

Merimbula, Pambula, Eden Deferred Areas Planning Proposal

Proposal Title : Merimbula, Pambula, Eden Deferred Areas Planning Proposal

Proposal Summary : To rezone nine deferred sites as follows:

- a) Merimbula Drive, Merimbula from part 7(d) Environmental Protection General Zone and part 2(c) Residential Tourist Zone to part E3 Environmental Conservation Zone with a MLS of 10ha and part E4 Environmental Living Zone with MLS of 1ha and 2ha.
- b) Boggy Creek Road, Millingandi from 1(a) Rural General Zone with a 120ha MLS to E4 Environmental Living Zone with a 2ha MLS .
- c) Oregon Street, Pambula from 1(a) Rural General Zone with a 120ha MLS to E3 Environmental Management Zone (with a 120ha MLS - already provided in the BVLEP 2013).
- d) Bega Street, Pambula from 2(f) Future Urban Zone to part E4 Environmental Living Zone with a 5000sqm MLS and part R5 Large Lot Residential Zone with a MLS of 2000sqm.
- e) Oaklands Road, Pambula from 1(a) General Rural Zone with a 120ha MLS to part E4 Environmental Living Zone with 1ha MLS and part RU2 Rural Landscape Zone (with a MLS of 120ha - already provided in the BVLEP 2013).
- f) Mount Darragh Road, Lochiel from 1(a) General Rural Zone and 2(c) Rural Small Holdings Zone to E4 Environmental Living Zone with a 4ha MLS.
- g) Mount Darragh Road, South Pambula from 1(a) General Rural Zone with 120ha MLS to part R5 Large Lot Residential Zone, part E4 Environmental Living Zone, and part E3 Environmental Management Zone with 3000sqm, 5000sqm and 7ha MLS respectively.
- h) Princes Highway, Griegs Flat from 1(a) General Rural Zone, 1(c) Rural Small Holdings Zone and 7(b) Environment Protection Foreshore Zone to part E2 Environmental Conservation Zone, part E3 Environmental Management Zone and E4 Environmental Living Zone (with a 5ha and 20 MLS respectively - already provided in the BVLEP 2013).
- i) West Street, Eden from 2(e) Urban Zone to RU2 Rural Landscape Zone with a 120ha MLS.

PP Number : PP_2016_BEGAV_005_00

Dop File No : 16/09393-1

Proposal Details

Date Planning Proposal Received : 23-Sep-2016

LGA covered : Bega Valley

Region : Southern

RPA : Bega Valley Shire Council

State Electorate : BEGA

Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Merimbula Drive

Suburb : Merimbula

City :

Postcode :

Land Parcel : Part Lot 1882 DP 1014185

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Street :	Boggy Creek Road		
Suburb :	Millingandi	City :	Postcode :
Land Parcel :	Lot 5431 DP 1041710		
Street :	Oregon Street		
Suburb :	Pambula	City :	Postcode :
Land Parcel :	Lot 529 DP 1007936, Lots 1-3, 16-19 Section 45 DP 758825, Lots 1-4, 19-22 Section 46 DP 758825		
Street :	Bega Street		
Suburb :	Pambula	City :	Postcode :
Land Parcel :	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 DO 758825, Lot 1 DO 198345, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514		
Street :	Oaklands Road		
Suburb :	Pambula	City :	Postcode :
Land Parcel :	Lot 441 & 442 DP 1077278, Lots 431-434 DP 1152077, part Lot 381 DP 1027113, Part Lot 45 DP 807327		
Street :	Mount Darragh Road		
Suburb :	Lochiel	City :	Postcode :
Land Parcel :	Lot 841, DP 1193692		
Street :	Mount Darragh Road		
Suburb :	South Pambula	City :	Postcode :
Land Parcel :	ot 302, DP 749405		
Street :	Princes Highway		
Suburb :	Griegs Flat	City :	Postcode :
Land Parcel :	Lot 102, DP 1108395		
Street :	West Street		
Suburb :	Eden	City :	Postcode :
Land Parcel :	Lot 128, DP 750205		

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	South Coast Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	27
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : These lands were deferred from the Bega Valley LEP 2010 by Council after the exhibition of the principal plan due to requests for consideration of further development opportunities and the strategic review of Pambula and South Pambula.

Council has completed these reviews and is now proposing to rezone the land in accordance with the standard instrument. A total of 27 additional lots could be achieved from this planning proposal.

All the properties are within close proximity to the local centres of Merimbula, Eden or Pambula and will utilise existing services. Council believes the proposal does not significantly affect agricultural production and the locations chosen represent logical extensions of existing residential areas.

Council is also preparing a Draft Rural Living Strategy that implements a Shire-wide strategy for new rural residential development and rural village development from a demand based trend analysis. The Planning Proposal is considered to be in accordance with the principles promoted in the Rural Living Strategy.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objective is to apply zoning and minimum lot size controls to certain properties to enable a small increase in residential development opportunities in the Merimbula and Pambula catchment areas.

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

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

Comment : **A detailed list of amendments to various map sheets is provided.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.4 Oyster Aquaculture

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 62—Sustainable Aquaculture

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

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

SECTION 117 DIRECTIONS:

1.2 RURAL ZONES: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural zone. The proposal is considered to be **INCONSISTENT** with this direction as it proposes to rezone land from a rural zone to a residential zone.

The majority of land in Site 2 (Boggy Creek Road, Millingandi), Site 5 (Oaklands Road, Pambula), Site 7 (Mount Darragh Road, Pambula), and Site 8 (Princes Hwy, Greigs Flat) is currently zoned rural and is proposed to be rezoned for rural residential purposes.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance. The loss of agricultural production is considered minor in the context of the wider Bega Valley Shire with the loss only equating to around 25ha.

1.4 OYSTER AQUACULTURE: This Direction does apply to the planning proposal as it proposes a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area. The proposal is considered to be **INCONSISTENT** with this Direction.

Council has not consulted with the Department of Primary Industries in relation to the proposal and its impacts (as required by the Direction). Such consultation should now occur should a Gateway be issued to proceed with the proposal.

Council has advised that it believes that development impacts from Site 1 (Merimbula Dr, Merimbula) and Site 8 (Princes Hwy, Greig's Flat) can be managed if undertaken in accordance with Council's policies.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance, however, the Department of Primary Industries should still be consulted as a condition of Gateway.

1.5 RURAL LANDS: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural or environmental protection zone and it proposes to change the existing minimum lot size on land within a rural or environmental protection zone. The proposal is considered to be **CONSISTENT** with this direction (even though Council has identified that it is inconsistent with the Direction) as it is consistent with the planning principles in the SEPP.

2.1 ENVIRONMENT PROTECTION ZONES: This Direction does apply to the planning proposal as it will affect land within an environment protection zone or land otherwise identified for environment protection purposes. The proposal is considered to be **CONSISTENT** with this direction.

However it is recommended that a flora and fauna study be prepared as part of the planning proposal and prior to public exhibition for Site 7 (Mount Darragh Rd, South Pambula).

2.2 COASTAL PROTECTION: This Direction does apply to the planning proposal as the subject land is within the coastal zone. The proposal is considered to be **CONSISTENT** with this direction.

2.3 HERITAGE CONSERVATION: This Direction does apply to the planning proposal as it affects items, places, buildings, works, relics moveable objects or precincts of environmental heritage significance. The proposal is considered to be **CONSISTENT** with this direction.

A State listed heritage item (Oaklands House) was subdivided from the larger lot of Site 5 (Oaklands Rd, Pambula) and is located a sufficient distance from the proposed rural residential developments that they will have no impact on the heritage item.

3.1 RESIDENTIAL ZONES: Council has not identified that this Direction applies to the planning proposal, however it does apply as it will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted. Sites 1, 2, 4, 5, 6, 7 and 8 are either existing residential zones or are proposed to be rezoned to R5 Large Lot Residential Zone or E4 Environmental Living Zone. The proposal is considered to be **CONSISTENT** with this direction.

3.4 INTEGRATING LAND USE AND TRANSPORT: Council has not identified that this Direction applies to the planning proposal, however it does apply as it will create a zone relating to urban land. The proposal is considered to be **CONSISTENT** with this direction.

3.5 DEVELOPMENT NEAR LICENSED AERODROMES: This Direction does apply to the planning proposal as it will create a zone relating to land in the vicinity of a licensed aerodrome. The proposal is considered to be **CONSISTENT** with this direction.

Site 1 (Merimbula Dr, Merimbula) and Site 5 (Oaklands Rd, Pambula) are located in the vicinity of the Merimbula Airport. However the land is not in an area that exceeds the ANEF 20 and the proposal will not result in development that will provide a new hazard to aircraft.

4.1 ACID SULPHATE SOILS: This Direction does apply to the planning proposal as it will affect land having a probability of containing acid sulphate soils, as shown on the Acid Sulphate Soils Planning Maps held by the Department of Planning. The proposal is considered to be **INCONSISTENT** with this direction as it proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils, as shown on the Acid Sulphate Soils Planning Maps held by the Department of Planning and did not consider an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils. NB. Such a study must be provided to the Department prior to undertaking community

consultation under section 57 of the Act.

Site 8 (Princes Hwy, Greigs Flat) is identified as containing Class 1 and/or Class 2 Acid Sulphate Soils. Council routinely addresses this issue at the development application stage. Council considers this proposal is of a sufficiently minor scale to warrant an inconsistency with the Direction.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

4.3 FLOOD PRONE LAND: This Direction does apply to the planning proposal as it will create, remove or alter a zone or a provision that affects flood prone land. The proposal is considered to be **CONSISTENT** with this direction.

Site 5 (Oaklands Rd, Pambula) is affected by the 1:100 ARI flood planning level, however the proposed rezoning of part of the site to E4 Environmental Living would not affect the flood prone land. The remainder of the site is to be rezoned to RU2 Rural Landscape Zone.

4.4 PLANNING FOR BUSHFIRE PROTECTION: This Direction does apply to the planning proposal as it will affect/is in close proximity to land mapped as bushfire prone land.

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

5.1 IMPLEMENTATION OF REGIONAL STRATEGIES: This Direction does apply to the planning proposal as the South Coast Regional Strategy applies to the land. The proposal is considered to be **INCONSISTENT** with this direction as it relates to new rural residential development that is not in accordance with a growth management plan.

However, Council has stated that the proposal is consistent with the principles of its Draft Rural Living Strategy.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance and it achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

6.3 SITE SPECIFIC PROVISIONS: Council has identified that this Direction applies to the planning proposal, however it does not apply as it does not allow a particular development to be carried out.

STATE ENVIRONMENTAL PLANNING POLICIES:

SEPP 62 Sustainable Aquaculture:

Site 1 (Merimbula Dr, Merimbula) is inconsistent with this SEPP as the proposed development opportunities have the potential to impact on oyster aquaculture in terms of cumulative nutrient impacts and cumulative pathogen impacts. However, Council advises that providing the development of the sites are undertaken in accordance with Council's on-site sewer and water management policies, there should be no further impact on the lake.

SEPP 71 Coastal Protection:

Site 1 (Merimbula Dr, Merimbula) and Site 2 (Princes Highway, Greigs Flat) are both located within the coastal zone. The southern portions of Site 1 are also designated as a sensitive coastal location (land within 100 metres of the water's edge of a coastal lake).

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Council advises that the planning proposal is consistent with the SEPP as it will not contradict or hinder the application of the coastal planning provisions contained within the SEPP. The 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 a coastal lake or creek.

SEPP (Rural Lands) 2008:

Council has stated that the planning proposal is inconsistent with this SEPP as it will remove 25ha of agricultural land from production. Council states that the inconsistency is justified as the provisions of the proposal conform to the Rural Planning Principles and Rural Subdivision Principles and they do not compromise the production value or development of rural land for rural purposes.

Given that Council states it is consistent with the Rural Planning Principles and Rural Subdivision Principles provided in the SEPP, it does not appear that an inconsistency with the SEPP exists.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Final maps will need to be provided once the LEP has been exhibited. The map extracts provided are suitable for public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Although it hasn't identified how long it proposes to exhibit the LEP.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Bega Valley LEP 2013**

Assessment Criteria

Need for planning proposal : **The Planning Proposal is required to rezone nine sites that were deferred as part of the Bega Valley LEP 2013.**

SITE 1: Part Lot 1882 DP 1014185, Merimbula Drive, Merimbula

Size: 39ha

Location: Approx 2km west of Merimbula on the edge of Merimbula Lake. Adjoins residential areas to the east. The land to the west is a heavily vegetated Crown reserve.

Context: There is a guest house and holiday unit tourist development on the south east portion of Lot 1882. There are existing oyster leases identified as being within the Priority Oyster Aquaculture Areas in Lake Merimbula close to the subject land.

Flora & Fauna: Whilst the site has been logged or partially cleared it still has significant vegetation and is considered to be floristically diverse. No threatened species were identified in the 2008 study, however there was flora present that would support threatened fauna, such as the Yellow Bellied Glider. The 2008 flora and fauna study has not been updated and the PP identifies that a flora and fauna study would be required, although it does not identify whether it should be provided at the rezoning or development application stage.

Two endangered ecological communities are located on the southern part of the subject land and would be contained within the proposed E2 Environmental Conservation zone.

Current Zoning: The subject land is currently zoned part 7(d) Environmental Protection General and Part 2(c) Residential Tourist with a MLS of 40ha and 2000sqm respectively under the Bega Valley LEP 2002.

Strategic context: The subject land was included in the Merimbula District Structure Report adopted in 2008. Amongst other comments, it identified that on this site "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".

At that time, it was recommended to Council that the land be zoned to E2 Environmental Conservation Zone and E3 Environmental Management Zone with a 40ha minimum lot size (MLS). The Planning Proposal suggests this was a "holding" action in the Structure Report and that concept designs, current development consents and discussions with Council now allows Council to apply zonings that are appropriate for the future development of the site.

Council intended to rezone the site when the principal LEP was publicly exhibited but the landowner requested the zones be reconsidered so Council deferred the land from the Bega Valley LEP 2013. Council has since determined that the proposed zoning and minimum lot sizes will enable the land to act as a transition between urban housing and the bushfire prone land to the west.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

Council is now proposing to rezone the site to E2 Environmental Conservation in the south western corner, E4 Environmental Living Zone with a MLS of 2ha for the south, east and north eastern part of the site, E4 Environmental Living Zone with a 1ha MLS for the cleared central part of the site, and E3 Environmental Management Zone with a 10ha MLS for the western remaining part of the site.

This zoning and lot sizes will see a maximum yield of 10 lots (1 x E3 area; 6 x E4 (2ha) area; and 3 x E4 (1ha) area).

The proposal is now considered an acceptable outcome for the site.

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SITE 2: Lot 5431 DP 1041710, Boggy Creek Road, Millingandi

Size: The subject land is 3ha in size.

Location: Close to Pambula and Merimbula.

Context: The subject land currently has a dwelling. The surrounding area includes a range of rural residential and rural development. The area to the south east of the subject land has an approved 8 lot subdivision ranging in size from 5600sqm to 1ha lots. Land to the immediate south of the subject land is zoned E4 Environmental Living with a 2ha MLS. The remainder of the land to the west and north is zoned RU2 Rural Landscape with 120ha MLS.

Flora and Fauna: The site has been largely cleared of native vegetation. Council advises there are no known threatened species, populations or ecological communities.

Current Zoning: The subject land is currently zoned 1(a) Rural General Zone with a MLS of 120ha under the Bega Valley LEP 2002.

Strategic Context: The subject land was deferred from the Bega Valley LEP 2013 as it was proposed to be rezoned to RU2 Rural Landscape Zone with a MLS of 120ha. The land owner requested the land be rezoned to E4 consistent with the adjoining land to the south and that a 1ha MLS be applied which would allow the subject land to be subdivided into 2 lots.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal.

Council has resolved to rezone the subject land to E4 Environmental Living Zone but only with a 2ha MLS which will not enable any further subdivision but will rezone the land to a more suitable rural residential zone reflecting its current land use and the adjacent E4 area.

The proposal is considered an acceptable outcome for the site as it is already separated from the main rural area by a rural road and it already has a dwelling on a small lot.

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

Size: The properties range in size from 240sqm to 10.7ha.

Location: The subject land is located in the town of Pambula, just north of the town centre.

