



Contact: Ann Martin
Phone: (02) 4224 9450
Fax: (02) 4224 9470
Email: Ann.Martin@planning.nsw.gov.au
Postal: PO Box 5475, Wollongong NSW 2520

Our ref: PP_2013_BEGAV_002_00 (13/13741)

Mr Peter Tegart
General Manager
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Dear Mr Tegart,

Planning proposal to amend Bega Valley Local Environmental Plan 2013

I am writing in response to your Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to zone deferred lands at Bermagui-Cobargo Road, Coolagolite to E4 Environmental Living; land at Green Point Road, Millingandi to E2 Environmental Conservation and E3 Environmental Management; land at Nutley's Creek Road, Bermagui to zone E3; land at Ivor Jones Drive, Wonboyn to zones E2 and E3; land at Bega Street, Tathra to zones E2, E3 and R2 Low Density Residential and land at Princess Highway, Millingandi to zones E2 and E3 and amend applicable minimum lot size standards for the subject lands.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 2.1 Environment Protection Zones are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Ann Martin of the regional office of the department on 02 4224 9450.

Yours sincerely,



26/07/2013

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery

Encl:
Gateway determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated plan making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2013_BEGAV_002_00): to zone and introduce development standards for land deferred from Bega Valley LEP 2013.

I, the Acting Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Bega Valley Local Environmental Plan (LEP) 2013 to zone deferred lands at Bermagui-Cobargo Road, Coolagolite to E4 Environmental Living; land at Green Point Road, Millingandi to E2 Environmental Conservation and E3 Environmental Management; land at Nutley's Creek Road, Bermagui to zone E3; land at Ivor Jones Drive, Wonboyn to zones E2 and E3; land at Bega Street, Tathra to zones E2, E3 and R2 Low Density Residential and land at Princess Highway, Millingandi to zones E2 and E3 and amend applicable minimum lot size standards for the subject lands should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to justify why a reduced minimum lot size is only being considered for land at Green Point Road, Millingandi, given adjoining areas that are less constrained have a current minimum lot size of 5ha. Additionally, the planning proposal is to justify why land at Ivor Jones Drive, Wonboyn is considered in isolation, given adjoining land to the south has similar attributes.
2. Prior to undertaking public exhibition, Council is to ensure the planning proposal includes sufficient additional information on acid sulfate soils and if required, Council is to prepare an acid sulfate soils study to adequately demonstrate consistency or justify any inconsistency with S117 Direction 4.1 Acid Sulfate Soils. A copy of the acid sulfate soils study is to be forwarded to the regional office of the department, prior to Council undertaking public exhibition.
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land in relation to land at Bermagui-Cobargo Road, Coolagolite. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage
 - Southern Rivers Catchment Management Authority
 - NSW Trade and Investment - Crown Lands
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)



Planning & Infrastructure

- Department of Primary Industries - Fishing and Aquaculture (S117 Direction 1.4 Oyster Aquaculture)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 26th day of SEPTEMBER 2013.

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning & Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Bega Valley Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_BEGAV_002_00	Planning proposal to zone deferred lands at Bermagui-Cobargo Road, Coolagolite to E4 Environmental Living; land at Green Point Road, Millingandi to E2 Environmental Conservation and E3 Environmental Management; land at Nutley's Creek Road, Bermagui to zone E3; land at Ivor Jones Drive, Wonboyn to zones E2 and E3; land at Bega Street, Tathra to zones E2, E3 and R2 Low Density Residential and land at Princess Highway, Millingandi to zones E2 and E3 and amend applicable minimum lot size standards for the subject lands.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 26/02/ 2013

Neil Selmon
Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_BEGAV_002_00
Date Sent to Department under s56	August 2013
Date considered at LEP Review Panel	19/09/2013
Gateway determination date	26/09/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: