

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN AMENDMENTS FOR
LAND AT BROULEE**

File Ref: E15.9218.R

15/116 MOTION Councillor Burnside/Councillor Schwarz

THAT Council:

1. Endorse the attached Planning Proposal to amend Eurobodalla Local Environmental Plan 2012 pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 to rezone land at Broulee from the R2 Low Density Residential zone to the E2 Environmental Conservation zone and the R3 Medium Density Residential zone and to amend the Lot Size Map and Height of Buildings Map accordingly.
2. Endorse the amendments to the Residential Zones Development Control Plan contained in the attachment to the Planning Proposal.
3. Forward the Planning Proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.
4. Conduct information sessions with the Broulee community and the Broulee Mossy Point Community Association in tandem with seeking the Gateway Determination, to obtain their views preceding the seeking of submissions through community consultation.
5. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies for a period of 42 days as required by the Gateway Determination.
5. Consult with the community on the proposed DCP amendments concurrently with the consultation of the Planning Proposal.
6. Receive a report back on the Planning Proposal if a written objection is received during consultation with the community as per the requirements of Section 57 of the Environmental Planning and Assessment Act 1979.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Councillors Brice, Brown, Burnside, Innes, Leslight and Schwarz.

Against the Motion: Nil.

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

Responsible Officer: Lindsay Usher - Director Planning and Sustainability Services
Attachments: 1. Draft Planning Proposal - Broulee
Focus Area: Sustainable Communities
Delivery Program Link: S7.2 Maintain, update and communicate planning information and issues
Operational Plan Link: S7.2.3 Monitor, report and communicate and implement changes relating to land use planning

EXECUTIVE SUMMARY

Land zoned for residential development at Broulee has remained undeveloped for decades. In 2005, vegetation on the land was declared an Endangered Ecological Community by the NSW Government's Scientific Committee. In order to facilitate development in certain areas with environmental sensitivities, the NSW Government incorporated a voluntary Biodiversity Certification (biocertification) process in the Threatened Species Conservation Act 1995.

Council and the affected land owners at Broulee agreed to undertake a biocertification process in order to provide for clearing and development of the zoned land, to be offset by the protection and management of conservation areas in the locality that contain the same type of endangered vegetation community (Bangalay Sand Forest).

Biocertification of the subject land was conferred by the Minister for the Environment on 19 September 2014. A condition of biocertification was the rezoning of a strip of land along George Bass Drive and Broulee Road from the R2 Low Density Residential zone to the E2 Environmental Conservation zone.

Since biocertification was conferred, Council has been working closely with the land owners to develop a draft concept master plan for development of the land. This has led to a number of other proposed amendments to the Eurobodalla Local Environmental Plan 2012 (LEP) and corresponding amendments to the Residential Zones Development Control Plan (DCP). The additional amendments to the LEP include the rezoning of additional land from the R2 Low Density Residential zone to the R3 Medium Density Residential zone and decreasing the minimum lot size for the land from 550m² to 450m². Changes to the DCP include limiting the number of lots below 550m² to 50% of total lots and development of a perimeter road, shared pathway, parking area or the like along the E2 Environmental Conservation zone.

The purpose of the amendments are to:

- comply with the Biocertification Agreement
- ensure development has minimal impacts on areas required to be protected
- increase housing diversity in Broulee
- promote economic growth and
- facilitate the orderly and economic development of the land.

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

To progress a Local Environmental Plan amendment, Council must consider and resolve to prepare a Planning Proposal that is submitted to the Department of Planning and Environment for a Gateway Determination. An amendment may only proceed (or not) according to the Gateway Determination given.

The purpose of this report is to advise Council of the amendments proposed to the Eurobodalla Local Environmental Plan 2012 as outlined in the Planning Proposal attached to this report and to seek a resolution to endorse the Planning Proposal and forward it to the Department of Planning and Environment for a Gateway Determination. Consequent amendments to the Residential Zones Development Control Plan, if endorsed by Council, would be publicly exhibited concurrently with the planning proposal.

RECOMMENDATION

THAT Council

1. Endorse the attached Planning Proposal to amend Eurobodalla Local Environmental Plan 2012 pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 to rezone land at Broulee from the R2 Low Density Residential zone to the E2 Environmental Conservation zone and the R3 Medium Density Residential zone and to amend the Lot Size Map and Height of Buildings Map accordingly.
2. Endorse the amendments to the Residential Zones Development Control Plan contained in the attachment to the Planning Proposal.
3. Forward the Planning Proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.
4. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
5. Consult with the community on the proposed DCP amendments concurrently with the consultation of the Planning Proposal.
6. Receive a report back on the Planning Proposal if a written objection is received during consultation with the community as per the requirements of Section 57 of the Environmental Planning and Assessment Act 1979.

BACKGROUND

Land at Broulee between existing residential areas and George Bass Drive has been zoned for residential development for over 30 years. The zoning history of the subject land is as follows:

- Zoned 1(b) Non-Urban "Future Urban in Principle" under Interim Development Order (IDO) 3 in 1976
- Rezoned 2(b) Residential Low Medium Density under IDO 3 in 1984 (LEP 44)
- Rezoned to 2(g) Residential General and 2(t) Residential Tourism in 1999 (Urban LEP 1999)

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

Despite the long-term nature of the urban zoning of the land, development has been unable to be progressed (until recently) due to the listing of the Bangalay Sand Forest as an Endangered Ecological Community under the NSW Governments Threatened Species Conservation Act 1995.

To address development pressures in areas like Broulee, the NSW Government introduced Biodiversity Certification as a mechanism under the Threatened Species Conservation Act to consider the environmental issues at a strategic level. Council and the affected land owners agreed to undertake a Biocertification Strategy in 2010, with funding from the Office of Environment and Heritage and the Department of Planning and Environment.

A Broulee Biocertification Agreement was conferred upon the land by the Minister for the Environment on 19 September 2014. The Biocertification Agreement specifically requires Council to rezone a strip of land along George Bass Drive and Broulee Road to the E2 Environmental Conservation zone in order to ensure retention of a biocorridor for threatened fauna, including the Yellow-bellied Glider.

Since the Biocertification Agreement was conferred, Council has been working closely with the land owners in the certified development area to develop a concept master plan, amendments to the Residential Zones DCP and a planning proposal to amend ELEP 2012, all aimed at facilitating positive development outcomes for the land owners, the environment and the broader community.

CONSIDERATIONS

To facilitate best practice development and positive outcomes for the Broulee community and the local economy, including long-term management of the biocorridor and greater housing diversity, amendments are proposed to ELEP 2012 and to the Residential Zones DCP, including:

LEP Amendments

- rezoning the biocorridor along George Bass Drive and Broulee Road to the E2 Environmental Conservation zone in accordance with the Biocertification Agreement.
- rezoning additional land to the R3 Medium Density Residential zone in close proximity to the land zoned B2 Local Centre and along the biocorridor.
- reducing the minimum lot size for all of the residential land from 550m² to 450m²
- deleting the minimum lot size control for the biocorridor land and
- ensuring all residential land has an 8.5m maximum building height control.

DCP Amendments

- provisions to ensure separation of new development from vegetation in the biocorridor
- requiring development in the R3 zone to facilitate conservation outcomes in the biocorridor
- minimise new lot boundaries and fences within the biocorridor
- requiring a maximum 50% of lots to be less than 550m²

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

- requiring a maximum 50% of medium density dwellings to be in the form of residential flat buildings
- encouraging retention of habitat trees in development area where possible
- requiring development to be consistent with a comprehensive master plan for water, sewer and stormwater.

Together, the above amendments provide for development that complies with the Biocertification Agreement, minimises impacts on retained conservation values and facilitates increased housing diversity in a manner that will be generally consistent with the direction for Broulee outlined in the Eurobodalla Settlement Strategy (as a coastal village).

The development will facilitate around 500 new dwellings of various forms (Broulee currently contains 1,200 dwellings) and will increase the population of Broulee from 2,300 to 3,700.

The proposed medium density development, along the E2 Environmental Conservation zone, provides for a form of development that will facilitate ongoing management of the conservation corridor. One way to achieve this, is through the use of community title subdivision, though there are other ways. In the community title approach, the conservation corridor is held in common ownership and management of the land is the joint responsibility of all owners in the community title development. Management requirements are set out in an adopted community management plan and funded through body corporate fees, in the same way as landscaped areas, driveways and car parking areas are jointly managed and funded. It is likely that the management requirements for the conservation corridor will include weed management, pest animal management and bushfire management. The likely cost to future owners/managers of the conservation are unknown at this stage as it depends on the type of ownership/management proposed, the area of land to be managed, the current condition of the vegetation and the proposed management techniques.

Legal

An element of the Planning Proposal satisfies a condition of the Biocertification Agreement conferred upon the land by the Minister for the Environment. The Planning Proposal process will comply with the requirements of the Environmental Planning and Assessment Act 1979.

Policy

The Planning Proposal has been prepared in accordance with the Department of Planning and Environment's guidelines for preparing planning proposals and Local Environmental Plan amendments.

The Planning Proposal outlines how the proposed amendments are consistent with the South Coast Regional Strategy, the South Coast Regional Conservation Plan, the Eurobodalla Community Strategic Plan and the Eurobodalla Settlement Strategy. In particular, the Proposal is consistent with the policy framework by:

- protecting an identified habitat corridor
- providing a mix of housing opportunities
- supporting economic activity and growth

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

- facilitating development within an existing settlement and
- retaining the character of Broulee as a coastal village.

Environmental

The significant environmental issues with the land have now been resolved through the conferring of a biocertification agreement upon the land. The Planning Proposal is consistent with the biocertification agreement and the proposed amendments to the DCP support ongoing management of the conservation corridor required to be retained.

The proposal reduces bushfire risk to existing residential development in Broulee and includes measures to also reduce bushfire risk to new development. Prior to development of the land, an assessment of the potential impact on Aboriginal heritage will need to be undertaken. In addition, a comprehensive stormwater master plan will need to be prepared to address potential stormwater issues such as ponding and runoff in heavy rainfall events.

Asset

Future development of the land will impact on various Council assets including road, water and sewer infrastructure, open space areas, and community and recreation facilities. An increased density of development in existing urban areas supports the provision and maintenance of infrastructure.

As is the usual case with this kind of development, contributions will be required towards the cost of upgrading infrastructure to meet the demand generated by the development.

Social Impact

Increasing housing choice in Broulee will potentially result in more affordable housing options and therefore greater social diversity. Communities with a mix of residents in terms of age, family type and income, are generally considered to be more tolerant and inclusive communities.

Economic Development Employment Potential

Facilitating development of the land will provide a boost to the local economy, particularly in the construction industry. Further, increasing the density of housing, particularly in close proximity to the B2 Local Centre zone, will increase the viability of commercial activities on that land and support the provision of other services.

Financial

Additional development of land in Broulee will increase the rate base to support ongoing funding of community services and infrastructure maintenance.

Community Engagement

The concept master plan addresses issues raised by the Broulee community in submissions made during consultations associated with the biocertification strategy. Some submissions acknowledged that the subject land had been zoned for development for many years and should be able to be developed.

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

Positive benefits of development of the land identified in these submissions included:

- increased population supports growth in services (such as schools, medical facilities, small businesses, etc) in the local area
- more development assists in provision of affordable housing in the local area
- more development provides employment opportunities, particularly in the construction industry
- development of the land minimises the bushfire risk to existing dwellings in Broulee (through the removal of vegetation in the development area).

Other submissions raised concerns about the possible transformation of the Broulee village that might result from development of the land. Such changes may include:

- urbanisation of the village
- increase in population, traffic and noise
- impact on existing facilities (from over-use)
- loss of bushland and bush tracks
- loss of wind and noise buffer (from George Bass Drive).

The proposed amendments address the issues raised in previous consultations by providing a balance between facilitating additional development that can support conservation measures, minimising overdevelopment and increasing housing choice in the Broulee area.

Further engagement with the community will be undertaken on the Planning Proposal following the receipt of a Gateway Determination, including:

- placing a notice in the local newspaper
- providing exhibition material at Council's libraries and at the Administration Centre
- providing exhibition material on Council's website and
- informing adjoining land owners in writing.

The Gateway Determination will confirm the consultation requirements and any written referrals to government agencies.

CONCLUSION

Council is required to prepare a planning proposal to amend the Eurobodalla LEP 2012 to rezone a corridor along George Bass Drive and Broulee Road to the E2 Environmental Conservation zone. This is a condition of the Biocertification Agreement conferred upon the land.

Council has also been working with the land owners in the certified development area on a concept master plan for the land which has led to a number of other proposed LEP amendments along with proposed amendments to the Residential Zones DCP.

**PSR15/019 PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN
AMENDMENTS FOR LAND AT BROULEE**

E15.9218.R

All of the amendments have been packaged into one Planning Proposal and associated DCP amendments for Council's consideration prior to seeking a Gateway Determination and subsequent community consultation.

The Planning Proposal provides for a level of development that will support economic growth and employment, particularly for local businesses and services, with potential social benefits from a mix of housing types, and protects the local environment in accordance with the requirements of the Biocertification Agreement conferred upon the land.

