

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

15/04427

Dear Ms Barnes

Planning Proposal 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) for a planning proposal to rezone land in Pambula and South Pambula.

As delegate of the Minister for Planning, I have determined that the planning proposal should proceed subject to variations as outlined in the attached Gateway determination.

The zoning of deferred land to support growth and housing supply in Pambula and South Pambula is supported. However, I have decided that Site 2 (Oregon Street, Pambula) and Site 6 (Princes Highway and Lloyd Street, South Pambula) should not progress at this stage. This decision is consistent with the independent review conducted by Zenith Town Planning and commissioned by Council.

The planning proposal does not adequately justify why Site 2 is suitable for housing, as the land is highly constrained by riparian corridors, is extensively vegetated, contains undisturbed eucalyptus forest and is bush fire prone.

With regards to Site 6, I acknowledge that there may be some cleared and undisturbed land to accommodate residential development if environmentally sensitive and hazard constrained parts of the site are avoided.

Council should consult with the Office of Environment and Heritage and the Rural Fire Service on the suitability of Site 6 for residential development and how the existing constraints can be managed and/or mitigated. Council should also consult with Roads and Maritime Services on the physical constraints for a safe access point to the site.

Prior to submitting a separate planning proposal for Sites 2 and 6, additional land capacity assessment is necessary and consultation with relevant public agencies is recommended. The Department is available to work with Council in this regard.

I have also agreed that the planning proposal's inconsistencies with s117 Directions 1.2 Rural Zone, 1.3 Mining Petroleum Production and Extractive Industries, 1.4 Oyster aquaculture and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

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 issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan is to be finalised within **18 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 to draft and finalise the Local Environmental Plan should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment's regional team for administrative purposes.

Should you have any queries in regard to this matter, please contact Mr Brett Whitworth of the Department's regional office on (02) 4224 9455.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

11/04/2015

Encl:

Gateway determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2015_BEGA_002_00): to rezone land at Pambula and South Pambula (6 sites) to enable additional supply of residential and rural residential development should proceed subject to conditions.

I, the Deputy Secretary of 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* that an amendment to the Bega Valley Local Environmental Plan 2013 to rezone 6 sites at Pambula and South Pambula to facilitate residential and rural residential development should proceed, subject to the variations as outlined by the following conditions:

1. Prior to undertaking public exhibition, the planning proposal is to be updated to:
 - (a) remove the proposed rezoning of land at Site 2 Oregon Street, Pambula and Site 6 Princes Highway and Lloyd Street, South Pambula;
 - (b) amend part of Site 3 Princes Highway and Furner Street, South Pambula to clearly illustrate the location of the proposed SP2 – Sewerage Treatment Plant zone; and
 - (c) update the Merimbula District Structure Report (2008), to reflect the outcomes of the Gateway determination.
2. 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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2013).
3. Consultation is required with the following Government agencies prior to exhibition, in accordance with the EP&A Act and to comply with requirements of relevant S117 Directions:
 - NSW Rural Fire Service;
 - Office of Environment and Heritage;
 - Southern Rivers Catchment Management;
 - Department of Primary Industries (Fishing and Aquaculture);
 - Department of Primary Industries (Minerals and Petroleum) and
 - NSW Roads and Maritime Services.

The agencies are 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. This agency advice received and Councils proposed response to this advice should be placed on public exhibition with the planning 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 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).
5. The timeframe for completing the Local Environmental Plan is to be **18 months** from the week following the date of the Gateway determination.

Dated 11th day of April 2015.


Marcus Ray
Deputy Secretary
Planning Services

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Bega Valley Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_BEGAV_002_00	Planning proposal to rezone land at a number of sites located in Pambula and South Pambula to enable additional supply of residential and rural residential development.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 11 April 2015


Marcus Ray
Deputy Secretary
Planning Services

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated Local Environmental Plan amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- The Relevant Planning Authority is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the Relevant Planning Authority should add additional rows to **Table 2** to include this information
- The Relevant Planning Authority must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible Plan Making Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the Relevant Planning Authority's request to have the Local Environmental Plan (the Plan) notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_BEGAV_002_00
Date Sent to Department under s56	23 February 2015
Date considered at LEP Review Panel	5 March 2015
Gateway determination date	11 April 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft Plan exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt Plan		
Date Plan made by GM (or other) under delegation		
Date sent to the Department requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: