

## Council report 21 July 2021

### 8.4. Finalisation of Commercial Land Use Strategy Planning Proposal

The planning proposal to amend *Bega Valley Local Environmental Plan 2013* to implement the recommendations of the *Bega Valley Shire Commercial Land Strategy 2040* has been publicly exhibited. This report seeks Council's resolution to finalise the planning proposal subject to the recommended changes arising through the public exhibition process.

Director Community Environment and Planning

#### Officer's Recommendation

That Council:

1. Finalise the amendment to *Bega Valley Local Environmental Plan 2013* (Amendment 37) as detailed in this report and in accordance with the delegations issued by the Minister for Planning and Public Spaces under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.
2. Advise those who made a submission during exhibition of the planning proposal of Council's resolution on this matter.

#### Executive Summary

Public exhibition of the planning proposal to amend *Bega Valley Local Environmental Plan 2013* (BVLEP 2013) to implement the recommendations of the *Bega Valley Shire Commercial Land Strategy 2040* took place between 16 March 2021 and 18 April 2021. Nine public and three agency submissions were received during the exhibition period.

The purpose of this report is to advise Council of the feedback received during exhibition of the planning proposal and seek a resolution to finalise the matter. After reviewing the submissions two minor changes to the exhibited planning proposal are recommended.

#### Background

The *Commercial Land Strategy* was adopted by Council in April 2020. The Strategy provides a vision and framework for the development of the Shire's commercial centres over the next 20 years. Council officers prepared a planning proposal to amend BVLEP 2013 to implement recommendations of the *Commercial Land Strategy*, which was presented to the Council meeting of 7 October 2020.

In accordance with Council's resolution on the matter at that time, the planning proposal was submitted to the NSW Department of Planning Infrastructure and Environment (DPIE) seeking Gateway approval. The Gateway Determination included a suggestion that the planning proposal be updated prior to public exhibition to include the appropriate minimum lot size for proposed R3 Medium Density Residential land in Merimbula. This amendment was duly made by Council staff and the planning proposal was exhibited in accordance with the requirements of the Gateway Determination.

A staff report on the finalisation of the Planning Proposal was presented to the Council meeting held on 30 June 2021, with the matter deferred to allow more time for submitters to determine whether to make a deputation.

## Options

Council can proceed to finalise the matter under delegation where amendments are made to the exhibited planning proposal in response to the objections by the NSW Department of Primary Industries Agriculture Division (DPI Agriculture) and DPIE's Biodiversity and Conservation Division (BCD). This is the recommended option.

If Council chooses not to amend the exhibited planning proposal in accordance with the requirements of DPI Agriculture and BCD, Council will not have delegation to finalise the amendment and the matter will need to be determined and finalised by a delegate for the Minister for Planning and Public Spaces.

## Community Engagement

### ***Engagement undertaken***

Consultation was conducted in accordance with the requirements of the Gateway Determination and Council's adopted *Community Engagement Strategy*. Public exhibition was undertaken for 28 days from 16 March 2021 to 18 April 2021. Exhibition of the planning proposal was notified on the 'Have Your Say' page of Council's website, a media release was published, and a notice was placed on Council's Facebook page. Each of the local Chambers of Commerce and the development professionals group were notified by email.

The owners of all land affected by the planning proposal were notified directly by a detailed letter containing an overview of the proposed zoning changes that specifically related to their property including a map of the area affected, information outlining the impact of the changes on existing uses and rates as well as details of the changes to land use tables proposed.

In accordance with the Gateway Determination, consultation with BCD, DPI Agriculture and NSW Rural Fire Service (RFS) was also undertaken.

### ***Summary of Submissions***

Nine public and three agency submissions were received in relation to the planning proposal.

A summary of the submissions received is outlined in Attachment 1. The key issues raised in the submissions are outlined below including discussion from Council staff.

### ***1) Bush Fire Protection***

**Issue summary:** RFS had no objections to the planning proposal subject to a requirement that the future development presenting an increase in residential density complies with *Planning for Bush Fire Protection Guidelines 2019*.

**Staff comment:** Chapter 7 and clause 8.2.1 of *Planning for Bush Fire Protection Guidelines 2019* cover requirements for residential infill development and increased residential densities respectively. Compliance with the guidelines is part of the normal development assessment process for any development application on bushfire prone mapped land.

**Recommendation:** No change to planning proposal.

## **2) Objections to inclusion of hotel and motel accommodation as a permitted use with consent**

**Issue summary:** DPI Agriculture objected to the inclusion of *hotel or motel accommodation* as a permitted use with consent in the RU2 Rural Landscape zone as there is a risk that this type of land use would dominate the primary production function of rural land and increase potential land use conflict with agriculture uses. The permitted use *ecotourist facilities* may already provide the accommodation style being sought particularly where it is near to natural areas.

BCD objected to the general inclusion of *hotel motel accommodation* as a permitted use in E3 Environmental Management zone as it generally will not meet the objectives of the zone and there is insufficient evidence provided to support this type of scale of development in the E3 zone.

**Staff comment:** Not enabling the use of *hotel and motel accommodation* in the RU2 and E3 zones will not significantly limit achieving the objectives of the *Commercial Land Strategy*. Future development of this type in these zones is provided for by other tourist accommodation uses such as ecotourist facilities as well as bed and breakfast and farm stay accommodation are already permitted in both these zones.

**Recommendation:** It is recommended that *hotel and motel accommodation* be removed from the planning proposal as a proposed permitted land use in the RU2 Rural Landscape and E3 Environmental Management zones.

## **3) Merimbula - Support for rezoning / question any changes to height limits.**

**Issue summary:** One submission supported the proposed changes in Merimbula and another questioned if there are any proposed changes of building height in Merimbula in the planning proposal.

**Staff comment:** There are no height variations for any land in Merimbula in the planning proposal. Littleton Gardens in RE1 Public Recreation zone in Bega is the only land that is proposed to have an amendment to the maximum building height from 13 metres to 10 metres to be consistent with surrounding non-commercial zone land.

**Recommendation:** No change to planning proposal.

## **4) Tathra – Support for rezoning / question impact of high-density development on Tathra headland.**

**Issue summary:** Rezoning the land from B2 Local Centre to B4 Mixed Use in the Tathra headland area will result in high density units, which will be an overdevelopment of the area and adversely affect its character.

**Staff comment:** The *Commercial Land Strategy* includes a character statement for Tathra to clarify the vision and framework for the development of the town over the next 20 years. The aim for Tathra is to encourage development that is sympathetic with its coastal setting and to protect key elements within the streetscape including view corridors that contribute to the uniqueness of the town. There are several existing development controls that will ensure that new development will be in keeping with the Tathra character statement that will not change with the implementation of this planning proposal.

**Recommendation:** No change to planning proposal.

### **5) Tathra – Request for extension of B4 zoning**

**Issue summary:** One submission requested that all or part of a lot be included in the area to be rezoned from B2 to B4 Mixed use because there is currently no demand for new commercial development in Tathra and is unlikely to be in the future given the lack of supply of land for residential development; and current shortage of available residential land means B4 represents a more appropriate zone.

**Staff comment:** The strategy currently being implemented aims to ensure enough supply of commercial land for the next 20 years. It is a recommendation of the strategy that: “A watching brief will be kept to monitor the demand for and supply of vacant and occupied commercial land in Tathra to determine the appropriate time for further zoning of B4 or B2 land.” Any subsequent review will consider the site and may recommend an amendment to the zone should it be warranted. It is also noted that the Residential Land Strategy 2040 did not make any recommendations for rezoning land in Tathra.

The aim of the planning proposal is to amend BVLEP 2013 in accordance with the recommendations of the adopted *Commercial Land Strategy 2040*. The rezoning request contained in the submission is not consistent with the recommendations of the strategy and if supported, would require a review of the strategy and subsequent revision and re-exhibition of the planning proposal should the amendment be approved by the Gateway Panel.

**Recommendation:** No change to planning proposal.

### **6) Bega – Oppose extent of rezoning from B4 Mixed Use to B2 Local Centre**

**Issue summary:** Two submissions raised concerns with rezoning land in Bega from B4 Mixed Use to B2 Local Centre because it will reduce flexibility for landowners to respond to market demand. The B2 zone will reduce the residential type land uses permissible and prohibit conversion from business to residential use, particularly in Peden and Canning streets. Residential demand has increased and there is a current oversupply of small-scale retail space in the Bega CBD. Recent community trends such as online shopping and working from home is likely to exacerbate this oversupply. The rezoning will reduce medium density development opportunities within walking distance of Bega CBD.

**Staff comment:** The strategic intention of the rezoning from B4 Mixed Use to B2 Local Centre is to ensure that the commercial centre of Bega is positioned to be able to cater to commercial growth over a 20-year timeframe. It aims to enable the expansion of commercial uses into the future around the existing commercial core and to consolidate the business zone and existing commercial uses around the existing core. This will clearly define the Bega town centre and ensure that it can deliver a diverse range of employment, administrative, retail, business, health and education opportunities into the future.

The planning proposal does not propose to rezone all B4 Mixed Use land in Bega to B2 Local Centre and there will still be significant potential for redevelopment within the remaining B4 zone as well as the existing R3 Medium Density Residential zones for medium density residential development. It is noted that the B2 Local Centre zone includes *shop top housing* as a permissible use, which will enable some housing diversity and supply in the Bega CBD on appropriate sites.

**Recommendation:** No change to planning proposal.

### **7) Bega - Lack of large-scale commercial land within walking distance of Bega CBD.**

**Issue summary:** There is a lack of large-scale commercial land within walking distance of Bega CBD. More industrial land should be provided so that existing industrial land uses close to Bega CBD can be relocated to make their current sites available for large scale commercial.

**Staff comment:** In developing the Strategy, vacant B4 Mixed Use zone land, vacancy rates in B2 Local Centre zone and the potential for the gradual relocation of light industries to outside the centre were considered. The planning proposal includes removal of *vehicle sales or hire premises* as a permitted use and continues the prohibition of light industries in the B2 Local Centre zone to assist with the relocation of these uses to an industrial area.

**Recommendation:** No change to planning proposal.

#### **8) Merimbula – Oppose rezoning from B4 Mixed Use to B2 Local Centre**

**Issue summary:** One submission raised concerns with rezoning certain land in Merimbula from B4 Mixed Use to R3 Medium Density Residential because it will reduce flexibility for the landowners to respond to market demand and the area is unsuitable for residential development. The R3 zone would limit future use of the owner’s building to medical uses only as it was purpose built as office space and will limit resale.

**Staff comment:** There are three purpose-built non-residential buildings in the area that is the subject of the submission and these can continue to operate under existing use rights or be redeveloped into other forms of development that are permitted in the zone in the future. The strategic intention of the rezoning from B4 Mixed Use to R3 Medium Density Residential is to respond to the oversupply of land zoned B4 Mixed Use and to consolidate commercial activity within the Merimbula commercial centre. This will encourage a more vibrant town centre and support employment opportunities in the core business area as well provide opportunities for urban renewal and housing diversity to enable more people to live close to the town centre.

**Recommendation:** No change to planning proposal.

#### **Financial and resource considerations**

The processing of the planning proposal and its public exhibition have been undertaken as part of Council’s regular work program and within the adopted 2020-21 budget.

#### **Legal /Policy**

This planning proposal was prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and DPIE’s *A Guide to Preparing Planning Proposals* (December 2018).

#### **Impacts on Strategic/Operational/Asset Management Plan/Risk**

##### **Strategic Alignment**

The planning proposal aims to achieve the following goals of the *South East and Tablelands Regional Plan 2036*:

- Goal 1: A connected and prosperous economy
- Goal 4: Environmentally sustainable housing choices

The planning proposal is consistent with the following goals of the *Bega Valley Shire Community Strategic Plan 2040*:

- Goal 3: Our economy is prosperous, diverse and supported by innovative and creative businesses
- Goal 4: We have meaningful employment and learning opportunities for people in all stages in life
- Goal 8: Our places retain their character and scale, development is well planned, and a range of goods and services are available within our Shire that meet local needs

The planning proposal is consistent with achieving the planning priorities of the *Bega Valley Shire Local Strategic Planning Statement 2040* relating to:

- Agriculture, tourism, character, housing and town centres

#### ***Environmental / Sustainability***

The planning proposal will contribute to a more diverse and thriving economy including economic sustainability, sustainable development and sustainable employment opportunities as well as encouraging more vibrant town centres. The planning proposal may lead to improved sustainability outcomes through consolidation of land and redevelopment that complies with current best practice building standards and improved energy efficiency.

It is not anticipated that there will be any adverse environmental effects because of this planning proposal. The planning proposal zoning changes apply to existing B1 Neighbourhood Centre, B2 Local Centre, R3 Medium Density Residential, B4 Mixed Use zoned land and IN4 Working Waterfront in urbanised areas. The Biodiversity Values Map was examined and there are no Biodiversity Values as framed under the Part 7 of the *Biodiversity Conservation Act 2016*. It is not anticipated that the amendments to existing land use tables will adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

The public infrastructure servicing the properties subject to this planning proposal is adequate and the planning proposal will not increase demand on public infrastructure.

#### ***Economic***

The planning proposal implements the necessary changes to land use zones, building heights, lot sizes and land use tables to implement the direction for future development within commercial centres in accordance with the Strategy. The outcomes of the planning proposal will be revitalised commercial spaces, improved economic growth opportunities and a more robust, resilient economy through greater diversity and employment generating opportunities.

#### ***Risk***

The planning proposal will help address risk to our existing economic and employment base, which is dependent on a small number of industry sectors, by providing increased opportunity for diversification of commercial activity.

There are no additional risks to Council of adopting changes to BVLEP 2013, as this is a regular organisational activity.

### ***Social / Cultural***

The planning proposal will encourage employment generating opportunities and help create more vibrant and activated commercial centres that facilitate community connections, recreation and cultural activities.

### **Attachments**

- 1 [↓](#). Summary of submissions to exhibition of planning proposal
- 2 [↓](#). Commercial Land Use Planning Proposal - Proposed LEP Amendment

Attachment 1: Exhibition of Commercial Land Strategy Planning Proposal: Summary of Community and Stakeholder Engagement

Abbreviations in document:

- *Bega Valley Shire Council Commercial Land Strategy 2040* (Commercial Land Strategy)
- *Bega Valley Shire Council Residential Land Strategy 2040* (Residential Land Strategy)
- Central Business District (CBD)

No.	Name	Summary of submission	Staff comment
1.	State agency response - Rural Fire Service	No objection to planning proposal providing Council is satisfied the Asset Protection Zones, which will include an area of unformed road reserve, can be maintained to benefit future residential development. The land being rezoned from B2 Local Centre zone to B4 Mixed Use zone on Tathra Headland are exposed to forest hazard with an effective slope of 15-20 degrees. To comply with the acceptable solutions of Planning for Bush Fire Protection 2019, a 56 metre asset protection zone will be required for future development.	Noted. Planning for Bush Fire Protection 2019 cover requirements for residential infill development and increased residential densities respectively. Compliance with Planning for Bush Fire Protection 2019 is part of the normal development assessment process for any development application on bushfire prone mapped land.
2.	State agency response - Department Primary Industries – Agriculture	Supports the inclusion of <i>rural supplies</i> as a permitted use in the RU1 Primary Production and RU2 Rural Landscape zones and <i>artisan food and drink industries</i> as a permitted use in the RU4 Primary Production Small Lots zone. These uses are consistent with the zones objectives, are a component of the supply chain for agriculture production and enable increased rural employment. Suggest to develop appropriate planning controls on the scale and nature of artisan food and drink industries to assist with potential land use conflict with agriculture uses.	Noted.
		Does not support the inclusion of hotel or motel accommodation as a permitted use in the RU2 Rural Landscape zone as there is a risk that this type of land use would dominate the primary production function of rural land and increase potential land use conflict with agriculture uses. There are a number of tourist and visitor accommodation permitted land uses that are generally small scale, low impacts and provide supplementary income to	Removal of <i>hotel and motel accommodation</i> will not limit meeting the objectives of the Commercial Land Strategy.  Recommendation: Remove hotel motel accommodation as a permitted use in the RU2 Rural Landscape zone from the planning proposal.





		agriculture. The permitted use Ecotourist facilities may already provide the accommodation style being sought particularly where and is near to natural parks.	
		Recommends Council consider additional permitted land uses in rural zones in the context of a rural land use strategy to enable Council to more broadly consider appropriate land uses and include ratify existing permitted land uses.	Noted.
3.	State agency response Department Planning, Industry and Environment - Biodiversity and Conservation	Does not support the general inclusion of <i>hotel motel accommodation</i> in E3 Environmental Management zones as it generally will not meet the objectives off the zoning. This is insufficient evidence provided to support this type of scale of development, is not justified with a supporting study or has supporting planning provisions that facilitate the protection and conservation of environmental sensitive area.	Removal of <i>hotel and motel accommodation</i> will not limit meeting the objectives of the Commercial Land Strategy.  Recommendation: Remove <i>hotel motel accommodation</i> as a permitted land use in the E3 zone from the planning proposal.
		Concerns regarding the proximity of mapped Serious and Irreversible Impact biodiversity values on proposed zoning changes at Merimbula Drive. Biodiversity values on Tathra headland have not been identified or specifically addressed in the planning proposal.	Noted. Further Biodiversity values studies will be conducted through later stages of the planning process.
4.	Community (written)	Questions if there are any changes of building height in all zones in Merimbula?	There are no height variations for any zones in Merimbula in the planning proposal.  Littleton Gardens in RE1 Public Recreation zone in Bega is the only land that is proposed to have a reduced maximum building height to 10 metres to be consistent with surrounding non-commercial zone land.
5.	Community (written)	Supports the proposed rezoning from B2 Local Centre to B4 Mixed Use Tathra headland area as developing to commercial land uses is not a viable option in the current economic times.	Noted.
		Questions how long a rezoning might take to process?	Enquirer was advised that the approximately timeframe for the determination of a planning proposal is twelve months.



6.	Community (written)	<p>Does not support the rezoning from B2 Local Centre to B4 Mixed Use Tathra headland area as it will result in high density (units). Development should cascade from low density (on Cliff Place), to medium density and then commercial.</p> <p>Compares the proposal to facilitating development like the Gold Coast which is full of units with height restrictions watered down over time.</p>	<p>The <i>Commercial Land Strategy</i> includes character statements to assist the vision and framework for the development of the Shire's commercial centres over the next 20 years. Tathra is to encourage development that is sympathetic with coastal setting and to protect key elements within the streetscape including view corridors that contribute to the uniqueness of Tathra.</p> <p>There are several development assessment controls that will ensure that new development will be in keeping with the Tathra character statement.</p>
7.	Community (written)	<p>Supports the proposed rezoning in Merimbula.</p> <p>Supports the proposal to reduce the building height in Littleton Gardens in Bega.</p> <p>Does not support the amount of area to be rezoned from B4 Mixed Use to B2 Local Centre in Bega. It will be detrimental for the future development of Bega and will negatively impact the interests of many owners by removing flexibility for land to be developed either commercial or residential minimising flexibility for land use to adapt to market change, the B2 Local Centre zone will prohibit the conversion of commercial buildings to residential if this is the best identified market option. There is an oversupply of small-scale retail &lt;300 m2 on the fringe of the CBD. Recent community trends such as online shopping and working from home will likely exacerbate this oversupply.</p> <p>Residential demand has increased. Need to make provisions for medium density residential development within walking distance to Bega CBD. The B2 Local Centre zone will prohibit medium density residential.</p> <p>There is a lack of large-scale commercial land within walking distance of the Bega CBD. The proposal will result in a reduction</p>	<p>Noted.</p> <p>Noted.</p> <p>The intention of the rezoning from B4 to B2 is to ensure that the commercial centre of Bega is positioned to be able to cater to commercial growth for the 20-year projection. It aims to enable the expansion of commercial uses into the future around the existing commercial core and to consolidate the business zone and existing commercial uses. This will clearly define the Bega town centre and ensure that it can deliver a diverse range of employment opportunities as well as a broad range of cultural, artistic, administrative, retail, business, health and education opportunities into the future.</p> <p>The B2 Local Centre zone does include the residential land use <i>shop top housing</i> as a permissible use which will facilitate greater housing diversity and residential supply in Bega CBD. A recommendation of the Commercial Land Strategy is to investigate incentives to encourage this type of development.</p> <p>Council's Residential Land Strategy provides principles for guiding future housing provisions and directions about how and where residential growth can occur to support the growing population. The Residential Land Strategy recommendations include investigating rezoning land for higher densities on sites adjacent to the commercial centre.</p> <p>In developing the Commercial Land Strategy, vacant B4 Mixed Use zone land, vacancy rates in B2 Local Centre zone and the potential for the gradual relocation of light industries to outside the centre were considered</p>



		<p>in B4 Mixed Use land when there is already a large amount of B4 land that isn't available for development.</p> <p>Need to provide suitable industrial land on the fringes so that the current rural and industrial uses in the Bega CBD that should be relocated thereby making their current sites available for larger scale retain/commercial development.</p>	<p>into the rezoning proposal. The planning proposal includes removal of vehicle sales or hire premises as a permitted use and continues the prohibition of light industries in the B2 Local Centre zone to assist with the relocation of these uses to an industrial area as the highest and best use of each commercial property and land values change.</p>
		<p>Planning proposal will result in a number of non-conforming land uses especially in Canning Street and western side of Peden Street in Bega where there are a number of older cottages. Impossible to convert cottages that have been established as offices back into residential use if there is little demand for office space as is the current case.</p>	<p>Any current uses that have been lawfully permitted can continue to operate legally under the Existing Use Rights provisions of the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulations 2000</i>, regardless of any changes in land uses permitted within a zone.</p> <p>The rezoning of land does not automatically require land to be development to suit the zoning, it will guide any future development.</p>
		<p>Given the Heritage conservation in Canning Street Bega and a large number of older cottages, suggests retaining the residential use.</p>	<p>There are several examples of Heritage Items being converted to businesses in Canning Street which is consistent with the proposed commercial zone</p>
8.	Community (written)	<p>Does not support proposed rezoning B4 Mixed Use zone to B2 Local Centre zone along western side of Canning Street Bega because heritage preservation order overrides Council directions and limits major commercial repurposing of these buildings and difficult to understand how limiting rezoning to one side of the street will transpose into future uses or help preserve heritage value.</p>	<p>The Commercial Land Strategy identifies that a focus on unique assets contributes to the ongoing viability of the commercial centre. Development of commercial land uses sympathetic to this heritage conservation would increase activities in these areas and would increase exposure to heritage assets and contribute to the viability of the commercial centre.</p>
		<p>Rezoning would preclude owners renting or selling cottage for residential use which impacts land owners response to economic conditions especially given the current oversupply of commercial properties in Bega.</p>	<p>Any current uses that have been lawfully permitted can continue to operate legally under the Existing Use Rights provisions of the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulations 2000</i>, regardless of any changes in land uses permitted within a zone.</p> <p>The rezoning of land does not automatically require land to be development to suit the zoning, it will guide any future development.</p>



		What effect will rezoning of the short row of houses on Canning Street Bega have on reinvigorating the CBD of Bega. Many commercial vacancies due to global changes in the way retail and business are conducted. It will impact unfairly on owners of these properties and reduce the supply of much needed residential accommodation within walking distance of Bega CBD.	The intention of the rezoning from B4 to B2 is to ensure that the commercial centre of Bega is positioned to be able to cater to commercial growth for the 20-year projection. It aims to enable the expansion of commercial uses into the future around the existing commercial core and to consolidate the business zone and existing commercial uses. This will clearly define the Bega town centre and ensure that it can deliver a diverse range of employment opportunities as well as a broad range of cultural, artistic, administrative, retail, business, health and education opportunities into the future.
9.	Community (written)	Neutral on the planning proposal.  Questions changing zoning from B4 Mixed Use zone to B2 Local Centre zone in Bega if it will impact the listing of a heritage item, development controls or owner's obligations? Questions if the change of zoning will modify the valuation if continue with the existing use, for example residential?	Enquirer was advised that heritage control overlays will not be modified. The proposed zoning is for new development and new development must consider heritage significance of a heritage item. Land values are as per NSW land value guidelines and may be valued to its highest entitled use.
10	Community (written)	Request for all or the northern part of Lot 411 DP 1138508, 1-7 Bega Street, Tathra to be rezoned from B2 to B4 Mixed use as per adjacent property in planning proposal.  Consultation with development industry has advised owner that currently no demand for new commercial development in Tathra and unlikely to be in the future given limited opportunities for the population to increase from the lack of supply of land for residential development.  Undeveloped portion of site suitable for residential or mixed-use development and current shortage of available residential land means B4 represents a more appropriate zone than B4 and provides increased development options.	The aim of the planning proposal was to implement the amendments to BVLEP 2013 in accordance with the adopted Commercial Land Strategy 2040. The rezoning request contained in the submission is a significant departure from the recommendations of the strategy and if supported would require a review of the strategy, as well as revision and re-exhibition of the planning proposal itself should the amendment be approved by the Gateway Panel following re-adoption of the strategy.  The strategy currently being implemented aims to ensure enough supply of commercial land for the next 20 years. It is a recommendation of the strategy that: "A watching brief will be kept to monitor the demand for and supply of vacant and occupied commercial land in Tathra to determine the appropriate time for further zoning of B4 or B2 land." These subsequent reviews will consider the site and may recommend an amendment to the zone should it be warranted.  The Residential Land Strategy 2040 did not make any recommendations for rezoning land in Tathra.





			It is noted that under the NSW Planning Framework landowners may proceed to prepare and lodge planning proposals to rezone land and this option is also available in this instance.
11.	Community (written)	Does not support proposed rezoning B4 Mixed Use zone to R3 Medium Density Residential zone for the area that includes 3 Sapphire Coast Drive because the intersection of Sapphire Coast Drive and Merimbula Drives is unsafe for residential use, the area is part of an established commercial strip which is unpleasant for residential use and the area contains many purpose built or modified buildings for commercial space which are not suitable or adaptable for residential use.	The planning proposal proposes to rezone a large area west and south west of the Merimbula CBD from B4 to R3. This includes the properties in the vicinity of 3 Sapphire Coast Drive on the western side of Sapphire Coast Drive from the intersection of Sapphire Coast Drive and Merimbula Drives to the tennis courts on the corner of Kalinda Street.
		The R3 zone would limit future use of the building at 3 Sapphire Coast Drive which was purpose built as office space to medical uses only, this is unfair as will limit resale and prevent a wide range of suitable rental uses.	Additional residential development in this area resulting from the planning proposal is anticipated to be minimal as there are only three non-residential uses in this area (being the National Parks office, a physiotherapy practice and a police station). The B2 zone on the eastern side of this area is not included in the planning proposal and is not proposed for rezoning to residential use.  Any current uses that have been lawfully permitted can continue to operate legally under the Existing Use Rights provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000, regardless of any changes in land uses permitted within a zone. The B4 and R3 zones are similar in terms of which forms of residential and tourist accommodation uses are permitted, however the range of commercial uses permitted is limited to child care and respite facilities, medical centres and health consulting rooms.
		Difficult to understand how rezoning will achieve aim of supporting economic development and employment opportunities.	The intention of the change in zone from B4 to R3 is to respond to the oversupply of land zoned B4 Mixed Use and to consolidate commercial activity within the Merimbula commercial centre. This will encourage a more vibrant town centre and support employment



			opportunities in the core business area as well provide opportunities for urban renewal and housing diversity to enable more people to live close to the town centre.
12	Community (written)	Request for all or the northern part of Lot 411 DP 1138508, 1-7 Bega Street, Tathra to be rezoned from B2 to B4 Mixed use as per adjacent property in planning proposal.	The aim of the planning proposal is to amend BVLEP 2013 in accordance with the recommendations of the adopted Commercial Land Strategy 2040. The rezoning request contained in the submission is not consistent with the recommendations of the strategy and if supported would require a review of the strategy. Also, revision and re-exhibition of the planning proposal would be required should the amendment be approved by the Gateway Panel following re-adoption of the strategy.
		Consultation with development industry has advised owner that currently no demand for new commercial development in Tathra and unlikely to be in the future given limited opportunities for the population to increase from the lack of supply of land for residential development.	The strategy currently being implemented aims to ensure enough supply of commercial land for the next 20 years. It is a recommendation of the strategy that: "A watching brief will be kept to monitor the demand for and supply of vacant and occupied commercial land in Tathra to determine the appropriate time for further zoning of B4 or B2 land." Any subsequent review will consider the site and may recommend an amendment to the zone should it be warranted.
		Undeveloped portion of site suitable for residential or mixed-use development and current shortage of available residential land means B4 represents a more appropriate zone than B4 and provides increased development options.	The Residential Land Strategy 2040 did not make any recommendations for rezoning land in Tathra.  It is noted that under the NSW Planning Framework landowners may proceed to prepare and lodge planning proposals to rezone land and this option is also available in this instance.



## Attachment 2: Commercial Land Use Planning Proposal – proposed LEP amendment

### Land Use Tables

The planning proposal seeks to amend the Land Use Tables in Part 2 of the *Bega Valley Shire Local Environmental Plan 2013* as follows:

Land Use Table	Add to "3 permitted with consent"	Add to "4 Prohibited"
B1 Neighbourhood Centre	Shops	Vehicle sales or hire premises
B2 Local Centre	Artisan food and drink industry	Vehicle sales or hire premises
B4 Mixed Use	Artisan food and drink industry	Vehicle sales or hire premises
E3 Environmental Management	<del>Hotel or motel accommodation</del>	Nil
E4 Environmental Living	Information and educational facilities	Nil
R5 Large Lot Residential	Information and educational facilities	Nil
RU1 Primary Production	Rural supplies	Nil
RU2 Rural Landscape	<del>Hotel or motel accommodation</del> Rural supplies	Nil
RU4 Primary Production Small Lots	Artisan Food and Drink	Nil
SP3 Tourist	Artisan Food and Drink	Nil

### Height of Buildings Map

The planning proposal seeks to amend the Height of Buildings Map the *Bega Valley Shire Local Environmental Plan 2013* in accordance with the following:

Proposed change	Lot, Section & DP	Address
Reduce maximum height of buildings from 16 metres to 10 metres.	Lot 104 DP 1151462; Lot 2 DP 774319; PLT 10-13 Sec 39 DP 758076; Lot 141 DP 1168921; Lot 6 DP 231206	Bega: Littleton Gardens, Zingel Place <i>Shown by green hatching on Map 1</i>





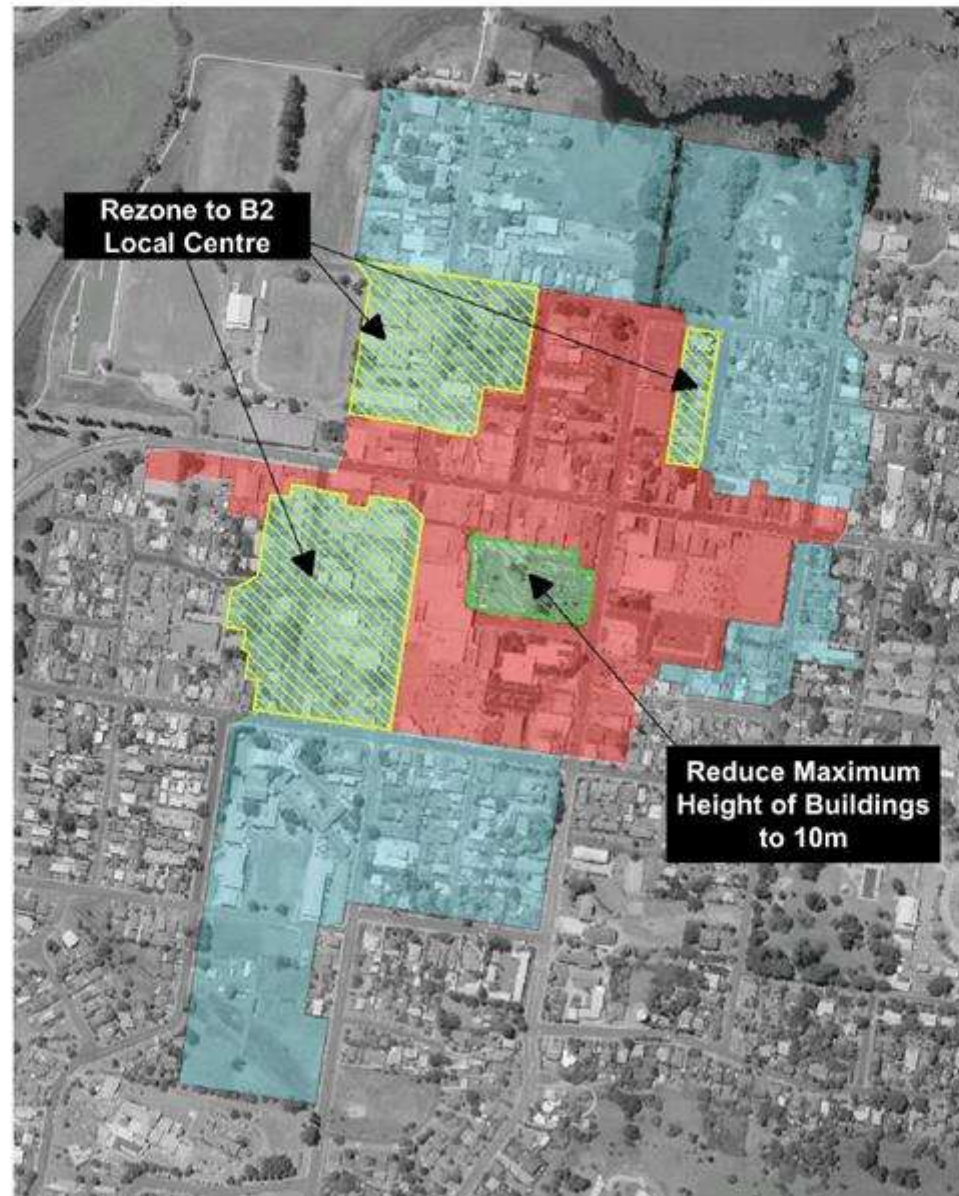




		<i>Shown by yellow hatching on Map 3</i>
Amend zone from B4 Mixed Use to R3 Medium Density Residential	Lot 251 DP 17033; Lots 5 -6, 9, 12 -13 PTL 7&8, Lot 19, 20, 23, 24-30 DP 23500; Lot 88 DP 234142; Lots 9, 11-12, 14 DP 252400; Lots 1&2 DP 378789; Lot 1 DP 507271; Lot 22 DP 532160; Lot 101 DP 589903; Lot 911 DP 600638; Lot 78 DP 712997; Lot 41 DP 715073; Lot 123 DP 773097; Lot 34 DP 787541; Lot 1 DP 788988; Lot 11 DP 87312; Lot 111 DP 1206442; SP 17014; SP 17685; SP 17800; SP 17983; SP 18209; SP 18273; SP 18440; 19570; 21098; SP 21206; SP 21470; SP 30329; SP 36432; SP 38307; SP 38976; SP 74123; SP 84407	Merimbula: 2 Kalinda Street; 8 Kyeamba Street; 24-26, 28, 30, 32, 36, 36A, 38, 40, 44, 46, 47, 49, 51, 53-57, 59, 61, 63, 65-67, 69, 71, 73, 75, 77, 79, 81 & 83 Merimbula Drive; 5&7 Monaro Street; 5, 11, 13, 15, 17, 19, 21 Park Street; 30 & 32 Reid Street; 3, 9, 11, 17, 21, 5-7, 13-15& 23-27 Sapphire Coast Drive; 2&4 Wonga Street  <i>Shown by yellow hatching on Map 2</i>
Amend zone from IN4 Working Waterfront to B4 Mixed Use and RE1 Public Recreation	PTL 111 DP 835683	Eden: Snug Cove  <i>Shown by yellow hatching on Map 3</i>
Amend zone from B1 Neighbourhood Centre to B2 Local Centre	Lot 51 DP 237619; Lots 1-2, 6, 15- 17 DP 23321; SP 72538; (Part) Lot 53 DP 1046269	Tathra: 29, 31, 33, 35, 37, 55, 61, 63 & 65 Andy Poole Drive  <i>Shown by yellow hatching on Map 4</i>
Amend zone from R3 Medium Density Residential to B2 Local Centre	Lot 1 DP 595716	Tathra: 2A Francis Hollis Drive  <i>Shown by yellow hatching on Map 4</i>
Amend zone from B2 Local Centre to B4 Mixed Use	Lot 2 DP 338686; Lot 8 DP 200008; Lot 62 DP 528923; Lots 21 & 22 DP 809023; Lot 7 DP 408983; Lot 10 DP 593290	Tathra: 5 Cliff Place; 7, 8-10, 9, Beach Street; 2 & 4 Seagrass Lane; 12 Andy Poole Drive  <i>Shown by yellow hatching on Map 4</i>

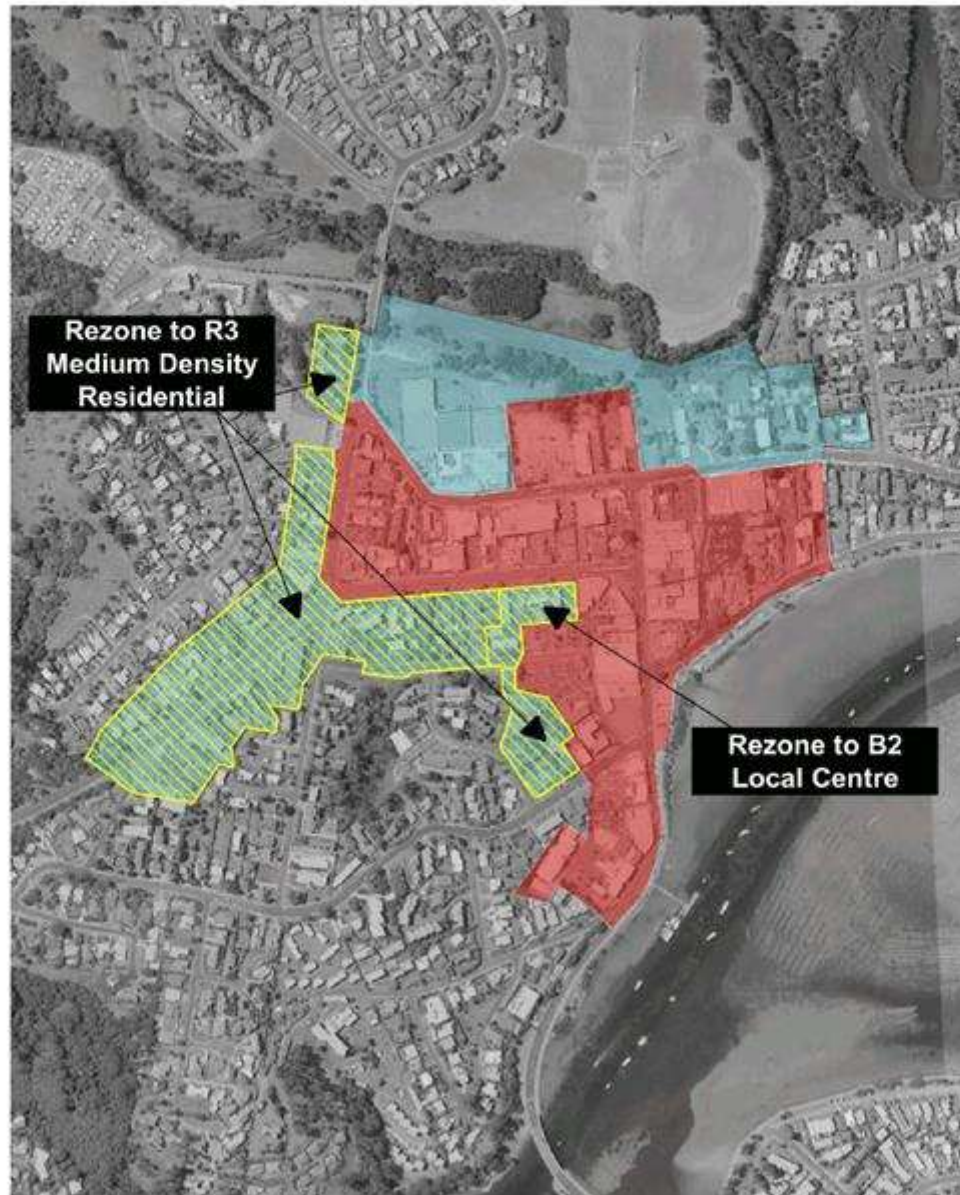


*Map 1: Bega - Proposed changes to land use zoning and maximum heights*





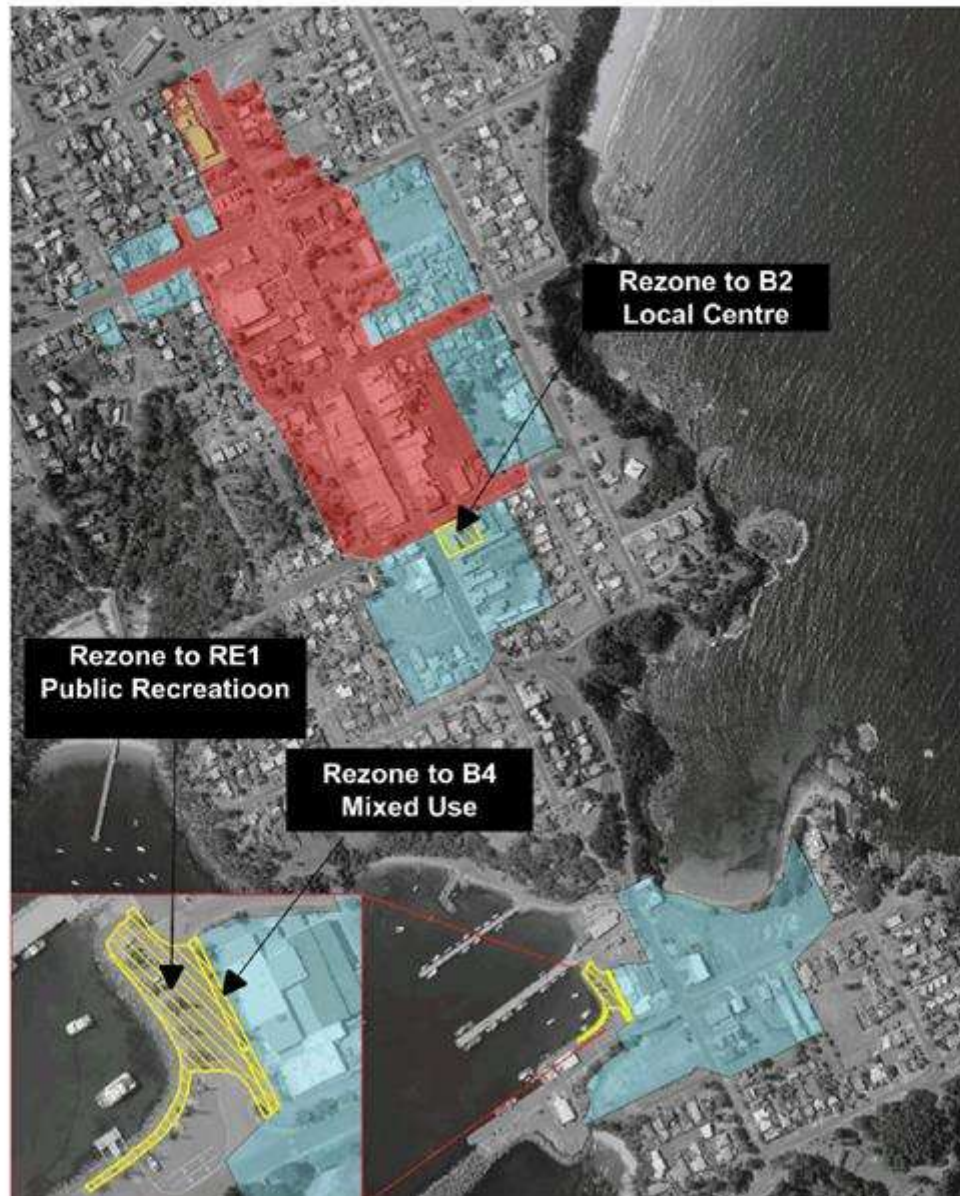
*Map 2: Merimbula - Proposed changes to land use zoning*







Map 3: Eden - Proposed changes to land use zoning







*Map 4: Tathra - Proposed changes to land use zoning*

