



Planning Proposal:

Secondary Dwellings and Dual Occupancies in Rural Zones

November 2020



PO Box 492, Bega NSW 2550

P. (02) 6499 2222

F. (02) 6499 2200

E. council@begavalley.nsw.gov.au

W. begavalley.nsw.gov.au

ABN. 26 987 935 332

DX. 4904 Bega

Contents

Part 1 – Objectives and intended outcomes.....	2
Part 2 – Explanation of provisions	4
Part 3 – Justification	6
A. Need for the planning proposal	6
B. Relationship to the strategic planning framework.....	9
C. Environmental, social and economic impact	13
D. State and Commonwealth interests.....	13
Part 4 – Mapping	14
Part 5 – Community Consultation.....	14
Part 6 – Timeline	16
Appendix 1: NSW Department of Primary Industries Submission to Draft Bega Valley Shire Rural Residential Strategy	17
Appendix 2: Extracts from Bega Valley Shire Rural Residential Strategy 2040	20

Part 1 – Objectives and intended outcomes

This planning proposal has been prepared by Bega Valley Shire Council in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning, Industry and Environment's *A Guide to Preparing planning proposals* (December 2018).

This planning proposal seeks to amend *Bega Valley Local Environmental Plan 2013* Land Use Tables as well as Clause 4.2D to implement the recommendations of the *Bega Valley Shire Local Strategic Planning Statement 2040* and the *Bega Valley Shire Rural Residential Land Strategy 2040* to support affordable housing opportunities throughout the Bega Valley Shire. Relevant extracts of the *Bega Valley Shire Rural Residential Strategy 2040* are included as Appendix 2 to this planning proposal.

The objectives of this planning proposal are to amend the *Bega Valley Local Environmental Plan 2013* to:

- Prevent fragmentation of rural land and avoid land use conflict by ensuring that dual occupancy development is subject to the same controls on lot size that are applied to dwelling houses.
- Increase the provision of affordable housing options for farmers and other landowners in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones without permitting further subdivision of land.
- Continue to limit the impact of additional dwellings in the RU1 Primary Production and RU2 Rural Landscape zones on agricultural resources, farming operations, landscape amenity and Council roads, but introduce greater flexibility to permit optimal siting of dwellings with regard to aspect, slope, hazards, preserving biodiversity and Aboriginal cultural heritage and minimising potential for land use conflict.
- Ensure that additional dwellings in the RU4 Primary Production Small Lots zone have a limited impact on agricultural resources, farming operations, landscape amenity and Council roads.

The intentions of this planning proposal are to:

- Amend Clause 4.2A to include ***dual occupancies***.
- Include ***secondary dwellings*** as a use that is permitted with consent in zones RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots.
- Amend Clause 4.2D to include ***secondary dwellings***, in addition to dual occupancies (detached), as a land use that must consider the controls to limit the impact of additional dwellings in the rural zones.
- Amend Clause 4.2D to include RU4 Primary Production Small Lots as a zone where the clause applies.

- Increase the distance that two dwellings in a rural zone may be situated from each other to better respond to the topographical and other constraints of rural land in the Bega Valley Shire.

Part 2 – Explanation of provisions

The proposed outcome will be achieved by amending the land use table and Clauses 4.2A and 4.2D as follows:

Land Use Table

The planning proposal seeks to amend the Land Use Table in Part 2 of the *Bega Valley Shire Local Environmental Plan 2013* as follows:

Land Use Table	Add to “3 permitted with consent”
RU1 Primary Production	Secondary dwellings
RU2 Rural Landscape	Secondary dwellings
RU4 Primary Production Small Lots	Secondary dwellings

Part 4 Principal development standards, Clause 4.2A

The planning proposal seeks to amend Clause 4.2A in the *Bega Valley Shire Local Environmental Plan 2013* by:

1. Including dual occupancy development as a land use that must consider Clause 4.2A, in accordance with the following:

4.2A Erection of dwelling houses and dual occupancies on land in certain rural, residential and environment protection zones

- (1) The objectives of this clause are as follows—

- (a) to minimise unplanned rural residential development,
- (b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in rural, residential and environment protection zones.

- (2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone R5 Large Lot Residential,
- (e) Zone E3 Environmental Management,
- (f) Zone E4 Environmental Living.

- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land—

- (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
- (b) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house **or dual occupancy** was permissible immediately before that commencement, or
- (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house **or dual occupancy** would have been permissible if the plan of subdivision had been registered before that commencement, or
- (d) is an original holding, or
- (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

Note—

A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

(4) (Repealed)

(5) Development consent may be granted for the erection of a dwelling house **or dual occupancy** on land to which this clause applies if there is a lawfully erected dwelling house **or dual occupancy** on the land and the dwelling house **or dual occupancy** to be erected is intended only to replace the existing dwelling house **or dual occupancy**.

(6) In this clause—

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note—

The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

original holding means—

- (a) land that is identified as “Original Holdings” on the Original Holdings Map, or
- (b) any other land that was a holding on 7 January 1966, 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 7 January 1966.

Part 4 Principal development standards, Clause 4.2D

The planning proposal seeks to amend Clause 4.2D in the *Bega Valley Shire Local Environmental Plan 2013* by:

1. Including secondary dwellings as a land use that must consider Clause 4.2D,

2. Expanding the application of Clause 4.2D to include the RU4 Primary Production Small Lots zone,
3. Inserting an additional objective into Clause 4.2D, and
4. Amending Clause 4.2D(2)(c) to increase the numerical value from 100 metres to 250 metres in accordance with the following:

4.2D Erection of dual occupancies (detached) and secondary dwellings in Zone RU1, and Zone RU2 and Zone RU4

(1) The objectives of this clause are as follows—

- (a) to provide alternative accommodation for rural families and workers,
- (b) to ensure development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,
- (c) to ensure optimal siting of dwellings with regard to aspect, slope, hazards, preserving biodiversity and Aboriginal cultural heritage and minimising potential for land use conflict.

(2) Development consent must not be granted to development for the purpose of a dual occupancy (detached) or secondary dwelling on land in Zone RU1 Primary Production, or Zone RU2 Rural Landscape or Zone RU4 Primary Production Small Lots unless the consent authority is satisfied that—

- (a) the development will not impair the use of the land for agriculture or rural industries, and
- (b) each dwelling will use the same vehicular access to and from a public road, and
- ~~(c) each dwelling will be situated within 100 metres of each other, and~~
(c) each dwelling will be situated within 250 metres of each other, and
- (d) the land is physically suitable for the development, and
- (e) the land is capable of accommodating the on-site disposal and management of sewage for the development, and
- (f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.

Part 3 – Justification

A. Need for the planning proposal

Amendment to Clause 4.2A

Clause 4.2A currently applies to dwellings in zones RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living. Given that dual occupancies are permitted with consent in many of these zones, it has been identified by the Department of Planning, Industry and Environment (DPIE) that that Clause 4.2A should be amended to include dual occupancy development also.

The proposal is not inconsistent with any of Bega Valley Shire's strategic planning documents.

Amendment to the land use table and Clause 4.2D

Currently the Bega Valley Local Environmental Plan 2013 permits the following residential development in the rural zones provided certain criteria are met:

Table 1: Types of residential development permitted in rural zones

Zone	Dwelling houses	Secondary Dwellings	Dual occupancies (attached)	Dual occupancies (detached)
RU1 Primary Production	✓	✗	✓	✓
RU2 Rural Landscape	✓	✗	✓	✓
RU4 Primary Production Small Lots	✓	✗	✓	✗

The need for the planning proposal was identified as an output of the Bega Valley Shire Rural Residential Land Strategy 2040 and Bega Valley Shire Local Strategic Planning Statement 2040.

Research undertaken to inform these strategies identified the need for:

- application of the secondary dwelling land use in rural zones to provide greater housing diversity for farmers wishing to age-in-place and to provide a more affordable accommodation option to provide for succession planning, and
- more flexibility in the siting of dual occupancies (detached) in rural zones to better reflect the topographical constraints of the land, and to allow optimal dwelling siting based on merit.

In the Bega Valley Shire Local Environmental Plan 2013, secondary dwellings are defined as “... a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”

In the Bega Valley Shire, the total floor area of a secondary dwelling “...must not exceed whichever of the following is the greater—

- (a) 60 square metres,
- (b) 30% of the total floor area of the principal dwelling.”

Clause 2.8 of the Bega Valley Section 7.11 and 7.12 [Previously S.94 and 94A] Contributions Plan 2014 details that contributions do not apply to secondary dwellings.

Since gazettal of Bega Valley Local Environmental Plan 2013 (Amendment No. 6) on 6 February 2015, a total of 27 dual occupancy (detached) have been approved in RU1 and RU2 zones, with six (22%) of these varying the 100m restriction detailed in in Clause 4.2D(2)(c) by way of a Clause 4.6 variation.

The assessment reports for each development application detail various reasons for varying for the clause, including to minimise environmental impacts (vegetation clearing, cut and fill, proximity to riparian zones), minimise hazards, minimise land use conflict with agricultural operations and improve aspect and solar access.

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes, in relation to the proposal to amend the land use table, the planning proposal is a result of a strategic study and aligns with Council's endorsed local strategic planning statement.

Bega Valley Shire Rural Residential Land Strategy 2040

In February 2020 Council adopted the *Bega Valley Shire Rural Residential Land Strategy 2040* (the strategy) which outlines Council's strategic directions for rural living opportunities and guides future rural residential development. The strategy was prepared in consultation with the community and State government agencies.

The strategy identifies and limits opportunities for rural residential development within various catchments in the Bega Valley Shire through to 2040 and provides a general recommendation to review the land use tables for rural and rural residential zones in the *Bega Valley Local Environmental Plan 2013* to increase provision of affordable housing options without permitting further subdivision of land. The strategy specifically recommends the inclusion of Secondary Dwellings as a land use that is permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones.

Bega Valley Shire Local Strategic Planning Statement 2040

In June 2020 Council adopted the *Bega Valley Shire Local Strategic Planning Statement 2040* (BVS LSPS) to provide direction for land use in the Bega Valley Shire through to 2040. The BVS LSPS provides a 20-year vision for land use, identifies planning priorities for the next 20 years, identifies shared values to be maintained and enhanced and identifies required changes to planning provisions in the *Bega Valley Local Environmental Plan 2013*.

The BVS LSPS recognises the need for greater housing diversity in the Bega Valley Shire, particularly smaller dwellings, to contribute to improved housing affordability. The BVS LSPS includes the following action:

Action 11.5 Review the planning controls in rural zones to increase the provision of affordable housing options without permitting further subdivision of land.

The action recognises the need for greater housing options in rural zones to support farming families and other landowners. It has become apparent that the development control prescribing a maximum distance of 100m between detached dual occupancy dwellings in rural zones is unreasonable due to the undulating and forested topography of the Bega Valley Shire, resulting in the application of Clause 4.6 to vary the relevant clause in 19% of applications.

The maximum distance provision was incorporated into Clause 4.2D to minimise potential land use conflict between residential and rural land uses. Subsequent to Clause 4.2D being added to the *Bega Valley Local Environmental Plan 2013*, Clause 5.16 has been added to the *Standard Instrument – Principal Local Environmental Plan* requiring that potential land use conflict be considered prior to granting consent for any new dwelling in a rural zone.

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

Yes. The planning proposal is the best means of achieving the stated objectives. These matters can only be achieved through a planning proposal.

B. Relationship to the strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Yes. The planning proposal aims to achieve the following goals, directions and actions of the NSW Department of Planning, Industry and Environment's *South East and Tablelands Regional Plan*:

Goal 4: Environmentally sustainable housing choices

Direction 24: Deliver greater housing supply and choice

- Action 24.3 Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs.

Direction 28: Manage rural lifestyles

- Action 28.1 Enable new rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.
- Action 28.3 Manage land use conflict that can result from cumulative impacts of successive development decisions.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal gives effect to the following strategic directions and actions of Planning Priority 11: Housing of the *Bega Valley Shire Local Strategic Planning Statement 2040*:

- Future Direction: Allow for growth and encourage housing diversity and affordability while enhancing the distinct local character of each place.
- Action 11.5 Review the planning controls in rural zones to increase the provision of affordable housing options without permitting further subdivision of land.

The planning proposal is consistent with the following goals and strategies of the *Bega Valley Shire Community Strategic Plan 2040*:

- Goal 5: Our air and water is pristine and our natural environment and rural landscapes are protected.
 - Strategy 11: Ensure land use planning and resource use protects the quality of the natural environment, the existing character of rural landscapes and the high value agricultural land.
- Goal 7: Our Shire continues to be a vibrant, enjoyable, safe and affordable place to live.
 - Strategy 16: Collaborate with relevant agencies and the private sector to increase the diversity and affordability of new and existing housing, particularly to meet the needs of our ageing population.

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

The following table identifies the applicable SEPPs and outlines this planning proposal's consistency with these:

Relevant SEPP	Consistency
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. This SEPP may apply to future residential development in the form of a secondary dwelling or dual occupancy and will be considered at the detailed development consent stage.
State Environmental Planning Policy (Coastal Management) 2018	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. This SEPP may apply to future residential development and will be considered at the detailed development consent stage.
State Environmental Planning Policy (Primary Production and Rural Development) 2019	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Yes. The following table identifies the applicable Section 9.1 Directions by the Minister and outlines this planning proposal's consistency with these:

No.	Direction	Comment
1. Employment & Resources		
1.2	Rural Zones	The planning proposal is consistent with the objectives of this Direction as it does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. Clause 4(b) does not apply to the Bega Valley Shire.
1.5	Rural Lands	<p>The planning proposal is consistent with the South East and Tablelands Regional Plan 2036, which directs Councils to permit new rural residential development only where it has been identified in a local housing strategy prepared by Council and approved by the Department of Planning, Industry and Environment, which is the case.</p> <p>The planning proposal is consistent with the housing planning priority of Bega Valley Shire Local Strategic Planning Statement 2040, which encourages increased housing diversity to provide greater housing affordability and specifically instructs review of the planning controls in rural zones to increase the provision of affordable housing options without permitting further subdivision of land.</p> <p>Agriculture and primary production in Bega Valley Shire are significant contributors to the State and local rural community. The planning proposal will have no adverse impact.</p> <p>The intent of this planning proposal is to ensure that housing diversity and affordability is increased in rural zones without resulting in adverse environmental outcomes, including maintaining biodiversity, protecting native vegetation, Aboriginal cultural heritage and water resources, by permitting better dwelling siting with consideration of the unique constraints of the land.</p> <p>The planning proposal will have no adverse impact on opportunities for investment in productive, diversified, innovative and sustainable rural economic activities. Nor will it undermine farmers exercising their right to farm, as dwellings would only be able to be sited where there is no foreseeable land use conflict.</p> <p>The planning proposal will have no adverse impact on State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019.</p> <p>The planning proposal seeks to balance the social, economic and environmental interests of the community by permitting increased housing diversity and affordability, while protecting the economic and environmental values of the land.</p>
2. Environment and heritage		
2.2	Coastal Management	Consistent. This planning proposal would not prevent any future development application for a secondary dwelling or dual occupancy on rural land from being assessed under the relevant provisions of <i>State Environmental Planning Policy (Coastal Management) 2018</i> .
2.3	Heritage Conservation	Consistent. The planning proposal does not intend to rezone land. This planning proposal would not prevent any future development application for a secondary

		dwelling or dual occupancy on rural land from being assessed with consideration of European heritage or Aboriginal cultural heritage.
4. Hazard and risk		
4.1	Acid sulfate soils	Consistent. This planning proposal would not prevent any future development application for a secondary dwelling or dual occupancy on rural land from being assessed with consideration of acid sulfate soils in accordance with Clause 6.1 of the <i>Bega Valley Local Environmental Plan 2013</i> .
4.3	Flood prone land	Consistent. The planning proposal does not seek to vary any of the flood control provisions currently contained in the LEP and will not result in development of flood prone land that is inconsistent with the Floodplain Development Manual 2005, nor will it result in changes to the LEP that would undermine clause 6.3 Flood Planning.
4.4	Planning for bushfire protection	<p>This planning proposal is consistent with the objectives of the ministerial direction. Any subsequent development of a dual occupancy or secondary dwelling will be required to meet the requirements of Planning for Bushfire Protection 2019.</p> <p>This planning proposal does not introduce controls that place inappropriate developments in hazardous areas or affect land where bushfire hazard reduction is prohibited within the APZs of affected properties. The intent of this planning proposal is to create greater flexibility in the siting of dwellings to allow greater opportunity to avoid hazards.</p> <p>Currently, <i>Bega Valley Local Environmental Plan 2013</i> contains provisions that permit dual occupancy (detached) in RU1 and RU2 zones. The intent of this planning proposal is not to increase residential development in rural zones, but to permit a dwelling and secondary dwelling (with associated infrastructure contribution discounts) to be constructed instead of a detached dual occupancy.</p> <p>In accordance with the Direction, Council will consult with the Commissioner of the NSW Rural Fire Service during the preparation of a draft Local Environmental Plan and take into account any comments made.</p>
5. Regional planning		
5.10	Implementation of Regional Plans	Consistent. The South East and Tablelands Regional Plan is the plan applicable to this proposal. The planning proposal's consistency with this plan is addressed previously under Question 4.
6. Local plan making		
6.1	Approval and referral requirements	<p>Consistent. It is the intention of this planning proposal to increase flexibility in the siting of dual occupancies on RU1 and RU2 zoned land to minimise the requirement for concurrence, consultation or referral of development applications to a Minister or public authority.</p> <p>The planning proposal does not identify development as designated development.</p>

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?

It is not anticipated that the amendments to existing land use tables will adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

Incentivising smaller dwellings and encouraging better dwelling siting through greater flexibility is likely to reduce impacts on critical habitat or threatened species, populations or ecological communities, or their habitats.

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 not anticipated that there will be any adverse environmental effects because of this planning proposal. Future development will consider environmental impacts as part of the development application process.

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

The objective of the planning proposal is to implement the recommendations of the *Bega Valley Shire Rural Residential Land strategy 2040* and *Bega Valley Shire Local Strategic Planning Statement 2040* to increase the provision of affordable housing options without permitting further subdivision of land.

The planning proposal provides opportunity to develop a secondary dwelling instead of a dual occupancy (detached), with the intent of reducing the cost of development for rural landowners, with anticipated positive social outcomes.

The proposal to increase flexibility in the siting of detached dual occupancies aims to allow for improved siting of dwellings while simultaneously reducing the need for Council to seek concurrence when assessing development applications, thereby facilitating rather than impeding development.

D. State and Commonwealth interests

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

Yes. The planning proposal will not increase development density and therefore demand on public infrastructure. Further consideration of the adequacy of public infrastructure would be considered as part of any development application.

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

Council will consult with the relevant State and Commonwealth authorities in accordance with the conditioning of the Gateway Determination.

Pre-gateway consultation with NSW Government Agencies

The following is a summary of issues raised by NSW Agencies in response to the draft Bega Valley Shire Rural Residential Strategy that are relevant to this planning proposal, and Council's response to those issues:

Department of Primary Industries (DPI)

DPI issue: Do not support proposal to permit secondary dwellings in RU4 zone or reduce minimum lot sizes in RU4 zone until RU4 zone review completed.

Council Comment: The potential impact from an increase in land use conflict by permitting secondary dwellings is regarded as minimal given that subdivision of the secondary dwelling is not permitted and the principal dwelling is already likely to be part of an agricultural enterprise in the RU4 zone. Secondary dwellings represent a key opportunity to increase provision of affordable housing in our rural zones.

Council Recommendation: No change to draft strategy but is recommended that the advice from the Department of Primary Industries be forwarded to the Gateway Panel if a planning proposal to include secondary dwellings in the RU4 zone is lodged.

A copy of the submission from the Department of Primary Industries to the draft Rural Residential Strategy is included in Appendix 1 to this planning proposal.

NSW Rural Fire Service (RFS)

The RFS submission to the draft Rural Residential Strategy did not include feedback about the recommendation to include secondary dwellings in rural zones.

NSW Department of Planning, Industry and Environment: Biodiversity and Conservation Division (BCD)

The BCD submission to the draft Rural Residential Strategy did not include feedback about the recommendation to include secondary dwellings in rural zones.

NSW Department of Transport: Roads and Maritime Services (RMS)

The RMS submission to the draft Rural Residential Strategy did not include feedback about the recommendation to include secondary dwellings in rural zones.

Part 4 – Mapping

The planning proposal will not require any amendments to *Bega Valley Local Environmental Plan 2013* maps.

Part 5 – Community Consultation

Community engagement to date

Bega Valley Shire Rural Residential Land strategy 2040

Community engagement for the *Bega Valley Shire Rural Residential Land strategy 2040* was carried out in accordance with Council's Community Engagement Strategy. Council worked with relevant agencies and key stakeholders to develop a practical draft Strategy to meet demand, avoid ad hoc and speculative development proposals, and encourage the development of affordable housing in the context of relevant regulations and policy.

The *Bega Valley Shire Rural Residential Land strategy 2040* built on visioning work carried out by Council in the development of *Bega Valley Community Strategic Plan 2040*.

Formal public exhibition of the draft *Bega Valley Shire Rural Residential Land strategy 2040* took place over a 33-day period from 15 October 2019 to 17 November 2019.

Notices were placed in the local newspaper, Council News and on Council's social media page. Hard copies of the draft *Bega Valley Shire Rural Residential Land strategy 2040* were placed in all Council libraries as well as several post offices in villages during the exhibition period.

Submissions to the draft *Bega Valley Shire Rural Residential Land strategy 2040* were received via email, letter and comments on the 'Have your Say' section of Council's website and several changes based on the submissions received were incorporated into the adopted Strategy.

Bega Valley Shire Local Strategic Planning Statement 2040

The relevant content of the *Bega Valley Shire Rural Residential Land strategy 2040* was incorporated into the Planning Priority for Housing in the *Bega Valley Shire Local Strategic Planning Statement 2040* (LSPS). The LSPS was publicly exhibited from 23 March to 3 May 2020. Notices were placed in the local newspapers, Council News, Council's website and on Council's social media page. Email notifications were sent to the development professional group, Local Aboriginal Land Councils, government agencies, Chambers of Commerce, participants in the development of the Commercial and Residential Land Strategies and general community contacts including schools and service, tourism and sporting groups. Due to Covid-19 restrictions, hard copies of the draft LSPS were not made available.

Submissions were received via email and online via the 'Have your Say' section of Council's website. In addition, an online survey was hosted on Council's website, which collected a range of comments and measured support for directions in the LSPS as well as ranking planning priorities. A large number of changes based on the submissions received and survey were incorporated into the adopted LSPS, however none of the changes impacted on the recommendations of the *Bega Valley Shire Rural Residential Land strategy 2040*.

Community engagement planned

Community consultation for this planning proposal will be consistent with the requirements of the Gateway Determination and the consultation guidelines contained in the NSW Department of Planning, Industry and Environment's *A Guide to Preparing Local Environmental Plans* (December 2018).

Public exhibition of the planning proposal will include notification on the Bega Valley Shire Council website, notification in local newspapers that circulate widely in the area and in writing to affected landowners. Information relating to the planning proposal will also be on display at the following Bega Valley Shire Council customer service centres subject to COVID-19 restrictions:

Place	Address
Bega	Zingel Place Civic Centre, Bega NSW 2550
Tura Beach	Murrang Library, Tura Beach Drive, Tura Beach 2548
Eden	Cnr Imlay and Mitchell Streets, Eden NSW 2551
Bermagui	Bunga Street Library, Bermagui NSW 2546

At the conclusion of the public exhibition, a report will be prepared and reported back to Council to allow for the consideration of any submissions received from the community.

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 the amendments to *Bega Valley Local Environmental Plan 2013* will be completed by October 2021.

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 Director of Planning and Environmental Services. The approximate project timeline is outlined in the following table:

Key Stages of consultation and approval	Estimated timeframe
STAGE 1 – Submit planning proposal to the Department	October 2020
STAGE 2 – Receive Gateway Determination	November 2020
STAGE 3 – Preparation of documentation for public exhibition	November 2020
STAGE 4 – Public exhibition of the planning proposal	December 2020
STAGE 5 – Review/consideration of submissions received	February 2021
STAGE 6 – Council Report	May 2021
STAGE 7 – Meetings	June 2021
STAGE 8 – Forward planning proposal to Department of Planning, Infrastructure and Environment requesting the amendment is made	July 2021
STAGE 9 – Date Council will make the plan (if delegated), including any required consultation with Parliamentary Counsel	August 2021
STAGE 10 – Anticipated date Council will forward plan to the Department for notification	September 2021

Appendix 1: NSW Department of Primary Industries Submission to Draft Bega Valley Shire Rural Residential Strategy



Department of Primary Industries

OUT19/15350

Ms Leanne Barnes
General Manager
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Attn: Carley McGregor

Dear Ms Barnes

Bega Valley Shire Council Draft Rural Residential Strategy

Thank you for your correspondence of 14 October 2019 inviting comment on the Bega Valley Shire Council Draft Rural Residential Strategy (draft strategy). The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to councils about the protection and growth of agricultural industries and the resources upon which these industries depend to provide economic growth.

NSW DPI Agriculture has reviewed the draft strategy and provides the following comments.

RU4 Primary Production Small Lots Zone

NSW DPI Agriculture supports Council's intention to conduct a review of the use of the RU4 Primary Production Small Lots zone to investigate its use to facilitate agribusiness and agricultural innovation, sustainability and value adding opportunities for agricultural products.

The review should also examine the predominant use of land in the RU4 zone and determine if this land is suited to agricultural use or whether it would be better rezoned to R5 Large Lot Residential with an appropriate minimum lot size.

It is suggested that the use of the RU4 zone for agriculture and agribusiness purposes could be strengthened if the RU4 zone was not categorised as a rural residential zone in the draft strategy. NSW DPI Agriculture recommends that the RU4 zone should be categorised as a general rural zone in the draft strategy the same as the RU1 Primary Production and RU2 Rural Landscape zones.

NSW DPI Agriculture also does not support the draft strategy's proposals to permit secondary dwellings with consent in the RU4 zone or reduce the minimum lot size for existing areas of land in the RU4 zone until the review of the RU4 zone has been completed. These actions will increase the number of residential land uses in the RU4 zone, reinforce its use for residential purposes instead of agricultural purposes and lead to an increase in the potential for land use conflict between residential and agricultural land uses.

The draft strategy states that Council will consider planning proposals to rezone land to RU4 Primary Production Small Lots where enough justification is provided. The draft strategy should reinforce that the future use of the RU4 zone should facilitate primary production purposes and rezonings will only be supported if it can be demonstrated that the use of the land for agricultural purposes will be maintained.

NSW Department of Primary Industries - Agriculture
Locked Bag 21, Orange NSW 2800 | 161 Kile St, Orange NSW 2800
Tel: 02 6391 3391 | Email: landuse.ag@dpi.nsw.gov.au | www.dpi.nsw.gov.au | ABN: 72 189 919 072

When considering the rezoning of rural land to RU4 Council should consider the physical characteristics of the land, its location to infrastructure, markets and other agricultural land uses which make it potentially suitable for agricultural purposes. The economic viability of land for agricultural purposes should not be a consideration for an RU4 zone as this will vary with the type of product produced, the market for that product and future farming technology and operations. Agricultural economic viability should not be a land use planning consideration in determining the most appropriate rural zone for land.

Rezoning of Rural Land for Rural Residential Purposes

I note that the draft strategy excludes land for consideration for rural residential purposes if it is considered to be important agricultural land. This approach is supported.

However the draft strategy appears to have included land for future rural residential purposes if it is surrounded by existing fragmented farmland (table 3, p11). This approach is not supported as the introduction of residential land uses into a landscape containing many small farms increases the potential for land use conflict with existing farming operations.

The draft strategy states that the 1067 existing vacant and approved concessional lots have not been considered as part of the potential rural residential land supply for the LGA. DPI Agriculture considers that these lots provide a significant rural residential land supply resource and should be included in the land supply calculations. To exclude these lots from supply calculations and release additional land for rural residential purposes increases the loss of rural land for agricultural land uses and increases the potential for land use conflict.

The Bega, Candello, Eden, Pambula, Towamba, Wolumla Wyndham catchments identified in the draft strategy all include areas of rural zoned land proposed to be rezoned for rural residential purposes. These proposals and the reduction in minimum lot size to provide additional rural residential opportunities increase the potential for land use conflict with future agricultural land uses on rural land, regardless of the quality of the agricultural land. Lower quality agricultural land can still serve an important role in agricultural production to accommodate processing facilities, or intensive livestock facilities or act as alternative locations for stock in times of flood or fire.

Consequently the rezoning of existing rural zoned land to create additional rural residential opportunities is not supported until the review of the RU4 zoned land has been completed and the existing vacant and approved concessional lots have been factored into the land supply calculations.

Once these actions have occurred NSW DPI Agriculture would like to work with Council to identify the best location for additional rural residential land releases.

Objectives

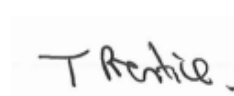
The objectives of the draft strategy should include an objective to ensure future rural residential development does not increase the potential risk of land use conflict with current or future agricultural operations.

Suggested Strategy Components

It is suggested that the draft strategy could be improved by summarising the actions of the strategy in an action plan and setting time frames for the completion of these actions. The draft strategy should also contain details on when the strategy will be reviewed to ensure it remains current. It is suggested that a review of the strategy should occur every 5 years.

If you would like to discuss any of the above matters please contact Paul Garnett on 0429 864 501.

Yours sincerely



18/11/19

Tamara Prentice
Manager Agriculture Landuse Planning

Appendix 2: Extracts from Bega Valley Shire Rural Residential Strategy 2040

Strategy Objectives

The objectives of this strategy are to:

- Provide strategic direction for the provision of future rural living opportunities in the Bega Valley Shire to 2040
- Implement the relevant goals of the Bega Valley Community Strategic Plan 2040 and directions and actions of the South Coast and Tablelands Regional Plan 2036
- Identify where the supply of rural residential development opportunities is sufficient to meet demand to 2040
- Identify suitable future growth areas in Catchments where additional supply is required
- Investigate the distribution of the existing supply of vacant and underutilised rural residential zoned land and review suitability for further subdivision

General Recommendations

Several issues arose in the development of this strategy that warrant further investigation by Council. The following actions are recommended:

- Review the application of the RU4 zone, including the land that is currently zoned RU4, to ensure that it is only applied to land that is suitable for small lot agriculture and investigate the potential application of the zone in fragmented rural areas with suitable characteristics to encourage local agribusinesses
- The land use tables for rural and rural residential zones be reviewed to increase provision of affordable housing options without permitting further subdivision of land by including Secondary Dwellings as permitted with consent in the RU1, RU2 and RU4 zones