

# BEGA VALLEY SHIRE COUNCIL

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## Bega Valley Local Environmental Plan 2013

### Planning Proposal:

### Merimbula, Pambula and Eden Deferred Sites

September 2016



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# Background

This planning proposal seeks to provide resolution for nine (9) sites currently deferred from the Bega Valley Local Environmental Plan 2013. Bega Valley Shire has been working closely with staff from the Department of Planning and Environment Regional Office to finalise these deferred sites and is now in a position to submit a Planning Proposal for them.

This Planning Proposal reflects the agreed position reached with the Department of Planning and Environment and other input from the Office of Environment and Heritage.

***This proposal provides the following key outcomes;***

- Removal of deferred status for **9** properties
- **27** additional lots are created across the Merimbula and Pambula catchment areas.

## Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to apply zoning and minimum lot size controls to certain properties to enable a small increase (27 lots) in residential development opportunities in the Merimbula and Pambula catchment areas. As shown in Figure 1, all of the properties are within close proximity to the local Centres of Merimbula, Eden or Pambula and will utilise existing services such as roads, garbage collection and electricity provision. The Proposal does not significantly affect agricultural production and the locations chosen represent logical extensions of existing residential areas.

Council is developing a ***Draft Rural Living Strategy 2016*** (RLS) which implements a Shire-wide strategy for new rural residential and rural village development from a demand based trend analysis. This planning proposal is in accordance with the principles promoted within the RLS.

In summary this Planning Proposal is seeking to zone the subject properties as follows:

| Property                           | Current Zone                                                                                | Proposed Zone                                                                      | Est. additional lot yield |
|------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------|
| Merimbula Drive,<br>Merimbula      | 7(d) Environmental Protection General and 2(c) Residential Tourist                          | E2 Env. Conservation,<br>E3 Env.Management and E4 Environmental Living             | 10                        |
| Boggy Creek Road,<br>Millingandi   | 1(a) Rural General                                                                          | E4 Environmental Living                                                            | 0                         |
| Oregon Street,<br>Pambula          | 1 (a) Rural General                                                                         | E3 Environmental Living                                                            | 0                         |
| Bega Street,<br>Pambula            | 2 (f) Future Urban                                                                          | R5 Large Lot Residential<br>E4 Environmental Living                                | 0                         |
| Oaklands Road,<br>Pambula          | 1(a) Rural General                                                                          | E4 Environmental Living and<br>RU2 Rural Landscape                                 | 3                         |
| Mount Darragh Road,<br>Lochiel     | 1(a) Rural General                                                                          | E4 Environmental Living                                                            | 2                         |
| Mount Darragh Road,<br>Sth Pambula | 1(a) Rural General                                                                          | R5 Large Lot Residential<br>E4 Environmental Living<br>E3 Environmental Management | 11                        |
| Princes Highway,<br>Griegs Flat    | 1(a) Rural General Zone, 1(c) Rural Residential and 7(b) Environmental Protection Foreshore | E2 Environmental Conservation, E3 Environmental Management                         | 1                         |
| West Street,<br>Eden               | 2(e) Urban Zone                                                                             | RU2 Rural Landscape                                                                | 0                         |

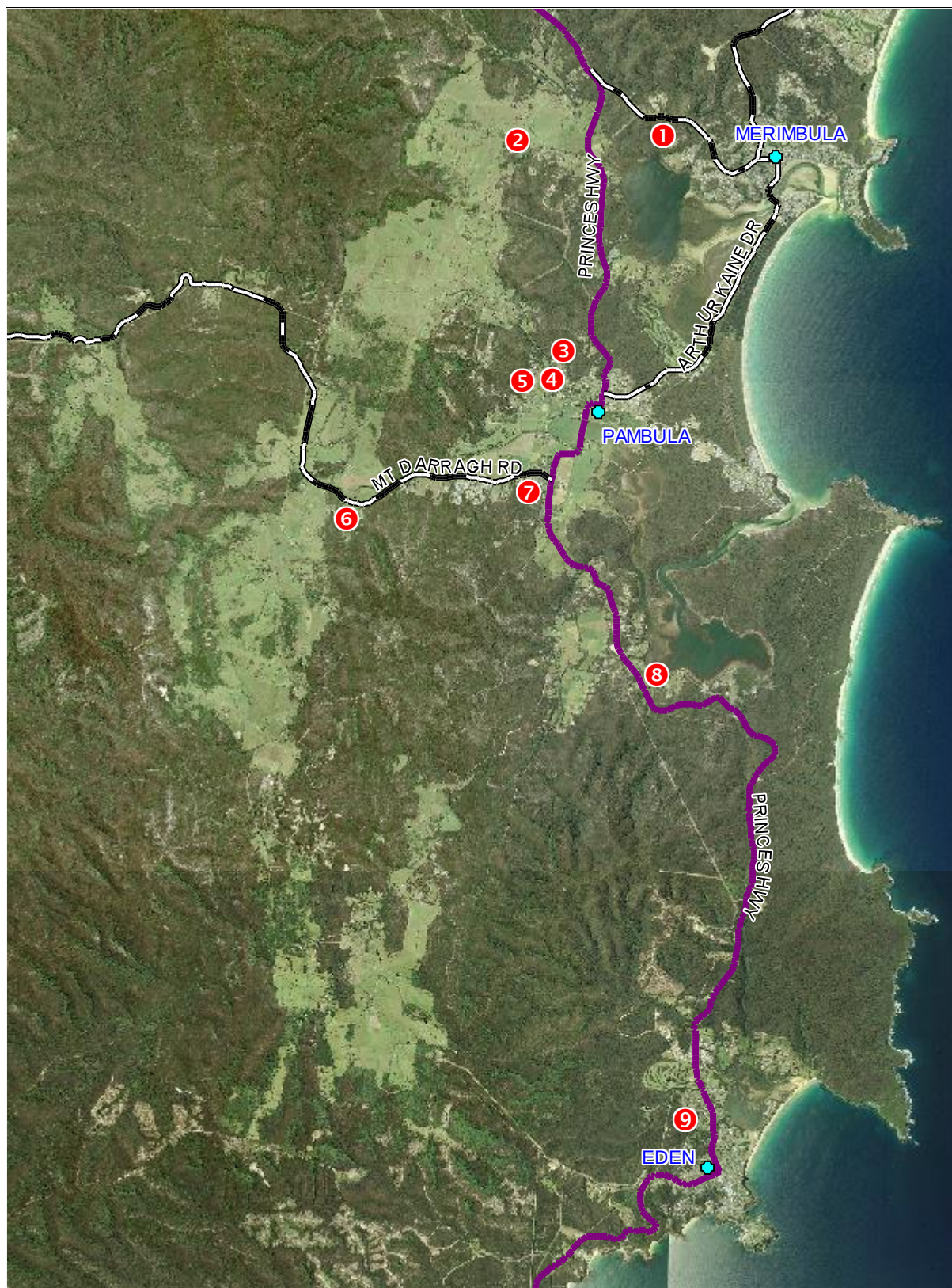


Figure 1: Properties in this Planning Proposal

## Part 2 – Explanation of the Provisions

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

1. Introduce a V1- 3000sq/m minimum lot size

2. **Merimbula Drive, Merimbula**

Part Lot 1882 DP1014185

- Amend map sheet LAP\_001 by deleting DM Deferred Matter
- Amend map sheet LZN\_020B by applying part E2 Environmental Conservation Zone, E3 Environmental Management Zone and E4 Environmental Living Zone
- Amend map sheet LSZ\_020B by applying AB1 10 hectares to the E3 Environmental Management Zone and Y 1 hectare and Z1 2 hectares to the E4 Environmental Living Zones.

3. **Boggy Creek Road, Millingandi**

Lot 5431 DP 1041710

- Amend map sheet LAP\_001 by deleting DM Deferred Matter
- Amend map sheet LZN\_012 by applying E4 Environmental Living Zone
- Amend map sheet LSZ\_012 by applying Z1 2 hectares.

4. **Oregon Street, Pambula**

Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825

- Amend map sheet LAP\_001 by deleting DM Deferred Matter.
- Amend map sheet LZN\_020A by applying E3 Environmental Management.
- Amend map sheet LSZ\_020A by applying AD 120 hectares to the E3 Environmental Management zoned land.

5. **Bega Street, Pambula**

Lots 1 & 2 DP 68708, Lots 101 - 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 13- 19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514

- Amend map sheet LAP\_001 by deleting DM Deferred Matter.
- Amend map sheet LZN\_020A by applying R5 Large Lot Residential Zone and E4 Environmental Living Zone.
- Amend map sheet LSZ\_020A by applying V-2000m<sup>2</sup> to the R5 Large Lot Residential Zone and X1-5000m<sup>2</sup> to the E4 Environmental Living Zone.

6. **Oaklands Road, Pambula**

Lot 441 & 442 DP 1077278, Part Lot 381 DP 1027113, Part Lot 45 DP 807327 and Lots 431-433 DP 1152077, Lot 434 DP 1152077

- Amend map sheet LAP\_001 applying to Lots 441 & 442 DP 1077278, Lot 434 DP 1152077 and Part Lot 381 DP 10227113 by deleting DM Deferred Matter
- Amend map sheet LZN\_012C by applying E4 Environmental Living Zone to Lot 441 & Part Lot 442 DP 1077278, Part Lot 45 DP 807327, Lots 431-433 DP 1152077, Lot 434 DP 1152077 and Part Lot 381 DP 1027113, and by applying RU2 Rural Landscape Zone to Part Lot 381 DP 1027113 and Part Lot 442 DP 1077278
- Amend map sheet LZN\_020A by applying part E4 Environmental Living Zone and RU2 Rural Landscape Zone to Part Lot 381 DP 1027113
- Amend map sheet LSZ\_12C by applying Y 1 hectare to Part Lot 45 DP 807327, Lot 441 & Part 442 DP 1077278, Lot 434 DP 1152077, Lots 431-433 DP 1152077 and Part Lot 381 DP 1027113
- Amend map sheet LSZ\_012C by applying AD 120 hectares to Part Lot 45 DP 80732, Part Lot 381 DP 1027113, and Part Lot 442 DP 1077278
- Amend map sheet LSZ\_020A by applying part Y 1 hectare and AD 120 hectares to Part Lot 381 DP 1027113

#### **7. Mount Darragh Road, Lochiel**

Lot 841 DP 1193692

- Amend map sheet LAP\_001 by deleting DM Deferred Matter
- Amend map sheet LZN\_012C by applying E4 Environmental Living Zone
- Amend map sheet LSZ\_012C by applying Z3 4 hectares.

#### **8. Mount Darragh Road, South Pambula**

Lot 302 DP 749405

- Amend map sheet LAP\_001 by deleting Deferred Matter.
- Amend map sheet LZN\_012C by applying R5 Large Lot Residential Zone, E4 Environmental Living Zone and E3 Environmental Management
- Amend map sheet LSZ\_012C by applying a V1 3000m<sup>2</sup> to the R5 Large Lot Residential Zone, X1 5000sq/m to the E4 Environmental Living Zone and AA2 7ha to the E3 Environmental Management zone.

#### **9. Princes Highway, Griegs Flat**

Lot 102 DP 1108395

- Amend map sheet LAP\_001 by deleting DM Deferred Matter
- Amend map sheet LZN\_020 by applying E3 Environmental Management Zone and E2 Environmental Conservation Zone
- Amend map sheet LSZ\_020 by applying AA1 5 hectares and AB2 20ha

## **10. West Street, Eden**

Lot 128 DP 750205

- Amend map sheet LAP\_001 by deleting DM Deferred Matter
- Amend map sheet LZN\_021A by applying RU2 Rural Landscape Zone
- Amend map sheet LSZ\_021A by applying AD 120 hectares

## Part 3 – Justification

### 1. Merimbula Drive, Merimbula

Part Lot 1882 DP 1014185

**Key Outcome: 10 additional lots**

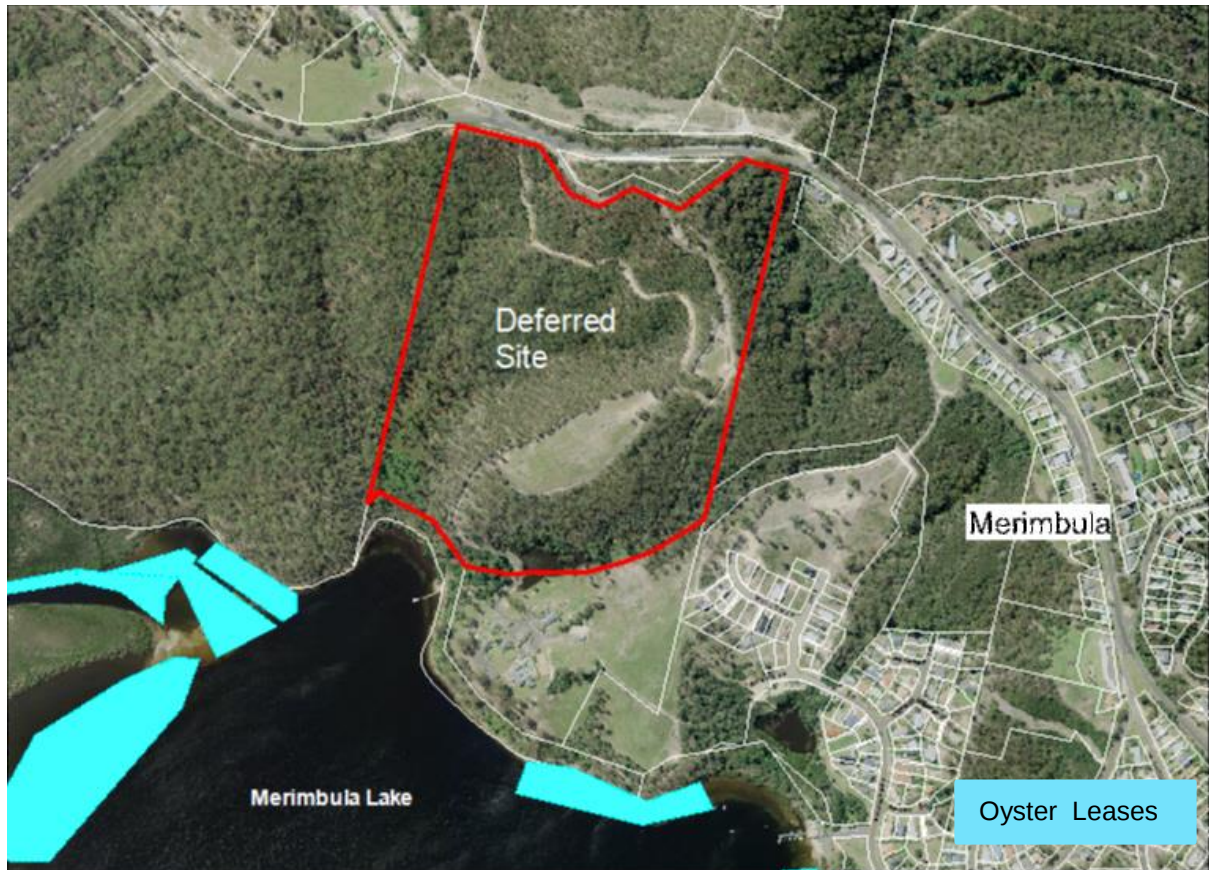


Figure 2: Merimbula Drive, Merimbula

The subject property comprises a site area of approximately 39 hectares and is located on the fringe of Merimbula approximately 2 kilometres west of the Town Centre. The land is adjacent to Merimbula Lake and is predominantly vegetated. A guest house and holiday unit tourist development is located in the south-eastern portion of the property (see Figure 2).

The property is elevated to the north and east and contains a number of gullies that run north-south. There is an area of slightly sloping land within the central section of the property that has been cleared for an approved uncompleted vineyard development. The subject land is accessed via Merimbula Drive which adjoins the property to the north and links Merimbula to the Princes Highway. Access to the tourist development is via a sealed driveway. Urban residential development adjoins the property to the east with land immediately to the west in an undeveloped vegetated Crown reserve.

### *Environmental Management and Protection*

Part Lot 1882 DP 1014185 Merimbula Drive, Merimbula, adjoins Merimbula Lake is in close proximity to existing oyster leases that have been identified by the Department of Primary Industries (August 2006) as being within Priority Oyster Aquaculture Areas.

This planning proposal is inconsistent with SEPP 62 as it is acknowledged that future development of the property has the potential to impact on oyster aquaculture in terms of cumulative nutrient impacts and cumulative pathogen impacts. However, providing development of these sites is undertaken in accordance with Council's on-site sewer and soil and water management policies, there should be no further impact on the lake. Any dwellings built on this site would be classed as high risk and as such annual inspections by Council will be required in accordance with Councils OSSM policy.

The protection of the ecological health of the 29 estuaries within Bega Valley Shire was a key consideration in the implementation of the 100m E2 zone foreshore buffers that have been applied along the non-urban estuarine foreshores throughout the Shire. These buffers are designed to have multiple functions including the protection of estuarine water quality, habitat connectivity, protection of riparian vegetation and allow for changes to estuarine water levels as a result of sea level rise.

Flora and Fauna reports have been prepared for this site (1998 and 2008). The 2008 study found that although the site was floristically diverse, there were no threatened terrestrial plant species recorded. Two EEC's namely Swamp Schlerophyll and Coastal Saltmarsh are both found on the southern fringe of the property within the proposed E2 zone. The majority of the forest on the site has been logged or partially cleared over the years, resulting in an immature regrowth forest, without the structure associated with a "natural" or mature forest. The site was found to have plants species likely to support threatened fauna such as the Yellow Bellied Glider. A fauna study would be required to guide the final future placement of lots that were approved through subdivision.

As the study detailed above was carried out some time ago and relevant assessment guidelines have changed, it is likely that a new study will be required to determine any adverse effect on threatened species, populations or ecological communities or their habitats.

With regard to the 10 large lot subdivision detailed as part of the submission to draft BVLEP 2010, the provision of building envelopes, access arrangements, effluent management and Asset Protection Zones on each of the allotments may impact on the ecological values of the subject property. The majority of the lots are sited in areas that have been subject to levels of disturbance ranging from complete clearing to selective removal. The primary value habitat is largely protected through the maintenance of the E2 Environmental Conservation / E3 Environmental Management Zones to the west of the property. Further detailed environmental assessment may be required to support a development application for further subdivision and/or development of the property.

### *Zoning and Lot Size*

Under the BVLEP 2002 the property was zoned part 7(d) Environmental Protection General (31.13 hectares) and part 2(c) Residential Tourist (7.82 hectares) with a minimum lot size control of 40 hectares and 2,000m<sup>2</sup> respectively. Under BVLEP 2013 the 2(c) zoned part of the property is zoned R3 Medium Density Residential with a minimum lot size control of 1,000m<sup>2</sup> with a small section of E2 Environmental Conservation Zone adjacent to Merimbula Lake. The remainder of the property was proposed to be zoned a combination of E2 Environmental Conservation and E3 Environmental Management with a minimum lot size control of 40 hectares, but was deferred from BVLEP 2013 pending a review of the proposed zoning and minimum lot sizes. See Figures 3 and 4 for details.

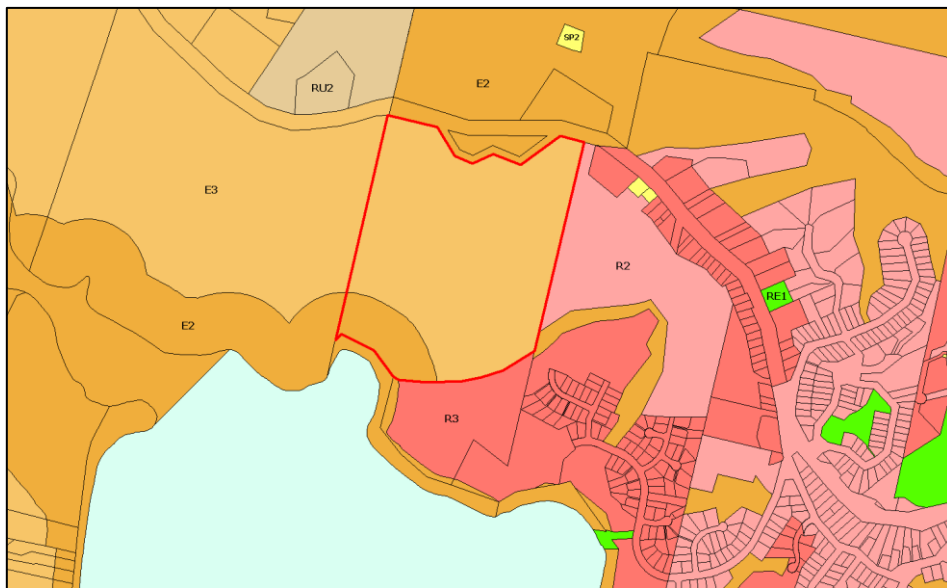


Figure 3: Merimbula Drive, Merimbula: Land Use Zones exhibited BVLEP 2010

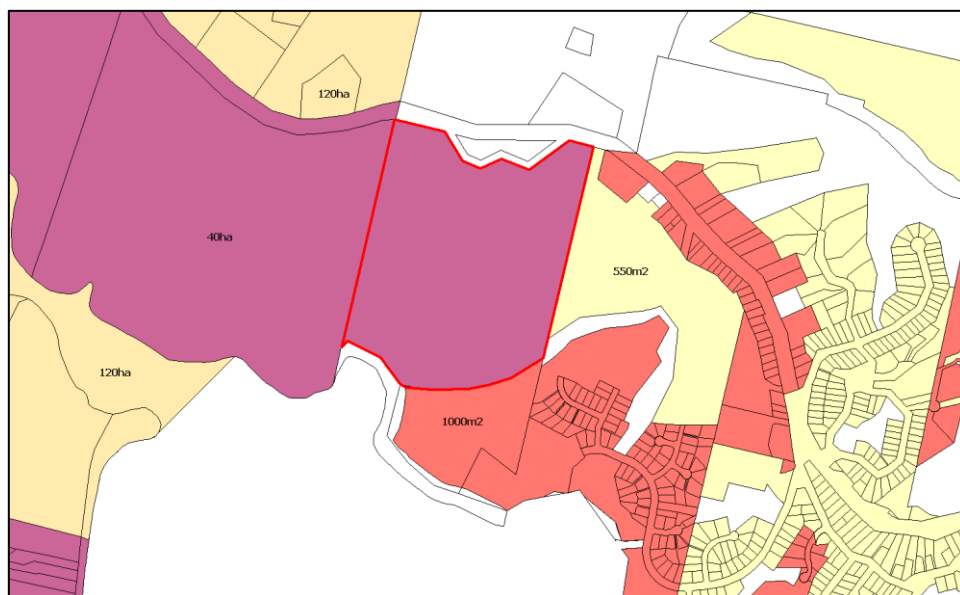


Figure 4: Merimbula Drive, Merimbula: Minimum Lot Sizes exhibited BVLEP 2010

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.

The part of Lot 1882 DP 1014185 Merimbula Drive, Merimbula that is the subject of this Planning Proposal was identified in the MDSR as Area 18. Extracts from the MDSR for the subject land were as follows:

*This area comprises mostly moderate to steep slopes draining directly into Merimbula Lake. About 80% is in natural forest cover. Approval for a vineyard on the site does not appear to have proceeded to date beyond the clearing of land stage. The land also includes the current access to the tourist development below.... Much of the land forms part of the vegetated backdrop to the Lake and is highly visible from sections of the Lake and Highway.*

*Further clearing of any significance, including for bushfire requirements may be difficult to support given the environmental constraints, and as such the land is not considered suitable for urban uses.*

**Recommendation...***That council propose to zone the current 7(d) land within 150m of Merimbula Lake E2 Environmental Conservation, and the remainder of the land be zoned E3 Environmental Management with a 40ha lot size as a holding action in the CLEP.*

The proposed zonings for the subject land outlined in this Planning Proposal are consistent with the above 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 MDSR.

The review of the proposed zoning and minimum lot sizes was in response to a submission received on behalf of the landowner to Draft BVLEP 2010. Details in the submission to Draft BVLEP 2010 demonstrated that the land was suitable for rural residential subdivision and subsequent development. In response, Council determined that the zoning and minimum lot size amendments would enable the land to act as a transition area between urban housing and the bushfire prone land to the west.

The application of the lot averaging Clause 4.1B in BVLEP 2013 will allow the sensitive placement of lots and ensure the balance of the site's important environmental values are protected. The property is within close proximity to the township of Merimbula, has sealed road access and has existing services such as garbage collection, electricity and telecommunication infrastructure.

Subsequent to the review, Council resolved to zone the deferred section of property as follows: (see Figure 5 for details)

- The south western corner of the property to be zoned E2 Environmental Conservation
- The western section of the property to be zoned E3 Environmental Management with a 10 hectare minimum lot size control
- The existing cleared vineyard area to have an E4 Environmental Living Zone with a 5,000m<sup>2</sup> minimum lot size control, and

- The remaining land in the north eastern and eastern sections of the property to be zoned E4 Environmental Living Zone with a 2 hectare minimum lot size control.



Figure 5: Merimbula Drive, Merimbula: Proposed Zoning and Minimum Lot Size of Subject Land

This zoning and lot size configuration increases the rural residential subdivision potential of the subject land from none to a maximum yield of 10 lots (see table below). The following table outlines the proposed zoning amendments and the likely lot yield based on land area:

| Zone                        | Approximate Zone Area | Minimum Lot Size | Potential Maximum Lot Yield |
|-----------------------------|-----------------------|------------------|-----------------------------|
| E3 Environmental Management | 12 hectares           | 10 hectares      | 1 lot                       |
| E4 Environmental Living     | 13.2 hectares         | 2 hectares       | 6 lots                      |
| E4 Environmental Living     | 3.7 hectares          | 1 hectare        | 3 lots                      |

Figure 6 is an indicative 10 lot rural residential subdivision design prepared on behalf of the landowner based on the above Council resolution.

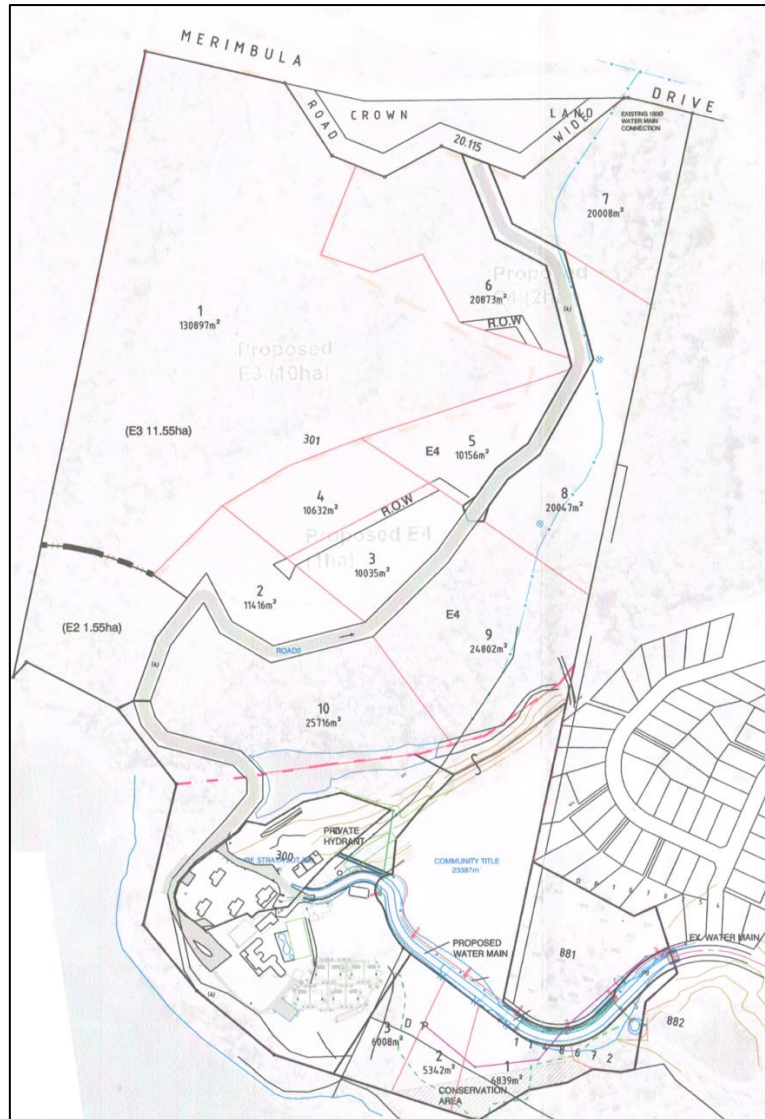


Figure 6: Merimbula Drive, Merimbula: Proposed subdivision design for Lot 1882 DP 1014185

## 2. Boggy Creek Road, Millingandi:

Lot 5431 DP 1041710

**Key Outcome: 0 additional lots, amending zoning to match adjoining lots**



Figure 7: Boggy Creek Road, Millingandi

The subject property is located within the rural area known as Millingandi, within close proximity to the village of Pambula and the coastal township of Merimbula. The property has an area of approximately 3 hectares and can be accessed via Boggy Creek Road, which is a council maintained partly sealed gravel road. An intersection with the Princes Highway is located approximately 1.5 kilometres to the east.

The subject property has been largely cleared of native vegetation as part of its original grazing landuse. There are no known threatened species, populations or ecological communities likely to occur within the property.

The subject property is currently developed for rural residential lifestyle and comprises a residence and associated outbuildings and landscaping. Developments within the immediate area are of a similar nature. The land located to the southeast of the subject property has a current Development Consent for a staged 8 lot rural residential subdivision with site areas ranging from 5,619m<sup>2</sup> to 1 hectare.

The subject property was deferred from BVLEP 2013 pending a review of the zoning and is currently zoned 1(a) Rural General Zone with a minimum lot size control of 120 hectares under the BVLEP 2002. In the Draft BVLEP 2010, the property was proposed to be zoned RU2 Rural Landscape Zone with a minimum allowable lot size of 120 hectares.

Land immediately to the south of the subject property is zoned E4 Environmental Living Zone with a 2 hectare minimum lot size under BVLEP 2013. The remainder of land surrounding the subject land is zoned RU2 Rural Landscape with a minimum lot size of 120ha and is predominantly used for extensive agriculture.

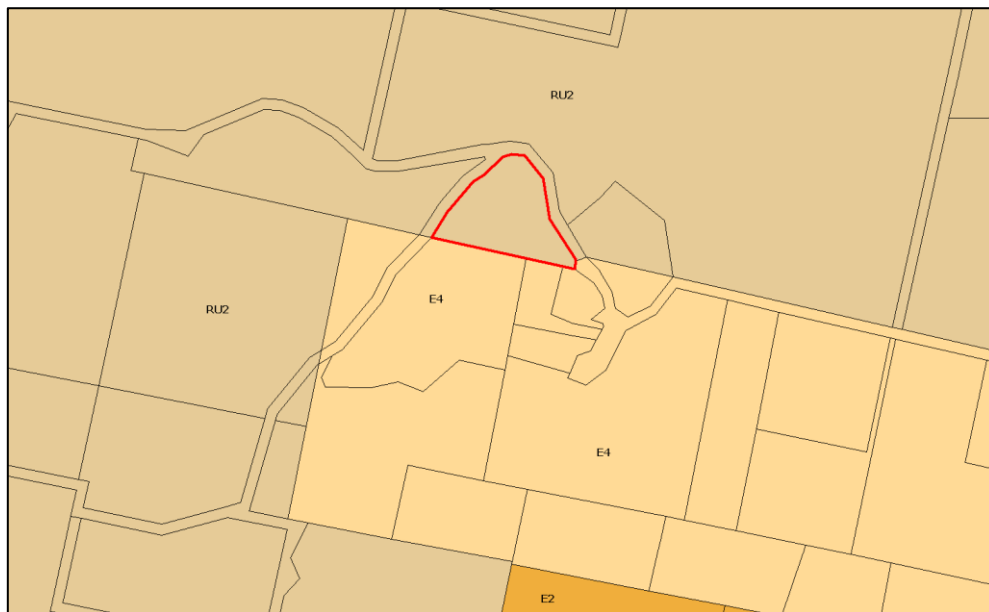


Figure 8: Boggy Creek Road, Millingandi: Land Use Zones (Exhibited BVLEP 2010)

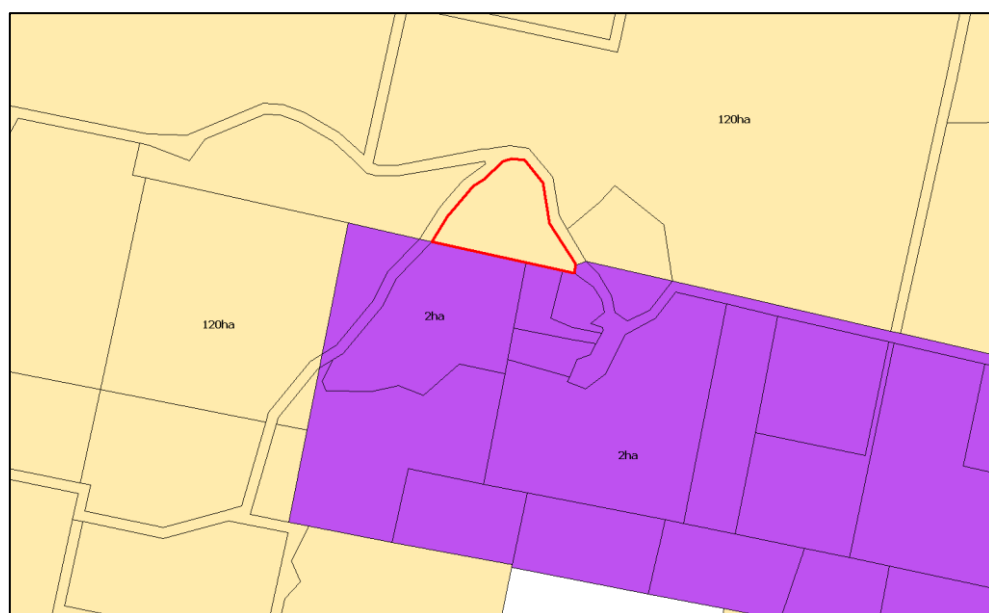


Figure 9: Boggy Creek Road, Millingandi: Minimum Lot Sizes (Exhibited BVLEP 2010)

Following a submission to Draft BVLEP 2010, the proposed zoning and minimum lot sizes for the subject land were reviewed. The submission requested that the E4 Environmental Living Zone south of the subject property be extended north over the subject property to the Boggy Creek Road reserve and that a 1 hectare minimum lot size control apply to the property, which would potentially enable two additional rural residential lots to be developed.

On review of the submission, Council resolved to apply the E4 Environmental Living zone to the property with a 2 hectare minimum lot size control (the property will have no further subdivision potential) on the basis that the existing lot size and current use of the land means that a rural residential zone is more suitable for the land. This proposed zone and lot size will fit well with the surrounding pattern of rural residential development.

### 3. Oregon Street, Pambula

Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825

**Key Outcomes:** 0 additional lots

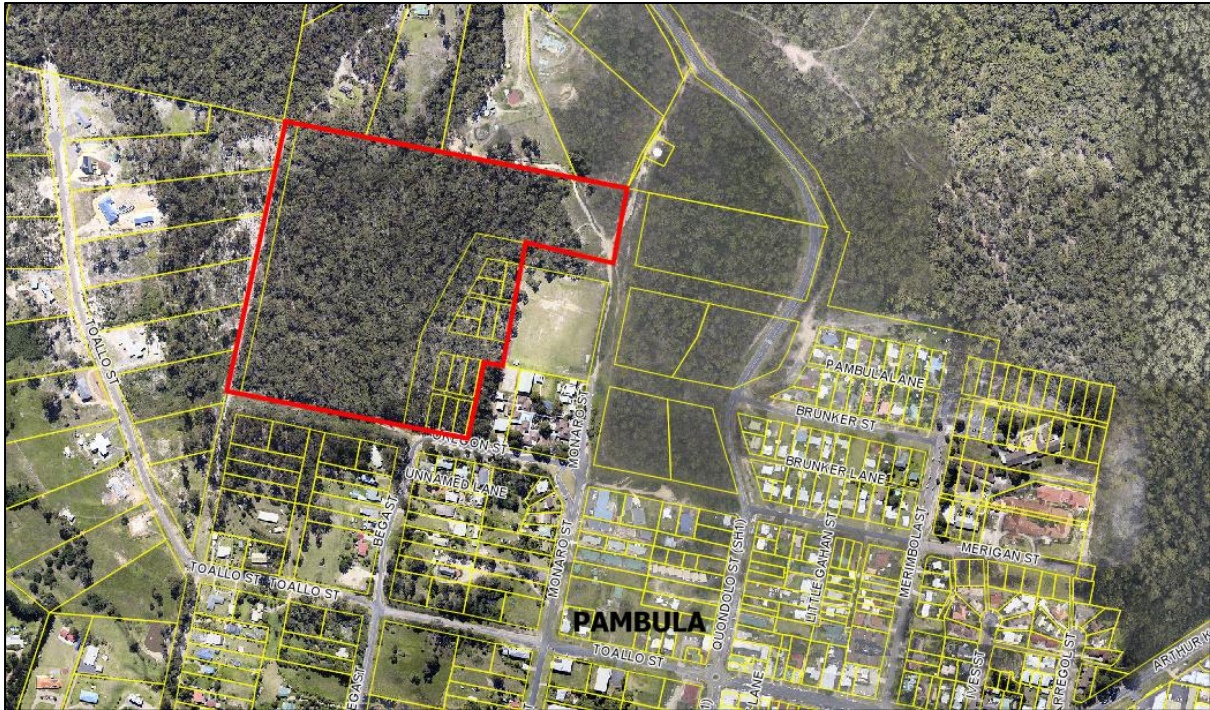


Figure 10: Oregon Street, Pambula

The subject properties are located 550 metres northwest of the Pambula CBD. The properties range in size from 240m<sup>2</sup> (Lot 4 Section 46 DP 758825) to 10.77 hectares (Lot 529 DP 1007936) and can be accessed via Oregon Street or an extension to Monaro Street (See figure 10).

The area is extensively vegetated with small pockets of cleared land containing informal access tracks and power lines. There are no dwellings on any of the allotments. The area generally slopes down to the south with various intermittent drainage lines dissecting the land. There are no known threatened species or communities in this area. However there is a high likelihood that species such as the Yellow-bellied Glider may be found in the area.

Part of the subject land (Lot 529 DP 1007936) was deferred from BVLEP 2013 pending the result of the strategic review of potential residential lands around Pambula and South Pambula urban areas. The zoning of Lot 529 DP 1007936 under BVLEP 2002 is currently zoned 1(a) Rural General Zone. In the draft BVLEP 2010, the land was recommended to be zoned RU2 Rural Landscape with a 120ha minimum lot size. The remainder of the land is zoned under BVLEP 2013 as RU2 Rural Landscape with a 120ha minimum lot size.

The strategic review of land by Zenith Town Planning concluded that the land is not suited to residential subdivision as the land is heavily constrained due to riparian corridors, slope and

vegetation. The review recommended that the land retain an RU2 Rural Landscape zone with a 120ha minimum lot size.

Further assessment undertaken by Council following the strategic review by Zenith Town Planning, reassessed the suitability of the zoning and minimum allotment size under the draft BVLEP 2010 given that the land cannot be utilised for rural enterprises due to site constraints.

Given the site constraints that were identified in the strategic review and that the land cannot be utilised for agricultural activities, it is recommended that the subject land be rezoned E3 Environmental Management with 120 ha minimum allotment size (See Figures 30 and 31). This would provide a consistent zoning and lot sizing with adjoining lands.

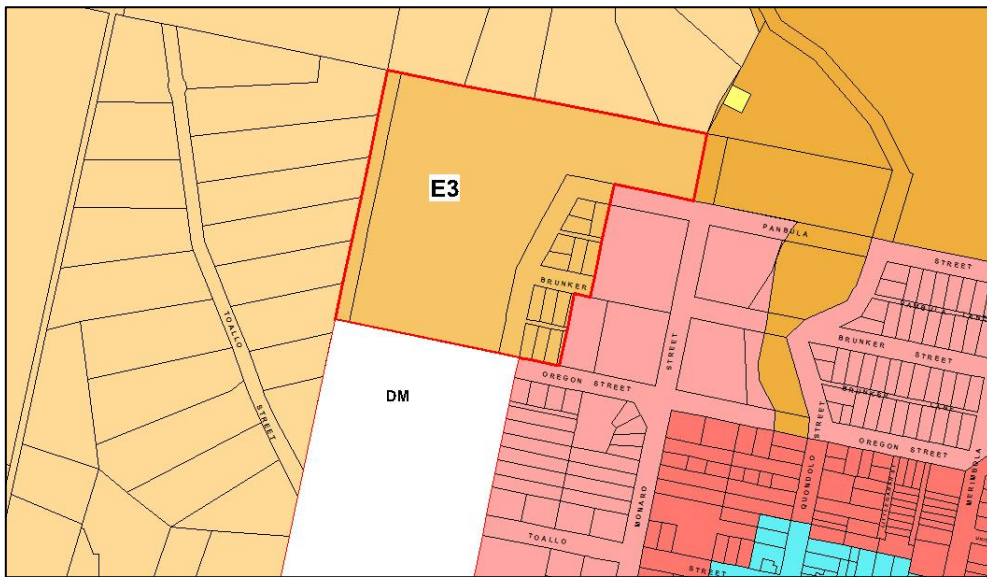


Figure 11: Oregon Street, Pambula: Proposed Zone

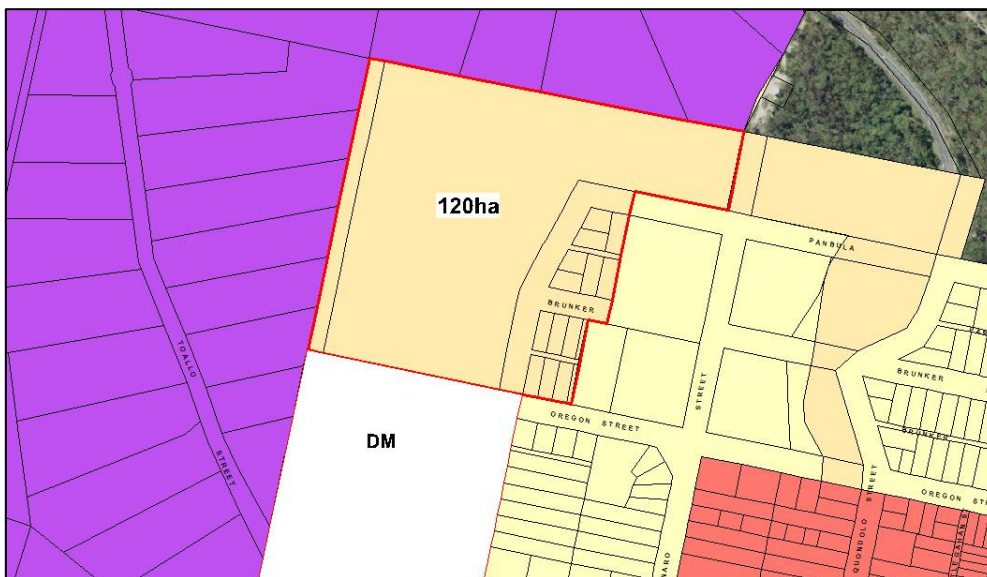


Figure 12: Oregon Street, Pambula: Proposed Minimum Lot Size

#### 4. Bega Street, Pambula

Lots 1 & 2 DP 68708, Lots 101 - 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 13 -19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514

**Key Outcomes:** Appropriate zoning of vegetated lots and retention of existing development style

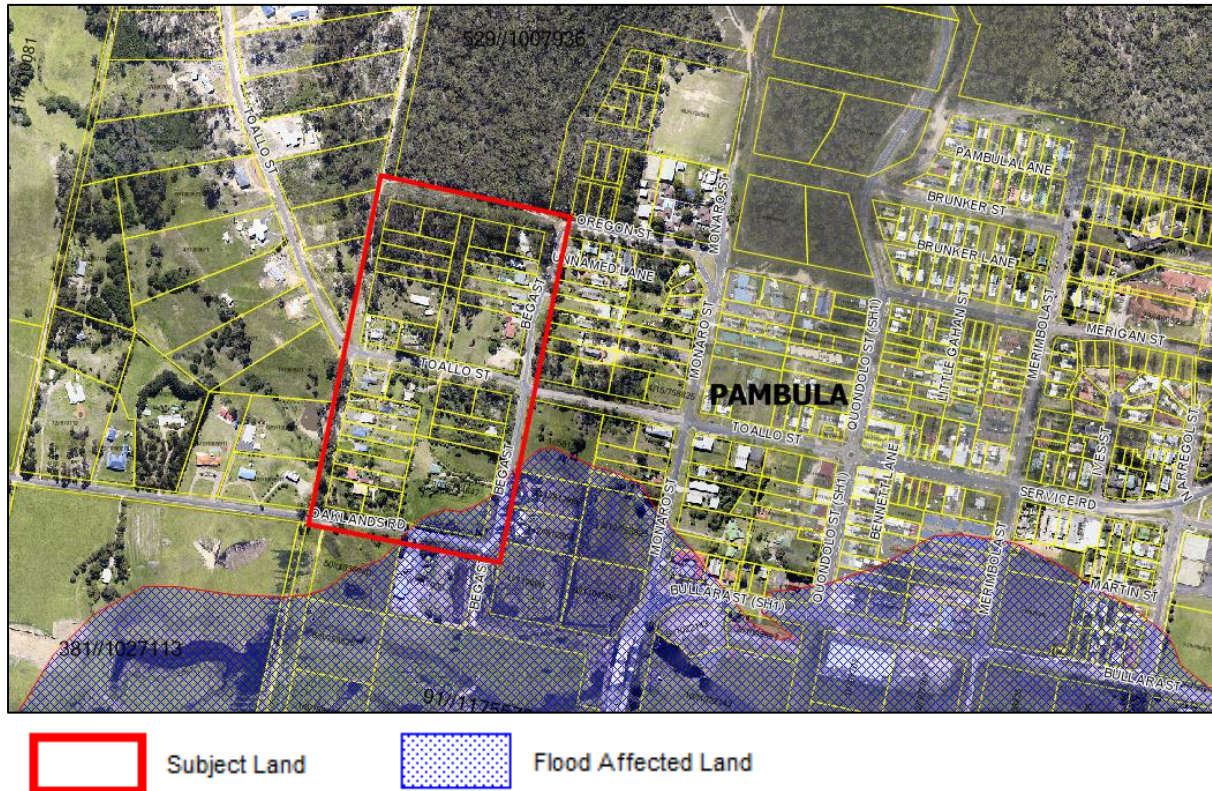


FIGURE 13: Bega, Oregon Streets & Oaklands Road, Pambula: Subject Land Aerial Photograph

These sites were originally part of the “draft Pambula and South Pambula Planning Proposal (2014). However due to requirements to undertake further consultation with the Office of Environment and Heritage with regard biodiversity issues and concern over lot sizing, it was removed from that Planning Proposal until a satisfactory position was resolved with OEH.

Council had proposed to change the zoning of the subject land to R2 Low Density Residential, with a 550sq/m lot size. After receiving feedback from OEH and further field work being carried out by staff, it was decided to retain the exhibited R5 zone with a 2000sq/m lot size, with the exception of the north western corner of the site. The majority of the developed lots in this area are approximately 2000sq/m pattern and it is recommended to retain this pattern of development in this area. Due to the presence of more dense forest cover in the in the north western corner of the site, Council proposes to apply and E4 zone with a 5000sq/m lot size.

The resultant E4 zone and 5000sq/m lot size would only result in approximately 2 lots being possible in this area, representing a reduction in the previous and current potential.

The subject properties are located 500 metres west of the Pambula CBD. The properties range in size from 2033m<sup>2</sup> (Lot 16 Section 14 DP 758825) to 1.49 hectares (Lot 103 DP 734647) and can be accessed via Bega and Toalla Streets and Oaklands Road (see Figure 13 above).

The area retains numerous dwellings set within landscaped gardens. There are currently 12 allotments that are vacant, however, those allotments are utilised by adjoining parcels of land that retain dwellings.

The area generally slopes to the south with one allotment on the corner of Oaklands Road and Bega Street that is low lying and is partially constrained by the 1:100 ARI flood level. All of the subject lands contain sufficient area above the flood level that is suitable for the type of future development that will result from this Planning Proposal.

The subject land was deferred from BVLEP 2013 pending the result of a strategic review of potential residential lands around Pambula and South Pambula urban areas. Under BVLEP 2002, the land is currently zoned 2(f) Future Urban Zone. In the draft BVLEP 2010, the land was recommended to be zoned R5 Large Lot Residential with a 2000m<sup>2</sup> minimum lot size.

The strategic review of land suitability for urban residential development for this location was finalised by Zenith Town Planning in June 2013. The review concluded that the land is not suited to residential subdivision other than that proposed under the draft BVLEP 2010. The review detailed that the land is heavily constrained due to vegetation, slope and gullies and offers only limited and fragmented potential for further residential development. The review recommended that the land retain an R5 large lot residential zone with a 2000m<sup>2</sup> minimum lot size.

The entire area is located within the Pambula Water and Sewer Development Servicing Plan and has other various infrastructure including telephone, power and sealed roads available to the area. The area is located within close proximity to the Pambula CBD and Pambula Public School to minimise vehicle use and is considered an orderly expansion of the Pambula built environment.

Following consultation with OEH the vegetated, north-west corner of the study area has been proposed to be zoned E4 Environmental Living with a 5000sq/m lot size. OEH advised that there were records of the Gang Gang Cockatoo in this area and they found evidence of Yellow-bellied Glider activity in the area.

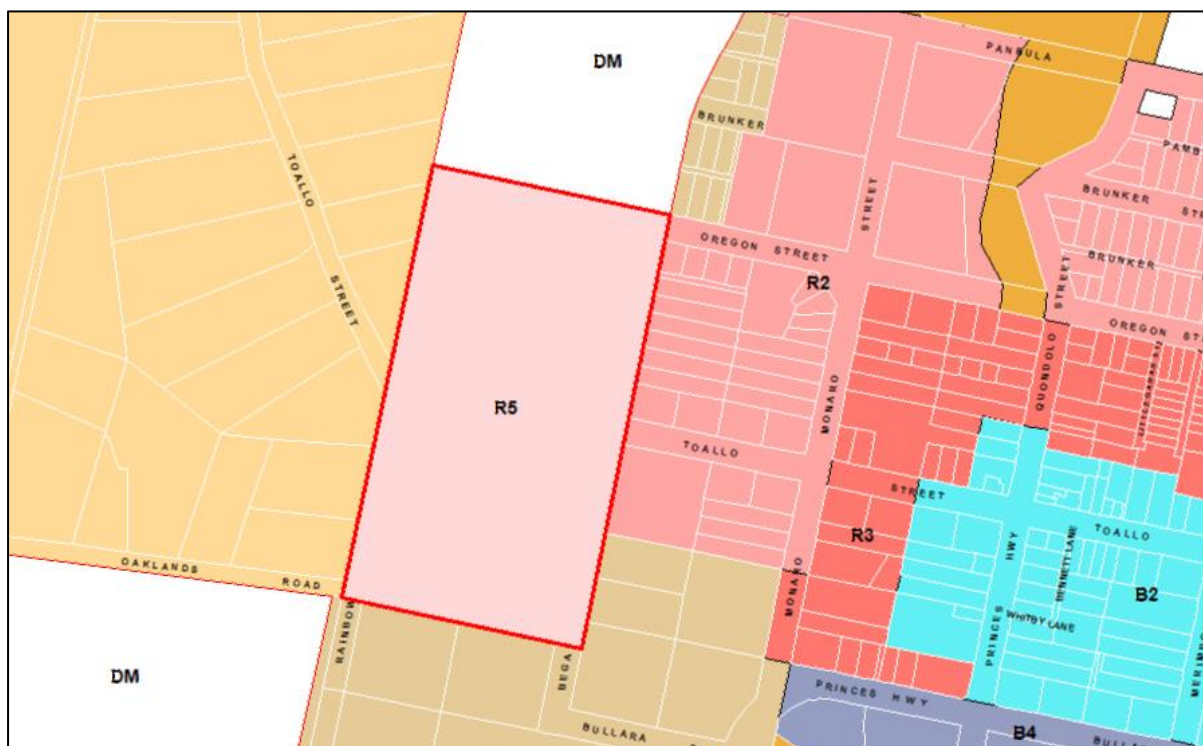


Figure 14: Bega, Oregon Streets & Oaklands Road, Pambula: Exhibited Zone

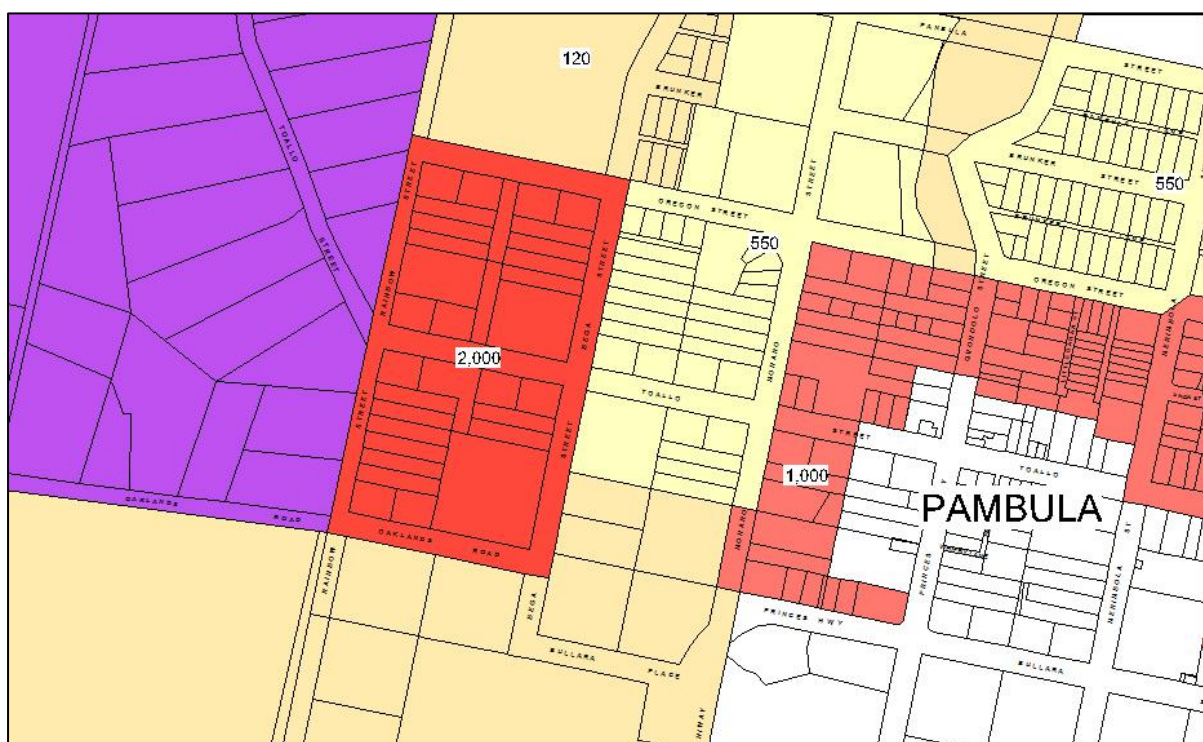


Figure 15: Bega, Oregon Streets & Oaklands Road, Pambula: Exhibited Minimum Lot Size

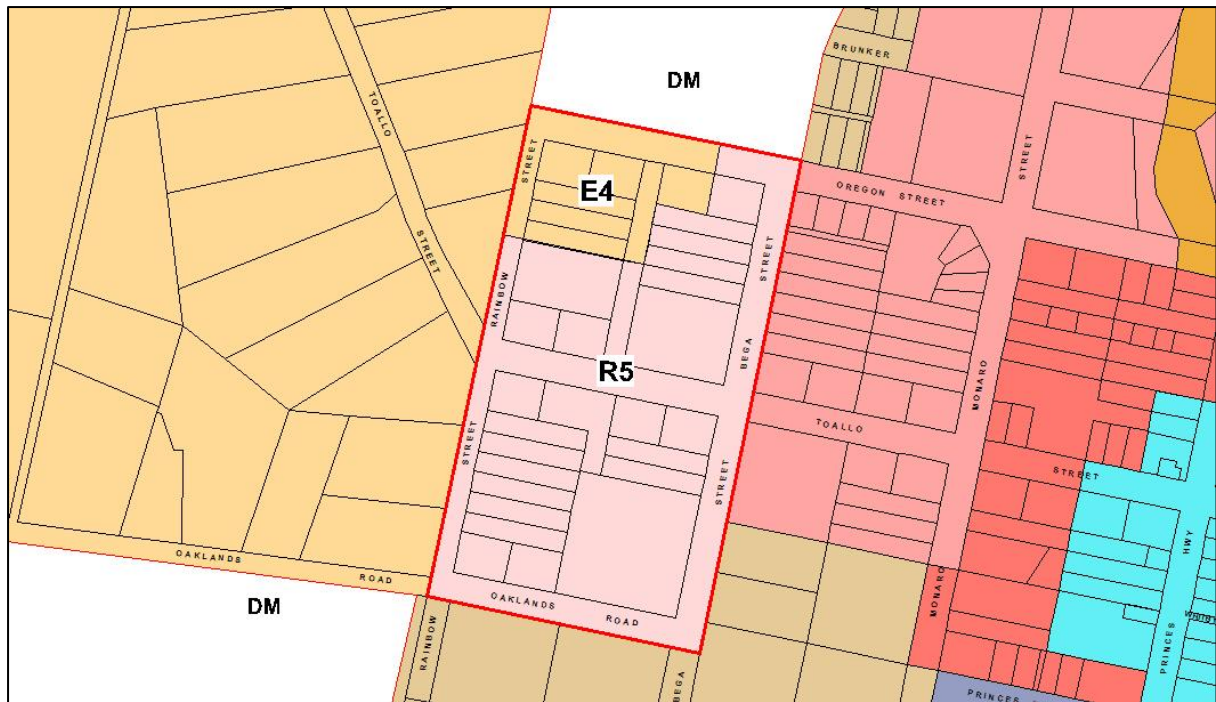


Figure 16: Bega, Oregon Streets & Oaklands Road, Pambula: Proposed Zoning

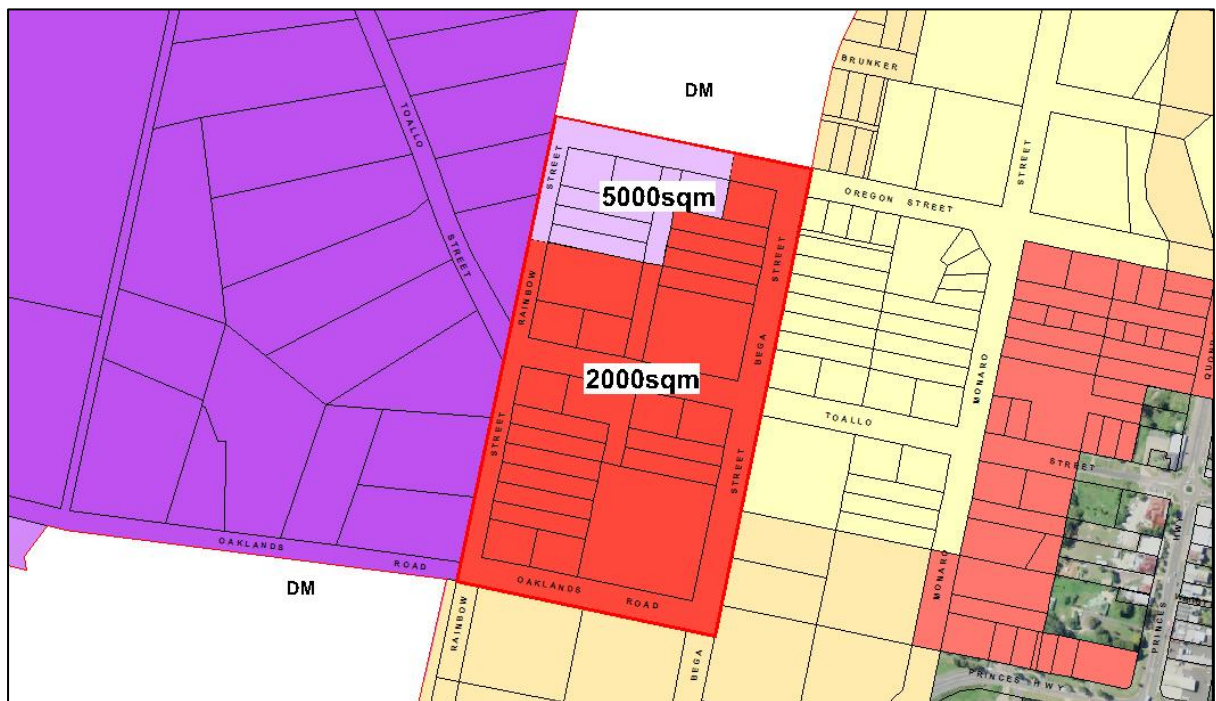


Figure 17: Bega, Oregon Streets & Oaklands Road, Pambula: Proposed Lot Size

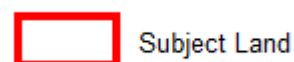
## 5. Oaklands Road, Pambula

Lot 441 & 442 DP 1077278, Lots 431-434 DP 1152077, Part Lot 381 DP 1027113 and Part Lot 45 DP 807327

**Key Outcome: 3 additional lots, appropriate E4 zoning of existing approved lots (5)**



Figure 18: Oaklands Road, Pambula



### Rural Residential – Oaklands Road, Pambula

In response to a joint submission to Draft BVLEP 2010, Lots 441 & 442 DP 1077278, Lot 434 DP 1152077 and Part Lot 381 DP 1027113, Oaklands Road Pambula, were identified as deferred matters under BVLEP 2013 and included in Appendix 2. Council resolved to zone the 4 lots E4 Environmental Living with a 1ha lot size.

The adjacent Lots 431-433 DP 1152077 and Lot 45 DP 807327 are currently zoned RU2 Rural Landscape Zone with a minimum lot size of 120 ha under BVLEP 2013. The land located immediately to the north of the lots is zoned E4 Environmental Living with a 2ha minimum lot size. See Attachment 1 for a map of the current zones in the area.

Lots 431-433 DP 1152077 are approximately 5,000m<sup>2</sup> and are in the process of being developed for rural residential purposes. Lot 45 DP 807327 is approximately 3.6 ha and is currently used for rural residential purposes. Given that these properties are well below the 120ha minimum lot size, have been created for dwelling purposes and represent a natural extension of the rural residential land to the north, it is recommended that these lots be zoned (or part zoned) E4 with a 1ha lot size.

The properties to which this Planning Proposal applies are located approximately 1 kilometre southwest from the centre of Pambula village and range in size from 5,000m<sup>2</sup> (Lots 431-433 DP 1152077) to 64.15 hectares (Lot 381 DP 1027113).

The properties slope gently from the northwest to the southeast and predominantly comprise cleared grazing land for horses and cattle. Lot 381 DP 1027113, Lot 442 DP 1077278 and Lot 45 DP 807327 adjoin the Pambula River Flats and are constrained by the 1:100 ARI flood line (see Figure 14). The subject properties have been largely cleared of native vegetation as part of their original grazing landuse. There are no known threatened species, populations or ecological communities likely to occur within the subject properties.

Access to the properties is via Oaklands Road, which is a sealed Council maintained road adjoining the properties to the north.

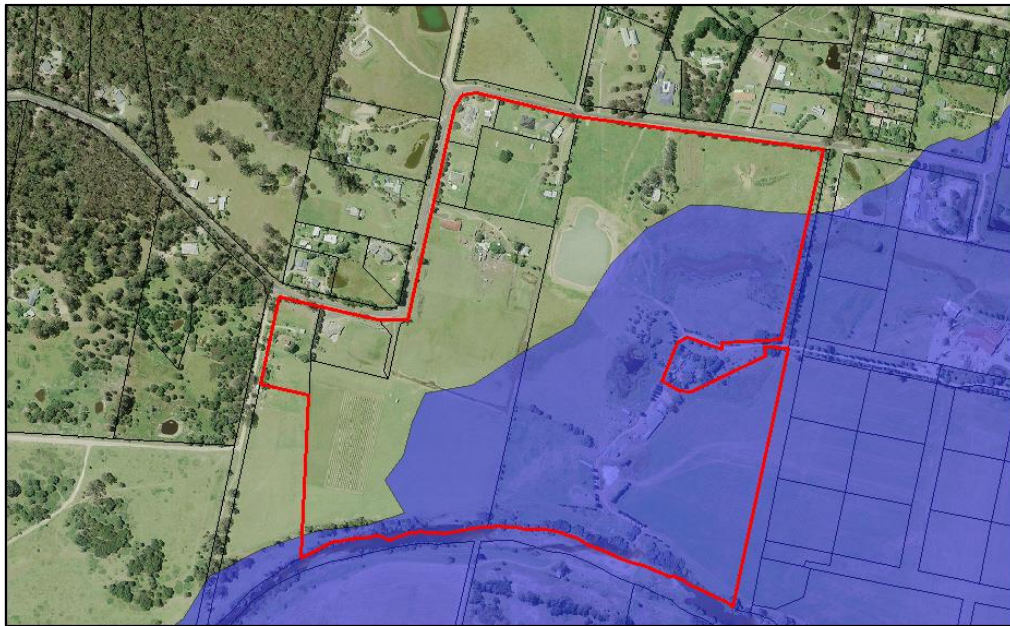


Figure 19: Oaklands Road, Pambula: Subject and Flood Affected Land

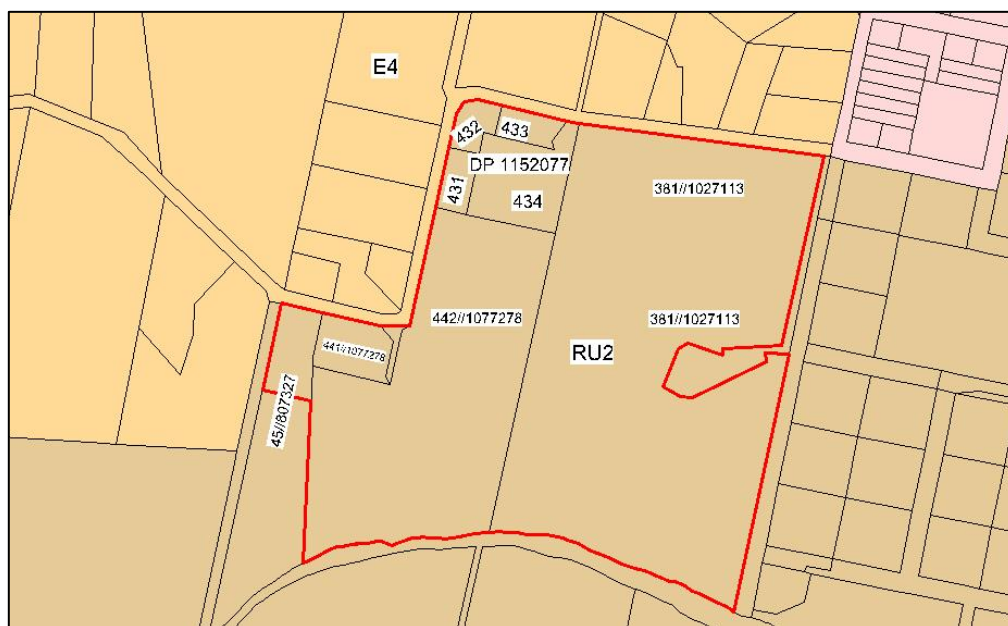


Figure 20: Oaklands Road, Pambula: Land Use Zones (Exhibited BVLEP 2010)

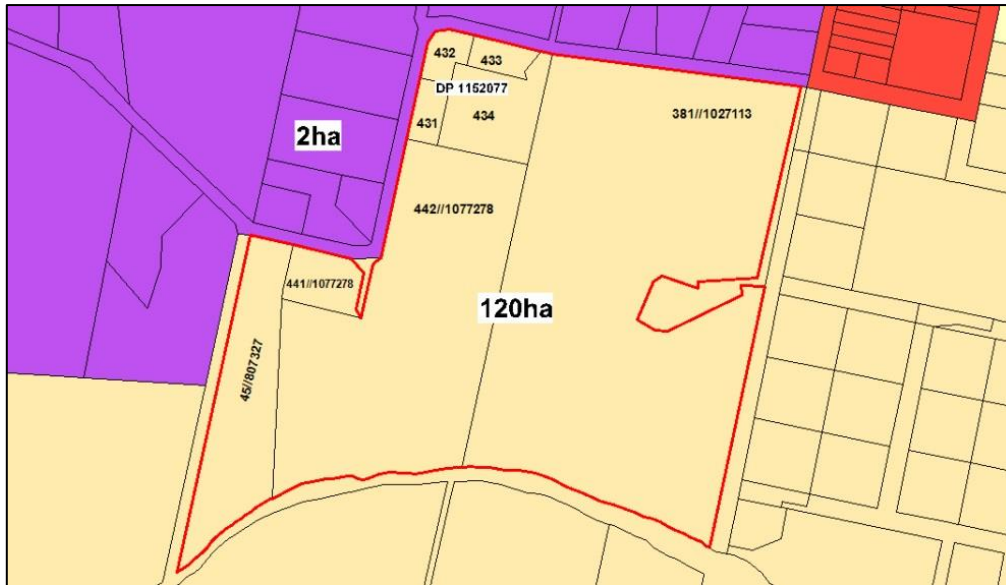


Figure 21: Oaklands Road, Pambula: Minimum Lot Sizes (Exhibited BVLEP 2010)

### **Lot 381 DP 1027113**

Lot 381 DP 1027113 holds development consent for a two lot concessional rural residential subdivision that creates two allotments with site areas of 2ha each and for a subdivision to create three additional rural small holdings with site areas of 5,000m<sup>2</sup>. All five of these lots have development approval to be physically located within northern section of Lot 381 DP 1027113 that is proposed to be within the E4 zone. To date these consents have been commenced, but not completed. The E4 component of Lot 381 will allow for the 5 existing lots to be accommodated, whilst not allowing any further subdivision.

Lot 381 also contains a dam for holding treated effluent from the Merimbula reticulated sewerage system for reuse on the surrounding farm land. Lot 381 also envelopes Lot 382 DP 1027113 which contains the State Listed Heritage Oakland House. The house and its curtilage were subdivided from the surrounding land and cannot be seen from Oaklands Road.

Council resolved to apply the E4 Environmental Living Zone only to the area of land fronting Oaklands Road. Those parts of the property that are flood prone, contain the treated effluent storage dam and are adjacent to the State Heritage Item and are proposed to be zoned RU2 Rural Landscape Zone. No further lots are proposed for this property under this planning proposal.

### **Lot 434//1152077**

Lot 434 is the residue lot that resulted from the previous subdivision that created lots 431-433//1152077 and has an existing dwelling. The lot is 2.11 hectares in size and this Planning Proposal would provide the opportunity for that lot to be further subdivided creating 1 extra lot. Lots 431-433//1152077 would receive the E4 Zone as proposed to those neighbouring lots currently deferred from BVSC CLEP 2013, to ensure consistency of zoning across the area.

**Lot 442 DP 1077278**

Only the northern flood free section of lot 442 DP 1077278 is considered suitable for residential use. It is proposed to apply the E4 zone and 1ha lot size to the northern 3ha of Lot 442. This Planning Proposal will result in additional 2 additional allotments. The remainder of the property is currently used for grazing purposes and will be zoned RU2 as originally proposed in draft Bega Valley CLEP 2010. The RU2 section of Lot 442 could be subdivided as an agricultural lot under clause 4.2 of the Bega Valley CLEP (2013).

**Lot 441 DP 1077278**

Lot 441 DP 1077278 is an existing small lot of approximately 1ha, with an existing dwelling. This Planning Proposal will add this lot to the E4 zone to ensure consistency with the adjacent lots. No additional lot entitlements are created by this Planning Proposal.

**Part Lot 45 DP 807327**

Lot 45 DP 807327 is currently zoned RU2 and has a dwelling at the extreme northern end of the property. This Planning Proposal will add an area of 1ha around the dwelling to the E4 zone to ensure consistency with the adjacent lots, with the balance of the property to retain its exhibited RU2 zoning. No additional lot entitlements are created by this Planning Proposal. The RU2 section of Lot 442 could be subdivided as an agricultural lot under clause 4.2 of the Bega Valley CLEP (2013).

The following table summarises the potential lot yield subsequent to the proposed amendments:

| Allotment               | Proposed zone           | Approximate zone area | Proposed min. lot size | Existing lot approvals | Potential additional lots |
|-------------------------|-------------------------|-----------------------|------------------------|------------------------|---------------------------|
| Lot 441 DP 1077278      | E4 Environmental Living | 1.05 hectares         | 1 hectare              | 0                      | 0                         |
| Part Lot 442 DP 1077278 | E4 Environmental Living | 3 hectares            | 1 hectare              | 0                      | 2                         |
| Part Lot 442 DP 1077278 | RU2 Rural Landscape     | 10 hectares           | 120 hectare            | 0                      | 0                         |
| Lot 431 DP 1152077      | E4 Environmental Living | 5,000m <sup>2</sup>   | 1 hectare              | 0                      | 0                         |
| Lot 432 DP 1152077      | E4 Environmental Living | 5,000m <sup>2</sup>   | 1 hectare              | 0                      | 0                         |
| Lot 433 DP 1152077      | E4 Environmental Living | 5,000m <sup>2</sup>   | 1 hectare              | 0                      | 0                         |
| Lot 434 DP 1152077      | E4 Environmental Living | 2.11 hectares         | 1 hectare              | 0                      | 1                         |
| Part Lot 381 DP 1027113 | E4 Environmental Living | 5.5ha                 | 1 hectare              | 5                      | 0                         |
| Part Lot 381 DP 1027113 | RU2 Rural Landscape     | 59 hectares           | 120 hectares           | 0                      | 0                         |
| Part Lot 45 DP 807327   | E4 Environmental Living | 1 hectare             | 1 hectare              | 0                      | 0                         |

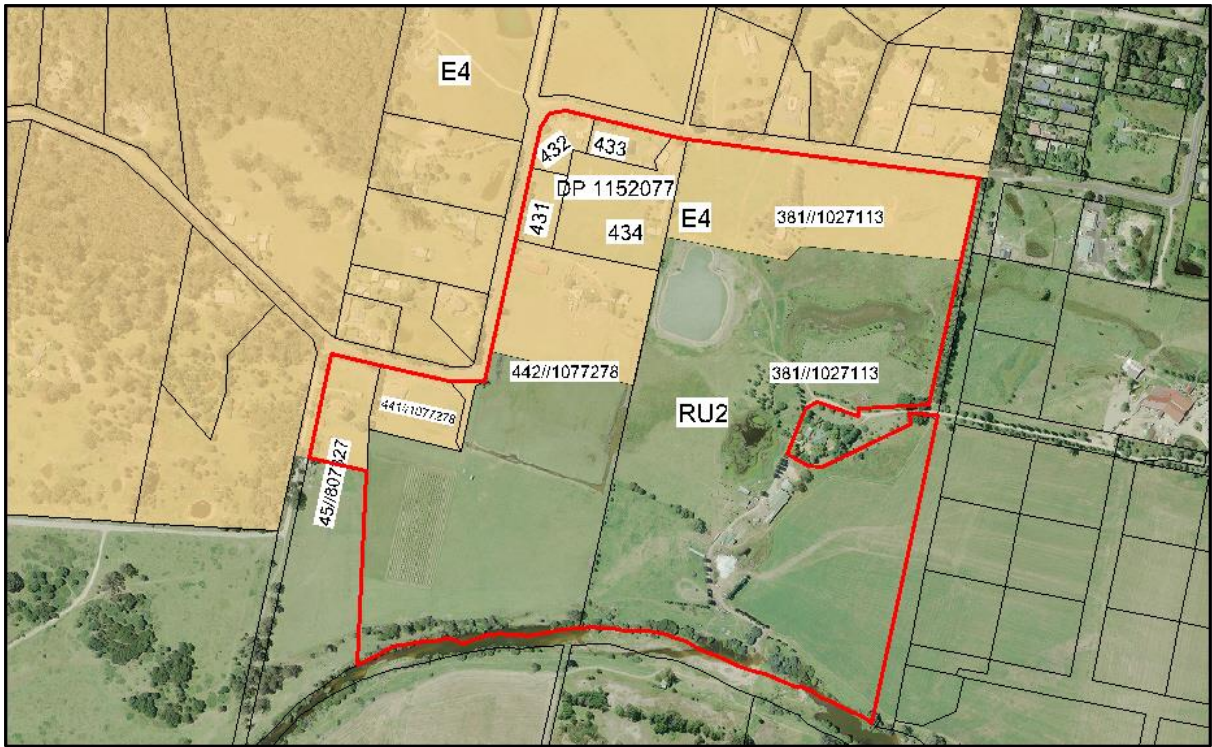


Figure 22: Oaklands Road, Pambula: Proposed Zones

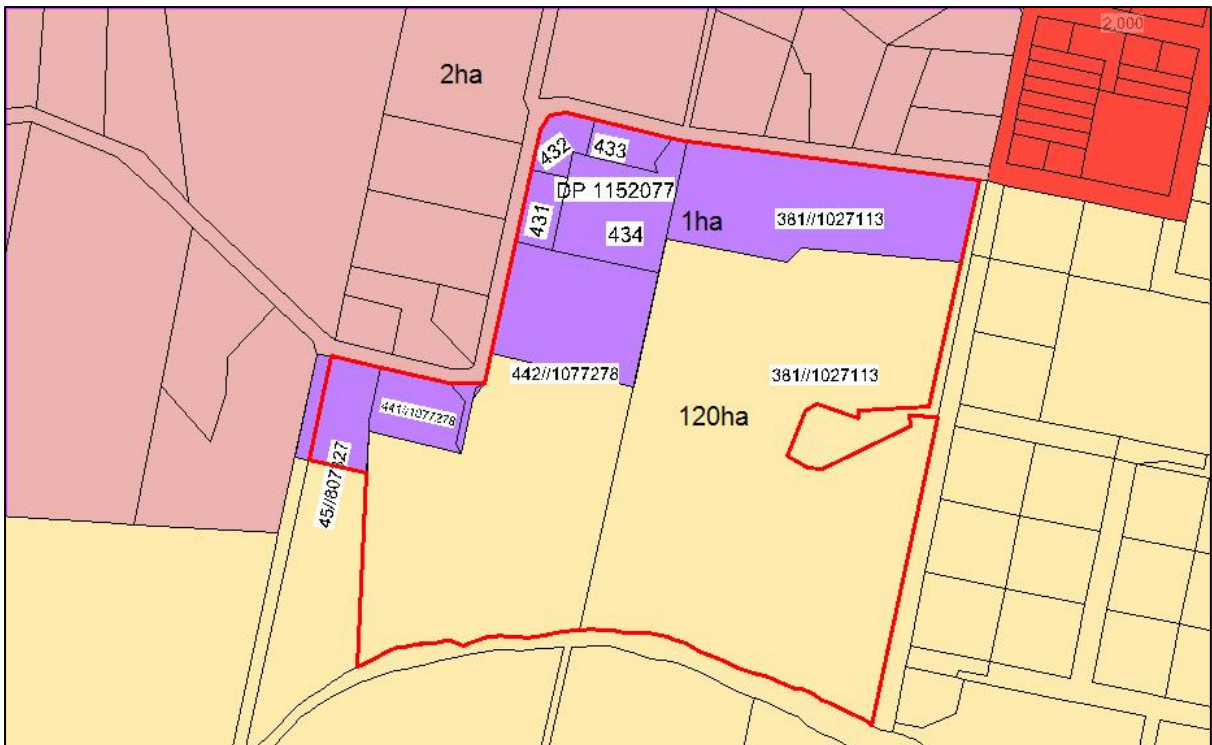


Figure 23: Oaklands Road, Pambula: Proposed Lot Sizes

## 6. Mount Darragh Road, Lochiel

Lot 841 DP 1193692

**Key Outcome: 2 additional lots**



Figure 24: Mount Darragh Road, Lochiel

The subject property is approximately 15 hectares and contains a rural dwelling and associated outbuildings and is currently predominantly cleared and used for grazing stock. Access is via Mount Darragh Road, which is a sealed Council maintained road adjoining the property to the north. An intersection with the Princes Highway is located approximately 3.8 kilometres to the east.

The property contains two moderately sized farm dams, is elevated in the south and slopes gently to the north towards a gully that runs southeast to northwest with a large level area that rises to a private gravel road to the east. The property is bounded on the west, south and east by a number of developed small rural holdings ranging in range in size from 1.5 to 10.2 hectares. The subject property has been largely cleared of native vegetation as part of its original grazing landuse. There are no known threatened species, populations or ecological communities likely to occur within the property.

The subject land was deferred from BVLEP 2013 and is currently mostly zoned 1(a) Rural General Zone (13.82 hectares) with a small portion of 1(c) Rural Small Holdings Zone (1.52 hectares) with no residential subdivision potential under BVLEP 2002. In the Draft BVLEP 2010, the property was proposed to be zoned RU2 Rural Landscape Zone with a minimum lot size control of 120 hectares

(see Figures 11 and 12). The land immediately to the west, south and east of the property is currently zoned E4 Environmental Living Zone with a 4 hectare minimum lot size under BVLEP 2013.

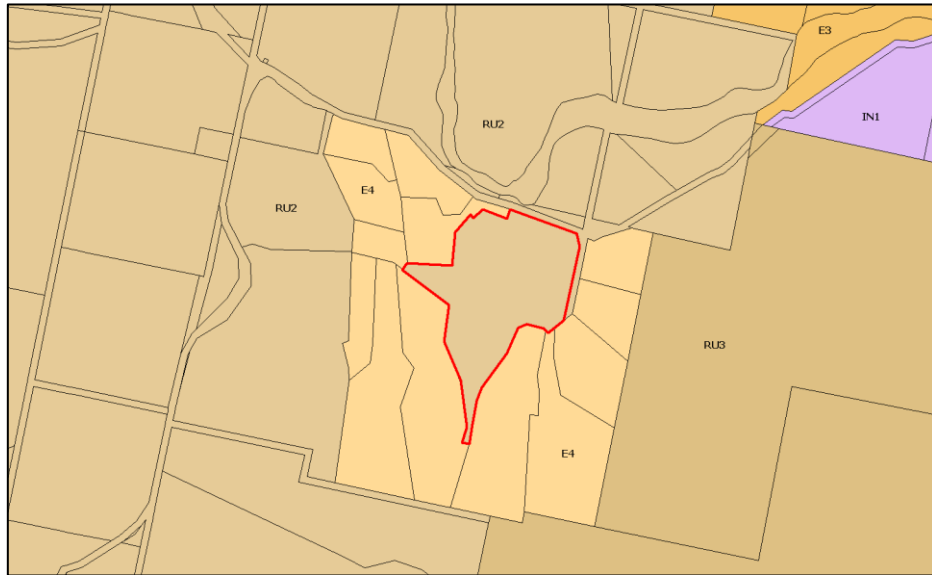


Figure 25: Mount Darragh Road, Lochiel: Land Use Zones (Exhibited BVLEP 2010)

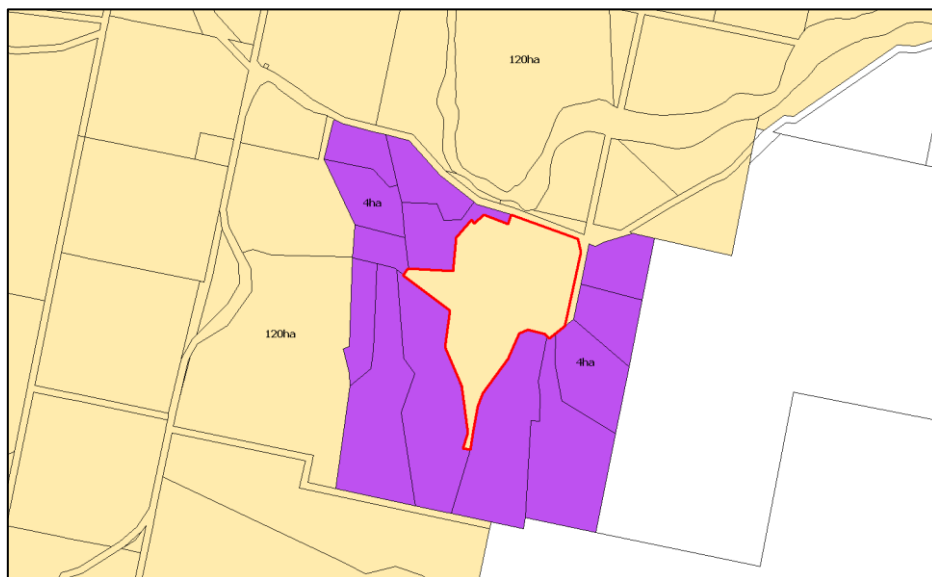


Figure 26: Mount Darragh Road, Lochiel: Minimum Lot Sizes (Exhibited BVLEP 2010)

In response to a submission received on behalf of the landowner during the exhibition of Draft BVLEP 2010, the subject property was deferred from the BVLEP 2013 on the basis that the proposed zoning and minimum lot size control would be reviewed.

Subsequent to this review, Council resolved to extend the adjacent E4 Environmental Living Zone and 4 hectare minimum lot size over the subject property to enable 2-3 additional rural residential allotments. This represents a logical extension of the surrounding rural residential area with the

additional allotments able to take advantage of the opportunities that the subject land affords, including close proximity to the village of Pambula, existing Council garbage collection service and electricity and telecommunications infrastructure, sealed Council road access and suitable aspect and topography.

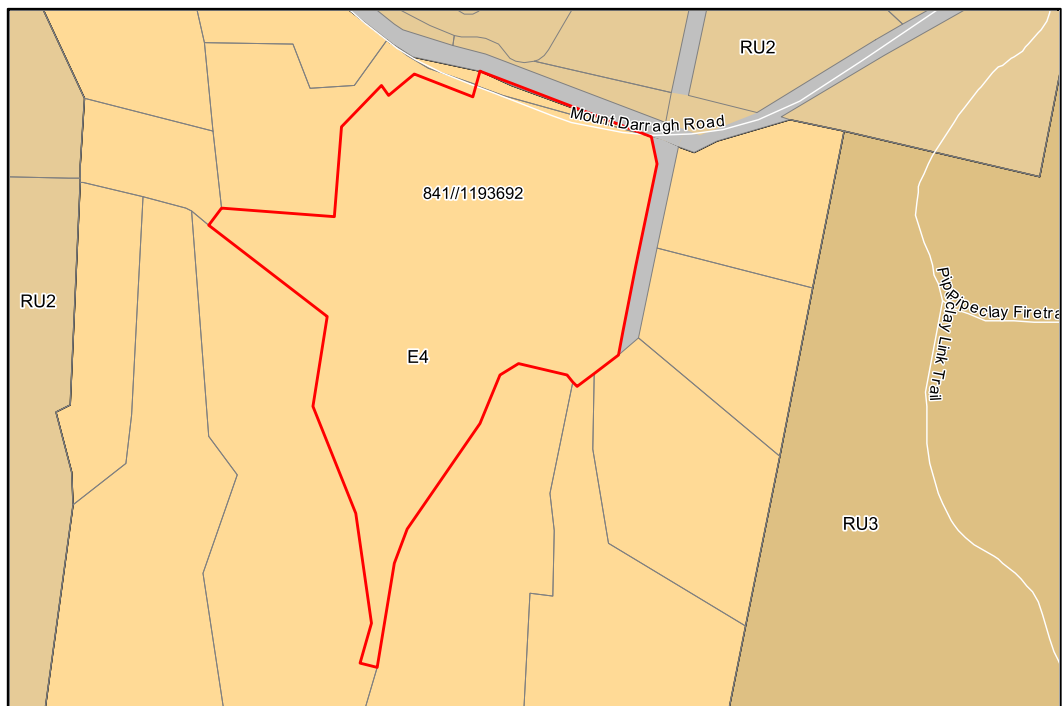


Figure 27: Mount Darragh Road, Lochiel: Proposed Land Use Zones

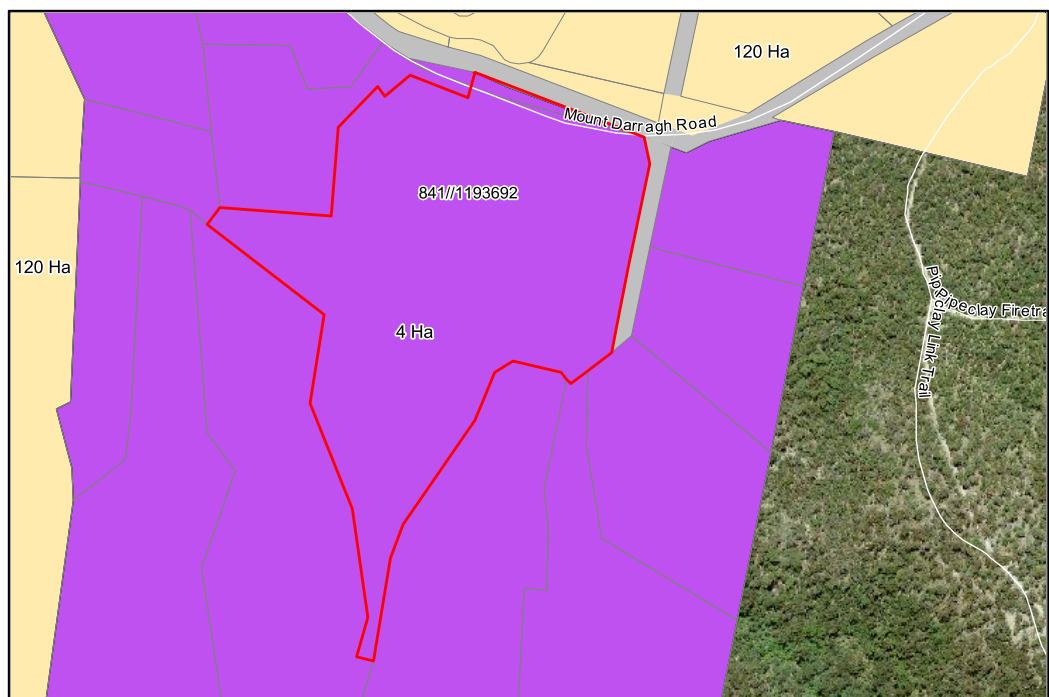


Figure 28: Mount Darragh Road, Lochiel: Proposed Lot Size

## 7. Mount Darragh Road, South Pambula

Lot 302 DP 749405

**Key Outcome:** 11 additional lots

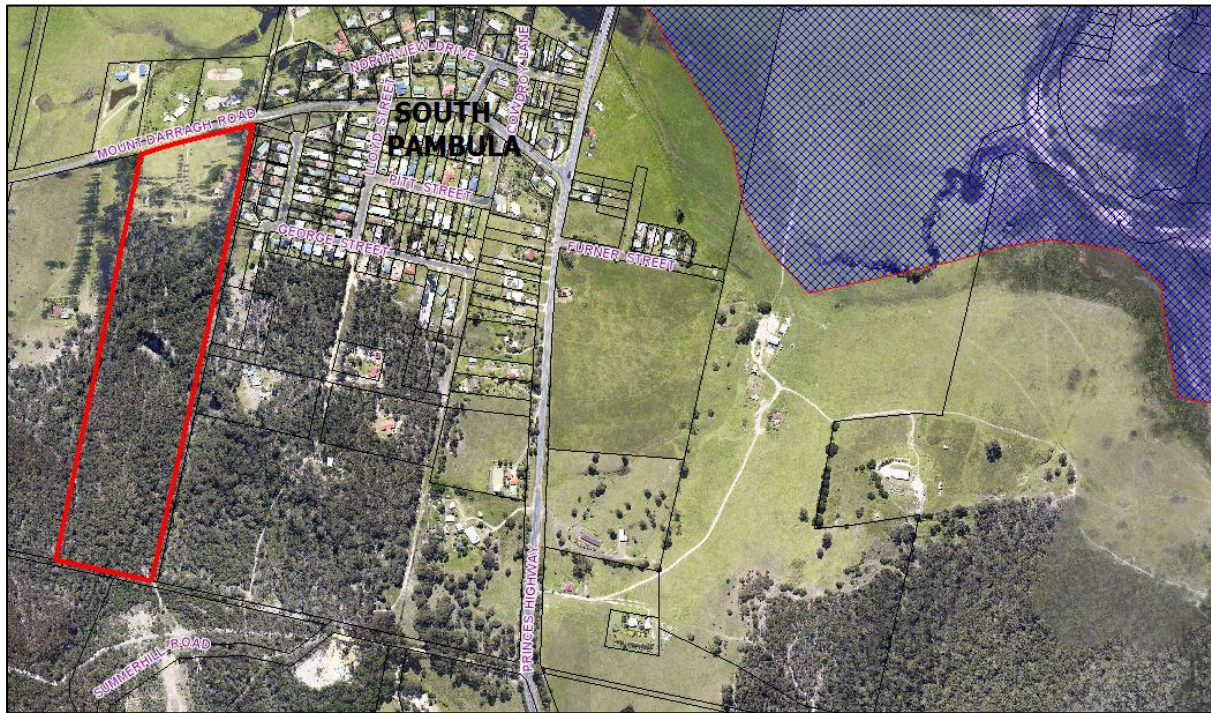


Figure 29: Lot 302 DP749405 - Mount Darragh Road, South Pambula: Subject Land Aerial Photograph

These sites were originally part of the “draft Pambula and South Pambula Planning Proposal (2014). However due to requirements to undertake further consultation with the Office of Environment and Heritage with regard biodiversity issues and concern over lot sizing, it was removed from that Planning Proposal until a satisfactory position was resolved with OEH.

The subject land is located to the west of the South Pambula settlement, approximately 2.3 kilometres south-west from the village of Pambula. The subject land has an area of 12.64 hectares and can be accessed via Mount Darragh Road (see Figure 29).

Approximately 3 hectares of subject land fronting Mount Darragh Road is cleared to semi cleared and retains a single dwelling and an approved tourist facility comprising 4 buildings with 2 units in each building under Development Consent 2001.1552. The remainder of the subject land is reasonable vegetated and dissected by intermittent gullies/watercourses.

The land is bounded by R2 Low Density Residential zoned land to the east, IN2 Light Industrial zoned land to the west and E3 Environmental Management /RU2 Rural Landscape to the south. North of the site across Mount Darragh Road are three RU2 zoned allotments all retaining single dwellings.

An extractive industry was recently approved on Lot 31 DP 749613, which adjoins the subject property to the west. The consent for the extractive industry enables the extraction and stockpiling of 25,000m<sup>3</sup> of material over 5 to 10 years after commencement.

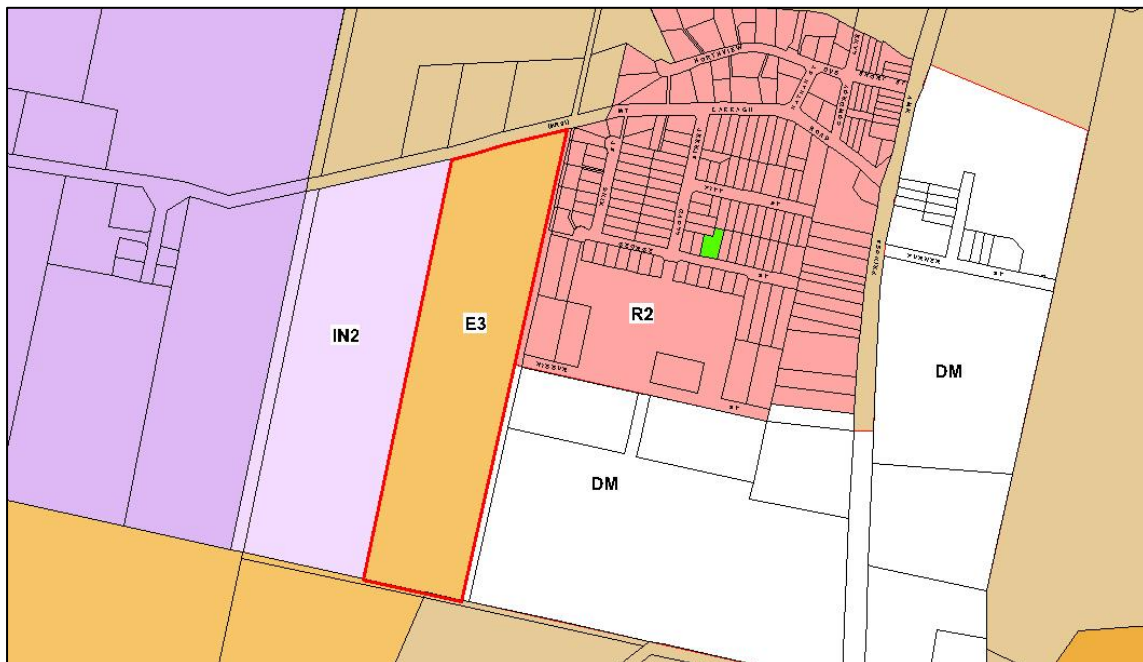


Figure 30: Mount Darragh Road Exhibited Zonings

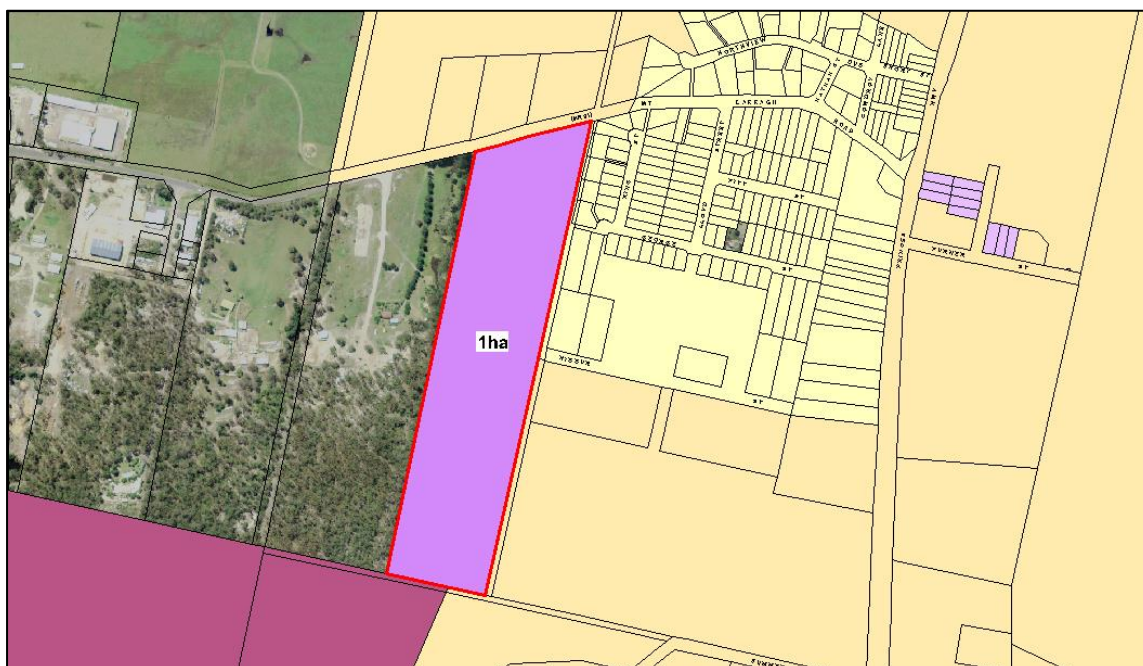


Figure31: Mount Darragh Road Exhibited Lot Size

The subject land was deferred from BVLEP 2013 pending the results of a strategic review of the potential residential expansion of the Pambula and South Pambula urban areas. Under BVLEP 2002, the land is currently zoned 1(a) Rural General Zone with a minimum lot size of 120 hectares. In the

Draft BVLEP 2010, the subject land was proposed to be zoned E3 Environmental Management with a 1 hectare minimum lot size.

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. The MDSR had recommended that this lot be E4 with a 1ha minimum.

The strategic review of land suitability for urban residential development at South Pambula by Zenith Town Planning in June 2013 had identified some development potential for residential pursuits, however recommended that the subject land retain an E3 Environmental Management Zone to act as a buffer between the existing South Pambula residential settlement to the east and industrial zoned land to the west.

As a requirement of the previous Gateway determination for the '*draft Pambula and South Pambula Planning Proposal (2014)*', Council held further discussions with OEH regarding this site. OEH expressed concern at the exhibited lot size and suggested that the forested section of the property have an E3 zoning and a 10 hectare lot size. OEH raised no objections to the use of the R5 zone on the already disturbed / developed northern portion of the lot. It is acknowledged that there will be a level of vegetation removal required for house construction and to comply with the bushfire requirements that will be determined for each house.

In accordance with the Zenith strategic review, OEH consultation and further staff review of the subject lands attributes, it is recommended that it the land be zoned part R5 (approx. 3ha), Large Lot Residential zone with a minimum allotment size of 3,000m<sup>2</sup> around the area already developed, the partially disturbed area be zoned E4 (approx. 1.4ha) with a 5000m<sup>2</sup> and the remainder of the land be zoned E3 Environmental Management (approx. 8ha) with a minimum allotment size of 7 hectares (see Figures 32 and 33). This would result in approximate lot yields of 8 (R5), 2 (E4) and 1(E3).

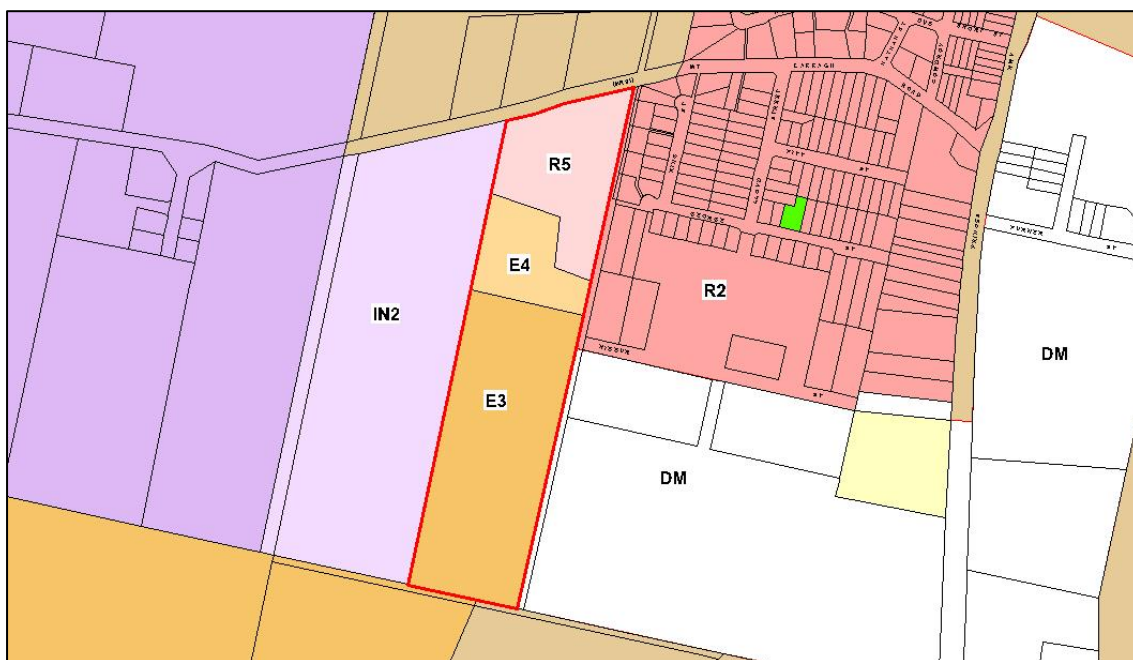


Figure 32: Mount Darragh Road, South Pambula: Proposed Land Use Zones

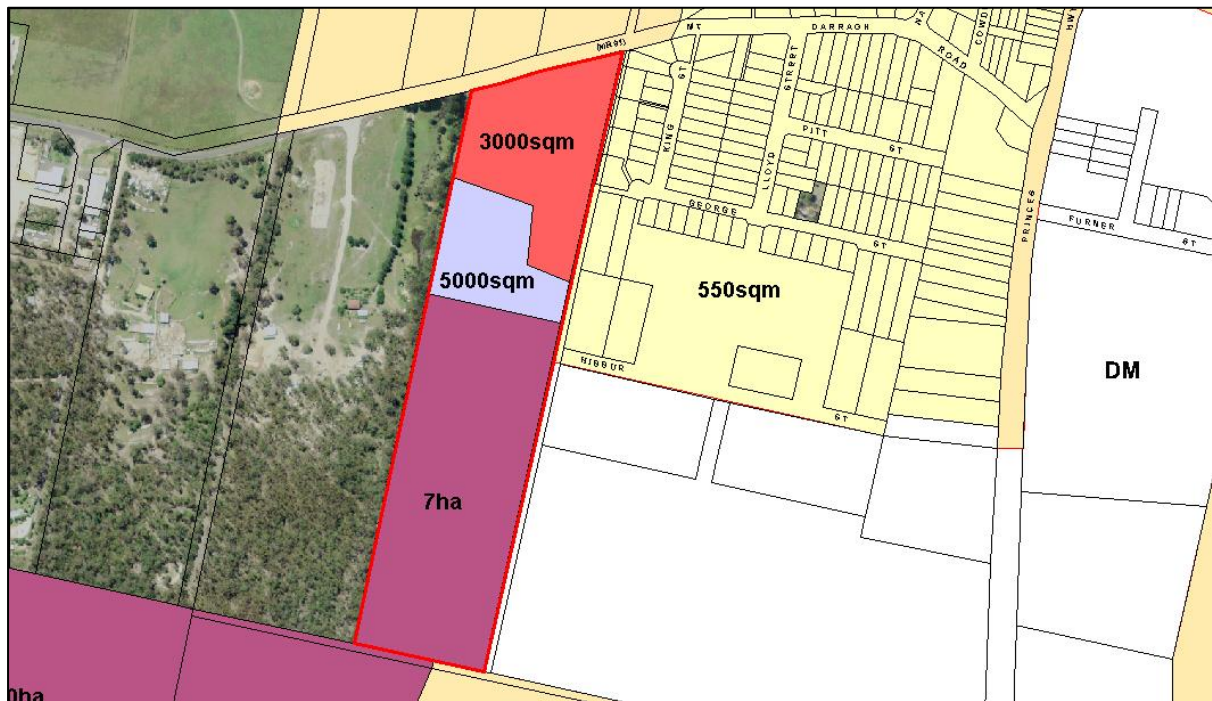


Figure 33: Mount Darragh Road, South Pambula: Proposed Lot Sizes

It is considered that the change in zoning and minimum allotment size would provide a reasonable transition between existing zones and provide for some minor additional rural residential land in close proximity to an existing urban settlement while maintaining suitable buffers to industrial zoned lands to the west.

## 8. Princes Highway, Griegs Flat

Lot 102 DP 1108395

**Key Outcome:** 1 additional lot

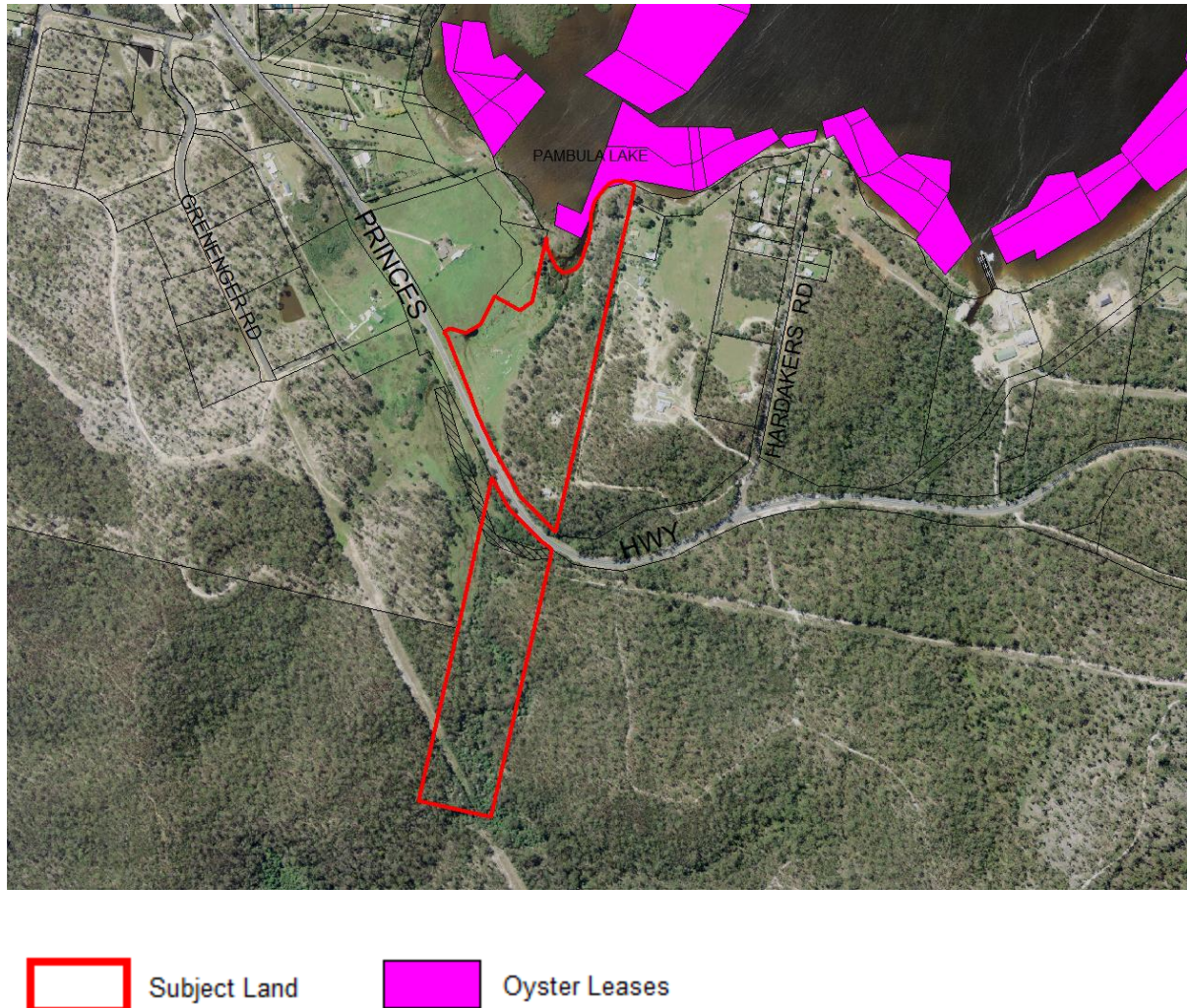


Figure 34: Princes Highway, Griegs Flat: Subject Land Aerial Photograph

The subject property is located approximately 6 kilometres to the south of the Pambula Town Centre and comprises a site area of approximately 19 hectares. The property is separated into two parts (north-south) by the Princes Highway, and has Pambula Lake frontage, including the outlet of Harts Creek (see Figure 34). It is currently developed with a small boat shed and farm shed and has been the subject of re-vegetation and habitat restoration for the last 10 years.

Developments within the immediate vicinity of the property comprise dwelling houses and associated outbuildings and landscaping. Adjoining the southern part of the property to the west is a large rural residential holding, which has a current Development Consent for the creation of 27 small rural allotments of which 19 of the allotments have been created to date. The Nullica State Forest adjoins the subject property to the south.

The subject property was deferred from BVLEP 2013 pending a review of the proposed zoning and lot size and is currently zoned part 1(a) Rural General Zone (13.9 hectares), 1(c) Rural Small Holdings Zone (0.12 hectares) and 7(b) Environment Protection Foreshore Zone (5 hectares) under the BVLEP 2002.

In the Draft BVLEP 2010, the property was proposed to be zoned part E2 Environmental Conservation Zone (2.7 hectares), E3 Environmental Management Zone (7.7 hectares) and E4 Environmental Living Zone (8.6 hectares) with a minimum lot size control of 5 hectares for the E3 Environmental Conservation Zone and 20 hectares for the E4 Environmental Living Zone (see Figures 35 and 36).

### *Environmental Management and Protection*

A voluntary Property Vegetation Plan, issued by the Southern Rivers Catchment Management Authority, has recently been entered into by the landowner to protect those areas of the property the subject of the re-vegetation/restoration works.

This property is in close proximity to existing oyster leases that have been identified by the Department of Primary Industries (August 2006) as being within Priority Oyster Aquaculture Areas. This planning proposal is inconsistent with this SEPP as it is acknowledged that future development of the site has the potential (although extremely low) to impact on oyster aquaculture in terms of cumulative nutrient impacts and cumulative pathogen impacts. However, providing development of this site is undertaken in accordance with Council's on-site sewer and soil and water management policies, there should be no further impact on either lake.

The subject property's southern section south of the Princes Highway contains high quality forested lands which are protected from development by the imposition of a 20 Hectare minimum lot size.

DPE identified issues with how to provide for the dual purposes of protecting the environmental qualities of the site, while providing for limited development that encourages long term stewardship of the southern portion of the site.

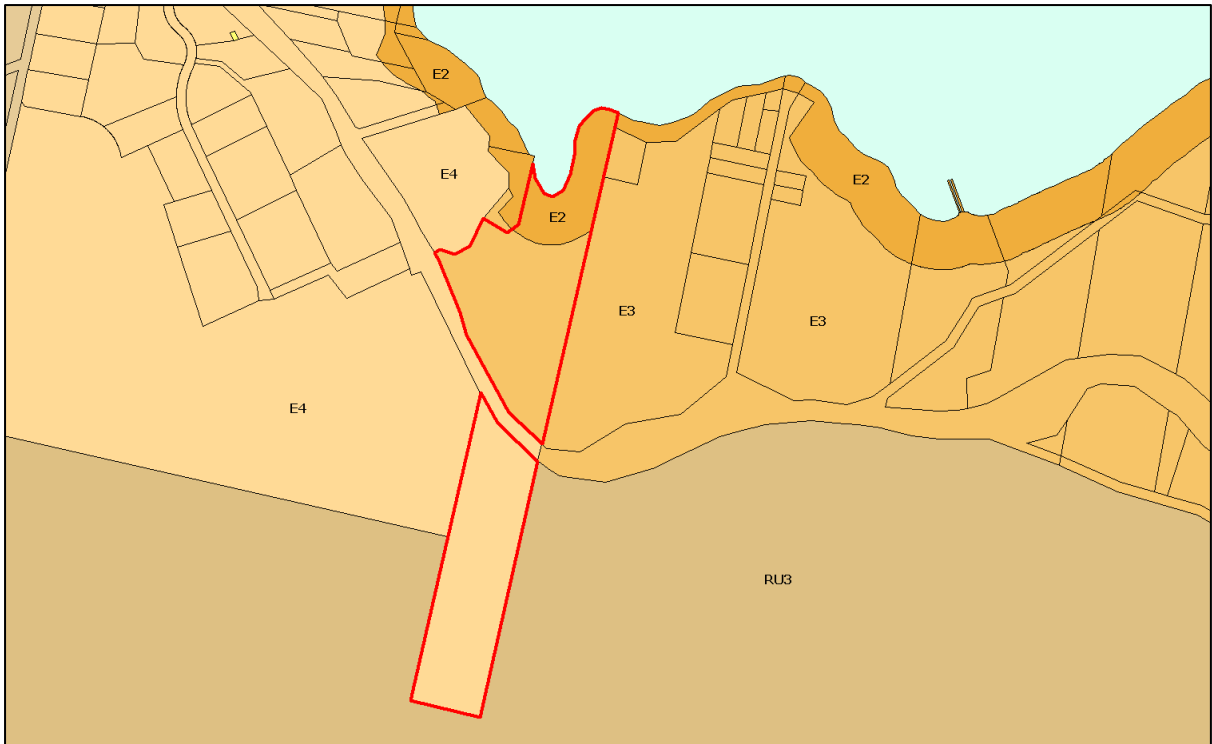


Figure 35: Princes Highway, Griegs Flat: Exhibited Land Use Zones

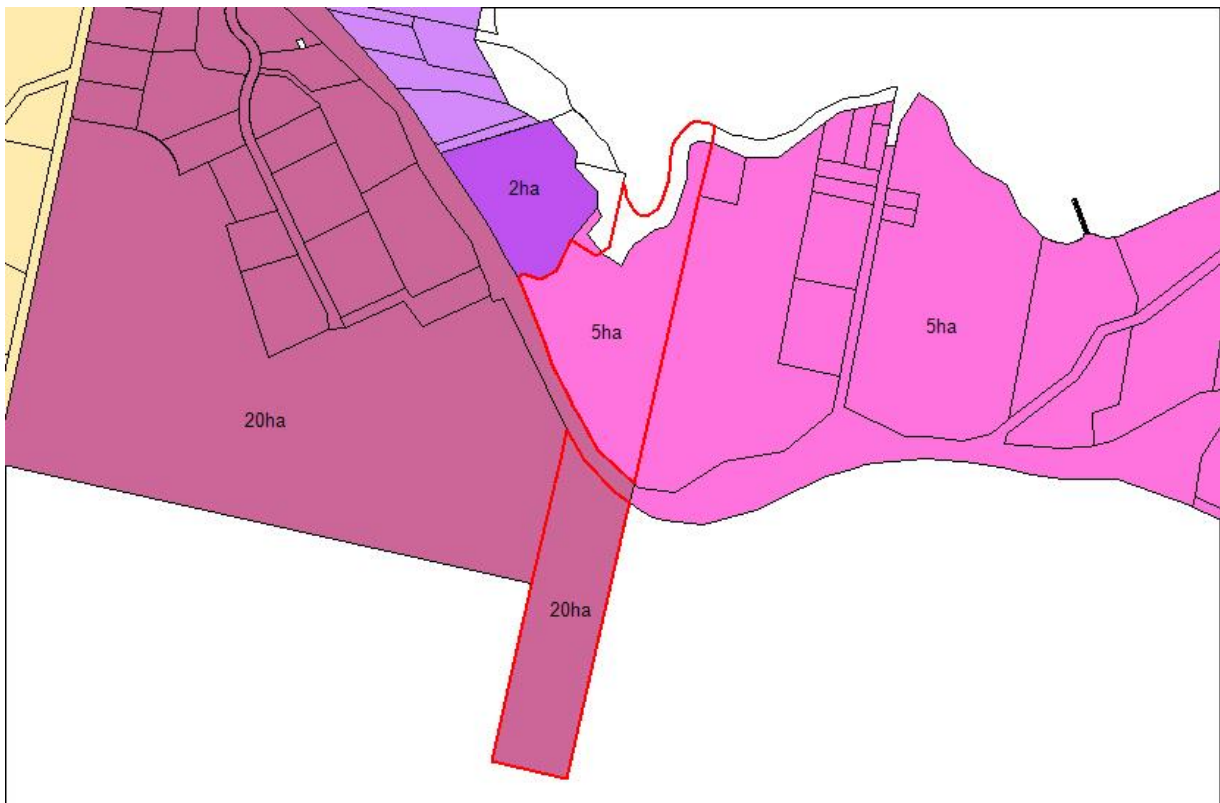


Figure 36: Princes Highway, Griegs Flat: Minimum Lot Sizes

### *Zoning and Lot Size*

Following a submission to Draft BVLEP 2010, the proposed zoning and minimum lot sizes were reviewed.

The application of the E3 Environmental Management Zone to the southern part of the property was considered to be appropriate as the land has important environmental and scenic values that complement the rural residential developments within close proximity to the property. The E3 Zone will provide an important transition between developed rural residential land and the Nullica State Forest, which has high conservation value.

Department of Planning and Environment identified issues with how to provide for the dual purposes of protecting the environmental qualities of the site, while providing for limited development that encourages long term stewardship of the southern portion of the site.

Council staff have examined the above issues and make the following recommendations below and as mapped in Figure 37 and 38;

- a) zone the majority of the parcel E3 'Environmental Management' as 'being consistent with the physical reality of the land and its setting';
- b) apply a minimum lot size of 5 Hectares to the area north of the Princes Highway, with a 20 hectare lot size applied to the southern portion of the property;
- c) apply the E2 Environmental Conservation zone to the area identified as a conservation management zone within the PVP that is in place on the property.

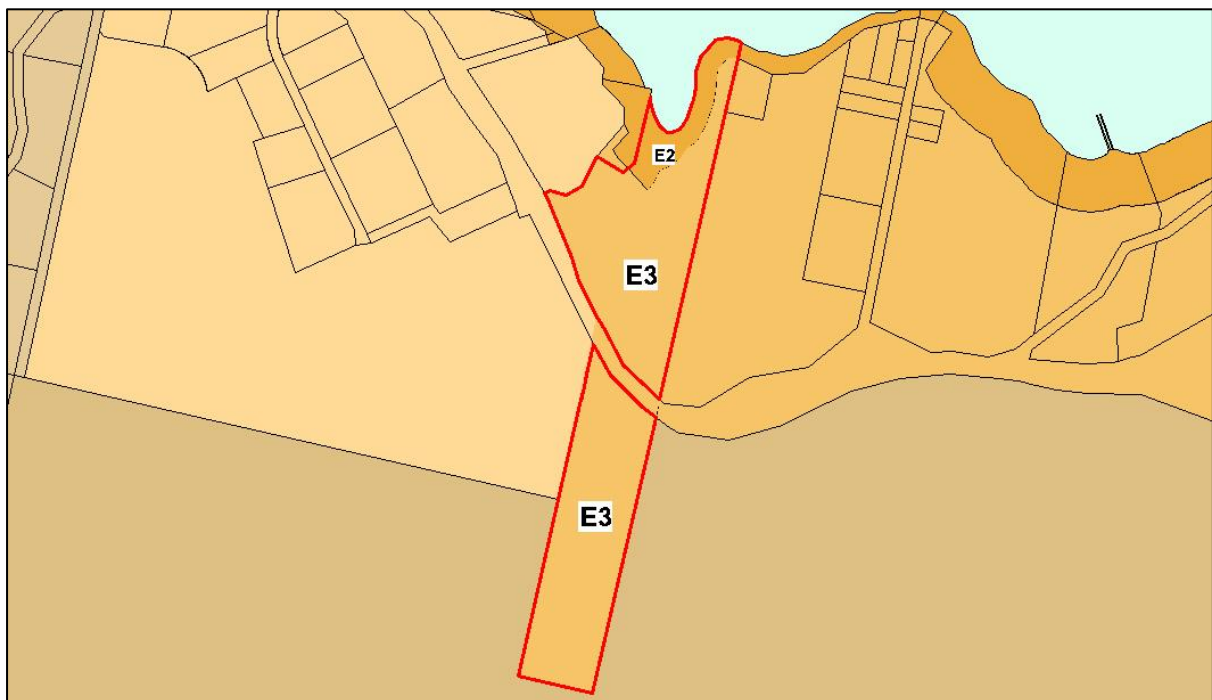


Figure 37: Princes Highway, Griegs Flat: Proposed zones

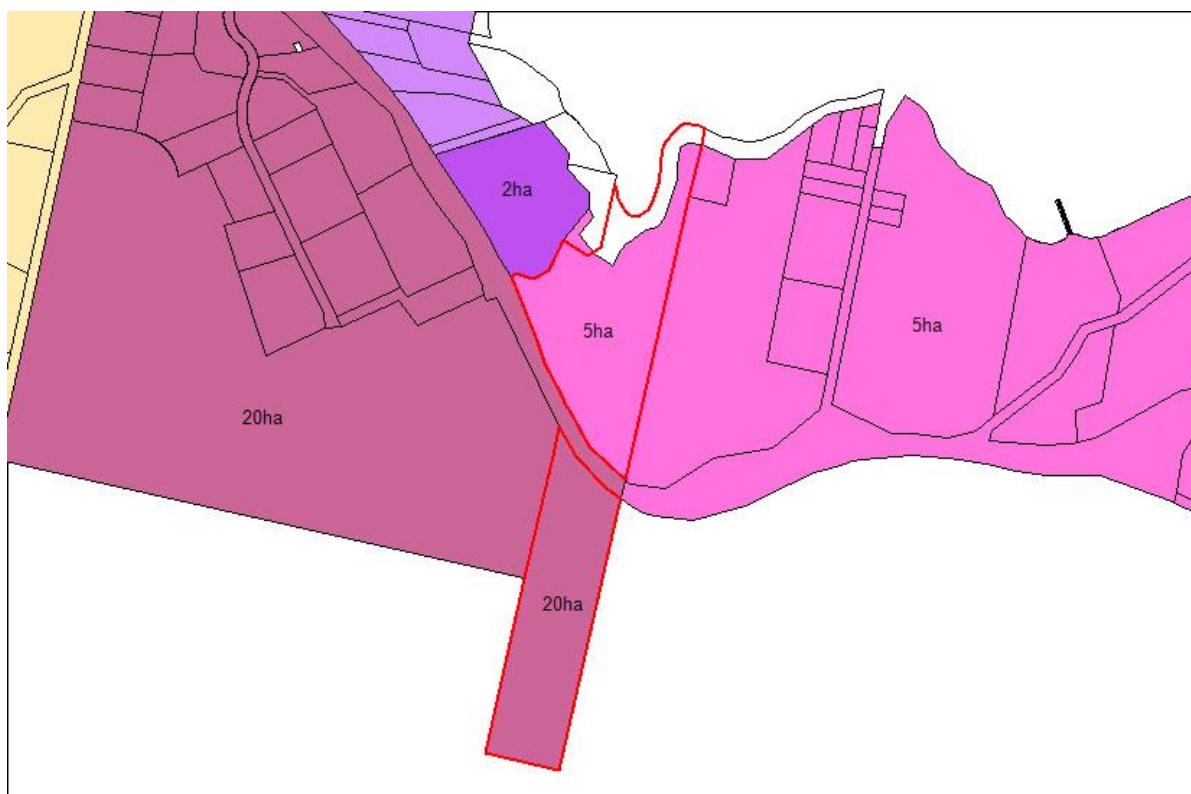


Figure 38: Princes Highway, Griegs Flat: Proposed minimum lot sizes

## 9. West Street, Eden

Lot 128 DP 750205

**Key Outcome:** 0 additional lots



Figure 39: West Street, Eden: Subject Land Aerial Photograph

The subject property is owned by the NSW Government Crown Lands Division and contains an area of approximately 3 hectares. According to the Department's records, the property is identified as being part of a Parish Reserve for future public requirements. The property is located approximately 1.2 kilometres north of the Eden Town Centre and is located at the corner of Nicholson Street, Botany Street and West Street. The area is also subject to an Aboriginal Land Claim.

The property is currently undeveloped and contains a significant stand of mature native vegetation. Adjoining the property to the south and west is heavily vegetated vacant land currently also owned by the NSW Government Crown Lands Division. To the north and east is privately owned residential land that comprises dwelling houses and associated outbuildings and landscaping (see Figure 39).

The subject property was deferred from BVLEP 2013 and is currently zoned 2(e) Urban under BVLEP 2002. The 2(e) zone for Eden needs to read in conjunction with DCP 34, which specific landuse units for all of the Eden 2(e) Zone. The West St was listed as a Special Use Zone, however there are no further comments in the DCP as to what Special Uses were envisaged for the site. In the Draft BVLEP 2010, the property was proposed to be zoned E2 Environmental Conservation Zone with no specified

minimum lot size. The land located immediately to the west, north and east is currently zoned a mixture of R2 Low Density Residential Zone or R3 Medium Density Residential Zone under BVLEP 2013 with minimum lot size controls of 550m<sup>2</sup> or 1,000m<sup>2</sup> respectively. The land to the south is zoned E2 Environmental Conservation Zone under BVLEP 2013 with no specified minimum lot size (see Figures 23 and 24).

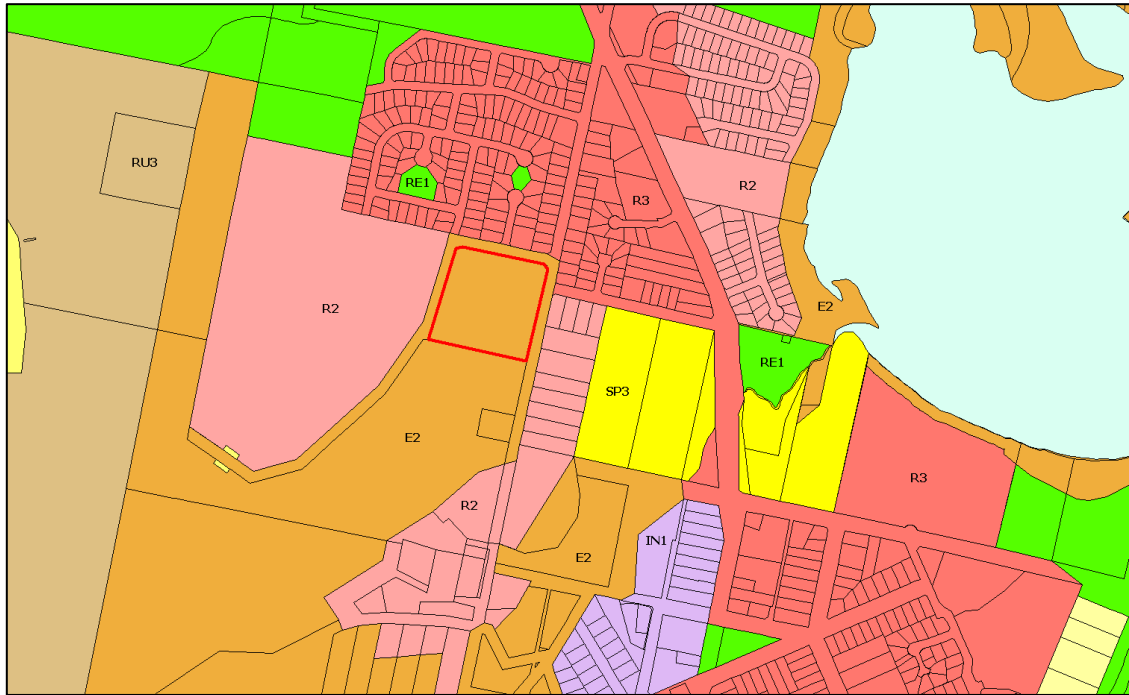


Figure 40: West Street, Eden: Land Use Zones (Exhibited BVLEP 2010)

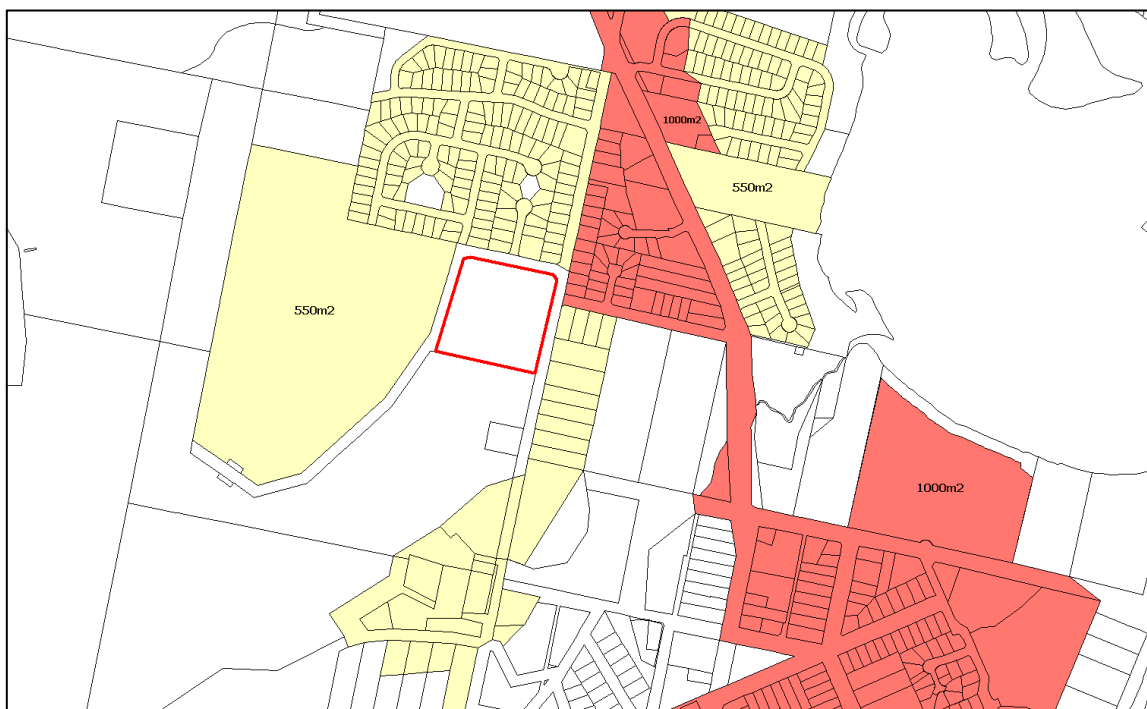


Figure 41: West Street, Eden: Minimum Lot Sizes (Exhibited BVLEP 2010)

In response to a submission received from the NSW Government Crown Lands Division during the public exhibition of Draft BVLEP 2010, the proposed zoning and minimum lot size control were reviewed by Council. The submission requested the land be zoned R2 Low Density Residential in line with the adjacent Crown Land to the west as a buffer between the R3 Medium Density Residential zone and the E2 Environmental Conservation Zone.

The Crown owned R2 Low Density Zoned land to the west of the subject land consists of approximately 17.5 hectares of vacant forested land which has been zoned to ensure the future urban land supply in the north-western part of Eden. The subject land was considered by Council to be more environmentally sensitive due to the relatively undisturbed nature of the forest and as such was proposed to be zoned E2 Environmental Conservation along with the remainder of the Crown Land to the south.

Following discussions with the Department of Planning it was recommended that this site have and RU2 zone applied to it until further investigations with regard demand are explored and tenure issues are resolved.

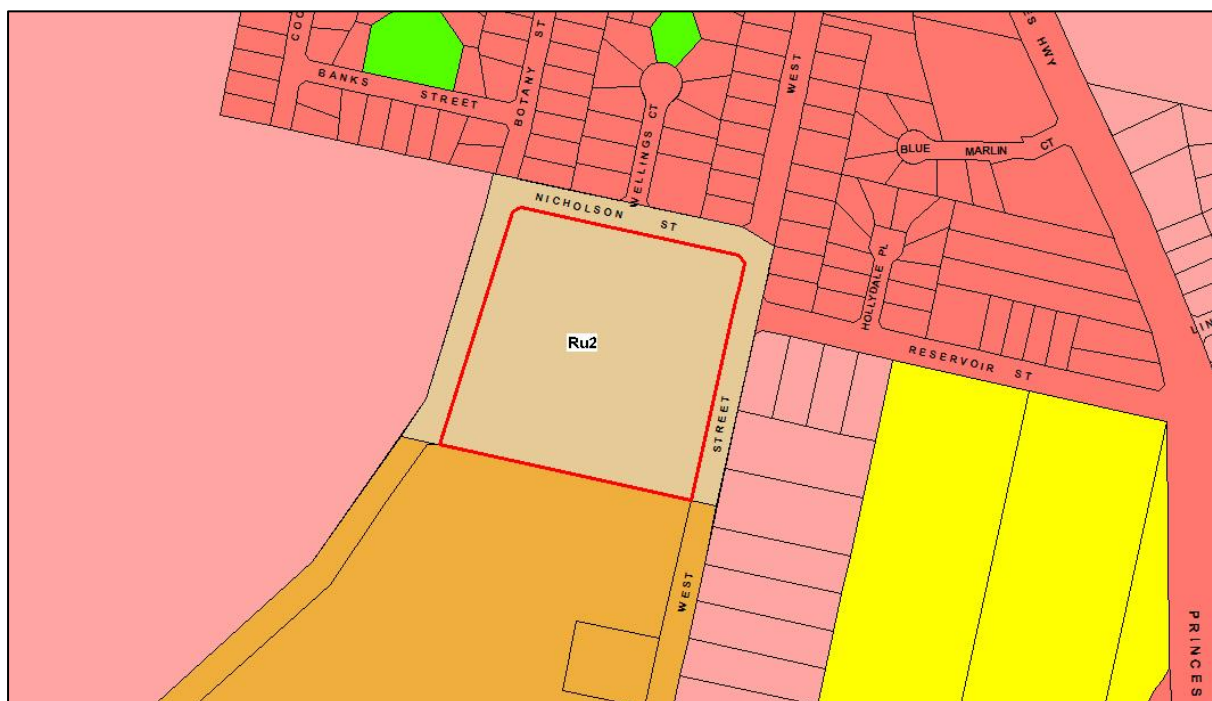


Figure 42: West Street, Eden: Proposed Land Use Zones

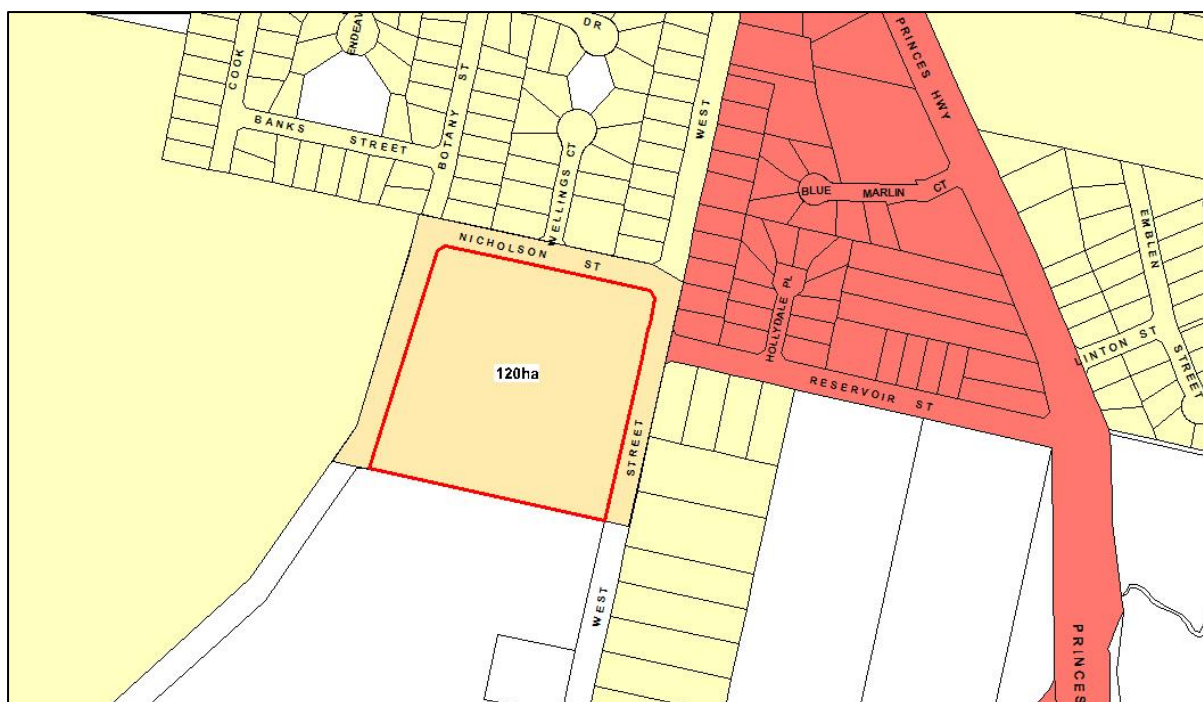


Figure 43: West Street, Eden: Proposed Minimum Lot Sizes

## Section A – Need for the Planning Proposal

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

Council resolved on the 13<sup>th</sup> 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 the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

The Draft BVLEP 2010 was publically exhibited from the 12<sup>th</sup> May 2011 to the 29<sup>th</sup> 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 12<sup>th</sup> June 2012 are in Attachment 1.

The properties that are the subject of this Planning Proposal are in Appendix 2 and were deferred from the BVLEP 2013. Consequently, their zoning and status as prescribed under the BVLEP 2002 still applies to the land. A planning proposal is required to apply BVLEP 2013 to resolve the issue of appropriate zoning and minimum lot sizes for the subject land.

**Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?**

Yes. It is considered that this Planning Proposal is the most appropriate and available means of achieving the objectives.

**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*

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

With a significant proportion (approximately 25%) of Bega Valley residents currently choosing to live in rural areas outside of towns and villages, Council needs to ensure the provision of rural residential opportunities to accommodate the expected population growth and demand.

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

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

The Planning Proposal in part is inconsistent with the SCRS as some of the sites within the Planning Proposal would be considered Rural Residential and have been put forward in the absence of a Rural Residential Strategy. However other elements of the Proposal would be considered to be in accord with the SCRS in terms of outcomes given that the subject properties are:

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

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

Appendix 2 of the SCRS provides recommendations from the South Coast Sensitive Urban Lands Review regarding the suitability of specific sites in terms of development, scale and type of land

release, and priority and timing. The intent of the guidelines was to guide development applications, local environmental plans and strategic land use plans. The provisions contained within this Planning Proposal are consistent with the conclusions of the Review.

#### **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.

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

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

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

This Planning Proposal is consistent with most applicable State Environmental Planning Policies (SEPPs), where this Planning Proposal is inconsistent with a SEPP the inconsistency is justified on the basis that the inconsistency is minor.

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.*

This proposal is consistent with SEPP 55. Bega Valley Shire Council's records indicate that none of the subject land is contaminated.

### *SEPP No. 62 Sustainable Aquaculture*

*SEPP 62 regulates aquaculture activities and aims to encourage sustainable aquaculture, including sustainable oyster aquaculture. Specifically, Clause 15(c) requires consideration of whether a proposal will have an adverse impact on oyster aquaculture.*

**See: Site 1 Merimbula Drive and Site 9 Greigs Flat.**

This planning proposal is inconsistent with this SEPP as it is acknowledged that future development of the above properties has the potential to impact on oyster aquaculture in terms of cumulative nutrient impacts and cumulative pathogen impacts. However, providing development of these sites is undertaken in accordance with Council's on-site sewer and soil and water management policies, there should be no further impact on either lake.

Refer to Q6 Ministerial Directions 1.4 Oyster Aquaculture for more information regarding this issue.

### *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.*

**Site 1 Merimbula Drive, Merimbula and Site 2 Princes Highway, Griegs Flat** and are located within the coastal zone. The southern portions of the Merimbula property are also designated as a sensitive coastal location – land within 100 metres of the water's edge of a coastal lake.

This Planning Proposal is consistent with this SEPP as it will not contradict or hinder the application of the coastal planning provisions contained within SEPP 71. Additionally, this Planning Proposal 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.

### *SEPP (Rural Lands) 2008*

*SEPP (Rural Lands) 2008 facilitates the orderly and economic use and development of rural lands for rural and related purposes. Clause 10(3) of SEPP (Rural Lands) 2008 prescribes a number of matters for consideration in determining development applications for rural subdivisions or rural dwellings. The Clause applies to land in a rural zone, a rural residential zone or an environment protection zone.*

This Planning Proposal is inconsistent with the SEPP as it will remove approximately 25ha of agricultural lands from production. This inconsistency is justified as the provisions of the planning proposal conform to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and they do not compromise the production value or development of rural land for rural purposes. In particular, this planning proposal will:

- Not enable the fragmentation of high quality agricultural land;

- Not enable the potential for additional rural land use conflicts, particularly between residential land uses and other rural land uses;
- Provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments; and
- Provide rural residential opportunities in areas close to existing town centres that are well serviced and capable of meeting the daily needs of residents.

## 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 seeks to rezone agricultural land for residential purposes and increase the permissible density of land that is currently used for light grazing. The majority of the subject land at **Site 2 - Millingandi, Site 6 - Lochiel, Site 5 – Oaklands Rd, Pambula and Site 9 - Griegs Flat** is currently zoned rural.

This inconsistency is justified as the loss of agricultural production value is minor in terms of the capability of the Bega Valley Shire. The subject land identified above consists of parcels that are too small to support any viable agricultural production. In addition, the part of Lot 381 DP 1027113 Oaklands Road, Pambula that is currently utilised for grazing and other forms of extensive agriculture is proposed to be zoned RU2 Rural Landscape to protect the existing agricultural value of the land.

### 1.4 Oyster Aquaculture

*This Direction applies when a relevant planning authority prepares any Planning Proposal that proposes a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.*

*The objectives of this Direction are to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a Planning Proposal; and protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.*

This Planning Proposal is considered to be inconsistent with this Direction as it contains provisions which could result in adverse impacts to an existing Priority Oyster Aquaculture Area. However, providing development of these sites is undertaken in accordance with Council’s on-site sewer and soil and water management policies, there should be no further impact on either lake.

Part Lot 1882 DP 1014185 Merimbula Drive, Merimbula adjoins Merimbula Lake and Lot 102 DP 1108395 Princes Highway, Griegs Flat adjoins Pambula Lake. Both of these subject properties are in close proximity to existing oyster leases that have been identified by the Department of Primary Industries (August 2006) as being within Priority Oyster Aquaculture Areas.

This Planning Proposal seeks to permit approximately 10 additional dwelling houses on the land which adjoins Merimbula Lake and only one or two additional dwellings on the subject land adjoining Pambula Lake. As such, the inconsistency with the terms of this Direction, are considered to be of minor significance. Due to the small scale of the proposals, it is unlikely that the additional development will have adverse impacts on oyster aquaculture in terms of water quality. Any issues that have the potential to impact on water quality will be adequately addressed via the appropriate siting and design of future development.

### *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 as it affects rural zoned land and increases the permissible density of land that currently used for light grazing. **Site 2 - Millingandi, Site 6 - Lochiel, Site 5 – Oaklands Rd, Pambula and Site 9 - Griegs Flat** currently has a rural zoning, however **Site 9 -Griegs Flat** is covered in native forest.

This inconsistency is justified as the provisions of the planning proposal conform to the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and they do not compromise the production value or development of rural land for rural purposes. In particular, this Planning Proposal will:

- Not enable the fragmentation of high quality agricultural land;
- Not enable the potential for additional rural land use conflicts, particularly between residential land uses and other rural land uses;
- Provide rural residential opportunities compatible with the natural and physical characteristics of the land and that will integrate with surrounding and existing rural residential developments; and
- Provide rural residential opportunities in areas close to existing town centres that are well serviced and capable of meeting the daily needs of residents.

In addition, that part of Lot 381 DP 1027113 Oaklands Road, Pambula that is currently utilised and well suited for grazing and other forms of extensive agriculture is proposed to be zoned RU2 Rural Landscape to protect the existing agricultural value of the land.

### *2.1 Environment Protection Zone*

*This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to protect and conserve environmentally sensitive areas.*

This Planning Proposal is consistent with this Direction as it proposes zoning and minimum lot size amendments that aim to recognise environmental values of the subject land and identify and protect environmentally sensitive areas.

The subject properties at Merimbula, Millingandi, Lochiel, Pambula, Griegs Flat and Eden are proposed to be wholly or partially zoned E4 Environmental Living or E3 Environmental Management to reflect the relative environmental and/or scenic values of the land. In addition, some of the subject land in Merimbula and Griegs Flat is proposed for zoning as E2 Environmental Conservation to reflect the high environmental values of foreshore land.

Lot 102 DP 1108395 Princes Highway, Griegs Flat has Pambula Lake frontage and has been the subject of revegetation and habitat restoration for the past 10 years and the E2 Environmental Conservation Zone will apply to those areas within 100 metres of the Pambula Lake Foreshore and those areas that have been the subject of the revegetation and restoration works.

## *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 apply an appropriate zone to Lot 102 DP 1108395 Princes Highway, Griegs Flat, which is located within the Coastal Zone. This Planning Proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

With the objective of implementing the principles of the NSW Coastal Policy, this Planning Proposal will ensure the application of BVLEP 2013 to the subject land which includes the Standard Instrument Clauses 5.5 and 5.7 relating to development within the Coastal Zone and below mean high water mark, as well as local Clause 6.4 Coastal Risk Planning.

## *2.3 Heritage Conservation*

*This Direction applies when a relevant planning authority prepares a planning proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.*

Lot 381 DP 1027113 Oaklands Road, Pambula envelopes Lot 382 DP 1027113 which contains Oaklands House which is a State Listed Heritage Item. The house and its curtilage were subdivided from the surrounding land and cannot be seen from Oaklands Road. The development that will result from this planning proposal is located a sufficient distance from the State Heritage Item and as such will have no adverse impact on the heritage item.

Parts of Lot 1882 DP 1014185 Merimbula Drive, Merimbula are the subject of a Section 90 Aboriginal Heritage Impact Permit (National Parks and Wildlife Act 1974), which was issued by the Office of Environment and Heritage on the 30<sup>th</sup> November 2012. The proposed works for which the AHIP was issued included the development of a residential subdivision of 32 allotments located to the

southeast of the subject land. Those parts of Lot 1882 DP 1014185 of which the AHIP relates are not the subject of this Planning Proposal. However, due to the Aboriginal heritage significance of parts of the property, further detailed Aboriginal heritage assessment may be required to support a development application for further subdivision and/or development of those areas of the property that are the subject of this Planning Proposal.

This Planning Proposal is consistent with this Direction as it includes provisions to protect and conserve identified places or items of significant heritage value. With regard to unidentified Aboriginal heritage values, Council includes a general notation on all Development Consents to the effect that:

*It is an offence under the National Parks and Wildlife Act 1974 to destroy, deface or damage an Aboriginal relic. If during works on site any Aboriginal relic is discovered then you should immediately stop work and contact representatives of the Office of Environment and Heritage and the Local Aboriginal Land Council.*

### *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.*

Part Lot 1882 DP 1014185 Merimbula Drive, Merimbula and Lot 441 & 442 DP 1077278, Lots 431-434 DP 1152077, Lot 45 DP 807327 and part Lot 381 DP 1027113 Oakland's Road, Pambula are located within the vicinity of Merimbula Airport. This Planning Proposal is, however, consistent with this Direction as the subject land is not in 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 highest part of the subject land at Pambula is 12m and all of the land is located under the Inner Horizontal Surface RL of 46m so residential development (which may not exceed 10m under BVLEP 2013) will not penetrate the Obstacle Limitation Surface for the Airport.

A significant proportion of the subject land at Merimbula 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 strict consultation with the relevant Commonwealth body. In this regard, consultation with the relevant Commonwealth body will form part of the Planning Proposal process.

#### 4.1 Acid Sulphate Soils

*This Direction applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has the probability of containing Acid Sulfate Soils.*

This Planning Proposal is inconsistent with this Direction as it applies to land that has a probability of containing acid sulphate soils. Lot 102 DP 1108395 Princes Highway, Griegs Flat is identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 and /or Class 2 Acid Sulphate Soils.

The inconsistency with this Direction is justified given the minor scale of development likely to result and because this issue is routinely addressed by Council in the development assessment process. Studies are required for land that is within an area identified as having a probability of containing acid sulphate soils, soil samples are assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Council. If acid sulphate soils are identified, no excavation can take place until an Acid Sulphate Soil Management Plan has been lodged with Council and approved and any required measures to minimise adverse environmental impacts have been implemented.

This Planning Proposal is not consistent with this Direction as it applies to land that has a probability of containing acid sulphate soils. Lot 102 DP 1108395 Princes Highway, Griegs Flat is identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 and /or Class 2 Acid Sulphate Soils.

#### 4.3 Flood Prone Land

This Planning Proposal is consistent with this Direction as it contains provisions that do not zone land within a flood planning area.

With the objective of implementing the principles of the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, BVLEP 2013 contains a clause that specifically deals with flood planning issues.

#### 4.4 Planning for Bushfire Protection

*This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.*

The properties that are subject of this Planning Proposal 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 Q3, this Planning Proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South Coast Regional Strategy.

### *6.3 Site Specific Provisions*

*This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.*

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table; 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. **Issues relating to Threatened species, populations or ecological communities are addressed earlier in the discussion about each particular Site.**

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

#### *Merimbula Drive, Merimbula*

At the development phase disturbance related to the development of dwellings on the allotments that would arise from this proposal has the potential to impact on the Merimbula Lake. However, application of Council's standard soil and water management controls will eliminate this risk. In addition, the use of On-site Sewage Management systems at these dwellings will fall into the "High Risk Category" under Council's OSSM Policy and require annual inspections to ensure that they are not posing a threat to the lake or estuarine ecosystems.

Finally, 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 hollow bearing trees, Yellow Belly Glider feed trees, other mature trees and place covenants on the land to prevent clearing for views of the lake.

*Boggy Creek Road, Millingandi - Lot 5431 DP 1041710*

Nil.

*Oregon Street, Pambula - Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825*

Nil

*Bega Street, Pambula*

At the development phase disturbance related to the development of dwellings on the allotments that would arise from this proposal has the potential to impact on the Panboola Wetlands. However, application of Council's standard soil and water management controls will eliminate this risk.

*Oaklands Rd, Pambula*

Nil

*Mount Darragh Road, Lochiel -*

Nil.

*Mount Darragh Rd, Sth Pambula*

At the development phase disturbance related to the development of dwellings on the allotments that would arise from this proposal will result in the removal of vegetation and installation of septic sewage systems. However, application of Council's standard soil and water management controls and OSSM policy / inspections will reduce potential impacts at development phase.

*Princes Hwy, Greigs Flat*

Nil

*West St, Eden*

Nil

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

The popularity of rural living opportunities in the Bega Valley Shire has resulted in residential development in rural areas adjacent to land used for primary industry. The different amenity expectations of people who live in rural areas for lifestyle reasons and those who operate and manage primary enterprises can cause conflict.

The properties the subject of this Planning Proposal, are considered to be located within urban and rural landscapes. A number of the Oakland's Road properties are adjacent to, or are within close proximity to land utilised for primary agricultural production. Consequently, there is a potential for future land use conflicts in this area. The remainder of the subject properties are not located adjacent to land that is currently utilised for primary agricultural production.

In response to the popularity of living in or adjacent to rural landscapes, Council's Development Control Plan contains specific provisions aimed at minimising the potential for rural land use conflict, including:

- The provision of suitable buffers on the land subject to the development proposal designed to separate rural lifestyle activities from primary industry; and
- Suitable design measures, such as acoustic treatments in building construction and appropriate setbacks and landscaping, for residential and rural lifestyle developments along or near unsealed quarry haulage routes so as to minimise noise and dust impacts.

In addition to the above, the amendments to the minimum lot size controls for the subject properties are likely to have minor positive social and economic effects, including:

- Adequate provision of public services and infrastructure to cater for the expected future demand;
- Protection of high quality agricultural land and the natural resource base;
- Integration with surrounding and existing rural residential developments;
- Protection of the aesthetic quality of the landscape; and
- Supporting a range of housing choices that are affordable, sustainable and suited to the needs of the community.

## Section D – State and Commonwealth Interests

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

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

### **Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

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

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

- NSW Department of Primary Industries
- NSW Office of Environment and Heritage
- Australian Government Civil Aviation Safety Authority /Merimbula Airport
- NSW Roads and Maritime Services
- NSW Rural Fire Service
- NSW Crown Lands Service

## Part 4 – Mapping

Changes to the proposed map sheets will be undertaken in a suitable format for public exhibition once the Gateway Determination is issued.

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

### *LAP\_001*

Amend map sheet LAP\_001 by deleting DM Deferred Matter for

- Part Lot 1882 DP 1014185 Merimbula Drive, Merimbula
- Lot 5431 DP 1041710 Boggy Creek Road, Millingandi
- Lot 841 DP 1062442 Mount Darragh Road, Lochiel
- Lots 441 & 442 DP 1077278, Lot 434 DP 1152077 and part Lot 381 DP 10227113 Oaklands Road, Pambula
- Lot 102 DP 1108395 Princes Highway, Griegs Flat
- Lot 128 DP 750205 West Street, Eden
- Lots 1 & 2 DP 68708, Lots 101 - 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 13 -19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514 Bega Street, Pambula
- Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825 Oregon Street, Pambula.

### *LZN\_012*

Amend map sheet LZN\_012 by applying:

- E4 Environmental Living Zone to Lot 5431 DP 1041710 Boggy Creek Road, Millingandi

### *LSZ\_012*

Amend map sheet LSZ\_012 by applying:

- Z1 2 hectares to Lot 5431 DP 1041710 Boggy Creek Road, Millingandi.

### *LZN\_012C*

Amend map sheet LZN\_012C by applying:

- E4 Environmental Living Zone to Lot 441 & part Lot 442 DP 1077278, Lot 434 DP 1152077, part Lot 45 DP 807327, Lots 431-433 DP 1152077 and part Lot 381 DP 1027113 Oaklands Road, Pambula; Lot 841 DP 1193692 Mount Darragh Road, Lochiel
- RU2 Rural Landscape Zone to part Lot 381 DP 1027113, part Lot 442 DP 1077278, part Lot 45 DP 807327 Oaklands Road, Pambula
- R5 Large Lot Residential Zone, E4 Environmental Living Zone and E3 Environmental Management zone to Lot 302 DP 749405 Mount Darragh Road, South Pambula

#### *LSZ\_012C*

Amend map sheet LSZ\_012C by applying:

- Y 1 hectare to Lot 441 & part Lot 442 DP 1077278, Lot 434 DP 1152077, Lots 431-433 DP 1152077, part Lot 45 DP 807327 and Part Lot 381 DP 1027113 Oakland's Road Pambula.
- Z3 4 hectares to Lot 841 DP 1193692 Mount Darragh Road, Lochiel
- AD 120 hectares to Part Lot 381 DP 1027113, part Lot 45 DP 807327, part Lot 442 DP 1077278 Oaklands Road, Pambula
- V1 3000sq/m to the R5 Large Lot Residential Zone, X1 5000sq/m to the E4 Environmental Living Zone and AA2 7ha to the E3 Environmental Management zone Lot 302 DP 749405 Mount Darragh Road, South Pambula

#### *LZN\_020*

Amend map sheet LZN\_020 by applying:

- E3 Environmental Management Zone and E2 Environmental Conservation Zone to Lot 102 DP 1108395 Princes Highway, Griegs Flat

#### *LSZ\_020*

Amend map sheet LSZ\_020 by applying:

- AA1 5 hectares and AB2 20 hectares to Lot 102 DP 1108395 Princes Highway, Griegs Flat

#### *LZN\_020A*

Amend map sheet LZN\_020A by applying:

- E4 Environmental Living Zone and RU2 Rural Landscape Zone to Part Lot 381 DP 1027113 Oakland's Road Pambula
- E3 Environmental Management to Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825 Oregon Street, Pambula
- R5 Large Lot Residential Zone and E4 Environmental Living Zone to Lots 1 & 2 DP 68708, Lots 101 - 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 13- 19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514 Bega Street, Pambula

#### *LSZ\_020A*

Amend map sheet LSZ\_020A by applying:

- Y-1 hectare and AD 120 hectares to Part Lot 381 DP 102711 Oakland's Road Pambula
- V-2000m<sup>2</sup> to the R5 Large Lot Residential Zone and X1-5000m<sup>2</sup> to the E4 Environmental Living Zone on Lots 1 & 2 DP 68708, Lots 102 & 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 12-14, 15-19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 10 DP 734647 Bega Street, Pambula

- AD 120 hectares to the E3 Environmental Management zoned land on Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825 Oregon Street, Pambula.

#### *LZN\_020B*

Amend map sheet LZN\_020B by applying:

- Part E2 Environmental Conservation Zone, E3 Environmental Management Zone and E4 Environmental Living Zone to Part Lot 1882 DP101418 Merimbula Drive, Merimbula

#### *LSZ\_020B*

Amend map sheet LSZ\_020B by applying:

- AB1-10 hectares to the E3 Environmental Management Zone and Y 1 hectare and Z1 2 hectares to the E4 Environmental Living Zones to Part Lot 1882 DP1014185 Merimbula Drive, Merimbula

#### *LZN\_021A*

Amend map sheet LZN\_021A by applying:

- RU2 Rural Landscape Zone to Lot 128 DP 750205 West Street, Eden

#### *LSZ\_021A*

Amend map sheet LSZ\_021A by applying: AD 120 hectares to Lot 128 DP 750205 West Street, Eden

## Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements.

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      | Zingel Place, Bega NSW 2551              |
| Merimbula | Tura Beach Drive, Tura Beach NSW 2548    |
| Eden      | Cnr Imlay and Mitchell St, Eden NSW 2550 |
| Bermagui  | Bunga St, Bermagui NSW 2546              |

## Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by February 2016.

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 |
|-------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b>STAGE 1</b> – Submit Planning Proposal to the Department                                                                         | September 2016      |
| <b>STAGE 2</b> – Receive Gateway Determination                                                                                      | October 2016        |
| <b>STAGE 3</b> – Preparation of documentation for Public Exhibition                                                                 | October 2016        |
| <b>STAGE 4</b> – Public Exhibition of the Planning Proposal                                                                         | November 2016       |
| <b>STAGE 5</b> – Review/consideration of submissions received                                                                       | December 2016       |
| <b>STAGE 6</b> – Council Report                                                                                                     | January 2017        |
| <b>STAGE 7</b> – Meetings                                                                                                           | January 2017        |
| <b>STAGE 8</b> – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made              | February 2017       |
| <b>STAGE 9</b> – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel | February 2017       |
| <b>STAGE 10</b> – Anticipated date Council will forward Plan to the Department for notification                                     | March 2017          |

# Attachments

## Attachment 1: Council report and resolution

### Council Report: Planning and Environment Committee No. 3 – 29 June 2016

#### **3. Merimbula, Pambula and Eden Deferred Sites Planning Proposal**

This report recommends appropriate land use zones and minimum lot sizes to nine sites in the Merimbula, Pambula and Eden areas, currently deferred from Bega Valley Local Environmental Plan 2013.

#### **Director Planning and Environment**

##### **Background**

In 2014 Council submitted two planning proposals – ‘Northern Rural Residential Zones’ and ‘Southern Rural Residential Zones’ to the Department of Planning and Environment (DPE) for Gateway determination. These planning proposals sought to finalise a number of “Appendix 2” matters that were deferred from Bega Valley Local Environmental Plan 2013 (BVLEP 2013). Council was encouraged to withdraw both planning proposals and provide further justification for each of the sites by way of a “short strategic assessment”. Council officers accordingly prepared two strategic assessments for consideration of the DPE, detailing each site and the relative catchment-based supply and demand for Rural Residential lots.

Following further extensive discussions and site inspections with the DPE, agreed officer positions were reached on the majority of sites previously included in the 2014 planning proposals. As a result two new planning proposals have been produced:

- 1) Bega – Tathra Deferred Sites; and
- 2) Merimbula, Pambula and Eden Deferred Sites.

This report covers the Merimbula, Pambula and Eden sites.

##### **Strategic**

Council officers have been working closely with the DPE to finalise the nine (9) deferred sites (see Table 1) and the draft Planning Proposal reflects the agreed position reached with the DPE and with input from the NSW Office of Environment and Heritage.

In summary the draft Planning Proposal provides the following key outcomes:

- Removal of deferred status for **9** properties
- **27** potential additional lots across the Merimbula and Pambula catchment areas.

Further, Council officers are developing a Draft Rural Living Strategy 2016 (RLS) which, when adopted by Council, would implement a Shire-wide strategy for new rural residential and rural village development from demand based and infrastructure analyses. This draft Planning Proposal is in accordance with the principles promoted within the RLS.

Table 1: Summary of Sites contained in draft Planning Proposal

| Property                                        | Current Zone                                                                                | Proposed Zone                                                                     | Proposed Min. Lot Size              | Est. additional lot yield |
|-------------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-------------------------------------|---------------------------|
| Robyns Nest<br>Merimbula Drive,<br>Merimbula    | 7(d) Environmental Protection General and 2(c) Residential Tourist                          | E4 Environmental Living, E3 Env. Management and E2 Env. Conservation              | 1 and 2 hectares, 10 hectares       | 10                        |
| H Loftus<br>Boggy Creek Road,<br>Millingandi    | 1(a) Rural General                                                                          | E4 Environmental Living                                                           | 2 hectares                          | 0                         |
| ELALC<br>Oregon Street,<br>Pambula              | 1(a) Rural General                                                                          | E3 Environmental Management                                                       | 120 hectares                        | 0                         |
| Multiple owners<br>Bega Street,<br>Pambula      | 2(f) Future Urban                                                                           | R5 Large Lot Residential and E4 Environmental Living                              | 2,000sq/m and 5,000sq/m             | 0                         |
| Multiple owners<br>Oaklands Road,<br>Pambula    | 1(a) Rural General                                                                          | E4 Environmental Living and RU2 Rural Landscape                                   | 1 hectare and 120 hectares          | 3                         |
| G Wright<br>Mount Darragh Road,<br>Lochiel      | 1(a) Rural General                                                                          | E4 Environmental Living                                                           | 4 hectares                          | 2                         |
| G Evans<br>Mount Darragh Road,<br>South Pambula | 1(a) Rural General                                                                          | R5 Large Lot Residential, E4 Environmental Living and E3 Environmental Management | 3,000sq/m, 5,000sq/m and 7 hectares | 11                        |
| R Jermyn<br>Princes Highway,<br>Griegs Flat     | 1(a) Rural General Zone, 1(c) Rural Residential and 7(b) Environmental Protection Foreshore | E3 Environmental Management and E2 Environmental Conservation                     | 5 and 20 hectares                   | 1                         |
| Crown Lands NSW<br>West Street, Eden            | 2(e) Urban Zone                                                                             | RU2 Rural Landscape                                                               | 120 hectares                        | 0                         |

## Consultation

The draft Planning Proposal will be placed on public exhibition following receipt of Gateway Approval from the DPE. During the public exhibition period interested local community members are able to make submission on the draft Planning Proposal which would then be the subject of a further report to Council.

## Conclusion

The nine (9) properties covered by the Merimbula, Pambula and Eden Deferred Sites draft Planning Proposal provide for modest rural residential growth in the Merimbula and Pambula areas. Following extensive investigations by Council officers and discussion with the DPE, appropriate land

use zonings and minimum lot sizes for each site have now been finalised and form the basis for the recommendations within this report.

## Recommendation

1. That in respect to the nine deferred sites included in the draft Planning Proposal, Council resolves the following:
  - a) **Merimbula Drive, Merimbula** Part Lot 1882 DP 1014185; apply E4, E3 and E2 zonings and minimum lot sizes of 1 hectare (E4), 2 hectares (E4) and 10 hectares (E3).
  - b) **Boggy Creek Road, Millingandi** Lot 5431 DP 1041710; apply E4 zoning and minimum lot size of 2 hectares.
  - c) **Oregon Street, Pambula** Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825; apply E3 zoning and minimum lot size of 120 hectares.
  - d) **Bega Street, Pambula** Lots 1 & 2 DP 68708, Lots 102 & 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 12-14, 15-19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 10 DP 734647; apply R5 and E4 zonings and minimum lot sizes of 2,000sq/m (R5) and 5,000sq/m (E4).
  - e) **Oaklands Road, Pambula** Lots 441 & 442 DP 1077278, Part Lot 381 DP 1027113, Part Lot 45 DP 807327 and Lots 431-433 DP 1152077, Lot 434 DP 1152077; apply E4 and RU2 zonings and minimum lot sizes of 1 hectare (E4) and 120 hectares (RU2).
  - f) **Mount Darragh Road, Lochiel** Lot 384 DP 1062442; apply E4 zoning and minimum lot size of 4 hectares.
  - g) **Mount Darragh Road, South Pambula** Lot 302 DP 749405; apply R5, E4 and E3 zonings and minimum lot sizes of 3,000sq/m (R5), 5,000sq/m (E4) and 7 hectares (E3).
  - h) **Princes Highway, Griegs Flat** Lot 102 DP 1108395; apply E3 and E2 zoning and minimum lot sizes of 5 hectares (E3) and 20 hectares (E3).
  - i) **West Street, Eden** Lot 128 DP 750205; apply RU2 zoning and minimum lot size of 120 hectares.
2. That the Merimbula, Pambula and Eden Deferred Sites Planning Proposal be forwarded to the Department of Planning and Environment for Gateway Approval to place on public exhibition.
3. Following public exhibition a further report be presented to Council summarising the results of the public exhibition period.
4. Should no public comment be received during the public exhibition period, officers progress the Planning Proposal to finalisation and gazettal without further reports to Council.

### **Council Minutes: Planning and Environment Committee No. 3 – 29 June 2016**

1. That in respect to the nine deferred sites included in the draft Planning Proposal, Council resolves the following:

- a) Merimbula Drive, Merimbula Part Lot 1882 DP 1014185; apply E4, E3 and E2 zonings and minimum lot sizes of 1 hectare (E4), 2 hectares (E4) and 10 hectares (E3).
- b) Boggy Creek Road, Millingandi Lot 5431 DP 1041710; apply E4 zoning and minimum lot size of 2 hectares.
- c) Oregon Street, Pambula Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825 and Lots 1-4, 19-22 Section 46 DP 758825; apply E3 zoning and minimum lot size of 120 hectares.
- d) Bega Street, Pambula Lots 1 & 2 DP 68708, Lots 102 & 103 DP 734647, Lots 16-22 DP 792850, Lots 10-13 DP 1114693, Lots 1-3, 10, 12-14, 15-19 Section 14 DP 758825, Lot 1 DP 198435, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 10 DP 734647; apply R5 and E4 zonings and minimum lot sizes of 2,000sq/m (R5) and 5,000sq/m (E4).
- e) Oaklands Road, Pambula Lots 441 & 442 DP 1077278, Part Lot 381 DP 1027113, Part Lot 45 DP 807327 and Lots 431-433 DP 1152077, Lot 434 DP 1152077; apply E4 and RU2 zonings and minimum lot sizes of 1 hectare (E4) and 120 hectares (RU2).
- f) Mount Darragh Road, Lochiel Lot 384 DP 1062442; apply E4 zoning and minimum lot size of 4 hectares.
- g) Mount Darragh Road, South Pambula Lot 302 DP 749405; apply R5, E4 and E3 zonings and minimum lot sizes of 3,000sq/m (R5), 5,000sq/m (E4) and 7 hectares (E3).
- h) Princes Highway, Griegs Flat Lot 102 DP 1108395; apply E3 and E2 zoning and minimum lot sizes of 5 hectares (E3) and 20 hectares (E3).
- i) West Street, Eden Lot 128 DP 750205; apply RU2 zoning and minimum lot size of 120 hectares.

2. That the Merimbula, Pambula and Eden Deferred Sites Planning Proposal with minor changes to correct typographical errors be forwarded to the Department of Planning and Environment for Gateway Approval to place on public exhibition.

3. Following public exhibition a further report be presented to Council summarising the results of the public exhibition period.

4. Should no public comment be received during the public exhibition period, officers progress the Planning Proposal to finalisation and gazettal without further reports to Council.

## Attachment 2: 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.

#### **Council Minutes: Planning and Environment Committee No. 4 - 12 June 2012**

#### **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 3: 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                                                        | Justified inconsistency |
| 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                                                               | Consistent              |
| 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 4: List of applicable Section 117 Ministerial Directions

| Section 117 Direction                                                        | Compliance              |
|------------------------------------------------------------------------------|-------------------------|
| <b>1. Employment and Resources</b>                                           |                         |
| 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                                                       | Justified Inconsistency |
| 1.5 Rural Lands                                                              | Justified Inconsistency |
| <b>2. Environment and Heritage</b>                                           |                         |
| 2.1 Environment Protection Zone                                              | Consistent              |
| 2.2 Coastal Protection                                                       | Consistent              |
| 2.3 Heritage Conservation                                                    | Consistent              |
| 2.4 Recreation Vehicle Areas                                                 | N/A                     |
| <b>3. Housing, Infrastructure and Urban Development</b>                      |                         |
| 3.1 Residential Zones                                                        | N/A                     |
| 3.2 Caravan Parks and Manufactured Home Estates                              | N/A                     |
| 3.3 Home Occupations                                                         | N/A                     |
| 3.4 Integrating Land Use and Transport                                       | N/A                     |
| 3.5 Development Near Licensed Aerodromes                                     | Consistent              |
| 3.6 Shooting Ranges                                                          | N/A                     |
| <b>4. Hazard and Risk</b>                                                    |                         |
| 4.1 Acid Sulphate Soils                                                      | Justified Inconsistency |
| 4.2 Mine Subsidence and Unstable Land                                        | N/A                     |
| 4.3 Flood Prone Land                                                         | Consistent              |
| 4.4 Planning for Bushfire Protection                                         | Consistent              |
| <b>5. Regional Planning</b>                                                  |                         |
| 5.1 Implementation of Regional Strategies                                    | Justified Inconsistency |
| 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                     |
| <b>6. Local Plan Making</b>                                                  |                         |
| 6.1 Approval and Referral Requirements                                       | N/A                     |
| 6.2 Reserving Land for Public Purposes                                       | N/A                     |
| 6.3 Site Specific Provisions                                                 | Consistent              |
| <b>7. Metropolitan Planning</b>                                              |                         |
| 7.1 Implementation of the Metropolitan Plan for Sydney 2036                  | N/A                     |