Context: The land is surrounded on the west and north by E4 Environmental Living zoned land with 2ha MLS, proposed E4 and R5 zoned land to the south with 5000sqm and 2000sqm MLS (currently deferred but part of this planning proposal) and R2 Low Density

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Residential zoned land with 550sqm MLS to the east.

Flora and Fauna: The subject land is heavily vegetated. The planning proposal states that there are no known threatened species or communities in this area however it appears a study has not confirmed this. Council also advises that there is a high possibility that the Yellow-bellied Glider may be found in the area.

Current Zoning: The subject land is currently zoned 1(a) General Rural Zone under the Bega Valley LEP 2002.

Strategic Context: There are no dwellings on the subject land. Council had a number of sites strategically reviewed in 2013 by an independent planning consultant (Zenith Town Planning). This review found that the subject land is not suited to residential subdivision as it is heavily constrained by riparian corridors, slope and vegetation. The review recommended that the land remain a rural zone with a 120ha MLS.

The proposal was also included in a previous Planning Proposal "Pambula and South Pambula Residential Land - November 2014" and a Gateway determination was issued in April 2015.

After discussions and negotiations with the Office of Environment and Heritage during consultation on the draft 2014 Planning Proposal, Council withdrew the site from that Planning Proposal.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

Council's recent additional assessment of the site concludes that the site is not suitable for rural land uses and proposes that it be rezoned to E3 Environmental Management with a 120ha MLS. This would also be consistent with surround land uses to the west and north of the site.

This proposal is considered reasonable.

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SITE 4: 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 198345, Lot 23 DP 803543, Lots 8 & 9 DP 997160 and Lot 12 DP 829514, Bega Street, Pambula

Size: The subject lots range in size from 2000sqm to 1.5ha in size.

Location: The subject land has 29 lots and is located in the village of Pambula. 12 of the 29 lots are vacant; the remainder have existing dwellings. The subject land is located west of and adjoining the Pambula town centre.

Context: The surrounding land is a mix of E3 Environmental Management Zone to the west, proposed E3 to the north, R2 Low Density Residential Zone to the east and RU2 Rural Landscape Zone to the south.

Flora and Fauna: There are records of Gang Gang Cockatoo in the north-west corner of the site and there is evidence of Yellow-bellied Glider activity in the area. Both are threatened species.

Current Zoning: The subject land is currently zoned 2(f) Future Urban Zone under the Bega Valley LEP 2002.

Strategic Context: The subject land was deferred from the Bega Valley LEP 2010 due to a

strategic review of potential residential lands around Pambula and South Pambula. Council had a number of sites strategically reviewed in 2013 by an independent planning consultant (Zenith Town Planning). This review found that the subject land is not suited to more residential subdivision than the Council's proposed R5 Large Lot Residential zoning with a 2000sqm MLS. The land is heavily constrained due to vegetation, slope and gullies.

The proposal was also included in a previous Planning Proposal "Pambula and South Pambula Residential Land - November 2014" and a Gateway determination was issued in April 2015.

Due to discussions and negotiations with the Office of Environment and Heritage during consultation of the draft Planning Proposal, Council withdrew the site from the previous Planning Proposal and has now resolved to rezone the majority of the subject land to R5 Large Lot Residential with a MLS of 2000sqm. As well as being consistent with the findings of the Zenith Review, this represents the current pattern of residential development in this area. The north-western part of the site is proposed to be rezoned to E4 Environmental Living Zone with a MLS of 5000sqm to provide some protection to the forest cover and threatened species in this area.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

The proposed E4 zoned area would result in 2 additional lots (this is a reduction in the development potential from the previous 2014 planning proposal).

The proposed rezoning is considered suitable for the subject land.

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SITE 5: Lot 441 & 442 DP 1077278, Lots 431-434 DP 1152077, part Lot 381 DP 1027113, Part Lot 45 DP 807327, Oaklands Road, Pambula

Size: Lot 441 & 442 are sized approximately 1ha and 13ha respectively.

Lots 431-433 are approximately 5,000sqm in size.

Lot 434 is approximately 2ha in size.

Lot 45 is approximately 3.6ha in size.

Part Lot 381 DP 1027113 is approximately 64ha in size.

Location: The subject land is located approximately 1 kilometre from Pambula village.

Context: Part Lot 381, Lot 442 and Lot 45 are partly constrained by the 1:100 ARI flood line.

Land to the north and west is zoned E4 Environmental Living with a 2ha MLS. Land to the east and south is zoned RU2 Rural Landscape with a 120ha MLS.

The south western edge of Pambula Village adjoins the site.

Flora and Fauna: The subject land has been largely cleared of native vegetation. The Planning Proposal states there are no known threatened species, populations or ecological communities likely to occur.

Current Zoning: The land is currently zoned 1(a) Rural General Zone under the Bega Valley LEP 2002.

Strategic Context: Part Lot 381 has a development approval commenced by not completed for two concessional lots (of 2ha each) and three rural smallholdings (of 5000sqm each). These five lots are proposed to be included in the E4 Environmental Living Zone in the northern part of the lot. No further subdivision will be permitted as part of this Planning Proposal.

Lot 434 is the residue lot of the subdivision that created Lots 431-433 and has an existing dwelling. The Planning Proposal includes the opportunity for this lot to be subdivided to create one additional dwelling lot. Both lots would be included in the proposed E4 Environmental Living Zone with a 1ha MLS.

It is proposed that 3ha (of the 13ha) of Lot 442 would be included in the proposed E4 Environmental Living Zone with a MLS of 1ha. This would provide opportunity for a further 2 lots to be subdivided for a dwelling in addition to the existing dwelling.

Lot 441 is proposed to be rezoned to E4 Environmental Living Zone with a 1ha MLS to be consistent with surrounding lots.

Part Lot 45 will rezone the existing dwelling and 1ha of land at the northern end of the site to E4 Environmental Living Zone. The remainder of the site will be rezoned to RU2 Rural Landscape Zone, which is consistent with the current zoning under the Bega Valley LEP 2002.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

This proposal is considered reasonable.

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SITE 6: Lot 841, DP 1193692, Mount Darragh Road, Lochiel

Size: The subject land is approximately 15ha in size.

Location: The subject land is located approximately 3.5 kilometres from South Pambula town centre.

Context: The subject land is surrounded to the east and west with rural small holdings ranging in size from 1.5 to 10ha. The land to the north is zoned RU2 Rural Landscape with a 120ha MLS.

Flora and Fauna: The subject land has largely been cleared of native vegetation. The Planning Proposal states there are no known threatened species, populations or ecological communities likely to occur on the subject land.

Current Zoning: The land is currently zoned 1(a) Rural General Zone and a small portion is zoned 1(c) Rural Small Holdings Zone with no residential subdivision potential under the Bega Valley LEP 2002.

Strategic Context: It is agreed that rezoning this land to E4 Environmental Living Zone with a 4ha MLS is a reasonable extension of the existing E4 zone surrounding the subject land on 2 sides. The proposal would result in an additional 2-3 dwelling lots.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a

range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

This proposal is considered reasonable.

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SITE 7: Lot 302, DP 749405, Mount Darragh Road, South Pambula

Size: The subject land is approximately 12ha in size.

Location: The subject land is located approximately 2 kilometres from South Pambula.

Context: Approximately 3ha of the site fronting Mount Darragh Road contains a dwelling and an approved tourist facility.

The subject land is bounded by residential (R2) land to the east, light industrial land (IN2) to the west and E3 Environmental Management zoned and RU2 Rural Landscape zoned land to the south.

Flora and Fauna: The remainder of the site (approximately 9ha) is heavily vegetated. Council has not indicated whether there are likely to be threatened species, populations or ecological communities on the site. A flora and fauna study should be undertaken as part of the planning proposal and prior to public exhibition.

Current Zoning: The subject land is currently zoned 1(a) Rural General Zone under the Bega Valley LEP 2002.

Strategic Context: An extractive industry has been approved on the adjoining site (west) with approval to extract and stockpile 25,000 cubic metres of material over 5-10 years.

The Merimbula District Structure Report (2008) recommended that this land be zoned E4 Environmental Living with a 1ha MLS.

The subject land was deferred from the Bega Valley LEP 2010 due to a strategic review of potential residential lands around Pambula and South Pambula. Council had a number of sites strategically reviewed in 2013 by an independent planning consultant (Zenith Town Planning). This review found that the subject land has some development potential for residential purposes, but it recommended that it be rezoned to E3 Environmental Management Zone to provide a buffer between the existing South Pambula residential area to the east and the industrial land to the west.

The proposal was also included in a previous Planning Proposal "Pambula and South Pambula Residential Land - November 2014" and a Gateway determination was issued in April 2015.

Due to discussions and negotiations with the Office of Environment and Heritage during consultation of the draft Planning Proposal, Council withdrew the site from the previous Planning Proposal.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

Council has considered all issues and concerns and is now proposing the land be rezoned to part R5 Large Lot Residential Zone with a MLS of 3,000sqm (approximately 3ha of the northern part of the site), part E4 Environmental Living Zone with a MLS of 5,000sqm

(approx. 1.4ha of the central disturbed area), and part E3 Environmental Management Zone with a MLS of 7ha (approx. 8ha in size). This would result in approximately 11 new dwellings (8 x R5 area; 2 x E4 area; and 1 x E3 area).

This current proposal is considered reasonable.

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SITE 8: Lot 102, DP 1108395, Princes Highway, Griegs Flat

Size: The subject land is approximately 19ha in size.

Location: The subject land is located approximately 6 kilometres from the Pambula town centre.

Context: The subject land is separated into two parts by the Princes Highway. The northern part fronts onto Pambula Lake, including the outlet of Harts Creek.

West of the subject land is a large rural residential development with development consent for 27 lots. The Nullica State Forest surrounds the southern part of the subject land and extends east, south and south west.

Flora and Fauna: The southern part of the site contains high quality forested lands. Council is proposing a larger lot size (20ha) than the actual size of the area to be protected (8.6ha). The northern part of the site is also vegetated. Council has not advised if the area is likely to contain threatened species, populations or ecological communities.

Current Zoning: The subject land is currently zoned part 1(a) Rural General Zone (14ha), part 1(c) Rural Small Holdings Zone (0.1ha) and part 7(b) Environment Protection Foreshore Zone (5ha) under the Bega Valley LEP 2002.

Strategic Context: A Voluntary Property Vegetation Plan was been applied to part of the site to protect those areas where investments have been made in re-vegetation and restoration works.

The subject land is in close proximity to existing oyster leases that are identified as being within Priority Oyster Aquaculture Areas (Dept of Primary Industries 2006). The planning proposal acknowledges that the future development of the site has the potential to impact on the oyster areas, however Council's on-site sewer and water management policies are identified as providing sufficient protection to avoid these impacts.

The subject land was deferred from the Bega Valley LEP 2013 due to a request from the land owner that the proposed rezonings be reviewed.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal subject to further information and justification being provided.

Council has worked with the Department to protect the environmental qualities of the site whilst providing for limited development opportunities on the northern part of the site to encourage long term stewardship of the southern part of the site.

Council has now resolved to zone part of the site E2 Environmental Conservation Zone

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(2.7ha adjoining the foreshore) and the remainder of the site E3 Environmental Management Zone with a MLS on the southern part of 20ha and a MLS on the northern part of 5ha. This will potentially enable 1 dwelling on the northern part of the site.

This proposal is considered reasonable.

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SITE 9: Lot 128, DP 750205, West Street, Eden

Size: The subject land is approximately 3ha in size.

Location: It is located approximately 1 kilometre north of the town centre of Eden.

Context: The subject land is adjoined by R3 Medium Density Residential zoned land to the north and R2 Low Density Residential zoned land to the east. The land to the west is undeveloped but zoned R2 Low Density Residential and the land to the south is zoned E2 Environmental Conservation.

The land is owned by the NSW Government Crown Lands Division and is currently the subject of an Aboriginal Land Claim.

Flora and Fauna: The subject land is heavily vegetated. Council has not advised if the area is likely to contain threatened species, populations or ecological communities.

Current Zoning: The subject land is currently zoned 2(e) Urban under the Bega Valley LEP 2002, however the Bega Valley DCP 34 specifies land use units for the 2(e) zone in Eden. The subject land was identified in the DCP as a Special Use Zone (although there is no explanation of what it was intended to be used for).

Strategic Context: The land was deferred by the Council from the Bega Valley LEP 2013 in response to a submission from the NSW Government Crown Lands Division requesting that the proposed E2 Environmental Conservation Zone be reviewed.

The Crown also owns the adjoining R2 zoned (undeveloped) land to the west of the subject land (approximately 17ha in size). That land is intended to provide for future urban needs, when required.

Council's planning proposal states that the subject land was considered to be "more environmentally sensitive due to the relatively undisturbed nature of the forest" than the adjoining Crown land parcel. However, the aerial photo shows both parcels to be heavily vegetated and Council has not provided any details about why this parcel has any additional special qualities.

The proposal was also included in a previous Planning Proposal "Rural Residential Rezoning and Minimum Lot Sizes - South - September 2014" that was withdrawn prior to a Gateway determination being issued to allow Council to provide further strategic justification for this and other rural residential development subdivisions proposed in a range of planning proposals at that time.

In early 2016, Council and the Department agreed that this site was suitable to proceed to a new planning proposal.

The Council and the Department discussed the options for this site prior to the planning proposal being lodged and it was agreed at that time that applying a RU2 Rural Landscape Zone with a 120ha MLS to the site would enable further investigations regarding demand for residential housing and for tenure issues to be resolved.

The proposal is considered reasonable.

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Consistency with strategic planning framework :

The South Coast Regional Strategy (2008) requires adequate land to be available and appropriately located to accommodate projected housing and employment needs.

With regard to rural residential development, the Strategy requires new rural residential development to be located on cleared land unsuitable for urban or agricultural uses and they will only be agreed to by the Department as part of an endorsed growth management strategy or structure plan.

The Strategy also requires that the scale of development within and adjacent to existing villages and rural towns is required to support the role of the town in serving surrounding communities and preserve its character, scale, cultural heritage and social values.

Council is of the view that some of the proposed rezonings are inconsistent with the Regional Strategy as they are not part of a rural residential strategy. However, it also believes that parts of the proposal are consistent with the Strategy meeting the broad aims and objectives of the Regional Strategy.

The planning proposal states it is consistent with the Bega Valley 2030 Community Strategic Plan as the proposal enables further subdivision of for new rural living opportunities that are within close proximity to existing townships, services and amenities, capable of supporting a range of housing choices and capable of minimising and managing impacts on the natural environment.

Environmental social economic impacts :

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Department of Primary Industries - Fishing and Aquaculture Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service		

Is Public Hearing by the PAC required? No

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

If no, provide reasons :

Resubmission - s56(2)(b) : No

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Final Merimbula Pambula and Eden Deferred Matters Planning Proposal - 23092016.pdf	Proposal	Yes
Council_Report_29_June_Merim_Pam_Eden.pdf	Proposal	Yes
DRAFT Ordinary Meeting Minutes 29 June - Merim, Pambula & Eden.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.2 Rural Zones
 - 1.4 Oyster Aquaculture
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 2.3 Heritage Conservation
 - 3.5 Development Near Licensed Aerodromes
 - 4.1 Acid Sulfate Soils
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 6.3 Site Specific Provisions

Additional Information : It is **RECOMMENDED** that the Director, Regions Southern, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Bega Valley LEP 2013 to rezone the following nine deferred sites:

- a) Merimbula Drive, Merimbula
- b) Boggy Creek Road, Millingandi
- c) Oregon Street, Pambula
- d) Bega Street, Pambula
- e) Oaklands Road, Pambula
- f) Mount Darragh Road, Lochiel
- g) Mount Darragh Road, South Pambula
- h) Princes Highway, Griegs Flat
- i) West Street, Eden,

should proceed subject to the following conditions:

1. A flora and fauna study should be completed for Site 7, Mount Darragh Road, South Pambula and placed on public exhibition with the planning proposal.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Environment, 2016)'.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

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- * NSW Department of Primary Industries (s117 Direction 1.4)
- * Office of Environment and Heritage
- * NSW Rural Fire Service (s117 Direction 4.4)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

6. Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

7. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions 1.5 Rural Land, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licensed Aerodromes, 4.3 Flood Prone Land.

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

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

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

8. The planning proposal is considered to be consistent with all relevant SEPPs or any inconsistencies are of minor significance.

Supporting Reasons : The proposal is suitable to proceed.

Signature:



Printed Name:

Deane Frank

Date:

19/10/16