

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Planning Proposal: Environmental Zones – 5 Sites

July 2018

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Background

This planning proposal seeks to provide resolution for five (5) sites involving environmentally zoned land under Bega Valley Local Environmental Plan 2013.

This planning proposal provides the following key outcomes;

- Refine zonings to align with the characteristics of the land and current legislation.
- Ensure that zoning boundaries consider existing or proposed development of the land.
- Provide a direction for any deferred matters.

Part 1 – Objectives or Intended Outcomes

- SITE 1** Provide for a reduction in the width of the E2 Zone to align with the existing approval and restriction on title to enable the construction of a future dwelling on the most suitable portion of E3 land that is already cleared.
- SITE 2** Reduction in the variable width of the E2 Zone in line to a 20m width in line with the characteristics of the land, the future development of Jigamy Farm and surrounding properties. This change is considered to be of minor significance and supported within the context of a masterplan for Jigamy Farm.
- SITE 3** Reduction in the area of the E2 Zone that covers the majority of the site to provide for a minor increase in the extent of the B4 Zone to provide more flexibility for future development.
- SITE 4** Adoption of a 120ha minimum lot size as exhibited based on the inherent environmental constraints of the land and limited opportunity for future development. Any further subdivision of the land is not encouraged.
- SITE 5** Rezone the existing E2 Zone to RU5 Village and amend the 120ha lot size to 1,000m². This E2 buffer and lot size was created in anticipation of an Industrial Zone that was not created.

Site	Property	Current Zone	Proposed Zone	Current Lot Size	Proposed Lot Size	Key Outcomes
1	LOT 531 DP 875511 – HEAD OF CUTTAGEE ROAD, CUTTAGEE	Part E2 Environmental Conservation and E3 Environmental Management	Part E2 Environmental Conservation and E3 Environmental Management	120HA	120HA (NO CHANGE)	Reduction in the E2 buffer in line with existing riparian buffer for building envelope
2	“JIGAMY FARM” LOTS 25 AND 43 DP 750242 AND LOT 243 DP 1112013 - PRINCES HIGHWAY, BROADWATER	Part E2 Environmental Conservation and E3 Environmental Management	Part E2 Environmental Conservation and E3 Environmental Management	5HA	5HA (NO CHANGE)	Reduction in part of the E2 Zone from 100m to 20m. Assist with future planning of ‘Jigamy Farm’
3	LOT 35 DP 843393 – GOVERNMENT ROAD, EDEN	Part E2 Environmental Conservation and B4 Mixed Use	Part E2 Environmental Conservation and B4 Mixed Use	NA	NA	Minor increase to B4 Zone to enable scope for future growth in business
4	LOT 722 DP 826975 – PRINCES HIGHWAY, MILLINGANDI	Part 1(a) Rural General Zone and 7(b) Environmental Protection Foreshore	Part E2 Environmental Conservation and E3 Environmental Management	120HA UNDER BVLEP 2002	120HA	Adopt E2 and E3 Zones with a 120ha MLS. Retain building entitlement
5	LOT 22 DP 1013450 HILLVIEW STREET, COBARGO	RU5 Village and E2 Environmental Conservation	RU5 Village	PART 120HA and 1,000m ²	1,000m ²	Delete E2 Zone and 120ha MLS and adopt RU5 Zone and 1,000m ² MLS

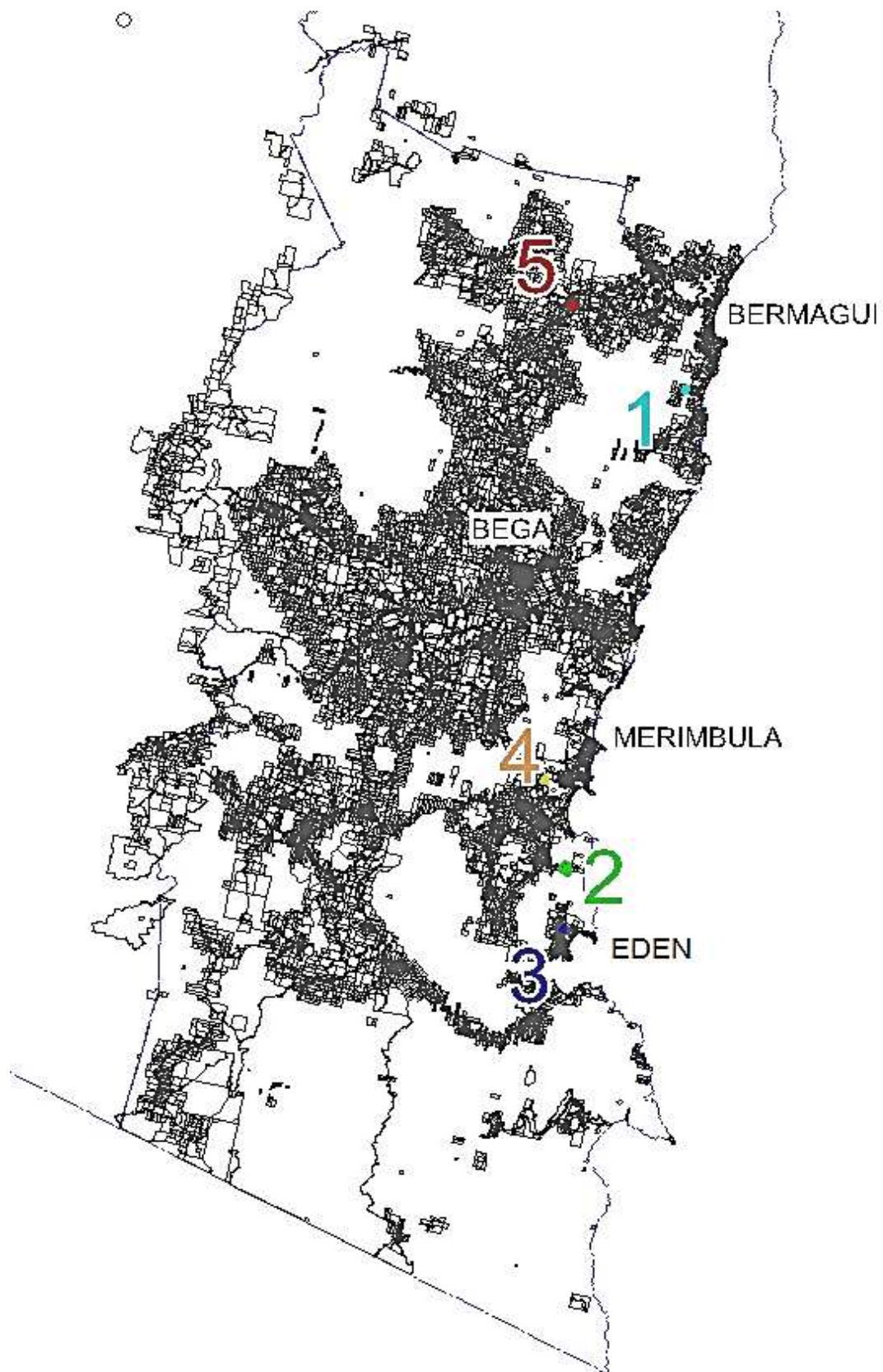


Figure 1: Properties in this planning proposal

Part 2 – Explanation of the Provisions

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

1. Head of Cuttagee Road, Cuttagee

Lot 531 DP 875511

- Amend map sheet LZN_018 by applying a minor reduction to the width of the existing E2 Environmental Conservation Zone and an increase in the size of the remaining E3 Environmental Management Zone to Lot 531 DP 875511

2. Princes Highway, Broadwater

Lots 25 and 43 DP 750242 and Lot 243 DP 1112013

- Amend map sheet LZN_020 by applying a reduction to the width of the E2 Environmental Conservation Zone and an increase in the size of the remaining E3 Environmental Management Zone to Lot 43 DP 750242 and Lot 243 DP 1112013

3. Government Road, Eden

Lot 35 DP 843393

- Amend map sheet LZN_021A by applying a reduction to the width of the E2 Environmental Conservation Zone and an increase in the size of the remaining B4 Mixed Use Zone

4. Princes Highway, Millingandi

Lot 722 DP 826975

- Amend map sheet LAP_001_DM by deleting DM Deferred Matter on Lot 722 DP 826975
- Amend map sheet LZN_020 and map sheet LZN_020B by applying part E2 Environmental Conservation Zone and E3 Environmental Conservation Zone to Lot 722 DP 826975
- Amend map sheet LSZ_020B and map sheet LSZ_020B by applying AD 120ha minimum lot size to Lot 722 DP 826975

5. Hillview Street, Cobargo

Lot 22 DP 1013450

- Amend map sheet LZN_017 by deleting the existing E2 Environmental Conservation Zone and applying an RU5 Village Zone to all of Lot 22 DP 1013450
- Amend map sheet LSZ_017A by deleting AD 120ha minimum lot size and applying U 1,000 sq m minimum lot size to all of Lot 22 DP 1013450

Part 3 – Justification

1. Head of Cuttagee Road, Cuttagee

Lot 531 DP 875511

Site Description

The property is a relatively small parcel of vacant land covering an area of 8.22ha consisting of forested and a cleared area at the centre with an electricity line running through the centre. The site is located on the northern side of Cuttagee Lake which is a tidal estuary with wetlands. Access is obtained via the Head of Cuttagee Road which is a gravel formation extending from the Tathra-Bermagui Road.

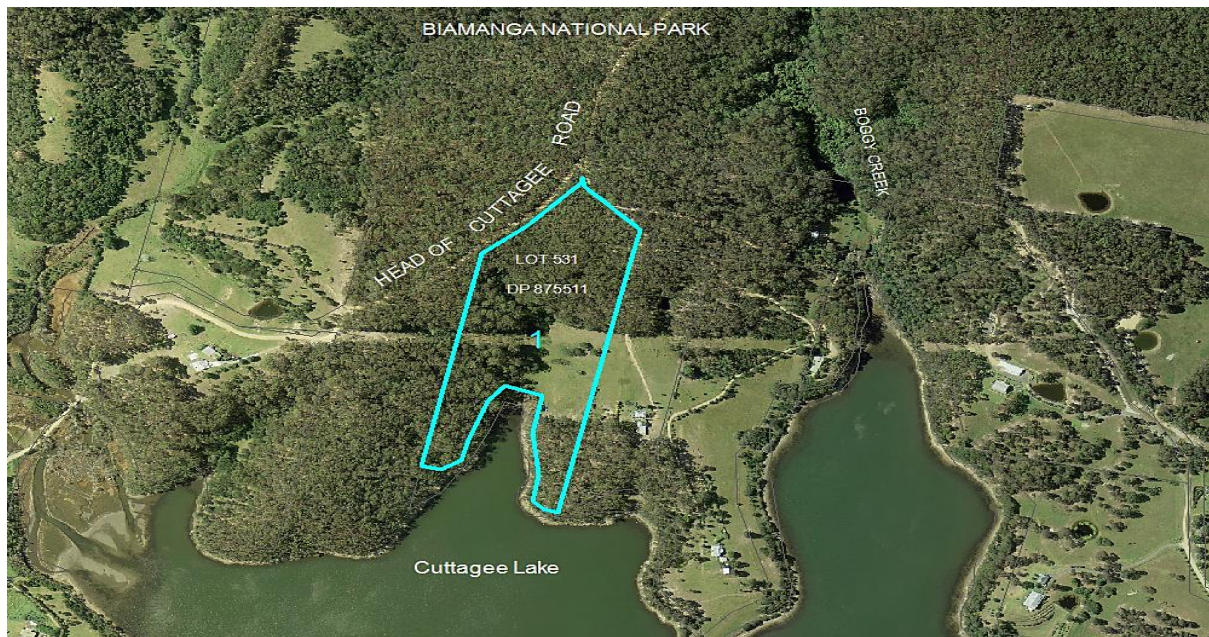


Figure 2: Head of Cuttagee Road, Cuttagee: Subject Land Aerial Photograph



Figure 3: Already cleared land next to the edge of Cuttagee Lake looking to the south-east

Background

The lot was created as part of a 2 Lot residential subdivision that created both Lots 530 and 531. Restrictions on the title of this block include an electricity easement, reserve and riparian buffer around the lake frontage. The reserve adjoins Cuttagee Lake and is owned and managed by Council extending to a variable distance of between 8m-80m from Cuttagee Lake.

The original development consent required a minimum 50m setback from Cuttagee Lake and this resulted in the creation of the existing riparian buffer that extends to a distance of between 50m-120m from Cuttagee Lake. The allotment was created for the purpose of a dwelling and retains a building entitlement under Clause 4.2A (3) (b) even though it is below 120ha minimum lot size.

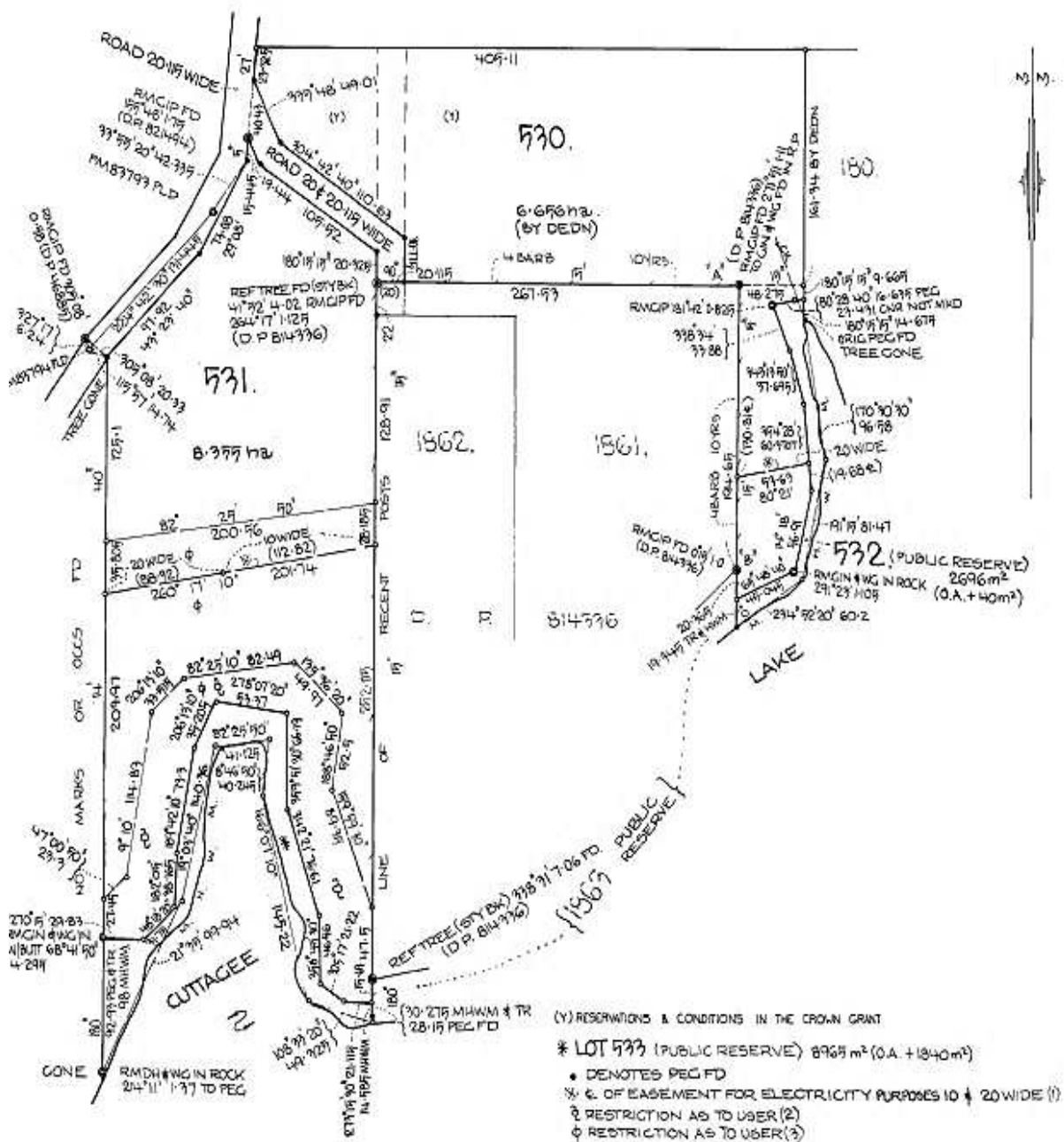


Figure 4: Deposited Plan 875511

Mapping

The land is split into an E3 zone to the north and E2 zone to the south bordering Cuttagee Lake. The existing E2 buffer zone currently extends to a variable distance of between 100m-260m from Cuttagee Lake. This planning proposal recommends that the existing E2 buffer zone be reduced to a variable width of 50m-120m.

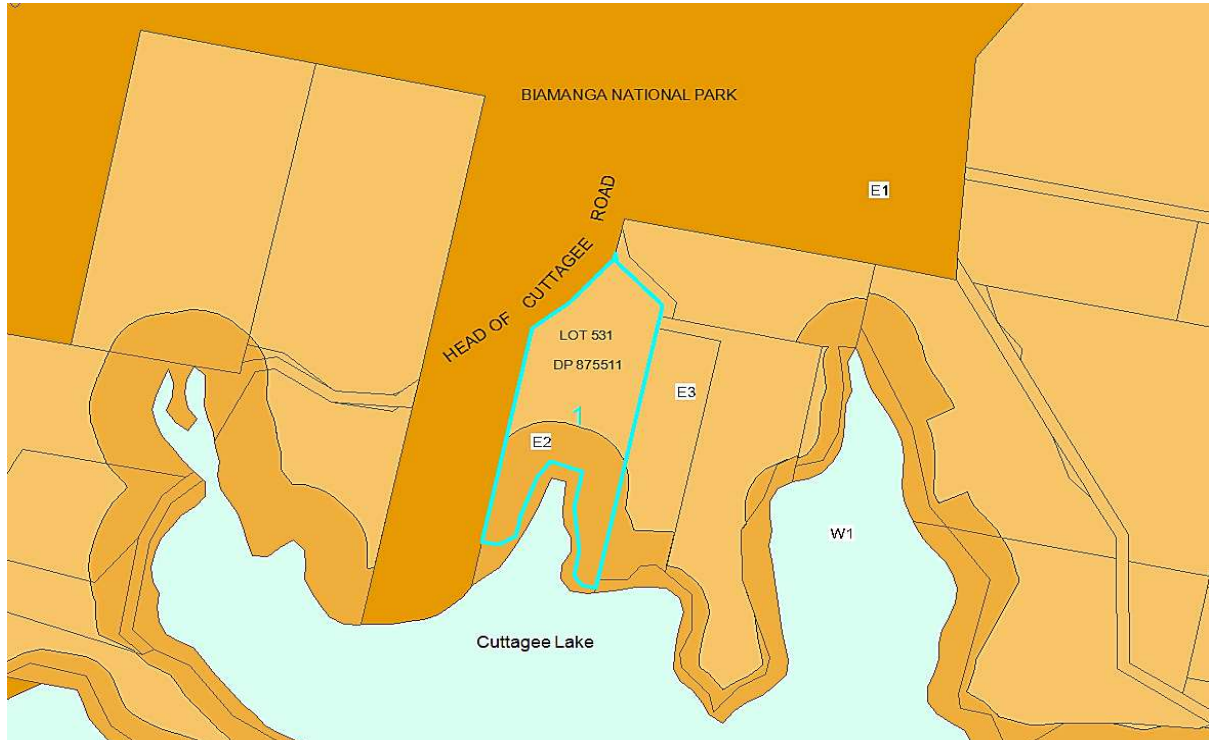


Figure 5: Existing zoning under BVLEP 2013

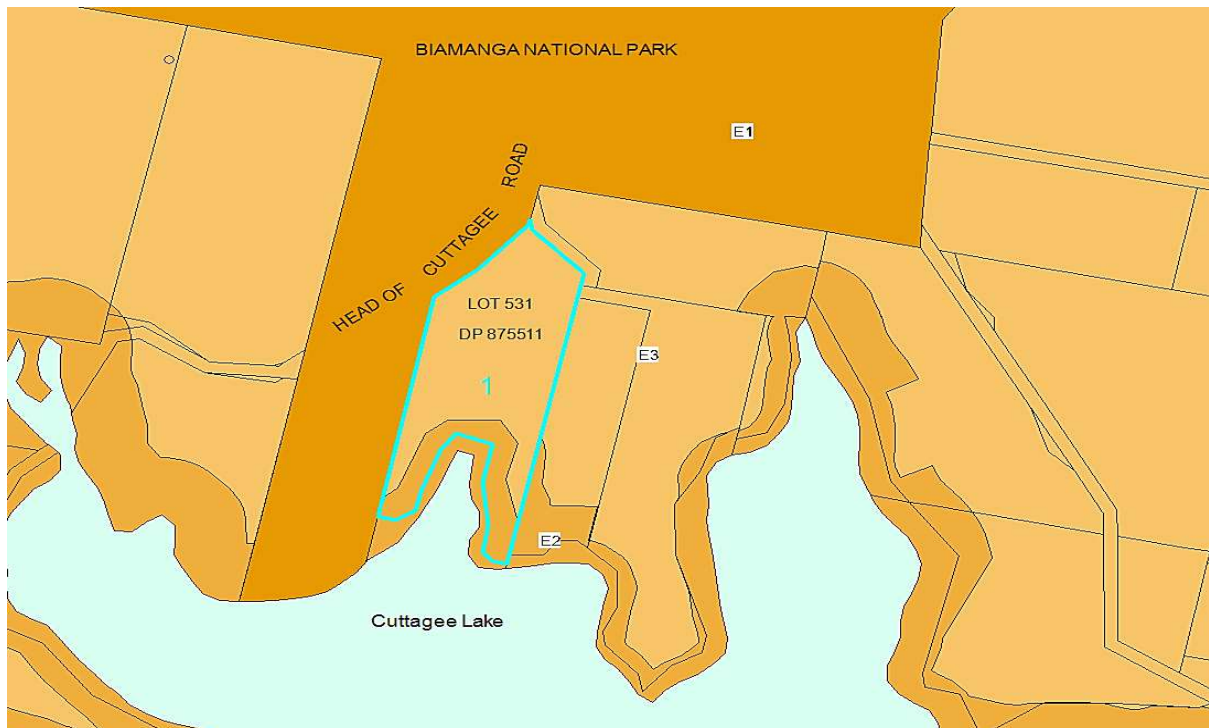


Figure 6: Proposed change to the E2 buffer

Key Outcomes:

- **Minor reduction in the width of the E2 buffer**
- **Building entitlement retained**
- **Building envelope consistent with original approval**

This planning proposal would result in a reduction in the width of the existing E2 buffer zone to align with a riparian buffer that already restricts development on this portion of Lot 531 DP 875511.

This riparian buffer was created in accordance with a condition of the original development consent that required a restriction to be placed on Lot 531 preventing any development within 50m of Cuttagee Lake. This restriction acknowledged the need for a setback from Cuttagee Lake to take into account the environmental constraints of the site, but also enabled the construction of a future dwelling house within the already cleared portion of land.

The existing E2 buffer extends beyond the existing riparian buffer and reduces the opportunity for any future dwelling house to be located on the existing cleared area. This may result in additional vegetation clearing in order to establish a building envelope and asset protection zones.

This proposed planning proposal would involve a small reduction in the width of the E2 buffer to enable greater flexibility in the location of a future dwelling on the property which is consistent with the characteristics of the site and the variable width of E2 buffer zones around Cuttagee Lake and the Bega Valley Shire.

Section A – Need for the planning proposal

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

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

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

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

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

The foreshore areas are already protected by an existing reserve and riparian buffer in the form of a restriction on the title of Lot 531. The land has a building entitlement and the best available site for a future dwelling is on the cleared land at the centre of the property as the remainder of the site is more constrained, particularly in terms of topography and vegetation.

The E2 buffers were originally created with reference to physical features of the landscape and existing development. In this case, the history of the site and existing restrictions were not taken into account when the standard E2 buffer with a setback of 100m was applied.

The E2 zone is unduly restricting future development of the property. A minor amendment to the distance of the existing E2 zone boundary is the best means of providing for the construction of a dwelling on the most suitable location on the property.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South East and Tablelands Regional Plan 2036

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Direction 14 Protect important environmental assets

Site 1 involves environmentally zoned land that was created in order to protect the biodiversity values of our lakes and estuarine environments. This planning proposal recommends that this mapping is refined within the context of existing approvals and landscape features.

This amendment is consistent with the approach to mapping E2 zones around Cuttagee Lake where reduced setback distances have been applied to take into account known development, such as existing dwellings. In this case the site contains an existing dwelling entitlement that doesn't exist and has therefore not been taken into account when the E2 buffer was originally mapped.

An E2 zone runs around the perimeter of Cuttagee Lake and should remain. This planning proposal recommends a minor reduction in the distance of the E2 buffer to align with the existing restriction on title and physical characteristics of the land.

Direction 16 Protect the coast and increase resilience to natural hazards

This property is adjacent to Cuttagee Lake and affected by coastal processes. The land is mapped as having biodiversity values and being subject to coastal risk.

In this case a reduction in the width of the E2 buffer would enable any future dwelling to be located on land that is less constrained in terms of slope and existing vegetation even though any future dwelling would be closer to Cuttagee Lake. A reduction in the distance of the E2 zoning boundary would still ensure any future dwelling is located outside of the coastal risk zone.

Direction 28 Manage rural lifestyles

This site involves a residential block of land with an existing building entitlement. Although this planning proposal recommends a reduction in the width of the E2 buffer the likely outcome is that any future dwelling would be located on land that is already cleared.

This planning proposal is consistent with this direction that encourages rural residential development on land that minimises the environmental impact.

Local Government Narratives Bega

This planning proposal recommends that the E2 zone is retained with some refinement. In this case Bega's natural advantage would be adequately protected.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. One key aim of the CSP is:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

This planning proposal enables a future dwelling house to be located on a part of the site that is already cleared.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This planning proposal is consistent with most applicable State Environmental Planning Policies (SEPPs). Where this planning proposal is inconsistent with a SEPP the inconsistency is justified on the basis that the inconsistency is minor. The SEPPs that are applicable to this planning proposal are detailed in this Section. For a complete checklist of SEPPs, refer to [Attachment 1](#).

SEPP No. 14 Coastal Wetlands

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

This proposal is consistent with SEPP 14. Lot 531 DP 875511 does not contain any wetlands, but is located within 400m-500m of existing wetlands that form part of the Cuttagee Lake estuary system. This planning proposal is not removing the E2 zone or creating any additional building entitlements. It is reducing the buffer distance to allow any future dwelling to be located on the most practical part of the property that is already cleared and not as steep. It is likely to result in less clearing of vegetation through the establishment of building envelopes and asset protection zones. There is also sufficient space to provide suitable effluent disposal areas that are setback from Cuttagee Lake.

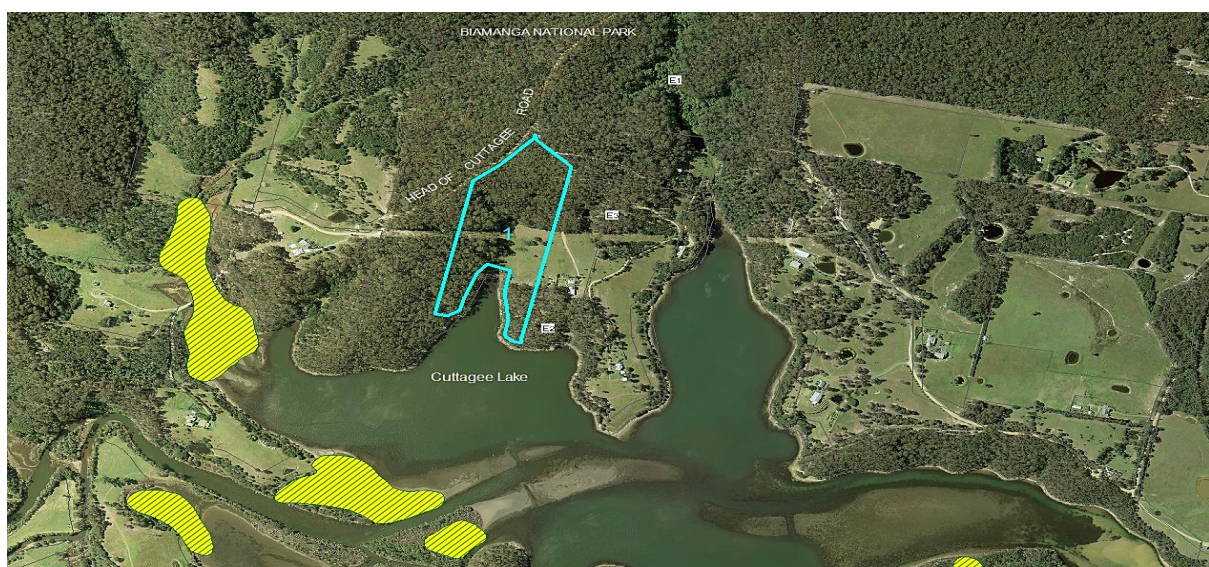


Figure 7: SEPP 14 Wetlands

SEPP No. 44 Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of natural vegetation that provide habitat for koalas. It requires the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat.

There is no identified core koala habitat on this property. The only koala sightings have been recorded within Biamanga National Park to the north. The site has an existing building entitlement and the purpose of this planning proposal is to reduce the potential clearing required as part of establishing a building envelope and asset protection zones.

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

This proposal is consistent with SEPP 71. Lot 531 DP 875511 is located within the coastal zone in an area designated as a sensitive coastal location. The existing E2 zoning buffer is a similar distance from Cuttagee Lake.

This planning proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

Although the setback distance would be reduced, it would result in a building envelope on the least constrained part of the property in terms of slope and vegetation. This approach is consistent with the buffer distances for E2 zoned land around Cuttagee Lake.

Q.6 Is the planning proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. **Attachment 2** contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

2.1 Environmental Protection Zones

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

This planning proposal involves a minor reduction in the width of the existing E2 zone to align with an existing riparian restriction on the title of the land. It does not involve the removal of any environmental zone.

This planning proposal would enable any future dwelling to be located on the least constrained land at the centre of Lot 531. This approach is consistent with the broader application of E2 zones around

Cuttagee Lake. The proposed planning proposal reduces the potential impact of future development which is consistent with the objectives of the E2 zone.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a planning proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This planning proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

This planning proposal would enable greater flexibility with the consideration of a future dwelling house on the least constrained part of the property. This is likely to reduce the potential impact on Cuttagee Lake by reducing the amount of vegetation clearing and soil disturbance.

Sufficient space is also available to enable adequate effluent disposal for any future dwelling.

2.3 Heritage Conservation

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

Lot 531 is located on the foreshore of Cuttagee Lake with the potential for archaeological significance. The property has an existing building entitlement and was created as part of a subdivision where a 50m riparian buffer was required to protect the lake and this has been reinforced as a restriction on the Section 88B Instrument. The E2 zone would be retained as part of the planning proposal and aligned with this existing restriction.

With regard to unidentified Aboriginal heritage values, Council includes a general notation on all Development Consents to the effect that:

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

4.1 Acid Sulphate Soils

This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having the probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps

There is a small section of Lot 531 with the potential to contain Class 1 acid sulphate soils. This area would remain entirely within the E2 zone and the existing reserve. This planning proposal would not create an opportunity for development on any acid sulphate soils.

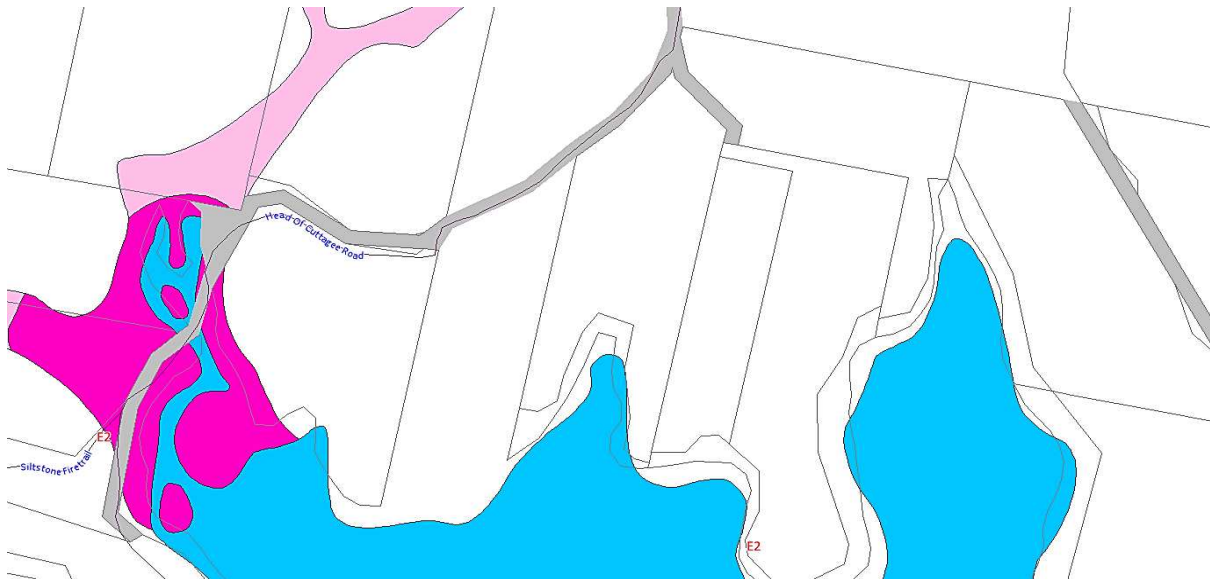


Figure 8: Acid Sulphate Soils Class 1 Class 2 Class 3

4.4 Planning for Bushfire Protection

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

Lot 531 DP 875511 is mapped as being bushfire prone containing bushfire vegetation within category 1 and/or 2 therefore, consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the planning proposal process. This planning proposal is consistent with the objectives and appropriate future development of the land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

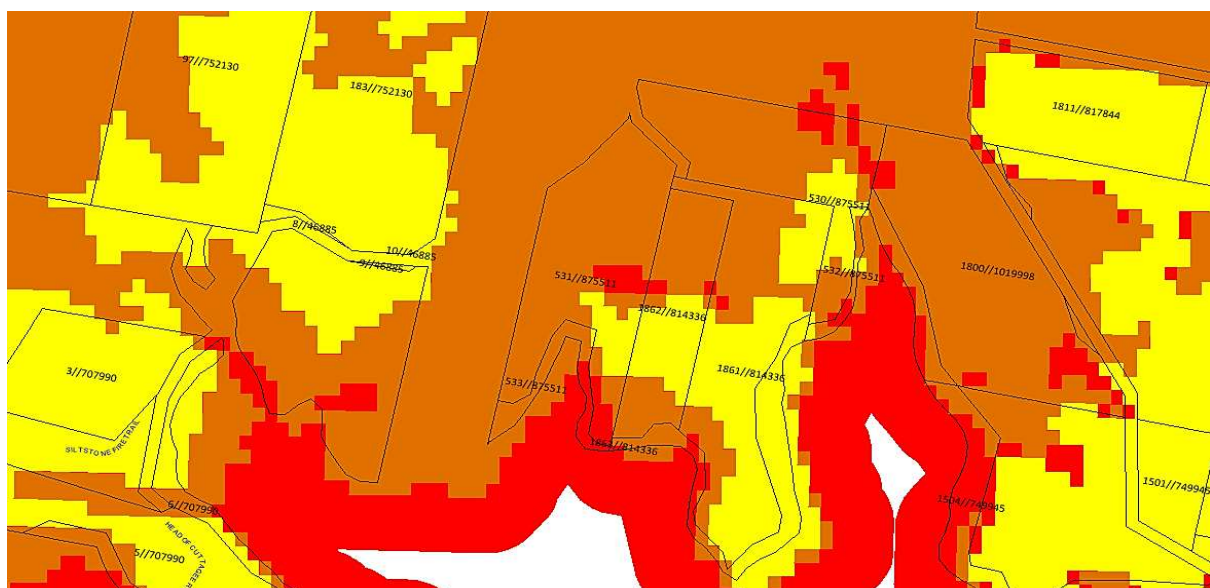


Figure 9: Bushfire Prone Land Map Veg Category 1 Veg Category 2 Veg Buffer

5.1 Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

This planning proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South East and Tablelands Regional Plan 2036.

6.3 Site Specific Provisions

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

This planning proposal does not seek to include additional uses beyond what is permitted within the land use table. It enables greater flexibility in the consideration of a future dwelling house on land that already was building entitlement. It is therefore consistent with this Direction.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This planning proposal involves a minor amendment to the distance of an existing E2 zone. The impact on flora and fauna as a result of this planning proposal is considered minor as a reduction in the width of the E2 zone is likely to reduce the vegetation clearing required for a future dwelling house.

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

The key environmental attributes include forested land to the north and riparian vegetation around the lakes edge. The site is also close to existing SEPP 14 Wetlands and Biamanga National Park to the north. The environmental impact was considered when the subdivision was originally approved and a 50m setback was required as a condition of consent. This setback considered the existing cleared section of land at the centre of the property.

A reduction in the width of the E2 zone is likely to reduce the amount of clearing necessary for a future dwelling house. On-site effluent disposal can be accommodated on site and more detailed archaeological or site specific environmental assessments undertaken if required as part of assessing the design of any future dwelling under the Environmental Planning and Assessment Act 1979.

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

Site 1 involves a request to amend the E2 zoning boundary to provide greater flexibility in the location of a dwelling house on the land. The residential use of the property will provide for the ongoing maintenance and management of the property. It will address a need for housing opportunities within the Shire.

Section D – State and Commonwealth Interests

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

The site is located in a rural residential area that has infrastructure in place to support a future dwelling such as electricity and access to the site. The block was created as part of a 2 Lot Subdivision where access to infrastructure was assessed.

Site 1 involves a minor amendment to the width of the existing E2 zone with no likely impact on public infrastructure.

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

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

Government agencies identified for consultation with regard to this planning proposal are:

- NSW Department of Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Rural Fire Service

2. 'Jigamy Farm' Princes Highway, Broadwater

Lots 25 and 43 DP 750242 and Lot 243 DP 1112013

Site Description

Jigamy Farm is a relatively large parcel of land covering an area of 57.38ha over 3 parcels of land. The property has a history of development from the 1980s and the landscape is a mixture of forested land and cleared areas. A road reserve runs through the centre and the Princes Highway cuts along the southern boundary of the site.

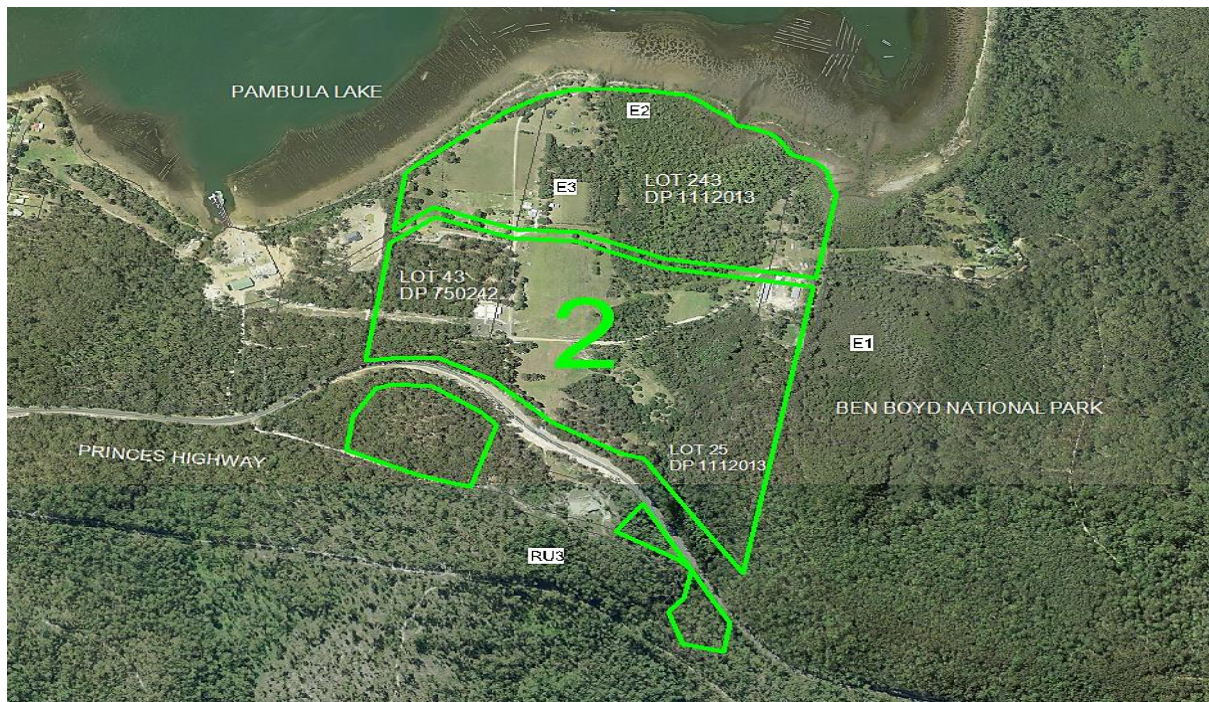


Figure 10: 'Jigamy Farm' Lots 25 and 43 DP 750242 and Lot 243 DP 1112013: Subject Land Aerial Photograph



Figure 11: View of the existing cleared land and riparian vegetation looking west

Background

This site is occupied by Jigamy Farm with a number of development applications being issued. These approvals include Tourist Facilities involving a National Youth Fitness Camp and Women’s Community Centre (91.1248), the Aboriginal Cultural Centre - Monaroo Bobberrer Gudu or "The Keeping Place" (94.1222) and an Aboriginal Youth Camp (2001.1821). The existing site layout is detailed below;

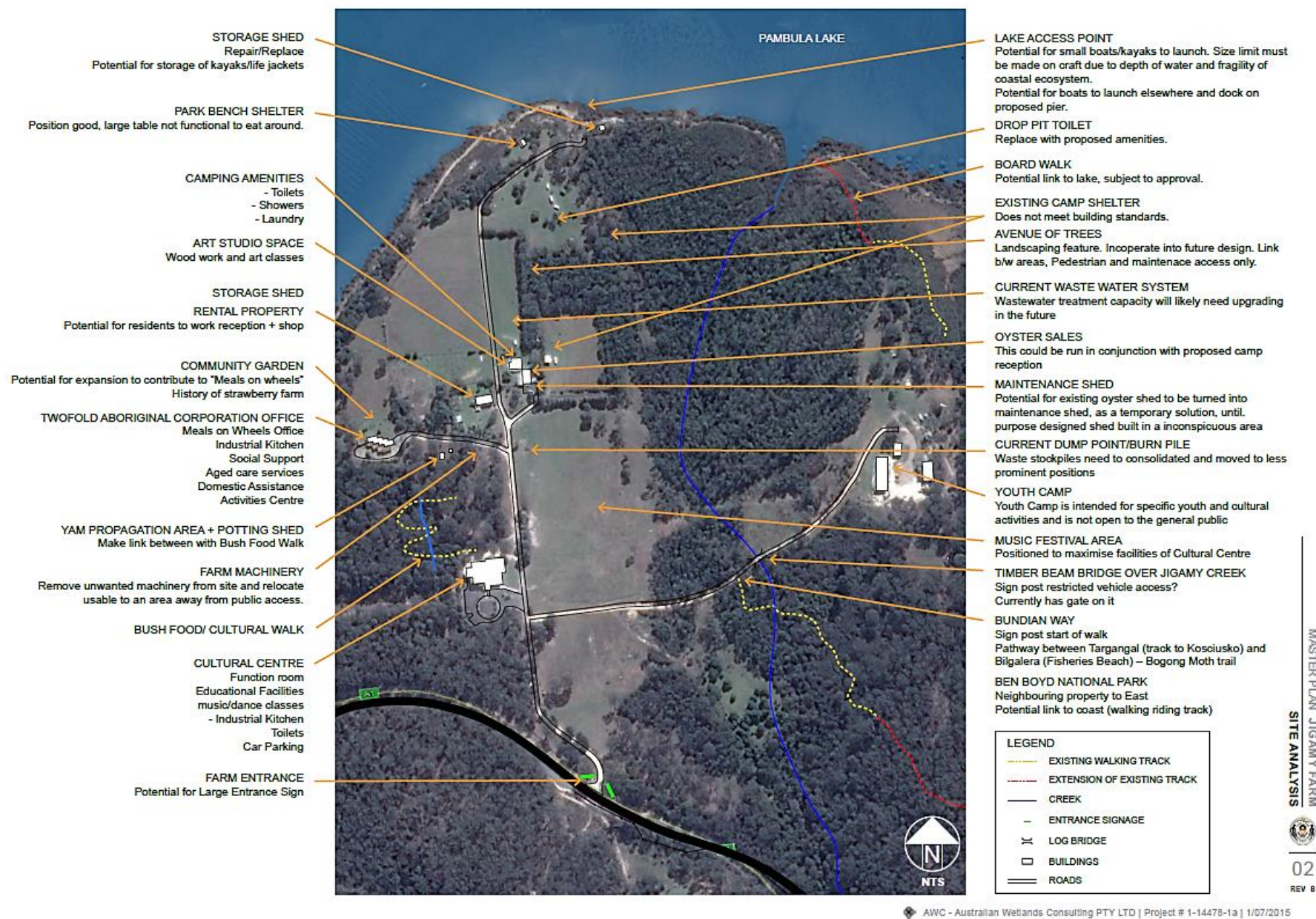


Figure 12: The existing site layout



Figure 13: Photo of the site area

Overall masterplan

The Twofold Aboriginal Corporation have most recently prepared an overall masterplan for the site that includes a camping ground and eco-tourism facility which would accommodate approximately 136 sites for camping and cabins.

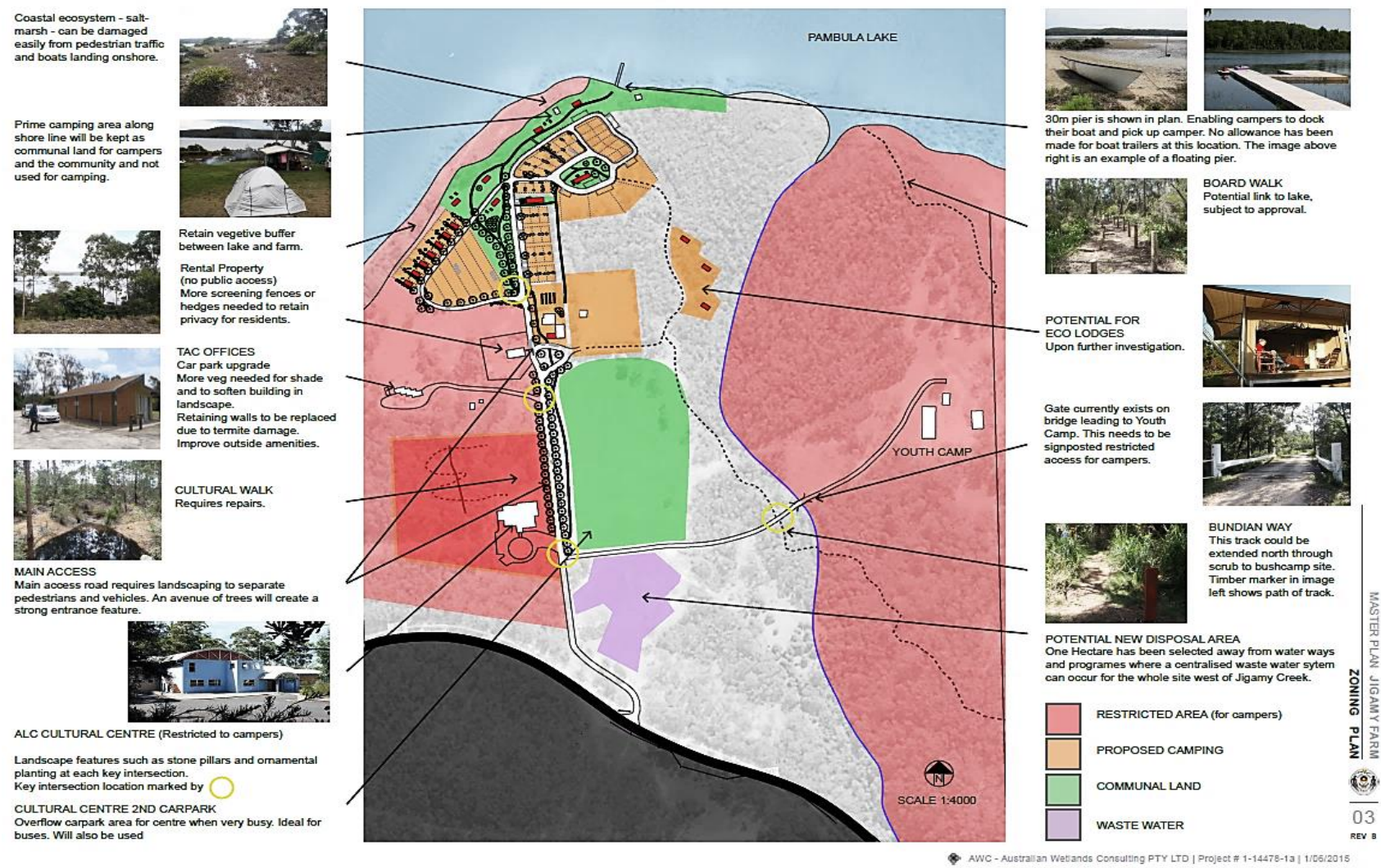


Figure 14: Jigamy Farm Masterplan

Camping ground

The camping ground is split into seven zones with a mixture of facilities. The area that is the subject of this zoning request includes lakeside cabins to the south and communal land to the north.

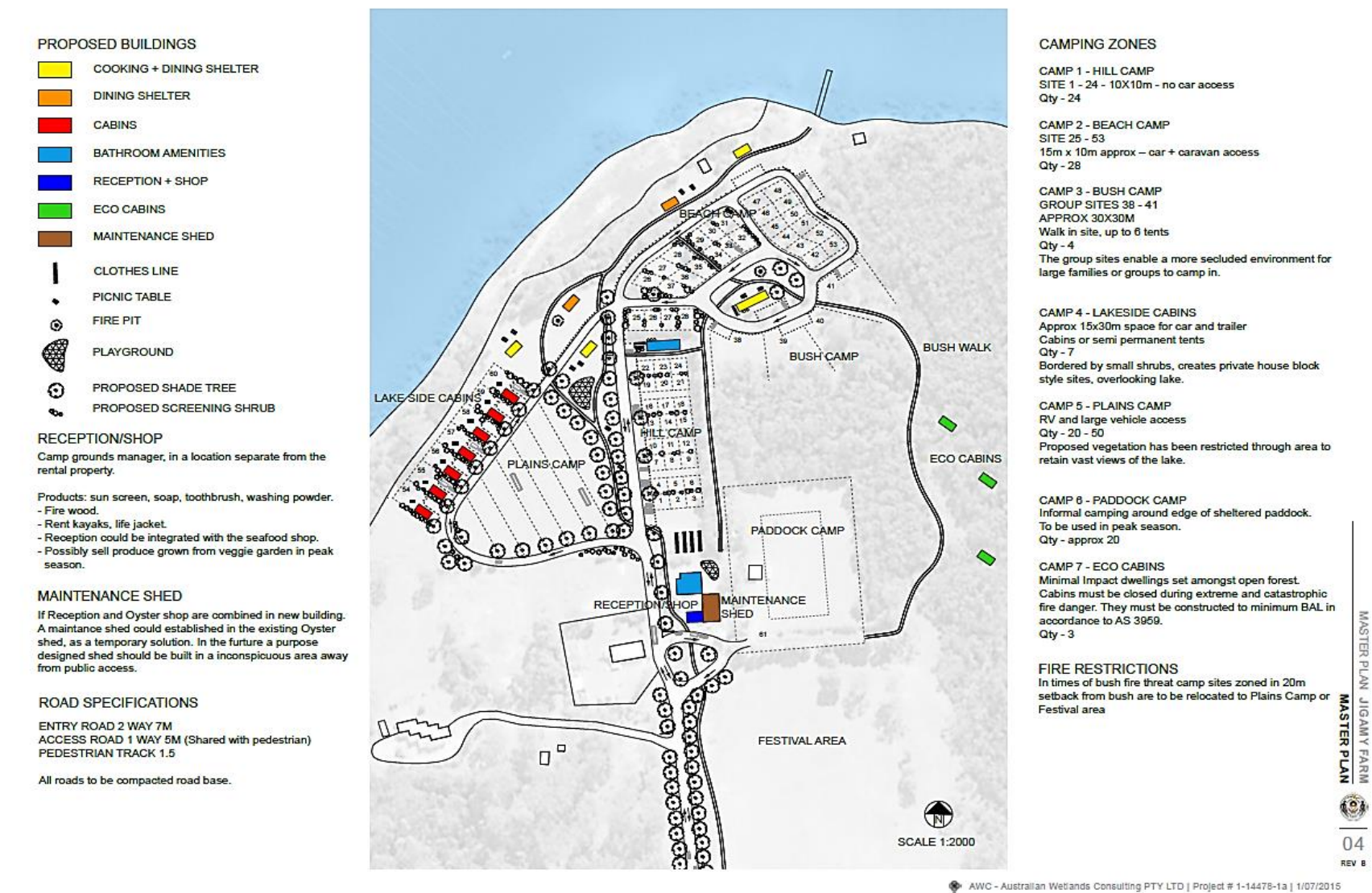


Figure 15: Camping ground concept

Lakeside Cabins

A variety of designs have been suggested for the lakeside cabins as detailed below;

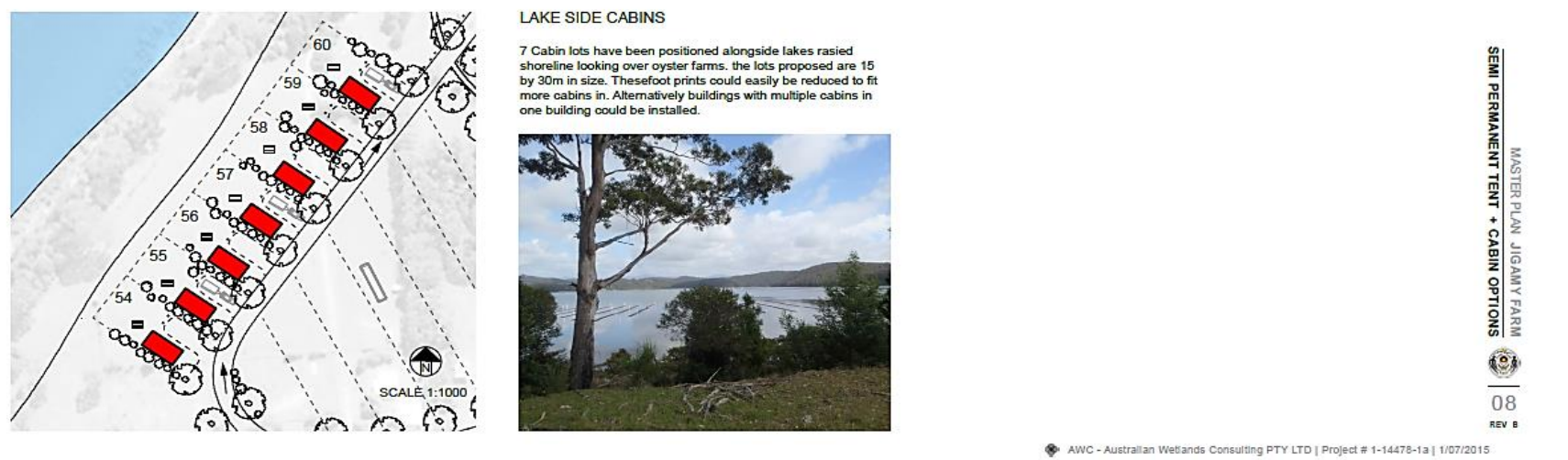


Figure 16: Lakeside cabins

Communal facilities

The following communal facilities are proposed;

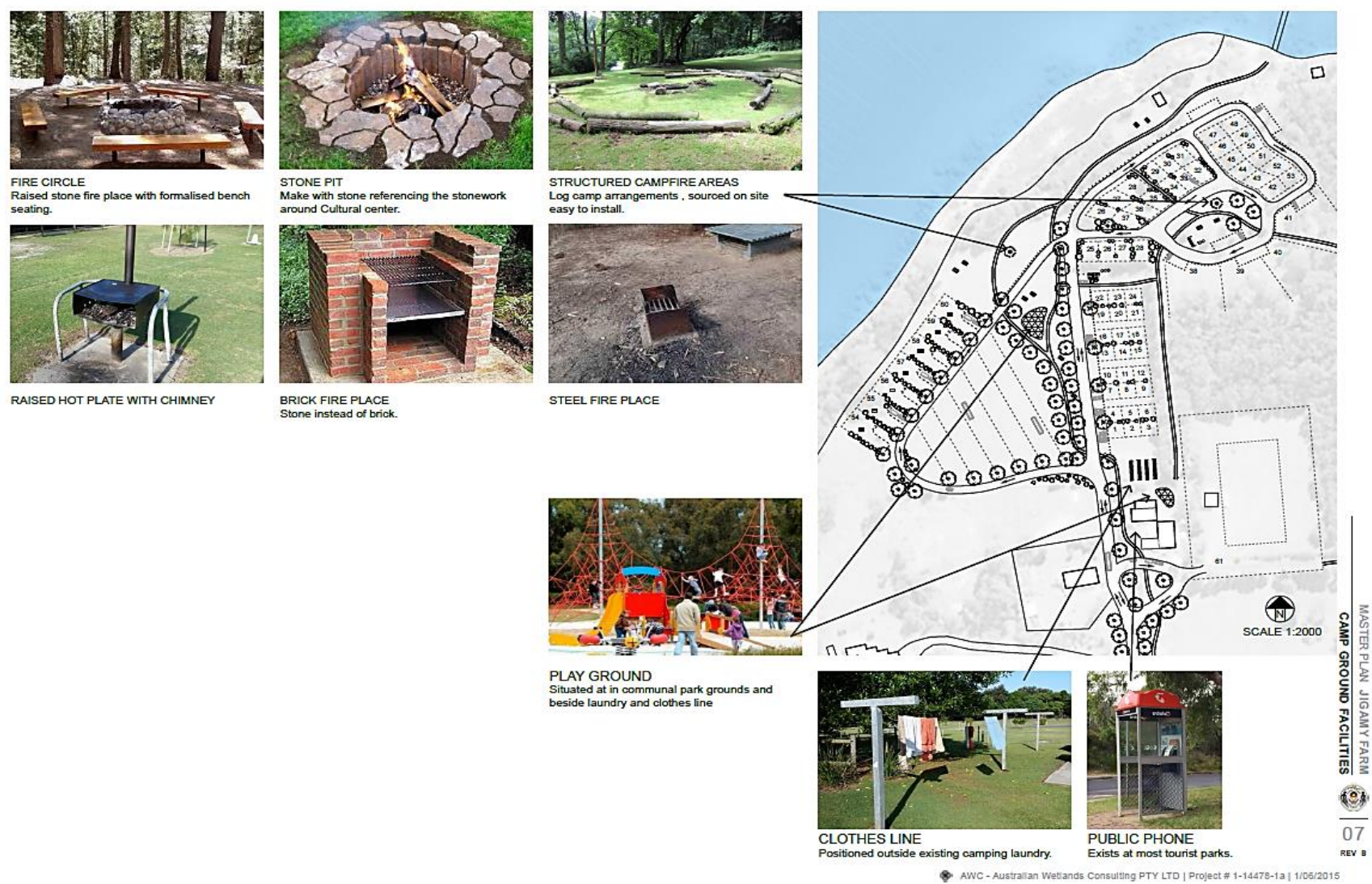


Figure 17: Communal facilities

Mapping

The existing E2 buffer extends for a distance of 100m from Pambula Lake. This planning proposal recommends that that E2 buffer be reduced to a distance of 20m along the north-western shore of Pambula Lake.



Figure 18: Existing zoning under BVLEP 2013



Figure 19: Proposed change to the E2 buffer

Key Outcomes:

- **Reduction in the width of the E2 buffer**
- **Enable the use of the land for 7 lakeside cabins and communal open space**

This planning proposal would result in a reduction in the width of the existing E2 buffer from 100m to 20m along the north-western edge of lots 43 and 243 for a distance of approximately 250m. A more detailed survey of the proposed zoning boundary is currently being prepared by the owners.

This request has been received within the context of an overall masterplan that has been prepared for 'Jigamy Farm'. The land that is the subject of this zoning request includes 7 lakeside cabins to the south and communal land to the north.

The land has been identified for consideration as it is already cleared and currently used as open space. The riparian vegetation, that includes existing saltmarsh around the perimeter of the site, would be retained within the E2 buffer. The proposed rezoning would enable a small portion of the site to be used in association with the proposed camping ground. The proposed future use involves cabins and communal facilities that would sit lightly on the landscape. It is intended that the existing biodiversity values of the land would form part of the overall experience of the camp and any future use would involve commensurate upgrades to facilities including effluent disposal systems to address any potential impact on the existing oyster leases on Pambula Lake.

This planning proposal involves a reduction in the existing E2 buffer to enable flexibility with the consideration of an overall masterplan of the site. This land has been chosen because it is already cleared and the sensitive future development of this land as part of an E3 zone is considered reasonable within the context of the site and existing distribution of environmental buffer zones around Pambula Lake.

The main purpose of the E2 zones is to protect the biodiversity values of Pambula Lake and its sensitive foreshore areas. In this case the riparian vegetation is being retained and the proposed rezoning would apply to land that is already cleared and used as informal open space in connection with the existing uses on 'Jigamy Farm'.

The zoning and proposed masterplan would formalise this use with the addition of 7 cabins which constitute a small component of the overall masterplan.

Section A – Need for the planning proposal

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

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

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

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

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

The existing E2 buffer extends around the edge of Pambula Lake in order to protect this sensitive foreshore environment and Pambula Lake. The width of this E2 zone varies between 20m and 100m to take into account existing development and known landscape features.

Site 2 contains a 100m E2 buffer around Pambula Lake. A section of this land is already cleared and informally used as open space as part of Jigamy Farm. This planning proposal requests an amendment to this E2 buffer to enable this part of the land to be considered as part of a masterplan for the site and more specifically a camping ground. While the camping ground would consist of 136 sites, the majority of the subject land would be used as open space and for 7 cabins, all of which would be the subject of a future development application.

An amendment to the distance of the existing E2 zone boundary is the best means of providing for the use of this cleared land for inclusion within a masterplan for Jigamy Farm.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South East and Tablelands Regional Plan 2036

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Direction 10 Strengthening the economic self-determination of Aboriginal communities

Site 2 involves the future planning and management of Aboriginal Corporation Land that is currently restricted by an E2 Zone.

This proposal involves the consideration of this land within the context of the overall masterplan for 'Jigamy Farm' and the principles of this direction to promote development opportunities. The E2 buffer was originally created to protect the environmental values of Pambula Lake. This planning proposal recommends that this E2 Zone should remain with a reconsideration of the 100m width that is overly restrictive within the context of the existing and future plans for 'Jigamy Farm'.

Direction 14 Protect important environmental assets

Site 2 involves environmentally zoned land that was created in order to protect the biodiversity values of our lakes and estuarine environments. This planning proposal recommends that the mapping is refined to enable the use of existing cleared land to be used within the context of an overall masterplan for the site.

This amendment is consistent with the approach to mapping E2 zones around Pambula Lake where reduced setback distances have been applied to take into account known development. In this case the site is occupied by Jigamy Farm and a number of existing developments. The land is already cleared and used as open space. This planning proposal would formalise this use with the inclusion of 7 cabins in association with a camping ground and overall masterplan for the site.

An E2 zone runs around the perimeter of Pambula Lake and should remain. This planning proposal recommends a reduction in the distance of the E2 buffer over the existing cleared land, leaving a buffer over the existing riparian vegetation which is critical for the protection of Pambula Lake and the nearby oyster leases.

Direction 16 Protect the coast and increase resilience to natural hazards

This property is adjacent to Pambula Lake and affected by coastal processes. The site is mapped as containing acid sulphate soils, biodiversity values and being subject to coastal risk. The buffer area that is the subject of this planning proposal is outside of these mapped areas. The majority of the constrained land is contained within the large central Lot 243 which is heavily vegetated and low-lying. A 100m E2 buffer distance would be retained over this land.

In this case a reduction in the width of the E2 buffer would enable use of land that is already cleared to be used as a component of a proposed camping ground and overall masterplan for Jigamy Farm.

Local Government Narratives Bega

This planning proposal recommends that the E2 zone is retained with some refinement. In this case Bega's natural advantage would be adequately protected and enhanced by encouraging interaction with the landscape as part of the proposed camping ground and the Jigamy Farm experience.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. One key aim of the CSP is:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

This planning proposal provides for the future growth and development of Jigamy Farm as part of an overall masterplan for site 2.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

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

The SEPPs that are applicable to this planning proposal are detailed in this Section. For a complete checklist of SEPPs, refer to [Attachment 1](#).

SEPP No. 14 Coastal Wetlands

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

This proposal is consistent with SEPP 14. Site 2 does not contain any wetlands. Pambula Lake does however contain wetlands that are located about a kilometre to the west. This planning proposal is not removing the E2 zone or promoting development that would be detrimental to this coastal environment or the existing use of the site. It is reducing the E2 buffer distance to enable the use of already cleared land in association with a proposed camping ground and overall masterplan.

The camping ground would require a development application and provision for soil and water management and effluent disposal systems commensurate with the scale of the proposed use. This planning proposal relates to land that is already cleared and used as open space. The existing riparian vegetation would be retained.

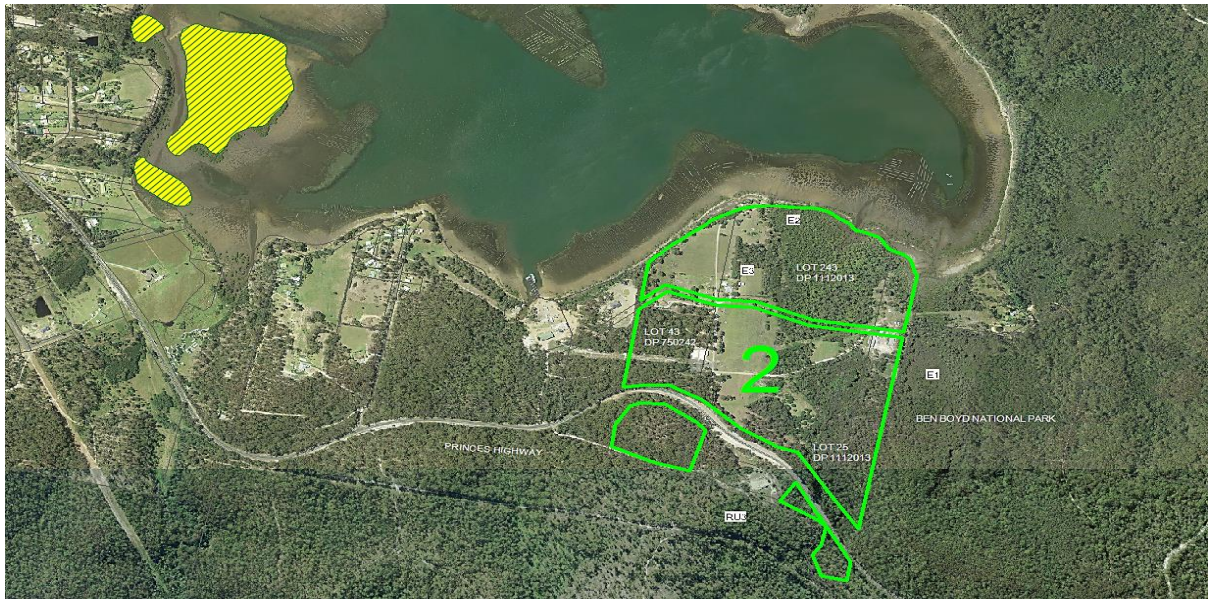


Figure 20: SEPP 14 Wetlands

SEPP No. 62 Sustainable Aquaculture

Encourages the sustainable expansion of the industry in NSW. The policy implements the regional strategies already developed by creating a simple approach to identity and categorise aquaculture development on the basis of its potential environmental impact. The SEPP also identifies aquaculture development as a designated development only where there are potential environmental risks.

This planning proposal is located near oyster lease areas within Pambula Lake. The potential impact would be minimal as the subject land is already cleared and used as open space with the existing riparian vegetation retained within the existing E2 zone. The land would be used as open space and the placement of 7 cabins on the site as part of the proposed camping ground and overall masterplan. Any future development application would require soil and water management and effluent disposal systems that cater for this scale of development. The use of this land will reduce the need to further develop more sensitive land within Site 2 catchment.

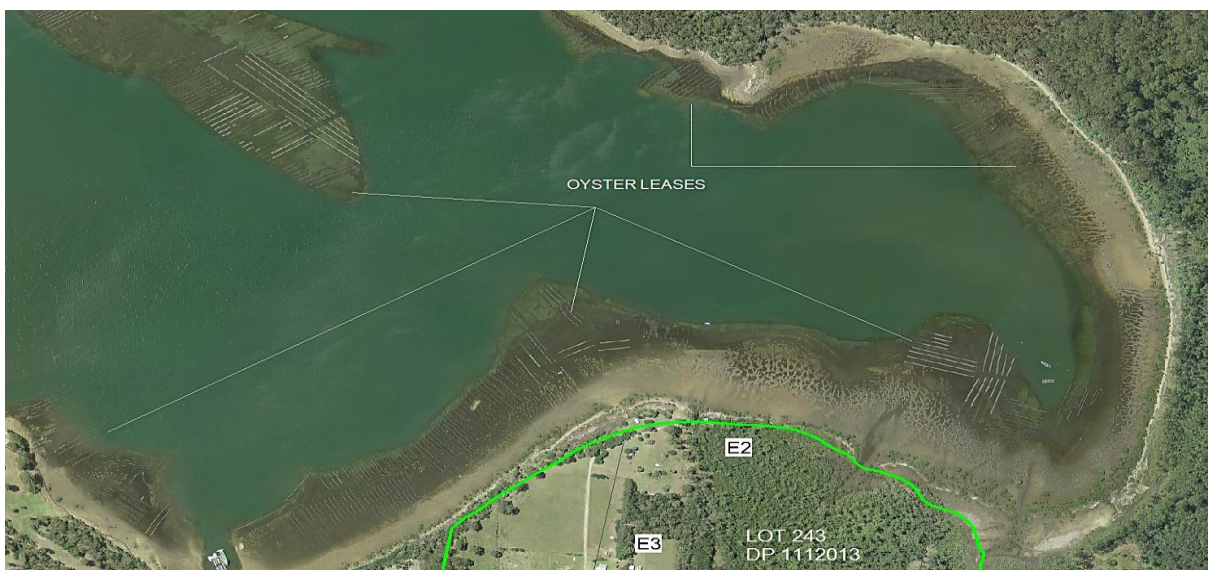


Figure 21: Existing Oyster Leases

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

This proposal is consistent with SEPP 71. Site 2 is located within the coastal zone in an area designated as a sensitive coastal location. The existing E2 zoning buffer is a similar distance from Pambula Lake.

This planning proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

Although the setback distance would be reduced, it covers land that is already cleared and used as open space in connection with Jigamy Farm. This approach is consistent with the buffer distances of E2 zoned land around Pambula Lake and other part of the Shire.

Q.6 Is the planning proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. **Attachment 2** contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

1.4 Oyster Aquaculture

This direction applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:

(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.

This planning proposal is located near oyster lease areas that are located within Pambula Lake. The potential impact would be minimal as the subject land is already cleared and used as open space with the existing riparian vegetation retained within the existing E2 zone.

The land would be used as open space and the placement of 7 cabins on the site as part of the proposed camping ground and overall masterplan. This constitutes a small component of the overall development that would involve minimal site disturbance.

Any future development application would require soil and water management and effluent disposal systems that cater for this scale of development. The use of this land will reduce the need to further develop more sensitive land within Site 2 catchment.

2.1 Environmental Protection Zones

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

This planning proposal involves a reduction in the width of the existing E2 zone to enable the use of this land for open space and 7 cabins in association with a camping ground that forms part of an overall masterplan for Jigamy Farm. It does not involve the removal of any environmental zone.

The land is already cleared and used as open space. The existing riparian vegetation around the foreshore of Pambula Lake would be retained within an E2 zone. This planning proposal would enable this land to be used as a small component of the camping ground and overall masterplan. Any future development would be the subject of a development application.

The land is already cleared and the majority of this land would be used as open space. This planning proposal would not compromise the integrity of this E2 zone.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a planning proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This planning proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

This planning proposal would enable the use of this land in association with a camping ground and overall masterplan for Jigamy Farm. This part of the property is the least constrained in terms of environmental constraints, being cleared and already used as informal open space in association with the range of uses that already exist at Jigamy Farm.

The camping ground would require the lodgement of a development application with provision for adequate soil and water management and effluent disposal.

2.3 Heritage Conservation

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

Site 2 is located on the foreshore of Pambula Lake which is of archaeological significance. The property is already occupied by 'Jigamy Farm' which has an established tradition of acknowledging the history of the land and the cultural significance of the site. The proposed camping ground would build upon this tradition as part of the overall masterplan for Jigamy Farm.

With regard to unidentified Aboriginal heritage values, Council includes a general notation on all Development Consents to the effect that:

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

4.1 Acid Sulphate Soils

This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having the probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps

Site 2 contains Class 2 and 3 acid sulphate soils. The majority of these soils would be retained within the existing E2 zone as part of this planning proposal. Any future development would need to consider the impact on the soil. This land is currently used as open space and identified as communal open space as part of the proposed camping ground and masterplan.

This planning proposal would not increase the likely disturbance of these acid sulphate soils.



Figure 22: Acid Sulphate Soils

Class 1 ■ Class 2 ■ Class 3 ■

4.4 Planning for Bushfire Protection

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

Site 2 is mapped as being bushfire prone containing bushfire vegetation within category 1 and/or 2 therefore, consultation with the NSW Rural Fire Service under Section 56 of the *Environmental*

Planning and Assessment Act 1979 will form part of the planning proposal process. This planning proposal is consistent with the objectives and appropriate future development of the land can occur through the application of the provisions contained within *Planning for Bushfire Protection 2006*.

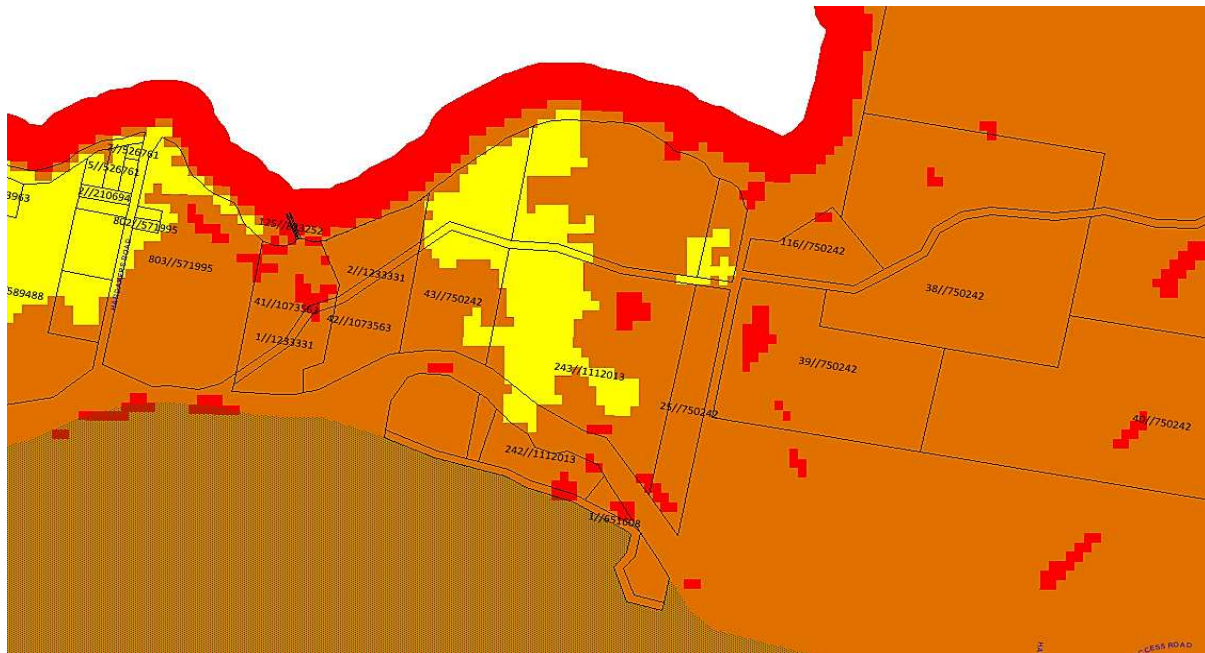


Figure 23: Bushfire Prone Land Map **Yellow** Veg Category 1 **Orange** Veg Category 2 **Red** Veg Buffer

5.1 Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

This planning proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South East and Tablelands Regional Plan 2036.

6.3 Site Specific Provisions

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

This planning proposal does not seek to include additional uses beyond what is permitted within the land use table. It enables existing open space to be included as part of a proposed camping ground and overall masterplan for Jigamy Farm. It is therefore consistent with this Direction.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This planning proposal involves an amendment to the distance of an existing E2 zone. The impact on flora and fauna as a result of this planning proposal is considered minor as the subject land is already cleared and the existing riparian vegetation would be retained within the E2 zone.

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

The key environmental attributes include forested land over the majority of the land, leaving a limited building envelope for future growth and development of Jigamy Farm. The use of land that has already been cleared is therefore critical in the overall protection and environmental management of the land.

The use of this land will reduce the need for future development expanding into areas that are far more constrained in terms of biodiversity, coastal risk and acid sulphate soils. The land is already used as open space and this planning proposal is being considered within the context of an overall masterplan for the site.

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

Site 2 involves a request to amend the E2 zoning boundary to enable existing open space to be included as part of a proposed camping ground and overall masterplan for Jigamy Farm.

The land is a small component of the overall camping ground which would require a future development application and more detailed environmental assessment. The planning proposal would provide for the use of this section of land as communal open space and for 7 cabins that are unlikely to impact on the operation of nearby oyster leases and the oyster industry.

This planning proposal will provide for the future growth and expansion of Jigamy Farm.

Section D – State and Commonwealth Interests

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

Site 2 has established infrastructure and has incrementally developed since the 1980s. There is adequate public infrastructure in terms of electricity and access.

This planning proposal involves a minor amendment to the width of the existing E2 zone. The proposed camping ground would be subject to a future development application and any additional infrastructure assessed as part of this process.

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

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

Government agencies identified for consultation with regard to this planning proposal are:

- NSW Department of Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Roads and Maritime Services

3. Government Road, Eden

Lot 35 DP 843393

Site Description

This land covers an area of 4.6ha that is predominantly cleared with patches of remnant trees and vegetation. The property is within the catchment area of Lake Curalo with floodplain covering the majority of the site that is adjacent to Palestine Creek. The land rises up towards the north-eastern corner that is more elevated and useable land.



Figure 24: Lot 35 DP 843393: Subject Land Aerial Photograph



Figure 25: View over the rear portion of the property looking towards the south

Background

This property is occupied by an existing business involving the manufacture, storage and distribution of chilli products known as 'Disaster Bay Chillies'. The site consists of larger sheds, office and small manager's residence.

Lot 35 was originally created as part of DP 843393. There is a small restriction over the western end of the property covering the existing drainage lines running through neighbouring lots 33 and 34 to the north.

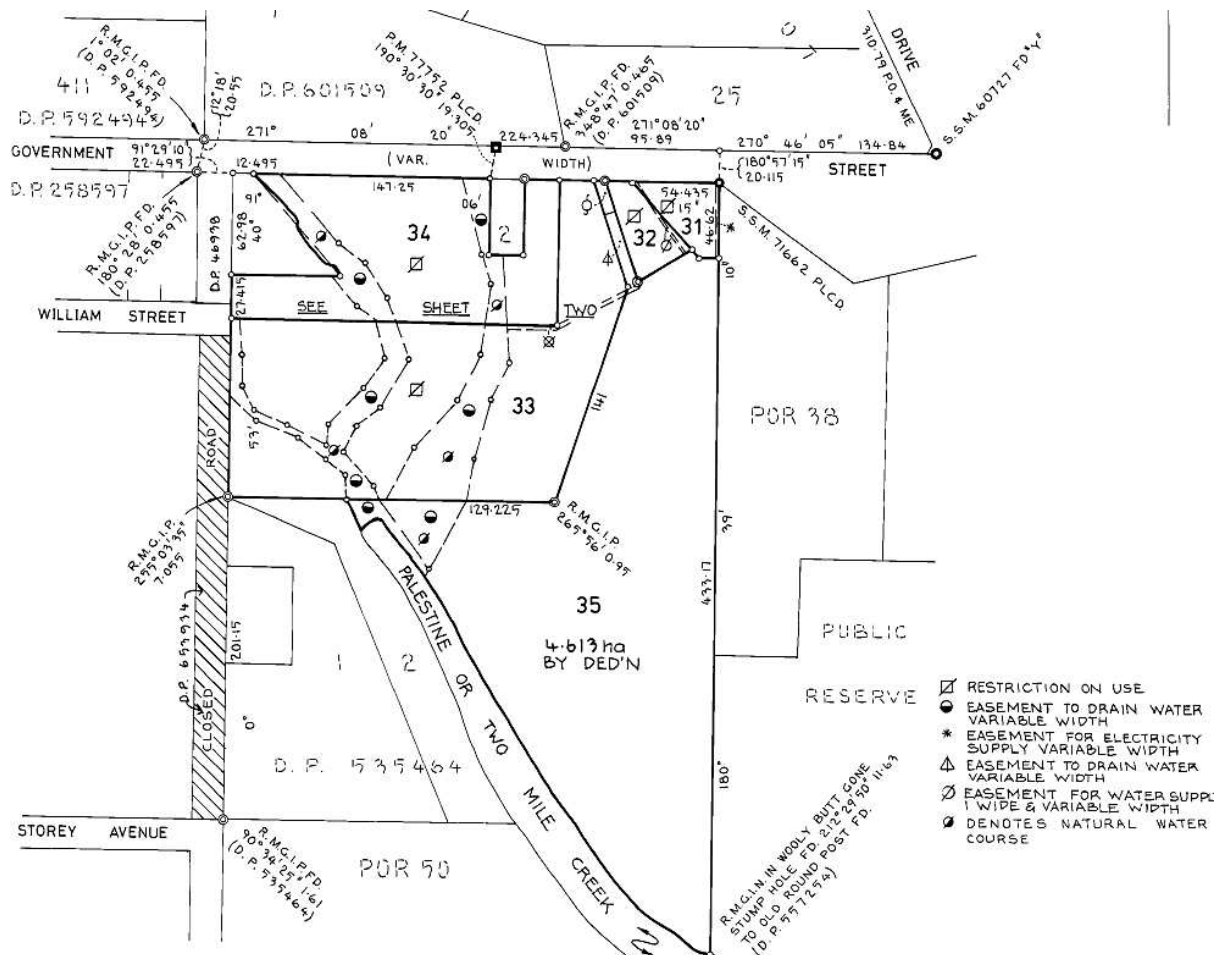


Figure 26: Deposited Plan 843393

Mapping

There is a small portion of B4 land in the north-eastern corner of Lot 35. This planning proposal recommends a small extension of this existing B4 zone.

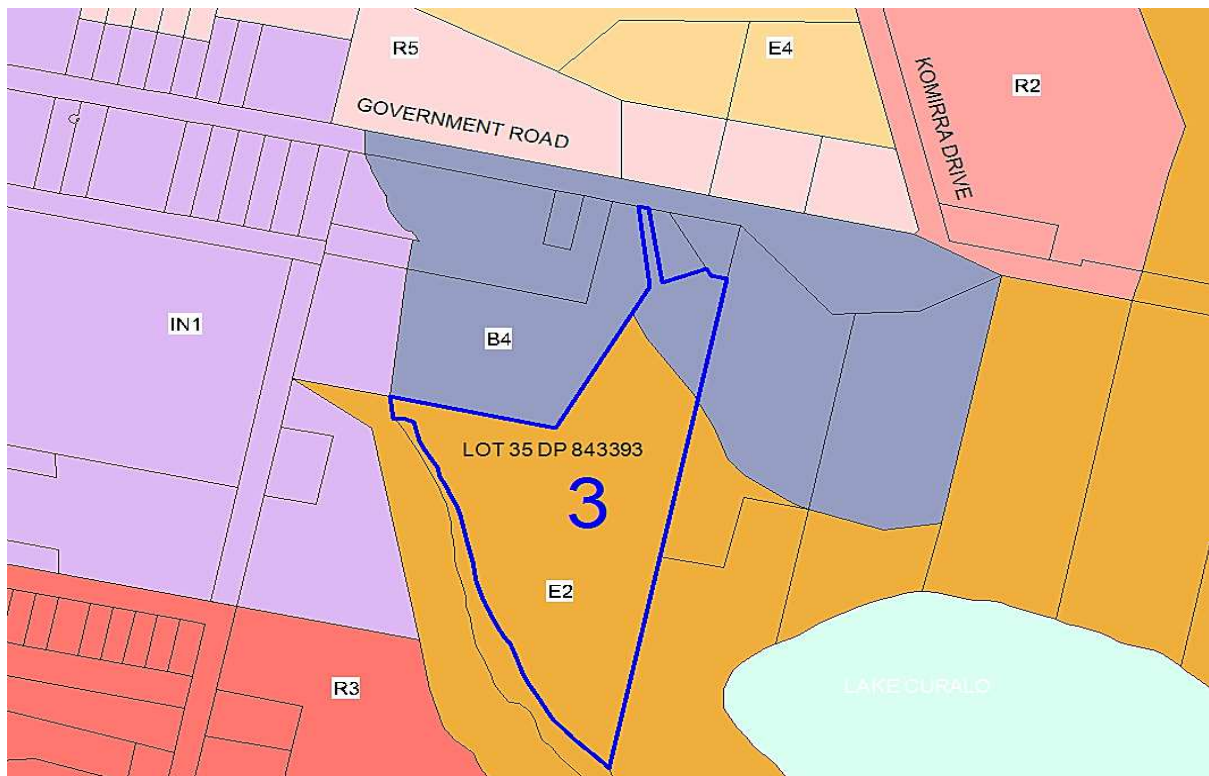


Figure 27: Existing zoning under BVLEP 2013

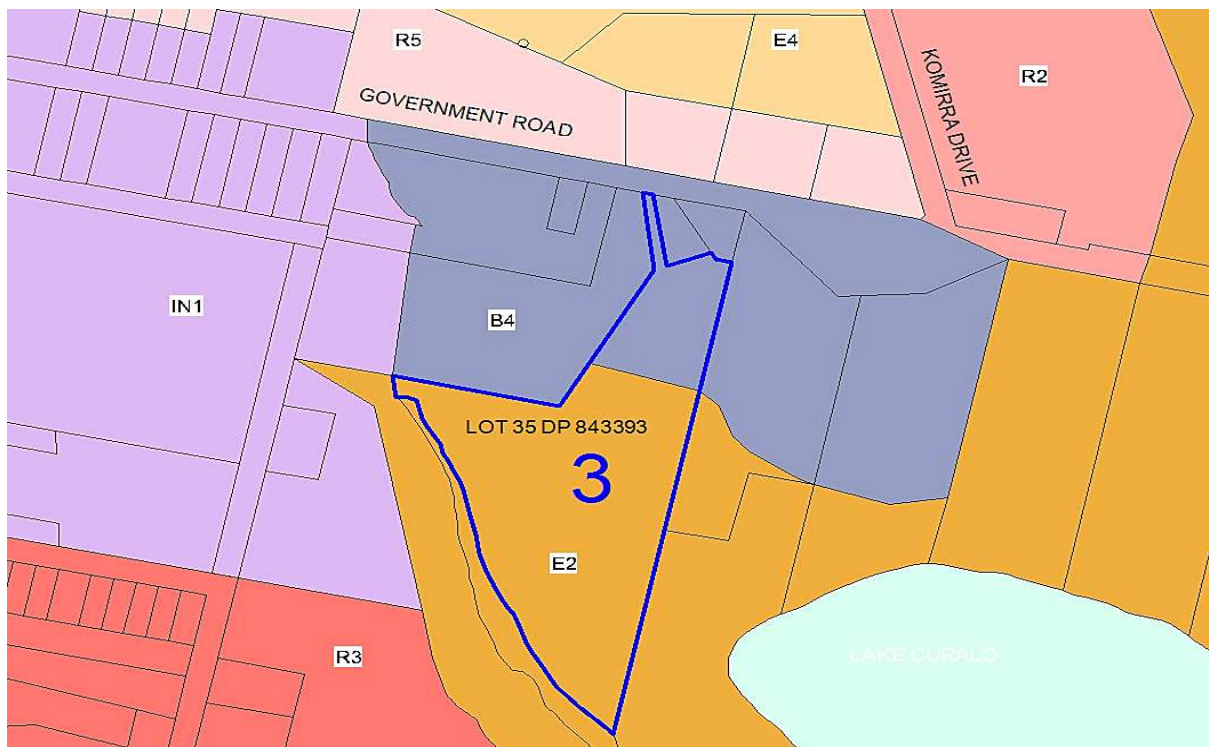


Figure 28: Proposed change to the B4 Zone

Key Outcomes:

- **Minor increase in available B4 land**
- **Provide an opportunity for further expansion of the business**

The built structures are located within the north-eastern corner of the site which is zoned 'B4' with the remaining land being located within an 'E2' Zone.

The existing zone boundary follows the contours of the site and has resulted in a small wedge of 'B4' land that is contained within a small footprint over the existing business and manager's residence leaving little scope for expansion. A blank 'B4' Zoning has been applied to the adjoining lots to the north (Lots 33 and 34) that are equally constrained with low-lying riparian land.

The majority of this land is used for light grazing and is already cleared. The proposed E2 boundary would be located above an existing dam and a small remnant patch of riparian vegetation. The straightening of this boundary would result in a minor increase to the size of the existing 'B4' Zone without compromising the future protection of the Lake Curalo catchment and integrity of the 'E2' Zone.

Section A – Need for the planning proposal

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

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

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

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

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

The existing E2 zone covers the majority of the property, leaving a small wedge of B4 land at the northern end of the property.

This planning proposal involves a request for a minor extension of the B4 land to provide some scope for future expansion of the existing business on Lot 35. This planning proposal requests an amendment to this E2 zone to enable this land to be considered as part of any future development of the land. The land is cleared and suitable for future development.

An amendment to the extent of the existing E2 zone boundary is the best means of providing for the future use of this land.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South East and Tablelands Regional Plan 2036

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Direction 10 Promote business activities in urban centres

Site 3 involves an existing local business known as ‘Disaster Bay Chillies’ that is currently restricted by an E2 zoning that covers that majority of this property.

This zoning aligns with an existing contour that currently limits the future growth and opportunity for the expansion of this business within the urban centre of Eden. This planning proposal recommends that the E2 zoning boundary is reduced to reflect the characteristics of the land and objectives of Direction 12.

This approach is consistent with the application of some constrained land within the B4 zone.

Direction 14 Protect important environmental assets

Site 3 involves environmentally zoned land that was created in order to protect the biodiversity values of our lakes and estuarine environments. This planning proposal recommends that the mapping is refined to enable the use of existing cleared land to be used within the context of an existing business.

This planning proposal involves a minor extension of the existing B4 zone over land that is slightly more constrained but would provide more flexibility for expansion when considered within the context of the existing business. The E2 zone provides for the protection of the Lake Curalo catchment and Palestine Creek and should remain. There is some scope to extend the existing B4 zone which is consistent with the zoning of more constrained land B4 and IN1 within the immediate catchment area.

The majority of the site and the more constrained land would remain E2 to provide for the ongoing protection of Lake Curalo catchment.

Direction 16 Protect the coast and increase resilience to natural hazards

This property is located within the catchment of Lake Curalo and is affected by coastal processes. The existing E2 zoning boundary aligns with the acid sulphate soils and coastal risk layer. The property is identified as being Class 3 acid sulphate soils with a moderate risk and below 3 metre AHM contour for coastal risk planning.

There is some scope to increase the B4 zone as the zoning boundary does not need to align with these overlays. This planning proposal involves a minor expansion of the B4 zone over this land to

provide some scope for future development. This is consistent with the approach to zoning B4 land that immediately adjoins this site.

Local Government Narratives Bega

This planning proposal recommends that the E2 zone is retained with some refinement. In this case Bega's natural advantage would be adequately protected and enhanced by providing an opportunity to expand an existing business.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. One key aim of the CSP is:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

This planning proposal provides an opportunity for the growth and development of an existing business within an established mixed use area.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

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

The SEPPs that are applicable to this planning proposal are detailed in this Section. For a complete checklist of SEPPs, refer to [Attachment 1](#).

SEPP No. 14 Coastal Wetlands

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

This proposal is consistent with SEPP 14. Site 3 does not contain any wetlands. Lake Curalo does however contain wetlands that are located just over 100m from the southern end of site 3. This planning proposal is not removing the E2 zone or promoting development that would be detrimental to this coastal environment or the existing use of the site. The majority of Lot 35 is zoned E2, leaving little scope for any additional development of the land.

Any future development application requires an assessment in accordance with the relevant provisions with the potential for acid sulphate soil testing and assessment in terms of coastal risk. This planning proposal relates to land that is already cleared. All of the existing riparian vegetation would be retained.



Figure 29: SEPP 14 Wetlands

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

This proposal is consistent with SEPP 71. Site 3 is within the coastal zone but is located outside of the 100m sensitive coastal location.

This planning proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

Q.6 Is the planning proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. Attachment 2 contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

1.1 Business and Industrial Zones

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

Site 3 involves a minor extension to an existing B4 boundary within an established mixed use area to the north of Eden. This planning proposal supports the future growth and expansion of an existing business that is already established.

2.1 Environmental Protection Zones

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

This planning proposal involves a minor increase to the extent of the existing E2 zone, but does not endorse its removal.

The majority of the property is cleared with some remnant patches of riparian vegetation near Lake Curalo and Palestine Creek. The existing riparian vegetation would be retained within an E2 zone. This planning proposal would enable this land to be used to provide some scope for expansion of the existing business 'Disaster Bay Chillies'. Any future development would be the subject of a development application.

This planning proposal would not compromise the integrity of this E2 zone.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a planning proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This planning proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

2.3 Heritage Conservation

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

Site 3 has the potential for archaeological significance being within the catchment area of lake Curalo. With regard to unidentified Aboriginal heritage values, Council includes a general notation on all Development Consents to the effect that:

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

4.1 Acid Sulphate Soils

This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having the probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps

Site 3 contains class 1-3 acid sulphate soils. The majority of the site has the potential for acid sulphate soils with the risk reducing with distance from Lake Curalo. This planning proposal would provide the opportunity for further development on land that is mapped as being Class 3 acid

sulphate soils and would be setback from the Class 1 and 2 acid sulphate land further to the south. This planning proposal involves a minor increase to the area of B4 land. Any future use of this land would require a development application and soil testing would be to be undertaken in order to assess this impact. Council has a standard condition of consent as detailed below;

The development site is within an area identified as having a probability of containing acid sulphate soils as identified on maps held by Council. Soil samples are to be assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Council.

If potential acid sulphate soils are identified, site works and excavation shall not take place until the applicant has lodged an Acid Soil Management Plan prepared by a suitably qualified person for approval by Council. The plan shall be prepared in accordance with the NSW Acid Sulphate Soils Manual (1998) and shall identify measures to effectively control, treat and manage acid soils on the site and ensure that the environment is not polluted by the release.



Figure 30: Acid Sulphate Soils

Class 1 Class 2 Class 3

4.4 Planning for Bushfire Protection

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

Site 3 is mapped as being bushfire prone containing bushfire vegetation within category 1 and the vegetation buffer therefore, consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the planning proposal process. This planning proposal is consistent with the objectives and appropriate future development of the

land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

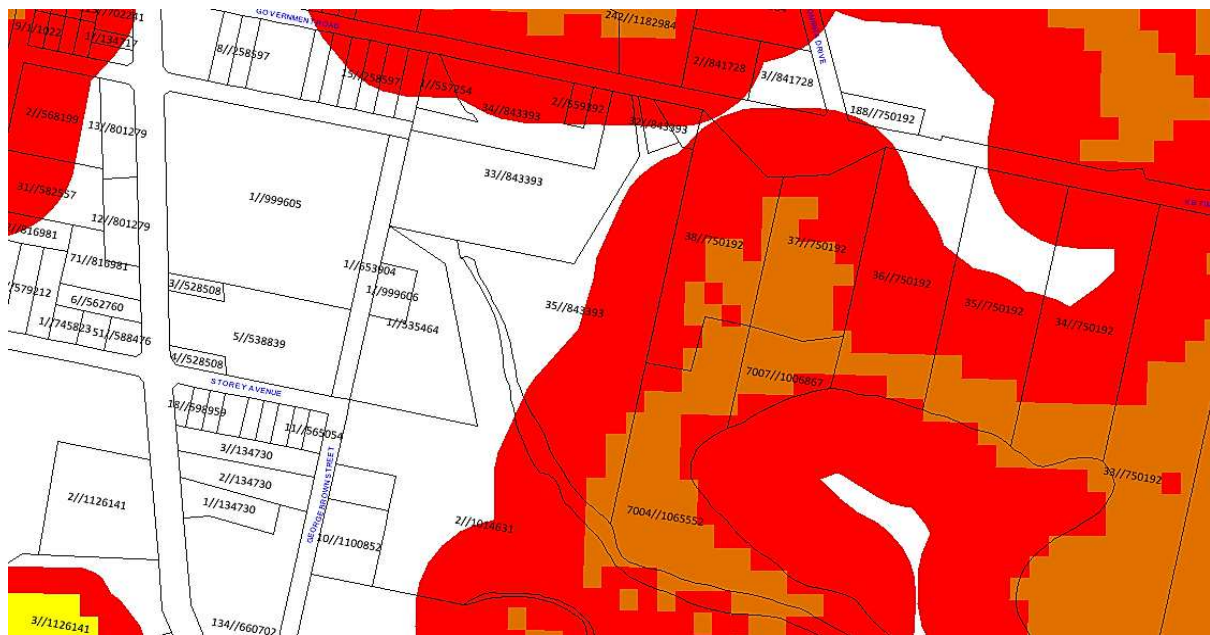


Figure 31: Bushfire Prone Land Map Veg Category 1 Veg Category 2 Veg Buffer

5.1 Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

This planning proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South East and Tablelands Regional Plan 2036.

6.3 Site Specific Provisions

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

This planning proposal does not seek to include additional uses beyond what is permitted within the land use table and is consistent with this Direction.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The majority of Site 3 is cleared with only remnant patches of riparian vegetation. The impact on flora and fauna as a result of this planning proposal is considered minor as the subject land is already cleared with an established business already located with the existing B4 zone.

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

The key environmental attributes include acid sulphate soils and coastal risk with small patches of vegetation that have biodiversity value. The shape of the allotment and split zoning boundary leaves little scope for future development.

The land is currently managed with an emphasis on environmental management as the current owners have re-vegetated parts of the existing E2 land. In this case it is not considered that the zoning boundary should align with the existing overlays as these constraints can be considered as part of any future development of the land.

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

Site 3 involves a minor amendment to the E2 zoning boundary to enable some opportunity for future growth and development of an existing business 'Disaster Bay Chillies'.

Section D – State and Commonwealth Interests

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

Site 3 requires a minor amendment to the width of the existing E2 zone. The site has an existing business with access and electricity in place.

The property is within the Developer Servicing Plan (DSP) boundary and connected to both water and sewer infrastructure.

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

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

Government agencies identified for consultation with regard to this planning proposal are:

- NSW Department of Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Rural Fire Service

4. Princes Highway, Millingandi

Lot 722 DP 826975

Site Description

The property covers an area of 14.97ha with a small portion of cleared land along the south-western boundary with a wetland and riparian vegetation covering the rest of the site. The property is adjacent to Merimbula Lake with an inlet directly to the north. The property is vacant land.



Figure 32: Lot 722 DP 826975: Subject Land Aerial Photograph



Figure 33: View of the existing SEPP 14 Wetland looking to the east

Background

This site is a 'deferred matter' as a submission was received from the owners of the property during the exhibition process for BVLEP 2013. A joint submission was originally lodged for lots 721 and 722. This assessment involves Lot 722 only, which was created as part of a 2 Lot Boundary Adjustment (DA 91.1146). The allotment was created for the purpose of a dwelling and retains a building entitlement under Clause 4.2A (3) (b) even though it is below 120ha minimum lot size.

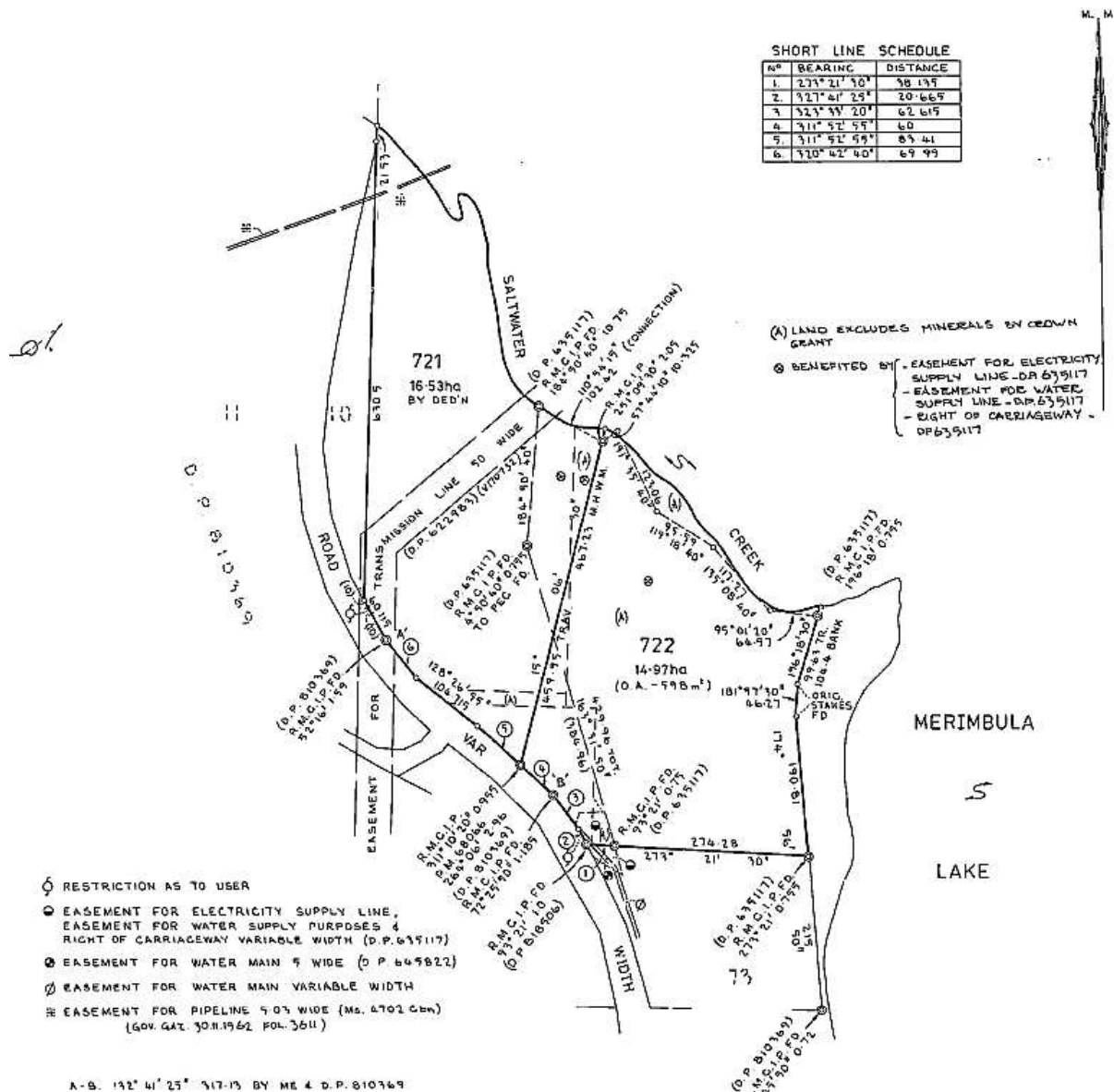


Figure 34: Deposited Plan 826975

Mapping

The site is split into a 1(a) Rural General Zone and 7(b) Environment Protection Foreshore Zone under BVLEP 2002. The lot is vacant but retains a building entitlement. A minimum lot size of 10ha was recommended in the Merimbula District Structure Report and a request for a minimum lot size of 5ha and a reduction in the area of E2 Zoned land was requested.

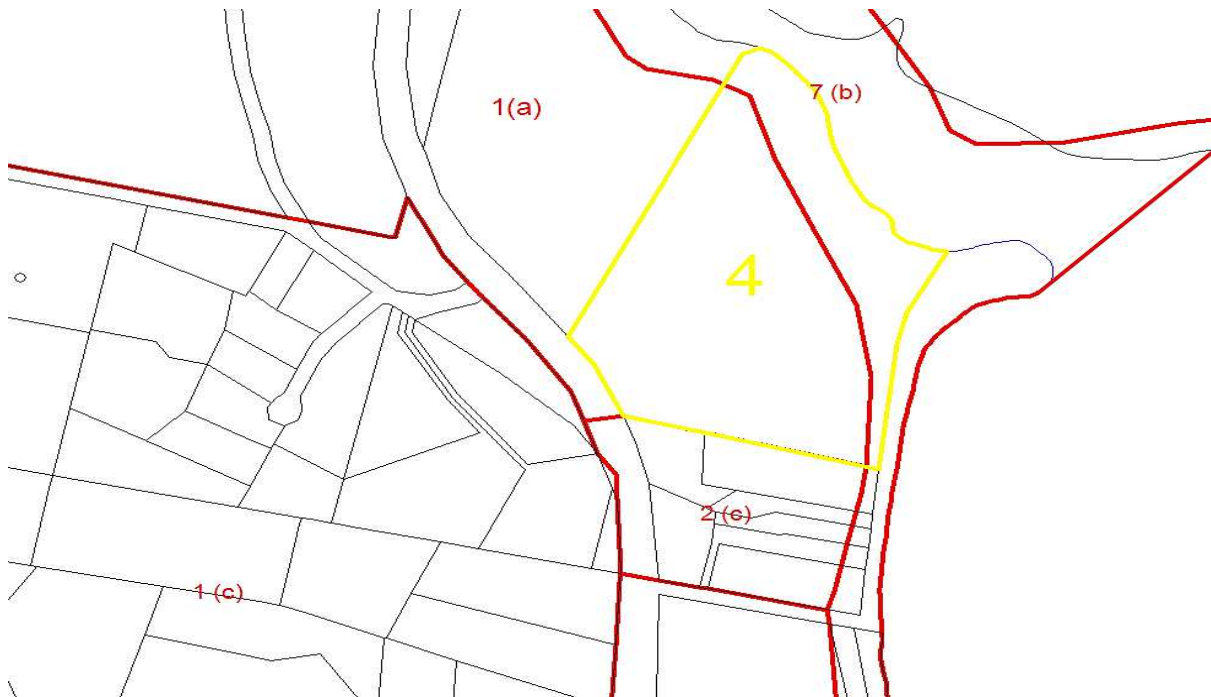


Figure 35: Existing zoning under BVLEP 2002

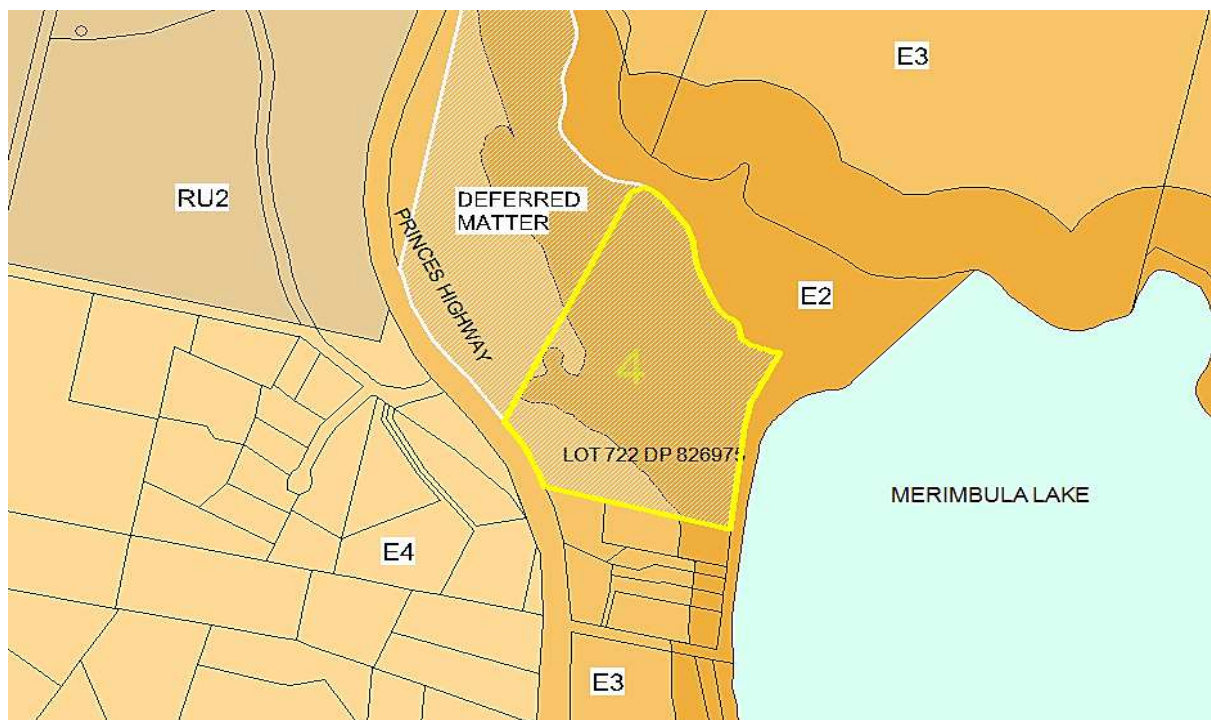


Figure 36: Proposed zoning under BVLEP 2013

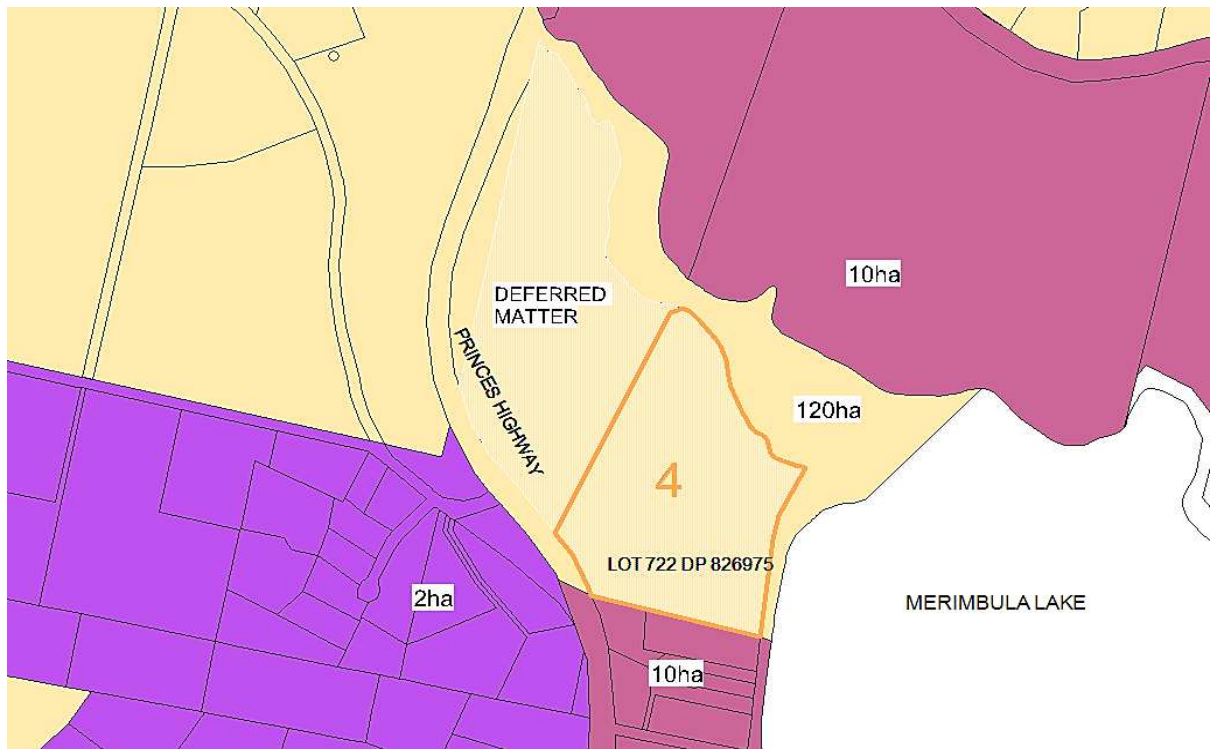


Figure 37: Proposed Lot Size under BVLEP 2013

Key Outcomes:

- **Building entitlement retained**
- **Further subdivision prohibited**

This site is a 'deferred matter' as a submission was received from the owners of the property during the exhibition process for BVLEP 2013. A joint submission was originally lodged for lots 721 and 722. This assessment involves Lot 722 only.

The current split zoning into 1(a) and 7(b) is not consistent with the characteristics of the land given the majority of the land is covered by a wetland. The fragmentation of land within the immediate area has historically proven problematic with the subdivision immediately to the south having ongoing issues in terms of on-site effluent disposal given its proximity to Merimbula Lake.

The proposed split zoning as identified under the proposed BVLEP 2013 is consistent with the environmental attributes of the land, with a smaller section of E3 providing an envelope for a future dwelling house over the more elevated cleared land and the remainder of the site being zoned E2 over the existing wetland.

Any further subdivision of this land is likely to have a cumulative impact on the site and surrounding catchment of Merimbula Lake as demonstrated by existing land to the south. A 120ha minimum lot size is therefore recommended under the BVLEP 2013.

Section A – Need for the planning proposal

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

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

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

The Draft BVLEP 2010 was publically exhibited from the 12 May 2011 to the 29 July 2011 and 456 submissions were received. Following consideration of those submissions, Council categorised them into four groups:

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

The zoning and status as prescribed under the BVLEP 2002 still applies to site 4. A planning proposal is required to apply BVLEP 2013 to resolve the issue of appropriate zoning and minimum lot sizes for this site.

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

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

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South East and Tablelands Regional Plan 2036

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Direction 14 Protect important environmental assets

Site 4 is currently deferred with a split zoning under BVLEP 2002 of 1(a) (Rural General Zone) and 7(b) (Environment Protection Foreshore Zone). It was proposed to apply a split zoning of E2 and E3 under BVLEP 2013 with a minimum lot size of 120ha. A submission was received during the exhibition period requesting a reduction in the extent of the E2 zone and a minimum lot size of 5ha.

Site 4 involves environmentally zoned land that was created in order to protect the biodiversity values of our lakes and estuarine environments. In this case the site is divided into two distinct areas with a SEPP 14 wetland covering the majority of the site, leaving a small area of cleared vacant land to the south. It is proposed to split the land into an E2 and E3 zone in line with the SEPP 14 wetland boundary with a 120ha minimum lot size to restrict any future subdivision of the land.

The E2 boundary should cover the existing wetland as any further development of this part of the property is not encouraged with the remaining land being zoned E3 to allow the construction of a future dwelling on the property which retains a building entitlement. Future subdivision of the property is not encouraged as the land has limited capacity to dispose of effluent on-site and the fragmentation of land in the immediate area is already having an impact on Merimbula Lake.

The majority of this site is covered by any existing SEPP 14 Wetland and any further development above the existing dwelling is likely to have a cumulative impact on Merimbula Lake.

Direction 16 Protect the coast and increase resilience to natural hazards

This property is adjacent to Merimbula Lake and affected by coastal processes. The site is mapped as containing Class 1 and 2 acid sulphate soils, coastal risk and having biodiversity values.

The risk of developing on this land is high with limited scope to protect any future development through assessment or conditions of consent. The site is occupied by a SEPP 14 wetland with no setback and is close to existing oyster leases within Merimbula Lake.

Local Government Narratives Bega

This planning proposal recommends that a split zoning with an E2 and E3 zone is adopted. In this case Bega's natural advantage would be adequately protected by the establishment of environmental zones over the property.

The existing 7(b) zone does not provide sufficient protection, while the 1(a) rural zone does not adequately reflect the characteristics of the site as the majority of the land is covered by an existing SEPP 14 wetland.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. One key aim of the CSP is:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

This planning proposal recommends environmental zones over the property with a minimum lot size of 120ha. This will enable the consideration of a dwelling house on the property under Clause 4.2 as Lot 722 retains a dwelling entitlement. Any further subdivision of the property is not supported.

Merimbula Structure Plan

The following recommendations were detailed for area 40 Map 10 of the Merimbula District Structure Report as detailed below;

Area 40: mixed zones at Boggy Creek entrance to Merimbula Lake

This area comprises two sections of 1(a) Rural General zoned land and a section of 2(c) Residential Tourist zoned land. The 2(c) zone is a left over from a past proposal for a serviced tourist resort site but its retention is inappropriate given the area is unsewered and already subdivided to a density greater than recommended for best practice on site effluent disposal.

Recommendation for Area 40: That Council propose that part of the area within 150 metres of the Lake foreshore plus all areas gazetted SEPP14 be zoned E2 Environmental Conservation. Further that the remainder of these areas be proposed for zone E4 Environmental Living with a 10 ha minimum lot size for new subdivision. This would prevent further subdivision of this foreshore area. All existing dwelling envelopes are to be in the E4 zone.

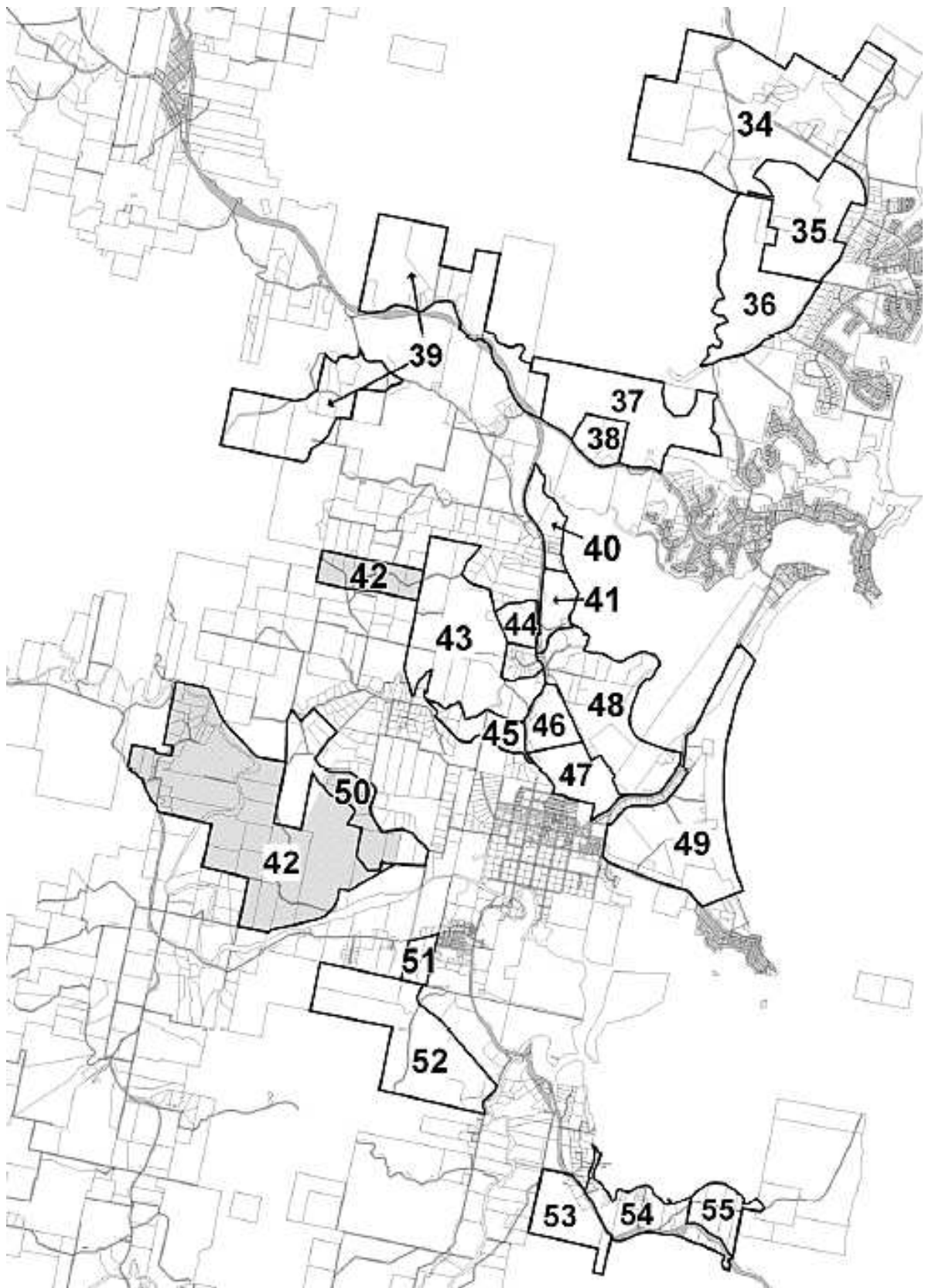


Figure 37: Merimbula Structure Plan Map including Area 40

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

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

The SEPPs that are applicable to this planning proposal are detailed in this Section. For a complete checklist of SEPPs, refer to [Attachment 1](#).

SEPP No. 14 Coastal Wetlands

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

The split zoning of this property into E2 and E3 zones as recommended under BVLEP 2013 with a minimum lot size of 120ha is supported.

Site 4 is severely constrained as the majority of the property is occupied by a wetland. A request was received to extend the E3 zoning boundary with a minimum lot size of 5ha. Any increase in the extent of the existing E3 boundary would extend into the existing wetland while further subdivision of the land is likely to have a cumulative impact on the wetland.

The proposed E2 zone would cover the existing wetland, leaving a small pocket of E3 land to provide for any future dwelling house.



Figure 38: SEPP 14 Wetlands

SEPP No. 62 Sustainable Aquaculture

Encourages the sustainable expansion of the industry in NSW. The policy implements the regional strategies already developed by creating a simple approach to identity and categorise aquaculture development on the basis of its potential environmental impact. The SEPP also identifies aquaculture development as a designated development only where there are potential environmental risks.

This planning proposal is located near existing oyster lease areas within Merimbula Lake. An E2 zone is recommended over the existing wetland with an E3 zone over the remainder of the site. The land has the capacity for a future dwelling house on the proposed E3 part of the property given the majority of this land is already cleared. An extension of the E2 zone is not supported as it is likely to have an impact on the wetland and any further subdivision would have a cumulative impact.

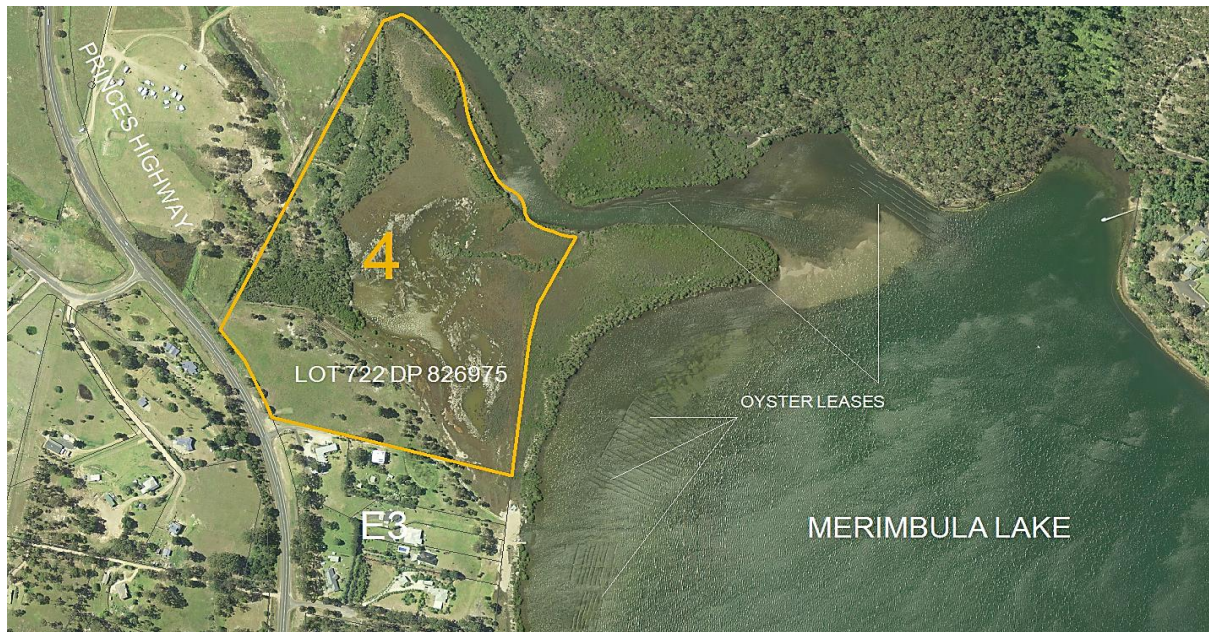


Figure 39: Oyster Leases

SEPP No. 71 Coastal Protection

SEPP 71 controls development in the coastal zone. SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management, and that there is a clear development assessment framework for the coastal zone.

Site 4 is located within the coastal zone in an area designated as a sensitive coastal location.

The environmental zoning is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

Any further development opportunities through an extension of the E3 zone or additional subdivision is not supported as it is likely to have an adverse impact on this coastal environment.

Q.6 Is the planning proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. **Attachment 2** contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

1.4 Oyster Aquaculture

This direction applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:

(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.

This planning proposal is located near existing oyster lease areas within Merimbula Lake.

An E2 zone is recommended over the existing wetland with an E3 zone over the remainder of the site. The land has the capacity for a future dwelling house on the proposed E3 part of the property given the majority of this land is already cleared.

An extension of the E2 zone is not supported as it is likely to have an impact on the wetland and any further subdivision would have a cumulative impact on the site and surrounding catchment.

2.1 Environmental Protection Zones

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

This planning proposal involves the consideration of a deferred matter under BVLEP 2002. The site has a split zoning of 1(a) and 7(b) under BVLEP 2002. In this case, the narrow foreshore zone does not adequately protect the inherent constraints of the property and the rural zoning does not reflect the sensitive nature of this coastal environment.

An E2 zone is recommended over the existing wetland with an E3 zone over the remaining land to the south. A minimum lot size of 120ha is recommended to prevent any further subdivision of the land. The capacity for future development is not supported.

2.2 Coastal Protection

This Direction applies when a planning authority prepares a planning proposal that applies to land in the Coastal Zone. The objective is to implement the principles in the NSW Coastal Policy.

This planning proposal is consistent with this Direction as it does not contradict or hinder the application of the coastal planning provisions contained in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastline Development Manual 1993.

This planning proposal recommends a split zoning of E2 and E3 for the property as this is consistent with the environmental attributes of the site and application of environmental zones around Merimbula Lake and the rest of the Shire.

2.3 Heritage Conservation

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

Site 4 is located on the foreshore of Merimbula Lake which is of archaeological significance.

With regard to unidentified Aboriginal heritage values, Council includes a general notation on all Development Consents to the effect that:

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

4.1 Acid Sulphate Soils

This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having the probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps

Site 4 contains class 1 and 2 acid sulphate soils. The majority of the property is however covered by class 2 acid sulphate soils. There is a risk with any works below natural ground level that limits the range of land uses that would suit this environment.

This planning proposal recommends that an E2 zone is established over the majority of the site in line with the existing class 2 acid sulphate soils layer and other constraints.

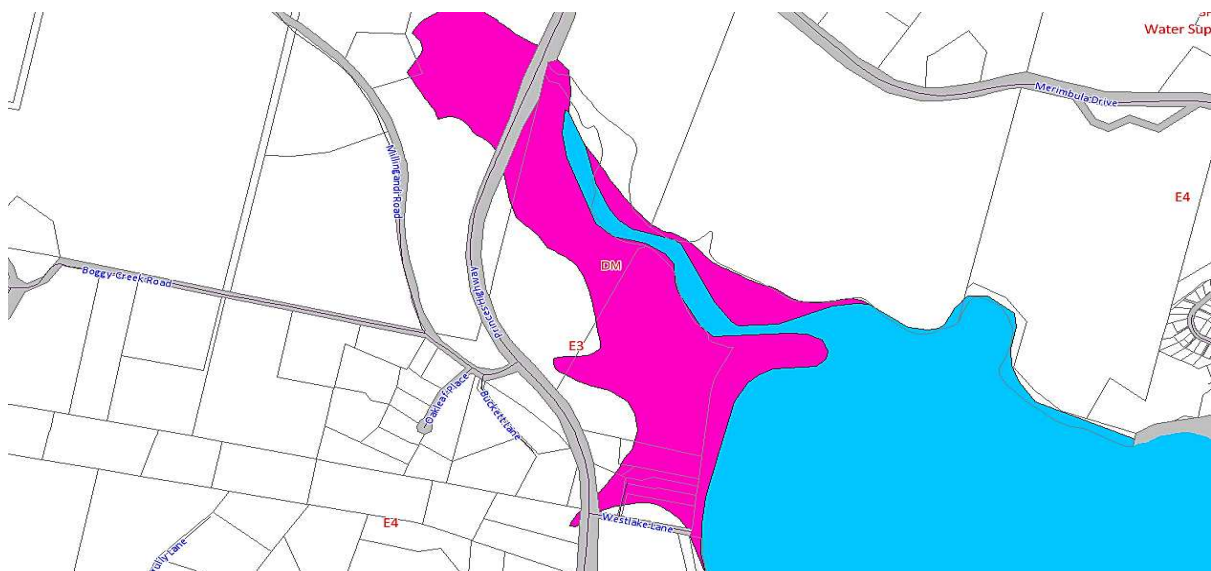


Figure 40: Acid Sulphate Soils

Class 1 Class 2 Class 3

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.

The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

Site 4 is mapped as being bushfire prone containing bushfire vegetation within category 1 and/or 2 therefore, consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the planning proposal process. This planning proposal is consistent with the objectives and appropriate future development of the land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

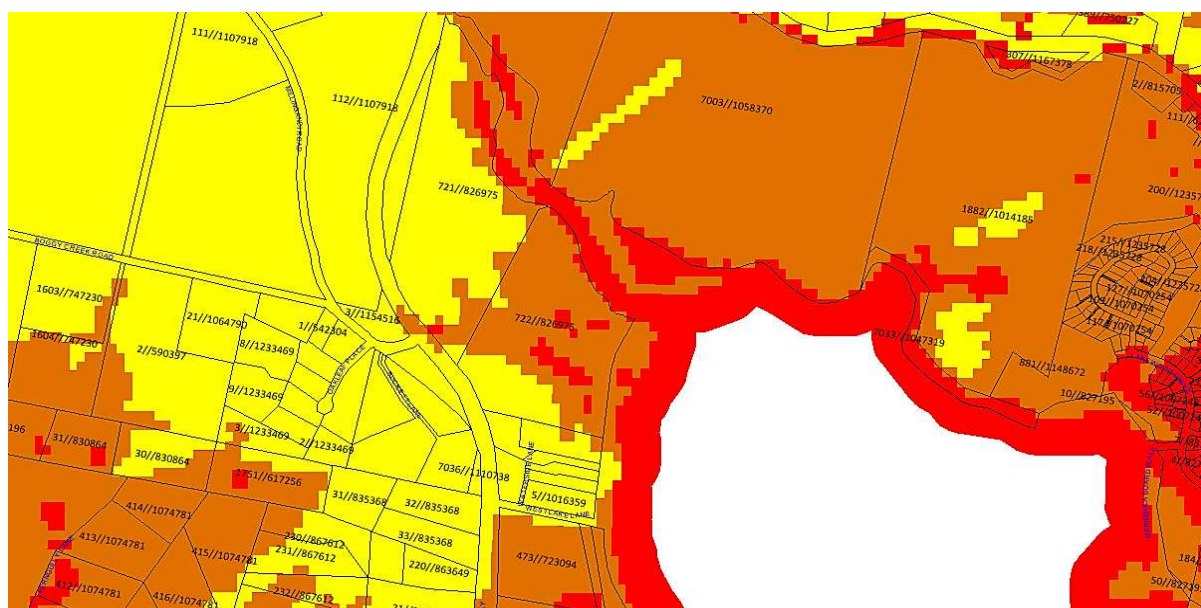


Figure 41: Bushfire Prone Land Map Veg Category 1 Veg Category 2 Veg Buffer

5.1 Implementation of Regional Strategies

Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

This planning proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in the South East and Tablelands Regional Plan 2036.

6.3 Site Specific Provisions

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

This planning proposal does not seek to include additional uses beyond what is permitted within the land use table. It enables the consideration of a future dwelling on the E3 portion of land in accordance with Clause 4.2A of the BVLEP 2013 and is consistent with this Direction.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This planning proposal involves the adoption of E2 and E3 zones that reflect the inherent constraints of the land as the majority of the property is covered by a wetland. Any extension of the E3 zone would extend into the wetland and is likely to have an impact on areas with critical habitat. A proposed split zoning with an E2 and E3 zone is recommended with a minimum lot size of 120ha to replace the existing 1(a) and 7(b) split zoning under BVLEP 2002 to ensure this coastal environment and existing habitat is protected.

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

This planning proposal recommends that a split E2 and E3 zoning is adopted, which is consistent with the environmental attributes of the land and likely future development. This zoning is an improvement over the existing split 1(a) and 7(b) zoning under BVLEP 2002 in terms of the likely environmental effect and future management of this land. Any future dwelling house would be located on the E3 portion and would be subject to a future development application.

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

Site 4 involves the consideration of a deferred matter that remains under the BVLEP 2002 zoning. This planning proposal recommends a split environmental zoning and 120ha minimum lot size to protect this coastal environment and nearby oyster leases.

Section D – State and Commonwealth Interests

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

Site 4 has direct access to the Princes Highway and electricity is available. The property is not connected to water or sewer. Effluent disposal is an ongoing issue within this catchment and any further subdivision is not encouraged as the majority of the property is covered by a wetland.

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

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

Government agencies identified for consultation with regard to this planning proposal are:

- NSW Department of Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Roads and Maritime Services

5. Hillview Street, Cobargo

Site Description

The property covers an area of 10.72ha and consists of cleared pasture land with riparian vegetation running along Narira Creek. The property is relatively flat with a gentle slope towards the south-west and is currently vacant.



Figure 42: Hillview Street, Cobargo: Subject Land Aerial Photograph



Figure 43: View of the existing buffer towards Narira Creek looking east

Background

This lot was originally created as part of a 2 lot subdivision for a residential purpose under DP 829831 (92.1351) with no specific restrictions. This property is currently vacant with no other approved development on the land or restrictions.

An E2 buffer was originally recommended in connection with a proposed Industrial zone (IN1) over the remainder of the site as part of the exhibition process for BVLEP 2013.

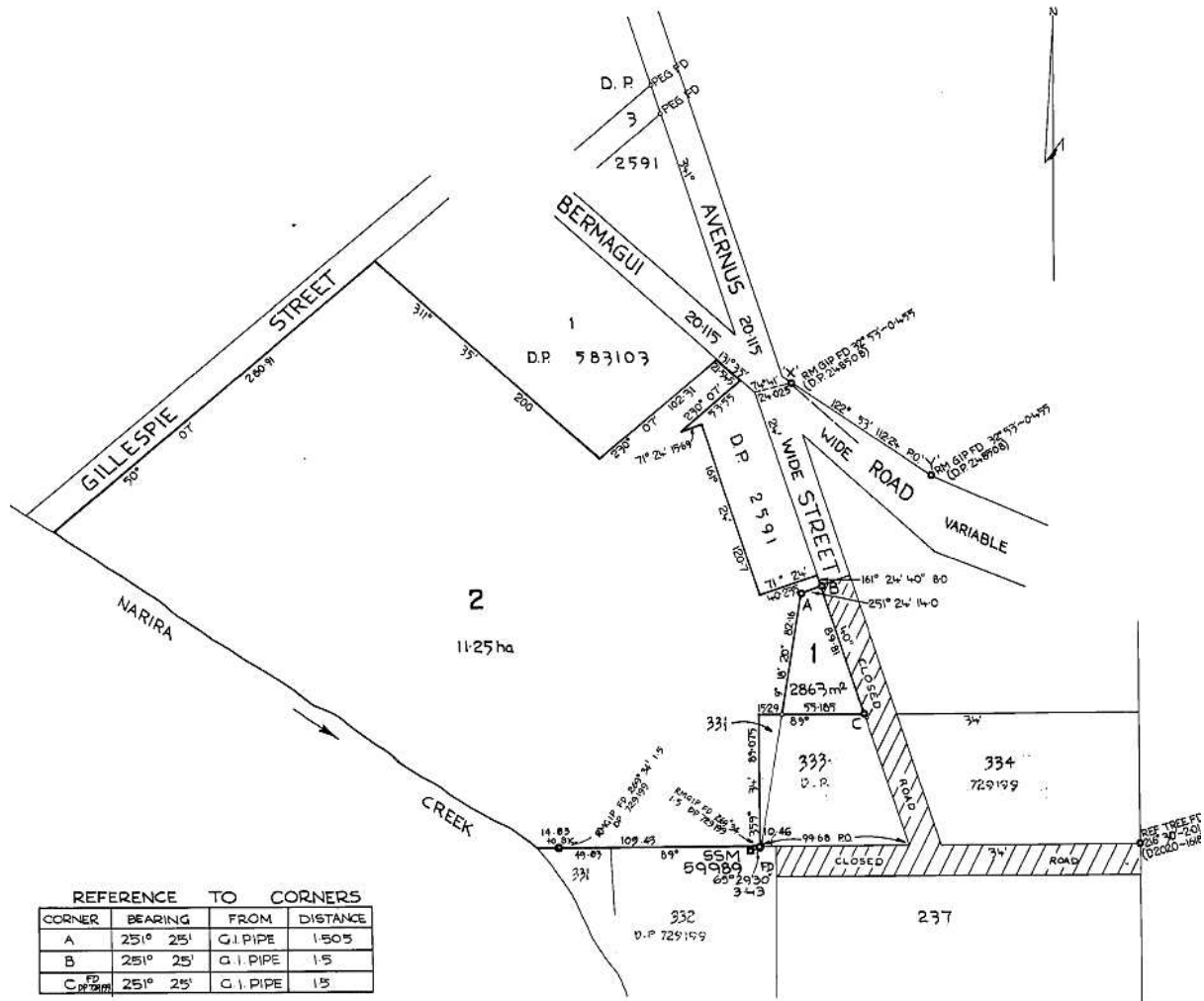


Figure 44: Deposited Plan 829831

Mapping

This planning proposal involves the deletion of this E2 buffer and associated 120ha minimum lot size.



Figure 45: Existing zoning under BVLEP 2013

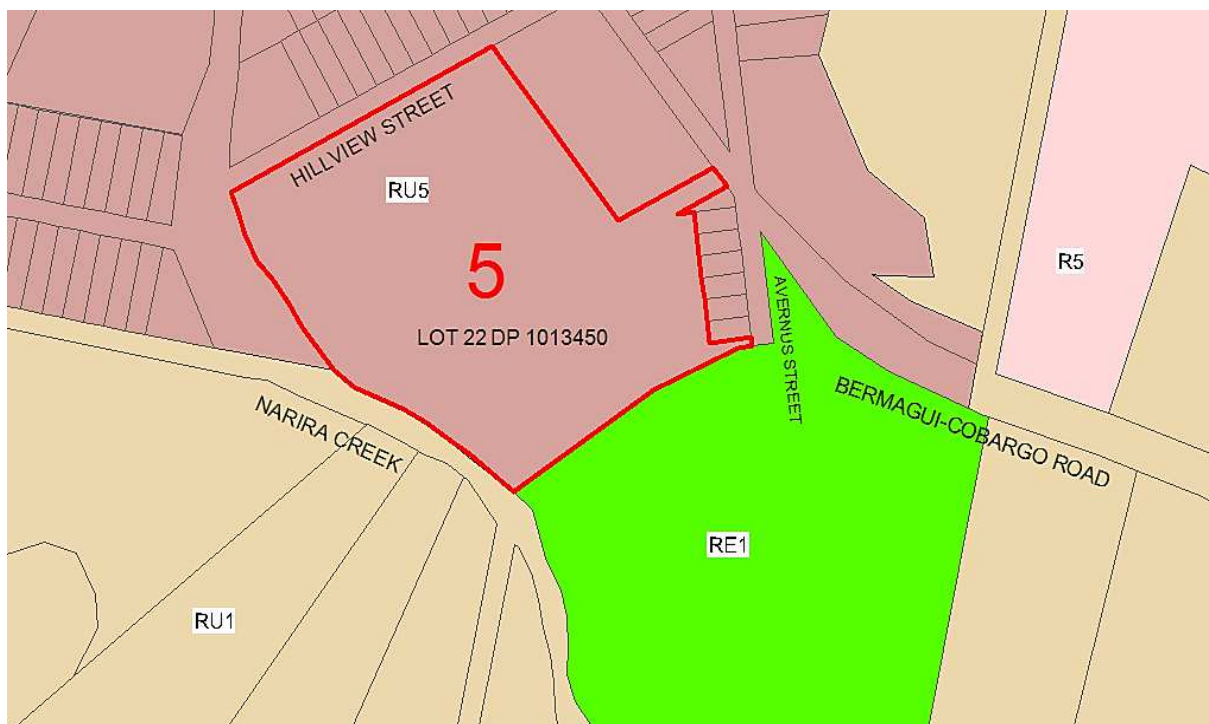


Figure 46: Proposed removal of the E2 buffer

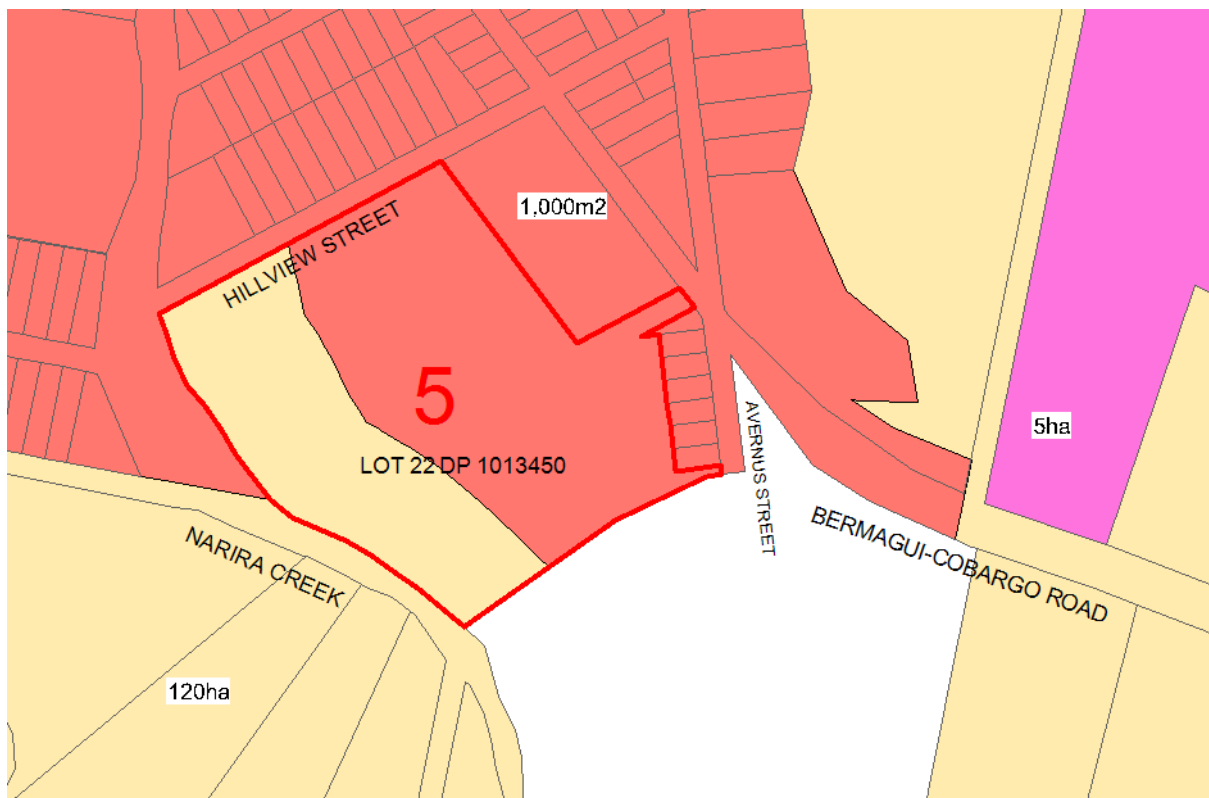


Figure 47: Existing Minimum Lot Size under BVLEP 2013

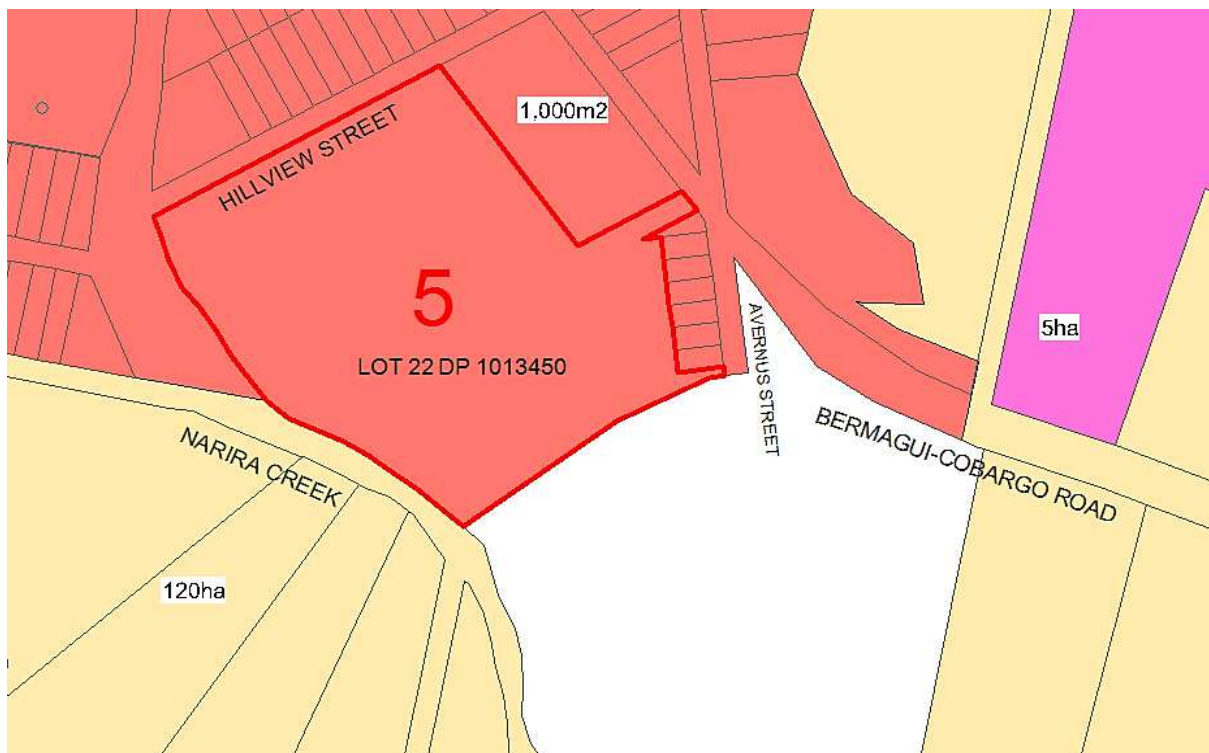


Figure 48: Proposed Minimum Lot Size under BVLEP 2013

Key Outcomes:

- **Deletion of the E2 buffer**
- **Deletion of the 120ha minimum lot size**
- **Adoption of an RU5 zoning over the site**
- **Adoption of a 1,000m² minimum lot size over the site**

This planning proposal recommends that the existing E2 buffer and 120ha minimum lot size under BVLEP 2013 be deleted. The E2 buffer was originally created as a buffer for a proposed industrial zone that was considered but never eventuated as part of the exhibition process for the BVLEP 2013.

The land is bordered by Narira Creek but is relatively unconstrained with a gentle slope and a small group of trees along the southern boundary. The existing E2 buffer is over 100m from the southern boundary which unduly limits the future development options for Lot 22. The E2 Zone was originally created as a landscape buffer for the range of land uses that might occur within the IN1 Industrial Zoning.

The E2 zone and 120ha minimum lot size was established in anticipation of an industrial zone that never eventuated. It is no longer necessary and recommended that an RU5 zone with a 1,000m² lot size is established over this property which is consistent with the rest of the site and approach to the zoning of land within the Cobargo catchment.

Section A – Need for the planning proposal

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

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

- The majority of the Shire was changed to the closest comparable zone available in the standard State wide template.
- Where changes were proposed, the focus was on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape Zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living Zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

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

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

The existing E2 buffer and 120ha minimum lot size was originally created in anticipation of an INI Industrial Zone being placed over the remainder of the property.

Site 5 consists of gently sloping cleared land with a small dam and some minor drainage lines. The E2 buffer does not reflect that capacity of this land for future development, given the majority of this land and the overall site is unconstrained.

The deletion of the existing E2 zone and 120ha minimum lot size is therefore recommended.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South East and Tablelands Regional Plan 2036

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

Direction 14 Protect important environmental assets

Site 5 involves environmentally zoned land that was created in anticipation of an IN1 Industrial Zone that was not incorporated as part of BVLEP 2013.

The existing E2 zone extends for a distance of over 100m from Narira Creek. The land is cleared with some remnant trees fronting Narira Creek. The landscape between the E2 portion of this land and the remainder of the site that is zoned RU5 is similar in terms of future capacity. The existing E2 zone is an anomaly with the village of Cobargo as there are no other E2 zones or land with these characteristics.

This planning proposal recommends that this existing E2 zone and 120 minimum lot size is deleted and replaced with an RU5 zone and 1,000m² minimum lot size over the site.

Local Government Narratives Bega

This planning proposal recommends that the E2 zone and 120ha minimum lot size is deleted. In this case Bega's natural advantage would be adequately protected and enhanced by encouraging the development of land that has the capacity for further development.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. One key aim of the CSP is:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity.

This planning proposal provides for the future growth and development of land that has few constraints. The land is connected to the town water and sewer and future development of the land would be the subject of a development application.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

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

Q.6 Is the planning proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. **Attachment 2** contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

2.1 Environmental Protection Zones

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

This planning proposal involves the removal of an E2 zone that was created as a buffer for an IN1 Industrial zone that did not proceed. The land is cleared with a gentle slope towards Narira Creek. There are some existing trees along the creek line but few other attributes that would characterise the land as being environmental when considered within the context of the site and broader catchment.

Staff resolved not to proceed with the IN1 Industrial zone but did not remove the E2 zone. While this E2 land has environmental attributes, being adjacent to Narira Creek and contains existing vegetation along this creek line, the main purpose of the E2 zone was to act as a buffer. While the rezoning of this land to RU5 might reduce the environmental protection standards of this land it is considered that the RU5 zoning and existing overlays provide sufficient protection for the environmental attributes of this land.

This planning proposal recommends that the existing E2 zone is deleted and replaced with an RU5 zone consistent with the rest of the site. The existing E2 buffer is an anomaly within Cobargo as there are no other environmental zones within this village. It is considered that this rezoning request represents an inconsistency with this Direction, but this inconsistency is sufficiently justified and of minor significance given the existing E2 zone was originally created in error.

3.1 Residential Zones

The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,

(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and

(c) to minimise the impact of residential development on the environment and resource lands.

The majority of the land is zoned RU5 and the split zoning and split minimum lot size of this land is an unnecessary restriction on further development of this small greenfield site. The land is connected to the town water and sewer and the land has the capacity for further residential development.

3.4 Integrating Land Use and Transport

(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and

(b) increasing the choice of available transport and reducing dependence on cars, and

(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and

(d) supporting the efficient and viable operation of public transport services, and

(e) providing for the efficient movement of freight.

Site 5 is located on the edge of the Cobargo Village with good access to transport and services within the village centre. An RU5 zoning of the property with a 1,000m² minimum lot size provides more flexibility in the future development of the land in terms of any future subdivision layout.

4.4 Planning for Bushfire Protection

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

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

The key environmental attributes include some trees along Narira Creek and two drainage lines. Narira Creek is identified as a constraint, but it is not considered that an E2 zone should be applied over this land.

Any future development would need to consider the environmental impact on the site without the need to apply an E2 zone over more than 100m of the site extending from Narira Creek.

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

There is a need for affordable residential land within the Bega Valley Shire Council and this demand will play an important role in the growth and development of our villages. This site has a split zoning and minimum lot size that is unduly limiting the future development opportunities for this land.

It is therefore recommended that the existing E2 zone and 120ha minimum lot size is deleted.

Section D – State and Commonwealth Interests

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

Site 5 has multiple points of access, electricity available and is connected to both water and sewer infrastructure.

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

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

Government agencies identified for consultation with regard to this planning proposal are:

- NSW Department of Planning and Environment
- NSW Department of Primary Industries (Fisheries)
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Roads and Maritime Services

Part 4 – Mapping

Changes to the proposed map sheets will be undertaken in a suitable format for public exhibition once the Gateway Determination is issued. This planning proposal will result in changes to the following properties on the BVLEP 2013 maps:

LAP_001

Amend map sheet LAP_001_DM by:

- Deleting DM Deferred Matter on Lot 722 DP 826975

LZN_017A

Amend map sheet LZN_017A by:

- Deleting existing E2 Environmental Conservation Zone
- Applying an RU5 Village Zone to all of Lot 22 DP 1013450

LSZ_017A

Amend map sheet LSZ_017A by:

- Deleting AD 120ha minimum lot size
- Applying U 1,000 sq m minimum lot size to all of Lot 22 DP 1013450

LZN_018

Amend map sheet LZN_018 by:

- Reducing the width of the existing E2 Environmental Conservation Zone on Lot 531 DP 875511
- Increasing the size of the remaining E3 Environmental Management Zone on Lot 531 DP 875511

LZN_020

Amend map sheet LZN_020 by:

- Deleting the DM Deferred Matter on Lot 722 DP 826975
- Applying a part E2 Environmental Conservation Zone and E3 Environmental Conservation Zone to Lot 722 DP 826975
- Reducing the width of the E2 Environmental Conservation Zone on Lot 43 DP 750242 and Lot 243 DP 1112013
- Increasing the size of the remaining E3 Environmental Management Zone on 43 DP 750242 and Lot 243 DP 1112013

LSZ_020

Amend map sheet LSZ_020 by:

- Applying AD 120ha minimum lot size to Lot 722 DP 826975

LZN_20B

Amend map sheet LZN_20B by:

- Deleting Deferred Matter on Lot 722 DP 826975
- Applying a part E2 Environmental Conservation Zone and E3 Environmental Conservation Zone to Lot 722 DP 826975

LSZ_20B

Amend map sheet LSZ_020A by:

- Applying AD 120ha minimum lot size to Lot 722 DP 826975

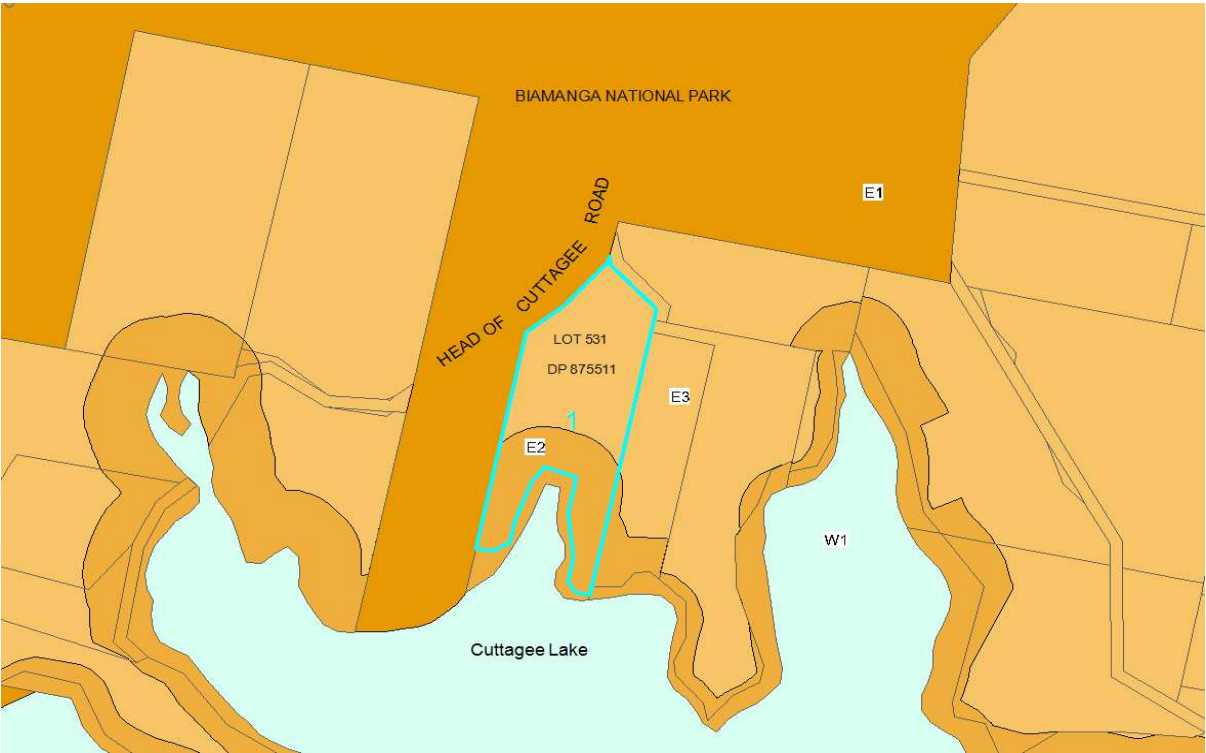
LZN_021A

Amend map sheet LZN_021A by:

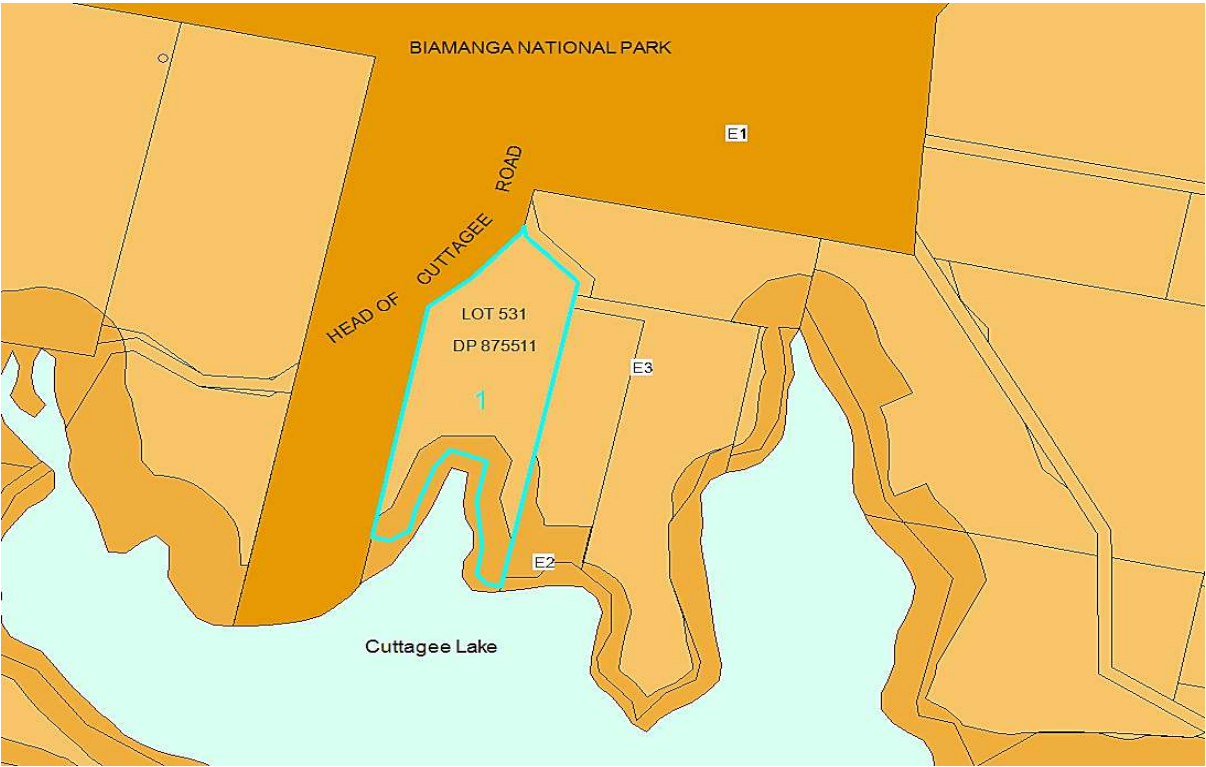
- Reducing the area of E2 Environmental Conservation Zone on Lot 35 DP 843393
- Applying a larger area of B4 Mixed Use Zone land

SITE 1 ZONING

EXISTING ZONING

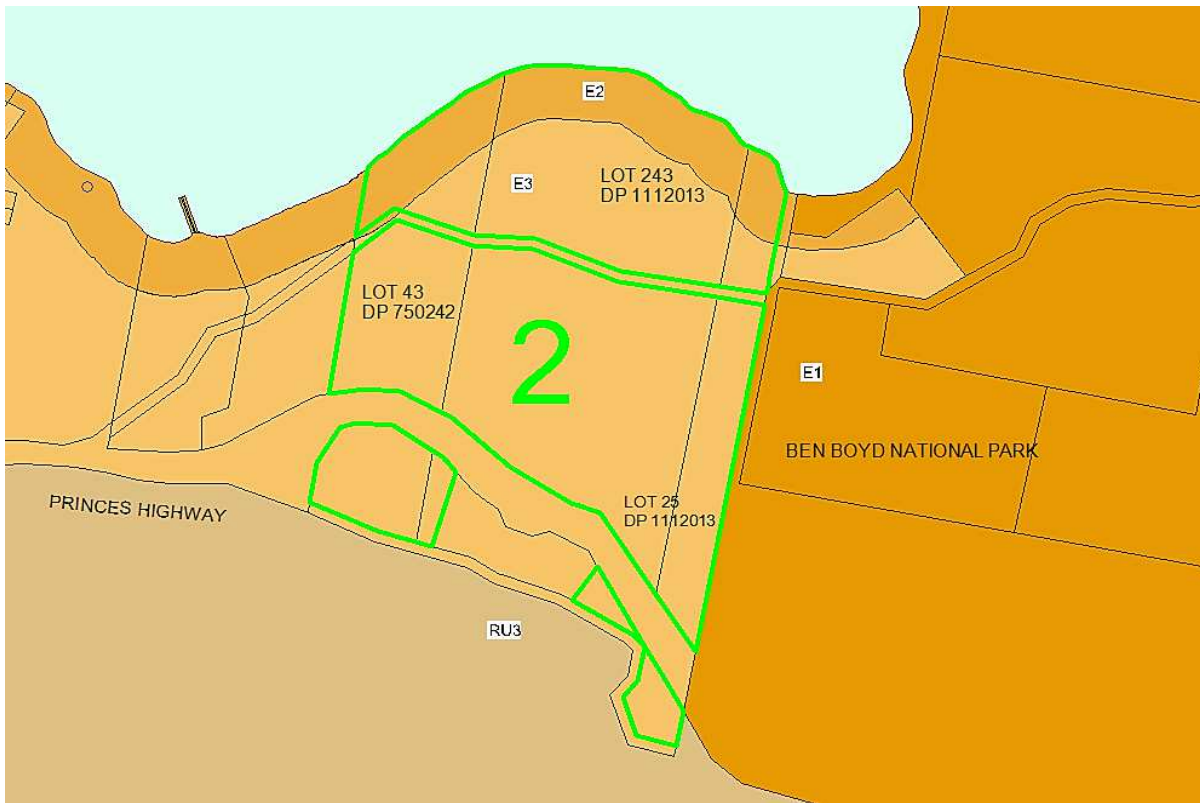


PROPOSED ZONING

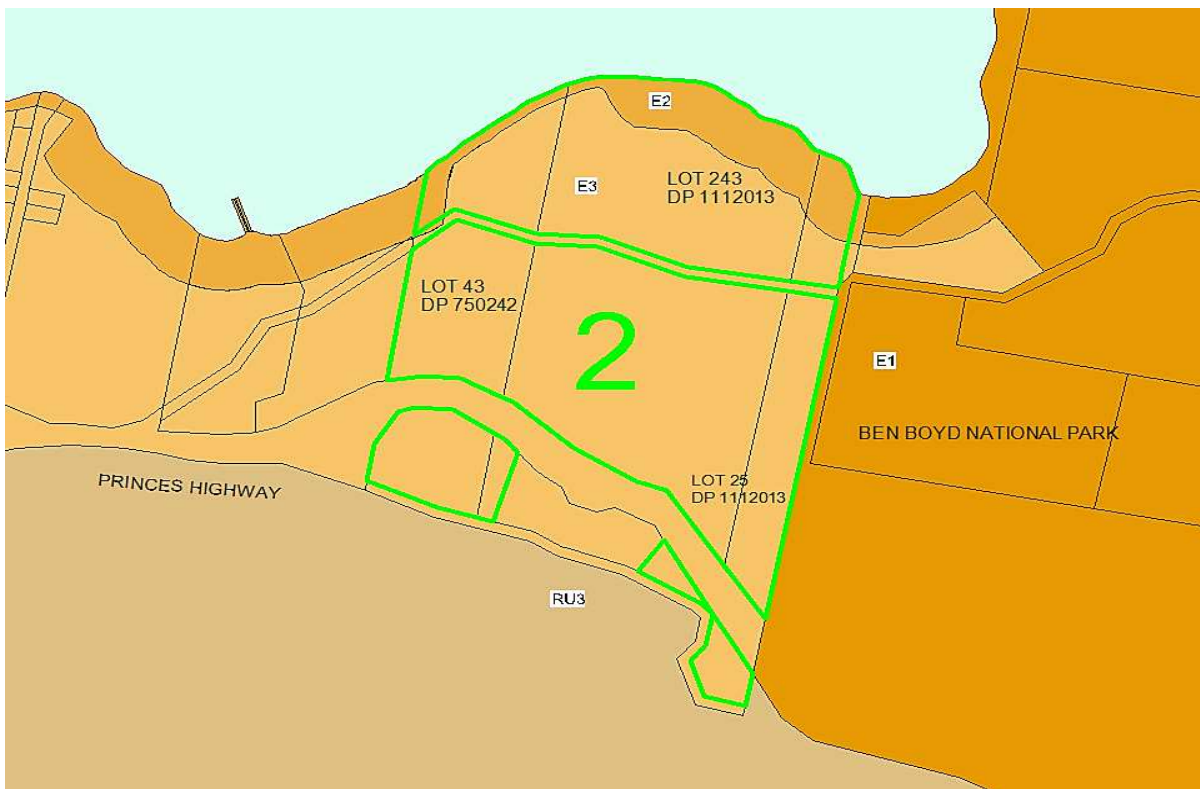


SITE 2 ZONING

EXISTING ZONING

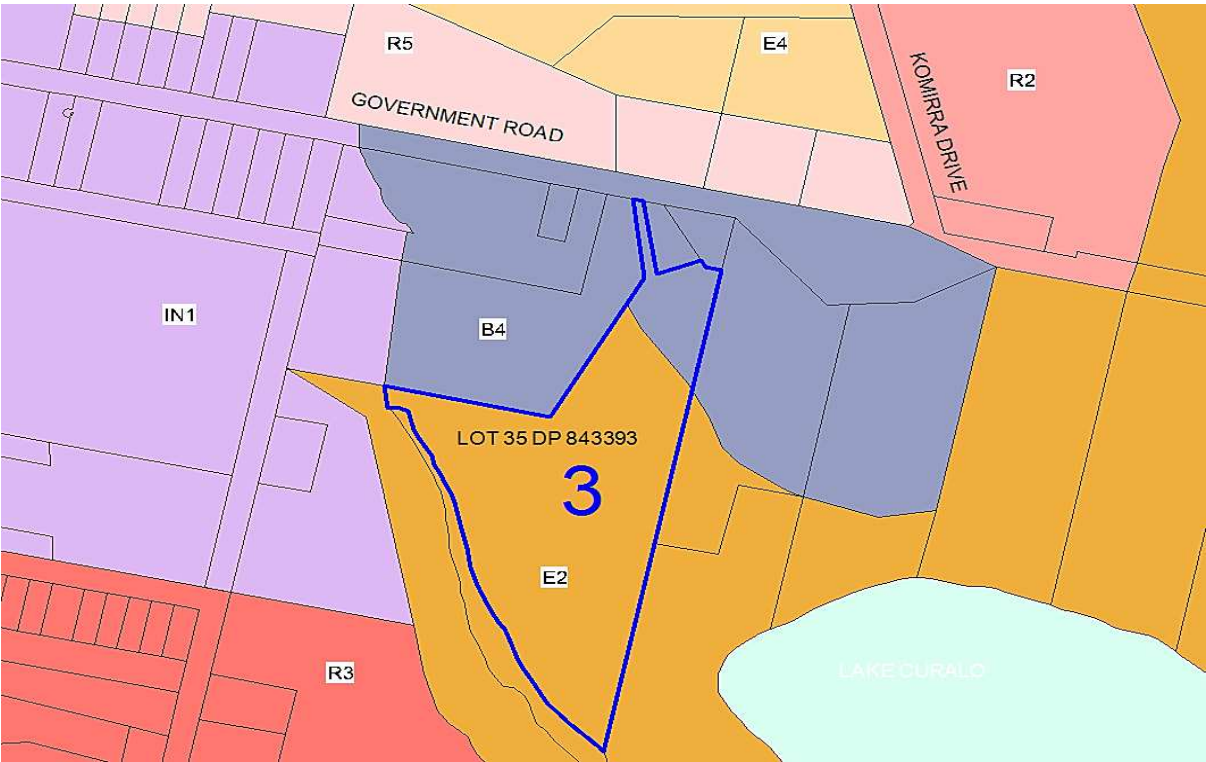


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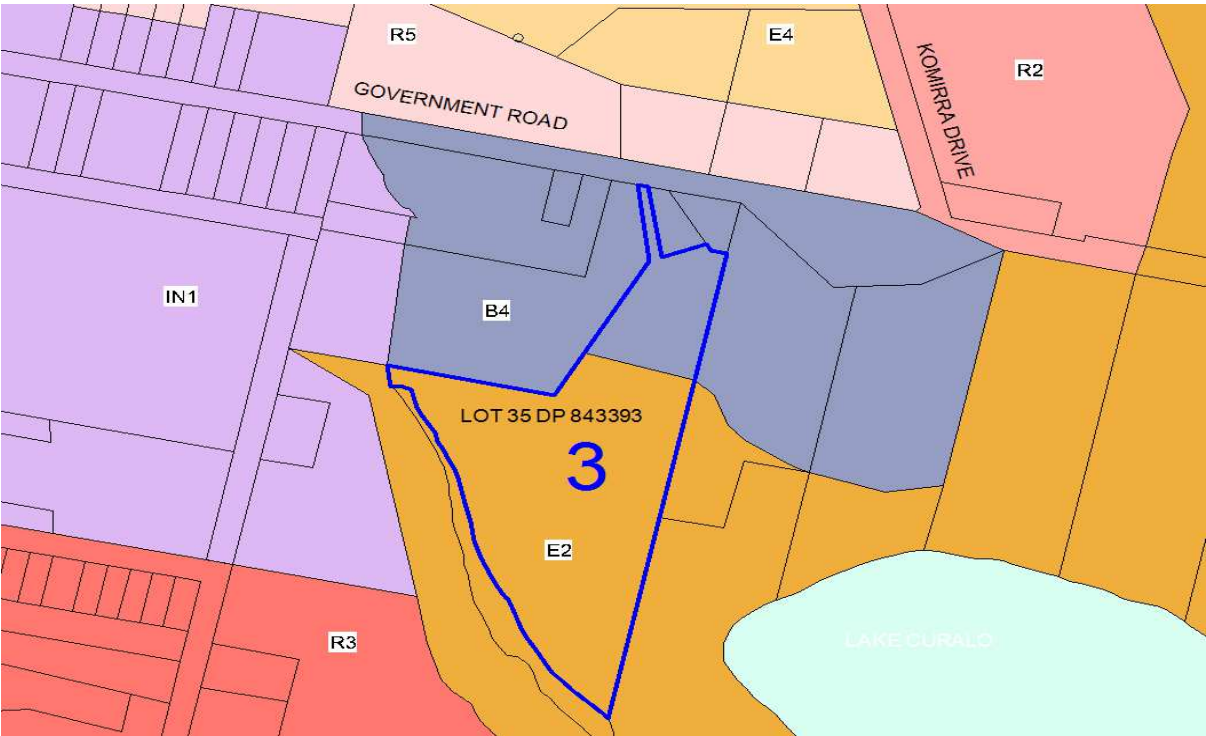


SITE 3 ZONING

EXISTING ZONING

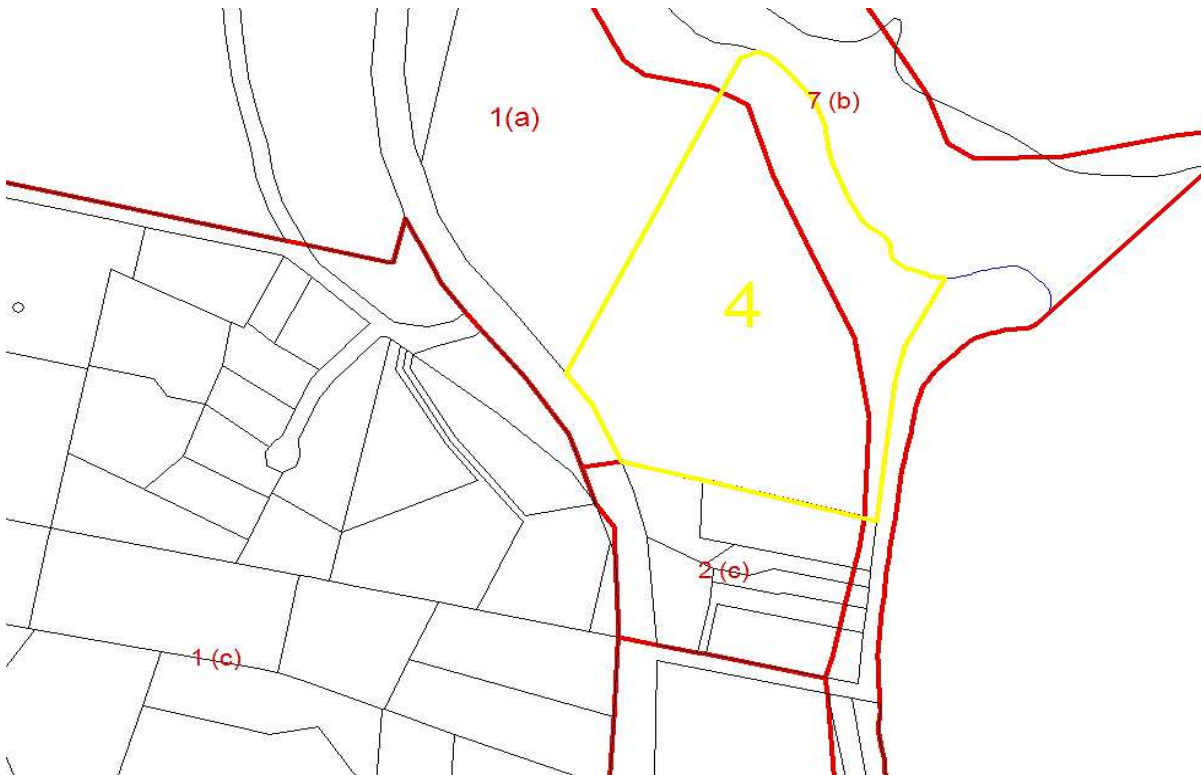


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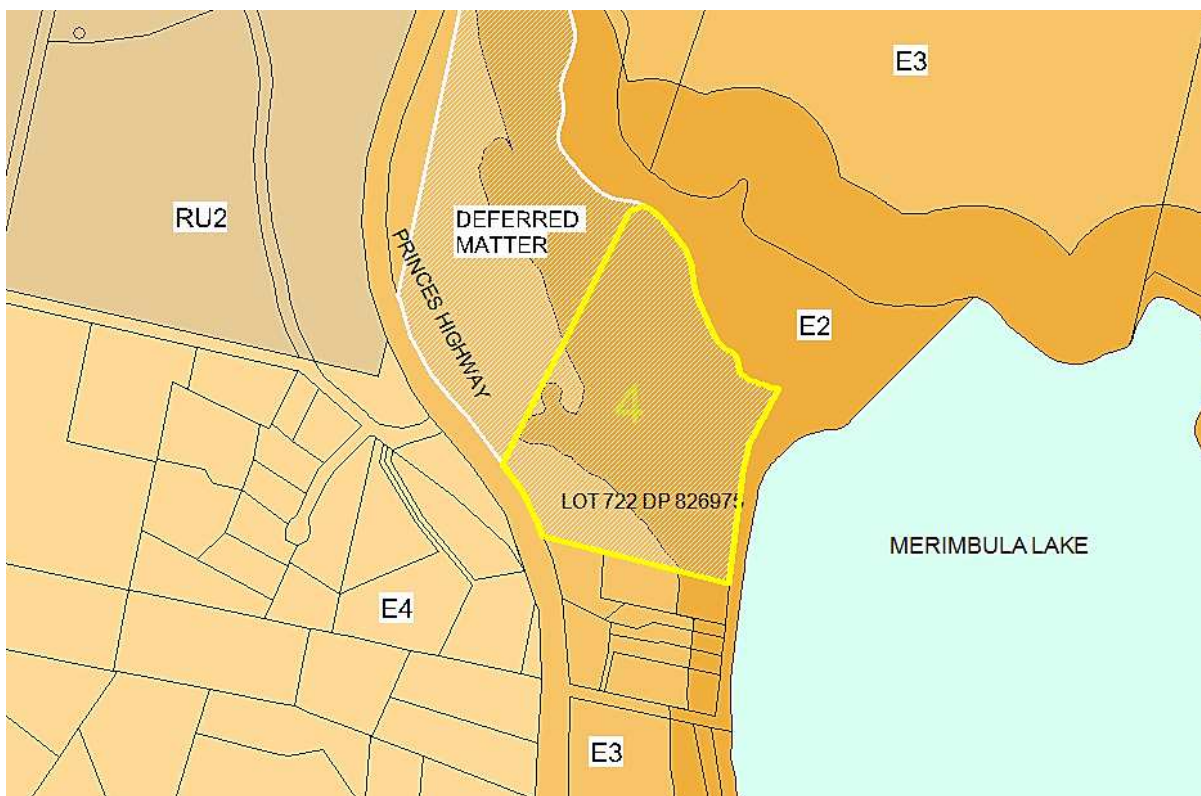


SITE 4 ZONING

EXISTING ZONING UNDER BVLEP 2002

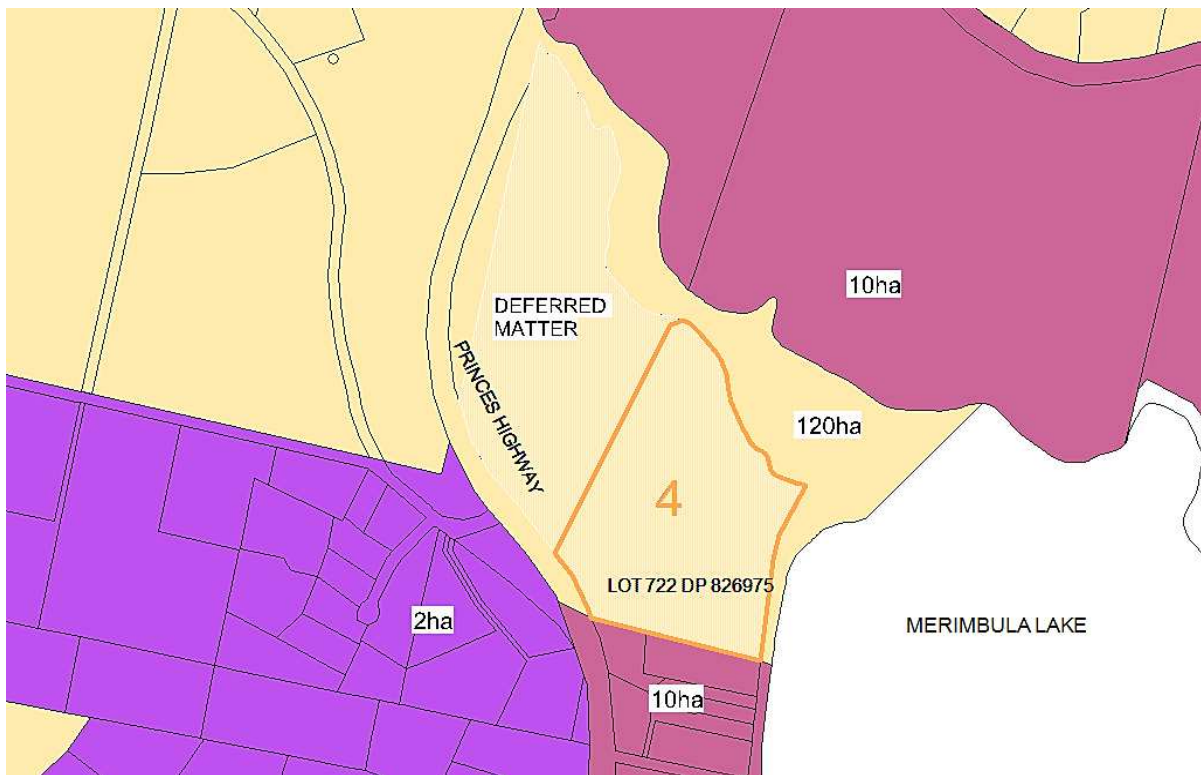


PROPOSED ZONING



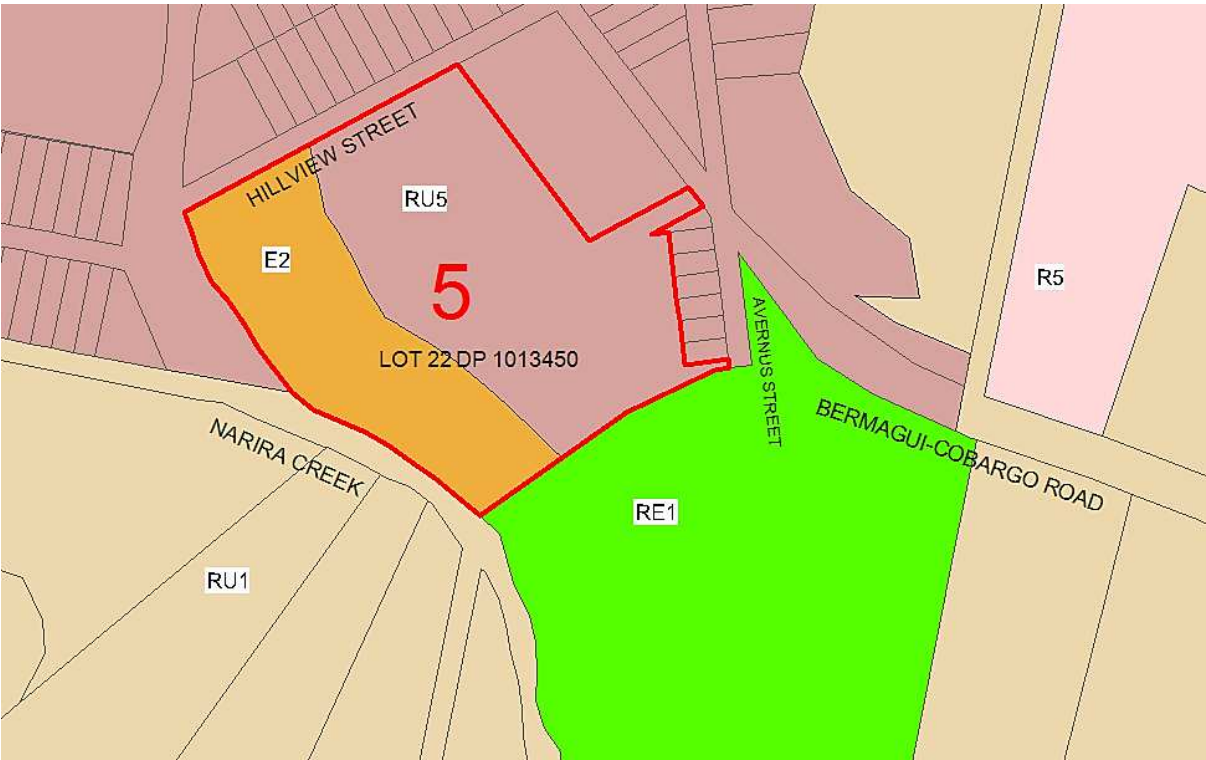
SITE 4 MINIMUM LOT SIZES

PROPOSED MINIMUM LOT SIZE

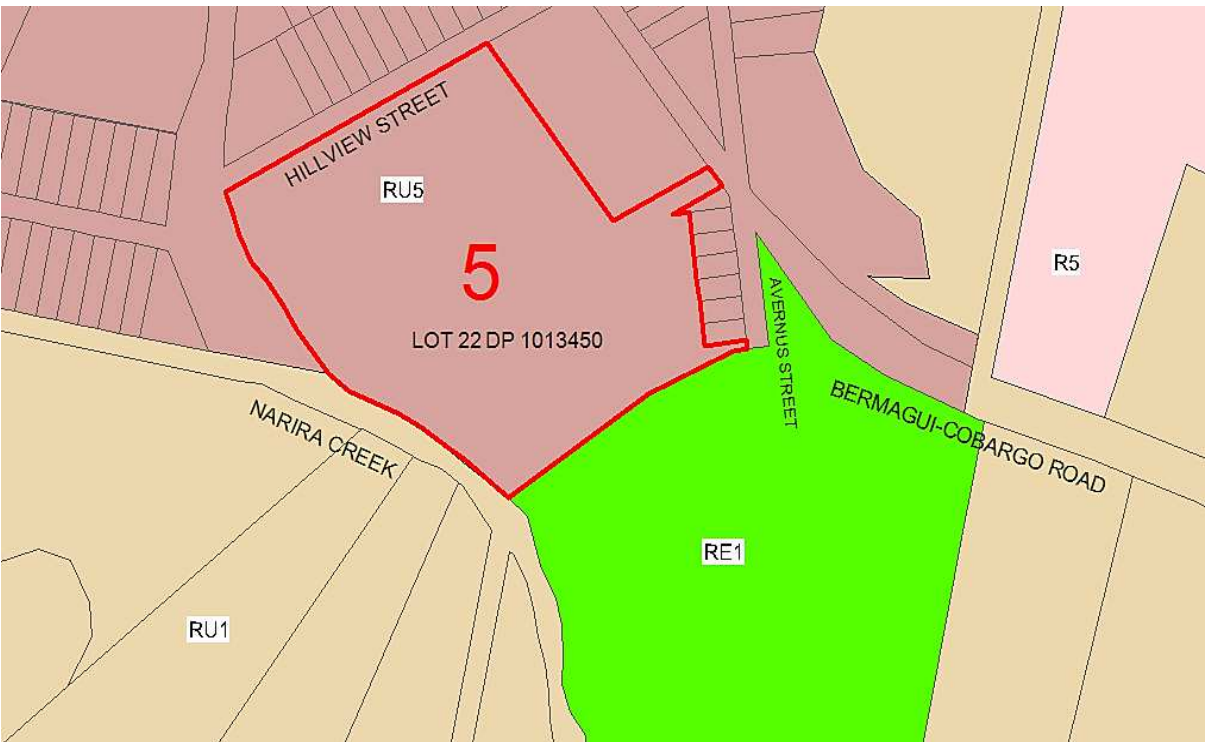


SITE 5 ZONING

EXISTING ZONING

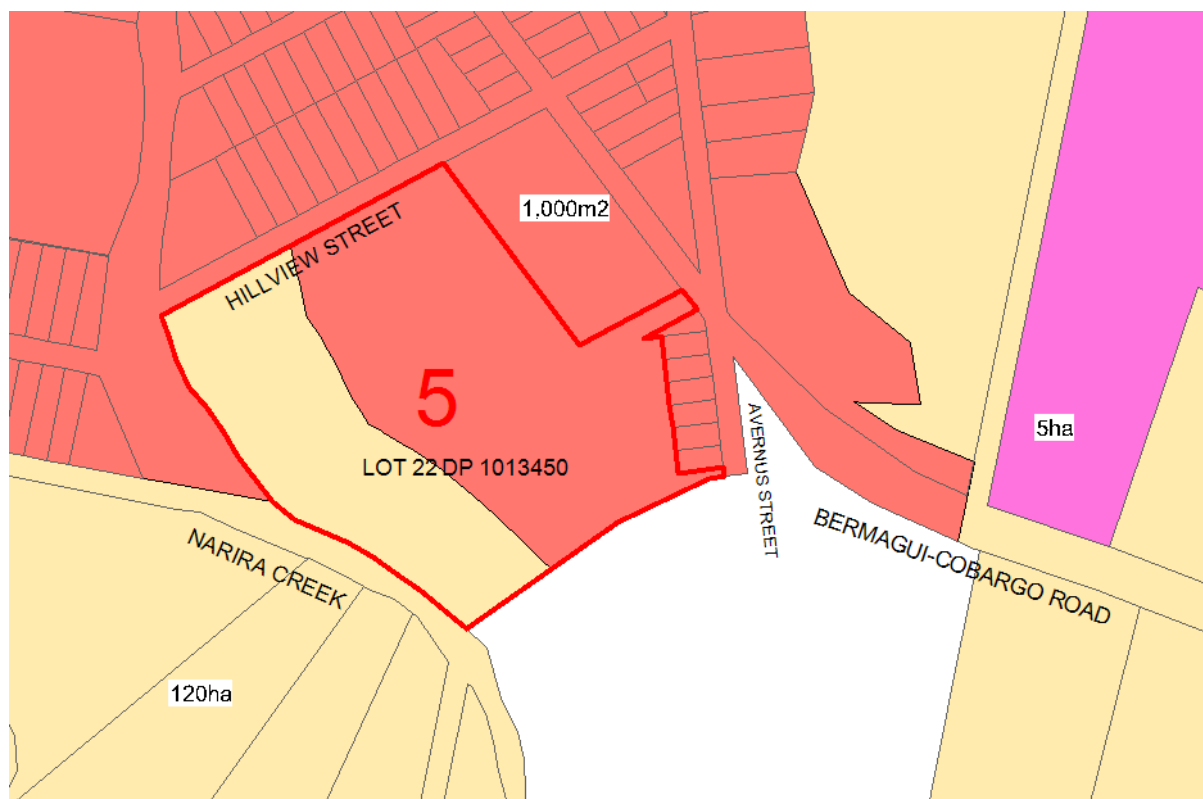


PROPOSED ZONING

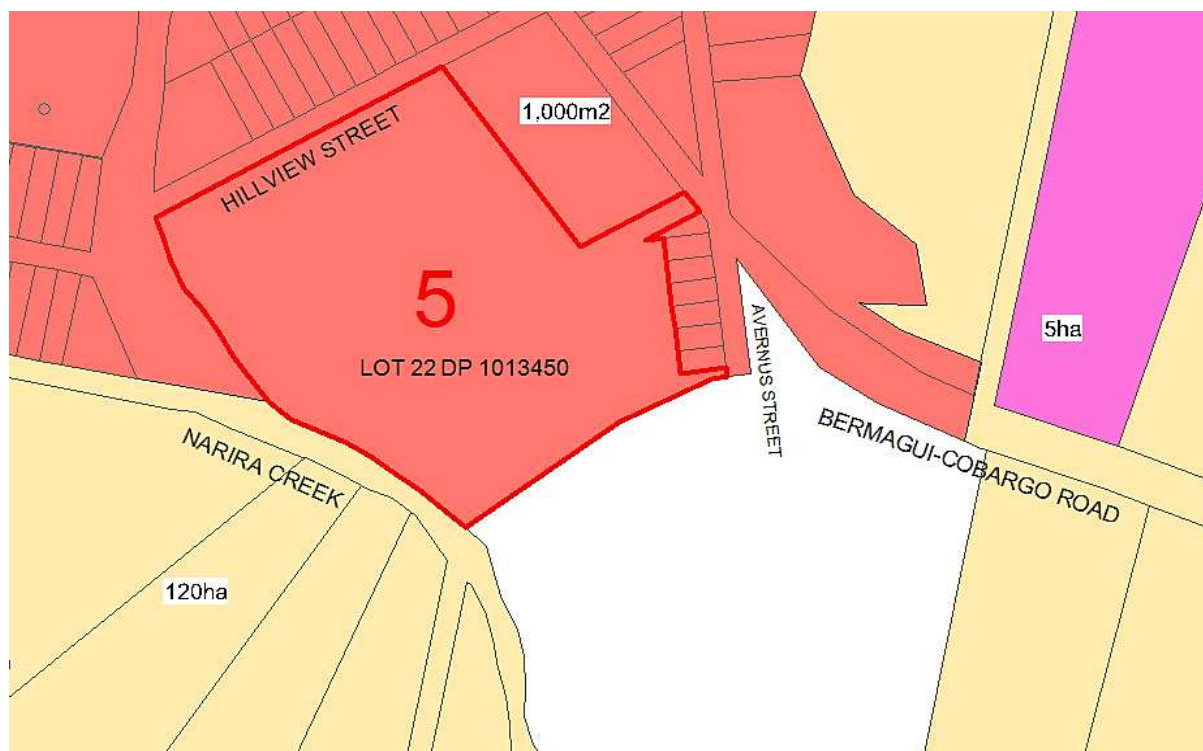


SITE 5 MINIMUM LOT SIZES

EXISTING MINIMUM LOT SIZES



PROPOSED MINIMUM LOT SIZES



Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. It is likely that the Proposal will be exhibited for a period of not less than 28 days.

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

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

Place	Address
Bega Civic Centre	Zingel Place, Bega
Tura Marrang Library	Tura Marrang Library, Tura Beach Drive, Tura Beach
Eden Library	Cnr Imlay and Mitchell St, Eden
Bermagui Library	Bunga St, Bermagui

Part 6 – Timeline

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

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

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit planning proposal to the Department	February 2018
STAGE 2 – Receive Gateway Determination	April 2018
STAGE 3 – Preparation of documentation for Public Exhibition	May 2018
STAGE 4 – Public Exhibition of the planning proposal	June 2018
STAGE 5 – Review/consideration of submissions received	July 2018
STAGE 6 – Council Report	August 2018
STAGE 7 – Meetings	September 2018
STAGE 8 – Forward planning proposal to Department of Planning and Infrastructure with request amendment is made	October 2018
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	November 2018
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	December 2018

Attachments

Attachment 1 SEPPs

State Environmental Planning Policy		Compliance
SEPP No. 1	Development Standard	N/A
SEPP No. 4	Development without Consent and Miscellaneous Exempt and Complying Development	N/A
SEPP No. 6	Number of Storeys in a Building	N/A
SEPP No. 14	Coastal Wetlands	Generally Consistent
SEPP No. 15	Rural Land Sharing Communities	N/A
SEPP No. 19	Bushland in Urban Areas	N/A
SEPP No. 21	Caravan Parks	N/A
SEPP No. 22	Shops and Commercial Premises	N/A
SEPP No. 26	Littoral Rainforests	N/A
SEPP No. 29	Western Sydney Recreational Area	N/A
SEPP No. 30	Intensive Agriculture	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No. 33	Hazardous and Offensive Development	N/A
SEPP No. 36	Manufactured Home Estates	N/A
SEPP No. 38	Olympic Games and Related Projects	N/A
SEPP No. 39	Spit Island Bird Habitat	N/A
SEPP No. 41	Casino/Entertainment Complex	N/A
SEPP No. 44	Koala Habitat Protection	Consistent
SEPP No. 47	Moore Park Showground	N/A
SEPP No. 50	Canal Estate Development	N/A
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No. 53	Metropolitan Residential Development	N/A
SEPP No. 55	Remediation of Land	N/A
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A
SEPP No. 59	Central Western Sydney Regional and Open Space and Residential	N/A
SEPP No. 60	Exempt and Complying Development	N/A
SEPP No. 62	Sustainable Aquaculture	Generally Consistent
SEPP No. 64	Advertising and Signage	N/A
SEPP No. 65	Design Quality of Residential Flat Development	N/A
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A
SEPP No. 71	Coastal Protection	Consistent
SEPP No. 74	Newcastle Port and Employment Lands	N/A
SEPP	Housing for Seniors or People with a Disability 2004	N/A

SEPP	Building Sustainability Index: BASIX 2004	N/A
SEPP	Major Development 2005	N/A
SEPP	Development on Kurnell Peninsula 2005	N/A
SEPP	Sydney Region Growth Centres 2006	N/A
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	N/A
SEPP	Affordable Rental Housing 2009	N/A
SEPP	Western Sydney Employment Area 2009	N/A
SEPP	Exempt and Complying Development Codes 2008	N/A
SEPP	Western Sydney Parklands 2009	N/A

Attachment 2 Section 117 MINISTERIAL DIRECTIONS

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent
1.2 Rural Zones	N/A
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	Generally Consistent
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environment Protection Zone	Justifiably Inconsistent
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	Generally Consistent
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	N/A
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	Consistent
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Generally Consistent
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	Consistent
5. Regional Planning	
5.1 Implementation of Regional Strategies	N/A
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5 Second Sydney Airport: Badgerys Creek	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A