

Planning Proposal: Minor Amendments Jan 2025



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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 (now Department of Planning, Housing and Infrastructure) *Local Environmental Plan Making Guideline* (August 2024).

This Council-initiated planning proposal is categorised as a Standard planning proposal under the *Local Environmental Plan Making Guideline*.

Objective

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

These proposed amendments have no strategic impact and are considered suitable for inclusion in a 'minor amendments' planning proposal.

Intended outcomes

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

Heritage

- 1) Amend property description for heritage listing at Parrabel St, Bega due to subdivision of land
- 2) Remove heritage listing from 8 Bermagui Rd, Cobargo due to demolition
- 3) Add heritage listing to 663 Benny Gowings Rd, Murrah at owner's request

Zoning

- 4) Zone David Whaling Station Historic Site C1 National Parks and Nature Reserves
- 5) Remove zone RU1 Primary Production from land in Warbler Circuit, Bega following residential subdivision
- 6) Ensure privately managed facilities on leased Crown lands are zoned RE2 Private Recreation

Clauses

- 7) Limit small lot community title subdivisions in the R3 Medium Density Residential zone to encourage housing diversity
- 8) Apply a minimum lot size for manor houses and terraces in R2 Low Density Residential and RU5 Village zones to protect neighbours and character for adverse development impacts

- 9) Allow subdivision to create first title resulting from Council-owned road closures as exempt development to streamline road closure processes

Land Use

- 10) Permit cemeteries in C3 Environmental Management zone to ensure consistent application in non-urban zones
- 11) Permit self-storage units in E4 General Industrial zone to rectify error
- 12) Permit co-living housing in R2 Low Density Residential zone to encourage housing diversity
- 13) Require Council approval for agritourism in C2 Environmental Conservation zone to protect water quality in oyster catchments (Removed)

2) Remove heritage listing from Building (Ex AJS Bank) at 8 Bermagui Rd, Cobargo

Background

Lot 1, DP 1169111 at 8 Bermagui Road, Cobargo contained a locally heritage listed dwelling which was destroyed by bushfire in 2019-2020. 10 properties with heritage significance were destroyed in this natural disaster and 8 of the properties, with owners' consent, were part of a planning proposal in 2020 for the removal of local heritage listing of properties destroyed by bushfires.

At the time of the 2020 planning proposal, the owner of 8 Bermagui Road did not give consent for the heritage listing to be removed from this property, however, the current owner has recently given consent for this process to be undertaken.

As the heritage listed structure on the property does not exist anymore, the proposed amendment will remove the statutory mechanism that protects the heritage significance and statutory controls which should no longer apply to this site.



Figure 2: Extract from current BVLEP 2013 Heritage Map heritage item I166 (outlined in red)

Proposed amendment:

It is proposed to remove item I166 from Heritage Map Sheet HER_017AA and amend Schedule 5, Part 1 Heritage Items as indicated in red below:

Cobargo	Building (Ex AJS Bank	8 Bermagui Road	Lot 1, DP 1169111	Local	I166
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3) Add heritage listing for Murrah Cottage at 663 Benny Gowings Road, Murrah

Background

The property at 663 Benny Gowings Road, Murrah, Lot 352 DP740681 known as Murrah Cottage has been nominated for heritage listing by the owner. The property was assessed by Bega Valley Shire Council’s Heritage Advisor who confirmed that the site is of local heritage significance (see Attachment 1 for details). The addition of this property to the heritage schedule will allow for the local community to formally recognise the significance of the item.

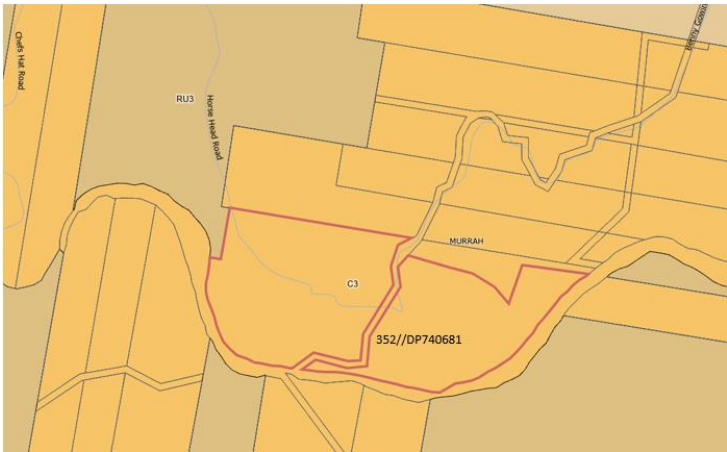


Figure 3: Extract from current BVLEP 2013 Land Zoning Map – Lot 352, DP740681 (outlined in red)

Proposed amendment:

It is proposed to add Murrah Cottage to the Heritage Map Sheet HER_018 and update Schedule 5 Part 1 Heritage Items as indicated in red below:

Murrah	Murrah Cottage and Yard	663 Benny Gowings Road	Lot 352, DP740681	Local	6001650
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Zoning

4) Amend zoning of David Whaling Station Historic Site to C1 National Parks and Nature Reserves

Background

Two additional lots have been added to the land of the Davidson Whaling Station Historic Site as specified in the gazettal notice of reservation of an historic site under the *National Parks and Wildlife Act 1974* on 22 February 2023 (see Attachment 2 for details). Accordingly, the zoning of the land is required to be updated in line with the Standard Instrument to reflect this addition to the NSW National Parks estate.

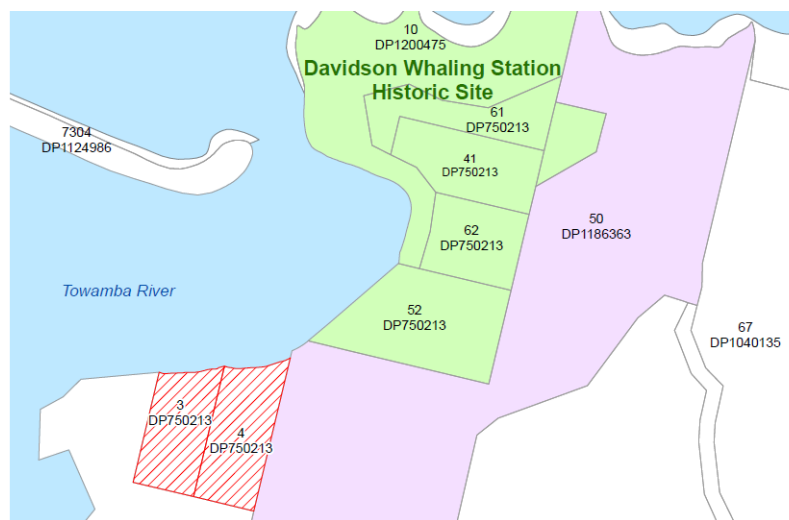


Figure 4: Extract from National Parks and Wildlife Notice of Reservation of an Historic Land for Davidson Whaling Station (additional land shaded red)

Proposed amendment:

It is proposed to remove zone C2 Environmental Management and apply zone C1 National Parks and Nature Reserves to Lots 3 and 4, DP750213 on the Land Zoning Map.

5) Remove RU1 Primary Production zone from land in Warbler Circuit, Bega.

Background

A recent subdivision of land in Warbler Circuit, Bega has resulted in a misalignment between the lot boundaries and the land zoning map, causing Lots 7, 8, 19 and 20 DP1297606 to have a small part of zone RU1 Primary Production in addition to zone R3 Medium Density Residential.



Figure 5: Extract from current BVLEP 2013 Land Zoning map showing property boundary and zone misalignment

Proposed amendment:

It is proposed to amend the Land Zoning Map to apply Zone R3 Medium Density Residential to the parts of Lots 7, 8, 19 and 20 DP1297606 zoned RU1 Primary Production to clearly identify that the purpose of the lots is for residential development.

6) Ensure privately managed facilities on leased Crown lands are zoned RE2 Private Recreation

Background

At the time BVLEP 2103 was prepared (drafting commenced in 2010), the NSW Department of Planning LEP practice note for standard zones PN 06-002 was in effect. This practice note described zone RE2 Public Recreation as “generally intended to cover a wide range of recreation areas and facilities on land that is privately owned or managed.” In 2011, LEP practice note PN 11-002 replaced this earlier version and updated the RE2 description to clarify that, “Private recreation may include racecourses, golf clubs, bowling clubs, rifle ranges, speedways, tennis complexes and other sporting or recreational facilities which may be on significant parcels of privately owned land, or leased from councils or State authorities.”

Council has recently conducted an audit of land use zones applied to golf clubs in the shire, finding that four out of six golf clubs; Tathra, Pambula, Tura Beach and Eden, are currently partially or completely incorrectly zoned RE1 Public Recreation. Under the updated LEP practice note PN 11-002, these areas should be zoned RE2 Private Recreation as they are privately managed facilities on leased Crown lands.

This change of zone will not remove current permissible uses on the land, however will allow additional uses such as tourist and visitor accommodations, restaurants or cafes, take away food and drink premises and carparks which may enable these facilities to diversify in the future.

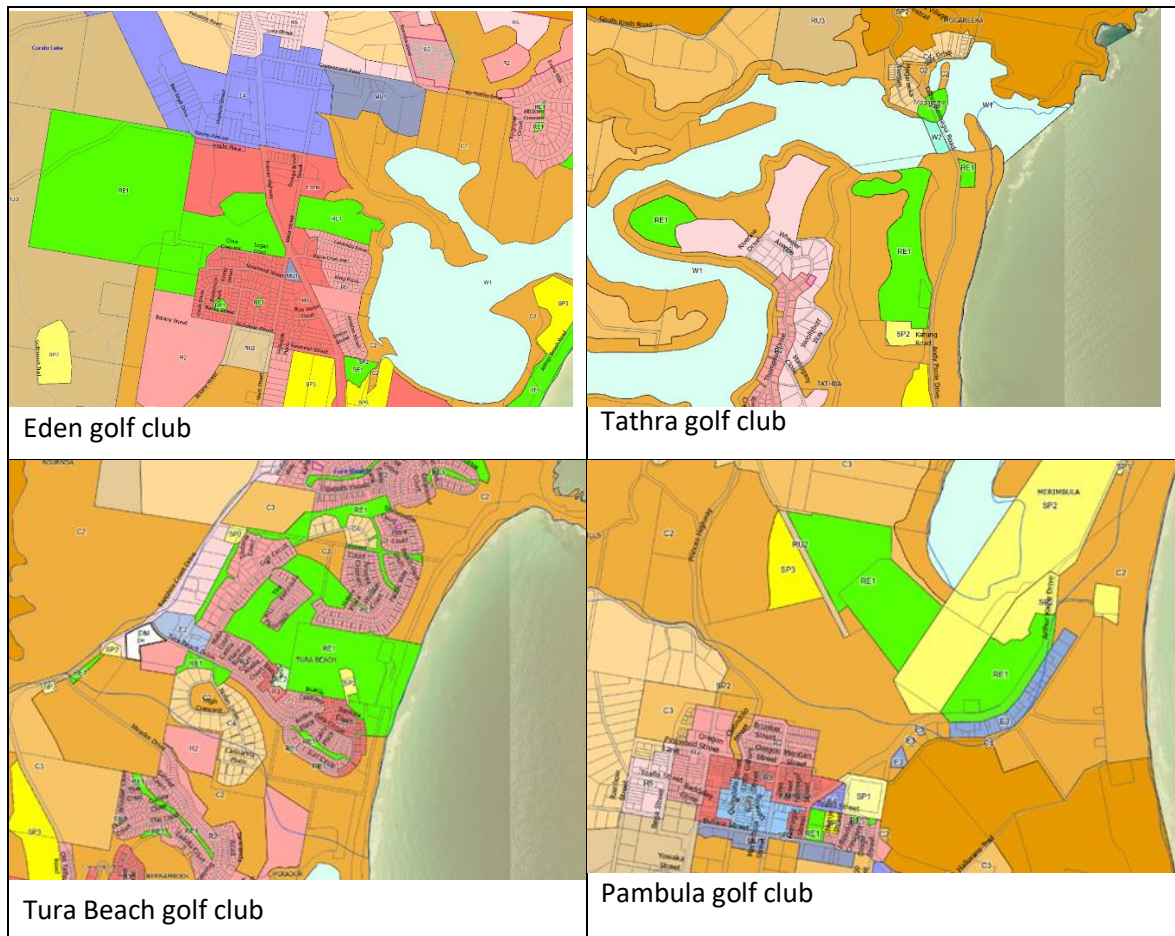


Figure 6: Extracts from current BVLEP 2013 Land Zoning map showing RE1 zones within golf clubs

Proposed amendment

It is proposed to amend the Land Zoning Map to apply Zone RE2 Private Recreation to the following lots to reflect their private management of leased Crown lands:

Eden: Lots 3 and 4 DP1126141, Lot 105 DP247132, Lot 94 DP750205, PLT 217 DP729204, Lots 214, 215, 216, 218, 219, 220 DP729204

Tathra: Lot 183 DP750236, part Lot 248 DP40290

Tura Beach: Lot 1217 DP614419, Lot 7004 DP1121063, Lots 7320 and 7321 DP1166928, Lots 7301 and 7302 DP1134811, Lots 1522, 1523 and 1524 DP634389, Lot 6904 DP1204254, part of Lot 7 DP586947, Lot 1635 DP262898

Pambula: Lots 355 and 356 DP41837, Lot 374 DP750227, Lots 1 and 2 DP1047807, Lot 501 DP821437

Clauses

7) Limit small lot community title subdivisions in zone R3 Medium Density Residential

Background

In the zones R2 Low Density Residential and R3 Medium Density Residential subdivision of lots smaller than the mapped minimum lot size is permitted with consent for community title schemes. This allows for the subdivision and creation of vacant small lots. BVLEP 2013 currently prohibits community title subdivision less than the minimum lot size in the RU1, RU2, RU4, RU5, R5, C3 and C4 zones.

In zone R3 Medium Density Residential, the desired outcome is for medium density housing such as residential flat buildings and multi-dwelling housing. As these types of residential development require larger sites, the creation of lots smaller than the mapped minimum lot size is not suitable in this zone.

Proposed amendment:

It is proposed to amend BVLEP 2013 such that community title schemes cannot be below the mapped minimum lot size in zone R3 Medium Density Residential to improve housing diversity by encouraging land to be developed to a higher density, by amending clause 4.1AA as follows:

4.1AA Minimum subdivision lot size for community title schemes

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

(a) to provide controls for the subdivision of community title schemes in order to achieve the objectives of the relevant zone.

(2) This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 2021 of land in any of the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

(c) Zone RU4 Primary Production Small Lots,

(d) Zone RU5 Village,

(e) Zone R5 Large Lot Residential,

(f) Zone C3 Environmental Management,

(g) Zone C4 Environmental Living,

(h) Zone R3 Medium Density Residential.

(3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 2021) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause applies despite clause 4.1.

8) Apply a minimum lot size for manor houses and terraces in R2 Low Density Residential and RU5 Village zones.

