

## 8.2. Delisting of fire destroyed local heritage items

This report seeks a Council resolution to submit a planning proposal for Gateway Determination to remove the local heritage listing from 10 properties that have been destroyed by bushfire.

Director Community Environment and Planning

### Officer's Recommendation

That Council:

1. Supports a planning proposal to remove local heritage listing of properties where the major structure has been destroyed by bushfires and removal of listing is supported by the property owner.
2. Authorises Council officers to forward the planning proposal (Attachment 1) and supporting information to the Department of Planning, Industry and Environment requesting expedition of the Gateway Determination under section 3.22 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
4. Authorises Council officers, subject to the conditions of the Gateway Determination and providing no substantial changes to the planning proposal are required, to progress the planning proposal to finalisation and gazettal without a further report to Council.

### Executive Summary

This report seeks Council's support to submit a draft planning proposal to the Department of Planning, Industry and Environment to amend Schedule 5 – Environmental Heritage of the *Bega Valley Local Environmental Plan 2013* (BVLEP 2013). This amendment would remove 10 properties from Council's local heritage list, where the major structure on the property has been recently destroyed by bushfire.

The planning proposal is administrative in nature and will remove the statutory mechanism that protects the heritage significance of these properties, on the basis that the heritage significance of the properties no longer exists and the landowners support the proposed delisting.

The removal of the heritage listing on these properties may assist affected landowners with increased flexibility with the design and construction process and may allow them to utilise development provisions 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.

### Background

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

The properties subject to this planning proposal have been assessed as destroyed by the NSW Rural Fire Service during its on-site assessments following the fires.

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.

The planning proposal does not involve any works. It removes properties from Council's local heritage schedule (Schedule 5 of BVLEP 2013).

While three of the heritage listed properties are also located in the Cobargo heritage conservation area, the planning proposal does not recommend any changes to the existing boundaries of this area.

### ***Implications***

The intended outcome of the planning proposal is to remove the statutory mechanism that protects the heritage significance of these 10 properties. As the heritage-listed properties no longer exist, these statutory controls should no longer apply to these sites.

The planning proposal ensures that landowners will not have to rebuild in accordance with the statutory controls that apply when properties are listed under Schedule 5 of BVLEP 2013. In some cases, NSW Government deemed approval pathways may be used where the Codes SEPP applies.

The planning proposal will also ensure that Council's BVLEP is accurate and reflective of the heritage value of the properties at these sites.

### ***Subject land***

The planning proposal applies to the following properties:

- 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)
- 8 Bermagui Road COBARGO NSW 2550 (Lot 1 DP 1169111)
- 5 Wandella Road COBARGO NSW 2550 (Lot 3 DP 794010)
- 5 Bega Street COBARGO NSW 2550 (Lot 4 Sec 1 DP 1460)
- 59 Princes Highway COBARGO NSW 2550 (Lot 1 DP 306281)
- 66 Princes Highway COBARGO NSW 2550 (Lot 5 DP 1134)
- 72 Princes Highway, COBARGO NSW 2550 (Lot 2 DP 1134)
- 1551 Nungatta Road NUNGATTA NSW 2551 (Lot 10 DP 750206)
- Princes Highway KIAH NSW 2551 (Lot 68 DP 750223)

Details of these properties are contained in Attachment 1.

### **Options**

This report recommends removing the local heritage listing from 10 properties on the basis that the structures that were of heritage significance have been destroyed such that those values no longer exist. Council could resolve not to proceed with the planning proposal and leave the properties on Schedule 5 of the BVLEP 2013.

### **Community Engagement**

#### ***Consultation undertaken***

Council has held preliminary discussions with the Department of Planning, Industry and Environment and NSW Office of Heritage on the process involved in finalising the planning proposal. The planning proposal (Attachment 1) has been prepared in accordance with these discussions.

The owners of the affected properties have been contacted individually by Council staff to advise them of the proposal and discuss any issues or questions they may have. No objection to the removal of the heritage listing were expressed by any of the landowners.

**Consultation Planned**

It is proposed to write to the Planning Secretary requesting that the planning proposal is expedited under Section 3.22 (1)(c) of the *Environmental Planning and Assessment Act 1977*. As part of this request, Council may be granted exemption from the usual formal community and government agency consultation required by the Gateway Determination.

Notwithstanding, Council will follow any community consultation requirements as per the Gateway Determination and Council's Community Engagement Strategy, where appropriate.

**Council consideration of input**

Should agency or community consultation be required for the planning proposal, a report will be prepared for Council outlining the submissions received and any changes to the planning proposal recommended in response to those submissions prior to resolving whether to proceed with amending BVLEP 2013.

In the event that no formal consultation of the planning proposal is required, no objections to the planning proposal are received from landowners and no changes are required to the planning proposal, it is proposed that Council resolve to authorise staff to adopt the proposed amendment to BVLEP 2013.

**Financial and resource considerations**

The planning proposal is a procedural matter for Council as part of the recovery and rebuilding process following the bushfires. The costs associated with preparing the planning proposal and finalising the new local environmental plan will be accommodated within Council's adopted operational budget.

Funding source	Amount
General Fund	\$ 500

**Legal /Policy**

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).

Council intends to forward the planning proposal and supporting information to the Department of Planning, Industry and Environment requesting Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

Council intends to write to the Planning Secretary requesting that the planning proposal is expedited under Section 3.22 (1)(c) of the *Environmental Planning and Assessment Act 1979*.

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

In seeking to remove the redundant heritage listings on the subject properties, the planning proposal is consistent with Strategy 26 of the Bega Valley Shire Community Strategic Plan – 'Lead, govern and regulate in an ethical, equitable, transparent and accountable way'.

The proposal is not inconsistent with the *South East and Tablelands Regional Plan*.

**Environmental / Sustainability**

It is not anticipated that there will be any risks to ecology or biodiversity as a result of the planning proposal. It is considered that new development will be of a similar scale and nature to what stood before the fires and as such, the impact of such development on the environment will be minimal.

***Economic***

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 BVLEP 2013. In some cases, NSW Government approval pathways may be used where the Codes SEPP applies, which could provide a faster and cheaper option for landowners.

***Risk***

It is not considered that there is any material risk to Council in proceeding with the planning proposal. The planning proposal is administrative in nature as the heritage values of the properties to be removed from the heritage schedule no longer exist.

***Social / Cultural***

The planning proposal will have positive social impacts for landowners and the wider Bega Valley Shire community by removing the redundant heritage listings and assisting in the rebuilding process.

**Attachments**

1. Draft Planning Proposal: Delisting of Heritage Items Destroyed by Bushfire