

Cobargo Rural Residential

Proposal Title : **Cobargo Rural Residential**

Proposal Summary : **The planning proposal seeks to zone deferred land at Lot 331 DP 1035434 Cobargo Bermagui Road, which is located on the eastern side of Cobargo, to an R5 Large Lot Residential Zone and with a minimum lot size of 5 hectares to provide for rural residential development.**

PP Number : **PP_2015_BEGAV_004_00** Dop File No : **15/09675**

Proposal Details

Date Planning Proposal Received :	28-Jul-2015	LGA covered :	Bega Valley
Region :	Southern	RPA :	Bega Valley Shire Council
State Electorate :	BEGA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Cobargo Bermagui Road		
Suburb :	Cobargo	City :	Postcode : 2550
Land Parcel :	Lot 331 DP 1035434		

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

Contact Name : **George Curtis**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	South Coast Regional Strategy	Consistent with Strategy :	Yes

Cobargo Rural Residential

MDP Number :

Date of Release :

Area of Release (Ha) : 55.00

Type of Release (eg Residential / Employment land) : Residential

No. of Lots : 0

No. of Dwellings (where relevant) : 9

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of Conduct has been complied with : Yes

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : The subject land is a rural property of approximately 51.55 hectares, with a frontage of approximately 467 metres to Cobargo Bermagui Road.

The subject land has an extensive rezoning history dating back to 1995 when the proponent originally sought to rezone the site from 1(a) Rural General to a rural small holdings zone under the Bega Valley LEP 1987. Council undertook a rural residential land supply study for the Cobargo area in 1999 which identified that the site was suitable for subdivision for rural residential development.

Following the study, Council resolved to prepare Draft Bega Valley LEP 1987 (Amendment No.121) to rezone the subject land to enable subdivision of up to 5 lots. However, this proposal was rejected by the Department of Planning due to concerns about the cumulative impact of effluent disposal from the village of Cobargo, which was unsewered at the time, on the surrounding catchment.

The subject land was proposed to be zoned RU1 Primary Production with a minimum lot size of 120 hectares under the draft Bega Valley LEP 2010. During exhibition of the draft LEP, Council received a submission on behalf of the landowner requesting a R5 Large Lot Residential zoning with a minimum lot size of 3 ha.

Council resolved to include the land as an "Appendix 3" matter requiring further research to be carried out prior to progressing the rezoning via a future report to Council.

The subject land is currently identified as a 'Deferred Matter' under the Bega Valley LEP 2013. The applicable zone is 1(a) Rural General Zone with a 120 ha minimum lot size under Bega Valley LEP 2002.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The intended outcome of the planning proposal is to amend Bega Valley LEP 2013 by undeferring the subject land, described as Lot 331 DP 1035434, and zoning the land to R5

Large Lot Residential to provide for a 9 lot rural residential subdivision. The statement of the outcomes is considered to be adequate.

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

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

Comment : **The explanation of the provisions provided in the planning proposal is to amend Bega Valley LEP 2013 as follows:**

**Amend Map sheet LZN_017A by deleting DM Deferred matter;
Amend map sheet LZN_017A by applying R5 Large Lot Residential Zone;
Amend Map sheet LSZ_017A by applying 5 hectares minimum lot size;
Amend Map sheet LAP_001 by deleting DM Deferred Matter.**

The explanation of provisions is considered to be adequate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.1 Residential Zones

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

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

Although not identified by the planning proposal, it is considered that the s117 Direction 2.1 Environment Protection Zones may also be applicable.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Section 117 Direction 1.2 RURAL ZONES: This Direction applies to the planning proposal as it will affect land within an existing rural zone.

The proposal is considered to be INCONSISTENT with this Direction as it proposes to rezone land from a rural zone to a residential zone.

The "Draft Local Environmental Study: Rural Residential Land Supply Cobargo" review prepared by Bega Valley Council in 1999 reviewed the suitability of a number of sites surrounding Cobargo, including the subject site, for rural residential development. The review included consideration of topography, soil/agricultural quality, hydrology and servicing. The subject site is identified as having a low agricultural soil quality (Class 4-5) under the Department of Primary Industries' Agricultural Land Classification Atlas. The subject site was identified in Council's review as being suitable for rural residential development.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency with the Direction is justified by a study that gives consideration to the objective of this Direction.

Section 117 Direction 1.5 RURAL LANDS: This Direction applies to the planning proposal as it will affect land within an existing rural zone and proposes to change the existing minimum lot size on land within a rural zone. The proposal is considered to be CONSISTENT with this Direction as it is not considered inconsistent with the Rural

Planning and Rural Subdivision Principles provided under the SEPP (Rural Lands) 2008, notably the planning proposal states that it will:

- not enable fragmentation of high quality agricultural land given the subject land's low agricultural land classification (Class 4&5);
- Not enable the potential for additional land use conflicts, particularly between residential uses and other rural land uses;
- provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments (which adjoin to the south, east and west); and
- provide rural residential opportunities in areas close to an existing town centre that is well serviced and capable of meeting the daily needs of residents.

It is noted that the site adjoining to the ^{west} east of this site is also zoned RU1 Primary Production and has a minimum lot size of 120 hectares under the Bega Valley LEP 2013. Council has advised that with the current sewerage infrastructure in place for Cobargo Village, this site is proposed to be zoned in the future to RU5 Village to take advantage of the future extension of the sewerage infrastructure. The proposed R5 Zone for the subject site is ^{west} considered to be a suitable transition zone to the adjoining future urban land to the east.

It is considered that the proposal is consistent with the Rural Planning and Rural Subdivision Principles for the reasons provided.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with the Direction.

Section 117 Direction 3.1 RESIDENTIAL ZONES: This Direction applies to the planning proposal as it will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted. The proposal states that it is consistent with the Direction as it will facilitate rural residential housing in an area capable of accommodating low impact development. Essential services and facilities exist in the locality which can adequately service the site. A traffic study, prepared in support of the planning proposal, identifies that suitable access arrangements can be provided to the subject site. The study has been prepared consultation with the Roads and Maritime Service.

The proposal is considered to be **CONSISTENT** with this Direction for the reasons provided.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with the Direction.

Section 117 Direction 4.1 ACID SULPHATE SOILS:

The proposal is considered to be **CONSISTENT** with this Direction as the site is not identified as having acid sulphate soils Class 1-5 as shown on the Acid Sulphate Soils Planning Maps in the Bega Valley LEP 2013. A Geotechnical Assessment Report, prepared in support of the planning proposal, also does not identify acid sulphate soils affecting the subject site.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with the Direction.

Section 117 Direction 4.4 PLANNING FOR BUSHFIRE PROTECTION: This Direction applies to the planning proposal as it will affect land mapped as bushfire prone.

The Direction requires consultation with the Rural Fire Service post Gateway determination and prior to exhibition.

RECOMMENDATION: The Secretary will need to be satisfied that the requirements of the Direction have been met. A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

5.1 IMPLEMENTATION OF REGIONAL STRATEGIES: This Direction applies to the planning proposal as the South Coast Regional Strategy applies to the land.

The South Coast Regional Strategy requires that limited areas for additional rural residential must be located on cleared land unsuitable for urban or agricultural uses and will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan.

The proposal states that it is consistent with the South Coast Regional Strategy given that it is:

- not located on viable agricultural land;
- located near to existing towns/villages and regional transport routes, which are capable of meeting the future daily needs of residents;
- capable of providing a range of housing choices that are affordable, sustainable and of a scale that will complement the role and character of existing townships, and
- unlikely to be subject to land use conflicts.

Bega Valley Council does not currently have a growth management strategy or structure plan. It is, however, currently preparing a rural residential settlement strategy.

Council's Draft Local Environmental Study: Rural Residential Land Supply Cobargo review (1999) identifies a shortage of rural residential land in close proximity to Cobargo area. It identifies that the subject land is suitable for rural residential development, subject to traffic and waste water studies.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with the Direction or any inconsistency is of minor significance and the planning proposal achieves the overall intent of the South Coast Regional Strategy.

Section 117 Direction 2.1 Environment Protection Zones: Although not identified in the planning proposal, it is considered that the Direction may also apply because the proposal identifies as part of its assessment of SEPP 44 (Koala Habitat Protection) that the site contains potential koala feed trees that could potentially constitute potential koala habitat. It is also noted that the Terrestrial Biodiversity Map under the Bega Valley LEP 2013 applies to the northern part of the site.

Council's Rural Residential Land Supply - Cobargo review identifies that koala populations are known to occur in the Murrah State Forest area. The review, however, states that it is not expected that subdivision of the subject site with a minimum average area of 5 hectares would result in an effect on threatened species, provided that there are provisions for retaining existing tree cover, especially on creeks and gully lines, and encouraging the replacement of locally indigenous native vegetation.

The planning proposal identifies that due to the proposed zoning and lot size it is unlikely to impact on important vegetation. Furthermore it notes that the lot averaging subdivision clause 4.1B available in the Bega Valley LEP 2013 would provide flexibility in subdivision lot size and subdivision pattern to protect any important koala habitat or other environmental areas.

It is noted that Cobargo Village is currently serviced with a sewerage system. The subject land is not however proposed to be connected to sewer. A Waste Water Treatment Report prepared in support of the planning proposal concludes that the proposed 5 ha lots are capable of on site waste water management which will have a neutral or slightly beneficial effect on the water quality in the local area.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with the Direction or any inconsistency is justified by Council's Rural Residential Land Supply - Cobargo Study (1999).

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The mapping has been provided is adequate for exhibition purposes. Additional mapping will need to be finalised consistent with the Department's LEP Mapping guidelines.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal indicates that it is likely that the proposal will be exhibited as a low impact proposal for no less than 14 days. It is considered, however, that the planning proposal should be exhibited for 28 days.

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 planning proposal does not include a Project Timeline as required in the Department's guide to preparing planning proposals. It is recommended that a timeline is included in the planning proposal prior to exhibition.

Proposal Assessment

Principal LEP:

Due Date : **August 2013**

Comments in relation to Principal LEP : The planning proposal seeks to zone a site currently deferred from Bega Valley LEP 2013. This site was included by Council in an "Appendix 3" matters for further consideration by Council.

Assessment Criteria

Need for planning proposal : The planning proposal zones land deferred from Bega Valley LEP 2013 and seeks to provide rural residential development opportunities adjoining the village of Cobargo.

Consistency with strategic planning framework : The planning proposal is consistent with Bega Valley Council's Draft Local Environmental Study: Rural Residential Land Supply - Cobargo Land Supply (1999), overall intent of the South Coast Regional Strategy, Council's Community Strategic Plan, applicable State Environmental Planning Policies and section 117 Directions.

Environmental social economic impacts : The proposal states that due to the proposed zone and minimum lot size provisions for the site, the proposal is not likely to have any impact on critical habitat or threatened species, populations or ecological communities, or their habitats. The proposed lots are large enough to ensure that any existing vegetation and habitat can remain undisturbed. Council has advised that it will 'ensure lot sizes and subdivision patterns conserve and protect the environmental values of the land by applying the lot averaging clause in the BVLEP 2013'.

The onsite waste water treatment proposed for the 5ha lots is not likely to have an adverse impact on local water quality.

Cobargo Rural Residential

The proposal is likely to have a positive social and economic impact as a result of the additional rural residential development which will be made available adjoining the existing village of Cobargo. This will help to support the local economy via demand for jobs, goods and services.

Assessment Process

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

Timeframe to make LEP : **18 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **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 :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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
Rural Residential Land Supply Strategy for Cobargo February 1999.pdf	Study	Yes
Background, Cobargo council workshop notes.docx	Study	Yes
Council Minutes Regarding Rural Res Strategy Cobargo 1999.pdf	Study	Yes
Council report.pdf	Proposal	Yes
Planning Proposal.pdf	Proposal	Yes
Council letter and minutes.pdf	Proposal Covering Letter	Yes
Attachment 4.pdf	Study	No

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
1.5 Rural Lands

3.1 Residential Zones
4.1 Acid Sulfate Soils
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Additional Information :

It is **RECOMMENDED** that the General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Bega Valley LEP 2013 to remove the "Deferred Matter" status of Lot 331 DP 1035434 Cobargo Bermagui Road, Cobargo and rezone it to R5 Large Lot Residential and with a 5 hectare minimum lot size, should proceed subject to the following:

1. A Project Timeline is to be included in the planning proposal prior to exhibition.

2. 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 must 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 (Planning and Infrastructure, 2013)'.

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

- * NSW Rural Fire Service (s117 Direction 4.4)
- * Roads and Maritime Service

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 they 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.

4. 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).

5. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

6. Council be authorised to use the Minister's plan making functions under sections 59(2), (3)&(4) of the EP&A Act.

7. **SECTION 117 DIRECTIONS** - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal's inconsistency with Section 117 Direction 1.2 ~~147~~ Rural Zones is justified by a study.

(b) The Secretary's delegate can be satisfied that the planning proposal is consistent with the following s117 Directions or any inconsistency is justified by a study or is of minor significance:

1.5 Rural Lands
2.1 Environment Protection Zones
3.1 Residential Zones
4.1 Acid Sulphate Soils
5.1 Implementation of Regional Strategies

(c) The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection, when Council has consulted with the Rural Fire Service prior to undertaking community consultation;

Cobargo Rural Residential

(d) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

8. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons : A 28 day public exhibition period and 18 month timeframe to complete an LEP are considered appropriate for the proposal.

Signature:

George Curtis *A / Team Leader*

Printed Name:

George Curtis

Date:

14/8/2015

ENDORSED

Brett Whitworth

14/8/15

Brett Whitworth
General Manager
SOUTHERN REGION