Background

Manor house: Under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP), a manor house is defined as “a residential flat building containing 3 or 4 dwellings, where-

- (a) each dwelling is attached to another dwelling by a common wall or floor, and
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and
- (c) the building contains no more than 2 storeys (excluding any basement)”.

Manor houses are not a defined land use under BVLEP 2013 but are permitted in the R2 Low Density Residential and RU5 Village zones under the Codes SEPP. Manor houses can be approved as complying development under the Codes SEPP.

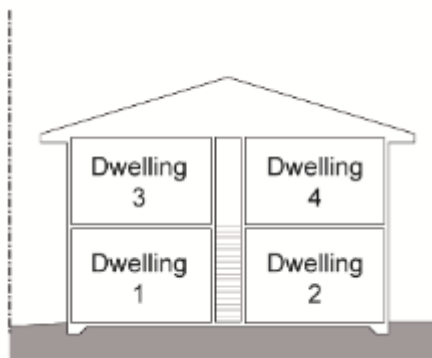


Figure 7: Illustration of a manor house from Clause 3B.20 of Codes SEPP

Terrace: The Codes SEPP defines multi dwelling housing (terraces) as “multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads”.

Under the BVLEP 2013, terraces are permitted in zones R2 Low Density Residential and RU5 Village as multi-dwelling housing. Terraces can be approved as complying development under the Codes SEPP.

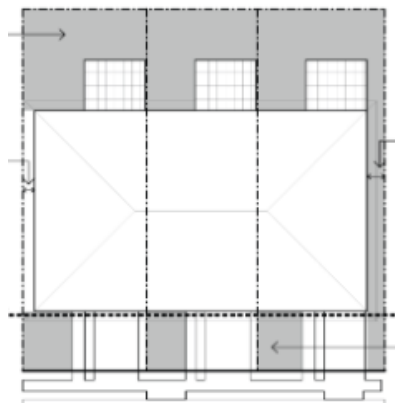


Figure 8: Illustration of a terrace development from Clause 3B.40 of Codes SEPP

Terraces and manor houses are not prevalent in the Bega Valley Shire, however, they are permissible and while they may add diversity to housing stock, they also have the potential to

cause adverse impacts to neighbouring properties and neighbourhood character in zones R2 Low Density Residential and RU5 Village due to their bulk and scale.

Proposed amendment:

The Codes SEPP provides a minimum lot size for terraces and manor houses of 600m² in zones R2 Low Density Residential and RU5 Village unless a Local Environmental plan stipulates a larger area.

It is proposed to increase the minimum lot sizes to stipulate a minimum lot size of 900m² in the R2 zone and 1000m² in RU5 zone to ensure that lots are large enough to minimise adverse impacts to neighbouring properties and neighbourhood character due to the bulk and scale of these types of development by amending BVLEP 2013 clause 4.1A as indicated in red below:

4.1A Minimum lot size for *manor houses, multi dwelling housing (terraces), dual occupancies and secondary dwellings in Zones RU5 and R2*

(1) The objective of this clause is to achieve planned residential density in certain zones.

(2) This clause applies to land in the following zones—

(a) Zone RU5 Village,

(b) Zone R2 Low Density Residential.

(3) Development consent must not be granted to development for the purposes of dual occupancies or secondary dwellings unless the lot is at least—

(a) for dual occupancies—550m², or

(b) for secondary dwellings—450m².

(4) Development consent must not be granted to development for the purposes of manor houses and multi dwelling housing (terraces) unless the lot is at least—

(a) in Zone RU5 Village—1000m², or

(b) in Zone R2 Low Density Residential—900m²

(45) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.

(6) In this clause,

"manor house" and "multi dwelling housing (terraces)" have the same meaning as in clause 1.5 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Note--: Clause 3B.1A of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that development for the purposes of manor houses is permitted with development consent in Zones R2, R3 and RU5.

9) Allow subdivision to create first title resulting from Council-owned road closures as exempt development

Background

Since December 2019, Council has been the responsible authority to close Council-owned roads.

Under Division 3 of the *Roads Act 1993*, Council may propose the closure of a Council public road for which it is the roads authority if-

- (a) the road is not reasonably required as a road for public use (whether for present or future needs), and
- (b) the road is not required to provide continuity for an existing road network, and
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

To close Council-owned roads, the road must be subdivided through a development application process to create the first title (whereby the land is assigned a Lot and Deposited Plan number so that it can be exchanged as freehold title) for the certain part of the proposed road closure.

By introducing a provision into BVLEP 2013 which facilitates the subdivision to create first title of a public road subject to closure as exempt development, future allotments created by means of road closure can be facilitated without the need for development consent, therefore removing an unnecessary administrative process in what is already a highly regulated process under the Roads Act 1993. The standard Subdivision Certificate process remains unaltered by this proposal.

Proposed amendment

It is proposed to add a provision into BVLEP 2013 to permit the subdivision of land occurring in connection with a Council-owned road closure as exempt development. It is noted that several other Councils have also made or have commenced making this change. The following clause will be added into Schedule 2 Exempt Development:

Subdivision of Council public roads

Must relate to land compromising a council public road proposed for closure under the Roads Act 1993, Part 4, Division 3.

Land Use

10) Permit cemeteries with consent in zone C3 Environmental Management

Background

Under BVLEP 2013 cemeteries (a building or place used primarily for the interment of deceased persons or pets or their ashes) are currently permitted with development consent in the RU1 Primary Production and RU2 Rural Landscape zone. However they are not permitted in the C3 Environmental Management zone which, in the Bega Valley Shire, is also a non-urban zone.

Proposed amendment:

It is proposed to amend BVLEP 2013 to ensure consistency in permissibility of cemeteries in all larger lot rural zones by inserting cemeteries into the C3 Environmental Management land use table as indicated in red below:

Zone C3 Environmental Management

3 Permitted with consent

Cemeteries

11) Permit self-storage units in zone E4 General Industrial

Background

Prior to the State Environmental Planning Policy which implemented the NSW Employment Zones reform for BVLEP 2013, self-storage units were permitted with development consent in the IN1 General Industrial and IN2 Light Industrial zones. The employment zones reform included the translation of zones IN1 and IN2 into a single zone, E4 General Industrial. In the process of this translation, the use of self-storage units was unintentionally prohibited.

Proposed amendment

It is proposed to amend BVLEP 2013 item 3 Permitted with consent in the E4 Land Use Table to reinstate the use of self-storage units in General Industrial zoned land.

Zone E4 General Industrial

3 Permitted with consent

Self-storage units

12) Permit co-living housing in zone R2 Low Density Residential

Background

Strategy 10 of the *Bega Valley Affordable Housing Strategy* states: “Council will actively support the development of high-quality New Generation Boarding Houses and/ or Co-housing.”

One action of this strategy is to “ensure that New Generation Boarding Houses and/ or Co-housing continues to be permissible within all residential and commercial zones where ‘Boarding Houses’ are currently permissible (that is, in R2, R3, B1, B2, B4 and R5 zones).” All residential and commercial zones where boarding houses are permissible currently permit the use of co-living housing except for the R2 Low Density Residential zone.

Proposed amendment:

Due to a standing objection by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) regarding potential LEP amendments that may increase density in areas without contemporary flood studies, it is proposed to permit the use of co-living housing through amending a local clause rather than inserting co-living housing into the R2 Land Use Table, as shown in red below.

6.16 Multi dwelling housing in Zone R2

(1) This clause applies to land in Zone R2 Low Density Residential other than land in Bermagui, Tura Beach, Wallaga Lake or Wolumla.

*(2) Development consent must not be granted to development for the purposes of multi dwelling housing **or co-living housing** on land to which this clause applies unless the consent authority is satisfied—*

(a) the land is not flood prone land and is not likely to be affected by a coastal hazard, and

(b) each lot will be serviced by a water reticulation system and a reticulated sewerage system, and

(c) each lot will be at least 900m².

(3) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.

13) Require approval for agritourism in zone C2 Environmental Conservation

Removed from planning proposal in accordance with gateway condition 1 of the Gateway Determination dated 10 January 2025.

Part 3 – Justification

A. Need for the planning proposal

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

The planning proposal results from the need to make minor amendments BVLEP 2013 to:

- Update property references and zones
- Make small changes to permissible uses and approval pathways
- Update the heritage schedule
- Make minor changes to clauses to protect amenity and character

These proposed amendments have little or no strategic impact and are considered suitable for inclusion in a 'minor amendments' planning proposal.

The proposed amendments align with Council policies and strategies including the *Bega Valley Local Strategic Planning Statement 2040* and *Bega Valley Shire Community Strategic Plan 2040*.

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 clauses, schedules and maps 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 *Draft South East and Tablelands Regional Plan 2041*. Actions relevant to this planning proposal include:

Objective 4: Preserve the heritage and character of the region's towns and villages.

Objective 5: Protect important environmental assets.

Objective 17: Plan for a supply of housing in appropriate locations.

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:

- Respect and promote our cultural heritage and support cultural diversity.
- Ensure land use planning and resource use protects the quality of the natural environment, the existing character of rural landscapes and the high value agricultural land.

- Encourage and support local identity, heritage and character in our towns, villages and rural areas.

Relevant directions and actions from LSPS include:

- Continue to protect major estuary foreshores and sensitive water catchments to maintain and improve water quality.
- Allow for growth and encourage housing diversity and affordability while enhancing the distinct local character of each place.

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

There are no other applicable State or regional studies or plans that are relevant to the planning proposal.

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 contains provisions that would turn off the exempt development pathway for agritourism uses in the C2 Environmental Conservation zone. This aligns with the intentions of the SEPP to conserve high environmental values.
State Environmental Planning Policy (Housing) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.
State Environmental Planning Policy (Industry and Employment) 2021	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.
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.

7. Is the planning proposal consistent with applicable Ministerial 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
1. Planning Systems		
1.1	Implementation of Regional Plans	Consistent. The planning proposal is consistent with the <i>South East and Tablelands Regional Plan 2036</i> and <i>Draft South East and Tablelands Regional Plan 2041</i> .
1.3	Approval and Referral Requirements	Consistent. This planning proposal seeks minor changes to BVLEP 2013. 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.
3. Biodiversity and Conservation		
3.1	Conservation Zones	Consistent. The planning proposal contains provisions to permit cemeteries with development consent in zone C3 Environmental Management [Removed] . These changes do not reduce the conservation standards that apply to the land.
3.2	Heritage Conservation	Consistent. The planning proposal includes provisions to amend the heritage schedule by changing a property description, removing a demolished item and adding a locally significant property. The remainder of 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.
4. Resilience and Hazards		
4.1	Flooding	<p>The Land Use item pertaining to co-living housing in zone R2 Low Density Residential could increase the dwelling density of some flood prone areas within this zone. Other residential accommodation uses are currently permitted within this zone, and this additional use will not increase the existing flood risks created by the other uses. Development of future co-living housing within the R2 zone will consider flood risks on a site-specific basis as part of a detailed development application process.</p> <p>Clauses 5.21 Flood Planning and 5.22 Special Flood Considerations of BVLEP 2013 ensures that development is not approved for a site unless the consent authority is satisfied that the development minimises flood risk to life and property, is compatible with the flood function and behaviour of land including projected changes due to climate change, avoids adverse or cumulative impacts on flood behaviour and the environment and enables the safe occupation and efficient evacuation of people in the event of a flood.</p> <p>As part of the Development Assessment process, the use will also need to comply with recently amended chapter 5 of the <i>Bega Valley Development Control Plan</i> (DCP) including the flood planning matrix which outlines the planning considerations which apply to increasing dwelling density in each flood planning constraint category area (see section below 'Planning controls relating to Increasing Dwelling Density (including co-living housing) for each flood planning constraint category'). This assessment of development against</p>

		Council's BVLEP flood clauses and DCP flood planning controls as part of the DA process ensures that risks in flood prone areas due to development are mitigated.
4.2	Coastal Management	<p>Consistent. The planning proposal does not rezone land to enable increased development or more intensive land use in coastal areas and is consistent with <i>Coastal Management Act 2016</i>.</p> <p>The zone outcome pertaining to the Eden whaling station will rezone land from C2 Environmental Conservation to C1 National Parks and Nature Reserves reserved under the <i>National Parks and Wildlife Act 1974</i>.</p> <p>The land use outcome pertaining to cemeteries permit this use in zone C3 Environmental Management, has minor significance as the use is already permitted in large catchment zones and will not affect the objectives of relevant coastal management areas.</p> <p>[Removed].</p>
4.3	Planning for Bushfire Protection	<p>Consistent. 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 Environmental Planning and Assessment Act 1979 and take into account any comments so made.</p> <p>The zone outcome pertaining to a zoning misalignment with the recent subdivision of Warbler Crescent, Bega will not change boundaries of lots and therefore will not affect asset protection zone boundaries.</p>
4.4	Remediation of Contaminated Land	Consistent. The planning proposal does not apply to land which is contaminated or will need remediation.
4.5	Acid Sulfate Soils	Consistent. The planning proposal does not seek to introduce further provisions to regulate works in acid sulfate soils or intensify land uses on land identified as having a probability of containing acid sulfate soils.
5. Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Consistent. The planning proposal is not inconsistent with the objectives of the Direction.
5.2	Reserving Land for Public Purposes	Consistent. The planning proposal does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.
6. Housing		
6.1	Residential Zones	<p>Consistent. The planning proposal is not inconsistent with the objectives of the Direction.</p> <p>The land use outcome pertaining to co-living housing encourages variety and choice of housing types by permitting an extra residential use in zone R2 Low Density Residential.</p> <p>Lot size outcomes pertaining to manor house and terraces stipulate a minimum lot size for these uses in certain zones to ensure the impact of development on local character and other development is minimised.</p>

7. Industry and Employment		
7.1	Employment Zones	Consistent. Land use outcome pertaining to self-storage sheds are consistent with the Direction as the use was previously permitted within zone E4 General Industrial.
8. Resources and Energy		
8.1	Mining, Petroleum Production and Extractive Industries	Consistent. The planning proposal would not compromise current or potential future extraction of any regionally significant reserves.
9. Primary Production		
9.1	Rural Zones	Consistent. The planning proposal does not seek to rezone land or contain provisions that will increase the permissible density of land within a rural zone.
9.2	Rural Lands	Consistent. The planning proposal does not seek to change the existing minimum lot size of land within a rural or conservation zone.
9.3	Oyster Aquaculture	Consistent. 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. [Removed].

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?

This planning proposal contains minor amendments only to BVLEP. It is not anticipated that there will be any adverse impacts to critical habitat or threatened species, populations or ecological communities, or their habitats as a result of this planning proposal. Future development 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?

This planning proposal contains minor amendments only to BVLEP. It is not anticipated that there will be any adverse environmental effects as a result 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.

E. State and Commonwealth interests

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 proposes to amend the following maps from BVLEP 2013:

- Map Sheet HER_018
- Map Sheet HER_017AA
- Map Sheet HER_011B
- Zoning Map – GIS only

Part 5 – Community Consultation

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.

Part 6 – Timeline

It is estimated that the amendments to BVLEP 2013 will be completed by November 2025.

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	NA
STAGE 2 – Planning Proposal – Submit to Department	November 2024
STAGE 3 – Gateway Determination	December 2024
STAGE 4 – Post-Gateway (action conditions of Gateway Determination)	January 2025
STAGE 5 – Public Exhibition and Assessment	April 2025
STAGE 5 – Consideration of submissions received	July 2025
STAGE 5 – Council Report if required	September 2025
STAGE 6 – Finalisation	November 2025

Attachments

Attachment 1: Heritage Advisor's report on Murrah Cottage

Attachment 2: Gazettal notice of reservation of an historic site under the National Parks and Wildlife Act 1974

Attachment 3: [Item removed]



Zingel Place, Bega

M. PO Box 492 Bega **P.** 02 6499 2222 **F.** 02 6499 2200 **ABN.** 26 987 935 332 **DX.** 4904 Bega



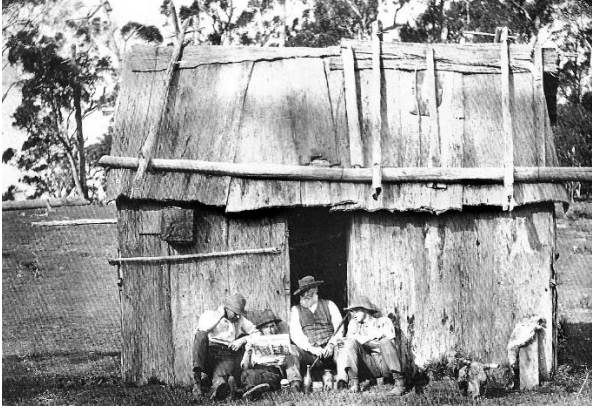
council@begavalley.nsw.gov.au



[begavalleyshirecouncil](https://www.facebook.com/begavalleyshirecouncil)



www.begavalley.nsw.gov.au



Sleeper cutting and land clearing from a stringybark slab hut 1860s. This is likely to have been one of several dwellings that predated Murrah Cottage.



Leaving Murrah Cottage for a long sulky ride in into town circa 1890. Kitchen chimney and ornamental valance on the verandah visible in the background.



Murrah Cottage, still well maintained with many owner restorations in 2024.



The joint owner, Ms Ludo McFerran, at Murrah Cottage in 2024.

Above are historical images of some of the people and times of Murrah Cottage (Benny family historical photos collected by local Murrah historian Robyn Levy)

Heritage Assessment Murrah Cottage and Yard 663 Benny Gowings Road, Murrah

Report to Bega Valley Council
March 2024

Acknowledgments:

Ms Ludo McFerran, joint owner, 0423 231 058 murrahLudo@yahoo.com.au

Bega Valley Council staff

Robyn Levy, local Murrah historian

INSPECTION REPORT			
ISSUE	DESCRIPTION	DATE	ISSUED BY
A	Draft for Review by owner	26.03.2024	PK
B	Final		

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1.0 INTRODUCTION

1.1 REPORT OVERVIEW

This report has been prepared to provide heritage advice for Bega Valley Council in relation to an owner request for heritage listing of their property.

1.2 SITE IDENTIFICATION

The subject site is Murrah Cottage and Yard, 663 Benny Gowings Road, Murrah. Although arguably the whole 100-acre property should be managed for its heritage, the nominated boundary of the heritage curtilage is the yard containing the character cottage, traditional hand-built shed and associated kurrajong tree plantings.



The Murrah Cottage farm property is in a clearing encircled by forested hills. The Murrah (dry) River Billabong is in the foreground.



Aerial image of the nominated listing curtilage for the Murrah Cottage and Yard heritage listing, showing the cottage (with traces of the original form of the historic c1890s cottage); two kurrajong plantings; pole-framed shed.

1.3 HERITAGE MANAGEMENT FRAMEWORK

According to the NSW heritage database

(<https://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>) the property is not heritage listed. As, however, the property has been nominated by the owner for listing and has been assessed in this report as locally heritage significant, heritage significance should be a consideration in any future development application.

1.4 AUTHORSHIP

This report has been prepared by Peter Kabaila, Heritage Consultant, of Black Mountain Projects, for Bega Valley Council, as part of the Council's Heritage Advisory Service. Unless otherwise noted, all photos and drawings in this report are by Black Mountain Projects.

1.5 REPORT LIMITATIONS

Recommendations have been made on the basis of documentary evidence viewed and inspection of the existing fabric. Archaeological assessment of the subject site is outside the scope of this report. This report only addresses the relevant heritage planning provisions and does not address general planning or environmental management considerations. This report is based on a visual inspection. The inspection did not include structural, services, asbestos or pests.

2.0 PROJECT BRIEF & HERITAGE ADVICE

2.1 PROJECT BRIEF

The project brief is to provide advice regarding possible heritage listing in the next LEP upgrade.

2.2 HERITAGE ADVICE

Heritage advice given by the adviser on site was:

- Continue to retain and maintain the key historic elements of Murrah Cottage and Yard, being the homestead, shed, and mature kurrajong trees.
- Protect and preserve remnant original building fabric such as any original floor boards, early historical doors, pressed metal ceiling, verandah "hockey stick" rafters and pole frame construction of the shed.
- Continue to care for the property and research its history.
- Provide a short photo record of any dismantling, alterations or other work. In particular, photograph any discovery of typical original construction elements.
- If any unexpected stone, ceramic, glass or metal fragments are found, notify the heritage adviser by phoning Peter Kabaila's mobile 0403727805, at any time, for advice on possible significance and management of such artefacts.

3.0 HERITAGE ASSESSMENT

This heritage assessment is based on a site inspection by Peter Kabaila, interview of the owner, and history research by the owner.

3.1 ASSESSMENT ACCORDING TO CRITERIA SET BY NSW HERITAGE COUNCIL

Murrah Cottage and Yard at 663 Benny Gowings Rd, Murrah

Criterion (a)	Historic significance	Murrah Cottage and Yard has high local historic significance as evidence of the original European settlement of Murrah. The location near the Murrah River is linked with regional Aboriginal pathways and dreaming tracks, local Chinese gold mining of the Murrah (Dry) River, and early European settlement by the Benny family. Murrah Cottage retains much of its early historic form and examples of its original floor boards, ceilings, doors, shed framing, verandah form and tree plantings.
Criterion (b)	Historical association	The property retains an historical association with the descendants of the Benny family, being some of the earliest European settlers.
Criterion (c)	Aesthetic/creative /technical achievement	Moderate aesthetic significance as an isolated, cleared early farm property in a scenic landscape setting of the Murrah River, Murrah Billabong and encircling forested hills.
Criterion (d)	Social, cultural and spiritual significance	No data entered under this criterion.
Criterion (e)	Research potential	Local research potential in the studies of early contact period Aboriginal movement, gold rush Chinese mining and early European settlement.
Criterion (f)	Rare	No data entered under this criterion. (No comparative data analysed)
Criterion (g)	Representative	Good local example of a working farm containing a character cottage, traditional hand-built shed and associated kurrajong tree plantings.

3.2 SIGNIFICANCE STATEMENT

Murrah Cottage and Yard at 663 Benny Gowings Rd, Murrah

Murrah Cottage and Yard has high local historic significance as evidence of the original European settlement of Murrah. This location, at a bend of the Murrah (Dry) River and adjacent to Murrah Billabong, is linked with regional Aboriginal pathways and dreaming tracks; local Chinese gold mining of the Murrah (Dry) River; and early European settlement by the Benny family. Murrah Cottage retains much of its early historic form and preserves examples of original floor boards, ceilings, doors, shed framing, verandah form and tree plantings. The property retains an historical association with the descendants of the Benny family, being some of the earliest European settlers. It has moderate aesthetic significance as an isolated, cleared early farm property in a scenic landscape setting of the Murrah River and Murrah Billabong, with encircling forested hills. It has local research potential in the studies of early contact period Aboriginal movement, gold rush Chinese mining and early European settlement. This is a good local example of home paddock on a working farm containing a character cottage, traditional hand-built shed and associated kurrajong tree plantings.

4.0 TIMELINE

This timeline reflects the evolution of Murrah Cottage and Yard, showcasing its historical significance and the various phases of ownership and land use over time.

Pre-1879:

- Pre-European Aboriginal resources, including water bodies like Murrah Billabong, were vital.
- Hypothesized Aboriginal pathways intersected near Murrah, suggesting its historical significance as a potential camping place.

1879:

- Lot 140, later known as lot 351, owned by William Bird.
- Louis and Barbara Benny owned steep blocks upstream, possibly involved in sleeper cutting, a prevalent industry in the region.

1880s:

- Chinese workers employed to clear river flats and establish market gardens, enhancing soil nutrition and stabilizing banks.
- Development of coastal communication with the construction of bridges over Bega River and Cottage Creek, improving access between Bermagui and Bega.

Early 1890s:

- Bega to Bermagui Road passes through lot 140, enhancing transportation in the region.

1894:

- Construction of Tarranganda bridge.

1900:

- Introduction of a vehicle punt over Bega River at Tathra, facilitating transportation.
- Construction of Cottage Creek Bridge and a bridge over the Murrah River, further improving coastal communication.

1903:

- Lot 140 purchased by Louis and Barbara Benny; construction of the house possibly around this time or earlier.
- Ownership passed through the Benny family until 1952, witnessing various changes in land use and societal factors.

After 1952:

- Property changed hands among different owners, experiencing shifts in land use and management. 1952 WE Bright, 1961 Hergenau, 1967 Scott and Ubrihien, 1968 McCarthy/Braithwaite, 1973 Soper, 1973 G Ganderton.

- Share farming, floods, and abandonment characterise the period until the 1970s.

1954:

- Douch family share farming on lot 140, faced losses due to flood, leading to abandonment.
- The property remained unoccupied until surfers acquired it in the 1970s, attempting small-scale agricultural activities.

1989:

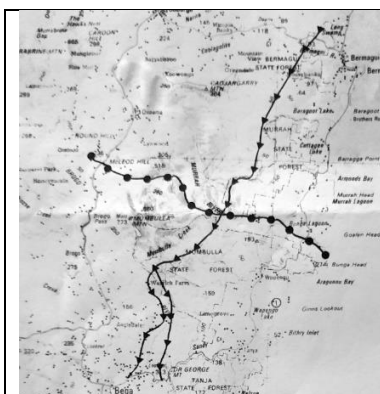
- Ludo McFerran and Sabina Wynn purchased the property, initiating restoration efforts on Murrah Cottage and managing the farm.

4.1 HISTORICAL NOTES

Before the arrival of European settlers, the area surrounding Murrah Cottage and Yard was abundant with resources utilised by the Aboriginal peoples of the region. Murrah Billabong, a significant water body, served as a vital resource, particularly during dry periods. The Murrah (Dry) River, which traversed the land, often flowed underground but surfaced at Murrah Billabong, potentially acting as a reliable water source throughout the year. This area may have served as a camping ground for Aboriginal communities, evidenced by the convergence of hypothesised Aboriginal pathways, including a traditional north-south pathway and an east-west Goolagul dreaming track. Goolagul mythology is described in *High Country Footprints*, Peter Kabaila, 2005.

Aboriginal inhabitants likely followed the Goolagul dreaming track, which encircled Mumbulla Mountain and led to the coast, utilising parts of the Murrah River for sustenance and camping near water sources such as Murrah Billabong. The strategic location of Murrah Cottage, situated on elevated ground with the river on two sides, halfway between the mountain and the coast, hints at its potential significance as an Aboriginal camping site.

The Murrah River held paramount importance as a water source for Aboriginal communities. It flowed continuously, providing sustenance and fertility to the surrounding lands. However, during severe droughts, the river's flow stopped. Nevertheless, the river's underground course across the river flats contributed to the fertility of the land. Over time, environmental changes, such as increased flooding, impacted the dynamics of Murrah Billabong, potentially altering its water levels.



Traditional north-south Aboriginal pathway and east-west Goolagul dreaming track. These two hypothesised pathways intersected close to Murrah Billabong.

(Source: *Mumbulla Mountain, an anthropological and archaeological investigation*, BJ Egloff, National Parks and Wildlife Service Occasional Paper No 4', 1981).

The introduction of European settlement significantly altered the landscape and land use practices in the region. Traditional farming practices, including the drainage of upland swamps, ploughing of alluvial flats, and the construction of tracks and roads, contributed to environmental changes such as headcut incision along stream lines and sediment accumulation in lower catchments.

By the late 19th century, the impact of European disturbance had transformed river courses and landscapes throughout the district. The high levels of disturbance of archaeological deposits caused by European settlement are described in *History of land use in Murrah/Dry River catchment CSIRO Land and Water*, Anthony Scott, Canberra Technical Report 54/99, 1999.

In 1879, Lot 140, later known as lot 351, was owned by William Bird, while steep blocks upstream were owned by Louis and Barbara Benny, engaged in sleeper cutting which was the main early industry in the steep hills of Murrah.

In the 1880s, a group of Chinese, who had left the goldfields near Bermagui, began gold panning (not mining). They were then employed to clear the land along the alluvial flats of the Murrah near the coast (*John Gowing, pers. comm. 1999*). They also drained many of the swamps or wet areas along the valley so that the land could be grazed, further altering the landscape. Some Chinese graves are sited on the Gowings farm today (*pers. comm. Ludo McFerran and Barbara Benny, granddaughter of Barbara and Louis, 1990*).

The construction of bridges, such as Tarranganda bridge in 1894 and subsequent river crossings, improved coastal communication between Bermagui and Bega. In 1903, Lot 140 was purchased by Louis and Barbara Benny, potentially coinciding with the construction of Murrah Cottage. The Bennys, who owned the property until 1952, witnessed various changes, including shifts in land use practices and societal factors, leading to the depopulation of the Murrah River area.

Subsequent years saw changes in ownership, with the property passing through several hands until it was acquired by Ludo McFerran and Sabina Wynn in 1989. They embarked on a restoration project, rejuvenating Murrah Cottage and managing the farm, preserving its historical significance amidst the changing landscape of the region.

5.0 PHOTOGRAPHIC RECORD

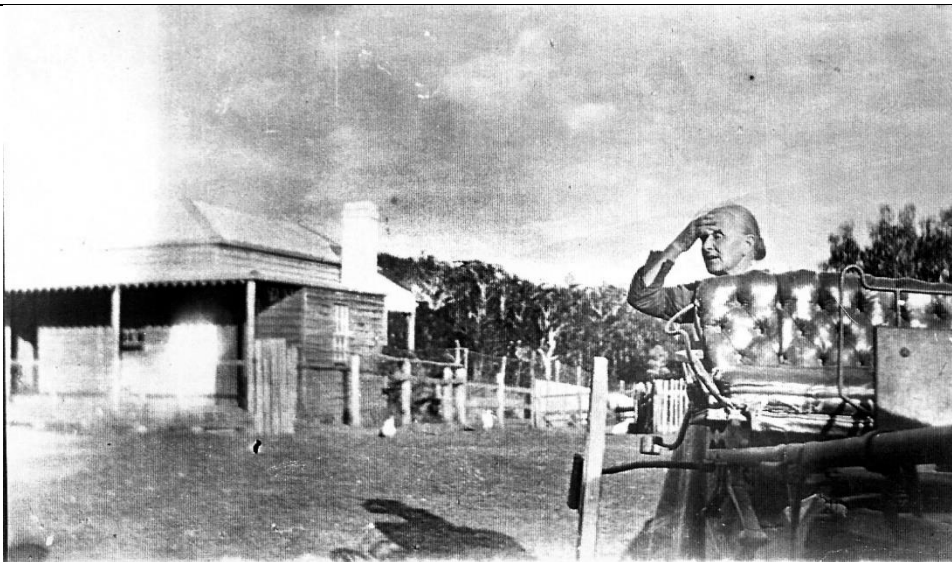
This aims to provide a basic archival record of the general appearance at time of inspection. Construction structural details should be photographed during any repair, dismantling, or restoration work.

HISTORIC PHOTOS & DOCUMENTS

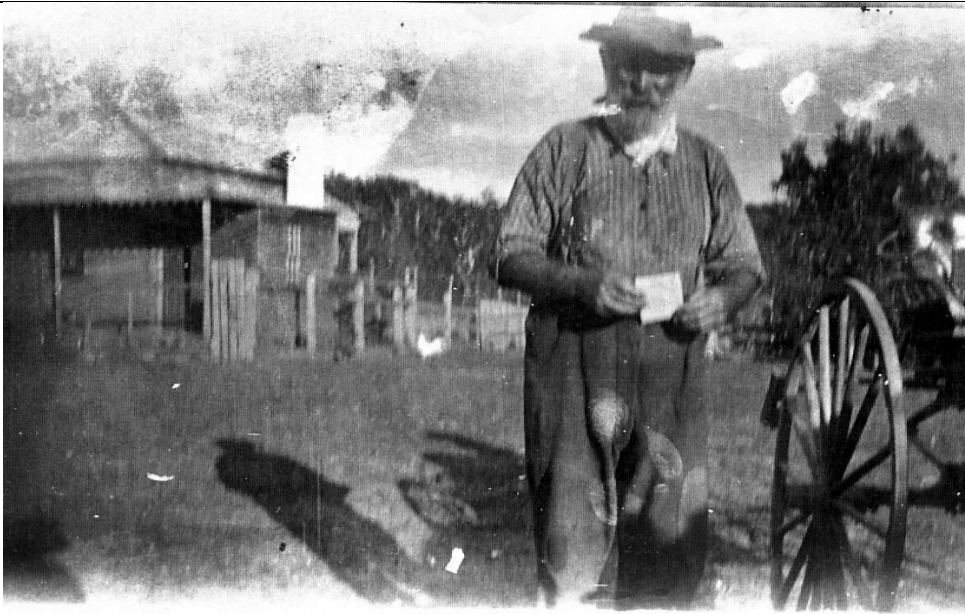
(Benny family historical photos collected by local Murrah historian Robyn Levy)



Sleeper cutting and land clearing from a stringybark slab hut 1860s. This is likely to have been one of several dwellings that predated Murrah Cottage.



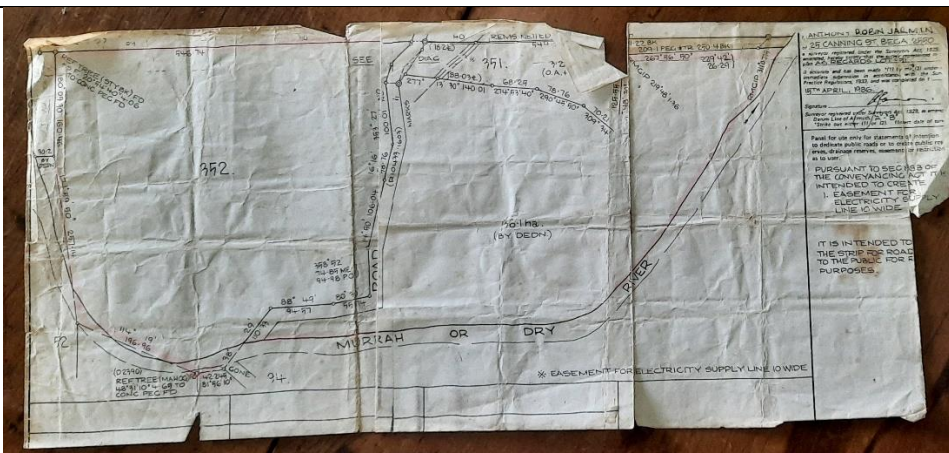
Leaving Murrah Cottage for a long sulky ride in into town circa 1890. Kitchen chimney and ornamental valance on the verandah visible in the background.



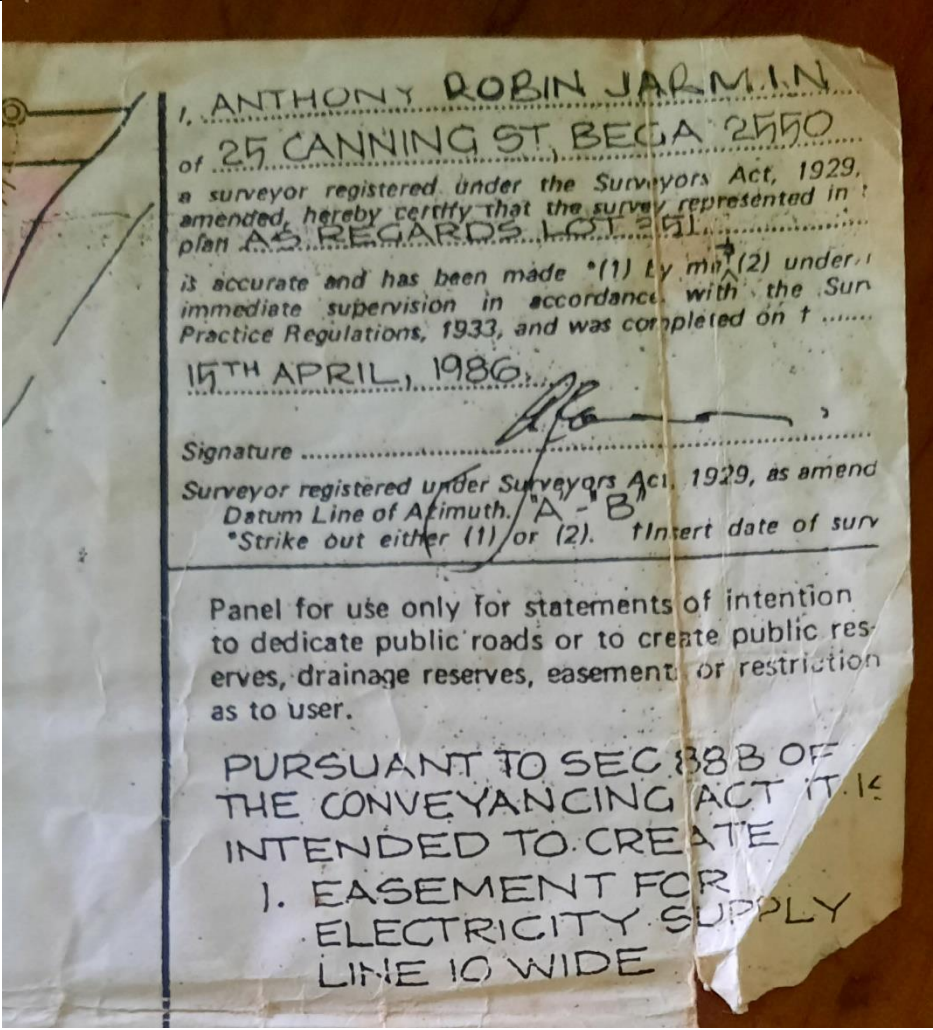
Louis Benny,
circa 1890s.



1930s photos of
Barbara Benny in
toy car at Murrah
Cottage. In 1954
Barbara married
Bob Behrens.



1986 easement
survey

	<p>1986 easement survey</p>
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AERIAL VIEWS (from Ludo McFerran private collection)

	
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COTTAGE



Murrah Cottage, still well maintained with many owner restorations in 2024.



Much of the original building form has been preserved intact.





Original c1890 doors.

	<p><i>Original c1890s pressed metal ceiling.</i></p>
	<p><i>Original c1890s floor boards.</i></p>
	<p><i>Unusual, very light-weight variation on the common "hockey stick" rafter.</i></p>

SHED AND TREES

	<p><i>General view of the shed.</i></p>
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Shed interior showing pole framing.



Pole framing detail.



Maker's mark on cladding.



Relic pine trees. Many such trees were planted in the NSW Colony in 1896 on the occasion of Queen Victoria's Diamond Jubilee (the pine said to be the Queen's favourite tree).



One of two kurrajong trees. In Charles Massey's book 'Call of the reed warbler' UGP 2017, he describes the kurrajong as a 'key resource tree in Aboriginal culture, providing shelter and bark fibre for strong woven bags, nets and line; wood-boles for coolamons; seeds for a coffee-like drink; leaves for different medicines' (p28)

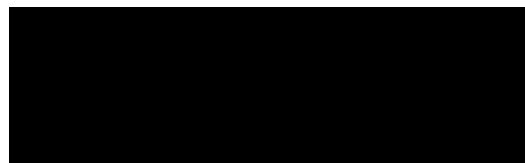
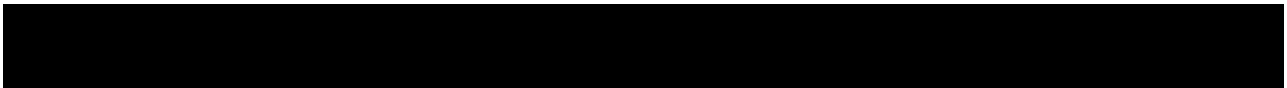




6.0 RECOMMENDATIONS & CONCLUSION

The inspected item has been assessed as locally heritage significant. It follows that the nominated curtilage of this locally heritage significant item is recommended to be listed as part of the next LEP update.

In general, the intent of local council listing is for the local community to formally recognise and preserve the significance of the item and to discourage demolition of heritage significant items.



Dr Peter Kabaila, Heritage consultant, Black Mountain Projects Pty Ltd

NATIONAL PARKS AND WILDLIFE ACT 1974

NOTICE OF RESERVATION OF AN HISTORIC SITE

I, the Honourable Margaret Beazley AC KC, Governor of the State of New South Wales, with the advice of the Executive Council, reserve the land described in the Schedule below as part of **Davidson Whaling Station Historic Site**, under the provisions of Section 30A(1)(b) of the *National Parks and Wildlife Act 1974*.

Dated this 22nd day of February 2023.

MARGARET BEAZLEY
Governor,
By Her Excellency's Command,

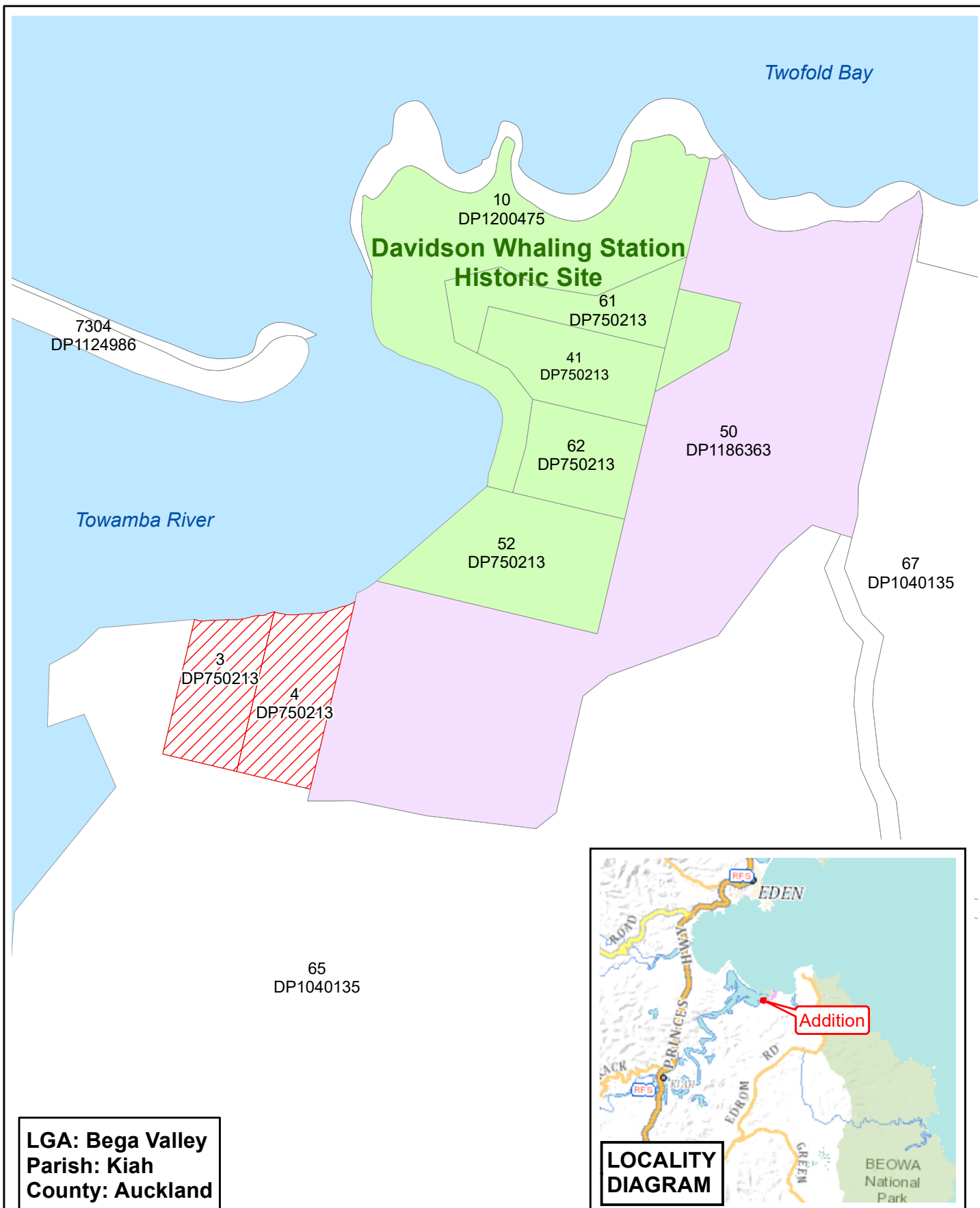
JAMES GRIFFIN
Minister for Environment and Heritage.

Schedule






Land District – Bega LGA – Bega Valley

County of Auckland, Parish of Kiah, 2.79 hectares, being Lots 3 and 4 DP750213.

Papers NPWS/EF16/1874



Legend

-  Addition
-  NPWS Estate
-  Held under Part 11
-  Water Feature
-  Cadastre Parcel

Addition of Land to Davidson Whaling Station Historic Site



AOI 3683
EF16/1874

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