



**Planning &  
Infrastructure**

**Planning Report: State Environmental Planning Policy No. 71  
Master Plan: Tathra River Estate**

**June 2012**

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Master Plan Amended Post Exhibition – Proposed  
Subdivision Lot 2 DP582074 Thompsons Road Tathra  
April 2013

Consideration and Adoption of the Master Plan by the  
Minister for Planning and Infrastructure under State  
Environmental Planning Policy No. 71 – Coastal  
Protection

## 1 INTRODUCTION

The Tathra River Estate Master Plan has been prepared in response to the requirements of State Environmental Planning Policy No 71- Coastal Protection (SEPP 71), submitted by Cowman Stoddart on behalf of Linkwood (Nowra) Pty Ltd.

The Master Plan referred to in this report was revised and resubmitted in response to submissions, as well as comments from the Department. As such, the Amended Master Plan reflects many of the suggestions from the community, Council and State government agencies.

The Master Plan changes impact on the layout, lot sizes and orientation of some lots, it now includes added and extended walkways and cycle access as well as other changes that are discussed in more detail in this report.

## 2 SUMMARY

The Master Plan proposes 32 lots ranging in size from 4754 m<sup>2</sup> to 1.77 ha and a residue lot of 72.5ha (not the subject of this Master Plan). All lots will have an identified area for on-site effluent management, a building envelope of 15m x 20m and appropriate asset protection zones for bushfire management.

Significant areas of remnant vegetation will be protected within the large lot pattern and other more significant vegetation communities, including coastal wetlands, will be protected within a foreshore reserve, a major part of which is proposed to be dedicated to Council. Walkways and cycle access have been extended to form an edge between residential lots and the foreshore reserve. This will provide public access to foreshore areas in addition to two areas identified for public car parking and provision for pedestrian and cycle access through Crown land to Tathra Beach.

The Minister for Planning and Infrastructure is responsible for the adoption of Master Plans under Part 5 of SEPP 71. This approval has been delegated to the Department and has been exercised by the Local Planning Manager of the Southern Region. The Master Plan has been **approved** under Clause 22(2)(a) of SEPP 71.

### 3 THE SITE

The Tathra River Estate is 130ha located approximately 6km north west of Tathra Village on a peninsula between the Bega River Estuary and Black Ada Swamp (**Figure 1**). There are 63 residential allotments developed previously along Thompson Drive adjoining this proposal.



**Figure 1 Location**

The land that is the subject of this Master Plan is located north and east of the existing residential development and it is proposed to subdivide this land to provide 32 low density residential allotments. The subject land is currently zoned 1(a) Rural General;

2(a) Low Density Residential; 2(c) Residential Tourist; 6(a) Existing Open Space; and 7(b) Environmental Protection Foreshore under the Bega Valley Local Environmental Plan (LEP) 2002. The land has been deferred from Draft Bega Valley LEP 2013 which has been submitted to the Department to be made. The land will therefore retain its current zoning for the time being. It was exhibited as a mix of R2 Low Density Residential, R3 Medium Density Residential, E2 Environmental Conservation and E3 Environmental Management in the Draft Bega Valley LEP 2013.

The land is dominated by an elevated ridge crest that is highly visible from surrounding areas, the Bega River and the coast. The site drains to the Bega River and adjoining coastal wetlands identified under SEPP14 – Coastal Wetlands. It is a sensitive coastal location as identified by SEPP 71.

The site has been extensively cleared with a long history of grazing (**Figure 2**).



**Figure 2 Extent of clearing**

However, there are some areas of the site that continue to support native vegetation, and there are also three Endangered Ecological Communities (EECs) on the site which include Lowland Grassy Woodland, Swamp Sclerophyll Forest and Coastal Saltmarsh.

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Fauna habitats are typically associated with grazing lands and remnant forests fringing estuarine habitats. The site supports a number of hollow bearing trees and a variety of water habitats including relatively undisturbed estuarine habitats.

### Aboriginal Heritage Matters

There have been five Aboriginal heritage assessments undertaken (Hughes and May 1982; Barber and Williams 1993; Barber and Williams 1994; Dibden 2005; and Dibden 2009).

A preliminary Aboriginal heritage assessment has been undertaken by NSW Archaeology Pty Ltd to support the current proposal. This latest study concludes, that whilst Aboriginal objects are present there are no Aboriginal heritage constraints that would preclude the proposed subdivision. However, it has also been identified that additional work needs to be undertaken at the development application stage to ensure that fine grained studies can be ground proofed, noting that this is also required for the Office of Environment and Heritage's approval under the National Parks and Wildlife Act.

## **4 THE DRAFT MASTER PLAN**

The proponent seeks adoption of a Master Plan for the residential development of the site to provide for the following:

- 32 low density residential allotments;
- 15.60 hectares of land dedicated as open space reserve; and
- A residue parcel of 72.5 hectares.

It is proposed that all access to the subdivision will be provided via Thompson Drive from Tathra Road. Internal access will be via a number of new roads off Thompson Drive and Wheeler Avenue.

The proposed allotments range in size from 4754m<sup>2</sup> (Lot 10) to 1.77 ha (Lot 32). Each of the residential allotments will provide:

- A building envelope (15m x 20m);
- An onsite effluent management area; and
- A bushfire asset protection zone.

The draft Master Plan is illustrated in **Figure 3**.



**Figure 3 Master Plan Amended April 2013**

Department of Planning and Infrastructure  
 SEPP71 Master Plan Report: Tathra River Estate

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## 5 HISTORY

The Tathra River Estate was first proposed, with preliminary meetings with the Bega Valley Shire Council and representatives from the Department occurring in April 2004. Subsequent meetings about the potential development options for the site were held with the then proponents and a range of State Government Agencies, Council and the Department in August 2005.

The early development proposals were considered, and assessed in the context of Council's preparation of the Draft Tathra Structure Plan. A proposal for rezoning and subdivision ran concurrently for approximately 300 lots. The Director General's Requirements were issued by the Department in August 2007 for rezoning and a subsequent Part 3A concept plan.

The original Master Plan/Concept Plan proposed by the former developer was eventually withdrawn as it was unable to be connected to the Tathra sewage treatment plant. This indicates that the residential capacity of the site is entirely dependant on onsite effluent management. The current proposal seeks to address this issue by greatly reducing the yield and identifying areas suitable for effluent treatment.

This site was also considered in the South Coast Sensitive Urban Lands Review ( 2006) prepared by an independent panel chaired by Andrew Refshauge. The Review identified a number of site constraints and a significantly higher yield based on connection to the existing Tathra sewage treatment plant which has since been found to be unviable. The issues raised by the Refshauge Review have been adequately addressed in the Master Plan.

## 6 STATUTORY FRAMEWORK

### *a. Local Environmental Plans, Zoning and Permissibility*

The site is currently zoned under Bega Valley LEP 2002:

- 1(a) Rural General;
- 2(a) Residential Low Density;
- 2(c) Residential Tourist;
- 6(a) Existing Open Space; and
- 7(b) Environmental Protection Foreshore.

The site has been deferred from the Draft Bega Valley LEP 2013 and its formal zoning will be determined in a future Planning Proposal to reflect the adopted Master Pan. Before Council resolved to defer the site, the site was proposed to be zoned:

- R2 Low Density Residential;
- R3 Medium Density;
- E2 Environmental Conservation; and
- E3 Environmental Management.

The development is permissible under either of these scenarios. However, it would be appropriate to amend the zones, minimum lot sizes and other provisions to accurately reflect the adopted Master Plan. The site is likely to be zoned R5 Large Lot Residential



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or E4 Environmental Living or a mix of both with appropriate minimum lot sizes to prevent further subdivision.

***b. Council Development Control Plans (DCP)***

The following Bega Valley DCPs are relevant to the site:

DCP No 1 – Residential Standards;

DCP No 2 - Subdivision Standards;

DCP No 5 – On-Site Sewage Management; and

DCP No 6 - Minimum Setbacks to Roads and Nominated Waterways.

The Master Plan is consistent with these Development Control Plans.

***c. Relevant State planning instruments and policies***

*State Environmental Planning Policy 71 – Coastal Protection*

The site is defined as a 'sensitive coastal location' under the provisions of SEPP 71 as the property is within 100m of mean high water mark. Accordingly, a Master Plan must be adopted (or the requirement waived) by the Minister (or delegate) clause 18 of SEPP 71 before any development application for subdivision can be determined.

Under clause 22 of SEPP 71, a Master Plan may be adopted by the Minister (or delegate) subject to consideration of the following:

- Any written submissions made about the content of the draft Master Plan during the exhibition period under clause 21. The submissions received are outlined in section 7.3 of this report;
- Any written comments of the Natural Resources Commission, the relevant Council or any of the public authorities to whom the draft Master Plan has been referred. These comments are discussed in Section 8 of this report; and
- The matters for consideration set out in Part 2 (of SEPP 71). These are discussed and addressed in Section 9 of this report.

Other relevant instruments and policies include:

- SEPP 14 Coastal Wetlands;
- The NSW Coastal Policy 1997; and
- Coastal Design Guidelines of NSW (2003);
- South Coast Regional Strategy.

The Master Plan is consistent with these documents in that it implements a development scenario that achieves the recommendations of the Refshauge Report, avoids development of flood prone land, manages water quality impacts on wetlands and coastal estuaries, protects remnant vegetation and provides development that reduces visual impacts on coastal areas.

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#### **d. Legislative context**

The development of the site is local development and will be assessed under the provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* by Bega Valley Shire Council within the context of the adopted Master Plan.

### **7 SEPP 71 CLAUSE 22 CONSIDERATIONS**

#### **a. Requirements of a draft Master Plan under SEPP71**

Under clause 22 of SEPP71 when considering a draft Master Plan, the Minister (or delegate) must take into account:

- written submissions;
- comments from the NRC and other relevant government agencies; and
- the matters for consideration in clause (8).

These matters of consideration are addressed in the following sections of this report.

#### **b. Public consultation**

The draft Master Plan was notified in accordance with Clause 21(1) of SEPP 71 and the Regulations as follows:

<b>Notifications landowners/occupiers</b>	Letters dated July 2012 were sent to 88 adjoining property owners and State Government Agencies
<b>Newspaper advertisements</b>	Advertisements appeared in the local Bega and Merimbula papers in July 2012
<b>Exhibition dates</b>	Start: 23 <sup>rd</sup> July 2012 End: 31 <sup>st</sup> August 2012
<b>Exhibition venues</b>	<ul style="list-style-type: none"><li>▪ Department of Planning and Infrastructure: Southern Region – Level 2 Block G 84 Crown Street Wollongong;</li><li>▪ Bega Valley Shire Council, Council Chambers, Zingel Place, Bega;</li><li>▪ Tathra Post Office, Tathra; and</li><li>▪ On Council's and the Department's websites.</li></ul>

#### **c. Agency Referrals**

##### ***Natural Resources Commission (NRC)***

The draft Master Plan was referred to the Natural Resources Commission (NRC) in accordance with clause 21(2) of SEPP 71.

The NRC made two comments:

1. The Plan does not discuss visual impact of the development and measures to maintain the visual amenity of the coast; and

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2. It is considered that there is a need for the consent authority to ensure adequate, long term maintenance of the proposed on-site effluent management systems, through DCP No 5: *On-Site Sewage Management*, so that there is no impact on water quality of the nearby coastline or any other coastal body. As far as possible on-site effluent management systems should be located entirely above the 1/100 year flood level.

### ***Southern Rivers Catchment Management Authority (CMA)***

The CMA is generally supportive of the proposal, whilst making the following comments:

1. The majority of the proposal, including roads, occurs in predominantly exotic pastures and several areas of regrowth vegetation. Consent under the Native Vegetation Act (NV Act) is unlikely to be required.
2. Three to four hectares of intact native vegetation is envisaged to be impacted on for the future construction for dwellings and associated Asset Protection Zones in the south east corner of the proposal, including lots 29, 30, 31 and 32. The majority of the impact will be on Coastal Gully Shrub Forest which is not an over cleared vegetation type or an Endangered Ecological Community (EEC). Lot 31 is of main concern containing high quality remnant vegetation. The CMA recommends either moving Lot 31 to another location or eliminating it altogether.
3. Significant SEPP 14 wetlands exist in the area to the east of the proposal. The wetlands are currently not impacted from the proposal. However, several lot boundaries including lots 4,5,16 and 17 do impinge on wetlands. The CMA has concerns about the potential intensification of Routine Agricultural Management Activities in such locations once subdivided and would encourage Council to limit clearing of vegetation through covenant requirements in these areas.
4. Clearing for ancillary structures (such as swimming pools, tennis courts etc) and also hobby farming, under scrubbing, visual amenity, effluent systems that are outside the Asset Protection Zones may require approval under the NV Act.
5. The CMA supports enhancements of buffers around wetlands and replanting in environment zones to build on existing EECs to improve and maintain the existing values in the area.

### ***Office of Environment and Heritage (OEH)***

OEH has raised a number of specific and detailed matters that need to be addressed in the consideration of the Master Plan. However, it is generally supportive of the proposal in so far as it is a more achievable scale of development to that contemplated by the zoning of the land given the location and sensitivity of the site in respect to threatened species, endangered ecological communities, wet lands and proximity to the Bega River and its flood impacts. OEH's comments are noted below:

#### **Biodiversity**

1. Biodiversity – Concerned that the 100m buffer from the environmentally sensitive land required by Bega Valley DCP has not been strictly adhered to, especially for lots 17 and 18.
2. Lot 32 be reduced to create a greater buffer to the Coastal Salt Marsh EEC.

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3. The movement of the building envelopes or effluent treatment areas in Lots 21, 25, 29, 30 and 31 to reduce the amount of clearing required.
  4. Ensure hollow bearing trees identified on Lots 25 and 30 are not removed.
  5. Caution needs to be taken in providing public access to the proposed public foreshore reserve system including the SEPP 14 Wetlands. Fencing the wetland areas is supported. Additionally, a Plan of Management for public reserve areas should also be utilised as a site management tool and should be undertaken in consultation with OEH.

#### Aboriginal Cultural Heritage

6. Note that an Aboriginal Heritage Impact Permit will be required to be issued by OEH prior to commencement of any ground disturbing work within the Master Plan site. OEH has provided detailed comment on this issue.

#### Flooding

7. The Bega River Estuary Management Plan (EMP) applies to the site and raises a number of considerations for the approval authority:
  - i. Reinstatement of riparian vegetation to a width of at least 70 metres around the foreshores and wetlands of the site;
  - ii. Maintaining natural (existing) wetting cycles of SEPP 14 Wetlands; and;
  - iii. Implementing a high level of stormwater management that minimises the potential to degrade receiving waters.
8. The Healthy Rivers Commission Report into the Bega River is relevant. The approval authority should satisfy itself that the proposed development will comply with the environmental criteria identified in the report especially in relation to effluent disposal, stormwater quality and riparian buffers.
9. Floodplain Risk Management - The proposal needs to comply with the NSW Government's Flood Prone Land Policy as set out in the Floodplain Development Manual. It is noted that in the Master Plan flood liable land indicates that the 1 in 100 year flood level is 8.0 metres AHD. However, there is no reference as to where or how this level has been determined. OEH recommends that the approval body satisfies itself over the basis of the design flood estimates for flood planning purposes. Particular note should be made of the current work being undertaken in the preparation of the Bega and Brogo Rivers Flood Study which may provide further flood related information to assist in determining this development.

#### Effluent and water cycling

10. Modelling shows a predicted increase in flow (17-20%) and gross pollutants (approx 13%), and a reduction in the loads for suspended solids, phosphorus and nitrogen as a result of the development proposed in the Master Plan. Additional information is sought to confirm the information provided in the Master Plan, specifically:
  - o The Dry Weather Concentrations used in the model; and
  - o Confirmation as to what value was used for Total Nitrogen mean for agricultural land.

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11. OEH has questioned the information provided on the onsite wastewater management and the consequential required irrigation areas for satisfactory treatment.

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

Council generally supports the Master Plan as a more acceptable approach to the development of this prominent area. It has made the following specific comments:

1. The Master Plan should consider the area consistent with an R5 Large Lot Residential Zone with a minimum lot size of 5,000m<sup>2</sup>;
2. There should be a holistic approach to Bush Fire Protection with suitable linkages to existing fire trails;
3. Access will need to comply with the requirements of Roads and Maritime Services;
4. A continuous pedestrian path should be provided around the boundary of the site;
5. Car parking should be considered near the end of Thompson Drive with pedestrian access to the foreshore reserve;
6. Grades of roads should allow for bus route access;
7. Council's Development Control Plan No. 2 requires that on-site sewage systems be located 150 metres from the Bega River;
8. All roads proposed for the development should comply with Council's DCP.

### ***Roads and Maritime Services (RMS)***

1. RMS has concerns with increasing the turning volumes at the junction of Thompson Drive and Tathra Road as the intersection has approximately 140 metre sight distance which falls short of the Ausroads requirements.
2. There are additional issues with the design and the layout of the junction for left and right turns into Thompson Drive from Tathra Road. Not all of these requirements will be specifically generated by the development alone. There are a number of conditions that the RMS has recommended for inclusion in any future conditions of a development application.
3. Additionally, the developer will be required to obtain a Section 138 consent under the Roads Act, 1993 from Council for all works on Tathra Road.

### ***NSW Rural Fire Service (RFS)***

- The NSW RFS raised no objection to the Master Plan.

### ***d. Summary of Public and Agency Issues***

Twenty eight (28) public submissions were received regarding the Master Plan, including one submission on behalf of 47 residents. Issues raised in public submissions include:

- Aboriginal heritage;

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- Setback from wetlands, Bega River and Black Ada Swamp;
- Parking and traffic issues;
- Sensitive coastal location, protection of environmental qualities of the site including protection of flora and fauna;
- Impacts on neighbouring and nearby properties;
- Bushfire Access;
- Foreshore, pedestrian and cycle access;
- Dedication of foreshore land;
- Site lines, views and vistas;
- On-site effluent management;
- Future use including potential future subdivision of residual land; and
- Suitability of site for development.

These issues are addressed below.

### ***Aboriginal heritage***

<i>Issue:</i>	A number of studies have identified the potential for aboriginal cultural heritage.
<i>Raised by:</i>	This issue was raised in almost every public submission and by OEH (issue 6).
<i>Consideration:</i>	The detailed studies referred to by OEH will need to be undertaken by proponents at Development Application (DA) stage. The Master Plan attachments have provided a preliminary Aboriginal Assessment. This assessment includes referencing the former studies undertaken on the site including former test pits (404, Barber and Williams 1994), and sub surface test excavation which recovered a total of 898 artefacts. A s90 Aboriginal Heritage Impact Permit application will be required, which has been identified in the Master Plan and by the OEH. The dwelling envelopes have been placed to avoid known sites.
<i>Resolution:</i>	A s90 Aboriginal Heritage Impact Permit will be required at DA stage. Council should ensure these concerns are addressed at the DA stage.

### ***Setback from wetlands, Bega River and Black Ada Swamp***

<i>Issue:</i>	Concern about the impact of the development on sensitive SEPP 14 Wetlands and the Bega River generally. This includes issues of damage to the wetlands by stormwater and potential failure of on-site effluent management systems as well as possible damage to the wetlands by vehicles, domestic animals and people.
<i>Raised by:</i>	Issue was raised in the majority of submissions including by NRC (2), CMA (3) and OEH (5,7) and Council (4,7),
<i>Consideration:</i>	The Master Plan has been amended to include the dedication of the wetland and foreshore areas to Council, to ensure the ongoing control and management of these sensitive locations in a public reserve. Additionally, appropriate fencing is proposed to be installed around the wetland areas to discourage damage by pedestrians, pushbikes and domestic animals. The subdivision pattern has been amended to provide clear separation between the public reserve and environmental protection areas by extending a formal access path around the edge of residential lots. This will help to discourage encroachment of private land onto public land and clearly delineate the public from private areas.
<i>Resolution:</i>	The proponent has responded to the issue and has provided additional walkways, fencing around the wetlands and the provision of bike and pedestrian access around the edge of a publically dedicated foreshore area.

### ***Parking and traffic issues***

<i>Issue:</i>	Concerns have been raised with traffic management at the intersection of Thompson Drive and Tathra Road. Concerns have also been expressed about the location of public parking on the site for access to the proposed public foreshore reserve.
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<i>Raised by:</i>	A number of public submissions raised this issue as well as Council (3,5) and RMS (1,2 and 3).
<i>Consideration:</i>	RMS has concerns with the increase in turning traffic at the junction of Thompson Drive and Tathra Road. RMS specifically recommends an upgrade of the intersection as part of any development application. It is noted that a right turn upgrade from Tathra Road will be required by 2021 regardless of this proposal.
<i>Resolution:</i>	This issue can be addressed by Council in its assessment of the DA.

### ***Sensitive coastal location, protection of environmental qualities of the site***

<i>Issue:</i>	Concerns were raised that areas set aside for on-site effluent and stormwater management may not be large enough. In addition the proposal may threaten the sensitive wetland areas and the Bega River if the on-site effluent and stormwater management systems are not carefully monitored.  There is additional concern about hollow bearing trees which are important breeding and roosting areas for birds and mammals and that the development may threaten wildlife.
<i>Raised by:</i>	These issues were raised in most submissions, including OEH (4, 11), NRC (2), CMA (3,4) and Council (7).
<i>Consideration:</i>	The proponent has provided technical advice that the effluent management areas are adequate and have been considered using all the relevant available data. It is noted that these individual effluent management areas will need to be revisited at the DA stage in more detail for each site and it will need to adhere to Council's DCP and conditions of consent.  Hollow bearing trees have been identified and will be protected within the subdivision.
<i>Resolution:</i>	The Master Plan subdivision layout has been amended to consider the retention of all hollow bearing trees. An effluent management and stormwater monitoring regime consistent with Council's DCPs will be considered in more detail and determined at the DA stage.

### ***Impact on neighbouring properties – particularly in relation to views***

<i>Issue:</i>	The layout of the subdivision will impact on the privacy and views of existing residents, especially in Wheeler Place.
<i>Raised by:</i>	This issue was raised in submissions from adjoining landowners.
<i>Consideration:</i>	The proposed subdivision layout is of much lower intensity than the existing subdivision. In the Wheeler Place locality proposed housing is of a similar separation distance to existing housing. The location of dwellings has been undertaken to address these issues as well as locating dwellings below existing sight lines as far as possible. It should be noted that the land has been zoned for a much higher density of housing prior to the development of existing housing in this area.
<i>Resolution:</i>	The subdivision layout and yield is a better outcome than could have been achieved under the existing zones. However, Council can address the impact of individual houses on existing views and privacy at the DA stage.

### ***Bush fire access***

<i>Issue:</i>	Concerns over the current inadequacies of bushfire access was raised during submissions, as well as the cumulative impact of additional dwellings and the need for emergency access in the event of a bushfire.
<i>Raised by:</i>	This issue was raised in the majority of public submissions, and was also raised by Council (2). The concerns with bushfire emergency access were discussed with the proponent, including the need to identify and provide fire trails and connection to existing fire trails as well as the need for an emergency evacuation strategy to be prepared at the DA stage.
<i>Consideration:</i>	Asset Protection Zones (APZs) have been identified for each dwelling as part of the study.  Access has been provided beyond Lots 31 and 32 to the south to link with existing fire

	<p>trail networks.</p> <p>In addition the extension of the pedestrian/cycle path around the perimeter of the development will also double as emergency vehicle access connected to the road system.</p>
<i>Resolution:</i>	<p>The provision of APZs, connection to the fire trail network and emergency access around the edge of the development have addressed many of the concerns. It would be appropriate for Council to consider other matters in a bushfire emergency strategy, such as evacuation on-site, at the DA stage.</p>

### ***Foreshore access, including pedestrian and cycle way access***

<i>Issue:</i>	<p>The site has a history of community use and should be secured for pedestrian and cycle access both along and to the foreshore areas of the Bega River. Concern has been expressed that no vehicular access should be provided on Crown Land, and that there be no vehicular access to the river foreshore.</p>
<i>Raised by:</i>	<p>This issue was raised in the majority of submissions, including those that represented 47 individual Tathra residents. It was also raised by OEH (5) and Council (4,5).</p>
<i>Consideration:</i>	<p>The Master Plan has been amended to provide the opportunity for pedestrian and cycle access around the edge of residential development and along the foreshore. This will also serve as an edge to residential development clearly separating public and private lands.</p>
<i>Resolution:</i>	<p>The changes to the Master Plan have resulted in a more accessible foreshore reserve as well as clearly identifying public land. The network also provides a link to potential access to the beach across Crown Land.</p>

### ***Dedication of foreshore land and management of wetlands and flood prone land***

<i>Issue:</i>	<p>The Master Plan has specifically addressed the potential for dedication of foreshore land. However, it has not clearly addressed the future of the SEPP 14 Wetland areas and the areas affected by flooding.</p>
<i>Raised by:</i>	<p>This issue was raised in most submissions, and was also raised by OEH (1, 2, 5, 7, 8 and 9), It was the subject of the discussions with the proponents in November 2012.</p>
<i>Consideration:</i>	<p>The Master Plan identifies a foreshore reserve system, including SEPP 14 Wetlands, to integrate with existing reserves. The proponents intend to negotiate with Council about dedication, and the future protection and management of the reserve. The lands will include a significant proportion of the flood prone lands. Council has indicated that it is willing to consider accepting foreshore land.</p>
<i>Resolution:</i>	<p>The lands proposed to be included in the foreshore reserve would appear to include most of the environmentally significant areas. The proposals for fencing of wetlands and pedestrian and cycle access that separates the area from residential development provide further protection of environmental areas. There is no development proposed on flood prone land.</p>

### ***Site lines, views and vistas***

<i>Issue:</i>	<p>The issue of the visual impact on the coastal location looking from the east to the site has been identified.</p> <p>An additional concern is the intrusion of new dwellings on general view corridors and existing dwellings' view lines.</p>
<i>Raised by:</i>	<p>This has been raised by all respondents from the public and the NRC (1) and was also discussed during the meeting with the proponent in November 2012.</p>
<i>Consideration:</i>	<p>The site, including the existing development, is highly visible from the coast. The density of this development is significantly lower than the existing housing. New houses have been located generally below the ridge crest and are screened by pockets of remnant vegetation. The location of houses below the ridge crest has limited the potential to impact on existing house views and general view corridors from local roads. The greatest potential interruption is at the end of Wheeler Ave where the topography forces dwelling envelopes closer to the ridge crest. However, the land slopes away from the existing houses and the density of housing is similar to the existing development. Generally the lots are large enough to provide for sensitive orientation of buildings on each lot, and the final subdivision DA should clearly be</p>



	reflective of the high visual qualities of this important location.
<i>Resolution:</i>	Ensure new dwellings are integrated into the landscape carefully through location, colour schemes and the choice of building materials, orientation and the use of appropriate landscaping and existing remnant vegetation. Maintain the location of dwellings below the ridge crest and consider the orientation of dwellings on each site to consider existing private and general views. These considerations should inform the DA stage.

