

Planning Services

Gateway Determination Report

LGA	Snowy Valleys
PPA	Snowy Valleys Council
NAME	Planning proposal to rezone land outside Tumut to IN1 General Industrial.
NUMBER	PP_2018_SVALL_001_00
LEP TO BE AMENDED	Tumut LEP 2012
ADDRESS	Snowy Mountains Highway, Gilmore
DESCRIPTION	Lot 100 DP 1040583, Lot 5 DP 1178042, Lots 1, 2 & 3 DP 1042001, Lot 1 DP 197308, Lot 3 DP 1041444, Lots 61, 62, 94 & 140 DP 757252
RECEIVED	7 June 2018
FILE NO.	IRF18/3366
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend the Tumut Local Environmental Plan 2012 (TLEP 2012) by rezoning land currently zoned RU1 Primary Production and RU3 Forestry to IN1 General Industrial and applying a 2 hectare minimum lot size. The planning proposal also seeks to insert a new LEP clause to facilitate the subdivision of split zoned land.

Site description

The land proposed to be rezoned is situated along a stretch of the Snowy Mountains Highway, a classified state road under the Roads Act 1993. The land on the western side of the Highway (approximately 23 hectares) is occupied by the Gilmore Timber Mill while land on the eastern side of the Highway comprises Council's waste recovery centre to the north (approximately 5.7 hectares) and vacant, predominantly cleared land to the south (approximately 44.1 hectares). The subject land is identified in **Figure 1**.

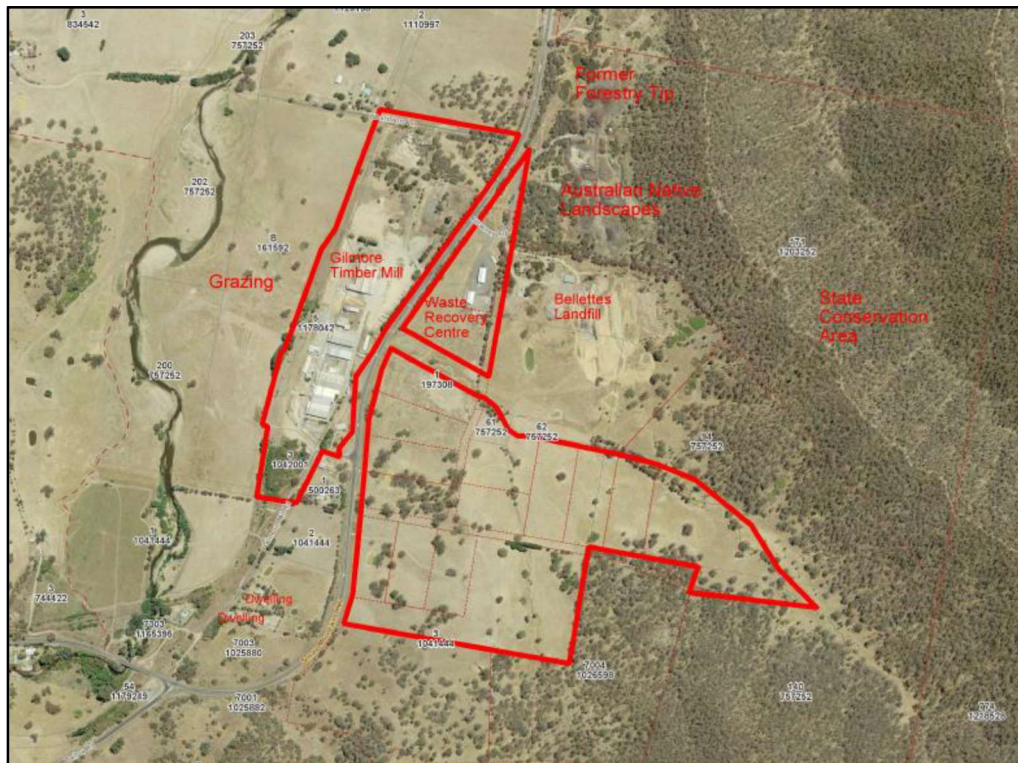


Figure 1: Land to which planning proposal applies
source: planning proposal

Existing planning controls

Lot 100 DP 1040583 is zoned RU3 Forestry with no minimum lot size.

Lot 5 DP 1178042, Lots 1, 2 & 3 DP 1042001, part Lot 1 DP 197308, part Lot 3 DP 1041444 and part Lots 61, 62, 94 & 140 DP 757252 are zoned RU1 Primary Production with a minimum lot size of 150 hectares.

The subject land and surrounding area are identified in the land zoning map below (**Figure 2**).

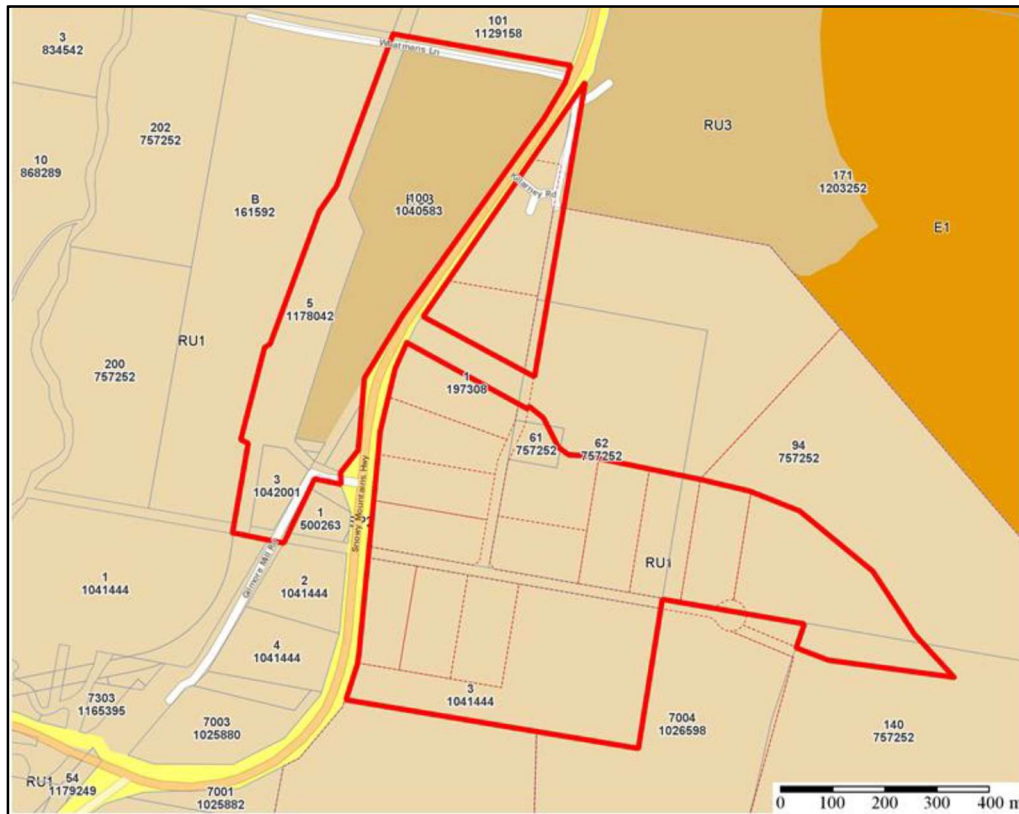


Figure 2: Land Zoning Map LZN_003B

source: planning proposal

Surrounding area

The subject land is situated approximately 3km south west of Tumut along the Snowy Mountains Highway.

The subject land immediately adjoins other land zoned RU1 Primary Production with a landfill site to the north east separating the site from land zoned RU3 Forestry and the Weriboldera State Conservation Area.

The land on the eastern side of the Snowy Mountains Highway adjoins heavily vegetated land outside the boundary of the Weriboldera State Conservation Area to the east and south east which is identified on the TLEP 2012 Terrestrial Biodiversity Map.

The northern boundary of the subject land is approximately 1km south of an existing industrial precinct.

Summary of recommendation

It is recommended that the Planning Proposal proceed subject to the following conditions:

- The planning proposal shall be updated prior to community consultation to include an assessment of the planning proposal's consistency with the Riverina Murray Regional Plan 2036.
- The planning proposal shall be updated prior to community consultation to clearly state whether the planning proposal is consistent with relevant 9.1 Ministerial Directions.
- The planning proposal shall be updated prior to community consultation to include additional information in relation to how Council has addressed the issues raised by the NSW Office of Environment and Heritage when the subject land was proposed to be rezoned in 2007.
- Consultation be undertaken with the following public authorities:
 - NSW Rural Fire Service;
 - NSW Department of Primary Industries (Agriculture);
 - NSW Office of Environment and Heritage; and
 - NSW Roads and Maritime Services.
- Consultation with the NSW Rural Fire Service and NSW Office of Environment and Heritage is to be undertaken prior to community consultation.
- Community consultation is required for a minimum of 28 days.
- The timeframe for completing the LEP is to be 12 months.

PROPOSAL

Objectives or intended outcomes

The objective of the planning proposal is to zone additional land for industrial use in Tumut.

Explanation of provisions

The planning proposal seeks to achieve the intended outcome by amending the TLEP 2012 as follows:

- Rezone Lot 100 DP 1040583 from RU3 Forestry to IN1 General Industrial;
- Rezone Lot 5 DP 1178042, Lots 1, 2 & 3 DP 1042001, part Lot 1 DP 197308, part Lot 3 DP 1041444 and part Lots 61, 62, 94 & 140 DP 757252 from RU1 Primary Production to IN1 General Industrial;
- Apply a 2 hectare minimum lot size to Lot 100 DP 1040583, Lot 5 DP 1178042, Lots 1, 2 & 3 DP 1042001, part Lot 1 DP 197308, part Lot 3 DP 1041444 and part Lots 61, 62, 94 & 140 DP 757252;
- Amend Land Zoning Map LZN_003B and Lot Size Map LZN_003B in accordance with the above; and
- Insert the following LEP clause to facilitate the subdivision of split zoned land:

“4.1B Minimum lot sizes for certain split zones

(1) The objectives of this clause are:

- (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1, and*
- (b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.*

*(2) This clause applies to each lot (an **original lot**) that only contains:*

- (a) land in a residential, business or industrial zone, and*
- (b) land in Zone RU1 Primary Production, Zone RU4 Primary Production Small Lots or Zone E3 Environmental Management.*

*(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the **resulting lots**) if:*

- (a) one of the resulting lots will contain:*
 - (i) land in a residential, business or industrial zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and*
 - (ii) all of the land in Zone RU1 Primary Production, Zone RU4 Primary Production Small Lots or Zone E3 Environmental Management that was in the original lot, and*
- (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.”*

Mapping

Land Zoning Map LZN_003B and Lot Size Map LZN_003B are proposed to be amended in accordance with the planning proposal. The maps included in the planning proposal are considered suitable for community consultation. LEP Maps which meet the Department's standard technical requirements can be prepared following community consultation. **Figure 3** identifies the area proposed to be rezoned to IN1 General Industrial.

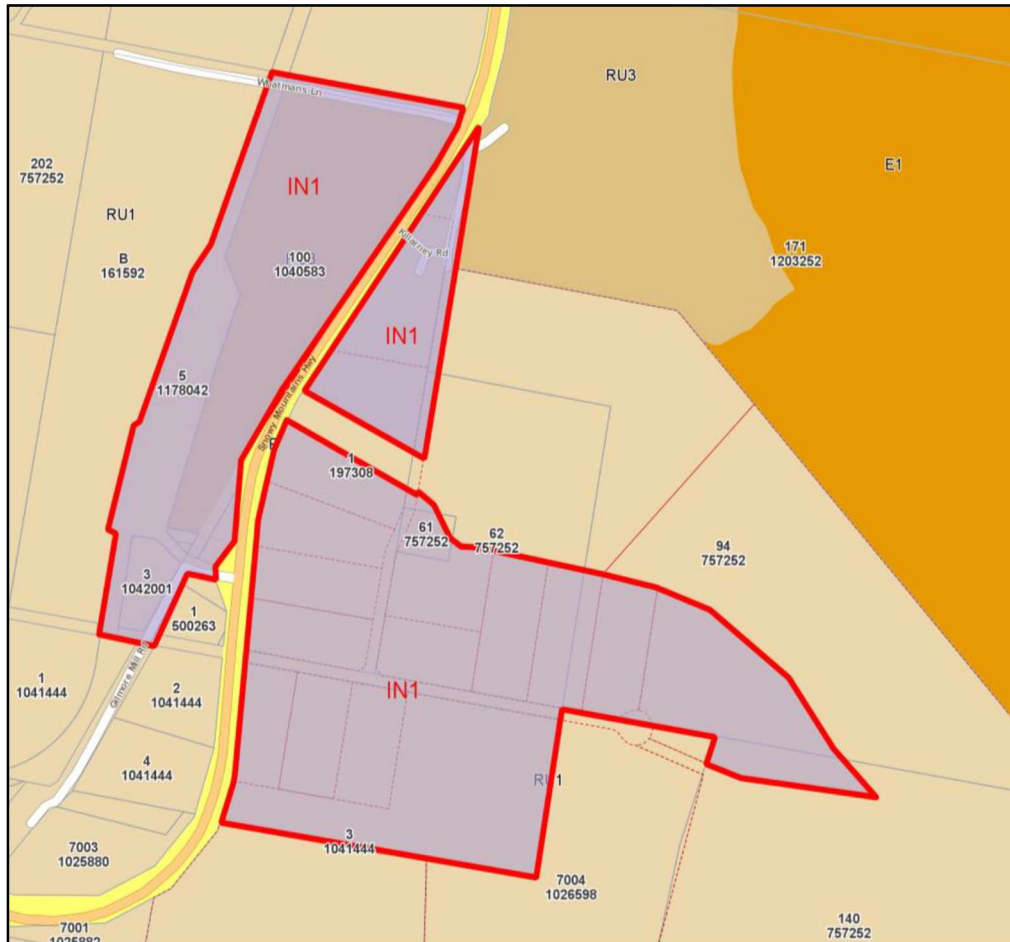


Figure 3: Proposed amendments to Land Zoning Map LZN_003B
source: planning proposal

NEED FOR THE PLANNING PROPOSAL

The planning proposal states the proposed amendment is required to address a shortage of industrial land in Tumut. **Figure 4** shows the existing Tumut industrial precinct and identifies only four remaining vacant lots. The planning proposal indicates the remaining vacant lots constitute only 3.6% of the existing industrial zoned land in Tumut.

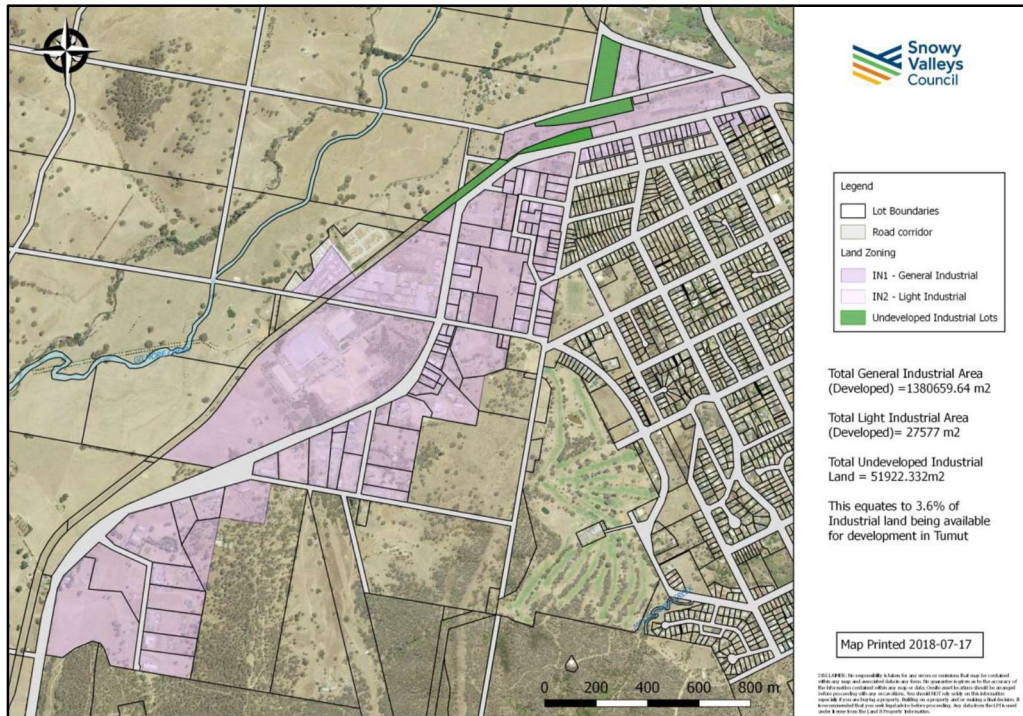


Figure 4: Supply of vacant industrial zoned land in Tumut
source: planning proposal

The proposed rezoning the area on the eastern side of the Snowy Mountains Highway consisting of part Lot 1 DP 197308, part Lot 3 DP 1041444 and part Lots 61, 62, 94 & 140 DP 757252 is considered to have merit as it creates additional industrial zoned land in Tumut. The planning proposal notes the Snowy Hydro 2.0 project and expansion of the Visy paper mill is generating demand for additional industrial land in Tumut, particularly from the transport logistics, forestry and timber processing industries. Council is known to have received expressions of interest from multiple businesses about the prospect of establishing or relocating to Tumut should additional industrial land become available. Council estimates the planning proposal will facilitate the creation of 12-14 additional industrial lots.

Rezoning the subject land is considered to have merit given its proximity to existing compatible land uses and access to established transport networks. The subject land has been strategically identified as a suitable location for industrial development by Council over a period of several years, culminating in the preparation of the *Future Industrial Land Tumut and Gilmore Environmental Study* in 2002.

The planning proposal is the best means of achieving the intended outcome as, although industry is a permissible use in the RU1 Primary Production Zone under the

TLEP 2012, rezoning the land to IN1 General Industrial will create additional land dedicated for industrial purposes.

The proposal to rezone Lot 100 DP 1040583 from RU3 Forestry to IN1 General Industrial is considered to have merit as, although an operational timber mill is situated on the site, the land is privately owned, no longer utilised for forestry operations and the proposed zoning reflects the current use of the land. Similarly, rezoning the area on the eastern side of the Snowy Mountains Highway occupied by Council's waste recovery centre (part Lot 1 DP 197308) from RU1 Primary Production to IN1 General Industrial is considered to have merit as the proposed zoning reflects the current use of the land.

STRATEGIC ASSESSMENT

State

There is no applicable state strategic planning framework to which the planning proposal applies.

Regional / District

The planning proposal states it is consistent with the following directions of the Riverina Murray Regional Plan 2036:

- Direction 1: Protect the region's diverse and productive agricultural land
- Direction 3: Expand advanced and value-added manufacturing
- Direction 4: Promote business activities in industrial and commercial areas
- Direction 9: Support the forestry industry
- Direction 15: Protect and manage the region's many environmental assets
- Direction 16: Increase resilience to natural hazards and climate change
- Direction 17: Transform the region into the eastern seaboard's freight and logistics hub
- Direction 18: Enhance road and rail freight links
- Direction 22: Promote the growth of regional cities and local centres
- Direction 23: Build resilience in towns and villages
- Direction 29: Protect the region's Aboriginal and historic heritage

The planning proposal does not demonstrate how it is consistent with the above directions. It is recommended that a condition be included in the Gateway determination requiring the planning proposal to be updated prior to community consultation to include an assessment of the planning proposal's consistency with the Riverina Murray Regional Plan 2036.

The planning proposal is considered to be consistent with the Goals and Directions of the Regional Plan, particularly Directions 4, 9, 17 and 22. The proposed rezoning will create additional industrial zoned land in Tumut and encourage the relocation and establishment of new transport logistics, forestry and timber processing businesses. The establishment of new businesses and associated employment growth is likely to benefit the local economy of Tumut. The remaining directions are not considered to be relevant to determining the strategic merit of the planning proposal.

Local

The subject land has been identified by Council as a suitable location for additional industrial development over a period of several years.

The planning proposal states the Gilmore Valley was initially identified by Council in the 1988 Tumut Rural Local Environmental Study and Urban Strategy as the preferred site for future industrial development.

Council's 1998 Industrial Land Study recommended that land in proximity to the Gilmore Mill be further investigated as a potential site for future industrial development.

As a result, Council commissioned the 'Future Industrial Land Tumut and Gilmore Environmental Study 2002' which determined the subject land is a suitable location for additional industrial zoned land.

Although the study was prepared 16 years ago, the land capability assessment is still considered valid as the features of the subject land have remained the same. In addition to the study, the planning proposal includes updated information regarding the supply of and demand for industrial zoned land in Tumut, which clearly demonstrates the strategic merit of the proposed rezoning.

Section 9.1 Ministerial Directions

1.1 Business and Industrial Zones

Direction 1.1 Business and Industrial Zones applies to the planning proposal as it will affect land proposed be zoned for industrial purposes. The planning proposal does not state whether it is consistent or inconsistent with the Direction.

The planning proposal is considered to be inconsistent with this Direction as it does not ensure that the proposed new employment areas are in accordance with a strategy that is approved by the Secretary.

The planning proposal is however supported by the recommendations of the *Future Industrial Land Tumut and Gilmore Environmental Study 2002*, which gives consideration to the objectives of this direction.

The study is considered to demonstrate that the undeveloped land east of the Snowy Mountains Highway is a suitable location for additional industrial land given its proximity to existing complementary land uses and access to major road networks.

In addition to the study, the planning proposal provides updated information which demonstrates there is a shortage of vacant zoned industrial land in Tumut and notes the demand for additional industrial land which is been generated by major projects including Snowy 2.0 and the Visy paper mill expansion. The planning proposal is therefore unlikely to undermine the role of existing industrial zoned land in Tumut.

Rezoning the subject land is also likely to benefit the local economy of Tumut, recognised as centre in the Riverina Murray Regional Plan 2036, as a result of the establishment of new businesses and associated employment growth.

Rezoning the land occupied by the Gilmore timber mill and Council's resource recovery centre is considered to be of minor significance given the IN1 Industrial Zone will reflect the current use of the land.

RECOMMENDATION 1: The Secretary's delegate can be satisfied that the inconsistency with this Direction in relation to land comprising the Gilmore timber mill and Council's resource recovery centre is of minor significance; and

RECOMMENDATION 2: The Secretary's delegate can be satisfied that the inconsistency with this Direction in relation to the undeveloped land east of the Snowy Mountains Highway is justified by a study that gives consideration to the objectives of this Direction.

1.2 Rural Zones

Direction 1.2 Rural Zones applies to the planning proposal as it will affect land within an existing rural zone. The planning proposal states it is inconsistent with the Direction.

The planning proposal is considered to be inconsistent with the direction as it proposes to rezone land from a rural zone to an industrial zone.

The planning proposal is however supported by the recommendations of the *Future Industrial Land Tumut and Gilmore Environmental Study 2002*, which gives consideration to the objectives of this direction.

The study is considered to demonstrate that rezoning the undeveloped land east of the Snowy Mountains Highway will not result in the loss of significant agricultural land. The study identifies the vacant land to the east of the Snowy Mountains Highway as suitable for grazing but not regular cultivation. This assessment is based on the classification of the land in accordance with the *Rural Land Capability Handbook 1988* and associated mapping prepared by the Department of Land and Water Conservation.

Rezoning the land occupied by the Gilmore timber mill and Council's resource recovery centre is considered to be of minor significance given the IN1 Industrial Zone will reflect the current use of the land.

RECOMMENDATION 1: The Secretary's delegate can be satisfied that the inconsistency with this Direction in relation to land comprising the Gilmore timber mill and Council's resource recovery centre is of minor significance; and

RECOMMENDATION 2: The Secretary's delegate can be satisfied that the inconsistency with this Direction in relation to the undeveloped land east of the Snowy Mountains Highway is justified by a study that gives consideration to the objectives of this Direction.

1.5 Rural Lands

Direction 1.5 Rural Lands applies to the planning proposal as it will affect land within an existing rural zone. The planning proposal does not state whether it is consistent or inconsistent with the direction.

The planning proposal is considered to be consistent with this Direction as it is not inconsistent with the Rural Planning Principles listed in *SEPP (Rural Lands) 2008*.

Although the planning proposal does not demonstrate consistency with the Rural Planning Principles listed in *SEPP (Rural Lands) 2008*, it is considered that the planning proposal will not result in planning outcomes which are inconsistent with the Rural Planning Principles.

RECOMMENDATION: The Secretary's delegate can be satisfied that the planning proposal is consistent with this direction.

2.1 Environmental Protection Zones

Council has identified that Direction 2.1 Environmental Protection Zones applies to the planning proposal, however it does not apply as the planning proposal does not apply to land within an environmental protection zone or land otherwise identified for environmental protection purposes or propose to reduce the environmental protection standards applying to the land.

2.3 Heritage Conservation

Council has identified that Direction 2.3 Heritage Conservation applies to the planning proposal, however it does not apply as the planning proposal does not affect any known items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance.

3.4 Integrating Land Use and Transport

Direction 3.4 Integrating Land Use and Transport applies to the planning proposal as it will create a zone relating to urban land. The planning proposal does not state whether it is consistent or inconsistent with the direction.

The planning proposal is considered to be consistent with this Direction. The proposal locates zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* and *The Right Place for Business and Services*

RECOMMENDATION: The Secretary's delegate can be satisfied that the planning proposal is consistent with this direction.

4.3 Flood Prone Land

Council has identified that Direction 4.3 Flood Prone Land applies to the planning proposal, however it does not apply as the planning proposal does not affect flood prone land.

The subject land is not identified as flood prone on the TLEP 2012 Flood Planning Map. However, the planning proposal identifies part of the land occupied by the Gilmore timber mill on the western side of the Snowy Mountains Highway as potentially flood prone. Council has identified the land as potentially flood prone based on mapping of alluvial soils but the planning proposal notes the subject land is not flood affected.

4.4 Planning for Bushfire Protection

Direction 4.4 Planning for Bushfire Protection applies to the planning proposal as it will affect land mapped as bushfire prone land.

RECOMMENDATION: The Secretary's delegate include a condition in the Gateway determination requiring consultation be undertaken with the Rural Fire Service (RFS) in accordance with this Direction.

5.10 Implementation of Regional Plans

Direction 5.10 Implementation of Regional Plans applies to the planning proposal as the Riverina Murray Regional Plan 2036 applies to the land. The planning proposal states it is consistent with the direction.

The proposal is considered to be consistent with this Direction. As noted above, the planning proposal is considered to be generally consistent with the Regional Plan.

RECOMMENDATION: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

6.1 Approval and Referral Requirements

Council has identified that Direction 6.1 Approval and Referral Requirements applies to the planning proposal, however it does not apply as the planning proposal does not seek to include provisions in the TLEP 2012 which require the concurrence, consultation or referral of development applications to the Minister of a public authority or identify development as designated development.

State environmental planning policies

The planning proposal identifies State Environmental Planning Policy (SEPP) No 55 – Remediation of Land as applicable. The SEPP is applicable as the existing timber mill, waste recovery centre and adjoining landfill site are activities that may cause contamination in accordance with the NSW Environment Protection Authority's *Managing Land Contamination Planning Guidelines*. Given any contamination issues are likely to be confined to the land occupied by these existing uses, it is considered to be a matter which can be addressed through the development assessment process.

The following SEPPs apply to the planning proposal but were not identified:

- SEPP No 44 – Koala Habitat Protection
- SEPP (Rural Lands) 2008

SEPP No 44 applies to land within the Snowy Valleys LGA. The planning proposal identifies the land proposed to be rezoned as having potential koala habitat. It is recommended that a condition be included in the Gateway determination requiring consultation be undertaken with NSW Office of Environment and Heritage (OEHL).

SEPP (Rural Lands) 2008 applies to the planning proposal as subject land is zoned RU1 Primary Production and RU3 Forestry. As noted above, the planning proposal

does not demonstrate consistency with the Rural Planning Principles listed in *SEPP (Rural Lands) 2008*. However, it is considered that the planning proposal will not result in the loss of significant agricultural land and therefore is not inconsistent with the SEPP.

SITE-SPECIFIC ASSESSMENT

Social

Noting the influence of major projects such as Snowy 2.0 and the Visy paper mill expansion, the planning proposal will support the growth of Tumut by providing additional industrial land for the relocation and establishment of new associated businesses. As noted above, the establishment of new businesses and associated employment growth is likely to benefit the local economy of Tumut, recognised as centre in the Riverina Murray Regional Plan 2036.

Environmental

The planning proposal states land with significant environmental values has been excluded from area proposed to be rezoned. **Figure 5** shows land identified on the TLEP 2012 Terrestrial Biodiversity Map.

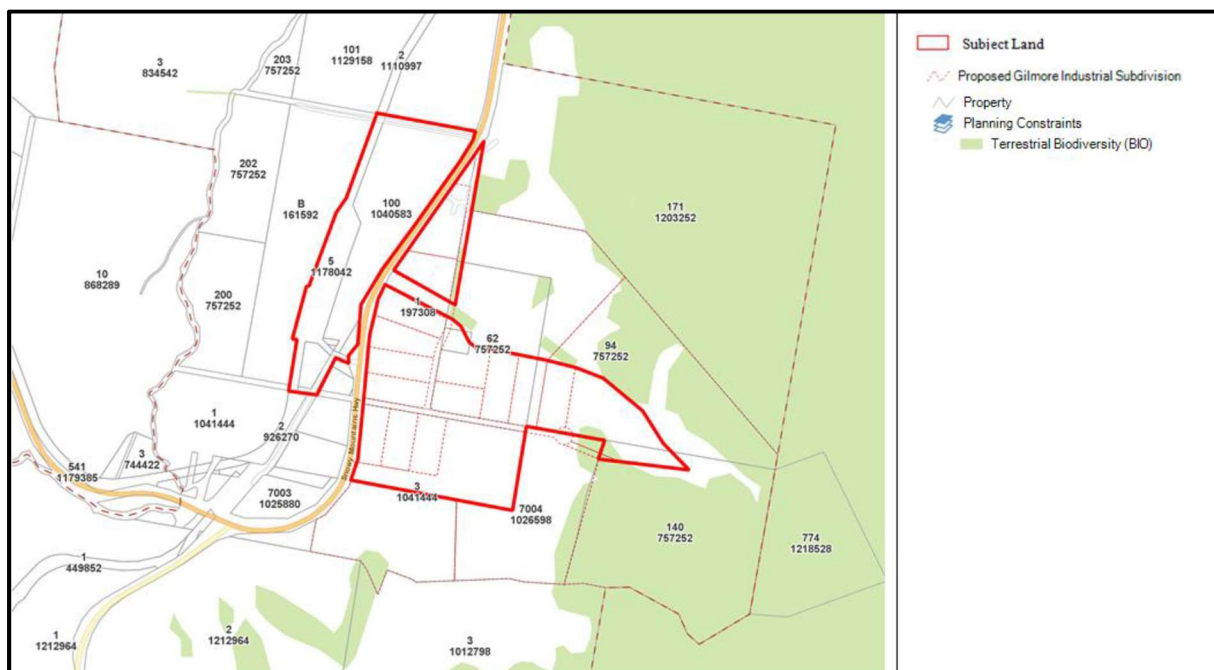


Figure 5: Terrestrial Biodiversity Map BIO_003

source: planning proposal

Although the subject land excludes areas identified on the Terrestrial Biodiversity Map, consultation with the OEH is recommended as the subject land adjoins heavily vegetated areas identified on the map and is also identified as potential koala habitat.

In addition, the subject land includes an area which was proposed to be rezoned in 2007. OEH objected to the extent of the 2007 rezoning proposal as it included large areas of steep, heavily vegetated land adjoining the Werreboldera State Conservation

Area. It is understood that the planning proposal has refined the extent of the 2007 rezoning proposal in accordance with OEHs comments. It is recommended that a condition be included in the Gateway determination requiring the planning proposal be updated to include additional information in relation to how Council has addressed the issues raised by the OEH in 2007.

Portions of the subject land are also identified as bushfire prone. **Figure 6** shows the land identified as bushfire prone.

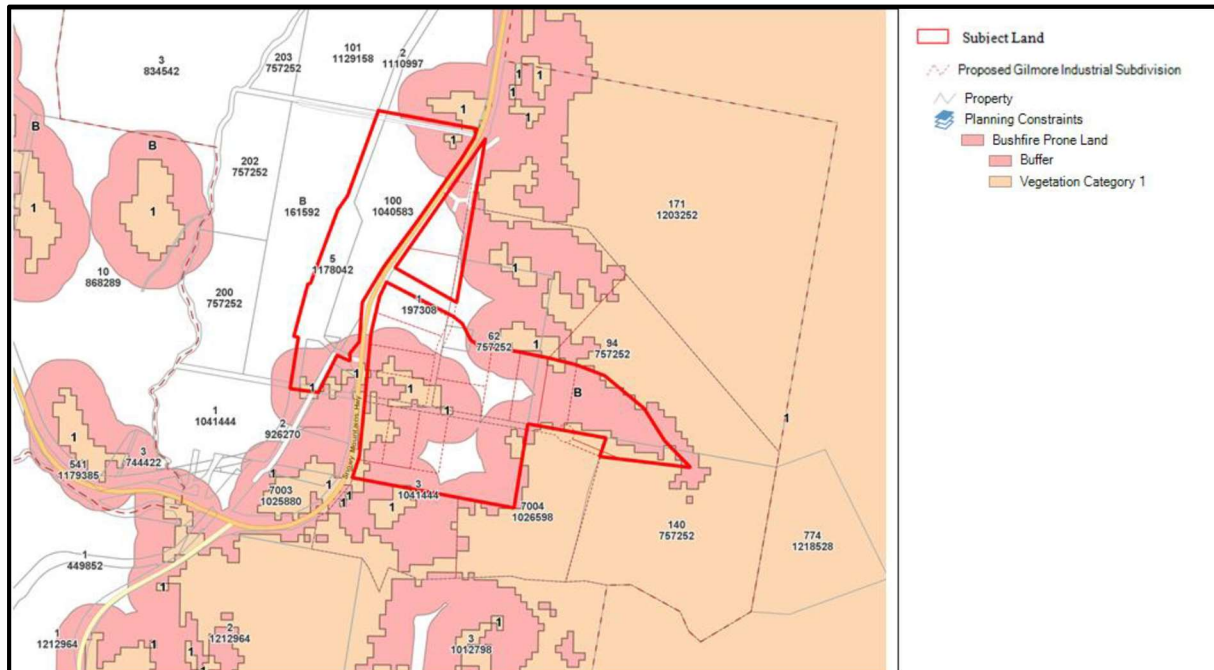


Figure 6: Area identified as bushfire prone land
source: planning proposal

Although the subject land is primarily mapped within the buffer areas surrounding Category 1 Vegetation, consultation with RFS is recommended as the site adjoins heavily vegetated areas identified as bushfire prone.

Economic

The Planning Proposal states the land proposed to be rezoned has access to reticulated water, natural gas and electricity and that sewerage infrastructure can be provided.

Consultation with NSW Roads and Maritime Services is recommended given the subject land is situated on the Snowy Mountains Highway.

CONSULTATION

Community

The planning proposal suggests community consultation be undertaken over a period of 28 days. This is considered appropriate.

Agencies

Consultation with the following public authorities is considered appropriate given the attributes of the area to which the planning proposal applies and proposed use of the site:

- NSW Rural Fire Service;
- NSW Department of Primary Industries (Agriculture);
- NSW Office of Environment and Heritage; and
- NSW Roads and Maritime Services.

TIME FRAME

Council has proposed a 3 month project timeline to complete the proposed amendment to the TLEP 2012 from the date a Gateway Determination is issued.

Given the planning proposal will need to be revised prior to undertaking community consultation a period of 12 months is considered appropriate to account for this and any other work which may be required as a result of consultation with government agencies.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan making authority under section 3.36 of the Environmental Planning and Assessment Act 1979.

Due to the localised nature of planning proposal, Council's request is considered appropriate.

CONCLUSION

The planning proposal is supported to proceed subject to conditions requiring consultation and minor amendments.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. **agree** that any inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones and 1.2 Rural Zones are minor or justified by a study that gives consideration to the objectives of the Directions.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service;
 - NSW Department of Primary Industries (Agriculture)
 - NSW Office of Environment and Heritage; and
 - NSW Roads and Maritime Services.

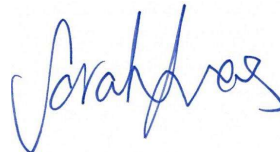
Consultation with the NSW Rural Fire Service and NSW Office of Environment and Heritage is to be undertaken prior to community consultation.

3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Council should be the local plan-making authority.
5. The planning proposal shall be updated prior to community consultation to include an assessment of the planning proposal's consistency with the Riverina Murray Regional Plan 2036.
6. The planning proposal shall be updated prior to community consultation to clearly state whether the planning is consistent with relevant 9.1 Ministerial Directions.
7. The planning proposal shall be updated prior to community consultation to include additional information in relation to how Council has addressed the issues raised by the NSW Office of Environment and Heritage when the subject land was proposed to be rezoned in 2007.



16/08/2018

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16/08/2018

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