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Bega Valley Local Environmental Plan 2013

Planning Proposal:

South Bega Industrial (Boundary Rd)

October 2014



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Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to rezone the subject land to IN1 General Industrial to regularise the existing uses of the subject land and facilitate the provision of additional employment land in the Bega area.

Part 2 – Explanation of the Provisions

This Planning Proposal will amend BVLEP 2013 in the following manner:

1. Lots 239, 240 and 241 DP 750190 Boundary Road, South Bega
 - Amend map sheet LAP_001 by deleting DM Deferred Matter.
 - Amend map sheet LZN_011C by applying IN1 General Industrial Zone.
 - Amend map sheet HOB_011C by applying 14 metre height limit.

Part 3 – Justification

Lots 239, 240 & 241 DP750190 Boundary Road, Bega

Lot 239 is partly developed as a rural supplies business with approximately 1 hectare of the lot currently vacant with potential for further development. The land slopes downhill gently towards the north and contains mostly cleared grassland with screening trees along the northern, eastern and western boundaries (See Figure 1).

Lots 240 and 241 are currently within the same ownership. The land slopes downhill towards the north with a gully line that runs through both lots from the north eastern to the south western corners. Both lots consist of mostly cleared grassland with a few isolated trees to the north of Lot 240 and a small dam located along the gully line on the north eastern boundary of Lot 241 (See Figure 1).

Lot 240 is partly developed and contains a transport (bus) depot with an associated vehicle repair station. Approximately 1.3 hectares of this lot is currently undeveloped with physical potential for further development. Lot 241 contains a dwelling with about 1.2 hectares of undeveloped land with physical potential for industrial type uses.



Figure 1: Aerial photograph: Subject Land edged red identified in this Planning Proposal.

The subject land is currently deferred from Bega Valley Local Environmental Plan (BVLEP) 2013 and is currently zoned 2(f) Future Urban under BVLEP 2002. In Draft BVLEP 2010 the subject land was proposed to be zoned R5 Large Lot Residential.

The IN1 General Industrial zone was considered suitable for the subject area to regularise the zoning of the existing uses and facilitate the provision of additional employment land in the Bega area (see Figure 2).

In accordance with Council's strategy for applying controls to industrial zoned land in the Shire, it is also proposed that the Height of Buildings Map be amended to ensure that the subject land has a height limit of 14 metres (See Figure 3).

Council is currently investigating the appropriate land use and zoning of the area surrounding the subject land (identified in Figure 4 as 'under investigation').

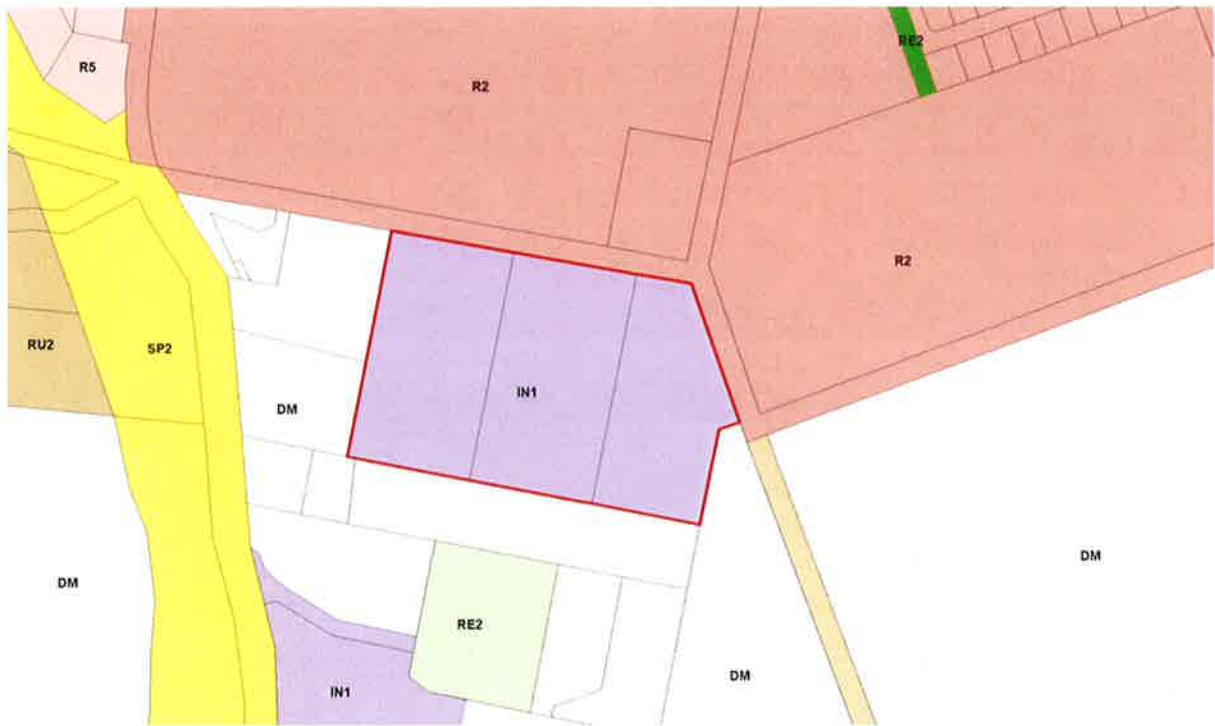


Figure 2: Proposed zoning of subject land



Figure 3: Proposed height limit for subject land.

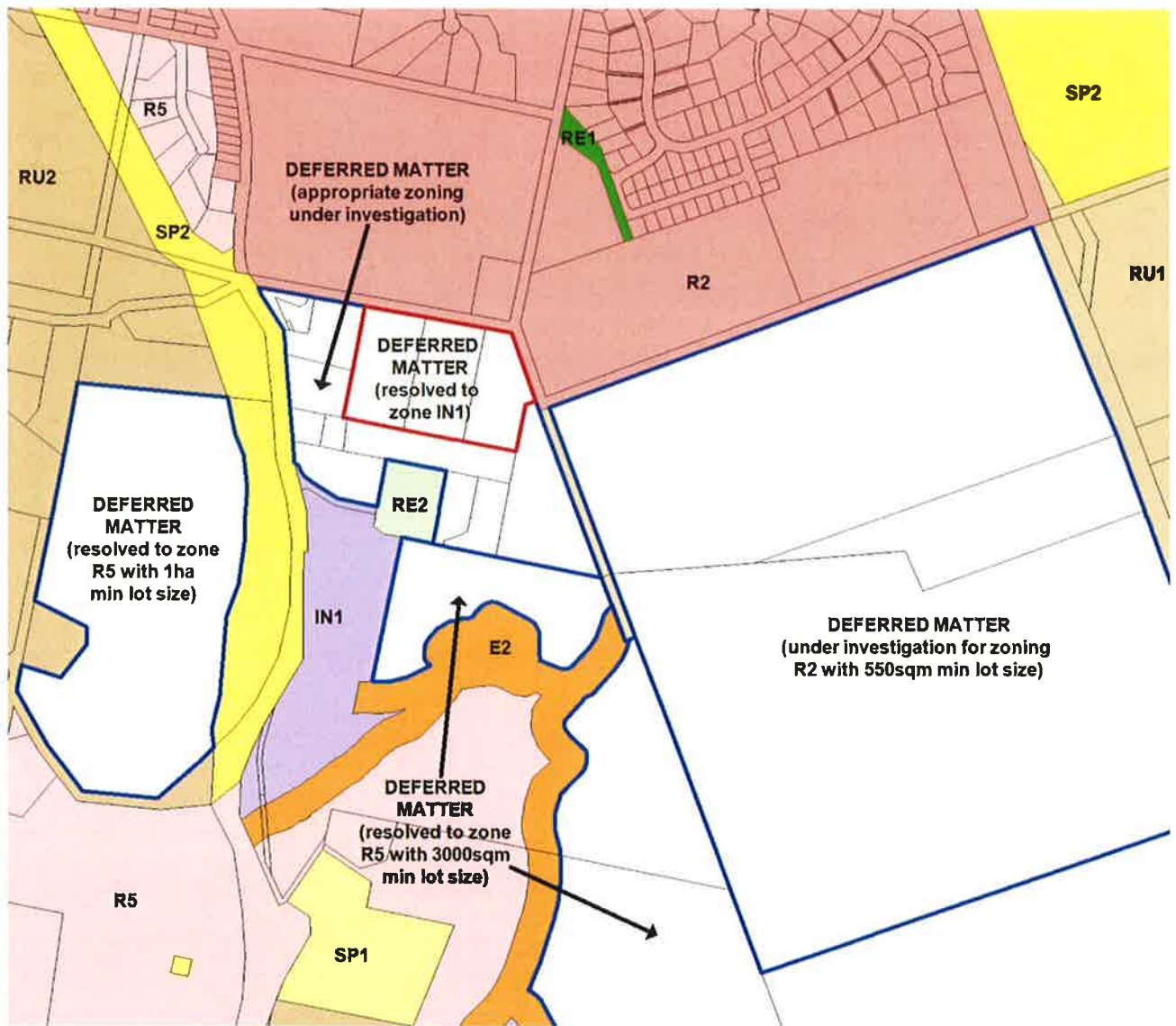


Figure 4: Current zoning under BVLEP 2013 and directions/resolutions for deferred matters

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 to replace BVLEP 2002. The 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 the 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 the E3 Environmental Management and E4 Environmental Living zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the 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 resolved to include the subject land as an Appendix 2 matter being:

- *“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 prior to re-exhibition”...*

In relation to the subject land, Appendix 2 contained the following resolution:

- *“Amend the zone of the land to IN1 General Industrial”*

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

The properties that are the subject of this Planning Proposal are in Appendix 2 and were deferred from the BVLEP 2013. Consequently, their zoning and status as prescribed under the BVLEP 2002 still applies to the land. A planning proposal is required to apply BVLEP 2013 to resolve the issue of appropriate zoning, lot size and height for the subject land.

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

Yes. It is considered that this Planning Proposal is the most appropriate and available means of achieving the objective.

Schedule 1 – Additional Uses of BVLEP 2013 could be used as an alternative; 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.

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

One of the major aims of the South Coast Regional Strategy (SCRS) 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. This Planning Proposal supports the following key action points of the SCRS:

- Consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities.
- Local Environmental Plans will protect and add to employment lands in existing economic centres, including major regional centres and major towns, and identify and protect all regionally significant employment lands.

In terms of outcomes, this Planning Proposal is compatible with the SCRS given that the subject property is:

- not located on viable agricultural land and is generally clear of native vegetation;
- located in close proximity to existing industrial zoned land that contains suitable services;
- located in close proximity to the existing regional town of Bega and regional transport routes, which are capable of meeting the future daily needs of any future development; and
- is unlikely to be the subject of land use conflicts.

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 (CSP) identifies the long term aspirations of the Bega Valley Shire's community.

This planning proposal supports two of the key aims of the CSP:

- To ensure the unique environment is protected to maintain biodiversity and water quality and managed for our community, to provide growth and economic opportunity; and
- To support a creative and innovative business community invigorating growth in employment and economic activity, in partnerships with government.

Bega and District Strategic Directions Report January 2006

The Bega and District Strategic Directions Report presents the findings of a review of existing Rural Smallholdings and Future Urban land uses in and around Bega. The Report identifies the need for additional industrial lands to be provided to meet the needs of the area. This Planning proposal is consistent with the Report as it will provide additional industrial lands in close proximity to the regional centre of Bega.

Land Use Planning Strategy 2008

The proposed use of the subject site for industrial was also considered as part of the Land Use Planning Strategy 2008 that identified suitable areas for both residential and industrial land uses including the subject area and on adjoining lands to the southwest.

In the Strategy the subject land was proposed to be zoned R5 Large Lot Residential as a buffer between the industrial zone to the south and the residential to the east and permit home based employment. However, Council subsequently resolved to rezone the subject land IN1 General Industrial given the existing uses and the potential for expansion of employment generating uses that are compatible with the adjoining residential land.

Q5. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

This Planning Proposal is consistent with the applicable State Environmental Planning Policies (SEPPs). The SEPPs that are applicable to this Planning Proposal are detailed in this Section. For a complete checklist of SEPPs, refer to Attachment 2.

SEPP No. 44 Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline

This Planning Proposal is consistent with the SEPP as the subject properties do not contain any mapped primary or secondary koala habitat areas.

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 none of the subject land is contaminated from previous uses.

Site inspections and a review of past and recent aerial photography indicated some activities associated with the existing uses that may result in contamination of the subject area including the repairing of vehicles (Lot 240) and agricultural chemical storage (Lot 239).

A search of Council's property, Development Application and Building Application files was undertaken for each allotment within the subject area to ascertain past approvals and other information relevant to contamination issues. The table below contains a summary of this review together with key points from the site visit.

Property	Approved Development	Site inspection notes
Lot 239 DP 750190 – 133 Boundary Lane, Bega	BA 134.1961 Dwelling BA 23.1964 Oil & drum storage depot BA 2.1970 Erection of machinery shed BA 318.1977 Alteration & additions to existing dwelling DA 1985.1102 Rural industry use, maintenance, repair & storage of earth moving equipment DA 1988.1220 Erection of extension of existing building for rural industry use DA 1998.1238 Extension to existing shed DA 2002.0262 Removal of 2400 cubic metres of soil DA 2008.0250 Storage Shed	No issues identified. Mitigation measures addressed with conditions of consent. No issues identified. No issues identified. Mitigation measures addressed with conditions of consent. No issues identified. No issues identified. No issues identified. No issues identified.
Lot 240 DP 750190 – 121 Boundary Lane, Bega	BA 34.1958 Erection of a garage & workshop BA 81.1966 Erection of a garage BA 463.1981 Farm machinery shed BA 651.1985 Alterations & additions to existing dwelling DA 1992.0541 Erection of a storage shed	No issues identified. No issues identified. No issues identified. No issues identified. No issues identified.

	DA 1997.1104 Bus storage & car repair station DA 1999.1455 Additions to existing home office DA 2003.1065 Dwelling DA 2011.0196 Alterations & additions to existing sheds and inspection pit DA 2011.0196 Alterations & additions to existing building and use for bus storage DA 2011.0478 Erection of bus wash bay DA 2014.0353 Alterations & additions to existing dwelling	Mitigation measures addressed with conditions of consent. No issues identified. No issues identified. Mitigation measures taken for pit drainage (sump & pump). No issues identified. No issues identified. No issues identified.
Lot 241 DP 750190 – 101 Boundary Lane, Bega	BA 82.1965 Dwelling BA 234.1969 Alterations & additions to existing dwelling BA167.1976 Alterations & additions to existing dwelling	No issues identified. No issues identified. No issues identified.

In accordance with the requirements of Clause 6 of SEPP55, the subject area has been considered to ascertain the likelihood of contamination. This assessment demonstrated that although the subject area contains uses that have the potential for land contamination, generally the subject area appears to be clean and well maintained and the owners of existing businesses are complying with the relevant conditions of consent, as such the potential for contamination is unlikely.

The objective of the Planning Proposal is to regularise existing uses and prohibit any future residential development, therefore the Planning Proposal is consistent with this SEPP and the land is suitable for the proposed use. Any future use of the site would require the provision of a detailed environmental assessment to support a Development Application and Council will impose suitable conditions to mitigate any potential environmental effects.

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

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions applicable within 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 (including the alteration of any existing business or industrial zone boundary). 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 additional opportunities for the economic development of land in close proximity to the regional centre of Bega, encourage commercial and employment growth in a suitable location and not compromise existing employment land in existing business and industrial zones.

2.1 Environment Protection Zone

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 consistent with this Direction as any potential impacts on the identified natural gully line that runs diagonally through Lots 240 and 241 to the north east have been considered and assessed under approved Development Applications for works and development associated with the existing uses of the land.

Any future use of the site for industrial purposes would require the provision of a detailed environmental assessment to support a Development Application for further development of the subject property and Council would impose suitable conditions to mitigate any potential environmental effects.

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 consistent with this Direction as any potential impacts on aboriginal heritage have been considered and assessed under approved Development Applications for works and development associated with the existing uses of the land and no items of Aboriginal heritage significance were located on the land.

A review of Council's BVLEP 2002 and BVLEP 2013 identified that the subject land retains no items of European heritage, however, the subject land is located approximately 70 metres from a heritage item listed on Schedule 5 of BVLEP 2013 (Old Bega Hospital) which is located uphill south of the subject land. Any future development on the subject land as a result of this Planning Proposal is not expected to impact the Old Bega Hospital as the subject land is not visible from the heritage listed site.

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 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 inconsistent with this direction as the land is currently zoned 2(f) Future Urban. However, it is considered that this inconsistency is minor given the small size of the subject area and that the intention of this Planning Proposal is to rezone the land to regularise the existing uses of the land.

3.4 Integrating Land Use and Transport

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 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 achieve a number of planning objectives.

This Planning Proposal is consistent with this Direction as adequate infrastructure is available to service any additional development that may result from this Planning Proposal.

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.

This Planning Proposal is consistent with the objectives of this Direction as the subject land has not been identified as containing any mapped Bush Fire Prone land.

5.1 Implementation of Regional Strategies

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

As detailed at Q3, this Planning Proposal is consistent with the overall vision, land use strategy, policies, outcomes and actions identified in 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 of this Direction 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.

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 have been developed for many years, with little to no habitat remaining on these lots.

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

The Planning Proposal will enable future industrial uses which, by their nature, have the potential to generate a number of environmental effects such as noise, air pollution and waste generation, but are very much dependent on the type and nature of the individual development.

Any future use of the site for industrial purposes would require the provision of a detailed environmental assessment to support a Development Application for further development of the subject property and Council would impose suitable conditions to mitigate any potential environmental effects. Furthermore, Bega Valley Development Control Plan 2013 details appropriate matters for consideration in the preparation of a Development Application to ensure issues like potential noise, pollution, and other environmental issues are suitably considered and detailed in any development application.

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

The Planning Proposal will have positive social and economic effect for Bega. In particular, the provision of additional industrial zoned land will:

- Provide opportunities for additional industrial development within close proximity to existing industrial zoned land that would utilise existing services and facilities; and
- Encourage beneficial employment generating development opportunities for the regional centre of Bega.

Section D – State and Commonwealth Interests

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

The additional public infrastructure requirements for the subject area, stormwater drains, water and sewer infrastructure will be identified and addressed through the lodgement of a detailed Development Application for assessment and determination.

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 Environment 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 Roads and Maritime Service
- NSW Office of Environment and Heritage

Part 4 – Mapping

Changes to the proposed map sheets will be undertaken in a suitable format for public exhibition once the Gateway Determination is issued.

This Planning Proposal will result in changes the following properties on the following BVLEP 2013 maps:

LAP_001

Amend map sheet LAP_001 by deleting DM Deferred Matter for Lots 239, 240 & 241 DP 750190

LZN_011C

Amend map sheet LZN_011C by applying IN1 General Industrial to Lots 239, 240 & 241 DP 750190

HOB_011C

Amend map sheet HOB_011C by applying N-14 metres height limit to Lots 239, 240 & 241 DP 750190

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. 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*.

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 (Merimbula News Weekly, Eden Magnet and Bega District News) and in writing to affected and adjoining landowners.

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

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by June 2015.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council's General Manager or Group Manager Planning and Environment.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to the Department	October 2014
STAGE 2 – Receive Gateway Determination	November 2014
STAGE 3 – Preparation of documentation for Public Exhibition	December 2014
STAGE 4 – Public Exhibition of the Planning Proposal	December 2014
STAGE 5 – Review/consideration of submissions received	January 2015
STAGE 6 – Council Report	February 2015
STAGE 7 – Meetings	March 2015
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	April 2015
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	May 2015
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	June 2015