



Planning Proposal

Removal of local heritage listing of properties destroyed by bushfires



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Introduction

This planning proposal seeks to amend Schedule 5 Environmental Heritage and the associated heritage mapping of *Bega Valley Local Environmental Plan 2013* (BVLEP 2013). The following properties are proposed to be removed from Schedule 5 Environmental Heritage of the BVLEP 2013:

- 1 Cobargo Street QUAAMA NSW 2550 (Lot 1 Sec 2 DP 758860)
- 25-27 Cobargo Street QUAAMA NSW 2550 (Lot 3 Sec 5 DP 318028; Lot 1 DP 318028)
- 5 Wandella Road COBARGO NSW 2550 (Lot 3 DP 794010) (**Note:** Property is listed as 5 Wandellow Road COBARGO NSW 2550 in LEP)
- 5 Bega Street COBARGO NSW 2550 (Lot 4 Sec 1 DP 1460)
- 66 Princes Highway COBARGO NSW 2550 (Lot 5 DP 1134)
- 72 Princes Highway, COBARGO NSW 2550 (Lot 2 DP 1134)
- Princes Highway KIAH NSW 2551 (Lot 68 DP 750223)

The details on Schedule 5 Environmental Heritage of the BVLEP 2013 are proposed to be amended for following property:

- 1551 Nungatta Road NUNGATTA NSW 2551 (Lot 10 DP 750206)

The intention of this planning proposal is to remove or amend the heritage listing of properties that have been destroyed by recent bushfires in Cobargo, Quaama, Kiah and Nungatta. The removal of the heritage listing on these properties may assist affected landowners in rebuilding, and potentially allow them to use state government approval pathways (such as fast-track Complying Development Certificates) as part of future works where permitted under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP). It will also ensure that BVLEP 2013 is accurate and up to date.

The assessment as part of this planning proposal found that the proposal is consistent with the strategic planning framework including relevant State Environmental Planning Policies (SEPPs) and Section 9.1 Ministerial Directions as well as demonstrating positive social and economic impacts for the wider community.

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* (EPA Act) and the NSW Department of Planning, Industry and Environment's (DPIE) *A Guide to Preparing Planning Proposals* (December 2018).

Background



This planning proposal responds to the recent bushfires that have destroyed heritage listed properties in the Cobargo and Quuama villages as well as properties in Kiah and Nungatta.



The properties subject to this planning proposal have been assessed as destroyed by NSW Public Works as part of their on-site assessments following the recent bushfires.

Bega Valley Shire Council is committed to assisting people affected by the bushfires in the recovery and rebuilding process. This planning proposal is a proactive step in assisting affected landowners whose properties are heritage listed under BVLEP 2013 and have been destroyed by the bushfires.

Site description and context

The properties subject to this planning proposal are current local heritage items located in Quaama, Cobargo, Nungatta and Kiah. The following table provides photos and a description of each of the subject sites. Photos and descriptions have been sourced from the NSW State Heritage Inventory. After photos have been sourced from the NSW Public Works Fulcrum database.

1 Cobargo Street QUAAMA NSW 2550 (Lot 1 Sec 2 DP 758860)	
I255 – St Saviours Church	
	
1907 Anglican weatherboard church. Pointed arch windows, entry portico and rear side vestry. Corrugated iron roof. Timber disabled access ramp at front.	

25-27 Cobargo Street QUAAMA NSW 2550 (Lot 3 Sec 5 DP 318028; Lot 1 DP 318028)	
I256 – House	
	
A weatherboard cottage with double hipped CGI roof and bull nosed verandah, part of which has been enclosed. Building probably dates to the 19th century. Attractive setting and contributes to streetscape.	

5 Wandella (Wandellow) Road COBARGO NSW 2550 (Lot 3 DP 794010)

I204 - Residence



Late Victorian single storey weatherboard house.

5 Bega Street COBARGO NSW 2550 (Lot 4 Sec 1 DP 1460)

I662 – Cottage



A timber framed weatherboard cottage with steeply pitched corrugated iron roof and skillion front verandah. The building retains its period doors and windows. Front verandah has vertical balusters.

66 Princes Highway COBARGO NSW 2550 (Lot 5 DP 1134)

I723 – Bangles Pottery



This is a very well-proportioned two-storey weatherboard building, having shop below and former residence above. The building is in very good condition and has high integrity, including the traditional shopfront, French doors, timber windows etc. It is an important component of Cobargo's historic commercial streetscape and has historic, aesthetic and streetscape significance.

