

Assessing officer

Paul May

DA No.

2012•0360



Electronic forms:



Press TAB to move forward, and SHIFT+TAB to move back.



YES/NO boxes: Press X on keyboard to cross a box, and X again to uncross.



Paragraph answers: Text will automatically wrap around the table cell (ie don't use Enter key)

**State Environmental Planning Policies**

Section 79C (1)(a)(ii)

Which of the following SEPPs are relevant to this development?

<input type="checkbox"/>	1	Development standards	Assessment notes to be completed over page
<input type="checkbox"/>	4	Development without consent and misc. complying development	
<input type="checkbox"/>	6	Number of storeys in a building	
<input type="checkbox"/>	14	Coastal wetlands	
<input type="checkbox"/>	15	Rural landsharing communities	
<input type="checkbox"/>	21	Caravan parks	
<input type="checkbox"/>	22	Shops and commercial premises	
<input type="checkbox"/>	30	Intensive agriculture	
<input type="checkbox"/>	32	Urban consolidation (redevelopment of urban land)	
<input type="checkbox"/>	33	Hazardous and offensive development	
<input type="checkbox"/>	36	Manufactured home estates	
X	44	Koala habitat protection	Matters for consideration to be completed over page
<input type="checkbox"/>	50	Canal estates	
X	55	Remediation of land	Previous documentation for Central Waste Facility (CWF) nominated no existing contamination issues. SoEE also states that the site is not affected by S59(2) of the Contaminated Land Management Act 1997 and that it appears the EPA has not issued any regulatory notice in respect of contamination on the site. The SoEE concludes that the SEPP 55 is complied with without the need to undertake any further investigation
<input type="checkbox"/>	62	Sustainable aquaculture	
<input type="checkbox"/>	64	Advertising and signage	
<input type="checkbox"/>	65	Design quality of residential flat development	
<input type="checkbox"/>	71	Coastal protection	Matters for consideration to be completed over page
<input type="checkbox"/>		SEPP (Housing for Seniors or People with a Disability) 2004	
<input type="checkbox"/>		SEPP (Building Sustainability Index: BASIX) 2004	The development achieves the water and energy efficiency targets of BASIX <input type="checkbox"/> N/a   <input type="checkbox"/> Y   <input type="checkbox"/> N
<input type="checkbox"/>		SEPP (Major Development) 2005	
<input type="checkbox"/>		SEPP (Mining, Petroleum Production and Extractive Industries) 2007	
<input type="checkbox"/>		SEPP (Temporary Structures and Places of Public Entertainment) 2007	
X		SEPP (Infrastructure) 2007	The proposed Satellite Earth Station (SES) would fall under the SEPP 2007 definition of "telecommunications facility."  Clause 115 of SEPP 2007 permits telecommunications facilities with development consent.  The consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the

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Director-General for the purposes of Clause 115(3) and published in the Gazette.

The guidelines referred to in Clause 115(3) of the SEPP 2007 are found within the NSW Telecommunications Facilities Guideline Including Broadband July 2010.

Consideration of these guidelines, and specifically, the four (4) principles for the location and design of telecommunications facilities is as follows.

#### **Principle 1 (Visual Impact)**

The proposed facility has been located and designed to take into consideration a number of matters, including:

- To meet NBNCo's strict location criteria for these facilities;
- Any potential for land use conflict; and
- Site constraints

A detailed consideration of Principle 1 is undertaken under Section 79C matters for consideration. Brief comment is as follows:

- By virtue of the required size and stature of the satellite antennae, which will be constructed / installed in rural and remote areas across Australia, they will be visible.
- The potential visual impact of the antennae has been considered with regards to the adjacent heritage item (Arydale Dairy Farm) and the nearest residential properties. The outcome of the heritage and view assessment confirm that whilst there will be some visual impact, it is appropriate within the given rural context.

In general, it is considered that the facility has been located and designed appropriately to respond to the rural landscape setting. There will undoubtedly be an impact on the existing visual amenity of the rural locality but these facilities are most likely to be located in rural areas. Given the nature of surrounding vegetation, the undulating topography of land surrounding the facility, and the fact that the antennae have been located as far as practically possible away from existing residential properties in the locality, the proposed site is considered to be appropriate and not have a detrimental visual impact.

The visual impact that will result will not be to such an extent so as to warrant refusal of the proposal.

#### **Principle 2 (Co-location)**

Co-location is 'not practicable' as there is no existing tower or other suitable telecommunications facility that can meet technical specifications.

Furthermore, for security reasons, it is one of NBN's key criteria that the facility be self-controlled and

### **Principle 3 (Health Standards)**

*Principle 3 prescribes certain health standards in relation to radiofrequency emissions. Principle 3 also states that an electromagnetic emissions report is required to be submitted with the DA, in "the format required by the Australian Radiation Protection Nuclear Safety Agency". The purpose of this report is to demonstrate that the predicted levels of electromagnetic energy surrounding the proposed facility will comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard.*

*An Electro-magnetic Energy (EME) Assessment Report has been prepared which indicates that no adverse impact will result from the EMEs generated from the proposed facility. The report concludes that the EME level at 1.5m above ground level is estimated to be 0.00542% of the Australian Radiation Protection and Nuclear Safety Agency public exposure limits.*

### **Principle 4 (Minimise Disturbance)**

*Principle 4 prescribes matters for consideration in relation to minimising disturbance and risk and maximising compliance. Each of the matters for consideration are addressed below:*

- *The siting and height must not penetrate any obstacle limitation surfaces and must be reported to the Civil Aviation Safety Authority Australia. The site is not affected by a maximum height by any OLS plan. Advice has been received from Air Services Australia which confirms that the proposed height will not affect any sector, or circling altitude, nor any instrument approach or departure procedures at the nearby Frogs Hollow Airfield.*
- *The site operations will be subject to an apparatus licence issued by Australian Communications and Media Authority (ACMA) and will therefore not impact on any other licensed RF operator.*
- *The proposed facility will be carried out in accordance with any applicable specifications in relation to the installation of the proposed facility.*
- *Owners consent is provided for the subject application and therefore, the proposed facility will be erected within the boundaries of a property where the landowner has agreed to the facility being located on the land.*
- *The proposed facility will be constructed in accordance with the relevant regulations of the "Blue Book"- 'Managing Urban Stormwater Soils and Construction' (Landcom 2004). Erosion and sediment control plans have been submitted with*

the DA.

- The proposed facility will not result in any obstruction or risks to any pedestrians or vehicles. The facility will be secure and only authorised persons will be able to enter the site (pedestrian or motor vehicle). Appropriate conditions of consent can be issued with respect to construction traffic management.
- There will be no disturbance to any flora and fauna, as confirmed by the assessment undertaken by AECOM.
- As confirmed in the heritage assessment undertaken by City Plan Heritage, it is unlikely that there are any aboriginal places or objects on the site. However, mitigation measures have been recommended in the event that any such objects are encountered during excavation / construction works. These mitigation measures should be included as conditions in the issue of any consent notice for the development. With regard to the above, Principle 4 is satisfied.

On the basis of the above, it is considered that the proposed development satisfies the key principles of the NSW Telecommunications Facilities Guideline Including Broadband.

As the subject site does not have frontage to a classified road, and as the proposal does not meet the thresholds for "traffic generating development" under Schedule 3, referral to Roads and Maritime Services is not required for this application.

X	SEPP (Rural Lands) 2008	Matters for consideration to be completed over page
<input type="checkbox"/>	SEPP (Affordable Rental Housing) 2009	

#### Deemed SEPPs

<input type="checkbox"/>	Lower South Coast	REP 1	Is the proposal consistent with the aims and objectives of the Policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
X	Lower South Coast	REP 2	Does the proposal comply with the following requirements?	
			Rural land: The development will not significantly reduce agriculture potential of lands (Class 1, 2 or 3)? The land appears to be Class 3. It adjoins the CWF. The area of the NBN site is 5ha. A subdivision for the 5ha site has been approved by Council so the matter of agricultural potential would have been considered as part of that DA.	
			The proposed development will not result in any significant degradation of the land with regard to its agricultural capacity. It is unlikely that the site would be used for commercial agricultural purposes due to direct proximity to the approved waste management facility.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	Clause 21		The SES would be located on the CWF site which has a total area of 198.8ha. The area of the proposed NBN site is 5ha thus only a small area of the total CWF site.	
			The EIS for the CWF site stated that the CWF site was part of a larger cattle grazing property but since the purchase of the land by Council in 2002 livestock grazing largely decreased and the land has remained vacant.	

Clause 24	Water resources: Adequate water quality and availability must be maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 29	Fishery resources: Considerations for development adjoining or upstream of fishery habitat area?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Clause 40	Tourism and recreation: Tourist development to have regard to any published tourism strategies or plans prepared by the Tourism Commission of NSW?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

## Matters for consideration

<b>SEPP 44 Koala Habitat Protection</b>		The SEPP applies to land that has an area of more than one hectare; or has, together with any adjoining land in the same ownership, an area of more than one hectare	
<b>Potential koala habitat</b> is defined as ‘...areas of native vegetation where the trees of types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.’			
<b>STEP 1:</b> Is the land potential koala habitat?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Core koala habitat</b> is defined as ‘...an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is females with young) and recent sightings of historical records of a population.’		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>STEP 2:</b> Is the land core koala habitat?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
A plan of management is required to be prepared in accordance with Part 3 of SEPP 44 before a council can grant consent if the land is identified as core koala habitat.			
In the Bega Valley Shire there are two scheduled trees that occur. They are <i>Eucalyptus tereticornis</i> and <i>E. viminalis</i> .			
<b>STEP 3:</b> Can development consent be granted in relation to core koala habitat?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>SEPP 71 Coastal Protection N/A</b>		In determining this DA in the coastal zone, the following matters under Clause 8 have been considered:	
a)	The development is consistent with the aims of the SEPP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b)	Existing public access to coastal foreshore is retained, and where possible improved?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c)	The proposal is able to provide new public access to/along foreshore?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d)	The development is suitable in type, location, design and surroundings?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e)	Any detrimental impact on amenity of coastal foreshore (eg overshadowing, loss of significant public views) is negligible or mitigated.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f)	The scenic qualities of the NSW coast are protected and enhanced by this development?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
g)	The development provides suitable measures to conserve animals and plants (see <i>Threatened Species Conservation Act</i> )?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
h)	The development provides suitable measures to conserve fish and marine vegetation (see <i>Fisheries Management Act</i> )?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
i)	Wildlife corridors and any impact on such has been considered and development is satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
j)	The likely impacts of and on coastal processes and hazards and the development have been considered and the development is satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
k)	The development provides suitable measures to reduce the potential for conflict between land-based and water-based coastal activities?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
l)	The development provides suitable measures to protect cultural places, values, customs, beliefs, and traditional knowledge of Aboriginals?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
m)	Likely impacts of the development on the water quality of coastal water bodies have been considered and the development is satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
n)	The development conserves and preserves items of heritage, archaeological or historic significance?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
o)	Cumulative impact of the development on the environment has been considered and the proposal is satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
p)	The development provides suitable measures to ensure that water and energy usage by the proposed development is efficient?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>SEPP (Rural Lands) 2008</b>		In determining this DA for a dwelling or subdivision for a dwelling in either rural, rural residential or an environmental protection zone, the following matters under Clause 10 have been considered:	
a) – c)	The development is compatible with existing, approved, predominant or preferred land uses in the vicinity of the development without having a significant impact.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
d)	The development (other than development within a rural residential zone) is compatible with land uses within an adjoining rural residential zone.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
e)	Suitable measures are proposed by the applicant to avoid or minimise any incompatibility.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

## Other Environmental Planning Policies (EPIs)

Section 79C (1)(a)(ii)

Are there any EPIs relevant to this development?

X Bega Valley Local Environmental Plan 2002

Zoning

1(a) (Rural General Zone)

Defined as

**utility undertaking** means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purpose of:

(d) telecommunications facilities, or

An assessment of the proposal has been undertaken in accordance with the provisions of the LEP and the following clauses are relevant to the development. CROSS ☒ WHICH CLAUSES APPLY.

PART 1		Preliminary	Comment (where necessary)
X	Clause 8	Zone objectives	The proposed development is permitted in the 1(a) zone with consent.
PART 2		Rural Zone Provisions	Comment (where necessary)
			<p>The proposal is generally consistent with the objectives of the 1(a) zone. Objective (d) relates to maintaining the scenic amenity and landscape quality of the area. Whilst the proposed SES facility will be visible from surrounding land, it is considered it will not have an adverse visual impact. The facility is proposed to be adequately setback from any public roads and is of a neutral colour scheme, to minimise visual impact. Building design and use of materials are consistent with rural architecture.</p> <p>An assessment of the proposed facility with regard to the nearby heritage item has been undertaken by City Plan Heritage. The report concludes:</p> <p>"In conclusion, it is considered by City Plan Heritage that the proposed works, including the construction of a 'Satellite Earth Station' facility will result in no detrimental impact to the heritage significance of the nearby heritage item, Arydale Dairy Village. Due to their technical requirements and necessary scale and height, the proposed radio communication antenna array will have some visual impacts within the rural landscape setting of the area; however, they will not be visible from the main elements of the heritage item, rather altering the views of the otherwise rural landscape. The proposed satellite station facility is an important telecommunication infrastructure facility and is necessary for the improved communication within rural and remote areas of Australia in line with the Federal Government's vision. It is apparent that the proposed facility and associated antennas are new introductions to the existing landscape and some level of impact is inevitable."</p>
<input type="checkbox"/>	Clause 13	1(c) zone	
<input type="checkbox"/>	Clause 14	1(f) zone	
<input type="checkbox"/>	Clause 15	Controls for subdivision for agriculture in 1(a) zone	

<input type="checkbox"/>	Clause 16	Limited subdivision for dwellings in 1(a) zone <i>Deleted from LEP on 9 May 2008. For applications lodged prior to that date refer to Clause 16 assessment on file</i>	
<input type="checkbox"/>	Clause 17	Controls for building dwelling houses in 1(a) zone	
<input checked="" type="checkbox"/>	Clause 18	Controls for subdivision for other purposes within 1(a) zone	<i>Whilst subdivision is not proposed as part of the DA the land will be the subject of a future subdivision application. Subdivision of the site area as indicated on the plans would comply with Clause 18 because the land is not prime crop and pasture land; the size of the lot is appropriate for the intended use; the SES provides for a local, regional and national demand for high speed broadband services; and the proposed use is consistent with the objectives of the zone.</i>
<input type="checkbox"/>	Clause 19	Development in 1(c) zone	
<b>PART 3 Urban Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 20	2(a) zone	
<input type="checkbox"/>	Clause 21	2(b) zone	
<input type="checkbox"/>	Clause 22	2(c) zone	
<input type="checkbox"/>	Clause 23	2(e) zone	
<input type="checkbox"/>	Clause 24	2(f) zone	
<input type="checkbox"/>	Clause 25	2(v) zone	
<input type="checkbox"/>	Clause 26	Subdivision in urban zones	
<input type="checkbox"/>	Clause 27	Dwelling houses, dual occupancies and multi unit housing	
<input type="checkbox"/>	Clause 28	Development in 2(e) zone	
<input type="checkbox"/>	Clause 29	Development 2(f) zone	
<b>PART 4 Employment Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 30	Zone 3(a) (General Business Zone)	
<input type="checkbox"/>	Clause 31	Zone 3(b) (Special Business Zone)	
<input type="checkbox"/>	Clause 32	Zone 4(a) (Industrial Zone)	
<input type="checkbox"/>	Clause 33	3(b) and 4(a)	
<input type="checkbox"/>	Clause 34	Development for the purpose of brothels and sex shops in business and industrial zones	
<input type="checkbox"/>	Clause 35	Development in zone 4(a)	
<input type="checkbox"/>	Clause 36	Subdivision in business and industrial zones	
<b>PART 5 Special Use Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 37	Zone 5(a) (Special Uses Zone)	
<b>PART 6 Open Space Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 38	Zone 6(a) (Existing Open Space Zone)	
<input type="checkbox"/>	Clause 39	Zone 6(c) (Private Open Space Zone)	
<input type="checkbox"/>	Clause 40	Development within 6(a)	
<input type="checkbox"/>	Clause 41	Acquisition of land within zone 6(a)	
<input type="checkbox"/>	Clause 42	Parks plan of management	
<b>PART 7 Environment Protection Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 43	Zone 7(b) (Environment Protection Foreshore Zone)	
<input type="checkbox"/>	Clause 44	Zone 7(d) (Environment Protection General Zone)	
<input type="checkbox"/>	Clause 45	Zone 7(f1) (Coastal Lands Protection Zone)	
<input type="checkbox"/>	Clause 46	Zone 7(f2) (Coastal Lands Acquisition zone)	
<input type="checkbox"/>	Clause 47	Subdivision of land and erection of dwelling within Zones 7(d),	

		7(f1) and 7(f2)	
<input type="checkbox"/>	Clause 48	Development within Zone 7(d)	
<input type="checkbox"/>	Clause 49	Development in Zones 7(f1) and 7(f2)	
<input type="checkbox"/>	Clause 50	Acquisition of land within Zone 7(f2)	
<b>PART 8 National Parks and Nature Reserves Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 51	Zone 8 (National Parks and Nature Reserves Zone)	
<b>PART 9 Reservation Zone Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 52	Zone 9(c) (Arterial Road Reservation Zone)	
<input type="checkbox"/>	Clause 53	Zone 9(d) (Local Road Reservation Zone)	
<input type="checkbox"/>	Clause 54	Acquisition of land within Zone 9(c)	
<input type="checkbox"/>	Clause 55	Acquisition of land within Zone 9(d)	
<b>PART 10 Heritage Provisions</b>			<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 56	Aims in relation to heritage	
<input type="checkbox"/>	Clause 57	Protection of heritage items and relics	
<input type="checkbox"/>	Clause 58	Advertised development	
<input type="checkbox"/>	Clause 59	Interim heritage items	
<input type="checkbox"/>	Clause 60	Notice of demolition to the Heritage Council	
<b>X</b>	Clause 61	Development in the vicinity of heritage items	<i>Clause 61 of the BVLEP 2002 relates to development within the vicinity of a heritage item. As the site is located adjacent to a heritage item, "the consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item". A Heritage Impact Statement ("HIS") has been prepared. In summary, the HIS concludes that the proposal will not result in any adverse impact on the adjacent heritage item and will therefore be consistent with the provisions of Clause 61 of the BLEP.</i>
<input type="checkbox"/>	Clause 62	Conservation incentives	
<input type="checkbox"/>	Clause 63	Development affecting places or sites of known or potential Aboriginal Heritage significance	
<input type="checkbox"/>	Clause 64	Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance	



PART 11	Provisions that apply generally in the Bega Valley area	Comment (where necessary)
		<p><i>It is considered that the proposed development complies with Clause 65 because:</i></p> <p><i>Erosion and sediment control measures are proposed to be undertaken, in accordance with the details submitted in the civil package prepared by AECOM, to mitigate any potential impact on water quality in the locality during construction of the facility.</i></p> <p><i>Appropriate on-site effluent and stormwater disposal will be undertaken on site in accordance with the management strategy prepared by AECOM, to ensure that no downstream impacts result as a result of the operation of the facility.</i></p> <p><i>The proposed development will not result in any significant degradation of the land with regard to its agricultural capacity. It is unlikely that the site would be used for commercial agricultural purposes due to direct proximity to the approved waste management facility.</i></p> <p><i>The SES would be located on the CWF site which has a total area of 198.8ha. The area of the proposed NBN site is 5ha thus only a small percentage of the total CWF site.</i></p> <p><i>The EIS for the CWF site stated that the CWF site was part of a larger cattle grazing property but since the purchase of the land by Council in 2002 livestock grazing largely decreased and the land has remained vacant..</i></p> <p><i>No adverse flora or fauna impact will result from the proposal, as confirmed by the assessment undertaken by AECOM. This conclusion is reinforced by the previous flora and fauna assessment undertaken for the approved Central Waste Facility.</i></p> <p><i>No "streetscape" or unacceptable visual impact will result and no significant views will be interrupted.</i></p> <p><i>Minimal traffic generation is anticipated. Two to four permanent staff members would be required to operate the facility. Vehicular access to the site from Wanatta Lane is proposed, to be constructed in accordance with Council's requirements for roads in rural areas and to be consistent with the waste management facility road that will be constructed by Council.</i></p>
X	Clause 65 General principles for development and use of land and buildings	
<input type="checkbox"/>	Clause 66 Development near zone boundaries	
X	Clause 67 Subdivision	<p><i>A separate subdivision application will be lodged with Council.</i></p>
<input type="checkbox"/>	Clause 68 Reclassification of public land	
<input type="checkbox"/>	Clause 69 Restrictions on access	
<input type="checkbox"/>	Clause 70 Community use of school facilities or sites	
<input type="checkbox"/>	Clause 71 Temporary use of land	
<input type="checkbox"/>	Clause 72 Tree preservation	
<input type="checkbox"/>	Clause 73 Unzoned land	

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An on-site effluent management plan has been prepared by AECOM for the proposed facility. There is no public sewerage facility available to be connected to and therefore, sewerage management will be undertaken on-site. The proposed method for effluent disposal on the site is via connection to an on-site septic tank. The AECOM report concludes that such a system is capable of accommodating any demands generated by the proposed development.

The recommended system is as follows:

"The septic tank shall be of Taylex manufacture of 5000 litre capacity complete with trafficable lid.

....

The adsorption trench shall be of ReIn drain manufacture of 410mm Jumbo size complete with Drain Matting in accordance with AS 1547

.....

The maintenance of the system is provided by the manufacturer for the first 12 months of operation as part of the standard terms of agreement, after which the manufacture may be retained or another service provider sort."

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Part of the site is identified as being bushfire prone. A Bushfire Hazard Assessment has been undertaken by Building Code & Bushfire Hazard Solutions for this application. The assessment confirms that subject to adopting the bushfire safety measures recommended in the report, and consideration of the site specific bushfire risk assessment, the proposed development will provide a reasonable and satisfactory level of bushfire protection and also satisfies both the Rural Fire Service's concerns and those of Council in this area.

Construction recommendations are as follows:

"2. That the proposed buildings be constructed to that of section 3 and BAL 12.5 under section 5 of AS3959 – 2009.

3. That the proposed buildings be constructed to that of the 'Additional Construction Requirements' detailed in A3.7 of the Addendum to Appendix 3 of Planning for Bushfire Protection 2006 and NSW Rural Fire Service Fast Facts, Development Control Notes and Practice Notes.

4. That the external roller doors on the proposed garage be provided with an ember protection device at the top of the door that captures any embers where a gap of 2.0 mm on the external surface exists."

APZ recommendations are:

5. That all grounds within the subject site for a minimum distance of 22 metres to the north and south, 19 metres to the east and 29 metres to the southwest of the new buildings/

X      Clause 74    On-site sewage management

X      Clause 75    Land subject to bushfire hazard

*satellites be maintained in accordance with an Asset Protection Zone (Inner Protection Area) as detailed in Appendix 2 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service publication 'Standards for Asset. Protection Zones'.*

*There is also a recommendation in respect to landscaping:*

*"6. That any new landscaping within the subject site is to comply with Appendix 5 'Landscaping and Property Maintenance' of Planning for Bush Fire Protection 2006."*

*The NSW Rural Fire Service (RFS) requires:*

*APZs to be 19m to the north, south, east and west.*

*Water, electricity and gas to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.*

*Property access roads are to comply with Section 4.1.3(2) of Planning for Bush Fire Protection 2006.*

*Landscaping within the subject site is to comply with Appendix 5 'Landscaping and Property Maintenance' of Planning for Bush Fire Protection 2006."*

*As previously stated the site is unlikely to be contaminated. It has previously been used for cattle grazing and since 2002 has been owned by Council and remained vacant land.*

*The parts of the building occupied by staff have a northern orientation.*

*The site is predominantly cleared grassland and the flora and fauna report concluded "The proposed SESF is unlikely to have a significant adverse effect on threatened species, populations or ecological communities, or their habitats." No trees are proposed to be removed.*

*Solar panels and rainwater tanks will be utilised.*

*Buffers are provided from drainage lines.*

*Dense tree planting will provide a buffer/screen from the CWF.*

*Conditions will be applied in respect of detailed landscape plans and a waste management plan.*

- |                                     |           |                                  |
|-------------------------------------|-----------|----------------------------------|
| <input checked="" type="checkbox"/> | Clause 76 | Contaminated land                |
| <input type="checkbox"/>            | Clause 77 | Development along arterial roads |
| <input type="checkbox"/>            | Clause 78 | Land filling and excavation      |

- |                                     |           |                                      |
|-------------------------------------|-----------|--------------------------------------|
| <input checked="" type="checkbox"/> | Clause 79 | Ecologically sustainable development |
|-------------------------------------|-----------|--------------------------------------|

- |                          |           |                                                                    |
|--------------------------|-----------|--------------------------------------------------------------------|
| <input type="checkbox"/> | Clause 80 | Roads, drainage, recreational areas and parking                    |
| <input type="checkbox"/> | Clause 81 | Flood liable land                                                  |
| <input type="checkbox"/> | Clause 82 | Development on land identified on acid sulfate soils planning maps |
| <input type="checkbox"/> | Clause 83 | Tourism development adjacent to waterways                          |

X	Clause 84	Building lines	<i>The minimum setback from a road is specified as being 20m under DCP 6 Minimum Setbacks to Roads and Nominated Waterways. A nominated waterway is not relevant in this instance.</i>
			<i>The subject application is well setback from Wanatta Lane and exceeds the minimum 20 metre setback requirement.</i>
X	Clause 85	Height of buildings	<i>Generally, the maximum building height prescribed for the site is three (3) storeys or 10 metres between any part of the building and the natural ground level. However, clause 85(3) states that a 10 metre height limit is not applicable for "utility installations" (refer below). As the proposed SES facility is defined as a "utility installation" under the BLEP, these height restrictions do not apply.</i>
			<i>The main building will have a sloping roof to a maximum height of 6.45 metres.</i>
X	Clause 86	Development in flight paths	<i>The four (4) antennae in the northern part of the site have a maximum height of 15.67 metres.</i>
			<i>The proposed development is in the vicinity of the Frogs Hollow Airstrip.</i>
			<i>Council sought advice from Air Services Australia in this regard. The advice confirms that, with respect to procedures promulgated by Air Services in accordance with ICAO PANS-OPS and Document 9905, at a maximum assessed height, the proposed antennae "will not affect any sector or circling altitude, nor any instrument approach or departure procedures at Merimbula Airport.</i>
			<i>The Civil Aviation Safety Authority advised Council to consult with the operator of Frogs Hollow Airfield (as it is an uncertified and unregistered airfield).</i>
			<i>Frogs Hollow Flyers Inc. have been contacted by Council and in a letter dated 27<sup>th</sup> march 2013 stated they had no objections to the proposed NBN development provided they are allowed to continue to fly as they have been for 50 years. The Flyers have had verbal and written communication with the NBN and are satisfied with the outcomes of those.</i>
<input type="checkbox"/>	Clause 87	Suspension of certain laws etc	
<input type="checkbox"/>	Clause 88	Particular development permitted with consent	
<input type="checkbox"/>	Clause 89	Granny flat development	
<b>PART 12</b>			<b>Provisions that apply to particular land</b>
<input type="checkbox"/>	Clause 90	Certain land within Zone 4(a) at South Pambula	<b>Comment (where necessary)</b>
<input type="checkbox"/>	Clause 91	Certain land at Boydtown	
<input type="checkbox"/>	Clause 92	Certain land at West Pambula	
<input type="checkbox"/>	Clause 93	Merimbula Airport	
<input type="checkbox"/>	Clause 94	Kalaru Racecourse	
<input type="checkbox"/>	Clause 95	Tathra Headland	

List any clauses where the proposal does not comply and provide your assessment notes here.

►► IF SEPP 1 SUBMITTED PROVIDE FULL ASSESSMENT.

Note: add details of any determination under SEPP 1 to the spreadsheet for reporting purposes to the department of planning

Comment

N/A

►► DISCUSS WITH YOUR MANAGER. MAY NEED TO REPORT TO COUNCIL.

**Any draft Environmental Planning Policies (EPIs)**

Section 79C (1)(a)(ii)

Are there any draft EPIs relevant to this development?

☐ No

☒ Yes

Draft LEP (exhibited) SPECIFY:

Bega Valley Draft Local Environmental Plan 2012 (DLEP 2012)

What is the proposed zoning of the subject development site?

RU1 Primary Production

What is the land use definition for the proposal?

Telecommunications facility

Is the proposed development permissible in the draft LEP?

☐ No

☒ Yes

Comment:

Telecommunications facilities are prohibited in the table for the RU1 Zone in DLEP 2012 but permitted under SEPP (Infrastructure) 2007.

Is the proposed development consistent with the objectives of the zone?

☐ No  
below)

☒ Yes

Comment (in the space provided

Comment:

The proposal is consistent with the objectives of the proposed RU1 zone as follows:

- The proposed SES facility will not result in any impact on any sustainable primary industry production. The subject land is vacant however, the proposed development will not result in any degradation of the agricultural capability of the land not utilised for the SESF (5ha) and the CWF.
- The proposed SES facility has been located within Lot 3 to ensure that there will be no conflict between adjoining land uses, including the approved waste facility on Lot 3.
- The proposal will encourage "other forms of development" in the way of critical telecommunications infrastructure that is compatible with surrounding land uses and will not result in any adverse impact on the environmental and cultural amenity of the zone. The proposal will result in an acceptable impact on the "visual" rural landscape characteristics of the zone. The ancillary structures associated with the proposed facility (including the main building, car parking areas and garage, fuel tank and generators etc) are proposed to be constructed in materials, with finishes that are consistent with the "grey" colour scheme of the antennae. Dense

landscaping is proposed along the site's eastern boundary to screen the proposed facility.

The design of the ancillary buildings has taken as its cues the farm building typology of a structure in the landscape. These buildings are notable for their simplicity of form and construction which is a direct response to the function of enclosure & water shedding. Colouring has been chosen to resemble the dominant colours of the Australian vegetation with silvery greys & greens which do not cause the building to stand out. Reflecting the Australian eucalypt the design contains a dark top which breaks down into patterns of silvery greens, greys and galvanised metal posts

The proposal has been assessed with reference to the relevant map layers. The following map layers:

Lot size:	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes
Height of building:	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes
Floor space ratio:	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes
Flood planning:	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes
Natural resource biodiversity:	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes
Coastal hazards:	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes
Natural resource land:	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes
Water and wetlands:	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes

#### Additional comment if required

##### Lot Size

Minimum lot size for a dwelling 120ha. No dwelling involved. Lots of less than 120ha can be created for primary production purposes.

##### Height of Building

Maximum height 10m. Proposed buildings comply. Proposed antennae/satellite dishes are higher but are not governed by the height restriction.

##### Natural Resource Biodiversity

Whilst significant vegetation (remnant tree cover) is shown on the south western part of the CWF Site none is shown on the proposed SES Facility site. No tree clearing is proposed.

##### Natural Resource Land

No constrained land is mapped for the CWF Site of the SES Facility land.

##### Water and Wetlands

A number of watercourses are mapped for the CWF Site. Development should be setback 40m from the top of the banks of the watercourses. The site plan indicates a gully to the west of the proposal. Construction works and the location of the septic trench are located more than 40m from the identified gully.

##### Heritage Map

The adjoining property to the north "Ayrdaire Dairy Village" is a mapped and listed heritage item.

At the time of completion of this assessment, was the making of the draft LEP certain or imminent?

☐ No ☒ Yes

## Any Development Control Plan (DCPs)

Section 79C (1)(a)(iii)

Which of the following DCPs are relevant to this property?

		Comment (where necessary)
<input type="checkbox"/>	1 Residential Standards	
<input type="checkbox"/>	2 Subdivision Standards	
<input checked="" type="checkbox"/>	3 Notification Policy	<i>The application has been placed on exhibition in accordance with Council's Notification Policy</i>
<input type="checkbox"/>	4 Exempt and Complying Development	<p><i>It is proposed to use a septic tank and absorption trench system.</i></p> <p><i>The following information is required for most development applications (including subdivision) or applications for an approval under Section 68 of the Local Government Act 1993 (also applicable) requiring systems of OSM.</i></p> <p><i>a) A basic site and soil assessment addressing the minimum criterion as specified by the Local Government (General) Regulations 2005 and Council's On-site Sewage Management Policy; or</i></p> <p><i>b) A detailed site and soil assessment report, prepared by a suitably qualified soil scientist, engineer or consultant, assessing the suitability of the land for on-site sewage management in accordance with the following publications: -</i></p> <ul style="list-style-type: none"> <li><i>• Environment and Health Protection Guidelines – On-site Sewage Management for Single Households; or</i></li> <li><i>• Australian Standard 1547 – On-site Domestic Wastewater Management</i></li> </ul> <p><i>c) Options a) and b) above shall be supported by a detailed water balance using a rainfall allowance of the 70th percentile historic data for the appropriate locality.</i></p> <p><i>The On-site Sewer Management Report accompanying the application does not provide this level of information.</i></p> <p><i>In view of the paucity of information provided by the applicants in this regard comments were sought from Council's Building Services Co-ordinator and they are:</i></p> <p><i>"..the hydraulic buffers are in the attached document and I am confident they can be met on this site. From "Soil Landscapes of the Bega-Golen Point 1:1000 Sheet, Tulau, 1997, DLWC, pp 105-108, the soil landscape on the site is Transferral Landscape Bemboka has in general only moderate limitations for effluent disposal. Council has over a thousand septic tanks and absorptions trenches in this landscape with few problems other than an expected renewal around the 10 year mark. With an intended low volume use of this nature and ample room to augment if necessary there is little if any risk for this use on this site."</i></p> <p><i>The document referred to is Council's "On-site sewage management policy". The relevant hydraulic buffer is 40m from intermittent streams and dams.</i></p>
<input checked="" type="checkbox"/>	5 Onsite Sewage Management	
<input checked="" type="checkbox"/>	6 Minimum Setbacks to Roads and Nominated Waterways	<i>There are no nominated waterways within 150m of the site.</i>

		<i>The setback from the nearest rural road exceeds 20m.</i>
		<i>Parking spaces are required to be provided in accordance with Schedule 1, however, there are no requirements listed for the proposed use within Schedule 1. The parking demand for the development is therefore assessed on merit.</i>
		<i>Ten (10) sealed car parking spaces (including one (1) accessible space) are proposed as a part of this development.</i>
<b>X</b>	7	Parking Code
		<i>The proposed car parking provision is considered to adequately meet the anticipated parking demands of the proposal that will have between 2 and 4 permanent employees.</i>
		<i>There is ample room and driveway circulation space to accommodate service vehicles on to the site.</i>
<b>X</b>	8	Contaminated Land
		<i>The application complies with SEPP 55. See comments for SEPP 55 and Clause 76 of BVLEP 2002 earlier in this assessment.</i>
<input type="checkbox"/>	9	Rural Residential Development
<input type="checkbox"/>	10	Rural Water Supply Areas
<input type="checkbox"/>	11	Bed & Breakfast Establishments
<input type="checkbox"/>	12	Primitive Camping
<input type="checkbox"/>	13	Bent Street Laneway, Bermagui
<input type="checkbox"/>	14	Murrah, Tuross, Lamont and Carnago Streets
<input type="checkbox"/>	15	Beares Beach
<input type="checkbox"/>	16	Cobargo Village
<input type="checkbox"/>	17	Tarraganda 1(c) zone
<input type="checkbox"/>	18	Kalaru Village
<input type="checkbox"/>	19	Mogareeka Village
<input type="checkbox"/>	20	Tathra Headland
<input type="checkbox"/>	21	Tathra River Estate Stage One
<input type="checkbox"/>	22	Sapphire Coast Turf Club
<input type="checkbox"/>	23	Greater Merimbula Area Height Controls
<input type="checkbox"/>	24	Elizabeth Parade, Tura Beach
<input type="checkbox"/>	25	The Dress Circle, Tura Beach
<input type="checkbox"/>	26	Golf Circuit, Tura Beach
<input type="checkbox"/>	27	Kangaroo Run, Tura Beach
<input type="checkbox"/>	28	Residential – Imlay and Monaro Street, Merimbula
<input type="checkbox"/>	29	Arthur Kaine Drive, Merimbula
<input type="checkbox"/>	31	Merimbula Airport Lands
<input type="checkbox"/>	32	West Pambula Future Urban
<input type="checkbox"/>	33	Broadwater
<input type="checkbox"/>	34	Eden Urban Area
<input type="checkbox"/>	35	South Eden 1(c) zone
<input type="checkbox"/>	36	Wonboyn Village
<input type="checkbox"/>	37	Bellbird Hill Eden
<input type="checkbox"/>	39	Pambula Village
<input type="checkbox"/>	40	Port of Eden Town Centre
<input type="checkbox"/>	41	Bega Town Centre
<input type="checkbox"/>	44	Prospect Estate, South Pambula



Are any variations to DCPs proposed?

☐ Yes ☒ No

►► PROVIDE YOUR ASSESSMENT NOTES HERE:

Comment

►► DISCUSS WITH YOUR MANAGER. MAY NEED TO REPORT TO COUNCIL.

**Any planning agreement a developer may have entered into** Section 79C (1)(a)(iia)

Has the developer entered into (or proposed) any planning agreements?

☒ No ☐ Yes SPECIFY:

**Any regulations that may apply to the land**

Section 79C (1)(a)(iv)

Are there any regulations that may apply to this land?

☒ No ☐ Yes SPECIFY:

**Development impacts and site suitability**

Section 79C (1)(b) & (c)

What are the likely impacts of the development and suitability of the site?

**Environmental impacts NATURAL**

1 Is this proposal satisfactory, having consideration to the impact on the environment in terms of:

Landforms	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Water quality	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Drainage/hydrology/watercourses	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Vegetation	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Fauna	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Flora	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Habitat	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Soil erosion	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Other	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is the proposal satisfactory having regard to:

Provision for landscaping on the site? (including screening or fencing)	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Preservation of existing vegetation?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Setbacks to watercourses/riparian buffers?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Provisions of any Property Vegetation Plan (PVP)?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Comment

## SECTION 5A EP&A Act ASSESSMENT OF SIGNIFICANCE

- a) **Threatened species:** is the proposal likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction?

☐ Yes ☒ No ☐ N/A

**Consider:**

- |                                                                                                    |                                                                                                          |
|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> displacement / disturbance of threatened species / populations | <input checked="" type="checkbox"/> Effect on migration / dispersal ability                              |
| <input checked="" type="checkbox"/> disruption to breeding cycle                                   | <input checked="" type="checkbox"/> Disturbance to seedbanks                                             |
| <input checked="" type="checkbox"/> disturbance to dormancy period                                 | <input checked="" type="checkbox"/> Germination and establishment of plants                              |
| <input checked="" type="checkbox"/> disturbance to roosting behaviour                              | <input checked="" type="checkbox"/> effect of interaction between species (eg pollinators, host species) |
| <input checked="" type="checkbox"/> changes to foraging behaviour                                  |                                                                                                          |

- b) **Endangered population:** is the proposal likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction?

☐ Yes ☒ No ☐ N/A

**Consider:**

- |                                                                             |                                                                                                          |
|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> disturbance to seedbanks                | <input checked="" type="checkbox"/> effect of interaction between species (eg pollinators, host species) |
| <input checked="" type="checkbox"/> germination and establishment of plants |                                                                                                          |

- c) **Endangered ecological communities:** is the proposal likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction **OR** likely to substantially and adversely modify the composition of the EEC that its local occurrence is likely to be placed at risk of extinction?

☐ Yes ☒ No ☐ N/A

**Consider:**

- ☒ whether any EECs are known or likely to occur within the study area

- d) **Habitat:** is the proposal likely to remove or modify the habitat of a threatened species , population or ecological community?

☐ Yes ☒ No ☐ N/A

**Consider:**

- |                                                                                                            |                                                                                                           |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> disturbance of any permanent, semi-permanent or ephemeral water bodies | <input checked="" type="checkbox"/> introduction of weeds, vermin or feral species                        |
| <input checked="" type="checkbox"/> degradation of soil quality                                            | <input checked="" type="checkbox"/> removal of trees with hollows, caves and rock crevices                |
| <input checked="" type="checkbox"/> clearing or modification of native vegetation                          | <input checked="" type="checkbox"/> effect of natural revegetation and recolonisation of existing habitat |

Is the proposal likely to fragment or isolate an area of habitat from other areas of habitat?

IF YES, assess the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality.

☐ Yes ☐ No ☐ N/A

- e) Is the proposal likely to have an adverse effect on critical habitat (either directly or indirectly)?

☐ Yes ☒ No ☐ N/A

- f) Is the proposal consistent with the objectives or actions of a recovery plan or threat abatement plan?

☐ Yes ☐ No ☒ N/A

- g) Does the proposal constitute a key threatening process or is likely to result in the operation of, or increase the impact of a key threatening process?

☐ Yes ☒ No ☐ N/A

## Environmental impacts HAZARDS

### 2 Is this proposal satisfactory, having consideration to:

Soil instability/subsidence/slip/mass movement, uncompacted fill?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Flooding or tidal inundation?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Contaminated land provisions or listings?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Acid sulphate soils?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Bushfire prone land?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Is the proposal integrated development?</li> </ul>	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <sup>1</sup>	<input type="checkbox"/> No
<ul style="list-style-type: none"> <li><sup>1</sup> If YES, has a S100B been issued by NSW RFS?</li> </ul>	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes <sup>2</sup>	<input type="checkbox"/> No <sup>3</sup>
<ul style="list-style-type: none"> <li><sup>2</sup> If YES, attach to consent.</li> </ul>			
<ul style="list-style-type: none"> <li><sup>3</sup> If NO, refuse application as per EP&amp;A Act requirements.</li> </ul>			
<ul style="list-style-type: none"> <li>Is the proposal consistent with Planning for Bushfire Protection?</li> </ul>		<input type="checkbox"/> Yes <sup>2</sup>	<input type="checkbox"/> No <sup>3</sup>
<ul style="list-style-type: none"> <li>Has the proposal been considered by the local RFS?</li> </ul>	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes <sup>2</sup>	<input type="checkbox"/> No <sup>3</sup>
<ul style="list-style-type: none"> <li><sup>1</sup> If YES, include any requirements of NSW RFS as conditions of consent</li> </ul>			
Is the proposal subject to any other hazards?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

#### Comment

A Bushfire Hazard Assessment has been undertaken by Building Code & Bushfire Hazard Solutions for this application. The assessment confirms that subject to adopting the bushfire safety measures recommended in the report, and consideration of the site specific bushfire risk assessment, the proposed development will provide a reasonable and satisfactory level of bushfire protection and also satisfies both the Rural Fire Service's concerns and those of Council in this area.

See comments on Clause 75 of BVLEP 2002 earlier in this assessment.

## Environmental impacts BUILT

### 3 Is this proposal suitable having regard to the following:

Relationship of development on adjoining land or other land in the locality?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Existing and likely future amenity of the neighbourhood?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Landscape and scenic quality of the locality?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Appearance from/to the road, reserves or waterways etc?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Noise/lighting nuisance to adjoining developments or roads etc?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Noise sources likely to affect the proposal?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The scenic qualities and features of the landscape?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The character and amenity of the locality and streetscape?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The scale (bulk, height, mass) form, character, density and design of development in the locality?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Sunlight access (overshadowing)?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Visual and acoustic privacy?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Views?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Edge conditions such as boundary treatments and fencing?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Retaining walls?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Structural integrity of neighbouring buildings?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

#### Comment

**4 Is the development design sensitive to environmental conditions, streetscape and site attributes including:**

Character, location, size, bulk, scale, shape, density and design of:

- |                                    |                                         |                                         |                             |
|------------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------|
| ▪ buildings and structures?        | <input type="checkbox"/> N/A            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ allotments, easements and roads? | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

The proportion of site covered by buildings (check floor space ratio)?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------------------------------------------------	-----------------------------------------	------------------------------	-----------------------------

The positioning of buildings?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
-------------------------------	-----------------------------------------	------------------------------	-----------------------------

**Comment****5 Access, traffic and car parking**

Is the road system adequate to cater for any increase in traffic movements generated by the proposal?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
-------------------------------------------------------------------------------------------------------	------------------------------	-----------------------------------------	-----------------------------

Is vehicular access satisfactory in terms of:

- |                                                      |                              |                                         |                             |
|------------------------------------------------------|------------------------------|-----------------------------------------|-----------------------------|
| ▪ grades?                                            | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ sight distance?                                    | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ setbacks from intersections?                       | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ width of drive?                                    | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ exit in forward direction?                         | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ siting of car parking, including disabled parking? | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ loading / unloading?                               | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Is car parking adequate?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
--------------------------	------------------------------	-----------------------------------------	-----------------------------

- |                                             |                                         |                              |                             |
|---------------------------------------------|-----------------------------------------|------------------------------|-----------------------------|
| ▪ number of spaces required?                |                                         |                              |                             |
| ▪ number of spaces proposed?                |                                         |                              |                             |
| ▪ shortfall/surplus                         |                                         |                              |                             |
| ▪ contribution for car parking appropriate? | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Has the assessment of this proposal included input from the Traffic Committee (local or regional) and/or any other relevant road authority (eg RTA)?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------	------------------------------	-----------------------------

Public transport access and services:

- |                                                                                                                            |                                         |                              |                             |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------|-----------------------------|
| ▪ Has the availability, accessibility and adequacy of public transport been considered in the assessment of this proposal? | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------|-----------------------------|

Is pedestrian access satisfactory in terms of:

- |                      |                                         |                              |                             |
|----------------------|-----------------------------------------|------------------------------|-----------------------------|
| ▪ grades?            | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ disabled access?   | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ width of pathways? | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**Comment**

## Social and economic impacts

6 Is the proposal satisfactory having regard to the social and economic effects on the locality, town or shire?

☐ N/A

☒ Yes

☐ No

Comment

The proposed development will provide a positive economic and social impact for the following reasons:

- Employment will be generated during the construction and operational phases of the project.
- The proposed SES facility will be located on a larger allotment which consists of vacant land, with an approved waste facility to be constructed on part of the lot. The take up of the proposed part of Lot 3 for the NBN satellite earth station will result in the economic and orderly use of land that would otherwise likely remain vacant due to its proximity to the approved waste facility. The proposed SES facility will not result in any land use conflict with the approved waste facility.
- The proposed development forms part of the wider National Broadband Network which will ultimately result in the delivery of high-speed broadband access for the rural and remote regions of Australia, including Wolumla.

## 7 Aboriginal and/or European heritage significance

Is there any impact on an item of European heritage or an item of Aboriginal significance?

☐ N/A

☒ Yes<sup>1</sup>

☐ No

<sup>1</sup> If YES, does proposal satisfy Part 10 of the Bega Valley LEP 2002?

☐ N/A

☒ Yes<sup>2</sup>

☐ No

<sup>2</sup> If YES, does the proposal satisfy the requirements of Council's *Protocol for Aboriginal Consultation for Assessment Purposes*?

☐ N/A

☐ Yes<sup>3</sup>

☐ No

<sup>3</sup> If YES, does the proposal satisfy the requirements of the *National Parks and Wildlife Act*?

☐ N/A

☐ Yes

☐ No

Does the property contain an item listed in the Heritage Schedule of the LEP?

☒ N/A

☐ Yes<sup>1</sup>

☐ No

<sup>1</sup> If YES, has a Statement of Heritage Impact been submitted?

☐ N/A

☐ Yes

☐ No

Comment

See comments on Clause 61 of BVLEP 2002 earlier in this assessment.

## 8 Access and equity considerations

Does the development comply with Council's *Aging & Disability Policy*?

☒ N/A

☐ Yes

☐ No

Was the proposal considered by Council's Access and Equity Committee?

☐ N/A

☐ Yes

☒ No

Are there any specific conditions recommended?

☒ N/A

☐ Yes

☐ No

If YES, please give details:

Comment

Was the proposal notified or advertised?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Were any submissions received?	If YES, How many?	4 plus 1 supplementary submission	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**Summary of issues / conditions recommended to address issues**

The issues raised are as follows:

1. Health impacts of electromagnetic radiofrequencies (EMRs)

The submission states that even low level EMRs can impact on health. At the time of public exhibition the proponents had not prepared an appropriate study on EMRs and so no approval should be given until the public have a chance to comment and make submissions on the report.

A summary report dated 12/2/13 has been submitted to Council that summarises the estimated maximum radiofrequency (RF) electromagnetic energy (EME) levels at ground level from the proposed NBN wireless earth station antennas. The estimated maximum cumulative RF EME levels from the antennas at a point 1.5m above ground level is predicted to be 0.00542% of the Australian Radiation Protection and Nuclear Safety Agency ARPANSA public exposure limits. The point is made that the actual level would be less than predicted due to path losses (obstructions).

The proponents have commented on this issue as follows:

'In response, an EME report has been prepared and accompanies this letter at Attachment 1, Ref: C130205 EME Summary Report and referenced Report C130205E Environmental EME Report. The report confirms that the proposed satellite earth station will not pose any adverse health risk. Refer below for a summary of the findings:-

"The limited used as the ARPANSA average reference levels. These limits are a more conservative limit than the basic restrictions mandated by ARPANSA.

The amount of electromagnetic energy radiating from the NBN Co earth station antennas only exceeds the general public limits for human exposure when directly in front of the antenna. The antennas are pointed towards the sky, making it highly unlikely for anyone to be present in the antenna beam. Even if an airplane were to fly directly through the antenna beam, it would not be possible to expose the persons inside the airplane for a long enough time to exceed the average exposure limit.

The system parameters used to complete the analysis were representative of an absolute worst case configuration. It is expected that in a real installation, the actual values would be lower than those presented in the analysis."

It would be appropriate to forward a copy of the summary report to the objectors raising this issue for their information. It may also be reasonable to require the proponents to monitor RF EME levels on an annual basis. This matter could be conditioned.

2. Wanatta Lane should be sealed for its entire length

The lane has been upgraded with seal to service the CWF. This is considered adequate and will cater for the proposed development. Council's Engineering Department has not required any further upgrade of Wanatta Lane as a result of the proposed development.

The proponents comments are as follows:

'One (1) of the objections made to the subject DA comments that based on the state of the current road (Wanatta Lane), it is "insufficient for increased road use and has not been addressed by the NBN".

In response to this objection, we note that Wanatta Lane has recently been upgraded by the Council to improve its condition. The upgrade of the road was a condition of the approval of the Bega Central Waste Facility DA. We understand that Wanatta Lane is now wider and sealed from the Princes Highway intersection up to, and past, the main entrance to the CWF. The purpose of the upgrade was to ensure it can accommodate waste trucks, as well as general road traffic. The traffic associated with the proposed facility, other than during construction, will generally consist of only a few cars.

Whilst the current state of Wanatta Lane is a matter for Council to consider in the assessment of the subject DA, we consider that the current state of the upgraded road is adequate to meet any traffic demands generated by the proposed facility.'

3. As part of the CWF deliberations Council has indicated that the CWF would be a single industrial undertaking on the land

A moral argument is put that Council and the EIS for the CWF have consistently indicated that the site would be utilised for the CWF with the residue used for occasional cattle grazing. A second "industrial use" such as the NBN facility is inappropriate in the location and contrary to the expectations of ratepayers/residents. If the NBN DA is approved then the CWF should be located elsewhere.

Whilst it appears that it may well be that Council and the EIS for the CWF have consistently indicated that the site would be utilised for the CWF with the residue used for occasional cattle grazing that does not mean that an NBN facility cannot be considered to be co-located on the land next to the CWF. Both the CWF and the NBN facility can only be appropriately located in a rural area (although not necessarily on the same site). Documentation and plans accompanying the DA for the NBN facility demonstrate that it can be located adjacent to the CWF. The DA and accompanying documentation have been placed on exhibition for public comment.

The Planning Consultants employed by the proponents have stated:

'In response to this objection, we note the following:-

- At the time that the CWF DA was prepared and assessed, NBNCo had not expressed any interest in purchasing the subject land. The detailed site selection process had not yet commenced.
- There is no condition of the CWF DA which restricts the use of the proposed NBNCo site for the proposed purpose. The proposed use is permitted with consent under the current planning controls and there is no covenant or restriction on the land to prohibit the use of the land for the proposed facility. We also note that there is no condition on the CWF consent which requires the residual part of Lot 3 (including the proposed NBNCo site) to be used for agricultural purposes.
- The proposed area of the Wanatta Lane Site (Lot 3) for the NBNCo facility is minor in comparison to the residual area of land (approximately 190 hectares) that can be used for agricultural / rural uses.

Further to the above, we wish to emphasise that the site selection process for the proposed NBNCo infrastructure, including the satellite earth station facilities, is detailed and based on a number of factors. Discussion in this regard is provided below.

In the first instance, we note that it is important for facilities of this scale to not be located in dense urban areas. This is widely recognised and is a principle that is applied in the site selection process Australia-wide for facilities of this scale. The subject site, whilst located in an area where there is existing development, is not located in a dense urban area. Whilst we understand that the antennae do not have any health related impacts, from a visual amenity perspective, these types of facilities are more conducive to a more "rural" context.

The site selection process involves specific computer software choosing a particular area, that is deemed to be appropriate on the basis of a number of technical matters, including weather, frequency etc. These factors cumulatively impact upon the performance of the facility. The area chosen for regions such as the Wolumla region, is chosen by a specific software system used by NBNCo in the site selection process for all infrastructure within the network.

Upon selecting this "wider" search area, there are detailed sub-criteria which influence the site selection process. Such matters include:-

- Availability of land to purchase
- Cost of land to purchase
- Minimum site area of 3 hectares
- Consideration of adjacent activities or potential future activities. there are certain industries that cannot be adjacent to the facility as they impact on its performance (for example, welding activities).
- Line of site to horizon, amenity, power and fibre.
- Shape – adequate for placing the facility with clearances
- Threat – security risks to the facility
- Maintenance access timing – location of local trades for quick breakdown response
- Flight Paths – avoid regular flights to minimise impact on facility operations
- Amenity – Minimise impact on residents, the environment and tourism (in some cases the installation is a benefit to tourism)
- Line of site to horizon – ensure no mountains, etc impact of the line of sight to the satellite
- Flood – zero flood area
- Industry – ensure no major local industry that can impact on performance
- Contamination – no or acceptable contamination
- Radio Frequency – require RF clearance so there is no interference
- Primary Transport, roads, airport, etc – access to major arterial roads for construction, maintenance and staff
- Fibre – close to existing fibre runs
- Power – close to HV

- Water – not essential but good if available
- Natural Gas – not required
- Rights of Way – prefer no rights of way unless other criteria are ok
- Overhead cables – minimal or no overhead powerlines over the site
- All weather – all weather access required to the site
- Capacity – roads require heavy vehicle access to the site
- Alternate Access Route – prefer a second route to access the site as a contingency
- Zoning – allowance development under the zoning
- Planning & approval – clear paths available
- Subdivision – confirm if required, prefer no subdivision if possible
- Cost of development – consider construction costs in site selection

A property consultant was engaged by NBNCo to utilise the above criteria and select possible sites. There were a number of sites within the region that were investigated with the majority of these considered unsuitable due to failure to meet NBNCo's criteria or unavailability for purchase.

In balancing the above criteria, availability of land for purchase, and the critical timescale that the National Broadband Network is subject to, we consider that the proposed site is the most appropriate for this critical part of the nationally significant telecommunications network.

In response to the BVSRAI's submission that they are not opposed to the development, but rather, its chosen location, we contend that there are no other viable sites. In the absence of any adverse environmental impacts resulting from the proposal and the lack of available appropriate sites for this critical telecommunications infrastructure development, we consider that the subject site is the most appropriate location for the proposed satellite earth station facility.'

#### 4. Visual and heritage impacts

The proposal will result in an acceptable impact on the "visual" rural landscape characteristics of the zone. The ancillary structures associated with the proposed facility (including the main building, car parking areas and garage, fuel tank and generators etc) are proposed to be constructed in materials, with finishes that are consistent with the "grey" colour scheme of the antennae. Dense landscaping is proposed along the site's eastern boundary to screen the proposed facility.

The design of the ancillary buildings has taken as its cues the farm building typology of a structure in the landscape. These buildings are notable for their simplicity of form and construction which is a direct response to the function of enclosure & water shedding. Colouring has been chosen to resemble the dominant colours of the Australian vegetation with silvery greys & greens which do not cause the building to stand out. Reflecting the Australian eucalypt the design contains a dark top which breaks down into patterns of silvery greens, greys and galvanised metal posts.

A Heritage Impact Statement ("HIS") has been prepared. In summary, the HIS concludes that the proposal will not result in any adverse impact on the adjacent heritage item.

The proponents response to the heritage impact issue is as follows:

'Council's Heritage Adviser, confirms in the heritage advice dated 11 December 2012 that the proposed development will not result in any adverse heritage impact on Ayredale for the following reasons:-

- the proposed facility is some 900 metres from Ayredale
- is partly obscured by landform
- is not overly high
- will have no direct or physical on the LEP listed Ayredale site
- the nearby "Lord's House" is in an advanced state of decay and unlikely to meet the threshold for Listing in the LEP heritage schedule.

Notwithstanding the above, Council's Heritage Adviser has recommended that planting of one or two trees between Ayredale and the facility should be considered to further screen the proposed development.

Should the Council deem it to be necessary, the recommended planting can be accommodated on-site.'

An appropriate condition can be formulated.

#### 5. Loss of agricultural land

The proposed development will not result in any significant degradation of the land with regard to its agricultural capacity. It is unlikely that the site would be used for commercial agricultural purposes due to direct proximity to the approved waste management facility.

The SES would be located on the CWF site which has a total area of 198.8ha. The area of the proposed NBN site is 5ha thus only a small percentage of the total CWF site.



The EIS for the CWF site stated that the CWF site was part of a larger cattle grazing property but since the purchase of the land by Council in 2002 livestock grazing largely decreased and the land has remained vacant..

6. That part of the site proposed to house the NBN facility was designated as a potential longer term leachate spray area

The documentation accompanying the CWF DA EIS Volumes 1 and 3 nominated as part of the proposed leachate strategy that at Stage 6 (which would occur 20+ years after landfill commenced) up to 4ha of land outside of the landfill footprint may be required for leachate irrigation during wet years. That 4ha of land was shown partly in the area proposed to be utilised for the NBN facility. The approval for the CWF states that development should take place in accordance with the endorsed plans and reports including the EIS Volumes 1-3.

Legal advice has been sought by Council as to whether a modification to the CWF approval may be required that relocates the 4ha possible future irrigation area to a location outside of the site proposed to be utilised for the NBN facility. That advice states:

“

1. The essence of this question is:

Does condition 11 mean, that notwithstanding the reference to a stage 6 irrigation area, that this area has not been approved and separate approval is required?

We are of the opinion that the way condition 11 has been drafted it means that there is a general prohibition on the disposal of leachate other than the three different ways identified in the condition. The first way is (a) Evaporation and the third way is (c) Disposal at a facility licensed to accept such waste. Both of these ways are silent on where the disposal is to take place but the second way identifies irrigation as the method and identifies the place for the irrigation being “(b) Irrigation within the leachate dam or within the active cell of the landfill”.

We have been informed that the area identified for stage 6 future irrigation area is not within the “approved leachate dam or active cell of the landfill”.

In these circumstances we are of the opinion that condition 11 means that although there is the reference to a stage 6 irrigation area, this area has not been approved for “Irrigation within the leachate dam or within the active cell of the landfill” and it follows that a modification of the approval is required or a separate approval is required to implement that stage.

2. The answer to question 1 being yes, it does not necessarily mean that the consent needs to be modified or a new consent obtained. It may well not be necessary to progress to stage 6 if condition 12 is triggered. That condition provides for a leachate monitoring program to be undertaken quarterly during the operation of the site and that should provide sufficient details of leachate generation and quality.

Once that information is available “application can be made to Council (and the OEH) to modify the means of disposal of the leachate.”

In the alternative, if the land identified as stage 6 is being sold that simply means that the present operation cannot progress to stage 6 and a separate consent will be required to expand beyond stage 5. We say a separate consent because there could be difficulties convincing a court that section 96 is available as it would need to be “substantially the same development” for the provisions of that section to be available.

The proponents have responded to this issue as follows:

‘The submission prepared by Bega Valley Shire Ratepayers Association Incorporated (“BVSRAI”) integrating the Wolumla Residents Action Group (“WRAG”), has prepared a submission regarding the proposal. The submission clearly states that they are not opposed to the development, but rather, are opposed to its “chosen location and the long term resultant costs”.

The BVSRAI’s concerns regarding the proposed location directly relate to its adjacent proximity to the approved waste facility

and the potential for leachate disposal on or directly near the proposed NBNC Co site. A response to this concern was provided by Bega Valley Shire Council by email correspondence on 24 December 2012 to the BVSRAI, which is provided below:-

"The EPA regulates what may take place at the CWF via the environmental protection licence. Condition O5.2 of the General Term of Approval issued by the EPA states that "unless otherwise approved in writing by the EPA, leachate must only be disposed of by:

- a) evaporation;
- b) irrigation within the leachate or within the active cell of the landfill;
- c) disposal at a facility licenced to accept such waste".

Consequently, under development application 2009.0563, "no approval" is given for the disposal of leachate other than by: irrigation within the leachate dam; within the active landfill cell; or, disposal at a facility licenced to accept such waste (i.e. a licenced waste water treatment plant).

These two documents: the EPA's general terms of approval; and, Council's development consent, do not permit irrigation of leachate, treated or otherwise, anywhere else on the site. Should Council seek to modify the consent to allow irrigation of leachate on the land proposed for sale to NBNC Co, there is a planning process to be followed and ultimately the EPA would determine either or not such an activity would be permitted under the environmental protection licence. However, Council would be seeking approval for something which may not be required for approximately 25 years or possibly not at all.

Appendix O of the EIS, the Leachate Disposal Options Report, which was requested by the NSW EPA in 2008 and prepared by Council's consultant, identified a number of areas which might be used for treated leachate irrigation outside the landfill footprint. This included the area which is subject to the NBNC Co DA. However, neither the EPA nor Council has approved any options except as per the above.

The reason an area outside the landfill footprint might be required is because the leachate generation modelling indicates that during stage 6 of the landfill (in approximately 26-27 years of operation) an additional land application area may be required subject to prevailing rainfall (i.e. 10% AEP wet year).

It is prudent that Council has available to it appropriate areas of land on which to irrigate treated leachate outside the landfill footprint in the future, should this indeed be required. However the application for such a proposal is likely to occur in approximately 25 years, and planning processes, best practice, technology and operations are likely to overtake any decisions made".

Whilst this is primarily a matter for Council to assess, the above is considered to adequately address the concerns raised by the BVSRAI in relation to the potential impact of leachate overflow to the NBNC Co site.

The BVSRAI also raises concerns regarding one of the approved methods of leachate disposal, being to a facility licenced to accept such waste, and the cost to Bega Valley Shire ratepayers. The BVSRAI comments that:-

"Due to the sheer volume of leachate requiring transportation and disposal in this manner, clearly there will be a high cost to the shires ratepayers. Any upgrade of existing sewerage treatment plants and additional equipment required due to this added leachate burden will also be at a further cost to ratepayers".

The BVSRAI suggests that one way to mitigate this potential economic impact to ratepayers is to require NBNC Co to indemnify the ratepayers of the shire "against any and all costs arising from the need to transport and dispose of leachate away from the CWF, including any upgrading required to sewerage treatment plants or the like".

In response to the above, we consider that this is not necessary. As stated in Council's response to the BVSRAI, approval has already been granted under DA 2009.0563 for three (3) potential forms of disposal of leachate, including disposal at appropriate external facilities. The potential impacts of this type of disposal method would have been considered in the assessment and approval of DA 2009.0563. The proposed NBNC Co satellite earth station does not alter this situation / arrangement for disposal of leachate by the CWF. Therefore, the BVSRAI's concerns regarding these "long term resultant costs" are not a matter for consideration in the assessment of the subject application.'

The NSW EPA has also commented on this issue as follows:

'BVSC will therefore need to confirm that the SES (Satellite Earth Station) will not jeopardise the capacity of the BCWF to store manage or dispose of any leachate generated at the premises'

- |                                                                                  |                                 |
|----------------------------------------------------------------------------------|---------------------------------|
| <input type="checkbox"/> Integrated Development                                  |                                 |
| – Refer copy of submissions to Approval Body (see s.69 of EP&A Regs)             | Completed: date ____ / ____ /20 |
| <input type="checkbox"/> Designated development                                  |                                 |
| – Refer copy of submissions to Director-General of DoP (see s.80(9) of EP&A Act) | Completed: date ____ / ____ /20 |

**Public interest**

Section 79C (1)(e)

Would approval of the development be in the public interest?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Have the principles of ecologically sustainable development been considered in the assessment of this development?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Has the precautionary approach been considered in the assessment of this development?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the potential impacts of sea level rise been considered in the assessment of this development?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**CONCLUSION**

Having consideration to all relevant matters, the proposal is considered to be: ☒ Satisfactory ☐ Unsatisfactory

Permissible under Clause(s) 8 of Bega Valley Local Environmental Plan 2002 and under SEPP 2007

**Assessing officer****Print name**

Paul May

**Date**

21/3/13

**Signature X**