

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

Proposal Title : Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

Proposal Summary : Planning proposal seeks to amend the Eurobodalla LEP 2012 to update property descriptions or other details for fifteen existing heritage items and add three new heritage items to Schedule 5 (Environmental Heritage); amend zoning, lot size and building height maps for five sites; and remove one listing from Schedule 1 (Additional permitted uses)

PP Number : PP_2017_EUROB_001_00 Dop File No : 17/06890

Proposal Details

Date Planning Proposal Received : 28-Jun-2017 LGA covered : Eurobodalla

Region : Southern RPA : Eurobodalla Shire Council

State Electorate : BEGA Section of the Act : 55 - Planning Proposal

LEP Type : Housekeeping

Location Details

Street : .

Suburb : Eurobodalla City : LGA Postcode : 2536

Land Parcel : Multiple sites across Eurobodalla LGA

DoP Planning Officer Contact Details

Contact Name : Nathan Foster

Contact Number : 0242249459

Contact Email : nathan.foster@planning.nsw.gov.au

RPA Contact Details

Contact Name : Mark Hitchenson

Contact Number : 0244741314

Contact Email : mark.hitchenson@eurocoast.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Graham Towers

Contact Number : 0242249467

Contact Email : graham.towers@planning.nsw.gov.au

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Consistent with Strategy :

Regional Strategy :

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : Information requested from Council on 20 June 2017. Revised proposal received 28/6/2017.

External Supporting Notes : Council advises that the majority of matters dealt with in the proposal are housekeeping matters of a minor nature.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The planning proposal is presented in a number of sections grouping similar amendments. Council has provided the following breakdown of objectives;

Item 1 - To amend the Eurobodalla LEP 2012 to ensure accurate description and mapping of existing heritage items.

Item 2 - To amend the Eurobodalla LEP 2012 to amend a number of zoning, minimum lot size and height of building maps.

Item 3 - To amend the Eurobodalla LEP 2012 to remove one item from Schedule 1 (Additional Permitted Uses).

Item 4 - To amend the Eurobodalla LEP 2012 to add three additional heritage items to Schedule 5 (Environmental Heritage).

The Department notes that a number of the proposed amendments in Part 2 of Council's planning proposal relate not just to corrections, but in some cases to a policy shift in relation to those zonings and subsequent lot size and building height mapping provisions.

The Department notes that minor changes to Wetlands Map, Riparian Lands and Watercourses maps are also proposed.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The Planning proposal indicates that the objectives will be achieved by amendments to the Eurobodalla LEP 2012, namely:

Item 1 - To amend Schedule 5 (Environmental Heritage) of the Eurobodalla LEP 2012 for 15 items as per the table and associated mapping (where required) listed on pages 4 to 8 of Council's planning proposal.

Item 2 – Amendment of the Eurobodalla LEP 2012 land zoning, lot size and height of buildings maps as follows;

2.1 - Lot 1 DP 575683 Vista Avenue Catalina – Rezone the part of the lot containing water reservoirs and other public infrastructure from R5 (Large lot residential) to SP2 (Infrastructure (Reservoir)), delete the minimum lot size and include an 8.5m maximum building height on the remaining R5 zoned land.

2.2 - Lot 11 DP755904, Lots 121 & 122 DP1117348 Blairs Rd, Long Beach and Princes Highway North Batemans Bay to amend the Lot size map to extend the 2ha lot size over the entire area zoned E4 (Environmental living) or R5 (Large lot residential) zone.

2.3 - Lot 101 DP1125567 Araluen Rd, Moruya – Amend the Lot size map to remove the 2ha standard from the entire lot.

2.4 – Lots 687-692 DP249461 Catalina Country Club Catalina – Amend the zoning map to rezone the whole of the lots to R2 (Low density residential) (removing the E2 (Environmental conservation zone sections) and subsequently amend the lot size applying from 1000ha (E2) and apply the 550m2 standard over the entire lots. Amend the Wetlands Map, Riparian Lands and Watercourses Map to remove the wetland mapping from the subject land.

2.5 - Lots 8-11, 13-17 DP24795 and Lots 12-13 DP501911 Cooks Crescent Rosedale - Amend the Height of Buildings map to add the 8.5m height standard to the whole of the lots.

Item 3 - Amend Schedule 1 (Additional permitted uses) to delete Item 17 and remove it from the corresponding Additional Permitted Uses Map;

Item 17 Use of certain land at Kings Highway, North Batemans Bay

(1) This clause applies to land at Kings Highway, North Batemans Bay, being Lot 3, DP 865527.

(2) Development for the purposes of vehicle sales or hire premises and a vehicle repair station is permitted with consent, but only in relation to motor vehicles.

Item 4 – Amend Schedule 5 (Environmental Heritage) and associated Heritage map to include the following three new items;

- Francis Guy's Residence and Store (Former), Lot 1 DP1225997 and Lot 2 DP100129, 5 and 7 Clyde St Batemans Bay

- Norfolk Island Pine Planting, Part of Lot 1 DP569490 Tarandore Point, Tuross Head

- The York Engine, Part of Lot 87 DP10077611 2-26 James St, Mogo

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified? SEPP No 71—Coastal Protection
SEPP (Rural Lands) 2008

e) List any other matters that need to be considered : s117 Ministerial Directions
Council has undertaken an assessment of the planning proposal against the applicable s.117 Ministerial Directions. A summary of Council's assessment is as follows;

Item 1 - Schedule 5 (Environmental Heritage) Amendments

- 1.2 Rural Zones - Consistent: Minor and no impact on rural zones
- 1.5 Rural Lands - Consistent: Minor and no impact on rural lands
- 2.2 Coastal Protection - Consistent: No impact on coastal zone
- 2.3 Heritage Conservation - Consistent: Corrections only
- 5.1 Implementation of Regional Plans - Consistent: Minor and consistent with Strategy

The Southern Region agrees with Council's assessment in that these proposed changes relate only to property descriptions, classifications etc and are not inconsistent with applicable s117 Directions.

Item 2 - Zoning, Minimum Lot Size and Height of Building Map changes

- 1.1 Business and Industrial Zones
 - Item 2.3 Ensuring consistent standards in IN1 zone. Minor and not inconsistent.
- 2.1 Environmental Protection Zones
 - Item 2.2 Consistent. Seeks to apply consistent lot size over E4 zoned land. No reduction in environmental standards.
 - Item 2.4 Inconsistent but considered of minor significance in removing E2 zoning from existing developed and managed residential land that is not mapped for biodiversity and is incorrectly mapped as a wetland.
- 2.2 Coastal Protection
 - Item 2.2/2.3/2.5 Consistent. Applies to areas in coastal zone/sensitive coastal locations. Proposed amendments considered minor and will have no impact on the coastal zone.
- 3.1 Residential Zones
 - Item 2.1,2.2,2.4 Consistent. Proposed amendments considered minor and not inconsistent with the Direction.
- 3.4 Integrating Land Use and Transport
 - Item 2.1, 2.2, 2.3, 2.4 and 2.5 Consistent. Proposed amendments considered minor and not inconsistent with the Direction.
- 4.3 Flood Prone Land
 - Item 2.4 Inconsistent but of minor significance. Whilst involves rezoning from rural/environmental to a residential zone, all areas feature only part of area being flood affected and is either already developed, or has development potential outside of flood prone areas.
- 4.4 Planning for Bushfire Protection
 - Item 2.1 - Proposal seeks to reduce extent of residential zoned land and reduces potential development outcome for residential purposes. Council considers no further bushfire assessment is required.
 - Item 2.2 - Proposal seeks to correct an anomaly in the Minimum Lot size map on a bushfire prone site. Does not increase development yield and therefore Council considers no further bushfire assessment is required.
 - Item 2.4 - Proposal increases extent of R2 zoning in bushfire prone area but does not increase potential development yield as all lots are developed and cannot be further

subdivided and therefore Council considers no further bushfire assessment is required.
Item 2.5 - Proposal seeks to correct an anomaly in the Height of Buildings map. Does not increase development yield and therefore Council considers no further bushfire assessment is required.

5.1 Implementation of Regional Strategies - The proposed amendments are considered minor and consistent with the South Coast Regional Strategy.

The Southern Region is satisfied that the proposed amendments to zoning, lot size and building height maps are considered minor, and any inconsistency with s117 directions are also considered to be of minor significance. (See later comment regarding consistency with Direction 4.4 Planning for Bushfire Protection.

Item 3 - Removal of Item from Schedule 1 (Additional Permitted Uses)

5.1 Implementation of Regional Strategies The proposed amendments are considered minor and consistent with the South Coast Regional Strategy.

The Southern Region is satisfied that the removal of a listing from schedule is not inconsistent with applicable s117 Directions.

Item 4 - Schedule 5 (Environmental Heritage) - New listings

1.1 Business and Industrial Zones - (Francis Guy Residence and Store) Consistent - Proposal does not reduce the amount of land zoned or potential floor space in a business zone.

2.1 Environmental Protection Zones (Norfolk Island Pine Planting) Consistent - Proposal will not reduce environmental protection

2.2 Coastal Protection - Consistent - Listing of new heritage items will have no impact on coastal zone

2.3 Heritage Conservation - Consistent - proposal protects three items of heritage significance.

3.4 Integrating Land Use and Transport - Consistent - Proposal will have no impact on integration of land use and transport.

5.1 Implementation of Regional Strategies - Consistent.

The Southern Region is satisfied that the listing of 3 new heritage items is not inconsistent with applicable s117 Directions.

In relation to s117 Direction 4.4 Planning for Bushfire Protection, as the planning proposal involves amending provisions within the LEP that will affect bushfire prone land, or land within proximity to bushfire prone land, the Direction applies and therefore requires consultation with the the Commissioner of the NSW Rural Fire Service prior to community consultation of the planning proposal.

RECOMMENDATION: A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

The Southern Region is satisfied that Councils assessment of the consistency with other applicable Directions is appropriate.

State Environmental Planning Policies

Council has undertaken an assessment of the planning proposal against the applicable State Environmental Planning Policies (SEPP). A summary of Council's assessment is as follows;

SEPP (Rural Lands)

Item 1 - Consistent. Proposed amendments are minor and will have no impact on rural lands

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

The Southern Region is satisfied that the proposed amendments to the listings in the Heritage schedule will have no impact on rural lands.

SEPP 71 Coastal Protection

Item 1 - Consistent. Proposed changes to Heritage schedule will have no impact on coastal zone.

Item 2 - (2.2, 2.4 and 2.5) - Consistent. Whilst areas are within coastal zone and or sensitive coastal locations, proposed amendments are minor and have no impact on coastal zone.

Item 4 - Consistent. The listing of items of heritage significance will have no impact on the coastal zone.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See above for justifications of any inconsistencies.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping has been provided within the planning proposal, however is not consistent with Standard Instrument LEP mapping format, however, the mapping is considered acceptable for the purpose of consultation.**

Following consultation, Council will be required to produce the appropriate LEP standard maps to allow finalisation of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 28 day exhibition period.
This is considered appropriate considering the scale and nature of the planning proposal.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **Proposal is considered adequate and supported to proceed to consultation subject to the conditions of the Gateway determination.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Eurobodalla LEP 2012 was finalised in July 2012.**

Assessment Criteria

Need for planning proposal : **Council has detailed the following responses in relation to specific sections of the planning proposal;**

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

Item 1 – Planning proposal required to ensure accurate property descriptions and/or mapping for 15 existing heritage items listed in Schedule 5 (Environmental Heritage). There is no other mechanism to achieve the intended outcome.

Item 2 – Planning proposal required to amend a number of Eurobodalla LEP 2012 zoning, minimum lot size and height of building maps to correct a number of anomalies.

Item 3 – Planning proposal required to remove one item number 17 from Schedule 1 (Additional Permitted uses) following recent rezoning of land to B5 Business Development Zone)

Item 4 - Planning proposal required to add three new heritage items to Schedule 5 (Environmental Heritage).

Council has noted that a planning proposal is the only way to make the above listed changes to its current planning controls in the Eurobodalla LEP 2012.

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

Consistency with strategic planning framework :

Council has detailed the following responses in relation to specific sections of the planning proposal;

Item 1 – The proposal is not the result of a strategic study or report, but seeks to correct anomalies identified by Council staff in relation to certain existing heritage items regarding property descriptions, item names and associated mapping. The proposal is consistent with the South Coast Regional Strategy in that it improves the quality of existing statutory lists of heritage items in the Eurobodalla, and is consistent with Council's Community Strategic Plan, One Community in that it ensures Council can accurately identify, value and protect the LGA's unique heritage.

Item 2 - The proposal is not the result of any strategic study or report, but seeks to correct anomalies identified by Council staff and are considered of a minor nature and seek to ensure consistent application of zoning, lot sizes and building heights that are consistent with existing and desired future site specific lands uses.

The Southern Region notes that the proposed changes also include minor amendments to the Wetlands map and the Riparian Lands and Watercourses map.

Item 3 - The proposal is not the result of any strategic study or report, but seeks to correct anomalies identified by Council staff as an anomaly in Schedule 1 given the recent rezoning of the subject land to the B5 Business Development Zone. Council identifies that the proposal is not inconsistent with the South Coast Regional Strategy, nor its own Community Strategic Plan.

The Department notes the schedule 1 listing provides for 'Vehicle sales or hire premises' and 'Vehicle repair stations' as permissible on the lot with consent, the B5 zoning only allows 'Vehicle sales or hire premises' as permissible development, with 'Vehicle repair stations' being prohibited within the zone. An earlier planning proposal currently being assessed by the Department has proposed a number of changes to the B5 zone which will make 'Vehicle repair stations' permissible with consent.

Item 4 – The listing of the 'Francis Guy Residence and Store' was identified in Eurobodalla's Shire Wide Heritage Study 1997 and Community Based Heritage Study in 2011, and recently recommended by Council's Heritage Advisor and Heritage Advisory Committee, and endorsed by Council on 26 July 2016.

The Norfolk Island Pine Plantation/Planting was not identified in a study or report, but has been recommended for listing by Council's Heritage Advisor and Heritage Advisory Committee in response to a nomination from the Tuross Lakes Preservation Group, and endorsed by Council on 26 July 2016.

The York Engine was not identified in a study or report, but has been recommended for listing by Council's Heritage Advisor and Heritage Advisory Committee in response to a nomination from the Moruya Antique Tractor and Machinery Association, and endorsed by Council on 9 May 2017.

Council considers the listings to be consistent with the South Coast Regional Strategy in that it recognises items of local heritage significance to the Eurobodalla community. Further, it considers it to be consistent with Council's Community Strategic Plan in that it values and protects the built and landscape heritage.

The Southern Region is satisfied that the Proposal is generally consistent with regional and local strategic planning.

Environmental social economic impacts :

Council has detailed responses in relation to environmental, social and economic impacts for each section of the planning proposal, a summary of these responses is included below;

Item 1 – No likelihood of any adverse impacts on any critical habitat or threatened species, populations or ecological communities, or their habitats. No other environmental effects are forecast to result of the proposal, nor any likely social or economic effects.

Item 2 - Where the planning proposal outcomes facilitate additional development potential, there are no known critical habitat or threatened species, populations or

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

ecological communities, or their habitats. Therefore, it is considered that there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected by the planning proposal. There are no other environmental effects as a result of this planning proposal. There are no likely social or economic effects of this planning proposal.

Item 3 - No likelihood of any adverse impacts on any critical habitat or threatened species, populations or ecological communities, or their habitats. No other environmental effects are forecast as a result of the proposal, nor any likely social or economic effects.

Item 4 - No likelihood of any adverse impacts on any critical habitat or threatened species, populations or ecological communities, or their habitats. No other environmental effects are forecast to result of the proposal. Recognition of Eurobodalla's heritage has potential social and economic benefits through increased understanding of our heritage, and increased tourism.

The Southern Region is satisfied that the proposed amendments are minor and will not have any significant negative social, environmental or economic impacts.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation :

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The Southern Region supports the planning proposal proceeding to consultation subject to the conditions of the gateway determination.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons : **Re-submission in not required.**

Identify any additional studies, if required. :

If Other, provide reasons :

No Further studies are required subject to NSW RFS being satisfied with the planning proposal prior to community consultation.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **Not considered relevant to this proposal.**

Documents

Document File Name	DocumentType Name	Is Public
Council Report-9-May-2017.pdf	Proposal	Yes

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

Council Minutes-9-May-2017.pdf	Proposal	Yes
Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal - Housekeeping LEP Amendment No. 12.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 2.3 Heritage Conservation
 - 3.1 Residential Zones
 - 3.4 Integrating Land Use and Transport
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies

Additional Information : Planning Proposal (Department Ref: PP_2017_EUROB_001_00): to implement a range of housekeeping and other minor amendments.

I, the Director Regions, Southern, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) that an amendment to the Eurobodalla Local Environmental Plan (LEP) 2012 to implement a range of housekeeping and other minor amendments should proceed subject to the following conditions:

1. Prior to community consultation;
 - a) to ensure consistency with s117 Direction 4.4 Planning for Bushfire Protection, Council is required to consult with the NSW Rural Fire Service in accordance with the Direction.
2. Community consultation is required under Sections 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning 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 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities and / or organisations under Section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant Section 117 Directions:
 - Office of Environment and Heritage
 - NSW Rural Fire Service

Each public authority/organisation 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.

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to

Eurobodalla LEP 2012 - Amendment 12 (zoning, lot size and building Heights, Schedule 1 (Additional permitted uses) and Schedule 5 (Environmental Heritage) [no jobs or housing]

a submission or if reclassifying land).

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

6. The final LEP maps shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" Vers: 1.0 November 2015.

Supporting Reasons : Planning proposal generally makes a number of corrections/updates to schedule 1 and schedule 5 listings, minor zone boundaries changes and associated building height and lot size maps amendments.

Signature:

 A/Team Leader, Southern

Printed Name:

GRAHAM TOWERS

Date:

10/7/17.

