lots would have a significant and detrimental impacts on the safety and functioning of Emerald Drive and the Meroo Road intersection with Emerald Drive. The PP will resolve the concerns outlined above and also considered in the DA process.

2 Part 1 –Intended Outcome

The intended outcome of this PP is to rezone the subject land to facilitate large lot residential development. This will assist in managing the future density of the land to avoid congestion and adverse impacts on the immediate road network.

The PP intends to amend Shoalhaven LEP 2014 as follows:

- Rezone the existing R1 General Residential component of Lot 502 to R5 Large Lot Residential.
- Amend the minimum lot size applying to the existing R1 General Residential zoned land from 500m² to 1500m².
- Apply a maximum building height of 8.5m over the existing R1 General Residential zoned land.

3 Part 2 – Explanation of Provisions

The following amendments are proposed to Shoalhaven LEP 2014:

- Rezone the existing R1 General Residential component of Lot 502 to R5 Large Lot Residential. A zoning of R5 Large Lot Residential is considered more appropriate for the land as it will deliver a density which will assist in managing congestion and adverse impacts on the immediate road network.
- Amend the minimum lot size applying to the existing R1 General Residential zoned land from 500m² to 1500m². This will reinforce the desired large lot character and seeks to avoid ongoing subdivision over time.
- Apply a maximum building height of 8.5m over the existing R1 General Residential zoned land. This height reflects the height limit of surrounding residential land and the citywide approach to heights in this context.

Section 5 *Part 4 – Mapping* of this PP identifies the changes to the Land Zoning, Lot Size and Height of Buildings maps.

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 amend Shoalhaven LEP 2014 by amending the land zoning map, minimum lot size and height of building maps associated with the existing R1 General Residential component of the site. This has not resulted from a strategic study or report but has been identified as the result of a recent development application (SF10541/4).

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

The proposed amendment to Shoalhaven LEP 2014 is considered the most appropriate means of achieving the PP's intended outcome, as it will prevent more intensive land uses and further subdivision.

Other mechanisms were explored as part of the development application process, including imposing a restriction on the title of the lots in accordance with s88B of the *Conveyancing Act 1919*, to restrict development on the lots and prevent traffic impacts. However, title restrictions cannot be used to prevent a planning purpose / outcome that would be otherwise permissible by an environmental planning instrument.

Additionally, there was scope to impose a requirement for a building envelope to be placed on the subdivision plan for each lot, which would be consistent with the nominal building envelope stipulated under Chapter G11: Subdivision of Land of SDCP 2014.

Neither of these mechanisms were considered to appropriately or permanently curtail more intensive land uses and as such an amendment to Shoalhaven LEP 2014 through this PP is considered the most appropriate mechanism to achieve the intended outcome.

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 Illawarra-Shoalhaven Regional Plan (ISRP) applies to the whole of Shoalhaven LGA. The main area of relevance in the ISRP is Goal 2 – “A Variety of Housing Choices, with Homes that Meet Needs and Lifestyles.”

The PP is consistent with the ISRP as the zoning allows for a varied range of permissible land uses (including dual occupancy(attached)) and secondary dwellings may also be considered via the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP).

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 Community Strategic Plan

The PP is consistent with Council's Community Strategic Plan, specifically Theme 2. Sustainable, liveable environments, and its Action 2.2 Plan and manage appropriate and sustainable development.

Growth Management Strategy (GMS)

The purpose of the GMS is to manage the social and economic implications of future growth in the Shoalhaven whilst protecting and preserving the environmental values of the City. The PP is not inconsistent with the GMS.

Nowra-Bomaderry Structure Plan (NBSP)

The NBSP sets the development-conservation agenda for Nowra-Bomaderry for the next 20-30 years. The NBSP identifies three prime goals, identified as the basis for development-conservation of Nowra-Bomaderry, including sustainable living, economic vitality and community wellbeing. The PP is consistent with the NBSP, specifically goals 1) Sustainable Living, and 3) Community Wellbeing.

The proposed R5 zoning will provide living areas within Bomaderry that maximise lifestyle quality, provide appropriate housing to suit a range of needs and income capacities and adds to the housing mix in the Nowra-Bomaderry area. Additionally, the provisions of Shoalhaven Development Control Plan (DCP) 2014, will ensure that future housing will display a high quality of urban design. Both the existing and future residential areas are connected to a series of landscaped areas, schools and community facilities.

Affordable Housing Strategy (AHS)

The AHS provides a range of effective policy solutions to facilitate affordable housing across the Shoalhaven local government area. The AHS promotes affordably priced housing in well located areas (close to transport and services), being precincts within 400-600m of the urban centres of Nowra-Bomaderry, Vincentia and Milton-Ulladulla.

Given the nature of the PP, it is unlikely the subject site would be an economically feasible option for affordable housing due to existing high land values. Secondary dwellings may be considered via the *SEPP (Affordable Rental Housing) 2009*, and dual occupancies (attached) are permissible with consent, which may contribute to the supply of affordable housing within the area.

The PP is not inconsistent with the AHS.

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

The PP is consistent with the applicable SEPPs. A full list of SEPPs is provided at **Attachment C** and relevant SEPPs are discussed below.

Exempt and Complying Development Codes 2008

The SEPP sets out a number of Codes which enables certain development to be undertaken without Council approval via the exempt or complying development streams. There are no provisions in this SEPP that directly apply to the PP, and therefore the PP is not inconsistent in this regard.

Vegetation in Non-Rural Areas 2017

This SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas in Shoalhaven, as well as the amenity they provide.

There are no provisions in this SEPP that directly apply to this PP, and therefore the PP is not inconsistent in this regard. The SEPP will need to be taken into consideration prior to the clearing of native vegetation in non-rural areas, as specified by the SEPP.

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

The s.9.1 Ministerial Directions are considered at **Attachment D** and those specifically relevant to this PP are discussed in greater detail below.

3.1 Residential Zones

This direction applies as the PP affects land within an existing residential zone. The PP is not inconsistent with the following parts of the Direction:

- The subject land is an extension to an existing residential area. The land proposed for rezoning can be connected to the existing public infrastructure network and does not trigger the need for additional infrastructure. Satisfactory servicing arrangements have been considered as part of the development application for subdivision and will be in place prior to the registration of any resulting lots.
- The PP will not increase the consumption of land for housing on the urban fringe as the land is already zoned R1 General Residential. Additionally, significant residential development opportunities are available across Nowra-Bomaderry in infill areas and endorsed URAs.
- The PP seeks to set a minimum lot size to ensure that the land is an appropriate size to facilitate well designed large lot residential development.

The PP is inconsistent with parts 4(a) and 5(b) of this Direction, which is discussed below:

- Direction 4(a) - The PP affects the choice of building types available in the housing market, in that medium density development such as dual occupancies (detached), multi dwelling housing and residential flat buildings will not be permissible. As such, the PP is considered to be inconsistent with this part of the direction. However, given dual occupancies (attached) and secondary dwellings will continue to be permissible within the zone, it is considered that a varied range of land uses remain permissible. Further, it is considered that there is adequate provision and future ability to provide a wide range of medium density housing options throughout the broader Nowra-Bomaderry area, particularly due to the proximity of a number of new urban release areas (URAs). Therefore, the departure is considered minor in nature.
- Direction 5(b) - The PP seeks to reduce the permissible residential density of the subject land as dual occupancies (detached), multi dwelling housing and residential flat buildings would no longer be permissible. Despite this, the following will still be applicable:
 - Dual occupancies (attached) remain permissible in the zone;
 - Secondary dwellings may be considered under SEPP (Affordable Rental Housing)

Whilst Torrens title subdivision of medium density development will not be permissible, Shoalhaven DCP 2014 includes provisions regarding density which remain unchanged and are relatively the same for both zones. As such, the departure is considered minor in nature.

3.3 Home Occupations

The PP is consistent with this direction. Home occupations are permitted without consent within the R5 Large Lot Residential zone under Shoalhaven LEP 2014. The PP does not intend to alter this permissibility.

3.4 Integrating Land Use and Transport

This direction applies as the PP seeks to alter the planning provisions relating to residentially zoned land in an urban area. The land subject to the PP is serviced by a mix of pedestrian, private and public transport options, located at Jasmin Drive.

The PP supports the principles and objectives of *Improving Transport Choice — Guidelines for planning and development* and *The Right Place for Business and Services — Planning Policy*. Traffic impacts were a significant consideration and community concern in the development assessment process and largely contributed to the recommendation to rezone the land. The PP is not inconsistent with this direction.

4.1 Acid Sulfate Soils

The land subject to this PP is mapped as having acid sulfate soils. The PP however does not seek to intensify the land uses that are permissible with consent in relation to the land. The PP is not inconsistent with the Acid Sulfate Soils Planning Guidelines.

The PP is therefore not inconsistent with this direction.

4.4 Planning for Bushfire Protection

This direction applies as the PP affects land that is mapped as being bushfire prone.

The PP:

- a) Has regard to Planning for Bushfire Protection 2006 and the draft Planning for Bushfire Protection 2018. Where relevant, future development will be assessed against Planning for Bushfire Protection during the development assessment process.
- b) Does not result in controls that place inappropriate developments in hazardous areas.
- c) Does not prohibit bushfire hazard reduction within an APZ.

Consultation will be undertaken with the NSW Rural Fire Service in accordance with the Gateway determination, and prior to undertaking community consultation.

The PP is not inconsistent with this direction.

5.10 Implementation of Regional Plans

The Illawarra Shoalhaven Regional Plan (ISRP) applies to Shoalhaven and the PP is considered consistent with the ISRP as discussed in Section 4.2.1.

The PP is therefore not inconsistent with this direction.

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 PP is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats as the land subject of the PP is already residentially zoned and predominantly cleared. Despite this, any future use of the land will consider environmental impacts as part of the development assessment or complying development process.

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?

Other environmental impacts are not anticipated due to the nature of the PP. Any future use of the land will consider environmental impacts as part of the development assessment or complying development process.

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

The social and economic impacts related to the PP are considered minimal. The rezoning of the site from R1 General Residential to R5 Large Lot Residential would result in certain land uses becoming prohibited (e.g. dual occupancy (detached), residential flat buildings

and multi dwelling housing), however on balance, a varied range of land uses remain permissible (including dual occupancy(attached)) and the future desired large lot character envisaged for the area will be reinforced.

4.4 State and Commonwealth Interests (Section D)

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The land proposed for rezoning can be connected to the existing public infrastructure network (and will be as part of any subdivision) and the PP does not trigger the need for additional infrastructure at this point in time.

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

The Gateway determination requires consultation with the following relevant State authorities prior to public exhibition:

- NSW Rural Fire Service (RFS)

The consultation process with the RFS has been undertaken in accordance with the Gateway determination. The response can be found at **Attachment F** with the response summarised below:

Table 1: Summary of State Authority Consultation Responses

Agency	Response Summary
NSW Rural Fire Service	Correspondence was sent to the RFS on 16 January 2020, in accordance with the Gateway determination. The RFS raised no objections to the proposal.

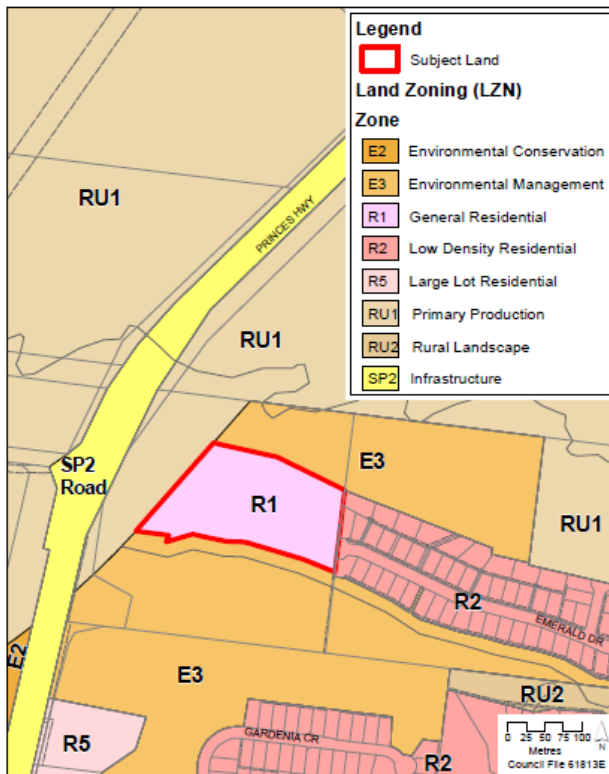
5 Part 4 – Mapping

The proposed mapping, as outlined in Section 3 of the PP, includes:

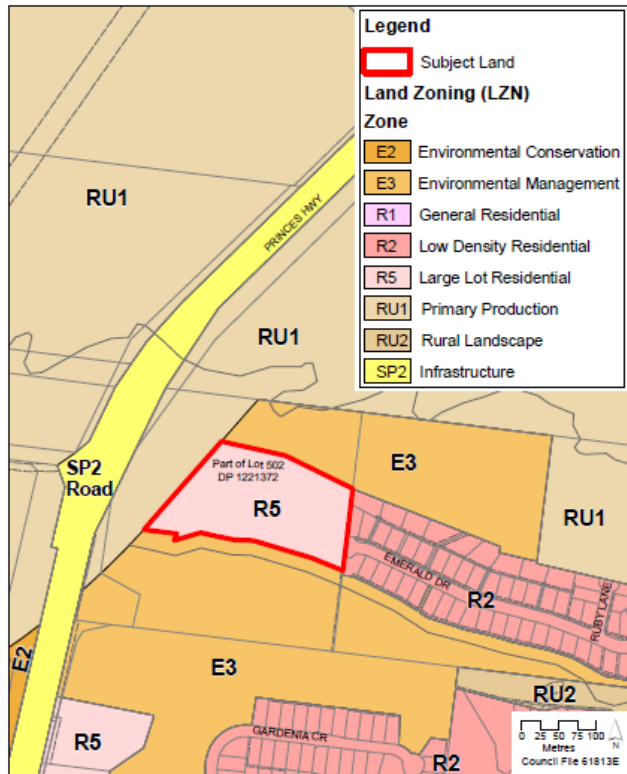
- Rezoning the R1 General Residential part of the site to R5 Large Lot Residential by amending Shoalhaven LEP 2014 LZN_013D map.
- Amending the Shoalhaven LEP 2014 Minimum Lot Size LSZ_013D map from 500m² to 1500m².
- Amending the Shoalhaven LEP 2014 HOB_013D map to apply a maximum height of 8.5m.

The proposed mapping changes are shown below in the following map sets:

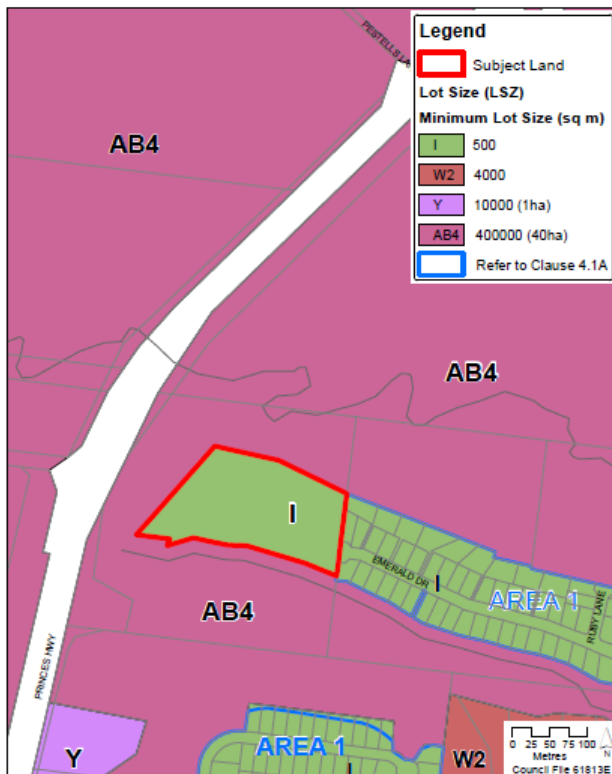
PP047
Planning proposal
Existing SLEP2014 LZN



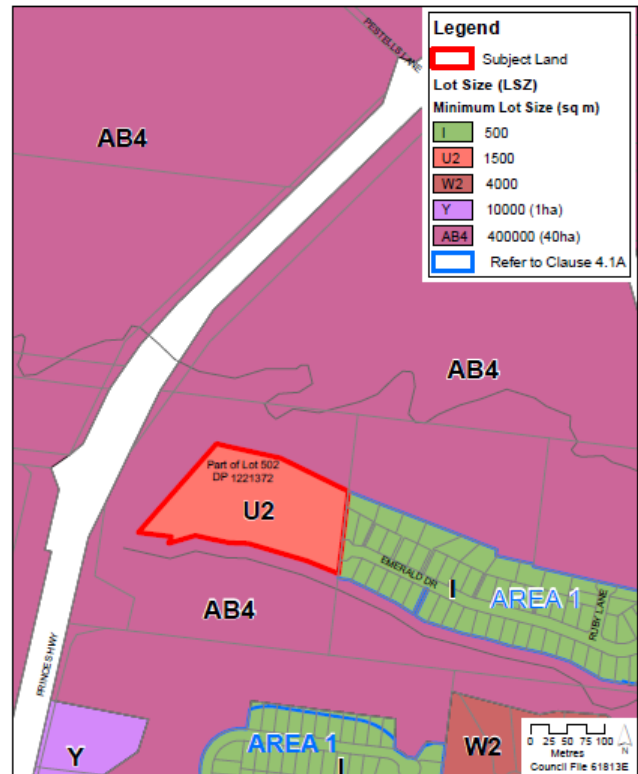
PP047
Planning Proposal
Proposed LZN

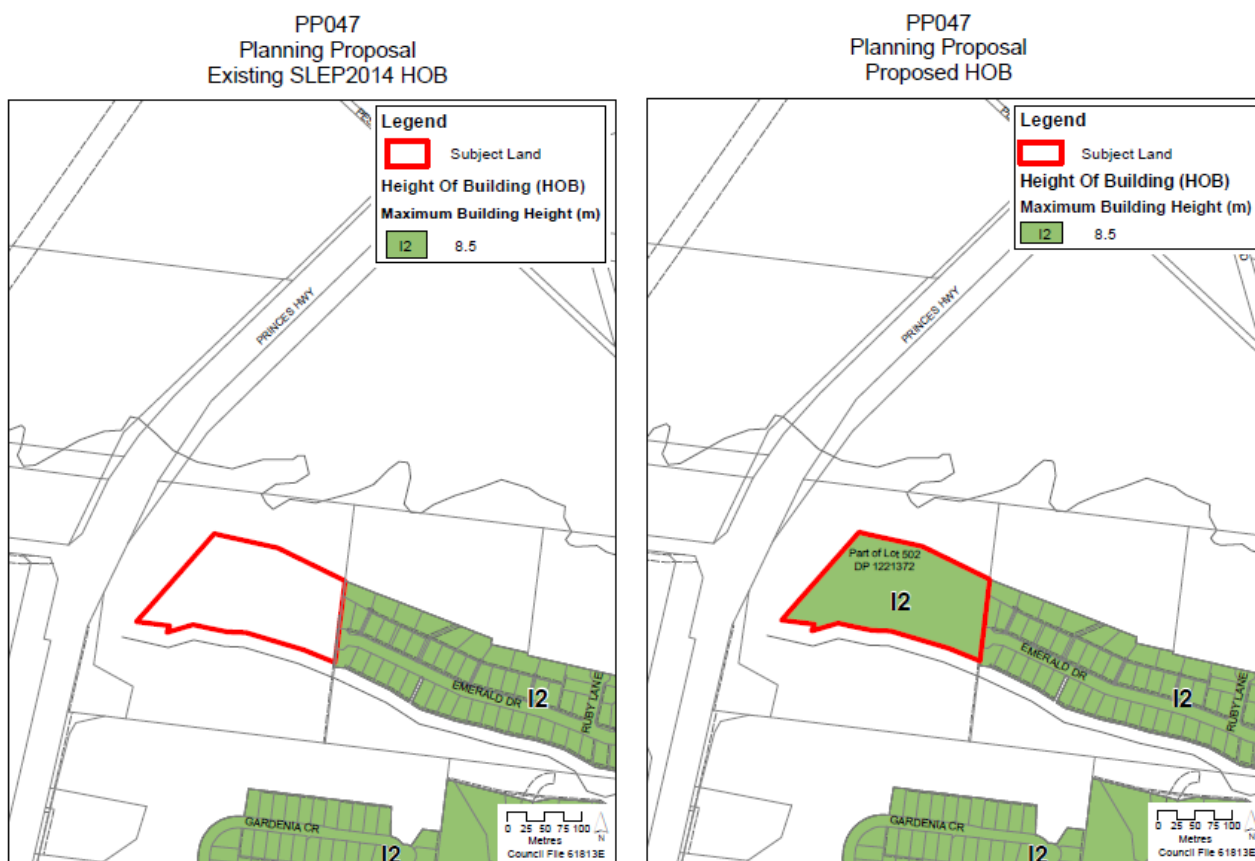


PP047
Planning Proposal
Existing SLEP2014 LSZ



PP047
Planning Proposal
Proposed LSZ





6 Part 5 - Community Consultation

Council exhibited the PP in accordance with the requirements of Schedule 1 clause 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the requirements of the Gateway determination from 19 December 2019. An extended exhibition period of 44 days was applied in response to COVID-19.

Public notification of the exhibition included notification in the local newspaper, and a notice on Council's website. The exhibition package was also available for viewing on Council's website.

A report of the Exhibition Outcomes was presented to Council's Development and Environment Committee Meeting on Tuesday 1 September 2020 and can be viewed as **Attachment G** and at:

https://shoalhaven.infocouncil.biz/Open/2020/09/DE_20200901_AGN_16188_AT_WEB.htm

7 Part 6 – Project Timeline

The anticipated timeline for the PP is as follows:

Task	Anticipated Timeframe
Commencement date (date of Gateway determination)	November-December 2019

Completion of Gateway determination requirements	April 2020
Public exhibition	Public Exhibition period - 13 May to 26 June 2020.
Consideration of submissions	June 2020
Post exhibition consideration of PP	September 2020
Finalisation and notification of Plan	October/November 2020

ATTACHMENTS

Attachment A - Evaluation Criteria for the Delegation of Plan Making Functions

Checklist for the review of a request for delegation of plan making functions to Councils

Local Government Area:

Shoalhaven City Council

Name of draft LEP:

Shoalhaven Local Environmental Plan 2014
PP047

Address of Land (if applicable):

The subject land is known as C130 Princes Highway, Meroo Meadow and is legally described as Lot 502 DP 1221372.

Intent of draft LEP:

The PP intends to amend Shoalhaven LEP 2014 as follows:

- Rezone the existing R1 General Residential component of Lot 502 to R5 Large Lot Residential.
- Amend the minimum lot size applying to the existing R1 General Residential zoned land from 500m² to 1500m².
- Apply a maximum building height of 8.5m over the existing R1 General Residential zoned land.

The PP will reinforce the future desired large lot character/ density of the land and prevent further subdivision of any resulting lots. This will avoid a significant and detrimental impact on the safety and functioning of Emerald Drive and the Meroo Road intersection with Emerald Drive.

Additional Supporting Points/Information:

Evaluation criteria for the issuing of an Authorisation (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)	Council Response		Department Assessment	
	Y/N	Not relevant	Agree	Not agree
Is the Planning Proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the Planning Proposal 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 Planning Proposal contain details related to proposed consultation?	Y			
Is the Planning Proposal compatible with an endorsed regional or sub-regional strategy or local strategy endorsed by the Director-General?	Y			
Does the Planning Proposal adequately address any consistency with all relevant S9.1 Planning Directions?	Y			
Is the Planning Proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the Planning Proposal 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/A		

Heritage LEPs				
Does the Planning Proposal seek to add or remove a local heritage item and is it supported by a strategy / study endorsed by the Heritage Officer?		N/A		
Does the Planning Proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the Planning Proposal potentially impact on item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		
Reclassifications				
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan Of Management (POM) or strategy?		N/A		
Is the Planning Proposal proposed to rectify an anomaly in a classification?		N/A		
Will the Planning Proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under Section 30 of the Local Government Act, 1993?		N/A		
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 Planning Proposal?		N/A		
Has the council identified that it will exhibit the Planning Proposal 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/A		

Has council acknowledged in its Planning Proposal that a Public Hearing will be required and agree to hold one as part of its documentation?		N/A		
Spot Rezoning				
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?	Y/N The PP is reducing the development potential by removing certain land uses; however, the relevant strategies are silent in this regard.			
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 Planning Proposal 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 Planning Proposal contain sufficient documented justification to enable the matter to proceed?	Y			
Does the Planning Proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument:				
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 works or a formatting error?;	N			
b. Address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?;	N			
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?	N			
(NOTE – the Minister (or delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				

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

Attachment B - Council report and resolution (MIN19.532) supporting the PP

**DE19.64 SF10541 - C130 Princes Hwy MEROO MEADOW
- Lot 502 DP 1221372****DA. No:** SF10541/4**HPERM Ref:** D19/187428**Group:** Planning Environment & Development Group**Section:** Development Services**Attachments:** 1. s4.15 Assessment Report (under separate cover)
2. Draft Determination (under separate cover)
3. Subdivision Plan**Description of Development:** Fifteen (15) lot Torrens title subdivision and associated site works**Owner:** Linkwood Nowra Pty Ltd.**Applicant:** Allen Price & Scarratts (APS)**Notification Dates:** The application was notified on four (4) separate occasions on 12 December 2016, 17 January 2018, 8 November 2018 and 19 March 2019**No. of Submissions:** 86 submissions were received to the notifications. All submissions were in objection to the application. Multiple objections were received in some cases by a single submitter(s).**Purpose / Reason for consideration by Council**

On 23 January 2017 Council resolved at the Development Committee meeting, that:

1. *All delegations for SF10541 be withdrawn and this matter be reported to council for consideration.*
2. *A residents briefing meeting be held on the abovementioned application.*
3. *The time for submissions be extended until the residents briefing meeting can be held.*

This Report is prepared in response to item 1 of the Council's resolution. A resident briefing meeting was held on 2 March 2017 in response to item 2.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Approve Development Application SF10541 for a fifteen (15) lot Torrens title subdivision and associated site works at C130 Princes Highway, Meroo Meadow - Lot 502 DP 1221372 by way of *Deferred Commencement* consent, subject to the recommended conditions of consent contained in Attachment 2 to this report.
2. Support the preparation of a planning proposal over C130 Princes Highway, Meroo Meadow - Lot 502 DP 1221372 to amend *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) to rezone the current R1 General Residential component of the land to R5 Large Lot Residential and also apply a 1,500m² minimum lot size and 8.5m height limit

to that part of the land.

3. Submit the Planning Proposal to the NSW Department of Planning, Industry and Environment (PIE) to request a 'Gateway determination'. If a favourable determination is received, proceed to public exhibition and report back to Council with the outcomes of the exhibition period.

Options

1. Support and approve the development application (DA) as a deferred commencement in accordance with the recommendation and prepare a planning proposal (PP).

Implications: This would allow the applicant to seek a Subdivision Construction Certificate (CC) for development on the subject site upon resolution of the deferred matter. The deferred matter would be finalisation of the Planning Proposal.

The proposed amendment to SLEP 2014 would support the appropriate long-term management of the land.

2. Refuse the application and not prepare a planning proposal.

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.15 considerations.

The applicant would have the ability to request a review of any refusal by Council and/or pursue an appeal through the NSW Land and Environment Court (L&EC). Council may still wish to give further consideration to the zoning and other particulars of the land via a separate process.

3. Alternative recommendation.

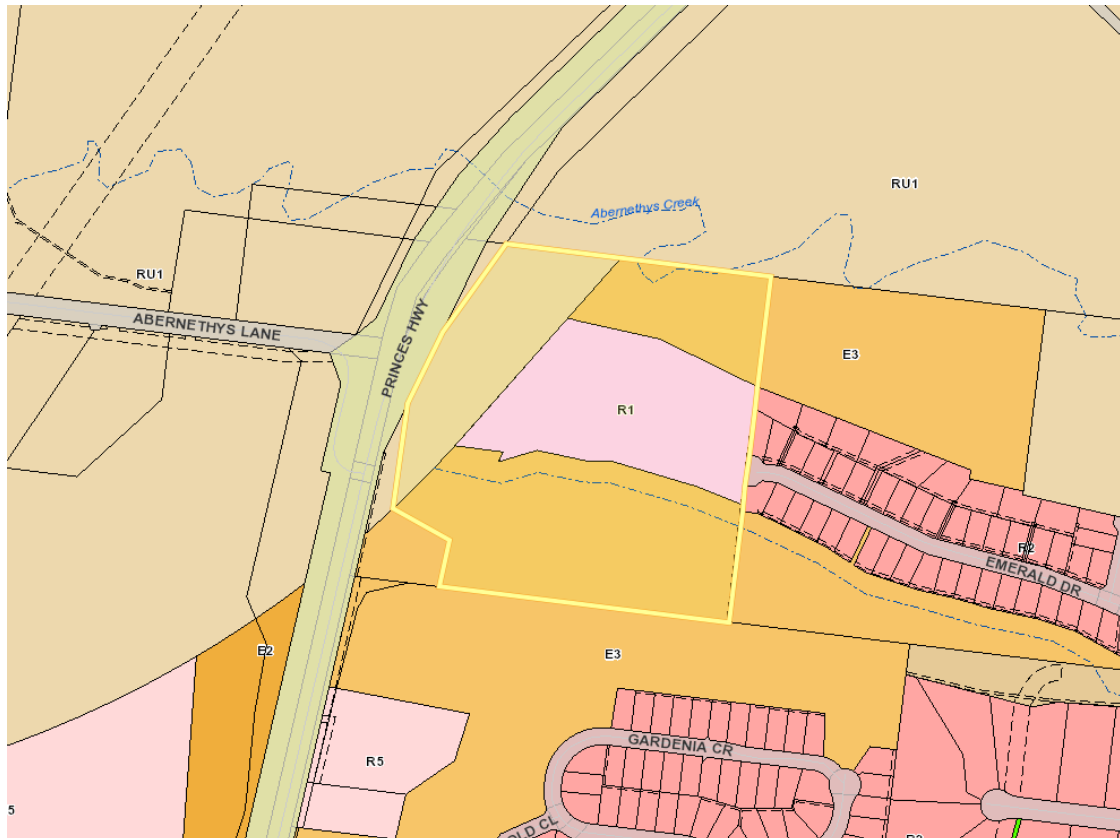
Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

Location Map

Figure 1 – Location Map



Figure 2 – Zoning Map



Background

On 11 December 2014, a pre-lodgement meeting was held in relation to the subject site for a development described in the pre-lodgement meeting notes as a 37 lot subdivision.

On 19 October 2016, the applicant lodged SF10541 for development described on the development application form as

“37 Torrens Title Residential subdivision, vegetation clearing within the development footprint, demolition of the existing dwelling, swimming pool and tennis court; and associated site works”.

On 27 October 2016, Council requested additional information from the applicant. Council requested additional information from the applicant on numerous occasions throughout the assessment process.

On 12 December 2016, the development application was notified for a period of 47 days (extended notification for the Christmas and New Year period). A total of 26 submissions were received during the notification period or shortly thereafter. All submissions were in objection to the application.

On 23 January 2017 Council resolved at the Development Committee meeting that:

- 1. All delegations for SF10541 be withdrawn and this matter be reported to council for consideration.*
- 2. A residents briefing meeting be held on the abovementioned application.*
- 3. The time for submissions be extended until the residents briefing meeting can be held.*

On 6 February 2017, the applicant lodged amended plans and written responses to the referral process to date.

On 2 March 2017, a resident's briefing meeting (RBM) was conducted to outline the planning process and the development application and the outstanding issues to be resolved prior to determination of the application.

On 12 December 2017, the applicant lodged amended plans which included upgrades to Emerald Drive required to satisfy the Acceptable Solutions of Chapter G11: Subdivision of Land of Shoalhaven Development Control Plan 2014 (SDCP 2014).

The drawings provided details of proposed road widening along a portion of the southern side of the existing pavement along Emerald Drive. The road widening intending to create a functional width of 6-7m.

On 17 January 2018, the applicant's amended plans were re-notified for a period of 30 days. A total of 25 submissions were received following the re-notification of the development application. All submissions were in objection to the application.

On 6 September 2018, the applicant lodged amended concept plans which included a proposal to **reduce the lot yield to 15 lots** and removal of the required widening of the southern side of Emerald Drive, the retention of the existing dwelling on proposed lot 4 and construction of a single raised threshold traffic calming device (an additional three (3) devices to be provided in locations to be determined by Council).

On 8 November 2018, the application was re-notified for a period of 15 days. A total of 20 submissions were received following the re-notification of the development application. All submissions received were in objection to the application.

On 11 March 2019, the applicant lodged final amended plans and supporting reports for the amended 15 lot subdivision

On 19 March 2019, the application was re-notified for a period of 15 days. A total of 15 submissions were received following the re-notification of the development application. All submissions were in objection to the application.

As is with all applications, documentation was made and remains accessible on the DA tracking website.

Proposed Development

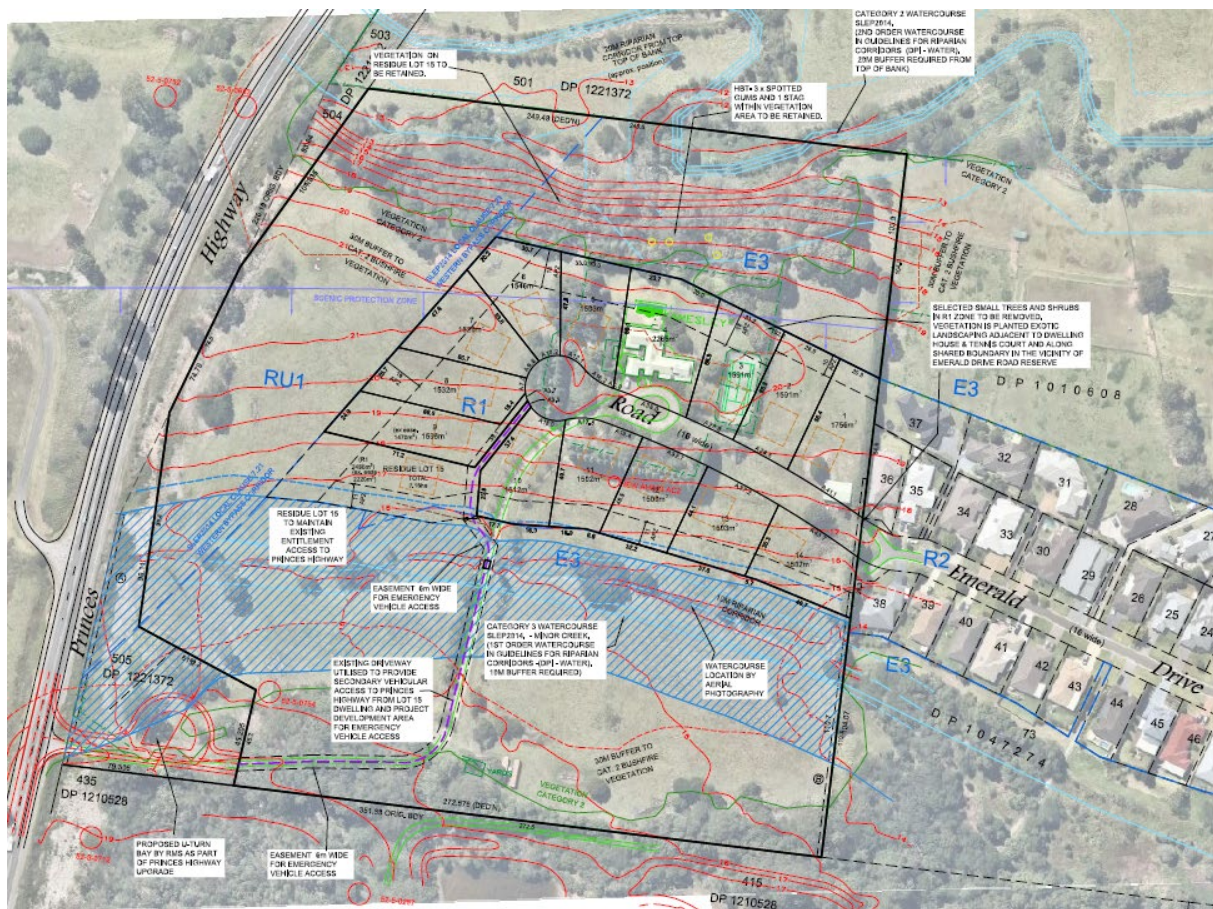
The development, as amended, seeks development consent for a 15 lot Torrens title subdivision and associated site works including the construction of an extension to Emerald Drive and associated drainage. Lot sizes range from 1,500m² to 7.16ha.

The proposal is to create 14 residential allotments and one residue lot comprising the remainder of the property with a building area within the R1 General Residential zone (15 lots in total).

The existing dwelling house is to be retained on a resulting lot. The tennis court will be removed. An extract of the subdivision plan is provided in **Figure 3**.

The development is proposed to be accessed via two access points. All 15 lots will gain access via a proposed extension of Emerald Drive. Additionally, proposed Lot 15 will retain the existing site access from the Princes Highway where the Roads and Maritime Service (RMS) is currently in the process of constructing a turning bay as part of the highway upgrade (Refer to Figure 3). The purpose of this access is to provide the Rural Fire Service (RFS) with secondary access to the development area. This would be secured by a locked gate on Lot 15 (adjacent to the southwestern corner of proposed Lot 10) to ensure traffic from the proposed development does not take advantage of this access to the highway.

Figure 3 - Extract of the proposed subdivision plan for the proposed development.



Subject Land

The subject site is located north of Bomaderry situated between the Princes Hwy and the western end of Emerald Drive in the suburb of Merero Meadow. The land is legally identified as Lot 502 DP 1221372 (formerly Lot 1 DP 130825) and is described as C130 Princes Highway, Merero Meadow.

Site & Context

The subject site is a regular shaped allotment with a total land area of 9.707 hectares.

The site enjoys dual frontage to the Princes Highway in the west and connects with Emerald Drive in the east. Merero Road is located 600m to the east of the site. The site is presently accessed via a driveway off Princes Highway located on the south-eastern boundary of the site.

The land is gently undulating, with the property rising to a central ridge running parallel to the northern boundary. Water naturally drains to Abernethy Creek in the north-eastern corner of the site and an unnamed creek toward the southern boundary of the site which feeds into Abernethy Creek on the eastern side of Merero Road.

Significant vegetation has historically been removed from the site as part of the rural/residential land use of the site. There are stands of remnant eucalyptus located along the southern boundary and riparian vegetation along the extent of Abernethy Creek on the northern boundary. The site has also been extensively landscaped to the extent of the curtilage of the existing dwelling house and access driveway.

The site is currently a 'semi-rural' property containing a single dwelling, pool and tennis court located in the north-eastern portion of the site and shed on the eastern boundary.

The site is mapped as bush fire prone land in accordance with bush fire prone land maps prepared by Council and certified by the Commissioner of the NSW RFS.

The supporting reports associated with the RMS Berry to Nowra Princes Highway upgrade indicate that there were Aboriginal archaeological artefacts recorded on the AHIMS database within the vicinity of the subject land. The applicant's Aboriginal due diligence reports have identified Aboriginal objects that are the subject of an Aboriginal Heritage Impact permit pursuant to Section 91 of the *National Parks and Wildlife Act 1974*.

The site is bound to the west by the Princes Highway which is currently undergoing an extensive upgrade associated with the State Government's Berry to Bomaderry works program. It is noted that a U-turn bay is proposed to be located on the south-eastern corner of the site (Refer to **Figure 4** below). On the western side of the Princes Highway and along the extent of Abernethys Lane the predominant land use is a mix of rural and residential.

To the south, the site is adjoined by Council (environmental) managed land. Further to the south again, the land has predominately been developed for low-density residential development consisting of detached single and two-storey dwelling houses. It is noted that there are limited examples of multi-dwelling housing.

To the north, the land has been historically used for agriculture (and associated dwellings).

To the east, the site is adjoined by the western extent of Emerald Drive and Maddor Park Estate. The estate having been developed for residential accommodation with the predominant built form being single storey detached dwelling houses.

Figure 4 – extract from the concept designs for the Berry to Bomaderry upgrades for the section of the Princes Highway to the extent of the subject site.
Extracted from the RMS website.



Existing Road Network

The Princes Highway at the boundary of the site is a two-way undivided highway. The Princes Highway is being upgraded to include four lanes of divided highway to improve road safety and traffic efficiency.

Emerald Drive is considered an access street under SDCP 2014 Chapter G11: Subdivision of Land and is 16m wide (road reserve). Emerald Drive services 73 residential dwellings and has a nominal local road speed limit of 50km/h. Emerald Drive provides a trafficable width of approximately 5.0m, constituting a formal central two-way carriageway of approximately 4.2m gutter invert to gutter invert, and layback gutter dish drains on both sides of approximately 0.7m each.

Merroo Road to the east of the site is a major collector road between the Princes Highway and Bomaderry. Merroo Road carries one lane of traffic in each direction and has unrestricted parking along most of its length.

The proposed access and traffic impacts associated with the development are detailed further in this Report and in consideration of submissions.

History

On 18 July 2000, Council granted Development Consent SF8781 for a 76 lot subdivision of land now known as Maddor Park Estate (accessed via Emerald Drive).

The approved road design for the subdivision stipulated construction of a 5m carriageway width within a 16m and 18m road reserve (which included traffic calming pavement).

The first request from the landowner for rezoning of the subject site was received in August 2002.

Under Shoalhaven Local Environmental Plan 1985 (SLEP 85) the subject site was zoned 1(b) Rural (Arterial and Main Road Protection) Zone.

On 18 January 2005, a report to Council's Development Committee considered the proponent's rezoning request that part of the site be rezoned from its current zoning of Rural 1(b) (Arterial and Main Road Protection) to a residential zoning.

The proposed residential area was to be accessed from Emerald Drive on the eastern boundary of the site and comprised an extension of the existing residential area to the east (Maddor Park Estate). The report recommended limiting the extent of the potential rezoning having regard to the site constraints to that generally consistent with the R1 General Residential zone under Draft SLEP 2009.

It was recommended that a planning report be prepared to support the proposed rezoning and to address the following issues:

- Flooding and water quality;
- Visual impacts including views to and from the site (specifically in relation to the urban/ rural interface);
- Traffic impact assessment;
- Impact on agricultural values of the site; and
- Preliminary concept plan for the future development of the site.

On Tuesday 25 January 2005 Council resolved to:

- a) *Support preparation of a draft LEP (at the owners cost);*
- b) *The General Manager (Planning Group) be requested to consider a reduction in the buffer zone area adjacent to the Princes Highway.*

This resolution resulted from a request from the then landowner to rezone the subject land to enable residential subdivision. Specific provisions were recommended to be incorporated

into the draft plan so that the primary vehicular access to the subject land would be via Emerald Drive and not the Princes Highway.

On 12 February 2008, a report to the Policy and Planning Committee considered the rezoning application and sought Council's direction in regard to aspects of the proposed draft plan prior to proceeding to request a certificate to publicly exhibit the Draft Local Environmental Plan (LEP) No. LEP 379 (Draft LEP 379).

On 6 June 2008, the NSW State planning agency at the time, now known as PIE, wrote to Council of PIE's refusal to issue their section 65 Certificate under the *Environmental Planning and Assessment Act 1979* (the EP&A Act) in regard to Draft LEP 379 for the subject site.

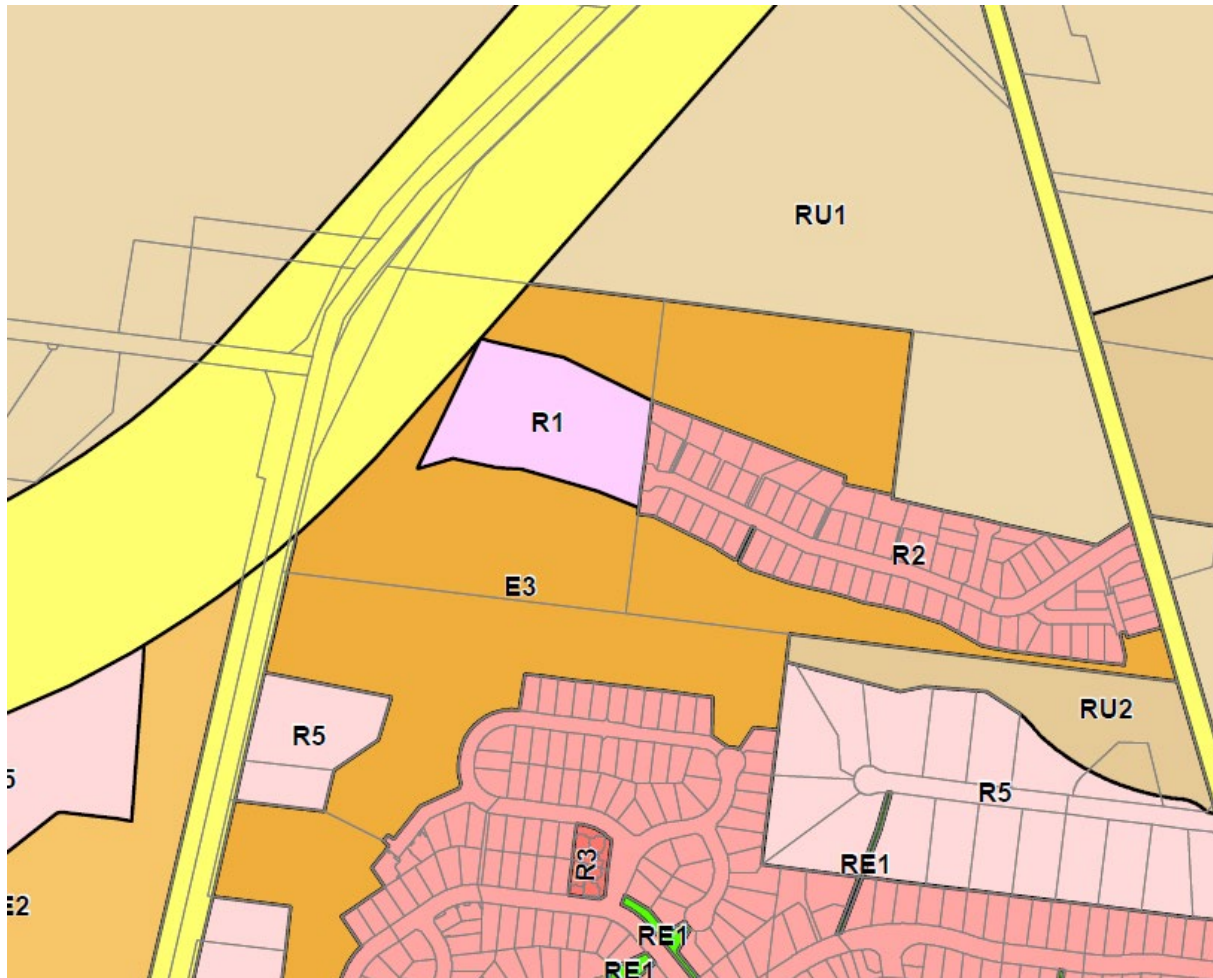
On 9 January 2009, PIE wrote to Council to reiterate that they would not support the rezoning of the subject site which would allow for residential development to within 50m of the Princes Highway.

However, PIE went on to state that it was *"willing to support a rezoning that allows residential development to within 100m of the Princess Highway."*

PIE advised that should Council and the landowner accept that no development was to occur within 100m of the Princes Highway the matter should be dealt with as part of the Draft Shoalhaven LEP 2009 rather than a stand-alone LEP amendment.

On 18 July 2011, Shoalhaven City Council's draft Shoalhaven LEP 2009 was placed on public exhibition for 13 weeks. A copy of an extract of the Land Zoning Map – LZN-024 Nowra Bomaderry indicating the proposed zoning boundaries relative to the subject site is provided in **Figure 5** below.

Figure 5 - Extract of the Land Zoning Map – LZN-024 Nowra Bomaderry indicating the proposed zoning boundaries relative to the subject site



On 8 April 2014, Shoalhaven LEP 2014 was gazetted.

Issues

Traffic Impacts

The proposed development has the potential to impact on local traffic conditions, with the local street network (Emerald Drive and Intersection with Meroo Road) being identified as a potential impediment to the proposed development due in part to the width of the Emerald Drive road pavement, no traffic calming devices and concerns with sightlines at the Meroo Meadow intersection.

A number of traffic reports have been prepared for the application since lodgement of the DA. However, it is important to consider the development in light of the most recent amendment to the lot yield and therefore consideration of the principal traffic report titled *Traffic Impact Assessment* (Traffic Report) prepared by Ason Group dated 8 March 2019 (D19/83206).

The Traffic Report assess the revised proposal (15 lot subdivision) in relation to the:

- current planning context,
- existing conditions;
- public transport, cycling and pedestrian network;
- existing traffic conditions;
- operational impacts; and
- design.

Road Network

Emerald Drive currently services 73 residential dwellings and has a nominal local road speed limit of 50km/h.

Emerald Drive provides a trafficable width of approximately 5.0m, constituting a formal central two-way carriageway of approximately 4.2m gutter invert to gutter invert, and layback gutter dish drains on both sides of approximately 0.7m each. This profile extends to the full extent of Emerald Drive.

The current construction of Emerald Drive is consistent with the upper carriageway width of a laneway (carriageway width 3.5–5.0m with less than 15 Annual average daily traffic (AADT)) as per SDCP 2014 Chapter G11: Subdivision of Land.

Emerald Drive – Current Conditions

Under the current circumstances with no further development, the AADT flows do not exceed 500vpd (vehicles per day) in Emerald Drive. This is based upon data collected by the applicant from an automatic traffic counter (ATC) installed in Emerald Drive in February 2016 (Appendix B to Traffic Report).

Applying the surveyed daily trip rate to the 73 dwellings within the existing subdivision provides an AADT estimate of just under 500vpd. **Figure 6** below, indicates that AADT would not exceed 500vpd for Emerald Drive and at the intersection with Meroo Meadow.

Figure 6 - Existing Emerald Drive sectional daily traffic flows. Extracted from the Traffic Report prepared by Ason Group (D19/82306).



Emerald Drive – Projected Conditions (15 Lot subdivision)

Based upon the applicant's amended application for 15 lots (one dwelling per lot) with access along Emerald Drive the Traffic Report provides predicted daily traffic flows which indicate that AADT would exceed 500vpd at a point west of Ruby Lane, generally adjacent to 24 Emerald Drive (refer to **Figure 7**). Reference to SDCP 2014 Chapter G11: Subdivision of Land suggests that west of this location a 6.0m carriageway would be required, while east of this location a 7.0m carriageway would be required. Refer to **Table 1** below.

The amended application does not propose road widening works along Emerald Drive.

The applicant's plans for retention of Emerald Drive's current construction standard has been considered by Council's Traffic and Transport Unit to be satisfactory under the current circumstances and road widening is neither feasible nor supported. It is noted that residents also expressed concern about the potential widening.

It is important to note that approval of the current application without the need for road widening would constitute a variation to SDCP 2014 Chapter G11 Subdivision of Land – Acceptable Solution A19.1 (refer to **Table 1** below).

Figure 7 - Future Emerald Drive sectional daily traffic flows. Extracted from the Traffic Report prepared by Ason Group (D19/82306).



Table 1 - classification of streets (extracted from SDCP 2014 Chapter G11: Subdivision of Land).

	Speed km/h ¹	AADT ²	Carriageway Widths ³
Access Street (Minor)⁴ Access streets generally are streets where the residential environment is dominant, traffic is subservient, speed and volume are low and pedestrian and cycle movements are facilitated.	30	<500	6.0 min
Laneways	15	<15	3.5 to 5.0 ⁵
Local Street The collector streets collect traffic from Access Streets and connects to a major road.	40	<2000	7.0 to 9.0 max
Collector Street	50	<3000	7.0 to 9.0 ⁶
Local Distributor Road	60	3000 to 6000	7.0 to 9.0

Emerald Drive and Meroo Road Intersection

The intersection of Meroo Road with Emerald Drive provides a T intersection under priority (unsigned Give Way) control. The intersection provides a short auxiliary left turn lane to Emerald Drive, and a widened southbound carriageway (paved kerbside lane) over a short distance to notionally allow for a southbound vehicle to pass a vehicle turning right to turn into Emerald Drive (refer to **Figure 8**).

The Emerald Drive approach provides a paved carriageway of approximately 5.5m for approximately 12m, after which the carriageway returns to 5m. Meroo Road has a posted speed limit of 60km/h.

Figure 8 – Aerial image of Emerald Drive and Meroo Road intersection.



In relation to the operation of the Emerald Drive and Meroo Road intersection under the current conditions, the Traffic Report indicates on page [11] that:

“[T]he intersection operates at a high Level of Service in both peak periods, with average delays of less than 6 seconds to vehicles departing Emerald Drive and an overall average delay of less than 1 second. The intersection provides significant spare capacity. Ason Group has also provided sensitivity testing of alternative distribution (north/south) scenarios and determined similar results.

It is important to note that, at present, the narrow width of the Emerald Drive approach has the potential to reduce capacity at the intersection and reduce the efficiency of inbound movements given the narrow carriageway width remaining when vehicles are queued to depart Emerald Drive. While a more detailed review of the SIDRA results indicates an 85th percentile queue in Emerald Drive of less than 1m – indicating that 85% of the time no more than a single vehicle would be queued to depart – it is likely that on occasions 2-3 vehicles might be queued, which would reduce the length of the

arrival lane as it tapers back to the broader design profile. The Proposal is unlikely to fundamentally change these operations or increase average queue lengths on the approach to Meroo Road.

In the event that the subdivision is approved and developed with a single dwelling house on each lot, the Traffic Report indicates on page [16] that:

“SIDRA testing of the future traffic flows at the intersection Meroo Road with Emerald Drive indicates that the intersection will continue to operate at a high Level of Service in both peak periods, with average delays retained at less than 6 seconds to vehicles departing Emerald Drive and an overall average delay of less than 1.3 seconds and 1.2 seconds in the AM and PM peaks respectively. The intersection would also continue to provide significant spare capacity.

The impact of the proposed development on the critical intersection of Emerald Drive with Meroo Road has been assessed as a net increase over and above the baseline future conditions and the results of this analysis are summarised in... [Table 2 below].”

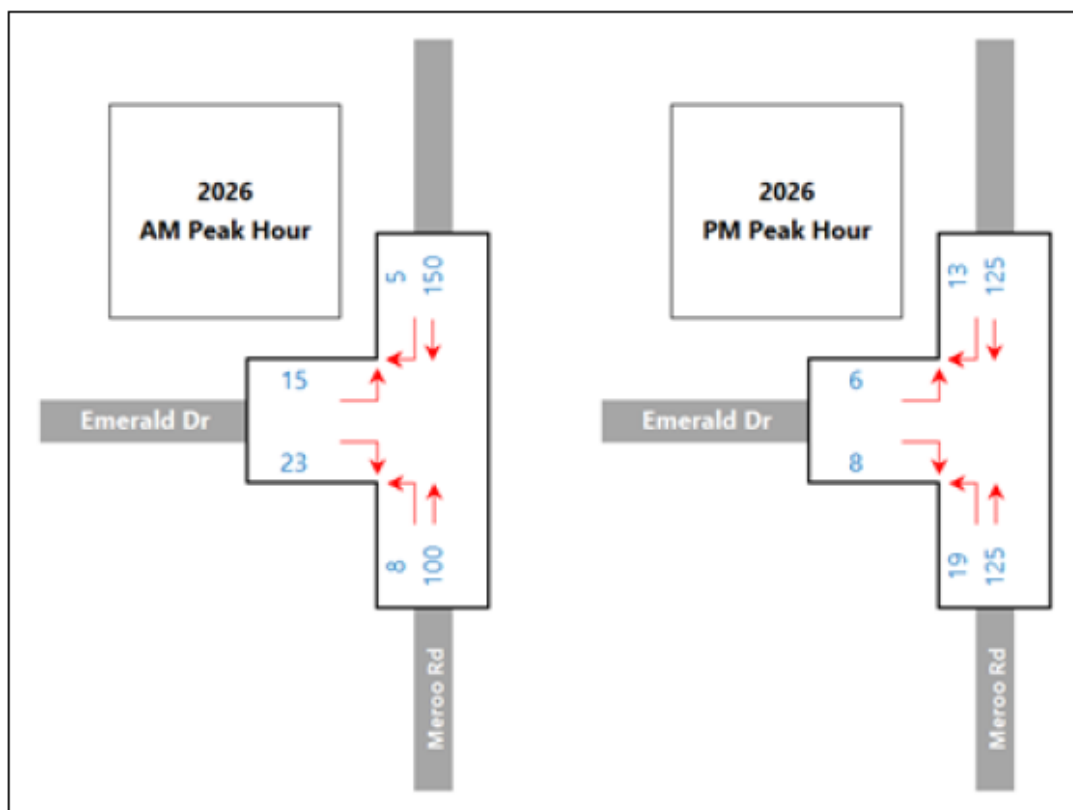
**Table 2 - Future and Development Intersection Performance
(Figures extracted from Page 16 of the Traffic Report).**

Intersection	Control Type Period	Period	Intersection Delay	Level of Service
Emerald Drive / Meroo Road	Priority	AM	1.3	A
		PM	1.3	A

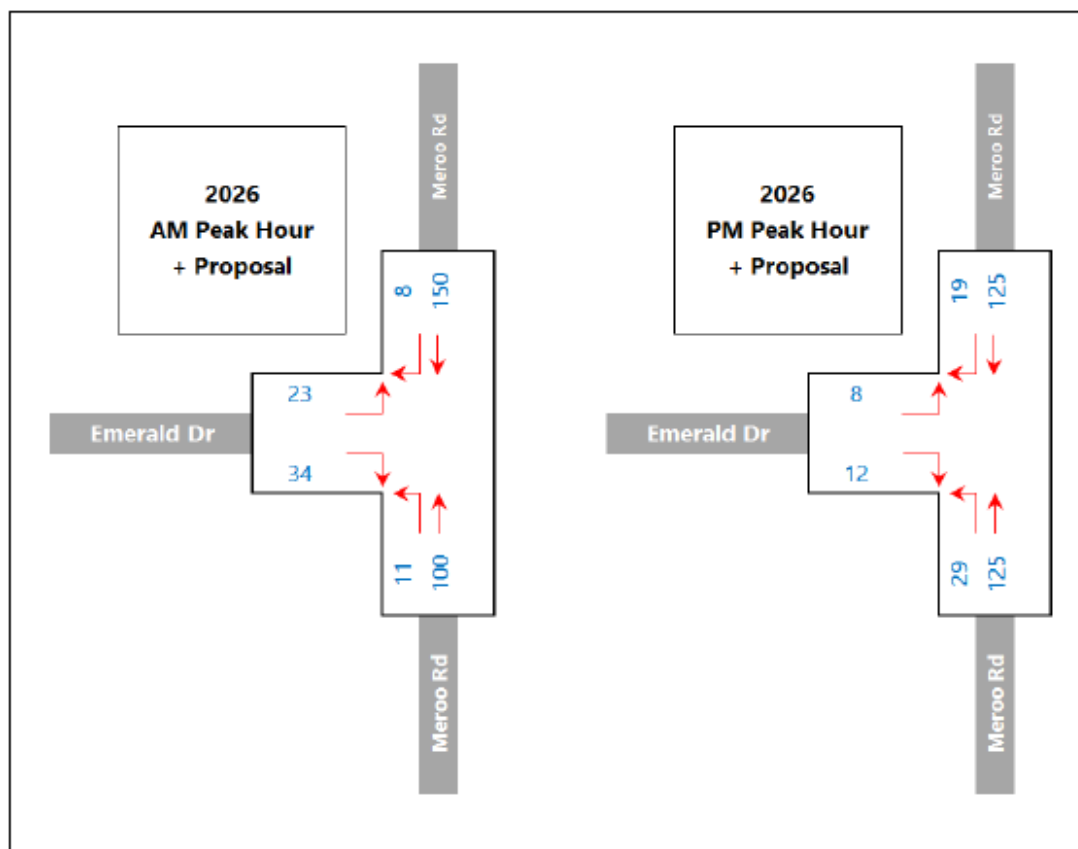
The Traffic Report concludes that the intersection operates satisfactorily having regard to future traffic volumes. Council’s Traffic and Transport Unit has considered the Traffic Report and is satisfied that the operation of the Emerald Drive and Meroo Road intersection is operating satisfactorily and efficiently and is not required to be upgraded to facilitate the proposed development.

A summary of estimated 2026 peak period traffic flows at the intersection is provided in **Figures 9 and 10** below:

**Figure 9 - Estimated 2026 Peak Period Traffic Flows
(No Proposal)** (extracted from Page 13 of the Traffic Report).



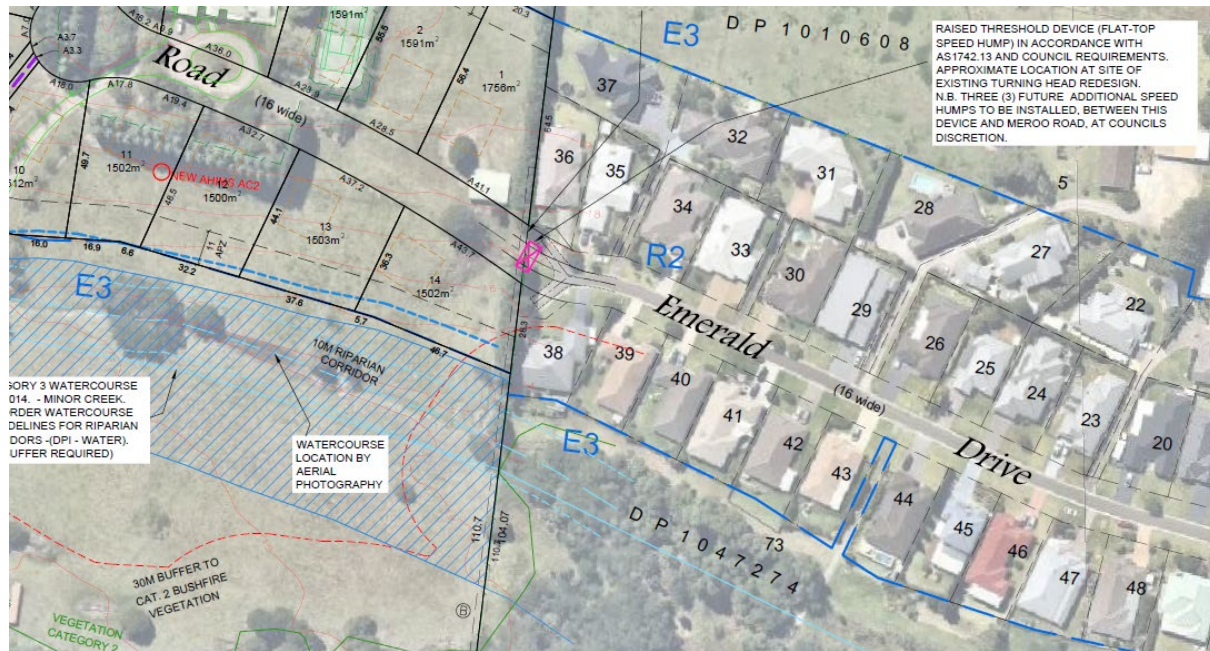
**Figure 10 - Estimated 2026 Peak Period Traffic Flows
(with Proposal)** (extracted from Page 14 of the Traffic Report).



Proposed Emerald Drive Road Upgrade Works

In lieu of Emerald Drive road widening, the applicant proposes to construct four (4) raised threshold devices (flat-top speed humps) at appropriate locations along Emerald Drive. The approximate location of the first device is provided in **Figure 11** below. The location of the three (3) remaining devices will be identified in consultation with Council prior to the issue of a Construction Certificate.

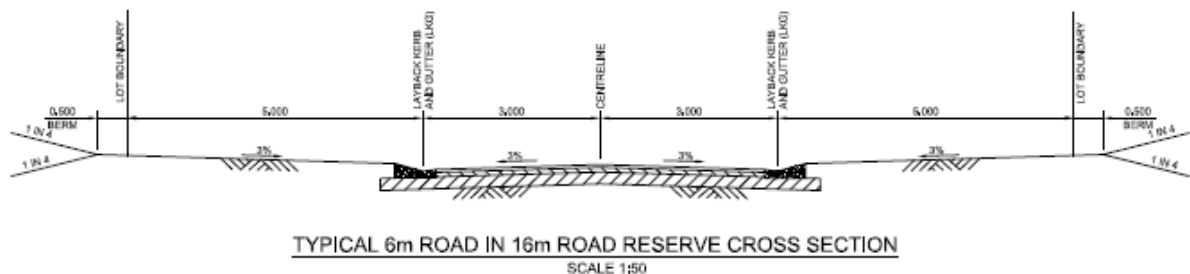
Figure 11 - Extract from plan titled Plan Showing Proposed Subdivision and Site Analysis prepared by Allen Price and Scarratts indicating the approximate location of the first raised threshold device.



A turning head catering for service vehicles is currently located at the western end of Emerald Drive, immediately adjacent to the site. The applicant proposes to extend Emerald Drive to enable road access to all lots in the development. A typical cross-section of the proposed extension of Emerald Drive is provided in **Figure 12** below.

A typical cul-de-sac treatment at the western extent of the Emerald Drive extension is proposed. The design of these cul-de-sac treatments would provide a 19m turn radius and 24m verge to accommodate Council waste vehicles and emergency vehicles.

Figure 12 - Typical cross-section of the proposed extension of Emerald Drive.



Provision of alternate access to the site for all lots

As previously stated, all 15 lots are proposed to gain access via an extension of Emerald Drive with Lot 15 also retaining access to the Princess Highway, the access will afford the NSW RFS secondary access to the development area.

The applicant, Council and RMS (roads authority in relation to the Princes Highway) have explored the potential for alternative access arrangements for access to the subdivision during the period following the initial pre-lodgement meeting on 11 December 2014 and subsequent to lodgement of the application on 19 October 2016.

The alternate access options are provided below.

Option 1: Construction of a new connection road to the north to be located along southern boundaries of adjacent rural properties to the east of the development linking to Meroo Road in the east (Option 1 indicated in **yellow** in **Figure 13** below). The main concerns or impediments to this proposal may be broadly summarised as follows:

- private ownership of land containing dwellings and rural outbuildings and infrastructure;
- the impact on the amenity of residents on the northern side of Emerald Drive would be significant with most lots having public roads to their front and rear boundary;
- the land is largely flood prone making the construction of flood free access difficult and costly;
- rural holdings would be further fractured and the viability of the rural holdings potentially compromised.

Option 2: Construction of a new connection road along the southern boundary of existing lots on the southern side Emerald Drive through the public reserve to link to Meroo Road (Option 2 indicated in **green** in **Figure 13** below). The main concerns or impediments to this proposal may be broadly summarised as follows:

- the road would be on land dedicated as a public reserve;
- the land is wholly flood-prone;
- the road would impact on private land owned in Halstead Place including pond filling and an engineered watercourse crossing;
- the impact on the amenity of residents on the southern side of Emerald Drive would be significant with these lots having public roads to their front and rear boundary

Option 3: Construction of direct access to Princes Highway with no access to Emerald Drive (Option 3 indicated in **orange** in **Figure 13** below). The main concerns or impediments to this proposal may be broadly summarised as follows:

- safety issues with sight lines for southbound highway traffic;
- fracture of RU1 land on residue lot which would further limit the potential use of the residue land for an agricultural use;
- this arrangement has been rejected by the RMS as part of the original application for 37 lots and again as part of the amended application for 15 lots. The RMS has accepted access for proposed lot 15 on the basis that there is existing access and access to the highway is required and desirable to enable emergency services access (in particular the RFS).
- Without the support of the RMS to access the Princes Highway this option cannot be pursued any further.

Option 4: Construction of direct access to Princes Highway utilising the existing access driveway which would include a revised proposed layout with no access to Emerald Drive (Option 4 indicated in **blue** in **Figure 13** below). The main concerns or impediments to this proposal may be broadly summarised as follows:

- RMS has agreed to only a single lot use of the existing access driveway by way of existing rights of access to the subject site (emergency access exempted);
- RMS has consistently indicated that they wish to limit direct access onto the Princes Highway and to limit traffic volumes;

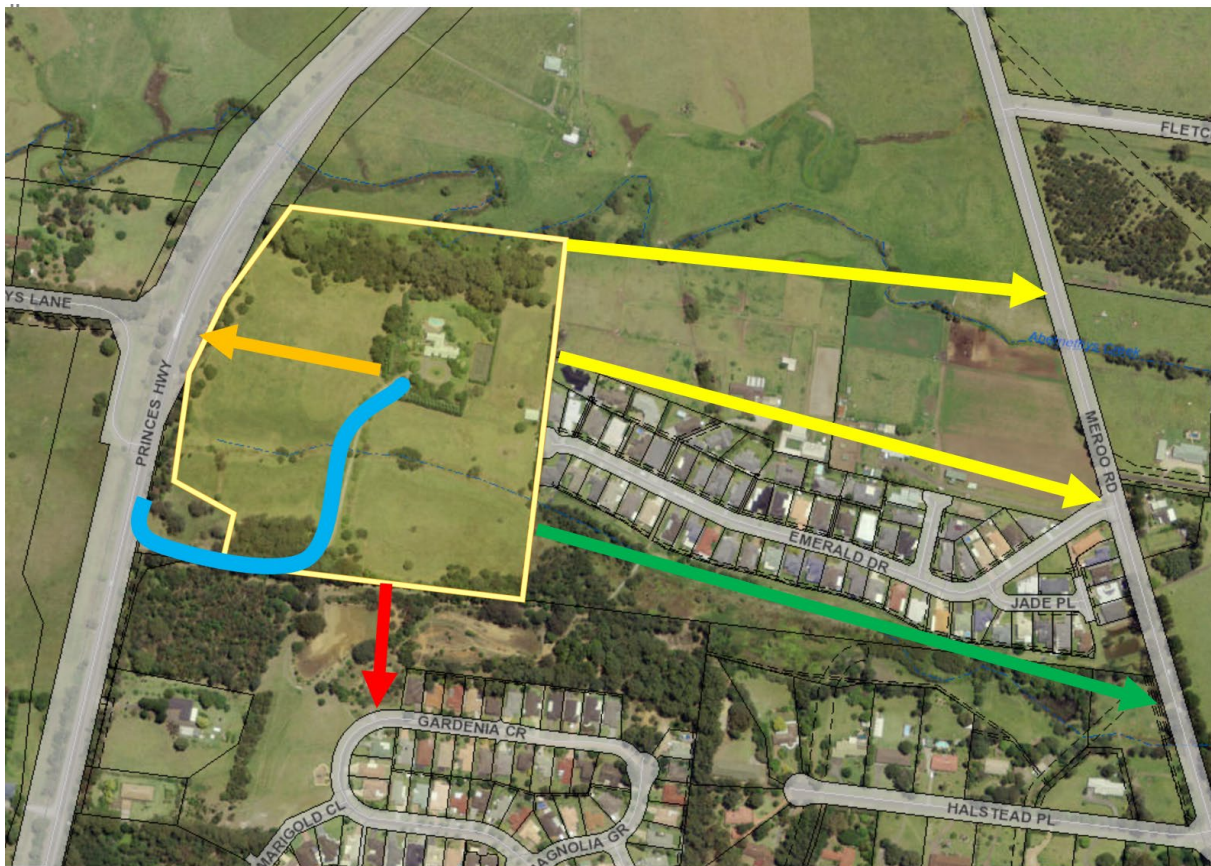
- RMS has agreed to use of Highway as secondary access for emergency services over easement via a locked gate on proposed Lot 15;
- An access road in this location would result in further fracturing of the E3 zoned land on residue lot;

Option 5: Construction of a road through Council's public reserve to the south of the development site, linking the new development to Jasmine Drive via Gardenia Crescent, Magnolia Grove and Sheraton Circuit (Option 5 indicated in **red** in **Figure 13** below). The main concerns or impediments to this proposal may be broadly summarised as follows:

- The public access road would be located on land dedicated as a public reserve;
- The land is largely flood-prone;
- Road pavement widths along Gardenia Crescent and Magnolia Grove present similar traffic and road network issues as is present within Emerald Drive;
- Additional ecological impacts are likely and may require entry in the Biodiversity Offset Scheme to offset flora and fauna impacts.

It is important to note that the Council as the assessing authority can only assess the application as proposed by the applicant and cannot direct the design. Council can encourage consideration of alternate designs but cannot redesign the application for the applicant.

Figure 13 - Potential alternate access arrangements for providing access to the subdivision which does not include the use of Emerald Drive. Each coloured line indicates the five (5) potential options that have been explored as part of the application.



Significant public submissions in relation to the application

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications on four (4) separate occasions following the submission of additional information.

Table 3 – Summary of notification /submissions

	Date	Details	Submissions
1	12 December 2016	Notified for a period of 47 days (extended notification for the Christmas and New Year period).	26 Objections
2	17 January 2018	Re-notified for a period of 30 days	25 Objections
3	8 November 2018	15 days	20 Objections
4	19 March 2019	15 days	15 Objections
		TOTAL	86

In accordance with section 4.15(d) of the EP&A Act and clause 3.4.10 of Council's *Community Consultation Policy for Development Applications (Including Subdivision) and the Formulation of Development Guidelines and Policies*, Council is required take into consideration any submissions made in accordance with the EP&A Act or the *Environmental Planning and Assessment Regulation 2000*.

Some submissions received by Council raised a single issue relating to a specific part of the development. Other submissions raised several issues and relate to several perceived deficiencies with the development. Such submissions have been broken into the relevant heads of objection and addressed in the section 4.15 Assessment Report that accompanies this Council Report (Attachment 1).

The **key** issues identified in objection to the development through the notification process may be generally summarised as follows:

Traffic and road infrastructure

- The current road network is insufficient to support further development of the subject site. The revised Traffic Report acknowledges Emerald Drive's existing width does not comply with Chapter G11: Subdivision of Land under SDCP 2014, which requires a minimum 6.0m pavement to accommodate an AADT figure of up to 500 vpd.
- The current design of Emerald Drive would not provide compliance with AUS-SPEC or Landcom residential road design guidelines.
- The increased traffic flows through the construction phase of the development will severely impact on traffic flows and the safety of residents
- The Emerald Drive and Meroo Meadow intersection is unsafe and the increased traffic flows from the development will exacerbate the situation.
- Proposed traffic calming devices are unsatisfactory and will not result in a satisfactory outcome for Emerald Drive in terms of safety and operation.
- The increased heavy vehicle movements will result in continued damage to Emerald Drive and the surrounding road network.

- The Traffic Report does not consider the increase in traffic due to commercial vehicles or make reference to this traffic at peak times. No consideration of the impacts of construction traffic has been made within the report.
- Council should engage an independent traffic consultant to review the Traffic Report to provide a transparent assessment.

Comment:

The traffic impacts and existing and essential road infrastructure upgrades have been considered by the applicant as part of the numerous traffic reports that have been submitted to Council and assessed by Council's Traffic and Transport Unit.

The applicant's final Traffic Report has considered the existing and future traffic impacts associated with the site based upon one dwelling house per lot. It is noted that the current planning regime would permit development and subdivision of the lots based on 500m² minimum lot sizes, which would likely result in additional traffic impacts on Emerald Drive and the functioning of the Emerald Drive and Meroo Meadow subdivision.

It has been suggested that it may be appropriate to seek to impose appropriate restrictions on the title of the lots in accordance with s88B of the *Conveyancing Act 1919* to restrict development on the lots and prevent traffic impacts. However, title restrictions cannot be used to prevent a planning purpose / outcome that would be otherwise permissible by an environmental planning instrument. There is scope to impose a requirement for a building envelope to be placed on the subdivision plan for each lot which would be consistent with the nominal building envelope stipulated under Chapter G11: Subdivision of Land of SDCP 2014.

Council may also choose to explore the appropriate amendments to SLEP 2014 through a planning proposal and 'Gateway Determination' to rezone and amend appropriate development standards which would curtail more intense land uses. This approach has been recommended and is explored later in this Report.

The additional traffic impacts associated with subdivision, construction and eventual dwelling construction on the lots have not been considered by the submitted Traffic Report. Traffic impacts associated with construction works are difficult to effectively estimate and survey and it is unclear whether the applicant may seek to obtain a staged CC for works at the site. Conventional traffic reports will generally not consider these details.

However, the applicant will be required to prepare and lodge a construction traffic management plan as a condition of the development consent (if approval is granted). Council can require such a plan to be prepared by a suitably qualified person and list the matters for inclusion.

The construction traffic management plan must assess traffic impacts on the local road network created by the construction of the development. An appropriate condition is also recommended to ensure all subdivision construction traffic be directed via the existing driveway access from the Princess Highway and that no section 138 approval to access to Emerald Drive shall be issued by Council to open Emerald Drive until all required civil, demolition and drainage works have been completed to the extent to the eastern boundary with Emerald Drive.

Additionally, a dilapidation report would also be required to deal with any damage to public infrastructure as a result of construction traffic.

It is considered that the requirement for four (4) raised threshold devices along Emerald Drive to aid in traffic calming along with the reduction in the lot yield from 37 lots to 15 lots has significantly reduced the potential traffic impacts associated with the development and has removed the need for widening. It is also noted that the road widening of Emerald Drive was opposed by residents during the notification of the 'road widening' plans by Council on 8 November 2018.

The operation of the Meroo Road and Emerald Drive intersection has been assessed and considered by the applicant via a Traffic Report which has also been reviewed by Council's Traffic and Transport unit as part of the assessment of the application. The safety, functionality and efficiency of the intersection have been reviewed and determined to be satisfactory under the existing and future conditions. It has been determined that there is presently no requirement for upgrade works at the intersection.

Council has suitably qualified professionals working in the Traffic and Transport Unit who have reviewed all plans and information submitted by the applicant. The assessment has been detailed and independent of external influences. It was not considered warranted to refer the matter for external review by an independent traffic consultant. There is nothing unusual about this. This is standard practice for most NSW Councils where there is in-house expertise to assess technical aspects of a development.

Safety concerns associated with road users and pedestrians along Emerald Drive

- The width of Emerald Drive, coupled with the absence of a pedestrian or shared pathway connecting Maddor Park Estate and the new development to Meroo Meadow Road and the parking of residents cars on the verge requires that pedestrians and cyclists share Emerald Drive with vehicles. The proposed development is likely to result in an increase in the potential for conflict between pedestrians and cyclists with vehicles using the road.

Comment:

The safety, functionality and efficiency of Emerald Drive have been determined to be satisfactory under the existing and future conditions, should the subdivision be approved.

It is considered that the requirement for four (4) raised threshold devices along Emerald Drive to aid in traffic calming along with the reduction in the lot yield from 37 lots to 15 lots has significantly reduced the potential traffic impacts associated with the development.

The management of traffic impacts associated with the subdivision construction works will be further managed through a construction traffic management plan in the event of an approval.

Further development impacts on Emerald Drive

- The current planning controls relating to the site and resulting lots do not prevent further development or subdivision of the lots which have not been modelled in the Traffic Report and are likely to result in unacceptable traffic impact.

Comment:

The current planning regime would not prevent further development (i.e. multi-dwelling housing, dual occupancy, child care centres or residential flat buildings) and further subdivision of the lots which would have a significant and detrimental impact on the safety and functioning of Emerald Drive and the Meroo Road intersection with Emerald Drive.

Accordingly, it is recommended that a Planning Proposal (PP) and/or site-specific development control plan for the site to ensure that future development of the lots does not result in unsatisfactory traffic impacts on Emerald Drive and the Meroo Road intersection.

The potential options open to Council to limit further development are discussed later in this report.

Alternate access to the site should be explored with no access from Emerald Drive

- The proposed extension of Emerald Drive to the west to accommodate the development is not an acceptable option that will result in unsatisfactory traffic impacts on a road which is already under prescribed in terms of the effective road pavement width when considered against the provision of SDCP 2014 Chapter G11:

Subdivision of Land. The applicant should explore alternative access arrangements to the north, south or via the Princes Highway.

Comment:

As has been identified earlier in this Report, the potential for alternate access to the site has been explored by the applicant, Council and the RMS throughout the assessment process. The potential for access to the Princes Highway for all lots has been considered and rejected by the RMS under the original proposal for 37 lots and again under the amended application for 15 lots. The RMS has agreed to enable access for Lot 15 and emergency vehicles to Emerald Drive via the right of carriageway accessed via the turning head to be constructed on Lot 505 DP 1221372.

It is important to note that Council previously approved the construction of Emerald Drive with the existing road pavement width under SF8781 and rezoning of the subject site was prepared and gazetted largely on the basis that access to the subject site would in all likelihood be via Emerald Drive.

It is considered that there is no realistic alternative to access the subject site beyond that proposed by the applicant for the extension of Emerald Drive.

Negative impacts on the amenity of Emerald Drive residents

- The additional dwellings on the resulting lots and extension Emerald Drive will have a negative impact on the amenity of existing residents and the Emerald Drive streetscape.

Comment:

The additional lots will likely result in an additional dwelling house on each lot with subsequent traffic movements to and from the dwellings consistent with typical residential usage. It is not considered that the impacts associated with an additional 15 lots will have a significant and discernible impact on the amenity of the residents of Maddor Park Estate or the broader locality.

The proposed lots range from 1,500m² to 7.16ha. The larger lot sizes are considered to be more reflective of the surrounding rural/residential setting.

Street planting will contribute to the streetscape. It is envisaged that similar housing to existing will be constructed continuing the low density streetscape and character.

Noise impacts

- The noise associated with the additional traffic movements and driver behaviour associated with the traffic calming devices (heavy braking and accelerating) will have a negative impact on all residents and particularly for those residents directly adjoining traffic calming devices.

Comment:

It is likely that the installation of four (4) raised thresholds (traffic calming devices) along Emerald Drive will result in driver behaviour that may result in associated noise impacts i.e. braking before the devices and accelerating after going over the device. Emerald Drive has a speed limit of 50km/h. The Traffic Report and associated surveys demonstrate that average speeds are below 40km/h and the addition of 15 lots to the subdivision is unlikely to increase vehicle speeds. The raised thresholds should be designed to reduce associated noise impacts where possible.

Property Values

- The proposed subdivision and extension of Emerald Drive will have such a detrimental effect on the character of the neighbourhood, that property values will be negatively affected.

Comment:

Whilst this is a typical and worrying concern when people are faced with new development, it is not a planning consideration that Council can consider in the assessment of the application. The planning assessment of an application is prescribed by section 4.15 of the EP&A Act 1979.

Stormwater Impacts

- The extension of the Emerald Drive road and dwellings on the 15 lot proposal will create a significant additional stormwater impact. The revised subdivision proposal does not seem to provide updated details of stormwater management or an assessment of peak stormwater events to the North into Abernethy's Creek or South into the watercourse flowing east behind the existing houses along the southern side of Emerald drive into the pond near Meroo Road.

Comment:

Lots will include inter-allotment drainage and street drainage installed to manage stormwater runoff.

All future dwellings are to include 5kL on-site detention (OSD) rainwater tanks (beyond any requirements for BASIX), to limit peak runoff flow rates to pre-developed levels and to improve downstream water quality and on-site retention for rainwater re-use.

A drainage easement through proposed Lot 14 will cater for major overland flows in the 100-year storm event and an appropriate restriction is to be placed on the lot in accordance with s88B of the *Conveyancing Act 1919*.

A soil and water management plan will be prepared prior to work commencing on the site to manage site disturbance and control sediment runoff from the construction site.

The development has been considered by Council's subdivision and drainage engineers to be satisfactory and is consistent with the applicable objectives relating to sustainable stormwater management and sediment control.

The redesign of the application does not prevent further subdivision or intensification of land uses that would have an unreasonable impact on Emerald Drive.

Comment:

The subject site has split zoning under SLEP 2014, consisting of land zoned part: R1 General Residential, E3 Environmental Management and RU1 Primary Production. Refer to the extract from the Land Use Zoning Map of SLEP 2014 in **Figure 14** below.

Development permitted with consent and prohibited in the R1 General Residential zone is identified under Item 3 and 4 of Land Use Table to the zone as follows:

3 Permitted with consent

Attached dwellings; Boarding houses; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Exhibition homes, Exhibition villages; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Jetties; Multi dwelling housing; Neighbourhood shops; Office premises; Oyster aquaculture;

Places of public worship; Pond-based aquaculture; Recreation areas; Registered clubs; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Sewerage systems; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Water supply systems

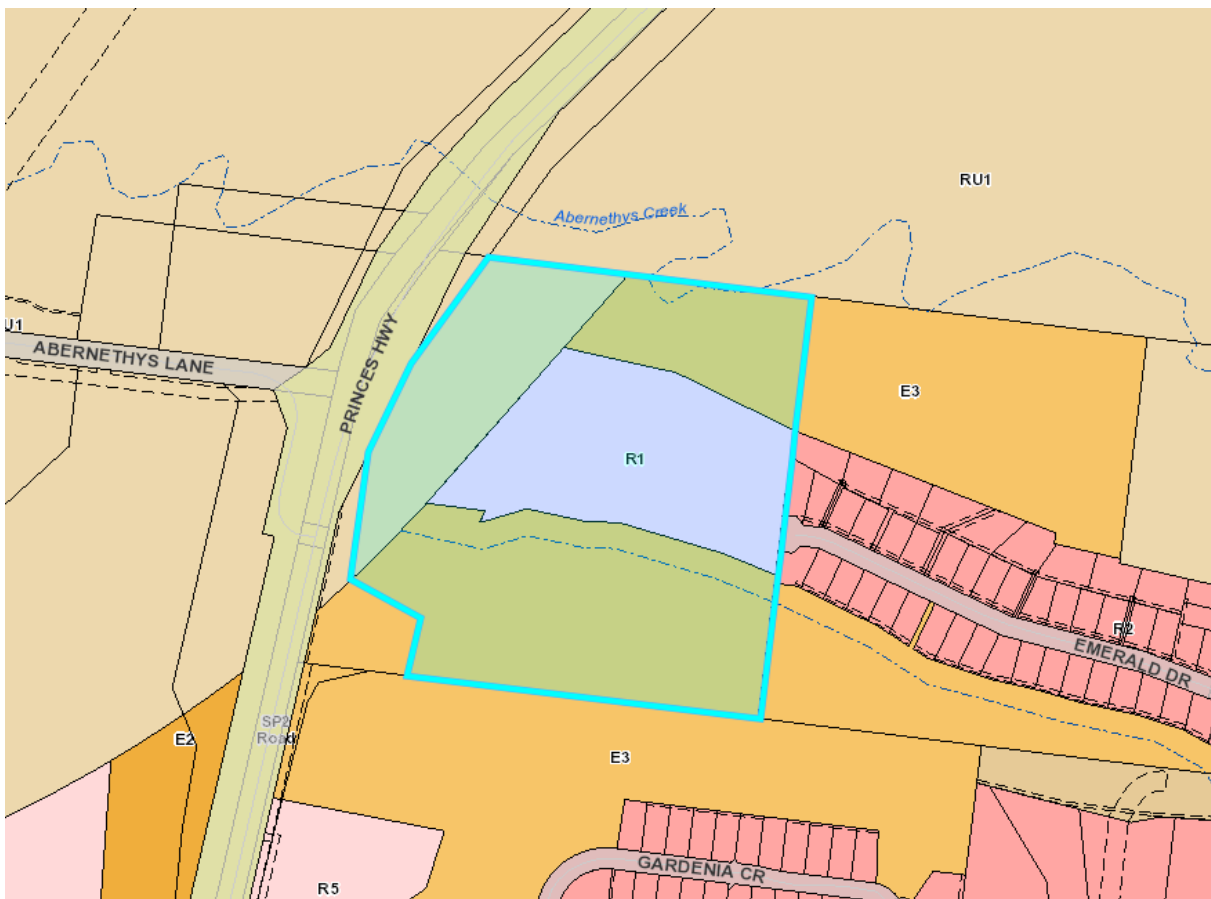
4 Prohibited

Farm stay accommodation; Any other development not specified in item 2 or 3

Under the current provisions of SLEP 2014 and in the event that the current proposal is determined by way of approval a development application could be lodged for a land uses (**bolded**) which would all result in a significant increase in traffic volumes on Emerald Drive. The intensification of land uses and the associated impacts are of considerable concern to residents.

The increase in traffic would likely exceed that presently modelled under the Traffic Report which has adopted an average of 6.4 vehicles movements per day (vpd) per dwelling. The highlighted land uses would be expected to generate a significantly higher vpd for each of the lots and AADT.

Figure 14 - Extract from SLEP 2014 Land Use Zoning Map. The subject site highlighted in blue.



The Lot Size Map relating to the subject site indicates that there are two minimum lot sizes relating to the subject site – “AB4” 40ha and “I” 500m². The 500m² minimum lot size mapping is consistent with the land zoned R1 General Residential under SLEP 2014. Refer to **Figure 15** extract from SLEP 2014 Lot Size Map.

Under the current provisions of SLEP 2014 and in the event that the current proposal is determined by way of approval a development application could be lodged for a re-

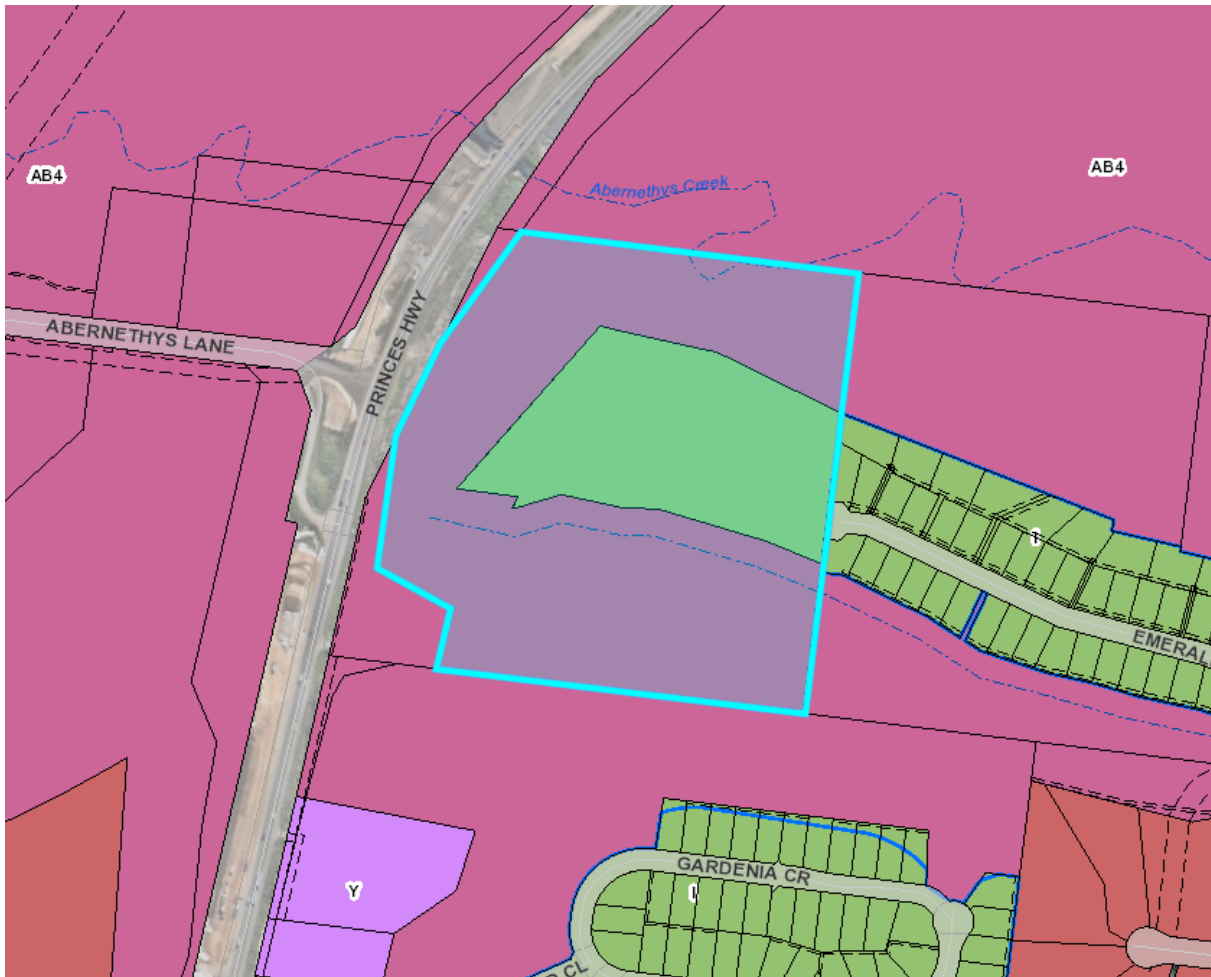
subdivision of any of the lots in accordance with clause 4.1 of SLEP 2014. Based on the current subdivision design an application could be lodged to re-subdivide each lot to generate an additional 15 lots (30 lots in total) or a subdivision pattern similar to that previously proposed by the applicant as part of the original application lodged in October 2016.

Furthermore, there are additional provisions under Part 4 Principal Development standards of SLEP 2014 which allow for subdivision of the land which would result in a lot less than the minimum lot size indicated on the Lot Size Map; they include the following provisions:

- Clause 4.1C Exceptions to minimum subdivision lot sizes for certain residential development; and
- Clause 4.1F Minimum subdivision lot size for community scheme and strata plan lots.

Any subsequent re-subdivision of the resulting 15 lot subdivision would result in an increase in traffic volumes on Emerald Drive which would exceed that presently modelled under the Traffic Report which indicates that AADT would exceed 500vpd at a point west of Ruby Lane, generally adjacent to 24 Emerald Drive (refer to **Figure 7** in this Report).

Figure 15 - Extract from SLEP 2014 Lot Size Map. The subject site highlighted in blue.



There are a number of approaches that Council could explore to ensure that further subdivision and subsequent dwelling houses and more intense land uses are not capable of being situated on the resulting lots, this *may* include matters along the following lines however the imposition of any restrictions via an 88B Instrument would have to be worded in a manner that they do not prevent the achievement of a planning purpose /outcome permitted in an Instrument.

