

Attachment 2 - NSW Government Agency Submissions and Responses

Item	OEH Submission	Council Response
1	Objection to allowing extensive agriculture as permissible without consent in E4 zones. Cropping and pasture improvement are inconsistent with the E4 zone objectives. Grazing and bee keeping are already permissible in this zone. Allowing extensive agriculture may lead to many applications to Council for tree clearing approvals under the Vegetation in Non-Rural Areas SEPP.	<p>In recommending that extensive agriculture be permitted without consent in the E4 zone, the Rural Lands Strategy states that "<i>very small scale extensive agriculture is common now in the E4. Grazing and bee keeping are already permissible without consent</i>".</p> <p>The objectives of the E4 zone relate to facilitating low impact development in areas with special ecological, scientific or aesthetic values. Not all land zoned E4 in Eurobodalla has special ecological or scientific values. Some areas are zoned E4 more for their aesthetic value. Some areas zoned E4 already have some cleared land that could be used for cropping or pasture improvement without offending the objectives of the zone. Some E4 land at Malua Bay and Corunna are examples. In any case, should Council receive a development application for tree clearing to enable cropping or pasture improvement, the application would be assessed against the objectives of the zone and the relevant environmental legislation and policies. Some proposals may be able to be supported while others may not.</p>
1	Objection to the addition of grazing of livestock as exempt development in the E2 zone. This is likely to lead to a degradation of the biodiversity values of these areas.	<p>Exempt development can only be undertaken subject to the provisions of Part 3 of ELEP 2012. Section 3.3 excludes environmentally sensitive areas, such as important wetlands, from exempt development. The proposal will not permit grazing as exempt development in any wetland identified in the Coastal Management SEPP. Most E2 lands in Eurobodalla are also identified in the Coastal Management SEPP. This proposal therefore will only apply to a small number of E2 areas on private property and for the most part relates to watering holes and some riparian areas where grazing is already being undertaken. Council believes the best approach to protecting these areas is improved farm management practices, including the fencing of stock away from watercourses in particular. Council will continue to work with South East Local Land Services, land owners and farmers in this area through programs such as landcare.</p> <p>However, to address the concerns raised, it is recommended that a note be added to the exempt development schedule to confirm that it does not apply to land mapped as environmentally sensitive land, including lands mapped as coastal wetlands under the Coastal Management SEPP and land zoned E2 within 100m of coastal wetlands.</p>
3	Note that many areas where a dwelling entitlement has been created by the reapplication of clause 4.2A are completely vegetated. Any development application on these lots will trigger the biodiversity offset scheme and require the purchase and retirement of biodiversity credits.	Noted.
4	It is unclear why the proposed new boundary adjustment clause is proposed to apply to the E1 National Parks and Nature Reserves zone.	<p>In the planning proposal, an example boundary adjustment clause from the Wellington LEP 2012 was included. This example clause refers to a range of zones including the E1 zone. The final clause to be included in the Eurobodalla LEP 2012 will need to be drafted to be specifically relevant to Eurobodalla. If, in Eurobodalla, there is no need for the E1 zone to be included in the clause, it will not be included. However, the inclusion of the E1 zone would allow for simpler boundary adjustments where there has been a minor expansion of a National Park or Nature Reserve.</p>
5	Area 2 - Objection to the creation of dwelling entitlements over Lot 10/871181, Lot 20/755908 and Lot 29/1058243, as each of these lots contain known threatened species.	<p>Lot 10/871181 is currently vacant (except for a farm building). There are several cleared areas on the lot on which to locate a dwelling with minimal environmental impacts.</p> <p>Lot 20/755908 already has an existing dwelling entitlement. The planning proposal provides for subdivision to create one additional lot and dwelling entitlement.</p> <p>Lot 29/1058243 already has an existing dwelling entitlement. The planning proposal provides for subdivision to create two additional lots and dwelling entitlements.</p> <p>Notwithstanding the above, a small number of additional lots and dwellings could be provided under the planning proposal in relation to each of these lots. Some clearing of vegetation would be required to achieve this development outcome, particularly on lots 20 and 29. Development applications would be required and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i>. The impact, if any, on threatened species would be a part of that assessment.</p>

5	Area 3a - Objection to Lots 332/1119281, 28/1058243, 35/1077080, as the lots are completely vegetated. The E4 zone with a 10ha minimum lot size is the most appropriate. The E4 zone will allow the Native Vegetation Panel to regulate any clearing not associated with a dwelling.	All of the lots mentioned are currently partly in an existing RU4 zone with a minimum lot size of 2ha. Each of the lots has a dwelling in the 2ha portion of the lots. The planning proposal allows for an additional dwelling on the rear portion of the lots following subdivision. Lot 332/1119281 has already been subdivided and the rear portion is now known as Lot 2/1240100. Three additional dwellings would require some clearing of vegetation. Development applications would be required and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . Clearing not associated with a dwelling is currently regulated under the Local Land Services Act 2013. The proposed rezoning to RU4 will ensure the current clearing regulations for the land are retained.
5	Area 4 - Objection to Lots 11/619285 and 1/789278, as they are both fully vegetated. Lot 1/635327 is known habitat for Greater Glider and Glossy Black Cockatoo. A minimum lot size of 100ha would be more appropriate for this whole area.	All of the three lots identified by OEH have an existing dwelling and the planning proposal does not facilitate any additional lots or dwellings on the subject lots. Given OEH have not raised objection to the lots on which the planning proposal does facilitate some additional development, it is unclear why an increase in the minimum lot size is recommended.
5	Area 4b - Note that development on the two new R2 lots will trigger the offsets scheme to realise their development potential.	Noted. One of the lots already has development consent for shop-top housing.
5	Area 4c - Objection to the gaining of dwelling entitlement on two of the lots in this area, as part of this area is Swift Parrot habitat and the lots are fully vegetated. Recommend a minimum lot size of 200ha.	Both of the subject lots have existing dwelling entitlements. The planning proposal identifies that no additional lots or dwellings are facilitated by this planning proposal.
5	Area 7a - Objection to further development in the area identified by the Department of Planning and Environment's Coastal Land Protection Scheme. Recommend a minimum lot size of 20ha.	There are 10 lots in this area, eight have dwellings and one has an existing dwelling entitlement (being the lot that OEH specifically identifies an objection to further development on). One lot would gain a dwelling entitlement as a result of the planning proposal. None of the lots are large enough to be subdivided as a result of the planning proposal. Increasing the minimum lot size to 20ha will not change the development potential resulting from the planning proposal.
5	Area 7b - Objection to further subdivision of Lot 1/1012083, as this land forms part of a regional corridor identified in the South East and Tablelands Regional Plan. In recognition of an existing quarry on this lot, recommend a zoning of RU1 around the quarry and E2 with a minimum lot size of 100ha for the remainder.	The whole of the subject lot is currently zoned Rural 1(a) under the Rural LEP 1987. The planning proposal would facilitate the subdivision of the subject lot into two lots and provide for a dwelling on each lot. Given the large size of the lot and the extensive frontages to George Bass Drive and Burri Road, any future dwellings could be located appropriately to minimise the extent of clearing. Areas that should be protected from clearing, to ensure maintenance of the regional corridor, can be set aside through conditions of development consent for subdivision and/or dwellings.
5	Area 8b - Objection to further subdivision of Lots 2/716598 and 2/1002045, as both lots are fully vegetated and mapped as a regional corridor in the South East and Tablelands Regional Plan. The more open areas along the river have been validated as EEC and mapped as Swift Parrot habitat. Recommend E2 zoning with a minimum lot size of 100ha.	Council does not support zoning large private properties E2 Environmental Conservation. The subject lots are currently zoned Rural 1(a) under the Rural LEP 1987 with a small portion of E2 zoning covering a wetland. Both lots currently contain a dwelling. The planning proposal includes the option of using lot averaging to achieve the same lot yield with less environmental impact.
5	Area 9 - Note that Lot 1/875990 contains a cleared area which should allow for a single dwelling. Any further clearing would affect mapped Swift Parrot habitat and would trigger the offsets scheme. This may be classified as a Serious and Irreversible Impact which Council could not approve.	Noted.
5	Area 9a - Objection to development of Lot 26/755963 as it is mapped as Swift Habitat and is fully vegetated.	The lot that OEH have objected to further development of has an existing dwelling entitlement. No additional dwellings on this lot are facilitated by the planning proposal. One additional dwelling on a different lot in this area is facilitated by the planning proposal. This lot has a clearing that is not mapped as Swift Parrot habitat.
5	Area 10 - Objection to further development of the area as it is mapped as Swift Parrot habitat and the lots eligible for additional subdivision and dwellings are fully vegetated. Recommend an E4 zone and a 20ha minimum lot size.	The lots in this area are currently zoned RU1 Primary Production under ELEP 2012 or Rural 1(a) under RLEP 1987. The predominant lot size in the area is around 10ha. Seven lots are over 20ha in size and each would benefit from subdivision to create two 10ha lots. All of these lots currently have a dwelling or a dwelling entitlement. Development applications would be required for subdivision and additional dwellings and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species would be a part of that assessment.

5	Area 10a - The area is mapped as Swift Parrot habitat and is also protected by the Yellow-bellied Glider Strategy. However there are some areas of cleared land that could allow additional dwellings. The addition of 1 lot and 3 dwellings will only be achievable if there is no additional clearing required.	Noted. However, should any additional clearing be proposed, it would be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> .
5	Area 11 - Objection to the proposed zoning and minimum lots size as area is mapped as Swift Parrot habitat, contains part of the Broulee Biobank site, is protected by the Yellow-bellied Glider Strategy and contains an area listed on ELEP 2012 as a place of Aboriginal Significance. The vegetated areas should be zoned E2.	Note that following clarification with OEH, this objection relates to Area 11a. The planning proposal facilitates one additional lot and one additional dwelling in this area. While the planning proposal refers to the potential for three additional dwellings, one of these already exists and development consent has been granted for the other (based on existing dwelling entitlement). The one additional dwelling is located on the site of a quarry which would need to be remediated once the quarry operations closed. The existing cleared areas on the quarry site are not mapped as Swift Parrot Habitat.
5	Area 12a - Objection to the proposed E4 zone and 20 dwellings in the southwest corner of this area, as it is known Yellow-bellied Glider habitat. The proposal for a single dwelling in the proposed E2 zone would result in the loss of up to 2ha of habitat that should now be protected in the proposed E4 area. All of area 12a should be zoned E2.	The subject site is currently zoned Rural 1 (c) with potential subdivision into eight 2ha lots and development of eight dwellings. The vast bulk of the site, containing endangered ecological community is proposed to be zoned E2. The small area proposed to be zoned E4 is not endangered ecological community. Council has recently approved a subdivision of the land into two lots, with the boundary between the two lots consistent with the proposed E2/E4 zoning boundary. A dwelling has been approved on the larger lot proposed to be zoned E2. This represents a better environmental outcome than the current development potential under the 1(c) zone.
5	Area 14 - Objection to the proposed minimum lot size for the completely vegetated blocks as they are mapped as Swift Parrot habitat. Recommend a 500ha minimum lot size.	There are two properties in this area that would benefit from the planning proposal. One has significant areas of cleared land that could facilitate additional dwellings. The other is fully vegetated. A development application would be required for subdivision, clearing and dwellings and it would need to be assessed in accordance with the requirements of the Biodiversity Conservation Act 2016. The impact, if any, on threatened species and endangered ecological community would be a part of that assessment.
5	Area 17b - Objection to proposed minimum lot size for Lot 11/1068966 as area outside of current dwelling is fully vegetated and mapped as Swift Parrot habitat and endangered ecological community. Recommend a 200ha minimum lot size.	The subject lot is over 200ha in size. The proposed minimum lot size of 100ha would facilitate 1 additional lot and dwelling. On a lot of this size, the extent of clearing would be minimal, particularly if a second dwelling was located close to Congo Road. A development application would be required and it would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species and endangered ecological community would be a part of that assessment.
5	Area 18b - Lot 269/752137 contains Lowland Grassy Woodland endangered ecological community. There is a cleared area in the SW corner of the lot which would allow a dwelling. Recommend an E4 zone to allow the Native Vegetation Panel to regulate any clearing not associated with a dwelling.	Noted. The subject lot is currently zoned Rural 1(a) under the Rural LEP 1987. Clearing not associated with a dwelling is currently regulated under the <i>Local Land Services Act 2013</i> . The proposed rezoning to RU4 will ensure the current clearing regulations for the land are retained.
5	Area 20 - Any development on Lot 36/752129 will trigger the Biodiversity Offsets scheme.	Noted. The subject lot together with the adjoining lot is a holding that currently has a dwelling entitlement.
5	Area 22 - Objection to the proposed minimum lot size for Lot 5/264244 as the area outside of the current dwelling is completely vegetated and mapped as Swift Parrot habitat and endangered ecological community. Recommend a 40ha minimum lot size.	The subject lot is one of four lots in this area larger than 40ha in size and each would benefit from subdivision to create two 20ha lots. All of these lots currently have a dwelling and three have some cleared areas on which some form of agriculture is or has been undertaken. For the subject lot, a relatively small area of clearing would be required and this could be undertaken close to Coila Creek Road. Development applications would be required for subdivision and additional dwellings on each lot and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species would be a part of that assessment.
5	Area 23 - Objection to the proposed minimum lot size of lot 24/837516 as the area outside of the current dwelling is completely vegetated and mapped as Swift Parrot habitat. Recommend a 100ha minimum lot size.	The subject lot is the only lot in this area large enough to be subdivided as a result of the planning proposal. It would have potential to be subdivided into three 40ha lots. For the subject lot, relatively small clearings would be required and these could be undertaken close to Potato Point Road. Development applications would be required for subdivision and additional dwellings and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species would be a part of that assessment.

5	Area 24 - Objection to proposed minimum lot size for Lot 1/878320, as the area outside of the current dwelling is completely vegetated and mapped as Swift Parrot habitat or endangered ecological community. Recommend a 200ha minimum lot size.	The subject lot is a farm over 200ha in size with significant cleared areas. Approximately half of the lot is cleared providing a number of potential sites for additional dwellings. Note: The extent of cleared land on the subject lot was clarified to OEH and the objection subsequently withdrawn on this basis.
5	Area 25 - Objection to proposed minimum lot size for Lot 1/747545, 17/837516 and 125/752131 as these lots are either completely vegetated or contain endangered ecological community. Recommend a 100ha minimum lot size.	Lot 1/747545 already contains a dual occupancy, plus a rural workers dwelling. No additional development is facilitated by this planning proposal. Lot 17/837516 is currently vacant and the planning proposal will facilitate 1 dwelling. A relatively small area of clearing would be required and this could be undertaken close to Potato Point Road. Lot 125/752131 is currently vacant and the planning proposal will facilitate 1 dwelling. A relatively small area of clearing would be required. Development applications would be required and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species would be a part of that assessment.
5	Area 25a - Objection to proposed minimum lot size for Lot 14/772053, 111/752131, 13/772053 and 1/1202563 as these lots are either completed vegetated or are within a protected catchment. Recommend a 100ha minimum lot size.	Lot 14/772053 already contains a dwelling and the planning proposal will facilitate one additional lot and dwelling. Lot 111/752131 is currently vacant and the planning proposal will facilitate a subdivision into two lots and two dwellings. Lot 13/772053 already contains a dwelling and the planning proposal will facilitate one additional lot and dwelling. Lot 1/1202563 already contains a dwelling and the planning proposal will facilitate one additional lot and dwelling. Some clearing of vegetation would be required to achieve the above development outcomes, particularly on lots 14 and 111. Development applications would be required and they would need to be assessed in accordance with the requirements of the <i>Biodiversity Conservation Act 2016</i> . The impact, if any, on threatened species would be a part of that assessment.
5	Area 27 - Objection to proposed minimum lot size for Lot 2/1048232, 20/1063060, 3/838142, 92/752162, 7037/1113842, 10/1225554 and 207/752162 as these lots are either completed vegetated and are within a protected catchment. Recommend a 100ha minimum lot size.	Lot 2/1048232 is currently vacant, however development consent was granted in 2002 for a dual occupancy on the lot. The development was commenced, so the consent remains operable. Lot 20/1063060 currently contains a dwelling and the planning proposal will facilitate one additional lot and dwelling. The lot has cleared areas capable of locating an extra dwelling. Lot 3/838142 currently contains a dual occupancy and the planning proposal will facilitate one additional lot. Each existing dwelling could be located on a separate lot. Lot 92/752162 currently contains a dwelling and the planning proposal will facilitate one additional lot and dwelling. The lot has a cleared area capable of locating an extra dwelling. Lot 7037/1113842 is Crown Land. Lot 10/1225554 is in part used as a timber yard in conjunction with the sawmill on the adjoining lot. The planning proposal will facilitate subdivision of the lot into three lots for three dwellings. A cleared area exists for at least one dwelling. Lot 207/752162 has an existing dwelling entitlement. The planning proposal will facilitate subdivision to create two additional lots and dwellings. Some clearing of vegetation would be required to achieve the above development outcomes, particularly on lots 14 and 111 . Development applications would be required and they would need to be assessed in accordance with the requirements of the Biodiversity Conservation Act 2016. The impact, if any, on threatened species would be a part of that assessment.
5	Area 28 - Objection to the application of an E4 zone with no minimum lot size for Lot 208/752155 as the lot is fully vegetated and has known threatened species. Recommend E2 zone.	The subject lot is currently partly zoned E4 and RU1. No change is proposed to the zoning as part of this planning proposal. The current minimum lot size for the whole of the lot is 1000ha. The planning proposal seeks to reduce the minimum lot size for the RU1 portion to 20ha, and by omission has not proposed a new minimum lot size for the E4 part of the lot. The adjoining E4 part currently has a minimum lot size of 10ha, however to avoid a split lot size over the subject lot, it is proposed to amend the planning proposal to apply a 20ha over the whole of the lot. This facilitates a two lot subdivision, however as there is already a dual occupancy on the lot, no further clearing of vegetation is required to achieve this development outcome.
5	Area 32 - Lots 1/591024 and 13/1152373 have been purchased by the Gulaga Board as addition to Gulaga National Park. These lots should be zoned E1 National Park.	Note that the Office of Environment and Heritage have clarified that the lots purchased by the Gulaga Board are Lots 1/591024 and 16/807992. Given these lots are now part of the National Park, the planning proposal will be updated to zone them E1.

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Area 39 - Objection to change in zone from R5 to RU4 as the land contains Lowland Grassy Woodland endangered ecological community. Should be zone E4 or R5. This will allow the Native Vegetation Panel to regulate clearing not associated with a development application through the application of the Vegetation SEPP and the biodiversity offsets scheme.

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Area 40 - Objection to change in zone from R5 to RU4 as the land contains Lowland Grassy Woodland endangered ecological community. Should be zone E4 or R5. This will allow the Native Vegetation Panel to regulate clearing not associated with a development application through the application of the Vegetation SEPP and the biodiversity offsets scheme.

7

OEH objects to the removal of Terrestrial Biodiversity Map and clause 6.6. The adoption of accurate overlays is essential in identifying areas warranting thorough assessment given that E zones are not to be used extensively. It is essential that the community be fully aware of the environmental attributes of the land early in the planning process.

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It is unclear whether the dwelling entitlement map will be continually updated if parcels of land within a holding are sold or a dwelling is constructed.

This area is currently zoned R5. The Rural Lands Strategy recommended a change to RU4 to ensure the vegetation clearing laws in place at the time would continue and to recognise that some small-scale agricultural activities are occurring in this area. At the time, the *Native Vegetation Act 2003* applied to the land. Since the adoption of the Strategy, the new *Biodiversity Conservation Act 2016* was introduced and this now applies to the land, instead of the *Local Land Services Act 2013* (which replaced the relevant provisions of the *Native Vegetation Act 2003*).

The planning proposal is consistent with the recommendations of the Rural Lands Strategy and no change to the planning proposal is recommended.

This area is currently zoned R5. The Rural Lands Strategy recommended a change to RU4 to ensure the vegetation clearing laws in place at the time would continue and to recognise that some small-scale agricultural activities are occurring in this area. At the time, the *Native Vegetation Act 2003* applied to the land. Since the adoption of the Strategy, the new *Biodiversity Conservation Act 2016* was introduced and this now applies to the land, instead of the *Local Land Services Act 2013* (which replaced the relevant provisions of the *Native Vegetation Act 2003*).

The planning proposal is consistent with the recommendations of the Rural Lands Strategy and no change to the planning proposal is recommended.

The existing Terrestrial Biodiversity Map and clause 6.6 in ELEP 2012 identify where vegetation is located and the clause provides matters for consideration in the assessment of a development application.

Locating the map in a Code and referencing it through Development Control Plans will achieve exactly the same outcome.

Given the increasing use of electronic mapping at State and local government level, the information contained on the map will continue to be readily available to land owners and developers.

It is recommended that the Dwelling Entitlement Map be removed from ELEP 2012 as it is no longer required given the proposed removal of the sunset clause.

Item Rural Fire Service Submission

Council Response

- 1 Objection, as per previous comments.
In previous submissions, RFS objected to certain additional land uses being made permissible with consent on bush fire prone land.
- 2 No objection, as per previous comments.
Objection, as per previous comments.
In previous submissions, RFS objected to the identification of dwelling entitlements as they increase dwelling densities in rural areas.
- 3 No objection, as per previous comments.
Objection, as per previous comments.
In previous submissions, RFS provided specific comments for each areas in the
- 5 and 6 planning proposal, as outlined below.
Area 1 - No objection, however serious concerns regarding the establishment of any land uses involving tourist accommodation or places of public assembly in this location.
- 5 Area 1a - No objection, however serious concerns regarding the establishment of any land uses involving tourist accommodation or places of public assembly in this location.
- 5 Area 2 - The RFS would be unlikely to support any increase in density in the north-western portion of this area, serviced via Nelligen River Road. For the remainder of the area, serviced via Old Bolaro Road, RFS does not support any increase in dwellings without a prior bush fire study demonstrating compliance with PBP.
- 5 Area 3 - The RFS does not support any increase in dwellings in this area without a prior bush fire study, demonstrating compliance with the requirements of PBP.
- 5 Area 3a - The RFS has concerns about an increase in dwellings in this area. However, if Council wishes to pursue increased density, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.

Land use tables in local environmental plans relate to land zones, not to bush fire prone land. Across all zones, some land will be bush fire prone, other land will not be. It is not appropriate to make certain uses prohibited because some of the land in the zone is bush fire prone. The purpose of making land uses permissible with consent in certain zones is to provide an assessment path for development proposals. Every use that is permissible with consent requires a development application to be submitted to Council for assessment. Development applications will be assessed in accordance with a range of State and local requirements, including Planning for Bushfire Protection. Should a development proposal fail to meet the relevant requirements, it could be modified or refused. Certain development proposals also require the approval or concurrence of NSW Government Agencies, including the Rural Fire Service. If the proposal does not meet their requirements, the Agency can refuse to give their approval or concurrence.

Noted.

Council does not agree with the RFS view that the retention of dwelling entitlements results in an increase in dwelling density in rural areas. As the dwelling entitlements are existing entitlements, they should be accounted for as part of the existing dwelling density.

Noted.

Noted. Responses to the RFS comments on each area are provided below.

Tourist accommodation is a permissible use in the RU1 zone, which is proposed to be applied to this area. A tourist accommodation development would require development consent and a bush fire risk assessment will need to be undertaken on the proposed development.

Tourist accommodation is a permissible use in the RU1 zone, which is proposed to be applied to this area. A tourist accommodation development would require development consent and a bush fire risk assessment will need to be undertaken on the proposed development.

The planning proposal provides for one additional lot and dwelling in the north-western portion of this area, as the subject lot is twice the proposed minimum lot size. One existing dwelling entitlement exists on the subject lot. Given there is already potential for one dwelling, subject to assessment at the development application stage, the potential to subdivide the lot to create a further 1 dwelling entitlement (again, subject to assessment and consent) is not considered unreasonable. The lot is large enough to facilitate an appropriate level of clearing for future dwelling sites. Access to the land may not be able to comply with PBP and an alternate solution will be required. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.

For the remaining portion of this area, which already contains 11 dwellings, up to two additional lots and dwellings could be provided on one lot that is three times the proposed minimum lot size. The lot is large enough to facilitate an appropriate level of clearing for future dwelling sites. Access to the land may not be able to comply with PBP and an alternate solution will be required. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.

The planning proposal provides for three additional dwellings over two properties in this area. Both properties contain some cleared areas for a dwelling site. Access to the land may not be able to comply with PBP and an alternate solution will be required. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.

The planning proposal provides for five additional dwellings in this area as a modest expansion of the rural residential land immediately to the north. In this area, almost all of the properties extend into the rural residential zoned land to the north. Each of the subject properties can provide an appropriate amount of clearing for dwelling sites. Access to the land may not be able to comply with PBP and an alternate solution will be required. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.

5	Area 4 - The RFS is unlikely to support an increase in dwellings in this area.	<p>This is a large area, in which the potential for four additional lots and six additional dwellings is not considered unreasonable. There are already 70 dwellings in this area.</p> <p>There is no guarantee that any subdivision or dwelling applications would be approved if the proponent cannot satisfactorily address the relevant issues, including environmental impacts, access and bush fire risk.</p>
5	<p>Area 4a - The RFS is unlikely to support any increase in density in the south eastern portion of this area. No objection to increased density in other portion of this area providing any future dwelling is located within 200m of the Princes Highway</p>	<p>The south eastern portion of this area contains four lots of roughly the same size, two with dwellings and one with tourist accommodation. One lot does not have a dwelling entitlement. The planning proposal simply provides for this lot to have a dwelling entitlement. There are already improvements (sheds) and clearings upon this lot where a future dwelling could be proposed. Access to the property will require an alternate solution to be proposed, and it is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p> <p>In relation to the remainder of the site, the planning proposal facilitates two dwellings that could be located within 200m of the Princes Highway.</p>
5	Area 4b - No objection.	Noted.
5	Area 4c - No objection.	Noted.
5	Area 5 - No objection.	Noted.
5	<p>Area 6 - No objection to additional dwellings in locations within 200m of the Princes Highway. Where access to lots exceeds 200m from the Princes Highway, the RFS does not support any increased density without a prior bush fire study, demonstrating compliance with the requirements of PBP. The RFS is unlikely to support any increase in density for the lot in the far northern portion of this area.</p>	<p>In this area there are three additional dwellings that could be provided within 200m of the Princes Highway. The planning proposal provides for three additional dwellings that could be provided more than 200m from the Princes Highway, however all of these can be provided off adjoining streets in the village of Mogo. It is considered that such properties should be able to comply with PBP and it is appropriate that the land owner have the opportunity to address this matter at the development application stage.</p> <p>The far northern portion of this area consists of two lots in one ownership and is a working farm with a dwelling on one of the lots. The two lots are separated by Runnyford Road. The planning proposal would facilitate the erection of a dwelling on the vacant lot. The lot is mostly cleared and while access to the Princes Highway is over 2km through State Forest, it is considered reasonable for the land owner to propose an alternate solution to address bush fire risk issues at the development application stage.</p>
5	Area 6a - No objection.	Noted.
5	Area 7a - No objection providing any dwelling is located within 200m of George Bass Drive.	Noted. In this area there is one additional dwelling that could be provided within 200m of George Bass Drive.
5	Area 7b- No objection providing any dwelling is located within 200m of George Bass Drive.	Noted. In this area there are two additional dwellings that could be provided within 200m of George Bass Drive.
5	Area 8 - No objection providing any dwelling is located within 200m of Dunns Creek Road.	Noted. In this area there are six additional dwellings that could be provided within 200m of Dunns Creek Road.
5	Area 8a - No objection to additional dwellings in locations within 200m of Dunns Creek Road or Tomakin Road.	Noted. In this area there are two additional dwellings that could be provided within 200m of Tomakin Road.
5	Area 8b - No objection to additional dwellings in locations within 200m of Tomakin Road.	Noted. In this area there are three additional dwellings that could be provided within 200m of the Prince Highway.
5	<p>Area 9 - No objection to additional dwellings in locations within 200m of Tomakin Road or Princes Highway. Where access to lots exceeds 200m from Tomakin Road or Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>Noted. In this area there is one additional dwelling that could be provided within 200m of the Princes Highway.</p> <p>The planning proposal provides for one additional dwelling entitlement in a location more than 200m from Tomakin Road or the Princes Highway. The site is fully cleared and capable of providing an appropriate building site. Access to the lot may not be able to comply with PBP and an alternate solution would be required. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>

<p>Area 9a - The RFS is unlikely to support any increase in density in the western portion of this area. If Council wishes to pursue increased density in the eastern portion of this area, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.</p>	<p>The planning proposal provides for no additional dwellings in the western portion of this area. It should be noted however that the western-most lot in this area has a dwelling entitlement under the current LEP.</p> <p>The eastern portion of this area consists of four lots in two ownerships. Three of the lots have a dwelling. The planning proposal would facilitate the erection of a dwelling on the vacant lot. The lot is mostly cleared and while access to the Princes Highway is approximately 3km, partly through State Forest, it is considered reasonable for the land owner to propose an alternate solution to address bush fire risk issues at the development application stage.</p>
<p>Area 10 - No objection to additional dwellings in locations within 200m of Princes Highway. Where access to lots exceeds 200m from the Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>Noted. In this area there are three additional dwellings that could be provided within 200m of the Princes Highway.</p> <p>The planning proposal provides for four additional dwellings in locations more than 200m from the Princes Highway. All of the subject properties are within a rural residential area, containing 28 existing dwellings, where some additional clearing could be reasonably undertaken for additional dwelling sites. Access to the subject lots may not be able to comply with PBP and an alternate solution would be required. It is considered appropriate that the land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 10a - No objection to additional dwellings in locations within 200m of a through road. Where access to lots exceeds 200m from through road access, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>Noted. In this area there is one additional dwelling that could be provided within 200m of the Princes Highway.</p> <p>The planning proposal provides for two additional dwellings in a location more than 200m from the Princes Highway. The subject lots contains large cleared area currently used for extractive industry or grazing purposes that could be provide a future dwelling site. Access to the subject lots may not be able to comply with PBP and an alternate solution would be required. It is considered appropriate that the land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 11 - No objection to additional dwellings in locations within 200m of Broulee Road.</p>	<p>Noted. In this area there are three additional dwellings that could be provided within 200m of Broulee Road.</p>
<p>Area 12a - No objection, but a perimeter road is likely to be required due to the increase in density proposed.</p>	<p>Noted.</p>
<p>Area 13 - The RFS has concerns about the ability for future dwellings to satisfy the aims and objectives of PBP. The RFS require a bush fire study, demonstrating compliance with the requirements of PBP, prior to supporting any increase in density in this area.</p>	<p>This is a large area, mostly cleared and used for agriculture. There are two properties (both consisting of several lots) that if each were combined into one lot would be twice as large as the minimum lot size and as a result, if the properties were amalgamated, could then be subdivided to create two lots over 100ha in size, resulting in the potential for a total of two new dwellings. Access to the land from the east via Larrys Mountain Road is mostly sealed and apart from a relatively small section runs through mostly cleared land. The planning proposal proposes a very small increase in density in this area which currently contains eight dwellings, and it is considered reasonable for the land owner to propose an alternate solution to address bush fire risk issues.</p>
<p>Area 14 - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>This area contains one large property that would be able to be subdivided as a result of the planning proposal creating four additional lots. Any subdivision application for this lot would need to demonstrate how it can comply with PBP, particularly in relation to access. It is unlikely that the full yield would be able to be achieved.</p> <p>One other large property that consists of four lots, would be able to be amalgamated and resubdivided into three lots. This property is mostly cleared with direct access to Larrys Mountain Road and should be able to comply with PBP.</p>
<p>Area 15 - No objection.</p>	<p>Noted.</p>

<p>Area 16 - The RFS is unlikely to support an increase in dwellings in the portion of this area serviced by Meadows Road. The RFS does not support any increase in dwellings in the portion serviced by Larrys Mountain Road without a prior bush fire study demonstrating compliance with the requirements of PBP. The RFS is unlikely to support increased densities in the portion of this area serviced by Percy Davis Drive and Malabar Road. Sufficient studies with regard to the existing and proposed road network have not been provided to support the planning proposal to demonstrate compliance with PBP.</p>	<p>In the Meadows Road portion of this area, the predominant lot size is 10ha and there are currently 25 dwellings. All but one lot has a dwelling or an existing dwelling entitlement. The planning proposal facilitates a dwelling on this vacant lot. Access to the property will require an alternate solution to be proposed, and it is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p> <p>In addition, one lot is over 20ha in size and would be able to be subdivided to create one additional lot. Another lot is over 30ha in size and would be able to be subdivided to create two additional lots. The first lot is within 500m of Larrys Mountain Road. Any subdivision application for this lot would need to demonstrate how it can comply with PBP, particularly in relation to access. The second lot is 1.5km from Larrys Mountain Road and has a relatively small frontage to Maulbrooks Road. This lot may not be able to achieve the full yield.</p> <p>In the Larry's Mountain Road portion of this area, the predominant lot size is 10ha and there are currently 22 dwellings. One lot however is over 40ha and would be able to be subdivided to create three additional lots. Any subdivision application for this lot would need to demonstrate how it can comply with PBP, particularly in relation to access. It is unlikely that the full yield would be able to be achieved. The planning proposal provides for no additional dwellings in the Percy Davis Drive and Malabar Road portion of this area.</p>
<p>Area 17 - No objection to additional dwellings in locations within 200m of through road access.</p>	<p>Noted. In this area there are five additional dwellings that could be provided within 200m of through road access.</p>
<p>Area 17a - RFS are unclear how access to the lot will be obtained. RFS does not support any increase in dwellings.</p>	<p>The subject lot is landlocked, however the owner of the land also owns the adjoining lot that has access to Hazel Road. Access to the property will require an alternate solution to be proposed, and it is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>
<p>Area 17b - The RFS only supports increased density if any future dwellings are located in close proximity to Congo Road.</p>	<p>This area contains one lot that is over 200ha in size and would be able to be subdivided to create one additional lot. The lot currently has a dwelling accessed from Hazel Road. The lot has direct frontage to Congo Road from which access to a second lot and dwelling could be provided. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>
<p>Area 18 - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>This area contains two large rural properties. One would be able to be subdivided into two. This lot is mostly cleared, is used for a dwelling and agriculture, and has access to Berriman Drive. An additional dwelling on a new lot would also be able to have access to Berriman Drive and could be located in an area that is not bush fire prone.</p>
<p>Area 18a - No objection.</p>	<p>The second large rural property currently consists of five lots which could be amalgamated and resubdivided into two lots. All of the existing lots are vacant. Therefore, there is potential for a dwelling to be located on each of the two resubdivided lots in locations that are not bush fire prone. Access to both lots can be provided to Congo Road, however this may not comply with PBP. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>
<p>Area 18b - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>Noted.</p>
<p>Area 18c - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>This area contains one vacant lot. The planning proposal would facilitate the erection of a dwelling in the lot. Part of the lot is cleared and is not bush fire prone land. Access to the lot can be provided to Congo Road (over an adjoining lot in the same ownership), however this may not comply with PBP. It is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>
<p>Area 18c - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>This area contains two properties that would benefit from the planning proposal. One is a large, mostly cleared rural lot that would be able to be subdivided into two lots. The other is a property consisting of two lots that if amalgamated would gain a dwelling entitlement. The first property, which has recently been further subdivided, no longer has direct access to Collett Place, but maintains access via old crown roads from Congo Road and Meringo Road. The property contains one dwelling. Should a two lot subdivision be proposed, there is opportunity for the second lot and dwelling to demonstrate compliance with PBP.</p>
<p>Area 18c - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>The second property (two lots that if amalgamated could have a dwelling) is landlocked, but could potentially arrange an easement for access to Congo Road over an adjoining property. While access may not comply with PBP, it is considered appropriate that the land owner have the opportunity to address this matter at the development application stage.</p>

5	Area 19 - No objection.	Noted.
5	Areas 20 - RFS support of increased density in the western portion of this area depends upon the actual location of the lots subject to increased density. Accordingly, the RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP.	There are six properties in the western portion of this area. All of the properties consist of multiple lots that would be required to be amalgamated and resubdivided to achieve any additional dwelling entitlement. All but one of these properties contains cleared areas where new dwellings could be located. The sixth property is fully vegetated and surrounded by State Forest. While access to potential dwelling sites may not comply with PBP for some or all of these properties, it is considered appropriate that the land owners have the opportunity to address this matter at the development application stage.
5	Area 20a - No objection.	Noted. There are five lots that are bushfire prone in the northern part of this area that would gain a dwelling entitlement. Three of these lots have direct access to Bingie Road. Access to Bingie Road for the other two lots could be arranged via Crown roads. It is considered appropriate that the land owners have the opportunity to address this matter at the development application stage.
5	Area 21 - The RFS does not support any increase in dwellings in this location without a prior bush fire study, demonstrating compliance with the requirements of PBP. The RFS raised particular concern with the northern most and southern most portions of this area.	There are four lots (in one ownership) that are bushfire prone in the southern part of this area that would gain a dwelling entitlement. As this land is in one ownership, there is opportunity for a development using the lot averaging provisions to achieve the yield on that part of the land that is not bush fire prone. It is considered appropriate that the land owners have the opportunity to address this matter at the development application stage.
5	Area 22 - No objection to additional dwellings in locations within 200m of the Princes Highway. Where access to lots exceeds 200m from the Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.	Noted. In this area there are 3 additional dwellings that could be provided within 200m of the Princes Highway. The planning proposal provides for two additional dwellings, in an area currently containing 31 dwellings, in locations more than 200m from the Princes Highway. These lots have access to Coila Creek Road and may not be able to comply with PBP. It is considered appropriate that these land owners have the opportunity to address this matter at the development application stage.
5	Area 22b - No objection.	Noted.
5	Area 22c - No objection to additional dwellings in locations within 200m of the Princes Highway.	Noted. In this area there is one additional dwelling that could be provided within 200m of the Princes Highway.
5	Area 23 - The RFS is unlikely to support any increase in dwellings in this location.	This area contains three lots that would benefit from the planning proposal. Two have direct frontage to Potato Point Road. While this road is not a through road and the area is heavily vegetated, there is opportunity to provide a clearing for additional dwellings close to the road. The third lot may not be able to comply with PBP in terms of access. However, it is considered appropriate that this land owner have the opportunity to address this matter at the development application stage.
5	Area 24 - No objection to additional dwellings in locations within 200m of the Princes Highway. Where access to lots exceeds 200m from the Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.	Noted. In this area, all of the properties have direct frontage to the Princes Highway, however the best sites for future dwellings are likely to be more than 200m from the highway, due to vegetation along much of the highway frontage. This area contains three properties that are more than twice as large as the proposed minimum lot size. Two of these are single lots and would therefore be able to be subdivided into two. The third already consists of two lots and could achieve two lots with dwelling entitlement by way of a boundary adjustment. All of the properties have large cleared areas and though they may not comply with PBP, should be able to propose satisfactory alternate solutions. It is considered appropriate that these land owners have the opportunity to address this matter at the development application stage.

<p>Area 25 - No objection to the western most lot. The RFS are of the opinion that the other lots are unlikely to be able to comply with the aims and objectives of PBP and are unlikely to be supported.</p>	<p>Noted. The western most lot could be subdivided into two lots with two dwellings capable of being located within 200m of the Princes Highway.</p> <p>In the remainder of this area, there are three lots that would benefit from the planning proposal and achieve a dwelling entitlement. One of these lots has direct frontage to Potato Point Road. While this road is not a through road and the area is heavily vegetated, there is opportunity to provide a clearing for a dwelling on this lot close to the road. The other lots are located along Gannons Point Road and Horse Island Road. While access to these lots may not be able to comply with PBP, there are existing dwellings further along these roads. It is considered appropriate that these land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 25a - No objection to additional dwellings in locations within 200m of the Princes Highway. Any increased density for lots which cannot provide future dwellings within 200m of the Princes Highway are not supported without a prior bush fire study demonstrating compliance with the requirements of PBP. Those lots located to the east of the power line easement are unlikely to be able to comply with PBP and are unlikely to be supported.</p>	<p>Noted. In this area there is one additional dwelling entitlement that could be provided within 200m of the Princes Highway. Of the other nine additional dwellings that could be provided in this area, eight are located to the east of the power line easement. The ninth is to the west of the power line easement and is on land that is mostly cleared. An additional dwelling on this lot should be able to comply with PBP. There are already approximately 20 dwellings in this area.</p> <p>Of the eight potential dwellings east of the power line, four are on lots that have direct frontage to Potato Point Road and are more than twice the proposed minimum lot size. While Potato Point Road is not a through road and the area is heavily vegetated, there are some existing clearings and potential for additional clearing to facilitate new dwelling sites. The remaining four, located along Horse Island Road, would be unlikely to comply and an alternate solution would be required. However, there are existing dwellings located further along Horse Island Road. It is considered appropriate that all of these land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 26a - No objection.</p>	<p>Noted.</p>
<p>Area 27 - No objection to additional dwellings in locations within 200m of the Princes Highway or Dalmeny Drive. Where access to lots exceeds 200m from the Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP. Those lots where access is a considerable distance from through roads are unlikely to be supported.</p>	<p>Noted. In this area there are three additional dwellings that could be provided within 200m of the Princes Highway. The other four additional dwellings that could be provided in this area are on lots that are some considerable distance from the Princes Highway. There are already a number of dwellings in this area. These lots are accessed from Riverview Road, Kianga Forest Road and Wagonga Scenic Drive. For these potential dwellings, which can only be achieved through subdivision of the existing lots, compliance with PBP may not be able to be achieved and alternate solutions will be required. It is considered appropriate that these land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 28 - No objection to additional dwellings in locations within 200m of the Princes Highway. Where access to lots exceeds 200m from the Princes Highway, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.</p>	<p>Noted. In this area, there are four additional dwellings that would be likely to be provided within 200m of the Princes Highway. Of the other four additional dwellings that could be provided, three are on lots that are mostly cleared and not bush fire prone. However as access to each is via minor roads or Crown roads where there is some vegetation, therefore alternate solutions to address access issues would be required. The other dwelling would require some clearing. It is considered appropriate that these land owners have the opportunity to address this matter at the development application stage.</p>
<p>Area 29 - No objection to additional dwellings in the eastern portion of the southern section of this area within 200m of the Old Highway. Other lots subject to increased density which are considerable distances from through roads are unlikely to be supported.</p>	<p>Noted. However, there are no lots in the eastern portion of the southern section of this area that would have additional dwelling entitlement.</p> <p>There are two lots in the other part of this area that benefit from the planning proposal in this area, which already contains a number of dwellings. One lot is twice the proposed minimum lot size and would be able to be subdivided into two lots. This lot contains one dwelling, so the possible increase is one dwelling. This lot has direct frontage to Wagonga Scenic Drive and a substantial cleared area for an additional dwelling. Access from Narooma is through some heavily vegetated areas and this may not be able to comply with PBP. The other lot is land locked, vacant and fully vegetated. The provision of a dwelling on this lot is unlikely to comply with PBP, however the land owner may be able to propose an alternate solution to address the bush fire risk issues. It is considered appropriate that these land owners have the opportunity to address these matter at the development application stage.</p>
<p>Areas 30 - Prior to RFS support for the proposed increase in density a bush fire study, demonstrating compliance with the requirements of PBP should be prepared. A perimeter road is likely to be required to separate the hazard from future development.</p>	<p>This is an area where some additional rural residential development is proposed. The area does adjoin vegetated land, but the subject land is mostly cleared. A subdivision application would be required and consideration of bush fire risk issues will be important. A perimeter road may be an appropriate solution, however other solutions may also be feasible. It is considered appropriate that the bush fire study be undertaken at the development application stage.</p>

5	Area 30a - No objection.	Noted.
5	Area 30b - No objection.	Noted.
5	Area 31 - The RFS requires preparation of a bush fire study prior to supporting any increased density in this area.	The planning proposal provides for one additional dwelling in this area. While this area is remote and accessed through some areas of vegetation, the central part of the area has been significantly cleared as farmland and is not bush fire prone, providing opportunity for a new dwelling site. It is considered appropriate that the land owner have the opportunity to address the access issue at the development application stage.
5	Area 32 - Further information requested.	Further information was provided to RFS, however no additional comments have been received. Noted. In this area, two additional dwellings could be provided within 200m of the Princes Highway. There are two properties that benefit from the planning proposal in the other portion of this area, which already contains approximately 17 dwellings. Both properties consist of several lots that if amalgamated could then be re-subdivided to create a total of three additional lots with dwelling entitlement. As one of the properties is currently vacant, a total of four additional dwellings could be provided in this area. Both of these properties have some significant areas of clearing on which additional dwellings could be provided. However access to the properties is through public or private areas of bushland and may not be able to comply with PBP. It is considered appropriate that the land owner have the opportunity to address the access issue at the development application stage.
5	Area 33 - No objection to additional dwellings in the southern portion of this area within 200m of the Princes Highway. It is unlikely the RFS would support any increase in density in the other portion of this area.	Further information was provided to RFS, however no additional comments have been received.
5	Area 34 - Further information requested.	Further information was provided to RFS, however no additional comments have been received.
5	Area 35 - No objection.	Noted. This area currently has potential to increase density. This area is currently partly zoned RU1 under ELEM 2012 and Rural 1(a) under the Rural LEP 1987. For land zoned RU1, the minimum lot size is 1000ha. Only two lots in this area are greater than 1000ha in size, one approximately 1600ha and the other just under 4000ha. Applying the 1000ha minimum lot size to the whole of these lots (which was proposed in the draft LEP in 2011) would have facilitated subdivision of one of these lots into potentially four lots, creating up to four additional dwelling opportunities. Reducing the minimum lot size to 500ha provides additional subdivision opportunity (for a further 6 dwellings). It is acknowledged that development of this land will not be able to comply with PBP and it is not anticipated that any development of this land will be proposed. However, it is Council's desire to completely remove the 1000ha minimum lot size from LEP 2012 and the next highest proposed minimum lot size of 500ha is now proposed for this area.
5	Area 36 - The RFS has serious concerns and is unlikely to support any increase in development potential in this area. If Council wishes to pursue increased density in the area, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.	The planning proposal provides for one additional lot and dwelling in this area as there is only one lot more than twice the proposed minimum lot size. There are already 43 dwellings in this area. Access to the land is through significant areas of bushland along Araluen Road and this may not be able to comply with PBP. It is considered appropriate that the land owner have the opportunity to address the access issue at the development application stage.
5	Area 37a - The RFS has serious concerns and is unlikely to support any increase in development potential in this area. If Council wishes to pursue increased density in the area, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.	The planning proposal provides for three additional dwellings in this area as there is only three vacant properties that are larger than the proposed minimum lot size. There are already 15 dwellings in this area. Access to the land is through significant areas of bushland along Araluen Road and this may not be able to comply with PBP. It is considered appropriate that the land owners have the opportunity to address the access issue at the development application stage.
5	Area 37b - The RFS has serious concerns and is unlikely to support any increase in development potential in this area. If Council wishes to pursue increased density in the area, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.	Noted. There are two properties that could provide up to five additional dwellings within 200m of Araluen Road. There are three other properties in this area, which already contains 57 dwellings, that could provide up to five additional dwellings located more than 200m from Araluen Road. Each of these properties has significant areas of cleared land on which new dwellings could be provided. Access to the land is through significant areas of bushland along Donalds Creek Road and this may not be able to comply with PBP. It is considered appropriate that the land owner have the opportunity to address the access issue at the development application stage.
5	Area 37c - No objection to additional dwellings in locations within 200m of Araluen Road. Where access to lots exceeds 200m from Araluen Road, the RFS requires a prior bush fire study, demonstrating compliance with the requirements of PBP.	

	Area 38 - The RFS has serious concerns and is unlikely to support any increase in development potential in this area. If Council wishes to pursue increased density in the area, a prior bush fire study, demonstrating compliance with the requirements of PBP is required.	The planning proposal provides for three additional dwellings in this area, which already contains 25 dwellings, on two properties that are significantly larger than the minimum lot size. Each of these properties would need to be amalgamated and re-subdivided to achieve the additional yield. One of the properties can potentially provide a dwelling site close to Nelligen Village off Reid Street. The other property has significant cleared areas on which to locate additional dwellings. Access to this lot is through significant areas of bushland and this may not be able to comply with PBP. It is considered appropriate that the land owners have the opportunity to address the access issue at the development application stage.
5	Areas 39 to 42 - No objection.	Noted.
7	This item is not supported for the reasons outlined in previous correspondence, however the RFS is not in a position to formally object given its primary relevance should be via consideration through other Section 117(2) Directions.	Noted.
8	See comments previously provided outlining where dwelling entitlements are created for lots containing bush fire prone land. These should be subject to a strategic assessment of bush fire risk. As this has not been provided, RFS objects to this item where applicable to our comments.	Council does not agree with the RFS view that the identification of existing dwelling entitlements on the Dwelling Entitlements Map results in an increase in dwelling density in rural areas. As the dwelling entitlements are existing entitlements, they should be accounted for as part of the existing dwelling density. Notwithstanding it is recommended that the Dwelling Entitlement Map be removed from ELEP 2012 as it is no longer required given the proposed removal of the sunset clause.
9	No objection, as per previous comments.	Noted.
10	No objection, as per previous comments.	Noted.
11	No objection, as per previous comments.	Noted.
12	No objection, as per previous comments.	Noted.
13	No objection, as per previous comments.	Noted.
14	No objection, as per previous comments.	Noted.
15	No objection, as per previous comments.	Noted.
16	No objection, as per previous comments.	Noted.
17	No objection, as per previous comments.	Noted.
18	No objection, as per previous comments.	Noted.
19	Objection, as per previous comments and as the planning proposal has not identified Section 117(2) 4.4 as applying to this item. In previous submissions, RFS stated that a bush fire assessment report is required to be provided to support the proposal.	The planning proposal inadvertently omitted reference to Section 117(2) Direction 4.4. The planning proposal will be amended accordingly. However, it is not considered necessary for a bush fire assessment report to be provided. Development consent has already been granted to a shop top housing development on one of the two lots the subject of this item. A bush fire assessment report was provided with the development application, referred to RFS for comment and approved by RFS. This report demonstrated that one of the sites can be developed in accordance with the requirements for Planning for Bush Fire Protection. Given, the second lot is very similar in nature to the one on which approval has been granted, it is argued that the bush fire assessment report providing with the shop top housing proposal should serve as sufficient evidence to support the rezoning. Notwithstanding, a bush fire assessment report will be required to accompany any future development application on the second lot.
20	No objection, as per previous comments.	Noted.
21	No objection, as per previous comments.	Noted.
22	No objection, as per previous comments.	Noted.

	Objection as the planning proposal has not identified Section 117(2) 4.4 as applying to this item.	The planning proposal inadvertently omitted reference to Section 117(2) Direction 4.4. The planning proposal will be amended accordingly.
23	Where increased densities are proposed on bush fire prone land, a strategic assessment of risk to residents and fire fighters is required to demonstrate if the land is suitable for those increased densities.	However, it is not considered necessary for a bush fire assessment report to be provided. The lands the subject of this item were rezoned and minimum lot sizes applied as part of previous planning proposals. The RFS did not object to those planning proposals. The incorrect minimum lot size was previously applied to the subject lots. The intention was to make the minimum lot size the same as for adjoining land (550m ²), however a minimum lot size of 600m ² was applied. This change from 600m ² to 550m ² will not necessarily increase dwelling density.
24	No objection, if this item does not result in any potential increase in densities on bush fire prone land.	The residential land has been subdivided and no additional development density is facilitated by the planning proposal.
25	No objection.	Noted.
26	No objection.	Noted.

Item South East Local Land Services Submission**Council Response**

The planning proposal applies a blanket zoning of RU1 to a range of land types and proposes to increase the uses, many of which may not be compatible with primary production of rural industry expansion. Diluting the ability of zoning to align land use to land type in this way may limit ESC's ability to make strategic land use decisions, particularly in relation to protecting productive agricultural land. LLS agrees that some of the additional uses could support rural and nature-based tourism, community use and infrastructure needs but it is important that such developments are not sited over productive agricultural land.

South East LLS supports RU1 zoning being applied to areas of productive agricultural land rather than being applied as a blanket zoning across a range of land capabilities. Land use decisions in this zone should be assessed based on the impact of that development of the objectives of the zone, namely agricultural production.

Recommend that ESC make additional provisions to protect identified high value productive agricultural land. This could include zoning all highly productive land RU1.

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The vast majority of the land proposed to be zoned RU1 or RU4 is currently zoned Rural 1(a) or Rural 1(a1) under the Rural LEP 1987. This existing rural zoning covers not just productive agricultural land, but land with other capabilities. Across all of this land, a range of rural activities are undertaken, from a wide variety of commercial agriculture to private native forestry, extractive industries, rural tourism activities and rural lifestyle purposes. Council agrees that land use decisions should be assessed based on the impact on agricultural production and additional provisions to guide development assessment are proposed through a Development Control Plan.

The impact of grazing on wetlands, riparian vegetation, soils and water quality is significant. South East LLS has invested millions of tax payer dollars in the Eurobodalla restoring wetlands and riparian systems from the impacts of grazing and protecting these areas through exclusion of grazing. The NSW Marina Estate Management Authority recently undertook an assessment of threats to the NSW marine estate, including estuaries and wetlands and found that in the South East, agricultural diffuse runoff and stock grazing of riparian vegetation provides the highest threat to estuarine environmental assets that support our oyster and tourism industries. Exempting grazing in E2 zones does not allow proper consideration of the impact of grazing on those sensitive estuarine and riparian environments that are not protected by State Environmental Planning Policy (Coastal Management) 2018. This could lead to confusion and uncertainty for landholders and increase the potential for threatened species, populations or ecological communities or their habitats to be adversely affected.

Encourages Council to reconsider exempting grazing in E2 zones.

1

Exempt development can only be undertaken subject to the provisions of Part 3 of ELEP 2012. Section 3.3 excludes environmentally sensitive areas, such as important wetlands, from exempt development. The proposal will not permit grazing as exempt development in any wetland identified in the Coastal Management SEPP. Most E2 lands in Eurobodalla are also identified in the Coastal Management SEPP. This proposal therefore will only apply to a small number of E2 areas on private property and for the most part relates to watering holes and some riparian areas where grazing is already being undertaken. Council believes the best approach to protecting these areas is improved farm management practices, including the fencing of stock away from watercourses in particular. Council will continue to work with South East Local Land Services, land owners and farmers in this area through programs such as landcare. However, to address the concerns raised, it is recommended that a note be added to the exempt development schedule to confirm that it does not apply to land mapped as environmentally sensitive land, including lands mapped as coastal wetlands under the Coastal Management SEPP and land zoned E2 within 100m of coastal wetlands.

South East LLS supports the small lot farming objectives of RU4 and notes there is considerable potential for small lot and lifestyle farming in Eurobodalla. However, the fragmentation of high quality agricultural land is a concern for industry in Eurobodalla. In addition, the impact of smaller lot sizes on biosecurity and native vegetation through clearing on small land parcels can be significant. Recommends planning for subdivisions minimises the impact on productive agricultural lands and intact native vegetation, in adherence with the NSW Biosecurity Strategy 2013-2021 and State policy objectives in relation to biosecurity.

2

The planning proposal does not facilitate fragmentation of high quality agricultural land. Appropriate minimum lot sizes have been applied to minimise further subdivision of these areas. The modest number of additional lots and dwellings proposed is unlikely to result in an increase in biosecurity concerns in Eurobodalla.

South East LLS acknowledges that the planning proposal does offer a level of protection from further fragmentation of agricultural lands through the application of larger minimum lot sizes (over 100ha). However, only half of the class 1 to 4 agricultural lands are within holdings over 100ha. This means significant fragmentation has already occurred and areas of productive agricultural land will be subject to further fragmentation pressure due to reduced minimum lot sizes, additional use, dwelling establishment and future subdivision pressure. Areas of most concern include those areas of class 1 to 4 agricultural land where the minimum lot size has been reduced to 40ha or less. These areas are mostly on the coast and subject to other land use pressures.

5

The most productive agricultural lands in Eurobodalla are proposed to have minimum lot sizes large enough to prevent further fragmentation of the land. Smaller minimum lot sizes have been proposed in areas that are already fragmented. Most areas could yield less than 4 additional lots as a result of the planning proposal. In relation to additional dwellings, similarly the approach taken by Council is to minimise additional dwellings in productive agricultural land. It is generally only on larger lots that do not currently have dwelling entitlement where additional dwellings may be possible. In Council's view, this will encourage growth in primary production and more active management of rural land to minimise biosecurity risks.

5	The majority of potential dwellings are on RU1 and RU4 zones. Clearing on small parcels of land for dwellings, effluent management, asset protection zones, fence lines and roads does not require approval from LLS.	While clearing for dwellings and associated infrastructure and asset protection zones, if required, does not need approval from LLS, it does need approval from Council. Council will assess any such clearing in accordance with the requirements of the Biodiversity Conservation Act 2016.
5	Special restrictions apply to rural zone land where sensitive and vulnerable regulated land is identified on the Native Vegetation Regulatory Map. The Biodiversity Values Map also identifies restrictions that apply to urban and environmental zone land.	Noted.
5	Recommend Council protect high quality agricultural land and zone other areas appropriately after considering regulatory maps.	Council is of the view that the planning proposal protects high quality agricultural land by zoning the land RU1 and applying appropriate minimum lot sizes to prevent or minimise further fragmentation of the land.
7	<p>South East LLS does not support removal of the Terrestrial Biodiversity Map from ELEP 2012 or its replacement with a Native Vegetation overlay limited to extant vegetation and placed in a Code referenced in relevant DCPs. The combined use of appropriate zoning and overlays within the LEP provides landholders with optimum levels of certainty, flexibility and realistic expectations for development. The current overlay identifies EECs. Without reference to EECs in the overlay, proponents may not be aware of the need to consider impacts on these ecosystems and species through their development proposal. Clearly identifying these values on the overlay supports landholders to develop their land accordingly. Removing this information increases the complexity for landholders and raises the risk of breaching Part 2 of the <i>Biodiversity Conservation Act 2016</i> or the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</p> <p>Recommends retention of the Terrestrial Biodiversity Overlay and clause 6.6 of the ELEP 2012.</p>	<p>The existing Terrestrial Biodiversity Map and clause 6.6 in ELEP 2012 do not directly protect any vegetation. The map identifies where vegetation is located and the clause provides matters for consideration in the assessment of a development application.</p> <p>Locating the map in a Code and referencing it through Development Control Plans will achieve exactly the same outcome. Given the increasing use of electronic mapping at State and local government level, the information contained on the map will continue to be readily available to land owners and developers.</p>

Item DPI - Agriculture Submission

Council Response

A more flexible approach to land uses in rural zones is supported if those additional land uses are consistent with the zone objectives that are principally intended to sustain primary industry production at varying scales. Land uses, other than agriculture need to be assessed as to whether they are ancillary to primary industry production or a principal use that is not consistent with the primary production objectives. Examples of land uses that can be ancillary to primary production include:

- rural industries
- restaurant or cafe
- research stations
- education facilities
- information and education facilities
- car parks when associated with agriculture i.e. agri-tourism
- function centres
- home occupation.

However, even ancillary uses can themselves also create land use conflicts with nearby agricultural activities. Consequently, the potential for land use conflicts need to be assessed for land uses with the potential to impact on adjacent and nearby farming operations, as per the Right to Farm Policy. This can be achieved by developing a supporting planning document such as a Development Control Plan to either specify locations for the development of ancillary activities where impacts on agriculture will be minimal, or establishing principles and criteria for assessment, or both. NSW DPI is willing to assist Council in the development of such a document if required.

Noted. It is Council's intention to prepare a Development Control Plan to provide guidance in the assessment of development applications for ancillary activities in rural areas. Council welcomes the offer from NSW DPI to assist in developing the DCP.

Other land uses proposed to be permitted with consent in rural zones meet the objectives of other residential, business, or industrial zones and should be permitted with consent in those zones. They include:

- backpackers
- emergency service facilities
- exhibition homes and villages
- funeral homes
- health service facilities
- storage premises
- water recreation structures
- warehouse and distribution centres
- waste or resource management facilities
- wholesale supplies

Noted. These land uses are also permitted with consent in other zones within Eurobodalla LEP 2012. However, it is not considered necessary to prohibit these uses in rural zones, as there may be appropriate opportunities in certain locations for such uses where they will not conflict with agricultural production. A Development Control Plan is proposed to be developed to provide guidance in the assessment of development applications for these kinds of uses in rural areas.

Other land uses that are not consistent with the RU1 or RU4 zone objectives include:

- cemeteries
- correction centres
- crematoria
- electricity generating establishments
- passenger transport facilities
- sewerage systems

The State Environmental Planning Policy (Infrastructure) 2007 provides for a number of these uses to be permissible with consent (by a public authority) in the RU1 and/or RU4 zones, as identified below:

- correctional centres in the RU4 zone
- electricity generating works in RU1 and RU4 zones
- sewerage treatment plants in RU1 and RU4 zones.

In any case, these types of land uses are not common and are unlikely to cause land use conflicts. It is therefore not considered necessary to prohibit them.

While DPI supports the concept of promoting diversity of agricultural production, Council should consider the risk that the minimum lot size of 2ha in the RU4 zone, through the proposed lot averaging clause, may result in lots used for purposes other than agriculture, such as for rural residential development. Council should give consideration to how this issue is managed, for example through requiring development applications for dwellings on small RU4 lots to include plans for agricultural production on site, or by increasing the minimum size of the lot.

2

The proposed rezoning and lot size changes were considered by the Rural Lands Committee and were considered to reflect the dominant land use of the subject lots. Most areas selected for inclusion in the RU1 and RU4 zones reflect agricultural land uses and are appropriately zoned. However, there are some areas zoned RU1 and RU4 that are highly vegetated or mostly highly vegetated that are not suitable for agricultural production. They mostly include the deferred lands under ELEP 2012. Council should consider whether the proposed RU1 or RU4 zones are appropriate for these highly vegetated areas, including within the following:

- Areas 5, 7b (perhaps RU1 should cover the extractive industry only), 8b, 10, 10a, 12, 14, 15, 17a, 17b, 19, 20 (south), 22, 22c, 25 and 25a, 24, 26 north and south, 26a, 27, 29, 30, 30a, 30b, 31, 32 north and south, 33, 34 north and south, 35, 36 north and south, 37a, 37b, 37c and 38.

5 and 6

It is also noted that area 30a and 30b are proposed to be rezoned from RU1 to RU4, with minimum lot sizes of 2ha and 10ha. Both areas have land of class 3 agricultural suitability, being lands of good agricultural quality and have little fragmentation. Those lands are highly suited to broad acre production and NSW DPI would support the retention of those areas in lots much larger than the 2ha and 10ha proposed.

5 and 6

Council understands the issue being raised by DPI. However, there is no compulsion under planning law in NSW for a land owner to use rural land for rural purposes. Even large rural holdings may not be used for agricultural production from time to time. Allowing lot averaging does not, in Council's view, necessarily lead to rural residential development outcomes as it will apply on a case by case basis. Lot averaging allows for the subdivision to achieve better outcomes than a standard subdivision where all lots comply with the minimum lot size. Further, agricultural production can be successful on small rural lots, if the conditions are right and the production is well managed.

The vast majority of the areas identified by DPI are currently zoned Rural 1(a) or Rural 1(a1) under the Rural LEP 1987. This zoning includes areas of agricultural production and vegetated areas. In some vegetated areas, rural activities are undertaken, including grazing, bee keeping and private native forestry. Extractive industries are also located in these areas. Other uses of a rural tourism nature are also undertaken, such as primitive camping, holiday cabins, rural retreats, bushwalking, horse riding, etc. In some areas, the land is primarily used for rural lifestyle purposes.

Council is of the view that the RU1 and RU4 zones are appropriate for these areas in recognition of existing land uses and the potential for expansion of such land uses in appropriate locations, subject to development consent and/or clearing approvals.

Area 30a is a single lot approximately 16ha in size, mostly surrounded by rural residential subdivisions. The lot does not have a dwelling and is currently used for grazing purposes. While the land is suitable for agriculture, it is unlikely to be put to a more intensive agricultural use given the proximity to a number of adjoining dwellings.

Area 30b consists of three lots, ranging in size from 2ha to 25ha. Part of this area is also surrounded by rural residential subdivisions. All three lots have a dwelling and two are used for grazing purposes. While there is greater potential for these lots to be put to a more intensive agricultural use, there remains some potential for land use conflicts given the proximity to adjoining dwellings.

This area, along with area 30, has been selected for a small expansion of some rural residential lots (area 30a) and small rural lots (area 30b), on which more small-scale agriculture could be undertaken with less potential impact on adjoining dwellings.

Item	DPI - Fisheries Submission	Council Response
1	Recommend that Council clearly identifies the difference between commercial/tourist marine infrastructure developments and private/domestic marine infrastructure that may be allowable in the LEP.	A local environmental plan must use the definitions in the State Government's Standard Instrument for LEPs. These definitions do not distinguish between commercial/tourist and private/domestic marine infrastructure.
1	Recommend that planning documentation clearly state that all marine infrastructure within or adjacent to Eurobodalla waterways still requires appropriate approvals and licences from relevant State Government agencies.	A local environmental plan identifies where the consent of the relevant Council is required. It does not usually identify where approvals from State Government agencies are required.
1	Recommends that Council note that DPI Fisheries does not support foreshore works that contribute to the further degradation of native riparian vegetation. It is important that Council does not set a community expectation that contradicts State Government requirements.	Noted.
1	Objects to the proposal to allow grazing of stock as exempt development in E2 zones.	Exempt development can only be undertaken subject to the provisions of Part 3 of ELEP 2012. Section 3.3 excludes environmentally sensitive areas, such as important wetlands, from exempt development. The proposal will not permit grazing as exempt development in any wetland identified in the Coastal Management SEPP. Most E2 lands in Eurobodalla are also identified in the Coastal Management SEPP. This proposal therefore will only apply to a small number of E2 areas on private property and for the most part relates to watering holes and some riparian areas where grazing is already being undertaken. Council believes the best approach to protecting these areas is improved farm management practices, including the fencing of stock away from watercourses in particular. Council will continue to work with South East Local Land Services, land owners and farmers in this area through programs such as landcare. However, to address the concerns raised, it is recommended that a note be added to the exempt development schedule to confirm that it does not apply to land mapped as environmentally sensitive land, including lands mapped as coastal wetlands under the Coastal Management SEPP and land zoned E2 within 100m of coastal wetlands.
2	Does not support the application of minimum averaging as proposed in the Eurobodalla LEP where it will result in increased residential stormwater runoff to oyster growing estuaries, or where it is not connected to a reticulated wastewater management system and has the potential to result in an increased on-site sewage management load in areas that have the potential to impact oyster growing areas.	Noted. However, the use of lot averaging does not increase the potential lot or development yield. The potential impacts on waterways from the application of minimum averaging will be assessed as part of any development application submitted to Council.
3	Object to the removal of clause 4.2A from the LEP, as unsealed roads are a significant contributor of sediment to waterways.	DPI - Fisheries have misunderstood the purpose of the clause that is proposed to be removed. The clause does not require all new dwellings to have access to a sealed road. The clause provides additional dwelling entitlements (over and above existing entitlements) where the lot has access to a Council maintained sealed road.
5	Does not support the rezoning of deferred lands as RU1, RU4 or E4 where they are located adjacent to waterways with good condition native riparian habitat.	Zoning land does not, of itself, have impacts on the quality of native riparian vegetation. It is the development of land that can have potential impacts. Where development requires consent from Council, the potential impacts can be assessed at the development application stage and if approval is granted, conditions can be applied to ensure impacts are avoided or minimised. Where clearing is proposed for agriculture, the NSW <i>Local Land Services Act 2013</i> applies.
5 and 6	Does not support the increased subdivision of rural land proposed in the LEP, unless the areas are appropriately located to minimise water quality impact on downstream waters.	As development requires consent from Council, the potential impacts on water quality can be assessed at the development application stage and if approval is granted, conditions can be applied to ensure impacts are avoided or minimised.

	Does not support the removal of the Biodiversity Map (and associated clause) from the LEP for the following reasons:	
7	<ul style="list-style-type: none"> - the risks to species and communities protected under the Fisheries Management Act and the Biodiversity Conservation Act 2016 have been identified as moderate/high in the TARA - Southern Region - this item is inconsistent with Goal 1, Direction 1, action 7.2 of the South East and Tablelands Regional Plan. 	<p>The existing Terrestrial Biodiversity Map and clause 6.6 in ELEP 2012 do not directly protect any vegetation. The map identifies where vegetation is located and the clause provides matters for consideration in the assessment of a development application. Locating the map in a Code and referencing it through Development Control Plans will achieve exactly the same outcome. Given the increasing use of electronic mapping at State and local government level, the information contained on the map will continue to be readily available to land owners and developers.</p>
11	Strongly supports updating the wetlands, watercourses and riparian land map, and in particular having regard to the newly proclaimed State Environmental Planning Policy (Coastal Management) 2018.	Noted.
12	Strongly supports updating the Acid Sulfate Soils Map.	Noted.
22	Strongly supports increasing the minimum lot size for land adjacent to the Old Highway in Narooma.	Noted.
	DPI Fisheries does not support the removal of the E3 Environmental Management zone from the LEP.	The Eurobodalla LEP 2012 does not contain the E3 Environmental Management zone. As the zone does not exist in Eurobodalla, it can not be removed.
	DPI Fisheries recommends including the Batemans Marine Park zoning map as a layer in the LEP.	<p>The Batemans Marine Park zoning map applies only to waterways. The relevant waterways have been zoned W1, W2 or E2. The map relates to zones where fishing is permitted and, for other activities, where a marine park permit is required. It is therefore not considered appropriate to include this map in the LEP.</p>
	Council has an opportunity to protect and improve water quality, aquatic habitat, aquaculture and tourism within Eurobodalla Shire and ensure consistent clear links between land use planning and the new Coastal Management Programs currently being developed for the Shire.	Noted. Council is currently preparing a Eurobodalla Coastal Management Program.

Item DPE - Division of Resources and Geoscience Submission

Council Response

1 No specific concerns with the proposed additional land uses for the RU1 and RU4 zones, or the adoption of open land use tables. While it is GSNSM's general preference that a broad range of potentially incompatible land uses are not permitted in rural zones, increased flexibility in permitted uses facilitates retention of the zones across a broader area of the LGA. Development applications in the area of operating mines and extractive industry still must consider the land use compatibility provisions of the Mining SEPP to ensure adequate separation between potentially incompatible developments.

Noted.

1 The proposal to specifically prohibit open cut mining in the RU4 and IN1 zones does not reflect the provisions of the Mining SEPP. Although the SEPP will prevail to the extent of any inconsistency with an LEP, GSNSW considered that these provisions should be reflected in LEPs so that the permissibility can be readily ascertained from a single planning instrument without having to also refer to the SEPP or have prior knowledge of its provisions.

Open cut mining is currently prohibited in the RU4 and IN1 zones in Eurobodalla. The planning proposal does not change the existing situation. Notwithstanding, given this use is permitted under the Mining SEPP in locations where agriculture or industry are permitted, it is proposed to amend the planning proposal to remove open cut mining from the prohibited column in zones RU4 and IN1.

1 GSNSW supports the addition of extractive industries as permitted with consent in the RU1 zone and the extension of extensive agriculture in the E4 and R5 zones.

Noted.

5 All proposed zoning in areas of identified and potential mineral resources are proposed to be zoned RU1, with some adjacent land RU4, both in which extractive industry is permissible with consent. Additionally, there are no rezonings proposed adjacent to existing mines and extractive industries that would permit incompatible development, such as residential. In summary, GSNSW has no issues to raise and considered the planning proposal consistent with Ministerial Direction 1.3 - Mining, Petroleum Production and Extractive Industry as well as State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

Noted.

Item **OEH - Heritage Division Submission**
10 No objections raised.

Council Response
Noted