

BEGA VALLEY SHIRE COUNCIL

Bega Valley Shire Council

Zingel Place
PO Box 492
Bega NSW 2550

Phone (02) 6499 2222
Fax (02) 6499 2200

Email council@begavalley.nsw.gov.au

Bega Valley Local Environmental Plan 2013

Planning Proposal:

Zoning and Height Limits for
Bega, Merimbula and Eden
CBDs & Arthur Kaine Drive

**EXTRACTS relating to Arthur
Kaine Drive, Merimbula and
Council's resolved zones**

November 2015



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Part 1 – Objectives or Intended Outcomes

The objectives of this Planning Proposal are to:

- Apply appropriate zonings for certain land fronting Arthur Kaine Drive in Merimbula to reflect the current mix of uses and provide for compatible future uses.

Part 2 – Explanation of the Provisions

Council recommends that the Minister for Planning and Environment finalises the plan relating to Lot 120 DP 847899, Lot 2 DP 549112 and Lot 1 DP 1004805 by zoning:

- Lot 120 DP 847899 as SP1 Special Activities 'Community Facilities and Carparking'
- Lot 2 DP 549112 as part E2 Environmental Conservation and part SP1 Special Activities 'Carparking'
- Lot 1 DP 1004805 as E2 Environmental Conservation

Part 3 – Justification

3.4.3 Arthur Kaine Drive – Special Activities

Lot 120 DP 847899, Lot 2 DP 549112 and Lot 1 DP 1004805 Arthur Kaine Drive, Merimbula



Figure 15: Aerial photograph of subject properties near Merimbula Airport, Arthur Kaine Drive, Merimbula

The subject properties are located on the eastern side of Arthur Kaine Drive, directly opposite Merimbula Airport (see Figure 15). Together they comprise an area of approximately 25 hectares and are currently vacant and is predominantly vegetated. A small portion of Lot 2 DP 549112, located opposite the existing airport terminal, is cleared and is currently utilised as an informal overflow parking area for airport users and a large portion of the vegetation on Lot 120 DP 847899 has been modified due to airport obstacle maintenance activities

In Draft BVLEP 2010, Lot 120 DP 847899 and Lot 1 DP 1004805 were proposed to be zoned SP2 Infrastructure, and Lot 2 DP 549112 was proposed to be zoned E2 Environmental Conservation Zone (see Figure 16). Lot 120 DP 849899 and Lot 2 DP 549112 were deferred from BVLEP 2013, in order to seek a change from the exhibited SP2 Infrastructure Zone, to SP1 - Special Activities Community Purposes and Carparking. They are currently zoned 2(c) Residential Tourist and 7(f1) Coastal Lands Protection Zone under BVLEP 2002 respectively.



Figure 16: Land use zones as exhibited in Draft LEP 2010. Subject land on Arthur Kaine Drive indicated in red.

The proposed zoning of the subject properties was reviewed in the context of the recently adopted Merimbula Airport Masterplan 2033 and advice from the NSW Office of Environment and Heritage (OEH).

OEH strongly requested the application of the E2 Environmental Conservation zone on all three of these properties due to the presence of a number of threatened species and the presence of an endangered ecological community.

The Merimbula Airport Masterplan 2033 includes the “development of the new passenger terminal precinct and the reuse of the existing terminal building for a Visitor Information Centre, a dedicated parking area opposite the existing passenger terminal building on the opposite side of Arthur Kaine Drive could be developed for this purpose. This parking could include accommodation of long-vehicles such as campervans and vehicles with caravans”.¹ See Figure 18 for details.

To ensure consistency with the approved Merimbula Airport Master Plan 2033 and in consideration of the recommendations of OEH made during the exhibition of Draft BVLEP 2010 Council has resolved to zone Lot 120 DP 847899 as SP1 Special Activities ‘Community Facilities and Carparking’ and Lot 1 DP 1004805 and Lot 2 DP 549112 as E2 Environmental Conservation with the exception of a small piece of Lot 2 opposite the

¹ Rehbein Airport Consulting *The Merimbula Airport Masterplan 2033*

current airport terminal which is proposed to be zoned SP1 Special Activities Carparking' (see Figure 17)

By locating the SP1 zone on the modified and cleared sections of land, the zoning plan proposed for the subject land will conserve the important existing environmental characteristics while making allowance for future public requirements on the less environmentally sensitive land.

In accordance with Council's strategy for applying controls to land zoned for special purposes no minimum lot size or floorspace ratios are proposed for the subject land and no change to the applicable 10 metre height limit is proposed.

Details of Council's review of this land are detailed in the report to Council on the 6th November 2013 and corresponding minutes (see Attachment 3).

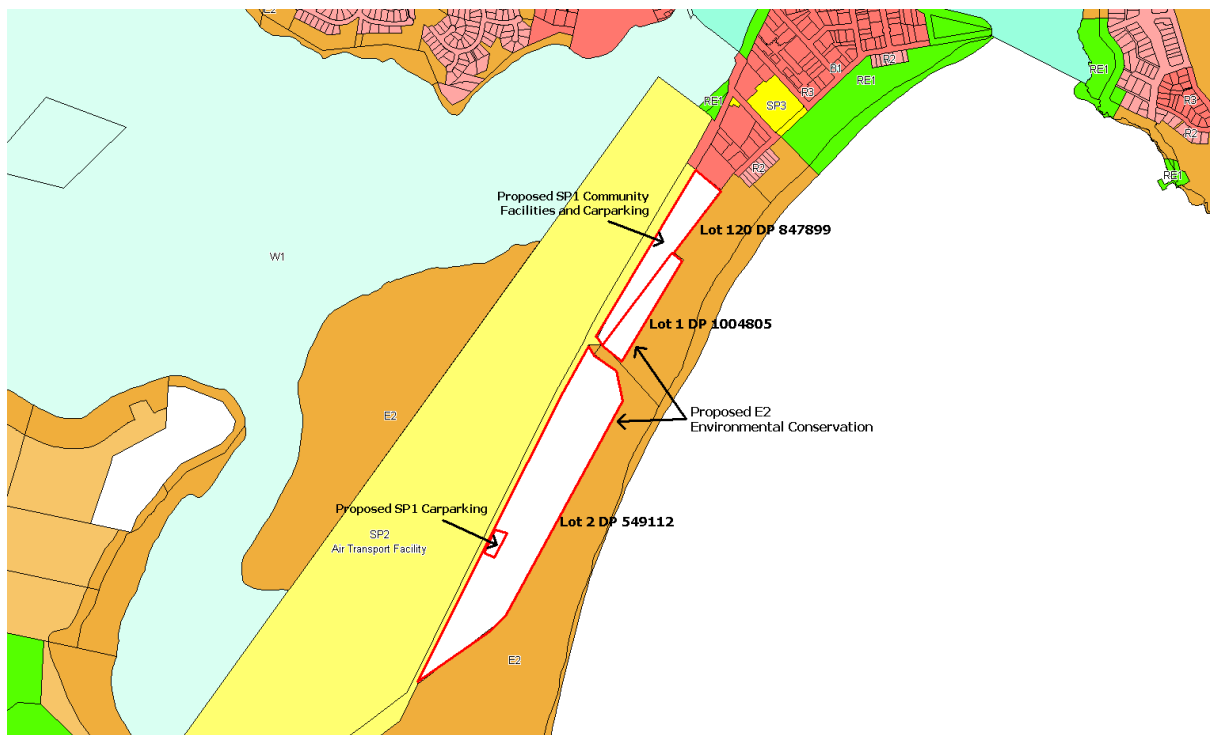


Figure 17: Proposed land use zones near Merimbula Airport, Arthur Kaine Drive, Merimbula



Section A – Need for the Planning Proposal

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

Council resolved on 13th December 2005 to prepare a draft Comprehensive Local Environmental Plan (CLEP) to replace BVLEP 2002. The CLEP, later known as draft BVLEP 2010, was prepared based on the following:

- The majority of the Shire has simply been changed to the closest comparable zone available in the standard State wide template. This means that the majority of land owners wanting to develop or improve their properties will not be affected by the draft plan.
- Where there are changes proposed, the focus is on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of RU1 Primary Production and RU2 Rural Landscape zones.
- Establishment of allotment sizes through a “Lot Size Map”, thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of E3 Environmental Management and E4 Environmental Living zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of E2 Environmental Conservation zone.

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

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

The full Council Report and adopted minutes from the relevant meeting of 12th June 2012 are in Attachment 1.

The majority of properties that are the subject of this planning proposal are in Appendix 2 and were deferred from the BVLEP 2013, consequently the zoning and status under BVLEP 2002 still applies to the land and a planning proposal is required to apply BVLEP 2013 to resolve the issues of appropriate building heights and zonings within the Bega, Merimbula and Eden CBDs and the appropriate zone for certain land fronting Arthur Kaine Drive.

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

Yes. This plan seeks to apply BVLEP 2013 to certain deferred properties to which the BVLEP 2002 currently applies. This planning proposal will resolve the uncertainty that currently exists by appropriately zoning the land and applying suitable controls to the land.

Schedule 1 – Additional Uses of BVLEP 2013 could be used as an alternative to reflect the current mix of uses within the Bega and Eden CBDs and the Arthur Kaine Drive precincts; however it would bring no additional benefit and would add to the ambiguity in the zoning schedules. Although a valid option in some cases, it is not the preferred approach in this instance given the desirability of securing the long-term identification and use of the subject land. Further to this, the NSW Department of Planning and Infrastructure's policy position states that additional listings in the LEP Schedule 1 should be minimised and should only proceed where a council can demonstrate that there is no other acceptable solution to progress the matter.

Placing the height limits in Council's Comprehensive Development Control Plan was considered, but is not seen as being as legally effective as inclusion in the Height of Buildings Map in BVLEP 2013.

A planning proposal is also required to amend BVLEP 2013 to add B5 Business Development Zone to Clause 2.1 and the Land Use Table.

Section B – Relationship to Strategic Planning Framework

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

South Coast Regional Strategy

The primary purpose of the South Coast Regional Strategy (SCRS) is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the South Coast Region for the next 25 years.

One of the major aims of the Strategy is to ensure an adequate supply of land to support economic growth and to provide capacity to accommodate a projected 5,200 new jobs in the Bega Valley Shire. Section 7 of the Strategy addresses Economic Development and

Employment Growth and provides a number of key action points. The key action points that are supported by this Planning Proposal include:

- Zoning changes that address concerns regarding tenure, location, constraints and specific opportunities;
- Protection and addition of employment lands in existing economic centres, including major regional centres and major towns through local environmental plans
- Implementation of Council-based mechanisms or controls that will preserve and support the hierarchy of commercial centres for the South Coast Region.

Q4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan identifies the long term aspirations of the community. This Planning Proposal is consistent with three of the five major themes, being the promotion of 'Enterprising', 'Sustainable' and 'Accessible' outcomes. In particular, the proposed amendments will:

- Increase business capacity within existing commercial centres that will generate ongoing economic development and re-development;
- Preserve and support Bega as a strong regional centre and Merimbula and Eden as vibrant district centres;
- Encourage business development and re-development opportunities in existing commercial centres that have adequate infrastructure to support growth; and
- Manage development and re-development opportunities so as to minimise impacts on the natural and built environment.

Bega Valley Shire Commercial Strategy 2006

The Bega Valley Shire Commercial Strategy 2006 delivered a development strategy for the commercial areas of the Shire, which was used to inform BVLEP 2013. Specifically, this Planning Proposal addresses one of the key objectives of the Strategy, which is to retain and promote compact commercial areas and to identify re-development opportunities whilst conserving what the community values in its town centres.

Bega Town Centre Planning Report – August 2007

The Bega Town Centre Planning Report provides a context for the evolution of Bega as the Regional Centre. The Report details Bega's key strategic advantage as being a compact centre with a distinct core, perimeter of support activities and pronounced edges that project convenience and ease of access for the catchment population. In raising the height controls and providing more B4 Mixed Use zoned land within the CBD, Council is reinforcing this existing structure and strengthening Bega's role as the Regional Centre by encouraging compatible re-development opportunities.

Q5. Is the Planning Proposal consistent with applicable State Environmental Planning

The SEPPs applicable to this Planning Proposal are detailed below. For a complete checklist of SEPPs refer to Attachment 4.

SEPP No. 22 Shops and Commercial Premises

This SEPP allows a change of use from a shop to another kind of shop or commercial premises, or alternatively from a commercial premises to a shop or another kind of commercial premises where the new use is prohibited under an environmental planning instrument. Council must, however, be satisfied that the change of use will have not more than a minor environmental impact and is in-keeping with the objectives of the zone.

This Planning Proposal is consistent with the requirements of this SEPP.

SEPP No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

Bega Valley Shire Council's records indicate that Lots 325 & 326 DP 750227 and Lot 341 DP 750227 Arthur Kaine Drive, Merimbula may be contaminated as these properties were previously utilised as a 'nightsoil and garbage depot'. Lot 341 DP 750227 is currently developed with a dwelling house and the possible contamination on Lots 325 and 326 will be considered by the consent authority during the consideration of any future development application.

The inconsistency of this Planning Proposal with the application of this SEPP is minor and one dwelling on the affected land has already been approved. Therefore, it is unlikely that contamination will render the land unsuitable for the proposed use.

SEPP No. 62 Sustainable Aquaculture

SEPP 62 regulates aquaculture activities and aims to encourage sustainable aquaculture, including sustainable oyster aquaculture. Specifically, Clause 15(c) requires consideration of whether a proposal will have an adverse impact on oyster aquaculture.

The Merimbula Town Centre as well as SP 73171, Lots 25-28 DP 208862 and Lots 31-34 DP 208862 Carolynne Street, Merimbula, are within close proximity to existing oyster leases that have been identified by the Department of Primary Industries (August 2006) as being within Priority Oyster Aquaculture Areas.

This Planning Proposal is inconsistent with the SEPP as it is acknowledged that future re-developments within the Town Centre and abovementioned properties may have the potential to impact on oyster aquaculture in terms of cumulative nutrient impacts and

cumulative pathogen impacts. In this regard, consultation with the Director General of Primary Industries will be undertaken as part of the Planning Proposal process.

However as the affected land in this Planning Proposal is within the existing Merimbula CBD and a nearby established urban residential area, the inconsistency with the SEPP provisions is of minor significance as it is unlikely that the additional developments will have adverse impacts on oyster aquaculture. Any issues that have the potential to impact on water quality will be adequately addressed through the appropriate design of future development, connection to existing reticulated water, sewer and storm water management systems.

Council propose to consult with the Director General of Primary Industries as part of the Planning Proposal process.

SEPP No. 71 Coastal Protection

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

The Merimbula and Eden CBDs and the Arthur Kaine Drive precincts are located within the Coastal Zone. This Planning Proposal is consistent with this SEPP as it does not contradict or hinder the application of the coastal planning provisions contained within the SEPP and does not promote development that will impede or diminish access to coastal foreshores, result in effluent discharge that negatively affects water quality, or involve a discharge of untreated storm water into the sea, a beach, an estuary, or coastal lake or creek.

The overall intent of the SEPP is to manage residential and rural residential development in sensitive coastal locations. Although the scale of development likely to result from this Planning Proposal is very small, given that the Merimbula and Eden CBDs and the Arthur Kaine Drive precincts are within a defined sensitive coastal location, the Minister may require that a Master Plan be prepared for future development of the subject properties.

Q6. Is the Planning Proposal consistent with applicable Ministerial Directions?

This section addresses consistency with applicable Section 117 Directions. Attachment 5 contains a complete list of all 117 Ministerial Directions applicable in the Bega Valley Shire.

1.1 Business and Industrial Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone. The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.

This Planning Proposal is consistent with this Direction as it contains provisions that will:

- Provide for more opportunities for the economic re-development of specific land within the existing commercial centres of Bega, Merimbula and Eden and the Arthur Kaine Drive precinct;
- Increase the total potential floor space area for employment uses in business zones;
- Encourage commercial and employment growth in suitable locations;
- Protect existing employment land in business and industrial zones; and
- Protect and support the viability of identified strategic centres. In particular, Bega as the Regional Centre and Merimbula and Eden as viable District Centres.

1.2 Rural Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land.

A number of the properties along Arthur Kaine Drive included in this planning proposal are currently zoned 1(a) Rural General Zone. Therefore this Planning Proposal is inconsistent with this Direction as it contains provisions that will rezone land from a rural zone to a business zone. However this inconsistency is minor as it does not seek to increase the permissible density of any land that is currently used for agricultural production. Under BVLEP 2002 the subject land consists of parcels of land zoned 1(a) Rural General Zone that are well below the minimum 120 hectare subdivision standard and were created for the purposes of a dwelling. There is no land used for either grazing or cultivation in the vicinity.

Therefore, this Planning Proposal will have no impact on the existing or future agricultural production value of rural land as none currently exists.

1.4 Oyster Aquaculture

This Direction applies when a relevant planning authority prepares any Planning Proposal that proposes a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate"; or incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses.

The objectives of this Direction are to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a Planning Proposal; and protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.

This Planning Proposal is inconsistent with this Direction as it contains provisions which could result in adverse impacts to an existing Priority Oyster Aquaculture Area.

The Merimbula Town Centre as well as SP 73171, Lots 25-28 DP 208862 and Lots 31-34 DP 208862 Carolynne Street, Merimbula, are located within close proximity to existing oyster leases that have been identified by the Department of Primary Industries (August 2006) as being within Priority Oyster Aquaculture Areas.

This Planning Proposal seeks to permit an increase in the height of buildings within the Merimbula CBD and a nearby established urban residential area which will aim to encourage re-development opportunities.

As such, the inconsistency of this planning proposal with these provisions is of minor significance as it is unlikely that the additional developments will have adverse impacts on oyster aquaculture. Any issues that have the potential to impact on water quality will be adequately addressed through the appropriate design of future development, connection to existing reticulated water, sewer and storm water management systems.

Council propose to consult with the NSW Department of Primary Industries in relation to this Planning Proposal.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This Planning Proposal seeks to re-zone a number of lots on Arthur Kaine Drive, Merimbula from 1(a) Rural General Zone to B5 Business Development in BVLEP 2013. The proposed application of the B5 Business Development is consistent with this Direction given that the outcomes will conform with the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

In particular, this Planning Proposal will not enable the fragmentation of high quality agricultural land or the potential for additional rural land use conflicts, particularly between residential land uses and other rural land uses; and will provide commercial opportunities, including business, office and retail premises and home businesses, industries and occupations in an area close to existing town centres and regional transport networks, including the Princes Highway and the Merimbula Airport.

2.1 Environment Protection Zones

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

This planning proposal is inconsistent with this direction to the extent that Lot 120 DP 847899 and Lot 2 DP 549112 opposite Merimbula Airport on Arthur Kaine Drive, Merimbula are environmentally sensitive areas. The NSW Office of Environment and Heritage have advised Council that these lots contain the listed Endangered Ecological Community Bangalay Sand Forest and Threatened Species have been recorded on the land.

The inconsistency of this Planning Proposal with the terms of this Direction is of minor significance as only a small part of Lot 2 DP 549112 is proposed to be developed by the under the Merimbula Airport Master Plan 2033. The remainder of the lot is proposed to be protected through the application of the E2 Environmental Conservation Zone. The area of Lot 2 proposed for SP1 Special Activities 'Carparking' is already cleared, is currently used as an informal over-flow carparking area and is located adjacent to the existing road reserve as illustrated by the aerial photograph in Figure 19.

The proposal to zone Lot 120 DP 847899 as SP1 Special Activities 'Community Facilities and Carparking' is also justified as a minor inconsistency with the objectives of this direction on the basis that the vegetation has been modified (and will continue to be modified) due to airport obstacle maintenance activities. The adjacent Lot 1 DP 1004805 is proposed to be wholly zoned E2 Environmental Conservation.

By locating the SP1 zone is on the modified and cleared sections of Lot 120 DP 847899 and Lot 2 DP 549112 the important existing environmental characteristics of the land will be conserved while making allowance for future public requirements on the less environmentally sensitive land.

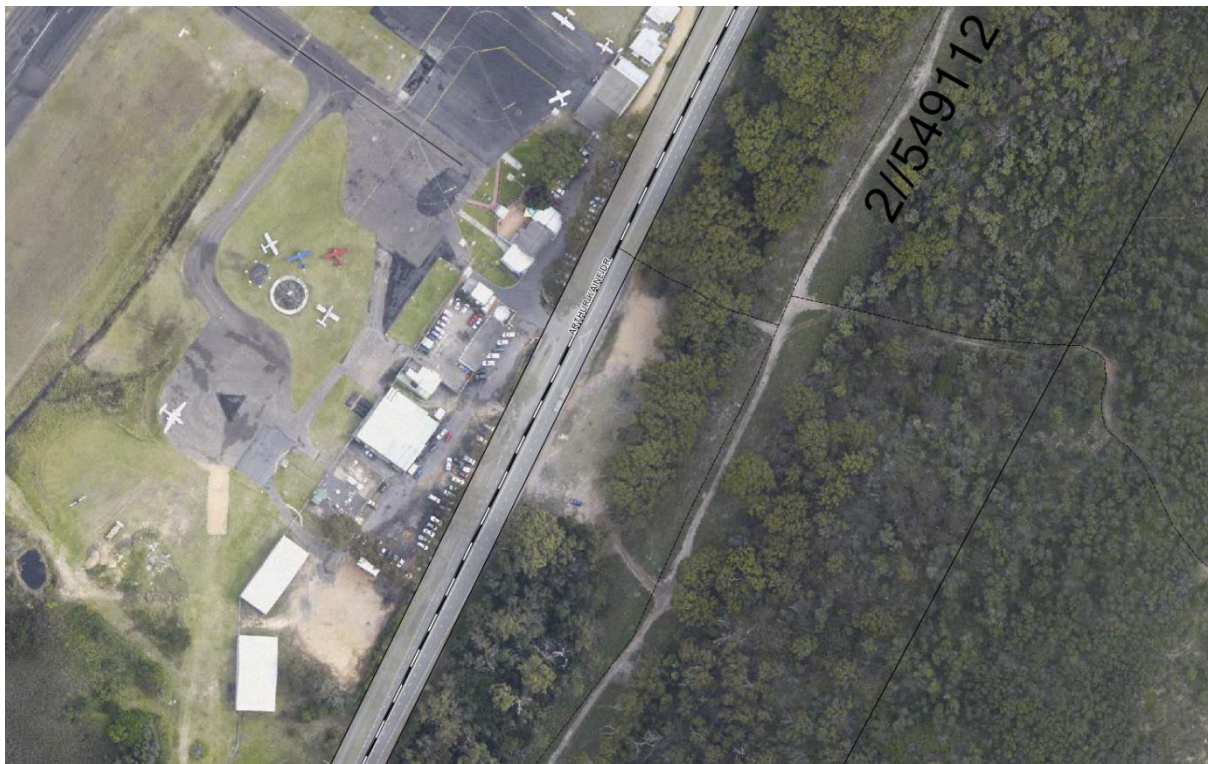


Figure 19: Aerial photograph of Merimbula Airport terminal and cleared land proposed for future car parking facilities associated with the Airport on Lot 2 DP 549112.

2.2 Coastal Protection

This Direction applies when a relevant planning authority prepares a Planning Proposal that applies to land in the coastal zone. The objective is to implement the principles in the NSW Coastal Policy.

This Planning Proposal seeks to amend the minimum lot size controls for the following properties located within the Coastal Zone: the Merimbula and Eden CBDs as well as the various Arthur Kaine Drive properties and SP 73171, Lots 25-28 DP 208862 and Lots 31-34 DP 208862 Carolynne Street, Merimbula.

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

With the objective of implementing the principles of the NSW Coastal Policy, this Planning Proposal will ensure the application of BVLEP 2013 to the subject land, which includes the Standard Instrument Clauses 5.5 and 5.7 relating to development within the Coastal Zone and below mean high water mark, as well as local Clause 6.4 Coastal Risk Planning.

2.3 Heritage Conservation

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

This Planning Proposal is inconsistent with this direction as the Bega, Merimbula and Eden CBDs contain a number of items of local environmental heritage significance listed on Schedule 5 of BVLEP 2013. Additionally, the Bega CBD also contains a number of Heritage Conservation Areas listed on Schedule 5 of BVLEP 2013.

Further to this, the Planning Proposal is also seeking to zone Lot 120 DP 847899, Lot 2 DP 549112 and Lot 1 DP 1004805 Arthur Kaine Drive, Merimbula (opposite the Merimbula Airport) as SP1 Special Activities Zone so as to secure the long-term expansion of the Airport and to provide for future community facilities. These properties are located within an area which is known to contain significant Aboriginal cultural heritage values, including Aboriginal burial sites. It is therefore possible that the properties may contain items, areas, objects and/or places of Aboriginal cultural heritage.

Clause 5.10 of BVLEP 2013 and Clause 5.2 of the Draft Comprehensive Development Control Plan (CDCP) 2013 contain a number of provisions that aim to conserve environmental heritage throughout the Bega Valley Shire. In particular, the provisions allow for the sensitive adaptation of existing structures and infill development where appropriate. The application of the LEP and DCP provisions will enable the consideration

of environmental heritage values in the light of a development proposal and ensure that developments are designed and sited appropriately.

The impacts of the proposed increases in the height of buildings and zone changes within the Bega, Merimbula and Eden CBDs as well as the application of the proposed SP1 Special Activities Zone to properties opposite the Merimbula Airport, in relation to the conservation of environmental heritage and indigenous heritage significance are of minor significance. Any issues that have the potential to impact on known items, areas, objects and places of environmental heritage significance can be adequately addressed during the development assessment process.

3.1 Residential Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that 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 objectives of this Direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services and minimise the impact of residential development on the environment and resource lands.

This Planning Proposal is seeking to apply a 10 metre maximum building height to SP 73171, Lots 25-28 DP 208862 and Lots 31-34 DP 208862 Carolynne Street, Merimbula, which are zoned R3 Medium Density Residential Zone under BVLEP 2013.

The proposed increase in maximum building height is consistent with this Direction as it will support a range of housing choices, enable medium density residential type developments to integrate with the surrounding existing urban environments and not reduce the permissible density of land.

Further to this, the proposed amendments will not affect existing or proposed residential zones in which significant residential development is permitted or proposed to be permitted.

3.4 Integrating Land Use and Transport

Applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to improve access to housing, increasing the choice of available transport, reduce travel demand, support public transport services, and provide for the efficient movement of freight.

This Planning Proposal is consistent with this Direction as adequate infrastructure is available to service any additional development that results from this Planning Proposal in the Bega, Merimbula and Eden CBD areas as well as the Arthur Kaine Drive and Merimbula Airport precinct.

The proposed zoning and height control amendments will encourage a comparable mix of development and/or re-development opportunities to co-locate and achieve the planning objectives of improved access to housing, jobs and services by walking, cycling and public transport, reduction in the dependence on cars and travel demand and efficient and viable operation of public transport services.

3.5 Development near Licensed Aerodromes

This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

The objectives of this Direction are to ensure the effective and safe operation of aerodromes, ensure that their operation is not compromised by development and ensure development for residential purposes is not adversely affected by aircraft noise.

The Merimbula Town Centre and residential area of Merimbula as well as the Arthur Kaine Drive subject properties are located within close proximity to the Merimbula Airport.

The highest part of any of the subject lots in Merimbula is 20m and all of the affected land is located within either the Inner Horizontal Surface RL or Transitional Surface RL of 46m. As such development between 10 and 16 metres, as proposed in this Planning Proposal, will not penetrate the Obstacle Limitation Surface for the Airport. This Planning Proposal is consistent with this direction because the subject land is not in an area where the Australian Noise Exposure Forecast exceeds 20 and the Planning Proposal will not result in development that will provide a new hazard to aircraft.

Some of the subject land at Arthur Kaine Drive opposite the Sapphire Coast Golf Club ranges from approximately 24 metres to 34 metres AHD and is within the 40 metre RL Horizontal Section. Other land in this area ranges from 32 metres to 40 metres AHD and is within the 40 metre or 46 metre Transitional Surface RL. In addition, the subject land on Arthur Kaine Drive opposite Merimbula Airport is at approximately 6 metres AHD and is within the 10 metre to 30 metre RL Transitional Surface RL.

Therefore, development to the proposed maximum height of 10 metres in these areas could potentially penetrate the Obstacle Limitation Area. This Planning Proposal is inconsistent with the Direction in terms of its application to the properties along Arthur Kaine Drive. This inconsistency is minor as the potential hazard to aircraft can be dealt with through the application of Clause 6.8 of BVLEP 2013, which provides a number of provisions that aim to protect the airspace operations of Merimbula Airport as well as the community from undue risk, including consultation with the relevant Commonwealth body. In this regard, consultation with the relevant Commonwealth body will form part of the

Planning Proposal process. Council are prepared to co-operate with the relevant Commonwealth body to apply any height restriction on development that they require should they not be prepared to leave the matter to the development assessment process.

4.4 Planning for Bushfire Protection

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

The properties that are the subject of this Planning Proposal are identified as containing bushfire vegetation within category 1 and/or 2 therefore consultation with the NSW Rural Fire Service under Section 56 of the *Environmental Planning and Assessment Act 1979* will form part of the Planning Proposal process.

This Planning Proposal is consistent with the objectives of this Direction as it does not encourage the establishment of incompatible land uses and appropriate development of the land can occur through the application of the provisions contained within Planning for Bushfire Protection 2006.

5.1 Implementation of Regional Strategies

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

As detailed at Section Q3, this Planning Proposal is consistent with the vision, land use strategy, policies, outcomes and actions defined by the South Coast Regional Strategy.

6.3 Site Specific Provisions

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

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table for the applicable zone. Therefore, it is consistent with this

Section C – Environmental, Social and Economic Impact

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

This Planning Proposal is highly unlikely to affect any critical habitat or threatened species, populations or ecological communities, or their habitats as all of the affected properties are highly developed CBD urban areas or have been developed for many years, with little to no habitat remaining on these lots.

Lot 120 DP 847899, Lot 2 DP 549112 and Lot 1 DP 1004805 Arthur Kaine Drive, Merimbula

These properties on the eastern side of Arthur Kaine Drive, opposite Merimbula Airport contain a listed Endangered Ecological Community (EEC), Bangalay Sand Forest. The area between Arthur Kaine Drive and the beach has records for a number of threatened species including Yellow-bellied Glider, Grey-headed Flying Fox, Brush-tailed Phascogale, Powerful, Masked and Sooty Owls, Glossy Black Cockatoos, Gang Gangs, Pink Robin and Swift Parrots and the following threatened bats: Eastern False Pipistrelle, Eastern Bent-winged Bat (greater Bent-winged Bat), Greater broad-nosed Bat, Eastern Free-tailed Bat (Eastern Little Mastiff Bat) and Large Footed Myotis (Large Footed Mouse-eared Bat).

Lot 2 DP 549112 and Lot 1 DP 1004805 in particular have the most intact, higher value areas of EEC, particularly east of the existing powerline easement. Any development in the area east of the powerlines would have significant impact on this community.

Lot 120 DP 847899 and the areas of the other lots west of the powerlines have been subject to a greater level of historic disturbance due mainly to vegetation management activities associated with maintaining the Airport's obstacle limitation surface area.

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

It is unlikely that the proposed amendments to BVLEP 2013 contained in this planning proposal will result in development creating any environmental effects that cannot be readily controlled. Environmental impacts from development, which may proceed as a result of this planning proposal such as overshadowing and other amenity issues such as bulk and scale will be controlled by the application of objectives and requirements of BVLEP 2013 and Council's Development Control Plan.

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

The proposed zoning and height control amendments will have positive social and economic effects. In particular:

Raising the maximum height controls within the Bega, Merimbula and Eden CBDs will:

- Provide opportunities for above ground residential development that is within close proximity to existing services and facilities;
- Enable flexible designs for development that is contextually appropriate;
- Protect the aesthetic qualities of the existing commercial centres whilst promoting their sub-regional strategic hierarchy; and
- Encourage beneficial re-development opportunities.

The proposed amendments to the B2 Local Centre Zone, B4 Mixed Use Zone, B5 Business Development and SP3 Tourist Zone will:

- Provide greater employment opportunities in existing commercial centres to meet sub-regional employment projections;
- Integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling;
- Encourage a diverse and compatible range of activities to co-locate, which will contribute to the revitalisation of the commercial areas; and
- Promote and support the sub-regional strategic hierarchy.

Section D – State and Commonwealth Interests

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

Given the scale of the proposed zoning and height control amendments, the types of development that are likely to result, and the location within existing urban areas, it is considered that the existing public infrastructure has adequate capacity to meet the additional demands generated by future development.

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

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

Government agencies identified for consultation with regard to this Planning Proposal are:

- NSW Department of Planning and Infrastructure
- NSW Office of Environment and Heritage
- NSW Roads and Maritime Services
- NSW Rural Fire Service

Part 4 – Mapping

Details of the mapping amendments to the BVLEP 2013 for Lot 120 DP 847899, Lot 2 DP 549112 and Lot 1 DP 1004805 are as follows:

- Amend map sheet LAP_001 by deleting DM Deferred Matter applying to Lot 120 DP 847899 and Lot 2 DP 549112.
- Amend map sheet LZN_020A by applying part E2 Environmental Conservation and part SP1 Special Activities Zone 'Carparking' to Lot 2 DP 549112.
- Amend map sheet LZN_020B by applying SP1 Special Activities Zone 'Community Facilities and Carparking' to Lot 120 DP 847899.
- Amend map sheet LZN_020B by applying E2 Environmental Conservation to Lot 2 DP 549112.
- Amend map sheet LZN_020B by replacing SP2 Air Transport Facility with E2 Environmental Conservation Zone on Lot 1 DP 1004805.

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. If this Planning Proposal is to be supported, it is likely that the Proposal will be exhibited as a 'low' impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of A Guide to Preparing LEPs. A 'low' impact proposal is defined as 'a planning proposal that, in the opinion of the person making the Gateway determination is:

- Consistent with the pattern of surrounding land use zones and/or land uses;
- Consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Not a principle LEP; and
- Does not re-classify public land'.

Public exhibition of the planning proposal will include notification on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Bega District News, Eden Magnet and Merimbula News Weekly) and in writing to landowners who made a submission to draft BVLEP 2010 as well as all affected owners on Arthur Kaine Drive Merimbula.

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

Place	Address
Bega	Zingle Place, Bega NSW 2551
Merimbula	Market St, Merimbula NSW 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2550
Bermagui	Bunga St, Bermagui NSW 2546