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## **Planning proposal to amend Eurobodalla Local Environmental Plan 2012**

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Lot 3 DP 701983, No. 3 Brown Close, Moruya Heads

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Amendment to Lot Size Map – Sheet LSZ\_12A

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sustainable thinking

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## **Attachments:**

1. Site photographs
2. Preliminary bushfire assessment
3. Vegetation/habitat assessment
4. Subdivision servicing issues
5. AHIMS Search Results

## Document Details & History

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## **1. Introduction**

### **1.1 Purpose and scope**

This planning proposal has been prepared in accordance with section 55(2) of the *Environmental Planning and Assessment Act 1979*. The purpose of the planning proposal is to amend *Eurobodalla Local Environmental Plan (LEP) 2012* Lot Size Map so that a minimum lot size of 1,500 square metres is applied to Lot 3 DP 701983, No. 3 Brown Close, Moruya Heads.

The scope of this planning proposal is to describe the land and its attributes and to respond to matters for consideration outlined in *A guide to preparing planning proposals* issued by the Department of Planning & Infrastructure in August 2016.

The following supporting documents are provided as attachments to this planning proposal:

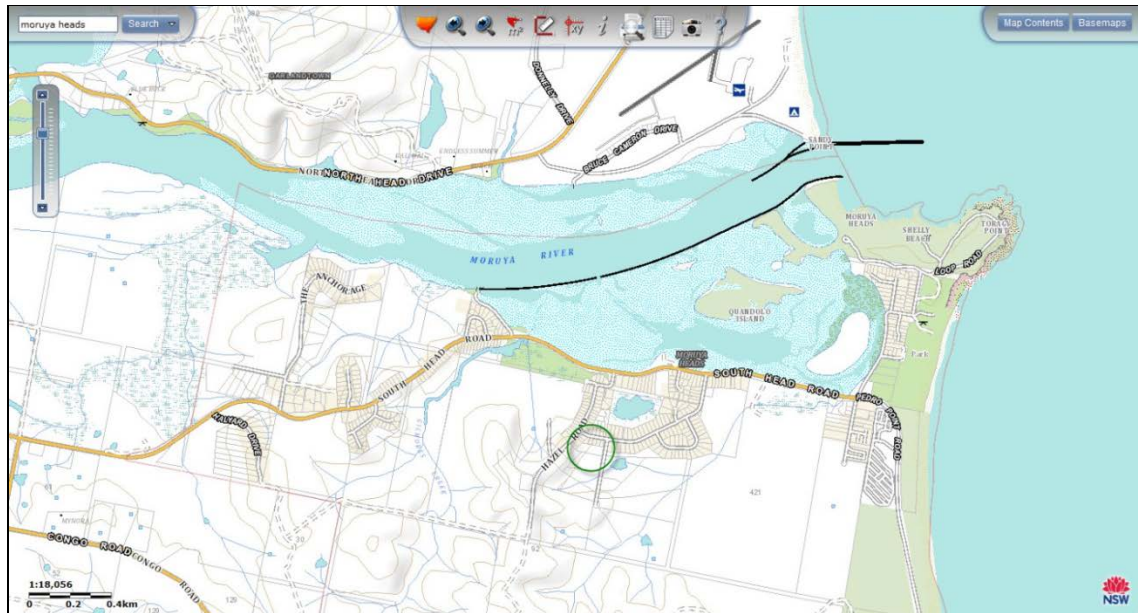
- Site photographs
- Preliminary bushfire Assessment, prepared by Matt Jones, 24 August 2016
- Vegetation/Habitat Assessment, prepared by Peter Spurway & Associates, 6 August 2017
- Subdivision servicing issues, prepared by Southeast Engineering & Environmental, 10 July 2017
- AHIMS Search Result, Office of Environment & Heritage, 14 July 2017

### **1.2 The property**

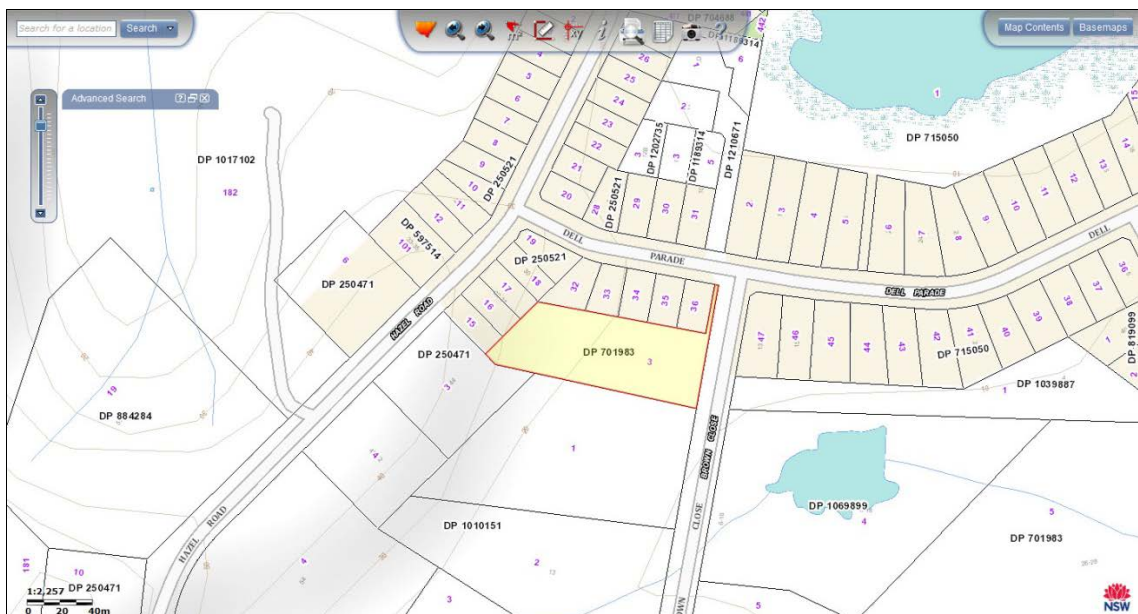
The property, described as Lot 3 DP 701983, No. 3 Brown Close, Moruya Heads, is located in the central section of the settlement of Moruya Heads and to the south of South Head road – the major road providing access to the services and facilities of the inland coastal centre of Moruya which is approximately 5 kilometres to the west.

The site is located on the western side of Brown Close in close proximity to the intersection with Dell Parade. It adjoins rural residential land to the south, and urban residential development on all other sides. The site has an area of 5,494 square metres and slopes moderately to the east with crossfall to the south. It is roughly rectangular in shape with a width of 46 metres and has a northern boundary length of 108m and a southern boundary length of 135m. An access handle runs alongside Brown Close connecting to Dell Parade at the north-eastern corner of the lot. It is occupied by a single storey dwelling-house and metal shed sited at the highest point of the site and close to the western boundary. A caravan and building materials are scattered across the site. Neighbouring dwellings are two storeys on rural residential lots, and single and two storey cottages on urban residential land.

Figure 1 below shows the locality with the site circled in green. Figures 2 and 3 are cadastral maps and an aerial image of the central section of Moruya Heads with the site shaded yellow. Photographs of the site and surrounding land are provided in Attachment 1.

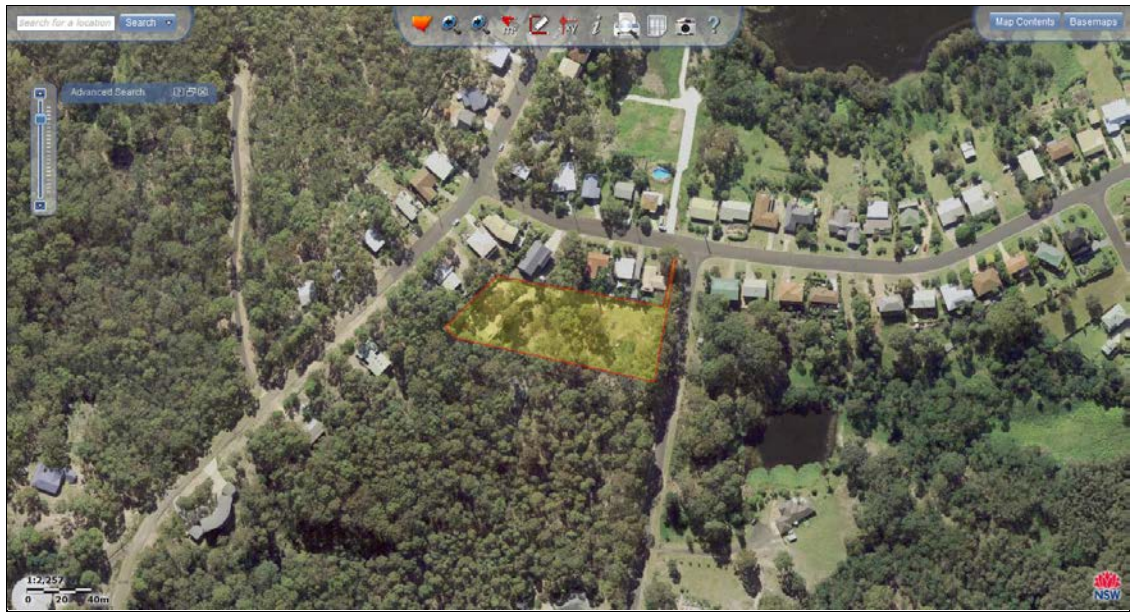


**Figure 1: Locality map showing No 3 Brown Close circled in green. Source: SIX Maps, 2017**



**Figure 2: Cadastral map showing No 3 Brown Close shaded yellow. Source: SIX Maps, 2017**

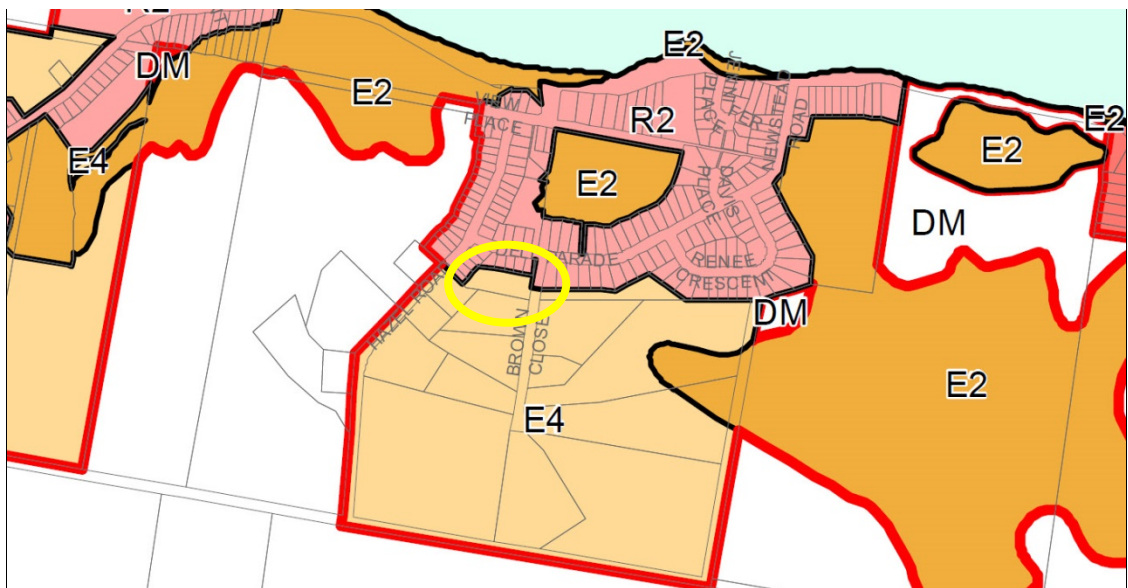




**Figure 3: Aerial image with No 3 Brown Close shaded yellow. Source: SIX Maps, 2017**

### 1.3 Eurobodalla Local Environmental Plan 2012

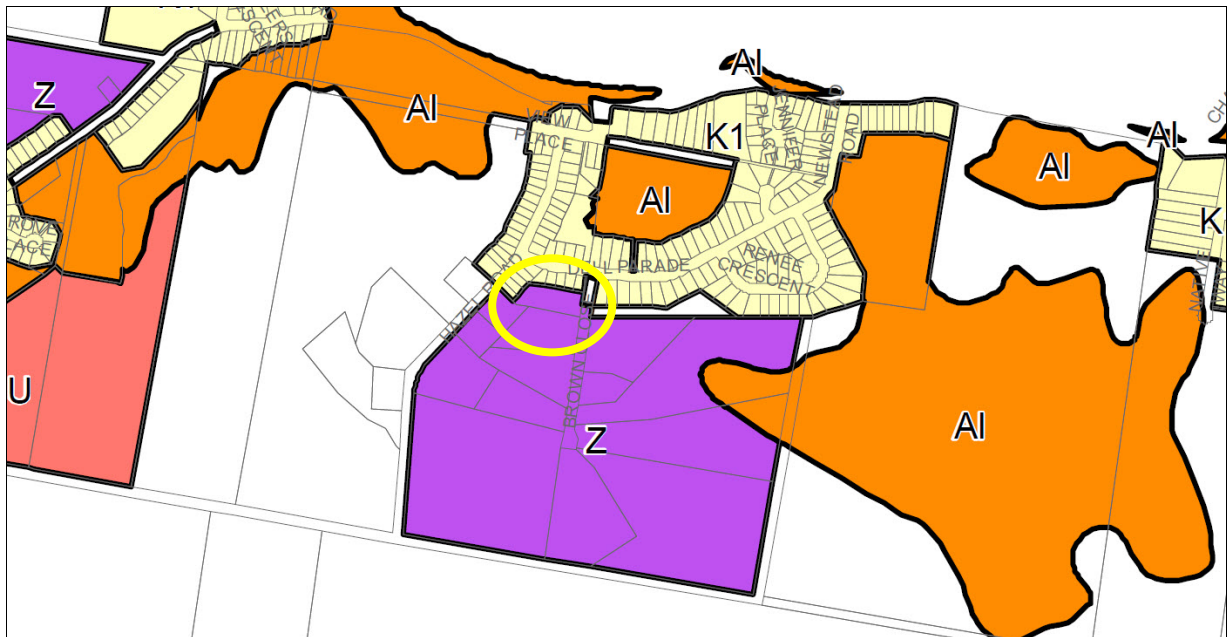
The property is currently zoned E4 Environmental Living under *Eurobodalla Local Environmental Plan (LEP) 2012* consistent with adjoining land to the south. The site is located at the northern extent of the E4 compartment. Neighbouring residential land to the north, east and west is zoned R2 Low Density Residential. The land zoning of the site and surrounding land is shown in Figure 4 below.



**Figure 4: Extract from Eurobodalla LEP 2012 Land Zone Map with 3 Brown Close circled in yellow.**

A minimum lot size of 2 hectares applies to the subject land and to land zoned E4 to the south. A minimum lot size of 550 square metres applies to the adjoining R2 zoned land. These lot sizes are shown as 'Z' and 'K1' respectively on the extract from the Lot Size Map (Figure 5) below.

A maximum building height of 8.5 metres applies to the subject site and all surrounding land.



**Figure 5: Extract from Eurobodalla LEP 2012 Lot Size Map with 3 Brown Close circled in yellow.**

**Source: ESC**

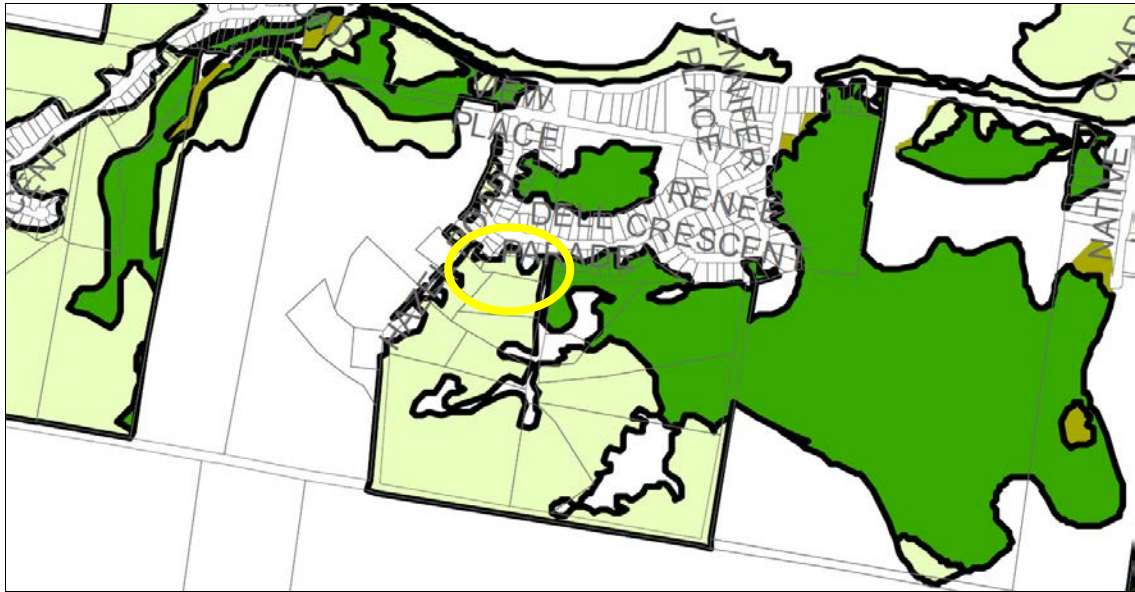
Maps accompanying *Eurobodalla LEP 2012* indicate that the land is partially affected by extant vegetation as shown in Figure 6. The land has been partially cleared with remaining vegetation comprising spotted gums, stringybark gums and black wattle with an understorey of predominantly exotic pastures (mainly kikuyu).

A drainage line traverses the site and crosses the road reserve at the south-eastern corner of the allotment. Rocks have been placed in the depression at that point to control erosion. However, the site is not mapped as being affected by watercourses on the *Eurobodalla LEP 2012* Wetlands Map, Riparian Areas and Watercourses Map.

The site is not mapped in *Eurobodalla LEP 2012* as being potentially affected by acid sulphate soils, or any heritage items. The land is within the coastal zone but is not mapped as a sensitive coastal location.

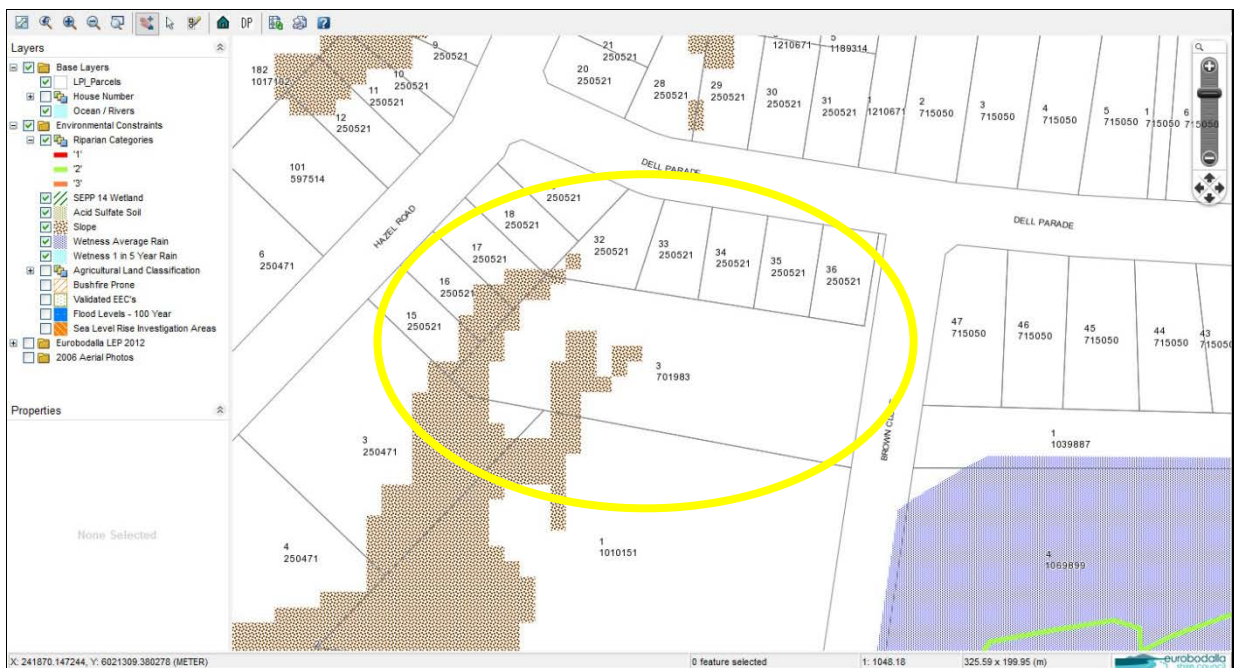
The land is not subject to flood related controls, is not affected by any proposed road widening, and is not known to be potentially contaminated.





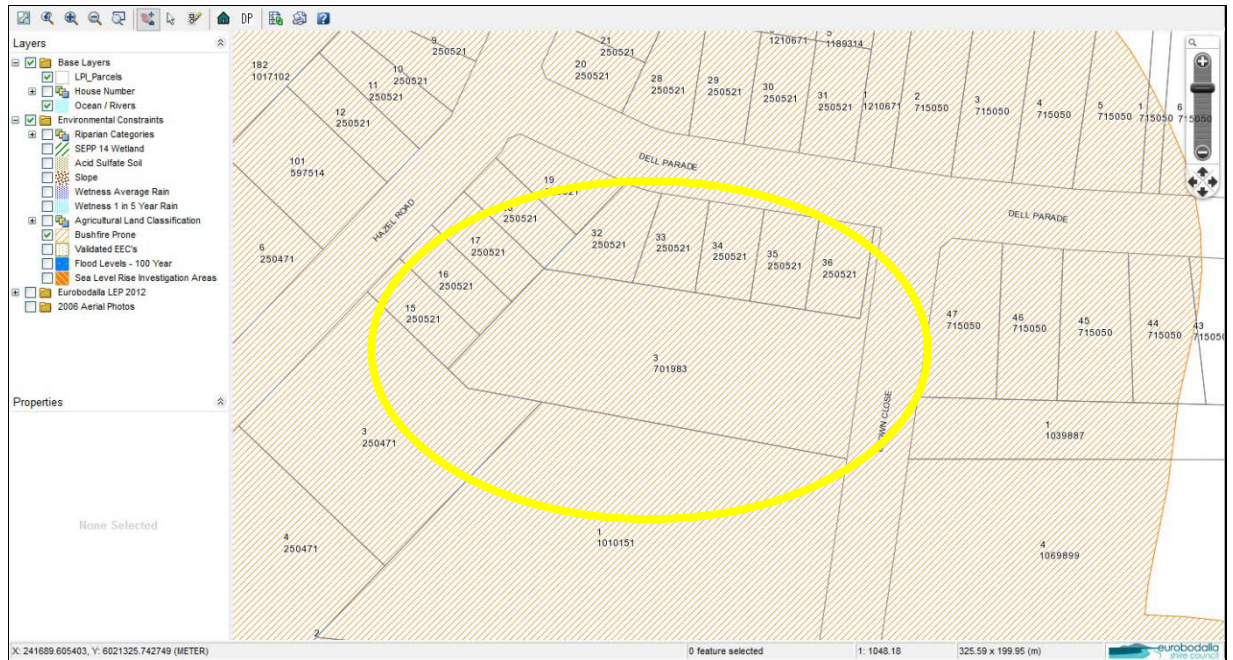
**Figure 6: Extract from Eurobodalla LEP 2012 Biodiversity Map BIO\_012 with 3 Brown Close circled in yellow.**

Figure 7 is an extract from Eurobodalla Shire Council's in-line GIS system that indicates that environmental constraints are limited to steep slopes along the western boundary and through the centre west of the site.



**Figure 7: Mapped environmental constraints with 3 Brown Close circled in yellow. Source: ESC**

The site is mapped as being bushfire prone land as shown in Figure 8.



**Figure 8: Bushfire prone land map with 3 Brown Close circled in yellow. Source: ESC**

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the planning proposal are:

- (a) to amend the Lot Size Map accompanying *Eurobodalla Local Environmental Plan (LEP) 2012* so that the minimum lot size that applies to Lot 3 DP 701983 Moruya Heads is reduced from 2 hectares to 1,500 square metres.

The amended minimum lot size will provide a transition between the adjoining land to the north, east and west which is zoned R2 Low Density Residential with a minimum lot size of 550 square metres and the land to the south which is zoned E4 Environmental Living with a minimum lot size of 2 hectares.

It will potentially enable the subdivision of Lot 3 into three allotments, as shown in Figure 9 below. Infrastructure planning has been undertaken on the basis of this indicative subdivision plan.



**Figure 9: Indicative subdivision layout**

## PART 2: EXPLANATION OF PROVISIONS

The proposed outcomes will be achieved by amending the *Eurobodalla LEP 2012* Lot Size Map to change Lot 3 DP 701983 from a minimum lot size of 2 hectares ('Z') to 1,500 square metres ('K1') as shown on a proposed lot size map (Figure 10).



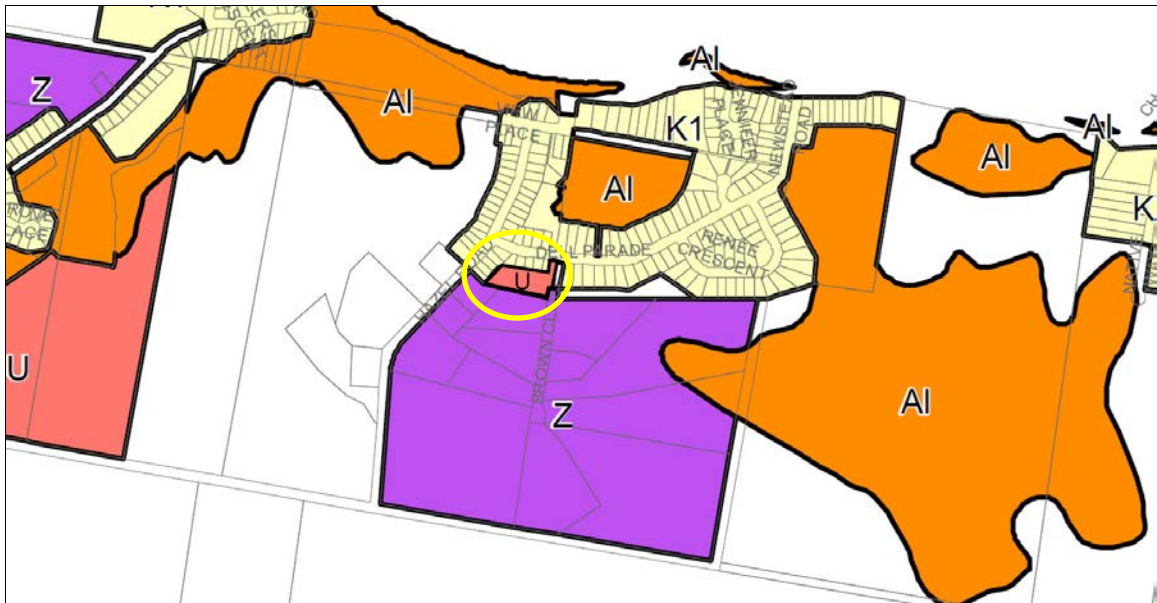


Figure 10: Proposed Lot Size Map with 3 Brown Close circled in yellow

### PART 3: JUSTIFICATION FOR THE PLANNING PROPOSAL

Justification for the proposed amendment to *Eurobodalla LEP 2012* is presented by way of a response to each of the questions posed in *A guide to preparing planning proposals*.

#### SECTION A- NEED FOR THE PLANNING PROPOSAL

##### Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal has not resulted from a strategic study or report. However, an investigation of the site has been carried out which culminated in advice to the land owner. This advice found that the land is not encumbered by environmental constraints and is able to be readily serviced with access and reticulated water and sewerage.

It was recommended to the landowner that a planning proposal be prepared to amend the minimum lot size to enable subdivision accompanied by expert reports addressing ecological matters, access and servicing arrangements, and bushfire management.

An indicative subdivision layout plan has been prepared for the purposes of this planning proposal (see Figure 9 above) which shows proposed Lot 1 with a lot size of 2,194m<sup>2</sup>, and Lot 2 and Lot 3 both of 1,650m<sup>2</sup>. A development application to subdivide the land into 3 lots has not been submitted. The layout is conceptual and indicates the likely layout to be achieved. A lot size of 1,650m<sup>2</sup> would enable the further subdivision of proposed lots 2 and 3 into 6 lots if the site were ever to be rezoned R2 Low Density Residential with a minimum lot size of 550m<sup>2</sup>.

**Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The use of clause 4.6 Exceptions to development standards of *Eurobodalla LEP 2012* is not feasible in this instance as it would result in two or more lots being less than the minimum area (2 hectares) specified by the Lot Size Map. However, there are three alternatives to this planning proposal that would enable the future subdivision of Lot 3. These are:

- rezone the site to R5 Large Lot Residential and amend the Lot Size Map to show that a minimum subdivision lot size of 1,500m<sup>2</sup> applies to Lot 3 to facilitate a three lot subdivision similar to the conceptual layout. This would create a small area of land zoned R5 surrounded by land zoned R2 and E4 which is not ideal in terms of ensuring consistency of land uses
- rezone the site to R2 Low Density Residential and amend the Lot Size Map to show that a minimum subdivision lot size of 550m<sup>2</sup> applies to Lot 3. Although the concept subdivision plan indicates a three lot subdivision, the application of a lot size of 550m<sup>2</sup> would extend the urban residential zone and would potentially yield 9 lots. This alternative would not be consistent with Council's land use strategies that apply to the site. The rezoning of a large area of land comprising several allotments should be investigated strategically rather than on an ad hoc basis
- include the property in *Schedule 1 Additional permitted uses* of *Eurobodalla LEP 2012*. This would require a description of the property plus text to enable subdivision of the property to a minimum lot size of 1,500m<sup>2</sup>. This is a feasible alternative, however, it is considered cumbersome as the Land Zoning Map and the Lot Size Map remain unchanged and conflict with the schedule entry. Section 117 *Direction 6.3 Site Specific Provisions* aims to discourage restrictive planning controls. Including the property in Schedule 1 with site specific controls would be inflexible and be inconsistent with this direction

A discussion of the zone objectives demonstrates that the proposed means to achieve the intended outcomes is the most appropriate. The land is currently zoned E4 Environmental Living. The objectives of zone E4 are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values*
- *To ensure that residential development does not have an adverse effect on those values*
- *To protect the size and shape of vegetation remnants if consistent with the protection of assets from bush fire*

- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities*
- *To manage items, places and landscapes of Aboriginal cultural heritage significance into the future in collaboration with the local Aboriginal community*

These objectives would continue to be satisfied under the proposed lot size change. The subsequent residential development would be low impact and not affect any special values. The findings of a *Vegetation/Habitat Assessment* are discussed in detail under Question 7. In summary the site has been heavily disturbed and does not contain any special ecological values. Nor does it possess any special scientific or aesthetic values. It is considered that reducing the lot size to facilitate subdivision would not adversely affect these values. The site is not a place of Aboriginal cultural significance.

Given that the site can be readily serviced with reticulated water and sewer without the need to augment headworks, and that access and stormwater runoff can be adequately managed, it is considered that the reduction in minimum lot size would be consistent with the zone E4 objectives in that additional housing will be able to be provided on land that adjoins an existing low density residential environment without impacting adversely either on special values or the character of the neighbourhood. The ability to subdivide the land will provide an extension to the existing urban residential neighbourhood without negatively impacting on amenity or the environment. It would also provide a transition between the low density residential environment which adjoins the site on three sides and the larger E4 lots to the south.

## **SECTION B- RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

### **Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The *South Coast Regional Strategy* was released by the Department of Planning in January 2007 and applies to Eurobodalla Shire. In relation to housing and settlement it is a stated outcome *to support infill housing as well as new residential subdivisions ... away from sensitive locations*. It contains an action that any development outside the boundaries of urban areas identified in the *Eurobodalla Settlement Strategy* would need to satisfy the sustainability criteria given in Appendix 1 of the regional strategy.

Discussion about the inclusion of the subject site within the urban settlement of Moruya Heads is given in response to Question 4. The sustainability criteria are addressed below.



Sustainability criteria	Response to criteria
<b>1. Infrastructure provision</b> Mechanisms in place to ensure utilities, transport, open space and communications are provided in a timely and efficient way	Development of the site for future additional residential purposes is consistent with the outcome of the South Coast Regional Strategy for infill housing located away from sensitive locations and in close proximity to services and townships. There is no sub-regional strategy that applies to the area. The site can be adequately serviced without the need to augment water and sewer headworks facilities. Development servicing plans for water and sewer may apply and development contributions may be levied for the provision of open space, community facilities, pathways and the like
<b>2. Access</b> Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	Brown Close is a local road that connects to South Head Road which is a major road providing access to the town centre of Moruya, and the beaches and recreational facilities of Moruya Heads. There would be no negative impact on the functioning of the road network as a result of the rezoning and subsequent subdivision of the subject site
<b>3. Housing diversity</b> Provide a range of housing choices to ensure a broad population can be housed	The future subdivision of the site would add to the supply of land for housing in Moruya Heads which is currently limited. The location is desirable and has high amenity in terms of the surrounding natural and built environment
<b>4. Employment lands</b>	Not applicable
<b>5. Avoidance of risk</b> Land use conflicts and risks to human health and life avoided	The land is not flood-prone or of excessive slope (i.e. is less than 25% grade). It is mapped as being bushfire-prone, however, the preliminary bushfire assessment indicates developable areas having regard to asset protection zones. Adjoining land is occupied by small lot residential uses and residences on large lots to the south. The potential for conflict is low
<b>6. Natural resources</b> Natural resource limits not exceeded/environmental footprint minimised	The site is currently used for residential purposes and not for primary industry. Reticulated water and sewer services with capacity are available. Future residential development would be subject to BASIX and other energy efficiency requirements. Additional housing on the site makes best use of land that adjoins small lot residential
<b>7. Environmental protection</b> Protect and enhance biodiversity, air quality, heritage and waterway health	The site is not identified as being environmentally sensitive or as a place of cultural heritage significance. Development of the site would not impact adversely on native flora or fauna. Stormwater flows are able to be satisfactorily managed
<b>8. Quality and equity in services</b> Quality health, education, legal, recreational, cultural and community development and other government services are accessible	Adequate services exist in the major town of Moruya which is the administrative centre of Eurobodalla Shire. Council's offices, TAFE, primary and secondary schools and the Shire's major hospital are all located in Moruya. The facilities are not at capacity and could cater for the additional residents that would occupy the site following rezoning and subdivision

The *South East and Tablelands Regional Plan 2036* was released by the Department of Planning in July 2017. The plan states that at least 28,500 new homes will be needed in the region by 2036 to meet population growth and change. Although the majority of this housing is to be provided in areas that share a border with the ACT, a variety of housing options are required to continue to offer coastal lifestyles. New housing must be located to take account of the character, environmental and agricultural qualities and capacity of the land, with an emphasis on residents access to services, jobs and transport.

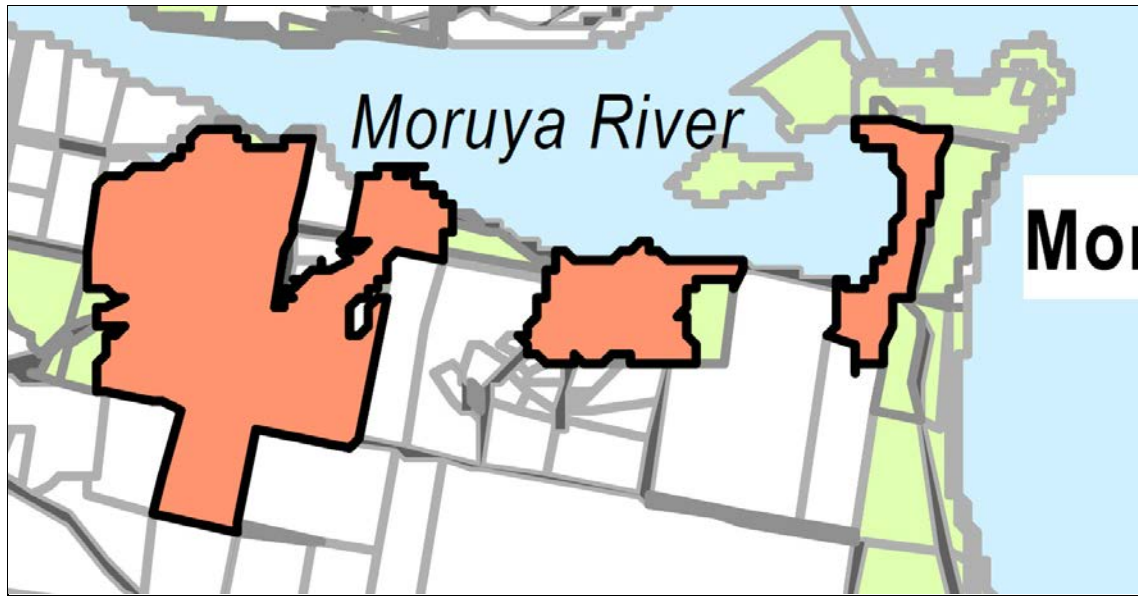
*Direction 24: Deliver greater housing supply and choice* and *Direction 25: Focus housing growth in locations that maximise infrastructure and services* are of relevance to this planning proposal. Development proposals that are inconsistent with current planning strategies will be required to show how they meet the Settlement Planning Principles and:

- achieve sustainable urban outcomes that do not undermine existing strategic and local centres;
- resolve servicing and access issues with a particular focus on water availability and servicing; and
- are of sufficient scale and capacity to provide infrastructure at no cost to government.

Further residential subdivision of Lot 3 would not affect the efficient functioning of the local centre of Moruya but would assist to strengthen its role by marginally increasing the numbers of residents purchasing goods and services in the centre. The site is able to be serviced with reticulated water and sewerage without the need to augment infrastructure headworks and can be readily accessed. Development contributions would be levied at the time of development and the costs of servicing with water and sewer borne by the property owners.

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

This *Eurobodalla Settlement Strategy* was adopted by Eurobodalla Shire Council on 5 December 2006 as a blueprint for a new comprehensive LEP and subsequently endorsed by the then Department of Planning. At the time the strategy was prepared the zoning of the site was 1(c) Rural (Small Holdings) Zone under *Eurobodalla Rural LEP 1987*. The zoning of all settlements, including Moruya Heads, was considered in the *Eurobodalla Settlement Strategy*. A direction of the strategy in relation to urban settlement boundaries is to contain urban settlements within current boundaries and an action is to retain the existing boundaries as defined in structure plans including land zoned for urban expansion. An extract from the map given in the strategy that shows the boundaries of Moruya Heads is given below. This map appears to erroneously include the subject land within the boundaries of the urban settlement, despite its previous zoning.



**Figure 11: Extract from Eurobodalla Settlement Strategy map showing the boundaries of Moruya Heads**

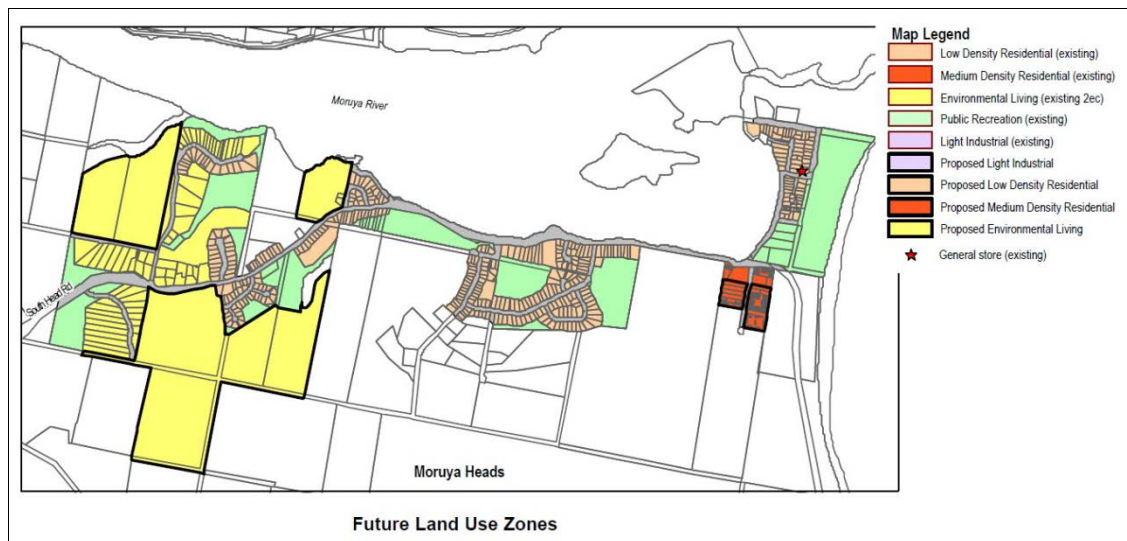
The Moruya Structure Plan, adopted by Council in May 2007, contained maps indicating future land use zones to be implemented by the new comprehensive LEP. The extract for Moruya Heads given below does not address the zoning of former rural residential land and does not propose an urban zone over that land.

The subject site and surrounding land that was zoned for rural small holdings was subsequently zoned E4 Environmental Living under *Eurobodalla LEP 2012*. However, Lot 1 to the east of the subject site which was formerly zoned 6a1 Public Open Space under *Eurobodalla Urban LEP 1999* is now zoned E4 Environmental Living. This appears to be an error made in the drafting of *Eurobodalla LEP 2012*.

Nevertheless, Lot 3 DP 701983 is not encumbered by environmental constraints and forms a logical transition between the adjoining urban residential zone and large environmental living lots to the south. It is considered that altering the minimum lots size of Lot 3 would not set a precedent as the site area is relatively less in area than adjoining E4 allotments and has been heavily disturbed.

It could also be argued that the land is within and part of the urban settlement of Moruya Heads and that the land may accommodate increased housing density without compromising settlement character. New dwellings on lots created by the subdivision of Lot 3 would be in keeping with existing residential development in the settlement and will be capable of being serviced with reticulated water and sewerage.

The planning proposal is therefore not inconsistent with local strategic directions for the settlement of Moruya Heads.



**Figure 12: Extract from the Moruya Structure Plan map showing proposed zones at Moruya Heads**

**Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP)?**

The relevant provisions of *SEPP 55 – Remediation of Land*, *SEPP 71 – Coastal Protection* and *Draft SEPP (Coastal Management) 2016* are addressed below.

*State Environmental Planning Policy No 55 – Remediation of Land*

*SEPP 55* requires Council to consider whether land is contaminated and to determine whether the proposed use is suitable with or without contamination. Council can require an applicant for development to conduct a preliminary investigation and a subsequent more detailed investigation if warranted. Where contamination exists and remediation is necessary, Council must be satisfied that the remediation will take place before the land is used for the proposed purpose.

The property is not listed on a Council register of potentially contaminated land and there has been no known historical or current usage that would cause the land to be contaminated. It is considered that a preliminary investigation is not necessary given the current use of the land for residential purposes.

*State Environmental Planning Policy No 71 – Coastal Protection*

The site is located within the coastal zone but is not a *sensitive coastal location*. *SEPP 71* applies to land situated within the coastal zone. This policy contains the following aims:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The matters for consideration set out in clause 8 of *SEPP 71* should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies. These matters for consideration are:

- (a) the aims of this Policy set out in clause 2,*
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved*
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,*

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
  - (i) *the cumulative impacts of the proposed development on the environment, and*
  - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The planning proposal and associated subdivision is satisfactory to the aims and considerations of *SEPP 71*. The proposed development is approximately 380 metres south of the Moruya River and 115 metres from a wetland zoned E2 Environmental Conservation. The lot size reduction would not affect public access to the foreshore of the river or wetland. There are not likely to be any adverse effects on the scenic qualities of that waterway or wetland, activities associated with any waterway, coastal hazards or processes, or on the natural environment. The proposal would not affect items of indigenous or non-indigenous heritage, archaeological or historic significance and would not cause conflict between land-based and aquatic activities.

*Draft State Environmental Planning Policy (Coastal Management) 2016*

*Draft SEPP (Coastal Management) 2016* – yet to be gazetted by the NSW Government, will combine and repeal the provisions of *SEPP 14 Coastal Wetlands* and *SEPP 71 Coastal Protection*. Four Coastal Mapping Areas are mapped under the SEPP. These are the Coastal Wetlands and Littoral Rainforests



Area, the Coastal Environment Area, the Coastal Use Area and the Coastal Vulnerability Area. The mapping is based on values and features, modelling, or defined distances. Lot 3 is mapped as being within the Coastal Use Area. The *draft Coastal Management SEPP* also identifies development controls that apply to land within a Coastal Mapping Area that reflect current considerations under *SEPP 14* and *SEPP 71*.

**Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

An assessment of the planning proposal against relevant Ministerial Directions is provided below.

Ministerial Direction	Objectives	Comment
2.1 Environment Protection Zones	to protect and conserve environmentally sensitive areas	A Vegetation/Habitat Assessment has found that the site does not possess any features to warrant an environmental zone and is not environmentally sensitive. The site adjoins an urban residential zone and has been heavily disturbed. The planning proposal is consistent with the <i>Eurobodalla Settlement Strategy</i> as discussed above.
2.2 Coastal Protection	<p>to implement the principles of the <i>NSW Coastal Policy</i>. It applies to a planning proposal that applies to land within the coastal zone. The planning proposal must include provisions that give effect to and are consistent with:</p> <p>the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>, and the <i>Coastal Design Guidelines 2003</i>, and</p> <p>the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the <i>NSW Coastline Management Manual 1990</i>).</p>	<p>The planning proposal may be inconsistent with this direction where it is justified by a study that considers the objectives of the <i>NSW Coastal Policy</i> or is of minor significance.</p> <p>The proposed amendment to the Lot Size Map of <i>Eurobodalla LEP 2012</i> is considered minor given that the site adjoins land zoned R2 with a lot size of 550 square metres. However, the principles underlying the <i>NSW Coastal Policy</i> which are presented as nine goals in the policy are considered below.</p> <p>The principles are intended to guide decision making and are to be read within <i>the broader vision for the coast, being a coastal environment which is conserved and enhanced for its natural and cultural values while also providing for the economic, social and spiritual well-being of the community</i>.</p>

Ministerial Direction	Objectives	Comment
		<p>1. <i>To protect, rehabilitate and improve the natural environment</i>  The planning proposal will not cause any adverse impacts on any nearby sensitive environmental areas. The site is heavily disturbed and there are not expected to be any adverse effects on threatened species, habitats or endangered ecological communities.</p> <p>2. <i>To recognise and accommodate natural processes and climate change</i>  The site is not affected by flooding or ocean inundation. Future development of the site is some distance from the waterway and therefore will not affect natural processes including estuarine water quality and geomorphology given the proposed stormwater management techniques. The preliminary bushfire assessment identifies developable areas within the site that cater for asset protection zones.</p> <p>3. <i>To protect and enhance the aesthetic qualities of the coastal zone</i>  The residential development of the site that will result from subdivision following a reduction in the minimum lot size would not impact upon the aesthetic values of the coastal zone. The site is not visible from the Moruya River and off-site impacts can be effectively managed. The site is currently occupied and disturbed through current use. Development of new dwellings should contribute to visual amenity.</p> <p>4. <i>To protect and conserve cultural heritage</i>  A due diligence assessment has been carried out and did not</p>

Ministerial Direction	Objectives	Comment
		<p>identify any recorded objects or places of indigenous cultural heritage (see the response to Question 8 for further details of this assessment).</p> <p>There are no non-indigenous heritage items listed in <i>Eurobodalla LEP 2012</i> on the site or in the vicinity of the site.</p> <p><i>5. To promote ecologically sustainable development and use of resources</i></p> <p>Residential development of the site will not cause environmental harm and will need to satisfy BASIX energy efficiency standards. Making best use of available and under-utilised land is considered best use of scarce land resources.</p> <p><i>6. To provide for ecologically sustainable human settlement</i></p> <p>The site will suit the development of coastal lifestyle residences that will add to the attractiveness of the coastal environment. The site is close to the town of Moruya which offers commercial and institutional services. The settlement of Moruya Heads is serviced with reticulated water and sewer and there is spare capacity in that system to cater to an additional two allotments. Stormwater is able to be managed in a manner that will not cause pollution of the Moruya River.</p> <p><i>7. To provide for appropriate public access and use</i></p> <p>Development of the site will not impede public access to the foreshore of the Moruya River. The site is approximately 380 metres at the nearest point from the foreshore of the river.</p> <p><i>8. To provide information to enable effective management</i></p> <p>There are no environmental</p>

Ministerial Direction	Objectives	Comment
		<p>management issues associated with the planning proposal or future development of the site.</p> <p><i>9. To provide for integrated planning and management</i></p> <p>The planning proposal will be advertised for public comment and the views of relevant government agencies will be sought. This will enable co-ordinated input to the proposal.</p>
4.4 Planning for Bushfire Protection	to protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land	The land is mapped as bushfire prone. A Preliminary <i>Bushfire Assessment</i> has been prepared by Matt Jones and is attached. The assessment identifies developable areas of the site having regard to the extent of asset protection zones. Any future development can satisfy the requirements of <i>Planning for Bushfire Protection 2006</i> . The planning proposal is therefore consistent with this direction.
5.1 Implementation of Regional Strategies	to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies	<p>The proposed lot size reduction would only lead to the creation of two additional lots as proposed by the owner.</p> <p>Consistency with the <i>South Coast Regional Strategy</i> is addressed above and the sustainability criteria contained in Appendix 1 of that strategy have been addressed. The proposal is considered satisfactory to those criteria and is minor</p>
5.10 Implementation of Regional Plans	to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The proposal is consistent with the <i>South East and Tablelands Regional Plan</i> in that it would increase housing supply and utilise existing infrastructure services. The settlement planning principles are satisfactorily addressed
6.1 Approval and Referral Requirements	to ensure that LEP provisions encourage the efficient and appropriate assessment of development	The proposal is consistent with this direction. A reduction in the lot size will not create the need for any additional referrals or approvals,

Ministerial Direction	Objectives	Comment
		noting that the RFS would be required to issue a Bushfire Safety Authority for future subdivision of bushfire prone land
6.3 Site Specific Provisions	to discourage unnecessarily restrictive site specific planning controls	The proposal is consistent with this direction in that the proposed lot size already applies in <i>Eurobodalla LEP 2012</i> and the use for residential purposes is permitted with consent in zone E4

## SECTION C- ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

### Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities?

A *Vegetation/Habitat Assessment* has been prepared by Peter Spurway & Associates dated 28 July 2017 and is attached. The assessment notes that a local patch of remnant forest extends up Brown Close to the south and has been mapped as a Spotted Gum - Burrawang Cycad dry forest type. The dominant species in the vicinity of the site is Spotted Gum *Corymbia Maculata*, with Red Ironbark remaining near the existing dwelling. Apart from two larger Spotted Gums existing trees are too small to have formed significant habitat features. The understorey is under scrubbed and has been heavily disturbed with filled areas and a number of rocky clearings devoid of vegetation. A few Burrawang have been retained along the southern boundary.

The findings of the assessment are that:

**Habitat values:** No hollow-bearing trees were found on the site. One larger Spotted Gum near the driveway entrance in the NE corner has a broken branch 1/3 of the way up the trunk which has potential for a future hollow. The second large tree is located centrally on the block and has no habitat features. The block contains a narrow range of habitat for native fauna that would be more abundant elsewhere in the locality. The area is of an unnatural appearance due to past clearing, burning of ground cover and routine maintenance of the grounds. The habitat value of the area overall is considered poor due to past understorey disturbance and land filling.

**Threatened flora:** The groundcover on the subject site has been disturbed by large scale underscrubbing with evidence of some land fill. The remaining habitat present is unsuitable for any local threatened species of plant. Threatened flora species are highly unlikely to be present and would not be affected by the proposed rezoning and eventual development.

**Threatened fauna:** The Glossy Black Cockatoo, the Gang Gang Cockatoo and the Regent Honeyeater are forest-dependent threatened fauna species with a home range within 2km of the site. There are no species on the land that could potentially provide feed for Glossy Black Cockatoo. Glossy Black Cockatoo is dependent on large hollow-bearing eucalypts with a minimum diameter of 15 cm for nest sites. There would be no loss of hollow-bearing trees of this scale on the site. The site may provide suitable foraging habitat for the Gang Gang Cockatoo, however suitable nesting habitat is not present, and the eventual loss of a small number of trees on the site would not affect foraging of this species. The loss of a small number of potential feed trees would not constitute a significant impact on the foraging or breeding resources for the Regent Honeyeater.

**Habitat connectivity:** the site is part of a large patch of vegetation with tenuous east-west linkages across Brown Close. Loss of forest vegetation for eventual additional dwellings would represent a minor incursion into the northern edge of this forested area. However, it would not represent a significant loss of forest connectivity on the larger scale, with ample opportunity for animal movement across Brown Close afforded further south.

**Riparian issues:** The lower part of the site comprises a small dry gully which may have once formed a larger catchment to the west. This catchment is now cut off by urban development along Hazel Road and by local drainage above the shed and dwelling on the subject site. The dry gully has been cleared and its southern bank partly filled such that it has no evident habitat values. With eventual subdivision it would either be retained and grassed as a drainage easement or piped. Neither option would cause a loss of habitat

It is concluded that the proposed development is unlikely to have a significant effect on threatened fauna or migratory species that may occur on the site, or on any threatened flora or endangered ecological communities.

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

The site is mapped as being bushfire prone and a *Preliminary Bushfire Assessment* has been prepared by Matt Jones in August 2016. The assessment indicates a developable area of 2,400m<sup>2</sup> on the allotment having regard to minimum asset protection zones, access arrangements and surrounding vegetation. Future subdivision will be able to meet the requirements of *Planning for Bushfire Protection 2006* and standards required by the *Environmental Planning and Assessment Act 1979*.



The generic due diligence process outlined in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* was implemented to ensure that an adequate due diligence process that addresses Aboriginal cultural heritage issues has been carried out. A search of the Aboriginal Heritage Information Management System (AHIMS) was carried out on 30 August 2017 and the results are provided as Attachment E. The search found that there are no Aboriginal sites recorded in or near the selected location, and there are no Aboriginal places that have been declared in or near the selected location. It is concluded that no further investigations are necessary at this stage.

There are no heritage items listed in Schedule 5 of *Eurobodalla LEP 2012* on the site or in the vicinity of the site.

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

It is considered that the proposed reduction in the minimum lot size to facilitate a three lot subdivision would contribute to the supply of urban land in close proximity to services and amenities. This will address the need for additional urban housing to cater for the expected incoming population as identified in the *Eurobodalla Settlement Strategy*, the *South Coast Regional Strategy* and the *South East and Tablelands Regional Plan*. It will bring social and economic benefits through the provision of lifestyle opportunities in an affordable location and employment during dwelling construction.

**SECTION D- STATE AND COMMONWEALTH INTERESTS**

**Q10. Is there adequate public infrastructure for the planning proposal?**

Access

The property is accessed via Brown Close which is a local road and cul-de-sac with a 50 kph speed limit. The driveway entrance is at the northern end of Brown Close, approximately 35 metres from the intersection with Dell Parade. Dell Parade intersects with Hazel Road which feeds into South Head Road, the major road providing access to the town centre of Moruya.

Adequate access is available to the property. The indicative subdivision plan (Figure 9) indicates use of the existing driveway that runs parallel to the northern boundary to gain entry to the existing dwelling and garage. This would operate as a right of carriageway for additional allotments and be upgraded to council's standard pavement specifications.

### Water and sewer services

Each lot is able to be serviced with the reticulated water and sewer system that services Moruya Heads as shown in *Attachment 4 Subdivision servicing issues*. The nearest water main runs along the front of adjoining residential properties that front Dell Parade. A new distribution pipe would be required to be installed in the road reserve of Brown Close for a distance of approximately 35 metres to enable connection to the subject site.

Sewer connections exist to service the existing dwelling and at the street boundary of Brown Close. An extension would be required to provide sewerage services to the central lot shown on the indicative subdivision plan.

### Stormwater management

A small dry gully exists at the south-eastern corner of the site. Its connection to the upper catchment has been severed by urban development along Hazel Road and by local drainage above the shed and dwelling on the subject site. It is proposed that a surface drain be installed to divert surface flows from the land occupied by the existing dwelling and shed to the gully. An easement would also be required to drain runoff from the central allotment across the southern part of the eastern lot to enter the public drainage system. Details of proposed stormwater management to cater to the indicative subdivision layout are shown in *Attachment 4 Subdivision servicing issues*.

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

Consultation will be carried out with other public authorities as specified in the Gateway determination. It is expected that consultation regarding the planning proposal will be limited to the Office of Environment & Heritage and the Rural Fire Service.

## **PART 4: MAPPING**

The land subject to this planning proposal is shown on maps provided in this planning proposal. These maps have been sourced from Eurobodalla Shire Council's public geographic information system and SIX Maps and illustrate:

- aerial imagery, and cadastral and locality mapping
- the current land zoning under *Eurobodalla LEP 2012*

- the current minimum lot size under *Eurobodalla LEP 2012*
- environmental constraints and natural hazards
- a conceptual subdivision plan
- the proposed amended Lot Size Map

## PART 5: COMMUNITY CONSULTATION

Community consultation will be carried out following the issue of a Gateway determination. Consultation will be carried out in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* and the Gateway determination.

## PART 6: PROJECT TIMELINE

The following project timeline is proposed, noting that the period from the issue of a gateway determination to the date of notification is subject to matters raised in submissions received during the exhibition period and at the public hearing, and the subsequent decisions of Council regarding the content of the planning proposal.

Action	Indicative month & year
Anticipated gateway determination	January-February 2018
Agency consultation	March 2018
Community consultation exhibition period	March 2018
Consideration of submissions	April 2018
Council endorsement	May 2018
Provision to Department of Planning & Environment prepare instrument	May 2018
Date of notification	June 2018

## **ATTACHMENT A – SITE PHOTOGRAPHS**



## Site photographs



**Plate 1: Looking east from the site of the existing dwelling**



**Plate 2: Driveway entrance and adjoining residential development to the north**



**Plate 3: The dwelling and shed at the western end of the site**



**Plate 4: Looking west into the site from Brown Close**



**Plate 5: Adjoining rural residential development to the south**




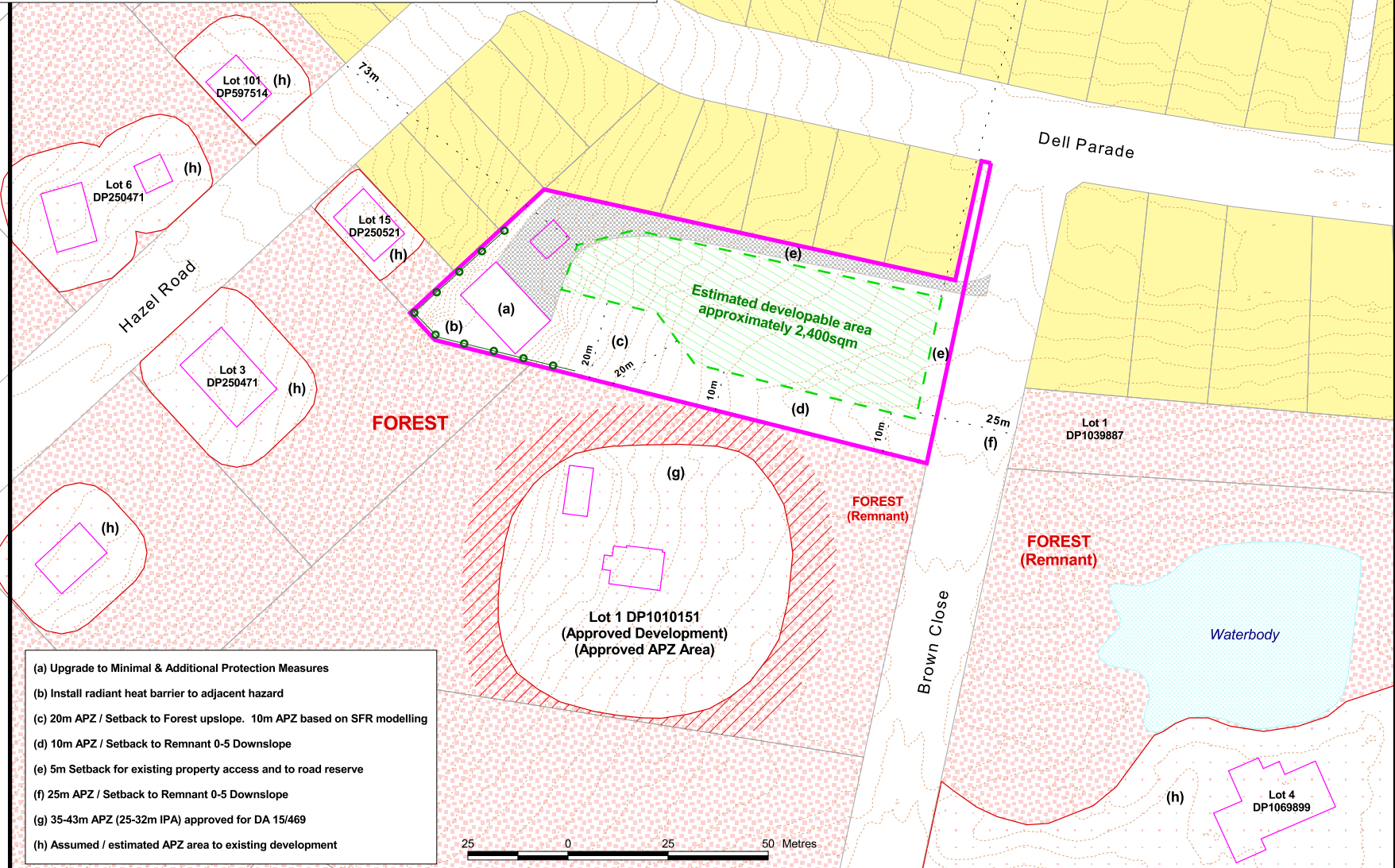
**Plate 6: The drainage line along the southern boundary**

