



Three Deferred Sites Planning Proposal January 2017

Millingandi, Tura Beach ('Mandeni'),
Boydton

Bega Valley Local Environmental Plan
2013



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Background

The purpose of this Planning Proposal is to amend the BVLEP 2013 by deleting reference to “Deferred Matters” and recommending re-zonings and revised minimum lot sizes (MLS’) within the BVLEP 2013.

Part 1 – Objectives or Intended Outcomes

This Planning Proposal will have the following outcomes;

a) **Site 1 - 2529 Princes Highway, Millingandi**

That the land be re-zoned **E3 and E2 with a 7ha minimum lot size.**

b) **Site 2 –Mandeni , Sapphire Coast Drive, Tura Beach**

That the land be zoned and lot sized **E4 (1ha), RU2 (120ha) and E2 (no lot size).**

c) **Site 3 – west and east of Princes Highway, Boydtown**

That the land be zoned and lots sized **E4, E3, E2, RU2, RE1 with a minimum lot size of 10 Ha for E4, 40 Ha for E3 and 120 Ha for RU2.**

Part 2 – Explanation of the Provisions

This Planning Proposal seeks to amend the BVLEP 2013 to re-zone lands considered a deferred matter (DM) under the BVLEP 2013.

The proposal will delete the Deferred Matters and then amend the BVLEP 2013 by applying zonings in the following manner:

Site 1 - Lot 721 DP 826975, 2529 Princes Highway, Millingandi

- Amend map sheet LAP_001 by deleting DM Deferred Matter.
- Amend map sheet LZN_020 by applying E3 Environmental Management
- Amend map sheet LZN_020 by applying E2 Environmental Conservation
- Amend map sheet LSZ_020 by applying AA2 7 Hectares
- Amend map sheet LZN_020B by applying E3 Environmental Management
- Amend map sheet LZN_020B by applying E2 Environmental Conservation
- Amend map sheet LSZ_020B by applying AA2 7 Hectares

Site 2 - Lot 471 and Lot 472 DP 1043030, Sapphire Coast Drive, Tura Beach (Mandeni)

- Amend map sheet LAP_001 by deleting DM Deferred Matter.
- Amend map sheet LZN_020C by applying E2 Environmental Conservation (no MLS), RU2 Rural Landscape and E4 Environmental Living
- Amend map sheet LSZ_020C by applying AD 120 Ha to RU2 Rural Landscape and Y 1 Ha to E4 Environmental Living.

Site 3 - West of Princes Highway (Proposed land zoning in brackets for clarity)

- Lots 1 – 147, 157 – 178, 382 – 383, 386 – 391 DP 12883 (RU2)
- Lots 11 – 14 DP 1199147 (RU2)
- Lots 21-37 DP 239404 (RU2)
- Lots 1 – 2 DP 127299 (RU2)
- Lot 1 and 2 DP 572983 (part E2, part E3, part RU2)
- Part Lot 13 DP 716162 (E3) – in 3 island sections west of highway
- Lots 2 and 36 DP 750223 (part E2, part E3)
- Lot 10 DP 811856 (part E2, part E3)
- Lots 2 – 4 DP 624612 (part E3, part E2)

East of Princes Highway (Proposed land zoning in brackets for clarity)

- Part Lot 13 DP 716162 (E3) - in one section east of highway excluding deferred land north of the main ridge
 - Lot 3 DP750223 (E3 and E2) - far eastern section adjoining river estuary
 - Lot 5 DP 259742, Lot 32 560891, Lot 44 DP 716162 (RE1) - foreshore land
- Amend map sheet LAP_001 by deleting DM Deferred Matter.
 - Amend map sheet LZN_013 by applying E2 Environmental Conservation (no MLS), RU2 Rural Landscape and E4 Environmental Living.
 - Amend map sheet LSN_013 by applying AD 120 Ha to RU2 Rural Landscape, AB4 40Ha to E3 Environmental Management and AB4 10 Ha to E4 Environmental Living.

- Amend map sheet LZN_021 by applying E2 Environmental Conservation (no MLS), RU2 Rural Landscape, E4 Environmental Living and RE1 Public Recreation (no MLS).
- Amend map sheet LSN_021 by applying AD 120 Ha to RU2 Rural Landscape, AB4 40Ha to E3 Environmental Management and AB1 10 Ha to E4 Environmental Living.

Part 3 – Justification

Site 1 - Lot 721 DP 826975, 2529 Princes Hwy, Millingandi (16.5 Ha)

Key Outcome: 1 additional lot

Current Zoning LEP 2002

1 (a) Rural General Zone (MLS 120 Ha)

7 (b) Environment Protection

Proposed Zoning

E3 Environmental Management (MLS 7 Ha)

E2 Environmental Conservation (no MLS)

Background and History

This site covers an area of 16.5 Ha on the western side of Merimbula Lake adjacent to Millingandi Creek.

In 2010 as part of the Draft CLEP public exhibition process, the site was exhibited with an E3 zoning and a 120ha minimum lot size, which would prevent any further subdivision.

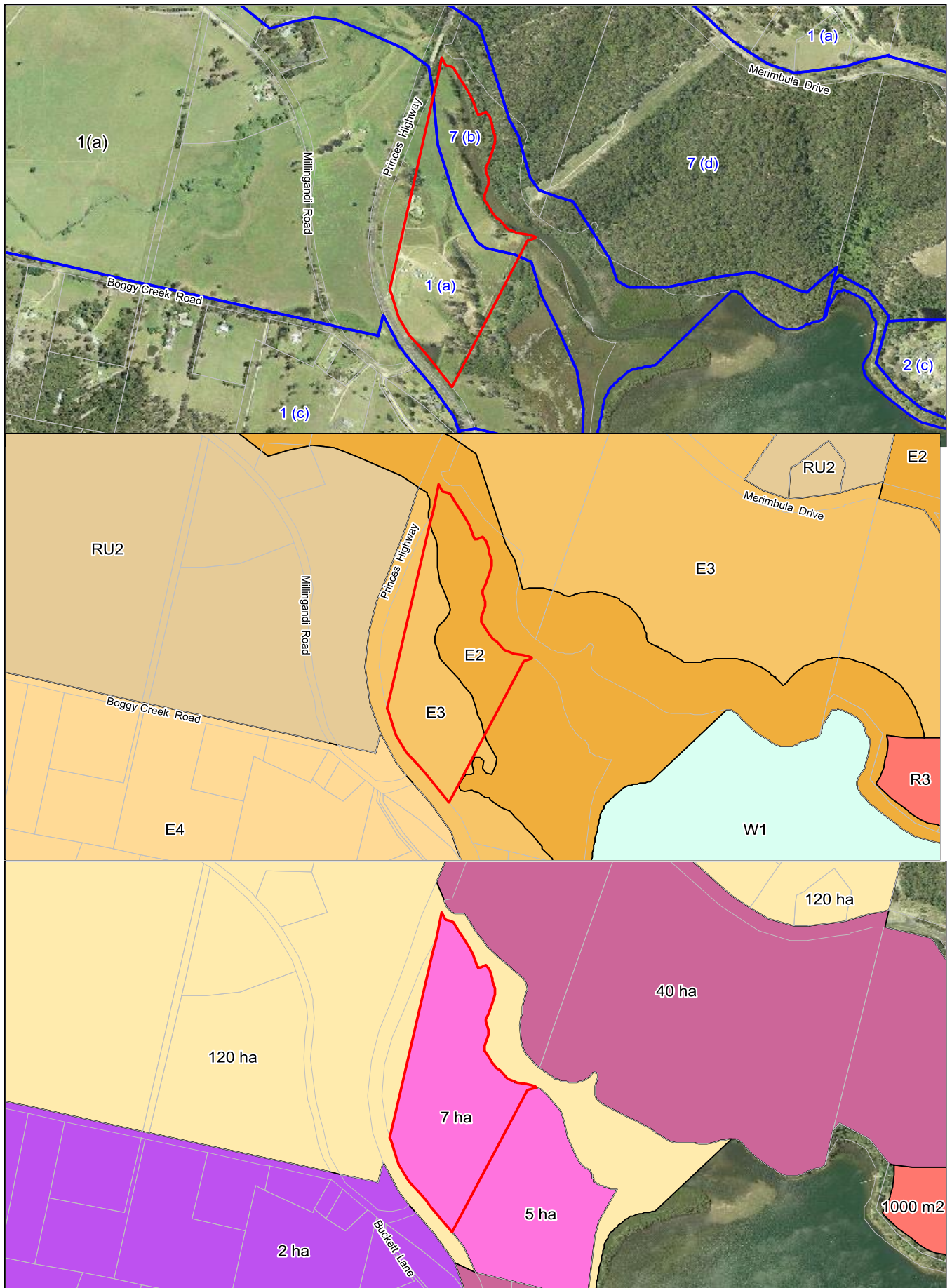
The site was deferred following an address to Council in which a 5ha minimum lot size was requested. The 5ha minimum lot size was supported by Council, provided an On-site Sewage Management (OSSM) report was prepared to confirm the site's suitability for further subdivision.

The OSSM report has recently been completed and indicates the subject land is only suitable for one (1) additional lot, unless adjoining land can be acquired to provide for further effluent treatment capacity. This is now an unlikely scenario.

2016 Proposal

Council officers recommend the land retain its E3 zoning, but revised with a new extended Environmental Conservation area to reflect the new course of the creek after erosive processes.

A 7ha minimum lot size, providing for one (1) additional lot is recommended.



Figures 1 - 3: Current zoning (LEP 2002), Proposed re-zoning 2016, Proposed Minimum Lots Sizes 2016

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. Submissions for potential re-zoning were received from landowners during the public exhibition of the Draft Bega Valley LEP in 2011.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Yes. It is considered that this Planning Proposal is the most appropriate and available means of achieving the objective.

Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

Section 8 of the SCRS states that:

‘Limited areas for additional rural residential development must be located on cleared land unsuitable for urban or agricultural uses and will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan.’ p.28

This planning proposal will not remove any viable agricultural grazing land from production.

In February and March 2016, Department and Council officers discussed several sites featured in this planning proposal. This site was not discussed or minuted at that time. It is acknowledged that Council has yet to formally publish its Draft Rural Living Strategy 2016.

Q4. Is the Planning Proposal consistent with a council’s local strategy or other local strategic plan?

This planning proposal recommendations for this site deviate from the original 2008 recommendation contained in the Merimbula Structure Report by recommending a smaller minimum lot size of 7 Hectares and an E3 zoning, so therefore is not consistent with this strategy.

The Merimbula Structure Report of 2008 (amended 2015) considers this site specifically and states on p.34 that

‘Recommendation for Area 40: That Council propose that part of the area within 150 metres of the Lake foreshore plus all areas gazetted SEPP14 be zoned E2 Environmental Conservation. Further that the remainder of these areas be proposed for zone E4 Environmental Living with a 10 ha minimum lot size for new subdivision. This would prevent further subdivision of this foreshore area. All existing dwelling envelopes are to be in the E4 zone. ‘

Draft Rural Living Strategy - Extract Figure 4: Merimbula Catchment

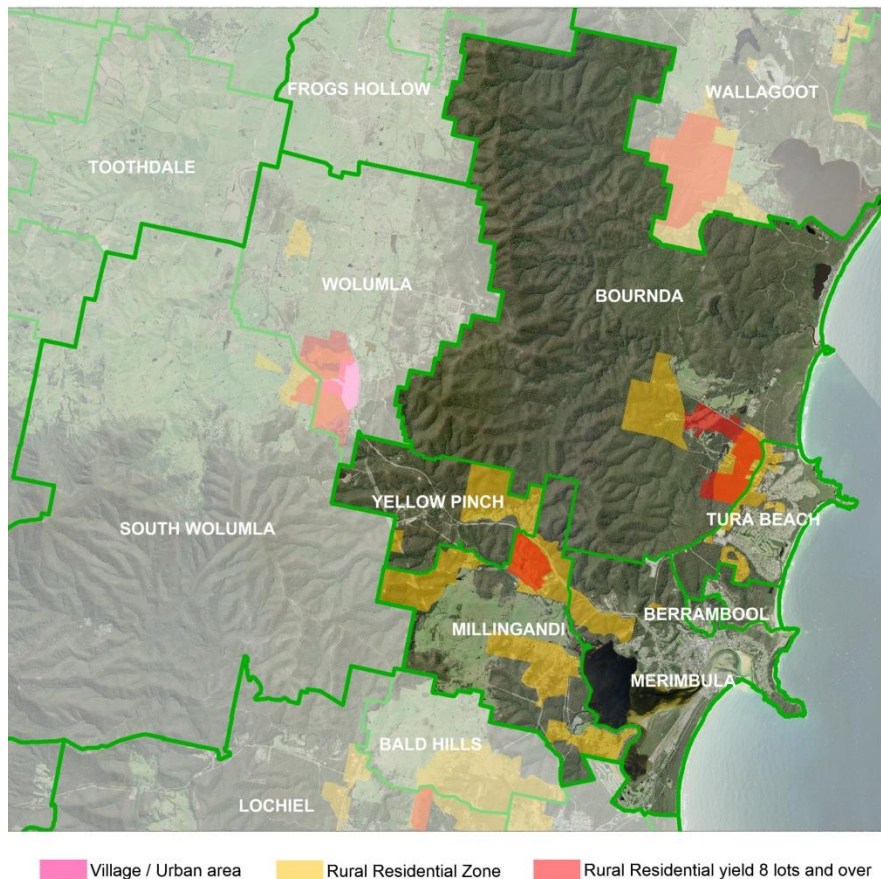


Table 23a: Merimbula Catchment: Rural Residential & General Rural Supply

Locality	Rural Residential Zones			General Rural Zones			
	Area (ha)	Vacant lots	Potential additional lots	Area (ha)	Vacant concess-ional lots	Approved concess-ional lots	Existing holdings
Bournda	260	3	39	545	4	8	1
Merimbula	3	1	0	302	1	0	0
Millingandi	578	15	33	1,047	0	8	1
Tura Beach	93	10	0	78	0	0	0
Yellow Pinch	200	1	0	237	3	0	0
TOTAL	1,134	30	72	2,209	8	16	2
% Shire Total	15.9	9.7	9.1	1.2	1.8	2.6	1.9

Table 23b: Merimbula Catchment: Total Supply & Demand

Locality	Dwelling Approvals 1999-2014	Average Dwellings Per Annum	Rural Residential Zones	General Rural Zones	Occupied Lots	Vacant Lots	Potential Additional Lots
Bournda	37	2.3	63	26	34	8	47
Merimbula	11	0.7	1	4	3	2	0
Millingandi	66	4.1	154	19	116	16	41
Tura Beach	31	1.9	114	0	104	10	0
Yellow Pinch	2	0.1	13	7	16	4	0
TOTAL	147	9.2	345	56	273	40	88
% Shire Total	10.0		11.3	2.2	8.1	4.7	6.2

Key findings

- majority of existing rural residential development within rural residential zones
- 10% Shire's vacant and 9% potential rural residential zoned lots
- good demand for rural residential living opportunities
- sufficient existing vacant supply from rural residential zoned land for medium term (16-23 years)

This planning proposal is justifiably inconsistent with the Draft Rural Living Strategy as it only results in two additional lots.

Q5. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

This Planning Proposal is justifiably inconsistent with the State Environmental Planning Policies (SEPPs) Rural Lands as the hectare sizes involved do not equate to a larger viable holding (120 Hectares).

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

It is recognised that the current holding of 35 Hectares (Lots 721 and 722 DP 826975 (approximately) is a marginal grazing property at that size, unless intensive stock methods were employed on the land. On 19 March 2009, a DA consent was issued allowing a Recreational Vehicle Park. The DA was conditioned to limit the number of recreational vehicles on site to 20.

The total loss of cleared agricultural land to potential rural living development – 11 Hectares – not considered a significant loss.

120 Hectare holdings are a planning benchmark for a viable grazing property.

SEPP No. 44 Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

This planning proposal is consistent with the SEPP as the sites are not considered core Koala habitat due to the low probability of Ribbon gum or Red gums being present on site and the lack of recent records which indicates the absence of a breeding population of Koalas.

SEPP No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

Bega Valley Shire Council's records indicate that none of the subject land is contaminated.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions applicable within the Bega Valley Shire.

1.2 Rural Zones

This Direction applies when rezoning or removing general rural lands.

This planning proposal is inconsistent with this direction as it zones land which is currently used for grazing livestock as rural residential. It is considered that the proposed re-zonings do not break up any substantial grazing enterprises.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

The objective of this Direction is to ensure that the future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This planning proposal is consistent with this Direction.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This planning proposal is inconsistent with this Direction as it affects rural zoned land and proposes to increase the permissible density of land that is currently used for grazing.

This inconsistency is justified as the provisions of the planning proposal conform to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

The proposed re-zoning does not significantly compromise the production value or development of rural land in a Shire wide context for rural purposes, as only 11 Hectares of land is proposed to be removed from broad acre grazing.

No intensive agricultural pursuits are removed or compromised by this re-zoning. In particular, this planning proposal will:

- Not fragment high quality agricultural land;
- Not cause additional rural land use conflicts, particularly between residential land uses and other rural land uses;
- Provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments; and

- Provide rural residential opportunities in areas close to existing town centres (this site is 5.8km from the Merimbula P.O.) that are well serviced and capable of meeting the daily needs of residents.

2.1 *Environment Protection Zone*

This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to protect and conserve environmentally sensitive areas.

This planning proposal is consistent with this Direction as all lands will not result in any alienation or destruction of environmentally sensitive areas.

2.3 *Heritage Conservation*

This Direction applies when a relevant planning authority prepares a planning proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

This planning proposal is consistent with this Direction as it includes provisions to protect and conserve identified places or items of significant heritage value.

A review of the AHMS website revealed that there are no items of significant cultural heritage.

A review of Council's BVLEP 2002 and BVLEP 2013 identified that the subject lands retain no items of European heritage.

3.1 *Residential Zones*

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed residential zone or other zone in which significant residential development is permitted or proposed to be permitted.

The objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.

This Planning Proposal is consistent with this direction as it does not propose any significant urban development in a residential zone or future urban residential zone.

3.4 *Integrating Land Use and Transport*

This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve a number of planning objectives.

This Planning Proposal is consistent with this direction as adequate road infrastructure is available to support small scale rural residential developments. All sites are in close proximity to power and communications.

4.1 Acid Sulphate Soils

This Direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps. The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has the probability of containing Acid Sulphate Soils.

This planning proposal is inconsistent with this Direction as it applies to land that has a probability of containing acid sulphate soils. Lot 721 and Lot 712 DP 826975, 2529 Princes Highway, Millingandi are identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 and Class 2 Acid Sulphate Soils (see Figure 25).

The inconsistency with this Direction is justified given the minor scale of development likely to result from the zoning outcomes and because this issue is routinely addressed by Council in the development assessment process.

Under Clause 6.1 of BVLEP 2013 studies are required for land that is within an area identified as having a probability of containing acid sulphate soils. Soil samples are assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Council. If acid sulphate soils are identified, no excavation can take place until an Acid Sulphate Soil Management Plan has been lodged with Council and approved and any required measures to minimise adverse environmental impacts have been implemented.

Figure 5: Lot 721 DP 826975, 2529 Princes Highway, Millingandi – Acid Sulphate Soil area



Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no critical habitat in the Bega Valley Shire. With regard to threatened species, populations or ecological communities, all the proposed sites will enable rural living sites to be occupied over existing cleared agricultural land. Therefore, it is unlikely that threatened species or habitats will be adversely affected.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Nil.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposed re-zoning will have positive social and economic effects as it will encourage appropriate rural residential subdivisions.

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure requirements for the subject areas are required.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with State and Commonwealth public authorities has not yet been undertaken. The level of consultation will be determined by the NSW Department of Planning and Environment when it makes its Gateway Determination.

Site 2 – Sapphire Coast Drive, Tura Beach (‘Mandeni’) 214 Ha Lots 471 & 472 DP1043030

Key Outcomes:

- 1. Protection of high value old growth red bloodwood eucalypt forest, Merimbula Star-hair and other threatened species;*
- 2. Transfer of existing development potential from high quality forest to a less constrained part of the property (where the Racecourse concept plan is proposed);*
- 3. The proposed re-zoning is likely to produce a maximum lot yield of 36 lots (plus residue lot) based on existing concept plans consisting of;*
 - 15 x 1 Ha rural residential lots in the western half of the subject land known as ‘The Racecourse’*
 - 21 x 0.5 - 0.6 Ha lots in the eastern half of the subject land known as ‘The Golf Course’ (pending approval under DA2008.443)*

Current LEP 2002 zoning

1(a) Rural General Zone (MLS 120 Ha)

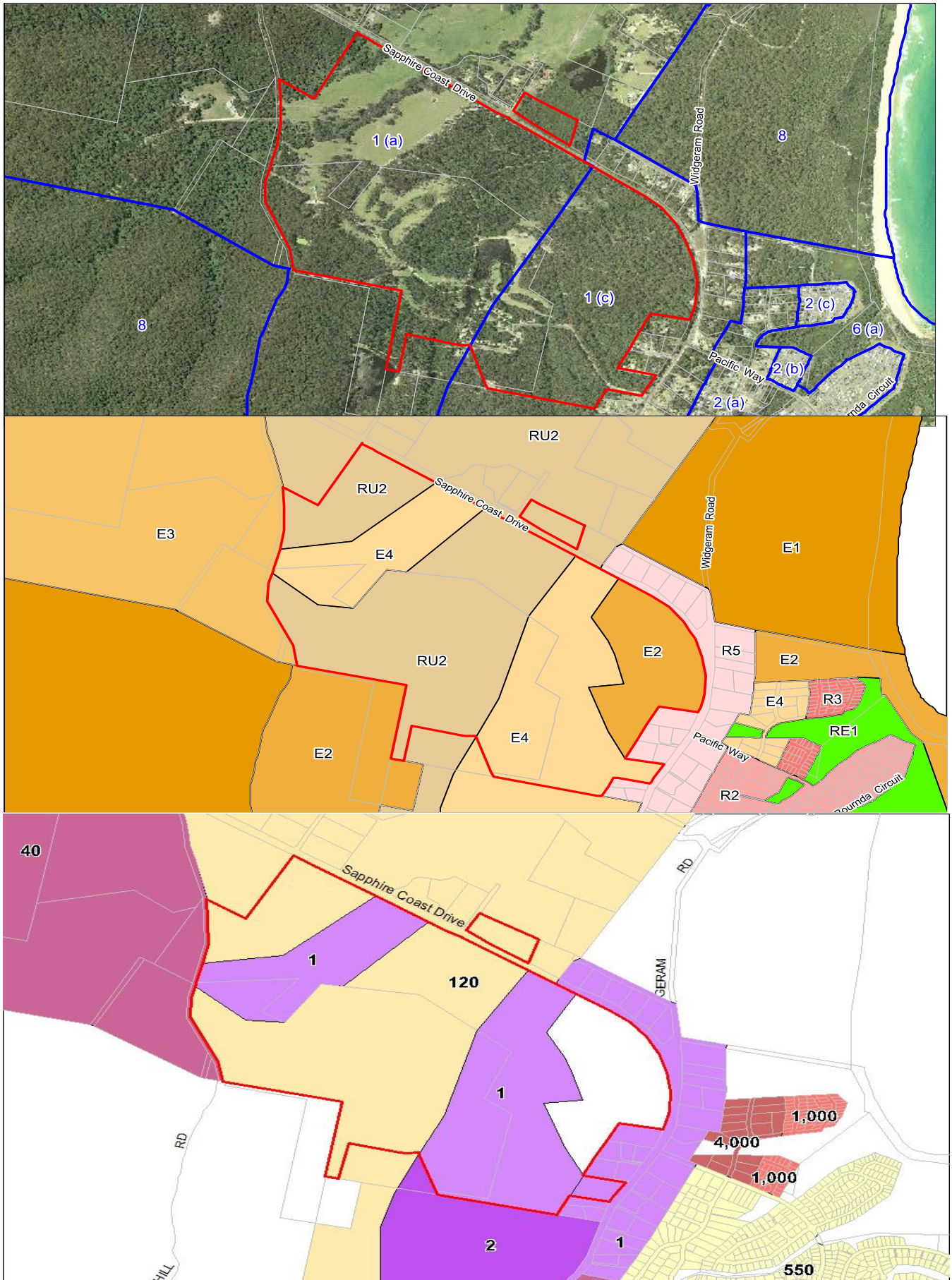
1(c) Rural Small Holdings Zone (MLS 5000m2)

Proposed LEP 2013 re-zoning

RU2 Rural Landscape (MLS 120 Ha)

E4 Environmental Living (MLS 1 Ha)

E2 Environmental Conservation (no lot size)



Figures 7 – 9: Current Zoning 2002 LEP, Proposed Zoning 2016, Proposed MLS 2016

Background – 2012 - 2016

Mandeni was deferred from the BVLEP 2013 to allow for the owner to prepare a comprehensive masterplan for the property.

Key aspects to be covered in the masterplan were the relocation of the proposed 41 lots away from high conservation value forest and a detailed socio-economic and servicing strategy, to enable consideration to be given for the subdivision of the existing tourist cabin development.

The Council no longer requires the masterplan as an additional 31 lot community title development has been abandoned.

In 2010, Lots 470, 471 and 472 DP 1043030 (214 Ha) were proposed to be zoned partly E4 Environmental Living with a 2 hectare minimum lot size and RU2 Rural Landscape with a minimum lot size of 120 under Draft BVLEP 2010.

During the exhibition of Draft BVLEP 2010, Council received a submission requesting:

- a rural residential zone with a minimum lot size of 1-2 hectares for the Racecourse Site to allow for future rural residential subdivision
- A minimum lot size of 500 square metres for the Cabins site to allow for future residential subdivision
- The common property be zoned E2 with no further subdivision potential.



Figure 10: Mandeni Subdivision Plan 2011 73 lots - submission to CLEP 2011

Golf Course Development (DA 2008.0443) - Pending Approval

- 21 Lot plus residue subdivision currently under assessment (see Figure 11)
- PVP requirements to compensate for 2.12 Ha clearing of native vegetation for road and powerlines



Figure 11: Golf Course DA concept plan - under assessment 2008.443 Lot sizes 5200m² to 6200m²

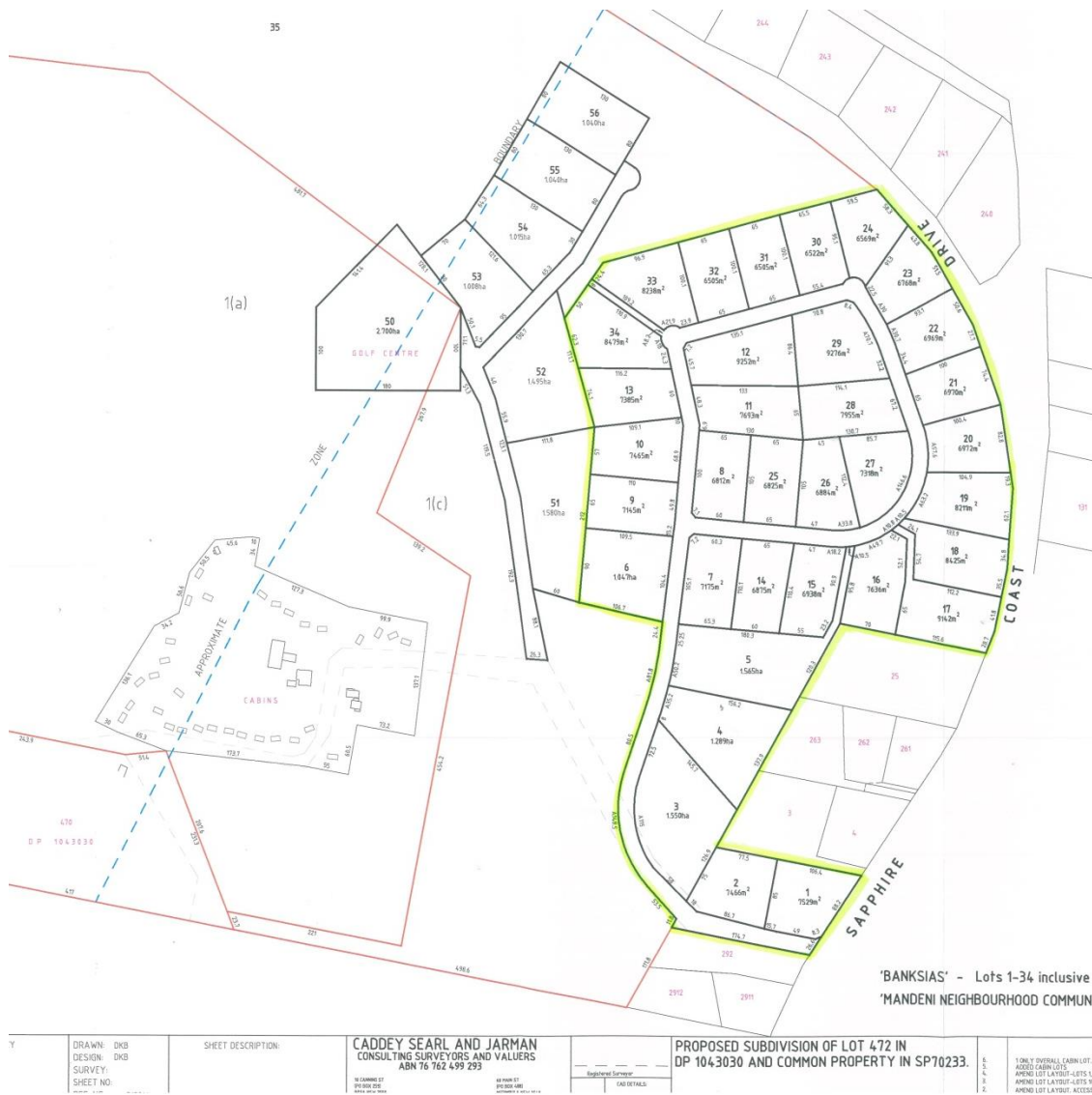


Figure 12: Original proposal 56 lots - eastern section over 1 c) zone - June 2008

Original 56 lot subdivision over eastern section of the subject land

This concept plan was abandoned after major concerns about loss of high quality habitat forest in the eastern section of the subject site.

The 31 lot Community Title proposal

A proposal was forwarded to Council in 2011 to strata title over 31 timber cabins under the guise of 'affordable housing'. The holiday cabins and managers residents were to be converted into permanent dwellings for sale.

This raised various issues regarding

- public transport access is poor;
- access during emergencies;
- adequate water supply;

- effluent treatment and disposal evaluation, given the need for upgrade of existing effluent treatment and disposal system;
- bushfire risk;
- socioeconomic assessment for vulnerable people in a 'remote' location;

These issues were not resolved by the available information, hence a masterplan was called for.

Council no longer requires a masterplan from the applicant as the community title subdivision plan of the 31 cabins has been abandoned by landholder and the revised "Golf Course" proposal takes into account protecting the highest value native vegetation (under the proposed E2 zone).

Due to the lack of a socio-economic and servicing strategy being received to support the cabin subdivision, it is proposed to undefer this section of the property to the exhibited E4 zoning.

Should the owner wish to continue to pursue the subdivision of the cabins, they are able to submit a planning proposal in the future based on the requested socio-economic and servicing studies.

2017 Planning Proposal - Explanation of Potential Lot Yield

In summary this 2017 Planning Proposal would allow a lot yield of 36 rural residential lots, based on current concept plans.

- Proposed E4 zone eastern section - The Golf Course concept = 21 x 0.5 - 0.6 Ha lots
- Proposed E4 zone western section - The Racecourse concept = 15 x 1 Ha lots
- 36 rural living lots proposed across entire site plus residue lots.

a) 'The Golf Course' development – concept plan submitted 2008 and later modified.

DA 2008.443 will approve 21 lots (plus a residue) all approximately 5200m² to 6200m² under LEP 2002 1 c zoning.

Minimum Lot Size (MLS) under current 1 c zoning (LEP 2002)

Size of land under 1 c zoning = 60 Hectares (approx.)

The point scoring system under Development Control Plan No. 9 resulted in a suggested minimum lot size of 5000m². The original subdivision plan from June 2008 showed 34 lots at around 8000m².

In summary, the MLS currently available for the owner is 5000m² in the existing 1 c zone.

The potential lot yield not taking into consideration threatened native vegetation or other constraints under 1 c zoning = 70 lots (approx.)

The sizes of the proposed 21 lots have been subsequently reduced to between 5200m² to 6200m².

The proposed MLS of 1 Ha for the E4 zone (52 Ha) in the eastern half of the site will ensure that these lots cannot be further subdivided.

b) The ‘Racecourse’ – concept plan submitted 2011 and surveyed 2014

In the exhibited maps for the CLEP 2010, this ‘racecourse’ part of Mandeni was shown as RU2 with a MLS of 120 Hectares.

The ‘Racecourse’ area of the site has a proposed ‘masterplan’ of 17 lots of approximately just over 1 Ha in size. This subdivision concept plan has been formally presented to Council and it was determined that **Lot 213 and Lot 211 were not acceptable outcomes** in terms of native vegetation loss and would have to be deleted from any future Development Application.

The relocation of the existing development entitlements to the ‘racecourse paddock’ was supported on the proviso that the relocated lots would not be located within the forest fringe. The relocation of the development entitlements will require an amendment of the exhibited zoning from RU2 to E4 for this part of the property, which now forms part of this planning proposal.



Figure 13: Original 17 lot subdivision concept from 2011 – “The Racecourse”

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. This current proposal is as a result of landowners being able to submit reviews for zonings during the draft LEP 2010 consultation process.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Yes. It is considered that this Planning Proposal is the most appropriate and available means of achieving the objective.

Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

Section 8 of the SCRS states that:

‘Limited areas for additional rural residential development must be located on cleared land unsuitable for urban or agricultural uses and will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan.’ p.28

This planning proposal is **justifiably inconsistent** with the SCRS as it proposes to remove 27 Hectares of grazing land from the property (currently 1 (a) zoning) and re-zone it to E4 Environmental Living.

In addition, this proposal is **justifiably inconsistent** with this direction as it seeks to rezone land to Environmental Living which is heavily vegetated. Please see [Appendix 4](#) - the Environmental Assessment Report by Local Environmental Solutions January 2013 - attached to this planning proposal. This loss of native vegetation is off-set by the imposition of an E2 zone over a portion of the currently zoned 1 c land.

Q4. Is the Planning Proposal consistent with a council’s local strategy or other local strategic plan?

This planning proposal recommendations for this site deviate from the **Merimbula Structure Report of 2008**. This report recommended that land remain in a rural and rural residential zone as a ‘holding’ action until the landowner has a clearer plan for the site. This planning proposal is not consistent with this 2008 strategy.

The Merimbula Structure Report of 2008 (amended 2015) considers this site specifically and states on p.32 that;

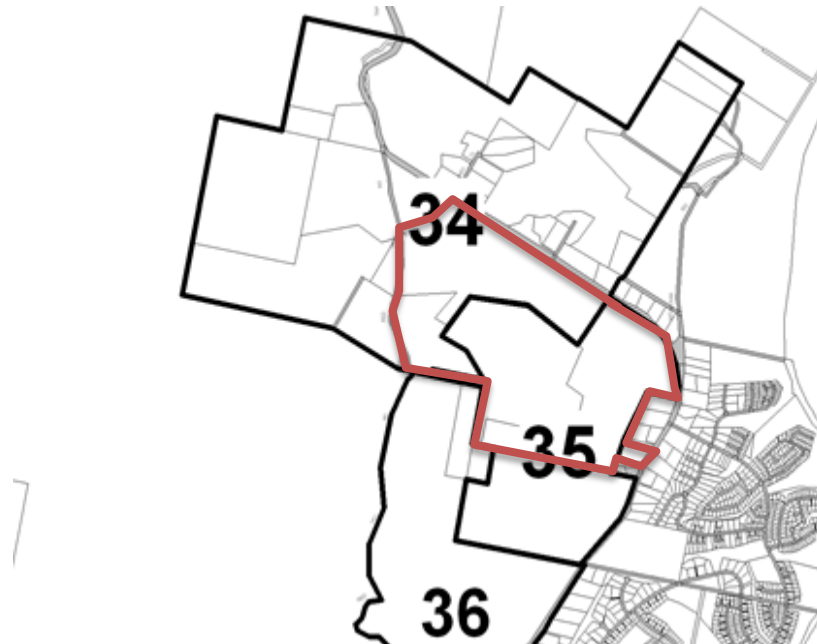


Figure 14: Area 34

This area comprises 1(a) Rural General zoned lands to the east and west of Sapphire Coast Drive. The lands are in fragmented ownership and do not represent holdings of value to professional agriculture.

The land west of Sapphire Coast Drive is mostly heavily forested with topography either moderate to steep or compromised by many drainage lines. Part of the land also includes freshwater swamps and low lying areas unsuitable for development. The area is part of the Sandy Creek Catchment which drains to Bournda Lagoon in the Bournda National Park. This is a sensitive ICOL (intermittently closed and open coastal Lake), that suffers algal outbreaks due to excessive nutrients in the catchment. For these reasons further residential development should not be encouraged in this area.

Recommendation for Area 34: That the section of Area 34 west of the former Tathra Road be zoned E3 with a minimum area of 40ha on the lot size map.

That the section of Area 34 east of the old Tathra Road be zoned RU2 and retain the 120ha minimum in the CLEP as a holding action to allow landowners time to make submission to the five year review regarding possible further minor environmental living and ecotourism opportunities.

Area 35

This area comprises a section of 1(a) Rural General zoned lands which has been developed for tourism purposes, and a section of undeveloped 1(c) Rural Small Holdings zoned land in the east near Tura Beach.

Parts of the current 1(c) Rural Small Holdings zone have native vegetation constraints and smaller sections contain vegetation likely to be of value. The area also drains to Bournda

Lagoon in the Bournda National Park. This is a sensitive ICOL (intermittently closed and open coastal Lake), that suffers algal outbreaks due to excessive nutrients in the catchment.

There is a need to resolve how much rural residential living might be accommodated in the 1(c) section of this area; however this would require a planning study financed by the landholders to resolve which areas are suitable for development and what the minimum lot size should be.

Recommendation for Area 35: That the section of Area 35 currently zoned 1(a) be zoned RU2 in the CLEP and the owner be allowed time to make submission to the five year review regarding the long term zoning.

That the section of Area 35 currently zoned 1(c) be zoned E4 in the CLEP with a 2ha minimum as a holding action. That the DCP contain constraints on any further subdivision of this section until a concept plan for the full zone has been prepared by the owners to Council's satisfaction.'

Q5. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

This Planning Proposal is **justifiably inconsistent** with the State Environmental Planning Policies (SEPPs) Rural Lands as the hectare sizes involved do not equate to a larger viable holding (120 Hectares).

The Rural Planning Principles are as follows:

the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

Response:

The total loss of currently cleared agricultural land to rural living development will be approximately **27 Hectares** over the area marked as the “Racecourse” associated with a subdivision of 15 x 1 Ha lots – not considered a significant loss. 120 Hectare holdings are a planning benchmark for a viable grazing property.

SEPP No. 44 Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

This planning proposal is consistent with the SEPP as the sites are not considered core Koala habitat due to the low probability of Ribbon gum or Red gums being present on site and the lack of recent records which indicates the absence of a breeding population of Koalas.

SEPP No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

Bega Valley Shire Council’s records indicate that none of the subject land is contaminated.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions applicable within the Bega Valley Shire.

1.2 Rural Zones

This Direction applies when rezoning or removing general rural lands.

This planning proposal is **justifiably inconsistent** with this direction as it zones 27 Hectares of land rural residential (which is currently cleared and could be used for grazing livestock). It is considered that the proposed re-zonings do not break up any substantial grazing enterprises.

Please note this figure of 27 Hectares only relates to the currently cleared former grazing land on the western half of the site and does not relate to the total size of proposed E4 zoned land.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

The objective of this Direction is to ensure that the future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This planning proposal is consistent with this Direction.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This planning proposal is inconsistent with this Direction as it affects rural zoned land and proposes to increase the permissible density of land that is currently used for grazing.

This **inconsistency is justified** as the provisions of the planning proposal conform to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

The proposed re-zonings do not significantly compromise the production value or development of rural land in a Shire wide context for rural purposes, as only **27 Hectares** of land is proposed to be removed from broad acre grazing.

No intensive agricultural pursuits are removed or compromised by these re-zonings. In particular, this planning proposal will:

- Not fragment high quality agricultural land;
- Not cause additional rural land use conflicts, particularly between residential land uses and other rural land uses;
- Provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments; and
- Provide rural residential opportunities in areas close to the existing town centre of Tura Beach and Merimbula that are well serviced and capable of meeting the daily needs of residents.

2.1 Environment Protection Zone

This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to protect and conserve environmentally sensitive areas.

This planning proposal is **justifiably inconsistent** with this Direction approximately **12 Hectares** of native vegetation will be destroyed over the area marked E4 in the eastern section of the subject land as a result of the approval of 21 x 0.5 Ha lots (DA2008.443) under the LEP 2002.

The zoning of the forested land which has the *highest conservation value* will be protected by the E2 Environmental Conservation zoning.

Please refer to the Environmental Assessment (2013) by Local Environmental Solutions at **Appendix 4** in this Planning Proposal which outlines the environmental impact of a proposed 21 lot x 0.5 Ha subdivision (under 1 c Rural Small Holdings zoning) where the proposed eastern half of the E4 zone is proposed to be re-zoned from 1 c land. This document gives valid reasons as to the placement of the proposed E2 Environmental Conservation zone.

This area has old growth red bloodwood eucalypts which are the preferred habitat for the Yellow-bellied Glider which is a threatened species. Merimbula Star-Hair, another threatened species, was also located on the land during studies for the Property Vegetation Plan. The vegetation type is not considered an Endangered Ecological Community.

This original PVP was required to off-set the proposed 2.12Ha of clearing for the original roads and cul-de-sacs associated with DA2008.443. The level of clearing required for the roads of the subdivision has now been reduced, but the PVP is still on the title.

This PVP is now redundant as the original proposal was for a more numerous lot and road configuration and will need revising when associated with any revised subdivision DA.

The off-set area on “Manna Park” still applies to that land but is no longer owned by the Mandeni estate. The legal status of the existing PVP will not be impacted by the proposed re-zoning. They are separate and distinct matters.

2.3 Heritage Conservation

This Direction applies when a relevant planning authority prepares a planning proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

This planning proposal is consistent with this Direction as it includes provisions to protect and conserve identified places or items of significant heritage value.

A review of the AHMS website revealed that there are no items of significant cultural heritage.

In 2008, a review of the proposed original 41 lot subdivision in the eastern section of the land by Julie Dibden archaeology concluded that ‘there are no constraints to the proposed subdivision’ (p.4 Dibden, 2008). No aboriginal objects were recorded and the area is assessed to be of low archaeological sensitivity. There were 9 units surveyed (ground exposure viewing only) conducted over one day.

A review of Council’s BVLEP 2002 and BVLEP 2013 identified that the subject lands retain no items of European heritage.

3.1 Residential Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed residential zone or other zone in which significant residential development is permitted or proposed to be permitted.

The objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.

This Planning Proposal is consistent with this direction as it does not propose any significant urban development in a residential zone or future urban residential zone.

3.4 Integrating Land Use and Transport

This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve a number of planning objectives.

This Planning Proposal is consistent with this direction as adequate road infrastructure is available to support small scale rural residential developments. All sites are in close proximity to power and communications.

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

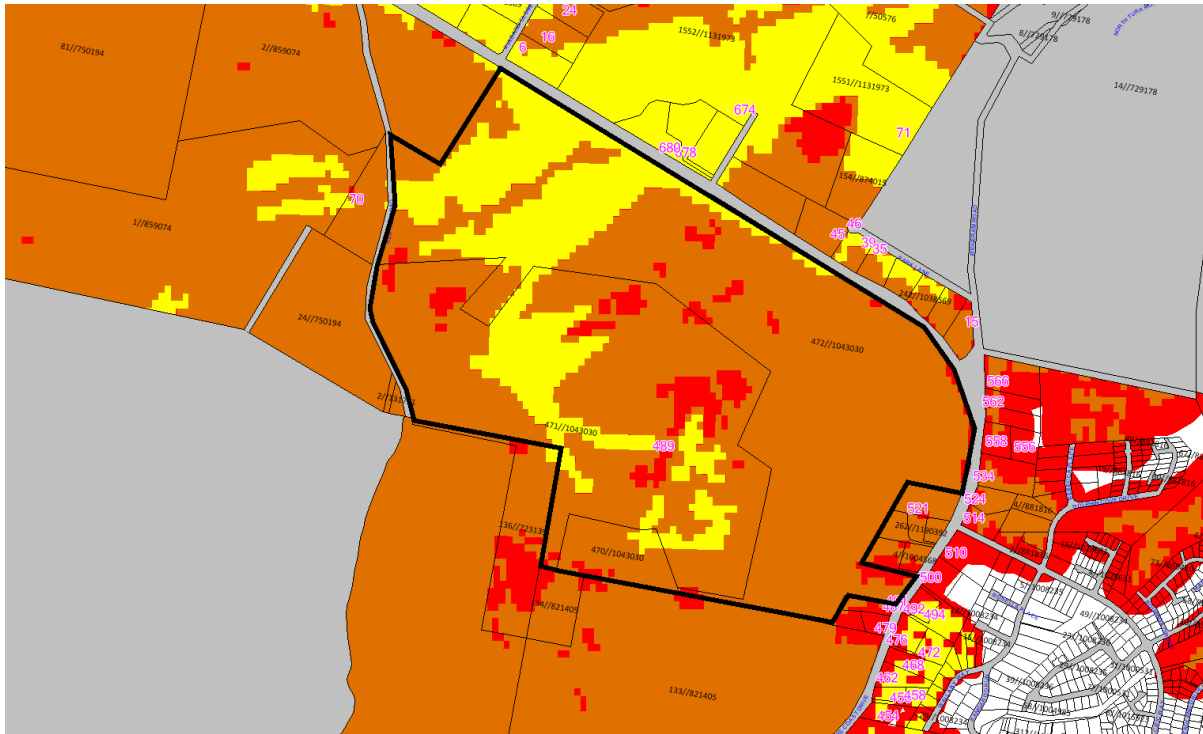


Figure 15: Bushfire Map - the vast majority of the property is classified as Vegetation Category 1, with some buffer zones over the cleared lands and Vegetation Category 2 on the remainder.

This Planning Proposal is consistent with the objectives of this Direction as it does not encourage the establishment of incompatible land uses and appropriate development of the land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

5.1 Implementation of Regional Strategies

Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

As detailed at Q3, this Planning Proposal is justifiably inconsistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South Coast Regional Strategy.

6.3 Site Specific Provisions

This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This planning proposal proposes to introduce an E4 zone (Environmental Living) which would allow dwelling houses on lots down to a size of 1 Hectare) and generally increase intensity of dwelling houses over previously cleared land (about 27 Ha) and about currently vegetated land (about 12 Hectares).

In relation to the proposed 21 lot subdivision over the proposed E4 zone (which will involve the eventual disturbance / removal of 12 Hectares of vegetation) it states on page 52 of the ***Environmental Assessment Report (see Appendix 4 by Local Environmental Solutions);***

‘the development will impact on species which require hollows, a mature sub-canopy dense riparian vegetation and connectivity. These effects have been reduced significantly by the proposed lot layout and design, which allows for the retention of extensive, continuous and high quality habitat, as well as significant biological features.’

Therefore, it is **justifiably inconsistent** with the direction.

The land to be zoned E2 Environmental Conservation is considered to have high habitat value for the Yellow-bellied glider and the Merimbula Star Hair. The proposed zoning will protect these values.

Please see Appendix 4.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Nil.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposed re-zoning will have positive social and economic effects as it will encourage small scale increases in population in appropriate rural residential subdivisions which are;

- within 3 km of Tura Beach Shopping Centre (eastern section of E4 zone)
- within 5 km of Tura Beach Shopping Centre (western section of E4 zone)

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure requirements for the subject areas are required.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with State and Commonwealth public authorities has not yet been undertaken. The level of consultation will be determined by the NSW Department of Planning and Environment when it makes its Gateway Determination.

Site 3 – Boydtown – Various Lots - 504 Ha

Key Outcomes:

- *Implementation of JRPP recommendations*
- *Retention of exhibited zonings for the majority of property*
- *Zoning land for appropriate uses*
 - 1) *Extractive industry – sand/topsoil (RU2 – Rural Landscape and E3 Environmental Management)*
 - 2) *Agriculture (RU2 Rural Landscape)*
 - 3) *Environmental Protection and Management (E2 & E3)*

Current Zoning LEP 2002

1(a), 1(c), 6(a), 7(d), 7(f1)

Proposed Zoning 2016

E2, E3, RU2, RE1

Lot listing and proposed zoning (maps on next page)

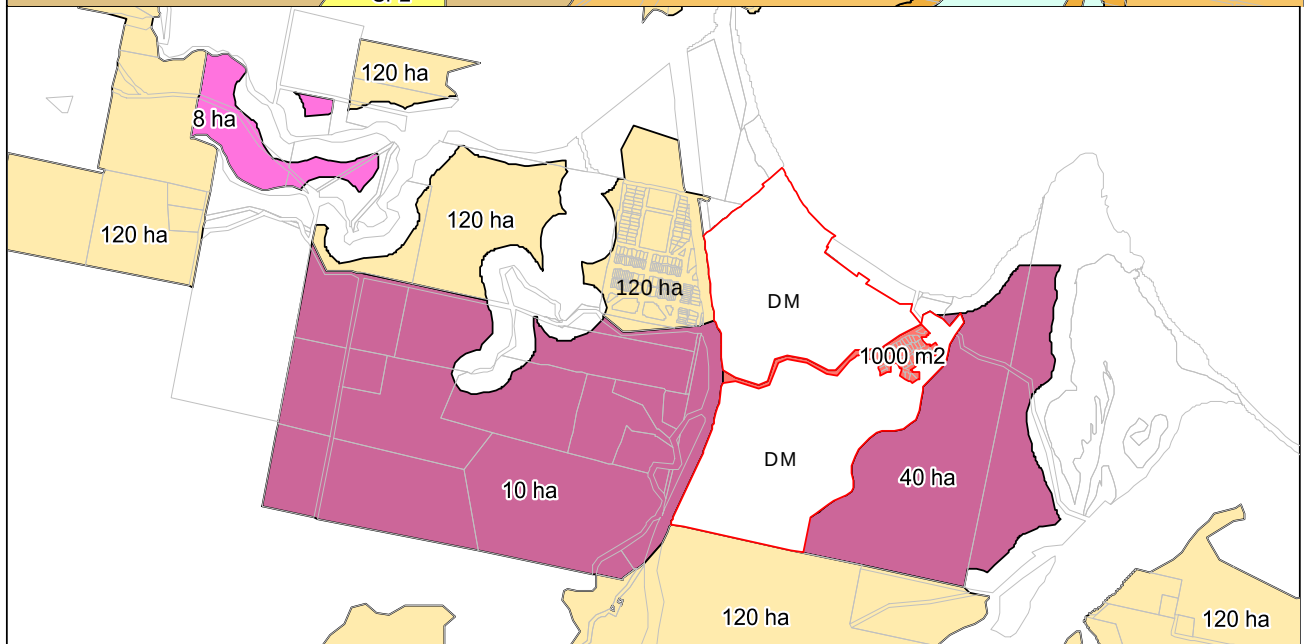
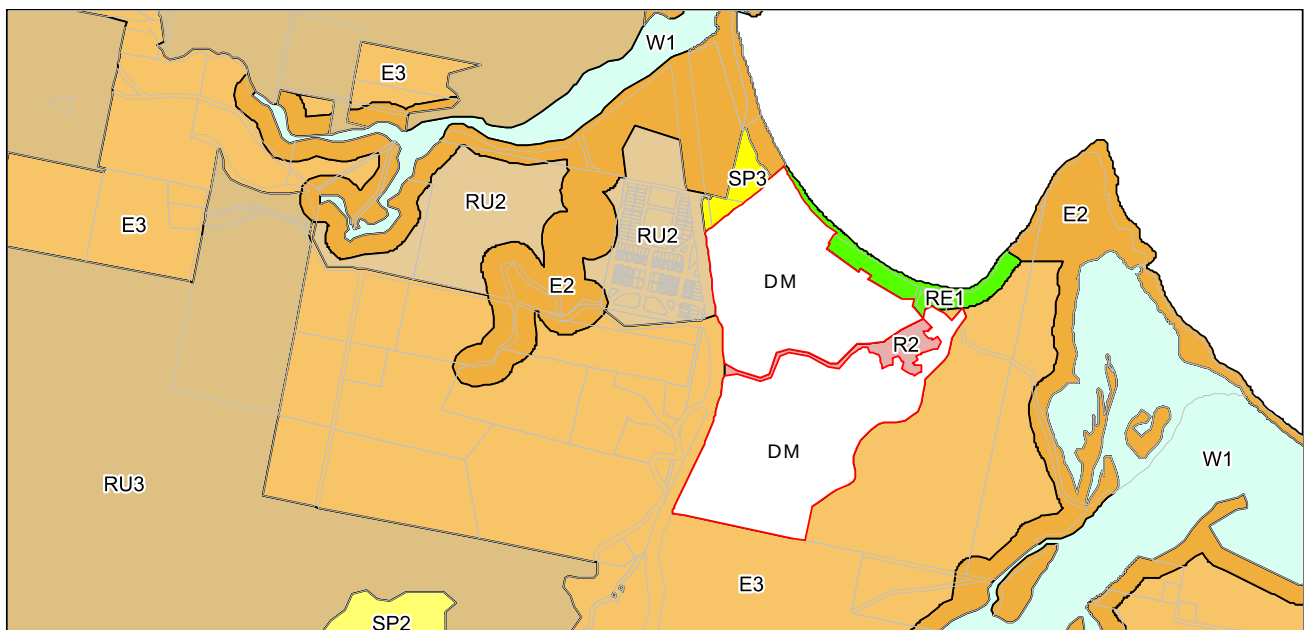
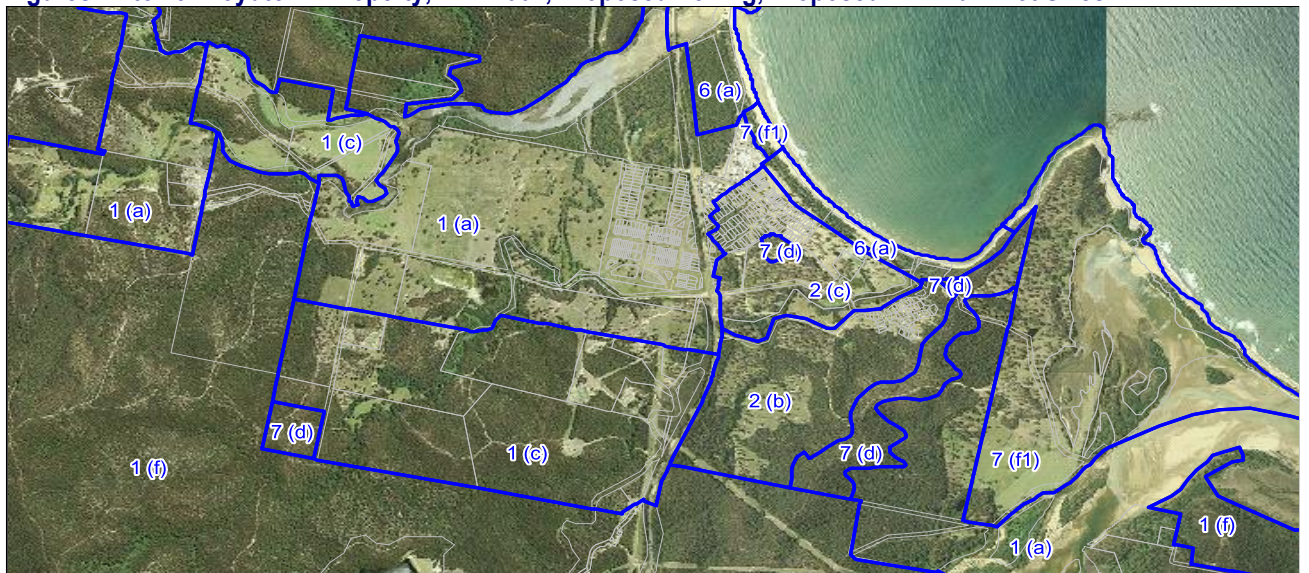
West of Princes Highway (proposed land zoning in brackets for clarity)

- **Lots 1 – 147, 157 – 178, 382 – 383, 386 – 391 DP 12883 (RU2 land)**
- **Lots 11 – 14 DP 1199147 (RU2 land)**
- **Lots 21-37 DP 239404 (RU2 land)**
- **Lots 1 – 2 DP 127299 (RU2 land)**
- **Lot 1 and 2 DP 572983 (part E2 land) (part E3 land)(part RU2 land)**
- **Part Lot 13 DP 716162 (E3 land) – in 3 island sections west of highway**
- **Lots 2 and 36 DP 750223 (part E2 land)(part E3 land)**
- **Lot 10 DP 811856 (part E2)(part E3 land)**
- **Lots 2 – 4 DP 624612, (part E3 land)(part E2 land)**

East of Princes Highway (proposed land zoning in brackets for clarity)

- **Part Lot 13 DP 716162 (E3 land) in one section east of highway excluding deferred land north of the main ridge**
- **Lot 3 DP750223 (E3 and E2 land) far eastern section adjoining river estuary**
- **Lot 5 DP 259742, Lot 32 560891, Lot 44 DP 716162 (RE1) - foreshore land**

Figures 17 to 19: Boydtown Property, LEP 2002, Proposed Zoning, Proposed Minimum Lot Sizes



Background and History

- The proposed zonings for Boydtown as exhibited in Draft BVLEP 2010 were based on Council's overall zoning strategy for the coastal catchments, the 2008 Masterplan provided by the owner, the Eden structure report and rolling over of residential zones from the 2002 LEP.
- In response to the public exhibition of draft CLEP 2010, the owner of Boydtown, submitted a new Masterplan in 2012. The new Masterplan represented a significant departure from previous planning for the Boydtown site.
- The Boydtown property was deferred from the CLEP
- The 2012 Masterplan proposed to introduce a large area of B4 Mixed use zone (70ha) on the eastern side of the highway, north of Boydtown Creek, significant areas of residentially zoned land in the sensitive southern portion of the property adjoining the Towamba River Estuary and also in areas west of the highway. The Masterplan also proposed extensive areas of Tourist zonings on the cleared flat lands surrounding the current sand mining approvals.
- Council staff prepared a report in 2013 in which they recommended that a Planning Proposal be prepared based on the exhibited zonings of 2010 with the addition of further E2 zoned along a creek on the western side of the highway. The report was deferred.
- Further discussions and workshops were held through 2013 and 2014.
- In August 2014 the owner's consultants lodged a request for Pre-Gateway Review due to Council not complying with the 90 day assessment requirement.
- In December 2014 Council was advised by DPE that the request for a pre-gateway review had merit and that the review request be forwarded to the Southern JRPP.
- Following a hearing of the JRPP in February 2015, Council was advised in August 2015 that the Planning Proposal as considered by the JRPP, not proceed to Gateway.
- Following the JRPP staff had meetings with representatives from the Lyons Group and encouraged them to provide a Planning Proposal for the area east of the highway and north of the main ridge in accord with JRPP recommendations.
- This Planning Proposal has been received. The area which it covers is proposed to remain deferred until Council considers the Planning Proposal for this area.
- In 2016 staff prepared a Council report recommending a Planning Proposal be prepared for 6 sites still Deferred from BVSC CLEP 2013 – this planning proposal.
- The remainder of the Boydtown property not covered by the Planning Proposal was proposed to be un-deferred with the majority of the site reverting to the exhibited zonings in accord with JRPP recommendations.
- The only change to the exhibited zoning was the application of an RU2 zone to the cleared flats adjoining the sand mining operation, north of Nullica Short Cut Rd. A small extension of the E2 zone along the creek which bisects the flats is also proposed.

2016 Proposal

Boydton Property (excluding the area around the Seahorse Inn)

The Southern Joint Regional Planning Panel (JRPP) examined the Boydton property in detail, following the submission of a Masterplan and Planning Proposal by the property owner. The JRPP made explicit recommendations with regard the zoning of the majority of the Boydton property. These recommendations were endorsed by the Minister for Planning and Environment.

See [Appendix 5](#) in this Planning Proposal.

Following the JRPP decision, officers have been in ongoing discussions with representatives of the site's owner. The owner has been strongly encouraged to focus on the area east of the Princes Highway, around the Seahorse Inn and proposed marina. Council has recently received a Planning Proposal covering this area, which will be the subject of a future report to Council.

Officers recommend the remainder of the site revert to the 2010 exhibited zonings of E2 and E3 in accordance with Council Policy applied across the Shire for sensitive coastal and forested lands, with the exception of the cleared paddocks north of the Nullica Short Cut Road, subject to the existing sand mining development approvals. It is recommended this land be zoned RU2 Rural Landscape and the north – south drainage line be protected by an E2 Environmental Conservation zoning.

Further it is advised a Planning Proposal from the property owner has recently been received for this land. The Planning Proposal requests zonings and lot yields that are inconsistent with the Decision of the JRPP, inconsistent with the position of the Minister for Planning and Environment, inconsistent with Council Policy applied across the Shire for sensitive coastal and forested lands and is therefore not supported by Council officers.

Recommendation: That the land north of Nullica Short Cut Road be zoned RU2 (120ha) and E2 (no lot size); the remainder of the land west of the Princes Highway be zoned E3 (10ha) and E2 (no lot size); and the south eastern section of the property adjoining the Towamba River estuary be zoned E3 (40ha) and E2 (no lot size).

	Draft BVLEP 2010	Recommendation for 2016 Planning Proposal
Zones	E2, E3	E2, E3, RU2
Lot Sizes	10ha, 40ha, 120ha	10ha, 40ha, 120ha

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. The site has been the subject of various proposals over three decades, many of which have not been supported by planning authorities to lack of justified need for major urban land releases in the catchment. An extract from the Draft Rural Living Strategy is below showing the current demand and supply in the broader Eden catchment.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Yes. It is considered that this Planning Proposal is the most appropriate and available means of achieving the objective.

Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

Section 8 of the SCRS states that:

‘Local environmental plans will include provisions to limit dwellings in rural and environmental zones.’ p.29

This re-zoning will have the effect of limiting a proliferation of rural residential dwellings by way of the RU2 zoning (MLS 120 Ha) and the E3 zoning over the more heavily forested lands (MLS 10 and 40 Hectares).

Draft South East and Tablelands Regional Plan May 2016

Action 3.3.3 Protect valuable mineral and extractive resources in the region (p. 52)

This planning proposal minimises the potential for land use conflict between any future urban uses and the current extractive industry on the site by not zoning any land for more intensive residential purposes (no E4, R5 and R2 / R3 zones are proposed).

Q4. Is the Planning Proposal consistent with a council’s local strategy or other local strategic plan?

The Draft Rural Living Strategy provides the following demand and supply information.

Figure 20: Eden Catchment

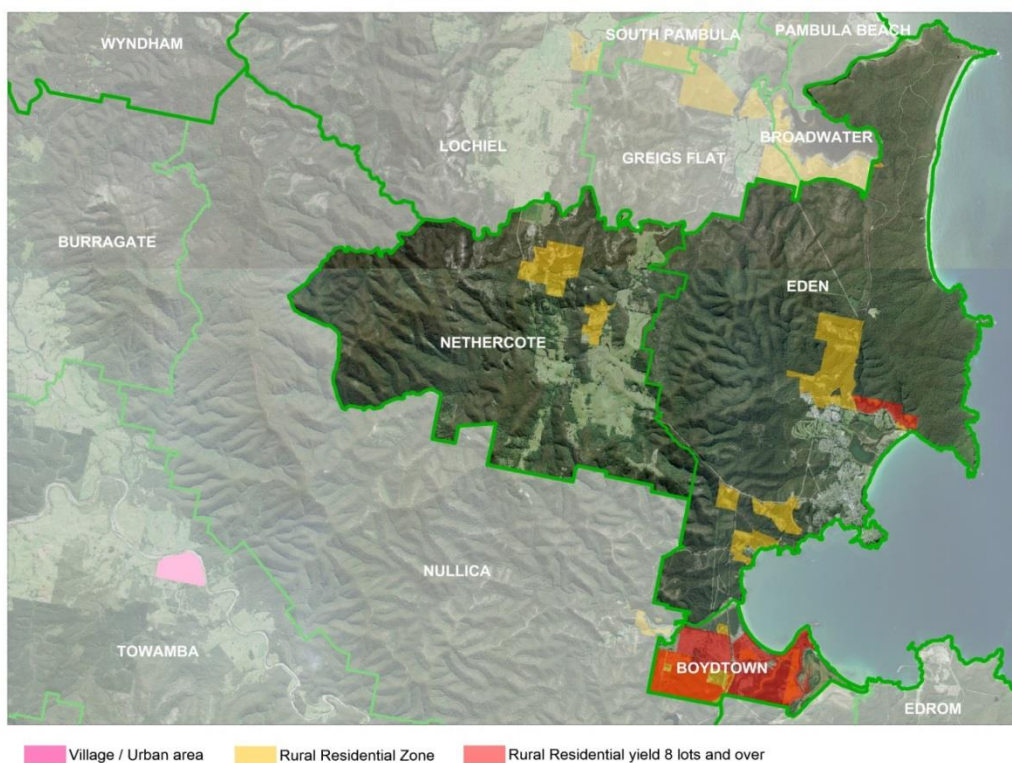


Table 22a: Eden Catchment: Rural Residential & General Rural Supply

Locality	Rural Residential Zones			General Rural Zones			
	Area (ha)	Vacant lots	Potential additional lots	Area (ha)	Vacant concess-ional lots	Approved concess-ional lots	Existing holdings
Boydtown	29	0	0	18	0	0	0
Eden	403	21	80	40	0	0	0
Nethercote	208	10	10	2,183	13	5	3
TOTAL	640	31	90	2,241	13	5	3
% Shire Total	9.0	10.1	11.4	1.2	2.9	0.8	2.8

Table 22b: Eden Catchment: Total Supply & Demand

Locality	Dwelling Approvals 1999-2014	Average Dwellings Per Annum	Rural Residential Zones	General Rural Zones	Occupied Lots	Vacant Lots	Potential Additional Lots
Boydtown	0	0.0	7	0	7	0	0
Eden	30	1.9	182	0	81	21	80
Nethercote	28	1.8	78	59	96	26	15
TOTAL	58	3.6	267	59	184	47	95
% Shire Total	4.0	3.9	8.8	2.3	5.5	5.5	6.7

Key findings

- majority of existing rural residential development within rural residential zones
- 10% Shire's vacant and 11% potential rural residential zoned lots
- low demand for rural residential living opportunities
- in excess of 20 years existing vacant supply, predominantly from rural residential zoned land plus Boydtown

Conclusion

Eden Cove north of the Eden town centre has the capacity for around 44 rural residential lots in accordance with the Eden Cove Master Plan and when developed, these lots will ensure the supply of vacant rural residential lots close to Eden.

Within the Eden catchment there is also approximately 150ha of land zoned rural residential under BVLEP 2002 within the locality of Boydtown. This land is deferred from BVLEP 2013 and is currently the subject of investigations to determine appropriate zones and subdivision potential. Due to the uncertainty of the rural residential yield, no estimates of rural residential supply have been made for this area.

Q5. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

This Planning Proposal is consistent with the State Environmental Planning Policies (SEPPs) Rural Lands as the rural planning principles are not compromised by the rezoning.

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

This planning proposal is consistent with the Rural Lands SEPP as it zones land which is currently used for grazing livestock as Rural Landscape (RU2), Environmental Protection (E2) and Environmental Management E3. It is considered that the proposed re-zoning does not fragment or remove any grazing lands.

According to the Agricultural Land Classification Map – Lower South Coast Region, the agricultural suitability of the site is considered to be low and as such is classified as Class 3 and /or Class 4.

Class 3 – Land suited to pasture improvement

Class 4 – land suitable for grazing, but not for cultivation.

This planning proposal severely limits the loss of land to intensive rural residential development.

SEPP No. 44 Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Koala Habitat Assessments

The consultant Ecobiological conducted a thorough flora and fauna assessment in mid-2011, including assessment of the land for potential koala habitat.

‘The subject site has been mapped as supporting Preferred Koala Habitat, where stands of Manna Gum (*E. viminalis*) occur, particularly along the sides of Reedy Creek and along the boundary with the Princes Highway.

Four SAT tests were undertaken to determine the current usage of the subject site by koalas. The minimum recommended 20 trees sampled for each site was achieved within the Coastal Sands forest and adjoining riparian forest communities. A total of 80 trees were investigated. No faecal pellets were found, returning a result from the SAT test sites of 0% to 10% activity level.’ (p. 54 of Ecological assessment, Nullica Short Cut Road, Boydtown NSW August 2011)

It is considered that the re-zoning for the areas containing Manna Gums along Reedy Creek (E2) and along the Princes Highway (RU2) is unlikely to produce adverse feed tree outcomes for the koala.

SEPP No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

Bega Valley Shire Council's records indicate that none of the subject land is contaminated.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions applicable within the Bega Valley Shire.

1.2 Rural Zones

This Direction applies when rezoning or removing general rural lands.

This planning proposal is consistent with this direction as it zones land which is currently used for grazing livestock as Rural Landscape (RU2). It is considered that the proposed re-zoning does not fragment or remove any grazing lands.

According to the Agricultural Land Classification Map – Lower South Coast Region, the agricultural suitability of the site is considered to be low and as such is classified as Class 3 and /or Class 4.

Class 3 – Land suited to pasture improvement

Class 4 – land suitable for grazing, but not for cultivation.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

The objective of this Direction is to ensure that the future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This **planning proposal is considered consistent** with this direction as the proposed re-zonings to RU2 and E3 both permit agriculture and/or industry which aligns with section 7 of the SEPP – Extractive Industries.

There is a current sand extraction and top soil extraction operation being conducted on the land (DA2011.500). This operation was approved under the **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007** which states that;

7) Development permissible with consent

(1) Mining

Development for any of the following purposes may be carried out only with development consent:

(a) underground mining carried out on any land,

(b) mining carried out:

(i) on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or

(ii) on land that is, immediately before the commencement of this clause, the subject of a mining lease under the *Mining Act 1992* or a mining licence under the *Offshore Minerals Act 1999*

Extractive Industry at Nullica Short Cut Road, Boydtown

Extractive Industry (Sand and Topsoil) was approved on 6 Dec 2013 (DA 2011.500) in the area of Nullica Short Cut Road and to the west of the Princes Highway under the LEP 2002 1 (a) Rural General Zone. 78 mature paddock trees will be gradually removed over the 28 year life cycle of the consent to access the material. A noise bund was to be constructed adjacent to the eastern boundary to provide amenity protection for residents of the caravan park to the east.

The limits on the approval are;

- Approval to lapse after 1,100,000 cubic metres of sand material and 105,000 cubic metres of topsoil have been extracted from the site, or 28 years after the date it commences, whichever comes first;
- No more than 40,000 tonnes of sand per year;
- 10,000 tonnes of topsoil may be extracted in any one year.

The lots approved for the extraction are to be re-zoned RU2 (the majority), E3 (part of Pit 2 south of Nullica Short Cut Rd) and E2 (following Reedy Creek). See Figure 21 below.



**Figure 21: Google Earth image 2016 showing Pit One under commencement. Princes Highway runs north-south to the east of the picture. The Boydtown Caravan Park can be seen in the north east corner.
This land is to be zoned RU2 Rural Landscape.**

The lots to which this Extractive Industry consent apply;

Lots 1 to 131, 133 to 147, 157 to 178, 382, 383, 386 to 391 DP 12883;

Lots 4 & 5 DP239401;

Lots 21 to 37 DP 239404;

Lot 1 DP 879786;

Lot 1 DP 572983;

Lots 1 & 2 DP 127299 and

Lot 2 DP 750223



Figure 22: Map showing Pit 1 to the east and Pit 2 to the west (from EIS).

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This **planning proposal is consistent** with this Direction as it affects rural zoned land and proposes to not to alter the area currently used for grazing.

The planning proposal conforms to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The proposed re-zonings do not significantly compromise the production value or development of rural land in a Shire wide context.

No intensive agricultural pursuits are removed or compromised by these re-zonings. Grazing activities have already been disrupted on the site by recent approval of sand and topsoil extraction (DA2011.500).

In particular, this planning proposal will:

- Not fragment high quality agricultural land;
- Not cause additional rural land use conflicts, particularly between residential land uses and other rural land uses;
- Provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments.

2.1 Environment Protection Zone

This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to protect and conserve environmentally sensitive areas.

This planning proposal is consistent with this Direction as all lands will not result in any alienation or destruction of environmentally sensitive areas. As previously stated DA2011.500 authorises the staged destruction of 78 mature paddock trees to win sand and topsoil. A reforestation plan using Manna Gums has been approved as part of the DA.

The proposed E2 zones (the most stringent zoning for environmental protection) will be applied to Reedy Creek and the riparian buffer zone (potential koala habitat) along with an E2 zone protecting the coastal estuary and headland associated with the Towamba River to the east of the subject site.

2.3 Heritage Conservation

This Direction applies when a relevant planning authority prepares a planning proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

This planning proposal is consistent with this Direction as it includes provisions to protect and conserve any newly identified places or items of significant heritage value.

A review of the AHMS website, and a detailed site survey by a qualified archaeologist in July 2011 disclosed no Aboriginal heritage areas or objects (p. 127 of EIS – ‘Proposed Sand Extraction’ by Garret Barry Planning Services).

A review of Council’s BVLEP 2002 and BVLEP 2013 identified that the subject land retains no items of European heritage. The 5 times that are of European Heritage significance at Boydtown are the Seahorse Inn, Boydtown’s Church (ruin), salting works, boiling-down works and the wool store site.

All these items are outside of the subject land’s area.

3.1 Residential Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed residential zone or other zone in which significant residential development is permitted or proposed to be permitted.

The objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.

This Planning Proposal is consistent with this direction as it does not propose any significant urban development in a residential zone or future urban residential zone.

4.1 Acid Sulphate Soils

This Direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps. The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has the probability of containing Acid Sulphate Soils.

This **planning proposal is inconsistent** with this Direction as it applies to land that has a probability of containing acid sulphate soils.

Boydtown is identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 and Class 2 Acid Sulphate Soils (see Figures 23 and 24). The inconsistency with this Direction is justified given the minor scale of development likely to result from the zoning outcomes and because this issue is routinely addressed by Council in the development assessment process.

Under Clause 6.1 of BVLEP 2013 studies are required for land that is within an area identified as having a probability of containing acid sulphate soils. Soil samples are assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Council. If acid sulphate soils are identified, no excavation can take place until an Acid Sulphate Soil Management Plan has been lodged with Council and approved and any required measures to minimise adverse environmental impacts have been implemented.

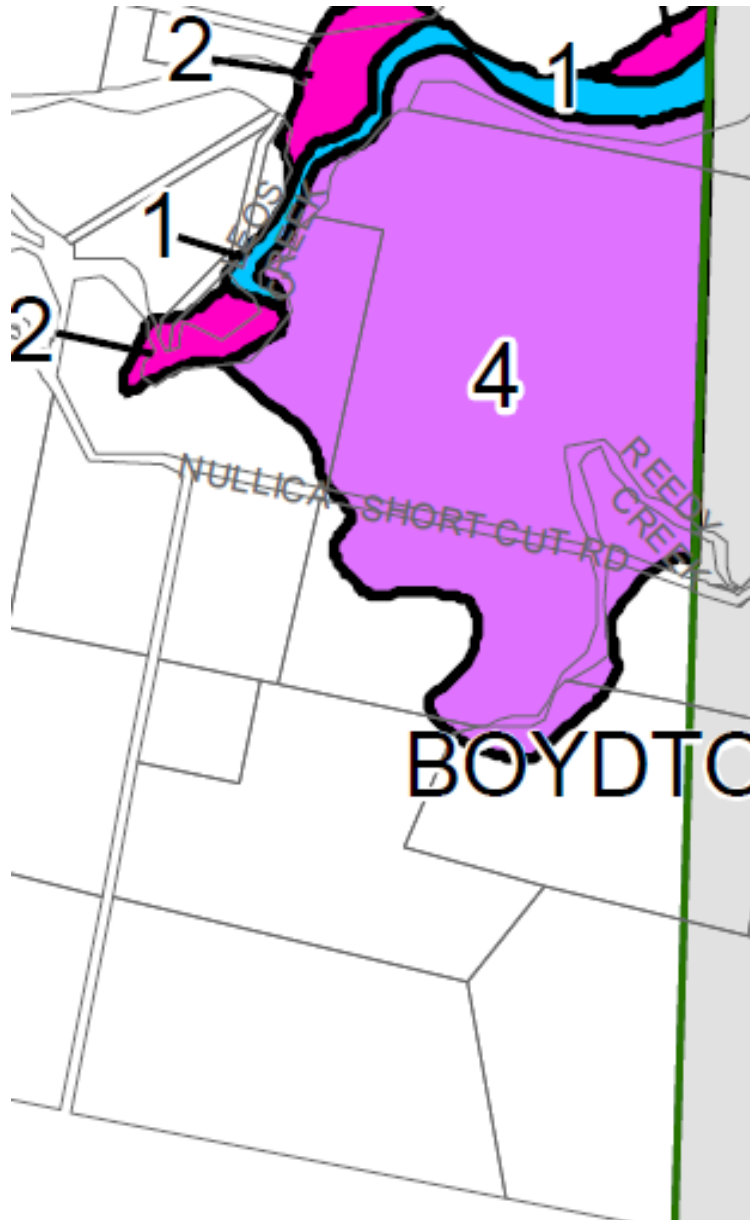


Figure 23: Acid Sulphate Soils extent at Boydtown - Far Western Portion – to be zoned RU2 and E2

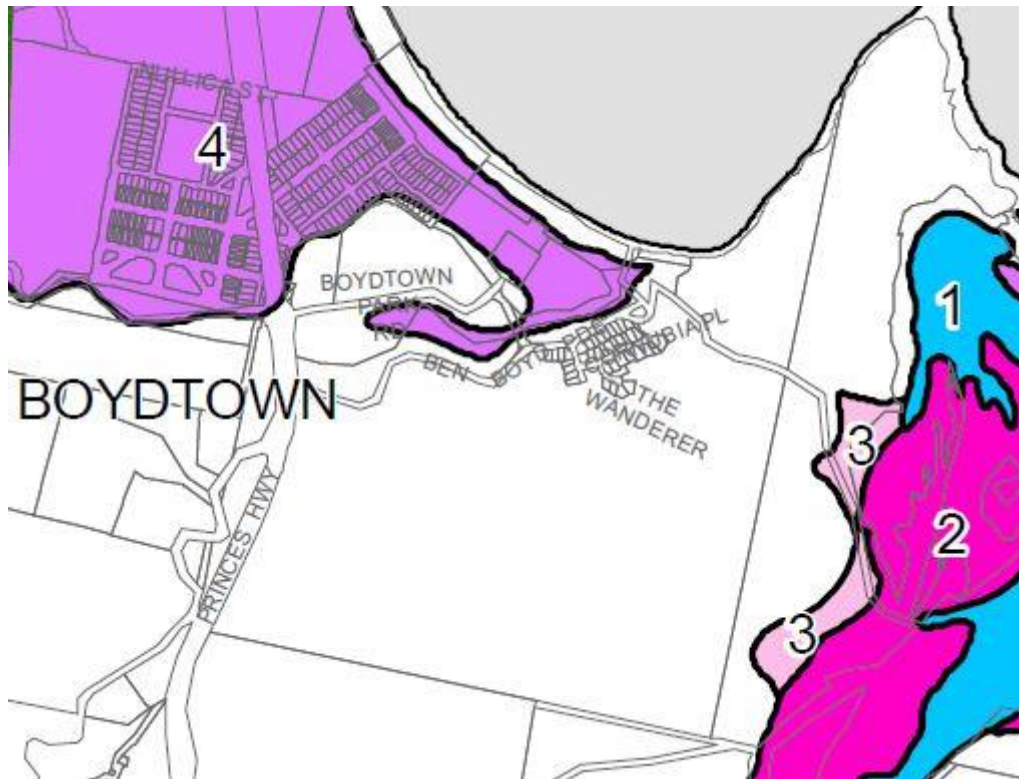


Figure 24: Acid Sulphate Soils Boydton Class 4 soils are located west of the Princes Highway in this PP. This PP also re-zones land classed as Class 2 and 3 Acid Sulphate Soils at the far east of the subject land to E3 and E2 zones.

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

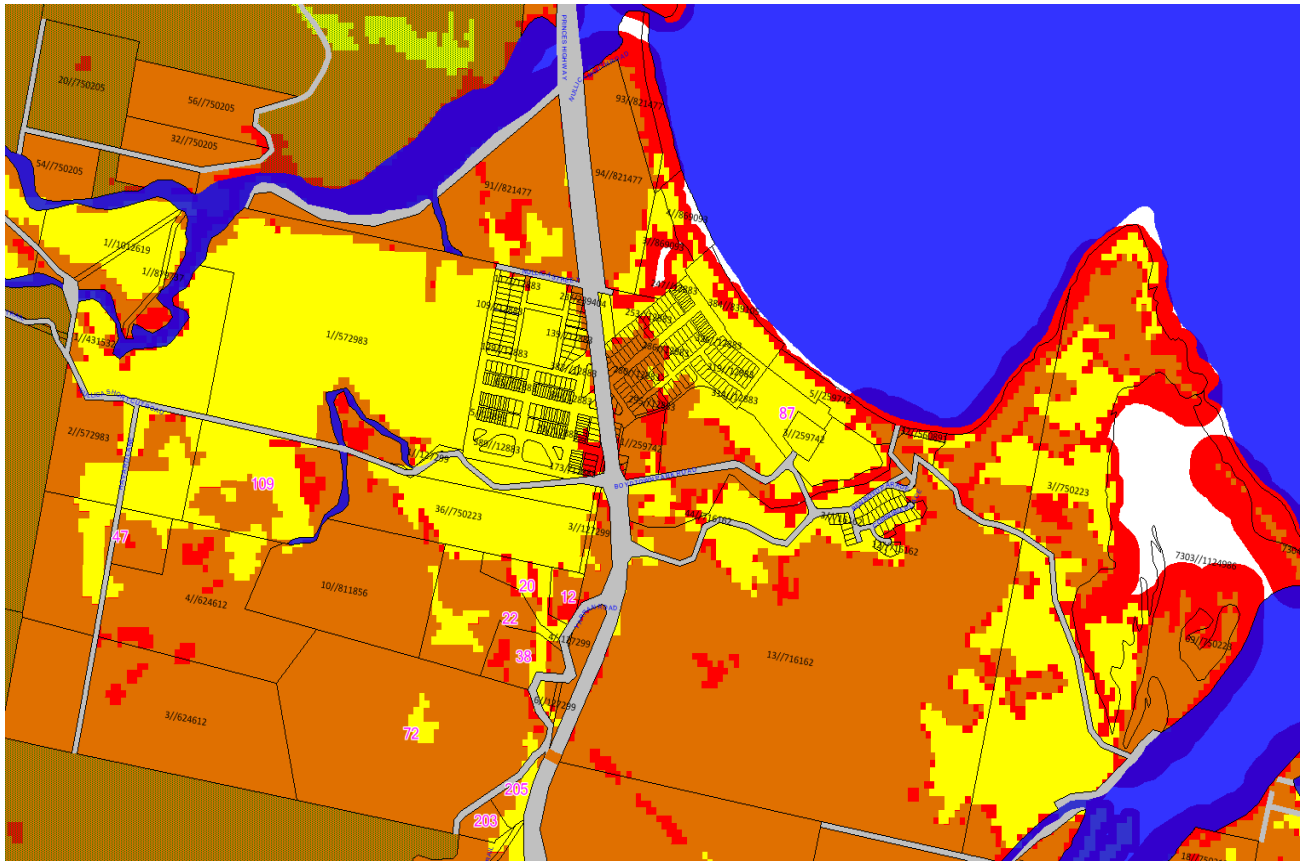


Figure 25: Bushfire Map - the more heavily vegetated country is Vegetation Category 1 (orange) and the open grazing land to the north is Vegetation Category 2 (yellow).

