

29-33 Market Street, Merimbula
Amendment to Height of Buildings Map

MARCH 2022

Submitted to Bega Valley Shire Council
On Behalf of Merimbula Central Pty Ltd

Contact

Matt Johnson, Senior Planner

Habitat Planning
409 Kiewa Street
Albury NSW 2640
02 6021 0662
habitat@habitatplanning.com.au
habitatplanning.com.au

Habitat Planning Pty Ltd
ABN 29 451 913 703
ACN 606 650 837

Document Control

The information contained in this document produced by Habitat Planning is solely for the use of the person or organisation for which it has been prepared. No section or element of this document may be removed from this document, reproduced, electronically stored or transmitted in any form without the written permission of Habitat Planning.

PROJECT NUMBER
20113

REVISION NO	REVISION DATE	VERSION STATUS	AUTHOR	APPROVED
D	3/03/2022	Updated Post Lodgement	MJ	MJ

Contents

Executive Summary	6
1. Introduction.....	7
1.1. Overview.....	7
1.2. Pre-Lodgement Meetings and Advice	7
1.3. Scope and Format of Planning Proposal	8
1.4. Supporting Plans and Documentation.....	8
2. Site & Context Description	9
2.1. Site Context & Locality	9
2.2. Site Description	10
2.3. Surrounding Development and Built Form	11
3. Existing Planning Framework.....	12
3.1. Existing Planning Controls	12
3.2. Strategic Planning Framework	15
4. Planning Proposal	16
4.1. Objectives and Intended Outcomes	16
4.2. Explanation of Provisions	17
4.3. Justification.....	18
4.4. Mapping.....	46
4.5. Community Consultation	47
4.6. Project Timeline.....	48
5. Conclusion	50

Attachments

Attachment A – Consistency with South East and Tablelands Regional Plan 2036
 Attachment B – Consistency with State Environmental Planning Policies
 Attachment C – Consistency with Section 9.1 Ministerial Directions
 Attachment D – Copy of Submission to Commercial Strategy
 Attachment E – Architectural Plans
 Attachment F – Development Application
 Attachment G – Aboriginal Cultural Heritage Due Diligence Assessment
 Attachment H – Geotechnical Investigations
 Attachment I – Civil Engineering Assessment
 Attachment J – Land Contamination Reports
 Attachment K – Traffic Impact Assessment
 Attachment L – Socio-Economic Impact Assessment
 Attachment M – Sustainability Management Report

Figures

Figure 1 Regional Context Map	9
Figure 2 Local Context Map.....	10
Figure 3 Site Map (Source: Nearmap, 2020).....	11
Figure 4 Zoning of the subject land (outlined)(Source: BVLEP 2013).....	12
Figure 5 Height of Buildings Map applicable to the subject land (outlined)(Source: BVLEP 2013)	13
Figure 6 Extract of Future Obstacle Limitation Surface Map, 2013.....	14
Figure 7 Proposed Building Perspective	16
Figure 8 Proposed amended Height of Buildings Map	17
Figure 9 Extract of Flood Planning Area Map (Source: Merimbula Lake & Back Lake Flood Study)	26
Figure 10 Extract of Heritage Map	27
Figure 11 Cross-section of proposed building envelope in relation to heritage listed Twyford Hall	28
Figure 12 Proposed works in context to Merimbula Landscape Master Plan	29
Figure 13 Interpretation of CBD Landscape Master Plan.....	30
Figure 14 Master Plan for site and immediate streetscape	30
Figure 15 Minimum ceiling height controls for retail and commercial uses	32
Figure 16 Minimum ceiling heights for apartment and mixed use buildings.....	32
Figure 17 Minimum ceiling height controls for habitable and non-habitable rooms	32
Figure 18 Indicative perspective from Market Street looking west down laneway	34
Figure 19 Perspective of proposed activated laneway	34
Figure 20 Indicative perspective from southern intersection of Market and Monaro Street.....	35
Figure 21 Perspective of proposal from corner of Market and Monaro Street looking north	35
Figure 22 Perspective of development along Market Street looking west along laneway	35
Figure 23 Perspective of development from Market Street looking west	36
Figure 24 Diagrammatic Section	36
Figure 25 East-West cross section	36
Figure 26 North-South cross section	37
Figure 27 View Analysis Plans – Market Street.....	38
Figure 28 View Analysis Plans – Other Locations.....	39
Figure 29 Bulk Study Analysis Plans	40
Figure 30 Longitudinal streetscape cross section – Market Street.....	41
Figure 31 Longitudinal streetscape cross section – Palmer Lane.....	41
Figure 32 Longitudinal streetscape cross section – Monaro Street	42
Figure 33 Proposed shadow diagrams	44
Figure 34 Existing Building Heights Map	47
Figure 35 Amended Building Heights Map	47
Figure 36 Extract of the Coastal Environment Area Map	61
Figure 37 Extract of the Coastal Use Area Map	61

Tables

Table 1 – Attachments to Planning Proposal	8
Table 2 – Consideration of Bega Valley Local Strategic Planning Statement.....	18
Table 3 – Matters for Consideration – Merimbula Precinct	20
Table 4 – Consideration of Bega Valley Commercial Strategy 2040	21
Table 5 – Consideration of Bega Valley Residential Strategy 2040.....	22
Table 6 – Consideration of Bega Valley Community Strategic Plan 2040	24

Table 7 – Breakdown of additional building height sought by Planning Proposal.....	31
Table 8 – Project Timeline (indicative)	48
Table 9 – Consistency with South East and Tablelands Regional Plan.....	52
Table 10 – Consistency with State Environmental Planning Policies (as applicable prior to 1 March 2022).....	60
Table 11 – Consistency with Ministerial Directions (as applicable prior to 1 March 2022)	73

Executive Summary

This Planning Proposal has been prepared by Habitat Planning on behalf of Merimbula Central Pty Ltd in support of a Planning Proposal to amend the *Bega Valley Local Environmental Plan 2013* (BVLEP 2013).

Specifically, the Planning Proposal seeks to amend the Height of Buildings Map as it applies to 29-33 Market Street, Merimbula by increasing the maximum building height of the site from 13 metres to 18 metres.

The report has been prepared to address the requirements of the Environmental Planning and Assessment Act 1979 (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning & Environment's guideline titled: *Local Environmental Plan Making Guideline* (December 2021).

For the purposes of the Guideline, the application is classified as a 'Standard' Planning Proposal as it relates to the altering of a principal development standard of an LEP.

This Planning Proposal provides an analysis of the physical and strategic planning constraints and opportunities of the site and considers the relevant environmental, social and economic impacts of the proposal and its strategic merit.

This request is supported by an urban design analysis, architectural plans and other supporting technical reports that assesses the potential impacts of the additional building height.

The Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal is consistent with the strategic planning framework including State, Regional, District and local planning strategies for Merimbula and the broader Bega Valley Shire.
- The proposal is consistent with the recommendations of the recently endorsed *Commercial Land Strategy 2040* and *Residential Land Strategy 2040* that allows an increase in building heights for sites with an area greater than 2,000m².
- The proposal seeks to retain the existing zoning controls and other overlay requirements of BVLEP 2013 and is only seeking an amendment to the building height controls to facilitate the redevelopment of the site.
- The resultant building envelope will not generate any unacceptable environmental impacts in relation to built-form, view loss or overshadowing and will become a key landmark site, particularly when viewed from the southern gateway entrance.
- The resultant development will provide public domain improvements including street beautification works, connectivity and permeability, as well as an improved built form.
- The proposal will contribute towards the revitalisation of the Merimbula town centre through investment and construction and seeks to achieve the desired character statement for Merimbula.
- The subject land is not environmentally sensitive and contains no environmental features.
- There will be a net social and economic benefit for the Merimbula community through improved commercial and additional residential floor space, as well as associated jobs during construction and operation of the redeveloped site.
- The land is already developed and can therefore be provided with all urban infrastructure.

It is recommended that Bega Valley Shire Council resolve to support the changes to the BVLEP 2013 as detailed in this Planning Proposal and forward it for a Gateway Determination to undertake the following:

- Amend the Height of Buildings Map (Sheet HOB_020B) as it applies to the subject land, from 13 metres to 18 metres.

1. Introduction

1.1. Overview

This Planning Proposal has been prepared by Habitat Planning on behalf of Merimbula Central Pty Ltd in support of an amendment to the *Bega Valley Local Environmental Plan 2013* (BVLEP 2013). Specifically, the Planning Proposal seeks to amend the Height of Buildings Map as it applies to 29-33 Market Street, Merimbula by increasing the maximum building height of the site from 13 metres to 18 metres.

This report has been prepared to address the requirements of Section 3.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as well as satisfying the requirements of the NSW Department of Planning & Environment's guideline titled: *Local Environmental Plan Making Guideline* (December 2021).

For the purposes of the Guideline, the application is classified as a 'Standard' Planning Proposal as it relates to the altering of a principal development standard of an LEP.

This report will demonstrate that the proposed amendment to the Height of Buildings Map is consistent with the intent and objectives of the planning framework and strategic plans and policies. Consequently, this will provide both Council and the NSW Department of Planning and Environment (DPE) with the confidence to endorse the proposed amendment as sought by this Planning Proposal.

It is requested that Council forward the Planning Proposal to the Minister for Gateway Determination in accordance with Section 3.34 of the EP&A Act. The Gateway Determination will decide:

- Whether the planning proposal is supported to proceed or not.
- Any necessary technical studies or supporting studies.
- Whether the planning proposal needs to be amended (and possibly resubmitted to the Department) prior to exhibition.
- The duration and extent of community consultation.
- Whether consultation with State or federal authorities (if required).
- Whether a local contributions plan is to be exhibited at the same time as the planning proposal.
- Whether a public hearing is needed.
- The timeframes within which the various stages of the process for making of the proposed LEP are to be completed.
- Whether the council is to be authorised to make the proposed instrument as the Local Plan Making Authority (LPMA).
- Any other conditions.

1.2. Pre-Lodgement Meetings and Advice

An initial pre-lodgement inception meeting was held between project consultants acting on behalf of the proponent and members of Bega Valley Shire's Development Advisory Panel on 14 September 2020. The purpose of this meeting was to provide an introduction to the project and to discuss assessment pathways and information requirements of Council.

Upon conclusion of this meeting, it was agreed that a Development Application (or Concept Development Application) and supporting Planning Proposal be submitted concurrently with Council to allow for a full assessment of the proposed amendment to BVLEP 2013.

A draft Planning Proposal was subsequently submitted to Council on 2 November 2020 seeking their feedback. In response, Council provided formal advice via letter 16 December 2020.

The subject Planning Proposal has been subsequently prepared and amended based on this advice.

1.3. Scope and Format of Planning Proposal

The Planning Proposal details the merits of the proposed change to the BVLEP 2013 and has been structured in the following manner:

- Section 1.0 provides an introduction to the Planning Proposal;
- Section 2.0 provides a description of the site, its context and existing development, including identification of the land to which the changes are proposed;
- Section 3.0 identified the planning framework applicable to the site and considers the Planning Proposal against the relevant strategic plans and policies;
- Section 4.0 contains the Planning Proposal, prepared in accordance with the matters to be considered in the Department of Planning's document titled: *Local Environmental Plan Making Guideline* (December 2021); and
- Section 5.0 provides the conclusions and recommendations to proceed with the Planning Proposal to Gateway Determination to amend BVLEP 2013.

1.4. Supporting Plans and Documentation

The Planning Proposal has been prepared with input from a number of technical and design documents which have been prepared to accompany the application. These documents are included as attachments to this report and are identified in **Table 1**.

Table 1 – Attachments to Planning Proposal

Document Name	Prepared by
Consistency with South East and Tablelands Regional Plan	Habitat Planning
Consistency with State Environmental Planning Policies	Habitat Planning
Consistency with Section 9.1 Ministerial Directions	Habitat Planning
Submission to Bega Valley Draft Commercial Lands Strategy	Squillace
Architectural Plans including Qualified Designer's Statement	Squillace
Development Application – Statement of Environmental Effects	Habitat Planning and Others
Landscaping Plan	Site Image Landscape Architects
Aboriginal Cultural Heritage Due Diligence Assessment	OnSite Cultural Heritage Management
Geotechnical Investigations	ACT Geotechnical Engineers Pty Ltd
Civil Engineering Assessment	Geoff Metzler & Associates Pty Ltd
Land Contamination Reports	ENVIRON Australia and URS
Traffic Impact Assessment	Varga Traffic Planning
Socio-Economic Impact Assessment	Urbis
Sustainability Management Report	EcoPlus Consultants

2. Site & Context Description

2.1. Site Context & Locality

The subject land to which this Planning Proposal relates is described as Lot 11, DP838058 and Lot 112, DP1227927 and addressed as 29-33 Market Street, Merimbula.

The subject land is contained within the main commercial area of the major centre of Merimbula, which is located approximately 30 kilometres south of the Regional Centre of Bega.

The location of the site is shown at Figures 1 and 2.

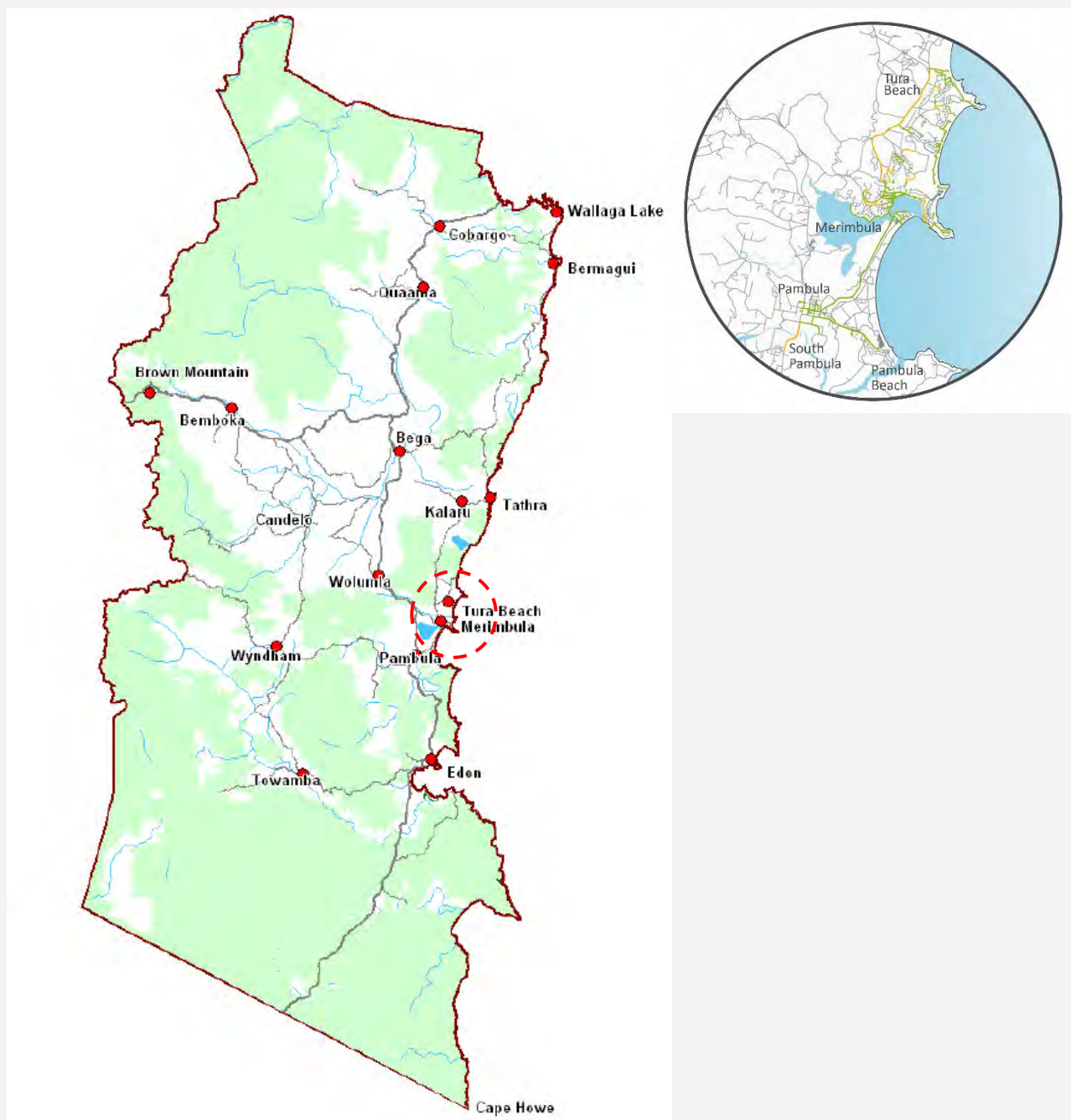


Figure 1 Regional Context Map

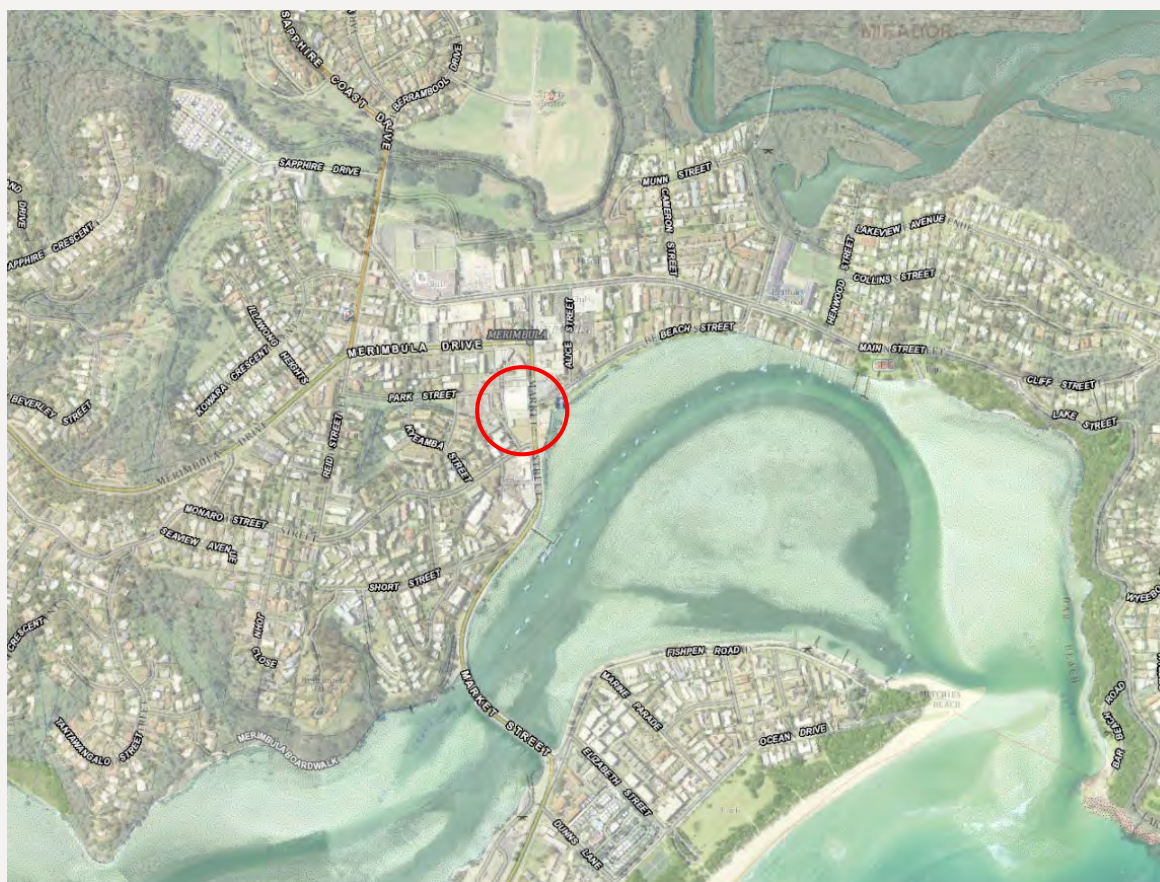


Figure 2 Local Context Map

2.2. Site Description

The subject land is located on the corner of Palmer Lane and Market Street within the main commercial centre of Merimbula. The property is irregular in shape and comprised of two separate allotments, being Lot 11, DP838058 and Lot 112, DP1227927 and is addressed as 29-33 Market Street, Merimbula.

The land is improved and has been developed for commercial purposes containing both single storey and two storey commercial buildings built to the front property boundary. A covered awning also wraps around the building and extends over the public footpath.

The topography of the land is largely flat although it does gently slope upwards to the north. As the property is developed, the land contains no vegetation. Given the sites' central location and the fact that it is developed, the property is connected to all relevant infrastructure and services including reticulated water, sewerage, drainage, electricity, gas and telecommunications.

An aerial image of the property is provided in **Figure 3**.



Figure 3 Site Map (Source: Nearmap, 2020)

2.3. Surrounding Development and Built Form

The surrounding area is commercial in nature given the sites' location within the main commercial centre of Merimbula.

More specifically, land to the north at 47 Market Street comprises a new commercial building currently undergoing construction (DA Ref No. 2020.273), which replaced a former commercial building that burnt down. Land further north along Market Street has been developed for commercial purposes and comprises both single storey and two storey commercial developments, which extend upwards towards the intersection of Main Street.

Market Street forms the eastern boundary of the site. Land located on the opposite side of this roadway has been developed for both single storey and two storey developments including the recently renovated Twyford Hall and adjacent theatre building. Further east beyond these commercial businesses is the Merimbula Lake, which is located only approximately 50 metres from the subject land.

The intersection of Palmer Lane and Market Street forms the southern boundary of the site, with Palmer Street recently realigned to improve traffic movements, which has resulted in the resumption of the southern portion of Lot 112 to create a four way intersection with Market Street. Land further south along Market Street and Monaro Street has been developed for commercial purposes consistent with the remainder of the commercial centre.

Land to the west of the subject land contains a ground level Council car park, which provides for the parking needs of the commercial centre. Further west beyond this car park is land developed for medium density and general residential purposes.

3. Existing Planning Framework

3.1. Existing Planning Controls

Land Zoning

The subject land is zoned B2 Local Centre under the BVLEP 2013 as shown in **Figure 4**.

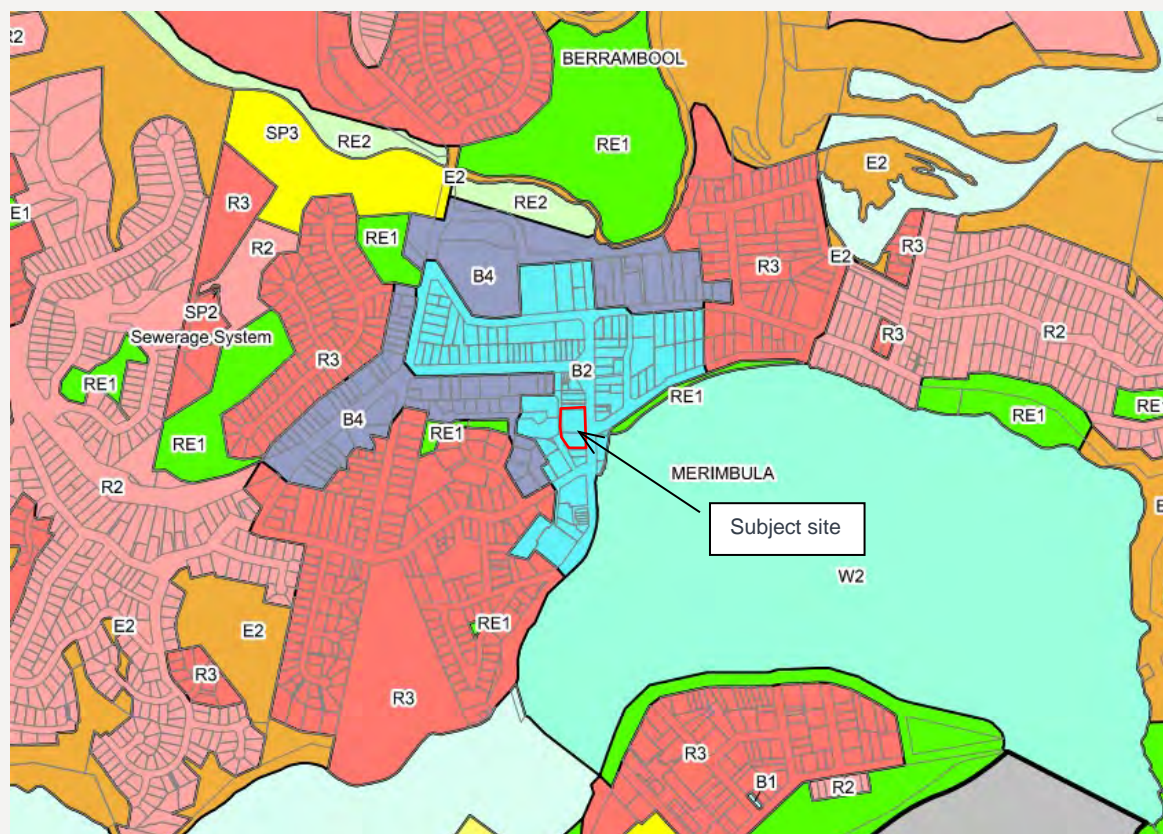


Figure 4 Zoning of the subject land (outlined)(Source: BVLEP 2013)

The objectives of the B2 zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To enable other land uses that are complementary to, and do not detract from, the viability of commercial uses within the zone.
- To minimise conflict between land uses on land in the zone and land uses on land in adjoining zones.
- To strengthen the viability of existing business centres as places for investment, employment and cultural activity.

The subject Planning Proposal is consistent with the objectives of this zone as it strengthens the viability of an existing commercial centre, which will cater for a range of commercial and residential outcomes.

Maximum Building Height

The maximum building height applicable to the subject land is 13 metres under BVLEP 2013 as shown in **Figure 5**.

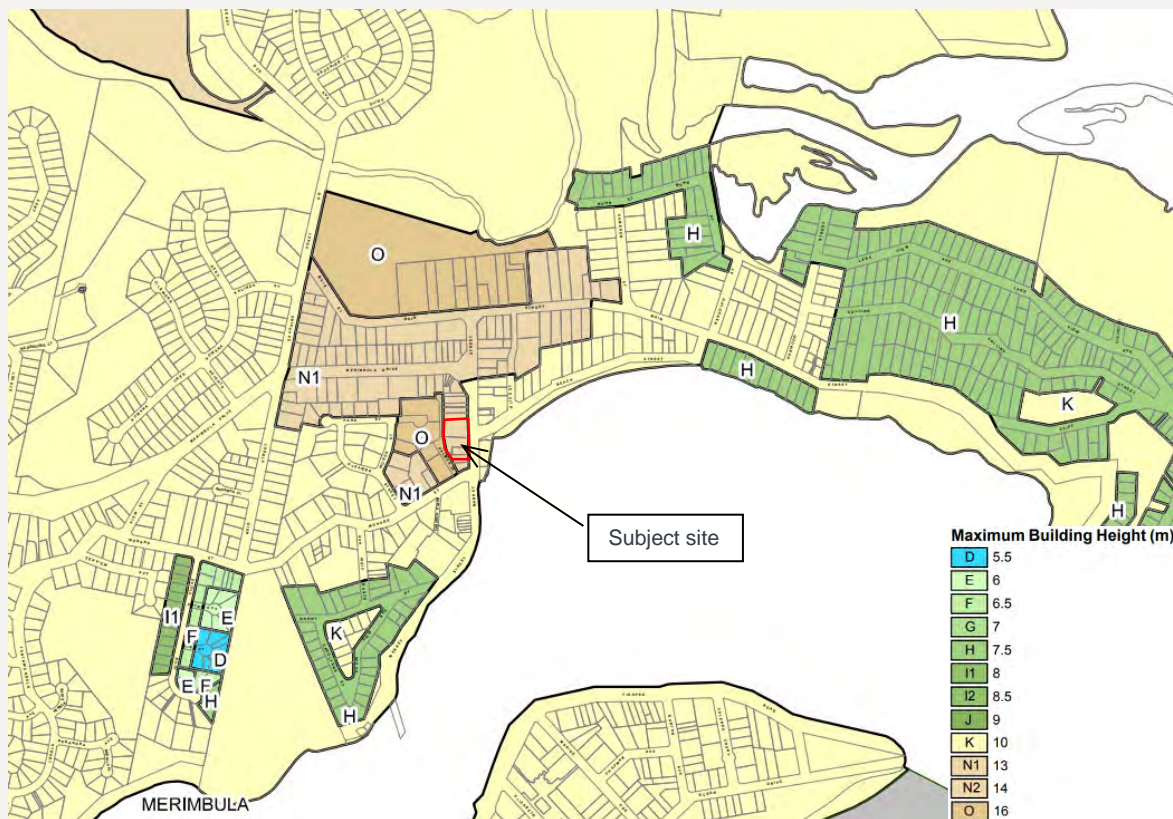


Figure 5 Height of Buildings Map applicable to the subject land (outlined)(Source: BVLEP 2013)

Coastal Risk Planning

Clause 6.4 of BVLEP 2013 relates to coastal risk planning and seeks to achieve the following objectives:

- (a) to avoid significant adverse impacts from coastal hazards,
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,
- (c) to enable the evacuation of land identified as coastal risk in an emergency,
- (d) to avoid development that increases the severity of coastal hazards.

The requirements of this clause apply to land in the coastal zone below the 3 metre AHD, or land that is at or below the level of the 1:100 year ARI and applies in this instance.

The subject land is centrally located and already developed for the purposes of commercial development. The purpose of the subject Planning Proposal is to seek an amendment to BVLEP 2013 to allow for an increase in the maximum building height applicable to the land. As a result, the proposed works will not exacerbate existing flooding conditions.

Notwithstanding, the works have been considered in the context of the *Merimbula Lake and Back Lake Flood Study* and have also been discussed with Council's development engineer. In response, the floor level of the proposed future building will be raised above existing flood levels.

Whilst it is acknowledged that this does not achieve the predicted long term sea level rise at 2100 it will achieve the predicted flood level in 2050, whilst also avoiding the need to have to significantly raise the building above the existing level of the adjacent footpath and roadway. Furthermore, the proposed ground floor will not be habitable and will only be used for commercial purposes. It will be constructed of flood compatible materials and will also have all its electrical fittings and fixtures raised up.

The proposed works are therefore considered to be appropriate from a coastal risk planning perspective.

Airspace Operations

Clause 6.8 of BVLEP 2013 relates to airspace operations and seeks to achieve the following objectives:

- (a) *to provide for the effective and ongoing operation of the Merimbula Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,*
- (b) *to protect the community from undue risk from that operation.*

Consideration of this clause is required as the Planning Proposal seeks to increase the maximum building height permitted on the subject site from 13 metres to 18 metres, which may have the potential to adversely affect the ongoing operations of the Merimbula Airport.

Whilst it is acknowledged that the BVLEP 2013 does not contain an Obstacle Limitation Surface Map (OLS Map), an OLS Map is contained within the Merimbula Airport Master Plan 2033 (currently under review), which seeks to guide the future growth and direction of the Merimbula airport, as well as ensure its protection ongoing from obstacles and obstructions.

The subject land is identified within the 'Inner Horizontal Surface HP of 48.0m' of this Airport Master Plan as shown in **Figure 6**.

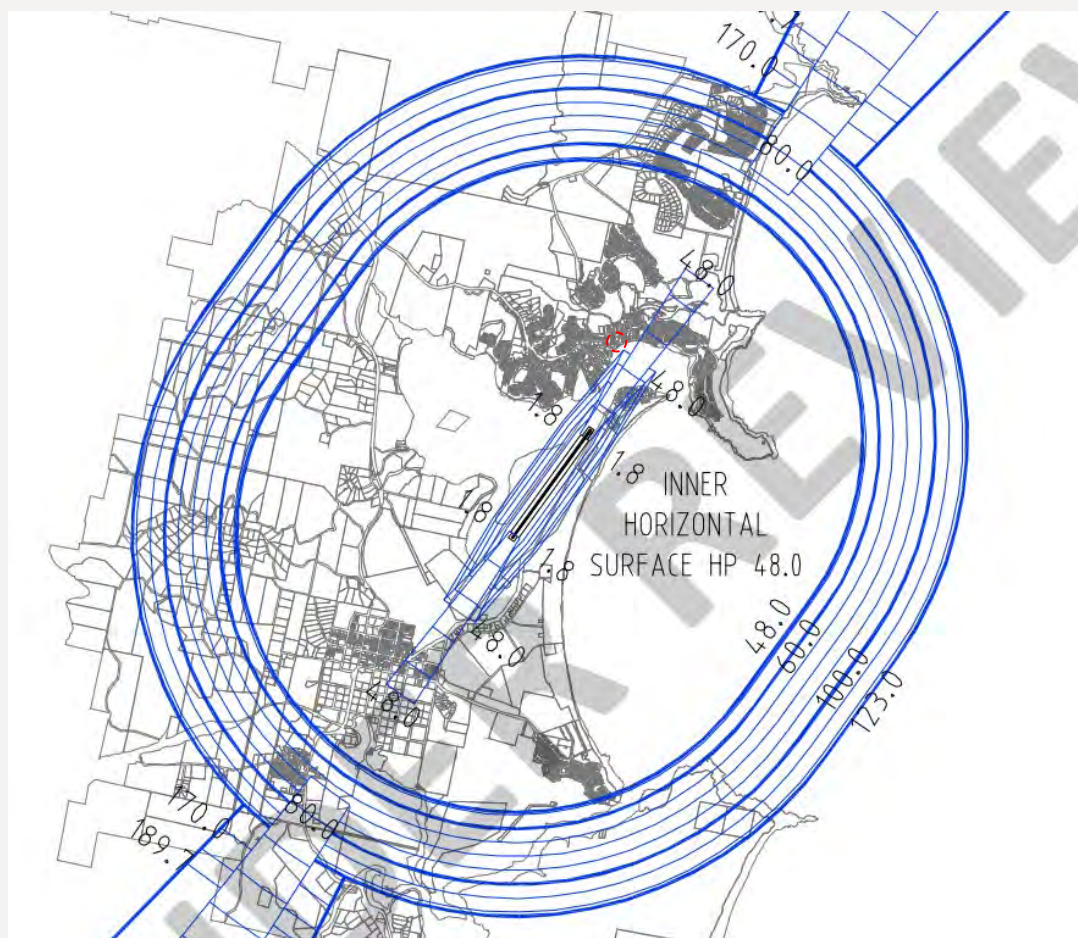


Figure 6 Extract of Future Obstacle Limitation Surface Map, 2013

Based on the existing ground level of the site (RL 2.5-2.8) and the proposed maximum building height to be achieved under the revised building height controls (18m + 1m roof encroachment)(RL 21.0), any future development of this site will not penetrate the OLS.

There are no other overlays or controls contained within BVLEP 2013 that are applicable to the site including minimum lot size, maximum floor space ratio (FSR) and heritage.

3.2. Strategic Planning Framework

The Planning Proposal has been prepared having regard for the strategic planning framework. Specifically, Council's Community Strategic Plan, Local Strategic Planning Statement, as well as other relevant Council strategies and policy documents have informed the subject Planning Proposal.

Further details regarding these strategic plans and policies are discussed in Section 4 of this report.

4. Planning Proposal

This section of the report addresses the Department of Planning's document titled: *Local Environmental Plan Making Guideline*. This section provides:

- Objectives and intended outcomes.
- Explanation of provisions.
- Justification.
- Mapping.
- Community consultation.
- Project timeline.

4.1. Objectives and Intended Outcomes

The objective of this Planning Proposal is to amend the height of building controls that apply to the subject land, which will facilitate a redevelopment of the site that:

- Facilitates redevelopment of a key landmark site within the Merimbula town centre, particularly to the southern Gateway entrance that is located in close proximity to a range of current and future services and public transport options.
- Provides for a high-quality mixed-use development, which will activate the ground level of the site, improve the quality of the public domain, revitalise Market Street and Palmer Lane and contribute to the Merimbula central commercial area.
- Facilitates a built form which would relate to the form, proportion, composition, scale and character of surrounding buildings, urban grain and public realm.
- Facilitates redevelopment of the site to take advantage of the sites' characteristics and minimises any impact on surrounding developments.
- Facilitates redevelopment that reinforces the street and relationship with other developments within the precinct, while being sympathetic to the streetscape of Market Street and Palmer Lane, as well as a heritage item and Merimbula Lake located adjacent to the east.
- Encourages the creation of new public through-site links to increase permeability through and around the site as part of the redevelopment of the site.
- Ensures that the additional building height will have minimal impact on sensitive uses; and
- Optimises the utilisation of existing infrastructure and services.

The amendment to the maximum building height controls would facilitate the redevelopment of the subject land consistent with the principles and designs contained in the architectural plans prepared by Squillace Architects and as illustrated in the below perspective.



Figure 7 Proposed Building Perspective

4.2. Explanation of Provisions

The Planning Proposal seeks to achieve the intended outcomes outlined in Section 4.1 of this report by amending BVLEP 2013 as follows:

- amend the Height of Buildings Map – Sheet HOB_020B as it applies to the subject land, from 13 metres to 18 metres as shown in Figure 8.

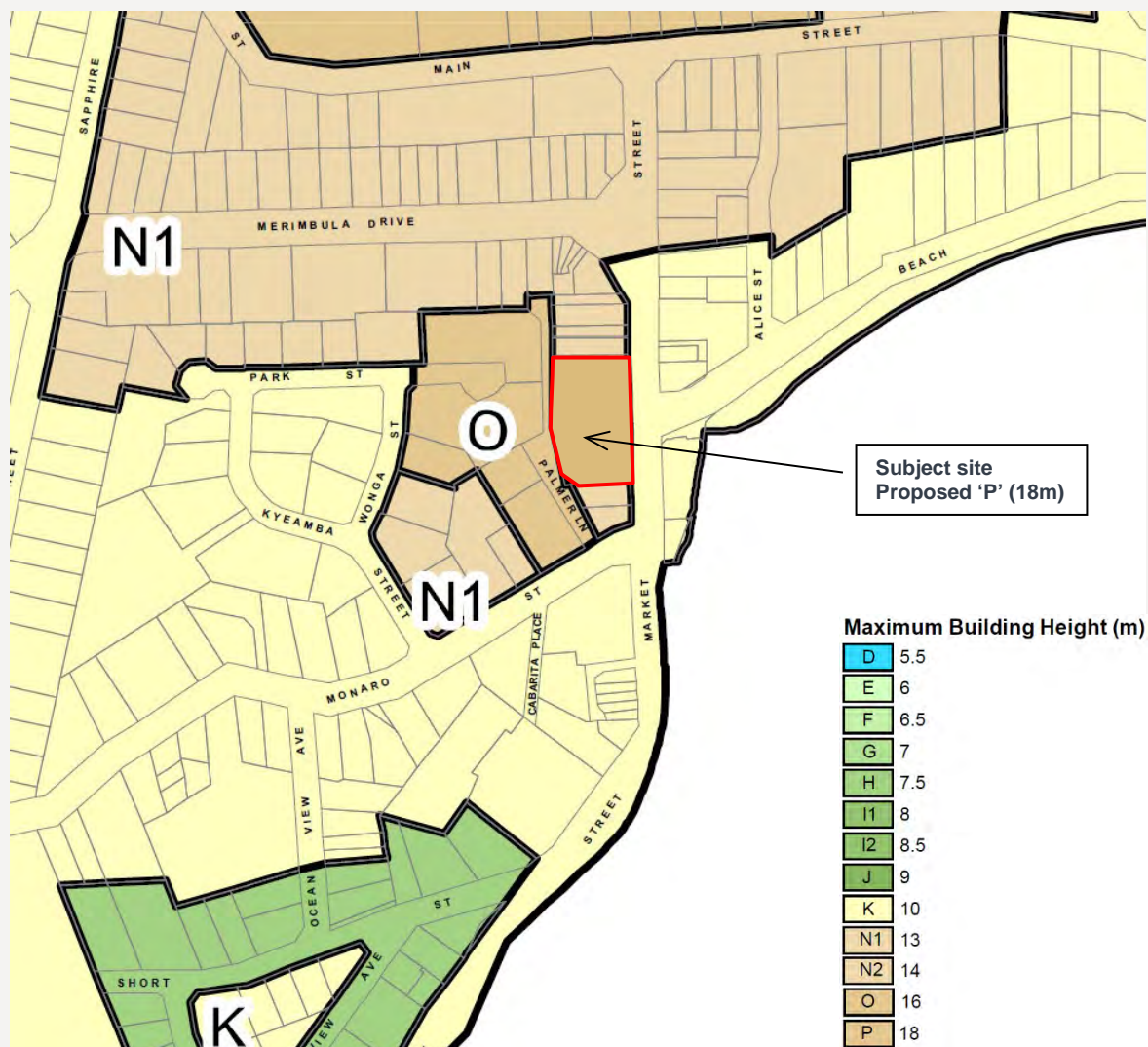


Figure 8 Proposed amended Height of Buildings Map

4.3. Justification

This section of the Planning Proposal sets out the justification for the intended outcomes and provisions, identifies the strategic planning context and outlines what the community benefit will be.

4.3.1 Section A - Need for the Planning Proposal

4.3.1.1 Is the planning proposal a result of an endorsed strategic planning statement, strategic study or report?

Bega Valley Local Strategic Planning Statement

The Planning Proposal has been prepared consistent with the recommendations of the *Bega Valley Shire Local Strategic Planning Statement 2040* (LSPS).

The Land Use Vision for the LSPS is reproduced below:

Land Use in the Bega Valley Shire supports the activities, infrastructure and natural environment that enhance our quality of life and enable us to become resilient to challenges.

Underpinning this vision, Council has identified 12 'Planning Priorities' that will guide the future development of the Bega Valley Shire.

Planning Priority 11 - Housing and Planning Proposal 12 – Town Centres are relevant to the Planning Proposal. Consideration of the key land use challenges, directions and actions as they relate to this proposal are addressed in **Table 2**.

Table 2 – Consideration of Bega Valley Local Strategic Planning Statement

Land Use Challenge, Future Direction or Actions	Consistency
Planning Priority 11 - Housing	
<p>Land Use Challenges:</p> <ul style="list-style-type: none"> <i>The small population and low rate of growth results in a low rate of development, which means it can be hard to make significant short-term changes to the housing mix.</i> <i>Increased housing density and diversity, including supported accommodation for seniors, is needed in all centres to permit communities to stay intact as people move through various life stages. The ageing population is creating pressure for suitable housing such as low maintenance smaller dwellings and housing that is close to services and facilities, with less stairs and level access.</i> 	<p>The purpose of the Planning Proposal is to redevelop the subject site for a mix use development, inclusive of a variety of different housing types.</p> <p>The subject land is centrally located and has readily available access to a wide range of infrastructure and services, which will cater for the changing demands of homeowners and an ageing population.</p>
<p>Future Directions:</p> <ul style="list-style-type: none"> <i>Increase housing density within established urban areas to minimise additional service provision and expansion of the urban/bushland interface and support the viability and vibrancy of town centres and future public transport provision.</i> <i>Allow for growth and encourage housing diversity and affordability while enhancing the distinct local character of each place.</i> <i>Encourage residential development in seweraged villages to provide more affordable housing</i> 	<p>The Planning Proposal achieves these future directions as:</p> <ul style="list-style-type: none"> It encourages increased housing density within the established Merimbula town centre, thereby reducing pressures on the urban fringe. It will facilitate housing diversity through a range of housing residential options including 1, 2 and 3 bedroom dwellings (to be determined). It will enhance the character of the area and will create a landmark building and

options, minimise land use conflict and the support continued viability of villages.	<p>urban marker for the Merimbula town centre, particularly when viewed from the southern gateway entrance; and</p> <ul style="list-style-type: none"> It will facilitate development of sewered land.
<p>Actions:</p> <p>11.2 <i>Promote the need for housing diversity to local developers and builders;</i></p> <p>11.3 <i>Review planning controls for medium density areas including potential for incentives to encourage greater housing diversity and development uptake.</i></p> <p>11.8 <i>Identify planning controls and incentives such as density or height bonuses that deliver different dwelling types, greater bedroom mix and diversity of tenure.</i></p> <p>11.9 <i>Develop and implement urban renewal plans to encourage redevelopment that increases the supply and diversity of housing in Bega, Merimbula and Eden</i></p>	<p>The Planning Proposal achieves these actions as follows:</p> <ul style="list-style-type: none"> The increase in building height will allow future redevelopment of the site to encourage housing diversity and medium density housing. The proposal achieves urban renewal within the established town centre of Merimbula for both commercial and residential development outcomes.

Planning Priority 12 – Town Centres

<p>Land Use Challenges:</p> <ul style="list-style-type: none"> <i>With relatively low development rates, there are few opportunities to reinforce the character and qualities of each town centre by controlling the scale and design of buildings as well as the character of the built environment.</i> <i>Collaboration with the business community is required to develop vibrant and activated Commercial centres in ways that build on the strengths and advantages of each centre.</i> <i>Encouraging appropriate new development to locate within existing commercial areas in town centres.</i> 	<p>The Planning Proposal achieves these land use challenges as follows:</p> <ul style="list-style-type: none"> The proposal and future development of the site will achieve a high quality built form that is reflective of the existing and desired future character of the Merimbula town centre. The future redevelopment of the site will support a vibrant community via activated street frontages and a pedestrian laneway, street beautification works, outdoor dining and retailing that will strengthen the economic role of this commercial centre; and The subject land is centrally located within the Merimbula town centre.
<p>Future Directions:</p> <ul style="list-style-type: none"> <i>Consolidate existing town centres and prevent the sprawl of commercial activities through strategic rezoning as recommended in the Commercial Land Strategy 2019.</i> <i>Encourage a diversity of land uses and businesses within commercial centres and protect the traditional main street pattern of small premises on small allotments.</i> 	<p>The Planning Proposal achieves these future directions as:</p> <ul style="list-style-type: none"> The development does not propose urban sprawl, but rather the redevelopment of an existing underutilised commercial property; and The future redevelopment of this site will encourage a variety of land uses including both commercial and residential outcomes.
<p>Actions:</p> <p>12.3 <i>Implement recommendations of the Commercial Land Strategy to provide a broader range of permissible land uses within commercial zone.</i></p>	<p>The Planning Proposal is consistent with this action as it is consistent with the recommendations of the Commercial Land Strategy.</p>

	Specifically, the Planning Proposal is consistent with the recommendations of the Commercial Land Strategy, which seeks to allow 'site-specific proposals with a land area greater than 2,000m ² to increase the maximum height of buildings'.
--	---

In addition to the above general actions, the LSPS also provides key considerations for each of the main precincts contained within the Shire including Bega, Bermagui, Eden and Merimbula.

An assessment of the key considerations as they relate to the Merimbula precinct are addressed in **Table 3**.

Table 3 – Matters for Consideration – Merimbula Precinct

Matters for Consideration	Consistency
<p><i>Protect:</i></p> <ul style="list-style-type: none"> <i>Public views of Merimbula Lake, Back Lake and the ocean from Merimbula Drive on the approach into town are protected</i> 	<p>The proposed increase in building height controls will not adversely affect key vistas and views including views of Merimbula Lake and the ocean.</p> <p>Further details regarding this are discussed in Section 4.3.3.2 of this report.</p>
<p><i>Enhance:</i></p> <ul style="list-style-type: none"> <i>Attractive buildings distinguish new development.</i> <i>Buildings are higher in some places than those that currently exist in the town. Taller buildings are appropriately located and set within attractive streetscapes so that their visual appearance fits in with the coastal town character and lake front setting.</i> <i>Larger development is well articulated and proportioned with the overall height, bulk and scale in keeping with a medium-rise coastal setting.</i> <i>The town centre is a prominent mixed-use area containing offices, shop-top housing, tourist accommodation and leisure/ entertainment uses.</i> <i>Development on all approaches to the town contributes to the sense of arrival.</i> <i>Laneways and arcades provide connectivity and opportunities for boutique shopping, alfresco dining, seating and landscaping within a compact and clearly defined town centre that is easy to navigate where night time activation and temporary uses are encouraged.</i> <i>Streetscape elements such as awnings and signage are well-articulated and proportioned.</i> 	<p>The Planning Proposal achieves this consideration as:</p> <ul style="list-style-type: none"> It will provide for a high-quality built form which will distinguish it from existing development. The future building has been designed to be consistent with the context and setting of the area, whilst promoting a high-quality design that provides articulation and fenestration, a variety of materials and finishes, as well as achieving an activated street frontage and public laneway/thoroughfare. The future development achieves a well-articulated and proportioned building that has consideration to the medium-rise coastal setting of the area via the use of a 10 metre upper level setback. The proposal will facilitate the redevelopment of the site for mixed use development purposes. The proposed future building will become a landmark site, particularly for those entering from the south. The future development promotes activated laneways and street frontage via outdoor dining, retailing and landscaping; and The future works propose streetscape beautification works to be secured via a Planning Agreement.

<p>Change:</p> <ul style="list-style-type: none"> <i>The density and diversity of housing close to the town centre has increased and contributes to the vitality of the town.</i> 	<p>The Planning Proposal seeks to redevelop the subject site for a mixed-use development comprising a variety of residential apartments.</p>
--	--

Bega Commercial Land Strategy 2040

The Planning Proposal has been prepared consistent with the recommendations of the *Bega Valley Commercial Land Strategy 2040* (Commercial Strategy).

The vision for the Commercial Strategy is reproduced below:

The Commercial Land Strategy has been prepared to provide a framework for how our commercial centres are planned and developed over the next 20 years to encourage service provision and employment generating opportunities within vibrant and activated commercial environments.

Underpinning this vision are a number of foundation principles, general and specific recommendations that will guide the future development of the Bega Valley Shire. These matters for consideration are addressed in **Table 4**.

Table 4 – Consideration of Bega Valley Commercial Strategy 2040

Foundation, Principle, General and Specific Recommendations	Consistency
<p><i>Foundation Principle:</i></p> <ul style="list-style-type: none"> <i>Recognise the underlying importance of residential development to commercial development to meet changing demand for goods and services, attract new residents and provide opportunities such as shop top housing that add vitality, housing diversity and security.</i> 	<p>The purpose of the Planning Proposal is to redevelop the subject site for a mix use development, inclusive of a variety of different housing types. This will encourage shop top housing and residential housing options within an established town centre that has readily available access to infrastructure and services.</p>
<p><i>General recommendation:</i></p> <p><u><i>Investigate incentives for shop top housing:</i></u></p> <ul style="list-style-type: none"> <i>To help facilitate greater housing diversity and supply in commercial centres, it is recommended that Council investigate a range of options to incentivise development of shop-top housing in Merimbula and Bega. This may include increases in height limits or reductions in headworks or developer contributions.</i> 	<p>The Planning Proposal seeks to encourage redevelopment via an increase in building height controls that apply to the site.</p>
<p><i>Specific recommendation to change BVLEP 2013:</i></p> <ul style="list-style-type: none"> <i>To encourage new development in Bega and Merimbula town centres, Council will consider site-specific proposals, with a land area greater than 2000m², to increase the maximum height of buildings in Merimbula by way of a combined Planning Proposal and Development Application that allows the community to evaluate the details of each proposal.</i> 	<p>See response below in relation to the specific recommendation.</p>
<p><i>Merimbula Character statement:</i></p> <p><i>... Protect key elements within the streetscape including view corridors and access to</i></p>	<p>The future development achieves a well-articulated and proportioned building that has consideration to the medium-rise coastal</p>

<i>Merimbula Lake where larger development is well articulated and proportioned and the overall height, bulk and scale is in keeping with a medium-rise coastal setting...</i>	setting of the area via the use of a 10 metre upper level setback.
--	--

Residential Land Use Strategy

The Planning Proposal has been prepared consistent with the recommendations of the *Bega Valley Residential Land Strategy 2040* (Residential Strategy).

The vision for the Residential Strategy is reproduced below:

The Residential Land Strategy will enable Council to act strategically to provide a suitable range of housing options for all by responding to growth and change within the Shire.

Underpinning this vision are a number of general and specific recommendations that will guide the future development of the Bega Valley Shire. These matters are addressed in **Table 5**.

Table 5 – Consideration of Bega Valley Residential Strategy 2040

General and Specific Recommendations	Consistency
<p><i>General recommendations:</i></p> <p><u><i>Expand the diversity of housing:</i></u></p> <ol style="list-style-type: none"> <i>Promote the need for housing diversity to local developers and builders.</i> <i>Identify planning controls and incentives such as density or height bonuses that deliver different dwelling types, greater bedroom mix and diversity of tenure.</i> 	<p>The Planning Proposal will support greater housing density via the construction of a mixed-use development comprising 1, 2 and 3 bedroom apartments in response to an increase in building height controls as they apply to the subject site.</p>
<p><i>Specific recommendations for Merimbula:</i></p> <ol style="list-style-type: none"> <i>Develop an urban renewal strategy for Merimbula to support coordinated growth and enhance its unique natural and urban attributes, incorporating the specific actions below</i> <i>Develop a local character statement for Merimbula</i> <i>Identify precincts suitable for apartments, town houses and other dwelling forms such as seniors housing including opportunities for redevelopment of older motel accommodation close to the town centre</i> <i>Develop planning controls that support delivery of a diverse range of housing within identified precincts</i> 	<p>The Planning Proposal achieves these specific recommendations as it delivers shop top and residential apartment style housing within the established town centre of Merimbula.</p>

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

The Planning Proposal is considered the best means of achieving the objectives or intended outcomes as it will allow for the redevelopment of the site in a manner that is compatible with the architectural plans prepared for the site.

The current planning controls that apply to the site allow for a building height of 13 metres, plus a 1 metre roof encroachment. Consequently, in order to achieve a five (5) storey built form, the variation to the height of building controls could not be reasonably pursued via a variation under Clause 4.6 of BVLEP 2013 due to the extent of the variation.

Approval of a development application that substantially exceeds the height control would set an undesirable precedent, undermine the LEP height controls and prevent broader strategic planning considerations of allowing additional height at the site.

Alternative options to a site-specific Planning Proposal include waiting for Council's next scheduled review of its LEP. This option is not preferred as Council has not identified the need to review BVLEP 2013 in the short term.

Therefore, the approval of a site-specific Planning Proposal is considered the best option as it will allow for the redevelopment of a key landmark site that will help stimulate urban renewal of the Merimbula town centre consistent with the recommendations of the Commercial Strategy.

4.3.2 Section B – Relationship to Strategic Planning Framework

4.3.2.1 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *South East and Tablelands Regional Plan 2036* (Regional Plan) was adopted by the NSW Government in 2017 and is the relevant regional strategy that provides the strategic planning framework to guide decision-making and development in the South East and Tablelands region for the next 20 years.

The Minister's foreword to the document states that the Regional Plan “*encompasses a vision, goals and actions geared towards delivering greater prosperity in the years ahead for those who live, work and visit this important region.*”

The Regional Plan is underpinned by four (4) key goals including:

- Goal 1 – A connected and prosperous economy.
- Goal 2 – A diverse environment interconnected by biodiversity corridors.
- Goal 3 – Healthy and connected community.
- Goal 4 – Environmentally sustainable housing choices.

Each of these goals is supported by a number of different actions, which seek to achieve the objectives of the goal.

An assessment of the Planning Proposal against the relevant goals, directions and actions of the Regional Plan is undertaken in Attachment A.

In summary the Planning Proposal is consistent, or where applicable, justifiably inconsistent with relevant goals, directions and actions of the Regional Plan as detailed in Attachment A.

4.3.2.2 Is the planning proposal consistent with a Council Local Strategic Planning Statement that has been endorsed by the Planning Secretary or Greater Sydney Commission, or another strategy or strategic plan?

Consideration of the *Bega Valley Shire Local Strategic Planning Statement 2040*, *Bega Shire Commercial Strategy 2040* and *Bega Valley Shire Residential Strategy 2040* have been addressed in Section 4.3.1.1 of the Planning Proposal.

The *Bega Valley Shire Community Strategic Plan 2040* (CSP) is Council's local community strategic planning document. The CSP is based on an outcome framework comprising six outcomes:

- Active and healthy communities.
- Employment and learning opportunities.
- Sustainable living.
- Liveable places.
- Connected communities.
- Strong, consultative leadership.

Underpinning these outcomes are a series of 12 goals that reflect the community's key ambitions for the future. From these outcomes and goals a series of 30 strategies have been developed that detail how Council, other government agencies and the community can work together to achieve the goals.

Outcome 4 relates to 'liveable places' and applies to the subject Planning Proposal. Consideration of the proposal against the relevant goals and strategies of this outcome are addressed in **Table 6**.

Table 6 – Consideration of Bega Valley Community Strategic Plan 2040

Goal and Strategy	Consistency
<p><i>Goal 7: Our Shire continues to be a vibrant, enjoyable, safe and affordable place to live:</i></p> <ul style="list-style-type: none"> • <i>Strategy 16 – Collaborate with relevant agencies and the private sector to increase the diversity and affordability of new and existing housing, particularly to meet the needs of our ageing population;</i> • <i>Strategy 17 – Improve the presentation, maintenance and physical accessibility of existing facilities and towns.</i> 	<p>The Planning Proposal is consistent with the above outcomes, goals and strategies as it will increase the diversity and range of housing options within the Shire via the provision of additional shop top housing. The subject land is centrally located and has good access to infrastructure and services.</p>
<p><i>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</i></p> <ul style="list-style-type: none"> • <i>Strategy 20 – Encourage and support local identity, heritage and character in our towns, villages and rural areas.</i> 	<p>The development outcomes sought on site via the Planning Proposal will retain the existing character and built form of the area, whilst also protecting nearby local heritage items.</p>

4.3.2.3 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The Planning Proposal is consistent with other relevant State or Regional studies and strategic including *A 20 Year Economic Vision for Regional NSW*, which was refreshed in 2021.

The foreword to the Strategy states: *The 20 Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. It is the roadmap to unlock significant economic potential in regional NSW.*

For the purposes of this Strategy, the Bega Valley Shire Local Government Area is located within the 'Coastal' region ('Far South Coast'). The overarching objective for Inland Regional Economies is outlined as follows: *"The focus going forward for these Coastal regions will be supporting communities to build their social resilience and diversify their economies to prepare for, and recover quicker from, natural disasters"*.

Accordingly, the proposal will achieve the Priority Actions and underlying principles of *A 20 Year Economic Vision for Regional NSW*.

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

Attachment B provides an assessment of the Planning Proposal against all State Environmental Planning Policies (SEPP's). In summary, many of the SEPP's are not applicable to the Bega Valley Shire Local Government Area (LGA) and even less are applicable to the circumstances of the Planning Proposal.

Notwithstanding, an assessment has been provided in Attachment B outlining whether the Planning Proposal is consistent, or where applicable, justifiably inconsistent with relevant SEPP's. Please note that whilst reference has been made to the new overarching SEPP titles, the former titles of the individual SEPP have also been used due to the time at which the Planning Proposal was prepared. It is noted that the recent planning reforms were 'policy neutral'.

4.3.2.5 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

Section 9.1 (formerly Section 117) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides for the Minister for Planning to give directions to Councils' regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of LEP's. A Planning Proposal needs to be consistent with the requirements of the Direction but in some instances can be inconsistent if justified using the criteria stipulated such as a Local Environmental Study or the proposal is of "minor significance".

An assessment of all s.9.1 Directions as they apply after 1 March 2022 is undertaken in Attachment C. In summary, the Planning Proposal is either consistent, or justifiably inconsistent with the relevant Directions. Where there is an inconsistency, it has been justified utilising the provisions within each of the Directions.

4.3.3 Section C – Environmental, Social and Economic Impact

4.3.3.1 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 subject land is located within a highly modified urban environment and does not contain critical habitat or threatened species, populations or ecological communities or their habitats. The subject land and proposed works are also not classified as a Matter of National Environmental Significance under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Therefore, an increase in building height as sought by this Planning Proposal is not expected to have an adverse environmental impact.

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

Consideration of other likely environmental effects resulting from the Planning Proposal have been considered and are addressed below.

Natural Hazards

The subject land is not identified as bushfire prone on Council's bushfire prone land map. The subject land is also not known to be contaminated given previous land activities conducted on-site (commercial) and previous land contamination reports and remediation works completed on adjoining lands (see response to SEPP 55 for further details and Attachment J).

Clause 6.4 of BVLEP 2013 relates to coastal risk planning and applies to land in the coastal zone below the 3 metre AHD contour. The subject land is located within the coastal zone and the AHD level of the site is less than 3 metres. Therefore, the provisions of this LEP clause apply.

Following a review of the Merimbula Lake and Back Lake Flood Study, a small portion of the eastern boundary is identified within the Flood Planning Area on the Flood Planning Areas Map (Figure 9). Consideration within this Flood Study has also been given to the impacts of climate change and sea level rises, which has determined a 0.4m rise in sea levels at 2050 and a 0.9m rise in sea levels at 2100.



Figure 9 Extract of Flood Planning Area Map (Source: Merimbula Lake & Back Lake Flood Study)

Discussions have been ongoing between the project engineer and Council's development engineer, which have confirmed that a proposed Finished Floor Level of RL 2.27m AHD achieves the short to medium term sea level rise, whilst also acknowledging the existing level of the adjoining footpath and roadway.

It is noted that the level and impact of flooding on-site is not classified as 'Floodway' or 'High hazard', but rather 'Flood Storage' and 'Flood Fringe' with a 'Low hazard' rating.

Furthermore, the Flood Study outlined that the 'tide range inside Merimbula Lake is reduced significantly with respect to the ocean tide range, as a result of the presence of the relatively long and narrow entrance. Comparing the Sea Level Rise cases, it can be seen that this effect is reduced inside Merimbula Lake when the sea bed does not rise with the sea level. In other words, there is less attenuation of the tide inside Merimbula Lake...'

Whilst it is acknowledged that there are no mandatory minimum finished floor level requirements for commercial development (only residential), the development has been designed so that the finished floor level of the ground floor of the building has been lifted. In addition, all electrical outlets, fittings and fixtures will be located above the relevant flood height.

Traffic, Access and Parking

Matters regarding traffic, access and parking need to be considered as a result of the proposed increased building height. Although the Planning Proposal seeks to increase the building height controls of the land, which in turn will increase car parking demands, an appropriate supply of car parking has been provided on-site (114 spaces), which will be contained at the ground floor, upper ground floor and first floor levels.

To avoid potential conflicts with pedestrians and the main collector roads, access to this car parking area is proposed at the rear of the site and will be accessed via Palmer Lane. The proposed development also allows all vehicles to enter and exit the site in a forward direction and makes appropriate provision for disabled car parking spaces.

Further details regarding traffic and parking have been addressed in a Traffic Impact Assessment submitted as part of the development application and included in Attachment K.

Heritage

The subject land is already developed and highly disturbed and is therefore not expected to contain any items of Aboriginal cultural heritage significance. A due diligence assessment of Aboriginal Cultural Heritage was undertaken by On Site Cultural Heritage Management and is included as Attachment G.

In summary, this report concluded the following:

- *the entire project area is disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.*
- *Assessed the project area as having a low potential and 'very unlikely' to contain Aboriginal objects with any spatial integrity.*

This assessment concludes that the site does not contain any items of Aboriginal cultural heritage significance and that further investigation is not warranted.

The land is not identified as an item of environmental heritage within schedule 5 of the heritage map of BVLEP 2013.

Notwithstanding, consideration needs to be given to the additional building height proposed under this Planning Proposal and its potential impacts on adjoining heritage items. The only heritage item located within proximity to the site is local Heritage Item No. I221 – Twyford Hall, which is located at 16 Market Street to the east (Figure 10).

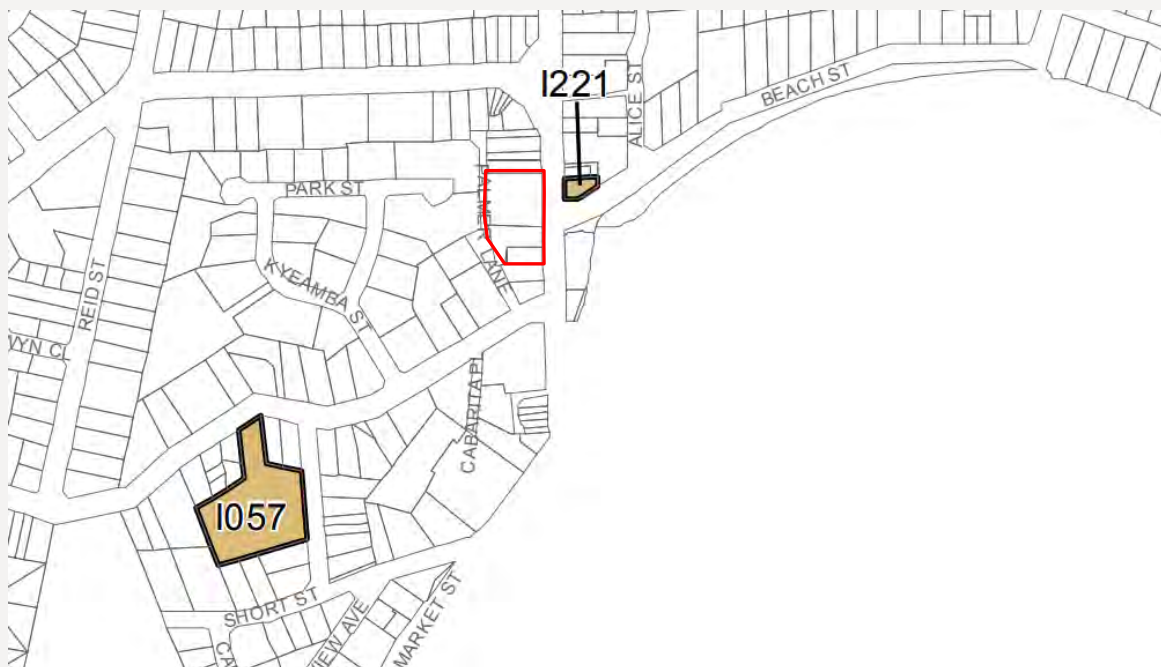


Figure 10 Extract of Heritage Map

Upon further review, the proposed increase in building height is not expected to adversely affect this heritage item as it will not create overshadowing impacts for this property. Furthermore, the proposed future building has been designed to reduce the building bulk and street wall height of the building, which has the potential to adversely affect heritage by stepping in the top floors of the building, which will not be visible from Market Street.

Cross sections and longitudinal profiles have also been provided detailing potential impacts on this heritage-listed building (Figure 10). Given the location of the subject land on the western side of Market Street and the stepped nature of the building, the subject Planning Proposal (and subsequent development) is not expected to adversely affect the heritage values of this building, particularly when considered against a proposed two storey extension of Twyford Hall located to the immediate north (see Development Consent No. 2007.0144).

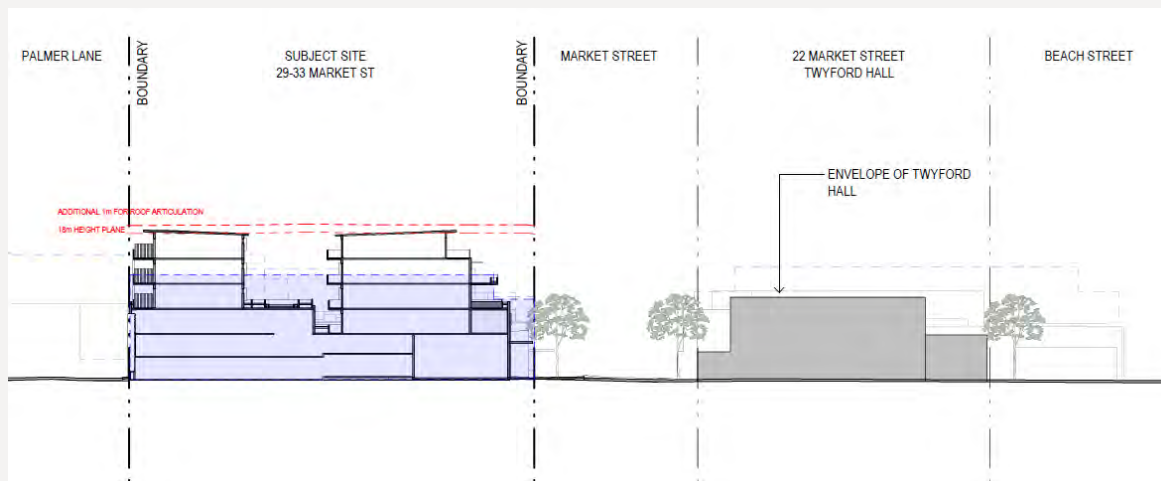


Figure 11 Cross-section of proposed building envelope in relation to heritage listed Twyford Hall

Urban Design and Built Form

The vision for the site is to aid in the transformation of Market Street and the Merimbula town centre into a vibrant, viable and successful commercial centre via a high-quality mixed-use development with multiple building forms, bustling boutique ground floor retail tenancies and high amenity residential apartments above.

The accompanying development proposal, which supports the proposed increase in building height looks to amalgamate two commercial sites located along Market Street, Merimbula, to create a generous site area in excess of 4,000m². The site area available, coupled with its prime location, coastal setting and expansive views across the lake, afford an opportunity to design a high-quality development which responds to the local context. The proposal looks to provide retail and car parking to the ground floor with 3-4 levels of residential apartments above.

The site presents a unique opportunity to provide an urban marker/gateway to the Merimbula town centre, particularly when approaching from the south to reflect the future desired character of the retail strip whilst maintaining a sensitivity to the existing streetscape. Based on an architectural analysis, a nuanced and articulated building spanning up to 5 storeys with a substantial setback to the top storey is considered an appropriate response in alignment with the aspirations for the town centre.

The placement of the site on the western side of Market Street enables the site to transition from the foreshore, substantiating an increase in height and heralding the site as a landmark building from long distances. Through considered distribution of massing, a built form has been established that presents as lesser in scale with a fine grain of modulation that responds to the human scale and resides comfortably adjacent to its neighbouring 2 storey developments.

The new building on site will provide both retail premises and residential accommodation contributing to commercial activity and the community of Merimbula. These will be of design excellence, amenity and performance with natural light, sun penetration and natural ventilation. An activated laneway will invite pedestrians through the site and provide a tangible visual and physical connection back to the foreshore.

The development seeks to achieve a number of key urban design and built form outcomes as follows:

- Prioritise pedestrian access within Market Street.
- Maximise connectivity to the Merimbula Lake foreshore.
- Protect key view corridors and access to Merimbula Lake.
- Provide well-articulated and proportioned development.
- Maintain bulk and scale in keeping with the medium rise coastal setting.
- Promote the enhancement of an existing laneway.
- Provide opportunities for boutique shopping, alfresco dining and landscape design.
- Allow for night-time activation.
- Reinforce existing commercial centres and promote access to shops and services.
- Expand the diversity of housing in central areas.
- Provide car parking at grade or above due to water table and existing water easement issues.

Consideration of the proposed built form and additional building height with regards to Council's Landscape and Streetscape Master Plan is provided in Figures 12-14.

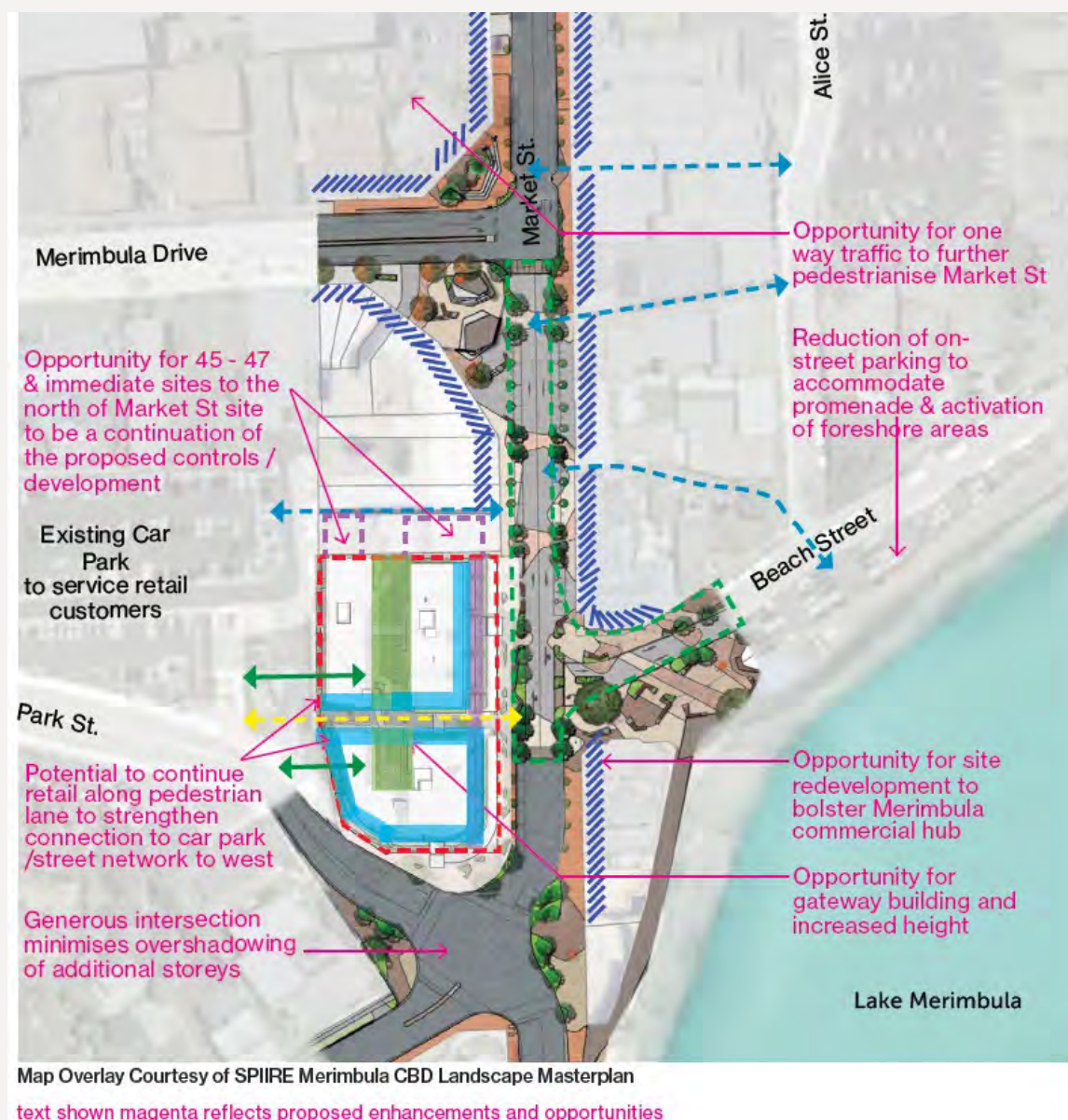


Figure 12 Proposed works in context to Merimbula Landscape Master Plan



Figure 13 Interpretation of CBD Landscape Master Plan



Figure 14 Master Plan for site and immediate streetscape

Consideration and justification for the proposed additional building height from 13 metres to 18 metres (increase of 5 metres) has been determined based on the highest and best use of the land, as well as ensuring that the future built form on site has regard to the surrounding context and setting of the area.

Specifically, a proposed 18 metre building height control seeks to provide for a five (5) storey mixed use development comprising ground floor commercial with 3-4 levels of residential apartments located above this.

The 18 metre height control seeks to accommodate the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and the NSW Department of Planning's Apartment Design Guide (ADG).

A breakdown of the building height sought by this planning proposal is provided below:

- 5.5 metre minimum ceiling height for ground floor retail and car parking areas as recommended by the ADG – please refer to figure 4C.1 below (reproduced in Figure 15)
- 3.1 metre minimum ceiling height for residential levels 1-4, which require minimum 2.7 metre ceilings as per ADG or 3.1 metre per floor – please refer to figure 4C.5 below (reproduced in Figure 17). Note: no mixed use is proposed at the first floor level that would necessitate a 3.3 metre ceiling height given the retail hierarchy of the Merimbula CBD.
- Additional 1 metre at the ground floor level to accommodate potential flood impacts as identified in Council's flood study (including a small height buffer to accommodate existing topographical falls to minimise multiple steps in residential floor levels above)

Table 7 – Breakdown of additional building height sought by Planning Proposal

Level	Height (minimum ceiling height + slab + services)	AHD (metres)*
Ground	4.5m + 1m (5.5m) to accommodate potential flood levels, topography and services and plant	8.3m
Level 1	3.1m	11.4m
Level 2	3.1m	14.5m
Level 3	3.1m	17.6m
Level 4	3.1m	20.7
Total	17.9m	20.7m

*The subject land currently has a RL of 2.5-2.8m AHD. For the purposes of this assessment, an AHD of 2.8m AHD has been used, being the higher development scenario.

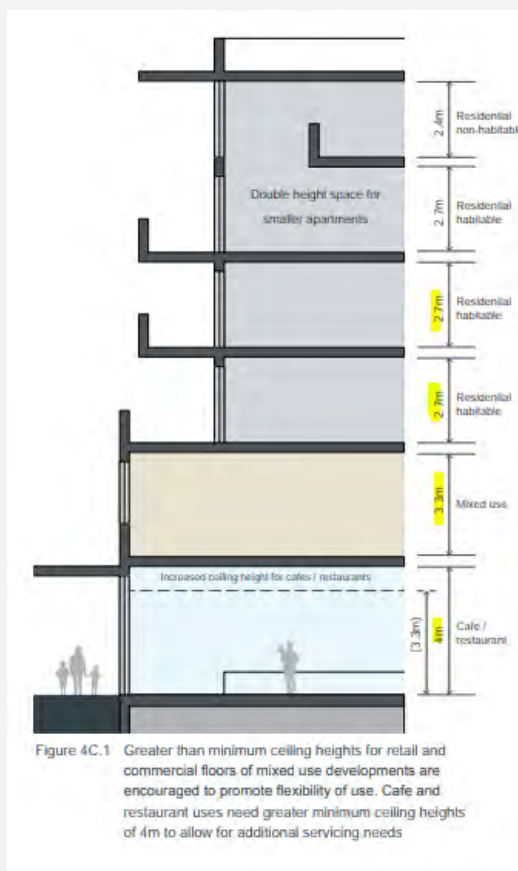


Figure 15 Minimum ceiling height controls for retail and commercial uses

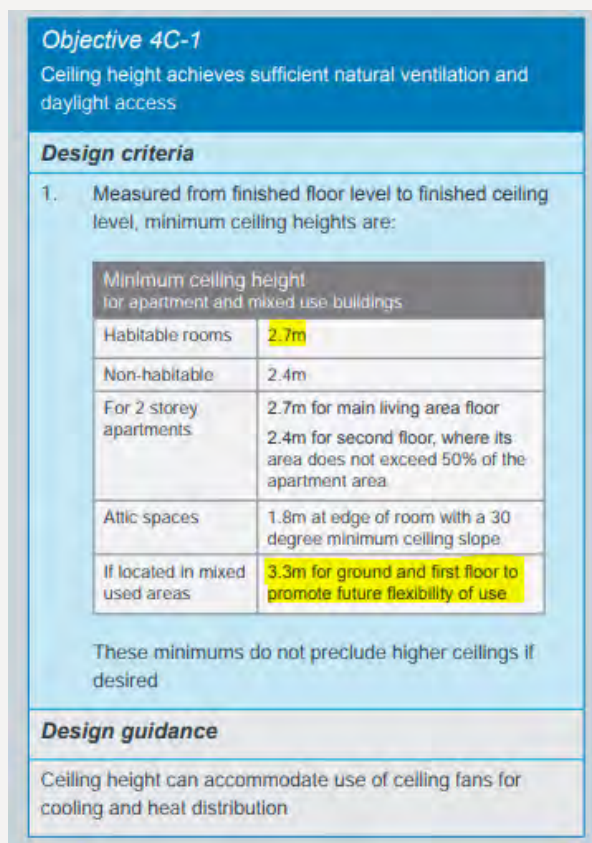


Figure 16 Minimum ceiling heights for apartment and mixed use buildings

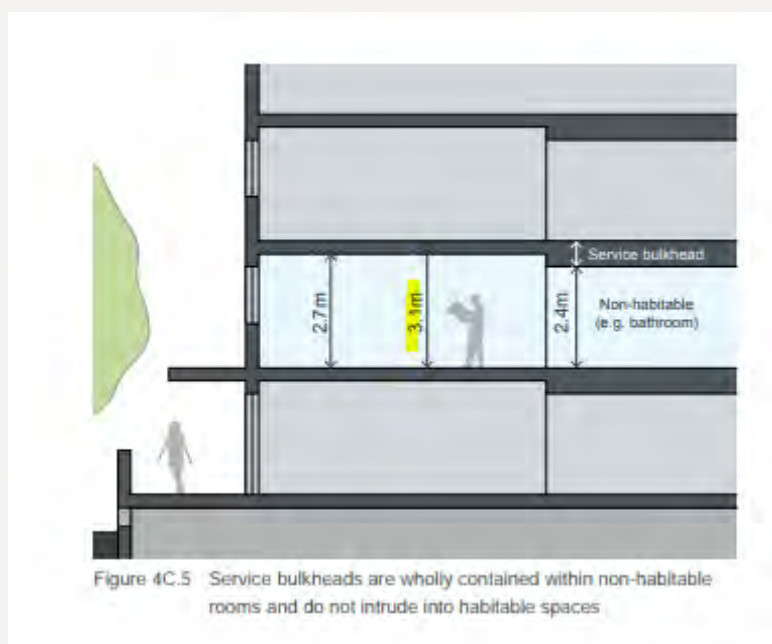


Figure 17 Minimum ceiling height controls for habitable and non-habitable rooms

Matters regarding building bulk and scale are addressed as follows:

- The proposal reflects a similar GFA as a 3 storey development (that is compliant with current day envelope requirements), relocated across 5 storeys to provide better articulation and a statement corner at the Market Street/Palmer Lane/Monaro Street intersection.
- The proposed bulk and scale of the development is sensitive to the surrounding context and minimises the appearance of bulk through articulation and good design.
- The proposal introduces a rhythm of verticality through the street wall which softens to a fine grain articulation of staggered balconies above, creating visual interest and movement.
- The proposed built form is split north-south to maintain pedestrian access and express the built form as two separate volumes, rather than a single monolithic mass.

Similarly, further consideration of building setbacks and street wall heights is provided below:

- The Proposal looks to set back the ground floor retail by 3 metres to augment the public domain and further enhance and prioritise the pedestrian experience along Market Street.
- A 2 storey street wall is proposed along Market Street and wrapping round the corner to Palmer Lane to maintain the existing streetscape character and bulk.
- Recessed upper storeys are proposed to the front boundary with a deep recess (10m) proposed to the 5th storey to significantly minimise the visual impact of the upper storeys.
- Shadow diagrams confirm that the additional height has no effect on the maintenance of 3hrs of solar access to adjoining properties and only results in marginal additional overshadowing due to the upper levels of the building being stepped in.
- The proposed bulk and scale of the development is sensitive to the surrounding context and minimises the appearance of bulk through articulation and good design.
- The proposal provides an activated laneway which will facilitate pedestrian access through the site between Market Street and Palmer Lane and provide further retail opportunities as you move west towards the Park Street car park.

Architectural plans and details of the proposed built form resulting from the additional building height were included as part of the submission to the Commercial Land Strategy (Attachment D) and have been reproduced below.

These plans demonstrate that the built form and scale of the proposed future building has been appropriately considered in the context and setting of the area and will have a number of public benefits and urban design outcomes.

Further details and plans regarding the proposed works will be addressed as part of a Development Application prepared for the site, which will be submitted under separate cover and included as Attachment F to this proposal.

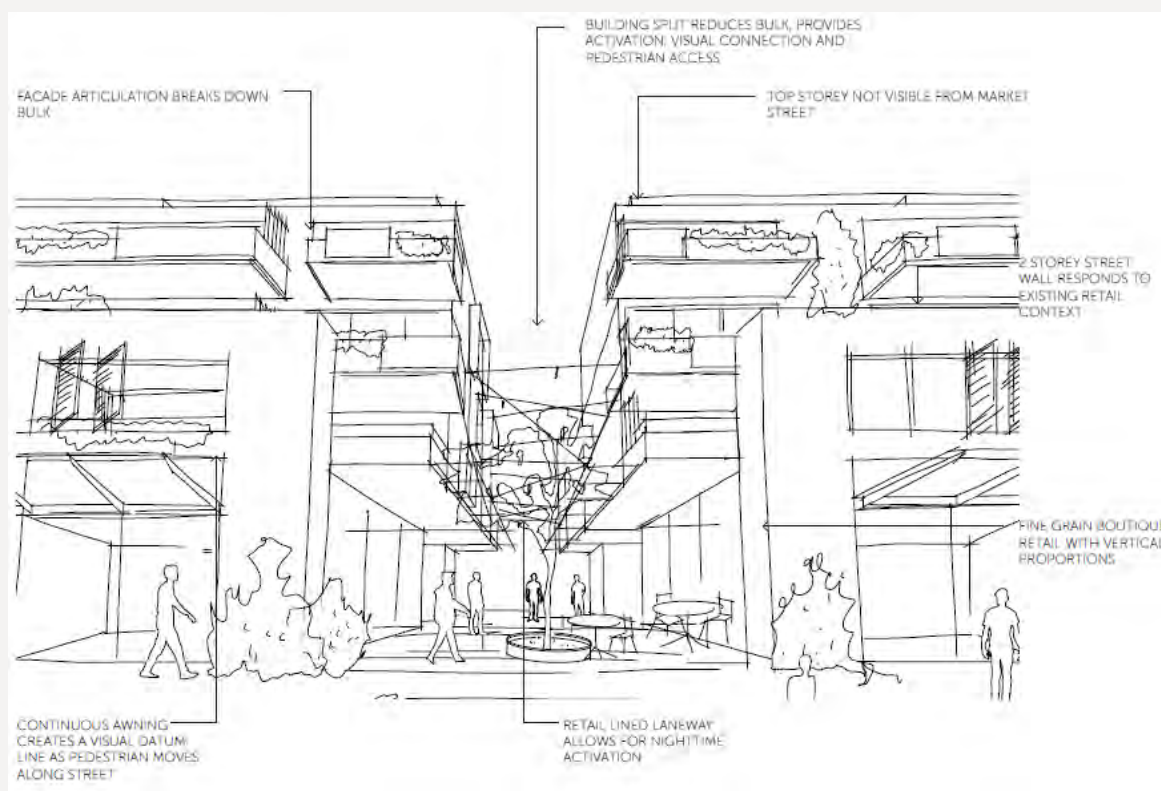


Figure 18 Indicative perspective from Market Street looking west down laneway



Figure 19 Perspective of proposed activated laneway

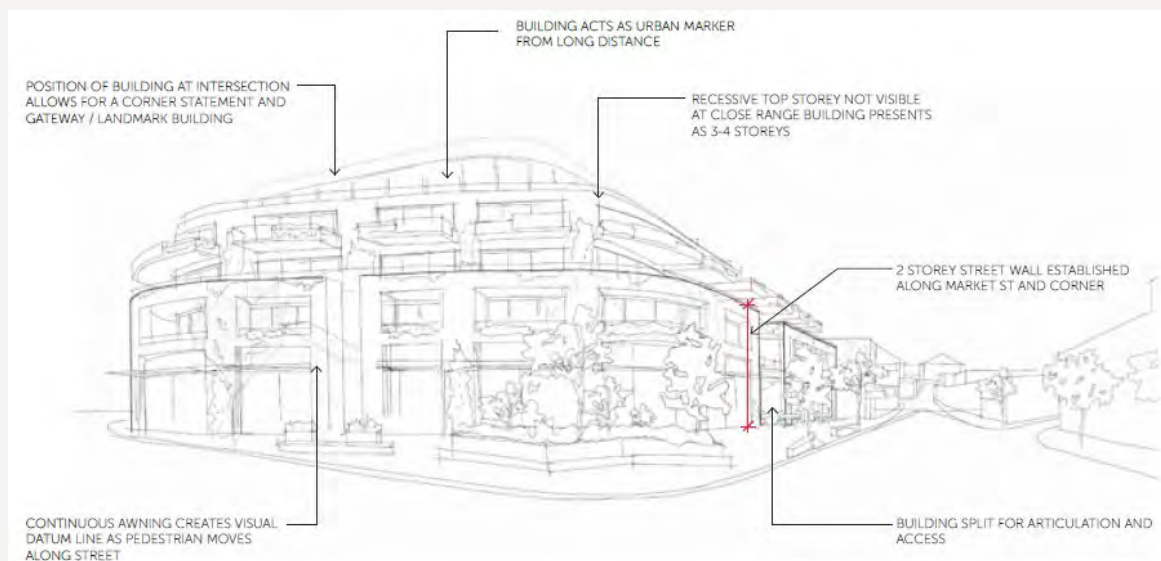


Figure 20 Indicative perspective from southern intersection of Market and Monaro Street



Figure 21 Perspective of proposal from corner of Market and Monaro Street looking north



Figure 22 Perspective of development along Market Street looking west along laneway



Figure 23 Perspective of development from Market Street looking west

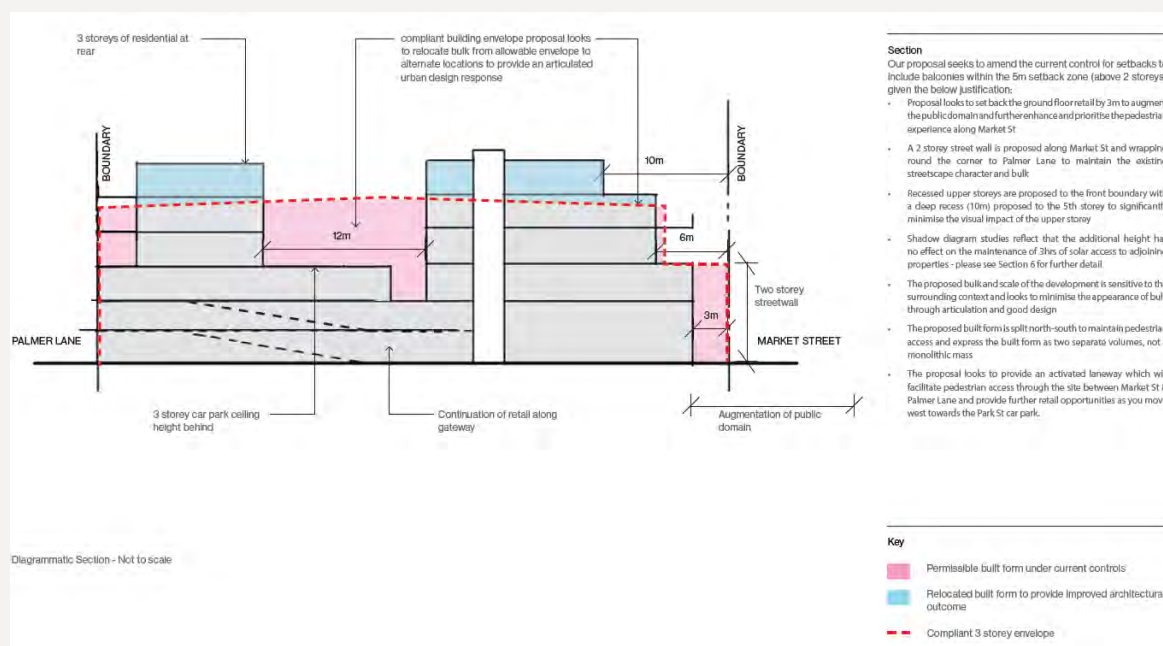


Figure 24 Diagrammatic Section

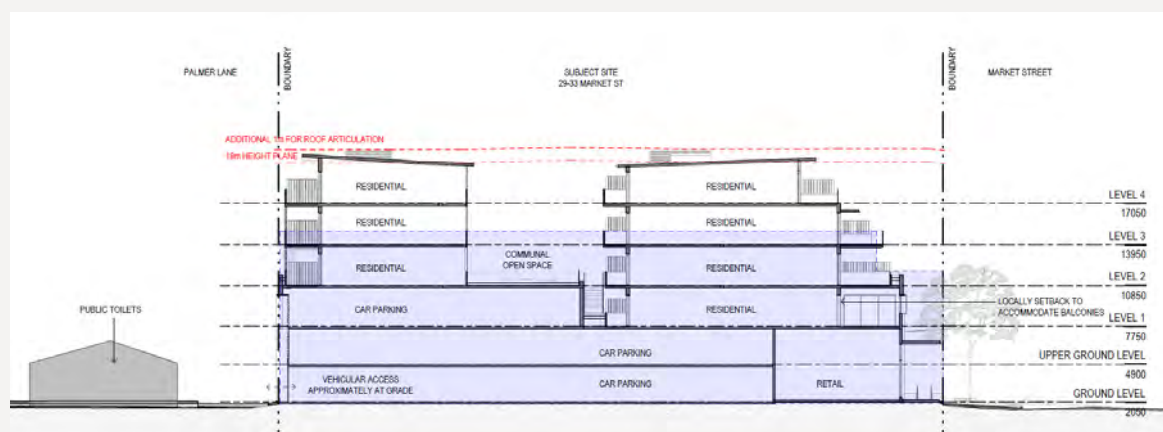


Figure 25 East-West cross section

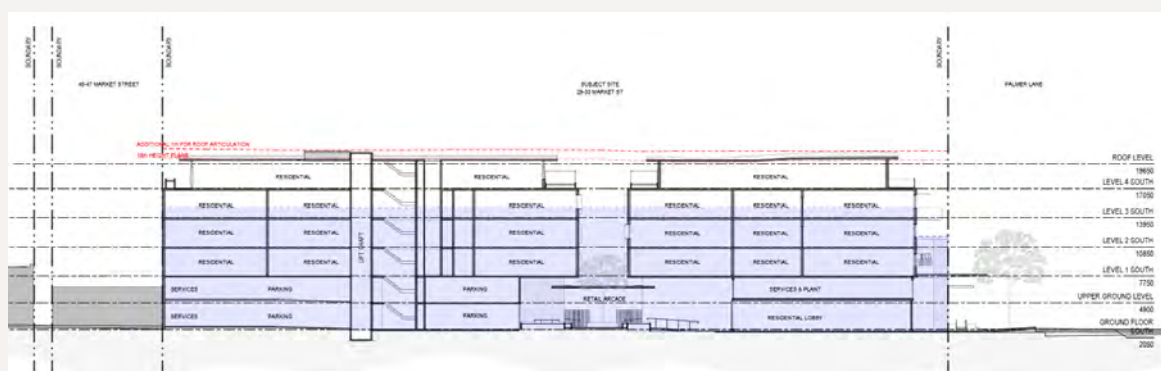


Figure 26 North-South cross section

View and visual impact – Bulk Study

Consideration of the proposed increase in building height controls has been undertaken from key vista points to determine the likely impacts of the additional building height. These vista points include along Market Street ('Views A-C') in the immediate vicinity and further afield from Beach Street ('View D'), Reid Street ('View E') and Fishpen ('View F').

To further help illustrate the proposed additional building height sought by the subject planning proposal, a bulk study has also been undertaken. This study sought to identify the maximum building envelopes that could be achieved under current day planning controls as compared to those sought by the Planning Proposal.

As demonstrated in Figures 27-29, the proposed amendment will not have an adverse visual impact on key vista points and is respectful to the built form and view corridors. Specifically, the proposed design does not break the ridge line when viewed from its surrounds, including Fishpen and the top of Market Street as the fifth storey is generally only visible at long distances and cannot be seen from Market Street due to the setback of the top levels.

To further illustrate the potential impacts of the additional building height sought by the Planning Proposal in relation to its immediate context and surrounds, longitudinal cross sections of Market Street, Palmer Lane and Monaro Street has been undertaken and are reproduced in Figures 30-32.

These sections identify the existing topography of the area and current building height controls that apply. In summary, these figures demonstrate that the design 'steps' down Market Street, which rises up to the north and provides appropriate building separation and relief from adjoining buildings.



VIEW ANALYSIS LOCATION MAP



VIEW A - FROM MAIN STREET LOOKING SOUTH



Figure 27 View Analysis Plans – Market Street



VIEW ANALYSIS LOCATION MAP



VIEW D - BREACH STREET LOOKING WEST

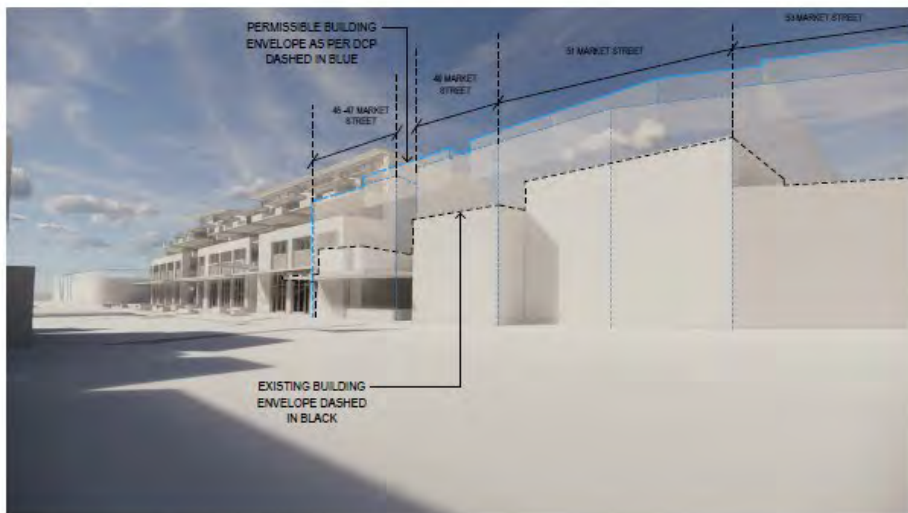


VIEW E - REID STREET LOOKING EAST



VIEW F - FISHPEN LOOKING NORTH-WEST

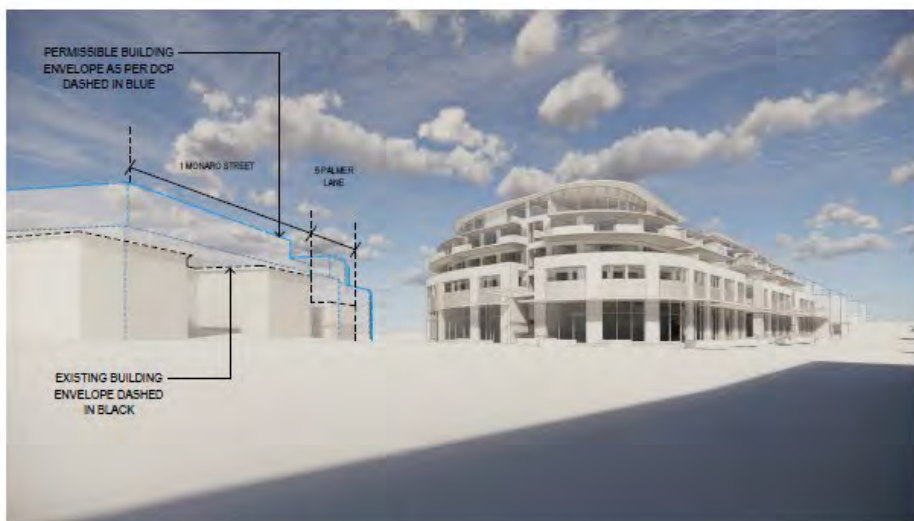
Figure 28 View Analysis Plans – Other Locations



BULK STUDY FROM MARKET STREET LOOKING NORTH



BULK STUDY FROM CARPARK LOOKING NORTH EAST



BULK STUDY FROM MARKET STREET LOOKING SOUTH

Figure 29 Bulk Study Analysis Plans

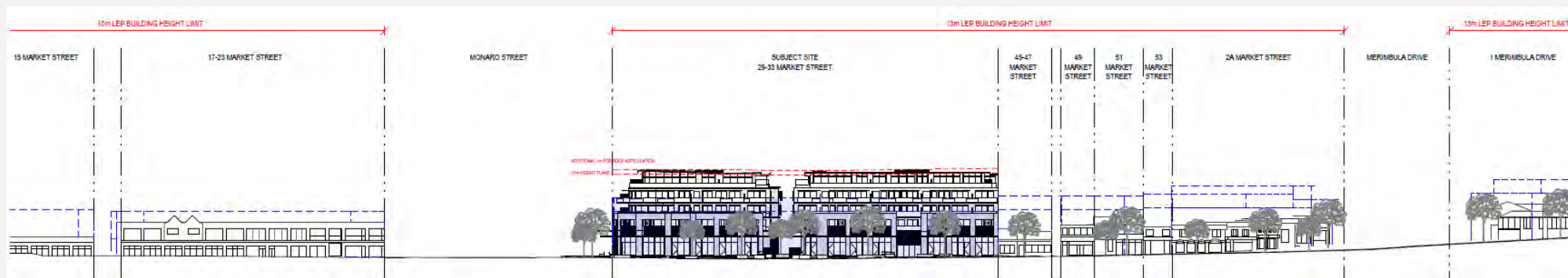


Figure 30 Longitudinal streetscape cross section – Market Street

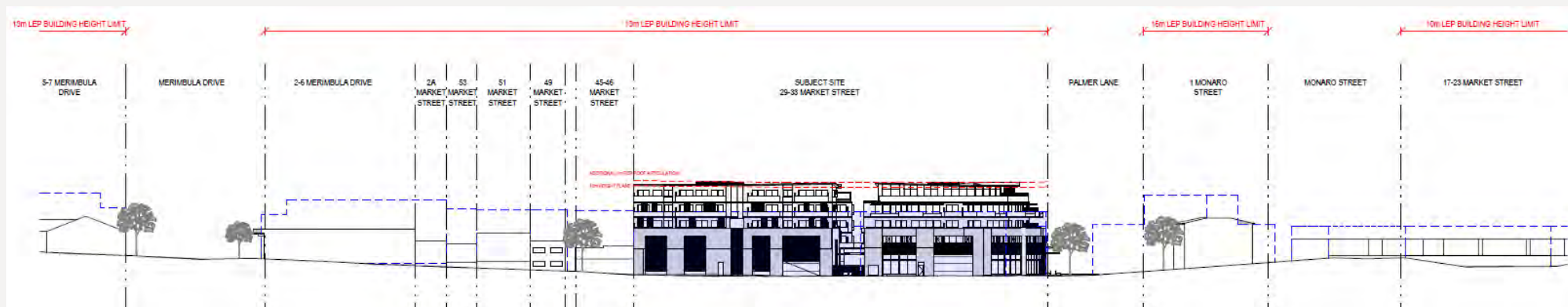


Figure 31 Longitudinal streetscape cross section – Palmer Lane

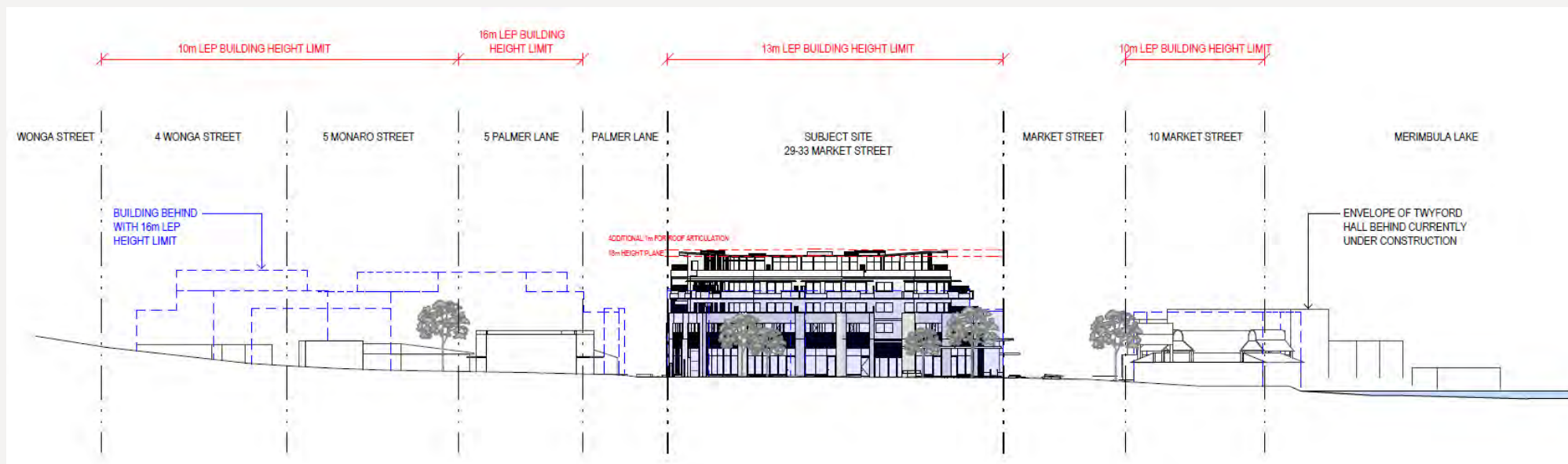


Figure 32 Longitudinal streetscape cross section – Monaro Street

Overshadowing

Shadow diagrams of the proposed increased building envelopes were provided in the submission to the Commercial Strategy contained in Attachment D. Updated shadow diagrams have been completed and are reproduced in Figure 33 illustrating shadows generated by the proposed building design are acceptable.

These shadow diagrams clarify the overshadowing impacts resulting from the construction of a compliant development on-site under current day building height controls (red hatched) versus those sought by the planning proposal (green). In summary, these figures demonstrate that the additional overshadowing impacts from the increase in building height is marginal and will not adversely affect adjoining properties.

This has been achieved by arranging the building massing to minimise solar impacts on neighbouring properties in mid-winter. In particular, the street wall has been setback from the property boundary and the top levels of the building have been strategically located and setback further again to alleviate overshadowing to public spaces and streets.

The shadow diagrams show minimal overshadowing to the south, east and west on all neighbouring properties and the public domain and footpath. These diagrams demonstrate that the public domain in Market Street will be provided with solar access between 9-12pm with only marginal additional overshadowing at 3pm. Similarly overshadowing of the adjoining residential apartment building to the south west will be limited to only between 9-10am at the Winter solstice and will be unobstructed for the remainder of the day.

LEGEND



-  SHADOW FROM COMPLIANT ENVELOPE
-  ADDITIONAL SHADOWS BY PROPOSED BUILDING





Figure 33 Proposed shadow diagrams

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

The Planning Proposal has considered the likely social and economic effects as outlined below. A socio-economic impact assessment has been prepared in support of the proposal and is included in Attachment L.

Social Effects

The development will have an overall positive social effect as it will improve local facilities, increase housing stock close to public transport and amenities, provide greater housing choice as well as improve public domain facilities and the pedestrian interface with surrounding streets.

A range of public benefits have also been made possible by changing the height controls of BVLEP 2013, which have been offered by the proponent and will be secured through a Planning Agreement. The public benefits will ensure the provision of a pedestrian accessway from a rear council car park (Palmer's Lane) through to Market Street, as well as street beautification works along Market Street consistent with the Merimbula town centre Landscape Master Plan

Details regarding the built form and impacts of the proposed development on site have previously been addressed above, with the Planning Proposal seeking to achieve a built form that is respectful of the surrounding environment and provides an activated street frontage.

The future building provides articulation and visual interest to the street, as well as a built form that provides a break through the site to reduce building bulk and appearance and achieve high levels of internal open space and amenity for residents.

Other social benefits will include:

- Activation and investment in the Merimbula town centre consistent with the recommendations of the Residential Strategy 2040.
- Provision of approximately 50 residential apartments (1, 2 and 3 bedrooms)(mix to be determined) to meet housing demand and provide a range of housing choice for new and existing residents, incorporating a diversity of product in a location which is highly accessible with excellence access to employment and transport.
- Improve housing diversity with apartment dwellings.
- Facilitate resident work-from-home needs.
- An activated public domain that offers increased passive surveillance and retail activation.
- The proposal will encourage sustainable transport use and discourage car dependence, which in turn has positive flow-on effects for the local and wider traffic network reducing energy consumption and resulting in a smaller ecological footprint.
- Reduce demand for additional town centres.
- Reduce public costs of extending infrastructure to greenfield housing sites.

Economic Effects

The planning proposal will result in a number of short and long-term economic benefits through the generation of local employment opportunities during construction and operation. The density will permit a development, which has a higher capital investment value that will generate more construction jobs than a smaller development within the existing controls. In addition, the Planning Proposal will likely result in a number of ongoing jobs during the operation of the residential and commercial uses.

Economic benefits will include:

- Activation and investment in the Merimbula town centre consistent with the recommendations of the Commercial Strategy 2040.
- Investment stimulus from the redevelopment of the Merimbula town centre to meet the changing demographic and housing needs of the community including motivation for other sites to undergo redevelopment.
- Maintenance and enhancement of existing commercial activities on-site including fine-grain retail.
- Provision of more housing closer to jobs and contribution towards increasing local housing supply and diversity.
- Provision of more housing which is supported by public transport services.

Specific economic impacts to result from the proposal are outlined in the attached socio-economic impact assessment and are reproduced below:

The construction of the proposed development over two years would generate:

- 43 jobs in the Bega Valley Shire LGA.
- 8 indirect jobs in the Rest of NSW.
- \$6.2 million Gross Value Added (GVA) per annum to Bega Valley Shire LGA.
- \$1.6 million GVA per annum to the Rest of NSW.

Operation of the proposed retail will generate:

- 73 jobs on site (140% more jobs than currently).
- 10 indirect jobs in the Bega Valley Shire LGA and 6 indirect jobs in the rest of NSW.
- \$7.1 million GVA per annum to Bega Valley LGA.
- \$1.1 million GVA per annum to the Rest of NSW.
- Jobs for local residents currently travelling outside of the LGA for work.

4.3.4 Section D – State and Commonwealth Interests

4.3.4.1 Is there adequate public infrastructure for the planning proposal?

The subject land is urban zoned and already developed for commercial purposes. Therefore, the subject land has readily available access to reticulated infrastructure and services including water, sewerage, stormwater drainage, road access, telecommunications, electricity and gas.

By maximising the development opportunities on-site through a higher density, the Planning Proposal and potential future redevelopment supports sound principles for utilising existing community investment in infrastructure and services in the locality.

Further details regarding infrastructure have been addressed as part of the Development Application via the preparation of a civil engineering assessment, which is included in Attachment I.

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

No consultation has been carried out at this stage with any State and/or Commonwealth Public Authorities in relation to the subject Planning Proposal. Notwithstanding, any consultation requirements with relevant public authorities and service providers will occur in accordance with the conditions of the Gateway Determination.

Following previous pre-lodgement discussions with Council officers, it is expected that as a minimum, consultation will be required with the Civil Aviation Safety Authority (CASA) due to potential impacts on the nearby Merimbula Airport. Similarly, consultation is also expected with NSW Fisheries due to the sites' proximity to the adjoining Lake Merimbula.

See Section 4.5 of this proposal for further details regarding community consultation.

4.4. Mapping

The Planning Proposal seeks to amend the following map of the BVLEP 2013:

- Height of Buildings Map – Sheet 020B (0550_COM_HOB_020B_020_20160419).

An extract of the existing and proposed height of buildings map is contained within Figures 34 & 35.

Please note that the small parcel of land located to the immediate south of the subject land was previously resumed for the purposes of realigning the intersection of Palmer Lane and Market Street. No changes are proposed to the building height controls applicable to this land as it is in public ownership.

The draft LEP maps and associated Map Cover Sheet will be prepared in accordance with the NSW Department of Planning & Environment's: *Standard Technical Requirements for Spatial Datasets and Maps* (Version 2.0, August 2017).

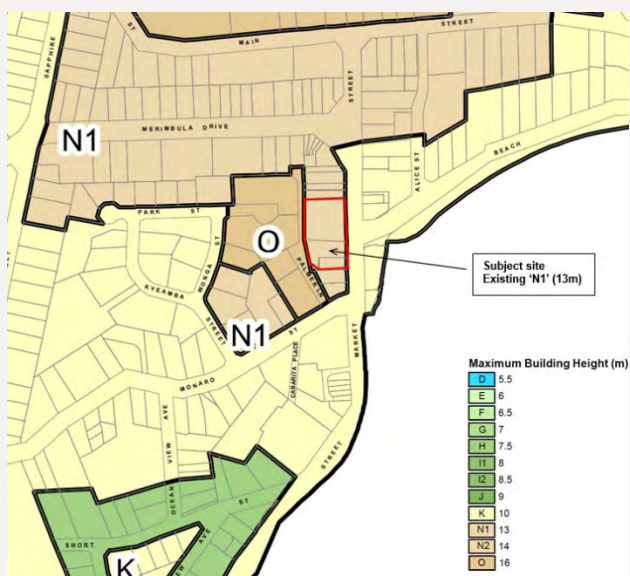


Figure 34 Existing Building Heights Map

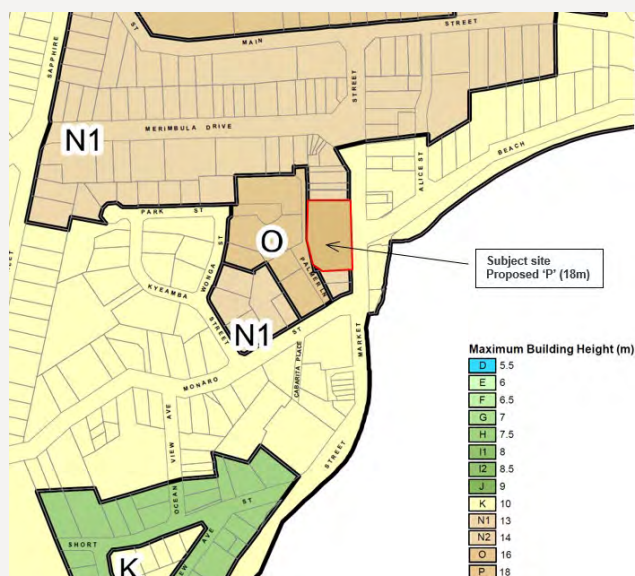


Figure 35 Amended Building Heights Map

4.5. Community Consultation

The Planning Proposal will be exhibited in accordance with the requirements of Part 1, Division 1, Clause 4 of Schedule 1 of the EP&A Act, the NSW Department of Planning and Environment's: Local Environmental Plan Making Guideline and any conditions of the Gateway Determination (to be issued).

As the Planning Proposal is categorised as a 'standard' proposal, it is expected to be placed on public exhibition for 20 days or as otherwise outlined in Council's Community Participation Plan. Council may determine to exhibit the Planning Proposal for a longer period consistent with the notification period requirements for the accompanying Development Application.

Written notification of the community consultation will be provided in a local newspaper and on Council's website. In addition to this, any affected landowner/s adjoining the subject land will be notified in writing, as well as any Public Authorities, Government Agencies and other key stakeholders as determined by the Gateway Determination.

The future consultation process is expected to include:

- written notification to landowners adjoining the subject land.
- public notices to be provided in local media, including in a local newspaper and on Council's website.
- static displays of the Planning Proposal and supporting material in Council public buildings; and
- electronic copies of all documentation being made available to the community free of charge (preferably via downloads from Council's website).

The written notice will contain:

- a brief description of the intended outcomes of the Planning Proposal.
- an indication of the land which is affected by the proposal.
- information on where and when the Planning Proposal can be inspected.
- the name and address of Council for the receipt of submissions.
- the closing date for submissions; and
- confirmation whether the Minister has chosen to delegate Plan Making powers to Council.

During the public exhibition period the following documents will be placed on public exhibition:

- the Planning Proposal.
- the Gateway Determination.
- any technical information relied upon by the Planning Proposal (including the accompanying Development Application).
- relevant council reports.

An electronic copy of all of the above information to be placed on public exhibition will be made available to the public free of charge.

At the conclusion of the public exhibition period Council staff will consider submissions made with respect to the Planning Proposal and will prepare a report to Council.

4.6. Project Timeline

The project timeline for the Planning Proposal is outlined in Table 8.

It is noted however, that there are many factors that can influence compliance with the timeframe including Council staffing resources, the cycle of Council meetings and submissions received, and issues raised. Consequently, the timeframe should be regarded as indicative only.

Table 8 – Project Timeline (indicative)

Project Milestone	Anticipated Timeframe	Anticipated Due Date
Lodgement Lodge Planning Proposal with council and make any necessary adjustments or changes prior to council accepting the plan	4 weeks for council to review and provide any comments regarding the submitted Planning Proposal and for the report to be updated.	Late March 2022
Council Report (seeking Gateway Determination) Council planning officers to prepare a report to council seeking council endorsement of the Planning Proposal and referral to the NSW DPIE seeking the issuing of a Gateway Determination.	2 weeks to prepare council report and include on council agenda.	Mid-late April 2022
Request Gateway Determination Council to request a Gateway Determination from the NSW Department of Planning to proceed to Planning Proposal to public exhibition (including any delegation of plan-making powers to council)	2 weeks following Council resolution and request for a Gateway determination	Early May 2022
Public Exhibition Undertake public exhibition of Planning Proposal in accordance with the conditions of the Gateway Determination.	4 weeks to prepare and place a public notice in the paper and 4 weeks to publicly exhibit the Planning Proposal.	Mid June 2022
Consider Submissions & Finalise Document Council planning officers to consider, respond and report on	4 weeks to collate, consider and respond to submissions received (if any).	Mid July 2022

submissions received and issues raised (if any) and where necessary, recommended relevant changes to the Planning Proposal.		
Council Report (consideration of submissions) Council planning officers to prepare a report to council post public exhibition that considers any submissions received.	4 weeks to prepare council report and include on council agenda.	Mid August 2022
Submission to NSW DPIE/Parliamentary Counsel Forward Planning Proposal to NSW DPIE/Parliamentary Counsel (if delegated) for finalisation following public exhibition.	4 weeks	Mid September 2022
Notification Finalisation/gazettal of Planning Proposal	2 weeks	Late September 2022

5. Conclusion

The Planning Proposal seeks to amend the *Bega Valley Local Environmental Plan 2013* by amending the Height of Buildings Map by increasing the maximum building height control from 13 metres to 18 metres as it applies to 29-33 Market Street, Merimbula

The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the relevant guidelines prepared by the NSW Department of Planning and Environment. The Planning Proposal sets out the justification for the proposed amendment and considers the environmental, social and economic impacts of the proposal.

Having regard to the above, the Planning Proposal has strategic merit and is in the public interest for the following reasons:

- The proposal is consistent with the strategic planning framework including State, Regional, District and local planning strategies for Merimbula and the broader Bega Valley Shire.
- The proposal is consistent with the recommendations of the recently endorsed Commercial Land Strategy 2040 and Residential Land Strategy 2040 that allows an increase in building heights for sites with an area greater than 2,000m².
- The proposal seeks to retain the existing zoning controls and other overlay requirements of BVLEP 2013 and is only seeking an amendment to the building height controls to facilitate the redevelopment of the site.
- The resultant building envelope will not generate any unacceptable environmental impacts in relation to built-form, view loss or overshadowing and will become a key landmark site.
- The resultant development will provide public domain improvements including street beautification works, connectivity and permeability, as well as an improved built form.
- The proposal will contribute towards the revitalisation of the Merimbula town centre through investment and construction.
- The subject land is not environmentally sensitive and contains no environmental features.
- There will be a net social benefit for the Merimbula community through additional commercial and residential floor space.
- The proposal will not generate any adverse impacts on the operation of the surrounding road network.
- The land is already developed and can therefore be provided with all urban infrastructure.

In recognition of the above, it is considered that the proposed amendment to BVLEP 2013 is appropriate and well-considered, and that the Planning Proposal should be supported by Council and proceed to Gateway Determination.

Attachment A

Consistency with South East and Tablelands Regional Plan 2036

Table 9 – Consistency with South East and Tablelands Regional Plan

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
Goal 1 – A connected and prosperous economy		
Direction 1: Leverage access to the global gateway of Canberra Airport	Not relevant, the Planning Proposal does not relate to the Canberra Airport.	Not applicable.
Direction 2: Enhance tourism and export opportunities through the Port of Eden	Not relevant, the Planning Proposal does not relate to the Port of Eden.	Not applicable.
Direction 3: Develop the Snowy Mountains into Australia's premier year-round alpine destination	Not relevant, the Planning Proposal does not relate to the Snowy Mountains.	Not applicable.
Direction 4: Leverage growth opportunities from Western Sydney	Not relevant, the Planning Proposal only seeks to increase building height.	Not applicable.
Direction 5: Promote agricultural innovation, sustainability and value-add opportunities	Not relevant, the Planning Proposal does relate to agriculture or agricultural innovation.	Not applicable.
Direction 6: Position the region as a hub of renewable energy excellence	Not relevant, the Planning Proposal only seeks to increase building height.	Not applicable.
Direction 7: Grow the South Coast's aquaculture industry	Not relevant, the Planning Proposal does not relate to aquaculture.	Not applicable.
Direction 8: Protect important agricultural land	Not relevant, the Planning Proposal does not relate to agricultural land.	Not applicable.

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
Direction 9: Grow tourism in the region	Not relevant, the Planning Proposal will not affect tourism.	Not applicable.
Direction 10: Strengthen the economic self-determination of Aboriginal communities	Not relevant, the Planning Proposal does not affect Aboriginal communities.	Not applicable.
Direction 11: Enhance strategic transport links to support economic growth	Not relevant, the Planning Proposal does not relate to a strategic transport link.	Not applicable.
Direction 12: Promote business activities in urban centres	Relevant, as the Planning Proposal relates to an urban centre.	<p>Consistent.</p> <p>The Planning Proposal achieves the relevant actions of this direction, including:</p> <p><i>12.2 Encourage mixed use developments that cater for commercial, retail, residential and tourism uses through local planning controls.</i></p> <p><i>12.3 Reinforce the role and function of centres as the primary places for commerce, retail, social activity and regional services through local strategies and local environmental plans.</i></p> <p>Specifically, the Planning Proposal seeks to increase the building height control as it relates to the subject land, which will facilitate a mixed-use development comprising both commercial and residential land uses within the Merimbula town centre.</p> <p>The development will support the primacy and role of this centre, which is consistent with the recommendations of</p>

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
		the Bega Shire Council's Commercial Strategy and Residential Strategy.
Direction 13: Manage the ongoing use of mineral resources	Not relevant, the Planning Proposal does not relate to mineral resources.	Not applicable.
Goal 2 – A diverse environment interconnected by biodiversity corridors		
Direction 14: Protect important environmental assets	Not relevant, the Planning Proposal does not affect environmental assets as it is urban zoned.	Not applicable.
Direction 15: Enhance biodiversity connections	Not relevant, the Planning Proposal does not affect biodiversity connections.	Not applicable.
Direction 16: Protect the coast and increase resilience to natural hazards	Relevant, as the subject land is located within close proximity to Lake Merimbula.	<p>Consistent.</p> <p>The Planning Proposal is generally consistent with the actions of this direction, which seek to increase resilience to climate change.</p> <p>Due to the sites' proximity to Lake Merimbula, consideration of the current and future impacts of climate change, namely flooding and sea level rises have been addressed as part of the accompanying Development Application for the site to ensure that any redevelopment of this site appropriately manages future risks. It is noted that one of the reasons to increase the building height controls of the site is to also help accommodate relevant finished floor level requirements for flooding.</p>

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
Direction 17: Mitigate and adapt to climate change	Not relevant, the Planning Proposal does not relate to climate change policy or initiatives.	Not applicable.
Direction 18: Secure water resources	Not relevant, as the subject land is urban zoned and already developed and therefore has access to a secure water supply.	Not applicable.
Goal 3 – Healthy and connected communities		
Direction 19: Strengthen cross-border connectivity	Not relevant, the Planning Proposal will not impact the level of cross-border connectivity.	Not applicable.
Direction 20: Enhance access to goods and services by improving transport connections	Not relevant, the Planning Proposal will not affect transport corridors and connections.	Not applicable.
Direction 21: Increase access to health and education services	Not relevant, the Planning Proposal does not affect health and education services.	Not applicable.
Direction 22: Build socially inclusive, safe and healthy communities	Not relevant, the Planning Proposal only seeks to increase the building height control.	Not applicable.
Direction 23: Protect the region's heritage	Not relevant, the subject land is not an identified heritage item.	Not applicable.
Goal 4 – Environmentally sustainable housing choices		
Direction 24: Deliver greater housing supply and choice	Relevant, as the Planning Proposal seeks to achieve a mixed use development comprising residential housing.	Consistent. The Planning Proposal achieves the relevant actions of this direction, including:

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
		<p><i>24.3 Promote increased housing choice, including townhouses, villas and apartments in strategic centres and locations close to existing services and jobs.</i></p> <p>The Planning Proposal seeks to redevelop an existing property for a mixed-use development comprising commercial and residential uses within the Merimbula town centre that has readily available access to jobs, infrastructure and services.</p> <p>Specifically, the development will involve the construction of two levels of commercial and retail spaces and associated car parking, as well as 3-4 levels of residential accommodation located above this ('shop top housing').</p> <p>This will increase the supply of residential accommodation within an established commercial centre, as well as increase the variety and type of residential products currently available within the market.</p>
Direction 25: Focus housing growth in locations that maximise infrastructure and services	Relevant, as the Planning Proposal seeks to achieve housing growth within an existing established centre.	<p>Consistent.</p> <p>The Planning Proposal achieves the relevant actions of this direction, including:</p> <p><i>25.1 Focus future settlement to locations that:</i></p> <ul style="list-style-type: none"> <i>• maximise existing infrastructure and services and minimise the need for new services;</i>

Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
		<ul style="list-style-type: none"> • <i>prioritise increased densities within existing urban areas; and</i> • <i>prioritise new release areas that are an extension of existing strategic and local centres.</i> <p>The Planning Proposal seeks to achieve increased densities of an existing commercial zoned property within the Merimbula town centre through an increase in building height. In doing so, this will maximise existing infrastructure and reduce pressures on the urban fringe for additional residential land.</p> <p>As outlined above, the increase in building height controls will also increase the variety and type of residential products available within the market.</p>
Direction 26: Coordinate infrastructure and water supply in a cross-border setting	Not relevant, the Planning Proposal does not affect cross-border infrastructure.	Not applicable.
Direction 27: Deliver more opportunities for affordable housing	Relevant, as the Planning Proposal seeks to provide opportunities for affordable housing.	<p>Consistent.</p> <p>The Planning Proposal achieves the relevant actions of this direction, including:</p> <p><i>27.2 Facilitate greater housing diversity, including studios and one- and two-bedroom dwellings, to match forecast changes in household sizes.</i></p> <p>The Planning Proposal seeks to increase the building height controls that apply to the subject land and</p>



Goal, Direction & Action Title	Relevance to Planning Proposal	Consistency
		<p>undertake a mixed-use development comprising both commercial and residential land uses.</p> <p>Specifically, the proposed mixed-use development comprises a variety of housing types and sizes including 1, 2 and 3 bedroom apartments, which will increase housing supply and also reflect forecast changes in household size.</p>
Direction 28: Manage rural lifestyles	Not relevant, the Planning Proposal does not relate to rural residential development.	Not applicable.

Attachment B

Consistency with State Environmental Planning Policies

Table 10 – Consistency with State Environmental Planning Policies (as of 1 March 2022)

No.	Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Housing) 2021			
	<p>Affordable Rental Housing (former)</p> <p>Housing for Seniors and People with a Disability (former)</p> <p>SEPP 70 – Affordable Housing (former)</p> <p>SEPP 21 – Caravan Parks (former)</p> <p>SEPP 36 – Manufactured Home Estates (former)</p>	Applies to all land in the State.	<p>The Planning Proposal does not conflict with the aims or objectives of this SEPP including Chapter 2 Affordable Housing and Chapter 3 Diverse Housing as it does not change the land use permissibility's of the land or reduce the area of land that could be used for housing purposes.</p> <p>It is noted that the proposed residential flat (apartment) building proposed for the site is not by or on behalf of a public authority or social housing provider.</p>
State Environmental Planning Policy (Primary Production) 2021			
	Primary Production and Rural Development 2019 (former)	Applies to all land in the State.	<p>The Planning Proposal does not conflict with the aims of this SEPP. It is confirmed that the subject land is not rural zoned and will not adversely affect existing agricultural operations including State Significant Agricultural Land.</p> <p>Furthermore, Division 4 of this SEPP relates to priority oyster aquaculture areas, which is relevant to the subject proposal as the nearby Merimbula Lake is identified as a POAA. Notwithstanding the subject Planning Proposal only seeks to increase the maximum building height permitted on-site and will not create water quality issues. See response to Section 9.1 Direction, 1.4 for further details.</p>

No.	Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Resources and Energy) 2021			
	Mining, Petroleum Production & Extractive Industries 2007 (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development assessment requirements relating to mining, petroleum production and extractive industries as provided for in the SEPP.
State Environmental Planning Policy (Resilience and Hazards) 2021			
	Coastal Management 2018 (former)	Applies as Lake Merimbula is classified as a coastal lake.	<p><i>State Environmental Planning Policy (Coastal Management) 2008</i> (Coastal Management SEPP) aims to manage development in the coastal zone and protect the environmental assets of the coast, as well as establish a framework for land use planning in the coastal zone.</p> <p>The provisions of the Coastal Management SEPP apply to the Planning Proposal as the subject land is located within the 'Coastal Environment Area' (Figure 36) and 'Coastal Use Area' (Figure 37).</p> <div>   </div> <p>Figure 36 Extract of the Coastal Environment Area Map</p> <p>Figure 37 Extract of the Coastal Use Area Map</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>Division 3 of the Coastal Management SEPP applies to development on land in the coastal environment area. Before development consent is granted to development, the consent authority must consider whether the development is likely to cause an adverse impact on any of the following:</p> <ul style="list-style-type: none"> (a) <i>the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i> (b) <i>coastal environmental values and natural coastal processes,</i> (c) <i>the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i> (d) <i>marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i> (e) <i>existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i> (f) <i>Aboriginal cultural heritage, practices and places,</i> (g) <i>the use of the surf zone.</i> <p>In this instance, the subject Planning Proposal is seeking to increase the maximum building height permitted over the subject land. The subject land is already developed, but pending Council acceptance of the increase building height, the intention is that the site be redeveloped for mixed use purposes.</p> <p>The subject land is not located on the bed or banks of any waterways and is setback from the adjoining Merimbula Lake. The development does not involve the removal of any vegetation or habitat and is not expected to adversely affect integrity of the coastal zone. More specifically, matters regarding Aboriginal heritage have been investigated as part of the accompanying Development Application, stormwater will be appropriately captured and collected on-site and the proposed building seeks to encourage public access through to Merimbula Lake via a public laneway.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>Similarly, Division 4 of the Coastal Management SEPP applies to development on land in the coastal use area and requires that development consent must not be granted to development unless the consent authority has considered whether the development is likely to cause an adverse impact on any of the following:</p> <ul style="list-style-type: none"> (i) <i>existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i> (ii) <i>overshadowing, wind funnelling and the loss of views from public places to foreshores,</i> (iii) <i>the visual amenity and scenic qualities of the coast, including coastal headlands,</i> (iv) <i>Aboriginal cultural heritage, practices and places,</i> (v) <i>cultural and built environment heritage.</i> <p>The Planning Proposal will not have an adverse impact on the above matters as the proposed building design will facilitate and encourage public access via a proposed public laneway connecting Palmer Lane and Market Street.</p> <p>Whilst the development does seek to increase the maximum permitted building height of the land, which has the potential to create additional overshadowing, the design of the proposed building is as such that the upper levels of the building are gradually stepped in to reduce the overall bulk and scale of the building. This in turn reduces the amount of overshadowing cast by the proposed building including the adjoining Market Street, which will still enjoy at least 4 hours of unimpeded solar access during the shortest day of the year (21st June being the Winter Solstice).</p> <p>Similarly, matters regarding wind funnelling have also been considered and are appropriate in this instance as the building has been stepped, therefore reducing the 'hard edge' at the street, which can create wind funnelling effects. Furthermore, the building contains breaks and relief in the building form both east-west and north-south.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>Matters regarding view loss have also been considered and are addressed in Section 4.3.3.2 of this report. Again, the building has been stepped to retain the visual qualities of the coast and the generally low-scale nature of this coastal town.</p> <p>A due diligence assessment of Aboriginal Cultural Heritage has been undertaken as part of the accompanying Development Application.</p> <p>Cross sections and longitudinal profiles have also been provided detailing potential impacts on the adjoining heritage-listed Twyford Hall to the east. Given the location of the subject land on the western side of Market Street and the stepped nature of the building, the subject Planning Proposal is not expected to adversely affect the heritage values of this building, particularly when considered against a proposed two storey extension of this building located to the immediate north (see Development Consent No. 2007.0144).</p> <p>Division 5 applies generally to development in the coastal zone, which includes the coastal environment area and coastal use area. The primary objective of this clause is to not cause increased risk of coastal hazards on the land or other land. As outlined within this report, the proposed increase in permitted maximum building height is not expected to cause an increased risk of coastal hazards for the reasons outlined in this report.</p>
33	Hazardous & Offensive Development (former)	Not applicable as the existing and proposed activities on site do not constitute hazardous and offensive development.	Not applicable.
55	Remediation of Land (former)	Applies to all land in the State.	<p>The Planning Proposal only seeks to increase the building height control permitted by the LEP.</p> <p>Notwithstanding, <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> (“SEPP 55”) sets out considerations relating to land contamination across the state. The intention of the SEPP is to establish ‘best practice’ guidelines for managing land</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>contamination through the planning and development control process. The main purpose of SEPP 55 is to ensure that land is fit for purpose for its intended purpose.</p> <p>Whilst the subject land has been developed for commercial purposes and is not known to be contaminated, the site does immediately adjoin a former Mobil service station site at 27 Market Street, Merimbula, which was previously identified as a NSW EPA listed contaminated site.</p> <p>Notwithstanding, in December 2012 Council resolved to purchase this former service station site for the purposes of constructing the Merimbula CBD bypass, subject to certification the property had been remediated to a residential standard.</p> <p>In response, the EPA advised Council via letter dated 4 April 2017 that regulation under the <i>Contaminated Land Management Act 1997</i> is no longer required because:</p> <ul style="list-style-type: none"> • <i>Former service station infrastructure has been removed from the site and contaminated soil excavated to the extent practicable.</i> • <i>Groundwater monitoring results indicate that potential offsite migration of petroleum hydrocarbons would be limited in extent beneath Market Street and would not present an unacceptable risk to human health or the environment under the current land use; and</i> • <i>An EPA-accredited Site Auditor has issued a Site Audit Statement certifying that the site is suitable for certain land uses, including residential with minimal opportunity for soil access (including units) and commercial/industrial, subject to compliance with the Environmental Management Plan prepared for the site. The Site Auditor notes that groundwater should not be extracted for use.</i> <p><i>The public list of notified sites on the EPA website will be updated to note that the site does not require regulation under the CLM Act.</i></p> <p>A copy of the relevant reports is included as part of the Development Application contained in Attachment F.</p> <p>Consequently, the land is considered fit for its intended purpose, being a mixed-use development comprising ground floor commercial and upper level residential.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			Therefore, the relevant considerations of SEPP 55 are satisfied by the current proposal.
State Environmental Planning Policy (Industry and Employment) 2021			
	Western Sydney Employment Area 2009 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
64	Advertising & Signage (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, development consent requirements and assessment criteria for advertising and signage as provided for in the SEPP.
State Environmental Planning Policy (Transport and Infrastructure) 2021			
	Infrastructure 2007 (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development consent, assessment and consultation requirements, capacity to undertake additional uses, adjacent, exempt and complying development provisions as provided in the SEPP.
	Educational Establishments & Child Care Facilities 2017 (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims, permissibility, development assessment requirements relating to educational establishments and childcare facilities as provided in the SEPP. Furthermore, the Planning Proposal does not seek to facilitate the use of the site as an educational establishment or childcare facility.
	Major Infrastructure Corridors 2020 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Three Ports 2013 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Biodiversity and Conservation) 2021			
	Vegetation in Non-Rural Areas 2017 (former)	Applies as the subject land is zoned B2 Local Centre.	The Planning Proposal does not derogate from the aims or objectives of this SEPP as the subject land is already developed and does not contain any vegetation. Therefore, the SEPP will have no influence over its future development.
	Koala Habitat Protection 2020 (former)	Not applicable as the subject land is not rurally zoned.	Not applicable.
	Koala Habitat Protection 2021 (former)	Applies to the Bega Valley Shire.	The Planning Proposal does not conflict with the aims of this SEPP. The subject land is already developed for commercial purposes and therefore does not contain any vegetation that could provide habitat for koalas.
19	Bushland in Urban Areas (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable
50	Canal Estate Development (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims and canal estate development prohibitions as provided for in the SEPP.
	Sydney Drinking Water Catchment 2011 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
State Environmental Planning Policy (Planning Systems) 2021			
	State and Regional Development 2011 (former)	Not applicable as the Planning Proposal is not for State significant development.	Not applicable.
	Aboriginal Land 2019 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
	Concurrences and Consents 2018 (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the concurrence and consent requirements as provided for in the SEPP.
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021			
	State Significant Precincts 2005 (former)	Not applicable as the subject land is not within a State significant precinct.	Not applicable.
47	Moore Park Showground (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
State Environmental Planning Policy (Precincts – Central River City) 2021			
	State Significant Precincts 2005 (former)	Not applicable as the subject land is not within a State significant precinct.	Not applicable.
	Sydney Region Growth Centres 2006 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Kurnell Peninsula 1989 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Urban Renewal 2010 (former)	Not applicable as the subject land is not within a potential precinct.	Not applicable.
State Environmental Planning Policy (Precincts – Western Parkland City) 2021			
	State Significant Precincts 2005 (former)	Not applicable as the subject land is not within a State significant precinct.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
	Sydney Region Growth Centres 2006 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Western Sydney Aerotropolis 2020 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Penrith Lakes Scheme 1989 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Western Sydney Parklands 2009 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
State Environmental Planning Policy (Precincts – Regional) 2021			
	Sydney Region Growth Centres 2006 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Activation Precincts 2020 (former)	Not applicable as the subject land is not located within an activation precinct.	Not applicable.
	Kosciuszko National Park – Alpine Resorts 2007 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.
	Gosford City Centre 2018 (former)	Not applicable to the local government area of Bega Valley Shire.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
State Environmental Planning Policy (Design and Place) 2021			
65	Design Quality of Residential Apartment Development (former)	Applies as the subject land is proposed to be redeveloped for mixed use purposes, including residential apartments.	<p>The Planning Proposal does not conflict with the aims, development consent, assessment, information and notification requirements as provided for in the SEPP.</p> <p>It is noted that the purpose of the proposed increase in building height controls is to facilitate the redevelopment of the site for mixed use purposes comprising ground floor commercial with residential apartments located above this.</p> <p>Therefore, the subsequent development application needs to achieve the Design Quality Principles contained within Schedule 1 of this SEPP, as well as the Apartment Design Guide (ADG) published by the Department of Planning and Environment.</p> <p>Initial consideration has been given as part of this Planning Proposal to the key development controls of the ADG's including Chapters 2A, 2B, 2C and 2F.</p> <p>Specifically, Chapter 2A requires consideration of the proposed three-dimensional building envelope, which is determined based on building height, floor space ratio, building depth, separation distance and setbacks. As outlined within this report, the subject Planning Proposal is supported by a Development Application, which has addressed each of these factors and determined the proposed built form outcome to be achieved by the increase in building height.</p> <p>Furthermore, the submitted plans identify the proposed building envelope compared the current building envelope and height controls (volumetric) of the site versus the proposed building design sought under the Planning Proposal. In summary, the development outcomes, whilst resulting in a taller building, have significant less bulk and scale when compared to what could be achieved under current day controls (see Figure 24 of this report).</p> <p>Similarly, a 'bulk study' has been undertaken of the development outcomes sought by the subject planning proposal against the current building control envelopes that apply to adjoining lands. In doing so, this demonstrates that the proposed increase in building height is compatible with the surrounding building controls.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>As outlined within this report, the primary purpose of the Planning Proposal is to increase the maximum permitted building height on-site from 13m to 18m plus a 1m allowance for the encroachment of services. Again, as demonstrated within Figure 24 of this report, only a small portion of the proposed building will extend above the current height controls.</p> <p>Similarly, this additional building height will not result in additional bulk or scale of the building as the top levels of the building have been stepped and will not be visible from street level. Furthermore, the additional building height is considered appropriate as it will largely match the maximum height of adjoining properties along Market Street, which slopes upwards towards Main Street. For example, the building height will step up along Market Street as shown in the enclosed longitudinal section.</p> <p>Lastly, the proposed additional building height and Development Application achieve appropriate building separation as required by Chapter 2F. In accordance with the ADG's for buildings over 4 storeys in height, which requires a minimum building separation of 9-18m. Further consideration of this requirement has been provided in the accompanying Development Application in Attachment F.</p>
	Building Sustainability Index (BASIX) 2004 (former)	Applies to 'BASIX Affected Development'.	Although the Planning Proposal does not seek to directly undertake residential development, the accompanying Development Application includes BASIX Certificates demonstrating compliance with the requirements with this SEPP.
	Exempt & Complying Development Codes 2008 (former)	Applies to all land in the State.	The Planning Proposal does not conflict with the aims and functions of this SEPP with respect to exempt and complying development provisions.

Attachment C

Consistency with Section 9.1 Ministerial Directions

Table 11 – Consistency with Ministerial Directions (as applicable at 1 March 2022)

No.	Title	Applicable to Planning Proposal	Consistency
1. Planning Systems			
1.1	Implementation of Regional Plans	Yes, as this Direction applies to all Planning Proposals that apply to land where a Regional Plan has been prepared.	The Planning Proposal is generally consistent with the goals, directions and actions as contained within the <i>South East and Tablelands Regional Plan 2036</i> as it seeks to revitalise an existing established commercial centre via the redevelopment of a key landmark site for commercial/residential development purposes, whilst also having regard to the environmental impacts of development A full response in relation to this Regional Plan has been provided in Attachment A.
1.2	Development of Aboriginal Land Council Land	Not applicable, as the subject land is not identified on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019	Not applicable.
1.3	Approval and Referral Requirements	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not propose any referral or concurrence requirements or nominate any development as 'designated development'.
1.4	Site Specific Provisions	Not applicable as the proposal does not propose any site-specific provisions.	Not applicable.
1. Planning Systems – Place Based			
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.6	Implementation of North West Priority Growth Area Land Use	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
	and Infrastructure Implementation Plan		
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.10	Implementation of Western Sydney Aerotropolis Plan	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
1.14	Implementation of Greater Macarthur 2040	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.15	Implementation of the Pymont Peninsula Place Strategy	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.16	North West Rail Link Corridor Strategy	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
1.17	Implementation of Bays West Place Strategy	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.
2. Design and Place Systems			
Nil			
3. Biodiversity and Conservation			
3.1	Conservation Zones	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not involve land identified as environmentally sensitive and does not seek to reduce the environmental protection standards that apply to the land.
3.2	Heritage Conservation	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not affect existing provisions within BVLEP 2013 relating to the protection of known European and Aboriginal heritage.
3.3	Sydney Drinking Water Catchment	Not applicable, as the land is not located within the Sydney Drinking Water Catchment.	Not applicable.

No.	Title	Applicable to Planning Proposal	Consistency
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs.	Not applicable to the Bega Valley Shire Local Government Area.	Not applicable.
3.5	Recreation Vehicle Areas	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this direction because it does not advocate the designation of the subject land as a recreation vehicle area pursuant to an order in force under section 11 (1) of the <i>Recreation Vehicles Act 1983</i> .
4. Resilience and Hazards			
4.1	Flooding	Yes, as a small portion of the subject land is identified as being flood prone (in a 1 in 100 year ARI event) in the Merimbula and Back Lakes Flood Study.	<p>The planning proposal is consistent with the objectives of this direction as it does not seek to rezone land and only seeks to increase the building height controls that apply to this land, partly in response to the need to achieve a higher finished floor level.</p> <p>Following a review of the Merimbula Lake and Back Lake Flood Study only a very small portion of the eastern boundary is identified within the Flood Planning Area on the Flood Planning Areas Map and the land is classified as 'Flood Storage' and 'Flood Fringe' with a 'Low hazard' rating.</p> <p>Whilst the density of development (through an increase in building height) could be achieved, the proposed design as demonstrated in the accompanying Development Application maintains a similar FSR to a fully compliant development under current day controls.</p> <p>In addition, the proposed building has been designed within a minimum finished floor height of RL 2.27m AHD as per Council engineer's advice. For this reason, the inconsistency is considered to be 'minor' in this instance.</p>

No.	Title	Applicable to Planning Proposal	Consistency
4.2	Coastal Management	Yes, as the subject land is located within a coastal zone (coastal environment area and coastal use area).	<p>The Planning Proposal complies with the requirements of this Direction as it is consistent with the objects of the <i>Coastal Management Act 2016</i>, including the following:</p> <p>Protection of existing coastal environment and natural character of the area.</p> <p>Maintenance of public access to the coastal zone.</p> <p>Support an existing sustainable coastal economy through redevelopment; and</p> <p>Mitigation of future climate change risks (to be addressed in the specific design).</p> <p>It is reiterated that the subject land is urban zoned and already developed, with the purpose of the Planning Proposal to seek an increase in the building height controls that apply to this land.</p> <p>The future redevelopment of this site is subject to a separate development application, which amongst other things addresses the key coastal planning requirements including the Coastal Design Guidelines, Coastal Design Manual and the relevant coastal management program.</p> <p>The subject land is not identified as a coastal vulnerability area identified by the SEPP and has not been identified as land affected by a current or future coastal hazard in Council's LEP or DCP.</p> <p>Similarly, the land is not identified as a coastal wetland or littoral rainforest.</p>
4.3	Planning for Bushfire Protection	Not applicable as the subject land is not mapped as bushfire prone.	Not applicable.
4.4	Remediation of Contaminated Land	Not applicable, as the subject land is not identified as an investigation area under the Contaminated Land Management Act 1997, nor has it been used for a purpose referred to in Table 1 of the contaminated land planning guidelines.	<p>See response to SEPP 55 for further details, as well as previous land contamination reports included with the accompanying Development Application contained in Attachment F.</p> <p>Consequently, the land is considered fit for its intended purpose, being a mixed-use development comprising ground floor commercial and upper level residential.</p>

No.	Title	Applicable to Planning Proposal	Consistency
4.5	Acid Sulphate Soils	Not applicable, as the subject land is not identified as containing acid sulphate soils.	Not applicable.
4.6	Mine Subsidence & Unstable Land	Not applicable, as the subject land is not within a Mine Subsistence District.	Not applicable.
5. Transport and Infrastructure			
5.1	Integrating Land Use and Transport	Yes, as the planning proposal seeks to alter a provision (building height) relating to land zoned B2 Local Centre.	The Planning Proposal is consistent with this Direction, including the objectives of this Direction, as it seeks to facilitate a redevelopment of a key landmark site within the Merimbula town centre for mixed use development purposes. The subject land is urban zoned and centrally located and therefore has readily available access to infrastructure and services. Due to its central location, redevelopment of this site will encourage alternative forms of transport and reduce the dependency on vehicles.
5.2	Reserving Land for Public Purposes	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction because it does not remove or propose any land for public purposes.
5.3	Development Near Regulated Airports and Defence Airfields	Yes, as the subject land is located within proximity (2.5km) of the Merimbula airport and the development seeks to increase the building height controls that apply to the subject land.	<p>The Planning Proposal is consistent with the objectives of this Direction as follows:</p> <p>The proposed increase in building height will allow for the ongoing and safe operation of the Merimbula airport.</p> <p>The increase in building height and future construction of a multi-level mixed use development up to 18 metres will not create an obstruction or a hazard for flying aircraft; and</p> <p>The subject land is not located on noise sensitive land.</p> <p>Further details regarding these objectives and the likely impacts of the Planning Proposal are discussed in further detail below.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			<p>The Merimbula Airport Master Plan 2033 (currently under review) has been prepared to guide the future growth and direction of the Merimbula airport, as well as ensure its protection ongoing from obstacles and obstructions.</p> <p>The subject land is located outside of the inner edge and take-off surfaces of the airport and the elevation of the airport is approximately 2 metres.</p> <p>Figure 6 at Appendix B of this document provides the future Obstacle Limitation (OLS) Map reproduced in Figure 6 of this report. The subject land is located outside of the airport take off and approach splay and is located within the 'Inner Horizontal Surface HP' of 48.0 metres.</p> <p>Based on the existing ground level of the site (RL 2.5-2.8) and the proposed maximum building height to be achieved under the revised building height controls (18m + 1m roof encroachment)(RL 21.0), any future development of this site will not penetrate the OLS.</p> <p>Therefore, given the large distance of the subject land (over 2.5km) from the airport and the fact that the Planning Proposal only seeks to increase the building height controls of the site from 13 metres to 18 metres (5 metre increase), the proposal will not adversely impact or impede the ongoing operations of the airport.</p> <p>The subject land is also not located near a defence airfield, is not classified as noise sensitive and is not located in proximity to the Western Sydney Airport.</p>
5.4	Shooting Ranges	Not applicable, as the subject land is not located in the vicinity of a shooting range.	Not applicable.
6. Housing			
6.1	Residential Zones	Yes, as the Planning Proposal seeks to facilitate the redevelopment of the site for mixed use purposes including residential accommodation.	The Planning Proposal is consistent with this Direction as it will support the redevelopment of a currently underutilised site within the Merimbula town centre for the purposes of a mixed-use development, including residential accommodation via an increase in the building height controls applicable to this land.

No.	Title	Applicable to Planning Proposal	Consistency
			The land is urban zoned, centrally located and therefore has access to all relevant infrastructure and services. An accompanying Development Application has been prepared for the site, which demonstrates that the mixed-use development proposed for this site will increase the variety and type of residential accommodation within Merimbula, including the provision of 1, 2 and 3 bedroom residential apartments.
6.2	Caravan Parks & Manufactured Home Estates	Yes, as this Direction applies to all Planning Proposals.	The Planning Proposal is consistent with this Direction as it does not reduce the opportunities for caravan parks and manufactured homes estates on the subject land.
7. Industry and Employment			
7.1	Business and Industrial Zones	Yes, as the Planning Proposal applies to land zoned B2 Local Centre.	<p>The Planning Proposal is consistent with this Direction as it complies with the objectives of this Direction, as it:</p> <ul style="list-style-type: none"> Will encourage employment growth and investment. Protect existing business zoned land; and Will support the ongoing viability of this identified commercial centre. <p>Specifically, the Planning Proposal does not seek to reduce the total area of land zoned for business or industrial purposes and will encourage employment growth, investment and economic growth via the redevelopment of an existing commercial zoned site. This in turn will support the ongoing viability of the existing Merimbula town centre as envisaged in the <i>Bega Valley Commercial Strategy 2040</i>.</p> <p>Furthermore, the Planning Proposal will not reduce the total potential floor space area for the site, but rather seeks to increase the building height controls that apply to this land, thereby allowing it to be developed for a multi-level mixed use development that will encourage both commercial and residential outcomes.</p> <p>Lastly, the Planning Proposal is consistent with the goals and directions of the <i>South East and Tablelands Regional Plan 2036</i> as outlined in Table 9 above.</p>

No.	Title	Applicable to Planning Proposal	Consistency
7.2	Reduction in non-hosted short term rental accommodation period	Not applicable to the Bega Valley Shire Local Government Area.	Not applicable.
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable, as the subject land is not located within proximity to the Pacific Highway.	Not applicable.
8. Resources and Energy			
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable as the Planning Proposal does not impact on mining, petroleum or extractive industries.	Not applicable.
9. Primary Production			
9.1	Rural Zones	Not applicable as the subject land is not rurally zoned.	Not applicable.
9.2	Rural Lands	Not applicable as the subject land does not comprise rural land.	Not applicable.
9.3	Oyster Aquaculture	Yes, as Merimbula Lake is an identified Priority Oyster Aquaculture Area.	<p>The Planning Proposal is generally consistent with the aims and objectives of this SEPP as it only seeks to increase the height of building controls that apply to this land, which will not impact upon water quality.</p> <p>The proposal is not considered to represent an 'incompatible use' such as an industry or highly contaminating use. The land will continue to be zoned B2 Local Centre and is proposed to be developed for shop top housing purposes comprising ground floor commercial and upper level residential.</p>

No.	Title	Applicable to Planning Proposal	Consistency
			Geotechnical and civil engineering details have been addressed as part of the accompanying Development Application, which have confirmed that the site can be appropriately development and will not create stormwater quality impacts for the nearby Merimbula Lake.
9.4	Farmland of State & Regional Significance on the NSW Far North Coast	Not applicable, does not apply to the Bega Valley Shire Local Government Area.	Not applicable.

Attachment D

Copy of Submission to Commercial Strategy

Attachment E

Architectural Plans

Attachment F

Development Application

Attachment G

Aboriginal Cultural Heritage Due Diligence Assessment

Attachment H

Geotechnical Investigations

Attachment I

Civil Engineering Assessment

Attachment J

Land Contamination Reports

Attachment K

Traffic Impact Assessment

Attachment L

Socio-Economic Impact Assessment

Attachment M

Sustainability Management Report