## **ATTACHMENT B – PRELIMINARY BUSHFIRE ASSESSMENT**

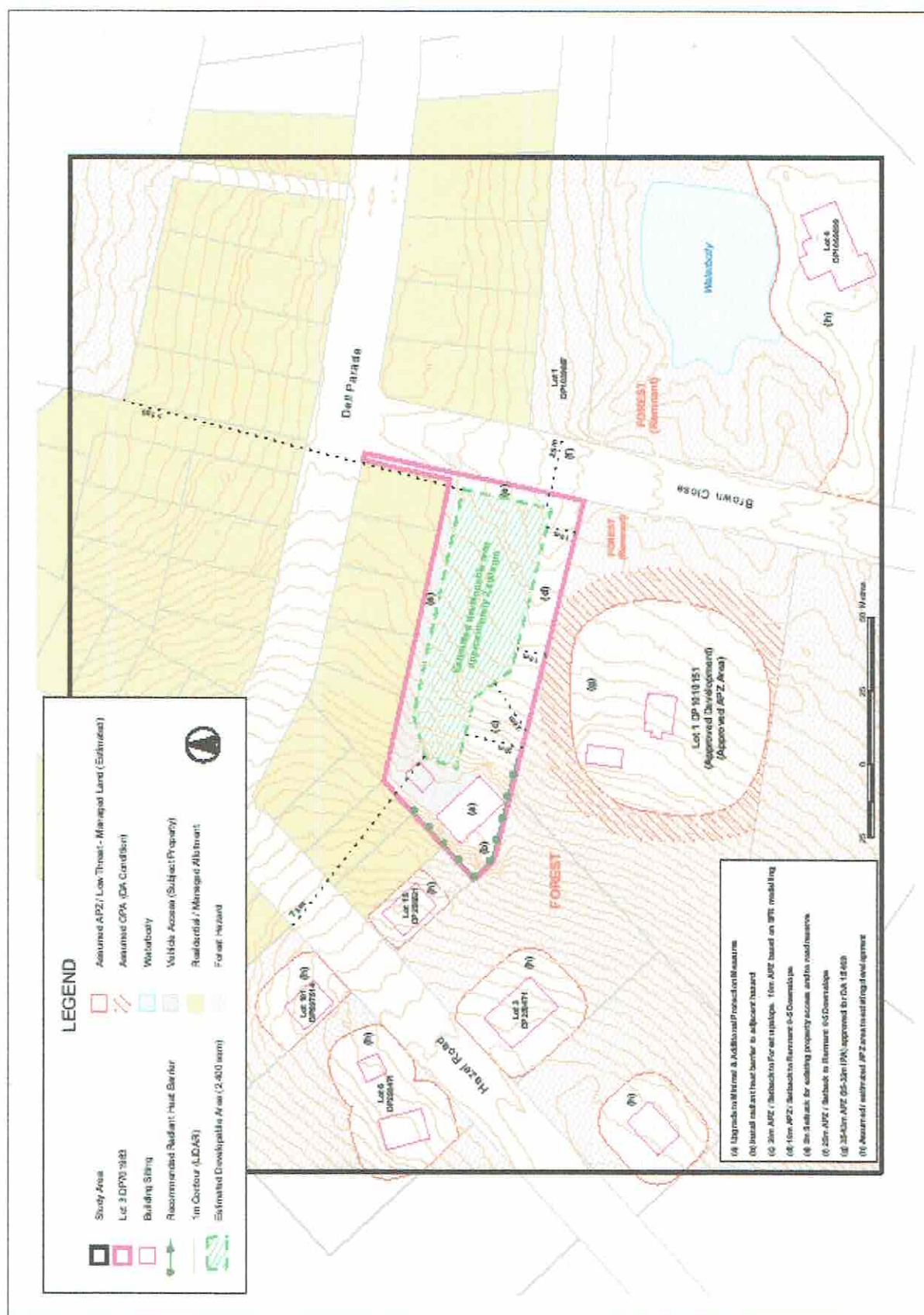


## LEGEND

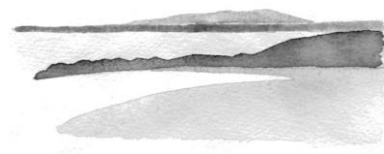
- |  |  |   |   |
|--|--|---|---|
|  | Study Area                             |  | Assumed APZ / Low Threat - Managed Land (Estimated) |
|  | Lot 3 DP701983                         |  | Assumed OPA (DA Condition)                          |
|  | Building Siting                        |  | Waterbody   |
|  | Recommended Radiant Heat Barrier       |  | Vehicle Access (Subject Property)                   |
|  | 1m Contour (LiDAR)                     |  | Residential / Managed Allotment                     |
|  | Estimated Developable Area (2,400 sqm) |  | Forest Hazard                                       |



- (a) Upgrade to Minimal & Additional Protection Measures
- (b) Install radiant heat barrier to adjacent hazard
- (c) 20m APZ / Setback to Forest upslope. 10m APZ based on SFR modelling
- (d) 10m APZ / Setback to Remnant 0-5 Downslope
- (e) 5m Setback for existing property access and to road reserve
- (f) 25m APZ / Setback to Remnant 0-5 Downslope
- (g) 35-43m APZ (25-32m IPA) approved for DA 15/469
- (h) Assumed / estimated APZ area to existing development



## **ATTACHMENT C – VEGETATION/HABITAT ASSESSMENT**



6 August 2017

## VEGETATION / HABITAT ASSESSMENT PROPOSED REZONING OF 3 BROWN CLOSE SOUTH HEAD

Following our inspection of this property we would report as follows.

### GENERAL DESCRIPTION

The block contains a dwelling and shed in the SW corner with associated landscaped gardens and exotics. A gravel access driveway runs up the lot's northern boundary.

The local patch of remnant forest extending up Brown Close to the south has been mapped (original Eurobodalla Forest Ecosystem mapping) as a Spotted Gum - Burrawang Cycad dry forest type. The dominant species in the vicinity is Spotted Gum *Corymbia Maculata*, with a few Red Ironbark remaining near the existing house site.

Apart from two larger Spotted Gum (DBH 800mm) discussed below, trees on this block at 300 - 400mm DBH are too small to have formed significant habitat features.

The understorey is underscrubbed and has been heavily disturbed, with filled areas and a number of rocky clearings devoid of vegetation. A few Burrawang have been retained along the southern boundary.

### RIPARIAN ISSUES

The lower part of the lot comprises a small dry gully which may have once formed a larger catchment to the west. This catchment is now cut off by urban development in Hazel Road and by local drainage above the shed and dwelling on the subject land.

The dry gully has been cleared and its southern bank partly filled such that it has no evident habitat values. With eventual subdivision it would either be retained and grassed as a drainage easement or piped. Neither option would cause a loss of habitat.

### HABITAT VALUES

The presence of hollow-bearing trees has been checked on the block. No hollow-bearing trees were found on the site. One larger Spotted Gum near the driveway entrance in the NE corner has a broken branch 1/3 of the way up the trunk which has potential for a future hollow. The second large tree is located centrally on the block and has no habitat features.

The block contains a narrow range of habitat for native fauna that would be more abundant elsewhere in the locality. The area is of an unnatural appearance due to past clearing,

burning of ground cover and routine maintenance of the grounds. The habitat value of the area overall is considered poor due to past understorey disturbance and land filling.

## FOREST CONNECTIVITY

With reference to broader issues of forest connectivity, the subject block is part of a large patch of vegetation with tenuous east-west linkages across Brown Close. Loss of forest vegetation for eventual additional dwellings on the land would represent a minor incursion into the northern edge of this forested area. It would not represent a significant loss of forest connectivity on the larger scale, with ample opportunity for animal movement across Brown Close afforded further south.

## THREATENED FLORA SPECIES

The groundcover on the subject site has been disturbed by large scale underscrubbing with evidence of some land fill. The remaining habitat present is unsuitable for any local threatened species of plant. Threatened flora species are highly unlikely to be present based on the level of disturbance and would not be affected by the proposed rezoning and eventual development.

## THREATENED FAUNA SPECIES

The following forest-dependent threatened fauna species with a home range within 2km of the subject land are listed below. Locally occurring shorebirds and marine species have not been considered as impacts on these species would not occur.

**TABLE 1      Significant Forest Dependent Fauna Species occurring within 2km of subject land**

Common Name	Scientific Name	Locality
Glossy Black Cockatoo	<i>Calyptorhynchus lathami</i>	Observations in coastal areas near airport.
Gang Gang Cockatoo	<i>Callocephalon fimbriatum</i>	Unlikely to routinely utilise land for foraging.
Regent Honeyeater	<i>Xanthomyza phrygia</i>	Sightings at Pedro Swamp

Glossy Black Cockatoo feeds almost exclusively on the seeds of several species of she-oak (notably *Casuarina* and *Allocasuarina* species). There are no species on the land that could potentially provide feed for Glossy Black Cockatoo. Glossy Black Cockatoo is dependent on large hollow-bearing eucalypts with a minimum diameter of 15 cm for nest sites. There are no loss hollow-bearing trees of this scale on the subject property.

The Gang Gang Cockatoo is generally found in tall mountain forests and woodlands, requiring heavily timbered and mature wet sclerophyll forests in summer and open eucalypt forest and woodlands in winter. Old growth attributes are required for nesting and roosting. Suitable nesting habitat for the Gang Gang Cockatoo is not present, and the eventual loss of a small number of trees on the site would not affect foraging of this species.

Regent Honeyeater is an occasional visitor to the South Coast forests. Regent Honeyeater is a non-breeding migrant that favours the inland slopes of SE Australia. Feed species on the South Coast are flowering Spotted Gum, Swamp Mahogany and Blackbutt. The species is highly mobile and seasonal in appearance on the south coast of NSW. The loss of a small number of potential feed trees would not constitute a significant impact on the foraging or breeding resources for these species, given the broad Spotted gum forest still available adjacent the site.


No seven part test has been prepared under the TSC Act (1995) for this rezoning proposal as there are no relevant threatened species that would be a significant factor on this block.

## CONCLUSIONS

Assessment has been made of threatened species that may utilise the site.

It is concluded that the proposal shall not have a significant effect on threatened species or their habitat. Accordingly, there would be no necessity for an Assessment of Significance to be lodged. Further, we consider that a Species Impact Statement is not required for this proposal.

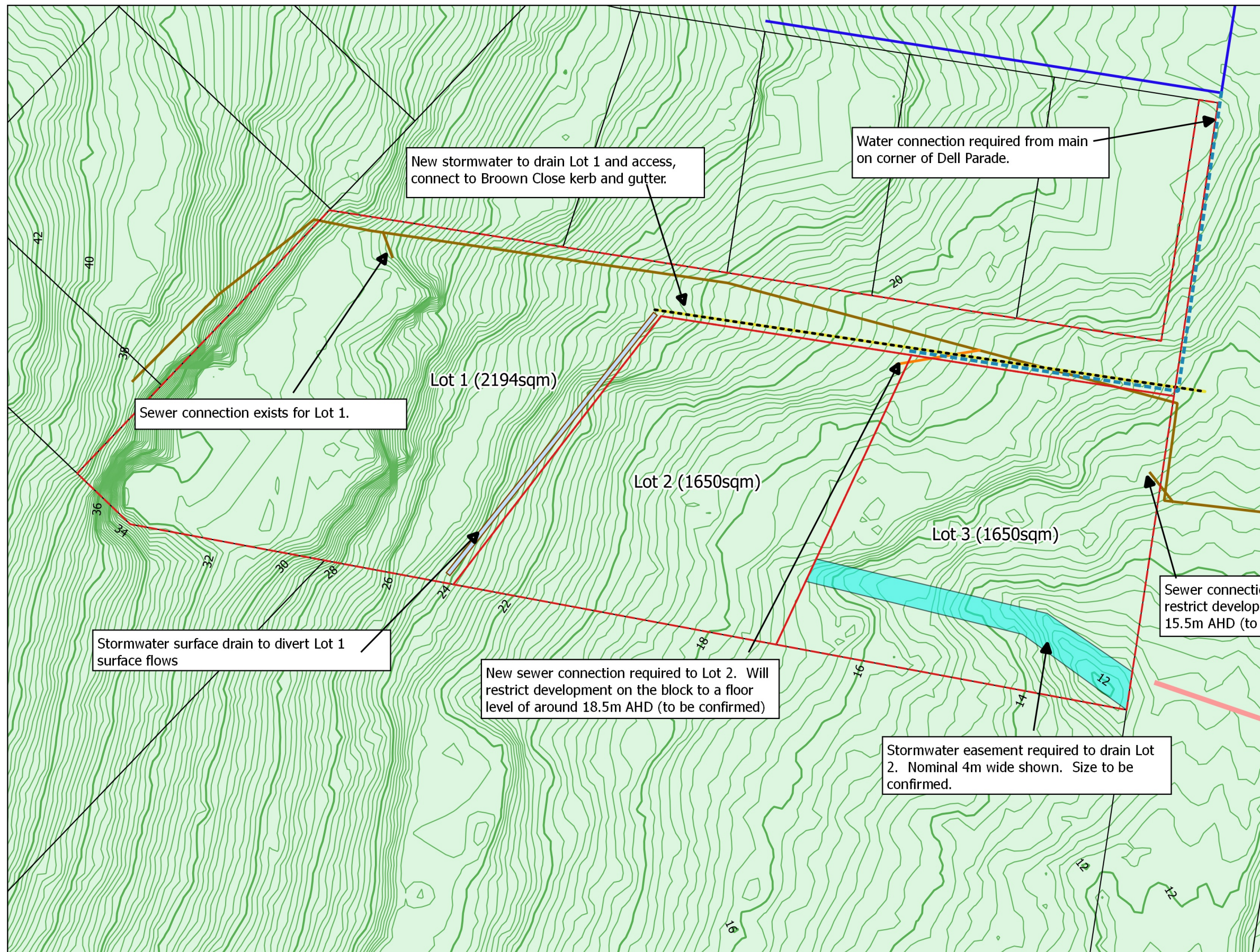
Yours faithfully

A handwritten signature in black ink, appearing to read 'P. J. Spurway', with a stylized horizontal line extending from the end.

Peter Spurway  
Peter Spurway & Associates Pty Ltd

## **ATTACHMENT D – SUBDIVISION SERVICING ISSUES**

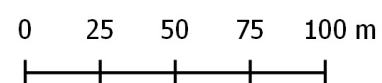




Proposed subdivision of Lot 3, DP 7019830.

## Subdivision servicing issues - Version A

Client: Janet Wright  
DATE: 10/07/2017



**southeast**  
engineering+environmental

16/25 Church St. Moruya 2537 - Tel. 02 4474 4439



## **ATTACHMENT E – AHIMS SEARCH RESULTS**

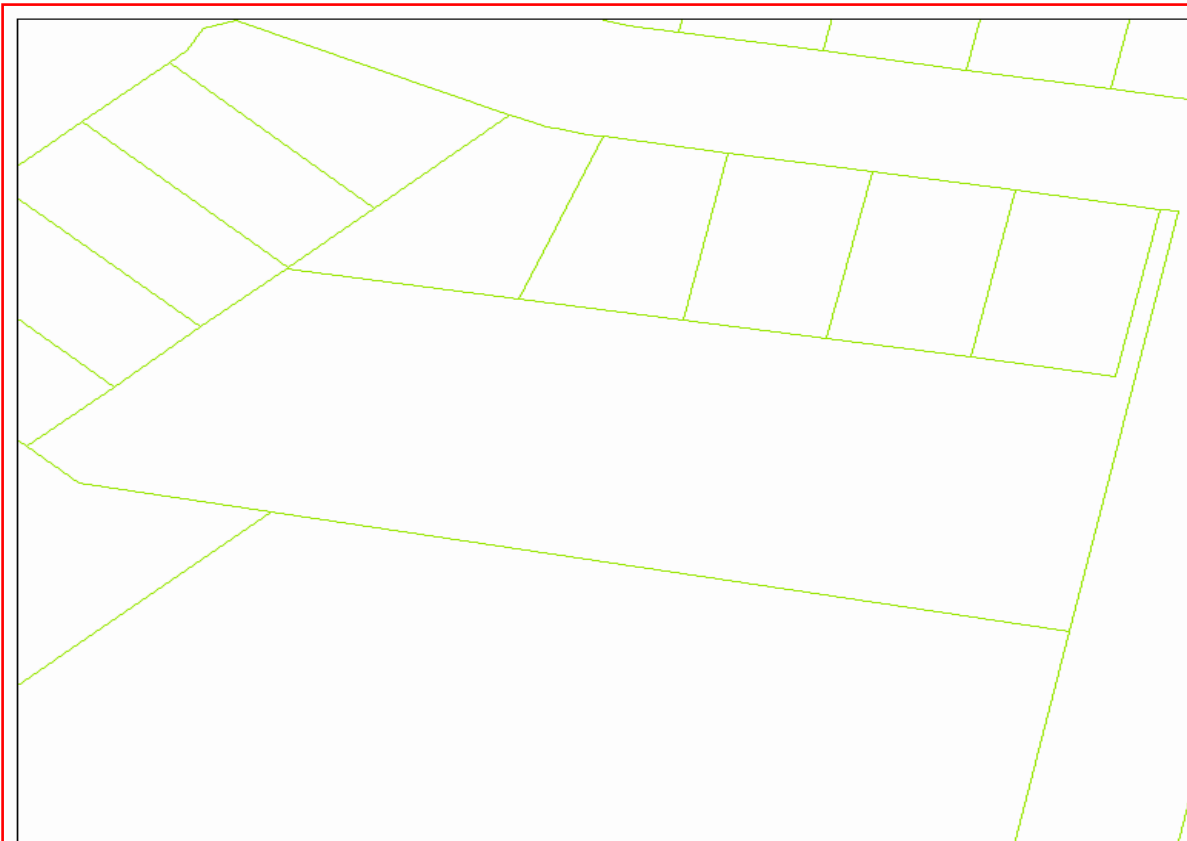
Zenith Town Planning  
P O Box 591  
Moruya New South Wales 2537  
Attention: Allen Grimwood  
Email: zenithplan@bigpond.com

Date: 30 August 2017

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 3, DP:DP701983 with a Buffer of 0 meters,  
conducted by Allen Grimwood on 30 August 2017.**

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

**If your search shows Aboriginal sites or places what should you do?**

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(http://www.nsw.gov.au/gazette\)](http://www.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

**Important information about your AHIMS search**

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date .Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.