



Planning Proposal: Mixed Use Development in the B2 Local Centre zone October 2021



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Part 1 – Objectives and intended outcomes

This planning proposal has been prepared by Bega Valley Shire Council in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning, Industry and Environment's *A Guide to Preparing planning proposals* (December 2018).

This planning proposal seeks to amend a *Bega Valley Local Environmental Plan 2013* Land Use Table as well as introduce a new clause to implement the recommendations of the *Bega Valley Shire Local Strategic Planning Statement 2040*, *Bega Valley Shire Residential Land Strategy 2040* and the *Bega Valley Shire Commercial Land Strategy 2040* to encourage mixed use development in town centres.

The objectives of this planning proposal are to amend *Bega Valley Local Environmental Plan 2013* to:

- Support housing diversity and supply in the Bega Valley Shire
- Encourage limited, appropriate residential development in town centres
- Improve provision of key worker accommodation
- Promote vibrant town centres
- Protect commercial streetscapes
- Protect opportunities for future redevelopment in the town centre

The intentions of this planning proposal are to:

- 1) Include *dwelling house, dual occupancy, multi dwelling housing or residential flat building* as uses that are permitted with consent in zone B2 Local Centre
- 2) Introduce a clause into *Bega Valley Local Environmental Plan 2013* to encourage mixed use development in B2 Local Centre zones.

Currently the only forms of residential accommodation permitted in the B2 Local Centre zone are boarding houses and shop top housing. The outcome of this planning proposal will be permitting a wider range of housing types within some town centres provided they are incorporated into mixed-use developments. This will ensure that active commercial street frontages are maintained in key commercial areas while providing options for certain types of residential development behind or above commercial premises.

The planning proposal is consistent with the objectives of the *Bega Valley Shire Development Control Plan 2013* relating to mixed use development to:

- Ensure the integration of appropriate housing with retail and commercial uses
- Maintain residential amenity and preserve compatibility between uses
- Increase living densities in and near town centres and encourage a range of dwelling sizes

The design, amenity, environmental and accessibility aspects of future residential development that may result from this planning proposal will be considered through the Development Assessment process in accordance with the provisions of the *Bega Valley Shire Development Control Plan 2013*. This includes the existing controls relating to the provision of open space, overshadowing, carparking and landscaping requirements.

Part 2 – Explanation of provisions

Land Use Table Amendment

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

Land Use Table	Add to “3 permitted with consent”
B2 Local Centre	Dwelling house Dual occupancy Multi dwelling housing Residential flat building

Proposed New Clause

2) Introduce the following clause in *Bega Valley Local Environmental Plan 2013*

6.12 Residential development and subdivision in Zone B2 Local Centre

(1) The objective of this clause is to ensure the commercial viability of centres is maintained and enhanced by encouraging appropriate residential development in town centres.

(2) This clause applies to land in Zone B2 Local Centre.

(3) Development consent must not be granted to development for the purposes of dwelling house, dual occupancy, multi dwelling housing or residential flat building unless it is part of a mixed use development in which the ground floor of the building facing the primary street has an active street frontage and the consent authority is satisfied that it is to be used for the purposes of commercial premises or a health services facility.

(4) Development consent must not be granted under this clause for a subdivision of land that separates the dwelling house, dual occupancy or multi dwelling housing component of the mixed use development from the commercial component.

(5) In this clause—

active street frontage means a street frontage that enables direct visual and physical contact between the street and the interior of the building.

Note—

Clearly defined entrances, windows and shop fronts are elements of a building facade that contribute to an active street frontage.

Part 3 – Justification

A. Need for the planning proposal

1. Is the planning proposal a result of a strategic study or report?

Yes.

Bega Valley Shire Commercial Land Strategy 2040

The *Bega Valley Shire Commercial Land Strategy 2040* addresses the future need for commercial land in Bega Valley Shire and provide a vision and framework for the development of the Shire's commercial centres over the next 20 years.

The *Bega Valley Shire Commercial Land Strategy 2040* recognises the importance of residential development to the economic viability of commercial development to meet changing demand for goods and services, attract new residents and provide opportunities for housing that add vitality and security.

This planning proposal seeks to implement the *Bega Valley Shire Commercial Land Strategy 2040* by permitting selected additional residential uses in a suitable zone within certain commercial centres.

Bega Valley Shire Residential Land Strategy 2040

The planning proposal also implements the *Bega Valley Shire Residential Land Strategy 2040* which aims to increase housing diversity and ensure the best use of available zoned and serviced land. Council's 20-year vision for residential land is for our residential areas provide housing choices for our local community now and into the future. The Strategy includes the following general recommendations:

- Support future residential growth for Bega Valley Shire to 2036
- Respond to specific housing needs and affordability
- Expand the diversity of housing

More housing diversity is needed in all centres including housing suitable for smaller dwellings close to services and facilities. Selected adjustments to current planning controls can support housing diversity and growth within existing town centres.

The commercial land within Bega, Bermagui, Eden, Merimbula, Pambula and Tathra town centres is zoned B2 Local Centre. Currently in the B2 Local Centre zone the only form of residential development permitted is shop top housing. This is restricting the supply of desirable housing types in this zone as all of the residential use must be above a commercial premises or a health services facility. Permitting a wider range of housing types within the zone but restricting those uses to mixed-use developments will ensure that active commercial street frontages are maintained while providing options for certain types of residential development at the rear of commercial premises. The potential for land use conflict between the two used will be minimised by limiting subdivision of the residential component of the development from the commercial for the dwelling house, dual occupancy and multi dwelling housing.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal is the best means of achieving the objective of permitting new uses within a zone and restricting those uses to mixed use development. Under the NSW Planning Framework these objectives can only be achieved by amending a land use table and introducing a new clause into *Bega Valley Local Environmental Plan 2013* through a planning proposal.

B. Relationship to the strategic planning framework

1. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes. The planning proposal aims to achieve the following goals, directions and actions of the NSW Department of Planning, Industry and Environment's *South East and Tablelands Regional Plan*:

Goal 1: A connected and prosperous economy

- Direction 12: Promote business activities in urban centres
- Action 12.2 Encourage mixed use developments that cater for commercial, retail, residential and tourism uses through local planning controls.

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 25: Focus housing growth in locations that maximise infrastructure and services
- Action 25.1 Focus future settlement to locations that: maximise existing infrastructure and services and minimise the need for new services; prioritise increased densities within existing urban areas
- Direction 27: Deliver more opportunities for affordable housing
- Action 27.1 Deliver greater housing affordability by incorporating policies and tools into local housing strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing.
- Action 27.2 Facilitate greater housing diversity, including studios and one- and two-bedroom dwellings, to match forecast changes in household sizes.

2. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Local Strategic Planning Strategic Statement 2040

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

- Planning Priority 11 Housing: Residential areas provide a range of housing styles, sizes and tenures that suit people of all ages, income levels and household sizes and enable communities to stay connected and healthy as people move through the various stages in life
- Planning Priority 12 Town Centres: The vibrant and progressive town centres are attractive, green and clean and provide places for living, entertainment and socialising as well as access to a wide variety of shops and services

Community Strategic Plan 2040

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

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

3. Is the planning proposal consistent with the applicable State Environmental Planning Policies?

The following table identifies the applicable SEPPs and outlines this planning proposal's consistency with these.

Relevant SEPP	Consistency
State Environmental Planning Policy 64 – Advertising and Signage	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. This SEPP may apply to signage associated with future development.
State Environmental Planning Policy (Building Sustainability Index: BASIX 2004)	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP. This SEPP may apply to future residential development in the B2 Local Centre zone and will be considered at the detailed development consent stage.
State Environmental Planning Policy (Coastal Management) 2018	Consistent. Enabling more forms of mixed use development in coastal town centres will not increase the risk of coastal hazards or unduly impact the coastal scenic or environmental values. Visual impacts of each future development can be appropriately managed at the development applications stage and is controlled by height limits in the of <i>Bega Valley Local Environmental Plan 2013</i> .
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Consistent. The planning proposal does not contain provisions that would hinder the application of this SEPP.

4. Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 directions)?

Yes. The following section identifies the applicable Section 9.1 Directions by the Minister and outlines this planning proposal's consistency with these:

1. Employment & Resources

1.1 Business and Industrial Zones

This planning proposal is consistent with the objectives of the ministerial direction to:

- encourage employment growth in suitable locations,
- protect employment land in business and industrial zones, and
- support the viability of identified centres.

The planning proposal does not seek to amend the areas and locations of existing business zones.

3. Housing infrastructure and urban development

3.3 Home occupations

Consistent. The planning proposal supports the carrying out of low-impact small businesses in dwelling houses.

3.4 Integrating Land Use and Transport

Consistent. Specifically, the planning proposal supports the objectives of the Direction to improve access to housing, jobs and services by walking, cycling and public transport, increase the choice of available transport and reducing dependence on cars and reduce travel demand including the number of trips generated by development and the distances travelled, especially by car.

The planning proposal is not inconsistent with the objectives of the Direction to provide for the efficient movement of freight and support the efficient and viable operation of public transport services.

The planning proposal is consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy (DUAP 2001).

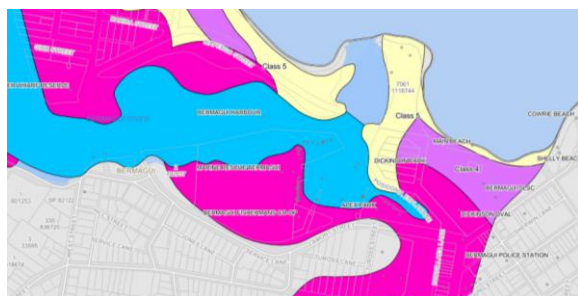
4. Hazard and risk

4.1 Acid sulfate soils

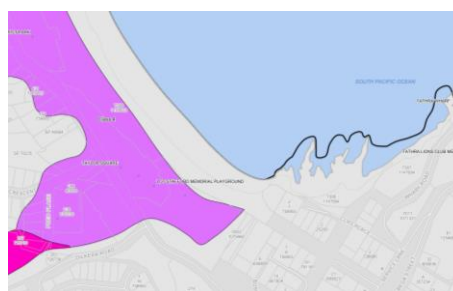
Consistent. The planning proposal will not intensify the land uses or the natural hazard that exists on sites mapped as containing Acid Sulphate Soils Class 4. The planning proposal is consistent with the Acid Sulfate Soils Model LEP and the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning.

The following areas of B2 Local Centre zone are mapped as impacted by Acid Sulphate Soils:

Bermagui



Tathra



*Legend: blue = acid sulfate soul class 1
purple = acid sulfate soul class 4*

*pink = acid sulfate soul class 2
yellow = acid sulfate soul class 5*

4.3 Flood prone land

The planning proposal is consistent with the objectives of this Direction, but not the terms of the Direction. The justification for inconsistency is grounded in the fact that the planning proposal does not seek to vary any of the flood control provisions currently contained in the LEP and will not result in development of flood prone land that is inconsistent with the Floodplain Development Manual 2005, nor will it result in changes to the LEP that would undermine Clause 5.21 Flood Planning.

The following areas of B2 Local Centre zone are mapped as within the Flood Planning Area and are subject to the provisions of Clause 5.21 Flood Planning:

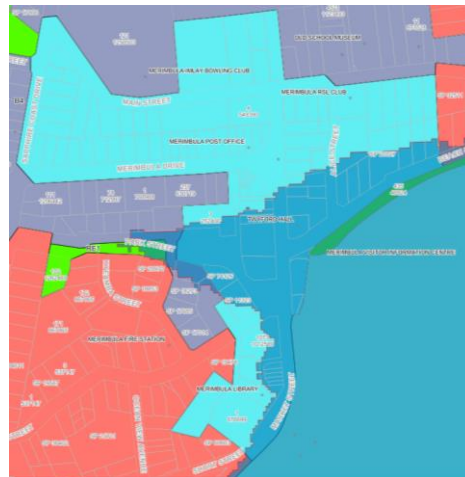
Bermagui



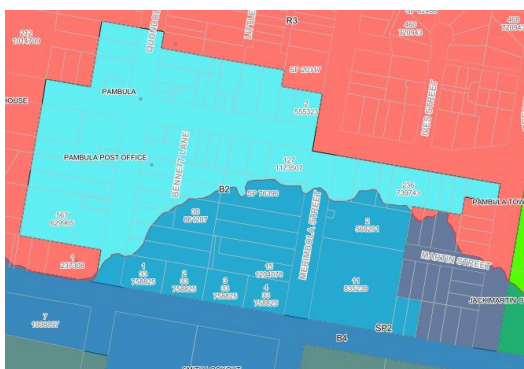
Eden



Merimbula



Pambula



Bega



Legend: blue = Flood Planning Area

4.4 Planning for bushfire protection

This planning proposal is consistent with the objectives of the Ministerial Direction. All of the affected land within Bushfire Prone mapped land is within existing urban areas and it is considered that all subsequent development will be able to meet the requirements of *Planning for Bushfire Protection 2019*. The planning proposal does not introduce controls that place

inappropriate developments in hazardous areas or affect land where bushfire hazard reduction is prohibited within the APZs of affected properties.

In accordance with the Direction, Council will consult with the Commissioner of the NSW Rural Fire Service during the preparation of a draft Local Environmental Plan and take into account any comments made.

The following areas of B2 Local Centre zones are mapped as containing bushfire prone land:

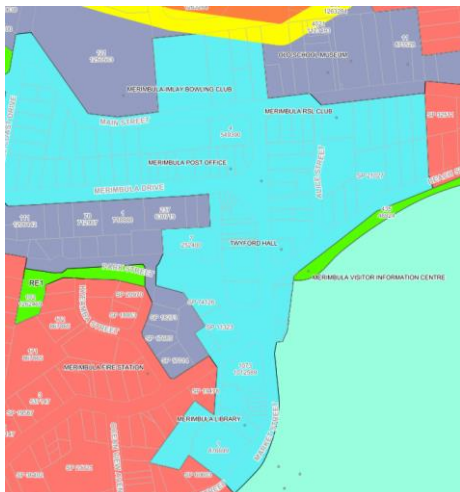
Bermagui



Pambula



Merimbula



Tathra



*Legend: yellow = bushfire buffer
orange = bushfire vegetation category 3*

red = bushfire vegetation category 1

5. Regional planning

5.10 Implementation of Regional Plans

Consistent. The South East and Tablelands Regional Plan is the plan applicable to this proposal. The planning proposal's consistency with this plan is addressed previously under Question 4.

6. Local plan making

6.1 Approval and referral requirements

Consistent. The planning proposal intends to alter the B2 Local Centre land use table which will not add to any additional concurrence, consultation or referral of development applications to a Minister or public authority or increase the likelihood of additional designated development.

C. Environmental, social and economic impact

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal intends to amend the land use table in existing urban B2 Local Centre zones. The Biodiversity Values Map was examined and confirmed that there are no Biodiversity Values as framed under the Part 7 of the *Biodiversity Conservation Act 2016*.

It is not anticipated that the planning proposal will adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is not anticipated that there will be any adverse environmental effects because of this planning proposal. The design, amenity, environment and accessibility aspects of future residential development that may arise as a result of this planning proposal will be considered through the Development Assessment process in accordance with the provisions of the Bega Valley Shire Development Control Plan 2013. This includes the existing controls relating to the provision of open space, overshadowing, carparking and landscaping requirements.

3. Has the planning proposal adequately addressed any social and economic effects?

The objective of the planning proposal is to implement the recommendations of the *Bega Valley Shire Commercial Land Strategy 2040* and *Bega Valley Shire Residential Land Strategy 2040* to support economic development and employment opportunities as well as improve housing diversity and supply within the Bega Valley Shire. This will be achieved through the measures in the planning proposal which are specifically designed to encourage more vibrant town centres, provide housing diversity and supply and support economic development and employment opportunities.

D. State and Commonwealth interests

1. Is there adequate public infrastructure for the planning proposal?

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

2. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Council will consult with the relevant State and Commonwealth authorities in accordance with the conditioning of the Gateway Determination.

Part 4 – Mapping

The planning proposal will not result in any amendments to maps associated with *Bega Valley Local environmental Plan 2013*.

Part 5 – Community Consultation

Community consultation for this planning proposal will be consistent with the requirements of the Gateway Determination. It is likely that the planning proposal will be exhibited as a ‘low’ impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of *A Guide to Preparing Local Environmental Plans*.

Council will engage with the local community and agencies as per the Gateway Determination and Council’s *Community Engagement Strategy*. This will include notification on Council’s website and by email to local development professionals.

Part 6 – Timeline

The project timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that the amendments to Bega Valley Shire Local Environmental Plan 2013 will be completed by September 2022.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council’s Chief Executive Officer or Director of Community, Environment and Planning. The approximate project timeline is outlined in the following table:

Key Stages of consultation and approval	Estimated timeframe
STAGE 1 – Submit planning proposal to the Department	November 2021
STAGE 2 – Receive Gateway Determination	December 2021
STAGE 3 – Preparation of documentation for public exhibition	January 2022
STAGE 4 – Public exhibition of the planning proposal	March 2022
STAGE 5 – Review/consideration of submissions received	May 2022
STAGE 6 – Council Report	June 2022
STAGE 7 – Meetings	July 2022
STAGE 8 – Forward planning proposal to Department of Planning, Infrastructure and Environment requesting the amendment is made	August 2022
STAGE 9 – Date Council will make the plan (if delegated), including any required consultation with Parliamentary Counsel	September 2022
STAGE 10 – Anticipated date Council will forward plan to the Department for notification	September 2022