72 Princes Highway, COBARGO NSW 2550 (Lot 2 DP 1134)

I156 – Simply Cobargo Tea Room



Built during 1880s two storey weatherboard building, upper storey crossed timber balustrade.

1551 Nungatta Road NUNGATTA NSW 2551 (Lot 10 DP 750206)

I261 – Nungatta Station



Group of farm buildings and cemetery dating from 1860s. Upon inspection on 21 October 2003, the main building was in reasonable condition externally on appearance. The footings are made from stringybark timber and placed on the ground and over time the footings have started to move. Generally the floors are in good condition, but the ceiling has started to fall apart with some areas of the plaster breaking away. The walls are in satisfactory condition but with age and lack of maintenance, the internal area is really showing signs of deterioration. One section of the roof is currently under repair as a large tree branch fell through the roof. The two dwellings directly south and near adjoining to the main building are showing signs of age and deterioration with the footings having sunk and/or moved with the floorboards in one building falling some 200mm from the main section and the timber snapping under stress. Externally, these buildings could be considered to be in satisfactory condition. The stables seem to be in good condition as they are still being used as a storage area but the other outbuildings have footings that have moved. The shearer's shed is being used as a caretaker's residence and looks to be in satisfactory condition.

Princes Highway KIAH NSW 2551 (Lot 68 DP 750223)

I219 – Roman Catholic church building (former)



Source: Archdiocese of Canberra and Goulburn



Late 19th century timber church.

The following maps show the locations of each of the sites subject to this planning proposal:

Image 1: Properties subject to this planning proposal in the Quaama village:

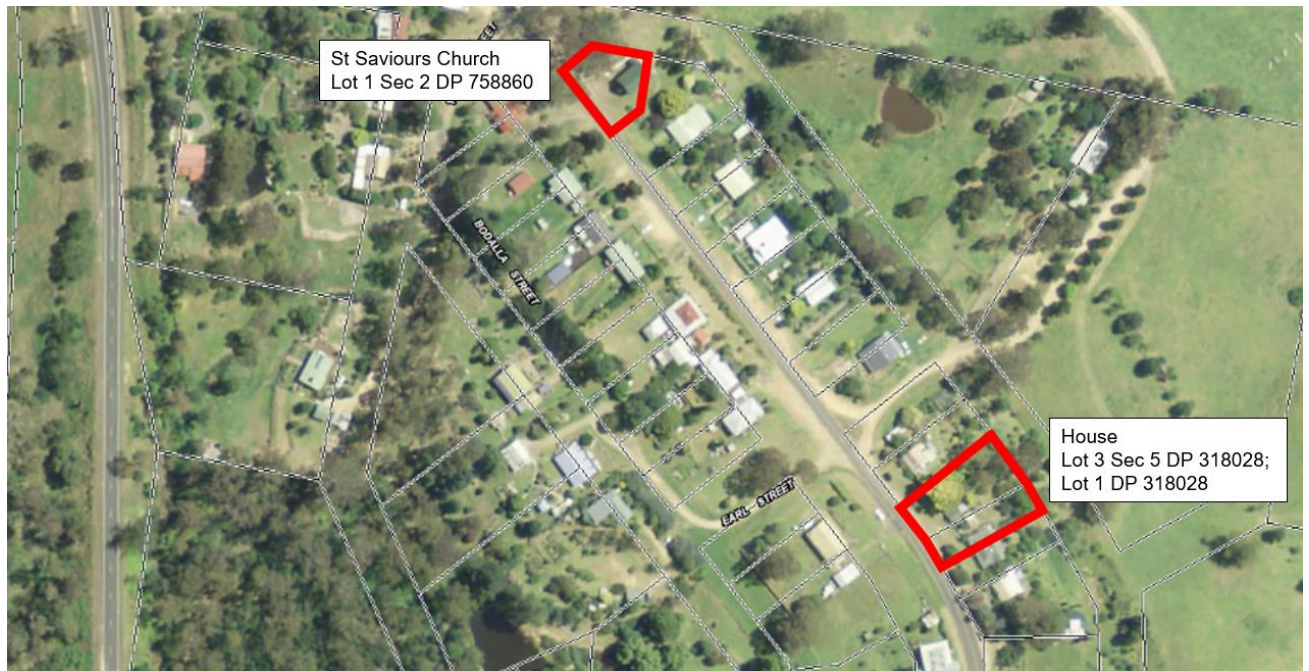


Image 2: Properties subject to this planning proposal in the Cobargo village

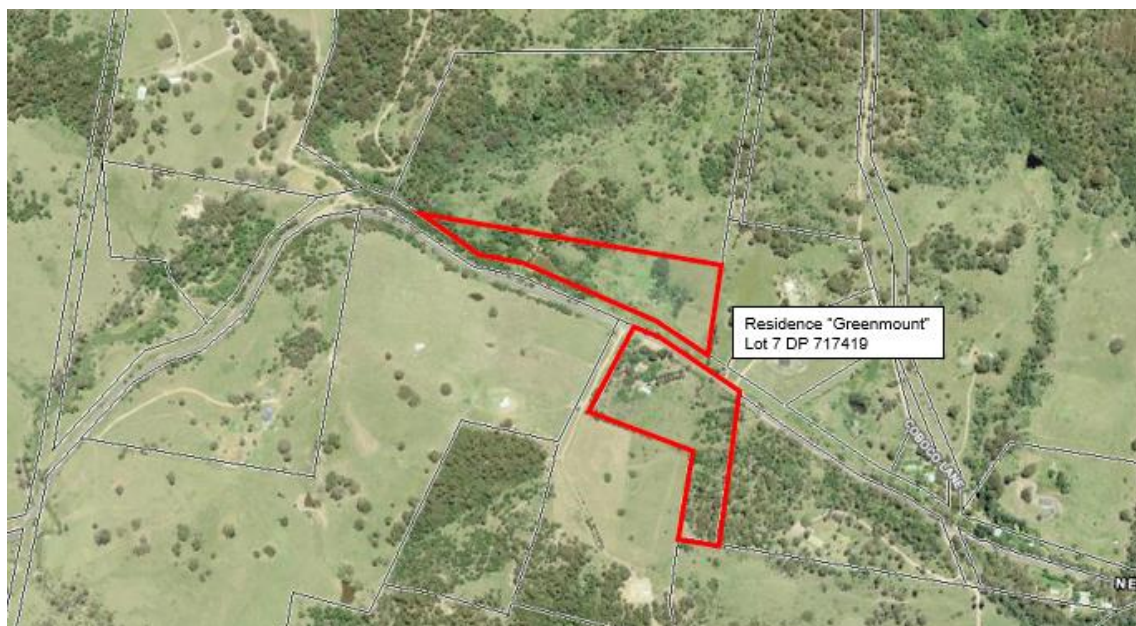


Image 3: Nungatta Station, Nungatta

Note: the location of the graves is indicated by the blue square on the map below. Although details of the heritage listing refer to the graves, they are actually located on an the adjacent Lot 3, DP 1102868.



Image 4: Roman Catholic church building (former), Kiah



Source: SIX Maps

Existing planning controls

The existing planning controls applying to properties proposed to be de-listed as part of this planning proposal are shown in the table below:

Property	Zoning	Maximum height	Minimum lot size
Properties located in the Quaama Village	RU5 Village	10m	2000m ²
Properties located in the Cobargo Village	RU5 Village	10m	1000m ²
Nungatta Station, Nungatta	RU1 Primary Production	10m	120ha
Former Roman Catholic Church building, Kiah	E3 Environmental Management	10m	120ha

Part 1 – Objectives and intended outcomes

The objective of this planning proposal is to:

1. Remove the following properties from Schedule 5 of the BVLEP 2013:
 - 1 Cobargo Street QUAAMA NSW 2550 (Lot 1 Sec 2 DP 758860)
 - 25-27 Cobargo Street QUAAMA NSW 2550 (Lot 3 Sec 5 DP 318028; Lot 1 DP 318028)
 - 5 Wandellow (Wandella) Road COBARGO NSW 2550 (Lot 3 DP 794010)
 - 5 Bega Street COBARGO NSW 2550 (Lot 4 Sec 1 DP 1460)
 - 66 Princes Highway COBARGO NSW 2550 (Lot 5 DP 1134)
 - 72 Princes Highway, COBARGO NSW 2550 (Lot 2 DP 1134)
 - Princes Highway KIAH NSW 2551 (Lot 68 DP 750223)
2. Amend Schedule 5 of the BVLEP 2013 for the following property:
 - 1551 Nungatta Road NUNGATTA NSW 2551 (Lot 10 DP 750206)
3. Amend the following heritage maps of BVLEP 2013 to reflect changes:
 - HER_018
 - HER_017AA
 - HER_007
 - HER_013

As a result of the recent bushfires in the Bega Valley Shire, these properties have been destroyed and heritage significance of these properties no longer exists. The intended outcome of the planning proposal is to remove the statutory mechanism that protects the heritage significance of these properties. As the heritage listed properties do not exist anymore, these statutory controls should no longer apply to these sites.

With regard to Nungatta Station at 1551 Nungatta Road Nungatta NSW 2551, Lot 10 DP 750206 is currently heritage listed and this is where most structures with heritage significance were located prior to the fire. However, the description of heritage significance refers to graves which have not been damaged and are located on the adjacent Lot 3 DP 1102868. Council wishes to retail the listing for Nungatta Station but only as it refers to the graves. The proposed amendment is to list that part of Lot 3 DP 1102868 which contains the graves.

No changes to the existing Cobargo Main Street Conservation Area and Cobargo Roman Catholic Conservation Area heritage conservation areas (HCAs) is proposed as part of this planning proposal. Subject properties that are within an HCA or adjacent to an existing heritage item will still be subject to the heritage controls and objectives within the Bega Valley Development Control Plan 2013 (BVDCP 2013) to ensure that new development is sympathetic to the existing aesthetic and historical character of the Cobargo village and surrounding heritage items.

The planning proposal will also ensure that BVLEP 2013 is accurate and reflective of the properties at these sites.

Part 2 – Explanation of provisions

This planning proposal seeks to amend Schedule 5 Environmental Heritage of the BVLEP 2013 by removing the following sites:

Suburb	Item name	Address	Property description	Significance	Item number
Quaama	St Saviours Church	1 Cobargo Street, Quaama NSW 2550	Lot 1, Sec 2, DP 758860	Local	I255
Quaama	House	25-27 Cobargo Street, Quaama NSW 2550	Lot 3, Sec 5, DP 758860; Lot 1, DP 318028	Local	I256
Cobargo	Residence	5 Wandellow Road, Cobargo NSW 2550	Lot 3, DP 794010	Local	I204
Cobargo	Cottage	5 Bega Street, Cobargo NSW 2550	Lot 4, Sec 1, DP 1460	Local	I662
Cobargo	Bangles Pottery	66 Princes Highway, Cobargo NSW 2550	Lot 5, DP 1134	Local	I723
Cobargo	Simply Cobargo Tea Room	72 Princes Highway, Cobargo NSW 2550	Lot 2, DP 1134	Local	I156
Kiah	Former Roman Catholic Church building (former)	Princes Highway, Kiah NSW 2551	Lot 68, DP 750223	Local	I219

This planning proposal seeks to amend Schedule 5 Environmental Heritage of the BVLEP 2013 by amending the following item:

	Suburb	Item name	Address	Property description	Significance	Item number
Current	Nungatta	Nungatta Station	1551 Nungatta Road, Nungatta NSW 2551	Lot 10, DP 750206	Local	I261
Proposed	Nungatta	Nungatta Station (graves)	1551 Nungatta Road, Nungatta NSW 2551	Lot 3, DP 1102868	Local	I261

Part 3 – Justification

A. Need for the planning proposal

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

No. The planning proposal is not a result of any strategic study or heritage report, but rather is a response to the recent bushfires in the Bega Valley Shire that have resulted in the subject properties being destroyed. As such, the heritage significance of these properties no longer exists.

The planning proposal will ensure that Schedule 5 and the associated mapping of BVLEP 2013 is both current and accurate.

2. *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 objective of removing the heritage listing of affected properties from Schedule 5 of the BVLEP 2013.

The de-listing of these properties may assist landowners in rebuilding and ensure that BVLEP 2013 is current and accurate.

B. Relationship to the strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The relevant regional strategy applicable to the planning proposal is the NSW DPIE's *South East and Tablelands Regional Plan*. In seeking to remove the heritage listing of the subject properties, the planning proposal is not inconsistent with the objectives and actions of the regional plan.

4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

The planning proposal is consistent with the Bega Valley Shire Community Strategic Plan (CSP). The planning proposal is consistent with Strategy 26 – Lead, govern and regulate in an ethical, equitable, transparent and accountable way.

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

Yes. This Planning Proposal does not contain any provisions that would contradict or hinder the application of relevant State Environmental Planning Policies (SEPPs). The following table identifies the applicable SEPPs and outlines this planning proposal's consistency with these.

Relevant SEPP	Consistency
State Environmental Planning Policy 44 – Koala Habitat Protection	Consistent. There are no recent records available to Council that indicates that any of the sites are located within Core or Potential Koala Habitat areas. Notwithstanding, the planning proposal does not contain provisions that would hinder the application of the SEPP.
State Environmental Planning Policy 64 – Advertising and Signage	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. This SEPP may apply to signage associated with future development.
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 on these sites, built using a development application or complying development certificate.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Consistent. The planning proposal seeks to remove a number of properties from Schedule 5 of BVLEP 2013. As such, future redevelopment of these sites may be able to use complying development provisions under this SEPP.
State Environmental Planning Policy (Primary Production and Rural Development) 2019	Consistent. The impact of this planning proposal on rural lands is considered minor and will not hinder the application of this SEPP.
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Consistent. Before granting consent to the erection of a temporary structure under this SEPP, the consent authority must consider whether the structure is proposed to be erected on land that comprises a heritage item under BVLEP 2013. The planning proposal seeks to remove these properties from Schedule 5 of BVLEP 2013 and will not hinder the application of this SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 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 and resources		
1.1	Business and industrial zones	Consistent. Affected properties in Cobargo and Quaama are zoned RU5 Village. The planning proposal will not affect the ability of future development to support the viability of these villages.
1.5	Rural lands	Consistent. The Nungatta Station site is zoned RU1 Primary Production under BVLEP 2013. The planning proposal will not contravene the objectives of this direction.
2. Environment and heritage		
2.1	Environmental protection zones	Consistent. The Former Roman Catholic Church Building site in Kiah is zoned E3 Environmental Management. The site contained the church as well as Kiah Public Hall which have both been destroyed.

		It is not considered that this planning proposal or subsequent redevelopment at these sites will have an adverse effect on the ecological values of these areas.
2.3	Heritage conservation	<p>Consistent. This planning proposal involves the removal of a number of local heritage items from Schedule 5 of BVLEP 2013 because they have been destroyed by bushfire. The heritage significance of these properties no longer exists. The planning proposal will have no effect on other surrounding local heritage items or heritage conservation areas.</p> <p>The redevelopment of sites that are within an HCA or adjacent to other local heritage items will be subject to the heritage controls and objectives within the BVDCP 2013 to ensure that future redevelopment is sympathetic to its surrounds.</p>
3. Housing infrastructure and urban development		
3.1	Residential zones	Consistent. Affected properties in Cobargo and Quaama are zoned RU5 Village under BVLEP 2013 which allows for residential development.
3.3	Home occupations	Consistent. Home occupations are permitted without consent in the RU1, RU5 and E3 zones. The planning proposal will not result in any changes to zoning, and as such will not affect home occupations carried out in dwelling houses without the need for development consent.
4. Hazard and risk		
4.1	Acid sulfate soils	Consistent. Properties are not affected by acid sulfate soils as per Council's LEP mapping.
4.3	Flood prone land	Consistent. Properties are not affected by flooding.
4.4	Planning for bushfire protection	See discussion below.
5. Regional planning		
5.10	Implementation of Regional Plan	The planning proposal is not inconsistent with the applicable regional plan, the South East and Tablelands Regional Plan. The planning proposal's consistency with this plan is addressed previously under Question 4.
6. Local plan making		
6.1	Approval and referral requirements	Consistent. The planning proposal intends to remove the heritage listing of a number of properties listed under Schedule 5 of the BVLEP 2013.
6.3	Site specific provisions	Consistent. The planning proposal intends to remove the heritage listing of a number of properties listed under Schedule 5 of the BVLEP 2013.

4.4 Planning for bushfire protection

This direction applies to properties subject to this planning proposal. Properties categorised as bushfire prone land under the Bega Valley LGA Bushfire Prone Land Map are shown below:

Item name	Address	Bushfire Prone Land
St Saviours Church	1 Cobargo Street, Quaama NSW	Category 3
House	25-27 Cobargo Street, Quaama NSW	Category 3
Building (Ex AJS Bank)	8 Bermagui Road, Cobargo NSW	N/A

Residence	5 Wandella (Wandellow) Road, Cobargo NSW	Bushfire Buffer
Cottage	5 Bega Street, Cobargo NSW	N/A
The Grain Store	59 Princes Highway, Cobargo NSW	N/A
Bangles Pottery	66 Princes Highway, Cobargo NSW	N/A
Simply Cobargo Tea Room	72 Princes Highway, Cobargo NSW	N/A
Nungatta Station	1551 Nungatta Road, Nungatta NSW	Predominantly Category 3 and part Category 1
Former Roman Catholic Church building (former)	Princes Highway, Kiah NSW	Category 3

While some properties are categorised as bushfire prone land, the planning proposal does not involve the carrying out of works, but rather the removal of the properties from Council's local heritage schedule.

The planning proposal is consistent with the objectives of this direction as it does not encourage the establishment of incompatible land uses and appropriate development of the land can occur through the provisions contained within *Planning for Bushfire Protection 2006*.

The consideration of bushfire protection will also occur at the detailed development assessment stage.

C. Environmental, social and economic impact

7. 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?

No. It is not anticipated that any critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal. It is considered that new development will be of a similar scale and nature to what stood before the bushfires and as such, the impact of this development will be minimal.

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

No. It is not anticipated that there will be any other likely environmental effects as a result of this planning proposal. The impact of new development resulting from this planning proposal is expected to be minimal.

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

Yes. The planning proposal will have positive social and economic effects for landowners and the wider community.

The planning proposal ensures that landowners will not have to rebuild with consideration to the statutory controls that apply when properties are listed under Schedule 5 of the BVLEP 2013. In some cases, state government approval pathways may be used where the Codes SEPP applies, which could provide a faster and cheaper option for landowners.

Further, Cobargo has a key role to play in local tourism and attracting tourists to the area is important for the local economy. The planning proposal will assist in the rebuilding process and stimulate the local economy when rebuilding commences.

D. State and Commonwealth interests

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

Yes. The planning proposal will not increase demand on public infrastructure. It is considered that destroyed properties will be rebuilt to a similar scale and nature to what stood before the bushfires and as such, the public infrastructure servicing these properties and the surrounding areas is adequate.

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

Council has consulted verbally with several officers from the NSW Heritage Office prior to forwarding the planning proposal to the Department of Planning, Industry and Environment. No objections to the planning proposal were discussed and advice regarding the information on heritage items to be included in the planning proposal has been followed. Council has also updated the NSW Heritage Inventory to reflect the destroyed properties.

Part 4 – Mapping

The Planning Proposal will require amendments to the following BVLEP 2013 map sheets:

- Bega Valley Local Environmental Plan 2013 – Heritage Map – Sheet HER_018
- Bega Valley Local Environmental Plan 2013 – Heritage Map – Sheet HER_017AA
- Bega Valley Local Environmental Plan 2013 – Heritage Map – Sheet HER_013
- Bega Valley Local Environmental Plan 2013 – Heritage Map – Sheet HER_007

Except for 1551 Nungatta Road Nungatta NSW 2551 (Sheet HER_007), the properties subject to the planning proposal will no longer be coloured to indicate Heritage Item on the LEP maps because of the planning proposal.

For 1551 Nungatta Road Nungatta NSW 2551, Sheet HER_007 will be amended by removing the coloured to indicate Heritage Item from Lot 10 DP 750206 and applying the colour to that portion of Lot 3 DP 1102868 that contains the graves as indicated by Image 3 above.

Part 5 – Community consultation

Due to the nature of this planning proposal which has been prepared in response to recent bushfire damage, Council is respectfully requesting that the new LEP is made without the proposal going on public exhibition.

Direct consultation with the affected landowners has been undertaken prior to the planning proposal being endorsed by Council and forwarded to the Department for finalisation.

Part 6 – Project timeline

Council is seeking an expedited finalisation of the planning proposal and new LEP from the Department of Planning, Industry and Environment given the nature of the proposal and the desirability of landowners to begin works on their properties. Council will be requesting that it is the plan-making authority for the finalisation of this plan. The expected project timeline for this new local environmental plan is as follows:

Task	Timing
Report to Council seeking resolution to submit planning proposal to Department of Planning, Industry and Environment	March 2020
Submission to Department of Planning, Industry and Environment seeking expedited finalisation of planning proposal (including the dispensation of community consultation) and new LEP	March 2020
LEP amendment finalised	April 2020