
PSR17/044 EUROBODALLA LOCAL ENVIRONMENTAL PLAN 2012 AMENDMENT E17.1168
NO.14 – FLOOD MAPPING AND ASSOCIATED AMENDMENTS

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments:

1. Under Separate Cover - Draft Planning Proposal - Eurobodalla Local Environmental Plan 2012 - Amendment No. 14 - Flood Mapping and Associated Amendments
2. Under Separate Cover - Draft Moruya Flood Planning Area Map
3. Under Separate Cover - Draft Narooma, Kianga and Dalmeny Flood Planning Area Map
4. Under Separate Cover - Draft Tomakin, Mossy Point, Broulee and Mogo Flood Planning Area Map

Focus Area: Sustainable Communities

Delivery Program Link: S5.5 Plan for the impact of climate change on settlement including coastal hazard, flood impacts, bushfire

Operational Plan Link: S5.5.2 Narooma Coastal Inlets Flood Studies

EXECUTIVE SUMMARY

The purpose of this report is to present a draft planning proposal to amend the Eurobodalla Local Environmental Plan 2012 (ELEP 2012).

The proposed amendments are to:

- amend local provision 6.5 Flood Planning to generally reflect the current model clause
- include mapping to identify the flood planning area for Moruya, Narooma, Dalmeny, Tomakin, Broulee, Mogo and Mossy Point
- rezone certain E2 Environmental Conservation zoned land to an appropriate zone within the mapped flood planning area
- amend the lot size map in relation to land in Moruya and Moruya Heads
- amend the height of buildings maps in relation to land in Moruya
- amend the wetland map in relation to land at Preddys Wharf Road, Moruya Heads.

The proposed amendments will provide greater certainty to existing and prospective land owners as to the flood hazard affecting land. The planning proposal will also facilitate additional development in locations that have been determined to have a low to medium flood hazard, subject to consideration of the flood impact at the development application stage.

The flood mapping proposed to be included in ELEP 2012 has been the subject of public consultation during development of the associated flood studies.

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

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A draft planning proposal for the purpose of seeking a Gateway Determination from the Department of Planning and Environment has been prepared and is attached to this report. Should Council endorse the planning proposal, it is intended that Council request an authorisation to exercise delegation to finalise the planning proposal following community consultation.

RECOMMENDATION

THAT Council

1. Endorse the attached planning proposal to amend Eurobodalla Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*.
2. Forward the Planning Proposal to the Minister for Planning for a Gateway Determination pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*.
3. Advise the Secretary of the Department of Planning and Environment that Council seeks to exercise delegation for making the plan under Section 59 of the *Environmental Planning and Assessment Act 1979*.
4. Following the receipt of a Gateway Determination, consult with the community and relevant government agencies as required by the Gateway Determination.
5. Receive a report back on the planning proposal to consider any submissions received during consultation as per the requirements of Section 57 of the *Environmental Planning and Assessment Act 1979*.
6. Note that the plan is proposed to be made under delegation following the issue of a Gateway Determination and the completion of community consultation requirements.

BACKGROUND

ELEP 2012 was notified on 20 July 2012. Since this time there have been ten (10) amendments for various reasons. Three other amendments are currently in progress.

When it was first made, ELEP 2012 did not include mapping to identify flood planning areas. At that time, there was only one flood study available to inform the preparation of flood mapping (Moruya Flood Study).

The absence of mapping to identify flood planning areas is currently overcome by applying the E2 Environmental Conservation zone to land that is flood prone (such as overland flow paths). The application of the E2 zone to identify hazards is consistent with the Department's Practice Note PN 09-002 Environment Protection Zones which refers to the use of E zones for hazards, such as land affected by coastal hazards, steeply sloping escarpment lands and land slip areas.

CONSIDERATIONS

Since the adoption of the ELEP 2012, additional studies have been completed and flood mapping can be included for Moruya, Narooma, Dalmeny, Tomakin, Broulee, Mogo and Mossy Point. These studies have been prepared in accordance with the NSW Floodplain Development Manual 2005 (the manual) and as such, Council is now in a position to include mapping to

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identify the flood planning area for these places within the ELEP 2012. Consultation with affected communities was undertaken as part of the development of those studies.

Council currently does not have any recent flood studies for Batemans Bay that have been prepared in accordance with the manual therefore Batemans Bay has not been included in this proposal. Funding from the NSW Government has been sought to prepare flood studies for the north of the Shire and such funding is anticipated to become available in the 2017/18 financial year.

Land within the flood planning area that is currently zoned E2 has been considered for rezoning in the following circumstances:

- where a property has a split zone (eg. part E2 / part R2 Low Density Residential) and the flood hazard is low to medium, the E2 part is proposed to be changed to the other zone applying to the land
- where the whole of a lot is currently zoned E2 and the flood hazard is low to medium, the adjoining zone is proposed to be applied
- where the whole or part of a lot is zoned E2, has a flood hazard of high or above, and is currently used for some form of agricultural purpose (eg. horse agistment), the RU1 Primary Production zone is proposed to be applied
- some public lands currently zoned E2 are proposed to be zoned either RE1 Public Recreation (where the flood hazard is low to medium) or RU1 Primary Production (where the flood hazard is high or above).

The above zoning changes will only apply to land that was zoned E2 for the sole purpose of identifying overland flow paths and flooding. Land zoned E2 for environmental attributes (such as wetlands or endangered ecological communities) are not proposed to be rezoned under this planning proposal.

The minimum lot size map will be amended in low to medium flood hazard areas where land has been rezoned to R2, R5 or E4. This will allow these lots to be appropriately developed in accordance with the zoning. Mitigating the risk from flooding to any new developments at these sites will be managed through a merit based assessment guided by Clause 6.5 of the ELEP 2012 and the relevant building codes.

The maximum height of buildings map will also be amended for consistency with adjoining land, where appropriate.

The planning proposal will update Clause 6.5 - Flood Planning of ELEP 2012 to generally reflect a more recent version of the clause within the standard instrument LEP. The revised clause 6.5 will refer to the Flood Planning Maps, update definitions and incorporate relevant provisions from the existing clause 6.5 in ELEP 2012.

In reviewing land zoned E2 for the purpose of this planning proposal, an error in the Wetland Map in ELEP 2012 in relation to land at Preddy's Wharf Road, Moruya Heads was found. It is proposed to amend the Wetland Map to remove the wetland designation from the road and private property in this location.

The LEP amendments outlined above will provide greater certainty to existing and prospective land owners as to the flood hazard affecting land. It will also facilitate additional development

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in locations that have been determined to have a low to medium flood hazard, subject to consideration of the flood impact at the development application stage.

Should Council endorse the planning proposal and a Gateway Determination is issued by the Department of Planning and Environment, the planning proposal will be placed on public exhibition for community input.

It is intended that Council request an authorisation to exercise delegation to finalise the matters addressed in this planning proposal.

Legal

The *Environmental Planning and Assessment Act 1979* outlines the process for making amendments to an LEP. The first stage of the process requires Council to resolve to forward a planning proposal to the Minister for Planning for a Gateway Determination.

Policy

The planning proposal has been prepared in accordance with Department of Planning and Environment Guidelines for preparing planning proposals and Local Environmental Plan amendments. The proposed amendments are consistent with the South Coast Regional Strategy 2006 which requires local environmental plans to include appropriate planning provisions consistent with the Floodplain Development Manual to minimise risk from flooding. The proposed amendments are also consistent with strategy 3.1 of the Eurobodalla Community Strategic Plan 2017, 'respond to our changing environment and build resilience to natural hazards'.

Environmental

The planning proposal ensures that land is appropriately zoned having regard to the level of flood hazard and the environmental attributes of the land.

Economic Development Employment Potential

The planning proposal facilitates development potential on land identifies as having low to medium flood hazard subject to consideration of the flood impact at the development application stage.

Community and Stakeholder Engagement

When a Gateway Determination is received that allows community consultation to be undertaken, Council will place the planning proposal on public exhibition for a period of not less than 28 days. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya Administration Centre.

The flood maps proposed to be included in ELEP 2012 are consistent with maps that have been the subject of community consultation on the development of the relevant flood studies.

CONCLUSION

The matters dealt with in this planning proposal will provide clear identification of flood prone land in parts of Eurobodalla and facilitate appropriate development outcomes.

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A draft planning proposal has been prepared for consideration by Council. It is recommended that Council resolve to endorse the planning proposal for the purpose of seeking a Gateway Determination from the Department of Planning and Environment. The Gateway Determination will enable the planning proposal to be placed on public exhibition. It is also recommended that Council request an authorisation to exercise delegation to finalise the matters addressed in this planning proposal following community consultation.