

## 8.2. Endorsement of Secondary Dwellings and Dual Occupancies in Rural Zones Planning Proposal

A planning proposal to amend the *Bega Valley Local Environmental Plan 2013* has been prepared to implement the *Bega Valley Shire Local Strategic Planning Statement 2040* and *Rural Residential Strategy*. This report seeks Council's resolution to support the planning proposal and provide it to the Minister for Planning for a Gateway Determination.

**Director Community Environment and Planning**

### Officer's Recommendation

That Council:

1. Resolve to support the Secondary Dwellings and Dual Occupancies in Rural Zones Planning Proposal (Attachment 1).
2. Authorise Council officers to submit the planning proposal and supporting information to the Department of Planning, Industry and Environment requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
3. Consider a further report from staff in relation to feedback received during public exhibition undertaken as part of the Gateway process.

### Executive Summary

Council officers have prepared a planning proposal, which aims to amend the *Bega Valley Local Environmental Plan 2013* (BVLEP 2013) to:

1. Increase the provision of affordable housing options for farmers and other landowners in the rural zones, without permitting further subdivision of land, by including secondary dwellings as a land use that is permitted with consent, and
2. Continue to limit the impact of additional dwellings in the rural zones on agricultural resources, farming operations, landscape amenity and Council roads, but introduce greater flexibility to permit optimal siting of dwellings by increasing the distance that two dwellings in a rural zone may be situated from each other from 100m to 250m to better respond to the topographical and other constraints of rural land in the Bega Valley Shire.

The provisions within the Planning Proposal implement the recommendations of the recently adopted *Bega Valley Shire Local Strategic Planning Statement 2040* and *Rural Residential Strategy*.

### Background

In February 2020 Council adopted the *Rural Residential Strategy*, which outlines Council's strategic directions for rural living opportunities and guides future rural residential development. The *Rural Residential Strategy* includes a general recommendation to review the land use tables for rural and rural residential zones in BVLEP 2013 to increase provision of affordable housing options, without permitting further subdivision of land.

In June 2020 Council adopted the *Bega Valley Shire Local Strategic Planning Statement 2040* (LSPS) to provide direction for land use in the Bega Valley Shire through to 2040. The LSPS identifies the need for greater housing diversity in Bega Valley Shire, particularly smaller dwellings, to contribute to improved housing affordability.

Under Clause 2.8 of the *Bega Valley Development Contributions Plan 2014* contributions do not apply to secondary dwellings; however, this dwelling type is currently not permitted in the RU1

Primary Production, RU2 Rural Landscape or RU4 Primary Production Small Lots zones. Permitting this type of residential development in rural zones will provide greater housing diversity for farmers wishing to age in place and to provide a more affordable accommodation option to support succession planning.

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

The assessment reports for each development application detail reasons for varying 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.

Increasing the distance that two dwellings, in a rural zone, either detached dual occupancies or secondary dwellings may be situated from each other from 100m to 250m will provide more flexibility in the siting of detached dual occupancies in rural zones to better reflect the topographical and other constraints of the land, and to allow optimal dwelling siting based on merit.

It is proposed to permit secondary dwellings in the RU1 Primary Production, RU2 Rural Landscape or RU4 Primary Production Small Lots zones and also apply the 250m separation standard to siting those dwellings. This aims to ensure that additional dwellings have a limited impact on agricultural resources, farming operations, landscape amenity and Council roads.

The planning proposal will amend BVLEP 2013 in the following way:

- 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 detached dual occupancies, 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 to 250m may be situated from each other to better respond to the topographical and other constraints of rural land in the Bega Valley Shire.

Clause 4.6 variations to this standard may still be sought by applicants following this amendment, where they propose separation in excess of 250m.

### Community Engagement

#### **Consultation undertaken**

The *Rural Residential Strategy* and LSPS were adopted by Council following significant stakeholder and community engagement. No community consultation has yet been undertaken for this planning proposal.

#### **Consultation planned**

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 Local Environmental Plans*.

Council will follow any community and agency consultation requirements as per the Gateway Determination and the *Bega Valley Shire Council Community Engagement Strategy*. It is

planned to notify the planning proposal on Council's website, in local newspapers and in writing to affected and adjoining landowners.

#### **Council consideration of input**

Following public and agency consultation, a report will be prepared for Council outlining feedback on the planning proposal and any recommended changes in response to submissions prior to resolving whether to proceed with amending BVLEP 2013.

#### **Financial and resource considerations**

The processing of the planning proposal and its public exhibition have been undertaken as part of Council's regular work program and within the adopted 2020-21 budget.

Funding source	Amount
General Fund	\$ 500.00

#### **Legal /Policy**

This planning proposal has been prepared 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).

#### **Impacts on Strategic/Operational/Asset Management Plan/Risk**

##### **Strategic Alignment**

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 2036*:

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.

The planning proposal gives effect to the following strategic directions and actions of Planning Priority 11: Housing of the LSPS:

- 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.

***Environmental / Sustainability***

The intent of this planning proposal is to increase housing diversity and affordability in rural zones without resulting in adverse environmental outcomes, including protecting Aboriginal cultural heritage, biodiversity values and water resources, by permitting better dwelling siting with consideration of the unique constraints of the land.

***Economic***

The planning proposal will support opportunities to establish more affordable dwellings that are appropriately sited so as not to have any detrimental impact on adjacent economic land uses.

***Risk***

The planning proposal will support opportunities for better dwelling siting to minimise risk of hazards and impacts upon the land. The planning proposal will not materially increase dwelling density on rural land as detached dual occupancies are already permitted in RU1 and RU2 rural zones. Attached dual occupancies are permitted in all three rural zones (RU1, RU2 and RU4).

***Social / Cultural***

The planning proposal is anticipated to have positive social and cultural impacts, by supporting the provision of affordable housing options for farmers and other landowners on rural land throughout the Bega Valley Shire, allowing for more opportunities for landowners to age-in-place and to allow for succession planning for farming families.

**Attachments**

1. Secondary Dwellings and Dual Occupancies in Rural Zones Planning Proposal