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Dr Catherine Dale
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Attention: Mark Hitchenson

Dear Dr Dale

RE: Public exhibition of Planning Proposal to amend Eurobodalla Local Environmental Plan (LEP) 2012

The Office of Environment and Heritage has reviewed your latest planning proposal resulting from the Rural Lands Study. Given that none of the changes that we suggested in our 2016 submission on this planning proposal have been adopted, we still retain a number of objections to the proposal.

These comments and objections are detailed in Attachments 1 and 2 and address the following issues:

- Ensuring that the objectives of the environmental zones are not undermined by the addition of incompatible land uses.
- Questioning the need for the boundary adjustment clause to apply to the E1 – National Park zone.
- A full review of all the zoning and lot size changes proposed. We have limited our objections to those areas with known threatened species habitat, complete vegetation cover, the presence of endangered ecological communities (using the latest mapping provided by Council). Since our submission in 2016, OEH has released maps of core areas of habitat for Swift Parrot as part of the new *Biodiversity Conservation Act 2016* (BC Act). This mapping has formed the basis of many of our objections, as any impact on Swift Parrot habitat is likely to result in a serious and irreversible impact (SAIL). If a development is going to have an SAIL, Council is required under the BC Act to reject that development.

Council should note that increasing development opportunities in bushland areas in many cases will trigger the biodiversity offsets scheme under the *Biodiversity Conservation Act 2016*. This will result in additional costs to landholders due to mandatory biodiversity assessment and offsetting.

Similarly, the high fire risk of many of these areas also has implications for biodiversity with the need for large clearing areas for asset protection. It is understood that the Rural Fire Service has raised similar concerns.

If you would like further information or clarification on the issues raised in this submission please contact Tobi Edmonds on 6229 7094.

Yours sincerely



22.6.2018

MICHAEL SAXON
Director - South East
Regional Operations

Enclosure: Attachment 1 – Detailed comments on Planning Proposal; Attachment 2 – Maps of areas where OEH has maintained an objection to the proposed changes to zonings and minimum Lot sizes.

cc: Nathan Foster - Department of Planning and Environment

Attachment 1 – Detailed comments on Planning Proposal

Item 1 – Amend Land Use Table and Schedule 2

E4 zone

OEH objects to the proposal to allow 'Extensive agriculture' in E4 zones. Extensive agriculture such as cropping and pasture improvement are inconsistent with the objectives of E4 zones. OEH acknowledges that some agricultural activities such as grazing and bee keeping are already permissible in this zone. However these activities have a much lower impact than cropping and pasture improvement. It is also worth noting that allowing 'Extensive agriculture' to be permissible without consent in E4 zones is likely to lead to many applications for tree clearing approvals to Council, now that the *State Environment Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) has commenced.

E2 zone

OEH objects to the additions of "grazing of livestock" as exempt development in the E2 zone. This is likely to lead to the degradation of the biodiversity values that are currently benefitting from the application of the E2 zone. OEH notes that, following the changes resulting from the November 2017 (*Department Ref: PP_17_Eurob_004_00*), the remaining E2 zones are all likely to have biodiversity values or provide protection to SEPP14 wetlands.

Item 3 – Amend Clause 4.2A

Many of the areas where a dwelling entitlement has been created by the reapplication of clause 4.2A are completely vegetated. Any development application on these lots will trigger the biodiversity offset scheme and require the purchase and retirement of biodiversity credits.

Item 4 - Introduce a new boundary adjustment clause

It is unclear why this clause is proposed to be applied to land zoned E1 – National Park. If the land is already zoned E1, it will already be acquired and/or gazetted as National Park and therefore subdivision would not be required.

Item 5 - Amend Zoning and Minimum Lot Size Maps

Area	Zone	Proposed Minimum lot size	Potential increase in lots and dwellings	OEH comment
1. Kings Hwy, Murrenengenberg	RU1	200ha	Nil	No comment
1a. Kings Hwy, Currowan	RU1	40ha	Nil	A single dwelling entitlement will be created through the reapplication of clause 4.2A
2. Nelligen Creek Rd, West Nelligen	RU1	40ha	3 lots and 3 dwellings	OEH Objects to the creation of dwelling entitlements over Lot 10/871181, Lot 20/755908 and Lot 29/1058243 allow for dwellings and subdivision. Each of these Lots contain known threatened species habitat
3. Old Bolaro Road (south), West Nelligen	RU4	10ha	1 lot and 3 dwellings	No comment
3a. Old Bolaro Road (central), West Nelligen	RU4	5ha	1 lot and 5 dwellings	OEH Objects to Lots—332/1119281, 28/1058243, 35/1077080 are all completely vegetated. The application of an E4 zone with a 10 ha minimum lot size (MLS) is the most appropriate zoning. This will allow the Native Vegetation Panel to regulate clearing not associated with a development application through the application of the Vegetation SEPP and the application of the biodiversity offsets scheme.

4. Currowan, Benandarah and East Lynne	RU1	40ha	4 lots and 6 dwellings	<p><u>4 (north)</u> OEH Objects to Lots 11/619285 & 1/789278 as they are both fully vegetated. Lot 1/635327 is known habitat for Greater Glider and Glossy Black Cockatoo. A MLS of 100 ha would be more appropriate.</p> <p><u>4 (south)</u> OEH Objects to the MLS in the area to the north of Nelligen as this is all Swift Parrot habitat or EEC. An MLS of 100 ha would be more appropriate.</p>
4a. Princes Hwy, Benandarah	RU4	40ha	1 lot and 3 dwellings	This area is Swift Parrot habitat, however there should be sufficient area for dwellings to be built without clearing land.
4b. South Durras	RU1	40ha	Nil	The 2 new R2 zones with a 1500m2 MLS will both trigger the offsets scheme to realise their development potential
4c. Maloneys Beach	RU1	100ha	Nil	OEH Objects to the MLS, two of these Lots are greater than 100 ha and therefore would gain a dwelling entitlement. Part of this area is mapped as Swift Parrot habitat and the other developable Lot is fully vegetated. The application of a MLS of 200 ha is appropriate.
5. West Batemans Bay	RU1	40ha	Nil	No comment
6. North and West Mogo	RU4	20ha	7 dwellings	No comment
6a. Goba Lane, Mogo	RU1	40ha	Nil	No comment
7a. George Bass Drive (East), Malua Bay	E4	10ha	1 dwelling	OEH Objects to further development within the area identified by the Department of Planning's 'Coastal Land Protection Scheme'. The application of a 20 ha MLS is appropriate.
7b. George Bass Drive (West), Malua Bay	RU1	40ha	1 lot and 2 dwellings	<p>OEH Objects to further subdivision of 1/1012083. 7b forms part of a regional corridor identified in the <i>South East and Tablelands Regional Plan</i>. Action 15.1 of the plan is to "Protect and enhance the function and resilience of Biodiversity corridors in local strategies"</p> <p>We note that there is a quarry within this Lot, however a split zoning of RU1 around the quarry and an E2 zone with a MLS of 100 ha for the vegetated Lots in area 7b would be the most appropriate way of aligning with the Regional Plan.</p>
8. Dunns Creek Road (North), Woodlands	RU4	20ha	6 dwellings	No comment
8a. Tomakin Rd and Dunns Creek Rd (South), Woodlands	RU4	10ha	1 lot and 2 dwellings	No comment
8b. Tomakin Road, Mogo	RU4	20ha	3 lots and 3 dwellings	OEH objects to further subdivision of 2/716598 and 2/1002045. Both of these Lots are fully vegetated and mapped as a regional corridor in the <i>South East and Tablelands Regional Plan</i> . The more open areas along the river have been validated by Council as EEC and are mapped as

				Swift Parrot habitat. The applications of the E2 zone with a MLS of 100 ha is appropriate.
9. South Mogo	RU1	40ha	1 lot and 2 dwellings	There is a cleared area in 1/875990 which should allow a single dwelling. The remainder of the vegetation on site is mapped as Swift Parrot habitat and therefore any additional clearing would trigger the offsets scheme and may be classified as a Serious and Irreversible impact which Council could not approve.
9a. Maulbrooks Road, Mogo	RU4	10ha	1 dwelling	OEH objects to the development of Lot 26/755963 as it is mapped as Swift Parrot habitat and is completely Vegetated.
10. Jeremadra Grove and Goldfields Drive, Jeremadra	RU4	10ha	7 lots and 7 dwellings	OEH objects to the further development of area 10 as it is mapped as Swift Parrot habitat and the Lots eligible for additional subdivision and dwellings are completely vegetated. The application of an E4 zone and a 20 ha MLS is the most appropriate zone to protect the Swift Parrot habitat.
10a. Springwater Road, Jeremadra and George Bass Drive, Broulee	RU1	40ha	1 lot and 3 dwellings	Area 10a as it is mapped as Swift Parrot habitat and is also protected by the Yellowbellied Glider Strategy. However, there are some areas of cleared land that could allow for additional dwellings. The addition of 1 Lot and 3 dwellings will only be achievable if there is no additional clearing required.
11. Broulee Road, Broulee	RU4	10ha	2 lots and 3 dwellings	OEH objects to the proposed zoning and MLS of area 11 as it is mapped as Swift Parrot habitat, contains part of the Broulee Biobank site, is protected by the Yellow-bellied Glider Strategy and contains an area listed on Council's LEP as a place of Aboriginal Significance. The vegetated parts of area 11 should be zoned E2 to protect these values from any further impacts.
11a. Broulee Road, Bimbimbie and Broulee	RU1	100ha	1 lot and 3 dwellings	No comment
12. Tomakin, Rosedale and Guerilla Bay	RU1	40ha	Nil	No comment
12a. George Bass Drive, Mossy Point	E4 and E2	1000m ² (E4)	19 lots and 20 dwellings	OEH objects to the proposed E4 zone and 20 dwellings in the south west corner of area 12a. This area is known Yellow-bellied Glider habitat, in which Council is considering the approval of a single dwelling in the proposed E2 zone. This single dwelling and access track will remove up to 2 ha of Yellow Bellied Glider habitat and Bangalay Sand Forest endangered ecological community. This means that the area proposed to be E4 will now be needed as denning and foraging habitat for Yellow-bellied Gliders, to make up for the loss of habitat in the proposed E2 Zone. All of area 12a should be zoned E2 to protect the remainder of the Yellow-bellied Glider habitat.
13. Clouts Road, Mogendaoura	RU1	100ha	2 dwellings	No comment
14. Hawdons Road, Mogendoura	RU1	40ha	4 lots and 6 dwellings	OEH objects to the proposed MLS for the completely vegetated blocks as they mapped as

				Swift Parrot habitat. The application of a 500 ha MLS would protect these Lots from further subdivision and development.
15. North Moruya	RU1*	100ha*	Nil	No comment
16. Meadows Road, Malabar Drive and Percy David Drive, North Moruya	RU4	10ha	6 lots and 7 dwellings	No comment
17. East Moruya	RU1*	40ha*	5 dwellings	No comment
17a. South Head Road, Moruya Heads	RU4*	40ha	1 dwelling	No comment
17b. Congo Road, Moruya Heads	RU1	100ha	1 lot and 1 dwelling	OEH objects to the proposed MLS for Lot 11/1068966. The area outside of the current dwelling and asset protection zone is completely vegetated and mapped as Swift Parrot habitat and endangered ecological community. The application of a 200 ha MLS is appropriate to protect these values from further clearing.
18. Congo Road (North), Congo	RU1	40ha	1 lot and 4 dwellings	No comment
18a. Berriman Drive, Congo	RU4	10ha	1 dwelling	No comment
18b. Congo Road (South), Congo	RU4	10ha	1 dwelling	Lot 269/752137 contains Lowland Grassy Woodland endangered ecological community. There is a cleared area in the SW corner of the Lot with would allow a dwelling. The application of the E4 zone would allow the Native Vegetation Panel to regulate any clearing not associated with a development application and protect the endangered ecological community
18c. Meringo Road, Meringo	RU1	40ha	1 lot and 2 dwellings	No comment
19. Wamban Road (South), Wamban	RU1	500ha	Nil	No comment
20. Bergalia	RU1	100ha	1 lot and 8 dwellings	Any development on Lot 36/752129 permitted by the reapplication of 4.2A will trigger the Biodiversity offsets scheme.
20a. Wamban Road (North), Wamban	RU1	100ha	Nil	No comment
21. Bingie Road, Bingie	RU4	20ha	1 lot and 15 dwellings	No comment
22. Prince Hwy (West), Coila and Turlinjah	RU1	20ha	4 lots and 5 dwellings	OEH objects to the proposed MLS for Lot 5/264244. The area outside of the current dwelling and asset protection zone is completely vegetated and mapped as Swift Parrot habitat and endangered ecological community. The application of a 40 ha MLS is appropriate to protect these values from further clearing.
22a. Princes Hwy (East), Coila	RU1	40ha	Nil	No comment
22b. Kyla Park	RU1	100ha	Nil	No comment
22c. Princes Hwy (East), Turlinjah	RU1	40ha	1 dwelling	No comment

23. Potato Point Road (South), Bodalla and Potato Point	RU1	40ha	2 lots and 4 dwellings	OEH objects to the proposed MLS for Lot 24/837516. The area outside of the current dwelling and asset protection zone is completely vegetated and mapped as Swift Parrot habitat. Further subdivision and development of this Lot is not appropriate. The application of a 100 ha MLS is appropriate to protect these values from further clearing.
24. Princes Hwy, South Bodalla	RU1	100ha	2 lots and 4 dwellings	OEH objects to the proposed MLS for Lot 1/878320. The area outside of the current dwelling and asset protection zone is completely vegetated and mapped as Swift Parrot habitat or endangered ecological community. Further subdivision and development of this Lot is not appropriate. The application of a 200 ha MLS is appropriate to protect these values from further clearing.
25. Princes Hwy, North Bodalla & Blackfellows Point Road, Bodalla	RU1	40ha	1 lot and 5 dwellings	OEH objects to the proposed MLS for Lots 1/747545, 17/837516, 125/752131. These lots are either completely vegetated and contain endangered ecological community. The application of a 100 ha MLS is appropriate to protect these values from further clearing.
25a. Potato Point Road and Horse Island Road, Bodalla	RU1	20ha	6 lots and 10 dwellings	OEH objects to the proposed MLS for Lots 14/772053, 111/752131, 13/772053 and 1/1202563. These lots are either completely vegetated and are within a protected catchment. The application of a 100 ha MLS is appropriate to protect these values from further clearing.
26. Bumbo Road (East) and Eurobodalla Road, Bodalla	RU1	200ha	Nil	No comment
26a. Bumbo Road (West), Bodalla	RU1	40ha	Nil	No comment
27. North Narooma and Kianga	RU1	40ha	6 lots and 8 dwellings	OEH objects to the proposed MLS for Lots 2/1048232, 20/1063060, 3/838142, 92/752162, 7037/1113842, 10/1225554 and 207/752162. These lots are either completely vegetated and are within a protected catchment. The application of a 100 ha MLS is appropriate to protect these values from further clearing.
28. South Narooma	RU1	20ha	7 lots and 9 dwellings	OEH objects to the application of an E4 zone with no MLS over Lot 208/752155. This Lot is fully vegetated and known threatened species habitat. The application of an E2 zone is appropriate to protect this habitat from being cleared.
29. Wagonga Scenic Drive, Narooma and Tebbs Road, Corunna	RU1	40ha	1 lots and 2 dwellings	No comment
30. Wagonga Scenic Drive, Narooma	RU4	5ha	11 lots and 17 dwellings	No comment

30a. Wagonga Scenic Drive, Narooma	RU4	2ha	7 lots and 8 dwellings	No comment
30b. Wagonga Scenic Drive, Narooma	RU4	10ha	2 lots and 3 dwellings	No comment
31. Shingle Hut Road, Narooma	RU1	100ha	1 dwelling	No comment
32. Central Tilba and Surrounds	RU1	100ha	4 dwellings	Lots 1/591024, 13/1152373 have been purchased by the Gulaga Board as addition to Gulaga National Park. These should be zoned E1 – National Park.
33. Dignams Creek Road, Dignams Creek	RU1	40ha	6 dwellings	No comment
34. Eurobodalla Road, Eurobodalla, Cadgee, Nerrigundah and Tinpot	RU1	100ha	12 dwellings	No comment
35. Belowra	RU1	500ha	Nil	No comment
36. Merricumbene and Deua	RU1	500ha	7 lots and 6 dwellings	No comment
37a. Araluen Road (North), Deua River Valley	RU1	40ha	1 lot and 1 dwelling	No comment
37b. Araluen Road (Central), Deua River Valley	RU1	20ha	3 dwellings	No comment
37c. Araluen Road (South), Wamban and Kiora	RU1	40ha	4 lots and 10 dwellings	No comment
38. Runnyford and Buckenbowra	RU1	500ha	3 dwellings	No comment
39. South Moruya	RU4	2ha	Nil	OEH objects to the change in zone from R5 to RU4. Council and OEH have invested heavily in mapping Lowland Grassy Woodland endangered ecological communities across the South Moruya rural residential area as part of an abandoned biodiversity certification assessment. This area should be zoned as either an E4 zone or R5 zone. This will allow the Native Vegetation Panel to regulate clearing not associated with a development application through the application of the Vegetation SEPP and the application of the biodiversity offsets scheme.
40. Turnbolls Lane, Moruya	RU4	5ha	Nil	OEH objects to the change in zone from R5 to RU4. Council and OEH have invested heavily in mapping Lowland Grassy Woodland endangered ecological communities across the South Moruya rural residential area as part of an abandoned biodiversity certification assessment. By retaining this area as either an E4 zone or R5 zone. This will allow the Native Vegetation Panel to regulate clearing not associated with a development application through the application of the Vegetation SEPP

				and the application of the biodiversity offsets scheme.
41. South Nelligen	RU4	2ha	Nil	No comment
42. Hector McWilliam Drive, Tuross Head	RU1	20ha	Nil	

Item 7 - Remove Terrestrial Biodiversity Maps and delete Clause 6.6

OEH objects to the removal of the Terrestrial Biodiversity Map and Clause 6.6.

It is noted that the Gareth Barry & Associates consultant's report on RLS recommended retention of this clause and the council decision was to remove it.

The adoption of accurate overlays is essential in identifying areas warranting thorough assessment given that E zones are not to be used extensively. OEH supports the use of the Natural Resource Sensitivity – Biodiversity maps in the current format which define the areas to which the clause applies including: i) Extant native vegetation ii) Endangered Ecological Communities, and iii) Bio-corridors. As discussed at the committee meetings, it is essential that the community be fully aware of the environmental attributes of the land early in the planning stages.

The gazettal of the Terrestrial Biodiversity Map in 2012 was strongly supported by OEH and little has changed to alter that view. The comments provided at time and considered still to apply are:

- The mapped information regarding the extent of Endangered Ecological Communities was seen as of high quality. Its detail and accuracy will be very helpful to both landholders and Council officers for the purpose of developing and accessing Statements of Environmental Effects that accompany Development Applications.
- OEH considered it important for the draft LEP to also include a map layer showing important wildlife and bio-corridors. The corridor map included as part of the Natural Resource Sensitive – Biodiversity maps is at a regional scale and OEH understands that it has been generated from a range of sources including the Greater glider determination mapping, NPWS fauna key habitats and habitat linkages in the Eurobodalla LGA, Fauna habitat linkages in 1C lands, the ESC Biodiversity Project (2006) and from regional scale corridors mapping completed included in Southern Rivers Catchment Management Authority CAP and brought together in OEH document Regional Habitat Corridor for South Coast of NSW 2014.
- Putting the terrestrial biodiversity layer in the Development Control Plan which is a non-statutory document, is not considered adequate.

Item 8 - Amend Dwelling Entitlement Maps

It is unclear whether this planning proposal intends that the existing holdings map will be continually updated with subsequent planning proposals if parcels of land within a holding are sold, or a dwelling is constructed. See comments on Item 3 above.

Attachment 2 – Maps of areas where OEH has maintained an objection to the proposed changes to zonings and minimum Lot sizes.