

Part 12 Provisions that apply to particular land

90 Development of certain land within Zone 4 (a) at South Pambula

- (1) Consent must not be granted to development on land within Zone 4 (a) that adjoins or is visible to an observer standing at ground level on land within Zone 1 (c), 2 (f) or 2 (v) or land within a residential zone under this plan or another environmental planning instrument, unless the consent authority is satisfied that appropriate measures have been taken to screen buildings and outdoor storage areas.
- (2) Consent must not be granted to development on land within Zone 4 (a) situated at South Pambula unless the consent authority is satisfied that:
 - (a) any proposed buildings are adequately set back from the Pambula River, and
 - (b) the development will not cause pollution or siltation of the Pambula River, and
 - (c) the development is sited, designed and to be operated in a manner which will not prejudice agricultural activity on any land in the locality.

91 Development of certain land at Boydtown

- (1) This clause applies to all of the land situated at Boydtown shown on sheet 30 of the zoning map, which is referred to in this clause as the Boydtown map.
- (2) The objectives of this clause are:
 - (a) to enable development of tourist establishments at Boydtown for holiday purposes, and
 - (b) to ensure that development is consistent with the need to protect and conserve the environmental heritage of Boydtown.

- (3) Notwithstanding any other provision of this plan, consent must not be granted for:
 - (a) a marina, boat landing facilities, a marine service centre, a boat shed, wharf or jetty, a building or place for dry storage of boats, or any other building or place used for, or in connection with, recreational boating activities unless it or they will be situated on that area of the land to which this clause applies shown cross hatched on the Boydtown map, or
 - (b) a boarding house, a dwelling house (other than a dwelling house used for a caretaker employed in connection with any development permissible within Zone 2(c)) or multi unit housing (other than multi unit housing used only for holiday accommodation on land to which this clause applies within Zone 2 (c)).
 - (4) Notwithstanding any other provision of this plan except subclause (5), consent may be granted for development for the purpose of a road on land to which this clause applies within Zone 6 (a) or Zone 7 (f1) shown within a black dotted line on the Boydtown map.
 - (5) The Council shall not grant consent as referred to in subclause (4) for development for the purpose of a road within Zone 7 (f1) except with the concurrence of the Director-General.
 - (6) In considering whether to grant concurrence required by subclause (5), the Director-General shall take into consideration:
 - (a) the extent to which the development would result in the degradation of, or restriction of access to, coastal recreation areas, and
 - (b) the extent to which the development would adversely affect the scenic qualities of the coastal landscape.
 - (7) Clause 46 (1) and (7) of Bega Valley Local Environmental Plan 1987 and the definitions of council and the map for that plan (in their application only to those provisions), as in force immediately before the commencement of this plan, are not repealed by this plan, despite clause 4.
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- (8) Except as provided by subclauses (9) and (13), consent must not be granted to the subdivision of land to which this clause applies within Zone 6 (a) or 7 (d).
- (9) Consent may be granted to the subdivision of land to which this clause applies:
 - (a) within Zone 6 (a) for the purpose of any land use included in clause 38 (3) or (4) or for the purposes of roads, or
 - (b) within Zone 7 (d) for the purpose of roads or outdoor recreation.
- (10) Consent must not be granted to any development on or with respect to land to which this clause applies within Zone 7 (d) which involves the clearing of land unless a detailed plan showing the trees and vegetation to be removed and retained and showing the trees to be planted has been considered by the consent authority. This clause does not apply to a subdivision for the purpose of roads.
- (11) Despite any other provision of this clause, consent may be granted to the carrying out of development on land to which this clause applies relating to the conservation of church ruins.
- (12) Consent must not be granted:
 - (a) for any development on land to which this clause applies relating to the conservation of church ruins, or
 - (b) for any development on land to which this clause applies within the Seahorse Inn or Church Hill historic precincts marked by thin broken lines on the Boydtown map, without the concurrence of the Director-General.
- (13) Consent may be granted to development for residential purposes on that part of the land to which this clause applies within Zone 7 (d) shown diagonally hatched on the Boydtown map if the area of each allotment on which that development is to take place is not less than 550 square metres.
- (14) Before granting consent to development for residential purposes referred to in subclause (13), the consent authority shall take into consideration any likely adverse impact of that

development on the scenic environment of the area as viewed from public places.

- (15) The matter that the Director-General shall take into consideration in deciding whether concurrence should be granted as required by subclause (12) is the need for the conservation of places of historic interest.

92 Development of certain land at West Pambula

- (1) This clause applies to land within Zone 2 (f) at West Pambula, as shown on sheet 29 of the zoning map.
- (2) Despite any other provision of this plan, a person may carry out development for the purpose of a dwelling on land to which this clause applies, but only with development consent.
- (3) Consent may be granted to the erection of a dwelling on an allotment of land to which this clause applies only if:
- (a) in the case of an unsewered allotment:
 - (i) the allotment has an area of not less than 1,500 square metres and the consent authority is satisfied that sufficient area will be available for on-site treatment of septic waste, and
 - (ii) the siting of the dwelling will allow future re-subdivision of the land should a reticulated sewerage service become available, and
 - (b) the consent authority is satisfied that adequate arrangements have been or will be made to service the development with roads, drainage and a reticulated water supply.

93 Development at Merimbula Airport

- (1) This clause applies to Lot 1, DP 549112, at Merimbula Airport, as shown on sheet 12 of the zoning map.
- (2) Despite any other provision of this plan, a person may carry out development for the purpose of commercial, light industrial or community uses on the land to which this clause applies, but only with development consent.
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- (3) Consent may be granted to a commercial, light industrial or community use of the land to which this clause applies only if:
 - (a) the use does not interfere with the effective operation of the airport, and
 - (b) the use does not detract from the commercial viability of the Merimbula Central Business District.

94 Development at Kalaru racecourse

- (1) This clause applies to land situated at the Kalaru racecourse, as shown on sheet 10 of the zoning map.
- (2) Despite any other provision of this plan, consent may be granted to the subdivision of the land to which this clause applies for the purpose of dwelling houses if:
 - (a) the total number of allotments created by the subdivision will not exceed 19, and
 - (b) each allotment will be not less than 2,000 square metres in area and not greater than 4,000 square metres in area, and
 - (c) the land is subdivided in accordance with the Community Land Development Act 1989 to create a neighbourhood scheme, and
 - (d) arrangements satisfactory to the Council have been made for providing for all neighbourhood lots an adequate and efficient means of access and effluent disposal that will both be shared by the occupiers of the neighbourhood parcel and the Sapphire Coast Turf Club.
- (3) A dwelling house is permissible with development consent on a neighbourhood lot created in accordance with this clause, but only if:
 - (a) consent has been granted for a stabling complex on land to which this clause applies, and
 - (b) the complex has been completed or will be completed before the occupation of the dwelling.

- (4) An additional dwelling is permissible with development consent on each of those lots if:
 - (a) the floor space of the additional dwelling is less than 60 square metres in area, and
 - (b) the dwelling is used for the accommodation of persons in the employ of the owner of the dwelling house allowed by subclause (3).

95 Development at Tathra Headland

- (1) This clause applies to land known as Lots 5 and 6 DP 17764 and Lot 1 DP 859237, Gordon Street, Tathra, as shown on sheet 25 of the zoning map, which is referred to in this clause as the Tathra Headland map.
- (2) Despite any other provision of this plan, consent may be granted to development of the land only if:
 - (a) the development is for the purpose of a single storey dwelling house with a maximum wall height of 3.6 metres and maximum roof height of 2.4 metres, and
 - (b) the total maximum floor area of all buildings on the site does not exceed 50% of the area of the site shown unhatched on the Tathra Headland map, and
 - (c) all buildings are erected in the area shown unhatched on the Tathra Headland map, and
 - (d) the consent authority has considered a geotechnical and ocean attack study that supports the erection of the dwelling house on the site, and
 - (e) works related to the development are not required to be carried out on adjoining Crown land.

96 Residential development at Government Road, Eden

- (1) Notwithstanding clause 26, before consent is granted to any subdivision for residential purposes of the land as shown on sheet 14 of the zoning map, the consent authority must consider a traffic impact study for the entire proposed

development that has been carried out to the satisfaction of the Roads and Traffic Authority.

- (2) Despite any other provision of the plan, consent must not be granted to the creation of more than 150 residential lots from the land as shown on sheet 14 of the zoning map until the Council has adopted strategies for the provision of a water supply to, and for the disposal of sewage arising from use of, the proposed lots.

97 Development of certain land at Sapphire Coast Drive and Tura Beach Drive, Tura Beach*

- (1) This clause applies to Lot 32, DP 243029 and Lot 1196, DP 6135962, corner of Sapphire Coast Drive and Tura Beach Drive, Tura Beach, as shown edged heavy black and lettered "3(a)" on the map marked "Bega Valley Local Environmental Plan 2002 (Amendment No 4)".
- (2) Despite any other provision of this plan, a person may, with development consent, carry out development on the land to which this clause applies for the purposes of retail, commercial or community uses.
- (3) Consent may be granted to carry out development referred to in subclause (2) only if:
 - a) the total retail floor space on the land does not exceed 5,000 square metres in area and the total floor space of any individual retail premises does not exceed 3,200 square metres in area, and
 - b) any proposed building is set back not less than 10 metres from the boundary of the land with Tura Beach Drive, and
 - c) a detailed plan showing the trees and vegetation to be removed and the trees and vegetation to be planted has been considered by the consent authority, excluding any land to be set aside for the purpose of road access from Sapphire Coast Drive, and

* LEP Amendment 4

- d) the consent authority is satisfied that adequate arrangements have been or will be made to service the development with roads, drainage, a reticulated water supply and effluent disposal, and
 - e) any proposed building does not exceed 2 storeys in height and the vertical distance between any part of any such building and the natural ground level does not exceed 10metres.
- (4) A reference in this clause to a building does not include a reference to any of the following:
- (a) an aerial,
 - (b) a chimney stack,
 - (c) a mast,
 - (d) a pole,
 - (e) a receiving tower,
 - (f) a silo,
 - (g) a transmission tower,
 - (h) a utility installation,
 - (i) a ventilator.