

Planning Team Report

Alteration of Gateway Determination

Planning Proposal (Department Ref: PP_2015_EUROB_004_00) – Amendment of the Eurobodalla Local Environmental Plan (LEP) 2012 Land Zoning, Lot Size and Height of Building Maps for land at Broulee.



Aerial Photo: Subject land

EXECUTIVE SUMMARY

In July 2015, Council submitted a planning proposal to amend the Eurobodalla LEP 2012 Land Zoning, Lot size and Height of Buildings Maps for land at Broulee.

The Department issued a Gateway determination on 2 October 2015 requiring the proposal to be re-submitted following the preparation of a masterplan addressing proposed development density increase, scale, character, urban design, management of conservation areas, stormwater management, traffic, pedestrian connectivity and other relevant development control issues. The Gateway determination required consultation with Office of Environment and Heritage (OEH) and Rural Fire Service (RFS) in the preparation of the masterplan.

On 1 August 2016, Council submitted a request for a revised Gateway determination to allow the proposal to proceed to consultation. The Department identified that the revised proposal and included masterplan had not given consideration to consultation with OEH and RFS as required by the original Gateway determination.

Council was requested to provide further information in relation to how it had consulted with and addressed any concerns identified by OEH and RFS into the masterplan, and re-submit a further amended planning proposal and masterplan for consideration.

On 1 November 2016, Eurobodalla Shire Council requested a revised Gateway determination, including an amended planning proposal and masterplan addressing a number of issues and having regards to concerns raised in the submissions from Office of Environment and Heritage (OEH) and the NSW Rural Fire Service (RFS).

The amended proposal now involves;

- o a reduced footprint for the proposed R3 zoning;
- o a masterplan for the proposed development area addressing issues of urban design and infrastructure, following consultation with OEH and RFS.

The proposal no longer seeks to reduce the minimum lot size from 550m² to 450m² applying to the residential land.

It is considered that the proposed alterations to the planning proposal have merit and that the revised proposal now warrants further consultation with the OEH and RFS, prior to proceeding to public exhibition.

ORIGINAL PLANNING PROPOSAL

Council's original planning proposal sought to rezone approximately 45 hectares of undeveloped, R2 (Low density residential) zoned land at Broulee to a mix of E2 (Environmental conservation) and R3 (Medium density residential) zones (Shown in Map 1 below); amend the lot size and building height maps applicable to the rezoned land; and amend the lot size map associated with the remaining undeveloped R2 zoned land.

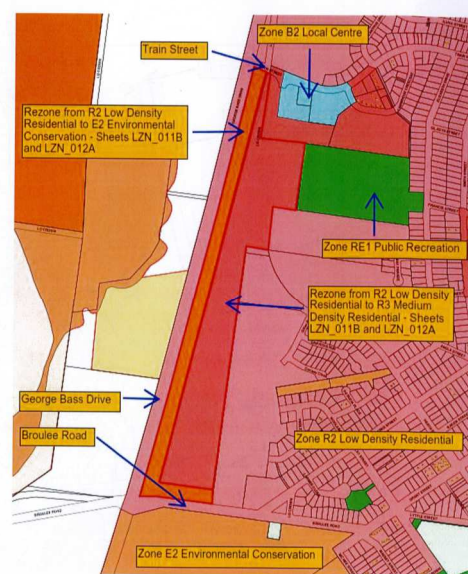


Figure 3: Proposed change to ELEP 2012 Land Zoning Map

Map 1: Original Proposal Zoning Map

The planning proposal was sent to the LEP panel for consideration and on 2 October 2015 the following conditional Gateway determination was issued to Council;

Planning proposal (Department Ref: PP_2015_EUROB_004_00): rezone land at Broulee from R2 Low Density Residential to R3 Medium Density Residential and E2 Environmental Conservation and amend the minimum lot size and height of buildings maps

I, the Acting Deputy Secretary, Planning Services 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 (the Act) that an amendment to the Eurobodalla Local Environmental Plan (LEP) 2012 to rezone land at Broulee from R2 Low Density Residential to R3 Medium Density Residential and E2 Environmental Conservation and amend the minimum lot size and height of buildings maps should be re-submitted for the following reasons:

