

PLANNING PROPOSAL TO AMEND BEGA VALLEY LOCAL ENVIRONMENTAL PLAN 2013

To reclassify Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka

Prepared for and on behalf of Bega Valley Shire Council by Zenith Town Planning,

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INTRODUCTION

This planning proposal has been prepared in accordance with section 55(2) of the *Environmental Planning and Assessment Act 1979*.

The purpose of the planning proposal is to amend *Bega Valley Local Environmental Plan (LEP) 2013* to reclassify Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka from community land to operational land.

The scope of this planning proposal is to describe the allotment of land and relevant attributes and to respond to matters for consideration outlined in *A guide to preparing planning proposals* issued by the Department of Planning & Infrastructure in October 2012.

The property described as Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka is located within the settlement of Bemboka which is approximately 24 kilometres north-west of Bega on the Snowy Mountain Highway (Loftus Street) at the foothills of Brown Mountain.

It is located at the corner of Hoskins Street and Britannia Street and is occupied by the former Bemboka Community Health Centre and a detached fibre-cement garage. The former health centre is a single storey building clad in weatherboards and fibre-cement sheeting with a metal roof. Adjoining development comprises single storey detached dwellings. Britannia Lane separates the property from adjoining dwellings to the south.

The site has an approximate area of 1,517 square metres and slopes gently to the west. It is square in shape with boundary lengths of 37m (south-east and north-west) x 41m (south-west and north-east). The property slopes moderately to the north-west with some crossfall to the north-east. The property is fenced and has been cleared. It is now predominantly lawn with a scattering of mature decorative trees.

The building on the property was formerly occupied by the Bemboka Community Health Centre. In 2004 the NSW Department of Health commenced a process to dispose of the property. In response to concerns expressed from the Bemboka community Bega Valley Shire Council acquired the property in 2007. It was classified as community land and a positive covenant (AD46) imposed to ensure it was used for the purposes of a health facility. Council resolved to commence the preparation of a Plan of Management and conduct formal lease negotiations with the Bemboka Community Health Centre Committee.

A community group to manage the health facility has not been established and the intended outcome has not been achieved. Council has incurred substantial costs

since acquisition related to maintenance and insurance. Council resolved on 2 September 2015 to request that NSW Health Infrastructure remove positive covenant AD46 from the title to the property and to reclassify the property as operational land.

The reclassification of the property from community to operational land must be carried out in accordance with *Part 2 Division 1* of the *Local Government Act 1993*. To effect the reclassification of Lot 5 Section 7 DP 758087, this planning proposal has been prepared to amend *Bega Valley LEP 2013* in accordance with *Part 3 Division 4* of the *Environmental Planning and Assessment Act 1979* and an entry made to *Schedule 4 Part 1 Land classified, or reclassified, as operational land - no interests changed* of the LEP. A public hearing must be conducted to enable public input into the proposed reclassification following exhibition of the planning proposal.

An aerial image of the property is given below. The subject property is shown edged in red.



Figure 1: Aerial image of Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka

Lot 5 Section 7 DP 758087 is zoned RU5 Village under *Bega Valley LEP 2013* as shown in Figure 2. A wide range of residential, commercial, recreational and tourism uses are permitted with consent in the zone. The land is in the vicinity of a number of heritage items as shown in Figure 3.



PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the planning proposal to amend *Bega Valley LEP 2013* are to reclassify the land from community land to operational land so that Council may dispose of this asset and allocate proceeds to works at Bemboka Community Hall and to alternative health property projects.

PART 2: EXPLANATION OF PROVISIONS

The proposed outcomes will be achieved by an amendment to *Bega Valley LEP 2013* by reclassifying Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka from community land to operational land through an entry to *Schedule 4 Part 1 Land classified, or reclassified, as operational land – no interests changed of Bega Valley LEP 2013* as follows:

Column 1 Locality	Column 2 Description
Bemboka	Lot 5 Section 7 DP 758087

PART 3: JUSTIFICATION FOR THE PLANNING PROPOSAL

Justification for the proposed amendment to *Bega Valley LEP 2013* is presented as a response to each of the questions posed in *A guide to preparing planning proposals*.

SECTION A- NEED FOR THE PLANNING PROPOSAL

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

The planning proposal has not resulted from a strategic study or report. However, Council has an adopted Land Investment Strategy that provides that land may be identified as no longer required for strategic purposes but not necessarily falling into the category of investment. The property may be divested to enable funds to be put to a more appropriate use.

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

There is no alternative to this planning proposal. A reclassification as operational land is required before Council can dispose of the land.

SECTION B- RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

There are no outcomes or actions in the *South Coast Regional Strategy* that relate to the use of the former health centre at Bemboka.

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

The proposal to reclassify the Bemboka site is consistent with Council's adopted *Land Investment Strategy*. The strategy provides that land that is no longer required for strategic purposes may be divested to enable funds to be put to a more appropriate use. The Land Investment Policy enables Council to sell surplus sites to generate funds to supplement rate income for alternative purposes.

The *Community Land Generic Plan of Management* sets an objective to continue the provision of community facilities to rural localities and the current provision of facilities should be maintained to ensure equity of access for all areas. However, attempts to establish a community group to manage a health centre at this location have been unsuccessful and the funds spent on maintenance and insurance are better allocated to other community facilities such as the Bemboka community hall.

The *Bega Valley Land Use Planning Strategy* August 2008 notes that Bemboka is the western gateway to the Shire as has highway tourism and local servicing roles. The village provides daily service needs for the village, surrounding rural area and passing highway traffic. There is ample land to cater for such needs for the coming 20 years. An employment cluster site has been identified in the rural zone east of the village, to address local rural supply needs. Some expansion of the village on the west and large lot residential to the north is proposed as a conversion of the former future urban zone. There is considered to be ample serviceable land for residential and village business needs. The planning proposal is not inconsistent with this strategy.

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

An assessment of the planning proposal against relevant SEPPs is provided below.

SEPP	Intent	Comment
SEPP No 55 – Remediation of Land	To provide consistent controls for the remediation of	The site is not known to be potentially contaminated and there have been no known

	contaminated land	historical uses that would cause the site to be contaminated. It is considered that preliminary investigations are not necessary given the previous uses and current occupation of the site.
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Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

An assessment of the planning proposal against relevant Ministerial Directions is provided below.

Ministerial Direction	Objectives	Comment
2.3 Heritage Conservation	to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance	The property is in the vicinity of a number of heritage items, the nearest being the former Police Station, Worland's Boarding House, Lyttleton and the Christ Church Anglican Church. The heritage significance of these items is conserved by provisions of the principal planning instrument.
3.1 Residential Zones	(a) to encourage a variety and choice of housing types to provide for existing and future housing needs (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services (c) to minimise the impact of residential development on the environment and resource lands	The Bemboka property may be used for residential purposes upon disposal as it is zoned RU5 Village. It is not proposed to alter the zoning of this site. The existing building on the property is connected to essential services. The Bemboka property may alternatively be used for business purposes upon disposal. A range of commercial uses are permitted in the RU5 zone. It is not proposed to alter the zoning of this site.

5.1 Implementation of Regional Strategies	to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies	There are no outcomes or actions in the <i>South Coast Regional Strategy</i> that relate to the property or its use.
6.2 Reserving Land for Public Purposes	(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition	Attempts to re-establish a health facility on the Bemboka property have failed. It has been assessed as a risk and is surplus to Council's needs. Council has resolved to reclassify the land and offer for sale.

SECTION C- ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities,

There is no likelihood of any adverse effect on any critical habitat or threatened species, populations or ecological communities, or their habitats, as a result of this proposal. The site has been developed for urban uses and is located within an established village.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no likely environmental effects on the site as a result of this planning proposal.

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

The effect of the planning proposal to dispose of the property would have positive social and economic effects. As the intention of re-establishing a community health centre has not been achieved, disposal of the property would enable funds otherwise expended on building maintenance and insurance to be diverted to the Bemboka community hall and other health-related properties. This would bring social and economic benefits to Bemboka through improvements to a community facility and savings on expenses incurred to the former health centre. Re-use of the

property may bring benefits through additional housing or commercial development.

SECTION D- STATE AND COMMONWEALTH INTERESTS

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

This property is occupied and provided with essential services, including reticulated water and sewerage, adequate stormwater drainage management, access and parking. The level of provision of public infrastructure is adequate.

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

Council has consulted with NSW Health Infrastructure regarding the Bemboka property. A letter has been sent requesting that positive covenant AD46 be removed from the property. The agency has given in-principle support to execute the release.

Further consultation with public authorities will be carried out as specified in the Gateway determination.

PART 4: MAPPING

There are no amendments to *Bega Valley LEP 2013* maps required to effect the reclassification of Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka.

PART 5: COMMUNITY CONSULTATION

Consultation will be carried out in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* and the Gateway determination.

Council intends to exhibit the planning proposal for a 28 day period following the issue of a Gateway determination and the following activities will be carried out:

- A notice is to be placed in local print media,
- Exhibition material and relevant documents are to be made available at public libraries and Council's Administration Building in Bega,
- Exhibition material and relevant documents are to be displayed on Council's website, and

- Letters are to be issued to adjoining landowners and any other relevant stakeholders as specified in the Gateway determination advising of the proposed amendments.

Any further consultation tasks as specified in the gateway determination would be carried out by Council.

In accordance with section 29 of the *Local Government Act 1993* and section 57 of the *Environmental Planning and Assessment Act 1979*, a public hearing is to be conducted to enable further input into the proposed reclassification. A report of the findings of the public hearing will be provided to Council and made publicly available.

All submissions and the report of the public hearing are to be considered by Council before proceeding to finalisation of the planning proposal.

PART 6: PROJECT TIMELINE

Action	Indicative month & year
Anticipated gateway determination	October 2015
Agency consultation	November 2015
Community consultation exhibition period	November 2015
Consideration of submissions	December 2015
Council endorsement	December 2015
Provision to Department of Planning & Environment to prepare instrument	January 2016
Date of notification	April 2018

ATTACHMENT

Site photographs - Lot 5 Section 7 DP 758087 Hoskins Street, Bemboka



10.3. Bemboka house options

Council became the owner of a property in Bemboka in 2007 following community action. The property has never been used and is a cost and risk to Council.

General Manager

Background

In mid 2004 the NSW Department of Health commenced a process to sell the Bemboka Community Health Centre (former bush nursing home on Hoskins Street, Bemboka being Lot 5 Section 7 DP 758087) which was identified as excess to requirements. The monies raised were intended to be used to build doctors accommodation in Bega.

At that time, members of the Bemboka community and the Bemboka Area Committee raised concerns about the loss of the facility to the local community. A community meeting was held on 18 August 2004 to discuss the issue. This meeting was attended by representatives of the then Southern Area Health Service and Cr Allen. At the Council meeting of 24 August 2004 the matter was the focus of a Notice of Motion with the following resolution:

To accept dedication of the old Community Health Centre in 2007, on the basis that it be held for use as a community health facility for the township of Bemboka.

The Council report from 10 October 2006 is attached which charts the background of this matter. The local community had undertaken to establish a group to lease the facility, undertake necessary works on the site and operate and manage the facility for the local community. At that time it was expected that in the order of \$40,000 would be required to make the building operational. The Council resolved:

1. *That Council formally accept the offer from the NSW Department of Health to transfer the former bush nursing home, Hoskins Street, Bemboka Lot 5, Section 7, DP758087 to Council ownership.*
2. *That upon transfer the property be classified as Community land.*
3. *That on completion of the handover of the facility staff commence the preparation of a Plan of Management and conduct formal lease negotiations with the Bemboka Community Health Centre Committee and that the result of these negotiations be reported to the Council for its further consideration.*

The above recommendation has been partially enacted and accordingly, the property was classified as community land upon dedication to prevent a sale by Council and a positive covenant was lodged over the land to ensure that it was used for this purpose. Since 2006 there have been ongoing attempts by Council staff and goodwill from the community to enact the third item in the recommendation however this has never been achieved. There has never been a group formally established and the site has continued to deteriorate. Council property staff have identified the site as a considerable risk to Council and have investigated options available to have the covenant removed and the land re-classified from community to operational.

Current assessment is that the community of Bemboka would benefit from the property being sold with proceeds allocated to works at the community hall with a portion allocated to health property projects in the area.

In order to have the covenant lifted, the Mayor and General Manager met with the Chief Executive of Health Infrastructure and were advised that Council can apply to Health

Infrastructure with a request for the positive covenant to be lifted. Once this is achieved, Council would need to prepare a Planning Proposal for consideration by the Department of Planning to have the land reclassified to operational.

Issues

Legal

- 50 The land at Hoskins Street, Bemboka, being Lot 5 Section 7 DP 758087, is currently owned by Council and classified as community land under Section 27 of the *Local Government Act, 1993*. The title is currently burdened by a Positive Covenant. In order to progress the sale of this land to utilise the funds, Council requires the covenant to be removed by NSW Health Infrastructure and the land to be classified from community to operational through a planning proposal to amend the LEP.

Policy

- 60 Council has an adopted Land Investment Strategy that provides that land may be identified as no longer required for strategic purposes but not necessarily falling into the category of investment. This land or Council owned property may be divested to enable a more appropriate use.

Asset

Council has held the Bemboka house property since 2007 with restriction on use and no community group established. There have been costs related to the building, including insurance over that period but no income and the costs associated with returning it to an operational community facility are not currently available in Council's building asset management plan. Quotations were obtained by Council staff in 2012 for immediate works required to comply with current standards for its continued use as a public building. Those works were in the order of \$60,000 at that time.

Social / Cultural

- 70 The Council undertook to enter into this arrangement in 2004 due to community pressure and expectation that a community group would be established to renovate and manage the facility. This has not eventuated. There is a community hall in Bemboka that requires works and is a focus for community activity with an active community committee.

Strategic

Council is progressively identifying properties for acquisition and disposal and will be reviewing its Land Investment Strategy. This property is one identified by staff that has been available for community use as per the desire of the community but has not achieved the desired outcome.

Consultation

- 80 Council will be required to advertise the planning proposal to amend the classification of the land.

Conclusion

The Bemboka property became a Council asset with restrictions on use over eight years ago due to community pressure and with commitment of a local community group to take over the responsibility of the facility. This has not eventuated and the property has had ongoing costs for Council and is identified as a risk. Removing the Positive Covenant on the property and reclassifying the land allows Council to move to divest itself of the property and allocate funding realised to community benefit.

Attachments

1. Report to Council October 2006

Recommendation

1. That Council formally request NSW Health Infrastructure to remove positive covenant number AD46 from the title of Lot 5 Section 7 DP 758087, Hoskins Street, Bemboka.
2. That following removal of the covenant, Council engage the services of a planning consultant to prepare a planning proposal to reclassify the land from Community to Operational under Schedule 4 of the Local Environmental Plan and that the proposal be forwarded to the NSW Department of Planning and Environment for Gateway Panel determination.
3. That the Mayor and General Manager be authorised to execute the necessary documentation.

