

GATEWAY REVIEW	2016STH029 – Bega Valley – PP_2016_BEGAV_001_00 – Lot 33 and Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach (AS DESCRIBED IN SCHEDULE 1)
DATE OF ADVICE	Friday, 3 February 2017
PANEL MEMBERS	Pam Allan (Chair), Alison McCabe, Renata Brooks, Cr Jo Dodds, Cr Robyn Bain
APOLOGIES	None
DECLARATIONS OF INTEREST	None

REASON FOR REVIEW	☒	the planning proposal should not proceed
	☐	the planning proposal should be resubmitted to the Gateway
	☐	has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered

PANEL CONSIDERATION AND RECOMMENDATION

The Panel considered: the material listed at item 4 in Schedule 1 and the matters raised and discussed at meetings and site inspections identified at item 5 in Schedule 1, including the views and positions of the proponent, Council and the Department of Planning and Environment.

Based on this review, the Panel recommends that:

JRPP RECOMMENDATION	☐	the planning proposal should proceed past Gateway in accordance with the original submission
	☒	the planning proposal should not proceed past Gateway
Composition of Recommendation	☒	Unanimous
	☐	Not unanimous

ADVICE AND REASONS FOR THE RECOMMENDATION

1. Overview

The Panel considered this matter over three (3) days from 1 February to 3 February 2017. The Panel has reviewed:

- The planning proposal documents and accompanying reports.
- The council report.
- The department's report.

The Panel inspected the site and surrounding lands, including a drive through Tura Beach and Merimbula.

The Panel also had the benefit of presentations from:

- Kristy McBain, Mayor, Bega Valley Shire Council.
- Deanne Frankel and Meredith McIntyre, Department of Planning and Environment.

- Phillip Drew, Ellen Robertshaw, and Sean Stephens on behalf of the proponent.

The following additional information was requested by the Panel and provided by the Council, the Department and the proponent:

- Draft South East and Tablelands Regional Plan.
- Bega Valley Retail Analysis Final Report January 2017, Bega Valley Shire Council.
- Review of Bega Valley Draft LEP Amendment No.4 Prepared for NSW Department of Planning February 2008.
- Economic Development Strategy, Bega Valley Shire Council Adopted August 2015.
- Submission from BBC consulting planners on behalf of the adjoining owner, RSL Life.
- Development Application plans for the extension of the RSL Life aged care facility.
- Economic Impact Assessment prepared by Essential Economics on behalf of the proponent dated February 2016.
- Review of Gateway Determination Document, inclusive of appendices 1, 2, 3 & 4, prepared by DFP planning consultants dated September 2016.
- Council's earlier report on this matter dated 20 February 2014.
- Bega Local Environmental Plan 2013 and associated maps.

The panel had the opportunity to understand the additional information provided by the proponent in response to Council and the Department of Planning and Environment determination.

2. Background to the Proposal

The subject site is legally described as Lot 33 and Lot 34 DP 243029 and the site has a total area of 4.0517ha. The site is located on the southern corner of the intersection of Sapphire Coast Drive and Tura Beach Drive. The site has a frontage of approximately 200m to Sapphire Coast Drive and a frontage of 188m to Tura Beach Drive.

The site is vacant with no built improvements. Vegetation across both allotments comprises groups of trees and ground covers, mainly bracken fern.

The site slopes down from Sapphire Coast Drive in a south easterly direction towards Tura Beach Drive.

The subject site is a deferred matter from the Bega Valley LEP 2013 (BV LEP 2013). It is zoned 1(c) small rural holdings under the BVLEP 2002. However the site has a height limit of 10 metres and a FSR of 0.5:1 under BV LEP 2013 though clause 1.3 would indicate that these provisions do not strictly apply.

The current zoning would not permit bulky goods or other retailing uses.

Lands adjoining the southern boundary are zoned R2, Low Density Residential under the BV LEP 2013 and support the RSL Life retirement and aged care development. This site benefits from a height limit of 10 metres and a floor space ratio of 0.5:1.

To the south west is heavily vegetated land zoned E2 Environmental Conservation.

Lands abutting the western boundary of the subject site are zoned R5, Large Lot Residential under the BV LEP 2013.

Lands on the opposite side of Sapphire Coast Drive are also zoned E2 Environmental Conservation. The lands to the east that have frontage to Sapphire Coast Drive and Tura Beach Drive down to Golf Circuit are zoned B1 Neighbourhood Centre under the BV LEP 2013. These lands have a height control of 10 metres and specific provision at clause 6.10 that restricts the area of retail floor space to 5,000m². These lands currently support a Woolworths retail centre, service station, small format Harvey Norman homewares store, Council library and other small retail outlets.

The Panel understands the imposition of the retail floor area restriction arose out of a consideration of a Planning Proposal and was recommended by Hill PDA in its Review of Bega Valley Draft LEP Amendment No. 4 in February 2008, with the recommended provisions being reflected in clause 6.10.

Lands to the north of the site with frontage to the east side of Sapphire Coast Drive are zoned R5, Large Lot Residential. It is noted that this zone, in addition to permitting dwelling houses, permits with approval landscape material supplies and plant nurseries. A nursery is located within the R5 zone to the north of the B1 zone.

Council has previously considered the issue of zoning for this site on at least two (2) separate occasions.

As part of the preparation and exhibition of the BV LEP 2013 the subject site was proposed to be zoned R2 Low Density Residential (Lot 33) and R5 Large Lot Residential (Lot 34). During the exhibition period of that draft LEP the landowner requested that the land be rezoned to R3 Medium Density Zone. Council identified the land as a deferred matter under BVLEP 2013 with the intention of re-exhibiting a plan to rezone the land as R3 Medium Density Residential as requested by the landowner.

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

The landowner then requested that Council rezone the site to Zone B5 Business Development to accommodate a bulky goods/hardware development. At the time, Council officers report did not recommend the proposal, however Council eventually supported a Gateway Proposal which was not supported by the Department. The Department recommended that the Council should review its strategic planning process for commercial uses, the Bega Valley centre hierarchy and existing land for retail and bulky goods development before pursuing a business zone for the subject land.

In April 2016 Council lodged a new planning proposal for the subject land to rezone it to Zone B5 Business Development for Gateway Determination. This was not supported by the Department.

A review of the Gateway Determination was requested and the Department under delegation from the Minister referred the matter to the Panel for review in a letter dated 1 November 2016

3. Strategic Merit Assessment

Council's commercial strategy was adopted on 12 December 2006. It designates Bega as the regional centre with the preference for bulky good retailing to be located within zoned areas.

The draft South East and Tablelands Regional Plan is currently on exhibition. It includes direction 4.3 Strengthen the commercial function of the region's centres, which seek to concentrate retailing, commercial, business and government functions in one place which makes it more viable for public investment in transport and in the public domain. Under the draft plan, Bega is identified as the Regional Centre. The plan requires Council to determine their own centre hierarchies that will set out the centres, towns and villages that service the local community.

In summary, the DPE report argues that rezoning the site to Zone B5 Business Development:

- Is inconsistent with the strategic frameworks which established a regional centre hierarchy including protecting the character of Tura Beach and retaining Bega as the major regional centre as articulated in:
 - The restriction on retail development at Tura Beach.
 - The 2006 commercial strategy.
 - The South Coast Regional Strategy.

-The Hill PDA report 2008.

- Likely to create land use conflict with the existing residential zoning and seniors living development.
- Furthermore the proponents have also not fully investigated opportunities on other lands in the shire which (like this site) had other zonings but were otherwise consistent with strategic frameworks.

The Panel acknowledges that the driver of the current proposal for rezoning is the proposed development of a Bunnings store on the site. However the Panel's role is to consider the proposed zoning change on its merits as a strategic change which will potentially also allow other development opportunities on this site. It is understood that the B5 Business Development Zone would permit a range of uses including bulky goods, highway service station and light industries. The objectives of Zone B5 Business Development from the BV 2013 LEP are:

- To enable a mix of business and warehouse uses and bulky goods premises that require a large floor area in locations that are close to, and that support the viability of, centres.
- To cater specifically for uses that require a high degree of visibility and accessibility to passing traffic and generate a high proportion of single purpose vehicle trips.
- To enable the establishment of an aquaculture, agricultural produce and tourist precinct at Arthur Kaine Drive, Merimbula.

The zoning of this site needs to be considered in the broader context of the centres within the Bega Valley Shire. Bega is the higher order centre with Merimbula and Eden as the next two (2) largest centres. Tura Beach is about 5 km along Sapphire Coast Drive from Merimbula. A strategic decision has been taken to cap the commercial/retail offering at Tura Beach, which primarily functions as a local centre serving the day to day needs of the immediate community.

A change to Zone B5 Business Development would increase the range and quantity of retail offerings and other uses permitted and should not be undertaken in isolation. Rather, it should be considered in the context of a broader strategic strategy which establishes the future hierarchy of centres in the Bega Valley Shire and the need for employment lands.

The Panel agrees that consideration of a change to a Zone B5 Business Development is not appropriate in isolation from a broader strategic review.

However, the Panel is of the view that the location of the site does lend itself to a range of other uses beyond what is currently permitted.

It is also accepted that there is unmet demand for a hardware supplier business of this format in the area and that the proposal has the potential to increase employment and training opportunities which is a key objective of the Council's Economic Development Strategy.

The proponent provided evidence that they had explored over 10 years alternate locations on appropriately zoned and (to a more limited extent) land zoned for other uses. It is acknowledged that there are existing sites with a B5 Business Development zoning in Merimbula (along Arthur Kaine Drive) and with industrial zoning in and around Bega which would provide potential sites. These have been considered by the proponent and dismissed for a range of reasons. The Panel has formed the view that the regional catchment of a Bunnings or other similar format hardware supply business, and the nature of the use on its own would not necessarily undermine the regional hierarchy of centres, provided it can be differentiated from a broader opportunity for bulky goods retailing.

While the proposed development would ideally be better suited to Bega or Merimbula on suitably zoned lands, suitable land in these areas has not been found.

It is the Panel's view that with appropriate limits on use and appropriate measures to mitigate potential impact on neighbouring land uses, a Bunnings store could be accommodated on this site, without significant detrimental impacts on the hierarchy of centres.

In forming this view, the Panel noted that:

- The site is well located on the edge of an existing centre adjoining commercial zoned and in close proximity to Merimbula.
- The site is currently unused and not returning benefits to the community.
- The site does not appear to have significant environmental values prompting consideration of an environmental zoning.
- Other residential zoning (R5) further along Sapphire Coast Drive already accommodates a nursery and other commercial uses which would not be incompatible with development of a single small format hardware store with appropriate controls.

4. Site Specific Considerations

The site is located on a well trafficked coastal link road between Merimbula, Tathra and Bega. It is adjacent to a neighbourhood business zone.

The site is relatively level and cleared of significant vegetation. It has a significant frontage to two (2) roads to provide adequate means of access. While it adjoins an existing aged care facility, the Panel is of the view that the site is of a sufficient size to be able to accommodate a single development along with a transition to the Low Density R2 residential zoned lands on the site, and provide for mechanisms to mitigate potential impacts, such as buffer zones.

The site is considered suitable for use, but only if appropriate constraints are applied as follow:

- Building heights should be no greater than what is permitted on adjoining land.
- There should be limits on total floor area.
- Buildings and ancillary structures including car parks should be sited so that there are significant setbacks to accommodate landscape and acoustic screens.
- Access arrangements should be located so as to minimise impact on adjoining residential development.

These controls could be provided for by amendments to the LEP and DCP.

It is the Panel's view that:

- The site could accommodate an additional use for a hardware and building supply over a portion of the site as a Schedule 1 use – this would assist in limiting the proximity of the use to the R2 Low Density Residential, and provide a transition.
- The underlying zone should be changed to R5 Large Lot Residential – similar to the zoning of lands along the eastern side of Sapphire Coast Drive as a holding zone until such time as Council completes its strategic work to determine whether or not the site should support a greater range of uses.

The Panel's view is subject to:

- Inclusion of controls such as Floor Space Ratio (FSR) and height in the LEP to ensure appropriate scale relationships and mitigation of impact.
- Preparation of DCP controls that address setback, landscape and siting requirements, land levels, acoustic requirements, lighting/light spill and hours of operation.

The Panel is of the view that there is economic and strategic benefit in allowing the use of the site for a Bunnings facility, given the site is considered suitable for this use.

This use is not dissimilar to other uses such as landscape material supplies and plant nurseries that are permitted in the R5 Large Lot Residential zoning just north of the site.

This suggests that an R5 large lot is an appropriate interim zone with an additional use to accommodate a Bunnings style development until such time as Council finalises its strategic framework.

This would allow the merits of such a use to be tested through a new or amended planning proposal pathway.

The Panel is not satisfied that a broader zoning should be considered until the strategic framework has been updated.

In forming this view the Panel has had regard to:

- The potential market and economic development opportunity given expected increase in overall purchasing in this segment.
- The potential employment opportunity.
- The search undertaken by the proponent for alternative sites.
- The minimal impact that the land use as a one off initiative would have on Bega as a regional centre, and the scope to mitigate any impacts.

5. Conclusion and Recommendations

The Panel recommends that:

- The planning proposal to rezone the lands at Lot 33 and Lot 34 DP 243029 to Zone B5 Business Development not proceed.
- 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.
 - 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 Council finalises 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.

PANEL MEMBERS	
 Pam Allan (Chair)	 Alison McCabe
 Renata Brooks	 Cr Robyn Bain
 Cr Jo Dodds	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2016STH029 – Bega Valley – PP_2016_BEGAV_001_00 – Lot 33 and Lot 34 DP 243029 Sapphire Coast Drive, Tura Beach
2	LEP TO BE AMENDED	Bega Valley Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The proposal seeks to rezone rural residential land at Tura Beach to a Zone B5 Business Development for the purposes of a small-format Bunnings Warehouse
4	MATERIAL CONSIDERED BY THE PANEL	• Gateway review request documentation • Department Justification Assessment Report • Additional information identified in the report
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection: 1 February 2017 • Briefing meeting(s): 2 February 2017 • Briefing with Department of Planning and Environment (Regional Team): 11:15am – 12:30pm • Briefing meeting with Council: 9:30-10:45am • Briefing meeting with Proponent: 1:30 – 2:45pm • Attendance: ○ Panel members: Pam Allan (Chair), Alison McCabe, Renata Brooks, Cr Jo Dodds, Cr Robyn Bain ○ Proponent: Philip Drew, Ellen Robertshaw, Sean Stephens ○ Council: Mrs Kristy McBain ○ Department of Planning and Environment: Deanne Frankel, Meredith McIntyre