

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Planning Proposal: Residential Zones

September 2013

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Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to provide additional supply of medium density residential dwelling and tourist development opportunities to meet demand in existing urban areas identified through submissions to the Draft Local Environmental Plan 2010.

Part 2 – Explanation of the Provisions

To achieve the objectives outlined in Part 1 this Planning Proposal seeks to:

1. Lot 2 DP 1170612 Bega-Tathra Road, Bega
 - Amend map sheet LAP_001 by deleting Deferred Matter
 - Amend map sheet LZN_011C by applying part R3 Medium Density Residential Zone and RU2 Rural Landscape Zone
 - Amend map sheet LSZ_011C by applying U 1,000m²
 - Amend, map sheet FSR_011C by applying F 0.6 to the land proposed to be zoned R3 Medium Density Residential
2. Part Lot 2 DP 1065871 Newton Road, Bega
 - Amend map sheet LAP_001 by deleting Deferred Matter
 - Amend map sheet LZN_011C by applying R2 Low Density Residential Zone
 - Amend map sheet LSZ_011C by applying K 550m²
 - Amend map sheet FSR_011C by applying D 0.5:1
3. Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui
 - Amend map sheet LAP_001 by deleting Deferred Matter
 - Amend map sheet LZN_017C by applying R3 Medium Density Residential Zone
 - Amend map sheet LSZ_017C by applying U 1,000m²
 - Amend map sheet FSR_017C by applying F 0.6:1
4. Lot 330 DP 836720 West Street, Bermagui
 - Amend map sheet LAP_001 by deleting Deferred Matter
 - Amend map sheet LZN_017C by applying R3 Medium Density Residential Zone
 - Amend map sheet LSZ_017C by applying U 1,000m²
 - Amend map sheet FSR_017C by applying F 0.6:1
5. Lots 1 & 2 DP 1126141 Princes Highway, Eden
 - Amend map sheet LAP_001 by deleting Deferred Matter
 - Amend map sheet LZN_021A by applying an R3 Medium Density Residential Zone
 - Amend map sheet LZN_021A by applying U 1,000m²
 - Amend map sheet FSR_021A by applying F 0.6:1
6. 33 & 34 DP 243029 Tura Beach Drive, Tura Beach
 - Amend map sheet LAP_001 by deleting Deferred Matter

- Amend map sheets LZN_020B and LZN_020C by applying R3 Medium Density Residential Zone
- Amend map sheets LSZ_020B and LSZ_020C by applying U 1,000m²
- Amend map sheets FSR_020B and FSR_020C by applying F 0.6:1

7. Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula

- Amend map sheet LAP_001 by deleting Deferred Matter
- Amend map sheet LZN_020B by applying part R3 Medium Density Residential Zone, RE2 Private Recreation, E2 Environmental Conservation and E4 Environmental Living
- Amend map sheet LSZ_020B by applying U 1,000m² to the land proposed to be zoned R3 Medium Density Residential and Z2 3 hectares to the land proposed to be E4 Environmental Living
- Amend map sheet HOB_020B by applying K 10 metres to the land proposed to be zoned E2 Environmental Conservation, E4 Environmental Living and RE2 Private Recreation and N 14 metres to the land proposed to be zoned R3 Medium Density Residential on Lot 211 DP 1040557
- Amend map sheet FSR_020B by applying F 0.6:1

Part 3 – Justification

1. Part Lot 2 DP 1176012 Bega-Tathra Road, Bega



Figure 1: Bega-Tathra Road, Bega: Aerial photograph of portion of subject land proposed for zoning R3 Medium Density

Lot 2 DP 1176012 is approximately 58 hectares in size and is located on the southeast fringe of Bega. This Planning Proposal applies to approximately 4 hectares of Lot 2 DP 1176012 fronting the Bega – Tathra Road. The property contains a dwelling and associated outbuildings and has been used for agricultural purposes (see Figure 1). The Bega River forms the eastern boundary of the property and a large proportion of the property is mapped as flood prone.

Within the immediate area are a number of agricultural properties and residential areas of Bega. The South East Regional Hospital is to be located directly to the south with construction already commenced.

The subject land was deferred from BVLEP 2013 and is currently zoned 1(a) Rural General Zone with a minimum lot size control of 120 hectares. In the Draft BVLEP 2010, the subject property was proposed to be zoned RU1 Primary Production Zone with a minimum lot size

control of 120 hectares on the basis that this zone represented the best fit from the existing zoning (see Figures 2 and 3).

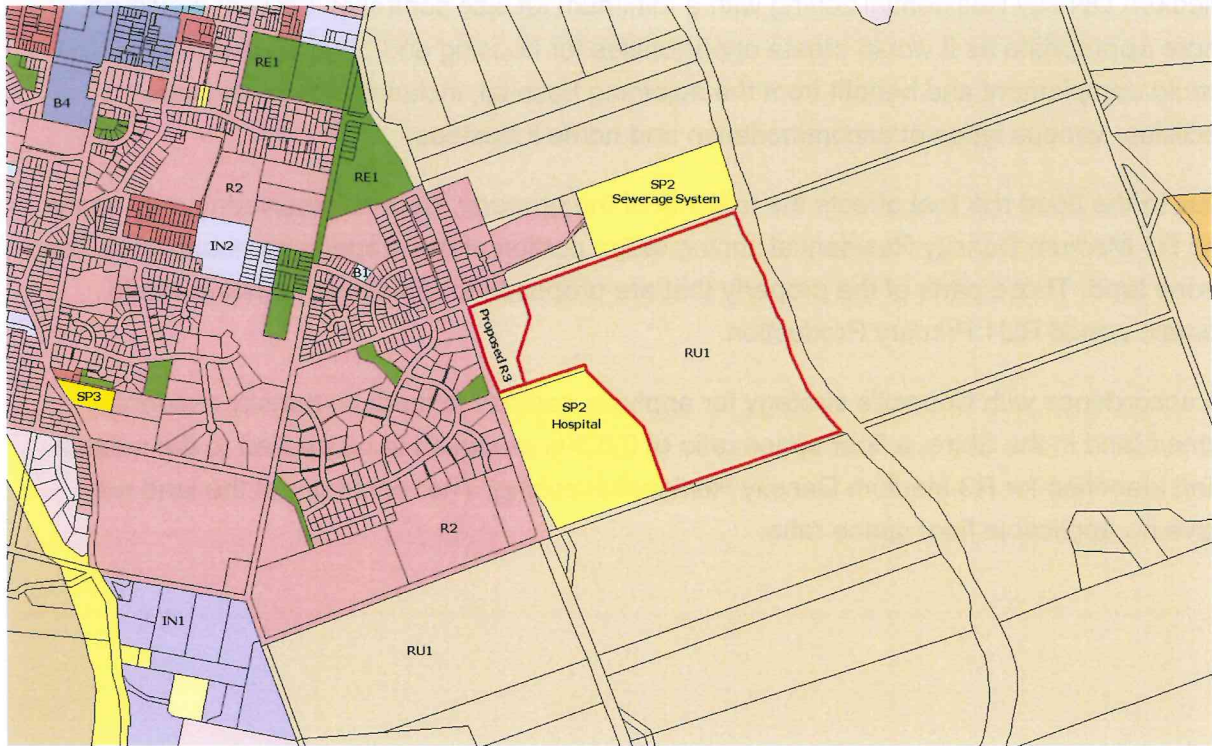


Figure 2: Bega-Tathra Road, Bega: Land Use Zones (Exhibited BVLEP 2010)

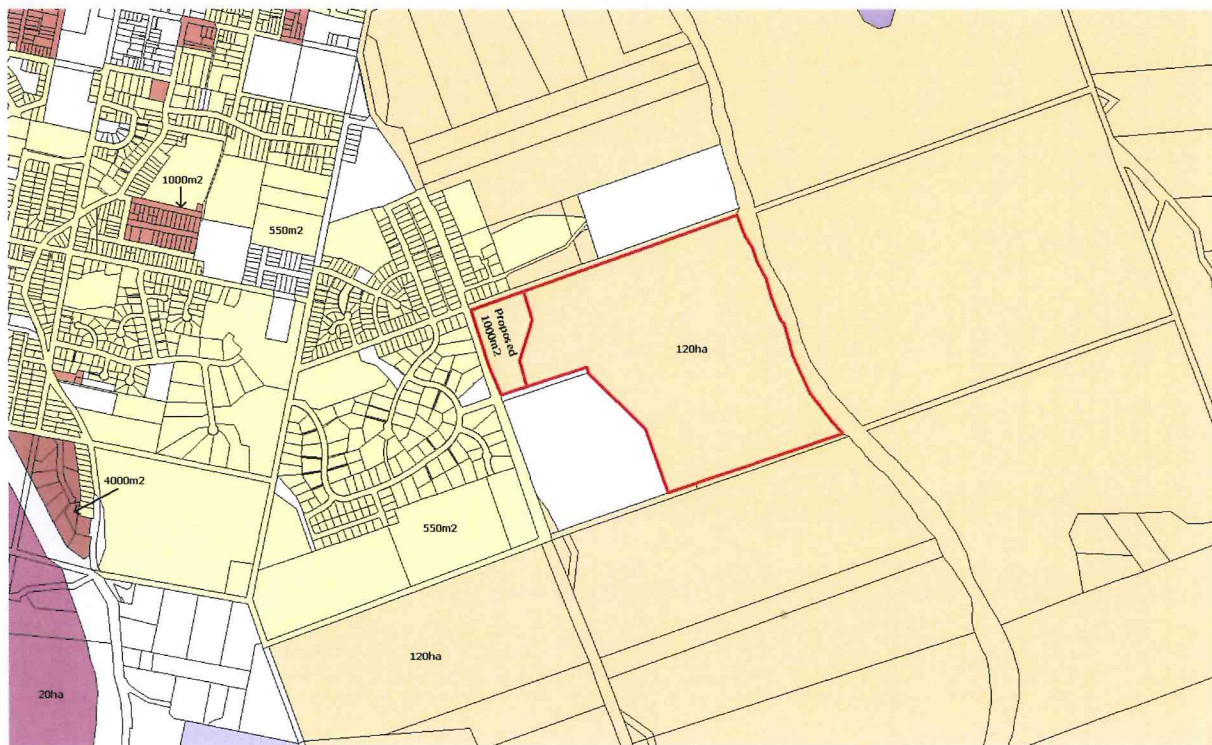


Figure 3: Bega-Tathra Road, Bega: Minimum Lot Sizes (Exhibited BVLEP 2010)

In response to a submission received from the landowner during the public exhibition of Draft BVLEP 2010, the proposed zoning was reviewed. This review determined that an R3 Medium Density Residential zoning with a minimum lot size control of 1,000m² would be more appropriate as it would create opportunities for housing and other developments that would complement and benefit from the adjoining hospital, including residential care facilities, various types of accommodation and home industries.

Due to the flood risk that affects the majority of the property, Council resolved to only apply the R3 Medium Density Residential zoning to the portion of the property not mapped as flood prone land. Those parts of the property that are proposed to remain as farmland would remain zoned RU1 Primary Production.

In accordance with Council's strategy for applying controls to medium density residential zoned land in the Shire, a floor space ratio of 0.6:1 is proposed to be applied to the subject land identified for R3 Medium Density Residential zoning. The remainder of the land will have no applicable floor space ratio.

2. Part Lot 2 DP 1065871 Newton Road, Bega



Figure 4: Newton Road, Bega: Subject Land Aerial Photograph

The subject land is a small part of a 20 hectare property adjacent to Newtown Road between Boundary Road and Charlotte Street on the southern outskirts of Bega. Developments within the immediate vicinity of the subject land comprise dwelling houses and associated outbuildings and landscaping.

As shown in Figure 4, the subject property is substantially cleared for light grazing and is dominated by a central gully running generally north-south. A relocatable dwelling is located near to the eastern boundary north of Lot 1 DP 1065871. There is no active farm infrastructure on the subject land.

The property was deferred from BVLEP 2013 and is currently zoned 2(f) Future Urban (19.92 hectares) and 9(c) Arterial Road Reservation (0.48 hectares) under BVLEP 2002. In Draft BVLEP 2010 the same areas were proposed to be zoned R2 Low Density Residential Zone and SP2 Infrastructure Zone respectively.

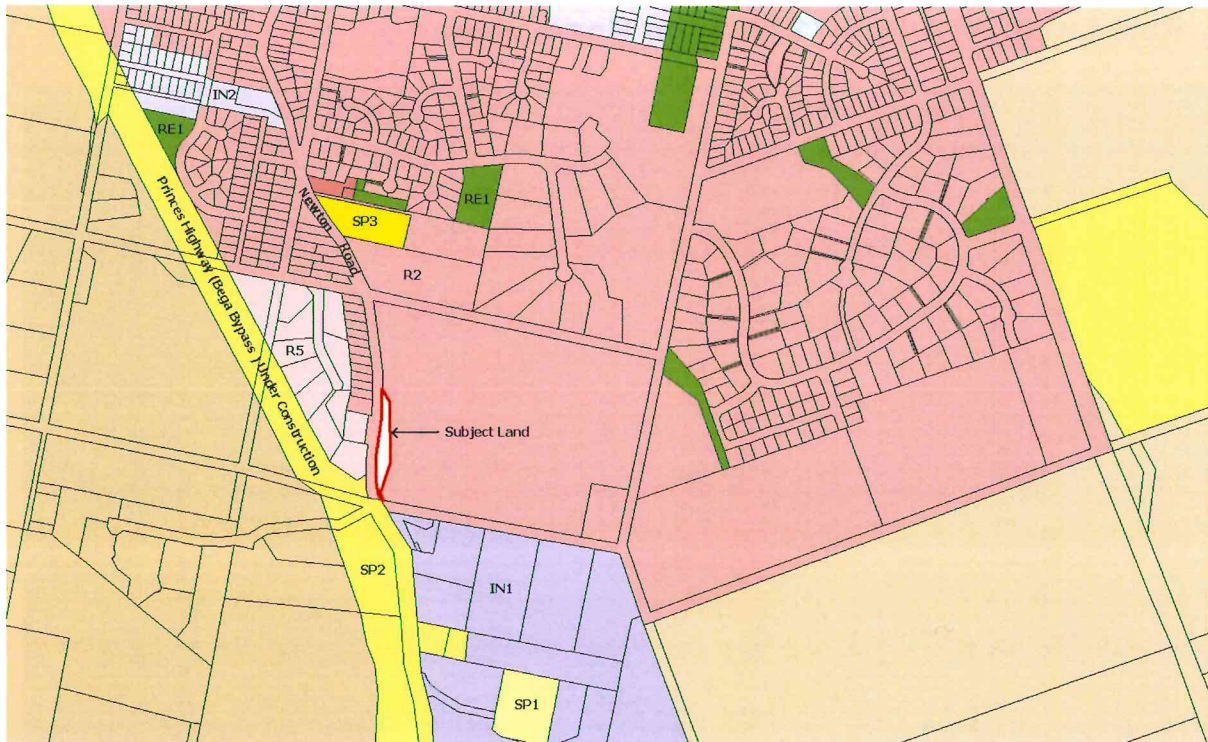


Figure 5: Newton Road, Bega: Land Use Zones (Exhibited BVLEP 2010)

In response to a submission received on behalf of the landowner during the public exhibition of Draft BVLEP 2010, the area of land proposed to be zoned SP2 Infrastructure Zone was deferred from BVLEP 2013 for Council to review the proposed zoning. The landowner requested that the land be zoned B4 Mixed Use Zone to permit bulky goods, seniors housing and other standard residential uses.

On the basis that the land is no longer required by the NSW Roads and Maritime Services for the construction of the Bega By-pass, which is currently underway, Council resolved that the appropriate zone for this area of land is R2 Low Density Residential in keeping with the zoning of the remainder of the parcel and the surrounding land. To ensure consistency in the planning controls applied to the surrounding R2 zoned land, a floor space ratio of 0.5:1 is proposed to be applied to the subject land.

The land is seen as an important part of Bega's future as it is in single ownership and is ideally suited to a residential subdivision following the construction of the by-pass. The land is not considered suitable for bulky goods retailing and the other two requested uses are permissible within the proposed R2 Low Density Residential Zone in BVLEP 2013.

3. Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui



Figure 6: Lamont Street, Bermagui: Subject Land Aerial Photograph

The subject properties are located within the township of Bermagui approximately 800 metres to the west of the Town Centre. The properties range in size from 564m² to 1,893m² and are predominantly developed for residential lifestyle containing dwelling houses and associated outbuildings and landscaping (see Figure 6). Lot 11 DP 1030394 contains 6 units and a cottage for holiday rental.

The adjoining development precinct at the eastern end of Lamont Street has a distinct tourist and business atmosphere, which has progressed since the establishment of the Bermagui Fisherman's Co-operative. Development within this precinct generally comprises dwelling houses, multi-unit housing, serviced apartments and recreation areas.

The subject properties were deferred from BVLEP 2013 pending a review of the proposed zoning and are currently zoned 2(a) Residential Low Density with a minimum lot size control of 550m². In the Draft BVLEP 2010 the subject properties were proposed to be zoned R2 Low Density Residential Zone with a minimum lot size control of 550m² on the basis that this zone represented the best fit from the existing zoning (see Figures 7 and 8).

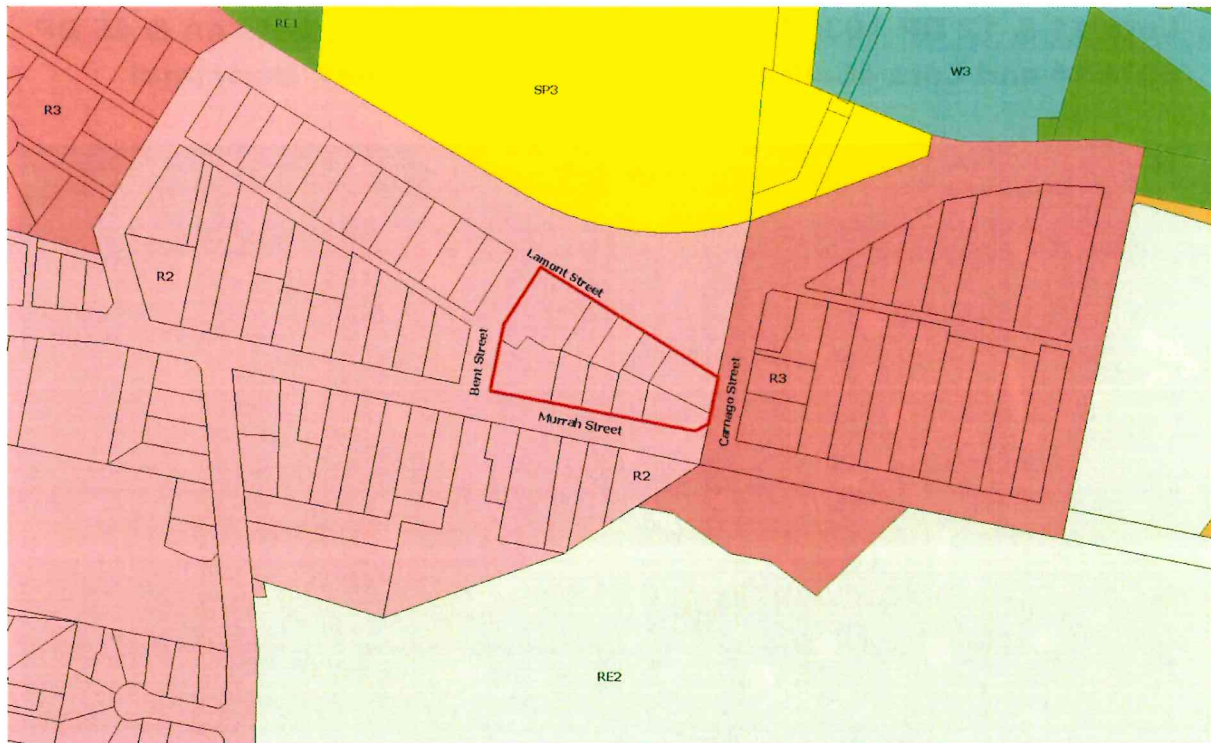


Figure 7: Lamont Street, Bermagui: Land Use Zones (Exhibited BVLEP 2010)

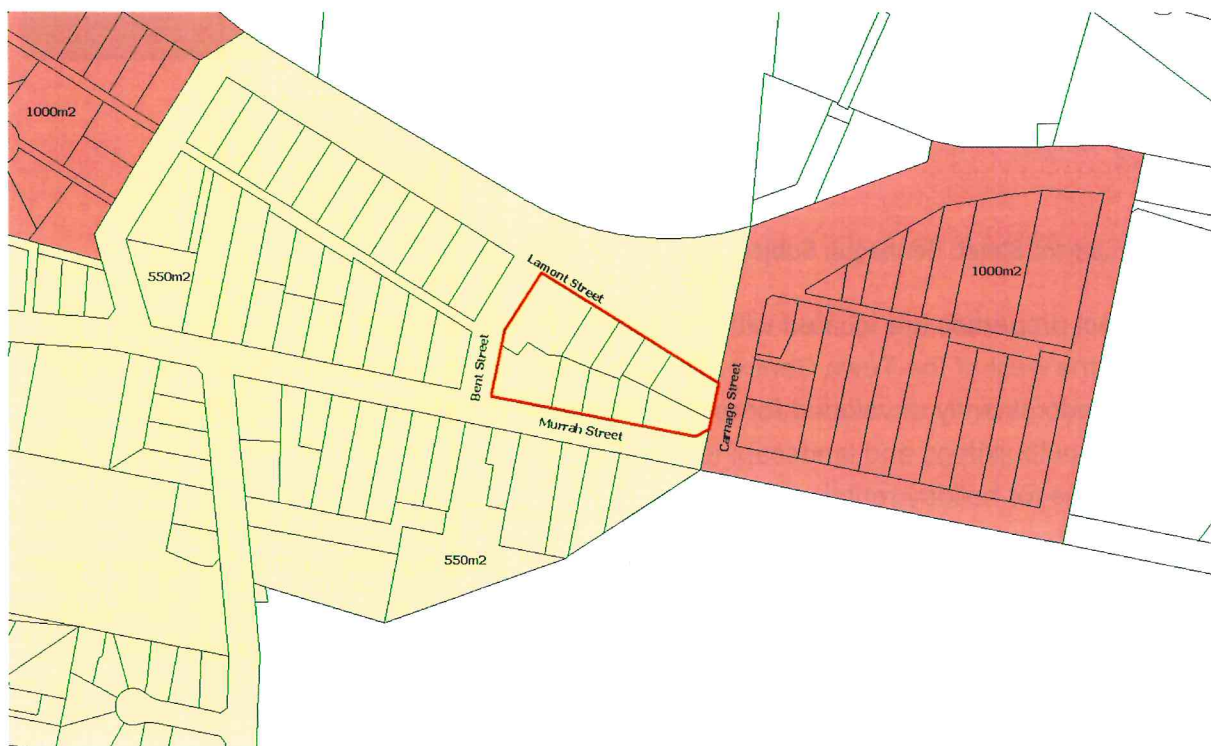


Figure 8: Lamont Street, Bermagui: Minimum Lot Sizes (Exhibited BVLEP 2010)

The proposed zoning of the subject land in Draft BVLEP 2010 was reviewed by Council in response to submissions received from two landowners during the public exhibition. This review determined that the R3 Medium Density Residential Zone with a minimum lot size of 1,000m² was more appropriate than a R2 Low Density Residential zone. In addition, Council resolved that the R3 Medium Density Residential Zone and 1,000m² minimum lot size was suitable for all the area bound by Bent, Lamont, Carnargo and Murrah Streets. In accordance with Council's strategy for applying controls to medium density residential zoned land in the Shire, a floor space ratio of 0.6:1 is proposed to be applied to the subject land.

The R3 Medium Density Residential Zone was considered to be suitable in this instance as it will strengthen Bermagui's capacity to meet population projections and ensure a diversity of housing choices compatible with the needs of the projected population, in particular the needs of smaller households and an aging population. Further to this, the subject properties represent a natural extension to the adjoining tourist and business type developments to the east, are within close proximity to the Bermagui Town Centre, have sealed and practical road access, existing service infrastructure as well as good aspect and topography.

4. Lot 330 DP 836720 West Street, Bermagui



Figure 9: West Street, Bermagui: Subject Land Aerial Photograph

The subject property has a site area of 7,967m² and is located at the western extent of the Bermagui township. It is predominantly vacant and cleared with a small dwelling house located near to the north-eastern boundary corner. The property overlooks the Bermagui River and township. Developments in the vicinity predominantly comprise dwelling houses. There are a number of holiday apartments located to the north of the subject property (see Figure 9).

The subject property was deferred from BVLEP 2013 pending a review of the proposed zoning and is currently zoned 2(a) Residential Low Density Zone with a minimum lot size control of 550m² under BVLEP 2002. In the Draft BVLEP 2010, the property was proposed to be zoned R2 Low Density Residential Zone with a minimum lot size control of 550m² on the basis that this zone represented the best fit from the existing zoning (see Figures 10 and 11).

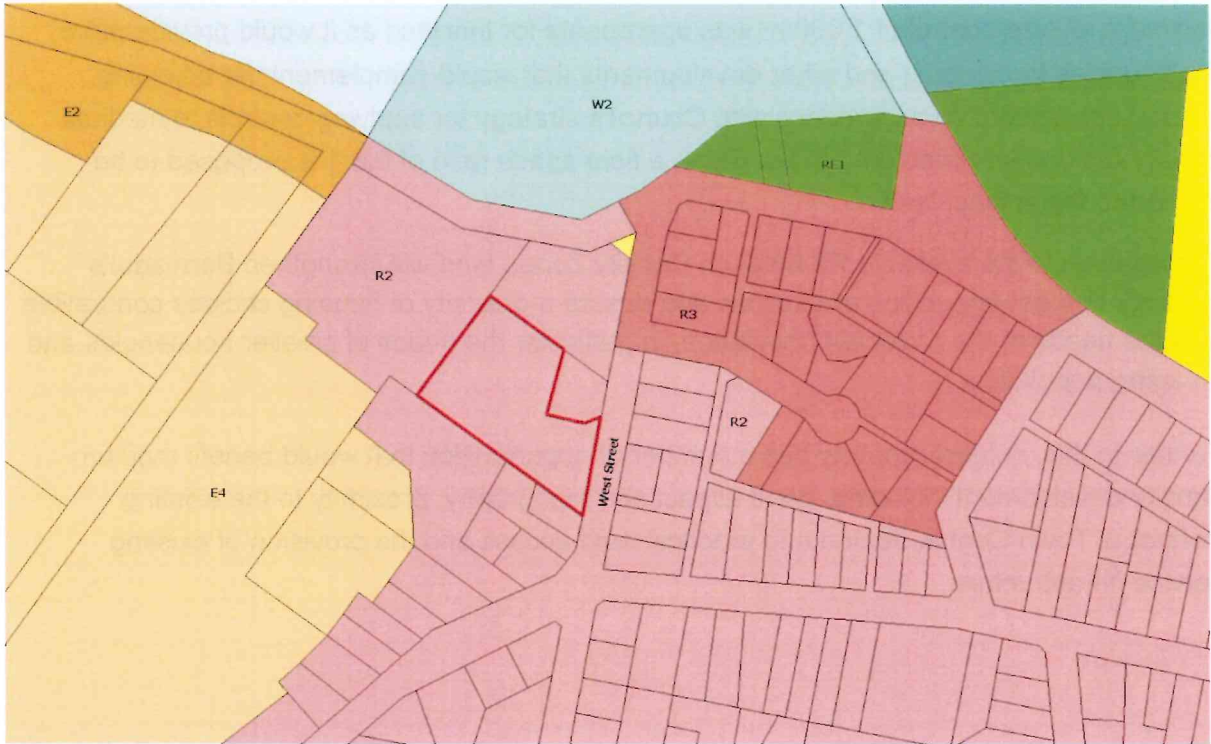


Figure 10: West Street, Bermagui: Land Use Zones (Exhibited BVLEP 2010)

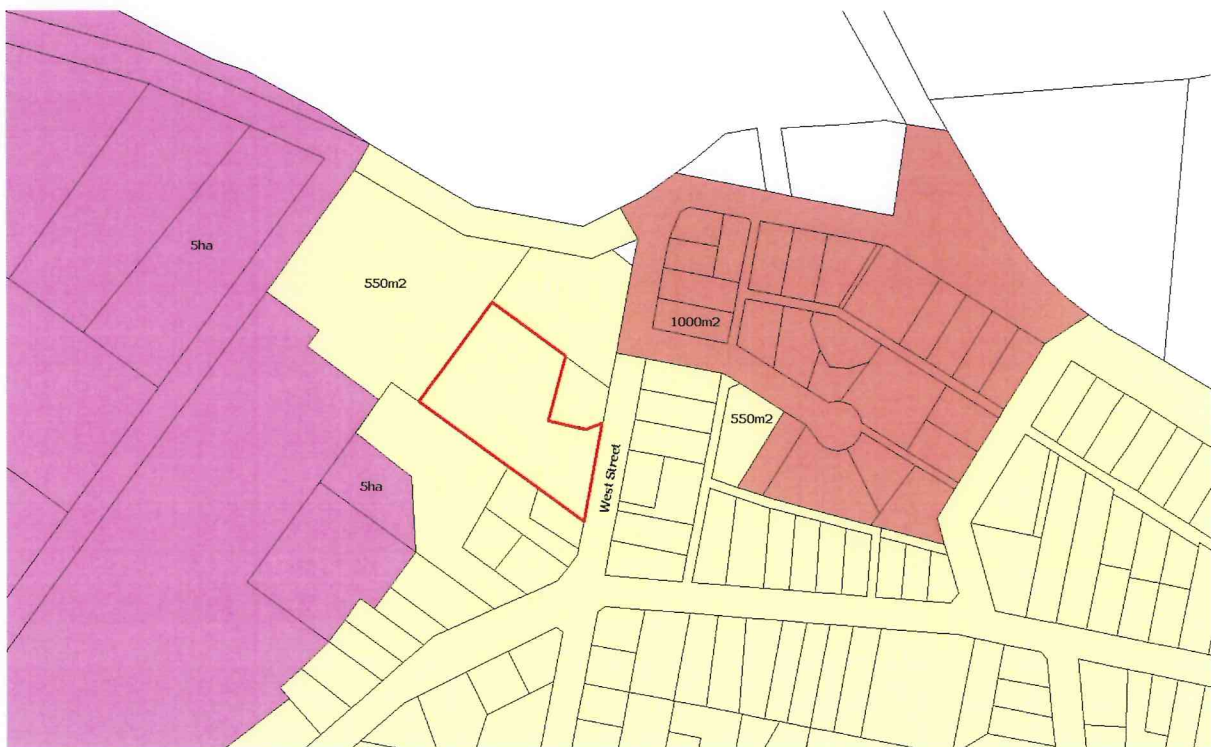


Figure 11: West Street, Bermagui: Minimum Lot Sizes (Exhibited BVLEP 2010)

The proposed zoning of the subject land in Draft BVLEP 2010 was reviewed by Council in response to a submission from the landowners during the public exhibition. Subsequent to this review, Council determined that an R3 Medium Density Residential zoning with a

minimum lot size control of 1,000m² was appropriate for this land as it would provide more opportunities for housing and other developments that would complement the adjoining holiday apartments. In accordance with Council's strategy for applying controls to medium density residential zoned land in the Shire, a floor space ratio of 0.6:1 is proposed to be applied to the subject land.

The addition to the available R3 Medium Density Zoned land will strengthen Bermagui's capacity to meet population projections and ensure a diversity of housing choices compatible with the needs of the projected population, in particular the needs of smaller households and an aging population.

Further to this, subject property has a number of opportunities that would benefit medium density development including, good aspect and topography, proximity to the existing Bermagui Town Centre, sealed and practical road access and the provision of existing service infrastructure

5. Lots 1 & 2 DP 1126141 Princes Highway, Eden

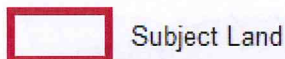


Figure 12: Princes Highway, Eden: Subject Land Aerial Photograph

The Eden Gardens Country Club development comprises an 18-hole golf course, two lawn bowling greens, club-house and associated car parking. The Eden Fishermen's Recreation Club Ltd is the owner of three of the properties that make up the Country Club including the two that are the subject of this Planning Proposal (Lots 1 & 2 DP 1126141). The Club also leases Lot 4 DP 1126141 from Council and Lots 214, 218 & 219 DP 729204 and Lot 94 DP 750205 from the Crown Lands Division of the Department of Primary Industries.

Development within the immediate area of the Country Club generally comprises dwelling houses, tourist accommodation and light industrial type businesses (see Figure 12). State Forest is located west of the golf course.

In the Draft BVLEP 2010, all of the land covered by the Country Club was proposed to be zoned RE2 Private Recreation Zone with no minimum lot size to reflect the current use (see Figure 13). Following a submission from the Department of Primary Industries the zoning of Lots 214 & 219 DP 729204 was changed to RE1 Private Recreation to be consistent with Crown Lands guidelines for zoning of golf courses located on Crown Land. The subject properties (Lots 1 & 2 DP 1126141) were deferred from BVLEP 2013 pending a review of the proposed zone and are currently zoned 2(e) Urban Zone under BVLEP 2002 (see Figure 14).

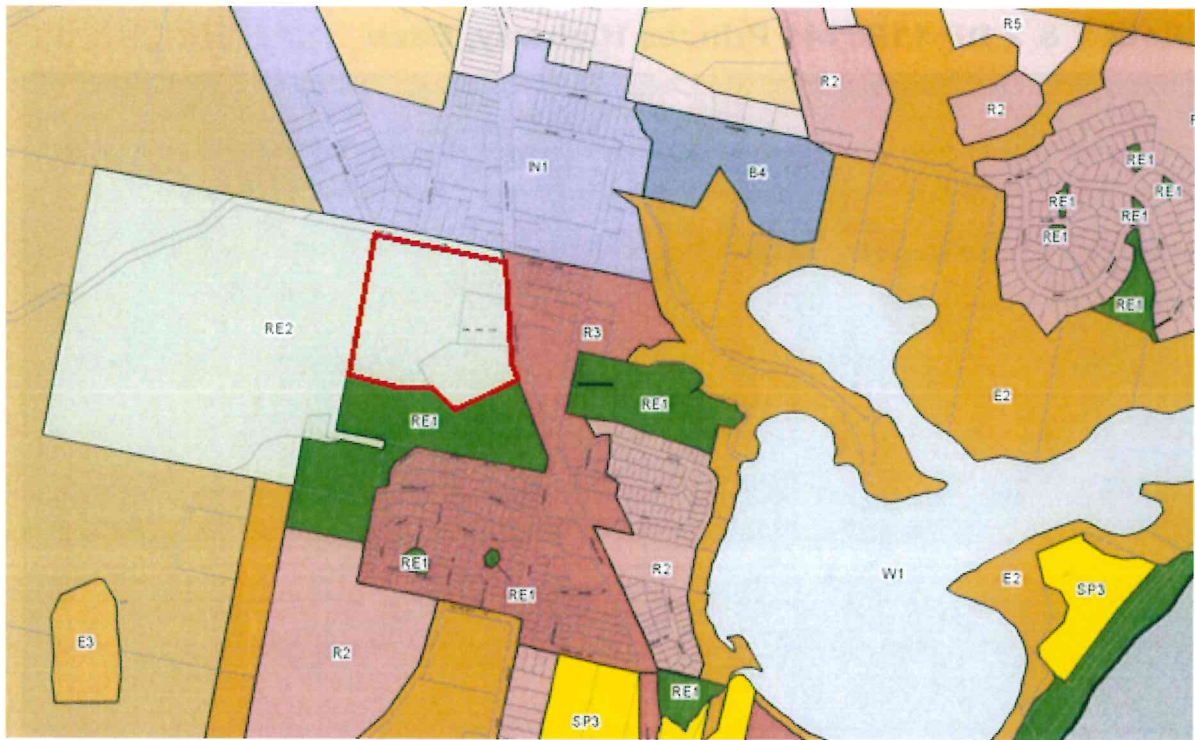


Figure 13: Princes Highway, Eden: Land Use Zones (Exhibited BVLEP 2010)

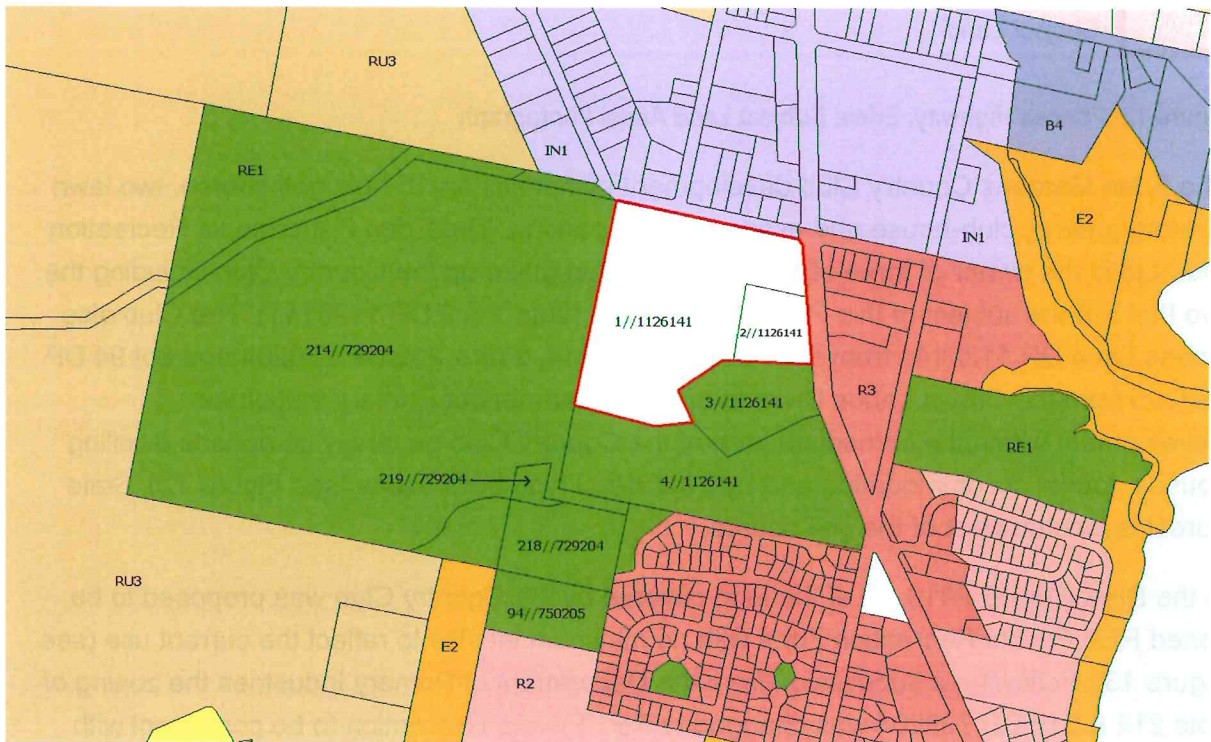


Figure 14: Princes Highway, Eden: Land Use Zones (Adopted BVLEP 2013)

The proposed zoning of the subject land (Lots 1 & 2 DP 1126141) was reviewed in response to a submission received on behalf of the landowner during the public exhibition of BVLEP 2010. Subsequent to the review, Council acknowledged that the proposed RE2 Private Recreation zoning was not consistent with Council's adopted planning strategy for the land in the adopted Eden Structure Plan (see Section B of this planning report for details). As a result, Council resolved to apply an R3 Medium Density Residential Zone to the subject land to provide opportunities for housing and other developments that would complement and benefit from the adjoining golf course, bowling greens and Club facilities, including seniors housing and other types of accommodation and home industries.

In accordance with Council's strategy for applying controls to medium density residential zoned land in the Shire, that part of the land identified for the R3 Medium Density Residential Zone is proposed to have a floor space ratio of 0.6:1.

The Eden Fishermen's Recreation Club has demonstrated to Council that without some additional commercial support, there is a real prospect that the Eden community could lose the Eden Gardens Country Club facilities. Essentially, the level of user charges for the recreation facilities and gaming income are not likely to cover the operational and maintenance costs of the Eden Gardens Country Club for the foreseeable future. It is anticipated that capital from some residential sales or leases would assist with needed long-term flow of income.

In addition to the above, the subject land presents a number of opportunities that would suit medium density type developments including, good aspect and topography, proximity to the existing Eden Town Centre, sealed and practical road access and existing provision of electricity, telecommunications, water, sewer and stormwater drainage infrastructure.

6. Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach



Figure 15: Tura Beach Drive, Tura Beach: Subject Land Aerial Photograph

The subject properties are located on the south-eastern corner of the Tura Beach Drive and Sapphire Coast Drive Intersection and are in the one ownership. The properties have a combined total area of approximately 4.5 hectares and are currently vacant and largely cleared. A Development Consent exists for a seniors' housing development on Lot 33 comprising of 34 units and three rural small holdings lots. Although substantial commencement has been confirmed, to date the development has not been completed.

Existing developments within the immediate area comprise a Seniors Living Development south of the subject land and a shopping complex, service station and nursery on the opposite side of Tura Beach Drive. An allotment comprising a rural residence and associated outbuildings and landscaping adjoins the subject properties to the west (see Figure 15).

The subject properties were deferred from BVLEP 2013 pending a review of the zoning and are currently zoned 1(c) Rural Small Holdings Zone under BVLEP 2002. In the Draft BVLEP 2010, the subject properties were proposed to be zoned R2 Low Density Residential Zone (Lot 33) and R5 Large Lot Residential Zone (Lot 34) with minimum lot size controls of 550m² and 1 hectare respectively (see Figures 16 and 17).

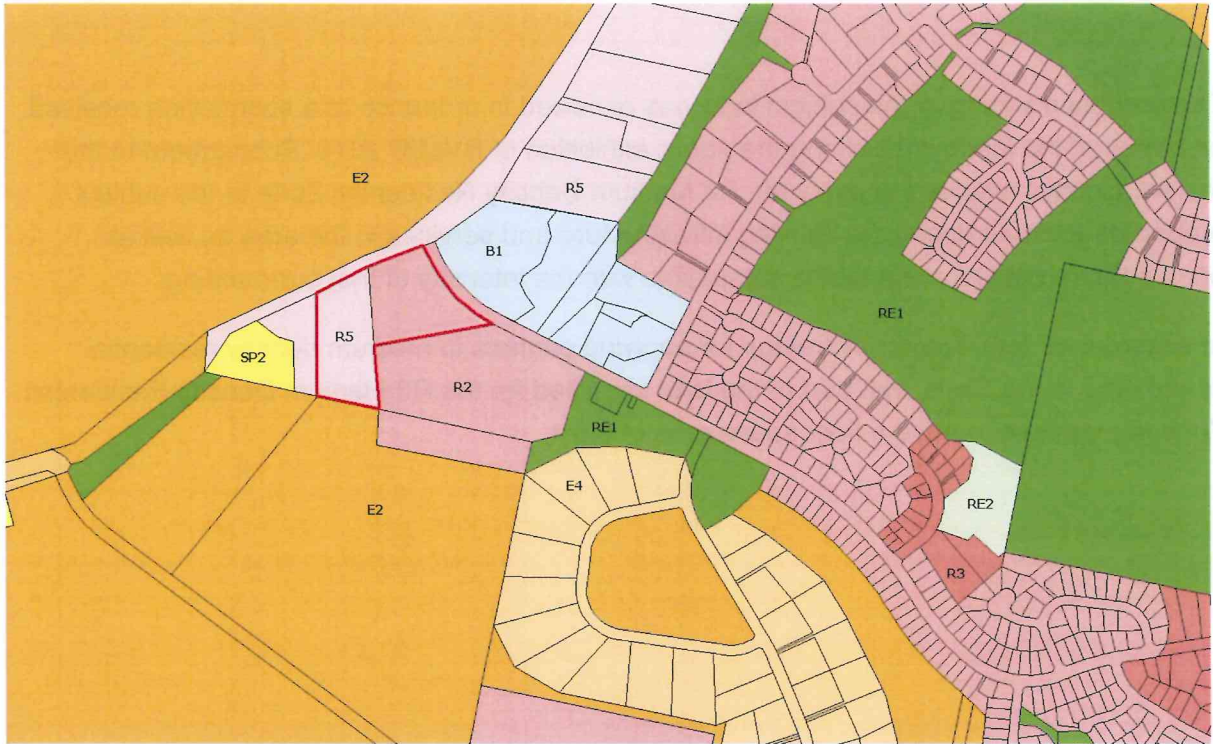


Figure 16: Tura Beach Drive, Tura Beach: Land Use Zones (Exhibited BVLEP 2010)

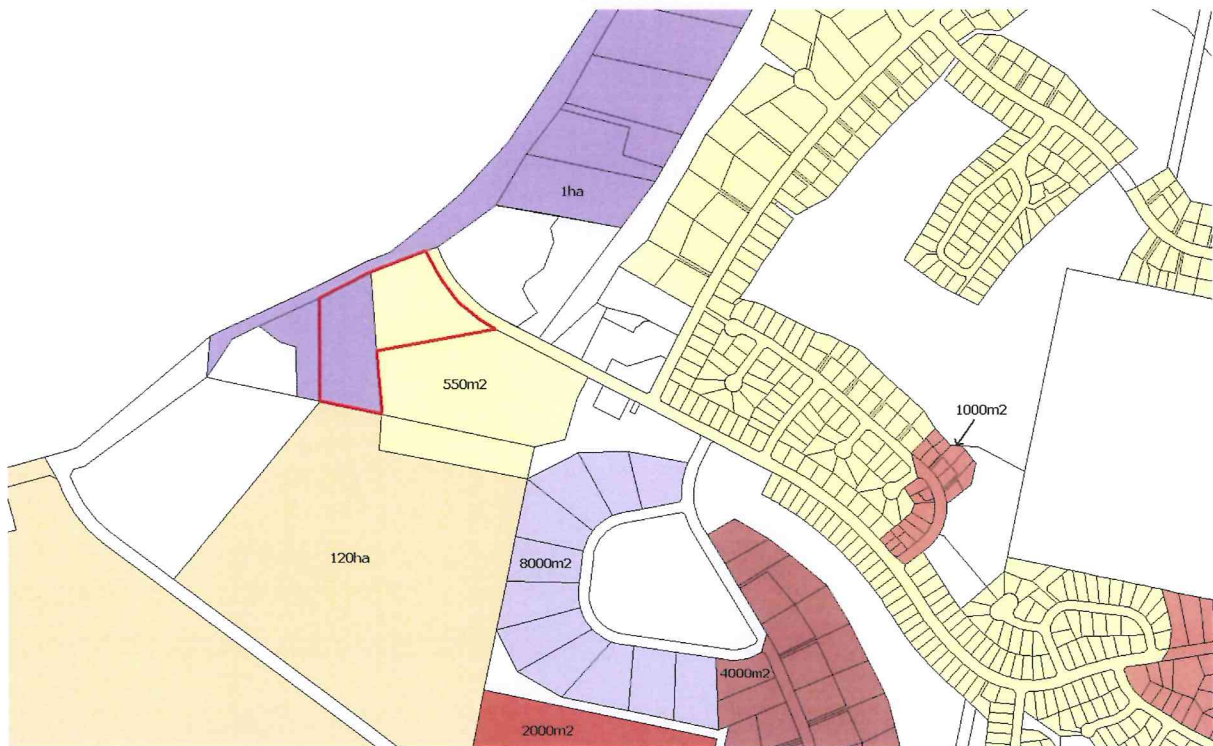


Figure 17: Tura Beach Drive, Tura Beach: Lot Sizes (Exhibited BVLEP 2010)

The proposed zoning of the subject land was reviewed in response to a submission received on behalf of the landowner during the public exhibition of BVLEP 2010. Subsequent to this review, Council resolved to apply the R3 Medium Density Residential Zone to the subject properties to make use of the existing infrastructure and services in the area as well as enable future development that is compatible with the intensity of that surrounding.

In accordance with Council's strategy for applying controls to medium density residential zoned land in the Shire, that part of the land identified for the R3 Medium Density Residential Zone is proposed to have a floor space ratio of 0.6:1.

7. Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula



Figure 18: Sapphire Coast Drive, Merimbula: Subject Land Aerial Photograph

The subject properties are located to the north of the Merimbula Town Centre near to the Sapphire Coast Drive and Merimbula Drive intersection. The properties have a combined total site area of approximately 26 hectares and are the residue of the adjacent multi-unit development. A single dwelling house has been constructed within the northern part of Lot 209 DP 1040557. Lot 211 DP 1040557 comprises semi-cleared existing natural bushland and adjoins Merimbula Creek to the south (see Figure 18). The topography of the land varies from the predominantly level Merimbula Creek flats to the steeply sloping land of the north-western portions.

Development within the immediate area comprises residential developments with associated outbuildings and landscaping elements. A Caravan Park adjoins the properties to the south with a theme park and forested Crown Reserve located to the north.

The subject properties were deferred from BVLEP 2013 and are currently zoned part 2(a) Residential Low Density Zone (15.85 hectares), 2(b) Residential Medium Density Zone (2.12 hectares), 6(a) Existing Open Space Zone (7.01 hectares) and 6(c) Private Open Space Zone (0.33 hectares) under BVLEP 2002.

Under the Draft BVLEP 2010, the properties were proposed to be zoned part R2 Low Density Residential Zone (15.84 hectares), R3 Medium Density Residential Zone (2.12 hectares) and E2 Environmental Conservation Zone (7.34 hectares) with a maximum height limit of 10 metres (see Figure 19). Those parts of the properties proposed to be zoned R2 and R3 had a proposed minimum lot size control of 550m² and 1,000m² respectively (see Figure 20).

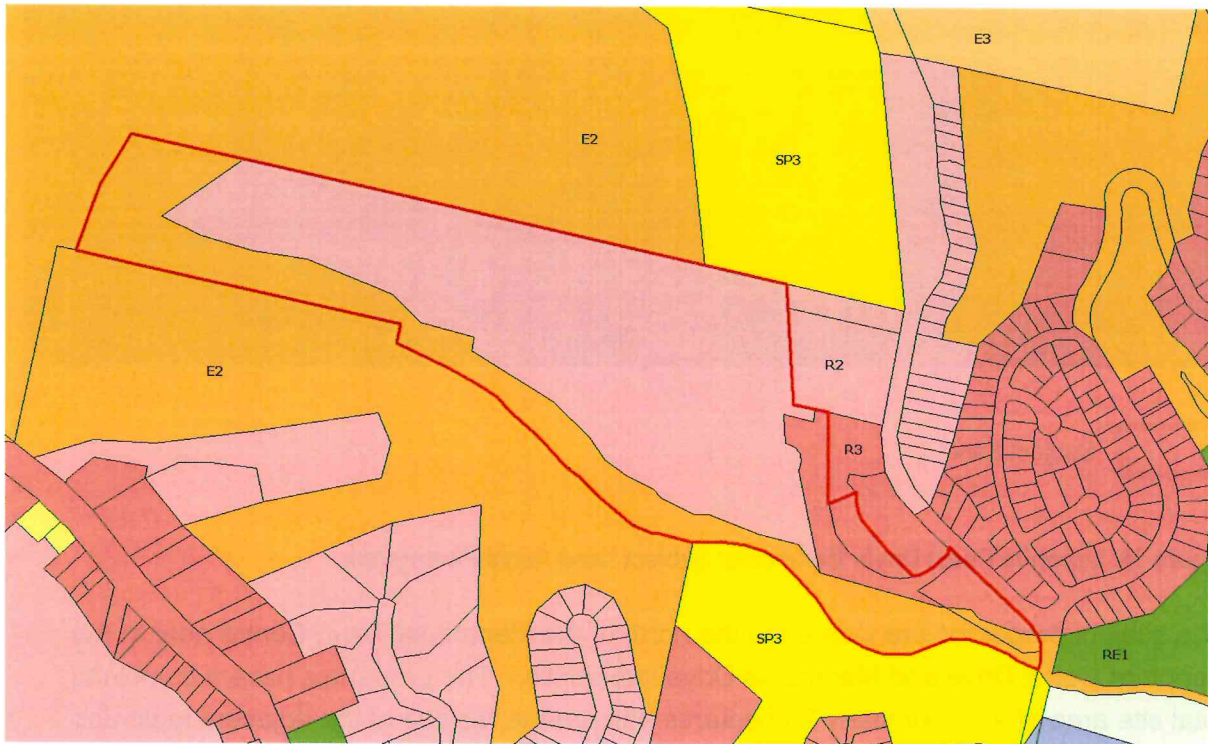


Figure 19: Sapphire Coast Drive, Merimbula: Land Use Zones (Exhibited BVLEP 2010)

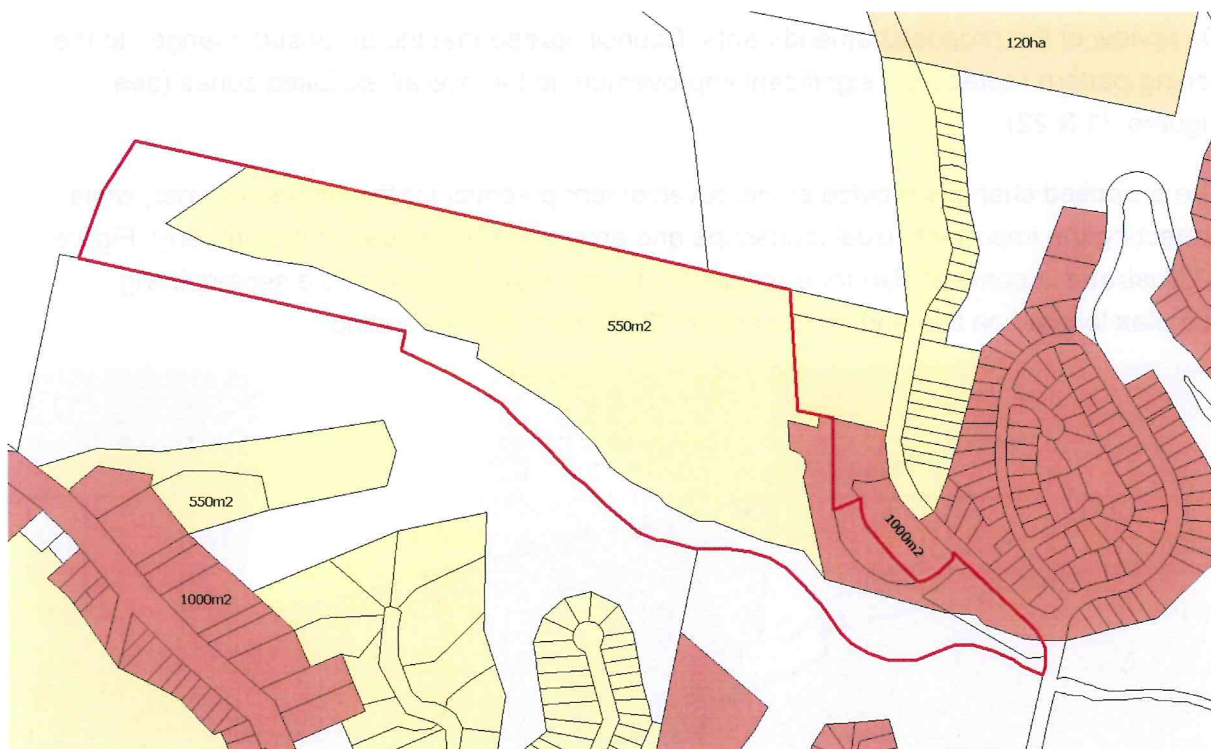


Figure 20: Sapphire Coast Drive, Merimbula: Minimum Lot Sizes (Exhibited BVLEP 2010)

In response to a submission received on behalf of the landowner during the public exhibition of Draft BVLEP 2010, the proposed zoning, minimum lot sizes and maximum building heights were reviewed. Subsequent to this review, Council resolved to apply:

- R3 Medium Density Residential Zone with a minimum lot size control of 1,000m² to the majority of the landholding.
- E4 Environmental Living Zone with a minimum lot size control of 3 hectares to the rear section of Lot 211 DP 1040557 to enable one dwelling house only. This is consistent with a current Development Consent for the construction of a dwelling, shed and garage at this location.
- RE2 Private Recreation Zone to those areas adjoining the Merimbula Creek to correct the anomaly that exists under BVLEP 2002 where these privately owned lands are zoned for public open space.
- E2 Environmental Conservation to the far western sections of the landholding to protect environmental values.
- A 14 metre height limit to the R3 Medium Density Residential zoned land on Lot 211 DP 1040557 consistent with that applied to the ridgeline fronting Main Street in Merimbula and the topography of the site.
- A 10 metre height limit to the remainder of the landholding.

In addition a floor space ratio of 0.6:1 is proposed for the R3 Medium Density Residential Zoned land in keeping with Council's standards for medium density residential land.

On review of the proposed amendments, Council agreed that the proposed changes to the zoning pattern represent a significant improvement to the overall exhibited zones (see Figures 21 & 22).

The proposed changes provide some development potential for the property owner, while protecting the important visual landscape and environmental values of the property. Figure 23 illustrates a concept plan for a residential flat development such as a seniors living complex located on the land proposed for R3 Medium Density zoning.

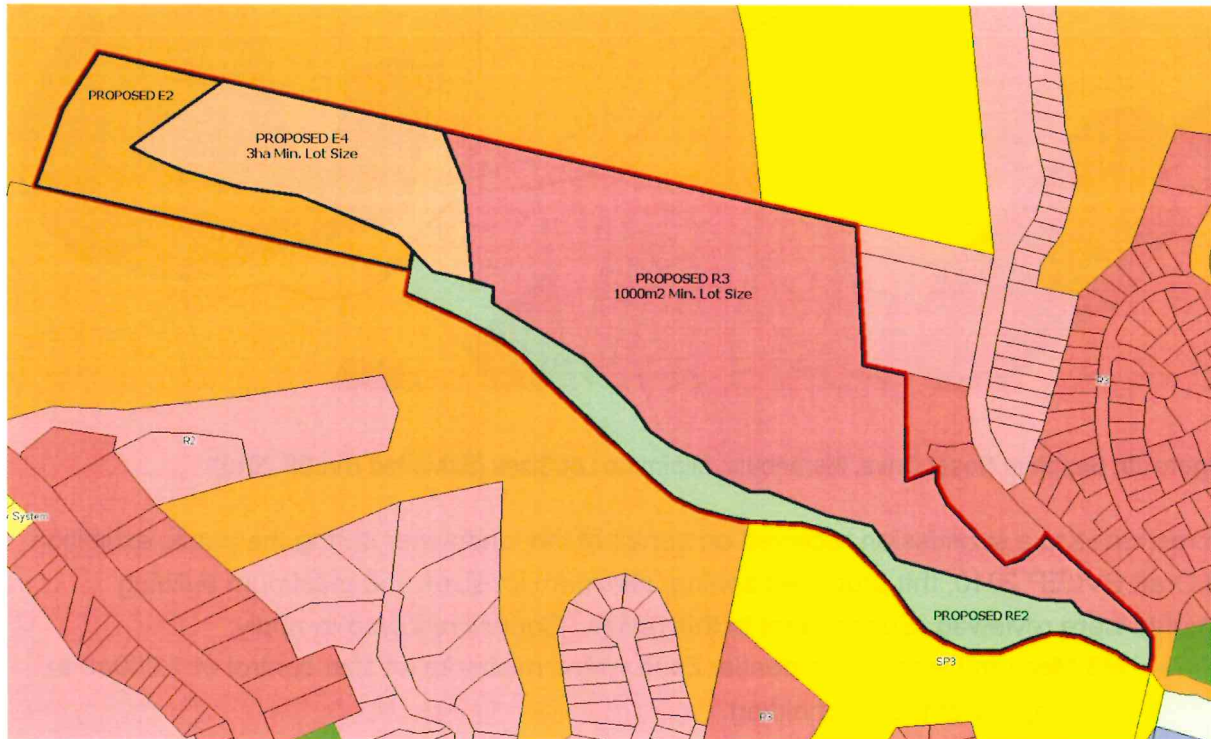


Figure 21: Sapphire Coast Drive, Merimbula: Proposed Land Use Zones

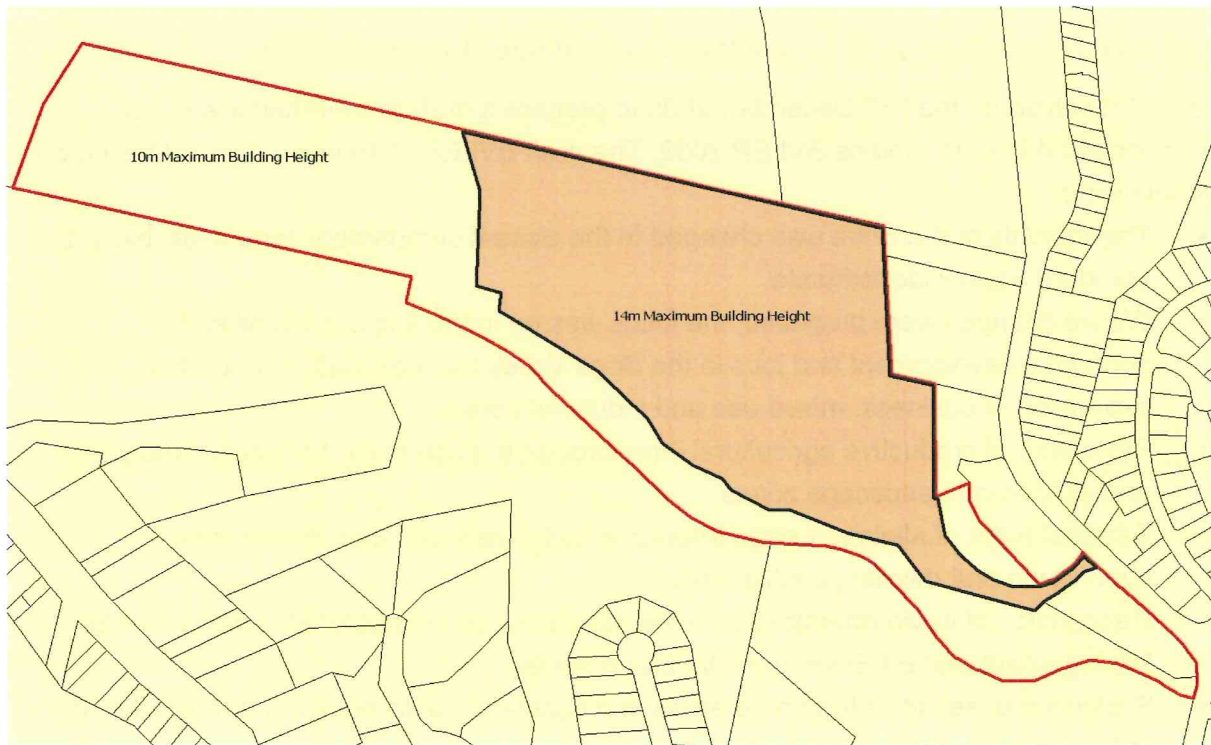


Figure 22: Sapphire Coast Drive, Merimbula: Proposed Maximum Building Heights

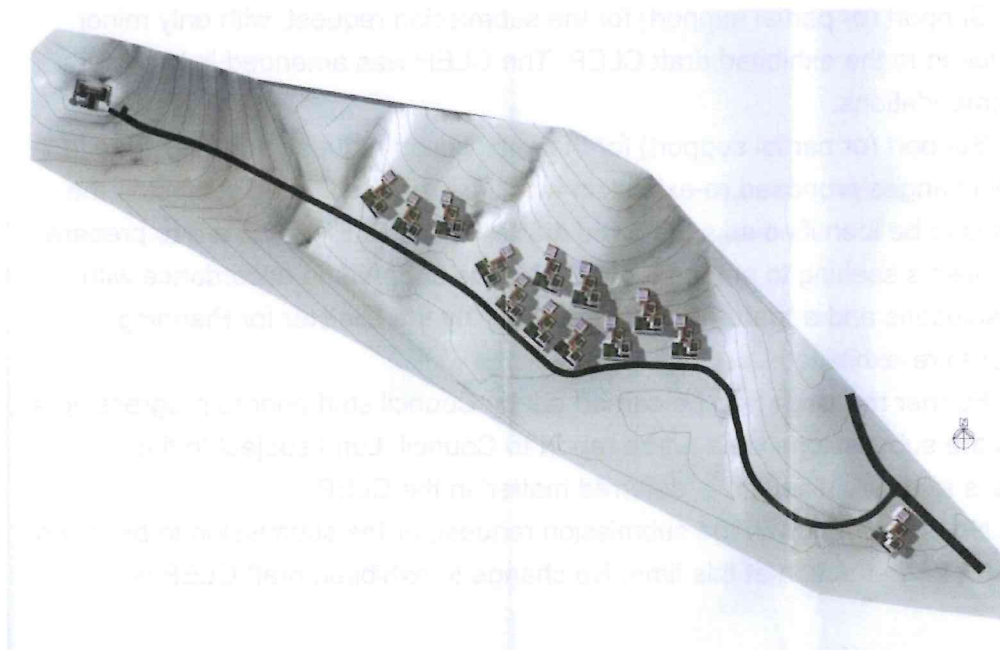


Figure 23: Sapphire Coast Drive, Merimbula: Proposed residential flat development concept plan

Section A – Need for the Planning Proposal

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

Council resolved on the 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 was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was 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.

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 required 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 in Attachment 1.

The majority of the properties that are the subject of this planning proposal are “deferred” and therefore a planning proposal is required to apply BVLEP 2013 and resolve the issue of appropriate land use controls for the subject lands.

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 only available means of achieving the above stated objectives and intended outcomes.

Schedule 1 – Additional Uses of BVLEP 2013 could be used as an alternative in permitting medium density residential developments at the subject properties. However, there would be no additional benefit and it would cause ambiguity on the zoning maps and in the land use table. Although a valid option in some cases, it is not the preferred approach in this instance given the desirability of securing the long-term identification and use of the subject properties for this purpose. Further to this, the NSW Department of Planning and Infrastructure’s policy is that additional listings in the LEP Schedule 1 should be minimised and should only proceed where council can demonstrate that there is no other acceptable solution to progress the matter.

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 main objectives of the South Coast Regional Strategy (SCRS) is to ensure that adequate appropriately located land is available and to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years. In particular, the Strategy identifies that the future demand for dwellings in the Bega Valley is estimated to be 8,600 over the next 25 years.

The Strategy also notes that the overall housing mix throughout the Region is currently dominated by low density detached dwellings (85%). This mix is not expected to meet the needs of future households, which will be dominated by singles and childless couples (77% of new households) and the significant ageing population. Notably, 35% of the Region's residents are expected to be over 65 years by 2031.

With an aim to ensure that new housing meets the needs of future households, the Strategy supports the rezoning of appropriate land located in close proximity to existing townships, amenities and services. In this regard, this Planning Proposal is consistent with the intended outcomes contained within the Strategy because it permits greater density and smaller style dwellings in appropriate locations.

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. 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.

This Planning Proposal is consistent with these two aims of the CSP by encouraging and enabling a mixture of medium density, permanent residential and tourist accommodation 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;
- capable of minimising and managing impacts on the natural environment.

Bermagui and Wallaga Lake Structure Report 2008

This Structure Report was adopted by Council in 2008 to set the preferred land use zoning and planning actions to be applied to the Draft BVLEP 2010.

The Report outlines that due to the desirability of coastal living opportunities, the Bermagui area will face a certain increase in population of at least 1,800 residents over the next 20 years. The Report implies that some additional land supply through appropriate re-zoning and some marketing of new residential estates will be required to accommodate the projected population.

The population of Bermagui is unevenly distributed and different to the age distribution of the Shire. For example, there are a greater proportion of people aged over 55 and a lower proportion of people in all younger age categories. As a result, new housing opportunities need to reflect the needs of future households, in particular the needs of smaller households and an aging population.

Bermagui is a popular tourist destination. This activity is strongly seasonal with the January population currently swelling in the order of 60% above the winter population. It is considered unlikely that this proportion will remain constant over the next 20 years. It is common as coastal townships increase in size with regard to their permanent population, that there is some marked decrease in visitor population.

Growth projections for tourism in the area are therefore quite difficult to make given the small size of the settlement and the highly variable nature of tourist developments and trends. The only apparent capacity in the study area over the next 20 year period appears to be growth in serviced apartments, motels and the like.

In terms of outcomes, this Planning Proposal is consistent with the objectives of the Structure Report as the proposed amendments to the R3 Medium Density Residential Zone will strengthen Bermagui's capacity to meet population projections for 20 years and ensure a diversity of housing choices compatible with the needs of the projected population.

Eden Structure Report 2006

This Structure Report was adopted by Council in 2006 to set the preferred land use zoning and planning actions to be applied to the Draft BVLEP 2010.

Section 9 of the Structure Report provides some planning comment on the Eden Gardens Country Club lands. The following is the relevant extract:

It is proposed to delineate current and future expansion of Eden Golf Club recreational areas... and distinguish the operational lands at the Golf Club... providing for a mixture of tourism and permanent accommodation associated with recreational facilities

The proposed extensions southward of the Golf Course... present an opportunity to improve bushfire buffers for current and future urban lands.

This planning proposal is consistent with Council's adopted strategic direction for the Eden Gardens Country Club lands outlined in the Eden Structure Report as re-zoning Lots 1 and 2 DP 1126141 to R3 Medium Density Residential Zone will enable a mixture of tourist and permanent accommodation associated with the recreational facility.

Merimbula District Structure Report 2008

The Merimbula District Structure Report (MDSR) was adopted by Council in 2008 to set the preferred land use zoning and planning actions to be applied to the Draft BVLEP 2010.

Lot 211 DP 1040557, was identified in the MDSR as Area 14. Extracts from the MDSR for the subject land (referred to as Area 14) were as follows:

The current 2(a) Low Density Residential zoned portion of this area has a number of constraints to urban development including bushfire hazard, native vegetation, topography, proximity to Back Lake and flooding. The western half is suited to environmental protection and the east half (approximately 75m east of the creeks running north-south that bisect the land) might accommodate some multi-unit housing or tourism developments.

Recommendation... that those parts of Area 14 currently zoned 2(a) be zoned R2 as a holding action to allow the owner time before the five year review to test the urban capacity of the site.... That those parts of Area 14 currently zoned 6(a) be zoned E2 in the CLEP.

The proposed zonings for the subject land outlined in this planning proposal are consistent with the above Area 14 recommendations and are based on a number of concept designs, current development consents and discussions between the landowner and Council. As a result, Council is now in a position to apply zonings that are appropriate for the future development of the subject land and there is no longer any need for the 'holding action' prescribed in the MSR.

Q5. Is the Planning Proposal consistent with applicable State Environmental 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. 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.

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

Lots 1 & 2 DP 1126141 Princes Highway, Eden; Lot 330 DP 836720 West Street, Bermagui; Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui; and Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula are located within the Coastal Zone.

This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

The overall intent of the SEPP is to manage residential and rural residential development in sensitive coastal locations. Although the scale of development likely to result from this Planning Proposal is very small, given that some of the subject land is within a defined sensitive coastal location, the Minister may require that a Master Plan be prepared for future development of the subject properties.

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 in the Bega Valley Shire.

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.

This Planning Proposal is inconsistent with this Direction as it contains provisions that will rezone land from a rural zone to a residential zone. Lot 2 DP 1176012 Bega-Tathra Road, Bega is currently zoned 1(a) Rural general and an area of approximately 4ha is proposed to be zoned R3 Medium Density Residential in this planning proposal.

The 4ha area is classified as Class 3 Agricultural Land in the NSW Agricultural Land Classification Atlas - grazing land or land well suited to pasture improvement. The inconsistency of this planning proposal with the direction is of minor significance given the small size of the area of land proposed for residential zoning and the scale of primary production in the Bega Valley Shire, meaning the loss of this land for agricultural production is regionally insignificant. Further to this, the remaining 54ha of Lot 2 DP 1176012 is largely classified as Class 2 Agricultural Land in the NSW Agricultural Land Classification Atlas and is proposed to be zoned RU1 Primary Production Zone.

The planning proposal will also have the effect of linking the residential area north of the subject land with the new regional hospital site, which will reduce the potential for land use conflict by minimising the interface between the two urban and rural zones.

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.

This Planning Proposal is inconsistent with this direction to the extent that it is seeking to re-zone part of Lot 2 DP 1176012 Bega-Tathra Road from RU1 Primary Production Zone to R3 Medium Density Residential Zone with an accompanying smaller minimum lot size.

The inconsistency of this planning proposal is justified given the area of land affected is insignificant given the scale of primary production in the Bega Valley Shire and the compliance of this planning proposal with the Rural Planning and Rural Subdivision

Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*. In particular, this Planning Proposal will:

- Avoid the fragmentation of higher quality agricultural land;
- Avoid the potential for rural land use conflicts;
- Provide medium density residential development opportunities that are compatible with adjoining urban developments and the yet to be constructed South East Regional Hospital; and
- Provide medium density residential development opportunities close to the Regional Centre that is well serviced and capable of meeting the daily needs of residents.

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.

The western portions of Lot 211 DP 1040557 Sapphire Coast Drive, Merimbula are considered to be ecologically sensitive. This Planning Proposal seeks to increase the area proposed to be zoned E2 Environmental Conservation to prevent development that could have an adverse effect on the environmental values of the land.

The proposed amendments to the E2 Environmental Conservation Zone contained in this planning proposal are consistent with this direction and support the objective of this Direction to protect and conserve environmentally sensitive locations.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a Planning Proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This Planning Proposal is seeking to zone a number of properties located within the Coastal Zone, namely: Lots 1 & 2 DP 1126141 Princes Highway, Eden; Lot 330 DP 836720 West Street, Bermagui; and Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui; and Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula. However, this Planning Proposal is consistent with this proposal as it will not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy.

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 consistent with this Direction as it will:

- Support a range of housing choices that are affordable, sustainable and suited to the needs of the community;
- Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services;
- Enable medium density residential development to integrate with the surrounding existing urban environments;
- Minimise the impact of residential development on environmentally sensitive and valuable agricultural lands; and
- Not reduce the permissible density of land.

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.

The subject properties proposed to be zoned either R3 Medium Density Residential or R2 Low Density Residential are located within or near to existing urbanised areas within close proximity to amenities and services. This planning proposal is consistent with this direction as increasing the density of residential development within these areas will:

- Improve access to housing, jobs and services by walking, cycling and public transport;
- Reduce the dependence on cars and travel demand; and
- Maintain the efficient and viable operation of public transport services.

The proposed additions to the R3 Medium Density Residential Zone will enable a mixture of medium density permanent residential and tourist accommodation. The scale of development likely to result from this planning proposal is such that existing transport networks will be adequate to accommodate any likely future increase in demand.

3.5 Development near Licensed Aerodromes

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 land in the vicinity of a licensed aerodrome. The objectives of this Direction are to ensure the effective and safe operation of aerodromes, ensure that their operation is not compromised by development and ensure development for residential purposes is not adversely affected by aircraft noise.

Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach and Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula, are located within the vicinity of Merimbula Airport,

however, this planning proposal is consistent with this direction because none of the subject land is within an area where the Australian Noise Exposure Forecast exceeds 20 and the planning proposal will not result in development that will provide a new hazard to aircraft. The land where these lots are located protrudes above the applicable Obstacle Limitation Surface but residential development at the maximum heights proposed by this planning proposal will not exceed the existing ground hazard marker.

Clause 6.8 of BVLEP 2013 provides a number of provisions that aim to protect the airspace operations of Merimbula Airport as well as the community from undue risk, including consultation with the relevant Commonwealth body. In this regard, consultation with the relevant Commonwealth body will form part of the Planning Proposal Process.

4.3 Flood Prone Land

This Direction applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land. The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Part of Lot 2 DP 1176012 Bega-Tathra Road, Bega is located within the ARI 100 year flood area. However, the part of the lot that is proposed to be zoned R3 Medium Density Residential Zone are located above the ARI 100 year flood line. The remainder of the site, which comprises the flood prone land, is proposed to be zoned RU1 Primary Production Zone, as such it is considered that this Planning Proposal is consistent with this Direction.

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 subject properties, except for Lot 2 DP 1065871 Newton Road, Bega, Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui and Lot 330 DP 836720 West Street, Bermagui, are identified as containing bushfire vegetation within category 1 and/or 2 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 Section Q3, this Planning Proposal is consistent with the vision, land use strategy, policies, outcomes and actions defined by 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 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, therefore it is consistent with this Direction.

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 declared critical habitat in the Bega Valley Shire. With regard to threatened species, populations or ecological communities, we advise as follows:

1. *Lot 2 DP 1170612 Bega-Tathra Road, Bega*

The subject land has been largely cleared of native vegetation as part of its original grazing land use. There are no known threatened species or communities on the section of property subject to this proposal.

2. *Part Lot 2 DP 1065871 Newton Road, Bega*

The subject land has been largely cleared of native vegetation as part of its original grazing land use. There are no known threatened species or communities on the property subject to this proposal.

3. *Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui*

The subject land has been completely cleared of all native vegetation as part of its residential land use. There are no known threatened species or communities on the property subject to this proposal.

4. *Lot 330 DP 836720 West Street, Bermagui*

The subject land has been largely cleared of native vegetation as part of its original grazing and low density residential land use. There are no known threatened species or communities on the property subject to this proposal.

5. *Lots 1 & 2 DP 1126141 Princes Highway, Eden*

The subject land has been largely cleared of native vegetation as part of its original recreational land use. There are no known threatened species or communities on the property subject to this proposal.

6. *33 & 34 DP 243029 Tura Beach Drive, Tura Beach*

The subject land has been largely cleared of native vegetation as part of its original land use. Whilst there are no known threatened species or communities in this area, the landholding does provide a potential linkage between the large forested areas to the west and to the south of the site.

There is an existing stand of mature trees along the Sapphire Coast Drive frontage. Whilst these trees are noted to provide some potential breeding and roosting habitat for a range of mammals and birds, no threatened fauna species are known to occur on the subject land

and it is unlikely that the trees provide important habitat for any threatened species or that any individual of a threatened species is likely to be dependent on them.

7. Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula

The proposed amendments to the zoning and minimum lot size controls will protect the important environmental values of the subject land by either prohibiting or limiting unsuitable development while permitting the development of the less environmentally sensitive land.

There are no known Endangered Ecological Communities on the site and it would be expected that any impact on threatened species would be insignificant. Further detailed environmental assessment would be required to support a development application for further subdivision and/or development of the property.

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

1. Lot 2 DP 1170612 Bega-Tathra Road, Bega

Nil.

2. Part Lot 2 DP 1065871 Newton Road, Bega

Nil.

3. Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui

Nil.

4. Lot 330 DP 836720 West Street, Bermagui

Nil.

5. Lots 1 & 2 DP 1126141 Princes Highway, Eden

Nil.

6. 33 & 34 DP 243029 Tura Beach Drive, Tura Beach

Yes. At the development phase. Clearing associated with Asset Protection Zones will require the removal and/or thinning of vegetation. The Sapphire Coast Drive frontage has an excellent stand of mature trees. The preservation of these trees is seen as an important element in helping to screen future development to the benefit of the streetscape, whilst at the same time, contributing to the amenity of the future residents of the development. Council will likely condition any future Development Applications associated with this site to protect the mature trees and existing streetscape.

7. Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula

Yes. At the development phase. Disturbance related to the development of dwellings on the future allotments that would arise from this proposal, has the potential to impact on the nearby Merimbula Creek. However, application of Council's standard soil and water management controls will eliminate this risk.

Clearing associated with Asset Protection Zones will require the removal / thinning of native vegetation. Council would condition the future Development Applications associated with this site to protect any identified hollow-bearing trees and other mature trees.

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

The re-zoning of the subject properties to R3 Medium Density Residential Zone will have minor positive social and economic effects, including:

- Development of the land for medium density housing will assist in meeting subregional dwelling targets by supporting a range of housing choices that are affordable, sustainable and suited to the needs of the community.
- Opportunities for medium density residential and tourist accommodation within close proximity to existing towns/villages, public services and infrastructure which are capable of catering to future demand.
- Integration with and protection of the aesthetic qualities of the surrounding and existing urban environments.
- Minimise the impact of residential development on environmentally sensitive and valuable agricultural lands.

Section D – State and Commonwealth Interests

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

The additional rural residential dwellings that will result from this planning proposal are small scale and additional demand for infrastructure is not anticipated.

Q.11 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 Infrastructure when it makes its Gateway Determination.

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

- NSW Department of Planning and Infrastructure
- NSW Office of Environment and Heritage
- Australian Government Civil Aviation Safety Authority
- NSW Roads and Maritime Services
- NSW Rural Fire Service

Part 4 – Mapping

This Planning Proposal will result in changes to the following properties on the following BVLEP 2013 maps:

LAP_001

Amend map sheet LAP_001 by deleting:

- DM Deferred Matter for Lot 2 DP 1170612, Lots 11 & 12 DP 1030394, Part Lot 2 DP 1065871, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290, Lot 330 DP 836720, Lots 1 & 2 DP 1126141, Lots 33 & 34 DP 243029, Lots 209 & 211 DP 1040557.

LZN_011C

Amend map sheet LZN_011C by applying:

- R3 Medium Density Residential Zone to Lot 2 DP 1176012 Bega-Tathra Road, Bega.
- R2 Low Density Residential Zone to part of Lot 2 DP 1065871 Newton Road, Bega.

LZN_017C

Amend map sheet LZN_017C by applying the:

- R3 Medium Density Residential Zone to Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui and Lot 330 DP 836720 West Street, Bermagui.

LZN_020B

Amend map sheets LZN_020B by applying:

- R3 Medium Density zoning to Lot 34 DP 243029 Tura Beach Drive, Tura Beach.
- R3 Medium Density Residential Zone, RE2 Private Recreation, E2 Environmental Conservation and E4 Environmental Living to part of Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula.

LZN_020C

Amend map sheets LZN_020C by applying:

- R3 Medium Density zoning to Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach.

LZN_021A

Amend map sheet LZN_021A by applying:

- R3 Medium Density Residential Zone to Lots 1 & 2 DP 1126141 Princes Highway, Eden.

LSZ_011C

Amend map sheet LSZ_011C by applying:

- U 1,000m² to Lot 2 DP 1176012 Bega-Tathra Road, Bega.
- K 550m² to part of Lot 2 DP 1065871 Newton Road, Bega.

LSZ_017C

Amend map sheet LSZ_017C by applying:

- U 1,000m² to Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, and Lot 330 DP 836720 West Street, Bermagui.

LSZ_020B

Amend map sheets LSZ_020B by applying:

- U 1,000m² to the land proposed to be zoned R3 Medium Density Residential on Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula
- Z2 3 hectares to the land proposed to be E4 Environmental Living on Lot 211 DP 1040557 Sapphire Coast Drive, Merimbula
- K 550m² to Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach.

LSZ_020C

Amend map sheet LSZ_020C by applying:

- K 550m² to Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach.

LSZ_021A

Amend map sheet LSZ_021A by applying:

- U 1,000m² to Lots 1 & 2 DP 1126141 Princes Highway, Eden.

HOB_020B

Amend map sheet HOB_020B by applying:

- K 10 metres to the land proposed to be zoned E2 Environmental Conservation, E4 Environmental Living and RE2 Private Recreation
- N 14 metres to the land proposed to be zoned R3 Medium Density Residential on Lot 209 & Lot 211 DP 1040557 Sapphire Coast Drive, Merimbula.

FSR_011C

Amend, map sheet FSR_011C by applying:

- F 0.6:1 to the part of Lot 2 DP 1170612 Bega-Tathra Road, Bega.
- D 0.5:1 to part of Lot 2 DP 1065871 Newton Road, Bega.

FSR_017C

Amend map sheet FSR_017C by applying:

- F 0.6:1 to Lots 11 & 12 DP 1030394, Lots 1 & 2 DP 514516, Lots 44 & 45 DP 607614 and Lots 46-49 DP 582290 Lamont Street, Bermagui and Lot 330 DP 836720 West Street, Bermagui.

FSR_020B

Amend map sheets FSR_020B by applying:

- F 0.6:1 to Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach and Lots 209 & 211 DP 1040557 Sapphire Coast Drive, Merimbula.

FSR_020C

Amend map sheets FSR_020C by applying:

- F 0.6:1 to Lots 33 & 34 DP 243029 Tura Beach Drive, Tura Beach.

FSR_021A

Amend map sheet FSR_021A by applying:

- F 0.6:1 to Lots 1 & 2 DP 1126141 Princes Highway, Eden.

Part 5 – 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*
- *Does not re-classify public land*

Public exhibition of the planning proposal will include notification of 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 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 May 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 Director of Planning and Environmental Services.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to the Department	September 2013
STAGE 2 – Receive Gateway Determination	October 2013
STAGE 3 – Preparation of documentation for Public Exhibition	November 2013
STAGE 4 – Public Exhibition of the Planning Proposal	December 2013
STAGE 5 – Review/consideration of submissions received	January 2014
STAGE 6 – Council Report	January 2014
STAGE 7 – Meetings	February 2014
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	March 2014
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	April 2014
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	May 2014

Attachments

Attachment 1: Council report and resolution

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: List of 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	N/A
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	Consistent
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: List of applicable Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	Justified Inconsistency
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	Justified Inconsistency
2. Environment and Heritage	
2.1 Environment Protection Zone	Consistent
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent
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	Consistent
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Consistent
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	Consistent
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

