

BEGA VALLEY SHIRE COUNCIL

Bega Valley Local Environmental Plan 2013

Planning Proposal: Tura Beach Business Development Zone

May 2016

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Part 1 – Objectives

The objective of this planning proposal is to rezone a specific area of Tura Beach to enable development for commercial purposes that are not appropriate in nearby core commercial or mixed use areas.

Part 2 – Explanation of the Provisions

To achieve the objective outlined in Part 1, this planning proposal seeks to:

- Amend map sheet LAP_001 by deleting DM Deferred Matter applying to Lot 33 and Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach.
- Amend map sheets LZN_020B and LZN_020C by applying B5 Business Development Zone to Lot 33 and Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach.
- Amend map sheets LSZ_020B and LSZ_020C by removing the minimum lot size of K 550sqm from Lot 33 DP 243029 and Y 1ha from Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach.
- Amend map sheets FSR_020C by removing the floor space ratio of D 0.5:1 from Lot 33 DP 243029 Sapphire Coast Drive, Tura Beach.
- Amend the Land Use Table previously exhibited for the B5 Business Development Zone for inclusion in Part 2 of Bega Valley Local Environmental Plan 2013 by adding an additional objective specifically applying to development of Lot 33 and Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach.

Part 3 – Justification

Background

Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach are located on the southern corner of the Tura Beach Drive and Sapphire Coast Drive intersection and are in the one ownership. The allotments have a combined total area of approximately 4.5 hectares, are currently vacant and largely cleared (see Figure 1).

Existing developments within the immediate area consist of a Seniors Living Development and aged care facility to the south-east (zoned R2 Low Density Residential), a large lot residential parcel to the west (zoned R5 Large Lot Residential), and a shopping complex, service station and nursery to the east on the opposite side of Tura Beach Drive (zoned B1 Neighbourhood Centre). The land on the northern side of Sapphire Coast Drive is vacant and zoned E2 Environmental Conservation.

Under Bega Valley Local Environmental Plan (BVLEP) 2002, Lots 33 & 34 DP 243029 were zoned 1(c) Rural Small Holdings. In Draft BVLEP 2010 the properties were exhibited as R2 Low Density Residential Zone (Lot 33) and R5 Large Lot Residential Zone (Lot 34).

Following a submission received during the exhibition of draft BVLEP 2010, the subject land was included in Appendix 2 for the preparation of a planning proposal to zone the land R3 Medium Density Residential. Following a further submission from the owners of the land, Council resolved to support rezoning the land to B5 Business Development.

The Planning Proposal was forwarded to NSW Department of Planning and Environment (DPE) for Gateway Determination. That Planning Proposal was not supported by the LEP Review Panel for the following reasons:

“1. The location of the proposed business zone adjoins a residential zone that contains an existing seniors living development. The planning proposal will allow a range of uses that are not compatible with adjoining uses has the potential to introduce a significant land use conflict.

2. The Bega Valley Commercial Strategy 2006 and the South Coast Regional Strategy identify Tura Beach as a local town or village centre serving the needs of the local community. The planning proposal is inconsistent with the objective of the strategic framework to protect the coastal village character of Tura Beach and to retain Bega as the major regional centre.

3. Council has not adequately justified why the subject land is suitable for the proposed business and commercial land uses having regard to alternative existing sites within the local government area, including land at South Bega and Pambula that is already zoned to permit hardware and landscape supplies or similar businesses.

4. The planning proposal has not adequately justified the inconsistency with the objectives of S117 Directors 1.1 Business and Industrial Zones. These objectives encourage employment growth in suitable locations and development that supports the viability of identified strategic centres. The subject site is not considered suitable for further employment growth as it is inconsistent with the Bega Valley Shire centres hierarchy and does not support the growth of the Bega centre as a regional commercial hub.

5. The planning proposal has not adequately justified the inconsistency with S117 Direction 3.1 Residential Zones. The site is currently zoned 1(c) Rural Small Holdings Zone (rural residential development) and Council has not justified the loss of rural residential zoned land.

6. The planning proposal has not adequately justified the inconsistency with S117 Director 5.1 Implementation of Regional Strategies. The South Coast Regional Strategy requires Councils to introduce mechanisms to preserve and support the hierarchy of centres. Bega is identified as a major regional centre under the Strategy. The proposal will encourage “out-of-centre” large scale commercial development that does not preserve or support the hierarchy of centres identified in the South Coast Regional Strategy and Council’s adopted commercial strategy.”

The current (new) owner has lodged a new Planning Proposal with Council on 9 February 2016 (Attachment 8). The Planning Proposal seeks rezoning of the land from 1(c) Rural Small Holdings to B5 Business Development Zone to accommodate a small format Bunnings store. Council after considering the Planning Proposal at the meeting of 6 April 2016, resolved the following:

“1. That the Planning Proposal to rezone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach to B5 Business Development be endorsed.

2. That the Planning Proposal be lodged with the NSW Department of Planning Gateway Panel.

3. The proponent be advised of Council’s resolution.”

The subject land is currently identified as a ‘deferred matter’ under BVLEP 2013 and consequently the zone and provisions of BVLEP 2002 currently apply. Attachment 1 to this planning proposal contains the Council report and corresponding minutes detailing this process. Attachments 3, 4 and 5 to this planning proposal contain the Council reports and the corresponding minutes relating to Council’s consideration of an appropriate zone for the subject land.



Figure 1: Aerial photograph of subject properties - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

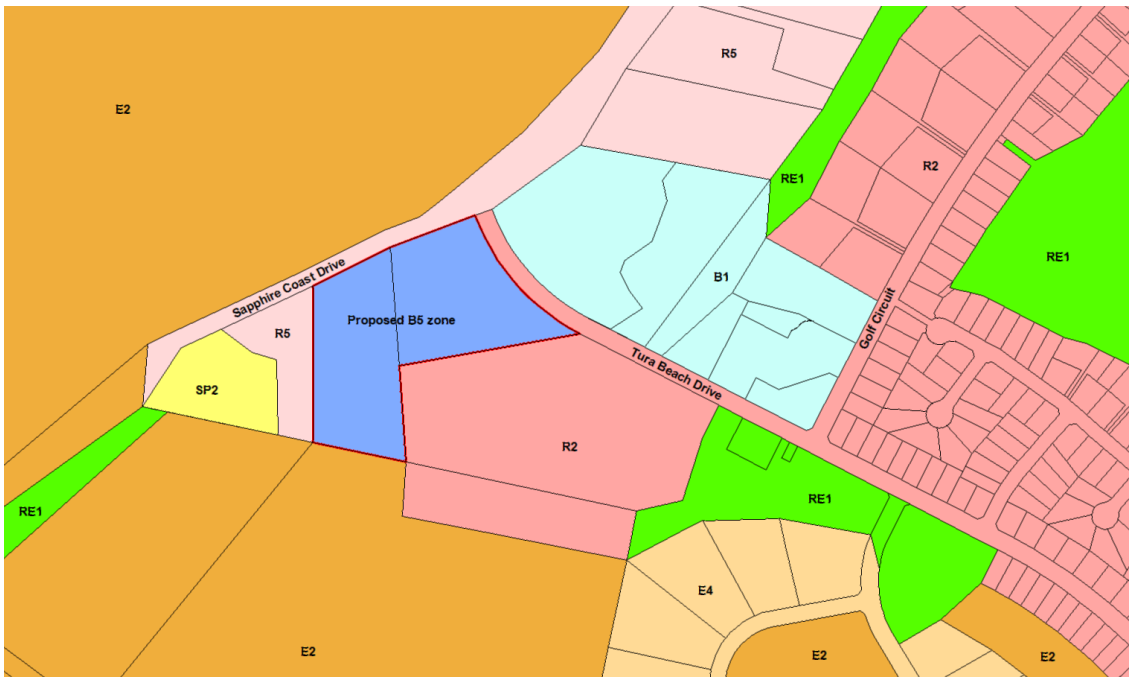


Figure 2: Proposed zoning - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

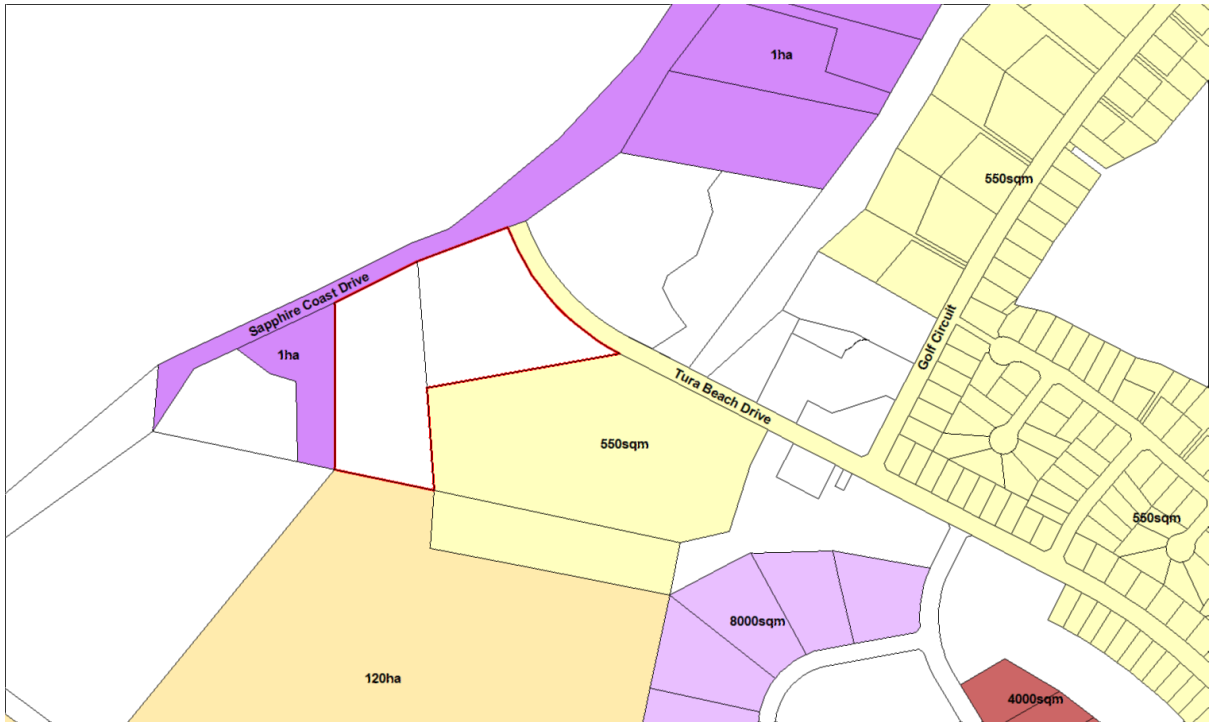


Figure 3: Proposed minimum lot size - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

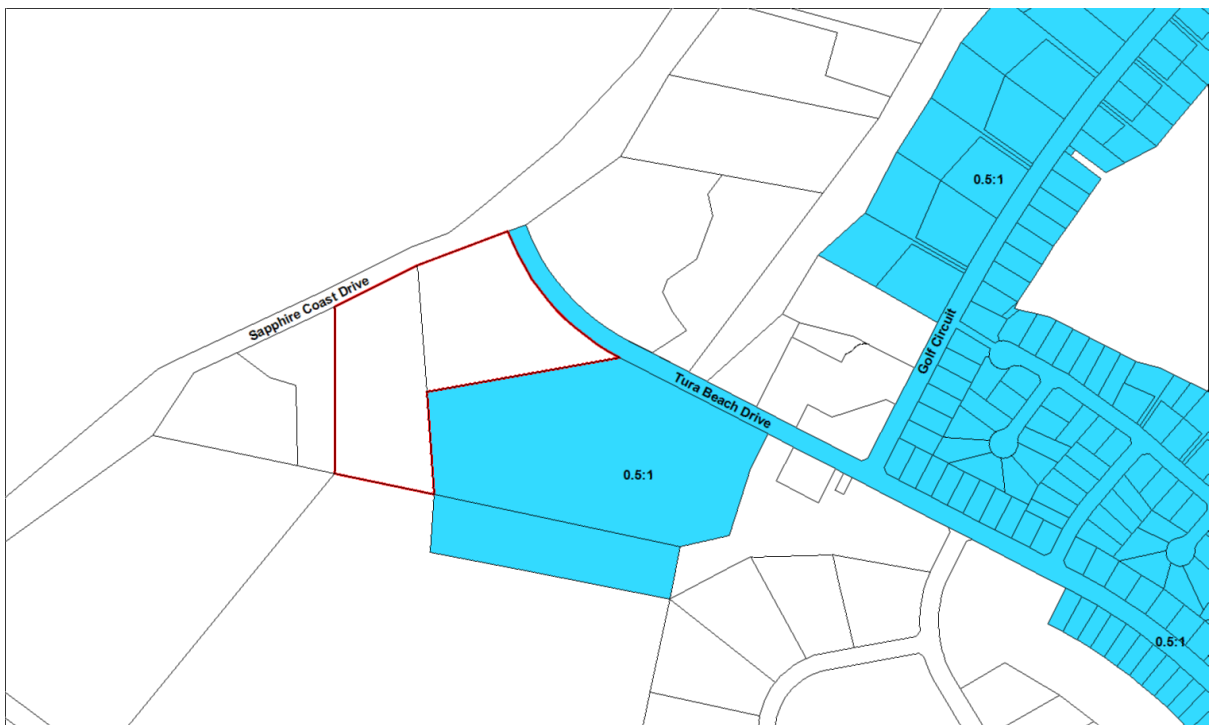


Figure 4: Proposed floor space ratio - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

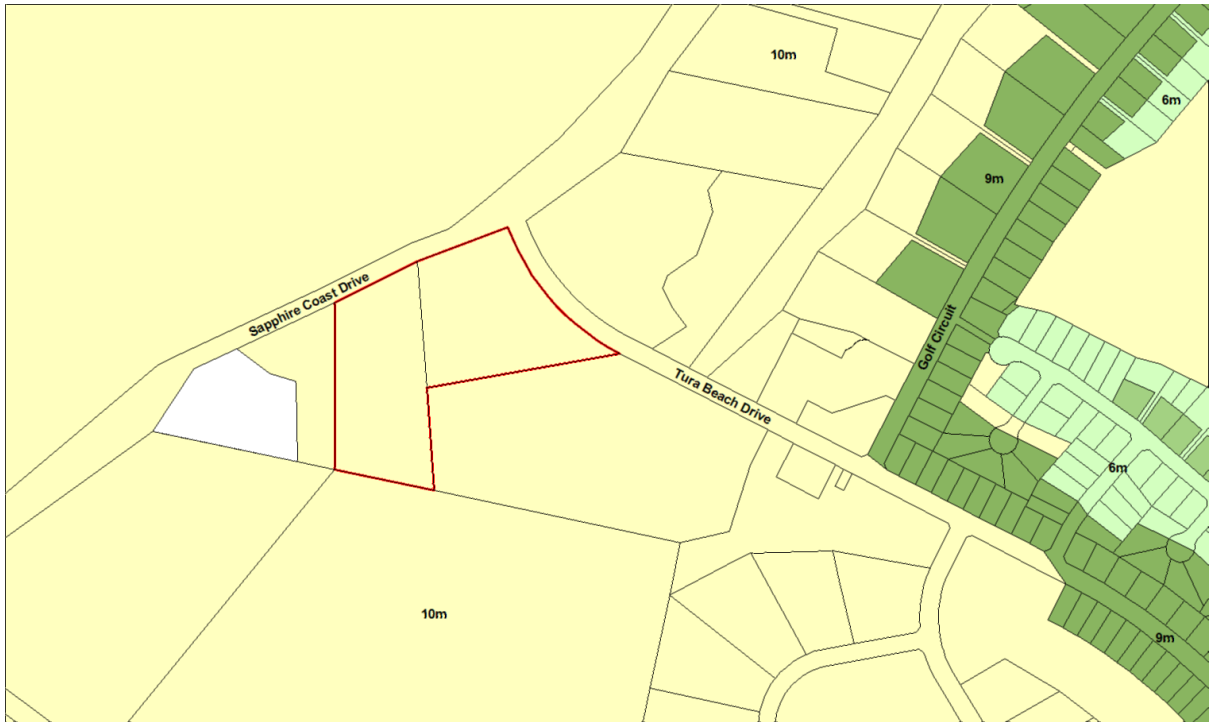


Figure 5: Proposed maximum height - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

Sections A, B, C and D

Council at its meeting of 6 April 2016 adopted the Planning Proposal submitted by DFP Planning Consultants and outlined below is the matters required by Section 55 of the Environmental Planning & Assessment Act 1979 included on pages 9-23 in the report by DFP Planning Consultants dated February 2016.

5.1 Introduction

Section 55 of the EP&A Act relates to Planning Proposals and specifically, the matters that are to be addressed in a Planning Proposal. Specifically, Section 55 states:

“(1) Before an environmental planning instrument is made under this Division, the relevant planning authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the planning proposal).

(2) The planning proposal is to include the following:

- (a) a statement of the objectives or intended outcomes of the proposed instrument,*
- (b) an explanation of the provisions that are to be included in the proposed instrument,*
- (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117),*
- (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,*
- (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.*

(3) The Director-General may issue requirements with respect to the preparation of a planning proposal.”

The following subsections of this Planning Proposal address the requirements of Section 55 of the EP&A Act.

5.2 Part 1 - Objectives or Intended Outcomes (Section 55(2)(a))

5.2.1 Objectives and Outcomes

The intended objective or outcome of this Planning Proposal is to rezone the site from Zone 1(c) (Rural Small Holdings Zone) to B5—Business Zone to facilitate the development of a Bunnings Warehouse.

The proposal intends to achieve the following broader objectives:

- Effectively utilise a vacant site with an economically viable land use;
- Service the needs of the surrounding residential population; and

- Promote job creation in Bega Valley by enabling a land use that will be a significant employment generator and more specifically, provide a land use that facilitates the Bunnings Warehouse development which will make use of a currently vacant site.

The proposed B5 zoning would allow for other complementary employment generating uses to be developed on the surplus land not required for the Bunnings Warehouse.

5.2.2 Existing Zone objectives and permissible uses

The Zone Objectives and Land Use Table pursuant to the current version of the Bega Valley Local Environmental Plan 2002 in relation to the 1(c) zoning which currently applies to the land are as follows:

(2) Objectives of the zone

The objectives of Zone 1 (c) are as follows:

- (a) to facilitate and provide rural residential development in appropriate locations, taking into account natural constraints and agricultural land,*
- (b) to maintain and enhance the character, amenity and landscape quality of rural residential areas,*
- (c) to control the intensity of rural residential development having regard to the physical limitations of the land and the costs and limitations of the provision of public amenities and services,*
- (d) to provide opportunities for an agricultural use of the land that is compatible with surrounding residential development.*

(3) Allowed without development consent

Development for the purposes of:

Agriculture, environmental facilities.

(4) Allowed only with development consent

Development for the purpose of:

animal establishments; aquaculture; attached dual occupancies; bed and breakfast establishments; child care centres; clearing of land; community facilities; craft studios; detached dual occupancies; dwelling houses; educational establishments; farm forestry; granny flats; home businesses; home industries; intensive horticulture; places of public worship; professional consulting rooms; reception establishments; recreation areas; recreation establishments; retail plant nurseries; riding schools; tourist accommodation; utility installations; veterinary establishments.

(5) Prohibited

Any development not included in subclause (3) or (4)."

The meanings of words or expression within the above provisions are subject to the definitions in the *Bega Valley Local Environmental Plan 2002*.

The current 1(c) zoning of the land does not permit the development of a Bunnings Warehouse and therefore rezoning of the land is required to achieve the intended outcome.

5.3 Part 2 - Explanation of Provisions (Section 55(2)(b))

5.3.1 Proposed Permissibility

The proposed outcome will be achieved by rezoning the land from Zone 1(c) (Rural Small Holdings) under Bega Valley LEP 2002 to Zone B5 under Bega Valley LEP 2013. Hardware and building supplies, garden centres and business identification signs are the land uses relevant to a Bunnings Warehouse and these land uses are permitted with consent in the B5 zone.

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

The proposal has not been prepared in response to any strategic study prepared by Council.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

An amendment to the Bega Valley LEP 2013 is the best means of achieving the desired outcome to enable the development of the site for a Bunnings Warehouse. Under the current 1(c) (Rural Small Holdings Zone), *Commercial premises* including *hardware and building supplies* are prohibited on the site. Rezoning of the site to B5—Business Development under Bega Valley LEP 2013 is required to enable a Bunnings Warehouse to be permissible with consent on the site.

Permissible uses in the B5 zone include *hardware and building supplies* and *garden centres*. The land use table for the B5 zone is therefore suitable to enable the development of the site for a Bunnings Warehouse, thus avoiding the need to make any site specific amendments or amend the land uses table for the B5 zone. Rezoning of the site from 1(c) (Rural Small Holdings Zone) under Bega Valley LEP 2002 to B5—Business Development under Bega Valley LEP 2013 can, therefore, be considered the best means of achieving the intended outcome for the site.

Section B – Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

South Coast Regional Strategy 2006-2031

NSW Department of Planning and Environment is currently preparing a revised strategy of the South East and Tablelands region of NSW. The site will be located within the area to which this strategy will apply. Until that Strategy is adopted, the current South Coast Regional Strategy will continue to apply.

The South Coast Regional Strategy (the Strategy) was prepared in 2007 and provides a high-level land use vision for the region, emphasising the need to balance population growth, economic development and environmental protection.

The Strategy aims to provide for a housing demand for up to 45,600 new dwellings by 2031 to accommodate the additional 60,000 people expected in the region over the next 25 years. The Strategy estimates that there will be a need for 25,800 new jobs in the region in order to support the anticipated population growth.

The economic base of the region is changing from one of relying on traditional primary industries to wide ranging service oriented industries. Among the economic challenges facing the region are to ensure sufficient employment lands are available in appropriate locations to accommodate growth in existing and emerging industries and businesses. The Strategy identifies Bega as a major regional centre with the capacity to grow into a stronger regional administrative and service centre.

According to the Strategy, Bega Valley Shire is projected to grow by an additional 10,900 people (or 8,600 dwellings) over the period 2006-2031.

The Strategy identifies that, due to the supply of land in Merimbula, Tura Beach, Bermagui and Eden, the majority of growth will occur in these centres.

Section 7 of the Strategy sets out the intended economic development and employment growth for the South Coast region. The Strategy states the following directions for the region:

- The Strategy highlights the importance of concentrating commercial development in key regional centres such as Bega; and
- The Strategy states that each LGA within the region contains surplus employment lands.

Whilst these two directions could, at first blush, be construed as an impediment to a Planning Proposal for the site, the Strategy also notes the following:

- Council will maintain the current net supply of zoned employment lands; however consideration will be given to zoning changes that address concerns regarding tenure, location, constraints and specific opportunities.

An Economic Impact Assessment (EIA) prepared by Essential Economics has been prepared in relation to this Planning Proposal and a copy of this is included at Appendix 2.

The EIA provides justification as to why the proposed development could not be located within the existing Bega town centre or within appropriately zoned land within the Bega local area primarily because of:

- Topography
- Lack of land
- Exposure to passing traffic
- Access issues.

These matters are discussed in more detail in Section 5.6.3 of this report.

Further, the EIA demonstrates that the development of the Bunnings Warehouse in this location will not adversely impact the hierarchy of centres within the region nor on the capacity of Bega to continue to function as the major centre for the region.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Community Strategic Plan – Bega Valley 2030

According to Council's website, as part of the Community Strategic Plan, Council will achieve the following Key Directions by 2030:

E1 - Growth of our local economy:

We have increased business capacity and opportunities, generating ongoing economic development.

E2 - Enhanced tourism opportunities:

Our tourism business opportunities are enhanced, and reflect the values of the community and natural environment.

E3 - Strong and diverse future:

Our economy is strong and diverse with vibrant regional and district centres, and our traditional industries have the opportunities to forge new futures.

E4 - Innovation supported:

We are innovative and known for our commitment, support and encouragement to new and emerging services and industries.

E5 - Confidence:

We have community and investor confidence in our local economy and local area.

This Planning Proposal facilitates the development of a Bunnings Warehouse which will contribute to the growth of the local and wider Bega Valley economy by increasing business and employment opportunities for residents, which is consistent with Key Direction E1 of the Community Strategic Plan – Bega Valley 2030.

The development of a Bunnings Warehouse in this area is also a demonstration of the confidence a major National operator has in the economy of the area. This is an indication that this Planning Proposal is consistent with Key Directions E3 and E5.

Bega Valley Shire Commercial Strategy 2006

The Bega Valley Shire Commercial Strategy identifies a commercial centres hierarchy for the LGA to provide guidance on commercial development in the Bega Shire. Although the Strategy did not envisage the introduction of a B5 zone for the LGA, Bega Valley LEP 2013 was amended in February 2015 to include the B5 zone.

The Strategy identifies a centre's hierarchy for the LGA. **Bega** is the major centre for the LGA and is nominated as a regional centre. This centre includes representation by the larger chain retailers, significant Government services and the full range of commercial/business services normally associated with larger centres.

There are three local centres in the LGA - Bermagui, Merimbula/Pambula/Tura Beach and Eden. The principle role of these centres is to provide for the day to day needs of residents and tourists.

In addition to these centres, there are 13 neighbourhood centres in the Bega Valley Shire. Although the Strategy predicts that Bega will outstrip Merimbula as the region's commercial hub by 2025, it is anticipated that a significant commercial role would still be required of Merimbula/Tura Beach/Pambula into the future.

The expansion of the Tura Beach centre was identified as a short term outcome in the Commercial Strategy and this has been achieved through the development of the Woolworths supermarket and other supporting specialty retail uses. The Strategy also identifies a need to define and maintain the role of Merimbula as a town centre.

The Commercial Strategy did not consider a B5 zoning for the site, and envisaged that the site would be developed for the purposes of seniors housing. This conclusion was no doubt in response to an approved development application for seniors housing. That approval has now lapsed and no other development proposals are current for the site.

Notwithstanding the above, the proposed Business Development zone is not considered to be inconsistent with the Commercial Strategy. Permissible development within the B5 zone will complement the adjoining local centre without allowing for competing development or providing for a de facto expansion of the local centre.

Importantly, the EIA accompanying this Planning Proposal demonstrates that the proposed B5 zoning of the site (and the development of a Bunnings Warehouse) will not undermine the capacity of Bega to fulfil its role as the regional centre for the LGA and nor will it be inconsistent with the established centre hierarchy for the area.

The EIA accompanying this Planning Proposal provides a justification for a B5 zoning for the site and addresses the findings and recommendations of the Strategy.

Bega Valley Shire Land Use Planning Strategy 2008

The Bega Valley Shire Land Use Planning Strategy was prepared to inform the preparation of the Comprehensive LEP (which has since been published as Bega Valley LEP 2013) and to a framework to guide Council decision making in relation to land use planning. The Land Use Strategy was informed by the Commercial Strategy and South Coast Regional Strategy.

The Strategy identifies Tura Beach as a neighbourhood centre and notes:

Council's strategy sees Tura Beach commercial area as having a retail support role for Merimbula to lessen congestion impacts on Merimbula. As such the Merimbula commercial area is proposed to expand by 5,000m² of retail floor space capacity to improve the ability of the Tura Beach centre to service many local needs and provide alternative options for homemaker and supermarket retail in the Merimbula District.

The expansion of the Tura Beach local centre has occurred as per this recommendation. The EIA accompanying this Planning Proposal has concluded that a B5 zone will not adversely impact the established retail hierarchy and directions for future development as set out in the Land Use Strategy.

The Land Use Planning Strategy took into consideration the 2006 Commercial Strategy. Given that these documents are now 7 and 9 years old respectively and the directions and findings of those strategies may need to be reviewed to take into account recent developments and population changes.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 1 provides an assessment of the Planning Proposal's consistency with relevant State Environmental Planning Policies (SEPPs).

Table 1 Consistency with relevant State Environmental Planning Policies		
SEPP	Response	Consistent
<p>SEPP No.44 Koala Habitat Protection</p> <p>This SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas.</p>	<p>The site is not considered to be core Koala habitat due to the low probability of Ribbon gum or Red gums on the site</p>	<p>Yes</p>
<p>SEPP No. 55 Remediation of Land</p> <p>Council and the DPE are required under SEPP 55 to consider if the land to which this Planning Proposal is contaminated and if so, whether the land is suitable for the intended use or can readily be made suitable prior to that use commencing.</p>	<p>The Planning Proposal is capable of complying with the SEPP. It is unlikely that contaminating land uses, namely crop farming and intensive agriculture have previously occupied the site. A preliminary assessment may be required at DA stage to investigate the previous uses and whether there has been any filling or contaminants on the site.</p>	<p>Yes</p>
<p>SEPP 64 Advertising and Signage</p>	<p>The Planning Proposal does not contain provisions that would be inconsistent with, or hinder the application of the SEPP. This SEPP may apply to signage associated with any future development.</p>	<p>Yes</p>
<p>SEPP No. 71 Coastal Protection</p> <p>SEPP 71 aims to ensure that development in the NSW coastal zone is appropriate and suitably located and that there is a clear development assessment framework for the coastal zone.</p>	<p>The site is located with the coastal zone. The Planning Proposal does not hinder the application of the coastal planning provisions of the SEPP and will not provide for development that will impede or restrict access to</p>	<p>Yes</p>

	<p>coastal foreshores. Appropriate water management treatments can be provided as part of any future development to ensure there is no discharge of untreated stormwater from the site.</p>	
<p>SEPP Housing for Seniors or People with a Disability 2004</p> <p>The SEPP aims to encourage the provision of housing that will increase the supply and diversity of residences that meet the needs of seniors or people with a disability</p>	<p>Approval for the development of 34 self-contained dwellings for aged persons on the site was granted in 2004 however this development was not pursued and the consent has now lapsed. Seniors housing is not a permitted land use in the proposed B5 zoning. That development relied on being non-urban land immediately adjoining land zoned for an urban purpose as seniors housing is not permitted in the 1(c) zone. There are ample areas of undeveloped residentially zoned land within the Tura Beach area which are perhaps more appropriate for the location of seniors housing subject to demand the concept scheme, the proposal may be required to be referred to the Roads and Maritime Service (RMS) for comment.</p>	<p>Justifiably inconsistent</p>

Accordingly, the Planning Proposal is considered to be consistent with the relevant applicable SEPPs.

Q6. Is the planning proposal consistent with applicable Ministerial Directions?

The Ministerial Directions have been considered in the preparation of this Planning Proposal report and was found to be consistent with the relevant Ministerial Directions. The main directions of relevance are discussed below.

1.1 Business and Industrial Zones

The objectives of this direction are:

- a) encourage employment growth in suitable locations*
- b) protect employment land in business and industrial zones, and*
- c) support the viability of identified strategic centres.*

It is considered that the Planning Proposal is consistent with these objectives in that it:

- Encourages employment growth in an area close to residential development;
- Will provide opportunities for the economic development of specific land in the Tura Beach area;
- Increase the total potential floor space for employment uses in business zones;
- Is in a suitable location being adjacent to an existing commercial zone;
- Does not adversely impact established business and industrial zones within Bega Valley

An Economic Impact Assessment accompanies this Planning Proposal. Discussion regarding economic impacts is included in Section 5.6.3 of this report.

1.2 Rural Zones and 1.5 Rural Lands

The objective of Direction 1.2 is to protect the agricultural production value of rural land.

The objectives of Direction 1.5 are:

- a) protect the agricultural production value of rural land,*
- b) facilitate the orderly and economic development of rural lands for rural and related purposes.*

A Planning Proposal may be inconsistent with these Directions if it is of minor significance.

The site comprises approximately 4ha of land. Although the land is currently zone 1(c) Rural Small Holdings, it is not currently used for any viable agricultural use. The land adjoining the site is zoned R2 Low Density Residential and R5 Large Lot Residential and therefore it is unlikely that a viable agricultural use will be undertaken on the site.

In view of this, the Planning Proposal is considered to be justifiably inconsistent with these Directions.

2.2 Coastal Protection

The objective of this Direction is to implement the principles in the NSW Coastal Policy.

This Direction applies if the land to which the Planning Proposal applies is within a coastal zone. The objective of the direction is to implement the principles of the NSW Coastal Policy.

The site is within the coastal zone. The Planning Proposal is consistent with the Direction in that it does not contradict or hinder the application of the coastal planning provisions in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or NSW Coastal Development Manual 2003.

If the Planning Proposal is supported the land will be zoned B5 under the provisions of BVLEP 2013. Clauses 5.5 and 5.7 of BVLEP 2013 relate to development in the coastal zone

and any future development on the site will be required to address the provisions of these clauses.

3.1 Residential Zones

This Direction applies if the land to which the Planning Proposal applies will result in a change of zone in which residential development is currently permitted.

The objectives of this Direction are:

- a) to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- c) to minimise the impact of residential development on the environment and resource lands.*

This Direction applies when a Planning Proposal affects land within:

- a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),*
- b) any other zone in which significant residential development is permitted or proposed to be permitted.*

The current 1(c) zoning of the site permits very limited forms of residential development (e.g. dwelling houses and dual occupancy developments) and is principally a 'rural' land use zoning. Residential development is not identified as a permissible use in the proposed B5 zoning. Under the current planning controls a maximum of only 8 detached dwellings could mathematically be developed on the site.

The extent of the inconsistency is considered to be minor given the existing zoning does not permit significant residential development under the current rural land use zoning.

We understand that as part of a previous draft amendment to BVLEP 2013, Council had considered R2 Low Density Residential and R3 Medium Density Residential zones for the site however these proposals never proceeded.

3.4 Integrating Land Use and Transport

This Direction applies if the Planning Proposal proposes to create, alter or remove a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) increasing the choice of available transport and reducing dependence on cars, and*

- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) supporting the efficient and viable operation of public transport services, and*
- (e) providing for the efficient movement of freight.*

The Planning Proposal is consistent with this Direction as adequate infrastructure is available to service any future development that might occur on the land as a result of this Planning Proposal.

The site has frontage to two roads and the intersection of Sapphire Coast Drive and Tura Beach Drive has been designed to cater for traffic generated from residential development in Tura Beach as well as the existing shopping centre on the opposite corner of Sapphire Coast Drive and Tura Beach Drive. The site's access to Sapphire Coast Drive provides good road connections to the regional road network.

Any future development application for the site will be required to demonstrate that the existing road network is capable of accommodating any potential increase in traffic generation by way of a Traffic Impact Assessment.

3.5 Development near Licenced Aerodromes

Although the site is within the vicinity of Merimbula Airport, it is not within an area where the Australian Noise Exposure Forecast (ANEF) exceeds 20 and any future development on the site will not provide a new hazard to aircraft.

The site protrudes above the applicable Obstacle Limitation Surface (OLS). The site is subject to a maximum building height of 10m and development of this height will not obstruct the existing ground hazard marker.

If the Planning Proposal is supported the land will be zoned B5 under the provisions of BVLEP 2013. Clause 6.8 of BVLEP 2013 includes provisions that aim to protect the airspace operations of Merimbula Airport. Any future development application for the site will be required to address these provisions.

4.1 Planning for Bushfire Protection

This Direction applies if the site to which the Planning Proposal applies is affected by or proximate to land mapped as bushfire prone land.

The site is identified as bushfire prone land (Category 1 bushfire vegetation) and therefore this Direction applies.

The Planning Proposal is consistent with the objectives of the Direction as it does not encourage the development of uses which are considered to be inappropriate on bushfire affected land. Any future development on the site will be required to comply with the provisions of Planning for Bushfire Protection 2006.

5.1 Regional Strategies

The objective of this Direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

The South Coast Regional Strategy is the Regional Strategy which applies to this site. This Planning Proposal is consistent with the South Coast Regional Strategy and has been discussed in Section 5.5.1.

6.3 Site Specific Provisions

This Planning Proposal is consistent with this Direction as it does not seek to include additional uses beyond those which are permitted within the land use table for the current B5 zone.

Section C – Environmental, Social and Economic Impact

Q7. 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?

5.6.6 Water and Ecology

The Riparian Lands and Watercourses Map of the BVLEP 2013 identifies a water course on the site – see **Figure 7** below.

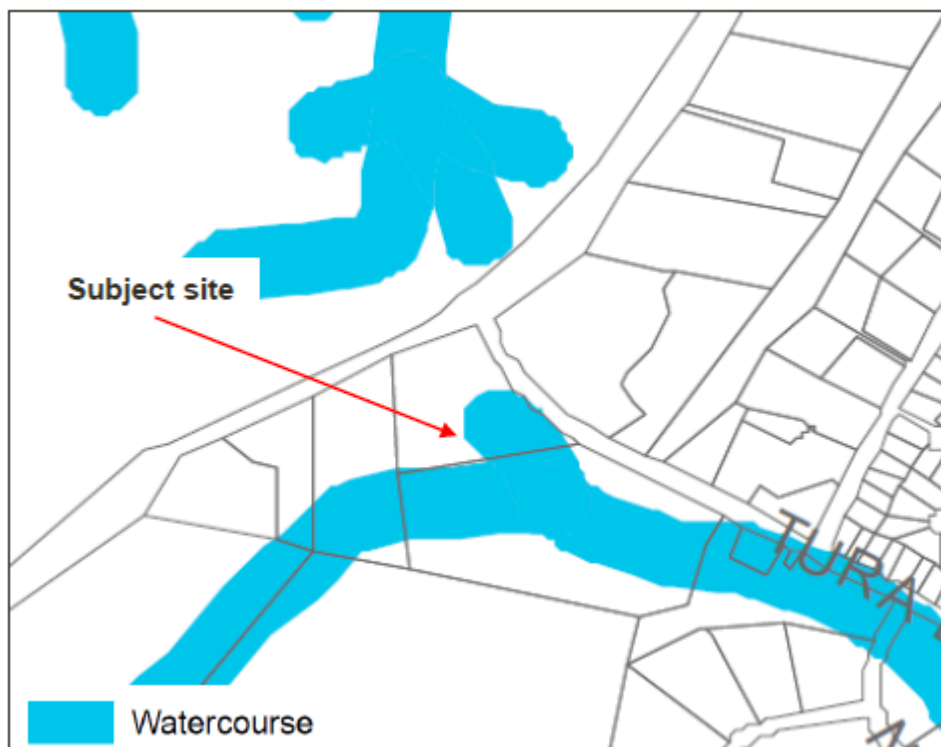


Figure 7 Extract from BVLEP 2013 Riparian Lands and Watercourses map

Any development within 40m of a watercourse on a site is “integrated development” in accordance with the provisions of Section 91 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and will require a Controlled Activity Approval under the *Water Management (WM) Act 2000*.

It is noted however that such mapping is necessarily ‘high level’. The location and categorisation of any watercourses on the land will be considered as part of any future development application for the site.

The concept design for the site at **Appendix 1** seeks to minimise development within the area identified as containing a watercourse.

In relation to riparian corridor widths the NSW Office of Water *Guidelines for riparian corridors on waterfront land* state that *where a watercourse does not exhibit the features of a defined channel with bed and banks, the Office of Water may determine that the watercourse is not waterfront land for the purposes of the WM Act*. It is considered that this

matter can be satisfactorily addressed during the DA stage of any future development on the site.

5.6.7 Terrestrial Biodiversity

Notwithstanding that BVLEP 2013 does not apply to the site, the site is mapped as Biodiversity under the BVLEP 2013 Terrestrial Biodiversity Map. If the Planning Proposal is supported the land will be zoned B5 under the provisions of BVLEP 2013. Clause 6.5 of BVLEP 2013 includes provisions that aim to maintain terrestrial biodiversity. Any future development application for the site will be required to address these provisions.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The stand of trees along Sapphire Coast Drive is separated from larger communities by busy roads and therefore would not be part of a contiguous habitat for terrestrial animals.

Q9. Has the planning proposal adequately addressed any social and economic effects?

5.6.1 Employment

The development of a Bunnings Warehouse on the site will result in short term construction employment opportunities and long term employment once the facility is operational.

Based on an estimated capital investment value for the construction works, it is estimated that this project could provide for 21 full time equivalent construction jobs, assuming a 12 month construction period and a further 34 flow on jobs during this phase of the development.

The EIA indicates that the Bunnings warehouse itself could provide direct employment for over 70 people in full time, part time and casual roles which is equivalent to approximately 50 FTEs. In addition to these jobs, it is estimated that a further 45 indirect or flow on jobs could also be created as a result of this facility.

Therefore, the development of a Bunnings Warehouse on the site will have a positive impact from an employment perspective.

5.6.2 Economic Impacts

An EIA has been prepared by Essential Economics and a copy of this is included at **Appendix 2** to this report.

The EIA has estimated a potential catchment area for the Merimbula Bunnings Warehouse and considered the characteristics of the population of the catchment, together with the potential for population growth and expenditure potential.

As part of the assessment, Essential Economics has also considered the competitive environment within which the Merimbula Bunnings Warehouse would operate and impacts on other existing hardware outlets.

The assessment found that there is sufficient expenditure available to support the proposed Bunnings as well as existing facilities.

Overall, the assessment found that the proposed Merimbula Bunnings Warehouse is supported by market demand and that trading impacts will be short-term and within the normal bounds of competitive trading. Importantly, the EIA also found that the role and competitiveness of Bega as the primary regional centre for the area will not be undermined by the establishment of a Bunnings Warehouse on the site.

The option of alternative sites within the Bega Valley LGA (being the areas at South Bega and Pambula as nominated by Council) was also investigated. That investigation found that:

- There was insufficient land of a suitable size available within the environs of the Bega town centre that could physically accommodate the building and satisfy the regionally convenient locational characteristics suitable for a Bunnings Warehouse development;
- Industrially zoned land adjacent to Kerrisons Land and on the Princes Highway/Newton Road in South Bega was also unsuitable because:
 -
 - The steep topography (away from the road) would significantly increase construction costs.
 - The land lacks visibility and exposure from the south.
 - Entry/exit arrangements to the land from the Princes Highway are uncertain due to topography and traffic speeds.
 - The lack of other commercial/showroom type uses with which Bunnings would have locational synergies.
- Land zoned for industrial purposes in Pambula South, adjacent to Mount Darragh Road was also unsuitable because:
 - The available land is approximately 1km west of the Princes Highway and is not well placed to service the same catchment as that identified for the Merimbula Bunnings site.
 - The land lacks exposure to a main road.
 - Land to the north of Mount Darragh Road could be flood affected which would significantly increase construction costs.
- There are no sites of sufficient size within the industrial land adjacent to Arthur Kaine Drive.
- The industrial land incorporating Sir William McKell Drive is similarly built out. Further, this estate does not have the necessary attributes required for the successful operation of a Bunnings Warehouse including lack of frontage and exposure to passing traffic.
- The EIA concluded that:
- The site has an extensive frontage to both Sapphire Coast Drive and Tura Beach Drive that provides clear sight lines to passing traffic.
- A main trade (catchment) area (MTA) has been defined. The MTA incorporates the Sapphire Coast region extending from the Victorian border to north of Bega/Tathra and extending west to the Bombala/Delegate region of the Monaro Plateau and Snowy Mountains. The population of the MTA is currently 30,970 persons and is forecast to increase to 33,310 persons by 2026.
- The analysis highlights that the proposed Bunnings Merimbula is supported by market demand, and that trading impacts will be short-term and within the normal

bounds of competitive trading. The role and competitiveness of Bega as the Sapphire Coast's primary regional centre will not be undermined by the new Bunnings.

- The development of Bunnings Merimbula will require a capital investment of approximately \$9.5 million. A new Bunnings Merimbula store of 6,815m² (including trade and nursery areas) would employ over 70 people in full-time, part-time and casual positions. This new source of employment is important for young people and others to establish careers in the retail and building services sector. Bunnings is also an important employer of older people seeking to re-enter the workforce and those no longer working full-time but wishing to work on a casual basis.
- At present, residents of the entire MTA – including Delegate and Bombala in the west – must travel a significant distance to access a comparable hardware and home improvement offer to that supported by the proposed Bunnings Merimbula. No Bunnings stores are located in the MTA. The nearest Bunnings stores are located at Batemans Bay, Canberra and Bairnsdale.
- Similarly, trade and business customers in the wider region will have improved access to timber, trade, garden and building supplies which will be sold at the proposed new Bunnings store.

Overall, it is considered that the development of a Bunnings Warehouse on the site is unlikely to have adverse economic impacts. The development will not impact on the role of Bega as the region's primary commercial centre nor will it be inconsistent with the established centre hierarchy. Bunnings Warehouse developments have frequently been sited on the periphery of town centres and in out of centre locations without any detrimental impacts on those centres.

Examples of such developments include Batemans Bay, Goulburn, Ulladulla and South Nowra.

5.6.3 Traffic and Parking

The concept scheme for the site (**Appendix 1**) provides for car parking between the warehouse building and Sapphire Coast Drive.

This has been designed to minimise traffic impacts on the adjoining retirement village development and provide a building setback to Sapphire Coast Drive. The provision of car parking in this location also serves as an Asset Protection Zone (APZ) for the purposes of planning for bushfire protection.

The concept scheme provides for two vehicular access points – one opposite the access to the Tura Beach neighbourhood centre off Tura Beach Drive and a left in/left out driveway onto Sapphire Coast Drive. The left in/left out driveway has been located way from the intersection of Tura Beach Drive and Sapphire Coast Drive to minimise any impacts on the operation of that intersection.

As part of any future development proposal for the site a Traffic Impact Assessment will be prepared to consider traffic generation and any traffic management treatments that might need to be implemented in order to reduce or eliminate potential impacts.

5.6.4 Adjoining Development

The site adjoins an existing seniors housing development. Any future development on the site for the purposes of a Bunnings Warehouse will need to have regard to this sensitive land

use particularly with respect to the interface between the Bunnings building and the residential care facility, the built form outcome and acoustic considerations. These matters are capable of being considered and addressed at the development application stage.

5.6.5 Contamination

In order to establish whether the site is contaminated land, a Stage 1 Preliminary Site Investigation will be undertaken as part of any future development proposal for the site. Notwithstanding, given the history of the site, it is considered unlikely that any past uses would pose a limitation to the future use of the land for B5 type uses.

Should that investigation reveal the potential for the site to be contaminated, a Stage 2 Detailed Site Investigation will be undertaken and if necessary a Remediation Action Plan will be developed.

Section D – State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

The urban context of the site is characterised by the following:

- Sapphire Coast Drive, a major arterial road located to the immediate north of the site and provides direct access to the site; this road is able to accommodate truck movements associated with commercial land uses and therefore is conducive to the servicing a future Bunnings Warehouse on the site;
- Tura Beach Drive is a local road located to the immediate east of the site; this road is able to accommodate truck movements associated with commercial land uses and therefore is conducive to the servicing a future Bunnings Warehouse on the site.

The site has access to all essential service infrastructure. Any augmentation of services can be investigated as part a development application. Accordingly, the proposal is capable of being serviced by public infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with relevant State and Commonwealth public authorities can be undertaken in conjunction with the exhibition of the Planning Proposal following Gateway Determination.

Part 4 – Mapping

Mapping details for the proposed amendments to the BVLEP 2013 are attached as follows:

LAP_001

Amend map sheet LAP_001 by deleting DM Deferred Matter for Lots 33 and 34 DP 243029

LZN_020B

Amend map sheet LZN_020B applying to Lot 34 DP 243029 by applying B5 Business Development Zone

LZN_020C

Amend map sheet LZN_020C applying to Lots 33 and 34 DP 243029 by applying B5 Business Development Zone

LSZ_020B

Amend map sheet LZN_020B applying to Lot 34 DP 243029 by removing Y 1ha

LSZ_020C

Amend map sheet LZN_020C applying to Lot 33 DP 243029 by removing K 550sqm

Amend map sheet LZN_020C applying to Lot 34 DP 243029 by removing Y 1ha

FSR_020C

Amend map sheet LZN_020C applying to Lots 33 DP 243029 by removing D 0.5:1

Part 5 – Community Consultation

The Gateway Determination will confirm community consultation requirements. It is likely that the Proposal will be exhibited for a period of not less than 28 days.

Public exhibition of the planning proposal will include notification on the Bega Valley Shire Council website, notification in the newspapers that circulate widely in the area (Bega District News, Eden Magnet and Merimbula News Weekly) and in writing to affected and adjacent landowners.

Information relating to the planning proposal will also be on display at the following Bega Valley Shire Council customer service centres:

Place	Address
Bega	Zingle Place, Bega NSW 2551
Merimbula	Market St, Merimbula NSW 2548
Eden	Cnr Imlay and Mitchell St, Eden NSW 2550
Bermagui	Bunga St, Bermagui NSW 2546

Part 6 – Timeline

The Project Timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that this amendment to *Bega Valley Local Environmental Plan 2013* will be completed by May 2015.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council’s General Manager or Director of Planning and Environmental Services.

Table A: Approximate Project Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit planning proposal to the Department	April 2016
STAGE 2 – Receive Gateway Determination	May 2016
STAGE 3 – Preparation of documentation for Public Exhibition	June 2016
STAGE 4 – Public Exhibition of the planning proposal	July 2016
STAGE 5 – Review/consideration of submissions received	October 2016
STAGE 6 – Council Report	November 2016
STAGE 7 – Meetings	November 2016
STAGE 8 – Forward planning proposal to Department of Planning and Infrastructure with request amendment is made	December 2016
STAGE 9 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	January 2017
STAGE 10 – Anticipated date Council will forward Plan to the Department for notification	March 2017

Attachments

Attachment 1: Council Report Planning and Environment Committee No. 8.1 – 6 April 2016

8.1. Planning Proposal to zone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach as B5 Business Development

Council has received a planning proposal from the Bunnings Group Ltd to rezone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach to B5 Business Development.

Group Manager Planning and Environment

Background

Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach are located on the south-eastern corner of the Tura Beach Drive and Sapphire Coast Drive intersection and are in the one ownership. The properties have a combined total area of approximately 4.5 hectares and are currently vacant and largely cleared.

The two lots are deferred from Bega Valley Local Environmental Plan 2013 (BVLEP 2013) and are currently zoned 1(c) Rural Small Holdings under BVLEP 2002.

At the Council meeting of 12 February 2014 Council considered a request to zone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach to B5 Business Development. At that meeting it was resolved:

"That the area be zoned B5 Business Development Zone."

In accordance with the Resolution, a Planning Proposal was prepared by Council staff and lodged with the NSW Department of Planning's Gateway Panel. On 10 December 2014 a Delegate of the Minister for Planning issued a Gateway Determination that the Planning Proposal should not proceed for a number of reasons. This Determination is included as Appendix 1 to this report.

The current (new) owner lodged a new Planning Proposal with Council on 9 February 2016. The Planning Proposal seeks rezoning of the land from 1(c) Rural Small Holdings to B5 Business Development Zone to accommodate a small format Bunnings store.

Planning Proposal

In support of the rezoning, the planning proposal states:

"The proposal to rezone the site to B5 Business Development to allow for the development of a Bunnings Warehouse:

Is consistent with regional and subregional planning and transport strategies as well as local planning studies;

Is not inconsistent or is justifiably inconsistent with relevant SEPPs and Section 117 Directions;

Serves the needs of the surrounding and nearby residential population and the business community; and

Promotes job creation in Bega Valley.

"Furthermore, the concept plan for the site demonstrates that environmental factors can be adequately addressed and subject to more detailed assessment at the DA stage.

"The economic assessment accompanying this Planning Proposal demonstrates that the future intended use will have a positive economic impact upon the local community."

A copy of the Planning Proposal is included as Appendix 2 to this report.

Conclusion

The Planning Proposal has been reviewed by Council staff who are of the opinion it contains sufficient information to meet the requirements of the Environmental Planning and Assessment Act 1979 and the NSW Department of Planning and Environment's Guidelines for the preparation of a planning proposal.

Council previously supported the rezoning of the land to B5, but the land remains a deferred matter under Bega Valley Local Environmental Plan 2013. It is currently zoned 1(c) Rural Small Holdings under Bega Valley Local Environmental Plan 2002.

It is recommended that Council considers the Planning Proposal and determines the matter.

Attachments

1. Appendix 1 Gateway Determination
2. Appendix 2 Planning Proposal

Recommendation

1. That the Planning Proposal to rezone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach to B5 Business Development be determined.
2. If supported, the Planning Proposal be lodged with the NSW Department of Planning Gateway Panel.
3. The proponent be advised of Council's resolution.

Council Minutes: Planning and Environment Committee No. 8.1 – 6 April 2016

1. That the Planning Proposal to rezone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach to B5 Business Development be endorsed.
2. That the Planning Proposal be lodged with the NSW Department of Planning Gateway Panel.
3. The proponent be advised of Council's resolution.

Attachment 2: List of State Environmental Planning Policies

State Environmental Planning Policy		Compliance
SEPP No. 1	Development Standard	N/A
SEPP No. 4	Development without Consent and Miscellaneous Exempt and Complying Development	N/A
SEPP No. 6	Number of Storeys in a Building	N/A
SEPP No. 14	Coastal Wetlands	N/A
SEPP No. 15	Rural Land Sharing Communities	N/A
SEPP No. 19	Bushland in Urban Areas	N/A
SEPP No. 21	Caravan Parks	N/A
SEPP No. 22	Shops and Commercial Premises	N/A
SEPP No. 26	Littoral Rainforests	N/A
SEPP No. 29	Western Sydney Recreational Area	N/A
SEPP No. 30	Intensive Agriculture	N/A
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A
SEPP No. 33	Hazardous and Offensive Development	N/A
SEPP No. 36	Manufactured Home Estates	N/A
SEPP No. 38	Olympic Games and Related Projects	N/A
SEPP No. 39	Spit Island Bird Habitat	N/A
SEPP No. 41	Casino/Entertainment Complex	N/A
SEPP No. 44	Koala Habitat Protection	Consistent
SEPP No. 47	Moore Park Showground	N/A
SEPP No. 50	Canal Estate Development	N/A
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A
SEPP No. 53	Metropolitan Residential Development	N/A
SEPP No. 55	Remediation of Land	Consistent
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	N/A
SEPP No. 59	Central Western Sydney Regional and Open Space and Residential	N/A
SEPP No. 60	Exempt and Complying Development	N/A
SEPP No. 62	Sustainable Aquaculture	N/A
SEPP No. 64	Advertising and Signage	N/A
SEPP No. 65	Design Quality of Residential Flat Development	N/A
SEPP No. 70	Affordable Housing (Revised Schemes)	N/A
SEPP No. 71	Coastal Protection	Consistent
SEPP No. 74	Newcastle Port and Employment Lands	N/A
SEPP	Housing for Seniors or People with a Disability 2004	Inconsistent
SEPP	Building Sustainability Index: BASIX 2004	N/A
SEPP	Major Development 2005	N/A
SEPP	Development on Kurnell Peninsula 2005	N/A
SEPP	Sydney Region Growth Centres 2006	N/A
SEPP	Mining, Petroleum Production and Extractive Industries 2007	N/A
SEPP	Infrastructure 2007	N/A
SEPP	Temporary Structures 2007	N/A
SEPP	Kosciuszko National Park – Alpine Resorts 2007	N/A
SEPP	Rural Lands 2008	N/A
SEPP	Affordable Rental Housing 2009	N/A
SEPP	Western Sydney Employment Area 2009	N/A
SEPP	Exempt and Complying Development Codes 2008	N/A
SEPP	Western Sydney Parklands 2009	N/A

Attachment 3: List of applicable Section 117 Ministerial Directions

Section 117 Direction	Compliance
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent
1.2 Rural Zones	N/A
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environment Protection Zone	N/A
2.2 Coastal Protection	Consistent
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Inconsistent
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	Consistent
3.5 Development Near Licensed Aerodromes	Consistent
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulphate Soils	N/A
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	Consistent
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.5 Second Sydney Airport: Badgerys Creek	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	Consistent
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A

Attachment 4: Planning Proposal prepared by DFP Planning Consultants Dated February 2016 (Separate Document)