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Bega Valley Local Environmental Plan 2013

Planning Proposal:

Kalaru Racecourse Industrial Land

July 2013



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Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to zone additional land for industrial purposes to enable the establishment of additional employment generating businesses in an appropriate location within the Bega Valley Shire.

Part 2 – Explanation of the Provisions

This planning proposal will amend BVLEP 2013 in the following manner:

- Lot 2 DP 1082841 Sapphire Coast Drive, Wallagoot

- Amend map sheet LAP_001 by deleting DM Deferred Matter;
- Amend map sheet LZN_019 by applying part RE2 Private Recreation Zone and part IN1 General Industrial Zone; and
- Amend map sheet HOB_019 by applying part K – 10 metres and part N – 14 metres.

Part 3 – Justification

Lot 2 DP 1082841 Sapphire Coast Drive, Wallagoot

The shortage in availability of land for industrial uses in the Bega District has been discussed and investigated by the Bega Valley Shire Council over a number of years. BVLEP 2013 identified and zoned additional industrial land in South Bega and this Planning Proposal identifies additional industrial land in Kalaru. Together, these additional industrial zones allocate enough additional land for industrial purposes for the short to medium term (up to 8 years).

Vacant land at North Bega has also been zoned for industrial uses. The land owner however, has not yet sought to develop it. More broadly, rural zoned land and village zoned land also allow for a wide range of industrial uses. Some of these rural and village opportunities have been developed in recent years, however, more opportunities currently exist in reasonable locations near to major roads.

Council has resolved to undertake further investigations into potential industrial sites in the Bega District for the longer term (8 years plus). See Attachment 1 for details.

Lot 2 DP 1082841 is located approximately 3 kilometres to the south of the Kalaru Township and comprises a site area of approximately 113 hectares. The subject property is home to the existing Sapphire Coast Turf Club and is located near to the junction of Old Wallagoot Road and Sapphire Coast Drive (see Figure 1). The Wallagoot Waste Transfer Station and the Kalaru Pressure Sewerage Treatment Plant are located opposite the property on Old Wallagoot Road.



Figure 1: Sapphire Coast Drive, Wallagoot: Subject Land Aerial Photograph

In 2010, Council issued Development Consent for a subdivision of the subject property into 22 allotments for industrial uses, varying in size from 2,516m² to 11,722m², and a residue allotment containing the existing racecourse and a wildlife corridor. Lots 1 and 2 in this approved subdivision contain an existing plant depot and retail plant nursery (see Figure 2). To date the subdivision has not been commenced.

The land is not prime crop or pasture land and it is classified as Class 5 Agricultural land. The racecourse area is extensively cleared, whilst the area the subject of the industrial subdivision is predominantly forested (apart from proposed Lots 1 & 2).

The subject property was deferred from BVLEP 2013 and is currently zoned 1(a) Rural General Zone with a minimum lot size control of 120 hectares. In the Draft BVLEP 2010, the subject property was proposed to be zoned RE2 Private Recreation Zone with no minimum lot size control and a maximum height of 10 metres (see Figure 3).

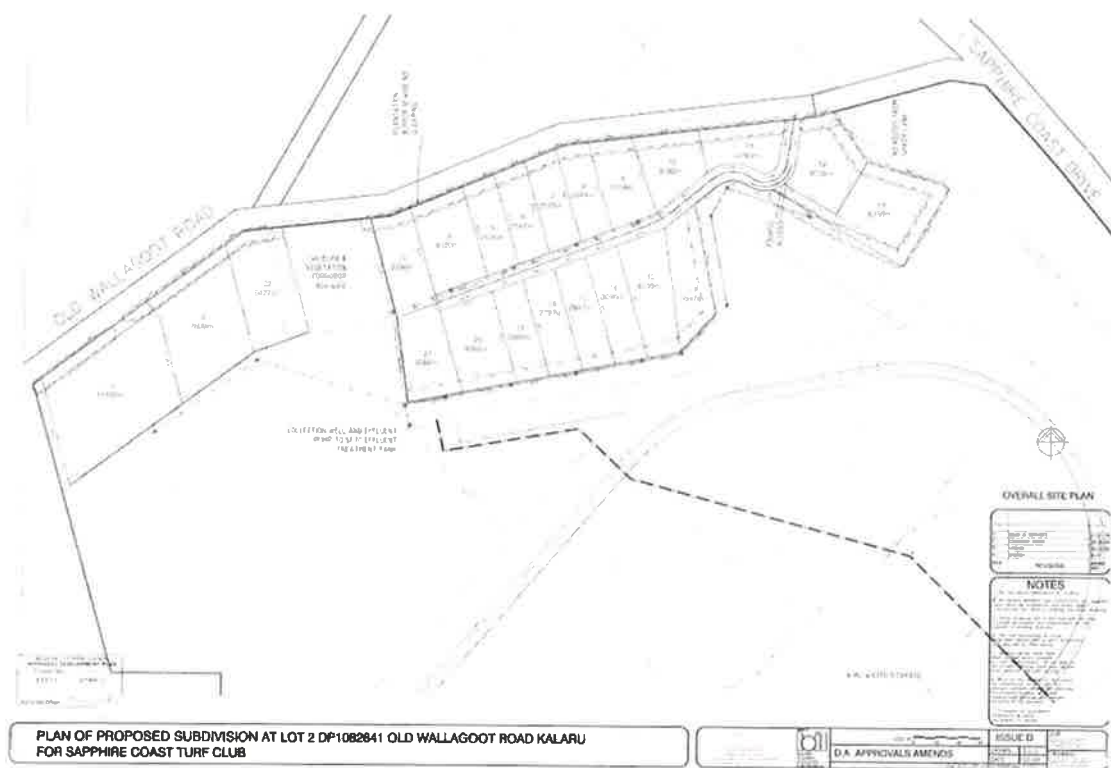


Figure 2: Sapphire Coast Drive, Wallagoot: Approved 22 Lot Industrial Subdivision

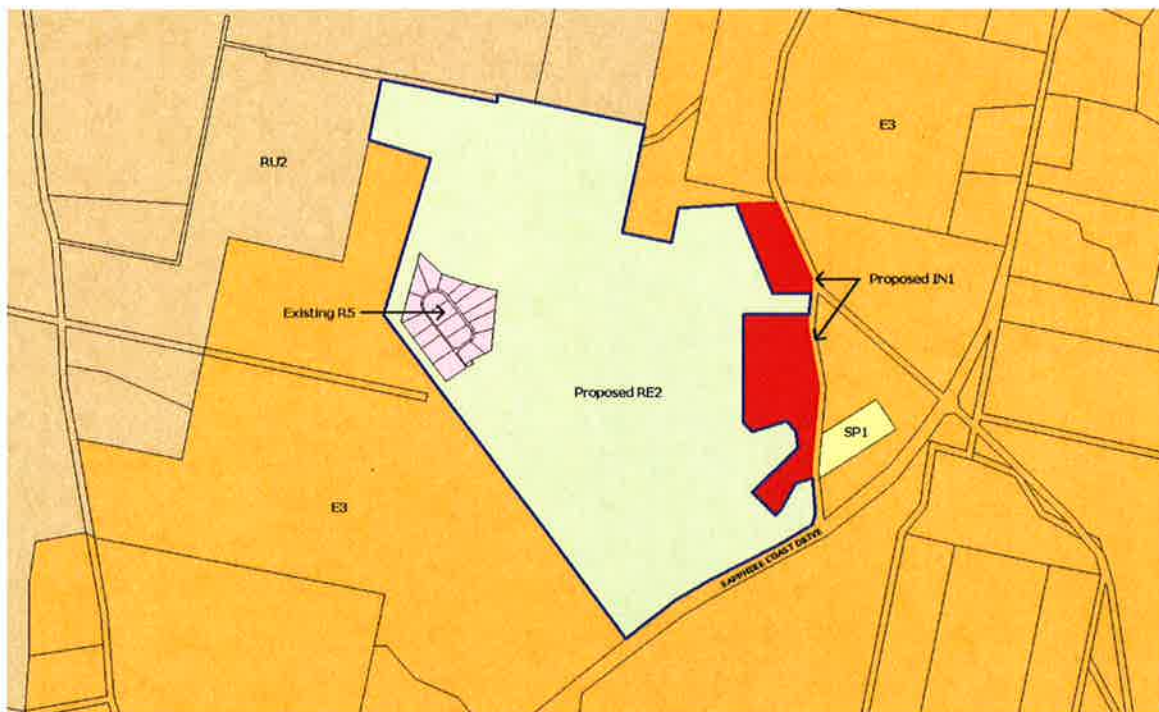


Figure 3: Sapphire Coast Drive, Wallagoot: Land Use Zones (Exhibited BVLEP 2010)

This Planning Proposal aims to regularise the zoning associated with the subdivision approval to ensure that the land is able to be fully utilised with a range of industrial uses appropriate to the region. The landowner supports this rezoning and made a submission to Draft BVLEP 2010 requesting that the land subject to the Development Consent be zoned IN1 General Industrial with the remainder of the land containing the racecourse be zoned RE2 Private Recreation.

On review of the submission, Council agreed that the proposed changes to the zoning pattern represent a significant improvement to the overall exhibited zones. The proposed changes protect the operational aspects of the Sapphire Coast Turf Club whilst providing for industrial type development of which there is a strong regional demand.

In accordance with Council's strategy for applying controls to industrial zoned land in the Shire, that part of the land identified for the IN1 General Industrial Zone is proposed to have a maximum height control of 14 metres. The remainder of the land proposed for the RE2 Private Recreation Zone will retain the exhibited 10 metre height limit. There will be no minimum lot size control for subdivision that will apply.

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

Council resolved on 13th December 2005 to prepare a draft Comprehensive Local Environmental Plan to replace BVLEP 2002. The Draft BVLEP 2010 was prepared based on the following:

- The majority of the Shire has simply been changed to the closest comparable zone available in the standard State wide template. This means that the majority of land owners wanting to develop or improve their properties will not be affected by the draft plan.
- Where there are changes proposed, the focus is on improving opportunities for economic development and jobs in the Bega Valley town centres, through the expansion of business, mixed use and industrial zones.
- Protection of productive agricultural land through the use of the RU1 Primary Production and RU2 Rural Landscape zones.
- Establishment of allotment sizes through a "Lot Size Map", thus determining subdivision and dwelling entitlements.
- Recognition of environmentally sensitive land through the use of the E3 Environmental Management and E4 Environmental Living zones.
- Protection of sensitive foreshore areas and bushland public reserves through the use of the E2 Environmental Conservation Zone.

The Draft BVLEP 2010 was publically exhibited from the 12th May 2011 to the 29th July 2011 and 456 submissions were received. Following consideration of those submissions, Council categorised them into four groups:

- Appendix 1: Support (or partial support) for the submission request, with only minor changes required to the exhibited draft CLEP. The CLEP was amended in line with these recommendations.
- Appendix 2: Support (or partial support) for the submission request, however, due to the nature of changes proposed re-exhibition would be required. Land subject to the submissions is to be identified as a 'deferred matter' in the CLEP. Staff are to prepare planning proposals seeking to amend the CLEP, once adopted, in accordance with Councils' resolutions and a "gateway determination" by the Minister for Planning prior to re-exhibition.
- Appendix 3: Further research is to be carried out by Council staff prior to progressing a resolution of the submissions via a future report to Council. Land subject to the submissions is to be identified as a 'deferred matter' in the CLEP.
- Appendix 4: No agreement with the submission request, or the submission to be noted but no need for further action at this time. No change to exhibited draft CLEP is required.

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

The subject property was not proposed to be zoned as industrial land in the Draft BVLEP 2010 as the site was the subject of a Development Application for a 22 lot industrial subdivision, which had not been determined at the time of exhibition. Assessment of the Development Application under Section 79C of the *Environmental Planning and Assessment Act 1979* included an investigation of issues regarding flora and fauna, traffic management, amenity, planning for bushfire protection, infrastructure and water and sewer provision. Following the satisfactory resolution of the issues raised during the assessment and approval of the subdivision, Council is now in a position to proceed with the appropriate re-zoning of the land.

The subject property was included in Appendix 2 and was deferred from the BVLEP 2013. Consequently, the zoning and status, as prescribed under the BVLEP 2002, still applies to the land. A planning proposal is therefore required to apply BVLEP 2013 and to resolve the issue of appropriate zoning for the subject land.

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

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

Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy

One of the major aims of the South Coast Regional Strategy (SCRS) is to ensure an adequate supply of land to support economic growth and to provide capacity to accommodate a projected 5,200 new jobs in the Bega Valley Shire.

Section 7 of the Strategy addresses Economic Development and Employment Growth and provides a number of key action points. This Planning Proposal supports the following key action points of the SCRS:

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

Q4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

Bega Valley 2030 Community Strategic Plan

The Community Strategic Plan (CSP) identifies the long term aspirations of the Bega Valley Shire's community. This planning proposal supports two of the key aims of the CSP:

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

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

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

SEPP No. 55 Remediation of Land

This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

Bega Valley Shire Council's records indicate that none of the subject land is contaminated.

