



PWG001992

28th July 2014

NSW Department of Planning and Environment
Ms Linda Davis
Acting General Manager Southern Region
PO Box 5475
Wollongong NSW 2520

Dear Linda,

Planning Proposal for Gateway Determination – South Bega Industrial Land

Council has resolved to forward a Planning Proposal to the NSW Department of Planning and Environment to affect certain mapping amendments to BVLEP 2013.

The objective of this Planning Proposal is to re-zone a small area of land at South Bega to IN 1 General Industrial in accordance with Council's previous recommendation to zone this land.

Council requests a Gateway Determination on the Planning Proposal from the Minister for Planning and Infrastructure in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*. As such, please find enclosed a copy of the Council resolution and Planning Proposal report for your reference.

As this matter is of local significance, we are seeking delegation of the plan-making functions under Section 59 of the *Environmental Planning and Assessment Act 1979*. This delegation will be to the position of General Manager, and sub-delegated to the position of Group Manager Planning and Environment. The NSW Department of Planning and Infrastructure's *Evaluation Criteria for the Delegation of Plan Making Functions* is attached to this Proposal.

Should you have any queries regarding the Planning Proposal, please contact Council's Strategic Planner, Mark Fowler, on (02) 6499 2107 or mfowler@begavalley.nsw.gov.au.

Kindest regards,

Mark Fowler
Strategic Planner

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Department of Planning
& Environment
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1- AUG 2014

Southern Region-Wollongong

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area: Bega Valley Shire

Name of draft LEP: Bega Valley Local Environmental Plan 2013

Address of Land (if applicable): Part Lot 2432 DP79758, Kerrisons Lane, South Bega, Bega Valley Shire

Intent of draft LEP:

Amend map sheet LAP_001 by deleting DM Deferred Matter to correct a minor mapping error.

Amend map sheet LZN_011C by applying IN1 General Industrial Zone to correct a minor mapping error.

Amend map sheet HOB_011C by applying 14 metre height limit to correct a minor mapping error.

Additional Supporting Points/Information:

Evaluation criteria for the issuing of an Authorisation (Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		N/R		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/R		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/R		

Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		N/R		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/R		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/R		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/R		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		N/R		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		N/R		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		N/R		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/R		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	Y			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	Y			

Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	Y			

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Planning Proposal:

South Bega Industrial Land

July 2014

Bega Valley Shire Council

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Part 1 – Objectives or Intended Outcomes

The intended outcome of this Planning Proposal is to correct a minor mapping error at the time of gazettal of Bega Valley Local Environmental Plan (BVLEP) 2013. The proposal seeks to re-zone a small area of land at South Bega to IN1 General Industrial in accordance with Council's previous recommendation to zone this land.

Part 2 – Explanation of the Provisions

This Planning Proposal will amend BVLEP 2013 in the following manner:

1. Part Lot 2432 DP793758 Kerrisons Lane, South Bega
 - Amend map sheet LAP_001 by deleting DM Deferred Matter.
 - Amend map sheet LZN_011C by applying IN1 General Industrial Zone.
 - Amend map sheet HOB_011C by applying 14 metre height limit.
-

Part 3 – Justification

1. Part Lot 2432 DP793758



Figure 1: Subject Land edged red identified in this Planning Proposal.

The purpose of this Planning Proposal is to correct a minor mapping error by applying an IN1 General Industrial zoning over Part of Lot 2432 DP 793758 which was mistakenly deferred from BVLEP 2013. The area identified for this Planning Proposal is located approximately 3.5 kilometres south of Bega. The area comprises 2.76 hectares of land and can be accessed via the Princes Highway or through adjoining lands via Kerrisons Lane (see Figure 1).

The area is predominantly cleared of vegetation with mature paddock trees dominating open grazing lands.

The subject land is currently deferred from BVLEP 2013. Under BVLEP 2002, the subject land is currently zoned 2(f) Future Urban. Under Draft BVLEP 2010, the subject land was proposed to be zoned IN1 General Industrial (see Figure 2).

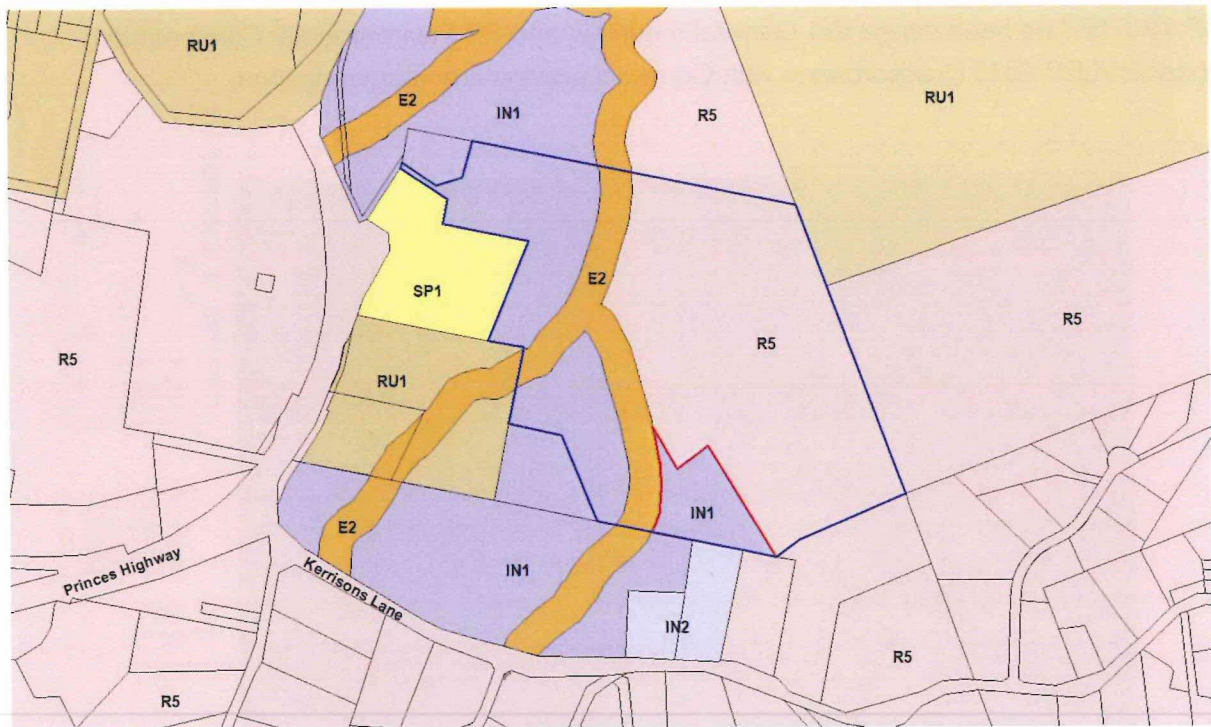


Figure 2: Subject Land zoning as exhibited under draft BVLEP 2010

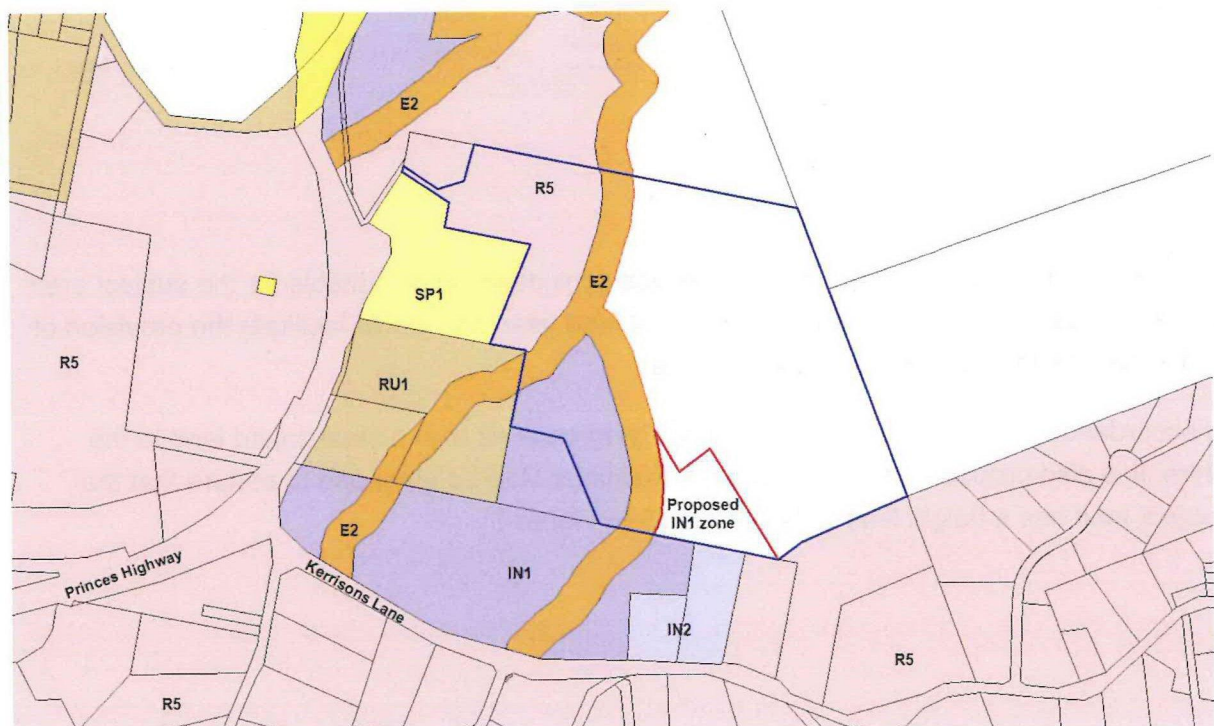


Figure 3: Subject land zoning under Bega Valley Local Environmental Plan 2013

The subject land is part of a larger property (See Figure 3), part of which was intended to be deferred from BVLEP 2013 pending the review of the minimum allotment sizes for the recommended R5 Large Lot Residential zoned land which holds an approval for a 63 lot rural residential subdivision under DA2010.379 (See Figure 4). The remainder of Lot 2432

DP 793758 has been zoned IN1 General Industrial and E2 Environmental Conservation under BVLEP 2013 in accordance with Council's previous recommendations.

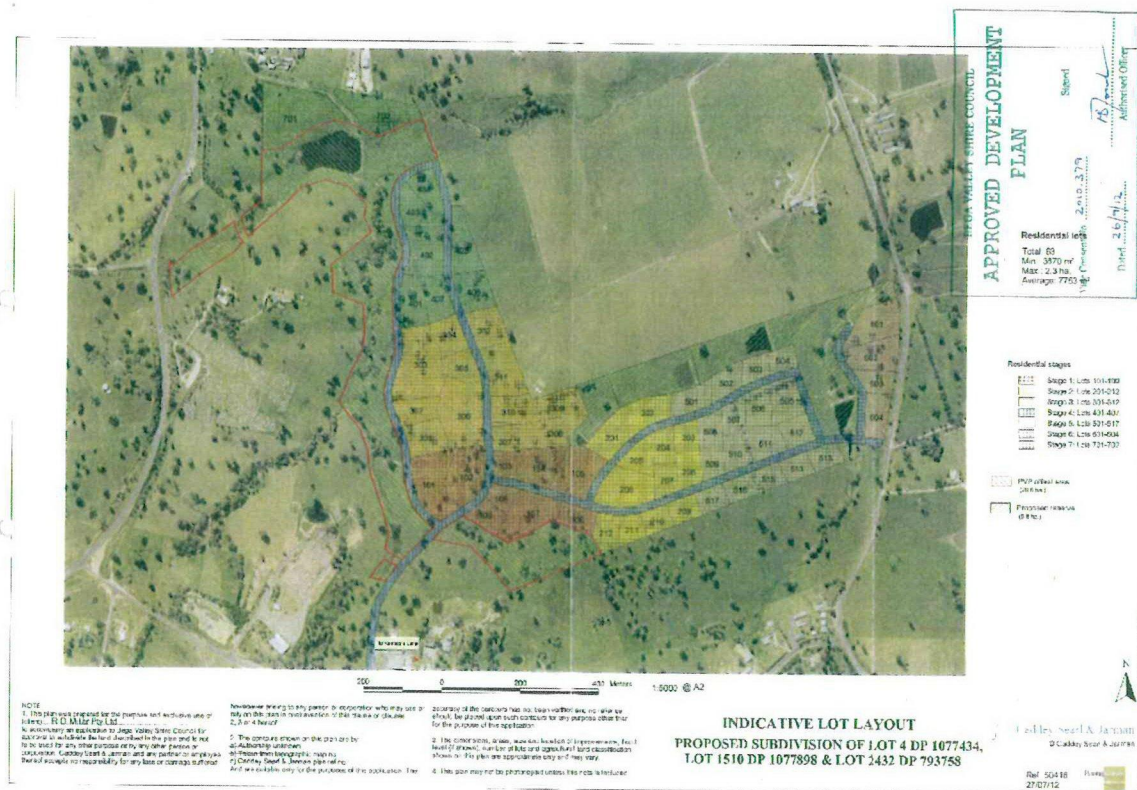


Figure 4: Approved Subdivision plan from DA2010.379

The proposed IN1 General Industrial Zone was considered to be suitable for the subject area as it was located adjacent to existing industrial land uses and would facilitate the provision of additional employment land in the Bega area.

In accordance with Council's strategy for applying controls to industrial zoned land in the Shire, it is also proposed that the Height of Buildings Map be amended to ensure that the subject land has a height limit of 14 metres (See Figure 5).

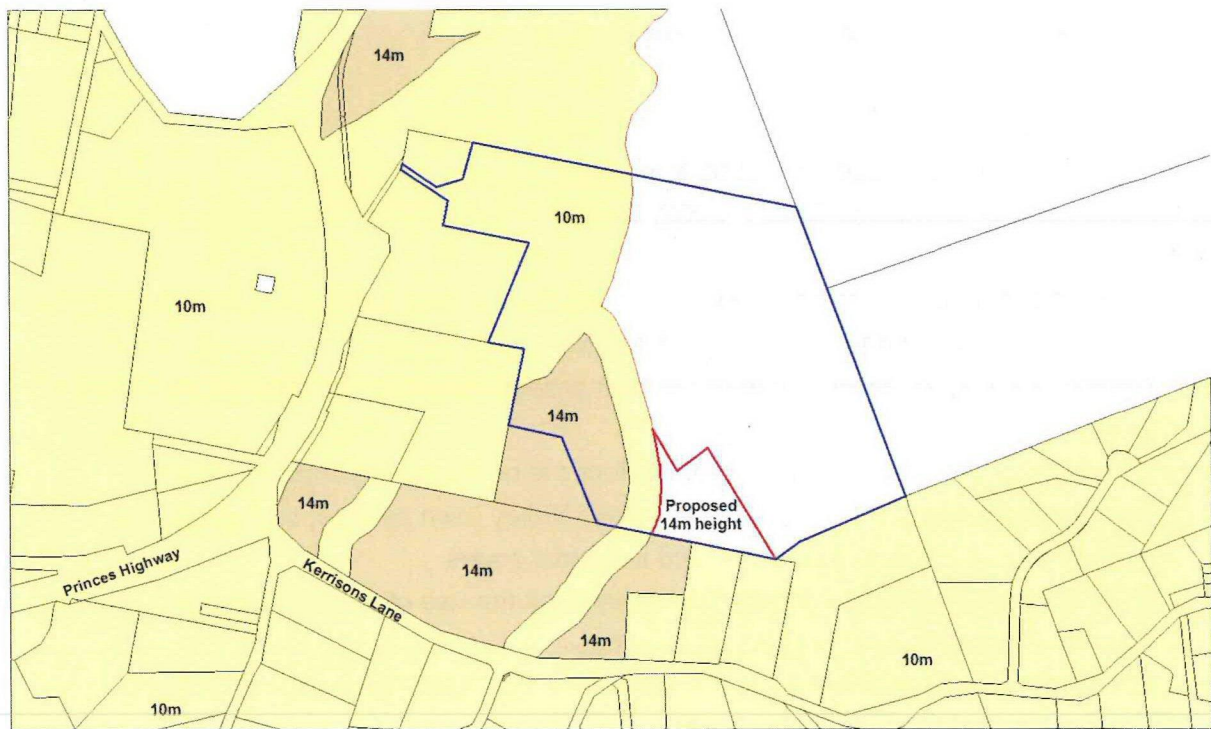


Figure 5: Proposed 14 metre height limit.

Section A – Need for the Planning Proposal

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

Council resolved on 13th December 2005 to prepare a draft Comprehensive Local Environmental Plan to replace BVLEP 2002. The Draft BVLEP 2010 was prepared based on the following:

- The majority of the Shire has simply been changed to the closest comparable zone available in the standard State wide template. This means that the majority of land owners wanting to develop or improve their properties will not be affected by the draft plan.
- Where there are changes proposed, the focus is on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

The Draft BVLEP 2010 was publically exhibited from the 12th May 2011 to the 29th July 2011 and 456 submissions were received. Following consideration of those submissions, Council categorised them into four groups:

- Appendix 1: Support (or partial support) for the submission request, with only minor changes required to the exhibited draft CLEP. The CLEP was amended in line with these recommendations.
- Appendix 2: Support (or partial support) for the submission request, however, due to the nature of changes proposed re-exhibition would be required. Land subject to the submissions is to be identified as a ‘deferred matter’ in the CLEP. Staff are to prepare planning proposals seeking to amend the CLEP, once adopted, in accordance with Councils’ resolutions and a “gateway determination” by the Minister for Planning prior to re-exhibition.
- Appendix 3: Further research is to be carried out by Council staff prior to progressing a resolution of the submissions via a future report to Council. Land subject to the submissions is to be identified as a ‘deferred matter’ in the CLEP.
- Appendix 4: No agreement with the submission request, or the submission to be noted but no need for further action at this time. No change to exhibited draft CLEP is required.

The full Council Report and adopted minutes from the relevant meeting of 12th June 2012 are provided at Attachment 1.

The subject area was proposed to be zoned as IN1 General Industrial in the Draft BVLEP 2010. The subject area has been incorrectly included with other land located within Lot 2432 DP 793758 that was subject to a public submission during the Draft BVLEP 2010, included under Appendix 2 and deferred from BVLEP 2013. This Planning Proposal will correct the minor mapping error by re-instating IN1 General Industrial zoning over the subject area of Part Lot 2432 DP 793758.

The area that was identified in Appendix 2 and was correctly deferred from the BVLEP 2013 will be subject to a separate planning proposal to resolve the issue of appropriate lot sizing for that subject area.

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

One of the major aims of the South Coast Regional Strategy (SCRS) is to ensure an adequate supply of land to support economic growth and to provide capacity to accommodate a projected 5,200 new jobs in the Bega Valley Shire.

Section 7 of the Strategy addresses Economic Development and Employment Growth and provides a number of key action points. This Planning Proposal supports the following key action points of the SCRS:

- Consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities.
- Local Environmental Plans will protect and add to employment lands in existing economic centres, including major regional centres and major towns, and identify and protect all regionally significant employment lands.

In terms of outcomes, this Planning Proposal is compatible with the SCRS given that the subject property is:

- not located on viable agricultural land and is generally clear of native vegetation;
- located adjacent to existing industrial zoned and utilises land that contain suitable services;
- located in close proximity to the existing regional town of Bega and regional transport routes, which are capable of meeting the future daily needs of any future development; and
- is unlikely to be the subject of land use conflicts.

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

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community.

This planning proposal supports two of the key aims of the CSP:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity; and
- To support a creative and innovative business community invigorating growth in employment and economic activity, in partnerships with government.

Bega and District Strategic Directions Report January 2006

The Bega and District Strategic Directions Report presents the findings of a review of existing Rural Smallholdings and Future Urban land uses in and around Bega. The Report identifies the need for additional industrial lands to be provided to meet the needs of the area.

This Planning proposal is consistent with the Bega and District Strategic Directions Report as it will provide additional industrial lands that were identified through the Report.

Land Use Planning Strategy 2008

The proposed use of the subject site for industrial was also considered as part of the "Land Use Planning Strategy 2008" that identified suitable area for both residential and industrial land uses within the subject area and on adjoining lands.

This Planning Proposal is consistent with the Land Use Planning Strategy 2008 as it will apply an appropriate Industrial zoning to the land identified for that purpose.

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

This Planning Proposal is consistent with the applicable State Environmental Planning Policies (SEPPs). The SEPPs that are applicable to this Planning Proposal are detailed in this Section. For a complete checklist of SEPPs, refer to Attachment 2.

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 site is 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.

1.1 Business and Industrial Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.

This Planning Proposal is consistent with this Direction as it contains provisions that will provide additional opportunities for the economic development of land in close proximity to the regional centre of Bega, encourage commercial and employment growth in a suitable location and not compromise existing employment land in existing business and industrial zones.

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 the areas containing environmentally sensitive land within Lot 2432 DP 793758 have already been identified and appropriately zoned E2 Environmental Conservation under BVLEP 2013.

Council and the OEH have previously undertaken a Bio-certification Study of the area prior to the exhibition of the Draft BVLEP 2010. The findings of the Bio-certification study, were used to develop the E2 zonings within and adjoining Lot 2432 DP 793758.

Furthermore, the assessment of the 63 lot rural residential subdivision under DA2010.379 over Part of Lot 2432 DP793758 also identified environmentally sensitive areas. Those areas were included in a Property Vegetation Plan and its extent are detailed in the approved development plan provided in Figure 4 above.

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. As part of the assessment of a development application for the approved 63 lot rural residential subdivision under DA2010.379 over Part of Lot 2432 DP 793758, an Aboriginal Archaeology

Assessment was undertaken detailing the likely presence of aboriginal artefacts over the site. The assessment identified that the subject area detailed in this Planning Proposal has either a very low potential artefact density in the landform, or a low/moderate potential artefact density.

Given that there is moderate potential for Aboriginal artefacts to occur on the subject lands and an Aboriginal cultural heritage assessment would be needed to inform any future development of this area.

A review of Council's BVLEP 2002 and BVLEP 2013 identified that the subject land retains 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 inconsistent with this direction as the land is currently zoned 2(f) Future Urban. The 2(f) Future Urban zone has an objective which seeks to investigate the need for future urban land uses, this includes residential development. However, it is considered that this inconsistency is minor given the small size of the subject land and as remaining area of the property that is also zoned 2(f) Future Urban has been approved for rural residential subdivision in accordance with Council's Land use Planning Strategy 2008.

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 infrastructure is available to service the additional development that will result from this Planning Proposal.

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.

The properties that are the subject of this Planning Proposal are identified as containing buffer to Category 2 Bush Fire Prone land, therefore consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the Planning Proposal process.

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 consistent 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, these issues were dealt with in regards to other areas within Lot 2432 DP 793758 where development consent under DA2010.379 was granted for the subdivision of land for rural residential purposes.

In the assessment of that subdivision, the need to protect identified Lowland Grassy Woodland Endangered Ecological Community (EEC) on Lot 2432 DP 793758 was identified. Council's Environmental Services section provided a condition to protect the existing mature trees that are located within the allotments to ensure trees are not affected by building envelopes and associated infrastructure. Further, a condition of consent required the provision of a restriction as to user be created over relevant lots requiring the retention of mature trees. The trees provide tree hollows and habitat for numerous species. Several other conditions were recommended to ensure that all mitigation measures are undertaken before, during and upon completion of constructions works for the subdivision.

As a result of the approved subdivision of land, the applicant has created a Property Vegetation Plan under the Native Vegetation Act to protect important vegetation located within Lot 2432 DP793758. The proposed re-zoning under this Planning Proposal is located outside of the land protected by the Property Vegetation Plan.

The assessment of Lowland Grassy Woodland EEC has previously been reviewed by the Office of Environment and Heritage through the development application to subdivide the land detailed above. It is considered that this Planning Proposal should be further considered by the Office of Environment and Heritage as there are approximately 6 mature trees located within the subject area.

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

The proposed rezoning of the subject area to IN1 General Industrial would enable future industrial uses. Industrial uses by their nature have the potential to generate a number of environmental effects such as noise, air pollution and waste generation, but are very much dependent on the type and nature of the individual development.

Any future use of the site for industrial purposes would require the provision of a detailed environmental assessment to support a Development Application for further development of the subject property and Council would impose suitable conditions to mitigate any potential environmental effects. Furthermore, Bega Valley Development Control Plan 2013 details appropriate matters for consideration in the preparation of a development application to

ensure issues like potential noise, pollution, and other environmental issues are suitably considered and detailed in any development application.

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

The proposed re-zoning will have positive social and economic effect for Bega. In particular, the provision of additional industrial zoned land will:

- Provide opportunities for additional industrial development within close proximity to existing industrial zoned land that would utilise existing services and facilities; and
- Encourage beneficial employment generating development opportunities for the regional centre of Bega.

Section D – State and Commonwealth Interests

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

The additional public infrastructure requirements for the subject area in relation to road, stormwater drains, water and sewer infrastructure will be identified and addressed through the lodgement of a detailed development application for assessment and determination. The adjoining industrial zoned land has suitable services available to meet any future industrial use within the identified area.

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.

Government agencies identified for consultation with regard to this Planning Proposal are:

- NSW Roads and Maritime Service
- NSW Rural Fire Service
- NSW Office of Environment and Heritage

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 Matter for part of Lot 2432 DP 793758

LZN_011C

Amend map sheet LZN_011C by applying:

- IN1 General Industrial to part of Lot 2432 DP793758

HOB_011C

Amend map sheet HOB_011C by applying:

- N-14 metres height limit to part of Lot 2432 DP793758

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	Zingle Place, Bega NSW 2551
Merimbula	Market St, Merimbula NSW 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2550
Bermagui	Bunga St, 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 February 2014.

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	July 2014
STAGE 2 – Receive Gateway Determination	August 2014
STAGE 3 – Preparation of documentation for Public Exhibition	September 2014
STAGE 4 – Public Exhibition of the Planning Proposal	October 2014
STAGE 5 – Review/consideration of submissions received	November 2014
STAGE 6 – Council Report	December 2014
STAGE 7 – Meetings	January 2014
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	February 2015
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	March 2015
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	March 2015

Attachments

Attachment 1: Council reports and resolutions

Council Report: Planning and Environment Committee No. 4 - 12 June 2012

4. Bega Valley Local Environmental Plan 2012

In accordance with the Council resolution of 22 May 2012 staff have assessed both the written and oral presentations to the Council meeting regarding the Draft Comprehensive Local Environmental Plan 2010 (Draft CLEP). The staff summary is included as Appendix 7 of this report.

The report recommends amendment to the Draft CLEP and adoption of the plan. Further that the amended plan be forwarded to the Director-General requesting that the "plan be made" by the Minister for Planning.

Group Manager, Planning and Environment

Background

Council at its meeting held on 22 May 2012 gave consideration to a report on the Bega Valley Local Environmental Plan 2010 with the following staff recommendation:

"That, in regards to the draft Comprehensive Local Environmental Plan, Council resolves to:

1. Adopt the recommendations for the submissions outlined in:
 - Appendix 1 - support (or partial support) for the submission request, with only minor changes required to the exhibited draft Comprehensive Local Environmental Plan;
 - Appendix 2 - support (or partial support) for the submission request however, due to the nature of changes proposed, a "planning proposal" is to be prepared by Council and a "gateway determination" by the Minister for Planning is required prior to re-exhibition;
 - Appendix 3 - further research to be carried out by Council staff prior to progressing via a future report to Council; and
 - Appendix 4 - no agreement with the submission request, or the submission to be noted with no need for further action at this time – therefore proceed with the draft Comprehensive Local Environmental Plan as exhibited.
2. Amend the draft Comprehensive Local Environmental Plan in accordance with the recommendations in Appendix 1, the reclassification of various parcels of Council land in accordance with the report of the public hearing in Appendix 5, and the revised written instrument in Appendix 6.
3. Incorporate lot averaging into the draft Comprehensive Local Environmental Plan for land zoned R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living.
4. Adopt the amended draft Comprehensive Local Environmental Plan as per points 2 and 3 above, and forward the plan to the Director-General of NSW Planning & Infrastructure in accordance with the Environmental Planning and Assessment Act 1979 requesting that "the plan be made" by the Minister for Planning.
5. Proceed with a "planning proposal" and, if agreed by the Minister for Planning, re-exhibit those properties in accordance with the adopted recommendations of agreed submissions contained within Appendix 2. In the interim the subject land be "deferred", *thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.*
6. Defer a decision on the submissions in Appendix 3 until strategic investigations are completed and reported back to Council. In the interim the subject land be "deferred", *thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.*
7. Undertake further investigations into potential industrial sites in the Bega District for the longer term, noting that the draft Comprehensive Local Environmental Plan has already identified additional industrial land for the short to medium term in Bega (South) and Kalaru.

8. Note that the draft Comprehensive Development Control Plan requires further investigation and refinement, incorporating appropriate changes emanating from submissions.
9. Advise all those persons who have made submissions of the above."

In accordance with Council's Code of Meeting Practice the report was deferred for a further report due to addresses.

WHAT DOES THE PLAN SEEK TO ACHIEVE?

- The majority of the Shire has simply been changed to the closest comparable zone available in the standard State wide template. This means that the majority of land owners wanting to develop or improve their properties will not be affected by the draft plan.
- Where there are changes proposed, the focus is on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of RU1 Primary Production and RU2 Rural Landscape zones.
- Establishment of allotment sizes through a "Lot Size Map", thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of E3 Environmental Management and E4 Environmental Living zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of E2 Environmental Conservation zone.

Addresses to Council

There were a total of 22 individual addresses to Council while Mr C Maxted of Caddey Searl & Jarman addressed on behalf of 17 client submissions as well as matters raised by Caddey Searl and Jarman relating to subdivision clauses, lot sizing and height controls. In addition 11 written addresses were received.

The issues raised in all the addresses have been reviewed by Council staff including site meetings where appropriate.

As a result of this review, the staff recommendations for 21 of the submissions subject to addresses have been revised from that which was previously recommended to the Council on 22 May 2012.

Appendix 7 to this report is the staff summary of the addresses.

Appendix 1, 2, 3 and 4 attached to this report have been updated in accordance with the staff position included in Appendix 7.

Link to Planning & Environment Report 5 - 22 May 2012

Advice from the Department of Planning

Council on 28 February 2012 gave consideration to a staff report on the draft CLEP and as part of the resolution resolved the following:

- "1. That to progress the Comprehensive Local Environmental Plan:
 - Council staff work with the Department of Planning on the proposed amendments to the exhibited CLEP that would be considered minor and not warrant further exhibition.
 - Staff report to Council on those proposed amendments that are deemed not to require further exhibition.
 - The mapping to the CLEP be amended in accordance with that subsequent Council resolution.

Council has now received a solid overall endorsement of its approach to the finalisation of the CLEP as per the response of 31 May 2012 from the Regional Director, Department of Planning (see Appendix 8).

The Department has raised two main issues for consideration which relate to Littleton Gardens and to land owned by Bermagui Country Club.

In response, the following action is proposed by staff:

1. Further justification to be provided regarding Council's intended RE1 Public Recreation zoning of Littleton Gardens.
2. The E3 zone at the Bermagui Country Club be amended to E2 in accordance with the advice.

HEIGHT CONTROLS IN MERIMBULA, BEGA AND EDEN TOWN CENTRES

Staff have reviewed the height controls in Merimbula Town Centre in consideration of a number of submissions and workshop discussions with local professionals and Councillors. For the sake of consistency across the Shire reviews are now being undertaken for Bega and Eden Town Centres.

The matter is expected to be reported to Council in July and that any proposed changes will be treated as per Appendix 2.

Planning comment

The preparation of the draft CLEP has been a lengthy and extensive process for not only Councillors and staff, but the community as a whole. The process has included the 12 weeks of exhibition, including public information sessions, and a series of workshops with Councillors over the past 9 months since the completion of the exhibition period.

Further, Council staff have held a number of meetings with officers of the Department of Planning regarding all aspects of both the written instrument and the maps. Officers of the Department have also met with Councillors on several occasions over the last 6-7 years. These meetings clarified many issues and led to the inclusion of rural worker's dwellings becoming permissible with consent in the rural zones as part of the draft CLEP.

All public submissions and addresses, as well as Government agency submission and staff recommended changes, have been considered by Councillors at workshops.

Staff are of the opinion that Council is now in a position to resolve on the submissions and addresses received.

It is proposed that Appendix 1 be adopted by Council and that the draft CLEP be amended accordingly, including the mapping, and referred to the Department of Planning requesting that "the plan be made" by the Minister for Planning.

Appendix 2 and 3 represent submissions that are agreed to and require re-exhibition or submissions that require further investigation prior to resolution by Council. In the interim, it is proposed that the subject land be "deferred" thus retaining all the existing zonings and other provisions contained in the BVLEP 2002.

Staff are of the opinion that this pathway would finalise the CLEP process for the vast majority of landholders in the Shire and give surety and confidence in the planning process and strategic direction for the Shire.

Also, those persons who made submissions that are deferred would have the confidence that there would be no change to the current status of their land under BVLEP 2002 until their submission is re-exhibited or further investigated and finally resolved by Council.

The remaining submissions are proposed to be noted and/or not to be supported at this time.

Notwithstanding extensive workshopping of all the submissions with Councillors, it is open for any submission to be debated by Council at the meeting.

It should be noted that recommendation 7 to this report refers to investigations being undertaken into Industrial Land for the Shire as a whole, not the Bega District as recommended in the report to Council on 22 May 2102. This recommendation now accurately reflects Council's previously resolved position of 28 February 2012.

Conclusion

The draft CLEP has been prepared and exhibited in accordance with the provisions of the Environmental Planning and Assessment Act 1979 (the Act) and all submissions are now placed formally before Council for determination. A public hearing has been held in relation to the reclassification of Council owned land.

It is proposed that the draft CLEP be amended as per the recommendations of this report and referred to the NSW Department of Planning in accordance with the Act, requesting that "the plan be made" by the Minister.

Recommendation

That, in regards to the draft Comprehensive Local Environmental Plan, Council resolves to:

1. Adopt the recommendations for the submissions outlined in:
 - Appendix 1 - support (or partial support) for the submission request, with only minor changes required to the exhibited draft Comprehensive Local Environmental Plan;
 - Appendix 2 - support (or partial support) for the submission request however, due to the nature of changes proposed, a "planning proposal" is to be prepared by Council and a "gateway determination" by the Minister for Planning is required prior to re-exhibition;
 - Appendix 3 - further research to be carried out by Council staff prior to progressing via a future report to Council; and
 - Appendix 4 - no agreement with the submission request, or the submission to be noted with no need for further action at this time – therefore proceed with the draft Comprehensive Local Environmental Plan as exhibited.
2. Amend the draft Comprehensive Local Environmental Plan in accordance with the recommendations in Appendix 1, the reclassification of various parcels of Council land in accordance with the report of the public hearing in Appendix 5, and the revised written instrument in Appendix 6.
3. Incorporate lot averaging into the draft Comprehensive Local Environmental Plan for land zoned R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living.
4. Adopt the amended draft Comprehensive Local Environmental Plan as per points 2 and 3 above, and forward the plan to the Director-General of NSW Planning & Infrastructure in accordance with the Environmental Planning and Assessment Act 1979 requesting that "the plan be made" by the Minister for Planning.
5. Proceed with a "planning proposal" and, if agreed by the Minister for Planning, re-exhibit those properties in accordance with the adopted recommendations of agreed submissions contained within Appendix 2. In the interim the subject land be "deferred", thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.
6. Defer a decision on the submissions in Appendix 3 until strategic investigations are completed and reported back to Council. In the interim the subject land be "deferred", thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.
7. Undertake further investigations into potential industrial sites in the Bega Valley Shire for the longer term, noting that the draft Comprehensive Local Environmental Plan has already identified additional industrial land for the short to medium term in Bega (South) and Kalaru.
8. Note that the draft Comprehensive Development Control Plan requires further investigation and refinement, incorporating appropriate changes emanating from submissions.
9. Advise all those persons who have made submissions of the above.

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4. Bega Valley Local Environmental Plan 2012

1. That the following items be placed appropriately in Appendices 1 -4 as listed below:

That the following item be moved from Appendix 4 to Appendix 1 and thus deleted from the Heritage Schedule:
[section deleted]

2. That in regard to the draft Comprehensive Local Environmental Plan Council adopts the recommendations for the submissions outlined in:

- Appendix 1 - support (or partial support) for the submission request, with only minor changes required to the exhibited draft Comprehensive Local Environmental Plan;
- Appendix 2 - support (or partial support) for the submission request however, due to the nature of changes proposed, a "planning proposal" is to be prepared by Council and a "gateway determination" by the Minister for Planning is required prior to re-exhibition;
- Appendix 3 - further research to be carried out by Council staff prior to progressing via a future report to Council; and
- Appendix 4 - no agreement with the submission request, or the submission to be noted with no need for further action at this time – therefore proceed with the draft Comprehensive Local Environmental Plan as exhibited.

3. That Council amend the draft Comprehensive Local Environmental Plan in accordance with the recommendations in Appendix 1, the reclassification of various parcels of Council land in accordance with the report of the public hearing in Appendix 5, and the revised written instrument in Appendix 6.

4. That Council incorporate lot averaging into the draft Comprehensive Local Environmental Plan for land zoned R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living.

5. Adopt the amended draft Comprehensive Local Environmental Plan as per points 3 and 4 above, and forward the plan to the Director-General of NSW Planning & Infrastructure in accordance with the Environmental Planning and Assessment Act 1979 requesting that "the plan be made" by the Minister for Planning.

6. That Council proceed with a "planning proposal" and, if agreed by the Minister for Planning, re-exhibit those properties in accordance with the adopted recommendations of agreed submissions contained within Appendix 2. In the interim the subject land be "deferred", thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.

7. That Council defer a decision on the submissions in Appendix 3 until strategic investigations are completed and reported back to Council. In the interim the subject land be "deferred", thereby retaining its current zoning and status under Bega Valley Local Environmental Plan 2002.

8. That Council undertake further investigations into potential industrial sites in the Bega Valley Shire for the longer term, noting that the draft Comprehensive Local Environmental Plan has already identified additional industrial land for the short to medium term in Bega (South) and Kalaru.

9. That Council note that the draft Comprehensive Development Control Plan requires further investigation and refinement, incorporating appropriate changes emanating from submissions.

10. That Council advise all those persons who have made submissions of the above.

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	N/A
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	N/A
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	N/A
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	N/A
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: Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent
1.2 Rural Zones	N/A
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environment Protection Zone	Consistent
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	Consistent
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Inconsistent
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	Consistent
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulphate Soils	N/A
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