

## COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-16
DA Number	2019.359
LGA	Bega Valley Shire Council
Proposed Development	Merimbula Airport Upgrade (Runway Extension) - construction and operation of extended runway in two stages. Stage 1 being a 120-metre extension of the runway pavement at both ends of the existing runway plus installation of a culvert at the southern end of the airport site. Stage 2 being a further 80 metre extension of the runway pavement at both ends.
Street Address	371 Arthur Kaine Drive, Merimbula 2548
Applicant/Owner	Bega Valley Shire Council
Date of DA lodgement	30 October 2019
Number of Submissions	2 submissions from the public
Recommendation	Partial approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>The proposal has been referred to the Southern Regional Planning Panel as the consent authority under Clause 4.5(b) of <i>the Environmental Planning and Assessment Act 1979</i> as the development comprises the following in accordance with Clause 20 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011:</p> <p>“Council related development that has a capital investment value of more than \$5 million and includes the following —</p> <ul style="list-style-type: none"> <li>(a) a council for the area in which the development is to be carried out is the applicant for development consent, and</li> <li>(b) the council is the owner of any land on which the development is to be carried out, and</li> <li>(c) the development is to be carried out by the council”</li> </ul>
List of all relevant s4.15(1)(a) matters	<p>List of relevant Acts of Legislation</p> <ul style="list-style-type: none"> <li>• <i>Environmental Planning &amp; Assessment Act 1979</i> and Regulation 2000</li> <li>• <i>Environment Protection and Biodiversity Conservation Act 1999</i></li> <li>• <i>Civil Aviation Act 1988</i> and <i>Civil Aviation Safety Regulations 1998</i></li> <li>• <i>Protection of the Environment Operations Act 1997</i></li> <li>• <i>Fisheries Management Act 1994</i></li> <li>• <i>Biodiversity Conservation Act 2016</i></li> <li>• <i>National Parks and Wildlife Act 1974</i></li> <li>• <i>Coastal Management Act 2016</i></li> <li>• <i>Biosecurity Act 2015</i></li> <li>• <i>Waste Avoidance and Resource Recovery Act 2001</i></li> <li>• <i>Water Management Act 2000</i></li> </ul> <p>List of all of the relevant environmental planning instruments under S4.15 (1)(a)(1) –</p>

	<p><b>State Environmental Planning Policies</b></p> <ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Coastal Management) 2018</b></li> <li>• <b>State Environmental Planning Policy (State and Regional Development) 2011</b></li> <li>• <b>State Environmental Planning Policy (Infrastructure) 2007</b></li> <li>• <b>State Environmental Planning Policy (Primary Production and Rural Development) 2019, <i>previously SEPP 62 Sustainable Aquaculture</i></b></li> <li>• <b>State Environmental Planning Policy (Koala Habitat Protection) 2020</b></li> <li>• <b>State Environmental Planning Policy No. 55 – Remediation of Land</b></li> <li>• <b>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</b></li> </ul> <p><b>Local Environmental Plan</b></p> <ul style="list-style-type: none"> <li>• <b>Bega Valley Local Environmental Plan (BVLEP) 2013</b></li> </ul> <p><b>Other policies</b></p> <ul style="list-style-type: none"> <li>• <b>Bega Valley Section 94 and 94A Contribution Plan 2014</b></li> </ul> <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority under S4.15(1)(a)(ii)</p> <ul style="list-style-type: none"> <li>• <b>Draft Remediation of Land SEPP</b></li> </ul> <p>List any development control plan under S4.15(1)(a)(iii)</p> <ul style="list-style-type: none"> <li>• <b>Bega Valley Development Control Plan (BVDCP) 2013</b></li> </ul> <p>List any relevant regulations under S4.15(1)(a)(iv) e.g. Regs –</p> <ul style="list-style-type: none"> <li>• <b>Nil</b></li> </ul>
List all documents submitted with this report for the Panel's consideration	<p><b>Attachment 1: Deposited plan</b></p> <p><b>Attachment 2: Proposed development plans</b></p> <p><b>Attachment 3: Draft conditions of consent</b></p> <p><b>Attachment 4: Public submissions</b></p> <p><b>Attachment 5: State Government Agencies submissions</b></p> <p><b>Attachment 6: Submissions Report</b></p>
Clause 4.6 requests	Not Applicable
Summary of key submissions	<p><b>Key issues raised in public submissions include:</b></p> <ul style="list-style-type: none"> <li>• <b>Biodiversity impacts and removal of coastal wetlands</b></li> <li>• <b>Water quality and acid sulfate soils</b></li> <li>• <b>Noise and air quality</b></li> <li>• <b>Justification of expansion</b></li> <li>• <b>Traffic and car parking arrangements</b></li> </ul>
Report prepared by	<p><b>Lauren Rose – Senior Planner Transport Assessments – Department of Planning, Industry and Environment</b></p> <p><b>Mick Fallon – Team Leader Transport Assessments – Department of Planning, Industry and Environment</b></p> <p><b>Mark Fowler – Senior Town Planner – Bega Valley shire Council</b></p> <p><b>Keith Tull – Manager Planning Services – Bega Valley Shire Council</b></p>
Report date	2 March 2021

## Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

Yes

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment?

No

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## Executive summary

This report considers a Designated Development Application (DA) for a runway extension as follows:

- Stage 1 – the construction of a 120 m long runway extension at each end of the existing runway pavement and installation of a 300 mm culvert under the historical haulage road at the southern end of the Airport site; and
- Stage 2 – the construction of an additional 80 m extension to both ends of the runway.

The proposed development is Integrated Development as permits are required under the *Fisheries Management Act 1994* (FM Act) and *National Parks and Wildlife Act 1974* (NPW Act), for reclamation, removal of vegetation and impact to Aboriginal heritage items. Accordingly, the application was referred to Heritage NSW and the Department of Primary Industries (DPI) Fisheries.

The DA will be determined by the Southern Regional Planning Panel as the proposal is classified as 'regional development' pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. In accordance with the SEPP, the development is council related development with a capital investment value of more than \$5 million, Bega Valley Shire Council (Council) proposes to carry out the development and also owns the airport land.

The proposal was advertised in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its Regulations. Two public submissions were received in relation to the exhibition of the Environmental Impact Statement. The Submissions Report (SR) was also placed on public exhibition however no public submissions were received. The application was also referred to relevant Council staff and State Agencies.

Based on a detailed assessment of the proposal against Section 4.15 matters of the EP&A Act, it is considered that the Stage 1 component of the development, that includes the construction of a 120 m long runway extension at each end of the existing runway pavement and culvert installation is an appropriate development, which would be of benefit to the local community and is worthy of support.

The Stage 2 extension component of the development has been excluded from the recommendation in this report as it is considered that there is not currently adequate justification or assessment of impacts to provide certainty, given the extensive timeframe for Stage 2 commencement (10-25 years).

Due to this uncertainty, it is recommended that the Southern Joint Regional Planning Panel, as the determining authority, partially approve the application, by excluding Stage 2 of the development, subject to the conditions recommended throughout this report.

## INTRODUCTION

This report details the Department of Planning, Industry and Environment's (DPIE) assessment of the Merimbula Airport Upgrade (Runway Extension). At Bega Valley Shire Council's request, the Department is assessing the application on its behalf, with the final determination to be made by the Southern Regional Planning Panel.

Bega Valley Shire Council (the Applicant) proposes to extend the runway to meet future capacity requirements at the existing Merimbula Airport. The airport is currently serviced by SAAB 340 aircraft, operated by Regional Express Airlines which have not been manufactured in over 15 years and may be phased out in the near term. In July 2020, Regional Express Airlines announced its intention to introduce larger aircraft on intra and interstate services. It is assumed that the existing SAAB 340 aircraft would be replaced by a 70+ seat aircraft such as the ATR72 and Dash8Q400 which require a longer runway for take-off. The construction of the Stage 1 starter extension would enable the continuation of commuter services to Merimbula as smaller passenger aircraft are retired or replaced with larger airline aircraft.

DPIE issued Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) on 16 February 2018.

This application and accompanying EIS has been prepared in accordance with Schedule 2 of the Environmental Planning and Assessment (EP&A) Regulation 2000.

## DESCRIPTION OF THE SITE AND OWNERSHIP

The proposal forms part of the Merimbula Airport site located on the north west side of Arthur Kaine Drive. The site is described as Lot 100 DP 1201186 and is located approximately 1.2km south of the Merimbula town centre (refer to **Figure 1**). The site is zoned SP2 Infrastructure – Air Transport Facility in Bega Valley Environmental Plan 2013.



**Figure 1: Subject site (Source: SIX Maps 2020)**

The existing Merimbula Airport includes a runway, passenger terminal, hangars, and associated buildings and structures. Two runways are operational, depending on the direction of use, including:

- Runway 21 for aircraft flying south; and
- Runway 03 for aircraft flying north.

The site is generally flat, approximately 105.1ha in size and is bordered by Merimbula Lake along the western boundary. The main airport entry is located on Arthur Kaine Drive.

Council owns and operates Merimbula Airport and is responsible for its maintenance and development including compliance with all aviation related legislation.

On 22 November 2018, consent was granted to upgrade and extend the Merimbula Airport Terminal (DA 2019.309). The terminal has subsequently been expanded to allow for screening of passengers and luggage.



## Surrounding Development

The site is located between Merimbula and Pambula with Merimbula Lake to the west and Arthur Kaine Drive to the east. Surrounding land uses include tourist and visitor accommodation, residential development, oyster leases within Merimbula lake, mixed commercial and industrial developments located along Arthur Kaine Drive and Merimbula/Pambula golf course. The surrounding land zoning is shown in Figure 2.

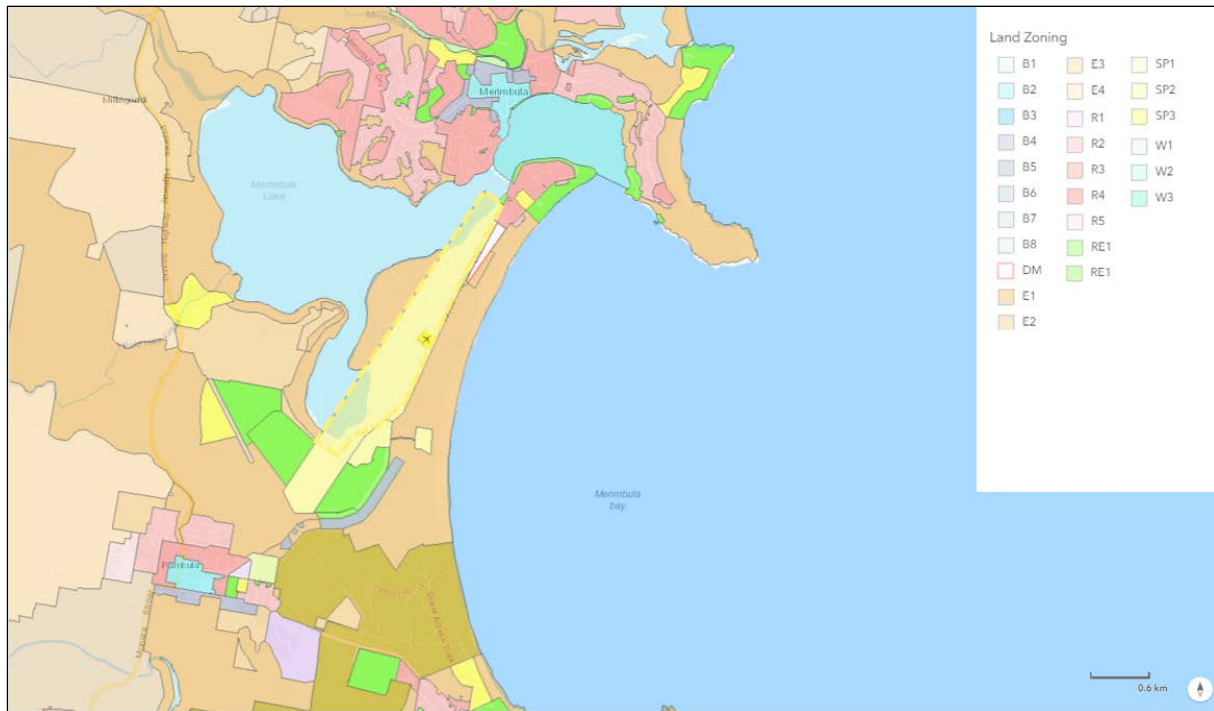


Figure 2: Surrounding land zoning (Source: NSW Planning Portal, 2020)

## DESCRIPTION OF PROPOSAL

The development application proposes the construction and operation of a 'starter extension' to both the northern and southern ends of the existing runway. The 'starter extensions' would provide aircraft with the additional runway length required for take-off acceleration however the runway would retain the existing point of take-off (leaving the ground). Since the take-off and landing points would remain, the Obstacle Limitation Surface (OLS) would remain unchanged. The proposal does not include any changes to the existing Airport Terminal or car parking arrangements at the site.

The proposal would be constructed in two stages as follows:

- Stage 1 – the construction of a 120 m long runway extension at each end of the existing runway pavement and installation of a 300 mm culvert under the historical haulage road at the southern end of the Airport site. The Applicant proposes to install this culvert to counter the reduction in tidal flows resulting from land reclamation in the wetland area; and
- Stage 2 – the construction of an additional 80 m extension to both ends of the runway.

The proposed extensions and culvert location are shown in **Figure 3**.

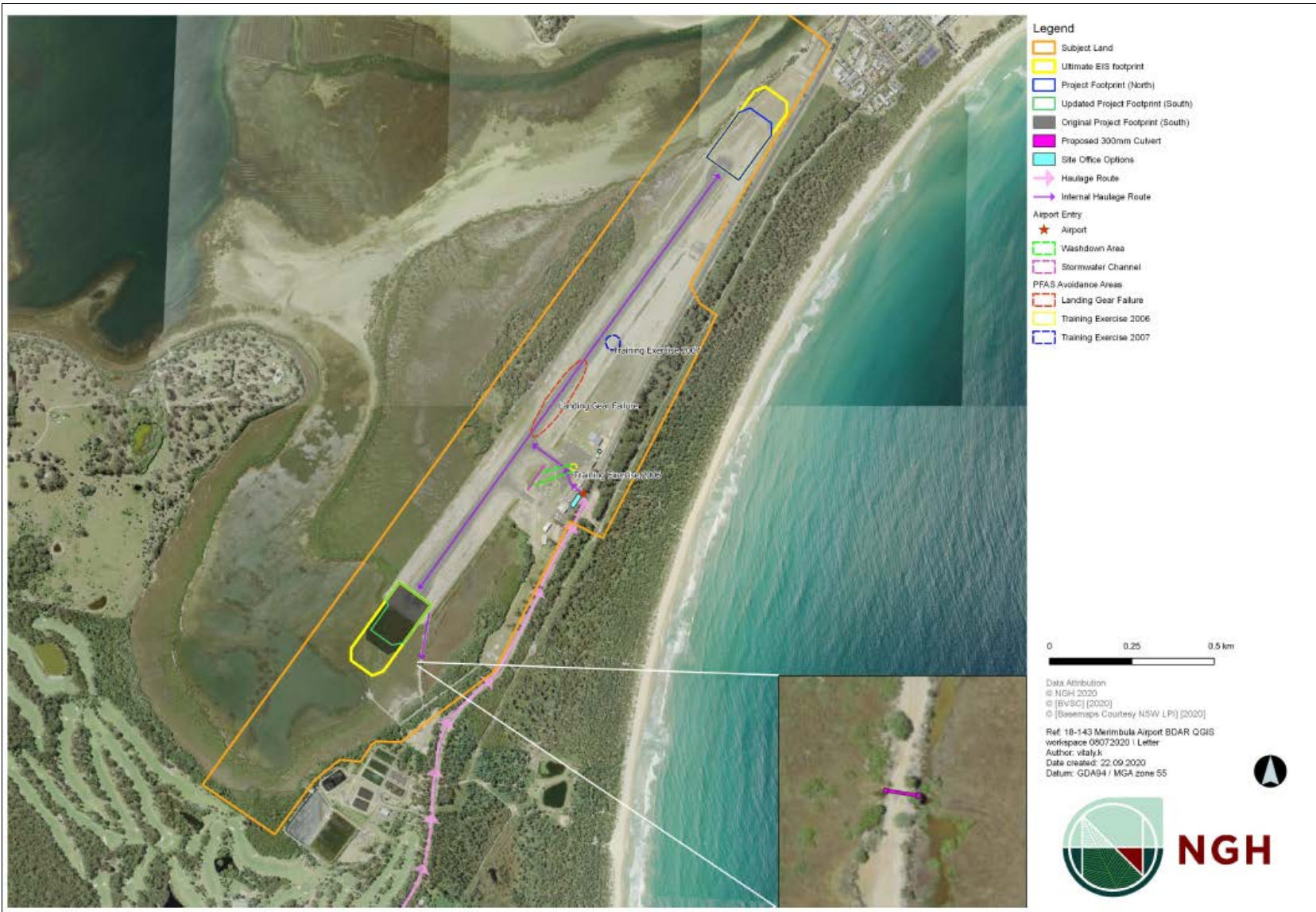


Figure 3: Proposed runway extension, with culvert location in inset, northern Stage 1 extension in blue, and southern Stage 1 extension in green (Source: NGH Environmental, 2020)

The key works associated with the construction of the runway extensions would include:

- installation of temporary erosion, sediment and water quality controls;
- stripping of topsoil;
- removal of areas of existing pavement;
- earthworks;
- pavement construction;
- pavement markings and installation of infrastructure such as runway lights and cables; and
- minor regrading of runway strip extents.

The Applicant has indicated that Stage 1 works would be commenced as soon as possible however the Stage 2 works would be constructed in 10-25 years' time and is dependent on demand. The timing of, and justification for Stage 2 is discussed further under the assessment of likely impacts of the development.

Works would generally be undertaken during standard construction hours as follows:

- Monday - Friday: 7.00am to 6.00pm;
- Saturday: 8.00am to 1.00pm; and
- No work on Sunday or Public Holidays.

Work outside these hours may be required in the event of unscheduled impacts on the works from events such as heavy rain or to meet critical scheduled activities such as concrete pouring/setting times. The Applicant has not assessed impacts associated with out of hours works. Variations to standard construction hours may be considered by Council, if necessary, but have not been considered as part of the assessment.

Construction would require partial runway closure over an 18-week period. Construction vehicles would access the site via the existing airport access point on Arthur Kaine Drive adjacent to the terminal. No construction vehicles would use the historical haul route at the southern end of the site.

## STRATEGIC OVERVIEW

The extension of the runway would provide increased opportunities for tourism and employment in the Council area by providing a key link to the Port of Eden, and would facilitate the expansion of Bega Hospital.

An extension to the Merimbula Airport runway is needed to support the overall airport expansion and to reach the long-term goal of expanding the tourism industry in Merimbula. Passenger numbers were gradually falling between 2007 and 2011 however the Airport operator expects passenger numbers to increase following an increase in airport infrastructure and capabilities. The availability of smaller turbo prop aircraft use has decreased in Australia and large aircraft are becoming more common. Expansion of the airport would enable larger aircraft to land and more flights resulting in increased job opportunities and local expenditure.

The Merimbula Airport expansion is supported by, and is consistent with, the following strategic plans:

- *Bega Valley Shire Local Strategic Planning Statement 2040* (BVSC, 2020) – the statement recognises the importance of the runway extension to increase accessibility to domestic and international markets and identifies the airport as a key asset for economic development and employment within the area. Implementing the Merimbula Airport Masterplan is identified as a medium-term goal in the strategy.
- *South East and Tablelands Regional Plan* (DPIE, 2017) – the plan recognises that an upgrade to the Merimbula Airport is vital to the local economy;
- *Far South Coast Strategic Regional Plan 2013-2018* – the plan recognises that an airport upgrade would encourage visits from international visitors by providing more flights and direct access to Merimbula;
- *'Working Towards Our Future': Bega Valley Shire Community Strategic Plan 2040 2008* (Bega Valley Shire Council) – the strategy aims to improve the economic viability of the airport;



- *Southern Regional Transport Plan* (Transport for NSW, 2014) – the plan acknowledges the importance of air travel for regional communities; and
- *Merimbula Airport Master Plan 2033* (Bega Valley Shire Council) – the plan identifies the need to extend the runway to accommodate a greater range of aircraft.

The airport is currently serviced by SAAB 340 aircraft, operated by Regional Express Airlines which have not been manufactured in over 15 years. In July 2020, Regional Express Airlines announced its intention to introduce larger aircraft on intra and interstate services. It is assumed that the existing SAAB 340 aircraft would be replaced by a 70+ seat aircraft such as the ATR72 and Dash8Q400 which require a longer runway for take-off.

The construction of the Stage 1 starter extension would enable the continuation of commuter services to Merimbula as smaller passenger aircraft are retired or replaced with larger airline aircraft. This would also enable a small increase in passenger numbers which can be accommodated by the existing airport terminal.

## **OTHER ACTS OF LEGISLATION**

### ***Protection of the Environmental Operations Act 1997***

The proposal does not include any scheduled activities outlined in Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act) and therefore an Environmental Protection Licence (EPL) is not required.

### ***Fisheries Management Act 1994***

The proposed development requires permits under sections 201 and 205 of the FM Act as it involves impacts to marine vegetation and reclamation.

General Terms of Approval (GTA's) have been issued by the NSW DPI Fisheries and are detailed in Attachment 3 and 5.

### ***Biodiversity Conservation (BC) Act 2016***

The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development. The proposed development triggers the provisions of the BC Act and a Biodiversity Development Assessment Report (BDAR) was prepared as part of the application.

The provisions of the BC Act 2016 are addressed in Section 7.2 of the EIS, Appendix C of the EIS, Section 3.2.2 of the SR and Appendix I of the SR.

The Biodiversity Conservation Division (BCD) of DPIE has - reviewed the application, accompanying BDAR and Biodiversity Offset Strategy, and considers that the proposal is satisfactory with regards to the requirements of the BC Act.

### ***Environmental Protection and Biodiversity Conservation Act 1999***

The *Environmental Protection and Biodiversity Conservation Act 1999* (Commonwealth) (EPBC Act) provides an assessment and approval process for actions likely to cause a significant impact on Matters of National Environmental Significance (MNES).

The EIS has addressed the provisions of EPBC Act in Section 5.2.1 of the EIS. The report concludes that the proposal is not likely to have a significant impact on threatened species and communities, migratory bird species and marine species under the EPBC Act.

### ***Civil Aviation Act 1988 and Civil Aviation Safety Regulations 1998***

The *Civil Aviation Act 1988* (Commonwealth) provides for the establishment of the Civil Aviation Safety Authority (CASA) with functions relating to civil aviation such as safety. The Act establishes a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with emphasis on preventing aviation accidents and incidents.

The proposed development would be consistent with the *Civil Aviation Act 1998*, relevant regulations and Manual of Standards. The application was referred to CASA and no objections were raised.

### ***National Parks and Wildlife Act 1974***

The NPW Act makes provision for the establishment of National Parks and other Parks and Reserves, and conservation of objects, places and features of cultural value.

The proposed development would impact on Aboriginal heritage sites and objects which are protected under the NPW Act and the Applicant would need to obtain an Aboriginal Heritage Impact Permit (AHIP) as part of the development. Accordingly, an Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared for the proposed development.

GTA's have been issued by the Heritage NSW and are detailed in Attachment 3 and 5.

### ***Coastal Management Act 2016***

The *Coastal Management Act 2016* (CM Act) establishes a framework to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development. The Act defines the coastal zone and includes coastal wetlands. The site includes land that is a coastal wetland. The EIS has addressed impacts to the coastal wetland and mitigation measures to meet the management objectives of the coastal wetlands.

Further detail on impacts to coastal wetlands is provided below.

### ***Biosecurity Act 2015***

The *Biosecurity Act 2015* provides a framework for prevention, elimination and minimisation of biosecurity risks. The Act provides for the establishment and functions of Local Control Authorities for weeds and weed control obligations on public and private land.

The EIS addresses the control of priority weeds occurring at Merimbula Airport.

### ***Waste Avoidance and Resource Recovery Act 2001***

The *Waste Avoidance and Resource Recovery Act 2001* aims to ensure the most efficient use of resources and to reduce environmental harm. The Act also aims to ensure that waste management is considered against the hierarchy of resource management.

The Applicant has considered waste minimisation and management in accordance with NSW Waste policy.

### ***Water Management Act 2000***

The *Water Management Act 2000* (WM Act) regulates controlled activities carried out in, on or under waterfront land. The proposed development is situated on waterfront land as it encroaches on land within 40 metres of Merimbula Lake.

Clause 38 of the Water Management (General) Regulations 2011 states that a public authority is exempt from requiring an approval for a controlled activity (under section 91E(1) of the WM Act). Since Council is a public authority, a controlled activity approval is not required for the proposed development.

## **SECTION 4.15 ASSESSMENT ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

### ***Environmental Planning and Assessment Act 1979***

Section 3.17 of the EP&A Act deems that an environmental planning instrument may contain provisions declaring any class of development to be designated development.

Pursuant to Schedule 3 of the *Environmental Planning and Assessment Regulations 2000*, the proposed runway extension development constitutes designated development as it falls within the scope of:

*“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*

*(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*

*(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 proposed development includes areas for landing and take-off of planes and is located within 40 metres of an environmentally sensitive area and/or a natural waterbody.

Pursuant to Section 4.46 of the Act, the application also constitutes "integrated development" with relevant approvals required from DPI Fisheries under the FM Act and Heritage NSW under the NPW Act. Their comments and GTA's have been provided and are included in Attachment 3 and 5.

In determining a development application, a consent authority is to take into consideration matters referred to in Section 4.15(1) of the Act which are of relevance to the development application.

At the time of issuing the SEARs, the State Environmental Planning Policy 14 – Coastal Wetlands (SEPP 14) applied to the proposal and declared the proposed development to be designated development as it would involve clearing, draining and placement of fill within a coastal wetland (clause 7(1)).

## **Environmental Planning Instruments - Section 4.15(1)(a)(i)**

### **State Environmental Planning Policy (State and Regional Development) 2011**

In accordance with the provisions of Part 4 of the SEPP, the proposed development is specified in Schedule 7 as being Regionally Significant Development. Therefore, the Southern Regional Planning Panel is the determining authority in accordance with Section 4.5(b) of the EP&A Act.

### **State Environmental Planning Policy (Koala Habitat Protection) 2020**

The Policy applies to land within the Bega Valley Shire. The proposed development includes an area of more than 1 hectare. The BDAR has addressed the likelihood of Koalas at the site. The assessment concluded that the site lacks suitable breeding and foraging habitat for Koalas and the vegetation has not been identified as 'potential Koala habitat' as defined by the SEPP.

### **State Environmental Planning Policy 55 (Remediation of Land) 1998**

The Policy applies to the whole of the State. Clause 7 details when contamination and remediation are to be considered in the determination of a development application.

The EIS has acknowledged that the site is not listed as a contaminated site with the Environment Protection Authority (EPA). The EIS has considered the likelihood of low levels of contamination on site associated with the use of Per- and Poly Fluorinated Alkyl Substances (PFAS). These substances have not been identified within the proposed development footprint.

### **State Environmental Planning Policy 33 (Hazardous and Offensive Developments) 1992**

This SEPP is an enabling instrument that aims to ensure the merits of a proposal are properly assessed prior to determination. The Policy identifies potentially hazardous and offensive development and provides for risk threshold screening and preliminary hazard analysis to determine site suitability and potential impacts.

The SEPP defines “**potentially hazardous industry**” as:

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.

The SEPP defines “**potentially offensive industry**” as:

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.

Given that the proposed development would enable take-off and landing of aircraft, the relevant matters contained in the SEPP have been considered. It is concluded that the development is not likely to increase risks at the site as it is already an established airport. The existing Merimbula Airport Aerodrome Manual and the Merimbula Airport Emergency Management Plan are sufficient to manage any hazards presented by operation of the development. These documents are reviewed annually and regularly audited by CASA.

### **State Environmental Planning Policy (Primary Production and Rural Development) 2008**

Part 5 of the SEPP includes provisions for sustainable aquaculture and Division 4 requires a consent authority to consider any potential impacts on oyster aquaculture. Merimbula Lake includes areas identified as priority aquaculture areas. The proposed development would result in the loss of 65 m<sup>2</sup> of oyster lease area within the southern area of the Merimbula airport site.

The application was referred to NSW DPI Aquaculture in accordance with clause 29(1)(b) of the SEPP. DPI Aquaculture did not provide any objections to the proposed development. A summary of the issues raised by DPI Aquaculture is outlined further below in the submissions section. Direct consultation was also undertaken with impacted oyster lease holders.

In accordance with clause 31 of the Policy, the assessment has considered NSW Oyster Industry Sustainable Aquaculture Strategy.

It is noted that the reduction in lease area is negligible and not likely to significantly impact the operation of oyster leases in Merimbula Lake. The EIS has considered potential impacts to the health of oysters, and oyster consumers, due to potential water quality impacts, and whether the development would impede access to oyster leases. The development is not considered to be incompatible with aquaculture in Merimbula Lake.

### **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007**

Clause 13 of the policy requires the determining authority to consider the compatibility of proposed development with mining, petroleum production or extractive industries. A review of government databases indicates that there are no extractive industries in the vicinity of the site and therefore this Clause Policy does not apply.

### **State Environmental Planning Policy (Coastal Management) 2018**

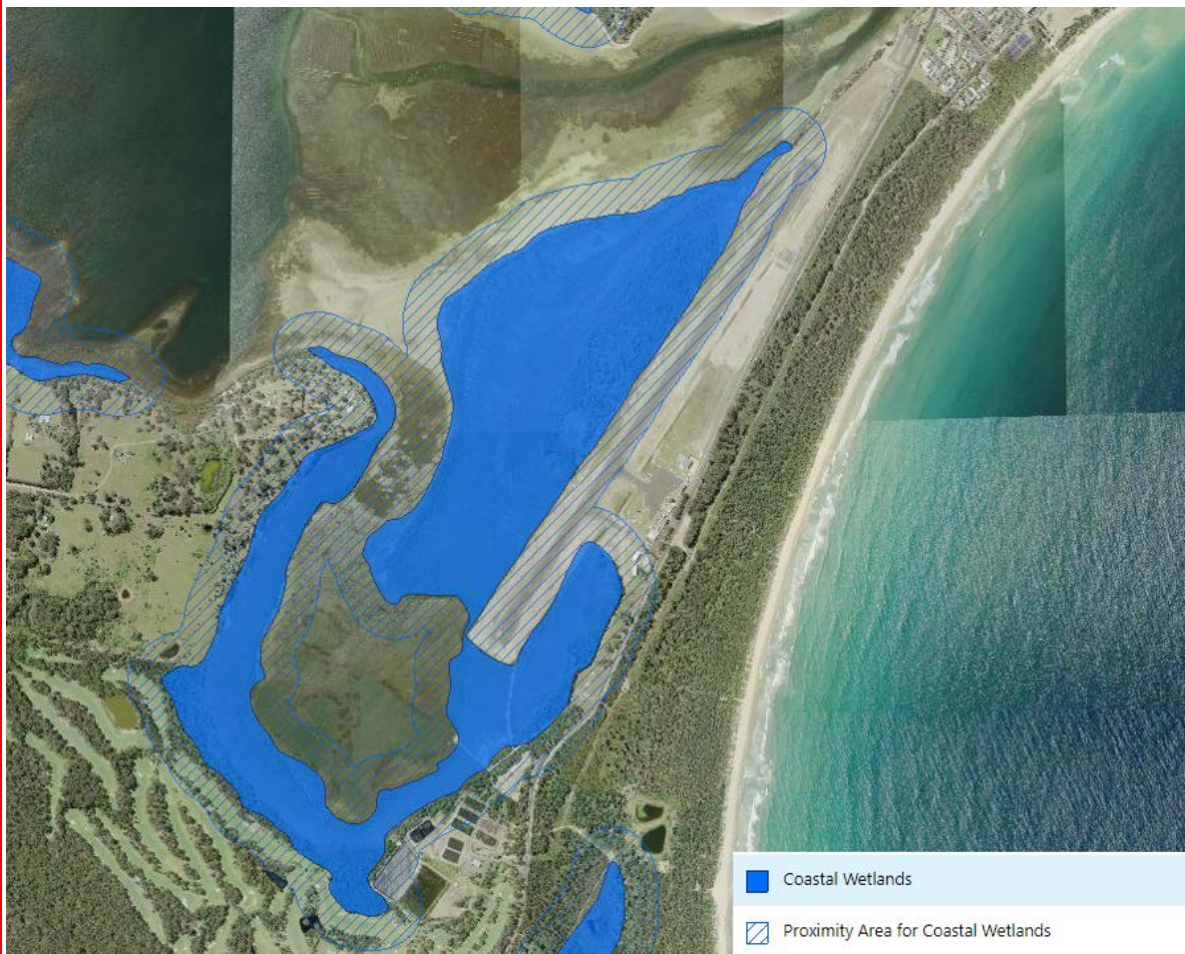
The Policy applies to the land and the development has been assessed having regard to the relevant sections of the policy. The clauses of the Policy relevant to the assessment of the proposed development are outlined and discussed below.

#### **Division 1 – Coastal wetlands and littoral rainforests area**



### **Clause 10 Development on certain land within coastal wetlands and littoral rainforests area**

Coastal wetland areas are mapped within the development site.



Source: SEPP Coastal Management 2018 Maps

The Applicant has assessed the potential impacts of the proposed runway extension on the biophysical, hydrological and ecological integrity of the coastal wetland. It is considered that the Applicant's proposed mitigation measures and the recommended conditions of consent would ensure that the coastal wetland is protected and enhanced. This would include the preparation of a Biodiversity Offset Strategy to offset impacts to the vegetation and species impacted by the proposed development. Further, the installation of an additional culvert under the historical haul road would reinstate a small portion of tidal flows to the area of wetland to the south east of the site. This would likely have a beneficial outcome for the wetland area. Therefore, it is considered that the sufficient measures will be undertaken to enhance the integrity of the coastal wetland.

### **Clause 11 Development on land in proximity to coastal wetlands or littoral rainforest**

The proposed development and access route include areas mapped as a Proximity Area for Coastal Wetlands. The Applicant has assessed the impact of the proposed development on the biophysical, hydrological and ecological integrity of the adjacent coastal wetland. The proposal is not likely to significantly impact on the integrity of these areas. The Applicant proposes to install an additional culvert to restore tidal flows to an area of coastal wetland.

### **Division 2 – Coastal vulnerability area**

### **Clause 12 Development on land within the coastal vulnerability area**

The subject land is not included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).

### **Division 3 – Coastal environment area**

#### **Clause 13 Development on land within the coastal environment area**

Is the proposed development likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment?

The proposed construction and operation of the runway extension and culvert installation would have potential impacts on water quality.

The EIS was supported by a Surface Water Assessment, Water Quality Management Plan and Aquatic Report. The reports have assessed potential impacts on water quality associated with:

- erosion of exposed soils during rainfall events and transfer of sediment to receiving waters via runoff;
- exposure of acid sulfate, or potentially acid sulfate soils during excavation, and the potential for acid leachate from exposed soils, stockpile areas and transfer to receiving waterways;
- leachate from foundation materials during construction; and
- disturbance of sediment and suspension of sediment during excavation and filling.

In recognition of the above, the Water Quality Management Plan makes specific recommendations in relation to water quality management and/or mitigation measures to be employed during construction of the proposed development.

It is considered that the WQMP outlines adequate measures and procedures for appropriately managing potential adverse risks to water quality resulting from construction, including mechanisms to monitor water quality throughout construction. Compliance with the WQMP would mitigate any adverse impact on the integrity and resilience of the biophysical, hydrological and ecological environment.

Is proposed development likely to cause an adverse impact on the coastal environmental values and natural coastal processes?

An existing maintenance haulage/access road constructed when the runway was built currently blocks flows to the eastern section of the wetland from Merimbula Lake. Construction of Stage 1 includes the installation of a culvert under the road, which when installed, would improve flows and provide beneficial outcomes for coastal and natural processes.

It is noted that increased flows to the area would have a beneficial impact by partially reinstating tidal flows and would restore ecological function. The Surface Water Assessment prepared as part of the SR outlines the hydraulic impact of changes due to the culvert and identifies a slight improvement.

<p>Is proposed development likely to cause an adverse impact on the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1?</p>	<p>The site does not fall within any sensitive coastal lakes listed in Schedule 1 however forms part of the NSW Marine Estate. The proposal is not likely to result in significant adverse impacts to water quality, as detailed further above.</p>
<p>Is proposed development likely to cause an adverse impact on the marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms?</p>	<p>The EIS and Submissions provided an assessment of the potential impacts on marine vegetation, native vegetation and fauna in the subject site and surrounding areas.</p> <p>Stage one of the Proposal would result in the clearing of 8.61ha of vegetation which is unable to be avoided due to the proposal being an extension of the existing runway at Merimbula Airport. Terrestrial and aquatic biodiversity impacts of the proposal would be offset in accordance with the BC and FM Acts, ensuring 'no net loss' of vegetation as a result of the proposal.</p> <p>The Applicant has committed to managing and monitoring water quality during construction adjacent to Merimbula Lake to minimise adverse impacts on marine vegetation and biodiversity. A range of other mitigation measures have been employed to minimise adverse impacts on marine vegetation, native vegetation and fauna and their habitats.</p>
<p>Is proposed development likely to cause an adverse impact on the existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability?</p>	<p>No impacts to public open space and safe access to the foreshore are envisioned as a result of the proposal. There is currently no public access to the foreshore from the Airport site.</p>
<p>Is proposed development likely to cause an adverse impact on Aboriginal cultural heritage, practices and place?</p>	<p>Six artefact sites and possible fragmented shell midden material were identified in the proposal area. These archaeological sites have been heavily modified due to the highly disturbed context from the initial runway construction and ongoing maintenance. The Applicant notes that it is not possible to avoid all known sites as earthworks associated with the proposal would involve the removal, breakage or displacement of artefacts. Commitments for the preservation of Aboriginal cultural values are included in the proposal, including avoidance or salvage of artefacts. Heritage NSW has advised that an AHIP can be issued for the proposed development.</p> <p>The coastal landscape is also of importance to Aboriginal people and culture. The provision of the runway extension would alter the landscape by introducing an additional hardstand feature. However, it is considered that the changes are consistent with the existing character of the surrounding area and consultation has been undertaken with RAPs as part of the AHCAR.</p>

Is proposed development likely to cause an adverse impact on the use of the surf zone?

The development is not likely to cause an adverse impact on the use of the surf zone at Merimbula 'main' beach.

Is the proposed development designed, sited and managed to avoid an adverse impact referred to above?

The proposal has been designed to avoid impacts to adjacent beaches.

## **Division 4 – Coastal use area**

### **14 Development on land within the coastal use area**

Is the proposed development likely to cause an adverse impact on the existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability?

No structures are proposed to be erected within the foreshore area or beach to restrict accessibility for the public.

Is the proposed development likely to cause an adverse impact on overshadowing, wind funneling and the loss of views from public places to foreshores?

The proposed development would be visible from both public and private locations along the coast from within and around Merimbula. The visual amenity of Merimbula Lake and Merimbula 'main' beach, and adjoining foreshore areas would change with the construction and operation of the proposed runway extension. However, it is considered that the runway extension would not be out of character with the locality and would result in a very similar visual landscape to the existing runway.

The location of the runway extension would not have an adverse impact on overshadowing, wind funnelling or loss of views from public places to the foreshore as no additional buildings or structures are proposed.

Is the proposed development likely to cause an adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands?

The Airport is situated between Merimbula Lake and tree covered sand dunes. The impacts of the runway extension on the visual amenity and scenic quality of the coast would be most notable during the construction period, due to vegetation removal, earthworks and vehicle and machinery use and storage. However, these impacts would be temporary.

The finished runway would have a minor visual impact due to the extended length of hardstand areas and reduced vegetation cover. The proposal is considered to have a minimal view impact on the surrounding landscape character.

The development would not cause an adverse impact on the visual amenity and scenic qualities of Merimbula Lake and Merimbula Main Beach including adjoining coastal headlands.



Is the proposed development likely to cause an adverse impact on the cultural and built environment heritage?	There are no historic heritage items or places located within the site. The runway extension would not impact on heritage items located in the vicinity due to distances and visual separation, namely Courunga House, Grounds and Trees and School and Residence (former) Main St Merimbula.
Are you satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to above?	The development has been designed to minimise adverse impacts on heritage.
<b>15 Development in coastal zone generally—development not to increase risk of coastal hazards</b>	The EIS and SR have considered the risks to coastal hazards resulting from the proposed development. This included assessments relating to erosion, wave runup, tidal inundation and sea level rise. The proposed Stage 1 extension and culvert would not result in any significant risks to coastal hazards with the implementation of the proposed mitigation measures

### **Bega Valley Local Environmental Plan 2013 (BVLEP 2013)**

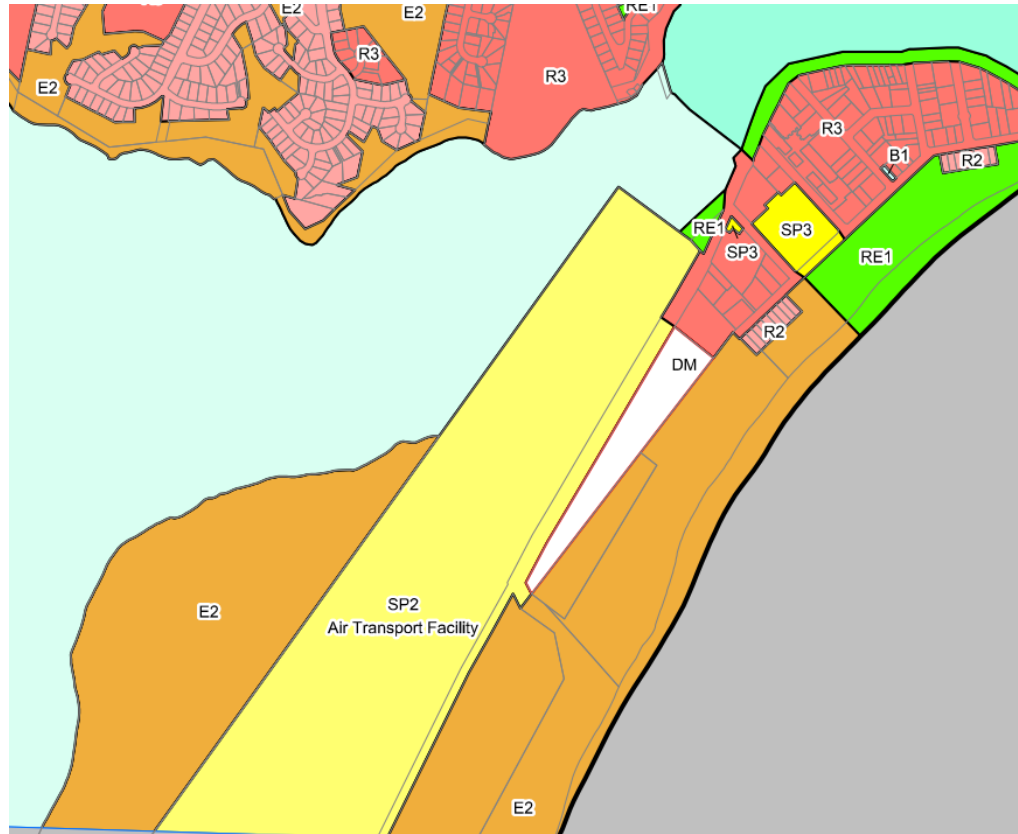
The development application has been assessed in accordance with the relevant sections of BVLEP 2013 detailed below.

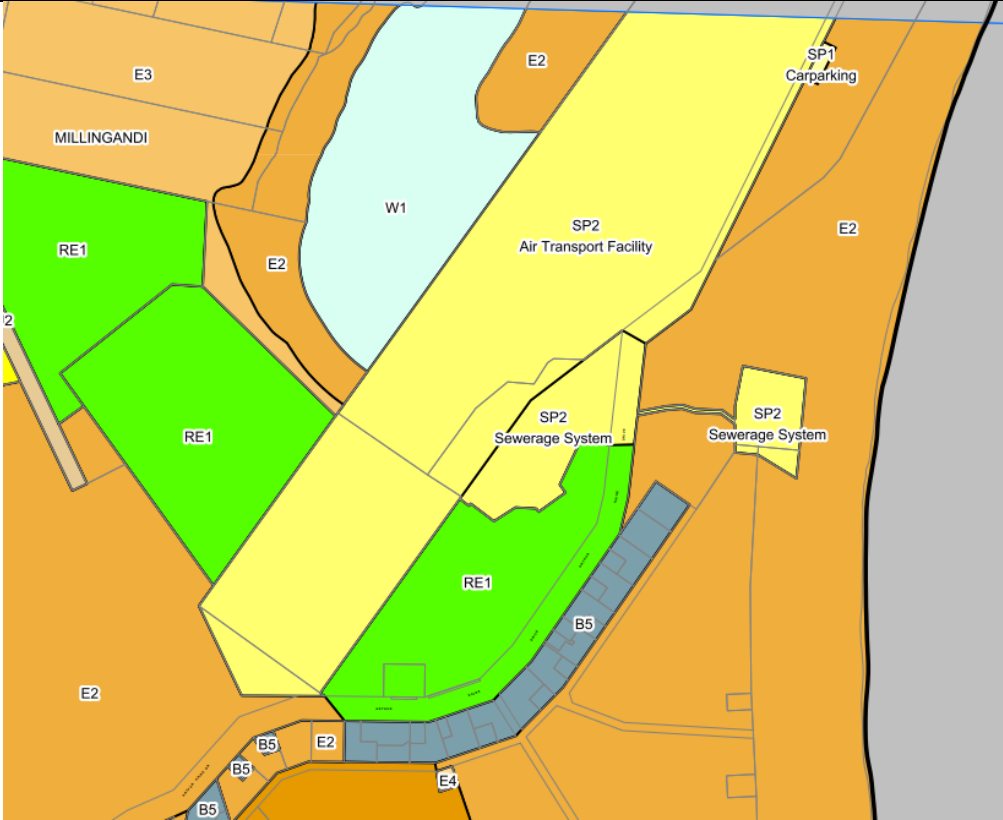
<b>Standard</b>	<b>Comment</b>
<b><i>Clause 1.2 - Aims of Plan</i></b>	<p>The proposal is generally consistent with the aims of the BVLEP 2012 as:</p> <ul style="list-style-type: none"> <li>the proposal would provide opportunities to improve economic, natural and social resources to the Bega Valley by increasing opportunities for tourism and protecting biodiversity through establishment of an offset site and increasing the tidal flows to the wetland area;</li> <li>the proposal would increase employment opportunities at the airport and within the shire through increased access to larger cities;</li> <li>the proposal is consistent with the existing landscape given that it represents an expansion to an existing airport;</li> <li>the proposal would have negligible direct impacts on oyster lease areas;</li> <li>the application has acknowledged the impact on Aboriginal cultural heritage and the proposal would require salvage and reburial of identified surface artefacts in consultation with the Eden Local Aboriginal Land Council; and</li> <li>the proposed development would not be adversely affected by natural coastal hazards nor is likely to substantially impact on coastal processes.</li> </ul> <p>The development generally supports the Principles of Ecologically Sustainable Development (ESD).</p>
<b><i>Clause 2.3 - Zone objectives and Land Use Table</i></b>	<p>The site is zoned SP2 Infrastructure under the BVLEP 2013. Development for the purposes shown on the Land Zoning Map are permitted with consent in the SP2 zone.</p> <p>Under the provisions of the BVLEP 2013, an “<b>air transport facility</b>” is defined as:</p>


*“an airport or heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.”*

The proposed runway extension meets the above definition of an “air transport facility”.

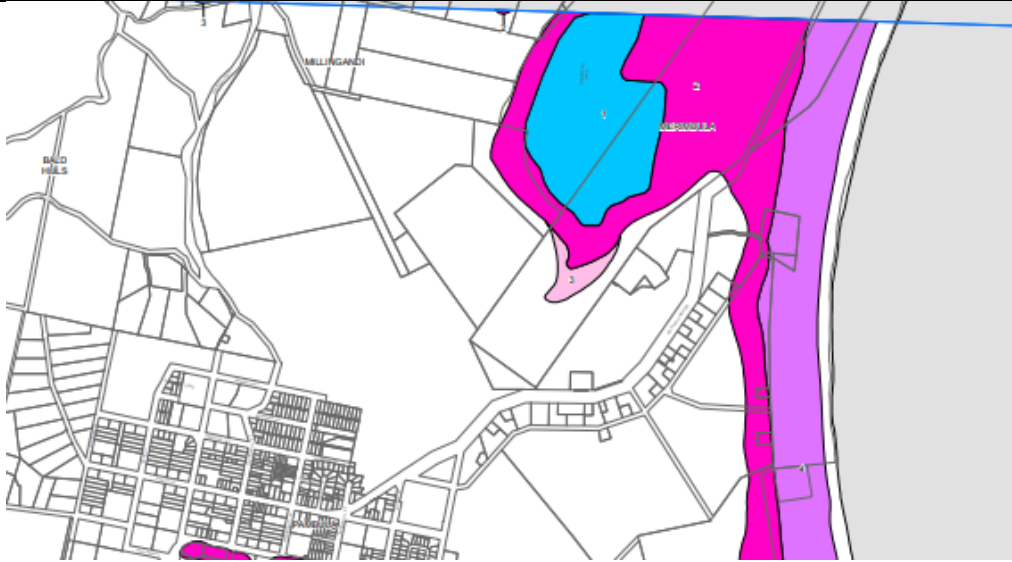
It is considered that the proposed development is consistent with the objectives of the SP2 zone as it would involve an extension to the existing infrastructure and is compatible with existing airport infrastructure.



	 <p>Source: BVLEP 2013 maps</p>
<b>Clause 2.4</b> <b>- Unzoned</b> <b>land</b>	<p>The proposal does not involve unzoned land.</p>
<b>Clause 4.3</b> <b>-Height of</b> <b>buildings</b>	<p>No new buildings are proposed as part of the development.</p>
<b>Clause 5.5</b> <b>- Development</b> <b>within the</b> <b>coastal zone</b>	<p>Clause 5.5 of the LEP provide objectives for development within the coastal zone. In accordance with clause 5.5, development consent must not be granted to development within the coastal zone unless the consent authority has considered factors, such as:</p> <ul style="list-style-type: none"> <li>• public access to the foreshore;</li> <li>• suitability of the proposed development and its impact on natural scenic quality;</li> <li>• amenity impacts;</li> <li>• conservation of biodiversity and ecosystems;</li> <li>• discharge of untreated stormwater to waterways; and</li> <li>• coastal hazards.</li> </ul> <p>These factors have been considered in detail throughout the report. In particular, these issues have been considered in the “Assessment of Likely Impacts of the Development” section below and the assessment against the relevant provisions of the Coastal Management SEPP (above).</p> <p>It is considered that Stage 1 of the proposed development is consistent with the objectives of the coastal zone and that the application has assessed impacts to the coastal zone.</p>

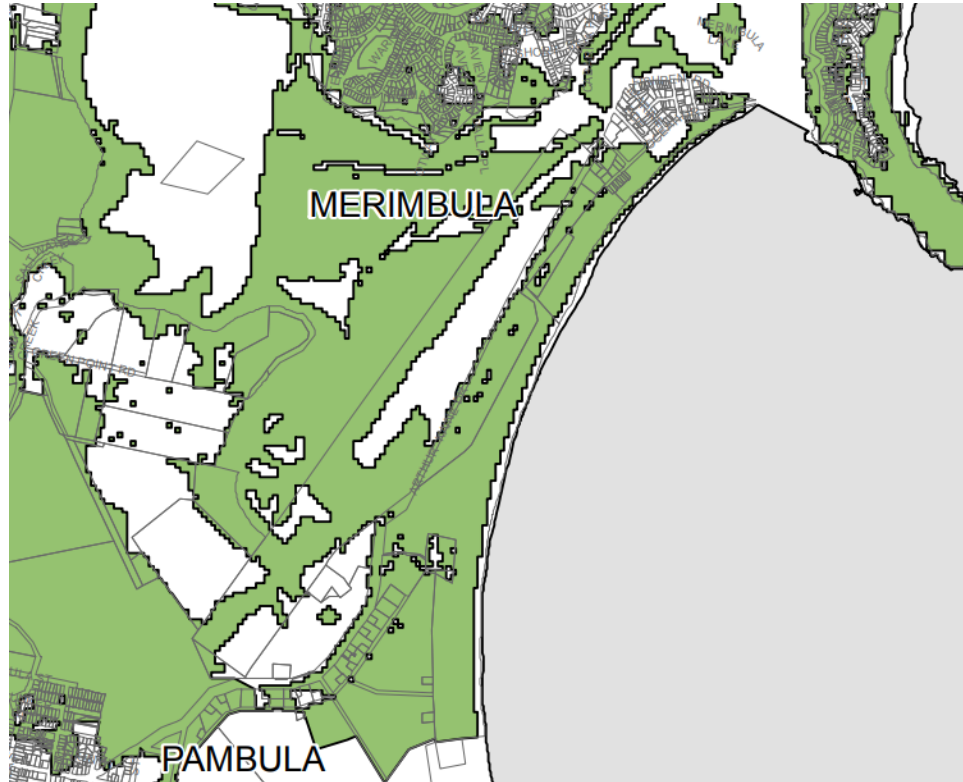
<p><b>Clause 5.7</b> - <b>Development below mean high water mark</b></p>	<p>The proposed development includes works situated below the mean high water mark. The application is accompanied by an EIS and SR that provides appropriate environmental assessment for that part of the runway extension to be carried out below mean high water mark.</p>
<p><b>Clause 5.10 - Heritage Conservation</b></p>	<p>The site does not contain listed non-Aboriginal heritage items and is not within a heritage conservation area identified under Schedule 5 of the BVSLEP 2013. The nearest heritage items in the vicinity of the site are:</p> <ul style="list-style-type: none"> <li>• “Greenpoint” house and sheds (local significance) – approximately 960 m west of the site;</li> <li>• “Courunga”, house and grounds (state significance and also listed on the State Heritage Register) – approximately 475 m north west of the site;</li> <li>• Mitchie’s wharf and shed (local significance) approximately 850 m north west of the site; and</li> <li>• Twyford Hall (local significance) – approximately 860 m north of the site.</li> </ul> <p>The proposal would not result in any significant impacts to the above listed heritage items due to the visual separation of the above sites from the airport and noting that the airport is already operational.</p>
<p><b>Clause 6.1 - Acid Sulfate Soils</b></p>	<p>The site is mapped as containing Class 1, 2, 3 and 4 Acid Sulfate Soils (ASS). The Applicant provided an Acid Sulfate Soils Management Plan (ASSMP) with the SR. The ASSMP outlines measures to manage risks associated with ASS prior and during construction of the proposal. It is considered that the ASSMP includes sufficient measures to appropriately manage risks associated with ASS.</p> 



	 <p>Source: BVLEP 2013 maps</p>
<b>Clause 6.3 – Flood planning</b>	<p>While the site is periodically affected by localised flooding during major storm events, it is not mapped as flood liable under the provisions of the BVLEP 2013. The proposed increase in runway surface has the potential to contribute to flooding. The EIS modelled changes to flooding for the Probably Maximum Flood (PMF) event and 1% Annual Exceedance Probability (AEP). The proposed development is likely to increase flood levels and velocities however significant impacts would be confined to the airport boundary. Therefore, the proposal is not likely to significantly adversely affect flood behaviour or result in a detrimental increase to the potential flood affectation of other development or properties.</p>
<b>Clause 6.4 – Coastal risk planning</b>	<p>The EIS and SR have examined the coastal processes affecting the site. The impacts of the development on the surrounding environment are considered appropriate. The design has considered how to avoid significant adverse impacts from coastal hazards, such as erosion and reduction of tidal flows. The following conditions have been recommended to minimise risks associated with sediment and erosion:</p> <ul style="list-style-type: none"> <li>• site disturbance must not commence until all sediment and erosion controls are in place;</li> <li>• all sediment control measures must be maintained at, or above their design capacity;</li> <li>• progressive stabilisation and rehabilitation of works; and</li> <li>• preparation of a Soil and Water Quality Management Plan for Construction.</li> </ul> <p>The EIS and SR have also considered the potential for sea level rise. It is noted that over time, inundation of the runway is likely to become more frequent as sea level rise would impact on flood behaviour within Merimbula Lake. BVSC may need to adapt the runway and associated infrastructure as gradual change occurs over time.</p>
<b>Clause 6.5 - Terrestrial biodiversity</b>	<p>Part of the subject land is mapped as containing terrestrial biodiversity.</p> <p>It is noted that the proposal would involve the removal of vegetation. Impacts to vegetation have been considered further below in the assessment of likely impacts – biodiversity.</p> <p>Impacts to terrestrial biodiversity are unavoidable for both the northern and southern extensions. However, the Applicant proposes the following to mitigate the impacts:</p>

- preparation of a Construction Biodiversity Management Plan; and
- preparation of a Vegetation Management Plan during construction and operation to manage removal of weeds, report of any occurrences of pathogens and identify appropriate landscaping for the site.

The Applicant has designed the development to minimise adverse impacts to biodiversity and impacts to BC listed ecosystems and species would be offset in accordance with the BC Act.

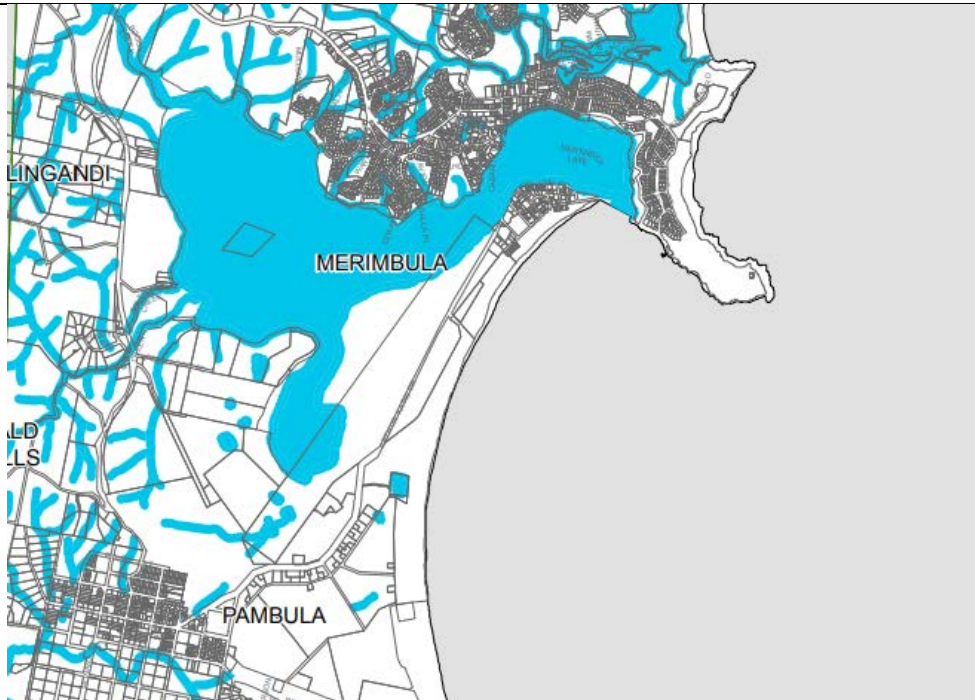


Source: BVLEP 2013 maps

**Clause 6.6  
– Riparian  
land and  
watercourses**

Part of the subject land is mapped as containing riparian land and watercourses (map extract provided below).

The proposal is adjacent to and partly within Merimbula Lake. The southern runway extension would include reclamation of part of the wetland area within Merimbula Lake.



Source: BVLEP 2013 maps

The EIS And SR have considered the impact of the proposed development on:

- water quality and flows within Merimbula Lake;
- aquatic and riparian species, habitats and ecosystems of the watercourse;
- the stability of the bed and banks of the watercourse;
- the free passage of fish and other aquatic organisms within or along the watercourse; and
- any future rehabilitation of the watercourse and riparian areas.

The development is not likely to increase water extraction from Merimbula Lake.

The EIS and SR have identified a number of measures to avoid, minimise and mitigate impact of the development on Merimbula Lake, including:

- monitoring of saltmarsh habitat;
- implementation of compenstary offset measures to offset impacts to aquatic and terrestrial vegetation under the FM and BC Acts;
- preparation and implementation of an erosion and sediment control plan to minimise construction related impacts to water quality within Merimbula Lake; and
- preparation and implementation of a stormwater management plan to minimise impacts associated with runoff of exposed and potentially contaminated or ASS during construction.

It is considered that the development is designed, sited and would be managed to minimise impacts existing water quality and flows into Merimbula Lake.

## **LIST OF ANY DRAFT INSTRUMENTS Section 4.15(1)(a)(ii)**

### **Draft Remediation of Land SEPP**

The Draft Remediation SEPP will retain the overarching objective of SEPP 55 promoting the remediation of contaminated land to reduce the risk of potential harm to human health or the environment.

Additionally, the provisions of the Draft Remediation SEPP require all remediation work carried out without development consent to be reviewed and certified by a certified contaminated land consultant. Remediation work is to be categorised based on the scale, risk and complexity of the work. Environmental management plans relating to post-remediation management of sites, including the ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) are to be provided to Council.

It is considered that the proposal would be consistent with the objectives of the Draft Remediation SEPP.

## **BEGA VALLEY DEVELOPMENT CONTROL PLAN 2013 Section 4.15(1)(a)(iii)**

The proposed development has been assessed under the relevant provisions of the Bega Valley Development Control Plan (BVDCP 2013).

### **Clause 5.4 Social and Economic Impacts**

The Applicant has undertaken a qualitative assessment of the social and economic impacts of the proposed runway extension. The assessment notes that the Bega Valley Shire Council area has a higher than average rate of disadvantage in terms of education outcomes and health factors. This is exacerbated by limited access to a range of services and employment. The airport expansion is likely to increase economic growth and increase social advantage by:

- providing construction and ongoing employment;
- supporting education and training in the area by improving air services and increased accessibility;
- facilitating the expansion of Bega Valley Hospital and other medical facilities;
- expanding tourism through increased air travel access; and
- potential increases to road safety (visitors travelling by air rather than road).

Negative social and economic impacts may be experienced during construction due to impacts such as noise and vibration, visual amenity (construction machinery), increased traffic and possible dust pollution. However, these impacts would be minor and temporary. Residual impacts could be effectively managed through the Applicant's mitigation measures.

The Applicant has consulted with the community to obtain their views on the proposed development. In particular, close consultation has been undertaken with oyster growers in Merimbula Lake and the Local Aboriginal Land Councils.

It is considered that the social and economic impacts of the proposed runway extension have been adequately addressed by the EIS and SR, and that the development would generally be beneficial for Merimbula and the wider community.

### **Clause 5.5 Sustainable Design Principles**

#### **➤ The Precautionary Principle**

It is considered that the potential impacts associated with the proposed Stage 1 runway extension have been identified and quantified with an adequate degree of certainty. Mitigation measures have been proposed to minimise the identified impacts. Implementation of these mitigation measures during construction and operation of the proposal would ensure that social, economic and environmental impacts are acceptable.

In the interest of the precautionary principle, the recommendation of this report has focused on Stage 1 only to provide the greatest amount of certainty. Impacts associated with Stage 2 cannot be fully considered and evaluated until the timeframe for construction is more certain and passenger demand has been met. Given the location of the proposal in a dynamic coastal zone, the geomorphology of the area may change in 10-25 years and therefore it is difficult to consider the adequacy of the proposed mitigation measures.



### ➤ **Intergenerational Equity**

The proposed runway extension aims to enable the ongoing continuation of flight services to Merimbula to support the long-term goal to expand tourism in Merimbula and its surrounds. This has been balanced with the need to maintain environmental integrity through best practice controls and management consistent with social and intergenerational equity.

The commitments and environment safeguards outlined in the EIS would be supported by a Construction Environmental Management Plan, an Operation Environmental Management Strategy and a Decommissioning Environmental Management Plan which would ensure the effective mitigation of impacts for all proposal stages.

In the interest of the principle of intergenerational equity, the recommendation of this report has focused on Stage 1 as the surrounding environment may change significantly from the existing environment in which the proposed development has been assessed by the time Stage 2 is required.

### ➤ **Conservation of Biological Diversity and Ecological Integrity**

The EIS, SR and accompanying BDAR have adequately considered the potential impacts of the proposal on biodiversity, including BC Act and EPBC Act listed species.

Whilst the proposal has minimised clearing, the proposed runway extension would have biodiversity impacts as a result of vegetation clearing and potential soil and water contamination. Biodiversity impacts would be offset in accordance with the BC Act. The proposed safeguards and mitigation measures, if implemented, would reduce the impact of the proposal on biological diversity and ecological integrity.

Impacts on biodiversity and ecology cannot be accurately assessed for Stage 2 as the Applicant has indicated that construction of Stage 2 may not commence for 10-25 years. Surrounding ecosystems and the approach to offsetting may change within this time period. Therefore, Stage 2 does not form part of the recommendation of this report.

### ➤ **Improved valuation of environmental resources**

The EIS and SR conclude that the value of environmental resources affected by the proposed runway extension have been acknowledged and provided for through the examination of environmental consequences and the identification of appropriate mitigation measures needed to address potential impacts, including any short-term construction impacts. Pollution risks have been assessed and would place all management responsibilities and any cost of remediation solely upon the Applicant.

The commitments and environment safeguards outlined in the EIS would be supported by a Construction Environmental Management Plan, an Operation Environmental Management Strategy and a Decommissioning Environmental Management Plan which would ensure the effective mitigation of impacts for all proposal stages.

An accurate valuation of environmental resources which may be impacted from construction of Stage 2 (possibly in 10-25 years' time) cannot be assessed with the information available. Therefore, the recommendation of this report has focused on Stage 1 of the runway extension.

## **Clause 5.8 Planning for Hazards**

### ➤ **Flood Planning**

The proposal has the potential to increase flood levels and flow velocities, however the impacts are confined within the airport boundary and there are no significant implications in terms of property inundation and erosion associated with velocity changes. The proposal is consistent with the objectives of the Bega Valley Shire Council DCP.

### ➤ **Coastal Hazards**

The proposed runway extension would be exposed to and would influence coastal processes. In response, the EIS discusses the potential impacts associated with:

- elevated water levels (climate change);
- water movement patterns; and
- sediment movement and shoreline stability.

It is noted that inundation of the runway would become more frequent as sea level rise increases and the infrastructure would need to adapt accordingly. It is considered that the EIS has adequately

identified and addressed potential impacts associated with the Stage 1 extension and responded through the siting and design of the development. Accordingly, the objectives of the Plan have been satisfied.

#### ➤ **Contaminated Land**

The EIS found the proposal development footprint is not located on contaminated land and surrounding contaminated sites where PFAS have been detected, and would therefore be avoided during the works. As a result, the contamination risks associated with the proposal are considered to be low and manageable subject to the implementation of mitigation measures.

### **Clause 5.9 Off-street Car and Bicycle Parking**

The DCP does not list specific parking requirements for airports. Patronage at the airport is dictated by the capacity of the airport terminal. Since no changes to the terminal and associated capacity are proposed as part of the development, there is no change to off-street car and bicycle parking requirements.

## **BEGA VALLEY SECTION 94 AND 94A CONTRIBUTIONS PLAN 2014**

### **Section 4.15(1)(a)(iii)**

The development proposes the extension of the existing infrastructure. Section 94A contributions are not applicable to the proposed development.

### **Any Regulations applying to the Development Section 4.15(1)(a)(iv)**

Nil Regulations apply to the development.

### **Section 4.15(1)(a)(v)**

Repealed.

## **Assessment of Likely Impacts of the Development Section 4.15(1)(b)**

Council staff and State Agencies have assessed and reviewed the EIS, SR and accompanying information having regard to the likely impacts of the development. An assessment of the key impacts is provided below.

### **Justification and alternatives considered**

As part of the EIS, the Applicant provided a discussion of alternatives to the proposed development. They key options considered include:

- The 'do nothing' option:

This would involve providing no additional runway length or changes to the airport to accommodate larger aircraft. This would mean that insufficient infrastructure would be in place when the existing SAAB 340 aircraft are replaced with larger aircraft once they are no longer operational. The existing airline operator announced its intention to start replacing the existing fleet with 40-50 and 72 seat aircraft in the near future. The do-nothing option would not enable such larger aircraft to use the airport and may result in the airport being limited to private plane use.

- Alternative site locations:

Council commissioned Garret Barry Planning Services Pty Ltd to prepare a discussion paper to review alternative options for an aerodrome with a capacity equivalent to or greater than the current airport. The discussion paper assessed alternative locations on:

- ability to accommodate a runway of at least 1,800 m;
- not having greater obstacle constraints than the existing site; and
- not requiring significant clearing in a National Park.

All potential options were dismissed, as they failed to meet minimum criteria.

- Scale of the proposal:

The existing Airport site is not able to accommodate a runway expansion without the need for land reclamation. The size and shape of the lot, and surrounding development limit the options for expansion of the runway and alterations to the existing OLS.

- The proposed development (construction of starter extensions):

The proposed development, encompassing starter extensions to accommodate the take-off and landing of larger aircraft, would enable future development of the airport and continued use as larger aircraft are introduced. This would be able to occur without the need to change the OLS and minimising the need for land reclamation.

Comment: The EIS and SR acknowledge that the proposed development would deliver the additional runway capacity required for larger aircraft as the existing fleet would likely be retired in the coming years. This would be possible without requiring adjustments to the OLS. This would enable the airport to continue operations and contribute to social and economic opportunities for the shire.

There are sufficient grounds to justify the construction and operation of the Stage 1 of the runway extension as there is an immediate need to consider how air travel would be maintained once the existing aircraft are no longer available. The adequacy of justification for the Stage 2 extension is discussed further below.

### **Stage 2 extension to the runway**

As part of the development application, the Applicant seeks approval for a Stage 2 extension involving an additional 80 m extension to each end of the runway following construction of 120 m extensions for Stage 1. The Applicant has indicated that the Stage 2 extension is required to support take-off and landing of larger aircraft. The timing of the Stage 2 extension is not known at this time and is dependent on increasing passenger demand. However, based on the Applicant's estimates, the extension may be required in 10 to 25 years.

The assessment has considered the justification and timing of the proposed Stage 2 extension. It is noted that there is currently insufficient demand to warrant a runway of that length at the airport. The timing of Stage 2 is ambiguous as the longer runway would only be required as passenger demand increases substantially. Given that the Airport has experienced fluctuating periods of growth and decline in visitor numbers over the past two decades, it is difficult to determine if and when the Stage 2 extension would be required.

The uncertainties surrounding timing make it difficult to accurately assess the impacts of the proposed development and hence gauge the adequacy of the mitigation and management measures to be applied. It is noted that the Applicant acknowledges that methods for constructing Stage 2 may change as construction techniques and industry best-practice advances following construction of Stage 1. This creates uncertainties concerning construction impacts.

In addition, the EIS and SR provides an assessment on current surrounding land uses and the biophysical environment. It is difficult to determine whether impacts decades into the future are appropriate at this current time. The surrounding environment, particularly the wetland may change significantly and alter the suitability of various factors such as proposed construction methods, construction haulage routes, as well as impacts on vegetation communities, threatened species and associated offsetting requirements.

Based on this uncertainty, it is considered that there is insufficient information to enable the Stage 2 component of the development to be properly considered as part of the recommendation. Therefore, the Stage 2 extension has been excluded from the recommendation. In doing so, it is noted that under section 4.16(4)(b) of the EP&A Act, the consent authority is not required to refuse consent for the Stage 2 extension and that development consent may be granted in the future to that aspect of the development.

### **Biodiversity**

#### **Biodiversity - Terrestrial**

The Applicant has identified direct impacts to Threatened Ecological Communities (TEC's) and threatened flora and fauna species within and adjoining the site. Stage 1 of the proposal would clear approximately 8.6 ha of listed TEC's under the BC Act.

The directly impacted TEC's for Stage 1 include Bangalay Forest (7.64 ha), Saltmarsh (0.02 ha), Mangrove (0.95 ha), seagrass communities (0.4 ha) and the habitat they provide for protected fauna species.

Biodiversity impacts trigger the requirement for a BDAR to address impacts on biodiversity in accordance with the *Biodiversity Conservation Act 2016*, and for the retirement of credits commensurate to impacts.

An updated BDAR was submitted with the SR to address a reduced footprint, that would result in 0.59 ha reduction of mangrove and saltmarsh to be cleared. The updated BDAR also included information about indirect impacts, temporary impacts from construction sites, and aquatic impacts resulting from the culvert to be located in the southern section of the proposal.

The direct impact on native vegetation would result in the loss of fauna habitat for locally occurring threatened fauna species. This includes the loss of potential breeding and foraging habitat for the Sooty Oystercatcher, Pied Oystercatcher, Beach Stone Curlew, Southern Brown Bandicoot and Long-nosed Potoroo, which were not surveyed however were assumed to be present.

BCD considers the proposals biodiversity offsets strategy to be acceptable, and notes that Council has the opportunity to reduce this liability further by undertaking targeted surveys for the Sooty Oystercatcher, Pied Oystercatcher, Beach Stone Curlew, Southern Brown Bandicoot and Long-nosed Potoroo.

### **Biodiversity – Aquatic**

A separate aquatic assessment was prepared to inform the offset strategy for the loss of aquatic seagrass habitat, mangroves and saltmarsh noted above. Impacts to aquatic habitat also trigger the requirement for compensatory offsets under the FM Act. The Applicant has committed to offsetting impacts in accordance with the NSW Biodiversity Offsets Policy for Major Projects, to be secured by the Biodiversity Conservation Trust.

A maintenance haulage/access road constructed when the runway was originally built currently blocks tidal flows to the eastern section of the wetland from Merimbula Lake. This has impacted the type and integrity of TEC's over time. The EIS identified reduced flows to Merimbula Lake by about 7% due to this road.

To offset this pre existing impact, the SR included provision of a 300 mm culvert beneath the access road to improve tidal flows to Merimbula Lake. Modelling demonstrated that the additional culvert would deliver a 1% increase in flow volumes. As a result of this change, local stormwater flows and tidal flows would be diverted around the southern runway extension. There would be a temporary impact and adjustment of flow paths but an overall benefit of improving tidal flows to the Lake, and restoration of ecological function to the wetland.

Comment: The mitigation measures, including management plans and offsets, are considered appropriate to reducing impacts to biodiversity values impacted by the proposal. BCD and DPI Fisheries are committed to working with Council to achieve these outcomes. It is recommended that the GTA's issued by BCD and DPI Fisheries are included as conditions of consent.

### **Oyster leases**

Updated construction plans would see a loss of 65 m<sup>2</sup> of oyster leases reduced from 1000 m<sup>2</sup> in the southern section of the proposal. Council is negotiating directly with the affected oyster leaseholders. Water quality management and contaminated soil management plans have also been progressed to provide certainty regarding the management of impacts. Council is comfortable that impacts on oyster leases have been appropriately addressed, and would be further minimised through ongoing negotiations with leaseholders.

### **Aboriginal Heritage**

An ACHAR was prepared as part of the EIS and later revised to accompany the SR to investigate the extent and nature of Aboriginal heritage sites within the proposal area. The ACHAR was prepared in accordance the Guide to Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH, 2011) and Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (OEH, 2010).

The ACHAR identified four locations of Aboriginal artefacts and possible fragmented shell midden material. An additional two artefact sites were identified following a subsequent inspection with representatives from Heritage NSW. Four of these sites would be directly impacted by the proposed development, therefore the Applicant requires an AHIP under the NPW Act.

The ACHAR recommended that surface stone artefacts be salvaged and relocated within the airport precinct by a qualified archaeologist and with representatives of the RAPs. The ACHAR also recommends:

- maintaining a minimum 5 m buffer around all sites that are being avoided by the proposed development;
- Implementing an unexpected finds procedure; and
- consulting with the Eden Local Aboriginal Land Council regarding initial ground disturbance to assist with identification and collection of unexpected finds.

Heritage NSW have reviewed the revised ACHAR and advised that an AHIP can be issued subject to its GTA's.

Comment: The Applicant has appropriately considered potential impacts to Aboriginal cultural heritage resulting from the construction and operation of the proposed development. It is noted that an ACHAR was prepared in accordance with relevant guidelines, including consultation with RAPs. It is recommended that the GTA's issued by Heritage NSW are included as conditions of consent.

### **Non-Aboriginal Heritage**

The EIS included an assessment of impacts to non-Aboriginal heritage. The assessment included desktop searches and a site inspection. No Non-Aboriginal heritage items or places were identified within the proposal site however the following items were identified within the vicinity of the development area:

- "Courunga House, Grounds and Trees – Monaro St, Merimbula (Register of National Estate, NSW State Heritage Inventory);
- School and Residence (former) – Main St, Merimbula (Bega Valley LEP);
- Mitchie's wharf and shed – Fishpen Rd (Bega Valley LEP);
- Twyford Hall – 16 Market Street, Merimbula (Bega Valley LEP); and
- "Greenpoint" house and sheds – 71 Greenpoint Road, Millingandi (Bega Valley LEP).

The assessment concluded that no heritage items would be directly impacted by the proposed development. However, the proposal has the potential to impact aesthetic qualities of the locality due to noise and visual impacts generated by the proposal.

Comment: The location of the above heritage items within the vicinity of the site are noted. However, the proposed development is not likely to significantly impact on the heritage values of the listed sites due to site separation, minor nature of noise impacts, and construction methods proposed. The Applicant has committed safeguards to ensure that Heritage NSW be notified if an item of potential historic heritage be identified during construction. The proposed mitigation measures are considered adequate to minimise impacts.

### **Noise and Vibration**

#### **Construction**

The construction noise assessment was prepared in accordance with the NSW Interim Construction Noise Guideline (DECC, 2009) and the NSW Noise Policy for Industry (EPA, 2017). The closest receivers to the north of the proposal are located at the noise monitoring location at 12 Arthur Kane Drive, at a distance of approximately 400 m, and the nearest residential receivers to the south of the proposal are located at 232 Arthur Kane Drive approximately 800 away. A low ambient background noise environment categorises the site.

Construction noise would be generated by compacting, rolling and laying of bitumen for the runway, as well as from excavation for trenching and saw cutting of pavement. Construction vehicles accessing the site would also generate noise.

The Applicant has not assessed impacts associated with out of hours works but has committed to standard construction hours. Variations to standard construction hours may be considered by Council, if necessary, but have not been considered as part of the assessment.

The results of the construction noise and vibration modelling indicate that the specific noise goals can be achieved at nearest receivers to the north and to the south of the proposal, and that the potential



for noise impacts are low. Due to the nature of the works and the distance to buildings and other infrastructure the vibration risk is also conserved low.

The assessment recommends that standard construction noise management measures would successfully mitigate residual noise impacts. These measures include appropriate consultation with the community of upcoming noisy works, and implementation of a Construction Environmental Management Plan to guide construction contractors on correct procedures to reduce noise impacts from equipment.

Comment: Standard management measures would ensure that noise and vibration generated by the proposal would not result in damage to nearby properties or unreasonable loss of amenity to nearby residents. Standard construction hours, in accordance with the NSW Interim Construction Noise Guideline, would further mitigate this risk.

## **Operation**

Potential noise sources generated from ground-based operations at Merimbula Airport would include:

- aircraft ground movement around the airport (taxiing; take-off and landing);
- aircraft maintenance and testing activities;
- road traffic on site and off site;
- reversing alarms and warning systems;
- fixed or mobile plant and equipment operations; and
- infrastructure maintenance activities.

The expansion of the runway would locate aircraft further north and south for take off which would be the primary operational noise source. Aircraft take-off would be the most noticeable of all operational activities.

The operational noise assessment considered the Australian Noise Exposure Forecast (ANEF)/ Australian Noise Exposure Concept (ANEC) for the potential noise impacts of the extended runway. ANEF/ANEC is the primary noise metric used in Australia for land use planning around airports, that uses an “average day” of noise exposure, based on flight volumes and flight paths. Alternative noise metrics, including the N60 (60 dB(A)) and N70 (70 dB(A)) contours were also considered, which measure aircraft noise generated by individual events.

Results indicate that that all daytime operational noise goals would be met at the nearest sensitive receivers except for the north to south take off for the Boeing 737 which would exceed noise goals by 8 dB(A). It should be noted that this is based on the Stage 2 runway extension, which is required to accommodate the Boeing 737, and is not considered in this assessment. Operating aircraft types such as Dash8Q400, ATR 72 and Saab34 would not increase the existing noise profile of receivers for the Stage 1 extension of the runway.

Any changes are required to be endorsed by Airservices Australia under the *Airports Act 1996*. Airservices note in its submission that, as the above thresholds are not moving there would be no amendment to Airservices DAP procedures, and as such its team would not be undertaking a noise assessment of the Stage 1 runway extension.

While Stage 1 would facilitate the operations of larger aircraft, an analysis of fleet types, forecast passenger demand and service frequency indicates this would have no material impact on the key aircraft noise measures of ANEF/ ANEC, or on N70 and N60 contours.

Comment: The assessment has committed to modelling future growth scenarios as outlined in the Merimbula Airport Master Plan, where larger airport capacity is necessary for the increases in arrivals and hence larger aircraft such as the Boeing 737. This would be required for Stage 2. A range of operational noise measures have been included in the Stage 1 proposal, which would ensure residual impacts are maintained at acceptable levels.

## **Visual Amenity and Impact**

The assessment identified medium to low visual impacts during construction and low impacts post-construction of Stage 1. Minor mitigation measures were recommended including construction screening at the immediate site. No submissions were received on visual impact.

Most residents in Merimbula do not have a direct view of the construction area because of local topography, vegetation and separation distances of over a kilometre, minimising visual impacts further.

The low visual impacts are attributed to the temporary nature of the construction works and consistency with current land use. The largest impact would be to motorists, pedestrians and cyclists using the recreation pathway and Arthur Kaine Drive. These run parallel to the airport's eastern boundary, however an existing nature strip and vegetation provide natural screening.

Visual impacts are considered acceptable as only Stage 1 would be constructed and the visual impact study was conducted for a worst-case scenario that combined potential impacts from Stage 1 and 2. The recommended mitigation measures of construction site screening is considered appropriate. The need to provide construction screening has been reinforced by a recommended condition of consent.

## **Soil, Water Quality and Contamination**

There is a low risk of impacts regarding soil, water quality and contamination. The proposed Soil and Water plans of management utilise standard industry measures that can adequately mitigate possible impacts.

### **Potential Acid Sulfate Soils (PASS) or Acid Sulfate Soils (ASS)**

The assessment noted the potential for disturbance of either Potential Acid Sulfate Soils (PASS) or Acid Sulfate soils (ASS) during vegetation clearing and excavation of the wetland site.

Disturbance of these soils could impact on the water quality of Merimbula Lake, the primary receiving environment, with subsequent impacts to aquatic ecology and aquaculture.

An Acid Sulfate Soils Management Plan would be developed and included as part of the Construction Environment Management Plan to manage possible impacts. While the risk of disturbing acid sulfate soil is low, if disturbed appropriate measures to remove, cover and relocate contaminated soils are proposed, which would manage this risk in an appropriate way.

### **PFAS (Per- and Poly-Fluorinated Alkyl Substances)**

There are two sites of low-level PFAS contamination at the airport from a history of firefighting and training exercises. These locations have been mapped and are not within the Stage 1 construction footprint and should not be disturbed. The Construction Environmental Management Plan would include mapping of PFAS "no go" areas with stop work and containment measures outlined if PFAS is detected.

## **Contamination Risk and Water Quality**

The EIS identified a risk of contamination to Merimbula Lake and associated wetland from a possible discharge of sediment-laden water from the site during construction. To manage this risk, runoff and wastewater from the site would be captured and treated prior to discharge. The EPA endorses this approach. Water quality would be treated to the levels and objectives developed to meet ANZECC water quality guidelines. The EIS has also committed to developing appropriate Soil and Water management plans prior to construction which would include water quality testing of the sediment basin and Merimbula Lake.

## **Traffic Impacts**

### **Construction Vehicle Numbers, Access and Haulage**

Access to the construction site would occur via the airport's main entrance at the intersection with Arthur Kaine Drive (refer to Figure 4). Traffic studies conclude that the intersection would adequately accommodate the proposed construction traffic volumes and vehicles up to 8.8 metres in length, estimating up to 30 vehicle movements per hour during construction (Table 1).

Modelling used peak holiday traffic data to identify the worst-case scenario. Construction traffic for the proposal would be a 3.2% increase to typical peak traffic movements along Arthur Kaine Drive. The increase is considered acceptable as there is sufficient capacity within the network.

**Table 1 – estimated traffic volumes and requirements for Merimbula Airport stage 1 construction- (Merimbula Airport EIS, 2019)**

Type of Vehicle	Total construction vehicle movements (one-way)	Maximum vehicles per hour
Semi - Trailer	2160	20
Light Vehicles	1080	10
<b>Total</b>	<b>3240</b>	<b>30</b>



Figure 1 – Google Map 2020 – Merimbula Airport intersection

Figure 4 – Location of Merimbula Airport Intersection and main entrance on Arthur Kaine Drive (SR: APPENDIX N TRAFFIC IMPACT STATEMENT)

### Traffic Management Plans and Haulage Routes

The applicant has committed to developing a Traffic Management Plan to manage associated road safety, consultation protocols, heavy vehicle movements and haulage routes. The plans are to be developed in consultation with Council's traffic management committee.

Haulage of construction materials and spoil would use the Princess Highway to travel both north to Sydney and south-west to Melbourne. Regarding local roads, a road dilapidation report would be produced prior to construction and provided to the relevant road authorities. Traffic studies noted minimal impact by using the Toallo Street and Quondola Street intersection for haulage.

Transport for New South Wales consider that the above measures would appropriately manage construction traffic throughout the proposal.

### Increased operational traffic and parking

The operational traffic impact study identified that the proposed development would not adversely affect the performance or safety of the surrounding road network.

Traffic flow limitations are imposed on the airport by aviation regulators which limit the number of passengers allowed to arrive per plane dependent on the terminals size. These limits may be reviewed during future airport terminal expansions which are the subject of future DA's.

As there would be little to no increase in operational traffic generated, the surrounding road performance would not be impacted and additional on-airport parking would not be required.

## **Air quality**

The EIS has considered potential air quality and odour impacts associated with construction and operation of the proposed development.

Construction of the runway extensions has the potential to impact local air quality due to dust generation as a result of the following activities:

- excavation and earthworks;
- vehicle movement on unpaved surfaces;
- movement of vehicles to and from the site;
- dust from uncovered stockpiled material;
- dust and particulates from transportation, spreading and compaction of materials; and
- emissions from diesel generators, heavy plant and other mechanical equipment.

Construction activities have the potential to impact on residences and tourist facilities within the area if not managed effectively. It is noted that standard mitigation measures are proposed and are adequate for activities of this scale. These include:

- dust suppression from water application during earthworks;
- ceasing dust generating works during periods of high winds where other measures are not effective at controlling dust;
- covering vehicle loads during transport;
- undertaking appropriate maintenance of vehicles and machinery; and
- committing to progressive rehabilitation and revegetation of disturbed areas.

The proposed mitigation measures would adequately control risks associated with air quality impacts for a development of this scale.

Existing operational activities at the airport are likely to result in a minor and highly localised reduction in air quality due to aircraft and maintenance activities. The proposed Stage 1 extension is not likely result in significant changes to these activities and aircraft emissions may have a minimal increase with the introduction of larger aircraft. These changes to emissions are not likely to significantly affect air quality. Aircraft operators are required to self-regulate compliance with the *Air Navigation (Aircraft Engine Emissions) Regulations 1995*.

## **Hazard management**

The EIS includes a hazard management assessment. Emergencies and hazards are currently managed under the Merimbula Airport Aerodrome Manual which includes both the Merimbula Airport Emergency Plan and the Merimbula Airport Wildlife Hazard Management Plan. The requirement for an Aerodrome Manual and Emergency Plan is regulated by CASA. The Airport Emergency Plan is reviewed on an annual basis and regularly audited by CASA. Scenarios such as aircraft crashes and hazard material spills are also covered in detail under the Emergency Plan.

The assessment identifies the following as potential hazards which could occur within the airport during construction and operation and result in environmental impacts:

- aircraft crashes;
- hazardous materials emergency; and
- natural disasters such as flooding and fire

Construction of the proposal has the potential to impact on hazards. Risks associated with contamination related to hazardous materials, such as fuel spills, and flooding have been addressed in the soil, water and contamination section above.

The ongoing operation of the airport would continue to be managed in accordance with above plans and is not likely impact on the level of risk. It is noted that the Applicant has committed to continuing to implement the Merimbula Airport Aerodrome Manual during construction and operation, and the manual would be appended to the CEMP. In accordance with CASA's manual of standards, the Manual and Emergency Plan is updated yearly.

### **Compatibility with existing surrounding uses**

The EIS and SR have considered whether the proposed development is compatible with existing surrounding land uses. The site is currently surrounded by tourist and visitor accommodation, residential accommodation, commercial uses and aquaculture. Construction and operation of the proposed development has the potential to impact on these surrounding land uses if not managed appropriately. This includes the impacts discussed above in relation to noise and vibration, visual impacts, air quality, traffic, soils, water quality, contamination and hazard management.

The Applicant's assessment of these issues and proposed mitigation measures are considered adequate to ensure that the proposed development would not result in significant adverse impacts to surrounding land uses.

### **SUBMISSIONS Section 4.15(1)(c)**

The application was advertised in accordance with the provisions of the EP&A Act and its Regulation 2000. The application was exhibited between 20 November 2019 until the 20 January 2020. Council received 2 public submissions including one objecting to the proposal and the other providing comments. The submissions raised the following issues:

- concern for biodiversity impacts due to the proposed removal of coastal wetlands, TEC's and reduced habitat for terrestrial and aquatic species;
- concern for water quality impacts from disturbance of acid sulphate soils;
- concern for impact of noise pollution and exhaust discharge on health of residents;
- a runway extension is not required to accommodate jets;
- alternative sites should be investigated further;
- lack of consideration for climate change impacts;
- insufficient justification for the airport expansion;
- incorrect information about lake depths and tidal conditions in the EIS;
- importance of ensuring appropriate measures are implemented to ensure that construction does not contaminate the lake with acid sulfate soils;
- concerns regarding flow dynamics and siltation;
- recommended that mangroves be planted around the periphery of runway extensions to provide stability; and
- suggested that council consider opportunities to adjust car parking and traffic arrangements at the site.

The Applicant responded to the issues raised in submissions in the SR (Attachment 6). It is considered that the issues raised in submissions have been reasonably addressed in the SR and supporting documentation. These issues have been considered throughout the assessment report.

Following receipt of the SR, the application was re-exhibited between 13 November to 11 December 2020. No submissions were received from members of the public during this time.

### **AGENCY SUBMISSIONS**

The application was referred to a number of State Agencies, for either concurrence or comment. Public submissions were provided to Integrated Development Authorities (DPI Fisheries and Heritage NSW) as required by Clause 61 of the EP&A Regulation 2000. A copy of all responses from State Agencies is included as Attachment 5.

State agency submissions are summarised below:



### **Civil Aviation Safety Authority (CASA)**

CASA noted that as the Certificate Holder for the Merimbula Aerodrome, Council is required to comply with applicable aviation regulations and standards for all aerodrome works and aerodrome infrastructure. CASA recommended that the principles of the National Airports Safeguarding Framework (NASF) be applied to the proposal.

Comment: It is noted that since the exhibition of the EIS (and since this advice was received), the Applicant has revised the development following consultation with CASA. The design has been adjusted to comply with the relevant CASA requirements. No conditions are recommended.

### **Air Services Australia (ASA)**

ASA advised the proposed development would not require any changes to the existing flight procedures or take off and landing areas (thresholds) Therefore, ASA are not required to undertake a noise assessment.

Comment: The proposal would not change flights paths or thresholds.

### **DPIE – Crown Lands**

Crown Lands provided no objection to the proposed development however noted that the adjoining Crown Land (Lot 2196 DP 1204467) is a wetland and should not be impacted by the development.

Comment: The proposal would not cause any direct impacts to the adjacent lot owned by Crown Lands. Indirect impacts have been considered in the biodiversity and water quality sections above.

### **Environment Protection Authority (EPA)**

EPA note that an Environment Protection Licence (EPL) is not required as no schedule activities, as outlined in Schedule 1 of the POEO Act, would be undertaken as part of the proposal. However, EPA note that the EIS incorrectly states that Council would be the regulatory authority for management of water quality on site. EPA is considered the appropriate regulatory authority as the works would be undertaken by Council and on Council owned land. EPA recommends that the Applicant demonstrate whether the discharge criteria for pollutants maintain or restore the environmental values of the receiving environment.

Comment: It is noted that no EPL is required and that EPA have a regulatory role associated with water quality management.

EPA also recommended that the Applicant must develop a water quality monitoring and management plan.

Comment: It is noted that the Applicant prepared a preliminary Soil and Water Quality Management Plan as part of the SR. A condition is recommended which requires the Applicant to prepare a revised Soil and Water Quality Management Plan and submit it to EPA and Council for endorsement prior to commencement of works. The management plan would need to detail how monitoring would be undertaken in regards management of turbidity and suspended solids.

### **Department of Primary Industries (DPI) Fisheries**

On 19 December 2019, DPI Fisheries requested additional information and clarifications on the proposed development, including:

- whether there would be specific triggers applied to the construction of Stage 2 of the development, particularly if it becomes evident during stage 1 that additional measures are required to construct stage 2;
- a description of how direct impact to seagrass, mangroves and saltmarsh habitat has been minimised through design considerations;
- cross sectional plans for the width and height of the reclamation;
- clarification on the extent and location of batters;
- consideration of the potential sedimentation and erosion impacts from increase flood velocities and heights around the reclaimed embankment;
- an assessment of the impact on tidal flows and the associated impacts on mangroves and saltmarsh; and
- offsets are required under the FM Act to offset impacts to marine vegetation.

Subsequent comments were submitted on 18 March 2020. The comments include:

- consideration of an alternative footprint for Stage 1 (shifting the extension northward and reduce the area of wetland reclamation);
- the need for detail on the area of mangrove, saltmarsh and seagrass to be harmed under each stage of the proposal; and
- further information on the offsets being proposed under the FM Act is required.

Following exhibition of the SR, DPI Fisheries provided further comments and GTA's. General comments raised include:

- DPI Fisheries does not support the Applicant's proposal to solely offset the loss of mangrove and saltmarsh in accordance with the offset provisions under the BC Act as it does not comply with DPI Policy, and will not guarantee the delivery of appropriate offsets under the FM Act;
- The proposed monitoring locations would provide little value as the proposed offset area is protected by the Coastal Management SEPP. Therefore, certainty of offset delivery in accordance with DPI Policy and agreement on the proposed offsets will be required prior to the issuing of a permit under the FM Act; and
- DPI Fisheries may require the Applicant to enter into a bond or other financial agreement as an offset strategy that satisfies DPI Policy has not yet been development.

The GTA's issued by DPI Fisheries are:

- Prior to any works on site for the construction of Stage 1, the Applicant must apply for and obtain a Part 7 permit under the *Fisheries Management Act* for the harm of marine vegetation and dredging and reclamation associated with Stage 1 runway extension works. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>;
- An offset strategy that is deemed, by appropriate delegates under the FM Act, to satisfy DPI Fisheries offsetting requirements under *NSW DPI Policy and Guidelines for Fish Habitat Conservation and Management (2013)* (DPI Policy) for the loss of marine vegetation (i.e. mangroves, seagrass and saltmarsh) from this proposal will need to be submitted as part of this permit application process. The permit issued at Stage 1 will require offsets in accordance with the DPI Policy for the entire area of marine vegetation identified to be harmed within the Stage 1 works footprint;
- Following completion of Stage 1 and prior to any works on site for the construction of Stage 2, the proponent must apply for and obtain a Part 7 permit under the FM Act for the harm of marine vegetation and dredging and reclamation associated with Stage 2 runway extension works. Future Stage 2 works may also be subject to offset or other provisions consistent with relevant Fisheries legislation and offsetting policy at the time of applying for the permit. The offset conditions for Stage 2 should consider offset outcomes that were undertaken for Stage 1 and the success of the outcomes achieved;
- A bond as authorised under s.220 of the FM Act may be taken as a condition of a DPI Fisheries permit issued under s.205 of the FM Act. The value of the bond is to be calculated consistent with Policy 3.3.4.2 of DPI Fisheries *Policy and Guidelines for Fish Habitat Conservation and Management 2013* (DPI Policy). All or part of the bond will be redeemable pending the successful completion of on-ground offsetting measures in accord with an agreed offset strategy and DPI Policy;
- As permissible under s.220 of the FM Act, and if applicable under the relevant DPI Fisheries legislation and offsetting policy at the time of applying for a s.205 permit under the FM Act for the Stage 2 runway extension works, a bond may be taken by DPI Fisheries as a condition of this permit. The value of this bond would be calculated according to the relevant offsetting policy at the time. All or part of the bond will be redeemable pending the successful completion of on-ground offsetting measures in accord with DPI Policy;
- Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms; and

- Only clean fill can be used for the reclamation activity associated with the runway extension. This should not include highly erosive or acidic soils (e.g. yellow pinch soils).

Comment: Compliance with the GTA's issued by DPI Fisheries has been included as a recommended condition of consent. A condition has also been recommended which requires the Applicant to revise the Biodiversity Offset Strategy and to submit a copy to Council following endorsement from BCD and DPI Fisheries. DPI Fisheries comments in relation to a bond or other financial agreement are acknowledged.

**DPI Fisheries Aquaculture Management** also provided the following comments in relation to SEPP Primary Production and Rural Development 2019:

- continued consultation with affected and nearby oyster lease holders is recommended, particularly during development of the Construction Environmental Management Plan and implementation of the Acid Sulphate Soil Management Plan;
- supports monitoring of water quality (turbidity, suspended solids and acidity) during construction;
- operations should cease if levels of suspended sediment or acidity exceed trigger values;
- the Preliminary Water Quality Monitoring and Water Quality Management Plan should be updated to include all mitigation measures included in the EIS and SR; and
- Merimbula Airport should have clear emergency response procedures to respond to any fuel/hydrocarbon spill incidents at the site, including notification of oyster lease operators.

Comment: Fisheries Aquaculture comments are noted, and it is considered reasonable to include their recommendations regarding Water Quality management and emergency response procedures as recommended conditions of consent. Emergency response and spill procedures during operation are covered by the Merimbula Airport Aerodrome Manual and Emergency Plan which are reviewed annually. The annual review process is regulated by CASA and therefore a condition to this effect is not warranted.

### **DPIE BCD**

In their initial correspondence dated 16 December 2019, BCD requested the following additional information

- provision of shapefiles that include all areas subject to the survey and Biodiversity Assessment Methodology (BAM) assessment, including vegetation zones, survey effort and footprint of the development;
- engineering/site plans that demonstrate the extent of cut, fill and batter widths;
- identification of areas subject to the indirect impacts described in the BDAR;
- justification of all vegetation zones that have been excluded from the BAM calculator;
- consideration of the EPBC Act listed Coastal Saltmarsh Endangered Ecological Community (EEC); and
- acknowledge of landscape features (local wetland/estuarine area) in the BOAMS assessment.

The BDAR was revised as part of the SR and a Biodiversity Offset Strategy was also submitted. On 3 December 2020, BCD advised that the documents sufficiently address the requirements of the BC Act. In addition, BCD stated their satisfaction with the Biodiversity Offset Strategy subject to the development being conditioned in accordance with the ancillary rules for offsetting and model conditions.

BCD noted that targeted surveys should be completed for three species credit species (Beach Stone-Curlew, Sooty Oystercatcher and Pied Oystercatcher) as their presence on the site has been assumed in the assessment. BCD confirmed that the Applicant could reduce their credit requirement if surveys were conducted and the species were not detected on site.

Comment: The Applicant has not undertaken targeted surveys as recommended to date to confirm the presence of the three species. Therefore, the credit calculations in the BDAR assumes presence of these species and these are reflected in the relevant offsetting conditions. The conditions recommended as part of the development consent are consistent with BCD's model conditions as requested.

### **Heritage NSW (formerly part of DPIE BCD)**

On 6 March 2020, Heritage NSW requested further information in relation to Aboriginal cultural heritage matters. Information was requested in relation to:

- inclusion of additional Aboriginal objects identified during the site inspection on 20 February 2020;
- clarification of the activities and areas to be impacted;
- further information on how potential burials would be managed, if identified during construction;
- consideration of a further subsurface testing program to assist in determining the level of disturbance across the Airport site;
- recommendation of regular consultation with Register Aboriginal Parties; and
- inclusion of additional reports in the literature review section of the ACHAR.

Heritage NSW provided further comments on 22 December 2020 following their review of the revised ACHAR (Attachment 5). Heritage NSW advised that an AHIP can be issued for the project subject to conditions. The GTA's are:

- Except as expressly provided by these GTA's, works and activities must be carried out in accordance with the proposal contained in the ACHAR prepared by NGH Environmental, dated October 2020;
- An AHIP under section 90 of the NPW Act must be sought and granted for Aboriginal objects to be harmed by the development prior to the commencement of works;
- A salvage/ collection methodology must be included with the AHIP application;
- Long term management of Aboriginal objects must be determined in consultation with the Registered Aboriginal Parties;
- The AHIP application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (OEH 2011) and with reference to the requirements of Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales (OEH 2011);
- Consultation with the Aboriginal community undertaken as part of an AHIP application must be in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010). Full documentation of this process is required; and
- The application must include complete records satisfying the requirements of the Code of Practice for Archaeological Investigation in NSW (DECCW 2010).

Heritage NSW also advised of additional information required prior to issue of an AHIP, including:

- a map which clearly delineates the Stages of the proposed development and the access track for which the AHIP would apply; and
- consultation with RAPs being maintained at least every 6 months to ensure consultation is continuous.

Comment: It is noted that Heritage NSW has advised an AHIP may be issued subject to compliance with the GTA's (above), provision of a revised map and supported by ongoing consultation with RAPs. Compliance with the GTA's has been recommended as part of the consent.

### **Transport for NSW**

TfNSW did not object to the development application, provided that Council is satisfied with the traffic generation as a result of the proposed runway extension.

Comment: Traffic generation associated with the proposed development is limited to the construction phase. The EIS, SR and accompanying documents have assessed the impact of construction vehicles on local traffic conditions, as discussed earlier in the report.

### **Essential Energy**

Essential Energy has no comments to make as to potential safety risks arising from the proposed development. However, general safety procedures for working around electricity infrastructure were recommended.

Comment: It is considered reasonable to incorporate their comments on compliance with relevant industry guidelines, carrying out a "Dial Before You Dig" enquiry and construction contractors understanding their safety responsibilities as recommended conditions.

### **NSW Rural Fire Service (RFS)**

RFS did not raise any concerns or provide comments in relation to the proposed development.

### ***INTERNAL COUNCIL REFERRALS***

The application was subject to an internal Council referral process in accordance with Council Policy. Appropriate responses have been received from relevant Council section.

### **Development Engineering**

Engineering Development provided comments on the traffic implications of the proposed development application. The Engineer recommended that the Applicant prepare a report which considers the following:

- suitability and shortcomings of the existing access;
- impact on access at each stage and any proposed upgrades/solutions;
- Impact on parking within the site and analysis of the parking needs (short and long term) at each stage;
- concept details of site circulation at each stage; and
- consideration of pedestrian movements at each stage.

Comment: The Applicant submitted a Traffic Impact Statement (TIS) as part of the SR. The TIS only considered traffic impacts associated with construction of the proposed development as operational impacts would only change as the terminal is expanded and this would be dealt with under a separate development application. The TIS concluded that the proposed development would generate a maximum of 30 vehicles per hour during construction and would utilise the main airport access. Impacts on key intersections were considered and the assessment demonstrated that construction would have little to no impact on intersection capacity.

### **Engineering (Flooding)**

The comments primarily focus on flooding impacts associated with Stage 2 of the proposed development. Those comments have not been summarised as Stage 2 does not form part of the recommendation. In regards to stage 1, the comments noted that flood level and velocity increases are likely due to the proposal however significant impacts are confined within the airport boundary. Stage 1 is within the existing earthworks footprint and therefore would not impact on flood storage within Merimbula Lake. The proposed safeguards and mitigation measures are considered appropriate.

Comment: A condition is recommended which requires a qualified practicing Engineer to provide certification to Council confirming that the proposed shall be capable of withstanding the likely force of floodwaters without sustaining structural damage. Based on the flooding comments provided, no additional flooding comments are considered necessary.

## **Public Interest Section 4.15(1)(e)**

The proposal is consistent with relevant legislation and environmental planning instruments applying to the land and its use. The impacts of the development have been assessed and are considered to address concerns raised by the public through the exhibition of the development application. The development is consistent with the relevant strategic plans and policies for Merimbula, and the broader Bega Valley Shire Council area, being central to the economic growth and a key tourism driver to the area.

The proposed development would allow for future expansion of the airport and continued air transport as the current fleet of planes is retired. Therefore, it is in the public interest to approve the development subject to conditions.



## **CONCLUSION**

The development application (2019.359) has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the EP&A Act. The proposed development is permissible with consent and is reflective of the objectives of the SP2 Infrastructure – Air Transport Facility zone.

The development is generally consistent with the applicable provisions of the relevant planning instruments including SEPP (Coastal Management) 2018, SEPP (Primary Production and Rural Development) 2019, SEPP 55 – Remediation of Land and Bega Valley LEP 2013.

The development is appropriate with regard to the requirements and controls outlined in the Bega Valley DCP 2013.

NSW DPI Fisheries and Heritage NSW have provided its GTA's to issue the required permits under the FM Act and the NPW Act, respectively.

The Stage 2 component of the development has been excluded from the recommendation as it was considered that there is not currently adequate justification given the uncertainties surrounding demand for larger aircraft at the site.

## **RECOMMENDATION**

It is recommended that Development Application 2019.359 be partially approved, by excluding the Stage 2 component of the development, pursuant to Section 4.16(4)(b) of EP&A Act subject to the conditions provided in Attachment 3.