



PWG001014

7 May 2012

EUROBODALLA SHIRE COUNCIL

12.6148.R

PO Box 99 Moruya NSW 2537

email: council@eurocoast.nsw.gov.au

website: www.esc.nsw.gov.au

DX 4873

Mr Brett Whitworth
Regional Director, Southern Region
NSW Department of Planning & Infrastructure
PO Box 5475
WOLLONGONG NSW 2520

Dear Brett

**PLANNING PROPOSAL SUBMISSION
REZONE CERTAIN LAND AT MORUYA FOR BUSINESS DEVELOPMENT PURPOSES**

At its meeting on 1 May 2012, Council's Policy and Strategy Committee, resolved to "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 for B5 Business Development purposes. Council is seeking to progress this Planning Proposal through the Gateway Determination process as an amendment to the Eurobodalla LEP 2011, based on the imminence of gazettal of the draft Plan.

The planning proposal and report to Council and minutes are attached. I look forward to receiving your advice as to the Minister's gateway determination in due course.

If you wish to discuss these matters or require additional information please contact me on 02 4474 1326.

Yours faithfully

Shannon Burt
Divisional Manager, Strategic Services

Encl.
Council report and minutes
Planning proposal

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

12.6148.R

SYNOPSIS

The purpose of this report is to seek Council's endorsement of a Planning Proposal to amend the draft Eurobodalla Local Environmental Plan (LEP) 2011 to rezone certain land at Moruya for business development purposes.

Council is seeking to progress this Planning Proposal through the Gateway Determination process as an amendment to the Eurobodalla LEP 2011, based on advice of the Department of Planning and Infrastructure and the imminence of gazettal of the draft Plan.

The Planning Proposal application is supported by a Sustainability Criteria Report as required by the South Coast Regional Strategy.

It is recommended that Council supports the Planning Proposal application by forwarding it to the Minister for Planning for consideration at the Gateway Determination.

BACKGROUND

Council received a request on 20 February 2012 from a group of landowners for rezoning of land bounded by John Street, Church Street and the Princes Highway to B5 Business Development (see Attachment 1 Location Plan). The lands are 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		

To initiate the Planning Proposal, Council staff then invited all affected landowners to an information session on 15 March 2012. At this session land owners were advised:

1. What is proposed and what it means as a landowner;
2. The planning proposal and gateway process;
3. The likely costs for work associated with the planning proposal and gateway determination.

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

12.6148.R

The land owners were given the opportunity to discuss the proposal amongst themselves and advise staff of their preferred way forward. The land owners agreed to support the Planning Proposal.

CONSIDERATIONS

The subject land is currently zoned 1(a) Rural Environmental Constraints and Agricultural under the Eurobodalla Rural Local Environmental Plan 1987 and RU1 Primary Production under the draft Eurobodalla Local Environmental Plan 2011.

The land is not identified in the South Coast Regional Strategy or Eurobodalla Settlement Strategy as an area for business development.

Legal

Planning Proposal Process

The Planning Proposal has been prepared in accordance with the Department of Planning's publications: *A Guide to Preparing Planning Proposals* and *a Guide to Preparing Local Environmental Plans* (NSW Department of Planning July 2009). The Planning Proposal addresses the matters required by the Director General to be addressed in all planning proposals.

If Council wishes to proceed with the draft amendment, the Planning Proposal will be forwarded to the Minister for Planning for "Gateway Determination". The intention of the gateway process is to allow a Planning Proposal to be reviewed at an early stage to make a decision whether to proceed further, before significant resources are committed.

At the Gateway Determination stage, the Minister will decide:

1. Whether the proposal will proceed, with or without variation, and whether it should be resubmitted;
2. The level of community consultation required;
3. Whether input from State and Commonwealth authorities is required;
4. The appropriate timeframes for the various stages of the proposal.

Following the Gateway Determination the proposal may, in accordance with the determination, be publicly exhibited, Government authority view will be sought and Council will consider any submissions received.

Under the new planning procedures it is only the Planning Proposal and supporting documents which are exhibited. The written legal instrument (draft LEP) is prepared by Parliamentary Counsel when the Planning Proposal is finalised immediately before it is made by the Minister or their delegate. The LEP takes effect when it is published on the NSW Legislation website.

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

12.6148.R

A copy of the Planning Proposal has been attached for reference. (Attachment 2)

Policy

The Planning Proposal is not the direct result of a strategic study or report. However, Council's Economic Development and Employment Lands Strategy adopted in 2011, identifies the central area of the Shire, in the vicinity of the Moruya Town Centre, as having potential for additional employment generating development.

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:

1. 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.
2. 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.
3. 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.

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

Environmental

Biodiversity

Council's vegetation mapping does not indicate any significant, vegetation, community or threatened species on the site.

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.

Loss of Rural Land

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' rural land.

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

12.6148.R

Asset

The provision of infrastructure can occur without significant impost on Council or the community. The developer will be required to fund any upgrades necessary. No Highway access is proposed.

Social and Economic Impact

1. The development of subject lands 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;
2. The development of the subject lands will increase choice and competition as it proposes additional bulky goods development opportunities adjacent to the Moruya Town Centre;
3. The 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.

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 being 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 receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

1. Notice in the local newspaper;
2. Exhibition material and relevant consultation documents to be made available at the libraries and Council's Administration Building;
3. Consultation documents to be made available on Council's website; and
4. 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.

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

12.6148.R

CONCLUSION

When taking the abovementioned matters into consideration, it is considered appropriate that Council agree to support the Planning Proposal to Gateway Determination.

RECOMMENDED

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.

SHANNON BURT
DIVISIONAL MANAGER, STRATEGIC SERVICES
PLANNING AND SUSTAINABILITY SERVICES

Attach

12.6148.R