



Your ref: PP 2021-6786
Our ref: DOC22/689702

The General Manager
Bega Valley Shire Council

Attention: Sophie Thomson

By email: council@begavalley.nsw.gov.au

11th Aug 2022

Dear Ms Thomson

I refer to the planning proposal 2021-6786 for Mixed Use Development in the B2 Local Centre zone and discussions between the Biodiversity and Conservation Division (BCD) and Bega Valley Shire Council.

We note that the BCD provided detailed advice to this matter in meetings and previous correspondence (dated 27 January 2022, 29 March 2022 and 5 August 2022) to enable council to progress the planning proposal in a manner that is consistent with the planning direction. We understood that council accepted and agreed to the advice provided to the original planning proposal put forward in December 2021. We also understood council were going to modify the draft planning proposal which would be informed by a flood impact risk assessment to address section 9.1 Planning Direction 4.1 flooding, the Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, Council's LEP and adopted Floodplain Risk Management Plans. This approach was agreed and supported to enable council to determine the planning proposal consistent with its responsibilities and the principles of the Floodplain Development Manual.

Based on recent communications, BCD understands that council is seeking clarification regarding the original planning proposal as submitted to BCD on 3 December 2021. As council is aware this original planning proposal is inconsistent with the section 9.1 Ministerial Planning Direction 4.1 Flooding with significant unaddressed issues relating to risks to public safety. On this basis we have clearly communicated that this approach could not be supported by the Department and are objecting to the Planning proposal its current form.

Given there appears to remain some ambiguity now of council reverting back to determine the original planning proposal, it would be remiss of us not to recommend that Council firstly seek legal advice relating to indemnity provisions afforded under section 733 of the *Local Government Act 1993*.

If you would like to discuss this letter please contact Mr John Bucinkas, Senior Team Leader Water Floodplains and Coasts on 02 4224 4153 or by email john.bucinkas@environment.nsw.gov.au

Yours Sincerely

ALLISON TREWEEK
A/Director
South East, Biodiversity and Conservation