

**Bega Rural Residential Lot Sizes, Various Properties**

Proposal Title : **Bega Rural Residential Lot Sizes, Various Properties**

Proposal Summary :

**Amend Bega Valley LEP 2013 for a number of deferred matters by:**

**1. Bermagui-Cobargo Road, Coolagolite - Rezoning to E4 Environmental Living with a 2ha Minimum Lot Size (MLS);**

**2. Lot 26 DP 850443 Green Point Road, Millingandi - Rezone to a mix of E2 Environmental Conservation and E3 Environmental Management Zones and apply a 3ha MLS.**

**3. Lots 721&722 DP 826975 Princes Highway, Millingandi - Rezone to E2 Environmental Conservation and E3 Environmental Management Zones and apply a 5ha MLS.**

**4. Lots 262 DP 1162287 Nutley's Creek Road, Bermagui - Rezone to E3 Environmental Management Zone and apply a 4ha MLS.**

**5. Lots 11 DP 750222 and Lot 1 DP 1172916 Ivor Jones Drive, Wonboyn - Rezone to E2 Environmental Conservation Zone and E3 Environmental Management Zone and apply a 40ha MLS.**

**6. Lot 7321 DP 1164669 Bega Street, Tathra - Rezone E2 Environmental Conservation Zone, E3 Environmental Management Zone and R2 Low Density Residential Zone and apply a 40ha MLS to the E2 and E3 Zones and 550m2 MLS to the R2 Zone.**

PP Number : **PP\_2013\_BEGAV\_002\_00**      Dop File No : **13/13741**

**Proposal Details**

|                                   |                      |                      |                                  |
|-----------------------------------|----------------------|----------------------|----------------------------------|
| Date Planning Proposal Received : | <b>19-Aug-2013</b>   | LGA covered :        | <b>Bega Valley</b>               |
| Region :                          | <b>Southern</b>      | RPA :                | <b>Bega Valley Shire Council</b> |
| State Electorate :                | <b>BEGA</b>          | Section of the Act : | <b>55 - Planning Proposal</b>    |
| LEP Type :                        | <b>Spot Rezoning</b> |                      |                                  |

**Location Details**

|               |                                                    |        |                        |
|---------------|----------------------------------------------------|--------|------------------------|
| Street :      | <b>Bermagui-Cobargo Road</b>                       |        |                        |
| Suburb :      | <b>Coolagolite</b>                                 | City : | <b>Cobargo</b>         |
| Land Parcel : | <b>Various Lots shown in the planning proposal</b> |        |                        |
| Street :      | <b>Green Point Road</b>                            |        |                        |
| Suburb :      | <b>Millingandi</b>                                 | City : | <b>Pambula</b>         |
| Land Parcel : | <b>Lot 26 DP 850443</b>                            |        | <b>Postcode : 2550</b> |
| Street :      | <b>Princes Highway</b>                             |        |                        |
| Suburb :      | <b>Millingandi</b>                                 | City : | <b>Pambula</b>         |
| Land Parcel : | <b>Lots 721 &amp; 722 DP 826975</b>                |        | <b>Postcode : 2549</b> |

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|               |                                               |        |                 |
|---------------|-----------------------------------------------|--------|-----------------|
| Street :      | <b>Nutleys Creek Road</b>                     |        |                 |
| Suburb :      | <b>Bermagui</b>                               | City : | <b>Bermagui</b> |
| Land Parcel : | <b>Lot 262 DP 1162287</b>                     |        |                 |
| Street :      | <b>Ivor Jones Drive</b>                       |        |                 |
| Suburb :      | <b>Wonboyn</b>                                | City : | <b>Wonboyn</b>  |
| Land Parcel : | <b>Lots 11 DP 750222 and Lot 1 DP 1172916</b> |        |                 |
| Street :      | <b>Bega Street</b>                            |        |                 |
| Suburb :      | <b>Tathra</b>                                 | City : | <b>Tathra</b>   |
| Land Parcel : | <b>Lot 7321 DP 1164669</b>                    |        |                 |

### DoP Planning Officer Contact Details

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### DoP Project Manager Contact Details

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### Land Release Data

|                                       |                                          |                                                            |            |
|---------------------------------------|------------------------------------------|------------------------------------------------------------|------------|
| Growth Centre :                       | <b>N/A</b>                               | Release Area Name :                                        | <b>N/A</b> |
| Regional / Sub<br>Regional Strategy : | <b>South Coast Regional<br/>Strategy</b> | Consistent with Strategy :                                 | <b>Yes</b> |
| MDP Number :                          |                                          | Date of Release :                                          |            |
| Area of Release<br>(Ha) :             |                                          | Type of Release (eg<br>Residential /<br>Employment land) : | <b>N/A</b> |
| No. of Lots :                         | <b>41</b>                                | No. of Dwellings<br>(where relevant) :                     | <b>41</b>  |
| Gross Floor Area :                    | <b>0</b>                                 | No of Jobs Created :                                       | <b>0</b>   |

The NSW Government Yes  
Lobbyists Code of  
Conduct has been  
complied with :  
If No, comment :

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Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

### Supporting notes

Internal Supporting Notes :

**These sites were deferred from the Bega Valley LEP 2013 to provide the opportunity for community consultation on the requested rezonings and changes to the minimum lot sizes for subdivision and dwellings. The sites were identified and came out of the submissions for the Bega Valley LEP 2013 which was notified on the 2nd of August 2013. The Wonboyn and Green Point, Millingandi sites are adjacent to land with similar attributes and constraints. Council should consider the strategic justification for changing the planning controls on these sites in isolation.**

External Supporting Notes :

## Adequacy Assessment

### Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective of the Planning Proposal is " To provide additional supply of rural residential living opportunities to meet demand in existing rural residential areas."**

**These requests have come from the submissions to the exhibition of the Bega Valley LEP 2013 which was notified in August 2013.**

**The Council should add to these objectives:**

- \* that rural residential will also be provided in some rural areas;**
- \* land is to be zoned for environmental protection; and**
- \* existing dwelling rights will be retained on land at Tathra.**

### Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal will zone lands E2, E3, E4 and R2 and apply appropriate minimum lot sizes (MLS).**

### Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

\* May need the Director General's agreement

**1.2 Rural Zones**

**1.3 Mining, Petroleum Production and Extractive Industries**

**1.4 Oyster Aquaculture**

**1.5 Rural Lands**

**2.1 Environment Protection Zones**

**2.2 Coastal Protection**

**3.5 Development Near Licensed Aerodromes**

**4.1 Acid Sulfate Soils**

**4.4 Planning for Bushfire Protection**

**5.1 Implementation of Regional Strategies**

**6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 14—Coastal Wetlands**

**SEPP No 44—Koala Habitat Protection**

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SEPP No 55—Remediation of Land  
SEPP No 62—Sustainable Aquaculture  
SEPP No 71—Coastal Protection  
SEPP (Mining, Petroleum Production and Extractive Industries)  
2007  
SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

The proposed reduction in MLS for the Green Point and Wonboyn sites have been dealt with in isolation from surrounding lands in response to submissions on the Bega Valley LEP 2013.

Council needs to justify why it has dealt with these sites in isolation from adjoining lands that have similar or more favourable attributes and constraints.

See comments below for each site.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

Council's Bermagui Wallaga Lake Structure Report is the only local strategy endorsed by the Director General. Local strategies also exist for Merimbula and surrounds and Tathra. However, there is no strategy applying to Wonboyn.

1 - Coolagolite - The site is an existing rural residential area on land of poor agricultural value adjoining other rural residential areas. The land will be zoned E4 Environmental Living with a reduced MLS. The Director General can be satisfied that any inconsistency with s117 Direction 1.5 Rural Lands can be considered to be of minor significance. However, the Council should undertake investigations under clause 6 of SEPP 55 Remediation of Land if any development is proposed in areas that could be affected by the saw mill in the locality. Other s117 Directions and SEPPs are not relevant to this site's rezoning.

2 - Green Point Road, Milligandi - The proposal to reduce the MLS from 5ha to 3ha which would enable a potential 2 additional dwellings raises concerns with s117 Directions 1.4, 1.5 and 4.1.

The increased density of development and its potential impact on oyster aquaculture requires consultation with the Department of Primary Industries under s117 Direction 1.4 Oyster Aquaculture.

Under s117 Direction 4.1 Acid Sulfate Soils Council will need to determine whether an acid sulfate soils study is required and if so prepare one and forward it to the Director General prior to community consultation.

The Director General can be satisfied that any inconsistency with s117 Direction 1.5 Rural Lands is of minor significance given the current MLS of 5ha. However, the Council should justify why the reduced MLS is only being considered for this property in isolation, given that the adjoining areas also have a current 5ha MLS and are less constrained.

3 - Princes Highway, Milligandi - The subject land has direct access to Lake Merimbula and contains SEPP 14 Wetlands. Active oyster leases operate in the adjoining Lake. Reducing the MLS from 10ha to 5ha will allow 2 additional dwellings and may have a negative impact on the water quality of the Lake. Lot averaging could preserve significant wetlands within a single lot and cluster development to help protect the Lake.

Consultation with Department of Primary Industries should be undertaken prior to community consultation under s117 Direction 1.4 Oyster Aquaculture.

Under s117 Direction 4.1 Acid Sulfate Soils depending on the extent of acid sulfate soils and likely development footprint Council will need to determine whether an acid sulfate soils study is required and if so prepare one and forward it to the Director General prior to community consultation.

The Director General can be satisfied that any inconsistency with s117 Direction 1.5 Rural Lands is of minor significance given the increase in dwelling yield will only be 2 and the land is already significantly constrained by wetlands limiting agricultural activity.

**4 - Nutleys Creek Road, Bermagui - To be rezoned to E3 Environmental Management with a MLS of 4ha.**

The Director General can be satisfied that the inconsistencies with s117 Directions 1.5 Rural Lands and 2.1 Environmental Protection Zones are of minor significance. An additional dwelling will enable management of the environmental values and require minimal clearing on land of little agricultural value.

Consistency with s117 Direction 4.4 will be satisfied through consultation with the NSW Rural Fire Service.

**5 - Ivor Jones Drive, Wonboyn - To be rezoned a mix of E2 Environmental Conservation and E3 Environmental Management with a reduced MLS of 40ha. This will enable 3 additional dwellings.**

The Director General can be satisfied that any inconsistency with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands and the Rural Lands SEPP is only of minor significance given that the land has little or no agricultural potential, any environmental impacts from the increase in dwelling potential of 3 can be offset by potential lot averaging.

Consultation with Department of Primary Industries should be undertaken prior to community consultation under s117 Direction 1.4 Oyster Aquaculture as there are nearby oyster leases.

s117 Direction 4.4 Planning for Bushfire Protection will require consultation with the NSW Rural Fire Service prior to community consultation.

The Council also needs to justify why this land is being dealt with in isolation as the adjoining land to the south appears to have similar attributes.

**RECOMMENDATIONS:**

1. The Director General can be satisfied that any inconsistencies with s117 Directions 1.2, 1.5 and 2.1 are of minor significance.

2. The Director General require consultation with Department of Primary Industries in relation to potential impacts on oyster aquaculture under s117 Direction 1.4 Oyster Aquaculture for the two Millingandi and Wonboyn sites.

3. The Director General require Council to determine whether an acid sulfate soils study is required and if so prepare one and forward it to the Director General prior to community consultation under s117 Direction 4.1 Acid Sulfate Soils.

4. The Director General require consultation with the NSW Rural Fire Service under s117 4.4 Planning for Bushfire Protection for any sites that are bushfire prone.

5. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance while the planning proposal remains in its current form.

6. The Council should undertake investigations under clause 6 of SEPP 55 Remediation of Land if any development is proposed in areas that could be affected by contamination by saw mill activities in the Coolagolite locality.

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : Location maps, aerial photos and extracts of Land Zoning and Lot Size Maps have been provided for each site. Maps consistent with the Standard technical requirements for LEP maps will be required for exhibition.

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : Council has proposed 14 days exhibition. Given the sensitivities of some of the sites the exhibition period should be extended to 28 days.

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### Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

### Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

**The following additional actions are required for some sites:**

- \* Consultation with Department of Primary Industries and the NSW Rural Fire Service;**
- \* Additional investigations into acid sulfate soils and contaminated lands; and**
- \* Justification from Council for dealing with Green Point and Wonboyne in isolation from similar adjoining lands.**

## Proposal Assessment

### Principal LEP:

Due Date : **August 2013**

Comments in  
relation to Principal  
LEP :

**The Principal LEP was notified on 2 August 2013**

**Each of these sites was deferred from the Principal Plan to provide for additional information and community consultation on the application of new minimum lot sizes and zonings.**

### Assessment Criteria

Need for planning  
proposal :

**The rezonings and minimum lot sizes can only be implemented through a planning proposal.**

Consistency with  
strategic planning  
framework :

**The sites at Bermagui, Tathra and Milingandi are consistent with the local strategies adopted for these areas**

**The sites at Coolagolite and Wonboyne are not covered by strategic planning studies, however, the Coolagolite site is already zoned for rural residential development and adjoins other areas zoned similarly.**

