
PLANNING PROPOSAL: PLANNING AMENDMENT

PLANNING PROPOSAL FOR AMENDMENT OF THE BEGA VALLEY LOCAL ENVIRONMENTAL PLAN
2013 TO ENABLE A 6 LOT RURAL-RESIDENTIAL SUBDIVISION OF LOT 5 DP 750207 & LOT 1
DP130034, BEING PART OF 299/300 MOUNT DARRAGH ROAD, LOCHIEL NSW 2549

LGA: BEGA VALLEY
PARISH: GNUPA
COUNTY: AUCKLAND



CLIENT: COBANDRAH PTY LTD
REFERENCE: CPL001 - PP
DATE: 20 FEBRUARY 2025

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Table of Contents

Executive Summary	i
1. Introduction	1
2. Background information	4
3. The Planning Proposal	10
3.1. Objective (Part 1, per LEP Guideline)	10
3.2. Intended outcomes (Part 1, per LEP Guideline)	11
3.3. Explanation of provisions (Part 2, per LEP Guideline)	12
4. Strategic Merit (Part 3, per LEP Guideline)	16
5. Site-Specific Merit (Part 3, per LEP Guideline)	36
6. Proposed Community Consultation (Part 5, per LEP Guideline)	59
7. Proposed Project Timeline (Part 6, per LEP Guideline)	60
Annexure 1: Maps (Part 4, per LEP Guideline)	61

Appendix A:	Biodiversity Assessment Report (BAR)
Appendix B:	Flood Impact Risk Assessment (FIRA)
Appendix C	Onsite Sewage Management (OSM) assessment
Appendix D:	Strategic Bushfire Assessment (SBA)
Appendix E:	Aboriginal Cultural Heritage Assessment Report (ACHAR)
Appendix E1:	Archaeological Report (AR)
Appendix F:	Traffic Impact Study (TIS)
Appendix G:	Land Use Conflict Risk Assessment (LUCRA)
Appendix H:	Materials for Preliminary Site (Contamination) Investigation
Appendix I:	2-Dimensional Strategic Design for road access from Mount Darragh Road
Appendix J:	Scoping proposal report and study requirements provided during pre-lodgement stage
Appendix K:	Emails from Bega Valley Shire Council (BVSC) with respect to initial version of Planning Proposal lodged on 22 November 2024

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Executive Summary

This Planning Proposal seeks to rezone parts of Lot 5 DP 750207 and Lot 1 DP130034, at Mount Darragh Road, Lochiel (the Site) (see Fig. ES1), to enable a six (6) lot subdivision. More specifically, amendments are sought to the Bega Valley Local Environmental Plan 2013 (BVLEP 2013) to change the zoning designation of parts of Lot 5 DP 750207 and Lot 1 DP130034 from RU2 Rural Landscape to R5 Large Lot Residential, and to amend the applicable Minimum Lot Size designation for that area from AD (120ha) to X1 (7,000 sq m).

The Site, which comprises the whole of Lot 5 DP 750207 and Lot 1 DP130034, covers an area of approximately 12.9 ha and is located approximately 7.5 kilometres (km) (by road) south-west of the town of Pambula in the local government area of the Bega Valley Shire. It is approximately 210 metres east of Mount Darragh Road from the Robinson Road intersection. The area for which amendments to the BVLEP 2013 are sought under this Planning Proposal is approximately 4.6 ha. The Site is in a location where significant rural-residential development has already taken place, and the land that is the subject of this Planning Proposal has been identified as being suitable for rural-residential development in Bega Valley Shire Council's (BVSC) Rural Residential Strategy 2020 (RRS 2020) (at pp.32-33). The then NSW Department of Planning, Industry and Environment (DPIE), now Department of Planning and Environment (DPE), has endorsed this strategy. By a letter dated 14 May 2024 to the Proponent, the BVSC confirmed that the proposed use of the Site in this Planning Proposal for a six lot rural-residential subdivision aligns with the BVSC's RRS 2020.

Further, by a determination made on 8 August 2018 with respect to the development application DA2018.219, the BVSC has already consented to the use of the lots for dwelling purposes pursuant to the provisions of clause 4.2A(3)(d) of the BVLEP 2013.



Fig. ES1: The Site

The amendments to the BVLEP 2013 sought under this Planning Proposal have been determined following the preparation and review of the studies required to undertaken as part of this planning process. In particular, the area to be rezoned under this Planning Proposal has been determined having regard to the findings of the Flood Impact Risk Assessment (FIRA), and result in rezoning being limited to locations above the Probable Maximum Flood (PMF) level. Further the selection of

the applicable zone and minimum lot size have also been informed by the findings of the Biodiversity Assessment Report, which concluded that the area being sought to be rezoned *“is of little value to the biodiversity of the Lochiel area”*.

It is submitted that this Planning Proposal should be supported because:

- a planning proposal is the only way that the desired development outcome can be achieved;
- it is a “basic” proposal that is consistent with relevant legislation, policy and strategies at both State government and council levels;
- it will make a positive contribution to the delivery of additional local housing opportunities, in a time of high demand and with a shortage of new housing opportunities in the local area and more broadly;
- the land is located close to existing service infrastructure, and can be easily and quickly made available to the housing market;
- long term changes in agricultural economics means the area in which the Site is located is of minimal agricultural value;
- it will minimise fragmentation of agricultural land and land use conflict elsewhere in the Bega Valley Shire by facilitating rural-residential development in an area that has been identified as being suitable for that use;
- it will support the efficient and appropriate use of the Site (i.e. highest and best use); and
- development of this Site can be undertaken in a manner that gives appropriate regard to biodiversity and amenity of the local area, and relevant flood and bushfire risks.

It is therefore requested that Bega Valley Shire Council (BVSC) and the NSW Department of Planning and Environment (DPE) support and approve this Planning Proposal.

PLANNING PROPOSAL: PLANNING AMENDMENT

1. Introduction

This proponent of this Planning Proposal is Cobandrah Pty Ltd (the Proponent). The Proponent is the owner of the land known as Lot 5 DP 750207 and Lot 1 DP130034 (the Site), being part of the property situated at 299/300 Mount Darragh Road, Lochiel.

In accordance with the Department of Planning and Environment (DPE) *Local Environmental Plan Making Guideline* (2023) (LEP Guideline), a planning proposal is required to incorporate the following components:

- Part 1 – Objectives and intended outcomes – a statement of the objectives of the proposed LEP;
- Part 2 – Explanation of provisions – an explanation of the provisions that are to be included in the proposed LEP;
- Part 3 – Justification of strategic and site-specific merit – justification of strategic and potential site-specific merit, outcomes, and the process for implementation;
- Part 4 – Maps – maps, where relevant, to identify the effect of the planning proposal and the area to which it applies;
- Part 5 – Community consultation – details of the community consultation that is to be undertaken on the planning proposal; and
- Part 6 – Project timeline – project timeline to detail the anticipated timeframe for the LEP making process in accordance with the benchmarks in the LEP Guideline.

Further, by a letter dated 14 May 2024 to the Proponent, the relevant local government authority – the Bega Valley Shire Council (BVSC) – also outlined matters to be addressed in this Planning Proposal. Consistent with broader government guidelines (see above), these matters were:

- Strategic Merit;
- With respect to proposed lot sizes, that the land can be serviced by on-site sewer and water and have minimal environmental impact; and
- In addressing all BVSC policies, 9.1 Local Planning Directions and any other applicable State legislation or policy including NSW Planning for Bushfire Guidelines and NSW Biodiversity Conservation Act 2016, that the Planning Proposal consider:
 - Access and traffic management;
 - Native flora and fauna;
 - Aboriginal cultural heritage;
 - Planning for Bushfire Protection and compliance with NSW Rural Fire Service (RFS) Planning Bushfire Guidelines 2019 (see also letter from RFS dated 14 February 2024, Ref: SPI20240215000014);
 - Infrastructure and servicing including the cumulative impacts of on-site sewer; and
 - Potential for land use conflict with existing agricultural activities.

With respect to these matters, the BVSC also summarised additional studies to be undertaken with respect to the Planning Proposal having regard to the responses it received from NSW government agencies with respect to the Scoping Proposal that had been submitted by the Proponent with respect to the Site. The additional studies identified to be undertaken were:

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- An assessment of biodiversity values consistent with Stage 1 of the Biodiversity Assessment Method (BAM) or similar methodology, to inform a planning proposal and demonstrate consistency with the ministerial local planning directions. This needs to include groundcover, as previously grazed areas can contain significant proportions of native species. Groundcover as well as overstorey is covered by the Biodiversity Conservation Act 2016 (BC Act). A clear development footprint, or area of impact, from the proposed development is also required (see letter dated 26 March 2024 from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and Water (DCCEE), Ref: DOC24/141878);
 - A Flood Impact and Risk Assessment (FIRA) to address the requirements of the local planning direction over the range of floods up to the Probable Maximum Flood (PMF) and issues relating to flood risk, impacts and public safety (see letter from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and Water (DCCEE) dated 26 March 2024, Ref: DOC24/141878);
 - A Traffic Impact Study (TIS) including the impacts that the proposal will have on both the regional classified road network (Mount Darragh Road managed by Council) and the state classified road network (Princes Highway managed by Transport for NSW), specifically the intersection of Mount Darragh Road and the Princes Highway. Consideration needs to be given to the cumulative impact of the development that is planned within Area 3 of the Pambula Catchment in the BVSC's Rural Residential Strategy 2020 to address these requirements (see letter from Transport for NSW (TfNSW) dated 21 February 2024, Ref: STH24/00121/001);
 - An Aboriginal Cultural Heritage Assessment Report in accordance with Heritage NSW feedback (see letter from Heritage NSW, Department of Climate Change, Energy, the Environment and Water (DCCEE) dated 5 March 2024, Ref: DOC24/133865); and
 - A Land Use Conflict Risk Assessment to identify potential risks and mitigation measures that may be required during the transition of the area from agricultural land uses to rural-residential use (see letter from the Department of Primary Industry (DPI) – Agriculture dated 14 March 2024, Ref: OUT24/3665).

Copies of these letters are contained in Appendix J, together with the BVSC's summary letter with respect to the Scoping Proposal that was submitted with respect to this Site.

To ensure that all these components are incorporated, this Planning Proposal has been structured as follows:

- a) Section 2 provides a brief description of the Site, together with a summary of the steps taken to progress this Planning Proposal to date;
- b) Section 3 sets out the objective, intended outcomes and an explanation of provisions to be included in the BVSC LEP (*this section covers the matters required under Part 1 and Part 2 per the LEP Guideline referred to above*);
- c) Section 4 details the strategic merit of the Planning Proposal (*this section covers relevant aspects of the matters required under Part 3 per the LEP Guideline referred to above*);
- d) Section 5 addresses the site-specific merit. In doing so, it makes reference to the findings of the reports prepared to support this Planning Proposal (*this section covers relevant aspects of the matters required under Part 3 per the LEP Guideline referred to above*);
- e) Section 6 outlines the consultation that has occurred to date, then details the proposed community consultation to be undertaken (*this section covers the matters required under Part 5 per the LEP Guideline referred to above*); and

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- f) Section 7 sets out the proposed project timeline (*this section covers the matters required under Part 6 per the LEP Guideline referred to above*).

For completeness, it is noted that the mapping component required for the Planning Proposal is incorporated throughout this report rather than just in a stand-alone section. This is done as it provides greater clarity as to the nature of the Planning Proposal. However, copies of relevant maps to the requisite standard required under the LEP Guideline (see “Standard Technical Requirements for Spatial Datasets and Maps”) are also contained at Annexure 1 of the Planning Proposal (*this Annexure covers the matters required under Part 4 per the LEP Guideline referred to above*). Based on advice from the BVSC prior to lodgement, GIS files per the LEP Guideline are not included with Planning Proposal; however, these can be provided should they be requested.

In structuring the Planning Proposal in this manner, this submission is intended to address all relevant matters required to be considered having regard to relevant legislation, regulations, local government policies and other regulatory instruments. In this regard, the Proponent has also assessed and where relevant addressed applicable Ministerial Directions and State Environmental Planning Policies (SEPPs).

2. Background information

The purpose of this section is to provide background information with respect to the Planning Proposal. It is comprised of two sub-sections – the first briefly describes the Site and its environs; the second details the steps taken to date with respect to the preparation of this Planning Proposal.

2.1 Site description

The Site comprises an area of approximately 12.9 ha. It is located 7.5 kilometres (km) (by road) south-west of the town of Pambula, and approximately 210 metres east of Mount Darragh Road from the Robinson Road intersection. Access to the Site is via a formed, unnamed, council owned road (see Fig. 1 – Aerial photograph of the Site, Fig. 2 – Contour plan of the Site, and Fig. 3 – Location of the Site).



Fig. 1: Aerial photograph of the Site

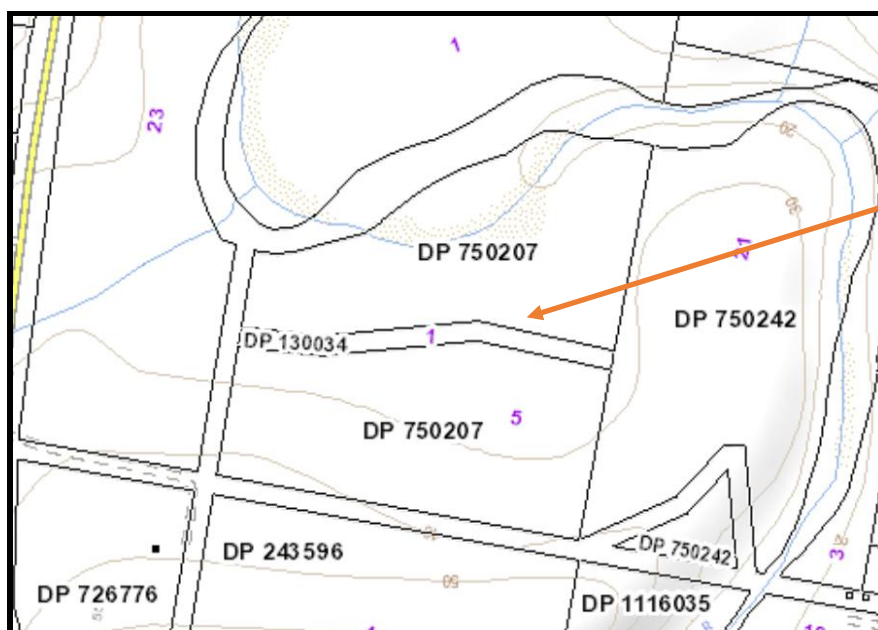


Fig. 2: Contour plan of the Site

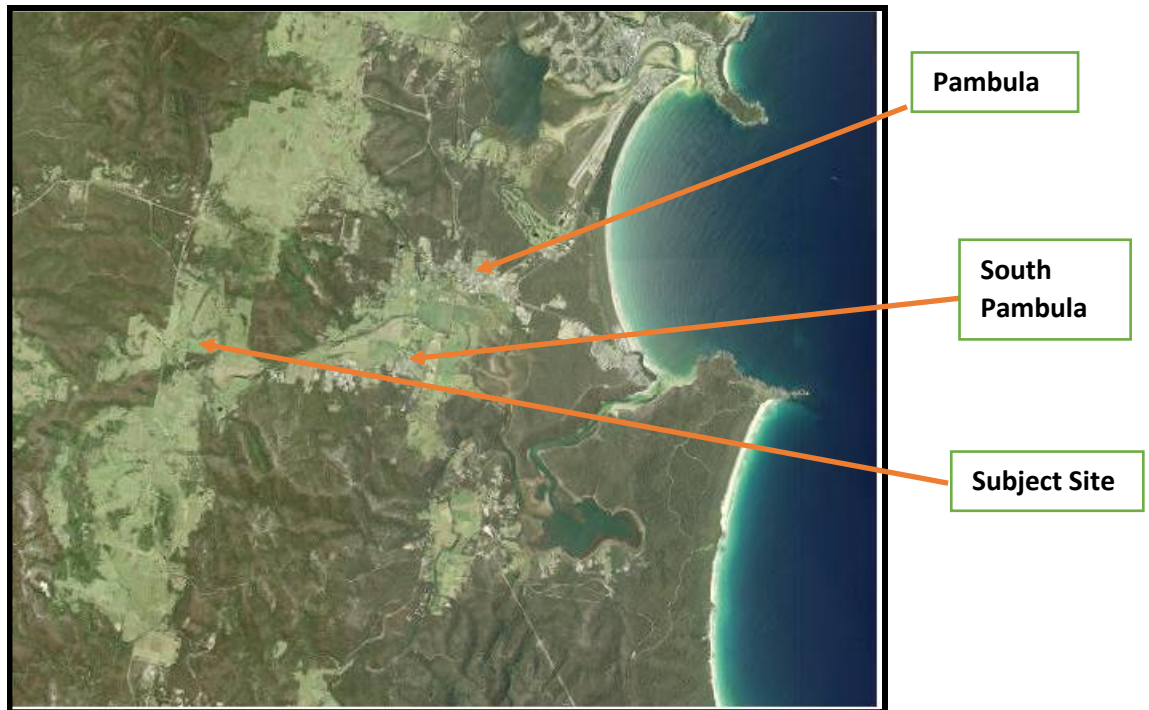


Fig. 3: Location of the Site

Topography & Vegetation

The Site (see Fig. 1) is:

- cleared grazing land, with minimal remnant vegetation, that is gently sloping (at approximately 6°) from south to north towards the Pambula River;
- forms part of a rural holding known as *Cobandrah Farms*. It is noted, however, by a determination made on 8 August 2018 with respect to development application DA2018.219, the BVSC has already consented to the use of the Site for dwelling purposes pursuant to the provisions of clause 4.2A(3)(d) of the BVLEP 2013; and
- is accessed via a formed council-owned road of approximately 210 metres, constructed following the consent granted by the BVSC with respect to development application DA2018.219. Further, a Crown Road reserve extends from the council road and runs adjacent to the Site along its southern boundary. Transfer of control of this road reserve to BVSC would be required should the Planning Proposal be adopted and the related future development application for subdivision be approved.

Climate

The area of Lochiel is located on the far south coast of NSW and enjoys a mild climate with warm wet summers and cool, windy winters. Temperatures are generally between 15° and 25° in summer, and 5° and 16° in winter.

Summer winds are predominantly from the north east with colder winds from the west and south west during winter.

The average annual rainfall in the area is 830 mm and excessive humidity is unusual.

Existing development

The Site has an existing dwelling entitlement pursuant to a determination made by the BVSC with respect to DA 2018.219. It is located within an area in which significant rural-residential development has already been permitted, and where the subject and adjacent land zoned RU2 Rural Landscape has been identified as suitable for rural-residential use (see sub-section 2.2a) below). The Site is serviced by and/or has ready access to existing infrastructure (road, electricity, telecommunications), and can be easily and quickly made available to the housing market.

As illustrated in Fig. 4, nearby properties in the vicinity of the Site that contain a residential dwelling include:

Lot details	Area (approx.)
Lot 13 DP726776	4.85 ha
Lot 1 DP1222484	1.40 ha
Lot 3 DP1222484	1.36 ha
Lot 4 DP1222484	1.04 ha
Lot 2 DP 1112586	2.01 ha

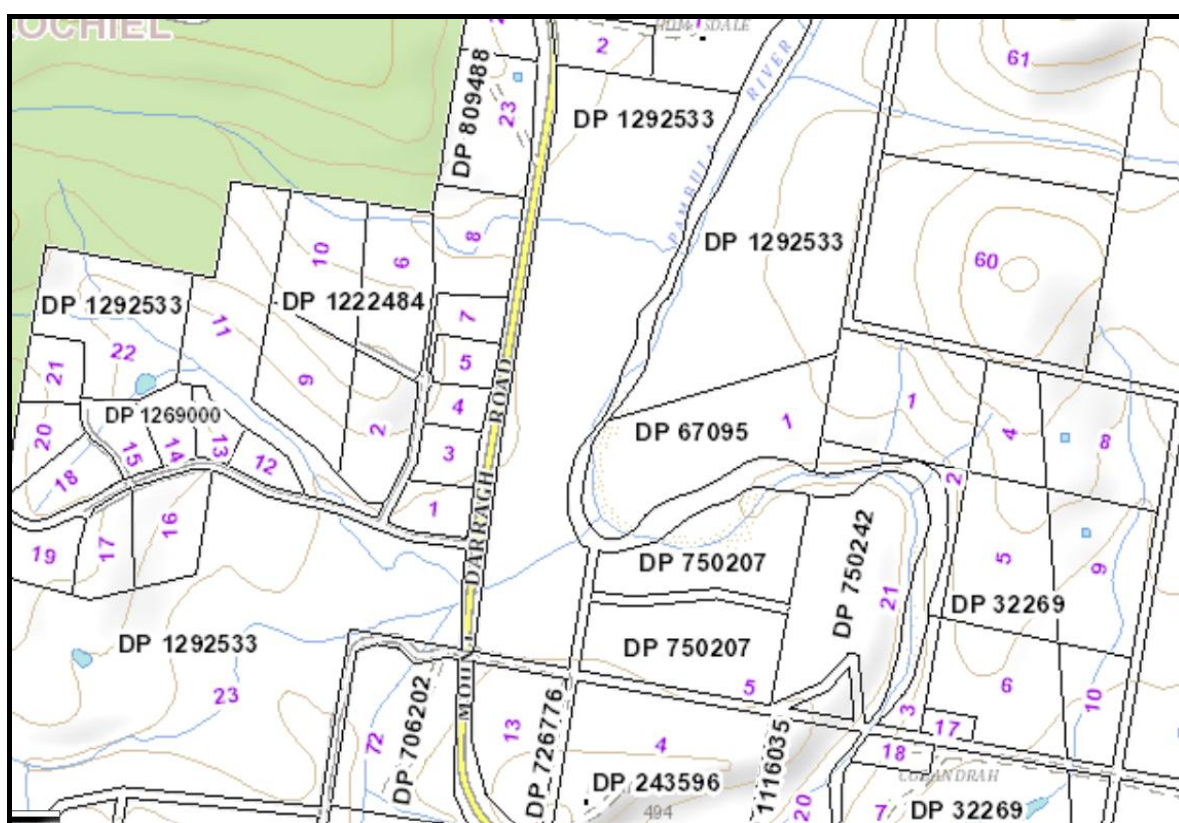


Fig. 4: Existing development in surrounding area

2.2 Planning processes to date

Planning processes undertaken to date include:

a) Identification of land as being suitable for rural-residential development

This Planning Proposal has been initiated following the identification of the Site as being suitable for rural-residential development in Bega Valley Shire Council's (BVSC) Rural Residential Strategy 2020 (RRS 2020) (at pp.32-33) (which was endorsed by the then NSW Department of Planning, Industry and Environment (DPIE), now Department of Planning and Environment (DPE)).

As such, having regard to the DPE's categorisation of planning proposals set out in the LEP Guideline, the Planning Proposal is a "*basic proposal*", being for an LEP amendment "*that is consistent with a Department endorsed/approved local strategy*".

More specifically, the objective of this Planning Proposal is to amend the Bega Valley Local Environment Plan 2013) (BVLEP 2013) in respect of parts of Lot 5 DP 750207 and Lot 1 DP130034 to enable the creation of six (6) rural-residential lots (subject to a more detailed (future) Development Application).

To achieve this objective, and in so doing support delivery of the BVSC's RRS 2020, this Planning Proposal seeks:

- an amendment to the applicable BVLEP 2013 Land Zoning Map to rezone part of the Site from its current designation as RU2 Rural Landscape to R5 Large Lot Residential; and
- an amendment of the applicable BVLEP 2013 Minimum Lot Size Map to change the minimum lot size designation for the part of the Site to be rezoned from AD (120 ha) to X2 (7,000 sq m) (see further Section 3 below).

b) *Pre-Scoping Proposal stage*

In developing this Planning Proposal, the Proponent undertook initial consultations with relevant parties prior to the preparation and lodging of a Scoping Proposal including, but not limited to:

- the BVSC – in 2019/2020 regarding inclusion of the Site as a suitable location for rural-residential development under the RRS 2020, and more recently with regard the preparation of the initial Scoping Proposal;
- neighbouring property owners, in particular owners of Lot 13 DP 726776, Lot 4 DP 243596, and Lot 23 DP 1292533; and
- the NSW Rural Fire Service (NSW RFS).

The consultation undertaken has both guided the preparation of this Planning Proposal and may assist and guide the ongoing/formal consultation that is proposed with the BVSC, DPE, other relevant NSW Government agencies and the community as part of the planning process (see Section 6).

In considering the potential for a planning proposal, consideration was also given to other local provisions which may apply to the Site under the BVLEP 2013, including with respect to:

- *Constrained Land* – the majority of the land that is the subject of this Planning Proposal is unconstrained land. However, there is an area adjacent to the Pambula River which is designated as constrained, although the area so identified differs between that marked in the RRS 2020 and the earlier Natural Resources Land Map prepared for the BVLEP 2013. As no development would be permitted in either designated area due to the 150m buffer zones associated with the Pambula River itself as contained in the Bega Valley Development Control Plan 2013 (BVDCP 2013), it was considered that this aspect did not represent a limitation on the planning amendments being sought. This was confirmed by an Onsite Sewage Management (OSM) assessment that was undertaken at the Scoping Proposal stage (see further below, and at Appendix C);
- *Biodiversity and Vegetated Land Buffer layers* – the Site is cleared grazing land with minimal remnant vegetation. A small area in the north-east corner of the Site adjacent to the Pambula River has been marked on the BVLEP 2013 Territorial Biodiversity Map. For the same reasons

outlined above with respect to constrained land, it appeared that there are no biodiversity or vegetation issues associated with the Site that inhibit this Planning Proposal (see further below and at Appendix A); and

- ***Bushfire prone land*** – based on broad vegetation categories and application of buffer distances from existing vegetation, the land is designated as bushfire prone land. As such, the BVSC is required to consider the implications of this with respect to proposals related to the Site. This issue was addressed by preparing a Strategic Bushfire Assessment (SBA) with respect to the Site at the Scoping Proposal stage, incorporating input from consultation with the NSW RFS. The SBA details that the Planning Proposal and subdivision can be undertaken in a manner that satisfies the requirements of the NSW RFS Planning for Bushfire Protection 2019 (PBP 2019) (see further below, and at Appendix D).

The Planning Proposal is not seeking to amend local development control provisions relevant to these characteristics. The nature of these attributes has been considered and addressed in the preparation of this Planning Proposal and in identifying the Site as being suitable for rural-residential development, consistent with the land being within the Proposed Rural Residential Areas designated under the RRS 2020 (at pp 32-33). These matters are addressed in further detail in Section 5, which assesses the site-specific merit of the Planning Proposal.

c) Scoping Proposal stage

A Scoping Proposal was prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (NSW), having regard to the DPE's LEP Guideline, the Bega Valley Shire Council (BVSC) *Lodgement requirements for Rural-Residential planning proposals*, and all other relevant State and Council policy, legislation and regulations. It was lodged with the BVSC on 12 December 2023. The information provided in that Scoping Proposal addressed the strategic and site-specific merit for the rezoning, and provided a sound foundation for preparation of a more detailed Planning Proposal and (future) Development Application (DA).

Following lodgement of the Scoping Proposal with the BVSC, the BVSC consulted with relevant NSW Government departments and agencies. Written responses were received from various government agencies. To clarify certain aspects of that feedback the Proponent and the BVSC met with representatives of two of those agencies – the Department of Climate Change, Energy, the Environment and Water (DCEEEW) and Transport for NSW (TfNSW). Detailed below are the departments and agencies that responded to the BVSC's consultation process, together with a brief summary of the further information sought by the respective entities:

- the ***Biodiversity and Conservation Division (BCD) of the Department of Climate Change, Energy, the Environment and Water (DCEEEW)***: The studies required by the BCD were:
 - (i) an assessment of biodiversity values consistent with Stage 1 of the Biodiversity Assessment Method (BAM) or similar methodology, to inform a planning proposal and demonstrate consistency with the ministerial local planning directions identified in BCD feedback. This needs to include groundcover, as previous grazed land can contain significant proportions of native species. Groundcover as well as overstorey is covered by the *Biodiversity Conservation Act 2016* (BC Act). BCD also requires a clear development footprint, or area of impact, from the proposed development;
 - (ii) a Flood Impact and Risk Assessment (FIRA) to address the requirements of the local planning direction over the range of floods up to the Probable Maximum Flood (PMF) and issues relating to flood risks, impact and public safety identified;

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- **the Department of Primary Industries – Agriculture (DPI)**, which requested a Land Use Conflict Risk Assessment (LUCRA) to identify any potential risks and mitigation measures that may be required during the transition of the area from agricultural land uses to rural-residential use;
 - **Heritage NSW**, which sought an Aboriginal Cultural Heritage Assessment Report;
 - **Transport for NSW (TfNSW)**, which asked for a Traffic Impact Study (TIS) to be undertaken, including the impacts that the proposal will have on both the regional classified road network (Mount Darragh Road managed by Council) and the state classified road network (Princes Highway managed by TfNSW) specifically the intersection of Mount Darragh Road and the Princes Highway. Consideration also needed to be given to the cumulative impact of the development that is planned within Area 3 of the Pambula Catchment in BVSC's Rural Regional Living Strategy (RRLS); and
 - **the NSW Rural Fire Service (RFS)**. As a Strategic Bushfire Assessment (SBA) had been prepared and included with the Scoping Proposal, no further study was sought. The SBA was reviewed by the RFS. The only comment noted by the RFS in its response was that the *"access road from Mount Darragh Road is considered a perimeter road. The road width and specifications for a perimeter road will be required with future subdivision plan"*.

These studies were summarised in a letter from the BVSC dated 14 May 2024 (see Appendix J). In that letter, the BVSC also stated that the use of the Site for a six lot rural-residential subdivision aligns with the BVSC's RRS 2020.

As noted above, reports have been prepared to address each of these matters, and are provided as part of the Planning Proposal. Further, relevant findings are incorporated into consideration of both the strategic and site-specific merits of the Planning Proposal (see Sections 4 and 5).

3. The Planning Proposal

The purpose of this section is to provide an overview of the Planning Proposal, including detailing the objective and intended outcomes of the proposal, then setting out in greater detail an explanation of the provisions that are being sought with respect to amending the BVLEP 2013.

3.1 Objective

The objective of this Planning Proposal is to amend BVLEP 2013 in respect of parts of Lot 5 DP 750207 and Lot 1 DP130034, Mount Darragh Road, Lochiel to enable the creation of six (6) rural-residential lots, all proximate to Mount Darragh Road (subject to a more detailed (future) Development Application). A conceptual design of the proposed subdivision, also detailing all substantive physical constraints for the Site, is shown in Fig. 5 below.

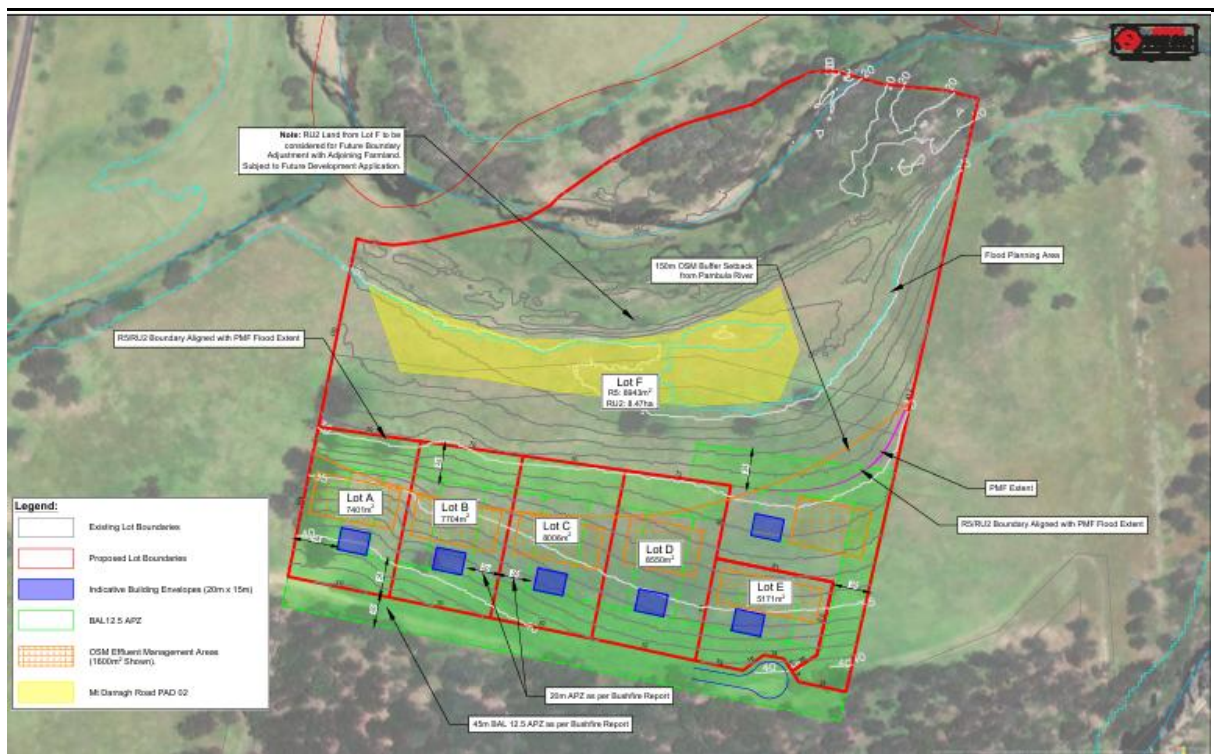


Fig. 5: Subdivision conceptual design (detailing constraints)

To achieve this objective, and in so doing support delivery of the BVSC's Rural Residential Strategy (RRS 2020) adopted by the Council in February 2020 and endorsed by the then DPIE, now DPE, the planning amendments being sought under this Planning Proposal are:

- an amendment to the applicable BVLEP 2013 Land Zoning Map to rezone that part of the Site above (i.e. south of) the Probable Maximum Flood (PMF) level from its current designation as RU2 Rural Landscape to R5 Large Lot Residential; and
- an amendment of the applicable BVLEP 2013 Minimum Lot Size Map to change the minimum lot size designation for that part of the Site above (i.e. south of) the Probable Maximum Flood (PMF) level from AD (120 ha) to X2 (7,000 sq m) (see further sub-section 3.3 below).

As requested by the BVSC (see Appendix K2), the conceptual design shown in Figure 5 also sets out dwelling envelopes and OSM land application areas, as well as detailing the indicative area which may be subject to boundary adjustment to transfer some of the Site that remains designated RU2 (should the Planning Proposal be approved) to adjacent lots to the north and east.

To the extent that the subdivision conceptual design varies from any indicative designs contained in supporting reports, this is primarily the result of changes to the conceptual design required to address matters raised by the BVSC following lodgement of the initial version of this Planning Proposal in November 2024 (see Appendix K). These revisions to the conceptual design do not impact on the substantive findings of any of the reports that have been prepared – such changes as have occurred, primarily to the location of the northern boundary of proposed lots, either have no impact on their findings, or reduce the potential for any adverse outcomes.

Finally, the subdivision conceptual design in Figure 5 has been drawn detailing all substantive constraints as set out in the relevant reports provided with this Planning Proposal. To the extent that there are any minor variations in the shape or location of dwelling envelopes or OSM application areas in this figure, they are trivial in nature, have no substantive impact, and have been incorporated into this figure to enhance its clarity for the reader.

3.2. Intended outcomes

The intended outcomes of the Planning Proposal are to enable a six (6) lot subdivision of the Site:

- to make a positive contribution to the delivery of additional local housing opportunities in the rural-residential release area surrounding South Pambula – a part of the broader Pambula catchment which has an identified shortage of rural-residential land supply;
- to provide the highest and best use for land that has good road access and access to services; and
- to support delivery of the BVSC's endorsed local planning strategy, RRS 2020, which identifies the Site as being suitable for rural-residential development and recommends individual planning proposals be brought to implement this strategy.

Further:

- the land is located close to existing service infrastructure, and can be easily and quickly made available to the housing market;
- long term changes in agricultural economics means the area in which the Site is located is of minimal agricultural value;
- it will minimise fragmentation of agricultural land and land use conflict elsewhere in the Bega Valley Shire by facilitating rural-residential development in an area that has been identified as being suitable for that use; and
- development of this Site can be undertaken in a manner that gives appropriate regard to biodiversity and amenity of the local area, and relevant flood and bushfire risks (see section 5 below, and Appendices).

As illustrated in Fig. 5, a conceptual subdivision layout has been prepared having regard to the provisions of the BVLEP 2013 and BVDCP 2013, based on the proposed planning amendments being approved. If the proposed planning amendments are approved, it is currently intended that a development application seeking a six (6) lot subdivision of the Site will be made consistent with that conceptual design.

The conceptual subdivision layout will be settled before a development application is submitted to the BVSC. The detailed subdivision plan will need to address BVSC's technical specifications for subdivision, with regard for notional dwelling envelopes, access, suitable locations for onsite sewage disposal and asset protection zones.

It is also noted that the final version of any subdivision may also involve boundary adjustments to transfer some of the Site that remains designated RU2 (should the Planning Proposal be approved) to adjacent lots that are similarly classified. The indicative area that may be included in such boundary adjustments are referenced in Figure 5, though a final determination of this aspect will be done following consultation with BVSC as part of the development application process with respect to subdivision (again, should the Planning Proposal be approved).

As the current planning controls that apply to the Site do not permit subdivision, the proposed planning amendments are required to enable a six (6) lot subdivision of the Site to facilitate rural-residential development.

3.3 Explanation of provisions – existing planning controls and proposed changes

This sub-section provides further detail of the changes being proposed to achieve the objective and intended outcomes set out in sub-sections 3.1 and 3.2 above. As illustrated below, the Site is currently zoned RU2 under the BVLEP 2013 (see Fig. 6a), with a minimum lot size designated of AD (120 ha) (see Fig. 7a). The Planning Proposal seeks to amend these designations (on BVLEP 2013 Land Zoning Map Sheet LZN-012C and BVLEP 2013 Lot Size Map LSZ-012C) with respect to parts of Site to R5 Large Lot Residential and X2 (7,000 sq m) respectively (see Figs. 6b, 6c and 7b, 7c). The amendments to the BVLEP 2013 sought under this Planning Proposal are more limited than those contained in the Scoping Proposal previously provided with respect to this Site.

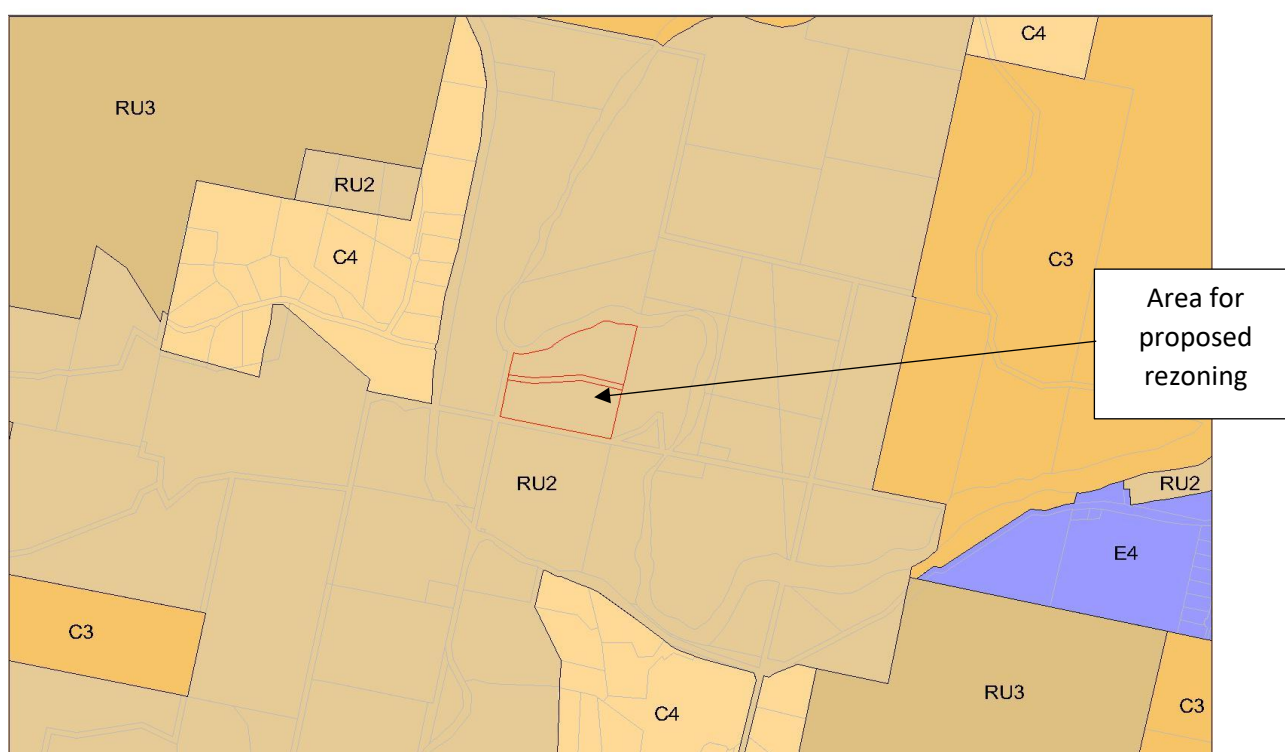


Fig. 6a: Part BVLEP 2013 Land Zoning Map – current

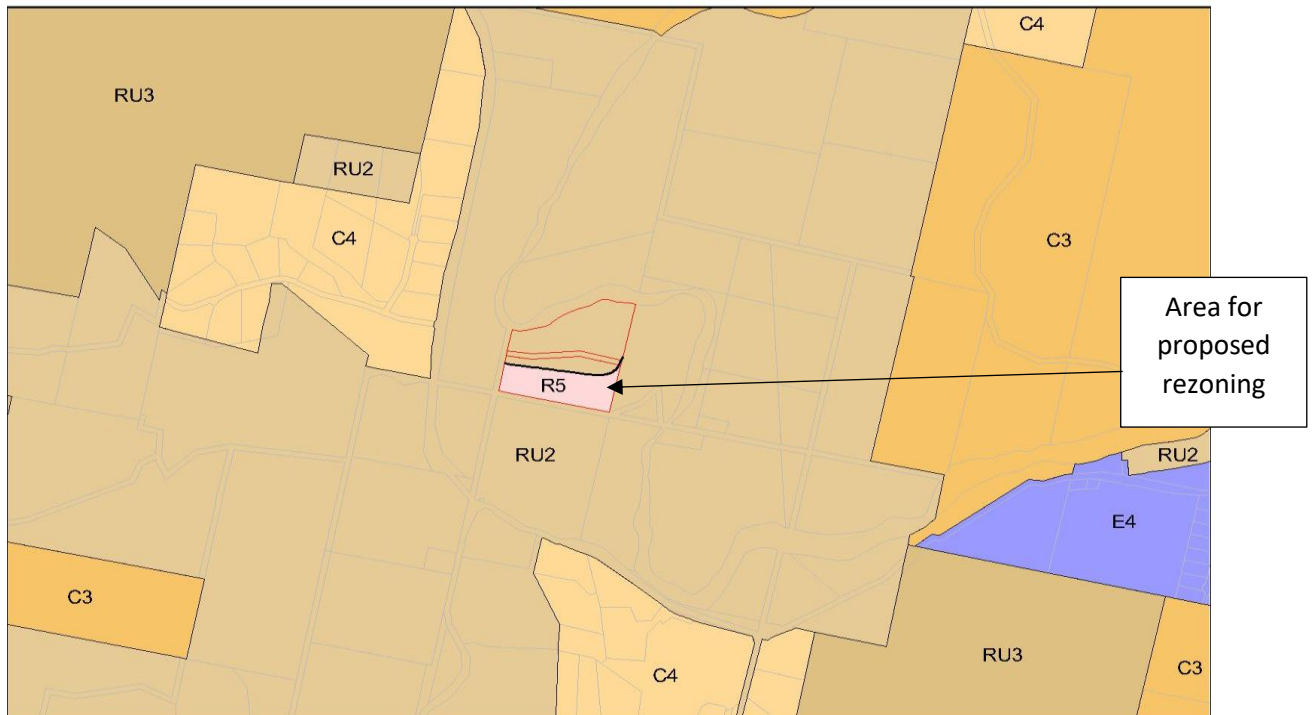


Fig. 6b: Part BVLEP 2013 Land Zoning Map – proposed

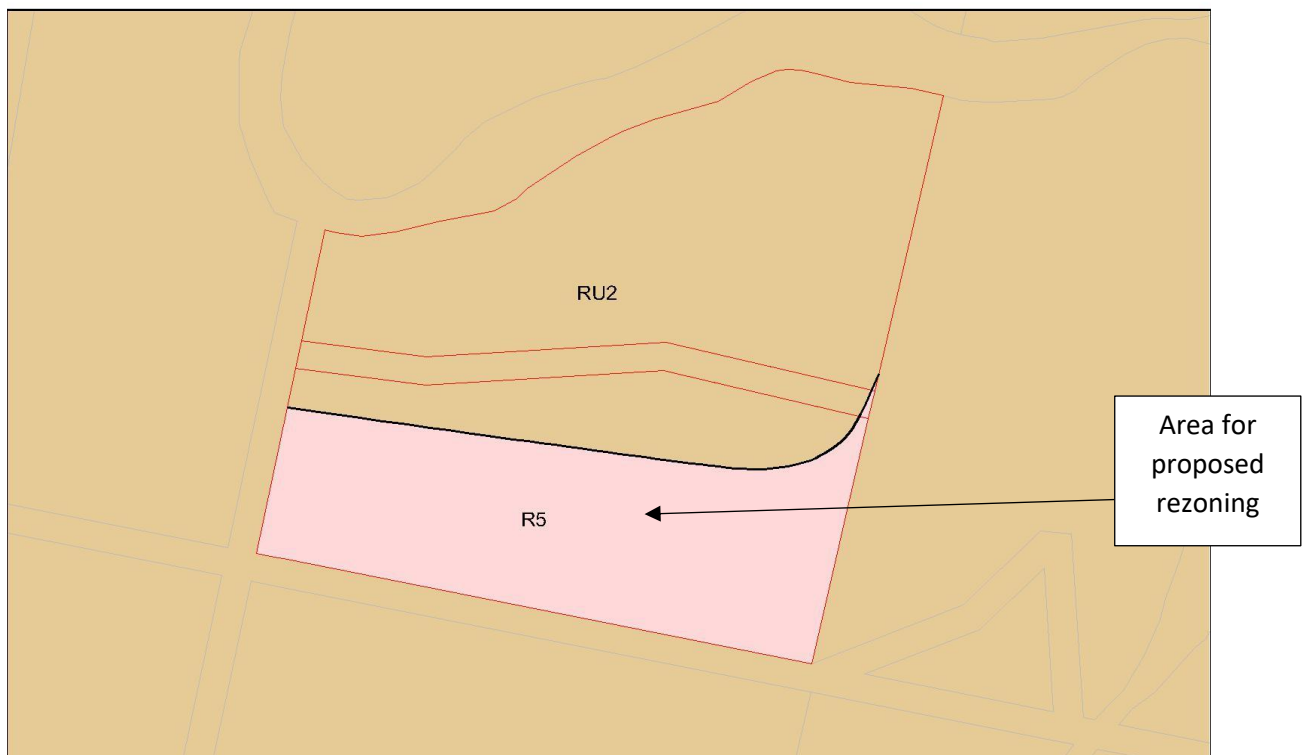


Fig. 6c: Part BVLEP 2013 Land Zoning Map – proposed (close up version)

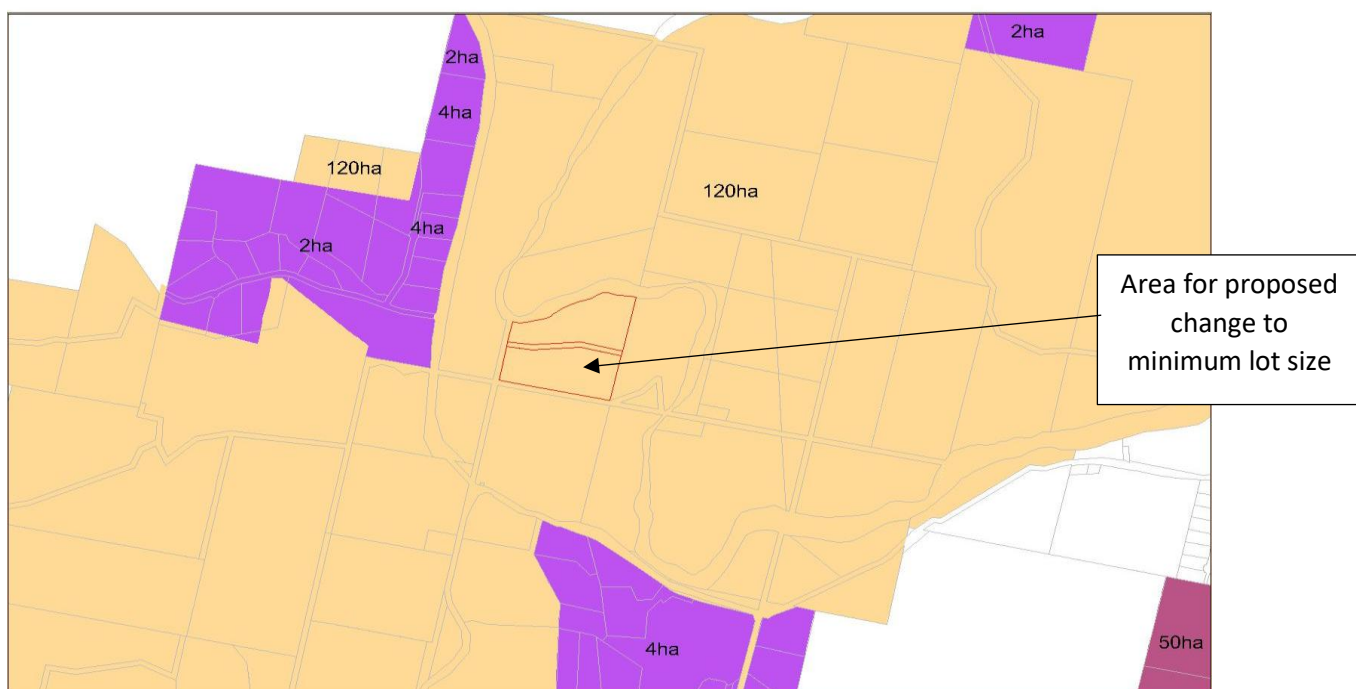


Fig. 7a: Part BVLEP 2013 Lot Size Map – current

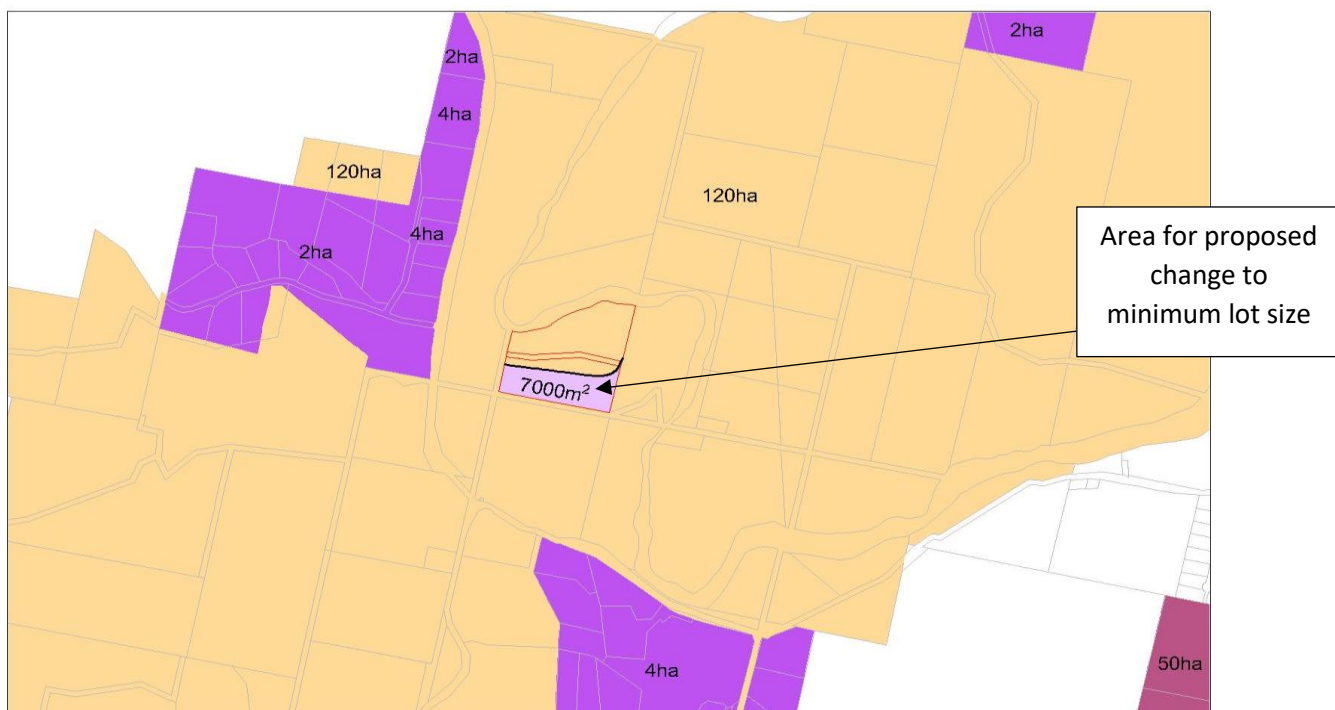


Fig. 7b: Part BVLEP 2013 Lot Size Map – proposed

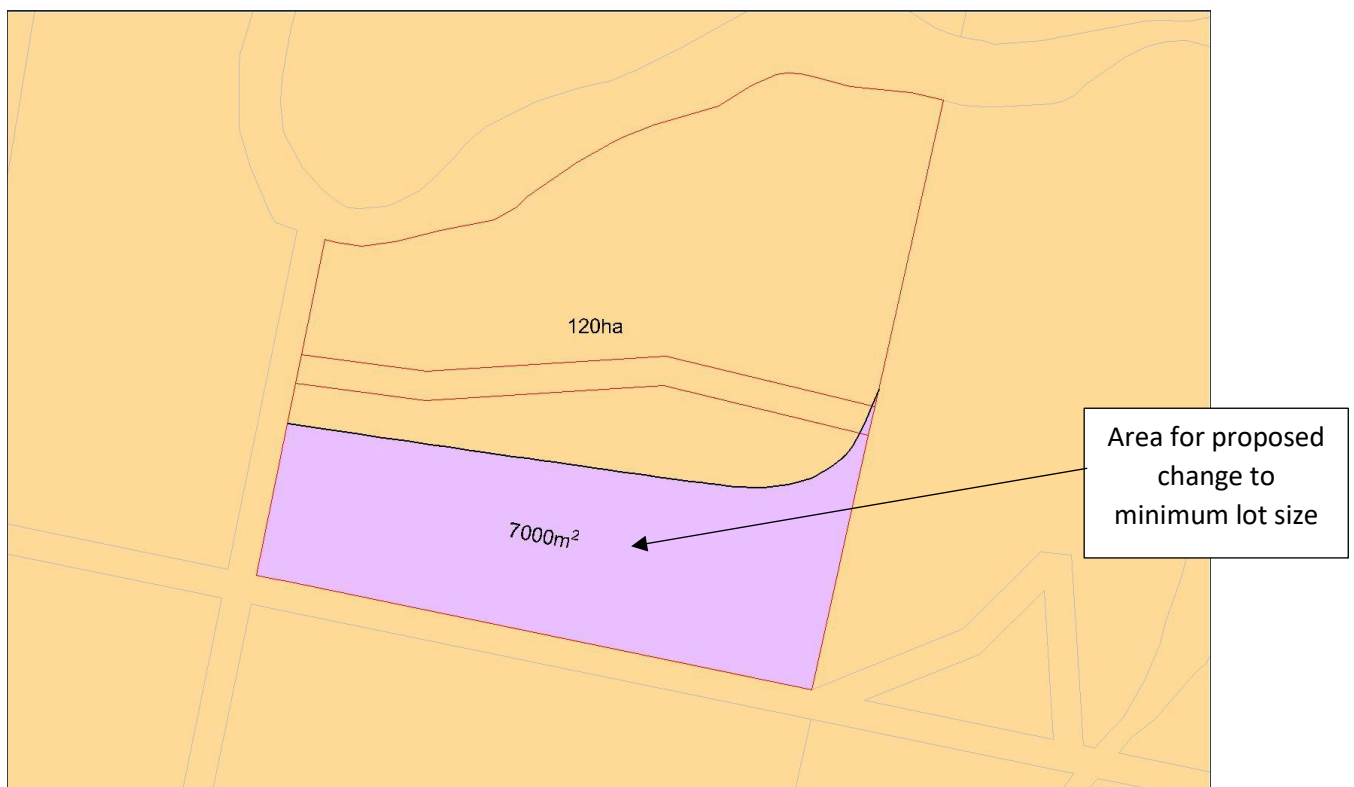


Fig. 7c: Part BVLEP 2013 Lot Size Map – proposed (close up)

4. Strategic Merit

The purpose of this section is to detail how the Planning Proposal aligns with and gives effect to relevant State and local government plans, strategies, policies and directions, and how it aims to deliver the intended strategic development outcome for the Site.

4.1 Background information relevant to the assessment of strategic merit

In assessing and determining the strategic merit of this Planning Proposal, regard has been given to the following plans and strategies, as well as relevant State Environmental Planning Policies (SEPPs) and applicable Ministerial Directions (i.e. section 9.1 Directions):

South East and Tablelands Regional Plan 2036

In 2017, the NSW Government released its South East and Tablelands Regional Plan 2036 (the 2036 Regional Plan). The 2036 Regional Plan is the government's blueprint for the region, reflecting community aspirations and opportunities for balanced growth, while protecting the region's natural environment.

The Planning Proposal supports delivery of the 2036 Regional Plan as it is consistent with the following goals, directions and actions contained in that plan:

Goal 4: Environmentally sustainable housing choices

- Direction 24: Deliver greater housing supply and choice:
 - Action 24.3: Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs
- Direction 28: Manage rural lifestyles
 - Action 28.1: Enable new rural-residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment
 - Action 28.3: Manage land use conflict that can result from cumulative impacts of successive development decisions

In addition, recognising site-specific characteristics, to ensure consistency between this Planning Proposal and the 2036 Regional Plan, consideration has also been given to other relevant goals and directions, including but not limited to:

Goal 3: A diverse environment interconnected by diversity corridors

- Direction 14: Protecting important environmental assets
- Direction 15: Enhance biodiversity connections

Consistency with the above components of the 2036 Regional Plan include that the Planning Proposal, if adopted, will result in:

- the application of suitable protection buffers with respect to land adjacent to Pambula River; and
- the delivery of rural-residential land in an area that has good access to existing services and infrastructure, in a catchment that has an identified shortage of this form of housing choice.

In endorsing the BVSC's local planning strategy, the then DPIE, now DPE, has determined that the use of the Site for rural-residential purposes is consistent with the 2036 Regional Plan. In

considering the Scoping Proposal with respect to this Site, the BVSC confirmed that the use of the Site for a six lot rural-residential subdivision aligns with its Rural Residential Strategy 2020 (RRS 2020)

Draft South East and Tablelands Regional Plan 2041

In December 2022, the NSW Government released its draft South East and Tablelands Regional Plan 2041 (the draft 2041 Regional Plan). It is understood that it is intended, once finalised, that this plan will supersede the 2036 Regional Plan, though at the time of preparing this Planning Proposal this had not yet occurred. The draft 2041 Regional Plan is intended to be the 20-year strategic planning blueprint to ensure the dynamic and vibrant South East and Tablelands Region's ongoing prosperity. It is built around five key themes:

- Theme 1: Recognising Country, people, and place;
- Theme 2: Enhancing sustainable and resilient environments;
- Theme 3: Leveraging diverse economic identities;
- Theme 4: Planning for fit for purpose housing and services; and
- Theme 5: Supporting a connected and active region.

A series of objectives are established under each of these key themes. This Planning Proposal would support delivery of the draft 2041 Regional Plan as it is consistent with the following themes and objectives contained in that plan (as well as the related strategies and actions contained therein):

- *Objective 5 (Theme 2): Protect important environmental assets*, by enabling the development of needed housing stock in areas that have suitable protection buffers with respect to environmentally sensitive areas. Further, it facilitates the delivery of rural-residential land in an area that has good access to existing services and infrastructure, in a catchment that has an identified shortage of this form of housing choice, and at a Site which a biodiversity assessment concluded was of little value to the biodiversity of the Lochiel area (see below and at Appendix A);
- *Objective 7 (Theme 2) – Build resilient places and communities*, as the Site for this Planning Proposal can be developed in a manner that is resilient to flood and fire risks (as has been confirmed by a Flood Impact Risk Assessment (see below and at Appendix B) and a Strategic Bushfire Assessment (see below and at Appendix D));
- *Objective 17 (Theme 4): Plan for a supply of housing in appropriate locations*, and *Objective 20 (Theme 4): Manage rural living*, as the Site for this Planning Proposal is located in an area identified by the Bega Valley Shire Council as suitable for rural-residential development in its Rural Residential Strategy 2020 (RRS 2020) (see further below); and
- *Objective 21 (Theme 4): Provide efficient access to infrastructure and services*, as the Site is close to existing transport, electricity and telecommunications infrastructure.

Bega Valley Shire Local Strategic Planning Statement 2040

In June 2020 Council adopted the *Bega Valley Shire Local Strategic Planning Statement 2040* (BVLSPS 2040), which guides the direction for land use planning in the Bega Valley Shire through to 2040. Amongst the 12 planning priorities encompassed in the BVLSPS 2040, this planning statement identifies the need for greater housing diversity and affordability, enhancing the distinct local character of each place, and for well-planned and efficient urban settlement.

The planning amendments being sought would enable a zoning and minimum lot size which is better reflective of the emerging rural-residential character of the area, support improved housing choice

within the Bega Valley Shire, and is in an area that is identified as being suitable for rural-residential development (see further below).

Bega Valley Shire Council Rural Residential Strategy 2020 (RRS 2020)

The RRS 2020 outlines BVSC's strategic directions for rural living opportunities and guides future rural-residential development. The then DPIE, now DPE, endorsed the RRS 2020 and none of the conditions that BVSC was required to comply with relate to the Site.

BVSC's mapping for the RRS 2020 indicates that the Site which is the subject of this Planning Proposal is predominantly unconstrained land, and that it is suitable for rural-residential development as part of the Pambula Catchment Area 3 (see Fig. 8). This includes the area that is proposed to be rezoned R5 and subdivided into six (6) lots. The approach that the BVSC has taken is consistent with the approach taken to enable rural-residential development on similar lots in the immediate vicinity of the Site.

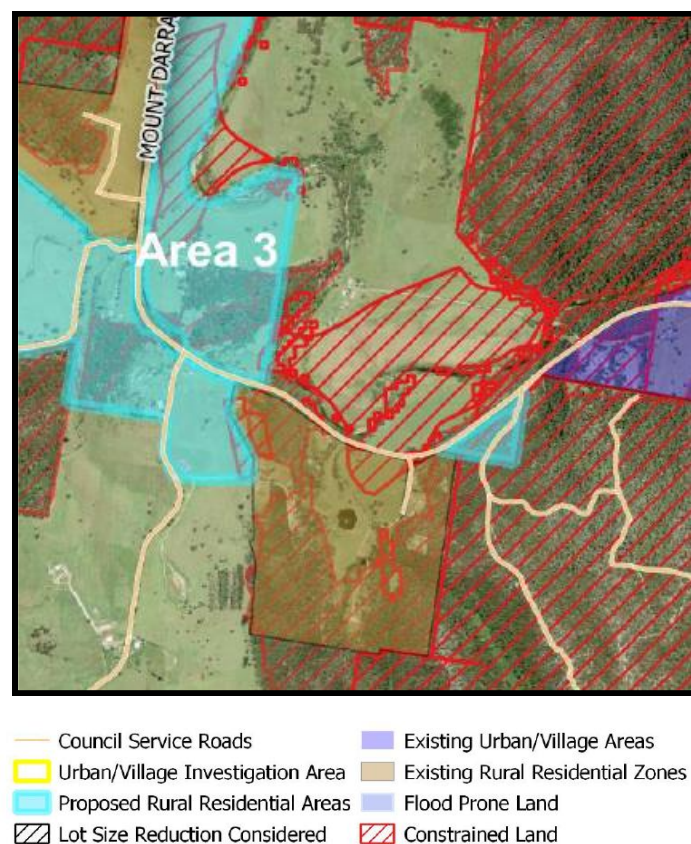


Fig. 8: Excerpt of the Pambula Future Directions map in RRS 2020 (at p.33)

By a letter dated 14 May 2024 to the Proponent, the BVSC confirmed that the use of this Site for a six lot rural-residential subdivision aligns with the BVSC's RRS 2020.

State Environmental Planning Policies (SEPPs)

Having regard to the nature of the Planning Proposal as well as the location and characteristics of the Site to which it relates, the Proponent has identified the following SEPPs as being potentially relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (***SEPP (Biodiversity and Conservation)***);
- State Environmental Planning Policy (Resilience and Hazards) 2021 (***SEPP (Resilience and Hazards)***), and in particular chapter 4; and
- State Environmental Planning Policy (Primary Production) 2021 (***SEPP (Primary Production)***).

Ministerial Directions

As this Planning Proposal involves planning amendments to the BVLEP 2013, the Proponent has identified that compliance is required with the Local Planning Directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979* (as relevant).

4.2 Assessment of strategic merit

This assessment of strategic merit is undertaken in accordance with the LEP Guideline, and in particular the matters specified in Table 3, Sections A and B of those guidelines. This assessment is contained in Table 4.1 below.

Table 4.1: Assessment of strategic merit

Section A – NEED FOR THE PLANNING PROPOSAL		
Question	Matters to be addressed	Assessment
1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?	• Explain the context of the planning proposal • If the proposal aims to give effect to, or is the product of, a local planning priority or action in a LSPS endorsed by the Planning Secretary or delegate and/or assured by the GCC, or Department endorsed or approved local strategy (such as a Local Housing Strategy), this should be clearly outlined and described to justify the proposal • If the proposal implements the outcomes of a strategic study or report of some kind, the nature of the study and its key findings should be briefly explained to justify the proposal. A copy of the study or report (or relevant parts) should be submitted with the planning proposal and ultimately form part of the public exhibition material	Yes. The Planning Proposal has been prepared having regard to the Bega Valley Shire Local Strategic Planning Statement 2040, which guides the direction for land use planning in the Bega Valley Shire through to 2040. Amongst the 12 planning priorities encompassed in the BVLSPS 2040, this planning statement identifies the need for greater housing diversity and affordability, enhancing the distinct local character of each place, and for well-planned and efficient urban settlement. The planning amendments being sought would enable a zoning and minimum lot size which is better reflective of the emerging rural-residential character of the area, support improved housing choice within the Bega Valley Shire, and is in an area that is identified as being suitable for rural-residential development. Further, the Planning Proposal is also consistent with and supported by the Bega Valley Shire Council Rural Residential Strategy 2020 (RRS 2020). The RRS 2020 outlines BVSC's strategic directions for rural living opportunities and guides future rural-residential development. The then DPIE, now DPE, endorsed the RRS 2020 and none of the conditions that BVSC was required to comply with relate to the Site. BVSC's mapping for the RRS 2020 indicates that the Site which is the subject of this Planning Proposal is predominantly unconstrained land, and that it is suitable for rural-residential development as part of the

		Pambula Catchment Area 3 (see Fig. 8). This includes the area that is proposed to be rezoned R5. The approach that the BVSC has taken is consistent with the approach taken to enable rural-residential development on similar lots in the immediate vicinity of the Site. By a letter dated 14 May 2024 to the Proponent, the BVSC confirmed that a Planning Proposal to enable a six lot subdivision of the Site for rural-residential purposes aligns with RRS 2020.
2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	- Review alternative approaches to achieve or give effect to the objectives or intended outcomes. This may include seeking to vary applicable development standards via clause 4.6 of the relevant LEP, waiting for council to finalise a study and/or separate planning proposal or whether the outcome could be achieved through an amendment to a development control plan - It should be evident from this assessment that the proposed approach is the best, most efficient and most time-effective approach to delivering the desired outcome	Yes. The Planning Proposal is the best way of achieving the objectives and intended outcomes with respect to the Site. As the current planning controls that apply to the Site do not permit its subdivision, the proposed planning amendments are required to enable a six (6) lot subdivision of the Site to facilitate rural-residential development.
Section B – relationship to the strategic planning framework		
Question	Matters to be addressed	Assessment
3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?	Regional and district plans and strategies include objectives, directions, planning priorities and specific actions for a range of different matters relevant to that region, district and LGA. These plans and strategies may include specific housing and employment targets and/or identify regionally important natural resources, transport networks and social infrastructure. A planning proposal should provide an explanation and justification of how the planning proposal is consistent with the applicable directions, priorities and actions. If a planning proposal is inconsistent with an objective and/or	Yes. In 2017, the NSW Government released its South East and Tablelands Regional Plan 2036 (the 2036 Regional Plan). The 2036 Regional Plan is the government’s blueprint for the region, reflecting community aspirations and opportunities for balanced growth, while protecting the region’s natural environment. The Planning Proposal supports delivery of the 2036 Regional Plan as it is consistent with the following goals, directions and actions contained in that plan:

	action within these documents, sufficient justification should be also included in the planning proposal • The relationship between the planning proposal and strategic plan or strategy needs to be outlined and whether the proposal will give effect to the plans and/or strategies. Mapping may be provided to demonstrate how a proposal will give effect to the priorities or actions under a regional or district plan • At a minimum, the planning proposal should address the assessment criteria for strategic merit Per the LEP Guideline, the relevant assessment criteria are: Does the proposal: • Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy; or • Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or • Respond to a change in circumstances that has not been recognised by the existing planning framework. Factors that lead to responding to a change in circumstances may include, but not exclusively relate to: • Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework	<u><i>Goal 4: Environmentally sustainable housing choices</i></u> • Direction 24: Deliver greater housing supply and choice: ○ Action 24.3: Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs • Direction 28: Manage rural lifestyles ○ Action 28.1: Enable new rural-residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment ○ Action 28.3: Manage land use conflict that can result from cumulative impacts of successive development decisions In addition, recognising site-specific characteristics, to ensure consistency between this Planning Proposal and the 2036 Regional Plan, consideration has also been given to other relevant goals and directions, including but not limited to: <u><i>Goal 3: A diverse environment interconnected by diversity corridors</i></u> • Direction 14: Protecting important environmental assets • Direction 15: Enhance biodiversity connections Consistency with the above components of the 2036 Regional Plan include that the Planning Proposal, if adopted, will result in: • the application of suitable protection buffers with respect to land adjacent to Pambula River; and • the delivery of rural-residential land in an area that has good access to existing services and infrastructure, in a catchment that has an identified shortage of this form of housing choice.
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	• Response to key Government priorities – Premier’s Priorities, climate change, or a shift in government policy (e.g. NSW Government’s Net Zero Plan) • Changes to population and demographic trends and associated needs such as housing or jobs	In endorsing the BVSC’s local planning strategy, the then DPIE, now DPE, has determined that the use of the Site for rural-residential purposes is consistent with the 2036 Regional Plan. <u>Draft South East and Tablelands Regional Plan 2041</u> In December 2022, the NSW Government released its draft South East and Tablelands Regional Plan 2041 (the draft 2041 Regional Plan). It is understood that it is intended, once finalised, that this plan will supersede the 2036 Regional Plan, though at the time of drafting this Planning Proposal this had not yet occurred. The draft 2041 Regional Plan is intended to be the 20-year strategic planning blueprint to ensure the dynamic and vibrant South East and Tablelands Region’s ongoing prosperity. It is built around five key themes: • Theme 1: Recognising Country, people, and place; • Theme 2: Enhancing sustainable and resilient environments; • Theme 3: Leveraging diverse economic identities; • Theme 4: Planning for fit for purpose housing and services; and • Theme 5: Supporting a connected and active region. A series of objectives are established under each of these key themes. This Planning Proposal would support delivery of the draft 2041 Regional Plan as it is consistent with the following themes and objectives contained in that plan (as well as the related strategies and actions contained therein): • <u>Objective 5 (Theme 2): Protect important environmental assets</u>, by enabling the development of needed housing stock in areas that have suitable protection buffers with respect to environmentally sensitive areas. Further, it facilitates the delivery of rural-residential land in an area that has good access to existing services and infrastructure, in a catchment that has an identified shortage of this form of housing choice, and at a Site which a biodiversity assessment concluded was of little value to the biodiversity of the Lochiel area (see attached);
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		• <u>Objective 7 (Theme 2) – Build resilient places and communities</u>, as the Site for this Planning Proposal can be developed in a manner that is resilient to flood and fire risks (as has been confirmed by a Flood Impact Risk Assessment and a Strategic Bushfire Assessment (see attached)); • <u>Objective 17 (Theme 4): Plan for a supply of housing in appropriate locations</u>, and <u>Objective 20 (Theme 4): Manage rural living</u>, as the Site for this Planning Proposal is located in an area identified by the Bega Valley Shire Council as suitable for rural-residential development in its Rural Residential Strategy 2020 (RRS 2020); and • <u>Objective 21 (Theme 4): Provide efficient access to infrastructure and services</u>, as the Site is close to existing transport, electricity and telecommunications infrastructure.
4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?	• Demonstrate how the planning proposal is consistent with the relevant council's LSPS that has been endorsed by the Planning Secretary (or assured by the GCC). Relevant matters should be identified and the relationship of the planning proposal to those matters discussed • Where there is no endorsed LSPS, another local strategy or local strategic plan may be considered • The status of any strategy, plan or LSPS should be considered in the planning proposal – draft, adopted by council, endorsed by the Planning Secretary, etc. An example is an approved local housing strategy. A planning proposal that gives effect to a local strategy that has been endorsed/approved by the Planning Secretary would be expected to be supported • Local strategies or local strategic plans endorsed by the Planning Secretary or delegate also provide the opportunity to justify or detail how	Yes. The Planning Proposal has been prepared having regard to and are consistent with the Bega Valley Shire Local Strategic Planning Statement 2040, which guides the direction for land use planning in the Bega Valley Shire through to 2040. Amongst the 12 planning priorities encompassed in the BVLSPS 2040, this planning statement identifies the need for greater housing diversity and affordability, enhancing the distinct local character of each place, and for well-planned and efficient urban settlement. The planning amendments being sought would enable a zoning and minimum lot size which is better reflective of the emerging rural-residential character of the area, support improved housing choice within the Bega Valley Shire, and is in an area that is identified as being suitable for rural-residential development.

	environmental issues (such as those set out in section 9.1 Directions) may be addressed	Further, the Planning Proposal is also consistent with and supported by the Bega Valley Shire Council Rural Residential Strategy 2020 (RRS 2020). The RRS 2020 outlines BVSC's strategic directions for rural living opportunities and guides future rural-residential development. The then DPIE, now DPE, endorsed the RRS 2020 and none of the conditions that BVSC was required to comply with relate to the Site. BVSC's mapping for the RRS 2020 indicates that the Site which is the subject of this Planning Proposal is predominantly unconstrained land, and that it is suitable for rural-residential development as part of the Pambula Catchment Area 3 (see Fig. 8). This includes the area that is proposed to be rezoned R5. The approach that the BVSC has taken is consistent with the approach taken to enable rural-residential development on similar lots in the immediate vicinity of the Site. By a letter dated 14 May 2024 to the Proponent, the BVSC confirmed that a Planning Proposal to enable a six lot subdivision of the Site for rural-residential purposes aligns with the BVSC's RRS 2020.
5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?	Demonstrate how the proposal is consistent with any other relevant State or regional study or strategy – for example. Future Transport Strategy 2056, Cumberland Conservation Plan, Net Zero Plan, Water Resource Plan, State Infrastructure Strategy, A 20 Year Economic Vision for Regional NSW	Not applicable Given the very minor scale of the Planning Proposal, it is not anticipated that it would have an impact with respect to any other relevant State or regional study or strategy.
6 Is the planning proposal consistent with applicable SEPPs?	• Provide an assessment of the proposal against relevant SEPPs • It may be necessary to provide preliminary advice in relation to how the proposal can satisfy the requirements of a SEPP o For example, State Environmental Planning Policy (Infrastructure) 2007 requires that certain trip-generating proposals must be referred to Transport for NSW for advice	Yes. Having regard to the nature of the Planning Proposal, the Proponent has identified the following SEPPs as being applicable: • State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP (Biodiversity and Conservation));

	• Mapping may be provided in the planning proposal to identify SEPPs relevant to the proposal	• State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP (Resilience and Hazards)), and in particular chapter 4; and • State Environmental Planning Policy (Primary Production) 2021 (SEPP (Primary Production)). Reports prepared with respect to the Planning Proposal confirm that it is consistent with each of these SEPPs. Relevant reports are: • Biodiversity Assessment Report (BAR) (see Appendix A), which found: – Having regard to Chapter 3 of the SEPP (Biodiversity and Conservation) with respect to the protection of koala habitat, that the site is within agricultural land absent of woodland or forest vegetation, and that there is no suitable habitat present • Land Use Conflict Risk Assessment (LUCRA) (Appendix G), which concluded: – Having regard to the aims specified in cl. 2.1 of the SEPP (Primary Production), that: <i>In essence, by conscientiously applying the recommended management measures outlined in this assessment, the risks associated with potential land use conflicts can be effectively mitigated, ensuring the harmonious coexistence of diverse land uses in the targeted area.</i> • Onsite Sewage Management (OSM) assessment (Appendix C), which found: – Having regard to Chapter 2, Part 2.5, Div 4 of the SEPP (Primary Production) with respect to oyster aquaculture, that there is capacity for effective onsite effluent disposal and management in areas beyond the 150m buffer zone from the Pambula River.
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		As such, the planning amendments being sought can be anticipated to have no impact on oyster aquaculture in the region. - Materials for Preliminary Site (Contamination) Investigation (Appendix H), which demonstrated - Having regard to (<i>SEPP (Resilience and Hazards)</i>), and in particular chapter 4, that the Site is, and has been, cleared grazing land for many years and that no contaminants are anticipated to be present on the land.
7 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?	- The Minister may issue directions regarding the content of LEPs, to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions - Assess against relevant section 9.1 Directions - Where the planning proposal is inconsistent with any of the relevant directions, those inconsistencies must be specifically explained and justified in the planning proposal. There may need to be technical or evidence provided as part of the justification - Additional information may be required after a Gateway determination has been issued to demonstrate consistency with a direction or enable the Planning Secretary to agree to an unresolved inconsistency - A PPA will need to ensure that any unresolved inconsistency with a direction is addressed and agreed to by the Planning Secretary prior to the LEP being made - Certain directions require consultation with government agencies to demonstrate consistency with the direction's desired outcome. This should be identified with council and the Department. Pre-lodgement discussions are encouraged to identify key matters that can be addressed early in the	Yes Assessment of the Planning Proposal against relevant section 9.1 Directions, being the Local Planning Directions, is set out in Table 4.2 below

	process. Formal consultation with the agencies will occur during exhibition • In certain circumstances the government may identify key priorities that should be considered alongside the strategic planning framework	
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Table 4.2: Assessment with respect to consistency with section 9.1 Ministerial Directions (Local Planning Directions)

Question	Consistency	Comment
Focus Area 1: Planning Systems		
1.1 Implementation of Regional Plans	YES	The Planning Proposal is consistent with this Ministerial Direction (see Table 4.1 above)
1.2 Development of Aboriginal Land Council land	N/A	Not applicable
1.3 Approval and Referral Requirements	YES	This direction is a requirement for Council
1.4 Site Specific Provisions	YES	The Planning Proposal is consistent with this Ministerial Direction.
Focus Area 2: Planning Systems – Place based		
1.5 Parramatta Road Corridor Urban Transformation Strategy	N/A	Not applicable
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A	Not applicable
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	Not applicable
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A	Not applicable
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A	Not applicable
1.10 Implementation of Western Sydney Aerotropolis Plan	N/A	Not applicable
1.11 Implementation of Bayside West Precincts 2036 Plan	N/A	Not applicable
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	N/A	Not applicable
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	N/A	Not applicable

1.14	Implementation of Greater Macarthur 2040	N/A	Not applicable
1.15	Implementation of the Pyrmont Peninsula Place Strategy	N/A	Not applicable
1.16	North West Rail Link Corridor Strategy	N/A	Not applicable
1.17	Implementation of the Bays West Place Strategy	N/A	Not applicable
1.18	Implementation of the Macquarie Park Innovation Precinct	N/A	Not applicable
1.19	Implementation of the Westmead Place Strategy	N/A	Not applicable
1.20	Implementation of the Camellia-Rosehill Place Strategy	N/A	Not applicable
1.21	Implementation of South West Growth Area Structure Plan	N/A	Not applicable
1.22	Implementation of the Cherrybrook Station Place Strategy	N/A	Not applicable
Focus Area 3: Biodiversity and Conservation			
3.1	Conservation Zones	N/A	Not applicable
3.2	Heritage Conservation	YES	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The Planning Proposal and the supporting Aboriginal Cultural Heritage Assessment Report (ACHAR) has considered the potential for any heritage impact (see Appendix E). The Planning Proposal and design concept have been prepared to ensure that any development will not have any adverse cultural heritage impact. The Planning Proposal does not include changes to any planning controls affecting a heritage item or change to a heritage conservation area and the ACHAR concludes the proposal is supportable from a heritage perspective.
3.3	Sydney Drinking Water catchments	N/A	Not applicable

3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	N/A	• Not applicable
3.5	Recreation Vehicle Areas	N/A	• Not applicable
3.6	Strategic Conservation Planning	N/A	• Not applicable
3.7	Public Bushland	N/A	• Not applicable
3.8	Willandra Lakes Region	N/A	• Not applicable
3.9	Sydney Harbour Foreshores and Waterways Area	N/A	• Not applicable
3.10	Water Catchment Protection	YES	The objectives of this direction are to: (a) maintain and improve the water quality (including ground water) and flows of natural waterbodies, and reduce urban run-off and stormwater pollution; (b) protect and improve the hydrological, ecological and geomorphological processes of natural waterbodies and their connectivity; (c) protect and enhance the environmental quality of water catchments by managing them in an ecologically sustainable manner, for the benefit of all users; and (d) protect, maintain and rehabilitate watercourses, wetlands, riparian lands and their vegetation and ecological connectivity. The Planning Proposal and the supporting Biodiversity Assessment Report (see Appendix A) and Onsite Sewage Management (OSM) assessment (see Appendix C) detail that the proposed planning amendments and design concept will satisfy this requirement and therefore considered to be consistent with the objectives of this Direction.
Focus Area 4: Resilience and Hazards			
4.1	Flooding	YES	The objectives of this direction are to: (a) 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

		(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land. The Planning Proposal is consistent with the objectives of this direction as the Flood Impact Risk Assessment (see Appendix B) concludes there is sufficient ability to develop the Site beyond the PMF Flooding Extents and prevent any direct impacts due to flooding and the risks associated with flooding can be suitably addressed as part of this proposal.
4.2 Coastal Management	N/A	Not applicable
4.3 Planning for Bushfire Protection	YES	The objectives of this direction are to: (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and (b) encourage sound management of bush fire prone areas. The Planning Proposal and the supporting Strategic Bushfire Assessment (see Appendix D) detail that the proposed planning amendments and concludes that the design concept will satisfy this requirement. As such, this Planning Proposal is considered consistent with the objectives of this direction.
4.4 Remediation of Contaminated Land	YES	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. The Planning Proposal will involve the change of use of land (noting however that the Site already has an existing dwelling entitlement). Materials with respect to a preliminary contamination study are provided (see Appendix H) and concludes there is a very low likelihood of any contaminated materials given the Site is (and has been for many years) cleared, grazing land. This Planning Proposal is therefore considered consistent with the objective of this Direction.
4.5 Acid Sulfate Soils	N/A	The Site is not located on acid sulphate soils. Accordingly, Direction 4.5 is not applicable.

4.6	Mine Subsidence and Unstable Land	N/A	Not applicable
Focus Area 5: Transport and Infrastructure			
5.1	Integrating Land Use and Transport	N/A	Not applicable
5.2	Reserving Land for Public Purpose	N/A	Not applicable
5.3	Development Near regulated Airports and Defence Airfields	N/A	Not applicable
5.4	Shooting Ranges	N/A	Not applicable
5.5	High pressure dangerous goods pipelines	N/A	Not applicable
Focus Area 6: Housing			
6.1	Residential Zones	YES	The objectives of this direction are to: (a) encourage a variety and choice of housing types to provide for existing and future housing needs; (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and (c) minimise the impact of residential development on the environment and resource lands. As indicated by the BVSC, a Planning Proposal to enable a six lot subdivision of the Site for rural-residential purposes aligns with the BVSC RRS 2020 for the provision of rural-residential land (see letter from BVSC to the Proponent dated 14 May 2024 in Appendix J). As detailed in Section 5 below, it will make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and is therefore considered consistent with the objectives of this Direction.
6.2	Caravan Parks and Manufactured Home Estates	N/A	Not applicable
Focus Area 7: Industry and Employment			
7.1	Employment Zones	N/A	Not applicable
7.2	Reduction in non-hosted short term rental accommodation period	N/A	Not applicable

7.3	Commercial and Retail Development along the Pacific Highway, North Coas	N/A	Not applicable
Focus Area 8: Resource and Energy			
8.1	Mining, Petroleum Production and Extractive Industries	N/A	Not applicable
Focus Area 8: Primary Production			
9.1	Rural Zones	YES	The Planning Proposal does not seek any planning amendment to rezone the Site to any of the specified zones.
9.2	Rural Lands	YES	The objectives of this direction are to: (a) protect the agricultural production value of rural land; (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes; (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State; (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses; (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land; and (f) support the delivery of the actions outlined in the NSW Right to Farm Policy. The Planning Proposal and the supporting Land Use Conflict Risk Assessment (see Appendix G) detail that the proposed planning amendments and design concept will satisfy this requirement. Consistent with the RRS 2020, there has already been considerable transition in the area proximate to the Site for use for rural-residential development, and a coincident decline in the use of surrounding land for primary production purposes. The decline in agriculture in the surrounding land is reflective of the changing agricultural economics which in the case of the Site renders the use of the subject land for primary production no longer viable on a stand-alone basis. Further, by a

		determination made by the BVSC with respect to DA 2018.209, consent has already been granted for use of the subject land for dwelling purposes. Given that the proposed planning amendments are to facilitate an equivalent use, its potential impact on the use of the Site or adjacent land for primary production purposes is limited, and its use for rural-residential purposes will have negligible impact on primary production in the area (see further at subsection 5.7 below). As such, the Planning Proposal is considered consistent with the objectives of this Direction.
9.3 Oyster Aquaculture	YES	The objectives of this direction are to: (a) ensure that ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and (b) protect ‘Priority Oyster Aquaculture Areas’ and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers. The Planning Proposal is considered consistent with the objectives of this direction. As noted above, SEPP (Primary Production) also requires consideration of the effects of the subsequent subdivision and dwelling development applications on oyster aquaculture in the region. While this issue is most appropriately addressed at the development application stage, generally it is noted that the Site is not proximate to any oyster lease areas and the proposed minimum lot sizes, the location of proposed development and the physical characteristics of the Site enable effective onsite effluent disposal and management in areas beyond the 150m buffer zone from the Pambula River (see Onsite Sewage Management (OSM) assessment at Appendix C). As such, the planning amendments being sought can be anticipated to have no impact on oyster aquaculture in the region.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	• Not applicable

5. Site-Specific Merit

The purpose of this section is to assess the site-specific merit of the Planning Proposal, detailing the outcomes to be achieved and the process for implementation. It is informed by the range of studies prepared following consultation with the BVSC and relevant NSW government agencies at the Scoping Proposal stage.

5.1 Introduction

Having regard to the nature of the Site and the planning amendments being sought, this section of the Planning Proposal details key characteristics of the Site and its surrounds, as well as providing a summary of the findings of studies and investigations undertaken to inform consideration of the Planning Proposal. It concludes with an assessment of the site-specific merit having regard to the requirements of the LEP Guideline, and in particular Table 3 sections C, D and E.

These studies and investigations have been prepared having regard to relevant State and local government policies and planning frameworks, as well as specific matters requested by State Government agencies and the BVSC in response to the Scoping Proposal previously prepared with respect to this Site.

5.2 Biodiversity and ecological characteristics

5.2.1 Background

The Site is gently sloping, cleared grazing land, with minimal remnant vegetation (see Images 1, 2 & 3). It is situated adjacent to the Pambula River, which runs along the northern side of the Site. More generally, the Site is located in an area where agricultural activity commenced in the 19th century; from the late 20th century; however, land in the immediate area increasingly has been used for rural-residential purposes (see Fig. 4 above).

Images 1, 2 & 3: Lot 5 DP 750207 & Lot 1 DP130034



Image 1: Looking westerly along access track/Crown Road Reserve towards Mount Darragh Road



Image 2: Looking northerly from access track/Crown Road Reserve across subject land to Pambula River



Image 3: Looking north-easterly from access track/Crown Road Reserve across subject land to Pambula River

Ecological and biodiversity constraints

The applicable BVLEP 2013 Terrestrial Biodiversity Map (see Fig. 9) indicates only a small biodiversity area in the north-east corner of the Site adjacent to Pambula River.

