



IRF22/1688

Gateway determination report – PP-2022-1827

Increase Housing Diversity and Affordability

June 22



Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2022-1827

Subtitle: Increase Housing Diversity and Affordability

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A Planning Proposal: Residential Land Use Strategy – Increase Housing Diversity
Appendix A of Planning Proposal - Draft Amendments to BV DCP
Council Report 18 May 2022
Council Minutes 18 May 2022

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Bega Valley
PPA	Bega Valley Shire Council
NAME	Increase Housing Diversity and Affordability
NUMBER	PP-2022-1827
LEP TO BE AMENDED	Bega Valley LEP 2013
ADDRESS	RU5, R2, R3, B4 and B2 Zones
RECEIVED	19/05/2022
FILE NO.	IRF22/1688
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objectives of the planning proposal are to implement the Bega Valley Shire Residential Land Strategy 2040 and the Bega Valley Shire Affordable Housing Strategy to increase housing diversity while protecting neighbourhood character.

The intended outcomes of the planning proposal are to:

- A. Enable creation smaller 350m² lots in areas zoned R2 Low Density Residential that are serviced with reticulated water and sewerage.
- B. Reduce the minimum lot size in Candelo, Cobargo, Kalaru and Wolumla, villages serviced with reticulated water and sewerage.
- C. Streamline the construction and subdivision of multiple dwellings.
- D. Enable multi dwelling housing in the R2 Low Density Residential Zone and RU5 Village Zone.
- E. Increase the supply of one and two bedroom units
- F. Increase the supply of adaptable housing (i.e. housing designed to cater for people of all ages and abilities).
- G. Strengthen landscape controls to protect character and increase resilience.

The new controls will be supported by amendments to the Bega Valley Shire Development Control Plan.

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 per the changes below:

Table 3 Current and proposed controls

Section of PP Intended Outcomes	Proposed changes
A. Enable creation of a limited number of smaller lots in the R2 Low Density Zone serviced by reticulated water and sewerage supply	Enable 40% of new lots to have a minimum lot size of 350m ² provided they are not battle axe lots
B. Amend the Lot Size Map to reduce the minimum lot size in villages serviced by reticulated sewerage	<ol style="list-style-type: none"> 1. Candelo, Cobargo, and Wolumla RU5 Zone – Reduce the minimum lot size from 1,000 m² to 600m² 2. Wolumla R2 Zone – Reduce the minimum lot size from 650 m² to 600 m² 3. Kalaru RU5 Zone – Reduce the minimum lot size from 1,000m² to 550 m².
C. Streamline simultaneous construction and subdivision for multiple single storey dwelling houses in the R2 and RU5 Zones on smaller lots serviced by reticulated sewerage. Note: Based on clause 4.1C Eurobodalla LEP 2012 and Clause 4.1A in Albury LEP 2010.	<ol style="list-style-type: none"> 1. Enable the subdivision of land into 3 or more lots with a minimum lot size of 350m² and the erection of only a single storey dwelling house on each of the new proposed lots. 2. At least one lot cannot be a battle-axe lot.
D. <ol style="list-style-type: none"> 1. Permit multi dwelling housing in the R2 and RU5 Zones. 2. Amend the Floor Space Ratio in certain villages. 3. Apply minimum lot sizes for dual occupancies, secondary dwellings, multi dwelling housing in the R2 and RU5 Zones serviced by reticulated sewerage (See also Figure 1). 	<ol style="list-style-type: none"> 1. Amend the land use table for the R2 and RU5 Zones to permit multi dwelling housing with consent. 2. Apply Floor Space Ratio controls applying to the RU5 Zone in the serviced villages of Candelo, Cobargo and Wolumla (0.35:1) and Kalaru (0.5:1). 3. Replace clause 4.1A to implement the following minimum lot sizes: Dual Occupancy – 550 m² minimum lot size Secondary dwellings – 450 m² minimum lot size Multi dwelling housing R2 Zone – 900 m² minimum lot size Multi dwelling housing RU5 Zone – 1,000 m² minimum lot size

Section of PP Intended Outcomes	Proposed changes
<p>E. Increase supply of one and two bedroom units in zones that permit residential flat buildings, multi dwelling housing and shop top housing (i.e. B2, B4, R3, R2 and RU5 Zones).</p> <p>Note: Based on clause 6.13 of Leichardt LEP 2013.</p>	<ol style="list-style-type: none"> 1. <u>3 and 4 dwelling development</u> - Minimum 1 dwelling to be self-contained studio dwelling/one bedroom dwelling or two bedroom dwelling with minimum 75m² floor area. 2. <u>5 or more dwelling development</u>. Minimum 20% of dwellings to be self-contained studio dwelling/one bedroom dwelling or two bedroom dwelling with maximum 55m² floor area and bathroom. Minimum 20% to be two bedroom dwellings with maximum 75m² floor area and bathroom. 3. New clause to be referenced in clause 4.6 so above development standards cannot be varied.
<p>F. Increase supply of adaptable housing in R2, R3, B2, B4 and RU5 Zones.</p> <p>Note. Based on clause 7.17 of Great Lakes LEP 2014.</p>	<p>Insert a new provision to ensure a proportion (see below) of new residential in central locations is consistent with the Livable Housing Australian Design Guidelines (i.e. housing designed to cater for people of all ages and abilities).</p> <p><u>B2 Zone</u> - Residential Accommodation – Ratio of 1:1</p> <p><u>R2, R3, B2, B4 and RU5 Zone</u> – 4 or more dwellings - Shop top housing, residential flat building, multi dwelling housing – Ratio of 1:4</p>

Section of PP Intended Outcomes	Proposed changes
<p>G. Strengthen landscaped area controls in the R2, R3 and RU5 Zones involving the erection of a building.</p> <p>Note: Based on clause 6.6 of Mosman LEP 2012, clause 6.9 of Hunters Hill LEP 2012 and SEPP (Housing) 2021.</p>	<p><u>Council may refuse to grant consent for non-compliance with the following landscaping standards</u></p> <p><u>Minimum landscaped area in R2 Zone</u></p> <ul style="list-style-type: none"> - 35% of site area if site area is less than 900m² - 40% of site area if site area is at least 900m² and less than 1,500m² - 45% of site area if site area is at least 1,500m² - 65% of site area within front setback if one dwelling per lot (can be reduced for building articulation or to comply with Livable Housing Australian Design Guidelines) <p><u>Minimum landscaped area in R3 Zone</u></p> <ul style="list-style-type: none"> - 35% of site area - 65% of site area within front setback if one dwelling per lot (can be reduced for building articulation or to comply with Livable Housing Australian Design Guidelines) <p><u>Minimum landscaped area in RU5 Zone</u></p> <ul style="list-style-type: none"> - 40% if site area is less than 1,500 m² - 45% if site is at least 1,500 m² <p><u>Deep Soil Zone – Development in R2 and R3 Zones</u></p> <ul style="list-style-type: none"> - Deep Soil Zone 15% of site area, minimum 4.5m and 50% of DSZ at rear of site. - Deep soil defined as “landscaped area with no buildings or structures above or below the ground.

Comment

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

Many of the proposed provisions have been adapted from current provisions that encourage housing diversity and affordability in existing LEPs including Eurobodalla LEP 2012, Albury LEP 2010, Hunters Hill LEP 2012, Leichardt LEP 2013, Mosman LEP, Great Lakes LEP 2014.

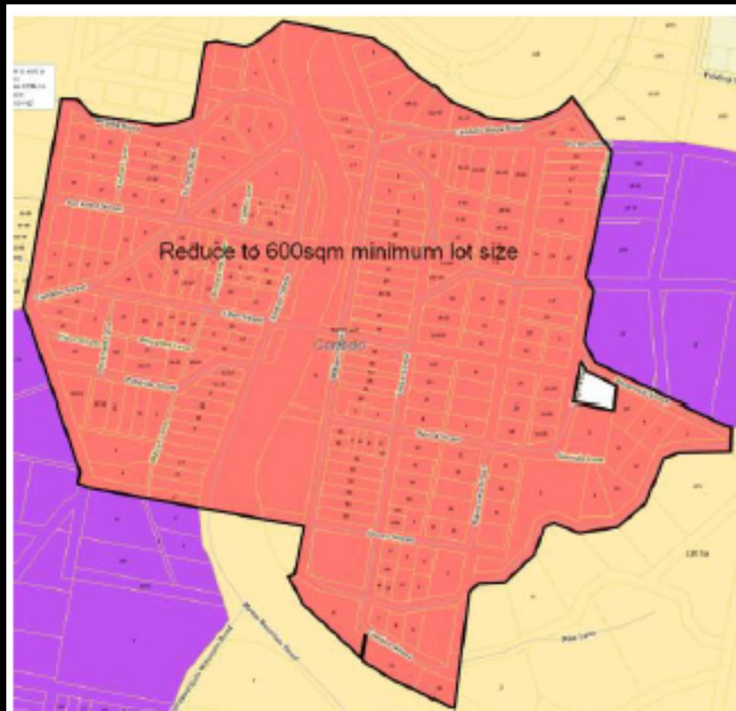


Figure 1: Candelo

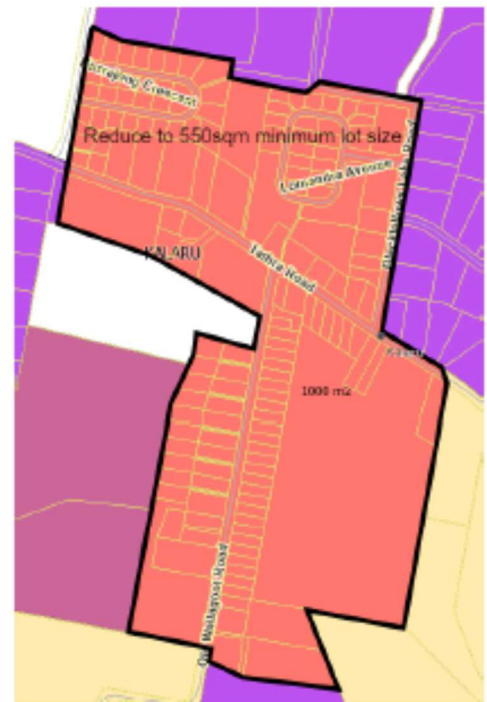


Figure 3: Kalaru

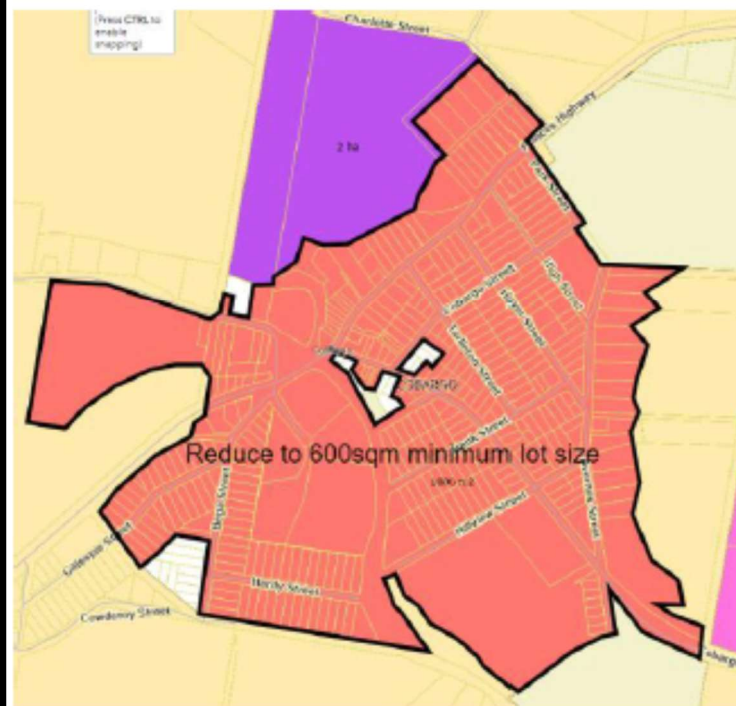


Figure 2: Cobargo

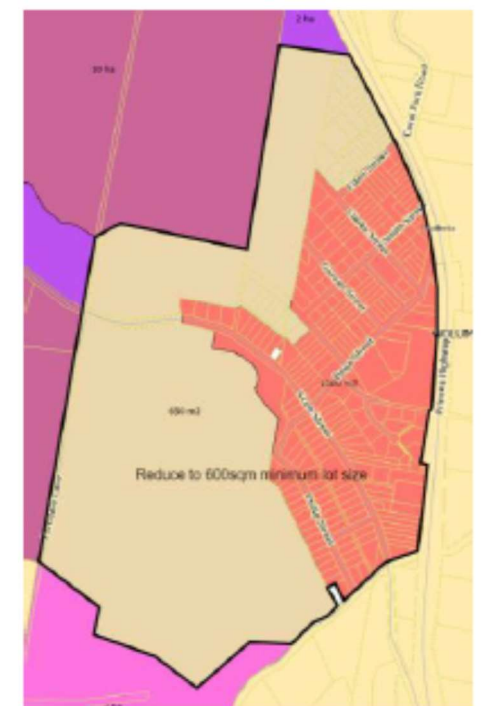


Figure 4: Wolumla

Figure 1 Proposed changes to the Minimum Lot Size in the villages of Candelo, Kalaru, Cobargo and Wolumla (Source: Figures 1, 2, 3 and 4 of Planning Proposal)

1.4 Site description and surrounding area

The planning proposal applies to the RU5 Village Zone, R2 Low Density Residential Zone, R3 Medium Density Zone, B4 Mixed Use Zone and B2 Local Centre Zone as outlined in Table 3 above.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Lot Size Map to implement the proposed changes indicated below. The maps showing the proposed changes to the Lot Size Map are suitable for community consultation.

Candelo, Cobargo, and Wolumla RU5 Zone – Reduce the minimum lot size from 1,000 m2 to 600m2.

Wolumla R2 Zone – Reduce the minimum lot size from 650 m2 to 600 m2

Kalaru RU5 Zone – Reduce the minimum lot size from 1,000m2 to 550 m2.

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?

Bega Valley Shire Residential Land Strategy 2040

The planning proposal implements the key findings of the Bega Valley Shire Residential Land Strategy 2040 that seeks to encourage more housing diversity and generate more affordable housing in all of the urban centres in Bega valley. In particular the planning proposal implements two recommendations of the Strategy.

1. *Review planning controls for the RU5 Village Zones to facilitate low scale infill housing that is in keeping with local character*
2. *Identify planning controls and incentives such as density or height bonuses that deliver different dwelling types, greater bedroom mix and tenure.*

Bega Valley Shire Affordable Housing Strategy

The planning proposal implements the Bega Valley Shire Affordable Housing Strategy that seeks to:

1. Remove planning impediments to increase the supply of residential flat buildings and multi dwelling housing.
2. Increase the opportunity for housing diversity and affordability.
3. Mandate housing diversity.

Local Strategic Planning Statement

The Bega Valley Local Strategic Planning Statement incorporated the outcomes of the Bega Valley Residential Land Strategy 2040. It is consistent with Planning Priority 10: Character and Priority 11 Housing.

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

The planning proposal is the only means to amend the provisions of the Bega Valley LEP 2013 to increase housing diversity and affordability as outlined in Table 3 under section 1.2 of this report.

3 Strategic assessment

3.1 Regional Plan

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

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Goal 4 Environmentally sustainable Housing Choices	The planning proposal is consistent with the following Directions: 24: Deliver greater housing supply and choice 25: Focus Housing growth in locations that maximise infrastructure and services 27: Deliver more opportunities for affordable housing

3.2 Local

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

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	Consistent (See section 2)
Bega Valley Shire Residential Land Strategy 2040	Consistent (See Section 2)
Bega Valley Shire Affordable Housing Strategy	Consistent (See section 2).

3.3 Section 9.1 Ministerial Directions

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

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	Consistent with Goal 4 and Directions 24, 25 and 27 (See Table 5 above under section 3.1).
3.2 Heritage Conservation	Yes	The planning proposal does not seek to change any provisions relating to heritage items under schedule 5.

4.1 Flooding	No	<p>The planning proposal states that it does not seek to rezone flood prone land or alter any existing LEP or DCP provisions that relate to flood planning. The planning proposal does not seek to permit any significant intensification of residential development as exempt development.</p> <p>However, the PP acknowledges that the “proposed measures may be considered as increasing the dwelling density potential of the land, some of which is flood prone. Any development application proposing multi dwelling housing or subdivision on flood prone land would be subject to a merit assessment of the flood planning requirements of LEP 2013 and DCP 2013. Therefore, the inconsistency is of minor significance.</p> <p>Comment</p> <p>The planning proposal will increase the housing density in existing residential zones and certain commercial zones, with some of these areas identified as flood prone land. Land affected by the amendment is already zoned for residential development. It is therefore agreed that the justification that the inconsistency is of minor significance.</p> <p>However, it is also recommended that Council consult with DPE Biodiversity and Conservation (Flood Unit) as the proposal partly affects future residential development on flood prone land.</p>
4.2 Coastal Management	Yes	<p>The planning proposal does not seek to rezone land for urban land use. It is not site specific and any likely impacts from coastal processes on land already zoned for urban development will be considered at the development application stage.</p>
4.3 Planning for Bushfire Protection	Yes	<p>The planning proposal indicates that some land affected by the amendment is mapped as bush fire prone and that consultation will be undertaken with the NSW Rural Fire Service in accordance with the requirements of the Direction.</p> <p>It is not site specific and any likely impacts from bush fire hazard on land already zoned for urban development will be considered at the development application stage.</p>
4.4 Remediation of Contaminated Land	Yes	<p>The planning proposal does not seek to rezone rural land for urban development. The planning proposal applies to land already identified for residential and commercial development.</p>

4.5 Acid Sulfate Soils	Yes	The planning proposal does not seek to rezone rural land for urban development. The planning proposal applies to land already identified for residential and commercial development.
5.1 Integrated Land Use and Transport	Yes	The increased densities proposed by the planning proposal encourage the increased use of urban land serviced by transport infrastructure.
6.1 Residential Zones	Yes	The planning proposal applies to the R2, R3 and RU5 residential Zones and is consistent with the Direction because it seeks to: <ul style="list-style-type: none"> - Broaden the choice of building types and locations available in the housing market - Makes more efficient use of existing infrastructure and services - Reduces the consumption of land for housing on the urban fringe and does not reduce the permissible residential density of land.
7.1 Business Zones	Yes	The planning proposal applies to the B2 and B4 Zones. The proposal does not trigger an inconsistency with the Direction.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs. The planning proposal is not site specific but applies to land that is already zoned for urban development.

The planning proposal does not trigger any requirements under SEPPs.

Some SEPPs, i.e. SEPP (Resilience and Hazards) 2021, SEPP (Biodiversity and Conservation) 2021 and SEPP (Primary Production) may affect development applications on land to which this planning proposal applies. Any development application for residential development enabled by the proposed by the planning proposal and affected by any SEPP will considered on its merits at the development assessment stage.

4 Assessment

4.1 Environmental

The planning proposal is not site specific but applies to land currently zoned for urban development. Any likely impacts of amending the LEP to increase the diversity and affordability of housing will be considered on its merits at the development application stage. For example, the planning proposal indicates that although it is not anticipated that the proposed changes will have any adverse impact on critical habitat, threatened species, populations or ecological communities, any impact will be considered in detail at the development application stage.

The planning proposal acknowledged that some areas of land affected by the planning proposal are identified as flood prone land. These existing urban areas will be subject to flood controls

outlined in the Bega Valley LEP 2013, Development Control Plan and any adopted Flood Plain Risk Management Plan and Strategy.

4.2 Social and economic

The purpose of the planning proposal is to generate social and economic improvements by increasing housing diversity and affordability consistent with the outcomes of the Bega Valley Residential Land Strategy and Bega Valley Affordable Housing Strategy.

The Residential Strategy projects that an additional 2,618 dwellings are required by 2036 to accommodate the medium population growth scenario. The planning proposal will encourage more affordable infill residential development in Bega Valley that will also assist in avoiding urban sprawl into more environmentally sensitive areas or agricultural land.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- DPE Biodiversity and Conservation

6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The Department recommends a time frame of 12 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

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

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the planning proposal is not considered to raise major state or regional planning issues the Department proposes 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:

- It is consistent with Council's local strategies, including the Bega Valley Local Strategic Planning Statement, the Bega Valley Residential Land Strategy, and the Bega Valley Affordable Housing Strategy
- It is consistent with Goal 4 Environmentally Sustainable Housing Choices and subsequent Direction and Actions of the South East and Tablelands Regional Plan.
- Many of the proposed provisions have been adapted from current provisions that encourage housing diversity and affordability in existing LEPs.
- It does not raise any regional or state matters of significance.

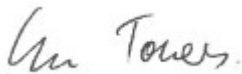
Recommendation.

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.1 Flooding are of minor significance.

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 (s9.1 Direction 4.3 Planning for Bushfire Protection)
 - DPE Biodiversity and Conservation (Flooding)
2. The planning proposal should be made available for community consultation for a minimum of 20 working 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.



7/6/22

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(Signature)

8/6/2022 (Date)

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