

## Planning Services

### Gateway determination report

<b>LGA</b>	Bega Valley
<b>PPA</b>	Bega Valley Shire Council
<b>NAME</b>	Planning proposal to remove the deferred status of land at Tura Beach and apply a B5 Business Development zone to facilitate the development of a Bunnings Warehouse (0 homes, 70 jobs)
<b>NUMBER</b>	PP_2018_BEGAV_006_00
<b>LEP TO BE AMENDED</b>	Bega Valley Local Environmental Plan 2013
<b>ADDRESS</b>	Sapphire Coast Drive, Tura Beach
<b>DESCRIPTION</b>	Lots 33 and 34 DP 243029
<b>RECEIVED</b>	5 October 2018
<b>FILE NO.</b>	IRF18/6085
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to remove the deferred status of Lots 33 and 34 DP 243029, Sapphire Coast Drive, Tura Beach and apply a B5 Business Development zone, a 1ha minimum lot size and a 10m building height control under the Bega Valley Local Environmental Plan 2013. It is intended that the planning proposal will facilitate the development of a Bunnings Warehouse on the site.

### Site description

The site comprises two lots with a total area of 4.05ha.

The site is at the intersection of Tura Beach Drive and Sapphire Coast Drive at the south-western edge of Tura Beach in the Bega Valley LGA (Figure 1, next page). The planning proposal indicates that the site has 200m of direct frontage to Sapphire Coast Drive and 188m of direct frontage to Tura Beach Drive.

As shown in Figure 1, the site is undeveloped with clusters of vegetation scattered throughout. The site slopes away from Sapphire Coast Drive towards Tura Beach Drive.



Figure 1: Site map (source: SIX Maps).

### Existing planning controls

The site is identified as a deferred matter on the Bega Valley LEP 2013 land zoning and land application maps. The site remains zoned 1(c) (Rural Small Holdings) under the provisions of the Bega Valley LEP 2002.

The site is identified on the Bega Valley LEP 2013 lot size, height of buildings and floor space ratio (FSR) maps as follows:

- Lot 33 has a minimum lot size of 550m<sup>2</sup> and Lot 34 has a minimum lot size of 1ha;
- the entire site is subject to a 10m height of building control; and
- Lot 33 is subject to a 0.5:1 FSR control.

These controls do not apply to the site as it is identified on the land application map as a deferred matter.

### Surrounding area

The surrounding area is characterised by heavily vegetated bushland to the north and south-west and a mixture of commercial and residential uses to the east and south-east. The site and surrounding area are identified in Figure 2 (next page).



Figure 2: Aerial photograph of the site and surrounding area (source: SIX Maps).

The site adjoins Tura Beach shopping centre, which comprises a Woolworths, a Harvey Norman, a service station and several smaller commercial premises. The land on which the shopping centre is situated is zoned B1 Neighbourhood Centre under the Bega Valley LEP 2013. The area north of the shopping centre along Sapphire Coast Drive is zoned R5 Large Lot Residential. This strip of land contains several small commercial premises, including a retail plant nursery and a boat sales premises.

A seniors living facility adjoins the southern boundary of Lot 33. The facility comprises 14 two-bedroom and three-bedroom apartments and the planning proposal notes that a development application has been lodged with Council for 44 additional seniors housing units on the vacant land adjoining the intersection of Lots 33 and 34. This land is zoned R2 Low Density Residential.

Land immediately adjoining the western boundary of Lot 34 is zoned R5 Large Lot Residential. A single dwelling is on this site. Further west is an area of land zoned SP2 Water Supply System.

### Summary of recommendation

It is recommended that the planning proposal proceed subject to the following conditions:

- consultation should be undertaken with the following public authorities:
  - NSW Rural Fire Service;
  - Office of Environment and Heritage;
  - Roads and Maritime Services; and
  - federal Department of Infrastructure, Regional Development and Cities (Aviation).
- community consultation is required for a minimum of 28 days;
- the time frame for completing the LEP is to be 12 months;
- the planning proposal be should revised prior to community consultation to:

- rezone the site to R5 Large Lot Residential and include hardware and building supplies and garden centres as additional permitted uses under schedule 1 of the Bega Valley LEP 2013 over a portion of the site only (to ensure mandated setback and transition to use of the adjoining aged care facility);
- apply an FSR control to the site in accordance with the concept plan for development of the site;
- include draft land application, land zoning, lot size and FSR maps.
- a Stage 1 Preliminary Investigation Report should be prepared for the site in accordance with State Environmental Planning Policy No 55 – Remediation of Land.

## **PROPOSAL**

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### **Objectives or intended outcomes**

The intended outcome of the planning proposal is to amend the Bega Valley LEP 2013 to facilitate the development of a Bunnings Warehouse on the site.

The planning proposal is considered to clearly explain the intended outcome of the proposed LEP amendment.

### **Explanation of provisions**

The planning proposal seeks to achieve the intended outcome by amending the Bega Valley LEP 2013 as follows:

- amend land zoning maps LZN\_020B and LZN\_020C and land application map LAP\_001 to remove the deferred matter status applying to the site;
- amend land zoning maps LZN\_020B and LZN\_020C to apply a B5 Business Development zone to the site; and
- amend lot size map LSZ\_020C to apply a 1ha lot size to Lot 33.

The Department previously considered two planning proposals to rezone the site to B5 Business Development to facilitate the development of a Bunnings Warehouse – one in 2014 and one in 2016. Both were determined not to proceed because they were incompatible with the adjoining land uses, provided inadequate justification of the suitability of the site in respect to alternative locations and were inconsistent with the strategic planning framework.

The Southern Joint Regional Planning Panel considered the proposed controls as part of a Gateway review application lodged by the applicant in September 2016 for the second planning proposal. The panel made several recommendations on the proposal, including zoning the site to R5 Large Lot Residential. The panel's recommendation is discussed later in this report.

To be consistent with the recommendations of the panel's Gateway Review Advice Report of 3 February 2017, it is recommended that the Gateway determination require the subject planning proposal to be revised to:

- apply an R5 Large Lot Residential zone to the site; and
- include hardware and building supplies and garden centres as additional permitted uses on the site under schedule 1 of the Bega Valley LEP 2013.

Noting the site immediately adjoins residential land comprising a seniors living facility and a single detached dwelling, it is considered that the range of permissible land uses in the B5 Business Development zone such as highway service centres, sewerage systems, restricted premises and light industries makes this zone incompatible with the surrounding land uses.

Rezoning the site to R5 Large Lot Residential is consistent with the zoning of other land along Sapphire Coast Drive and, if the site is not developed for a Bunnings Warehouse, will ensure future land uses compatible with the character of the surrounding area.

A condition is recommended to amend the planning proposal to rezone the site to R5 Large Lot Residential with hardware and building supplies and garden centres listed as additional permitted uses on the site is considered the best means of achieving the intended outcome to facilitate the development of a Bunnings Warehouse on the site.

The proposal to change the minimum lot size applying to Lot 33 from 550m<sup>2</sup> to 1ha is appropriate as it would be consistent with the current 1ha minimum lot size control that applies to Lot 34.

The planning proposal does not propose to establish an FSR control for the subject land. However, it states that the proposed Bunnings Warehouse will be designed in accordance with design considerations listed in the Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017. It is considered appropriate that FSR controls that reflect the proposed development footprint be included in the proposal.

It is recommended that the Gateway determination require the planning proposal to be revised to:

- apply an R5 Large Lot Residential zone to the site;
- include hardware and building supplies and garden centres as additional permitted uses over a portion of the site under schedule 1 of the Bega Valley LEP 2013 (to ensure mandated setback and transition to use adjoining aged care facility); and
- apply an FSR control to the site in accordance with the concept plan for development of the site.

### **Mapping**

The planning proposal seeks to amend the Bega Valley LEP 2013 land application, land zoning and lot size maps.

The planning proposal does not include draft LEP maps. It is recommended that the planning proposal be updated prior to consultation to include draft land application, land zoning, lot size and FSR maps. LEP maps that meet the Department's standard technical requirements can be prepared following community consultation.

In addition to the above, it is recommended that the Gateway determination require that the planning proposal be updated prior to consultation to amend FSR maps FSR\_020B and FSR\_020C to apply an FSR ratio control that reflects the development footprint detailed in the concept plan included with the planning proposal.

## NEED FOR THE PLANNING PROPOSAL

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### Background

In December 2014, the Department determined that a planning proposal to rezone the site to B5 Business Development should not proceed because it was incompatible with the adjoining land uses, provided inadequate justification of the suitability of the site in respect to alternative locations and was inconsistent with the strategic planning framework.

In August 2016, the Department determined that a new planning proposal to rezone the site to B5 Business Development should not proceed for substantially the same reasons as the 2014 proposal.

The proponent lodged an application for a Gateway review in September 2016, which was referred to the Southern Joint Regional Planning Panel for consideration.

On 3 February 2017, the panel recommended the planning proposal should not proceed. While the panel acknowledged that rezoning the site to B5 Business Development was considered inappropriate, it recognised the suitability of the site for the proposed development of a Bunnings Warehouse. Accordingly, the panel also recommended that:

*The proponent be invited to consider a new Planning Proposal that adopted the following package of changes:*

- *Zoning the site to R5 Large Lot Residential;*
- *Permitting the use of hardware and building supplies with approval as an additional Schedule 1 use over a portion of the site only (to ensure mandated setback and transition to use adjoining aged care facility);*
- *Imposing controls such as FSR and Height be included in LEP in relation to this site to mitigate impacts and provide a limit to development; and*
- *Include controls in the DCP to address, landscape, siting, setbacks of structure, finished levels, acoustic requirements, light and light spill, and hours of operation.*

The panel also recommended that prior to lodging a planning proposal with the Department, Council should finalise its strategic work "...in respect to the location of employment lands and commercial hierarchy to determine the appropriate strategic framework for the site and the function of the Tura Beach centre".

### Assessment

Council considers the planning proposal is an appropriate way to facilitate a Bunnings Warehouse on the site. Council has prepared a commercial centres review as recommended by the panel. Council's Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017 is consistent with the panel's view that the site is suitable for the development of a bulky goods retail development such as a Bunnings Warehouse, subject to appropriate design measures.

## STRATEGIC ASSESSMENT

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### State

There is no applicable state strategic planning framework.

### Regional

The South East and Tablelands Regional Plan 2036 applies to the Bega Valley LGA. The planning proposal states that it is consistent with 'Direction 12 Promote business activities in urban centres' of the regional plan.

Action 12.4 of the regional plan seeks to focus future commercial and retail activity in existing commercial centres unless there is a demonstrated need and positive social and economic benefits to locate this activity elsewhere.

The planning proposal states that the proponent has considered alternative sites throughout the LGA. This includes land zoned for commercial purposes and other sites identified in the Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017 as suitable for bulky goods retail developments such as a Bunnings Warehouse. These investigations have concluded that the site is the optimal location for a Bunnings Warehouse in the LGA, noting that other available sites are constrained in terms of topography, land size, exposure to passing traffic and access.

The planning proposal states that the development of a Bunnings Warehouse on the site will not impact on the role and function of Bega as the principal commercial, retail, civic and service centre in the LGA. In accordance with the planning proposal, Bunnings Warehouse is a "retail destination facility", which, due to its specialised nature, generally generates single-purpose consumer trips. Therefore, the planning proposal concludes that the development of a Bunnings Warehouse on the site is unlikely to disrupt Council's established hierarchy of centres across the LGA.

Since the Department last considered a planning proposal to facilitate the development of a Bunnings Warehouse on the site, Council has updated its strategic planning framework and the regional plan has commenced. Given the plan does not outline a hierarchy of commercial centres in the Bega Valley LGA, Council's Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017 provides the strategic framework for the consideration of planning proposals to facilitate commercial developments in Tura Beach and the broader catchment area. The strategy identifies the site as suitable for the development of a commercial premises such as a Bunnings Warehouse.

The site is adjacent to the Tura Beach shopping centre, which comprises a range of medium-scale and small-scale commercial uses. It is considered that the development of a Bunnings Warehouse on the site will compliment the role of the Tura Beach shopping centre in catering to the service needs of the population within the catchment area in the strategy.

The planning proposal identifies the proposed Bunnings Warehouse will be designed to be smaller than usual Bunnings Warehouses. This demonstrates consistency with the design considerations in the strategy and ensures the bulk and scale of the development will respond to the character of the local area.

The planning proposal is considered to be consistent with the regional plan.

## **Local**

The Bega Valley Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017 is applicable to the planning proposal. The strategy replaces the Merimbula/Pambula/Tura Beach Local Centre chapter in Council's Commercial Centres Strategy 2006. The planning proposal states that it is consistent with the strategy.

The strategy identifies Tura Beach as part of a larger coastal settlement, including Merimbula and Pambula, and defines this catchment as a single market complementary to the Bega district. Noting that one-third of the LGA's population will reside in the Tura Beach/Merimbula/Pambula catchment by 2021, the strategy recognises a need to ensure a sufficient supply of commercial land is identified to service this population into the future.

The strategy states Bega's role as the LGA's strategic centre will not be challenged by new commercial development in the Tura Beach/Merimbula/Pambula catchment given the civic, health, education, financial and higher order retail services it provides.

The strategy identifies five sites across the catchment as suitable for large-scale bulky goods retail development such as a Bunnings Warehouse. The strategy concludes that the planning proposal site and a parcel of land adjoining the Tura Beach shopping centre are suitable for bulky goods retail development given they are situated on a major road connecting coastal settlements, are adjacent to the Tura Beach shopping centre, are suitably sized and are relatively free of constraints.

The assessment of the site in the commercial centres strategy identifies land-use conflicts with the adjoining seniors housing facility as the primary constraint to using the site for bulky goods retail development. However, the strategy notes that the amenity impacts of developing a facility such as a Bunnings Warehouse on the site could be mitigated by ensuring the development has regard to the design considerations included in the strategy.

