

8.1. Outcome of exhibition of draft amendment to Bega Valley Development Control Plan 2013 - South Imlay Street Eden Heritage Conservation Area

This report seeks a resolution of Council to adopt an amendment to the *Bega Valley Development Control Plan 2013* to introduce provisions for the South Imlay Street heritage precinct in Eden, pending the outcomes of the exhibition of a planning proposal to introduce the South Imlay Street Eden Heritage Conservation Area.

Director Community Environment and Planning

Officer's Recommendation

That Council:

1. Resolve to adopt an amendment to the *Bega Valley Shire Development Control Plan 2013* (Attachment 1) to introduce provisions for the South Imlay Street heritage precinct in Eden, pending the outcome of the exhibition of a planning proposal to introduce a South Imlay Street Eden Heritage Conservation Area.
2. Authorise Council officers to submit a planning proposal and supporting information for the introduction of a Heritage Conservation Area for South Imlay Street Eden (Attachment 3) 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 of the planning proposal undertaken as part of the Gateway process
4. That those who made submissions to the amendment to *Bega Valley Development Control Plan 2013* be notified of Council's decision.

Executive Summary

A draft amendment to *Bega Valley Development Control Plan 2013* (BVDCP 2013) to introduce specific provisions for the South Imlay Street Eden precinct in Chapter 2.2 'Eden Town Centre' was publicly exhibited for 31 days from 4 February to 7 March 2021. Thirty submissions were received during the exhibition. A summary of the submissions is included in Attachment 2 to this report.

After a review of the submissions, several modifications to the draft amendment are recommended, shown as tracked changes in Attachment 1. It is considered that the proposed modifications are minor and do not substantially change the outcomes or effect of the draft amendment to BVDCP 2013. It is recommended that Council resolve to adopt the draft amendment to BVDCP 2013 pending the outcome of the exhibition of a planning proposal to introduce a South Imlay Street Eden Heritage Conservation Area.

Background

South Imlay Street Eden is recognised as a significant European heritage precinct with unique heritage character that is visually prominent when viewed from Snug Cove area of the Port of Eden: an area of high tourist visitation. Within this precinct there are eight local heritage items listed under Schedule 5 of *Bega Valley Local Environmental Plan 2013* (BVLEP 2013).

Under Clause 5.10 of BVLEP 2013 Council is required to assess the extent to which the carrying out of a proposed development would affect the heritage significance of heritage items in the vicinity. To assist with this process, a Heritage Conservation Area (HCA) containing 27 properties surrounding the heritage listed items is proposed.

Council's Heritage Advisor developed a draft amendment to be introduced to Chapter 2.2 'Eden Town Centre' of BVDCP 2013 to guide future development within the proposed HCA. The draft BVDCP 2013 amendment (Attachment 1) contains design controls that aim to assist building designers and developers ensure that future development is sympathetic to the heritage precinct.

A staff report was presented to the Council meeting held on 11 November 2020 with the following recommendation:

1. *Resolve to support the South Imlay Street Heritage Conservation Area 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. *Resolve to exhibit the proposed amendments to Chapter 2.3 'Eden Town Centre' Development Control Plan 2013 to provide design guidelines within the proposed Eden Heritage Conservation Area (Attachment 2).*
4. *Consider a further report from staff in relation to feedback received during public exhibition undertaken as part of the Gateway process and exhibition of the associated draft amendments to Bega Valley Development Control Plan 2013.*

Council resolved the following:

1. *Note the report.*
2. *To consult with the community of Eden on the proposed amendment to 2.3 'Eden Town Centre' Development Control Plan 2013 to provide design guidelines within the proposed Eden Heritage Conservation Area.*
3. *Consider a further report from staff in relation to feedback received during public consultation, prior to considering a Conservation Area Planning Proposal and referral for a Gateway Determination.*

In accordance with the Council resolution the purpose of this report to Council is to describe the feedback to the public exhibition of the draft amendment to BVDCP 2013 and seek a Council resolution to adopt the draft amendment to the DCP for inclusion into Chapter 2.3 'Eden Town Centre' in the event that a HCA is adopted for the precinct.

This report also seeks a resolution of Council to authorise Council officers to submit a planning proposal and supporting information for the introduction of a HCA for South Imlay Street Eden (Attachment 3) to the Department of Planning, Industry and Environment requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

Options

A range of issues and suggestions were raised in feedback to the public exhibition of the draft DCP amendment and Council has several options to progress the amendment:

1. Adopt the draft BVDCP 2013 amendment (Attachment 1), as changed following public exhibition. This is the recommended option. The recommended changes would enable

several minor improvements to the wording and clarification of the provisions of the draft amendment.

2. Adopt the draft amendment to BVDCP 2013 as exhibited.
3. Make further changes to the draft amendment, as identified by Council, after consideration of this report and the submissions provided in Attachment 2.

Community and Stakeholder Engagement

Engagement undertaken

Community engagement on the draft amendment to BVDCP 2013 was carried out in accordance with Council's *Community Engagement Strategy* and *Community Engagement and Communications Toolkit*. The project was assessed to be Level 2 - Consult on the IAP2 spectrum.

The draft amendment to BVDCP 2013 was publicly exhibited for 31 days from Thursday 4 February until Sunday 7 March 2021. The proposal was advertised on Council's website through the 'Have Your Say' feature with open comments invited on the webpage, through Council News and in writing to affected and adjoining landowners and the Eden Chamber of Commerce.

A total of 30 submissions were received during the public exhibition of the draft amendment to BVDCP 2013. Of these submissions 25 were in support, three were not in support and two were neutral.

Summary of submissions

The majority of submissions received during the exhibition period were generally supportive of the changes proposed. The following is a summary of the key issues raised, including discussion from Council staff regarding recommendations for amendment to the draft BVDCP 2013 amendment. A summary of feedback is provided in Appendix 2.

1) Support for proposal

Issue summary:

Twenty-five of the 30 submissions received were in support of the draft amendment to BVDCP 2013. Overall, the submitters believe that the southern portion of Imlay Street is a precinct that represents Eden's unique character and 'sense of place' that is valued by the Eden community. It showcases the vibrant history of the area as it contains some of the oldest buildings with varied architecture. It is also valued for its educational opportunities for future generations and its contribution to the visitor economy. The precinct provides a valuable pedestrian link between significant views and vistas, local walking tracks, Snug Cove and the town centre. Submitters were in support of the provisions as they provide protection of the precinct that still guides and allows new development that does not detract from the significance of heritage items.

Staff comment:

The high level of support for the draft amendment to the BVDCP 2013 is noted.

Recommendation: No change to the proposed BVDCP 2013 amendment.

2) Additional heritage restrictions are unnecessary or unfair and may impact views

Issue summary:

The heritage buildings and area are already protected and cannot see what the additional heritage restrictions on existing properties or surrounding public land will add to this protection. Concern that the roof form provisions may impact views of Victoria Terrace from

Imlay Street. Question why HCA only proposed for southern portion of Imlay Street and not the whole of Imlay Street.

Staff comment:

South Imlay Street Eden is recognised as a significant European heritage precinct with unique heritage character that is visually prominent when viewed from Snug Cove area of the Port of Eden which is an area of high tourist visitation. At this stage, Council does not have any plans to extend the proposed HCA along Imlay Street.

Within the proposed HCA there are eight local heritage items listed under Schedule 5 of BVLEP 2013. Under Clause 5.10 of BVLEP 2013 Council is already required to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage items in the vicinity. The draft BVDCP 2013 provisions will assist with this process and aid designers and property owners to ensure new development is sympathetic to the character of the precinct. The topography and existing maximum height limits will minimise any impact of development along Victoria Terrace on view corridors from Imlay Street.

Recommendation:

It is recommended that the draft BVDCP 2013 be amended to include additional guidance regarding appropriate roof form and clarification of what is meant by 'significant vantage points around Eden'. These proposed wording changes are contained in the tracked changes in Attachment 1.

3) Additional heritage restrictions will restrict future development

Issue summary:

Concern that the draft BVDCP 2013 amendments will restrict future development, Eden should be welcoming development and not restricting it.

Staff comment:

Protecting the historic atmosphere of the Eden town centre has been identified in *Bega Valley Shire Commercial Land Strategy 2040* which sets the direction for future development within commercial centres based on their existing natural advantages and includes recommendations to revitalise commercial space and promote economic growth opportunities. One of the development principles adopted in the strategy is to focus on unique or locally distinctive assets. This includes preserving heritage values that contribute to the ongoing viability of the centre.

The significance of the South Imlay Street precinct adds to the visitor economy is visually prominent when viewed from the Snug Cove area of the Port of Eden which is an area of high tourist visitation and it is strategically located between the operational wharf, the commercial centre and significant walking tracks along iconic local coastal areas.

Additional design controls in the precinct will support design excellence leading to an improved sense of place in Eden. This strengthens the marketing message of Eden as a 'historical' place in a stunning landscape setting.

The draft amendment to BVDCP 2013 supports the delivery of the *Bega Valley Shire Commercial Land Strategy 2040*.

Recommendation: No change to the proposed BVDCP 2013 amendment.

4) Question boundary of proposed HCA

Issue summary:

Question why the HCA is proposed for the southern end of Imlay Street and not the entire length of Imlay Street, why it applies to some properties in Victoria Terrace but not others, questioned heritage significance of buildings on the eastern side of Imlay Street and along Albert Terrace. Feel that they are being singled out considering there are several other heritage buildings in the town and most buildings in the HCA do not have heritage status.

Staff comment:

South Imlay Street Eden has been identified as a significant European heritage precinct including unique heritage character and unique views and vistas when viewed from Snug Cove and either flank of the elevated area of Imlay Street. The HCA will apply to land that future development could impact on the precinct's unique character and therefore includes land surrounding the heritage items where new development could impact on the unique views and vistas when viewed from Snug Cove and either flank of the elevated area of Imlay Street.

Recommendation: No change to the proposed BVDCP 2013 amendment.

Minor editing to align with existing DCP provisions

Minor wording amendments to the draft amendment to the BVDCP 2013 are recommended by Council staff to ensure that the objective is consistent with existing BVDCP 2013 provisions and to clarify when the guidelines apply to additions to existing buildings. These proposed changes are shown as tracked changes in Attachment 1.

Engagement planned

If Council resolves to adopt the draft amendment to BVDCP 2013 and proceed with the planning proposal for the introduction of the South Imlay Street, Eden HCA, then community engagement on the planning proposal will be undertaken in accordance with the *Bega Valley Shire Council Community Engagement Strategy* and *Community Engagement and Communications Toolkit*. The project is assessed to be Level 2 - Consult on the IAP2 spectrum.

The Gateway Determination will confirm community consultation requirements. It is likely that the planning 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 community and agency consultation requirements as per the Gateway Determination and *Bega Valley Shire Council Community Engagement Strategy*. It is planned to advertise the planning proposal on Council's website through the 'Have Your Say' feature, in the local newspaper and in writing to affected and adjoining landowners and the Eden Chamber of Commerce.

Following community 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 the LEP.

Financial and Resource Considerations

Item	\$ Excl GST
Expenditure Detail	
Advertising planning proposal for the introduction of a Eden HCA for Gateway determination.	\$700
Total Expenditure	\$700
Source of Funds	
General Fund	\$700.00
Total income available	\$700
Project Funding Shortfall	Nil

Legal /Policy

Exhibition of the draft BVDCP 2013 amendment was consistent with Council's obligations under the *Environmental Planning and Assessment Regulation 2000*.

The 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 draft amendment to BVDCP 2013 and proposed planning proposal support one of the 10 key principles of the *Bega Valley Shire Commercial Land Strategy 2040*:

- Principle 7: Focus on unique or locally distinctive assets. Preserve heritage values, settlement character and environmental and biodiversity values where these attributes are seen as significant in a centre by stakeholders and contribute to the ongoing viability of the centre.

The draft amendment to BVDCP 2013 and proposed planning proposal are consistent with achieving the following planning priority and Action of the *Bega Valley Shire Local Strategic Planning Statement 2040* relating to:

- Planning Priority 10 – Future Directions: Protect cultural heritage and built heritage items and preserve the value of heritage buildings and places by ensuring that new development near heritage-listed items respects these values.
- Action 10.2 Protect the existing heritage character at the southern end of Imlay Street, Eden.

The draft amendment to BVDCP 2013 and proposed planning proposal are consistent with the following goal and strategy of the *Bega Valley Shire Community Strategic Plan 2040*:

- Goal 8: Our places retain their character and scale, development is well planned, and a range of goods and services are available within our Shire that meet local needs.
- Strategy 20: Encourage and support local identity, heritage and character in our towns, villages and rural areas.

The draft amendment to BVDCP 2013 and proposed planning proposal aim to achieve the following goal and direction of the NSW Department of Planning, Industry and Environment's *South East and Tablelands Regional Plan 2036*:

- Goal 3: Healthy and connected communities.
- Direction 23: Protect the region's heritage.

Environment and Climate Change

The proposed changes to BVLEP 2013 and BVDCP 2013 will ensure aspects of the heritage of Eden are preserved for future generations.

Economic

Protecting the historic atmosphere of the Eden town centre has been identified in the recently adopted *Bega Valley Shire Commercial Strategy 2040* as a key method of providing economic benefits to the town by maintaining the attractiveness of places to visitors.

The South Imlay Street Eden heritage precinct is visually prominent when viewed from the Snug Cove area of the Port of Eden which is an area of high tourist visitation and it is strategically located on the walking route between the harbour and the Eden CBD. Additional design controls and HCA in this precinct will support design excellence leading to an improved sense of place in Eden. This strengthens the marketing message of Eden as a 'historical' place in a stunning coastal landscape setting.

Risk

Introducing the draft amendment to BVDCP 2013 and HCA will reduce the risk of inappropriate and non-sympathetic development occurring in a heritage significant precinct in a highly prominent location close to the Port of Eden which may have long term visual impacts.

Social / Cultural

It is anticipated that the draft amendment to BVDCP 2013 and the proposed planning proposal will have positive social impacts for the local community by protecting the significance of the heritage-listed buildings and connection with the history of Eden as well as enhancing the community's sense of identity which contributes to the wellbeing of residents.

Attachments

1. Draft BVDCP 2013 South Imlay Street Eden HCA for adoption
2. Draft BVDCP 2013 South Imlay Street Eden HCA summary of submissions
3. South Imlay Street Eden HCA planning proposal