

Rezone Lot 33 and 34 DP 243029, Tura Beach Drive, Tura Beach (deferred matter) to B5 Business Development

Proposal Title :	Rezone Lot 33 and 34 DP 243029, Tura Beach Drive, Tura Beach (deferred matter) to B5 Business Development		
Proposal Summary :	The planning proposal seeks to rezone lots 33 and 34 DP 243029, Tura Beach from 1(c) Rural Small Holdings Zone to B5 Business Development Zone to enable the development of a Bunnings Warehouse totalling around 6,900sqm in trading area. The subject land is identified as a 'deferred matter' in the Bega Valley LEP 2013. It also includes deleting the "Deferred Matter" status of the proposal, removing the minimum lot size applying to the land, and inserting a new objective to the B5 Zone relating to the subject land. The new 2016 Planning Proposal is essentially the same as a Planning Proposal that the Department refused to allow to proceed past Gateway in 2014 (PP_2014_BEGAV_005_00). This new planning proposal seeks the same outcome as the 2014 planning proposal.		
PP Number :	PP_2016_BEGAV_001_00	Dop File No :	14/01249-1

Proposal Details

Date Planning Proposal Received :	20-May-2016	LGA covered :	Bega Valley
Region :	Southern	RPA :	Bega Valley Shire Council
State Electorate :	BEGA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Corner Sapphire Coast Drive and Tura Beach Drive		
Suburb :	Tura Beach	City :	Postcode : 2550
Land Parcel :	Lot 33 and 34 DP 243029, Tura Beach Drive, Tura Beach		

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 0
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :
If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :
If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting **DESCRIPTION OF SITE AND SURROUNDING LAND**
Notes :

The subject land is located approximately 3km from Merimbula and approximately 30km from Bega. It has frontage to Sapphire Coast Road and Tura Beach Road just outside the village of Tura Beach to the south west (which has a population of around 3,000 people).

The site is relatively flat vacant land with an area of approximately 4.5 hectares. It is

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generally cleared with scattered native trees and an understorey of native and exotic grasses and herbs. Council has indicated that there are no known threatened species, populations or endangered ecological communities present on the site.

The site is adjacent to a seniors living development to the south east that comprises 14 self contained units and a 66 bed nursing care development.

A neighbourhood shopping centre is located across the road (Tura Beach Drive) from the proposal to the east. It contains a large Woolworths shopping centre, a discount chemist, a cafe, and a small Harvey Norman electrical goods store.

There is also a small R5 Large Lot Residential zoned area to the west, with one residential dwelling adjacent to the site.

To the north and south of the site are native forested Crown lands, zoned E2 Environmental Conservation.

PLANNING PROVISIONS

The subject land was deferred from the Bega Valley LEP 2013. It is currently zoned 1(c) Rural Small Holdings under the Bega Valley LEP 2002.

The shopping centre opposite the site is zoned B1 Neighbourhood Centre Zone under Bega Valley LEP 2013. Under clause 6.10 of the Bega Valley LEP 2013, retail development on that land is restricted to a total floor space of 5,000 square metres. The floor space restriction was to ensure that retail development in Tura Beach did not undermine the established retail hierarchy and the role of Bega as the Major Regional Centre. The restriction on commercial floor space in Tura Beach is consistent with a planning report by Hill PDA commissioned by the NSW Department of Planning in 2008.

In the period after the notification of Bega Valley LEP in 2013, the Bega Bypass has been completed and Bega Valley Shire Council has zoned an area south of Bega to IN1 General Industrial. This land is serviced by the bypass and identified as the location for future industrial development, with 'hardware and building supplies' permitted in the zone.

BACKGROUND

1. Under the draft Bega Valley LEP 2010, Council resolved to zone lot 33 to R2 Low Density Residential Zone and lot 34 to R5 Large Lot Residential Zone.

2. During the exhibition period of that draft LEP the landowner requested that the land be rezoned R3 Medium Density Zone.

3. Council identified the land as a deferred matter under Bega Valley LEP 2013 with the intention of re-exhibiting a plan to rezone the land as R3 Medium Density Residential Zone, as requested by the landowner.

4. In 2013, Council included the site in a planning proposal to rezone it to R3 Medium Density Residential (PP_2013_BEGAV_003_00). That planning proposal was issued with a Gateway Determination in October 2013. At the owner's request, Council amended the planning proposal to remove the site and an amended Gateway was issued on the 3 February 2014.

5. The landowner requested that Council rezone the site to B5 Business Development Zone as they were approached by a 'national company' to use the site for bulky goods or hardware. [Since the 2014 proposal, Bunnings has purchased the site and is now proposing a 6,900sqm Bunnings Warehouse as part of the new planning proposal].

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6. The Council staff report to Council's meeting of 18 December 2013 concluded that the location for the B5 Business Development Zone on Lot 33 and 34 "is not ideal and there are opportunities for the location of such a business in more suitable locations in the Bega Valley. Zoning and development of the land for medium density residential development is considered a more appropriate use of the land...". Council resolved to defer the matter to enable inspection of the site. The Report also highlighted the inconsistencies of the proposal with the Bega Valley Shire Commercial Strategy 2006 and the South Coast Regional Strategy 2006.

7. After a site inspection by Councillors on the 15 January 2014 Council resolved at its meeting 12 February 2014 to rezone the land to B5 Business Development Zone.

8. A planning proposal to rezone the site was submitted to the Department by Council to rezone the subject land to B5 Business Development Zone with no minimum lot size. In the covering letter Council indicated that it was not seeking an Authority to use its delegation for plan making.

9. The Department's Southern Region Team and the LEP Review Panel both recommended that the planning proposal should not proceed on the basis that there were inconsistencies with the South Coast Regional Strategy, Council's Commercial Strategy and a number of section 117 Directions.

10. In December 2014, the Department issued a Gateway determination that the planning proposal should not proceed. The reasons included that it "would allow the consideration of a major 'out-of-centre' retail development in Tura Beach. Council did not sufficiently justify that the proposal will not potentially undermine the existing neighbourhood business precinct, the village character of Tura Beach and the role of Bega as the major regional centre." It was recommended that Council should review its strategic planning framework for commercial uses, the Bega Valley hierarchy and existing land for retail and bulky goods development before pursuing a business zone on the subject land.

11. In April 2016 Council lodged a new planning proposal for the subject land (with an updated final Planning Proposal in May 2016) that includes an Economic Impact Assessment justifying the location of the proposed Bunnings Warehouse. Council has not updated its strategic planning framework.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The Planning Proposal's Objective 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."

Whilst the Objective reflects the intent to rezone the subject land, it is arguable that a Bunnings Warehouse is not appropriate in other zoned commercial areas within the Shire.

The objective is also similar to the 2014 Planning Proposal for the site.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The Explanation of Provisions is given as:

1. Amend map sheet LAP_001 by deleting DM Deferred Matter applying to the subject land.
2. Amend map sheets LZN_020B and LZN_020C by applying B5 Business Development Zone to the subject land.
3. Amend map sheets LSZ_020B and LSZ_020C by removing the minimum lot sizes from

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the subject land.

4. Amend map sheet FSR_020C by removing the floor space ratio of D 0.5:1 from the subject land.

5. Amend the B5 Business Development Zone land use table to include an objective specifically applying it to the development of Lot 33 and 34, DP 243029 Sapphire Coast Drive, Tura Beach. [The Planning Proposal does not articulate the words that are being proposed to be included in the B5 Business Development Zone Objectives.]

These provisions are similar to the 2014 Planning Proposal for the site.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.5 Rural Lands

2.2 Coastal Protection

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

Is the Director General's agreement required? Yes

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 64—Advertising and Signage

SEPP No 71—Coastal Protection

SEPP (Housing for Seniors or People with a Disability) 2004

e) List any other matters that need to be considered :

STRATEGIC RETAIL RESTRICTIONS

The site is directly adjacent to a seniors living development and opposite a neighbourhood shopping precinct that contains a Woolworths supermarket, a discount pharmacy, a cafe, and a small Harvey Norman electrical store. The rezoning of the shopping centre site was approved in 2008 and the LEP restricted all retail development on the site to a total floor space of 5,000sqm. This policy was based on a report prepared by Hill PDA Property Consulting commissioned by the Department of Planning.

The Hill PDA report was commissioned to provide advice on the Council's draft LEP amendment and the Department's alternative policy position for the neighbourhood centre and the inconsistency of the draft amendment with the commercial hierarchy of the South Coast Regional Strategy.

The Hill PDA report concluded, among other things, "in order to protect Bega as the regional centre, limitations should be imposed on other centres including "out-of-centre" or "bulky goods/homemaker" centres." It also stated that "Tura Beach should be defined as a town or village with a cap on its retail centre to 5,000sqm in addition to its existing floor space. Given its definition as a lower order centre it should be allowed to provide for regular or core shopping needs but not be allowed to provide shops for "non-regular" or "comparative goods" shopping. The report specifically states that "the first preference for bulky goods should be in Bega, preferably as close as possible to the town centre." In the Report to Council of 18 December 2013, it was noted that the retail floor space at Tura Beach has now been taken up with the development of the B1 neighbourhood centre.

Whilst the Hill PDA report is from 2008, many of the issues around protecting the role and function of Bega and defining the role of the other towns and centres remains

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relevant today. This is evident with the recently released Draft South East and Tablelands Regional Plan that maintains the policy position of protecting the role and function of Bega as a regional centre.

The current proposal is contrary to the strategic intent behind creating the B1 Neighbourhood centre, i.e. to limit retail development in Tura Beach to only service the local shopping needs of the village. Clause 6.10 of the Bega Valley LEP 2013 restricts commercial development on the B1 Neighbourhood Centre site to 5,000 square metres of floor space for all retail developments (carrying forward the policy position from the 2008 rezoning of the neighbourhood centre). The floor space restriction was to ensure that commercial development in Tura Beach did not undermine the established retail hierarchy and the role of Bega as the major regional centre.

The Planning Proposal and the applicant's supporting documentation dismiss the Council's Commercial Strategy (2006) as not ever envisaging a B5 zoning on the site and therefore such a restriction is not relevant to this proposal. While the Council and the applicant claim that the proposed Bunnings Warehouse will not undermine the role and function of Bega, this type of retail development will have an impact locally at Tura Beach. It will expand the role of the local centre and it will change the function of the local centre from only servicing the needs of local residents to a much broader regional retail catchment. This is not supported by Council's own Commercial Strategy and the Department's Regional Strategy.

LAND USE CONFLICT WITH SENIORS HOUSING DEVELOPMENT

The proposed Bunnings Warehouse immediately adjoins an existing seniors housing development that comprises 14 self care units and a 66 bed residential care facility. The residential care facility is located close to the boundary of the subject land. The proposed development could potentially have adverse impacts on the amenity of adjoining residents particularly from noise, lighting, visual amenity, increased traffic and truck movements.

The proposed design of the Bunnings Warehouse sites the car park fronting Sapphire Coast Drive and the warehouse at the rear of the site closest to the adjoining seniors living development. The warehouse's delivery access road is proposed to run along the boundary with the seniors living development.

The planning proposal suggests that any conflicts could be adequately addressed at the development application stage, but offers no insight as to how this would be achieved.

The issue of land use conflict with the adjoining seniors housing development was identified in the assessment of the 2014 Planning Proposal and it has not been adequately addressed in the new Planning Proposal to satisfactorily identify that potential impacts could be managed or mitigated.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

**1) COUNCIL STRATEGIES
BEGA VALLEY SHIRE COUNCIL COMMERCIAL STRATEGY (2006)**

The Bega Valley Shire Commercial Strategy 2006 was adopted by Council. The Commercial Strategy recommends that Tura Beach remains a local servicing centre and that provisions be included in the Bega LEP to restrict all retail development within the land at Tura Beach to a maximum floor space of 1,000 m² (with a total development area of 6,000sqm).

A restriction of a total of 5,000sqm of retail floor space at Tura Beach was included in the Bega Valley LEP 2013 (the Department's independent review by Hill PDA recommended this to achieve the desired outcomes of restricting large format retail development to larger commercial centres).

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The planning proposal is contrary to the intent of the Commercial Strategy that seeks to maintain and support Bega as the major retail centre in the Shire.

Although the Commercial Strategy has not been approved by the Secretary of the Department of Planning and Environment it is generally consistent with a retail assessment undertaken for Merimbula and Tura Beach by Hill PDA that was commissioned by the Department of Planning in 2008.

The Hill PDA report recommended placing limitations on retail development in locations such as Tura Beach to protect Bega as the regional centre. The limitations on retail activity included limiting "out-of-centre" or bulky goods/homemaker centres. The Hill PDA report was commissioned at a time when there was significant debate around the retail relationships between Merimbula, Tura Beach and Bega.

The planning proposal does not adequately address the concerns raised during the assessment of the previous 2014 Planning Proposal or the recommendations in the Hill PDA retail assessment.

The planning proposal states the the "proposed Business Development Zone is not considered to be inconsistent with the Commercial Strategy". It states that uses permissible in the B5 Zone would complement the adjoining local centre without allowing for competing development or providing for a de facto expansion of the local centre.

The planning proposal includes an Economic Impact Assessment undertaken by Essential Economics Pty Ltd (2016) that concludes that:

- the proposed location for the Bunnings Warehouse is appropriate
- the proposed Bunnings is supported by market demand
- trading impacts will be short-term and within the normal bounds of competitive trading
- the role and competitiveness of Bega as the regional centre will not be undermined by the proposal
- the proposed Bunnings would be a new and important source of employment for over 70 people in full time, part time and casual positions

However, the Economic Impact Analysis does not address strategic planning issues relating to the role and function of Tura Beach versus Merimbula and Bega townships.

Council reiterates the findings of the applicant's Economic Impact Assessment that the proposal will not undermine the capacity of Bega to fulfill its role as the regional centre for the local government area, nor will it be inconsistent with the established centre hierarchy for the area.

The planning proposal suggests that the Bega Valley Shire Commercial Strategy 2006 may be out of date and may need to be reviewed to take into account recent developments and population changes. However, it does not attempt to provide further strategic commentary justifying how this proposal has strategic merit other than comments that it won't impact on the role and function of Bega.

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

If Council is of the view that the adopted Commercial Strategy is out of date and doesn't reflect appropriate outcomes for its commercial centres, it should undertake the appropriate strategic work to review and update the Commercial Strategy and provide its community with an opportunity to comment on its new direction.

One of the reasons the Department refused to allow the 2014 Planning Proposal to proceed was its inconsistency with the strategic planning framework which promotes and protects the role of Bega as a regional centre and maintains the role of smaller towns and villages as servicing local needs.

It is **RECOMMENDED** that the Department's previous concerns about the inconsistency with the Bega Valley Commercial Strategy 2006 remains and the proposal should not proceed.

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COMMUNITY STRATEGIC PLAN BEGA VALLEY 2030

The Planning Proposal identifies that it will achieve five Key Directions being:

- E1 Growth of our local economy
- E2 Enhanced tourism opportunities
- E3 Strong and diverse future
- E4 Innovation supported
- E5 Confidence

However, the 2014 Planning Proposal acknowledged that the proposal was inconsistent with the following Key Directions and outcomes of the Bega Valley Community Strategic Plan;

- L1.6 Diversity and affordability of new housing increased (pp38).
- L4.4 Land use planning and facility design ensure the opportunity for members of our community to access services and age in place successfully (pp41).
- E3.1 Promote Bega as a centre for regional health, government, tertiary education, retail activity and Merimbula, Eden and Bermagui as district centres (pp49).

The 2014 planning proposal did not adequately address these inconsistencies. Despite the new planning proposal not changing in location, scale or impacts, it does not identify the proposal as inconsistent with any Key Directions. Therefore, the conclusion is that the proposal is still inconsistent with the Key Directions previously identified above in Council's Community Strategic Plan.

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2) S117 DIRECTIONS

The following s117 Directions are relevant:

1.1 BUSINESS AND INDUSTRIAL ZONES:

The new planning proposal states that the proposal is consistent with the Direction's objectives. However, the Department does not support this view. The proposal is considered to be inconsistent with the objectives as it encourages employment growth in an inappropriate location, i.e. encourages major retail development in an out-of-centre location (Tura Beach), and does not support the viability of identified strategic centres, i.e. Bega.

Further, no comment has been provided on the requirement that a planning proposal must "ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment." This proposal is not considered to be in accordance with an endorsed strategy and is, therefore, inconsistent.

In terms of whether a proposal can be justifiably inconsistent, this new proposal does NOT meet the four opportunities provided in the Direction, being:

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- (a) justified by a strategy
- (b) justified by a study that gives consideration to the objectives of the direction
- (c) in accordance with the relevant Regional Strategy, or
- (d) is of minor significance.

Although the Bega Valley Shire Council Commercial Strategy has not been endorsed by the Secretary of the Department of Planning and Environment, the local strategy is generally consistent with the South Coast Regional Strategy prepared and endorsed by the Department. The local and regional strategies promote Bega as the major retail centre for the Shire by limiting retail development in smaller centres such as Tura Beach.

Council has not adequately addressed the inconsistency with the Direction.

RECOMMENDATION: That the planning proposal not proceed.

1.2 RURAL ZONES: In the new (2016) planning proposal, Council has identified that this Direction applies, as it will affect land within an existing or proposed rural zone.

The proposal is considered to be **INCONSISTENT** with this direction as it proposes to rezone land from a rural zone to a business zone. Council argues that the inconsistency is justifiable as it is of minor significance.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

1.5 RURAL LANDS: This Direction does apply to the planning proposal as it will affect land within an existing or proposed rural zone.

The proposal is considered to be **CONSISTENT** with this direction as it is consistent with the Rural Planning Principles list in SEPP (Rural Lands) 2008.

2.2 COASTAL PROTECTION:

This Direction does apply to the planning proposal as the subject land is within the coastal zone. The proposal is considered to be **CONSISTENT** with this direction as it does not contradict or hinder the application of the coastal planning provisions in the NSW Coastal Policy, the Coastal Design Guidelines 2003 or the NSW Coastal Development Manual 2003.

3.1 RESIDENTIAL ZONES:

Council has identified that this Direction applies to the proposal, however, it is questionable whether the site provides "significant" residential development opportunity (being only 8 lots of a minimum of 5,000sqm each).

Council had previously resolved to zone the lots R2 Low Density Residential and R5 Large Lot Residential Zone. The planning proposal will reduce the availability of land for housing, does not demonstrate the implications of this on housing supply in the area, and does not broaden the choice of building types and locations in the housing market. Further, the proposal will cause land use conflict with an existing seniors housing development adjacent to the site.

Council has not adequately addressed the inconsistency with this Direction.

RECOMMENDATION: That the planning proposal not proceed.

3.4 INTEGRATING LAND USE AND TRANSPORT:

This Direction does apply to the planning proposal as it will create a zone relating to urban land.

The proposal is considered to be **CONSISTENT** with this direction.

3.5 DEVELOPMENT OF LICENSED AERODROMES:

This Direction does apply to the planning proposal as it will create a zone relating to land in the vicinity of a licensed aerodrome. Whilst the site is located outside the ANEF 20, the proposal does protrude above the applicable Obstacle Limitation Surface. If the planning proposal was to proceed, permission would be required to be obtained prior to undertaking any community consultation.

If the Planning Proposal was to proceed, approval would be required prior to undertaking consultation, to determine whether the proposal is consistent or inconsistent with this direction.

4.4 PLANNING FOR BUSHFIRE PROTECTION:

This Direction does apply to the planning proposal as it will affect land mapped as bushfire prone land (in this case, it is mapped as Category 1 bushfire vegetation).

At this stage of assessment, the Planning Proposal is neither consistent nor inconsistent as the Direction requires consultation with the Rural Fires Service post Gateway determination and prior to exhibition.

RECOMMENDATION: The Secretary can be satisfied that the requirements of the Direction have been met. If the planning proposal is supported, a condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

5.1 IMPLEMENTING REGIONAL STRATEGIES:

Council has indicated that the planning proposal is consistent with this Direction. The Department, however, does not support this view as the proposal is considered to be inconsistent with the South Coast Regional Strategy as it fails to protect and add to employment lands in existing economic centres. The South Coast Regional Strategy identifies Bega as the major regional centre to provide for major commercial development within the region. The strategy also requires councils to introduce mechanisms to preserve and support the hierarchy of commercial centre. The planning proposal is not consistent with this requirement.

Whilst the Council's new planning proposal does include an Economic Impact Assessment that concludes that the role and competitiveness of Bega as the primary regional centre will not be undermined by the establishment of a Bunnings at Tura Beach, that is not the same as preserving and supporting the hierarchy of centres.

Tura Beach would be classified as either a town or village under the South Coast Regional Strategy - small to medium concentrations of business reliant on higher order centres for shopping and employment. The planning proposal is inconsistent with the South Coast Regional Strategy because it proposes major retail development in a small centre away from the major commercial centre.

Since the new planning proposal has been lodged, the Department has released the Draft South East and Tablelands Regional Plan that will supercede the South Coast Regional Strategy, once it is adopted by the Government. The draft Regional Plan states the following requirements:

Action 4.3.1 Focus commercial and retail activities within the region's centres in line with the regional centres hierarchy.

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Proposals for new major retail developments will be assessed against the regions' hierarchy of centres. These proposals should demonstrate how they:

- respond to retail supply and demand
- respond to innovations in the retail sector
- maximise the use of existing infrastructure commensurate with the scale of the proposal
- enhance the value of the public realm.

The net community benefit should be a factor when assessing these proposals.

The NSW Government will work with councils to focus retail activity in existing commercial centres, unless there is a demonstrated need for new centres, with positive social and economic benefits for the community.

The applicant has provided additional information attempting to address these statements in the Draft Regional Plan. It primarily relies on the findings of the planning proposal's Economic Impact Assessment.

The applicant has undertaken a net community benefit analysis using the Department's Draft Centres Policy (2010). One of the criteria is "Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?" It is possible that allowing a large format retail use (ie. bulky goods warehouse) to locate in a small town or village instead of a large commercial centre could create a precedent that is not supported by the Department.

Whilst it is not a requirement that the draft Regional Plan be considered, it is still worth understanding the potential implications of the proposal on the future strategic planning framework for the area.

The applicant has argued that the proposal is consistent with the draft Regional Plan. However, the proposal does not locate retail activity in an existing commercial centre, nor maintain the identified centre's hierarchy that identifies Bega as the most suitable location for providing employment opportunities and a wide range of businesses, including bulky goods and warehouses. These uses are not considered compatible with small towns, such as Tura Beach, and a small neighbourhood centre that is designed to service the daily needs of that community. A Bunnings Warehouse is designed to attract business from within the broader region and would be more suitably located in the regional centre designed to accommodate such retail uses.

Therefore, given Council has not updated its strategic context and framework for commercial development in the Bega Valley Shire, it has not adequately justified the inconsistency with this Direction. Council indicated that the planning proposal was consistent with s117 Direction 5.1. However, the planning proposal is considered to be INCONSISTENT with this direction.

RECOMMENDATION: That the planning proposal not proceed.

CONCLUSION AND RECOMMENDATION

The Planning Proposal is considered inadequate as it has not provided sufficient strategic justification for the continued inconsistencies with the the Bega Valley Shire Council Commercial Strategy 2006, the Community Strategic Plan Bega Valley 2030, the South Coast Regional Strategy and s117 Directions 1.1 Business and Industrial Zones and 5.1 Implementation of Regional Strategies and has failed to adequately address the potential land use conflict with the adjoining senior's living development. Whilst it is acknowledged that the new planning proposal provides additional information and assessment of the economic impact of the proposal in an Economic Impact Assessment,

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this is insufficient to address the Department's previous concerns and reasons for refusal in 2014.

It is **RECOMMENDED** that the planning proposal not proceed.

Mapping Provided - s55(2)(d)

Is mapping provided? No

Comment : No draft LEP maps were submitted with the Planning proposal. The planning proposal describes the LEP map sheets to be amended and includes diagrams to identify the land to be rezoned to B5 Business Development Zone.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council proposes 28 day exhibition.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? No

If No, comment : **CONCLUSION AND RECOMMENDATION**
The Planning Proposal is inadequate because it has not adequately addressed inconsistencies with the Council's Commercial Strategy, the South Coast Regional Strategy and s117 Directions 1.1 Business and Industrial Zones and 5.1 Implementation of Regional Strategies and has failed to adequately address the land use conflict with the adjoining seniors living development.

It is recommended that the planning proposal not proceed.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Bega Valley LEP 2013 (principal SI LEP) was notified in 2013.

The planning proposal seeks to rezone land identified as a 'deferred matter' under the Bega Valley LEP 2013.

Assessment Criteria

Need for planning proposal : The planning proposal seeks to rezone land identified as a 'deferred matter' under Bega LEP 2013.

Council has not adequately justified the need to rezone rural residential zoned land, adjacent to an existing seniors living development, at Tura Beach to B5 Business Development Zone to accommodate out-of-centre commercial development for warehousing, bulky goods and landscape supplies and the like.

The Council's new planning proposal includes an Economic Impact Assessment (EIA) that justifies an economic demand for a Bunnings Warehouse in the Bega Valley. It does not suggest that the only suitable location is the subject land. Whilst the EIA did consider a number of other existing zoned commercial sites in Bega and Pambula, it did not consider

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any potential non-business zoned sites (such as the subject land) that could potentially be suitable if rezoned to a business zone. Whilst the sites investigated in Bega were discounted as not suitable for Bunnings requirements (including visual prominence), it is possible that other sites may be suitable elsewhere in Bega that have not been investigated by either the applicant or the Council.

At this point in time, without further assessment of a wider range of sites in the Bega Valley, the applicant and Council believes this is the most suitable site for a Bunnings Warehouse.

Consistency with strategic planning framework :

See commentary under "Adequacy" about the proposal's inconsistency with the Council's local strategic framework (ie. the Community Strategic Plan and it's Commercial Strategy) as well as with the Department's South Coast Regional Strategy.

Environmental social economic impacts :

See commentary under "Adequacy" in "other issues" relating to the economic impacts, the strategic retail restrictions at Tura Beach and the concerns about potential conflicts with the existing adjoining seniors housing development.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **Nil**

Timeframe to make LEP : **0 months** Delegation : **Nil**

Public Authority Consultation - 56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **It is RECOMMENDED that the planning proposal not proceed for the following reasons.**

1. The reasons for the Department's previous Gateway decision to not proceed have not been adequately addressed, namely:

(a) inconsistencies with s117 Directions 1.1 Business and Industrial Zones and 5.1 Implementation of Regional Strategies have still not been adequately addressed.

(b) inconsistencies relating to the strategic role and function of the retail hierarchy in the Bega Valley and the current planning restrictions on retail development at Tura Beach have not been adequately addressed. These inconsistencies are with the adopted Bega Valley Shire Council Commercial Strategy 2006, the South Coast Regional Strategy and the Department commissioned study by Hill PDA in 2008.

(c) potential land use conflicts and/or mitigation to avoid or manage potential conflicts with the adjoining seniors living development have still not been adequately addressed.

(d) concerns that a B5 Business Development Zone on the subject land is inappropriate as the scale of commercial development is not in keeping with the village character and amenity of Tura Beach have not been adequately addressed.

2. The Economic Impact Analysis provided in the new planning proposal does not adequately address the Department's previous concerns with rezoning this site to a B5 Business Development Zone.

Rezone Lot 33 and 34 DP 243029, Tura Beach Drive, Tura Beach (deferred matter) to B5 Business Development

3. Council has not reviewed or updated its strategic planning framework, particularly its Commercial Strategy.

4. The Department's Draft South East and Tablelands Regional Plan maintains the Department's policy position of promoting large scale commercial development in the regional centre of Bega.

Resubmission - s56(2)(b) : No

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Bega - Letter & first planning proposal to rezone for a Bunnings at Tura Beach 03062016.pdf	Proposal Covering Letter	Yes
Bega - Final Planning Proposal - May 2016 to Rezone to land at Tura Beach to B5.pdf	Proposal	Yes
Bega - Additional information from Council to support PP 03062016.pdf	Proposal	Yes
Bega -Aerial Photo - Rezone land at Tura Beach to B5.pdf	Photograph	Yes
Bega - Map of proposed zoning Tura Beach.pdf	Map	Yes
Hill PDA Report final.pdf	Study	Yes
EXTRACT - Commercial_strategy 2006 - Tura Beach.pdf	Study	Yes
Extract South Coast Regional Strategy - Tura Beach rezoning proposal.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.3 Site Specific Provisions

Additional Information : It is recommended that the Deputy Secretary, Planning Services, as the delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that a planning proposal to amend the Bega Valley Local Environmental Plan 2013 to rezone land at Tura Beach to B5 Business Development, should not proceed.

Supporting Reasons : It is **RECOMMENDED** that the planning proposal not proceed for the following reasons.

Rezone Lot 33 and 34 DP 243029, Tura Beach Drive, Tura Beach (deferred matter) to B5 Business Development

1. The reasons for the Department's previous Gateway decision to not proceed have not been adequately addressed, namely:

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Signature:



Printed Name:

Deanne Frankel

Date:

6/7/16

