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Mr Michael Forsyth
General Manager
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Our ref: PP_2013_KIAMA_001_00 (13/10152)
Your ref: KB:FC – 13/45430

Dear Mr Forsyth,

Planning proposal to amend Kiama Local Environmental Plan 2011

I am writing in response to your Council's letter dated 16 September 2013 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 Wyalla Road, Jamberoo to R2 Low Density Residential and E3 Environmental Management and amend the minimum lot size to 350sqm and 800sqm, maximum building height to 8.5m and maximum floor space ratio to 0.45:1 and 0.5:1 on land proposed to be zoned for residential purposes.

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

While Council's proposal to rezone the subject land at Jamberoo for low density residential and environmental purposes is supported, Council is encouraged to update the planning proposal to reference the proposed development control plan amendment that encourages the use of the site for seniors housing. This will give the community assurance that the site is proposed for seniors housing consistent with the Kiama Urban Strategy.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified by local planning studies and the Kiama Urban Strategy. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils 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 (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 as soon as possible. Council's request to draft and finalise the LEP 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 for administrative purposes.

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 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 Lisa Kennedy of the regional office of the department on 02 4224 9450.

Yours sincerely,



16 October 2013

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery

Encl:

Gateway determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated plan making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2013_KIAMA_001_00): to rezone land at Wyalla Road, Jamberoo for low density residential and environmental purposes.

I, the Acting Executive Director, Rural and Regional Planning at the 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 the Kiama Local Environmental Plan (LEP) 2011 to rezone land at Wyalla Road, Jamberoo to R2 Low Density Residential and E3 Environmental Management and amend the minimum lot size to 350sqm and 800sqm, maximum building height to 8.5m and maximum floor space ratio to 0.45:1 and 0.5:1 on land proposed to be zoned for residential purposes should proceed subject to the following conditions:

1. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:

- acid sulphate soil
- flooding
- availability of infrastructure and services

Once the above information has been obtained and consultation with public authorities has been undertaken, Council is to update its consideration of S117 Directions 4.1 Acid Sulphate Soils and 4.3 Flood Prone Land to reflect the outcomes of the work and consultation undertaken.

2. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed land zoning, lot size, height of buildings and floor space ratio maps, which are at an appropriate scale and clearly identify the subject land.
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 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 LEPs (Department of Planning & Infrastructure 2013)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Essential Energy
 - Sydney Water
 - Department of Primary Industries - Office of Water

Each public authority 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 EP&A Act. This does not discharge Council from any obligation it



Planning & Infrastructure

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 **12 months** from the week following the date of the Gateway determination.

Dated 16th day of October 2013.

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning & Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Kiama Municipal Council is authorised to exercise the functions of the Minister for Planning and Infrastructure 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_2013_KIAMA_001_00	Planning proposal to rezone land at Wyalla Road, Jamberoo to R2 Low Density Residential and E3 Environmental Management and amend the minimum lot size to 350sqm and 800sqm, maximum building height to 8.5m and maximum floor space ratio to 0.45:1 and 0.5:1 on land proposed to be zoned for residential purposes.

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

Dated 16 October 2013

Neil Selmon
Acting Executive Director
Rural & Regional Planning
Planning Operations & Regional Delivery
Department of Planning & Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

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

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_KIAMA_001_00
Date Sent to Department under s56	16/09/2013
Date considered at LEP Review Panel	10/10/2013
Gateway determination date	16/10/2013

Table 2 – To be completed by the RPA

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

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: