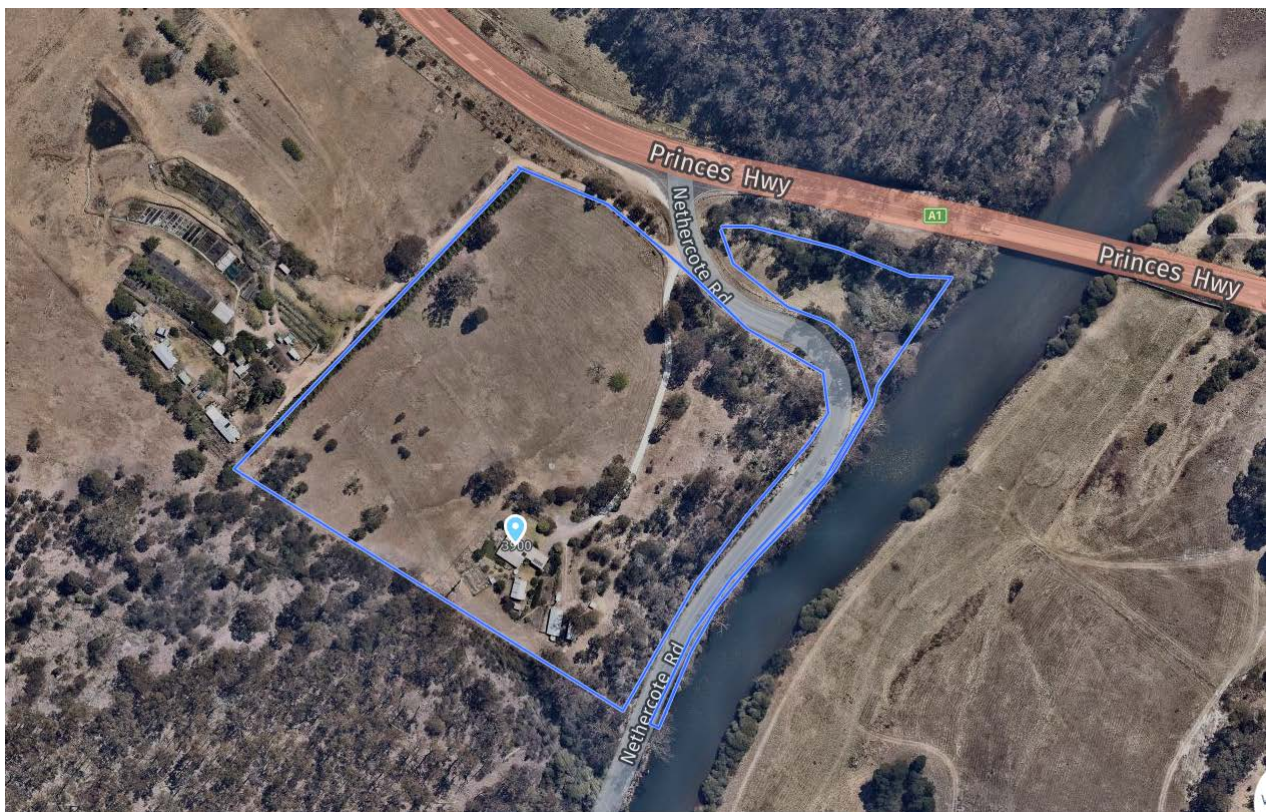


## Planning Proposal

**To amend Bega Valley Shire LEP 2013 to enable a  
3 lot rural-residential subdivision of 3900 Princes  
Highway, Greigs Flat**



**July 2021**

## Introduction

This Planning Proposal seeks to rezone two existing lots, Lots 60 and 61 DP 861043, 3900 Princes Highway Griegs Flat (the Site) to enable a three-lot rural-residential subdivision. The combined area of the two lots is 4 hectares.

The Site is located approximately 3.2 kilometres (km) south of the town of Pambula, 900 metres (m) from South Pambula and is adjacent to the Princes Highway and Nethercote Road intersection (**see Map 1**).

Part of the Site is identified as being suitable for rural-residential development in Bega Valley Shire Council's (Council's) *Rural Residential Strategy 2020* (the RRS 2020). This designation was made on the basis that the Site represents a logical extension to the broader South Pambula release area and is suitable for additional rural-residential development (**see Section 3**).

The Site is currently zoned RU2 Rural Landscape and E2 Environmental Conservation under the *Bega Valley Local Environmental Plan 2013* (Bega LEP) with a minimum lot size of 120 ha and a 10m height of building limit.

This planning proposal seeks to implement the recommendations of the RRS 2020 by amending Bega LEP to enable subdivision of the Site to create:

- Two largely-cleared rural-residential lots on the portion identified as being suitable for rural-residential development with each being approximately 8,000 square metres in size and having a dwelling-entitlement; and
- A residual lot of greater than 2 hectares which would contain the existing dwelling and outbuildings, vegetated areas and the parcel of land that is physically separated from the rest of the lot by the Nethercote Road (**see Section 1**).

The following amendments to Bega LEP are proposed to achieve the objectives of the PP:

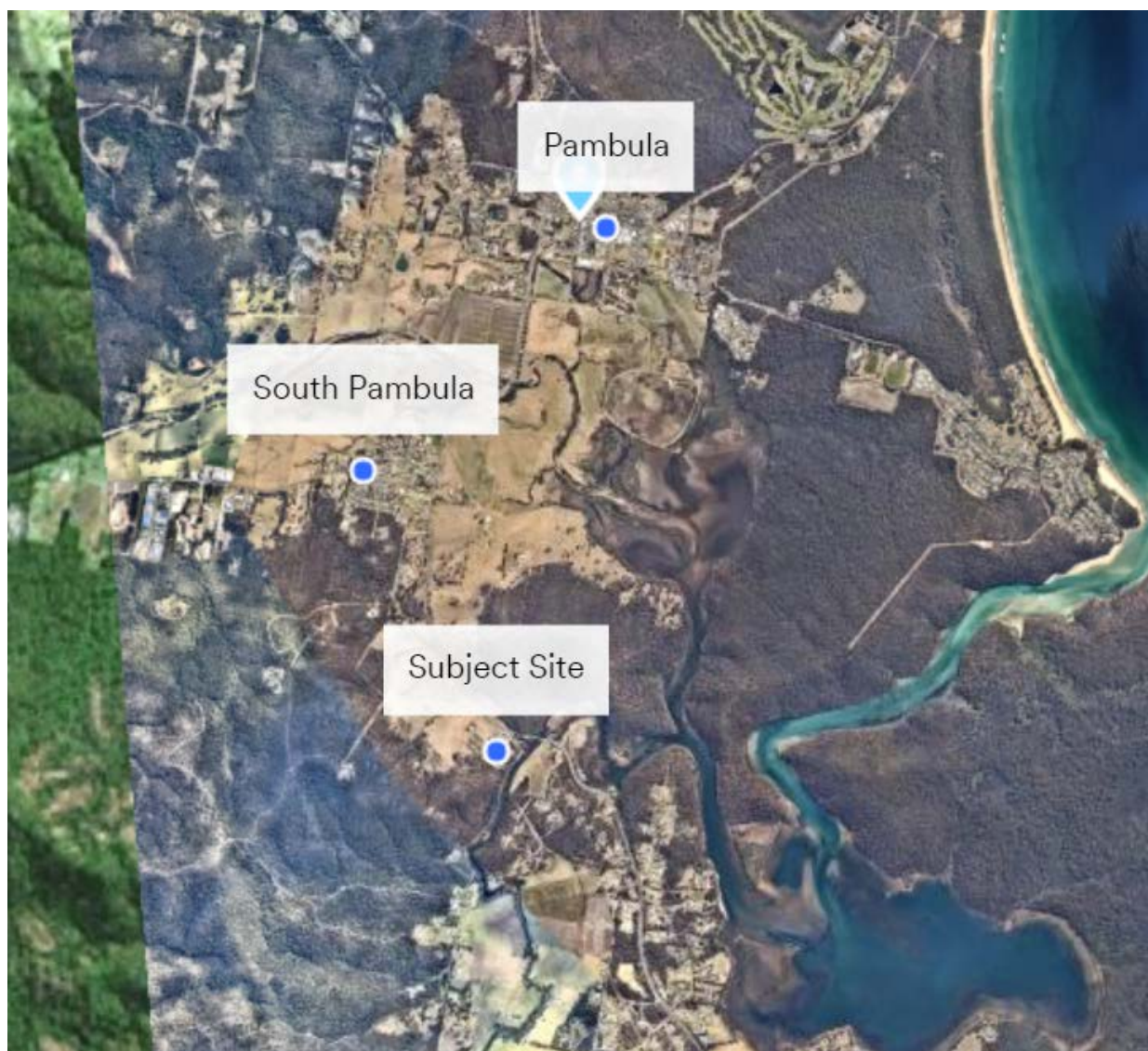
- Rezone approximately 26,000 square metres (sqm) of the site to E4 Environmental Living with a minimum lot size (MLS) of 8,000 sqm;
- Rezone the remainder of the site to E2 with a MLS of 120 ha (**see Section 2**).

The Site's owners have undertaken the following consultation which is reflected in the current planning proposal (**see Section 4**):

- 2019/2020 – Discussions with Council regarding inclusion of the site in Council's Rural Residential Strategy; and
- 2020/2021 – Discussions with Council, Transport for NSW (TfNSW) and the then Biodiversity and Conservation Division (now BCS) regarding the rezoning.

The consultation undertaken will guide the ongoing/formal consultation with Council, the Department of Planning, Industry and Environment (DPIE) and NSW Government agencies, as part of the rezoning process (i.e. following Gateway determination).

This planning proposal has been prepared in accordance with DPIE's *Planning Proposals: A Guide to Preparing Planning Proposals* and all relevant State and Council policy and legislation. The information provided in this report establishes the strategic and site-specific merit for the rezoning (**see Section 3**), is adequate for the PP process and provides a sound foundation for preparation of a more detailed (future) Development Application (DA) and subdivision process.



**Map 1 – Location of the Site**



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## 1. Objectives and description of planning proposal

The objectives of the planning proposal are to amend the Bega LEP in respect to 3900 Princes Highway, Greigs Flat (the Site) to:

- Support delivery of Bega Valley Shire Council's (Council's) *Rural Residential Strategy 2020* (the RRS 2020) which was adopted by Council in February 2020 and endorsed by the NSW Department of Planning, Industry and Environment (DPIE);
- Rezone the subject site (**see Map 2**) from its current RU2 Rural Landscape and E2 Environmental Conservation zoning to E4 Environmental Living and E2 Environmental Conservation;
- Enable the site to be subdivided (subject to development consent) into 3 rural-residential allotments, each with its own dwelling entitlement by applying an 8,000 sqm MLS to the E4 zoned area and maintaining the MLS of 120 ha for the E2 zoned area; and
- Rationalise the existing E2 land zoning in the north eastern corner of the site to protect riparian areas on the site.

The intended outcome of the planning proposal and subdivision is (**see Map 2**) to create:

- Two new/vacant rural-residential lots, each approximately 8,000 sq.m. in size on the northern half of the Site, each with its own dwelling entitlement, and
- One residual rural residential lot that would contain the existing dwelling and outbuildings, most of the existing vegetation (except for 3 individual paddock trees) and the triangular portion of land which fronts both the Yowaka River and Nethercote Road.

Part of the triangular shaped area that was created from severance by the Nethercote Road would be rezoned from RU2 to E2 to reflect the characteristics of the land (includes flood affected riparian areas associated with the Yowaka River and a small tributary that crosses that part of the site).

The subject site is part of the proposed South Pambula rural-residential release area (referred to as area No. 4) as identified in Bega Valley Shire Council's RRS 2020 and is suitable for rezoning to enable further rural-residential subdivision.

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979*, the NSW Department of Planning, Industry and Environment's *A Guide to Preparing Planning Proposals* (December 2018) and other relevant legislation.



**Map 2 – The Site and the indicative proposed subdivision layout**

Source: Base map taken from Nearmap

## 2. The Site

The Site (**see Map 2**) is:

- Known as 3900 Princes Highway, Greigs Flat;
- Comprised of 2 separate lots, Lots 60 and 61 DP 861043 which have a combined total area of 4 hectares (ha):
  - Lot 61 is 39,070 sq.m. in size and is split into 2 parts by the Nethercote Road and comprises the bulk of the property and a small triangular-shaped east of the Nethercote Road and a finger of land that runs south, between the Nethercote Road and the mean high-water mark of the Yowaka River; and
  - Lot 60 which is 930.7 sq.m. and is immediately south of the Nethercote Road and was formed by a previous re-alignment of the road;
- Gently sloping from south west to north east with the Nethercote Road frontage being the lowest part of the property (**see Map 3**);
- Developed as a rural holding with an existing dwelling and several nearby rural outbuildings/sheds that gain access to the Nethercote Road via a large concrete driveway;
- Approximately three quarters cleared with cleared areas being characterised by introduced pasture species, native pasture and several individual paddock trees (eucalypts); and
- Approximately one quarter vegetated with sparse native vegetation that has been historically grazed by goats (prior to the current owners purchasing the property in 2002).

The Site is bounded by the Nethercote Road and Yowaka River on the south east, east and north east, the Princes Highway on the north, a similar sized rural property on the north west and large rural holding to the rear or south west. The property to the immediate north west is a rural land holding which is accessed via a right of way over the Site and that operates as a plant nursery.

The land adjoining the rear/south western boundary of the Site is vegetated and forms part of a larger land holding that is also primarily cleared and subject to a similar rural-residential rezoning proposal (PP\_2020\_BEGAV\_002\_00) which is currently being progressed by Council. That site is shown as a Deferred Matter in the Bega LEP.

Land to the south east of the Site, across the Yowaka River is developed for rural lifestyle holdings and is primarily zoned E4, except for a strip of E2 zoned land which runs parallel to the Yowaka River. The land to the east, across the Princes Highway, is comprised of large rural holdings and is a mixture of cleared pasture and dense bushland and is zoned RU2 and E2 under Bega LEP.





**Map 3 – Topographic map of the Site**

Source: Base map taken from Nearmap



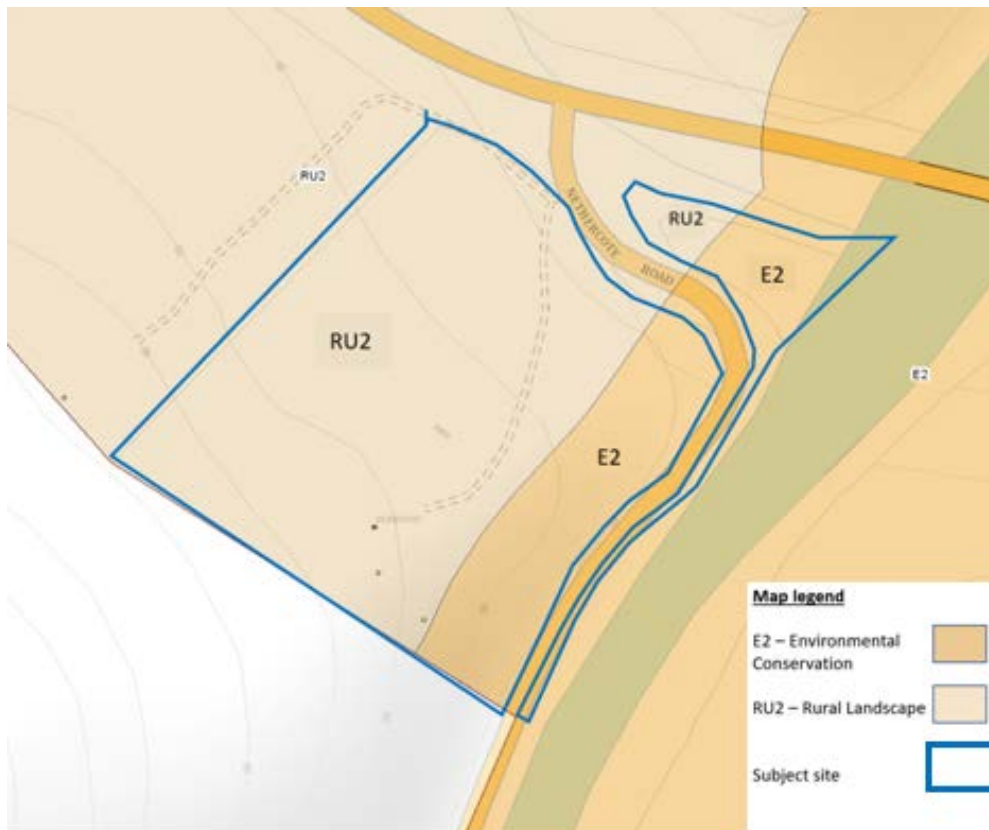
### 3. Existing planning controls

The site is currently zoned part RU2 and part E2 under the Bega LEP (**see Map 4**) with a minimum lot size of 120 ha and a 10m height of building limit.

Other local provisions which apply to the Site or part of the site under Bega LEP which are considered in Section 3 of this report are:

- **Constrained Land** – runs parallel to the Yowaka River, is based on the mapped riparian buffer and does not cover the area proposed to be rezoned to E4;
- **Biodiversity and Vegetated Land Buffer layers** – based on coarse-mapping/high-level vegetation mapping which flags the need for the more detailed site-specific consideration of biodiversity attributes and potential impacts, as has occurred in this planning proposal;
- **Bushfire prone land** – based on broad vegetation categories and application of buffer distances from existing vegetation;
- And notations regarding:
  - **Proximity to a classified road** due to the property fronting the Princes Highway, and
  - **Proximity to electrical infrastructure** due to there being an electrical easement that crosses the Site.

The planning proposal is not seeking to amend these local provisions. The nature of these attributes has been considered and addressed in the preparation of this planning proposal and in identifying the site as being suitable for additional rural-residential development.



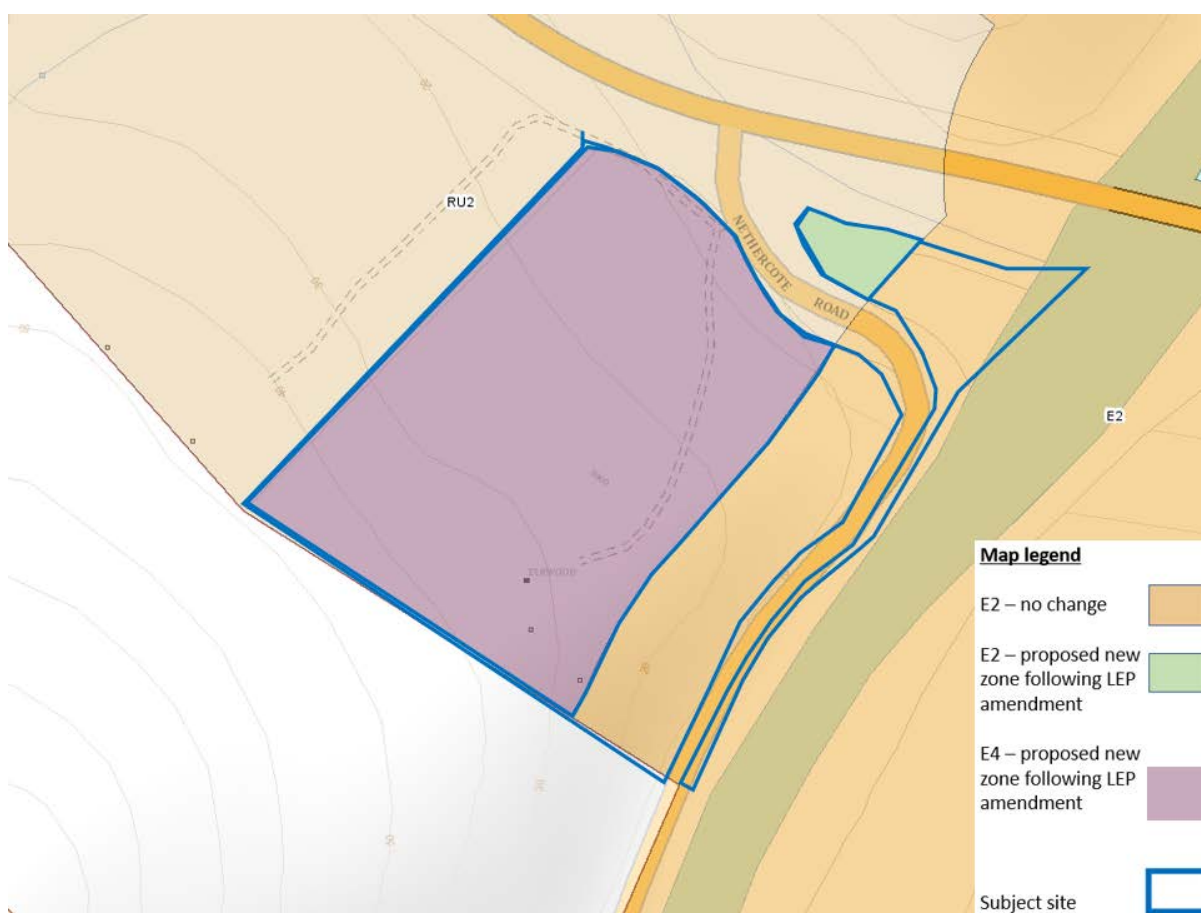
**Map 4 – Existing zoning of subject site under Bega Valley LEP 2013**

Source: Base map taken from the Planning Portal E-Planning spatial viewer

## 4. Explanation of Provisions and Mapping

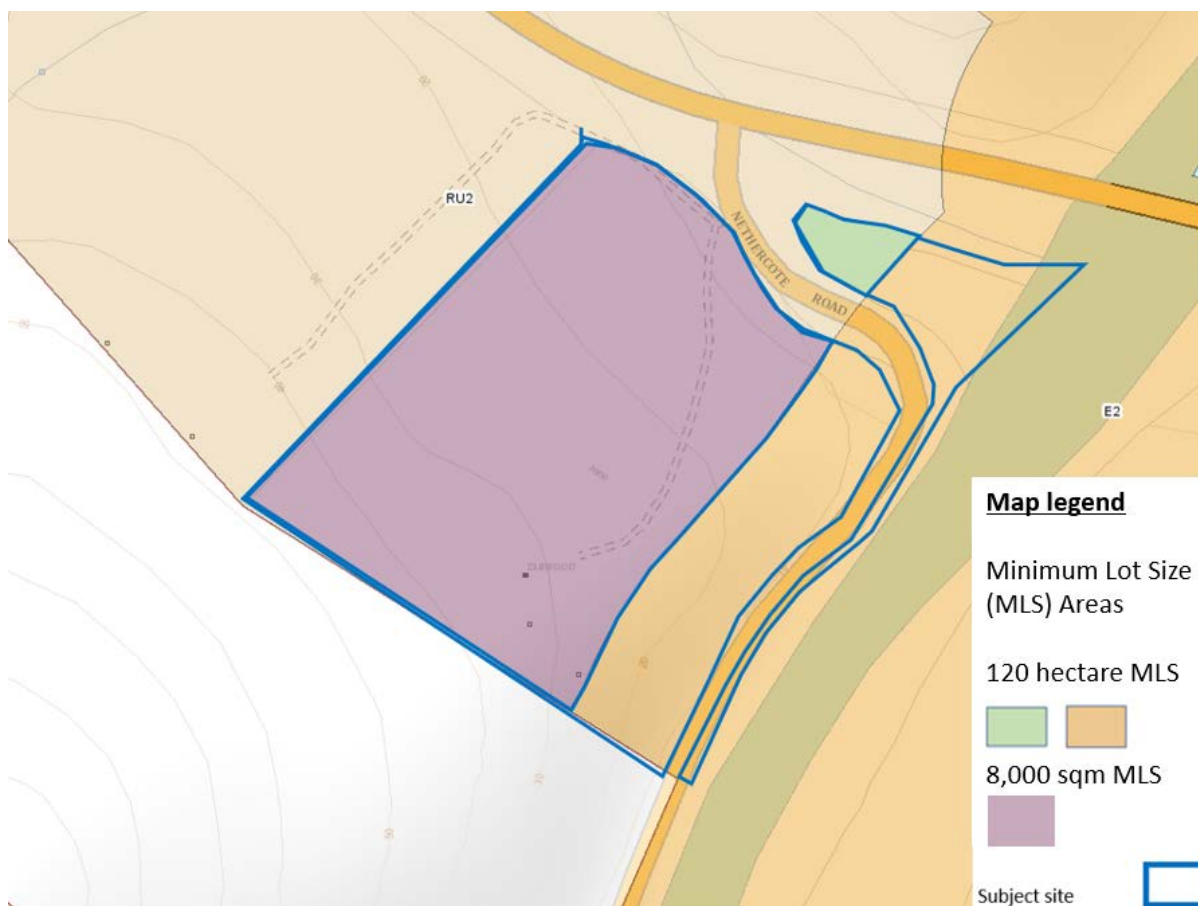
The intended objectives and outcomes of the planning proposal would be achieved by the following amendments to Bega LEP:

- Land Zoning Maps (Sheet LZN\_007C and 7D) would be amended to show approximately 2.8 ha of the Site as being zoned E4 Environmental Living with the remaining 1.2 ha being zoned E2 Environmental Living (instead of the current RU2/E2) (**see Map 5**); and
- Lot Size Maps (Sheet LZN\_007C and 7D) would be amended to apply an 8,000 sqm minimum lot size to the land zoned E4 and 120 ha for the land zoned E2 which would allow the lot to be subdivided into 2 lots of approximately 8,000 sqm and a residual lot that would contain approximately 8,000 sqm of E4 zoned land and the remaining E2 zoned land and the existing dwelling and outbuildings (**see Map 6**).



**Map 5 – Proposed zoning of subject site**

Source: Base map taken from the Planning Portal E-Planning spatial viewer



### Map 6 – Proposed lot sizes

Source: Base map taken from the Planning Portal E-Planning spatial viewer

The planning proposal does not require any amendments to the land use tables or other provisions in the Bega LEP.



## 5. Need for the Planning Proposal

The planning proposal is needed to:

- Provide a modest increase in rural-residential dwellings in the South Pambula rural-residential release area which is part of the broader Pambula catchment which has an identified shortage of rural-residential land supply;
- Provide the highest and best use for land that has good road access, access to services and that is well located from a bushfire safety/evacuation perspective; and
- Support delivery of Council's endorsed local planning strategy which identifies the site as being suitable for rural-residential development and recommends that individual planning proposals be brought forward to implement Council's strategy.

Given that the current planning controls that apply to the Site do not permit further subdivision, a planning proposed is the only way to enable a 3-lot subdivision of the subject site.

In addition to the points made above, there is a currently high and unmet demand for land and housing on the Far South Coast as a result of the 2019/20 bushfire season when 2,000 houses were lost on the South and Far South coast and the increase in population in regional areas following the Covid 19 pandemic. This planning proposal is needed as part of the overall response to providing additional housing in this area.

## 6. Strategic context and merit

The planning proposal is consistent with all relevant State and local government strategies and aims to deliver the intended strategic development outcome for the Site.

### **South East and Tablelands Regional Plan 2036**

The planning proposal supports delivery of the NSW Department of Planning, Industry and Environment's *South East and Tablelands Regional Plan 2036* (the Regional Plan) as it is consistent with the following goals, directions, and actions from the Regional Plan:

#### **Goal 2: A diverse environment interconnected by biodiversity corridors**

- Direction 14 Protect Important Environmental Assets:
  - Action 14.2 Protect the validated high environmental value lands in local environmental plans.
- Direction 15: Enhance biodiversity connections
  - Action 15.1 Protect and enhance the function and resilience of biodiversity corridors in local strategies.

#### **Goal 4: Environmentally sustainable housing choices**

- Direction 24: Deliver greater housing supply and choice:
  - Action 24.3 Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs.
- Direction 28: Manage rural lifestyles:
  - Action 28.1 Enable new rural-residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.
  - Action 28.3 Manage land use conflict that can result from cumulative impacts of successive development decisions.

Consistency with the above Directions relates to:

- The increase in area zoned E2 as part of the planning proposal from rezoning a small area from RU2 to E2 and maintaining the remaining E2 zoned land on the subject site (which is not all High Environmental Value land) and rezoning land that is clearly not HEV land to E4; and
- The delivery of rural-residential land in an area that has good access to existing services and infrastructure, in a catchment that has an identified shortage of this form of housing choice and in an area where it will not impact on the ongoing economic use of agricultural land.

In conditionally endorsing Council's local planning strategy, DPIE has determined that the release of the subject site is consistent with the Regional Plan.

### **Bega Valley Shire Local Strategic Planning Statement 2040**

In June 2020 Council adopted the *Bega Valley Shire Local Strategic Planning Statement 2040* (LSPS) which will guide direction for land use planning in the Bega Valley Shire through to the year 2040. The LSPS identifies the need for greater housing diversity and affordability, enhancing the distinct local character of each place and for well-planned and efficient urban settlement.

The proposal would enable a zoning and minimum lot size which is better reflective of the emerging rural-residential character of the area, support improved housing choice within the LGA and is in an area that is identified as being suitable for rural-residential development.

**Bega Valley Council – Rural Residential Strategy 2020 (RRS 2020)**

Council's RRS 2020 outlines Council's strategic directions for rural living opportunities and guides future rural-residential development. DPIE conditionally endorsed the RRS 2020 and BVSC has subsequently complied with all relevant conditions of endorsement that relate to the subject site.

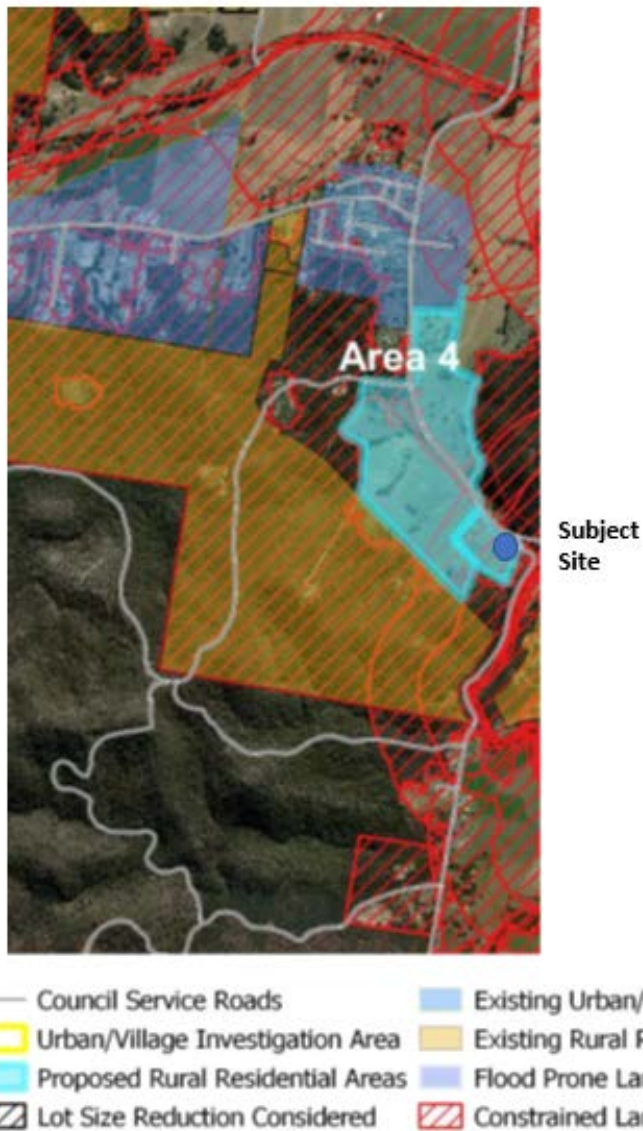
Council identified part of the site as being suitable for rural-residential development when it prepared the strategy as part of the South Pambula Area 4 (**see Map 7**). This is the area that is proposed to be zoned E4 and subdivided.

The remainder of the subject site is identified by the RRS 2020 as being 'constrained land' due to it being within the identified 'Coastal Use Area' in *State Environmental Planning Policy (Coastal Management) 2018* (SEPP Coastal Management) and the bushfire buffer area.

The Constrained Land designation flags that more detailed consideration of issues as part of the planning proposal process, as it has already been occurring for lots closer to South Pambula which would have also fallen into the category of 'constrained land' by virtue of their proximity to vegetation and the mapped bushfire buffer area.

Relevant provisions in the SEPP Coastal Management have been considered in Section 8 and bushfire related issues are address in section 7.6. These sections conclude that the site is suitable for part-rezoning to enable rural-residential development and the planning proposal is therefore consistent with Council's RRS 2020.





**Map 7 – Excerpt of the Pambula Future Directions Map in Council's strategy**

Source: Adapted from BVSC's Rural Residential Strategy2020

## 7. Site-specific Issues

### 7.1 Biodiversity

The site is predominantly cleared paddocks (**see Image 1**), except for several isolated native paddock trees (several mature and some minor regrowth, mostly planted by previous owners) and several pockets of Dry Sclerophyll Forest which are concentrated in a thin strip along the southern boundary of the subject site, along the Nethercote Road frontage (**see Map 8**).

The remaining vegetation on the site is concentrated around the existing dwelling and its surrounding gardens and is comprised of introduced species (e.g. fruit trees, roses, vegetables) and native species that have been planted as garden/ornamental plants e.g. eucalypts, grevillea, Kangaroo Paw, pittosporum, melaleuca etc.



**Image 1: The subject site, looking west from the Nethercote Road (existing dwelling to the left and cleared areas proposed to be subdivided to the right)**

The proposed new rural-residential lots will be located on the area that is primarily cleared and vegetated with introduced pasture species, native grasses and several mature endemic and introduced native paddock trees.

The paddock trees will, where possible, be retained to ensure regeneration and continuation of ecosystem services they provide and as such, the proposal is not anticipated to result in any significant or adverse environmental impacts. The immature regrowth trees which have seeded from the mature eucalypts will also be retained, where possible.

The dominant vegetation types will be retained on the residual allotment (proposed Lot 1) and most of this vegetation will continue to be protected by virtue of its E2 zoning. The northern, triangle-shaped parcel which is a riparian and riparian buffer area (**see section 7.2**) is characterised by a mixture of native trees and native and introduced grasses. The area that is currently R2 will be rezoned to E2 to increase the level of protection for this riparian area.



Source: Base map taken from [Nearmap](#)

Native (local) species

- [Eucalyptus muelleriana](#)    ● [Eucalyptus longifolia](#)    ● [Eucalyptus baueriana](#)
- [Eucalyptus camaldulensis](#)

Introduced species

- ▲ [Eucalyptus tereticornis](#)    ▲ [Eucalyptus woodwardii \(?\)](#) and [Grevillea robustus](#)
- ▲ [European Oak](#)

Existing vegetation

**Map 8: Existing vegetation and large paddock trees on the subject site**

### **Pre-Gateway consultation with EES**

As part of its pre-rezoning consultation process Council referred the draft planning proposal to the DPIE Environment, Energy and Science Division (EES), for comment. EES confirmed that it would not object to the planning proposal and that no additional biodiversity assessment is required (Attachment A).



EES also stated that the subsequent development application could potentially trigger a Biodiversity Offset Strategy and preparation of a Biodiversity Development Assessment Report (BDAR) under the *Biodiversity Conservation Act 2016* (BCA Act). The potential for a BDAR to be required under the BCA Act will be considered and addressed as part of a subsequent DA process.

### **Ecological Constraints and High Environmental Value (HEV) mapping**

Council's Bega LEP ecological constraints mapping layer identifies the potential ecological values on the subject site (**see Map 9**), based on HEV mapping originally prepared by EES to support preparation of the Regional Plan. While the HEV layer is a useful strategic planning tool, it requires ground-truthing for each individual site as part of a local strategy, planning proposal or DA process.

The vegetation mapping undertaken as part of this planning proposal (see Map 8) has determined that the coarse HEV mapping is not correct for this site with the HEV, particularly for the RU2 zoned land proposed to be rezoned to E4. The RU2 areas that are shown to be HEV are primarily cleared, except for a European Oak and a eucalypt planted near the southern boundary by the previous owners (i.e. since the land was subdivided off the adjoining property).

While the vegetation mapping illustrated in Map 8 shows the HEV mapping is also not accurate for the E2 land, it is not proposed to reduce the E2 zoned area on the main part of the property.

### **Biodiversity connectivity**

The vegetation running along the eastern boundary of the site and along the Yowaka River foreshore acts as a stepping-stone biodiversity corridor which enables the movement of wildlife between two large patches of existing vegetation. The current land owners have placed their boundary fence inside their property boundary to allow the movement of wildlife along the Nethercote Road verge/corridor.

Given that the E2 zoning on the main part of the site will not be changed, no additional development will occur in the E2 zoned area and an additional area of E2 zoned land will be created on the separated triangle of land (i.e. there will be more E2 as a result of the planning proposal), the planning proposal will have a positive benefit on this link and the movement of wildlife.

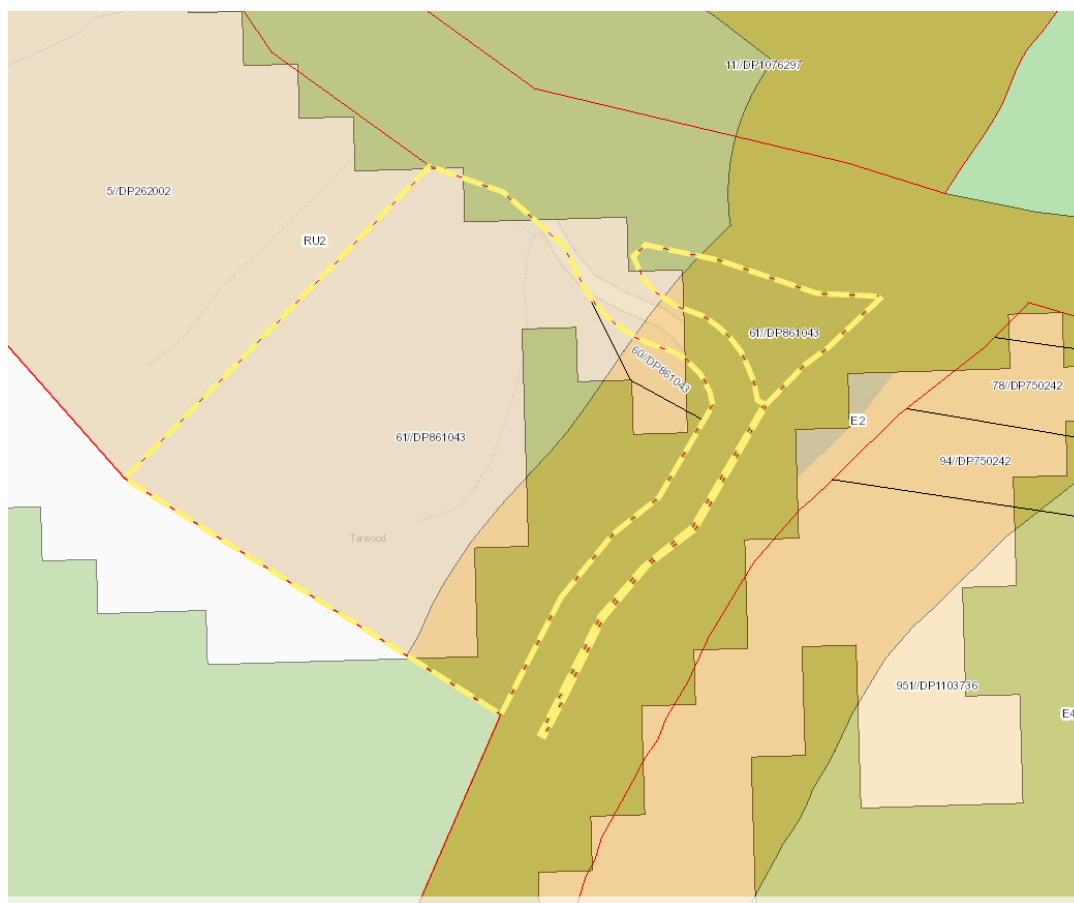
### **Other biodiversity issues**

The planning proposal is consistent with the *State Environmental Planning Policy (Koala Protection) 2020* as there is no proposed clearing, paddock trees will be retained, where possible, as potential Koala feed trees and there are no recorded breeding populations of Koalas in the surrounding area (**see section 8**).

Following rezoning of the area to be subdivided from a rural zone (RU2) to an environmental zone (E4), it will no longer be regulated by the *Local Land Services Act 2013* (LLS Act) which permits certain clearing activities, without development consent. Vegetation in the E4 zone will also be subject to regulation by the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (SEPP Vegetation) and the Bega Valley Development Control Plan and Council. Council also has provisions in place (e.g. Bega Valley DCP 2013 – Section 5.6 Tree and Vegetation Preservation in Bega Valley).

The SEPP Vegetation and Council's DCP will together provide a higher level of protection for the existing vegetation, particularly for regrowth, than the provisions which apply to the Site. This, combined with the RU2 land on the separate triangular-shaped site being proposed to be rezoned to E2, will mean that overall, the Planning Proposal will not have negative impacts on the biodiversity values of the Site and its surrounds.

The issue of clearing associated impacts will be appropriately addressed at the DA stage, following completion of the planning proposal and LEP amendment process and once a final plan of subdivision has been determined.



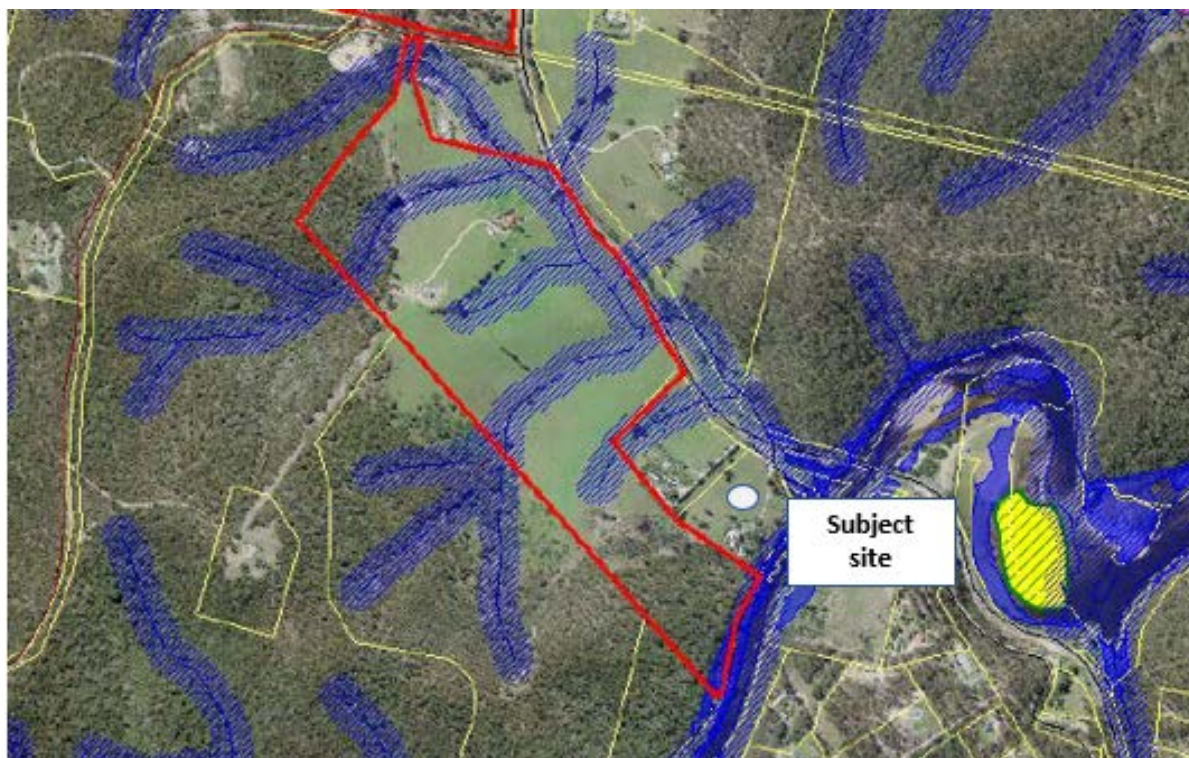
**Map 9: Council's sensitive land LEP overlay**

Source: Planning Portal E-Planning spatial viewer

## 7.2 Prescribed streams and riparian buffers

There is a prescribed stream that runs through the north eastern corner of the subject site and discharges into the Yowaka River (**see Map 10**). This part of the site and the riparian buffer areas are separated from the main part of the site by the Nethercote Road and will not be disturbed by the proposed new rural-residential lots and associated dwellings. Rezoning the RU2 land on this part of the site to E2 will provide an overall net environmental benefit from this proposal.

There are 2 drainage lines/contours that traverse the area where the 2 new lots are proposed. These only drain water after heavy rain events, do not hold water and will be considered as part of the subsequent subdivision and dwelling development applications.



**Map 10 – Prescribed streams and riparian buffers**

Source: BVSC

### 7.3 Flooding

The majority of the subject site is located on the side of a hill with the area where future rural-residual development will occur (i.e. Lots 2 and 3) sitting between approximately 10 and 48m AHD. This area is not subject to flooding.

There are 2 hillside drainage lines on the site which only have running water during heavy and prolonged rainfall events. There is no ponding in these drainage lines, even after heavy rainfall events and their respective up-slope catchment areas are not sufficient to generate sufficient rainfall to flood the side of the hill. These drainage lines run down the hill and into the Nethercote Road drainage and then into the creek which crosses the small triangular shaped block that joins the Yowaka River on the north eastern corner of the subject site.

The small triangular shaped parcel includes the creek and the Yowaka River foreshore area. This area is subject to flooding with flooding for most events characterised by minor stream bank overtopping from the creek and Yowaka River. Historically this area did have more significant flooding, until it was partially filled by TfNSW and Council during roadworks to the Princes Highway and the Nethercote Road. While the entire triangular site is expected to flood in larger flood events, it typically only floods around the creek and Yowaka River foreshore (i.e. this localised flooding occurred early in 2021).

Both the existing dwelling and the 2 new dwellings which would be constructed on the proposed Lots 2 and 3 will use the existing access points that are used by the current dwelling and the adjoining property which is accessed via a right of way across the subject site (see **Image 2** on page 22).

Given the topography of the site, consideration of flood-related issues has been limited to potential flooding on the small triangular area which is proposed to have an increased E2 zoning (and no additional development potential) and whether the new lots will have or could attain flood-free access off the Nethercote Road. The Nethercote Road access point for the

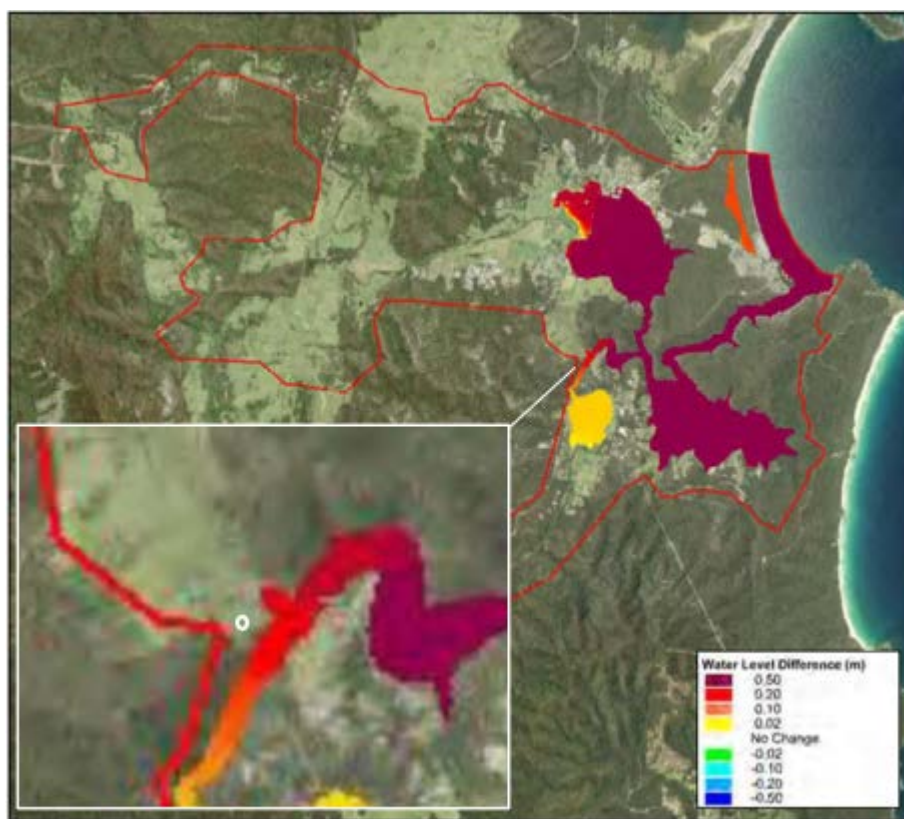
subject site has not been flooded during the last 40 years that the owners have lived on the subject site and the adjoining property.

### **Pambula River, Pambula Lake, Yowaka River Flood Study and flood affectation**

Council undertook community consultation on the Pambula River, Pambula Lake, Yowaka River Flood Study (the Flood Study) in April 2021 and was adopted by Council at its 21 July 2021 meeting. Council's Flood Study shows that both the triangular site and the small finger of foreshore land that runs parallel to the Nethercote Road and mean high water mark will be affected by flooding, from the Yowaka River (see **Map 11**).

Council's Flood Study included the identification of a Flood Planning Level (FPL) which consisted of the 1 % Annual Exceedance Probability (AEP) level, plus 500 mm freeboard and a further 400 mm allowance for Sea Level Rise (SLR) i.e. the FLP is the 1 % AEP + 0.9m. Given that the Flood Study and Management Plan process has not been completed.

The inset in **Map 11** shows how the 1% AEP flood level and 0.9m SLR scenario would impact the Site with the small (red) protrusion showing inundation of the triangular-shaped portion of the site and the Nethercote Road.



**Map 11 – 1 % AEP Flood with 0.9m Sea Level Rise**

### **Flood impacts and affectation**

Map 11 shows that the area proposed to be zoned E4 and subsequently subdivided to enable the development of 2 additional/new rural-residential dwellings will not be affected by the 1% AEP level, plus an allowance of 0.9m for SLR (i.e. because they are on the side of a hill). It also confirms that the triangular portion of the site is flood affected and that the Nethercote Road will be inundated in front of the subject site.



Council's Flood Study identified that the Nethercote Road will be inundated under a variety of flood events and that this level of inundation will increase over time. With the current road profile, if the flood scenario was to occur, this could mean that the proposed 3 lots and the adjoining separately-owned property could have their access to the Princes Highway affected. This would represent a minor inconvenience for the future land owners and not be an impost on emergency management, particularly by comparison to the other impacts that would be associated elsewhere in the catchment if that scenario was to occur e.g. access to Nethercote, Griegs Flat and Pambula all being cut off as well as buildings being inundated.

Also, given that the two existing access points slope down to meet the Nethercote Road, they could be easily reshaped to meet the Nethercote Road, if Council decides to increase its height in the future to avoid it being inundated and access to Nethercote cut during a flood event. The sloping access points is illustrated in Image 2 on the following page (Section 7.5 Traffic and Access).

The flood impacts associated with raising the driveways to remove flood affectation and meet a raised Nethercote Road would be infinitesimal, when considered with the extent of the Yowaka and Pambula River catchments and that there is very little downstream development from the Yowaka River Bridge.

### **Pre-Gateway consultation with EES**

In its response EES acknowledged that Council's flood study identified only minimal flood affectation on the subject site and that the lots contain at least one watercourse. EES also requested that a Flood Impact Risk Assessment (FIRA) be prepared and that the following matters be considered:

- Ministerial Direction 4.3 - Flood Prone Land
- the principles of the Floodplain Development Manual
- the implications of the full range of floods up to the Probable Maximum Flood (PMF)

#### *Ministerial Direction 4.3 – Flood Prone Land*

The updated (July 2021) Ministerial Direction 4.3 – Flood Prone Land has been considered in Section 9 of this report. This Direction applies because part of the Site is identified as being flood prone and the planning proposal includes a proposal to alter zones that apply to that area.

The planning proposal is consistent with the findings of the soon to be adopted *Pambula River, Pambula Like and Yowaka River Flood Study, Final Report* (2021). The planning proposal is not inconsistent with this Direction as it does not seek to rezone flood affected land to a residential zone or to permit any sensitive land uses in flood affected areas. The potential flood impacts on and off the subject land have been considered in preparation of this planning proposal which is therefore commensurate with the flood attributes of the site and its immediate surrounds.

#### *Principles of the Floodplain Development Manual*

The planning proposal is consistent with the principles of the NSW Floodplain Development Manual (2005) (FDM) which are primarily to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. The planning proposal is consistent with the FDM because:

- The areas that are proposed to be developed for new rural-residential development as a result of this planning proposal (i.e. proposed Lots 2 and 3) are not affected by flooding;
- No development will occur in the flood affected triangular-shaped area that will be included in the residual lot (proposed Lot 1) as Council would not allow development on that site and the existing dwelling is located at approximately 35m AHD and is obviously not flood affected; and
- The zoning of the flood affected area will change from being zoned part RU2/E2 to being zoning wholly E2 which permits less land uses.

In addition, once Council has adopted a Flood Planning Level for the area, Clause 5.21 Flood Planning of the Bega LEP 2012 will ensure that flood planning is given adequate consideration at the DA stage. The planning proposal will not alter these provisions.

#### *Flood Impact Risk Assessment*

Approximately 9% of the site is flood affected and within the area affected by the 100 year ARI event. As previously discussed, the area that is flood affected will not be developed as a result of the planning proposal with the permissible development on that area decreasing overall as a result of the planning proposal. A similar level of flood affectation (i.e. +200 mm) would occur from the 1% AEP event, with a 0.9m allowance for SLR.

The water which would cover parts of the Nethercote Road just before it rises to meet the Princes Highway would be flood fringe that backs up in a minor backwater as a result of the Nethercote River flow path narrowing at the Yowaka River Bridge and flood water entering the Yowaka River from the small creek that runs across the triangular portion of the site. The flood water covering the triangular portion of land would be a mixture of running flood water from the Yowaka River and from the small creek.

There is no risk of any of the dwellings on the subject site being subject to flooding and consequentially, there is a very low risk to life and property from this planning proposal. Any residual risk would be appropriately considered by Council, at the DA stage. Given that nature of the site and flood risk a full-scale Flood Impact Assessment is not required to determine whether the planning proposal has merit.

## 7.5 Traffic and Access

Access to the Site is via the Nethercote Road with the intersection being 40 m from the intersection of the Nethercote Road and the Princes Highway (**see Figure 2**). The existing driveway to the proposed Lot 1 (and proposed new Lot 2) is a concrete driveway that extends from the Nethercote Road frontage to the existing dwelling.

The adjoining rural-residential property also has an access point between the Princes Highway and the subject site's driveway and has a driveway/right-of-access across the Site that runs parallel to the Princes Highway until it reaches the adjoining site. The existing right-of-access which provides access to the adjoining property is a gravel road which enters Nethercote Road 40 m from the broken line where Nethercote Road intersects with Princes Highway.

The intersection for both driveways was reconstructed by TfNSW (the then RTA) when it upgraded the Nethercote Road intersection in 1996. The Nethercote Road part of the intersection was also improved as part of the Highway improvement project and has been improved several times since then, by Council.



**Image 2** – The two existing access points when viewed from the triangular-shaped part of the Site, looking west across the Nethercote Road

The Princes Highway/Nethercote Road intersection was substantially redesigned by TfNSW in 1996 to improve safety and functionality. The improvements involved widening the intersection in both directions, the addition of a painted median in both directions and a right hand turning lane for vehicles turning into the Nethercote Road when traveling from north-west (i.e. from South Pambula) and clearing of vegetation to improve sight distances for vehicles travelling from both directions, particularly from the south-east (i.e. from Eden).

Traffic entering the Nethercote Road has to decelerate due to the road geometry/turning angles when coming from both the north-west (i.e. from South Pambula), which is done in the turning land, or the south-east (i.e. from Eden).

An analysis of the TfNSW Centre for Road Safety's crash data shows there have been no reported accidents at the Princes Highway/Nethercote Road intersection for the period 2015-2019. The only reported crash within a kilometre of this intersection was a 2019 head-on collision south of the Yowaka River Bridge in an area that now has a solid concrete barrier separating north and south-bound traffic. The intersection and both approaches therefore appear to be operating safely, under the current conditions.

Both the Nethercote Road and the Princes Highway have sufficient capacity to cater for the relatively insignificant increase in traffic that would result from 2 additional rural-residential allotments/dwellings.

### **Proposed access**

The current preferred access arrangement for the proposed 3 lot subdivision does not involve the creation of any new access points to the Nethercote Road and is described below and shown conceptually in **Maps 12 and 13**:

- Proposed Lot 1 will be the residual allotment and will contain the existing dwelling with the existing concrete driveway and access to the Nethercote Road – Access for this lot will remain the same following subdivision, and
- To avoid creation of an additional driveway/access point to the Nethercote Road:

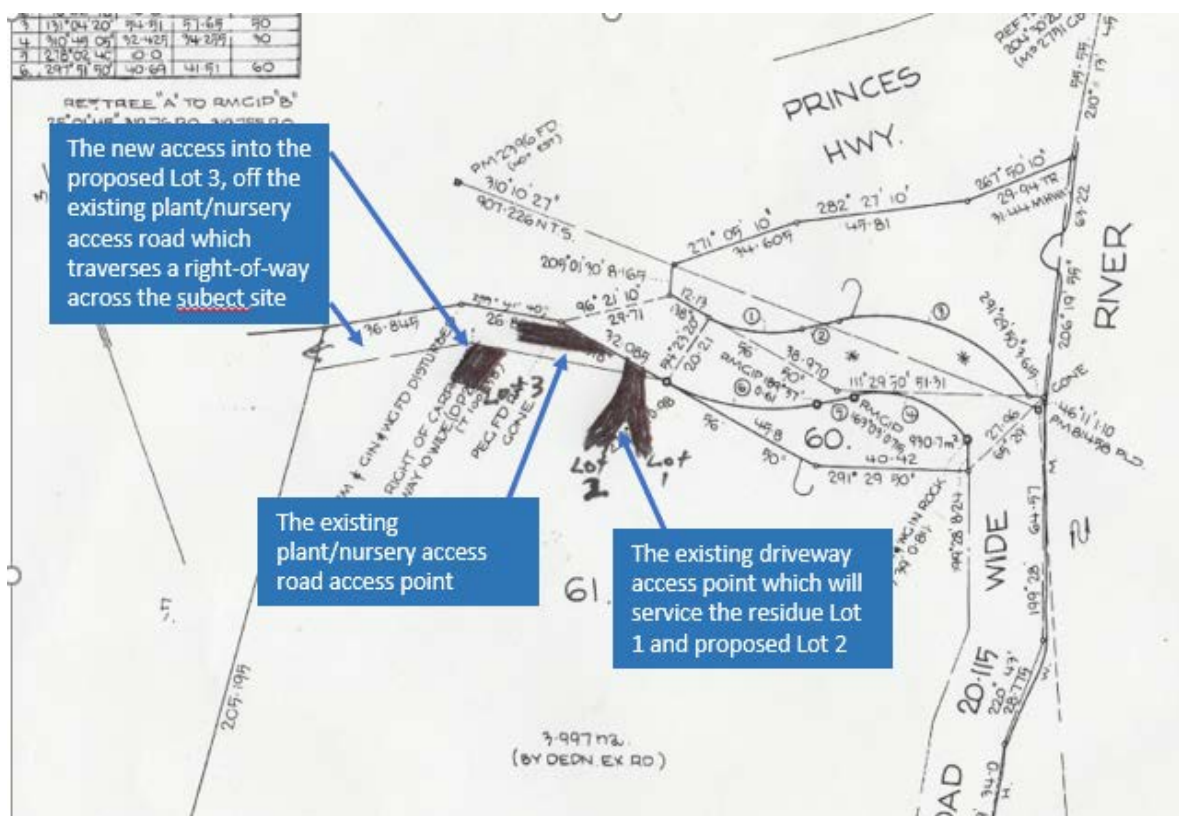
- Lot 2 would have access off the existing lot 1 driveway, away from its intersection with the Nethercote Road; and
- Lot 3 would have access off the existing right-of-way over the Site that provides access to the property to the north-east – the new driveway would join the right-of-way approximately 40m from where it joins the Nethercote Road.

The final intersection design will be determined at the development application/subdivision stage, following consultation with Transport for NSW (TfNSW) and Council and in accordance with the *Austrroads Guide to Road Design*.



**Map 12:** Proposed access points for Lots 1-3 (note that subdivision boundaries are indicative only and would be confirmed at the DA-stage)





**Map 13** – Proposed access points shown on the Deposited Plan

### **TfNSW response and the Princes Highway/Nethercote Road intersection**

TfNSW initially requested additional information relating to sight distances and a detailed site survey which showed the location of the proposed access points, on the Deposited Plan (see **Map 13**). Following consideration of this additional information, TfNSW raised concerns due to the existing safety of the Princes Highway/Nethercote Road intersection and the potential for the planning proposal to increase vehicle turning movements (**Attachment B**).

It is recommended that this planning proposal be progressed and Council undertake further consultation with TfNSW, as part of the planning proposal process and following issue of a Gateway determination.

TfNSW's safety concerns related to the due to the existing available sight distance and advised it would not support the planning proposal in its current form and based on a design speed of 110 kilometres (km) per hour (km/h). Specifically, TfNSW advised that:

*"Safe intersection sight distance (SISD) needs to comply with Austroads Guide to Road Design Part 4A – Table 3.2 (attached). Sight distance analysis completed by TfNSW demonstrates 128m SISD is available for northbound vehicles and 153m is available for southbound through vehicles. For a design speed of 110km/h (posted speed +10km/h) Austroads requires 285m in each direction. TfNSW notes significant deceleration would be required to enter Nethercote Road and vehicles may have to suddenly decelerate for a vehicle exiting Nethercote Road onto the Princes Highway, potentially causing road safety issues."*



Additional consultation should be undertaken with TfNSW as part of the planning proposal process in relation to its initial response, particularly given:

- the south-easterly approach (i.e. from Eden) to the intersection is elevated (**see Image 3 – view from approx. 285m distance**) and the visible distance from the intersection would most likely achieve the quoted sight distance of 250m (**see Map 14**);
- the north-westerly approach (i.e. from Pambula) (**see Image 4 – view from approx. 285m distance**):
  - has a right-hand turning lane which significantly increases the safety and decreases the required sight-distance from this direction;
  - the sight distance is also longer than reported given the flat topography of this approach,
  - the sight distance could be increased by maintaining vegetation within the road reserve maintenance achieve a much longer sight distance – there is also a question regarding whether this is warranted given there is an almost 100m long turning lane from that direction; and
- the net increase in traffic from 2 additional dwellings will be insignificant by comparison to the daily traffic that uses this intersection and is highly unlikely to affect the existing Level of Service of the intersection;
- if, after reconsideration of the TfNSW based on the above-mentioned points there is an existing safety issue with the intersection, TfNSW should investigate options to fix the safety issue and prioritise these works.

While we maintain that the intersection is operating safely, there are several options available to TfNSW to address safety issues with the Princes Highway intersection that avoid physical/upgrade works, if required. Options include:

- extending the 80 km/h speed limit which applies in South Pambula past the Nethercote Road and to the Landing Road at Greigs Flat which would have the benefit of increasing safety past the southern approaches to the Yowaka River Bridge;
- manage roadside vegetation on the approach to right-hand turning lanes which would achieve a 250 m sight-distance from both approaches to the Nethercote Road turnoff.

There would be a negligible impact in the Princes Highway/Nethercote Road intersection attributable to this planning proposal. It would therefore be unreasonable for the owners of Lot 3900 to be asked to pay a contribution to TfNSW to fund maintenance or upgrade works to address existing issues associated with an existing intersection.

Council regularly approves dwelling construction and occasionally subdivision within the broader Greigs Flat and Nethercote (314) catchments which had a population of almost 500 people in 2016. No new development in the Greigs Flat or Nethercote area has been asked to pay a contribution towards intersection works in this area and there are no State contributions plans in place which require payment of developer contributions towards the upgrade to this intersection.



**Map 14:** Plan showing 285m sight distance lengths, from the Nethercote Road intersection (note that the South Pambula approach does not take into account the existing right-hand turning lane)



**Image 3:** Approach to the Nethercote Road/Princes Highway intersection from the south east (i.e. from Eden) from a distance of approximately 285m  
Source: Google Street View

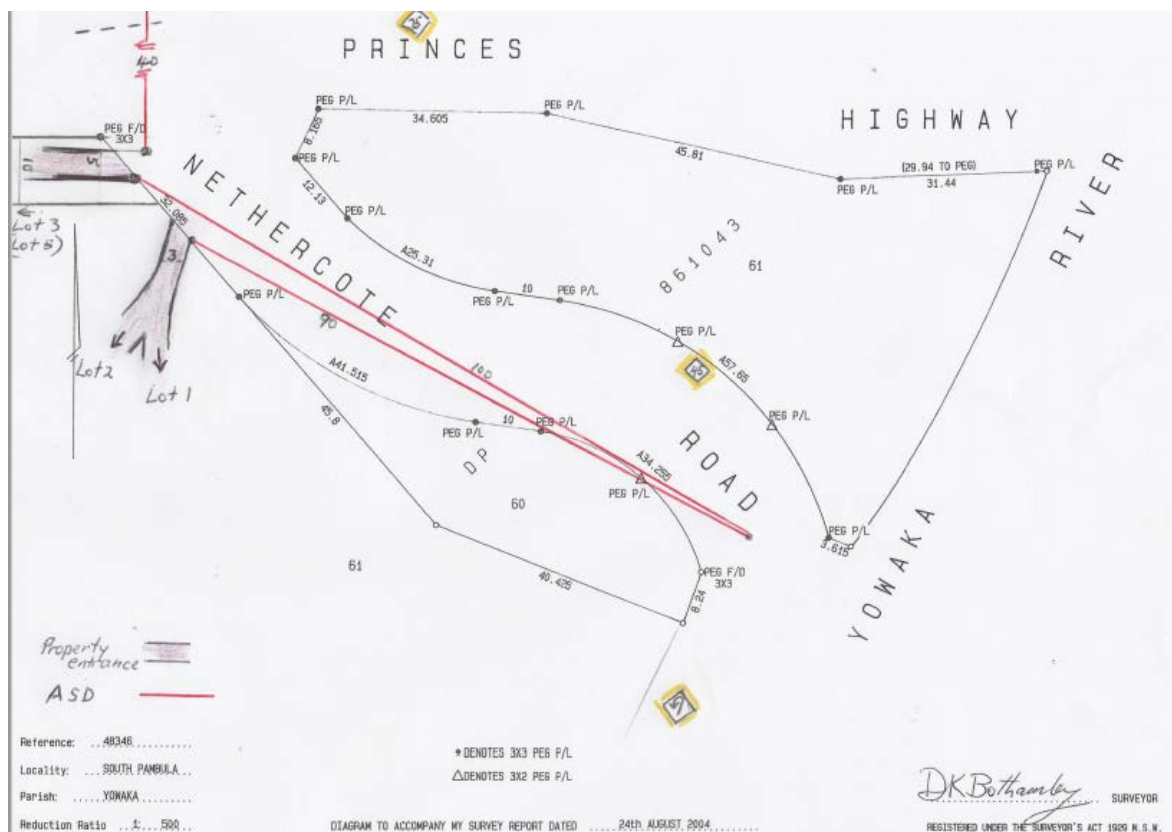




**Image 4:** Approach to the Nethercote Road/Princes Highway intersection from the north-west (i.e. from South Pambula) from a distance of approximately 285m  
Source: Google Street View

### Sight-Lines for the Nethercote Road

Sight-line analysis shows that sufficient sight-line distances (**see Map 15**) can be attained for vehicles entering the site to/from the Nethercote Road/Yowaka River corner (**see Image 4**) with the right-of-way having a 100m sight line and the concrete driveway having a 90m sight line. Both distances are greater than the required ASD of 76.8m (see workings in **Attachment C**).



**Map 15:** Sight-line distances from the Nethercote Road/Yowaka River Corner



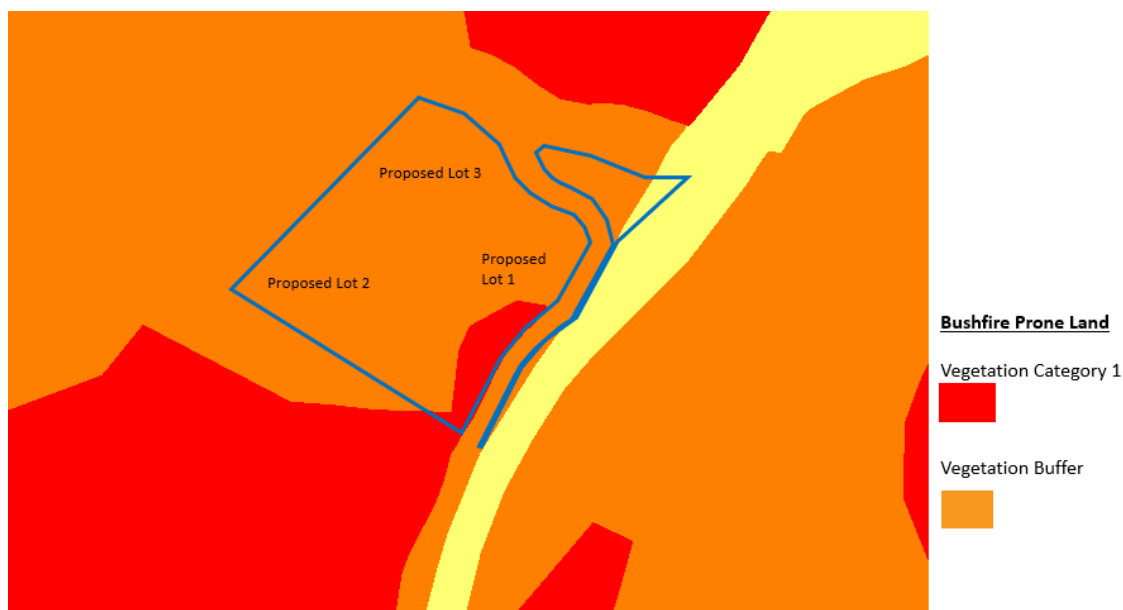
**Image 4** – View along the Nethercote Road, from the approximate access point to the property, looking south-east towards the Yowaka River

## 7.6 Bushfire

The site contains land that is identified as having category 1 bushfire vegetation and vegetation buffer (see Map 16) on the Bush Fire Prone Land (BFPL) layer. The category 1 vegetation is located on the E2 zoned land that would remain as part of the residual land



holding, with the existing dwelling. The proposed lots 2 and 3 which would have new dwellings are primarily cleared and wholly contained within the bushfire buffer area.



**Map 16:** BFPL status of the subject site

A Strategic Bushfire Assessment (SBA) has been undertaken in accordance with *Planning for Bushfire Protection 2019* and is included as Attachment D. This strategic bushfire study has assessed the bushfire risk to the Planning Proposal, the appropriateness of the proposed land uses and the ability for appropriate bushfire protection measures to be provided.

The SBA concluded that the proposed use of the land for rural-residential development is appropriate, the Planning Proposal meets the aim and objectives of PBP and can achieve required APZs and other bushfire mitigation measures and does not impose additional mitigation actions on adjoining land.

The conclusion was based on the following:

- there is no vegetation that will pose a bushfire risk on the area this is proposed to be developed as vegetation on this area is comprised of grassland, with scattered paddock trees and a small area of immature/under scrubbed and scattered regrowth (see Attachment D and the Rapid Assessment site 1);
- there is sufficient area on the proposed lots 2 and 3 for an appropriate Asset Protection Zone to be applied (50m APZ for grassland and sufficient room for an appropriate APZ for upslope vegetation if the building on Lot 2 is located closer to the existing vegetation) and that the bushfire risk to future residents on the Site can be adequately managed;
- adequate emergency access can be achieved and strengthened with the addition of gates in the battle-axe driveway of the proposed lot 2 so that all 3 properties and the emergency services can use either access point, in the case of one of these access points being unusable during an emergency; and
- the development of the subject site for rural-residential purposes will not negatively impact on the fire management regime or access arrangements of the adjoining land.

The SBA further concluded that the Planning Proposal is consistent with Ministerial Direction 4.4 (Planning for Bushfire Protection) issued under section 9.1(2) of the EP&A Act and the requirements of PBP.

Consultation should occur with the NSW Rural Fire Service as part of the Planning Proposal process, following issue of the Gateway determination and as part of the public exhibition process.

## 7.7 Other issues

Issue	Consistency
<b>Heritage</b>	<p>Most of the site is disturbed pasture-land that has been used for grazing since the 1880s. There are no non-Aboriginal heritage values on the site that require preserving.</p> <p>The site is adjacent to the State and Locally-listed Yowaka River Princes Highway Bridge but it will not be impacted by the development of part of the subject site for rural-residential development.</p> <p>The area most likely to have evidence of Aboriginal occupation is the part of the property which has frontage to the Yowaka River, although much of it has been disturbed by Council when it realigned the Nethercote Road. This area will remain part of the residual land holding (proposed Lot 1) which has an existing house and will not be subject to further development. This area will also be more than 100 metres from any future development on the proposed new rural-residential allotments.</p> <p>A Due Diligence Assessment of Aboriginal cultural heritage matters will be undertaken at the DA stage, in accordance with Bega Valley Development Control Plan 2013, Chapter 5 and other relevant guidelines that apply at the time.</p>
<b>Development Servicing</b>	<p>Given the site is outside of the South Pambula Development Servicing Plan, future development on the 2 new lots will be required to provide onsite effluent disposal. Council's response of 16 March 2021 confirmed the site has sufficient area for aerated effluent disposal systems, with pumping irrigation areas set back at least 150m from the Yowaka River (<b>Attachment F</b>)</p> <p>This issue and issues such as detailed stormwater infrastructure designs will be prepared and assessed as part of future development applications.</p> <p>The site has town water access, with high mains pressure and additional discussions will take place with Council regarding these connections.</p>
<b>Compliance with draft Bega Valley DCP 2013</b>	<p>The conceptual subdivision layout will be confirmed before a development application is submitted to Council and following finalisation of this planning proposal/LEP amendment.</p>

	The detailed subdivision plan will need to address Council's technical specifications for subdivision, with regard for access and suitable location for onsite detention.
<b>Contaminated land</b>	<p>The subject site has been considered, as required by the SEPP and a Contaminated Land Assessment (CLA) is included as Appendix E.</p> <p>There is no evidence of previous contamination, except for the existing on-site sewerage management system that services the existing dwelling. This is regularly inspected, will remain part of the residual allotment when the subdivision takes place and will not affect the 2 proposed new rural-residential allotments.</p> <p>The subject site is suitable for the proposed rural-residential use in accordance with Ministerial Direction 2.6 and the Contaminated Land SEPP. The CLA should be placed on exhibition with the planning proposal, following issue of a Gateway determination.</p>
<b>Social and Economic impacts</b>	<p>The PP will provide a net social and economic benefit as it will facilitate the erection of 2 additional dwellings:</p> <ul style="list-style-type: none"> <li>• close to services, including public and school bus services,</li> <li>• in an area with very good bushfire evacuation and emergency access, and</li> <li>• on land that is not suitable for productive agriculture and in an area that is unlikely to negatively impact any existing or future productive rural activity.</li> </ul>
<b>Risk</b>	The main relevant hazards are flooding and bushfire which are addressed in sections 7.3 and 7.6 respectively.


## 8. Relevant State Environmental Planning Policies

Relevant State Environmental Planning Policies (SEPPs) have been addressed below. A minor inconsistency exists with the SEPP (Primary Production and Rural Development) 2019 which is addressed below. The planning proposal not inconsistent with other relevant SEPPs.

Policy	Assessment
SEPP (Primary Production and Rural Development) 2019	<p>The subject site is largely cleared grazing land with relatively poor soils that are not suitable for agriculture. The proposed E4 zoning and rationalisation of the E2 zoning will be more in keeping with the characteristics of the land.</p> <p>The proposal is consistent with an endorsed local planning strategy and will not inhibit any existing agricultural activities. Rationalisation of the E2 zone in the riparian buffer as part of this Planning Proposal will increase the amount of land with an environmental protection on the residual land holding and provide a greater level of protection on riparian buffers.</p> <p>This SEPP will require that Council considers the effects of the subsequent subdivision and dwelling DAs on oyster aquaculture associated with oyster farming in Pambula Lake. This issue will be addressed, at the DA stage through:</p> <ul style="list-style-type: none"> <li>• The proposed minimum lot sizes being sufficient to ensure effective onsite effluent disposal and management;</li> <li>• The existing dwelling remaining as part of a residual land holding that will retain the riparian buffer area; and</li> <li>• Sealing the intersection with the Nethercote Road etc. and subsequent dwellings.</li> </ul> <p>As the South Pambula investigation area is within the catchment of Pambula Lake, Council should consult with the Department of Primary Industries (Agriculture) as part of the Planning Proposal process.</p>
SEPP (Koala Habitat Protection) 2021	<p>This SEPP will need to be considered when the subdivision DA is submitted and assessed by Council.</p> <p>While there are several trees on the property that are listed Koala use tree species, most are in locations where they will clearly not be impacted by the subsequent subdivision and development resulting from this planning proposal. Most of the land proposed for the 2 new rural-residential allotments is cleared and the bushland area will be preserved as part of the residual land holding.</p> <p>There are no recent records to indicate a breeding population of Koalas in the areas surrounding the subject site.</p>
SEPP 55 Remediation of land	<p>The subject site has been considered, as required by the SEPP and a Contaminated Land Assessment (CLA) is included as Appendix E.</p>




	<p>There is no evidence of previous contamination, except for the existing on-site sewerage management system that services the existing dwelling. This is regularly inspected, will remain part of the residual allotment when the subdivision takes place and will not affect the 2 proposed new rural-residential allotments.</p> <p>The subject site is suitable for the proposed rural-residential use and the CLA should be placed on exhibition with the planning proposal, following issue of a Gateway determination.</p>
SEPP (Coastal Management) 2018	<p>The subject site is identified as being within a Coastal Use Area and the Coastal Environment Area under the SEPP (<b>see Map 13</b>). The planning proposal will support delivery of the SEPP principles as:</p> <ul style="list-style-type: none"> <li>• it will allow only a modest scale of new development with the two smaller lots being located farthest from the Yowaka River and the residual land holding being kept in one lot, with no additional development,</li> <li>• overall it will achieve a net environmental benefit from increase the E2 zoning in sensitive areas on the most sensitive parts of the site, and</li> <li>• the future rural-residential development can be sited to avoid impacts on the SEPP considerations, including that it will not impede or diminish coastal foreshore access, will provide sufficient area for development to be sited so as to not impact on coastal values etc.</li> </ul> <p>The subject site boundary extends to the mean high-water mark in the Yowaka River, including a thin strip of land that runs along the top of the river bank where the public currently access the Yowaka River (<b>see Map 14</b>). This land will form part of the proposed residual Lot 1 (with the existing dwelling) and there will be no change to the ability of people to access public land as a result of this planning proposal.</p> <p>The site's designation under the Coastal Management SEPP means there are several provisions relating to issues such as coastal process and marine impacts, public access, biodiversity and Aboriginal heritage that Council will need to consider, at the DA stage. The planning proposal will not impact on the application of these matters, at the DA stage.</p>

	
<p>State Environmental Planning Policy 62 - Sustainable Aquaculture</p>	<p>Part 3A of <i>State Environmental Planning Policy 62 - Sustainable Aquaculture</i> requires consent authorities to consider the effects of the proposed development on oyster aquaculture and to take the State's sustainable aquaculture strategy (OISAS) in to consideration.</p> <p>The existing landowners have demonstrated a commitment to maintaining the water quality in relation to the oyster industry by working with Local Land Service to improve water quality in the Pambula Lake catchment through:</p> <ul style="list-style-type: none"> <li>• River bank stabilisation and revegetation of riparian areas; and</li> <li>• Road surfacing (concreting previous dirt driveway), drainage and landscaping (major works carried out in 2016) to address runoff into the Yowaka River waterway in high rainfall events.</li> </ul> <p>A net environmental benefit will result from the planning proposal in relation to water quality and aquaculture in the Pambula Lake through:</p> <ul style="list-style-type: none"> <li>• Rezoning the riparian land and buffer areas on the triangle-shaped site from RU2 to E2, and</li> <li>• Retaining with the existing vegetation buffer between rural development in E2 zoned land and retaining it with the existing dwelling.</li> </ul> <p>Given the above and that future development on the proposed 2 new/vacant rural-residential lots will be located away from the Yowaka River, the planning proposal is consistent with the</p>

	<p>continuation of a sustainable aquaculture industry and fishery in Pambula Lake.</p> <p>Council should consult with NSW fisheries as part of the public exhibition and following issue of the gateway determination. The issue of water quality will also be considered as part of the subsequent subdivision</p>
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## 9. Relevant Section 9.1 Ministerial Directions

The most relevant Ministerial Directions for the planning proposal have been addressed below. Several other directions have general applicability but are not relevant to such a minor planning proposal and have therefore not been discussed. There are several minor inconsistencies that have been addressed in this section.

Direction	Consistency
1.2 Rural Zones	<p>This Direction aims to protect the agricultural production value of rural land. As the planning proposal seeks to rezone rural land to a zone that is primarily for rural-residential development it is inconsistent with this Direction.</p> <p>The inconsistency with this Direction is minor and justified in this instance given that:</p> <ul style="list-style-type: none"> <li>the land is not used or suited to productive/intensive agriculture</li> <li>Council's local strategy identifies the subject site is not suitable for agricultural use (i.e. it is class 3 and 5 agricultural land – see <b>Map 15</b>) and as being suited to rural-residential development; and</li> <li>Council's rural-residential development strategy has been endorsed by a delegate of the Planning Secretary.</li> </ul> <p>Consultation should still occur with the Department of Primary Industries (Agriculture) following issue of a Gateway determination, and as part of the public exhibition process.</p> <p><i>Agricultural Land Classification Atlas Mapping</i></p>  <p><b>Map 15: Agricultural land classification</b> Source: BVSC</p>
1.3 Mining, Petroleum	<p>The SEPP (Mining, Petroleum Production and Extractive Industries) 2007 will still permit extractive industries on the subject site given that</p>



Production and Extractive Industries	<p>agriculture or forms of agriculture will still be permissible after it is rezoned to E4/E2.</p> <p>The planning proposal is not inconsistent with this Direction as the planning proposal will not change the permissibility of extractive industries on the subject site and it does not have a resource of state or regional significance on it, nor is the subject site close to an approved extraction area.</p>
1.4 Oyster Aquaculture	<p>This Direction aims to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area by linking catchment planning with water quality objectives for oyster aquaculture areas. Pambula Lake is identified as a Priority Oyster Aquaculture Area in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy</i> (2006).</p> <p>Given the subsequent subdivision of the subject site will require compliance with Council's on-site waste treatment, stormwater management and the sealing of access roads and driveways this planning proposal is unlikely to negatively impact on water quality for aquaculture areas in Pambula Lake or constitute an 'incompatible use of land' under that Direction.</p> <p>Given that not all access roads are currently sealed, sealing these in response to a condition of development consent will provide a net benefit for water quality in the Pambula Lake catchment. Increasing the amount of E2 zoned land in the riparian buffer for a tributary of the Yowaka River will increase protection for the oyster industry within Pambula Lake.</p> <p>While the planning proposal is not inconsistent with this Direction, consultation should still occur with the Department of Primary Industries (Agriculture) following issue of a Gateway determination, and as part of the public exhibition process.</p>
1.5 Rural Lands	<p>This Direction aims to protect the agricultural production value of rural land, avoid land use conflict and manage rural-residential development. This Direction applies as the planning proposal seeks to change the minimum lot size for rural land.</p> <p>The planning proposal is consistent with this Direction as it:</p> <ul style="list-style-type: none"> <li>• Is consistent with and supports the delivery of Council's DPIE-endorsed local strategy;</li> <li>• Has considered the relevant matters identified in Direction 1.5;</li> <li>• Will minimise fragmentation of agricultural land and land use conflict elsewhere in the Bega Valley by facilitating rural-residential land supply in an area that has been identified as being suitable for that use;</li> <li>• Will not create land use conflict between rural-residential development and existing rural activities; and</li> <li>• Is appropriately located in relation to services and infrastructure.</li> </ul>
2.1 Environmental Protection Zone	<p>The proposal is consistent with this Direction as it will:</p> <ul style="list-style-type: none"> <li>• Rationalise E2 zonings and apply this zone to riparian areas and buffers (currently zoned R2); and</li> <li>• Provide minimum lot sizes appropriate to protect environmentally sensitive areas</li> </ul>

2.2 Coastal Management	<p>This Direction must be addressed in the planning proposal as Council has a certified Pambula Lake Estuary Coastal Zone Management Plan (Pambula Lake CZMP).</p> <p>Direction 2.2 requires that the planning proposal must “include provisions that give effect to and are consistent with any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the <i>Coastal Protection Act 1979</i> that continues to have effect under clause 4 of Schedule 3 to the <i>Coastal Management Act 2016</i>, that applies to that land”.</p> <p>The planning proposal is not inconsistent with the objects of the <i>Coastal Management Act 2016</i>, the <i>NSW Coastal Management Manual</i> and associated Toolkit or the <i>NSW Coastal Design Guidelines 2003</i>. Consistency largely relates to the fact that there will be an appropriate area between any future development and the coastal foreshore areas, the existing dwelling and proposed residual lot will act as a buffer between any new development and the Yowaka River and nearby and the scale of the assessment undertaken for the proposed development is proportionate for the intensity of development that will result i.e. 2 additional dwellings.</p> <p>While the planning proposal will not include specific provisions giving effect to the Pambula Lake CZMP (<u>i.e. there will be a minor inconsistency</u>), the subsequent DA will be consistent as it will be required to meet Council’s relevant standards regarding water quality and stormwater management (e.g. CZMP Action H1), on site sewerage treatment (e.g. CZMP Action H2), and sealing of the proposed access roads and driveways (e.g. CZMP Action H3).</p> <p>The planning proposal also will not prevent the subsequent subdivision DA from being assessed under the relevant provisions of the <i>State Environmental Planning Policy (Coastal Management) 2018</i>. Given the intent of the SEPP and related legislation and policy is maintained, any inconsistency is considered minor, and inconsequential.</p>
2.6 Remediation of Contaminated Land	<p>The preliminary site investigation (PSI) concluded that, based on the site condition and the past and current site activities, there is a low potential for significant or gross contamination of the soil and groundwater, the site is suitable for the intended use and a detailed testing regime is not required for the planning proposal or subsequent Development Application process.</p> <p>The detailed site assessment is available as Attachment E.</p> <p>The PSI should be submitted to DPIE when requesting a gateway determination for this planning proposal and be placed on exhibition with the planning proposal.</p>
4.3 Flood Prone Land	<p>This Direction applies because part of the Site is identified as being flood prone and the planning proposal includes a proposal to alter zones that apply to that area. The planning proposal is consistent with the findings of the adopted <i>Pambula River, Pambula Lake and Yowaka River Flood Study, Final Report (2021)</i> and is therefore also likely to be consistent with a subsequent management plan.</p>

	<p>The planning proposal is not inconsistent with this Direction as it does not seek to rezone flood affected land to a residential zone. It should also be noted that:</p> <ul style="list-style-type: none"> <li>• No development will occur in the flood affected area which will be rezoned from its current part RU2/E2 zoning to be wholly zoned E2; and</li> <li>• The two new and vacant rural-residential lots that will be created will not be affected by flooding and the existing dwelling that will be located on is located at approximately 35m AHD.</li> </ul>
4.4 Planning for Bushfire Protection	<p>A Strategic Bushfire Assessment has been prepared and is attached as Appendix D.</p> <p>The bushfire assessment has determined that the proposed use is appropriate and sufficient land area exists for the appropriate APZs to be created and that the planning proposal will not result in inappropriate development in hazardous areas.</p> <p>Consistency with this direction will be determined following consultation with the NSW Rural Fire Service (NSW RFS), following issue of a Gateway Determination and as part of the public exhibition process.</p>
5.10 Implementation of Regional Plans	<p>As identified earlier in this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and is therefore consistent with this Direction.</p>

## 10. CONSULTATION

The standard 28-day exhibition period is appropriate, given this is a minor/low impact, strategy-consistent proposal.

Council has advised that consultation with the following NSW Government agencies is likely:

- NSW Rural Fire Service
- NSW Department of Planning, Industry and the Environment (DPIE);
- The Biodiversity Conservation Division (BCD) (part of DPIE);
- The Department of Primary Industries (Fisheries);
- The department of Primary Industries (Agriculture); and
- Transport for NSW (particularly the former Roads and Maritime Service).

Preliminary consultation has been undertaken with Council (**Attachment F**), TfNSW (**Attachment B**) and BCD (**Attachment A**) as part of preparation of this planning proposal.

## 11. Timeline

Given the relatively minor nature of this planning proposal, it is expected that it can be completed by April 2022, with the following timeline:

Key stages	Estimated timeframe
Proposal submitted to Council	August 2021
Proposal reported to Council and sent to Department	October 2021
Department issue Gateway Determination	October/November 2021
Proposal exhibited	November/December 2021
Final proposal reported to Council	February 2022
Parliamentary Counsel and Department consultation	March 2022
Plan made by Council' delegate (if have delegations), or Plan forwarded to Department, for finalisation (if no delegations)	April 2022

## 12. Local Plan Making Authority

Given it is a minor, strategy-consistent proposal, Council should request DPIE's approval to be the local plan-making authority for this planning proposal.

This will both assist to deliver the outcome of Council's strategy and allow Council to demonstrate its commitment to facilitating economic development within the Bega Valley LGA.

## 13. Conclusion

The planning proposal has demonstrated that the subject site is suitable for rural-residential development and that this should be achieved by rezoning the Site from its current RU2/E2 zoning to E4/E2 and reducing the minimum lot size to enable the subdivision.

The rezoning should be supported because:

- It is a minor planning proposal that is consistent with both State government and Council policy and legislation,
- It will support the efficient and appropriate use of the subject site (i.e. highest and best use),
- A planning proposal is the only way that the desired development outcome can be achieved,
- It will make a positive contribution to the delivery of additional local housing opportunities, in a time of very high demand and with a shortage of new housing opportunities,
- The land is well serviced by existing infrastructure and can be easily and quickly made available to the housing market; and
- Development on this site will not impact negatively on the biodiversity or amenity of the local area or place the lives of future residents at risk from bushfire.

It is therefore requested that Bega Valley Shire Council and DPIE support progression of this planning proposal.



## APPENDICES

### ATTACHMENT A – EES Pre-Gateway consultation



The General Manager  
Bega Valley Shire Council  
PO Box 492  
BEGA NSW 2550

Our ref: DOC21/85051-3

Your ref:

Attention: Sophie Thomson  
[council@begavalley.nsw.gov.au](mailto:council@begavalley.nsw.gov.au)

12 March 2021

Dear Sophie

**Subject: Planning Proposal Pre-Gateway advice – 3900 Princes Highway, Greigs Flat**

Thank you for providing this planning proposal to Biodiversity and Conservation Division (BCD) for our pre-gateway advice, and your letter dated 8 February 2021. We have reviewed the draft planning proposal and provide the following comments.

We do not object to the rezoning of the residual allotment (proposed Lot 1) to E2 Environmental Protection with minimum lot size (MLS) of 2ha and the remainder of the site to E4 Environmental Living with MLS of 1ha.

BCD does not require further biodiversity assessments to be carried out to support this planning proposal and to meet the requirements of Ministerial Directions 2.1 and 5.10. It should be noted however that there is potential for the subsequent development application to trigger the Biodiversity Offsets Scheme (BOS) requiring the preparation of a Biodiversity Development Assessment Report (BDAR). Further details on clearing thresholds are detailed in Attachment 1.

To be consistent with Ministerial Direction 4.3 - Flood Prone Land, and the principles of the Floodplain Development Manual, the implications of the full range of floods up to the Probable Maximum Flood (PMF) should be considered by council and addressed in the planning proposal. Further recommendations are detailed in Attachment 1.

Ministerial Direction 2.2 – Coastal Management must be addressed in the planning proposal as Council has a certified Pambula Lake Estuary Coastal Zone Management Plan. Direction 2.2 requires that the planning proposal must "include provisions that give effect to and are consistent with any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the *Coastal Management Act 2016*, that applies to that land".



The water floods and coast team are happy to provide further information on the comments if required please contact John Murtagh on 42244154

Please contact Lyndal Walters on 02 6229 7157 if you would like to discuss our comments

Yours sincerely,

A handwritten signature in blue ink that reads 'Allison Treweek'.

**ALLISON TREWEEK**  
Senior Team Leader Planning  
South East, Biodiversity and Conservation

Cc: Graham Judge – Planning & Assessment, DPIE

Enc: Attachment 1 – Detailed comments



## **Attachment 1 – Detailed comments on Greigs Flat planning proposal**

### **Biodiversity assessment and requirements**

BCD does not require further biodiversity assessments to be carried out to support this planning proposal and to meet the requirements of Ministerial Directions 2.1 and 5.10.

As the rezoning is to enable the future subdivision of the land, it should be noted that there is potential for the subsequent development to trigger entry into the Biodiversity Offsets Scheme (BOS) requiring the preparation of a Biodiversity Development Assessment Report (BDAR).

Council should be aware that all clearing associated with a subdivision must be included in the area clearing threshold used to determine entry into the BOS. This includes, but is not limited to, clearing for fence lines, driveways, building envelopes, effluent irrigation areas, and Asset Protection Zones.

In addition, the legislation has changed since the planning proposal was written with the introduction of the *Biodiversity Conservation Act 2016*, the Planning Proposal should be updated to reflect these changes.

It would be helpful to have the pages numbered so information can be easily referenced when required.

We note that the planning proposal states that individual paddock trees will be further protected as potential koala feed trees however there is no detail on how this will work. The planning proposal should provide details on the mechanisms in place that will ensure the paddock trees will not be cleared. For example, detailing how Section 5.6 Tree and Vegetation Preservation in the Bega Valley Development Control Plan 2013 will apply.

### **Floodplain Risk Management Comments**

DPIE notes that Bega Valley Shire Council is currently undertaking the Pambula River, Pambula Lake, Yowaka River Flood Study at Pambula and surrounds which incorporates the area which is the subject of the February 2021 pre-gateway consultation on the draft planning proposal for 60 and 61 DP 862043 (3900 Princes Highway, Griegs Flat).

DPIE also notes that the supplied draft PP identifies that the lots contain at least one watercourse. The draft PP however maintains that the Section 9.1 Planning Direction 4.3 Flood Prone Land is not applicable. While DPIE acknowledges that the Pambula River, Pambula Lake, Yowaka River Flood Study at Pambula and surrounds identifies limited flood impact on the site from the Yowaka River, the Flood Study provides no information on the flood behaviour of the tributaries draining across the site. Additional analyses in the form of a site specific Flood Impact Risk Assessment (FIRA) of the tributary streams will be required to inform the relevant flood constraints which will need to be considered and managed in the planning proposal assessment process and subsequent determination.

Given the presence of the tributary watercourse(s) there is flood prone land on the sites. The Section 9.1 Planning Direction 4.3 Flood Prone Land states:

"(3) This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision that affects flood prone land."



As the planning proposal pertains to altering zones pertaining to the land the Section 9.1 Planning Direction 4.3 Flood Prone Land applies.

For the determination of this matter to be consistent with the Section 9.1 Ministerial Direction 4.3 - Flood Prone Land, and the principles of the Floodplain Development Manual, the implications of the full range of floods up to the Probable Maximum Flood (PMF) should be considered by council.

As this proposal is affected by flooding, DPIE recommends that Bega Valley Shire Council augments the information available from the Pambula River, Pambula Lake, Yowaka River Flood Study at Pambula and surrounds with a site specific FIRA to inform its determination.

As a minimum the FIRA should determine:

- The extent of flood prone land, which is the area inundated by the Probable Maximum Flood as well as peak levels, depths and velocities.
  - This identifies how much of the site is subject to the application of Section 9.1 Planning Direction 4.3 Flood Prone Land
  - It also provides the basis of assessment of the flood range above the 1% AEP flood level and hazard in areas outside the FPA where dwellings will be sited
- The peak levels, depths and velocities across the site in the 1% AEP flood.
- Identification of proposed Flood Planning Levels across the site and the Flood Planning Area
- The impact of flooding on the proposed development;
- The impact of the proposed development on flood behaviour (particularly any offsite flood impacts because of potential encroachment, land use and land form changes);
- The impact of flooding on the safety of people for the full range of floods including issues linked with isolation and accessibility for emergency services; and
- The implications of climate change (particularly increased rainfall intensity) on estimated flood planning levels.
- Pre and post developed flood hazard across the site and adjoining residential areas over the full range of potential floods;
- Pre and post developed floodways within the site and within adjoining residential development for the 1% AEP flood
- Strategies to facilitate flood access and evacuation of residents and other visitors, if there is potential for isolation;
- Trafficability of the proposed road network both on and off site and any culvert structures across watercourses;
- Afflux associated with proposed road and culvert structures over watercourses, including potential implications for proposed lots upstream of structures; .
- Propose and assess the effectiveness of management measures required to minimise the impacts of flooding to the development and to minimise risks on existing and future community due to the proposal

Should Council require any further advice on floodplain risk management matters, it should not hesitate to contact the DPIE.

#### Coast and Estuary Management Comments

DPIE note that the subject site is wholly within the Coastal Environment Area and Coastal Use Area mapped under the SEPP (Coastal Management). The Planning Proposal has currently only





considered how the rezoning will address the requirements for the Coastal Use Area. The Planning Proposal will also need to address the considerations for development in a Coastal Environment Area to ensure there are no adverse impacts on the environment and consistency with the objectives for this management area.

As the subject site is located within the coastal zone the PP should also clarify whether any of the area is impacted by coastal hazards, and how any impacts would be avoided or mitigated, if relevant.

DPIE note that Council has a certified Pambula Lake Estuary Coastal Zone Management Plan. Council will need to address Section 9.1 Planning Direction 2.2 Coastal Management (4) (d) "A planning proposal must include provisions that give effect to and are consistent with any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to that land".

The Pambula CZMP continues to have effect under the Coastal Management Act until the end of 31 December 2021. Threats to the estuary identified in the CZMP that may be relevant to this PP include runoff from unsealed roads, stormwater, catchment clearing, onsite sewage leachate. Strategies within the CZMP have included bank erosion control, rehabilitating riparian buffers, and dirt track sealing. We note that the PP has identified that controls to minimise impacts to water quality will be applied at the DA stage. Careful consideration should be given to stormwater management, on-site sewage management and sealing of any new access tracks.



Even if entry into the BOS is not triggered a Test of Significance is required. This will also need to consider all clearing required as a result of the subdivision. The test of significance is intended to provide standardised and transparent consideration of threatened species, ecological communities, and their habitats, through the development assessment process.

In the context of a Part 4 development (not including major projects) if the test of significance assessment indicates that there will be a significant impact, the proponent must carry out a BAM assessment.

Further information can be found on our website at the link below:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/entry-requirements>

### Rural Residential planning proposals

In relation to your question regarding rural residential development we provide the following advice.

The clearing for house sites, bushfire asset protection and associated infrastructure, particularly local roads, has led to high clearing rates, and clearing associated with rural residential subdivision is currently the major source of vegetation removal in the South Coast. (South East and Tablelands Regional Plan 2036).

Rural residential planning proposals should be considered in the context of the following;

- Ministerial Direction 5.10 which requires that planning proposals must be consistent with the *South East and Tablelands Regional Strategy 2036*, in particular;
  - Direction 28 Manage Rural Lifestyles, Action 28.2 requires that new rural residential areas should be located to avoid areas of high environmental value and areas affected by natural hazards.
  - Direction 14 Protect Important Environmental Assets, Action 14.2 which requires that areas of validated high environmental land be protected in local environmental plans.
- Ministerial direction 2.1 Environment Protection Zones – which requires that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. This means that areas with validated HEV should be zoned accordingly.
- Bega Valley Rural Residential Strategy 2020 – areas endorsed by DPIE. DPIE has conditionally endorsed the Rural Residential Strategy and has not endorsed some areas that had been proposed by Council for rural residential development. Refer to DPIE letter dated 6 August 2020, reference IRF20/3222 addressed to Dr Alice Howe, and DPIE letter IRF20/2302 dated 22 June 2020 addressed to the General Manager. BCD would need to see justification of the use of areas not endorsed by DPIE in the Strategy. Generally, these areas were not supported for further development because of high environmental values associated with the land.

## ATTACHMENT B – TfNSW Response

**From:** [Hayley Sarvanandan](#)

**Sent:** Tuesday, 16 March 2021 4:26 PM

**To:** [lorraine.clayz@outlook.com](mailto:lorraine.clayz@outlook.com)

**Cc:** [Development Southern](#)

**Subject:** RE: Request for comment - Pre-rezoning consultation, 3900 Princes Highway Greigs Flat - STH13/00009/03

Hi Lorraine

I refer to your email below.

TfNSW notes the intention of the Planning Proposal is to rezone the subject site (Lot 61 DP861043) to allow for a 3 lot subdivision and to accommodate 2 additional residential dwellings as shown in the attached document.

TfNSW raises concern regarding increasing vehicle turning movements at the intersection of Nethercote Road and the Princes Highway due to the available sight distance. Safe intersection sight distance (SISD) needs to comply with Austroads Guide to Road Design Part 4A – Table 3.2 (attached). Sight distance analysis completed by TfNSW demonstrates 128m SISD is available for northbound vehicles and 153m is available for southbound through vehicles. For a design speed of 110km/h (posted speed +10km/h) Austroads requires 285m in each direction. TfNSW notes significant deceleration would be required to enter Nethercote Road and vehicles may have to suddenly decelerate for a vehicle exiting Nethercote Road onto the Princes Highway, potentially causing road safety issues.

Having regard for the above, TfNSW would not support the planning proposal in its current form.

If you require any further information please let me know.

Thanks  
Hayley

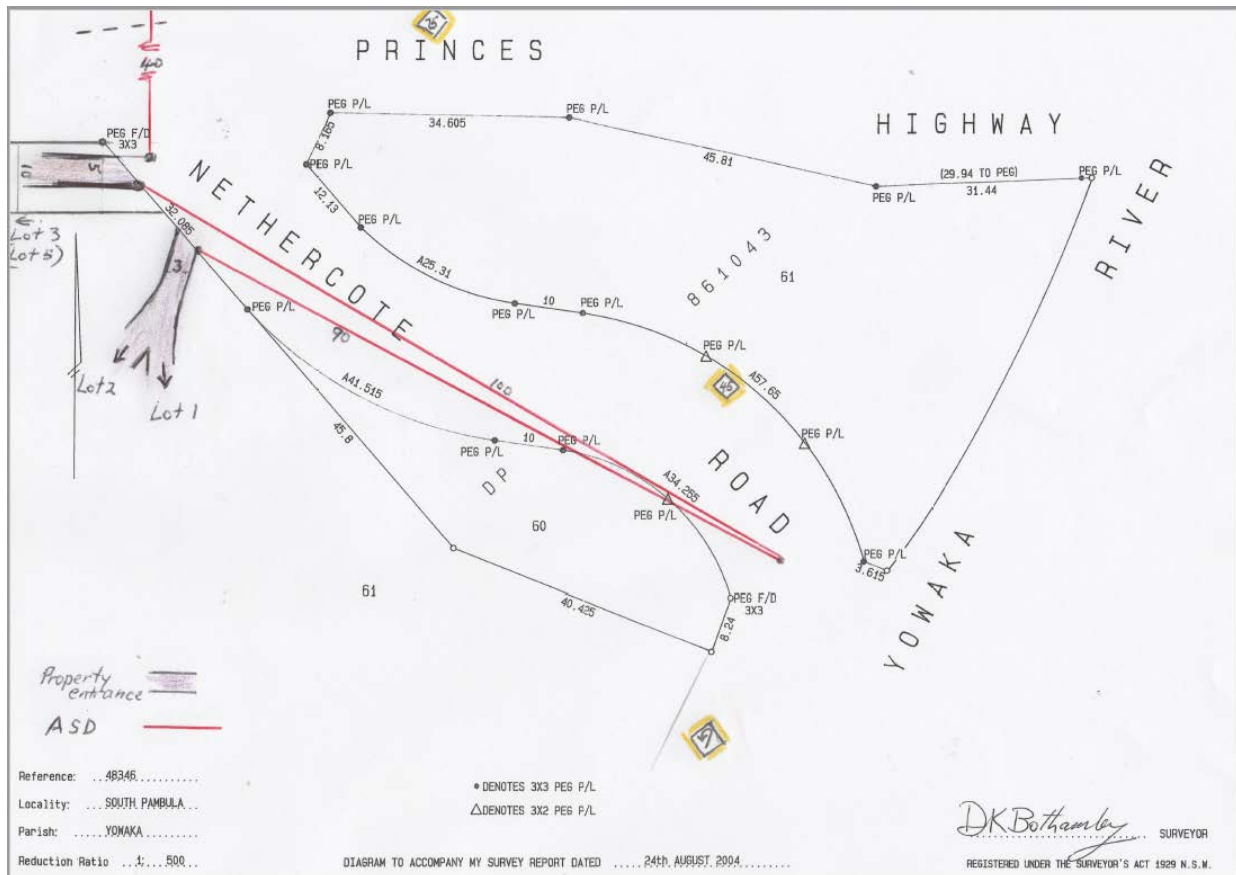
Hayley Sarvanandan  
Development Assessment Officer  
Land Use Southern  
Regional and Outer Metro, Southern  
**Transport for NSW**

T 02 4221 2423 | F 02 4221 2777  
Level 4 90 Crown Street Wollongong NSW 2500



**Transport  
for NSW**

## ATTACHMENT C – Sight line distance calculations for access to the site, off the Nethercote Road



**Map XX** - Sight Lines and Approach Site Distances, from the two site entrances to the corner where the Nethercote Road meets the Yowaka River

### Approach Sight Distance calculations

$$\begin{aligned}
 ASD &= \frac{RT \times V}{3.6} + \frac{V^2}{254 \times (d + 0.01 \times a)} \\
 &= \frac{7.2 \times 40}{3.6} + \frac{1600}{254 \times (2 + 0.01 \times -1)} \\
 &= 288 + \frac{1600}{-510.5} \\
 &= 80 - 3.134 \\
 &= 76.8 \text{ m}
 \end{aligned}$$

NOTE: Speed taken as 40 for inside of sharp bend as 45 is the designated speed for the outside of the bend. (ASD within the guidelines for a speed of 50).



## ATTACHMENT D - Bush Fire Strategic Study

### Strategic Bushfire Study

#### 3 lot rural-residential subdivision of 3900 Princes Highway, Greigs Flat



### 1. Introduction

## 1.1 Background

This Strategic Bushfire Study (the Study) has been prepared to inform and assist with the consideration of a Planning Proposal for lands situated within Bega Valley Shire Council (BVSC) Local Government Area (LGA).

The objectives of the Planning Proposal are to amend the *Bega Valley Local Environmental Plan 2013* (Bega LEP) as it applies to 3900 Princes Highway, Greigs Flat (the Site) (**see Map 1**). The Site is currently zoned RU2 Rural Landscape and E2 Environmental Conservation under the *Bega Valley Local Environmental Plan 2013* (Bega LEP) with a minimum lot size of 120 ha.

The Planning Proposal seeks to rezone approximately 26,000 square metres (sqm) of the 40,000 sqm site from RU2 to E4 Environmental Living with a minimum lot size (MLS) of 8,000 sqm and part of the RU2 zoned land to E2 Environmental Conservation. The existing E2 would remain zoned as such and retain the minimum subdivision lot size control of 120 ha.

The site is comprised of 2 separate lots that are split by the Nethercote Road, Lots 60 and 61 DP 861043 which have a combined total area of 4 hectares (ha):

- Lot 61 is 39,070 sqm in size and is split into 2 parts by the Nethercote Road and comprises the bulk of the property and a small triangular-shaped east of the Nethercote Road and a finger of land that runs south, between the Nethercote Road and the mean high-water mark of the Yowaka River; and
- Lot 60 which is 930.7 sqm and is immediately south of the Nethercote Road and was formed by a previous re-alignment of the road.

The majority of the area proposed for rezoning to E4 and then subdivision into 2 new rural-residential dwellings is categorised as grassland and the indicative subdivision layout illustrates that a 50m Asset Protection Zone (APZ) can be achieved on both proposed lots. Despite this, a thorough Study has been completed to demonstrate that the land is suitable for the proposed zone.

Given the subject land is mapped as being bushfire prone on the bush fire prone land (BFPL) maps (**See Map 2**) Ministerial Direction 4.4 (Planning for Bushfire Protection) issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979*, the Study is required and Bega Valley Shire Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following receipt of a Gateway determination. The Gateway determination will therefore, if issued by the Department of Planning, Industry and Environment (DPIE), require consultation with the RFS.

The assessment detailed in this Study outlines how the Planning Proposal can adhere to the requirements of Planning for Bushfire Protection (PBP) (RFS 2019).

## 1.2 Planning Framework

The NSW Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal planning legislation for the state, providing a framework for the overall environmental planning and assessment of development proposals. Various legislation and instruments are integrated with the EP&A Act, including the Rural Fires Act 1997 (RF Act).

### Direction 4.4 – ‘Planning for Bush Fire Protection’

Planning Proposals seeking to rezone mapped bushfire prone land for residential purposes must have regard to s.9.1 (2) Direction 4.4 – ‘Planning for Bushfire Protection’ of the EP&A Act. The objectives of Direction 4.4 are:

- To protect life, property, and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and
- To encourage sound management of bush fire prone areas.

Direction 4.4 instructs councils on the bushfire matters which need to be addressed when drafting LEPs. This includes:

- Consultation with the Commissioner of the NSW RFS, and take into account any comments received;
- Draft LEPs shall have regard to PBP; and
- Compliance with numerous bushfire protection provisions where development is proposed.

After the rezoning stage, future subdivision and the construction of buildings will also require assessment against PBP. These assessments are based on the final development applications for these proposals.

#### Planning for Bushfire Protection

PBP (RFS, 2019) outlines broad principles and assessment considerations for strategic planning. It also specifies that bushfire protection measures need to be considered at the strategic planning stage to provide an opportunity to assess the suitability of future land uses within the broader bushfire hazard setting, to ensure that future land uses can meet the objectives of PBP.

This Study addresses the requirements for a strategic bushfire study, as listed in Table 4.2.1 of PBP, and summarised in Table 1 below.

**Table 1 – Summary of requirements for a strategic bush fire study (RFS 2019)**

Issue	Detail
Bush fire landscape assessment	A bush fire landscape assessment considers the likelihood of a bush fire, its potential severity and intensity and the potential impact on life and property in the context of the broader surrounding landscape
Land use assessment	The land use assessment will identify the most appropriate locations within the site for the proposed uses
Access and egress	A study of the existing and proposed access arrangements
Emergency services	An assessment of the future impact of the new development on emergency services provision
Infrastructure	An assessment of the issues associated with infrastructure provision
Adjoining land	The impact of new development on adjoining landowners and their ability to undertake bush fire management

### Rural Fires Act 1997 (RF Act)

The objects of RF Act are to provide:

- a) for the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts, and
- b) for the co-ordination of bush fire fighting and bush fire prevention throughout the State, and
- c) for the protection of persons from injury or death, and property from damage, arising from fires, and
- (c1) for the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from damage arising from fires, and
- d) for the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c1) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

Key requirements of the RF Act in relation to this project include:

- All landowners to exercise a duty of care to prevent bush fire from spreading on or from their land under section 63 of the RF Act. This involves taking steps to prevent the occurrence of bush fires on, and to minimise the danger of the spread of a bush fire on or from any land vested in or under its control or management. This relates to the appropriate provision and maintenance of Asset Protection Zones (APZs), landscaping and any retained vegetation when developing land (RFS 2019); and
- Under Section 64 obligations, if a fire is burning at any time during a bush fire danger period, the occupier immediately on becoming aware of the fire must take all possible steps to extinguish the fire, and if unable without assistance to extinguish the fire, inform the appropriate officer (RFS, Fire and Rescue NSW) of the existence and locality of the fire if it is practicable to do so without leaving the fire unattended.

### **1.3 Aims and Objectives of this Study**

The Study provides an assessment of the landscape bushfire risk and the residual risk for the development proposed by the Planning Proposal following the provision of bushfire protection measures. It includes the following strategic assessment considerations in PBP (RFS 2019):

- Ensuring land is suitable for development in the context of bush fire risk;
- Ensuring future development on BFPL can comply with PBP 2019;
- Minimising reliance on performance-based solutions;
- Providing infrastructure associated with emergency evacuation and firefighting operations; and
- Facilitating appropriate ongoing land management practices.

### **1.4 Study Area and Subject Site**

The subject site is located approximately 3.2 kilometres (km) south of the town of Pambula, 900 metres (m) from South Pambula and is adjacent to the Princes Highway and Nethercote Road intersection (**see Map 1**). The Study Area incorporates a 1-1.2 km radius around the subject site.

The Study Area consists of a mixture of rural living allotments focused along the Princes Highway, the vegetated Yowaka River Corridor and large areas of remnant vegetation. The



area to the immediate south west of the subject site is privately owned land and beyond that is State Forest.

The land immediately adjoining the north west boundary of the subject site is cleared farm land that is currently used as a plant nursery. The land further to the north west is a large, primarily cleared, rural holding that includes the vegetated area to the rear (south west) of the subject site that is also currently being rezoned to allow rural-residential development.

The privately owned land to the south west of the subject site is upslope from the subject site and is heavily vegetated with vegetation comprised of a mixture of remnant vegetation and regrowth. The land rises quite steeply behind the subject site, from 50m AHD on the subject site boundary to a maximum height of approximately 110m AHD at the peak of the hill which is approximately 275m from the subject site boundary.

Land to the north east of the subject site, across the Princes Highway is cleared farmland with another steep, vegetated hill that rises to a height of approximately 100m AHD. The hill is part of a large area of remnant vegetation that stretches to the Pambula River.

The subject site is:

- Known as 3900 Princes Highway, Greigs Flat;
- Comprised of 2 separate lots, split by the Nethercote Road, Lots 60 and 61 DP 861043 which have a combined total area of 4 hectares (ha):
  - Lot 61 is 39,070 sq.m. in size and is split into 2 parts by the Nethercote Road and comprises the bulk of the property and a small triangular-shaped east of the Nethercote Road and a finger of land that runs south, between the Nethercote Road and the mean high-water mark of the Yowaka River; and
  - Lot 60 which is 930.7 sq.m. and is immediately south of the Nethercote Road and was formed by a previous re-alignment of the road;
- Fronting the Princes Highway, with access to the site attained via 2 access points, off the Nethercote Road;
- Gently sloping from south west to north east with the Nethercote Road frontage being the lowest part of the property (**see Map 3**);
- Developed as a rural holding with an existing dwelling and several nearby rural outbuildings/sheds that gain access to the Nethercote Road via a large concrete driveway;
- Approximately three quarters cleared with cleared areas being characterised by introduced and native pasture species and several individual paddock trees (eucalypts); and
- Approximately one quarter vegetated with sparse native vegetation that has been historically grazed by goats (prior to the current owners purchasing the property in 2002).



**Figure 1 – The Site and Study Area**

### 1.5 The proposal

The Planning Proposal seeks to implement the recommendations of Bega Valley Shire Council's Rural Residential Strategy 2020 which recommends that the site be developed as rural residential land by amending Bega LEP to enable subdivision of the Site to create:

- Two largely-cleared rural-residential lots on the portion identified as being suitable for rural-residential development with each being approximately 8,000 square metres in size and having a dwelling-entitlement; and
- A residual lot of greater than 2 hectares which would contain the existing dwelling and outbuildings, vegetated areas and the parcel of land that is physically separated from the rest of the lot by the Nethercote Road.

An indicative subdivision layout is provided below in **Figure 2**.



**Figure 2** - The Site and the indicative proposed subdivision layout

### 1.6 Bushfire Prone Land Status

BFPL is certified by the RFS in accordance with legislative requirements and published by the Department of Planning, Industry and Environment on the E-Planning spatial viewer/portal. Categories of mapped BFPL affecting the study area and adjoining areas, are shown in **Figure 3** while a more detailed map showing the PFPL for the subject site are shown in **Figure 4**.

The presence of mapped BFPL on the subject site, including the vegetation buffer, requires that any new development must satisfy the aim and objectives of PBP (RFS 2019). On formally mapped BFPL, an assessment is required to consider the vegetation hazard and effective slope within the site and adjoining areas, in order to determine the required site specific bush fire protection measures in relation to any proposed development.

The site contains a small area of land that is identified as having category 1 bushfire prone vegetation with the remaining parts of the site identified as Bushfire Buffer areas.

The category 1 vegetation occurs in a small area in the south eastern corner of the site and runs parallel to the Yowaka River. This area is less than 10% of the overall area of the site and is currently zoned E2 Environmental Conservation. The zoning of the category 1 area is not proposed to change as a result of the Planning Proposal. Under the proposed subdivision, that area would be included in the residual land holding (proposed **Lot 1**), with the existing dwelling and outbuildings. No new development would occur on this area as a result of the Planning Proposal.

The Bushfire Buffer area is largely cleared and characterised by grassland. This area has several individual paddock trees of native and introduced species, a small area of immature regrowth and a strip of open woodland that also runs parallel to the Nethercote road frontage on the eastern and north eastern edges of the property.

The zoning of most of the cleared area is proposed to be changed from RU2 Rural Landscape to E4 Environmental Living to enable the proposed subdivision to occur. The most likely additional development which could occur in this area would be the addition of 2 new dwellings and associated outbuildings.



**Figure 3** – Bush fire prone land map and Study Area



**Figure 4** – BFPL status of the subject site

## 2. Bushfire Landscape Risk Assessment

The landscape bushfire risk includes assessment of bushfire hazard, potential fire behaviour and bushfire history for the Study Area.

### 2.1 Bushfire Hazard

Most of the subject site and all the area proposed for future rural-residential development (indicative lots 2 and 3) is cleared/grassland that is mapped as vegetation buffer in the BFPL mapping. This area is contiguous with the Princes Highway and cleared rural land that is also identified as being vegetation buffer land.

The area to the south west of the subject site is mapped as Vegetation Category 1 and presents a continuous enough matrix of BFPV to potentially allow the spread a bushfire to the subject land, under suitable conditions. The spread of bushfire towards and on to the subject site is likely to be slowed somewhat by the topography in that area which is north easterly facing slope approaching the subject site.

The subject site has a finger of Category 1 land that is contiguous with this area and represents an area where fire from that direction could 'run' into the site. A fire moving through this area could potentially travel along the edge of the vegetated Yowaka River riparian corridor and link with the vegetated Category 1 areas across the Princes Highway and north east of the subject site.

The Category 1 land on the subject site will form part of the residual rural-residential lot and will include the existing dwelling and outbuildings and, due to an intensive fire management regime put in place by the current land owners, is managed vegetation. The vegetation in the bushfire buffer area has little to no understory and is also intensively managed, for bushfire purposes.

Bushfire hazard has been classified using the PBP methodology, through assessment of vegetation, slope and bushfire weather.

### 2.2 Vegetation

The study area is heavily vegetated in the south west and north west with a patches of remnant vegetation throughout a rural-residential landscape that is focused around the Prices Highway corridor.

No additional assessment is required for the grassland area which only has several paddock trees.

Desktop assessment and rapid site inspection was undertaken to examine both vegetation structure and management in the broader Study Area and vegetated areas in the more immediate vicinity of the site. This assessment has been used to establish a bushfire vegetation hazard dataset for the bushfire hazard assessment in section 4 of this report.

The desktop Study Area assessment identified three vegetation types, as shown in Table 1 and Figure 5.



**Table 1 – Vegetation types in the Study Area**

Vegetation Type	Description
1	Landscaping trees and patchy vegetation with highly disturbed or no understory, existing rural and rural-residential dwellings and associated landscaping - low-medium hazard
2	Woodland - patchy regeneration with little understorey; medium-high hazard based on it being contiguous with large areas of remnant forest;
3	Dry Sclerophyll Forest - remnant forest vegetation with intact understorey - high hazard

**Figure 5 – Vegetation type across the Study Area**

### 2.3 The rapid assessment of the Site and its immediate surrounds

The rapid assessment (undertaken 24 July 2021) determined the overall vegetation form, condition and level of management. The most relevant vegetation for the bushfire hazard associated with the proposed 2 new rural-residential lots is the upslope vegetation on the property that immediately adjoins the south west boundary of the subject site.



**Figure 6** – Vegetation type on the site and its immediate surrounds

Figure 6 shows vegetation types on the subject site while Table 2 shows the Rapid Assessment locations and includes a description of the vegetation type and management and bushfire management measure already applied in each location.

**Table 2 – Vegetation form, condition and management**


Rapid Assessment Site	Vegetation form, condition and management
1	 <p>Photo looking south west towards the boundary fence. This shows the vegetation in this area, on the subject site which is comprised of disconnected patches of immature regrowth of native and landscape trees. The trees are surrounded by pasture grass that is regularly grazed by stock, no understorey.</p>





Photo shows the 10.3m bulldozed firebreak along boundary fence, on adjoining property and that the vegetation on the adjoining property is regrowth.



Photo shows the 4m firebreak on the subject site which runs along the on the inside of the property boundary. This area is regularly slashed and grazed by stock.



Photo looks north east towards the Nethercote Road access, across the subject site and cleared areas where the 2 new rural-residential lots and dwellings will be located.

2



Photo shows mature regrowth on the adjoining property, looking towards the cleared/bulldozed hazard reduction area of variable width (10.2m to 17.1m) along (outside of) boundary fence, very little understorey. Vegetation on the subject site, in this location is grassland that is regularly slashed and grazed.

3

Mature native vegetation in the distance (mapped high bushfire hazard area). Vegetation before that area has a sparse understorey with a 13.9m metre cleared/bulldozed hazard reduction area along (outside of) boundary fence, on adjoining site (to the right of photo).

Area inside the boundary fence on the subject site (to the left of photo) is cleared area between boundary fence and the outbuildings associated with the existing dwelling



Downhill, grazed area inside boundary, light regrowth along bulldozed firebreak 13.9 m wide.





Uphill clear, light cover grazed pasture/grassland.



The adjoining property showing the 13.9m bulldozed firebreak in the foreground and vegetation in the rear (mapped high bushfire hazard area)



4

Mature regrowth, steep land, managed area to reduce bushfire potential (area mapped as high bushfire hazard)



Sparse mature trees, interspersed native grass with shrubs managed to reduce bushfire potential



Managed bushland, little understory





Topography drops quickly towards the Yowaka River (east-north-easterly direction). Subject site on the left and bulldozed fire break on the adjoining property on the right.



Regrowth area, native shrubs, wildlife corridor along Nethercote Rd.

Looking east from the subject site, to the Yowaka River, showing dense (area mapped as high bushfire hazard) vegetation running along the top of the road embankment/cutting.



5

Mature regrowth, scattered native trees in pasture grass, limited understorey managed area to reduce bushfire potential. Looking east, towards the Yowaka River and rural-residential areas beyond.



Looking north-east towards the Nethercote Road, through the scattered native trees – distance to road 32m approx..





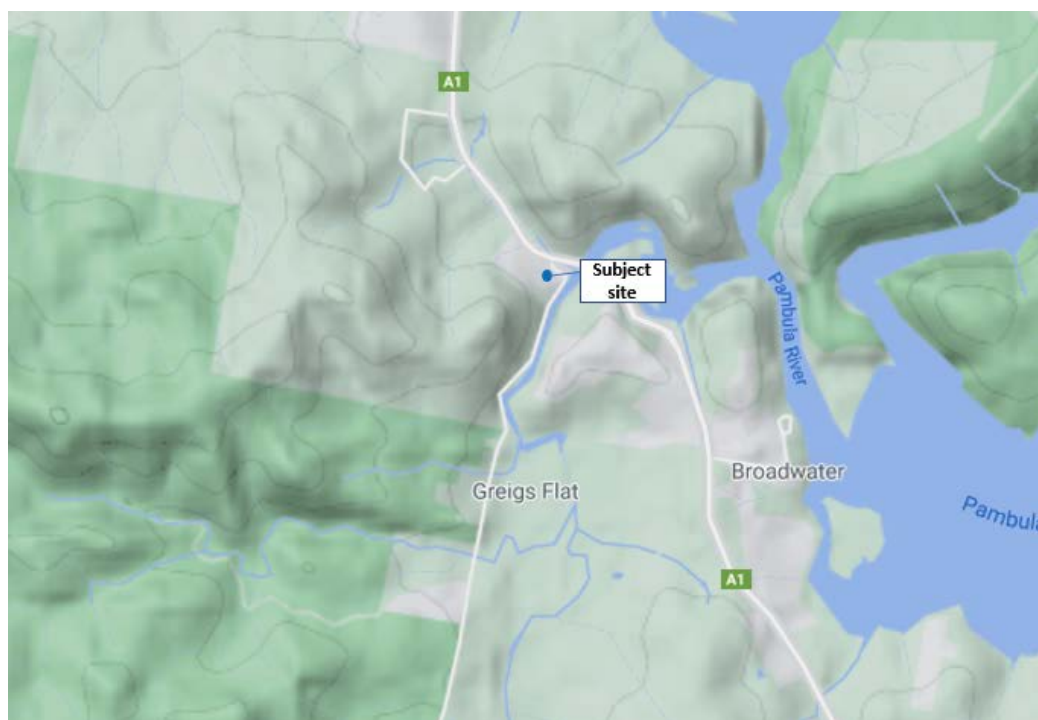
Looking west, from the vegetated area, towards concrete driveway and proposed Lots 2 and 3 beyond (distance to concrete driveway is 50m approx.).



Looking west, from the vegetated area, towards concrete driveway and proposed Lots 2 and 3 beyond (distance to concrete driveway is 50m approx.).

## 2.4 Topography and Slope

Figure 7 shows that elevation within the broader Study Area is generally undulating, with several hills and an elevated ridge-line to the south west of the subject site.



**Figure 7** Elevation of the Study Area

Slope has been estimated using the mapping and measuring tool available identified on the DPIE E-planning Spatial Viewer (see **Figure 8**) and calculated as an average fall over several parts of the site. While this is a coarse measurement tool, it does provide an accurate indication of the slope and terrain characteristics for the area that is proposed for rural-residential development (areas A and B) and the steepest part of the subject site, which is also the area identified as Category 1 BFPL. The estimated slope and fall at these locations is shown in Table 3.

**Table 3 – Estimated Slope of the Subject Site**

Area	Estimated slope (%)	Representative of
A	7.5	The slope of most of the area proposed to be rural-residential development
B	10	The overall average slope of the area proposed to be rural-residential development
C	27	The steepest part of the subject site

The steeper areas where fire control is typically more difficult occur in the south western and north eastern portions of the study area. Within the subject site, the slope is gentler and less variable, particularly in the areas proposed for further subdivision and development. The exception to this is the south east corner of the subject site where the topography falls away quite quickly, to the Nethercote Road embankment/cutting.



There are 2 outbuildings on the south east corner of the subject site and a water tank that is kept permanently full (and is signposted as such) by the current land owners, as part of their fire management planning. Due to the site being located on the side of a hill, the steeper/vegetated areas have a slightly different aspect to the proposed new rural-residential development on Lots 2 and 3 which is beneficial from a bushfire-hazard perspective.



**Figure 8** – Slope estimation locations on the Subject Site

## 2.5 Bushfire Weather

The Bega Valley Bush Fire Management Committee Bush Fire Risk Management Plan describes the climate of the Bega Valley as being temperate, with rainfall typically being variable and spread throughout the year. Dry winters and strong spring winds frequently bring about an early start to the fire season with rainfall variable throughout the year.

Occasionally the Shire can be subjected to very high temperatures, low humidity and strong north to north westerly winds. Such conditions can last for several days in succession. Numerous dry lightning storms with minimal rainfall can be expected during the Bush Fire Danger Period. Prolonged drought conditions can also have a pronounced impact on the Bega Valley and can lead to protracted periods of elevated fire danger.

PBP (RFS 2019) identifies that the Forest Fire Danger Index (FDI) that applies to the Far South Coast, including the subject site is FDI 100.

## 2.6 Potential Fire Behaviour

Whilst each bushfire event is different, fire spreads by responding to changes in fuel, terrain, and weather conditions. Therefore, based on landscape conditions and fire history, potential fire behaviour can be determined. It is generally anticipated that a potential fire within the study area and surrounds, would spread more quickly and have the potential for higher intensities when:

- Burning under the influence of south-westerly winds, particularly during warmer summer months;
- Moving upslope in the steeper, vegetated areas to the south west and south east.

If fires were to occur under a Fire Danger Rating (FDR) of Very High or above, within the steeper forested areas to the south east and south west, such fires may have the potential to spread quickly through vegetated patches. However, if a fire was to approach the subject land, it is likely to become slower moving and much less intense, due to the more dense vegetation being upslope of the subject site and management practices that have significantly reduced the available fuel in the areas immediately adjoining the subject land, including the fire break having been cleared on the adjoining site and between the vegetation and the subject site.

In a regional perspective, there is connectivity of the vegetation within the Study Area to BFPV further afield within the region (e.g. within 5 km). Given the potential for a fire moving through the subject area to impact on Pambula, Pambula Beach and Merimbula, the study area will always be an area which will be more intensively managed and, if required, defended during a bushfire event.

## 2.7 Bushfire History

The Bega Valley Bush Fire Management Committee Bush Fire Risk Management Plan (BFRMP) (2019) identifies that the main sources of ignition in the Bega Valley Shire are:

- Negligence/Accidental;
- Legal Burns – late Winter/Spring
- Arson;
- Power lines; and
- Lightning.

While the Study Area is not known to have an extensive history of bushfire, there is a history of a bushfire occurring in 1995 on the adjoining land/hill to the south west that is subject to a separate Planning Proposal for rural-residential subdivision and the adjoining State Forest. This fire did not encroach on the subject site.

Areas further to the south and south west, in the Eden and southern Nethercote area were burnt in the 1950s, 1980s and more recently in the 2019/2020 bushfires which significantly affected the south east forests.

As part of the emergency containment strategy established during the 2019/20 bushfires, State Forest NSW bulldozed a fire break on the adjoining property, along the rear south west boundary of the subject site. The subject site is understood to have been an area where containment and fire-fighting efforts would have been focused, if the fire fronts passed Eden and Nethercote and began to advance towards the Pambula, Pambula Beach and Merimbula urban areas.

The fire break at the rear of the subject site remains in place today and, although it is on private land, is likely to remain part of the broader management and containment strategy for future fires in the south east forests.

## 2.8 Summary of landscape bushfire risk assessment

The landscape bushfire risk analysis indicates there is potential for bushfire attack of the subject land given the presence of BFPV in adjoining areas and partially within the subject site.

However, the likelihood of this potential bushfire attack is decreased by:

- the topography of the site and the fact that the most heavily vegetated areas within the study area are upslope of the subject site; and
- the proposed new dwellings on Lots 2 and 3 will be located on an area that is primarily grassland, with sufficient area to achieve a 50m Asset Protection Zone.

Analysis indicates a limited known fire history within the study area. Additionally, the site is strategically located with regard to bushfire management for the broader region which will continue to make it an area that should be intensively managed and, in the advent of a bushfire, defended by emergency services.

If the dwelling on the proposed Lot 2 is located closer to the existing vegetation than the 50m, could, with other appropriate BPMs, facilitate APZ's without extensive vegetation clearing.

The landscape risk analysis indicates a risk level where it is feasible to design and build resilience into the subdivision design and final development of the 2 additional lots that matches or exceeds the bushfire protection requirements.

## 3. Land Use Assessment

The EP&A Act and the RF Act are the primary legislative instruments relevant to bushfire planning for the site. PBP is called up by these Acts as the subject site is mapped as bush fire prone land, and it is a critical guide in assessing the bushfire risk suitability of the proposal.

PBP (RFS 2019) outlines broad principles and assessment considerations for strategic planning. It also specifies that bushfire protection measures need to be considered at the strategic planning stage to ensure that the future development can comply with PBP (as specified in Chapters 5-8 of PBP 2019).

The aim and objectives of PBP (RFS 2019) below provide additional guidance for land use assessment within a Strategic Bushfire Study:

The aim of PBP is to provide for the protection of human life and minimise impacts on property from the threat of bush fire, while having due regard to development potential, site characteristics and protection of the environment.

The objectives are to:

- afford buildings and their occupants protection from exposure to a bush fire;

- provide for a defensible space to be located around buildings;
- provide appropriate separation between a hazard and buildings which, in combination with other measures, minimises material ignition;
- ensure that appropriate operational access and egress for emergency service personnel and residents is available
- provide for ongoing management and maintenance of bush fire protection measures; and
- ensure that utility services are adequate to meet the needs of firefighters.

### **3.1 Risk profile**

This Study has considered the feasibility of the Planning Proposal to comply with the bushfire protection measures within PBP. The main consideration in preparation of the study is that the proposed Lots 2 and 3 are primarily cleared land and each has capacity for a new dwelling and 50m APZ, without vegetation clearing.

This Study has also considered the possibility that, even if an alternative house location is selected on the proposed Lot 2, other bushfire protection measures within PBP could be applied to meet the acceptable solutions within PBP 2019.

### **3.2 Land use assessment**

The location and type of land uses included in the Planning Proposal are considered appropriate for the site, given: the level of bushfire landscape risk; the nature of the subject land; the characteristics of the land uses proposed; and the ability for bushfire protection and evacuation measures to be provided.

It is assumed more detailed design work will be undertaken at the DA stage, to determine the final siting and design of the proposed dwellings and that bushfire planning will be considered in detail then also.

The proposed rural-residential subdivision of the subject site will also not affect or limit the adjoining land owner's ability to main its asset protection zone or worsen the bushfire hazard or risk.

#### 4. Feasibility of Asset Protection Zones

Based on the landscape assessment of vegetation and slope, preliminary Asset Protection Zones (APZ) have been determined to identify the separation distance required between a structure and the vegetation hazard.

This analysis considers the existing vegetation within and adjoining the site and that the vegetation is all up slope from the proposed new rural-residential allotments.

Consequently, the minimum APZ for residential development near upslope Woodland vegetation and within an FFDI 100 level area is 24 m. This figure has been determined with reference to Table A1.12.2/A1.12.5 of PBP 2019.

**Figure 9** shows that there more than enough land available on the proposed lots 2 and 3 to meet both the requirement for the upslope woodland APZ. This image shows several lines of approximately 30m length (acknowledging only 24m is required by PFBP) and a radius of 65m on the proposed Lot 2 and 50m on the proposed Lot 3 (acknowledging that only a 50m is required by PFBP for grassland).

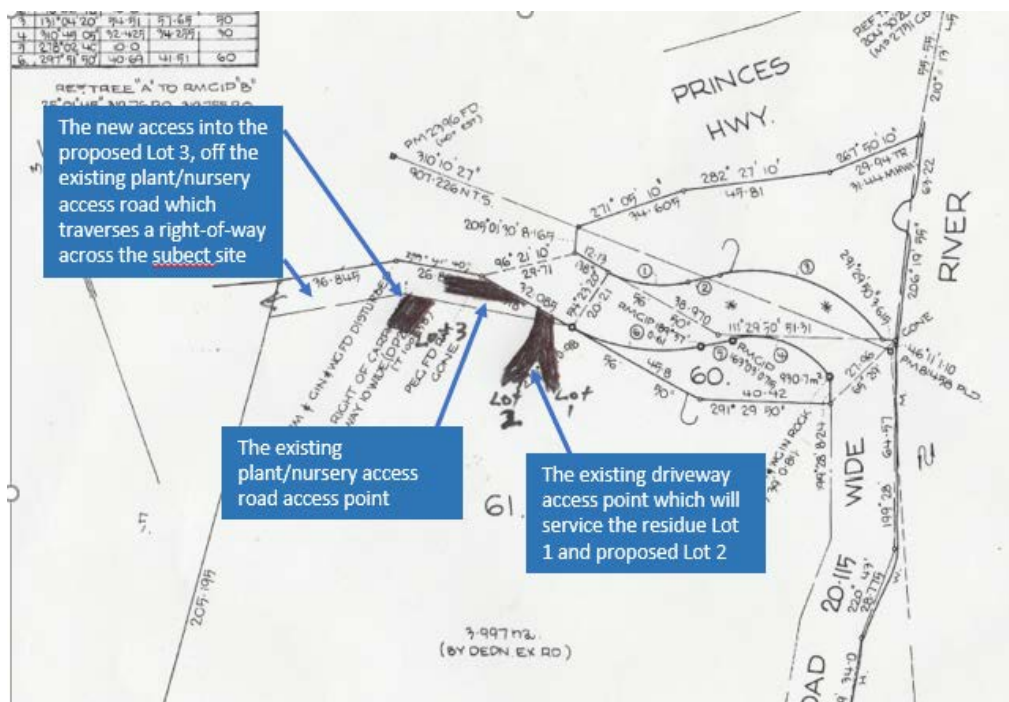


**Figure 9** – Indicative subdivision and several distances and radius

#### 5. Access and egress

As per the traffic assessment in the Planning Proposal, the proposed 3 lot subdivision will utilise the 2 existing access points to the Nethercote Road (**Figure 10**).





**Figure 10** – Proposed access points.

There are already gates in the existing driveway fence for the proposed Lot 1 which Country Energy installed when replacing power poles. An additional set of gates would be added to the new boundary fence for the proposed Lot 2 battle-axe handle so that both Lot 1 and Lot 2 could also use the Lot 3/nursery access road if the existing concrete driveway was blocked (e.g. by a fallen tree) during a bushfire or unusable for any other reason. This access arrangement will be confirmed via the subdivision DA.

The proposed access arrangements would also facilitate emergency access for fire trucks and equipment if they needed to access the vegetated area to the south west of the subject site.

As indicated in the traffic analysis in the Planning Proposal, development resulting from the Planning Proposal will result in only a small net increase in traffic movements and therefore it is anticipated that access and egress for residents and emergency services will be satisfactory.

## 6. Emergency Services

PBP 2019 recommends an assessment of emergency service availability and evacuation potential. The closest RFS brigades are at Eden and Pambula with another brigade also at Nethercote.

As detailed in section 5, emergency evacuation could occur via either access point, directly to the Nethercote Road and the Princes Highway. From that point there is safe access to Pambula and Merimbula in particular, if the most likely fire circumstance occurred which would be a fire travelling from the south west.

Evacuation centres have previously been established at Pambula, Merimbula and Eden.

In the 2019/20 bushfires, the existing land owners evacuated to Merimbula for several days, on 2 occasions. As previously mentioned, they were not identified as land owners that

needed to be personally advised of a potential fire threat by the NSW Police, because they have near access to the Prince Highway.

## **7. Infrastructure**

### **7.1 Water**

The existing site has town water service available to it and the owner is in discussions with Council regarding the 2 future allotments also having access. If Council does not permit the 2 additional allotments and dwellings to access the town water supply, an appropriate static water supply will be identified, as part of the subsequent DA process.

The PBP acceptable solution requirements for water is achievable.

### **7.2 Electricity and gas**

Electricity supply is also available to the existing site. The connection to the 2 new dwellings would run through a cleared area and is therefore highly unlikely to cause an ignition risk.

## **8. Adjoining land**

While the subject site benefits from a fire break that has been bulldozed along its boundary, on the adjoining land, by State Forest NSW, the future development is not reliant on this bushfire mitigation measure. There is sufficient distance for an appropriate APZ to be determined at the DA stage.

All buildings and land uses should still be designed to be resilient to bushfire attack in circumstances where no additional fuel management occurs outside of the subject land.

The proposed land uses will not impact on the ability for bushfire management activities to be undertaken on adjoining land.

## **9. Conclusions**

This strategic bushfire study has assessed the bushfire risk to the Planning Proposal, the appropriateness of the proposed land uses and the ability for appropriate bushfire protection measures to be provided.

It has been found that the proposed use of the land for rural-residential development is appropriate, the Planning Proposal meets the aim and objectives of PBP and can achieve required APZs and other bushfire mitigation measures and does not impose additional mitigation actions on adjoining land.

At the detailed design phase, lot design / APZ provision, infrastructure, access and construction plans are required to meet the specifications outlined in PBP 2019. However, the assessment of the Planning Proposal in this Strategic Bushfire Study identifies that the orderly provision of bushfire protection measures to achieve the deemed to satisfy standards prescribed within PBP is achievable.

It is further concluded that the Planning Proposal is consistent with Ministerial Direction 4.4 (Planning for Bushfire Protection) issued under section 9.1(2) of the EP&A Act and the requirements of PBP. Consultation should occur with the NSW Rural Fire Service as part of

the Planning Proposal process, following issue of the Gateway determination and as part of the public exhibition process.

**References**

*Bega Valley Bush Fire Management Committee Bush Fire Risk Management Plan*, 2019, Bega Valley Bush Fire Management Committee. Approved by NSW Bush Fire Coordinating Committee.

*Planning for Bush Fire Protection: A Guide for Councils, Planners, Fire Authorities*, 2019, NSW Rural Fire Service

## ATTACHMENT E – Contaminated Land Assessment, Preliminary Site Investigation

### **Contaminated Land Assessment, Preliminary Site Investigation, 3900 Princes Highway, Greigs Flat**

#### **1. INTRODUCTION**

This report is a Preliminary Site Investigation (PSI) of 3900 Princes Highway, Greigs Flat.

The PSI includes a review of current and historical activities on the site, an assessment of the potential risk of soil contamination existing on the land due to current or past land use to determine whether the proposed rural-residential development of the site is appropriate.

The site is currently developed as a rural holding and has an existing dwelling and several associated sheds and outbuildings, landscaped areas, vegetated areas and pasture.

This report has been prepared in consideration of:

- The NSW *Draft Contaminated Land Planning Guidelines* (2018);
- State Environmental Planning Policy No. 55 – Remediation of Land;
- The EPA's *Consultants reporting on contaminated land – Contaminated Land Guidelines* (2020) for a Preliminary Site Investigation; and
- The *Contaminated Land Management Act 1997*.

Based on this investigation, the following conclusions are drawn:

- The site history, desktop study and the site inspection indicate past activities on the site have a low potential for environmental impacts on the soil and groundwater, particularly on the areas proposed for rural-residential development.
- The site is fit for the intended purpose of rural-residential development.
- A Detailed Site Investigation (DSI) with intrusive soil/water sampling regime is not recommended to be prepared to support the planning proposal and subsequent subdivision and dwelling development applications.

#### **2. PLANNING GUIDELINES**

The site is proposed to be used for rural-residential development.

This PSI was conducted in general accordance with the The EPA's *Consultants reporting on contaminated land – Contaminated Land Guidelines* (2020) for a Preliminary Site Investigation. The Guideline requires that planning proposals and development applications (DAs) be supported by information demonstrating that the land is suitable for the proposed use or can be made suitable, either by remediation or by the way the land is used.

### 3. OBJECTIVE AND SCOPE

The objective of this PSI report is to determine whether the site is suitable for the intended use and to comply with the relevant legislative and policy requirements.

The investigation consisted of:

- A desktop assessment of the available information on the site history from historical aerial photographs, Section 149 Certificate and Geological and hydrogeological review;
- Searching records on previous notices issued by the NSW Department of Planning, Industry and Environment and Bega Valley Shire Council;
- Inspecting the site to identify potential areas of environmental concerns; and
- Interviewing the current owners who have lived on the site for almost 20 years and prior to that lived on the adjacent property for 20 years and frequently visited the site soon after the existing dwelling and outbuildings were constructed.
- Preparing a report summarising the outcome of the investigation.

The investigation and its outcomes are reported and discussed in the following sections.

### 4. SITE DESCRIPTION

#### Site Details, Location and Topography

The site is 3900 Princes Highway, Greigs Flat and is comprised of 2 separate lots, Lots 60 and 61 DP 861043 which have a combined total area of 4 hectares (ha):

- Lot 61 is 39,070 sq.m. in size and is split into 2 parts by the Nethercote Road and comprises the bulk of the property and a small triangular-shaped east of the Nethercote Road and a finger of land that runs south, between the Nethercote Road and the mean high-water mark of the Yowaka River; and
- Lot 60 which is 930.7 sq.m. and is immediately south of the Nethercote Road and was formed by a previous re-alignment of the road.

The site is currently developed as a rural holding and has an existing dwelling and several associated sheds and outbuildings.

The property is well maintained with no disused machinery or scrap building materials lying around.

The site generally falls from the south west to the south east with slopes ranging from 7.5%-10% for the areas proposed to have the 2 additional rural-residential allotments and dwelling entitlements to 27% on an undeveloped vegetated corner of the site that will remain in the residual allotment, with the existing dwelling and outbuildings, following rezoning and subdivision of the site.

The elevation of the site ranges from approximately 48m AHD to the mean high water mark where a separated portion of the lot (severance created by the Nethercote Road) fronts the Yowaka River. The area that is proposed to be the location of Lots 2 and 3 and developed for new rural-residential development ranges in elevation from approximately 48m to 10 m AHD.



There is a small flat triangular area in the north east corner of the site and a finger of land that extends along the Yowaka River which are separated from the main holding by the Nethercote Road. The overall site is comprised of 2 lots with a combined area of 4 hectares or 10 acres in size.



**Map 1: The Site**

### **Surrounding Land Use**

The Princes Highway and the Nethercote Road bound the site on the northerly and north-easterly sites. The Yowaka River and Nethercote Road run along the site's eastern boundary. Land beyond both of these is developed for rural holdings which are primarily rural-residential in nature i.e. they are not intensive livestock operations.

Private rural properties join the property's southern and western boundaries with the land to the south and south west being heavily vegetated and the land to the west and north west being a largely cleared rural land holding that is developed as a rural property, with a retail plant nursery.

### **Geological, Soil Landscapes and Drainage**

The geological origin of the soil profile was identified from geological maps of the area<sup>1</sup>. The geological map of the area indicates that the site is at the confluence of two formations, the:

- Cappanana Formation which is comprised of siltstone, shale and sandstone and minor volcanics with shallow but relatively free draining and fertile soils with dispersed outcrops of shale or 'coffee rock' as it is also referred to as, and
- Twofold Bay Formation which is comprised of fluvial sandstone with mudrock and conglomerate.

The triangular site that is separated from the main holding is comprised of sediment associated with flooding from the Nethercote River and small creek that runs through it and fill from upgrades to both the Princess Highway and the Nethercote Road. The small finger of land that extends south from this, above the mean high water mark of the Yowaka River, is incorporated into the Nethercote Road which is constructed of imported gravel and other road materials.

The majority of the site is on the side of a hill and drains to the Nethercote Road and the small creek which runs through the triangular site and that joins with the Yowaka River on this portion of the site.

### **Site Regional Meteorology and Hydrogeology**

Pambula has a warm and temperate climate. There is historically a lot of rain in Pambula, even in the driest month with monthly averages ranging from 45 mm in August to 94 mm in February. February, June, November and December are the 4 wettest months with annual precipitation being about 842 mm per year.

The average annual temperature in Pambula is 15.2 °C with an average of 19.9 °C in January which is the warmest month. The lowest average temperatures in the year occur in July, when it averages around 10.6 °C.<sup>ii</sup>

### **Registered Bore Search**

There are no registered bores in the vicinity of the site.

### **Acid Sulphate Soils**

There are potentially Acid Sulfate Soils on the triangular parcel of land which is separated from the main site by the Nethercote Road given that it has a small creek which connects to the Yowaka River on this site.

Given that this part of the site is also flood affected, will not be developed because it will form part of the proposed Lot 1 which will incorporate the existing dwelling and this area will have an increased level of zoning protection from the planning proposal (i.e. being rezoned from a partial rural zone to being fully zoned for environmental protection), the potential presence of Acid Sulfate soils has not been considered further in this assessment.

### **Site History and historical background**

The following history of the site was detailed by the current land owners of the site who have:

- lived on the existing and adjoining property for over 40 years; and
- undertaken extensive investigations into the history of European settlement in this area (one of the existing owners is a founding member of the local genealogy society which has extensive records of the history of the local area, including of historical land use).

The subject land was part of the 848 acres granted to John Lloyd RN in 1855 and held by family members until 1885 when the part which became known as 'Rosehill' was bought by Bega solicitor, Thomas Rawlinson.

The homestead built by Rawlinson (near the present day Summerhill Road and not on the subject site) was tenanted by a principal of the Bland Proprietary Mine at Pipeclay Creek followed by Yowaka and Nethercote schoolteachers.

The only indication of the use of the land near the Yowaka River was given by a notice the Nethercote Schoolteacher placed in *The Pambula Voice* 29 June 1901 that his horse had strayed from the paddock near the Saltwater Creek (the local name for the Yowaka River)

where it was pastured. Some land clearing was carried out during Rawlinson's ownership.

It is known that Henry Cole who purchased 'Rosehill' in 1902 was contracted to supply timber to the Pambula Butter Factory for a number of years. Cole carried out extensive clearing of timber particularly on the easily accessible land and commenced dairying. Tracks and stumps are still evident on the hill on the adjoining property to the west. Corn was grown on small parcels of flat land along the Yowaka River including the triangular part of Lot 61. The Cole family changed to beef cattle in 1963.

The subsequent owner, Chester Pastoral Co also ran a beef herd and conducted a Trail Riding (horse) business through to the goldfields. In 1981 three ten-acre blocks fronting the Princes Highway (including the subject site) and two larger forested blocks to the west were subdivided from 'Rosehill'.

The subject site was one of these ten acre blocks. The dwelling was erected in 1982 and the out-buildings (timber/steel frame, zincalume, corrugated iron and primarily concrete or elevated timber flooring) soon after. The then owners established a small mohair goat hobby farm and did not carry out 'dipping' or use dangerous chemicals. The current owners were regular visitors to the property and occasionally assisted so were well aware of husbandry practices followed.

Following purchase in 2002, the current owners have not run livestock on the property (it is still grazed daily by a large mob of kangaroos) and have not undertaken any potentially contaminating activities on the site.

Other relevant land use history for the subject site includes potential for filling or spills due to road construction activity related to the Princes Highway, Yowaka River Bridge (constructed 1936 and upgraded 1994) or Council's Nethercote Road. The potential for this area to have been contaminated is inconsequential for the planning proposal as the area which could potentially have been filled is the triangular part of Lot 61 that is separated from the main property by the Nethercote Road and is:

- unsuitable for building due to several land use constraints,
- will remain as part of the residual allotment that will contain the existing dwelling (i.e. no building will take place on that part of the site); and
- will have increased protection as a result of this planning proposal given part of that area will be rezoned from RU2 Rural Landscape to E2 Environmental Conservation.

### **Site Walkover**

Results from the site walkover on 23 July 2021 are presented below:

- An existing brick and timber dwelling is located in the south-east corner of the site;
- There are 5 outbuildings associated with the dwelling;
- The site is well kept and there are no piles of rubbish and disused machinery lying around the property, which are typical for many rural properties; and
- The triangular shaped site that was created by severance from the Nethercote Road and finger of foreshore land that runs parallel to the Nethercote Road and Yowaka River have both previously been filled as part of the construction of the Nethercote

Road (the finger of land physically forms part of the existing road and its associated riverfront embankment.

### NSW BCD and EPA Records

A search of the BCD' NSW Contaminated Land database and the List of NSW Contaminated Sites Notified to the EPA did not identify any contaminated land records at Greigs Flat.

### Planning Certificate

The Planning Certificate did not identify the subject site as being potentially contaminated land.

### Salinity Mapping

There is no available salinity mapping that identifies salinity issue son the subject site.

## 5. POTENTIAL FOR CONTAMINATION

### Areas of Environmental Concern

The assessment of Areas of Environmental Concern (AECs) and contaminants of primary concern (COPCs) (Table 1) is made based on available site history, aerial photography interpretation and the site walkover.

**Map 2** shows the location of the identified AECs on the subject site.

Table 1 - Areas of Environmental Concern and Contaminants of Primary Concern

AEC	Potential for contamination	COPC	Contamination likelihood	Comment
A - Dwelling	Pesticides may have been used underneath dwellings. Dwelling construction may include ACM and/or lead based paints	HM, OCP/OPP and Asbestos	Low	<p>The existing dwelling is in very good condition and is not proposed to be changed in any way as a result of the planning proposal and intended subdivision.</p> <p>The existing dwelling is primarily constructed of brick and timber.</p> <p>While the use of asbestos was phased out in the 1980s, the fact that the existing dwelling was constructed in 1982 means that it may have been used in wall sheeting that was subsequently tiled etc.</p>
B – Sheds	The 2 main sheds may have previously stored oils,	HM, OCP/OPP, TRH, PAH, BTEX	Low-Medium	The existing sheds are in very good condition and it is not proposed to be changed in any way as a result of the planning proposal and intended subdivision.

	fuels, batteries and paints. Construction may have included the use of ACM, lead based paints, or galvanised metals. Underneath shed footprint may have been treated with pesticides			<p>The 2 main sheds and a smaller shelter attached to one of these sheds have concrete slab floors which would have limited the potential penetration of contaminants into the subsoil.</p> <p>There are 2 smaller sheds that had elevated timber floors which used for feeding and sheltering of the previous owner's goats – there is a low likelihood of any of these materials being stored in these sheds.</p> <p>There is an open/dirt floor shed at the rear/south west boundary of the subject site which has housed the respective landholder's tractors since it was constructed in the mid 1980s. This shed is unlikely to be demolished as a result of the subdivision as it is on the property boundary and is in an that could not be developed under the current planning controls i.e. neither a house or an associated outbuilding can be built there under today's rules</p> <p>No asbestos has been used in the construction of any of these buildings</p>
C – Site Filling	Imported fill materials of unknown origin used for the Nethercote Road and Princes Highway construction may have introduced contamination to soil.	HM, TRH, BTEX, PAH and Asbestos	Low-Medium	<p>This risk only applies to the small triangular shaped portion of the site and the associated finger that is part of the Nethercote Road.</p> <p>Given there will be no change to the development and use of this site as a result of this planning proposal, a search was not made of TfNSW or Council records to determine the nature of any materials used or stored on this area during road works. It is assumed that both organisations would have records which provide this information, if required.</p>



A more detailed analysis and testing process is not recommended for this site because:

- The current land owners have an intimate knowledge of past land use and animal husbandry practices of the previous land owners and there is no known history of contaminating land use and animal husbandry practices;
- The site is overall well kept and clean with no rubbish or machinery dumps or areas of concern;
- The area that is known to have been filled in association with road works will not be disturbed as a result of this planning proposal and will remain within the residual parcel with the 2 other rural-residential lots being totally separated from this area; and
- The existing dwelling and outbuildings will not be disturbed or demolished as a result of the planning proposal.



## 6. CONCLUSIONS/RECOMMENDATIONS

A preliminary site investigation (PSI) of 3900 Princess Highway, Greigs Flat was undertaken to investigate the likelihood of the presence of contamination on the site. The investigations include a review of site history and a site inspection.

Based on the results of this PSI the following conclusions can be made:

- The site has been occupied by the existing residential buildings from 1982, therefore the site is known to have been in its current residential configurations for almost 40 years;
- The site condition and the past and current site activities described in this PSI indicate a low potential for significant or gross contamination of the soil and groundwater or future residents or visitors to the site;

- The site is suitable for the proposed rural-residential use;
- The requirements of Ministerial Direction 2.6 Remediation of Contaminated Land and all other legislative requirements have been addressed; and
- A Detailed Site Investigation (DSI) with intrusive soil/water sampling regime is not recommended to be undertaken at the DA stage as it is not necessary

To assist Council's consideration of this matter, the land owners have completed a draft Preliminary Site Checklist which is included as Attachment A to this report.

## ATTACHMENT A – Preliminary Site Checklist

- *Previous investigations about contamination on the land?*

None known.

- *Do existing records held by the planning authority show that an activity listed in Table 1 has ever been approved on the subject land? (The use of records held by other authorities or libraries is not required for an initial evaluation.)*

No.

- *Was the subject land at any time zoned for industrial, agricultural or defence purposes?*

Yes – Agriculture. See the description of past agricultural activities in the PSI.

- *Is the subject land currently used for an activity listed in Table 1?*

Yes – Agriculture. However, the land owners don't have any stock so grazing is only done by native/wild kangaroos so the only active form of agriculture is the owner's fruit trees and vegetable garden.

- *To the planning authority's knowledge was, or is, the subject land regulated through licensing or other mechanisms in relation to any activity listed in Table 1?*

No.

- *Are there any land use restrictions on the subject land relating to possible contamination, such as notices issued by the EPA or other regulatory authority?*

No.

- *Does a site inspection conducted by the planning authority [optional] suggest that the site may have been associated with any activities listed in Table 1.*

TBC. – unlikely.

- *Is the planning authority aware of information concerning contamination impacts on land immediately adjacent to the subject land which could affect the subject land?*

TBC – unlikely.

## OTHER REFERENCES

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<sup>i</sup> Bega-Mallacoota geological map 1:250,000, NSW Government 1995

<sup>ii</sup> <https://en.climate-data.org/oceania/australia/new-south-wales/pambula-15357/#climate-table>

## ATTACHMENT F – Council’s March 2021 response on the draft Planning Proposal



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16 March 2021

Lorraine and John Hodgkins  
 email: [lorraine.clayz@outlook.com](mailto:lorraine.clayz@outlook.com)

Dear Mr and Mrs Hodgkins

***Review of draft planning proposal to rezone 3900 Princes Highway, Griegs Flat to enable rural residential development***

Thankyou for submitting your draft planning proposal to us for review.

The planning proposal would be improved by clearly identifying the two affected lots, in terms of both the site map (figure 1 and in Part4 'Explanation of provisions').

We support E4 / E2 zone combination but the proposed minimum lot sizes need to be amended apply a 8,000sqm minimum lot size to the E4 portion of the land with a 120ha minimum lot size applied to the E2 zoned land. As the proposed E4 zone is approximately 26,000sqm this would permit the three lots with dwelling entitlements within the E4 portion of the land – note Clause 4.1B of Bega Valley Local Environmental Plan 2013 permits lot averaging so there is scope for flexibility of lot sizes within the E 4 zone.

We do not support the suggested amendment of the constrained land and biodiversity overlays – this mapping is coarse and not ground truthed and is only a consideration at the DA stage when verified, as such amendments to the mapping overlays are not required.

Regarding servicing, currently Council is not permitting additional connections to the trunk main in Griegs Flat, however Council's Water and Sewer section is currently investigating permitting connections in this area and this position may change.

Council's Senior Environmental Health and Building Surveyor has reviewed the planning proposal and an effluent capability study considering the cumulative impacts of on-site sewage management systems in not required in this instance. He advised that the proposed lots are likely to be suitable for aerated systems with pumping irrigation areas setback at least 150m from Yowaka River. He also noted that the adjacent nursery driveway directs water run off towards the natural depression on the land.

The Biodiversity Conservation Division have provided a response regarding consideration of biodiversity in the planning proposal and does not require further biodiversity assessments to be carried out to support this planning proposal and to meet the requirements of Ministerial Directions 2.1 and 5.10. The agency does, however, require several minor changes in regard to consideration of biodiversity as outlined in their response (see attached for details).



Further information is required in the planning proposal to address Ministerial Direction 2.2 Coastal Management in accordance with the attached response from the Biodiversity Conservation Division.

The attached response from Biodiversity Conservation Division contains several recommendations in regard to consideration of Section 9.1 Planning Direction 4.3 Flood Prone Land. Council has sought a review of this advice and we hope to provide you with updated direction regarding consideration of flooding in the planning proposal.

TfNSW have commented on the draft planning proposal and require the planning proposal to include scaled plans to demonstrate sight distance is available at the proposed access to the Princes Highway (Nethercote Road/Princes Highway intersection) incorporating any landscaping plans. An extract from Austroads Guide to Road Design is attached to inform the safe intersection sight distance.

The planning proposal needs to be accompanied by a Strategic Bush Fire Study which includes the components detailed in Planning for Bushfire Guidelines 2019 Table 4.2.1 is required to be prepared by a suitably qualified professional. In addition to addressing the strategic issues, an assessment of whether the proposal can comply with PBP will be required. Generally, in order to demonstrate that a proposal can comply with PBP, an indicative subdivision design will be required to support the planning proposal, which should detail maximum road grades, future building footprints and associated Asset Protection Zones (APZs) into the indicative subdivision plan.

The planning proposal needs to include greater consideration of Aboriginal cultural heritage and include a statement in accordance with the steps outlined in *Bega Valley Development Control Plan 2013* Chapter 5.1 Aboriginal Heritage.

Regarding alignment with PP\_2020\_BEGAV\_002\_00, the timing of the two planning proposals is unlikely to align and linking them may hinder the progress of this application.

Attachment B needs to be reviewed to ensure it meets the requirements for a Stage 1 Preliminary Investigation into potential land contamination in accordance with the *Managing Land Contamination: Planning Guidelines* (1998).

Please contact me if you have any further questions regarding this matter on [sthomson@begavalley.nsw.gov.au](mailto:sthomson@begavalley.nsw.gov.au).

Regards,



Sophie Thomson  
Strategic Planning Coordinator