



New South Wales

Bega Valley Local Environmental Plan 2013 (Amendment No 44)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

**CECILY HANCOCK, MANAGER, PLANNING & SUSTAINABILITY
BEGA VALLEY SHIRE COUNCIL**
As delegate for the local plan-making authority

Bega Valley Local Environmental Plan 2013 (Amendment No 44)

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Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Bega Valley Local Environmental Plan 2013 (Amendment No 44)*.

2 Commencement

This plan commences on the day on which it is published on the NSW legislation website.

3 Land to which plan applies

This plan applies to land to which *Bega Valley Local Environmental Plan 2013* applies.

4 Maps

The maps adopted by *Bega Valley Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this plan.

Schedule 1 Amendment of Bega Valley Local Environmental Plan 2013

[1] Land Use Table

Insert “Cemeteries;” and “Crematoria;” in appropriate order in Zone RU1, item 3.

[2] Land Use Table, Zone RU2, item 3

Insert “Cemeteries;” and “Crematoria;” in appropriate order.

[3] Land Use Table, Zone RU5, item 3

Insert “Health consulting rooms;” and “Medical centres;” in appropriate order.

[4] Land Use Table, Zone R2, item 3

Insert “Secondary dwellings;” in appropriate order.

[5] Clause 4.1C

Insert after clause 4.1B—

4.1C Minimum subdivision lot size for strata subdivisions 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) Development consent must not be granted for the subdivision of land to which this clause applies by registration of a strata plan or strata plan of subdivision under the *Strata Schemes Development Act 2015* if the subdivision would create lots of less than the minimum lot size specified for the land on the Lot Size Map.

[6] Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural, residential and conservation zones

Insert after clause 4.2A(3)(c)—

- (ca) is a lot resulting from a subdivision under clause 4.1B(3), or

[7] Clause 4.3 Height of buildings

Omit clause 4.3(1)(a). Insert instead—

- (a) to ensure new development is appropriate in the context of the predominant form and scale of surrounding development, including present and likely future development, surrounding landforms and the visual setting,

[8] Clause 5.4 Controls relating to miscellaneous permissible uses

Omit “10” from clause 5.4(8). Insert instead “20”.

[9] Part 6 Additional local provisions

Insert at the end of the part, with appropriate clause numbering—

Development in areas subject to aircraft noise

- (1) The objectives of this clause are as follows—
 - (a) to prevent certain noise sensitive developments from being located near Merimbula Airport and its flight paths,
 - (b) to assist in minimising the impact of aircraft noise from Merimbula Airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
 - (c) to ensure that land use and development near Merimbula Airport do not hinder or have other adverse impacts on the ongoing, safe and efficient operation of Merimbula Airport.
- (2) This clause applies to development—
 - (a) on land—
 - (i) near the Merimbula Airport, and
 - (ii) in an ANEF contour of 20 or greater, and
 - (b) the consent authority considers is likely to be adversely affected by aircraft noise.
- (3) In deciding whether to grant development consent to development to which this clause applies, the consent authority must—
 - (a) consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
 - (b) 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 2021:2015, and
 - (c) be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015 for the following purposes—
 - (i) if the development will be in an ANEF contour of 20 or more—child care facilities, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation,
 - (ii) if the development will be in an ANEF contour of 25 or more—business premises, hostels, hotel or motel accommodation, office premises or retail premises.
- (4) In this clause—

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for Merimbula Airport prepared by the Commonwealth Department responsible for airports.

AS 2021:2015 means AS 2021:2015, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

[10] Schedule 2 Exempt development

Insert in appropriate order—

Community gardens

- (1) Must be located on community land categorised as a park or as general community use.
- (2) Maximum area—600m².
Note— Approval of the Council may be required under the *Local Government Act 1993* for activities on community land.

Painted artwork on buildings

- (1) Must not be on a heritage item or a draft heritage item, or in a heritage conservation area, a draft heritage conservation area or a foreshore area.
- (3) If on land in a residential zone—must be less than 3m in height and 3m in diameter.
- (4) Must not project above the parapet or eaves of the building.
- (5) Must not contain signage.
Note— Signage includes advertising and business identification signs.
- (6) In this clause—
draft heritage conservation area, *draft heritage item* and *foreshore area* have the same meanings as in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
Note— Development on a public road may require approval under the *Roads Act 1993*.

Markets

- (1) Must be located in a public car park or on community land categorised as a park or as general community use.
- (2) Maximum 4 per year.
- (3) Maximum 30 stalls.
- (4) Must not be used for the purposes of the sale of registrable vehicles, within the meaning of the *Road Transport Act 2013*.
Note— Approval of the Council may be required under the *Local Government Act 1993*.

[11] Schedule 2

Insert after the matter relating to **Signage**, subclause (12)—

- (13) **A-frame signs**
 - (a) Maximum 1 per premises.
 - (b) Must not be located on land in a residential, rural or conservation zone unless related to—
 - (i) artisan food and drink industries, or
 - (ii) farm gate premises, or
 - (iii) information and education facilities, or
 - (iv) mobile food and drink outlets, or
 - (v) retail premises.
 - (c) Must not obstruct the movement of pedestrians.

(d) Must be removed at the close of business each day.

Note— Approval of the Council may be required under the *Local Government Act 1993* for activities on public roads.

[12] Schedule 2

Omit the matter relating to **Single events and ceremonies (other than music concerts, dance parties or entertainment events that are not for the purpose of fundraising)**.

Insert in appropriate order—

Temporary use of land for events

- (1) The land must be—
 - (a) public land, or
 - (b) in a car park owned or managed by the Council, or
 - (c) a showground.
- (2) Must not be in a conservation zone.
- (3) Must not be for a music concert or dance party, unless the event is for the purposes of community fundraising.
- (4) Must not be for more than 7 consecutive days.
- (5) Must not be for a particular event more than once in a calendar year.

Note— Approval of the Council may be required under the *Local Government Act 1993*.

[13] Schedule 5 Environmental heritage

Omit “Lot 511, DP 818052” from Part 1, item no I221.

Insert instead “Part of Lot 500, DP 1274816”.

[14] Schedule 5, Part 1, item no I683

Omit “Lot 67, DP 750238”. Insert instead “Lot 1, DP 1287077”.