

zenith

town planning

STATEMENT OF ENVIRONMENTAL EFFECTS

Lot 254 DP 773478, No 1 Old
Princes Highway, Turlinjah

Three lot subdivision

sustainable thinking

PO Box 591 | Moruya NSW 2537

0408258877 | zenithplan@bigpond.com | www.zenithplan.com.au

This page is left blank intentionally

TABLE OF CONTENTS

1.	Purpose and scope	1
1.1	Overview	1
1.2	Scope of the report	8
2.	Site description, location and context	3
2.1	Site description	3
2.2	Location and context	4
3.	Details of the proposed development	6
3.1	Land use	6
3.2	Access arrangements	7
3.3	Water and sewer	7
3.4	Stormwater management	8
3.5	Telecommunications and power	9
4.	Site assessment	10
4.1	Landform and vegetation	10
4.2	Ecological assessment	11
4.3	Natural hazards	13
4.4	Heritage	14
5.	Section 79C assessment	17

Attachment 1 – Sensitive coastal location map

Attachment 2 – Masterplan waiver approval

Attachment 3 – Certificate of Title

Document Details & History

Project number	1313
Project title	Three lot subdivision
Document title	Statement of Environmental Effects
Client	Oceall Pty Ltd
Author	Allen Grimwood
ABN	23 645 238 589
Version	Draft 30 January 2014
	Final 3 March 2014

The contents of this report are Commercial in Confidence and are only to be used for the express purpose of supporting the respective project, planning proposal or development application described above. The contents are not to be reproduced or provided to any party other than in relation to the project or development application described above except with the prior written approval of Zenith Town Planning.

The report has been prepared using information supplied by the client and other stakeholders. All care is taken to ensure the accuracy and veracity of this information, however, no responsibility is accepted for the interpretation of that information by end users.

1. Introduction

1.1 Overview

The purpose of this Statement of Environmental Effects is to support a development application to Eurobodalla Shire Council for the subdivision of Lot 254 DP 773478 Turlinjah to create two additional lots.

This statement has been prepared with reference to advice provided by Eurobodalla Shire Council regarding the development proposal that was provided at a meeting attended by the landowner, town planner and council staff on 11 February 2014. Information that was supplied by council in writing following that meeting and dated 24 February 2014 has also been taken into account.

1.2 Scope of the report

The scope is to describe the location and physical characteristics of the site on which the development is proposed, identify relevant provisions of plans and policies applying to the land, discuss any possible environmental impacts of the development and proposed servicing arrangements.

An assessment against the matters for consideration listed in section 79C of the *Environmental Planning and Assessment Act 1979* is included with a view to securing development consent for the proposed activities.

The development proposal is for integrated development as a separate approval in the form of a Bushfire Safety Authority is required to be issued by the NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*.

The development application is being lodged at the same time as a planning proposal to amend the Lot Size Map that accompanies *Eurobodalla Local Environmental Plan (LEP) 2012* under Part 3 Division 4B of the *Environmental Planning and Assessment Act 1979*.

The objective of the planning proposal is to amend the Lot Size Map so that the minimum lot size that applies to Lot 254 DP 773478 Turlinjah is reduced from 2 hectares to 5,000 square metres to

enable the subdivision of Lot 254 into three allotments that will be consistent in size and shape with the pattern and layout of Turlinjah.

This statement is accompanied by the following documents which support the development application and have been submitted under separate cover:

- Development application form,
- Plan of Proposed Subdivision, John Healey & Associates, undated
- Bushfire Assessment Report, South Coast Building Approvals & Inspections, 14 November 2013,
- Flora and Fauna Impact Assessment, Southeast Engineering & Environmental, 22 January 2014,
- Drawing 199-01 Subdivision access and road upgrade, Southeast Engineering & Environmental, 20 December 2013,
- Drawing 199-02 Sewer provision, Southeast Engineering & Environmental, 20 December 2013,
- Drawing 199-03 Proposed sewer longsection, Southeast Engineering & Environmental, 20 December 2013, and
- Drawing 199-04 Subdivision stormwater, Southeast Engineering & Environmental, 20 December 2013.

2. Site description, location and context

2.1 Site description

The land on which the development is proposed is described as Lot 254 DP 773478, No. 1 Old Princes Highway, Turlinjah.

The property has an area of 1.606 hectares (16,060 square metres) and slopes gently to the south. It is roughly rectangular in shape with a width of 96 metres and has boundary lengths of 162m (east) x 111m (south) x 100m (north) x 138m (west). Northern and southern boundaries comprise more than one segment. The southern boundary of the site is approximately 17 metres at the closest point to Smarts Creek at the upper reaches of Tuross Lake. It is located within the rural settlement of Turlinjah.

An unoccupied timber and brick clad dwelling and a detached shed are located at the southern part of the site. Vegetation is mainly re-growth shrubs and eucalypts in the centre and northern part of the site. A few feature trees are close to the dwelling. An existing dam is located just west of the centre of the site.

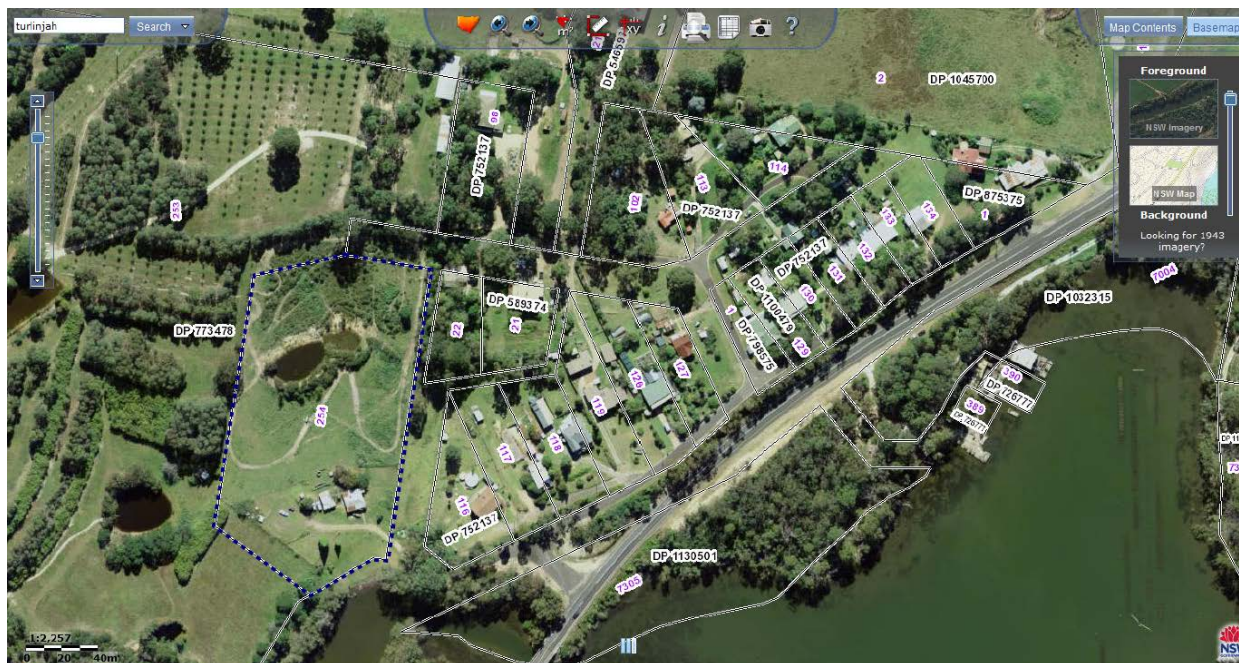


Figure 1: Locality image. Lot 254 DP 773478 is edged blue. Source: Six Maps, NSW Government

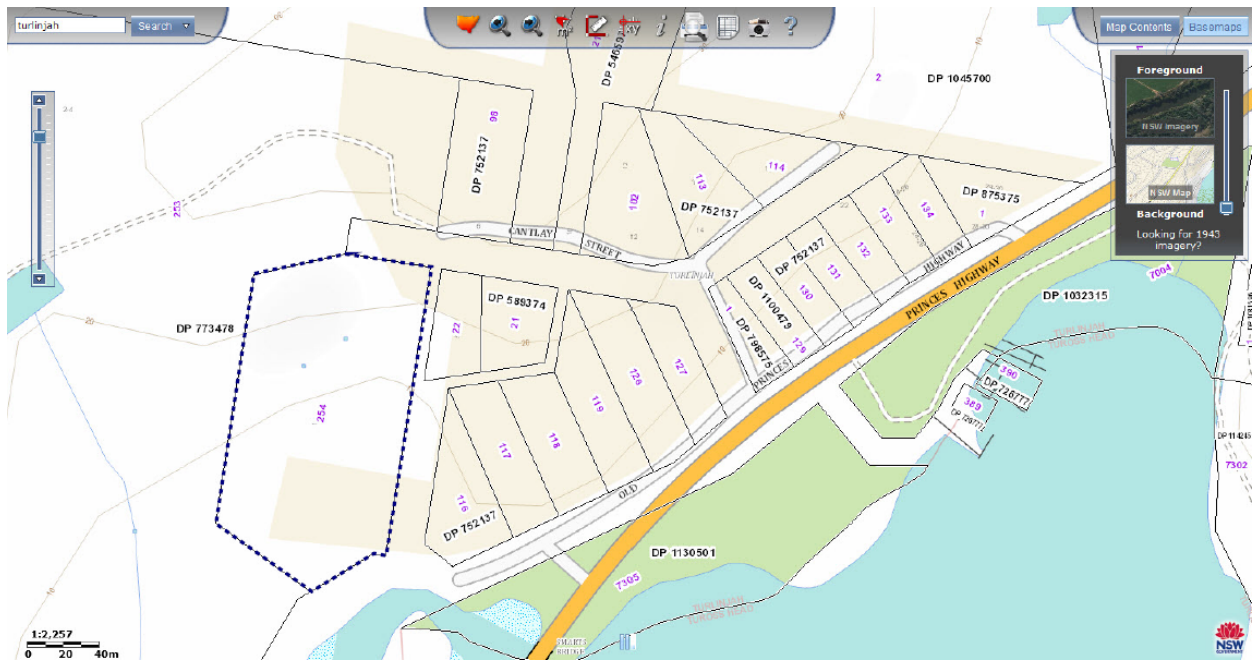


Figure 2: Cadastral map. Lot 254 DP 773478 is edged blue. Source: Six Maps, NSW Government

The site can presently be described as degraded and under-utilised. It is partially overgrown with bracken and shrubs and dirt tracks within the site are frequently used by trail bikes. Discarded building materials, derelict vehicles and other debris were scattered across the lower portion of the site. This debris has recently been removed.



Plate 1: A panorama view of the site looking from the south eastern corner

2.2 Location and context

The settlement of Turlinjah is approximately 15 kilometres south of Moruya along the Princes Highway and 6 kilometres north-west of Tuross Head. The settlement is typified by a mix of single and two storey detached dwelling houses.

Development on adjoining land to the east comprises new and old single storey dwellings and outbuildings. There is a no consistent design or fabric of residential development in Turlinjah.

North and west of the site is rural land that is partly vegetated and predominantly used for the cultivation of fruit and vegetable as small scale market gardening enterprises. South of the site is Smarts Creek – a tributary of Tuross Lake.



Plate 2: Looking east from within the site towards adjoining large lot residential development



Plate 3: Looking towards Smarts Creek from the south of the site

3. Details of the proposed development

3.1 Land uses

It is proposed to subdivide Lot 254 into three allotments as illustrated in Figure 3 below. Proposed Lot 1 would have an area of 5,390m², Lot 2 would have an area of 5,400m² and Lot 3 would have an area of 5,405m². All lots are capable of accommodating unconstrained building envelopes of dimensions 10 metres by 15 metres. Setbacks to all boundaries are a minimum 12 metres, except that a 1 metre setback to the southern boundary is proposed. It is proposed to partially fill the western part of the existing dam.

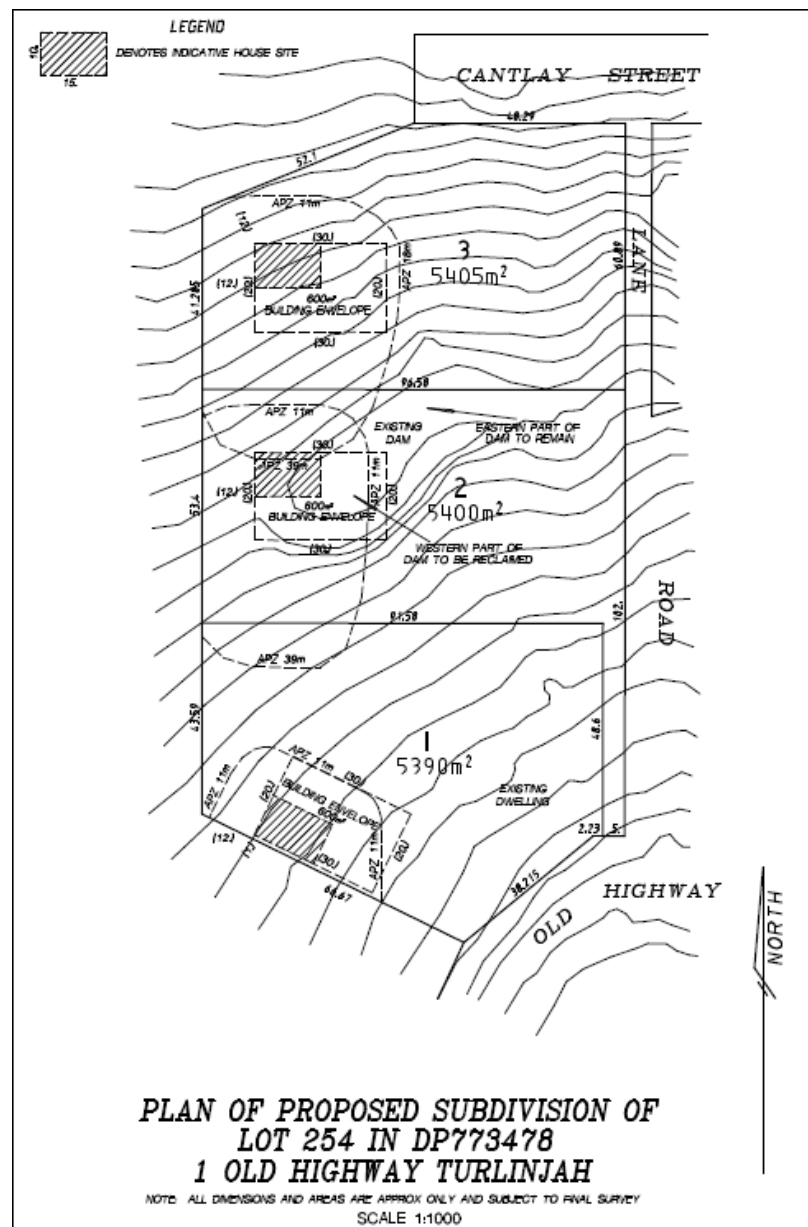


Figure 3: Proposed plan of subdivision

3.2 Access arrangements

The site is accessed via the Old Princes Highway which connects the Princes Highway to the southern boundary of the site. The access road has been sealed to within the property although the bitumen seal has deteriorated. An unformed road reserve of variable width runs north-south parallel to the eastern boundary and Cantlay Street adjoins the northern boundary of the property.

