

Ms Leanne Barnes
General Manager
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Our ref: PP_2017_BEGAV_003_00 (16/15766)

Dear Ms Barnes

Planning Proposal (PP_2017_BEGAV_003_00) to amend Bega Valley Local Environmental Plan 2013

I am writing in response to Council's request for a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the Planning Proposal to rezone deferred land at Millingandi, Tura Beach and Boydtown.

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

I have included a condition that the Planning Proposal be updated to propose zones and associated development controls based on the ecological significance of the land and its primary use.

The Planning Proposal will need to confirm what criteria has been used for applying an environmental zone and should be determined in consultation with the Office of Environment and Heritage and the Department of Planning and Environment. The Department's *Northern Councils E Zone Review: Final Recommendations Report* provides an approach for applying environmental zones and associated development standards and could be used as a guide for this Planning Proposal.

The amended Planning Proposal and any supporting maps and studies will need to be referred to the Department for endorsement prior to the commencement of community consultation.

I have agreed, as delegate of the Secretary, the Planning Proposal's inconsistency with section 117 Direction 4.1 Acid Sulphate Soils is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 117 Directions 1.2 Rural Zones, 1.5 Rural Land, 2.1 Environmental Protection Zones, 4.4 Planning for Bushfire Protection and 5.1 Implementing Regional Strategies. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to Councils by the Minister 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 not issue an authorisation for Council to exercise delegation to make this plan. This is due to the requirement to update the proposal to demonstrate the suitability of any proposed environmental or rural zones and associated development standards.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the date of the Gateway determination. Council should aim to commence the exhibition of the Planning Proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

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. To meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the timeframes outlined in this determination are not met.

Should you have any queries in relation to this matter, I have arranged for Ms Meredith McIntyre of the Department's Southern Region office to assist you. Meredith can be contacted on 6229 7912.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment

31/08/2017
Encl:
Gateway Determination

Gateway Determination

Planning Proposal (Department Ref: PP_2017_BEGAV_003_00): to include, zone and apply minimum lot size standards to land at Millingandi, Tura Beach and Boydtown.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Bega Valley Local Environmental Plan (LEP) 2013 to include, zone and apply minimum lot size standards to land at Millingandi, Tura Beach and Boydtown should proceed subject to the following conditions:

1. Prior to undertaking community consultation Council, is to:
 - update the Planning Proposal to apply environmental and rural zones and associated development standards to land based on its ecological significance and primary use;
 - confirm what criteria has been used for applying an environmental zone, such as the presence of native vegetation communities, and confirm how the presence of these ecological attributes have been verified;
 - consult with the Office of Environment and Heritage and the Department of Planning and Environment regarding the proposed zones and development standards.

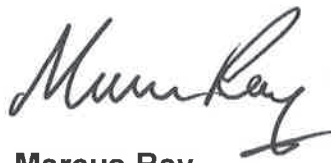
The amended Planning Proposal and any supporting maps and studies are to be referred to the Department for endorsement prior to the commencement of community consultation.

2. Community consultation is required under Sections 56(2)(c) and 57 of the Act as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of **28 days**;
 - (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 local environmental plans* (Department of Planning and Environment 2016); and
 - (c) written notice of the public exhibition of the Planning Proposal is to be sent to all land owners whose land is the subject of this Planning Proposal.
3. Consultation is required with the following public authorities and / or organisations under Section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:
 - Office of Environment and Heritage;
 - Department of Primary Industries; and
 - NSW Rural Fire Service.

Each public authority/organisation 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.

4. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the 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).
5. The timeframe for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 31st day of August 2017



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning