

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Proposal Title : Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Proposal Summary : The planning proposal seeks to undertake a range of minor and housekeeping amendments, including:

1. minor amendments to zoning maps that do not reflect current or appropriate zones,
2. minor amendments to some heritage maps that are incorrect,
3. adding 4 new heritage items to the heritage provisions,
4. adding an additional land use to the B1 Neighbourhood Centre Zone,
5. amending clause 5.4(6) to increase the 'kiosk' floorspace to 50sqm,
6. adding an additional land use to the R3 Medium Density Residential Zone.

See supporting notes for detailed explanation.

PP Number : PP_2017_BEGAV_002_00 **Dop File No :** 16/15215

Proposal Details

Date Planning Proposal Received :	23-Jan-2017	LGA covered :	Bega Valley
Region :	Southern	RPA :	Bega Valley Shire Council
State Electorate :	BEGA	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :	Brown Mountain	City :	Postcode :
Land Parcel :	Lot 1 DP 746820		
Street :			
Suburb :	Candelo	City :	Postcode :
Land Parcel :	Lot 1 DP 811091, Lot 323 DP 44296		
Street :			
Suburb :	Cobargo	City :	Postcode :
Land Parcel :	Lot 22 Sec 7 DP 485		
Street :			
Suburb :	Eden	City :	Postcode :
Land Parcel :	Part Lot 12 DP 829854		
Street :			
Suburb :	Eden	City :	Postcode :
Land Parcel :	Lot 78 DP 809238, Lot 30 DP 703279		

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Street :			
Suburb :	Merimbula	City :	Postcode :
Land Parcel :	Lot 51 DP 883129		
Street :			
Suburb :	Mogareeka	City :	Postcode :
Land Parcel :	Lot 13 DP 710669		
Street :			
Suburb :	Quaama	City :	Postcode :
Land Parcel :	Lots 1-3 Sec 8 DP 758860		
Street :			
Suburb :	Tathra	City :	Postcode :
Land Parcel :	Lot 7 DP 263659		
Street :			
Suburb :	Towamba	City :	Postcode :
Land Parcel :	Lot 8 DP 107143, Lot 1 DP 88578		
Street :			
Suburb :	Wyndham	City :	Postcode :
Land Parcel :	Lot 10 DP 607581		
Street :			
Suburb :	Wyndham	City :	Postcode :
Land Parcel :	Lot 1 DP 1172468		
Street :			
Suburb :	Bega	City :	Postcode :
Land Parcel :	Lot 3200 DP 1036584		
Street :			
Suburb :	Eden	City :	Postcode :
Land Parcel :	Aslings Beach Rock Pool		
Street :			
Suburb :	Eden	City :	Postcode :
Land Parcel :	Thompsons Point Baths, Snug Cove		
Street :	142-144 Imlay Street		
Suburb :	Eden	City :	Postcode :
Land Parcel :	Hotel Australasia		
Street :	3-5 Bass Street		
Suburb :	Eden	City :	Postcode :
Land Parcel :	Hopetoun House, Lot D DP 164277		
Street :	243 Imlay Street		
Suburb :	Eden	City :	Postcode :
Land Parcel :	Lot 1 DP 731580		

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Street :

Suburb : Eden City : Postcode :

Land Parcel : Eden Killer Whale Museum, Lot 1 DP 48609, Lot 1 Sec 6 DP 758379

Street :

Suburb : Boydtown City : Postcode :

Land Parcel : Part Lot 13 DP 716162

Street :

Suburb : Kameruka City : Postcode :

Land Parcel : Kameruka Cemetery, Lot 140 DP 1064610

Street : Kameruka Street

Suburb : Bemboka City : Postcode :

Land Parcel : Lot 10 SEc 11 DP 758087

Street : 71-73 Loftus Street

Suburb : Bemboka City : Postcode :

Land Parcel : Lot 14 DP 805581

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre : N/A Release Area Name : N/A

Regional / Sub South Coast Regional Consistent with Strategy : Yes

Regional Strategy : Strategy

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : The following are more detailed explanations of the proposed changes contained in this planning proposal:

1. Zoning item 1 - Lot 1 DP 746820, Brown Mountain: It is currently used as part of the Brown Mountain Power Station, however the current zoning is E1 National Parks and Nature Reserves Zone. It is proposed to rezone the item to E3 Environmental Management Zone with a 120ha minimum lot size to reflect a more appropriate zone for the use.

2. Zoning Item 2 - Lot 1 DP 811091, Lot 323 DP 44296, Candelo: Currently used as the Candelo Swimming Pool and currently zoned RU1 Primary Production Zone. It is proposed to rezone the item to RE1 Public Recreation Zone to reflect a more appropriate zone for the use.

3. Zoning Item 3 - Lot 22 Sec 7 DP 485, Cobargo: Currently used as a dwelling, however it is currently zoned as RE1 Public Recreation Zone. It is proposed to rezone the item to RU5 Village Zone with a 1000sqm minimum lot size to reflect a more appropriate zone for the use.

4. Zoning Item 4 - Part Lot 12 DP 829854, Eden: Currently used as a dwelling, however it is currently zoned as RE1 Public Recreation Zone. It is proposed to rezone the item to R2 Low Density Residential Zone with a 550sqm minimum lot size to reflect a more appropriate zone for the use.

5. Zoning Item 5 - Lot 78 DP 809238 and Lot 30 DP 703279, Eden: Currently used as Bushland Public Reserve, however the lots are currently zoned R2 Low Density Residential. It is proposed to rezone the items to E2 Environmental Conservation Zone to reflect a more appropriate zone for the use.

6. Zoning Item 6 - Lot 51 DP 883129, Merimbula: Currently used as Bushland Public Reserve, however it is currently zoned R2 Low Density Residential. It is proposed to rezone the item to E2 Environmental Conservation Zone to reflect a more appropriate zone for the use.

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

7. Zoning Item 7 - Lot 13 DP 710669, Mogareeka: Currently used as a dwelling, however it is currently zoned as RE1 Public Recreation. It is proposed to rezone the item to E4 Environmental Living Zone with a minimum lot size of 2000sqm to reflect a more appropriate zone for the use.

8 Zoning Item 8 - Lots 1-3 Sec 8 DP 758860, Quaama: Currently used as Quaama Park, however they are zoned RU5 Village. It is proposed to rezone the items to RE1 Public Recreation Zone to reflect a more appropriate zone for the use.

9 Zoning Item 9 - Lot 7 DP 263659, Tathra: Currently used as a dwelling, however it is currently zoned as RE1 Public Recreation Zone. It is proposed to rezone the item to R2 Low Density Residential Zone with a 550sqm minimum lot size to reflect a more appropriate zone for the use.

10. Zoning Item 10 - Lot 8 DP 107143 and Lot 1 DP 88578, Towamba: Currently used as the Towamba Recreation Reserve/Hall, however the lots are currently zoned RU5 Village. It is proposed to rezone the items to RE1 Public Recreation Zone to reflect a more appropriate zone for the use.

11. Zoning Item 11 - Lot 10 DP 607581, Wyndham: Currently used as a dwelling, however it is currently zoned as RE1 Public Recreation. It is proposed to rezone the item to RU5 Village Zone with a minimum lot size of 2000sqm to reflect a more appropriate zone for the use.

12. Zoning Item 12 - Lot 1 DP 1172468, Wyndham: Currently used as tennis courts, however it is zoned RU5 Village. It is proposed to rezone the item to RE1 Public Recreation Zone to reflect a more appropriate zone for the use.

13. Heritage Item 1 - Old Bega Racecourse Grandstand, Lot 3200 DP 1036584, Bega: This item was identified as a heritage item in the Bega Valley LEP 2002, however it was inadvertently left out of the Bega Valley LEP 2013. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

14. Heritage Item 2 - Aslings Beach Rock Pool, Eden: This is a new heritage item. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

15. Heritage Item 3 - Thompsons Point Baths, Snug Cove, Eden: This is a new heritage item. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

16. Heritage Item 4 - Hotel Australasia, Lot 14 DP 250841 (142-144 Imlay Street), Bega: This is a new heritage item. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

17. Heritage Item 5 - Hopetoun House, Lot D DP 164277 (3-5 Bass Street), Eden: This lot contains the heritage item, however it was inadvertently left out of the Bega Valley LEP 2013. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

18. Heritage Item 6 - Lot 1 DP 731580 (243 Imlay Street), Eden: This item was identified as a heritage item in the Bega Valley LEP 2002, however it was inadvertently left out of the Bega Valley LEP 2013. It is proposed to add the item to the heritage maps and Schedule 5 of the BVLEP 2013.

19. Heritage Item 7 - Eden Killer Whale Museum, Lot 1 DP 48609, Lot 1 Sec 6 DP 758379, Eden: These lots were inadvertently left off the Bega Valley LEP 2013 Heritage Map and one lot was inadvertently left out of Schedule 5. It is proposed to add the items to the heritage maps and add the missing item to Schedule 5.

20. Heritage Item 8 - Old Church and Salting Works, Part Lot 13 DP 716162, Boydtown:

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

These two heritage items are part of the listing in Schedule 5 of the Bega Valley Local Environmental Plan 2013 but were inadvertently not included on the heritage maps. It is proposed to amend the heritage maps to include these items.

21. Heritage Item 9 - Kameruka Cemetery, Lot 140 DP 1064610, Kameruka: This Lot is part of the church complex but was inadvertently not included on the heritage maps or in Schedule 5 of the LEP. It is proposed to amend the heritage maps to include these items and add the item to Schedule 5 of the Bega Valley Local Environmental Plan 2013.

22. Heritage Item 10 - Lot 10 Sec 11 DP 758087, Kameruka Street, Bemboka: This lot is incorrectly mapped as part of an adjoining heritage item, however there is no heritage item or other heritage significance on this lot. It is not listed in Schedule 5 of the LEP. It is proposed to remove this lot from the Heritage Map of the Bega Valley Local Environmental Plan 2013.

23. Heritage Item 11 - Hobbs Cottage and Store, Lot 14 DP 805581 (71-73 Loftus Street), Bemboka: This lot is listed in Schedule 5 of the LEP, however it was inadvertently left off the Heritage Map. It is proposed to add this item to the Heritage Map of the Bega Valley Local Environmental Plan 2013.

24. Land Use Table Item 1 - Permitting 'Restaurants and cafes' in the B1 Neighbourhood Centres Zone will ensure that a number of existing restaurants and cafes that currently operate in the B1 Zone across the Shire are permissible development and no longer have to operate under existing use rights. It is proposed to add 'Restaurants and cafes' to the B1 Neighbourhood Centres zoning table.

25. Land Use Table Item 2 - Permitting 'Information and education facilities' in the R3 Medium Density Residential Zone is considered by Council to be a compatible use with the zone objectives. Council notes that this land use was permitted in the equivalent 2(b) Medium Density Zone under the Bega Valley LEP 2002. It is proposed to add 'Information and education facilities' to the R3 Medium Density Residential zoning table.

26. Clause Amendment - Council is proposing to increase the floor space of kiosks from 20sqm to 50sqm. Council notes that kiosks were permitted a floor space ratio of 50sqm under the Bega Valley LEP 2002 and it appears it may have been inadvertently reduced to 20sqm under the Bega Valley LEP 2013. It is proposed to amend clause 5.4(6) of the Bega Valley LEP 2013 to permit kiosks to have a floor space ratio of 50sqm instead of 20sqm.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The objectives of the planning proposal are to rectify inappropriate zones, addition and deletion of heritage items, correction of errors to heritage items and maps, rezoning village land to public recreation in appropriate locations and adjusting land use tables for the B1 and R3 Zones.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions is given in detail in the external supporting notes section of this report.

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.2 Coastal Protection

3.1 Residential Zones

Is the Director General's agreement required? No

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified?

N/A

e) List any other matters that need to be considered :

SECTION 117 DIRECTIONS:

1.1 BUSINESS AND INDUSTRIAL ZONES: Council has not identified that this Direction applies to the planning proposal, however it does apply as it will affect land within an existing or proposed business or industrial zone.

The proposal is considered to be **CONSISTENT** with this direction.

1.5 RURAL LANDS: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural or environmental protection zone/proposes to change the existing minimum lot size on land within a rural or environmental protection zone.

The proposal is considered to be **CONSISTENT** with this direction.

2.1 ENVIRONMENT PROTECTION ZONES: This Direction does apply to the planning proposal as it will affect land within an environment protection zone or land otherwise identified for environment protection purposes.

The proposal is considered to be **CONSISTENT** with this direction.

2.2 COASTAL PROTECTION: This Direction does apply to the planning proposal as the subject land is within the coastal zone.

The proposal is considered to be **CONSISTENT** with this direction.

3.1 RESIDENTIAL ZONES: This Direction does apply to the planning proposal as it will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted.

The proposal is considered to be **CONSISTENT** with this direction.

5.1 IMPLEMENTATION OF REGIONAL STRATEGIES: This Direction does apply to the planning proposal as the South Coast Regional Strategy applies to the land.

The proposal is considered to be **CONSISTENT** with this direction.

6.2 RESERVING LAND FOR PUBLIC PURPOSES: This Direction does apply to the planning proposal as it will create zonings or reservations of land for public purposes and requires the approval of the relevant public authority and the Secretary of the Department.

The proposal is considered to be **CONSISTENT** with this direction as the Gateway determination will issue the necessary approval.

RECOMMENDATION: The Secretary of the Department approves of the proposal to alter the zonings of land for public purposes.

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

Minor amendments - correct zoning anomalies, additional heritage items, minor land use table and clause 5.4 changes.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : The mapping is well suited to public exhibition.

Final maps consistent with the Department's Technical Guidelines will need to be prepared prior to finalising the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council is proposing 28 day exhibition period.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Bega Valley Local Environmental Plan 2013.

Assessment Criteria

Need for planning proposal : The planning proposal will rectify some errors and minor issues with the BVLEP 2013. It is also an opportunity to add some new heritage items to the LEP.

There are no other options to achieve the rezoning and heritage outcomes as proposed in the planning proposal. However, there are other options for the land use table amendments. Council could use Schedule 1 to permit certain prohibited uses on particular sites, or it could rezone sites to a different zone.

Consistency with strategic planning framework : The planning proposal outcomes are considered to be minor and as such, are considered consistent with the strategic planning framework.

The zoning amendments relate to matching the existing land use with the appropriate zone on a number of individual lots. The heritage amendments relate to correcting errors in drafting and translation from the Bega Valley LEP 2002 to the Bega Valley LEP 2013. The inclusion of three additional heritage items is considered to be a minor change to the heritage provisions of the LEP.

The changes are considered to be consistent with the strategic planning framework.

Environmental social economic impacts : There are no significant environmental, social or economic impacts as a result of this proposal.

The proposed zoning changes are considered to be minor as they all are intended to

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reflect the current use of the land.

The proposed heritage amendments are considered minor, with most being errors inadvertently made at the time of the principal LEP.

The addition of 3 new items are well supported by evidence of heritage significance identified by Council's heritage adviser. Council's planning proposal provides more detail on the significance of the sites proposed to be included in the LEP.

The amendments to the land use tables were further discussed with Council to understand if there are any potential unintended consequences of allowing additional uses in the two zones. Council is of the view that the risk of a negative unintended consequence eventuating from the increased permissible uses is quite low. Council did not want to pursue other options such as using Schedule 1 to permit particular uses for a particular site. Council's analysis and risk assessment is considered acceptable and the proposed changes to the land use table are considered suitable to proceed.

The amendments to clause 5.4 are considered very minor and unlikely to generate any negative impacts.

Assessment Process

Proposal type : Routine Community Consultation Period : 28 Days

Timeframe to make LEP : 12 months Delegation : RPA

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? No

(2)(a) Should the matter proceed ? Yes

If no, provide reasons :

Resubmission - s56(2)(b) : No

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? No

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Letter from Bega Valley Shire Council_12-01-2017_Planning Proposal for Gateway Determination - Minor Amendments and Additional Heritage Items.pdf	Proposal Covering Letter	Yes
Planning Proposal - Bega Valley Minor Amendments REVISED VERSION Jan17.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : Recommended with Conditions

S.117 directions:

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones

Additional Information : RECOMMENDATIONS

It is RECOMMENDED that the Acting Director Regions, Southern, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the Environmental Planning and Assessment Act, 1979 that an amendment to the Bega Valley Local Environmental Plan (LEP) 2013 to make 12 minor zoning changes, 11 heritage amendments and minor changes to two land use tables and clause 5.4 in the Bega Valley Local Environmental Plan 2013 should proceed subject to the following conditions:

CONSULTATION

1. Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:

(a) the Planning Proposal must be made publicly available for a minimum of 28 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016).

2. No consultation is required with public authorities under Section 56(2)(d) of the Act

3. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

TIMEFRAME

4. The timeframe for completing the LEP is to be 12 months following the date of the Gateway determination.

DELEGATION

5. The Council is authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

MAPPING

6. The final LEP maps shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" Vers: 1.0 November 2015.

SECTION 117 DIRECTIONS

It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions 1.1 Business and Industrial Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 3.1 Residential Zones.

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(b) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance;

(c) The Secretary's delegate agree to the creation of land for public purposes on the basis that the proposed rezonings will reflect the public use and ownership of the land, and

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

SEPPS

The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons : These amendments are appropriate.

Signature:



Printed Name:

Deanne Frake

Date:

7/2/17

