

## **Presentation in relation to item PSR19/018 Draft Rural, R5 and E4 zones Development Control Plan (Public Exhibition) by the Nature Coast Alliance (NCA)**

### **The NCA**

The Nature Coast Alliance is an umbrella organisation representing a number of different community and business groups across the Eurobodalla Shire who are working together to protect the environment of the Nature Coast and our economy, which depends on it.

### **The relationship between a Development Control Plan and a Local Environment Plan**

Local Environment Plans are a blueprint for future development and conservation in a local government area. They are strategic planning documents that stipulate acceptable and unacceptable uses for different parcels of land through the allocation of land use zones. They provide for appropriate development in suitable areas. They are legal documents that control development and set out how land is to be used. Local Environment Plans are prepared by Council, but need to be signed off by the Minister for Planning. They are usually accompanied by maps or overlays that identify sensitive or constrained lands (e.g. biodiversity corridors or flood and bushfire prone land). The provisions associated with these maps set out extra considerations that council must take into account before approving development on that land.

Development Control Plans, on the other hand, are prepared and approved by Council. Unlike LEPs, which have statutory force and must be complied with, Development Control Plans provide guidance only in relation to

specific matters (e.g. building heights or setbacks, car parking spaces) to applicants proposing to carry out development. They can apply to a specific site (e.g. a town centre) or activity (e.g. tourist accommodation, advertising signage). They support, but should not replace, the planning controls in the Local Environment Plan.

### **Council's reasons for preparing the dDCP**

Council has prepared a draft Rural, R5 Large Lot Residential and E4 Environmental Living Zones Development Control Plan (dDCP) to try and address the Rural Fire Services concerns about bushfire prone lands that can be more intensively developed for residential purposes under the council-endorsed Eurobodalla Rural Lands Planning Proposal, which seeks to amend the Eurobodalla Local Environment Plan (2012). The bushfire risk at some of these sites is so high, that future development will be required to adopt additional bushfire protection measures, beyond those normally specified in the NSW Rural Fire Services 'Planning for Bushfire Protection' document. Other sites are so risky, that although the council-endorsed Eurobodalla Rural Lands Planning Proposal zones them for further subdivision and/or new dwellings, they cannot safely be developed. These lands will be identified in draft DCP.

Significantly, the biodiversity clause in the Eurobodalla Local Environment Plan (2012) which seeks to maintain and protect terrestrial and aquatic biodiversity and requires council to consider and then avoid or mitigate any inverse impacts of development on important biodiversity values, will be removed from the Eurobodalla Local Environment Plan (2012) and placed in the draft DCP. The Terrestrial Biodiversity Map which shows

Endangered Ecological Communities, native vegetation and important biodiversity corridors will also be removed from the Eurobodalla Local Environment Plan (2012) and be replaced by a draft vegetation map which will be placed in the draft DCP where it will have an advisory role only.

## **The Eurobodalla Rural Lands Planning Proposal**

This planning proposal seeks major amendments to the Eurobodalla Local Environment Plan (2012). It is not just about rural lands, as its title suggests, but it will have far reaching implications for all lands across the Eurobodalla shire. These changes will result in a dramatic increase in land zoned rural, including many hectares of environmentally sensitive lands, plus a huge **60 to 250%** increase in the uses permitted across both these rural lands and other lands. Together these changes will facilitate up to 1,800 new dwellings, alienate prime agricultural land and lead to incremental clearing of vegetation throughout the Shire.

Six government agencies, as well as community and business groups, raised many concerns with the amendments to the Eurobodalla Local Environment Plan (2012) proposed in the Eurobodalla Rural Lands Planning Proposal. These concerns related to:

- increased bushfire risk that would result from the additional dwellings and facilities the Eurobodalla Rural Lands Planning Proposal would permit throughout inaccessible, steep, forested land which will put the lives of residents, visitors and fire fighters in danger during catastrophic fire events which are becoming more frequent due to climate change.

- the incremental loss of biodiversity that the Eurobodalla Rural Lands Planning Proposal would permit through the removal of environment protection zonings on sensitive lands together with the large increases in permissible uses on these lands.
- increased land-use conflict between traditional agricultural uses and the myriad of new uses that the Eurobodalla Rural Lands Planning Proposal would permit across rural zones, as well as the fragmentation and loss of productive agricultural land.
- downstream impacts on water quality from increased runoff and pollution resulting from clearing for development in riparian areas and steep vegetated country that will be permitted by the Eurobodalla Rural Lands Planning Proposal. This will be devastating for Eurobodalla's important oyster industry and will also adversely impact recreational fishing and our tourism industry.

Despite these serious objections from the government agencies and numerous (1,100) public submissions opposing it on a range of environmental and economic grounds, the Eurobodalla Rural Lands Planning Proposal was adopted, largely unchanged, by Council in August 2018. Since December 2018, it has been with the Minister for Planning and his department. Notwithstanding public statements from our Mayor, that the planning proposal was a 'done deal' and sign-off was imminent, there are clearly concerns at a senior level in the Department of Planning and Minister Stokes office with what is being proposed.

### **Reasons for NCA opposing public exhibition of the dDCP**

Council's report from the Director of Planning and Sustainability Services, states that the draft DCP has been prepared to enable the sign-off and

gazettal of the Eurobodalla Rural Lands Planning Proposal amendments to the Eurobodalla Local Environment Plan (2012). According to this report, 'the Department' is willing to recommend the amended the Eurobodalla Local Environment Plan to the Minister provided that its commencement is deferred until the end of September to enable the draft DCP to be finalised. Apparently, since December, Council staff have been liaising with representatives from the government agencies who raised concerns with the Eurobodalla Rural Lands Planning Proposal 'to assist in addressing the revised agency submissions' from the RFS and OEH. Where are these revised submissions? Have the concerns raised by other government agencies such as DPI Agriculture, Fisheries and Local Land Services been similarly addressed? What changes have been made to the Eurobodalla Rural Lands Planning Proposal as a result of these discussions?

It is patently clear that the Eurobodalla Rural Lands Planning Proposal has not been signed-off, so it seems premature for Council to be preparing and exhibiting a draft DCP, when there is no final, gazetted Eurobodalla Local Environment Plan. The planning guidelines proposed in the draft DCP needs to be reviewed against the statutory obligations contained within the final gazetted Eurobodalla Local Environment Plan, otherwise a public exhibition is meaningless. How can the public judge the adequacy of the draft DCP without the final Eurobodalla Local Environment Plan? It is important to note that in their report, Council is already flagging future amendments to the draft DCP to accommodate a range of other activities, potential land use conflicts and cultural as well as scenic values. So the DCP is, in effect, a moveable feast.

The NCA believes that the concerns raised by the government agencies and the community about the Eurobodalla Rural Lands Planning Proposal are too important to be put in a DCP which is a non-statutory guidance document that can be varied or ignored by Council. We ask that the preparation and exhibition of the draft DCP await finalisation of the Eurobodalla Rural Lands Planning Proposal and gazettal of the amended Eurobodalla Local Environment Plan so that we can see the statutory framework that will inform the DCP.