

July 14, 2008



PRELIMINARY ASSESSMENT MP 07_0137

PROPOSED RURAL RESIDENTIAL SUBDIVISION AT LOT 152 DP
755902 GLENELLA SERVICE ROAD BATEMANS BAY

SECTION 1 – SITE ANALYSIS

1.1 Studies

The following studies/analyses have been conducted:

- archaeology – Tingaringy Cultural Heritage Services (April 2004)
- bushfire assessment – Bushfire Protection Planning and Assessment Services (November 2007)
- flora and fauna assessment – PMA Consulting (September 2005)
- flora and fauna assessment – NGH Environmental (August 2007)
- surveying and site analysis – Rygate & West (2005)
- onsite sewer management – JCL Development Solutions (February 2006).

The findings and recommendations of the above studies and field analysis work have influenced the preliminary design and management approaches formulated for the proposed rural residential subdivision of the land. It is acknowledged that the archaeology study will need to be redone to comply with current guidelines.

1.2 The site

Lot 152 DP 755902 Glenella Service Road Catalina, a suburb of Batemans Bay has an area of approximately 34.2 hectares (ha). The site adjoins Glenella Service Road along its southern and eastern boundaries. Oakwood Way meets the northern boundary of the site towards the eastern end of the land. Yarrabee Drive also is contiguous to the central part of the northern boundary.

Internal track traversing the site



July 14, 2008

The Subject Site (photo taken from NGH Biodiversity Assessment Report)



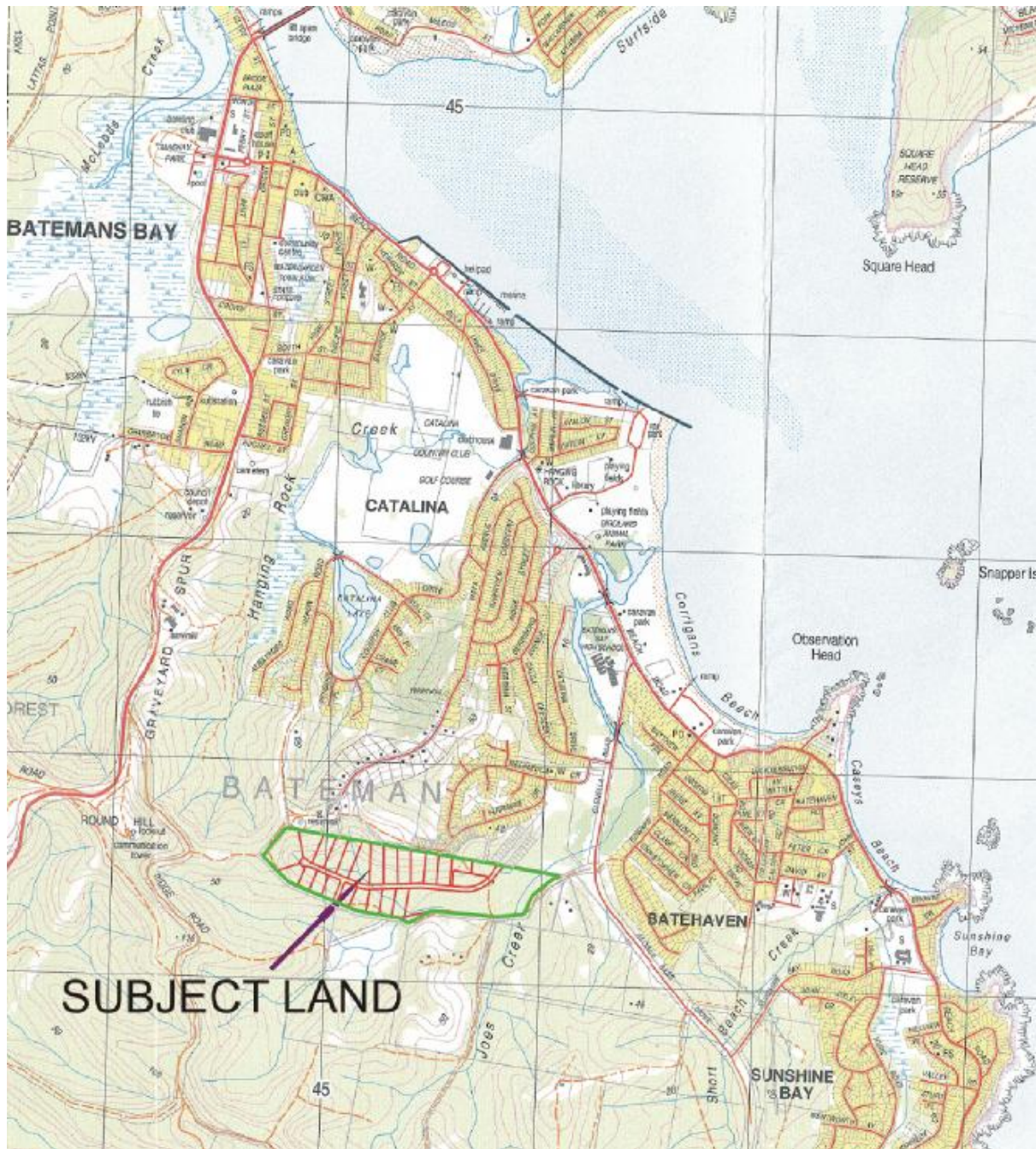
Figure 3: Landscape context showing the subject site (white polygon) within the existing urban and rural development and the forested areas of Mogo State Forest (Image courtesy of Google Earth).

Road Linkages to the Subject Site (photo taken from BPPAS Bushfire Assessment Report)



July 14, 2008

Location Plan (provided by Rygate & West Surveyors)



1.4 Current use of the land

The land is vacant. A dam is located towards the western end of the site. Dirt tracks occur on the land with the main one running east-west (see photos on next page).

July 14, 2008



1.5 Services

The site adjoins an existing urban area therefore electricity and telephone is available. Reticulated water and sewerage is nearby however as the land is zoned for rural residential purposes Eurobodalla Shire Council's policy is that the

July 14, 2008

site would not be serviced for sewer and water. Rural residential development has to be self sufficient in terms of water supply and on-site waste disposal.

1.6 Topography

The lower parts of the site are at the eastern and south-eastern ends of the site. These areas have slopes in the gradient range of 0%-15% and are relatively flat. Parts of the site adjacent to the northern and western boundaries rise steeply having slopes exceeding 25%. The highest part of the site is mid-way along the northern boundary and is approximately 70m AHD. The lowest section of the site is at the south-eastern corner and is 2m AHD.

1.7 Flora and Fauna

NGH Environmental has prepared a "Biodiversity Assessment" report in September 2007. That report identified vegetation communities on the land and identified the location of hollow bearing trees. (Please note the proposed subdivision plan on the hollow bearing trees diagram is not relevant). The following diagrams are taken from the NGH report.

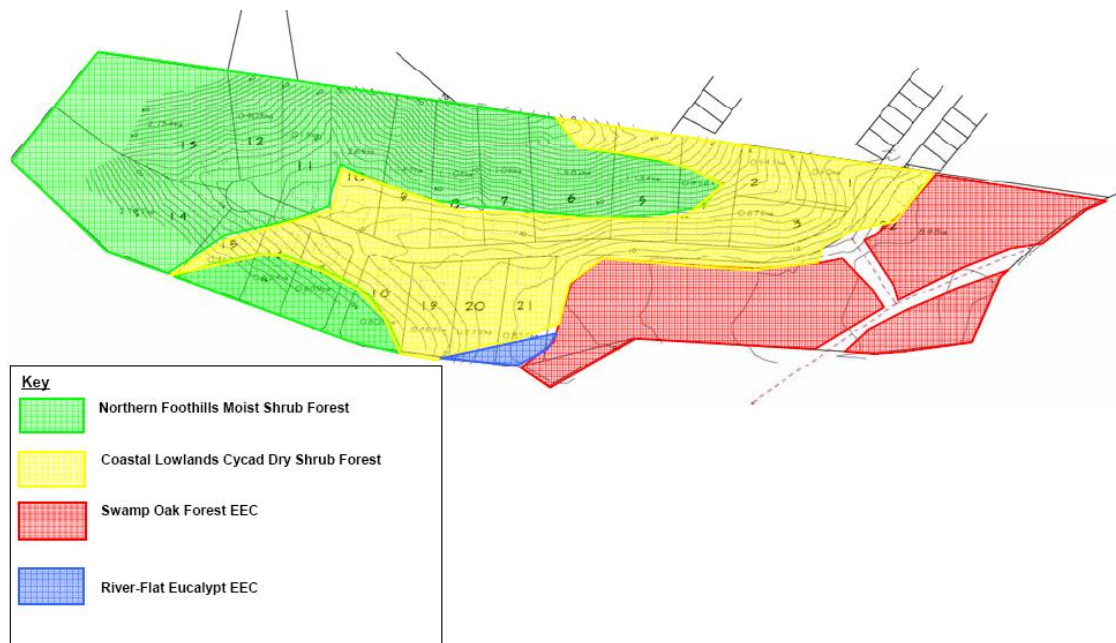


Figure 8: Extent of vegetation communities present.

July 14, 2008



Figure 9: Location of hollow-bearing trees on Lot 152 depicted by numbered circles (courtesy of PMA Consulting, 2005).

The key findings, recommendations and conclusions of that document are as follows:

"7.1. Key issues

The subject site hosts varying levels of biodiversity values, with more mature habitat trees in the western and northern sections and young, regrowth forest in the southern and eastern sections. This vegetation community is not poorly represented on a regional or local basis, and in parts is suffering the effects of underscrubbing and hazard reduction burns adjacent to existing residential development. Two endangered ecological communities are present, which will not be removed by this activity. Key issues are summarised below:

- 22 hollow-bearing trees were identified on the subject site. These resources are considered important features for fauna such as microbats, particularly in residential areas.
- Two endangered ecological communities were identified within the subject site. The proposed activity has the potential to impact on these communities if not properly managed.
- PMA Consulting (2005) revealed the occurrence of one endangered ecological community and four threatened species known to occur at the site. However, an additional EEC was present, and a further 12 species had potential to occur based on habitat qualities present. However the Assessment of Significance or seven part test has identified that the proposed activity should not significantly impact on threatened species or communities in concurrence with the recommendations outlined below in section 7.2.

July 14, 2008

7.2. Recommendations

This section proposes mitigation measures that should be implemented to ensure that no 'significant effect' would result on any endangered ecological community, threatened biota, or their habitats that are known to occur or could potentially occur within the subject site. These measures would also ensure that the impacts upon other native flora and fauna and the general environment of the subject site would be minimised. The following recommendations are based purely on the information gathered pertaining to this site and through discussions with relevant experts and literature:

- 1. Erosion and subsequent deposition of sediment is a potential threat to the endangered ecological communities of the subject site. There is a need to ensure that sediment and erosion associated with earthworks during construction do not flow into the EECs which should be demonstrated in an Erosion and Sediment Control Plan. The control of sediment will also likely to minimise the spread of weed species across and beyond the site.*
- 2. 22 hollow bearing trees were identified within the subject site, six of which will be removed by the proposed activity. Hollow-bearing trees can only be removed between January and June and only with a qualified zoologist on hand at the time of removal to ensure the safety of any hollow-dependant fauna.*
- 3. Removal of any trees should only occur between January and June to avoid the breeding season of bats, most birds or other species of arboreal fauna. A qualified zoologist should be on hand at the time of tree removal to check for the presence of fauna and ensure that any fauna found is properly relocated to nearby habitat.*
- 4. Cleared vegetation must not be pushed or stored in areas of vegetation to be retained, including the EECs and other areas of retained vegetation.*
- 5. The EECs currently hosts a number of weed species that diminish the value of these communities in its current state. Both EECs would benefit from a Vegetation Management Plan that undertakes weed management in this area.*

7.3. Conclusion

This assessment has described the biodiversity values of the site and recommended measures to reduce the level of impact of the proposed activity on these values. The subject site contains areas of higher habitat quality; however, these areas will not be impacted by the proposal. Further, only regrowth spotted gum forest with limited biodiversity values will be removed. Despite this, the vegetation communities present are found on a regional and local basis, the report has identified that the site may provide suitable habitat for a number of threatened species that occur, or potentially utilise the subject site.

However, the assessment of significance (TSC Act and EPBC Act) has determined that the proposed activity is unlikely to have a significant impact on threatened species or endangered ecological communities in concurrence with the recommendations outlined in this report."

July 14, 2008

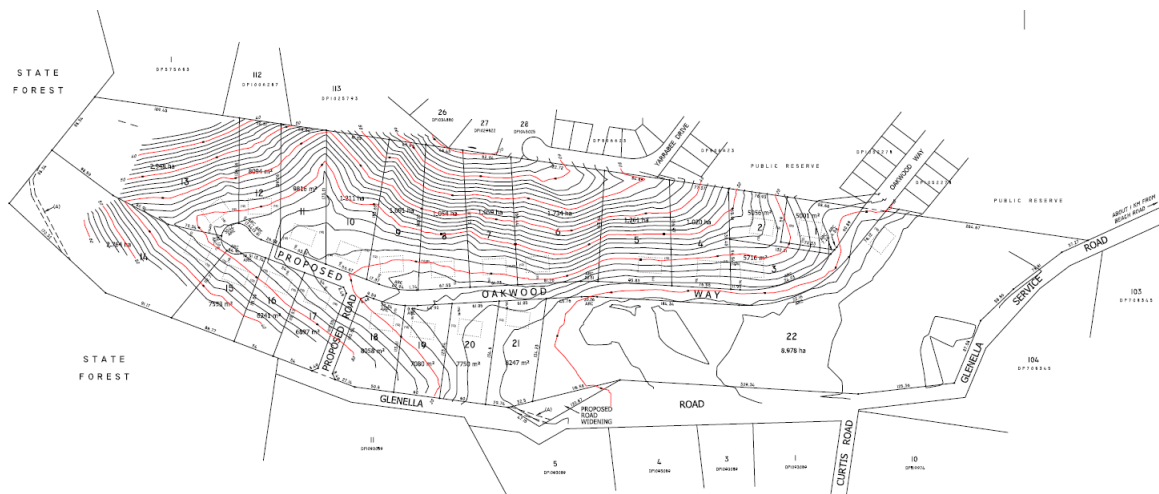
It is worth noting that hollow-bearing trees were listed as a key threatening process on the 5th October 2007. This was approximately one month after the NGH assessment was completed.

SECTION 2 – THE PROPOSED SUBDIVISION

2.1 Description of the proposed development

It is proposed to create a 22 lot rural residential subdivision. Lot sizes range from 5,001m² to 8.978 ha (see Attachment 1 "Potential Lot Layout").

Potential Lot Layout (plan prepared by Rygate & West Surveyors)



The proposed subdivision pattern endeavours to be a sympathetic response to:

- the topography of the land
- environmental considerations
- the desire to provide a range of rural residential lot sizes
- a desire to integrate with the existing urban development to the north and north-east and rural residential development to the north and south of the site.

2.2 Vegetation retention

Lifestyle living is the anticipated market that would be targeted. It is not perceived that purchasers would want to establish hobby farms rather the land offers the prospect of living on larger lots in close proximity to beaches and existing urban development.

Existing tree cover would remain outside of the inner asset protection zones and within the outer protection zones. Trees within the inner asset protection zones would be retained where they do not provide a continuous canopy leading to each dwelling.

2.3 Access

Access to the proposed subdivision would be via an extension of the existing Oakwood Way presently located to the north-east. The new road system is also proposed to link with Glenella Service Road to the south.

Aerial Photo (taken from BPPAS Bushfire Assessment Report)



July 14, 2008

2.4 Infrastructure provision

Infrastructure provision proposed for the development would include:

- on-site water supply
- on-site wastewater management
- electricity
- telecommunications.

The site is immediately adjacent to the Catalina urban area and therefore it would theoretically be possible to utilise reticulated systems for water and wastewater. It is not proposed to do that as Eurobodalla Shire Council policy is that rural residential development not be connected to reticulated systems. JCL Development Solutions Pty Limited have undertaken soil tests and examined appropriate solutions for on-site waste management. The JCL report concludes:

"Proposed sub-division topography and soil profile qualities fall within the scope of AS 1547:2000 for design and installation of on-site domestic wastewater management facilities. The areas for disposal outlined are based on consideration of installation of on-site sewer management systems to produce secondary treatment or enhanced quality primary treated effluent which will reduce the overall disposal area requirements.

I.E. B.O.D to < 50mg/L

T.D.S to <100mg/L

Please note diversion of surface flows and sub-surface flows from entering the disposal area will be required, inclusion of gypsum to limit sodium exchange at the rate of 0.35kg to the m² will also be required, the issue of sodicity may also be treated by the inclusion of eco-soils."

2.5 Heritage conservation

Tingaringy Cultural Heritage Services undertook an assessment of the site in April 2004. The fieldwork undertaken encompassed the entire proposal area and therefore was comprehensive. The survey results included in the report are as follows:

"7.1. Archaeological

No Aboriginal sites or objects have been previously recorded in the DEC AHIMS, in the study area. No Aboriginal archaeological sites or material were found during the archaeological survey.

Based on these results, and those of previous archaeological investigations undertaken in the Batemans Bay hinterland, it is considered that:

- *There is a moderate to high potential for undetected surface sites or isolated artefacts occurring within the study area.*

July 14, 2008

- *There is a low potential for sub-surface archaeological sites occurring within the study area.*

7.2. Natural Resources.

Natural resources, significant to Aboriginal cultural heritage, within the study area, consist of a number of common plant species. As these species are well represented on private and public lands within the region, the study area is not considered to be a significant source of these resources. Any destruction of plant resources during the proposed development of the study area will not have an adverse impact on contemporary Aboriginal community access to these resources within the Batemans Bay region.

7.3. Contemporary Aboriginal Cultural Values.

The study area is not used by the local Aboriginal community for contemporary Aboriginal cultural activities, nor does it provide access to other locations used for such activities. The proposed development will have no adverse impacts on contemporary Aboriginal community cultural values."

2.6 Bushfire

Bushfire Protection Planning and Assessment Services has undertaken an assessment of the proposed subdivision development in November 2005. The draft bushfire assessment report concludes:

"Based on the above assessment and 20 recommendations for bushfire safety and fire protection compliance, the Consent Authority should be satisfied that the proposed Rural Residential Subdivision Development can conform with the performance criteria and specific objectives of Planning for Bushfire Protection 2006 that are considered relevant to the development under Section 100B of the NSW Rural Fires Act.

Bushfire safety compliance and mitigation, as purported by this report, for the subject development site comprises a package of 'measures in combination ' primarily including asset protection zoning, construction standards, public roadway access & adequate water supply / connection points. The above measures have been derived from provisions and recommendations as outlined within the document Planning for Bushfire Protection Guidelines 2006, engineered judgment and expert opinion, and previous advice from the NSW Rural Fire Service Development Control Unit.

Provided that future proposed residential building development, APZ areas, roadway design and water supply facilities within the subject development are constructed / designed in accordance with the recommendations as described by this report, it is a considered opinion that the subject development can satisfy the aims, objectives and performance requirements of the Building Code of Australia, Australian Standard 3959 and the intent of PBP 2006."

SECTION 3 – RELEVANT PLANS AND POLICIES

3.1 NSW Coastal Policy 1977

The coastal policy's principle vision is to achieve ecological sustainability of the New South Wales coast. Nine goals give expression to this vision that represents a commitment to:

- "protecting rehabilitating and improving the natural environment of the coastal zone
- recognising and accommodating the natural processes of the coastal zone
- protecting and enhancing the aesthetic qualities of the coastal zone
- protecting and conserving the cultural heritage of the coastal zone
- providing for ecologically sustainable development and use of resources
- providing for ecologically sustainable human settlement in the coastal zone
- providing for appropriate public access and use
- providing information to enable effective management of the coastal zone
- providing for integrated planning and management of the coastal zone."

3.2 State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)

The eastern boundary of the subject land is more than 400 metres to the west of the coastline so not all of the aims of SEPP 71 apply. Those that are relevant are:

- “(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and
- (e) to ensure that the visual amenity of the coast is protected, and
- (g) to protect and preserve native coastal vegetation, and
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991), and
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- (l) to encourage a strategic approach to coastal management.”

The subject land is located within the coastal zone and therefore SEPP 71 applies. Clause 8 of SEPP 71 requires a number of matters to be considered by

July 14, 2008

the consent authority when determining an application to carry out development. Those matters for consideration are as follows:

- “(a) the aims of this Policy set out in clause 2,
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,
- (i) existing wildlife corridors and the impact of development on these corridors,
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,
- (m) likely impacts of development on the water quality of coastal waterbodies,
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,

July 14, 2008

- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,
- (p) only in cases in which a development application in relation to proposed development is determined:
 - (i) the cumulative impacts of the proposed development on the environment, and
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.”

3.3 State Environmental Planning Policy (Major Projects) 2005 (SEPP 2005)

The proposed subdivision is categorised as a state significant project under Schedule 2 of SEPP 2005.

3.4 South Coast Regional Strategy

The South Coast Regional Strategy was released by the Minister for Planning in February 2007. The primary purpose of the strategy is to ensure that adequate land is available to sustainably accommodate the projected housing and employment needs of the region over the next 25 years. The strategy applies to Shoalhaven, Eurobodalla and Bega Valley local government areas.

The regional strategy notes that existing rural residential zones have the capacity to meet the demands for rural lifestyle housing within the region. The proposed subdivision is within an existing rural residential compartment and is will assist to provide additional rural living opportunities.

3.5 Eurobodalla Settlement Strategy (ESS)

The Eurobodalla Settlement Strategy (ESS) was adopted by Eurobodalla Shire Council in December 2006 and endorsed by the Department of Planning in May 2007. The ESS sets directions for the growth and development of the local government area for the period 2006 to 2031. The ESS contains a chapter on rural residential land (Section 5.4) which establishes directions, responses and actions for how this land is developed. The directions are:

- Make best use of available rural residential land having regard to environmental constraints, market demand and proximity to urban settlement
- Facilitate the orderly and economic development of land by ensuring that rural residential land is developed to an appropriate dwelling density
- Facilitate sustainable rural settlements having regard to the carrying capacity of the land and the capacity of Council to extend or augment essential infrastructure
- Recognize indigenous values associated with the land and protect significant sites, values and landscapes

July 14, 2008

Relevantly, Actions SP27 of the strategy enables the subdivision of rural residential land that adjoins an existing urban zone to a minimum lot size of 5,000 m² subject to certain criteria (see Section 3.8 on Page 18).

The ESS also gives effect to environmental constraints analysis applied by Council by prohibiting development on land assessed to be subject to absolute constraints and by applying minimum lot sizes to other land based on suitability for development. Council recognizes that the constraints analysis is desktop only and will update its GIS to incorporate improved information submitted with development applications. Consistent with the South Coast Regional Strategy, the ESS does not propose to rezone any further land to rural residential, citing that adequate supply exists for the term of the strategy.

3.6 Eurobodalla Rural Local Environmental Plan 1987 (LEP 87)

The subject land is zoned 1(c)(Rural Small Holdings Zone) under LEP 87. The objectives of the zone are as follows:

- “(a) to provide opportunities for small scale agricultural activity;
- (b) to provide residential opportunities while retaining the scenic quality and overall character of the land and the environmental quality of any adjoining waterways, wetlands, rainforest or other environmentally sensitive areas;
- (c) to ensure that environmental impacts of development and the impact of development on land or activity in surrounding zones are fully considered in advance of any significant development;
- (d) to ensure that development is compatible in scale and density with the level of essential public services and facilities to be provided;
- (e) to permit a variety of uses where these are compatible with small scale rural activity or require a location outside urban areas or villages; and
- (f) to permit the provision, expansion or maintenance of utility services within this zone.”

The proposed development is permitted with consent under LEP 87.

3.7 Eurobodalla Shire Council Development Control Plan No 178 (DCP 178)

DCP 178 became effective from 22 November 1989. The DCP aims to:

- (a) Identify development constraints.
- (b) Locate development areas taking into account constraints.
- (c) Provide protection for environmentally sensitive areas.

July 14, 2008

- (d) Ensure rural residential development is adequately buffered from George Bass Drive.
- (e) Limit access on to George Bass Drive.
- (f) Determine access and services required for development of the land.
- (g) Provide guidelines for tree removal.
- (h) Encourage preservation of ridgelines and high areas of the land in their natural state to protect visual amenity.

The DCP sets the lot sizes as being an average of one hectare with a minimum size of 5000m². A subsequent Council policy reduces the minimum lot size on this site to 5,000m². The DCP also requires that development envelopes also be identified and has general statements in respect of the location of dwellings and their appearance.

Setbacks to all boundaries other than roads are to be a minimum of 12m. Setbacks to roads vary between 10m (slopes away from the road) and 15m (slopes towards the road). The setback from an unsealed road is 30m. Dwellings are also to be setback 80m from the Mogo State Forest

The height of buildings is generally restricted to two storeys.

