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PLANNING & DEVELOPMENT SERVICES

PLANNING PROPOSAL

REZONING FROM 1(a) RURAL GENERAL UNDER BVLEP 2002 TO R5 LARGE LOT RESIDENTIAL UNDER BVLEP 2013

-Lot 331 DP 1035434, Cobargo Bermagui Road, Cobargo

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1.0 INTRODUCTION

KEEPLAN, Planning and Development Services has been engaged by Mr Andrew Austin to prepare a Planning Proposal in relation to a property described as lot 331 DP 1035434, Cobargo Bermagui Road, Cobargo.

The Planning Proposal seeks to remove the 'deferred matter' status of the subject site under Bega Valley LEP 2013 and rezone it from 1(a) (Rural General Zone) under BV LEP 2002 to R5 Large Lot Residential under Bega Valley Local Environmental Plan 2013. The Planning Proposal also intends to create a minimum lot size requirement of 5 hectares.

The planning proposal has been prepared in accordance with Section 55 (2) of the Environmental Planning and Assessment Act 1979 and the Department of Planning's *A Guide to Preparing Planning Proposals ("the Guide")*. The report is intended to assist Bega Valley Shire Council and the NSW Department of Planning in their consideration of the Planning Proposal and incorporates the following details:

- Intended outcomes of proposal
- Explanations of the provisions
- Justification for proposal
- Mapping
- Community Consultation

The report should be read in conjunction with the following material:

- Concept plan of subdivision prepared by John Healey & Associates
- Intersection site distance plan prepared by John Healey & Associates
- On-Site Waste Water Management Report prepared by Technibuild Consulting
- Email correspondence from Roads & Maritime Services

2.0 SITE DETAILS

2.1 Site location

The site is located on the eastern fringe of the Cobargo village as depicted in figure 1.

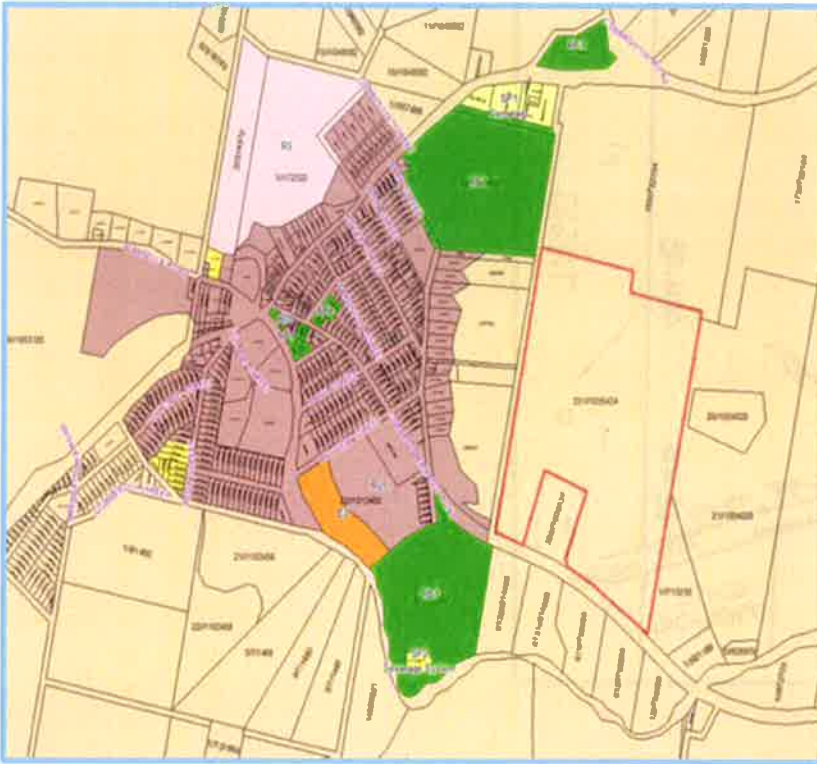


Figure 1-Site Locality plan

2.2 Site Description

The subject land is a vacant irregular shaped rural property with an area of approximately 51.55ha as shown on the deposited plan contained in figure 2. The site has a frontage of approximately 467 metres to Cobargo Bermagui Road and has a depth of approximately 984.6 metres along the eastern side boundary and 877.5 metres along the western side boundary.

The site primarily comprises pasture growth with scattered clumps of dry Sclerophyll Eucalypt vegetation across the northern portion of the property. The vegetation comprises isolated mature trees but is primarily regrowth. An aerial view depicting the site is contained in figure 3.

The site is traversed by natural gully lines as depicted on the John Healey Concept Plan Subdivision contained in figure 5. The higher northern portion of the site is moderately sloping and is traversed by a significant north south aligned gully line. The topography of the site is also depicted in figure 4.

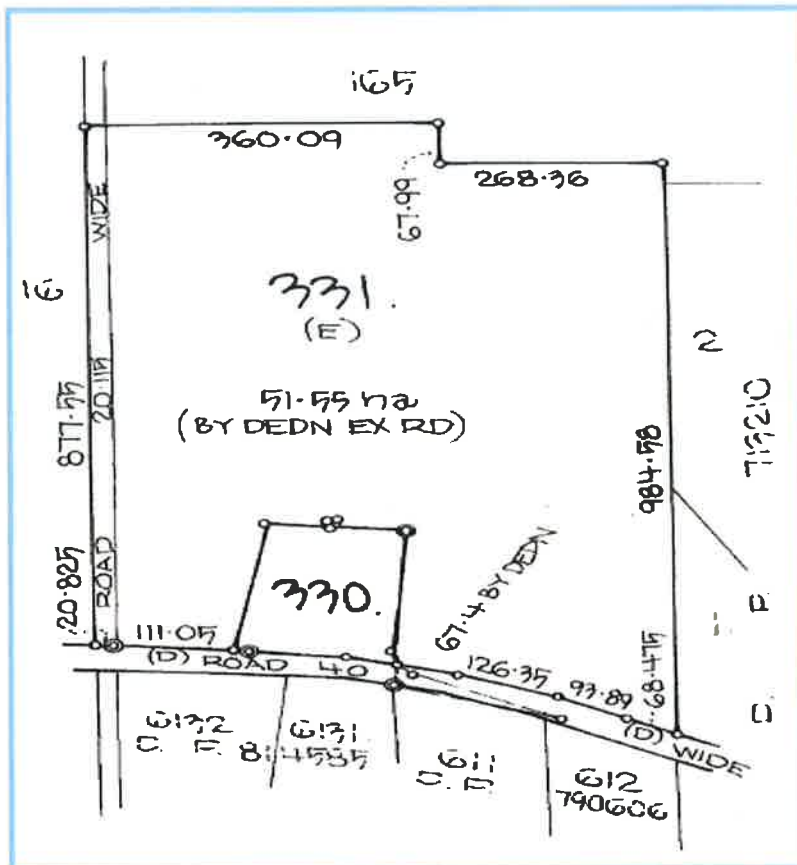


Figure 2-Deposited Plan



Figure 3-Aerial View of site

2.3 Site Context

The site is located on the fringe of the Cobargo village and is primarily surrounded by rural residential development to the south, east and west as depicted in figures 1 & 4. Some larger acreage properties are located to the immediate north of the site and further east of the site.



Figure 4-Topographic view of site & context

3.0 INTENDED OUTCOMES

The purpose of this Planning Proposal is to amend Bega Valley LEP 2013 (BVLEP 2013) by undeferring the subject land, described as Lot 331 DP 1035434 and including the previously deferred matter within the BVLEP 2013.

It is sought to zone the deferred subject land to R5 Large Lot Residential. Figure 5 represents a concept plan of rural residential subdivision that could be achieved on the site.

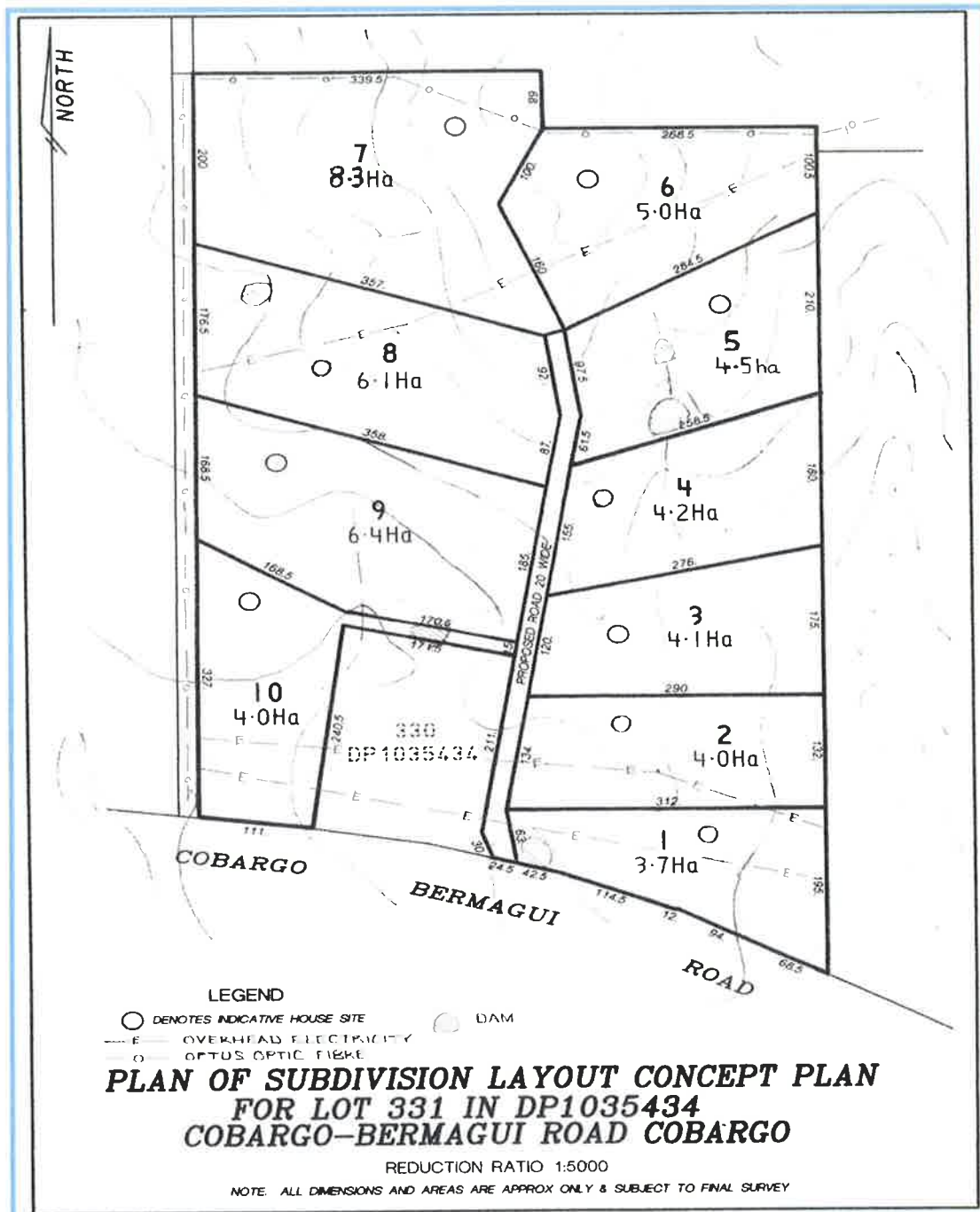


Figure 5-Concept Plan of Subdivision

R5 Large Lot Residential Rezoning - Lot 331 DP 1035434,
Cobargo Bermagui Road, Cobargo

4.0 EXPLANATION OF THE PROVISIONS

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

- 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
- Amend map sheet LAP_001 by deleting DM Deferred Matter

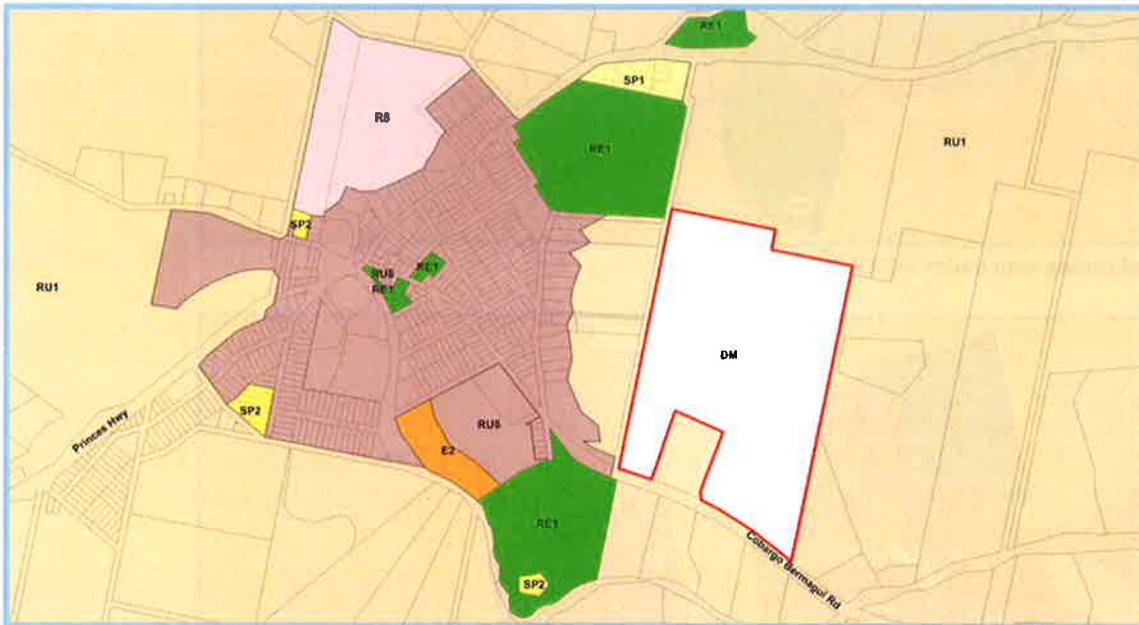


Figure 6-Existing zoning mapping under BVLEP 2013

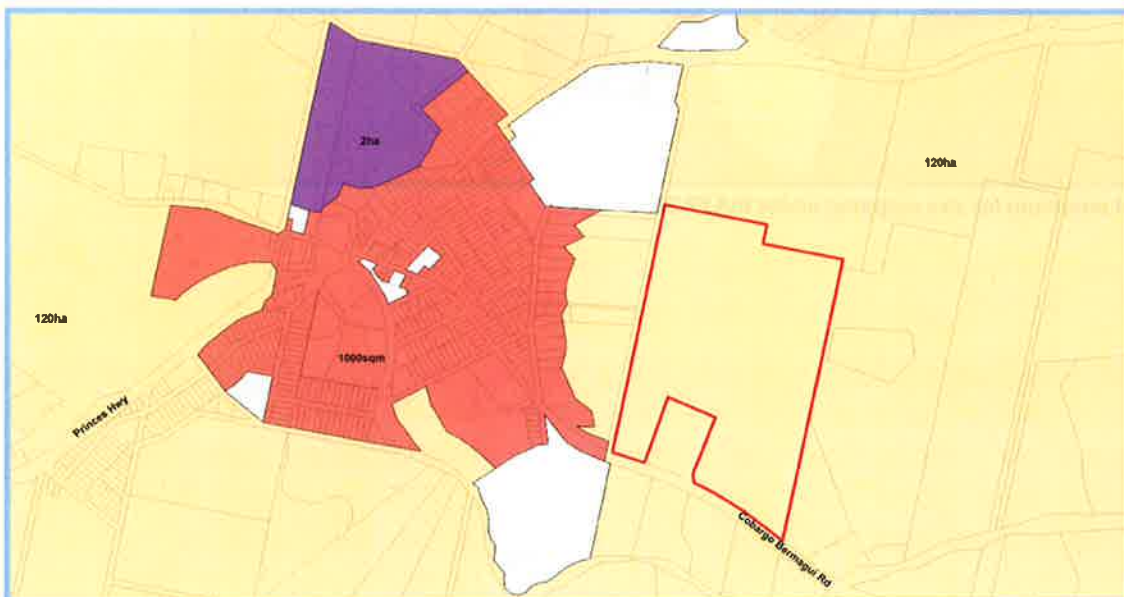


Figure 7-Existing lot size mapping under BVLEP 2013

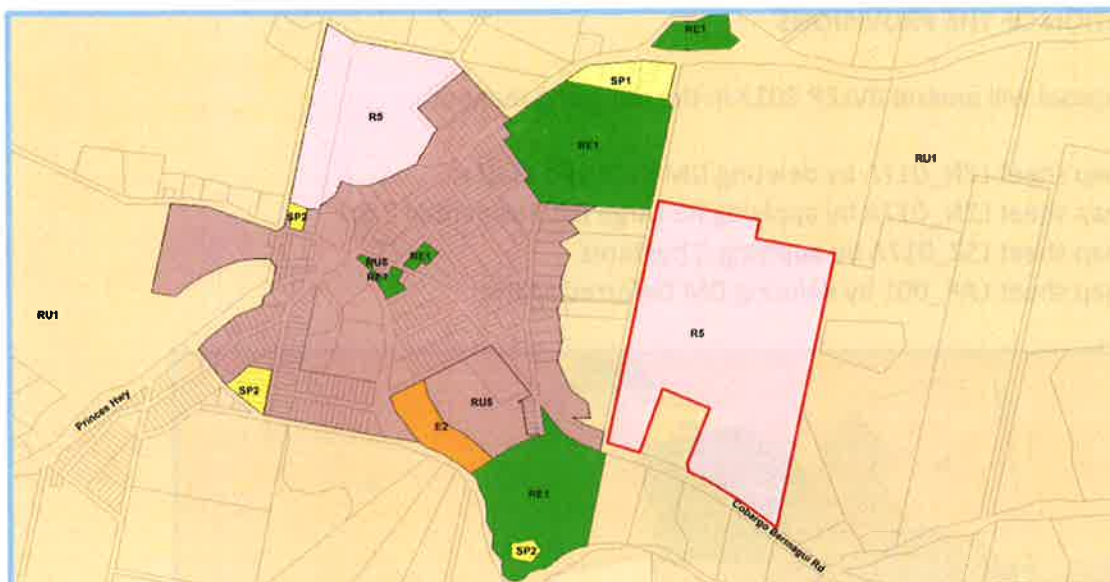


Figure 8-Proposed zoning map under BVLEP 2013

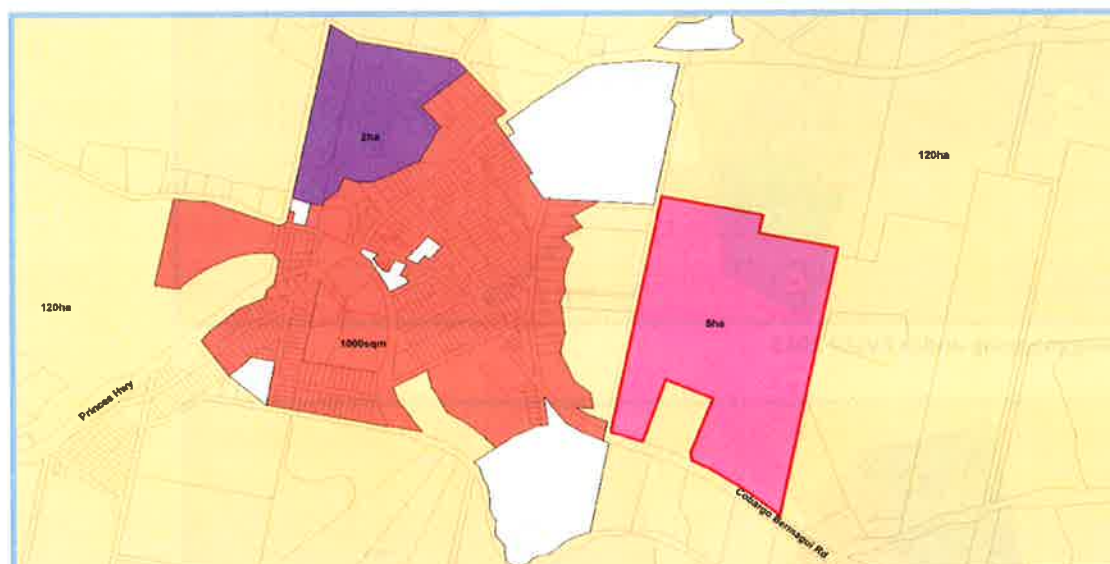


Figure 9-Proposed minimum lot size mapping under BVLEP 2013

5.0 JUSTIFICATION

5.1 Section A – Need for the planning proposal

* Early study

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

The Deferred matter has not been subject to extensive strategic study and review.

However the planning proposal is supported by a detailed Road Site Distance Analysis, prepared by John Healey & Associates to confirm that a safe site distance is achievable for an access point to a future rural residential development of the site in accordance with Roads & Maritime Services requirements.

The planning proposal is also supported by an On-Site Waste Water Treatment Report, prepared by Technibuild Consulting that addresses the capacity of the site to accommodate on-site waste water treatment systems for a future rural residential subdivision in accordance with Bega Valley Shire Council and Australian Standards.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is required to un-defer the subject land and re-zone it to R5 Large Lot Residential to permit future rural residential development under BVLEP 2013.

In addition applying a minimum lot size is the most appropriate means of achieving the objectives of improving the supply of rural residential living opportunities around Cobargo as it will enable consideration of the subject land for subdivision for residential development under Clause 4.1 of BVLEP 2013.

In addition to the above, BVLEP 2013 contains a lot averaging Clause 4.1B to ensure that lot sizes and subdivision patterns for residential accommodation conserve and provide protection for the environmental values of the land by encouraging buildings to be appropriately sited.

5.2 Section B – Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Yes. South Coast Regional Strategy.

The primary purpose of the South Coast Regional Strategy (SCRS) is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Section 6 of the Strategy addresses Housing and Settlement and identifies that the future demand for dwellings in the Bega Valley is estimated to be 8,600 over the next 25 years. With a significant proportion (approximately 25%) of Bega Valley residents currently choosing to live in rural areas outside

of towns and villages, Council needs to ensure the provision of rural residential opportunities to accommodate the expected population growth and demand.

Section 8 of the Strategy addresses Rural Landscapes and Communities and requires that:

- additional rural residential development must be located on cleared land unsuitable for urban or agricultural uses; and
- the scale of development adjacent to existing villages and rural towns will support the role of the town in serving surrounding communities and preserve its character, scale, cultural heritage and social values.

In terms of outcomes, this Planning Proposal is compatible with the SCRS given that the subject land 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 the subject of land use conflicts.

In addition to the above, BVLP 2013 contains a lot averaging Clause 4.1B to ensure that lot sizes and subdivision patterns for residential accommodation conserve and provide protection for the environmental values of the land by encouraging buildings to be appropriately sited.

4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

The Planning Proposal is consistent with the Bega Valley 2030 Community Strategic Plan.

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

- to support a place where everyone regardless of age or circumstance can enjoy a safe, involved and affordable community life; and
- to ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

In terms of outcomes, this Planning Proposal is consistent with these two aims of the CSP by enabling further subdivision for new rural living opportunities that are:

- within close proximity to existing townships, services and amenities;
- capable of supporting a range of housing choices that are affordable, sustainable and suited to the needs of the community; and
- capable of minimising and managing impacts on the natural environment.

5. Is the planning proposal consistent with applicable state environmental planning policies?

The proposal is consistent with relevant state environmental planning policies as addressed below:

State Environmental Planning Policy No. 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat areas in order to maintain the viability of koala populations. Land must be included in an environmental protection zone if it is core koala habitat.

We note that Council's Environmental Services has undertaken preliminary observations of the site and identified the following potential feed trees; *E.tereticornis*, *E.globiodia*, *E.cypellocarpa* and *E.muelleriana*.

On this basis the site could potentially constitute a 'potential Koala habitat'. Council's Environmental Services has advised that there have been numerous records of koalas present in the general area in previous decades according to BioNet. However, more recently these sightings have been restricted to the fringes of the forested areas to the north and south of the cleared land further to the east of the proposal.

Given the large sized rural residential lots we are of the view that the R5 Large lot residential zoning will only have a minor impact upon potential habitat trees. We have also considered the objectives of SEPP 44 as stated below and consider that the proposal is not inconsistent.

(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and

(b) by encouraging the identification of areas of core koala habitat, and

(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

On this basis the Planning Proposal is consistent with SEPP44 – Koala Habitat Protection.

State Environmental Planning Policy 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 and the site has not in the past been used for any intensive agricultural activities. On this basis the site does not exhibit any evidence of past contamination and is consistent with SEPP 55-Remediation of Land.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP lists Rural Planning and Rural Subdivision Principles which the proposal does not compromise. In particular, this Planning Proposal will:

- Not enable the fragmentation of high quality agricultural land given it is classified as Class 4 & 5;
- Not enable the potential for additional rural land use conflicts, particularly between residential land 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; 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.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

An assessment of the Planning Proposal in relation to applicable Section 117 Directions is addressed below:

1.2 Rural Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land.

The Agricultural Land Classification Atlas categorises the majority of the land as Class 4-5, indicating that the land has low agricultural production value. Given the lower agricultural classification, the site is used as a hobby life stock farm as it cannot be used for viable agricultural pursuits.

On this basis the Planning Proposal is consistent with this Direction and will have no impact on the existing or future agricultural production value of rural land.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

The proposed rezoning of the site to R5 Large Lot Residential and changes to the minimum lot size controls contained in this Planning Proposal are consistent with this Direction because it conforms to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and does not compromise the production value or development of rural land for rural purposes. In particular, this Planning Proposal will:

- Not enable the fragmentation of high quality agricultural land;
- Not enable the potential for additional rural land use conflicts, particularly between residential land 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; 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.

3.1 Residential Zones

This Direction aims to encourage a range of housing opportunities that makes use of existing infrastructure and services that do not impact on environment and resource lands. The Planning Proposal is consistent with this Direction as it facilitates rural residential housing in an area capable of accommodating low impact development. Infrastructure and services exist in the locality and can adequately service the site. The proposal will not impact on any environmental or resource lands. On this basis the Planning Proposal is consistent with this Direction.

4.1 Acid Sulphate Soils

This Direction applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps.

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has the probability of containing Acid Sulphate Soils.

This Planning Proposal is not inconsistent with this Direction as it applies to land that has a probability of containing acid sulphate soils. The site is not identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 to Class 5.

4.4 Planning for Bushfire Protection

This direction applies to land that is mapped as 'Bushfire prone land' which part of the subject land is.

The objectives of this direction is 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 to encourage sound management of bush fire prone areas.

The Planning Proposal is not inconsistent with this direction as a future rural residential subdivision can be accommodated on the site in accordance with Planning for Bushfire Protection provisions. This involves provision of appropriate asset protection zones, access and water supply to service a future rural residential subdivision.

The proposal will be forwarded to the NSW Rural Fire Service for comment in accordance with legislative requirements.

5.1 Implementation of Regional Strategies

The Planning Proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South Coast Regional Strategy.

5.3 Section C – Environmental, social and economic impact

7. 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?

No. The proposed zone and minimum lot size provisions for the subject land will not affect any critical habitat or threatened species, populations or ecological communities, or their habitats. The site primarily comprises cleared grazing land although the higher northern portion of the site comprises scattered Dry Sclerophyll forest, the majority of which are regrowth. There are some isolated larger mature trees located around rock outcrops on the property however they would likely not necessitate removal for future rural residential use.

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

There are few environmental effects anticipated as a result of the Planning Proposal.

The proposed lot layout generally reflects the physical capacity of the site with larger lots proposed on the higher northern portion of the site where the site is more moderately sloping and physically constrained. The lower southern lots fronting Cobargo Bermagui Road are approximately 3.7 to 4.0 hectares in size and reflect the size and configuration of existing Lot 330 and adjacent rural residential lots on the opposite side of the Cobargo Bermagui Road.

Density

The density of the sought by the Planning Proposal will not result in significant impacts upon existing topography, gully lines or vegetation. The minimum lot size for the Planning Proposal of 5 hectares will allow a significant area to be retained by future landowners.

Council will ensure lot sizes and subdivision patterns for rural residential accommodation conserve and protect the environmental values of the land by ensuring buildings are appropriately sited through the application of Clause 4.1B of BVLEP 2013, which provides for lot averaging within the R5 Large Lot Residential Zone.

