

Office of the Director-General

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Our ref: PP_2012_BEGAV_002_00 (10/11132)

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

Dear Mr Tegart,

Planning Proposal to rezone land at Camilla Court, Mirador from 6(a) Existing Open Space to Residential 2(a) zone under the Bega LEP 2002 and R2 Low Density Residential under the draft Bega LEP 2012 with a 550sq.m minimum lot size and to reclassify the land from 'community' to 'operational'.

I am writing in response to your Council's letter dated 16 April 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Camilla Court, Mirador (Part Lot 1042 DP 833411) from 6(a) Existing Open Space to Residential 2(a) zone under the Bega LEP 2002 and R2 Low Density Residential under the draft Bega LEP 2012 with a 550sq.m minimum lot size and to reclassify the land from 'community' to 'operational'.

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

Council has indicated that the reclassification of the subject land to 'operational' is to be undertaken as part of the planning proposal. It is noted that Council has not indicated whether any interests will be extinguished as a result of the reclassification. Therefore, Council is to amend the planning proposal to address any interests in the land including any Trusts and Covenants and provide a copy of the title prior to finalisation of the planning proposal. Council is to undertake the amendment to the planning proposal prior to the commencement of community consultation and provide a copy of the revised planning proposal to the Department's Regional Team.

Council is reminded of its obligations for exhibiting and conducting a public hearing when reclassifying land from 'community' to 'operational' land as per the Department's LEP Practice Note PN-003.

It is noted that the planning proposal seeks to amend either the Bega LEP 2002 or the draft Bega LEP 2012 depending on the timing of finalisation of Council's Standard Instrument LEP. It is also noted that Council has recently concluded the exhibition of the draft Bega LEP 2012 and are currently considering submissions with a view to finalise the Plan by September 2012. Council is encouraged to proceed as per its planning proposal and exhibit the amendment to both instruments to ensure the planning proposal can proceed irrespective of the timing of the draft Bega LEP 2012.

It is noted that mapping has been provided with the planning proposal that identifies the subject land. However, the mapping does not clearly indicate how it would amend Council's existing and draft LEP in terms of zoning and minimum lot size. Therefore, Council is to revise and include additional maps to accurately indicate the existing zoning and the proposed zoning under the Bega LEP 2002 and the proposed zoning and minimum lot size under the draft Bega LEP 2012. Council is to include the additional and revised maps with the planning proposal for the purposes of community consultation, and provide the Department's Regional Team with a copy of the exhibition material.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 6.2 Reserving Land for Public Purposes are of minor significance. No further approval is required in relation to this Direction.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the comments from the Commissioner.

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 within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (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 s54(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,



Sam Haddad
Director-General

25/5/2012.

Gateway Determination

Planning Proposal (Department Ref: PP_2012_BEGAV_002_00): to rezone land at Camilla Court, Mirador from 6(a) Existing Open Space to Residential 2(a) zone under the Bega LEP 2002 and R2 Low Density Residential under the draft Bega LEP 2012 with a 550sq.m minimum lot size and to reclassify the land from 'community' to 'operational'.

I, the Director General, 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 rezone land at Camilla Court, Mirador (Part Lot 1042 DP 833411) from 6(a) Existing Open Space to Residential 2(a) zone under the Bega LEP 2002 and R2 Low Density Residential under the draft Bega LEP 2012 with a 550sq.m minimum lot size and to reclassify the land from 'community' to 'operational' should proceed subject to the following conditions:

1. Council is to amend the planning proposal to address any interests in the land including any Trusts and Covenants and provide a copy of the title prior to finalisation of the planning proposal. Council is to undertake the amendment to the planning proposal prior to the commencement of community consultation and provide a copy of the revised planning proposal to the Department's Regional Team.
2. Council is to revise and include additional maps to accurately indicate the existing zoning and the proposed zoning under the Bega LEP 2002 and the proposed zoning and minimum lot size under the draft Bega LEP 2012. Council is to include the additional and revised maps with the planning proposal for the purposes of community consultation, and provide the Department's Regional Team with a copy of the exhibition material
3. 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 **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. Further to Condition 4 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department's Regional Office.
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

25th day of

May

2012.

Sam Haddad

Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure