

Attachment 4 - Pro-forma Submissions and Responses

Submission - Pro-forma 1

I am dismayed that Eurobodalla Shire Council is seeking to remove very important environmental protections from our rural landscape, our beautiful Nature Coast, through its Rural Land Strategy Planning Proposal.

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.

The current Proposal also removes the minimum lot size of 1000ha and allows significant subdivision.

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.

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 1987 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.

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 proposed use of open land use tables is not considered to represent "anything goes". The purpose of the open land use tables is to provide greater flexibility to land owners to change land uses without the need for an amendment to the LEP. 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, 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.

I am dismayed that 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.

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.

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.

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.

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 - Pro-forma 2

Response

I am deeply concerned that Eurobodalla Shire Council is seeking to remove very important environmental protections from our rural landscape, through its Rural Land Strategy Planning Proposal.

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 (LEP 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 LEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The size of the proposal at 650 pages is a barrier to general community understanding.

A 21 page guide to the planning proposal was prepared and included with the exhibition material to assist the community with understanding the details in the proposal. Council staff were also available by phone or in person to help explain the planning proposal.

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 LEP 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.

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 2012 Council released a draft plan which was a visionary blueprint for the Shire's future protecting our forests, rivers, wetlands and water catchments.

Now council is proposing to remove those protective E3 zones from over 38,000 ha of rural land and allow widespread sub-division of agricultural land: in some cases from 1000 ha lots down to 40/20/10ha lots.

If allowed this will lead to widespread habitat fragmentation as native forests are cleared for housing, roads, fences and bush fire reduction. Increased run off and erosion will ultimately damage water catchments, lakes and rivers and potentially threaten important tourism and oyster industries.

Given the level of additional subdivision and dwellings facilitated by the planning proposal is modest, it is not considered that widespread habitat fragmentation will occur as a result. In many cases, there are already cleared areas on lots that may benefit from additional development potential. In other cases, where clearing is required to achieve additional development, such clearing requires development consent and assessment of the impact of such clearing will be undertaken in accordance with the requirements of the NSW *Biodiversity Conservation Act 2016*.

Many of the areas proposed for rezoning are described by the Office of Environment & Heritage as having High Conservation Values. These areas include known Aboriginal cultural heritage, biodiversity hotspots and threatened species sightings.

A separate detailed response to the submission from the Office of Environment and Heritage has been prepared.

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.

Many of Council's proposed changes go against advice from State agencies including; Rural Fire Service, South East Local Land Services, Dept of Heritage and Environment, Dept of Primary Industries - Water. Why is council ignoring expert advice?

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.

I do not agree to the rezoning and subdivision proposal put forward by council in such environmentally sensitive areas and I want Council to withdrawal this Proposal. I believe it should be reviewed with a genuinely representative community panel including nature experts 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 - Pro-forma 3

I am dismayed that Eurobodalla Shire Council is seeking to remove very important environmental protections from our rural landscape, our beautiful Nature Coast, through its Rural Land Strategy Planning Proposal. The proposal represents a regrettable retreat from the 2012 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.

I am deeply concerned that throughout this exercise Council has given little weight to the interests of the vast majority of shire residents and has instead preferenced a small minority of residents and business people who seem to be mainly large land holders and or property developers.

I am concerned at the proposed removal of protection of E3 zoning over a large area of rural land, some 38,000 and its proposed rezoning as RU1 Primary Production or RU4 Primary Production Small Lots.

I disagree with the proposed Open Land Use Tables - as this widens possible uses unacceptably. 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.

I also disagree with the proposal to remove the minimum lot size of 1000ha and to allow significant subdivision.

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 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.

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". The purpose of the open land use tables is to provide greater flexibility to land owners to change land uses without the need for an amendment to the LEP. 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 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 1987 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.

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.

I am deeply concerned about the implications for 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. Council's proposal also allows grazing without restriction. Cattle, horses, sheep, goats and pigs etc. must not be allowed to destroy our wetlands and clean water.

I am surprised and dismayed at the fact that 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.

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.

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. 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.

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.

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 - Pro-forma 4

I am deeply concerned that Eurobodalla Shire Council is seeking to remove very important environmental protections from our rural landscape, through the adoption of the Rural Lands Strategy.

I am particularly concerned at the climate change implications of these changes. 380 square kilometres of rural land is proposed to be rezoned to remove E3 environmental protections and give them general agriculture zoning to RU1 or RU4. About 70% of this land has native forest on it and the new zoning would allow clearing for agriculture. These forests are currently taking 109,000 tonnes of carbon out of the atmosphere every year and this amounts to the equivalent of the yearly carbon output of 30,000 homes. In addition to the loss of a continuing carbon sink by clearing these forests for agriculture or subdivisions, the clearing itself will release large amounts of carbon. We need more forests to reduce atmospheric carbon not more clearing of forests.

The proposals to allow smaller lot sizes and greater subdivision of rural land will fragment wild life habitat as forests are cleared for housing, roads, fences and bush fire asset protection zones.

The reduction in protection of waterways should not proceed as it threatens our drinking water catchments as well as the oyster and tourism industries.

Many of the areas proposed for rezoning are described by the Office of Environment and Heritage as having High Conservation Values, including Endangered Ecological Communities. These areas include known Aboriginal cultural heritage, biodiversity hotspots and threatened species habitat.

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 1987 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.

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.

Given the level of additional subdivision and dwellings facilitated by the planning proposal is modest, it is not considered that widespread habitat fragmentation will occur as a result. In many cases, there are already cleared areas on lots that may benefit from additional development potential. In other cases, where clearing is required to achieve additional development, such clearing requires development consent and assessment of the impact of such clearing will be undertaken in accordance with the requirements of the NSW Biodiversity Conservation Act 2016.

It is assumed this is in relation to the proposal to make grazing exempt development in the E2 zone.

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.

A separate detailed response to the submission from the Office of Environment and Heritage has been prepared.

Council has not satisfied the objections to the Rural Lands Strategy made by the Office of Environment and Heritage, the Rural Fire Service and South East Local Land Services. Why has council ignored this expert advice?

I do not agree to these amendments to the LEP 2012 and I want council to withdraw this proposal. It should be reviewed by a genuinely representative community panel including scientific experts and NSW Government agencies.

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.

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 - Pro-forma 5

Response

I am concerned that the proposed changes will leave our beautiful natural environment exposed to degradation and, over time, will not maintain the pristine environ we are so well known for in the Eurobodalla Shire. As a resident, I enjoy living in a place of great natural beauty that stands apart from other areas on the east coast of Australia. By overloading this natural system with development and farming we will diminish the value of this place.

It is not considered that the planning proposal will result in the overloading of our natural systems with development and farming. The proposal provides for a modest increase in rural lots and dwelling entitlements. Any proposed new subdivision or dwelling requires the consent of Council and an assessment of the impact of the proposal on the environment will be undertaken in accordance with the requirements of the NSW *Biodiversity Conservation Act 2016*.

Concerned about damage to conservation values, Aboriginal Heritage and the tourism industry.

Given the scale of additional development facilitated by the planning proposal is modest, it is not considered that there will be increased damage to conservation values, Aboriginal Heritage or the tourism industry. In any case, any new development requires consent from Council and, where relevant, the impacts of the development on conservation values, Aboriginal Heritage and the tourism industry will be assessed.

Concerned that the rezoning proposals will have a negative effect on the Shire's biodiversity.

The vast majority of the land proposed to be zoned RU1 and RU4 is currently zoned Rural 1(a) or 1(a1) under the Rural LEP 1987. 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 the reduction in lot sizes will increase land clearing and reduce habitat for native species.

The reduction in lot sizes permits a very modest number of additional lots to be created. A total of 122 lots across the Shire is facilitated by the planning proposal. Clearing of vegetation would not be required for every proposed subdivision or dwelling facilitated by the planning proposal as some properties that benefit already have some cleared 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.

Increased fire risk for new homes in forested areas.

In all of the areas where new lots or dwellings are facilitated by the planning proposal, there are existing dwellings. In most cases the number of dwellings in these areas is being increased by no more than 4 dwellings. In any case, any new development in a bush fire prone area is required to provide a detailed bush fire assessment report with a development application and it needs to be assessed in accordance with Planning for Bushfire Protection 2016.

Concerned at the ignoring of expert advice from the South East Local Land Service and Office of Environment and Heritage.

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.

Concerned that the effects of climate change (from forest clearing and more intensive grazing) have not been considered.

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.

Concerned that water catchments, oyster farming and lakes are at risk.

Given the scale of additional development facilitated by the planning proposal is modest, it is not considered that there will be increased risks to water catchments, oyster farming or lakes in Eurobodalla. In any case, any new development requires consent from Council and, where relevant, the impacts of the development on the water catchments, aquaculture and lakes will be assessed.

Submission - Pro-forma 6 (Late)

Although the exhibition period has ended I understand that Council must continue to accept comments up until the time a decision is made.

The documentation is so complex and Council's public consultation on this matter so poor that most people in the Shire are either unaware of the Plan or have only just begun to grasp what is being proposed.

I am shocked to find that the Plan will have a serious damaging impact on the environment of the Shire's rural lands, our catchments, wetlands and waterways.

This Planning Proposal undoes most of the excellent sustainability planning that went into the draft 2012 LEP. In many ways it is even weaker than the old 1987 LEP which at least better protected catchments. The current Proposal does nothing to improve management of endangered ecosystems and fauna habitats, and will worsen management of the catchments of rivers, wetlands and lakes, especially by allowing grazing in E2 zones without consent.

E3 zones and terrestrial ecosystem maps that would have highlighted areas that needed better management to protect biodiversity are not included in the Proposal. And, by removing Clause 6.6, it weakens Council's ability to refuse a development that could not avoid doing significant environmental damage to these High Conservation Areas.

Response

Council will consider all submissions received.

A 21 page guide to the planning proposal was prepared and included with the exhibition material to assist the community with understanding the details in the proposal. Council staff were also available by phone or in person to help explain the planning proposal.

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 or serious impacts on catchments, wetlands and waterways. The planning proposal provides an appropriate balance between increased opportunities for agriculture and dwellings and maintaining the existing character of the shire.

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 (LEP 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 LEP 2012 identified in the planning proposal do not change the existing environmental regulations contained in NSW Government legislation or SEPPs.

The planning proposal does not allow grazing without restriction in all E2 zones. Clause 3.3 of LEP 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 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 existing Terrestrial Biodiversity Map and clause 6.6 in LEP 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.

Many of the proposed subdivisions are in native forest. If allowed this will lead to widespread habitat fragmentation as native forests are cleared for housing, roads, fences and bush fire reduction. Increased run off and erosion will ultimately damage water catchments, lakes and rivers and potentially threaten important tourism and oyster industries.

State agencies including the Office of Environment and Heritage, the Rural Fire Service and South East Local Land Services all made serious objections to the Plan. Council ignored them all" Why is council ignoring expert advice?

I do not agree to the rezoning and sub division proposal put forward by council in such environmentally sensitive areas and I want Council to withdraw this Proposal. I believe it should be reviewed with a genuinely representative community panel including ecologists and State agencies.

Given the level of additional subdivision and dwellings facilitated by the planning proposal is modest, it is not considered that widespread habitat fragmentation will occur as a result. In many cases, there are already cleared areas on lots that may benefit from additional development potential. In other cases, where clearing is required to achieve additional development, such clearing requires development consent and assessment of the impact of such clearing will be undertaken in accordance with the requirements of the NSW *Biodiversity Conservation Act 2016*.

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.

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.