Effluent is to be disposed of on-site.

Minor variations to the DCP standards may be considered on the basis of a written justification.

3.8 Eurobodalla Shire Council Interim Policy for Minimum Rural Residential Lot Sizes

The policy sets a minimum lot size of 5,000m² for land zoned 1(c) where it adjoins existing urban or urban expansion land and certain criteria can be satisfied. The policy is as follows:

"A minimum lot size of 5,000 square metres be permitted on land zoned 1(c) (Rural Small Holdings Zone) subject to the Eurobodalla Rural Local Environmental Plan 1987 where:

- a. The land adjoins and is adjacent to an urban area that is zoned residential or urban expansion,
- b. The land is not environmentally constrained and is assessed to be suitable for residential development using the Strategic Environmental Assessment technique as applied to Council's Geographic Information System. A flora and fauna assessment is required to be submitted with the development application,

July 14, 2008

- c. The development will not impact adversely on fauna habitat corridors and may enhance or restore habitat corridors through revegetation with endemic plant species,
- d. Small lot rural subdivision is assessed to be the best long term use of the land given the proximity of the land to urban services, including commercial and community facilities,
- e. The objects of the Environmental, Planning and Assessment Act, specifically supporting the orderly and economic use of land, are satisfied,
- f. Small lot rural subdivision will result in enhanced fire protection measures and improvements to the bushfire hazard that affects adjoining urban land,
- g. An on-site effluent disposal system can be accommodated having regard to soil type, the slope of the land and an adequate designated effluent disposal envelope with provision for the re-use of treated effluent for garden watering and approved internal uses such as toilet flushing. Where Council's sewerage infrastructure is of adequate capacity and environmental constraints are such that on-site disposal is not possible nor appropriate, a low pressure sewerage system (LPSS) may be installed,
- h. The development applies best practice water management principles as adopted in the Integrated Water Cycle Management Strategy, meaning that each lot must be able to be sustainably self-reliant in terms of water supply and effluent disposal,
- i. The development will not lead to the clearing of ridgelines or other areas of scenic importance for any reason, including for bushfire protection,
- j. The capacity of the local and arterial road network is able to accommodate additional traffic loads,
- k. Access to properties can be provided in a manner that ensures safe ingress/egress from the site having regard to motorist sight lines and grades,
- l. Stormwater drainage is managed to prevent excessive flows to and from the road network, and
- m. Relevant objectives of the 1(c) (Rural Small Holdings Zone) are satisfied."

SECTION 4 – CONSULTATION AND KEY ISSUES

4.1 Consultation

The project has had a long gestation period. Site inspections and discussions were held with the Mogo Aboriginal Land Council, Eurobodalla Shire Council staff and NSW State Forests in 2003. Meetings were also held in 2003 with staff from the then Department of Infrastructure, Planning and Natural Resources (DIPNR), Rural Fire Service and Council. A further site inspection was held with a DIPNR officer in 2004 to determine the status of streams under the Rivers and Foreshores Improvement Act. An on-site meeting and inspection was also held with a staff member of the Southern Rivers Catchment Management Authority in 2006. Finally a site inspection was conducted with two staff members of the Department of Planning (DoP) in 2007.

4.2 Key issues

Locating building envelopes and designing lot layouts to take into account the constraints of the site together with balancing the myriad of applicable legislation and policy has been the key issue in developing a potential subdivision plan for the land.

The DoP in advising that the proposed subdivision was a major project expressed the view *"that the lot sizes envisaged in the proposal may not be acceptable having regard for the characteristics and location of this site and relevant planning provisions and Council policies."* Discussions subsequently held with the DoP staff concluded that there would need to be an analysis of the proposal in the context of Councils Interim Policy for Minimum Rural Residential Lot Sizes within the Environmental Assessment.

The average lot size calculated on the basis of the potential subdivision plan is 1.4 ha. Ten of the proposed lots have areas between 1.02 and 8.798 ha. Twelve of the proposed lots have areas between 5001m² and 9816m². The proposed lots comply with the minimum lot size requirements of DCP 178 which is applicable to the subject land.

July 14, 2008

Attachment 1 – Potential Lot Layout (Rygate & West Surveyors)

