



**Planning Proposal Review  
to  
Eurobodalla Shire Council**

**Reference: PP-2023-1556  
207 Broulee Road, Broulee NSW 2537**

22 January 2024

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## EXECUTIVE SUMMARY

The purpose of this report is to present and assess the planning proposal to rezone No. 207 Broulee Road Broulee from rural to a new 'agri-hood' development for Council's consideration on whether it should support the Planning Proposal and submit it to the NSW Department of Planning, Housing and Infrastructure for Gateway Determination.

The proposal seeks to amend the Eurobodalla Local Environmental Plan 2012 (ELEP 2012) by rezoning the land to allow for an expansion of the existing Broulee village.

It would enable approximately 800 low and medium density dwellings targeted to a mix of markets comprising over 55s, families and workers (via affordable housing opportunities) in an 'agri-hood' clustered housing community setting, plus approximately 50% of the site preserved for non-urban uses comprising conservation area, green space and market gardens.

It seeks to do this by amending the Land Use Zoning Map and the Height of Buildings Map, and introducing site – specific controls via ELEP 2012 clauses.

No community consultation has been undertaken at this preliminary stage of the application. However internal referrals have been made to Council staff for specialist review and feedback most of which raised matters for consideration and collectively do not support the proposal. The proponent has also undertaken limited, selective consultation with key stakeholders and other interested parties within the community some of whom have indicated support to the proposal.

The draft planning proposal seeks a significant expansion to the existing rural Broulee village and would double the current population (based on the 757 occupied dwellings identified in the Broulee SAL statistical area at the 2021 most recent census). This is beyond local growth to serve the needs of the local community and the site is not recognised for growth by any regional or local strategy.

While the 'agri-hood' vision in itself is commendable, it is considered that the draft planning proposal is inconsistent with the vision and planning of the strategic planning framework at State Government and Eurobodalla Council levels. This includes being inconsistent with the draft South East and Tablelands Regional Plan 2041, Council's Local Strategic Planning Statement (Eurobodalla 2040) and various State Environmental Planning Policies and Ministerial Directions. The proposal is inconsistent, or its consistency is not able to be demonstrated, with various Eurobodalla Council strategies including the Eurobodalla Rural Lands Strategy and the Eurobodalla Settlement Strategy.

The most fundamental issue is the site not being located within any current adopted growth area identified by the Strategic planning framework. The proposed scale of growth and location is a significant departure from the strategic planning framework.

The second issue is the character of the proposal. It comprises a large development, essentially urban in density, form and character, on currently un-serviced and isolated rural land. It will require a significant infrastructure investment. However, there are uncertainties in the delivery of infrastructure, in particular that of water and sewer, roads and public transport. It will result in the dispersal and inadequacy of infrastructure provision in Eurobodalla Shire and divert resources from the existing priority growth areas. The site will substantially change the rural character and impact Broulee village and the surrounding critically environmentally sensitive area.

In conclusion, the extent of the inconsistency is significant, and it will undermine the achievement of Council's current long term planning. It is therefore recommended that the proposal not be supported and the following recommendation may like to be considered by Council:

Council:

1. Agrees that the proposal does not have strategic or site specific merit for the following reasons:
  - (a) Inconsistency with the following regional and local strategies, State Environmental Planning Policies and Ministerial Directions:
    - i) a large number of the applicable planning strategies in the Draft South East and Tablelands Regional Plan 2041, including 17.1 and 17.2;
    - ii) the majority of the planning priorities in the Eurobodalla 2040 (Council's Local Strategic Planning Statement), including Planning Priorities 2, 3, 5, 8, 9 and 11;
    - iii) the Eurobodalla Rural Lands and Settlement Strategies;
    - iv) Ministerial Directions - 1.1 Implementation of Regional Plans, 1.4 Site Specific Provisions, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land, 4.5 Acid Sulfate Soils, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands; and
    - v) SEPPs – Primary Production (2021), Transport and Infrastructure (2021), Biodiversity and Conservation (2021), Resilience and Hazards (2021).
  - (b) The proposal is inconsistent with the intended character of development in the C4 Environmental Living zone, and many of the proposed uses are prohibited in the C4 Environmental Living zone;
  - (c) The proposed form of housing is urban in character and development will require significant infrastructure investment, the feasibility of which is uncertain;
  - (d) The site will substantially change the character of, and impact, Broulee village and the surrounding Illawong Nature Reserve;
  - (e) The development will have adverse effect on the biodiversity and conservation of threatened species, ecological communities and their habitats;
  - (f) The development will cause land use conflict between urban and rural uses;
  - (g) The proposal is premature as the Local Housing Strategy has not been completed;
  - (h) The proposal will divert the necessary critical infrastructure, funding, staging, sequencing and delivery of housing away from the existing nominated growth areas and is therefore not in the public interest;
2. Not forward the planning proposal to the Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination.
3. Notify the Proponent of Council's decision, acknowledging the merits and uniqueness of the agri-hood vision and inviting the proponent to liaise with Council planning staff to identify a suitable location for such a use and resolve the inconsistencies in the character of the proposal and the interpretation of the agri-hood philosophy into a suite of feasible and appropriate town planning controls, guidelines and policies.

## 1.0 INTRODUCTION

### 1.1 Overview

The Planning Proposal was submitted in its final form to Council on 21 July 2023 and seeks to amend the Eurobodalla Local Environmental Plan 2012 (ELEP 2012) by rezoning the land and implementing development standards to allow for expansion of the existing Broulee village.

The draft planning proposal has been informed by the proponent's 'agri-hood' vision for the future development of the site which is captured in a concept master plan that delivers:

- 50 percent of the site to be developed for approximately 800 dwellings;
- 50 percent of the site to be conservation area, green space and market gardens; and
- A village hub which provides a central location for community, business support, wellness and learning facilities.

It seeks to do this by amending the Land Use Zoning Map as well as introducing a Height of Buildings Maps and site specific density controls in the ELEP 2012.

A number of specialist studies have been prepared by professional consultants engaged by the proponent to inform and support the Draft Planning Proposal. These include:

- i) Biodiversity and Riparian Assessment
- ii) Preliminary Bushfire Study
- iii) Aboriginal and Historic Heritage Constraints Assessment
- iv) Water & Wastewater Servicing Feasibility Report
- v) Traffic & Parking Assessment Report
- vi) Agricultural Assessment Report
- vii) Broulee Housing Study
- viii) Concept Design Master Plan and Explanatory Report
- ix) Site Suitability Analysis
- x) Site Survey
- xi) Urban Design Presentation
- xii) Agri-hoods Report
- xiii) Draft Property Agreement
- xiv) Community Farm Management Plan
- xv) Building Design and Siting Guidelines

The proponent has also submitted the Eurobodalla Local Housing Strategy Workshops Outcomes report in support of the proposal.

The proponent has not submitted a site-specific development control plan (DCP) which would form part of the Eurobodalla Development Control Plan, but has offered to do so. The draft DCP would provide planning controls to guide future development on the site to achieve the vision set out in the proponent's concept master plan. This report therefore does not include an assessment of a site-specific draft DCP.

If the draft Planning Proposal is supported, a draft DCP would need to be prepared and reported to Council separately for support to exhibit. Any future exhibition should occur concurrently with the Planning Proposal.

## **1.2 Assessment and Additional Information**

The proponent submitted a 'pre lodgement' scoping report in September 2022. Council provided advice dated 19 January 2023 following a review of the scoping report and associated information.

The proponent submitted a planning proposal on 21 July 2023. A preliminary review of the documentation was immediately undertaken and the planning proposal returned on 4 August 2023 due to missing information. The proponents were also advised the planning proposal was lacking in some areas and recommended that they start addressing these issues before resubmitting the planning proposal (RFI 1).

The proponent resubmitted the planning proposal via the planning portal on 10 August 2023 and assessment commenced.

An independent planning consultant was appointed to assist Council officers in the assessment of the planning proposal on 24th August 2023.

The independent planning consultant identified gaps in the planning proposal material provided. A request for information was emailed on the 12th October 2023 (RFI 2) and submitted to the planning portal on 6 November 2023.

The consultant met the proponent and its planning consultant on-line via Teams on 20th October 2023 to discuss the request for information.

A response to the request for information (12 October 2023) and advice (4 August 2023) was received from the proponent on 10th November 2023. The response included additional supporting information that is listed in Part 1.1 above .

A summary of the material received in response to the two requests for information is included in **Attachment 1**.

## 2.0 THE SITE

### 2.1 Location

The proposal relates to a site located on the northern side of Broulee Road, 460 metres west of its intersection with George Bass Drive approximately 1.7 kilometres directly to the west of Broulee (The Broulee Post office).

A location plan is presented in **Figure 1** below.

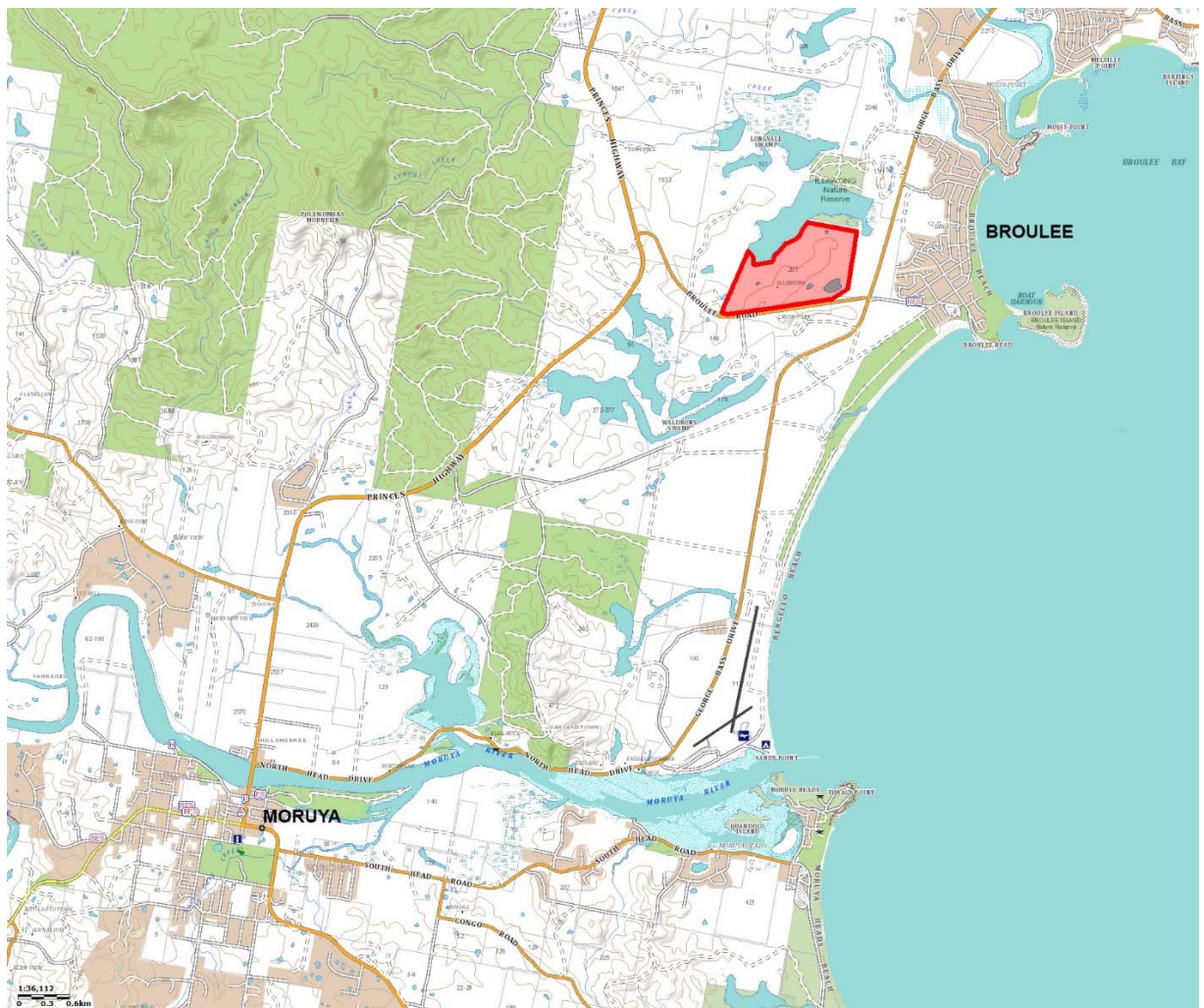


Figure 1: Location of Subject Site (Map source: source [www.SIX.nsw.gov.au](http://www.SIX.nsw.gov.au))

The site adjoins Carroll College to the north east, the Illawong Nature Reserve to the north and north east, rural allotments to the south and the Broulee Memorial Gardens and Crematorium to the west.

In terms of driving distances, the site is 2.3 kilometres west of Broulee Beach, 8.1 kilometres north of Moruya Airport (3.6 kilometres directly north of the runway) and 13.2 kilometres north east of the Moruya Town Centre.

Broulee village has a current population of 1,947 people (Census 2021) in 1,341 dwellings, of which 60.1 percent were occupied at the time of the census. Dwellings comprise predominantly detached housing (76 percent) principally concentrated in the area on the eastern side of George Bass Drive extending along Broulee Beach and Coronation Drive.

Facilities servicing the community are scattered across the village in three locations: the original small supermarket/bottle shop, post office and service station in the south on Grant Street; a row of shops including café, pharmacy and a mix of other uses in the centre addressing Coronation Drive and a new development, "Train Street Central," in the northern part of the village. It provides new commercial, medical and retail facilities including a Foodworks supermarket.

Education facilities include Broulee Public School, two colleges (St Peters Anglican School and Caroll College) and a child care centre.

The Princes Highway is 1.7 kilometres to the west of the site. The area is served by a limited bus service provided by Priors. The closest bus route is the 860 in Broulee village. It does not serve the site.

## 2.2 Site Details

The site is identified as 207 Broulee Road, Broulee and formally described as Lot 1 DP 1256287.

It is a 125.3 hectare rural parcel of land comprising a large, irregular rectangular shape, oriented east – west extending along Broulee Road with a frontage of 1.32 km to the road in the south, and a frontage of 1.67 km to the Illawong Nature Reserve in the north. Lot depth varies from 600 (west) to 1000 metres (east).

An aerial photograph and views of the site are presented in **Figure 2** on the following page.

Topographically, the site comprises a low ridge that extends in a north east direction rising from 2.0 metres AHD at the edge of the wetland in the nature reserve on the northern boundary to 40 metres at the top of the ridge in the south west corner of the site.

The south east lower side of the ridge is marked by an unnamed watercourse and wetland that flows into the Nature Reserve.

Generally the site is cleared of vegetation with the exception of remnant stands of trees, predominantly located in three groupings. The land is used for cattle grazing.

Current improvements comprise farm dams and fencing and three farm dwellings and associated farm sheds in two clusters at the eastern and western ends of the ridge.



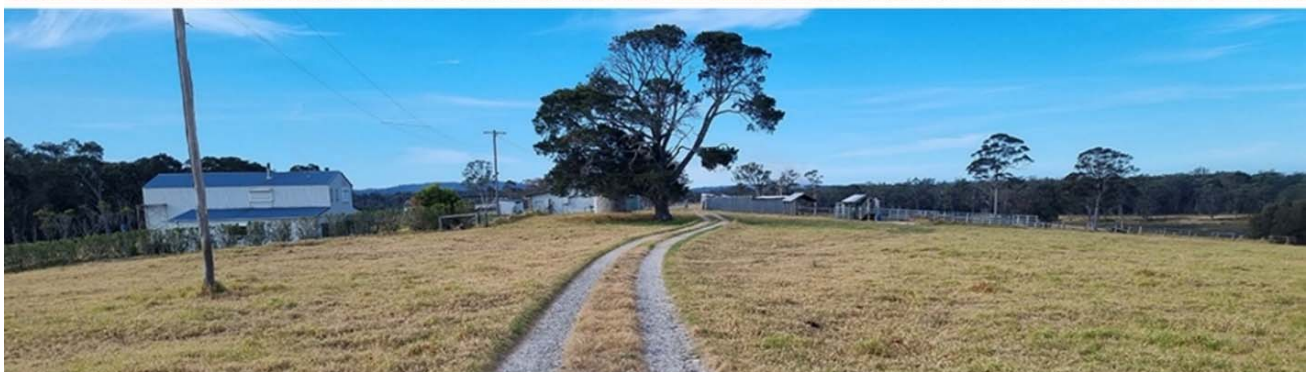


Figure 2: Aerial Photograph (source [www.SIX.nsw.gov.au](http://www.SIX.nsw.gov.au)) and views of site as follows:

- Top: view north west from eastern end of ridge. Nature reserve to right of image
- Bottom: view north east along ridge showing eastern cluster of buildings



- A village hub will provide a central location for community and business support (niche employment). It will include community space, co-working area, wellness centre and bathhouse (comprising treatments rooms, steam room, mineral baths, float tanks etc.), learning / education precinct, a 'paddock to plate' café/restaurant, child minding centre, and a discovery/interpretive centre (linked to the surrounding agricultural, wetland and bushland areas). The non-residential uses will occupy no more than 1,000 sqm of gross floor area and the village hub is not proposed to include any retail floorspace;
- The existing main homesteads will be subdivided into an 11.6 hectare lot providing space for livestock; and
- Subdivision by way of community title.

The draft planning proposal has been informed by the proponent's "agri-hood" vision for the future development of the site

"Agri-hood" has no accepted or formal definition and it is not recognised as a statutory land use term in the definitions in the NSW LEP Standard Instrument. However, in this proposal it is intended to be, and is described by the Proponent as:

- *"a unique community that integrates agriculture into a residential neighbourhood"* (PPD Planning Consultants, 'Planning Proposal' 18 July 2023); and
- *"Australia's leading wellness community with the implementation of 'agri-hoods', a clustered housing model and the world's leading technology to drive sustainability."*

*While there is no project in Australia that exactly replicates the intent of The Farm, there are a couple of case studies at Witchcliffe, Western Australian and The Cape, Victoria. This development will not appeal to everyone rather it seeks to target those that are passionate about the environment, their health and want to be part of the solution to climate change. ... While this is exemplified in the construction of homes and landscape infrastructure, the desire to embody a lifestyle of sustainability and connection cannot be separated from food production and consumption and interactions with nature and others. Food and farming are often the reasons that we come to community gardening, however, the connections that are developed between the individual, their community, and their environment are some of the most powerful benefits (The Farm, 'Community Farm Management Plan' undated);*

Furthermore,

- *"The proposal is not intended as 'agri-tourism' i.e. farmgate premises or farm experience premises. The proposal is for an 'agri-hood' development which has never been done before in NSW"* (PPD Planning Consultants, 'Planning Proposal Response' 10 November 2023)

The key public benefits of proposal noted by the proponent include the following:

- Rehabilitation of the wetlands;
- Creation of biodiversity corridors;
- Provision of affordable housing;
- Provision of Key worker housing;
- Increased housing supply and diversity of housing;
- Provision of 15km of walking and bike trails open to the public;

- Creation of a discovery centre for the local community;
- Provision of Education precinct and partnerships with Carroll College, St Peters College, local community;
- Jobs for the local community;
- Increased tourism and wellness offering at 'The Bower'; and
- Ability to activate the adjoining Council owned land.

The following Intended outcomes are proposed:

- Provide for overall health & well-being;
- Create a distinctive and unique community;
- Enhance the existing environment;
- Improve the local economy around local employment opportunities, indigenous employment opportunities and increased tourism;
- Increased diversity of housing types to address affordability and key workers;
- Provide education in partnership with local organisations, schools, TAFE and local indigenous groups;
- Create a very unique planned community that integrates agriculture into a residential neighbourhood (i.e. Agri-hood); and
- Create a community that is highly sustainable.

### 3.2 Planning Amendments

The proposal seeks to implement the concept plan through the following amendments to the ELEP 2012:

1. Amend the Land Zoning Map to rezone the site from the current RU1 Primary Production zone to a mix of the following:
  - i) 100 hectares of the site to C4 Environmental Living to accommodate the housing, village hub, open space and market gardens; and
  - ii) 25.3 hectares of the site to C2 Environmental Conservation, being a minor expansion of the zoned area in the south east corner of the site.
2. Amend the Height of Buildings Map to introduce a maximum building height of 8.5 metres across the proposed C4 Environmental Living zone;
3. Include a 'site specific local provisions' clause to allow residential development of the C4 zoned lands subject to:
  - i) maximum dwelling density of 8 dwellings per hectare; and
  - ii) minimum 50% of the subject site being provided as conservation area, green space, market gardens etc.

The current and proposed zoning and new mapping for Height of buildings for the planning proposal are provided at **Attachment 2**.

## 4.0 PLANNING CONTEXT

### 4.1 Draft South East and Tablelands Regional Plan 2041

The Draft South East and Tablelands Regional Plan 2041 is the 20-year strategic planning blueprint to ensure the dynamic and vibrant region's ongoing prosperity. The plan sets the land use planning framework for the South East and Tablelands region that includes the Eurobodalla Shire. It presents the direction for future needs for housing, jobs, infrastructure, a healthy environment and connected communities.

The plan provides a long-term vision for the region, supported by 25 objectives under 5 themes to guide planning and land-use decisions and actions over the next two decades to shape the region's many places.

Under the Plan, the site is located in the 'Batemans Bay Strategic Cluster' stretching from Batemans Bay south to Moruya. The Plan notes "*Strategic clusters recognise that a strategic centre and its function and capacity for growth is inherently linked to the operation and evolution of one or more local centres. This may mean that the distribution of services, jobs and housing is interconnected between each centre and requires coordinated strategic planning and investment to manage change*" (p.22).

The Plan further notes: "*While Moruya offers significant greenfield development potential alongside access to the future bypass and the new Eurobodalla Regional Hospital, any growth potential needs to be considered alongside environmental assets, exposure to coastal and flood hazards, and the viability of Batemans Bay. ... Investigate opportunities for employment and residential land around Batemans Bay to cater for new and innovative business*" (p.30).

Relevantly, the site is not located in the Moruya Strategic Investigation area. The Plan notes "*Strategic Investigations are areas identified in the regional plan which require greater focus and play a critical role in ensuring the region achieves its vision for 2041. These investigations may relate to housing and employment growth, environmental protection and opportunities to strengthen local services and amenities*" (p.22).

At this time the plan remains a draft having been subject to a second round exhibition from 9 December 2022 to 31 January 2023. However it is reasonable to include it as a matter for consideration.

The proposal is considered to be inconsistent with the draft South East and Tablelands Regional Plan 2041, principally because it has not demonstrated that:

- i) areas of high environmental value bordering the development area to the north, north east and south east can be protected, and impacts of the development on aquatic habitats in freshwater systems and aquacultural estuaries can be avoided (Strategy 13.1);
- ii) existing services in Broulee and convenient proximity to the site can cater for an increase in population (i.e. social infrastructure, education and health), and can encourage walking and cycling (Strategy 17.1);
- iii) there is proximity to public transport commensurate with the need generated by the target 'seniors living' character of the population (Strategy 17.1); and
- iv) it focuses new housing development in existing centres, where supported by strategic land use plans such as local housing strategies (Strategy 17.2).

The proposal seeks to rezone rural land to create a large development outside the identified growth area. This is inconsistent with the Plan in regard to housing supply location and management of rural lands. The extent of the inconsistency is significant, and will undermine the achievement of the Plan's vision, land use strategy, goals and directions.

## 4.2 Eurobodalla Local Strategic Planning Statement ("LSPS") 2020-2040

The purpose of the LSPS is to provide an overall strategic land-use direction across Eurobodalla by drawing on the vision and priorities established in the Eurobodalla's One Community – Community Strategic Plan and other related strategies.

The Eurobodalla LSPS is part of a hierarchy of strategic planning documents mandated by the NSW State Government which guides the planning decisions made by Eurobodalla Shire Council and sets the planning directions across the whole LGA.

The LSPS is a key consideration when evaluating the appropriateness of a Planning Proposal. The LSPS identifies the site in the LGA rural area. Furthermore, the site is not located in an identified future residential growth area. It is located outside the identified Broulee "Activity Centre" identified to accommodate future housing.

The proposal is consistent with the LSPS principally because:

- i) It encourages greater housing diversity and affordability (Planning Priority 1); and
- ii) It promotes a diverse and sustainable agriculture sector (Planning Priority 13).

The proposal is inconsistent with the LSPS principally because it does not:

- i) enhance the distinctive character and heritage of towns, villages and hamlets (Planning Priority 2);
- ii) consolidate development within towns and village centres (Planning Priority 3);
- iii) conserve and celebrate bushland and waterways (Planning Priority 5);
- iv) Align local infrastructure delivery with planned growth (Planning Priority 8);
- v) develop highly accessible town and activity centres (Planning Priority 9); and
- vi) activate town and village centres (Planning Priority 11)

With respect to Planning Priority 9, the LSPS recognises that with an aging population and low vehicle ownership, there will be an increased need to live in highly accessible locations where goods and services are within walking distance to residential areas and people have alternative transport options. The LSPS considers that the town centres of Batemans Bay, Moruya and Naroma have areas that are relatively flat and could facilitate increased density and infill that best caters for an aging population.

### 4.3 Other Strategies

A number of Council adopted strategies are relevant including the Eurobodalla Settlement Strategy 2006 – 2031 and the Rural Lands Strategy 2016.

#### **Eurobodalla Settlement Strategy 2006 – 2031**

Broadly, the aims of the Eurobodalla Settlement Strategy are to conserve biodiversity, respect the Shire's diverse cultural background, stimulate economic and community development, and provide efficient public services (p.13). The strategy sets out the directions and pathways for a sustainable pattern of land uses over the 25 year period 2006 to 2031 (p.25).

The site is located outside the urban settlement boundary of Broulee that is identified as a coastal village in Table 5.1.

Coastal villages are defined as small centres with a population of up to 3,000 people. Villages are located remote from other settlements or may be the outlying suburbs of larger settlements.

Villages are differentiated from other settlement types by having a small vibrant centre set within a distinctive and intact natural environment.

Key issues currently facing coastal villages include development pressure on land that separates settlements. This causes ribbon settlement stretching along the coastal edge and along the main access road, and large scale tourist developments and subdivisions that erode the compact footprint and natural setting. The containment of urban areas to the boundaries of land use zones brings benefits such as the ability to plan for and efficiently provide infrastructure and services.

The proposal notes that it is not purporting to be an urban residential development. Instead, it is presenting environmental living land that can provide a unique type of 'agri-hood' development that is ideally suited to being located outside the compact urban footprint while maintaining and not detrimentally impacting on the scenic setting of Broulee.

The proposal is inconsistent with the following Directions and actions in the Strategy:

- i) *Direction 5.2.2: Settlements are contained within existing settlement boundaries and separation between settlements is maintained to ensure settlement character is protected and urban sprawl is avoided;*
- ii) *Direction 5.3.2: urban residential land is developed in an orderly sequence that responds to the market and is able to be serviced economically;*
- iii) *Action NH3: defer to the NSW Government Seniors Living Policy for the placement of aged housing – aged housing is to be prohibited in rural areas or areas subject to natural hazard;*
- iv) *Action NE7: restrict development on rural lands through an appropriate land use zone in significant major water catchments that contribute to essential domestic water supply, irrigation waters and environmental flows in streams;*
- v) *Action NE8: apply a conservation zone and vegetation buffers to protect rivers, streams, wetlands, lakes and estuaries and other sensitive landscapes in order to achieve designated water quality objectives;*

- vi) *Action SP7: include minimum lot sizes, maximum building heights and site coverage controls, such as maximum floor space ratios, as separate overlays in the new LEP;*
- vii) *Action SP10: the existing boundaries of urban settlements as defined in structure plans and including land zoned for urban expansion are to be retained in the new LEP;*
- viii) *Action SP13: vacant urban residential land within and adjacent to Batemans Bay, Moruya and Narooma structure plan areas is given high priority for release. Vacant urban land in or adjacent to isolated villages and hamlets is of low priority for release; and*
- ix) *Action SP16: deficits in dwelling needs in the northern and central district are to be addressed through increased housing densities in appropriate locations as identified in structure plans for Batemans Bay and Moruya.*

The Settlement Strategy was adopted by Council 2006 and is now some 18 years old. However, the Strategy has been reviewed and tested by Council on a number of occasions over the last decade and the following observations from these exercises are pertinent:

- The Strategy was based on population projections up to 2031 that have not been realised. That is, population growth and the rate of development has been lower than forecast;
- There is unrealised capacity in available zoned land for housing to meet demand for current and future population projections up to 2041; for example in land release areas and urban growth areas in Dalmeny and Moruya, greenfield subdivisions in Rosedale and multi-unit infill sites in Batemans Bay; and
- The Local Strategic Planning Statement (LSPS) 2020 identified the need, in Action 1.2, to review the Settlement Strategy as a medium term action (2026-2030).

Notwithstanding this, Council has commenced the preparation of a Local Housing Strategy. The purpose of the Strategy is *"identify the demand for new and different housing types over the next 20 years"* and *"identify actions to provide the right housing to meet this demand."*

Preliminary investigations have highlighted that the key issues that have been identified to date include the need to encourage greater housing diversity and affordability over the next 20 years, not necessarily increasing the supply of land for housing.

This project is currently underway and is forecast to be finalised in 2024. As such, at this time, it is not known whether there is demand in the strategic planning framework for the proposal. Subsequently, it is considered premature to pre-empt, and potentially undermine, the findings and recommendations of the work by any support to a draft Planning Proposal of this scale at this time.

### **Eurobodalla Rural Lands Strategy 2016.**

The Rural Lands Strategy establishes a vision and action plan for the rural lands in the Shire for the coming 20 years.

The proposal notes that the Strategy does not recognise nor contemplate agri-hood development that integrates a working farm or community garden into neighbourhoods, allowing for the development of residential neighbourhoods that retain the agricultural land resource.



The proposal is consistent with the following actions in the Strategy:

- i) Promote Eurobodalla as a place where small scale agriculture is a viable lifestyle and business opportunity (Action 5.5.2.1);
- ii) Promote possible measures to encourage land owners to maintain or enhance landscape qualities as part of development offsets (Action 5.3.2.3); and
- iii) Council Business Development Unit in association with SAGE to further develop programs to raise awareness and consumption of locally produced food. This could be extended to promote co-operatives or group marketing initiatives for small producers to achieve sufficient scale of production and critical mass to access new markets and investors (Action 5.5.2.1).

The proposal is inconsistent with the following actions in the Strategy:

- i) conserve properties over 100 ha in larger ownerships and limit further fragmentation of ownerships where access is poor (Action 5.2.3);
- ii) There is a comfortable supply of vacant lots and potential lots in the existing rural residential zones to address at least 5 to 10 years demand for all types of rural residential living experience (Direction 5.8.3);
- iii) The R5 Large Lot Residential zone should continue to be used for small lot (generally 5 ha or less) rural living and smaller scale hobby farm activity in estate style developments covering predominantly cleared lands (Action 5.9.2.1); and
- iv) The E4 Environmental Living zone [now C4 zone] should continue to be used to define areas where there is an emphasis on rural living in bushland surroundings (Action 5.9.2.1).
- v) Council continues to use the following zones for rural residential development:
  - Zone R5 Large Lot Residential: as a zone to define small lot areas for predominantly rural living with very small if any agricultural use.
  - Zone E4 [C4] Environmental Living: as a zone to distinguish environmental living in bushland areas with low emphasis on agricultural use. (Action 5.9.2.1)

#### 4.4 Relevant Acts

A number of primary instruments of NSW and Commonwealth legislation separately are relevant to the proposal and identified in **Table 1** below.

Relevant Act and Provisions	Comment
<b>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</b>	<p>Four threatened ecological communities (TECs) listed under the NSW Biodiversity Conservation Act and the Commonwealth Environment Protection and Biodiversity Conservation ("EPBC") Act are present in the site.</p> <p>Ecological Australia (15 September 2022) has provided Preliminary Ecological Advice suggesting liaison with the Commonwealth.</p>

Relevant Act and Provisions	Comment
<p><b>NSW Biodiversity Conservation Act 2016</b></p> <p>The Act establishes the biodiversity assessment requirements for proposed developments and land use change. It includes a mandatory framework for addressing impacts on biodiversity from development and clearing. The framework includes the Biodiversity Offsets Scheme (BOS) and assessment methodologies such as the Biodiversity Assessment Method (BAM). Where the BOS is triggered, a Biodiversity Development Assessment Report (BDAR) is required.</p>	<p>The site is mapped on the Biodiversity Values Map.</p> <p>Ecological Australia (15 September 2022) has provided Preliminary Ecological Advice. It recommends that a Biodiversity Development Assessment Report (BDAR) accompany the Planning Proposal. It notes that any future development may trigger the BOS, however it is unlikely to generate a substantial biodiversity credit obligation or associated cost given the intention to retain and enhance the biodiversity values of the land.</p>
<p><b>Rural Fires Act 1997</b></p> <p>The Act makes provision for the prevention, mitigation and suppression of rural fires.</p>	<p>The subject land is identified as being located on Bushfire Prone Land according to Council's Bushfire Prone Land Map. A Bushfire Risk Assessment report has been submitted with the proposal.</p>
<p><b>Water Management Act 2000</b></p> <p>The Act provides for the sustainable and integrated management of the water sources and, in particular, to protect, enhance and restore water resources via controlling activities on waterfront land and aquifer interference activity.</p>	<p>Ecological Australia (15 September 2022) notes the presence of a number of unnamed 1st, 2nd, and 3rd order watercourses occur within the subject land, draining to Longvale Swamp.</p> <p>The Planning Proposal seeks to remove the majority of the 1<sup>st</sup> order watercourses.</p> <p>Referral to the Natural Resources Access Regulator (NRAR) will be required.</p>
<p><b>National Parks and Wildlife Act 1974</b></p> <p>The Act seeks to conserve among other things, places, objects and features of significance to Aboriginal people, places of social value and places of historic, architectural or scientific significance.</p>	<p>The Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has identified no site in the property.</p> <p>An Aboriginal and Historic Heritage Constraints Assessment, Ecological (August 2022), has been submitted.</p>
<p><b>Roads Act 1993</b></p> <p>Section 138 of the Roads Act 1993 requires an approval from the roads authority (either Council or Transport for NSW) for certain works in, on or over a public road, or to connect to a classified road.</p>	<p>The proposal seeks to construct a new local road and connect it to Broulee Road.</p>

Table 1: NSW and Commonwealth Legislation

#### 4.5 State Environmental Planning Policies

A number of State Environmental Planning Policies (SEPPs) are relevant, and the proposal is assessed against their relevant provisions in Table 2 below.

Relevant SEPP and Provisions	Comment
<p><b>(Primary Production) 2021</b></p> <p>The SEPP aims to facilitate the orderly economic use and development of lands for primary production and reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources.</p>	<p>Inconsistent with the aims of the SEPP as described throughout this report.</p>
<p><b>(Biodiversity and Conservation) 2021</b></p> <p>This SEPP contains provisions for the clearing of native vegetation in NSW on land zoned for urban and environmental purposes and the land use planning and assessment framework for koala habitat.</p>	<p>The SEPP applies to the site. Ecological Australia (15 September 2022) has provided Preliminary Ecological Advice.</p>
<p><b>(Resilience and Hazards) 2021</b></p> <p>This SEPP contains planning provisions to manage hazardous and offensive development and to provide a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.</p>	<p>Chapter 4 addresses remediation of land. This is discussed in Part 4.6 below.</p> <p>The site is mapped within a Coastal Wetland and partly in the Wetlands Proximity Area. Development and intensification of use is proposed within the boundary of the Proximity Area.</p>
<p><b>(Transport and Infrastructure) 2021</b></p> <p>This SEPP contains planning provisions for infrastructure in NSW, such as hospitals, roads, railways, emergency services, water supply and electricity delivery.</p>	<p>Section 2.48 identifies triggers which require the local electricity supply authority (i.e. Essential Energy) to be given notice of a DA . The proposal will trigger a requirement for referral.</p> <p>Section 2.118 deals with sites that front onto a classified road. While Section 2.122 deals with Traffic Generating Development.</p> <p>The site has direct vehicular access to Broulee Road which is not a classified road under the care and control of Transport for NSW (TfNSW).</p> <p>The proposed scale of the subdivision will trigger referral to TfNSW as a traffic generating development.</p>

Table 2: NSW State Environmental Planning Policies

#### 4.6 Eurobodalla Shire Council LEP 2012

Eurobodalla Local Environmental Plan 2012 applies to the site and contains land use objectives and controls for certain development.

The site is zoned 'RU1 Primary Production' with part of the site in the north and east zoned 'C2 – Environmental Conservation' (the wetland and riparian corridors within the site).

The proposed planning amendments presented in Part 3.2 above seek to rezone the current RU1 Primary Production zone to the following:

- i) 100 hectares of the site to C4 Environmental Living to accommodate the housing, village hub, open space and market gardens. Certain non-residential uses such as proposed community centre and café that are prohibited in the zone will be addressed under the 'additional permitted uses' provisions of the LEP;
- ii) 25.3 hectares of the site to C2 Environmental Conservation, being a minor expansion of the existing C2 zoned area in the south east corner of the site;
- iii) Introduce a maximum building height of 8.5 metres across the proposed C4 Environmental Living zone; and
- iv) Include a site specific local provisions clause to allow residential development of the C4 zoned lands subject to:
  - maximum dwelling density of 8 dwellings per hectare with lot averaging; and
  - minimum 50% of the subject site being provided as conservation area, green space, market gardens.

However, the proposed planning amendments are incomplete as they do not thoroughly address the following matters.

### **Lot Size and Density**

No amendment to the Lot Size Map is proposed to provide control and certainty to the density of subdivision and development and dwelling typology outcomes.

Instead the proposal relies on a request to include a site specific clause in Part 6 "Additional Local Provisions" that imposes a maximum dwelling control of 8 dwellings per hectare (similar to existing Clause 6.16 regarding development at Kyla Park it is assumed) and lot averaging.

However, this approach is not supported as it lacks the clarity and certainty that is required to enable the delivery of the vision of a scale sought by the proponent. Specifically:

- the maximum dwelling density control will apply to all the land proposed to be zoned C4;
- However, not all the 100 hectares of proposed C4 zoned land will be used for housing as the zone includes land used for open space, market gardens (10 hectares) and the village hub according to the concept master plan;
- The proponent was requested to provide a land use area schedule with measured areas to provide clarity on final density and lot sizes in the correspondence dated 12 October 2023 (RFI 2). However it was not received;
- Thus it is unknown what land is intended to be used for housing and the village hub. It is currently described as 50 percent of the site This is 62.6 hectares (not the 100 hectares of C4 zone);
- Therefore the land in the C4 zone for open space, market gardens uses can be construed to amount to (100 – 62.6) 37.4 hectares (noting however that the Planning Proposal advises that only approximately 10 hectares of the site will be used for vegetable and fruit growing); and

- Adopting the 62.6 hectares of net developable area for housing would result in a density of 12.7 dwellings per hectare (not 8 dwellings per hectare). Typically, this density results in an average lot size of circa 600 sqm.

### Zone, Uses and Permissibility

There are three observations:

1. Essentially the housing component of the proposal presents a development that, for all intents and purposes, is urban in form and character. The dwelling yield is 800 dwellings in a mix of dwelling types ranging from detached homes through to villas and terraces in a subdivision with an average lot size of 600 sqm. These characteristics appear at odds with the 50 percent target for downsizers that the documentation in the proposal suggests will have a preference for smaller dwellings with 2 to 3 bedrooms.
2. These characteristics appear at odds with the proposed zoning. As noted in Part 4.3 above, the discussion in the Eurobodalla Rural Lands Study suggests that the use of the 'C4 - Environmental Living' zone would be inappropriate given the characteristics of this proposal. Put simply the character of the housing component does not meet the desired future character sought by the objectives of the zone, particularly Objective 4 to "*ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*" A more appropriate zone to support a subdivision with an average lot size of 600 sqm and the dwelling mix suggested would be 'R2 – Low Density Residential.'
3. The permissibility of the proposed uses in the village hub and dwelling typologies in the C4 zone requires greater justification. Some uses, such as the café, child care centre, business premises, "discovery centre" and villa / terrace housing are, on face value (that is, without the benefit of detail), most likely not permissible in the zone. Clarification of this matter was sought from the proponent in the 12 October 2023 advice (RFI 2). The response advised that the proposed housing mix and commercial uses seeking permissibility in the proposed C4 zone will be confirmed in a Site - Specific Development Control Plan. However the EDCP cannot render uses permissible in a ELEP 2012 zone that are prohibited in the zone.

### Heritage

All of the site is identified in the ELEP 2012 Heritage Map as a general heritage item (Item I46) by virtue of it historically accommodating the 'Mount Oldrey Homestead.' The Aboriginal and Historic Heritage Constraints Assessment concludes that the site '*has potential for both historical and Aboriginal archaeological sites to be present which will require further investigation prior to any future development*' (p15).

Clarification on this matter was sought from the proponent in the 12 October 2023 advice (RFI 2). The response advised the Aboriginal and Historic Heritage Constraints Assessment does not identify any significant constraints that would preclude development of the subject site and no amendments to the Heritage Maps are proposed at this stage. Further assessments and permit applications will be required if impacts to any historical and Aboriginal archaeological sites cannot be avoided

However, given the significance of this issue it is not considered appropriate to defer consideration of the matter to any future development application. Council is not able to determine what impacts may be generated by the proposed development of the site should it support the planning proposal for Gateway Determination. Further investigation is required to identify the heritage values of the site, the location and form of any archaeological objects, the definition of a heritage curtilage boundary (if any) and the amendments may need to be made to the proposal accordingly.

#### 4.7 Section 9.1 Ministerial Directions

The Minister for Planning and Public Places has issued a number of Directions under the Environmental Planning and Assessment Act 1979 which apply to the assessment of planning proposals.

A summary assessment of the proposal against the relevant Ministerial Directions is provided below. The draft Planning Proposal is considered to be mostly inconsistent with a number of Directions as summarised in Table 3 below.

Ministerial Direction	Assessment	Consistent
1.1 Implementation of Regional Plans	Inconsistent with the Draft South East and Tablelands Regional Plan 2041 having regard to areas of high environmental value, access to services and as the site is not located in an identified urban growth area.  The extent of the inconsistency is significant and will undermine the achievement of the Regional Plan's vision, land use strategy, goals and directions.	No
1.4 Site Specific Provisions	The objective of the direction is to discourage unnecessarily restrictive site-specific planning controls.  Site specific provisions are proposed. This Proposal has not demonstrated that the rezoning of the site to an existing zone already in the ELEP 2012 allows that land use without imposing any development standards or requirements in addition to those already contained in that zone.	No
3.1 Conservation Zones	Areas within the site are identified as having high biodiversity value that are sensitive to impacts from development and clearing on the NSW Biodiversity Values Map.  The draft Planning Proposal is likely to reduce the conservation standards.  The draft Planning Proposal is likely to affect threatened species, ecological communities and their habitats that exist on the subject land.	No
3.2 Heritage Conservation	There is a local heritage item located within the site.  The proposal has not adequately demonstrated that there will be no impacts on the heritage significance of the site.	No
4.2 Coastal Management	The site includes land mapped as "proximity area for coastal wetlands" identified by chapter 2 of the SEPP (Resilience and Hazards) 2021.  The planning proposal seeks to rezone land which would enable increased development of more intensive land-use on the mapped land.	No

Ministerial Direction	Assessment	Consistent
4.3 Planning for Bushfire Protection	<p>The site is identified as Bushfire Prone Land.</p> <p>Proposed Asset Protection Zones are inappropriately located within land mapped as coastal wetlands and Proximity Area for Coastal Wetlands in the SEPP (Resilience and Hazards) 2021, reducing the significant ecological value of these areas.</p>	No
4.4 Remediation of Contaminated Land	<p>The proposal seeks to rezone land for residential, educational, recreational and childcare purposes and Council is required to consider whether the land is contaminated and whether it will be suitable for the development proposed.</p> <p>No Preliminary Site Investigation is included in the Planning Proposal. It was requested from the proponent in the 12 October 2023 advice (RFI 2). Additional comment was received. However it has not been prepared by a suitably qualified and experienced practitioner. Further, it does not adequately provide sufficient investigation or evidence, and does not follow the procedures in the Contaminated Land Guidelines 2020 as required by Chapter 4 of the SEPP (Resilience and Hazards) 2021. Thus Council is unable to be satisfied that the site is capable of being made suitable for the proposed rezoning.</p>	No
4.5 Acid Sulfate Soils	<p>The site is partly mapped as comprising Class 2 Acid Sulphate Soil. The proposal includes an intensification of use on this land.</p> <p>No acid sulfate soils study is included in the Planning Proposal. It was requested from the proponent in the 12 October 2023 advice (RFI 2). However, it has not been provided.</p> <p>As no Acid Sulfate Study has been able to be considered Council is unable to be satisfied that the site is capable of being made suitable for the proposed future development.</p>	No
5.1 Integrating Land Use and Transport	<p>The site is poorly located for the low to medium density residential development contemplated in the proposal as it has no convenient access to public transport services. It is likely that future residents will be heavily reliant on private vehicle usage in this area.</p>	No.
5.2 Reserving Land for Public Purposes	<p>The Proposal is consistent with this direction in that it does not create, alter or reduce existing zonings or reservations of land for public purposes.</p>	Yes
5.3 Development Near Regulated Airports and Defence Airfields	<p>The site is located approximately 1.6 kilometres north of the Moruya Airport runway. The airport is regulated. The proposal includes a building height control of 8.5m and does not propose development that is incompatible with the current and future operations of the Airport</p>	Yes
6.1 Residential Zones	<p>While the provision of a diverse housing supply may be supported in appropriate locations, the site is not suitable to accommodate the proposed development.</p> <p>Nominated growth areas and existing residential zoned land with adequate infrastructure and public transport services are better suited to support the urban character of development proposed.</p> <p>The site is subject to significant servicing and infrastructure constraints.</p>	No

Ministerial Direction	Assessment	Consistent
9.1 Rural Zones	While the draft Planning Proposal seeks to rezone the subject land from a rural zone to an environmental living zone and strictly speaking may not be relevant, the rezoning proposal includes accompanying density and land use permissibility controls that will deliver an urban residential zone outcome. This outcome is not justified by any adopted strategy. It is inconsistent with Council's Rural Lands Strategy.	No
9.2 Rural Lands	<p>The Proposal is inconsistent in many respects with this Direction. It</p> <ul style="list-style-type: none"> <li>• is inconsistent with the applicable Draft South East and Tablelands Regional Plan 2041 and Eurobodalla Local Strategic Planning Statement 2040;</li> <li>• does not identify and protect environmental values;</li> <li>• includes changes to the existing minimum lot size on land within a rural zone that is inconsistent with the priority of minimising rural land fragmentation and land use conflict and fails to take account of the availability of appropriately located human services, utility infrastructure, transport and proximity to existing centres.</li> </ul>	No

Table 3: Ministerial Directions



## 5.0 CONSULTATION

### 5.1 Overview

No preliminary consultation has been undertaken with the community, Government Agencies or stakeholders at this stage.

Independent of the Council, the Planning Proposal references consultation by the proponent with stakeholders in and around the Broulee community. Evidence of such discussions with the following parties, that appear to be fundamental to the success of the development, were requested from the proponent in the 12 October 2023 advice (RFI 2):

- Carroll and St Peters Colleges (P.17) and TAFE (P.19), SAGE (p.39);
- The relevant Local Aboriginal Land Council(s);
- NSW Department of Education (School's Infrastructure) to determine its ability to serve site;
- DPE Water / NRAR regarding riparian proposals;
- Commonwealth Government (DCCEEW);
- Transport for NSW and local bus operator (Priors) regarding the ability to service the site;
- Southern NSW Local Health District (SNSWLHD) regarding ability to service site, particularly given senior living focus; and
- NSW National Parks and Wildlife regarding possible existing wildlife agreements

In response letters of support have been submitted from Carroll College and Blackrock industries.

Council has also received an unsolicited submission from Broulee Mossy Point Community Association that advises of its opposition to the proposal.

### 5.2 Internal Referrals

The proposal has also been referred internally to specialist Council staff. A summary of the feedback is presented in Table 4 below.

Referral	Feedback
Sewer and Water	<p>The planning proposal states there are capacity and infrastructure upgrades required but the nature of these (including environmental impacts), and funding arrangement are unclear.</p> <p>The detail provided needs to be supplemented with indicative concept plans and maps showing lead in connections / routes etc to existing services. Is water and sewer augmentation viable? (The report notes that it has not considered any environmental investigations, geotechnical limitations, community engagement or cost estimates associated with servicing the development with water and wastewater).</p>

	No additional documentation has been provided as requested and this concern has not been addressed.
Drainage	<p>The investigation and description of flooding or water cycle and stormwater management is inadequate. This should be addressed due to the proximity of the receiving environment being a wetland, Illawong Nature Reserve and first order waterways across the site.</p> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>
Traffic Engineer	<p>More detail is required on how the proposal addresses active transport and how pedestrians/cyclists will be catered for particularly around crossing of George Bass Drive.</p> <p>Commentary is required on the feasibility of providing the proposed secondary access closer to the highway due to its proximity to a crest (Approximately 150m to the west). This would be a plan detailing:</p> <ul style="list-style-type: none"> <li>• Approach Sight Distance (ASD)</li> <li>• Safe Intersection Site Distance (SISD).</li> <li>• Minimum Gap Sight Distance (MGSD)</li> </ul> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>
Heritage	<p>It is suggested that an archaeologist undertake a careful surface inspection of the site (preferably when grass is dry and low) to see if there are any obvious signs of the buildings. In the short term these areas (if found) should be fenced and protected from development . Should they wish to disturb these areas (e.g. for buildings, paths, roads or agriculture) an archaeological plan should be prepared. For example, the archaeological plan may require some more detailed investigation, such as sub-surface sampling and sieving to identify artefacts, and protection of former fireplaces etc.</p> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>
Recreation, open space, community facilities & community services	<p>The investigation needs to identify dwelling occupation, population estimate, demand for schools, open space. Community facilities etc and assessment against common benchmarks.</p> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>
Biodiversity	<p>The investigation does not make any definitive recommendations to remove of Category 1 streams and any offsets. This is required as many shown removed in plan.</p> <p>The investigation notes large areas containing EECs and buffers. However it does not demonstrate that future development will not significantly impact on the wetlands and buffer areas. Further consideration of impacts to this SEPP wetland needs to be considered at this stage to avoid impacts from land use intensification, i.e. urban development, higher intensity agriculture on part of the land, stormwater run-off, public access / pathways, potential impacts to water quality.</p> <p>Further assessment, including a survey of Yellow-bellied glider is required to determine any potential for impact on this species.</p> <p>The report needs to be definitive on how the EECs will be assessed and managed BDAR/ BSA /EPBC? Offsets etc. The report suggests the need for a BDAR given the sensitivity of site.</p> <p>It is recommended that a BDAR is requested, or minimum BAM stage 1-2 assessment.</p> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>

Bushfire	<p>The investigation confirms the site performs quite well from a bushfire risk perspective as the land to the north is predominately wetland and the forest to the east and south east is relatively flat.</p> <p>The report does not assess the specifics of the subdivision design and amendments may be required.</p>
Agricultural Lands	<p>According to Council's GIS mapping, the subject site is located on a large rural holding identified as Class 3 Agricultural Land. Whilst the site may not currently be farmed to its potential, the proposal needs to address the potential loss of vital agricultural land.</p> <p>Of note, while the current grazing business not commercially viable this is not, in itself, justification for a change in use.</p> <p>The report should address compatibility / conflicts of urban housing interspersed into agriculture (e.g. impact of noise, odour, spraying, truck movements etc on residential amenity).</p> <p>No additional documentation has been provided as requested and this concern has not been addressed.</p>

Table 4: Referral Feedback

## 6.0 CONCLUSIONS

### 6.1 Key Findings

The report so far has considered the merits of the draft Planning Proposal in terms of the strategic and statutory planning framework. Assessments of the site-specific merit and capability of the site for the proposed development have also been undertaken at a preliminary level and have been assisted by internal feedback from staff with technical expertise.

Council officers' comments concur with the challenges and issues of creating what is essentially an urban development in an un-serviced rural area; and the detrimental impacts that this may have.

A site-specific capability consideration has identified the following matters requiring further consideration:

- i) Potential land-use conflict from existing rural activities affecting the new urban development;
- ii) Land use conflict within the development. This includes from the proposed location of the agricultural areas in proximity to residential areas;
- iii) Bushfire asset protection zones should be within public road reserves and not within riparian areas or on trails. The proposed fire trails may not be accessible by the RFS;
- iv) Transport accessibility for future residents, and connectivity of cycleways, pathways and open space areas from the new development to the existing areas of Broulee;
- v) Potential contamination impacts, which are unknown;
- vi) Potential Acid Sulfate Soil impacts, which are unknown;
- vii) Potential impacts on the provision of education, community, open space and recreation facilities, which are unknown;
- viii) The ad hoc introduction of new development standards into the ELEP 2012 which either do not currently exist or are being proposed in a manner that is inconsistent with other areas. This includes the use of C4 Environmental Living Zone to support detached, villa and terrace housing areas with a density of 12.6 dwellings per hectare and an average lot size of 600 sqm;
- ix) The scale of the development, proposing 800 dwellings, is not local growth. Adopting a common occupancy rate of 2.3 people (but noting that the actual occupancy rate in Broulee is much less), this equates to an estimated population of 1,800 additional people. This is approximately double the size of the existing 1,947 population of Broulee village (as measured at the last 2021 Census). The proposal does not provide evidence that this is the correct location for such housing;
- x) The proposal represents a large urban expansion that seeks to present itself as a low density environmental living development in a currently un-serviced and isolated rural area requiring significant infrastructure investment;
- xi) Evidence that suggests that the Shire has housing diversity and affordability issues is acknowledged. However these are generic issues that would be relevant to any proposal. The issue can be addressed by the provision of additional housing in appropriate locations;

- xii) More detail is required on how the proposal can contribute to increasing diversity and affordability. Overall, the proposed density of 12.6 dwellings per hectare and an average lot size of 600 sqm appears to be antipathetic to these objectives (notwithstanding the stated intentions of the proposal);
- xiii) There are uncertainties in the ability to deliver infrastructure to service the proposal, in particular that of water, sewer, roads, community facilities and public transport. More detail is required regarding certainty of their provision, ownership and maintenance in the development. Without significant investment from Government, the proposal will likely result in the diversion of finite resources from the existing growth areas in the Eurobodalla Shire; and
- xiv) With the preparation of the new Local Housing Strategy underway, that will identify actions to increase diversity and affordability, it is premature to pre-empt and potentially undermine the findings and recommendations of the work by any support to a draft Planning Proposal of this scale at this time.

It is therefore concluded that, while the philosophy and the principles that support the characteristics of Agri-hoods are commendable, the location of the proposed site for this new type of development is inappropriate and the characteristics of the proposal in this instance are uncertain, such that the proposal in its current form and location cannot be supported.

## 6.2 Conclusion

The draft Planning Proposal for 207 Broulee Road site seeks a number of ELEP 2012 amendments to facilitate expansion to the existing rural Broulee village and would significantly increase the current population. This is beyond local growth to serve the needs of the local community and the site is not recognised for growth by any regional or local strategy.

The draft Planning Proposal is inconsistent with State Government and Council policies, and importantly Council's land use vision for the Shire. It is considered that the proposal should not be supported on the following grounds:

1. The proposal is inconsistent with the strategic planning framework including:
  - vi) A large number of the applicable Planning strategies in the Draft South East and Tablelands Regional Plan 2041, including 17.1 and 17.2.
  - vii) The majority of the planning priorities in the Eurobodalla 2040 (Council's Local Strategic Planning Statement), including Planning Priorities 2, 3, 5, 8, 9 and 11.
  - viii) Eurobodalla Rural Lands and Settlement Strategies.
  - ix) Ministerial Directions - 1.1 Implementation of Regional Plans, 1.4 Site Specific Provisions, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land, 4.5 Acid Sulfate Soils, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands.
  - x) SEPPs – Primary Production (2021), Transport and Infrastructure (2021), Biodiversity and Conservation (2021), Resilience and Hazards (2021).

2. The proposal is inconsistent with the intended character of development in the C4 Environmental Living zone, and many of the proposed uses are prohibited in the C4 Environmental Living zone;
3. The proposed form of housing is urban in character and development will require significant infrastructure investment, the feasibility of which is uncertain;
4. The site will substantially change the character of, and impact, Broulee village and the surrounding Illawong Nature Reserve;
5. The development will have adverse effect on the biodiversity and conservation of threatened species, ecological communities and their habitats;
6. The development will cause land use conflict between urban and rural uses;
7. The proposal is premature as the Local Housing Strategy has not been completed; and
8. The proposal will divert the necessary critical infrastructure, funding, staging, sequencing and delivery of housing away from the existing nominated growth areas and is therefore not in the public interest.

### **6.3 Attachments**

1. Table summarising assessment of material received in Planning Proposal
2. Proposed Local Environmental Plan Mapping changes

## Attachment 1

Table summarising assessment of material received in Planning Proposal

## 1. Planning Proposal Report and Maps

Item No.	Item	Comment	Response
1.	Objectives and Intended Outcomes	<p>There are a number of terms that require additional detail in order to gain an understanding of the proposal. For example:</p> <ul style="list-style-type: none"> <li>• “Agrihood” needs greater definition. More detail on the management, viability, operation, commercial aspects, visitation and interface / impacts with the residential use and environmental context of the site is required.</li> <li>• “Wellness Community” needs greater definition. More detail is required on aspects such as level of health care, permissibility of uses.</li> <li>• Housing typologies requires additional detail, particularly the intention to target 50% of the development to over 55s as this represents a Senior Living development.</li> <li>• “Rent to Buy” needs greater definition.</li> </ul>	<p>Additional comments and documents received to explain Agrihood vision.</p> <p>Detail on mechanisms on how diversity and affordability is to be achieved outstanding.</p>
2.	Explanation of Provisions	<p>The proposal lists the ELEP 2012 aims and C2 zone objectives. However, the assessment should demonstrate how the proposal achieves the aims and objectives.</p> <p>The proposed housing mix and commercial uses seeking permissibility in the proposed C4 zone requires more explanation.</p>	Additional detail provided.
3.	Justification of Strategic and Site Specific merit	<p>The comments in Part 1 of this advice need to be addressed.</p> <p>While the proposal lists principles and regional themes more detail is required on how they are addressed. For example, how will Black Rock Industries be involved (p.29) and other partnerships? A letter of commitment would assist.</p> <p>“Niche employment lands” are identified (p.29) but not evident in the master plan. More detailed description is required.</p> <p>More detail on how the 14 ha of livestock and vegetable and fruit growing will operate is required including strategies to address compatibility. A farm operational plan should be submitted to be incorporated into the DCP.</p> <p>The proposal needs to provide evidence that it does not exacerbate ‘ribbon development’ (p.30). The location requires more justification. For example, the proposal needs to demonstrate it is consistent with the character of existing Broulee village, as well as principles of urban consolidation. Residential development on the western side</p>	<p>Additional detail including copies of correspondence provided.</p> <p>Additional detail provided.</p> <p>A draft Community Farm Management Plan provided.</p> <p>Addressed in additional detail on vision.</p>



Item No.	Item	Comment	Response
		<p>of George Bass Drive, may set an undesirable precedent in the absence of studies being undertaken to inform a future plan for Broulee Village.</p> <p>The proposal advises that the target market is older households seeking affordable low maintenance housing options (p.9). Discussion is required on how this is consistent with the Site vision.</p>	Detail outstanding.
4.	Community / Agency Consultation	<p>Evidence of discussions, collaboration and/ or tangible agreements with the following parties, that appear to be fundamental to the success of the development are required:</p> <ul style="list-style-type: none"> <li>• Carroll and St Peters Colleges (P.17) and TAFE (P.19), SAGE (p.39);</li> <li>• The relevant Local Aboriginal Land Council(s);</li> <li>• NSW Department of Education (School's Infrastructure) to determine its ability to serve site;</li> <li>• DPE Water (formerly NRAR) to determine whether a controlled activity approval would be required;</li> <li>• Commonwealth Government (DCCEEW);</li> <li>• Transport for NSW and local bus operator (Priors) regarding the ability to service site;</li> <li>• Southern NSW Local Health District (SNSWLHD) regarding ability to service site, particularly given senior living focus; and</li> <li>• NSW National Parks and Wildlife regarding possible existing wildlife agreements (refer comment 2.1 below).</li> </ul>	Response generally outstanding.
5.	Consistency with SEPPs and Ministerial 9.1 Directions	<p>Refer to the additional matters required to be addressed in the advice dated 4 August 2023, specifically:</p> <ul style="list-style-type: none"> <li>• Consideration of the Resilience and Hazards State Environmental Planning Policy (SEPP) due to proximity of wetlands; and</li> <li>• Local Planning Directions: a. 5.1 Integrating Land Use and Transport; and 5.3 Development Near a Regulated Airport.</li> <li>•</li> </ul>	Additional detail provided.
6.	Amended Land Use Zoning map	<p>Zoning changes are described. However draft maps need measured areas. Any possible decline in C2 zoned area requires addressing.</p> <p>The zone change at northern boundary appears to extend into neighbouring property. This requires clarification.</p> <p>There does not appear to be any correlation between the proposed uses and C4 permissibility.</p>	<p>Detailed response outstanding.</p> <p>Detailed response outstanding.</p>

Item No.	Item	Comment	Response
8.	Amended Minimum Lot Size	The proposal provides gross site density, but no minimum lot size. This needs to be identified and mapped.	Response outstanding.
9.	Amended Minimum Height of Buildings map	This requires clarification.	Detailed response outstanding.
10.	Amended Heritage map	Any amendments to the Heritage maps need to be provided.	Detailed response outstanding.

## 2. Urban Design Master Plan

Item No.	Item	Comment	Response
1.	Site Area	<p>The Concept Masterplan shows development extending into the Illawong Nature reserve, including a shared pathway / interpretative trail. Greater clarification on the impacts of this on biodiversity protection is required.</p> <p>The Planning Proposal report concludes one of the key public benefits will include the ability to activate Council owned land and Illawong Nature Reserve for the community. Council will thus be a party to, and have an interest in, the proposal.</p> <p>Furthermore, Council records indicate that the Illawong Wildlife Refuge Agreement ID WR00045 exists on the site.</p> <p>These matters will impact the processing of the Planning Proposal if supported. Further detail is required.</p> <p>Construction and ongoing impacts associated with this have not been considered in the information provided with the Planning Proposal.</p>	<p>Additional detail provided in revised concept master plan.</p> <p>Additional detail provided.</p>
1.	Vision statement	<p>More detail is required on how the proposal will achieve Council's "Smart growth" objectives, particularly the concept of the self-sustaining 'complete community' where residents do not need to leave Broulee.</p> <p>More detail is required on the synergies and linkages with the Bower, particularly the role of the site in "eco-tourism" (for example, operational relationships, business plan, funding, management for the 'Discovery Centre' and 'paddock to plate' etc).</p> <p>More description required as to the management and operation of an "Agri community" with social interaction / mental health facilities / festivals / community discovery (education) centre e.g. Community Title (to what extent and security of outcomes for Council), viable agricultural operation, senior living aspect (levels of care and management) etc.</p>	<p>Additional comments and documents received to explain Agri-hood vision.</p> <p>Response outstanding.</p> <p>A draft Community Farm Management Plan provided.</p>

Item No.	Item	Comment	Response
2.	Opportunities and constraints analysis	The master plan does not correlate with consultant reports. Both sets of documents are required to iteratively address each other, so that each informs the other.	Reports not updated.
3.	Proposed land uses and distribution	<p>There is insufficient detail on housing typologies such as 'key worker housing' and affordable housing (e.g. how will this be delivered, e.g. CHP mechanism).</p> <p>There is insufficient detail on open space (passive / active). Is a sports oval required given the proposed scale of the development (800 lots) or will existing facilities in Broulee suffice?</p>	<p>Response outstanding.</p> <p>Response outstanding.</p>
4.	Existing and proposed transport network (roads, public transport, pedestrians, cycles, linkages / connectivity and hierarchy	<p>Pedestrian connections through C2 land to schools requires more detailed explanation. Land ownership? Maintenance?</p> <p>If this is a material connection in the plan it needs to be included in the proposal and DCP.</p>	Response outstanding.
5.	Proposed open space planning and design principles, distribution and connectivity	<p>Clarification is required on the extent of area (ha) of parkland (passive / active) required and the role of agriculture or environmental protection land in meeting that demand.</p> <p>A dwelling yield and the demand for passive and active open space and recreation facilities are required to be identified. It should be based on an estimated resident population calculated from a nominated household occupancy rate.</p> <p>Similarly, there is no clarity on whether the recreation facilities and open space proposed as part of the development will form part of the future community title subdivision (and remain a private asset) or will the community land/assets be dedicated to Council to maintain (as a public asset) and publicly accessible.</p> <p>The proposal should discuss whether an offer to enter into a planning agreement is anticipated to be made to provide for delivery and / or funding of community infrastructure in the absence of a site and area specific contribution plans.</p>	<p>Response outstanding.</p> <p>Response outstanding.</p> <p>Response outstanding.</p> <p>Response outstanding.</p>
6.	Proposed high-level landscape concept and visual impact assessment	Residential development in the site will be visible from Broulee Road and the crematorium. It is also located on a local ridgeline. Discussion is required on the potential impacts on the change in the landscape and visual character of the area that will result from development	Additional detail provided in revised concept master plan.
7.	Indicative yield (range) and staging	This is required to ensure that appropriate and timely infrastructure is provided to the development.	Response outstanding.

Item No.	Item	Comment	Response
8.	Provision and distribution of floor space controls / gross floor areas for non-residential uses (if relevant)	This information is required to be provided to enable economic impact assessment, traffic generation and ensure residents are adequately serviced.	Response outstanding.
10.	Draft Site-Specific Development Control Plan	A draft DCP is required to enable an appropriate assessment of the detail of the proposal.	Response outstanding.

### 3. Environmental and Technical Investigations

Item No.	Item	Comment	Response
1.	Flooding Risk Assessment	Refer to the additional matters identified in Council's advice dated 4 August 2023.	
2.	Strategic Bushfire Risk Assessment	<p>The report relies on generalisations and is vague. For example, "practically a lower risk location for bushfire safety" (p.1) provides insufficient certainty that hazard has been addressed.</p> <p>The investigation does not address the master plan in terms of future revegetation, habitat linkages or street trees. It is not clear whether these measures are able to be implemented in accordance with planning for bushfire requirements (e.g. APZ strategy).</p>	Response outstanding.
3.	Water Cycle and Stormwater management Report	The Proposal does not address how stormwater will be managed. This is particularly relevant given the site is surrounded on 2 sides by sensitive wetland environments. There is potential for stormwater run-off to impact on waterways and wetlands within and adjacent to the lot.	Response outstanding.
4.	Traffic, Transport and Access Assessment	<p>More detail is required on how the proposal addresses active transport and how pedestrians/cyclists will be catered for particularly crossing of George Bass Drive.</p> <p>The proposal notes that no retail facilities will be provided within the site. However over 50% of the population may be over 55 (i.e. it may be predominantly a Seniors Living development). Detail on how the aged and infirm will access retail and personal services is required.</p> <p>Furthermore, the viability of access by public transport requires addressing including consultation with Priors and Transport for NSW</p> <p>Commentary is required on the feasibility of providing the proposed secondary access closer to the highway due to</p>	<p>Response outstanding.</p> <p>Additional detail provided.</p> <p>Response outstanding.</p> <p>Response outstanding.</p>

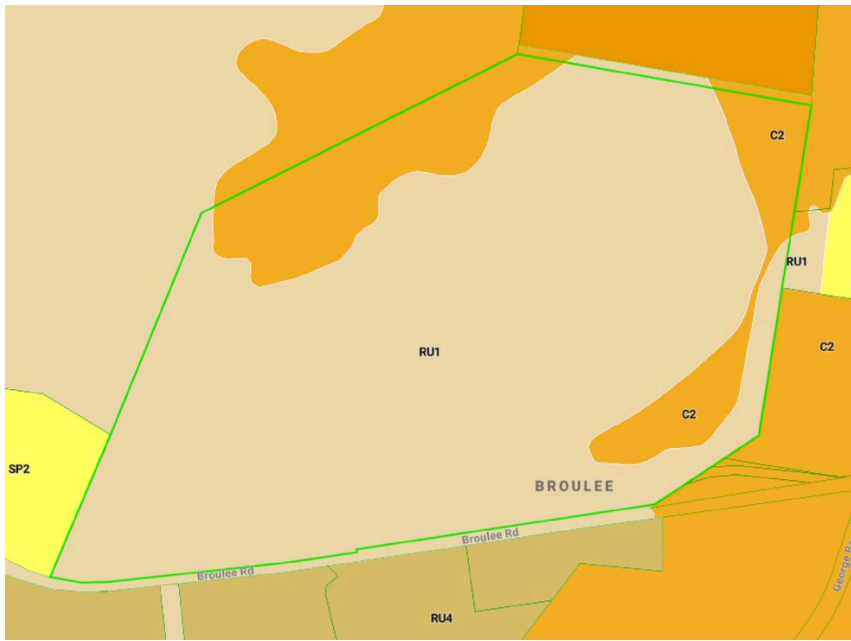
Item No.	Item	Comment	Response
		<p>its proximity to a crest (approximately 150m to the west). This would be a plan detailing:</p> <ul style="list-style-type: none"> <li>• Approach Sight Distance (ASD)</li> <li>• Safe Intersection Site Distance (SISD).</li> <li>• Minimum Gap Sight Distance (MGSD)</li> </ul>	
5.	Demographic, Social Infrastructure and Community Needs Assessment	<p>The investigation needs to identify dwelling occupation, population estimate, demand for schools, open space etc and assessment against common benchmarks.</p> <p>The proposal suggests the model is a "Compact, mixed-use, walkable Communities" 'housing clusters' street activity' (p.10). However how are services accessed (nearest shops, hospitals etc)? This is not evident in, or a characteristic of, the master plan.</p>	<p>Response outstanding.</p> <p>Response outstanding.</p>
6.	Housing Market Needs Assessment	<p>The data suggests pipeline of 77 lots in Broulee (2 years supply?) and 366 ha of land but constrained. Maps are not provided and the data vague. More detail is required to support the justification, particularly the housing typologies sought by the proposal (over 55s / senior living, key worker (affordable) housing etc).</p> <p>The data suggests that the Shire has a housing supply and affordability issue. This is a generic comment and would be relevant to any proposal. Commentary and evidence are required to demonstrate that the site is the most appropriate location for it.</p>	<p>Response outstanding.</p> <p>Additional detail provided.</p>
7.	Economic Impact Assessment	<p>The proposal suggests it "would foster value adding by supplying farm produce directly to restaurants and consumers rather than through wholesale channels." More evidence and detail are required to support this opportunity.</p>	Response outstanding.
8.	Preliminary Geotechnical and Salinity Assessment	<p>This has not been provided. It is required given the topography and potential salinity in the areas of the proposed housing footprint and agriculture.</p>	Response outstanding.
9.	Preliminary Site Investigation (Contamination)	<p>A preliminary (Phase 1) study is required at this stage if a change of use to residential is contemplated.</p>	Response outstanding.
10.	Historical Assessment	<p>The whole site is currently listed in the ELEP 2012. However, the study does not adequately address heritage or archaeological impact on the site of the Mt Oldrey Homestead. For example, it does not appear that the site has been inspected for archaeological remains and no description of items and appropriate curtilage have been identified and incorporated into the master plan. It defers the detail it to development application, which is inappropriate.</p>	Response outstanding.
11.	Recognising and Demonstrating Connection to Country Assessment	<p>Addressing this matter is considered good practice and should be provided.</p>	Response outstanding.

Item No.	Item	Comment	Response
12.	Proposed Sustainability Strategy	Addressing this matter is considered good practice and should be provided.	Additional comments and documents received to explain Agri-hood vision.
13.	Biodiversity and Riparian Assessment	<p>The investigation does not make any definitive recommendations to remove Category 1 streams and any proposed offsets. This is required as many are shown removed in plan.</p> <p>The investigation notes large areas containing EECs and buffers. However, it does not demonstrate that future development will not significantly impact on the wetlands and buffer areas. Further consideration of impacts to this SEPP wetland needs to be considered at this stage to avoid impacts from land use intensification, i.e., urban development, higher intensity agriculture on part of the land, stormwater run-off, public access / pathways, potential impacts to water quality.</p> <p>Further assessment, including a survey of Yellow-bellied glider is required to determine any potential for impact on this species.</p> <p>The report needs to be definitive on how the EECs will be assessed and managed BDAR/ BSA /EPBC Offsets etc. The report suggests the need for a BDAR given the sensitivity of site.</p> <p>It is recommended that a BDAR is requested, or minimum BAM stage 1-2 assessment.</p>	<p>Response outstanding.</p> <p>Response outstanding.</p> <p>Response outstanding.</p> <p>Response outstanding.</p> <p>Response outstanding.</p>
14.	Agricultural Lands Assessment	<p>According to Council's GIS mapping, the subject site is located on a large rural holding identified as class 3 agricultural land. Whilst the site may not currently be being farmed to its potential, the proposal needs to address the potential loss of vital agricultural land.</p> <p>Of note, while the current grazing business not commercially viable this is not, in itself, justification for a change in use.</p> <p>The report should address compatibility / conflicts of urban housing interspersed into agriculture (e.g. impact of noise, odour, spraying, truck movements etc on residential amenity). Refer to page 36 of the proposal.</p>	<p>Response outstanding.</p> <p>Response outstanding.</p>
15.	Infrastructure Servicing Strategy inc Infrastructure Delivery Plan	The detail provided needs to be supplemented with indicative concept plans and maps showing lead in connections / routes etc to existing services. Is water and sewer augmentation viable? (The report notes that it has not considered any environmental investigations, geotechnical limitations, community engagement or cost estimates associated with servicing the development with water and wastewater).	Response outstanding.

## Attachment 2

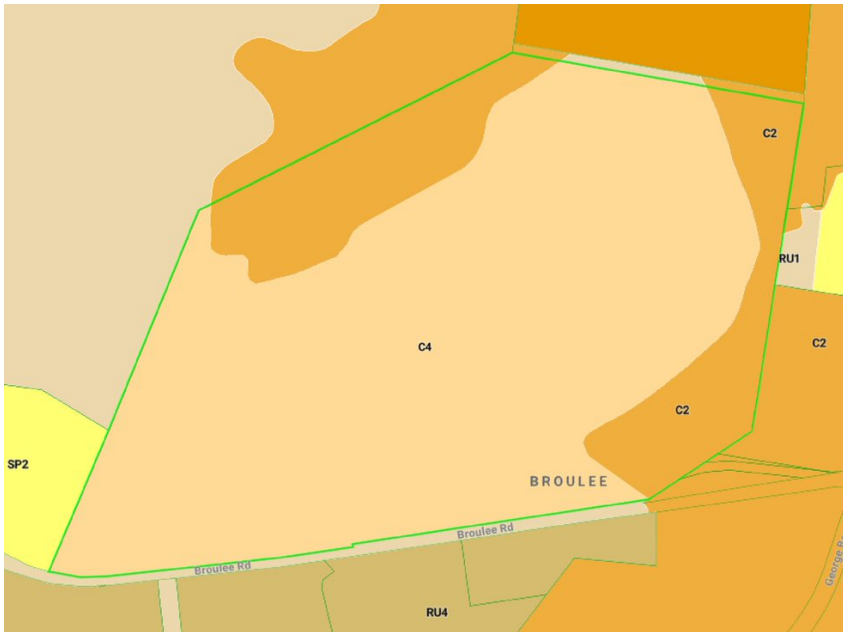
### Proposed Local Environmental Plan Mapping changes

**Figure 7.** Existing and proposed zoning of the subject site



Existing Zoning

Zone	
B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B5	Business Development
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E4	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



Proposed Zoning



**Figure 8.** Existing and proposed building height mapping



Existing Height of Buildings mapping (extract)



Proposed Height of Buildings mapping (extract)