

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Planning Proposal: Bega & Tathra Deferred Sites

December 2016

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Background

This planning proposal seeks to provide resolution for five (5) 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's 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. Four of the five properties included by this Planning Proposal have existing Development Approvals in place. As such this Planning Proposal only has a minor impact on the provision of additional housing supply.

The five sites included in this Planning Proposal were previously submitted to the Gateway Panel in 2014 as part of the Rural Residential North Planning Proposal. Council was encouraged to withdraw that Planning Proposal due to further work being required on supply of Rural Residential Land. The Bega and Tathra Catchments have a strong demand for rural residential living and low current supply. Further the majority of the sites in this Planning Proposal already have development approval and as such are not contributing further capacity.

Council is currently finalising a draft Rural Living Strategy that will provide further justification for the sites incorporated in this Planning Proposal. The draft Strategy has not been released for public comment, however an early draft has been forwarded to the Department to assist with its consideration of Council's rezoning proposals.

This proposal provides the following key outcomes;

- Removal of deferred status for **5** properties
- Appropriate zoning lot sizing applied to reflect existing Development Approvals
- Up to 34 **additional** lots are created across the Bega and Tathra 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 recognise the existing use of the land or enable further subdivision for new rural living opportunities. As shown in Figure 1, all of the properties are within close proximity to the Regional Centre of Bega 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 rural residential areas. The outcome of this planning proposal will provide sufficient supply of additional land for rural residential purposes in the Bega and Tathra for the medium term until such a time as Council develops and implements a Shire-wide strategy for new rural residential development.

In summary this planning proposal is seeking to zone the subject properties as follows:

Property	Current Zone	Proposed Zone	Estimated additional residential lot yield
Finucane Lane, Bega	2(f) Future Urban	R5 Large Lot Residential	0 (9 Lots already approved)
Princes Highway, Bega	2(f) Future Urban	R5 Large Lot Residential	0 (62 Lots already approved)
D'Arcy Lane, Jellat Jellat	1(a) Rural General	E4 Environmental Living	0 (2 Lots already approved)
Tathra River Estate, Thompsons Drive, Tathra	1(a) Rural General Zone, 2(a) Residential Low Density Zone, 2(c) Residential Tourist Zone, 6(a) Existing Open Space Zone and 7(b) Environment Protection Foreshore Zone	R5 Large Lot Residential, E2 Environmental Conservation and RE1 Public Recreation	Approx. 30 (32 lots already approved)
Sapphire Coast Drive, Kalaru	1(a) Rural General	E4 Environmental Living	4 Lots
		Total	34 lots

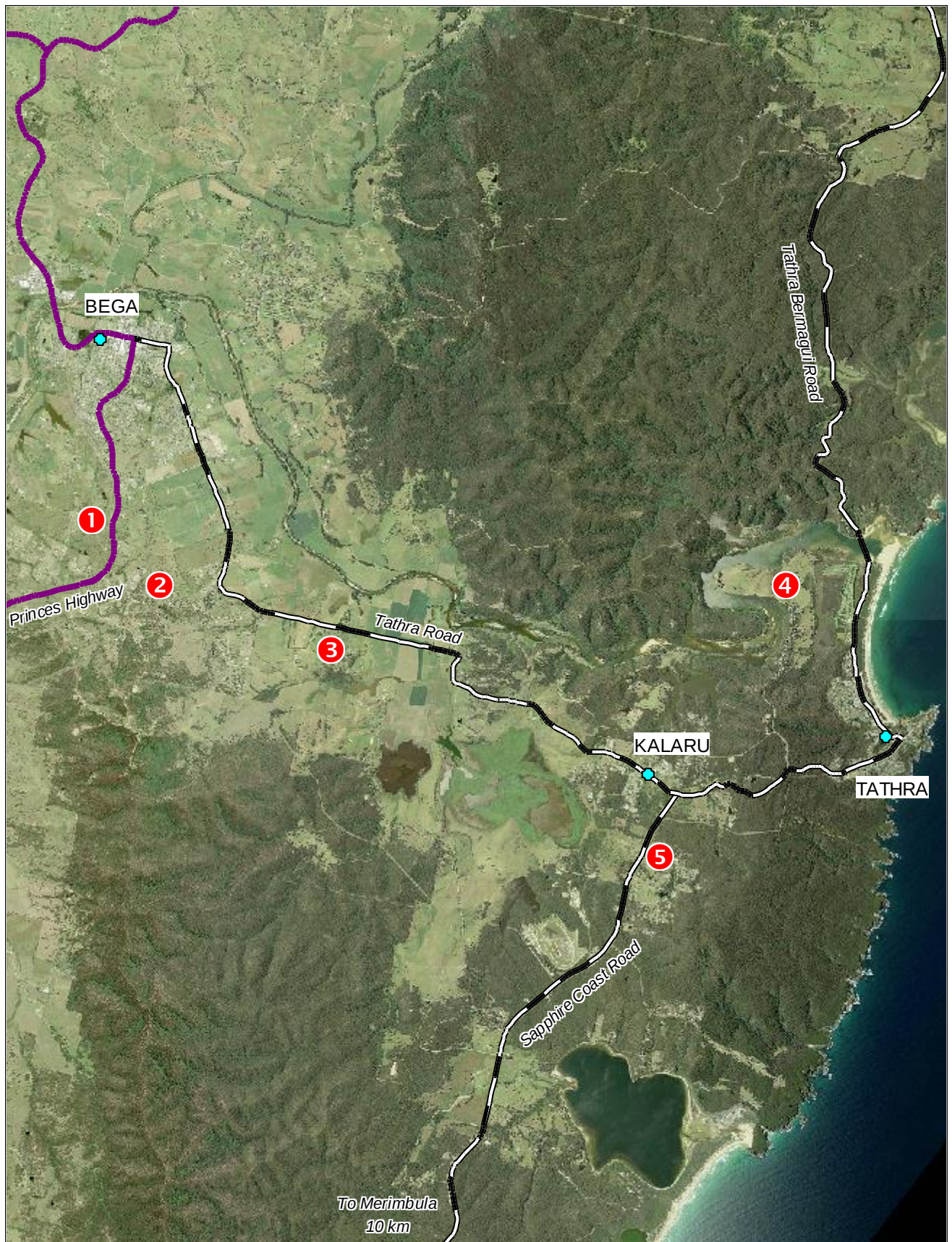


Figure 1: Properties in this planning proposal

Part 2 – Explanation of the Provisions

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

1. **Finucane Lane, Bega**

Lot 10 DP 1162109

Amend map sheet LAP_001 by deleting DM Deferred Matter

- Amend map sheet LZN_011C by applying R5 Large Lot Residential Zone
- Amend map sheet LSZ_011C by applying Z1 2 hectare.

2. **Princes Highway, Bega**

Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898

- Amend map sheet LAP_001 by deleting Deferred Matter
- Amend map sheet LZN_011C by applying R5 Large Lot Residential Zone
- Amend map sheet LSZ_011C by applying Y 1ha and Z2 3ha

3. **D’Arcy Lane, Jellat Jellat**

Lot 5210 DP 807872

- Amend map sheet LAP_001 by applying to Lot 5210 DP 807872 by deleting DM Deferred Matter
- Amend map sheet LZN_19A applying E4 Env. Living Zone to Lot 5210 DP 807872
- Amend map sheet LSZ_19A by applying Z1 2 hectares to Lot 5210 DP 807872

4. **Tathra River Estate, Thompsons Drive, Tathra**

Lot 2 DP 582074

- Amend map sheet LAP_001 by deleting DM Deferred Matter
- Amend map sheet LZN_019B by applying part R5 Large Lot Residential Zone, RE1 Public Recreation Zone and E2 Environmental Conservation
- Amend map sheet LSZ_019B by applying Y 1ha to the R5 Large Lot Residential Zoned land.

5. Sapphire Coast Drive, Kalaru

Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834

- Amend map sheet LAP_001 applying to Lot 22 DP 816824 and Lots 2-3 DP 249834 by deleting DM Deferred Matter
- Amend map sheet LZN_019 by applying E4 Environmental Living Zone to Lot 22 DP 816824 and Lots 2-3 DP 249834
- Amend map sheet LZN_019 from E3 Environmental Management to E4 Environmental Living Zone for Lot 21 DP 816824
- Amend map sheet LSZ_019 by applying Z1 2ha to Lot 22 DP 816824 and Lots 2-3 DP 249834.
- Amend map sheet LSZ_019 from AD 120 hectares to Z1 2ha for Lot 21 DP 816824

Part 3 – Justification

1. Finucane Lane, Bega

Lot 10 DP 1162109

Key Outcome: 0 additional lots



Figure 2: Finucane Lane, Bega: Subject Land Aerial Photograph

The property has an approximate site area of 24 hectares and holds a current Development Consent (DA 2003.0265) for an 11 lot subdivision with lots ranging in size from 1.1 to 5.3 hectares (see Figure 3). To date the consent has not been actioned to completion. This Planning Proposal aims to align the Minimum Lot Size with the previously approved subdivision.

The subject property is located approximately 1 kilometre south of the Bega town boundary. It is bounded by the Princes Highway to the east, Finucane Lane to the south and rural residential allotments to the west and north. The subject land is substantially cleared for light grazing and is dominated by a central gully running generally north-south (see Figure 2).

The land is not ideally suited to a more intensive form of subdivision given its steep and undulating topography, proximity to the Princes Highway and restrictions regarding the provision of town water. The approved 11 rural residential lots will act as infill development, forming part of a natural connection between the township of Bega and rural residential zoned land to the south.



Figure 3: Finucane Lane, Bega: Approved 11 Lot Rural Residential Subdivision

The subject land was deferred from BVLEP 2013 and is currently zoned 2(f) Future Urban under BVLEP 2002, with a minimum lot size of 550m². In Draft BVLEP 2010, the property was proposed to be zoned RU2 Rural Landscape with a minimum lot size of 20 hectares. The land located immediately to the south is currently zoned R5 Large Lot Residential with a minimum lot size of 2 hectares under BVLEP 2013.

In response to a submission received on behalf of the landowner during the public exhibition of Draft BVLEP 2010, the subject property was deferred from the BVLEP 2013 and the proposed zoning and minimum lot size controls reviewed. Subsequent to this review, it is proposed to zone the property R5 Large Lot Residential Zone with a minimum lot size control of 2 hectares to reflect the current Development Consent (see Figures 4 and 5). The lot averaging clause within the CLEP (2013) will allow the current approved lots to be created.

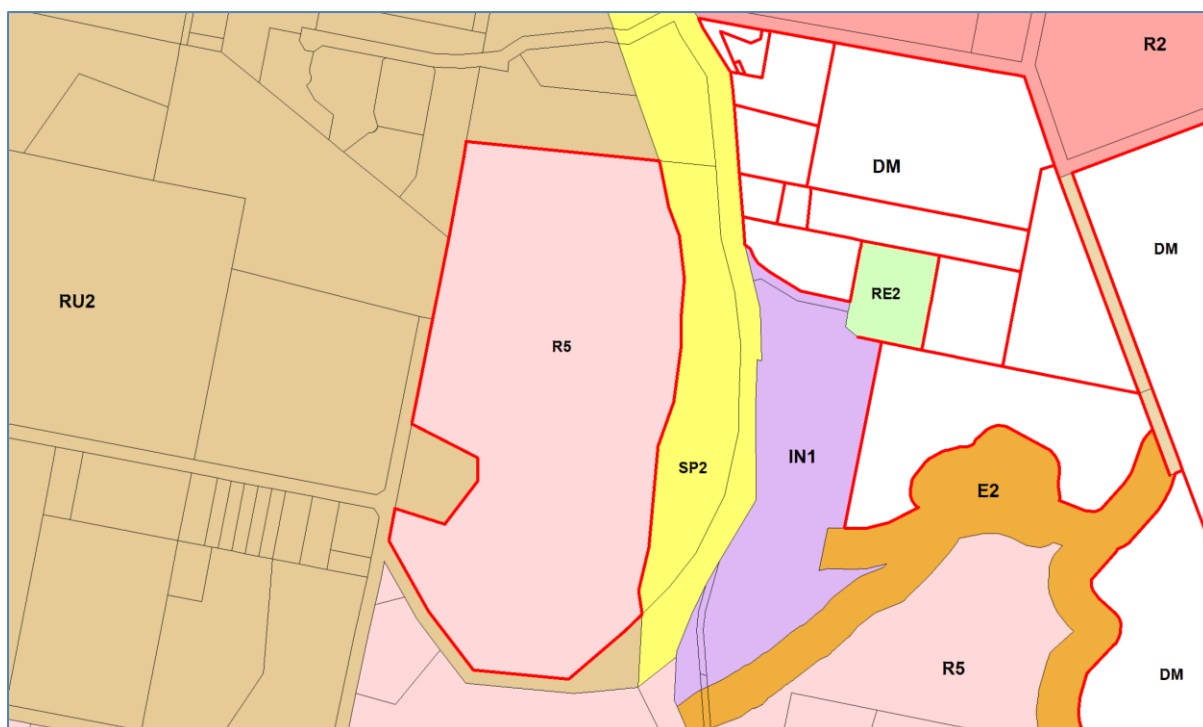


Figure 4: Finucane Lane, Bega: Proposed Zones

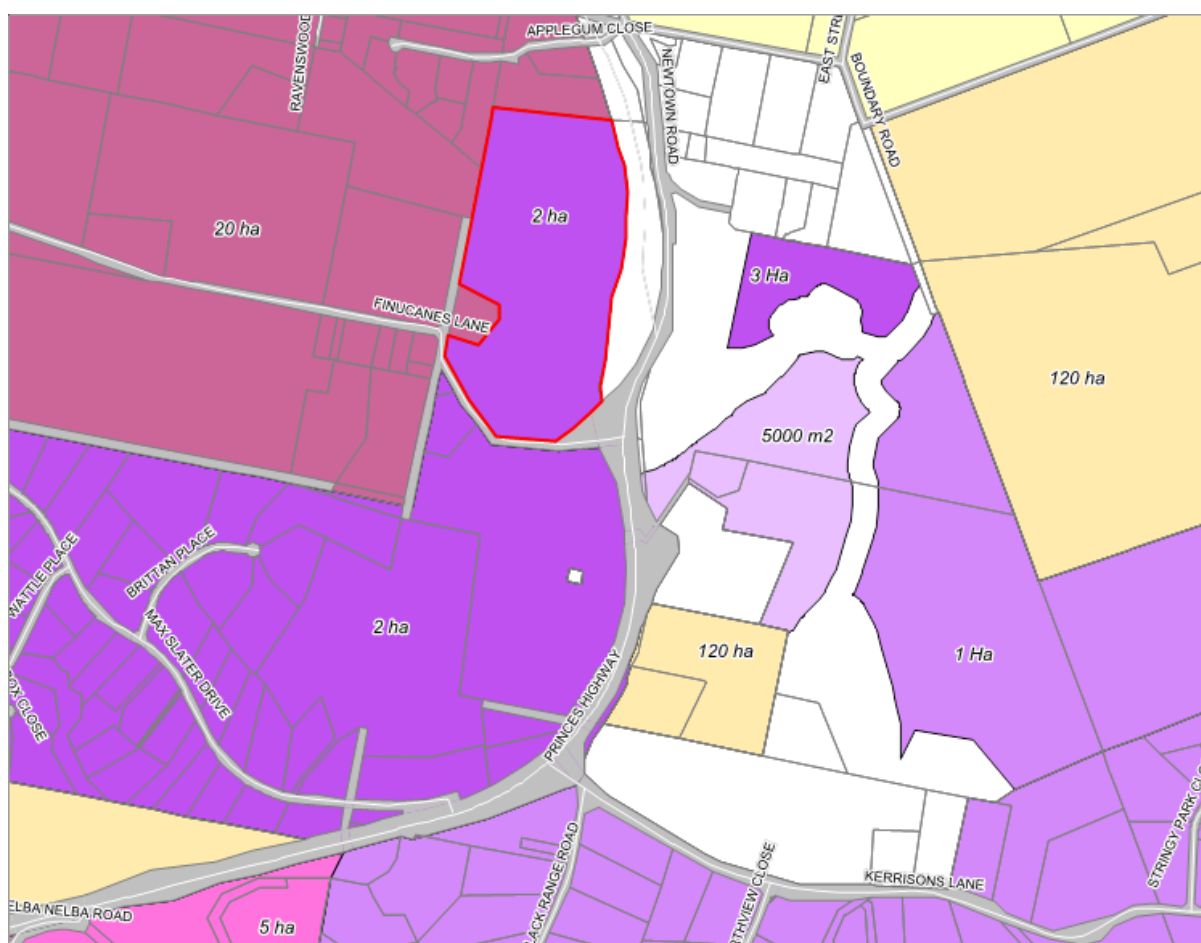


Figure 5: Finucane Lane, Bega: Proposed Minimum Lot Size

2. Princes Highway, Bega

Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898

Key Outcome: 0 additional lots



Figure 6: Princes Highway, Bega: Subject Land Aerial Photograph

In 2012, Council approved a staged subdivision to create 63 rural residential allotments on the subject land with lots ranging in size from 3,870m² to 2.3 hectares (see Figure 7). Access to the subdivision is via Kerrisons Lane to the south and Bega-Tathra Road to the east. Two allotments gain access from the Princes Highway to the west.

The land that is the subject of this planning proposal is the whole of Lot 1510 DP 1077898 and parts of Lot 4 DP 1077434 and Lot 2432 DP 793758, which consists of a combined area of approximately 94 hectares. The subject land is bounded by the Princes Highway to the west and Bega-Tathra Road to the east (see Figure 6).

The existing Bega urban area is located to the north of the subject land, the Bega Cemetery is immediately to the south/west and Council's saleyards are to the south. The subject land is predominantly cleared and is currently used for light grazing. The site is undulating, including a high point in the southwest corner with ridges running to the north and east and contains two significant

drainage lines. A large farm dam and several smaller dams are located along the numerous drainage lines that traverse the site.



Figure 7: Princes Highway, Bega: Approved 63 Lot Rural Residential Subdivision

The subject land was deferred from BVLEP 2013 pending a review of proposed zoning and minimum lot size controls and is currently zoned 2(f) Future Urban with a minimum lot size of 2,000m² under the BVLEP 2002. Under Draft BVLEP 2010 the subject land was proposed to be zoned R5 Large Lot Residential with a minimum lot size of 5,000m². The remainder of Lot 4 DP 1077434 and Lot 2432 DP 793758 that is not deferred from BVLEP 2013 is currently zoned IN1 General Industrial with an E2 Environmental Conservation buffer protecting the environmentally sensitive land and separating the two land uses.

Following a review of the proposed zoning and minimum lot size controls Council resolved to retain the proposed R5 Large Lot Residential Zone, but to apply a minimum lot size control of 3,000m² to reflect the current Development Consent for the subject land (see Figures 8 and 9). The Development Application for the subdivision was lodged and approved after the exhibition of Draft BVLEP 2010 and was approved by Council following an analysis of the environmental issues associated with the proposed development in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*.

Following further negotiations with the Department of Planning, it is now proposed to recommend a lot size of 1ha (61 lots) and 3ha (2 large lots at northern end of site). The lot averaging clause allows for the range of lot sizes approved in the existing subdivision layout.

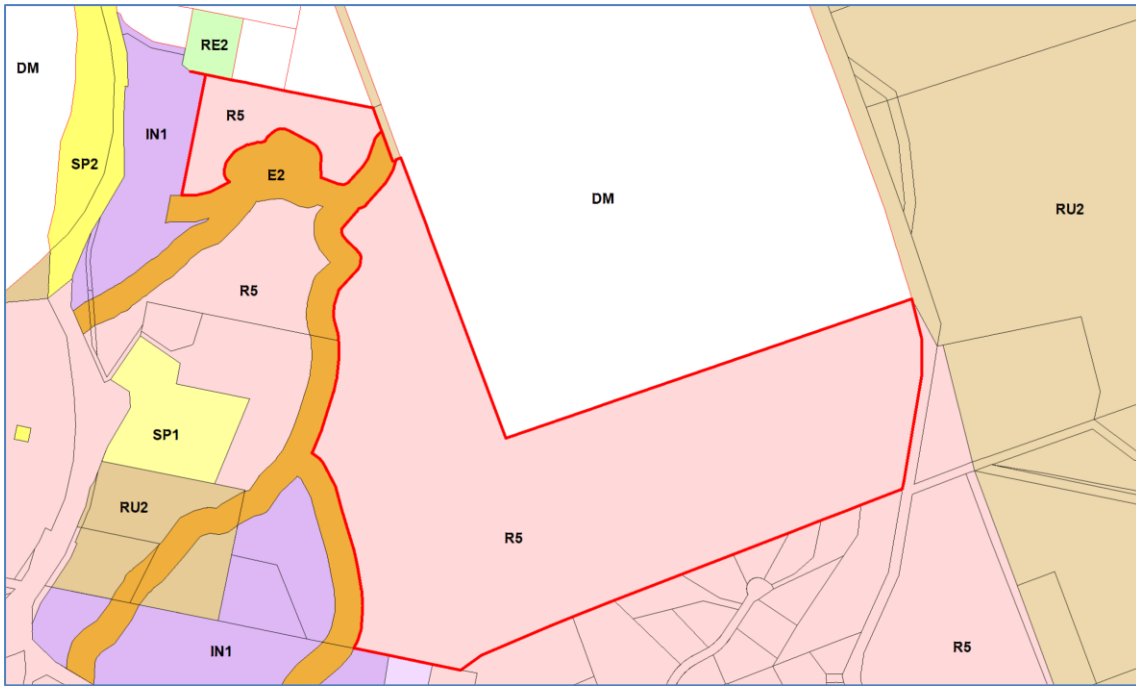


Figure 8: Princes Highway, Bega: Proposed Zoning

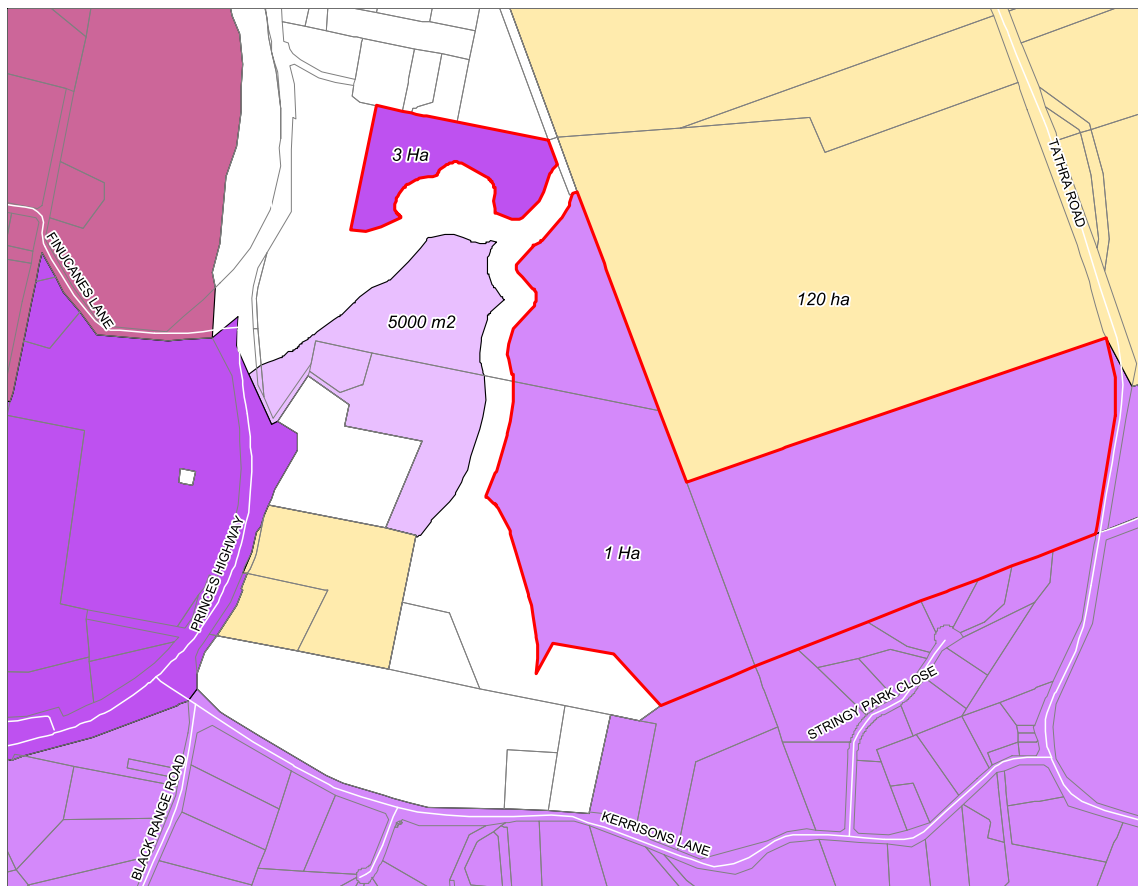


Figure 9: Princes Highway, Bega: Proposed Minimum Lot Size

3. D'Arcy Lane, Jellat Jellat

Lot 5210 DP 807872

Key Outcome: 0 additional lots



Figure 10: D'Arcy Lane, Jellat Jellat: Subject Land Aerial Photograph

The subject property is located at Jellat Jellat, approximately 6 kilometres to the southeast of the Bega Town Centre. Council has approved a 2 lot rural residential subdivision that creates a 5,000m² allotment in the southeast corner of Lot 5210 DP 807872 which has not been completed to date. This planning proposal aims to permit an alternative pattern of subdivision of this lot into two lots of approximately 2 hectares each that will fit better with the surrounding pattern of development.

Adjoining the subject property to the south is a small fully developed rural residential subdivision with lots ranging in size from approximately 1.5 to 3.6 hectares. The remainder of the surrounding land is used for agricultural purposes including cropping, dairying and livestock grazing.

Lot 5210 DP 807872 was deferred from BVLEP 2013 pending a review of the proposed zone and lot size and is currently zoned 1(a) Rural General Zone with a minimum lot size control of 120 hectares under the BVLEP 2002.

In response to a submission received on behalf of the landowner of Lot 5210 DP 807872 during the public exhibition of Draft BVLEP 2010, Council reviewed the zoning and minimum lot size control for the land.

The proposed zone and lot size represent a natural extension of the adjoining subdivision to the south and an infilling of an existing developed area. Council's Development Control Plan 2013 identifies the Bega River Flats at Jellat Jellat as a premium rural landscape. It acknowledges the strong demand for rural residential developments on the elevated lands adjoining the flats, which includes the subject land, and comprises requirements to minimise the impact on the visual integrity of the landscape.

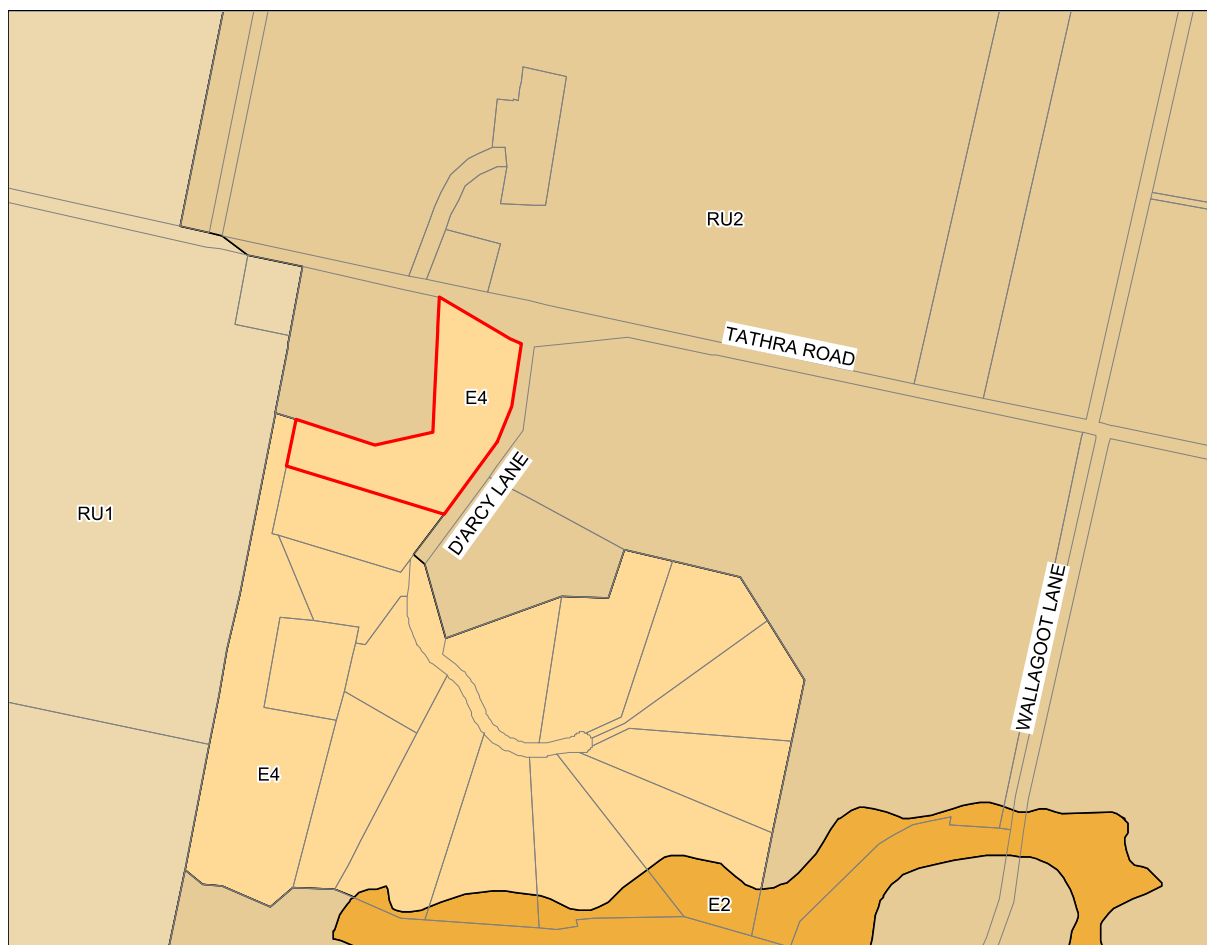


Figure 11: D'Arcy Lane, Jellat Jellat: Proposed Zone

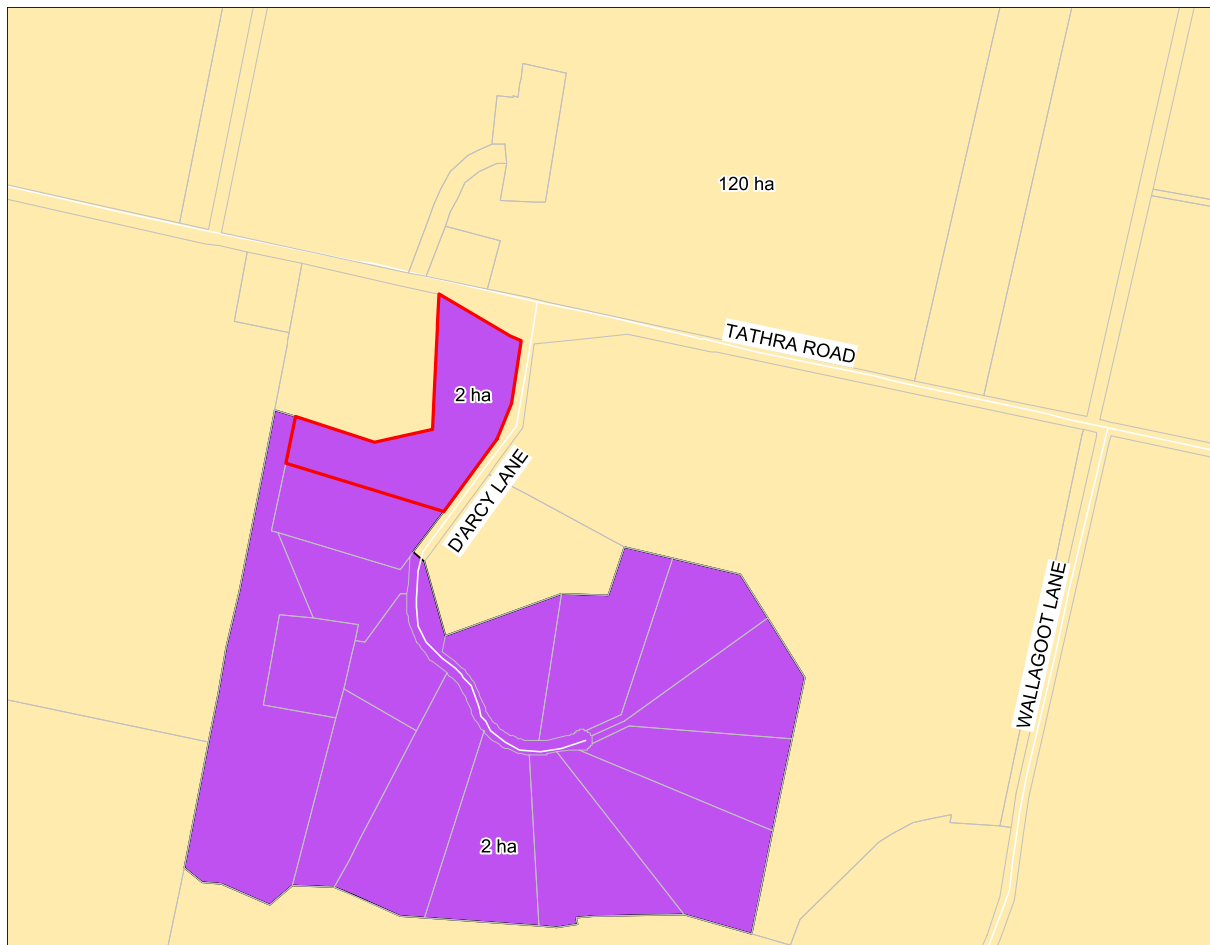


Figure 12: D'Arcy Lane, Jellat Jellat: Proposed Minimum Lot Size

4. Tathra River Estate, Thompsons Drive, Tathra

Lot 2 DP 582074

Key Outcomes: - 20 additional lots, appropriate zoning and lot sizing applied across entire site



Figure 13: Thompsons Drive, Tathra: Subject Land Aerial Photograph

Tathra River Estate is located approximately 2 km north-west of Tathra beside the Bega River Estuary. The subject land comprises approximately 130 hectares of mostly cleared grazing land and is located west of the existing Tathra River Estate Stage 1, which comprises 63 residential allotments (see Figure 13).

Tathra River Estate has a long history of development proposals ranging from 500 residential lots to the current rural residential proposal. The site was approved for development by the South Coast Sensitive Urban Lands Review (2006).

Three SEPP 14 – Coastal Wetlands encroach onto the subject land (see Figure 13) and a number of intermittent watercourses with several small to medium sized farm dams are present. The subject land is accessed via Thompsons Drive, which provides access from Tathra Road to the south. Tathra Road provides access Tathra and the Princes Highway.

Zoning History

The subject land was deferred from BVLEP 2013 and was zoned a mix of 1(a) Rural General Zone, 2(a) Residential Low Density Zone, 2(c) Residential Tourist Zone, 6(a) Existing Open Space Zone and 7(b) Environment Protection Foreshore Zone under BVLEP 2002.

In the Draft BVLEP 2010 the property was proposed to be zoned a mix of E2 Environmental Conservation Zone, E3 Environmental Management Zone R2 Low Density Residential Zone and R3 Medium Density Residential Zone. The proposed minimum lot size controls were 120 hectares for the E3 Environmental Management Zone, 550m² for the R2 Low Density Residential Zone and 1,000m² for the R3 Medium Density Residential Zone. With regard to the E2 Environmental Conservation Zone no minimum lot size was proposed. This proposed zoning and lot sizes was based on the best fit of the existing BVLEP 2002 controls as the Master Plan process was not completed at the date of exhibition.

The subject property was deferred from BVLEP 2013 in response to a submission received on behalf of the landowner during the public exhibition period of Draft BVLEP 2010. Subsequent to a review of the proposed zoning, Council resolved to zone the majority of the property R5 Large Lot Residential Zone with a minimum lot size control of 5,000m² with the exception of the western river flats, which are to be zoned RE1 Public Recreation (see Figures 15 and 16). The exhibited E2 Environmental Conservation Zone around the foreshore and the SEPP 14 coastal wetland sections of the entire property are proposed to remain.

Masterplan and Stage 2 Development

A large part of the property is the subject of an approved Master Plan, which includes 32 low density residential allotments ranging in area from 4,750m² to 1.77 hectares. Each of the residential allotments provides a building envelope, effluent treatment for on-site sewage management, and an Asset Protection Zone (APZ). The Master Plan proposal will comprise Stage 2 of the Tathra River Estate (see Figure 14).

Subsequent to the Masterplan Approval, a Development Application for 32 lots has been approved, following extensive scientific and infrastructure investigations and State Agency involvement. The Master Plan subdivision layout was designed to utilise the current zoning with all of the proposed residential allotments confined within the residential zoned land. The existing environmental and open space protection zones will be integrated with the existing foreshore reserve system.

This Planning Proposal recommends an R5 Zone be applied to the approved lots in Stage 2 and that a 1ha minimum lot size that does not allow for re-subdivision of lots created under the Development Application, also be applied. (See Figures 15 and 16).



Figure 14: Thompsons Drive, Tathra: Approved Master Plan Concept Design Tathra River Estate Stage 2

The R5 Large Lot Residential zone in combination with the 1ha minimum lot size is appropriate to ensure spatial capacity for future residential development to dispose of effluent via on-site sewerage management systems. The proposed R5 Large Lot Residential Zone is consistent with the approved Master Plan which applies to the part of the subject land that was previously zoned for urban purposes. Urban development or intensive residential zoning is not suitable for the land as connection to Tathra's reticulated sewage infrastructure is not foreseeable due to servicing limitations and capacity restrictions.

The area between the approved Stage 2 lots and the wetlands is proposed to be zoned E2 and will be dedicated to Council as public reserve.

Remainder of Tathra River Estate

The remainder of the subject land that is not covered by the Master Plan, to the north and north-west is proposed to be zoned a mix of R5, RE1 and E2. The proposed R5 Large Lot Residential zone will incorporate some 40 hectares of currently cleared land. The land is similar in nature to that covered by the Stage 2 approval and is suitable for rural residential purposes as it is above the 1:100 ARI Flood Line, not subject to Acid Sulphate Soils, outside the Coastal Risk Area and does not contain SEPP 14 wetlands.

At its meeting of 14th December 2016, Bega Valley Shire Council confirmed that minimum lot size of 1ha is appropriate for the remaining R5 land not covered by the Masterplan. This would result in 20 - 30 further lots being able to be developed. By using the various setback provisions, lot size and effluent disposal requirements that informed the approval of Stage 2, Council staff have confirmed

that the 20 - 30 lot figure would be the maximum appropriate development intensity for this site. The R5 Zone allows for lot averaging which will provide flexibility in lot sizing and positioning, that does not significantly impact on the sites environmental and aesthetic values.

The river flat area at the extreme western end of the property is proposed to be RE1 Public Recreation, while the estuarine foreshore and wetland areas will be added to the existing E2 zone that surrounds Tathra River Estate.

There is a demonstrated strong demand for rural residential development in the Tathra – Kalaru area, with only 6 vacant lots available in the catchment and no further supply projected to come to market. Tathra River Estate is the only “coastal rural residential” development available in the Shire and is already the subject of strong interest from prospective purchasers.

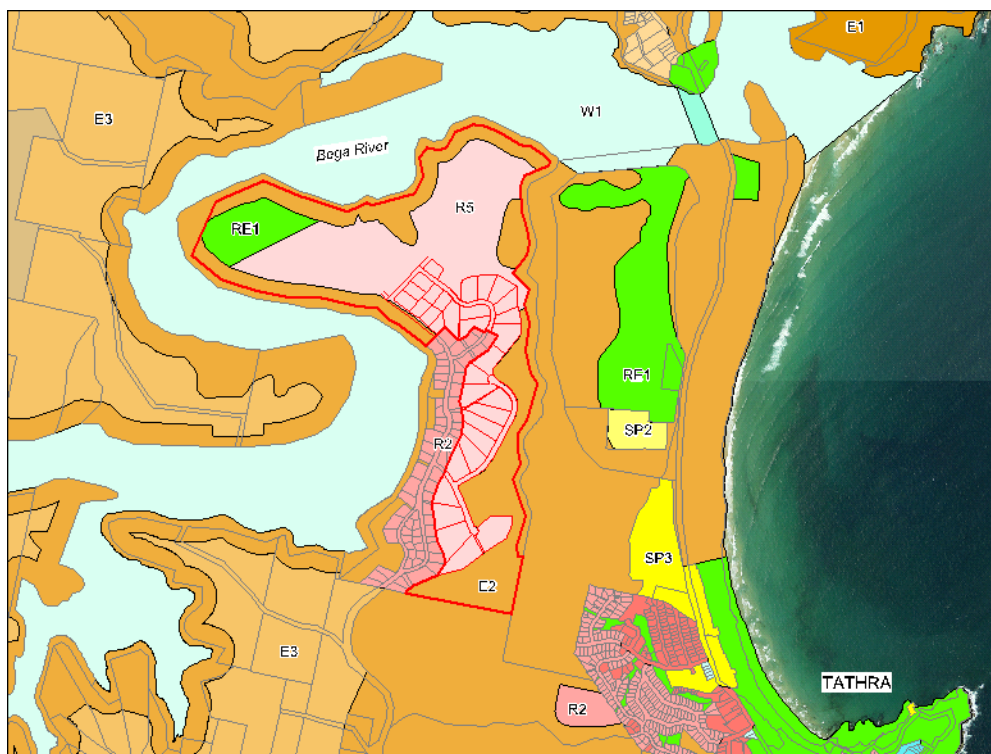


Figure 15: Thompsons Drive, Tathra: Proposed Zones and Stage 2 Subdivision (red lots)

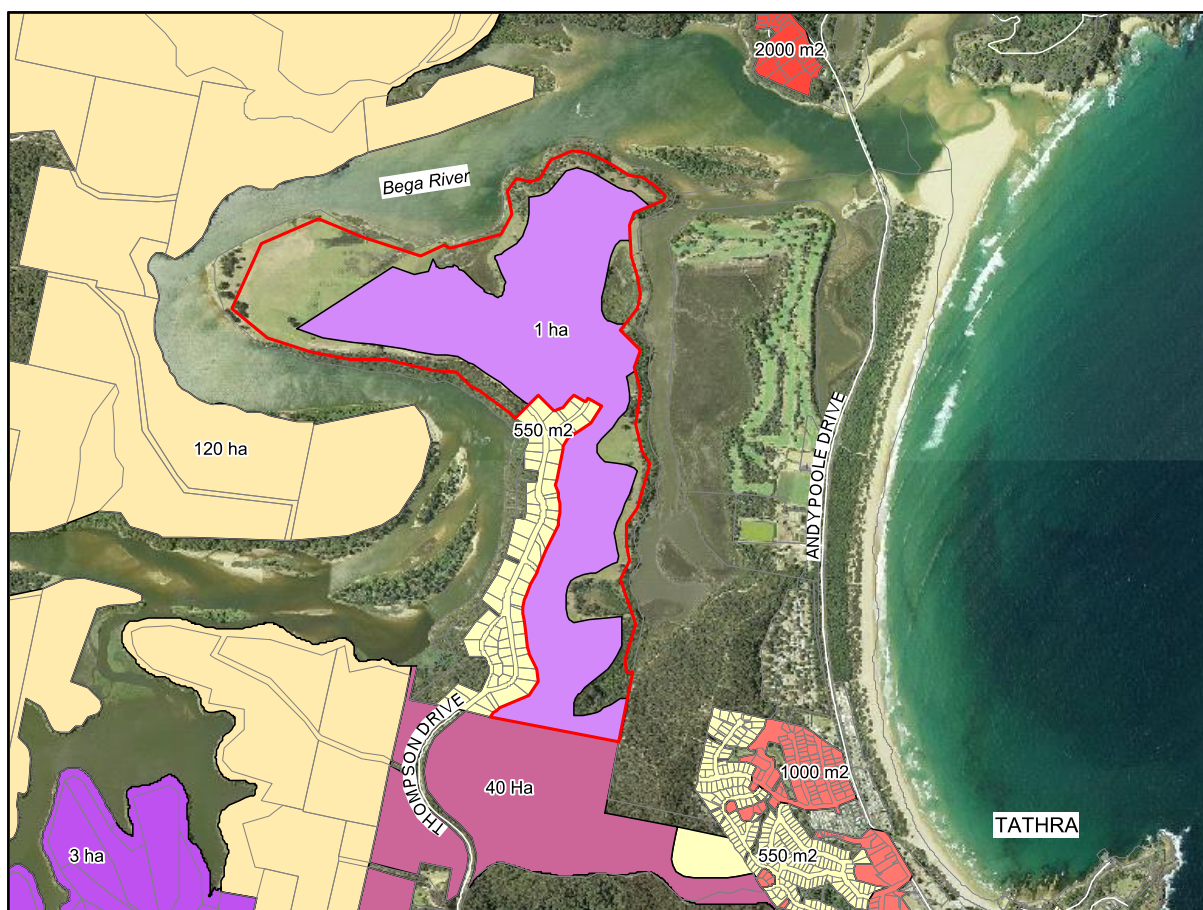


Figure 16: Thompsons Drive, Tathra: Proposed Minimum Lot Size

5. Sapphire Coast Drive, Kalaru

Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834

Key Outcomes: 4 lots



Figure 17: Sapphire Coast Drive, Kalaru: Subject Land Aerial Photograph

The subject land is located approximately 1.5 kilometres to the southeast of Kalaru and is bounded by Sapphire Coast Drive to the west and Bournda Park Way to the south.

Lot 22 DP 816824 and Lots 2-3 DP 249834 are known as “Kalaru Lodge” and comprise a combined site area of 9.3 hectares. The property currently contains a dwelling house, 5 self-contained farm holiday cottages and ancillary facilities. Lot 21 DP 816824 adjoins the “Kalaru Lodge” property to the east and comprises a site area of approximately 1 hectare. This property is currently developed for rural residential lifestyle and contains a rural residence and associated outbuildings and landscaping.

Adjoining the subject properties to the east is an existing rural residential subdivision comprising approximately 50 allotments ranging in size from 5,000m² to 1.6 hectares. The majority of the allotments within this existing subdivision have been developed for rural residential lifestyle (see Figure 17).

Lot 22 DP 816824 and Lots 2-3 DP 249834 are deferred from BVLEP 2013 pending a review of the exhibited zoning and lot size and are currently zoned 1(a) Rural General with a minimum lot size control of 120 hectares under BVLEP 2002. In Draft BVLEP 2010 the properties were proposed to be zoned E3 Environmental Management Zone with a minimum lot size control of 120 hectares. Lot 21 DP 816824 is currently zoned E3 Environmental Management Zone with a minimum lot size control

of 120 hectares. The rural residential subdivision located to the east of the subject land is currently zoned E4 Environmental Living Zone with a 2 hectare minimum lot size under BVLEP 2013.

In response to a submission received on behalf of the landowner during the public exhibition of Draft BVLEP 2010, the proposed zoning and minimum lot size control applying to the “Kalaru Lodge” property was reviewed.

Subsequent to the review, Council resolved to zone the “Kalaru Lodge” property E4 Environmental living Zone with a minimum lot size control of 1 hectare.. Council also resolved to zone the adjacent Lot 21 DP 816824 E4 with a 1ha minimum lot size to ensure consistency of zoning in the area, which will not result in any further subdivision potential for this lot (see Figures 18 and 19). Following further review and discussion with the Department of Planning, it is proposed to apply the Z1 2 ha lot size to the site which will result in 4 additional lots being created.

The proposed zoning and minimum lot size amendments are suitable given that the subject properties represent a natural extension of the adjoining rural residential subdivision to the east and an infilling of an existing developed area. The properties are within relatively close proximity to the Kalaru, Merimbula and Bega service centres, have sealed and practical road access, garbage collection and school bus services, existing electricity and telecommunications infrastructure and a demonstrated capacity to address bushfire and environmental issues. The properties have good aspect and topography and the development resulting from this planning proposal will fit in well with the surrounding pattern of rural residential development.

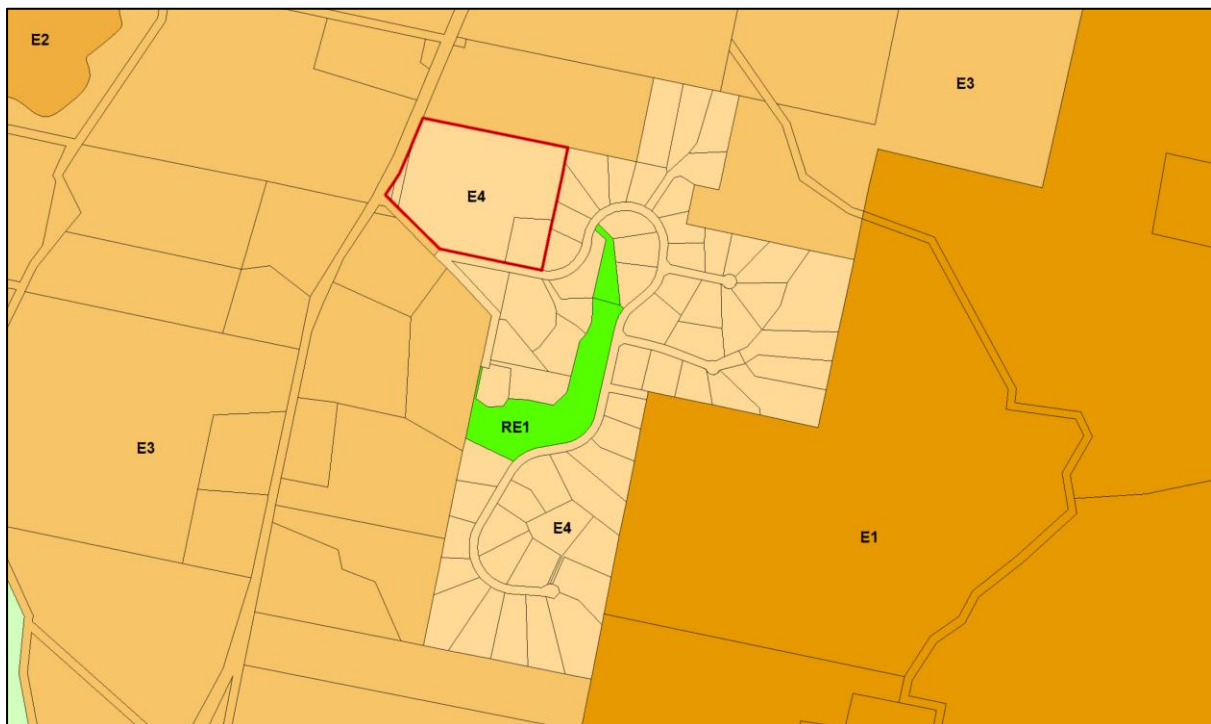


Figure 18: Sapphire Coast Drive, Kalaru: Proposed Zones

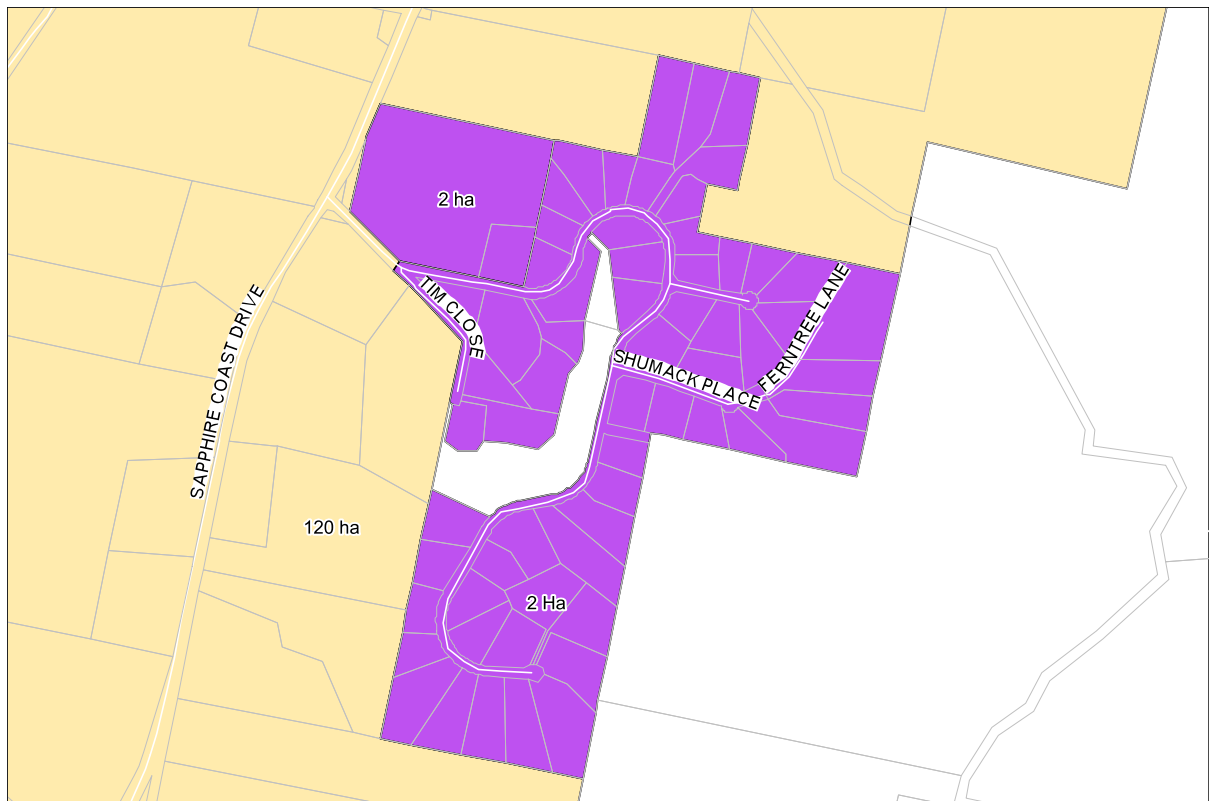


Figure 19: Sapphire Coast Drive, Kalaru: Proposed Minimum Lot Sizes

Section A – Need for the planning proposal

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

Council resolved on the 13th December 2005 to prepare a draft Comprehensive Local Environmental Plan to replace BVLEP 2002. The Draft BVLEP 2010 was prepared based on the following:

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of 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 12th May 2011 to the 29th July 2011 and 456 submissions were received. Following consideration of those submissions, Council categorised them into four groups:

- Appendix 1: Support (or partial support) for the submission request, with only minor changes required to the exhibited Draft CLEP. The CLEP was amended in line with these recommendations.
- Appendix 2: Support (or partial support) for the submission request, however, due to the nature of changes proposed, re-exhibition would be required. Land subject to the submissions is to be identified as a ‘deferred matter’ in the CLEP. Staff are to prepare planning proposals seeking to amend the CLEP, once adopted, in accordance with Councils’ resolutions and a “gateway determination” by the Minister for Planning required prior to re-exhibition.
- Appendix 3: Further research is to be carried out by Council staff prior to progressing a resolution of the submissions via a future report to Council. Land subject to the submissions is to be identified as a ‘deferred matter’ in the CLEP.
- Appendix 4: No agreement with the submission request, or the submission to be noted, but no need for further action at this time. No change to exhibited draft CLEP is required.

The full Council Report and adopted minutes from the relevant meeting of 12th June 2012 are provided 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.

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.

Section 6 of the Strategy addresses Housing and Settlement and identifies that the future demand for dwellings in the Bega Valley is estimated to be 8,600 over the next 25 years. With a significant proportion (approximately 25%) of Bega Valley residents currently choosing to live in rural areas outside of towns and villages, Council needs to ensure the provision of rural residential opportunities to accommodate the expected population growth and demand.

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

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

As the properties subject to this planning proposal have had development approvals issued for subdivision to occur, the agricultural value of the lands has effectively been extinguished. As such the compatible with the SCRS 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. Tathra River Estate Stage 2 (Lot 2 DP 582074 Thompsons Drive, Tathra) was one of the key sites investigated as part of the Review.

The Review concluded that Lot 2 DP 582074 was suitable for limited urban development subsequent to a number of conditions being met.

As detailed in Part 3, Lot 2 DP 582074 is currently the subject of an approved Master Plan, which proposes 32 low density residential allotments with associated on-site sewerage management systems. The Master Plan considers the abovementioned principles and demonstrates sustainable outcomes with regard to environment, economic and social impacts. This planning proposal provides for zoning amendments that are consistent with the approved Master Plan and 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.

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.

Bega and District Strategic Directions Report January 2006

With regard to rural residential land supply this planning proposal is consistent with the following aspects of the Bega and District Strategic Directions Report January 2006:

- environmental constraints point to the need to encourage development in and around settlements, as well as inland but within easy distance of the popular coastal areas.
- It is preferable that existing smallholdings zones be nearing development capacity or reviewed and rezoned more appropriately before new zones are created. Such a strategy is aimed at

encouraging the most efficient use of existing and new service infrastructures and at reducing the environmental footprint of rural settlements and their impact on agricultural viability.

Q5. Is the planning proposal consistent with applicable State Environmental 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. 14 Coastal Wetlands

SEPP 14 Coastal Wetlands aims to protect and preserve coastal wetlands.

This proposal is consistent with SEPP 14. Lot 2 DP 582074 Tathra River Estate, Thompsons Drive, Tathra contains mapped SEPP 14 wetlands. With regard to the approved Master Plan applying to the land, all proposed dwellings and effluent disposal areas will be set back from the wetlands by at least 100 metres. The SEPP 14 wetlands that occur within the subject property are incorporated into a proposed foreshore reserve open space system that will integrate with the existing foreshore reserve system.

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.

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.

This proposal is consistent with SEPP 71. Lot 2 DP 582074 Thompsons Drive, Tathra is located within the coastal zone in an area designated as a sensitive coastal location. A Master Plan in accordance with Clause 18 of SEPP 71 for a 32 lot low density residential subdivision has been approved by the Department of Planning and Environment.

With regard to the remainder of the land at Tathra River Estate that was not subject to the approved Master Plan, this planning proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek. The Minister may require that a Master Plan be prepared for future development of this land.

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 enable additional rural residential developments in areas that are appropriate for agriculture. Such rural residential development is justifiable as it is compatible with nearby existing and approved uses of land and is unlikely to significantly impact on agricultural land uses in the vicinity.

SEPP Mining, Petroleum Production and Extractive Industries 2007

This SEPP standardises the approach throughout NSW to the assessment and approval of mining activities under Part 4 of the EP&A Act. Under the SEPP, the relevant consent authority in determining an application must consider the compatibility of the proposed development with mining, petroleum production or extractive industry.

This planning proposal does not seek to allow for a mining, petroleum production, or extractive industry within the subject properties.

Q.6 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. Lot 5210 DP 807872, Lot 3 DP 735201 and Lot 51 DP 740926 D'Arcy Lane, Jellat Jellat, Lots 21 & 22 DP 716824 and Lots 2 & 3 DP 249834 Sapphire Coast Drive, Kalaru, parts of Lot 2 DP 582074 Tathra River Estate, Tathra.

This inconsistency is justified as the loss of agricultural production value is minor in terms of the capability of the Bega Valley Shire. The majority of the subject land identified above consists of parcels that are too small to support any viable agricultural production.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

The objective of this Direction is to ensure that the future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

This planning proposal is consistent with this Direction.

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 proposes to increase the permissible density of land that is currently used for light grazing. The subject land at Sapphire Coast Drive, Kalaru and parts of Tathra River Estate, Tathra both currently have a rural zoning.

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.

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.

All or parts of the subject land at Tathra River Estate, Thompsons Drive, Tathra and Sapphire Coast Drive, Kalaru are proposed to be zoned E4 Environmental Living Zone E3 Environmental Management or E2 Environmental Conservation in recognition of the relative environmental values of the land.

Parts of Lot 2 DP 582074 Thompsons Drive, Tathra are proposed to be zoned E2 Environmental Conservation in this planning proposal. The application of the E2 Zoning will protect the functional estuarine ecosystem of the Bega River, provide an effective foreshore buffer and a buffer for private property/assets from normal flooding as well as future coastal hazards associated with climate change (induced sea level rise and storm surges).

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 appropriate zones to Lot 2 DP 582074 Thompsons Drive, Tathra 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.

With regard to the development of Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898 Princes Highway, Bega, NSW Archaeology Pty Ltd was commissioned in November 2005 to undertake a programme of subsurface test excavation. As part of their assessment, NSW Archaeology concluded that whilst there are an abundance of Aboriginal objects present within the subsurface context across the site, there are no Aboriginal constraints that would preclude the 63 lot subdivision. A series of recommendations for the management and mitigation of impacts associated with the subdivision were however identified. The Development Consent issued by Council for the development of the land requires the landowner to apply for an Aboriginal Heritage Impact Permit (AHIP) under Section 90 of the National Parks and Wildlife Act 1974 prior to subdivision works commencing on-site.

Over the past 29 years, Lot 2 DP 582074 Tathra River Estate, Thompsons Drive, Tathra has been the subject of five separate Aboriginal heritage assessments. NSW Archaeology Pty Ltd conducted the most recent of these investigations in 2005 and 2009. As part of the master planning process for Stage 2 of the Tathra River Estate, NSW Archaeology prepared a preliminary Aboriginal heritage assessment to support the proposal, which concluded that whilst there are Aboriginal objects present across the site, there are no Aboriginal constraints that would preclude a proposed subdivision development. However, a series of recommendations for the management and mitigation of impacts associated with the subdivision were identified. A Section 90 Aboriginal Heritage Impact Permit (National Parks and Wildlife Act 1974) is required for the majority of the subject land. It was recommended that this permit be sought from the NSW Office of Environment and Heritage following approval of the Master Plan.

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.

4.1 Acid Sulphate Soils

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

This planning proposal is inconsistent with this Direction as it applies to land that has a probability of containing acid sulphate soils. Lot 2 DP 582074 Thompsons Drive, Tathra is identified on the BVLEP 2013 Acid Sulphate Soils Map as containing Class 1 and /or Class 2 Acid Sulphate Soils (see Figure 23 & 24).

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. Under Clause 6.1 of BVLEP 2013 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.

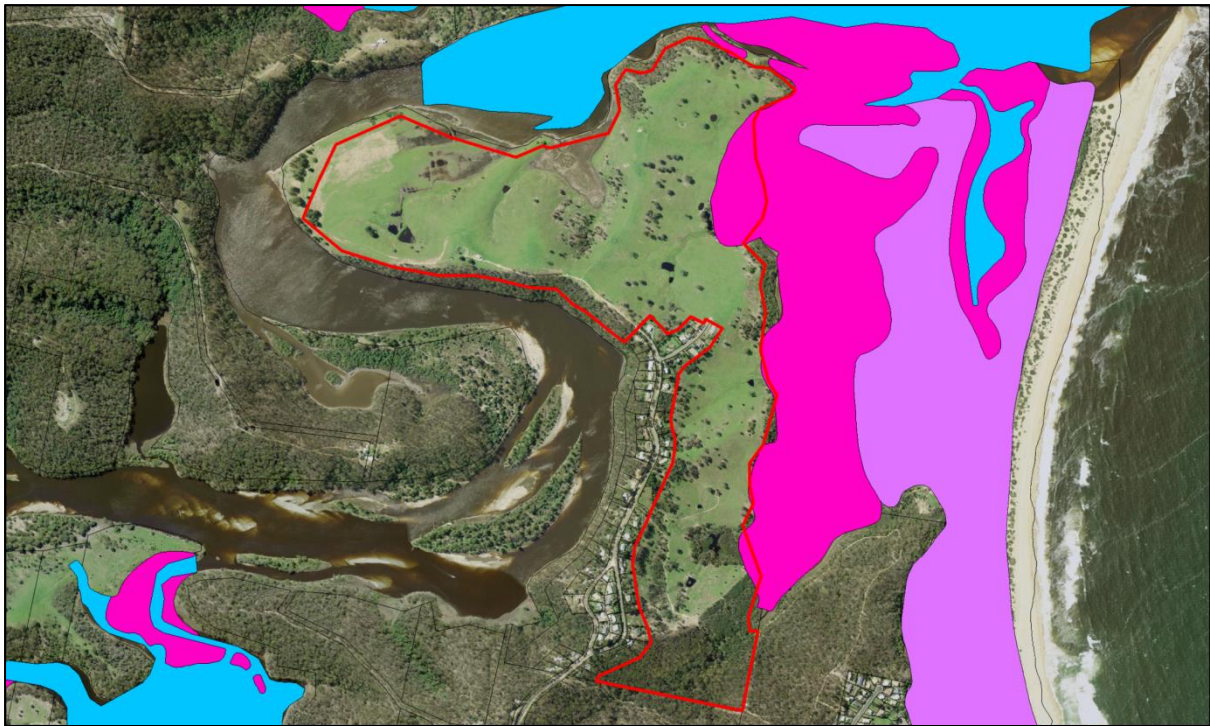


Figure 23: Thompsons Drive, Tathra: Acid Sulfate Soils (blue = Class 1 / pink = Class 2)

A review of the potential for acid sulphate soil Lot 2 DP 582074 Thompsons Drive, Tathra demonstrated that this planning proposal does not propose an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the BVSC Acid Sulfate Soils Planning Maps.

With regard to Lot 2 DP 582074 Thompsons Drive, Tathra the majority of the land mapped as containing acid sulphate soils is proposed to be zones as E2 Environmental Conservation which will reduce the risk to the surrounding ecosystems from acid leaching into the environment from the disturbance of the soil or groundwater and limit development proposals with the potential for ecologically unsustainable cumulative impacts on water systems and biodiversity. A small area of land mapped as containing acid sulphate soils is proposed to be zoned R5 however this land is low lying and adjacent to an E2 zoned SEPP 14 wetland and as such is highly unlikely to be impacted by any rural residential development that results from this planning proposal.

4.3 Flood Prone Land

This Direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This planning proposal is consistent with this Direction as it contains provisions that aim to 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 the 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. With regard to threatened species, populations or ecological communities, we advise as follows:

Lot 10 DP 1162109 Finucanes Lane, Bega

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.

Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898 Princes Highway, Bega

The subject properties were surveyed as part of the planning process for the approved 63 lot rural residential subdivision of the land. The surveys were undertaken by an environmental consultancy that found that the subject site includes Lowland Grassy Woodland, which is an Endangered Ecological Community (EEC). The community has been extensively cleared and simplified by past agricultural practices and some parts of the subject land have been cleared to the extent that the EEC no longer occurs. In other areas the EEC is in low condition, due to the dominance of exotic pasture in the understorey.

It was also found that the subject site provides simple habitat for open country fauna, including threatened microbats, which were recorded over a dam in the subject site. It was noted that the most valuable habitat resource within the subject site was the presence of 50 hollow bearing trees.

The consultancy concluded that it would be unlikely that the proposal would generate a significant impact to migratory or threatened species, population or community listed under the *Threatened Species Conservation Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999*. To manage the biodiversity impacts the land owner has signed a Property Vegetation Plan and agreed to manage 18.92 hectares of native vegetation in perpetuity as an offset against the clearing of paddock trees from the road construction site, there is no native groundcover in the area to be disturbed for the access road. The majority of the offset area follows the existing drainage lines and is contained within the adjacent E2 Environmental Conservation Zone on parts of Lot 4 DP 1077434 and Lot 2432 DP 793758 that are not included in this planning proposal.

Lot 5210 DP 8078712, D'Arcy Lane, Jellat Jellat

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.

Lot 2 DP 582074 Tathra River Estate, Thompsons Drive, Tathra

This area was surveyed as part of the master planning process for Stage 2 of the Tathra River Estate. The surveys undertaken by an environmental consultancy found that exotic pasture with scattered

remnant trees dominates the subject land. Several areas, particularly in the south, north and east of the subject land were identified as supporting native vegetation communities including Southeast Lowland Grassy Woodland, Southeast Coastal Gully Shrub Forest, South Coast Lowland Swamp Woodland, Estuarine Saltmarsh, Estuarine Creekflat Scrub and Acacia Scrub.

Three Endangered Ecological Communities were identified within the subject land and included Lowland Grassy Woodland, Swamp Sclerophyll Forest and Coastal Saltmarsh. No threatened flora species were recorded within the subject land and none are expected to occur there.

Fauna habitats within the subject land are relatively limited given their generally heavily modified condition and no threatened fauna species are known to occur on the subject land. Despite this, a number of fauna habitats of value were identified including seven hollow-bearing trees and a variety of water habitats including relatively undisturbed estuarine habitats.

Following the application of the relevant assessment guidelines, it was concluded that the proposed subdivision into 32 large residential allotments with the provision of a building envelope, access, effluent management and Asset Protection Zone and two residual allotments, is unlikely to have a significant effect on threatened species, endangered populations, ecological communities or their habitats.

Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834 Sapphire Coast Drive, Kalaru

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.

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

Lot 10 DP 1162109 Finucanes Lane, Bega, Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898 Princes Highway, Bega

These sites are the subject of approved subdivisions which the planning proposal aims to adjust the minimum lot size map to conform with. As such the environmental impacts will result from the planning proposal for these properties have already been considered in the assessment of the subdivisions under the Environment Planning and Assessment Act 1979.

Lot 2 DP 582074 Tathra River Estate, Thompsons Drive, Tathra

This subject land is the subject of an approved Master Plan and as such the environmental impacts will result from the planning proposal for these properties have already been considered in the assessment of the subdivisions under the provisions of SEPP 71.

Lot 5210 DP 8078712, Lot 3 DP 735201 and Lot 51 DP 740926 D'Arcy Lane, Jellat Jellat and Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834 Sapphire Coast Drive, Kalaru

These properties are predominantly cleared and contain existing dwellings or tourist facilities. Future development on these sites including clearing for access and bushfire will not have any significant impact on biodiversity on the site and Council will condition the future Development Applications associated with this site to protect hollow bearing trees. The use of On-site Sewage Management systems at these dwellings is unlikely to pose a threat to lake or estuarine ecosystems.

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.

In response to the popularity of living in rural areas, Council's Development Control Plan 2013 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.

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 Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Trade and Investment (Resources and Energy)
- NSW Roads and Maritime Services
- NSW Rural Fire 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:

- Lot 10 DP 1162109 Finucane Lane, Bega
- Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898 Princes Highway, Bega
- Lot 5210 DP 807872 D’Arcy Lane, Jellat Jellat
- Lot 2 DP 582074 Tathra River Estate, Thompsons Drive, Tathra
- Lot 22 DP 816824 and Lots 2-3 DP 249834 Sapphire Coast Drive, Kalaru

LZN_011C

Amend map sheet LZN_011C by applying:

- R5 Large Lot Residential Zone to Lot 10 DP 1162109, Finucane Lane, Bega, Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898 Princes Highway, Bega

LSZ_011C

Amend map sheet LSZ_011C by applying:

- Z1 2 hectare to Lot 10 DP 1162109, Finucane Lane, Bega
- Y 1 hectare and Z2 3 hectare to the R5 Large Lot Residential Zone on Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898

LZN_019

Amend map sheet LZN_019 by applying:

- E4 Environmental Living Zone to Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834 Sapphire Coast Drive, Kalaru

LSZ_019

Amend map sheet LSZ_019 by applying:

- Z1 2 hectare to Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834 Sapphire Coast Drive, Kalaru.

LZN_19A

Amend map sheet LZN_19A by applying:

- E4 Environmental Living Zone to Lot 5210 DP 807872 D’Arcy Lane, Jellat Jellat.

LSZ_19A

Amend map sheet LSZ_19A by applying:

- Z1 2 hectares to Lot 5210 DP 807872 D'Arcy Lane, Jellat Jellat.

LZN_019B

Amend map sheet LZN_019B by applying:

- R5 Large Lot Residential Zone and RE1 Public Recreation Zone and E2 Environmental Conservation to Lot 2 DP 582074.

LSZ_019B

Amend map sheet LSZ_019B by applying:

- Y 1hectare to the R5 Large Lot Residential Zone on Lot 2 DP 582074.

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. If this planning proposal is supported, it is likely that the proposal will be exhibited as a ‘low’ impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of *A Guide to Preparing LEPs*. A ‘low’ impact proposal is defined as *‘a planning proposal that, in the opinion of the person making the Gateway determination is:*

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

Public exhibition of the planning proposal will include notification of on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Merimbula News Weekly, Eden Magnet and Bega District News) and in writing to affected landowners.

Information relating to the planning proposal will also be on display at the following Bega Valley Shire Council customer service centres:

Place	Address
Bega	Zingel Place, Bega NSW 2551
Merimbula	Cabarita Place, Merimbula NSW 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2550
Bermagui	Bunga St, Bermagui NSW 2546

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by February 2017.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council's General Manager or Director of Planning and Environmental Services.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit planning proposal to the Department (AMENDED)	December 2016
STAGE 2 – Receive Gateway Determination	January 2017
STAGE 3 – Preparation of documentation for Public Exhibition	January 2017
STAGE 4 – Public Exhibition of the planning proposal	February 2017
STAGE 5 – Review/consideration of submissions received	March 2017
STAGE 6 – Council Report	April 2017
STAGE 7 – Forward planning proposal to Department of Planning and Environment with request amendment is made	April 2017
STAGE 8 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	April 2017
STAGE 9 – Anticipated date Council will forward Plan to the Department for notification	April 2017

Attachments

Attachment 1: Council reports and resolutions

Council Report: Planning and Environment Committee No. 9 – 14 December 2016

9.8. Confirmation of Proposed Minimum Lot Size - Tathra River Estate Stage 3

This report seeks to confirm the proposed minimum lot size for Tathra River Estate Stage 3 as part of finalisation of outstanding deferred matters from the Bega Valley Local Environment Plan 2013.

Director Planning and Environment

Background

At its meeting of 29 June 2016 Council considered a report “8.2 Bega – Tathra Deferred Sites Planning Proposal”, which recommended appropriate land use zones and minimum lot sizes to five sites in the Bega – Tathra area, that are deferred from the Bega Valley Local Environmental Plan 2013.

Following Council’s adoption of the report, the Planning Proposal was forwarded to the Department of Planning’s Gateway for approval to proceed to Public Exhibition. During this process the Department advised Council the resolution with regard Tathra River Estate was inconsistent with previous discussions and with proposed lot numbers detailed in the Planning Proposal.

With regard Tathra River Estate Stage 3, Council resolved;

1. *That in respect of the five deferred sites included in the draft Planning Proposal, Council resolves the following:*
 - d) ***Tathra River Estate, Thompsons Drive, Tathra Lot 2 DP 582074; apply R5, E2 and RE1 zonings and minimum lot size of 1 hectare (R5).***

Approximately 40ha of Tathra River Estate – Stage 3 is proposed to be zoned R5 Large Lot Residential, consistent with Stage 2 which is currently under construction. With the application of 1ha minimum lot size, 40 lots would notionally be permissible. The draft Planning Proposal presented to Council and forwarded to the Department, listed 20 lots as an outcome for this site which was the intent of the Planning Proposal.

In order to clarify this matter, prior to Public Exhibition the Department of Planning requested Council confirm the minimum lot size and consult with the affected landowner based on previous information they had provided Council and the Department, with regard a Stage 3 lot layout.

Council officers have carried out further consultation with the owner of Tathra River Estate (TRE), who wishes to retain the 1ha minimum lot size for the purposes of Public Exhibition, which is the minimum lot size for the subdivision currently under construction and the basis for the various studies and investigations that have been previously prepared. Officers have also carried out site visits to Stage 2 of TRE to understand how the 1ha minimum lot size is reflected in on ground development.

During the Public Exhibition of the Planning Proposal there is opportunity to review the extent of the R5 zone which currently encompasses some steep land that may reduce the number of potential lots that would be available under a 1ha minimum lot sizing standard. During the Public Exhibition period

the owner of TRE will submit additional master planning for Stage 3, based on scientific, effluent and engineering studies, which will provide the required detail to make a proper assessment of the appropriate extent of the R5 zone, the appropriateness of the 1ha lot size and determine the practical lot yield for the site.

It is important to progress this matter which will also allow the other four sites covered by the Bega – Tathra Deferred Matters Planning Proposal to proceed to Public Exhibition and ultimately to finalisation of their status in the Bega Valley Local Environmental Plan 2013.

Conclusion

The NSW Department of Planning and Environment has sought confirmation of Council's position with regard the minimum lot size for Tathra River Estate – Stage 3. Following further investigations by officers it is recommended Council advise the Department of Planning a 1ha minimum lot size is appropriate for the purposes of the Public Exhibition of the Bega – Tathra Deferred Matters Planning Proposal.

Attachments

Nil

Recommendation

1. That Council advise the Department of Planning and Environment that it confirms its previous Resolution with regard Tathra River Estate as follows:
 - a) **Tathra River Estate, Thompsons Drive, Tathra** Lot 2 DP 582074; apply R5, E2 and RE1 zonings and minimum lot size of 1 hectare (R5).

9.8 Confirmation of Proposed Minimum Lot Size - Tathra River Estate Stage 3

233/16 **RESOLVED on the motion of Crs McBain and Allen**

1. That Council advise the Department of Planning and Environment that it confirms its previous Resolution with regard Tathra River Estate as follows:
 - a) **Tathra River Estate, Thompsons Drive, Tathra** Lot 2 DP 582074; apply R5, E2 and RE1 zonings and minimum lot size of 1 hectare (R5).

IN FAVOUR: Crs Fitzpatrick, Bain, Nadin, Griff, McBain, Seckold, Tapscott, Dodds and Allen

AGAINST: Nil

Attachment 2: Council reports and resolutions

Council Report: Planning and Environment Committee No. 4 - 12 June 2016

2. Bega - Tathra Deferred Sites Planning Proposal

This report recommends appropriate land use zones and minimum lot sizes to five sites in the Bega – Tathra area, currently deferred from the 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 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 Bega – Tathra sites.

Issues

Strategic

Council officers have been working closely with the DPE to finalise the five (5) 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.

Notably this draft Planning Proposal ensures appropriate lot sizes are applied to four of the sites with existing Development Approval.

In summary the Bega – Tathra draft Planning Proposal provides the following key outcomes:

- Removal of deferred status for **5** properties
- Appropriate lot sizing applied to reflect existing Development Approvals
- **24** potential additional lots across the Bega and Tathra 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	Estimated additional lot yield
J.K. Blacker Finucane Lane, Bega	2(f) Future Urban	R5 Large Lot Residential	1 hectare	0 <i>(9 Lots already approved)</i>
R Miller Princes Highway, Bega	2(f) Future Urban	R5 Large Lot Residential	1 and 3 hectares	0 <i>(62 Lots already approved)</i>
J Tipping D'Arcy Lane, Jellat Jellat	1(a) Rural General	E4 Environmental Living	2 hectares	0 <i>(2 Lots already approved)</i>
Linkwood Pty Ltd Tathra River Estate, Thompsons Drive, Tathra	1(a) Rural General Zone, 2(a) Residential Low Density Zone, 2(c) Residential Tourist Zone, 6(a) Existing Open Space Zone and 7(b) Environment Protection Foreshore Zone	R5 Large Lot Residential, E2 Environmental Conservation and RE1 Public Recreation	1 hectare	20 <i>(32 lots already approved)</i>
R Brown Sapphire Coast Drive, Kalaru	1(a) Rural General	E4 Environmental Living	2 hectares	4 Lots
		Total		24 lots

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 five (5) properties covered by the Bega – Tathra Deferred Sites draft Planning Proposal provide for modest rural residential growth in the Bega – Tathra area. Following extensive investigation by 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 of the five deferred sites included in the draft Planning Proposal, Council resolves the following:
 - a) **Finucane Lane, Bega** Lot 10 DP 1162109; apply R5 zoning and minimum lot size of 1 hectare.
 - b) **Princes Highway, Bega** Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898; apply R5 zoning and minimum lot sizes of 1 hectare and 3 hectares.
 - c) **D’Arcy Lane, Jellat Jellat** Lot 5210 DP 807872, Lot 3 DP 735201 and Lot 51 DP 740926; apply E4 zoning and minimum lot size of 2 hectares.
 - d) **Tathra River Estate, Thompsons Drive, Tathra** Lot 2 DP 582074; apply R5, E2 and RE1 zonings and minimum lot size of 1 hectare (R5).
 - e) **Sapphire Coast Drive, Kalaru** Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834; apply E4 zoning and minimum lot size of 2 hectares.
2. That the Bega – Tathra Deferred Matters 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, Council officers progress the Planning Proposal to finalisation and gazettal without further reports to Council.

Council Minutes: Planning and Environment Committee No. 2 – 29 June 2016

1. That in respect of the five deferred sites included in the draft Planning Proposal, Council resolves the following:
 - a) **Finucane Lane, Bega** Lot 10 DP 1162109; apply R5 zoning and minimum lot size of 1 hectare.
 - b) **Princes Highway, Bega** Part Lot 4 DP 1077434, Part Lot 2432 DP 793758 and Lot 1510 DP 1077898; apply R5 zoning and minimum lot sizes of 1 hectare and 3 hectares.
 - c) **D’Arcy Lane, Jellat Jellat** Lot 5210 DP 807872, Lot 3 DP 735201 and Lot 51 DP 740926; apply E4 zoning and minimum lot size of 2 hectares.
 - d) **Tathra River Estate, Thompsons Drive, Tathra** Lot 2 DP 582074; apply R5, E2 and RE1 zonings and minimum lot size of 1 hectare (R5).
 - e) **Sapphire Coast Drive, Kalaru** Lots 21 & 22 DP 816824 and Lots 2 & 3 DP 249834; apply E4 zoning and minimum lot size of 2 hectares.
2. That the Bega – Tathra Deferred Matters 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, Council officers progress the Planning Proposal to finalisation and gazettal without further reports to Council.

Attachment 3: Council reports and resolutions

Council Report: Planning and Environment Committee No. 2 – 29 June 2016

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 4: 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	Consistent
SEPP No. 15	Rural Land Sharing Communities	N/A
SEPP No. 19	Bushland in Urban Areas	N/A
SEPP No. 21	Caravan Parks	N/A
SEPP No. 22	Shops and Commercial Premises	N/A
SEPP No. 26	Littoral Rainforests	N/A
SEPP No. 29	Western Sydney Recreational Area	N/A
SEPP No. 30	Intensive Agriculture	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No. 33	Hazardous and Offensive Development	N/A
SEPP No. 36	Manufactured Home Estates	N/A
SEPP No. 38	Olympic Games and Related Projects	N/A
SEPP No. 39	Spit Island Bird Habitat	N/A
SEPP No. 41	Casino/Entertainment Complex	N/A
SEPP No. 44	Koala Habitat Protection	N/A
SEPP No. 47	Moore Park Showground	N/A
SEPP No. 50	Canal Estate Development	N/A
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No. 53	Metropolitan Residential Development	N/A
SEPP No. 55	Remediation of Land	Consistent
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A
SEPP No. 59	Central Western Sydney Regional and Open Space and Residential	N/A
SEPP No. 60	Exempt and Complying Development	N/A
SEPP No. 62	Sustainable Aquaculture	N/A
SEPP No. 64	Advertising and Signage	N/A
SEPP No. 65	Design Quality of Residential Flat Development	N/A
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A
SEPP No. 71	Coastal Protection	Consistent
SEPP No. 74	Newcastle Port and Employment Lands	N/A
SEPP	Housing for Seniors or People with a Disability 2004	N/A
SEPP	Building Sustainability Index: BASIX 2004	N/A
SEPP	Major Development 2005	N/A
SEPP	Development on Kurnell Peninsula 2005	N/A
SEPP	Sydney Region Growth Centres 2006	N/A
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	Justified Inconsistency
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 5: List of applicable Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	Justified Inconsistency
1.3 Mining, Petroleum and Extractive Industries	Consistent
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	Justified Inconsistency
2. Environment and Heritage	
2.1 Environment Protection Zone	Consistent
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	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	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
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
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5 Second Sydney Airport: Badgerys Creek	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	Consistent
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A