- 1. Council has not provided sufficient strategic justification to support the location and scale of the proposed R3 Medium Density Residential zone adjacent to the E2 zone proposed on the subject land.*
- 2. Council should prepare a masterplan to:*
 - demonstrate how the proposed higher density residential area can be integrated into the scale and character of the Broulee urban area*
 - address issues of urban design (including the Coastal Design Guidelines), management of conservation areas, traffic, pedestrian/cycling access, stormwater management and any other development control issues considered necessary to enable a full assessment of the proposal.*
- 3. Council is to consult with the Office of Environment and Heritage and NSW Rural Fire Service during the preparation of the masterplan;*
- 4. Following preparation of the masterplan, Council should update the planning proposal in line with the outcomes of the master planning process and re-submit to the Department for a revised Gateway determination.*

POST GATEWAY DETERMINATION

On 1 August 2016, Council submitted a request for a revised Gateway determination to allow the proposal to proceed to consultation. The request included a revised planning proposal, as well as a masterplan for the subject land including a revised zoning plan, road and pedestrian/cycle network plan, drainage concept plan and sewer catchment concept plan.

DPE assessment of the revised proposal and masterplan identified no evidence of consultation/input from OEH / RFS into the masterplan and requested Council provide evidence of any involvement.

Council then sought written advice from the agencies, and provided this advice, and its own response to the agencies advice to the Department. The Department did not consider this to be consistent with the Gateway determination in that Council had not considered the agency comments in the preparation of the masterplan or revised planning proposal.

AGENCY CONSULTATION BY COUNCIL

Council prepared a draft masterplan and consulted with the OEH and RFS, who raised a number of matters which have been summarised below;

OEH

- Support the proposed E2 zoning as it is a requirement of the 'Order of Biodiversity Certification'
- Western perimeter road against the E2 zone should be extended north to provide greater protection from adjoining residential development and to potentially reduce the width of the asset protection zone needed to achieve BAL29.
- Object to the drainage concept plan which shows a high volume of drainage flow going into the E2 zone. There can be no stormwater flow/retention basins within the proposed E2 zone.
- Request an Aboriginal cultural heritage assessment of the subject land given known Aboriginal sites within surrounding areas.

RFS

- Future access roads to comply with section 4.1.3(1) Public Roads (Planning For Bushfire Protection (PBP) 2006)
- Perimeter road to be extended as far north as practicable to minimise urban/bushland interface
- Provision of adequate asset protection zones (APZ) and road setbacks
- If staged, each stage of development will be required to provide APZ's and perimeter access at the urban/bushland interface for firefighting vehicles.

REQUEST FOR A REVISED GATEWAY DETERMINATION

Council has now submitted a further revised planning proposal and masterplan for the subject land, having regard to the agency submissions. The revised proposal has a number of key changes including;

- Reduction in the extent of the proposed R3 zoning
- The proposed reduction in minimum lot size from 550m² to 450m² is no longer proposed

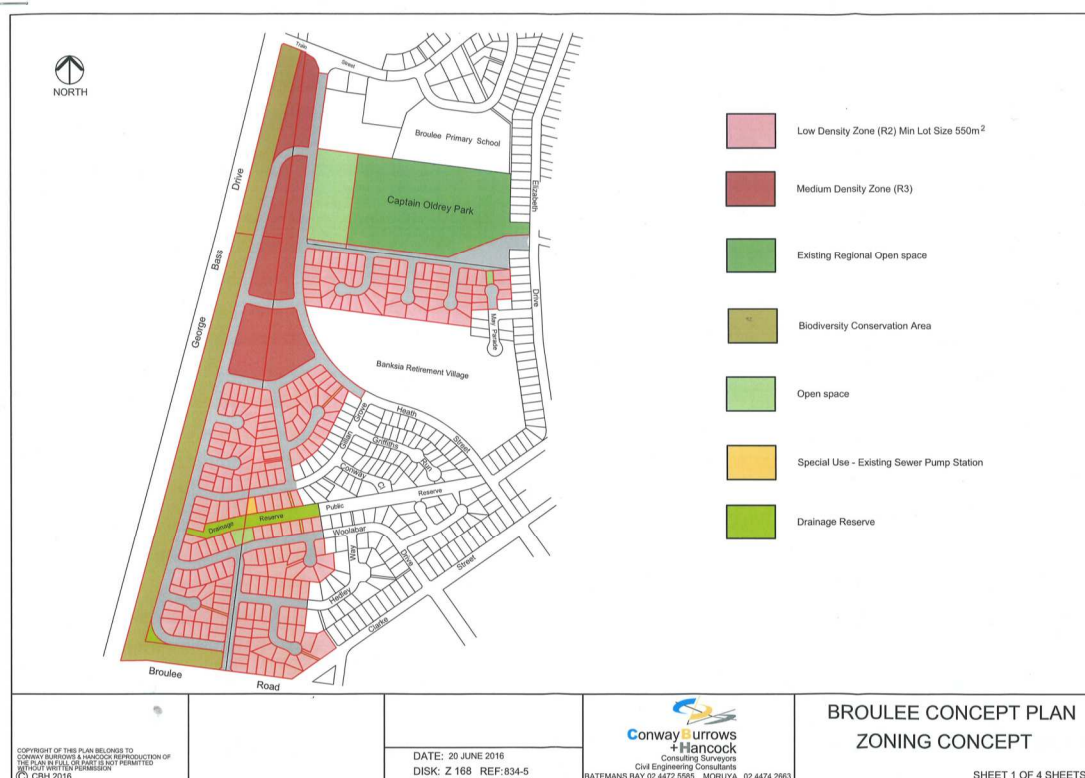
These changes have been made by Council to address concerns around scale and strategic justification of higher density close to existing commercial zoned land, and also to better integrate with the scale and coastal village character of Broulee.

The masterplan also provides concept plans for zoning, servicing including subdivision layout, road and pedestrian/cycle access, as well as sewer, stormwater management, and the provision of additional open space.

Council maintains that the whilst the R3 zone represents a potential increase in development yield, the extent is limited as there is no change to lot size or building heights compared to the existing controls in the R2 zone. Council calculations show that the R3 zone represents an increased potential yield of 75 dwellings compared to what is provided for under current R2 zoning.

To address concerns raised by OEH and RFS, Council amended its masterplan in the following ways;

- perimeter road extension providing a buffer between residential land and the proposed E2 land, including annotation that appropriate management of the interface between the two zones will be further addressed in detail at the development application stage.
- conceptual stormwater flows no longer drain into the proposed E2 zone, and annotation that future development will be subject the Eurobodalla Shire Council Residential Zones DCP where new development must be designed in accordance with a site specific Stormwater Management Plan (SMP)



Map 2: Revised zoning plan

Council acknowledges that many of the comments raised by agencies will need to be appropriately addressed by developers at the development application stage, including development staging, establishment and management of appropriate roads, set-backs APZ's, servicing and the Planning for Bush fire Protection 2006 legislation. Further, merit based assessments for all proposed development types permissible in the proposed and existing zones will need to be undertaken on a case by case basis and this is appropriate at the development application stage. Further investigation prior to subdivision will also need to include consideration of Aboriginal heritage.

DPE ASSESSMENT AND RECOMMENDATION

The Department has considered the amended planning proposal and masterplan prepared by Council. DPE considers that the revised zoning plan, including the reduced proposed R3

zone, as well as the master planning documents covering conceptual level subdivision, access, servicing and open space, provide the community with a broad scale concept of the future development outcomes of the subject land.

The planning proposal is largely to implement the outcomes of the recent bio-certification process which requires the rezoning of land to the proposed E2 (Environment Protection) zone land in order to comply with the bio-certification documents. The subject land has been zoned for residential land use for many years, and is zoned R2 (General residential) zone at present, with a 550m² minimum lot size. The zoning of the buffer area along George Bass Drive to E2 will facilitate the development of the remainder of the site for the residential purposes for which it has long been zoned. An appropriate level of low scale, medium density development around commercial land is consistent with standard development outcomes in small towns and villages and provides for an increase housing choice and affordability.

It is recommended that the Department issues an amended Gateway determination, requesting Council to further consult with OEH and RFS on the revised planning proposal, prior proceeding to community consultation.