It is considered that the planning proposal is consistent with the strategy and includes a concept design for a Bunnings Warehouse development on the site which has regard to the design considerations set out in the strategy for bulky goods retail developments within the Tura Beach/Merimbula/Pambula catchment.

Council resolved to forward the strategy to the Department for review in February 2018. In correspondence dated 15 May 2018, the Department advised Council that the strategy was considered to meet the requirements set out in the Department's advice (Attachment – DPE 15/5/2018 letter). The Department's letter, however, states that it does not constitute endorsement of any of the sites that underwent an assessment of suitability. The letter states that while the strategy provides a strategic framework for the consideration of planning proposals to facilitate commercial development within the Tura Beach/Merimbula/Pambula catchment, any future planning proposal will continue to be subject to a merit based assessment.

## **Section 9.1 Ministerial Directions**

### **1.1 Business and Industrial Zones**

This Direction applies to the planning proposal as it will affect land proposed to be zoned B5 Business Development. The planning proposal states that it is consistent with this Direction.

In accordance with the recommendations of this report, the Gateway determination will require that the planning proposal be revised prior to consultation to rezone the site to R5 Large Lot Residential, with hardware and building supplies and garden centres listed as additional permitted uses under schedule 1 of the Bega Valley LEP 2013. Accordingly, this Direction will no longer apply to the planning proposal.

## 1.2 Rural Zones

This Direction applies to the planning proposal as it will affect land zoned 1(c) (Rural Small Holdings zone) under the Bega Valley LEP 2002. The planning proposal states that it is justifiably inconsistent with this Direction.

The planning proposal states that although the site is zoned 1(c) (Rural Small Holdings zone), it is not used for agricultural purposes and is unlikely to be used for agricultural purposes given the surrounding area has transitioned to a residential area.

The planning proposal is inconsistent with this Direction; however, the inconsistency is considered minor. Council identified the site as suitable for commercial use in its Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017 and, although the strategy does not consider the agricultural production value of the land objectives of this Direction, it is clear that the land is not used for agricultural purposes and is unlikely to be used for agricultural purposes given the surrounding area has transitioned to a residential area.

The strategy has not been endorsed by the Department for the purpose of justifying inconsistencies with section 9.1 Ministerial Directions.

The rezoning of 4ha of rural land is considered to be minor in relation to the total area of rural-zoned land in the LGA. The rezoning of the site is also consistent with the panel's recommendations.

The Secretary's delegate can be satisfied that the inconsistency with this Direction is of minor significance.

## 1.5 Rural Lands

This Direction applies to the planning proposal as it will affect land zoned 1(c) (Rural Small Holdings zone) under the Bega Valley LEP 2002. The planning proposal states that it is justifiably inconsistent with this Direction.

The planning proposal states that although the site is zoned 1(c) (Rural Small Holdings zone), it is not used for agricultural purposes and is unlikely to be used for agricultural purposes given the surrounding area has transitioned to a residential area.

The planning proposal is considered to be consistent with this Direction as it is consistent with the Rural Planning Principles and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

Given the site is in an established residential area and is not used for agricultural purposes, it is considered that the development outcome proposed to be facilitated by the planning proposal will not result in planning outcomes that are inconsistent with the Rural Planning Principles and Rural Subdivision Principles.

If a Bunnings Warehouse is not developed on the site, the R5 zone proposed to be applied to the site as per the recommendations of this report is consistent with surrounding land uses.

The Secretary's delegate can be satisfied that the proposal is consistent with this Direction.

## 2.2 Coastal Protection

The planning proposal identifies this Direction as applicable; however, it does not apply to the planning proposal as the site is not within the coastal zone as defined under the *Coastal Management Act 2016* and as identified by State Environmental Planning Policy (Coastal Management) 2018.

## 3.1 Residential Zones

This Direction does not apply to the planning proposal as submitted. However, the Direction will apply should the planning proposal be revised to rezone the site to R5 Large Lot Residential, with hardware and building supplies and garden centres listed as additional permitted uses via schedule 1 of the Bega Valley LEP 2013.

Rezoning the site to R5 Large Lot Residential is considered to be consistent with this Direction. Although the site is unlikely to be developed for residential purposes, applying an R5 zone to the site would be consistent with the zoning of land along Sapphire Coast Drive.

The planning proposal states that the site has access to essential infrastructure to support any future development of the site, whether that be for commercial or residential purposes.

The Secretary's delegate can be satisfied that the proposal is consistent with this Direction.

## 3.4 Integrating Land Use and Transport

This Direction applies to the planning proposal as it seeks to create a zone relating to urban land. The planning proposal indicates that it is consistent with the objectives of this Direction.

The planning proposal is considered to be consistent with this Direction. The proposal seeks to provide new zones for urban purposes in the Tura Beach area and includes provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development and The Right Place for Business and Services.

The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

## 3.5 Development Near Licensed Aerodromes

This Direction applies to the planning proposal as it seeks to create a zone relating to land near a licensed aerodrome.

The planning proposal states that the site is affected by the obstacle limitation surface for Merimbula Airport. The planning proposal states that development of the site will be consistent with the applicable 10m building height control and the provisions of 'Clause 6.8 Airspace Operations' of the Bega Valley LEP 2013. Council is required to consult with the federal Department of Infrastructure, Regional Development and Cities (Aviation) in accordance with this Direction.

It is recommended that the Secretary's delegate include a condition in the Gateway determination requiring consultation to be undertaken with the federal Department of Infrastructure, Regional Development and Cities (Aviation) in accordance with this Direction.

#### 4.4 Planning for Bushfire Protection

This Direction applies to the planning proposal as it will affect land mapped as bushfire prone. The planning proposal states that it is consistent with this Direction.

It is considered that the consistency of the planning proposal with this Direction is unknown until Council has consulted with the NSW Rural Fire Service (RFS) and addressed any comments received on the planning proposal prior to public consultation.

It is recommended that the Secretary's delegate include a condition in the Gateway determination requiring consultation to be undertaken with RFS prior to public consultation in accordance with this Direction.

#### 5.10 Implementation of Regional Plans

This Direction applies to the planning proposal as it applies to land to which the South East and Tablelands Regional Plan 2036 applies. The planning proposal states that it is consistent with this Direction.

As detailed above, the planning proposal is considered to be consistent with Action 12.4 and the overall intent of the regional plan.

The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

#### 6.3 Site Specific Provisions

This Direction applies to the planning proposal as it seeks to facilitate a particular development to be carried out. The planning proposal states that it is consistent with this Direction.

The planning proposal as submitted is consistent with this Direction as it proposes to apply a land-use zone in which the proposed development outcome is permissible. However, the planning proposal will be inconsistent with this Direction in accordance with the recommendations of this report to rezone the site to R5 Large Lot Residential, with hardware and building supplies and garden centres listed as additional permitted uses via schedule 1 of the Bega Valley LEP 2013.

This inconsistency is considered minor as the recommendations of this report are consistent with the panel's recommendation detailed earlier in this report.

The Secretary's delegate can be satisfied that the inconsistency with this Direction is of minor significance.

#### **State environmental planning policies (SEPPs)**

The planning proposal states that it is consistent with the following SEPPs:

- SEPP No 44 – Koala Habitat Protection;
- SEPP No 55 – Remediation of Land;
- SEPP No 64 – Advertising and Signage;
- SEPP (Housing for Seniors and People with a Disability) 2004; and
- SEPP (Infrastructure) 2007.

Of these SEPPs, only SEPP No 55 – Remediation of Land and SEPP (Infrastructure) 2007 are considered relevant to the planning proposal. The planning proposal's consistency with these SEPPs is discussed below.

## SEPP No 55 – Remediation of Land

Given the land is recommended to be rezoned from a rural zone to R5 Large Lot Residential, it is recommended that the Gateway determination require that a preliminary investigation of the land be carried out in accordance with clause 6 of SEPP No 55. Although the planning proposal seeks to facilitate a commercial development on the site, applying an R5 zone means the site may be developed for residential purposes if a Bunnings Warehouse is not developed on the site

## SEPP (Infrastructure) 2007

Given the planning proposal seeks to facilitate a traffic-generating development on land with frontage to a classified road, it is considered that the Gateway determination should require consultation with Roads and Maritime Services (RMS).

Any future development application for the development of a Bunnings Warehouse on the site will be required to address the requirements of clauses 101 and 104 of the Infrastructure SEPP. However, it is recommended that consultation with RMS be undertaken as part of the Gateway process to identify any potential issues relating to traffic management and the impact of the proposal on the road network in advance of the development application process.

The planning proposal is also considered to be consistent with SEPP (Rural Lands) 2008, specifically the Rural Planning Principles.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The planning proposal acknowledges that the site adjoins land zoned for residential purposes, including land comprising a seniors living facility. Noting the proximity of this facility to the site boundary, the planning proposal states that emphasis will need to be placed on managing the impacts associated with the development of a Bunnings Warehouse on the site. The planning proposal states that these issues can be addressed during the development application process.

The planning proposal details how the proposed Bunnings Warehouse development will respond to the design considerations listed in Part F of the Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017. In accordance with the planning proposal, the proposed Bunnings Warehouse will be designed to be smaller than usual Bunnings Warehouses. This will ensure the development and associated car parking will be set back from adjoining land uses to allow the retention of mature vegetation along Sapphire Coast Drive and additional landscaping along the southern boundary of the site.

Council's commercial centres strategy is consistent with the panel's view that the site is suitable for the development of a bulky goods retail development such as a Bunnings Warehouse, subject to appropriate design measures.

Council's report notes that the concept plan submitted in support of the planning proposal demonstrates a commitment from the proponent to meet the design criteria to achieve a better design outcome.

It is considered that the range of permissible land uses in the B5 Business Development zone makes this zone incompatible with the surrounding land uses. Rezoning the site to R5 Large Lot Residential is consistent with the zoning of other land along Sapphire Coast Drive and, if the site is not developed for a Bunnings

Warehouse, will ensure future land uses are compatible with the character of the surrounding area.

### Environmental

As indicated in Figure 3, the site is identified on the bushfire-prone land map for the Bega Valley LGA. The site is mostly identified as vegetation buffer on the map, with a patch of category 1 vegetation identified on the western portion of the site.

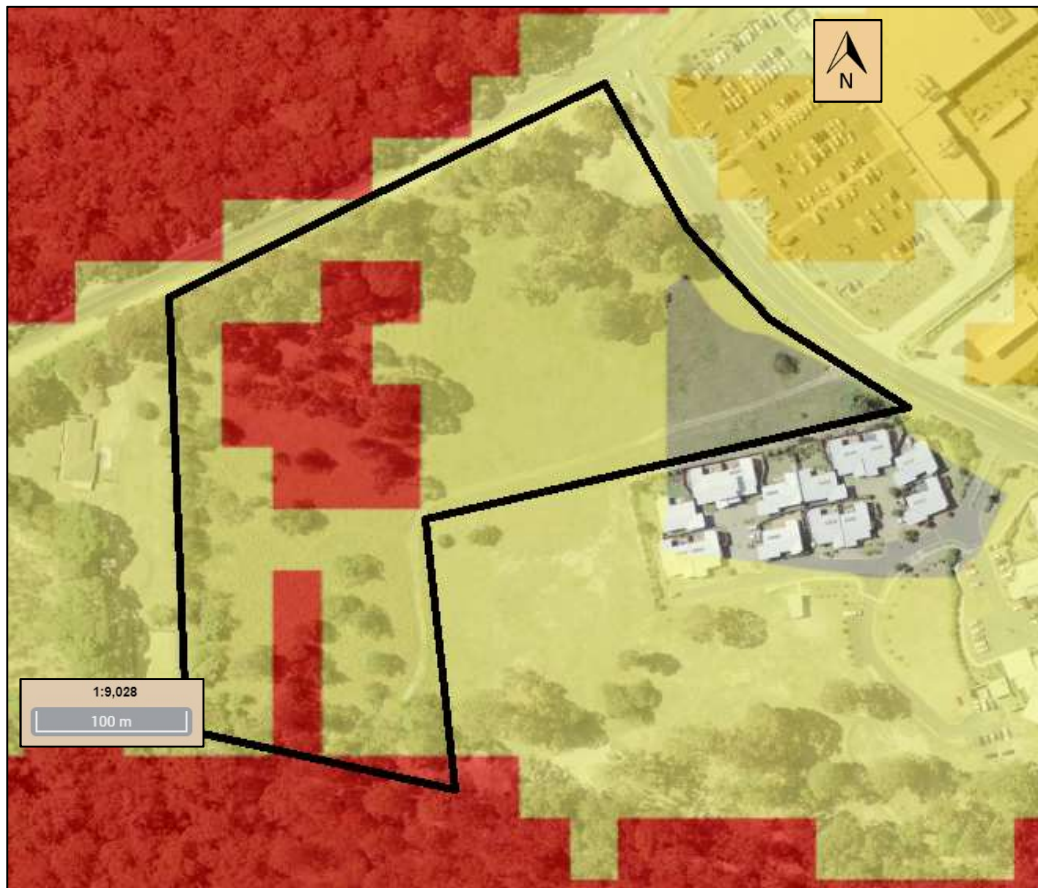


Figure 3: Bushfire-prone land map (source: NSW Planning Portal).

Although the subject land is primarily mapped within the buffer areas surrounding category 1 vegetation, consultation with RFS is recommended as the site adjoins heavily vegetated areas identified as bushfire prone.

In addition, the site is wholly identified on the Bega Valley LEP 2013 terrestrial biodiversity map BIO\_020 (Figure 4, next page). Although the planning proposal indicates the site does not have significant biodiversity values, given there are areas of heavily vegetated land adjoining the site, consultation with the Office of Environment and Heritage (OEH) is recommended to determine the extent of any environmental impacts associated with the proposal.

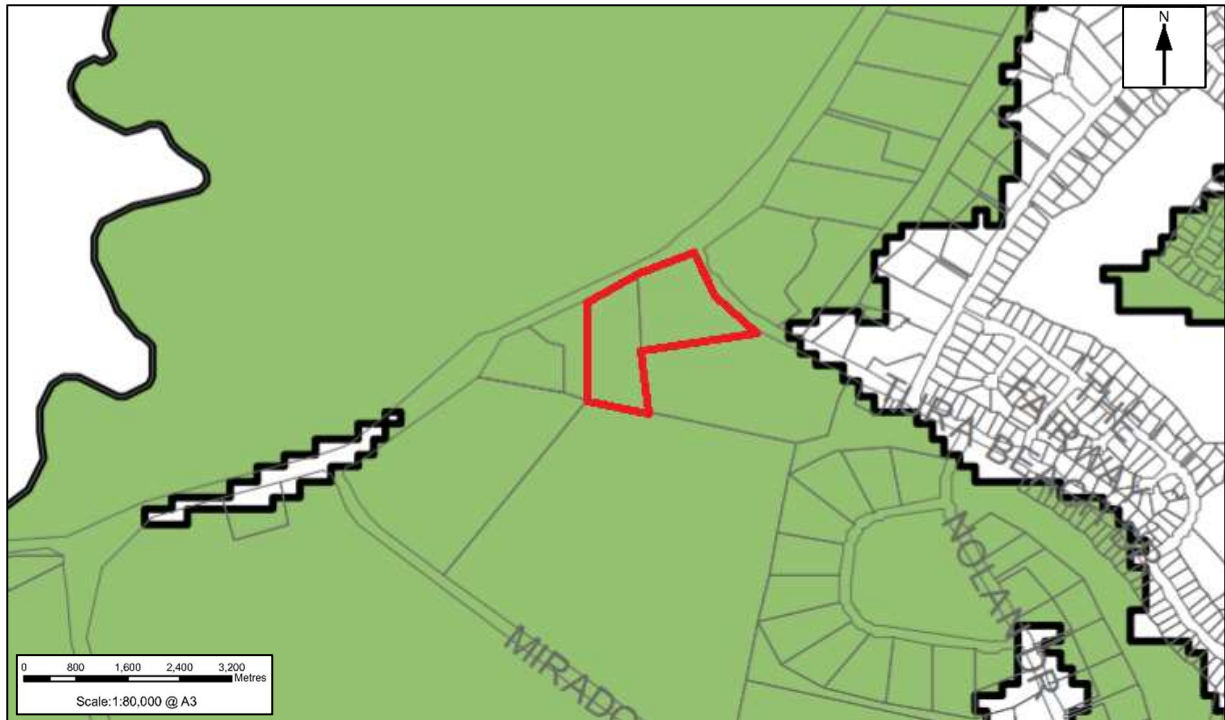


Figure 4: Terrestrial biodiversity map (source: Bega Valley LEP 2013).

The southern portion of Lot 33 is identified as a watercourse on the Bega Valley LEP 2013 riparian lands and watercourses map WCL\_020 (Figure 5). Aerial photographs of the site indicate that this is unlikely to be a major watercourse. This portion of the site is not proposed to be developed in accordance with the concept plan submitted in support of the planning proposal. Nonetheless, consultation with OEH is recommended to determine the extent of any environmental impacts associated with the proposal.

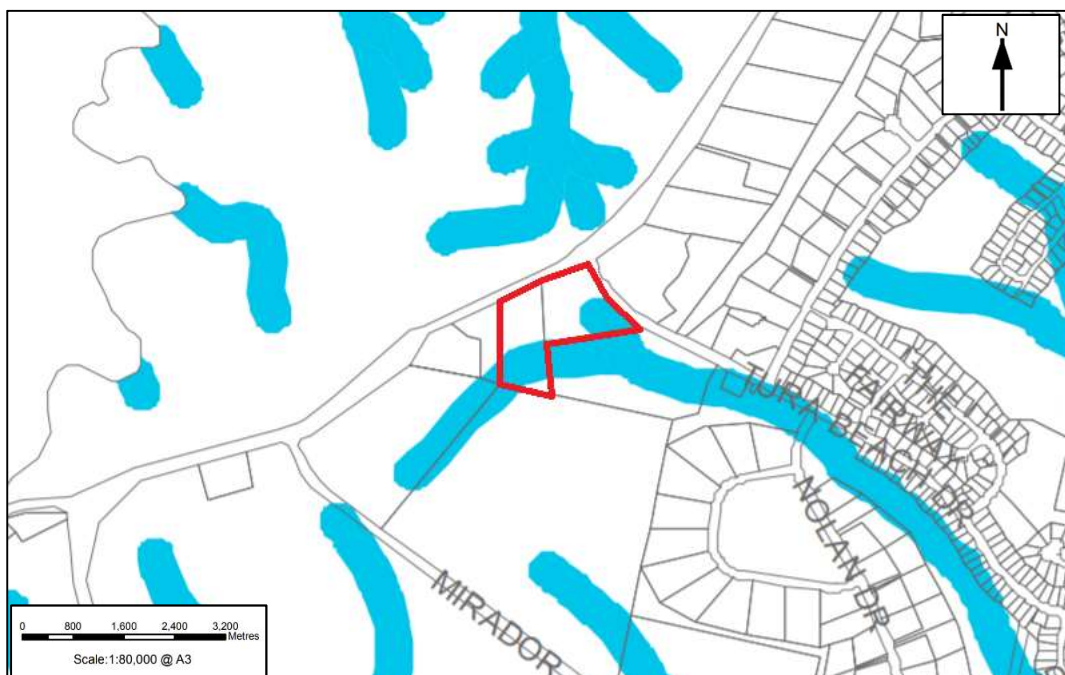


Figure 5: Riparian lands and watercourses map (source: Bega Valley LEP 2013).

## **Economic**

The planning proposal is supported by Council's Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017, which identifies the site as suitable for developments such as a Bunnings Warehouse and states that this development will not affect the role and function of centres in the LGA.

The strategy identifies the increasing demand for facilities such as a Bunnings Warehouse in the Tura Beach/Merimbula/Pambula catchment. The planning proposal notes that only smaller hardware stores are within the Bega Valley LGA, with the nearest Bunnings Warehouse stores in Batemans Bay, Canberra and Bairnsdale (Victoria).

In addition, the estimated 70 jobs generated by the development of a Bunnings Warehouse on the site is likely to benefit the local community.

The planning proposal notes that the site has access to essential infrastructure.

## **CONSULTATION**

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### **Community**

The planning proposal suggests that a 21-day community consultation period is sufficient given the proposal is consistent with the recommendations of the Commercial Centres Strategy – Review of the Merimbula, Pambula, Tura Beach Catchment 2017, which was also subject to community consultation.

It is recommended that the Gateway determination require the planning proposal to be made publicly available for 28 days.

### **Agencies**

The planning proposal recommends the proposal be referred to the following public authorities for comment:

- Office of Environment and Heritage;
- Roads and Maritime Services;
- NSW Rural Fire Service; and
- federal Department of Infrastructure, Regional Development and Cities (Aviation).

Given the attributes of the site, consultation with these public authorities is considered appropriate.

It is recommended that the Gateway determination require these public authorities to be consulted on the planning proposal.

## **TIME FRAME**

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The indicative project timeline included in the planning proposal suggests the LEP may be completed within six months of the date a Gateway determination is issued.

It is recommended that the Gateway determination require the planning proposal be finalised within 12 months of the date the Gateway determination is issued. This is considered appropriate as it is likely to account for any unanticipated delays.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979*. It is recommended that Council's request to be the local plan making authority is granted as the planning proposal seeks to facilitate a local development outcome that is supported by Council, the wider community and is consistent with the Panel's recommendations. The recommended changes to the planning proposal do not change the stated outcomes of the proposal.

## **CONCLUSION**

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The planning proposal is supported to proceed subject to conditions requiring consultation and amendments to ensure consistency with the panel's recommendation.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 6.3 Site Specific Provisions are minor.
2. Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service;
  - Office of Environment and Heritage;
  - Roads and Maritime Services;
  - federal Department of Infrastructure, Regional Development and Cities (Aviation).
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. The planning proposal should be revised prior to community consultation to:
  - rezone the site to R5 Large Lot Residential and include hardware and building supplies and garden centres as additional permitted uses under schedule 1 of the Bega Valley LEP 2013 over a portion of the site only (to ensure mandated setback and transition to use adjoining aged care facility);
  - apply an FSR control to the site, which is in accordance with the concept plan for development of the site; and
  - include draft land application, land zoning, lot size and FSR maps.

6. A Stage 1 Preliminary Investigation Report is required to be prepared for the site in accordance with SEPP No 55 – Remediation of Land.



17/12/2018

**George Curtis**  
**Acting Team Leader,**  
**Southern Region**



17/12/2018

**Luke Musgrave**  
**Acting Director Regions,**  
**Southern**  
**Planning Services**

Contact Officer: Will Mayes  
Planning Officer, Southern Region  
Phone: 8275 1050