



## REZONING REVIEW RECORD OF DECISION

STRATEGIC PLANNING PANEL of the  
SOUTHERN REGIONAL PLANNING PANEL

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| DATE OF DETERMINATION    | 26 June 2024   |
| DATE OF DECISION         | 21 June 2024   |
| PANEL MEMBERS            | Chris Wilson (Chair), Glennis James & Stephen Murray   |
| APOLOGIES                | None   |
| DECLARATIONS OF INTEREST | <p>Eurobodalla Shire Council's local member, Councillor Amber Schutz was unable to sit on the Panel due to a conflict of interest. Councillor Schutz considered the planning proposal during the Council meeting of 20 February 2024.</p> <p>Juliet Grant has declared a perceived conflict of interest as an Executive Director of Gyde Consulting and will not participate in the rezoning review. Gyde Consulting has previously undertaken a desktop audit of opportunities and constraints of land within Eurobodalla LGA. This advice was then used by Eurobodalla Council to inform its strategic planning directions. Gyde did not provide recommendations on future land uses. Juliet Grant was not involved in this project.</p> |

### REZONING REVIEW

#### RR-2024-22 – Eurobodalla LGA – PP-2023-1734

207 Broulee Road, Broulee (As described in Schedule 1).

#### Reason for Review:

- ☒ The Council has notified the Proponent that the request to prepare a Planning Proposal has not been supported.
- ☐ The Council has failed to indicate its support 115 days after the Proponent submitted a request to prepare a Planning Proposal.
- ☐ The Council has not submitted the Planning Proposal for a Gateway determination within 28 days of indicating its support for the proposal.

### PANEL CONSIDERATION AND DECISION

The Panel considered the material listed at item 4 and the matters raised and/or observed at briefings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel recommends that the proposed instrument:

- ☐ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and subject to changes site specific merit
- ☒ **should not** be submitted for a Gateway determination because the proposal has:
  - ☒ not demonstrated strategic merit
  - ☐ demonstrated strategic merit but not site specific merit

The decision was unanimous.

### Planning Panels Team

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## REASONS FOR THE DECISION

The Panel considered:

- all relevant documentation available including a video provided by the Proponent;
- a brief by the Department of Planning, Housing and Infrastructure; and
- comprehensive presentations made by Eurobodalla Shire Council, the Proponent, PPD Planning Consultants and the landowner, Brightlands Living Pty Ltd.

The Panel subsequently considered the Planning Proposal in accordance with the strategic merit test established by the LEP Making Guideline August 2023, in particular, the three strategic merit tests being:

- giving effect to the relevant District Planning framework;
- consistency with the relevant Local Strategic Planning Statement (LSPS); and
- having regard to changing circumstances that have not been formally recognised.

The Panel acknowledged the Proponent's unique vision for a planned community that integrates agriculture as part of a residential neighbourhood (Agrihood), and the challenges in selecting a suitable site for this type of land use. It also acknowledged that the Planning Proposal could provide a range of housing types consistent with high level housing objectives.

However, ultimately, the Panel considered that the Planning Proposal did not demonstrate strategic merit as it did not satisfactorily address the abovementioned strategic merit tests. It considered the size, urban nature, and location of the Planning Proposal was inconsistent with the key principle of 'providing housing in the right places' and that this is reflected in the Planning Proposal's inconsistency with a raft of strategic policy documents including:

- The Draft South East and Tablelands Regional Plan 2041 including Strategy 17.1 and Strategy 17.2 which requires a focus for new housing development in existing centres;
- Eurobodalla's Local Strategic Planning Statement 2020-2040 including Priority 2 – to enhance the distinctive character and heritage of towns, villages and hamlets; Priority 3 – to consolidate development within towns and village centres; Priority 8 – to align local infrastructure delivery with planned growth; Priority 9 – to develop highly accessible town and activity centres; and Priority 11 – to activate town and village centres;
- The Eurobodalla Rural Lands Strategy, 2016;
- The Eurobodalla Settlement Strategy 2006-2031 and the preliminary findings of the draft Eurobodalla Housing Strategy currently on exhibition which has a specific focus for housing growth at Batemans Bay, Moruya, and Narooma;
- Key Ministerial Directions including 1.1 Implementation of Regional Plans, 1.4 Site Specific Provisions, 3.1 Conservation Zones, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones and 9.2 Rural Lands; and
- Key State Environmental Planning Policies (SEPPs) including Primary Production (2021), Transport and Infrastructure (2021) and Biodiversity and Conservation (2021).

Finally, the Panel determined that the Proponent had not effectively demonstrated that the Planning Proposal was a response to changing circumstances that have not been formally recognised.

In addition to the above, the Panel also had concerns in relation to:


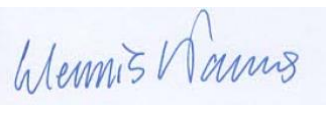
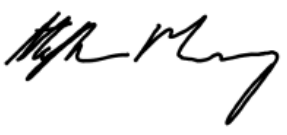
- The size of the proposal in terms of dwelling numbers (800) and population (1500), particularly having regard to the relatively isolated nature of the site and also noting that it would not be contiguous with existing residential development at Broulee;
- The magnitude, cost, timing and delivery of infrastructure and the implications for the Council's Infrastructure Delivery Program;
- The justification and practicality of locating essential workers and 'downsizers' on a site relatively remote from employment areas and services;
- The nature of the development and the utility of using the C4 Environmental Living zone;

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- The ability of the settlement model including the proposed community title to support the market garden outcomes and to provide for adequate public open space and other public infrastructure; and
- The location of the dwellings, roads and some of the market gardens in relation to the wetlands and the potential for adverse stormwater runoff and edge effects.

The Panel noted that the Planning Proposal had been considered by Council officers and the elected Council and had been rejected for similar reasons to that outlined above.

| PANEL MEMBERS   |   |
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| <br>Chris Wilson (Chair) | <br>Glennis James |
| <br>Stephen Murray       |   |

| SCHEDULE 1 |  |   |
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| 1          | PANEL REF – LGA –<br>DEPARTMENT REF - ADDRESS  | RR-2024-22 – Eurobodalla LGA – PP-2023-1734 – 207 Broulee Road,<br>Broulee  |
| 2          | LEP TO BE AMENDED                              | Eurobodalla Local Environmental Plan (LEP) 2012   |
| 3          | PROPOSED INSTRUMENT                            | <p>The proposal seeks to:</p> <ul style="list-style-type: none"> <li>• rezone the site from part RU1 Primary Production and part C2 Environmental Conservation to part C4 Environmental Living and part C2 Environmental Conservation;</li> <li>• introduce a maximum height of building of 8.5m in the C4 Environmental Living zone;</li> <li>• include a site-specific provision to require minimum 50% of the subject site being provided as conservation area, green space, market gardens etc; and</li> <li>• include a site-specific provision clause to allow residential development to maximum dwelling density of 8 dwellings per hectare.</li> </ul>   |
| 4          | MATERIAL CONSIDERED BY<br>THE PANEL            | <ul style="list-style-type: none"> <li>• Rezoning review request documentation</li> <li>• Department of Planning, Housing and Infrastructure, Rezoning Review Briefing Report, 17 May 2024</li> <li>• Slide presentations from Eurobodalla Shire Council, 20 June 2024 and PPD Planning Consultants, 20 June 2024</li> <li>• The Farm by Brightlands Living, Youtube video, 21 June 2024</li> </ul>   |
| 5          | SITE INSPECTIONS AND<br>BRIEFINGS BY THE PANEL | <ul style="list-style-type: none"> <li>• <b>Site inspection with Department of Planning, Housing and Infrastructure (DPHI): 11:20am – 12:45pm, 20 June 2024</b> <ul style="list-style-type: none"> <li>○ Panel members in attendance: Chris Wilson (Chair) &amp; Glennis James</li> <li>○ DPHI staff in attendance: George Curtis, Graham Judge &amp; Lisa Kennedy</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• Concept plan – land to be excised from existing farm for the proposed development; location of housing types, market gardens &amp; facilities</li> <li>• Existing and past agricultural uses of the farm</li> <li>• Retention of two large clumps of trees and farms dams</li> <li>• Management of wetland and buffer and drainage courses</li> <li>• Adjoining landscapes and land uses including crematorium &amp; rural residential development</li> <li>• Provision of infrastructure to the site</li> <li>• Need for cut and fill and retention walls</li> <li>• Broulee village – residential development; facilities &amp; services; road network; biodiversity issues</li> </ul> </li> <li>○ Panel member Stephen Murray was unable to attend the site inspection but is familiar with the site and Broulee village</li> </ul> </li> </ul> |

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|  | <ul style="list-style-type: none"> <li>• <b>Briefing with Department of Planning, Housing and Infrastructure (DPHI): 9:29am – 10:00am, 21 June 2024</b> <ul style="list-style-type: none"> <li>○ Panel members in attendance: Chris Wilson (Chair), Glennis James &amp; Stephen Murray</li> <li>○ DPHI staff in attendance: George Curtis, Graham Judge, Alex Galea, Tim Coorey, Ayva Hamed, Lisa Kennedy &amp; Taylah Fenning</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• Magnitude of proposal in comparison with Broulee village</li> <li>• Proposed housing types – affordable &amp; seniors housing and availability of services</li> <li>• Provision of infrastructure – water, sewer, electricity &amp; roads; timing &amp; costs; studies/reports</li> <li>• Environmental constraints of the site – SEPP wetlands, topography/slope, agricultural value of land</li> <li>• Eurobodalla Council’s Housing Audit – greenfield &amp; in-fill housing potential, supply and capacity; NSW housing targets; infrastructure constraints; bushfire prone lands</li> <li>• Strategic Reports update – draft South East and Tablelands Regional Plan; Council’s Settlement Strategy</li> <li>• Public transport availability and Transport for NSW planning</li> <li>• Proposed provisions - C4 Environmental Living Zone; permitted uses in C4 zone; deferring controls into a DCP</li> </ul> </li> </ul> </li> <li>• <b>Briefing with Eurobodalla Shire Council: 10:40am – 11:30am, 21 June 2024</b> <ul style="list-style-type: none"> <li>○ Panel members in attendance: Chris Wilson (Chair), Glennis James &amp; Stephen Murray</li> <li>○ DPHI staff in attendance: George Curtis, Graham Judge, Alex Galea, Tim Coorey, Ayva Hamed, Lisa Kennedy &amp; Taylah Fenning</li> <li>○ Council representatives in attendance: Angie Radford, Brent Parker &amp; Gary Bruce</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• History/timeline of development of planning proposal – Council consideration &amp; decision of 20 February 2024</li> <li>• Proposal - development connection to market gardens; management of shared spaces; suitability of C4 zoning; certainty of delivery of affordable &amp; seniors housing</li> <li>• Local Housing Strategy – Eurobodalla Settlement Strategy; existing &amp; required housing stock; delivering housing via approved development applications; construction issues – material costs &amp; lack builders; Strategy on public exhibition; have enough greenfield zoned sites; South Moruya site; affordable &amp; seniors housing</li> <li>• Infrastructure servicing – sewerage, water, electricity &amp; roads; Council’s infrastructure program – timing &amp; funding; availability of public transport</li> <li>• Loss of agricultural lands</li> </ul> </li> </ul> </li> </ul> |
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|  |  | <ul style="list-style-type: none"> <li>• Stormwater management - impacts on wetlands, waterways &amp; estuary</li> <li>• Wetlands – required buffer &amp; avoidance of development within buffer</li> <li>• Future residential development in Broulee and nearby villages - biodiversity issues in Broulee; Rosedale West masterplan concept plan</li> </ul> <ul style="list-style-type: none"> <li>• <b>Briefing with PPD Planning Consultants (Proponent) and Brightlands Living PTY Ltd (Landowner): 11:35am – 12:30pm, 21 June 2024</b> <ul style="list-style-type: none"> <li>○ Panel members in attendance: Chris Wilson (Chair), Glennis James &amp; Stephen Murray</li> <li>○ DPHI staff in attendance: George Curtis, Graham Judge, Alex Galea, Tim Coorey, Ayva Hamed, Lisa Kennedy &amp; Taylah Fenning</li> <li>○ Proponent representatives in attendance: Tony Polvere, William Sullivan, Ed Fernon &amp; Peter Montgomery</li> <li>○ Key issues discussed: <ul style="list-style-type: none"> <li>• Housing supply pipeline audit – calculation; realistic dwelling projections; environmental constraints – flooding, biodiversity &amp; bushfire; dwelling mix; concludes there is a greenfield shortfall</li> <li>• Strategic merit of planning proposal – draft South East and Tablelands Regional Plan, Eurobodalla LSPS; change of circumstances supported by housing supply pipeline audit</li> <li>• Natural environment</li> <li>• Servicing &amp; community infrastructure</li> <li>• Agrihood development – other projects; Community Title Scheme; lease of market gardens; residents provided with 2-3 food cubes/home</li> <li>• Demand for housing for workers at Moruya Hospital and Broulee schools – how will deliver affordable housing and ‘downsizing’ housing, proposing 800 dwellings and population of 1500</li> <li>• Delivery of infrastructure – roads/traffic</li> <li>• Fragmentation of agricultural lands – Rural Lands Strategy;</li> <li>• Proposed provisions - C4 Environmental Living Zone; permitted uses in C4 zone; deferring controls into a DCP; locking in affordable housing via a VPA</li> <li>• Stormwater management - treatment and retention strategy</li> <li>• Waterways and wetland – blue-green grid; required wetland buffer &amp; avoidance of development within buffer</li> <li>• Adjoining crematorium – air quality testing; buffer</li> <li>• Proposed community services &amp; infrastructure – open space dedicated to Council; playground, café, walkways and markets gardens (at cost) open to public</li> <li>• Community Farm Management Plan</li> </ul> </li> </ul> </li> </ul> |
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|  |  | <ul style="list-style-type: none"><li>• <b>Panel Discussion:</b> 12:30pm – 1:30pm, 21 June 2024<ul style="list-style-type: none"><li>○ Panel members in attendance: Chris Wilson (Chair), Glennis James &amp; Stephen Murray</li><li>○ DPHI staff in attendance: George Curtis, Graham Judge, Alex Galea, Tim Coorey, Ayva Hamed, Lisa Kennedy &amp; Taylah Fenning</li></ul></li></ul> |
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