

Planning Services

Gateway Determination Report

LGA	Eurobodalla
RPA	Eurobodalla Shire Council
NAME	Lot size change - 3 Brown Close Moruya Heads (3 homes, 0 jobs)
NUMBER	PP_2018_EUROB_001_00
LEP TO BE AMENDED	Eurobodalla LEP 2012
ADDRESS	3 Brown Close Moruya Heads
DESCRIPTION	Lot 3 and DP701983
RECEIVED	8 January 2018
FILE NO.	IRF18/400
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal OR include details of meetings or communications with registered lobbyists.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend the lot size applying to Lot 3, DP701983, 3 Brown Close Moruya Heads from 2ha to 1500m². The proposal will facilitate subdivision of the site into a maximum of 3 lots, and create 2 new dwelling entitlements.

Site description

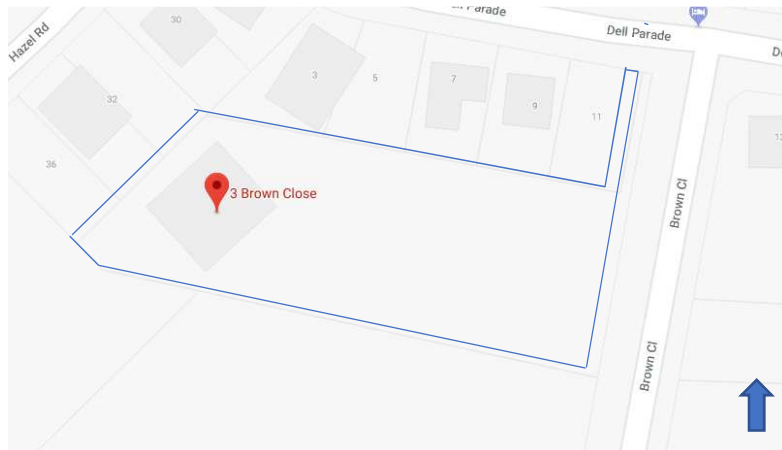
The subject land, 5494m² in area, and largely rectangular in shape, forms part of, and adjoins a large lot residential area to the south, and neighbours existing developed low density residential land to the north, north east and west. The site fronts Brown Close to the east, and has an access handle along Brown Close on the north-east corner of the lot, allowing direct access to Dell Parade.

The site is currently occupied by a single storey dwelling house and shed, sited on the highest point of the site, close to the western boundary.

The site slopes moderately to the east, with a cross fall to the south, contains considerable vegetated areas, with some distinct cleared areas. Surrounding land to the south is also heavily vegetated.

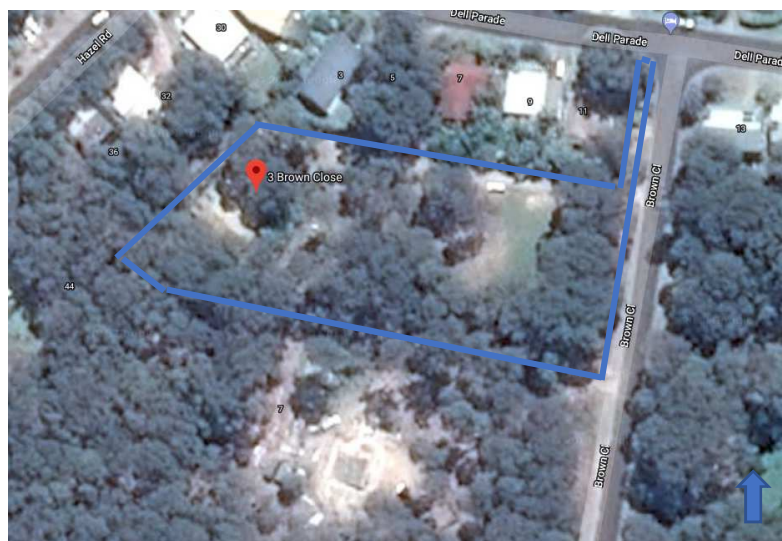
The below map and aerial photo identify the subject land (source: NSW Planning Portal).

Subject Site: Lot 3 DP701983



Source: www.planningportal.nsw.gov.au

Scale: 20 m

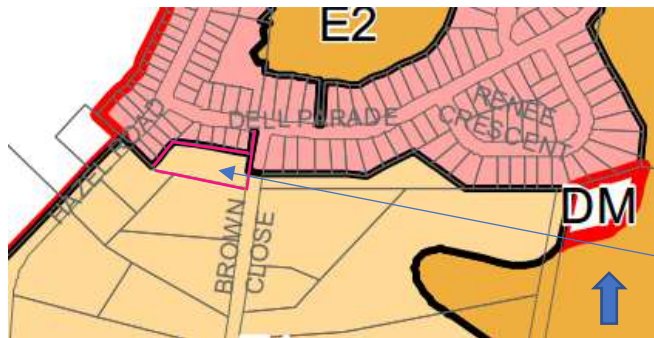


Source: www.planningportal.nsw.gov.au

Scale: 20 m

Existing planning controls

The subject lot is zoned E4 (Environmental living), with a minimum lot size of 2ha under the Eurobodalla LEP 2012. The lot is mapped in the LEP as having partial coverage of extant native vegetation present. See below extracts from respective LEP maps from the Eurobodalla LEP 2012.



Subject Land

Zoning (E4 Environmental Living)

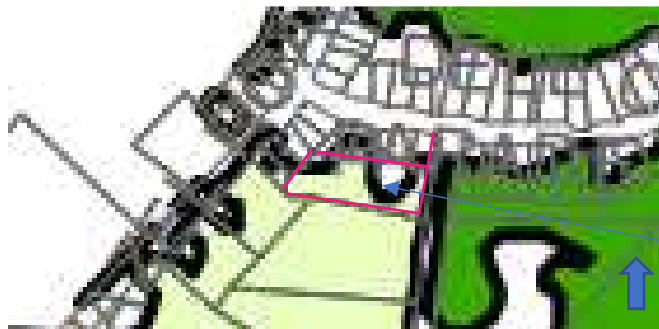
Source: Eurobodalla LEP 2012 (www.legislation.nsw.gov.au)



Subject land

Lot size (2ha)

Source: Eurobodalla LEP 2012 (www.legislation.nsw.gov.au)



Subject Land

Terrestrial Biodiversity (Extant Native Vegetation)

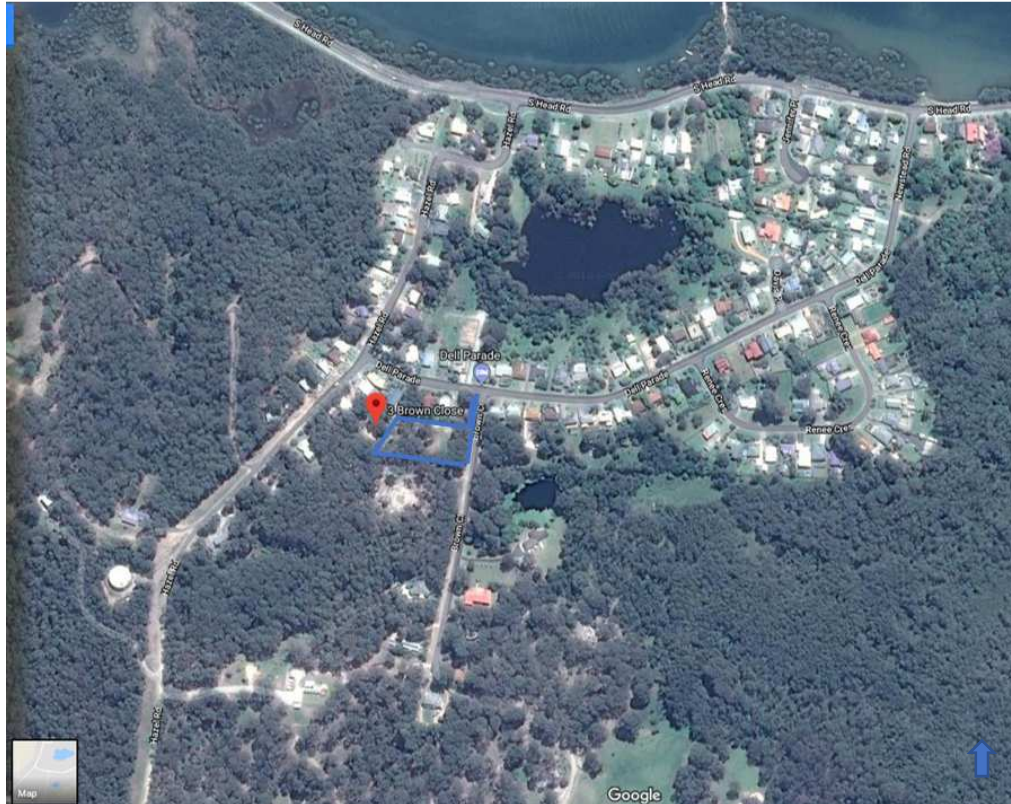
Source: Eurobodalla LEP 2012 (www.legislation.nsw.gov.au)

Surrounding area

Moruya Heads is an area comprised of a number of distinct residential areas. The subject land borders the central residential area. Outside of the residential areas, the surrounding landscape is characterised by dense bushland, zoned either E4 Environmental Living or E2 Environmental conservation, as well as considerable areas which remain zoned under the Eurobodalla Rural LEP 1987, being deferred from the Eurobodalla LEP 2012.

In the immediate vicinity of the subject land, surrounding areas are characterised by heavily vegetated land zoned E4 to the south, south west and south east, with an area zoned E2 Environmental conservation to the south east. Adjacent to the subject site to the north, west and north east, are developed R2 (General residential) zoned lots.

Surrounding Area



Source: Googlemaps

Scale: 

Summary of recommendation

Proceed with conditions – The planning proposal is supported to proceed subject to consultation with State agencies and the community. The amendment is compatible with surrounding land uses, and considered minor from a planning policy perspective.

PROPOSAL

Objectives or intended outcomes

Council's objectives of the planning proposal are to enable potential subdivision into 3 lots by reducing the minimum lot size applying to the site. This is also seen as providing a transition between the higher density residential areas to the north, and the larger lot environmental living areas to the south.

Explanation of provisions

The Eurobodalla LEP 2012 Lot size map sheet LSZ_012A will be amended to replace the existing 2ha development standard with a 1500m² standard applying to the subject lot.

Mapping

Council's planning proposal provides mapping identifying the site, applicable zoning, site constraints, and the current and proposed minimum lot size standards. Whilst the proposal does not include LEP standard mapping, the mapping included is considered appropriate for the purpose of community and agency consultation. Council will be required to provide final LEP maps prior to finalising the LEP.

NEED FOR THE PLANNING PROPOSAL

Council has advised that the planning proposal is not the result of a Council strategy or report, and was land owner initiated and has been supported by a number of studies funded by the land owner.

The planning proposal is considered the only mechanism to achieve the increase density of development as clause 4.6 (Exceptions to Development Standards) cannot be used as the site is already below the applicable minimum lot size.

Council considered the use of Schedule 1 (Additional permitted uses) to facilitate subdivision to the smaller lot size but opted against as it would be inconsistent with lot size map and s117 Direction 6.3 (Site Specific Provisions).

Council believes the site is able to be appropriately serviced with minimal impacts on surrounding areas, and would provide a transition between the adjacent R2 zone to the north, and the larger E4 lots to the south.

The Regional Office agrees that amendment of the lot size map is the most appropriate mechanism to achieve the intended outcome of the planning proposal.

STRATEGIC ASSESSMENT

State

State strategic planning framework is not relevant given the minor scale and level of impact of this planning proposal.

Regional / District

The South East and Tablelands Regional Plan applies to the Eurobodalla Shire. Council considers the proposal to be consistent with the plan with regards to the need to supply housing options, taking in consideration of character, environmental and agricultural qualities and capacity of the land, and access to services. Specifically, Council believes the proposal is consistent with Direction 24 – Deliver housing supply and choice, and Direction 25 – Focus housing growth in locations that maximise infrastructure and services.

The Region Office is satisfied that the planning proposal is consistent with the Regional Plan directions identified by Council, and that the site specifics, and small-scale nature of the potential increase in development potential created by the proposal is not inconsistent with other aspects of the Regional Plan.

Local

Council's planning proposal identifies 2 relevant local strategies, and a summary of Council's assessment of consistency with each is listed below;

Eurobodalla Settlement Strategy 2006 - Council notes that the subject land is contained within the mapped boundaries of the Moruya urban settlement footprint and is therefore considered consistent with the settlement Strategy.

Moruya Structure Plan 2007 – The subject site is not specifically included in the area covered by the Plan. Council considers that the lot forms a logical transition between existing adjoining residential to the north and the large environmental living lots to the south.

The planning proposal also states that the lot is within and part of the urban settlement, and that intensification will not compromise settlement character and would be in keeping with existing residential development. Therefore, Council considers the proposal to be consistent with local strategic directions applying to Moruya Heads.

The Regional Office notes Council's assessment, and is satisfied that the proposal represents a modest increase in development potential that is not inconsistent with the local planning strategies, nor character of Moruya Heads. The boundary of the subject land forms linear boundary to the urban area and is unlikely to set a precedent for further subdivision of larger E4 zoned lots to the south.

Section 9.1 Ministerial Directions (Formerly s117)

Council has identified that the following Directions apply. A summary of Council's assessment of the proposals against the Directions is below:

2.1 Environmental Protection Zones – Consistent. A vegetation assessment has found the site is not environmentally sensitive, is heavily disturbed, and adjoins residential zoned land.

2.2 Coastal Protection – The proposal is consistent with the objectives of the NSW Coastal Policy. Whilst within 115m a wetland (zoned E2, and 380m from the Moruya river, Council is of the opinion that the proposal will not affect public access to the foreshore, nor have any adverse effects on the scenic qualities of the wetland, activities associated with the waterway, coastal hazards or processes, or on the natural environment. No heritage impacts are foreseen, and no conflict between land and aquatic activities are predicted.

4.4 Planning for Bushfire – Consistent. The subject site is bushfire prone. A preliminary Bushfire assessment has identified developable areas and required Asset Protection Zones, and that any future development can satisfy the requirements of Planning for Bushfire Protection 2006.

5.10 Implementation of Regional Plans – The proposal is consistent with South East and Tablelands Regional Plan as it would increase housing supply and utilise existing infrastructure services, whilst satisfactorily addressing settlement planning principles.

6.1 Approval and Referral Requirements – Consistent. Reduced lot size will not create any additional referral requirements or approvals. RFS will need to be issued by a Bushfire Safety Authority for any future subdivision of bushfire prone land.

Assessment

Direction 2.1 Environmental Protection Zones – The Direction is applicable as the site is mapped as having extant native vegetation and has an environmental zone. The proposal is inconsistent with the Direction as it will reduce the minimum lot size applying to the site. This inconsistency is considered to be of minor significance as the proposal will only create the opportunity for two additional dwellings and as studies have shown that the land is not environmentally significant.

Recommendation: That the Secretary's delegate can be satisfied that the PP's inconsistency with the Direction is justified as it is of minor significance.

Direction 4.4 Planning for Bushfire Protection - The planning proposal will be consistent with the Direction following consultation with the Commissioner of the NSW RFS. Consultation with NSW RFS is to be a condition of the Gateway Determination and Council is required to undertake this consultation and consider any comments made, prior to public exhibition.

The Regional Office is satisfied that the proposal is not inconsistent with any other applicable Direction.

State environmental planning policies

Council has identified the following applicable SEPP's;

SEPP 55 Remediation of Land

SEPP 71 Coastal Protection

Draft SEPP (Coastal Management)

Council has assessed the proposal against the SEPP's and noted that the proposal is not inconsistent with the application of the SEPP's.

The Regional Office is satisfied that the minor nature of the proposed change to the minimum lot size map and subsequent potential increase of two lots/dwellings will not significantly impact upon matters covered by the SEPP's identified by Council, or any other relevant SEPP's.

SITE-SPECIFIC ASSESSMENT

Social

Council identifies that the facilitation of a subdivision to create 3 lots will contribute to urban housing supply in close proximity to services and infrastructure, providing social and economic benefits through provision of lifestyle opportunities in an affordable location, as well as construction based employment.

The Regional office acknowledges the small potential increase in housing supply, and subsequent flow on local economic opportunities in construction and ongoing residential occupation of the site to local businesses.

Environmental

The planning proposal is accompanied by a vegetation/habitat assessment prepared in July 2017. The planning proposal summarises this assessment, noting the presence of remnant Spotted Gum – Burrawang Cycad dry forest type, with the dominant species being spotted gum, but also featuring Red Ironbark amongst a heavily disturbed understorey, with some retained Burrawang on the southern boundary. No threatened flora were identified as being present.

Potential habitat and feeding sites are present for a number of Cockatoo species, considered threatened are present within a home range of 2km of the site, but site environments are not ideal for the species and the loss of a small number of trees would not impact, nor constitute a significant impact on the breeding resources of the Regent Honeyeater.

Impacts on habitat connectivity and riparian issues is also considered minor.

The impact of a potential three lot subdivision and two further dwellings on the site are not likely to be significant, however given the E4 zoning of the site and the surrounding natural features, it is recommended that the Office of Environment and Heritage be consulted with as part of the exhibition of the planning proposal should a Gateway determination be issued.

The proposal also acknowledges that the site is mapped as bushfire prone land, and a Preliminary Bushfire assessment was undertaken in 2016. The assessment identifies developable areas on site having regard to asset protection zones, access and surrounding vegetation and indicates that future subdivision will be able to meet relevant bushfire planning requirements.

In order to be consistent with Section 9.1, Direction 4.4 (Planning for Bushfire Protection), a Gateway determination condition is to be included that Council must consult with, and consider and comments from the NSW RFS Commissioner's prior to public exhibition of the planning proposal.

Economic

The proposal discusses minor economic benefits in the construction phases of any dwellings that may arise from a subdivision resulting from the change in lot size.

The Regional Office agrees a short-term increase in local construction may result, and a minor increase in local resident population may assist in ongoing viability of local businesses in Moruya Heads.

Infrastructure

Council's planning proposal details how the subject land can be adequately serviced, including road access, water and sewer services and stormwater management.

The Regional Office is satisfied that the small increase in development that may result from the proposed minimum lot size change can be adequately serviced with detailed servicing plans to be provided at the development application stage.

The provisions of state or commonwealth infrastructure is not considered relevant to this planning proposal.

CONSULTATION

Community

Council has proposed a four week consultation period.

The Regional Office considers this adequate noting consultation with a number of Government agencies will be required.

Agencies

Council has proposed consultation with NSW Rural Fire Service (RFS) and NSW Office of Environment and Heritage (OEH).

The Regional Office agrees that these agencies should be consulted noting the environmental attributes of the site and surrounds, and the mapped bushfire risk.

No further agency consultation is required.

TIME FRAME

Council has proposed a 6 month completion timeframe.

Noting the need to consult with a number of agencies, and to allow Council time to consider any submissions, prepare appropriate mapping etc, a 12 month timeframe is recommended.

LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation to finalise the LEP.

Given the small scale and nature of the planning proposal in only potentially creating 2 new lots, Council should be afforded delegation to finalise the plan.

CONCLUSION

The Regional Office supports the planning proposal proceeding, with conditions.

The proposal involves a minor amendment to the lot size map applying to one lot to reduce it from 2ha to 1500m². The amendment will facilitate a subdivision potential of up to three lots and two new dwelling entitlements in an E4 (Environmental living) zone.

This is considered a minor increase in development potential and not foreseen to negatively impact upon the neighbourhood character as the lot immediately adjoins existing R2 residential land with a minimum lot size of 550m². The potential for two new dwellings on the subject land will form a transition to the larger 2ha standards adjoining to the south.

It is recommended that Council be the planning authority responsible for finalising the LEP.


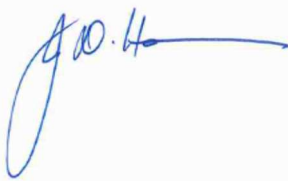
RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved until Council has consulted with the NSW Rural Fire Service and has considered any comments made by the Commissioner.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Office of Environment and Heritage (OEH)
 - NSW Rural Fire Service (RFS)
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.

	
	18.04.2018
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