**The Planning Proposal is not inconsistent with the South Coast Regional Strategy.**

Environmental social  
economic impacts :

**The Planning Proposal will provide additional large lot residential development which will have a flow on to some additional employment opportunities, albeit at a modest scale. The social outcome in the areas is in the provision of additional housing stock in the LGA.**

**There could be potential impacts on oyster leases in Merimbula Lake and the Wonboyne River which will be clarified through consultation with the Department of Primary Industries.**

**Environmental Protection Zones and lot averaging provisions will be applied to significant areas and assist in the management of environmental attributes.**

## Bega Rural Residential Lot Sizes, Various Properties

### Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Southern Rivers Catchment Management Authority  
Office of Environment and Heritage  
NSW Department of Primary Industries - Fishing and Aquaculture  
NSW Rural Fire Service  
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The Bermagui, Tathra and Coolagolite sites are fairly straight forward.  
The two Milligandi sites and the Wonboyn site require additional justification and potential studies to be undertaken, including appropriate strategic justification.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Other - provide details below**

If Other, provide reasons :

**Council will need to consult with the Department of Primary Industries concerning oyster aquaculture and this may result in studies concerning water quality impacts.**

**Council may have to do some investigations into potential soil contamination around the saw mill at Coolagolite and into acid sulfate soils at the two Milligandi sites.**

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

### Documents

| Document File Name                                    | DocumentType Name | Is Public  |
|-------------------------------------------------------|-------------------|------------|
| <b>20130819 - Planning Proposal.pdf</b>               | <b>Proposal</b>   | <b>Yes</b> |
| <b>20130819 - Council Report &amp; Resolution.pdf</b> | <b>Proposal</b>   | <b>Yes</b> |

### Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.4 Oyster Aquaculture**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**

**4.4 Planning for Bushfire Protection  
5.1 Implementation of Regional Strategies  
6.3 Site Specific Provisions**

**Additional Information :**

The Deputy Director General, Planning Operations & Regional Delivery, as delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to the Bega Valley Local Environmental Plan 2013 to rezone and apply appropriate minimum lot sizes to sites at Coolagolite, Green Point Road and Princes Highway Millingandi, Bermagui, Wonboyn and Tathra should proceed subject to the following conditions:

**1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**

(a) the planning proposal is to be made publicly available for 28 days; and  
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).

**2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:**

- \* Southern Rivers Catchment Management Authority
- \* Office of Environment and Heritage
- \* NSW Department of Primary Industries - Fishing and Aquaculture (s117 Direction 1.4)
- \* NSW Rural Fire Service (s117 Direction 4.4)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal or to indicate that it will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

**3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).**

**4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.**

**5. The Council is to inform the Southern Regional office of the Department of Planning and Infrastructure prior to community consultation of the outcomes of:**

- \* consultations with Department of Primary Industries;
- \* investigations into the occurrence of acid sulfate soils and the implications;
- \* its consideration of potential soil contamination under SEPP55 at Coolagolite; and
- \* strategic justification for the sites at Green Point Road Millingandi and Wonboyn River being dealt with in isolation from adjoining land with similar attributes.

**SECTION 117 DIRECTIONS**

**6. The Director General can be satisfied that any inconsistencies with s117 Directions 1.2, 1.5 and 2.1 are of minor significance.**

**7. The Director General require consultation with Department of Primary Industries in relation to potential impacts on oyster aquaculture under s117 Direction 1.4 Oyster Aquaculture for the two Millingandi and Wonboyn River sites.**

**8. The Director General require Council under s117 Direction 4.1 Acid Sulfate Soils to determine whether an acid sulfate soils study is required and if so prepare one and forward it to the Southern Regional Office of the Department of Planning and Infrastructure.**

## Bega Rural Residential Lot Sizes, Various Properties

9. The Director General require consultation with the NSW Rural Fire Service under s117 4.4 Planning for Bushfire Protection for any sites that are bushfire prone.

10. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance while the planning proposal remains in its current form.

11. The Council should undertake investigations under clause 6 of SEPP 55 Remediation of Land for the Coolagolite site to determine if any development could be affected by contamination by saw mill activities in the locality.

Supporting Reasons : These sites arose from submissions to the Bega Valley LEP 2013 and were deferred.

The planning proposal applies environmental protection zones and reduces minimum lot sizes to enable a moderate number of rural residential lots. For Tathra it retains previous development potential while protecting important environmental areas.

Signature:



Printed Name:

Mark Parker

Date:

13th September 2013

Local Planning Manager