

1(a)(i) any environmental planning instrument (Section 79C (1)(a)(i)&(ii))**Environmental Planning and Assessment Regulation 2000****Schedule 3 Designated development****Part 1 What is designated development?****2 Aircraft facilities**

Aircraft facilities (including terminals, buildings for the parking, servicing or maintenance of aircraft, installations or movement areas) for the landing, taking-off or parking of aeroplanes, seaplanes or helicopters:

(a) in the case of seaplane or aeroplane facilities:

(i) that cause a significant environmental impact or significantly increase the environmental impacts as a result of the number of flight movements (including taking-off or landing) or the maximum take-off weight of aircraft capable of using the facilities, and

(ii) that are located so that the whole or part of a residential zone, a school or hospital is within the 20 ANEF contour map approved by the Civil Aviation Authority of Australia, or within 5 kilometres of the facilities if no ANEF contour map has been approved, or

The airstrip is located within 3.524kms of a R5 Large Lot Residential zone and 3.952kms of an E4 Environmental Living zone. Under the EP&A Regulation, Schedule 3, Part 4, Clause 38 Definitions,

residential zone means land identified in an environmental planning instrument as being predominantly for residential use, including urban, village or living area zones, but excluding rural residential zones.

As none of the above-listed zones meet the definition of a residential zone, the proposal is not designated development.

(b) in the case of helicopter facilities (other than facilities used exclusively for emergency aeromedical evacuation, retrieval or rescue):

(i) that have an intended use of more than 7 helicopter flight movements per week (including taking-off or landing), and

(ii) that are located within 1 kilometre of a dwelling not associated with the facilities, or

The proposal does not include helicopter facilities.

(c) in any case, that are located:

(i) so as to disturb more than 20 hectares of native vegetation by clearing, or

(ii) within 40 metres of an environmentally sensitive area, or

(iii) within 40 metres of a natural waterbody (if other than seaplane or helicopter facilities).

The proposal does not meet these provisions. The development is not designated development.

State Environmental Planning Policies**Which of the following SEPPs are relevant to this development?**

14 Coastal wetlands

21 Caravan parks

30 Intensive agriculture

32 Urban consolidation (redevelopment of urban land)

33 Hazardous and offensive development

See assessment completed below.

<input type="checkbox"/>	36	Manufactured home estates	
<input checked="" type="checkbox"/>	44	Koala habitat protection	<i>Matters for consideration to be completed below</i>
<input type="checkbox"/>	50	Canal estates	
<input checked="" type="checkbox"/>	55	Remediation of land	<i>See assessment completed below</i>
<input type="checkbox"/>	62	Sustainable aquaculture	
<input checked="" type="checkbox"/>	64	Advertising and signage	<i>No signage has been detailed in the application.</i>
<input type="checkbox"/>	65	Design quality of residential flat development	
<input type="checkbox"/>	71	Coastal protection	<i>The site is not mapped within the coastal zone.</i>
<input type="checkbox"/>		SEPP (Housing for Seniors or People with a Disability) 2004	
<input type="checkbox"/>		SEPP (Building Sustainability Index: BASIX) 2004	<i>The development achieves the water and energy efficiency targets of BASIX <input type="checkbox"/> N/a <input type="checkbox"/> Y <input type="checkbox"/> N The development qualifies as Regional Development, based on the Development having a capital investment value of more than \$5 million for any of the following purposes:</i>
<input checked="" type="checkbox"/>		SEPP (State and Regional Development) 2011	<i>(a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities, (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship. Consequently, the Southern JRPP exercises the consent functions of Bega Valley Shire Council. There are no extractive industries located within the immediate vicinity of the site to impact on the development operations. The nearest extractive industries are located approximately 3.8km to the north being for river sand extraction and 6.2km to the south of the site being for gravel extraction.</i>
<input checked="" type="checkbox"/>		SEPP (Mining, Petroleum Production and Extractive Industries) 2007	<i>See assessment below.</i>
<input checked="" type="checkbox"/>		SEPP (Infrastructure) 2007	<i>Matters for consideration to be completed over page</i>
<input type="checkbox"/>		SEPP (Rural Lands) 2008	
<input type="checkbox"/>		SEPP (Affordable Rental Housing) 2009	<i>The SEPP has the effect of replacing Clause 5.9 and 5.9AA of the LEP. Vegetation is proposed to be removed in association with the development application, and therefore SEPP (Vegetation in Non-Rural Areas) does <u>not</u> apply.</i>
<input type="checkbox"/>		SEPP (Vegetation in Non-Rural Areas) 2017	<i>The removal of vegetation is to be assessed under the transitional provisions of the BC Act 2016, with reference to the Threatened Species Conservation Act 1995.</i>

Matters for consideration

SEPP 44 Koala Habitat Protection 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

Potential koala habitat 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.’

STEP 1: Is the land potential koala habitat?

x Yes No N/A

Core koala habitat 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 or historical records of a population.’

STEP 2: Is the land core koala habitat?

Yes No N/A

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 *Eucalyptus tereticornis* and *E. viminalis*.

STEP 3: Can development consent be granted in relation to core koala habitat?

Comment

The site is not deemed core Koala habitat. There are no Bionet records within the locality (see Map 1 attached). The site is dominated by White Stringybark (*E.globoidia*) which is regarded as a supplementary feed tree. There are a small number of Forest Red Gums (*E.tereticornis*) present which is regarded as a primary feed tree however with the high occurrence of Forest Red Gums present in other parts of the valley it is not regarded as important from a Koala foraging perspective.

Yes No N/A

N/A?

SEPP 71 Coastal Protection

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 Yes No
- b) Existing public access to coastal foreshore is retained, and where possible improved? Yes No N/A
- c) The proposal is able to provide new public access to/along foreshore? Yes No N/A
- d) The development is suitable in type, location, design and surroundings? Yes No
- e) Any detrimental impact on amenity of coastal foreshore (eg overshadowing, loss of significant public views) is negligible or mitigated. Yes No N/A
- f) The scenic qualities of the NSW coast are protected and enhanced by this development? Yes No N/A
- g) The development provides suitable measures to conserve animals and plants (see *Threatened Species Conservation Act*)? Yes No No impact/N/A
- h) The development provides suitable measures to conserve fish and marine vegetation (see *Fisheries Management Act*)? Yes No No impact/N/A
- i) Wildlife corridors and any impact on such has been considered and development is satisfactory? Yes No N/A
- j) The likely impacts of and on coastal processes and hazards and the development have been considered and the development is satisfactory? Yes No N/A
- k) The development provides suitable measures to reduce the potential for conflict between land-based and water-based coastal activities? Yes No N/A
- l) The development provides suitable measures to protect cultural places, values, customs, beliefs, and traditional knowledge of Aboriginals? Yes No N/A
- m) Likely impacts of the development on the water quality of coastal water bodies have been considered and the development is satisfactory? Yes No N/A
- n) The development conserves and preserves items of heritage, archaeological or historic significance? Yes No N/A
- o) Cumulative impact of the development on the environment has been considered and the proposal is satisfactory? Yes No
- p) The development provides suitable measures to ensure that water and energy usage by the proposed development is efficient? Yes No N/A

N/A?

SEPP (Rural Lands) 2008

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. Yes No N/A
- d) The development (other than development within a rural residential zone) is compatible with land uses within an adjoining rural residential zone. Yes No N/A
- e) Suitable measures are proposed by the applicant to avoid or minimise any incompatibility. Yes No N/A

Comments:

SEPP (Rural Lands) 2008

Clause 10 outlines the matters to be considered in determining development applications for rural subdivision or rural dwellings. The clause applies to land in a rural zone. The application proposes construction of student accommodation in the SP2 zone ancillary to the flight school. No dwellings are proposed to be constructed in a rural zone. Further, the definition of dwelling is not applicable to the student accommodation that is proposed.

SEPP 33 Hazardous and offensive development

The SEPP 33 assessment was undertaken in consultation with the guidelines (Jan 2011). The development is not defined as an “industry” or “industrial activity”, however the development is broadly defined as an air transport facility which can be broken down into smaller elements including a “storage premises”, specifically with regard to the storage of fuel. Therefore further consideration of SEPP 33 is required in accordance with advice from The Guidelines:

Note: For the purposes of SEPP 33, a hazardous storage establishment is included in the definition of potentially hazardous industry. Similarly, an offensive storage establishment is included in the definition of potentially offensive industry.

This means that a storage development is considered ‘industry’ for the purposes of applying the SEPP 33 tests, even if the development is non-industrial. An example may be a storage facility associated with the reticulation of LPG within a housing development.

Is the development potentially hazardous industry?

- Bulk storage of fuel is proposed on the site, and therefore it needs to be considered whether the development is a potentially hazardous industry. The definition of a potentially hazardous industry follows:

potentially hazardous industry means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:

(a) to human health, life or property, or

(b) to the biophysical environment,

and includes a hazardous industry and a hazardous storage establishment.

Liquid petroleum products are classified under the Australian Code for the Transportation of Dangerous Goods by Road and Rail (ADG) as Class 3, Packing Group (PG) II. According to Figure 9 of the ADG, the proposal to store 60,000L more than 10m from the lot boundary falls below the screening threshold.

Transportation of the fuel has been considered by the applicant and it is advised that at full capacity a maximum of 24,000L of fuel will be required per week, with a maximum of 2 transport movements per week, and a cumulative annual total of 50 transport movements. Both of these figures are well below the thresholds of 45 and 750 movements respectively, and therefore the proposed transportation movements fall below the threshold.

Is the development potentially offensive industry?

- The definition of a potentially offensive industry follows:

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.

Review of the guidelines:

- Given that aeroplanes taking-off and being serviced may create significant noise, particularly with regard to the proposed intensity of operations at the subject site (ie. 240 flight movements per flying day at full capacity), the development is considered to be a potentially offensive industry.
- The proposal does not trigger an EPA license under the POEO Act, however it is noted that no airport or aerodrome facilities trigger an EPA license under the POEO Act, excepting for helicopter-related activities.

- The application was supported by a noise assessment report which states that the test aircraft engine noise was not discernible from the Noise Catchment Area locations during taxiing. However concerns regarding the acceptability of aircraft noise during take-off and the flying of training circuits remain outstanding. The noise assessment report was subject to scrutiny by an expert noise consultant regarding its adequacy, and determined to be insufficient to determine the extent of the impact, and therefore insufficient to determine the acceptability of the noise impact.
- Therefore, it has not been determined that the proposal is not offensive.

SEPP 55 Remediation of land

The site has been used as a landing ground for airplanes since 1937. Under Table 2 of the Contaminated Land Planning Guidelines an airport is listed as a contaminating use with hydrocarbons and metals as potential contaminants. The SOEE Addendum details that currently "...approximately 1,000L of fuel, including Aviation Gasoline (avgas), is currently stored at the Frogs Hollow airfield. This is currently stored in unprotected, un-bunded steel drums". Council notes the potential for fuel to have been spilled on the site. The applicant engaged a geo-technical engineer to undertake the assessment.

Clause 7 (1) requires that the consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The applicant undertook a Preliminary Site Investigation (PSI) which detailed potential contaminants at the site inclusive of:

- fuels, solvents, aviation hydraulic fluids and lubricants in hangars and sheds;
- leaks and spills from car parking and vehicle usage;
- storage of herbicides/pesticides for aerial application;
- landfill of unknown origin in runway construction;
- storage of car tyres and surplus construction materials;
- potential leakage of septic tanks;
- potential use and breakdown of friable or damaged asbestos; and
- use of herbicides/pesticides for land management.

The report noted the likelihood of contamination across the site is considered to be low, although some highly localised areas have a low to moderate likelihood that contamination may be present. The report details "...it was reported to Coffey that only small quantities of fuels, lubricants, aviation hydraulic fluids were known to be used (i.e. stored/used in 5L to 20L containers)..." which is noted to be inconsistent with the advice provided in the SOEE Addendum.

The report concludes that based on the findings of the assessment the likelihood of contamination being present across the site that would preclude development is generally low. However given that the proposed development includes accommodation facilities it is recommended that further assessment should be completed. The report makes the following recommendations in order for the site to be made suitable for the proposed future development:

1. Prior to structural modification or removal of buildings, an asbestos / hazardous materials survey should be conducted to confirm the recent condition of any potential hazardous materials in the onsite buildings, with the survey to be conducted by a licensed asbestos assessor.
2. A site specific intrusive Detailed Contamination Assessment is considered necessary to confirm the status of the potential site contamination at the areas of concern.

Although there are noted inconsistencies in the SOEE Addendum and SEPP 55 assessment report regarding the quantity of fuel stored onsite, it is considered that the recommendations are satisfactory to capture the broader range of potential contamination scenarios.

It is considered that Council can be assured that if the land is contaminated it can be adequately identified and remediated to a level suitable for the proposed use.

SEPP (Infrastructure) 2007

The SEPP (Infrastructure) 2007 defines an airport as follows:

***airport** means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).*

An air transport facility is defined as follows:

***air transport facility** means an airport, or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.*

Therefore an air transport facility is an airport. The subject site is considered to be best defined as an airport, given that it has more than one runway and approved hangars on site.

Clause 23 of the SEPP (Infrastructure) 2007 (ISEPP) provides that:

23 Development permitted with consent

Development for any of the following purposes may be carried out with consent on land within the boundaries of an existing air transport facility if the development is ancillary to the air transport facility:

- (a) passenger transport facilities,*
- (b) facilities for the receipt, forwarding or storage of freight,*
- (c) hangars for aircraft storage or maintenance,*
- (d) commercial premises,*
- (e) industries,*
- (f) recreation areas, recreation facilities (indoor) or recreation facilities (outdoor),*
- (g) residential accommodation,*
- (h) tourist and visitor accommodation.*

Council sought legal advice from Senior Counsel to determine whether the proposed land use was permissible. Council was advised that the land use is permissible subject to development consent.

Therefore the proposed recreational flight school and proposed ancillary elements are considered to be permitted with consent under the provisions of the SEPP (Infrastructure) 2007.

Under Schedule 3 of the ISEPP, an airport requires referral to RMS regardless of size or capacity and the application was referred to NSW RMS for concurrence. At the time of completion of the assessment, concurrence of NSW RMS had not been obtained.

Conclusion

The proposed land use and ancillary land uses are permitted with consent. At the time of completion of the assessment, concurrence of NSW RMS had not been obtained.

Bega Valley Local Environmental Plan 2013

The subject land is zoned:	SP2 Infrastructure for the purpose of an air transport facility and RU1 Primary Production
The land use is defined as:	<p>The development is for the purposes of developing a Recreational Flight Training facility at an existing air transport facility. The use is considered to be ancillary to the existing airport.</p> <p>An airport and a road under the Bega Valley Local Environmental Plan 2013. An airport and a road are defined as follows:</p> <p>airport means a place that is used for the landing, taking off, parking, maintenance or repair of aeroplanes, and includes associated buildings, installations, facilities and movement areas and any heliport that is part of the airport.</p> <p>Note.</p> <p>Airports are a type of air transport facility—see the definition of that term in this Dictionary.</p> <p>road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.</p>
The land use permissible in the zone:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comment (where necessary)

Council sought legal advice from Senior Counsel to determine whether the proposed land use was permissible in the SP2 zone. Council was advised that the land use is permissible in the SP2 zone.

Under the Bega Valley Local Environmental Plan 2013 (LEP) the subject land is zoned SP2 Infrastructure for the purpose of an Air Transport Facility.

In the SP2 zone, the purpose shown on the land zoning map (air transport facility) is permitted with consent, "...including any development that is ordinarily incidental or ancillary to development for that purpose", therefore an air transport facility and an airport are permitted with consent.

However the SEPP (Infrastructure) 2007 applies and prevails over the LEP.

Access to the site is provided from the Princes Highway over a privately owned access road. It is proposed to undertake upgrading works to this road to accommodate the increase in traffic and larger vehicles.

The LEP defines a road as follows:

road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

Under the LEP the land containing the access road is zoned RU1 Primary Production where roads are permitted with consent.

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

Clause 1.2

Aims of the Plan – The proposal has been assessed in accordance with the aims of the LEP and was found to be satisfactory.

Yes

No

Comment (where necessary)

The applicant lodged a Socio-Economic Impact Assessment report which claims that the development aligns strongly with item (2)b "...in that it will provide employment for an estimated 200 people in a tourist enterprise responding to emerging markets in China".

The applicant detailed in the Statement of Environmental Effects, "It is considered that the proposed recreational flight school is consistent with the aims of the plan given the proposal will contribute to the social welfare of the Bega community whilst accommodating a productive, sustainable economic activity in the zone. The proposed development will facilitate the establishment of a development that is consistent with the principles of the plan".

A review of the aims have been considered and are detailed herewith:

(a) to protect and improve the economic, natural and social resources of Bega Valley through the principles of ecologically sustainable development, including conservation of biodiversity, energy efficiency and taking into account projected changes as a result of climate change,

A key aspect of the proposal is the potential to increase employment opportunities within the Bega Valley Shire by up to 201 Full Time Equivalent (FTE) positions as the development expands, and therefore contribute to the economic and social resources of the Bega Valley. The applicant claims that the development would showcase the Bega Valley to the Chinese tourism market which would have the effect of increasing the number of Chinese tourists visiting the region, such as when the families of the students came to visit. The proposal was supported with a Socio-Economic Impact Assessment report (SIA) to substantiate these claims and consider the potential negative impacts of the development.

The SIA promoted a favourable outcome from the development proceeding, however it is noted that negative externalities (such as noise impacts and subsequent health impacts in the immediate locality) are assumed to be satisfactory (within acceptable thresholds) based upon the claims made in the noise assessment report undertaken by Renzo Tonin & Associates. Council does not support these claims, given an independent review of the noise assessment report reveals that the methodology and criterion are inappropriate for the development type and site, and information provided to describe the likely noise impacts from the development is inadequate to allow proper assessment.

Further, the SIA is built on a Cost Benefit Analysis (CBA) that is for a different sector (transport) and is not appropriate for the sector (education) that the proposal relates to. As such, the cost benefit analysis calculated and arguments that are based from it should not be relied to be accurate for the proposal.

Negative externalities are likely to be undervalued or are unquantifiable in the SIA. This is problematic as the proposed activities of the Flight School rely on creating these externalities throughout the entire period of its operation.

The proposal's assumptions concerning employment impacts with regards to tourism does not utilise the accepted approach as to how the overall benefits of tourism and the 'visitor economy' are recorded in the Shire. To this end the proposal undervalues the impact on the tourism and visitor economy. The SIA assertion that the current branding of the Shire is 'questionable' in its efficacy is inaccurate and strongly disagreed with.

The proposed development fundamentally relies on mitigation of impacts yet the proposed mitigation activities outlined in the SIA are not adopted in the proposal. Without clear commitments to these mitigation activities it is not possible to fully review the overall cost / benefit assessment and SIA. It must also be noted that any commitment to the mitigation activities will not remove all negative externalities.

No clear compliance regime is proposed to manage impacts and the mitigation strategies proposed.

As the airfield is essentially "self-contained" with students living onsite and undertaking an intense training schedule, there is not likely to be very significant social interaction between students and the local community. The students will be dependent on bus transport, which

implies they will probably travel in groups, minimising one-on-one contact with existing businesses and residents in the surrounding towns and villages. The activities proposed would provide some opportunity for positive social interaction but it is not detailed how this would be achieved. Therefore the claims for protecting and improving the economic and social resources of the Bega Valley have not been adequately demonstrated.

Consideration of whether the development aligns with “the principles of ecologically sustainable development, including conservation of biodiversity, energy efficiency and taking into account projected changes as a result of climate change” is provided below.

A Sustainable Design Management Plan (SDMP) was provided, however adoption of any further ecologically sustainable measures beyond the bare minimum legislated essentials of the Section J report of the BCA, stormwater and landscape plans in accordance with Council’s DCP, and rainwater harvesting for the provision of domestic water supply has not been forthcoming (see in-depth assessment later in this report). Opportunities such as adoption of solar passive design, waste avoidance and minimisation through careful procurement or use of composting systems, or energy efficiency measures to minimise the need for artificial lighting, heating and cooling have not been incorporated into the design. Overall, it is considered that the proposal is not aligned with ecologically sustainable development.

(b) to provide employment opportunities and strengthen the local economic base by encouraging a range of enterprises, including tourism, that respond to lifestyle choices, emerging markets and changes in technology,

The proposal would provide employment opportunities, however whether there would be an overall net benefit in employment as result of this development being established in the Bega Valley has not been adequately demonstrated (for further detail see assessment of Socio-Economic Impact Assessment). Insufficient information has been provided on how the development would strengthen the local economic base. Council consider that it has not been adequately demonstrated that the proposal will not have a negative impact upon existing tourist operators and agricultural operations.

(c) to conserve and enhance environmental assets, including estuaries, rivers, wetlands, remnant native vegetation, soils and wildlife corridors,

The Biodiversity Assessment Addendum Report details that the development would impact on a total of 6.76ha of good to moderate condition EEC. The report recommends establishment of an offset area. Council considers that securing the protection of the endangered Lowland Grassy Woodland community outside the main development footprint would be an important measure to offset the proposed impacts. Importantly, if the condition of the vegetation is improved and maintained overtime through a vegetation management plan (VMP) the offset would be of greatest value and consistent with conserving and enhancing the vegetated EEC located onsite.

Therefore it is considered that there is opportunity, through a conditional approval complete with a VMP, to conserve and enhance the EEC at the subject site. However issues in relation to effluent disposal on the site and likely further required clearing of good quality EEC to comply with the requirements of CASA’s advisory publication CAAP 92-1 (1), have not been adequately considered. Therefore Council must conclude that the impacts upon remnant native vegetation have not been adequately detailed and assessed, and insufficient information has been provided to demonstrate that the impacts are satisfactory.

Further, whether the impacts of the proposal are satisfactory with regard to the proposed use of other airports is not known and comment is not able to be made.

(d) to encourage compact and efficient urban settlement,

The development is not considered to be consistent with the aim as it proposes high density accommodation of approximately 120 persons well away from existing urban settlement. The site does not benefit from essential services and therefore is not consistent with the desire for compact and efficient urban settlement outlined in the aim of the plan.

(e) to ensure that development contributes to the natural landscape and built form

environments that make up the character of Bega Valley,

The proposal to establish a flight school of the proposed scale at the subject site is considered inconsistent with the existing character in the Frogs Hollow locality. However, in relation to visual impact, the application was supported with a visual impact assessment and it has been adequately demonstrated that visual impacts from buildings and aircraft could be adequately mitigated (see Visual Impact assessment).

(f) to provide opportunities for a range of housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,

The development proposes onsite accommodation for the use of student pilots only. The development does not meet or comply with this aim given there is no interaction of the site with other services in the surrounding area.

(g) to protect agricultural lands by preventing land fragmentation and adverse impacts from non-agricultural land uses,

Council received public submissions detailing potential noise impacts on beef and sheep grazing, dairy herds in the area and potential contamination of land and waterways from exhaust pollution from the aircraft. These matters, specifically relating to livestock productivity and quality, training circuits being conducted over Wolumla Creek, and potential pollution of agricultural land, were raised in a referral to NSW Department of Primary Industries (DPI). The response Council received was inconclusive as it did not take into consideration the scale of the proposal, proximity to livestock, or size of aircraft, and provided general advice. Therefore, Council is not able to comment on whether the proposed flight activities would result in adverse impacts upon neighbouring farms.

The application was supported with an air quality assessment that concluded that the predicted pollutant concentrations from the proposed aircraft emissions using worst-case inputs are low in comparison against EPA Approved Methods criteria. The report advises:

Air pollution that is known to impact vegetation and agriculture include particulates, flourides, sulphur dioxide and ethylene.⁴ The proposal is not a significant source of these pollutants. Possible effects of identified air pollution to the agricultural land and vegetation are secondary damage in the form of minor distresses in their growth but can only take effect at high concentration level.⁵ The predicted concentration levels are very low and adverse impacts on any local vegetation or agricultural land are not anticipated.

Therefore Council does not have concerns with the potential for aircraft emissions to cause significant pollution impacts upon adjacent land users. It is not considered likely that emissions from the flight school would result in significant impacts upon soil or waterways. The report did not provide comment in relation to organic certification thresholds.

Airport Practice Note 6: Managing Bird Strike Risk Species Information Sheets released by the Australian Airports Association (AAA)¹ provides land use planning guidance in the vicinity of aerodromes. The publication details uses within a 3km radius that are incompatible with aerodromes due to their propensity to attract birdlife, which can become an unacceptable risk to aviation. The report details that piggeries and orchards are incompatible uses within 3kms of aerodromes. Council observes that piggeries and orchards are activities that would be associated with agricultural lands, and that establishment of a flight school of significant scale in this location may prevent these types of activities being established in Frogs Hollow in the future.

¹ https://www.atsb.gov.au/media/5353201/managing_bird_strike_risk_species_information_sheets.pdf

(h) to identify and conserve the Aboriginal and European cultural heritage of Bega Valley,

It is considered that the development has not adequately addressed potential impacts on Aboriginal cultural heritage for the site.

Comments received from NSW OEH identified that the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW has not been followed, and an AHIMS search has been

conducted but this does not conclusively determine that no Aboriginal objects exist on the parcel.

Subsequent to receiving this advice the applicant carried out an Aboriginal Due Diligence Assessment which noted that there are landforms in the development footprint that have moderate to high potential to contain subsurface archaeological material. NGH recommended that an Aboriginal Cultural Heritage Assessment report (ACHAR) be completed.

The amended submitted report was again referred to NSW OEH who advised that the ACHAR should be completed prior to development approval, with this timing providing the best opportunity to conserve Aboriginal heritage sites.

Subsequently the proponent advised Council that they would not be undertaking further investigations in relation to Aboriginal Cultural Heritage prior to development consent being granted. Instead it was noted that the application is not integrated development with regard to Aboriginal Heritage and further investigation would be undertaken prior to works commencing on the site. The response suggested that these matters could be adequately captured in a condition of consent, requiring an ACHAR prior to any works commencing, and that subsequently any items of Aboriginal Cultural Heritage could be dealt with through application for an Aboriginal Heritage Impact Permit (AHIP).

Council notes that this approach is inconsistent with the Aim of the Plan which seeks to “identify and conserve” the Aboriginal cultural heritage of the Bega Valley. Given the applicant's response, Council is unable to advise that the development has identified or conserved any items of Aboriginal cultural heritage within the site.

(i) to restrict development on land that is subject to natural hazards,

The subject site is mapped as bush fire prone. The applicant has addressed and restricted development so that it would not be affected by natural hazards, namely bush fire. The application was referred to NSW RFS in accordance with Section 100B of the Rural Fires Act 1997, and general terms of approval were provided. Therefore it has been determined that the potential hazards from bush fire can be managed.

(j) to ensure that development has minimal impact on water quality and environmental flows of receiving waters.

The application proposes to install 10 Ozzi Kleen SK25 A-G sewage treatment plants to service the development. The effluent water is proposed to be disposed of through a combination of methods, including surface spray irrigation over the runways, absorption trenches, and landscape effluent irrigation area.

The application has been reviewed by Council's Environmental Health Officer and Environmental Services Unit who have noted unresolved competing issues in relation to: preservation of EEC offset areas not impacted by infrastructure; preservation of runway integrity for the diversity of aircraft that may wish to use the runway for taking-off and landing; and space to dispose of the estimated volume of effluent water.

While the competing issues have not been resolved satisfactorily, it is considered that adequate space remains on site to dispose of the quantity of wastewater likely to be generated from the proposal without compromising the water quality of nearby waterways.

Further, it is considered unlikely that the quantity of water proposed to be captured on site through rainwater harvesting will have a significant impact upon the environmental flows of receiving waters.

PART 2

Permitted or Prohibited Development

Clause 2.3

Zone objectives and Land Use Table – The proposal has been assessed in accordance with the objectives of the zone and was found to be satisfactory.

Yes

No

Comment (where necessary)

The Objectives of the SP2 Infrastructure zone follow:

- *To provide for infrastructure and related uses.*

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The intensification of use of the Frogs Hollow Authorised Landing Area (ALA) as proposed will not necessarily increase “infrastructure” at the airport. It is not proposed to remediate or seal the runways, establish communications infrastructure or provide air traffic control facilities or structures. Construction of hangars, workshops, an underground tunnel, accommodation and associated roads, fuel storage and water storage is proposed, for the sole use of the SAFCA flight training school.

The existing Frogs Hollow Flyers recreational flying club’s clubhouse and hangars will either be removed or relocated to another area of the site.

Assessment against CASA’s Civil Aviation Advisory Publication (CAAP) 92-1 (1) reveals that the nominated 10m wide runway is only suitable for single engined and Centre-Line Thrust Aeroplanes not exceeding 2000kg Maximum Take-Off Weight (MTOW). Other aeroplanes utilising an Aeroplane Landing Area would require a 15m wide runway, and the publication recommends a 15m wide runway for Aeroplane Landing Areas.

The proposal to repeatedly irrigate effluent over the runway surface has not been formally endorsed by a geo-technical engineer with regard to the potential of the effluent to undermine the integrity of the runway surface. Confirmation that the runway could continue to be used by a range of aircraft has not been verified.

The applicant has expressly advised that the airport will remain “open and accessible to other aircraft not associated with the flight school” (SOEE Addendum, Section 3.5), however the proposal in its current design may in fact detract from the provision of infrastructure at the site by limiting the types of aircraft that would be able to safely use the site into the future.

Prior to gazetting of the CLEP 2013 when the land was rezoned SP2 for the purposes of an Air Transport Facility, the site was zoned 1(a) Rural General Zone under BV LEP 2002. Details outlining the Council’s deliberations in the rezoning of the subject site are provided in the Planning and Environment Committee meeting report dated 10 June 2008. Given that the site was under private ownership, risk of losing the site was front of mind. The report details that the “...Frogs Hollow Airstrip is an important emergency airfield that has been used for these purposes over many years. Additionally it is used by a number of people for small private aircraft. It is considered that by zoning part of the land as Special Purposes SP2 (Air Transport Facility) in the Comprehensive LEP it will protect the site into the future”.

A media release from 16 August 2007 notes that Council’s Acting Environment, Planning and Development Director at the time said “While the Frogs Hollow facility is not classified as an airport, but as an ‘Authorised Landing Area’ it has significant benefits in providing an emergency landing area between Merimbula and Bega”.

Undulant topography is a significant feature of the Bega Valley. Suitable locations for airports are very limited. Only a handful of sites can reasonably accommodate an airport in the Bega Valley and therefore protection of any existing sites is vital.

The proposal does not demonstrate consistency with the SP2 zone objectives in its current form.

The Objectives of the RU1 Primary Production zone follow:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

- *To encourage development for tourism-related activities and other development that is compatible with agricultural activities, which will not adversely affect the environmental and cultural amenity of the locality.*
- *To maintain and protect the scenic value and rural landscape characteristics of land in the zone.*

The applicant has not provided an assessment against the RU1 Primary Production zone objectives. It is noted that the existing access road, which forms part of the application and is proposed to be upgraded, is zoned RU1. Council's assessment is provided below:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

The upgrading of the access road and increase in traffic will have no impact upon the objective.

- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*

The upgrading of the access road and increase in traffic will have no impact upon the objective.

- *To minimise the fragmentation and alienation of resource lands.*

The proposal will not result in fragmentation and alienation of resource lands.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The upgrading of the access road and increase in traffic will have no significant impact upon the Go-Kart track or other users who benefit from the access road.

- *To encourage development for tourism-related activities and other development that is compatible with agricultural activities, which will not adversely affect the environmental and cultural amenity of the locality.*

Upgrading works to the access road will not impact upon agricultural activities or adversely affect the environmental and cultural amenity of the locality.

- *To maintain and protect the scenic value and rural landscape characteristics of land in the zone.*

The upgrading of the access road and intersection, and increase in traffic on the road will not adversely impact upon the scenic value and rural landscape characteristics of land in the zone.

<input type="checkbox"/>	Clause 2.4	Unzoned land	
<input type="checkbox"/>	Clause 2.5	Additional permitted uses for particular land	
<input type="checkbox"/>	Clause 2.6	Subdivision – consent requirements (NB: includes special requirements for subdivision of secondary dwellings)	
<input checked="" type="checkbox"/>	Clause 2.7	Demolition requires development consent (other than where exempt)	The application details that the existing hangars, Frogs Hollow Flyers club building, model club building and covered seats are all proposed to be removed.
<input type="checkbox"/>	Clause 2.8	Temporary Use of Land	

PART 4	Principal Development Standards		Comment (where necessary)
<input type="checkbox"/>	Clause 4.1	Minimum subdivision lot size (check Minimum Lot Size Map)	Min. lot size permitted Min. lot size proposed
<input type="checkbox"/>	Clause 4.1AA	Minimum subdivision lot size for community title schemes	
<input type="checkbox"/>	Clause 4.1A	Minimum lot sizes for dwelling houses, dual occupancies, multi dwelling housing and residential flat buildings	
<input type="checkbox"/>	Clause 4.1B	Lot averaging subdivision in Zone R5, Zone E3 and Zone E4	
<input type="checkbox"/>	Clause 4.2	Rural subdivision	

<input type="checkbox"/>	Clause 4.2A	Erection of dwelling houses on land in certain rural, residential and environmental protection zones	
<input type="checkbox"/>	Clause 4.2B	Exceptions to minimum lot sizes for certain rural subdivisions (check Minimum Lot Size Map)	
<input type="checkbox"/>	Clause 4.2C	Erection of rural workers' dwellings	
<input type="checkbox"/>	Clause 4.2D	Erection of dual occupancies (detached) in Zone RU1 & Zone RU2	
<input type="checkbox"/>	Clause 4.2E	Exceptions to minimum subdivision lot size for boundary adjustments	
<input type="checkbox"/>	Clause 4.2F	Exceptions to minimum subdivision lot sizes for resulting lots	
<input checked="" type="checkbox"/>	Clause 4.3	Height of buildings (check Height of Buildings Map)	Max. height permitted 10m Max height proposed 6.26m
<input type="checkbox"/>	Clause 4.4 & 4.5	Floor space ratio (check Floor Space Ratio Map)	Max. FSR permitted Max FSR proposed
<input type="checkbox"/>	Clause 4.6	Exceptions to development standards	

Comment

The objectives of Clause 4.3 state;
(a) to retain the existing character and landscape of the locality and to encourage a low-set building form,
(b) to protect residential amenity, views, privacy and solar access.

The site is setback from the Princes Highway by approximately 350 metres to 600 metres with various vantage points of the site from this highway. The application would require the construction of 104 structures that would be below the maximum height of buildings.

The extent of the overall buildings within the site is not considered to retain the existing character and landscape of the locality. The application provided an indicative landscape screening of the structures from public vantage points and it is considered reasonable that appropriate vegetation screening could mitigate impacts on the existing character and landscape of the locality.

Having regard to the overall development, it is not considered that the development would retain the existing rural character and landscape of the site.

PART 5 Miscellaneous Provisions Comment (where necessary)

<input type="checkbox"/>	Clause 5.1 & 5.1A	Development on land intended to be acquired for public purposes (check Land Reservation Acquisition Map) - Is the development satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	Clause 5.3	Development near zone boundaries		
<input type="checkbox"/>	Clause 5.4	Controls relating to miscellaneous permissible uses (eg Home Businesses, B&B's, Kiosks, Secondary dwellings)		
<input type="checkbox"/>	Clause 5.5	Development within the coastal zone (applies to land wholly or partly within the Coastal Zone) The provisions of Clause 5.5(2) and (3) have been considered and the proposal is satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Comment

<input type="checkbox"/>	Clause 5.7	Development below mean high watermark		
<input checked="" type="checkbox"/>	Clause 5.10	Heritage conservation Is the property listed and described in Schedule 5 as; Heritage Item? Heritage Conservation Area? Aboriginal Place of Heritage Significance?	<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> No <input type="checkbox"/> No
		If Yes, does the proposal satisfy the objectives and requirements of Clause 5.10?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		Is the property within the vicinity of a heritage item or heritage conservation area?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
		If Yes, is the proposal satisfactory having consideration to the heritage significance of the adjoining development?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

The objectives of 5.10 Heritage conservation follow:

- (a) to conserve the environmental heritage of Bega Valley,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Clause 5.10 (2) details that development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land:*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance*

A Due Diligence Assessment was provided by the applicant and it was noted: "No AHIMS sites have been currently recorded within the proposed project area. There were 96 Aboriginal sites recorded within this search area and no declared Aboriginal Places (Table 1)".

During a field inspection, no Aboriginal cultural material was identified, but poor surface visibility was encountered. The reports states that "There are topographic elements present in the study area, and that would be disturbed by the proposed development that have moderate to high archaeological potential". It states that "The same topography that makes the location useful for aircraft take-off and landing, namely a gentle plateau sited within more dissected country, would indicate a higher archaeological potential than the immediate surrounds". The report details that Ron Thomas from the Bega LALC participated in this survey.

The report provided the following recommendations:

1. The proponent should undertake an Aboriginal Cultural Heritage Assessment of the proposed flight training facility with a view to undertaking test excavation in the development footprint.
2. Test excavation could be undertaken under the NSW Code of Practice for Archaeological Investigation, following completion of Aboriginal community consultation procedures specific in the NSW OEH Guidelines for Aboriginal Community Consultation for Proponents.
3. Test excavation should sample a range of topography with close reference to proposed high impact development footprint (hangars, accommodation, boundary track).
4. A copy of this report should be supplied to the Bega LALC for their records.

The amended submitted report was referred to NSW OEH who advised that the ACHAR should be completed prior to development approval, with this timing providing the best opportunity to conserve Aboriginal heritage sites.

Subsequently the applicant advised Council that they would not be undertaking further investigations in relation to Aboriginal Cultural Heritage prior to development consent being granted. It was noted that the application is not integrated development with regard to Aboriginal Heritage and further investigation would be undertaken prior to works commencing on the site. The applicant advised that these matters could be adequately captured in a condition of consent, requiring an ACHAR prior to any works commencing, and that subsequently any items of Aboriginal Cultural Heritage could be dealt with through application for an Aboriginal Heritage Impact Permit (AHIP).

Council notes that this approach is inconsistent with the objectives of Clause 5.10 which seeks to “identify and conserve” Aboriginal objects and Aboriginal places of heritage significance. The applicants own Due Diligence Assessment has identified the site as having a moderate to high archaeological potential.

Advice was received from the Bega Local Aboriginal Land Council (LALC) on 20 November 2018 advising that the Bega LALC endorse the recommendations of the report and agree that further assessment of the Aboriginal heritage values of the subject area is required. It noted, consistent with the advice from NSW OEH that “This assessment should include a consultation process with Aboriginal stakeholders as required under the relevant legislation. The consultation process can address tangible and any non-tangible Aboriginal heritage values that may be associated with the subject area”. The report noted in closing that “Bega LALC hold the view that the further assessment of Aboriginal heritage values should be undertaken prior to BVSC finalising the development consent”.

Therefore, Council does not agree that an appropriate level of investigation into Aboriginal archaeology has been undertaken to consider the potential impacts. By approving the development the opportunity would be lost to identify potential measures to mitigate harm.

Infrastructure development and use of existing buildings of the Crown

Note Clause 5.12 (1) which states:

<input checked="" type="checkbox"/>	Clause 5.12	<i>(1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.</i>	The proposal is not being carried out by or on behalf of a public authority.
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<input type="checkbox"/>	Clause 5.13	Eco-tourist facilities
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PART 6	Additional Local Provisions	Comment (where necessary)
<input type="checkbox"/>	Clause 6.1	Acid sulfate soils (check the Acid Sulfate Soils Map) <input type="checkbox"/> Yes <input type="checkbox"/> No

The provisions of Clause 6.1(3) have been considered and the proposal is satisfactory?

Earthworks

The provisions of Clause 6.2(3) have been considered and the proposal is satisfactory?

Comment

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The consent authority must consider before granting consent the implications of the proposed development on the environment/locality in relation to earthworks.

Yes No

Clause 6.2

The proposal requires excavations to provide level building platforms and an under airfield walkway and the implementation of perimeter roads.

No geotechnical reports were provided with the application detailing the suitability of soils for the works or the extent of excavation required to undertake the under airfield walkway.

The applicant has provided insufficient information to determine impacts on cultural items. The application was supported with a Due Diligence Assessment that predicted a moderate to high archaeological potential given the topographical features of the site. Council does not support the proposed extent of excavations without further investigation into Aboriginal Archaeology within the site.

Clause 6.3

Flood planning

The provisions of Clause 6.3(3) have been considered and the proposal is satisfactory?

Yes No

Clause 6.4

Coastal risk planning

The provisions of Clause 6.4(3) have been considered and the proposal is satisfactory?

Yes No

Terrestrial biodiversity (**check the Biodiversity Map**)

For the purpose of Clause 6.5(3)&(4), is the development likely to have any adverse impact on;

- Flora and fauna? Yes No
- Habitat & survival of native fauna Yes No
- Potential to fragment, disturb, or diminish biodiversity structure, function & composition Yes No
- Connectivity Yes No

Clause 6.5

•..... Appropriate measures have been proposed to avoid, minimise or mitigate the impacts of the development Yes No

•..... The development has been designed, sited and will be managed to avoid, minimise or manage any significant adverse environmental impact Yes No

Comment

The subject site contains a significant stand of good to moderate condition Lowland Grassy Woodland Endangered Ecological Community (EEC). Consideration of this matter has been detailed under Section 1(b) the likely impacts of the development detailed below.

Clause 6.6

Riparian land and watercourses (**check the Riparian Lands & Watercourses Map – specifically any land identified as 'Watercourse'**)

For the purpose of Clause 6.6(3)&(4), is the development likely to have any adverse impact on;

- Water quality and flows within the watercourse or wetland? Yes No

- Aquatic & riparian species, habitats and ecosystems? Yes No
- Stability of the bed & banks of the watercourse? Yes No
- Free passage of fish & other aquatic organisms within or along the watercourse? Yes No
- Any future rehabilitation of the watercourse & riparian areas? Yes No
- Appropriate measures have been proposed to avoid, minimise or mitigate the impacts of the development Yes No
- The development has been designed, sited and will be managed to avoid, minimise or manage any significant adverse environmental impact Yes No

Comment

The application has been lodged over two lots. Lot 1 DP 245789 contains the access road which crosses a causeway. As part of this development, significant upgrading works are proposed to the access road and water crossing in the form of a new bridge. Under the Strahler system the waterway is mapped as a 2nd Order Stream, however it is noted that the location of the causeway is adjacent to an existing dam which gives the appearance of a more significant waterway.

It is not likely that fish passage would be affected by the proposal and referral to DPI Water for a CAP is not considered warranted in this instance, given the minor nature of the stream.

Council has reviewed the OSSM and considers that adequate buffers to catchment areas are provided.

<input type="checkbox"/>	Clause 6.7	Environmentally sensitive areas – (check the Natural Resource Land Map – specifically any land identified as ‘Constrained Land’) For the purpose of Clause 6.7(3), is the development likely to have potential adverse impact on: <ul style="list-style-type: none"> • Any land with a slope that is greater than 25%? <input type="checkbox"/> Yes <input type="checkbox"/> No • Any land that is subject to high erosion potential? <input type="checkbox"/> Yes <input type="checkbox"/> No • Any land with a high proportion of rock outcropping? <input type="checkbox"/> Yes <input type="checkbox"/> No 	
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<input checked="" type="checkbox"/>	Clause 6.8	Airspace operations (applies where development will penetrate the Limitation or Operations Surface for the Merimbula Airport – check the Obstacle Limitation Surface Map) The relevant Commonwealth body has been consulted about the application and the proposal is considered to be satisfactory? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Comment The matter was discussed with the Senior Advisor for Airport Development at Airservices Australia, who advised that the proposal did not require consideration under this Clause.	
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<input type="checkbox"/>	Clause 6.9	Development at Kalaru Racecourse	
<input type="checkbox"/>	Clause 6.10	Development of certain land at Sapphire Coast Drive and Tura Beach Drive, Tura Beach	
<input type="checkbox"/>	Clause 6.11	Short-term rental accommodation	

Any draft Environmental Planning Policies (EPIs)	Section 79C (1)(a)(ii)
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Are there any draft EPIs relevant to this development?

No Yes

Yes Draft LEP (exhibited) SPECIFY:

What is the proposed zoning of the subject development site?

What is the land use definition for the proposal?

Is the proposed development permissible in the draft LEP? No Yes

Comment:

Yes

Draft SEPP (eg. Coastal Management SEPP) SPECIFY:

- Draft SEPP Coastal Management (The making of the draft SEPP was imminent at the time of the lodgement but it is noted that the site is not mapped in the coastal management zone).
- Draft Koala Habitat Protection SEPP
- Draft Remediation of Land SEPP

Comment:

Draft Koala Habitat Protection SEPP

The SEPP outlines application changes that would enhance protection of koala habitat and ease of use of the SEPP. The changes would not have any impact in the instance of this application.

Draft Remediation of land SEPP

The new SEPP is part of a review program by the NSW Government. It is proposed the new land remediation SEPP will provide a state-wide consistent approach to assessing potentially contaminated land. The proposed changes to the new SEPP would not materially change the assessment process undertaken in accordance with SEPP 55 for this application.

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

No

Yes

Any Development Control Plans (DCPs) Section 79C (1)(a)(iii)

The development has been considered in accordance with Development Control Plan 2013 and was found to be satisfactory. In undertaking this assessment the following sections of DCP 2013 have been considered (where applicable).

Comment (where necessary)

Yes No

<input type="checkbox"/>	Commercial & Industrial Development	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/>	Residential Development	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/>	Rural Development	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<input checked="" type="checkbox"/>	General Development Requirements	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<input checked="" type="checkbox"/>	Engineering Requirements	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<input type="checkbox"/>	Site Specific Requirements	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
Are any variations to DCP proposed?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

► PROVIDE YOUR ASSESSMENT NOTES HERE:

Comment

Bega Valley Development Control Plan 2013

4 Rural Development

The subject site is zoned SP2 Infrastructure and RU1 Primary Production and is located within a predominantly rural area retaining farms and semi-rural acreages. The surrounding area also provides other land uses including the Go-Kart track, NBN Satellite Earth Station, Wanatta Lane Central Waste Facility.

4.1.1 Agriculture and Primary Produce

The plan states "This plan seeks to ensure that rural living and agricultural operations will continue as key land uses across the Bega Valley Shire".

4.2 Rural Land Use Conflict

The objective of this section is to “Protect productive agricultural land and rural living amenity in rural areas”.

The subject site is zoned SP2 and RU1. The likely impacts will extend to land zoned RU1 given that the flight circuits overfly the RU1 zone. Neither primary industry nor dwellings are proposed as part of this application. Potential impacts on adjoining land and the locality have been considered later in this report.

4.6 Rural Landscape

The following part of the plan is relevant to this application and states “Visibility of new buildings from regionally or locally significant public roads and vantage points must be minimised by planting trees and shrubs between the view sites and the structure and immediately adjacent to the structure. Landscape planting must reflect existing landform and natural vegetation”. An indicative landscaping screen with no details on plant species has been provided. An extensive vegetation strip would need to be implemented to ensure existing views of agricultural grazing lands afforded from the Princes Highway would be maintained. A detailed landscape plan from an appropriately qualified landscape architect/horticulturalist itemising the planting and maintaining of screening vegetation would be required to mitigate visual impacts when viewed from the Princes Highway.

5.3 Access and Mobility

The application was referred to Council’s Environmental Health Officer who has advised that the plans as submitted demonstrate compliance with AS1428-2009.

5.4 Social and Economic Impacts

The application was supported with a Socio-Economic Impact Assessment report (SIA), which was undertaken after the application was lodged.

The objectives of requiring a Socio-Economic Impact Assessment, as outlined in Council’s DCP are listed below and comment is provided:

– *The amenity created by services and facilities is preserved.*

Services and facilities contributing to amenity in the Frogs Hollow area are limited. The amenity of the Frogs Hollow locality arises predominantly from its rural character and from a very low density of development. Where development has been carried out, it is largely beneficial to the local community (such as the provision of housing, major connecting roads, wireless internet infrastructure) or of low impact, such as the currently very low recreational-only use of the airfield, Council waste facility or occasional use of the Go Kart track. Therefore, as a result of constrained development, rural/semi-rural amenity in the near vicinity of the Frogs Hollow airfield is quite high generally. Submissions received from residents in the locality detail the benefits they currently experience of a rural setting; access to clean air, low background noise levels, clean rain water harvesting, birdlife and wildlife, privacy and a relatively high level of ambient peace.

It should be strongly identified that the existing operation of Frogs Hollow airfield only provides approximately 15 flights per week to recreational flyers. Site inspection identified that the site has been predominantly used for grazing of livestock consistent to the surrounding agricultural and semi-rural residential living activities.

In the wider community of the Bega Valley, amenity is considered very high. Over the past 11 years, the mean rate of population growth of the Bega Valley Shire has been 0.60% (ABS, 2018¹) with older age groups (55 to 85+) demonstrating the highest rates of growth in the shire, with 2,458 additional persons out of a total increase of 1,295 over the five-year period 2011-2016 (ABS, 2011 and 2016²). This data suggests that the region is appealing due to its amenity and services to retirees, that segment of the population that are able to choose where they live because they are no longer bound to a location by their employment.

The SIA details that there are likely to be adverse impacts to amenity associated with the proposed development. The report states: “Impacts are likely to be most marked in the immediate locality

where there will be a significant increase in the density of flight movements compared with the existing usage of the aeroplane landing area, and where aircraft are flying at lower levels. These amenity impacts are likely to consist of noise impacts, visual impacts and perhaps loss of privacy if overflying by aircraft results in people changing their behaviour”.

While the SIA submits that the noise impacts will be below acceptable thresholds, and therefore satisfactory from a regulatory perspective, advice received by Council details that this has not been demonstrated. Therefore, it has not been demonstrated that the proposal would preserve the amenity of the locality.

¹ Australian Bureau of Statistics, Regional Population Growth, Australia (3218.0). Compiled and presented in profile.id by the population experts. Date published: 24 April 2018

² Australian Bureau of Statistics, Census of Population and Housing 2011 and 2016. Compiled and presented by .id, the population experts.

– A liveable and sustainable community is achieved by considering both environmental and economic issues.

Interpretation of the word “community” is key to consideration of this objective. Submissions received by Council from the community in the immediate locality (within 2kms of the Frogs Hollow Airport) submit that the development would result in an untenable situation which is essentially “unliveable” and most certainly not sustainable. Residents within the broader 5km radius and all the way to the Shire boundaries and beyond raise concern about the likely impacts upon the sustainability of the community should the proposed flight school proceed.

The amended Renzo Tonin & Associates (RTA) noise assessment report suggests that the noise impacts are limited to an acceptable level. However flaws have been identified in the report, particularly with regard to the adoption of a $L_{Aeq, 24}$ hour noise criterion, which has the effect of averaging the noise energy over a 24 hour period instead of an 11 hour period that reflects the actual operating hours of the proposal. This has the consequence of underestimating the likely impacts of the noise from the aircraft. Council’s acoustical consultant noted that “The information format in the updated RTA report is not considered sufficient to describe the likely noise impacts at each of the noise sensitive receivers”. Their advice goes on to say,

The proposed development would have an adverse impact on the amenity of the area due to noise generation. Circuit operations and regular overflights at relatively low noise levels (when compared to noise levels in the vicinity of major airports) represent the key noise impacts associated with this type of development. Whether this impact is acceptable is dependent on whether an appropriate balance has been reached between any potential benefits of the development to the local or broader community, and the noise impacts on neighbouring communities.

In the absence of well defined or regulated criteria to set noise limits for this type of development, determining whether this balance has been reached, requires a complete description of the extent and nature of the impacts on surrounding areas. In our opinion, the level of information that has been provided is not sufficient for this purpose.

Therefore, the case for noise acceptability has not been made and it has not been determined that a liveable and sustainable community can be achieved.

In relation to economic impacts, the SIA identifies that direct tourism employment in the Shire has fallen between 2006/07 to 2015/16, and questions the efficacy of the Wilderness Coast Branding. The Wilderness Coast encapsulates a triangle-shaped area from Bermagui down to Orbost and west to Bombala. The report details that within this area are a variety of land uses, “...including towns, agricultural land, state forests and National Parks. Manufacturing is a significant employer in Bega Valley LGA, at levels well above those for NSW, so it is evident that the wilderness coast branding is compatible with a range of uses and there is no reason to believe it will not be compatible with the proposed flying school as a specified land use”.

Council acknowledges that manufacturing is a large employer in the Shire, with Bega Cheese’ manufacturing and processing plants being of notable mention. Given the overall population of the

shire comparative to the percentage of employment opportunities available at Bega Cheese, it is logical that manufacturing would employ a higher percentage of people in the Bega Valley Shire compared with New South Wales overall. However it is noted that in addition to supporting the significant dairy industry of the Bega Valley, the impacts of Bega Cheese are confined to the agricultural lands of the Shire. It is noteworthy that the Bega Valley Shire comprises only 22% rateable land, with the remaining 78% being made up of National Park, state forest and flora reserves. It is this land in conjunction with the adjoining beaches that define the Wilderness Coast area branding.

The report states “The efficacy of the branding is questionable, given the findings above of a likely decline in tourism employment in Bega Valley LGA, and the clustering of tourism employment around traditional beach front locations”. Council’s Economic Development Team reviewed the report and provided advice, detailing that the proposal’s assumptions concerning employment impacts with regards to tourism does not utilise the accepted approach as to how the overall benefits of tourism and the ‘visitor economy’ are recorded in the Shire. To this end the proposal undervalues the impact on the tourism and visitor economy. The SIA assertion that the current branding of the Shire is ‘questionable’ in its efficacy is not supported by Council.

Tourism statistics vary with sources so caution is recommended when comparing the SIA to other available information. The SIA states that it is not using Bega Valley LGA information, yet LGA-specific information is available. This data is the data that is widely used as it quantifies the broader benefits of tourism / visitor economy spend throughout the economy and not just on direct jobs. This is important within a changing economic and technological context. As a result, the SIA does not effectively take into account the broader benefit of the tourism / visitor economy to the Shire and overlooks how the tourism (visitor) economy works. While the SIA attempts to explain this in section 8.2.2, Council disagrees with this methodological approach. As a result the real potential negative impact on the Shire’s economy by the proposal is significantly undervalued.

Commentary within the SIA that questions tourism brand efficacy does not take into consideration the broader objectives and cannot be relied upon to be accurate. The Wilderness Coast and Sapphire Coast brands are long-term investments in strategies designed to turn around long-term downward employment trends in Tourism and cannot, therefore, be used for short term analysis. State Government strategic direction through Destination NSW and the Destination Southern NSW – Destination Management Plan clearly articulates the ‘unspoilt’ ‘coastal wilderness’ experience of the Bega Valley Shire at its key positioning strength to domestic and international tourism markets. The SIA’s comments in this area are not considered valid.

Council’s Economic Development Unit identify that the SIA is based on a Cost Benefit Analysis (CBA) that is for a different sector (transport), and not appropriate to the sector (education) that the proposal relates to. The Net Annual Benefit (NBA) and Benefit Cost Ratio (BCR) are calculated using methods and values taken from the Transport for NSW Guidelines for Economic Appraisal of Transport Investment and Initiatives. Council understands the proposed flight school to be an investment occurring within the education sector not the transport sector. Transport for NSW, in their guidelines, state that they are for use in the transport cluster. The SIA states “A new group of students will arrive each month for a three month training course. Each group of students will spend the first two months studying Aviation English, with the last month used for flight training”. Therefore use of the transport sector CBA is not considered appropriate to the development type.

As result it cannot be assumed that the economic methodology used is appropriate for the development proposed and as a result the \$6.8million - \$7.0 million NBA, the 4.6-5.1 BCR and use of the these values within the SIA are not considered valid. Further, unquantifiable impacts are not captured within the metrics and risk being eliminated from economic-based considerations.

In conclusion, Council submits that it has not been demonstrated that a liveable and sustainable community can be achieved by considering both environmental and economic issues.

– The views of the people most affected are taken into account.

No community consultation with potentially affected stakeholders was undertaken prior to lodgement of the development application. Subsequent to lodgement and Council’s advertising of the development, the SIA was undertaken, with Council detailing the requirement to consider the

submissions received during the notification period. Subsequently, the SIA incorporated consideration of the summary of the 462 submissions received by Council, interviews with 10 stakeholder groups and carried out a survey of 29 properties in the immediate locality. Respondents from nine properties completed a survey.

The SIA acknowledges amenity impacts in the immediate locality as a result of the intensity of flight operations, including noise impacts, visual impacts and loss of privacy. The SIA details reliance upon the adopted noise criteria being adequate to limit noise impacts to “regulatory standards” in this scenario, at which point the noise is considered “acceptable”. However, as previously discussed, the noise assessment report fails to demonstrate an acceptable noise impact.

The SIA details likely impacts in the wider locality “including tourist destinations such as beaches and wilderness areas like national parks, where overflying by large numbers of aircraft would be expected to have significant adverse impacts on character and amenity”. National Parks noted reliance on wilderness branding for the area. Concern was raised by the operators of Merimbula and Moruya airports in relation noise impacts. The SIA report notes opportunity to mitigate against such impacts through the adoption of later starts on Saturdays, adoption of right-hand circuits only for runway 18, restricting use of runways 09 and 27 for use only when required, designating approach points to the circuit to minimise overflying of residences, avoiding overflying of urban areas, conducting coastal flying 1-2kms offshore, restricting tracking along the coast to between Tathra and Bermagui, preparation of an ANEF based on a greater number of training circuit movements being flown at Merimbula and Moruya airports, and adoption of designated flight paths to reduce impacts.

However the possible mitigation measures detailed in the SIA have not been adopted as part of the proposal or detailed in the Statement of Environmental Effects Addendum. Further information received by Council titled “Flight Paths” states that “There are no such things as designated flight paths for flight schools”. It continues, “Training aircraft operate freely within the training area adhering to the flight operation regulations as regulated by RA-Aus and CASA”. Therefore adoption of flight paths to mitigate impacts upon wilderness areas, urban areas, coastal areas and dwellings identified in the SIA, do not feature in the application.

Of concern to Council is that subsequent to carrying out the socio-economic impact assessment and reviewing the submissions from the Bega Valley, Moruya and Mallacoota communities, no amendments to the scale or design of the proposal have been assumed. The mitigation measures have not been adopted by the applicant or further detail provided on how they will be mitigated. The SIA fundamentally relies on mitigation of impacts yet the proposed mitigation activities do not form part of the actual proposal. Without clear commitments to these mitigation activities it is not possible to fully review the overall cost / benefit assessment and SIA report. It must also be noted that any commitment to the mitigation activities will not remove all negative externalities. The mitigation methods discussed in the SIA are an indirect recognition of the costs borne by those other than the applicant. It must be acknowledged that mitigation does not eradicate an impact and these impacts are acutely placed on rural and rural residential occupants surrounding the flight school location and residences where flight training will occur, being Merimbula, Mallacoota and Moruya.

The application was lodged with Council as a “recreational flying school” at Frogs Hollow, and was advertised by Council in the Bega, Merimbula and Eden newspapers. Detail regarding the intensity of flight circuit training to be carried out at other airports (Mallacoota, Merimbula, Moruya, Bombala, Cooma Snowy Mountains and Polo Flat) was received by Council on 18 October 2018 and this detail has not been made public to the full range of affected stakeholders. The proposed flight circuit training proposed to be undertaken at these other airfields is considered to be significant, particularly comparative to the existing level of use currently experienced at these airports.

It is considered that while effort to consider the community’s views has been undertaken in the SIA, that consideration has not informed amendments to the design, scale or operations of the proposal, and therefore the views of the people most affected have not been considered. This is evident by the number of submissions received during the advertising of the application.

– *Effective community/local government participation is promoted.*

See response above.

– Positive and negative impacts are identified early so as to allow the proper consideration of proposed developments.

See response above.

– Determine and assess possible measures for the management or mitigation of likely impacts.

See response above.

– The impacts on amenity are equitably distributed in the community.

The impacts on amenity would be acutely placed on residents surrounding the Frogs Hollow airfield. It is likely that land users around the airports at Bombala, Polo Flat, Merimbula, Moruya, Mallacoota and Cooma Snowy Mountains would also be affected by flight circuit training. Information provided in the application proposes up to 1,920 additional flight movements per month at each of these sites excepting for Moruya which would experience up to 2,880 additional flight movements per month. It is considered that the application does not meet the objective of distributing the impacts on amenity equitably in the community.

– The applicant can present the anticipated effects of the development in a detailed and balanced form for Council consideration, showing how it will meet Council's Social Plan and other relevant planning instruments and policies.

The SIA provides an assessment of the proposal's compatibility with the "Planning Objectives" in Chapter 9. It notes that the proposal aligns strongly with item (b) in the BV LEP Aim of the Plan, but does not provide any comment on the other items. Council considers that the proposal does not align with the Aim of the Plan for the reasons outlined earlier in this assessment.

The SIA considers the RU1 zone objectives. It states: "The proposal is consistent with the objectives for the RU1 zone and aligns strongly with the fifth dot point in that it will develop tourism-related activities which are compatible with agricultural activities, however there is likely to be some impact on cultural amenity of the locality". The application details that only upgrading of the access road and intersection with the Princes Highway is proposed in the RU1 zone. The recreational flight school is proposed to be developed over land zoned SP2 Infrastructure. Assessment against the SP2 zone objectives is not provided, however as previously detailed the application fails to demonstrate consistency with the SP2 zone objectives.

Council's Economic Development Unit have provided comment on whether the proposal meets Council's Economic Development Strategy, and notes concerns;

The SIA, in section 9.3, provides statements that demonstrate an alignment between the proposal and Council's Economic Development Strategy (EDS) stating that the proposal can be argued to fulfil the five EDS goals:

- 1. Embracing business and a stronger economy*
- 2. Providing the foundations*
- 3. Embracing the opportunity*
- 4. Partnering for success*
- 5. Enhancing visitor experience*

Applying the EDS goals to a complex development application with unquantifiable negative externalities, for which only voluntarily mitigation strategies are proposed is problematic.

Council must look beyond the single economic investment or activity and assess using sustainability principles that examine the interconnectedness of the local economy with social and environmental spheres – a triple bottom line approach – and how the proposed development meets current needs without compromising the ability of future generations to meet their needs.

Council considers that this aspect has not been fully integrated into the SIA, and therefore the proposal is not considered to align completely with the five EDS goals.

The SIA considers the community strategic plan (CSP) and identifies consistency with Goals 3 and 4:

- Goal 3: Our economy is prosperous, diverse and supported by innovative and creative businesses.
- Goal 4: We have meaningful employment and learning opportunities for people in all stages in life.

Council note that Goals 3 and 4 are written in context with the whole CSP, which includes the other ten goals:

- Goal 1: We are co-operative, caring and enjoy a culturally rich community life.
- Goal 2: We are an active, healthy community with access to good quality recreation and sporting facilities, and medical health care.
- Goal 5: Our air and water is pristine and our natural environment and rural landscape are protected.
- Goal 6: We are leaders in sustainable living and support innovative approaches to resource recovery and the production of renewable energy and food.
- Goal 7: Our Shire continues to be a vibrant, enjoyable, safe and affordable place to live.
- Goal 8: Our places retain their character and scale, development is well planned, and a range of goods and services are available with our Shire that meet local needs.
- Goal 9: We have opportunities to work, learn and socialise through the provision of affordable public transport and telecommunications services.
- Goal 10: We have a network of good quality roads, foot paths and cycleways connecting communities throughout the Shire and beyond.
- Goal 11: We are an informed and engaged community with a transparent, consultative and responsive Council.
- Goal 12: Our Council is financially sustainable and services and facilities meet community need.

While the proposal may be consistent with Goal 3 and 4, concern is expressed with the likely impacts of the development in relation to Goals 5, 7 and 8 (see assessment against the likely impacts of the development and site suitability later in this report).

Consideration of the Sapphire Coast Destination Management Plan (SCDMP) is provided and notes alignment with two recommendations, namely: “Every effort must be made to penetrate the inbound tourism market, using all the advantages held by the region...” and “Expand the range of quality visitor experiences to extend the existing and potential markets beyond summer peak season recreation”. However, it is considered that in this instance the sections quoted have been taken out of context. Under the heading “Part 2 Actions and Recommendations” the SCDMP lists recommendations including:

- *Focus on the region’s distinctive selling proposition – ‘unspoilt nature’ – identified in the ACW [Australian Coastal Wilderness] brand and the Visitor Profile and Satisfaction Survey, and continue to develop new experiences around the brand promise*

Given the extent of the impact of the operations beyond the immediate locality and beyond the Designated Training Area due to the use of other airfields, and the likely impacts upon wilderness areas as detailed in the SIA, it is considered that the proposal does not demonstrate consistency with this plan.

– Impacts that are acceptable to the community can be identified.

It has not been demonstrated that the impacts from the proposal are acceptable to the community, evidenced by the large number of submissions received by Council during the two advertising periods.

5.5 Sustainable Design Principles

The objective of this section is to ensure that sustainable design principles (SDPs) are considered in developments. The document notes that all development is encouraged to achieve best practice in addressing SDPs from the design stage through to construction and operation.

ESD is a requirement of the Local Government Act (1993) and also the Environment Protection and Biodiversity Conservation Act (1999). The application of the principles of ESD to the design of built form has produced sustainable design principles (SDPs). A Sustainable Design Management Plan (SDMP) which details how the principles of Ecologically Sustainable Development (ESD) would be incorporated into the proposal is required for all commercial development greater than 1,500m².

The application was supported by a Sustainable Design Management Plan (SDMP):

The sustainable design features of the development should be marked on the building plans.

- The document identifies that it would need to meet the minimum criteria of Section J of the BCA. In addition to this, it incorporates rainwater harvest and reuse.
- The report indicates that provision of a landscape plan would be supplied with the application for construction certificate.
- The report identifies the criteria that it needs to meet in relation to stormwater run-off and indicates that this detail will be supplied with the application for construction certificate.
- The report notes that the buildings are a “minimalist and modest” construction form and style which reduces the construction-phase waste.
- The report suggests that the building “could” be fitted with bin systems that require waste stream separation.
- The report suggests that buildings will be retro-fitted with solar panels over time, but does not commit to any timeframe.
- The report suggests that indoor environment quality will be satisfactory, however it does not detail how indoor air quality will be achieved in conjunction with satisfactory noise levels. Consideration of indoor noise levels and mechanical ventilation requirements required to achieve this is required.
- The report identifies that students will walk around the site, but that transport beyond the subject site boundaries would necessitate use of buses. Employees would drive to the site, given the remoteness of the location.
- The plan goes on to detail that the aircraft would use unleaded fuel and that aircraft emissions account for a low proportion of total emissions; the report details that 1.24 percent of total emissions in 2011 were created by domestic aviation activity.

Comment in relation to Table 5.1: Sustainable Design Principles which outlines key matters for consideration is provided below.

Energy

- The design does not incorporate solar passive design. 50% of the accommodation buildings face south without consideration of solar access, or to ensure natural light or passive heating or cooling. The building design does not ensure the efficient use of energy through layout or orientation.
- The accommodation buildings incorporate decent width eaves for shading (1200mm).
- Classrooms are provided with eaves (450mm N/S and 600mm eaves E/W) and windows, however windows could be increased in size and number to increase the natural light.
- The Main Building northern wall does not maximise the use of windows and is instead allocated mostly to toilets. Offices located on the northern side are closed rooms that heat would not likely transfer beyond. No eaves are proposed for passive cooling through shading.
- The cold room and kitchen is located on the south-western corner of the building which would be subject to high radiant heat in summer.
- It is likely that the accommodation buildings would experience significant overshadowing during winter given their proximity to one another (3m) inhibiting passive heating of the north-facing rooms.

The design does not reduce energy peak demand or ensure the efficient use of energy. Roofs are not oriented to the north or pitched to permit easy installation of solar panels and the panels would require the addition of brackets.

The use of steel, concrete, and glass, while durable, are materials of high embodied energy. Thermal mass from the concrete slab and natural light allowed to penetrate from the glass windows will not likely cause any overall beneficial effect from thermal mass or passive heating and cooling as they have not been used in accordance with the solar passive design principles.

The plan touches upon the use of aircraft as part of the development and that the aircraft would be fitted with a four-stroke engine which would use unleaded fuel (rather than aviation gasoline) and that aircraft emissions account for a low proportion of total emissions; the report details that “1.24 percent of total emissions in 2011 were created by domestic aviation activity”.

Water resources

The application proposes efficient use of water resources.

Ecology

- The application proposes to impact upon 6.76ha Endangered Ecological Community (EEC) Lowland Grassy Woodland but notes opportunity to offset the impacts of the development through careful management of the remaining 35ha. Council’s Environmental Services Unit have reviewed the application and note that there is opportunity for a vegetation management plan (VMP) to be established at the site which could secure the protection of the endangered Lowland Grassy Woodland community outside the main development footprint, which would be an important measure to offset the proposed impacts. It is recommended that an Operations Environmental Management Plan be implemented to ensure that competing issues, such as the need to dispose of effluent on-site and protection of nitrogen- and phosphorous-sensitive ecological communities be managed appropriately.
- The plan indicates that a landscape plan made up of native plantings would be provided with the CC plans. Inclusion of indigenous species consistent with the EEC would be required for the site.

Stormwater Management

- Stormwater management of the site is considered satisfactory. All roofs will incorporate rainwater harvesting. Satisfactory stormwater quality and flows from road surfaces are considered to be achievable, and it is noted that a detailed design plan for stormwater would be supplied with the construction certificate.
- The application was reviewed by Council’s Development Engineer who noted that roads and hardstand areas will be allowed to drain freely, but given the considerable size of the land this is unlikely to cause any issues for adjoining allotments. The report notes: “During CC [construction certificate] stage the road geometry and drainage should be reviewed to ensure stormwater discharge is not being concentrated over neighbouring land”. The report notes that on-site detention is unlikely to be required, but infrastructure to capture water from impervious services and divert into gullies will likely be required in addition to overflow provisions for rain storage tanks. These items will need to be addressed in further detail prior to issue of the CC.
- Stormwater concept detail has been provided for the proposed access road.
- Stormwater infrastructure for the Princes Highway intersection has been included in the concept design to NSW RMS.

Waste Management

- The waste management measures detailed in the plan are limited to the construction phase and wastewater reuse (where it is proposed to recycle grey water for toilet flushing and fire-fighting supply).
- The plan states that “buildings could be fitted with bin systems that require waste stream separation”, but does not provide further detail or commit to waste minimisation.
- No detail is provided in relation to how waste from the use of bottled water will be managed or minimised.
- No detail is provided in relation to meal preparation and how waste could be minimised through preparation of food without reliance upon pre-packaged goods.
- No detail is provided regarding potential incorporation of compost systems to divert waste from landfill.
- No commitments to use of reusable vessels for drinking water have been made.
- No commitments to waste minimisation through the operations phase have been incorporated into the plan.

- A waste management strategy is required detailing how minimisation of waste at the site could be achieved through construction and operational phases.

Indoor Environment Quality

- The plan states that “The proposed buildings would not be subject to adverse levels of internal noise during day time hours as indicated in the accompanying Noise Impact Assessment”. The Noise Assessment does not discuss this matter. It states on page 21 that “An aircraft should reach an elevation of at least 500 feet before flying over any dwelling in order to comply with L_{ASmax} 70 dB(A) and $L_{Aeq,24hr}$ 48dB(A).” The classrooms and accommodation are located adjacent to the runway and aircraft would not be at 500 feet elevation when adjacent to these buildings. Council has sought expert acoustical advice which provides that the impacts of the aircraft noise have not been adequately detailed and considered, and therefore the level of acceptability cannot be determined. Further consideration of noise mitigation and mechanical ventilation is required to ensure that students and staff are exposed to acceptable levels of noise in accordance with appropriate standards.
- Although the buildings would be required to align with a BCA Section J report, Council Officers do not agree that the buildings are capable of achieving thermal comfort levels with minimised need for mechanical heating, ventilation and cooling, given that the design does not incorporate solar passive design. Similarly, the design does not reduce reliance upon the need for artificial lighting.
- No detail has been provided in relation to the provision of innovative technology, design and processes which would positively influence the sustainability of buildings and the surrounding area.
- No detail has been provided as to how buildings will be integrated with landscaping, open spaces, accessibility or community facilities.

The SDMP provided has not stretched beyond the legal and basic operating requirements of developing the site (ie. BCA Section J and rainwater harvesting which is essential as the site does not have access to reticulated water). Provision of the SDMP did not inform design iterations or improvements. While some matters, such as waste minimisation, landscaping and indoor environment quality (with regard to noise and ventilation), could be managed through mitigating measures, inadequate consideration has been given to solar passive design and therefore significant opportunity to reduce energy peak demand or ensure the efficient use of energy would be lost. The lack of regard given to effluent disposal over the site, of which the entirety is identified EEC Lowland Grassy Woodland, is not consistent with the requirement to protect and manage all remnant indigenous plant communities or protect and enhance biodiversity. Therefore the SDMP has not demonstrated that the proposal is aligned with the sustainable design principles.

5.6 Tree and Vegetation Preservation

NB. The objective of this part is to specify the trees and other vegetation to which Clause 5.9 of the LEP applies.

Clause (8) of the BVLEP 2013 states that Clause 5.9 does not apply to the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003. The applicant is applying to clear vegetation under this Act. Further consideration of this part is therefore not required.

5.7 On-site Sewage Management

The development application proposes to undertake on-site disposal of effluent for the entire development, as reticulated sewerage infrastructure is not available to the subject site. Whilst the applicant has demonstrated that a series of systems of on-site sewage management (OSSM) could conceptually be made to work, there is inadequate detail to support the use of the runways for the disposal of treated effluent, particularly in consideration of the proposed intensity of flight operations (which at stage 3 is proposed to be approximately 1,674 movements per week, reducing to approximately 1,507 movements per week at stage 9), that the airfield is proposed to remain open to other types of aircraft (requiring longer take-off and landing distances, and applying varying levels of impact upon the runways) and vehicles will be required to access the runway in order to maintain the grass runways. It is also noted that the use of treated effluent adjacent to remnant native vegetation including the identified moderate to good condition Endangered Ecology Community near the east-west runway is not appropriate from a nutrient perspective.

The initial On Site Sewage Management Plan (OSSM) dated 25 October 2017 proposed restricting

the disposal of effluent to spray irrigation over the runways at the site. Council raised concern with this aspect of the OSSM due to potential spread of bacteria and potential geotechnical impacts upon the runways and requested provision of a letter from an engineer to confirm that irrigation of effluent onto the runways would not undermine the integrity of the runways through constant wetting for the use of aircraft. Council also raised concern that the centre two rows of sprinklers would need to be moved every time the runway was in use and no alternative location for the sprinklers had been identified.

A subsequent OSSM Addendum report dated 26 April 2018 provided for effluent disposal using an advanced secondary treatment with disinfection, and provided for the following methods of disposal:

- Surface spray irrigation of the runways,
- Subsurface irrigation of landscaped areas, and
- Infiltration disposal in absorption trenches.

The report states “Each of the above methods of disposal may be implemented individually or in combination to provide for disposal of all treated effluent on site”. The plan provided shows a combination of the three methods, and notes “irrigation is necessary for maintaining the grass cover on the runway and that provision would be made for irrigation of the entire runway which would be managed on an as needed basis”.

The Statement of Environmental Effects Addendum (provided coincidentally with the second OSSM report) expressly advises that the airport will remain “open and accessible to other aircraft not associated with the flight school”. The SOEE Addendum responded to Council’s concerns with the following statement:

It is considered that the safety of landing aircraft would not be compromised as the On-site Wastewater Management Plan and Addendum report demonstrate that the runways can adequately cater for the wastewater disposal levels that are proposed. In addition, the reports demonstrate there are several different disposal options and areas that would be satisfactory according to the relevant standards and so reliance on the runways for irrigation would be reduced. In reviewing the runway testing procedures contained in Section 9 of CAAP 92-1, it is considered that the runways would comply with the test standards. The On-site Wastewater Management Plan demonstrates that the runway would not be overloaded by irrigation, according to the parameters set in AS 1547 ‘On-site domestic wastewater management’ and the Sydney Catchment Authority guideline ‘Designing and installing on-site wastewater systems’.

Given that the plan continues to nominate irrigation of effluent over the runways, Council reiterated concern with this proposal. Of note is that AS 1547 does not detail the surface construction requirements of an Aeroplane Landing Area (ALA), and while the runways may be able to adequately cater for the wastewater disposal levels proposed, this does not demonstrate that they can simultaneously be used for the landing and taking off of a variety of aircraft. Therefore the response is not considered satisfactory to alleviate Council's concerns.

The final OSSM Addendum report (dated 14 October 2018) was provided to address Council’s concerns in relation to buffers, errors in the calculation of disposal amounts, and whether NSW RFS are satisfied with the use of treated wastewater option for fire-fighting purposes. Concern was again expressed with the continued intention to dispose of effluent within the runways. The report is amended to show buffers, new calculations and an amended plan. No confirmation has been provided whether NSW RFS are satisfied with the use of treated wastewater for fire-fighting purposes, however it is noted that the RFS require a hydrant system that conforms with AS 2419.1-2005 (now 2017) be provided. This standard specifies that only class 4 recycled water can be used for firefighting purposes and the OSSM reports do not demonstrate that this can be achieved from the proposed systems of OSSM.

Council notes unresolved competing issues pertaining to the OSSM and the identified EEC Lowland Grassy Woodland existing within the site. The competing issues have not been resolved satisfactorily within updated OSSM reports which have not given satisfactory consideration to the findings and recommendations of the biodiversity assessment reports and do not adequately

address potential impacts to the EEC via nutrient increases through treated effluent being disposed of on-site.

Based on the submitted information, Council does not support the recommendations in those reports as there is a lack of information detailing the potential impacts on effluent irrigation areas for the site and its ongoing management.

5.8 Planning for Hazards

- The site is not subject to flooding and coastal hazards.
- The site has been in use as an airfield since before 1937, and therefore there is risk of contamination of the land from fuel spills. The application has been supported with a SEPP 55 Remediation of Land assessment which is satisfactory to address the matter of potential contamination.
- The site is bushfire prone and the application was referred to the NSW RFS under Section 100B of the Rural Fires Act 1997. Terms of approval have been issued by the RFS.
- Climate change hazards apply to all new buildings and the Section J requirements of the BCA will go some way to ensuring that the impacts of hot days and severe weather are mitigated.

5.9 Off-street Car and Bicycle Parking; 5.9.1 General requirements

- The application was referred to NSW RMS for concurrence under the requirements of the SEPP (Infrastructure) 2007. At the time of completion of the assessment, concurrence had not been provided.

5.9.2.4 Commercial Developments

- Accessible parking spaces are required in accordance with the Australian Standard 2890.6.
- The DCP requirement of designated parking spaces for seniors and parents with prams to be provided for medium and larger sized developments is not considered warranted in this instance, given that car parking spaces will be predominantly for staff working at the site.
- An accessible path of travel linking accessible car parks with the buildings is required.
- Lighting detail has not been provided. The SOEE Addendum (p. 31) states that “it is expected that low-level lighting would only be provided around the squadron compounds and the main building, for safety and security reasons”. The applicant has advised that lighting design will comply with “AS4282 Control of the obtrusive effects of outdoor lighting” and will be provided with the construction certificate plans.

5.9.3 Calculating the required number of car parking spaces

- The applicant has not provided a car parking assessment.
- The application has been lodged as a “recreational flight school”. Within the provided documentation supporting the application, the applicant has also defined the development as an airport, an air transport facility, an international education export facility and a tourism facility. As the day-to-day operations of the site are considered to be most aligned with the education of students, car parking requirements have been considered in accordance with a tertiary educational establishment. **Table 5.5 requires the following:**
 - **Tertiary Institutions – 1 parking space per employee, plus 1 parking space per 10 students, plus 1 parking space per 10 seats in assembly hall.**
- It is noted that there is no assembly hall, however there is a main building. Given that the students will not be given the opportunity to obtain their own vehicle but will instead be reliant upon the buses provided for excursions, the requirement for student parking is not considered reasonable.
- The use of the site by the Frogs Hollow Flyers, if it continues, will be on Sundays when many of the flight school training staff will not be at the site, and therefore further car parking spaces in relation to this secondary use are not required.
- The SOEE advises that once fully operational, the development would employ 201 FTE (full time equivalent) staff members, however given the extensive operating hours not all of these staff will be on the site at the same time. A weekday traffic schedule has been provided for the benefit of NSW RMS in their calculations for the Princes Highway intersection treatment. This traffic schedule has been consulted for the purposes of estimating the maximum car parking requirement at full capacity:

- The maximum car parking requirement is between 9am and 4pm, Monday to Friday.
- A total of 165 car parking spaces are required between these hours, based upon the following numbers of staff on site at one time:
 - 30 squadron leaders
 - 30 squadron assistants
 - 4 kitchen/café/gift shop staff
 - 10 chief flight instructors
 - 40 flight instructors
 - 12 ground staff
 - 4 management
 - 20 aviation English instructors
 - 5 admin & support staff
 - 10 flight theory instructors

- **Based upon the number of staff to be on the site at any one time, the car parking requirement is estimated at 165 car parking spaces. The DCP requires an additional 1 per 10 seats in the assembly hall. The main building shows 30 tables with 12 seats each, totalling 360 seats. Therefore a further 36 car parks would be required in accordance with the 1 per 10 ratio. The total car parking requirement is calculated at 165 + 36 = 201 spaces.**

NB. The 201 spaces must include 9 accessible car parking spaces at the required rate of 1 per 25 spaces.

- The plans show:
 - A covered car park with 28 car parking spaces, however it is noted that the two accessible car park spaces are not compliant as they do not include a shared space, and therefore the two spaces should be counted as one only. I.e. Total of 27 spaces.
 - Each workshop (two proposed) is shown with 4 car parks plus a non-compliant accessible space (requires redesign).
 - Each pair of hangars (ten proposed) is shown with 5 car parks plus a non-compliant accessible space.
 - Each compound (ten proposed) is shown with 14 spaces plus a non-compliant accessible space.
 - Total car parks provided (adjusted to allow for compliant accessible parking):

Building	Standard car park spaces	Accessible spaces (compliant)	Total Spaces
Covered car park x 1	26	1	27
Workshops x 2	6	2	8
Pairs of hangars x 10	40	10	50
Squadron compound x 10	130	10	140
TOTALS	202	23	225

- The plans show a surplus of car parking spaces.
- Parking for delivery vehicles and buses x 2 is required to be shown on the plans, with 2 x daily deliveries for food proposed, and 1 x each per week for fuel and water,

however this level of detail is absent from the site plan.

5.11 Signage and Advertising

No detail has been provided in relation to signage and advertising for the site. A separate application would be required for any signage.

6 Engineering Requirements

6.1 Roads and Easements

- The proposed upgrading of the intersection to the Princes Highway has been a matter for the consideration of NSW Roads and Maritime Services, in accordance with the requirements of the SEPP (Infrastructure) 2007. Numerous revisions have been requested by NSW RMS. The most recent traffic assessment report, design plans, and design report are included as Appendices to this report. At the time of assessment NSW RMS had not provided concurrence.

The application was referred to Council's Development Engineers for consideration and the following matters were considered:

- Access will be provided directly via the Princes Highway. Given that the Princes Highway is a Classified Road, intersection design has been a matter for the applicant to resolve with NSW Roads and Maritime Services.
- Access to the site is over Lot 1 DP 245789.

The proposed road design is generally consistent with Council's Development Design Spec D01 Section D.1.27, with 6.0m wide sealed road and 1.0m sealed shoulders. The road is not proposed to become a Council asset, but will be required to be designed and certified by a civil engineer. Further detail in relation to pavement and surface design will be left to the engineer and not specified by Council.

- The bridge will need to be designed and certified by a structural engineer.
- A right of access will need to be established across the access lot in favour of Lot 1 DP 109606 (airfield site), Lot 1 DP 1101320 (Go-Kart club), Lot 11 DP 1218164 (access for concessional lot subdivision) and Lot 11 DP 787822 (adjacent lot to the north).
- Further consideration is required in relation to the design of the internal site road, with the relevant matters being:
 - 6.0m width is sufficient
 - Safety needs to be considered and the design should comply with the BVSC design specification and/or Austroads
 - The road will need to be sealed to eliminate sediment run-off. The road will need to be designed with proper drainage and should not concentrate stormwater flows, especially near adjacent lot boundaries.

▶ **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:

Clause 92 of the EP&A Regulation 2000 requires consideration of the provisions of AS 2601 in the case of an application for the demolition of a building. There are structures on the site which are proposed to be relocated or removed.

N/A?

NSW Coastal Policy 1997

Coastal Management Section 79C (1)(a)(v)

Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)?

No

Yes

SPECIFY:

Development impacts

Section 79C (1)(b)

What are the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality?

Noise

Noise is an important issue for the site given the significant increase in flights, traffic and other development associated with the school. The application was supported with two very different noise assessment reports and a chronology of the assessment is provided below.

The application was initially supported with a noise assessment report prepared by Renzo Tonin and Associates (RTA). This report adopted the NSW EPA's Industrial Noise Policy (INP) methodology and criterion and established the project noise criteria as the intrusiveness criterion ($L_{Aeq, 15 \text{ min}}$) for each noise catchment area (NCA) of:

NCA 1 – 35 dB(A)

NCA 2 – 40 dB(A)

NCA 3 – 41 dB(A)

While Council agreed with the use of the INP methodology and the more stringent intrusiveness criteria, flaws in the methodology were noted including inadequate measurement of the rating background level (RBL) which should be based on a weeks' worth of data rather than just 1.5 hours, and insufficient noise assessment at various sensitive receivers.

NSW EPA commented on the application and noted that use of the INP is inappropriate for assessing the potential noise impacts from activities such as aircraft taxiing around the airfield prior to take-off or post landing, aircraft take-off and landing, or aircraft flying circuits around the airfield. They advised, "Guidance on appropriate noise levels may be obtained by consulting the AS 2021-2015 Acoustics - Aircraft noise intrusion - Building siting and construction (Standards Australia, 2015)". The referral response was forwarded to the applicant.

The application was referred to Airservices Australia who provided comment on the application. They advised that Airservices had been in discussion with NGH Consulting on behalf of the applicant in relation to compiling an Aircraft Noise Exposure Forecast (ANEF) for the Frogs Hollow site. They advised Council, "Any noise regulation, restrictions on surrounding land and on the operations at the airport to manage noise may be set by council. Airservices is not involved in setting these restrictions as this is outside of Airservices jurisdiction. We recommend that the flight school commission the services of an acoustical consultant for detailed noise analysis. The referral response was forwarded to the applicant.

The application was referred to the Australian Government Department of Infrastructure, Regional Development and Cities, who advised Council to refer to guidance contained in the National Airport Safeguarding Framework (NASF), Australian Standard AS2021:2015 Acoustics - Aircraft noise intrusion - Building siting and construction (AS 2021), and Standards Australia book HB149:2016 Acoustics – Guidance on producing information on aircraft noise (SA HB 149). They advised that in order to manage potential noise impacts Council could consider options such as preferred flight paths for circuit training, noise abatement procedures including training hours, number of circuits and a fly friendly agreement. The referral response was forwarded to the applicant.

Subsequently, RTA adopted AS 2021 as the basis for setting the criteria for the second noise assessment report. A daily average noise metric ($L_{Aeq, 24 \text{ hour}}$) of 48 dB(A) was adopted alongside a maximum noise threshold (L_{ASmax}) of 70 dB(A).

Council engaged Marshall Day Acoustics (MDA) to review the noise assessment and the following issues were noted:

- “The assessment methodology and criteria in both RTA reports are not considered appropriate”.
- The RTA reports “...do not provide information which is specifically suited to assessing flight training and general aviation operations”.
- The updated RTA report nominates AS 2021 “...as the basis for setting criteria for assessing the proposal. AS 2021 is not appropriate for this purpose and includes specific statements to clarify that it is not intended for assessing new airport developments. Further, contrary to the assertions of the updated RTA report, the use of AS 2021 as the basis for assessing the development is not in accordance with Airservices or Commonwealth guidelines”.
- “The daily average noise metric ($L_{Aeq,24\text{ hour}}$) nominated in the RTA metric is not considered suitable as an assessment criterion, particularly given that the average includes significant periods when aircraft will not be operating (e.g. night periods). Furthermore, the selection of the 48 dB $L_{Aeq,24hr}$ threshold has not been substantiated with appropriate evidence as an acceptable limit for the assessment of new aircraft noise impacts”.
- “The maximum noise level criterion of 70 dB L_{Amax} is significantly higher than the values nominated in alternative Commonwealth guidance for the assessment of general aviation operations”.

Advice was requested with regard to the appropriate methodology and criteria in the particular circumstances of this application. MDA advised that there are no established compliance criteria or well-defined thresholds for acceptability for assessing new aircraft operation proposals, which is why:

...information must be produced in a range of formats that are needed to assist regulators to make an informed decision about the relative merits and impacts of a proposed development.

An assessment of aircraft operations should supplement the noise level measurements, with predicted noise level contours to demonstrate the extent of area-wide noise impacts associated with the proposed development.

The assessment should therefore include information prepared on the basis of the guidance contained in:

- *Guidance Material for Selecting and Providing Aircraft Noise Information, 2003 and Expanding Ways to Describe and Assess Aircraft Noise, 2000*
- *National Airports Safeguarding Framework Guideline A: Measures for managing Impacts of Aircraft Noise, 2016 (NASAG)*
- *SA HB 149:2016 Acoustics - Guidance on producing information on aircraft noise (SA HB 149).*

The information in the RTA report is therefore insufficient to describe the likely noise impacts at each of the noise sensitive receivers. Therefore it cannot be determined that the noise impacts are acceptable.

The report advises that the noise assessment should, at minimum,

...include information presented in the form of N- contours and should account for maximum noise levels significantly lower than 70 dB L_{Amax} (as per the guidance of the above publications). The contours should be prepared for operating scenarios that are representative of the impact of the range of operations e.g. noise contours for specific days of operation rather than an average of all operations.

Additionally, detailed flight path information and information on the number of movements using the proposed standard flight training areas should be provided.

All flight path information should also consider variation; the updated RTA report puts forward circuit tracks as single narrow lines, thus giving the impression to some people that the aircraft will fly on defined ‘lines’ in the sky.

In conclusion, the report advised that

The proposed development would have an adverse impact on the amenity of the area due to noise generation. Circuit operations and regular overflights at relatively low noise levels (when compared to noise levels in the vicinity of major airports) represent the key noise impacts associated with this type of development. Whether this impact is acceptable is dependent on whether an appropriate balance has been reached between any potential benefits of the development to the local or broader community, and the noise impacts on neighbouring communities.

In the absence of well-defined or regulated criteria to set noise limits for this type of development, determining whether this balance has been reached, requires a complete description of the extent and nature of the impacts on surrounding areas. In our opinion, the level of information that has been provided is not sufficient for this purpose.

Council Officers conclude that the noise assessment report has not demonstrated that the noise impacts are below an acceptable threshold. This conclusion is not limited to the subject site, but also to the immediate surrounding locality (2km radius), designated training area (DTA), and areas beyond the DTA and Bega Valley Shire.

Noise – ground based operations

Council requested detail in relation to the noise impacts from ground-based operations in accordance with the Noise Policy for Industry 2017. The amended noise assessment advised that details for the mechanical plant are not available at this stage of the development, and therefore in-principle noise mitigation measures were provided for the mechanical plant servicing the proposed facility. The report recommended that a more detailed assessment be undertaken during the detailed design stage of the project when schedules of the mechanical plant and equipment are known. However, the report did acknowledge that the project noise criteria for ground-based operations would be $L_{Aeq, 15min}$ 35dB(A) given that operations were likely to be carried on 24 hours per day. The report notes that with a distance of 520m between the mechanical plant to the nearest residential receiver, the maximum combined source sound power level should not exceed 97dB(A). The report goes on to identify measures that could be employed to control the emission of noise.

Council notes that likely noise generation from the site may from time-to-time include back-up generators for essential services such as water pumps, OSSM system pumps and fire-fighting pumps.

Council expresses concern that the nominated level has not taken into consideration the temperature inversions that occur at Frogs Hollow, indicated by the presence of fog. Although the SOEE Addendum notes that "Temperature inversions are of relevance to evening and night time operations only. There would be no ground-based operational noise generated by the proposed development as all aircraft training and maintenance activities would be undertaken during day time hours". This statement is inconsistent with local accounts of fog in the locality occurring during the morning past 7am, and with the May 2018 RTA report which details that "Given that mechanical plant and equipment associated with the flight school are likely to operate continuously 24 hours per day, seven days a week, the assessment of intrusiveness is undertaken for the night time period as the night time trigger levels are more stringent than the daytime trigger levels". Further consideration of the impacts of temperature inversion to both the mechanical plant and equipment to be operated on site and the flight operations is considered warranted.

In relation to the likely increase in traffic movements generated by this proposal, expert acoustical advice received by Council confirmed that:

- Where traffic movements occur within the site boundary of the proposal (i.e. private road between the site and the Princes Highway) they should be assessed in accordance with the NSW Noise Policy for Industry (2017).
- Where the proposal results in an increased of traffic movements on local/public roads (i.e. Princes Highway), the associated change in noise levels should be assessed in accordance with the NSW Road Noise Policy (RNP).
- That the likely increase in noise on the Princes Highway would likely be less than 1dB, thus very minor.

Therefore Council does not have concerns about the likely increase in noise from traffic generation at the site.

Amenity

The SIA details likely amenity impacts to the Frogs Hollow locality including noise impacts, visual impacts and potential loss of privacy. The document details that these impacts would be satisfactory because they would be in accordance with regulatory standards with regard to the level of noise and height of overflying.

The document details that there would likely be "...adverse impacts upon less tangible aspects of character and amenity in the immediate locality (that is, the way in which local residents experience their area), depending on the ultimate intensity of operations and the flight and training paths adopted". The SIA notes that while there may be opportunity to mitigate these impacts, mitigation would not eliminate them.

Council has received a significant number of submissions that raise concern with the likely loss of amenity and change in character of the locality as a result of the development. The likely loss of amenity referred to in submissions refers to a likely loss of desirability or attractiveness. The submissions include words such as "tranquillity" and "peaceful" when referring to the amenity of the Bega Valley, and attribute loss of amenity to aircraft movements. Both MDA and the SIA confirm that the development would have an adverse impact upon the amenity of the area due to noise generation from aircraft. The extent of the loss of amenity relating to noise cannot be adequately understood from the detail provided in the noise assessment report. However it is noted that the scale of the proposal exceeds the capacity of the site with regard to the site's ability to accommodate the required amount of flight circuit training.

Currently, flight operations at the subject site are estimated at approximately 15 flight per week or 30 aircraft movements per week, with a movement meaning either a take-off or a landing. The majority of flight movements are concentrated on Sunday afternoons. Cattle graze the land, including the runways which are grass. Density of development at the site is consistent with other surrounding rural land uses, with low density development of sheds and hangars mostly clustered on the western side of the north-south runway.

The subject site is located in a rural part of the Bega Valley, with surrounding land uses being a mix of rural residential and beef and sheep grazing land. An operating dairy exists within 3km of the site to the north. Other uses include the NBN Co. Satellite Earth Station, a Go-Kart track and the Wanatta Lane Central Waste Facility. Although these last three land uses are not necessarily consistent with rural residential amenity, it is noted that impacts from these uses are either confined to their immediate site, or in the case of noise generation where it extends beyond the boundaries of the site, is of short and irregular duration.

The application proposes to increase the number of buildings at the site significantly from seven buildings and three shade structures, to a total of 104 buildings plus associated infrastructure.

Flight movements at the site are proposed to increase significantly from 30 per week to approximately 1,674 per week by Stage 3 of the development, reducing to approximately 1,507 per week in Stage 9 as the majority of flight training circuits (touch and go's) are undertaken at six other nominated airports. The application details 15 flying days per month (February to November) plus remedial training on Saturdays. On flying days, the daily flight take-off and landing schedule commences at 7am and concludes at 6pm, with most take-offs and landings scheduled 2 minutes apart. During periods that aircraft are not taking-off or landing, it is proposed that the runway would be used for flight circuit training (touch and go). The proposed change of character in the locality is significant.

The proposed designated flight circuits 09, 18, 27 and 36 extend beyond the extent of the site boundary, and beyond the proposed land to be purchased by SAFCA. The flight circuits are undertaken between 0ft above ground level (AGL) at take-off/landing and 1000ft AGL (downwind leg) and would be undertaken over a large expanse of private property (including some residents' homes) located within a radius of approximately 1400m. 58 sensitive receivers have been identified by the applicant (inclusive of approved and commenced (but not yet constructed) concessional lots), with submissions indicating that two residences have been omitted, therefore 60 sensitive receivers are likely to be impacted. (The two dwellings located at the northern end of the runway and proposed to be acquired by SAFCA have not been included in this calculation).

In addition to flying circuits over surrounding private property, the application details that the flight training would be recorded by Go-Pro camera. Significant concern has been raised in submissions in relation to this aspect of the proposal. Council notes that at approximately 500ft elevation (approximately 150m) the opportunities for overlooking are significant. Although similar overlooking in an urban context is not considered at all significant, this level of overlooking in a rural context in combination with a recording device, without opportunity to screen or buffer between land users, could be considered intrusive. Concerns in relation to potential loss of privacy are considered to be valid.

The SOEE Addendum advises that a lighting plan is not able to be supplied until more detailed design is available. It is detailed that low-level lighting would be provided around the squadron compounds and the main building for security and safety reasons. Illumination of the runways, hangars and workshops would not be required as these would not be used at night. The report details that lighting would comply with the Australian Standard AS 4282 Control of the obtrusive effects of outdoor lighting and a lighting plan would be provided for Council's review prior to issue of a construction certificate. Therefore lighting is not considered to be of significant impact upon amenity given that the closest dwelling not associated with the development is approximately 450m away (proposed concessional lot) and landscape screening is proposed.

Therefore, it is considered that the amenity of the immediate locality will be significantly impacted by noise and loss of privacy and would result in a significant change in character in the locality.

Council has received a significant number of submissions that raise concern with the likely loss of amenity and change in character of the broader region as a result of the development. The SIA states "It is likely that these changes to the experiences of residents would be quite localised, and would decrease as properties are located further away from the most intensive operations. Such impacts to built-up urban areas, key tourist destinations and wilderness areas can likely be eliminated with an appropriate choice of flight paths that avoid these areas". Council observes that the likely impacts to the broader region is largely unknown in relation to noise impacts as there has been no assessment of the likely impacts of noise on the broader region, and that the proposal has not detailed the adoption of flight paths to mitigate these potential impacts. Further information provided by the applicant 18 October 2018 in the document "Flight Paths" details that "there are no such things as designated flight paths for flight schools". Therefore it does not appear that there is any intention to adopt mitigating flight paths. The SIA details likely loss of amenity to tourist destinations such as beaches and wilderness areas, "...where overflying by large numbers of aircraft would be expected to have significant adverse impacts on character and amenity". The document details opportunities to mitigate against such impacts including adoption of flight paths, however these mitigations are not reflected in the design of the proposal. In relation to the proposal to use flight paths to mitigate the impacts of the proposal, Council received submissions from the community detailing concern that the proposal to adopt flight paths would subsequently concentrate the impacts over rural land users, given that wilderness areas, tourism areas, towns and dwellings were prioritised for avoidance. Further, the proposal to use Merimbula Airport for up to 9,600 flight training circuits per annum would create likely impacts to the built-up areas of Merimbula (a residential and tourist area) that has not been assessed and that could not be mitigated by flight paths given its single runway.

Submissions from Eurobodalla Shire and East Gippsland Shire detailed concern with the proposed use of Moruya and Mallacoota Airports for flight circuit training at significant intensity with likely amenity impacts upon their surrounding communities. The application is relying upon these established airports without considering whether the impacts at those airports are satisfactory or welcomed by the airport operators. Council requested letters of agreement from the airport operators, but these have not been forthcoming. Feedback received by Council from the airport owners details concern that the scale of circuit training proposed at those airports would result in amenity impacts on the local communities. The airport owners detail that if this were the case the use of their airports by the flight school would be unwelcome.

In conclusion, Council considers that the flight school would result in significant amenity impacts upon the immediate locality. The SIA details loss of amenity upon the broader region as a result of overflying by large numbers of aircraft. Impacts beyond the extent of the Shire are likely to be significant as a result of the flight school's intention to undertake circuit training at six other airports, with significant increases to the flight movements experienced at those airports. Change of character in the immediate locality is certain, while change of character across the broader region is considered likely as impacts are felt upon rural, tourist, wilderness and coastal areas.

Air Pollution

The application was referred to NSW Environmental Protection Agency who advised that the proposal did not fall within any activities listed in Schedule 1 of the Protection of the Environmental Operations Act (POEO Act) and an EPA license was not required.

The application was supported by an air quality assessment report prepared by GHD. The air quality assessment considered emissions from aircraft based upon 330 take-off manoeuvres undertaken two minutes apart for a period of 11 hours. The model assumed emissions from six aircraft at any one time and measured emissions at non-affiliated surrounding residential receivers.

The modelled scenario predicted maximum ground level contaminants of identified pollutants at residential receivers. The identified pollutants included Particulate Matter, Nitrogen Dioxide, Carbon Monoxide, Benzene, Toluene, Xylenes and N-Pentane. The report established a criteria of maximum threshold concentrations averaged over a period of time, which the report details is based upon the NSW EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales. The modelled maximum concentrations were provided against the criteria for each pollutant and the modelled levels were found to be below the acceptable thresholds.

The report concludes that the predicted pollutant concentrations from the proposed aircraft emissions using worst-case inputs are low in comparison against EPA Approved Methods criteria and adverse impacts on humans are not predicted. The report concludes:

Air pollution that is known to impact vegetation and agriculture include particulates, flourides, sulphur dioxide and ethylene.⁴ The proposal is not a significant source of these pollutants. Possible effects of identified air pollution to the agricultural land and vegetation are secondary damage in the form of minor distresses in their growth but can only take effect at high concentration level.⁵ The predicted concentration levels are very low and adverse impacts on any local vegetation or agricultural land are not anticipated.

Therefore Council does not have concerns with the potential for emissions from the aircraft causing significant pollution impacts upon adjacent land users. It is not considered likely that emissions from the flight school would result in significant impacts upon soil or waterways. Council observes that the report did not provide comment in relation to criteria for organic certification.

Water Pollution

Chemicals and bulk unleaded fuel are proposed to be stored on site. Restrictions could be applied, consistent with similar fuel storage facilities including service stations and transport depots, to ensure that should spills occur the site would be adequately designed to ensure proper capture and disposal of polluting substances.

The applicant proposes to irrigate disinfected treated effluent over the site. Council has reviewed the OSSM and considers that adequate buffers to catchment areas are provided.

Potential pollution of waterways from aircraft emissions has been addressed in an air quality assessment report which advised that emissions from aircraft operating in the Frogs Hollow locality would not be significant enough to concentrate effects upon soil. Likewise it is unlikely that there would be any significant impacts upon waterways.

Height of operations over private property and public roads

Concern has been raised that use of runways 09 and 27 will necessitate flying over private property at less than 500ft above ground level (AGL) during the take-off manoeuvre and that this is not legal. Civil Aviation Order (CAO) 95.55 Cl. 8.1 - 8.3 provides clarification of when it is permissible for an aircraft to fly at less than 500ft AGL. 8.1(a) details that the "...aeroplane may be flown at a height of less than 500 feet above ground level if: (a) the aeroplane is flying in the course of actually taking-off or landing". Therefore the legislation appears to make provisions for aircraft to fly over private property at less than 500 feet AGL in certain circumstances. However it is noted in Cl. 8.3 that the aeroplane must "...during the take-off or landing, maintain a horizontal distance from a place or person mentioned in subparagraph 8.2(a), (b) or (c) that may be less than 100 metres if the distance is: (a) enough to avoid endangering any person or causing damage to any property; and (b) as far as possible from the place or person, to carry out a safe take-off or landing".

Concern has been raised in relation to potential safety impacts of overflying aircraft upon traffic using the Princes Highway. CAO 95.55 Cl. 8.2 provides:

For subparagraph 7.1 (b), except when taking-off or landing, a relevant aeroplane that is flown at a height of less than 500 feet above ground level must be at a distance of at least 100 metres horizontally from:

(a) a public road...

The matter was raised with NSW Roads and Maritime Services who requested the following information:

- Details on the maximum number of flights (for each stage of the development) that will result in crossing of the Princes Highway; and
- Details on what the minimum heights will be at each crossing point of the Princes Highway.
- Details on what measures will be put in place to ensure flights that cross the Princes Hwy (e.g. under 500ft) do not result in a distraction to drivers.

The applicant has provided an assessment of the long-term average wind records to determine likely runway usage. They advise that the runways would be used at the following proportions:

- Runway 36: 61%
- Runway 18: 30%
- Runway 09: 5%
- Runway 27: 2%

Runway 36: The report details that use of circuit 36 would not result in crossing of the highway.

Runway 18: The report details that use of circuit 18 would require crossing of the highway at two points, once at 1,000ft and once at 650-700ft.

Runway 09: The report details that use of circuit 09 would require crossing of the highway at two points, once at 500ft and once at 1,000ft.

Runway 27: The report details that use of circuit 27 would require crossing of the highway at two points, once at 1,000ft and once at 500ft.

In summary, the report details that based on long term wind averages, there would be no more than 15 crossings of the highway at 500ft per flying day at Stage 9.

The information was provided to NSW RMS for consideration and at the time of completion of Council's assessment, a response from RMS had not been received.

Construction impacts

It is considered likely that construction of the runway underpass and bridge would impact upon other users of the airfield, and would put the runway and access road out of commission for some time while the works are completed.

Regulatory Framework

Concern has been raised in submissions regarding the regulatory framework surrounding the development and Council's ability to regulate the proposal. Council has outlined the framework below and provided comment on this matter.

The Civil Aviation Safety Authority (CASA) provides for three classifications of aircraft operations: passenger transport, aerial work and general aviation. General Aviation (GA) encompasses aircraft activities which are considered private, recreational or sport in nature. On its website CASA notes that GA includes flight training activities associated with sport aviation.

Civil Aviation Orders (CAO) 95.10, 95.32 and 95.55 require flight training schools to be operated in accordance with the Recreational Aviation Australia (RAA) Operations Manual. RAA is one of nine organisations authorised to self-administer sport and recreational flying activities on behalf of CASA. RAA operates via exemptions and delegations but is subject to oversight by CASA.

Within the aviation sphere, Frogs Hollow airfield is defined as an Aeroplane Landing Area (ALA). CASA has advised Council that CASA's aerodrome regulations do not extend to uncertified or unregistered aerodromes such as Frogs Hollow, however CASA has published an Advisory Publication CAAP 92-1(1) Guidelines for Aeroplane Landing Areas which details restrictions around the use of ALAs, types of operations that may be conducted from an ALA, and recommended minimum physical characteristics of ALAs. The RAA Operations Manual details that in the case of ALAs, the physical dimensions of the aerodrome should comply with this publication. Council's assessment of site suitability has considered this publication.

Airservices Australia is an Australian Commonwealth entity that reports to the Minister for Infrastructure and Transport. Their website states that they provide a host of traffic control and related airside services to the

aviation industry including responding to community concern about the impacts from aircraft and managing aircraft noise. However, in response to Council's referral it was advised that "Any noise regulation, restrictions on surrounding land and on the operations at the airport to manage noise may be set by council. Airservices is not involved in setting these restrictions as this is outside of Airservices jurisdiction". This is because Frogs Hollow ALA is not a federally leased airport or registered aerodrome.

The application was referred to NSW Environmental Protection Authority (EPA) who advised "Noise from aircraft on the ground (not taxiing, taking off or landing) can be directly controlled through the POEO [Protection of the Environment and Operations] Act provisions". The letter infers that the POEO Act does not extend to regulation of aircraft taxiing, taking-off, landing or in the air.

Therefore, based upon the advice received from EPA and Airservices Australia, any restrictions that Council wishes to place on the flight school would need to be captured as conditions of consent under the provisions of the Environmental Planning and Assessment Act 1979. Regulation of aircraft in the air beyond the pathways provided for within this Act does not appear to be available to Council.

Compliance with Civil Aviation Advisory Publication (CAAP) 92-1 (1)

The application was referred to CASA, who advised that

CASA's aerodrome regulations do not extend to uncertified or unregistered aerodromes such as Frogs Hollow. Therefore, CASA does not have any concerns regarding the amendment to the development application as presented.

We would however recommend that any development of runways and taxiways at Frogs Hollow take into consideration our Advisory Publication CAAP 92-1 (1)... ..for the establishment and operations of an Aeroplane Landing Area (ALA).

CAAP 92-1 (1) is an advisory publication issued by CASA. In the publication it is detailed that "There is no legal requirement to observe the details set out in this publication" and refers the reader instead to the Civil Aviation Regulations (CAR) 92 (1), 93, 233 and 235: Civil Aviation Orders; and the Aeronautical Information Publication for legal requirements. Exemption from the provisions of the Civil Aviation Regulations 1988 – Certain Ultralight Aeroplanes Instrument 2018 does not repeal the above clauses of the CAR.

The applicant has advised that CAAP 92-1 (1) has been considered in the design of the development but that the publication is advisory only. The RAA Operations Manual (Section 3.01) requires that the Chief Flying Instructor must ensure that the aerodrome complies with a minimum criteria, including:

- a. The take-off and landing distance available in the prevailing conditions, is equivalent to the Flight Manual or the manufacturers calculated or stated distance requirement, plus 30%;*
- b. The surrounding topography must be such that a standard circuit for the aeroplane type can be flown;*
- c. There must be sufficient clear ground in the vicinity of the aerodrome that a successful forced landing, in the case of an engine failure, may be expected;*
- d. If the aerodrome is classified as uncertified the physical dimensions of the aerodrome should comply with "LANDING AREA - AEROPLANES" CASA CAAP 92 – 1 (1);*
- e. The aerodrome is serviceable;*
- f. There is a method of determining the wind direction and velocity at the aerodrome; and*
- g. If required, the owner or operators written consent has been given for the use of the aerodrome.*

Officer's Comment on CAAP 92-1 (1) requirements

The RAA Operations Manual clearly states that compliance is a matter for the Chief Flying Instructor, however given the magnitude of the scale of the proposal Council has concerns that should the runways not physically comply then subsequent vegetation clearing or construction requirements will not have been given due consideration. An assessment against CAAP 92-1 (1) is considered appropriate at the development application stage with regard to determining site suitability and the likely environmental impacts. Further,

there is the matter of feasibility of the scale of the development to be considered in relation to site suitability. Therefore Council has provided an assessment against this requirement.

Item a: Complies. The applicant has advised that the Trike requires the greatest take-off distance at 247m over a 50ft obstacle, according to the manufacturer's specification. Both runways are longer than 321.1m ($247 + 30\% = 321.1\text{m}$) at 1,000m (north-south) and 850m (east-west).

Item b: Complies. The topography allows for a standard circuit to be flown.

Item c: Council Officers note the presence of undulating and vegetated land inclusive of large eucalypt trees in close proximity of the subject site. It is considered that the applicant has not adequately demonstrated how this criterion has been met.

Item d: The physical dimensions outlined in CAAP 92-1 (1) for this development type are detailed in Section 5 of the publication.

5.1 Runway Width: The publication details that a runway "minimum width of 15m is recommended although aeroplanes with a MTOW below 2000kg can be operated safely on runways as narrow as 10 metres provided there is only light cross-wind". A 10m wide runway is proposed.

Further information received by Council 18 October 2018 (Operational Wind Conditions indicates that flight training is not only proposed in light cross-wind, but that flight operations may occur in cross-winds up to 15 knots (25.93 km/hr), which according to the Beaufort Wind Scale is considered a "moderate breeze".

It is also noted that aircraft not associated with the flight school with a MTOW greater than 2,000kg or more than one engine may wish to use Frogs Hollow ALA from time to time, and the SOEE Addendum has indicated that the airfield would remain open for other aircraft not associated with the flight school.

Therefore, further justification is required as to why a wider runway of 15m in accordance with the CAAP 92-1 (1) publication has not been adopted.

5.2 Runway Length: "...a runway length equal to or greater than that specified in the aeroplane's flight manual or approved performance charts or certificate of airworthiness, for the prevailing conditions is required (increasing the length by an additional 15% is recommended when unfactored data is used)".

Both north-south and east-west runways comply with these requirements.

5.3 Longitudinal Slope: "The longitudinal slope between the runway ends should not exceed 2%, except that 2.86% is acceptable on part of the runway so long as the change of slope is gradual".

The longitudinal slope of the two runways from end to end, as drawn on the plan, complies at approximately 0.5%. However sections of the north-south runway do not comply. At one section of the runway, there is a 5m change in level over a length of 140m, resulting in a 3.5% slope. Therefore, works to the north-south runway are required.

5.4 Transverse Slope: "The transverse slope between the extreme edges of the runway strip should not exceed 2.5% or 12.5% upward slope over the fly-over area".

Various sections of the runways do not appear to comply with this clause. In some sections the transverse slope is as great as 3.3% on the east-west runway. Therefore, works to the runways are required.

5.5 Other Physical Characteristics: Both ends of a runway, not intended solely for agricultural operations, should have approach and take-off areas clear of objects above a 5% slope for day and a 3.3% slope for night operations. Other recommended landing area physical characteristics are shown on the following diagrams:

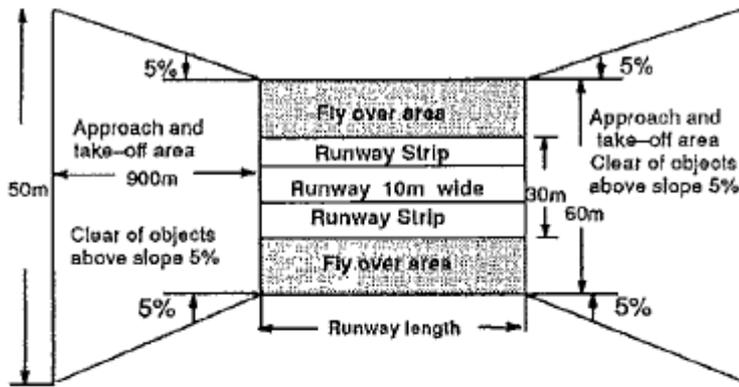


Figure 2A - Single engined and Centre-Line Thrust Aeroplanes not exceeding 2000 kg MTOW (day operations)

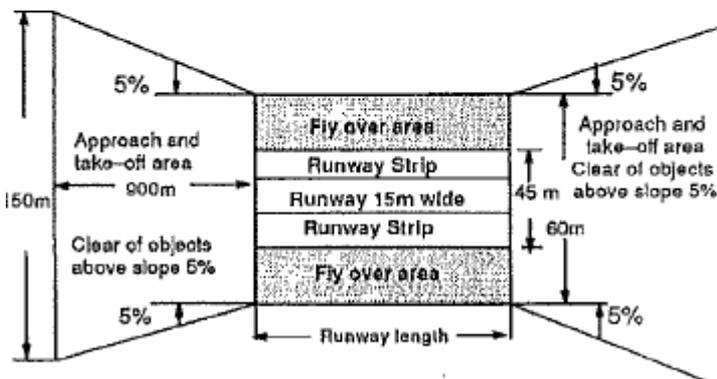


Figure 2B - Other Aeroplanes (day operations)

Figure 2A (which has been adopted in the plan set) requires a distance of 900m beyond the runway (and laterally 5%) to be clear of objects above a slope of 5%. This means that a 20m high object would require a clear area of 399m beyond the end of the runway, or, over a 399m distance, clearing of vegetation would need to extend, in a triangle shape, a further 20m wide of each side of the runway. Given the presence of EEC (Lowland Grassy Woodland) at the western end of the east-west runway it is not clear how this requirement has been met. The applicant proposes to clear the EEC over the designated area of the east-west runway and taxiway as shown on the Development Plan, but clearing beyond or adjacent to the runway has not been detailed or proposed, and it is noted that the woodland (replete with tall trees) continues onto adjacent land that is not proposed to be acquired by the proponent.

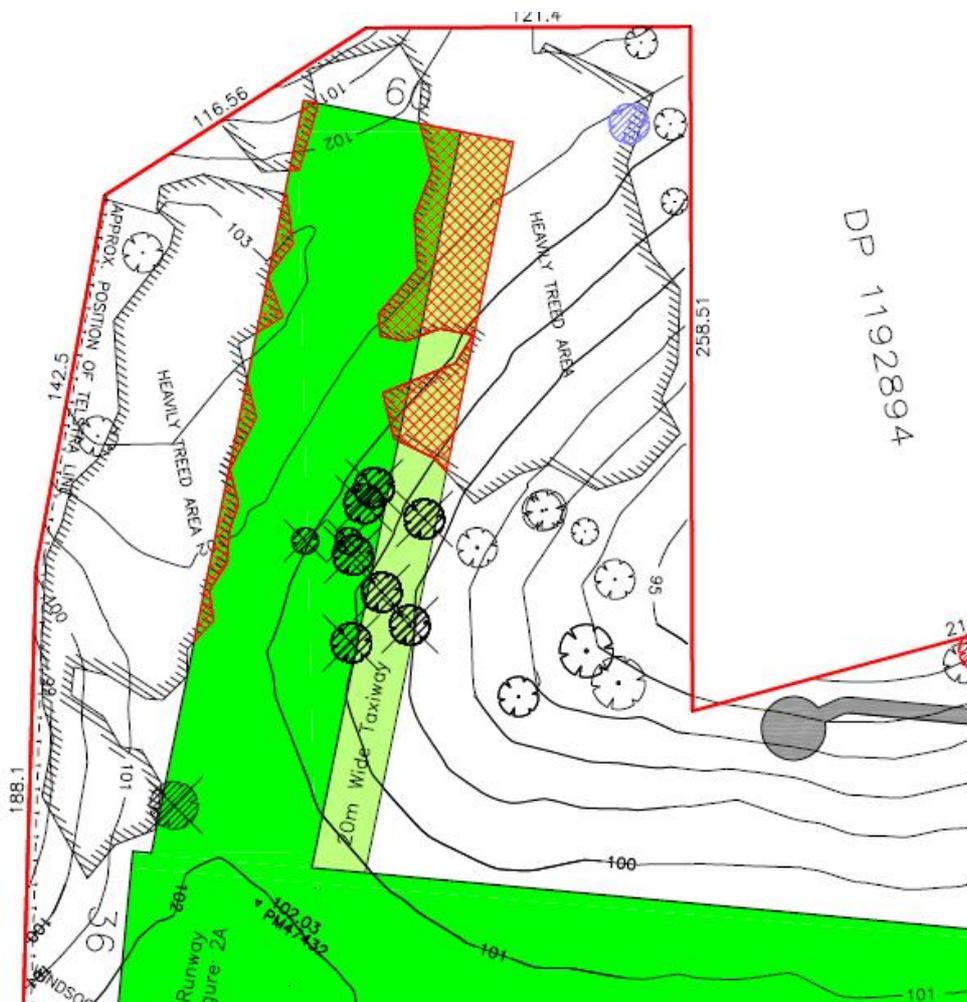


Figure: Excerpt from plan set detailing proposed vegetation clearing adjacent to east-west runway (runway 27)

Therefore Council Officers are not able to confirm that the application complies with this part of CAAP 92-1 (1), and it has not been adequately demonstrated that runway 27 can be used for the proposal.

The site plan was considered by Council's Development Engineer in relation to the requirements of CAAP 92-1 (1) and non-compliance with the maximum longitudinal slope and maximum transverse slopes were noted. Further comments were provided in relation to sight-lines on the runway:

I have sketched a scale long section of the proposed runway (search CM under "long section") and found that the change in grade toward the northern end presents a situation where an aircraft at the low point will not be able to see an aircraft that is 400m south and vice versa. Given the reliance on pilot vision for controlling aircraft movements (rather than a control tower) I think this situation presents a significant safety hazard. I believe the runway will need some amount of regrading and it is possible that some fill will need to be imported.

Consequently a condition of consent has been provided requiring compliance with the Civil Aviation Advisory Publication.

Item e: The site is currently in use by the Frogs Hollow Flyers, indicating that it is serviceable (ie. usable). However current usability of the shorter east-west runway is not certain. Submissions and conversations with various stakeholders have brought Council's attention to the limitations of runways 09 and 27 in their current state due to the proximity of tall trees, some of which are proposed to be cleared as part of this application.

Item f: Complies. There is a wind sock at the site.

Item g: Complies. The applicant proposes to purchase the subject site.

Therefore, the site does not conform to the physical dimensions required by CASA's advisory publication. In order to make the site conform, further works and clearing would be required over the subject land. Potentially, additional clearing would be required over adjacent land that does not form part of the

development application and is not proposed to be purchased by SAFCA. Council concludes that the application does not adequately demonstrate that the site is suitable for the proposed development. Further, given that the entirety of the site is identified as Endangered Ecological Community (EEC) – Lowland Grassy Woodland, the full extent of impacts upon the EEC have not been adequately considered or detailed in the Biodiversity reports.

South East and Tablelands Regional Plan

The application was considered having regards to the South East and Tablelands Regional Plan - Regional Goals applicable to the proposed development.

Regional Goal: A connected and prosperous economy

- Direction 9: Grow tourism in the region
 - o Action 9.2: Encourage tourism development in natural areas that support conservation outcomes

The Regional Plan supports the growth of tourism in the region. It states:

To capitalise on increased visitation from Asia, the region will showcase its clean and green reputation through locally grown produce from providores and farm gates. The variety of experiences can be expanded through the sustainable use of national parks, Crown Lands, agricultural lands and other assets. This can attract people interested in nature- and eco-based experiences, agri-tourism, adventure experiences (such as canoeing and mountain biking) or arts and cultural activities such as those offered on the Bundian Way.

The SOEE Addendum categorises the proposed flight school as a tourism industry. Council notes that the definition of a tourist is a visitor staying less than 12 months (amongst other criteria). Therefore the flight school students are able to be categorised as tourists. Classification as a tourism venture is made from technical application of the widely accepted definition of tourism business that approaches from the demand side (rather than the supply side). If an organisation is providing goods or services to a tourist then the business is a tourism business (this does not exclude them from also being classified as other business types). Council observes that although the applicant has demonstrated that residents from China would be able to attend the site, the intent is for use as a flying school.

Further, the proposal is not consistent with the action where it requires the venture to "...support conservation outcomes". The proposal does not fit into the range of sustainable "nature- or eco-based" tourism activities endorsed and encouraged by the regional plan.

Regional Goal: Healthy and connected communities

- Direction 23: Protect the region's heritage
 - o Action 23.3 Conserve heritage assets during local strategic planning and development.
 - o Action 23.5 Acknowledge cultural heritage assets where appropriate, and consider how these assets can add value to a development.

Consideration of Aboriginal archaeology has been considered in the assessment of this application. The application was supported with an Aboriginal Due Diligence Assessment which was undertaken in consultation with the Bega Local Aboriginal Land Council. The report advised that there are "...topographic elements present in the study area, and that would be disturbed by the proposed development that have moderate to high archaeological potential". The report recommended further investigation in the form of an Aboriginal Cultural Heritage Assessment with a view to undertaking test excavation in the development footprint (buildings and new internal road). The ideal timing for these works to be undertaken was not a feature of the report, however advice received by Council from NSW Office of Environment and Heritage (OEH) provided that the further investigation works be undertaken prior to development consent to allow the best opportunity to mitigate potential harm. The applicant was provided with this advice and chose to not undertake any further works. Council observes that OEH's advice was reiterated by the Bega Local Aboriginal Land Council in their referral advice.

Although the applicant has undertaken a due diligence assessment, further actions to protect and conserve heritage assets and consider how these assets could add value to the development have not been carried out.

Regional Goal: Environmentally sustainable housing choices

- Direction 28: Manage rural lifestyles
 - o Action 28.3: Manage land use conflict that can result from cumulative impacts of successive development decisions

Immediately to the south-east of the existing airstrip is located a recent (2014) 19-lot rural residential concessional lot subdivision. Additional rural residential lots are located to the east of the Princes Highway. It is likely that the residents of these parcels will experience amenity impacts from the proposal. Opportunities to mitigate these impacts are very limited as it is proposed to undertake flight circuit training at the subject site, and the proposed flight circuits overfly private property including some residents' homes at 500-1000ft.

The proposal is not consistent with the above goals and directions of the Regional Plan. The development would impact on existing tourist operations within the Bega Valley due to noise generated by airplanes overflying Forests, beaches and agricultural lands. No effort has been undertaken to protect and conserve Aboriginal cultural heritage that may exist within the site. It has been identified that the proposal would impact on surrounding land users.

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

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 checked="" type="checkbox"/> N/A	<input 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
Erosion/sedimentation	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Marine environment (eg Batemans Bay Marine Park)	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other	<input checked="" 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 type="checkbox"/> Yes	<input checked="" 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

Ecological Assessment

The subject site contains a significant stand of good to moderate condition Lowland Grassy Woodland Endangered Ecological Community (EEC).

Biodiversity Impact Assessment October 2017

The application was supported with a Biodiversity Impact Assessment (October 2017) which detailed that through a combination desktop assessment and site inspection carried out by an ecologist and technical assistant on 9 September 2017 over a period of approximately 1.5 hours, it was determined that the site contained a mixture of EEC Lowland Grassy Woodland with tree cover (10.82ha), EEC Lowland Grassy Woodland without tree cover (40.73ha) and exotic dominated vegetation (4.43ha).

The report detailed that it is likely that the south western corner of the site is in a condition to satisfy the criteria as a Critically Endangered Ecological Community under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). As no development is proposed in this area, further survey to determine if the community meets the EPBC Act criteria was not undertaken.

It was noted that grazing of livestock and the site's use as an airfield has contributed to degradation of the EEC, and that no threatened flora species were occurring or likely to occur at the site. The report detailed potential threatened species (predominantly birds but also flying-fox and bats) that may use the woodland as habitat. The presence of significant vegetation, being Broad-leaved Peppermint (*Eucalyptus dives*) trees was noted and mapped at the site.

The report indicated that of 5.67ha of clearing, approximately 0.87ha of EEC would be impacted and did not anticipate significant impacts.

The application was referred to NSW Office of Environment and Heritage (OEH) who supported that the recommendations be adopted.

They noted that both the derived grassland (no tree cover) and woodland component form the Lowland Grassy Woodland EEC, because the scientific determination for Lowland Grassy Woodland specifically states that "the community also includes "derived" native grasslands which result from removal of the woody strata from the woodlands and forests". An updated assessment of significance was recommended, noting that the early spring site inspection was not an ideal time for assessment. Further assessment relating to potential impacts upon raptor species from bird strike was also recommended.

Biodiversity Impact Assessment May 2018

In response to OEH's advice, an amended assessment was undertaken which noted that 6.76ha of EEC was likely to be impacted (a significant increase from 0.87ha). Some realignment of the road was undertaken to avoid impacts upon all but two broad leaved peppermint trees. A revised 7 Part Test of Significance was undertaken with consideration of the impacts upon the EEC and raptors. Two new recommendations were provided to offset the impacts upon the EEC and to mitigate against the risk of collision with raptors.

The report was reviewed by OEH and the recommendations supported. OEH noted that sightings of raptors had occurred within 10km of the subject site and recommended the 7 Part Test of Significance be updated to reflect this. In addition OEH recommended the establishment of a Biodiversity Management Plan (BMP) and adopt the recommendation as conditions.

Biodiversity Impact Assessment July 2018

The applicant carried out a revised 7 Part Test of Significance and adopted the recommendations provided by OEH. The report revised the impacts upon EEC at 6.7ha, but continued to note that the likely impacts upon the EEC were not considered significant.

Importantly, the development plan set was amended to show the extent of proposed clearing, which was updated to include clearing at the western end of the east-west runway, however no further consideration was given to the EPBC Act criteria.

The application was referred to Council's Environmental Services Unit for comment and was considered in conjunction with the Onsite Wastewater Management reports. The referral notes:

- construction impacts to Broad-Leaved Peppermint trees have been resolved adequately,
- the revised area of impact to EEC (6.7ha) is substantially more than previously calculated,
- securing the protection of the endangered Lowland Grassy Woodland community outside the main development footprint will be an important measure to offset the proposed impacts. Importantly, if the condition of the vegetation is improved and maintained overtime through the vegetation management plan (VMP) the offset will be of greatest value. Ensuring an appropriate level of reporting and/or compliance triggers will be important to ensure its success,
- impacts upon biodiversity at other airports has not been considered in the application, and further assessment to determine impacts upon biodiversity at those other airports is required,
- concerns that onsite wastewater management could have long term negative impacts on the Lowland Grassy Woodland EEC if wastewater infiltrates these areas potentially undermining positive gains from the offset. The referral notes that it is well documented that high phosphorous and nitrogen levels can impact native grassland including grassy woodland communities reducing diversity and allowing exotic grasses to invade. With this in mind, some emphasis is required to mitigate and avoid these impacts through additional measures or modifications to the irrigation system. The Onsite Wastewater Management Plan has not addressed this issue adequately.

The referral goes on to surmise that irrigation of effluent over the runways could be an option to mitigate the impacts of nitrogen and phosphorous levels upon the EEC offset areas. However, alarm is expressed at the continued intent detailed in the application to irrigate effluent over the runway surface without first obtaining expert engineering advice that the quantity of water and resultant wet (and subsequently softer) surface would result in a hazard to the flight school aircraft and other aircraft which may wish to land or take-off from site. Council requested this expert advice during the assessment of the application, but it has not been provided.

The competing issues have not been resolved satisfactorily and the updated OSSM report (Addendum 2) has not adequately addressed potential impacts to the EEC.

Impacts that have been identified in relation to native vegetation clearing at the site have been addressed through the Biodiversity Impact assessments and the subsequent recommendation for

establishment of an offset area on the site. However, the likely clearing impacts upon the EEC in the south-western corner of the site have been underestimated due to insufficient consideration of CASA's advisory publication CAAP 92-1 (1) which details the physical requirements for Aeroplane Landing Areas. The RAA Operations Manual requires that the physical dimensions of the aerodrome comply with CAAP 92-1 (1). Therefore issues remain unresolved in relation to likely impacts upon EEC and insufficient information has been provided to assess the impacts upon the Endangered Ecological Community Lowland Grassy Woodland. Further, it is noted that the extent of further clearing in this area would trigger further assessment against both the NSW legislation and EPBC Act.

Bird Strike

The potential for impacts upon biodiversity as a result of aircraft collisions with avifauna (bird strike) has been raised by NSW OEH and in submissions. Concern was particularly raised in relation to the threatened species; Grey falcon, White bellied sea eagle, Spotted harrier, Little eagle and Square-tailed kite, all recorded within 10km of the subject site.

The applicant undertook further investigation and provided a risk-mitigation strategy detailing measures to restrict shelter and habitat provision for raptors and raptor prey. OEH provided further review of the application and advised that a Biodiversity Management Plan should be adopted.

The matter was addressed in the applicant's response to the submissions wherein it is detailed that an Australian Transport Safety Bureau study found that for General Aviation, the rate of reported bird strikes between 2006-2015 was less than 0.53 incidents per 10,000 movements. The applicant's response details that at this rate, less than one bird strike incident per year is likely to occur in association with the flight school. However this is inconsistent with the flight movements detailed to Council in the application which details that approximately 189,600 flight movements are proposed per annum, which would bring the likely bird strike rate up to 10 per year. Given that the majority of these flight movements are proposed to occur at other nominated airfields, opportunities to mitigate against these impacts are limited.

It has been assessed that there will be bird strikes from the operation of the flight school. It is considered that given the number of flight movements from the site and also at other airports the implementation of a biodiversity management plan would mitigate some impacts however would not totally negate bird strikes. Council considers that inadequate consideration has been given in the application to the potential impacts upon biodiversity from bird strikes occurring at other airports.

Biosecurity

The application was referred to Council's Vegetation Management Officer who raised concern with the potential for weeds (particularly African lovegrass) to be spread. He noted that under the Biosecurity Act 2015 everyone has a General Biosecurity Duty. "Any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised." A "carrier" being defined as "Anything (whether alive, dead or inanimate, and including a human) that has, or is capable of having any biosecurity matter on it, attached to it or contained within it". i.e. earth moving machinery.

To fulfil the applicants' "Duty" Council would insist measures to minimise the potential African lovegrass spread be;

- Any earth moving or removal of seed infected soil being taken off site not be spread to clean areas of the shire.
- Keeping a buffer zone free of African lovegrass 3 meters either side of entry and exit roads

This measure would be enough to satisfy the applicant's Biosecurity Duty regarding priority weeds listed in the South East Regional Strategic Plan, in order to prevent any material removed from the site to end up in a clean African lovegrass free locality.

Landscape Plan

The application was not supported with a detailed landscape plan, however a concept landscape

screening was provided. A landscape plan detailing inclusion of locally occurring indigenous species appropriate to the EEC Lowland Grassy Woodland is required.

Drainage/hydrology/watercourses

The application proposes to install 10 Ozzi Kleen SK25 A-G sewage treatment plants to service the development. The effluent water is proposed to be disposed of through a combination of methods, including surface spray irrigation over the runways, absorption trenches, and landscape effluent irrigation area.

The application has been reviewed by Council's Environmental Health Officer and Environmental Services Unit who have noted unresolved competing issues in relation to: preservation of EEC offset areas not impacted by infrastructure; preservation of runway integrity for the diversity of aircraft that may wish to use the runway for taking-off and landing; and space to dispose of the estimated volume of effluent water.

Environmental impacts

HAZARDS

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
Is the land Bushfire prone land?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<ul style="list-style-type: none"> ▪ Is the proposal integrated development? <ul style="list-style-type: none"> ¹ If YES, has a S100B been issued by NSW RFS? <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes¹ <input type="checkbox"/> No ² If YES, attach to consent. <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes² <input type="checkbox"/> No³ ³ If NO, refuse application as per EP&A Act requirements. ▪ Is the proposal consistent with Planning for Bushfire Protection? <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes² <input type="checkbox"/> No³ ▪ Has the proposal been considered by the local RFS? <input type="checkbox"/> N/A <input type="checkbox"/> Yes² <input checked="" type="checkbox"/> No³ <ul style="list-style-type: none"> ¹ If YES, include any requirements of NSW RFS as conditions of consent 			
Is the proposal subject to any other hazards?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Comment

The application was referred to NSW RFS in accordance with Section 100B of the Rural Fires Act 1997, and general terms of approval were provided in a letter dated 11 December 2017. Therefore it has been determined that the potential hazards from bush fire can be managed.

Environmental impacts

BUILT

Is this proposal suitable having regard to the following:

Impact on adjoining land and the locality?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
The amenity of the area?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Appearance from public spaces?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Noise/lighting impacts on adjoining developments or roads etc?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Existing noise sources?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The scenic qualities and features of the landscape and streetscape?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
The design, scale and character of the area?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Sunlight and overshadowing?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Visual impact?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

View sharing?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The positioning of buildings?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Boundary treatments, retaining walls and impact on neighbouring buildings?	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Comment

Impact on adjoining land and the locality

It has not been adequately demonstrated that the proposal will not create conflict with agricultural uses in the immediate area. Concerns raised in submissions detail potential noise impacts on beef and sheep grazing, dairy herds in the area and potential contamination of land and waterways from exhaust pollution from the aircraft. These matters, specifically relating to livestock productivity and quality, training circuits being conducted over Wolumla Creek, and potential pollution of agricultural land, were raised in a referral to NSW Department of Primary Industries (DPI). The response Council received was inconclusive as it did not take into consideration the scale of the proposal, proximity to livestock, or size of aircraft, and provided general advice only.

The advice suggested that livestock would likely be “spooked and flighty” at first, but that with time would likely cope with the noise if regularly exposed. The advice stated that “if the cows are within the immediate proximity to the planes (i.e. in the same paddock), they may not settle due to the continuous disturbance”. Flight circuits are proposed to be flown over adjacent beef and sheep grazing land and on some occasions will likely be lower than 500ft altitude but it is not proposed to graze cattle within the immediate proximity to the planes (ie. within the subject site).

The application was supported with an Air Quality Assessment which concluded that any impacts upon surrounding land users as a result of aircraft emissions would be below acceptable threshold levels prescribed by the EPA.

NBN Co. initially raised concern with the proposal during the advertising of the application, given the site’s proximity to the NBN Satellite Earth Station (SES) at Wolumla. Their concerns related to the potential for the aircraft to interfere with the operation of the SES at Wolumla, with potential impacts on the provision of NBN satellite services. More specifically, NBN raised concern about the potential for radio interference from the airfield and physical interference from aircraft flying through the radio frequency signal beam from the SES antenna array. The SOEE Addendum was subsequently referred to NBN Co., with no further comment received.

The noise assessment report does not provide adequate information to demonstrate that the likely noise impacts of the development are acceptable. The wide spaces usually available on rural zoned land to provide buffers between conflicting land uses are not available in this instance, given the physical extent of the flight circuits which are proposed to be flown over neighbouring land parcels and residents’ homes at significant intensity.

It is not only noise impacts that are of concern to surrounding residents. Concerns relate to potential pollution of roof-caught tank water (sole supply of domestic water), privacy impacts of a significant number of flights occurring overhead at reasonably low-altitude (between 150m and 300m in combination with the use of Go-Pro cameras capturing the flying experience), and reduction in rural amenity experienced by surrounding residents.

Given the scale of the proposal and the extent of the designated training area, plus the proposed use of other airports for flight training, it is anticipated that the impacts of the flight school will be experienced at a significant level well beyond the extent of the subject site, and into other adjoining land zones. The Socio-Economic Impact Assessment report confirms this scenario and notes likely noise and amenity impacts upon wilderness areas, urban areas and coastal beaches.

Airport Practice Note 6: Managing Bird Strike Risk Species Information Sheets released by the Australian Airports Association (AAA)¹ provides land use planning guidance in the vicinity of aerodromes. The publication details uses within a 3km radius that are incompatible with aerodromes due to their propensity to attract birdlife, which can become an unacceptable risk to aviation. The report details that piggeries and orchards are incompatible uses within 3kms of aerodromes. Council observes that the land surrounding the subject site is predominantly rural land and that piggeries and orchards are activities that would be associated with agricultural lands, and that establishment of a flight school of significant scale in this location may prevent these types of

activities being established in the locality in the future.

¹ https://www.atsb.gov.au/media/5353201/managing_bird_strike_risk_species_information_sheets.pdf

Visual Impact

Currently the site is not visually prominent given the low density of development and its location approximately 300m at its closest point from the nearest connecting road, the Princes Highway. The site currently is akin to a rural farm in density and visual impact. However the site, particularly the north-south runway, is visible from the Princes Highway and further development of structures will increase its prominence in an otherwise low density rural environment.

Consideration of visual impact of the proposal is considered necessary, particularly given that at Stage 9 the proposal will result in the construction of a total of 104 buildings, lining each side of the north-south runway for a distance of approximately 850m. Elevations indicate a basic utilitarian shed-type construction for each of the structures. It is considered that the density of development proposed is not consistent with the existing character of the locality.

In support of the application, a visual impact assessment has been undertaken by Urbaine Architecture.

The report notes the current low density of development in the pasture lands of Frogs Hollow and details the key view points to the subject site from public roads. Although the application was not supported by a schedule of colours and materials, the visual impact assessment nominates a green colour for the buildings to lessen their impact in the landscape. It is not clear whether the green colour is reflective of available bonded steel colour palettes. It is agreed that the green colour palette has the effect of lessening the visual impact.

Photo montage views are provided showing additional landscaping, which has the effect of further lessening the visual impact from the Princes Highway.

The associated written statement draws the conclusion that with the appropriate colour palette and landscaping to the eastern side of the site the visual impact can be adequately mitigated.

The view assessment from the western side of the site draws the conclusion that there is no need for landscape screening because the existing trees break up any observable building mass. While this may be the case at the present time, it is considered that mitigation of visual impact should not rely upon remnant vegetation on adjacent land, and therefore landscape screening should be consistently applied to both eastern and western sides of the site, with ongoing performance conditions relating to maintenance of screening.

Additionally, it is unlikely that the bonded steel colour will blend into the landscape to the degree shown in the photomontage. Invariably, the eye will notice a line of hard structures in a natural landscape, and therefore landscape screening on both eastern and western sides of the site is considered warranted.

No detail has been provided regarding the visual impact of possible relocation of the existing sheds and structures.

Visual Impact of Aircraft

An assessment of the visual impact of aircraft flying training circuits beyond the site boundaries and over private property has been undertaken.

The applicant submitted an assessment of the visual impact of the aircraft flying at 4000ft. The perceived size of the object was calculated as though the person were holding a ruler 30cm in front of them and measuring the size of the object, at which point the aircraft would be perceived as 2.5mm in size. It is considered that context would be an important consideration in whether the impact is satisfactory or not. In an urban or rural context, the visual impact would not likely be significant, however in a wilderness area the repetitive sighting of aircraft may detract from the wilderness experience.

The assessment did not consider the perceived size of the aircraft at 500ft at which height it may be

flying over a nearby residence. Using the same equation ($x/\text{distance 1 (30cm)} = \text{object size (10m)}/\text{distance 2 (152.4m)}$), the perceived size at 500ft (152.4m) measured 30cm from the eye would be 2cm.

Therefore, it is considered that the visual impact from aircraft flying overhead at the proposed height would be satisfactory in a rural or residential context. However this would likely not be the case in a wilderness setting (such as Mallacoota).

Note: no conclusions have been drawn in relation to perceived privacy impacts. Privacy impacts have been considered earlier in this assessment.

Boundary Treatments

No detail has been provided in relation to fencing of the site for security or safety, such as exclusion of fauna such as kangaroos. If required, security fencing would need to be considered in the context of its visual impact to the Princes Highway, and may need to be set back from the site boundary. Any fencing of the site over and above the exempt provisions would need to be the subject of a separate development application.

Is the road system adequate to cater for any increase in traffic movements generated by the proposal?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is vehicular access satisfactory?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is carparking provided and adequate?		number of spaces required? 201	number of spaces proposed? 225
		shortfall/surplus +24	contribution for car parking appropriate?
		<input type="checkbox"/> Yes	<input checked="" 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 type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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?	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Comment

- The application was referred to NSW RMS for concurrence. Requests for additional information from RMS have been provided, however, the RMS has not provided concurrence to the proposed development.
- Given the remote location of the site, the provision of public transport is not achievable. Students would travel to and from the site on private buses.
- Detail in relation to pedestrian access in and around the site has not been provided. It is noted that use of the road will be limited to a low number of staff movements each day. Pedestrian access in and around the site would need to comply with accessibility standards.

Council's Development Engineer has reviewed the provision of car parking on the site, and noted the following key points:

- The car parking will be provided with the building staging. At the completion of stage 9 the development proposes to have 225 car spaces including 23 accessible spaces.
- The disabled spaces are not dimensioned correctly and don't show any shared spaces.
- Circulation details and isle widths are only shown of the compound car parking and not for any of the other parking areas.
- There is likely sufficient room within the site to provide the spaces proposed, of compliant dimensions as well as circulation and isle spaces. It may be prudent to place a condition on the consent requiring all car parking and circulation to be designed to AS

2890.

NB. The DCP car parking assessment included in this report was undertaken based upon two accessible spaces equalling just one accessible space (in consideration of the required shared space).

Social and economic impacts

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

N/A

Yes

No

Comment

Social and Economic Impacts

The social and economic impacts have been considered in relation to the objectives of the Bega Valley Development Control Plan 2013 (DCP), detailed earlier in this report.

Site suitability Section 79C (1)(c)

Is the site suitable for the development?

Visual Meteorological Conditions (VMC)

The application proposes to undertake flight training under VMC only and proposes flight operations from February through November. CASA defines VMC as: “an aviation flight category in which visual flight rules (VFR) flight is permitted—that is, conditions in which pilots have sufficient visibility to fly the aircraft maintaining visual separation from terrain and other aircraft”.

An intense regime of flight training is proposed with operations commencing at 7am and continuing through to 6pm for 150 days of the year. Concern is expressed with the feasibility of undertaking the highly regimented schedule in the context of winter sunrise and sunset times.

On the winter solstice (21 June) the Australian Government website Geoscience Australia indicates that sunrise occurs at Bega at 7:43am and sunset occurs at 5:21pm, with civil twilight occurring at 7.14am (rise) and 5.50pm (set), which is a slightly shorter day than the Operations Summary allows for. Although not significant periods of time, given the highly regimented schedule of flight movements required, the time difference will impact no less than 5 pilots in the morning flight session and 4 pilots in the afternoon flight session.

Therefore the operations summary does not demonstrate a schedule of flight training compatible with the constraints of the site.

Suitability of the development for flight training given meteorological/weather conditions

Submissions received by Council indicate that the site is subject to meteorological conditions such as wind and fog. Council has obtained information from the Bureau of Meteorology that identifies clear predominate summer to winter wind directions and mean speeds, however this information is restricted to 9am and 3pm readings taken in Bega. The application has not provided a review of wind gusts between the hours of 9am and 3pm, or detailed the impacts of rain or fog on flying days, to give a clear and identifiable assessment of available safe flying conditions available to learning recreational pilots.

Council received submissions objecting to the application citing that a proposed development of this magnitude and intensity could not be successfully run at the Frogs Hollow ALA due to the meteorological conditions experienced at the site.

A review of the information provided in submissions and information provided by the applicant indicates that the development application has not adequately addressed the meteorological conditions of the site, or how the proposed scale of flight training operations can be adequately performed at the site or at other airports that would support the proposed flight school.

Information was requested from the applicant detailing the site's weather conditions. In assessing the capability of students to learn to fly at Frogs Hollow, weather conditions are an important factor in considering the suitability of the site at the intensity and scale that it is proposed to operate.

The application details that there are 22 available flight training days each month, of which 15 would be used for flight training. In the document *Calculating Safe Wind Speeds for Operations at Frogs Hollow* it is identified that flight training can occur with wind speeds up to 20 knots (37.04Km/hr) wind velocity at 45 degrees to the runway in use, this being a cross-wind component of 15 knots (25.93Km/hr) for the Bantam B22 (the designated aircraft to be used). This is the worst case scenario.

This calculation was supported by the flight manufacturer who confirmed that the Bantam B22 maximum demonstrated cross-wind component (in knots) in the Pilot Operating Handbook is the figure at which factory testing has shown that directional control can still be maintained being 15 knots or 25.93km/h. They further provided comment detailing that, "It shall NOT require exceptional skill by an ordinary pilot, however it does not mean every pilot will be able to do so."

Further, a recurring notation in multiple Pilot Operating Handbooks for the Trike (which is another form of recreational aeroplane proposed to be used at Frogs Hollow) states; "The skill of the pilot and the "quality" of the wind must be taken into account when assessing conditions for flight, for example, a new pilot with minimal exposure to thermic and/or gusty conditions may find flight conditions more appropriate in smooth consistent light breezes with little to no gust; while a pilot with many hours experience of flying in rough conditions may assess conditions of moderate winds with varying gust to be within his and the aircraft's abilities." Therefore, although the upper limit of 15 knots crosswind applies to the Bantam B22, it is not certain that it would be safe for a student pilot to fly the aircraft in those wind conditions.

The information provided by the applicant detailed the suitability of wind speeds in Bega at 9am and 3pm and highlighted that wind speed was appropriate and below the upper limit of the wind velocity of around 20 knots (37.04Km/hr) at 45 degrees the majority of days. Council notes that these readings are only based on wind speed averaged over 10 minutes prior to those designated times and do not take into consideration the broader range of wind velocities measured throughout the day.

In determining that the site was not suitable, the submission received by Council considered an upper wind limit of 12 knots based upon a web article published in 1998 by Bruce Landsberg, Senior Safety Advisor for the Aircraft Owners and Pilots Association in the United States¹. The upper limit of 12 knots did not consider the T-shaped runway or the cross-wind component.

Council undertook a review of the BOM Daily Weather Observations over the past 14 months excluding December and January (not proposed to undertake flight operations) for the Bega weather station and noted that there are numerous days where wind gusts would exceed the safe wind speeds for operations based upon the upper limit of 20 knots.

A review of the maximum wind gusts for each day demonstrated regular exceedances of 20 knots, however this figure only provides the maximum figure for the 24 hour period, and not the detailed half-hourly wind speed observations between the hours of operation proposed by the development. It should be noted however, that when maximum wind gusts were recorded, they are predominately between the hours 8am and 5pm, during the proposed flight training hours.

A review of wind roses over the same months for Bega highlighted the predominate wind directions and forces, however, these were only limited to 9am and 3pm and do not provide an overall weighted average during the proposed hours of operation of the flight school.

There is insufficient information provided by the applicant to scientifically assess the impacts of winds during proposed flight training times. Concerns are raised that the proposed 15 days of flight training per month would be inadequate to accommodate the full schedule of flight training due to unsatisfactory flying conditions, and instead it is likely that the flying days would need to increase beyond the designated 15 days most months.

The applicant identified that excluding weekends, there are typically 22 flying days available for flight training (see Figure below). This means that there are a further 7 days per month (beyond the 15 designated days) provided to accommodate inclement weather. Given that each flying day is scheduled with an aircraft either taking off or landing every two minutes for the most part of the flying day, it is likely that flight operations will be typically spread over more than just the 15 designated flying days to allow for the pattern of high winds

that occurs at the site through the day. This would alter the experience of surrounding residents, with students undertaking flight operations across part-days, rather than the flight training being condensed into a neat 15 days. Therefore the number of flight days has been understated. Further, the applicant has provided no reasonable information having regard to the impact of other weather conditions that would affect flight operations including poor visibility such as low cloud or fog (which has been raised in several submissions as a feature of the locality).

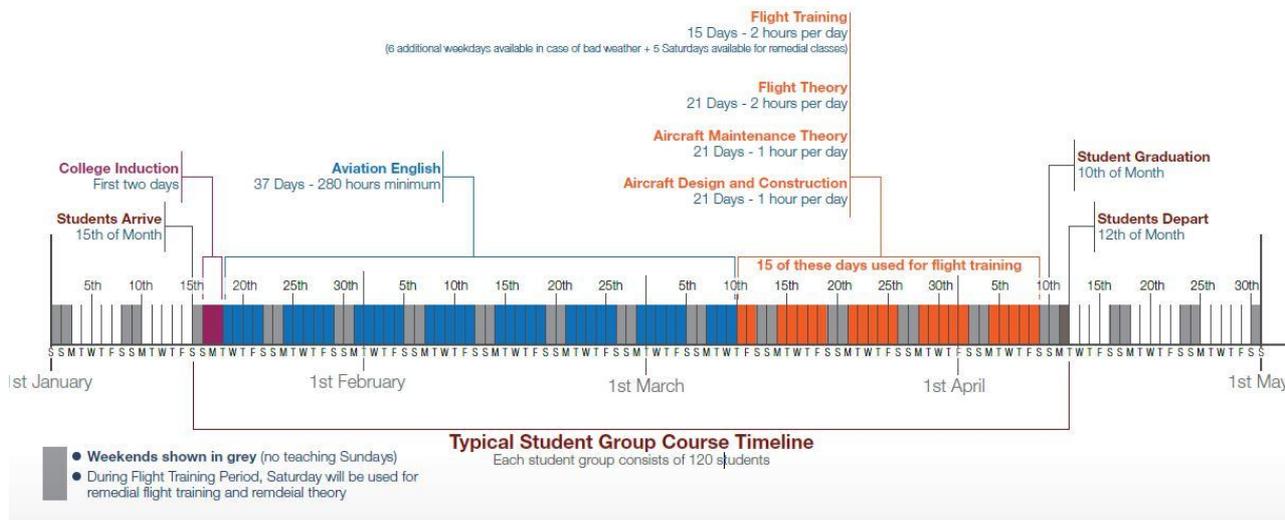


Figure 1: Typical course timeline (excerpt from Operations Summary)

The BOM information for Bega does not provide any recent daily or monthly information regarding cloud cover or fog.

The applicant provided no information in regards to the operational aspects of Merimbula airport having regard to wind conditions, and this omission is considered significant given that it is a single runway with predominate cross winds occurring there throughout the year.

Further, no review has been provided for the other five nominated airports.

¹ <https://www.aopa.org/news-and-media/all-news/1998/march/pilot/too-windy>

Use of other airfields

The applicant identified that the use other airfields for flight circuit training (due to lack of capacity at Frogs Hollow. On 18 October 2018, Council received advice from the applicant regarding the proposed number of flight circuits to be flown at each airfield, including Frogs Hollow, for each stage of the development. In this document it is advised that instead of each student being required to fly 80 circuits to achieve competency, as previously stated 15 November 2017, each student would only need to fly 55-65 dedicated circuits to achieve competency (taking into consideration that the student pilots are required to take-off and land by entering into the standard circuit “template”). Therefore, given the inconsistency in the documentation it is noted that any figures outlined below are not based upon a conservative estimate.

The application proposes to undertake circuit training at six other airfields (in addition to Frogs Hollow) at the following intensity (February to November) to accommodate the quantity of circuit training required by the proposed number of students:

- Moruya: 240 circuits, 6 days per month
- Merimbula: 96 circuits, 10 days per month
- Mallacoota: 96 circuits, 10 days per month
- Bombala: 96 circuits, 10 days per month
- Cooma Snowy Mountains: 96 circuits, 10 days per month
- Polo Flat: 96 circuits, 10 days per month

Council sought legal advice as to what its obligations are in relation to assessing the likely impacts of the development at the nominated six other airports. It was advised that:

The impacts of the proposed development external to the site arising from the additional flight movements at other airports is probably a likely impact of the proposed development, and one which Council is obliged to consider in its assessment of the development application. However, the extent of Council's assessment is a matter for Council. Obviously there are limitations on Council's ability to assess the impact of development outside the Local Government Area. It would be reasonable for Council to consider those impacts by assuming that the additional flight movements at those other airports not within the Local Government Area will either be authorised or required to be authorised by a further planning permit which considers environment impact.

The potential impacts on flight movements at the Merimbula airport is a matter about which Council will have specific knowledge. It would be prudent for Council to request the applicant to provide details of how many additional movements will result at Merimbula airport and determine whether or not those additional movements are within the approved capacity of that airport.

Therefore, based upon this advice, Council reviewed the Merimbula Airport site and sought feedback from the affected regional Councils (and airport owners): Bega Valley, Eurobodalla, East Gippsland and Snowy Monaro.

Merimbula Airport

The Merimbula Airport was originally constructed in the 1950s (opening in 1959) as a part of the Commonwealth Government Department of Aviation's national airport strategy. Council approval was not required. The Merimbula Airport Master Plan was created by Rehbein Airport Consulting in 2013 and was adopted by Bega Valley Shire Council at the Council meeting of 16 October 2013. The document clearly outlines its purpose and context as follows:

...the Airports Act 1996 summarises the aims of an Airport Master Plan as follows:

- Establishing strategic direction for the efficient and economic development of the airport over the planning period;*
- Providing for the development of additional uses of the airport site;*
- Indicating to the public the intended uses of the airport site; and*
- Reducing potential conflicts between uses of the airport site, and to ensure that uses of the airport site are compatible with the areas surrounding the airport.*

Although the Airport Act 1996 does not have statutory application to Merimbula Airport, this does not reduce the relevance of these four key aims. BVSC has identified several further specific objectives in commissioning this Master Plan, including the desire to:

- Provide a basis for timely and coordinated development of aviation facilities and infrastructure to support the forecast increase in passenger and aircraft movements;*
- Provide a basis for appropriate management of the environment;*
- Address key issues facing the airport through the development of concepts or options;*
- Understand the current and future potential economic significance and importance of the airport to the community; and*
- Inform the Merimbula Airport and Precinct Strategy.*

The document details forecast movements into 2033. The high-growth scenario details annual movements of approximately 9,000 movements per year documented in 2012 culminating in approximately 16,500 movements per year in 2033. Of these, training movements have been estimated to grow from approximately 3,000 to a total of 3,800 movements per year. The flight school proposal details the intention to undertake flight circuit training at Merimbula in the vicinity of 9,600 circuits per year (96 circuits x 10 days per month x 10 months per year), or 19,200 movements per year (the Master Plan document details that a

circuit corresponds to two aircraft movements). Therefore concern is raised with the extent of use proposed at Merimbula airport as it exceeds the high growth trajectory for circuit training at the site. The proposal to use Merimbula Airport for flight circuit training to supplement the Frogs Hollow airfield would more than double the total proposed annual flight movements at the Merimbula Airport, and increase flight circuit training at the airport by a factor of five.

The application advises that on 10 out of each 15 flying days per month (Feb-Dec), three sessions of 32 circuits are proposed to be flown at Merimbula Airport. The information provided to Council details that the 32 circuits would be flown over a 32 minute period, however it has not been demonstrated how this could be achieved and this scenario is not considered physically feasible. Advice to Council from the proponent is that it takes approximately 6 minutes to fly one circuit and up to six aircraft can be in the circuit at one time. However it is noted that while this intensity may be achievable at Frogs Hollow given that only SAFCA aircraft are likely to be in the circuit, and therefore all aircraft are likely to be the same type, speed and size, it is possible that at times the same intensity of training would not be achievable at other airfields due to other larger and faster aircraft using the airfield. Therefore Council Officers suggest that the 32 circuits would be more likely to require upwards of 49 minutes to complete (based upon a maximum of six aircraft in the circuit at the same time) and on occasion significantly longer. It is reiterated that 3 sessions are proposed for each of the 10 flying days each month. At 49 minutes duration each, this would result in 2.5 hours of flight circuit training being carried out at Merimbula Airport on each of these days. This would result in a significant increase in noise impacts on the surrounding residential receivers and tourism operators.

The proposal to use Merimbula Airport for flight circuit training to supplement the flight school at Frogs Hollow was raised with the airport owner (Council's General Manager on behalf of Bega Valley Shire Council), who directed the enquiry to Airport Agencies (the airport manager). The advice received provides:

Past experience has shown that the Merimbula Community does not tolerate continuous repetitive noise. We have in the past had operators of aerobatic joy flights and vintage aircraft flights that have been quite successful. Both of these operations produced vast numbers of noise complaints even though the aircraft involved did not exceed acceptable noise standards. However the repetitive nature of the operation did aggravate the community.

With the aerobatic operations we negotiated with the operator to operate in three difference locations around the airport, to the north, although this produced complaints from the Turingal Head area to the east (out to sea) and south towards Eden. Whilst this didn't completely alleviate the calls it did subdue them. The vintage aircraft we were not able to alleviate the complaints without reducing the number of flights under taken in a given day.

Flight circuit training will generate the same scenarios with complaints coming from the Fishpen, Long and Short Point areas and Pambula Beach. For example the Black Dolphin Motel regularly have clients check out after the 6.30 am flight to Sydney has departed as they don't want to be woken up on holidays by aircraft noise. Another issue that we regularly field concerned calls about is engine failure training while departing runway 03 and this is a necessary part of flight training however where possible we currently encourage this part of the training to be completed at Frogs Hollow.

Over all I believe that continuous circuit training at Merimbula would create a full time position for Council dealing with an endless string of repetitive noise complaints.

Therefore the proposal to use Merimbula Airport is not supported.

The RAA Operations Manual details that the En-Route Supplement Australia (ERSA) "is a listing of aerodromes in Australia, outlining aerodrome elevation, CTAF and FIS frequencies, runway alignment, aerodrome operator contact information, fuel availability and more. There are many useful reference sections in ERSA including operating limitations for Prohibited, Restricted and Danger areas, with special area and fly neighbourly procedures, emergency reference procedures, conversion tables and code/decode pages". The ERSA is published by Airservices Australia. Council raised concern with the applicant that the proposed operations at other airports could be restricted through the ERSA.

The application details in the letter to Council dated 18 October 2018 that there are currently no restrictions outlined in the ERSA preventing flight circuit training at the proposed airports. The advice goes on to detail that airports are approved for airport activities, and that provided airspace restrictions are observed, an individual pilot, a flight training school or a commercial aviation company may utilise any airport in Australia on any given day. The letter notes that a pilot must observe all procedures that are specific to utilising that

airport, but there are no restrictions preventing the use of airports. It details that changing the airspace architecture is a complex process. In light of this, Council wrote to Airservices Australia seeking advice on how the ERSA is applied so that it could better understand what limitations might be implemented by the registered and certified aerodromes through the ERSA. In response Council was advised “The aerodrome operator has its own rights to enter information regarding aerodrome operations and restrictions independently of Airservices. Therefore, you should be contacting the individual aerodrome operators”. This advice is consistent with the advice provided by Airservices Australia on their website where they note in relation to circuit training: “Each airport makes its own determination about the hours of the day or days of the week during which training may take place”. Council notes that noise abatement procedures restricting flight circuit training have been employed at Evans Head Memorial Aerodrome and that Lake Macquarie Airport does not permit circuit training at all.

Consequently Council considers that the proposed use of Merimbula Airport for regular circuit training is inconsistent with the adopted airport master plan, not welcomed by the airport manager, and therefore Council cannot rely upon the facility being available to accommodate the proposed number of circuits.

Moruya Airport

Council sought feedback from Eurobodalla Shire Council as owner of the Moruya Airport regarding the proposal to use the airport for flight circuit training. Advice was received as follows:

Further to our letter of 24 August 2018, thank you for sending the additional information from the applicant about plans for the Flight Training School at Frogs Hollow. Eurobodalla Shire Council maintains its objection to the development.

The information provided states that Councils do not control the airspace around airports. In Eurobodalla Shire Council's view that makes it all the more important that the impacts on amenity for residents living under flight paths is considered as part of the planning process.

Moruya Airport currently has about 19,000 aircraft movements per year. The figures provided by the applicant indicate 96 circuits on an average day, 10 days a month which equates to 11,500 extra movements a year. So residents would be subjected to an increase in air traffic of over 60%.

This figures listed are for an average day and the applicant admits that on certain days this could increase by 250%.

It is also highlighted that whilst Council does not regulate the airspace we do own the airport itself so landing fees and airport use (rather than airspace) is a matter for Council to consider.

Eurobodalla Shire Council is also concerned about the impact on other airport users and the applicant notes “Co-operation with other airport users is not an issue that would be unique to student pilots”. Council agrees with this statement – the impact would be the same for any new airport user proposing such a significant increase in aircraft movements and given the scale of the impact, Council maintains its objection.

On a final point, the figures mentioned are indicative only. Once approved, there would be no further ability to control growth in aircraft movements so the potential future impacts are unlimited, and there appears to be no further detail available on the height that aircraft would be flying at or the noise levels of the aircraft. Further information on this would assist Council in assessing the impact on residents.

Therefore, Council notes that Eurobodalla Shire Council, as airport owners, are not in favour of the proposed use of Moruya Airport for the scale of circuit training proposed. It is noted that Morua Airport, like Merimbula, is a registered aerodrome, and the same opportunities to restrict circuit training operations are available under the ERSA.

Mallacoota

Council sought feedback from East Gippsland Shire Council as owner of the Mallacoota Airport regarding the proposal to use the airport for flight circuit training. Advice was received as follows:

I note that your letter was seeking our input in terms of the capacity of the Mallacoota Aerodrome and estimated number of aircraft movements.

On review of the documentation provided to Council, we can confirm that there is the capacity for the Mallacoota Aerodrome to handle the proposed number of flight movements. It is noted that the Mallacoota Aerodrome currently does not receive a high volume of flights.

We do, however, reject the applicant's assertion that the East Gippsland Shire Council can recoup maintenance costs through landing fees, given that East Gippsland Shire Council does not charge landing fees at the Mallacoota Aerodrome.

Restrictions applying to Mallacoota Aerodrome would not impact on what the flying school proposes to do in relation to circuits and 'touch and go's' therefore it would be difficult to argue our facility is not suitable.

Council is aware that some residents of Mallacoota have concerns with the proposed use of the Mallacoota Aerodrome. Some residents have advised Council of concerns with respect to impacts on their amenity in terms of noise and pollution of the area resulting from the proposal.

Note that East Gippsland Shire Council values the amenity of settlements and residential areas very highly, and any activities that compromised this amenity would not be supported.

Therefore, Council notes that East Gippsland Shire Council, as airport owners, have reservations regarding the proposed use of Mallacoota Airport for the scale of circuit training proposed. Like Merimbula, the same opportunities to restrict circuit training operations are available to Mallacoota Airport under the ERSA.

Bombala, Polo Flat and Cooma Snowy Mountains Airport

The application details use of the Bombala, Polo Flat and Cooma Snowy Mountains Airports for flight circuit training. Council sought feedback from Snowy Monaro Council with regard to the proposed use of Bombala airport and requested contact details for the Polo Flat and Cooma Snowy Mountains Airports but did not receive a response. The likely impacts of undertaking circuit training at the proposed scale of 9,600 training circuits per year at these airports is not known and Council is not able to provide further comment.

In summary, Council cannot rely upon the facilities of Mallacoota, Moruya and Merimbula Airports being available to accommodate the proposed number of training circuits. Even if the applicant wished to undertake all the proposed circuit training at Frogs Hollow it would not be possible, and Council must conclude that the proposal is an overdevelopment of the site.

Compatibility of existing land uses in the vicinity

Council undertook a review of available publications regarding bird strike. Airport Practice Note 6: Managing Bird Strike Risk Species Information Sheets released by the Australian Airports Association (AAA)¹ provides land use planning guidance in the vicinity of aerodromes in relation to bird strike risk. The publication details land uses that are incompatible with aerodromes within a 3km radius due to their propensity to attract birdlife at a scale that poses an unacceptable risk to aviation. The report lists putrescible waste facilities – landfill as an incompatible land use within 3kms of an aerodrome. The Wanatta Lane Central Waste Facility (Council landfill site) is located 2.6km from the subject site. The document does not detail that mitigation is an acceptable solution.

¹ https://www.atsb.gov.au/media/5353201/managing_bird_strike_risk_species_information_sheets.pdf

Provision of water

The site does not have access to reticulated water. The Fire Protection and Water Supply Plans detail that at stage 9 the daily estimated water requirement would be 49,200L per day.

Water is proposed to be captured and stored by rainwater harvesting, but supply is not reliable and based on decile 5 rainfall statistics a deficit would be anticipated for 10 out of 12 months of the year.

In order to partially remedy the deficit it is proposed to use recycled water for toilet flushing and fire-fighting supply, and bottled water (15L dispensers) for the drinking water component. A revised estimate of 28,080L daily water usage is provided.

The plans detail two proposed methods for making potable water:

The first is the provision of 15L free standing water dispensers with returnable 15L bottles in each accommodation unit, office, classroom, hangar and maintenance buildings in addition to multiple dispensers in the main building.

The second is to provide filtration and treatment of rainwater.

Based upon the revised estimate and the decile 5 rainfall statistics, a deficit is anticipated six months of the year. Relying upon cumulative storage, this is reduced to three months of the year.

Based upon the revised estimate and the decile 7 rainfall statistics (reasonable best case scenario), a deficit is anticipated two months of the year. Relying upon cumulative storage, no supplemental supply would be required.

Based upon the revised estimate and the lowest rainfall records for Bega weather station, a deficit is anticipated all 12 months of the year. The worst case scenario (October) details that the deficit would be in the vicinity of 870m³ or 870,000L. Over a month (31 days), this would result in reliance upon 28,064L of water cartage per day. Based upon a truck capacity of 20,000L, this would be the equivalent of 44 truck movements over the month, which would be required in addition to the provision of bottled water supply.

Water for firefighting has been proposed to be obtained from wastewater re-use, however no confirmation has been provided whether NSW RFS are satisfied with the use of treated wastewater for fire-fighting purposes. Council observes that the RFS general terms of approval require a hydrant system that conforms with AS 2419.1-2005 (now 2017). This standard specifies that only Class 4 recycled water can be used for firefighting purposes and the OSSM reports do not demonstrate that this can be achieved from the proposed systems of OSSM.

Summary

The various elements of the proposal at the subject site include:

- Accommodation and catering for up to 360 students at one time
- Storage and maintenance of up to 40 ultra-light aircraft
- Aviation training of up to 360 students at one time
- Flight training of up to 120 students over one day
- Bulk storage of unleaded fuel

Council observes that the site is challenged for the development at the proposed scale for the following reasons:

- The current scale of flight operations at the Frogs Hollow airfield is so insignificant as to render the site a greenfield site for the purposes of increasing the intensity of aviation activities.
- The character of the area as it exists reflects low density rural and rural residential development inconsistent with a high intensity flight training school.
- The site is surrounded by 60 sensitive receivers that would be subject to noise and amenity impacts from the overflying of aircraft from this development. It has not been adequately demonstrated that the noise and amenity impacts from the proposal are satisfactory and reasonable.
- The site is an existing Aeroplane Landing Area (ALA) with non-conforming runways to CASA's CAAP 92-1(1) standards. The application has not detailed the full extent of works required to the runways to rectify these issues. It is not clear how the surrounding terrain is consistent with the requirements of Recreational Aviation Australia's Operations Manual pertaining to topography and vegetation.
- The site does not have access to reticulated water and sewerage infrastructure appropriate to high density residential accommodation, and is not benefitted by nearby commercial or retail land uses appropriate to the broader needs of students. Water is proposed to be captured and stored by rainwater harvesting, but a regular deficit is anticipated and reliance on water cartage would be a ongoing feature and impact of the development. Water for firefighting has been proposed to be obtained from wastewater re-use, however no confirmation has been provided whether NSW RFS

are satisfied with the use of treated wastewater for fire-fighting purposes. Council observes that the RFS general terms of approval require a hydrant system that conforms with AS 2419.1-2005 (now 2017) be provided. This standard specifies that only Class 4 recycled water can be used for firefighting purposes and the OSSM reports do not demonstrate that this can be achieved from the proposed systems of OSSM.

- The entirety of the site is identified Endangered Ecological Community – Lowland Grassy Woodland (EEC) and likely impacts upon the EEC have not been adequately considered in the biodiversity reports.
- The proposal exceeds the capacity of the site in relation to the quantity of flight circuit training required to be undertaken by the proposed number of students, and it has not been demonstrated that the outstanding requirements can be met by other airfields.
- It has not been adequately demonstrated that the development at the proposed scale can be accommodated over the proposed flight training schedule at the site or other six airfields, giving regard to the limitations of the aircraft and meteorological conditions.

Council concludes that the site is not suitable for the development as proposed.

Public submissions		Section 79C (1)(d)	
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? 721 + 4 late submissions + 3 petitions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Summary of issues / conditions recommended to address issues			
<p>During the advertising and notification of the application and Addendum, Council received a total of 721 submissions and 3 petitions against the proposal, with many detailing aversion to the likely impacts of the development. 3 submissions were in support of the application and one neutral response. Due to the scale of the proposal, the likely impacts of the development extend beyond the extent of the subject site, beyond the extent of the 2km site radius, beyond the extent of the designated training area (25Nm radius), and even beyond the extent of the Bega Valley Shire and include impacts such as aircraft noise, loss of amenity, perceived loss of privacy, pollution of air, water and soil, impacts upon the natural environment, impacts upon agriculture and the tourism industry, impacts upon residents in close proximity to the subject site, and impacts upon the proposed six other airfields and surrounding land users.</p>			
<input checked="" type="checkbox"/>	Integrated Development – Refer copy of submissions to Approval Body (eg Advertised development – Office of Water, RFS, OEH, etc.) (see s.69 of EP&A Regs) NSW RMS is outstanding	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"/> Yes	<input checked="" type="checkbox"/> No	
Have the principles of ecologically sustainable development been considered in the assessment of this development under the Environmental Planning & Assessment Act 1979?	<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"/> 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"/> Yes	<input type="checkbox"/> No	

Submissions

Over the assessment period, Council received a total of 725 written submissions and three petitions responding to the proposed development. All but three of the received submissions were against the proposal. The three petitions were also against the proposal. A public meeting was held 29 August 2018 where 42 people spoke publicly against the proposal. Many of the matters raised in the submissions and

public meeting align with Clause 4.15 (1) Matters for consideration – general of the Environmental Planning and Assessment Act 1979 and Council considers that the development is not in the public interest.

The Precautionary Principle

The Objects of the Act (Clause 1.3) of the Environmental Planning & Assessment Act 1979 are to (b) “...facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment...”. The principles of ecologically sustainable development are detailed in the Environmental Planning & Assessment Regulation 2000 (EP&A Regs) (Part 3, Section 7, Clause 4) as follows:

the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options,

Expert advice provided by Marshal Day Acoustics details that the proposed development would result in adverse impacts upon the amenity of the area due to noise generation. The advice details that:

Circuit operations and regular overflights at relatively low noise levels (when compared to noise levels in the vicinity of major airports) represent the key noise impacts associated with this type of development. Whether this impact is acceptable is dependent on whether an appropriate balance has been reached between any potential benefits of the development to the local or broader community, and the noise impacts on neighbouring communities.

In the absence of well defined or regulated criteria to set noise limits for this type of development, determining whether this balance has been reached, requires a complete description of the extent and nature of the impacts on surrounding areas. In our opinion, the level of information that has been provided is not sufficient for this purpose.

Therefore in this instance, where there is a threat of serious environmental damage, the Precautionary Principle applies.

Further, the assessing officer has not been satisfied that the threat of environmental harm (impacts upon EEC) can be adequately mitigated as the likely impacts have not been adequately quantified.

The precautionary principle provides that “The benefit of the doubt is given to environmental protection when there is scientific uncertainty. To avoid environmental harm, it is better to err on the side of caution”¹. In this instance, refusal of the application based on a lack of information is considered to be the most appropriate option and affords the appropriate degree of precaution.

The risk-weighted consequences of the various options (approval or refusal of the application) have been considered and it is noted that:

- the choice of refusal may result in less skilled jobs in the Bega Valley,
- the Bega Valley may lose an opportunity to market itself to an international tourism market,
- the choice of taking action is strongly supported by the Bega Valley community,
- the opportunity remains for the proponent to propose development of a flight school at the same location of a lesser scale, and
- it is not likely that the choice of taking action will lead to the development not proceeding in a more suitable location.

¹ Telstra Corporation Limited vs Hornsby Shire Council [2006] NSW LEC 133

CONCLUSION

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

That development application 2017.445 be refused for the following reasons:

1. For the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), comments on revised information submitted by the applicant has not been received from the NSW RMS to determine the accessibility of the site concerned and any potential traffic safety, road congestion or parking implications of the development, in accordance with Schedule 3 of the SEPP (Infrastructure) 2007.
2. For the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), the development would be inconsistent with the following aims of Clause 1.2(2)(a)(b)(c)(d)(e)(f) and (h) of the Bega Valley Local Environmental Plan 2013 in terms of:
 - The Socio-economic Impact Assessment report does not demonstrate a net benefit to the economic, natural and social resources of the Bega Valley, because the report relies upon the noise and amenity impacts being below acceptable thresholds, and this has not been demonstrated in the noise assessment report,
 - The biodiversity assessment reports provided to Council do not adequately consider the full extent of vegetation clearing proposed, or the extent of impacts upon native remnant vegetation from effluent disposal on the site and required CASA's civil aviation advisory publication (CAAP) 92-1 (1) in terms of available approach and take-off areas. Inadequate consideration has been given to the impacts upon biodiversity with regard to the proposed use of other airports,
 - Inconsistency with the intent for compact and efficient development,
 - The intensity of development is inconsistent with the existing character of Frogs Hollow and would detract from the natural landscape and built form environment of the Bega Valley,
 - The development has not adequately addressed potential impacts on Aboriginal cultural heritage at the site.
3. For the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), the development is inconsistent with the SP2 Infrastructure zone objectives as it will:
 - Significantly increase air traffic within the Frogs Hollow Airport without providing any infrastructure to improve operations or safety at the site.
 - Significantly limit the provision of future infrastructure and development at the site.
4. For the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), the proposed development is inconsistent with the objectives of Clause 4.3(a) of the Bega Valley Local Environmental Plan 2013 with regard to retaining the existing character and landscape of the locality.
5. For the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended), inadequate information has been provided to consider the potential impact on Aboriginal Archaeology over the site given the moderate to high possibility of it being present within the site and failure to identify mitigation measures required by Clauses 5.10 and 6.2 of Bega Valley Local Environmental Plan 2013.
6. For the purpose of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 (as amended), the proposal does not satisfy the criteria of Sections 5.4 and 5.7 of the Bega Valley Development Control Plan 2013 pertaining to the socio-economic impacts of the development and onsite sewerage management.
7. For the purpose of Section 4.15(1)(b) the development will have an adverse impact on the amenity of the area due to noise generation. Insufficient information has been provided to describe the extent and nature of the likely impacts of the development on surrounding areas.

Therefore there is inadequate information to determine that the noise impacts are acceptable.

8. For the purpose of Section 4.15(1)(b) the development is not consistent with the following actions of the South East and Tablelands Regional Plan 2036: 9.2, 23.3, 23.5 and 28.3, in relation to:
 - The types of nature or eco-based tourism activities endorsed by the plan,
 - Protection of the region's heritage, and
 - Managing land use conflict.
9. For the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the application has not adequately considered the full extent of likely impacts upon the natural environment, including:
 - The clearing of identified Endangered Ecological Community Lowland Grassy Woodland in order to comply with the physical dimensions of CASA's civil aviation advisory publication CAAP 92-1 (1).
 - The disposal of effluent upon identified Endangered Ecological Community Lowland Grassy Woodland at the site.
 - The required works to the runways to comply with the physical requirements of CAAP 92-1 (1).
10. For the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended), the application has not adequately considered the social and economic impacts in the locality, as the Socio-economic Impact Assessment is based on a Cost Benefit Analysis that is for a different sector (transport), and not appropriate to the sector (education) that the proposal relates to.
11. For the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 (as amended), the application fails to demonstrate that the development site is suitable for the intended use, in relation to the following matters:
 - Impact on the amenity and character of the Frogs Hollow Area and also to the amenity around other airports that would be utilised for the flight school.
 - The capacity of the site to undertake the required quantity of flight circuit training for the number of students proposed, and lack of certainty that the excess can be accommodated at the other nominated airports.
 - Whether the site is capable of complying with CASA's civil aviation advisory publication (CAAP) 92-1 (1) in terms of available approach and take-off areas.
 - Whether the site is compliant with Recreational Aviation Australia's Operations Manual with regard to topography and surrounding vegetation.
 - Proximity to the central waste facility (Council landfill site) at Wanatta Lane, Frogs Hollow which, within a distance of 3kms, is an incompatible land use to an aerodrome according to Airport Practice Note 6: Managing Bird Strike Risk Species Information Sheets released by the Australian Airports Association.
 - Consideration of the meteorological constraints of the site, including sunrise/sunset times in winter, wind, rain and fog, or how the proposed scale of flight training operations, with regard to the limitations of the aircraft, can be adequately performed at the site or at other airports that would support the proposed flight school.
12. In accordance with Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 (as amended), Council has reviewed the submissions received, and note that several matters were raised of relevance to the assessment of this application. The development as proposed is not in the public interest.
13. For the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 (as amended), there is a threat of serious environmental damage and therefore the

precautionary principle applies. In this instance, refusal of the application based on a lack of information is considered to be the most appropriate option and affords the appropriate degree of precaution.

Assessing officer

Print name Anna Bowman

Date 29 November 2018

Signature X 

I concur with this assessment:

Print name Mark Fowler

Date 29 November 2018

Signature X 

Print name Keith Tull

Date 29 November 2018

Signature X 