This Planning Proposal is consistent with the objectives of this Direction as it does not encourage the establishment of incompatible land uses and appropriate development of the land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

5.1 Implementation of Regional Strategies

Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

As detailed at Q3, this Planning Proposal is justifiably inconsistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South Coast Regional Strategy.

6.3 Site Specific Provisions

This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no critical habitat in the Bega Valley Shire. With regard to threatened species, populations or ecological communities, all the proposed sites will continue existing land uses. Therefore, it is unlikely that this rezoning, in itself, will cause harm to threatened species or habitats.

The Bioecological Consultants field surveys of mid 2011 for the area covered by the RU2 and partial E2 and E3 zoning to the west of the highway identified six (6) fauna species which are listed as significant (Vulnerable) under the NSW TSC Act . Note that the current subject site of this planning proposal actually extends in more heavily forested lands to the south of the survey area, so the following list may not be complete.

1. Powerful Owl (forested areas)
2. Eastern Bentwing Bat (Reedy Creek)
3. East-coast Freetail Bat (Reedy Creek)
4. Large-footed Myotis (Reedy Creek)
5. Yellow-bellied Glider (near Reedy Creek and Nullica River)
6. Greater Broad-nosed Bat (Reedy Creek)

It is noted that the E2 zone will apply to Reedy Creek. The heavily forested areas of the subject site will be zoned E3.

Note that the sand extraction DA2011.500 has several onerous environmental and land restoration conditions which are designed to protect the sensitive habitat of Reedy Creek.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Nil. The E2 zone will protect the most sensitive areas of Reedy Creek and the sensitive headland / estuary strip of land (formerly 7 (b) land) to the far east of the site.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The effect of this planning proposal will be to protect environmental sensitive lands close to the Towamba and Nullica River mouths and to protect existing grazing lands (sand extraction excepted) and forested areas.

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure requirements for the subject areas are required.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with State and Commonwealth public authorities has been partially undertaken (see JRPP decision August 2015). The level of consultation will be determined by the NSW Department of Planning and Environment when it makes its Gateway Determination.

Part 4 – Mapping

Changes to the proposed map sheets will be undertaken in a suitable format for public exhibition once the Gateway Determination is issued.

This Planning Proposal will result in changes the following properties on the following BVLEP 2013 maps:

LAP_001

Amend map sheet LAP_001 by deleting:

DM Deferred Matters for

- 1) Lot 721 DP 826975, 2529 Princes Highway, Millingandi,**
- 2) Lot 471 - 472 DP 1043030, Sapphire Coast Drive, Tura Beach.**
- 3) Boydtown – multiple lots see lists below**

West of Princes Highway - Proposed land zoning in brackets for clarity

Lots 1 – 147, 157 – 178, 382 – 383, 386 – 391 DP 12883 (RU2)

Lots 11 – 14 DP 1199147 (RU2)

Lots 21-37 DP 239404 (RU2)

Lots 1 – 2 DP 127299 (RU2)

Lot 1 and 2 DP 572983 (part E2) (part E3)(part RU2)

Part Lot 13 DP 716162 (E3) – the three ‘island’ sections west of highway

Lots 2 and 36 DP 750223 (part E2) (part E3)

Lot 10 DP 811856 (part E2) (part E3)

Lots 2 – 4 DP 624612, (part E3) (part E2)

Boydtown, east of Princes Highway - Proposed land zoning in brackets for clarity

Part Lot 13 DP 716162 (E3) east of highway excluding deferred land north of the main ridge

Lot 3 DP 750223 (E2, E3)

Lot 5 DP 259742, Lot 32 560891, Lot 44 DP 716162 (RE1) - foreshore land

LZN_013

Amend map sheet LZN_013 by applying:

- E2 Environmental Conservation (no MLS), RU2 Rural Landscape and E4 Environmental Living to various lots listed under LAP_001 as Lyons Group Landholdings, Boydtown.

LSZ_013

Amend map sheet LSZ_013 by applying:

- AD 120 Ha to RU2 Rural Landscape, AB4 40Ha to E3 Environmental Management and AB4 10 Ha to E4 Environmental Living to various lots listed under LAP_001 as Lyons Group Landholdings, Boydtown.

LZN_020

Amend map sheet LZN_020 by applying:

- E3 Environmental Management to part of Lot 721 DP 826975
- E2 Environmental Conservation to part of Lot 721 DP 826975

LSZ_020

Amend map sheet LSZ_020 by applying:

- AA2 7 Hectares to part of Lot 721 DP 826975

LZN_020B

Amend map sheet LZN_020B by applying:

- E3 Environmental Management to part of Lot 721 DP 826975
- E2 Environmental Conservation to part of Lot 721 DP 826975

LSZ_020B

Amend map sheet LSZ_020B by applying:

- AA2 7 Hectares to part of Lot 721 DP 826975

LZN_020C

- Amend map sheet LZN_020C by applying:
- RU2 Rural Landscape and E4 Environmental Living to Lot 471 and Lot 472 DP 1043030.
- E2 Environmental Conservation to Lot 472 DP 1043030

LSZ_020C

Amend map sheet LSZ_020C by applying:

- AD 120 Ha to RU2 Rural Landscape Lot 471 and Lot 472 DP 1043030.
- Y 1 Ha to E4 Environmental Living Lot 471 and Lot 472 DP 1043030.

LZN_021

Amend map sheet LZN_021 by applying:

- Amend map sheet LZN_021 by applying E2 Environmental Conservation (no MLS), RU2 Rural Landscape, E4 Environmental Living and RE1 Public Recreation (no MLS) to various lots listed under LAP_001 as 'Boydtown'.

LSZ_021

Amend map sheet LSZ_021 by applying:

- AD 120 Ha to RU2 Rural Landscape, AB4 40Ha to E3 Environmental Management and AB1 10 Ha to E4 Environmental Living to various lots listed under LAP_001 'Boydton'.

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. It is likely that the Proposal will be exhibited as a 'low' impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of *A Guide to Preparing LEPs*.

Public exhibition of the planning proposal will include notification on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Merimbula News Weekly, Eden Magnet and Bega District News) and in writing to affected and adjoining landowners.

Information relating to the Planning Proposal will also be on display at the following Bega Valley Shire Council customer service centres:

Place	Address
Bega	Zingel Place Civic Centre, Bega NSW 2550
Tura Beach	Marrang Tura Library, Tura Beach Drive, Tura Beach 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2551
Bermagui	Bunga St Library, Bermagui NSW 2546

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by September 2017.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council's General Manager or Group Manager Planning and Environment.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to the Department	January 2017
STAGE 2 – Receive Gateway Determination	February 2017
STAGE 3 – Preparation of documentation for Public Exhibition	February 2017
STAGE 4 – Public Exhibition of the Planning Proposal	March 2017
STAGE 5 – Review/consideration of submissions received	April 2017
STAGE 6 – Council Report	April 2017
STAGE 7 – Meetings	May 2017
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	May 2017
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	June 2017
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	June 2017

Attachment 1 – Minutes of Council Meeting

8.2. Strategic Direction for nine Deferred Sites in Bega Valley Local Environmental Plan 2013

This report seeks Council's resolution of a strategic direction for nine sites currently deferred in Bega Valley Local Environmental Plan 2013 and to proceed with the preparation of Planning Proposals for six of those sites.

Director Planning and Environment

Background

The gazettal of Bega Valley Local Environmental Plan (BVLEP 2013) left a number of sites throughout the Shire as 'Deferred Matters' as the zonings and/or lot sizes proposed by landowners represented a significant departure from the exhibited draft Bega Valley Local Environmental Plan (draft BVLEP 2010) or required more detailed investigations.

Council is requested to resolve a strategic direction for each of the following nine (9) sites and for planning proposals to be prepared for Sites 1 to 6 .

Site #	Subject Site
1	Boydton Property (excluding the area around the Seahorse Inn)
2	Summerhill Rd, South Pambula
3	Princes Highway, South Pambula
4	Old Mill Road, Wolumla
5	Princes Highway, Millingandi
6	Mandeni, Sapphire Coast Drive
7	Wolumla - Candelo Road, Wolumla
8	Clarke Street, Wolumla
9	Scott Street, Wolumla

Proposed Strategic Direction

Site 1 – Boydton Property (excluding the area around the Seahorse Inn)

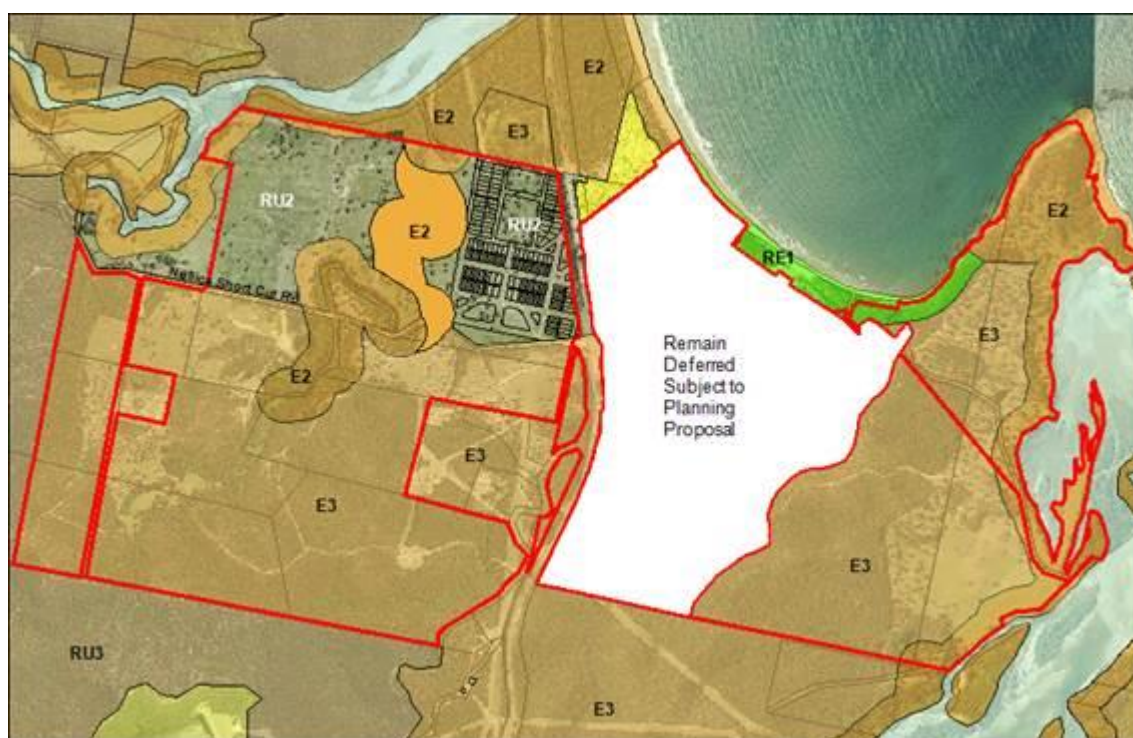
The Southern Joint Regional Planning Panel (JRPP) examined the Boydton property in detail, following the submission of a Masterplan and Planning Proposal by the property owner. The JRPP made explicit recommendations with regard the zoning of the majority of the Boydton property. These recommendations were endorsed by the Minister for Planning and Environment.

Following the JRPP decision, officers have been in ongoing discussions with representatives of the site's owner. The owner has been strongly encouraged to focus on the area east of the Princes Highway, around the Seahorse Inn and proposed marina. Council has recently received a Planning Proposal covering this area, which will be the subject of a future report to Council.

Officers recommend the remainder of the site revert to the 2010 exhibited zonings of E2 and E3 in accordance with Council Policy applied across the Shire for sensitive coastal and forested lands, with the exception of the cleared paddocks north of the Nullica Short Cut Road, subject to the existing sand mining development approvals. It is recommended this land be zoned RU2 Rural Landscape and the north – south drainage line be protected by an E2 Environmental Conservation zoning.

Further it is advised a Planning Proposal from the property owner has recently been received for this land. The Planning Proposal requests zonings and lot yields that are inconsistent with the Decision of the JRPP, inconsistent with the position of the Minister for Planning and Environment, inconsistent with Council Policy applied across the Shire for sensitive coastal and forested lands and is therefore not supported by Council officers.

A copy of the owner's Planning Proposal is included as Attachments 1 to this report. Five appendices have been lodged with the main report covering the subjects of Water Management Investigation; Economic Impact Assessment; Plans; Visual Impact Assessment; and Constraints Analysis. The appendices will be tabled at the Council Meeting.



Recommendation: That the land north of Nullica Short Cut Road be zoned RU2 (120ha) and E2 (no lot size); the remainder of the land west of the Princes Highway be zoned E3 (10ha) and E2 (no lot size); and the south eastern section of the property adjoining the Towamba River estuary be zoned E3 (40ha) and E2 (no lot size).

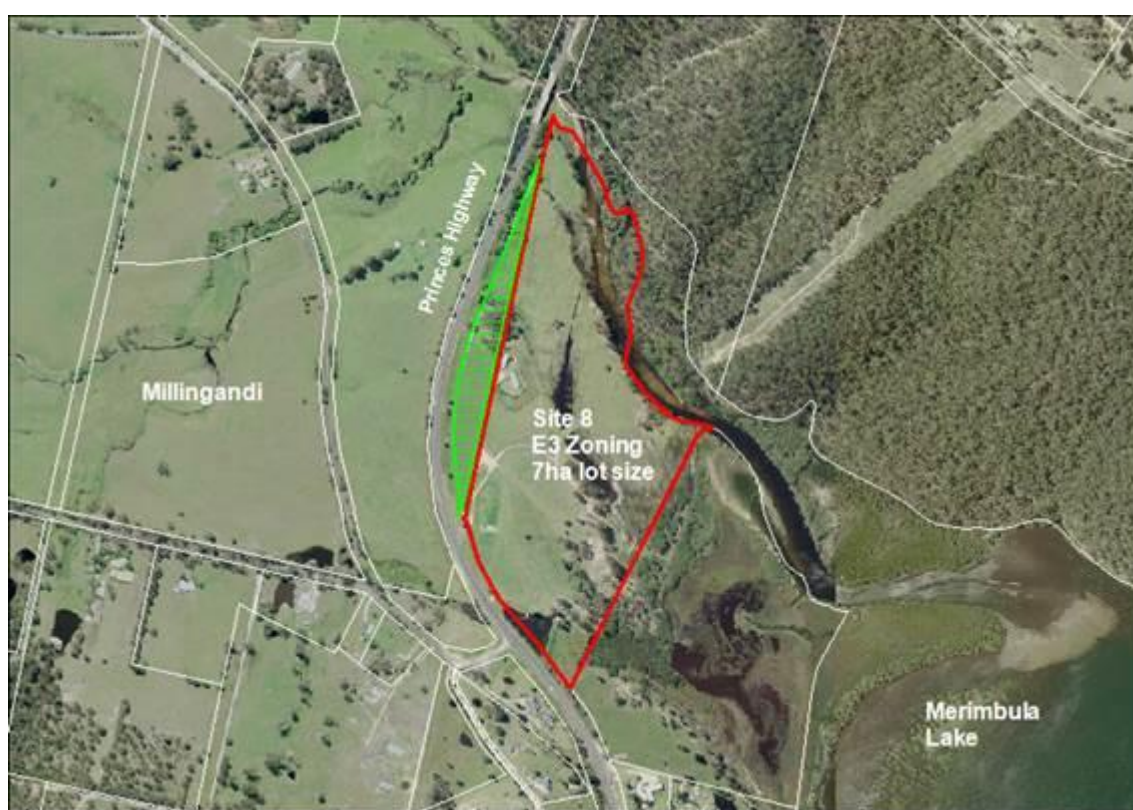
	Draft BVLEP 2010	Recommendation for 2016 Planning Proposal
Zones	E2, E3	E2, E3, RU2
Lot Sizes	10ha, 40ha, 120ha	10ha, 40ha, 120ha

Site 5 - Princes Highway, Millingandi

Site 5 covers an area of 18ha on the western side of Merimbula Lake adjacent to Millingandi Creek. The site was exhibited with an E3 zoning and a 120ha minimum lot size, which would prevent any further subdivision. The site was deferred following an address to Council in which a 5ha minimum lot size was requested. The 5ha minimum lot size was supported by Council, provided an On-site Sewage Management (OSSM) report was prepared to confirm the site's suitability for further subdivision.

The OSSM report has recently been completed and indicates that Site 5 is only suitable for one (1) additional lot, unless adjoining land (shaded green on the figure below) can be acquired to provide for further effluent treatment capacity. The owner of the site is currently negotiating to purchase the neighbouring land. Should this purchase be achieved, the OSSM report indicates the newly expanded property has the capacity for a maximum of three (3) lots (including the existing dwelling).

Council officers recommend the land retain its E3 zoning with a 7ha minimum lot size, providing for one (1) additional lot. Should the neighbouring land be purchased and incorporated into Site 5, the 7ha lot size would result in a total of two (2) additional lots.



Recommendation: That the land be zoned E3 with a 7ha minimum lot size.

	Draft BVLEP 2010	Recommendation for 2016 Planning Proposal
Zones	E3	E3
Lot Sizes	120ha	7ha

Site 6 - Mandeni, Sapphire Coast Drive

Site 6 was deferred from BVLEP 2013 to allow for the owner to prepare a comprehensive masterplan for the property. Council requested that key aspects to be covered in the masterplan were to include the relocation of existing approved lots away from high conservation value forest and a detailed

socio-economic and servicing strategy, to enable consideration to be given for the subdivision of the existing tourist cabin development. Council has yet to receive an updated masterplan for the site.

Council has previously considered the relocation of the existing development entitlements and subdivision of the cabins through a workshop and site visit. The relocation of the existing development entitlements to the 'racecourse paddock' was supported on the proviso that the relocated lots would not be located within the forest fringe. The relocation of the development entitlements will require an amendment of the exhibited zoning from RU2 to E4 for this part of the property. The high conservation value forest currently zoned E4 in the eastern section of the property would be changed to E2.

Due to the lack of a socio-economic and servicing strategy being received to support the cabin subdivision, it is proposed to "un-defer" this section of the property to the exhibited E4 zoning. Should the owner wish to continue to pursue the subdivision of the cabins, they are able to submit a planning proposal in the future based on the requested socio-economic and servicing studies.



8.2 Strategic Direction for nine Deferred Sites in Bega Valley Local Environmental Plan 2013

The Chairperson asked the Acting Director, Planning and Environment if any new matters had been raised in the address to Council. The Acting Director advised that in his opinion no new matters had been raised. Further the Acting Director provided advice and clarification to Councillors relating to the matters raised.

RESOLVED on the motion of Crs Britten and Fitzpatrick

That Council the matters be dealt with today, and that Item a) Site 1, be dealt with separately.

IN FAVOUR: Crs McBain, Tapscott, Seckold, Britten, Mawhinney, Taylor, Fitzpatrick and Allen

AGAINST: Cr Hughes

109/16 RESOLVED on the motion of Crs Britten and McBain

That in relation to :

a) **Site 1 – Boydtown Property (excluding the area around the Seahorse Inn)**

That the land north of Nullica Short Cut Rd be zoned RU2 (120ha) and E2 (no lot size); the remainder of the land west of the Princes Hwy be zoned E3 (10ha) and E2 (no lot size); and the south eastern section of the property adjoining the Towamba River estuary be zoned E3 (40ha) and E2 (no lot size).

Council adopts the recommendation and defer implementation until 8 August, 2016 to allow the Developer to gain written advice from the Department of Planning that the Department will revisit the E-zones for Boydtown. If such advice is received the matter to be relisted for the meeting to be held on 10 August 2016.

IN FAVOUR: Crs McBain, Tapscott, Seckold, Britten, Mawhinney, Taylor and Allen

AGAINST: Crs Hughes and Fitzpatrick.

Recommendation

Crs Fitzpatrick and Mawhinney

1. That the zoning and lot sizes for Site 1 be as per the previous resolution number 109/16.

a) **Site 1 – Boydtown Property (excluding the area around the Seahorse Inn)**

That the zoning and lot sizes for Sites 2 - 6 be as follows:

b) **Site 2 - Summerhill Rd, South Pambula**

That the land be zoned E4 with a 1ha lot size applied to the substantially cleared, eastern section of the property and a 5ha minimum be applied to the western, more heavily vegetated section of the property.

c) **Site 3 - Princes Highway, South Pambula**

That the site be zoned E4 with a 5ha minimum lot size and the consultant acting for the owner be advised and encouraged to submit a revised Planning Proposal based on this zoning and lot size.

d) **Site 4 - Old Mill Road, Wolumla**

That the land fronting Old Mill Road be zoned E4 with a 2ha lot size. The remainder of the property be zoned E3 with a 30ha lot size.

e) **Site 5 - Princes Highway, Millingandi**

That the land be zoned E3 with a 7ha minimum lot size.

f) **Site 6 - Mandeni, Sapphire Coast Drive**

That the land be zoned and lot sized E4 (1ha), RU2 (120ha) and E2 (no lot size).

2. That staff be authorised to forward Planning Proposals to the Department of Planning for Gateway determination for Sites 1 - 6 as per the zoning and lot sizes resolved above.
3. That following Gateway determination the Planning Proposals be placed on public exhibition and, following the exhibition period, a further report be submitted to Council for incorporation of the subject land into Bega Valley Local Environmental Plan 2013.

Council Resolution Follow up Boydtown resolution

Ordinary

Meeting Notice and Agenda

An Ordinary Meeting of the Bega Valley Shire Council will be held at Council Chambers, Biamanga Room Bega Commemorative Civic Centre on Wednesday, 10 August 2016 commencing at 2.00 pm to consider and resolve on the matters set out in the attached Agenda.

3 August 2016

Confirmation of Minutes

Recommendation

That the Minutes of the Ordinary Meeting and Closed session held on 20 July 2016 as circulated, be taken as read and confirmed.

Staff Reports –Planning And Environment (Sustainability)

8.1. Planning matters from Council meeting 20 July 2016

Council considered two matters at its meeting on 20 July 2016. Late reports on these matters may be considered if all material requested is received prior to the meeting.

General Manager

Background

At its meeting on 20 July 2016 Council considered reports relating to:

8.2 Item 8.2 Strategic Directions for nine deferred sites under the Bega Valley LEP 2013

Council resolved that in relation to:

- a) **Site 1 – Boydtown Property (excluding the area around the Seahorse Inn)**
That the land north of Nullica Short Cut Rd be zoned RU2 (120ha) and E2 (no lot size); the remainder of the land west of the Princes Hwy be zoned E3 (10ha) and E2 (no lot size); and the south eastern section of the property adjoining the Towamba River estuary be zoned E3 (40ha) and E2 (no lot size).

Council adopts the recommendation and defer implementation until 8 August, 2016 to allow the Developer to gain written advice from the Department of Planning that the Department will revisit the E-zones for Boydtown. If such advice is received the matter to be relisted for the meeting to be held on 10 August 2016.

Recommendation

That Council note the report and consider late items received.

Item 8.2 Strategic Directions for nine deferred sites in the Bega Valley LEP 2013

(Item 8.2 Planning matters from Council meeting 20 July 2016)

- The Chair noted that this item in the report was not considered as no written advice from the Department of Planning had been received.

2. Confirmation of Minutes

RESOLVED on the motion of Crs Mawhinney and Seckold

That the Minutes of the Ordinary Meeting and Closed session held on 20 July 2016 as circulated, be taken as read and confirmed.

IN FAVOUR: Crs McBain, Hughes, Tapscott, Seckold, Britten, Mawhinney, Taylor, Fitzpatrick and Allen

AGAINST: Nil

Attachment 2 - State Environmental Planning Policies

State Environmental Planning Policy		Compliance
SEPP No. 1	Development Standard	N/A
SEPP No. 4	Development without Consent and Miscellaneous Exempt and Complying Development	N/A
SEPP No. 6	Number of Storeys in a Building	N/A
SEPP No. 14	Coastal Wetlands	Consistent
SEPP No. 15	Rural Land Sharing Communities	N/A
SEPP No. 19	Bushland in Urban Areas	N/A
SEPP No. 21	Caravan Parks	N/A
SEPP No. 22	Shops and Commercial Premises	N/A
SEPP No. 26	Littoral Rainforests	N/A
SEPP No. 29	Western Sydney Recreational Area	N/A
SEPP No. 30	Intensive Agriculture	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No. 33	Hazardous and Offensive Development	N/A
SEPP No. 36	Manufactured Home Estates	N/A
SEPP No. 38	Olympic Games and Related Projects	N/A
SEPP No. 39	Spit Island Bird Habitat	N/A
SEPP No. 41	Casino/Entertainment Complex	N/A
SEPP No. 44	Koala Habitat Protection	Consistent
SEPP No. 47	Moore Park Showground	N/A
SEPP No. 50	Canal Estate Development	N/A
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No. 53	Metropolitan Residential Development	N/A
SEPP No. 55	Remediation of Land	Consistent
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A
SEPP No. 59	Central Western Sydney Regional and Open Space and Residential	N/A
SEPP No. 60	Exempt and Complying Development	N/A
SEPP No. 62	Sustainable Aquaculture	N/A
SEPP No. 64	Advertising and Signage	N/A
SEPP No. 65	Design Quality of Residential Flat Development	N/A
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A
SEPP No. 71	Coastal Protection	Consistent
SEPP No. 74	Newcastle Port and Employment Lands	N/A
SEPP	Housing for Seniors or People with a Disability 2004	N/A
SEPP	Building Sustainability Index: BASIX 2004	N/A
SEPP	Major Development 2005	N/A
SEPP	Development on Kurnell Peninsula 2005	N/A
SEPP	Sydney Region Growth Centres 2006	N/A
SEPP	Mining, Petroleum Production and Extractive Industries 2007	Consistent
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	Consistent
SEPP	Affordable Rental Housing 2009	N/A
SEPP	Western Sydney Employment Area 2009	N/A
SEPP	Exempt and Complying Development Codes 2008	N/A
SEPP	Western Sydney Parklands 2009	N/A

Attachment 3 - List of applicable s.117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	Justified Inconsistency
1.3 Mining, Petroleum and Extractive Industries	Consistent
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	Justified Inconsistency
2. Environment and Heritage	
2.1 Environment Protection Zone	Justified Inconsistency
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	N/A
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Justified Inconsistency
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	Consistent
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5 Second Sydney Airport: Badgerys Creek	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	Consistent
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A

Attachment 4 – Environmental Assessment for Site 2 – Sapphire Coast Drive, Tura Beach (‘Mandeni’) 214 Ha Lots 471 & 472 DP1043030

See PDF file entitled

‘The proposed Mandeni Neighbourhood Community Lot 472 Environmental Assessment’

attached to this planning proposal.

Attachment 5 – Southern Joint Regional Planning Panel Review of pre-gateway application (PGR_2014_BEGAV_001) submitted by Inspire Urban Design & Planning (the proponent) on behalf of Boydton Pty Ltd and Boydton Pastoral Pty Ltd.

The Southern Joint Regional Planning Panel (JRPP) examined the Boydton property in detail, following the submission of a Masterplan and Planning Proposal by the property owner. The JRPP made explicit recommendations with regard the zoning of the majority of the Boydton property. These recommendations were endorsed by the Minister for Planning and Environment.

See PDF file attached to this Planning Proposal