Eurobodalla Shire Council

PLANNING PROPOSAL

Land bounded by John Street, Church Street and Princes Highway Moruya

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INTRODUCTION

The planning proposal explains the intended effect of, and justification for the proposed amendment to Eurobodalla *Local Environmental Plan 2011* with regard to rezoning land bounded by John Street, Church Street and Princes Highway Moruya.

It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Infrastructure Guidelines, including *A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.*

The purpose of the planning proposal is to rezone the lands referred to below, to a business development zone that enables a mix of business and warehouse uses, and bulky goods premises that require a large floor area in locations that are close to and that support the viability of a town centre – including bulky goods, landscape supplies, service stations, warehouse and distribution centres, vehicle and sales hire premises, light industries, hardware and building supplies.

Council is seeking to progress this planning proposal through the gateway determination process as an amendment to the Eurobodalla LEP 2011, post the gazettal of the draft plan.

The subject land is identified as:

Lot 1 DP 700880 Queen Street	Lot 2 DP 700880 Church Street	Lot 3 DP 700880 Church Street
Lot 7 Sec 13 DP 758710 Church Street	Lot 8 Sec 13 DP 758710 Queen Street	Lot 1 DP 800767 Church Street
Lot 2 DP 800767 Church Street	Lot 3 DP 800767 Queen Street	Lot 4 DP 800767 Queen Street
Lot 10 Sec 18 DP 758710 Queen Street	Lot 11 Sec 18 DP 758710 Queen Street	Lot 2 DP 1138105 Queen Street
Lot 1 DP 1138105 Queen Street	Lot 4 Sec 18 DP 758710 Campbell Street	Lot 5 Sec 18 DP 758710 John Street
Lot 3 DP 1004604 Campbell Street		

This is depicted in **Appendix 1- Location Plan**, appended to this report.

PART 1: OBJECTIVES or INTENDED OUTCOMES

The objectives of this planning proposal for the rezoning of lands are to:

1. Enable the development of the lands for business development purposes including bulky goods, business and warehouse uses requiring a large floor area;
2. Provide additional employment opportunities in the Moruya District of the LGA;
3. Cater for a range of low intensity business uses whilst minimising any adverse effect of business related activities on other land uses;
4. Ensure development for business purposes would be sensitive to the existing density and scale of adjoining town centre development;
5. Mitigate the access and traffic issues to be generated as a consequence of the lands proximity to the major transport nodes; and
6. Mitigate any flood impacts associated with new development on those neighbouring lands.

The planning proposal signals Council's intent for future zoning decisions in relation to Council's adopted Economic Development and Employment Lands Strategy. This amendment will support the strategic approach of Council to accommodating future employment growth in the Eurobodalla Local Government (LGA).

PART 2: EXPLANATION of PROVISIONS

The objectives/intended outcomes are to be achieved by the Planning Proposal through site specific rezoning of the subject land from RU1 Primary Production to B5 Business Development under the Eurobodalla Local Environmental Plan 2011. This involves:

- a change to the Eurobodalla LEP 2011 Land Zoning Map in accordance with the proposed map **Appendix 2** to the report.
- a change to the Eurobodalla LEP 2011 Lot Size Map in accordance with the proposed map **Appendix 3** to the report.
- the addition of the following objective to the B5 zone to recognise the land:
  To support the nearby local business centre of Moruya without adversely impacting on the viability of that centre.

PART 3: JUSTIFICATION for PROPOSED REZONING

In accordance with the Department of Planning's *'Guide to Preparing Planning Proposals'*, this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

Section A – NEED for the PLANNING PROPOSAL

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

The planning proposal is not the direct result of a strategic study or report. Refer to discussion on *Economic Development and Employment Lands Strategy* below.

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

It is considered that an amendment to the Eurobodalla LEP 2011 through the gateway process and preparation of this planning proposal is the most effective and timely method to achieve the desired future outcomes for the subject land.

The Draft Eurobodalla LEP 2011 was adopted by Council on 20 December 2011 and subsequently notified to the Department of Planning & Infrastructure for finalisation. It is progressing on track and anticipated to be gazetted prior to the end of June 2012. Consequently this planning proposal has been prepared to be progressed through the gateway determination process as an amendment to the Eurobodalla LEP 2011 upon the gazettal of the draft plan.

3. Is there a net community benefit?

The rezoning of the subject site would enable development of the subject land for business development purposes, contributing to the local economy given that it encourages employment opportunities and caters for a range of low intensity business uses whilst minimising the adverse effect of business related activities on other land uses.

The public interest reasons for preparing this draft plan include:

- The development of subject land will support the growing residential population in the Eurobodalla LGA, encouraging additional employment opportunities and economic benefits in Moruya Town Centre and its surrounding area;
- The development of the subject land will increase choice and competition as it proposes additional bulky goods development opportunities adjacent to the Moruya Town Centre;
- The subject land has largely exhausted its historical use and the proposal to develop part of the lands for business development purposes will result in an improved outcomes and higher order use of the land. While also recognising existing use.

The implications of not proceeding with the planning proposal include:

- The potential for a higher order land use on the subject land would be lost, as it is no longer considered appropriate for primary production or agricultural use due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, business, and rural based business.
- The potential for improvements to the existing infrastructure would be limited;
- Opportunities to encourage employment in the area will be denied if the proposal is not supported.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and action contained within the applicable regional or sub-regional strategy?

South Coast Regional Strategy

The South Coast Regional Strategy (SCRS) 2006 – 2031 is applicable to the subject land and the proposed rezoning. The land is not identified in the SCRS for employment purposes, however a discussion on the merit of the proposal is provided below.

The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of jobs. This Planning Proposal to rezone the land for business development purposes is consistent with the following objectives/actions contained within the Regional Strategy for reasons specified:

- Council's will maintain the current net supply of zoned employment land; however consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities
- Local environmental plans will protect and add to employment land in existing economic centre, including major regional and major towns.

The following sustainability criteria provide a clear and transparent list of matters for consideration that any new proposal outside of the Regional Strategy must be assessed against.

Threshold criteria	Assessment against criteria measures
Infrastructure provision	Infrastructure available and or capable of augmentation at developers expense
Access	No negative impact on local or regional road network anticipated by the development. Any new road works required, to be funded at developer's expense. No access to the Princes Highway is proposed.
Housing Diversity	NA
Employment lands	Improves employment land availability in the subregion. Addressed identified shortfall in local employment land supply.
Avoidance of risk	Exposure to risk minimised or can be addressed through building design and location.
Natural Resources	No adverse effect on natural resources.
Environmental Protection	No adverse effect on environmental protection criteria.
Quality and equity in services	No adverse effect on quality or equity in services criteria.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Community Strategic Plan

The Planning Proposal is consistent with the Community Strategic Plan – Eurobodalla 2030.

The Planning Proposal will concentrate business development on land adjacent to the Moruya Town Centre near transport routes and increase employment opportunities, thus aligning with the Community Strategic Plan objectives and strategies, i.e.:

Objective 5	*Proactive and responsible planning supports the community and the environment*
Objective 5.2	*Plan to improve natural and built environments*
Objective 7	*The economy is competitive and our people skilled*
Objective 7.1	*Help our local economy grow*
Objective 7.2	*Develop new industries and market places*

Eurobodalla Settlement Strategy and Moruya Structure Plan

The Eurobodalla Settlement Strategy, adopted in 2006, stated that Moruya has a shortfall in current commercial floor space to meet demand to 2026. Therefore, the provision of additional business land adjacent to the Moruya Town Centre will address the shortfalls identified in the Eurobodalla Settlement Strategy.

Economic Development and Employment Lands Strategy

Council adopted an Economic Development and Employment Lands Strategy in 2011. The Strategy identifies the central area of the Shire, in the vicinity of the Moruya Town Centre as having potential for additional employment generating development. However, in adopting the Strategy, Council resolved to remove one investigation area from the Strategy, being an area at Noads Road, Moruya, in response to land owner concerns. As an alternative to the Noads Road land, Council resolved to undertake further investigations of land around the Moruya North Industrial Estate. Whilst such investigations are yet to commence, the environmental constraints around Moruya North are likely to be a significant limiting factor in any expansion of the industrial land.

Without the Noads Road area, the potential future industrial areas identified in the Employment Lands Strategy will only achieve 68.4% of the land area required to meet the demand for new industrial employment land in the Shire. In addition, the identified potential future commercial areas will only achieve 74.7% of the land area required to meet the demand for new commercial employment land.

The Eurobodalla Settlement Strategy, adopted in 2006, stated that Moruya has a shortfall in current commercial floor space to meet demand to 2026. Therefore, the provision of additional commercial and industrial land in the vicinity of Moruya will address the shortfalls identified in both the Settlement Strategy and the Employment Lands Strategy.

Rezoning the subject land for employment generating development satisfies the following employment land planning principles in the Employment Lands Strategy:

- That future employment lands be provided in accessible locations to service the three distinct population centres in the north, central and southern parts of the Shire and that transport connections between the centres be improved.

- That future employment lands be determined having regard to the need to increase economic and employment diversity, by basing employment land decisions on known or anticipated business location needs and the potential for business clusters to establish and grow.

- That centres remain compact in form and land use, particularly for core retail and commercial activities, with opportunities for non-core retail and commercial development to be provided in appropriate locations adjacent to centres.

6. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

SEPP	Relevance	Consistency and Implications
Infrastructure 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities	Nothing in this planning proposal affects the aims and provisions of this SEPP. OK.
Rural lands 2008	Provides state-wide planning controls to facilitate the orderly and economic use and development of rural lands for rural and related purposes. In addition it identifies the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purposes of promoting the social, economic and environmental welfare of the State.	The planning proposal is inconsistent with the Rural Lands SEPP (2008) as it is proposing to rezone rural land to a business development zone for the purposes of business and other bulky goods development. The inconsistency is justified as the subject land is no longer considered appropriate for primary production or agricultural use due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, bulky goods business, and rural based business. Because of the above, the zone boundary proposed is logical for the new business area, and easily differentiated from rural land to the east.
55 Remediation of land	Provides state-wide planning controls for the remediation of contaminated land. The policy states that land mist not be developed if it is unsuitable for a	Council is of the opinion that the land is suitable for business development purposes.

	proposed uses because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	Council is satisfied that contamination on site is minimal and can be managed appropriately through the development application process. ✓ OK

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

An assessment of relevant s. 117 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Business and Industrial Zones	Encourage employment growth, protect employment land in business zones and support the viability of identified strategic centres	It is proposed to rezone the subject land from rural to business development. The increase in business zone land is justified as the subject land is no longer considered appropriate for primary production or agricultural use due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, bulky goods business and rural business. The rezoning of the subject land for business development is supported by the outcomes of the endorsed Economic Development and Employment Lands Strategy, which identified the need for further business development opportunities in and around the Moruya Town Centre. The proposal is therefore consistent with this direction. ✓ agree.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	It is proposed to rezone the subject land from rural to business development. The subject land is no longer considered appropriate for primary production or agricultural use due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, bulky goods business and rural business. Its value now lies in a business development

Ministerial Direction	Aim of the Direction	Consistency and Implications
		use. Therefore the proposal is consistent with this direction.
1.5 Rural Lands	To protect the agricultural production value of rural land, and facilitate the orderly and economic development of rural lands for rural related purposes.	The subject land comprises rural land that is no longer able to support primary production or agricultural uses due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, bulky goods business and rural business. The rezoning of the subject land for business development is supported by the outcomes of the endorsed Economic Development and Employment Lands Strategy, which identified the need for further business development opportunities in and around the Moruya Town Centre. Therefore the proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	The objectives relate to the location of urban structures, building forms, land use locations, development designs, subdivision and street layouts and their proximity to public transport infrastructure and road networks and improving access to housing, employment and service methods other than private vehicles.	The planning proposal will provide for a mix of business and warehouse uses, and bulky goods premises, encouraging employment opportunities close to Moruya Town in a location where existing infrastructure is provided.

Inconsistent.

Ministerial Direction	Aim of the Direction	Consistency and Implications
4.1 Acid Sulphate Soils	To avoid significant adverse environmental impacts from the use of land that has a probability of containing ASS	Current ASS risk maps and ASS mapping under the Draft Eurobodalla LEP 2011 indicate the potential of ASS on the subject land and identify the site as affected by Class 2 ASS. This class of ASS should not preclude the rezoning process continuing but should be considered further prior to any future development of lands. Therefore the planning proposal is consistent with the objectives of this direction. Inconsistent but Minor.
4.3 Flood Prone Land	The direction aims to reduce the risk of flood and to ensure that the development of flood prone land is consistent with the NSW Flood Prone Land policy.	The land is below the level of the Probable Maximum Flood (PMF) and is therefore considered as flood liable in accordance to the definition of flood liable land given in the *NSW Floodplain Development Manual 2005*. A 5% flood event has been considered for the proposal as it is the adopted Flood Planning Level for commercial development on the Moruya River floodplain. The *Moruya River Floodplain Management Plan 2004* categorises the land as being located on the flood fringe for regular flooding events. Recent modelling assessing the impacts of climate change on flood behaviour identified the subject land as High Hazard due to the trigger of water depth, which varies considerably over the subject land as a whole. Notwithstanding the above, Council considers the subject land capable of development of large floor plate business development (bulky goods, warehouse and storage, vehicle sales and hire, hardware and garden supplies and the like), as this type of development represents a minimal risk to life due to low occupancy and also as residential accommodation is not permitted in the zone. Inconsistent

Ministerial Direction	Aim of the Direction	Consistency and Implications
		Further, the potential for danger to personal safety and damage can be addressed on merit by land form changes (filling of land which has already occurred on some of the subject land); and building, siting and design at the development application stage. This is consistent with Council's current development processes and procedures as applied to adjacent business lands, with similar hazard category. Therefore the proposal is consistent with this direction.
4.4 Planning for Bushfire Protection	To protect life, property and the environment from bush fire hazards by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.	This direction applies as part of the subject land is identified as bushfire prone. A preliminary bushfire risk assessment has shown minor risk to development and in the circumstances can be dealt with at the development application stage. Therefore the proposal is consistent with the objectives of this direction.
5.1 Implementation of Regional Strategies	This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.	The planning proposal is considered to be consistent with the objectives and actions contained in the South Coast Regional Strategy 2006 – 2031 as indicated in the response above.
6.1 Approval and Referral Requirements	The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The planning proposal does not affect the objectives of this direction and will be consistent with this requirement.
6.3 Site Specific Provisions	The direction aims is to discourage unnecessarily restrictive site specific planning controls and applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	The planning proposal does not affect the objectives of this direction.

inconsistent

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No ecological assessment has been provided to inform the rezoning proposal. The subject land is predominantly open grasslands and generally devoid of vegetation. Council's vegetation mapping does not indicate any significant, vegetation, community or threatened species on the subject land.

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

Access and Traffic

The existing road network provides opportunities for site access. Access can be provided from Queen Street by John Street (to be constructed). No direct access to the Highway is proposed. Council is satisfied that adequate access can be provided to the subject lands to accommodate future development in the zone. Any further assessment of traffic and access is more appropriately considered at the development application stage.

Loss of Rural Lands

The subject land is currently zoned 1(a) Rural – Environmental Constraints and Agriculture under the Rural LEP 1987, and is zoned RU1 Primary Production under the adopted Draft Eurobodalla LEP 2011. This is a direct zone transfer like for like.

The subject land comprises rural land that has no current primary production or agriculture use. The subject land is no longer able to support primary production or agricultural uses due to its fragmented ownership pattern, lot sizes, and existing land use, which includes residential, bulky goods business and rural business.

Council is satisfied that the proposal will not result in the loss of 'valuable' agricultural land.

Contamination

In accordance with State Environmental Planning Policy (SEPP) No. 55 Remediation of Land, a contamination assessment of the subject lands needs to be completed and submitted to Council prior to the completion of the rezoning process. Part of the site has been filled.

Council is of the opinion that the land is suitable for business development purposes. Council is satisfied that contamination on site is minimal and can be managed appropriately through the development application process.

Acid Sulfate Soils (ASS)

Acid Sulfate Soil risk maps indicate the potential for Class 2 Acid Sulfate Soils across the majority of the site. The risk of ASS does not prevent the progression of the rezoning process.

Any development proposed in those areas identified as potential for Acid Sulfate Soils would require a detailed Acid Sulfate Soil Assessment to be undertaken to detail potential risk and appropriate management at the development application stage.

Bushfire Hazard

Council's Bushfire Prone Map identifies the subject land. A preliminary bushfire risk assessment has shown minor risk to development. Further, the potential for danger to personal safety and damage can be addressed on merit by building, siting and design at the development application stage. This is consistent with Council's current development processes and procedures as applied to adjacent business lands, with a similar hazard category.

Flood hazard

The land is below the level of the Probable Maximum Flood (PMF) and is therefore considered as flood liable in accordance to the definition of flood liable land given in the *NSW Floodplain Development Manual 2005*. A 5% flood event has been considered for the proposal as it is the adopted Flood Planning Level for commercial development on the Moruya River floodplain.

The *Moruya River Floodplain Management Plan 2004* categorises the land as being located on the flood fringe for regular flooding events. Recent modelling assessing the impacts of climate change on flood behaviour identified the subject land as High Hazard due to the trigger of water depth, which varies considerably over the subject land as a whole.

Notwithstanding the above, Council considers the subject land capable of development of large floor plate business development (bulky goods, warehouse and storage, vehicle sales and hire, hardware and garden supplies and the like), as this type of development represents a minimal risk to life due to low occupancy and also as residential accommodation is not permitted in the zone.

Further, the potential for danger to personal safety and damage can be addressed on merit by land form changes (filling of land which has already occurred on some of the subject land); and building, siting and design at the development application stage. This is consistent with Council's current development processes and procedures as applied to adjacent business lands, with similar hazard category.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will deliver significant social and economic benefits. The provision of additional employment land within the central district of the LGA will provide business growth and employment opportunities in close proximity to existing utilities and existing and future residential developments.

Visual Assessment

No visual assessment of the site has been provided to Council from the proponent. It is envisaged that the built environment will be in keeping with existing development in the locality in terms of lot size and dimensions, site coverage, building height and landscaping. In addition it is considered that flexibility in building design will be the focus of any development, ensuring development gives consideration to the amenity of surrounding properties and ensuring the provision of high quality on site landscaping.

Council is satisfied that visual amenity issues can be further considered post a gateway determination being received. Council is also satisfied that further controls considered through the development assessment stage will ensure management of visual amenity.

Heritage and Archaeological Significance

No known heritage item or archaeological item is located on the subject land. Council is satisfied that these issues can otherwise be managed through the development assessment stage.

Section D – STATE and COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

The planning proposal will generate demand for public infrastructure associated with business type development. Reticulated sewer and water, electricity and telecommunications infrastructure are available to the subject site and hence it is considered that there is adequate capacity available within existing infrastructure, or reasonable increases in capacity can be provided when new development occurs.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No advice has formally been sought from government agencies or public authorities in relation to the rezoning of the subject site. However, it is anticipated that post a gateway determination, Council will consult with Transport NSW (Roads and Traffic Authority), Rural Fire Service on the proposed rezoning.

PART 4: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation is undertaken by

the local authority. The planning proposal is considered a low impact proposal and therefore it is intended for this proposal to be exhibited for a fourteen (14) day period.

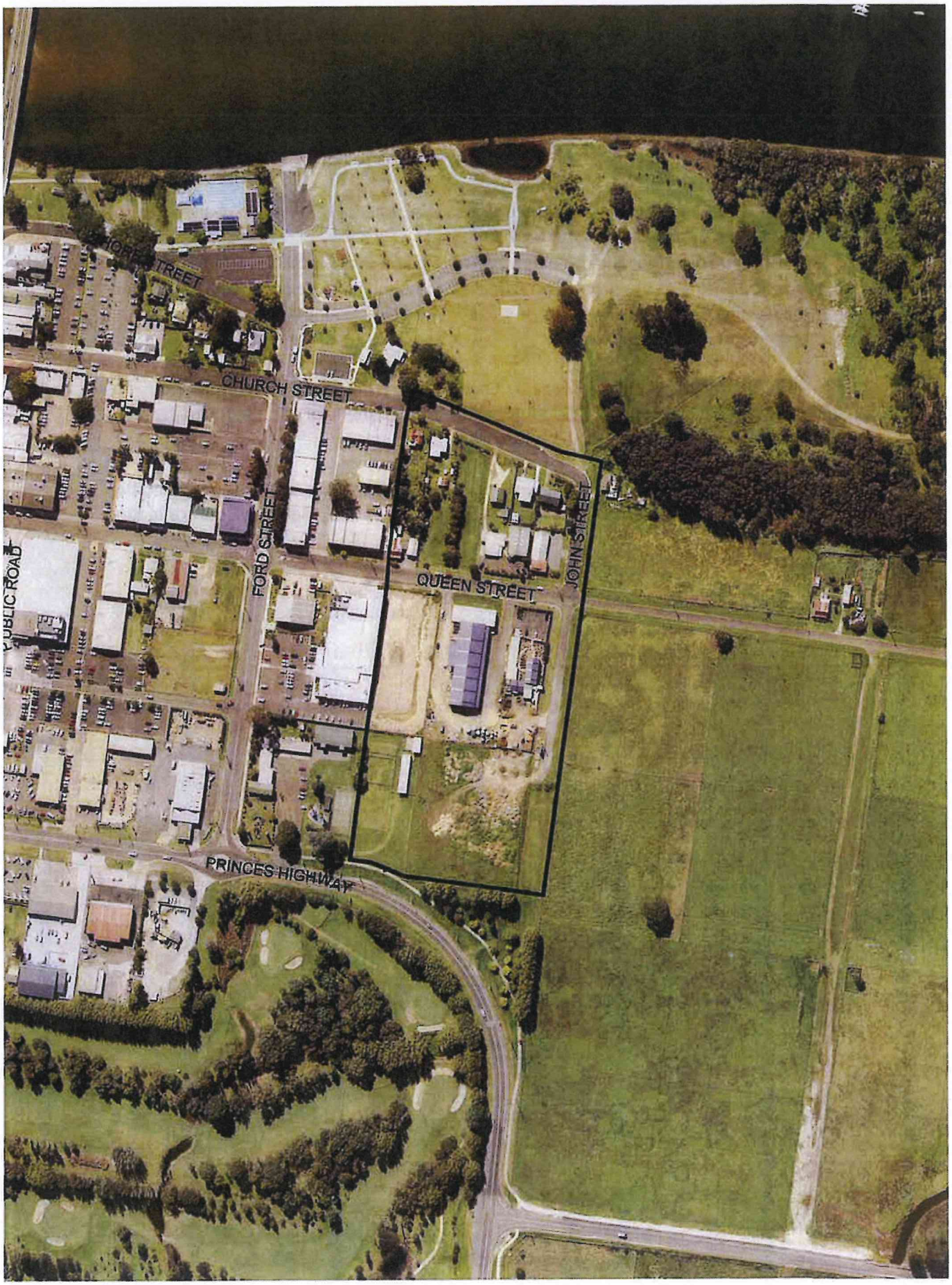
Consultation on the proposed rezoning will be to inform and received limited feedback from interested stakeholders. To engage the local community the following will be undertaken:

- Notice in the local newspaper;
- Exhibition material and relevant consultation documents to be made available at the libraries and Council's Administration Building;
- Consultation documents to be made available on Council's website; and
- Letters, advising of the proposed rezoning and how to submit comments will be sent to adjoining landowners and other stakeholders that Council deem relevant to this rezoning proposal.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the proposed rezoning before proceed to finalisation of the amendment.

The consultation process, as outlined above does not prevent any additional consultation measures that may be determined appropriate as part of the 'Gateway' determination process.

Location Plan - Land Bounded by John St, Church St and Princes Hwy Moruya APPENDIX 1



Proposed Minimum Lot Size Map - Land Bounded by John St, Church St and Princes Hwy Moruya

APPENDIX 2

Proposed Zoning Map - Land Bounded by John St, Church St and Princes Hwy Moruya

APPENDIX 3

DECLARATIONS OF INTEREST ON MATTERS ON THE AGENDA

E87.6800; 12.6148.R

Councillor Graham Scobie declared a non pecuniary conflict of interest in Report PS12/17 Planning Proposal – Land Bounded by John Street, Church Street and Princes Highway, Moruya.

Reason: Councillor Graham Scobie advised that one of the properties in this area is owned by the Vice President of the Moruya Chamber of Commerce. Councillor Graham Scobie is the President of the Moruya Chamber of Commerce and he said that he had no prior knowledge of this proposal and he would participate in the debate.

T Stewart /4

MINUTE NO PSM12/27

PS12/17 PLANNING PROPOSAL – LAND BOUNDED BY JOHN STREET, CHURCH STREET AND PRINCES HIGHWAY, MORUYA 12.6148.R

PSM12/27 **MOTION** Councillor Keith Dance/Councillor Alan Morton

THAT Council forward to the NSW Minister for Planning for a Gateway Determination in accordance with section 56 of the Environmental Planning and Assessment Act, the Planning Proposal to amend the Eurobodalla draft Local Environmental Plan 2011 to rezone certain land bounded by John Street, Church Street and Princes Highway at Moruya (as shown on the map Attachment – Location Plan – as attached to Report PS12/17) for B5 Business Development purposes.

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

20153

CHAIRPERSON