

# Planning Proposal: Minor Amendments June 2023





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Bega Valley Shire Council acknowledges and pays our respects to the Traditional Custodians of the lands, waterways and airspace of the shire.

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# Part 1 – Objectives and intended outcomes

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* and the NSW Department of Planning, Industry and Environment's *Local Environmental Plan Making Guideline* (December 2021).

This Council-initiated planning proposal can be categorised as a Standard planning proposal under the BVLEP Making Guideline.

## Objective

The objective of this planning proposal is to make minor amendments to *Bega Valley Local Environmental Plan 2013* (BVLEP 2013).

## Intended outcomes

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

- A. Update the lot and deposited plan numbers in Schedule 5 relating to Twyford Hall and Cottage on rise and amend the Heritage Map for Cottage on rise.
- 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
- 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. 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
- G. Provide clarification that strata subdivision of dual occupancies in rural and conservation zones is not permitted
- H. Update 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 the special flood considerations clause as resolved by Council
- 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)

# Part 2 – Explanation of provisions

## A. Update the lot and deposited plan numbers in Schedule 5

### Background

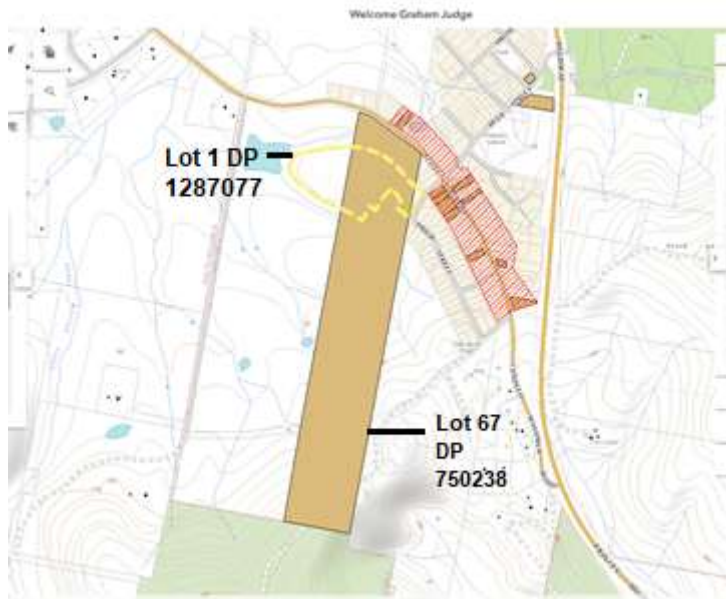
The Twyford Hall site in Merimbula has recently been consolidated and the Cottage on rise site at Wolumla has recently been subdivided and as a result, the property descriptions for these heritage items are now outdated.

### Proposed amendment:

Amend Schedule 5, Part 1 Heritage Items as follows:

Merimbula	Twyford Hall	16 Market Street	<del>Lot 511, DP 818052</del> Part of Lot 500, DP 1274816	Local	I221
Wolumla	Cottage on rise	22 Mine Street	<del>Lot 67, DP 750238</del> Lot 1 DP 1287077	Local	I683

Amend the Heritage Map for the heritage item 'Cottage on rise' as follows:



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

### Background

Under *Bega Valley Local Environmental Plan 2002* (BVLEP 2002), cemeteries were permitted with consent in zone 1(a) Rural General. Notably the land use definition for cemeteries in BVLEP 2002 included crematoriums. The land uses were omitted in the drafting of BVLEP 2013 from zones



RU1 and RU2 when the zones changed from being open zones with the prohibited land uses listed to closed zones with the permitted land uses listed.

It is proposed to insert cemeteries and crematorium into item 3 Permitted with consent in the land use tables for zones RU1 Primary Production and RU2 Scenic Landscape to correct these omissions.

**Proposed amendment:**

***Land Use Table***

Amend the BVLEP 2013 Land Use Table, as indicated in red below:

**Zone RU1 Primary Production**

**3 Permitted with consent**

Cemeteries, crematorium

**Zone RU2 Rural Landscape**

**3 Permitted with consent**

Cemeteries, crematorium

**C. Align the land use table with *State Environmental Planning Policy (Housing) 2021* in relation to permissibility of secondary dwellings**

**Background**

Under BVLEP 2013, secondary dwellings are prohibited in the R2 Low Density Residential zone but permitted with consent under the provisions of the *State Environmental Planning Policy (Housing) 2021*.

It is proposed to amend the land use table by inserting secondary dwellings into item 3 Permitted with consent in the R2 Low Density Residential zone land use table to make it clear that secondary dwellings are permitted with consent in the zone.

**Proposed amendment:**

***Land Use Table***

Amend the BVLEP 2013 Land Use Table, as indicated in red below:

**Zone R2 Low Density Residential**

**3 Permitted with consent**

Secondary dwellings

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

## Background

In the RU5 Village zone, medical centres and health consulting rooms are prohibited under BVLEP 2013 but permitted with consent under the provisions of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The *Bega Valley Commercial Land Strategy 2040* identifies required amendments to the RU5 Village zone land use table to make health consulting rooms permitted with consent.

It is proposed to insert medical centres and health consulting rooms into item 3 Permitted with consent in the land use table to make it clear that both land uses are permitted with consent in the zone.

## Proposed amendment:

### Land Use Table

Amend the BVLEP 2013 Land Use Table, as indicated in red below:

#### Zone RU5 Village

#### 3 Permitted with consent

Health consulting rooms, medical centres

## E. Increase the maximum allowable size of roadside stalls from 10sqm to 20sqm

## Background

Currently BVLEP 2013 provides a development consent pathway for roadside stalls up to 10sqm in zones RU1, RU2, RU4, RU5, R5, B2, B4, C3 and C4.

Recent changes to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) provide an exempt development pathway for roadside stalls up to 9sqm in zones RU1, RU2 and RU4.

The changes have prompted a review of the BVLEP 2013 settings. Strategic direction from the Bega Valley Commercial Land Strategy recommends reinforcing the commercial centres and preventing interference from out-of-centre development (noting that small roadside stalls will not have a significant impact, but larger ones could). Bega Valley Climate Resilience Strategy identifies food security benefits from local food production and includes the Action F15: Support sustainable local food education and production initiatives.

To improve opportunities for the sale of local produce but also ensure that roadside stalls do not compete with businesses in town centres it was decided to increase the maximum size of roadside stalls that can be approved through a development application to 20sq. This increase in size is designed to allow for two typical 9sqm market marquee/gazebos with an additional 2sqm if required.

## Proposed amendment:

Amend Clause 5.4 as follows:

(8) **Roadside stalls** If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed ~~10~~ 20 square metres.

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

### **Background**

In 2021 Council revised its Use of Public Land (Local Approvals) Policy and noted that amendments to BVLEP 2013 Schedule 2 Exempt Development were required. The proposed amendments in this planning proposal reflect the adopted changes to the Use of Public Land (Local Approvals) Policy and desire to make a faster and simpler assessment pathway for certain low-impact land uses, while providing alternative, sufficient regulatory oversight.

Note: Reference to “approval under the *Local Government Act 1993*” is a reference to a Section 68 approval in accordance with Council’s Use of Public Land (Local Approvals) Policy. Reference to “approval from Council’s Chief Executive Officer or delegate” for a community garden is currently in the form of a Community Project Proposal.



## Proposed amendments:

1. Insert into BVLEP 2013 Schedule 2 Exempt Development - Signage:

### **(13) A-frame signs**

- (1) Maximum of 1 sign per premises.
- (2) Must not be located in a residential, rural or conservation zone unless it relates to a retail premises, cellar door premises, farm gate premises, information and education facility, artisan food and drink industry, mobile food and drink outlet, or is in association with a tourism event or activity such as a food or art trail.
- (3) Must not obstruct the movement of pedestrians.
- (4) Must be removed at the close of business each day.
- (5) Must obtain approval under the [Local Government Act 1993](#).

2. Amend BVLEP 2013 Schedule 2 Exempt Development as follows in red font:

### **~~Single Annual events and ceremonies (other than music concerts, dance parties or entertainment events that are not for the purpose of fundraising)~~**

- (1) Must be located ~~in a public reserve, car park, community land, showgrounds, church grounds, Crown land, or other appropriate outdoor area on public land or car park owned or managed by Bega Valley Shire Council, or within a showground, however, must not be located in a conservation zone or environmentally sensitive area.~~
- (2) Must not be a music concert, dance party or entertainment event unless for the purpose of community fundraising.
- (3) May occur over consecutive days up to a maximum of 7 days.
- (4) Must obtain approval under the [Local Government Act 1993](#).

3. Insert into BVLEP 2013 Schedule 2 Exempt Development:

### **Markets**

- (1) Must be located in a public car park or on Council managed community land categorised as Park or General Community Use.
- (2) Maximum reoccurrence of up to four times per year.
- (3) Maximum of 30 stalls.
- (4) Does not include the sale of registrable vehicles (as defined in the *Road Transport Act 2013*).
- (5) Must obtain approval under the [Local Government Act 1993](#).

Note: Market is defined in the Dictionary.

### **Community gardens**

- (1) Must be located on Council managed public land categorised as Park or General Community Use.
- (2) Maximum land area of 600 square metres.

- (3) Must obtain approval from Council's Chief Executive Officer or delegate.

#### **Painted artwork on buildings**

- (1) Must not be on or in a heritage item or draft heritage item, in a heritage conservation area or draft heritage conservation area or on land in a foreshore area.
- (2) Must be approved by the owner of the land.
- (3) If in a public road, be approved by the relevant roads authority (within the meaning of the [Roads Act 1993](#)).
- (4) If on land in a residential zone—be not more than 3m in height and 3m in diameter.
- (5) Must not project beyond the parapet or eaves of the building.
- (6) Must not contain any advertisements, signage or corporate logos.

Note: Signage is defined in the Dictionary. Advertisement has the same meaning as in the Act.

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

#### **Background**

Not all NSW councils permit dual occupancies in rural and conservation zones, and therefore the Standard Instrument - Principal Local Environmental Plan does not include a standard clause to clarify that strata subdivision of dual occupancies in these zones is not permitted.

The following clause is modelled on existing clauses in Eurobodalla and Snowy River Local Environmental Plans.

#### **Proposed amendment:**

Insert into BVLEP 2013:

##### **Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones**

- (1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to land in the following zones that is used, or is proposed to be used, for residential accommodation or tourist and visitor accommodation—
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Primary Production Small Lots,
  - (d) Zone R5 Large Lot Residential,
  - (e) Zone C3 Environmental Management,
  - (f) Zone C4 Environmental Living.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the [Strata Schemes \(Freehold Development\) Act 1973](#) or [Strata Schemes \(Leasehold](#)

[Development\) Act 1986](#)) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

## **H. Update Clause 4.3 Height of buildings to reflect the existing range of height of buildings limits across the shire**

### **Background**

Currently building heights across the shire range from 5.5 metres up to 18m metres, or from a low-rise to a medium-rise form. However, wording in 4.3 “Height of buildings” does not reflect the available height limits. It is proposed to update the clause as follows in red font. The proposed wording has been adopted from the NSW Coastal Design Guidelines for NSW.

### **Proposed amendment:**

#### **4.3 Height of buildings**

(1) The objectives of this clause are as follows—

~~(a) to retain the existing character and landscape of the locality and to encourage a low set building form,~~

(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,

(b) to protect residential amenity, views, privacy and solar access.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

## **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 Background**

*Bega Valley Local Strategic Planning Statement 2040* includes Action 6.1 Introduce measures to mitigate the impact of aircraft noise on new developments in the vicinity of Merimbula Airport.

It is proposed to insert a model provision into BVLEP 2013 which requires new noise sensitive development near the Merimbula Airport to consider the Australian Noise Exposure Forecast (ANEF) Contour Map for the airport, to ensure that noise sensitive development within proximity to the airport is designed to comply with the Australian Standard with respect to interior noise levels. The model provision is applicable to all civil and military airports for which ANEF maps have been prepared.

An ANEF map for Merimbula Airport is being prepared as part of the *Merimbula Airport Master Plan Review*. It is anticipated that the Master Plan Review will be completed by September 2023.



**Proposed amendment:**

Insert the following new clause:

**Development in areas subject to aircraft noise**

(1) The objectives of this clause are to:

- (a) prevent certain noise sensitive developments from being located near the Merimbula Airport and its flight paths,
- (b) assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(2) This clause applies to development that:

- (a) is on land that:
  - (i) is near the Merimbula Airport, and
  - (ii) is in an ANEF contour of 20 or greater, and
- (b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) Before determining a development application for development to which this clause applies, the consent authority:

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021-2000, *Acoustics- Aircraft noise intrusion- Building siting and construction*, and
- (c) must be satisfied that the development will meet AS 2021—2000, *Acoustics- Aircraft noise intrusion- Building siting and construction* with respect to interior noise levels for the purposes of:
  - (i) if the development will be in an ANEF contour of 20 or greater - child care centres, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation, and
  - (ii) if the development will be in an ANEF contour of 25 or greater – business premises, hostels, hotel or motel accommodation, office premises or retail premises.

(4) In this clause:

**airport** means civil, military or joint civil and military airport.

**ANEF contour** means a noise exposure contour shown as an ANEF contour on the Australian Noise Exposure Forecast Contour Map for that airport endorsed by the Department of the Commonwealth responsible for airports.

## **J. Progress adoption of the special flood considerations clause as resolved by Council**

### **Background**

On 30 June 2021, Council resolved to formally advise the Department of Planning, Industry and Environment (the Department) that it wished to incorporate the optional Special Flood Considerations clause into BVLEP 2013 as detailed in the associated Council report.

Once in effect, the optional Special Flood Considerations clause will apply additional matters for consideration in development applications for certain sensitive and hazardous development on land between the Flood Planning Level and the Probable Maximum Flood and for land that in the event of a flood Council considers may cause risk to life or require evacuation.

It is considered that the inclusion of the optional clause will not prevent development on the affected land but would enable consideration of factors such as risk to life and evacuation when planning and assessing certain types of development in locations that may present a risk to life.

At the time of consultation, it was intended that the optional Special Flood Considerations clause would come into effect on 14 July 2021. Despite that 32 councils self-nominated to amend their BVLEPs by inserting the optional clause, in January 2023 the Department undertook further consultation by exhibiting an explanation of intended effect (EIE) seeking feedback on whether to include this clause in the BVLEPs, with a view to progressing a SEPP amendment to implement the changes. The exhibition is now closed, and no further information has been published regarding timing to finalise the SEPP amendment. The Department can't confirm the timing to include this clause into BVLEP 2013, however Council can add it through a planning proposal.

Council is currently unable to progress other planning proposals that give effect to Council's strategic direction without the Special flood considerations clause being in effect, due to formal objections from the NSW Government regarding flooding. Including the clause into BVLEP 2013 through this amendment will ensure there are sufficient controls for the full range of flood events and to assist Council in progressing planning proposals.

### **Proposed amendment:**

Add the following new clause:

#### **5.22 Special flood considerations**

(1) The objectives of this clause are as follows—

- (a) to enable the safe occupation and evacuation of people subject to flooding,
- (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,
- (c) to avoid adverse or cumulative impacts on flood behaviour,
- (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,
- (e) to avoid adverse effects of hazardous development on the environment during flood events.

(2) This clause applies to—

- (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and
- (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
  - (i) cause a particular risk to life, and
  - (ii) require the evacuation of people or other safety considerations.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
  - (a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and
  - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
  - (c) will not adversely affect the environment in the event of a flood.
- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.
- (5) In this clause—

***Considering Flooding in Land Use Planning Guideline***—see clause 5.21(5).

***flood planning area***—see clause 5.21(5).

***Floodplain Development Manual***—see clause 5.21(5).

***probable maximum flood*** has the same meaning as it has in the Floodplain Development Manual.

***sensitive and hazardous development*** means development for the following purposes—

- (a) boarding houses,
- (b) caravan parks,
- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,



- (n) respite day care centres,
- (o) seniors housing,
- (p) tourist and visitor accommodation.

## **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)**

### **Background**

In BVLEP 2013, Clause 4.1B “Lot averaging subdivision in Zone R5, Zone C3 and Zone C4” provides for rural residential subdivisions that vary the size of the resulting lots, despite the minimum lot size control, to better protect the environmental values of the land by encouraging buildings to be appropriately sited. The clause mandates its own minimum lot size and that the total number of lots resulting from the subdivision will not exceed the number of lots that could be created by a subdivision of the same land under other development standards. As a result, some lots created under this clause are smaller than the mapped minimum lot size and others are larger, but the subdivision pattern is adapted to the environmental features of the land.

Recently Council officers received advice that the intention of the clause could be improved by clarifying that consent may be granted to development for residential purposes on a lot which has been created under this clause.

### **Proposed amendment**

Amend Clause 4.2A(3) as follows in **red font**:

#### **4.2A Erection of dwelling houses and dual occupancies on land in certain rural, residential and conservation zones**

- (1) The objectives of this clause are as follows—
  - (a) to minimise unplanned rural residential development,
  - (b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in rural, residential and conservation zones.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Primary Production Small Lots,
  - (d) Zone R5 Large Lot Residential,
  - (e) Zone C3 Environmental Management,
  - (f) Zone C4 Environmental Living.
- (3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land—
  - (a) is a lot that is at least the minimum lot size shown on the [Lot Size Map](#) in relation to that land, or

(b) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement, or

(c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or

(ca) is a lot created under clause 4.1B(3), or

(d) is an original holding, or

(da) for the erection of a dwelling house—is a relevant lot on which the erection of a dwelling house was permissible immediately before 9 May 2008, or

(e) would have been a lot or a holding referred to in paragraph (a), (b), (c), (d) or (da) had it not been affected by—

(i) a minor realignment of its boundaries that did not create an additional lot, or

(ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

**Note—**

A dwelling cannot be erected on a lot created under clause 9 of [State Environmental Planning Policy \(Rural Lands\) 2008](#) or clause 4.2.

# Part 3 – Justification

## A. Need for the planning proposal

### 1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

Partially. The planning proposal results from the need to update BVLEP 2013 to:

- remove ambiguity, correct omissions and update references,
- align with recent changes to state legislation, and Council policies and strategies.

### 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 to make minor amendments to BVLEP 2013. These matters can only be achieved through a planning proposal. A planning proposal is the only means of amending and inserting clauses in BVLEP 2013.

## B. Relationship to the strategic planning framework

### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The provisions in this planning proposal are consistent with the objectives and actions of *the South East and Tablelands Regional Plan 2036*.

Actions relevant to this planning proposal include:

5.2 Encourage value-add agricultural opportunities through flexible planning provisions in local strategies and local environmental plans.

12.3 Reinforce the role and function of centres as the primary places for commerce, retail, social activity and regional services through local strategies and local environmental plans.

16.4 Incorporate the best available hazard information in local environmental plans consistent with current flood studies, flood planning levels, modelling, floodplain risk management plans and coastal zone management plans.

16.6 Manage risks associated with future urban growth in flood-prone areas as well as risks to existing communities.

25.1 Focus future settlement to locations that:

- maximise existing infrastructure and services and minimise the need for new services;
- prioritise increased densities within existing urban areas; and
- prioritise new release areas that are an extension of existing strategic and local centres.

#### **4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

The provisions in this planning proposal are consistent with the objectives and action of the *Bega Valley Shire Community Strategic Plan 2040* (CSP) and the *Bega Valley Shire Local Strategic Planning Statement 2040* (LSPS).

Relevant strategic objectives from the CSP include:

- We are a resilient and caring community that supports the health and wellbeing of our residents.
- Our shire continues to be a safe and affordable place to live.
- Our economy is prosperous, diverse and supported by innovative and creative businesses.
- Our transport networks support our community to work, learn and socialise.

Relevant directions and actions from LSPS include:

- Encourage new farming and agribusiness ventures on smaller parcels of agricultural land.
- Increase housing density within established urban areas to minimise additional service provision and expansion of the urban/bushland interface and support the viability and vibrancy of town centres and future public transport provision.
- Require new development to be designed to withstand natural hazards from a future climate.

3.2 Investigate opportunities to streamline the approvals process for local farmers markets and community gardens that support local food production

6.1 Introduce measures to mitigate the impact of aircraft noise on new developments in the vicinity of Merimbula Airport

#### **5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

The planning proposal is consistent with the NSW Flood-prone land package and seeks to progress insertion of optional clause 5.22 Special flood considerations into BVLEP 2013.

#### **6. Is the planning proposal consistent with applicable SEPPs?**

The following table identifies the applicable SEPPs and outlines this planning proposal's consistency with these.

Relevant SEPP	Consistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.
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.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.



State Environmental Planning Policy (Housing) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. The planning proposal intends to bring BVLEP 2013 into greater alignment with the SEPP in relation to permissibility of secondary dwellings in zone R2 Low Density Residential.
State Environmental Planning Policy (Industry and Employment) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.  In relation to Chapter 3 Advertising and signage, the planning proposal gives effect to the aims and objectives by appropriately regulating A-frame signage.
State Environmental Planning Policy (Primary Production) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.
State Environmental Planning Policy (Resilience and Hazards) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.
State Environmental Planning Policy (Transport and Infrastructure)	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. The planning proposal intends to bring BVLEP 2013 into greater alignment with the SEPP in relation to permissibility of medical centres and health consulting rooms in zone RU5 Village.

## 7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

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
<b>1. Planning Systems</b>		
<b>1.1</b>	<b>Implementation of Regional Plans</b>	<p>Consistent. The <i>South East and Tablelands Regional Plan 2036</i> is the plan applicable to this proposal. The planning proposal is consistent with the plan.</p> <p>Actions relevant to this planning proposal (PP) include:</p> <p>PP Item E pertaining to roadside stalls: Action 5.2 Encourage value-add agricultural opportunities through flexible planning provisions in local strategies and local environmental plans.</p> <p>PP Item E pertaining to roadside stalls and Item D pertaining to health consulting rooms and medical centres: Action 12.3 Reinforce the role and function of centres as the primary places for commerce, retail, social activity and regional services through local strategies and local environmental plans.</p> <p>PP Item J pertaining to the special flood considerations clause: Action 16.4 Incorporate the best available hazard information in local environmental plans consistent with current flood studies, flood planning levels,</p>

		<p>modelling, floodplain risk management plans and coastal zone management plans.</p> <p>PP Item J pertaining to the special flood considerations clause: Action 16.6 Manage risks associated with future urban growth in flood-prone areas as well as risks to existing communities.</p> <p>PP Item C pertaining to secondary dwellings, Item D pertaining to medical centres and health consulting rooms, Item G pertaining to strata subdivision of dual occupancies in rural and conservation zones and Item H pertaining to height of buildings limits: Action 25.1 Focus future settlement to locations that:</p> <ul style="list-style-type: none"> <li>• maximise existing infrastructure and services and minimise the need for new services;</li> <li>• prioritise increased densities within existing urban areas; and</li> <li>• prioritise new release areas that are an extension of existing strategic and local centres.</li> </ul>
1.3	Approval and Referral Requirements	<p>PP Items A-K: Consistent. The planning proposal seeks minor changes to BVLEP 2013.</p> <p>The changes proposed do not add to any additional concurrence, consultation or referral of development applications to a Minister or public authority or increase the likelihood of additional designated development.</p>
<b>3. Biodiversity and Conservation</b>		
3.1	Conservation Zones	<p>PP Items A-K: Consistent.</p> <p>PP Item F pertaining to BVLEP 2013 exempt development schedule: The planning proposal seeks to permit certain low-impact activities as exempt development, such as quarterly markets, murals, A-frame signs, annual events and community gardens. The planning proposal includes mechanisms to restrict and mitigate impacts from these activities including limiting certain uses to Council owned or managed land and requiring approval under Section 68 of the <i>Local Government Act 1993</i>. In the case of annual events, the planning proposal excludes such exempt events from occurring on land in a conservation zone or environmentally sensitive area.</p> <p>PP Item G pertaining to dual occupancies: The planning proposal seeks to clarify that strata subdivision of dual occupancies is not permitted in conservation zones.</p> <p>The changes do not reduce the conservation standards that apply to the land.</p>
3.2	Heritage Conservation	<p>PP Items A-K: Consistent.</p> <p>PP Item A pertaining to Twyford Hall: The planning proposal seeks to update the folio reference in Schedule 5 for the heritage item: Twyford Hall.</p> <p>Schedule 5 Heritage Items listed in BVLEP 2013, and any Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974 remain protected under their respective legislations.</p>
<b>4. Resilience and Hazards</b>		

4.1	<b>Flooding</b>	<p>PP Items A-K: Consistent.</p> <p>PP Item C pertaining to secondary dwellings and Item D pertaining health consulting rooms and medical centres: The planning proposal does not seek to permit any land uses that are not already permitted with consent by virtue of a State Environmental Planning Policy.</p> <p>PP Item J: The planning proposal seeks to progress the insertion of optional Clause 5.22 Special flood considerations into BVLEP 2013.</p>
4.2	<b>Coastal Management</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal does not seek to rezone land.</p> <p>The planning proposal does not seek to amend the maps associated with the <i>Coastal Management Act 2016</i>.</p> <p>PP Item C pertaining to secondary dwellings and Item D pertaining health consulting rooms and medical centres: The planning proposal does not seek to permit any land uses that are not already permitted with consent by virtue of a State Environmental Planning Policy.</p>
4.3	<b>Planning for Bushfire Protection</b>	<p>PP Items A-K: Consistent.</p> <p>PP Item C pertaining to secondary dwellings and Item D pertaining health consulting rooms and medical centres: The planning proposal does not seek to permit any land uses that are not already permitted with consent by virtue of a State Environmental Planning Policy.</p> <p>Council will consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&amp;A Act, and take into account any comments so made.</p>
4.4	<b>Remediation of Contaminated Land</b>	<p>PP Items A-K: Consistent.</p> <p>The Planning Proposal does not seek to rezone land and does not detract from the objectives of this direction.</p>
4.5	<b>Acid Sulfate Soils</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal does not seek to introduce further provisions to regulate works in acid sulfate soils.</p> <p>The planning proposal does not seek to intensify land uses on land identified as having a probability of containing acid sulfate soils.</p>
<b>5. Transport and Infrastructure</b>		
5.1	<b>Integrating Land Use and Transport</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal is not inconsistent with the objectives of the Direction.</p>
5.2	<b>Reserving Land for Public Purposes</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.</p>
<b>6. Housing</b>		
6.1	<b>Residential Zones</b>	PP Items A-K: Consistent.

		The planning proposal is not inconsistent with the objectives of the Direction.
7.1	<b>Business and Industrial Zones</b>	<p>PP Items A-K: Consistent.</p> <p>PP Item E pertaining to roadside stalls: The planning proposal seeks to double the size of roadside stalls permitted with development consent from 10sqm to 20sqm, being of a size that will not have a significant impact on the viability of centres.</p> <p>PP Item F pertaining to BVLEP 2013 exempt development schedule: The planning proposal seeks to provide an exemption for the need for development consent for markets that occur up to four times per year, being of a regularity that will not have a significant impact on the viability of centres.</p>
<b>8. Resources and Energy</b>		
8.1	<b>Mining, Petroleum Production and Extractive Industries</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal would not compromise current or potential future extraction of any regionally significant reserves.</p>
<b>9. Primary Production</b>		
9.1	<b>Rural Zones</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal does not seek to rezone land or contain provisions that will increase the permissible density of land within a rural zone.</p> <p>PP Item G pertaining to dual occupancies: The planning proposal seeks to clarify that strata subdivision of dual occupancies in rural zones is not permitted.</p>
9.2	<b>Rural Lands</b>	<p>PP Items A-K: Consistent.</p> <p>PP Item E pertaining to roadside stalls: The planning proposal seeks to double the size of roadside stalls permitted with development consent from 10sqm to 20sqm.</p>
9.3	<b>Oyster Aquaculture</b>	<p>PP Items A-K: Consistent.</p> <p>The planning proposal does not seek to rezone land or introduce any land uses that may result in adverse impacts on a Priority Oyster Aquaculture Area.</p>

## C. Environmental, social and economic impact

### 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No. The planning proposal is not site specific. Future development of any significant scale that is permitted because of this planning proposal (i.e., cemeteries in rural zones) will consider environmental impacts as part of the detailed development application process.

**9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?**

It is not anticipated that there will be any adverse environmental effects because of this planning proposal. Future development will consider environmental impacts as part of the detailed development application process.

**10. Has the planning proposal adequately addressed any social and economic effects?**

It is anticipated that the overall social and economic impacts of this planning proposal will be beneficial.

## **D. Infrastructure (Local, State and Commonwealth)**

**11. Is there adequate public infrastructure for the planning proposal?**

The planning proposal does not increase demand for public infrastructure.

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

Council will consult with the relevant State and Commonwealth authorities in accordance with the conditioning of the Gateway Determination.

## **Part 4 – Mapping**

The planning proposal does not include map amendments.

## **Part 5 – Community Consultation**

### **Community engagement to date**

The planning proposal is consistent with the objectives, principles, directions and actions of CSP, LSPS and Bega Valley Commercial Land Strategy, which were all consulted prior to adoption.

### **Community engagement planned**

Community consultation for this planning proposal will be consistent with the requirements of the Bega Valley Shire Community Engagement Strategy, being a minimum exhibition timeframe of 28 days or as specified by the Gateway Determination.

Public exhibition of the planning proposal will include notification on Council's website.

Should agency or community feedback to the planning proposal be received that warrant substantial changes to the planning proposal, a further 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.

If no objections to the planning proposal are received and no substantial changes are required to the planning proposal, it is recommended that Council resolve to authorise staff to proceed to finalise the proposed amendment to BVLEP 2013.



## Part 6 – Timeline

The project timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that the amendments to BVLEP 2013 will be completed by February 2024.

Council requests delegation to be the Local Plan-Making Authority (LPMA) in relation to this proposal. Delegation would be exercised by Council's Chief Executive Officer or Director of Community, Environment and Planning. The planning proposal is a "Standard" Planning Proposal, and the approximate project timeline is outlined in the following table:

Key Stages of consultation and approval	Estimated timeframe
STAGE 1 – Pre-lodgement	June 2023
STAGE 2 – Planning Proposal – Submit to Department	July 2023
STAGE 3 – Gateway Determination	September 2023
STAGE 4 – Post-Gateway (action conditions of Gateway Determination)	October 2023
STAGE 5 – Public Exhibition and Assessment	November 2023
STAGE 5 – Consideration of submissions received	January 2024
STAGE 5 – Council Report if required	March 2024
STAGE 6 – Finalisation	June 2024



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