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Department Generated Correspondence (Y)

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Our ref: PP_2011_TUMBA_001_00 (11/13956)

Mrs Kay Whitehead
General Manager
Tumbarumba Shire Council
PO Box 61
TUMBARUMBA NSW 2653

Dear Mrs Whitehead,

Re: Planning Proposal to vary the minimum lot size for land on various sites and rezone land on Emerson Street, Tumbarumba from RU4 Rural Smallholdings to R1 General Residential

I am writing in response to your Council's letter dated 17 August 2011 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 amend the Tumbarumba Local Environmental Plan 2010 to:

- Vary the minimum lot size from 160ha to 2ha for land between Mate Street and Chaffey Close, Tumbarumba (Precinct 1);
- Vary the minimum lot size from 40ha to 8ha for land located within the vicinity of Black Range Road, Bogong Road and Batlow Road (Precinct 2);
- Vary the minimum lot size from 40ha to 8ha for land located within the vicinity of Murray Crossing Road; and
- Rezone land on Emerson Street, Tumbarumba from RU4 Rural Smallholdings to R1 General Residential.

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.

In regards to Precinct 1, it is noted the site contains significant scenic qualities as a backdrop to the town that contribute to the visual identity of the landscape. The objectives of the E3 Environmental Management zone clearly provide for the protection of these scenic values, but also afford opportunities for a limited range of development. The Department acknowledges that some form of development may be suitable on the site but Council should provide further justification for the proposed 2ha minimum lot size, and how the expected lot yield from the land ensures the scenic and visual qualities are protected. In addition, Council should consider introducing specific matters that the consent authority should consider before granting consent for any such development, possibly in the form of a DCP.

In regards to Precinct 3, it is acknowledged that the proposal reflects the existing subdivision pattern of a significant portion of the subject site. However, the reduction in the minimum lot size for land to the south east of Murrays Crossing Road is not supported. This component of the proposal is inconsistent with the rural subdivision principles of State Environmental Planning Policy (Rural Lands) 2008 in that it fragments agricultural lands, could lead to land use conflict, does not consider existing agricultural holdings and does not appropriately consider or respond to the natural physical constraints and opportunities of the land. Therefore, Council is to remove this portion of land from the planning proposal.

Council may wish to consider preparing a strategy to justify the proposed reduction in the minimum lot size for the land to be excluded from the planning proposal (ie. the land to the south east of Murrays Crossing Road). Council should also consider including additional surrounding land that may provide similar opportunities for development in any strategy or investigative study. The Department would encourage Council to incorporate the outcomes of the strategy in a separate planning proposal at a later date.

Council is to ensure that all mapping included with the planning proposal is prepared in accordance with the Department's Standard Technical Requirements for LEP Maps. In doing so, the land zoning maps are to clearly identify the existing, and in the case of Precinct 4 the proposed zones, and the proposal is also to include existing and proposed Lot Size Maps for Precincts 1-3. Council is to submit the amended map sheets to the Regional Director of the Department's Southern Region Office prior to the commencement of community consultation.

In addition, Council should also reconsider the proposed minimum lot size of 8ha, given that the majority of lots in the vicinity of the amended subject land (ie. the land to the North West of Murrays Crossing Road) are about 6ha. A minimum lot size of 6ha may be more appropriate and would be supported by the Department. Should Council decide to amend the proposed minimum lot size for the subject land, Council is to alter the planning proposal to reflect as such prior to commencing exhibition.

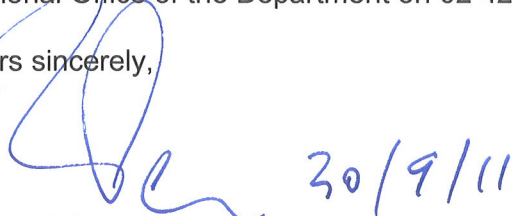
The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 3.1 Residential Lands are of minor significance. No further approval is required in relation to these Directions.

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 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 Luke Musgrave of the Regional Office of the Department on 02 4224 9450.

Yours sincerely,



Richard Pearson
Deputy Director General
Development Assessment and System Performance

Gateway Determination

Planning Proposal (Department Ref: PP_2011_TUMBA_001_00): to vary the minimum lot size for land on various sites and rezone land on Emerson Street, Tumbarumba from RU4 Rural Smallholdings to R1 General Residential

I, the Deputy Director General, Development Assessment and Systems Performance 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 Tumbarumba Local Environmental Plan 2010 to:

- Vary the minimum lot size from 160ha to 2ha for land between Mate Street and Chaffey Close, Tumbarumba (Precinct 1);
- Vary the minimum lot size from 40ha to 8ha for land located within the vicinity of Black Range Road, Bogong Road and Batlow Road (Precinct 2);
- Vary the minimum lot size from 40ha to 8ha for land located within the vicinity of Murray Crossing Road; and
- Rezone land on Emerson Street, Tumbarumba from RU4 Rural Smallholdings to R1 General Residential

should proceed subject to the following conditions:

1. Council is to provide further justification for the proposed 2ha minimum lot size for land at Precinct 1, and how the expected lot yield from the land ensures the scenic and visual qualities are protected.
2. In regards to Precinct 3, the inclusion of the lots that form a triangular shape east of Murrays Crossing Road, north of McCellands Lane and west of the creek in the planning proposal is not supported and is to be removed from the proposal.
3. Council is to ensure that all mapping included with the planning proposal is prepared in accordance with the Department's Standard Technical Requirements for LEP Maps.
4. Council is to include existing and proposed Lot Size Maps for Precinct 1-3 with the planning proposal for exhibition purposes.
5. Council is to submit the amended map sheets to the Regional Director of the Department's Southern Regional Office prior to the commencement of community consultation.
6. 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)*.
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Catchment Management Authority – Murray
 - Office of Environment and Heritage
 - Department of Industry & Investment (Agriculture)

- Roads and Traffic Authority

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.

8. 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).
9. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 30th day of September 2011.



Richard Pearson
Deputy Director General
Development Assessment and System
Performance
Delegate of the Minister for Planning and
Infrastructure