



PLANNING PROPOSAL

Local Government Area:

Snowy River Shire

Proposal:

Administrative and minor amendment to Snowy River Local Environmental Plan 2013

Applicant:

Snowy River Shire Council

Subject Land:

The proposed changes are administrative and apply to the whole Shire, the land covered by Snowy River LEP 2013

Amendment number and date:

Amendment No. 1, June 2015

PLANNING PROPOSAL

Part 1 – Objectives and intended outcomes

The objective of this planning proposal is to amend the Snowy River LEP 2013 in relation to a number of administrative matters and to include several minor changes specifically in relation to the application of the scenic protection area controls and minor boundary adjustments in certain rural and environmental zones.

The amendment entails correcting minor mapping errors with the application of the scenic protection controls over certain areas. This proposal seeks to remove scenic protection controls from those areas which no longer merit this protection as they are fully developed and where controls were applied in error during the implementation of Snowy River LEP 2013.

The amendment also seeks to correct the naming of one heritage item (Item 26 incorrectly named) and wording in relation to existing holdings to ensure dwelling entitlements under previous planning instruments are maintained in perpetuity.

The planning proposal seeks to include additional land use of *Place of public worship* to the industrial zone. This is considered a complimentary use and appropriate in the general industrial zone.

Also included in the proposal is an additional matter to allow for greater flexibility in relation to rural boundary adjustment subdivision providing for improved agricultural or environmental outcomes without creating additional opportunities for the establishment of dwelling houses.

Part 2 – Explanation of Provisions

Provisions to be introduced to the Snowy River Local Environmental Plan in the proposed amendment comprise specifically adjustments to LEP maps, minor changes and additions to Clause 4.2D (6)(b) to correctly refer to existing holding under LEP4. The proposal also includes a change to Schedule 5 Environmental Heritage item no.26 and additional boundary adjustments under Schedule 2 Exempt development.

Mapping Amendments

Scenic Protection Area

Specifically, Scenic Protection Area Map SCP_003 will have the control removed from lots in Kalkite, Tyrolean and East Jindabyne. Scenic protection area mapping will be reduced so as not to be active upon these township areas. The area where scenic protection area controls are to be removed is indicated on maps contained within attachment 1 of this proposal.

Instrument Amendments

Zone IN1 General Industrial

Add *place of public worship* to land use table as Permitted with consent.

This additional land use is considered to be a complimentary and appropriate use in this zone. The inclusion is also consistent across other local government areas as many allow this use in a general industrial zone.

Schedule 5 Environmental heritage

Correctly refer to heritage item no.26. In error is named St Mary's Catholic Church when the correct name is St Johns Anglican Church. This is a typographical error in the naming of the heritage items.

Existing holdings Clause 4.2D(6)(b)(ii)

4.2D(6) In this clause:

existing holding means:

(a) land that was a holding on 26 September 1985, and is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since 26 September 1985, and includes any other land adjoining that land acquired by the owner since 26 September 1985, or

(b) a lot that was created under:

(i) the Kosciuszko Regional Environmental Plan 1998—(Snowy River), as in force immediately before its repeal, or

(ii) clause 10 of the Snowy River Rural Local Environmental Plan No 4 as in force immediately before its repeal,

if a dwelling could, immediately before that repeal, have been erected on the lot.

Currently the reference in part b(ii) refers to Clause 10 of LEP 2007 when in fact it correctly should be Clause 10 of LEP 4 and an addition be made to include (iii) clause 22 LEP 2007 to ensure all dwelling entitlements are preserve from Snowy Rivers former instruments.

Alternatively advice is sought as to whether part (b) is required at all given part 4.2D3(c). The intent is to ensure all existing holdings are preserved including those permitted through previous planning instruments.

Subdivision Boundary Adjustments

In relation to seeking greater flexibility to permit boundary adjustment subdivisions, where one or more lots are already less than the minimum lot size required by the lot size map for subdivision and where no additional dwelling entitlements are created, the Snowy River LEP 2013 be amended as follows (or in a similar manner to enable the intended outcome of this planning proposal):

Insert the following local clause or similar:

Boundary changes between lots in certain rural, residential and environment protection zones

(1) The objective of this clause is to permit the boundary between 2 lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.

(2) This clause applies to land in any of the following zones:

- (a) Zone RU1 Primary Production,
 - (b) Zone E3 Environmental Management,
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 adjoining lots, being land to which this clause applies, if the subdivision will not result in:
- (a) an increase in the number of lots, and
 - (b) an increase in the number of dwelling houses, secondary dwellings or dual occupancies on, or dwelling houses, secondary dwellings or dual occupancies that may be erected on, any of the lots, and
 - (c) a lot that is less than 2 hectares.
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
 - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
 - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
 - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply:
- (a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or
 - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

This will allow, without consent, greater flexibility to change lot shape in response to on ground practicalities. No additional dwelling entitlements are created it is merely allowing for a more practical subdivision layout. Above is an example (Wingecarribee LEP) the exact clause will be determined in consultation with the Department and through the drafting process.

Part 3 – Justification

Section A – Need for a planning proposal

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

The planning proposal is not the result of a strategic study or report. The amendments are administrative and have been identified during preparation and post implementation of the conversion of the previous SR LEP 1997 and SRLEP 2007.

Scenic Protection Area

Specifically the amendment relating to visual protection area mapping represents a reversion of LEP settings to a previous state. The Scenic Protection Area controls were applied in error as it was not intended to cover urban areas with these controls. Previous Snowy River LEP 1997 did not include the concerned land in Kalkite and did not intend to apply the controls to urban zones. A small area in East Jindabyne and Tyrolean village will also be excluded from the Scenic Protection as they are urban zoned and do not require the application of this clause.

Documentation and mapping of previous allocation of Scenic Protection Area controls is included in attachment 1 of this planning proposal.

Additional land use

The addition of places of public worship to the land use table in the IN1 General Industrial zone is consistent with other LEP's across the State and is considered to be an appropriate and complimentary use.

Existing holdings Clause 4.2D(6)(b)(ii)

Minor changes and additions to Clause 4.2D (6)(b) are sought to correctly refer to existing holding under LEP4.

Subdivision Boundary Adjustments

The change sought in relation to minor boundary adjustments which are below minimum lot size that do not create any additional dwelling entitlements is consistent with previous LEP 2007 and the historic assessment of development applications within the shire.

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

The proposed changes both to the instruments and associated maps through this planning proposal is the only and most appropriate way to achieve the intended outcome.

Is there a net community benefit?

There is a net community benefit in ensuring LEP 2013 is correct and allows for the appropriate and consistent application of planning provisions relating to boundary adjustments and visual protection area controls. The planning proposal retains

Scenic Protection Area controls for those areas where it is appropriate and removes them from locations where they are not appropriate.

Opportunities to establish places of public worship in a variety of appropriate zones are supported and have a positive net community benefit.

Section B – Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The planning proposal relates to the correction of minor errors and changes only. The planning proposal does not originate from regional strategic content. There is no regional or sub-regional strategy specifically for Snowy River Shire.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is corrective. It is not driven by strategic objectives.

One of the key actions in council's integrated planning and reporting framework is to ensure an effective and to continuously improve the local planning framework. In this way the planning proposal is consistent as it upholds this strategic intent.

Is the planning proposal consistent with the applicable state environmental planning policies?

SEPP (Kosciuszko National Park – Alpine Resorts) 2007

This planning proposal is considered to be consistent with this SEPP. The planning proposal does not seek any change to the provisions apply to land within this SEPP or are currently Zone E1 National Parks and Nature Reserves under the LEP 2013.

The aim of this policy is to strengthen the assessment framework for development within the alpine resorts and to reinforce environmentally sustainable development and recreational activities within these resorts. The Policy also facilitates the protection of the natural and cultural setting of the alpine resorts in Kosciuszko National Park. The current planning proposal uphold the intent of this SEPP.

SEPP (Rural Lands) 2008

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural related purposes. The broad acre minimum lot sizes and the objectives of the broadacre rural land within Snowy River Shire are maintained in LEP 2013 and are not the subject of this current planning proposal. The changes sort in relation to boundary adjustments do not create any additional dwelling entitlements and will have no net on ground effect on rural lands.

SEPP No.44 Koala Habitat Protection

This policy encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure populations are maintained over their present range. It requires Councils affected by the policy cannot approve development in an area without an investigation of core koala habitat.

This planning proposal is consistent with SEPP 44 as it does not, in effect, propose any rezoning the objectives of the zones remain the same. This amendment is largely administrative with minor changes and correction of errors sought.

Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

The following table outlines the relevant s117 directions and the level of consistency of this planning proposal to them.

1. Employment and Resources

No.	Title	Consistency
1.1	Business and Industrial Zones	Consistent
1.2	Rural Zones	Consistent The amendment is of a minor nature and does not significantly change rural zones.
1.3	Mining, Petroleum Production and Extractive Industries	Consistent
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Consistent No change to the broadacre minimum lot size, objectives, dwelling entitlements will occur to rural zones within the Shire. The amendment is of a minor nature for the most part amending anomalies or errors in the drafting of the transfer LEP 2013.

2. Environment and Heritage

No.	Title	Consistency
2.1	Environmental Protection Zones	Consistent The provisions of the LEP remain unchanged and ensure the protection of environmentally sensitive areas.
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Consistent The amendment is administrative and will correct errors in relation to heritage items.
2.4	Recreation Vehicle Areas	Consistent

3. Housing, Infrastructure and Urban Development

No.	Title	Consistency
3.1	Residential Zones	Consistent The draft LEP maintains the intent of existing with no change to residential zones.
3.2	Caravan Parks and Manufactured Home Estates	Not applicable
3.3	Home Occupations	Not applicable
3.4	Integrating Land Use and Transport	Consistent The draft LEP maintains the intent of existing LEPs translating them into the standard template format without changing residential areas. The proposed amendment does not alter these provisions.
3.5	Development Near Licensed Aerodromes	Not applicable. The amendment does not seek change in this area.

4. Hazard and Risk

No.	Title	Consistency
4.1	Acid Sulfate Soils	Not applicable
4.2	Mine Subsidence and Unstable Land	Not applicable
4.3	Flood Prone Land	Consistent The model Local provision 'Flood Prone Land' is included in LEP 2013 to ensure consistency with this direction.
4.4	Planning for Bushfire Protection	Consistent The proposed amendment maintains the intent of existing LEP 2013. There are no changes proposed.

5. Regional Planning – Not applicable

6. Local Plan Making

No.	Title	Consistency
6.1	Approval and Referral Requirements	Consistent. There are no changes to the approval process included in the Planning Proposal.
6.2	Reserving Land for Public Purposes	Consistent. There are no changes in this area included in the Planning Proposal.
6.3	Site Specific Provisions	Not applicable

7. Metropolitan Planning – Not applicable

Section C – Environmental, social and economic impact

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?

No. The proposal relates to minor administrative errors which have no material effect. Specifically in relation the Visual Protection Area mapping, this planning proposal seeks to reinstate planning controls as they have existed in previous iterations of the Snowy River LEP.

In relation to boundary adjustments the planning proposal allows for practical boundary adjustments that provide for improved agricultural or environmental outcomes without creating additional dwelling entitlements.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No other environmental effects are anticipated to result from the administrative and minor changes sought through this planning proposal.

How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is not anticipated to result in any significant social or economic impacts. A marginal economic benefit may be derived from removal of inappropriate application of planning provisions. The flexibility achieved through boundary adjustment is considered to achieve positive social and economic effects.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

The planning proposal does not generate additional demand upon infrastructure.

What are the views of State and Commonwealth public authorities consulted in the gateway determination?

It is considered due to the minor and administrative nature of the planning proposal that the changes would not be of consequence for State and Commonwealth public authorities. No consultation with these entities has taken place.

Part 4 – Mapping

Previous mapping and proposed mapping is provided in attachment 1.

Part 5 – Community Consultation

Council has not undertaken any community consultation concerning this planning proposal to date. It is anticipated that this will occur as part of the formal exhibition of the planning proposal or as directed through the gateway determination process.

Community consultation in relation to this planning proposal is considered to only be required to the minimum extent necessary as deemed by the Gateway process. In this regard, if it is determined that consultation is necessary; it is proposed that there be:

- One notification of the exhibition in a locally circulating newspaper
- An exhibition period of 14 days.

Part 6 – Project Timeline

The planning proposal requires minor changes to Snowy River LEP 2013. No additional strategic work or community consultation will be required for the successful implementation of the planning proposal. As a result Council intends to undertake the planning proposal immediately in the event Gateway approval is granted.

Council is also seeking delegation to proceed with the planning proposal which will therefore reduce the project timeline.

Part 6 – Project Timeline

Attachment 1 – Map variations

Separate PDF's provided