

Planning Proposal

Reclassification of Community land to Operational land under the *Eurobodalla Local Environmental Plan 2012*.

ELEP 2012 Amendment No. 19

Contents

EXECUTIVE SUMMARY	1
ITEM 1 – Part of Lot 1110 DP236653 (35-37 Illabunda Drive, Malua Bay)	15
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	17
PART 2: EXPLANATION of PROVISIONS	17
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	19
Section A - Need for the planning proposal.....	19
Section B – Relationship to the strategic planning framework	19
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	24
Section D – Infrastructure (Local, State and Commonwealth)	25
Section E- State and Commonwealth Interest.....	25
PART 4: MAPS	25
ITEM 2 – Lot 84 in DP 259212 (Village Road and Banyandah Street, South Durras)	28
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	30
PART 2: EXPLANATION of PROVISIONS	30
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	32
Section A - Need for the planning proposal.....	32
Section B – Relationship to the strategic planning framework	32
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	37
Section D – Infrastructure (Local, State and Commonwealth)	38
Section E- State and Commonwealth Interest.....	38
PART 4: MAPS	38
ITEM 3 – Part of Lot 32 DP 618340 (4 Bimbular Street, Dalmeny)	41
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	43
PART 2: EXPLANATION of PROVISIONS	43
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	45
Section A - Need for the planning proposal.....	45
Section B – Relationship to the strategic planning framework	45
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	49
Section D – Infrastructure (Local, State and Commonwealth)	50
Section E- State and Commonwealth Interest.....	50
PART 4: MAPS	50
ITEM 4 – Part of Lot 2 DP 570760 and Part of Lot 4 DP 572585 (Beach Road, Batehaven) .	53
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	55
PART 2: EXPLANATION of PROVISIONS	55

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT	57
Section A – Need for the planning proposal.....	57
Section B – Relationship to the strategic planning framework	57
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	60
Section D – Infrastructure (Local, State and Commonwealth)	60
Section E- State and Commonwealth Interest.....	61
PART 4: MAPS	61
ITEM 5 – Part of Lot 2 DP1014254, (George Bass Drive, Batehaven)	64
PART 1: OBJECTIVES AND INTENDED OUTCOMES	66
PART 2: EXPLANATION of PROVISIONS	66
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT	68
Section A – Need for the planning proposal.....	68
Section B – Relationship to the strategic planning framework	68
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	72
Section D – Infrastructure (Local, State and Commonwealth)	73
Section E- State and Commonwealth Interest.....	73
PART 4: MAPS	73
ITEM 6 – Lot 170 DP 569136 (Fauna Ave, Long Beach)	76
PART 1: OBJECTIVES AND INTENDED OUTCOMES	78
PART 2: EXPLANATION of PROVISIONS	78
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT	80
Section A - Need for the planning proposal.....	80
Section B – Relationship to the strategic planning framework	80
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	84
Section D – Infrastructure (Local, State and Commonwealth)	84
Section E- State and Commonwealth Interest.....	85
PART 4: MAPS	85
ITEM 7 – Part of Lot 109 DP 244150 (Catalina Drive, Catalina)	88
PART 1: OBJECTIVES AND INTENDED OUTCOMES	90
PART 2: EXPLANATION of PROVISIONS	90
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT	92
Section A - Need for the planning proposal.....	92
Section B – Relationship to the strategic planning framework	92
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	95
Section D – Infrastructure (Local, State and Commonwealth)	96

Section E- State and Commonwealth Interest.....	96
PART 4: MAPS	96
ITEM 8 – Part of Lot 2 DP 1260850 (Ridge Street, Catalina)	99
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	101
PART 2: EXPLANATION of PROVISIONS	101
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	103
Section A - Need for the planning proposal.....	103
Section B – Relationship to the strategic planning framework	103
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	106
Section D – Infrastructure (Local, State and Commonwealth)	107
Section E- State and Commonwealth Interest.....	107
PART 4: MAPS	107
ITEM 9 – Lot 5 DP520413 and Part of Lot C DP 327917 (Beach Road, Batehaven)	110
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	112
PART 2: EXPLANATION of PROVISIONS	112
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	114
Section A - Need for the planning proposal.....	114
Section B – Relationship to the strategic planning framework	114
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	117
Section D – Infrastructure (Local, State and Commonwealth)	118
Section E- State and Commonwealth Interest.....	118
PART 4: MAPS	118
ITEM 10 – Lot 56 DP 849895 (Blairs Road, Long Beach)	121
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	123
PART 2: EXPLANATION of PROVISIONS	123
PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	123
Section A - Need for the planning proposal.....	123
Section B- RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK	123
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	126
Section D – Infrastructure (Local, State and Commonwealth)	127
Section E- State and Commonwealth Interest.....	127
PART4: MAPS	127
ITEM 11 – Part of Lot 74 DP776541 (9 Moir Place, Broulee)	130
PART 1: OBJECTIVES AND INTENDED OUTCOMES.....	133
PART 2: EXPLANATION of PROVISIONS	133

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT.....	134
Section A - Need for the planning proposal.....	134
Section B – Relationship to the strategic planning framework	135
Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	139
Section D – Infrastructure (Local, State and Commonwealth)	139
Section E- State and Commonwealth Interest.....	139
PART 4: MAPS	139
Appendix 1 – Maps	142
Appendix 2 – Title Search Documents	143
Appendix 3 – Department of Planning and Environment’s Practice Note PN 16-001: Classification and reclassification of public land through a local environmental plan.	144

EXECUTIVE SUMMARY

This planning proposal has been prepared in accordance with Section 3.33(2) of the *Environmental Planning and Assessment Act 1979*.

The purpose of the planning proposal is to explain the effect of, and justification for the proposed amendments to *Eurobodalla Local Environmental Plan 2012* (ELEP 2012) involving the reclassification of community land to operational land.

Council is seeking to progress this planning proposal through the gateway determination process as an amendment to ELEP 2012.



There are 11 sites proposed to be reclassified. Seven of the sites have been requested to be purchased by adjoining landowners. In most cases, the area proposed to be purchased is already being used by the adjoining landowner for access, landscaping, private open space or other purposes. In all of these cases, the sale of a small part of the community land will not effectively reduce the recreation and open space opportunities for local residents. The small area of land that is proposed to be reclassified and sold means future development of the sites is limited.


Three sites are recommended to be reclassified and sold by Council's Open Space and Recreation Strategy because they are considered surplus to public need.



One of the sites is a part a public reserve that currently contains Council infrastructure, being a water reservoir. This site is not proposed to be sold. The purpose of the reclassification is to recognise and facilitate the existing operational use of that portion of the land for infrastructure purposes.


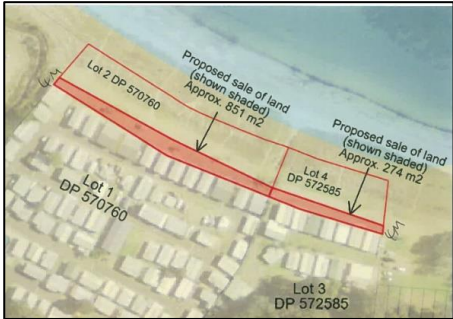
A summary of each item is provided in Table 1.


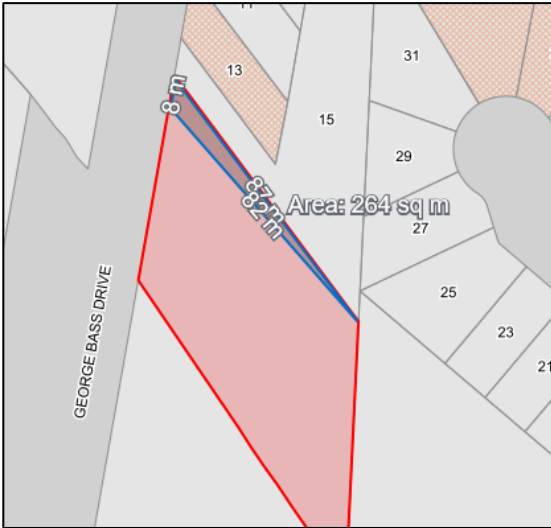
Table 1: Summary of items


Item	Property Description	Maps	Intended Provisions and Justification Summary
1	Part of Lot 1110 DP236653, 35-37 Illabunda Drive, Malua Bay	<p>Map of Subject Land</p>  <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell part of the subject land as the ROSS (2018) identified it at surplus. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R2 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The proposal is consistent with the recommendations of the Eurobodalla ROSS 2018. • The land directly adjoins the public open space at Pretty Bay which provides a similar recreation opportunity for local residents. • The loss of the land as public will not reduce local residents' accessibility to local open space. • Funds from the sale of the land would be reinvested back into the open space network. • Development of the lot in the future would be subject to planning approval. <p>Interests:</p> <ul style="list-style-type: none"> • The land is not a public reserve. • No other interests have been identified or would be discharged.

Item	Property Description	Maps	Intended Provisions and Justification Summary
2	Lot 84 in DP 259212, Village Road and Banyandah Street, South Durras	Map of Subject Land  <p>Note: The whole of the subject land is proposed to be reclassified.</p>	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell the subject land as the ROSS (2018) identified it at surplus. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) <p>Justification Summary</p> <ul style="list-style-type: none"> • The proposal is consistent with the recommendations of the Eurobodalla ROSS 2018. • The land is approximately 200m from the public open space on Corilla Street which provides a better recreation space for local residents. • The loss of the land as public reserve will not reduce local residents' accessibility to local open space. • While the land currently provides an informal pedestrian link between Banyandah Street and Village Road, the local road network provides suitable pedestrian access to local destinations. • Funds from the sale of the land would be reinvested back into the open space network. • Development of the lot in the future would be subject to planning approval. <p>Interests</p> <ul style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.



Item	Property Description	Maps	Intended Provisions and Justification Summary
3	Part of Lot 32 DP 618340, 4 Bimbular Street, Dalmeny	<p>Map of Subject Land</p>  <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell part of the subject land. An adjoining landholder requested to purchase part of the land for use as private open space. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from RE1 Public Recreation to R3 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a small portion of Dalmeny Oval, at 1.3% of the total area of the lot. • Reclassification and sale will not impact on the operation of Dalmeny Oval. • The loss of part of the open space will not reduce local residents' accessibility to local open space or Dalmeny Oval. • The proposal does not restrict the use of the land as an informal pedestrian link between Mort Avenue and Binalong Street. • Future development is limited but may include secondary dwellings, subject to planning approval. • Funds from the sale of the land would be allocated to future Council projects. <p>Interests</p> <ul style="list-style-type: none"> • The land is not a public reserve. • No other interests have been identified or would be discharged.



Item	Property Description	Maps	Intended Provisions and Justification Summary
4	Part of Lot 2 DP 570760 and Part of Lot 4 DP 572585, Beach Road, Batehaven	<p>Maps of Subject Land</p>  <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell part of the subject land. Adjoining landholder requested to purchase the land to allow existing cabins to meet legislative requirements. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to RE2 Private Recreation • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a relatively small portion of the public reserves, at 22.7% of the total area of the two lots that are also adjacent to Corrigan's Beach foreshore. • The loss of part of the public reserve will not reduce public access along the foreshore. • The loss of part of the public reserve will not reduce local residents' accessibility to local open space. • The sale of the land and inclusion into the adjoining caravan park land will allow existing cabins to be upgraded to accessible cabins in compliance with the relevant legislation. • The proposal will not result in any development being located closer to the foreshore. • Funds from the sale of the land would be allocated to future Council projects. <p>Interests</p> <ul style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.




Item	Property Description	Maps	Intended Provisions and Justification Summary
5	Part of Lot 2 DP1014254, George Bass Drive, Batehaven	<p>Map of Subject Land</p>  <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell part of the subject land. Adjoining landholder requested to purchase the land to improve access to the adjoining lot and improve fencing and drainage options. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R3 Medium Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 11.5m (L) • Amend the Land Reclassification Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a small portion of the public reserve, at 6.14% of the total area of the lot. • The public reserve is and will remain a bushland reserve. • The loss of part of the public reserve will not reduce local residents' accessibility to local open space. • Funds from the sale of the land would be allocated to future Council projects. • Future development potential would not change. While the minimum lot size suggests the additional land would facilitate an additional lot, the shape of the lot would not support it. <p>Interests</p> <ul style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.

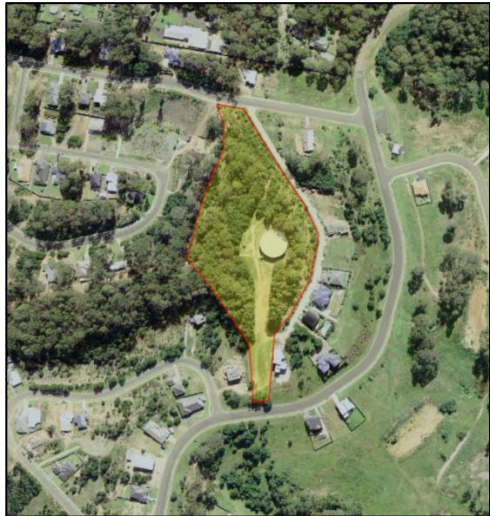
Item	Property Description	Maps	Intended Provisions and Justification Summary
6	Lot 170 DP 569136, Fauna Ave, Long Beach	Map of Subject Land 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell the subject land. Adjoining landholder requested to purchase the land for private open space. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R2 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a small portion of the larger public reserve, at 3.7% of the total area of the reserve. • The loss of the land as public reserve will not impact on the use of the larger area of public reserve. • The loss of the land as public reserve will not reduce local residents' accessibility to local open space. • The proposal does not restrict the use of the larger public reserve as an informal pedestrian link between Fauna Avenue and Karana Close. • Funds from the sale of the land would be allocated to future Council projects. • Future development is limited but may include a secondary dwelling, subject to planning approval. <p>Interests</p> <ul style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.

Note: The whole of the subject land is proposed to be reclassified.

Item	Property Description	Maps	Intended Provisions and Justification Summary
7	Part of Lot 109 DP 244150, Catalina Drive, Catalina	<p data-bbox="689 212 943 244">Map of Subject Land</p>  <p data-bbox="689 815 1055 847">Map of area to be reclassified</p> 	<p data-bbox="1301 212 1420 244">Objective</p> <ul data-bbox="1301 252 2069 355" style="list-style-type: none"> • Enable Council to sell the subject land. Adjoining landholder requested to purchase the land to allow access via an existing driveway. <p data-bbox="1301 363 1547 395">Intended Provisions</p> <ul data-bbox="1301 403 2069 754" style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R2 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p data-bbox="1301 770 1570 802">Justification Summary</p> <ul data-bbox="1301 810 2069 1129" style="list-style-type: none"> • The subject land is a small portion of the public reserve, at 0.27% of the total area of the lot. • The public reserve is and will remain a bushland reserve. • The loss of part of the public reserve will not reduce local residents' accessibility to local open space. • Funds from the sale of the land would be allocated to future Council projects. • Future development is limited to potential for future boundary fencing. <p data-bbox="1301 1137 1420 1169">Interests</p> <ul data-bbox="1301 1177 1973 1281" style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.

Item	Property Description	Maps	Intended Provisions and Justification Summary
8	Part of Lot 2 DP 1260850, Ridge Street, Catalina	<p>Map of Subject Land</p>  <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell the subject land. Adjoining landholder requested to purchase the land for private open space. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R2 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a small portion of the public open space, at 3.7% of the total area of the lot. • The remainder of the lot will remain a bushland reserve. • Reclassification and sale will not reduce local residents' accessibility to local open space. • Funds from the sale of the land would be allocated to future Council projects. • Future development is limited but may include a secondary dwelling, subject to planning approval. <p>Interests</p> <ul style="list-style-type: none"> • The land is not a public reserve. • No other interests have been identified or would be discharged.

Item	Property Description	Maps	Intended Provisions and Justification Summary
9	Lot 5 DP520413 and Part of Lot C DP 327917, Beach Road, Batehaven	<p>Maps of Subject Land</p>   <p>Map of area to be reclassified</p> 	<p>Objective</p> <ul style="list-style-type: none"> • Enable Council to sell the subject land. Adjoining landholder requested to purchase the land to facilitate private slope stabilisation works. <p>Intended Provisions</p> <ul style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Zone Map from C2 Environmental Conservation to R2 Low Density Residential • Amend the Minimum Lot Size Map to provide a minimum lot size of 550sqm (K) • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p>Justification Summary</p> <ul style="list-style-type: none"> • The subject land is a relatively small portion of the larger public reserve network from Corrigans Beach to Observation Point. • The loss of part of the larger public reserve will not reduce public access along the foreshore. • The loss of part of the public reserve will not reduce local residents' accessibility to local open space. • Funds from the sale of the land would be allocated to future Council projects. • Future development is limited to landscaping and slope stabilisation. <p>Interests</p> <ul style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.

Item	Property Description	Maps	Intended Provisions and Justification Summary
10	Lot 56 DP 84895, Blairs Road, Long Beach	<p data-bbox="689 212 943 244">Map of Subject Land</p> 	<p data-bbox="1301 212 1420 244">Objective</p> <ul data-bbox="1301 244 2074 316" style="list-style-type: none"> • To recognise the existing operational use of the land as a water reservoir and for telecommunications infrastructure. <p data-bbox="1301 339 1547 371">Intended Provisions</p> <ul data-bbox="1301 371 2018 443" style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land. <p data-bbox="1301 467 1570 499">Justification Summary</p> <ul data-bbox="1301 499 2074 675" style="list-style-type: none"> • The subject land will remain in public ownership and will continue to be used for a mix of operational and community land purposes. • The proposal will not reduce local residents' accessibility to local open space. <p data-bbox="1301 683 1420 715">Interests</p> <ul data-bbox="1301 715 1973 818" style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified or would be discharged.

Note: The whole of the subject land is proposed to be reclassified.

Item	Property Description	Maps	Intended Provisions and Justification Summary
11	Part of Lot 74 DP 776541, 9 Moir Place, Broulee	<p data-bbox="689 212 943 244">Map of Subject Land</p>  <p data-bbox="689 818 1055 850">Map of area to be reclassified</p> 	<p data-bbox="1301 212 1420 244">Objective</p> <ul data-bbox="1301 252 1957 316" style="list-style-type: none"> • Enable Council to sell the subject land to adjoining landholders if requested in the future. <p data-bbox="1301 323 1547 355">Intended Provisions</p> <ul data-bbox="1301 363 2080 571" style="list-style-type: none"> • Amend Schedule 4 to identify the land to be reclassified from community to operational land • Amend the Height of Buildings Map to provide a maximum building height of 8.5m (I) • Amend the Land Reclassification (Part Lots) Map to identify that part of the land proposed to be reclassified. <p data-bbox="1301 579 1570 611">Justification Summary</p> <ul data-bbox="1301 619 2080 1090" style="list-style-type: none"> • The loss of part of the public reserve will not reduce local residents' accessibility to local open space. • The exiting uses of the site as an informal pedestrian route would not change. • The proposal is consistent with the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018. • Funds from the sale of the land would be reinvested back into the open space network. • Future development is subject to planning approval and residential uses are appropriate in this R2- Low Density Residential zoned area. • Any development would need to consider the zone of influence and not impact on the sewer. <p data-bbox="1301 1098 1420 1129">Interests</p> <ul data-bbox="1301 1137 2002 1233" style="list-style-type: none"> • The land would cease to be public reserve. • No other interests have been identified that would be discharged.

STRUCTURE OF THE PLANNING PROPOSAL

In accordance with the Department of Planning's '[Local Environmental Plan Making Guideline](#)', December 2021, the following sections of this planning proposal provide a response to the following matters for items 1 to 10:

PART 1: Objectives and Intended Outcomes

PART 2: Explanation of Provisions

PART 3: Justification of Strategic and Site-Specific Merit

A – Need for the planning proposal

B – Relationship to the strategic planning framework

C – Environmental, Social and Economic Impact

D – Infrastructure (Local, State and Commonwealth)

E – State and Commonwealth Interest

Mapping for each item is provided within each section and in the following Appendices.

Community Consultation and a Project Timeline are provided in Table 2.

This planning proposal has been prepared in accordance with the Department of Planning and Environment's Practice Note PN 16-001: *Classification and reclassification of public land through a local environmental plan*. A checklist for each planning proposal addressing the matters outlined in the Practice Note for each item is included at the end of each section.

This planning proposal has been prepared in accordance with the requirements of *the Local Government Act 1993* in relation to the reclassification of land.

COMMUNITY CONSULTATION

In accordance with Schedule 1(Part 1)(Div 1)(4) of the *Environmental Planning and Assessment Act 1979*, this planning proposal must be approved prior to community consultation being undertaken by the local authority. The planning proposal will be exhibited for at least a 28-day period.

Consultation on the proposed reclassification, rezoning, minimum lot size and maximum building height amendments will be to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- Notice in the local newspaper.
- Exhibition material and relevant consultation documents to be made available at the libraries and Council's Administration Building.
- Consultation documents to be made available on the Council's website and
- Letters advising adjoining landowners on the proposed rezoning and minimum lot size amendment and other stakeholders that Council deem relevant to this proposal.

Additional consultation measures may be determined appropriate and added to the above as part of the gateway determination.

At the close of the consultation process, public hearings will be held in accordance with the requirements of the *Local Government Act 1993*.

Council officers will consider all submissions received along with the outcomes of the public hearings and present a report to Council for their endorsement of a final planning proposal.

PROJECT TIMELINE

The anticipated timeline for the planning proposal is outlined in Table 2 below.

Table 2: Project Timeline

Consideration by council	August 2022
Council decision	August 2022
Gateway determination	Sept 2022
Public exhibition	Oct/Nov 2022
Public hearing	Dec 2022
Post-exhibition review and additional studies (where applicable)	Dec/Jan 2022
Council decision to proceed.	Feb 2023
Submission to the Department for finalisation.	Feb 2023
Gazettal of LEP amendment.	April 2023

ITEM 1 – Part of Lot 1110 DP236653 (35-37 Illabunda Drive, Malua Bay)

Introduction

The subject land is known as 35-37 Illabunda Drive, Malua Bay, being part of Lot 1110 DP 236653. The subject land is classified as community land in accordance with Sections 25 and 26 of the *Local Government Act 1993*. The land is currently zoned C2 – Environmental Conservation and the intent and purpose of the zone is to protect and manage environmentally sensitive areas. The total area of the subject land is 1568.1sqm.

The land is currently listed in Council's Developed Reserves and Facilities Plan of Management. The reserve category for the subject land is General Community Use.

The property is at the corner of Illabunda Drive, Merinda Street and Millamurra Street and overlooks the coastal area commonly known as Pretty Bay. The subject land contains a grassed area over the southern portion and a heavily vegetated natural drainage line towards the northern portion of the site (as illustrated in Figures 1.1 and 1.2).



Figure 1.1 – View of subject land from Illabunda Drive looking west

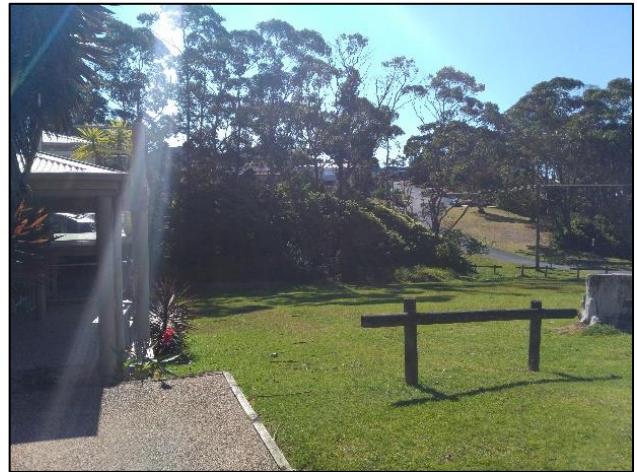


Figure 1.2 – View of subject land from Merinda Street looking north east

The site is predominantly surrounded by two-storey residential dwellings. The location of the land is shown in Figure 1.3 below.



Figure 1.3: Subject land

The subject land is adjacent to open space at Pretty Bay (across Illabunda Drive). The Pretty Bay reserve provides a similar recreation opportunity to the subject land, and it is therefore considered that the subject land is surplus to community needs (Eurobodalla's Recreation and Open Space Strategy 2018). The loss of the subject land as public open space will not reduce local residents' accessibility to local open space. Funds from the sale of the land would be reinvested back into the local open space network.

The part of the land proposed to be reclassified is shown in Figure 1.4 below. The area of this part of the land is approximately 1061.5m².



Figure 1.4: Area of subject land proposed to be reclassified

The land contains a number of sewer mains as shown in Figure 1.5 below. As part of any future subdivision of the land to excise the area to be reclassified, easements will be required to be located over the sewer mains. This restricts the development potential of the site. Figure 1.5 also shows that water and stormwater infrastructure is available to the site.

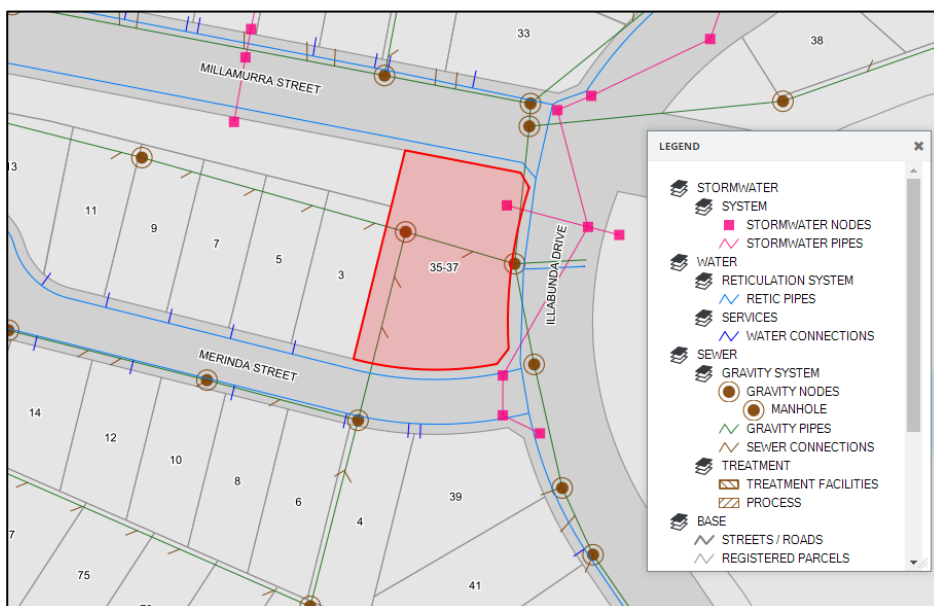


Figure 1.5: Infrastructure services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended Outcome

The intended outcomes for this item are:

- To implement the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.
- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land for residential development purposes.
- To retain the vegetated corridor and waterway as community land.
- To support the re-investment of funds into other open space and recreation facilities in the local area.

PART 2: EXPLANATION of PROVISIONS

The intended provisions for this item are as follows:

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 1110 DP236653 (35-37 Illabunda Drive, Malua Bay) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R2 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the in Appendix 1 and Figures 1.6 to 1.9.

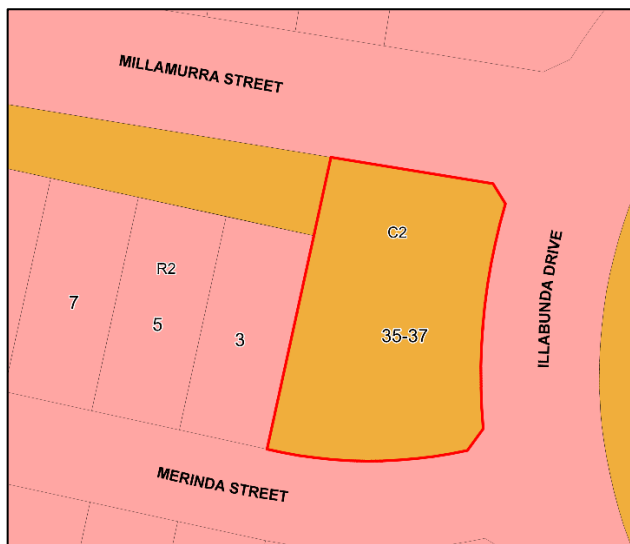


Figure 1.6a: Existing Zone Map

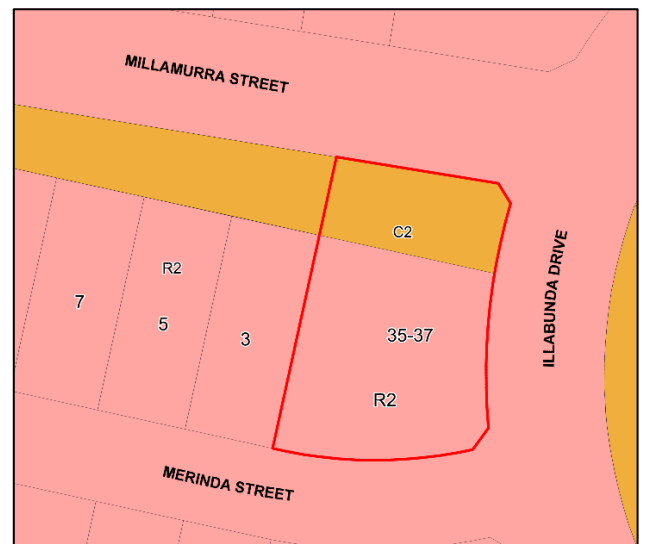


Figure 1.6b: Proposed Zone Map

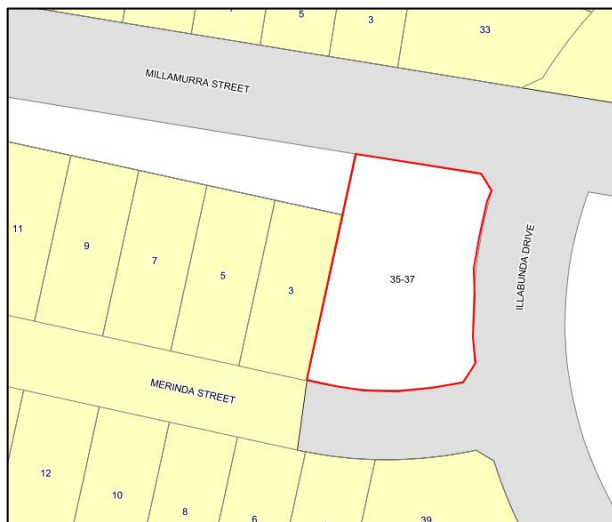


Figure 1.7a: Existing Minimum Lot Size Map

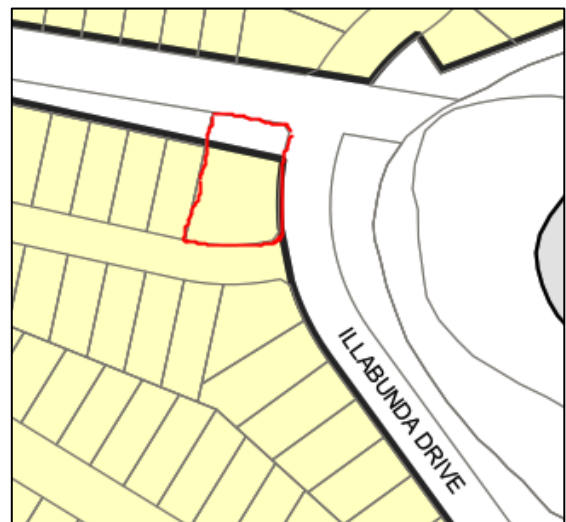


Figure 1.7b: Proposed Minimum Lot Size Map



Figure 1.8a: Existing Maximum Building Height Map



Figure 1.8b: Proposed Maximum Building Height Map

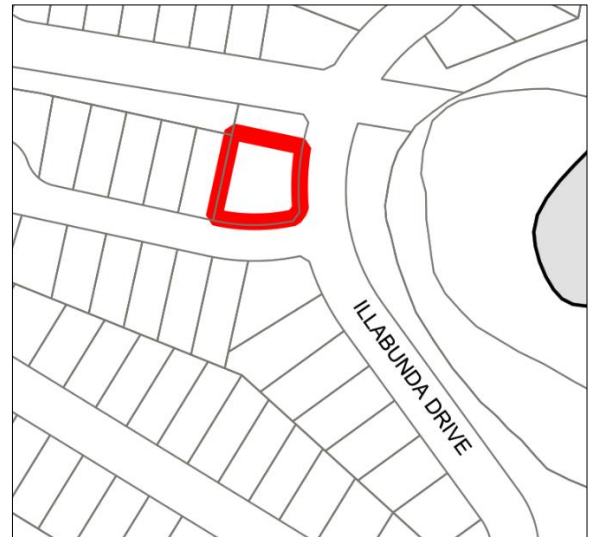


Figure 1.9: Proposed Land Reclassification (Part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is the direct result of the open space assessment and subsequent recommendations made in Eurobodalla's Recreation and Open Space Strategy 2018 (ROSS), adopted by Council on 27 February 2018. The ROSS states that Lot 1110 DP 236653 has little recreation or conservation value and is appropriate for reclassification and sale. The relevant action of the ROSS (page 111) is as follows:

Goal: redistribution of assets

Sections of the open space network have no recreation or conservation value. Funds from the rationalisation of these assets can be reinvested back into the open space network

N30	Rationalise Lot 1110, DP 236653 (35-37 Illabunda Drive, Malua Bay) currently undeveloped open space. Investigate reclassification, subdivision and sale for residential purposes.	High Priority
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2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	<p>Consistent.</p> <p>As the planning proposal will retain the existing vegetation along the northern boundary of the property and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with Action 14.2.</p> <p>Future development of the land can be undertaken with minimal impacts on areas of environmental value, groundwater ecosystems and aquatic habitats. It is also considered that future development can be undertaken with minimal impacts on coastal processes, coastal amenity and existing views from the coastline. The proposal is therefore considered to be consistent with Action 14.3.</p>
Direction 15: Enhance biodiversity connections	<p>Consistent</p> <p>As the planning proposal will retain the existing vegetation along the northern boundary of the property, an existing east-west biodiversity corridor will be protected, consistent with Action 15.1.</p>
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is not bushfire prone land or susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated. Future development of the land can be undertaken with adequate setbacks to the watercourse along the northern boundary of the land. The proposal is considered to be consistent with Action 16.1.</p>
Direction 22: Build socially inclusive, safe and healthy communities	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency, consistent with Action 22.4.</p>
Direction 24: Deliver greater housing supply and choice	<p>Consistent</p> <p>The proposal will add to housing supply in the Malua Bay area, consistent with this direction.</p>
Direction 25: Focus housing growth in locations that maximise infrastructure and services	<p>Consistent</p> <p>The site is well serviced by existing roads and future development is able to be connected to water, sewer and stormwater infrastructure, consistent with this direction.</p>

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Encourage greater housing diversity and affordability	<p>Consistent.</p> <p>The proposal will add to housing supply in the Malua Bay area.</p>
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>Future development of the land can be undertaken in a manner that enhances the character of Malua Bay.</p>
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>The planning proposal will retain the existing vegetation and watercourse along the northern boundary of the property.</p>
Promote sustainable living	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency.</p>

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being the Coastal Environment Area (CMA 3) and the Coastal Use Area (CMA 4).</p> <p>Future development of the site can be undertaken with minimal impact on existing coastal processes in the area and complies with the intent of CMA 3. It is also considered that future development will have minimal impact on coastal amenity and existing views from the coastline and is therefore consistent with CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further</p>

assessment of potential contamination is considered warranted.

SEPP (Biodiversity and Conservation) 2021

Consistent

As the planning proposal will retain the existing vegetation along the northern boundary of the property and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with the objectives and intent of *SEPP (Biodiversity and Conservation) 2021*.

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Consistent As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	Consistent The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	Partially inconsistent, but of minor significance. The site is currently zoned C2, however; most of the land (70%) is a grassed clearing. The remaining portion of land is vegetated to the northern boundary and identified as endangered ecological communities (EEC). The proposal seeks to rezone the cleared land as R2 – Low Density Residential and retain the vegetated areas as C2 – Environmental Conservation. This will ensure that the land identified as EEC is protected and

Ministerial Direction	Aim of the Direction	Consistency and Implications
		any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. While the proposal will enable increased development, it not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>The proposal facilitates infill housing opportunities in an existing residential area that is well serviced.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the	<p>Consistent.</p> <p>The planning proposal facilitates an opportunity for a small amount of housing diversity on the site, through the reclassification of community to operational land and the rezoning of a portion of the land to the R2 Low Density Residential zone.</p> <p>The planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
	impact of residential development on the environment and resource lands.	planning proposal is considered consistent with the direction.

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

There is a portion of an endangered ecological communities (EEC) located towards the northern boundary of the site. The EEC will continue to be protected by retaining the C2 zone over the vegetated area and ensuring future residential development has an appropriate buffer along the realigned boundary.

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

There are no other likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have positive economic impacts through the generation of income for re-investment in local open space and through the construction of new residential development.

Social Impact

The partial reclassification and rezoning of Lot 1110 DP 236653 may have minor social impact in the area. While observations suggest the site is rarely used, the grassed area is occasionally used for passive recreation in the summer holiday months. Further, future residential development on the site is likely to have some impact on existing coastal views from the adjacent property to the west. Assessment of such impacts will be undertaken at the development application stage.

However, it is noted that the area of the land to be reclassified is 1061.5m² which is not large enough for a subdivision of the land to meet the minimum lot size proposed for the land. Further, the land is constrained by existing sewer mains along the western and northern boundaries. Along the eastern and southern boundaries, to Illabunda and Merinda Streets, setback requirements in the Council's Development Control Plan further limit the available building footprint. Given these constraints and requirements, it is likely that a single dwelling is all that could reasonably be developed on the land.

While the planning proposal may result in a minor social impact, it will also facilitate infill development consistent with village development and provide further housing choice in the area.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is well serviced by existing roads, being at the corner of Illabunda Drive and Merinda Street. Further, the property can be connected to nearby water, sewer and stormwater infrastructure to support future residential development.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 1

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is not identified as public reserve on title or the deposited plan.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as open space as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	There are no interests to be discharged. Restrictions as to user on title do not apply to the subject land or is not relevant because Clause 1.9A (Suspensions of covenants, agreements and instruments) of the Eurobodalla LEP 2012 applies.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of a small amount of open space will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently grassed and vegetated area for passive open space and environmental purposes. There are no structures on the land and no unauthorised uses.

Issue	Response
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezonings proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested back into the open space network.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	Council's Recreation and Open Space Strategy provides the relevant direction to re-invest the funds into local open space.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 2 – Lot 84 in DP 259212 (Village Road and Banyandah Street, South Durras)

Introduction

The subject land is property at Village Road, South Durras being Lot 84 in DP 259212. The subject land is currently a public reserve and classified as community land in accordance with sections 25 and 26 under the *Local Government Act 1993*. The land is currently zoned R2 – Low Density Residential. The allotment is a rectangle, consistent with existing subdivision in the area and a site area of 1,251sqm.

The land is currently listed in Council's Natural Areas and Undeveloped Reserves Plan of Management. The primary reserve category for the subject land is General Community Use – Undeveloped with a secondary category of Natural Bushland.

The site has frontage to Banyandah Street and Village Road and provides an informal pedestrian link between the respective streets. The subject land is steep, rising from Banyandah Street to Village Road and vegetated with a Spotted Gum Burrawang forest (as illustrated in Figures 2.1 and 2.2). The land is currently managed by the NSW Rural Fire Service as an Asset Protection zone.



Figure 2.1 – View of subject land from Village Road looking east

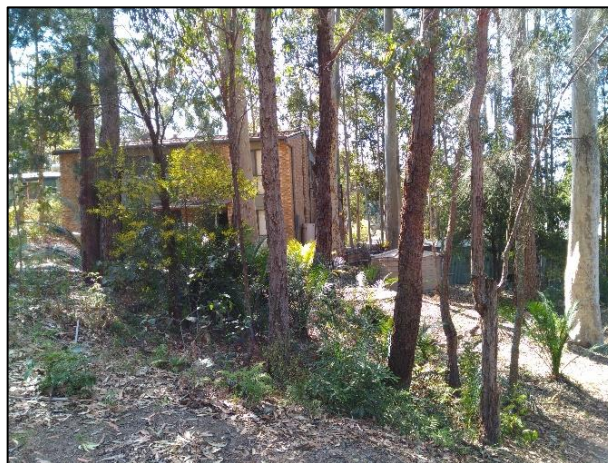


Figure 2.2 – View of neighbouring property from within the subject land

The site is surrounded by residential dwellings that sit within a natural landscape, as shown in Figure 2.3 below.



Figure 2.3: Subject land

The subject land is approximately 200m from the public open space on Corilla Street which provides a better recreation space for local residents and it is therefore considered that the subject land is surplus to community needs (Eurobodalla's Recreation and Open Space Strategy 2018). The loss of the subject land as open space will not reduce local residents' accessibility to local open space. While the land currently provides an informal pedestrian link between Banyandah Street and Village Road, the local road network provides suitable pedestrian access to local destinations. Funds from the sale of the land would be reinvested back into the local open space network.

The land contains no easements or services. However, easements to drain water are located along the rear of lots to the north and south. As part of any future subdivision or development of the land, the continuation of these easements and any stormwater lines within those easements may be required. The land may also provide for some overland flow from Village Road to Banyandah Street. This issue would be addressed through the continuation of the easement from the northern lots to the southern lots.

South Durras is not currently serviced by reticulated water or sewer. It is therefore proposed that the land would not be sold for residential development until such time as a sewer service is provided to the village (currently projected for 2028).

Figure 2.4 shows the public stormwater infrastructure in the vicinity of the site.

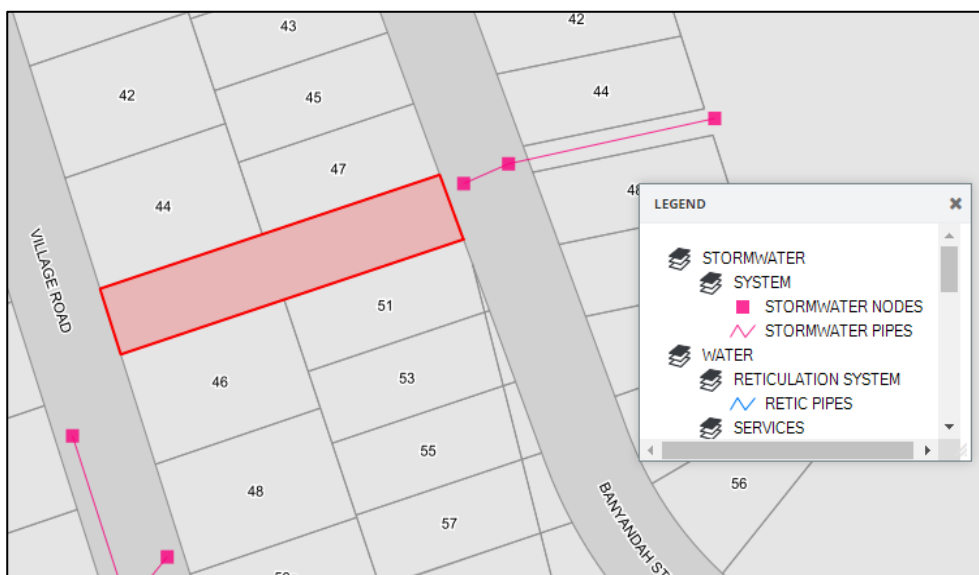


Figure 2.4: Infrastructure services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell the subject land.

Intended Outcome

The intended outcomes for this item are:

- To implement the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.
- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land for residential development purposes.
- To support the re-investment of funds into other open space and recreation facilities in the local area.

PART 2: EXPLANATION of PROVISIONS

The intended provisions for this item are as follows:

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being Lot 84 DP259212 (Village Road and Banyandah Street, South Durras) from community to operational land
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)

The intended provisions are described in Appendix 1 and Figures 2.5 to 2.6.

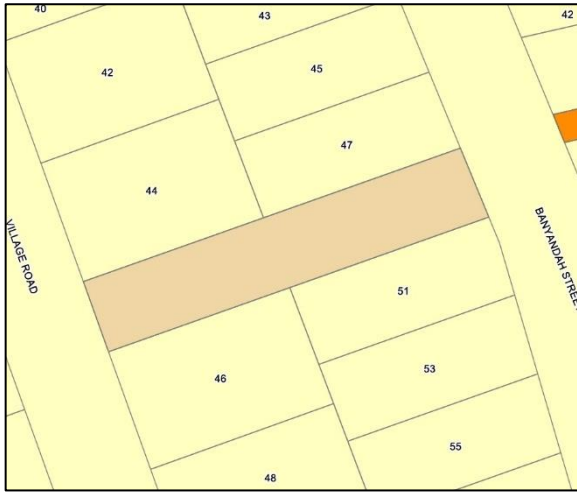


Figure 2.5a: Existing Minimum Lot Size Map

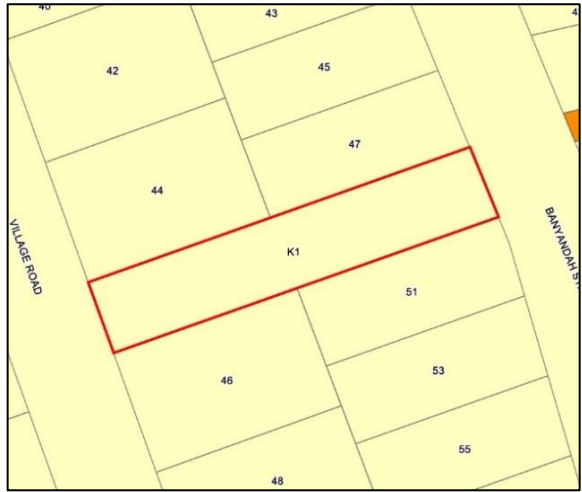


Figure 2.5b: Proposed Minimum Lot Size Map

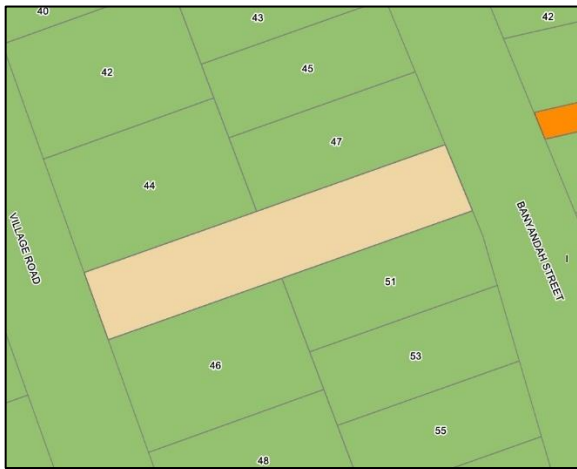


Figure 2.6a: Existing Maximum Building Height Map



Figure 2.6b: Proposed Maximum Building Height Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The planning proposal is the direct result of the open space assessment and subsequent recommendations made in Eurobodalla's Recreation Open Space Strategy 2018 (ROSS), adopted by Council on 27 February 2018. The ROSS states that Lot 84 DP 259212 has little recreation or conservation value and is appropriate for reclassification and sale. The relevant action of the ROSS (page 76) is as follows:

Goal: redistribution of assets

Sections of the open space network have no recreation or conservation value. Funds from the rationalisation of these assets can be reinvested back into the open space network

N6	Rationalise Lot 84, DP259212 (PIN 15857 between Banyandah Street and Village Road, South Durras) currently undeveloped open space zoned residential. Investigate the division of the land into two lots (approximately 600m ² each) and sale for residential purposes.	High Priority
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2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	Consistent. The site contains native vegetation. Consistent with adjacent properties, the vegetation will be retained, where possible, when facilitating future residential development. The proposal is therefore considered to be consistent with Action 14.3.
Direction 15: Enhance biodiversity connections	Consistent While the subject land contains vegetation, it is not considered part of a regional biodiversity corridor. All vegetation can be used by wildlife to move through the landscape at times, however there are other better quality wildlife corridors in the vicinity. Removal of this vegetation would not substantially affect wildlife connectivity. Therefore, the proposal is not inconsistent with Action 15.1.

Direction / Action	Consistency of Planning Proposal
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is bushfire prone. However, the subject land is located in the centre of an existing urban area and is not considered a high fire risk area, being approximately 160m from the nearest hazard. Notwithstanding, there is vegetation on and around the site. Future residential development of the land will need to comply with Planning for Bushfire Protection 2019.</p> <p>The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated and there are no watercourses in the vicinity of the site. The proposal is considered to be consistent with Action 16.1.</p>
Direction 22: Build socially inclusive, safe and healthy communities	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency, consistent with Action 22.4.</p>
Direction 24: Deliver greater housing supply and choice	<p>Consistent</p> <p>The proposal will add to housing supply in the South Durras area, consistent with this direction.</p>
Direction 25: Focus housing growth in locations that maximise infrastructure and services	<p>Consistent</p> <p>The site is well serviced by existing roads and future development is able to be connected to available infrastructure, with on-site water and sewer required until reticulated services can be provided. Comment on timing of sale. The proposal is therefore considered to be consistent with this direction.</p>

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Encourage greater housing diversity and affordability	<p>Consistent.</p> <p>The proposal will add to housing supply in the South Durras area.</p>
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>Future development of the land can be undertaken in a manner that enhances the character of South Durras.</p>

Planning Priority	Consistency of Planning Proposal
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>The site contains native vegetation. Vegetation will be retained, where possible, when facilitating future residential development.</p>
Promote sustainable living	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency.</p>

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in one Coastal Management Area (CMA), being the Coastal Use Area (CMA 4).</p> <p>Future development of the site can be undertaken with minimal impact on coastal amenity and existing views from the coastline and is therefore consistent with CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>As the proposal is seeking to facilitate future residential development on the site it is anticipated that this will require some vegetation removal. As any clearing of vegetation will not exceed the biodiversity offset scheme threshold, it will require a Council permit in accordance with Council's Tree Preservation Code or as part of a development consent.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	<p>Partially Inconsistent, but of minor significance.</p> <p>The site is currently zoned C2 and contains native vegetation. The proposal seeks to rezone the whole of the land to R2 – Low Density Residential. While the site has no identified ecologically endangered communities, the area is known as habitat for the Yellow-bellied Glider.</p> <p>The land is currently being managed as an Asset Protection zone by the NSW Rural Fire Service.</p> <p>The land is not identified on the Biodiversity Values Map and any required clearing of vegetation will not exceed the biodiversity offset threshold. As part of any future development application, a test of significance would need to be undertaken.</p> <p>Similar to the residential development of surrounding land, any future development of the subject land can retain existing native vegetation where possible.</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
		It is therefore considered that the inconsistency with the Ministerial Direction is justified on the grounds that it is minor in nature.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. While the proposal will enable increased development, it not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>
4.3 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.	<p>Consistent</p> <p>The subject land is bushfire prone and is managed by the NSW Rural Fire Service as an Asset Protection Zone. However, the subject land is located in the centre of an existing urban area and is not considered a high fire risk area, being approximately 160m from the nearest hazard. Notwithstanding, there is vegetation on and around the site. Future residential development of the land will ensure the land is more regularly managed by the future landowner. Residential development will need to comply with Planning for Bushfire Protection 2019.</p>
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>The proposal facilitates infill housing opportunities in an existing residential area that is well serviced.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
	purposes where the land is no longer required for acquisition.	reduce the reservation of land for public purposes.
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	<p>Consistent.</p> <p>The planning proposal facilitates an opportunity for a small amount of housing diversity on the site, through the reclassification of community to operational land and the rezoning of a portion of the land to the R2 Low Density Residential zone.</p> <p>The planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

While the site has no identified ecologically endangered communities, the area is known as habitat for the Yellow-bellied Glider. The land is currently being managed as an Asset Protection zone by the NSW Rural Fire Service.

The land is not identified on the Biodiversity Values Map and any required clearing of vegetation will not exceed the biodiversity offset threshold. As part of any future development application, a test of significance would need to be undertaken. In any case, there is more suitable habitat for Yellow Bellied Gliders in the vicinity and removal of the vegetation would not impact on overall glider connectivity between suitable habitat.

9. *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 partially identified as having native vegetation which is also identified over adjacent residential properties in the area. Consistent with adjacent properties, the vegetation will be retained, where possible, when facilitating future residential development.

The property has also been identified as an Asset Protection Zone by the NSW Rural Fire Service (RFS) in the South Durras Community Protection Plan. The RFS will be consulted during the public exhibition of the planning proposal. Development of the land for residential purposes will ensure that the land is more regularly managed by the future landowner and removes the need for the land to be managed by the RFS as an APZ.

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

Economic Impact

The planning proposal will have positive economic impacts through the generation of income for re-investment in local open space and through the construction of new residential development.

Social Impact

While the land currently provides an informal pedestrian link between Banyandah Street and Village Road, the local road network provides suitable pedestrian access to local destinations.

The proposal will facilitate infill development consistent with village development and provide further housing choice in the area.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is well serviced by existing roads, having dual frontage along Banyandah Street and Village Road. The planning proposal facilitates minor residential development within an existing village area that is currently supported by adequate road infrastructure. South Durras is not currently serviced by sewer and water, so these services would need to be provided onsite. Consequently, subdivision of the site will not be supported until sewer and water infrastructure is available (currently projected for 2028).

Section E- State and Commonwealth Interest

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 2

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is operational land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. The title contains a Registrar-General's caveat K20000P which relates to land vested in Council as a public reserve. A caveat restricts certain dealings and is not an interest. Upon the reclassification of the land to operational, Council can request removal of the caveat. There are no other interests to be discharged. Restrictions as to user on title do not apply to the subject land or is not relevant because Clause 1.9A (Suspensions of covenants, agreements and instruments) of the Eurobodalla LEP 2012 applies.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	The proposal will result in the loss of open space. However, the land is approximately 200m from the public open space on Corilla Street which provides a better recreation space for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g.	The electronic title search document is provided in Appendix 2.

Issue	Response
electronic title searches, notice in a Government Gazette, trust documents).	
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently vegetated and is primarily used as an informal pedestrian link between Village Road and Banyandah Street. There are no structures on the land and no unauthorised uses. The land is currently managed by the NSW Rural Fire Service as an APZ.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land is not proposed until a reticulated sewer service is available in South Durras (currently projected for 2028).
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested back into the open space network.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	Council's Recreation and Open Space Strategy provides the relevant direction to re-invest the funds into local open space.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	Not applicable.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 3 – Part of Lot 32 DP 618340 (4 Bimbular Street, Dalmeny)

Introduction

The subject land is property at 4 Bimbular Street, Dalmeny being part of Lot 32 in DP 618340. The subject land is classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The land has a total site area of 2.774ha and is zoned RE1 – Public Recreation.

The land is currently listed in Council's Sportsgrounds Plan of Management. The reserve category for the subject land is Sportsground.

The land has street frontage to Mort Avenue and Binalong Street with vehicular access and car parking off Bimbular Street. The land contains Dalmeny Oval and subject land is predominantly cleared of vegetation. The location of the proposed reclassification is to the east of the oval which is up an embankment from the subject land. Photos of the area proposed to be reclassified are provided in Figures 3.1 and 3.2.



Figure 3.1 – View of subject land looking towards Dalmeny Oval

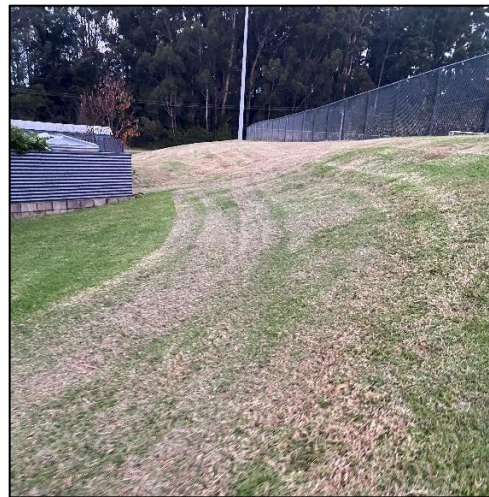


Figure 3.2 – View of subject land looking towards Mort Avenue

The site is surrounded by the Dalmeny Oval and residential dwellings as shown in Figure 3.3.



Figure 3.3: Area of subject land proposed to be reclassified

The subject land is a small portion of the larger existing open space, at 1.3% of the total area of the lot. The loss of the land as open space will not impact on the operation of Dalmeny Oval and will not reduce local residents' accessibility to local open space. The proposal also does not restrict the use of the land as an informal pedestrian link between Mort Avenue and Binalong Street. Funds from the sale of the land would be allocated to future Council projects.

The intention of the reclassification is to sell the land to adjoining landowners for use as private open space. However, there is potential for residential development of the land, such as the construction of secondary dwellings (granny flats). The proposal does not increase the size of the adjoining lot to enable any further subdivision.

The subject land contains no easements or services. Figure 3.4 shows that sewer, water and stormwater infrastructure is in close proximity to the site.

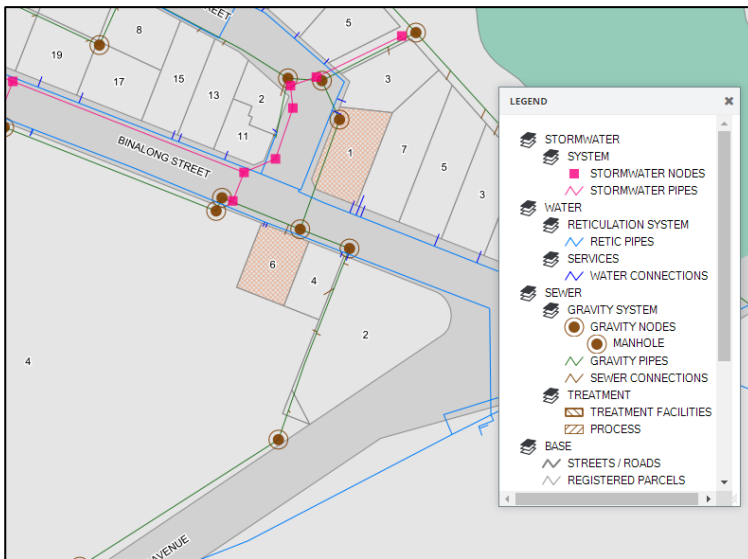


Figure 3.4: Infrastructure services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended Outcome

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To retain the majority of the lot as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 32 DP 618340 (4 Bimbular Street, Dalmeny) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from RE1 Public Recreation to R3 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the maps in Appendix 1 and Figures 3.5 to 3.8.

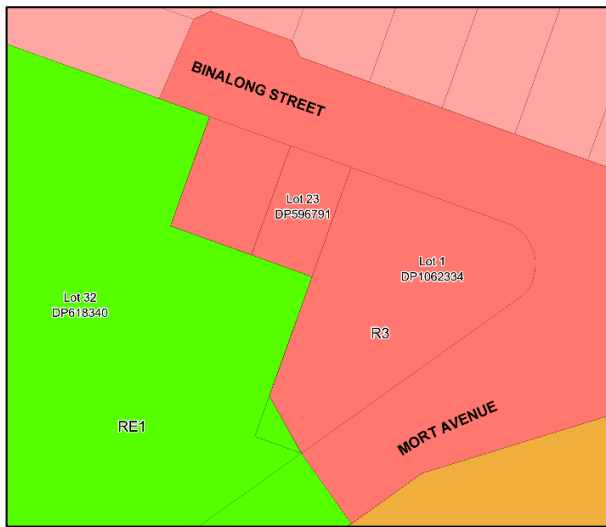


Figure 3.5a: Existing Zone Map

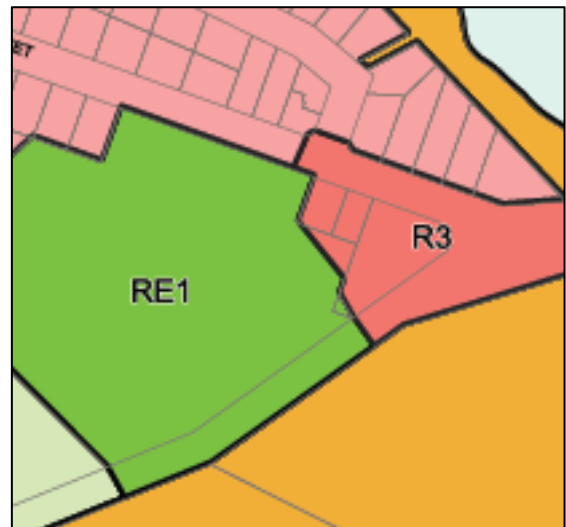


Figure 3.5b: Proposed Zone Map

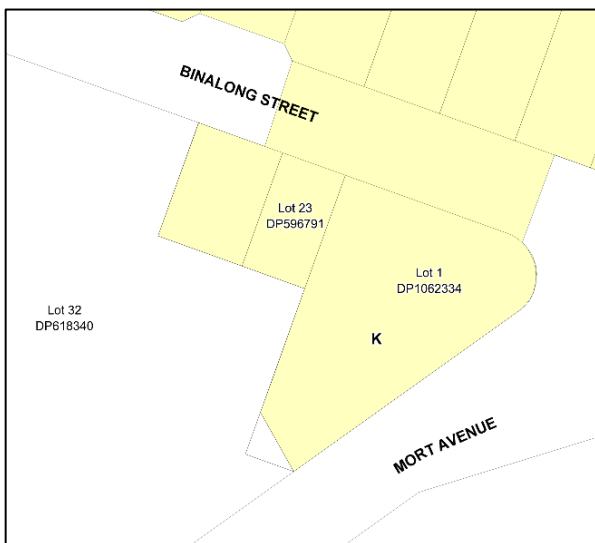


Figure 3.6a: Existing Minimum Lot Size Map



Figure 3.6b: Proposed Minimum Lot Size Map



Figure 3.7a: Existing Maximum Building Height Map



Figure 3.7b: Proposed Maximum Building Height Map

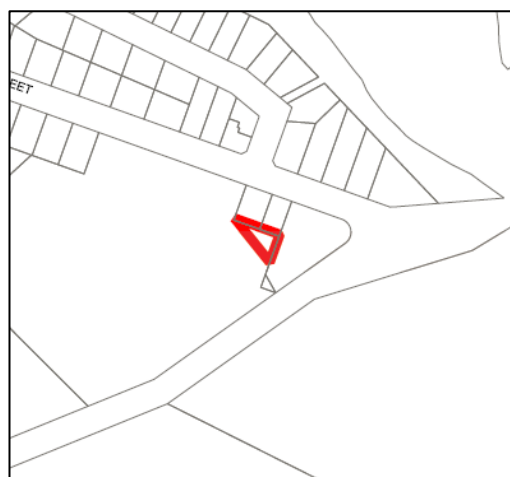


Figure 3.8: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is not the result of any strategic study. It is due to a request by one of the adjoining landowners to acquire a part of the land to provide additional private open space.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is bushfire prone. However, the subject land is located in an existing urban area and is not considered a high fire risk area, being approximately 50m from the nearest hazard. While the intent of the reclassification is not for additional residential development, any future residential development of the land will need to comply with Planning for Bushfire Protection 2019.</p> <p>The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be</p>

Direction / Action	Consistency of Planning Proposal
	contaminated and there are no watercourses in the vicinity of the site. The proposal is considered to be consistent with Action 16.1.
Direction 22: Build socially inclusive, safe and healthy communities	<p>Consistent</p> <p>While an adjoining landowner intends for the land to be used as private open space, there is potential for a secondary dwelling to be constructed on the land. Any future residential development on the land will be required to comply with BASIX commitments for energy efficiency, consistent with Action 22.4.</p>
Direction 24: Deliver greater housing supply and choice	<p>Consistent</p> <p>As noted above, there is potential for a secondary dwelling to be constructed on the land. The proposal therefore has potential to add to housing supply in the Dalmeny area, consistent with this direction.</p>
Direction 25: Focus housing growth in locations that maximise infrastructure and services	<p>Consistent</p> <p>The site is intended to be amalgamated with an adjoining lot that is well serviced by existing roads and any future development is able to be connected to water, sewer and stormwater infrastructure, consistent with this direction.</p>

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Encourage greater housing diversity and affordability	<p>Consistent.</p> <p>The proposal has the potential to add to housing supply in the Dalmeny area.</p>
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>Future development of the land can be undertaken in a manner that enhances the character of Dalmeny.</p>
Promote sustainable living	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency.</p>

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).</p> <p>Any future development on the site will have minimal impact on existing coastal processes in the area and complies with the intent of CMA 3. It is also considered that future development will have no impact on coastal amenity and existing views from the coastline and is therefore consistent with CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>The proposal does not require any clearing of vegetation.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
	assessment of development.	
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. While the proposal will enable increased development, it not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>
4.4 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.	<p>Consistent</p> <p>The subject land is bushfire prone. However, the subject land is located in an existing urban area and is not considered a high fire risk area, being approximately 50m from the nearest hazard. While the intent of the reclassification is not for additional residential development, any future residential development of the land will need to comply with Planning for Bushfire Protection 2019.</p>
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>The proposal facilitates infill housing opportunities in an existing residential area that is well serviced.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
	land for public purposes where the land is no longer required for acquisition.	reduce the reservation of land for public purposes.
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	<p>Consistent.</p> <p>The planning proposal facilitates an opportunity for a small amount of housing diversity on the site, through the reclassification of community to operational land and the rezoning of a portion of the land to the R2 Low Density Residential zone.</p> <p>The planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

9. *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 vegetated by an introduced grass species. There are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have potential positive economic impacts through the generation of income for re-investment in future Council projects and through the possible construction of new residential development.

Social Impact

The existing sports field on the site will be retained and the overall size of the open space will be reduced by a very small amount. Therefore, the proposal will have no significant social impact.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The property will be consolidated with an adjacent property (Lot 23 DP 596791) which is connected to water, sewer and stormwater infrastructure.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 3

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is not a public reserve. The public reserve status of the land is not identified on the title search or deposited plan.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) – if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The former Portion 200 was transferred to Council in 1967 and as part of the subdivision of Portion 200, Council retained ownership of the subject land in order to develop the Dalmeny Oval.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	No interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	The proposal will result in the loss of a small part of open space that is not used for any specific purpose. The vast majority of the open space around Dalmeny Oval will be retained. The loss of the land open space will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently grassed and has no particular use. There are no structures on the land and no unauthorised uses.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.

Issue	Response
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 4 – Part of Lot 2 DP 570760 and Part of Lot 4 DP 572585 (Beach Road, Batehaven)

Introduction

The subject land is property at Beach Road, Batehaven being part of Lot 2 DP 570760 and part of Lot 4 DP 572585. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The subject lots have a total site area of 3345m² and 1602m² respectively and are zoned C2 – Environmental Conservation

The land is currently listed in Council's Natural Areas and Undeveloped Reserves Plan of Management. The reserve category for the subject land is Natural Foreshore.

The subject land is beachfront (as illustrated in Figures 4.1 and 4.2).



Figure 4.1 – View of subject land



Figure 4.2 – View of subject land

The subject land is part of the Batemans Bay foreshore area adjacent to two caravan parks, as shown in Figure 4.3.

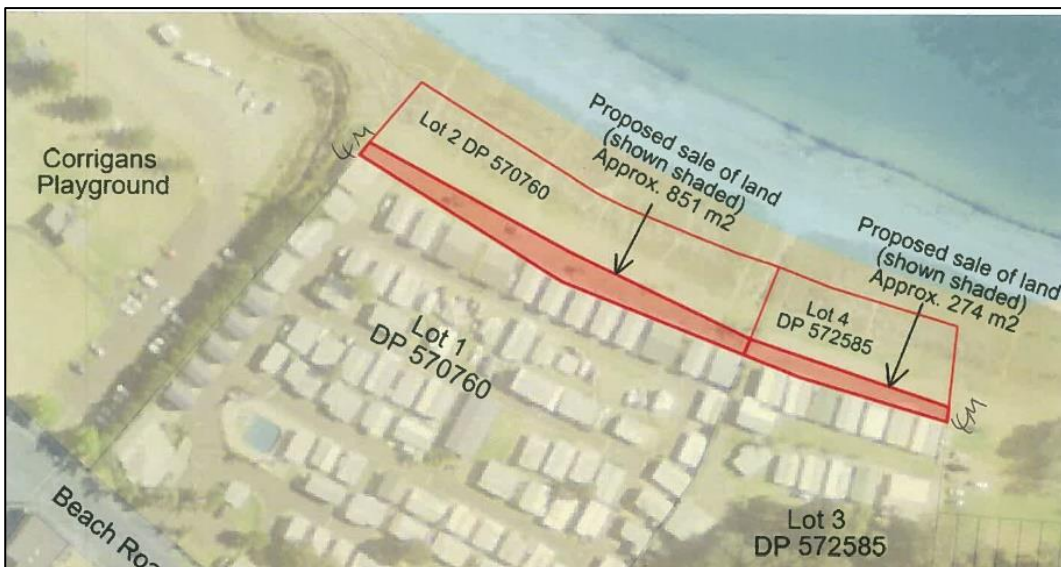


Figure 4.3: Subject land showing the areas proposed to be reclassified.

The development of cabins along the beach frontage were the subject of Council approval under previous provisions of the local government regulations. Since that approval, the installation of several of the cabins were found to have encroached on Council beachfront land by 1m.

The loss of a 4m wide strip of public land would leave the reserves at approximately 23m wide, including the landward side of the existing sand dunes. On the foreshore side of the reserves are the seaward side of the sand dunes and the beach. The proposal will therefore not reduce public access along the foreshore or reduce local residents' accessibility to local open space.

The subject land contains no easements, however there is a sewer main located in the area proposed to be reclassified. It is also understood that there is an underground telecommunications cable in this area. Figure 4.4 shows that sewer, water and stormwater infrastructure is in close proximity to the site.

Figure 4.4: Infrastructure services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended outcomes

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to adjoining property owner for amalgamation with the adjoining lot.
- To rectify a minor encroachment of cabins on the public reserve.
- To facilitate upgrading of existing cabins at the adjoining caravan parks with accessible cabins in compliance with relevant standards and without any development being located closer to the foreshore.
- To retain the majority of the public reserve as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 2 DP 570760 and part of Lot 4 DP 572585 (Beach Road, Batehaven) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to RE2 Private Recreation
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (l)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the maps in Appendix 1 and Figures 4.5 to 4.8.



Figure 4.5a: Existing Zone Map



Figure 4.5b: Proposed Zone Map



Figure 4.7a: Existing Maximum Building Height Map



Figure 4.7b: Proposed Maximum Building Height Map

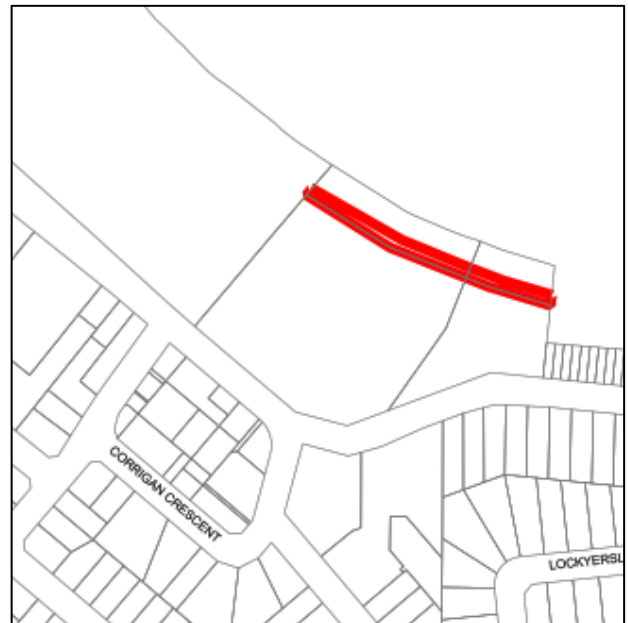


Figure 4.8: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A – Need for the planning proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The planning proposal is not the result of any strategic study or report. The proposal is the result of requests from the operators of the two adjoining caravan parks to acquire the land to bring their businesses into compliance with the requirements of current caravan park setback requirements.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 9: Grow tourism in the region	Consistent The planning proposal will retain public foreshore access while allowing for improved accessibility at the adjoining caravan parks through the ability to upgrade existing non-accessible cabins with new accessible cabins in accordance with the relevant requirements. The proposal is considered to be consistent with Action 9.2.
Direction 16: Protect the coast and increase resilience to natural hazards	Consistent The subject land is not bushfire prone or susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated and there are no watercourses in the vicinity of the site. The planning proposal facilitates the development of new accessible cabins without any development being located closer to the foreshore. The proposal is considered to be consistent with Action 16.1.

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>The planning proposal facilitates the development of new accessible cabins at the caravan parks. These can be undertaken in a manner that enhances the character of Batehaven.</p>
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>The planning proposal facilitates the development of new accessible cabins without any development being located closer to the foreshore.</p>
Promote nature-based tourism opportunities	<p>Consistent</p> <p>The planning proposal will retain public foreshore access while allowing for improved accessibility at the adjoining caravan parks through the ability to upgrade existing non-accessible cabins with new accessible cabins in accordance with the relevant requirements.</p>

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).</p> <p>No further development on the site will be permitted due to the caravan park setback requirements.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>The proposal does not require any clearing of vegetation.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	<p>Partially Inconsistent, but of minor significance.</p> <p>The site is currently zoned C2, however; the majority of the land is a grassed clearing, with part of the existing sand dune to the east. The proposal seeks to rezone a 4m wide strip of the cleared land as R2 – Low Density Residential and retain the remaining area, including the dune as C2 – Environment Conservation. This will ensure that the bulk of the land is protected and any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.</p>
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The proposal facilitates the development of new accessible cabins without any development being located closer to the foreshore. It is therefore considered that the</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
		planning proposal does not facilitate an intensification of development on the land.
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

9. *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 vegetated by introduced grass species. There are no other likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have positive economic effects through the upgrading of existing tourist cabins at the caravan parks.

Social Impact

The planning proposal retains access to the beach by the public, while also facilitating improved access to tourist accommodation for people with a disability.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site will be consolidated with properties that are well serviced by existing roads and that are connected to water and sewer.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 4

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) – if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as public reserve as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. The title contains a Registrar-General's caveat K20000P which relates to land vested in Council as a public reserve. A caveat restricts certain dealings and is not an interest. Upon the reclassification of the land to operational, Council can request removal of the caveat. No other interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	The proposal will result in the loss of open space. However, the area to be lost is relatively small and will not significantly reduce public access to the foreshore. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently grassed and is part of a foreshore reserve, used primarily for pedestrian

Issue	Response
	access to and along the beach. There are minor unauthorised encroachments of existing cabins on the public reserve.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 5 – Part of Lot 2 DP1014254, (George Bass Drive, Batehaven)

Introduction

The subject land is property at George Bass Drive, Batehaven being part of Lot 2 DP1014254. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The allotment has a site area of 4,298sqm and zoned C2 Environmental Conservation.

The site has frontage to George Bass Drive. The subject land is vegetated (as illustrated in Figures 5.1 and 5.2) and contains an informal pathway through the bushland.



Figure 5.1 – View of subject land



Figure 5.2 – View of subject land

The site is surrounded by residential dwellings to the north and bushland to the east and south, as shown in Figure 5.3.

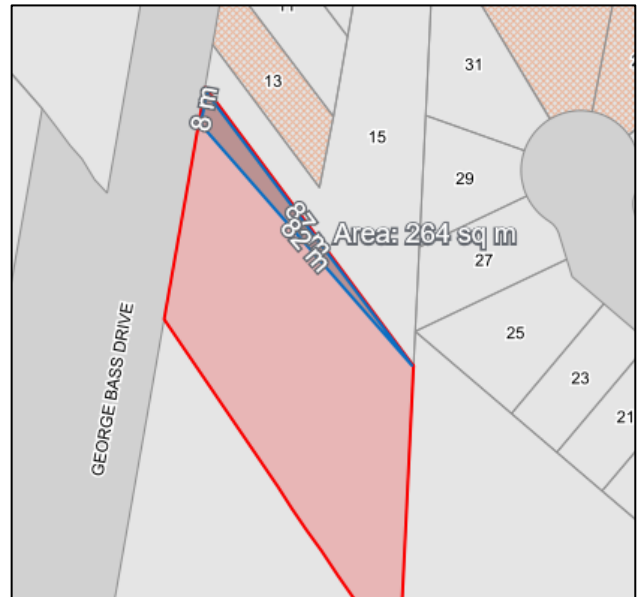


Figure 5.3: Subject land – proposed new boundary shown in blue

The land contains a watercourse and riparian vegetation and is bordered to the north by residential development, including a driveway to 15 George Bass Drive, Batehaven. The intention of the reclassification is to improve access and fencing to the adjoining lot, improve drainage and facilitate a new fenceline to the south of existing trees on the current boundary. No additional residential development is proposed or facilitated by the planning proposal.

The subject land is a small portion of the public reserve, at 6.14% of the total area of the lot. The remainder of the public reserve is and will remain a bushland reserve. The loss of part of the public reserve will not reduce local residents' accessibility to local open space. Funds from the sale of the land would be allocated to future Council projects.

There are no easements or services on the subject land. Figure 5.4 shown the location of water, sewer and stormwater infrastructure in close proximity to the site.

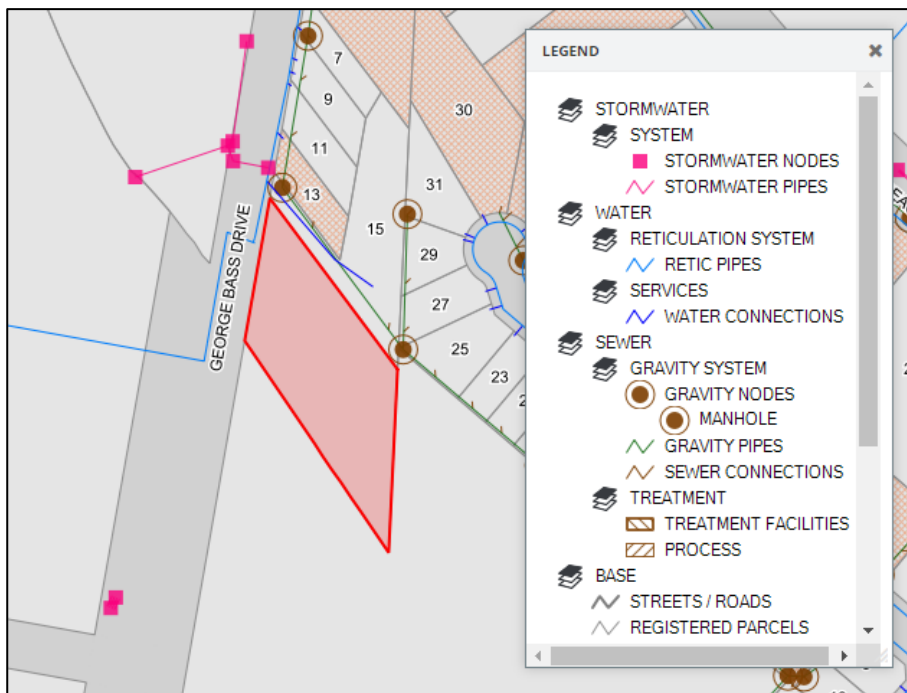


Figure 5.4 – Infrastructure Services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended outcomes

The intended outcomes for this item are:

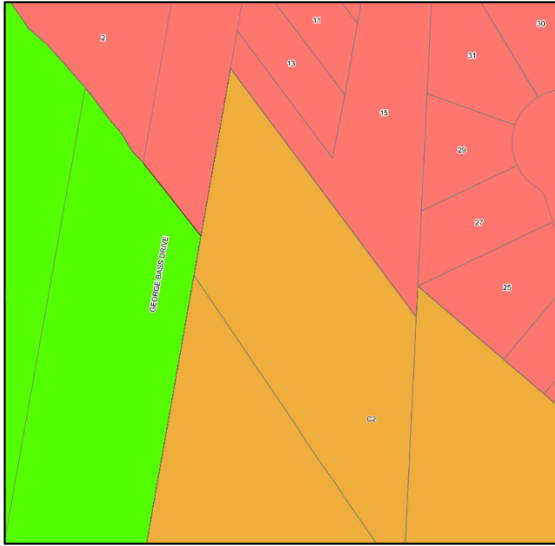
- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To facilitate improved access, fencing and drainage on the adjoining lot.
- To retain the majority of the public reserve as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 2 DP1014254, (George Bass Drive, Batehaven) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R3 Medium Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 11.5m (L)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the maps in Appendix 1 and Figures 5.5 to 5.8.



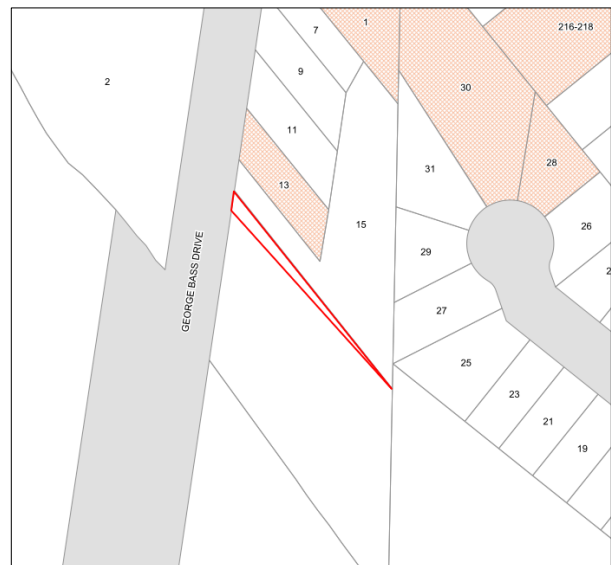


Figure 5.8: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A – Need for the planning proposal

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

The planning proposal is not the result of any strategic study or report. An adjacent property owner has expressed a desire to acquire the land.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

As outlined below, the planning proposal is consistent with the [South East Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	<p>Consistent.</p> <p>As the planning proposal will retain the vast majority of existing vegetation on the land and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with Action 14.2.</p> <p>The intent of the proposal is to improve access, fencing and drainage on the adjoining land. The new fence line is proposed to the south of existing trees located on the current boundary. It is considered that the proposed works can be undertaken with minimal impacts on areas of environmental value, groundwater ecosystems and</p>

Direction / Action	Consistency of Planning Proposal
	aquatic habitats. The proposal can be undertaken with no impact on coastal processes, coastal amenity and existing views from the coastline. The proposal is therefore considered to be consistent with Action 14.3.
Direction 15: Enhance biodiversity connections	<p>Consistent</p> <p>As the planning proposal will retain the vast majority of existing vegetation on the land, an existing biodiversity corridor will be protected, consistent with Action 15.1.</p>
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is bushfire prone. However, as the intent of the reclassification is not for additional residential development, the risk of bushfire impacts is not exacerbated.</p> <p>The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated.</p> <p>The works proposed can be undertaken with adequate setbacks to the watercourse on the land. The proposal is considered to be consistent with Action 16.1.</p>

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>The planning proposal will retain the existing vegetation and watercourse along the northern boundary of the property.</p>

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).</p> <p>As the intent of the reclassification is not for any additional residential development, there will be no impact on existing coastal processes or coastal amenity. It is considered that the proposal complies with the intent of CMA 3 and CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>While the proposal is seeking to facilitate works relating to access, drainage and fencing, it is considered that such works can be undertaken with minimal impact on existing vegetation. Any required clearing of vegetation will be under the biodiversity offset scheme threshold and may require a Council permit in accordance with Council's Tree Preservation Code.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. *Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?*

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	<p>Partially Inconsistent, but of minor significance.</p> <p>The site is currently zoned C2, however; the area of the proposed reclassification is a relatively small sliver of land adjacent to an existing driveway. The proposal will retain the bulk of the reserve as C2 – Environment Conservation. This will ensure that the majority of the land is protected and any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.</p>
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The land is not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>
4.3 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.	<p>Consistent</p> <p>The subject land is bushfire prone. However, as the intent of the reclassification is not for additional residential development, the risk of bushfire impacts is not exacerbated.</p>
4.5 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.	<p>Inconsistent, but of minor significance</p> <p>In accordance with 4.5(1) of the direction, Council has considered the Acid Sulfate Soils Planning Guidelines and consulted the Acid Sulfate planning maps. The land is shown on the ASS maps as “Class 3: likely to be found beyond one metre below the natural ground surface.” Any works below 1m, would require soil testing by a qualified environmental scientist.</p> <p>As the intent of the reclassification is not to facilitate any further residential</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
		development, the inconsistency is considered minor.
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>As the intent of the reclassification is not to facilitate any further residential development, this Direction is not considered relevant to the proposal.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	<p>Consistent.</p> <p>As the intent of the reclassification is not to facilitate any further residential development, the planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species. The land includes degraded edge of Swamp Oak Floodplain Forest EEC. Adverse effects to the larger patch of Swamp Oak Floodplain Forest are unlikely as a result of the proposal.

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

As the intent of the reclassification is not for additional residential development, there are no other likely environmental effects. Works proposed to improve access, drainage and fencing can be undertaken with minimal environmental impacts.

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

Economic Impact

The planning proposal will have no adverse economic effects.

Social Impact

The planning proposal intends to retain the bulk of the vegetated land as a public reserve and will retain the existing informal pathway through the public reserve.

There are no known items or places of heritage significance on or adjacent to the site.

The planning proposal has no potential negative social impact.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is well serviced by existing roads, having frontage to George Bass Drive. The property will be consolidated with 15 George Bass Drive which is connected to water, sewer and stormwater infrastructure that supports existing residential development.

Section E- State and Commonwealth Interest

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 5

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. No other interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently a vegetated area with no particular use other than environmental purposes. An informal pathway exists for pedestrian access through the site. There are no structures on the land and no unauthorised uses.

Issue	Response
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 6 – Lot 170 DP 569136 (Fauna Ave, Long Beach)

Introduction

The subject land is property at Fauna Ave, Long Beach being Lot 170 DP 569136. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The allotment has a site area of 164.8sqm and is zoned C2 – Environmental Conservation.

The land is currently listed in Council's Natural Areas and Undeveloped Reserves Plan of Management. The primary reserve category for the subject land is General Community Use – Undeveloped with a secondary category of Natural Bushland.

The site has no street frontage. The subject land is primarily grassed and is being managed by an adjacent property owner (as illustrated in Figure 6.1).



Figure 6.1 – Subject land

The site is surrounded by residential dwellings and a Council reserve. The subject land is a small portion of the larger existing public reserve, at 3.7% of the total area of the reserve. The loss of the land as public reserve will not impact on the use of the larger area of public reserve or reduce local residents' accessibility to local open space. The proposal does not restrict the use of the larger public reserve as an informal pedestrian link between Fauna Avenue and Karana Close. Funds from the sale of the land would be allocated to future Council projects.

The intention of the reclassification is to sell the land to an adjoining landowner for use as private open space. However, there is some potential for residential development of the land, such as the construction of a secondary dwelling (granny flat). The proposal does not increase the size of the adjoining lot to enable any further subdivision.

The subject land contains no easements. However, a sewer main runs through the site. As part of any future consolidation of the land with the adjoining lot, easements will be required to be located over the sewer mains. Figure 6.2 shows the location of sewer, water and stormwater infrastructure in relation to the site.

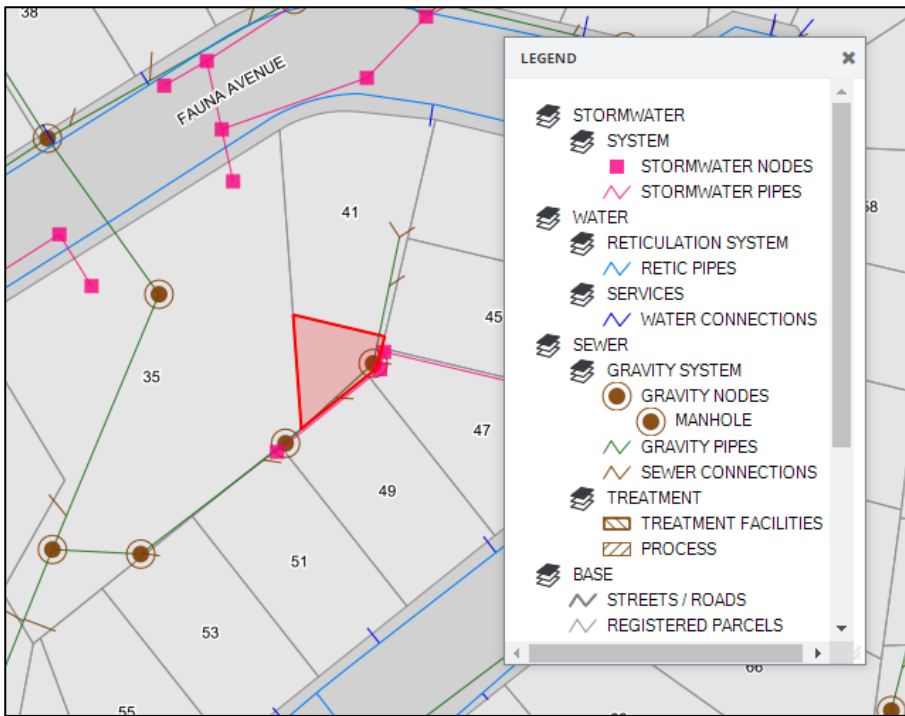


Figure 6.2: Infrastructure services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell the subject land.

Intended outcomes

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To retain the majority of the public reserve as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being Lot 170 DP 569136 (Fauna Ave, Long Beach) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R2 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)

The intended provisions are described in Appendix 1 and Figures 6.3 to 6.5.

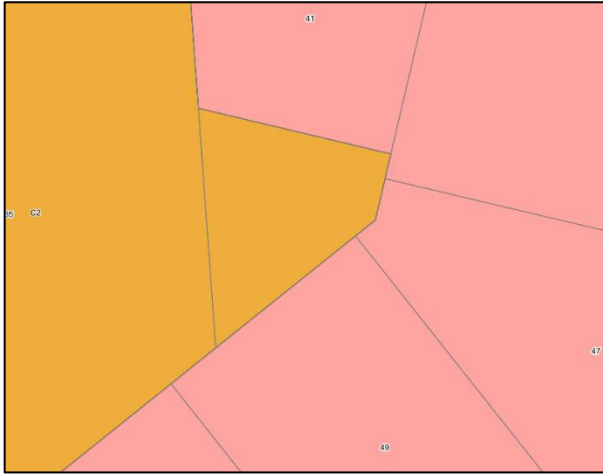


Figure 6.3a: Existing Zone Map

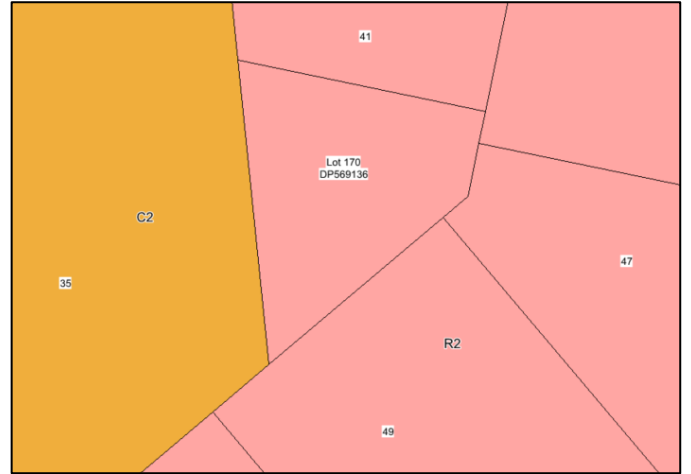


Figure 6.3b: Proposed Zone Map

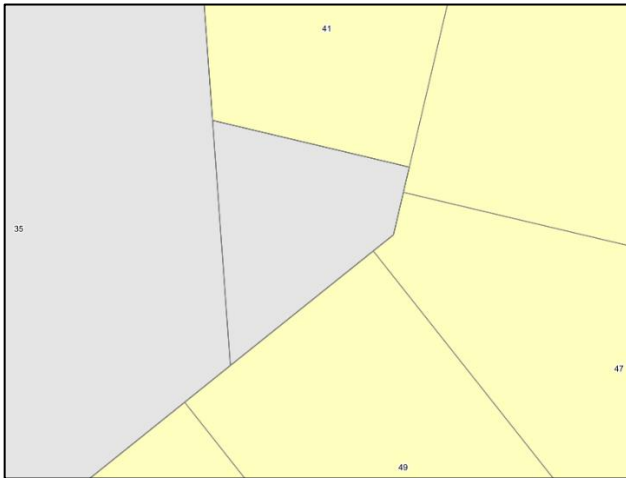


Figure 6.4a: Existing Minimum Lot Size Map

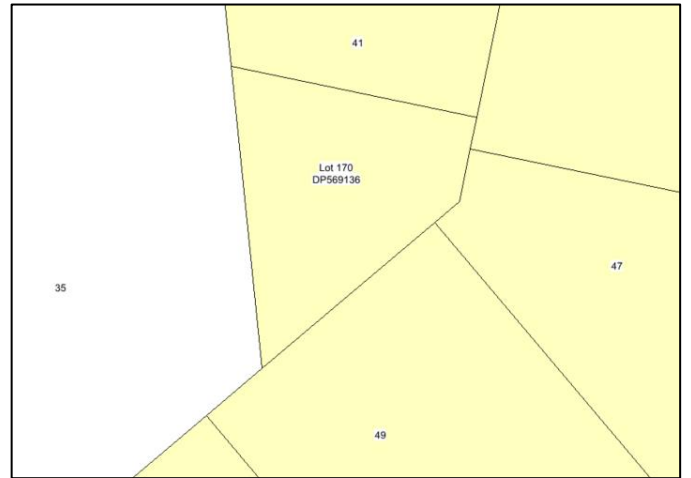


Figure 6.4b: Proposed Minimum Lot Size Map

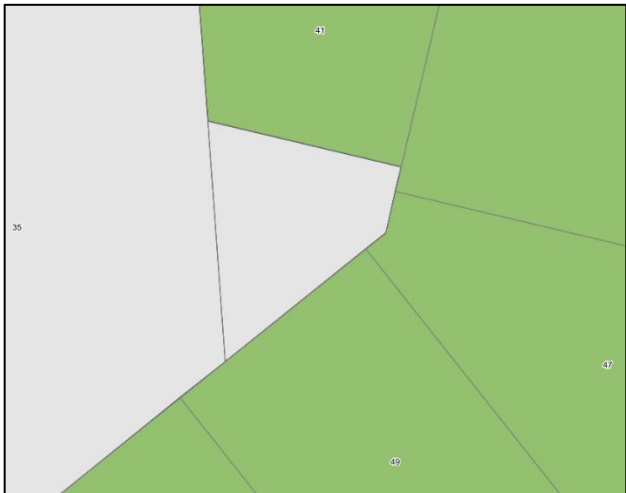


Figure 6.5a: Existing Maximum Building Height Map

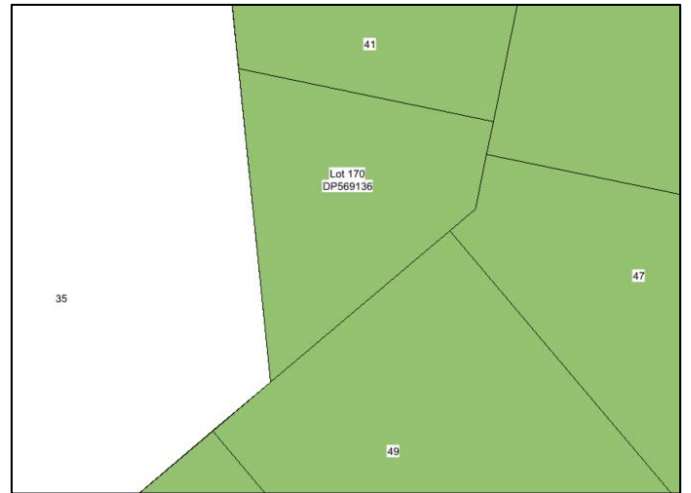


Figure 6.5b: Proposed Maximum Building Height Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is not the result of any strategic study or report. An adjacent property owner who has been managing the land has expressed a desire to acquire the land.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is bushfire prone. However, the subject land is located in an existing urban area and is not considered a high fire risk area, being approximately 200m from the area of most significant hazard. Notwithstanding, there is vegetation on and around the site. While the intent of the reclassification is not for additional residential development, any future residential development of the land will need to comply with Planning for Bushfire Protection 2019.</p> <p>The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated and there is no watercourse in the vicinity of the site. The proposal is considered to be consistent with Action 16.1.</p>
Direction 22: Build socially inclusive, safe and healthy communities	<p>Consistent</p> <p>While the adjoining landowner intends for the land to be used as private open space, there is potential for a secondary dwelling to be constructed on the land. Any future residential development on the land will be required to comply with BASIX commitments for energy efficiency, consistent with Action 22.4.</p>
Direction 24: Deliver greater housing supply and choice	<p>Consistent</p> <p>As noted above, there is potential for a secondary dwelling to be constructed on the land. The proposal therefore has potential to add to housing supply in the Long Beach area, consistent with this direction.</p>

Direction / Action	Consistency of Planning Proposal
Direction 25: Focus housing growth in locations that maximise infrastructure and services	<p>Consistent</p> <p>The site is intended to be amalgamated with an adjoining lot that is well serviced by existing roads and any future development is able to be connected to water, sewer and stormwater infrastructure, consistent with this direction.</p>

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Encourage greater housing diversity and affordability	<p>Consistent.</p> <p>The proposal has the potential to add to housing supply in the Long Beach area.</p>
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>Future development of the land can be undertaken in a manner that enhances the character of Long Beach.</p>
Promote sustainable living	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency.</p>

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).</p> <p>Any future development on the site will have minimal impact on existing coastal processes in the area and complies with the intent of CMA 3. It is also considered that future development will have no impact on coastal</p>

SEPP	Consistency of Planning Proposal
	<p>amenity and existing views from the coastline and is therefore consistent with CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>The proposal does not anticipate any clearing of vegetation. However, the potential for a secondary dwelling may result in the removal of one tree. As any clearing of vegetation will not exceed the biodiversity offset scheme threshold, it will require a Council permit in accordance with Council's Tree Preservation Code or as part of a development consent.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. *Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?*

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	<p>Partially Inconsistent, but of minor significance.</p> <p>The site is currently zoned C2, however most of the land is a grassed clearing, with only one tree on the site. While the intent of the reclassification is not for additional</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
		residential development, any future residential development can be undertaken with minimal impact on biodiversity. Any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The land is not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>
4.3 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.	<p>Consistent</p> <p>The subject land is bushfire prone. However, the subject land is located in an existing urban area and is not considered a high fire risk area, being approximately 200m from the area of most significant hazard. Notwithstanding, there is vegetation on and around the site. While the intent of the reclassification is not for additional residential development, any future residential development of the land will need to comply with Planning for Bushfire Protection 2019.</p>
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>The proposal potentially facilitates an infill housing opportunity in the form of a secondary dwelling in an existing residential area that is well serviced.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	<p>Consistent.</p> <p>The planning proposal facilitates an opportunity for a small amount of housing diversity on the site, through the reclassification of community to operational land and the rezoning of a portion of the land to R2 Low Density Residential zones.</p> <p>The planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

9. *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 mostly grassed, with one tree. There are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have potential positive economic impacts through the generation of income for re-investment in future Council projects and through the possible construction of new residential development.

Social Impact

There are no known items or places of heritage significance on or adjacent to the site.

The planning proposal has no potential social impact.

Section D – Infrastructure (Local, State and Commonwealth)

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

The property will be consolidated with an adjacent property (Lot 25 DP 250240) which is connected to water, sewer and stormwater infrastructure.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 6

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is operational land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. The title contains a Registrar-General's caveat K20000P which relates to land vested in Council as a public reserve. A caveat restricts certain dealings and is not an interest. Upon the reclassification of the land to operational, Council can request removal of the caveat. No other interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently grassed and has no particular use other than as private open space by an

Issue	Response
	adjoining land owner. There are no structures on the land and no unauthorised uses.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	Not applicable.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 7 – Part of Lot 109 DP 244150 (Catalina Drive, Catalina)

Introduction

The subject land is property at Catalina Drive, Catalina being part of Lot 109 DP 244150. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The allotment has a site area of 2.273ha and is zoned C2 – Environmental Conservation.

The land is currently listed in Council's Catalina Reserves & The Hanging Rock Boat Ramp Car Park Reserve Plan of Management. The reserve category for the subject land is Natural Area – Watercourse.

The site has frontage to Catalina Drive. The subject land is vegetated (as illustrated in Figures 3.1 and 3.2).



Figure 7.1 – View of subject land



Figure 7.2 – View of subject land

The site is surrounded by residential dwellings and a Council reserve, as shown in Figure 7.3.



Figure 7.3: Subject land

The part of the land proposed to be reclassified is shown in Figure 7.4.



Figure 7.4: Area proposed to be reclassified

The subject land is a small portion of the public reserve, at 0.27% of the total area of the lot. The remainder of the public reserve is and will remain a bushland reserve. The loss of part of the public reserve will not reduce local residents' accessibility to local open space. Funds from the sale of the land would be allocated to future Council projects.

There are no easements on the land. A sewer main crosses the site however this is outside of the area proposed to be reclassified. Figure 7.5 shows the location of water, sewer and stormwater infrastructure in relation to the site.

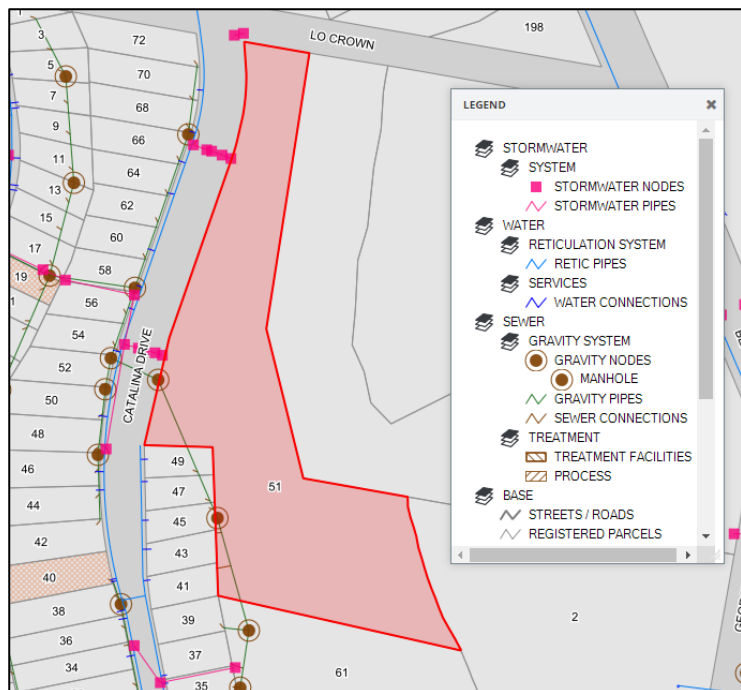


Figure 7.5: Infrastructure Services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended outcomes

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To rectify the encroachment of a driveway to the adjoining residential lot.
- To retain the majority of the public reserve as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 109 DP 244150 (Catalina Drive, Catalina) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R2 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in Appendix 1 and Figures 7.6 to 7.9.

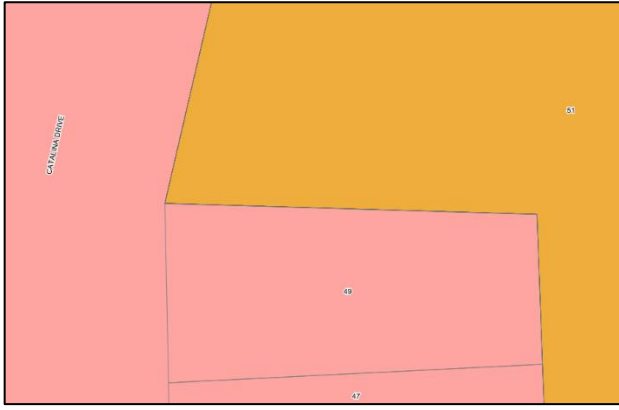


Figure 7.6a: Existing Zone Map

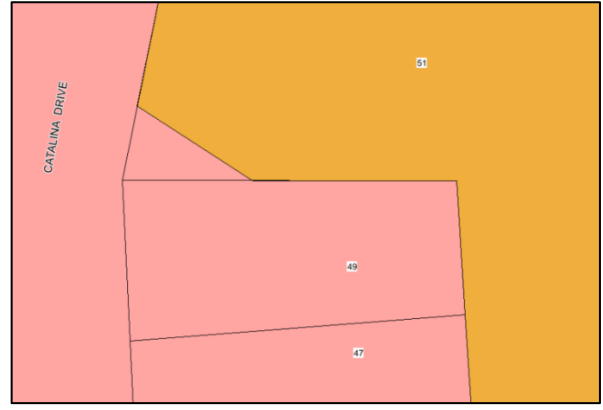


Figure 7.6b: Proposed Zone Map

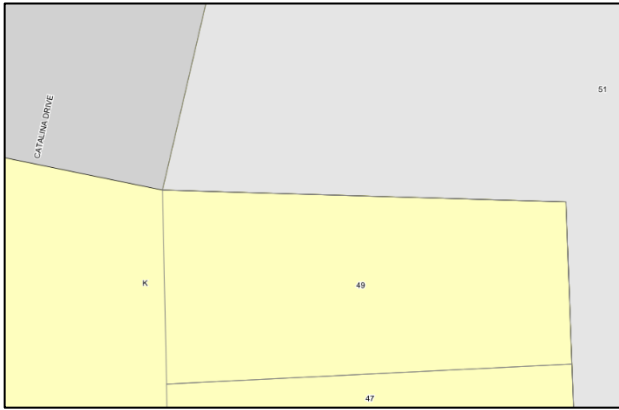


Figure 7.7a: Existing Minimum Lot Size Map

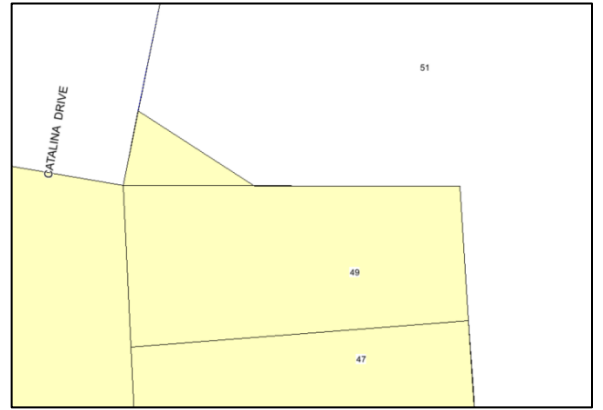


Figure 7.7b: Proposed Minimum Lot Size Map

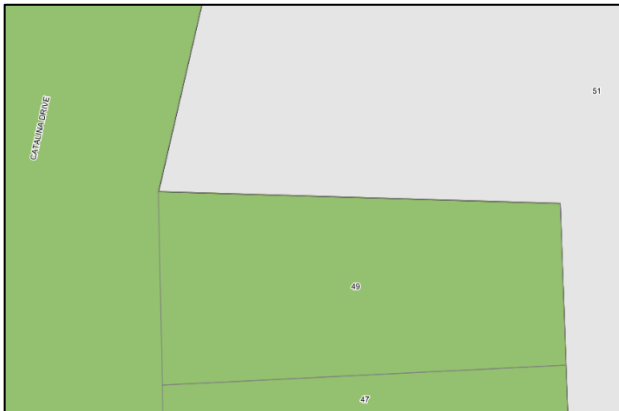


Figure 7.8a: Existing Maximum Building Height Map

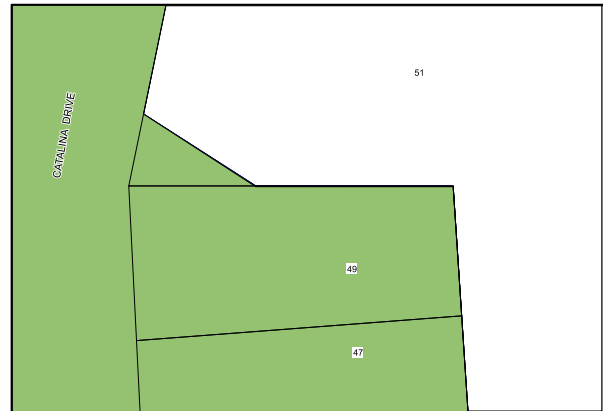


Figure 7.8b: Proposed Maximum Building Height Map

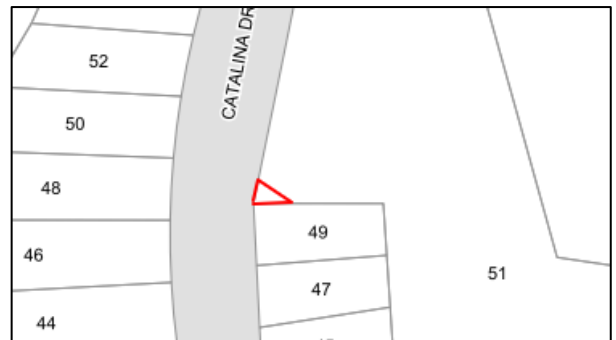


Figure 7.9: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is not the result of any strategic study or report. An adjacent property owner who has been managing the land has expressed a desire to acquire the land.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	<p>Consistent.</p> <p>As the planning proposal will retain the vast majority of existing vegetation on the land and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with Action 14.2.</p> <p>Any proposed fencing along the new boundary can be undertaken with minimal impacts on areas of environmental value, groundwater ecosystems and aquatic habitats. The proposal will have no impact on coastal processes, coastal amenity and existing views from the coastline. The proposal is therefore considered to be consistent with Action 14.3.</p>
Direction 15: Enhance biodiversity connections	<p>Consistent</p> <p>As the planning proposal will retain the vast majority of existing vegetation on the land, an existing biodiversity corridor will be protected, consistent with Action 15.1.</p>
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is bushfire prone. However, as the intent of the reclassification is not for additional residential development, the risk of bushfire impacts is not exacerbated.</p> <p>The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated.</p> <p>Any proposed fencing long the new boundary can be undertaken with adequate setbacks to the watercourse on the land. The proposal is considered to be consistent with Action 16.1.</p>

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Conserve and celebrate bushland and waterways.	Consistent. The planning proposal will retain the existing vegetation and watercourse along the northern boundary of the property.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	Consistent. The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4). As the intent of the reclassification is not for any additional residential development, there will be no impact on existing coastal processes or coastal amenity. It is considered that the proposal complies with the intent of CMA 3 and CMA 4. The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.
SEPP (Biodiversity and Conservation) 2021	Consistent The proposal seeks to regularise an existing driveway encroachment on the land and does not involve any vegetation removal. Any future fencing on the new boundary can be undertaken with minimal environmental impact. On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Consistent As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	Consistent The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	Partially Inconsistent, but of minor significance. The site is currently zoned C2, however; the area of the proposed reclassification contains an existing driveway associated with the adjoining dwelling. The proposal seeks to rezone the driveway area to R2 Low Density Residential and retain the bulk of the reserve as C2 – Environment Conservation. This will ensure that the land not currently used for a driveway is protected and any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	Consistent. The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The land is not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.
4.3 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote	Consistent The subject land is bushfire prone. However, as the intent of the

Ministerial Direction	Aim of the Direction	Consistency and Implications
	the sound management of bushfire prone land.	reclassification is not for additional residential development, the risk of bushfire impacts is not exacerbated.
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	Consistent As the intent of the reclassification is not to facilitate any further residential development, this Direction is not considered relevant to the proposal.
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	Consistent. As the intent of the reclassification is not to facilitate any further residential development, the planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not part of any endangered ecological communities.

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

The area of the proposed reclassification has been developed as a driveway and no vegetation removal is required. There are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have no adverse economic effects.

Social Impact

The small portion of land affected will have no impact on access to, or the use of, the reserve by residents. There are no known items or places of heritage significance on or adjacent to the site.

The planning proposal has no potential social impact.

Section D – Infrastructure (Local, State and Commonwealth)

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

The property will be consolidated with an adjacent property (Lot 110 DP 244150) which is connected to water, sewer and stormwater infrastructure.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 7

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. The title contains a Registrar-General's caveat K20000P which relates to land vested in Council as a public reserve. A caveat restricts certain dealings and is not an interest. Upon the reclassification of the land to operational, Council can request removal of the caveat. No other interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.

Issue	Response
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently used as a driveway to a house on an adjoining lot. This use is unauthorised and this would be rectified by the proposed reclassification.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 8 – Part of Lot 2 DP 1260850 (Ridge Street, Catalina)

Introduction

The subject land is property at Ridge Street, Catalina being part Lot 2 DP 126085. The subject land is classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The allotment has a site area of 2.27ha and is zoned C2 Environmental Conservation.

The land is currently listed in Council's Catalina Reserves & The Hanging Rock Boat Ramp Car Park Reserve. The reserve category for the subject land is Natural Area – Bushland.

The site has frontage to Ridge Street, Catalina. The subject land contains a mix of grassed areas, garden and trees (as illustrated in Figures 8.1 and 8.2). Part of the proposed boundary is already fenced.



Figure 8.1 – View of subject



Figure 8.2 – View of subject land

The site is surrounded by residential dwellings and a Council reserve as shown in Figure 8.3.

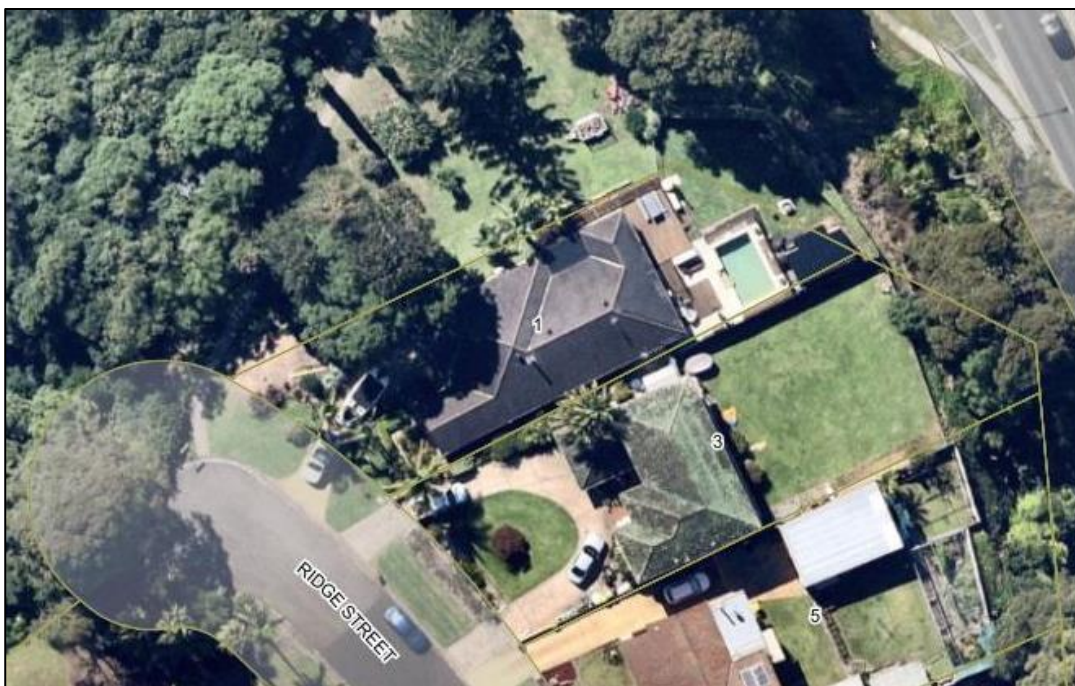


Figure 8.3: Subject land

The part of the land proposed to be reclassified is shown in Figure 8.4.



Figure 8.4 Area proposed to be reclassified (area within red line north of house lot)

The subject land is a small portion of the lot, at 3.7% of the total area of the lot. The remainder of the will remain a bushland reserve. The loss of open space will not reduce local residents' accessibility to local open space. Funds from the sale of the land would be allocated to future Council projects.

There are no easements on the land. A sewer main crosses the site and this will be within the area proposed to be reclassified. An easement over the sewer line will be required. The sewer main and easement effectively prevents further development of structures on the land. Figure 7.5 shows the location of water, sewer and stormwater infrastructure in relation to the site.

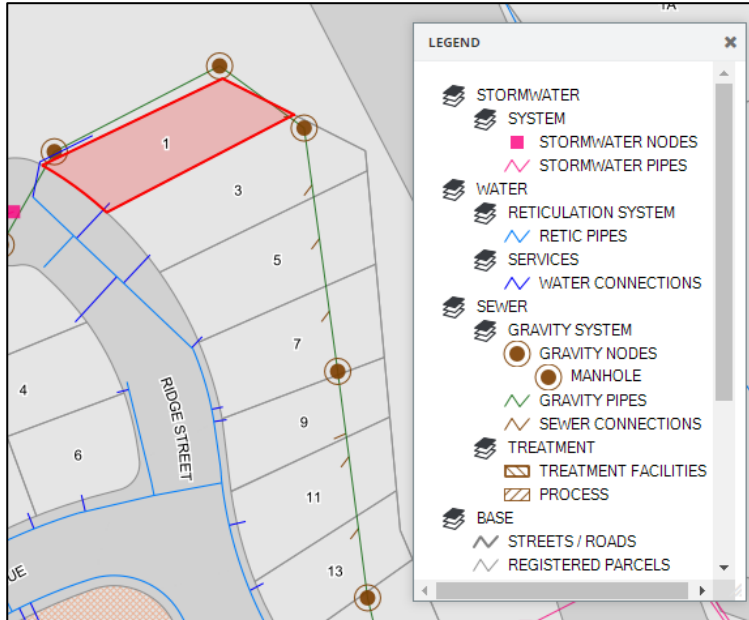


Figure 8.5: Infrastructure Services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land.

Intended outcomes

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To rectify encroachments of gardens, fencing, retaining walls and a shed on the reserve.
- To retain the majority of lot as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 2 DP 1260850 (Ridge Street, Catalina) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R2 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the maps in Appendix 1 and Figures 8.6 to 8.9.

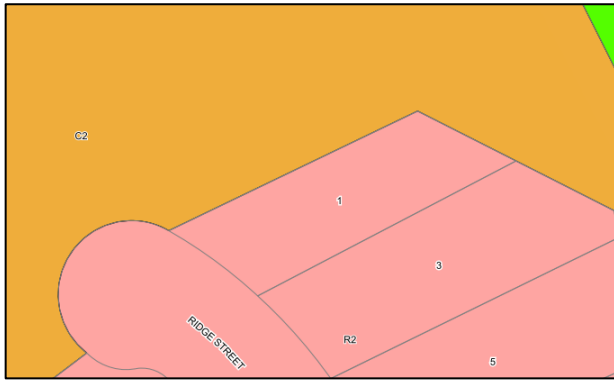


Figure 8.6a: Existing Zone Map

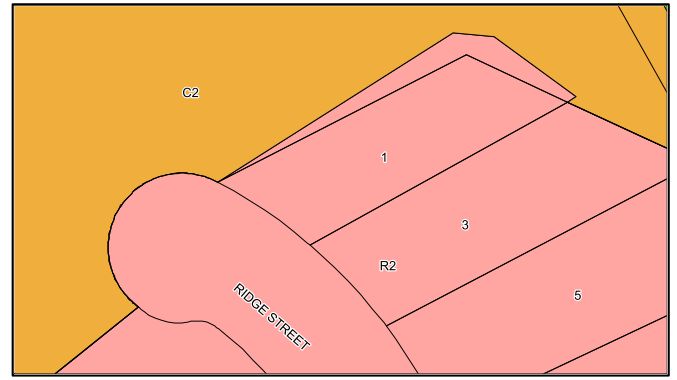


Figure 8.6b: Proposed Zone Map

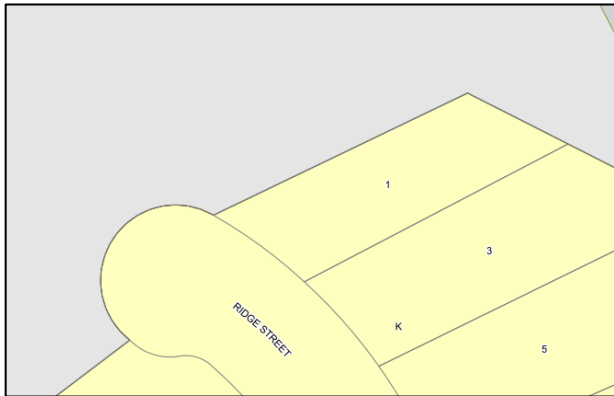


Figure 8.7a: Existing Minimum Lot Size Map

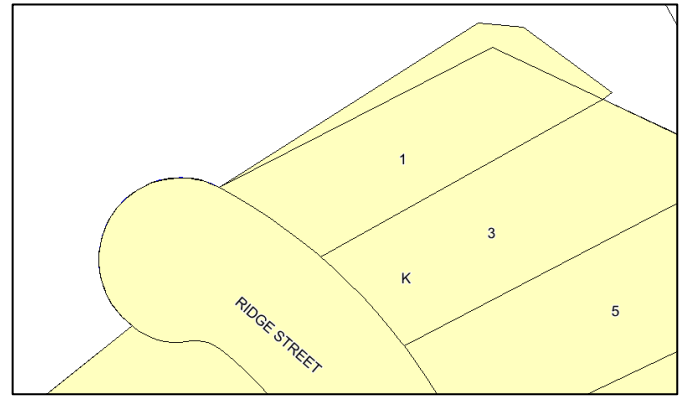


Figure 8.7b: Proposed Minimum Lot Size Map

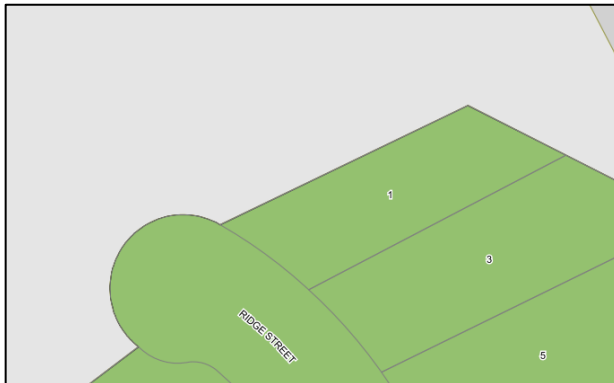


Figure 8.8a: Existing Maximum Building Height Map

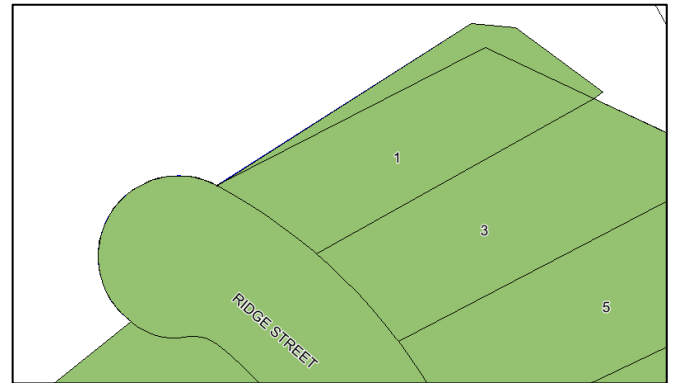


Figure 8.8b: Proposed Maximum Building Height Map

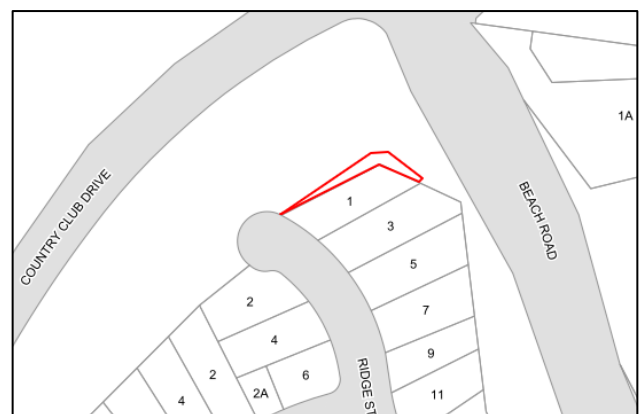


Figure 8.9: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The planning proposal is not the result of any strategic study or report. The adjacent property owner, who has been managing the land has expressed a desire to acquire the portion and consolidate it with their property.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	Consistent. As the planning proposal will retain the vast majority of existing vegetation on the land and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with Action 14.2. Any additional fencing of the new boundary can be undertaken with minimal impacts on areas of environmental value, groundwater ecosystems and aquatic habitats. The proposal will have no impact on coastal processes, coastal amenity and existing views from the coastline. The proposal is therefore considered to be consistent with Action 14.3.
Direction 15: Enhance biodiversity connections	Consistent As the planning proposal will retain the vast majority of existing vegetation on the land, an existing biodiversity corridor will be protected, consistent with Action 15.1.
Direction 16: Protect the coast and increase resilience to natural hazards	Consistent The subject land is not bushfire prone or susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated and there are no watercourses in the vicinity of the site. The proposal is considered to be consistent with Action 16.1.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Conserve and celebrate bushland and waterways.	Consistent. The planning proposal will retain the existing vegetation and watercourse along the northern boundary of the property.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	Consistent. The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4). As the intent of the reclassification is not for any additional residential development, there will be no impact on existing coastal processes or coastal amenity. It is considered that the proposal complies with the intent of CMA 3 and CMA 4. The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.
SEPP (Biodiversity and Conservation) 2021	Consistent The proposal seeks to regularise existing gardens, fencing, retaining walls and part of a shed that encroach onto the land and does not involve any vegetation removal. Any additional fencing on the new boundary can be undertaken with minimal environmental impact. On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	<p>Consistent</p> <p>As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.</p>
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.</p>
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	<p>Consistent</p> <p>The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.</p>
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	<p>Partially Inconsistent, but of minor significance.</p> <p>The site is currently zoned C2, however; the area of the proposed reclassification contains existing gardens, retaining walls, fencing and part of a shed associated with the adjoining dwelling. The proposal seeks to rezone the garden area to R2 Low Density Residential and retain the bulk of the reserve as C2 – Environment Conservation. This will ensure that the land not currently used as a garden is protected and any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.</p>
4.2 Coastal Management	To protect and manage coastal areas of NSW.	<p>Consistent.</p> <p>The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The proposal does not facilitate additional residential development. The land is not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.</p>

Ministerial Direction	Aim of the Direction	Consistency and Implications
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	Consistent As the intent of the reclassification is not to facilitate any further residential development, this Direction is not considered relevant to the proposal.
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	Consistent. The proposal does not facilitate additional residential development. The planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

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

The area of the proposed reclassification has been developed as private open space associated with the adjoining dwelling and no vegetation removal is required. There are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have no adverse economic effects.

Social Impact

The small portion of land affected will have no impact on access to, or the use of, the reserve by residents. There are no known items or places of heritage significance on or adjacent to the site.

The planning proposal has no potential social impact.

Section D – Infrastructure (Local, State and Commonwealth)

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

The property will be consolidated with an adjacent property (Lot 1 DP 27222) which is connected to water, sewer and stormwater infrastructure.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 8

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is not a public reserve. The public reserve status of the land is not identified on the title search or deposited plan.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land is not a public reserve. No other interests have been identified or would be discharged.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of the land as open space will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently grassed and garden area primarily used as private open space by the adjoining land owner. A shed encroaches on the land and various unauthorised retaining walls and fences exist on the land. The proposed

Issue	Response
	reclassification will rectify these unauthorised structures.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 9 – Lot 5 DP520413 and Part of Lot C DP 327917 (Beach Road, Batehaven)

Introduction

The subject land is property at Beach Road, Batehaven being Lot 5 DP520413 and a 252sqm part of Lot C DP 327917. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The land has a site area of 353.5sqm and is zoned C2 – Environmental Conservation.

The land is currently listed in Council's Natural Areas and Undeveloped Reserves Plan of Management. The primary reserve category for Lot 5 DP 520413 is Natural Foreshore with a secondary category of Natural Bushland. For Lot C DP 327917 the primary category is General Community Use – Undeveloped and the secondary category is Natural Foreshore / Natural Bushland.

The site has no street frontage and is a steep bank from the adjacent properties down to the beach. The subject land is vegetated and is a steep bank (as illustrated in Figures 9.1 and 9.2).

Lot 5 DP 520413 is identified on the DP as a pathway, though the land no longer serves this purpose. Lot C DP 327917 is identified on the DP as Public Garden and Recreation Space.



Figure 9.1 – View of subject land (Lot 5)



Figure 9.2 – View of subject land (Lot 5 and C)

The site is bound by residential dwellings and the foreshore as shown in Figures 9.3 and 9.4.



Figure 9.3 – Location of subject land (Lot 5)



Figure 9.4 – Location of subject land (Lot C)

The subject land is a relatively small portion of the larger public reserve network from Corrigans Beach to Observation Point. The loss of part of the larger public reserve will not reduce public access along the foreshore. The loss of part of the public reserve will not reduce local residents' accessibility to local open space. Funds from the sale of the land would be allocated to future Council projects.

LEGEND

- STORMWATER
 - SYSTEM
 - STORMWATER NODES
 - STORMWATER PIPES
- WATER
 - RETICULATION SYSTEM
 - RETIC VALVES (LABEL)
 - RETIC PIPES
 - RETIC PIPES (LABEL)
- SERVICES
 - WATER CONNECTIONS
- SEWER
 - GRAVITY SYSTEM
 - GRAVITY NODES
 - MANHOLE
 - GRAVITY PIPES
 - SEWER CONNECTIONS
- TREATMENT
 - TREATMENT FACILITIES
 - PROCESS
- BASE

111

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell the whole of Lot 5 DP520413 and part of Lot C DP 327917.

Intended outcomes

The intended outcomes for this item are:

- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to an adjoining property owner for amalgamation with the adjoining lot.
- To facilitate the stabilisation of the land by the adjoining land owners.
- To retain the majority of the public reserve as community land.
- To support the re-investment of funds into future Council projects.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being Lot 5 DP520413 and part of Lot C DP 327917 (Beach Road, Batehaven) from community to operational land
- Amend the Eurobodalla LEP 2012 Zone Map in relation to the subject land from C2 Environmental Conservation to R2 Low Density Residential
- Amend the Eurobodalla LEP 2012 Minimum Lot Size Map in relation to the subject land to provide a minimum lot size of 550sqm (K)
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the maps in Appendix 1 and Figures 9.7 to 9.10.

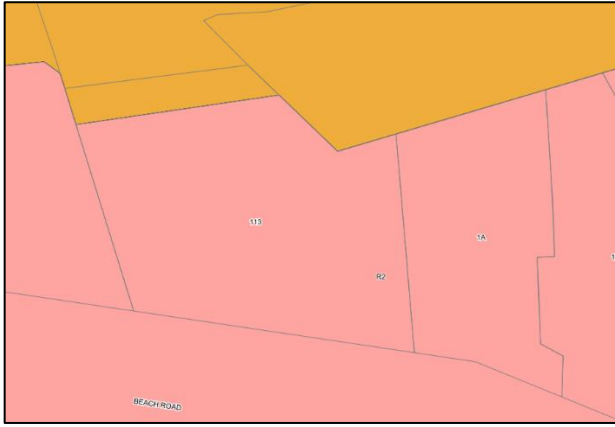


Figure 9.7a: Existing Zone Map

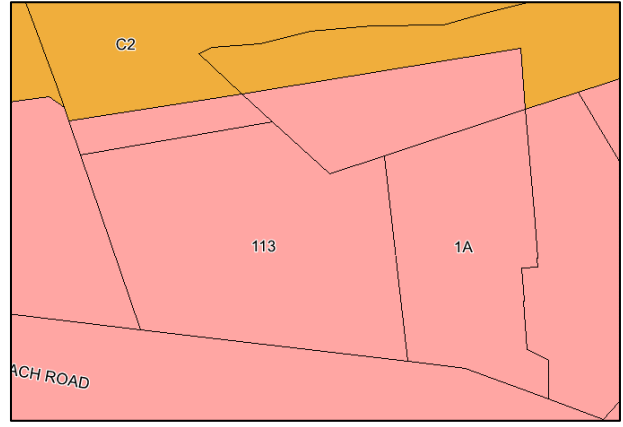
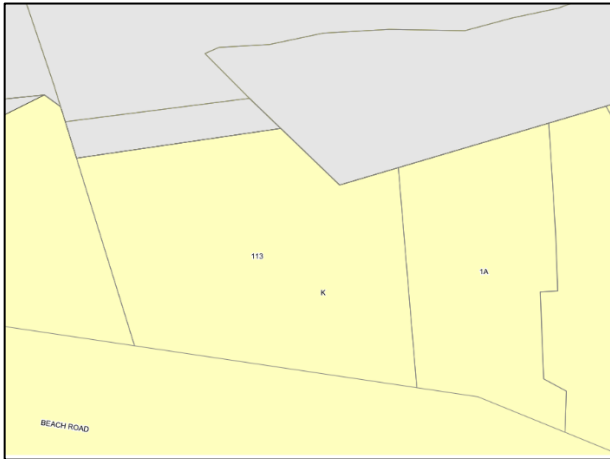


Figure 9.7b: Proposed Zone Map



**Figure 9.8a: Existing Minimum Lot Size Map
(what is blue colour?)**

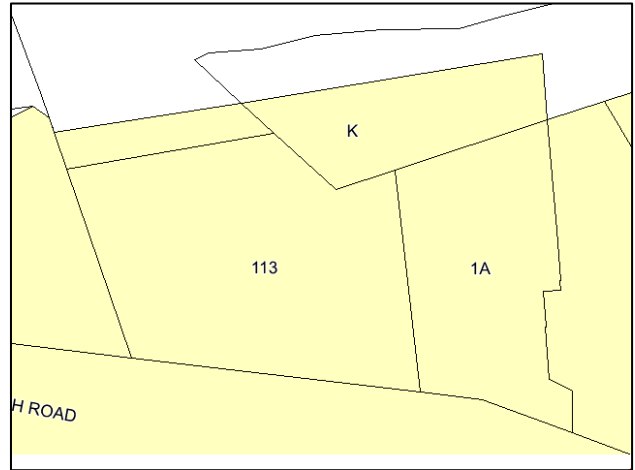


Figure 9.8b: Proposed Minimum Lot Size Map



Figure 9.9a: Existing Maximum Building Height Map

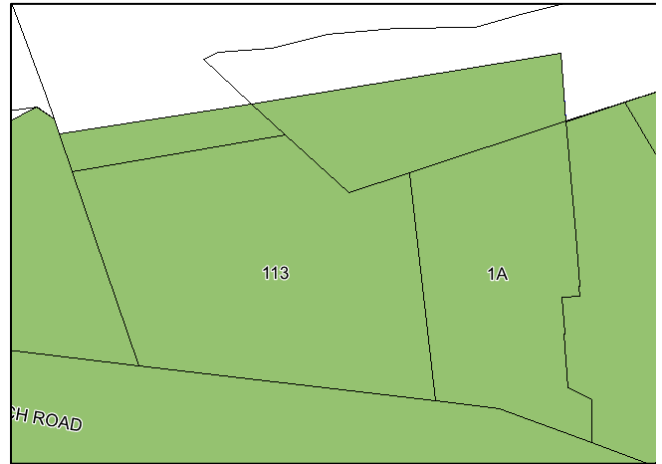


Figure 9.9b: Proposed Maximum Building Height Map

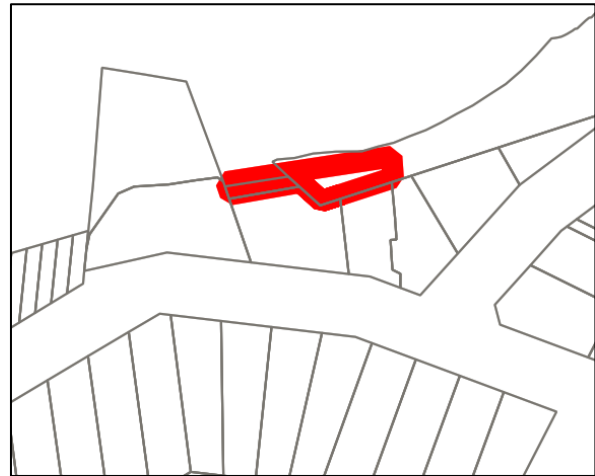


Figure 9.10: Proposed Land Reclassification (part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is not the result of any strategic study or report. Adjacent property owners, one of whom has been managing part of Lot C, have expressed a desire to acquire the land.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is not bushfire prone land or susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated and there are no watercourses in the vicinity of the land.</p> <p>The land has been subject to landslip. Stabilisation of the land by the adjoining landowners will minimise the risk of future landslips, protecting both the dwellings on the adjoining lots and the coastal environment.</p> <p>The proposal is considered to be consistent with Action 16.1.</p>

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>The planning proposal will facilitate the stabilisation of the land to protect the coastal environment.</p>

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).</p> <p>The intent of the reclassification is not for any additional residential development, but to stabilise the bank for protection of the dwellings on the adjoining lots and the coastline. The planning proposal will have no detrimental impacts on existing coastal processes or coastal amenity. It is considered that the proposal complies with the intent of CMA 3 and CMA 4.</p> <p>The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Consistent</p> <p>The existing vegetation on the bank is a mixture of invasive species such as introduced grasses and weeds. The proposal is seeking to facilitate stabilisation of the bank through vegetation and retaining walls. NO native vegetation is proposed to be removed.</p> <p>On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.</p>

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Consistent As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	Consistent The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.
3.1 Conservation Zones	To protect and conserve environmentally sensitive areas.	Partially Inconsistent, but of minor significance. The site is currently zoned C2, however; the area of the proposed reclassification contains non-native vegetation. The proposal seeks to rezone the subject areas to R2 Low Density Residential, retaining the bulk of the natural area as C2 – Environment Conservation. This will ensure that the land with native vegetation is protected and any inconsistency with the Ministerial Direction is considered justified on the grounds that it is minor in nature.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	Consistent. The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. While the proposal will enable increased development, it not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.

Ministerial Direction	Aim of the Direction	Consistency and Implications
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	Consistent As the intent of the reclassification is not to facilitate any further residential development, this Direction is not considered relevant to the proposal.
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	Consistent. As the intent of the reclassification is not to facilitate any further residential development, the planning proposal will have no significant impacts on housing choice, infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

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

While the site is vegetated, none of the vegetation is remnant. There are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have no adverse economic effects.

Social Impact

The small portion of land affected will have no impact on access to, or the use of, the beach reserve by residents. The planning proposal maintains public access along the beach as it exists.

The proposal will facilitate infrastructure and landscaping development consistent with adjacent development to the north.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is to be consolidated with adjacent residential lots which are well serviced by existing roads, having frontage to Beach Road.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 9

Issue	Response
The current and proposed classification of the land.	<p>The subject land is classified community land.</p> <p>The proposed classification for Lot 5 DP520413 is operational land.</p> <p>The proposed classification of Lot C in DP327917 is part operational land and part community land.</p>
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	<p>The land will cease to be a public reserve. The title for DP520413 contains a Registrar-General's caveat K20000P which relates to land vested in Council as a public reserve. A caveat restricts certain dealings and is not an interest. Upon the reclassification of the land to operational, Council can request removal of the caveat. There are no other interests to be discharged.</p>
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged.	<p>The proposal will result in the loss of open space. However, the land adjoins similar open space, being the Pretty Bay reserve, which provides a similar recreation opportunity for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.</p>

Issue	Response
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document for DP 520413 and the Government Gazette notice for Lot C DP327917 are provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is currently garden area associated with the adjoining residential properties. There are no structures or unauthorised uses.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested into future Council projects.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	The funds will be deposited in Council's Real Estate Disposal Fund for future Council projects.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 10 – Lot 56 DP 849895 (Blairs Road, Long Beach)

Introduction

The subject land is property at Blairs Road, Long Beach being Lot 56 DP 849895. The subject land is currently a public reserve and classified as community land in accordance with Sections 25 and 26 under the *Local Government Act 1993*. The allotment has a site area of 2.6Ha, is zoned RE1 Public Recreation and is currently used to accommodate a water reservoir and a telecommunications installation.

The land is currently listed in Council's Natural Areas and Undeveloped Reserves Plan of Management. The reserve category for the subject land is Natural Bushland.

The site has frontage to Blairs Road to the south and Litchfield Crescent to the north. The subject land is vegetated outside of the water reservoir area (as illustrated below).



Figure 10.1 – View of subject land



Figure 10.2 – View of subject land

The site is surrounded by residential dwellings as shown in Figure 10.3.



Figure 10.3: Subject land

The subject land will remain in public ownership and will continue to be used for operational purposes. The loss of part of the public reserve will not reduce local residents' accessibility to local open space.

The land contains a water reservoir and water mains. Sewer mains follow the boundaries of the site. Figure 10.5 shows the location of water, sewer and stormwater infrastructure in relation to the site.

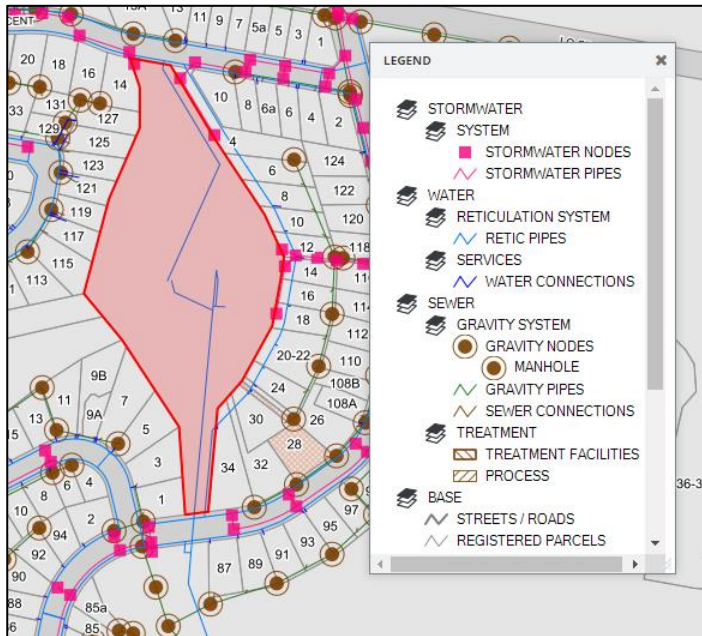


Figure 10.5: Infrastructure Services

PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to recognise the existing operational use of the land.

Intended outcomes

The intended outcomes for this item are:

- To recognise the existing operational use of the land by Council.
- To retain the land in public ownership.

PART 2: EXPLANATION of PROVISIONS

Intended Provisions

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being Lot 56 DP 849895 (Blairs Road, Long Beach) from community to operational land.

There are no map amendments associated with this item.

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

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

The planning proposal is not the result of any strategic study or report. Its purpose is to classify the land appropriate to its current use.

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

There is no alternative method to achieve the objective of the planning proposal.

Section B- RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	Consistent. The subject land is identified on the Biodiversity Values Map as containing important biodiversity. However, as the planning proposal seeks to recognise existing infrastructure on the land and will retain the existing RE1 zoning, there will be no impact on existing biodiversity as a result of the planning proposal. The proposal is consistent with Actions 14.2 and 14.3.

Direction 15: Enhance biodiversity connections

Consistent

The subject land is identified on the Biodiversity Values Map as containing important biodiversity. However, as the planning proposal seeks to recognise existing infrastructure on the land and will retain the existing RE1 zoning, there will be no impact on existing biodiversity as a result of the planning proposal. The proposal is consistent with Action 15.1.

Direction 16: Protect the coast and increase resilience to natural hazards

Consistent

The subject land is bushfire prone. However, as the intent of the reclassification is not for residential development, the risk of bushfire impacts is not exacerbated.

The land is not susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated. The proposal is considered to be consistent with Action 16.1.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority

Consistency of Planning Proposal

Conserve and celebrate bushland and waterways.

Consistent.

The planning proposal will retain the existing vegetation on the land.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP

Consistency of Planning Proposal

SEPP (Resilience and Hazards) 2021

Consistent.

The site is identified in two Coastal Management Areas (CMA), being Coastal Environment Area (CMA 3) and Coastal Use Area (CMA 4).

As the intent of the reclassification is to recognise existing infrastructure on the land, the proposal is

considered to be consistent with the intent of CMA 3 and CMA 4.

The subject land has no known history other than as open space/vegetated land and water reservoir. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.

SEPP (Biodiversity and Conservation) 2021

Consistent

As the proposal is not seeking to facilitate further development on the site, no vegetation removal is required.

On this basis, it is considered the planning proposal is consistent with the objectives and intent of this SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Consistent As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	Consistent The planning proposal does not seek to change the zone of the land or any development standards that currently apply to the land.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	Consistent. The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas, as described previously in the report. The subject land is not located within

Ministerial Direction	Aim of the Direction	Consistency and Implications
		a coastal vulnerability area or within a coastal wetland or littoral rainforest.
4.3 Planning for Bushfire Protection	To protect life, property and the environment from the effects of bushfire and to promote the sound management of bushfire prone land.	<p>Consistent</p> <p>The subject land is bushfire prone. However, as the intent of the reclassification is not for residential development, the risk of bushfire impacts is not exacerbated.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

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

The site has no identified critical habitat or threatened species and the land is not identified as endangered ecological communities.

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

The subject land is identified on the Biodiversity Values Map as containing important biodiversity. However, as the planning proposal seeks to recognise existing infrastructure on the land and will retain the existing RE1 zoning, there are no likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have no adverse economic effects.

Social Impact

The planning proposal will ensure public access to the reserve is retained.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is well serviced by existing roads, having frontage to Blairs Road and Litchfield Crescent. The property can be easily connected to water, sewer and stormwater infrastructure if required.

Section E- State and Commonwealth Interest

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Council will consult with all relevant State and Commonwealth Agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART4: MAPS

There are no map amendments associated with this item.

Practice Note PN 16-001 Checklist for Item 10

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land is a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	The land will cease to be a public reserve. No interests would be discharged. Current leases for telecommunications would be retained.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	The proposal will result in the loss of existing open space. However, the land adjoins open space which provides a recreation opportunity for local residents. The loss of the land as public reserve will not reduce local residents' accessibility to local open space.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	The land is contains a mix of grassed and vegetated areas and a part of the land contains a water reservoir and telecommunications devices.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	The title search document shows two leases over the land to Telstra and Optus. It is noted that the

Issue	Response
	leases have expired. It is intended to renew these leases.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The land is not proposed to be sold. Leases to Telstra and Optus will be renewed.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The rezoning proposed with the reclassification is consistent with local and regional strategies as outlined in Part 3 above.
How council may or will benefit financially, and how these funds will be used.	Not applicable.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	Not applicable
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

ITEM 11 – Part of Lot 74 DP776541 (9 Moir Place, Broulee)

Introduction

The subject land is known as 9 Moir Place, Broulee, being part of Lot 74 DP776541. The subject land is a public reserve and classified as community land in accordance with Sections 25 and 26 of the *Local Government Act 1993*. The land is currently zoned R2 – Low Density Residential. The area of the subject land is 659sqm.

The land is currently listed in Council’s Broulee and Mossy Point Community Land Plan of Management. The reserve category for the subject land is General Community Use.

The property is between Moir Place and Banksia and Pacific Streets. The subject land contains some remnant vegetation including large eucalyptus trees and managed gardens (as illustrated in Figures 11.1 and 11.2).



Figure 11.1 – View of subject land from Moir Place looking east



Figure 11.2 – View of subject land from Banksia Street looking west

The site is predominantly surrounded by single-storey residential dwellings. The location of the land is shown in Figure 11.3 below.



Figure 11.3: Subject land

The subject land is in the vicinity of open space including:

- Captain Oldrey Park which is classified as district open space and provides walking and sporting opportunities.
- North Broulee Beach
- Shared pathway along the length of Coronation Drive

The subject land is surplus to community needs (Eurobodalla's Recreation and Open Space Strategy 2018). While there is sufficient pedestrian connectivity in the vicinity, the action in the Eurobodalla Recreation and Open Space Strategy 2018 suggests it should remain a pedestrian route. This proposal retains a 6 metre wide strip that encompasses the informal pathway as community land.

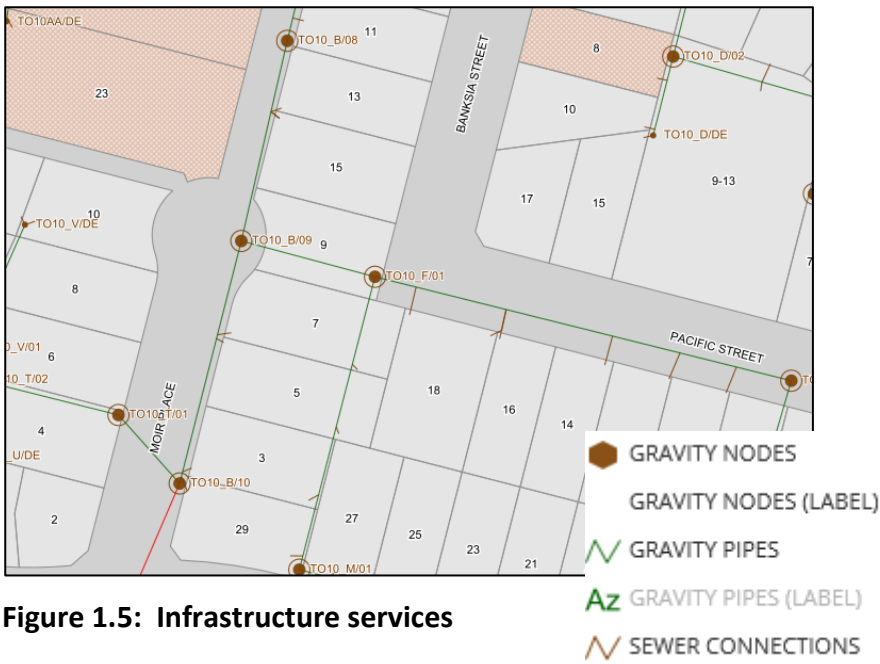
The loss of the public open space either side of the pathway will not reduce local residents' accessibility to local open space or pedestrian connectivity. Funds from the sale of the land would be reinvested back into the local open space network.

The part of the land proposed to be reclassified is shown in Figure 11.4 below.



Figure 11.4: Area of subject land proposed to be reclassified that retains a 6 metre wide strip over the sewer and informal pedestrian connection.

The land contains a sewer pipe as shown in Figure 11.5 below. Development within the zone of influence (i.e. about 10 metres either side of the sewer) must consider the sewer e.g. appropriate footings. There is an easement 4 metres wide over the sewer pipe. Three metres either side of the centreline of the sewer (6 metres in total) would not be reclassified. This would continue to be community land and provide an opportunity for pedestrian connectivity.



PART 1: OBJECTIVES AND INTENDED OUTCOMES

Objective

To amend the *Eurobodalla Local Environmental Plan 2012* to enable Council to sell part of the subject land to adjoining landholders for private open space, if requested in the future.

Intended Outcome

The intended outcomes for this item are:

- To implement the recommendations of the Eurobodalla Recreation and Open Space Strategy 2018.
- To facilitate the disposal of land that is deemed to be surplus to community needs for recreation and open space.
- To enable the sale of the subject land to adjoining landholders.
- To retain the 6 metre wide strip over the sewer as community land.
- To support the re-investment of funds into other open space and recreation facilities in the local area.

PART 2: EXPLANATION of PROVISIONS

The intended provisions for this item are as follows:

- Amend Schedule 4 of the Eurobodalla LEP 2012 to identify the land to be reclassified, being part of Lot 74 DP776541 (9 Moir Place, Broulee) from community to operational land
- Amend the Eurobodalla LEP 2012 Height of Buildings Map in relation to the subject land to provide a maximum building height of 8.5m (I)
- Amend the Eurobodalla LEP 2012 Land Reclassification (Part Lots) Map to identify that part of the subject land proposed to be reclassified.

The intended provisions are described in the in Appendix 1 and Figures 11.6 to 11.7.

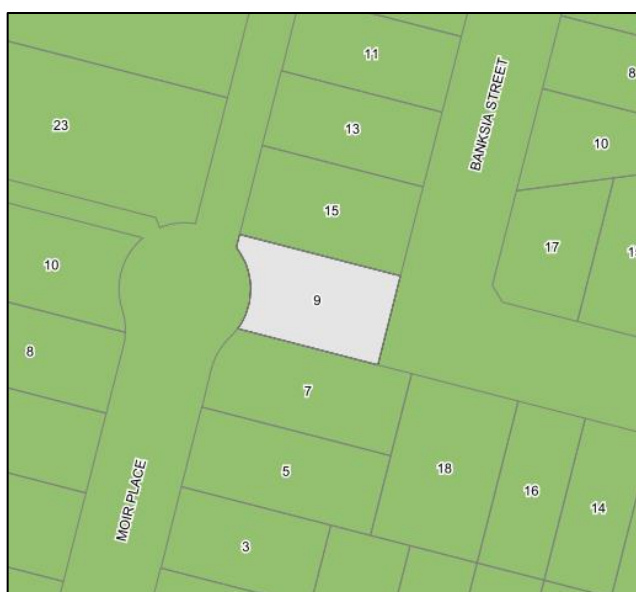


Figure 11.6a: Existing Maximum Building Height Map

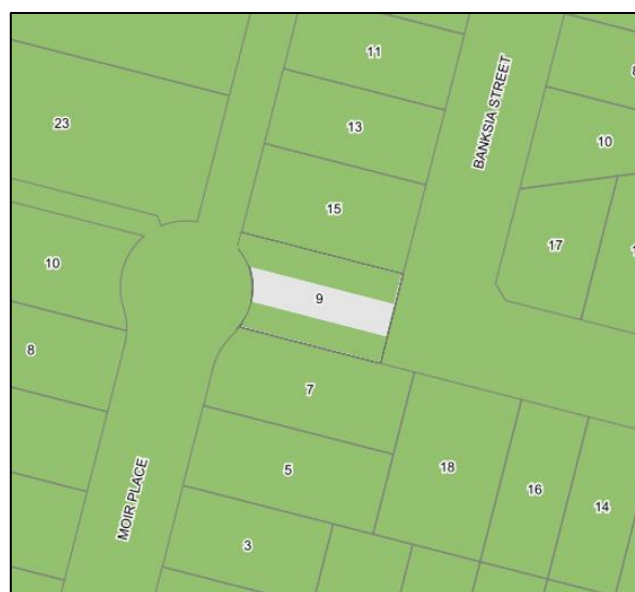


Figure 11.6b: Proposed Maximum Building Height Map



Figure 11.7: Proposed Land Reclassification (Part Lots) Map

PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A - Need for the planning proposal

13. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The planning proposal is the direct result of the open space assessment and subsequent recommendations made in Eurobodalla's Recreation and Open Space Strategy 2018 (ROSS), adopted by Council on 27 February 2018. The ROSS states that Lot 74 DP 776541 has little recreation or conservation value and is appropriate for reclassification and sale. The relevant action of the ROSS (page 122) is as follows:

Goal: redistribution of assets

Sections of the open space network have no recreation or conservation value. Funds from the rationalisation of these assets can be reinvested back into the open space network

- | | | |
|----|---|--------------------------|
| C6 | Investigate the division of Lot 74, DP 776541 (9 Moir Place Broulee) to: | High
Priority |
| | <ul style="list-style-type: none"> • retain the section with utility infrastructure and community pathway, and • offer the remaining land at market rate to the owners of the adjoining properties, 7 Moir Place and 15 Banksia Street. | |

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

There is no alternative method to achieve the objective of the planning proposal.

Section B – Relationship to the strategic planning framework

15. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

As outlined below, the planning proposal is consistent with the [South East and Tablelands Regional Plan 2036](#).

Direction / Action	Consistency of Planning Proposal
Direction 14: Protect important environmental assets	<p>Consistent.</p> <p>The planning proposal would not directly impact important environmental assets. Future development of the land can be undertaken with minimal impacts on vegetation. The proposal is therefore considered to be consistent with Action 14.3.</p>
Direction 15: Enhance biodiversity connections	<p>Consistent</p> <p>The site provides low quality opportunity for biodiversity connections.</p>
Direction 16: Protect the coast and increase resilience to natural hazards	<p>Consistent</p> <p>The subject land is not bushfire prone land or susceptible to flooding or coastal erosion or inundation. The subject land is not known to be contaminated. The proposal is considered to be consistent with Action 16.1.</p>
Direction 22: Build socially inclusive, safe and healthy communities	<p>Consistent</p> <p>Future residential development on the land will be required to comply with BASIX commitments for energy efficiency, consistent with Action 22.4.</p> <p>Retaining the pedestrian connectivity contributes to social cohesion and walkability in Broulee.</p>
Direction 24: Deliver greater housing supply and choice	<p>Consistent</p> <p>The proposal could add to future housing supply and choice, consistent with this direction. If adjoining landholders purchase part of the lot in the future, they may be able to subdivide or build a multi-unit dwelling subject to planning approval.</p>
Direction 25: Focus housing growth in locations that maximise infrastructure and services	<p>Consistent</p> <p>The site is well serviced by existing roads and future development can be connected to water, sewer and stormwater infrastructure, consistent with this direction.</p>

16. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

As outlined below, the planning proposal is consistent with Council's Local Strategic Planning Statement.

Planning Priority	Consistency of Planning Proposal
Encourage greater housing diversity and affordability	<p>Consistent.</p> <p>The proposal could result in future development that leads to housing diversity or affordability. Funds would be used for open space projects that improves the liveability of Eurobodalla.</p>
Enhance the distinctive character and heritage of towns, villages and hamlets	<p>Consistent</p> <p>Future use of the site will not detract from the character of Broulee as a coastal village and residential area.</p>
Conserve and celebrate bushland and waterways.	<p>Consistent.</p> <p>If land is sold to adjoining landholders in the future, minimal vegetation removal is expected for future development over the zone of influence. Vegetation removal not associated with a planning approval would need to be in accordance with the Biodiversity and Conservation SEPP e.g. for use as private open space.</p>
Promote sustainable living	<p>Consistent</p> <p>Future residential development on the small area of land that is outside the zone of influence of the sewer will be required to comply with BASIX commitments for energy efficiency.</p>

17. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other applicable State or regional studies or strategies.

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

An assessment of the relevant State Environmental Planning Policies against the planning proposal is provided in the table below.

SEPP	Consistency of Planning Proposal
SEPP (Resilience and Hazards) 2021	<p>Consistent.</p> <p>The site is identified in two Coastal Management Areas (CMA), being the Coastal Environment Area (CMA 3) and the Coastal Use Area (CMA 4).</p> <p>Future development of the site can be undertaken with minimal impact on existing coastal processes in the area and complies with the intent of CMA 3. It is also considered that future development will have minimal</p>

impact on coastal amenity and existing views from the coastline and is therefore consistent with CMA 4.

The subject land has no known history other than as open space and vegetated land. It is therefore not considered to be contaminated land. No further assessment of potential contamination is considered warranted.

SEPP (Biodiversity and Conservation) 2021

Consistent

As the planning proposal will retain the existing vegetation along the northern boundary of the property and retain it as community land and zoned C2 – Environmental Conservation, it is consistent with the objectives and intent of *SEPP (Biodiversity and Conservation) 2021*.

19. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

An assessment of relevant s9.1 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
1.1 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Consistent As outlined in Section B above, the planning proposal is consistent with the South East and Tablelands Regional Plan.
1.3 Approval and Referral Requirements	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not contain provisions requiring concurrences, consultations or referrals and does not identify designated development.
1.4 Site Specific Provisions	To discourage unnecessarily restrictive site specific planning controls	Consistent The planning proposal seeks to apply a zone and development standards that are already contained in the LEP.
4.2 Coastal Management	To protect and manage coastal areas of NSW.	Consistent. The proposal is consistent with <i>SEPP (Resilience and Hazards) 2021</i> and the relevant coastal management areas. While the proposal will

Ministerial Direction	Aim of the Direction	Consistency and Implications
		enable increased development, it not located within a coastal vulnerability area or within a coastal wetland or littoral rainforest.
5.1 Integrating Land Use and Transport	To ensure that development improves access to housing, jobs and services, reduce dependence on cars and travel demand, supports public transport and efficient freight movements.	<p>Consistent</p> <p>The proposal facilitates infill housing opportunities in an existing residential area that is well serviced.</p>
5.2 Reserving Land for Public Purposes	To facilitate the provision of public services and facilities and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<p>Consistent</p> <p>In accordance with 5.2(1) of the direction, this planning proposal requests the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) to reduce the reservation of land for public purposes.</p>
6.1 Residential Zones	To encourage a variety and choice of housing types, to make efficient use of existing infrastructure and services and to minimise the impact of residential development on the environment and resource lands.	<p>Consistent.</p> <p>The planning proposal facilitates an opportunity for a small amount of housing diversity on the site, through the reclassification of community to operational land that is already zoned R2 Low Density Residential zone.</p> <p>The planning proposal will not have significant impacts infrastructure and services or the environment and therefore the planning proposal is considered consistent with the direction.</p>

Section C- ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

20. 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?

There is no critical habitat or threatened species, populations or ecological communities, or their habitats on this land.

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

There are no other likely environmental effects as a result of this planning proposal.

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

Economic Impact

The planning proposal will have positive economic impacts through the generation of income for re-investment in local open space.

Social Impact

The partial reclassification of Lot 74 DP 776541 could result in infill development that would provide further housing choice in the area. The pedestrian connectivity is not impacted by the planning proposal or possible future development.

There are no known items or places of heritage significance on or adjacent to the site.

Section D – Infrastructure (Local, State and Commonwealth)

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

The site is well serviced by existing roads, being Moir Place, and Banksia and Pacific Streets. Further, the property can be connected to nearby water, sewer and stormwater infrastructure to support future residential development.

Section E- State and Commonwealth Interest

24. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Council will consult with all relevant State and Commonwealth agencies when the planning proposal is placed on public exhibition and will take into consideration any comments made prior to finalising the proposal.

PART 4: MAPS

Maps of the proposed changes to Eurobodalla LEP 2012 are provided in Part 2 above and in Appendix 1.

Practice Note PN 16-001 Checklist for Item 11

Issue	Response
The current and proposed classification of the land.	The subject land is classified community land. The proposed classification is part operational land and part community land.
Whether the land is a 'public reserve' (defined in the LG Act).	The land would cease to be a public reserve.
The strategic and site specific merits of the reclassification and evidence to support this.	Refer to Part 3, Section A above.
Whether the planning proposal is the result of a strategic study or report.	Refer to Part 3, Section A above.
Whether the planning proposal is consistent with council's community plan or other local strategic plan.	Refer to Part 3, Section B above.
A summary of council's interests in the land, including: - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution) - if council does not own the land, the land owner's consent; - the nature of any trusts, dedications etc.	Council currently owns the land. The land was dedicated to Council as open space as part of a subdivision.
Whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why.	There are no interests identified that would be discharged. Restrictions as to user on title do not apply to the subject land or is not relevant because Clause 1.9A (Suspensions of covenants, agreements and instruments) of the Eurobodalla LEP 2012 applies.
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged).	The proposal will result in the loss of open space. The loss of a small amount of open space will not reduce local residents' accessibility to local open space at Captain Oldrey Park or North Broulee.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents).	The electronic title search document is provided in Appendix 2.
Current use(s) of the land, and whether uses are authorised or unauthorised.	There are no structures on the land. Adjacent gardens have encroached on the land.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls.	There are no leases or agreements applying to the land.

Issue	Response
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time).	The sale of the land will be undertaken as soon as practicable following the reclassification.
Any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy).	The land is not being rezoned.
How council may or will benefit financially, and how these funds will be used.	Funds from the sale of the land would be reinvested back into the open space network.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal.	Council's Recreation and Open Space Strategy provides the relevant direction to re-invest the funds into local open space.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot.	An amendment to the Land Reclassification (Part Lots) Map is proposed.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.	There are no relevant government agencies with which to undertake preliminary consultation in relation to this planning proposal.

Appendix 1 – Maps



Eurobodalla Local Environmental Plan 2012

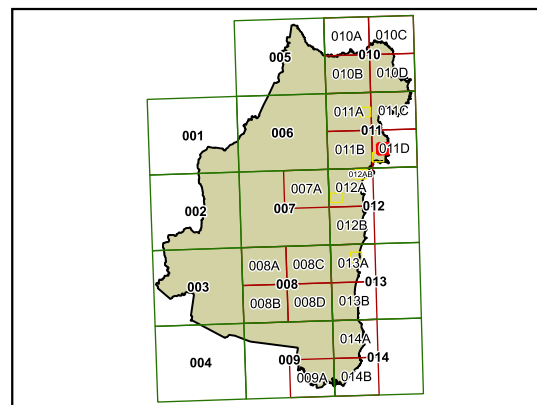
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HOB_TBD1

HOB

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K	10
L	11.5
M1	12
M2	12.5
O1	15
O2	16
P	18

Cadastre

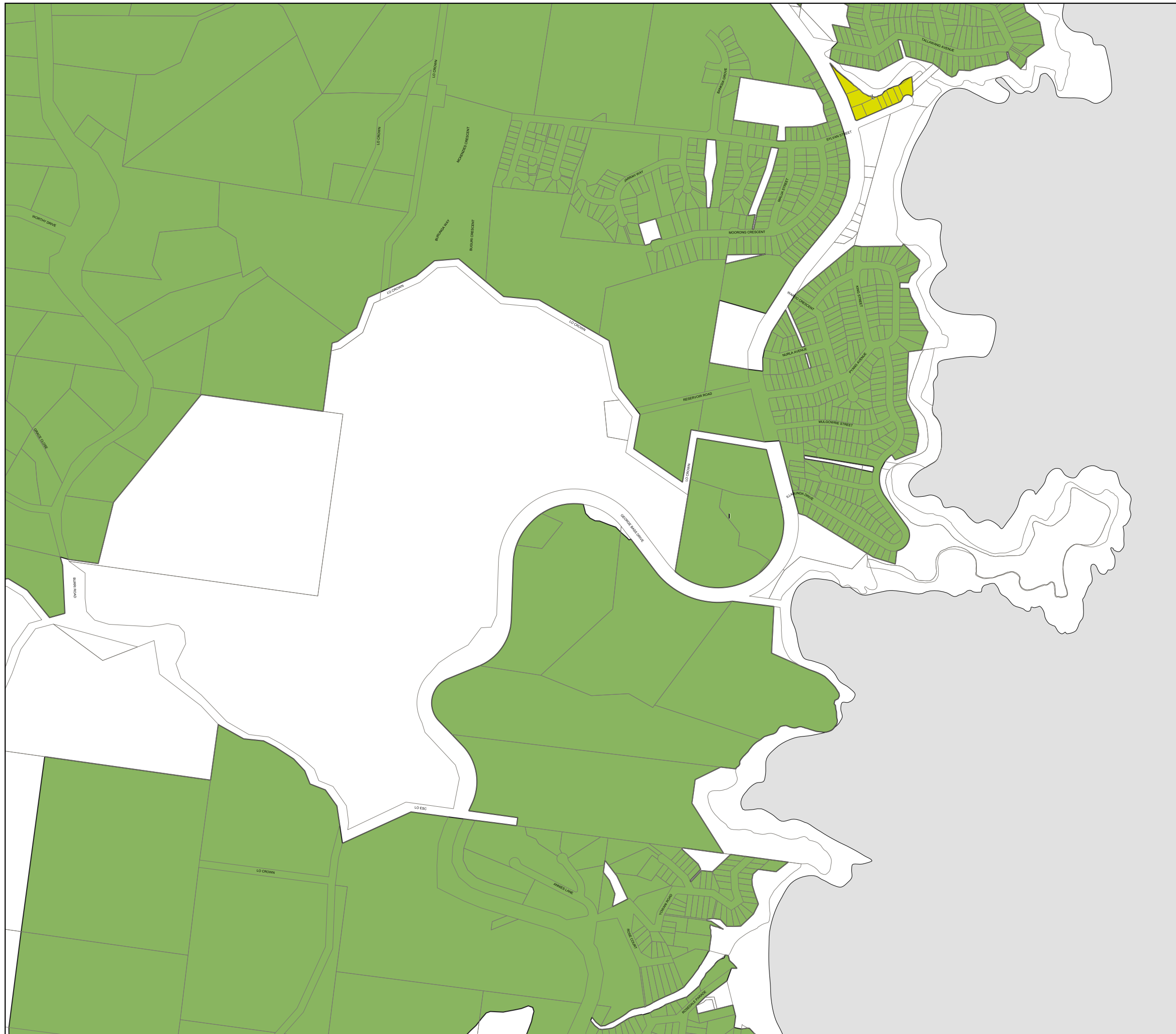
Cadastre 12/05/2015 © Eurobodalla Shire Council



Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_HOB_TBD1_010_20220708





**Eurobodalla
Local
Environmental
Plan 2012**

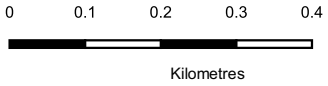
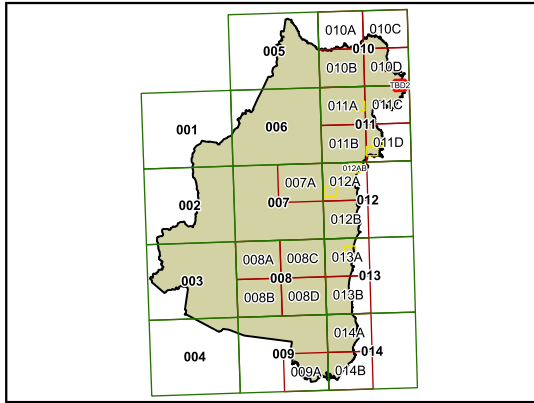
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O2	16
P	18

Cadastre

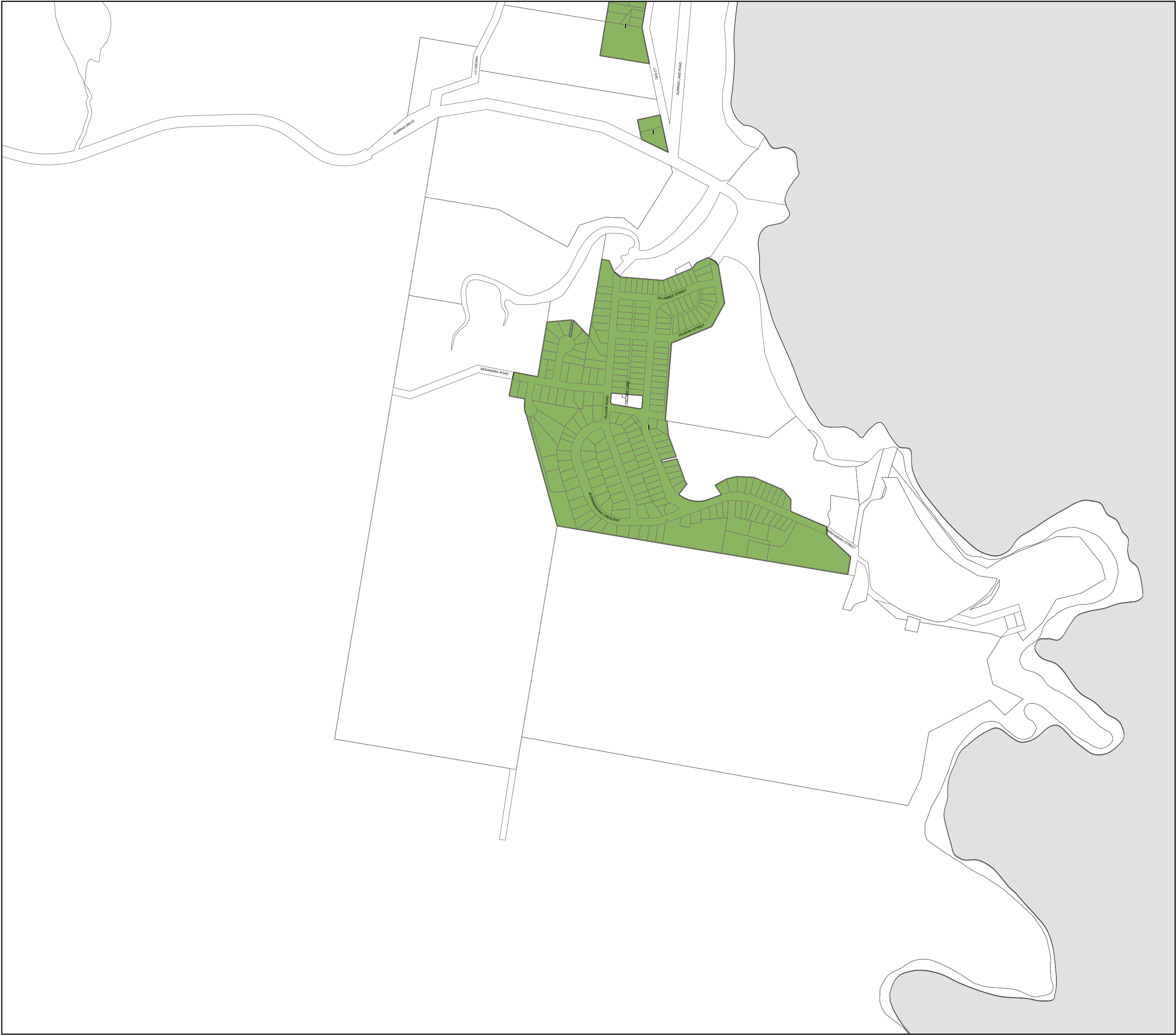
Cadastre 12/05/2015 © Eurobodalla Shire Council



Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

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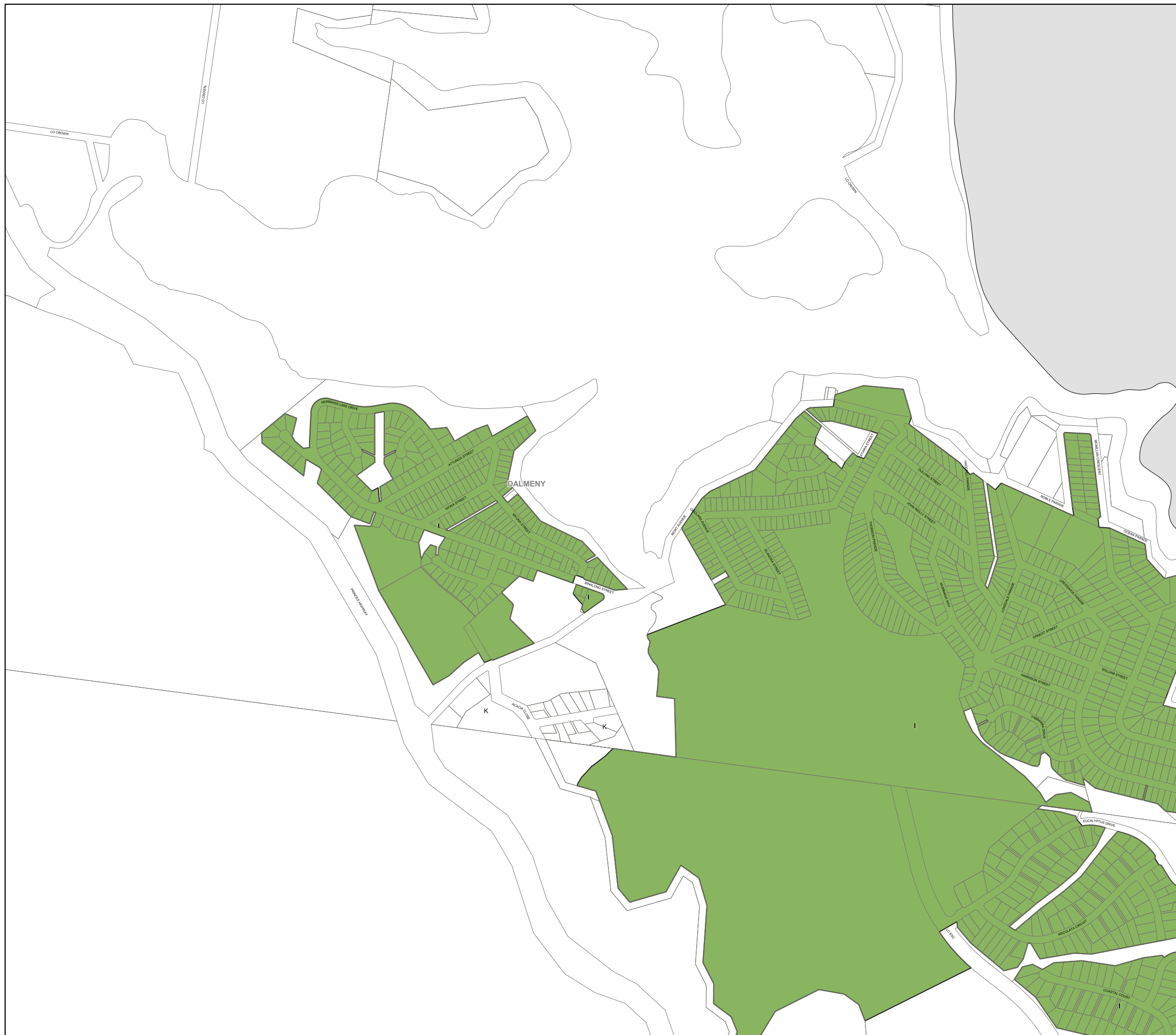


HOB	
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J	9
K	10
L	11.5
M1	12
M2	12.5
O1	15
O2	16
P	18



Projection GDA 1994
MGA Zone 56

Map identification number: 2750_COM_HOB_TBD3_010_20220708





Eurobodalla Local Environmental Plan 2012

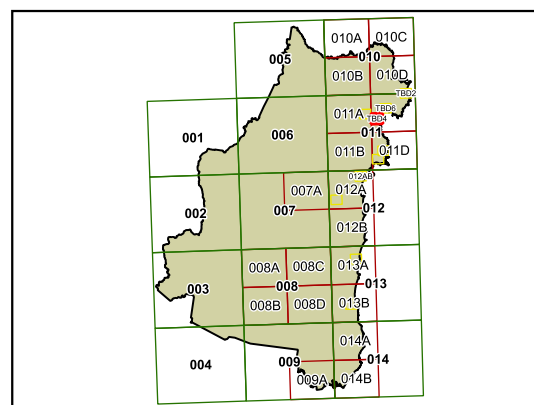
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P	18

Cadastre

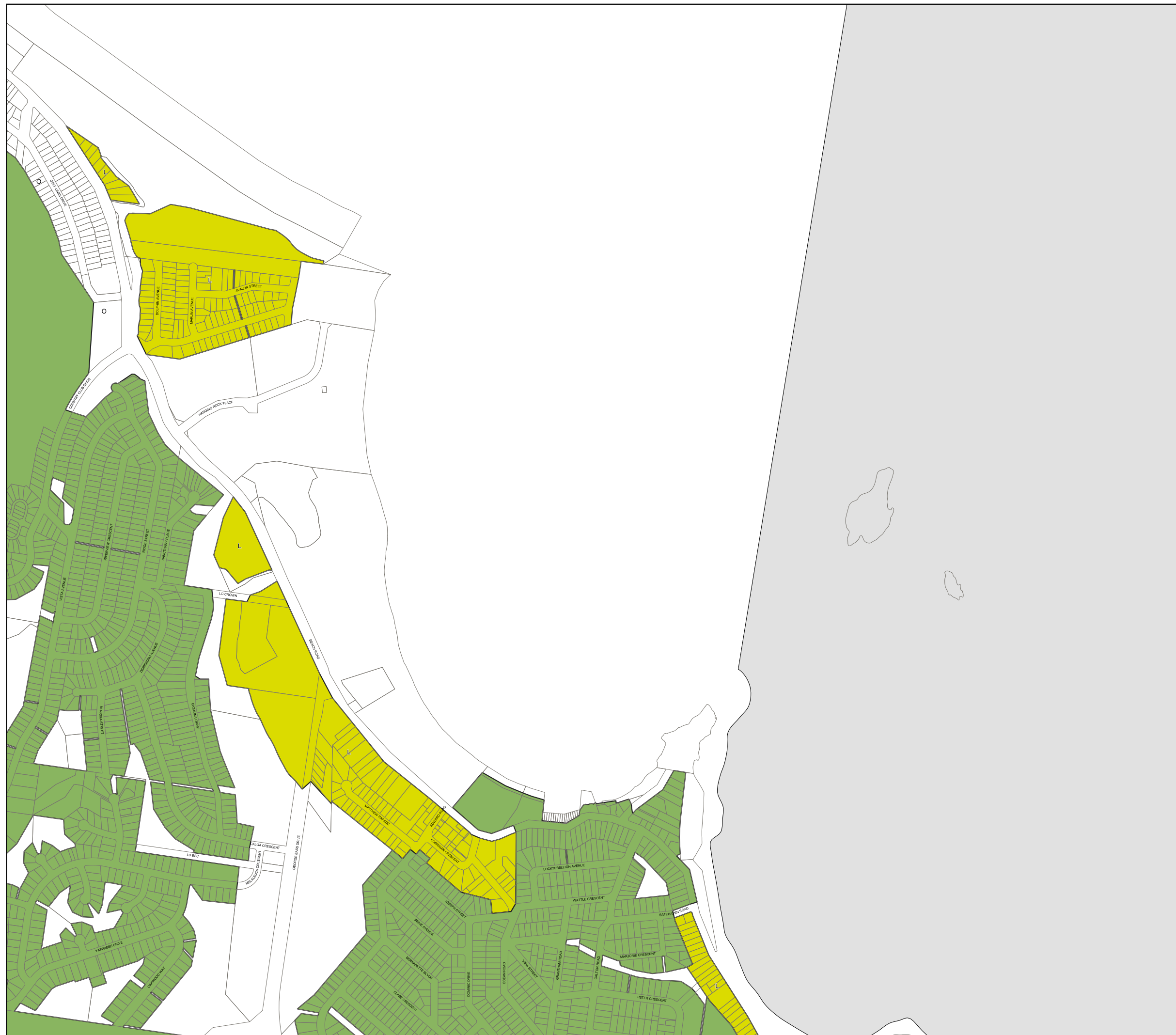
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Eurobodalla Local Environmental Plan 2012

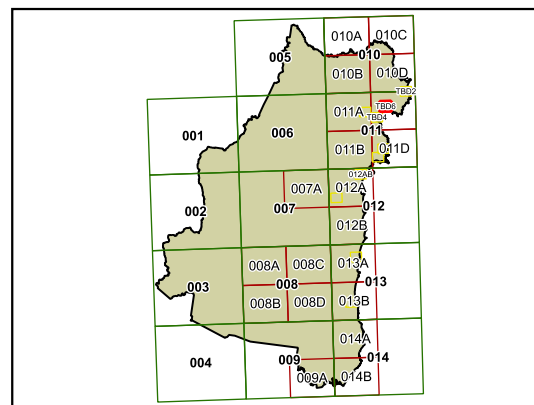
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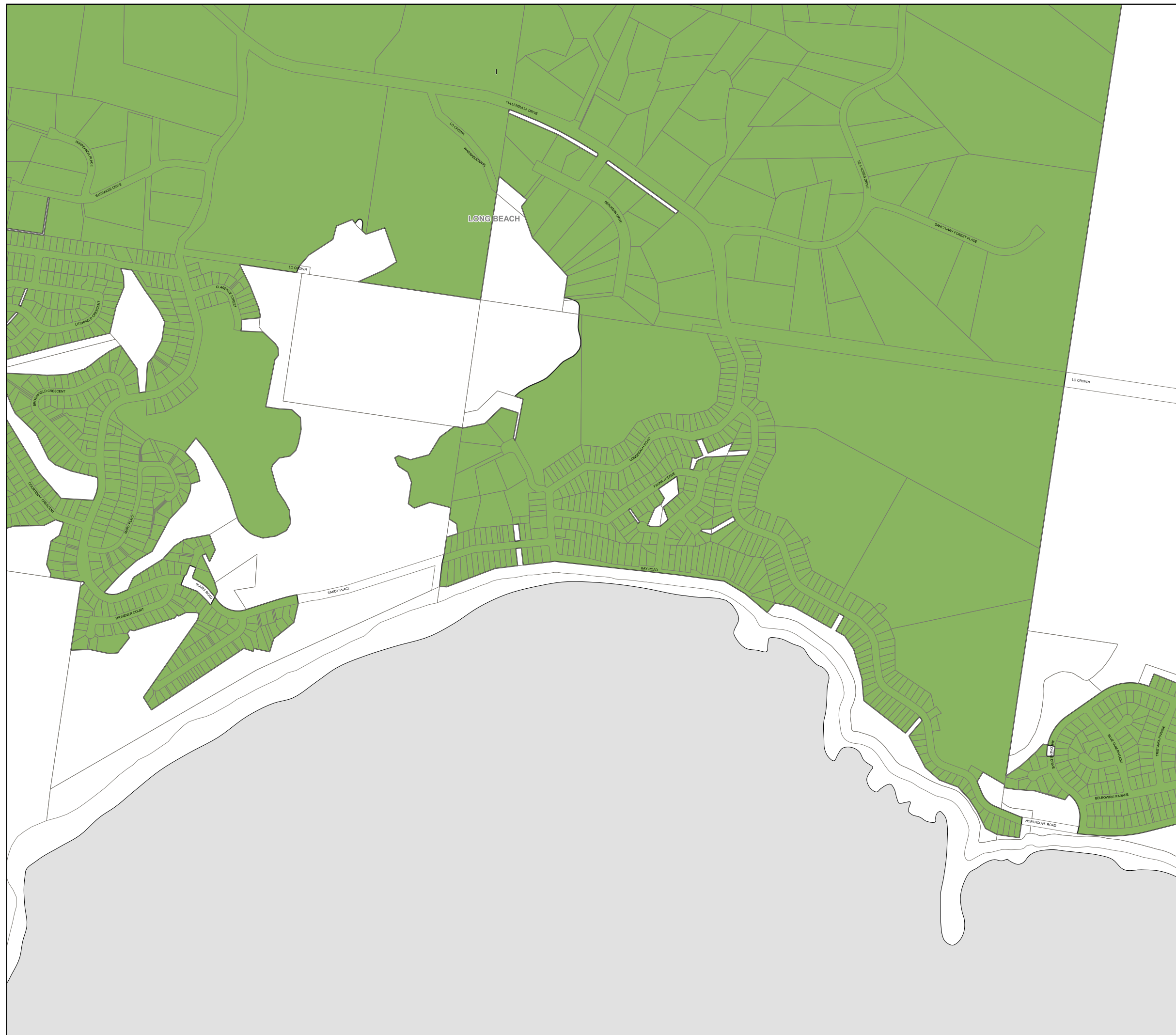
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Projection GDA 1994
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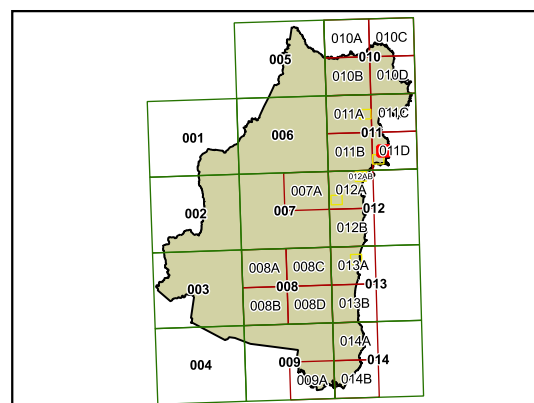
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LSZ (Lot Size)

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U2	1500
V	2500
X	5000
Y	1 ha
Z	2 ha
AA	5 ha
AB1	10 ha
AB2	20 ha
AB3	40 ha
AD	100 ha
AE	200 ha
AF	500 ha
AI	1000 ha

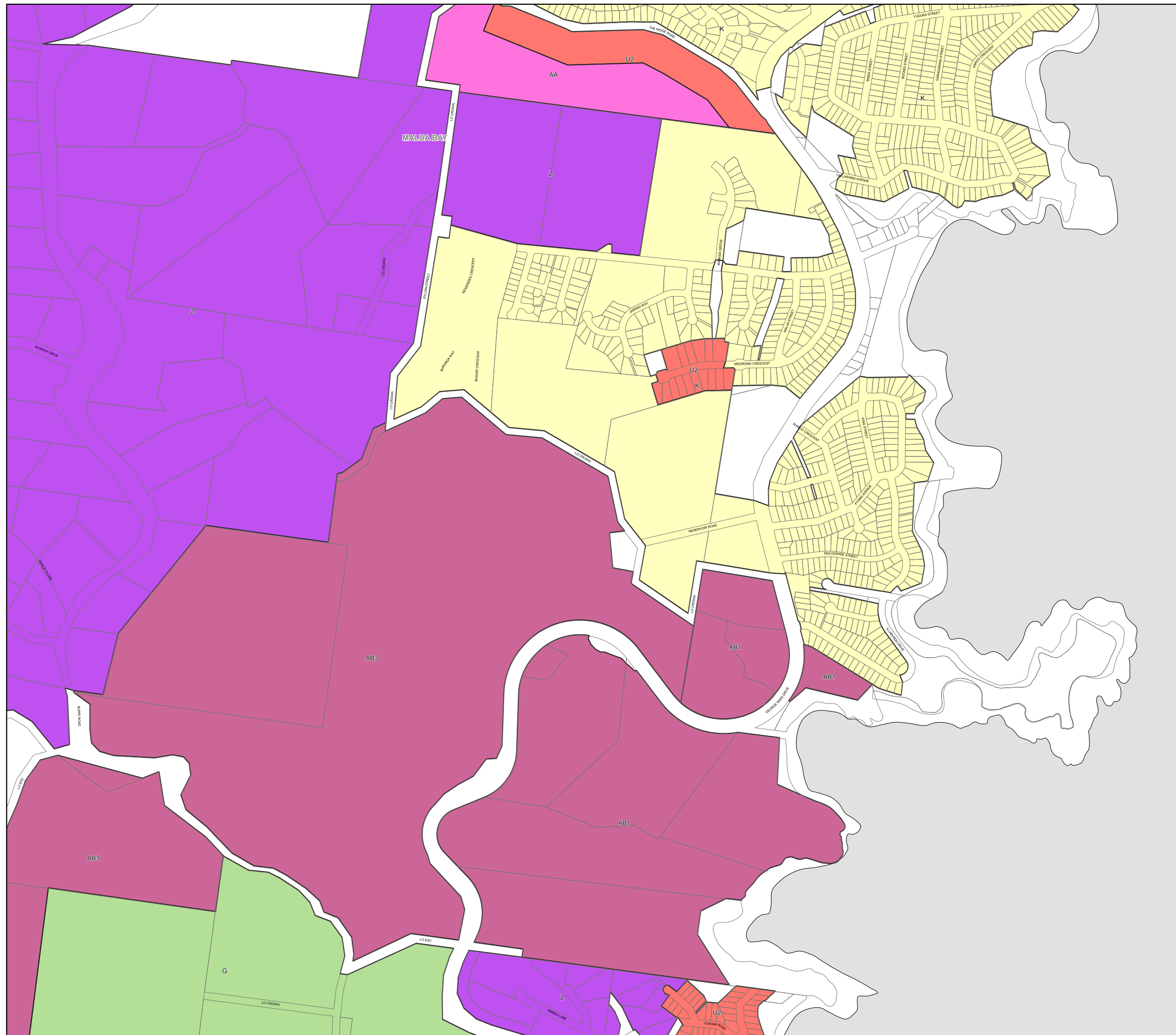
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Projection GDA 1994
MGA Zone 56

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Environmental
Plan 2012**

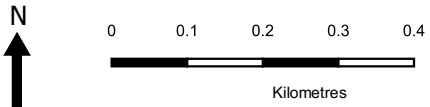
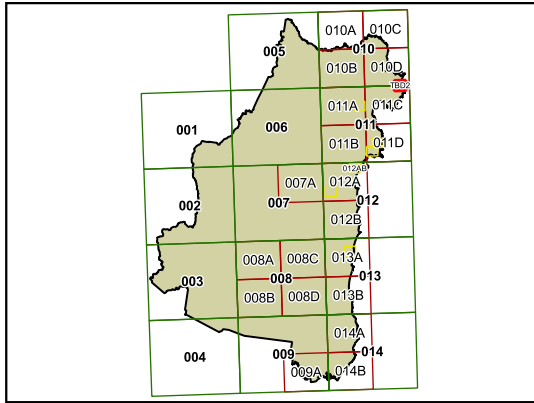
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LSZ_TBD2**

LSZ (Lot Size)

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U1	1000
U2	1500
V	2500
X	5000
Y	1 ha
Z	2 ha
AA	5 ha
AB1	10 ha
AB2	20 ha
AB3	40 ha
AD	100 ha
AE	200 ha
AF	500 ha
AI	1000 ha

Cadastre

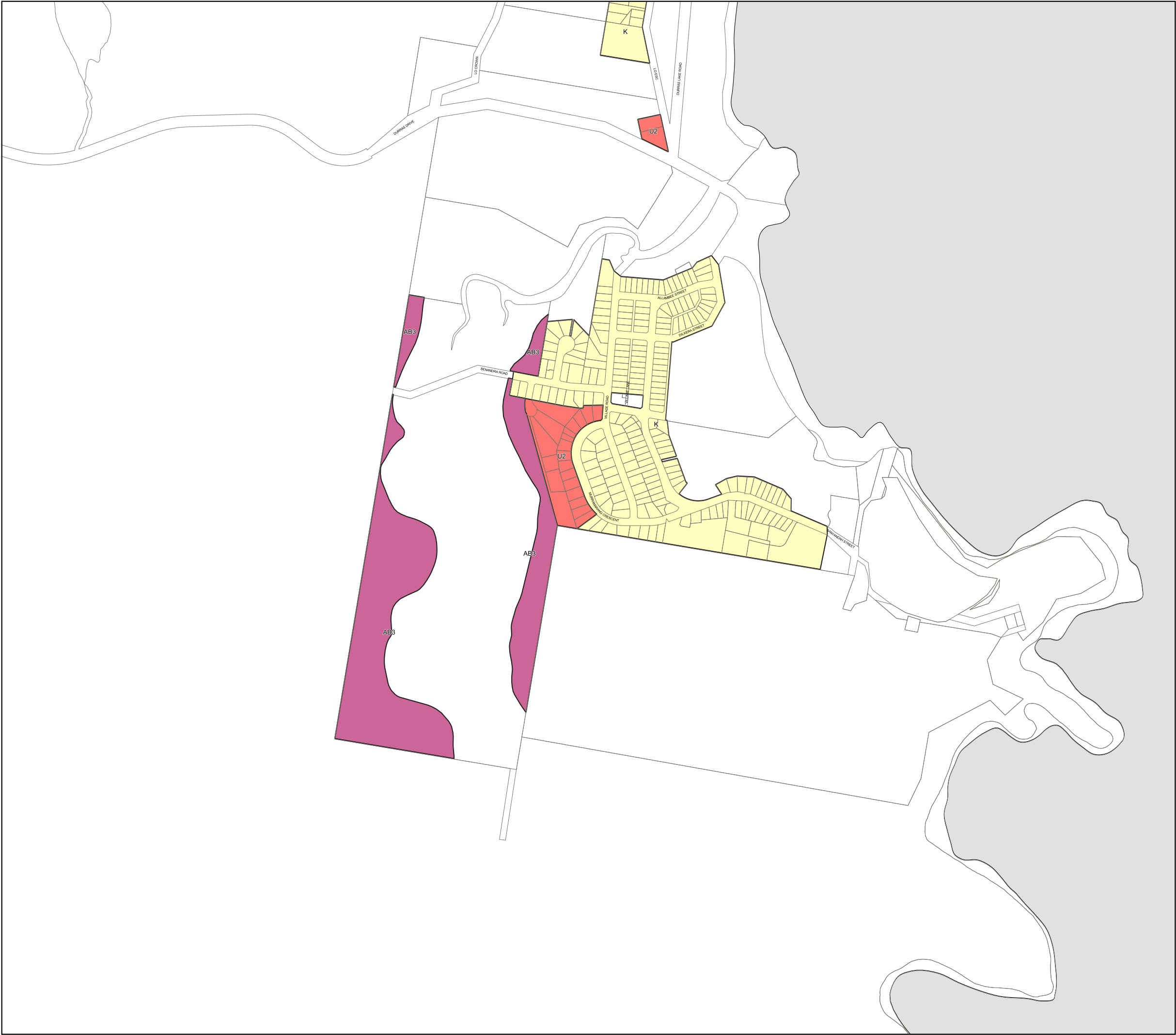
Cadastre 12/05/2015 © Eurobodalla Shire Council



Projection GDA 1994
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Scale 1:10,000 @A3

Map identification number: 2750_COM_LSZ_TBD2_010_20220708





Eurobodalla Local Environmental Plan 2012

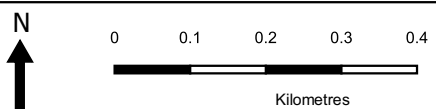
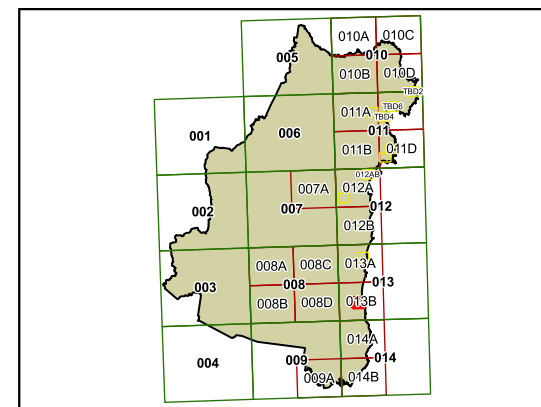
Draft Lot Size Map - Sheet LSZ_TBD3

LSZ (Lot Size)

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K	550
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U2	1500
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X	5000
Y	1 ha
Z	2 ha
AA	5 ha
AB1	10 ha
AB2	20 ha
AB3	40 ha
AD	100 ha
AE	200 ha
AF	500 ha
AI	1000 ha

Cadastre

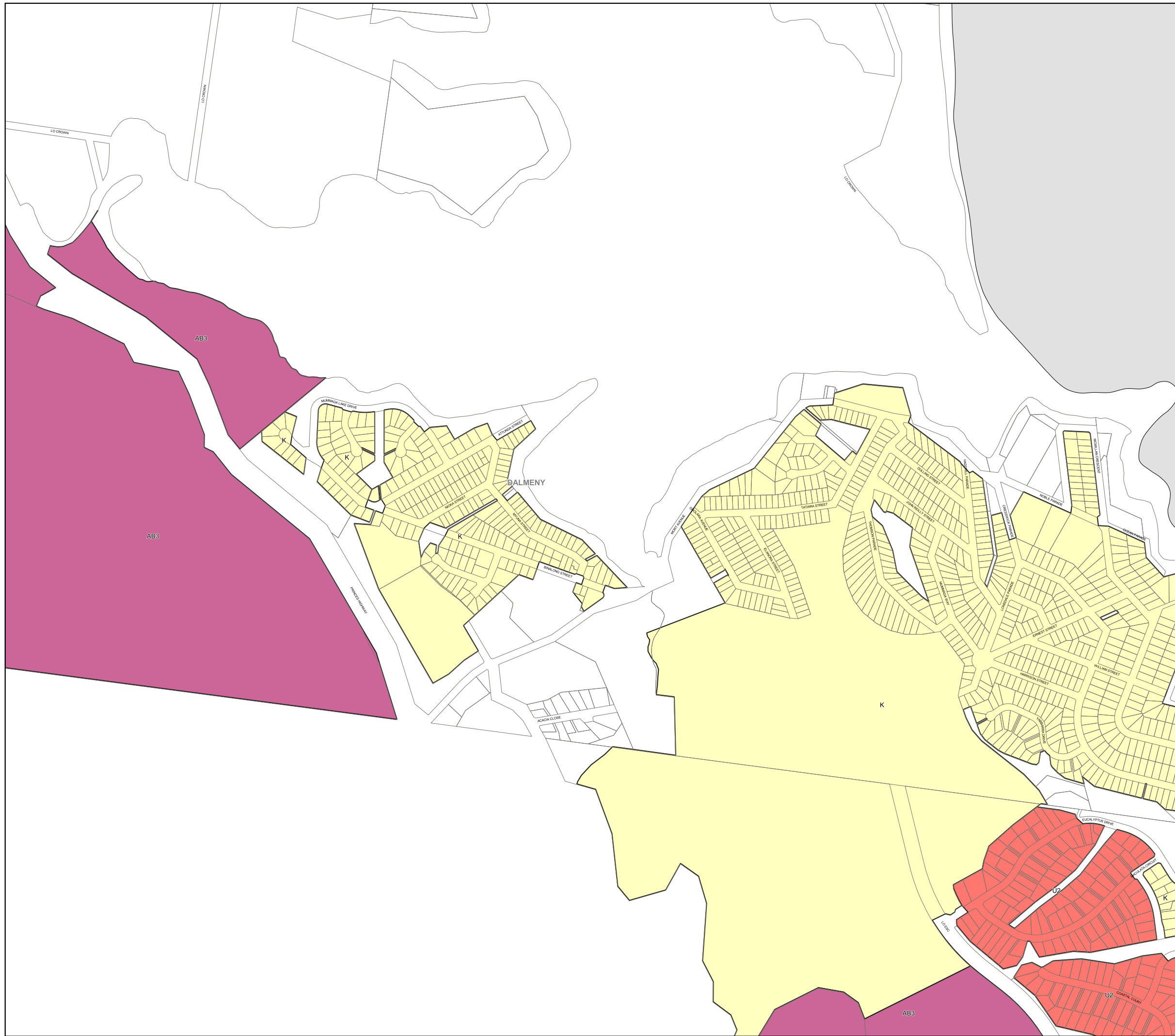
Cadastre 12/05/2015 © Eurobodalla Shire Council



Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

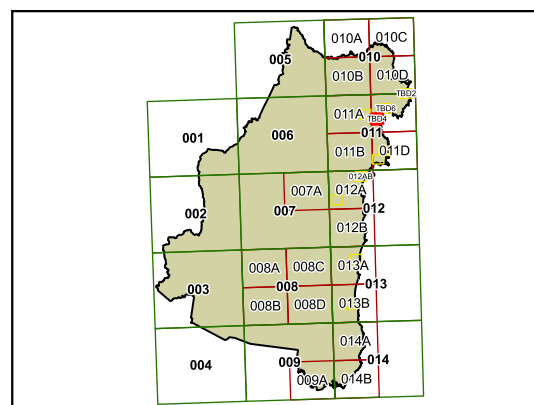
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LSZ (Lot Size)

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U2	1500
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AB3	40 ha
AD	100 ha
AE	200 ha
AF	500 ha
AI	1000 ha

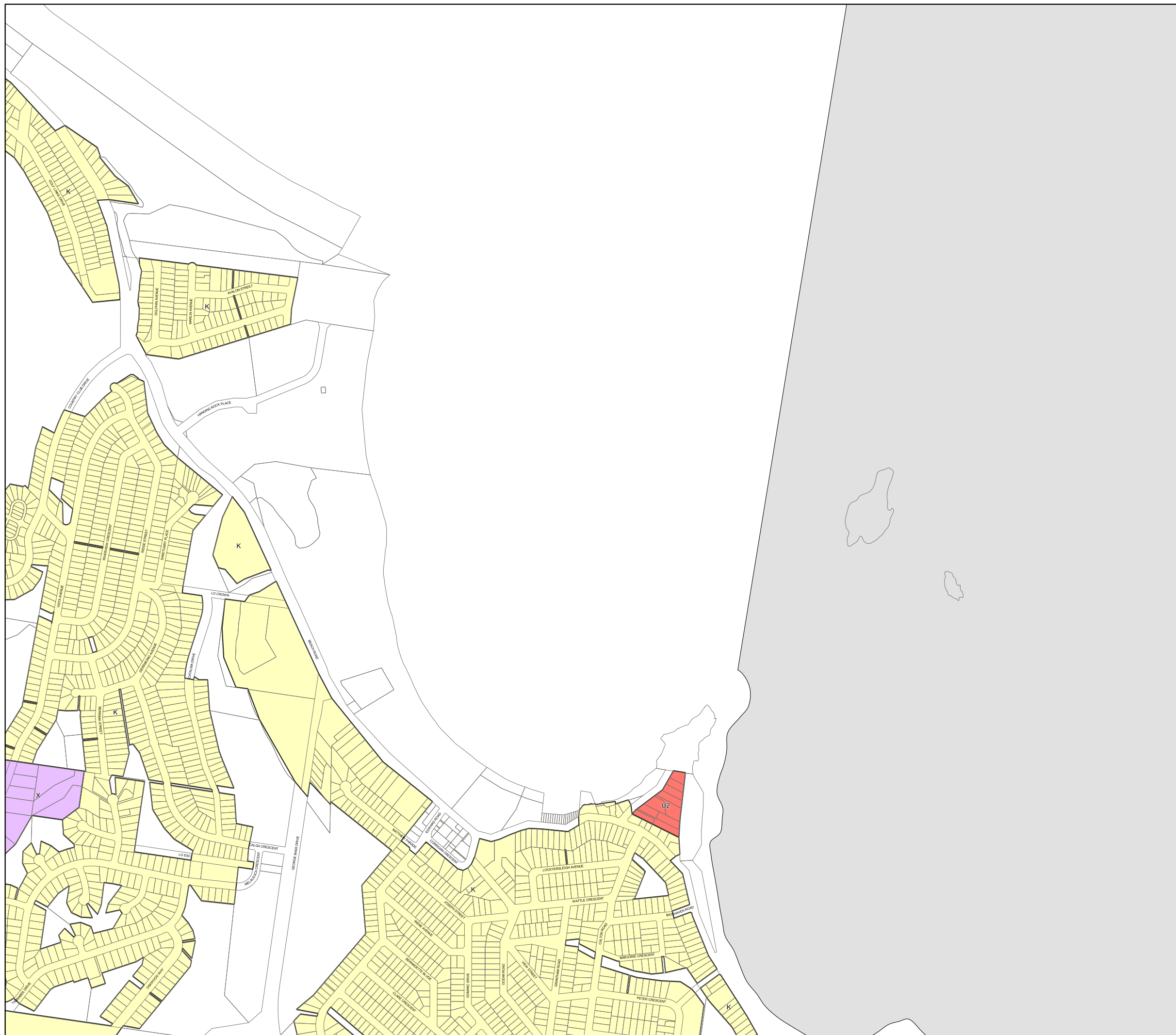
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Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_LSZ_TBD4_010_20220708





Eurobodalla Local Environmental Plan 2012

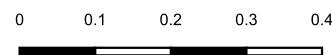
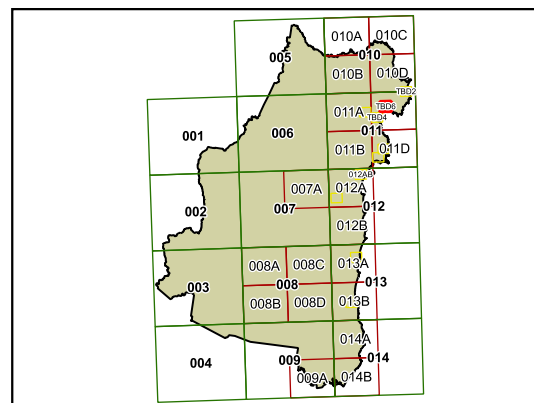
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LSZ (Lot Size)

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AB2	20 ha
AB3	40 ha
AD	100 ha
AE	200 ha
AF	500 ha
AI	1000 ha

Cadastre

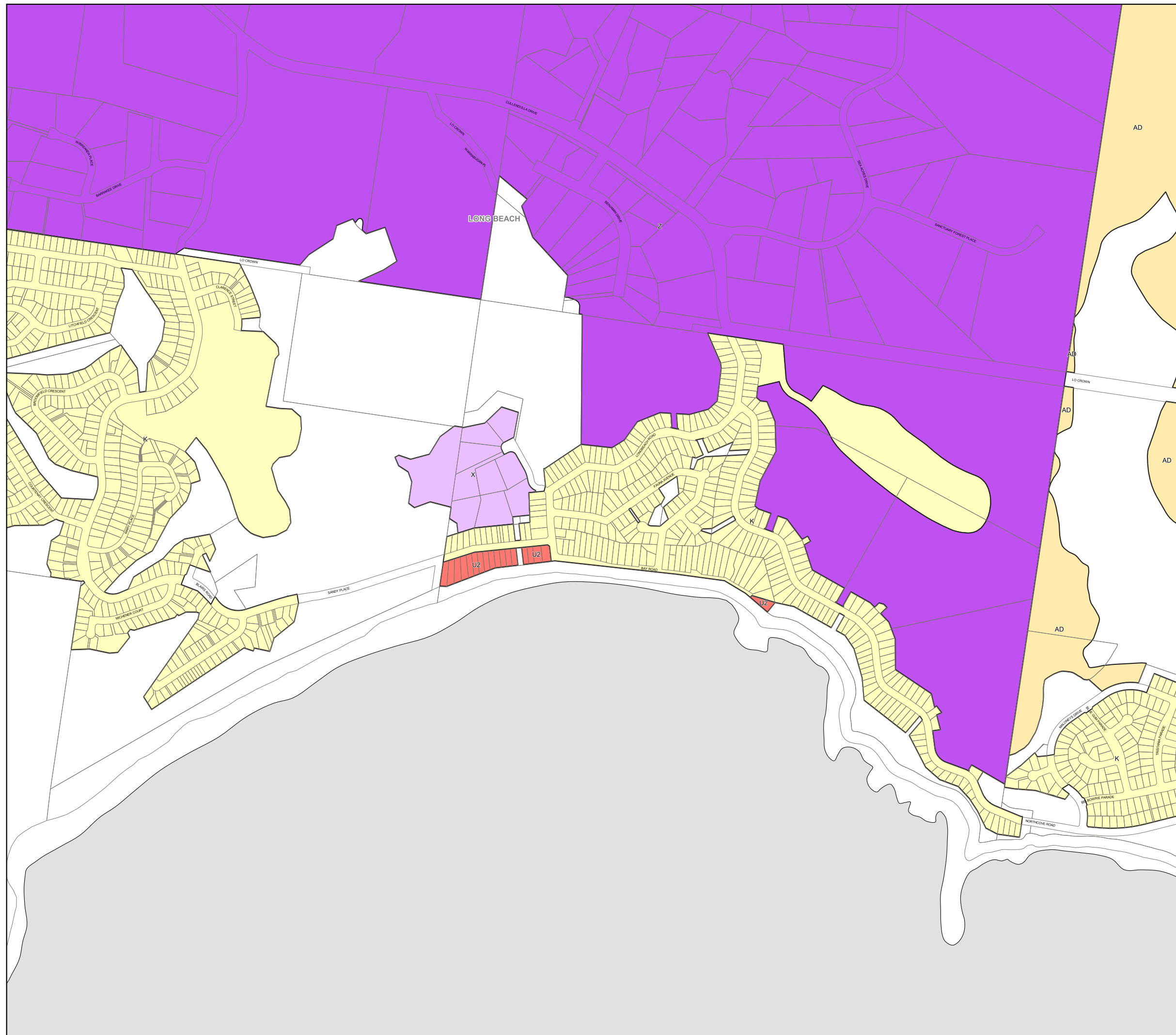
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Eurobodalla Local Environmental Plan 2012

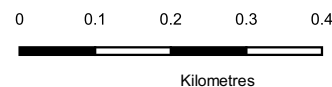
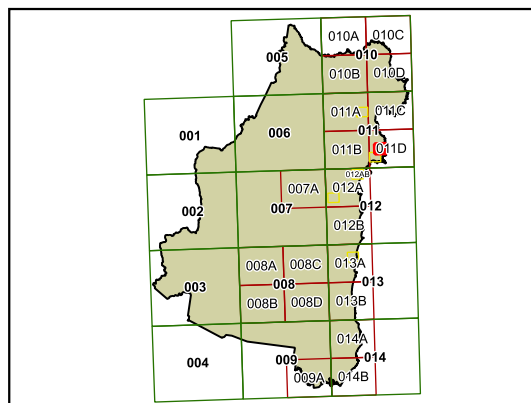
Draft Land Zoning Map - Sheet LZN_TBD1

LZN (Land Zoning)

- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- B5 Business Development
- C1 National Parks and Nature Reserves
- C2 Environmental Conservation
- C4 Environmental Living
- IN1 General Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU3 Forestry
- RU4 Primary Production Small Lots
- RU5 Village
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist
- W1 Natural Waterways
- W2 Recreational Waterways
- Moruya Town Centre

Cadastre

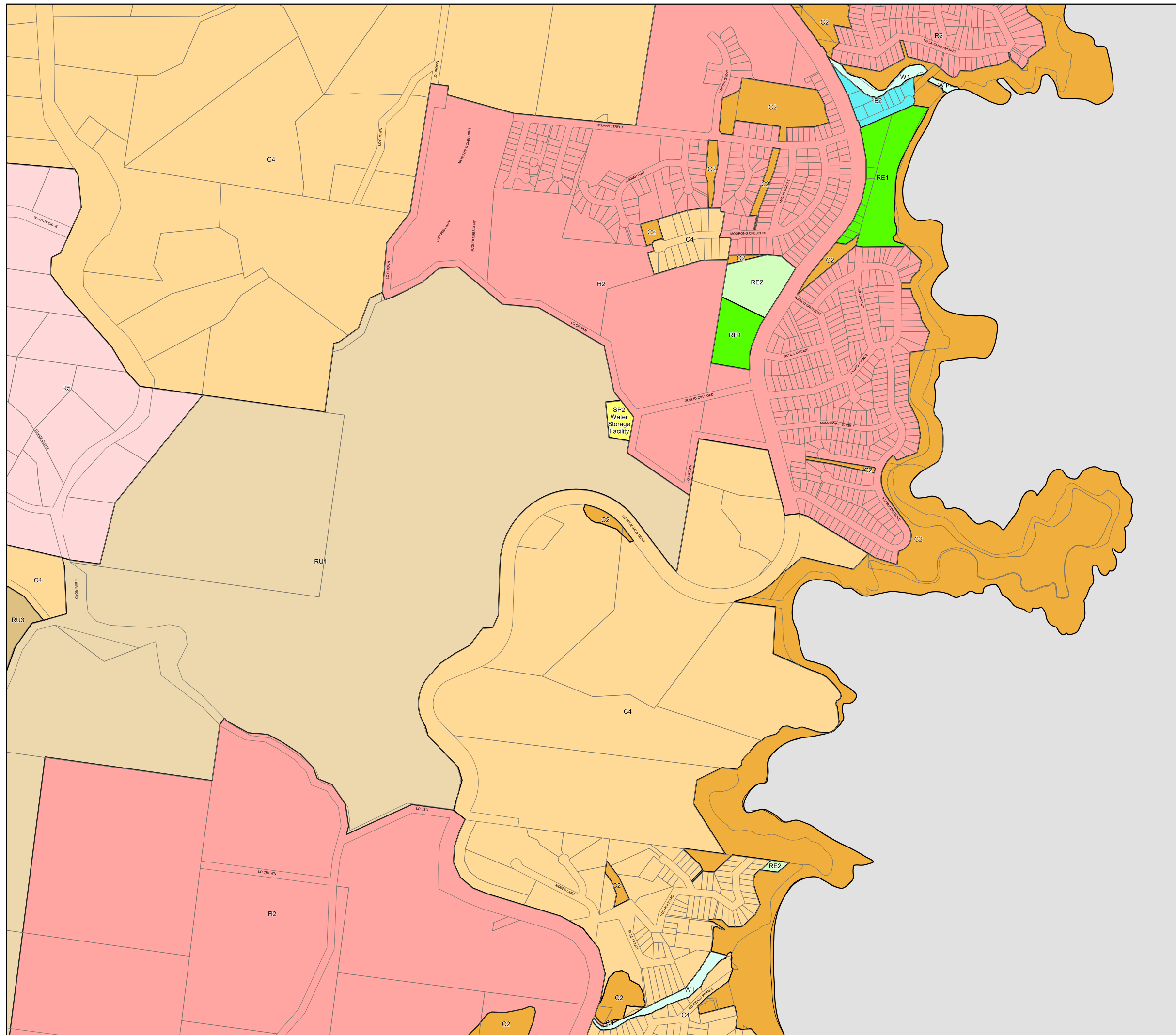
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Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_LZN_TBD1_010_20220708





Eurobodalla Local Environmental Plan 2012

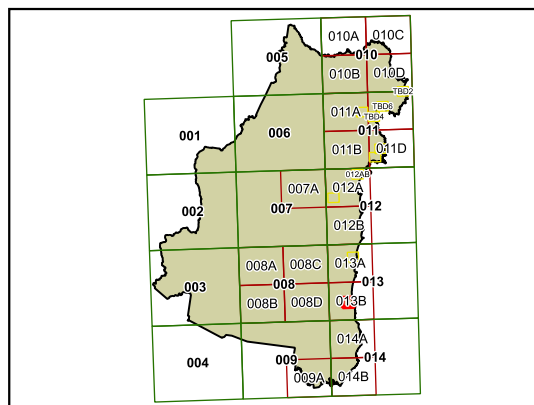
Draft Land Zoning Map - Sheet LZN_TBD3

LZN (Land Zoning)

B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B5	Business Development
C1	National Parks and Nature Reserves
C2	Environmental Conservation
C4	Environmental Living
IN1	General Industrial
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU3	Forestry
RU4	Primary Production Small Lots
RU5	Village
SP1	Special Activities
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways
	Moruya Town Centre

Cadastre

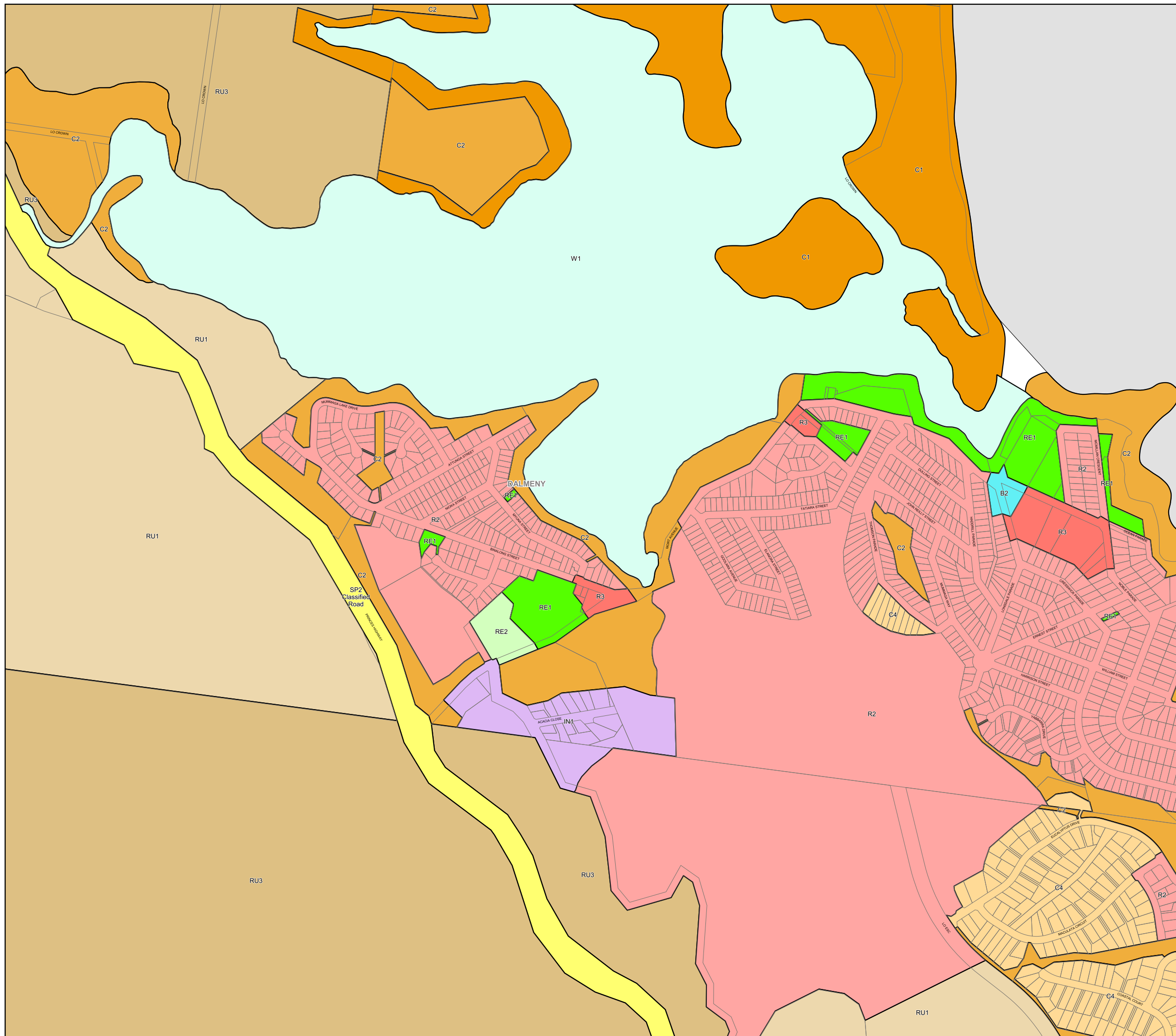
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Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_LZN_TBD3_010_20220708





Eurobodalla Local Environmental Plan 2012

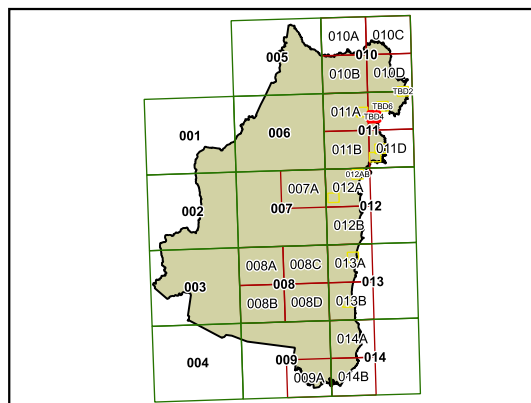
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LZN (Land Zoning)

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B2	Local Centre
B4	Mixed Use
B5	Business Development
C1	National Parks and Nature Reserves
C2	Environmental Conservation
C4	Environmental Living
IN1	General Industrial
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU3	Forestry
RU4	Primary Production Small Lots
RU5	Village
SP1	Special Activities
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways
	Moruya Town Centre

Cadastre

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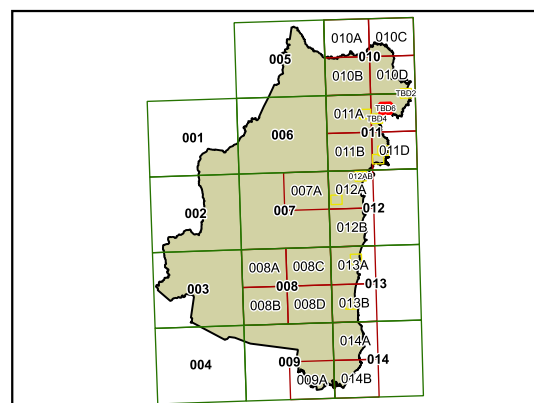


LZN (Land Zoning)

- | | |
|-----|------------------------------------|
| B1 | Neighbourhood Centre |
| B2 | Local Centre |
| B4 | Mixed Use |
| B5 | Business Development |
| C1 | National Parks and Nature Reserves |
| C2 | Environmental Conservation |
| C4 | Environmental Living |
| IN1 | General Industrial |
| R2 | Low Density Residential |
| R3 | Medium Density Residential |
| R5 | Large Lot Residential |
| RE1 | Public Recreation |
| RE2 | Private Recreation |
| RU1 | Primary Production |
| RU3 | Forestry |
| RU4 | Primary Production Small Lots |
| RU5 | Village |
| SP1 | Special Activities |
| SP2 | Infrastructure |
| SP3 | Tourist |
| W1 | Natural Waterways |
| W2 | Recreational Waterways |
| | Moruya Town Centre |

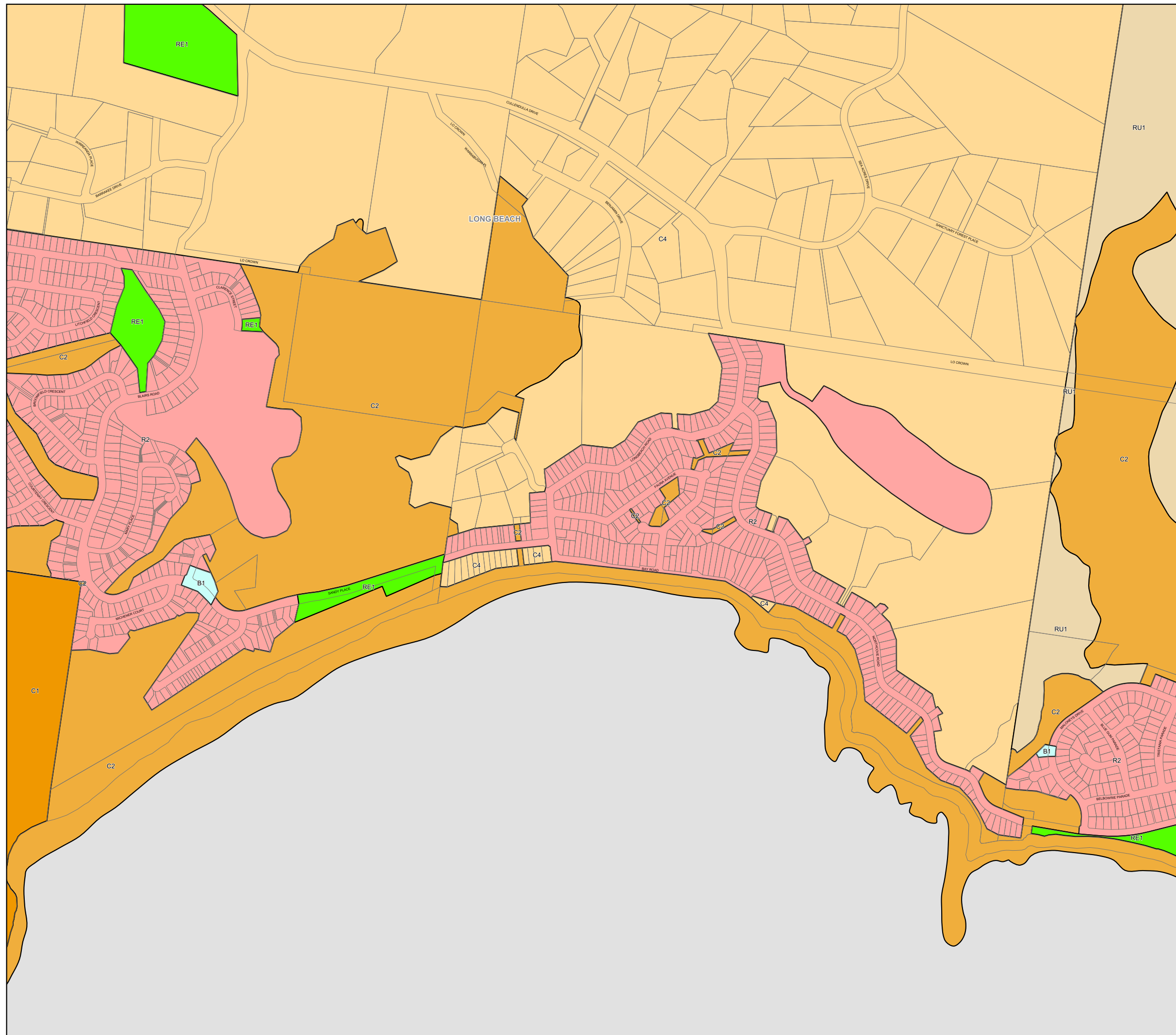
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Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3







**Eurobodalla
Local
Environmental
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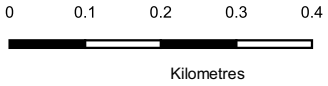
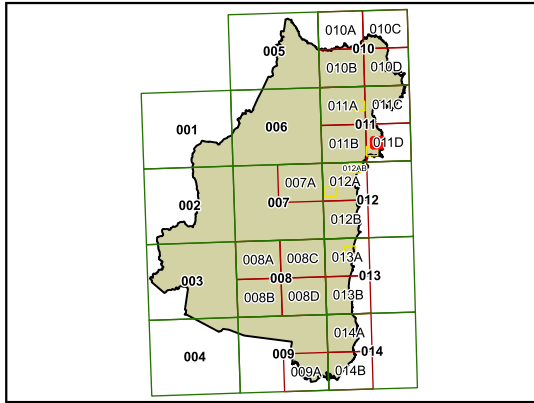
**Draft Land Reclassification (Part
Lots) - Sheet RPL TBD1**

Land reclassification (Part Lots)

 Operational Land

Cadastre

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Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_RPL_TBD1_010_20220708







**Eurobodalla
Local
Environmental
Plan 2012**

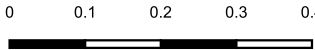
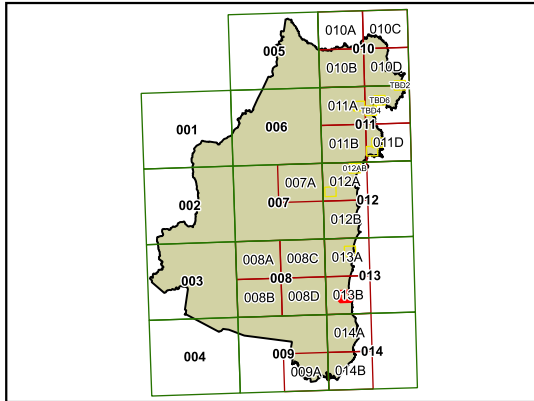
**Draft Land Reclassification (Part
Lots) - Sheet RPL TBD3**

Land reclassification (Part Lots)

 Operational Land

Cadastre

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Kilometres

Projection GDA 1994
MGA Zone 56

Scale 1:10,000 @A3

Map identification number: 2750_COM_RPL_TBD3_010_20220708







**Eurobodalla
Local
Environmental
Plan 2012**

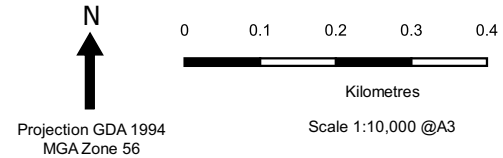
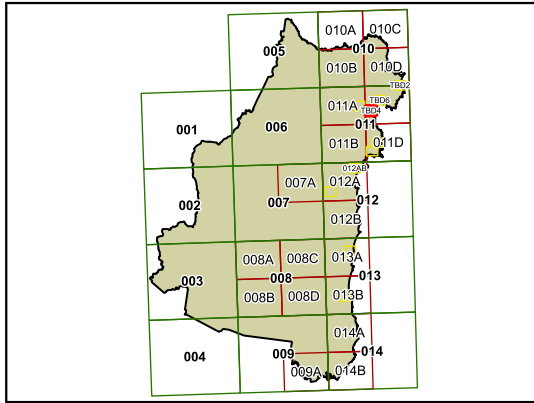
**Draft Land Reclassification (Part
Lots) - Sheet RPL TBD4**

Land reclassification (Part Lots)

 Operational Land

Cadastre

 Cadastre 12/05/2015 © Eurobodalla Shire Council





Eurobodalla Local Environmental Plan 2012

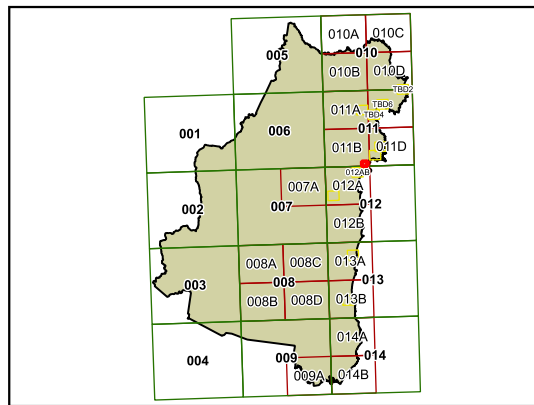
Draft Height of Building Map - Sheet
HOB_TBD5

HOB

I	8.5
J	9
K	10
L	11.5
M1	12
M2	12.5
O1	15
O2	16
P	18

Cadastre

Cadastre 12/05/2015 © Eurobodalla Shire Council



0 0.06 0.12 0.18 0.24
Kilometres

Projection GDA 1994
MGA Zone 56

Scale 1:5,000 @A3

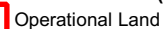
Map identification number: 2750_COM_HOB_TBD5_005_20220708





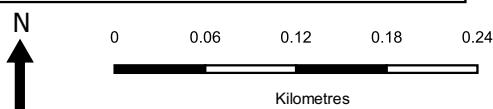
Draft Land Reclassification (Part
Lots) - Sheet RPL TBD5

Land reclassification (Part Lots)



Cadastre

Cadastre 12/05/2015 © Eurobodalla Shire Council



Projection GDA 1994
MGA Zone 56

Scale 1:5,000 @A3

Map identification number: 2750_COM_RPL_TBD5_005_20220708



Appendix 2 – Title Search Documents

Government Gazette of the State of New South Wales (Sydney, NSW : 1901 - 2001), Friday 6 September 1996 (No.102), page 6271

EUROBODALLA SHIRE COUNCIL

Local Government Act 1993, Section 50

Vesting of Public Reserves

NOTICE is hereby given that in accordance with section 50 of the Local Government Act 1993, the Eurobodalla Shire Council intends to apply to the Registrar General to vest the lands described in the following Schedule in the name of Eurobodalla Shire Council and to request to the Registrar General to note that the land is dedicated as public reserve. Such lands being shown in the deposited plans as "Public Garden and Recreation Space". (Reference 80/0557Pt2).

SCHEDULE

Lot C, D.P. 327917, Parish of Bateman, County of St Vincent.
Lot D, D.P. 327917, Parish of Bateman, County of St Vincent.
Lot F, D.P. 39088, Parish of Tomaga, County of St Vincent.
Lot 5, D.P. 22784, Parish of Bateman, County of St Vincent.
Lot 6, D.P. 25551, Parish of Nelligen, County of St Vincent.
Lot 7, D.P. 21641, Parish of Bateman, County of St Vincent.
Lot 11, D.P. 22787, Parish of Bateman, County of St Vincent.
Lot 14, D.P. 21748, Parish of Bateman, County of St Vincent.
Lot 15, D.P. 21748, Parish of Bateman, County of St Vincent.
Lot 16, D.P. 202012, Parish of Bateman, County of St Vincent.
Lot 20, D.P. 202012, Parish of Bateman, County of St Vincent.
Lot 35, D.P. 202012, Parish of Bateman, County of St Vincent.
Lot 29, D.P. 24795, Parish of Bateman, County of St Vincent.
Lot 30, D.P. 24795, Parish of Bateman, County of St Vincent.
Lot 31, D.P. 24795, Parish of Bateman, County of St Vincent.
Lot 32, D.P. 24795, Parish of Bateman, County of St Vincent.

Lot 34, D.P. 22106, Parish of Bateman, County of St Vincent.
Lot 38, D.P. 209986, Parish of Bateman, County of St Vincent.
Lot 269, D.P. 203033, Parish of Wagonga, County of Dampier.

**Government Gazette of the State of New South Wales (Sydney, NSW : 1901 - 2001), Friday 6
September 1996 (No.102), page 6271**

**Lot 269, D.P. 203033, Parish of Wagonga, County of Dampier.
Lot 270, D.P. 203032, Parish of Wagonga, County of Dampier.
Lot 454, D.P. 211219, Parish of Bateman, County of St
Vincent. Lot 466, D.P. 211219, Parish of Bateman, County of
St Vincent.**

**Dated 2nd September, 1996. A. W. RATCLIFFE, General
Manager, Eurobodalla Shire Council, P.O. Box 99, Moruya,
N.S.W. 2537. [01341]**

National Library of Australia

<http://nla.gov.au/nla.news-article231945928>



FOLIO: 109/244150

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:51 PM	-	-

VOL 12046 FOL 109 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 109 IN DEPOSITED PLAN 244150
AT BATEMANS BAY
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP244150

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 DP242907 RESTRICTION(S) ON THE USE OF LAND AS REGARDS PART
- 3 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING
REGISTRATION OF INSTRUMENTS NOT AUTHORISED BY THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1919, RELATING
TO PUBLIC RESERVES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 1110/236653

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:42 PM	-	-

VOL 10923 FOL 142 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 1110 IN DEPOSITED PLAN 236653
AT MALUA BAY
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP236653

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA (T P50529)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 DP236653 RESTRICTION(S) ON THE USE OF LAND

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 170/569136

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:50 PM	-	-

VOL 12734 FOL 116 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 170 IN DEPOSITED PLAN 569136

AT LONG BEACH

LOCAL GOVERNMENT AREA EUROBODALLA

PARISH OF BENANDARAH COUNTY OF ST VINCENT

TITLE DIAGRAM DP569136

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING
REGISTRATION OF INSTRUMENTS NOT AUTHORISED BY THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1919 RELATING
TO PUBLIC RESERVES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 2/1014254

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:49 PM	1	13/6/2000

LAND

LOT 2 IN DEPOSITED PLAN 1014254
AT BATEHAVEN
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP1014254

FIRST SCHEDULE

EUROBODALLA SHIRE COUNCIL

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



LAND
REGISTRY
SERVICES

Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/1260850

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:52 PM	1	13/7/2020

LAND

LOT 2 IN DEPOSITED PLAN 1260850
AT CATALINA
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP1260850

FIRST SCHEDULE

EUROBODALLA SHIRE COUNCIL

SECOND SCHEDULE (1 NOTIFICATION)

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

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

TG Planning Proposal

PRINTED ON 21/6/2022

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



FOLIO: 2/570760

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:47 PM	-	-

VOL 12689 FOL 199 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 2 IN DEPOSITED PLAN 570760
AT BATEHAVEN
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP570760

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING
REGISTRATION OF INSTRUMENTS NOT AUTHORISED BY THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT 1919 RELATING
TO PUBLIC RESERVES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



LAND
REGISTRY
SERVICES

Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 32/618340

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:45 PM	-	-

VOL 14510 FOL 120 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 32 IN DEPOSITED PLAN 618340
AT DALMENY
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF WAGONGA COUNTY OF DAMPIER
TITLE DIAGRAM DP618340

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (1 NOTIFICATION)

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

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

TG Planning Proposal

PRINTED ON 21/6/2022

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



FOLIO: 4/572585

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:47 PM	-	-

VOL 12697 FOL 71 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 4 IN DEPOSITED PLAN 572585
AT BATEMAN
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP572585

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING THE
REGISTRATION OF INSTRUMENTS NOT AUTHORISED BY THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1919, RELATING
TO PUBLIC RESERVES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 5/520413

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:53 PM	-	-

VOL 10491 FOL 142 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 5 IN DEPOSITED PLAN 520413
AT BATEHAVEN
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP520413

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING
REGISTRATION OF INSTRUMENTS NOT AUTHORISED BY THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT 1919 RELATING
TO PUBLIC RESERVES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 56/849895

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	3:02 PM	4	30/11/2018

LAND

LOT 56 IN DEPOSITED PLAN 849895

AT LONG BEACH

LOCAL GOVERNMENT AREA EUROBODALLA

PARISH OF BENANDARAH COUNTY OF ST VINCENT

TITLE DIAGRAM DP849895

FIRST SCHEDULE

EUROBODALLA SHIRE COUNCIL

SECOND SCHEDULE (5 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE
- 3 DP849895 RESTRICTION(S) ON THE USE OF LAND
- 4 AM738272 LEASE TO TELSTRA CORPORATION LIMITED OF THE AREA
SHOWN HATCHED IN PLAN WITH AM738272. EXPIRES:
12/3/2022.
- 5 AN850333 LEASE TO OPTUS MOBILE PTY LIMITED OF LEASE AREA
SHOWN HATCHED IN PLAN WITH AN850333. EXPIRES:
12/3/2022.

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 74/776541

SEARCH DATE	TIME	EDITION NO	DATE
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27/7/2022	1:37 PM	1	30/9/1988

LAND

LOT 74 IN DEPOSITED PLAN 776541
AT BROULEE
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF TOMAGA COUNTY OF ST VINCENT
TITLE DIAGRAM DP776541

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP739830 RESTRICTION(S) ON THE USE OF LAND
- 3 DP776541 RESTRICTION(S) ON THE USE OF LAND
- * 4 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: 84/259212

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:44 PM	-	-

VOL 13982 FOL 130 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT 84 IN DEPOSITED PLAN 259212
AT SOUTH DURRAS
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BENANDARAH COUNTY OF ST VINCENT
TITLE DIAGRAM DP259212

FIRST SCHEDULE

THE COUNCIL OF THE SHIRE OF EUROBODALLA

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP259212 RESTRICTION(S) ON THE USE OF LAND
- 3 K200000P CAVEAT BY THE REGISTRAR GENERAL FORBIDDING
UNAUTHORISED DEALINGS WITH PUBLIC RESERVES
- 4 LAND EXCLUDES MINERALS BY CROWN GRANT OF 5818 SQUARE METRES

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: C/327917

SEARCH DATE	TIME	EDITION NO	DATE
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21/6/2022	2:54 PM	2	4/3/1997

LAND

LOT C IN DEPOSITED PLAN 327917
LOCAL GOVERNMENT AREA EUROBODALLA
PARISH OF BATEMAN COUNTY OF ST VINCENT
TITLE DIAGRAM DP327917

FIRST SCHEDULE

EUROBODALLA SHIRE COUNCIL

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

Appendix 3 – Department of Planning and Environment’s Practice Note PN 16-001: Classification and reclassification of public land through a local environmental plan.

Ref No.	PN 16-001
Issued	5 October 2016
Related	Supersedes PN 09-003

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- **Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- **Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

What is public land?

Public land is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

Classification of public land occurs when it is first acquired by a council and classified as either community or operational.

Reclassification of public land occurs when its classification is changed from community to operational, or from operational to community.

Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism with which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33¹) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

Public reserve is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

Interests in land refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

¹ Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:

<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: information@planning.nsw.gov.au

Authorised by:
Carolyn McNally
Secretary

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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www.planning.nsw.gov.au

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ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- ☐ the current and proposed classification of the land;
- ☐ whether the land is a 'public reserve' (defined in the LG Act);
- ☐ the strategic and site specific merits of the reclassification and evidence to support this;
- ☐ whether the planning proposal is the result of a strategic study or report;
- ☐ whether the planning proposal is consistent with council's community plan or other local strategic plan;
- ☐ a summary of council's interests in the land, including:
 - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
 - if council does not own the land, the land owner's consent;
 - the nature of any trusts, dedications etc;
- ☐ whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- ☐ the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- ☐ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- ☐ current use(s) of the land, and whether uses are authorised or unauthorised;
- ☐ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- ☐ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- ☐ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- ☐ how council may or will benefit financially, and how these funds will be used;
- ☐ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- ☐ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- ☐ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.