

Planning Services

Gateway Determination Report

LGA	Bega Valley
PPA	Bega Valley Shire Council
NAME	Wolumla Deferred Matters (697 homes, 0 jobs)
NUMBER	PP_2018_BEGAV_004_00
LEP TO BE AMENDED	Bega Valley LEP 2013
ADDRESS	Four sites surrounding Wolumla Village
DESCRIPTION	<p>Site 1 - Lot 1 DP947772, Lot 2 DP1048404, Lot 12 DP1176792, Lot 65 DP664914 and Lot 67 DP750238</p> <p>Site 2 - Lot 1 DP1067459, DP 1-10 DP1067548, Lot 2 DP3833, Lot 2-4 SEC9 DP997, Lot 6 DP252442, Lots 9-13 DP3833, Lots 11-24 SEC8 DP997 and Lots 16-17 SEC1 DP997</p> <p>Site 3 - Lot 6 DP1132826</p> <p>Site 4 - Lot 171 DP750238</p>
RECEIVED	8 January 2018 – Revised 9 April 2018
FILE NO.	IRF18/2473
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to apply Standard Instrument LEP zones and minimum lot size provisions to four (4) sites near the township of Wolumla that were deferred during the finalisation of the Bega Valley LEP 2013. The sites remain zoned a mix of zones under the Bega LEP 2002.

A potential development yield of 697 lots with dwelling opportunities is proposed by the proposal. It should be noted that much of this dwelling potential exists under current 2(f) 'future urban' zone under the Bega Valley LEP 2003 which covers large areas of the subject lands. Subdivision and dwelling construction has historically been slow to take up these opportunities around Wolumla.

The proposal is seen as assisting in the delivery of land supply, which will assist in providing more affordable housing opportunities for Bega Valley residents.

A gradual increase in expected population will facilitate greater social opportunities and improved facilities through development of the town centre and provision of improved community facilities as required by a growing centre, that will also benefit existing residents.

Intensification of development has been focused on existing cleared areas where development sites can be achieved with minimal or no impact on the environment.

Population increases will also assist in viability of existing local businesses, encourage new investment in the town, having positive economic impacts.

The current zonings represent an intention that the town of Wolumla will expand. The application of standard instrument zones may assist in providing direction and stimulate future investment and development in the town.

Site description

The planning proposal involves four large sites in proximity to the township of Wolumla.

Site 1 – Candelo-Wolumla Road and Ferndale Lane (Lot 1 DP947772, Lot 2 DP1048404, Lot 12 DP1176792, Lot 65 DP664914 and Lot 67 DP750238)

The site, irregular in shape and involving 5 lots, covers 127.8ha and is generally cleared farming land, gently sloping and containing a number of small farm dams, areas of remnant trees, and a forested ridgeline along the southern edge.

The site adjoins the south west corner of the Wolumla township and has an approved 42 lot subdivision approval on the northern boundary.

Site 2 – Bridge Street, Short Street and Princes Highway Wolumla (Lot 1 DP1067459, DP 1-10 DP1067548, Lot 2 DP3833, Lot 2-4 SEC9 DP997, Lot 6 DP252442, Lots 9-13 DP3833, Lots 11-24 SEC8 DP997 and Lots 16-17 SEC1 DP997)

The site, irregular in shape and comprising 36 vacant lots covers 18.4ha is characterised by remnant trees and small areas containing lands with higher biodiversity significance. Whilst vacant of dwellings, the land is already subdivided into 35 smaller lots adjacent to the existing residential areas to the northern and western edges of Wolumla, and one large residual lot.

Site 3 – Candelo-Wolumla Road and Ferndale Lane Wolumla (Lot 6 DP1132826)

The site, irregular in shape and straddling Candello-Wolumla Road, comprises a single, vacant lot totalling 127.8ha in area and comprising a mix of more environmentally constrained areas of bushland in the northern half of the site, a cleared, less constrained area along the north side of Candelo-Wolumla Rd, and the Frogs hollow swamp area south of the Candelo-Wolumla Road.

Site 4 – Old Mill Road Wolumla (Lot 171 DP750238)

The single lot site, square in shape, containing one existing dwelling, and totalling 41ha in area involves a mix of cleared, less constrained land along its northern boundary, adjacent to Old Mill Road, and more heavily vegetated and constrained land to the south, covering approximately 80% of the site.

Figure 1 below, taken from Council's planning proposal, shows all four sites in proximity to Wolumla Township;

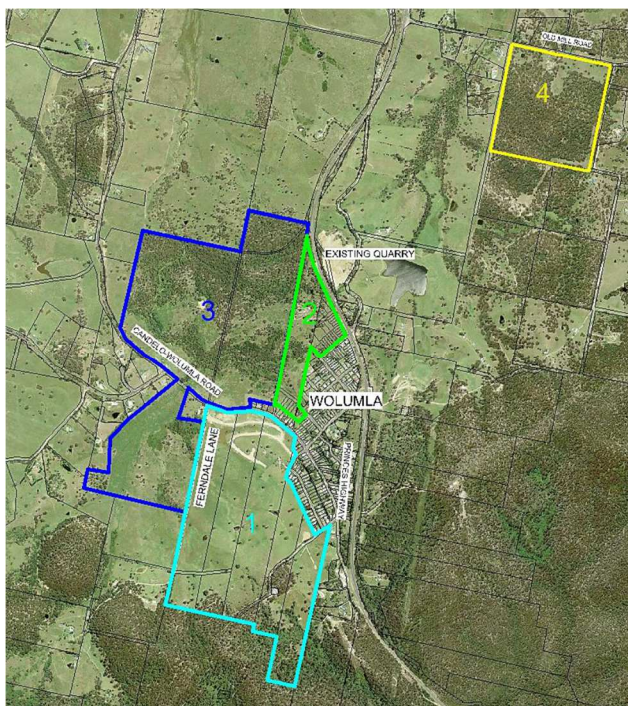


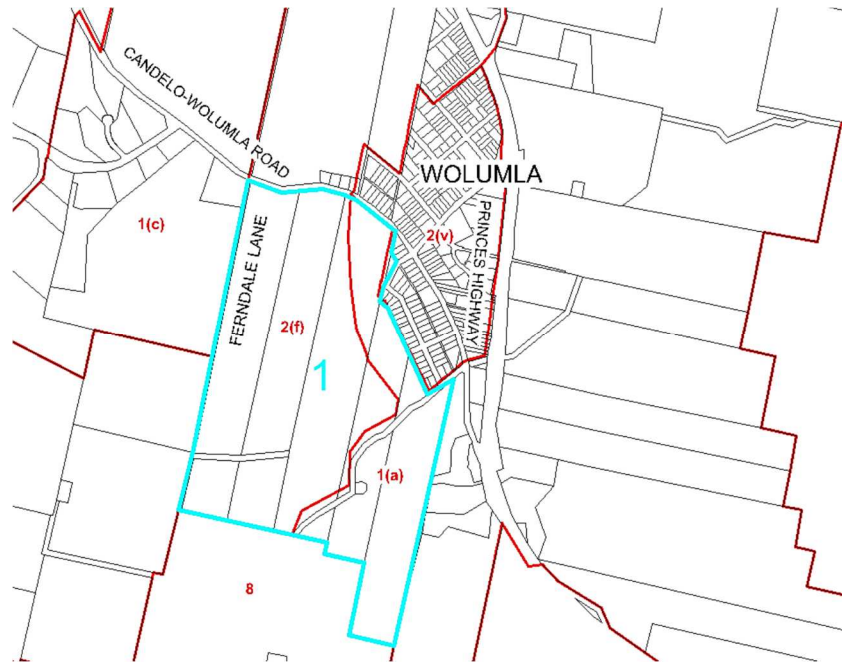
Figure 1 – Site and surrounds map

Source: Council Planning proposal

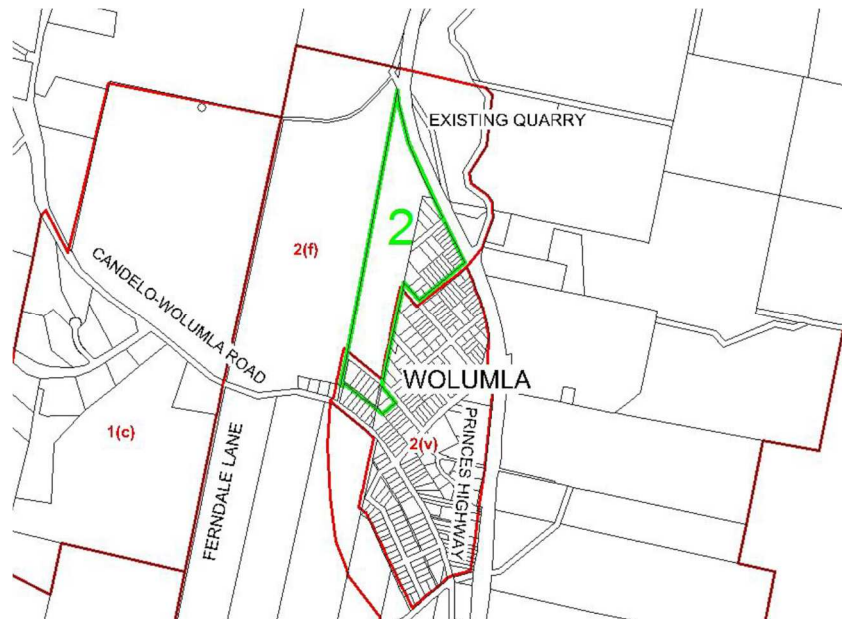
Existing planning controls

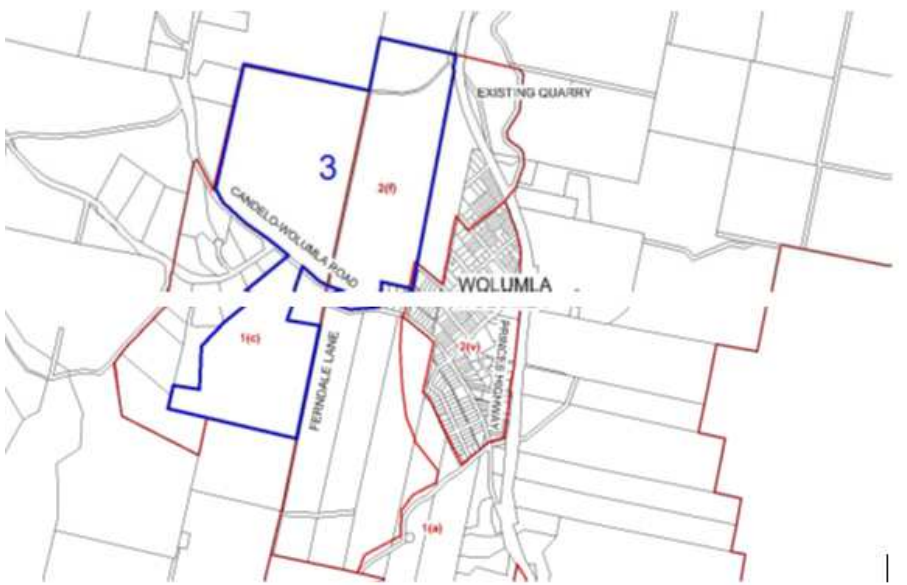
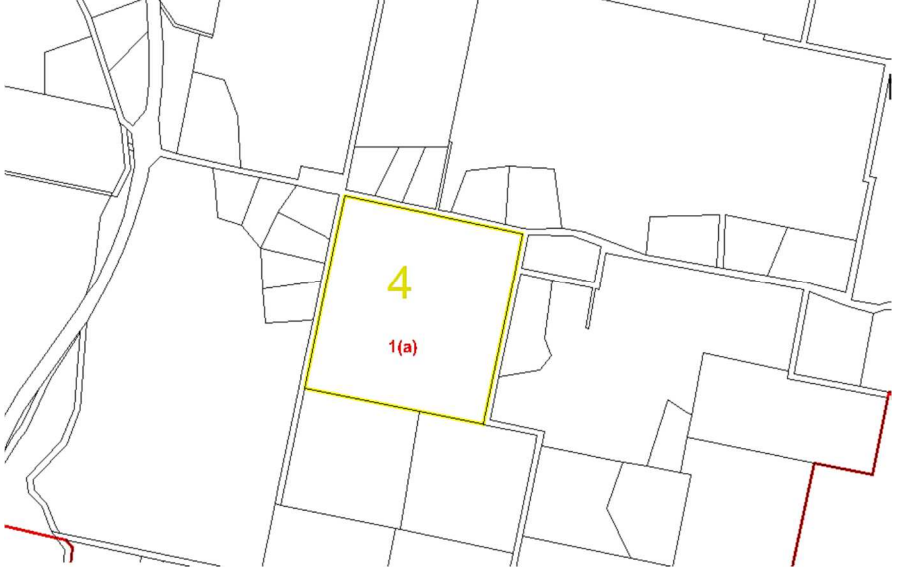
The four sites subject to this planning proposal were all deferred from inclusion within the Bega Valley LEP 2013, and remain zoned under the Bega LEP 2002 as follows:

Site 1 -
Currently zoned
a mix of 1(a)
General rural
and 2(f) Future
Urban



Site 2 -
Currently zoned
a mix of 2(f)
Future urban
and 2(v) Village



<p>Site 3 – Currently zoned a mix of 1(c) Rural small holdings and 2(f) Future urban</p>	
<p>Site 4 - Currently zoned a mix of 1(a) General rural</p>	

Map source: Council Planning proposal

Surrounding area

The planning proposal involves four relatively large sites on the outskirts of the Wolumla Village.

To the south of site 1, and south east of the existing Wolumla township, extensive areas of dense bushland characterises more mountainous topography, limiting expansion of the town into those areas.

To the north and west, land surrounding and adjacent to Wolumla is characterised by largely cleared agricultural land and some larger lot, rural residential developed areas. These areas include sites 1, 2 and 3 of this planning proposal.

Figure 1 earlier in this report shows broadly the environmental characteristics and land use characteristics of land surrounding the subject sites and the town of Wolumla.

Summary of recommendation

Proceed with condition – The general strategic merit, and need to introduce standard instrument LEP zones to deferred areas is supported, however a number of amendments are required to the planning proposal prior to consultation to correct a number of errors and make the documentation clear for the reader.

PROPOSAL

Objectives or intended outcomes

The objectives/intended outcomes are not clearly identified in the planning proposal; however they are more appropriately discussed in the background section at the start of the planning proposal.

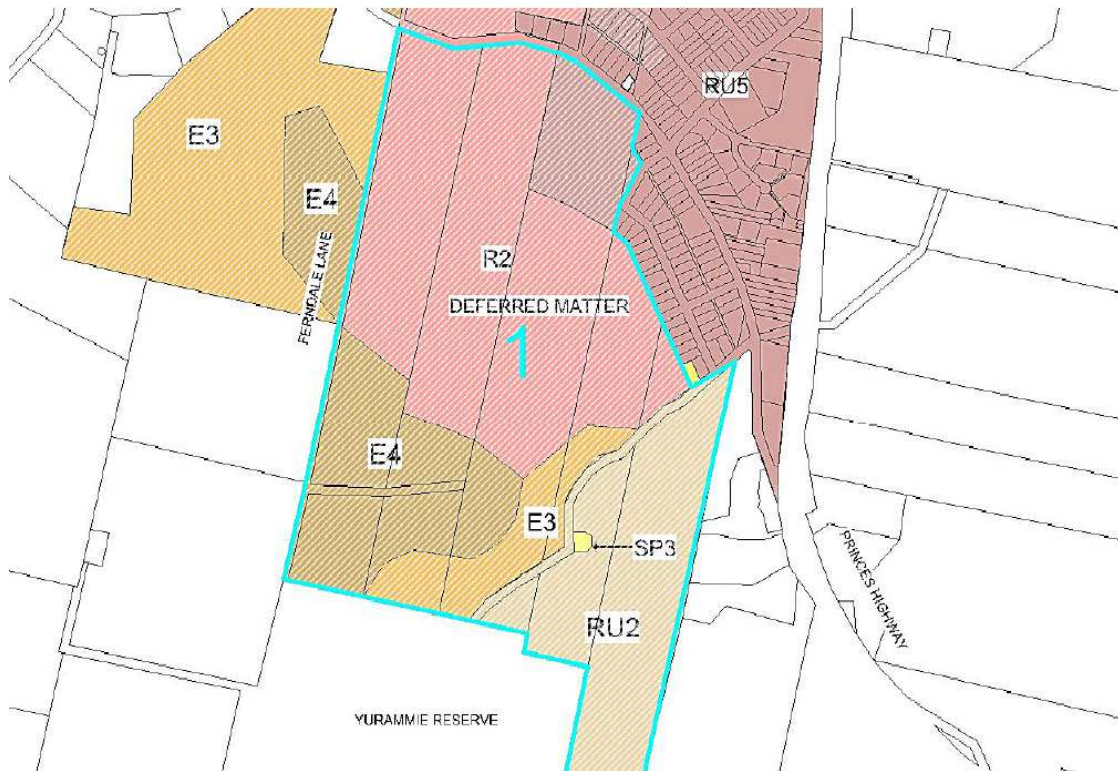
Prior to public exhibition, Council is to rework the proposal so that the objectives/outcomes better represent what Council seeks to achieve by the planning proposal, rather than essentially outlining the provisions being put in place which is more appropriately identified in the Explanation of Provisions section later in the planning proposal. Further, the table on page 5 of the proposal requires correction to identify the current (Bega Valley LEP 2002) vs proposed zones/lot sizes in this planning proposal. This table is also better placed in the Explanation of Provisions section of the proposal.

Explanation of provisions

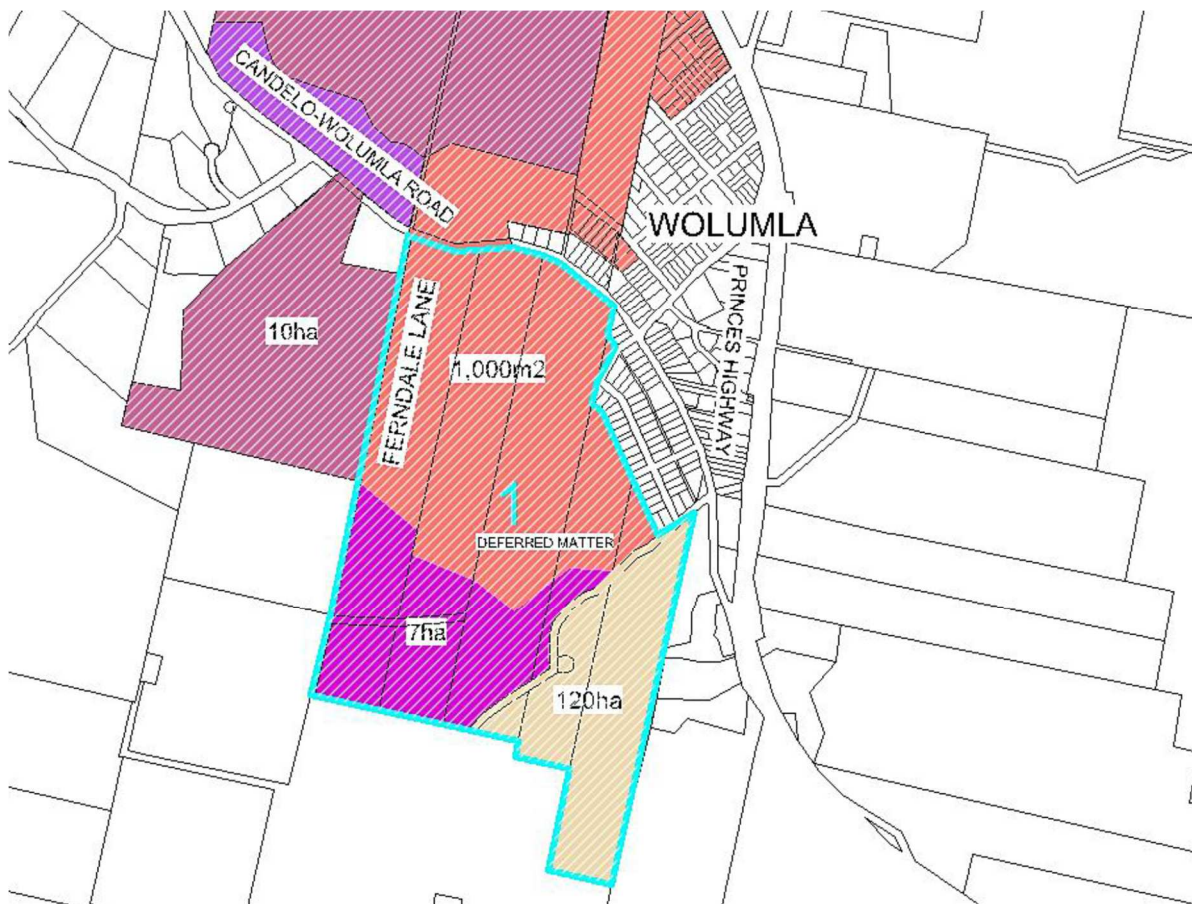
The planning proposal identifies the mapping changes required for each of the 4 sites, including zoning and lot size maps, as well as amendment of the Land application map to include these deferred lands into the current LEP. The summary table provided on page 5 of the planning proposal, once corrected as discussed above, would provide a useful inclusion in this section.

Council proposes the application of the following land zoning and lot sizes for each of the 4 sites.

Site 1

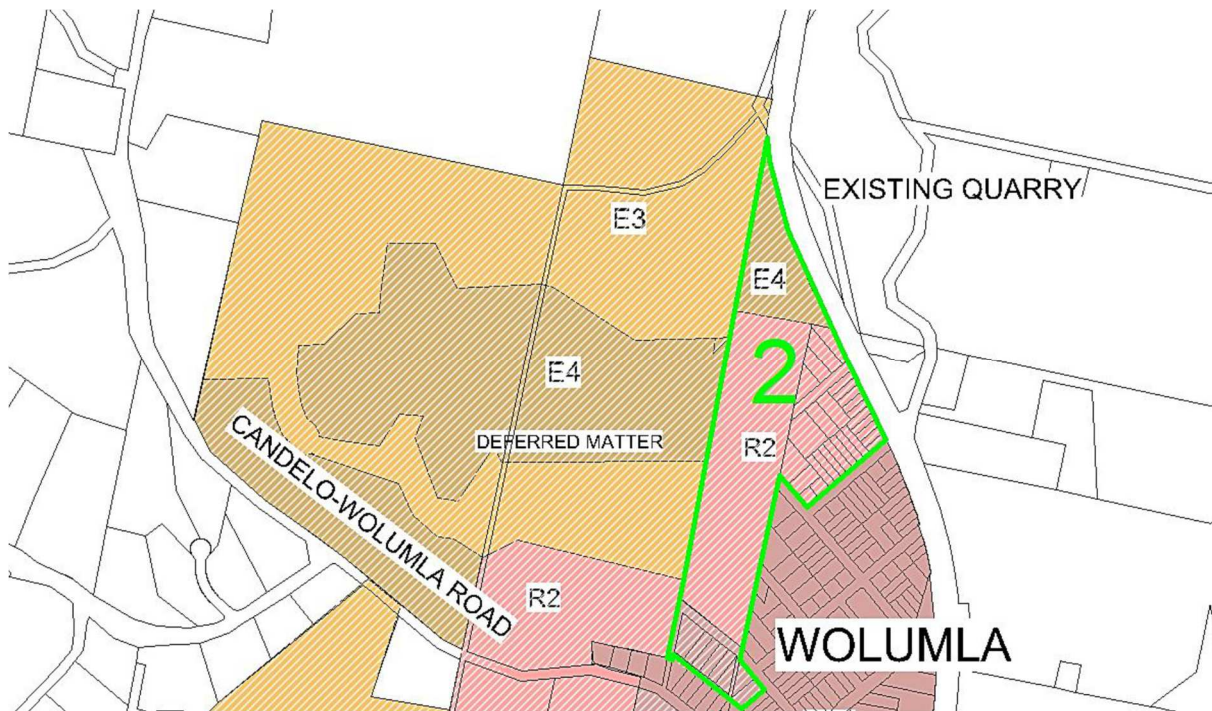


Site 1 – Proposed Zoning – Source: Council planning proposal

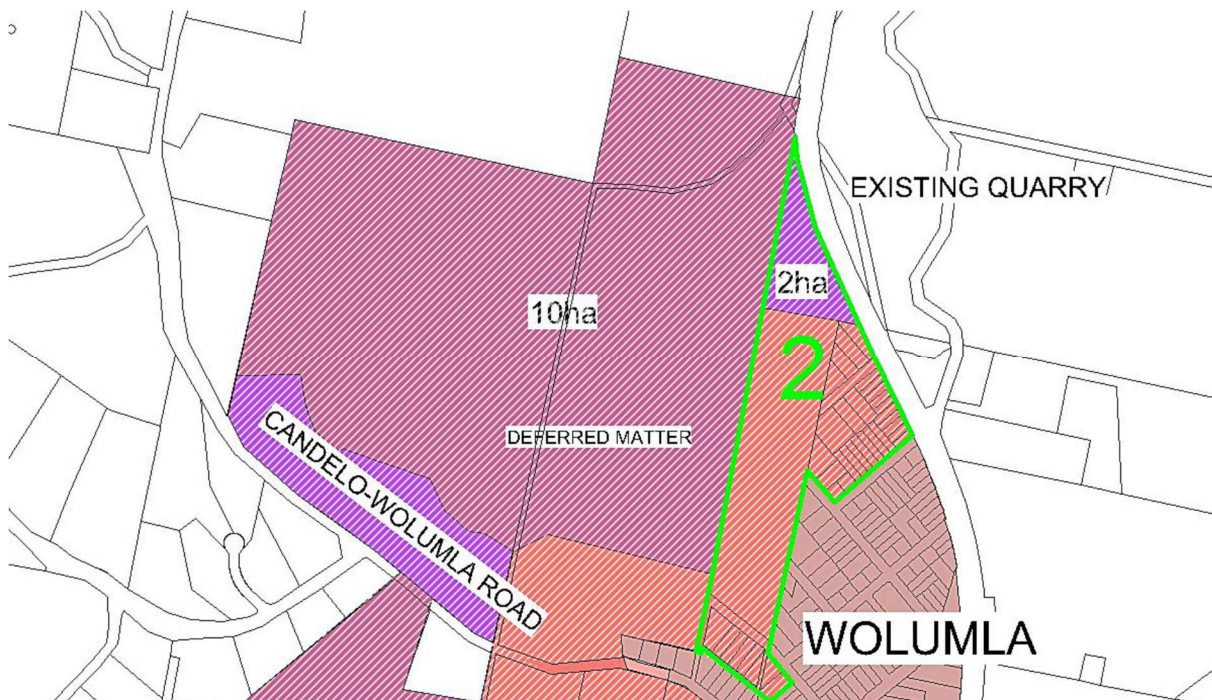


Site 1 – Proposed Lot sizes – Source: Council planning proposal

Site 2

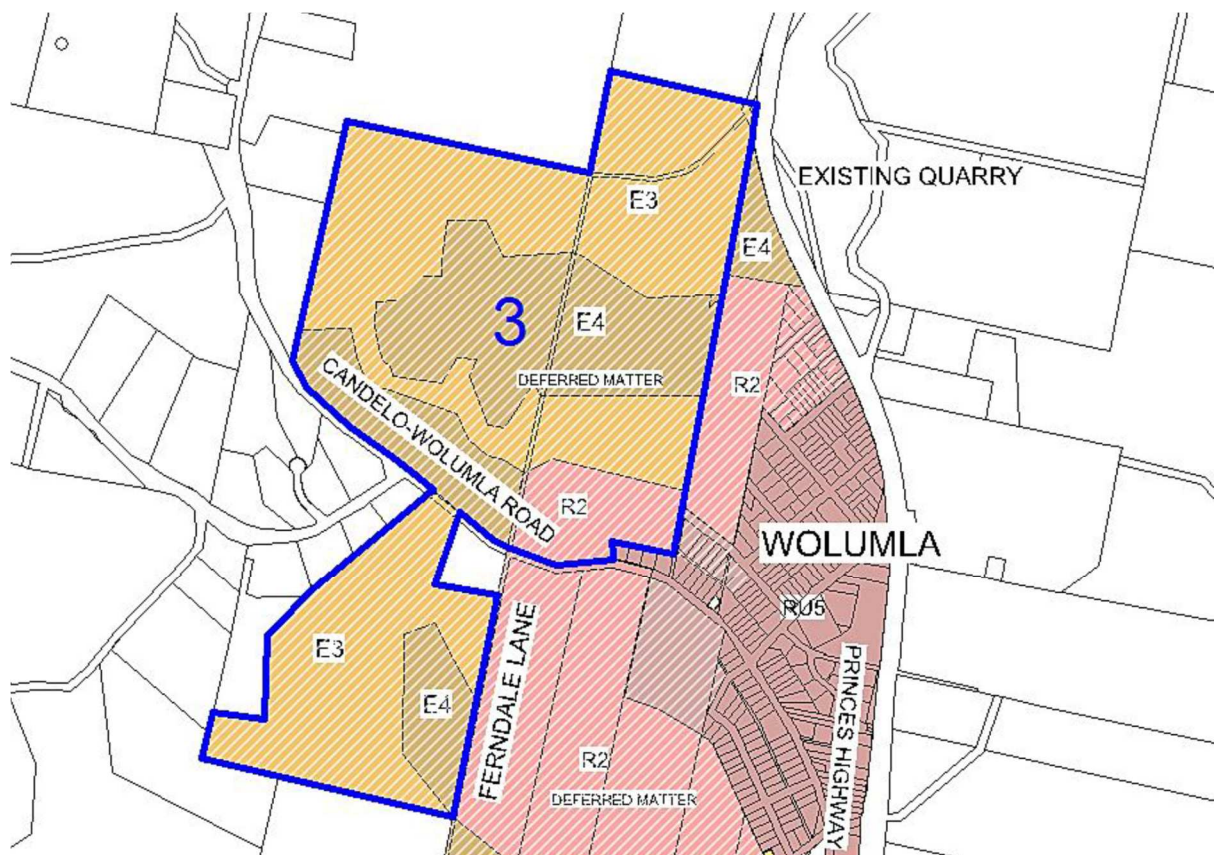


Site 2 – Proposed Zoning – Source: Council planning proposal

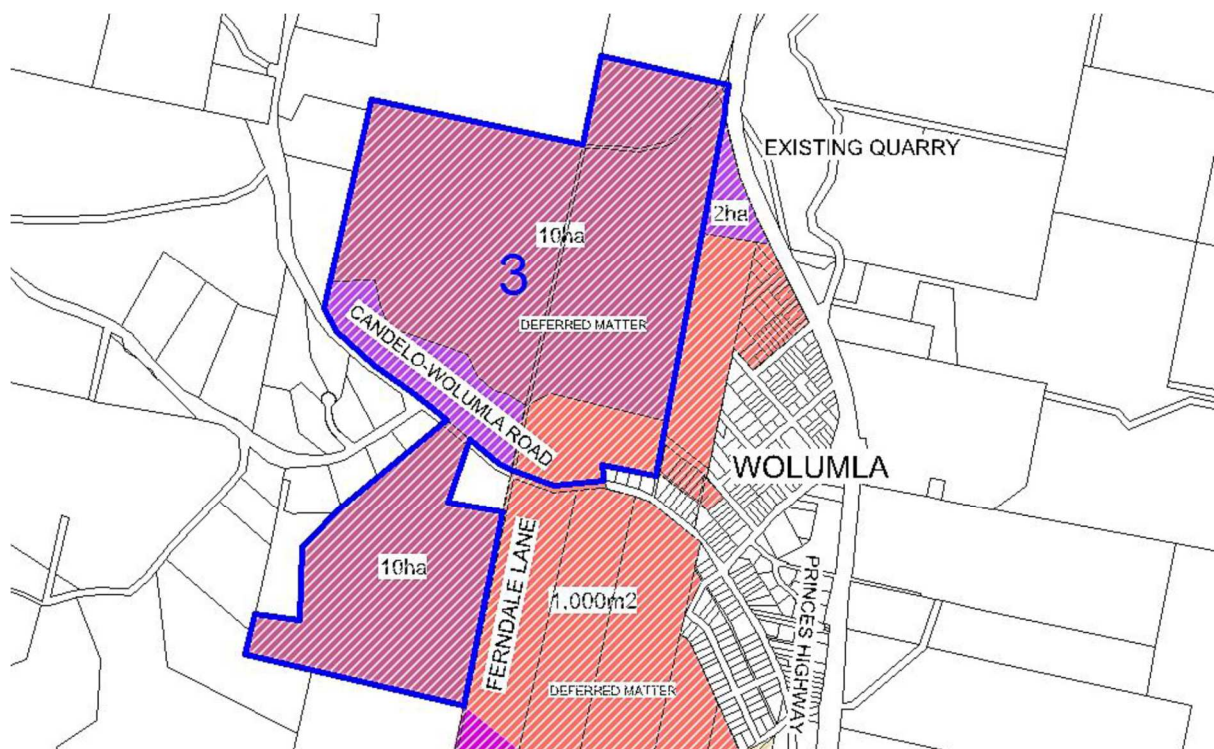


Site 2 – Proposed Lot sizes – Source: Council planning proposal

Site 3

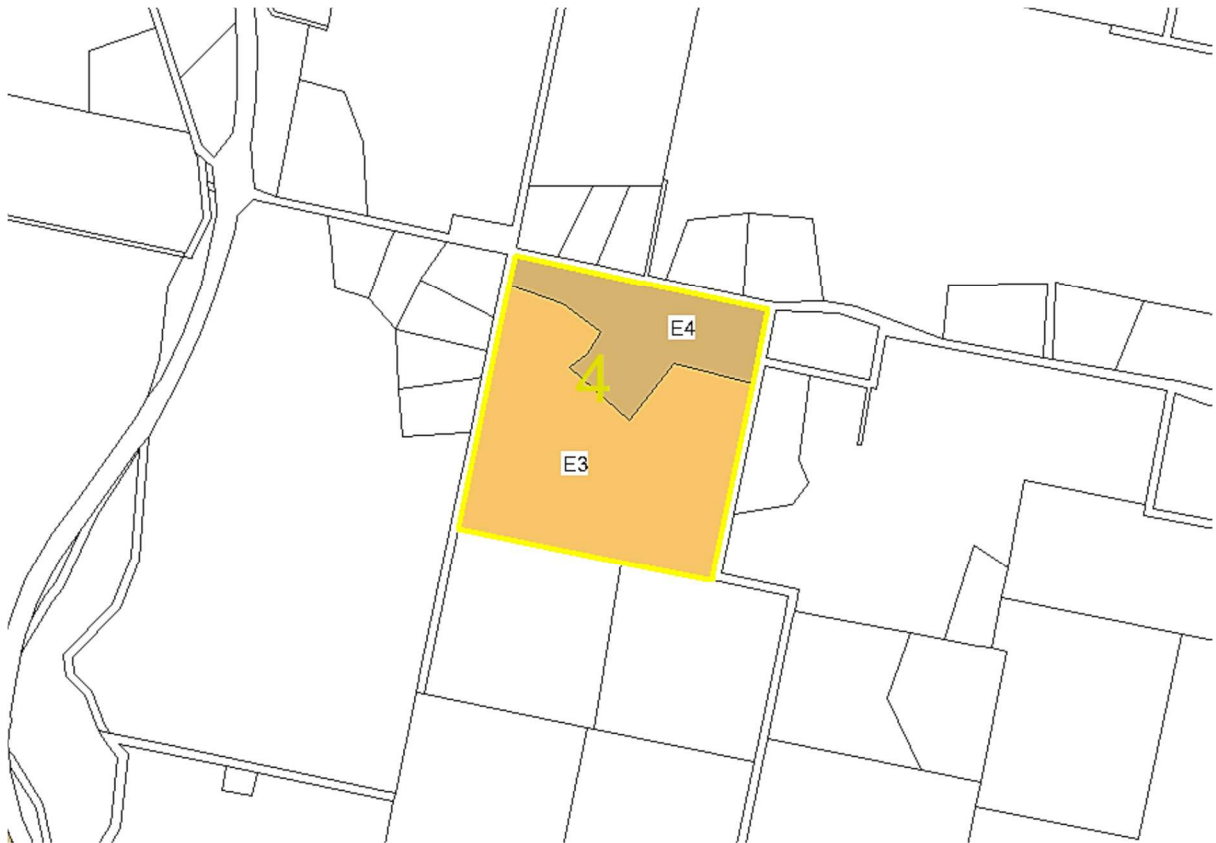


Site 3 – Proposed Zoning – Source: Council planning proposal

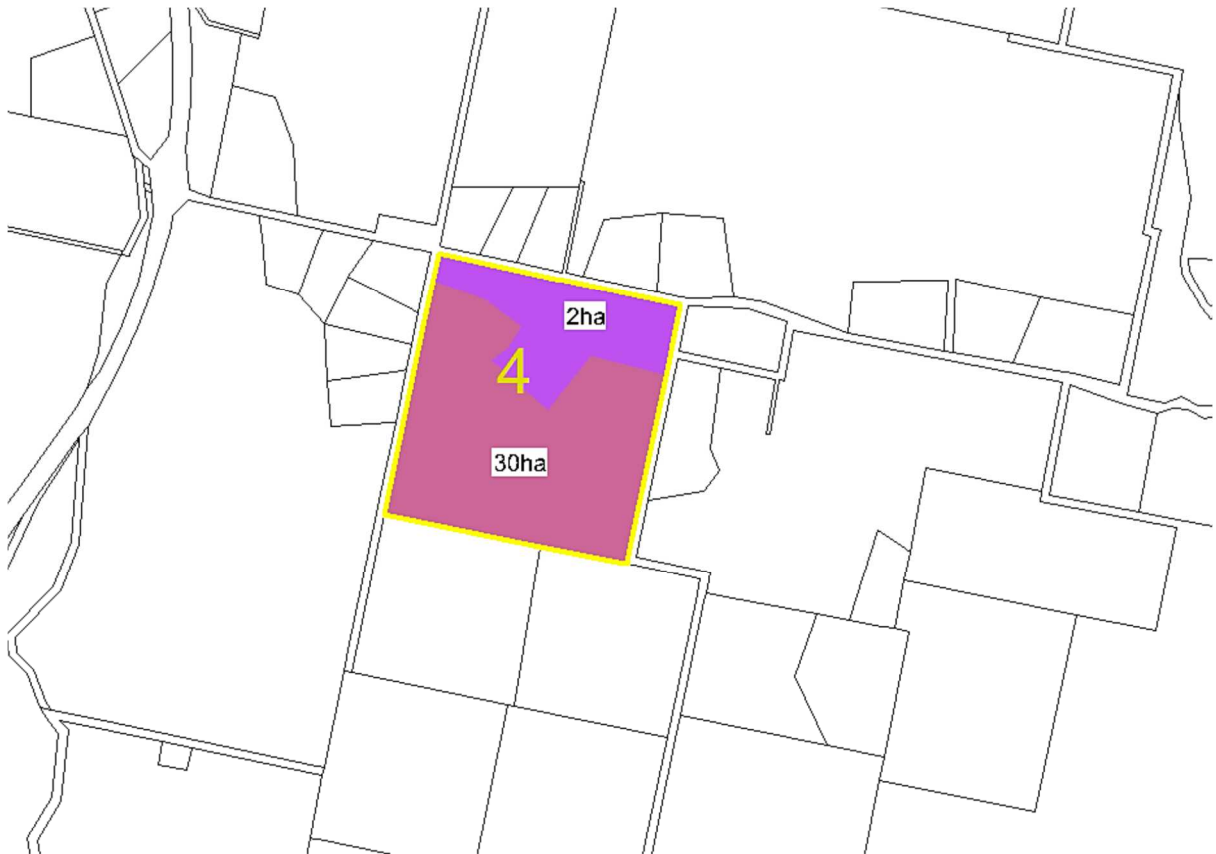


Site 3 – Proposed Lot sizes – Source: Council planning proposal

Site 4



Site 4 – Proposed Zoning – Source: Council planning proposal



Site 4 – Proposed Lot sizes – Source: Council planning proposal

Mapping

The planning proposal requires various amendments to a number of land zoning and lot size maps, as well as the land application map.

It is considered that the mapping provided in the planning proposal is sufficient for the purpose of community and agency consultation, however, the development of maps consistent with the technical mapping guidelines is required to be produced by Council prior to finalisation.

NEED FOR THE PLANNING PROPOSAL

The sites were deferred from the making of the Bega Valley LEP 2013. Council states that the proposal is required to replace the current zoning and controls under the Bega Valley LEP 2002 and apply the Bega Valley LEP 2013 to resolve the issues of appropriate zoning and minimum lot sizes that apply to the sites.

Councils are encouraged by the Government to resolve deferred areas and include them in the Standard Instrument LEP's. The Southern Regional Office agrees that there is a need to resolve all deferred areas and that a planning proposal is both required, and the only mechanism to achieve this outcome, and to appropriately apply standard instrument planning controls to these 4 deferred areas.

STRATEGIC ASSESSMENT

State

The planning proposal seeks to ensure the provision of residential land/affordable housing opportunities. This is consistent with State strategic planning objectives, and seeks to implement the NSW Governments Standard Instrument LEP approach across all areas of NSW. The proposal is considered consistent with state planning principles in this regard.

Regional / District

The South East and Tablelands Regional Plan applies to the Bega Valley LGA.

The proposal is consistent with the Plan in that it seeks to deliver greater housing supply and choice, and focusing that housing supply in locations that maximise infrastructure and services.

The subject sites, parts of which propose urban zonings, will assist in delivering ongoing residential land supply in areas adjacent to the existing township of Wolumla. If full development potential is reached via subdivision permitted under the proposal, 697 lots with dwelling entitlements can be created. Whilst some infrastructure upgrades may be required to facilitate full development outcomes, the potential increase in residential land supply will assist in the ongoing viability of the town, make best use of the infrastructure that currently exists, and provide a population base that supports the future upgrade of infrastructure.

The subject sites include land mapped as High Environmental Value in the Regional Plan. The proposal is consistent with the Regional Plan in that it has sought to apply a range of environmental zones in areas covered by this mapping, with potential development areas located outside these mapped environment constraints. Consultation with the Office of Environment and Heritage will ensure that these boundaries are correctly mapped and that the proposed zonings are appropriate.

Local

Council has advised that the planning proposal is consistent with the Bega Valley 2030 Community Strategic Plan in that it seeks to protect and maintain biodiversity and water quality, and provide growth and economic opportunities.

The existing “future urban” zones, and the proposed standard instrument zones and lot sizes reflect a historical vision for the town of Wolumla to expand. Council has invested in infrastructure upgrades to accommodate growth, and developed the proposal to ensure that important environmental characteristics are retained and protected.

The proposal is not considered inconsistent with local strategic planning.

Section 9.1 Ministerial Directions

Council has identified the following Section 9.1 Directions as applying to the proposal, and made the following statement with regards to the consistency of the proposal with each Direction and the Southern Regional comments follow below.

1.2 Rural Zones - Council summary - Inconsistent

The Southern Region agrees that the planning proposal for sites 1,3 and 4 is inconsistent with the Direction as it seeks to rezone rural zoned land zoned to a residential zone, and or to increase the permissible density of development on that land. Given the location, small scale, agricultural and environmental conditions that characterise the rural zoned portions of sites 1, 3 and 4 of the planning proposal, the inconsistency is considered of minor significance.

1.5 Rural Lands - Council summary - Consistent

The Southern Region considers the proposal for sites 1,3 and 4 to be inconsistent with Direction 1.5. Whilst small scale extensive agriculture may be a land use on some of the land involved included in the planning proposal, given the location, small scale and environmental conditions that characterise the rural land included in the planning proposal, the inconsistency is considered of minor significance.

2.1 Environmental Protection Zones - Council summary - Generally consistent

The Southern Region notes that the planning proposal does not involve land that is currently zoned for environmental protection purposes, however does include areas mapped as having important environmental characteristics.

The proposal seeks to apply a number of environmental zones (E3 and E4) to areas across all four of the subject sites, based on the environmental attributes identified in various previous studies, with strong correlation to the areas mapped as having High Environmental Value (HEV) in the Regional Plan.

The application of environmental zones in these areas is supported, and justified. Whilst the accuracy of these proposed zone boundaries will be reviewed during consultation with the Office of Environment and Heritage, the application of Environmental zones will improve the environmental protection standards applying to the subject land and is supported and consistent with the Direction.

2.3 Heritage Conservation - Council summary - Generally consistent

The Southern Region notes that sites 1,3 and 4 contain either a heritage item, or the likelihood that areas of aboriginal heritage are possible. The planning proposal has considered these and has sought to apply zone and lot size provisions that limit

development where required, and or facilitate the ongoing protection of areas of heritage significance. It is also noted that integration of these deferred areas into the Bega Valley LEP 2013 will also provide additional heritage protection through the application of clause 5.10 Heritage Conservation. The proposal is considered consistent with the Direction, and acknowledges that consultation with the Office of Environment and Heritage will occur during exhibition of the planning proposal.

3.1 Residential Zones - Council summary - Consistent

The Southern Region considers that for sites 1-4, the proposed rezoning of land currently zoned for urban residential purposes largely represents maintenance of similar land use in rezoning them to residential zones/environmental living zones under the Bega Valley LEP 2013. Therefore, the proposal considered that the proposal is consistent with the Direction.

3.4 Integrating Land use and Transport - Council summary - Consistent

The Southern Region is satisfied that the proposal will provide for urban growth in close proximity to the existing town, with access to transport links being acceptable for the scale of likely development outcomes.

4.4 Planning for Bushfire Protection - Council summary - Generally consistent

The Southern Region notes that areas of all subject sites are mapped as, or in proximity to bushfire prone land. Council has acknowledged the bushfire threat and the zonings that have been applied largely reflect the degree of bushfire risk present.

Consistency with the direction will be achieved following, as a condition of the Gateway determination, consultation with and consideration of comments, and no objection received from the RFS Commissioner received prior to community consultation.

6.3 Site Specific Provisions - Council summary – Consistent

The Southern Region is satisfied that proposal is not inconsistent with this direction.

Prior to exhibition, Council is to be required to update its planning proposal so that attachment 2 – s9.1 Ministerial Directions is consistent with its comments/assessment in the body of the planning proposal.

State environmental planning policies

Council has identified that three SEPP's apply to the planning proposal and made the following conclusions about consistency with the SEPPs, being;

SEPP 44 Koala Habitat Protection - Consistent

SEPP 55 Remediation of Land - Consistent

SEPP Rural Lands (2008) – Justified inconsistency.

The Southern Region agrees with Council's assessment against both SEPP 44 and SEPP 55.

Whilst all 4 sites contain remnant vegetation, Council has noted that none are considered core koala habitat. Consistency with SEPP 44 will be further tested with consultation with the Office of Environment and Heritage during exhibition of the planning proposal.

SEPP 55 has been considered by Council and contamination of land is not expected except for existing approved on-site sewer management systems. The Department agrees with Council's assessment that site contamination risk is minimal across all 4 sites.

With regards to SEPP Rural Lands, which is relevant to all 4 of the subject sites, the Southern Region notes that the proposal involves the rezoning of, and the potential intensification of development on land currently zoned, or being used for rural purposes. It is however agreed with Council's assessment that the current rural zoned land or land potentially used for rural uses is small in scale, has a very low agricultural value, and represents a buffer rather than reflecting true agricultural land use. The proposed re-zonings make for a logical re-use of low value agricultural land and will benefit the social and economic welfare of the surrounding community. It is therefore considered that the planning proposal is justifiably inconsistent with the SEPP.

SITE-SPECIFIC ASSESSMENT

Social

Council has detailed a lack of land supply within Wolumla, and significant increase in housing prices on coastal areas. The proposal is seen as assisting in the delivery of land supply, which will assist in the providing more affordable housing opportunities for Bega Valley residents.

Council acknowledges that a more detailed village development plan will need to be undertaken in the future.

The Southern Regional Office is satisfied that the planning proposal will not lead to any significant social issues, and that a gradual increase in population expected will in turn be able to provide for great social opportunities through development of the town centre and provision of improved community facilities as required by a growing centre.

The Southern Regional office acknowledges that the proposal seeks to introduce standard instrument zones to the deferred areas, and to introduce standard instrument development controls that largely reflect the current controls within the existing urban expansion and village feature across large parts of the subject sites. It is not foreseen that the planning proposal will create any significant negative social impacts, rather may, in the longer term, assist in the growth and development of Wolumla and improved facilities and infrastructure being provided in the town to the benefit of existing residents.

Environmental

The four sites covered by the proposal all include, to differing degrees, lands mapped with High Environmental Value (HEV), Endangered Ecological Communities (EEC), and other important environmental characteristics. Figure 1 illustrates the presence of vegetation across each of the 4 sites.

In considering the application of standard instrument zones under the Bega Valley LEP 2013, Council has acknowledged the presence of these environmentally significant areas and applied a number of environmental zones, and large lot sizes limiting the type and extent of development within these areas.

Intensification of development has been focused on existing cleared areas where development sites can be achieved with minimal or no impact on the environment.

It is considered that the proposal has responded to the environmental characteristics of the site, and attempted to minimise future impacts on these areas.

It is noted that the Office of Environment and Heritage will provide further detail about the appropriateness of the proposed development footprints and zones being applied during the consultation period.

Economic

Council has detailed a lack of land supply within Wolumla, and ongoing increases in demand for and prices of housing in the Shire's coastal areas. The proposal is seen as assisting in the delivery of land supply in the broader coastal area, which will provide more affordable housing opportunities for Bega Valley residents. Council has been investing in infrastructure upgrades in Wolumla and an increase in population will assist in the ongoing viability of existing and future infrastructure upgrades.

Population increases will also create positive economic impacts by improving the viability of existing local businesses and encourage new investment in the town.

The Southern Regional Offices notes the historic zoning intention that the town of Wolumla will expand. Despite the existing zonings providing for the opportunity for residential expansion, uptake has been relatively slow. The application of standard instrument zones may assist in providing direction and stimulate future investment and development in the town.

There are no significant negative economic impacts expected to result from the proposed zoning changes.

CONSULTATION

Community

Council has proposed a 28 day exhibition period. The Southern Region agrees that this is an acceptable consultation period having regards to the intended outcomes of the planning proposal

Agencies

Council has proposed consultation with the following agencies;

NSW Department of Primary Industries (Fisheries)

NSW Office of Environment and Heritage

NSW Roads and Maritime

NSW Rural Fire Service

The Southern Regional Office also suggested consultation with NSW Department of Primary Industries (Agriculture) noting the inclusion of rural zoned land being rezoned for residential purposes.

TIME FRAME

Council has proposed a finalisation date of January 2019, however conflicting information within the proposal also indicates a June 2017 completion date. This needs to be amended prior to exhibition.

The Southern Region suggests an 18 month timeframe be provided by the Gateway determination to allow Council time to re-work the planning proposal prior to exhibition, and noting the number of sites and the potential for issues to be raised during both agency and community consultation.

LOCAL PLAN-MAKING AUTHORITY

Council has requested authorisation to be the local plan making authority to finalise the plan. The proposal largely represents a transfer of zones from the 2003 to 2013 LEP zones, with some minor rezonings that reflect the site-specific location, existing and appropriate land use, and environmental characteristics. Noting that delegations would be surrendered should agency objections be received and remain unresolved, it is recommended that Council be given authorisation to finalise the plan.

CONCLUSION

The planning proposal is supported to proceed with conditions.

The intent of the planning proposal to un-defer and subsequently include the subject lands into the Bega Valley LEP 2013 is supported.

The proposed zonings and lot sizes reflect the site-specific characteristics, and historical zonings that apply to the four subject sites, and are appropriate given the proximity to the existing, well serviced town of Wolumla.

The planning proposal documentation requires restructuring and improvements to the information provided, however, the strategic intent is supported.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 1.2 Rural and 1.5 Rural Lands is justified in accordance with the terms of the Directions; and
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection remains unresolved until consultation with the NSW Rural Fire Service Commissioner in accordance with the Direction has been undertaken prior to community consultation.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

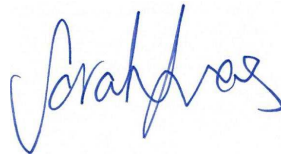
1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Department of Primary Industries (Agriculture)
 - NSW Office of Environment and Heritage
 - NSW Roads and Maritime
 - NSW Rural Fire Service
3. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.

5. Prior to consultation, the planning proposal is to be amended in accordance with below, and resubmitted to the Department for approval to exhibit;
- Amend Part 1 of the LEP to better outline why the planning proposal is required, and what the overall outcomes are to be achieved.
 - Amend the table on Page 5 to accurately reflect current vs proposed land use zones
 - Amend Part 2 to avoid confusion by removing references to the lot size coding associated with each minimum lot size (eg AD 120ha should just read 120ha)
 - Remove all references to “exhibited” throughout the planning proposal. Discussion about the deferred lands having been previously exhibited prior to deferral, and general statement about consistency with/changes to what was originally proposed should be included in the background at the start of the planning proposal.



14/05/2018

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15 May 2018

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