

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

Dear Ms Barnes

**Planning proposal PP_2018_BEGAV_006_00 to amend Bega Valley Local
Environmental Plan 2013**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the 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.

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

In accordance with the Gateway determination, I have determined that the planning proposal should be revised prior to public exhibition and agency consultation to apply an R5 Large Lot Residential zone to the site, with hardware and building supplies and garden centres listed as additional permitted uses via schedule 1 of the Bega Valley LEP 2013. This is consistent with the Southern Joint Regional Planning Panel's recommendation in relation to the appropriate mechanism to facilitate the development of the site for the proposed use.

It is considered that this approach is the best means of achieving the intended outcome of the planning proposal to facilitate the development of a Bunnings Warehouse on the site. The amendments to the planning proposal required by the Gateway determination will mitigate the potential impacts on adjoining residential land uses should the proposed development not proceed and enable the site to be developed in a manner consistent with Council's Commercial Centres Strategy – Review of Merimbula, Pambula and Tura Beach Catchment 2017.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 1.2 Rural Zones and 6.3 Site Specific Provisions are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 9.1 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to public exhibition.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending LEP is to be finalised within 12 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department.

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Mr Will Mayes to assist you. Mr Mayes can be contacted on 8275 1050.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

20/12/2018
Encl: Gateway determination

Authorised plan-making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2018_BEGAV_006_00): 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.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Bega Valley Local Environmental Plan (LEP) 2013 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 should proceed subject to the following conditions:

1. The planning proposal is to 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 a floor space ratio control to the site in accordance with the concept plan for development of the site; and
 - include draft land application, land zoning, lot size and floor space ratio maps.
2. Prepare a Stage 1 Preliminary Investigation Report for the site in accordance with State Environmental Planning Policy No 55 – Remediation of Land.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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).
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service;
 - Office of Environment and Heritage;
 - Roads and Maritime Services; and

- federal Department of Infrastructure, Regional Development and Cities (Aviation).

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. Consultation with the Rural Fire Service should occur prior to public exhibition.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).
6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 20th day of December 2018.



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning