

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Thursday, 13 December 2018
PANEL MEMBERS	Pam Allan (Chair), Alison McCabe and Renata Brooks
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Bega Valley Commemorative Civic Centre on 13 December 2018, opened at 4.00pm and closed at 6.55pm.

MATTER DETERMINED

2017STH027 – Bega Valley – DA2017.445 at 1070 Princes Highway, Frogs Hollow (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The application fails to demonstrate that the development site is suitable for the intended use, in relation to the following matters:
 - The intensity and scale of development would 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.
 - 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.
- The proposed development is inconsistent with the existing character and landscape quality of the locality.

3. 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 and identify appropriate mitigation measures.
4. In relation to Aboriginal Archaeology, inadequate information has been provided to consider the potential impacts and mitigation measures over the site given the moderate to high possibility of it being present within the site.
5. 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).
 - 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 CASA's civil aviation advisory publication in terms of available approach and take-off areas.
6. The proposal results in unacceptable socio-economic impacts in the locality.
7. The development as proposed is not in the public interest.

PANEL MEMBERS	
 Pam Allan (Chair)	 Alison McCabe
 Renata Brooks	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017STH027 – Bega Valley – DA2017.445
2	PROPOSED DEVELOPMENT	Recreational flight school
3	STREET ADDRESS	1070 Princes Highway, Frogs Hollow
4	APPLICANT/OWNER	Sports Aviation Flight College Australia C/- Norm Boyle Consulting
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	8. Environmental planning instruments: • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 33 – Hazardous and Offensive Development • State Environmental Planning Policy No 44 – Koala Habitat Protection • State Environmental Planning Policy No 55 – Remediation of Land • Bega Local Environmental Plan 2013 9. Draft environmental planning instruments: Nil 10. Development control plans: • Bega Valley Development Control Plan 2013 11. Planning agreements: Nil 12. Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92 and Schedule 3 Designated Development 13. Coastal zone management plan: Nil 14. The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality 15. The suitability of the site for the development 16. Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations 17. The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	• Council assessment report: 29 November 2018 • Written submissions during public exhibition: 725 submissions and 3 petitions • Verbal submissions at the public briefing meeting: • Object – Cr Kristy McBain – Mayor – Bega Valley Shire Council, Cr Jo Dodds, Cr Russell Fitzpatrick, Cr Tony Allen, Cr Cathy Griff, Ian Gordon on behalf of Wolumla Valley Residents Association, Moira Scollay on behalf of Four Winds Concert Inc, Barry Irvin on behalf of Bega Cheese, Barry Murray on behalf of Bega Valley Residents against Frogs Hollow Flight School, Peter Barber on behalf of the Bega Valley Shire Business Forum Inc, Leanne Atkinson, Steve Jackson on behalf of Bega Valley Residents against the Frogs Hollow Flight School, Ancret Shipton on behalf of Bega Valley Residents against the Frogs Hollow Flight School, Sandie Della Rocca on behalf of Bega Valley Residents against the Frogs Hollow Flight School, Craig Richmond on behalf of Bega Valley Residents against the Frogs Hollow Flight School, Kerri Grant, Will Middleton, Paul Bennett, Don Kellond, Wolfgang Klunener, Maria Kellond, Rose Taylor, Fraser Buchanan on behalf of Bega Valley Shire Residents & Ratepayers Association (President), John James, Paul McMurray on behalf of South East Producers (President), Jane O'Shea, Scott Toohey, Keith

		Summerell, Judy Geary, Amanda Richmond, Amanda Richmond on behalf of Megan Jordan-James, Susan Nolle, Colin Reid, Anne Franks, Jenny Garden, William Kershaw, Keith Mashman, Barb Rogers, Sandie Della Rocca on behalf of James Gibbs, Maggie Camfield, Paul Freeman, Lex Marshall and Sue Gardener • Submission from applicant: 11 December 2018 • Verbal submissions at the public meeting: • Support – nil • Object – Andrew Constance (Member for Bega and Minister for Transport and Infrastructure), Kristy McBain (Mayor, Bega Valley Shire Council), David Francis, Andrew Greenway (on behalf of Eurobodalla Shire Council), David Stocker, Allan Crowe, Jo Dodds (Councillor, Bega Valley Shire Council), Don Kellond, Craig Richmond, Kerri Grant, Wendy Moore, Stephen Jackson, Martin Lyons, Carol Carmody (Secretary, Bega Valley Shire Business Forum), Cathy Griff (Councillor, Bega Valley Shire Council) • Council assessment officer – Anna Bowman • On behalf of Council – Alex Morabito (Marshall Day Acoustics) • On behalf of the applicant – Stephanie Anderson (Town Planner, NGH Consulting), Michael Chung (Renzo Tonin & Associates), Judith Stubbs (Judith Stubbs & Associates), Mitch Boyle (Director, Sports Aviation Flight College Australia)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection and briefing on 7 February 2018 • Public briefing meeting on 29 August 2018 • Final briefing to discuss Council's recommendation, 13 December 2018, 2pm. Attendees: - o <u>Panel members</u>: Pam Allan (Chair), Alison McCabe and Renata Brooks - o <u>Council assessment staff</u>: Anna Bowman, Mark Fowler, Keith Tull, Cecily Hancock, Derek Van Bracht, Will Nichols, Andrew Morrison, Daniel Murphy, Tamara Corby, Jonathon Pyke, Alex Morabito (Marshall Day Acoustics)
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided