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town planning

Planning proposal to amend Eurobodalla Local Environmental Plan 2012

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

Amendment to Lot Size Map – Sheet LSZ_13A

sustainable thinking

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Attachments

- 1 Proposed Lot Size Map**
- 2 Proposed Plan of Subdivision**
- 3 Site photographs**
- 4 Map of sensitive coastal location**
- 5 Masterplan waiver**
- 6 Bushfire assessment**
- 7 Flora and fauna assessment**
- 8 Plans of services**

Document Details & History

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1. Purpose and scope

This planning proposal has been prepared in accordance with section 55(2) of the *Environmental Planning and Assessment Act 1979*.

The purpose of the planning proposal is to amend *Eurobodalla Local Environmental Plan (LEP) 2012* Lot Size Map so that the minimum lot size that applies to Lot 254 DP 773478, No. 1 Old Princes Highway, Turlinjah is reduced from 2 hectares to 5,000 square metres.

The scope of this planning proposal is to describe the land and its attributes and to respond to matters for consideration outlined in *A guide to preparing planning proposals* issued by the Department of Planning & Infrastructure in October 2012.

The following supporting documents are provided as attachments to this planning proposal:

- The proposed Lot Size Map to amend map sheet 2750_COM_LSZ_013A_040_20120829,
- Plan of Proposed Subdivision, prepared by John Healey & Associates, undated,
- Site photographs,
- A Map of the sensitive coastal location boundaries provided by Eurobodalla Shire Council on 29 November 2013,
- A waiver of the masterplan required under SEPP 71 issued by the Department of Planning & Infrastructure dated 3 December 2013,
- Bushfire Assessment Report, prepared by South Coast Building Approvals & Inspections, 14 November 2013,

- Flora and Fauna Impact Assessment, prepared by Southeast Engineering & Environmental, 22 January 2014,
- Drawing 199-01 Subdivision access and road upgrade, prepared by prepared by Southeast Engineering & Environmental, 20 December 2013,
- Drawing 199-02 Sewer provision, prepared by Southeast Engineering & Environmental, 20 December 2013,
- Drawing 199-03 Proposed sewer long section, prepared by Southeast Engineering & Environmental, 20 December 2013, and
- Drawing 199-04 Subdivision stormwater, prepared by Southeast Engineering & Environmental, 20 December 2013.

Accompanying this planning proposal is a development application to Eurobodalla Shire Council made under Part 3 Division 4B of the *Environmental Planning and Assessment Act 1979*. The development proposal is for a three lot subdivision of Lot 254 subject to the gazettal of the amendment to the Lot Size Map. The DA is for integrated development as the consent of Council is required for subdivision and 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.

2. The property

The property, described as Lot 254 DP 773478, No. 1 Old Princes Highway, Turlinjah, is located at the western edge of the settlement of Turlinjah. The settlement is approximately 15 kilometres south of Moruya along the Princes Highway and 6 kilometres north-west of Tuross Head.

The site adjoins rural land to the north and west, residential development to the east and the foreshore of Smarts Creek at the upper reaches of Tuross Lake to the south.

The site 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.

The property 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.

Figure 1 below shows the locality and the settlement of Turlinjah circled in blue. Figure 2 is an aerial image of Turlinjah with the site edged in blue.

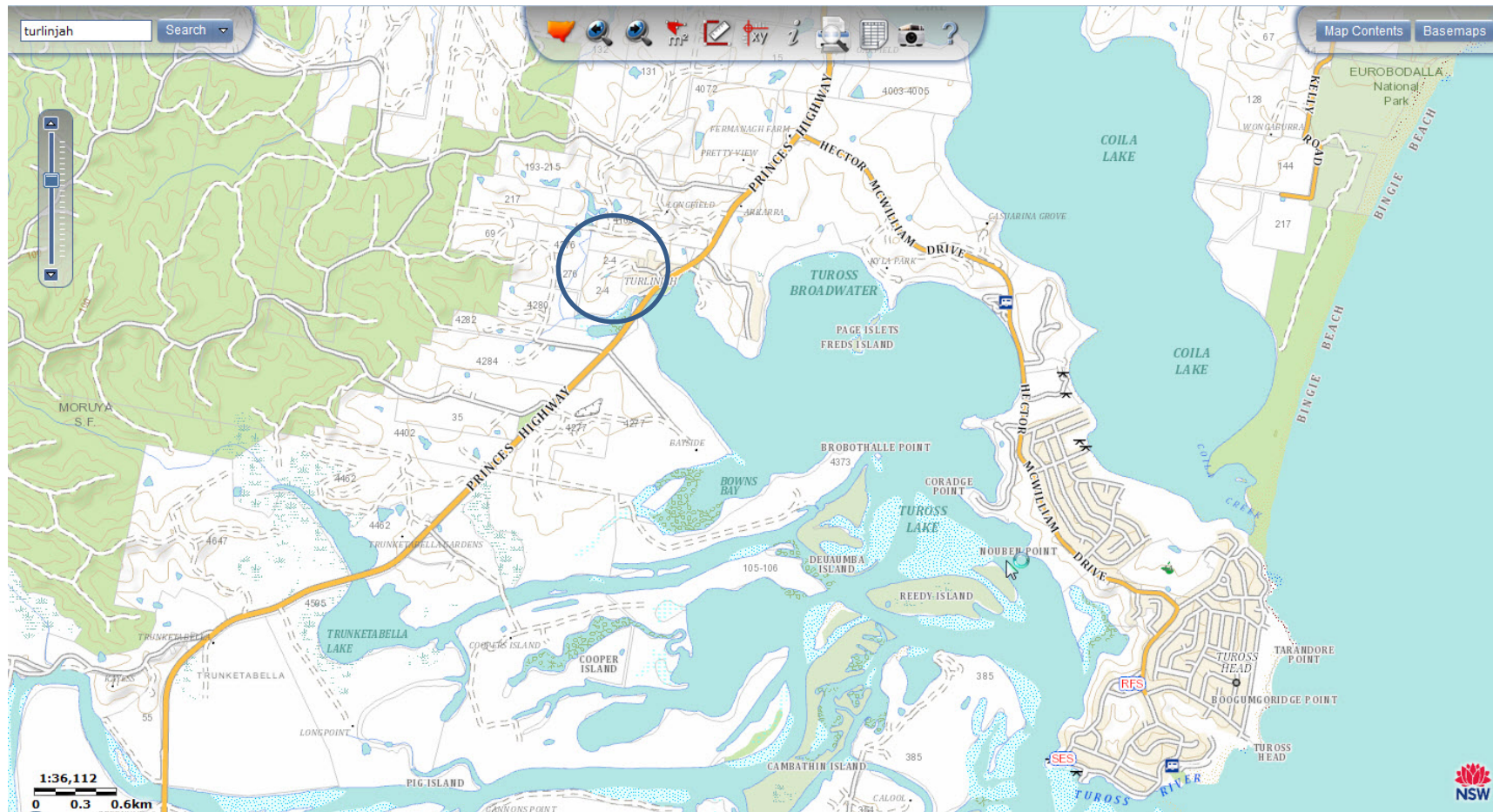


Figure 1: Locality map showing the settlement of Turlinjah circled in blue. Source: SIX Maps, NSW Government, 2013

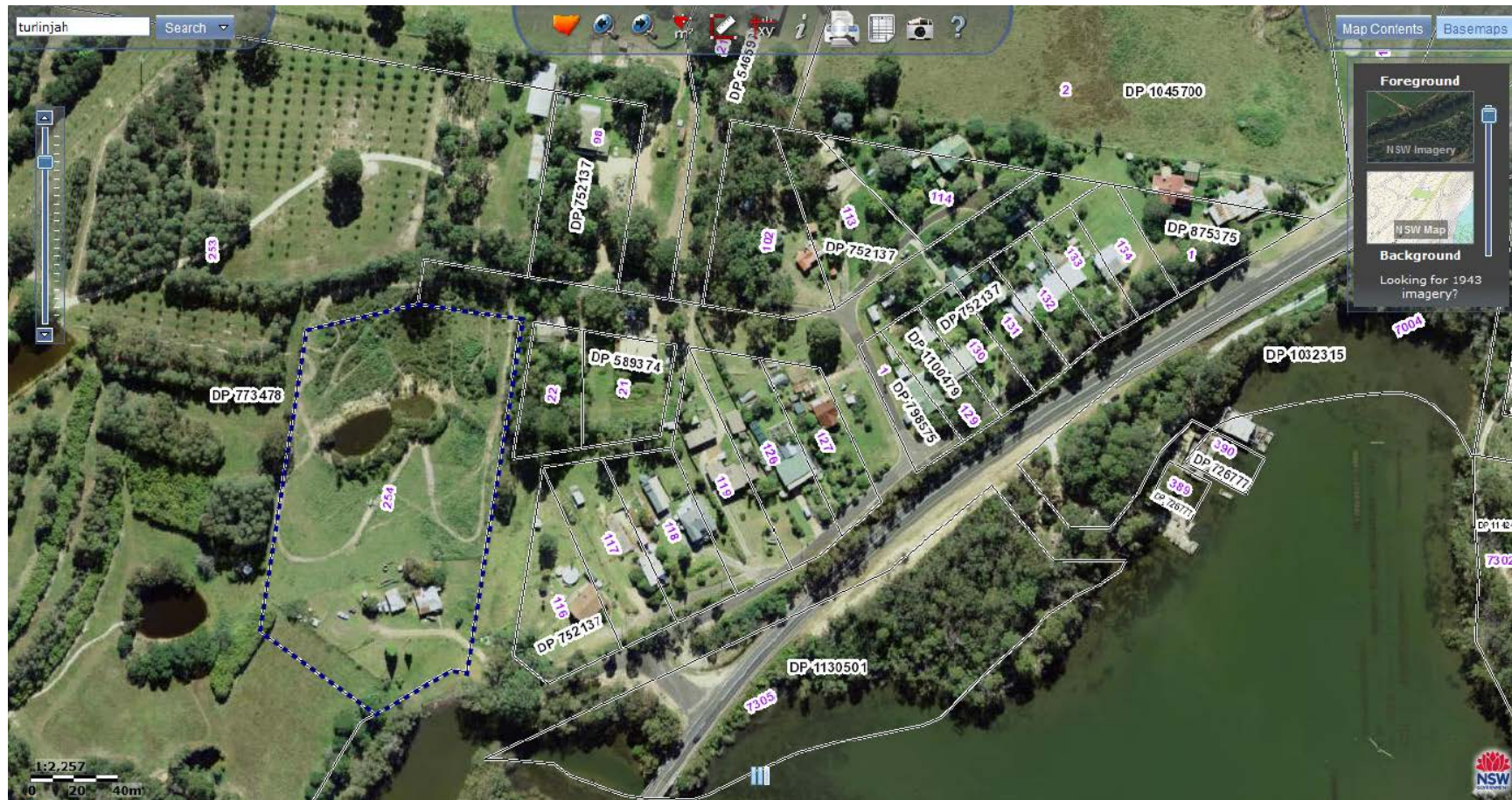


Figure 2: Aerial image of the settlement of Turlinjah. Source: SIX Maps, NSW Government, 2013

An unoccupied timber and brick clad dwelling and a detached shed are located at the southern part of the site. Until recently, discarded debris was scattered across the southern part of the property comprising metal water tanks, trailers, building materials and the like. This has been removed and the site presents as an attractive and well-located residential property.

A dam is located in the centre of the site. Vegetation is mainly re-growth shrubs and immature eucalypts in the vicinity of the dam and the upper (northern) part of the site. A few feature trees are close to the dwelling. Photographs of the site in its current state are provided in Appendix 1.

The land is bushfire prone and is within the coastal zone. The land is not subject to flood related controls being above the 1 in 100 year flood event, is not affected by proposed road widening, is not known to be contaminated, and is not affected by ecological factors. Development of the land is subject to a council policy concerning acid sulphate soils.

The plan of proposed subdivision is provided in Figure 3.

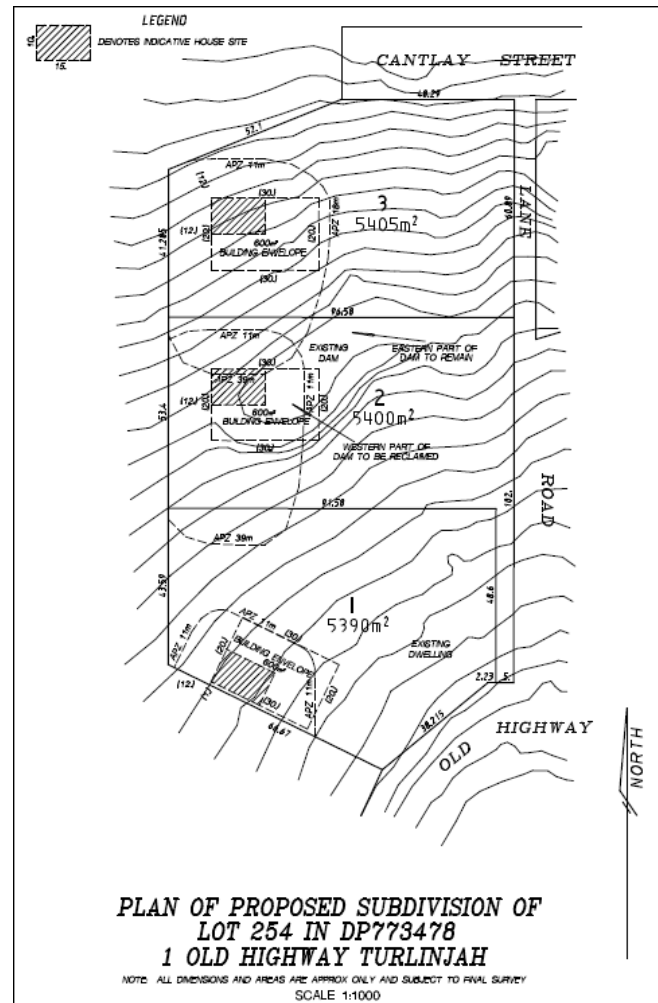


Figure 3: Plan of Proposed Subdivision

3. Eurobodalla Local Environmental Plan 2012

3.1 Land zoning

The property is zoned R5 Large Lot Residential under *Eurobodalla Local Environmental Plan (LEP) 2012* consistent with the settlement of Turlinjah. Neighbouring residential land to the east which consists of 18 smaller properties that make up the settlement of Turlinjah is also zoned R5. The land zoning of the site and surrounding land is shown in Figure 4 below.

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.*

3.2 Development standards

A minimum lot size of 2 hectares applies to the subject land whereas a lot size of 5,000 square metres applies to the adjoining R5 zoned land. A maximum building height of 8.5 metres applies. These lot sizes are shown as 'x' and 'z' respectively on the extract from the Lot Size Map (Figure 5) below.

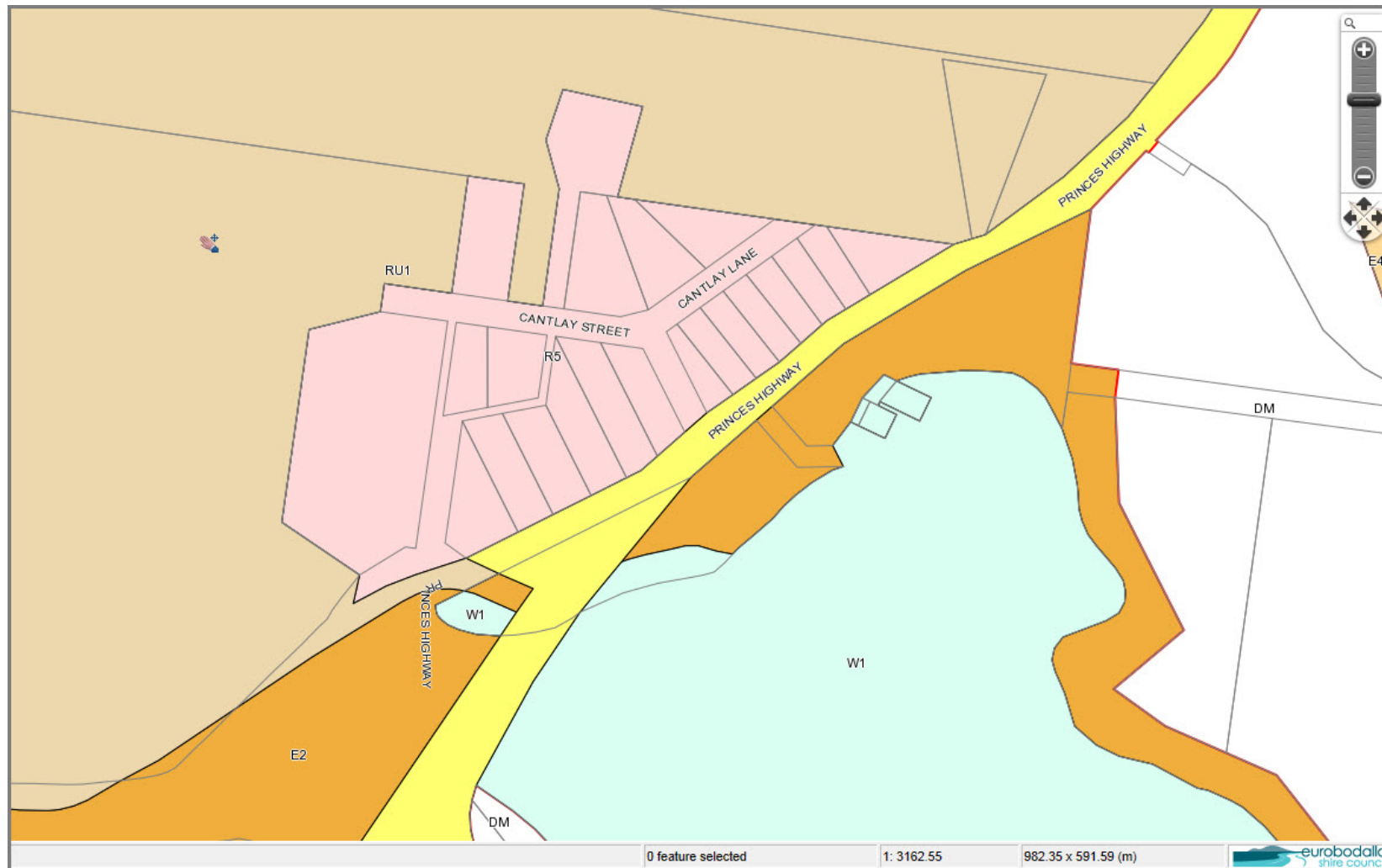


Figure 4: Extract from Eurobodalla LEP 2012 Land Zone Map. Source: ESC GIS, 2013

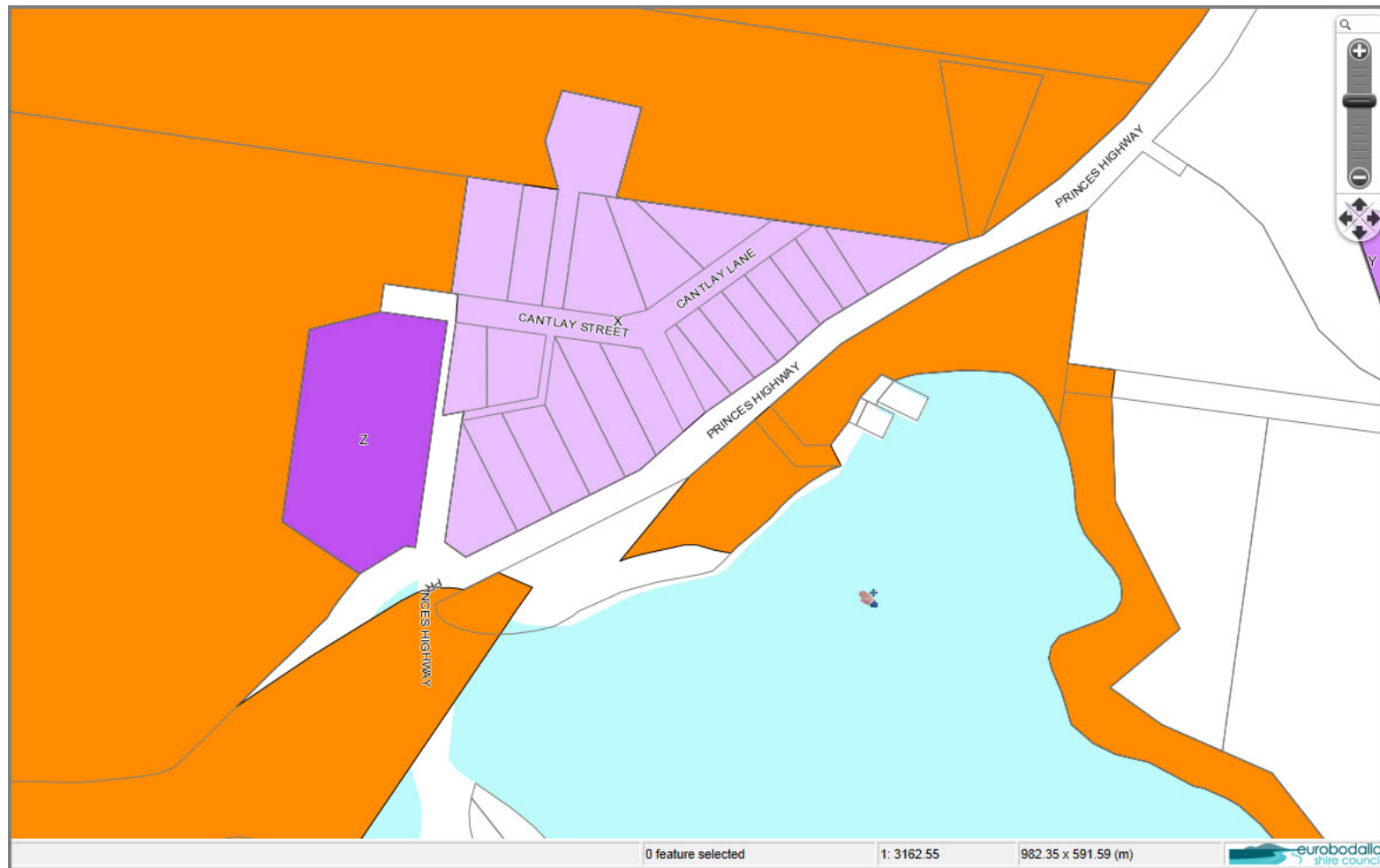


Figure 4:

Figure 5: Extract from Eurobodalla LEP 2012 Lot Size Map. Source: ESC GIS, 2013

3.3 Land attributes

Maps accompanying *Eurobodalla LEP 2012* indicate that the land is not affected by significant vegetation, watercourses, or any heritage items.

However, the site does adjoin a category 1 watercourse and wetland which means that any development within 40 metres of the watercourse would need to be designed, sited and managed so as to avoid or mitigate any potential adverse impacts on ecological values.

The site is within the coastal zone and is mapped as being a sensitive coastal location.

A very small area at the south eastern corner of the property may be affected by acid sulphate soils. Clause 6.3 of *Eurobodalla LEP 2012* may apply which requires that the impact of any proposed future works below natural ground surface in the affected area be assessed.

The north eastern corner of the property is within a buffer to the sewerage treatment plant that services the settlement. 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.

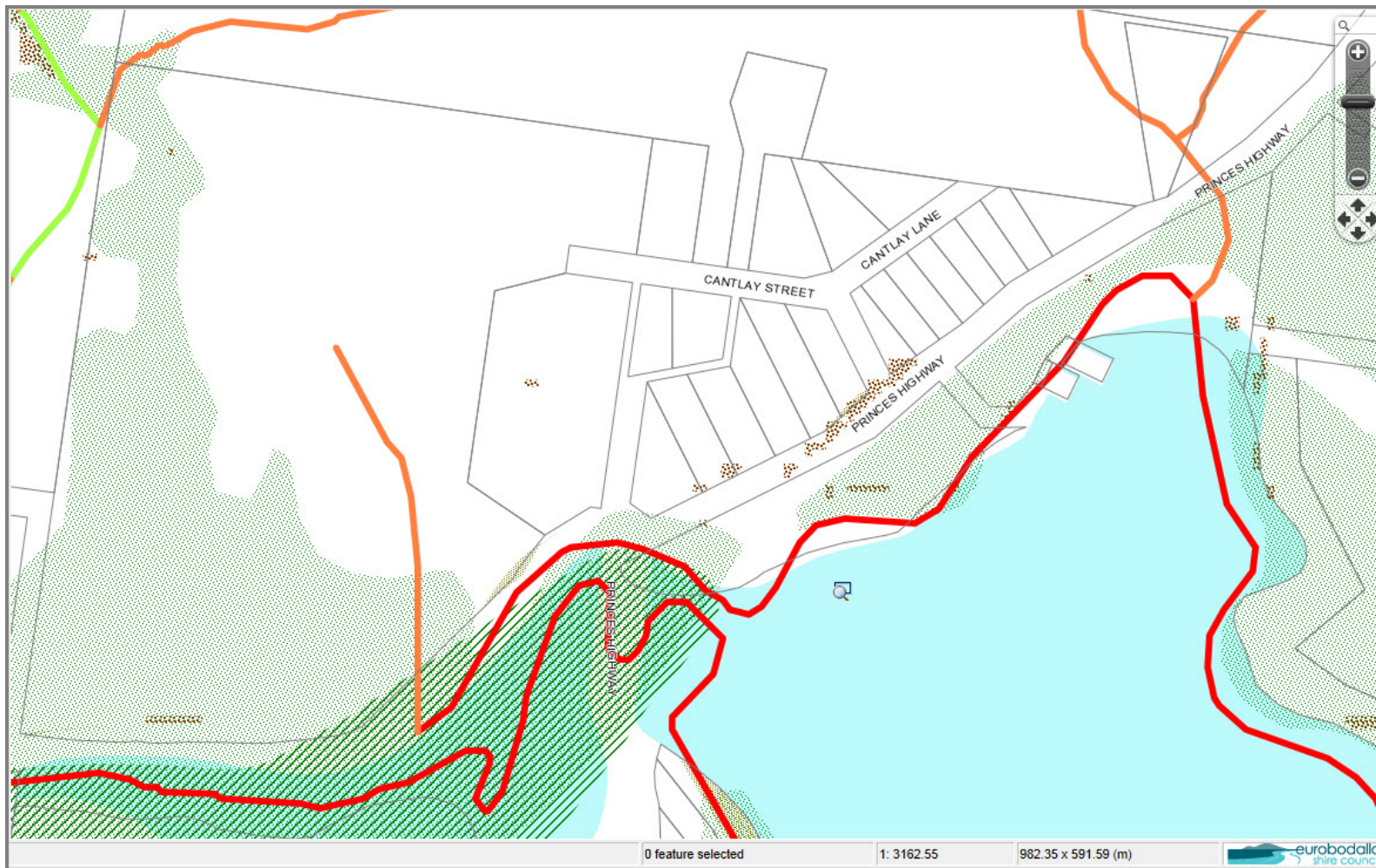


Figure 5:

Figure 6: Mapped environmental constraints. Source: ESC GIS, 2013

4. Response to guidelines

4.1 Objectives and intended outcomes

The objective of the planning proposal is to amend the Lot Size Map accompanying *Eurobodalla Local Environmental Plan (LEP) 2012* so that the minimum lot size that applies to Lot 254 DP 773478 Turlinjah is reduced from 2 hectares to 5,000 square metres.

The land is zoned R5 Large Lot Residential. The amended minimum lot size will be consistent with the minimum lot size that applies to adjoining land also zoned R5 large Lot Residential. It will enable the subdivision of Lot 254 into three allotments that will be consistent in size and shape with the pattern and layout of the settlement of Turlinjah.

4.2 Explanation of provisions

The proposed outcomes will be achieved by:

Amending the *Eurobodalla LEP 2012* Lot Size Map as follows and as shown on a proposed lot size map (Figure 7) below:

- Change Lot 254 DP 773478 from a minimum lot size of 2 hectares ('Z') to 5,000 square metres ('X').

4.3 Justification

Justification for the proposed amendment to *Eurobodalla LEP 2012* is presented by way of a response to each of the questions posed in *A guide to preparing planning proposals*.

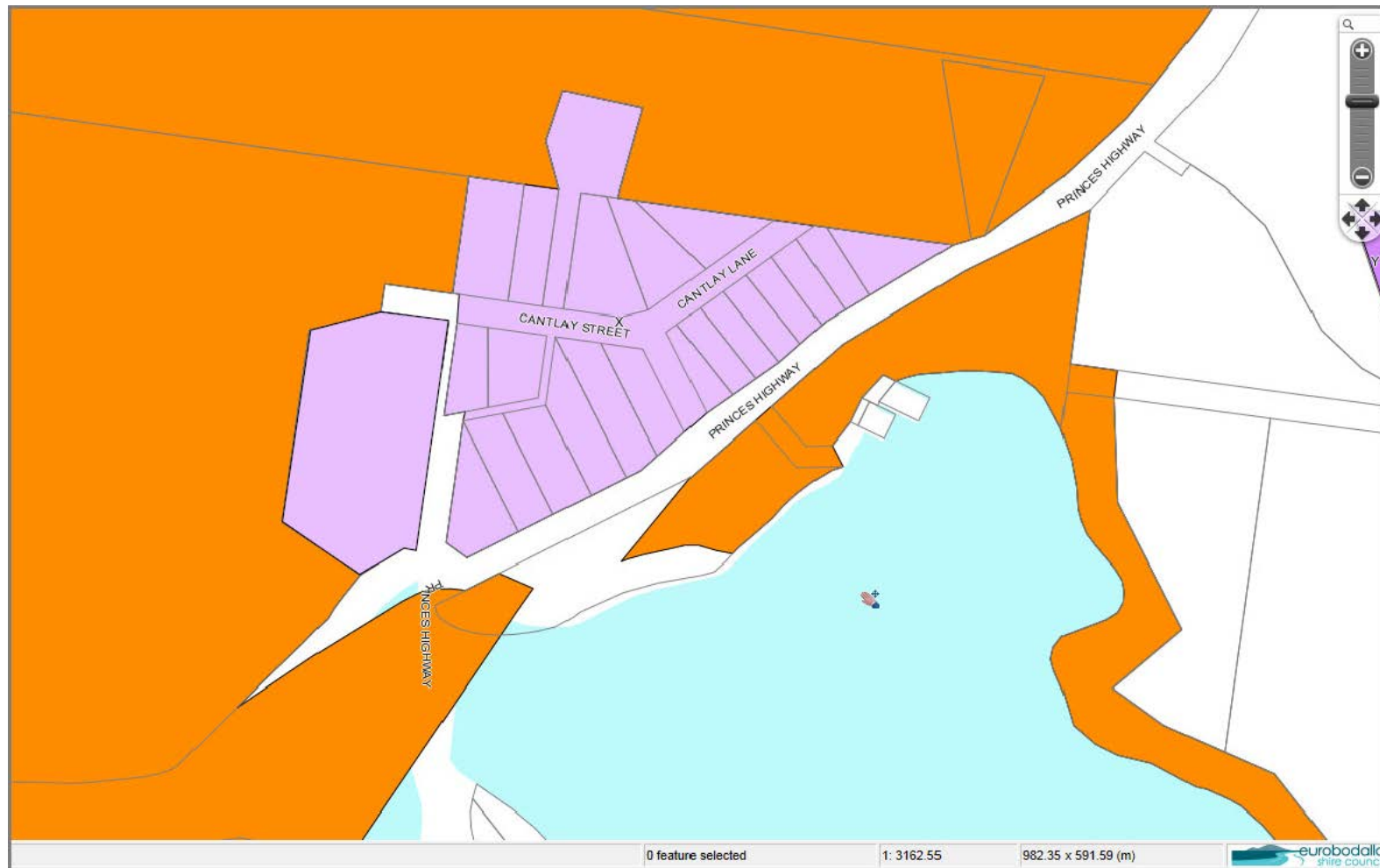


Figure 7: Proposed Lot Size Map

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal has not resulted from a strategic study or report. However, an investigation of the site has been carried out which culminated in advice to the land owner prior to purchase of the property. This advice found that the land is not encumbered by environmental constraints and is able to be readily serviced with access and reticulated sewerage.

It was recommended to the landowner that a planning proposal be prepared to amend the minimum lot size to enable subdivision accompanied by expert reports addressing ecological matters, access and servicing arrangements, and bushfire management. A development application to subdivide the land into 3 lots has been prepared in conjunction with this planning proposal and is submitted under separate cover.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative to this planning proposal that will enable the future subdivision of Lot 254. The use of clause 4.6 Exceptions to development standards of *Eurobodalla LEP 2012* is not feasible as it would result in two or more lots being less than the minimum area (2 hectares) specified by the Lot Size Map.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is consistent with the *South Coast Regional Strategy* released by the Department of Planning in

January 2007. The importance of productive agricultural lands is acknowledged in the strategy and such lands are to be protected from unplanned rural residential development.

However, 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 consistent in size and shape, and with the pattern and layout of Turlinjah will satisfy the following action of the *South Coast Regional 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.

Q4. Is the planning proposal consistent with council's local strategy or other local strategic plan?

The zoning of the settlement of Turlinjah was previously 1(a) Rural (Environmental Constraints and Agricultural) Zone under *Eurobodalla Rural LEP 1987*. The zoning of rural villages was considered in the *Eurobodalla Settlement Strategy*.

This strategy was adopted by Eurobodalla Shire Council on 5 December 2006 as a blueprint for a new comprehensive LEP and subsequently endorsed by the then Department of Planning.

Section 5.5 Rural Villages of the strategy reads:

5.5.1 Introduction

There are a number of small villages throughout the Shire that are currently zoned 1(a) (Rural (Environmental Constraints and Agricultural) Zone. Examples are Turlinjah, Tilba Tilba and Nerrigundah. There are also small parcels of land surrounding these settlements and south of Moruya and near Nelligen that do not qualify for dwellings due to not meeting the 'existing parcel' or 'holding' definitions. These small parcels resulted from early historic subdivisions and often remain unoccupied.

Application of a rural village zone and relaxation of dwelling entitlement regulations in areas where agriculture will not be adversely affected will extend land supplies without compromising environmental protection objectives. This may stimulate development in these small settlements and surrounding larger settlements on the proviso that these lands and villages will not be serviced with reticulated water and/or sewer. Additional dwellings may strengthen rural villages by enabling rural workers to live in those villages and to farm nearby freehold or leasehold land.

5.5.2 Directions

- provide a wide range of rural living opportunities
- stimulate the economic base of rural villages

5.5.3 Response

- facilitate the residential development of small historic subdivisions within and adjoining rural villages and adjoining urban settlements

5.5.4 Actions

Action SP31: *apply a rural village zone to small rural settlements, such as Turlinjah, Tilba Tilba and Nerrigundah, to enable dwellings to be developed on small allotments and stipulating that these areas will not be serviced with reticulated water and/or sewer*

Action SP32: *facilitate dwelling entitlements on existing historic small subdivided allotments where they adjoin urban settlements and where economic development and environmental protection objectives are supported*

However, the *Eurobodalla LEP 2012* prepared in accordance with the *Standard Order (LEPs) 2006* applies zone R5 Large Lot Residential to the settlement of Turlinjah. During the conversion of zones, two allotments were added to the settlement – Lot 254 DP 773478 and part Lot 21 DP 546597. Land east of the Princes Highway was excluded from the settlement and is now zoned W1 Natural Waterway.

The application of a minimum lot size of 5,000 square metres to the existing settlement prevents any future subdivision of existing small lots as all of these allotments are beneath the 10,000 square metres threshold required for subdivision to create lots no less than 5,000 square metres in area.

The exception is Lot 254 which is 1.606 hectares in area. A minimum lot size of 2 hectares applies to Lot 254 effectively preventing future subdivision of this lot.

It is considered that to enable subdivision and future residential development of Lot 254 by amending the minimum lot size to 5,000 square metres, consistent with the remainder of the settlement of Turlinjah, will be in accordance with the directions and response of the Eurobodalla Settlement Strategy with respect to rural villages as it would *facilitate the residential development of small historic subdivisions within and adjoining rural villages ...*

The land is located within the existing settlement of Turlinjah which is in close proximity to the commercial and institutional services provided in 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 5,000 square metres will be in keeping with existing large lot residential development in the settlement and will be capable of being serviced with reticulated sewerage.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP)?

The relevant provisions of *SEPP 14 – Coastal Wetlands*, *SEPP 55 – Remediation of Land*, *SEPP 71 – Coastal Protection* and *SEPP (Rural Lands) 2008* are addressed below.

State Environmental Planning Policy 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 (Smarts Creek). *SEPP 14* largely relates to the assessment of an application for development within the boundaries of a mapped coastal wetland and similar provisions have been included within *Eurobodalla LEP 2012*. 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.

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 necessary given the previous use of the land for agricultural purposes that were of a type, scale and intensity that would not cause land contamination.

State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 applies to land situated within the coastal zone. This policy contains the following aims:

- (a) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) *to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) *to ensure that the visual amenity of the coast is protected, and*

- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) 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, and*
- (l) to encourage a strategic approach to coastal management.*

The matters for consideration set out in clause 8 of SEPP 71 should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies. These matters for consideration 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 planning proposal and associated 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. There are not likely to be any adverse effects on the scenic qualities of that 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 (see Attachment 4). *SEPP 71* requires that a masterplan be prepared where subdivision is proposed of land that is located or partly located in a sensitive coastal location. Due to the minor nature of the proposal, a waiver for a subdivision masterplan has been authorised by the Department of Planning & Infrastructure and is appended to this statement as Attachment 5.

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 this does not include zone R5 Large Lot Residential. *SEPP (Rural Lands) 2008* therefore does not apply in this instance.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following local planning directions are relevant to the planning proposal:

Direction 1.2 Rural Zones

This direction aims to protect agricultural land by not permitting rezoning to an urban zone or increasing densities of residential uses.

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. The R5 zone is effectively an urban residential zone. The planning proposal is consistent with the *Eurobodalla Settlement Strategy* as discussed above.

Direction 1.5 Rural Lands

This direction applies when a planning proposal affects rural land and alters a minimum lot size applying to that land.

The R5 zone is effectively an urban residential zone and the land is suited to further subdivision by reducing the applicable minimum lot size. The planning proposal is consistent with the *Eurobodalla Settlement Strategy* as discussed above and with the Rural Planning Principles of *SEPP (Rural Lands) 2008*.

Direction 2.2 Coastal Protection

The objective of Direction 2.2 is to implement the principles of the *NSW Coastal Policy*. It applies to a planning proposal that applies to land within the coastal zone. The planning proposal must include provisions that give effect to and are consistent with:

- (a) the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
- (b) the *Coastal Design Guidelines 2003*, and
- (c) the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

The planning proposal may be inconsistent with this direction where it is justified by a study that considers the objectives of the *NSW Coastal Policy* or is of minor significance. The proposed amendment to the Lot Size Map of *Eurobodalla LEP 2012* is considered minor given that a lot size of 5,000 square metres is consistent with the lot size that applies to adjoining land within the same zone. However, the principles underlying the *NSW Coastal Policy* which are presented as nine goals in the policy are considered below. The principles are intended to guide decision making and are to be read within *the broader vision for the coast, being a coastal environment which is conserved and enhanced for its natural*

and cultural values while also providing for the economic, social and spiritual well-being of the community.

1. To protect, rehabilitate and improve the natural environment

The planning proposal and proposed three lot subdivision will not cause any adverse impacts on neighbouring sensitive environmental areas. Development of the site will see the removal of noxious weeds and improve the amenity of the general area.

2. To recognise and accommodate natural processes and climate change

The site is not affected by flooding or ocean inundation. Future development of the site will incorporate a buffer to the adjoining waterway and therefore will not affect natural processes including estuarine water quality and geomorphology.

3. To protect and enhance the aesthetic qualities of the coastal zone

The residential development of the site that will result from subdivision will improve the aesthetic qualities of the land and its relationship with the foreshore of Smarts Creek. The site is currently under-utilised and is degraded through previous agricultural uses and informal private recreational use. Development of high quality dwellings will lift the immediate area and contribute to visual amenity.

4. To protect and conserve cultural heritage

A due diligence assessment has been carried out and did not identify any recorded objects or places of indigenous cultural heritage (see the response to Question 8 for further details of this assessment).

There are no non-indigenous heritage items listed in *Eurobodalla LEP 2012* on the site 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 from 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. *To promote ecologically sustainable development and use of resources*

Residential development of the site will not cause environmental harm and will need to satisfy energy efficiency standards. Making best use of available and under-utilised urban land rather than continuing sprawl into rural farmland is considered best use of scarce land resources.

6. *To provide for ecologically sustainable human settlement*

The site will suit the development of coastal lifestyle residences that will add to the attractiveness of the coastal environment. The site is close to the town of Moruya which offers commercial and institutional services. The settlement of Turlinjah is serviced with an alternative reticulated sewer scheme and there is spare capacity in that system to cater to an additional two allotments. Stormwater is able to be managed in a manner that will not cause pollution of the adjacent waterway.

7. To provide for appropriate public access and use

Development of the site will not impede public access to the foreshore of Smarts Creek. The foreshore land that separates the site from the waterway will continue to be accessible from the Old Princes Highway.

8. To provide information to enable effective management

There are no environmental management issues associated with the planning proposal or future development of the site.

9. To provide for integrated planning and management

The planning proposal and associated development application will be advertised for public comment and the views of relevant government agencies will be sought. This will enable co-ordinated input to the proposal.

Direction 3.1 Residential Zones

The relevant objectives of this direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services, and ensure that new housing has appropriate access to infrastructure and services. It applies when a planning proposal affects a residential zone including an alteration of the zone boundary.

The planning proposal is consistent with this direction because the land is within the R5 zone, can be readily serviced using existing access roads and a reticulated sewer system. Additional housing opportunities will be created in the rural settlement of Turlinjah.

Direction 4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Black edging on the Acid Sulfate Soils Map accompanying *Eurobodalla LEP 2012* encroaches into the site at the southern boundary meaning that the property may be affected by acid sulphate soils. The area of land potentially affected is small and is considered to be of minor significance. Therefore, this planning proposal may be inconsistent with the terms of this direction that would normally require a study to be prepared that assesses the appropriateness of reducing lot sizes and the consequent increase of intensity of development on the land.

Direction 4.4 Planning for Bushfire Protection

The purpose of this direction is to protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.

The land is mapped as bushfire prone. A *Bushfire Assessment Report* has been prepared by South Coast Building Approvals & Inspections and is attached. It is demonstrated that the proposed subdivision of the land that would be enabled by the planning proposal satisfies the requirements of the guideline *Planning for Bushfire Protection 2006*. The planning proposal is therefore consistent with this direction.

Q7. 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?

A *Flora and Fauna Impact Assessment* has been prepared by Southeast Engineering and Environmental dated 22 January 2014 and is attached. 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 m 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 Sheath-tail 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 & Heritage 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.

The *Flora and Fauna 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.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The site is mapped as being bushfire prone and a *Bushfire Assessment Report* has been prepared by South Coast Building Approvals and Inspections dated 14 November 2013. This was prepared to support the development application lodged at the same time as this planning proposal. 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.

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 that they will not be exposed to radiant heat levels greater than 29kW/m².

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. The process 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 was concluded that no further investigations are necessary.

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 182 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.

Q9. Has the planning proposal adequately addressed any social and economic effects?

It is considered that the proposed three lot subdivision that would be permitted if the lot size applying to the land is reduced to 5,000 square metres 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.

Q10. Is there adequate public infrastructure for the planning proposal?

Access

The property 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. Access to the northern part of the property is possible using Cantlay Street which is formed and sealed as far as the north eastern corner. An unformed road reserve of variable width runs north-south parallel to the eastern boundary.

It is proposed to maintain the existing access to proposed Lot 1 via the Old Princes Highway and to upgrade the pavement to council's standard specifications. 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. Access to proposed Lot 3 is to be via Cantlay Street which is formed and sealed as far as the north eastern corner. This existing access will be upgraded to council's standard pavement specifications.

Water and sewer services

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 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 with 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 there is capacity in the system to service an additional two lots.

Stormwater management

The property is largely cleared grassland and slopes to a foreshore reserve. Stormwater management requirements are therefore minimal. It is however 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 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.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Two meetings were held with a representative of Eurobodalla Shire Council's strategic planning team on Thursday 5 September 2013 and on Tuesday 11 February 2014. At the initial meeting Council advised that the R5 zone is considered a rural zone in terms of the application of the *Native Vegetation Act 2003*. Certain exclusions apply under that Act to the need to obtain approval to clear vegetation including re-growth, being native vegetation that has established since

1990. It was advised that the proponent consult with the then Southern Rivers Catchment Management Authority (now South East Local Land Services) which administers the *Native Vegetation Act 2003* to confirm that the vegetation on the property constitutes re-growth and that approval to clear that vegetation is not required.

Consultation with the Southern Rivers Catchment Management Authority has been carried out concerning the application of the *Native Vegetation Act 2003* specifically relating to the removal of re-growth vegetation. Advice provided by the CMA was that the landowner may remove that vegetation if it qualifies as re-growth and that existing conditions should be photographed and documented prior to works.

Consultation will be carried out with other public authorities as specified in the Gateway determination. It is expected that consultation regarding the planning proposal will be limited to the Department of Primary Industries, Roads and Maritime Services, the Office of Environment & Heritage, and the Rural Fire Service.

4.4 Mapping

The land subject to this planning proposal is shown on maps provided in this planning proposal. These maps have been sourced from Eurobodalla Shire Council's public geographic information system and SIX Maps and illustrate:

- aerial imagery and locality mapping,
- land zoning under *Eurobodalla LEP 2012*,
- the current minimum lot size under Eurobodalla LEP 2012, and
- the proposed Lot Size Map (also provided as Attachment 1).

The plan of proposed subdivision submitted with the development application is also provided within this document and as Attachment 2.

4.5 Community consultation

Community consultation will be carried out following the issue of a Gateway determination. Consultation will be carried out in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* and the Gateway determination.

4.6 Timeline

The timeframe for preparation and completion of an amendment to *Eurobodalla LEP 2012* is subject to the timing of staff reporting to Council and the directives of the Gateway Determination.

5. Summary

The property is suitable for large lot residential subdivision due to its proximity to the town centre of Moruya and its location within a compartment of R5 zoned land. A lot size of 5,000 square metres would enable subdivision consistent in size and shape with existing allotments in the settlement of Turlinjah and would improve the amenity of the immediate area. The land is not affected by any significant environmental constraints and is able to be adequately serviced with access, reticulated sewerage and stormwater management as well as being self-reliant with water supply through capture and re-use. Proximity to Smarts Creek and the slope of the land is seen as an asset as these attributes afford high amenity and views towards Tuross Lake. The planning proposal will facilitate subdivision and development of an under-utilised parcel of urban zoned land that is consistent with the pattern of surrounding land use.