SEPP (Rural Lands) 2008

SEPP (Rural Lands) 2008 facilitates the orderly and economic use and development of rural lands for rural and related purposes. Clause 10(3) of SEPP (Rural Lands) 2008 prescribes a number of matters for consideration in determining development applications for rural subdivisions or rural dwellings. The Clause applies to land in a rural zone, a rural residential zone or an environment protection zone.

This Planning Proposal is consistent with this SEPP. The land is not prime crop or pasture land as it is classified as Class 5 Agricultural Land in the NSW Agricultural Land Classification Atlas. The land proposed to be zoned IN1 General Industrial is appropriate for small scale industrial uses similar to those that already exist on proposed Lots 1 and 2. The remaining land comprises the Sapphire Coast Turf Club and is proposed to be zoned RE2 Private Recreation.

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

This Section addresses consistency with applicable Section 117 Directions. Attachment 3 contains a complete list of all 117 Ministerial Directions applicable within the Bega Valley Shire.

1.1 Business and Industrial Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary). The objectives of this Direction are to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres.

This Planning Proposal seeks to zone Lot 2 DP 1082841 from 1(a) Rural General Zone to part IN1 General Industrial Zone and part RE2 Private Recreation Zone. That part of the property proposed to be zoned IN1 General Industrial Zone is the subject of a recent Development Consent for 22 allotments for future industrial uses, varying in size from 2,516m² to 11,722m², and a residue allotment containing the existing racecourse and wildlife corridor. Lots 1 and 2 in this approved subdivision already contain an existing plant depot and retail plant nursery.

This Planning Proposal is consistent with this Direction as it contains provisions that will provide more opportunities for the economic development of land positioned between the existing commercial centres of Bega and Merimbula, encourage commercial and employment growth in a suitable location and not compromise existing employment land in existing business and industrial zones.

1.2 Rural Zones

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this Direction is to protect the agricultural production value of rural land.

This Planning Proposal is inconsistent with this Direction as it seeks to increase the permissible density of land that is within a rural zone. This inconsistency is however justified given that this Planning Proposal will have no impact on the agricultural production value of the land. At present, the land is not used or suitable for agricultural purposes.

The existing rural zone applying to the land is inappropriate as the physical characteristics of the land are such that it is not suitable for agricultural production. There is limited agricultural activity in the vicinity and no agricultural land adjacent to the subject land. In addition, the land is not prime crop or pasture land and it is classified as Class 5 Agricultural Land in the NSW Agricultural Land Classification Atlas. Consequently, the loss of this land to private recreation and industrial development is regionally insignificant.

1.5 Rural Lands

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.

The objectives of this Direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

This Planning Proposal seeks to zone the subject properties from 1(a) Rural General Zone to part RE2 Private Recreation and part IN1 General Industrial. The proposed amendment is consistent with the Rural Planning and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008. In particular, this Planning Proposal will not enable the fragmentation of high quality agricultural land or cause the potential for additional rural land use conflicts between residential land uses and other rural land uses.

2.3 Heritage Conservation

This Direction applies when a relevant planning authority prepares a planning proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

In 2009, officers from the Local Aboriginal Land Council conducted an onsite search of the area the subject of the 22 lot industrial subdivision to locate any aboriginal objects of significance on the surface. According the Land Council, no sites were located during the onsite search or during a check of the State and Local Aboriginal sites registers. As a result of this, the Land Council supported the subdivision.

4.3 Flood Prone Land

This Direction applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This Planning Proposal is inconsistent with this Direction as it contains provisions that will re-zone land that is flood prone. The proposed zone changes are however considered to be of minor significance given that only a very small portion of the land proposed to be zoned as IN1 General Industrial is flood affected. The westernmost fringe of the land proposed to be re-zoned industrial is below the record flood level for the site, however the small number of approved lots in the industrial subdivision that are likely to be affected contain sufficient land above the flood level suitable for industrial development. The remainder of land that is flood

affected is proposed to be zoned RE2 Private Recreation and contains the existing Sapphire Coast Turf Club facilities.

With the objective of implementing the principles of the *NSW Flood Prone Land Policy* and the principles of the *Floodplain Development Manual 2005*, BVLEP 2013 contains a clause that specifically deals with flood planning issues.

4.4 Planning for Bushfire Protection

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land. The objectives of this Direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.

A proportion of the subject property is identified as containing bushfire vegetation within category 1 and 2. This Planning Proposal does not contradict or hinder the application of the provisions contained within *Planning for Bushfire Protection 2006* and following consultation during the development assessment process, the NSW Rural Fire Service has applied several conditions to the approved industrial subdivision.

5.1 Implementation of Regional Strategies

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

As detailed at Q3, this Planning Proposal is considered to be consistent with the vision, land use strategy, policies, outcomes and actions defined by the South Coast Regional Strategy.

6.3 Site Specific Provisions

This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table.

Section C – Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no declared critical habitat in the Bega Valley Shire. With regard to threatened species, populations or ecological communities, these issues were amongst the issues dealt with in the report to Council regarding the Development Application for the industrial subdivision.

The following is an extract from the report to the Council meeting of 21st September 2010:

“The building envelope for the proposed subdivision is reasonably well vegetated. A flora and fauna assessment was prepared to investigate the potential impact of the subdivision. The revised subdivision layout and flora and fauna assessment were referred to Council’s Environmental Services Section which provided the following comment:

The revised lot layout has the southern row of lots behind “Barkers” removed in combination with a widened wildlife corridor. This is a particularly good outcome, that could be re-enforced by some restrictions on the use of this land to ensure that it remains a bushland area.

The inclusion of screening along the road and racecourse is also supported and I would suggest that these areas be identified as “no go” areas during construction. I would like to support the inclusion of varying lot sizes that the applicant has put forward. This will result in a much improved utilisation of this land.

Conditions have been included in the draft consent concerning the wildlife corridor, staging of the clearing works and the preservation of hollow bearing trees.”

During the development assessment process, the Southern Rivers Catchment Management Authority advised that the industrial subdivision covers an area of the property that is mapped as “over cleared” Mitchell Landscape - Bega Coastal Alluvium. Consequently, consultation with the NSW Local Land Services is proposed.

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

See Q7 above.

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

The proposed zoning will have positive social and economic effects. In particular, it will permit the expansion of the existing industrial uses on the land and secure additional land that could be developed for industrial uses, which is in limited supply in the area. The property contains the existing racecourse and has limited value in terms of traditional agricultural land uses.

Section D – State and Commonwealth Interests

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

The additional public infrastructure requirements for the area proposed to re-zoned industrial in relation to road, stormwater drains, water and sewer infrastructure have been identified and addressed through the conditions of consent in the Development Consent issued for the industrial subdivision.

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

Consultation with State and Commonwealth public authorities has not yet been undertaken. The level of consultation will be determined by the NSW Department of Planning and Infrastructure when it makes its Gateway Determination.

Government agencies identified for consultation with regard to this Planning Proposal are:

- NSW Department of Planning and Infrastructure
- NSW Department of Primary Industries
- NSW Office of Environment and Heritage
- NSW Roads and Maritime Services
- NSW Rural Fire Service

Part 4 – Mapping

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

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

LAP_001

Amend map sheet LAP_001 by deleting DM Deferred Matter for Lot 2 DP 1082841.

LZN_019

Amend map sheet LZN_019 by applying part RE2 Private Recreation Zone and part IN1 General Industrial Zone to Lot 2 DP 1082841

HOB_019

Amend map sheet HOB_019 by applying part K – 10 metres and part N - 14 metres to Lot 2 DP 1082841.

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. It is likely that the Proposal will be exhibited as a 'low' impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of *A Guide to Preparing LEPs*.

Public exhibition of the planning proposal will include notification on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Merimbula News Weekly, Eden Magnet and Bega District News) and in writing to affected and adjoining landowners.

Information relating to the Planning Proposal will also be on display at the following Bega Valley Shire Council customer service centres:

- Bega
Zingle Place
Bega NSW 2551
- Merimbula
Market St
Merimbula NSW 2548
- Eden
Cnr Imlay and Mitchell St
Eden NSW 2550
- Bermagui
Bunga St
Bermagui NSW 2546

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by February 2014.

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

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to the Department	July 2013
STAGE 2 – Receive Gateway Determination	August 2013
STAGE 3 – Preparation of documentation for Public Exhibition	September 2013
STAGE 4 – Public Exhibition of the Planning Proposal	October 2013
STAGE 5 – Review/consideration of submissions received	November 2013
STAGE 6 – Council Report	November 2013
STAGE 7 – Meetings	December 2013
STAGE 8 – Forward Planning Proposal to Department of Planning and Infrastructure with request amendment is made	January 2013
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	February 2014
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	February 2014