

Memorandum

To Natasha Highman, Director Legal Services Branch
Cc Margaret Cheung, Manager Plan Making, Legal Services Branch.

From George Curtis, Acting Team Leader
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Date 11th March 2015 **File:** 14/16802

Subject: Bega Valley Planning Proposal LEP Amendment Number 7, - Rural residential Lot Sizes: PP_2013_BEGAV_002_00

Purpose

To ask Legal Services Branch to request that Parliamentary Counsel prepares a local environmental plan to reflect the outcomes of the above planning proposal. The planning proposal includes an unresolved objection from the Office of Environment and Heritage in respect to the proposed lot size for the Coolagolite site. As such, Bega Valley Shire Council is unable to make the plan under delegation.

In respect to the Coolagolite site which is the site that OEH had issues with, the site was exhibited under the Draft BVLEP10 with a minimum lot size of 5 hectares. The OEH objects to the resolved position of Council to adopt a 3 hectare minimum lot size, with a section of 5 hectares. The Department seeks to amend the minimum lot size to 5 hectares for the entire site, which is consistent with the lot size exhibited in the Draft BVLEP 2010.

Background

This planning proposal will amend BVLEP 2013 in the following manner:

Site 1-Lot 91 DP 580933, Lots 5 DP 250487 and Lot 6 DP 250487 – Bermagui-Cobargo Road, Coolagolite

- Amend map sheet LAP_001 by deleting DM Deferred Matter
- Amend map sheet LZN_017 by applying E4 Environmental Living Zone
- Amend map sheet LSZ_017 by applying AA1 5 hectares

Site 2 Lot 26 DP 850443 – Green Point Road, Millingandi (Pambula)

- Amend map sheet LAP_001 by deleting DM Deferred Matter
- Amend map sheet LZN_020A by applying E2 Environmental Conservation Zone and E3 Environmental Management Zone
- Amend map sheet LSZ_020A by applying AA1 5 hectares

Site 4-Lot 262 DP 1162287 – Nutley's Creek Road, Bermagui

- Amend map sheet LAP_001 by deleting DM Deferred Matter
- Amend map sheet LZN_017C by applying E3 Environmental Management Zone and E2 Environmental Conservation Zone
- Amend map sheet LSZ_017C by applying Z3 4 hectares

Site 5 Lots 11 DP 750222 and Lot 1 DP 1172916 – Ivor Jones Drive, Wonboyn

- Amend map sheet LAP_001 by deleting DM Deferred Matter

- Amend map sheet LZN_022A by applying E2 Environmental Conservation Zone and E3 Environmental Management Zone
- Amend map sheet LSZ_022A by applying AD 120 hectares

Site 6- Lot 7321 DP 1164669 Bega Street, Tathra

- Amend map sheet LAP_001 by deleting DM Deferred Matter
 - Amend map sheet LZN_019B by applying E2 Environmental Conservation Zone, E3 Environmental Management Zone and R2 Low Density Residential Zone
 - Amend map sheet LSZ_019B by applying AB4 40 hectares
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- The proposal requires changes to the following maps:
 - Land Application Map
 - Land zoning
 - Lot size
 - The planning proposal was exhibited from 25th April 2014 and 26th May 2014. The exhibition period was then extended for a further 2 weeks.
 - The planning proposal is considered to be consistent with the Gateway determination which was made on the 9th July 2014, and the Amended Gateway determination, dated 3/10/2014 (Attachment 2).
 - The minimum lot size issue raised on the Coolagolite site by OEH was not adequately resolved, and Council can not use its delegation as a result.
 - Other than a number of changes made and described in this memo, all other conditions of the Gateway determinations have been met.
 - There were 21 public submissions made. These included submissions from the NSW Office of Environment and Heritage, (OEH), NSW Department of Primary Industries (Fishing and Aquaculture), NSW Rural Fire Service, and the NSW Trade and Investment (Resources and Energy).
 - OEH requested that the Coolagolite minimum lot size be amended to 10 hectares, which was their position at the time of exhibition of the Draft Bega Valley LEP 2010. The Department at the time determined that the minimum lot size for that area should be 5 hectares, which is consistent with the recommended lot size for these lots.
 - The Ivor Jones site minimum lot size reverts to 120 hectares. Whilst Council initially sought a minimum lot size of 40 hectares, after consultation with RFS Council has subsequently resolved to revert to the original 120 hectare minimum lot size exhibited under the Draft BVLEP 2010.
 - The Princes Highway Millingandi site has been withdrawn.
 - Other sites, including the site at Green Point Road Millingandi , Princes Highway Millingandi, Nutleys Creek Road Bermagui and Ivor Jones Drive Wonboyn all had issues that were raised by agencies.
 - All other Agency issues have been satisfactorily addressed, or will be addressed at DA stage. There are no other unresolved issues.
 - The following changes were resolved to be made by **Council** following public consultation, and consultation with Agencies:

Site 1: Various Lots – Bermagui Cobargo Road, Coolagolite

- That Lot 91 DP 580933, Lot 5 DP 250487 and Lot 6 DP 250487 – Bermagui Cobargo Road, Coolagolite – be zoned E4 Environmental Living with a minimum lot size of 3 hectares.
- Further, the current minimum lot size under BVLEP 2013 for the remainder of the land within the subject area remains unchanged at 5 hectares.

- **NOTE- Whilst this is Council's resolved position, the Department seeks a minimum lot size of 5 hectares across the whole of the Coolagolite site to be consistent with the minimum lot size exhibited in the Draft BVLEP 2010.**

Site 2: Lot 26 DP 850443 – Green Point Road, Millingandi

- That Lot 26 DP 850443 - Green Point Road, Millingandi - be zoned E3 Environmental Management and E2 Environmental Conservation with a minimum lot size of 5 hectares.

Site 4: Lot 262 DP 1162287 – Nutley's Creek Road, Bermagui

- That Lot 262 DP 1162287 - Nutley's Creek Road, Bermagui - be zoned E3 Environmental Management and E2 Environmental Conservation. Further, the minimum lot size be 4 hectares.

Site 5: Lot 11 DP 750222 and Lot 1 DP 1172916 – Ivor Jones Drive, Wonboyn

- That Lot 11 DP 750222 and Lot 1 DP 1172916 - Ivor Jones Drive, Wonboyn - be zoned E3 Environmental Management and E2 Environmental Conservation with a minimum lot size of 120 hectares.
- **NOTE- The Department supports this change.**

Site 6: Lot 7321 DP 1164669 – Bega Street, Tathra

- That Lot 7321 DP 1164669 - Bega Street, Tathra, be zoned E3 Environmental Management, E2 Environmental Conservation and R2 Low Density Residential. Further, the minimum lot size for the E3 Environmental Management zoned land and E2 Environmental Conservation zoned land be 40 hectares.

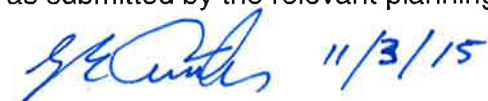
Council has resolved to remove the following property from the planning proposal:

Site 3: Lots 721 & 722 DP 826975 – Princes Highway, Millingandi

- That Lots 721 & 722 DP 826975 - Princes Highway, Millingandi - be removed from the Planning Proposal.
- A copy of the final PP and Council's s59 request is provided (Attachment 1 and 3)
- The next step in implementing the PP is the drafting of a local environmental plan.

Recommendation

Please make arrangements for the drafting of a local environmental plan to give effect to the PP as submitted by the relevant planning authority.



George Curtis
Acting Team Leader
Southern Region

Attachment 1- Planning Proposal updated March 2015

Attachment 2- Gateway determination dated 26/09/13, and alteration of Gateway Determination, dated 3/10/2014

Attachment 3- Council's s 59 request