



IRF23/1825

Gateway determination report – PP-2023-1430

Bega Valley – Minor Amendments

July 23

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2023-1430

Subtitle: Bega Valley – Minor Amendments

© State of New South Wales through Department of Planning and Environment 2023. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning 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 (July 23) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning 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.

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.

Contents

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

Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Planning Proposal – Minor Amendments

1 Planning proposal

1.1 Overview and Objectives of the planning proposal

Table 2 Planning proposal details

LGA	LGA name
PPA	Bega Valley Council
NAME	Minor Amendments – 11 Items
NUMBER	PP-2023-1430
LEP TO BE AMENDED	Bega Valley LEP 2013 (BVLEP 2013)
RECEIVED	6/07/2023
FILE NO.	IRF23/1825
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

The intention of this planning proposal is to make minor amendments to BVLEP 2013 that:

A. Update the lot and deposited plan in Schedule 5 and the Heritage Map relating to Item I222, Twyford Hall and Item I683, the Cottage on rise site

B. Correct an omission in the drafting of BVLEP 2013 that removed cemeteries and crematoriums as a land use that is permitted with consent in zones RU1 Primary Production and RU2 Rural Landscape

C. Align the land use table with State Environmental Planning Policy (Housing) 2021 in relation to permissibility of secondary dwellings in the R2 Low Density Residential Zone

D. Align the land use table with State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to permissibility of medical centres and health consulting rooms in RU5 Village zones

E. Amend clause 5.4 (8) to increase the maximum allowable size of roadside stalls from 10sqm to 20sqm

F. Provide opportunities for certain development to be carried out as exempt development.

- A-Frame signs
- Annual Events
- Markets
- Community Gardens
- Painted Artwork on buildings

G. Provide clarification that strata subdivision of dual occupancies in rural and conservation zones is not permitted

H. Update the objective contained under Clause 4.3 Height of buildings to reflect the existing range of height of buildings limits across the shire

I. Ensure that new noise sensitive development near Merimbula Airport takes into consideration potential aircraft noise impacts in accordance with the Merimbula Airport Master Plan

J. Progress adoption of optional clause in SI LEP - clause 5.22 Special flood considerations

K. Provide clarification that consent may be granted to development for residential purposes on a lot which has been created under cl. 4.1B(3)

The objectives of this planning proposal are clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the Bega Valley LEP 2013 per the changes below:

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

A. Amend Schedule 5 Part 1 (Heritage Items) to change the Lot and DP description for Item I222, Twyford Hall and Item I683, the Cottage on rise site. Changes to the description of Item I683 will require an amendment to the Heritage Map.

B. Amend the Land Use Table for RU1 Primary Production and RU2 Rural Landscape zones to insert cemeteries and crematoriums under Item 3 permitted with consent.

C. Amend the Land Use Table for the R2 Low Density Residential Zone to insert secondary dwellings under Item 3 permitted with consent.

D. Amend the Land Use Table for the RU5 Village Zone to insert medical centres and health consulting rooms under Item 3 permitted with consent.

E. Amend clause 5.4 (8) to increase the maximum allowable size of roadside stalls from 10sqm to 20sqm

F. Amend Schedule 2 Exempt Development to insert an exemption for the following.

- New Exemption for 'A-frame signs'
- Amend 'Annual Events' exemption
- New Exemption for 'Markets'
- New Exemption for 'community gardens'
- New Exemption for 'Painted artwork on buildings.'
-

G. Insert a new clause - Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones.

H. Amend the objective contained under Clause 4.3 Height of buildings by replacing objective a) with;

(a) to ensure new development is appropriate to the predominant form and scale of surrounding development (present or future), surrounding landforms and the visual setting

I. Insert the Model Clause for Airport Noise for Merimbula Airport

J. Adopt the option in the Standard Instrument LEP and insert clause 5.22 Special flood considerations.

K. Amend clause 4.2A(3) to state that consent may be granted for the erection of a dwelling house or dual occupancy within a rural or conservation zone on lot which has been created under clause 4.1B(3).

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 seeks to undertake minor housekeeping amendments and it is not a result of any study, plan, or strategy.

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 make minor housekeeping amendments to the BVLEP 2013.

3 Strategic assessment

3.1 Regional Plan

The planning proposal seeks to make minor amendments to BVLEP 2013 and these amendments are generally consistent with the South East and Tablelands Regional Plan.

3.2 Local

The proposal states that it is consistent with the Bega Valley Local Strategic Planning Statement.

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	Minor Housekeeping amendments to BVLEP 2013
4.3 Planning for Bushfires	Yes	The planning proposal will affect land mapped as bushfire prone land. The proposal acknowledges that Council will need to consult with the NSW Rural Fire Service.
6.1 Residential Zones	Yes	Minor Housekeeping amendments to BVLEP 2013
9.1 Rural Zones	Yes	Minor Housekeeping amendments to BVLEP 2013
9.2 Rural Lands	Yes	Minor Housekeeping amendments to BVLEP 2013

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The planning proposal to undertake minor housekeeping amendments is unlikely to have any adverse environmental impacts.

4.2 Social and economic

The planning proposal to undertake minor housekeeping amendments is unlikely to have any adverse social or economic impacts.

4.3 Infrastructure

The proposed minor housekeeping amendments are unlikely to require a significant increase in demand for state or local infrastructure

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

Council has acknowledged that consultation is required with the NSW Rural Fire Service.

It is recommended that the NSW Rural Fire Service be consulted on the planning proposal and given 20 working days to comment.

6 Timeframe

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

The Department recommends a time frame of 9 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 has not advised that it would like to exercise its functions as a Local Plan-Making authority. It is recommended that Council be authorised to use its delegation for Plan-Making due to the minor nature of the proposal.

8 Assessment summary

The planning proposal was provided to the Housing and Economic Policy Codes Team for comment on the proposed amendments to Schedule 2 Exempt Development (Item F). The Codes Team advised on the 18 July 2023 that they are happy for the changes to go ahead.

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

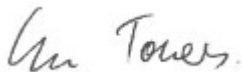
- It seeks to undertake minor housekeeping amendments to Bega Valley LEP 2013.

9 Recommendation

It is recommended the delegate of the Secretary note that the planning proposal will be consistent with Direction 4.3 Planning for Bushfire Protection when Council consults with the NSW Rural Fire Service in accordance with the Direction.

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
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 9 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.



28/7/23

Graham Towers

Manager, Southern Region



29/7/2023

Daniel Thompson

Director, Southern Region

Assessment officer

Graham Judge

Senior Planner, Southern Region
6229 7906