

**MAJOR PROJECT ASSESSMENT:  
7 LOT RURAL SUBDIVISION OF  
Part Portions 24-25, 88 Parish of Bega and  
Portion 158 Parish of Wallagoot,  
Wallagoot Lane, Jellat Jellat  
Proposed by Caddey Searl and Jarman on  
behalf of Jellat Pastoral Company**

Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

July 2009



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NSW Department of Planning  
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## EXECUTIVE SUMMARY

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This is a report on Major Project application by Caddey Searl and Jarman ('the proponent') on behalf of Jellat Pastoral Company to carry out a subdivision to create six (6) rural lots and one residue lot ('the proposal') at Part Portions 24, 25 and 88 Parish of Bega and Portion 158 Parish of Wallagoot, Wallagoot Lane Jellat Jellat in Bega Valley Shire local government area ('the site').

The site is rural land located between the regional centre of Bega and the coastal village of Tathra. The estimated capital investment value of the proposal is \$106,000.

The Department received a total of four submissions from agencies and one from the public. Key issues considered in the Department's assessment included agricultural value, flora and fauna, wetland management, on-site effluent disposal, stormwater and floodplain management, and subdivision entitlements.

The proposal is permissible with consent and complies with all relevant statutory requirements. It has been designed in sympathy with the site's constraints, and will provide positive outcomes for the environment, and social and economic benefits to the locality.

The Department has assessed the merits of the proposal and is satisfied that the impacts have been addressed via the recommended conditions of approval and the proponent's Statement of Commitments, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. The proposal is recommended for approval, subject to conditions.

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## BACKGROUND

### 1.1 THE SITE

#### 1.1.1 SITE CONTEXT AND LOCATION

The site is located approximately 6km east of Bega and 9km inland from Tathra (**Figure 1**). It comprises Part Portions 24, 25 and 88 Parish of Bega and Portion 158 Parish of Wallagoot, Wallagoot Lane, Jellat Jellat (**Figure 2**) and is owned by the Jellat Pastoral Company.

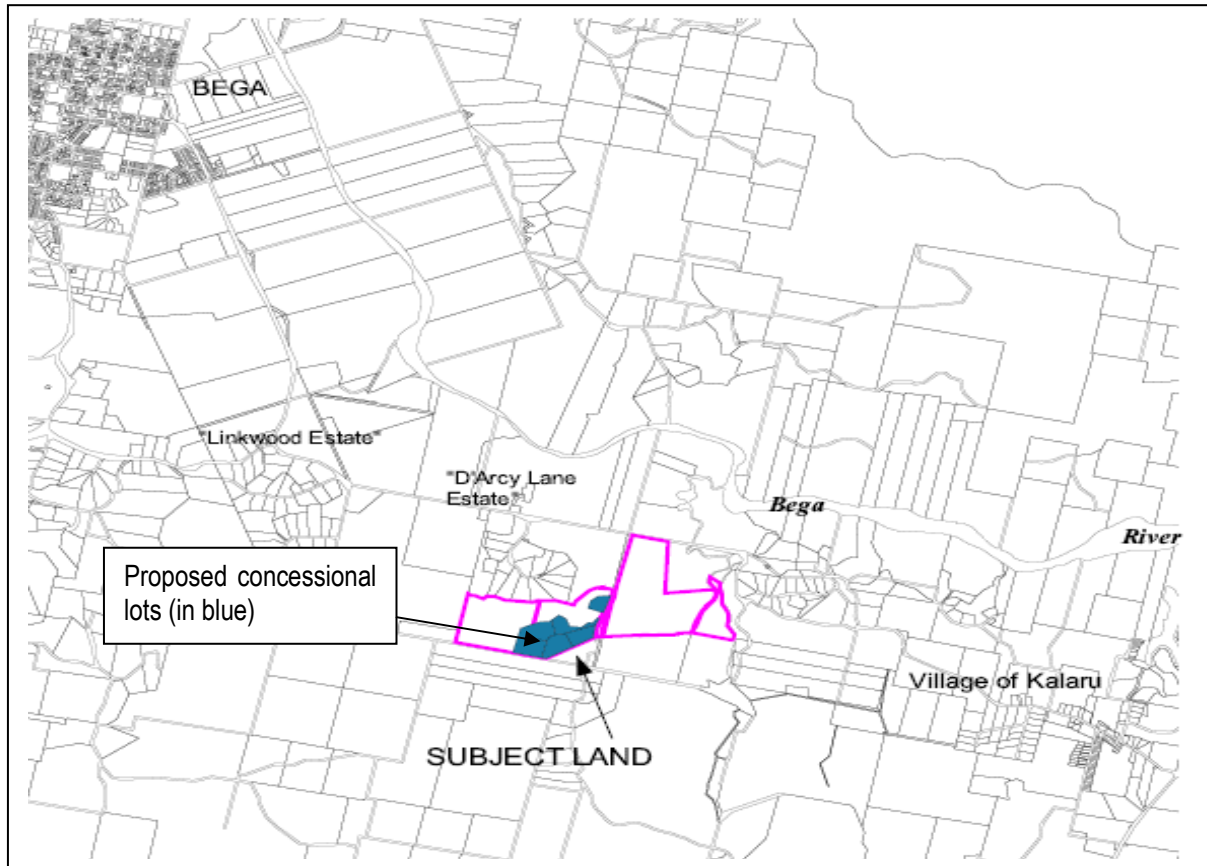


Figure 1 Location Map

#### 1.1.2 EXISTING SITE FEATURES

The site has frontage to Wallagoot Lane and Tathra Road, and comprises four lots over a total area of 127hectares (ha). The site has a north to north easterly aspect, and is located partly on the Bega River floodplain and partly on adjacent ridges. Two drainage lines flow into a SEPP 14 wetland which occupies the northern part of the site to the west of Wallagoot Lane (**Figure 2**).

The site comprises mainly open grassland, and is used for light grazing on the higher areas and cropping on the river flats. There are two dwellings (on proposed lots B and F) and farm infrastructure on the site used in conjunction with existing agricultural activities.

#### 1.1.3 SURROUNDING DEVELOPMENT

Surrounding development comprises agricultural uses and rural-residential subdivisions.

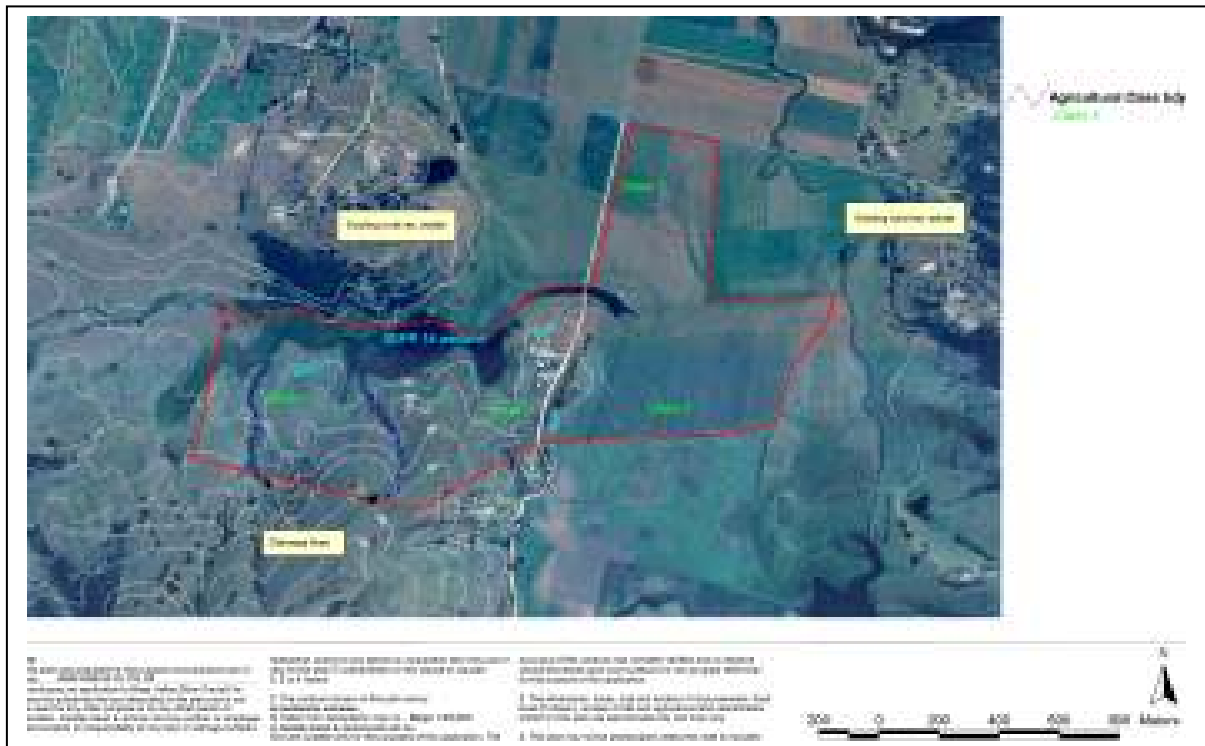


Figure 2 – The site

## 1.2 SITE HISTORY

There are no previous applications for the site.

# 1 THE PROPOSED DEVELOPMENT

## 2.1 THE PROPOSED DEVELOPMENT

The proposed subdivision comprises six rural lots and one residue lot in 5 stages. The rural lots (A-F) range from 2.1ha to 4.1ha, and the residue lot (H) with dwelling entitlement has an area of 105.8ha (**Figure 3**). The proposed staging comprises:

- Stage 1: Lot B and residue
- Stage 2: Lot A and residue
- Stage 3: Lots C and D and residue
- Stage 4: Lot E and residue
- Stage 5: Lots F and H (residue)

Potential house sites for all of the proposed lots will be above the 1:100 year flood level. The lots provide for suitable access, privacy, on-site sewage disposal, electricity and telecommunications. Existing yards and sheds will be retained on the residue lot. Extension of the telecommunications supply would follow the road reserve and carriageway reserve to service each lot.

Access to all lots will be via Wallagoot Lane (**Figure 3**), Lots F and H with direct access, and the remaining lots via a proposed right of carriageway (ROW) (broken black line through Lots A, C and E at **Figure 3**). The ROW will enable construction of a 4m wide gravel road for Stage 1, with possible expansion to 6m for Stage 4. A ROW is also proposed as a future alternative access to Lot H, if required, adjacent to the southern boundary of Lot D.



**Figure 3 – Proposed subdivision**

## 2.2 PROJECT CHRONOLOGY

The original proposal comprised an eight lot subdivision of six rural lots, one agricultural lot and one residue lot. This was amended with submission of the EA, to a seven lot subdivision comprising six rural lots and one residue lot (incorporating the previous agricultural lot).

## 2 STATUTORY CONTEXT

### 3.1 MAJOR PROJECT DECLARATION

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* being development for a rural subdivision of land in the Coastal Zone into more than five lots that is not connected to an approved sewage system under Schedule 2 Clause 1(1)(i)(i). On 28 July 2007, the Director-General, as delegate of the Minister, declared the proposal a Major Project.

### 3.2 PERMISSIBILITY

The site is zoned 1(a) Rural General pursuant to the *Bega Valley Local Environmental Plan 2002* ('the LEP'). The proposal is permissible with development consent pursuant to clause 16 (since repealed by *State Environmental Planning Policy (Rural Lands) 2008*). Clause 16 of the LEP permitted limited subdivisions for the purpose of dwellings within the 1(a) zone (entitlements known as 'concessional lots'). The proposal is consistent with the objectives of the zone and is permissible with the Director-General's approval, under delegation from Minister pursuant to the Instrument of Delegation dated 4 March 2009.



### 3.3 EXHIBITION AND NOTIFICATION

The EA was publicly exhibited from 28 January to 27 February 2009 in accordance with section 75(H) of the Act.

### 3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to consider a report under delegation from the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75O of the Act. Section 75I(2) sets out the scope of the Director General's report. Each of the criteria set out therein have been addressed below, as follows:

- (a) *a copy of the proponent's environmental assessment and any preferred project report; and*

The proponent's EA is at Appendix F and the Statement of Commitments at Appendix G

- (b) *any advice provided by public authorities on the project; and*

All advice provided by public authorities is at Appendix D and discussed in detail in section 4 below.

- (c) *a copy of any report of a panel constituted under Section 75G in respect of the project; and*  
(d) *a copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project; and*

An assessment of relevant SEPPs that substantially govern the carrying out of the project is at Appendix B.

- (e) *except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division; and*

An assessment of the proposal against relevant EPIs is at Appendix B.

- (f) *any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.*

The environmental assessment of the project is this report in its entirety.

- (g) *a statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.*

The **Director-General's Environmental Assessment Requirements** (DGRs) issued on 19 September 2006 required the following issues to be addressed:

- Statutory and Other Requirements
- Design, Visual Impact and public access
- Existing Buildings
- Agricultural Values
- Subdivision Entitlement Entitlements
- Traffic and Access
- Riparian and Wetland Management
- On-Site Effluent Disposal and Septic Absorption
- Stormwater and Floodplain Management
- Infrastructure and Utilities
- Bushfire
- Flora and Fauna
- Cultural Heritage
- Soils and Contamination

The EA lodged by the proponent on 4 June 2008 did not adequately address the Director-General's Environmental Requirements. A revised EA received on 15 January 2009 was deemed to be adequate. A copy of the EA is at Appendix F.

### **3.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)**

#### **3.5.1 Application of EPIs to Part 3A of the Act**

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments governing the project and which have been considered in the environmental assessment of the project. A summary of compliance with relevant EPIs is at **Appendix B**.

The LEP and DCP provisions, including development standards, are not strictly required to be applied in the assessment and determination of major projects under Part 3A of the Act. Nonetheless, those provisions are relevant considerations as the DGRs require the proponent to address them. Accordingly, the objectives and development standards of a number of EPIs, and other plans and policies substantially governing the project are appropriate for consideration in this report, as follows:

#### **3.5.2 State Environmental Planning Policy (Major Projects) 2005**

The MP SEPP applies to the project as discussed in section 3.1 above.

#### **3.5.3 State Environmental Planning Policy No 14- Coastal Wetlands**

The aim of the Policy is to ensure that coastal wetlands are preserved and protected in the environmental and economic interest of the State. The proposed subdivision has been designed to minimise any impact on the adjoining wetland and is consistent with the aim of the Policy.

#### **3.5.4 State Environmental Planning Policy 44-Koala Habitat Protection**

The Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas to ensure a permanent free living population over their present range and reverse the current trend of Koala population decline. The site comprises cleared grazing land located over 1km from the nearest forested area, and the proposal will not impact on koala habitat.

#### **3.5.5 State Environmental Planning Policy No. 71 – Coastal Protection**

SEPP No. 71 applies to land generally in the Coastal Zone. Clause 8 of the SEPP sets out matters for consideration by a consent authority when determining an application. The site's location inland from the coast raises no issues of public coastal access. However issues which may have wider impact such as stormwater and runoff from the subject site and the visual impact on the coastal environment have been considered. The proposal is considered compliant with the SEPP as discussed at Appendix B.

#### **3.5.6 State Environmental Planning Policy – Rural Lands 2008**

The aims of the SEPP include the facilitation of the orderly and economic use and development of rural lands for rural and related purposes. It contains planning and subdivision principles to assist in achieving those principles. The proposal is consistent with the SEPP as detailed at Appendix B.

#### **3.5.7 Lower South Coast Regional Environmental Plan No 2**

This REP contains guidelines for the preparation of environmental plans, and policies for development control for coastal and waterway environments, natural resources, and fishery resources. Relevant matters for consideration relate to potential impacts on water and visual quality, and fauna, flora and their habitats. Those matters have been addressed in the EA and in this report (see Section 5).

#### **3.5.8 Bega Valley Local Environmental Plan 2002**

The LEP provides objectives for the 1(a) Rural General Zone BVLEP 2002. The proposal satisfies the zone objectives and will not create undesirable, environmental and cultural impacts, or result in a loss of prime agricultural land, and is compatible with local agricultural activities. It will maintain the scenic amenity, character of the land and environmental quality of adjoining waterways, subject to suitable on-site effluent disposal systems and stormwater management controls. There are appropriate public services and facilities to service the proposal, although no reticulated water and sewer services will be provided.

Clause 16 (prior to its repeal) and 17 of the LEP require consideration of issues, including the number of lots to be excised; size of allotments; siting of dwellings; impacts on viability of existing farmland, including prime agricultural land; access; bushfire risk; effluent disposal; impact on water courses and cultural or natural heritage features. Those matters have been considered in this report (see section 5.2 and Appendix B), and the site is suitable for the proposal.

### **3.6 OTHER PLANS AND POLICIES**

The provisions of LEPs and DCPs are not required to be strictly applied by the Minister in the assessment and determination of Part 3A projects. Nonetheless, they are considered in this report as they are included in the DGRs. Accordingly the proposal has been considered against the following non-statutory documents (see also **Appendix C**):

#### **3.6.1 Bega Valley Shire DCP No 2 - Subdivision Standards**

The Plan establishes development standards for subdivision within the Council area. The proposal is consistent with the standards within the Plan and appropriate conditions of approval are recommended.

#### **3.6.2 Bega Valley Shire DCP No 5 - On-Site Sewage Management**

The Plan aims to safeguard and improve the quality of public and environmental health within Bega Valley Shire by regulating the approval of on-site sewage management systems. The proposal satisfies those aims.

#### **3.6.3 BEGA VALLEY SHIRE SECTION 94 CONTRIBUTION PLAN NO. 2 – CAR PARKING**

The Plan applies to all residential and tourist development in all zones. The aims of the Plan include to assist in the planning and provision of adequate car parking in the business, industry and intensive residential sections of the Shire. It requires a contribution of \$500 per residential lot, and this is included in the conditions of approval..

#### **3.6.4 Draft Bega River Estuary Management Plan**

The Draft Plan was developed in accordance with the NSW Government's Estuary Management Program to satisfy the objectives of the Estuary Management Policy and the Coastal Policy, to guide consent authorities and developers in undertaking activities and implementing strategies. Its objectives include the protection of the health and ecosystems, scenic values and character, recreational and tourist values of the estuary while minimising impacts on its natural environment. The proposal is consistent with those objectives.

#### **3.6.5 NSW Coastal Policy 1997**

The *Coastal Policy* responds to the challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development, and addresses a number of key coastal themes including population growth, coastal water quality issues and establishes a comprehensive and representative system of reserves. The proposal is considered generally consistent with the policy, particularly regarding biodiversity, water quality, stormwater and ecologically sustainable human settlement.

#### **3.6.6 NSW South Coast Regional Strategy**

The Regional Strategy aims to ensure adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the region's population over the next 25 years. The project is consistent with the strategy as it provides for rural development in an existing rural zone which will be environmentally sustainable and not impact on valuable agricultural land, or create conflicts with agricultural users. It is also located close to existing centres but away from areas that may have future value as urban land or for primary industry

#### **3.6.7 NSW Coastal Design Guidelines**

The Guidelines aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. The proposal is considered compliant with the Guidelines and will maintain the rural character of the area.

### 3.7 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

#### 1. Integration Principle -

In making its recommendations on the proposal the Department has taken into consideration relevant environmental, social and economic matters. Appropriate environmental management controls, the proponent's Statement of Commitments and conditions of approval can ensure that the development will not have an adverse impact on the environment. Long term and short term consideration have been integrated in the decision making process in the following ways:

- The proposal will provide economic, social and equity benefits to the LGA and local community;
- It includes the establishment and upgrading of roads, contributions to rural road upgrading and provision of parking in Bega.
- The siting of future dwelling sites will be away from drainage lines, with stormwater controls to be put in place to provide for short and longer term environmental benefits for the ongoing protection of habitat on this site and in this area.

#### 2. Precautionary Principle –

The Environmental Assessment has identified and assessed the range of environmental impacts expected by the project. The proponent has demonstrated that the project will implement appropriate mitigation measures to prevent potential environmental impacts, including the following:

- The establishment of building envelopes and asset protection zones;
- Provision of sustainable on-site waste management systems, involving effluent treatment and sub surface irrigation with nutrient buffer areas, on each lot; and
- A stormwater management system with pollutant and sediment traps to help protect water quality.

#### 3. Inter-Generational Principle –

The project will provide the following benefits to the local community now and into the future:

- Provision of additional rural lots adjacent to existing urban areas which will not place a strain on or need for extension of services.

#### 4. Biodiversity Principle –

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site. Appropriate mitigation measures and management strategies will be implemented to prevent any potential environmental impacts, such as:

- Retention of existing native vegetation on site, outside proposed development envelopes and asset protection zones;
- Removal and management of exotic vegetation and weeds; and
- Sediment control works to be installed prior to commencement of site works

## **5. Valuation Principle –**

The project is consistent with this principle, as it is an environmentally sensitive and ecologically sustainable rural subdivision which includes suitable on-site waste disposal within commuting distance to Bega. In the long term, it will maintain or improve the valuation of the land and aid in the long term enhancement and maintenance of the locality and its environmental qualities. This is compared to an unsustainable development which would degrade the local environment and devalue the site and locality.

The EA explores key ESD opportunities to ensure the delivery of high environmental performance, and they are reinforced in the Statement of Commitments and conditions of approval.

## **3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act at section 5 are as follows:

- (a) to encourage:
  - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
  - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
  - (iii) the protection, provision and co-ordination of communication and utility services,
  - (iv) the provision of land for public purposes,
  - (v) the provision and co-ordination of community services and facilities, and
  - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
  - (vii) ecologically sustainable development, and
  - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the objects at section 5(a)(i), (ii), (vi) and (vii) are significant factors informing determination of the application. The project does not raise significant issues with regards to section 5(a)(ii), (iv), (v) and (viii) of the Act.

# **3 CONSULTATION AND ISSUES RAISED**

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## **4.1 PUBLIC EXHIBITION DETAILS**

The application was exhibited for 30 days from 28 January to 27 February 2009. Notification of the exhibition was given in the Merimbula News Weekly, and the Bega District News. Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney; and
- Bega Valley Shire Council.

The EA was also provided for download on the Department's website. Letters were sent to adjoining landowners and relevant government agencies, including Council, notifying of the exhibition and inviting a submission. A total of five submissions were received, comprising one from the public and four from public authorities being:

- Bega Valley Shire Council;
- Department of Water and Energy;
- RTA; and
- NSW Rural Fire Service

The public submission did not raise any objection to the proposal but discussed protection of the wetland. A summary of all submissions received is at **Appendix D**, and the proponent's response to submissions is at **Appendix E**.

## **4.2 SUBMISSIONS FROM THE PUBLIC**

### **4.2.1 Summary of issues raised in public submission**

The public submission raised the following issues:

- visual amenity/outlook;
- adequacy of plans in order to gauge impact of future dwelling houses; and
- protection of the adjoining wetland, Ritchies Lagoon.

The public submission is discussed at **Section 5.3 Riparian and Wetland Management** of this report.

## **4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES**

The following submissions were received from public authorities:

### **4.3.1 Bega Valley Shire Council**

No issues were raised but conditions of approval were recommended for access, on-site sewage management, building envelopes and stormwater management.

### **4.3.1 Rural Fire Service**

No issues were raised but conditions of approval were recommended for asset protection zones, public access, water supply and construction of future dwellings.

### **4.3.2 Roads and Traffic Authority**

No objections were raised.

### **4.3.3 Department of Water and Energy (DWE)**

DWE considered the EA generally adequate and advised there were no statutory approval requirements. It raised groundwater protection as an issue to be addressed, and the preferred effluent disposal system as requiring justification (see Sections 5.3 and 5.4).

## **4 ASSESSMENT OF ENVIRONMENTAL IMPACTS**

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Key issues considered in the Department's assessment of the EA, the proponent's response to submissions and draft Statement of Commitments, include the following:

- AGRICULTURE VALUE
- SUBDIVISION ENTITLEMENTS
- RIPARIAN AND WETLAND MANAGEMENT
- ON-SITE EFFLUENT DISPOSAL AND SEPTIC ABSORPTION
- STORMWATER AND FLOODPLAIN MANAGEMENT
- FLORA AND FAUNA

### **5.1 AGRICULTURE VALUE**

The NSW Government's agricultural land classification system ranks land on its relative suitability for agricultural production in order to protect land highly suited to agriculture and identify land more suited to non-agricultural activities. Class 1 land has fewer constraints and is the most valuable. The classification system recommends that Class 1 lands be given priority for protection from incompatible development, as they are elite, of limited extent and considered to be of significance to the state. It recommends that Class 4 and 5 lands are generally suited to rural-residential uses.

The site is a mix of Class 1, 2, 3, 4 and 5 agricultural lands. The site's river flats are predominately Classes 1 and 2; and the steeper, less productive land is Class 3 or higher (**Figure 4**). The proposal will retain the Class 1 and 2 land within the large residue lot H (105.8ha) for future agricultural uses, while the rural lots are located on the less valuable agricultural land (**Figure 4**).

This proposal is also consistent with the relevant LEP objectives for Zone 1(a) (Rural General), namely the encouragement of development compatible with agricultural activities, and the protection and conservation of the productive potential of prime crop and pasture land.



**Figure 4 - Agricultural land classification of site**

## 5.2 SUBDIVISION ENTITLEMENTS

The site is part of an existing holding of 134.22ha. The area to be subdivided represents 127ha of the holding. The proposal is permissible with development consent under clause 16 of the LEP pursuant to the savings provisions of the *SEPP (Rural Lands) 2008* (gazetted after lodgement of the application).

Clause 16(1)(a) of the LEP permits limited subdivisions for dwellings within Zone 1(a) with consent subject to single ownership of the holding, the size of the excised lots, and previous excisions. Clause 16(3)(d) of the LEP permits a total of 6 concessional lots for the site comprising three lots plus one additional lot for each 40ha in the existing holding. Clause 16(6) of the LEP requires a minimum of between 2 to 10ha for excised lots. The proposed 6 concessional (rural) lots range from 2.1 to 4.1ha and comply with those requirements.

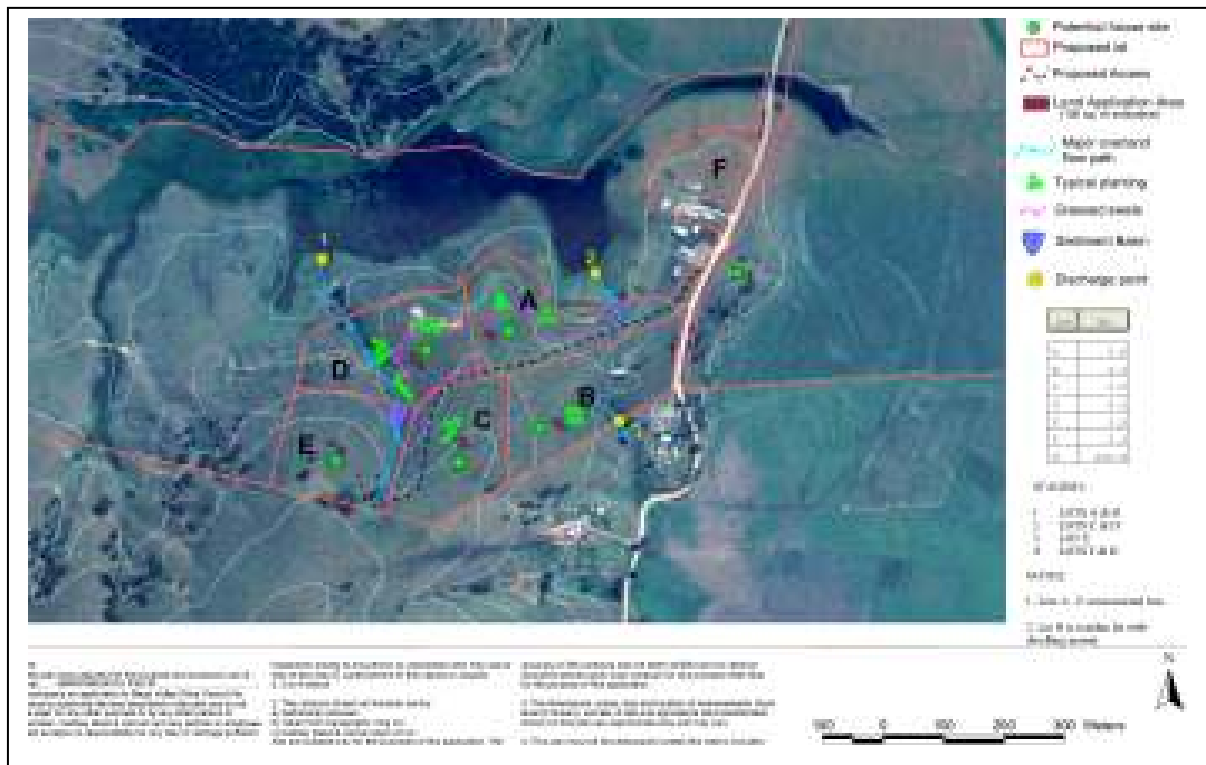
## 5.3 RIPARIAN AND WETLAND MANAGEMENT

An intact Endangered Ecological Community (Freshwater Wetlands) *SEPP 14* wetland runs through the centre of the site, providing potential habitat for threatened fauna species (**Figure 5**). The wetland connects with Bega River estuary via Jellat Creek (approximately 1km away) after substantial rainfall via an historic grassed drain. The wetland is intermittently wet and dry. DCP 6 requires a minimum 75m setback from the wetland and a minimum 150m setback for development involving sewage disposal. The Draft Bega River Estuary Management Plan (EMP) requires the protection of the health and ecosystems, scenic values and character, recreational and tourist value of the estuary while minimising impacts on its natural environment.

The subdivision footprint will not impinge on the wetland, future dwelling sites will be a minimum setback of 100m, and on-site sewage disposal systems a minimum of 150m from the wetland (**Figure 5**), complying with DCP 6

and the objectives of the Draft Bega River EMP. The proponent's Flora and Fauna Assessment identifies potential indirect impacts on the wetland from disturbance of waterbirds by domestic dogs and invasion of the swamp margins by garden plants cultivated on the proposed subdivided lots. Protection of remnant trees, the erection of dwellings only within the nominated building envelope, sediment and erosion controls, and a prohibition on dogs, are addressed in the conditions of approval.

The proponent's Pollutant Load Estimate Report demonstrates that, post-development, there will be no net increase in additional loads for total nitrogen, phosphorus or suspended solids. Stock access to the wetland from the proposed residue lot will be limited by fencing to enhance the health of the wetland. Overall, the proposed development will have minimal impact on the Bega River Estuary.



**Figure 5 – Proposed subdivision footprint and future dwelling sites**

#### 5.4 ON-SITE SEPTIC DISPOSAL AND SEPTIC ABSORPTION

The site does not have access to town water, and its principal soil landscapes indicate moderate limitations for effluent reuse. Proposed lots B and F have existing, approved on-site sewage management (OSM) systems which are operating satisfactorily.

Council has assessed the proposed on-site treatment against *DCP 5*. The DCP requires additional information for proposed 'land application areas' (LAA) (for example, absorption trenches) within 100m of the wetland, or within 150m of Bega River.

The proponent's OSM Report recommended three on-site sewage management options, of which the proponent will implement the secondary treated effluent and absorption trench/bed method. After assessment of the report Council advised that Option 2 is the preferred option. The OSM Report concludes that all lots should be capable of on-site sewage disposal. It requires that all LAA be located outside of the 150m buffers to the wetland (see **Figure 5**). It notes that, depending upon final dwelling locations for Lots A and D, it may be necessary to pump effluent uphill to enable construction of the LAAs outside the buffers.

The OSM Report notes that an updated site assessment should be prepared prior to final installation of the preferred system. This, and a restriction prohibiting effluent reuse within the 150m wetland are included in the conditions of approval. Any future OSM systems would also be regulated by Council in accordance with *DCP 5*.



## 5.5 STORMWATER AND FLOODPLAIN MANAGEMENT

Part of the site lies within the 1:100 year flood event, at approximately 12.9m AHD, however, the proposal is located above that line and will have no impact on the floodplain or flood behaviour. All proposed dwelling sites and effluent disposal areas will be located at a level greater than 13.5m AHD. The site is unlikely to be affected by climate change associated with coastal processes, and only minimally affected by changes associated with increased rainfall intensity.

There is capacity to address stormwater generated from future dwellings and access roads within each lot. Stormwater management controls, including erosion and sediment control and discharge of water to maintain the quality of existing runoff, are included in the conditions of approval.

## 5.6 FLORA AND FAUNA

The proponent's Flora and Fauna Assessment identified the site as providing forage and potential habitat for the following threatened species:

- Microbats: Yellow-bellied Shearwater Bat, Eastern Freetail Bat, Large-footed Myotis;
- Aquatic fauna: Australasian Bittern, Black Bittern, Blue-billed Duck, Freckled Duck, Magpie Goose, Green and Golden Bell frog, and Giant Dragonfly;
- Yellow Loosestrife and Tall Knotweed

The SEPP 14 wetland harbours a population of Yellow Loosestrife, one of only a handful of known populations in Australia, and the only one on the NSW South Coast. The Assessment identified 'a few trees with hollows' as potential roost sites for the Yellow Loosestrife; and the Tall Knotweed as likely to occur only in the seed bank most of the time.

The Assessment concludes that the distance of the proposed subdivision boundaries, and potential dwelling sites from the edge of the wetland will ameliorate the proposal's impacts on the threatened species. It notes that measures to mitigate impacts on the wetland will minimise the likelihood of any significant impact on the local populations of potential wetland species. It concludes that the loss of any roost and forage trees for the microbat species is unlikely to place the viable, local population at risk of extinction; and that the proposal will not result in significant environmental impact, including on the Yellow Loosestrife. It recommended conditions, including building envelopes to protect the wetland and remnant trees; protection of eucalypts on Lots D and E (**Figure 6**), and the prohibition of domestic dogs.



Figure 6 – Trees to be protected on Lots D and E (red arrows)

## 5 CONCLUSION

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The Department has assessed the EA and considered the submissions. The key issues raised in the assessment comprised agricultural value, flora and fauna, wetland management, on-site effluent disposal, stormwater and floodplain management, and subdivision entitlements.

The proposal retains the site's most valuable agricultural land; protects water quality by providing appropriate setbacks to the SEPP 14 wetland, and stormwater management controls; provides on-site sewage management outside of the wetland buffers; and is generally environmentally sustainable. The proposal is permissible in the zone and complies with the relevant planning controls.

The proposal is considered suitable for the site and in the public interest. The Department concludes that the proposal will have minimal environmental impact subject to conditions of approval.

## 6 RECOMMENDATION

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It is recommended that the Director-General, as delegate for the Minister for Planning under delegation executed on 4 March 2009 pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act):

- (A) consider the findings and recommendations of this Report; and
- (B) approve the carrying out of the project, under section 75J *Environmental Planning and Assessment Act, 1979*; subject to conditions and sign the Determination of the Major Project (**Tag A**).

Prepared by:  
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**Coastal Assessments**

## APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

### Attachment 1 Director-General's Environmental Assessment Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number	06_0195
Project	Proposed eight (8) lot rural subdivision including one (1) agricultural lot and one (1) residue lot, at Wallagoot Lane, Jellat Jellat.
Location	Part Portions 24, 25 & 88 Parish of Bega & Portion 158 Parish of Wallagoot, Wallagoot Lane, Jellat Jellat.
Proponent	Caddey Searl & Jarman
Date issued	19 September 2006
Expiry date	19 September 2008
General requirements	<p>The Environmental Assessment (EA) must include:</p> <ul style="list-style-type: none"> <li>• An executive summary;</li> <li>• A thorough site analysis and description of existing environment;</li> <li>• A detailed description of the project including:- <ul style="list-style-type: none"> <li>i) Any development options;</li> <li>ii) Justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;</li> <li>iii) Outline (if applicable) the staged implementation of the project;</li> </ul> </li> <li>• Consideration of any relevant statutory and non-statutory requirements, in particular relevant provisions of Environmental Planning Instruments, Draft Regional Strategies and Development Control Plans (including justifications for any non-compliances) as well as impacts, if any, on matters of national environmental significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>;</li> <li>• An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;</li> <li>• The plans and documents outlined in Schedule 2;</li> <li>• A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and</li> <li>• An assessment of the key issues specified below and a table outlining how these key issues have been addressed.</li> </ul> <p>The Environmental Assessment must address the following key issues:</p>
Key issues	<ol style="list-style-type: none"> <li>1. <b>Design, Visual Impacts and Public Access</b> - Demonstrate suitability of the proposal with the surrounding area in relation to potential character, bulk, scale and visual amenity of development resulting from the subdivision having regard to the <i>Coastal Design Guidelines of NSW (2003)</i>, Bega Valley DCP No. 2 (Subdivision Standards), No. 6 (Minimum Setbacks to Roads and Nominated</li> </ol>

Waterways) and No. 9 (Rural Residential Development). Identify extent of potential development footprints, building envelopes and built form controls.

2. **Existing Buildings** – Provide an assessment of the cultural, heritage and landscape significance of existing buildings on the property and identify appropriate mechanisms for their retention and maintenance.
3. **Agricultural Value** – Examine the agricultural viability of all land.
4. **Subdivision Entitlements** – Demonstrate subdivision entitlements in accordance with relevant planning instruments.
5. **Traffic and Access** - Provide a Traffic Impact Study in accordance with the *RTA Guide to Traffic Generating Developments*. Access within the subdivision shall be designed and constructed in accordance with Council's Subdivision Standards Development Control Plan No. 2 (DCP No 2), Clause 32, Class 1 and 2 roads.
6. **Riparian and Wetland Management** – Demonstrate an acceptable level of water quality protection of SEPP 14 Wetland no. 55 through the provision of an effective core riparian zone (CRZ) excluding development (setback 40m from the top of the bank or high water mark of the wetlands, plus an additional 10m buffer to protect the CRZ from the edge effects of development) in accordance with the objectives provided by the Department of Natural Resources *Riparian Corridor Objective Studies (RCOS)*.
7. **On-Site Effluent Disposal and Septic Absorption** – Provide details on the proposed method of effluent disposal, including an assessment of the suitability of this method for each proposed lot. Demonstrate that on-site effluent re-use areas can be located 150m from the nearby wetland and 40m from drainage lines, in accordance with Bega Valley DCP No.5 (On-Site Sewage Management). Assess the septic absorption potential of the soil landscape associated with the proposed on site effluent reuse areas.
8. **Stormwater and Floodplain Management** – Demonstrate consistency with the Bega River Estuary Management Plan (currently being prepared) incorporating best practice management of stormwater into the subdivision design to demonstrate that there is no net increase in pollutant loadings to the estuary and adjoining waters. Address impacts of flooding on the development demonstrating consistency with the requirements of the *NSW Floodplain Management Manual*. Dwelling sites and effluent reuse areas should be located 500mm above the surveyed 1 in 100 year flood level.
9. **Infrastructure and Utilities** – Address existing capacity and requirements of the proposal for water supply, electricity and telecommunications services in consultation with relevant agencies and identify staging, if any, of infrastructure works. Provide details on the proposed provision of a potable water supply for each proposed lot
10. **Bushfire** - Address the requirements of *Planning for Bush Fire Protection 2001* (RFS) in particular adequacy of water supply for bushfire suppression operations and future management of any areas of hazard remaining, including natural areas and buffers zones.

	<p><b>11. Flora and Fauna</b> – Outline measures for the conservation of flora and fauna and their habitats within the meaning of the <i>Threatened Species Conservation Act 1995</i> and the <i>Fisheries Management Act</i>, having regard to the <i>Draft Guidelines for Threatened Species Assessment</i> (DEC &amp; DPI July 2005).</p> <p><b>12. Cultural Heritage</b> - Identify whether the site has Aboriginal cultural heritage significance and identify appropriate measures to preserve any significance.</p> <p><b>13. Soils and Contamination</b> - Identify the presence and extent of acid sulfate soils on the site and appropriate mitigation measures. Identify any areas of contamination on the site and appropriate mitigation measures.</p> <p>You should undertake an appropriate and justified level of consultation with the following parties during the preparation of the Environmental Assessment:</p> <p>a) Agencies or other authorities:</p> <ul style="list-style-type: none"> <li>• Department of Natural Resources;</li> <li>• Department of Primary Industries;</li> <li>• Department of Lands;</li> <li>• Department of Environment and Conservation;</li> <li>• NSW Rural Fire Service;</li> <li>• RTA;</li> <li>• Bega Valley Shire Council.</li> </ul> <p>b) Public:</p> <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment</p> <p><b>Deemed refusal period</b>      <b>60 days.</b></p>
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## APPENDIX B. COMPLIANCE WITH EPIs INCLUDING STATE ENVIRONMENTAL PLANNING POLICIES THAT SUBSTANTIALLY GOVERN THE CARRYING OUT OF A PROJECT

Provisions of Environmental Planning Instrument		Consideration
<b>State Environmental Planning Policy (Major Projects) 2005</b>		
<b>Schedule 2 Clause 1(1)</b>		
(i) subdivision of land that is outside a sensitive coastal location and that will lead to development that is not connected to an approved sewage treatment work or system: (i) into more than 5 lots, or (ii) into 5 or fewer lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 5 lots,		Identifies the site as an area to which Part 3A of the Act must apply.
Provisions of Environmental Planning Instrument	Comply	Consideration
<b>State Environmental Planning Policy No 71</b>		
<b>Clause 2: Aims of Policy</b>		
<b>(1) This Policy aims:</b>		
(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast and	Yes	The site comprises rural blocks, and there will be minimum land clearing.
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	Yes	There are no Aboriginal cultural relics on this site
(e) to ensure that the visual amenity of the coast is protected, and	Yes	The site is not highly visible from coastal areas
(f) to protect and preserve beach environments and beach amenity, and	Yes	The on-site effluent disposal system has been reviewed and no impacts have been identified for downstream environments, including any impacts for beach environments.
(g) to protect and preserve native coastal vegetation, and	Yes	The project does not involve clearing of native coastal vegetation
(h) to protect and preserve the marine environment of New South Wales, and	Yes	There will be no impacts for the marine environment. The lots ranging in size from 2.1ha to 4.1 ha are of adequate size and suitably located to cater for on-site effluent disposal. This is supported by the on-site effluent disposal report. There will be no works either on or immediately adjacent to the SEPP No 14 Wetland and setbacks have been incorporated in accordance with the Department of Water and Energy recommendations and Bega Valley DCP No. 6.
(j) to manage the coastal zone in accordance with the principles of ecologically sustainable	Yes	The project will be consistent with the principles of ESD and this has been

development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and		addressed in the Director-General's Assessment Report, section 3.7.
<b>Clause 8: Matters for consideration</b>		
<b>The matters for consideration are the following:</b>		
(a) the aims of this Policy set out in clause 2,	Yes	
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	Yes	The site complies with Council's zoning and requirements for concessional lot subdivision.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	Yes	As the site is not directly on the coast line there is no detrimental impact of over shadowing and loss of views.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	Yes	As above
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	Yes	A flora and fauna assessment was carried out for the project which identified there would be no adverse impact subject to conditions of approval.
(i) existing wildlife corridors and the impact of development on these corridors,	Yes	There are no identified wildlife corridors impacted as part of the proposal.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	Yes	There are no Aboriginal cultural relics on this site.
(m) likely impacts of development on the water quality of coastal waterbodies,	Yes	The project has been designed to protect the SEPP No 14 wetland and appropriate conditions are included in the approval
<b>Clause 15: Effluent disposal</b>		
The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	Yes	The site is not adjacent to the beach however a SEPP No14 wetland is located within the residue lot H. The concessional lots A-F would be a minimum of 80m from the boundary of the wetland while no dwelling would be located within 150m. The proposed on-site sewage management (OSM) adheres to Council guidelines (DCP 5). The proposed OSM system has been reviewed by Council and will provide satisfactory on-site waste disposal which would not result in any negative impacts.
<b>Clause 16: Stormwater</b>		
The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	Yes	The access roads will be constructed in accordance with Council's design and construction specifications for subdivision. Rock aprons will be constructed on the outlets off all piped culverts and swales provided to act as infiltration devices and to redirect flows to constructed sediment basins. Disturbed areas are to be kept to a minimum.

Provisions of Environmental Planning Instrument	Comply	Consideration
<b>State Environmental Planning Policy (Rural Lands) 2008</b>		
<b>Clause 2: Aims of Policy</b>		
(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes, (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State, (c) to implement measures designed to reduce land use conflicts, (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	Yes	<p>The proposal retains the site's most valuable agricultural land (Classes 1 and 2) in the existing agricultural operations in the largest (residue) Lot H.</p> <p>The application was lodged before the gazettal of the SEPP which repealed the concessional lots provisions (cl 16) of the Bega Valley LEP.</p>
<b>Clause 7 Rural Planning Principles</b>		
(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas, (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State, (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development, (d) in planning for rural lands, to balance the social, economic and environmental interests of the community, (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land, (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities, (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing, (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	Yes	<p>The proposal protects the site's most valuable agricultural land, provides rural-residential opportunities with appropriate services and infrastructure, and acknowledges and protects the site's natural values.</p>
<b>Clause 8 Rural Subdivision Principles</b>		



<p>(a) the minimisation of rural land fragmentation, the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</p> <p>(b) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</p> <p>(c) the consideration of the natural and physical constraints and opportunities of land,</p> <p>(d) ensuring that planning for dwelling opportunities takes account of those constraints.</p>	Yes	<p>The proposal protects the site's most valuable agricultural land within residue Lot H, will protect the natural values of the site by fencing the wetland and prohibiting domestic dogs and exotic garden plants, and ensure the provision of on-site sewage management outside the required buffers from the wetland.</p>
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#### **10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings**

<p>(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.</p> <p>(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:</p> <p>(a) subdivision of land proposed to be used for the purposes of a dwelling,</p> <p>(b) erection of a dwelling.</p> <p>(3) The following matters are to be taken into account:</p> <p>(a) the existing uses and approved uses of land in the vicinity of the development,</p> <p>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</p> <p>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</p> <p>(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,</p> <p>(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</p>	Yes	<p>The site is zoned 1(a) Rural General. The proposal is consistent with uses in vicinity which are predominantly agricultural uses and rural-residential subdivisions.</p>
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#### **11 Amendment of concessional lot provisions**

<p>The environmental planning instruments specified in Schedule 1 are amended as set out in that Schedule.</p>		<p>The SEPP, as made, omitted clause 16 of the LEP entirely, (Provisions for limited subdivisions for the purpose of dwellings in Zone 1(a)). It also relevantly omitted cl17(2)(c) and (3) (Controls for building dwelling houses within Zone 1(a)). It inserted cl17A so as to not affect any dwelling entitlements on existing concessional lots.</p>
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<b>23 Existing development applications</b>		
If a development application has been made before the commencement of this Policy in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if this Policy had not been commenced.	Yes	The application has been assessed as if this Policy had not been commenced.
<b>Provisions of Environmental Planning Instrument</b>	<b>Comply</b>	<b>Consideration</b>
<b>Lower South Coast Regional Environmental Plan (No. 2)</b>		
<b>Part 1 Preliminary</b>		
<b>Clause 6(a)</b>		
Requires that a consent authority, the Director or the Minister as relevant for a development application should "to consider the aims, objectives, policies and principles contained in this plan".	Yes	The proposal triggered Clause 1(1)(i) - subdivision of rural-zoned land into more than 5 lots in a coastal zone; and Clause 1(1)(h)(ii) - subdivision of rural-zoned land into more than 5 lots in a coastal zone where the future development created by the subdivision will not be connected to an approved sewage treatment work or system
<b>Part 2 The Environment</b>		
<b>Division 2 Coastal Waterways and environments</b>		
<b>Clause 11 Objectives</b>		
(b) To protect water quality,	Yes	The proposed subdivision has processes to protect water quality through storm water and sewerage treatment processes on site.
(d) To maintain the visual quality of the coastal and waterway environments,	Yes	The site is located 9km from the coast and this is not an issue.
<b>Clause 13 : Policies for development control</b>		
In considering any application for development in coastal areas, the council shall take into account: (a) The "Coastline Management Manual" published by the New South Wales Government,	Yes	The proposal is consistent with the Coastal Management Policy.
(b) the "South Coast Design Guidelines" issued by the Department of Planning,	Yes	The proposal complies with these guidelines. The proposal is low scale with lot sizes ranging from 2.1ha to 4.1ha in area.
(c) any guidelines issued by the Department of Planning in relation to development in coastal areas,	Yes	The proposal is consistent with the NSW Coastal Design Guidelines, and will maintain the rural character of the area.
<b>Part 3 Rural Land</b>		
<b>Clause 19 Objectives</b>		
(a) to conserve better quality agricultural lands for the purpose of agriculture,	Yes	The proposed does not include the subdivision of Classes 1 or 2 agricultural lands for concessional lot purposes.
(c) to enable other forms of development associated with, or compatible with, rural activity in appropriate locations, and	Yes	The proposed subdivision would not limit development for other permitted uses within the zone
(d) to minimise the cost to the community of fragmented and isolated development.	N/A	The site is adjacent to rural residential subdivisions and is consistent with the

		existing subdivision layout in the area.
<b>Clause 21 Policies for development control</b>		
Council, before granting consent to the development of rural land for purposes other than agriculture must, where the land is classified as Class 1, 2 or 3 on the maps marked "Agriculture Land Classification Map – Lower South Coast region" copies of which are deposited in the office of the councils, be satisfied that the development will not significantly reduce the agricultural potential of the land or adjoining land.	Yes	The subject land comprises Classes 1, 2, 3, 4 and 5 agricultural lands. The subdivision has been designed to minimise the impact on the Class 1 and 2 lands which will be contained within, and managed by the owners of the residue lot (H) along with existing farm infrastructure.
<b>Part 4 Natural resources</b>		
<b>Division 1 Water resources</b>		
<b>Clause 22 Objective</b>		
The objective of this plan in relation to water quality and water resources is to encourage the effective use and protection of the quality of the region's water resources.	Yes	The subdivision will have onsite stormwater and sewerage management systems to protect the quality of the region's water resources. This is outlined in section 5.5 of the Director-General's Report.
<b>Clause 24 Policies for development control</b>		
In considering a development application relating to land in the vicinity of surface or groundwater supplies, the council shall: <ul style="list-style-type: none"> <li>(a) consider the impact the proposed development is likely to have on water quality and availability,</li> <li>(b) only consent to the application if satisfied that adequate water quality and availability will be maintained if the proposed development is carried out.</li> </ul>	Yes	The proponent's on-site effluent disposal report identifies that no impacts (see section 5.5 of the Director-General's Report).
<b>Provisions of Environmental Planning Instrument</b>	<b>Comply</b>	<b>Consideration</b>
<b>Bega Valley Local Environmental Plan 2002</b>		
<b>Clause 2 Aims of Plan</b>		
(a) to ensure a balanced approach to development which is sensitive to both the economic and social needs of the community,	Yes	The proposal is consistent with the zone objectives, provisions of clause 16 including the retention of the prime agricultural land for agricultural purposes.
(b) to protect and improve the economic, natural, social and cultural resources within the Council's area,	Yes	The proposal has been designed to protect the economic and natural resources of the area. There are no identified cultural resources in the area.
(c) to encourage the efficient and effective delivery of services, and	Yes	The proposal requires the provision of access, electricity and telecommunication services at full cost to the proponent. Reticulated water and sewer services are not available.
(d) to recognise, protect and improve the inherent natural and built character of the Council's area,	Yes	The proposal is consistent with the rural character of the area.

(e) to ensure that development has regard to the principles of ecologically sustainable development.	Yes	The proposal is consistent with the principles of ESD.
<b>Clause 12 General Controls for Development Zone 1(a) (Rural General Zone)</b>		
<b>(2) Objectives of Zone</b>		
(a) to encourage continued growth in the area's rural economic base,	Yes	The proposal will result in the less productive land being subdivided for concessional lot (dwelling entitlement) subdivision purposes and the prime agricultural land being consolidated into a residue lot for continued agricultural pursuits.
(b) to encourage other forms of development, including tourism, that area compatible with agricultural activities and do not create undesirable environmental and cultural impacts,	Yes	The proposal is compatible with agricultural activities in the area and would not create undesirable environmental and cultural impacts.
(c) to protect and conserve the productive potential of prime crop and pasture land,	Yes	The proposed rural lots will be located outside areas classed as prime crop and pasture land (Classes 1 and 2) (see section 5.1 of the Director-General's Report).
(d) to maintain the scenic amenity and landscape quality of the area,	Yes	The subdivision has been designed to minimise impact on the existing landscape and scenic amenity. Future dwelling-house sites have been identified within each proposed allotment utilising the existing topography of the land to minimise impact as viewed when travelling north along Tathra Road.
(e) to promote the protection, and the preservation and enhancement, of natural ecological systems and processes,	Yes	The land is generally degraded due to long term agricultural activities. The proposal has been designed to minimise impact on existing drainage lines and building envelope and effluent disposal areas identified to protect the wetland within the residue lot. Stormwater management controls will be implemented during construction and also long term.
(f) to provide proper and coordinated use and protection of rivers, riparian corridors and water catchment areas,	Yes	As above.
(g) to promote the economic provision of services compatible with the nature and intensity of development and the character of the area,	Yes	The proposal will require provision of access, telecommunication and electricity services which is compatible with the nature and intensity of development in the area.
(h) to ensure that development and management of the land has minimal impact on water quality and environmental flows of receiving waters,	Yes	See (e) above
(i) to maintain significant features of natural and cultural heritage.	Yes	There are no significant features of cultural heritage. The proposal will retain the natural qualities of the land through protection of the wetland and appropriate stormwater and on-

		site effluent controls.
<b>Zoning Table</b>		
(4) Allowed only with development consent Any development not included in subclause (3) or (4).	Yes	Subdivision is permitted with consent.
<b>Clause 16 Limited subdivisions for the purpose of dwellings within Zone 1(a)</b>		
(1) Consent may be granted pursuant to this clause to a subdivision that excises an allotment or allotments to be used for the purpose of a dwelling house from land within Zone 1(a): (a) that comprises the whole of an existing holding that was in a single ownership when the development application for consent to the subdivision was made, or (b) that comprises the largest part of an existing holding that was in a single ownership when the development application for consent to the subdivision was made, if the whole of the existing holding was not in a single ownership at that time.	Yes	The application complies with cl16(1)(b) in that the land the subject of the application is part of an existing holding comprising Part Portions 24, 25, 88 and Lot 1 DP 986743 Parish Bega and Portion 158 Parish Wallagoot with an area of 134.22ha. Lot 1 DP986743 was held in separate ownership at the time of lodgement of the application. The land subject of the project has an area of 127ha and comprises the largest part of the holding.
(2) Not more than one consent may be granted pursuant to this clause for the excision of land from any existing holding, whether or not the excision is made from the largest part of the existing holding.	Yes	No previous consent has been issued under this clause.
(3) The number of allotments excised under this clause from an existing holding shall not exceed: (a) where the existing holding has an area of 10 hectares or more but less than 20 hectares, (b) where the existing holding has an area of 20 hectares or more but less than 30 hectares, (c) where the existing holding has an area of 30 hectares or more but less than 80 hectares, or (d) where the existing holding has an area of 80 hectares or more, 3 plus 1 additional allotment for each 40 hectares in the existing holding. This subclause is subject to subclause (5) and clause 17(3).	Yes	Pursuant to subclause (d) above the maximum number of allotments that could be excised is 3 allotments plus 1 additional allotment for each 40 hectares in the existing holding. Based on an existing holding area of 134.22ha a total of 6 concessional lots could be excised from the existing holding. Subclause (5) is discussed below while clause 17(3) does not apply in this assessment.
(4) No allotment can be excised under this clause if the existing holding has an area of less than 10 hectares.	Yes	The existing holding has an area of 134.22ha.
(5) Any allotment within an existing holding and comprised of less than 120 hectares of land within Zone 1(a) is to be treated as an excised allotment in calculating the number of allotments that may be excised from the existing holding under this clause if a dwelling lawfully exists or may be erected in accordance with this plan on the allotment.	Yes	Lot 1 DP986743 has an area of 7.22ha and is vacant. Under Clause 17 (1) of the LEP, consent must not be granted to the erection of a dwelling house on an allotment in zone 1(a) unless the land; <ul style="list-style-type: none"><li>• (a) comprises an allotment of not less than 120ha,</li><li>• (b) comprises an allotment created for the purpose of a dwelling house by subdivision for which consent has been</li></ul>

		<p>granted,</p> <ul style="list-style-type: none"> <li>• ( c) comprises an allotment identified as the residue in a subdivision for which consent has been granted for the excision of allotments for the purpose of a dwelling house, or</li> <li>• (d) comprises an existing holding on which there is no other dwelling house.</li> </ul> <p>There is no entitlement for a dwelling house to be erected on Lot 1 DP986743 as</p> <ul style="list-style-type: none"> <li>• the lot has an area less than 120ha,</li> <li>• Lot 1 was created solely to identify the boundaries of an Old Systems title deed. The lot was not created for the purpose of a dwelling house for which consent was granted,</li> <li>• Lot 1 is not identified as a residue allotment for which any consent has been issued</li> <li>• Lot 1 does not comprise an existing holding in its own right.</li> </ul> <p>As there is no entitlement to erect a dwelling on Lot 1 DP986743, it is not treated as an excised allotment, and is included in the calculation of the number of entitlements as outlined in the clause.</p>
(6) Each allotment excised under this clause must have an area of not less than 2 hectares and not more than 10 hectares.	Yes	Proposed lot sizes range from 2.1 to 4.1ha
<p>(7) Consent must not be granted to a subdivision of land pursuant to this clause unless the consent authority is satisfied that each allotment proposed to be excised for use for the purpose of a dwelling house:</p> <ul style="list-style-type: none"> <li>(a) has a suitable dwelling house site, and</li> <li>(b) will not, because of its use, affect the economic viability of existing farmland, and</li> <li>(c) is not located near operational aspects of a farm, and</li> <li>(d) is located outside areas designated as Class 1 or 2 in the New South Wales Department of Agriculture's "Agricultural Land Classification Atlas, Far South Coast Region New South Wales" dated August 1986, and</li> <li>(e) will not be part of an inholding within a national park within the meaning of the National Parks and Wildlife Act 1974, and</li> <li>(f) will not have a dwelling located on it within 100m of the boundary of a national park or nature reserve within the meaning of the National Parks and Wildlife Act 1974, and</li> </ul>	Yes	<p>The proposal is consistent as follows:</p> <ul style="list-style-type: none"> <li>• each lot has a suitable dwelling-house site</li> <li>• the concessional lots are located outside the class 1 and 2 agricultural land and operation aspects of the farm</li> <li>• the land is not part of an inholding within a national park or located within 100m of a national park or nature reserve</li> <li>• each lot will have legal access to Old Wallagoot Lane which is a Council maintained road</li> <li>• there will be no direct access onto Tathra Road</li> <li>• the lots are not located within an area of bush fire hazard</li> <li>• each lot will be serviced with electricity from existing reticulation in the immediate area</li> <li>• each lot has a suitable area for on-site effluent disposal</li> </ul>

<p>(g) will have legal and practical access to an existing Council-maintained public road, and</p> <p>(h) will not create a need for any additional access onto a State highway or an arterial road, and</p> <p>(i) will have a dwelling site located outside any areas of bushfire hazard identified by the Council, and</p> <p>(j) will be serviced by existing electricity reticulation or short extensions from the existing reticulation network, or will utilise alternative stand-alone electric power systems, and</p> <p>(k) has soils suitable for on-site sewage management disposals, and</p> <p>(l) does not contain or adjoin perennial streams and does not have access by easement for drawing water from perennial streams, and</p> <p>(m) will not adversely affect important features of cultural or natural heritage or disrupt regional ecological systems or processes.</p>		<ul style="list-style-type: none"> <li>there is no access from the concessional lots to a perennial stream</li> <li>there are no features of cultural or natural heritage within the subject land.</li> </ul>
<b>Clause 17(1)</b>		
Despite any other provision of this Plan except these Clauses, consent must not be granted to the erection of a dwelling house on an allotment in Zone 1(a) unless:		
(b) comprises an allotment for the purposes of a dwelling house by a subdivision for which consent has been granted.	Yes	Lots A to F are being created as allotments for the purpose of dwelling houses pursuant to clause 16 of the LEP.
(c) comprises an allotment identified as the residue in a subdivision for which consent has been granted for the excision of allotments for the purpose of a dwelling house.	Yes	Lot H is identified as the residue allotment.
<b>Clause 65 General principles for development and use of land and buildings</b>		
<p>(1) Before granting consent for development within any zone, consideration shall be given by the consent authority to such of the following as are relevant to the proposed development:</p> <p>(a) the impact of that development on:</p> <p>(i) the water quality of water bodies, and</p> <p>(ii) the ability of rural land to be used for agricultural production or industry, or both, and</p> <p>(iii) soil resources, and</p> <p>(iv) existing vegetation, native flora and fauna and riparian corridors, and</p> <p>(v) the topography and setting of the land, and</p> <p>(vi) the streetscape character of the locality, and</p>	Yes	The proposal is consistent with the relevant provisions (see Section 5 of the Director-General's Report).

<ul style="list-style-type: none"> <li>(vii) the scale and design of neighbouring development, and</li> <li>(viii) significant views enjoyed from parks, reserves, roadways, footpaths and other public places, and</li> <li>(ix) the energy efficiency of the site and any buildings on the site, and</li> <li>(x) the availability of a water supply to adequately provide for domestic, agricultural and fire fighting purposes and, where that proposed water supply is from a river, creek, dam or other waterway, the effect upon the other users of that water supply, and</li> <li>(xi) waste generation, and</li> <li>(xii) the cultural significance of the land, and</li> <li>(xiii) the treatment of stormwater prior to discharge or the use of stormwater, and</li> <li>(xiv) traffic generation and appropriate vehicular access into and around the site, and</li> <li>(xv) any measures necessary to mitigate any of these impacts,</li> <li>(b) the cumulative impact on the environment of: <ul style="list-style-type: none"> <li>(i) the development, and</li> <li>(ii) other development in the vicinity of the proposed development.</li> </ul> </li> </ul>		
<b>Clause 67 Subdivision</b>		
(1) Except as provided by subclause (2) [exempt development], development consent is required for the subdivision of land.	Yes	The application seeks approval for the proposal.
<b>74 On-site sewage management</b>		
<p>Before granting consent to development that will result in the generation of sewage or other effluent, consideration shall be given by the consent authority to:</p> <ul style="list-style-type: none"> <li>(a) whether the site of the proposed development should be connected to public sewerage facilities, and, if so, whether the land is capable of being connected to public sewerage facilities either now or in the future, and</li> <li>(b) the suitability of the site for on-site disposal of effluent and the ability of the effluent disposal system to function effectively over the long term without causing adverse effects on adjoining land, where public sewerage facilities are not to be provided to the land, and</li> <li>(c) the likely effect of any on-site effluent disposal area on: <ul style="list-style-type: none"> <li>(i) any waterbodies in the vicinity, or water supply</li> </ul> </li> </ul>	Yes	The site is not reticulated. Adequate arrangements are made in the application for on-site sewage management subject to conditions, as discussed in section 5.4 of the Director-General's Report. Those arrangements are not likely to adversely affect the site's SEPP 14 wetland.



catchments, and (ii) groundwater resources, and (iii) seasonally waterlogged soils, and (d) the cumulative environmental impacts of all on-site systems or works in the area with respect to water quality, soil degradation and odour.		
<b>79 Ecologically sustainable development</b>		
<p>Before determining an application for consent to development, consideration shall be given by the consent authority to the following in so far as they are relevant to the proposed development and may promote the principles of ecologically sustainable development:</p> <p>(a) building and allotment orientation, (b) conservation, protection and enhancement of natural resources (including riparian areas and remnant native vegetation), (c) optimisation of the use of natural features of the site, (d) reduction of car dependence, (e) use of landscaping to improve air, soil and water quality, (f) optimisation of energy efficiency, (g) waste minimisation.</p>	Yes	<p>The proposed lots enable the siting of dwellings above the 1:100 flood line, and have sufficient cartilage to provide optimal dwelling orientation. The proposal provides for the conservation, protection and enhancement of the site's flora and fauna and the SEPP 14 wetland by sufficient setbacks of the lot boundaries, on-site sewage management and future dwellings from the wetland; and wetland management including its fencing and Section 88B restrictions on the keeping of dogs. Future DAs for dwelling houses will be subject to relevant ESD requirements.</p>
<b>81 Flood liable land</b>		
<p>(1) A person shall not subdivide land or build or carry out a work on flood liable land except with development consent.</p> <p>(2) Consent must not be granted to the subdivision of, or to the erection of a building or the carrying out of a work on, flood liable land if, in the opinion of the Council, the subdivision, building or work would be likely:</p> <p>(a) to impede the flow of flood waters on that land or land within its immediate vicinity, or (b) to imperil the safety of persons or to cause damage to property on the land or land within its immediate vicinity in the event of those lands being inundated by floodwaters, or (c) to aggravate the consequences of floodwaters flowing on to that land or land within its vicinity with regard to erosion, siltation or the destruction of vegetation, or (d) to have an adverse effect on the water table of that land or of land within its immediate vicinity, or (e) to cause pollution or contamination of floodwaters or land as a result of inundation by floodwaters.</p> <p>(3) Consent shall not be granted to development on</p>	Yes	<p>The proposal is located above the 1:100 year flood line (12.9mAHD) and will have no impact on the floodplain or flood behaviour. All proposed dwelling sites and effluent disposal areas will be located at a level greater than 13.5mAHD.</p> <p>There is capacity to address stormwater generated from future dwellings and access roads within each lot. Stormwater management controls, including erosion and sediment control and discharge of water to maintain the quality of existing runoff, are included in the conditions of approval.</p>

<p>flood liable land unless the consent authority has taken into consideration the cumulative impact of development on flooding within the area.</p> <p>(4) Before granting an application for development consent, the consent authority shall consider the possible effects of floods in excess of the flood planning level and the significance of the risk proposed by larger floods to the development.</p>		
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## APPENDIX C. COMPLIANCE WITH DCPS AND OTHER PLANS AND POLICIES

Development Control Plans and other plans and policies considered in the assessment of the proposal:

Provisions of DCPS and other plans and policies	Comply	Consideration
<b>NSW Coastal Design Guidelines 2003</b>		
Part 1 Determining a hierarchy of settlements: Inland coastal centres: cities, towns and villages - Desired future character		
1. Relationship to the environment	Yes	The proposal will result in a development compatible with surrounding rural-residential uses, and with controls to protect the site's natural features.
2. Visual Sensitivity	Yes	The proposed subdivision will be subject to future DAs for dwelling houses which will consider relevant matters relating to design and visual impact. The scale of the proposal respects the visual connections between the ridges and the wetland.
3. Edges to the water and natural areas	Yes	The proposal complies with the required setbacks to the SEPP 14 wetland for lot boundaries and land application areas for on-site sewage management. Conditions of approval require the on-going management of the wetland in order to protect its values (e.g. Section 88B instruments regarding fencing, and prohibition on dogs).
4. Streets	Yes	The proposal gains (indirect and direct) access from Wallagoot Lane.
<b>Part 2: Design Principles for Coastal Settlements</b>		
2.1 Defining the footprint and boundary: 1. No or limited development	Yes	The proposal is small scale appropriate to the constraints of the site, and the wetland, ridges and gullies act as natural buffers which are reflected in the lot boundaries, on-site sewage management land application areas and future dwelling locations.
2.3 Protecting the natural edges: Provide areas for managing bush fire asset protection. Reduce the encroachment of invasive plant species into natural areas. Protect sensitive ecological areas.	Yes	The proposal complies with Council's setback requirements from the SEPP 14 wetland, and conditions of approval will protect the wetland and the site's natural values. The conditions include the requirements of the Rural Fire Service.
<b>NSW Coastal Policy 1997</b>		
Protecting, rehabilitating and improving the natural environment of the coastal zone.	Yes	The proposal protects the SEPP 14 wetland and improves the quality of stormwater runoff through the design of the subdivision and conditions of approval. It also protects

		the site's most valuable agricultural land.
Recognising and accommodating the natural processes of the coastal zone.	Yes	Potential house sites for those concessional lots without dwellings will be above the 1:100 year flood level. Stormwater and on-site sewage management will protect the qualities of the SEPP 14 wetland.
Protecting and enhancing the aesthetic qualities of the coastal zone.	Yes	The proposal is small scale and respects the rural-residential features of the locality and is unlikely to impact upon the aesthetic qualities of the coastal zone
Protecting and conserving the cultural heritage of the coastal zone.	Yes	There are no recorded items of cultural heritage within the site. The site was inspected by the Bega Traditional Aboriginal Elders Inc which advised there are no constraints to the proposal, but requested a monitor be on-site during earthworks, and this is included as a condition of approval.
Providing for ecologically sustainable development and use of resources.	Yes	The proposal is satisfactory with respect to ESD (see Section 3.7 of Director- General's Report).
Providing for appropriate public access and use.	N/A	
<b>Bega Valley Shire Development Control Plan No. 2 Subdivision Standards</b>		
<b>2. Aims of the plan</b> The aims and objectives of this plan are to: <ul style="list-style-type: none"> <li>• Set out development standards for subdivision developments</li> <li>• Provide appropriate standards of amenity and servicing as land is subdivided and developed</li> <li>• Facilitate development that integrates the natural and developed landscape while ensuring the conservation of identified ecological, scenic and cultural values</li> <li>• To contribute to sustainable economic development of the Bega Valley Shire;</li> <li>• To provide certainty to the land development industry</li> <li>• To provide guidance about the processes and procedures for subdivision developments.</li> </ul>	Yes	The proposal is consistent with the aims of the Plan.
<b>8. Bega Valley Local Environmental Plan 2002</b> Minimum allotment areas permitted in some zones, maximum allotment areas and other provisions relating to subdivision. Lot sizes, numbers or configurations as may be prescribed in other DCPs. Each lot in every subdivision must be justified against the relevant provisions of the LEP or other planning instrument.	Yes	The proposed lot sizes for the concessional lots, ranging from 2.1ha to 4.1 ha, are consistent with the requirements of the LEP and the DCP.
<b>9. Access and servicing</b> All lots must be provided with an appropriate	Yes	All lots will have legal and practical access to Wallagoot Lane, a Council maintained

<p>standard of legal and practical vehicular access and access to an appropriate standard of public utility services and drainage, as required by this plan.</p> <p>Legal access shall extend between each lot and a Council controlled public road system or State Highway. Legal access may include Council public roads, rights of carriageway, easements for access or some combination of these. Specific restrictions apply to arterial roads within the 1(a) and 1(c) Zones as defined under the Bega Valley Local Environmental Plan 2002.</p>		<p>road.</p> <p>There will be no direct access to Tathra Road.</p>
<p><b>10. Rural and environmental protection zones</b></p> <p>This clause applies to land in zones 1(a), 7(d), 7(f1) and 7(f2) zones.</p> <p>Permissible allotment densities are set out in the Bega Valley Local Environmental Plan, 2002.</p> <p>Where any lot is intended to have the potential for the erection of a dwelling-house, the lot must identify at least one site which is suitable for a house site, taking into account the issues of bushfire safety, vegetation clearing, flood hazards, access, servicing, on-site sewage management, land slopes and any other relevant matters.</p> <p>Provision should be made electricity and telecommunications services in rural subdivisions.</p>	Yes	<p>Pursuant to clause 16(3) of BVLEP 2002 an entitlement exists for 6 concessional lots and a residue lot. The proposal is consistent with this clause.</p> <p>All lots will have a suitable site for a dwelling having regard to bushfire hazard, on-site sewage disposal, access flood hazards and vegetation.</p> <p>Reticulated water and sewer is not available to the land however all lots will be serviced with electricity and telecommunications.</p>
<p><b>10.1 Concessional Lots</b></p> <p>This clause repeats the provisions of cl 16 of the LEP.</p>	Yes	See LEP discussion in Appendix B.
<p><b>10.3 Agricultural Lots</b></p> <p>This clause notes the LEP provision (cl 15) that agricultural lots with an existing dwelling or proposing to have a dwelling require a minimum area of 120ha.</p> <p>It recommends a Section 88B restrictive covenant on any agricultural lot less than 120ha prohibiting the erection of a dwelling house on that land.</p>	Yes	<p>The proposed (residue) Lot H has an area of 105.8ha and does not have a dwelling house. A suitable condition of approval is included regarding a Section 88B restrictive covenant.</p>

<b>Bega Valley Shire Development Control Plan No. 5 – On-site Sewage Management (OSM)</b>		
<p><b>3. Aim of the plan</b></p> <p>To safeguard and improve the quality of public and environmental health within the Bega Valley Shire. This will be accomplished by regulating the approval of systems of on-site sewage management and by specifying the information required for OSM assessments.</p>	Yes	<p>The proposal is consistent with the requirements (see Section 5.4 of the Director-General's Report).</p>
<p><b>9. Requirements for Development</b></p> <p>9.1 Subdivision</p> <p>a) Subdivision creating one additional lot outside of an environmentally sensitive area may be supported with basic site</p>	Yes	<p>The proposal is consistent with the requirements (see Section 5.5 of the Director-General's Report).</p>

<p>and soil assessments provided by a licensed plumber.</p> <p>b) A detailed site and soil assessment is required for the subdivision of land for the purpose of multiple lots where the lot(s) created do not contain existing dwelling(s) with a current approval to operate a system of OSM. The base figure for the calculation of daily hydraulic load shall be a minimum of 1000L/day per lot.</p> <p>c) Where lots are created, and part of the lot is deemed unsuitable for on-site effluent re-use, this area shall be clearly identified on the lots in an S88B instrument. In this case, Council will be the authority nominated to release, vary or modify the instrument. Applicants who apply to Council to modify a S88B instrument for the purpose of constructing or installing an on-site sewer management facility must demonstrate consistency with the original site and soil assessment or provide a revised assessment in accordance with this plan.</p> <p>d) Council requires additional site assessment details for the following types of subdivision proposals with OSM:</p> <ul style="list-style-type: none"> <li>• Where the proposed land application area/s are within 100m of an environmentally sensitive area; or</li> <li>• Where the proposed land application area/s are within 150m of a nominated waterway; or</li> <li>• Where the proposed land application area/s are within 2 kilometres flow path upstream from a town water supply; other than for subdivision creating one additional lot which are as for b).</li> </ul> <p>9.2 Dwellings and dual occupancies</p> <p>a) The minimum hydraulic load for a single dwelling is generally based on a four person load with standard water reduction as defined in Australian Standard 1547.</p>		
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<b>Bega Valley Shire Development Control Plan No. 6 – Minimum Setbacks to Roads &amp; Nominated Waterways</b>		
<p><b>2. Aims of the Plan</b></p> <p>The aim of this plan is to specify the minimum setback for development from roads and nominated</p>	Yes	The DCP applies to the site as it has road frontage and contains a wetland (Ritchies Lagoon) which is an estuarine tributary of

waterways in the Shire.		the Bega River – a nominated waterway under the LEP.
<b>4. Development Controls Nominated Waterways</b> <ol style="list-style-type: none"> <li>1. The minimum setback for development from a nominated waterway other than that in subclauses (2) and (3) shall be 75 metres.</li> <li>2. In the case of development for the purposes of an intensive livestock keeping establishment or development involving the disposal of sewerage on the land, the minimum distance shall be 150 metres.</li> <li>3. In the case of development on land adjoining Back Lake Merimbula the minimum setback distance to which any building may be constructed is detailed in the attached Map.</li> <li>4. Council may vary the minimum setback distance for development but only after having regard for matters specified in subclause 83(2) of the Bega Valley Local Environmental Plan 2002.</li> </ol>		<p>The subdivision has been designed to locate future dwellings more than 75m, and all on-site sewage disposal systems more than 150 m from the wetland.</p> <p>Conditions of approval require building envelopes and effluent disposal areas to comply with the setback requirements.</p>

<b>Bega Valley Shire Contribution Plan No. 1 – Existing Rural Roads</b>		
<b>2. Application of the Plan</b> <b>2.1 Land to which Plan Applies</b> This plan applies to all lands within the Shire of Bega Valley zoned: <ul style="list-style-type: none"> <li>• Rural 1(a) (General Rural)</li> <li>• Rural 1(c) (Rural Small Holdings)</li> <li>• Rural 1(f) (Forestry)</li> <li>• 2(f) (Urban)</li> <li>• 7(d) (Environmental Protection)</li> <li>• 7(f1) (Coastal Lands)</li> </ul> <b>2.2 Development to which this Plan applies</b> (a) all subdivision when lots are created with the right of consideration of a dwelling-house	Yes	<p>The contribution plan applies as the land is zoned Rural 1(a) (General Rural) and the proposal includes concessional lots. The conditions of approval include the relevant contributions.</p>
<b>Schedule One</b> <b>Schedule of Roading Contributions</b> C. Nominally Class 2 to Class 4 Roads  Per lot: \$972 minimum for the first kilometre from the nearest Class 5 road (mapped) plus a rate of 55 cents per metre road beyond the first kilometre. The maximum contribution payable per lot is \$5189.00	Yes	<p>Tathra Road is mapped as a Class 5 road and Wallagoot Lane an ancillary Class 2-4 road.</p> <p>The distance from the subdivision from the intersection with Tathra Road is 1.12km. Based on the calculation a contribution of \$1038.00 per lot is payable.</p>

Bega Valley Section 94 Contribution Plan No. 2 – Carparking		
<b>CI 3. Land to which the Plan Applies</b> This plan applies to the land as outlined in heavy black in Schedule 3 and to all residential and tourist accommodation development in all zones of the Shire.	Yes	The proposal will create allotments for the purpose of the erection of dwelling-houses (residential development) and the plan applies to the proposal.
<b>CI 5. Formula and calculation of contribution</b> Contributions for Residential Development Residential lot \$500	Yes	Growth in Shire population over the projected 10 year life of this plan is estimated at conservatively 5,500 people. This could generate an additional 3,000 cars conservatively, the Shire's two main shopping centres Bega and the Merimbula settlement group can expect 100 of these additional cars in town at any normal shopping peak time. It is therefore reasonable to require the anticipated 5,500 people to meet the cost of these additional spaces in Bega and Merimbula given that commercial supply is already below desired levels and given past carparking has mostly been funded from general fund. The project would create 7 allotments for the purpose of a dwelling each. The contribution does not apply to the allotments containing existing dwellings. A contribution of \$500 is payable for each lot, excluding the 2 lots with existing dwellings (that is, 5 lots).

Draft Bega River Estuary Management Plan		
<b>Planning</b>  <b>P-1 Preserve foreshore land to provide a riparian buffer from development and climate change impacts.</b>  Foreshore buffers which preserve the ecologically significant riparian zone are required. The width of the riparian buffer should be at least 50 to 100 m.  No development should occur within the riparian buffer zone, with the exception of minor environmental facilities or minor recreation infrastructure. Stormwater treatment facilities, effluent irrigation or asset protection zones (bushfire buffers) should be located landward of the riparian zone buffer.	Yes	The proposal is satisfactory. See Sections 5.3 – 5.6 of the Director-General's Report.
<b>P-4 No net increase in runoff and pollutant loads from future developments</b>  Future development within the BRE catchment	Yes	The proposal is satisfactory. This is discussed in Section 5.4 of the Director-General's Report. Appendix 6 (discharge calculations) of the EA notes that there will be no net increase in pollutant loads as a



<p>should aim to maintain or improve the condition of the estuary. In conjunction with other controls for environmental management outlined for future developments, controls on site specific runoff are required. All future development within the BRE catchment should aim to protect downstream water quality and flow by ensuring that the development generates:</p> <ol style="list-style-type: none"> <li>1. <i>no net increase</i> in pollutant loads (TN, TP, TSS); and</li> <li>2. <i>no net increase</i> in runoff volume (particularly if discharge is to fringing estuarine wetland area).</li> </ol>		<p>result of the proposal.</p>
<p><b><i>P-5 Ensure the use of appropriate sewage treatment measures for all future development</i></b></p> <p>For all new developments, the sewage treatment measures to be adopted must be compatible with the limitations and constraints of the site. Planning controls should stipulate that:</p> <ol style="list-style-type: none"> <li>1. All proposed use of on-site systems must be verified by an assessment of soils and topographic suitability. The use of on-site systems must also consider the scale of the development, and must be consistent with stormwater management targets for the site.</li> </ol>	<p>Yes</p>	<p>The proposed on-site sewage management system has been assessed as satisfactory (see Section 5.4 of the Director-General's Report) subject to conditions of approval.</p>

<p><b>Capital and On-Ground Works</b></p> <p><b><i>W-6 Reduce erosion and sediment runoff from firetrails, driveways, road verges and carparks</i></b></p> <p>Roads should be maintained to ensure runoff is managed to minimise erosion and that drainage is diverted through bushland before discharging into natural waterways. Where appropriate, seal approaches to creeklines and other areas contributing large amounts of sediment to BRE.</p>	<p>Yes</p>	<p>The conditions of approval address these provisions.</p>
<p><b>Community Services</b></p> <p><b><i>CS-1 Promote the conservation of privately owned vegetation, including revegetated private lands</i></b></p> <p>Relevant landowners should be encouraged, through provision of incentives, to conserve these vegetated areas through formal conservation agreements with SRCMA or DECC. Conservation agreements should incorporate the re-establishment of an appropriate vegetated buffer around the existing vegetation stands to help reduce the impacts of edge effects.</p>	<p>Yes</p>	<p>The proposal protects the SEPP 14 wetland which will remain in the ownership of Lot H. Trees identified in the Flora and Fauna Assessment are required to be protected via Section 88B instrument (see conditions of approval).</p>

## **APPENDIX D. SUMMARY OF SUBMISSIONS**

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Ensure that the development protects Ritchies Lagoon in terms of the impact on water quality. No major objections to the water management plan or biodiversity assessment.

## APPENDIX E. RESPONSE TO SUBMISSIONS

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## **APPENDIX F. ENVIRONMENTAL ASSESSMENT**

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## **APPENDIX G. STATEMENT OF COMMITMENTS**

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