

**Joint Regional Planning Panel
Pre-Gateway Review & Planning Proposal Review**

The Southern Joint Regional Planning Panel has considered the request for a review of the proposed instruments as detailed below.

The Pre-Gateway & Planning Proposal Review:

Date of Review:	15-16 February 2015
Dept. Ref. No:	2015STH003 PGR
LGA:	Bega Valley Shire Council
LEP to be Amended:	Bega Valley Local Environmental Plan 2009
Address / Location:	Lot 1 Boydtown Park Road, Eden
Proposed Instrument:	PGR_2014_BEGAV_001
Panel Chair:	The Hon. Pamela Allan
Panel Members:	Alison McCabe, Allen Grimwood, Bill Taylor, Michael Britten

Executive Summary

The Southern Joint Regional Planning Panel (the Regional Panel) has been requested by the Minister for Planning on 1 December 2014 to carry out a review of a pre-gateway application (PGR_2014_BEGAV_001) submitted by Inspire Urban Design & Planning (the proponent) on behalf of Boydtown Pty Ltd and Boydtown Pastoral Pty Ltd.

The planning proposal submitted to Bega Valley Shire Council seeks to rezone land at Boydtown for mixed use, residential development, tourist development, environmental conservation and public recreation to facilitate the development of a 'new town' approximately 6 kilometres south of the settlement of Eden. Council deferred the application of Standard Instrument zones to the land which remains subject to the Bega Valley Local Environmental Plan 2002.

The Regional Panel has consulted with the proponent and landowner, the Department of Planning and Environment and local government through meetings held on 15 and 16 February 2015 on site at Boydtown. The Regional Panel has inspected the site and has reviewed all relevant information.

The Regional Panel recommends that planning proposal 2015STH003 PGR not proceed to a gateway determination but that a range of baseline studies, including plans for the provision of water and sewer services to any future development, be carried out to inform opportunities and constraints of land currently zoned for residential and tourist uses. This work would then form the basis of a revised planning proposal over lands currently zoned for residential and tourist uses.

Recommendations

The Southern JRPP recommends that:

1. Planning proposal 2015STH003 PGR dated 24 February 2012 and as amended in March 2014 and presented to the Panel on 15 February 2015, not proceed to a Gateway determination.
2. Baseline studies be prepared by the proponent addressing the impact of any proposed development at Boydtown on:

- the economy of Eden, and land and housing availability in Eden,
 - the natural environment, waterways, threatened species and endangered ecological communities on and adjoining the site,
 - flooding and coastal processes including potential sea level rise that affect the site,
 - management of acid sulfate soils, and
 - the scenic and visual qualities of the site and Twofold Bay.
3. The results of these baseline studies be used to inform mapping and presentation of opportunities, constraints and the development capability of the land, conceptual built form and a revised planning proposal for land currently zoned 2b Residential Medium Density, 2c Residential Tourist and 6a Public Open Space under Bega Valley LEP 2002 and deferred from inclusion in Bega Valley LEP 2013. The revised planning proposal may comprise a mix of tourism and permanent residential accommodation supported by appropriate services and with public access to foreshore open space.
 4. The residue land subject to planning proposal 2015STH003 PGR be excluded from the revised planning proposal and zoned in accordance with draft Bega Valley LEP 2010 as exhibited as E2 Environmental Conservation and E3 Environmental Management with applicable development standards, other than land occupied by the approved extractive industry along Nullica Short Cut Road which is to be zoned RU2 Landscape and E2 Environmental Conservation.
 5. Infrastructure requirements, in particular the provision of reticulated water and sewerage services, and access arrangements on to the Princes Highway, should be investigated and details provided in any revised planning proposal. The planning proposal is to include a staging plan that indicates the provision of water and sewer services of adequate capacity for each stage of development with full costs to be borne by the proponent.

Composition of Recommendation: For – Pam Allan, Alison McCabe, Allen Grimwood, Bill Taylor, Michael Britten Against – nil	☒ Unanimous ☐ Not unanimous	Comments: The Regional Panel unanimously supports the recommendation to the Minister for Planning as provided in this report
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Review Request

The Acting Deputy Secretary, Planning Services, as delegate of the Minister for Planning, requested on 1 December 2014 that the Southern Joint Regional Planning Panel (Regional Panel) undertake a pre-gateway review of a Planning Proposal prepared by Inspire Urban Design and Planning dated 24 November 2012 to rezone certain land at Boydtown in Bega Valley local government area to permit residential, tourist and mixed use development.

The Acting Deputy Secretary's terms of reference to the Regional Panel are to review the planning proposal and to prepare advice concerning the merits of the proposal. The advice should include a recommendation as to whether, in the opinion of the Regional Panel, a planning proposal should be submitted for a gateway determination under section 56 of the *Environment Planning and Assessment Act 1979*.

The Regional Panel constituted for this review comprised the Hon. Pamela Allan (Chair), Alison McCabe and Allen Grimwood as state appointed members, and Councillor Michael Britten (Mayor) and Councillor Bill Taylor appointed by Council to represent the community.

Declarations of interest

Nil

Consultation

The Regional Panel inspected the site on 15 February 2015. The Regional Panel met with representatives of Bega Valley Shire Council, the proponent and landowner, and the General Manager, Southern Region Department of Planning and Environment on the same day and on 16 February 2015.

Background

Boydton comprises a 670 hectare rectangular parcel of land bisected by the Princes Highway located approximately 6 kilometres south of Eden. The site fronts Twofold Bay, comprises cleared grazing land in the north, and forested and partly cleared land on elevated ground along its southern boundary.

The site has a number of current and approved uses, namely:

- the remains of the Boydton township, including the Seahorse Inn and church ruins, listed as local heritage items in the Bega Valley LEP 2013,
- an operating caravan park, comprising 350 caravan sites and 180 campsites, which obtained development consent in 1978,
- an operating package sewerage treatment plant,
- a small residential subdivision, with 10 existing dwellings and buildings, located on the southern side of Boydton Creek,
- a consent granted in 1990, following a Commission of Inquiry, for the development of a boat harbour and 250 berth marina at the mouth of Boydton Creek and a 43 lot marina village that is understood to have been lawfully commenced but not completed, and
- an operating extractive industry that was approved by the Panel in 2013 located on rural land west of the Princes Highway.

The portion of the site west of the Princes Highway is currently zoned 1(a) Rural General and 1(c) Rural Small Holdings. Land east of the highway is zoned 2(c) Residential Tourist, 6(a) Public Open Space, 2(b) Residential Medium Density, 1(a) Rural General, and 7(f1) Coastal Lands Protection under Bega Valley LEP 2002. Permanent accommodation is not permitted in zone 2(c). The Rural 1(c) Zone in the southern part of the site provides for rural residential lots with a minimum lot size of 5,000m².

Bega Valley Shire Council sought to apply Standard Instrument zones by way of the draft Bega Valley LEP 2010. The exhibited version indicated zones E2 Environmental Conservation and E3 Environmental Management west of the Princes Highway and across the eastern part of the site, and R2 Low Density Residential, SP3 Tourist, B4 Mixed Use, RE1 Public Recreation and RE2 Private Recreation in the area currently occupied by tourist uses and residential development. In response to a submission from the landowner, Council deferred zoning the site under the Standard Instrument LEP and consequently the site remains subject to Bega Valley LEP 2002.

The initial planning proposal prepared by Inspire Urban Design & Planning and dated 24 February 2012 seeks to zone the site to provide up to 5,000 permanent residential dwellings, significant areas for tourist accommodation and 70 hectares of mixed use zoned land on the eastern portion of the site. The development concept is for a 'new town' development around the approved but unconstructed marina. It is proposed to apply the following zones:

- SP3 Tourist, R2 Low Density Housing and R5 Large Lot Residential on land west of the highway, with a minimum lot size from 550m² to 4,000m², a maximum building height of between 10m and 16.5m and a floor space ratio of 0.6:1
- B4 Mixed Use (70ha), RE1 Public Recreation, E2 Environmental Conservation and R2 Low Density Residential on land east of the highway, with a minimum lot size ranging from 550m², 1,200m² and 7,000m², a maximum building height to 16.5 metres, minimum lot size from with a floor space ratio of 0.6:1 in some locations

Additionally, it is proposed to insert the following clause in Part 6 Additional Local Provisions of Bega Valley LEP 2013 to provide for a proportion of permanent residential accommodation within an approved tourist and visitor accommodation facility:

"This clause applies to land shown on the Local Clauses Map and marked Clause xx.

Consent may be granted for the development of land described in Subclause (1) and zoned SP3 for the purposes of permanent residential accommodation if:

- I. The development is an integral part of an approved tourist and visitor accommodation facility;*
- II. No more than 60% of the units within the facility are to be used for the purposes of permanent residential accommodation.*

Consent may be granted for the purposes of permanent residential accommodation of a maximum of one unit under subclause (20) where the development comprises less than four units"

Council proposed amendments to the exhibited version of draft Bega Valley LEP 2010 in November 2013 to indicate an extension of the E2 Environmental Conservation zone on land west of the Princes Highway between Nullica Creek and Nullica Short Cut Road. It was proposed to apply the E2 zone to the watercourse and riparian land that runs through the approved extractive industry.

A revised planning proposal prepared by the proponent in March 2014 was presented to the Panel on 15 February 2015. This planning proposal altered that dated February 2012 by replacing the proposed SP3 Tourist zone west of the highway with zone R1 General Residential. Zones proposed for land east of the highway have been altered to show additional land zoned RE1 Public Recreation, replacing the R2 Low Density Residential zone with R1 General Residential, applying zone SP3 Tourist to the area occupied by the Seahorse Inn and applying zone W3 Recreational Waterway to Towamba Creek and the approved marina. The proposal also reduced the extent of B4 Mixed Use zoned land. The overall development vision for Boydtown remains similar albeit with a reduced mixed use precinct and expanded residential areas.

Assessment

Strategic Context

Key strategies of relevance to the planning proposal are the South Coast Regional Strategy, the Bega Valley Shire Commercial Strategy and the Eden Structure Report.

The regional strategy supports the growth and development of existing urban settlements including those that are identified in the Eden Structure Report. The strategy includes as an action *'infill housing and new residential subdivisions located adjacent to existing well serviced centres and towns will be given priority in land release planning'*. New towns are not supported unless there are compelling reasons to do so and the Sustainability Criteria provided in the regional strategy are satisfactorily addressed.

The regional strategy describes the hierarchy of commercial centres and nominates Eden as a 'town' that services the Eden-Boydtown district catchment. The Bega Valley Shire Commercial Strategy identifies themes for Eden which includes promoting the town as the southern tourist centre of Bega Valley Shire and providing support for significant industries relating to fishing, forestry and port activities. Several significant developments have been approved or are proposed in Eden that will

contribute to tourism and commercial sustainability. These include aquaculture, whale-watching, cruise ship visits, a marina and accommodation at Cattle Bay, and expansion of the Snug Cove port facility.

Boydton is described in the Eden Structure Report as having long term potential as an urban area and as a tourist precinct. The structure report envisages that land east of the highway may be used for mixed uses, and permanent residential accommodation incorporating affordable housing and holiday accommodation. The vegetation and open space network should be maintained with access to beaches and the foreshore of the Towamba River, and development limited to low impact eco-tourism in environmentally sensitive areas such as east of the ridge between existing development and the Towamba River.

For land west of the highway, the structure report acknowledges the potential for an industrial precinct with residential accommodation and business uses. Buffers to the river system should be maintained and impacts on the arterial road network minimised. The land zoning and development standards recommended in the structure report were exhibited in draft Bega Valley LEP 2010.