### ***On-site effluent management***

<i>Issue:</i>	Concern that the onsite effluent management areas need to be monitored and may be too close to SEPP 14 Wetlands including Black Ada Swamp.
<i>Raised by:</i>	This issue was raised in most submissions, OEH (11), the NRC (2) and Council (7).
<i>Consideration:</i>	Each Lot has a proposed effluent management area identified consistent with the Water Cycle Management Study and Council's "DCP No.5 On-Site Sewage Management". They are all setback 150m from the Bega River and 100m from other permanent water bodies and wetlands. Approvals by the Council will require achievement of the DCP No.5 and can address the need for monitoring.
<i>Resolution:</i>	The proposed effluent management areas achieve the requirements of DCP No.5 and can be addressed in further detail through the DA process.

### ***Future use of residual lands***

<i>Issue:</i>	The residual lands in the Master Plan represent 72.5 hectares of land that has not been identified for dwellings, or identified for public or private open space. There is some concern that this land will be the site of future subdivisions that are not specifically flagged in the Master Plan. There needs to be a clearly articulated future for this land that can be identified in the Master Plan process. If the residue land is to be the subject of a future subdivisions this needs additional studies, and should be undertaken via a Planning Proposal to ensure transparency and consultation.
<i>Raised by:</i>	Most public submissions raised this as an issue and was also discussed at the meeting with the proponent in November 2012.
<i>Consideration:</i>	The land at present is zoned 1(a) Rural General Zone and remains subject to the land uses and planning provisions of that zone. The current subdivision standard is 120 ha which does not enable further subdivision of this land. Any change to the zone and/or intensify of land use may require a Master Plan under SEPP71 and a Planning Proposal.
<i>Resolution:</i>	The land will remain subject to the current planning provisions of Bega Valley LEP 2002 as Council has elected to defer these lands from Bega LEP 2013. The owner may need to initiate a Master Plan to consider future subdivision and a Planning Proposal to amend the prevailing planning provisions.

### ***Suitability of site for development***

<i>Issue:</i>	The site should not be developed at all and left as rural land.
<i>Raised by:</i>	This issue was raised in a number of submissions.
<i>Consideration:</i>	The land, while still rural in nature and use, is not zoned rural. It has been zoned residential for some time and was exhibited as a residential zone in the Draft Bega Valley LEP 2012. The proposed development is a significant reduction in intensity from what the current zones enable. While the level of development enabled by the current zones may not be achievable, the proposed level of development recognises the land's capability and seeks to protect its environmental and aesthetic integrity and promote public access. The site is identified in South Coast Regional Strategy and action 2 on page 23 recommends resolution of the site using the recommendations of the South Coast Sensitive Urban Lands Review (Appendix 2 pages 46 and 47). This identified a development capacity for the site of up to 300 lots with the provision of sewer. The current proposal is for only 32 lots, with on-site effluent management. Other environmental and hazard provisions of the Strategy have been addressed in the Master Plan.
<i>Resolution:</i>	The Master Plan proposes a level of development that is achievable and complementary to the site's environmental and aesthetic values.

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## 8 SEPP 71 CLAUSE (8) CONSIDERATIONS

### Aims of Policy

SEPP 71 aims to ensure that development on coastal lands in NSW occurs in a way that does not detract from the cultural, economic, environmental and recreational qualities of that land. It seeks to provide both broad, and site specific controls, including urban design considerations, to guide the development on land captured by the State Environmental Planning Policy. The reference throughout the document specifically refers to a Master Plan, however, the Master Plan will in effect, provide the basis and development guidelines, that is, a Development Control Plan, to guide the determination of any and all future development of this particular site.

In considering a draft Master Plan, the Minister (or delegate) must take into account a number of matters that ensure the suitability of the proposed development against the aims of the policy and the considerations in Clause 8.

- A) To protect and improve existing public access, including pedestrian, cycle and road access and circulation networks to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.**

Response - A number of submissions have identified the opportunity to provide enhanced pedestrian access and additional opportunities for cycle access to and from the coast and to the rest of the Tathra village. Access to the river foreshore is currently being identified as an extension of Thompson Drive. The current proposal will provide for increased pedestrian and vehicular access to the foreshore areas. The potential walking track to Tathra Beach from the end of lots 31 and 32 has also been considered as an opportunity of providing additional emergency egress. Shared pedestrian and bike access is proposed to be provided to access the foreshore areas while still protecting the SEPP 14 Wetland areas. This may be linked with the proposed car park areas, utilising the existing Thompson Drive and trails that extend to the Tathra village from lots 31 and 32. The Master Plan identifies the provision of walking trails around the site. It is recommended that these walking trails should ensure they are wide enough to provide for the use of pushbikes and pedestrian access. These pathways will additionally function as a physical separation between private and public land, especially on the western side of Black Ada Swamp. The path has been extended from Lot 19 to Lots 12 and 13.

- B) Ensure there are measures to protect the cultural places, values and traditional knowledge of Aboriginal communities;**

Response - The Master Plan has been prepared based on a preliminary Aboriginal Heritage Assessment, which is itself based on previous studies undertaken at the site. There are issues raised in the Aboriginal Heritage Report that need to be further considered and include a number of survey areas that have been identified between consultants' studies as being of High Significance ( Barber and Williams 1993), to Low/Moderate significance ( Barber and Williams 1994). OEH have identified the need for an Aboriginal Heritage Impact Permit on the site prior to any ground disturbance.

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Submissions have pointed out the opportunity of using interpretative signage and other elements that would provide an educative element and additionally enhance the future hard and soft landscape treatment of the estate, especially in the public realm, access points, picnic and foreshore areas. Additional consultation and co-operation between the proponents and OEH needs to be undertaken to address these site specific Aboriginal Heritage management issues at the DA stage.

**C) Protect the scenic qualities of the NSW Coast and address any detrimental impact that development may have, including any significant loss of coastal views from a public place to the coastal foreshore;**

Response - The siting of the future dwelling allotments has been considered in the context of the highly prominent nature of the site, including the views from the east to the site. There are additional opportunities at the subdivision DA stage to consider the orientation of allotments and building envelopes to reduce the prominence of future dwellings against the landscape, in particular to reduce the visual impact of the subdivision from the site lines to and from the coast. The desired future character is to reduce the prominence and visual impact of future dwellings.

**D) to protect and preserve beach environments and amenity**

Not applicable to this Master Plan.

**E) To protect and preserve native coastal vegetation, including measures to conserve animals;**

Response - The Tathra River Estate is currently home to a number of native fauna, including Eastern Grey Kangaroos, Brushtail Possums and many varieties of birds, reptiles, and various bat species typically associated with grazing lands and remnant forests. There are a number of hollow bearing trees which provide roosting and breeding habitat for a range of mammals and birds. The Master Plan currently proposes to retain the majority of these trees. There are no recorded threatened flora or fauna species recorded. Given the nature of the site which has been heavily altered through grazing, the most significant impact of the proposed development and identified in the Master Plan documentation will be on the extensive area of exotic pasture with scattered remnant trees that dominates the study area. The most sensitive areas on the site include endangered Ecological Communities Southeast Lowland Grassy Woodland, Swamp Sclerophyll Forest and Coastal Saltmarsh will not be directly affected by the proposal. Many of these areas will be protected in the proposed public reserve. The measures proposed in the Master Plan for these areas will provide adequate protection while minimising any negative impacts.

**F) To protect and conserve the marine environment of NSW and likely impacts on water quality of coastal waterbodies;**

Response - The lot layout has been revised to avoid direct impacts on SEPP 14 Department of Planning and Infrastructure

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Wetlands. The OEH has raised additional issues dealing with Australian/New Zealand Standard (AS/NZ) 1547:2012 Onsite Domestic Wastewater Management which it suggests may change the required irrigation area. The proponent's Water Cycle Management Plan was prepared in late 2011 and acknowledges that individual development applications will need to address the new AS/NZ1547 which was introduced in February 2012 and effluent management areas may have to be revised. The lots have ample area identified for effluent disposal if areas need to be increased. The need for adequate, long term maintenance of the proposed on-site effluent management systems, through DCP No. 5 On-Site Sewage Management has also been raised by the Natural Resource Commission and a number of the other submissions from the public.

**G) To consider the likely impact of coastal process and coastal hazards on development including to protect and conserve rock platforms;**

Response - The draft plan identifies building envelopes and effluent disposal areas for the proposed subdivision. The site constraints, including the slope of the site, its proximity to sensitive wetlands require that each building envelope has its own viable effluent disposal area. The general layout of the lots in the landscape, in particular the size of the lots, which range from 4,754 square metres to 1.77 ha, provide appropriate land to cope with on-site effluent disposal. Additionally, the effluent management areas are outside flood prone land identified in Council's flood studies, and will not be impacted upon by storm surge or coastal processes.

**H) To manage the coastal zone in accordance with the principles of ecologically sustainable development;**

Response - The Master Plan proposes that wetlands be protected in a foreshore reserve to be dedicated to Council for ongoing management. There will also be regular monitoring of effluent disposal systems, storm water and invasive species management. Walkways, suitable for pushbikes and pedestrians and public access to and around the foreshore, needs to be balanced with protection of sensitive wetland areas. SEPP 14 Wetland areas are proposed to be fenced and managed by Council along with the other public access areas on the site.

**I) To ensure that the type, bulk, scale design and size of development is appropriate for the location and its relationship to the surrounding area;**

Response - The retention of riparian corridors and the protection of the significant attributes of the location, especially in regards to the SEPP 14 Wetlands, the identified EECs, remnant vegetation and the visual dominance of the river to the entire site has been enhanced in the Master Plan. There is an opportunity to consider urban design principles including building materials, tonal palettes and the use of soft landscaping to reduce the visual impact of future dwellings on the view from the east to the site at the subdivision DA stage. The subdivision layout has been designed with the site constraints in mind, and a number of changes have been made to improve the design, biodiversity outcomes and the provision of open space as a result of the consideration

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of submissions from residents, Agencies, Council and the Department. To provide certainty in the layout of the subdivision, including the provision of adequate land for on-site effluent management, and to further facilitate access around the perimeter of the site, the area to the north east has been redesigned to provide enhanced access to the foreshore areas. The need to provide for more effective road and traffic management issues, particularly on the Tathra Road intersection has also been noted by the proponent who has indicated these matters will be adequately addressed to the satisfaction of RMS and Council.

**J) To encourage a strategic approach to coastal management;**

Response - The Master Plan has provided an opportunity to finalise the future development options for a site that is significant environmentally, socially and culturally to the Tathra and Bega Valley area. The Master Plan has identified a low density option, and also seeks to ensure access to and the protection and management of sensitive coastal and wetland areas. The Master Plan will inform the future development of this site and provides additional information including outcomes of community feedback to assist Council in finalising the zoning and planning controls for the site.

**K) To consider and implement measures to conserve fish and marine vegetation and their habitats;**

Response - The Master Plan is supported by a Water Cycle Management Plan which aims to ensure that there will be a neutral or beneficial effect on water quality leaving the site, both surface water and groundwater. Each dwelling will have its own water supply and will manage its own wastewater. This includes the use of water tanks for each dwelling and the provision of grass swales. The subdivision and lot size for each dwelling is designed to ensure adequate land around a dwelling to adequately address both stormwater and on-site effluent treatment. The proposal will not adversely affect fish and marine vegetation.

**L) To ensure the provision of open space, its function and landscaping including existing wildlife corridors and the impact of development on these corridors;**

Response - The development scale identified for the site in the Master Plan is reasonably modest with 32 allotments. The Master Plan identifies physical and visual buffers between allotments; road, cycle and pedestrian access; wetland protection; foreshore reserve with public access; and bushfire asset protection zones. Public walkways and the layout of individual dwellings will separate development from and enhance existing wildlife corridors.

**M) Measure to reduce the potential for conflict between land based and water based coastal activities including the provision of public facilities and services;**

Response - The Master Plan has adequately addressed the need to ensure that the Department of Planning and Infrastructure

SEPP 14 Wetlands are protected. Consideration has been given to the dedication of those Wetlands to Council as part of the open space network to ensure appropriate management and monitoring of these areas. Two public car parks have been identified as well as well as provision for public access to the Bega River foreshore. An edge road and path is proposed separating housing from open space which can provide pedestrian access, maintenance and emergency access for vehicles. The edge road and path will also differentiate and isolate private property from encroaching on public open space areas. This is particularly critical on those lots adjacent to the areas abutting the SEPP 14 Wetlands and foreshore areas.

**N) To ensure the conservation and preservation of items of heritage, archaeological or historical significance including heritage conservation;**

Response - The Master Plan has indicated that there are no heritage constraints that would preclude a proposed subdivision development. Indigenous heritage and cultural matters have been dealt with (**see B**).

**O) Only in cases in which council prepares a draft local environmental plan that applies to land to which this policy applies, the means to encourage compact towns and cities, including subdivision patterns;**

Response - Not applicable for this Master Plan.

**P) Only in cases in which a development application in relation to the proposed development is determined:  
 The cumulative impacts of the proposed development on the environment; and  
 Measures to ensure the water and energy usage by the proposed development is efficient.**

Response - Not applicable for this Master Plan

## 9 REVISIONS MADE TO THE MASTER PLAN IN RESPONSE TO SUBMISSIONS

The following table represents the revisions proposed by the proponents in response to the submissions to the Master Plan from the exhibition period. These are considered to address the key issues raised in consultation that are relevant to the Master Plan stage.

Revision	Explanation
Lot boundaries have been revised in order to avoid encroachment of boundaries on SEPP 14 wetlands.	The boundaries of Lots 5,15,16,17, 31 and 32 have been amended in order to avoid encroachment of wetlands and provide a

	greater buffer to wetland areas
Outer pedestrian/cycle track	The proposal now includes a perimeter walking/cycling track that will provide public access to the foreshore areas and which will provide greater delineation between private freehold lands and the proposed public reserve system. Provision for fire trucks can also be included as part of this system and hence it may serve as a fire trail and emergency access.
Additional public car park location	Council identified a preferred location for an additional public car park. The additional car park is now to be located as per Council's suggested location, i.e., to the north of the existing Tathra River Estate off Thompson Drive.
Lot boundaries have been revised to include existing forested areas in public reserve.	Lot 31 has been reconfigured in order to integrate the existing forest within the foreshore reserve system. The building envelope and effluent management area will be located on cleared land in the northern part of the lot.

## 10 CONCLUSION

The Minister for Planning and Infrastructure is the authority for the adoption of Master Plans under the provisions of State Environmental Planning Policy No 71 – Coastal Protection.

The draft Master Plan has been considered in accordance with clause 22 of State Environmental Planning Policy No 71 – Coastal Protection. The draft Master Plan has been notified and the relevant agencies have been consulted in accordance with clause 21 of SEPP 71. All submissions have been considered in this assessment.

Generally, it is considered that the draft Master Plan proposes development that is permissible within the zone, is generally compatible with the character of the area, and which will not have an unacceptable visual or environmental impact.

It is considered that the draft plan is **acceptable** with the changes provided by the proponent in response to the matters raised in public submissions and by Bega Valley Shire Council, State Government Agencies and the Department of Planning and Infrastructure.

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## 11 RECOMMENDATION

It is recommended that the Local Planning Manager, as a delegate of the Minister for Planning and Infrastructure under clause 22 of State Environmental Planning Policy No 71 – Coastal Protection:

- (A) **ADOPT** the Master Plan for the purposes of development of the land at Lot 2 DP582074 Thompson Drive Tathra, titled Master Plan, Amended Post Exhibition, Proposed Residential Subdivision, Lot 2 DP582074, Thompsons Road, Tathra, April 2013 prepared by Cowman Stoddart Pty Ltd.
- (B) Authorise the Department to carry out post-determination notification; and
- (C) Advise the Agencies and community submitters of the decision.

Prepared by: \_\_\_\_\_ :



**Ann Martin 20<sup>th</sup> June 2012**  
**Environmental Planning Officer**

**ADOPTED:**



**Mark Parker 20<sup>th</sup> June 2012**  
**Local Planning Manager**  
**As Delegate of the Minister for Planning and Infrastructure**