



Planning,  
Industry &  
Environment

IRF 21/4587

## Gateway determination report – PP-2021-6786

---

Permit residential development in the B2 Local Centre  
Zone

November 21



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2021-6786

Subtitle: Permit residential development in the B2 Local Centre Zone

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 21) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Contents

<b>1</b>	<b>Planning proposal</b>	<b>1</b>
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	1
<b>2</b>	<b>Need for the planning proposal</b>	<b>2</b>
<b>3</b>	<b>Strategic assessment</b>	<b>2</b>
3.1	Regional Plan	2
3.2	Local	3
3.3	Section 9.1 Ministerial Directions	3
3.4	State environmental planning policies (SEPPs)	4
<b>4</b>	<b>Site-specific assessment</b>	<b>5</b>
4.1	Environmental	5
4.2	Social and economic	5
4.3	Infrastructure	5
<b>5</b>	<b>Consultation</b>	<b>5</b>
5.1	Community	5
<b>6</b>	<b>Timeframe</b>	<b>6</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>6</b>
<b>8</b>	<b>Assessment summary</b>	<b>6</b>
<b>9</b>	<b>Recommendation</b>	<b>6</b>

# 1 Planning proposal

## 1.1 Overview

**Table 1 Planning proposal details**

<b>LGA</b>	<b>Bega Valley</b>
<b>PPA</b>	<b>Bega Valley Shire Council</b>
<b>NAME</b>	<b>Permit additional residential development in the B2 Local Centre Zone</b>
<b>NUMBER</b>	<b>PP-2021-6786</b>
<b>LEP TO BE AMENDED</b>	<b>Bega Valley LEP 2013</b>
<b>ADDRESS</b>	<b>N/A</b>
<b>DESCRIPTION</b>	<b>Land Zoned B2 Local Centre</b>
<b>RECEIVED</b>	<b>10/11/2021</b>
<b>FILE NO.</b>	<a href="#">IRF21/4587</a>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to permit dwelling houses, dual occupancies, multi dwelling housing and residential flat buildings in the B2 Local Centre Zone provided that:

- the residential development is part of a mixed use development; and
- there is an active street frontage used for a commercial premises or health service facility.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Bega Valley LEP 2013 to permit residential development within the B2 Local Centres Zone subject to lots having an active street frontage used for commercial premises or health services facility.

The planning proposal contains an explanation of provisions that adequately explains that the objectives of the proposal will be achieved through a local provision.

Council has indicated that the proposed clause is to be generally consistent with clause 7.10 of Lake Macquarie LEP 2014. The exact wording of the final clause will be subject to the drafting process with the Parliamentary Counsel's Office.

## 2 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal is consistent with the Bega Valley Commercial Land Strategy, the Bega Valley Shire Residential Land Strategy 2040, and the Bega Valley Shire Local Strategic Planning Statement.

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

The proposed amendment to the Bega Valley LEP 2013 is the only way to permit additional residential development in the B2 Local Centre Zone.

Council has indicated that the proposed clause is generally consistent with clause 7.10 of the Lake Macquarie LEP 2014.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Southern East and Tablelands Regional Plan.

**Table 2 Regional Plan assessment**

Regional Plan Directions	Justification
Direction 12 Promote Business activities in urban centres	Consistent with Action 12.2 to encourage mixed use development in strategic centres.
Direction 24 Housing Supply and Choice	Consistent with Action 24.3 Promote increased housing choice within centres
Direction 25 Housing growth that maximises existing infrastructure and services	Consistent with Action 25.1 for future settlement to maximise existing infrastructure and services and increase densities in existing urban areas
Direction 27 Deliver opportunities for affordable housing	Consistent with Action 27.1 Deliver greater housing affordability by promoting a variety of housing types. Consistent with Action 27.2 Facilitate greater housing diversity.

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies.

**Table 3 Local strategic planning assessment**

Local Strategies	Justification
Bega Valley Local Strategic Planning Statement	The planning proposal implements the LSPS, i.e. Planning priority 11 Housing and Planning priority 12 Town Centres – Promote vibrant and progressive town centres that provide a place for living as well as access to a wide variety of shops and services.
Bega Valley Shire Commercial Strategy 2040	The planning proposal implements this strategy by permitting selected additional residential uses in a suitable zone within certain commercial centres.
Bega Valley Shire Residential Land Strategy 2040	The planning proposal is consistent with this strategy because it aims to increase housing diversity and ensure the best use of available zoned and serviced land.

## 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 4 Section 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.2 Coastal Management	Yes	Applies to existing B2 Local Centre Zone land.
2.3 Heritage Conservation	Yes	Does not impact directly on heritage items which would be considered through the DA process.
2.6 Remediation of Land	Yes	Existing land zoned B2 Local Centres Zone and any new development will be required to comply with the requirements of SEPP 55 Remediation of Land.
3.3 Home Occupations	Yes	The planning proposal does not prevent home occupations in dwelling houses
3.4 Integrating Land use and Transport	Yes	Consistent with the purpose of the Direction permitting residential development in existing commercial centres close to existing modes of transport and close to existing services.
4.1 Acid Sulfate Soils	Yes	The planning proposal will permit housing in existing centres already used for urban development. The Bega Valley LEP 2013 also contains ASS provisions that require assessment of development impacts in areas mapped as ASS.

4.3 Flood Prone Land	No	The planning proposal acknowledges that it is inconsistent with the Direction because some areas zoned B2 Local Centre Zone are located within a flood planning area. It is therefore recommended that at this stage the Secretary not agree to the justification for the inconsistency with this Direction and that Council be required to consult with the flood unit from DPIE Biodiversity and Conservation.
4.4 Planning for Bushfire Protection	Yes	The planning proposal indicates that some areas of the B2 Zone are mapped as bush fire prone land. It also acknowledges that consultation is required with the NSW Rural Fire Service in accordance with the Direction.
5.10 Implementation of Regional Plans	Yes	See section 3.1 that addresses the proposal's consistency with the Regional Plan.
6.1 Approval and referral requirements	Yes	The proposal does not add any provisions that require referral or approval by any authority.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is indicating that it is consistent with the SEPPs shown in the table below.

**Table 5 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP 64 Advertising and Signage	N/A	Not Applicable	Not applicable
SEPP BASIX 2004	N/A	Not Applicable	Not applicable
SEPP Coastal Management	Need to consider the increase in risk from coastal hazards or impacts on coastal scenic or environmental values.	Consistent	The proposal applies to existing urban areas zoned B2 Local Centres Zone. It does not change provision on Height of Buildings, and it is unlikely that the permitting residential development in these existing urban centres will have a significant environmental impact. The issue of flood hazard and risk has been discussed under Direction 4.3.

SEPP Miscellaneous Consent Provisions 2007	N/A	N/A	N/A
--	-----	-----	-----

## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal applies to urban areas zoned B2 Local Centres Zone and no areas in the B2 zone are currently mapped on the LEP Biodiversity Values Map. It is unlikely that there will be any adverse environmental impacts from changing the land use table to permit residential development that will be part of a mixed use development and the lot has will have an active street frontage. Issues associated with flood impacts are considered in Section 3.3 under Direction 4.3 Flood Prone Land.

The potential impacts on streetscape, amenity and the environment will be subject to a merit assessment of development applications as is currently the case for the consideration of any proposed permissible commercial development in the B2 Zone.

### 4.2 Social and economic

Adverse social and economic impacts are not anticipated by the proposed changes to the Bega Valley LEP. The purpose of the proposal is to encourage more vibrant town centres by supporting increased economic development and employment opportunities and by improving housing diversity and supply in the commercial zone.

### 4.3 Infrastructure

The purpose of the planning proposal is to take advantage of existing services and infrastructure available in the existing commercial areas at Bega, Bermagui, Eden, Merimbula, Pambula, and Tathra town centres.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 14 days.

The proposed changes to permit residential development in all of the B2 Zones at Bega, Bermagui, Eden, Merimbula, Pambula, and Tathra town centres is considered a significant change and warrants a longer period for community consultation. Therefore, the exhibition period of 28 days is considered more appropriate, and forms to the conditions of the Gateway determination.

Council has nominated the NSW Rural Fire Service to be consulted about the planning proposal in accordance with Direction 4.4 because some of the areas zoned B2 Local Centres Zone are mapped as bush fire prone land.

It is also recommended that Council be required to consult with EES Biodiversity and Conservation because some areas zoned B2 Local Centre Zone are also mapped as within a flood planning area and the planning proposal will therefore permit residential development in flood planning areas.



## 6 Timeframe

Council proposes a 12 month time frame to complete the LEP and this timeframe to complete the plan appears reasonable because of the nature of the proposed changes.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

The planning proposal does not raise any significant State or regional environmental planning issues and the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is consistent with local and State planning strategies and statements.
- The proposed clause is generally consistent with a clause already used in the Lake Macquarie LEP 2014.
- The recommended conditions of the Gateway require community and agency consultation (bushfire/flooding) to identify any issues.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.4 Planning for Bushfire Protection will be addressed when Council consults with the NSW Rural Fire Service.
- Note that the consistency with section 9.1 Directions 4.3 Flood Prone Land is unresolved and may require further justification after Council undertakes consultation with DPIE Biodiversity and Conservation.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Consultation is required with the following public authorities:
  - NSW Rural Fire Service in accordance with Direction 4.4 Planning for Bushfire Protection
  - DPIE Biodiversity and Conservation (Flooding)
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



24/11/21

Graham Towers

Manager, Southern Region



26/11/2021

Sarah Lees

Director, Southern Region

Assessment officer

Graham Judge

Senior Planner, Southern Region

62297906