Land availability

Figures presented by Council to the Regional Panel indicate the current population of Eden is 3,758 persons with a projected growth rate of 0.75% out to 2036, or about another 800 persons. There are estimated to be 1,004 vacant housing lots within the R2 Low Density Residential and R3 Medium Density Residential zones of Eden comprising two unsubdivided release areas and potential infill development. This supply of vacant residential land is estimated to cater for more than 20 years growth in population.

The Regional Panel considers that there may be some additional demand for residential land released east of the highway in the near term but that demand for residential land west of the highway would be very low over the short and medium term. Urban development of land west of the highway is not supported.

Infrastructure

There is limited information provided in the planning proposal concerning provision of water and sewer services. Council's advice is that water can be supplied to new development by increasing the sizing of trunk mains to distribute water from existing sources.

The Seahorse Inn, caravan and camping area, and existing residences are serviced by way of a private sewer treatment plant. There are no details in the planning proposal about whether new development would be serviced by augmentation of the private system or whether there is the potential to connect to Council's reticulated system. Council's advice is that any spare capacity in the Eden sewer system will be utilised by growth in Eden's population as acknowledged in Council's development servicing plans (which do not include Boydton). Connection to Council's system is preferred, however, considerations include whether to treat effluent on site or pump to Eden's treatment plant, dispose of treated effluent on site or via an ocean outfall, and the costs of and future ownership of infrastructure assets, need to be considered and understood.

The Regional Panel seeks to ensure that full costs of infrastructure provision are borne by the developer of Boydton and that new assets comply with guidelines to protect environmentally sensitive areas.

In summary, the planning proposal seeks to establish a 'new town' rather than an urban and tourism precinct that is complementary to Eden. Justification for commercial development in economic terms is lacking and servicing with water and sewer has not been investigated.

Development Capability and Adequacy of Information

The site is in a visually and environmentally sensitive location. The capability of the site to reasonably accommodate the level of development proposed has not been demonstrated having regards to an understanding of the constraints of the land. This needs to be the starting point.

In documentation provided with the planning proposal, there is a lack of detail regarding site analysis, particularly relating to environmental constraints such as slope and vegetation, visual values, land capability and infrastructure servicing. The planning proposal does not contain relevant demographic information or justification for a new town in the locality.

The Regional Panel understands the need to ensure that the site is capable of accommodating the level of development that would be enabled by the proposed instrument before it proceeds to a favourable Gateway determination.

The proponent has not provided the basic level of information to assure panel members that the site is suitable for the proposed uses.

Conclusion

The Regional Panel has carried out the review of the pre-gateway application by Inspire Urban Design & Planning (PGR_2014_BEGAV_001) in accordance with the Terms of Reference.

The Regional Panel supports 'in principle' the development of tourism and permanent residential uses on that portion of the site located east of the highway. Ecotourism and allotments to the proposed minimum lot size that are designed to respect the visual and heritage qualities of Twofold Bay and the remains of the former settlement at Boydtown are appropriate.

However, the Regional Panel does not support urban development on that portion of the site located west of the Princes Highway due to the approved and operating extractive industry and the presence of steep slopes and vegetation, or on land east of the ridge that runs between the existing tourist development east of the highway and the Towamba River due to the environmental and visual sensitivity of this land. The Regional Panel does not support the development of a new town that is planned to compete with the commercial and residential functions of Eden.

The Regional Panel recommends that the planning proposal not proceed to a gateway determination. However a range of baseline studies, including plans for the provision of water and sewer services to any future development be carried out to inform a revised planning proposal that is limited to an exploration of the opportunities and constraint of land currently zoned for residential and tourist uses as 2b Residential Medium Density and 2c Residential Tourist under Bega Valley LEP 2002.

Endorsed by:



The Hon. Pamela Allan
Chair
Southern Joint Regional Planning Panel

10 March 2015