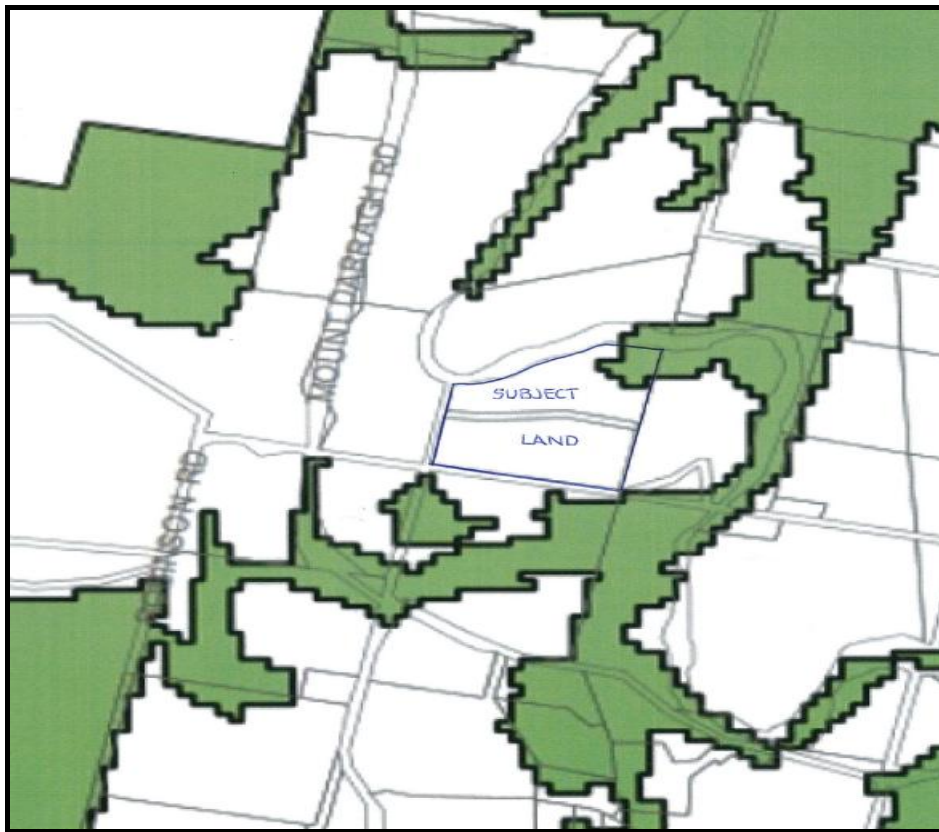


Fig. 9: Part BVLEP 2013 Terrestrial Biodiversity Map

In addition, the BVLEP 2013 Natural Resources Map shows that part of the Site is constrained (see Fig. 10), also being land adjacent to the Pambula River. It is noted, however, that mapping undertaken for the RRS 2020 indicates a smaller, and slightly different area of land that is constrained (see Fig. 8 above). The area designated in the RRS 2020 mapping appears to align with the area identified in the Territorial Biodiversity Map.

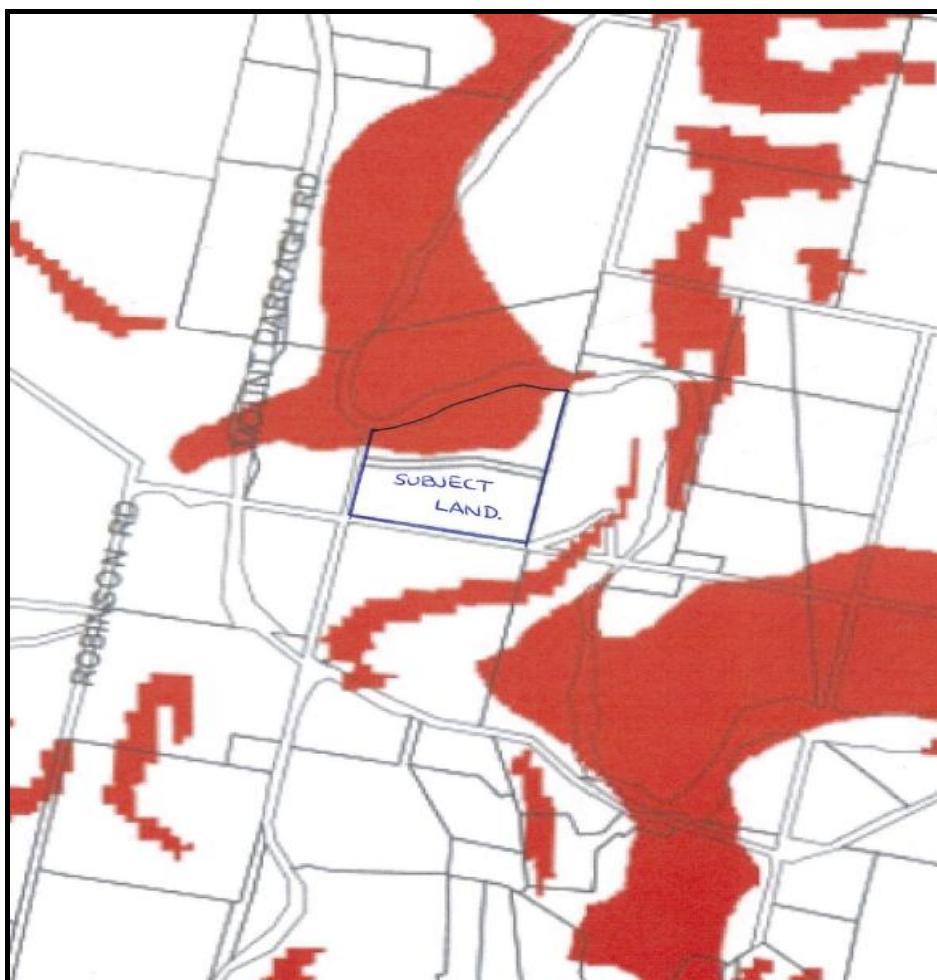


Fig. 10: Part BVLEP 2013 Natural Resources Map

Finally, according to the NSW DPE Transitional Native Vegetation Regulatory Map the only sensitive land associated with the Site relates to the Pambula River (see Fig. 11).



**Fig. 11: Excerpt – Transitional Native Vegetation Regulatory Map
(as at 8 May 2023)**

5.2.2 Assessment

A Biodiversity Assessment Report (BAR) has been prepared by EnviroKey (see attached at Appendix A) to address the matters set out on this issue in the letter from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and Water dated 26 March 2024 (Ref: DOC24/141878) in relation to the Scoping Proposal prepared with respect to this Site.

In summary, the EnviroKey BAR concludes:

The field survey identified three plant community types (PCT) within the study area. These being PCT 3181 – Bega Wet Shrub Forest, PCT 3192 - South Coast Riverflat Ribbon Gum Forest and PCT 4061 - Bega-Towamba Riparian Scrub. PCT 3181 occurs as two zones (a moderate condition zone and a poor condition zone). PCT 3192 in the study area conforms to the NSW BC Act listed threatened ecological community River-Flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions.

Field surveys did not identify any threatened flora or fauna species present, and this is not surprising given the highly degraded nature of the majority of the study area.

Overall, the study area is of little value to the biodiversity of the Lochiel area. EnviroKey recommends that any subdivision design should avoid the riparian area and threatened ecological community.

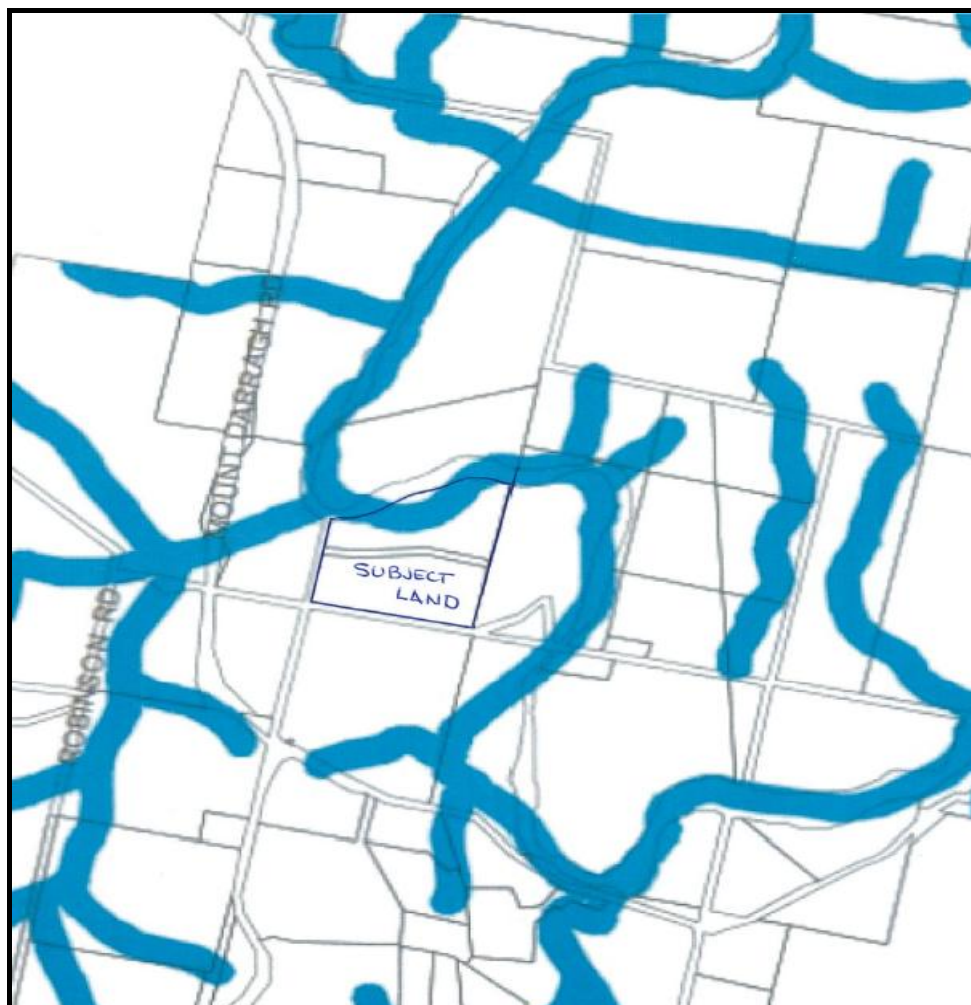
Having regard to Chapter 3 of the SEPP (Biodiversity and Conservation) with respect to the protection of koala habitat, it is further noted that the BAR also finds that the Site is within agricultural land absent of woodland or forest vegetation, and that no suitable habitat for koala is present.

Based on these findings it is submitted that the BAR supports the conclusion that there are no environmental constraints that would preclude the Planning Proposal from being approved. This is particularly so as the area proposed to be rezoned, and minimum lot size adjusted, avoids the riparian area completely. Further, consistent with the BVSC's feedback, a R5 zoning is suitable having regard to the objective of the Planning Proposal (being the facilitation of a six (6) lot rural-residential subdivision) as such a zoning is supported by the findings of the Biodiversity Assessment Report which concluded that the area for which a rezoning is being sought *"is of little value to the biodiversity of the Lochiel area"* (see Appendix A).

5.3 Riparian Lands and Watercourses

5.3.1 Background

The BVLEP 2013 Riparian Lands and Watercourses Map indicates that the Pambula River is located on the northern side of the Site (see Fig. 12). The topography and area of the Site means there is minimal flooding risk, and ample area for onsite sewage management (OSM) systems that will not encroach upon the required 150 m buffer zone to the river. Investigations and studies have been undertaken to confirm this is the case (see further below).



5.3.2 Assessment

(a) Flood Impact Risk Assessment (FIRA)

A Flood Impact Risk Assessment (FIRA) has been prepared by TA Project Services (see attached at Appendix B) to address the matters set out on this issue in the letter dated 26 March 2024 from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and Water (Ref: DOC24/141878) in relation to the Scoping Proposal prepared with respect to this Site.

In summary, the TA Project Services FIRA report concludes:

A Flood Impact Risk Assessment has been undertaken to support the planning proposal to rezone part of the subject site, reduce the minimum lot size, and enable future subdivision, facilitating residential development on the newly created lots. The planning proposal seeks to rezone the portion of the subject site above the PMF Flooding Extent, to enable six R5 Large Lot Residential lots of minimum lot size of 7000m². The proposed rezoning and concept subdivision proposal has been prepared with consideration to flood risk, proposing to rezone the portion above the PMF only to ensure all future residential development following the subdivision is not flood affected.

As part of this Flood Impact Risk Assessment, an analysis of the adopted Pambula River, Pambula Lake and Yowaka River Flood Study has been carried out at the subject site, to assess the direct and indirect impacts of flooding. This Flood Impact Risk Assessment has supported the findings of the adopted Flood Study, through the review of historical flood events and undertaking a site inspection to confirm the current-day landform is consistent with the modelled landform within the Flood Models.

The outcome of this Flood Impact Risk Assessment supports the planning proposal to rezone part of the subject site, reduce the minimum lot size, and enable future subdivision, which will facilitate residential development on the newly created lots.

(b) Onsite Sewage Management (OSM) assessment

As the Pambula River is located on the northern boundary of the Site, it is necessary that an Onsite Sewage Management (OSM) assessment be undertaken having regard to this waterway and the relevant standards; in particular, those contained in the BVDCP 2013 (which includes, inter alia, applying a 150m buffer zone required with respect to any development activity near a nominated waterway (which includes the Pambula River)).

An OSM assessment has been prepared by Technibuild Consulting in relation to this Planning Proposal and related subdivision, which concludes that individually and collectively the proposed lots are able to comply with the relevant standards. A copy of the OSM assessment is attached at Appendix C.

Specifically, the Technibuild Consulting OSM assessment concludes:

Each proposed new allotment of capable of safely disposing 800 litres per day of waste water calculated in accordance with the Tables in AS1547-2012, the Local Authority

DCP, the Sydney Catchment Authority Design Manual and the NSW Department of Health Guidelines. Each on site waste water disposal will have a neutral or slightly beneficial effect on the water quality on the allotment and the local area in general.

Based on the findings of these studies, it is submitted that no constraints with respect to flood risk or onsite sewage management that would prevent this Planning Proposal from being approved.

5.4 Bushfire

5.4.1 Background

The Site contains land that is identified as having category 3 bushfire vegetation on the Bush Fire Prone Land (BFPL) layer (see Fig. 13), being cleared grazing land with only minimal remnant vegetation. As the land is mapped as bushfire prone, BVSC is required to consider the implications of dwelling construction within such lands.

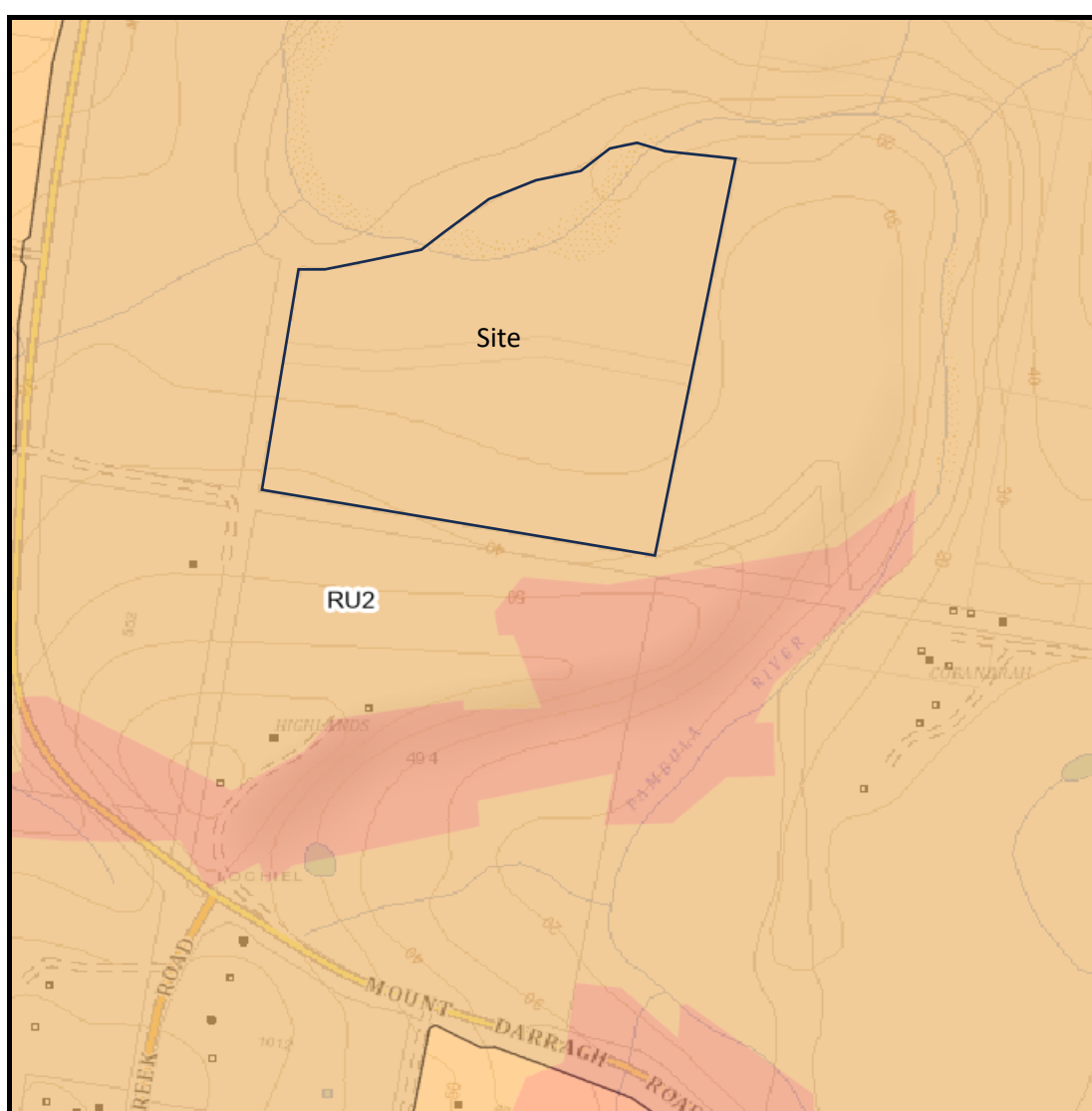


Fig. 13: BFPL status of subject Site (Planning Portal E-Planning spatial viewer) (as at 11 May 2023)

5.4.2 Assessment

A Strategic Bushfire Assessment (SBA) has been prepared with respect to the Site by Southern Bushfire Solutions, incorporating input from consultation with the NSW RFS (see attached at

Fig. 14: Excerpt from AHIMS search, 6 July 2023

5.5.2 Assessment

An Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared by Lantern Heritage (see attached at Appendix E) to address the matters set out on this issue in the letter from Heritage NSW, Department of Climate Change, Energy, the Environment and Water dated 5 March 2024 (Ref: DOC24/133865).

The Lantern Heritage ACHAR concludes that:

- ***The study area measures 12.9ha situated at Lot 5 DP750207 and 1 DP130034, BVSC LGA.***
- ***A desktop review indicates that the study area has not undergone significant development, and that land and soil disturbance is largely restricted to pastoral activities limited to livestock grazing.***
- ***Parts of the study area that fall within 150m of the Pambula River are subject to Section 5.7 of the BVSC Development Control Plan (DCP) 2013 (amended 2015). The parts of the study area within 150m of the Pambula River will therefore not be subject to development impacts.***
- ***One Aboriginal Heritage Site (Mount Darragh Road PAD 02 AHIMS # 62-6-0903) was recorded within the study area. Mount Darragh PAD 02 AHIMS # 62-6-0903 is wholly within 150m of the Pambula River.***
- ***No other Aboriginal objects, or archaeological values have been identified in the balance of the study area outside Mount Darragh PAD 02 AHIMS # 62-6-0903***
- ***No impacts have been identified to Aboriginal heritage values within the study area.***

and recommends:

- ***Subject to development remaining constrained to areas under Section 5.7 of the BVSC Development Control Plan (DCP) 2013 (amended 2015), being locations wholly outside of Mount Darragh PAD 02 AHIMS # 62-6-0903, no further formal archaeological assessment is required for the proposal of subdivision to proceed.***
- ***The proponent may choose to enact further protection for Mount Darragh PAD 02 AHIMS # 62-6-0903 through restricting development on land that is within the Flood Planning Area.***
- ***Any future applications or proposals for development within Mount Darragh Road PAD 02 AHIMS # 62-6-0903 would require further formal archaeological investigation.***

Based on the findings of the ACHAR, there are no heritage constraints that would preclude this Planning Proposal from being approved.

5.6 Traffic and Access

5.6.1 Background

Access to the Site is via an existing formed, council-owned road of approximately 210 m that adjoins Mount Darragh Road at the Robinson Road intersection. A Crown Road Reserve extends from this road and runs along the southern boundary of the Site. Transfer of control of this road reserve to BVSC would be required should the Planning Proposal be adopted and the related subdivision approved.

5.6.2 Assessment

A Traffic Impact Study (TIS) has been prepared by Sydney Traffic Engineers (see attached at Appendix F) to address matters on this aspect of the Planning Proposal as set out in the letter from Transport for NSW (TfNSW) dated 21 February 2024 (Ref: STH24/00121/001).

In summary, the Sydney Traffic Engineers' TIS concludes:

The proposed rural-residential rezoning of each of the two parcels of land examined in this report is expected to have minimal impact on the traffic volumes along Mt Darragh Road and at the intersections of Mt Darragh Road and the Princes Highway at South Pambula. It was also identified that sight distance for traffic entering Mt Darragh Road from the proposals would have sufficient sight distance to oncoming traffic.

The future assessment for +10 years was carried out for the full development of Area 3 as well. This identified that the background traffic growth for Mt Darragh Road and the Princes Highway intersection would not have any significant reduction in level of service or average delay with the current intersection configuration and additional traffic generated from Area 3 development.

The TIS also details with respect to this Planning Proposal that work will be required to seal the unnamed council road that leads to the Site. In relation to this access road, it is further noted that the TfNSW response to the Scoping Proposal suggested that a 2-dimensional strategic design of required works with respect to a Basic Right (BAR) turn treatment and Basic Left (BAL) turn treatment be provided, to demonstrate that a compliant design can be constructed within the road reserve. A design that addresses this aspect of the TfNSW's response has been prepared and is contained at Appendix I.

Cumulatively, the findings of the TIS together with the strategic design for the road access support the approval of this Planning Proposal.

5.7 Rural Land Use Conflict

5.7.1 Background

The Planning Proposal aligns with and supports the delivery of BVSC's DPE endorsed local strategy with respect to rural-residential development, RRS 2020. Consistent with the RRS 2020, there has already been considerable transition in the area proximate to the Site for use for rural-residential development, and a coincident decline in the use of surrounding land for primary production purposes. The decline in agriculture in the surrounding land is reflective of changing agricultural economics which in the case of the Site renders the use of the subject land for primary production no longer viable on a stand-alone basis. Further, by a determination made by the BVSC with respect to DA 2018.209, consent has already been granted for use of the subject land for dwelling purposes. Given that the proposed planning amendment is to facilitate an equivalent use, its potential impact on the use of the Site or adjacent land for primary production purposes is limited, and its use for rural-residential purposes will have negligible impact on primary production in the area.

For completeness, it is noted that the Site comprises land that is designated as class 3 on the Department of Agriculture Land Classification Atlas (see Fig. 15 below); that is, it is designated as:

The comprehensive evaluation conducted within this LUCRA indicates that the risks associated with potential land use conflicts are notably low. As delineated in Table 4.1, each identified risk can be effectively managed through the implementation of recommended strategies. It is noteworthy that risk ratings must be maintained at 10 or below to ensure acceptability, a criterion that is satisfactorily met through the proposed management interventions for this Site.

Of particular concern are potential conflicts stemming from issues such as trespassing and canine ingress, both of which can be mitigated through the construction of robust fencing structures and fostering constructive dialogues among neighbouring stakeholders. Similarly, the management of effluent disposal emerges as a priority, necessitating adherence to prescribed on-site sewage management standards established by the Bega Valley Shire Council (BVSC) specific to this Site.

In essence, by conscientiously applying the recommended management measures outlined in this assessment, the risks associated with potential land use conflicts can be effectively mitigated, ensuring the harmonious coexistence of diverse land uses in the targeted area.

In forming this conclusion, the LUCRA also addresses matters covered by the SEPP (Primary Production), which requires consideration of the potential effects of the subsequent subdivision and dwelling development applications on oyster aquaculture in the region. While this issue is most appropriately addressed at the development application stage, generally it is noted that the Site is not proximate to any oyster lease areas and the proposed minimum lot sizes are sufficient to ensure effective onsite effluent disposal and management in areas beyond the 150m buffer zone from the Pambula River (see further at Appendix C). As such, the planning amendments being sought can be anticipated to have no impact on oyster aquaculture in the region.

As such, the LUCRA concludes that land use conflict risk is low and can be effectively managed. More generally with respect to rural lands, the Planning Proposal will also minimise fragmentation of agricultural land and land use conflict elsewhere in the Bega Valley Shire by facilitating rural-residential development in an area that has been identified as being suitable for that use. Hence, the findings of the LUCRA indicate that the Planning Proposal should be supported.

5.8 Other relevant site features

5.8.1 Contaminated land

As SEPP (Resilience and Hazards) – Chapter 4: Remediation of Land applies to all land in NSW (per clause 4.4), and because a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated (clause 4.6(1)(a)), the issue of contaminated land is a relevant consideration to be addressed in the planning process.

Moreover, before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines (clause 4.6(2); see also NSW Environment Protection Authority (EPA): Consultants reporting on contaminated land – Contaminated Land Guidelines 2020).

Materials relevant to the conduct of a preliminary site investigation have been obtained, assessed, and were provided as part of the Scoping Proposal process (see attached at Appendix H). The materials provided demonstrated that the Site is, and has been, cleared grazing land for many years and that no contaminants are anticipated to be present on the land. The Proponent has owned the Site for over 50 years. In that time, the land has only been used for grazing purposes. Further it is the Proponent's understanding that there has been no other use of the land other than for grazing purposes since the 19th century. There are no built forms on the Site.

At the Scoping Proposal stage, the Proponent sought advice from the BVSC as to whether any further information was required with respect to the issue of contamination risk (beyond that contained in Appendix H). No further information was required following review of the materials provided by the BVSC and the relevant government agencies.

5.8.2 Development servicing

Given the Site is outside of the South Pambula Development Servicing Plan, future development of the new lots will require the provision of onsite sewage disposal. The Site has sufficient area for effluent disposal systems set back at least 150 m from the Pambula River (see above, and OSM assessment at Appendix C). There is power and telecommunications infrastructure readily available to the Site, and the nearby Mount Darragh Road has an existing school bus service.

5.8.3 Development application

It is intended that a development application with respect to the Site will be lodged in a timeframe that will either enable it to be considered contemporaneously with the BVSC final assessment of this Planning Proposal or at the conclusion of the Planning Proposal process (subject to BVSC advice). The detailed subdivision plan will need to address the BVSC's technical specifications for subdivision, including with respect to road access as well as the suitable location and technology for onsite sewage disposal.

5.9 Summary of assessment of site-specific merit

Having regard to the above, in this sub-section a summary assessment of the site-specific merit of the Planning Proposal is undertaken in the form required under with the LEP Guideline, and in particular by reference to the matters specified in Table 3, Sections C, D and E of that guideline. This assessment is contained in Table 5.1 below.

Table 5.1: Assessment of site-specific merit

Section C – environmental, social and economic impact		
Question	Matters to be addressed	Assessment
8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	- Identify if the land subject to the proposal has the potential to contain critical habitat or threatened species, populations or ecological communities, or their habitats - If yes, undertake studies that are necessary to confirm the presence of these species or habitats and their significance. An assessment of its significance and/or consultation should place to inform the Gateway determination - Mapping may be provided in the proposal to identify known vegetation communities located within or near the site - An assessment of significance in accordance with Part 7A of the Fisheries Management Act 1994 and the 'Threatened Species Assessment Guidelines', may be required prior to Gateway determination - Identify any approvals required under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) and Biodiversity Conservation Act 2016 - Any adverse impacts will trigger the requirement for the PPA to consult on the planning proposal with relevant authorities and government agencies	No. A Biodiversity Assessment of the Site undertaken by EnviroKey (see Appendix A) found: <i>The field survey identified three plant community types (PCT) within the study area. These being PCT 3181 – Bega Wet Shrub Forest, PCT 3192 - South Coast Riverflat Ribbon Gum Forest and PCT 4061 - Bega-Towamba Riparian Scrub. PCT 3181 occurs as two zones (a moderate condition zone and a poor condition zone). PCT 3192 in the study area conforms to the NSW BC Act listed threatened ecological community River-Flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions.</i> <i>Field surveys did not identify any threatened flora or fauna species present, and this is not surprising given the highly degraded nature of the majority of the study area.</i> <i>Overall, the study area is of little value to the biodiversity of the Lochiel area. EnviroKey recommends that any subdivision design should avoid the riparian area and threatened ecological community.</i> The BAR also finds that given the poor quality of vegetation and habitats within the study area as detailed within this report, it is unlikely that any

		proposed action would result in a significant impact to threatened biota, including matters of national environmental significance (NES). The Planning Proposal has been prepared in alignment with EnviroKey's findings, and as such there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal.
9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	• Environmental effects unique to a planning proposal may not be addressed in the strategic planning framework. These matters may be identified in informal guidelines, codes or policies prepared by other public authorities and government agencies. Environmental effects may include natural hazards such as flooding, land slip, bushfire hazard, etc • The planning proposal should identify any other environmental effects and prepare information or undertake investigations to address an identified matter • Scope of these investigations may be identified in the planning proposal and may need to be undertaken to inform the Gateway determination	In addition to the Biodiversity Assessment undertaken by EnviroKey, various other investigations have been undertaken with respect to potential environmental effects of the planning proposal and how they are proposed to be managed. In summary, these investigations and their findings are as follows: • Flood Impact Risk Assessment (FIRA) (see below for scope, see report at Appendix B), which concluded: <i>A Flood Impact Risk Assessment has been undertaken to support the planning proposal to rezone part of the subject site, reduce the minimum lot size, and enable future subdivision, facilitating residential development on the newly created lots. The planning proposal seeks to rezone the portion of the subject site above the PMF Flooding Extent, to enable six R5 Large Lot Residential lots of minimum lot size of 7000m2. The proposed rezoning and concept subdivision proposal has been prepared with consideration to flood risk, proposing to rezone the portion above the PMF only to ensure all future residential development following the subdivision is not flood affected.</i> <i>As part of this Flood Impact Risk Assessment, an analysis of the adopted Pambula River, Pambula Lake and Yowaka River Flood Study has been carried out at the</i>

		<i>subject site, to assess the direct and indirect impacts of flooding. This Flood Impact Risk Assessment has supported the findings of the adopted Flood Study, through the review of historical flood events and undertaking a site inspection to confirm the current-day landform is consistent with the modelled landform within the Flood Models.</i> <i>The outcome of this Flood Impact Risk Assessment supports the planning proposal to rezone part of the subject site, reduce the minimum lot size, and enable future subdivision, which will facilitate residential development on the newly created lots.</i> • <i>Aboriginal Cultural Heritage Assessment Report (ACHAR) (see below for scope, see report at Appendix E), which concluded:</i> • <i>The study area measures 12.9ha situated at Lot 5 DP750207 and 1 DP130034, BVSC LGA.</i> • <i>A desktop review indicates that the study area has not undergone significant development, and that land and soil disturbance is largely restricted to pastoral activities limited to livestock grazing.</i> • <i>Parts of the study area that fall within 150m of the Pambula River are subject to Section 5.7 of the BVSC Development Control Plan (DCP) 2013 (amended 2015). The parts of the study area within 150m of the Pambula River will therefore not be subject to development impacts.</i> • <i>One Aboriginal Heritage Site (Mount Darragh Road PAD 02 AHIMS # 62-6-0903) was recorded within the study area. Mount Darragh PAD 02 AHIMS # 62-6-0903 is wholly within 150m of the Pambula River.</i>
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		• <i>No other Aboriginal objects, or archaeological values have been identified in the balance of the study area outside Mount Darragh PAD 02 AHIMS # 62-6-0903</i> • <i>No impacts have been identified to Aboriginal heritage values within the study area.</i> • Onsite Sewage Management (OSM) assessment (Appendix C), which concluded: <i>Each proposed new allotment of capable of safely disposing 800 litres per day of waste water calculated in accordance with the Tables in AS1547-2012, the Local Authority DCP, the Sydney Catchment Authority Design Manual and the NSW Department of Health Guidelines. Each on site waste water disposal will have a neutral or slightly beneficial effect on the water quality on the allotment and the local area in general.</i> • Strategic Bushfire Assessment (SBA) (Appendix D), which concluded: <i>This assessment finds that the proposal can achieve the required specifications of NSW Planning for Bushfire Protection (2019) through use of performance and acceptable solutions and achieve Bushfire Safety Authority from NSW Rural Fire Service for development consent under S100B of the Rural Fires Act.</i> The Planning Proposal has been prepared having regard to, and aligns with, the findings and recommendations of these reports.
10 Has the planning proposal adequately addressed any social and economic effects?	• Identify effects on items or places of non-Aboriginal or Aboriginal cultural heritage not already addressed elsewhere • Estimate the number of jobs or housing growth (e.g. construction/post-construction and housing diversity)	Yes. With respect to the specific matters to be addressed: • the Planning Proposal will not impact on items or places of non-Aboriginal or Aboriginal cultural heritage;

	• Identify the impact on existing social infrastructure, such as schools and hospitals • Identify the need for public open space or impacts on green infrastructure • Identify the impact on existing retail centres • Identify measures to mitigate any adverse social or economic impacts, where necessary, and whether additional studies are required • Identify any proposed public benefits	• it will provide job opportunities during the construction phase – both with respect to provision of supplementary infrastructure and for the erection of six dwellings. In the longer term, the Planning Proposal would facilitate the labour market in the region by increasing the supply of housing stock; • given the small scale of the proposed subdivision, it is not envisaged that the Planning Proposal will have any substantive impact on social infrastructure such as schools or hospitals, nor on existing retail centres; and • as no adverse social or economic impacts are envisaged, no additional studies on this issue are required. More generally, the Planning Proposal is of benefit to the community as the Site is serviced by and/or has ready access to existing infrastructure (road, electricity, telecommunications), and can be easily and quickly made available to the housing market.
Section D – Infrastructure (Local, State and Commonwealth)		
Question	Matters to be addressed	Assessment
11 Is there adequate public infrastructure for the planning proposal?	• Generally, this applies where the planning proposal includes development that will, or is likely to, require the provision of, or increase the demand for, public facilities and services • Address whether existing infrastructure is adequate to serve or meet the needs of the proposal and how any predicted shortfall in infrastructure provision could be met • Undertake studies required to identify the extent of any infrastructure shortfall, potential mechanisms or strategies to address any shortfall and which agencies have been consulted as part of that process	Yes. The Site is serviced by and/or has ready access to existing infrastructure (road, electricity, telecommunications), and can be easily and quickly made available to the housing market. It is anticipated that a new turning lane may be required off Mount Darragh Road to the road accessing the Site. A 2-dimensional strategic design for this access arrangement is contained at Appendix J. Relevant electricity and telecommunications infrastructure to the proposed lots will also be required.

	• The proponent/PPA is to identify what local and regional infrastructure may be needed • For planning proposals likely to place additional demands on public infrastructure, it is important to undertake consultation with the public authorities and government agencies responsible for the provision of that infrastructure. The Gateway determination will confirm whether a local contributions plan is required to be exhibited with the planning proposal and require regular feedback on the progress of finalizing an infrastructure strategy and high-level costs • For planning proposals, a local contributions plan may be required. Liaison with the council is necessary	Beyond these localised infrastructure needs, given the small scale of the proposed subdivision it is not envisaged that the Planning Proposal will have any substantive impact on surrounding economic (e.g. roads) or social (e.g. schools, hospitals) infrastructure. This is supported by the findings of the TIS prepared by Sydney Traffic Engineers (see Appendix F).
Section E – State and Commonwealth Interests		
Question	Matters to be addressed	Assessment
12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?	• One of the aims of the LEP making process is to reduce the number of unnecessary referrals to government agencies. The planning proposal should nominate the state and federal agencies to be consulted and outline the matters that have triggered the need for the referral. Consultation will be confirmed by the Gateway determination • The proponent or PPA should get preliminary views of any state or federal agency prior to submitting a planning proposal and include them in this section including any preliminary issues raised. This should include any scope of additional information/ investigations, evidence of consultation and any agreement in relation to the progression of the planning proposal	As part of the Scoping Proposal process, NSW government agencies were consulted with respect to the proposed use of the Site for a six lot rural-residential subdivision. A number of additional studies to be undertaken by the Proponent were identified by various NSW government agencies, being: • an assessment of biodiversity values consistent with Stage 1 of the Biodiversity Assessment Method (BAM) or similar methodology, to inform a planning proposal and demonstrate consistency with the ministerial local planning directions. This needs to include groundcover, as previously grazed areas can contain significant proportions of native species. Groundcover as well as overstorey is covered by the Biodiversity Conservation Act 2016 (BC Act). A clear development footprint, or area of impact, from the proposed development is also required (see letter dated 26 March 2024 from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and

		Water (DCCEEW), Ref: DOC24/141878). Consideration of these matters are contained in the Biodiversity Assessment Report (BAR) prepared by EnviroKey (see Appendix A); • a Flood Impact and Risk Assessment (FIRA) to address the requirements of the local planning direction over the range of floods up to the Probable Maximum Flood (PMF) and issues relating to flood risk, impacts and public safety (see letter from the Biodiversity and Conservation Division, Department of Climate Change, Energy, the Environment and Water (DCCEEW) dated 26 March 2024, Ref: DOC24/141878). Consideration of these matters are contained in the FIRA prepared by TA Project Services (see Appendix B); • an Aboriginal Cultural Heritage Assessment Report (ACHAR) in accordance with Heritage NSW feedback (see letter from Heritage NSW, Department of Climate Change, Energy, the Environment and Water (DCCEEW) dated 5 March 2024, Ref: DOC24/133865). Consideration of these matters are contained in the ACHAR prepared by Lantern Heritage (see Appendix E); • a Traffic Impact Study (TIS) including the impacts that the proposal will have on both the regional classified road network (Mount Darragh Road managed by Council) and the state classified road network (Princes Highway managed by Transport for NSW), specifically the intersection of Mount Darragh Road and the Princes Highway. Consideration needs to be given to the cumulative impact of the development that is planned within Area 3 of the Pambula Catchment in the BVSC's Rural Residential Strategy 2020 to address these requirements (see letter from Transport for NSW (TfNSW) dated 21 February 2024, Ref: STH24/00121/001). Consideration of these matters are contained in the TIS prepared by Sydney Traffic Engineers (see Appendix F); and
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		• a Land Use Conflict Risk Assessment (LUCRA) to identify potential risks and mitigation measures that may be required during the transition of the area from agricultural land uses to rural-residential use (see letter from the Department of Primary Industry (DPI) – Agriculture dated 14 March 2024, Ref: OUT24/3665). Consideration of these matters are contained in the LUCRA prepared by TA Project Services (see Appendix G) It is proposed that each of these agencies should be consulted with respect to this Planning Proposal, together with the NSW Rural Fire Services (NSW RFS). The NSW RFS was consulted with respect to the Strategic Bushfire Assessment (SBA) which was prepared as part of the Scoping Proposal. Having regard to the findings of the BAR that, given the poor quality of vegetation and habitats within the study area as detailed within this report, it is unlikely that any proposed action would result in a significant impact to threatened biota, including matters of national environmental significance (NES), it is not considered necessary to consult with any Commonwealth Government agencies
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6. Proposed Community Consultation

The purpose of this section is first to outline consultation that has already occurred with respect to this Planning Proposal, and then to detail the proposed community consultation to be undertaken with respect to this Planning Proposal (and any contemporaneous Development Application) going forward.

6.1 Consultation to date

Prior to the lodgement of the Scoping Proposal that preceded this Planning Proposal, preliminary consultation was undertaken with BVSC, as well as with neighbouring landowners and the NSW RFS.

Ongoing engagement continues to occur with neighbouring landowners and with the BVSC. Further, as part of the Scoping Proposal process, feedback was received from numerous NSW government agencies including:

- DCCEEW;
- DPI;
- Heritage NSW; and
- TfNSW.

6.2 Proposed consultation

The proposed consultation going forward is structured to align with the LEP Guideline.

As part of the Gateway process, it is intended that the Planning Proposal be assessed by relevant government agencies. It is assumed that this will include all the agencies that have previously provided input or feedback as part of the Scoping Proposal process.

Post a Gateway Determination, it is recognised that BVSC officers will review the determination and ensure any required conditions have been actioned prior to public exhibition. If the Gateway determination requires additional studies or information, the Proponent will be required to produce these studies or information in accordance with the directions of the Gateway determination.

At this stage, it is envisaged that further community consultation would occur through a public exhibition process. More particularly, the BVSC will consult with the community and refer the proposal to state government or commonwealth public authorities as per the Gateway determination. Given this is a “basic” planning proposal that has minor/low impact, and is consistent with State and Council strategies, the Proponent considers the standard 28 day exhibition period is suitable. Whether a public hearing is required will depend on whether issues raised in any submissions are considered by BVSC to justify a hearing. Should a hearing be held, a report will need to be prepared and made public.

6.3 Other matters: BVSC as Local Plan Making Authority (LPMA)

Given this Planning Proposal is a ‘basic’, strategy-consistent proposal, BVSC should request DPE’s approval to be the local plan-making authority for this Planning Proposal. This will both assist to deliver the outcome of the BVSC’s strategy and allow it to demonstrate its commitment to facilitate development within the Bega Valley Shire.

7. Proposed Project Timeline

The purpose of this section is set out the proposed timeline for consideration and approval of the Planning Proposal, having regard to matters such as Gateway assessments and public consultation processes.

Having regard to the timeframes outlined in the DPE's Local Environmental Plan Making Guideline (2023), given the 'basic' nature of this Planning Proposal and that all reports that the Proponent considers need to be prepared for it have already been completed, it is expected that it can be completed by November 2025, with the following indicative timeline:

Key stages	Actual/estimated timeframe
Completed	
Pre-lodgement stage – Scoping Proposal submitted to BVSC	Dec 2023
Pre-lodgement stage -- meeting re: Scoping Proposal with BVSC (and government agencies as required (i.e. DCEEW; TfNSW)	Feb - Apr 2024
BVSC provide written advice and planning proposal requirements	May 2024
Preparation of planning proposal and supporting studies (as required)	May 2024 to Nov 2024
To be undertaken	
Lodge Planning Proposal with BVSC	Nov 2024
BVSC assess Planning Proposal	Dec 2024 – March 2025
Proposal reported to Council and sent to DPE	March 2025
DPE issue Gateway Determination	May 2025
Preparation of materials post Gateway Determination (if required)	Jun 2025
Public exhibition and assessment	Jul 2025 – Sep 2025
Final proposal reported to Council	Oct 2025
Finalisation of Planning Proposal	Nov 2025
Date of Notification	Nov 2025

Annexure 1 Maps

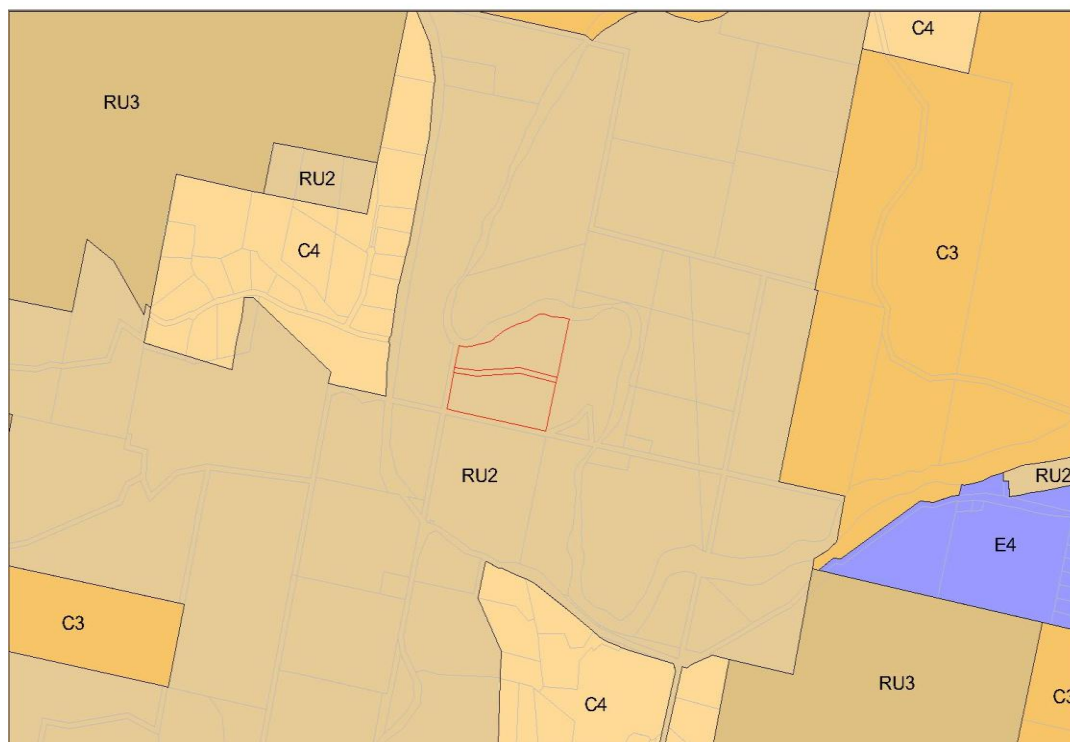
Maps to be amended under this Planning Proposal are:

- Land Zoning Map LZN-012C
- Lot Size Map LSZ-012C

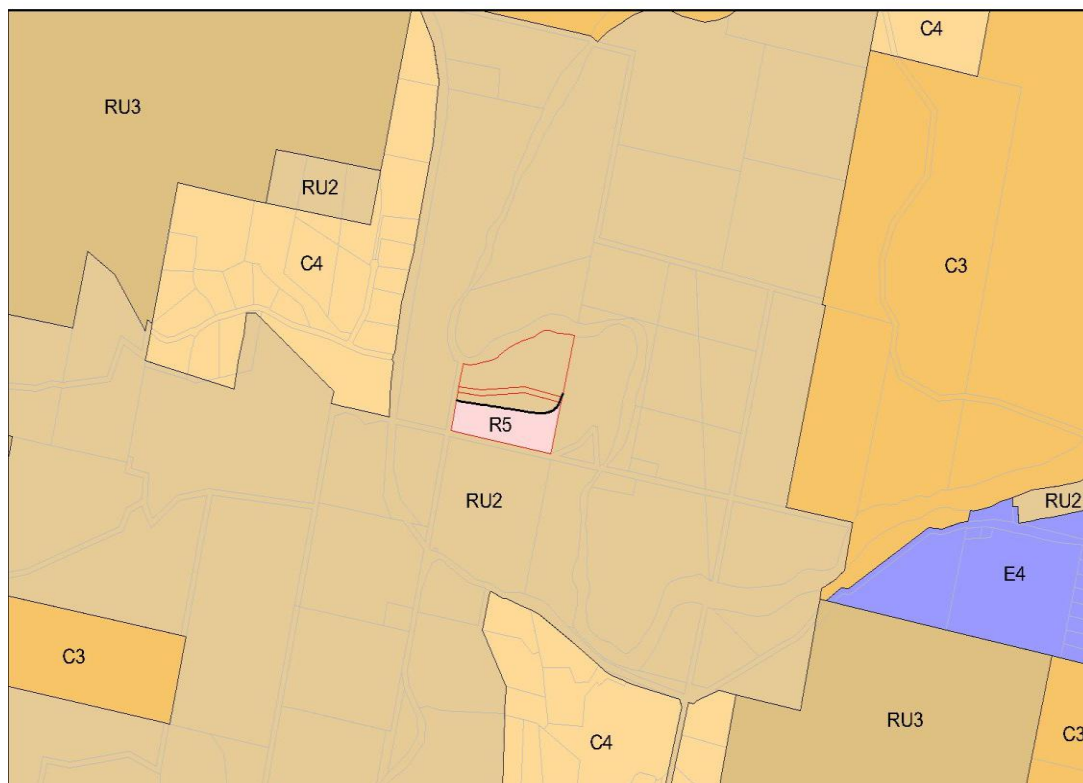
Copies of relevant maps with respect to the proposed amendments to these BVLEP Maps, identified as referenced in the body of the Planning Proposal, are as follows:

- Map 1: Fig. 6a: Part BVLEP 2013 Land Zoning Map – current
- Map 2: Fig. 6b: Part BVLEP 2013 Land Zoning Map – proposed
- Map 3: Fig. 6c: Part BVLEP 2013 Land Zoning Map – proposed (close up)
- Map 4: Fig. 7a: Part BVLEP 2013 Lot Size Map – current
- Map 5: Fig. 7b: Part BVLEP 2013 Lot Size Map – proposed
- Map 6: Fig. 7c: Part BVLEP 2013 Lot Size Map – proposed (close up)

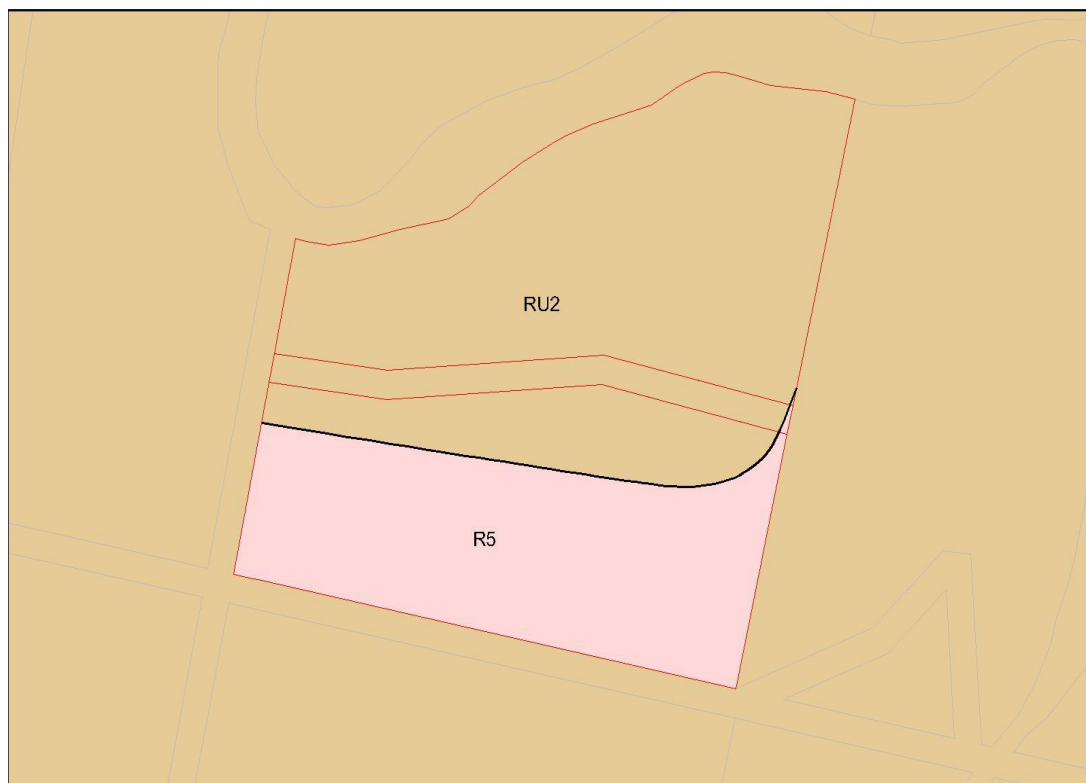
Map 1: Fig. 6a: Part BVLEP 2013 Land Zoning Map – current



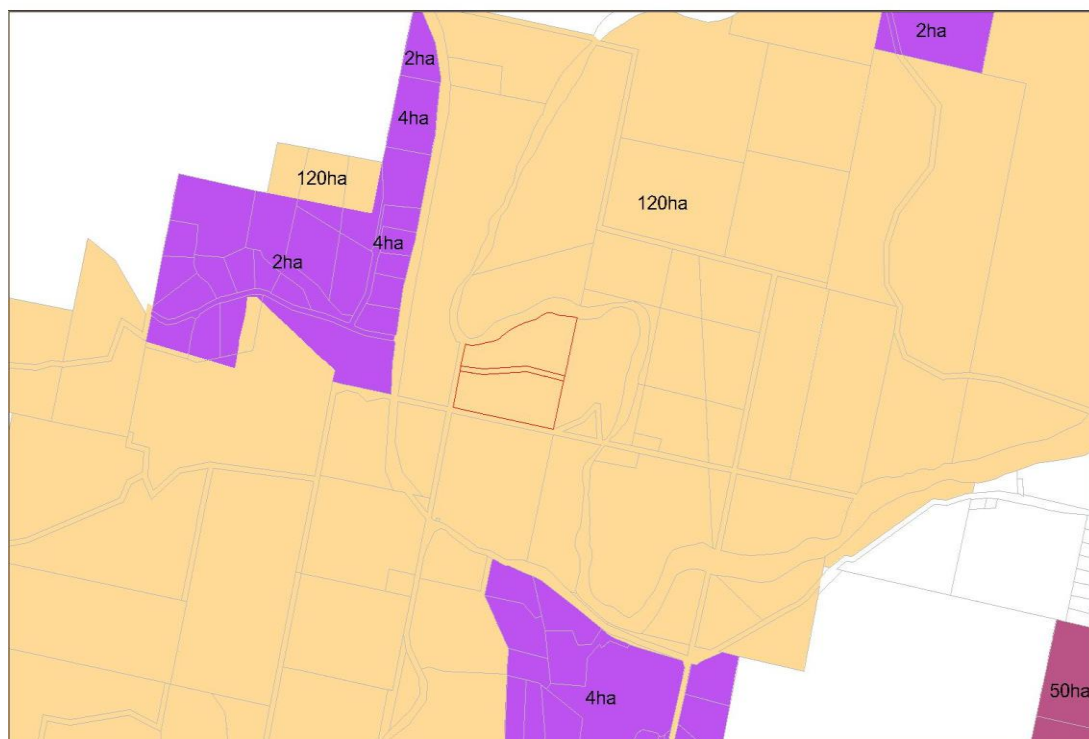
Map 2: Fig. 6b: Part BVLEP 2013 Land Zoning Map – proposed



Map 3: Fig. 6c: Part BVLEP 2013 Land Zoning Map – proposed (close up)



Map 4: Fig. 7a: Part BVLEP 2013 Lot Size Map – current



Map 6: Fig. 7c: Part BVLEP 2013 Lot Size Map – proposed (close up)

