

Attachment 3 - Community Group Submissions and Responses

Submission from 350.org

The proposed amendments remove important environmental controls over large areas of Eurobodalla. We are very concerned that these changes would both exacerbate and fail to mitigate the changing climate effects we are already experiencing.

Object to the removal of E3 Environmental Conservation zoning over 38,000 hectares of private land, 70% of which is forested, often on steep slopes, much of which was protected by environmental zoning in both the 1987 and 2012 LEPs.

Object to the proposal to allow significantly smaller lot sizes in RU1 zones and to increase the range of activities allowed. Smaller lot sizes in these often steep forested areas near waterways could result in significantly more clearing being necessary. With an increased likelihood of catastrophic fire events due to climate change, zoning changes, smaller lot sizes, with the potential for more housing and other development in more remote areas with limited access and greater risk of fire impacting of lives and property, and an unacceptable risk for Rural Fire Service personnel working in these areas. An example is Area 34, along the Tuross River, surrounded by State Forests and National Parks, with a proposed minimum lot size of 100ha.

Response

Environmental protections in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the *Biodiversity Conservation Act 2016*.

It is important to note that Eurobodalla Local Environmental Plan 2012 (ELEP 2012) does not regulate the clearing of vegetation for agricultural purposes on rural land. This is regulated under the NSW *Local Land Services Act 2013* by Local Land Services.

The regulations for clearing of vegetation associated with a development application in rural areas are contained in the *Biodiversity Conservation Act 2016*. In urban areas, the *Biodiversity Conservation Act 2016* and the Vegetation in Non Rural Areas SEPP apply.

The changes to ELEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)

- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

The 1000ha minimum lot size was applied to land zoned RU1 when ELEP 2012 was made in 2012 to reflect the previous provisions of the Rural LEP 197 which limited further subdivision of rural land. Notwithstanding this large minimum lot size, there are very few properties over 1000ha in size in Eurobodalla. Most of Eurobodalla's rural land is already much smaller in size.

In Area 34, there are only 6 lots larger than 100ha in size, and all are only slightly larger than 100ha. Two of these lots are vacant and could have a dwelling as a result of this planning proposal. In this area, there is one holding of 19 lots that is combined over 800ha in size. This holding, which contains significant cleared areas could potentially be amalgamated and re-subdivided to create 8 lots, each with dwelling entitlement.

A total of up to 12 additional dwelling could be facilitated by the planning proposal in this area which already contains 92 dwellings. Most of the new dwellings could be located on already cleared areas. This level of additional development is considered modest.

Across the Eurobodalla Shire, a total of 122 additional lots are facilitated by the planning proposal. In land proposed to be zoned RU1 Primary Production, the additional number of lots that would be allowed is 60, representing a 2% increase in the total number of rural lots. This is not considered to represent significant subdivision in rural areas.

Where clearing is proposed in association with a development proposal, Council will assess the impact of the proposal on the environment will be undertaken in accordance with the requirements of the NSW Biodiversity Conservation Act 2016.

Object to allowing grazing in E2 zone and replacing E3 zones with RU1 along our water catchments. These proposals will risk our water quality and impact our drinking water, recreational fishing, oyster industry and marine and nature-based tourism. An example is Area 36, north and south, with a proposed minimum lot size of 500ha.

Object to the removal of environmental overlays from the LEP. The overlays allow owners and purchasers to clearly appreciate the environmental attributes of their land. Lack of transparency could lead to unnecessary misunderstandings and conflict with council and neighbours and pressure to approve inappropriate developments. It could also result in a blow out in development approval times.

Object to the proposal to rely on Development Control Plans and Codes to protect environmental values. A DCP cannot manage to protect ecological connectivity or provide environmental management across the shire unless there is a zone in the LEP (E3). The DCP cannot interpret an LEP that has nothing to say about environmental management. Protection of areas of HCV, EECs and our water resources should not be decided on a case by case basis. They are matters of great environmental, economic and community importance and should be protected by our shire's overall environmental planning instrument, the Local Environmental Plan.

The proposed amendments do not conform to the aims of the LEP which states in 1.2(g) 'to provide measures to protect and manage the biodiversity and environmental values and waterways'.

The proposed amendments remove environmental controls from the LEP and rely on State and Federal controls (many of which have been significantly weakened) to manage environmental values.

Environmental management obligations by the landowners have been wiped from the LEP and make a mockery of this legislative planning tool in local government.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

In relation to the zoning and minimum lot size for Area 36, this area is currently partly zoned RU1 under ELEP 2012 and Rural 1(a1) 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.

Locating the mapping of native vegetation in a Code and referencing it through Development Control Plans will achieve exactly the same transparency outcomes as locating the map in the LEP.

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.

Provisions in an LEP, including zoning, clauses and environmental overlays do not directly protect any vegetation. Zoning identifies what land uses are permitted or prohibited, clauses provide development standards or matters for consideration and environmental overlays provide information.

The NSW Environmental Planning and Assessment Act 1979 states that the principal purpose of a DCP is to provide guidance on giving effect to the aims of the LEP, facilitating permissible development and achieving the objectives of the relevant zone. In ELEP 2012, there are relevant aims and zone objectives (including for the RU1 zone) relating to environmental protection and management. This facilitates the effective application of provisions in a DCP relating to environmental protection and management through the assessment of development applications. Where a land use is permitted with consent, any development application received by Council is assessed having regard to the development standards and matters for consideration in the LEP, guidelines contained in any relevant DCP or Code and relevant NSW Government legislation and State Environmental Planning Policies. Each development application is also assessed on its individual merits.

ELEP 2012 continues to satisfy this objective through the zoning of important wetlands and riparian areas E2 Environmental Conservation and the zoning of major waterways W1 Natural Waterways. In addition, the application of appropriate minimum lot sizes to minimise fragmentation of heavily vegetated areas is a measure to protect and manage biodiversity and environmental values.

Environmental protections and landowner management obligations in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the *Biodiversity Conservation Act 2016*.

It is important to note that Eurobodalla Local Environmental Plan 2012 (ELEP 2012) does not regulate the clearing of vegetation for agricultural purposes on rural land. This is regulated under the NSW *Local Land Services Act 2013* by Local Land Services.

The regulations for clearing of vegetation associated with a development application in rural areas are contained in the *Biodiversity Conservation Act 2016*. In urban areas, the *Biodiversity Conservation Act 2016* and the Vegetation in Non Rural Areas SEPP apply.

The changes to ELEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

We ask that Council withdraws this proposal and reviews it and the Rural Lands Strategy with a genuinely representative community panel including ecologists and state agencies.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Animal Justice Party

We note that the Office of Environment and Heritage has urged Council to retain the Terrestrial Biodiversity Maps in their current form within the LEP. It appears Council has ignored this advice and believes it can handle such crucial biodiversity issues of vulnerability and extinction by introducing a 'code of practice' in conjunction with a development control plan (which are both non-statutory documents). This will not succeed in effectively dealing with biodiversity issues. This is a step backward and will be detrimental to Council's overarching philosophy consistent with promoting the Eurobodalla as the nature coast and the land of many 'pristine' waters. Why would Council jeopardise this with a strategy which leaves our precious natural environment threatened and at risk from land subdivision and land clearing of our forested areas, and the quality of our water catchment areas open to the possibility of run-off from increased grazing and land clearing. It also places our wildlife species in a situation of possible extinction.

Council's proposed rezoning will negatively affect areas designated by NSW OEH as having "High Environmental Values" described within Council's LEP as High Conservation Value". If the amendments come into effect, some 90% of these will be deemed as 'primary production' allowing for land clearing and other land uses. By removing the E3 zoning controls, Council is threatening years of hard work and effort to conserve what is left of Eurobodalla's forests, woodlands and wetlands, estuaries, etc. By allowing increased grazing -which is both an environmental and animal welfare disaster and not sustainable in the 21st century - this will result in land clearance, future subdivisions and eventually land redevelopment completely changing the nature of our 'nature' coast.

The proposal directly contradicts a policy statement on Council's website that states Council works with other agencies and the community to reduce the pressures and threat that impact negatively on threatened species, including work to improve the condition and increase the extent of threatened species habitat and endangered communities where possible.

Urge Council to review the work done to date and reflect on its lack of extensive community consultation and public participation in planning controls which greatly affects all of us. Consultation should take the form of a public forum where all the relevant agencies and representatives of our diverse community landscape are able to address Council and demonstrate their views, valid objections and assist in enabling Council to fully appreciate that its community of concerned citizens have a voice and should be heard.

Response

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal.

It is important to note that, despite the concerns raised by some NSW Government Agencies, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

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.

The LEP does not currently define areas of high conservation value in Eurobodalla. The LEP currently contains a Terrestrial Biodiversity Map that defines Extant Native Vegetation, Endangered Ecological Communities and Biocorridors. The 'HCV' map was produced as part of developing the Rural Lands Strategy and this map is a tool used by Council planning staff in the assessment of development applications. The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)
- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

The proposal does not contradict the statement referred to. Council will continue to work with agencies and communities to improve our natural environment, including through groups such as Landcare and through the assessment of development applications.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee.

This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Bingie Residents Association

Response

The proposal will reduce larger rural land (RU1) into smaller holdings, increase the range of uses and also potentially double the number of dwellings in RU4 by allowing separate dual occupancy dwellings that will require clearing for bushfire protection and roads.

The proposed amendments remove the environmental management zone (E3/DM) from RU1 and RU4. This will affect connectivity of ecosystems and the Shire's landscapes in almost 50% of private land in the Shire, some 38,000ha. We are concerned at the impact of this on a range of species, including those that under the most environmental stress, Greater Gliders and other endangered species populations.

The Local Environmental Plan is the most important legislative planning document as it sets the conditions for consent use and DCPs implement these zones as defined by the LEP. If there is no zone that includes environmental management in the LEP, then DCPs are not able to ensure good practices in environmental management by landowners or protect connectivity of ecosystems or landscapes as DCPs can only assess individual development applications one at a time.

The proposed amendments will vastly increase fragmentation of the Shire's ecosystems and landscapes. The Commonwealth and State environmental planning laws and Codes of Practice are not a substitute for local government planning legislation, the LEP.

The Association calls on Council not to adopt any amendments to the LEP 2012 that will remove the environmental management zone E3/DM and other amendments that will increase the fragmentation of ecosystems in the Shire. We also call on Council not to remove the Terrestrial Biodiversity map from the LEP.

We request that Council not rezone to RU4 land on the north edge of Coila Lake and Coila Creek that have high conservation value and Aboriginal cultural values. These areas have been identified by the Office of Environment and Heritage. We would like to know if the Council has undertaken traditional owner consultation to inform them about the processes and potential changes with the LEP.

The proposal to reduce minimum lot sizes does not allow significant subdivision, as the proposed minimum lot sizes to be applied are generally consistent with the existing size of lots in each area. Across the Eurobodalla Shire, a total of 122 additional lots are facilitated by the planning proposal. In land proposed to be zoned RU1 Primary Production, the additional number of lots that would be allowed is 60, representing a 2% increase in the total number of rural lots. This is not considered to represent significant subdivision in rural areas.

In relation to dual occupancy in the RU4 zone, currently attached dual occupancy is permitted with consent. The proposal is to also facilitate detached dual occupancy. This does not potentially double the number of dwellings in RU4 zoned land or necessarily result in more clearing that could have been permitted with attached dual occupancy.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

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In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

Provisions in an LEP, including zoning, clauses and environmental overlays do not directly protect any vegetation. Zoning identifies what land uses are permitted or prohibited, clauses provide development standards or matters for consideration and environmental overlays provide information. The NSW Environmental Planning and Assessment Act 1979 states that the principal purpose of a DCP is to provide guidance on giving effect to the aims of the LEP, facilitating permissible development and achieving the objectives of the relevant zone. In ELEP 2012, there are relevant aims and zone objectives (including for the RU1 zone) relating to environmental protection and management. This facilitates the effective application of provisions in a DCP relating to environmental protection and management through the assessment of development applications. Where a land use is permitted with consent, any development application received by Council is assessed having regard to the development standards and matters for consideration in the LEP, guidelines contained in any relevant DCP or Code and relevant NSW Government legislation and State Environmental Planning Policies. Each development application is also assessed on its individual merits.

The planning proposal provides for a modest increase in the number of lots and dwellings across Eurobodalla. Any development application for subdivision, dwellings or other permitted land use must be assessed having regard to NSW and Australian Government legislation and policy, the Local Environmental Plan and any relevant Development Control Plan or Code. LEPs, DCPs and Codes are all subservient to NSW and Australian Acts of Parliament.

The land on the north edge of Coila Lake is Area 21 in the planning proposal, the area to the north of Coila Creek is Area 20 (south) and the area south of Coila Creek is Area 22. While the Office of Environment and Heritage have previously expressed concerns about parts of these areas, no objection has been raised in the OEH submission to the planning proposal to Areas 20 and 21. OEH have objected to the proposed minimum lot size for one lot in Area 22. A separate detailed response to the submission from the Office of Environment and Heritage has been prepared. Council consulted widely on the Rural Lands Strategy and as part of the exhibition of this planning proposal. All Local Aboriginal Land Councils in Eurobodalla have been informed in writing of the planning proposal.

Submission from Coastwatchers

The LEP 2012 is to be amended radically by the planning proposal. The proposed amendments are highly complex and take time to comprehend. Many residents and visitors are unable to understand, access, and give their informed objections to or support for the proposed changes. The process to amend the LEP has been the subject of much community and State agency concern and angst for the past six years. The proposal was placed on public exhibition without prior notice to community groups, state agencies or residents. The Council did carry out minimal statutory notification obligations and gave the rural land holders two weeks notice before the exhibition period. It appears Council may have failed completely to notify some relevant State agencies and to further advise when the submission period was extended from 8 June to 22 June 2012. A total of six weeks notification is not long enough for review of such a far-reaching planning proposal. *Coastwatchers objects to the lack of an extended submission deadline and request a 90 day period from at least 9 May 2018.*

Council has only provided limited advertising and interpretation of the amendments. For instance, the documents are only on public display in three locations at Council libraries and there is no standing visible link or profile for the proposed amendments on the Council's website home page. Council has not provided a media or publicity campaign to alert and inform the community. *Coastwatchers object to the restrictive advertising and the lack of a media campaign to alert the community of the major changes about to occur in the Shire.*

Council have not provided written or verbal assistance for community organisations or members on how they will provide a balance to development and environmental management in the shire. In the visionary, unamended LEP 2012, the E3/DM Zone were defined as agricultural-environmental management zone based on LEP 2008. The Council proposes to excise the E3/DM out of the LEP 2012 with no credible rationale on how they intend to manage the environmental values. The proposed RU1 and RU4 zones are for primary production with no environmental management requirements. Council has ignored advice from consultants and State agencies, such as in the Policy Directions Paper and Discussion Paper 6 of the Rural Lands Strategy. None of these background documents has been made easily accessible to the community. Council has not provided an overview map to illustrate the extent of where the E3/DM areas are or similarly the extent of RU1 areas before and after the proposed rezoning. *Coastwatchers object to the lack of information provided to the community concerning the advice of experts in the filed of environmental management and how the environmental values in the E3/DM will be protected into the future.*

The legislative aims of the Eurobodalla LEP 2012 states in 1.2(g) 'to provide measures to protect and manage the biodiversity and environmental values and waterways'.

The proposed amendments remove many of the environmental management protections, especially the High Conservation Value areas from the LEP and weakened protections for biodiversity and ecosystems by relying on the weaker legal system of DCPs and a code of practice. The proposal also removes the Terrestrial Biodiversity map from the LEP. The proposal states it is consistent with the Rural Lands Strategy, but the Strategy is flawed in that it does not consider environmental management in the Shire, only development issues. In excising the environmental management zone from the LEP, Council is not recognising the role of rural land owners in terms of their stewardship of the land as part of good rural management and a duty of care that protects ecosystems together with improved methods of sustainable agriculture, to achieve profitable outcomes. *Coastwatchers objects to the Council not implementing the legislative aims of LEP 2012 to protect biodiversity and environmental values.*

Response

The planning proposal was notified and exhibited by Council in excess of the minimum requirements outlined in the Gateway Determination issued by the Minister for Planning. All land owners directly affected were notified in writing. All State agencies identified in the Gateway Determination were notified in writing. A media release was issued. Two public notices were placed in local papers. State agencies were all informed in writing of the extension of the public exhibition period, as was the community through a media release.

This follows extensive community engagement over four years on the Rural Lands Strategy, which the planning proposal is seeking to implement.

Council followed standard procedure for notification and exhibition of a planning proposal. A plain English guide was also produced and placed on exhibition with the planning proposal. For the full length of the exhibition period, a banner was located on Council's web site home page directing people to the detailed web page.

The adopted Rural Lands Strategy was placed on public exhibition along with the planning proposal documents. The web page for the planning proposal contains a link to the Rural Lands Strategy page at which the Policy Directions Paper and Discussions Papers can be found. In relation to mapping, all of the maps in Volume 3 of the planning proposal outline the existing deferred matter, their current zoning under the Rural Local Environmental Plan 1987 and their proposed zoning under the planning proposal. The planning proposal does not propose to excise the 'E3/DM' out of the LEP 2012. There is no land in Eurobodalla Shire zoned E3 and the DM areas retain their zoning under the Rural LEP 1987. The planning proposal seeks to include the DM areas within ELEP 2012.

ELEP 2012 continues to satisfy the aim 1.2(g) of ELEP 2012 through the zoning of important wetlands and riparian areas E2 Environmental Conservation and the zoning of major waterways W1 Natural Waterways. In addition, the application of appropriate minimum lot sizes to minimise fragmentation of heavily vegetated areas is a measure to protect and manage biodiversity and environmental values.

The LEP does not currently define areas of high conservation value in Eurobodalla. The LEP currently contains a Terrestrial Biodiversity Map that defines Extant Native Vegetation, Endangered Ecological Communities and Biocorridors. The 'HCV' map was produced as part of developing the Rural Lands Strategy and this map is a tool used by Council planning staff in the assessment of development applications.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)

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In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

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.

ELEP 2012 does not contain HCV mapping.

The planning proposal seeks to implement the recommendations of the Rural Lands Strategy adopted by Council that was developed having regard to the Policy Directions Paper, the Rural Lands Discussion Papers, and the former South Coast Regional Strategy and South Coast Regional Conservation Plan. The planning proposal addresses how it is consistent with the South East and Tablelands Regional Plan (that replaced the South Coast Regional Strategy and South Coast Regional Conservation Plan). The planning proposal also addresses areas of inconsistency with the Ministerial Directions.

ELEP 2012 will continue to satisfy the aim 1.2(g) of ELEP 2012 through the zoning of important wetlands and riparian areas E2 Environmental Conservation and the zoning of major waterways W1 Natural Waterways. In addition, the application of appropriate minimum lot sizes to minimise fragmentation of heavily vegetated areas is a measure to protect and manage biodiversity and environmental values.

No land in Eurobodalla Shire is currently zoned E3 Environmental Management.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

In relation to the RU4 zone, this is not a rural residential zone. RU4 is called Primary Production Small Lots. The proposed zoning north of Coila Lake would facilitate the creation of only one additional lot in this area, on land that is mostly cleared. Additional dwellings that would be permitted on currently vacant lots would require development consent and any clearing associated with such dwellings would be assessed in accordance with the requirements of the NSW Biodiversity Conservation Act 2016.

Council proposes to protect environmental values using DCPs. DCPs do not have the same legal status or weight as LEPs. DCPs provide guidance only and have no effect to the extent of any inconsistency or incompatibility with an LEP. DCPs are more flexible than LEPs. *Coastwatchers objects to removing environmental management zone E3/DM and the Terrestrial Biodiversity map from LEP 2012 and relying on legally weaker DCPs to protect validated high environmental values identified in the E3 zone in the Shire.*

The proposed amendments do not protect the validated HCV areas in the Shire and so are not consistent with Policy Directions Paper 6, Ministerial Directions, South East Tablelands Regional Plan and South Coast Regional Conservation Plan. *Coastwatchers objects to Council ignoring best practice planning as defined in the Environmental Planning and Assessment Act 1979, the aims of the LEP, Ministerial Directions, Regional Plan and Regional Conservation Plan.*

The proposal to remove environmental management from all private lands in the Shire, currently zoned E3/DM to RU1 and RU4 will create a patchwork of forested landscape in the Shire over the next decade, reducing intact forest connectivity in water catchments and risk damaging the wide range of the Shire's ecosystems. One amendment proposed is to allow grazing without approval in the E2 zone where much of Landcare's work has occurred. Currently, grazing of livestock in E2 requires consent (for existing use rights). This is a downgrading of protection of E2 zone. Many of the coastal freshwater and marine wetlands will be open to this destructive practice. Landowners should have to apply to have existing use noted and all other wetlands should be protected. It is also proposed to zone an E3/DM area to RU4, a rural residential development zoning, on the north side of Coila Lake. Residential development on these blocks will require clearing of environmentally sensitive vegetation for dwellings, roading, farming and fire management which will eventually affect the nutrient and sediment loads in Coila Lake. *Coastwatchers objects to the removal of E3/DM zone, the removal of Terrestrial Biodiversity map and the use of DCPs for environmental management of E3/DM zone and grazing within the E2 zone.*

One key issue that is not in the interests of the Shire's wetland and estuary based economics is the proposed amendment to change the management of significant areas of wetland zoned E2 Environmental Conservation on public and private lands, including SEPP 14 wetlands, where Council proposes a destructive practice, to permit grazing on private lands as an exempt activity. This change will also affect riparian lands, such as along the Tomaga River. The Shire's estuaries are highly productive and provide nursery areas for fish. The environmental management of these ecosystems are crucial for water and land based local industries: oyster industry, recreational fishing industry, marine and nature-based tourism. Council should have consulted the Commonwealth Environment Department as a MNES matter under EPBC Act in respect to the proposed zoning amendments. *Coastwatchers objects to the removal of protections in the E2 zone and allowing grazing without approval in this zone.*

As the proposed amendments remove the environmental management zone (E3) that included most of the EEC areas, Council needs to provide legislative protection in its only remaining environmental zone E2, unless E3 is reinstated. Coastwatchers object to the environmental protection zones being inconsistent with s117 Ministerial Directions and the lack of an environmental zoning in the LEP for the Shire's validated Endangered Ecological Communities (EEC). As a minimum for protection, Coastwatchers seek the zoning of E2 for these identified and validated EEC areas in the Shire.

The LEP lists areas of significant Aboriginal Cultural heritage. It appears that the proposed amendments do not address these important Aboriginal cultural heritage sites in the zoning plan. It seems that Council has failed to engage with traditional owners of this shire and not informed or consulted specifically with them on these proposed amendments. *Coastwatchers objects to amendments to LEP 2012 that will affect the cultural values on lands of significance to the traditional owners and seek the Council to consult with the traditional owners within the Shire immediately before further considering the present Planning Proposal.*

Concerned about the impact of the proposed amendments in areas that are mapped as bush fire prone land. The amendments increase permissible land uses and number of people living in RU1 and RU4 bush fire prone areas, increasing the number of people exposed to severe bush fire hazards and the properties will require increased bush fire asset protection measures. Additionally, if detached dual occupancies in RU4 is to be allowed, this could double the potential number of dwellings in bush fire risk settings. The lives of volunteer fire fighters will be put at greater risk as well as the lives and property of residents. High conservation value vegetation will inevitably be compromised for protection of people and assets. The RFS identified certain areas as particularly hazardous and where there should be no increase in density (including areas 4, 16 and 34). *Coastwatchers object to proposed amendments that remove E3 zone, decrease the protection of HCV lands due to larger APZ's, increase the number of smaller rural residential blocks in RU1 and RU4 in fire prone areas and increase fire risk to residents and the Rural Fire Service staff and volunteers.*

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEG 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 requires approvals to be obtained for activities involving actions with a significant impact on certain environmental matters such as declared Ramsar wetlands, listed threatened species or endangered communities. The planning proposal is not considered by Council to be an action that will have a significant impact on the relevant matters and therefore referral to, or approval by, the Australian Government Department of the Environment and Energy.

No land in Eurobodalla Shire is currently zoned E3 Environmental Management.

The E2 Environmental Protection zone is currently applied in Eurobodalla to coastal wetlands and some riparian lands, as well as to lands in public ownership with important environmental characteristics. No change to this situation is proposed.

The planning proposal does address the Aboriginal Places of Heritage Significance by proposing to map those that are currently within the deferred matter, as shown in the draft Heritage Maps contained in Volume 4 of the planning proposal. Specifically, the planning proposal seeks to complete the mapping of items AH4, AH5, AH6 and AH10. Council consulted widely on the Rural Lands Strategy and as part of the exhibition of this planning proposal. All Local Aboriginal Land Councils in Eurobodalla have been informed in writing of the planning proposal.

Almost the entirety of Eurobodalla Shire is bush fire prone. Managing development in bush fire prone areas is an integral part of the development application process, including referrals to the Rural Fire Service. The planning proposal facilitates a modest number of additional lots and/or dwellings across the shire and it is considered reasonable for land owners who benefit from the planning proposal to address issues of bush fire risk as part of development applications. A separate detailed response to the submission from the Rural Fire Service has been prepared.

In relation to dual occupancy in the RU4 zone, currently attached dual occupancy is permitted with consent. The proposal is to also facilitate detached dual occupancy. This does not potentially double the number of dwellings in RU4 zoned land or necessarily result in more clearing that could have been permitted with attached dual occupancy.

Area 4 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.

Area 16 represents three areas north of Moruya that were subdivided for rural living opportunities in the late 1970's and early 1980's. All of the lots currently either have a dwelling or have entitlement to a dwelling. The planning proposal facilitates an additional 6 lots and 7 dwellings.

Area 34 contains a number of holdings, that if consolidated and/or resubdivided, could accommodate 12 additional dwellings. Eight of these are on a large holding with significant cleared areas. There are already 92 dwelling in this area.

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.

These amendments will have an affect of carbon emissions in the shire. The 38,000ha of E3 on forested private land (equivalent to 380 square kilometres) in the LEP absorbs 109,000 tonnes of carbon per year. If the forested area of E3 is reduced in any way, the carbon emissions for the Shire will increase by the same proportion. The 109,000 tonnes of carbon is equivalent of 30,000 average household energy emissions, about twice the number of Eurobodalla households. *Coastwatchers object to the amendments to the LEP that have not considered mitigation of climate change when deciding zonings.*

Coastwatchers object to the process used to develop the Rural Lands Strategy and appoint the Rural Lands Strategy Steering Committee and an inadequate process to identify actual or perceived conflicts of interest so as to properly address probity concerns by the community. Coastwatchers objects to the consequent proposed removal of environmental management responsibilities on private rural lands in this Shire through the proposed RLS amendments to LEP 2012.

Coastwatchers identifies that OEH, in submissions to the Rural Lands Strategy and preliminary Planning Proposal, have noted the following specific areas at risk:

High Fire Risks - Areas 33 and 34.

Water Catchment at Risk - Areas 36, 37a, 37b, 37c

Aboriginal Heritage at Risk - Area 32 (specifically land adjoining Wallaga Lake National Park and Little Dromedary)

Climate change was considered throughout the development of the Rural Lands Strategy. This issue was discussed in the Rural Lands Issues Paper, the Rural Opportunities and Constraints Report and the Policy Directions Paper, all of which informed the final Rural Lands Strategy adopted by Council. Given the planning proposal facilitates minimal clearing of vegetation, it is considered that there will be no climate change impacts as a result. In any case, it should be noted that the NSW Biodiversity Conservation Act 2016 includes requirements for offsetting the clearing of native vegetation.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. Environmental management obligations on landowners in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the *Biodiversity Conservation Act 2016* . It is important to note that Eurobodalla Local Environmental Plan 2012 (ELEP 2012) does not regulate the clearing of vegetation for agricultural purposes on rural land. This is regulated under the NSW *Local Land Services Act 2013* by Local Land Services. The regulations for clearing of vegetation associated with a development application in rural areas are contained in the *Biodiversity Conservation Act 2016* . In urban areas, the *Biodiversity Conservation Act 2016* and the Vegetation in Non Rural Areas SEPP apply. The changes to ELEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

OEH have not objected to the proposal for these areas in their submission to the planning proposal. In these areas, a relatively small number of additional dwellings would be facilitated by the planning proposal. A total of 18 dwellings could be provided in these areas, where there is currently 109 dwellings. 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.

OEH have not objected to the proposal for these areas in their submission to the planning proposal. In these areas, a relatively small number of additional lots and dwellings would be facilitated by the planning proposal. A total of 12 lots and 20 dwellings would be possible in an area that already contains 151 dwellings. 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. Conditions would be imposed on any approval requiring sediment control during construction to avoid impacts on water quality.

OEH have not objected to the proposal for this area in their submission to the planning proposal. They did however identify two properties recently purchased by the NSW Government and have requested those properties be zoned E1 National Parks and Nature Reserves. The planning proposal will be amended accordingly. Area 32 is a large area, in which there is potential for four additional dwellings. All four could only be achieved following consolidation of a number of lots in the same ownership. In an area that currently has 134 dwellings, the additional potential is insignificant. Consideration of any Aboriginal heritage issues associated with the location of any of the additional dwellings would be undertaken at the development application stage.

Oyster Industry at Risk - Areas 5, 29 (north) and 38 (north). Looks like some E2 zoning removed around Hobbs Bay.

OEH have not objected to the proposal for these areas in their submission to the planning proposal. The planning proposal does not facilitate any additional lots or dwellings in Area 5. Only two additional dwellings are facilitated in Area 29 and three in Area 38. No E2 zoning is proposed to be removed around Hobbs Bay. 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. Conditions would be imposed on any approval requiring sediment control during construction to avoid impacts on water quality.

Sensitive catchment areas adjacent to lakes, rivers and creeks proposed to be zoned RU1 and RU4 - Areas 21, 22, 22a, 22b, 22c, 23, 24, 25, 25a, 26 (north), 27, 29 and 32.

Areas 21, 22a, 22b, 22c, 24, 26, 29 and 32 - OEH have not objected to the proposal for these areas in their submission on the Planning Proposal. Area 22 and 23 - OEH have objected to the minimum lot size for one lot in each area. For the subject lots, relatively small areas of clearing would be required and these could be undertaken close to Coila Creek Road and Potato Point Road. Area 25 - OEH have objected to the minimum lot size for three lots in this area. Only two of these lots could have a dwelling as a result of the planning proposal. For one of these, any clearing required could be undertaken close to Potato Point Road. Area 25a - OEH have objected to the minimum lot size for four lots in this area. For three of these lots, any clearing required could be undertaken close to Potato Point Road. Area 27 - OEH have objected to the minimum lot size for seven lots in this area. Two of the subject lots already have approved dual occupancies. Two have clearings capable of locating additional dwellings. One of the lots is Crown Lad. The remaining two lots would require relatively small areas of clearing. 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. Conditions would be imposed on any approval requiring sediment control during construction to avoid impacts on water quality.

Some areas do not appear on previous Governmental submissions and are now in the amendments to the LEP 2012. Have they been approved by Council in other processes and if so, how? - Areas 22a, 22b, 23 and 24 (contain more lots than shown on the OEH map), 25 (OEH map shows only one block), 25a (OEH map doesn't show as much area as ESC map), 26 (not mentioned at all), 33 (only one block in OEH submission) and 36 (ESC has a north and a south, OEH shows only one portion).

The OEH maps included as part of submissions to the Rural Lands Strategy and the preliminary planning proposal highlight areas of specific interest to OEH. They do not show all of the subject areas. Council has made no changes to the identification of any areas, with the exception of splitting some large areas into north and south so that the maps included in the planning proposal are easier to read.

Submission from Clyde Oyster Farmers

Concerned with proposed land rezoning and fragmentation which have potential to inflict long term irreparable structural threat to oyster waterways.

In 2012 Council released a draft plan which was a visionary blueprint for the Shire's future and included a number of conservation measures to protect our forests, rivers, wetlands and water catchments.

E3 Environmental Management This zone is for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration / management and for uses compatible with these values.

Council has now responded to a small minority of residents and business people who are mainly large land holders and or property developers by removing the proposed protection of E3 zoning over a large area of rural land, some 38,000 ha. In recognition of established usage, Council's proposed E3 zoning allowed for grazing and some other rural activities and essentially replaced earlier, similar protective zonings under the 1987 LEP.

Council now intends to zone all this land as RU1 Primary Production or RU4 Primary Production Small Lots but with an Open Land Use Table -in other words anything goes. Large landholders and property developers stand to benefit while the broad community faces the inevitable clearing of forested rural land and the steady degradation of Eurobodalla from the Nature Coast to the Naked Coast.

Council's Proposal also allows grazing without restriction in all E2 Environmental Conservation areas, some 4500 ha, including habitat for endangered species and sensitive wetlands. Wetlands are vital to the clean water of the Shire for drinking, farming, oysters and fisheries as well as the survival of many water birds and countless other species that depend on the unpolluted and undisturbed wetlands. Cattle, horses, sheep, goats and pigs etc. must not be allowed to destroy our wetlands and clean water.

Council has dismissed significant objections to the Proposal by State agencies including the Rural Fire Service, the South East Local Land Services, the Department of Heritage and Environment, Department of Primary Industries - Water & Fisheries. Many of Council's changes are inconsistent with both advice from the agencies and Directions from the Minister for Planning.

Response

The planning proposal provides for a modest increase in the number of lots and dwellings across Eurobodalla. Most of the potential additional development is not located in oyster catchment areas. For example, in the entire Clyde River catchment, the proposal facilitates up to nine additional lots and 20 additional dwellings, the majority of which are located more than four kilometres from the Clyde River.

Any development application for subdivision, dwellings or other permitted land use must be assessed having regard to NSW and Australian Government legislation and policy, the Local Environmental Plan and any relevant Development Control Plan or Code. Council will continue to assess development proposal in oyster catchment areas in relation to their potential impact on water quality and impose conditions on any development approvals to prevent detrimental impacts.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)

- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

The proposed use of open land use tables is not considered to represent “anything goes”. Certain land uses will remain prohibited in the RU1 and RU4 zones and any additional permitted land uses cannot be undertaken without development consent. Before Council can grant development consent, assessment of the proposal against the relevant provisions of NSW Government legislation, regulations and State Environmental Planning Policies needs to be undertaken. Where a land use is permitted without consent, such as extensive agriculture, the land owner must comply with relevant NSW Government legislation and regulations. Clearing of rural land for rural purposes is currently regulated by Local Land Services and this will not change by the zoning of the subject land to RU1 or RU4.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “*exempt or complying development must not be carried out on any environmentally sensitive area*”. An environmentally sensitive area is defined as including coastal wetlands as defined under the *Coastal Management Act 2016* and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal. Similarly, the planning proposal acknowledges where it is inconsistent with S117 Ministerial Directions and provides justifications for those inconsistencies.

It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

Council has also failed to consider the impact of forest clearing on climate change and the much weaker protection against land clearing under the new State laws that last year replaced the Native Vegetation Act.

I want Council to withdraw this Proposal and review it together with expert State agencies and a genuine community advisory panel that is truly representative of the broad community, including several people with wide nature conservation experience.

Climate change was considered throughout the development of the Rural Lands Strategy. This issue was discussed in the Rural Lands Issues Paper, the Rural Opportunities and Constraints Report and the Policy Directions Paper, all of which informed the final Rural Lands Strategy adopted by Council. Given the planning proposal facilitates minimal clearing of vegetation, it is considered that there will be no climate change impacts as a result. In any case, it should be noted that the NSW Biodiversity Conservation Act 2016 includes requirements for offsetting the clearing of native vegetation.

In relation to the new NSW Government's land clearing laws, these had not yet been finalised at the time of developing the Rural Lands Strategy. In relation to clearing of vegetation for rural purposes, given the vast majority of the lands proposed to be zoned RU1 are currently zoned Rural 1(a) or 1(a1) under the Rural LEP 1987, there is no change to how the land clearing regulations apply as a result of this planning proposal.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee.

This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Eurobodalla Natural History Society

Concerned about proposals to rezone Crown and private land that contain Endangered Ecological Communities, threatened endangered fauna and flora species, as well as impacting on the wildlife corridors native animals need to survive.

Concerned about the elimination of E3 zones, the reduction of lot sizes and grazing in E2 wetlands all threaten the natural environment, wildlife corridors, biodiversity and the quality of our waterways. Smaller lot sizes will lead to clearing of trees and shrubs.

The objections raised by the Office of Environment and Heritage, the Rural Fire Service and the South East Local Land Services have been ignored by Council in the development of the Rural Lands Strategy.

We ask Council to withdraw this proposal and seek further input from environmental agencies to achieve a better balance for the local community and the environment.

Response

The vast majority of land proposed to be rezoned is currently zoned Rural 1(a) or Rural 1(a1) under the Rural Local Environmental Plan 1987. In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Most of this land is proposed to be zoned RU1 Primary Production or RU4 Primary Production Small Lots. The zoning changes do not change the existing environmental regulations contained in NSW Government legislation or SEPPs. Environmental protections in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the Biodiversity Conservation Act 2016. It is important to note that Eurobodalla Local Environmental Plan 2012 (ELEP 2012) does not regulate the clearing of vegetation for agricultural purposes on rural land. This is regulated under the NSW Local Land Services Act 2013 by Local Land Services. The regulations for clearing of vegetation associated with a development application in rural areas are contained in the Biodiversity Conservation Act 2016. In urban areas, the Biodiversity Conservation Act 2016 and the Vegetation in Non Rural Areas SEPP apply.

There is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla. The proposal to reduce minimum lot sizes does not allow significant subdivision, as the proposed minimum lot sizes to be applied are generally consistent with the existing size of lots in each area. Across the Eurobodalla Shire, a total of 122 additional lots are facilitated by the planning proposal. In land proposed to be zoned RU1 Primary Production, the additional number of lots that would be allowed is 60, representing a 2% increase in the total number of rural lots. This is not considered to represent significant subdivision in rural areas. The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area. 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.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal. It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Friends of Durras

Response

Supports the E2 zoning of the ecologically significant Crown Land portions 92 to 95.

Noted.

Strongly oppose the removal of E3 Environmental Management zoning and its replacement with classification(s) which remove many, if not most, restrictions on type and extent of development allowed.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)

- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

Strongly oppose the recommendation to remove Terrestrial Biodiversity overlays and associated planning tools.

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.

Strongly oppose the proposed watering down of E2 Environmental Conservation zoning by making grazing of livestock an exempt development and the construction of boatsheds permissible with consent.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

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.

We are extremely dismayed by the lack of time and opportunity for broad and informed community consultation on the recommendations of the Rural Lands Strategy planning proposal. We are also dismayed by the failure to advertise the consultation process widely, which should minimally have included directly informing all individuals and organisations who made a formal submission to the original strategy development consultation.

Council followed standard procedure for notification and exhibition of a planning proposal. A plain English guide was also produced and placed on exhibition with the planning proposal. For the full length of the exhibition period, a banner was located on Council's web site home page directing people to the detailed web page.

The planning proposal was notified and exhibited by Council in excess of the minimum requirements outlined in the Gateway Determination issued by the Minister for Planning. All land owners directly affected were notified in writing. All State agencies identified in the Gateway Determination were notified in writing. State agencies were all informed in writing of the extension of the public exhibition period, as was the community through a media release. A media release was issued. Two public notices were placed in local papers. State agencies were all informed in writing of the extension of the public exhibition period, as was the community through a second media release.

This follows extensive community engagement over four years on the Rural Lands Strategy, which the planning proposal is seeking to implement.

We urge a substantial extension of the consultation process, minimally a further 3-6 months and adoption of a consultation strategy which ensures all Shire residents and interest groups are given the opportunity to comment and every effort made to encourage input from expert sources.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee.

This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Eurobodalla Greens

Response

The current public exhibition period, even as extended, is sufficiently short in time frame and poor in publicity that it serves to disenfranchise land owners, especially non-resident ratepayers, from the process. We ask that the submission period be extended at least for another month, with renewed publicity to non-resident ratepayers, or re-opened to achieve the same result.

The proposed LEP does not include E3 zoning which we feel is necessary to properly protect these important environmental areas, some 38,000ha, nearly half the forested rural areas of the Shire.

Changing the zoning of this land to RU1 Primary Production or RU4 Primary Production Small Lots with an open land use table will further weaken environmental protection for these areas, many of which are covered with native vegetation. The habitat fragmentation and land clearing that will potentially result, will result in destruction and degradation of the biodiversity of our area and potentially threaten the image of the shire as The Nature Coast.

We are concerned that the damage to the local tourism industry could result in threatening the business and job opportunities.

Council's proposal also allows grazing without the need for an application in E2 areas, some 4500ha.

The local oyster industry could also be at risk from erosion, run off and siltation as rural land is rezoned and subdivided.

The planning proposal was notified and exhibited by Council in excess of the minimum requirements outlined in the Gateway Determination issued by the Minister for Planning. All land owners directly affected were notified in writing. A media release was issued. Two public notices were placed in local papers. A second media release was issued to inform the community of the extension of the public exhibition period. This follows extensive community engagement over four years on the Rural Lands Strategy, which the planning proposal is seeking to implement.

There is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla, consistent with the recommendations of the Rural Lands Strategy adopted by Council in 2016. Environmental protections in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the Biodiversity Conservation Act 2016. It is important to note that Eurobodalla Local Environmental Plan 2012 (ELEP 2012) does not regulate the clearing of vegetation for agricultural purposes on rural land. This is regulated under the NSW Local Land Services Act 2013 by Local Land Services. The regulations for clearing of vegetation associated with a development application in rural areas are contained in the Biodiversity Conservation Act 2016. In urban areas, the Biodiversity Conservation Act 2016 and the Vegetation in Non Rural Areas SEPP apply. The changes to ELEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The vast majority of land proposed to be rezoned is currently zoned Rural 1(a) or Rural 1(a1) under the Rural Local Environmental Plan 1987. In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Most of this land is proposed to be zoned RU1 Primary Production or RU4 Primary Production Small Lots. The zoning changes do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The planning proposal seeks to increase rural tourism opportunities in Eurobodalla. The additional development facilitated by the planning proposal is modest and will be subject to existing environmental regulations through development application processes.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area. 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.

The planning proposal provides for a modest increase in the number of lots and dwellings across Eurobodalla. Most of the potential additional development is not located in oyster catchment areas. For example, in the entire Clyde River catchment, the proposal facilitates up to nine additional lots and 20 additional dwellings, the majority of which are located more than four kilometres from the Clyde River. Any development application for subdivision, dwellings or other permitted land use must be assessed having regard to NSW and Australian Government legislation and policy, the Local Environmental Plan and any relevant Development Control Plan or Code. Council will continue to assess development proposal in oyster catchment areas in relation to their potential impact on water quality and impose conditions on any development approvals to prevent detrimental impacts.

Council is ignoring expert advice and dismissing objections to the proposal by State Agencies including the Rural Fire Service, the South East Local Land Services, the Department of Heritage and Environment, Department of Primary Industries - Water and Fisheries.

Council has also failed to consider the impact of forest clearing on climate variation and carbon emissions and the role Council must take in addressing anthropogenic climate warming.

We ask that Council withdraws this proposal, and that it be reviewed with expert State agencies and a community advisory panel that is truly representative of the broad community, including several people with wide nature conservation experience.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal. It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

Climate change was considered throughout the development of the Rural Lands Strategy. This issue was discussed in the Rural Lands Issues Paper, the Rural Opportunities and Constraints Report and the Policy Directions Paper, all of which informed the final Rural Lands Strategy adopted by Council. Given the planning proposal facilitates minimal clearing of vegetation, it is considered that there will be no climate change impacts as a result. In any case, it should be noted that the NSW Biodiversity Conservation Act 2016 includes requirements for offsetting the clearing of native vegetation. In relation to the new NSW Government’s land clearing laws, these had not yet been finalised at the time of developing the Rural Lands Strategy. In relation to clearing of vegetation for rural purposes, given the vast majority of the lands proposed to be zoned RU1 are currently zoned Rural 1(a) or 1(a1) under the Rural LEP 1987, there is no change to how the land clearing regulations apply as a result of this planning proposal.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Nature Coast Marine Group

Under the 1987 Rural 1(a1) and 1(a) zones, water catchments were better protected. There are no objectives that address environmental conservation for the RU4 zone in the 2012 LEP and only one weak objective in the RU1 zone. Now all that is proposed is a clause for wetlands, watercourses and riparian zones, but there are only the narrow strips defined on the map. With all the additional uses and open land use table proposed it is important to have a strong LEP that prevents unsuitable development. Relying on DCPs to refuse development proposals is weak and inconsistently applied. The E3 zone should be retained, especially for important catchments of our rivers and coastal waterways and/or the zone objectives reworded to give better protection.

Council should not make decisions on marine matters and should not list land uses for marine and intertidal areas.

In relation to the proposed use of minimum averaging in the RU4 zone, the LEP should not make smaller lots around waterways or facilitate creek crossings.

In relation to the continuation of dwelling entitlements, how far back is historic? The clause should be amended so that dwelling entitlements have a cut off date, for example any unused entitlements predating the year 2000 should lapse. Creating new dwelling entitlements on unsealed roads is a recipe for increasing siltation of our waterways. Clause 4.2A should be amended to limit new dwellings on unsealed roads where runoff will enter waterways.

Detached dual occupancies should not be permitted close to waterways or in what were to be E3 zones.

Concerned about potential subdivision in certain areas:
Areas 4 - Along the Clyde River, including on Cyne Mallows Creek - this densely forested peninsular currently has large lots but these are proposed to be subdivided allowing 4 new lots and at least 7 more dwellings.

Area 10 - At Jeremadra where many narrow lots run down to the river. Instead of amalgamating small lots the proposal is to subdivide larger ones to allow 7 more lots and dwellings.

Areas 37a, 37b and 37c - along the Deua River. The RU1 zone objectives do not include the protections of the old 1(a1) zone and the proposal will allow a total of 5 more lots and at least 13 new dwellings. Since most of the land is steep and forested, development is sure to be concentrated close to the river, in the catchment of the Shire's water supply.

Area 21 - Adjacent to Coila Lake, where 15 new dwellings and detached dual occupancies could occur all with on-site sewerage and required land clearing.

Response

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)
- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

Most waterways in Eurobodalla are zoned under the LEP. It is therefore appropriate to identify in the LEP uses that are permitted with consent or prohibited in those zones. Requiring development consent for marine infrastructure does not remove the requirement for the relevant NSW Government agency to give their approval to any structure or development in a waterway.

Noted. These issues will be considered at the development application stage.

The LEP defines existing dwelling entitlements to certain dates, including dates in 1963 and 1987. The planning proposal does not create new dwelling entitlements on unsealed roads. The Nature Coast Marine Group 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. Conditions can be imposed on development consents where there is a risk of sediment runoff into waterways.

Any future development application for a detached dual occupancy will be assessed having regard to its environmental impact, including in relation to potential impact on waterways.

Only 1 lot on Cyne Mallows Creek is large enough for potential future subdivision under the planning proposal. The subject lot could potentially be subdivided to create two additional lots and dwellings.

None of the lots large enough for potential future subdivision under the planning proposal adjoin the Tomaga River.

Area 37a provides for one additional lot and dwelling. Any future development application will be assessed having regard to impact on water quality.
Area 37b provides for no additional lots and three additional dwellings. Any future development application will be assessed having regard to impact on water quality.
Area 37c provides for four additional lots and ten additional dwellings. This area contains more open farmland and less steep land than areas 37a and 37b and is suitable for ongoing agriculture on 40ha lots. Any future development application will be assessed having regard to impact on water quality.

Not all of the lots that would achieve a dwelling under the planning proposal directly adjoin Coila Lake and not all lots require clearing of vegetation to achieve a dwelling. Any future development application will be assessed having regard to impact on water quality.

Areas 22, 22a, 22c, 23 and 25 - In the catchment of Coila and Tuross Lands and Brunderee Lake, where a total of 13 new lots and at least 24 new dwellings could occur.	Not all of the lots that could achieve subdivision or new dwellings directly adjoin the lakes. Any future development application will be assessed having regard to impact on water quality.
Areas 27 and 29 - adjacent to Wagonga Inlet, where 7 new lots and 10 new dwellings could occur. The larger lot size of 40ha will not protect the Inlet's water quality if clearing, on site sewerage and farming activities occur too close to the waterways or its feeding tributaries.	Not all of the lots that could achieve subdivision or new dwellings require additional clearing. Any future development application will be assessed having regard to impact on water quality.
It is deceptive to claim that the proposal will only allow 255 new dwellings since detached dual occupancies, historic dwelling entitlements and additional tourism accommodation will have an additional impact.	The planning proposal acknowledges that there are existing dwelling entitlements and that detached dual occupancies and tourist accommodation are currently permitted with consent in the RU1 zone. Not all properties will have dual occupancies or tourist accommodation, so it is not possible to estimate the number of these developments that will be proposed in the future.
The proposed zoning and minimum lot size should maximise catchment protection not just try to match existing lot sizes.	It is considered that the planning proposal provides for a modest increase in development potential in water catchment areas, providing an appropriate balance between environmental protection and development potential.
The removal of the Terrestrial Biodiversity Map and clause 6.6 will facilitate forest clearing or under-scrubbing and will degrade the quality of our water supplies and the health of our waterways. Clause 6.6 should be retained and reworded to refer to the amended maps at the time a DA is lodged.	<p>The existing Terrestrial Biodiversity Map and clause 6.6 in ELEM 2012 identify 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.</p> <p>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>
Objects strongly to opening all E2 land to grazing. Property owners should have to prove continuous existing use if they are currently legally allowing livestock into these areas and there should be a time limit and the phasing out of this use specified in the LEP.	<p>The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEM 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.</p> <p>However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.</p>
The proposed increase in lot size for certain land along the Old Highway at Narooma is desirable but 2500m ² does not solve the problem of pollution into Wagonga Inlet.	The proposal facilitates lots of a size that can provide on site sewage management in a manner that minimise potential impacts on Wagonga Inlet. Any future development application will be assessed having regard to impact on water quality.

Submission from National Trust Far South Coast Branch

The Eurobodalla LEP 2012 states in 1.2(g) that it aims 'to provide measures to protect and manage the biodiversity and environmental values and waterways'.

However, it appears the proposed amendments remove many of the environmental management protections from the LEP and leaves the DCP process to manage biodiversity and environmental aspects in Eurobodalla.

While the proposal states it is consistent with the Rural Lands Strategy, it does not protect the validated High Environmental Values of the Shire, increases allowable uses and is not consistent with Ministerial Directions.

The rezoning of the Deferred Matter could be seen as in contravention of Ministerial Directions.

Known environmental values are being ignored, including High Environmental Value areas, which are proposed to be rezoned from E3 or DM to RU1 or RU4. This is inconsistent with the South East and Tablelands Regional Plan.

The proposal seeks to rezone 7000ha of land from 7(a), 7(f1) and 7(f2) to RU1 and RU4, with some small areas zoned E2 or E4. The E2 zone will also be able to have grazing livestock without consent. The E4 zone provides for low impact residential development in areas with special environmental values. However establishing dwellings requires a substantial amount of clearing including for bushfire protection that will impact on these sensitive lands. The lot sizes proposed for RU1 and RU4 zones will increase forest fragmentation and loss of threatened species. All current 7 zoned areas should be zoned E2 and grazing in this zone should not occur.

The Terrestrial Biodiversity Map should not be removed from the LEP and placed in a DCP, which will reduce its importance in the planning process.

Land clearing in the RU1 zone is based on self-assessment under the LLS Act.

Response

ELEP 2012 continues to satisfy the aim 1.2(g) of ELEP 2012 through the zoning of important wetlands and riparian areas E2 Environmental Conservation and the zoning of major waterways W1 Natural Waterways. In addition, the application of appropriate minimum lot sizes to minimise fragmentation of heavily vegetated areas is a measure to protect and manage biodiversity and environmental values.

Environmental protections in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the *Biodiversity Conservation Act 2016*. The changes to ELEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The LEP does not currently define areas of high conservation value in Eurobodalla. The LEP currently contains a Terrestrial Biodiversity Map that defines Extant Native Vegetation, Endangered Ecological Communities and Biocorridors. The 'HCV' map was produced as part of developing the Rural Lands Strategy and this map is a tool used by Council planning staff in the assessment of development applications.

The planning proposal identifies where there is an inconsistency with Ministerial Directions and provides justifications for the inconsistency.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)

- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

The vast majority of the areas that were previously included in a 7 zone under the Rural LEP 1987 have already been zoned E2. This includes all coastal wetlands.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

In relation to the E4 zone, there is only one area where a former 7 zone is proposed to be zoned E4. In this area (7a), only one additional dwelling is facilitated.

In relation to the proposed lot sizes, a modest number of additional lots are facilitated across the Shire. On land that currently has a 7 zone under RLEP 1987, no additional lots are facilitated.

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.

The Local Land Services Act 2013 replaced the Native Vegetation Act 2003. Under both Acts, some forms of self-assessment applied. This applies now to all land zoned RU1 and RU4 under ELEP 2012 and to land zoned Rural 1(a) and 1(a1) under the Rural LEP 1987. The planning proposal does not change the current vegetation clearing laws in NSW.

Submission from Rosedale Association

Response

Concerned at the proposal to provide additional uses without consent in E4 zone, which includes the Rosedale land.

Only one additional use is proposed to be permitted with consent, being extensive agriculture. All other additional uses would require development consent.

Concerned at the proposal to rezone land immediately to the south of Rosedale (east of George Bass Drive) to RU1. The land was previously zoned 7(f1) under the Rural LEP 1987. The additional list of uses is exhaustive and fails to recognise or value this sensitive environmental and coastal land. The land should be zoned similar to 7(f1) (possibly E4) with a minimum lot size to prevent subdivision.

The subject land is currently zoned 7(f1) under the Rural LEP 1987, a zone in which certain forms of agriculture are permitted with or without consent. Land clearing is permitted with consent and was regulated under the former NSW Native Vegetation Act 2003. The proposed RU1 zoning does not change the permissibility of agricultural activities on the subject land. Any land clearing is now regulated under the NSW Local Land Services Act 2013. The proposed minimum lot size prevents further subdivision of the land. Rezoning the land to E4 would provide additional dwelling entitlements to vacant lots that do not currently have entitlement for dwellings.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)
- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

Concerned at elimination of E3 zones. The planning proposal should be amended to strengthen environmental protections for the valuable bushland of the Shire, including land previously zoned E3.

The planning proposal applies minimum lot size that are appropriate to the predominant existing lot size in each area. It does not result in significant subdivision or clearing potential.

Concerned at proposal to reduce lot sizes in some zones.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of ELEP 2012 states that “exempt or complying development must not be carried out on any environmentally sensitive area”. An environmentally sensitive area is defined as including coastal wetlands as defined under the Coastal Management Act 2016 and land within 100m of a coastal wetland. The Coastal Management SEPP maps coastal wetlands and these cover most of the coastal wetlands that are zoned E2. Therefore, making grazing exempt development in the E2 zone will only be able to apply to land zoned E2 that is not a coastal wetland or other defined environmentally sensitive area.

However, to address the concerns raised, the planning proposal will be amended to include a note in the Exempt Development Schedule to confirm that this provision does not apply to land mapped as environmentally sensitive, including lands mapped as coastal wetlands under the Coastal Management SEPP and lands zone E2 within 100m of coastal wetlands.

Concerned at proposal to make grazing permissible in E2 zones. This position should be reversed and Council should take measures to retain responsibility for ensuring that potential impacts of development in sensitive areas are fully considered and addressed in all development proposals.

The planning proposal facilitates a modest increase in rural lots and dwellings and facilitates additional rural and environmental tourism opportunities. It will not result in significant clearing of land. The planning proposal provides an appropriate balance between increased opportunities for agriculture and dwellings and maintaining the existing character of the shire.

Concerned at the significant risk to the Shire's environmentally important native bushlands, threatened species and ecosystems, due to the potential loss of habitat and connecting corridors from increased land clearing for housing, roads, fences and bushfire protection.

Submission from SAGE

It is true that the RLS in certain aspects may be beneficial to our cause with the ability to encourage smaller land plot sizes of agricultural land, however it is also true that there appears to be significant negative effects which impact the sustainability of the rural landscape, environment and biodiversity, the local community, many of our farmers, their customers and supporters.

Response

The planning proposal facilitates a modest increase in rural lots and dwellings and facilitates additional rural and environmental tourism opportunities. It will not result in significant clearing of land. The planning proposal provides an appropriate balance between increased opportunities for agriculture and dwellings and maintaining the existing character of the shire.

We seek clarification on council's decision to reject the advice of State authorities.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal. Similarly, the planning proposal acknowledges where it is inconsistent with S117 Ministerial Directions and provides justifications for those inconsistencies. It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

We hope the strategy can be reviewed again, taking into consideration the valuable advice provided by State authorities to make the strategy a means to support and uphold sustainability and regeneration of our environment, ecological and agricultural values with attention paid to science and best practice in planning and land management.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from South Coast Health and Sustainability Alliance

The strategy will result in significant and widespread subdivision of privately owned agricultural and bushland in Eurobodalla, in some cases from 1000ha to 10 to 40ha in size. It will result in more clearing, more pet animals, more roads, more decimated wildlife, more polluted runoff, more mess.

The strategy includes the removal of E3 zone from the most important legal planning document, the LEP. This will make environmental protection of bushland, wetlands, estuaries and rivers a local development plan with few constraints on environmental values in the Shire.

Response

The planning proposal facilitates a modest increase in rural lots and dwellings and facilitates additional rural and environmental tourism opportunities. It will not result in significant clearing of land. The planning proposal provides an appropriate balance between increased opportunities for agriculture and dwellings and maintaining the existing character of the shire.

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3 retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)
- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

Submission from The Estuary Estate Action Group

Response

We generally support item 1, in particular the addition of detached dual occupancy a permissible with consent in the R5 zone. We note that extensive agriculture is proposed to be permitted without consent. Such a land use is unlikely in the Estuary Estate but we understand some other R5 areas might already be practising or have the potential to undertake extensive agriculture.

Noted

We support the proposal to introduce an airspace operations clause for the Moruya Airport (item 16).

Noted

Area 10a includes the property known as Oaks Ranch, which currently has a range of zonings. We understand the proposal relates in large part to the Deferred Lands, currently zoned Rural 1(a) and proposed to be zoned RU1, with a wide range of permissible uses. We believe the rezoning of this land to RU1 warrants further study to ensure this does not remove important environmental protections.

The subject land is currently zoned Rural 1(a) under the Rural LEP 1987. The RU1 zone is the equivalent zone under ELEM 2012. Environmental protections in NSW are primarily delivered through NSW Government legislation, regulations and State Environmental Planning Policies (SEPPs), including the Biodiversity Conservation Act 2016. The changes to ELEM 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

We understand grazing is to be permitted in E2 zones, but the E2 wetlands on the Oaks Ranch are protected under SEPP 14 so grazing would not be permitted on these lands. We would like explicit reassurance of this protection.

The E2 zones on the subject land are now protected under the Coastal Management SEPP (which replaced SEPP 14). It is correct that grazing will not be permitted on these lands as exempt development as they are defined as environmentally sensitive lands.

Object to the existing provision in ELEM 2012 that permits 90 permanent dwellings on the Oaks Ranch. This was included in ELEM 2012 following the public exhibition of the Draft LEP in 2011 and therefore was not subject to public consultation. We request that it be removed and that further development of the Oaks Ranch be subject to a separate planning proposal with full community consultation.

In relation to the Oaks Ranch property, the only change proposed relates to the current deferred matter, and to the removal of a minimum lot size for the land currently zoned E2. The planning proposal does not relate to the existing Schedule 1 provision for the subject land. Any change to that provision should be the subject of a separate planning proposal.

Submission from Tuross Head Progress Association

Response

The draft Eurobodalla Local Environmental Plan, exhibited in 2011 included a proposal to use the E3 Environmental Management zone for vegetated rural land in Eurobodalla. Following significant objections, Council resolved not to use the E3 zone and the subject land was deferred from the LEP when it was made in 2012.

As a result, there is no land currently zoned E3 in Eurobodalla. In this planning proposal, the E3 zone is not proposed to be applied to any land in Eurobodalla.

The lands that were previously proposed to be zoned E3, retain a zoning under the Rural Local Environmental Plan 1987. In most cases, the land is included in the following two rural zones (under the Rural LEP 1987):

- Zone 1(a) (Rural Environmental Constraints and Agricultural Zone)
- Zone 1(a1) (Rural Environmental Constraints, water Catchment Protection and Agricultural Zone)

In both of these zones certain forms of agriculture are permitted without consent and land clearing is permitted with consent. Clearing of vegetation in rural areas is also regulated by Local Land Services under the Local Land Services Act 2013.

In the process of removing the E3 zoning, the inappropriate nature in many instances of The Kyla Park Grazing Lands are currently zoned part Rural 1(a) and part Rural 1(c) under the Rural LEP 1987. The Rural 1(c) zone permits changes of zoning, mostly on a one-size-fits-all basis, over a very diverse range of lands subdivision of the land to 2ha lots. The proposal is to zone the main area of grazing lands to RU1 Primary Production with a minimum lot provides a clear pathway for changes in type of uses often incompatible with their character size of 100ha and the smaller areas to RU1 with a minimum lot size of 20ha, except for a small area to RE1 Public Recreation. The proposed and/or configuration, possibly endangering our landscapes and waterways. An important open land use table for the RU1 zone does not mean that the land will be proposed for alternative uses as any development of the land local example is Tuross Head’s Heritage Grazing Lands moved from a protected E3 to an “open must be consistent with existing plans of management for the land. It is also proposed to transfer the existing heritage item 'Kyla Park uses” RU1. grazing lands' from the RLEP 1987 to ELEP 2012.

If approved, these amendments will also result in weaker community consultation protocols.

The planning proposal does not change existing community consultation requirements.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal.

The strong objections raised by a range of State Government authorities, including NSW Office of Environment & Heritage (reconfirmed 22 *June 2018*), and NSW Local Land Services, Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public worryingly remain ‘on-book’ and substantially unaddressed by the Council.

It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the exhibition.

Most significantly, the Rural Fire Service’s strong concerns about the extent and nature of what has been proposed in the Amended ELEP 2012, were publicly reconfirmed by their representative and minuted at page 10 of the 5th July 2018 THPA monthly meeting. We respectfully draw Council’s urgent attention to the very real possibility that, in the case of serious bushfire events, in passing over the RFS objections, your Council will make itself liable for wilful negligence by failure to show duty of care on both individual and class action bases. And of course, any damages/awards and litigation costs would be at ratepayers’ expense.

A separate detailed response to the submission from the NSW Rural Fire Service has been prepared.

In consequence, we strongly believe that the approval process of the amended ELEP 2012 should sensibly be suspended and the amendments appropriately redrafted to properly comply with the technical objections of all the above-mentioned authorities, and in more *balanced* fashion to inclusively reflect the wishes of all Shire residents.

The Rural Lands Strategy was developed with input from NSW Government agencies and all members of the Eurobodalla community had a number of opportunities to provide Council with feedback during the process of developing the Strategy. The process included the establishment of a Rural Lands Steering Committee following an open expression of interest for all members of the public to nominate for. Nominees with a range of interests were selected by Council to participate on the Committee. This planning proposal is not a review of the Rural Lands Strategy. It seeks to implement the Strategy as adopted by Council.

Submission from Tuross Lakes Preservation Group

We commend the spread and depth of the analysis and the presentation of the Strategy documentation. The Consultants have addressed many issues under one enveloping title. The result is complex and runs to several volumes. If it did not, it could not have been accepted as comprehensive and thorough. It is a document of considerable professional expertise.

Response

Noted

Unfortunately it has not addressed the main issues that need to be faced in the coming twenty, forty, eighty years and beyond. The reasons for this are located in the terms of reference and the four principal goals upon which the Strategy is based. These are derived from little questioned precepts and attitudes that have brought us to this present moment, when common topics of discussion and debate are about various aspects of environmental collapse, and the consequences for life as we know it. Such absence of questioning is quite extraordinary, and extremely disturbing. Even more disturbing is the fact that so little effective action is being implemented to address these issues. We do not regard “ while complying with the statutory requirements to conserve the biodiversity and landscape qualities of the Shire’s private lands” an adequate reassurance, (Introduction, 2.1.2. Goals-four). Such requirements have not halted the decline and destruction of many components of natural systems across NSW in the thirty seven years the principles of ecological sustainable development have been in place - (Protection of the Environment Administration Act 1991 (NSW)).

The Rural Lands Strategy is based on a comprehensive assessment of the agricultural and environmental characteristics of the Shire. The Strategy recommends a modest increase in additional rural lots and dwellings and additional rural dvelopment opportunities, including rural tourism, that will not change to the character of the Shire. The Strategy presents an appropriate balance between economic, social and environmental outcomes.

We accept the analysis as diligent and sincere, so regret that we must oppose the Strategies recommendations. We urge that they now be withdrawn. The objectives should be reversed: the paramount objective must become the enhancement of all the Shire’s natural systems during the next 100 years: development goals being constrained within that objective. Matters of equity regarding associated costs and benefits to be assessed and allocated between private and public interests.

The planning proposal seeks to implement the recommendations of the Strategy, it is not a review of the Strategy.

Submission from WIRES

The Councils proposal will only further increase the number of threatened and endangered species in our Shire. Thousands of hectares of high environmental value land will be permitted to be cleared further threatening our flora and fauna. Adopting this plan would mean more fragmentation of our bushland, a loss of habitat and connecting corridors and an even greater impact on threatened and endangered flora and fauna and ecosystems in our Shire.

The proposal ignores expert advice.

The proposal to allow large lots to be subdivided down to 2ha means land clearing, housing, roads, fences and bushfire protection zones.

Response

The planning proposal facilitates a modest increase in rural lots and dwellings and facilitates additional rural and environmental tourism opportunities. It will not result in significant clearing of land. The planning proposal provides an appropriate balance between increased opportunities for agriculture and dwellings and maintaining the existing character of the shire.

The planning proposal seeks to implement the recommendations of Council’s adopted Rural Land Strategy that was developed over a period of four years with input from the NSW Government through the Rural Lands Steering Committee and submissions by various agencies throughout the process. Council engaged with the NSW Government and considered all submissions received before adopting the Rural Lands Strategy. Further engagement with NSW Government agencies has been undertaken as part of this planning proposal process. Council disagrees with a number of issues raised by various NSW Government agencies and the areas of disagreement are addressed in the planning proposal. Similarly, the planning proposal acknowledges where it is inconsistent with S117 Ministerial Directions and provides justifications for those inconsistencies. It is important to note that, despite the concerns raised by some NSW Government Agencies and the identified inconsistencies with the Ministerial Directions, the Minister for Planning issued a Gateway Determination to allow the planning proposal to be placed on public exhibition.

Across the whole Shire, only one lot (area 30a) is proposed to have the minimum lot size reduced to 2ha. The subject lot is already cleared and could result in 7 additional lots. All other areas are proposed to have much larger minimum lot sizes, resulting in a modest number of additional lots across the Shire, not all of which would require clearing of vegetation.