

Mr G Kennett
General Manager
Kyogle Shire Council
PO Box 11
KYOGLE NSW 2474

Our ref: PP_2017_KYOGL_004_00 (16/16169)

Dear Mr Kennett

Planning proposal to amend Kyogle Local Environmental Plan (LEP) 2012

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 (the Act) in respect of the planning proposal to integrate and rezone all deferred land into Kyogle LEP 2012, apply associated development standards and consolidate rural lands into the RU1 Primary Production Zone.

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.

As you are aware the application of rural zones in accordance with the E Zone Final Recommendations Report is a temporary measure until such time as investigations are completed to identify appropriate E Zones or additional mapped planning controls. As such, in accordance with section 59(4) of the EP&A Act, Council is required to prepare and submit a Planning Proposal which seeks to apply E Zones and / or additional mapped planning controls in accordance with the Final Recommendations Report. The Planning Proposal is to be submitted within 12 months of this LEP being finalised.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 2.3 Heritage Conservation, 4.3 Flood Prone Land, 5.10 Implementation of Regional Plans, and 6.2 Reserving Land for Public Purposes are justified in accordance with the terms of the directions. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the creation of land for public purposes on the basis that it reflects the existing public recreation use of the Kyogle showground and sportsfields. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.4 Planning for Bush Fire Protection. Council should ensure this occurs prior to the plan being made.

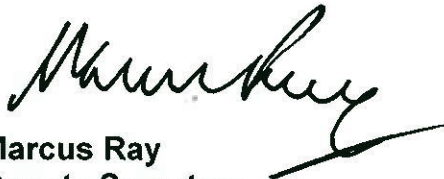
Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has accepted this delegation. Consistent with the Secretary's letter of 1 March 2016 planning matters which relate to the implementation of the *Northern Councils E Zone Review Final Recommendations* (the 'Final Recommendations') will remain with the Department. I have therefore decided not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 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 for the Department of Planning and Environment to draft and finalise the LEP should be made 6 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. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Paul Garnett of the Department's Northern Region office to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

07/06/2017

Encl:
Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2017_KYOGL_004_00): to integrate and rezone all deferred land into Kyogle LEP 2012 and apply associated development standards.

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 Kyogle Local Environmental Plan (LEP) 2012 to integrate and rezone all deferred land into Kyogle LEP 2012 and apply associated development standards should proceed subject to the following conditions:

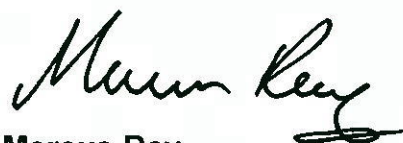
1. Prior to community consultation the planning proposal is to be amended as follows:
 - (a) the existing RU2 Rural Landscape Zone is to be retained, including all lands currently zoned RU2 Rural Landscape;
 - (b) all deferred lands are to be zoned RU2 Rural Landscape unless identified as State or regionally significant farmland by the Department's 'Northern Rivers Farmland Protection Project 2005';
 - (c) table 1 in Part 2 Explanation of Provisions is to be amended to:
 - i. include the Flood Planning Map in the list of map amendments;
 - ii. remove the proposed amendments to clause 4.6 of the Standard Instrument Principal LEP;
 - (d) discussion on Section 117 Direction 5.10 Implementation of Regional Plans is to be included in Table 3 of the planning proposal.
 - (e) discussion on Direction 5.1 Implementation of Regional Strategies is to be omitted as the Far North Coast Regional Strategy no longer applies;
 - (f) the Project Timeline in Part 6 of the Planning Proposal is to be updated; and
 - (g) part 4 of the planning proposal is to be amended to include maps that show an extract of Land Zoning Map - Sheet LZN_004CA depicting the existing deferred areas in the Kyogle town area and the location of the proposed R1 General Residential and RE1 Public Recreation zones and development standards that will be applied to this land.
2. Once amended in accordance with condition 1, the planning proposal is to be forwarded to the Department for approval under section 57(2) of the *Environmental Planning and Assessment Act 1979*, prior to community consultation.

3. 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**; 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 Local Environmental Plans* (Department of Planning and Environment 2016).
4. Consultation is required with the following public authorities and organisations under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
- NSW Rural Fire Service;
 - NSW Office of Environment and Heritage;
 - NSW Department of Primary Industries - Agriculture;
 - NSW Department of Industries - Lands;
 - The NSW Aboriginal Land Council; and
 - Relevant Native Title Claimants/holders.

Each public authority and 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.

5. 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).
6. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Dated 7th day of June 2017



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning