

Mate Street, Black Range Road, Murrays Crossing Road and Emerson Street Precincts

Proposal Title : **Mate Street, Black Range Road, Murrays Crossing Road and Emerson Street Precincts**

Proposal Summary : **It is proposed to amend the minimum lot size for 3 separate precincts and rezone 1 parcel of land under Tumbarumba LEP 2010 in the following ways:**

- 1) Precinct 1, Mate St - vary the minimum lot size (MLS) from 160ha to 2ha for land within the E3 Environmental Management Zone.**
- 2) Precinct 2, Black Range Rd - vary the MLS from 40ha to 8ha for certain land within the RU1 Primary Production Zone.**
- 3) Precinct 3, Murrays Crossing Rd - vary the MLS from 40ha to 8ha for certain land within the RU1 Primary Production Zone.**
- 4) Precinct 4, Emerson St - rezone certain land from RU4 Primary Production Small Lots to R1 General Residential with a MLS of 450 square metres.**

PP Number : **PP_2011_TUMBA_001_00** Dop File No : **11/13956-2**

Proposal Details

Date Planning Proposal Received :	05-Aug-2011	LGA covered :	Tumbarumba
Region :	Southern	RPA :	Tumbarumba Shire Council
State Electorate :	ALBURY	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street :	Mate Street		
Suburb :	City :	Tumbarumba	Postcode : 2653
Land Parcel :	refer to Precinct One in Planning Proposal		
Street :	Black Range and Batlow Rds		
Suburb :	City :	Tumbarumba	Postcode : 2653
Land Parcel :	refer to Precinct Two in Planning Proposal		
Street :	Murrays Crossing Rd		
Suburb :	City :	Tumbarumba	Postcode : 2653
Land Parcel :	refer to Precinct Three in Planning Proposal		
Street :	Emerson Street		
Suburb :	City :	Tumbarumba	Postcode : 2653
Land Parcel :	refer to Precinct Four in Planning Proposal		

DoP Planning Officer Contact Details

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RPA Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Alpine (Snowy Mountains) Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	63	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**
 If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**
 If Yes, comment :

Supporting notes

Internal Supporting Notes :	Council exhibited its draft Principal LEP from 2 September 2009 to 30 October 2009. As a result of submissions received, the Council (at the request of the Councillors) sought to make a number of additional changes to the draft plan. These matters were not supported by the Department, without exhibition, and are now the subject of this Planning Proposal. It seeks to apply more appropriate lot sizes to Environmental Protection and Rural Zones and to rezone land on the edge of Tumbarumba to R1 General Residential Zone.
External Supporting Notes :	Council is proposing to vary the minimum lot size for a number of precincts within Tumbarumba to reflect the existing subdivision pattern and provide additional housing choice close to Tumbarumba township.

Council also proposes to rezone 1 parcel of land in Emerson Street, Tumbarumba from RU4 Primary Production Small Lots to R1 General Residential. This parcel is serviced by water and sewerage and Council is of the view that a residential zoning is more appropriate.

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **The statement adequately describes the objectives of the Planning Proposal. It also provides the objectives of the proposed changes as being:**
1) to expand the choice in rural living options;
2) to permit additional rural living development while retaining locally significant landscapes; and
3) to take advantage of the extension of reticulated sewerage to certain rural residential land.

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

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

Comment : **The explanation of provisions is considered adequate and outlines the changes proposed to several Lot Size Maps. However, the reference to the Land Zoning Map for Precinct 4 is incorrect and will need to be amended.**

Precinct 1 Mate St - varying the MLS from 160ha to 2ha will potentially result in 10 additional lots.

Precinct 2 Black Range Road - varying the MLS from 40ha to 8ha will potentially result in 3 additional lots.

Precinct 3 Murrays Crossing Road - varying the MLS from 40ha to 8ha will potentially result in 15 additional lots.

Precinct 4 Emerson Street - rezoning the land to residential and applying a 450 square metre MLS will potentially result in 41 additional lots, however, the actual yield will be determined by the capacity of existing sewerage and other services.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

3.1 Residential Zones

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

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

The RPA has not considered s117 Direction 2.1 Environmental Protection Zones in the Planning Proposal. Consistency with this Direction is considered necessary for Precinct 1 where the RPA proposes to reduce the minimum lot size from 160ha to 2ha in an E3 Environmental Management Zone.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Council has indicated that precincts 1,2 and 3 are the result of a previous strategy prepared by Council being the Tumbarumba Shire Rural Lands Settlement Strategy. This Strategy however, does not identify the lands in precincts 1,2 and 3 as an option for

possible future rural residential development.

s117 Direction 1.3 Mining, Petroleum Production and Extractive Industries is not considered relevant in this instance as no identified resources are affected.

The other s117 Directions apply to the various precincts in the following ways, and Council has not satisfactorily justified all inconsistencies:

Precinct 1, Mate St -

s117 Direction 1.2 Rural Zones does not apply as the land is not zoned rural.

s117 Direction 1.5 Rural Lands requires that the reduction in lot size in an Environmental Protection Zone (E3) must be consistent with the Rural Subdivision Principles of SEPP (Rural Lands) 2008. The proposal is inconsistent with:

Principle 8(a) of the SEPP in that it fragments rural land;

Principle 8(d) it does not respect the natural and physical constraints and opportunities of the land; and

Principle 8(e) planning for dwelling opportunities, as having an across the board 2 hectare (ha) MLS standard, does not respect the natural and physical constraints of the land.

s117 Direction 2.1 Environmental Protection Zones applies in that development standards are being reduced (lot size) in an E3 Zone. In its current form the proposed reduction from 160ha to 2ha MLS has not been supported by an endorsed strategy or study by Council and is not considered to be of minor significance. The land has been zoned E3 to reflect its visual significance as the landscape forms a major backdrop to the township of Tumburumba. The previous and current controls have sought to limit development to prevent houses encroaching into the visual catchment and to ensure that the steep slopes do not present a building hazard.

RECOMMENDATION - A recommended 5ha minimum lot size for the steeper slopes would be more appropriate and Council should also consider Lot 2 DP 502257 (3.7ha) on the ridge crest for R5 Large Lot Residential Zoning similar to the R5 Zoned lands adjoining to the south with an appropriate MLS. These changes could be considered to be consistent with the s117 Directions and for any inconsistencies the Director General could be satisfied they are of minor significance.

Precinct 2, Black Range -

s117 Direction 1.2 Rural Zones 4(b) requires that a planning proposal must not increase density in a rural zone. The planning proposal is considered inconsistent with this Direction in that it increases the density of permissible subdivision by reducing the lot size from 40ha to 8ha. However, as this will only result in 3 additional lots and dwellings the inconsistency is only of minor significance.

s117 Direction 1.5 Rural Lands 3(b) requires that if the MLS is to be changed then it must be consistent with the Rural Subdivision Principles of SEPP (Rural Lands). While it is inconsistent with Principle 8(a) it is considered consistent with the others in that it does not increase conflict; considers the nature of existing agricultural land holdings; and considers the constraints and opportunities of the land. The inconsistency with 8(a) is considered of minor significance as it only creates 3 additional lots/dwellings.

RECOMMENDATION - The proposal is supported and it is considered that any inconsistencies with s117 Directions are of minor significance provided the lot and dwelling yield remains similar to that predicted.

Precinct 3, Murrays Crossing Rd -

s117 Direction 1.2 Rural Zones - the planning proposal, as presented, is inconsistent with this Direction in that it increases potential development by an additional 15 lots with no strategic justification through an endorsed strategy or study by Council and it is not considered to be of minor significance.

s117 Direction 1.5 Rural Lands - the planning proposal, as presented, is inconsistent with this Direction in that it changes the MLS and is not consistent with the Rural Subdivision Principles of the SEPP (Rural Lands) as it fragments a large holding of

agricultural land; could lead to land use conflict; does not consider the nature of existing agricultural holdings; or take account of the constraints and opportunities of the land. It is not justified by an endorsed strategy or a study by Council and is not considered to be of minor significance.

RECOMMENDATION - The proposal would be considered to be of minor significance if the approximately 130ha south east of Murrays Crossing Road was deleted. The proposal would then reflect the existing subdivision pattern and result in only 1 additional lot (refer to Precinct 3 Maps attached).

Council may also wish to reconsider the 8ha MLS proposed as most of the remaining lots are about 6ha in area. The application of clause 4.6 of the Tumbarumba LEP 2010 limits lot size standard variations on rural land to 10% which may bring into question Council's ability to approve dwellings. A 6ha MLS may be more appropriate and still only result in 2 additional lots.

Precinct 4, Emerson St -

s117 Direction 1.2 Rural Zones and 1.5 Rural Land apply as the planning proposal rezones land from rural to residential. However, the precinct is 2ha in size, serviced with water and sewerage and bounded to the north by land zoned R1 General Residential so in this case it is considered to be of minor significance.

s117 Direction 3.1 Residential Zones requires that a plan include provisions to:

- 4a) broaden housing choice and location;
- 4b) make more efficient use of existing infrastructure;
- 4c) reduce consumption on the fringe;
- 5a) ensure satisfactory arrangements for infrastructure; and
- 5b) not reduce permissible residential density.

The proposal is consistent with 4 a) and b), 5 a) and b). The land is seweraged and this will enable this infrastructure to be used. It is a logical extension to the town. The Tumbarumba LEP 2010 includes clause 6.6 Public Utility Infrastructure requiring adequate servicing of land. The MLS will be 450 square metres.

The proposal is inconsistent with 4 c) in that it proposes land on the fringe for urban development. This is considered to be of minor significance as it is only 2ha and the closest suitable land adjoining the town.

RECOMMENDATION - Any inconsistencies with s117 Directions can be considered to be of minor significance.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The mapping provided is quite basic, however, it adequately defines the precincts affected by the proposal.

A condition should be imposed on any Gateway Determination requiring Council to prepare a range of standard maps for exhibition, clearly showing the proposed amendments.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed to undertake public exhibition and consultation with the local community for a period of 30 days which is considered to be acceptable.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : **The proposal meets the adequacy criteria. While the Council has not adequately justified the proposal against the s117 Directions a number of amendments are recommended that result in inconsistencies being of minor significance. As the inconsistencies are recommended to be removed or changed there is nothing to be gained by returning the proposal to the Council to provide further justification.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Tumbarumba LEP 2010 was notified in July 2010**

Assessment Criteria

Need for planning proposal : **A Planning Proposal is the best way to reduce minimum lot sizes and rezone land while providing the public with involvement in the process.**

When the Tumbarumba LEP 2010 was notified in July 2010 the Minister did not support a number of Council changes (subsequently reflected in this planning proposal) because the strategic merit had not been sufficiently justified and that neither agencies nor the broader community had an opportunity to comment. Council was advised at the time, that if it wanted to pursue the proposed amendments, then it needed to prepare a planning proposal to allow for justification and further exhibition.

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Consistency with strategic planning framework :

The NSW Alpine Region Strategy (2001) currently applies, however this is an older strategy and does not have the same statutory force given to more recent strategies under s117 Direction 5.1 Implementation of Regional Strategies. It is considered that the proposal is not inconsistent with the Strategy.

The Tumbarumba Shire Rural Lands Settlement Strategy (2007) aims to provide direction for existing and future rural settlement. The Strategy clearly recommends a 40ha MLS within rural areas. In spite of this, the Planning Proposal justifies this inconsistency by quoting the Strategy saying that future lot sizes "could vary from location to location within the shire".

The Tumbarumba Shire Council Residential Housing Strategy (2006) aims to identify the key and future housing demands within the Shire. The Strategy found a demand for rural lifestyle options. This Strategy was used as a consideration in the preparation of Tumbarumba LEP 2010.

The Tumbarumba Shire Rural Lands Settlement Strategy (2007) and the the Tumbarumba Shire Council Residential Housing Strategy (2006) were not formally endorsed by the Department, however, the majority of the recommendations from the Strategies have been implemented when the Tumbarumba LEP 2010 was made.

SEPPs

SEPP 55 - Remediation of Land - Council has undertaken a review of its contaminated lands register and no land within the precincts under consideration were identified as containing contaminated lands.

SEPP (Rural Lands) 2008 - the proposals are generally inconsistent with the Rural Planning Principles and the Rural Subdivision Principles as they create land fragmentation, potential land use conflicts and generally, do not promote or protect potentially productive agricultural activities. Of particular concern is the inconsistency applying to the larger agricultural holding proposed to be added to the south east of Precinct 3 Murrays Crossing Road. The remaining inconsistencies for the precincts can be considered to be of minor significance.

Environmental social economic impacts :

The proposal will provide social benefits to those residents seeking rural residential lifestyles as the proposals are located on sites within close proximity to Tumbarumba township. This provides access to health, education and community services and are the type of locations that would generally be supported in a strategic review.

Rural lifestyle living can also assist to boost declining rural populations in an attempt to also bring more services and facilities to rural areas.

The proposal for Precinct 1 is considered to have significant impacts on the scenic qualities associated with the area, as a backdrop to the town and zoned E3 Environmental Management.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Catchment Management Authority - Murray Office of Environment and Heritage Department of Industry & Investment (Agriculture) Roads and Traffic Authority		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Precinct 1 Mate St as submitted is not supported. The site is currently zoned E3 Environmental Management and has significant scenic qualities as a backdrop for the town. The site is steep, has access issues and is considered unsuitable for the intensity of development proposed across the whole site. There are currently 7 lots covering about 27ha with two existing dwellings. A MLS of 5ha may be supportable which would reflect the current lot size and allow a spread of development and houses to be appropriately located to avoid visual impact. A 3ha parcel on the ridge crest may be suitable for consideration for more intense development similar to land zoned R5 Large Lot Residential which adjoins to the south with an appropriate lot size.**

Precinct 2 Black Range Rd is a change in MLS that reflects the existing subdivision pattern. It will only result in 3 additional lots/dwellings and is of minor significance.

A portion of the site identified in Precinct 3 Murrays Crossing Road, to the west of Murrays Crossing Road, should proceed as a reduction in MLS reflects the existing subdivision pattern of generally 6ha. However, the proposed 8ha MLS proposed may create issues with dwelling permissibility as the land is zoned rural, and clause 4.6 of Tumbarumba LEP 2010 only supports variations of up to 10%. A 6ha minimum lot size would be more appropriate. The land is already quite fragmented, is located on the outer edge of the urban area and already has some minor rural residential development.

The remaining land identified in Precinct 3 to the south east of Murrays Crossing Road is not supported. There is no strategic justification to support this portion of the site as it is largely unfragmented and is potentially productive agricultural land.

The proposals for Precinct 4 should proceed without change as they represent a logical extension of the town and the area is serviced.

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Should Council decide to proceed with that area recommended for exclusion from the Planning Proposal then it should be required to prepare a rural residential strategy to justify inconsistencies with s117 Directions and to show the supply and demand for rural residential housing in the LGA. Such a study should investigate all suitable lands not be restricted to those lands excluded from the proposal.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Tumbarumba Planning Proposal 22 August 2011.pdf	Proposal	Yes
Precinct 1 Maps.pdf	Map	Yes
Precinct 2 Maps.pdf	Map	Yes
Precinct 3 Maps.pdf	Map	Yes
Precinct 4 Maps.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 1.3 Mining, Petroleum Production and Extractive Industries
 1.5 Rural Lands
 3.1 Residential Zones

Additional Information : **It is recommended that the proposal proceed through the Gateway with the following changes and recommendations:**

Precinct 1 Mate Street:

1) The proposal as submitted cannot be supported as it is inconsistent with s117 Directions 1.5 Rural Lands and 2.1 Environmental Protection Zones. In its current form it fragments rural lands; does not respect the natural and physical constraints of the site nor react to them for dwelling opportunities; and significantly reduces the minimum lot size standard. These proposed changes have not been justified through a strategy endorsed by the Director General, or a study prepared by Council. The proposal is also not considered to be of minor significance creating a potential for about an additional 10 lots and dwellings spread across this significant scenic backdrop to the township of Tumbarumba.

2) It is recommended that the Gateway request Council to apply a 5ha minimum lot size for the steeper slopes and that it would also support Council considering Lot 2 DP 502257 (3.7ha) on the ridge crest for R5 Large Lot Residential Zoning similar to the R5 Zoned lands adjoining to the south. These changes could be considered to be consistent with the s117 Directions and for any inconsistencies the Director General could be satisfied they are of minor significance.

Precinct 2 Black Range Road

3) The proposal to reduce the minimum lot size from 40ha to 8ha is inconsistent with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands, however, the Director General can be satisfied that the inconsistency is of minor significance as it will only result in an additional 3 lots and dwellings. If Council determines that this number is higher then it will need to justify the proposal against the s117 Directions 1.2 and 1.5.

Precinct 3 Murrays Crossing Road

4) The proposal as submitted is inconsistent with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands because it creates about an additional 15 lots and is not consistent with the Rural Subdivision Principles of State Environmental Planning Policy (Rural Lands) 2008 in that it fragments agricultural lands; could lead to land use conflict; does not consider existing agricultural holdings; and does not appropriately consider or respond to the natural physical constraints and opportunities of the land. This inconsistency has not been justified by a strategy endorsed by the Director General or a study prepared by Council. It is not of minor significance.

5) It is recommended that the land to the south east of Murrays Crossing Road be deleted. The Director General could then be satisfied that any inconsistency would be of minor significance as it would represent the current subdivision pattern and only result in about an additional 2 lots.

6) It is also recommended that the Council be requested to reconsider the selected minimum lot size for this land. The proposed 8 ha minimum lot size may not support the erection of a dwelling on any lots below 7.2ha, as clause 4.6 of the Tumbarumba LEP 2010 only supports a variation of up to 10% from the standard and it is noted that the majority of lots in this vicinity are about 6ha. A minimum lot size of 6ha may be more appropriate and would be supported.

Precinct 4 Emerson Street

7) The proposal for a residential rezoning at Emerson Street is inconsistent with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands as it rezones rural land to residential. The proposal is generally consistent with s117 Direction 3.1 Residential Zones. However, it is

inconsistent in proposing residential development on the urban fringe. The Director General can be satisfied that these inconsistencies are of minor significance as the area is only 2ha, is serviced with water and sewer, adjoins other residential zones and is a logical expansion of the town.

The following additional conditions are also recommended:

8) Council may wish to prepare a strategy to justify the inconsistencies with s117 Directions 1.2 Rural Zones and 1.5 Rural Lands for that area deleted from this proposal south east of Murrays Crossing Road. However, the strategy should not necessarily be limited to that land and could investigate other lands that may provide similar opportunities. This may be best dealt with in a separate Planning Proposal at a later date rather than delay the other aspects of this proposal that are supported. In addition if this strategy outcome is pursued then the Director General's endorsement should be sought to overcome any inconsistencies with s117 Directions.

9) Council is to prepare amended map sheets for the Tumbarumba LEP 2010 prior to the exhibition of the draft Planning Proposal including the following maps:

- a) Land Zoning Map; and
- b) Lot Size Map.

10) The Council is to submit the amended map sheets to the Regional Director Southern Region of the Department for endorsement before Council exhibits the Planning Proposal.

11) The Planning Proposal is to be exhibited for a minimum of 28 days.

12) Consultation is required with the identified public authorities, being:

Catchment Management Authority - Murray
Office of Environment and Heritage
Department of Trade and Investment, Regional Infrastructure and Services (Primary Industries Agriculture)
Transport for NSW (Roads and Maritime Services)

13) The timeframe for the completion of the LEP is 9 months.

Supporting Reasons :

There is no strategic justification to support certain land identified in this Planning Proposal. These lands have the potential to provide a viable agricultural activity into the future which should be recognised and protected.

Minimum lot sizes chosen for environmental protection land forming a scenic backdrop to town require review to reduce development intensity in inappropriate locations.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

16th September 2011