On-Site Waste Water treatment

The proposal is supported by a Waste Water Treatment Report prepared by Technibuild Consulting which concludes that using secondary treatment methods each proposed allotment site is capable of safely disposing 1000 litres per day of waste water calculated in accordance with the Tables in AS1547-2012, the NSW Department of Health Guidelines, Bega Valley Shire Council's DCP and the Sydney Catchment Authority Design Manual. The Waste Water Treatment Report concludes that proposed on-site waste water disposal systems will have a 'neutral or slightly beneficial effect on the water quality in the local area'.

Access

The proposal is supported by a Surveyed Site Distance analysis, prepared by John Healey & Associates, to determine that a safe access can be achieved at the frontage of the site to Cobargo Bermagui Road in accordance with Roads and Maritime Services requirements. The analysis demonstrates that a site distance of 222 metres can be achieved to the east and 248 metres to the west. Based on the current speed limit of 100 km/hr at the frontage of the site, this is compliant with the Roads and Maritime Service Guidelines. Email correspondence from the RMS to Council dated 28 and 30 January 2015 confirms this. Refer Appendix A.

Bushfire

The site is partly mapped as bushfire prone land and accordingly consideration has been given to Planning for Bushfire Protection. Initial evaluation suggests that a future rural residential subdivision can be accommodated on the site and achieve required asset protection zones, access and water supply requirements.

9. How has the planning proposal adequately addressed any social and economic effects?

Given the minor nature of the Planning Proposal, it will not have any negative social or economic effects. The site is suitably located in close proximity to Cobargo township to access essential services and facilities. The subject property is also directly surrounded by existing rural residential properties.

5.4 Section D – State and Commonwealth interests

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

Yes. The additional rural residential lots that will result from this Planning Proposal are small scale and significant additional demand for infrastructure is not anticipated.

The rezoning is considered appropriate given the proximity to the Cobargo local service centre, existing sealed and practical road access, existing electricity and telecommunications infrastructure and a demonstrated capacity to address bushfire and environmental issues.

11. What are the views of State and Commonwealth public authorities consulted in accordance with this gateway determination?

Consultation has been carried out with a representative of both the RMS and Bega Valley Shire Council to confirm that a safe access to the subject site is attainable from Bermagui Cobargo Road. An on-site meeting was conducted with a representative of the Roads and Maritime Service and Bega Valley Shire Council's Development Engineer on 28 January 2015 to view the proposed access point as illustrated on the John Healey & Associates Plan of Subdivision. The RMS confirmed via email dated 30 January 2015 that it would accept the proposed access point and that sight distance is adequate. The RMS also advised that it would seek access for each lot to be off a single access point and accordingly the plan of

subdivision has been amended so that only 1 point of access is proposed. A copy of the email correspondence is submitted in support of the Planning Proposal.

Consultation has not occurred with other State and Commonwealth public authorities. The level of consultation will be determined by the NSW Department of Planning when it makes its Gateway Determination.

6.0 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 to the subject site on the following BVLEP 2013 maps:

- 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
- Amend map sheet LAP_001 by deleting DM Deferred Matter

7.0 COMMUNITY CONSULTATION

The Gateway Determination will confirm community consultation requirements. If this Planning Proposal is supported, 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*. A 'low' impact proposal is defined as *'a planning proposal that, in the opinion of the person making the Gateway determination is:*

- *Consistent with the pattern of surrounding land use zones and/or land uses;*
- *Consistent with the strategic planning framework;*
- *Presents no issues with regard to infrastructure servicing;*
- *Not a principle LEP; and*
- *Does not re-classify public land'.*

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 (Bega District News) and in writing to affected landowners.

8.0 CONCLUSION

The subject site is considered to be suitable for the R5 Large Lot Residential zone with a 5 hectare minimum lot size provision and entitlement to the lot averaging provisions under Clause 4.1B of BVLEP 2013.

The proposal is consistent with relevant Planning proposal considerations under the Department of Planning's *A Guide to Preparing Planning Proposals* ("the Guide") as demonstrated.

There are few environmental effects anticipated as a result of the Planning Proposal and it is also consistent with relevant legislative Planning considerations.

In conclusion, we consider that the Planning Proposal is worthy of support and will deliver a net positive social and economic outcome for Cobargo.

