



PWG002598

council@begavalley.nsw.gov.au

ABN. 26 987 935 332

DX. 4904 Bega

Ref:

28 April 2016

NSW Department of Planning and Environment
Mr Brett Whitworth
Director Southern Region
PO Box 5475
Wollongong NSW 2520

Dear Mr Whitworth

Planning Proposal for Gateway Determination – Rezoning Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

At the Ordinary Council meeting on 6th April 2016 Council resolved to forward a Planning Proposal to the NSW Department of Planning and Environment to rezone Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach from 1(c) Rural Small Holdings to B5 Business Development for Gateway Panel determination.

Accordingly, Council requests a Gateway Determination on the Planning Proposal from the Minister for Planning and Infrastructure in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*. Please also find enclosed a copy of the relevant Council report and resolution for your reference.

Should you have any queries regarding the Planning Proposal, please contact me on (02) 6499 2112 or cmcgregor@begavalley.nsw.gov.au.

Yours faithfully,

Carley McGregor
Strategic Planner

BEGA VALLEY SHIRE COUNCIL

Bega Valley Shire Council

Zingel Place
PO Box 492
Bega NSW 2550

Phone (02) 6499 2222
Fax (02) 6499 2200
Email council@begavalley.nsw.gov.au

Bega Valley Local Environmental Plan 2013

Planning Proposal: Tura Beach Business Development Zone

April 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

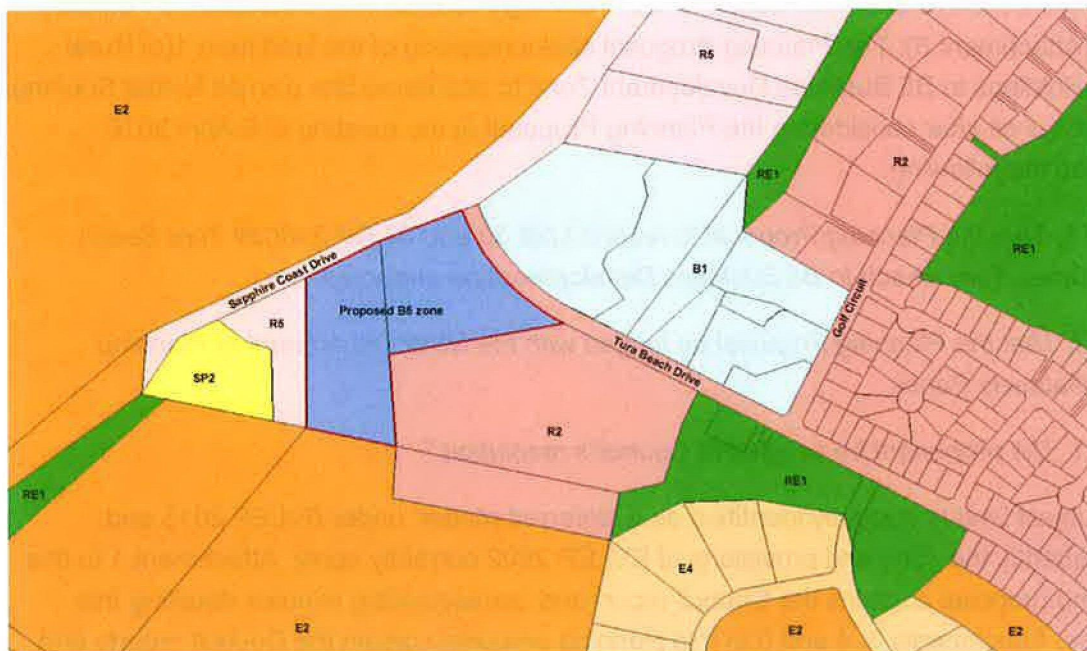


Figure 2: Proposed zoning - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

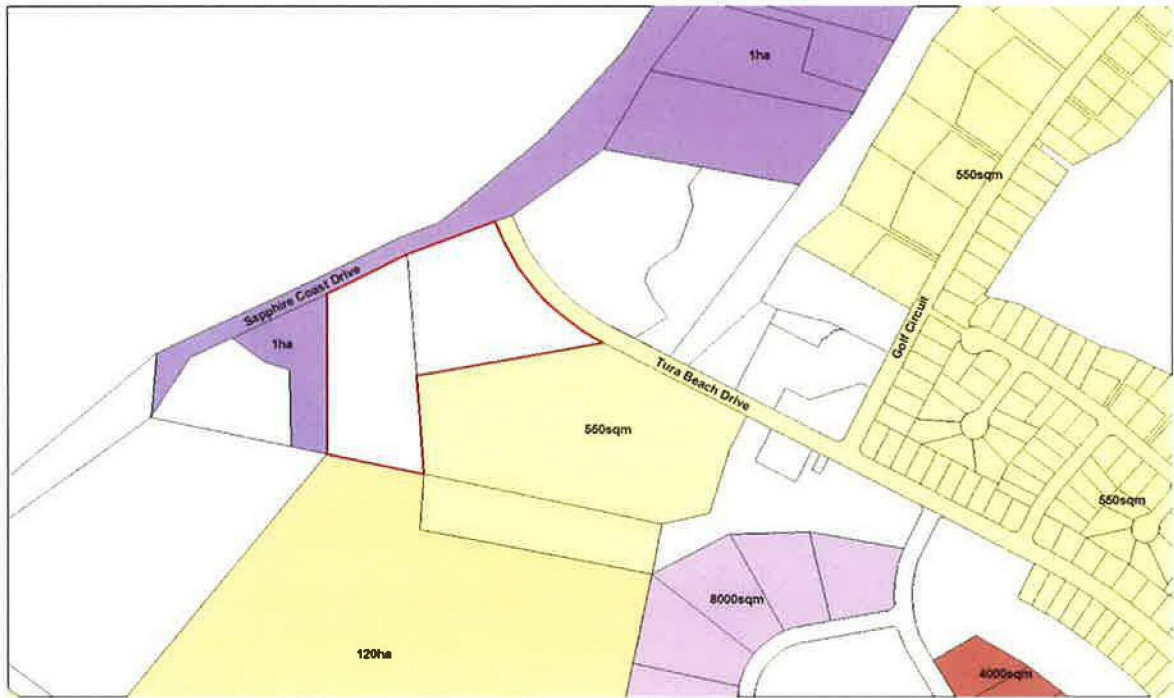


Figure 3: Proposed minimum lot size - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

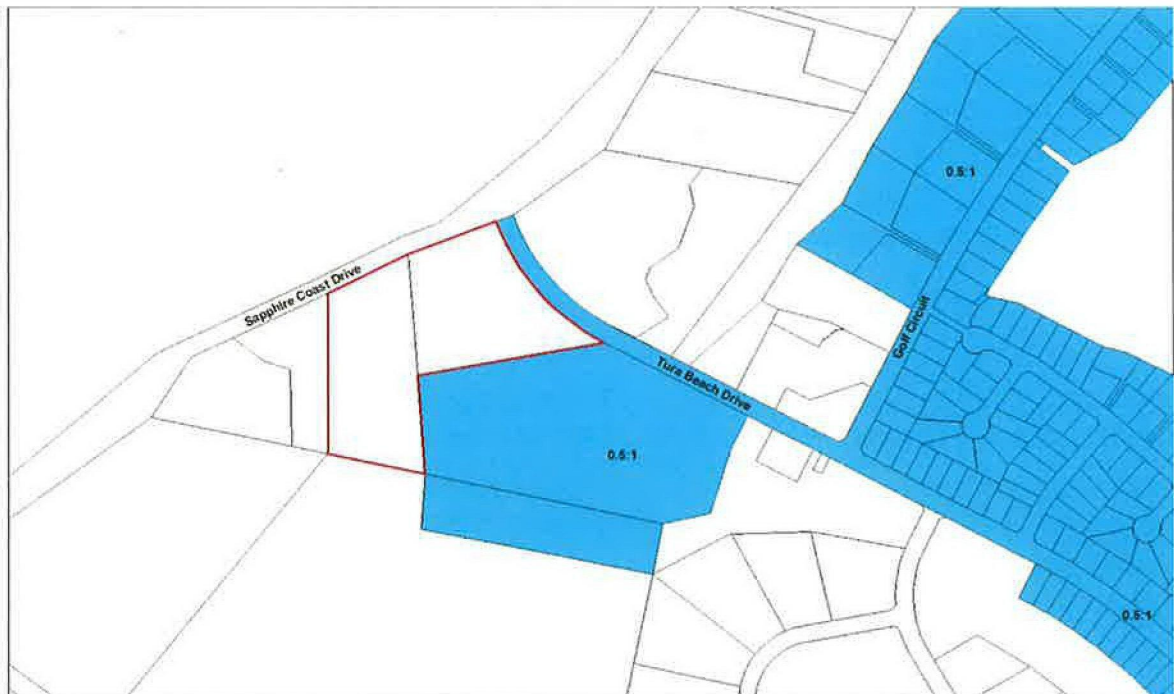


Figure 4: Proposed floor space ratio - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

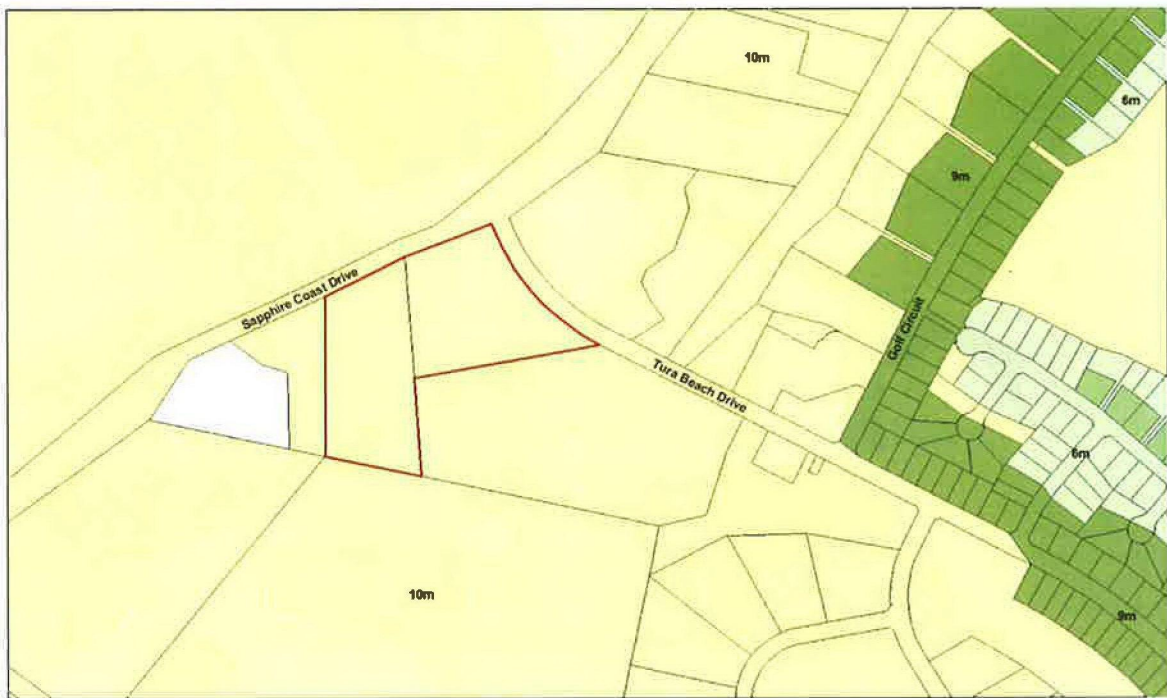


Figure 5: Proposed maximum height - Lots 33 and 34 DP 243029 Tura Beach Drive, Tura Beach

Sections A, B, C and D

Sections A, B, C and D have been addressed in the Planning Proposal.

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)