The existing access to proposed Lot 1 via the Old Princes Highway is to be maintained. It is proposed to upgrade the pavement to council's standard specifications and to retain the current pavement width and cross section.

Access to proposed Lot 2 is to be also be via the Old Princes Highway to the south-eastern corner of Lot 1 and then by way of a 5 metre wide access handle with a 4 metre width pavement running parallel to the eastern boundary for a distance of 48.6 metres.

Access to proposed Lot 3 is possible using Cantlay Street which is formed and sealed as far as the north eastern corner. It is proposed to maintain the current road width and upgrade this existing access to council's standard pavement specifications.

Access arrangements and proposed upgrades are shown in *Drawing 199-01* prepared by Southeast Engineering and Environmental.

3.3 Water and sewerage

The settlement is not serviced with reticulated water meaning that water capture and re-use is required to supply each dwelling with potable water. A 10,000 litre water tank is to be provided on the future dwelling on each lot.

Turlinjah is serviced with a reed bed gravity sewerage scheme. Each dwelling in the settlement has its own septic tank. The overflow from each tank, which would ordinarily enter a trench downslope of the tank, is instead directed to the reed bed system through 100mm mains inside each property to 150mm mains located in road reserves. Mains are located in the road reserve running north-south along the eastern boundary and a sewer pump station is located near the entry to the property at the south eastern corner which pumps septic effluent to the head of the reed beds. Effluent is filtered through a series of reed beds, stored in a holding tank for UV disinfection and then distributed from a reservoir to agricultural properties that use the treated effluent for irrigation. The existing dwelling on Lot 254 is connected to the sewer scheme and

council engineering staff have confirmed that there is capacity in the system to service an additional two lots.

Each future dwelling is to be supplied with a 3,000 litre septic tank. Each tank is to be connected to the sewer pump station located adjacent to the property at the south eastern corner by way of a 150mm sewer line located within the property running parallel to the unformed road reserve along the eastern boundary. The location of the new sewer line and a long section are shown in *Drawings 199-02* and *199-03* prepared by Southeast Engineering and Environmental.

3.4 Stormwater management

The property is largely cleared grassland and slopes to a foreshore reserve. Stormwater management requirements are therefore minimal. It is proposed to divert overflows from the existing dam away from the building envelope on Lot 2 towards the road reserve that runs parallel to the eastern boundary. A 150mm PVC stormwater line is proposed to be located beneath the pavement in the access handle to Lot 2 that discharges to council's existing drain located upslope of the Old Princes Highway to the south-east of the site. Proposed stormwater management arrangements are shown in *Drawing 199-04* prepared by Southeast Engineering and Environmental.



Plate 4: The existing septic tank and access to proposed Lot 1.

The sewer pump station is located in a road reserve adjoining the south eastern corner of the site

3.5 Telecommunications and Power

Telecommunications and electricity are available to the site, provided by Telstra and Essential Energy respectively. A timber power pole that provides an electrical connection to the existing dwelling is located in the road reserve at the south-eastern corner of the site.

Applications for connection of telecommunications and power will be made to these two authorities following the issue of development consent.

4. Site assessment

4.1 Landform and vegetation

The site slopes to the south at the northern end, tending south-east from the centre to the southern boundary. The slope is steepest at the northern end and moderates to the south towards Smarts Creek.

The top third of the site contains regrowth vegetation comprising shrubs, bracken fern, black wattle, casuarina and immature eucalypts. The land has been cleared and is now predominantly exotic pastures beneath the dam and in the vicinity of the existing dwelling. All native vegetation is classified as regrowth under the *Native Vegetation Act 2003* evidenced by aerial photographs taken in 2002 which show the site as fully cleared (see *Flora and Fauna Impact Assessment* by Southeast Engineering and Environmental).

Figure 4 below shows environmental constraints sourced from Council's on-line GIS. The only constraint within the boundaries of the site is an insignificant patch of steep slope west of centre. Smarts Creek to the south of the site is a category 1 watercourse and is also protected as a coastal wetland under *SEPP 14*. A validated endangered ecological community also located outside the boundaries of the site is shown as a shaded light green area.

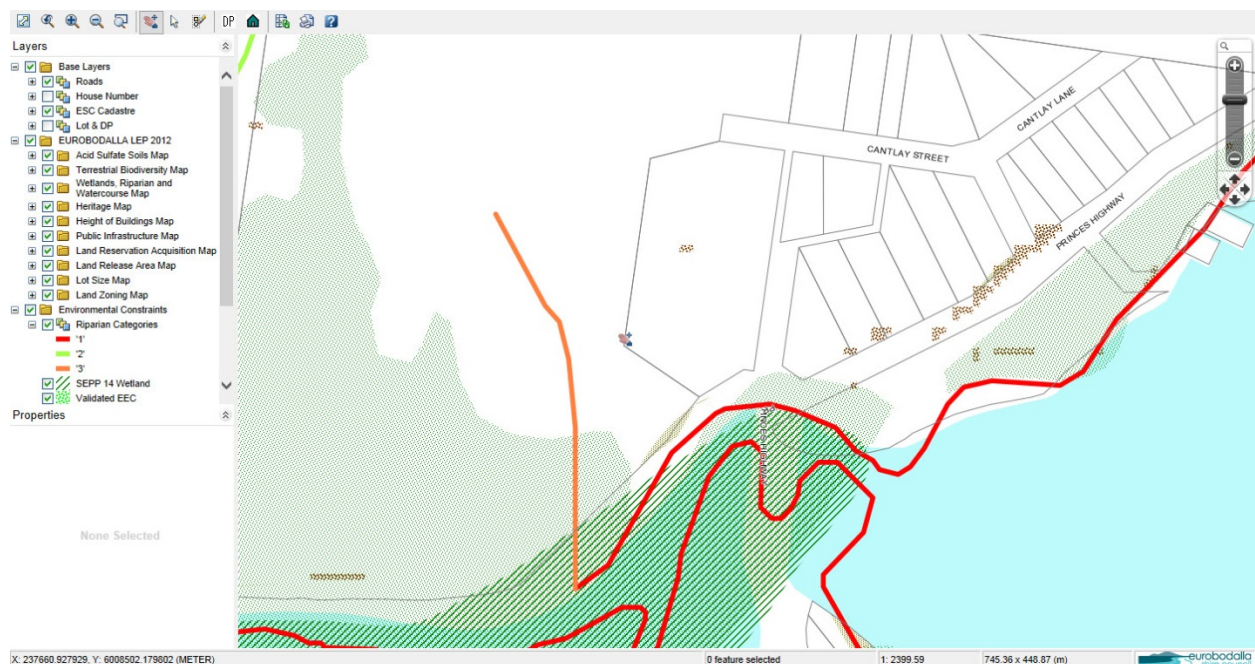


Figure 4: Environmental constraints as shown on ESC GIS

4.2 Ecological assessment

A *Flora and Fauna Impact Assessment* has been prepared by Southeast Engineering and Environmental dated 2 December 2013 and is submitted under separate cover. The assessment was based on desktop searches, field studies, likelihood of occurrence evaluations, species evaluations and significance assessments.

The assessment is predicated on direct impacts on flora and fauna habitat due to clearing of up to 0.5 hectares of regrowth native shrub land and up to 0.6 hectares of derived native grassland for the creation of building envelopes, gardens and bushfire asset protections zones, and the partial filling of the existing farm dam.

The study considered potential indirect impacts on flora and fauna habitat that are anticipated from the proposal. These impacts include the simplification of native flora species richness and diversity in the remaining 0.3 hectares of derived native grassland through possible intensive grazing or regular mowing, weed infestation (noting that the site has been farmed/grazed over a long time period and many exotic plant species are already on site), and erosion and sedimentation resulting from road and building envelope construction.

The findings of the assessment are that:

- there are no threatened flora species and population issues in relation to the proposed activity and no further flora surveys are required for the proposed development,
- no endangered ecological communities occur within the subject site. A narrow band of *Swamp Oak Floodplain Forest* EEC occurs along the fringe of Smarts Creek about 30 metres to the east of the subject site. However, the proposed activity is unlikely to have a significant effect on the local occurrence of this entity as it is already impacted by weeds from previous land clearing and ongoing farming, grazing and the like, and
- there are no threatened fauna species issues in relation to the proposed development.

Part 5A of the *Environmental Planning and Assessment Act 1979* requires that certain factors be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats. An assessment of significance was carried out as part of the Flora and Fauna Impact Assessment. It is concluded that the proposed development is unlikely to have a significant effect on threatened fauna that may occur on the site (e.g. the Eastern Bentwing Bat, Eastern Freetail Bat, Southern Myotis, Yellow-bellied Sheathtail Bat, Grey-headed Flying Fox, White-fronted Chat, Australasian Bittern and

Square-tailed Kite) or on any threatened flora or endangered ecological communities (e.g. Swamp Oak Floodplain Forest) provided that the mitigation measures recommended in the report are implemented. A Species Impact Statement and/or referral of the proposal to the NSW Director General of the Office of Environment is not required.

The flora and fauna study also included an assessment under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. The study concludes that it is unlikely that the development will significantly impact on any threatened or migratory species that are likely to occur on the site. The subject land provides only a small amount of foraging habitat for the assessed species and the level of habitat removal will be negligible in the context of the available habitat in the locality. Referral to the Federal Minister for the Environment under the EPBC Act is not required.



Plate 5: Regrowth vegetation in the centre of the site in the vicinity of the existing dam

The *Flora and Flora Impact Assessment* contains the following recommended measures to mitigate against any adverse ecological impacts:

- Erosion and sedimentation control during the construction period: Sediment fences or equivalent should be erected prior to the removal of any vegetation and kept in place until all bare areas of soil have been stabilised. If non-native grasses are used for soil stabilisation, they should be sterile/non-invasive species such as Oats (*Avena* species),

- Sewage management: As planned by the proponent, all three lots shall be connected to the existing sewer scheme servicing the village of Turlinjah, and
- The planting of any species listed on the Weeds Australia NSW weeds list (www.weeds.org.au) should be prohibited for the life of the development. No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process *Invasion of native plant communities by exotic perennial grasses* should be sown on the property for the life of the development.

4.3 Natural hazards

The property is not identified by council as being partially affected by flooding or tidal inundation and is not subject to a restrictive council policy.

The site is mapped as bushfire prone land by the NSW Rural Fire Service (RFS) and Council. Subdivision of the land is therefore integrated development and a bushfire safety authority must be issued by the RFS under section 100B of the *Rural Fires Act 1997* to enable subdivision to proceed.

A *Bushfire Assessment Report* prepared by South Coast Building Approvals and Inspections dated 14 November 2013 is submitted under separate cover.

Vegetation within 140 metres of the site has been assessed as a Southern Lowland Shrubby Wet Sclerophyll Forest and contains indicative species such as spotted gum and burrawangs. These forest communities occur on the coastal hills and lowlands of south-eastern NSW and consist of tall straight trunked eucalypts often greater than 30 metres tall and shrubby understories dominated by soft-leaved shrubs. Stands of remnant vegetation of this forest type less than 2,000m² in area exist on adjacent Lot 253 to the north, south and west and on Lot 22 DP 589374. However, the majority of these allotments is managed land by virtue of being cleared agricultural or residential land. There are also large areas of the adjoining lots that are managed as fuel reduced areas and these can be taken into account when determining setback distances to the vegetation that presents a bushfire hazard.

The report contains recommendations concerning asset protection zones, the maintenance of vegetation on site, roads and access, and the supply of water, gas and electricity. Notably, it is recommended that a 10,000 litre water tank is to be provided on each lot. Recommended asset protection zones for each proposed lot that will achieve a Bushfire Attack Level 29 are given in the table below. Where adjoining land is managed land that area can form part of the

APZ. It is understood that council may impose a condition of consent requiring that an easement be obtained to include adjoining managed land within APZs.

Table 1: Recommended asset protection zones for BAL29

Proposed lot	North	South	East	West
1	11 metres	39 metres	11 metres	11 metres
2	11 metres	39 metres	11 metres	18 metres
3	11 metres	39 metres	18 metres	18 metres

It is concluded that the proposed subdivision will meet the requirements of *Planning for Bushfire Protection 2006* and standards required by the *Environmental Planning and Assessment Act 1979* if these recommendations are implemented. The proposed subdivision layout will allow siting of dwellings so they will not be exposed to radiant heat levels greater than 29kW/m².

4.4 Heritage

Indigenous

The generic due diligence process outlined in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* was implemented to ensure that an adequate due diligence process that addresses Aboriginal cultural heritage issues has been carried out. This process follows the following five steps:

1. Will the activity disturb the ground surface?

The proposed subdivision will cause only minor disturbance of the surface of the land to install sewer and stormwater lines. Subsequent development for residential use is expected to cause disturbance, however, this will be subject to separate development consent. It is noted that the site has been heavily disturbed through past use for agriculture and excavation for the dam.

2a. Search the AHIMS database

In accordance with the code, an on-line search was carried out of the *Aboriginal Heritage Information Management Service (AHIMS)* that is maintained by the Department of Environment, Climate Change & Water on 3 October 2013. The search is part of the due diligence process and remains valid for 12 months.

The search found that:

- There are no Aboriginal sites recorded in or near the selected location, and
- There are no Aboriginal places that have been declared in or near the selected location.

It is noted that surveys for Aboriginal objects have not been carried out in all parts of NSW and Aboriginal objects may exist on a parcel of land even though they have not been recorded in AHIMS. Further, not all known Aboriginal sites are registered on the AHIMS database and not all sites consist of physical evidence or remains, e.g. dreaming and ceremonial sites.

2b. Activities in areas where landscape features indicate the presence of Aboriginal objects

Given the low-impact nature of the proposed subdivision and that the site has been disturbed since settlement of the area it is considered that the development may proceed without risk to indigenous heritage.

3. Can you avoid harm to the object or disturbance of the landscape feature

Not applicable as the site has been disturbed and no known Aboriginal objects are listed in AHIMS.

4. Desktop assessment and visual inspection

Not applicable as the site has been disturbed and no known Aboriginal objects are listed in AHIMS.

5. Further investigations and impact assessment

No further investigations are deemed necessary.

Non-indigenous

There are no heritage items listed in Schedule 5 of Eurobodalla LEP 2012 in the locality of Turlinjah or in the vicinity of the site. The nearest items listed in Schedule 5 are item I82 the Presbyterian Church at Coila and archaeological site A20 located at Kyla Park, Tuross Head. Neither of these items are visible from Lot 254 and both are located almost 2 kilometres from the site. Due to the

distance from the site it is considered that a heritage impact statement is not required to assess whether there will be any adverse impacts on heritage significance.

The former alignment of the Princes Highway utilised a crossing of Smarts Creek just east of the south-eastern entry to the site and the timber remains of the crossing are located approximately 100 metres of the site. These remains may be of heritage significance but have not yet been assessed. However, development of the site will not impact on these remains.

5. Section 79C assessment

Below is an assessment of the proposed development under section 79C of the Environmental Planning and Assessment Act 1979.

(a) the provisions of:

(i) any environmental planning instrument

NSW Coastal Policy

The *NSW Coastal Policy* applies to all land situated within the coastal zone as mapped by the Department of Planning & Infrastructure. The site lies within the coastal zone and is therefore subject to the policy. Council is required to consider the *NSW Coastal Policy* when determining a development application on land within the coastal zone. The policy is statutory and acts as a guideline for implementing sustainable development.

This policy is intended to ensure that development of the NSW coastline is managed in an ecological sustainable manner. It contains a series of Strategic Actions which authorize Council to impose conditions of consent to manage the impacts of development on natural ecosystems and physical processes. Council is also required to assess the design and locational principles of a development proposal in accordance with the policy, and ensure that access to public foreshore areas is maintained.

South Coast Regional Strategy

The *South Coast Regional Strategy* was released by the Minister for Planning in February 2007. The strategy applies to Shoalhaven, Eurobodalla and Bega Valley local government areas. It is noted in the strategy that rural landscapes are seen as an important part of the scenery, amenity and lifestyle of the region.

The following relevant action in relation to *Rural landscape and rural communities* is contained in the strategy:

The scale of development within and adjacent to existing villages and rural towns will support the role of the town in serving surrounding communities and preserve its character, scale, cultural heritage and social values

The proposed subdivision for the purposes of large lot residential development is in keeping with the expressed outcomes and actions of the *South Coast Regional Strategy*. The development will contribute to the settlement of Turlinjah, and will contribute to the local economy through the construction of additional dwellings.

State Environmental Planning Policy (SEPP) No 14

The aim of *SEPP 14* is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State. The site adjoins a mapped wetland to the south which is connected to Smarts Creek. The consent of Council and the concurrence of the Director General of the Department of Planning & Infrastructure is required to clear the wetland. Construct a levee on the wetland or drain or fill the wetland. The property is outside the boundaries of the mapped wetland and the policy does not contain any restrictions on development on land adjoining a coastal wetland. No development is proposed on the protected wetland.

However, any development within 40 metres of the waterway would need to be designed, sited and managed so as to avoid or mitigate any adverse impacts on ecological values in accordance with provisions of *Eurobodalla LEP 2012* (see below).

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 requires Council to consider whether land is contaminated and to determine whether the proposed use is suitable with or without contamination. Council can require an applicant for development to conduct a preliminary investigation and a subsequent more detailed investigation if warranted. Where contamination exists and remediation is necessary, Council must be satisfied that the remediation will take place before the land is used for the proposed purpose.

The property is not listed on a Council register of potentially contaminated land and there has been no known historical usage that would cause the land to be contaminated. It is considered that a preliminary investigation is not required for subdivision for the purposes of residential development given the previous agricultural use of the land.

State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 applies to land situated within the coastal zone. This policy aims to protect and improve existing public access to and along coastal foreshores, to protect and preserve native coastal

vegetation, and to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

Clause 8 of the policy specifies matters that Council must consider when determining an application for development within the coastal zone. These matters are:

- (a) *the aims of this Policy set out in clause 2,*
- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*

- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
 - (i) *the cumulative impacts of the proposed development on the environment, and*
 - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The proposed subdivision is satisfactory to the aims and considerations of *SEPP 71*. The proposed development will not affect public access to the foreshore of Smarts Creek. Access to the foreshore land that separates the site from the waterway will remain unhindered. There are not likely to be any adverse effects on the scenic qualities of any waterway, activities associated with any waterway, coastal hazards or processes, or on the natural environment. Development of the site will not impact on the partially vegetated riparian corridor.

The lower (southern) third of the site is located within a *sensitive coastal location* as mapped by council. *SEPP 71* requires that a masterplan be prepared for subdivision of land within a *sensitive coastal location*. However, a waiver for a subdivision masterplan has been authorised by the Department of Planning & Infrastructure due to the minor scale of the proposal. The mapping and authorization are provided as Attachments 1 and 2.

State Environmental Planning Policy (Rural Lands) 2008

SEPP (Rural Lands) 2008 was gazetted on 9 May 2008 and applies to all rural LGAs including Eurobodalla Shire. The policy contains Rural Planning Principles and Rural Subdivision Principles that apply to development in a rural zone. The policy defines a rural zone and the definition does not include zone R5 Large Lot Residential. *SEPP (Rural Lands) 2008* therefore does not apply in this instance.

Eurobodalla Local Environmental Plan (LEP) 2012

Land zoning

The property is zoned R5 Large Lot Residential under *Eurobodalla LEP 2012* consistent with the settlement of Turlinjah. The objectives of the R5 zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide opportunities for small scale rural activities where compatible with the existing residential accommodation.*

The site is shown edged in blue on the extract from the Land Zoning Map in Figure 5 below.

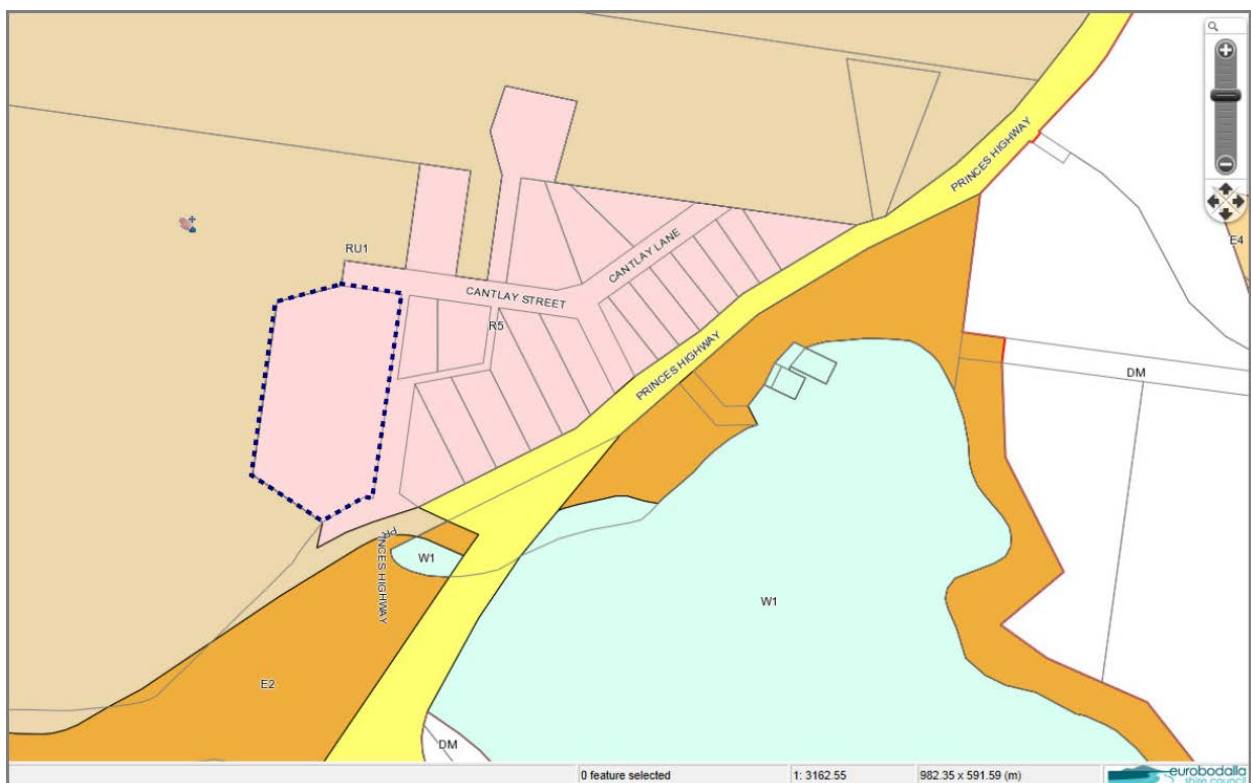


Figure 5: Extract from the Land Zoning Map of Eurobodalla LEP 2012. Lot 254 is edged blue

Minimum lot size

Clause 4.1 Minimum subdivision lot size of *Eurobodalla LEP 2012* sets development standards for the subdivision of land. A minimum lot size of 2 hectares applies to the site, shown as 'Z' in the extract from the Lot Size Map in Figure 6 below.

The planning proposal submitted with the development application aims to amend the Lot Size Map so that a minimum lot size of 5,000m² applies to the site. The justification for the planning proposal is that Lot 254 has been zoned R5 Large Lot Residential in recognition of its limited agricultural capability, its relatively small size being unsuitable for primary production and rural activities, and its location adjacent to the existing settlement of Turlinjah. Subdivision of Lot 254 to create three lots will be consistent with the existing pattern and layout of Turlinjah.

Subject to the gazettal of that amendment to *Eurobodalla LEP 2012* to reduce the minimum lot size to 5,000 m², subdivision of the site is to be permitted with consent.

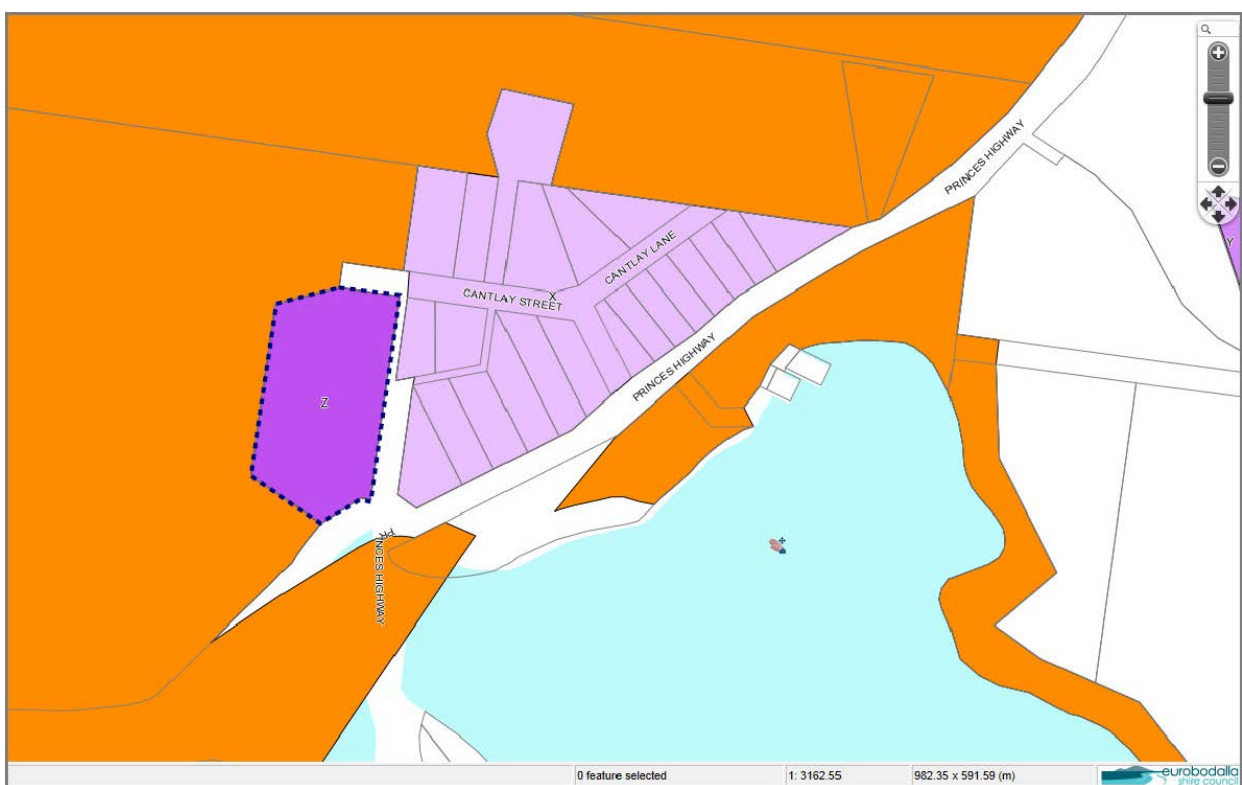


Figure 6: Extract from the Lot Size Map of Eurobodalla LEP 2012. Lot 254 is edged in blue

The objectives of clause 4.1 are:

- (a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
- (b) to ensure lot sizes and dimensions are able to accommodate development consistent with relevant development controls,
- (c) to ensure that subdivision promotes effective land management practices and infrastructure provision,
- (d) to protect native vegetation, natural watercourses and habitats for threatened species and populations, and endangered ecological communities.

Environmental constraints

Maps accompanying the LEP indicate that the land is not affected by significant vegetation, riparian lands, or watercourses, wetlands or any heritage items. It does adjoin a category 1 watercourse and wetland, to which *Clause 6.7 Riparian lands and watercourses* applies, which means that any development within 40 metres of that watercourse would need to be designed, sited and managed so as to avoid or mitigate adverse impacts on ecological values.

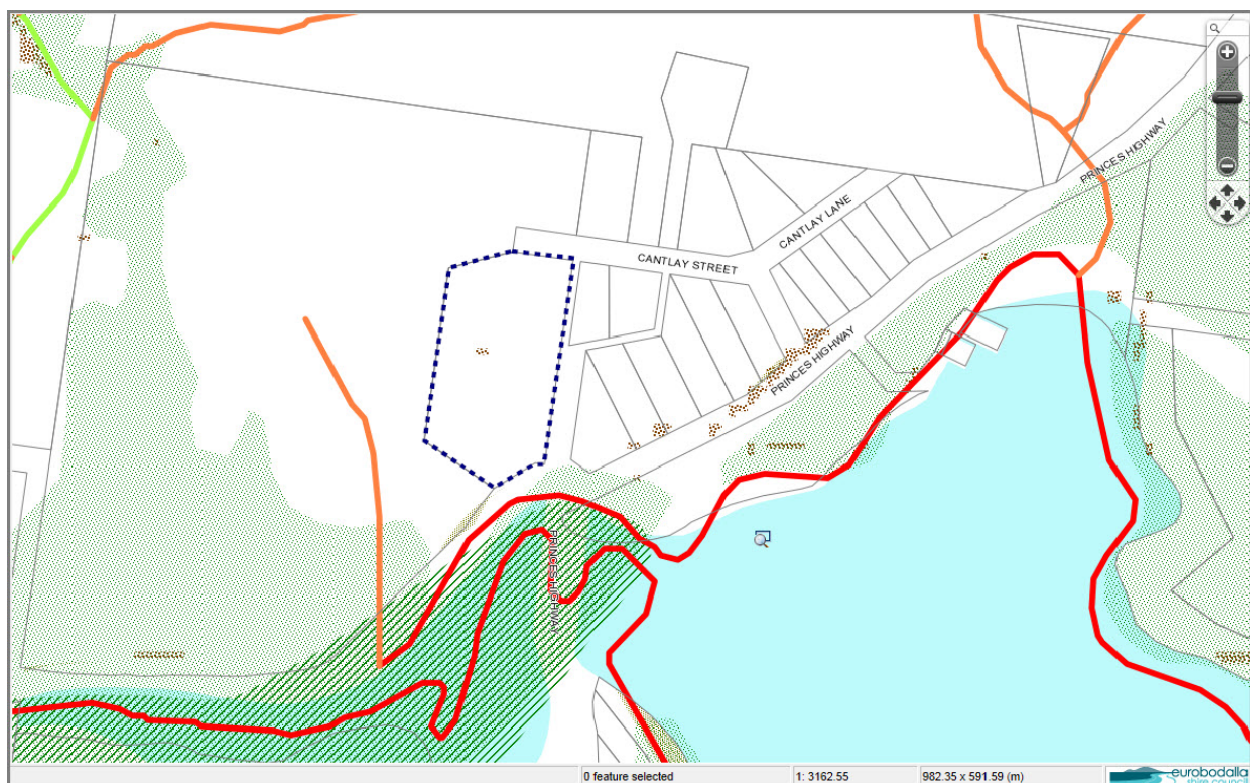


Figure 7: Environmental constraints

Clause 5.5 Development within the coastal zone

This clause implements the principles of the *NSW Coastal Policy* and contains considerations for council when assessing development in the coastal zone.

The proposed subdivision will not affect public access to the foreshore, is compatible with neighbouring development in terms of size, shape and layout of allotments, will not cause overshadowing or affect views towards the foreshore of Smarts Creek, will contribute to improving the amenity of the foreshore by making best use of an under-utilised and degraded site, and will not impact on the ecological integrity of the waterway. The land is able to be serviced with reticulated sewer and adequately manage stormwater (see section 6 below) and is not affected by coastal hazards.

Clause 6.3 Acid sulfate soils

An area at the south eastern corner of the property may be affected by acid sulphate soils. Black edging on the Acid Sulfate Soils Map accompanying *Eurobodalla LEP 2012* encroaches within the land at the southern boundary. *Clause 6.3 Acid sulfate soils* of the LEP may therefore apply which requires that the impact of any proposed future works below natural ground surface in the affected area be assessed. The location for infrastructure services for sewer and stormwater disposal are outside of the affected area.

Clause 6.13 Public infrastructure buffer

The north eastern corner of the property is within a buffer to the sewerage treatment plant that services the settlement. The buffer encroaches onto proposed lots 2 and 3 to a minor extent. *Clause 6.13 Public infrastructure buffer* therefore applies which aims to minimise land use conflict by designing, siting and managing new development so as to avoid or mitigate adverse odour, noise and visual impacts due to the treatment plant. Unconstrained building envelopes on proposed lots 2 and 3 can be sited outside this buffer.

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved)

There are no draft environmental planning instruments that have been placed on public exhibition that apply to the land.

(iii) any development control plan

Development Control Plan (DCP) No 156 Rural Subdivision

DCP No 156 came into effect in December 1987. This DCP applies only to rural land that is subject to *Eurobodalla Rural LEP 1987* and cannot legally apply to land zoned under *Eurobodalla LEP 2012*. Despite this fact a planning certificate issued for the property on 15 July 2013 indicates that *DCP No 156* applies to the land and written advice provided by council dated 24 February 2014 states that this plan applies.

DCP No 156 aims generally to ensure that rural subdivision takes into account environmental attributes and that the subdivision can be adequately serviced. The plan requires the nomination of building envelopes on subdivision plans and establishes development parameters such as setbacks, building appearance and the like for dwellings, dual occupancies and other buildings. It advises of the information to be submitted with an application to subdivide rural land and consultation procedures. It is noted in the plan that subdivision of rural land is to be in accordance with *Eurobodalla LEP 1987*, i.e. for the purposes of agricultural operations or another permitted use. The DCP is clearly superfluous as it applied to the land when it was formerly zoned 1(a) Rural (Environmental Constraints and Agricultural) Zone.

In recognition that it is council's practice to require building envelopes to be shown on subdivision plans, building envelopes of 600m² are shown on each lot (despite the fact that *DCP 156* does not and cannot apply). Within these envelopes indicative house sites with dimensions 10 metres by 15 metres are also shown.

Boundary setbacks and recommended asset protection zones are shown on the plan of subdivision. All setbacks are a minimum of 12 metres except that to the southern boundary which is 1 metre. This is justified on the basis that the adjoining land to the south is vacant and used only occasionally for agricultural activities. The owner of Lot 254 has initiated negotiations with the adjoining land owner to purchase this piece of land extending to the foreshore to Smarts Creek. Proposing this setback does not require a request for a variation of *DCP 156* because this plan does not apply to the land. There is no development control plan in force that applies to land that is zoned R5 Large Lot Residential where the lot is equal to or greater than 5,000m² in area.

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

No planning agreement or draft planning agreement has been entered into relating to the proposed development or the land.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates

There are no specific regulations that apply to the subject land.

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There is no coastal zone management plan that applies to the subject land.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The *Eurobodalla Settlement Strategy* was adopted by Eurobodalla Shire Council in December 2006 and subsequently endorsed by the then Department of Planning in May 2007. This strategy includes an analysis of land availability and urban residential land needs over the coming 25 years given recent development trends and expected population growth. It is estimated in the strategy that there will be a deficit of dwellings in the central district in 2031 under scenarios that take into account occupancy rates of 2.33 and 2 persons per dwelling and the assumption that each existing or potential vacant lot is developed for a single dwelling.

One method to address the expected shortfall of dwellings is to increase residential densities – by allowing a greater number of dwellings per hectare of land. The proposed subdivision may generate an increase in the number of dwellings per hectare as the land is developed for residential use at some stage in the future.

The proposed subdivision satisfies the following relevant direction of the *Eurobodalla Settlement Strategy*:

Directions

- *Population growth and investment housing needs are accommodated within existing settlement boundaries*

The land is located within the existing settlement of Turlinjah which is in close proximity to Moruya. Subject to the application of relevant development controls, the land may accommodate increased housing density without compromising settlement character. New dwellings on lots of the proposed minimum lot size of 5,000m² will be in keeping with existing large lot residential development in the settlement.

It is considered that the proposed three lot subdivision subdivision will contribute to the supply of urban land in close proximity to services and amenities. This will address the shortfall of urban allotments to cater for the expected incoming population as identified in the *Eurobodalla Settlement Strategy* and South Coast Regional Strategy. It will bring social and economic benefits through the provision of lifestyle opportunities in an affordable location and employment during dwelling construction. Each lot is able to be self-sufficient in terms of water supply and can connect to the alternative sewer system that services Turlinjah.

The site is mapped as being bushfire prone, however, recommended asset protection zones can be achieved through the positioning of building envelopes having regard to the size of each allotment and adjoining managed land.

There are no known heritage items or places on or near the site. The proposed development will not impact on indigenous or non-indigenous heritage significance.

The flora and fauna assessment found that there is not likely to be any adverse effects on threatened species or endangered ecological communities and that a species impact statement is not required.

All development will be setback more than 40 metres from the category 1 waterway and wetland.

(c) the suitability of the site for the development

The site is considered suited to the proposed development. *Eurobodalla LEP 2012* maps and the on-line GIS constraints map do not identify any constraints on the site which need to be taken into account during site planning.

The *NSW Coastal Policy* provides guidance to consent authorities to ensure that development within the coastal zone is sustainable. The proposed development will not be inconsistent with the principles or strategies of that policy.

An assessment of significance under Part 5A of the *Environmental Planning and Assessment Act 1979* has determined that there is not likely to be any adverse effects on threatened species, engendered populations, endangered ecological communities or critical habitat, and that a species impact statement is not required.

The site is mapped as bushfire prone land. A bushfire assessment has made recommendations to ensure that the development meets the requirements of *Planning for Bushfire Protection 2006*. Bushfire protection measures, including minimum asset protection zones, water supply and access arrangements, can be achieved for the proposed subdivision and future residential development.

The site is currently occupied by a single dwelling. Further residential development of the land at some stage in the future would be subject to development consent and the application of development controls to ensure that the amenity and character of the surrounding area and locality are retained or enhanced.

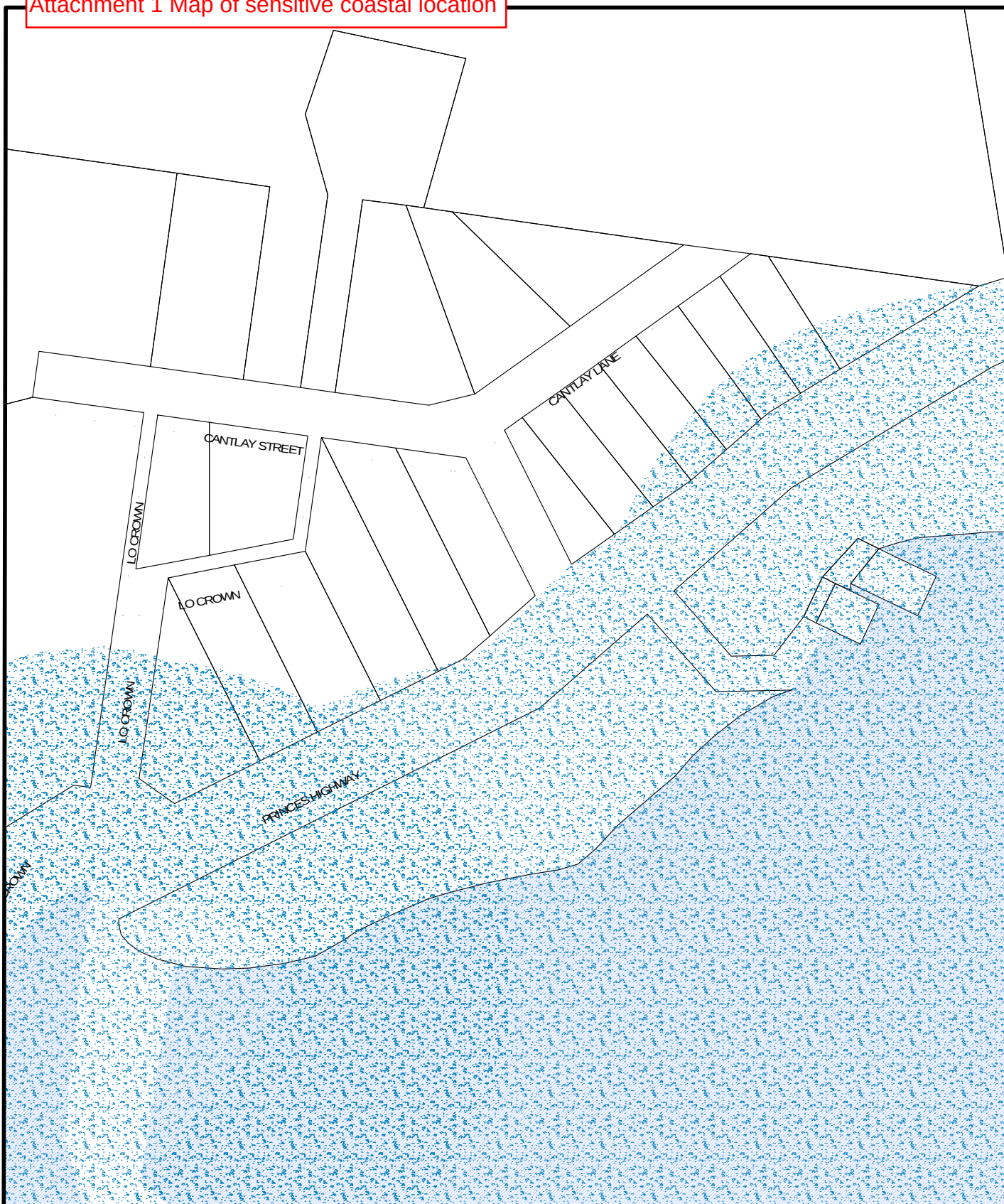
(d) any submissions made in accordance with this Act or the regulations,

The development application may be exhibited in accordance with Council's *Advertising and Notification Code*. Council will consider any submissions received during assessment of the application.

(e) the public interest.

There are no matters of public interest that arise as a result of the proposed subdivision. Lot 254 DP 773478, No. 1 Old Princes Highway, Turlinjah is considered suitable for subdivision into three allotments with separate land title. The proposed development satisfies relevant state and local planning controls and it is considered that there will be positive effects on both the built and natural environments through the future development of dwellings and the utilisation of an important and well-located residential property.

Attachment 1 Map of sensitive coastal location



PO Box 99
Moruya, NSW 2537
Cnr Vulcan St and Campbell St
Moruya, NSW 2537
Telephone: (02) 4474 1000
Facsimile: (02) 4474 1234

Issue Date 29/11/2013

Scale: 1:2311



This information is released by Eurobodalla Shire Council on the condition that the recipient of this document, or the reader of it, acknowledges that should they rely on any aspect of this document, they do so at their own risk and release Eurobodalla Shire Council of all liability and responsibility for any errors, omissions or inaccuracies contained within or arising from this information.
This diagram has been compiled on the best available information, but can only be taken as a guide.
Exact location should be physically determined on site.
Valid for 60 days from the date of issue.



Planning &
Infrastructure

Contact: Nathan Foster
Phone: (02) 4224 9459
Fax: (02) 4224 9470
Email: nathan.foster@planning.nsw.gov.au

Mr Allen Grimwood
Zenith Town Planning
PO Box 591
MORUYA NSW 2537

Dear Mr Grimwood

3 lot subdivision of Lot 254 DP773478, 1 Old Princes Highway, Turlinjah, Eurobodalla

I refer to an application requesting that the requirement for a Master Plan under the State Environmental Planning Policy No.71 be waived for the above proposal.

The Minister's delegate has approved the Master Plan waiver application for the proposed subdivision under clause 18(2) of State Environmental Planning Policy (SEPP) No 71.

Please note that the exemption relates only to the need for a Master Plan and does not extend to the policy as a whole.

I note your advice regarding your intention to lodge planning proposal to amend the lot size applying to the subject land. I advise that the granting of this waiver under SEPP 71 has no bearing on the Department's consideration of any future planning proposal.

Please call Nathan Foster at the Southern Regional Office on 4224 9459 if there are any matters you wish to discuss.

Yours sincerely,


Mark Parker
Local Planning Manager
Southern Region

BOX 35D
(A1171286)

NEW SOUTH WALES
CERTIFICATE OF TITLE
REAL PROPERTY ACT, 1900



TORRENS TITLE REFERENCE	
254/773478	
EDITION	DATE OF ISSUE
4	18/11/2013
CERTIFICATE AUTHENTICATION CODE	
RHHH-29-TPLH	

I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register.

REGISTRAR GENERAL



LAND

LOT 254 IN DEPOSITED PLAN 773478

AT TURLINJAH.

LOCAL GOVERNMENT AREA: EUROBODALLA.

PARISH OF CONGO COUNTY OF DAMPIER

TITLE DIAGRAM: DP773478

FIRST SCHEDULE

OCEAILL PTY LIMITED

(T AI171286)

SECOND SCHEDULE

- 1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)

**** END OF CERTIFICATE ****