- Placement of appropriate covenant on the lots as a restriction on the use of land by deed of agreement between the parties pursuant to s88 *Conveyancing Act 1919*. Such restrictive covenants could include:
 - No part of a dwelling or other habitable building may be constructed or allowed to remain on any lot hereby burdened unless it is contained wholly within the approved building envelope delineated on the plan in relation to the burdened lot; and
 - No driveway access shall be permitted to be constructed or retained on any lots unless such driveway access is the only driveway access on the lot.

However, such restrictions would serve to highlight to future owners that the intention is for the land to accommodate conventional low density residential development. In the event that an approval is granted for the development and the PP is pursued, it would be likely that an application would be made to remove any such requirement noting that the building envelope is relatively modest having regard to the land size.

Given the recommendation is for a Deferred Commencement, restrictions are not deemed necessary.

- Preparation and lodgement of a planning proposal (PP) in relation to:
 - Zoning (relating to R1 General Residential land only). A zoning of R5 Large Lot Residential is considered more appropriate for the land as it is consistent with the development application's large lot nature and would enable land owners to pursue land uses consistent with the nature of the land;
 - Minimum lot size (relating to land identified as "I" under the Lot Size Map which relates to the 500m² minimum lot size). A minimum lot size of 1,500m² would maintain the large lot residential nature proposed as part of the development application. This will assist in managing future development of the land to avoid congestion and adverse impacts on the immediate road network; and
 - Building height. The Height of Buildings Map does not show a maximum height for the land and therefore the height of a building on the land shall not exceed 11 metres. A maximum height of 8.5m over the land (R1 part only) is considered appropriate as it reflects the height limit of surrounding residential land and the citywide approach to heights in this context.
- Preparation of an area specific development control plan to guide future development of the lots and stipulate performance criteria and acceptable solutions to ensure that the rural/residential character of the lots is maintained, the resulting development does not result in a significant increase in traffic generation beyond that anticipated under the Traffic Report. This is considered not to be a suitable approach for this site. Furthermore, having regard to the hierarchy of planning controls and the intention of a development control plan, it should be noted that they are designed to guide development and provide a degree of flexibility. In simple terms, it is easier to vary provisions in these plans as opposed to controls included in a local environmental plan (LEP).

The applicant has also advised Council the landowner is prepared to enter into a legal agreement. Such an agreement would prevent or seek to defer registration of the lots or lodgement of a subdivision certificate until the PP was resolved. Whilst the intention may be clear, some concern remains about the veracity of such an agreement.

Another option which has been suggested is a deferred commencement style consent. However, a deferred matter should *generally* not be something that relies on another independent process or approval. A deferred consent however would ensure resolution of

the PP prior to the subdivision occurring. This greatly reduces the risk of land being sold /purchased and potentially developed for uses with a higher traffic generation.

Planning Assessment

The application has been assessed under section 4.15 of the EP&A Act, with all necessary heads of consideration reviewed. (Attachment 1)

Community Engagement

The notification of the application was undertaken in accordance with Council's Community Consultation Policy including advertising and notification of local residents within the vicinity of the development, with letters being sent within a 100m radius of the site and to Community Consultative Bodies.

A total of 86 submissions were received to the application. All submissions were in objection to the application.

Should a planning proposal proceed through Gateway to exhibition it would be exhibited for a period of at least 28 days in accordance with legislative requirements.

Policy Implications

If an approval is to be issued, the policy implications, if the recommendation is adopted, will be that the strategic planning framework will need to be explored to limit further development in the locality having regard to the unique circumstances of the estate, being a long narrow road, servicing the number of lots.

Financial Implications

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending any appeal in the Land and Environment Court of NSW.

Should Council support the preparation of a planning proposal, this process would be managed through the Strategic Planning budget and may impact on the work programme.

Legal Implications

Pursuant to section 8.2 of the EP&A Act a decision of the Council may be subject of a review by the applicant in the event of approval or refusal. Alternatively, an applicant for development consent who is dissatisfied with the determination of the application by the Council may, as mentioned above, appeal to the Court against the determination pursuant to section 8.7 of the EP&A Act.

Summary and Conclusions

- The proposal is acceptable having regard to the relevant environmental planning instruments and the SDCP 2014.
- The extent of variations to SDCP 2014 are limited to nominated road widths indicated in Chapter G11: Subdivision of Land. The variations are identified in the attached section 4.15 Assessment Report;
- The proposed development is unlikely to result in significant adverse unreasonable environmental impacts on both the natural and built environments, and social and

economic impacts in the locality having regard to the urban zone and context of the land;

- Subject to appropriate conditions, the site is considered suitable for the proposed development noting that it has been zoned for urban development (although the capacity of the land has been questioned and the proposal modified in response);
- The submissions received by Council raise concerns with the development and associated impacts. The submissions have been considered and addressed as part of the Council Report and section 4.15 Assessment Report;
- The development is considered to be in the public interest in that it will provide additional land for housing development; and
- The development is compatible with the surrounding development and will not have a significant adverse impact on the landscape character of the area.

Regarding the above, the proposal is not considered unacceptable, objectionable or warranting refusal. Accordingly, a positive recommendation is made.

TO: Development Services Manager (Bern, Cathy)

RESOLVED (Clr Gartner / Clr Digiglio)

MIN19.532

That Council:

1. Approve Development Application SF10541 for a fifteen (15) lot Torrens title subdivision and associated site works at C130 Princes Highway, Meroo Meadow - Lot 502 DP 1221372 by way of *Deferred Commencement* consent, subject to the recommended conditions of consent contained in Attachment 2 to this report.
2. Support the preparation of a planning proposal over C130 Princes Highway, Meroo Meadow - Lot 502 DP 1221372 to amend *Shoalhaven Local Environmental Plan 2014* (SLEP 2014) to rezone the current R1 General Residential component of the land to R5 Large Lot Residential and also apply a 1,500m² minimum lot size and 8.5m height limit to that part of the land.
3. Submit the Planning Proposal to the NSW Department of Planning, Industry and Environment (PIE) to request a 'Gateway determination'. If a favourable determination is received, proceed to public exhibition and report back to Council with the outcomes of the exhibition period.

FOR: Clr Findley, Clr Gash, Clr White, Clr Levett, Clr Digiglio, Clr Gartner, Clr Pakes, Clr Kitchener, Clr Proudfoot and Stephen Dunshea

AGAINST: Clr Wells and Clr Alldrick

CARRIED

Attachment C - SEPP Checklist

SEPP	Name	Applicable	Not inconsistent
1	Development Standards	✗	n/a
19	Bushland in Urban Areas	✗	n/a
21	Caravan parks	✗	n/a
33	Hazardous and Offensive development	✗	n/a
36	Manufactured home estates	✗	n/a
44	Koala habitat protection	✗	n/a
47	Moore Park Showground	✗	n/a
50	Canal estate development	✗	n/a
55	Remediation of land	✗	n/a
64	Advertising and signage	✗	n/a
65	Design quality of residential flat development	✗	n/a
70	Affordable Housing (Revised Schemes)	✗	n/a
--	Aboriginal Land 2019	✗	n/a
--	Affordable Rental Housing 2009	✗	n/a
--	Building Sustainability Index: BASIX 2004	✗	n/a
--	Coastal Management 2018	✗	n/a
--	Concurrences	✗	n/a
--	Educational Establishments and Child Care Facilities 2017	✗	n/a
--	Exempt and Complying Development Codes 2008	✓	✓
--	Gosford City Centre 2018	✗	n/a
--	Housing for Seniors or People with a Disability 2004	✗	n/a
--	Infrastructure 2007	✗	n/a
--	Kosciuszko National Park – Alpine Resorts 2007	✗	n/a
--	Kurnell Peninsula 1989	✗	n/a
--	Mining, Petroleum Production and Extractive Industries 2007	✗	n/a
--	Miscellaneous Consent Provisions 2007	✗	n/a
--	Penrith Lakes Scheme 1989	✗	n/a
--	Primary Production and Rural Development 2019	✗	n/a
--	State and Regional Development 2011	✗	n/a
--	State Significant Precincts 2005	✗	n/a
--	Sydney Drinking Water Catchment 2011	✗	n/a
--	Sydney Region Growth Centres 2006	✗	n/a
--	Three Ports 2013	✗	n/a
--	Urban Renewal 2010	✗	n/a
--	Vegetation in Non-Rural Areas	✓	✓
--	Western Sydney Employment Area 2009	✗	n/a
--	Western Sydney Parklands 2009	✗	n/a

Attachment D - s9.1 Ministerial Direction Checklist (28 February 2019 Version)

Direction		Applicable	Relevant	Not inconsistent
1 Employment and Resources				
1.1	Business and Industrial Zones	✗	✗	n/a
1.2	Rural Zones	✗	✗	n/a
1.3	Mining, Petroleum Production and Extractive Industries	✗	✗	n/a
1.4	Oyster Aquaculture	✗	✗	n/a
1.5	Rural lands	✗	✗	n/a
2 Environment and Heritage				
2.1	Environmental Protection Zones	✓	✗	n/a
2.2	Coastal Management	✗	✗	n/a
2.3	Heritage Conservation	✓	✗	n/a
2.4	Recreation Vehicle Area	✓	✗	n/a
2.5	Application of E2 and E3 Zones in Environmental Overlays in Far North Coast LEPs	✗	✗	n/a
2.6	Remediation of Contaminated Land	✗	✗	n/a
3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	✓	✓	See s.4.2.4
3.2	Caravan Parks and Manufactured Home Estates	✓	✗	n/a
3.3	Home Occupations	✓	✓	See s.4.2.4
3.4	Integrating Land Use and Transport	✓	✓	See s.4.2.4
3.5	Development Near Regulated Airports and Defence Airfields	✗	✗	n/a
3.6	Shooting Ranges	✗	✗	n/a
3.7	Reduction in non-hosted short term rental accommodation period	✗	✗	n/a
4 Hazard and Risk				
4.1	Acid Sulphate Soils	✓	✓	See s.4.2.4
4.2	Mine Subsidence and Unstable Land	✗	✗	n/a
4.3	Flood Prone Land	✗	✗	n/a
4.4	Planning for Bushfire Protection	✓	✓	See s.4.2.4

5 Regional Planning				
5.1	Implementation of Regional Strategies	x	x	n/a
5.2	Sydney Drinking Water Catchments	x	x	n/a
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	x	x	n/a
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	x	x	n/a
5.9	North West Rail Link Corridor Strategy	x	x	n/a
5.10	Implementation of Regional Plans	✓	✓	See s4.2.4
5.11	Development of Aboriginal Land Council land	x	x	n/a
6 Local Plan Making				
6.1	Approval and Referral Requirements	✓	x	n/a
6.2	Reserving Land for Public Purposes	✓	x	n/a
6.3	Site Specific Provisions	x	x	n/a
7 Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	x	x	n/a
7.2	Implementation of Greater Macarthur Land Release Investigation	x	x	n/a
7.3	Parramatta Road Corridor Urban Transformation Strategy	x	x	n/a
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	x	x	n/a
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	x	x	n/a
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	x	x	n/a
7.9	Implementation of Bayside West Precincts 2036 Plan	x	x	n/a
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	x	x	n/a

Attachment E – Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2019_SHOAL_006_00): to rezone Part of Lot 502 DP 1221372 C130 Princes Highway, Meroo Meadow from R1 General Residential Zone to R5 Large Lot Residential Zone, amend minimum lot size and apply building height controls under the Shoalhaven LEP 2014.

I, the Director, Southern Region, at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Shoalhaven Local Environmental Plan (LEP) 2014 as described above should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
2. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. The NSW RFS is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 19th day of December 2019.

A handwritten signature in dark ink, appearing to read 'Sarah Lees', is positioned above the printed name and title.

Sarah Lees
Director, Southern Region
Local and Regional Planning

Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

Attachment F – Agency Consultation



NSW RURAL FIRE SERVICE

Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Your reference: PP047
Our reference: SPI20200122000005

ATTENTION: Peta Brooks

Date: Monday 27 April 2020

Dear Sir/Madam,

**Strategic Planning Instrument
LEP Amendment – Exhibition**

Rezone the existing R1 General Residential component of Lot 502 to R5 Large Lot Residential. Amend the minimum lot size applying to the existing R1 General Residential zoned land from 500m² to 1500m². Apply a maximum building height of 8.5m over the existing R1 General Residential zoned land.

I refer to your correspondence dated 16/01/2020 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the Environmental Planning and Assessment Act 1979.

The objectives of the direction are:

- a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- b) to encourage sound management of bush fire prone areas.

The direction provides that a planning proposal must:

- a) have regard to Planning for Bushfire Protection 2006,
- b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- c) ensure that bushfire hazard reduction is not prohibited within the APZ.

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal.

For any queries regarding this correspondence, please contact Amanda Moylan on 1300 NSW RFS.

Yours sincerely,

Bradley Bourke
**Team Leader, Dev. Assessment & Planning
Planning and Environment Services**

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

Attachment G - Council Minute endorsing finalisation

FOR ACTION

DEVELOPMENT & ENVIRONMENT COMMITTEE

01/09/2020

TO: Strategic Planner (Brooks, Peta)

RESOLVED (Clr White / Clr Proudfoot)

MIN20.609

That Council:

1. Adopt Planning Proposal (PP047) as exhibited, and using Council's delegation, proceed to finalisation by forwarding the Planning Proposal to the NSW Parliamentary Counsel's Office with the instruction to draft the required amendment to Shoalhaven LEP 2014.
2. Advise the proponent and surrounding landowners of the resolution and notification of the LEP Amendment.

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

AGAINST: Nil

CARRIED