

## **Attachment 3 – Draft conditions of consent**



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Bega Valley Shire Council  
Zingel Place  
BEGA NSW 2550

## NOTICE OF DETERMINATION

under Section 4.16(4)(b) of the *Environmental Planning and Assessment Act 1979* (as amended).

The development application has been determined by granting consent under Clause 2.3 of the *Bega Valley Local Environmental Plan 2013*, except for the Stage 2 component of the application under Section 4.16(4)(b) of the *Environmental Planning and Assessment Act 1979*, subject to the conditions specified below.

DEVELOPMENT APPLICATION	<b>2019.359</b>
APPLICANT	<b>Bega Valley Shire Council</b>
LAND	<b>Lot 100 DP 1201186</b>
LOCATION	<b>371 Arthur Kaine Drive MERIMBULA</b>
ZONE	<b>SP2 Infrastructure Zone</b>
PROPOSED DEVELOPMENT	<b>Merimbula Airport Upgrade (Runway Extension) - Construction and operation of a 120 metre extension of the runway pavement to the northern and southern ends of the Merimbula Airport runway, and installation of a new culvert at the southern end of the airport site.</b>
DETERMINATION MADE ON	
CONSENT TO OPERATE FROM	-
CONSENT TO LAPSE ON	-

development consent

# Conditions of approval

## General

### 1. Approved development plans

Development shall take place in accordance with the following plans, specifications and reports, except the stage 2 component of the development, and as may be amended by the following conditions:

- a. Environmental Impact Statement – Merimbula Airport Upgrade – Runway Extension dated October 2019, inclusive of Appendices A, B, E to H.
- b. Submissions Report – Merimbula Airport Upgrade – Runway Extension, dated October 2020, inclusive of Appendices A to P.
- c. Amended Development Plans to be submitted to Council for approval as part of this consent.

Note: Revised Plans inclusive of Stage 1 are to be submitted to Council prior to commencement of construction works.

Reason: To ensure that the proposed development is undertaken in accordance with the above documentation and the conditions imposed in this Consent.

## State Agency Requirements

### Heritage NSW

### 2. The development shall comply with the General Terms of Approval issued by Heritage NSW on 22 December 2020.

Note: The General Terms of Approval and supplementary conditions issued by Heritage NSW are provided as Attachment A to this development consent.

Reason: To the General Terms of Approval provided by Heritage NSW are imposed as conditions and are fully implemented to the satisfaction of the agency.

### Department of Primary Industries – Fisheries

### 3. The development shall comply with the General Terms of Approval issued by the Department of Primary Industries – Fisheries on 25 November 2020.

Note: The General Terms of Approval and supplementary conditions issued by the Department are provided as Attachment B to this development consent.

Reason: To the General Terms of Approval provided by the Department of Primary Industries – Fisheries are imposed as conditions and are fully implemented to the satisfaction of the agency.

## Prior to Works commencing

### 4. Biodiversity

The Applicant must revise the *Merimbula Airport Runway Extension Offset Strategy* (prepared by NGH, dated August 2020) to address offset obligations under the *Biodiversity Conservation*

*Act 2016, Fisheries Management Act 1994* and relevant State offset policies. The revised Biodiversity Offset Strategy must be endorsed by the Biodiversity Conservation Division and DPI Fisheries, and submitted to Council prior to works commencing.

#### **Ecosystem credit retirement**

5. Prior to commencement of works, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.
6. The requirement to retire credits in condition 5 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the BAM Credit Calculator.
7. Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 5 must be provided to the consent authority prior to the commencement of works.

Table 1: Ecosystem credits required to be retired – like for like

Ecosystem credits required to be retired – like for like Impacted plant community type	Number of ecosystem credits	IBRA sub-region
Grey Mangrove (Sth Runway) - 920	9	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or  Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.
Grey & River Mangrove (Sth Runway) - 920	19	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or  Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.
Mown Saltmarsh (Nth Runway) - 1126	1	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or



		Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.
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### Species credit retirement

8. Prior to commencement of works, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.
9. The requirement to retire credits in condition 8 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the BAM Credit Calculator.
10. Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 8 must be provided to the consent authority prior to the commencement of works.

Table 2: Credit Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA subregion
<i>Beach Stone-curlew</i> <i>Esacus magnirostris</i> (Breeding)	43	Anywhere in NSW
<i>Sooty Oystercatcher</i> <i>Haematopus fuliginosus</i>	29	Anywhere in NSW
<i>Pied Oystercatcher</i> <i>Haematopus longirostris</i>	29	Anywhere in NSW

### 11. Biodiversity Management Plan

Prior to commencement of works, a Biodiversity Management Plan must be prepared to the satisfaction of the consent authority. The Biodiversity Management Plan may form part of the Construction Environmental Management Plan.

The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report (BDAR) and approved plans.

The Biodiversity Management Plan must identify areas of land that are to be retained as outlined in the BDAR.

Construction impacts must be restricted to the development site and not encroach into areas of retained native vegetation and habitat. All stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.

The Biodiversity Management Plan must identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity as outlined in Tables 8.1 and 8.2 of the BDAR (Biodiversity Development Assessment Report Merimbula Airport Runway Extension, Prepared by NGH Environmental, October 2020).

Reason: To ensure the requirements of the Biodiversity Conservation Division of the Department of Planning, Industry and Environment are imposed as conditions and to provide consistency with the BCD's model conditions.

12. Structural and design details of Airport runway

Prior to the commencement of works, the Proponent shall submit to the satisfaction of the Council, detailed and dimensioned civil drawings and specifications prepared and signed by a suitably qualified practicing Civil Engineer experienced in the design of airport runways that demonstrate compliance with:

- a) CASA Part 139 (Aerodromes) Manual of Standards 2019
- b) AS 3000: 2018 Electrical Installations (Wiring Rules) for airfield lighting electrical design

Note: If any others standards apply to specific elements of the design they shall be identified through the detailed design stage.

Reason: This condition is warranted to ensure that the runway has been suitably designed and constructed.

13. Certification that development can withstand floodwaters

Prior to works commencing, a qualified practicing Structural Engineer shall provide certification to Council confirming that the proposed development shall be capable of withstanding the likely force of floodwaters (and impact from debris in those waters) without sustaining structural damage.

Reason: This condition is required to ensure that the development is capable of withstanding large flood events.

14. Dust control requirements

During construction works, dust emissions must be minimised so as not to result in a nuisance to nearby residents or result in a potential pollution incident. Adequate dust control measures must be provided prior to works commencing and the measures and practices must be maintained to the satisfaction of Council.

15. Details of earthworks

The applicant shall submit full details of earthworks associated with construction of the development, including all proposed and existing ground levels and details of any proposed retaining structures for approval of Council.

16. The Applicant must update the Airport Emergency Management Plan, prior to the commencement of works, to include procedures to respond to spill incidents to ensure that nearby oyster lease operators are notified of such incidents.

Reason: This condition is required to address comments made by DPI Fisheries Aquaculture Management to ensure that water quality is protected in oyster growing and harvest areas.

17. Excess fill to be deposited at approved site

Any excess fill arising from the proposed development shall be deposited at a Council approved site. Notification and prior arrangement to this Council approved site may be

required prior to any fill being deposited. The details of the composition and volume of the fill and the site of disposal are to be forwarded to Council.

18. Removal of excavated material

No excavated material is to leave the site until Council has been provided with the following information for approval:

- a) a complete list of all destination sites for the excavated material
- b) a report providing details as to how material will be transported, so there is no dust nuisance and/or material deposited along public roads
- c) a transport route for cartage vehicles.

Reason: These conditions are required to ensure that excess fill is appropriately managed

19. No work shall be carried out within six metres of the carriageway of a public road subject to motor vehicle traffic until Council has sighted a satisfactory Traffic Control Plan relating to that work, and the relevant Roads Authority has issued any associated Roadworks Speed Limit.

The Traffic Control Plan shall be prepared by a person who is authorised by the Roads and Maritime Services to prepare these plans. Evidence of Traffic Control at Worksites Certification must be submitted with the Traffic Control Plan.

All measures described in the Traffic Control Plan shall be implemented and maintained for the duration of any work within/adjacent to the road carriageway.

20. Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).

21. The Applicant must prepare and submit a **Construction Environmental Management Plan** to Council and relevant State Government agencies for endorsement prior to commencement of construction works on site. The CEMP must include:

- a) a description of activities to be undertaken during construction;
- b) a program for ongoing analysis of the key environmental risks arising from construction activities;
- c) details of how the activities will be carried out to meet the performance outcomes identified in the EIS and Submissions Report and to manage the risks identified above;
- d) an inspection program detailing the activities to be inspected and the frequency of inspections;
- e) protocols for managing and reporting incidents and non-compliances with this consent or statutory requirements; and
- f) training and induction requirements for employees, contractors and sub-contractors, in relation to environmental and compliance obligations under this consent and relevant legislation.

The CEMP must include other management plans committed to as part of the mitigation measures in the documents listed in condition 1.

Reason: This condition is required to ensure that the Applicant implements adequate environmental management measures to minimise risks to the environment associated with construction.

## 22. **Soil and Water Management Plan**

The Applicant must prepare a Soil and Water Management Plan (SWMP) is required. The SWMP shall be prepared in accordance with the provisions of the NSW Government and Landcom, "Managing Urban Stormwater - Soils and Construction" (4th Edition 2004) and submitted for approval by the Principal Certifying Authority.

The SWMP must include, as a minimum, all mitigation measures identified in the documents listed in condition 1.

A self-auditing program must also be developed for the site. A site inspection using a Log Book must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff

The self-audit must be undertaken systematically onsite (e.g. walking anticlockwise from the main entrance) and recording:

- installation/removal of any Best Management Practices (BMPs)
- the condition of each BMP employed, noting whether it is likely to continue in an effective condition until the next self-audit
- circumstances contributing to damage to any BMPs, accidental or otherwise
- storage capacity available in pollution control structures, including:
  - waste receptacles and portable toilets
  - trash racks
  - sediment barriers and traps
  - gross pollutant traps
  - wetlands/water quality control ponds
- time, date, volume and type of any additional flocculants
- the volumes of sediment removed from sediment retention systems, where applicable, and the site where sediment is disposed
- maintenance requirements (if any) for each BMP
- circumstances contributing to the damage to BMPs
- repairs affected on erosion and pollution control devices.

Completed logbook records must be maintained onsite and shall be available for inspection onsite by Council officers or officers of the NSW EPA.

All sediment control structures described on a SWMP must be operated and maintained in an effective operational condition by following good engineering practice. A maintenance program must be established that should ensure accumulated sediment does not impinge on the capacity of the settling zone up to the design storm event. Solid materials removed from sediment retention basins must be disposed of in a way that does not pollute waters.

Reason: To ensure that appropriate sediment and erosion control measures are implemented.

### 23. **Contamination Management Plan**

The Applicant must prepare a Contamination Management Plan as part of the Construction Environmental Management Plan.

The Contamination Management Plan should include, but not be limited to:

- Details of construction activities and their locations, which have the potential to pose a contamination risk;
- An Acid Sulfate Soils Management Plan,
- Mapping of Avoidance areas where PFAS is known to occur,
- Protocols for the testing and monitoring of possible PFAS,
- Management measures related to control of movement of possible PFAS and other contaminated soils in accordance with EPA guidelines,
- An unexpected finds protocol, including stop work measures where relevant, to enable remediation and/or avoidance during construction activities.

The Contamination Management Plan should be developed in consultation with the EPA and a copy provided to council prior to the commencement of construction.

24. The Applicant shall amend the Acid Sulfate Soils Management Plan and provide a copy of the revised plan to Council prior to commencement of works. The Plan shall form part of the Construction Environmental Management Plan. The Applicant shall implement the Acid Sulfate Soils Management Plan during construction.

Reason: Mitigate impacts associated with potential acid sulfate soils

### **During construction works**

25. The Applicant must provide appropriate construction screening for the duration of construction. Details of construction screening must be included in the CEMP, required by condition 21.

26. Obstacles in flight path

Obstacles operating on the site (crane or concrete pump) shall be fitted with a strobe light on the top of the obstacle to ensure its visibility to approaching and departing aircraft.

*Note: The Merimbula Airport Agencies advise that approval to operate a crane within the air space will be denied or the obstacle will be required to be removed during any period of low visibility.*

Reason: This condition is required to ensure that obstacles are clearing visible to aircraft using the airport.

## Noise and Vibration

### 27. Construction noise and vibration – general

Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents. The relevant provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

### 28. Noise levels from commercial/industrial premises

The proposed use and the operation of all plant and equipment shall not give rise to 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations. In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an  $L_{Aeq, 15 \text{ min}}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy 2000.

**Reason:** These conditions are required to ensure that noise and vibration does not result in damage to nearby properties or unreasonable loss of amenity to nearby residents.

## Soil and Water Management

### 29. Stabilised access to construction site

During construction, vehicular access must be confined to approved areas. Where practicable, access must be stabilised and confined to one location.

### 30. No works until erosion and sediment controls in place

Site disturbance must not be commenced until erosion and sediment controls are installed in accordance with the approved Soil and Water Quality Management Plan, as required under **Condition 22**.

### 31. Topsoil to be stockpiled for later use

Where possible, topsoil must be stripped only from those areas designated on the approved plan and must be stockpiled for later use in rehabilitation and landscaping.

Stockpiles (topsoil, spoil, subsoil, sand, or otherwise) must be:

- located at least 2 metres from any hazard areas, including surfaces with grades greater than 1.5 per cent, zones of concentrated flow, driveways, footpaths, nature strips, kerb line gutter, swales or standing vegetation;
- protected from upslope stormwater surface flows;
- provided with sediment filters downslope; and
- provided with a protective cover where they are likely to be worked for more than 20 working days.

### 32. Maintain control measures at or above design capacity

All sediment control measures must be maintained at, or above their design capacity.

33. Progressively stabilise and rehabilitate site works

All ground disturbed because of the development must be progressively stabilised and rehabilitated so that it no longer acts as a source of sediment.

Reason: These conditions are required to minimise risks associated with erosion from exposed soils.

## Contamination

34. Details of disposal volumes

The disposal of excavated soils shall be in accordance with the requirements of the Protection of the Environment Operations Act 1997. Details of the receival site and the volumes involved shall be provided to Council prior to any material leaving the site.

35. Secure stockpiles

All stockpiles of contaminated soils shall be stored in a secure area and covered if remaining on the site greater than 24 hours.

Reason: These conditions are required to minimise risks associated with contaminated soils.

## Traffic

36. During construction:

- a) All vehicles entering or leaving the site must have their loads covered, and
- b) All vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

## Environmental Management

37. Imported 'waste derived' fill material

The only waste-derived fill material that may be received at the development site is:

- a) virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*).
- b) any other waste-derived material the subject of a resource recover exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Note: The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997 (POEO Act)*. However, a licence is not required by the occupier of land if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Reason: To ensure that appropriate fill is used.

38. Tree heads and stumps to be mulched/chipped onsite

Tree head or crowns, scrub and stumps shall be mulched or chipped and stockpiled on site to be used for the control of soil erosion and sediment control.

Reason: To ensure that adequate sediment and erosion controls are provided.

## **Building and Health Conditions**

39. Signs

Signs are to be provided at the front of the property or in a prominent location, and shall contain the following details: -

- Applicant's name, lot number and street number
- that unauthorised entry to the work site is prohibited
- details of the Principal Contractor (i.e. the coordinator of the building work).

40. Copy of plans onsite

A legible copy of all relevant site plans and specifications, bearing the stamp and development consent of Council, must be maintained on site at all times.

41. Toilet facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the Local Government Act 1993, or
- c) Be a temporary chemical closet approved under the Local Government Act 1993.

42. Garbage receptacle

- 1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- 2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

43. Construction hours

Works shall be confined to normal working hours, being 7am to 6pm Mondays to Fridays and 8am to 1pm Saturdays, (no work on Sundays or Public Holidays) and in a manner so as not to cause a nuisance (by the generation of unreasonable noise or other activity) to the owners and/or residents of adjoining and adjacent properties.

Variations outside these hours in the event of unscheduled impacts on works from events such as heavy rain, or scheduled critical path/dependency related activities may be approved by the consent authority on a case by case basis.



44. Any activities within the location of electricity infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.  
<https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements.pdf>.
45. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

### Biodiversity

46. Vegetation management
- Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the Biodiversity Development Assessment Report.
- Reason: To ensure biodiversity impacts are limited to those assessed in the BDAR.
47. Ecology Monitoring Reports - Monitoring reports in accordance with the approved Biodiversity Management Plan must be prepared and submitted to Council, NSW Fisheries and BCD.
- Reason: To ensure appropriate ecological monitoring is undertaken.

### Prior to Operation

48. The Applicant must prepare and implement a **Decommissioning Environmental Management Plan** prior to completion of construction. The Plan must be submitted to Council prior to commencement of decommissioning works. The Plan must include:
- a) details of site compound, stockpile areas, temporary fencing and erosion and sedimentation controls;
  - b) details of activities required to decommission the above temporary areas;
  - c) details of environmental management measures to reduce potential environmental harm associated with decommissioning activities; and
  - d) a timeline for inspections to ensure that the site is appropriately reinstated.
49. The Applicant must prepare and submit an **Operational Environmental Management Plan** to Council and relevant State Government agencies for endorsement prior to commencement of operation. The OEMP must include: a description of activities to be undertaken during construction;
- a) details of all activities to be undertaken during operation;
  - b) statutory and other obligations that the Applicant is required to fulfill during operation;
  - c) a description of the roles and responsibilities of all relevant employees involved in the operation of the project; and

- d) details of how the environmental performance will be managed and monitored, and what actions will be undertaken to address identified adverse environmental impacts.

The OEMP must include other management plans committed to as part of the mitigation measures in the documents listed in condition 1.

## Advisory notes

### Utility services

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

### Existing structures

No approval of existing buildings or structures is granted or implied by this consent.

### Dial before you dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### National Parks and Wildlife Act

The developer's attention is drawn to the requirements of the National Parks and Wildlife Act 1974 with respect to the conservation of Aboriginal archaeology.

As a landowner and/or developer you have a responsibility to not disturb or destroy any such item.

If any objects which are suspected of being Aboriginal, including human remains, are identified during development, the following procedure must be followed;

- Immediately cease all work at the particular location
- The find and the immediate area must not be unnecessarily disturbed
- The area of the find must be marked as a no-go area to ensure no inadvertent impacts occur
- Notify the Heritage NSW via the Environment Line on 131 555
- Not recommence any work at the particular location unless authorised in writing by Heritage NSW

### Biosecurity Act 2015

All landowners should be aware of their General Biosecurity Duty under the provisions of the Biosecurity Act 2015 which states; *"any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the*

*biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised”.*

For information on Priority Weeds and the South East Regional Strategic Weed Management Plan contact Council's Vegetation Management Team on 6499 2222.

#### Change of contact details

It is the applicant's responsibility to advise Council of any changes to contact details in a timely manner. Council will not be held responsible for any lost documents, delays or missed inspections if any of the details are in any way not up-to-date. Should duplicate documents be required they will incur an additional fee in this circumstance.

#### Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact:

Telstra's Network Integrity Team on Phone Number 1800 810 443

### Reasons for the Determination and Consideration of Community Views

The determination was reached for the following reasons:

- The proposed development, subject to the specified conditions, is consistent with the objectives of the applicable environmental planning instruments, being;
  - Bega Valley Local Environmental Plan 2013
  - State Environmental Planning Policy No. 55 (Remediation of Land) 1998
  - State Environmental Planning Policy (Koala Habitat Protection) 2020
  - State Environmental Planning Policy (Coastal Management) 2018
  - State Environmental Planning Policy (Infrastructure) 2007
  - State Environmental Planning Policy (State and Regional Development) 2011
  - State Environmental Planning Policy (Hazardous and Offensive Developments) 1992
  - State Environmental Planning Policy (Primary Production and Rural Development) 2008
- The proposed development is subject to the specified approvals and conditions required under the BC Act, Fisheries Act and NP&W Act.
- The proposed development is, subject to the specified conditions, consistent with the objectives of the Bega Valley Development Control Plan 2013.

- The variations proposed have been found to be reasonable in the specific circumstances of this application and have been taken account in the Assessment Report.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to specified conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is in the public interest.
- Any submission issues raised have been taken into account in the Assessment Report and where appropriate, conditions of consent have been included. The consent authority has given due consideration to community views when making the decision to determine the application.

### Reasons for conditions

The above conditions are in the public interest to reduce any potential environmental impact and to ensure the proposed development complies with:

- the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations
- any environmental planning instruments applying to the subject land
- Council's codes and policies
- *Section 94/94A Development Contribution Plan.*

### Right of appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to appeal to the Land and Environment Court. Section 8.10 of the Act specifies the time within which appeals may be made.

Section 8.7 of the *Environmental Planning and Assessment Act 1979* does not apply to the determination of a development application for local development that has been the subject of a Commission of Inquiry.

For the purposes only of Section 8.7 of the *Environmental planning and Assessment Act 1979*, if this consent is a deferred commencement consent under Section 4.16 of the Act, Council is deemed to have notified the applicant that Council is not satisfied as to the deferred commencement conditions after 28 days from the date the applicant has provided the applicant' evidence."

### Designated Development

An objector who is dissatisfied with this determination may, within 28 days after the date on which notice of the determination was given in accordance with the regulations, and in accordance with rules of court, appeal to the Court.

### Review of determination

Section 8.2 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to request the Council to review the determination of your application. This request must be

made within sufficient time so as to allow Council to determine the application within the time prescribed by Section 8.3 and be accompanied by the fee prescribed by Section 257 of the Environmental Planning and Assessment Regulation 2000. Review provisions do not apply to a determination:

- a) to issue or refuse to issue a complying development certificate, or
- b) in respect of designated development, or
- c) in respect of integrated development, or
- d) made by the Council under Section 116E in respect of an application by the Crown.

*Signed*

Town Planner

FOR BEGA VALLEY SHIRE COUNCIL



Mark Fowler  
Senior Town Planner  
Bega Valley Shire Council  
Email: [mfowler@begavalley.nsw.gov.au](mailto:mfowler@begavalley.nsw.gov.au)

Your reference: DA2019.359  
Our reference: DOC20/960631-11

via Concurrence and Referral Portal: CNR-2749

Dear Mr Fowler

**HERITAGE NSW – GENERAL TERMS OF APPROVAL  
INTEGRATED DEVELOPMENT APPLICATION  
NATIONAL PARKS & WILDLIFE ACT 1974**

**Address:** 371 Arthur Kaine Drive Merimbula

**Proposal:** Merimbula Airport Upgrade (Runway Extension) - construction and operation of extended runway in two stages.

**IDA application no:** DA2019.359 (CNR-2749; A-17388) received 2 December 2020

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Thank you for referring the above Integrated Development Application to our office via the NSW Concurrence and Referral Portal. We understand that Council is seeking our General Terms of Approval (GTAs) pursuant to s4.46 of the *Environmental Planning & Assessment Act 1979* relating to the Merimbula Airport Upgrade (runway extension).

After reviewing the report provided: 'Aboriginal Cultural Heritage Assessment Merimbula Airport Extension' prepared by NGH Environmental and dated October 2020, we advise that an Aboriginal Heritage Impact Permit (AHIP) under section 90 of the *National Parks & Wildlife Act 1974* can be issued subject to conditions.

We request Council include the GTAs provided at **Attachment A** in any development consent.

If the development footprint changes from that shown in the information provided, Heritage NSW must be further consulted to determine whether our GTAs need to be modified.

While we are able to issue GTAs, we advise that additional information must be provided by the applicant when submitting the AHIP application. This information is in **Attachment B**.

If you have any questions regarding these GTAs please contact Sarah Robertson, Archaeologist, Aboriginal Cultural Heritage Regulation – South, Heritage NSW, on 6229 7088 or by email at [sarah.robertson@environment.nsw.gov.au](mailto:sarah.robertson@environment.nsw.gov.au).

Yours sincerely



**Jackie Taylor**  
**Senior Team Leader, Aboriginal Cultural Heritage Regulation - South**  
**Heritage NSW**  
22 December 2020

Encl: Attachment A: General Terms of Approval for DA2019.359; Attachment B: Additional AHIP Requirements for DA2019.359

## **ATTACHMENT A: GENERAL TERMS OF APPROVAL FOR DA2019.359**

Based on the information that has been provided to Heritage NSW we provide the following General Terms of Approval (GTAs):

### **Administrative conditions**

Except as expressly provided by these General Terms of Approval, works and activities must be carried out in accordance with the proposal contained in the:

- Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by NGH Environmental, dated October 2020.

### **Aboriginal Cultural Heritage Regulation conditions**

- An Aboriginal Heritage Impact Permit (AHIP) under section 90 of the *National Parks and Wildlife Act 1974* 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.
- The application must include complete records satisfying the requirements of the [Code of Practice for Archaeological Investigation in NSW](#) (DECCW 2010).

## **ATTACHMENT B: ADDITIONAL AHIP REQUIREMENTS FOR DA2019.359**

We provide the following advice for Council and the applicant for the Aboriginal Heritage Impact Permit (AHIP) application.

### **Mapping**

The AHIP application must be accompanied by a map which clearly delineates stages 1 and 2 of the work, as well as the access track for which the AHIP would apply.

### **Aboriginal community consultation must be maintained**

Consultation with the Registered Aboriginal Parties (RAPs) must be maintained. We recommend updates on the project are provided to the RAPs every 6 months to ensure the consultation is continuous.



**Our Ref: IDA19/133**

Your Ref: DA No. 2019/359; CNR-2749

25 November 2020

The General Manager  
Bega Valley Shire Council  
PO Box 491  
BEGA NSW 2550

Attn: Mark Fowler  
Emailed to: mfowler@begavalley.nsw.gov.au

Dear Mr Fowler,

**Proposal: Merimbula Airport Upgrade (Runway Expansion)**  
**Property: 371 Arthur Kaine Drive, Merimbula**

Thank you for your referral of the Response to Submissions report to DPI Fisheries on 22 October 2020 and 6 November 2020. In providing comment on this proposal, DPI Fisheries has assessed the following reports (and associated appendices) submitted with this development application:

- *Environmental Impact Statement: Merimbula Airport Upgrade – Runway Extension* (NGH Environmental, October 2019).
- *Submissions Report: Merimbula Airport Upgrade – Runway Extension* (NGH Environmental, October 2020; Project Number: 18-143).

DPI Fisheries comment on this proposal addresses the following referral and consultation undertaken as part of the assessment of this designated development application lodged under Part 4 of the EP&A Act:

- 1) Integrated Development Application Referral in accordance with S.4.46 of the EP&A Act as the works require a permit under s.205 of the *Fisheries Management Act 1994* (FM Act) for the harm of marine vegetation; and
- 2) Consultation undertaken in accordance with Division 4 of the *State Environmental Planning Policy (Primary Production and Rural Development) 2019*.

### **Integrated Development Application Referral Comment**

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)* (hereafter referred to as DPI Policy).

#### *Required offsets associated with harm of marine vegetation*

DPI Fisheries fulfils its responsibility to conserve key fish habitats by working with proponents to help them effectively apply the mitigation hierarchy which prioritises avoidance and mitigation of impacts and offsetting of those residual impacts that are unavoidable.

The proposal involves the direct harm of up to 2.47 ha of marine vegetation key fish habitat including seagrass, mangrove and saltmarsh, which cannot be further avoided. This proposed harm to marine vegetation can only be completed under the authority of a permit issued under s.205 of the FM Act,

prior to commencement of each stage of construction. Throughout the assessment process for this application DPI Fisheries has informed the proponent, consistent with S.220 of the FM Act and in accordance with s.3.3.3 of the DPI Policy, that this permit will require offsets calculated as a 2:1 offset:impact basis for the loss of marine vegetation (seagrass, mangroves and saltmarsh). The offsets required under the FM Act are appropriate for the loss of the following ecosystem services provided by marine vegetation: key fish habitat; fisheries production; and water quality.

It is noted that with this proposal the mangrove and saltmarsh to be removed is used by species of birds, bats and terrestrial animals including threatened species that are protected under the *Biodiversity Conservation Act, 2016 (BC Act)*. This use triggers associated offsetting procedures under the BC Act that addresses the threatened species values associated with these habitats.

The proponent has been provided advice, that the offsets in accordance with both DPI Policy and the BC Act apply to this proposal. These offset processes seek to replace very different values associated with marine vegetation, and satisfaction of the requirements under both processes will ensure delivery of an offset strategy that replaces **all** ecological, economic and social values associated with the loss marine vegetation. This is supported by S.1.4 of the BC Act, which states that the BC Act applies in relation to animals and plants and not in relation to fish and marine vegetation.

The proponent's proposal to solely offset the loss of mangrove and saltmarsh in accordance with the offset provisions under the BC Act does not comply with DPI Policy, will not guarantee the delivery of appropriate offsets under the FM Act and is therefore not supported by DPI Fisheries.

#### *Assessment of the current offset strategy as it applies to DPI Policy*

DPI Fisheries offset policy focusses on the policy of 'no net loss'. This requires the delivery of on-ground offsets to rehabilitate impacts and restore ecological function to marine vegetation in the first instance. If this cannot be achieved within or around the subject site, suitable on-ground offsets should then be sought either within the catchment area of the development or more broadly within the Local Government Area. DPI Policy also explains that habitat rehabilitation efforts should be directed at achieving the maximum benefits for fish habitat and fisheries.

DPI Fisheries has assessed the current offset strategy for the proposal (Appendix P) and determined that it does not provide any certainty that required on-ground offsets in accordance with the DPI Policy and the FM Act will be achieved. The only certain components of the current offset strategy appear to be limited to monitoring locations within the site and administratively protecting the proposed offset area, which is already located within, and protected by, a Coastal Management SEPP - Coastal Wetland (CM SEPP) area. This proposal does not meet DPI Fisheries offset requirements because in DPI Fisheries view the subject site has quite a strong level of protection, and much of the marine vegetation at the site is in good condition and not in need of any rehabilitation measures (apart from two areas within the subject site referred to below). The provisions of the CM SEPP require development proposals within Coastal Wetland areas to be assessed as designated development and limit a consent authority to only grant consent for development when: 'the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland'. DPI Fisheries considers this to provide an existing level of suitable protection to this area.

While several different management measures are outlined in Appendix P, the only measures with the potential to satisfy DPI Fisheries offset requirements, if implemented are:

- Removal of the southern access road and remediation of potential impacts from the drainage channels east of the runway, to remove direct and indirect impacts to marine vegetation and

- achieve full natural tidal flushing to the wetland upstream of the access road. This will significantly improve the condition and resilience of marine vegetation upstream of the road.
- The proposed assisted remediation of an area of previously disturbed saltmarsh that is currently recovering to the south and east of the southern access road. However, further investigation of the current regeneration of marine vegetation at this site, and assessment of whether the factor that resulted in this impact has been mitigated, is required to assess this offset option.

Only areas of marine vegetation (seagrass, saltmarsh, mangroves) that are improved (either physically, or by restoration of ecological function) through on-ground works can be considered to count towards the DPI Fisheries offset requirement. The proposed offset strategy is incorrect in assuming that all marine vegetation within the investigation area following completion of the runway extension will contribute to the offset required under DPI Policy.

Certainty of offset delivery in accordance with DPI Policy, and agreement on the proposed offset strategy from DPI Fisheries will be required prior to the issuing of any permit to harm marine vegetation under the FM Act. Close liaison with DPI Fisheries is strongly recommended to ensure that a proposed site is likely to fulfil DPI Fisheries offset requirements.

#### *An offset that involves removing the southern access causeway*

To assist Council, DPI Fisheries has prioritised full removal of the southern access causeway to improve tidal flushing to a large area of wetland upstream of this road and, enable reinstatement of marine vegetation within the current footprint of the road, as the primary option to achieve a marine vegetation offset in accordance with DPI Policy. An offset involving removal of the causeway would address the impact of a structure that obstructs water flows, a key threatening process under the threatened species provisions of both the FM Act and the BC Act. Reinstating full tidal flows would achieve DPI Fisheries offset requirements to rehabilitate and restore ecological function to key fish habitat achieving the maximum benefits for fish habitat and fisheries. DPI Fisheries acknowledges the offset strategy proposes to investigate the potential to remove this road, however it is the on-ground component of these works that will satisfy DPI offset policy and DPI Fisheries requires commitment to achieving these outcomes prior to permit issue.

#### *Environmental bond requirement*

s.220 of the FM Act provides DPI Fisheries with an option to impose a financial environmental bond to increase the certainty that an offset in accord with DPI Policy will be successfully delivered ensuring no net loss of key fish habitat.

Given that an offset strategy that satisfies DPI Policy has not yet been developed for this proposal and further investigations into potential on-ground offsets that would benefit key fish habitat are required, DPI Fisheries may require the permit holder to enter into a bond or guarantee or other financial arrangement for the due performance of the permit holder's offset obligations under the FM Act. This environmental bond would be issued in accordance with s.3.3.4.2 of DPI Policy. The Policy identifies three general categories to estimate the value of the environmental bond required: small scale development such as the removal of less than two square metres of seagrass; medium scale development including marinas where a bond could be \$100,000; and, large scale development or significant environmental impact such as port or airport facilities where bonds may be \$1,000 000 or more.

The aim of this environmental bond would be to provide some guarantee to DPI Fisheries that the offsets required under DPI Policy for the loss of marine vegetation (i.e. seagrass, mangroves and saltmarsh) will be achieved and delivered as part of the Part 7 permit required for these works.

#### *Harm of marine vegetation from airport mowing activities*

DPI Fisheries has noted that saltmarsh plants growing within the grassland next to the airport runway are currently being mown as part of the ongoing operational management of the Merimbula Airport site. The airport operator will need to ensure that it has the appropriate approvals to conduct this activity. This could require a permit to harm marine vegetation under the FM Act.

#### **SEPP Primary Production and Rural Development 2019**

DPI Fisheries Aquaculture Management encourages the continued communications with affected and nearby oyster lease holders especially during the detailed development of the Construction Environmental Management Plan and the implementation of the Acid Sulphate Soil Management Plan. In particular, those sections attributed to the mitigation measures and safeguards to be employed during construction.

The inclusion of monitoring of water quality (particularly turbidity, suspended solids and acidity) during construction as outlined is supported. Along with the ability to cease operations should levels of suspended sediment or acidity become higher than trigger values developed for water quality objectives in consultation with the nearby oyster lease holders. Section 5.6 of the *Preliminary Water Quality Monitoring and Water Quality Management Plan* (Southeast, July 2020; Project number 429) should be strengthened by including these mitigation measures should water quality readings near the construction site exceed targets. Any increased sedimentation or rise in acidity due to acid sulphate soil disturbances has the potential to impact on oyster health.

The Department wishes to remind Council that Priority Oyster Aquaculture Areas (POAA) are present in the estuarine waters in proximity to the proposed development. These POAA areas are mapped and described in the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS). This strategy details the required water quality growing and harvest standards for the NSW oyster industry in chapters 3 & 4. OISAS can be accessed on the DPI Fisheries – Aquaculture website at:

<http://www.dpi.nsw.gov.au/fishing/aquaculture/publications/oysters/industry-strategy>

It is recognised that protecting water quality in oyster growing and harvest areas is crucial to the long-term future of the oyster industry, and protecting water quality in oyster growing and harvest areas from incompatible development is the primary purpose of Division 4 of the State Environment Planning Policy (Primary Production and Rural Development) 2019 (which replaces State Environmental Planning Policy No. 62 – Sustainable Aquaculture).

The Healthy Estuaries for Healthy Oysters Guidelines provides advice on how to ensure development in close proximity to estuaries is compatible with requirements of oyster aquaculture. This document details mitigation measures for new developments, including diffuse source guidelines, and can be accessed at:

[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0009/738972/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0009/738972/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf)

The Environmental Impact Statement for the proposal states that the existing and proposed grassed area between the airport pavement and receiving waters performs well at removing pollutants that may be generated on the runway. The footprint of the southern airport extension in the Response to Submissions stage has been reduced. Will this reduced footprint reduce the effectiveness of stormwater treatment in this extension area? Will the southern extension area require additional stormwater treatment measures to reduce potential water quality impacts from the proposal on the adjoining coastal wetland and oyster harvesting activities?



Standard best operational practice for Merimbula Airport should include clear emergency response procedures to respond to any fuel/hydrocarbon spill incidents at the site, including notification of oyster lease operators. This should include regular training of staff in such emergency and notification procedures. It is recommended that such measures be included in an Operational Environmental Management for the airport, if this has not already been done.

### General Terms of Approval

DPI Fisheries has reviewed the proposal in light of the provisions under the FM Act and associated policy stated above and has no objections, subject to the proponent meeting the General Terms of Approval that follow. As per S.4.47(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. Prior to any works on site for the construction of Stage 1, the proponent 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>.
2. 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; and

3. 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 *Fisheries Management Act 1994* 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.

4. 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.
5. 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 *Fisheries Management Act 1994* 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.

6. 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
7. 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).

If Council development assessment staff, members of the Independent Assessment Panel or the proponent require any further information, please contact me on 4222 8342.

Yours sincerely,



**Carla Ganassin**  
Senior Fisheries Manager, Coastal Systems

## Attachment 4 – Public submissions

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, 13 January 2020 8:21 PM  
**To:** RecordsMailbox  
**Subject:** DA 10-2019-359-1 Merimbula Airport Runway Extension

[REDACTED]  
13 January 2020  
General Manager,  
Bega Valley Shire Council,  
BEGA, NSW, 2550

Dear Madam,  
RE: Merimbula Airport – Runway Extension

I refer to the DA 10-2019-359-1 for Merimbula Airport runway extension and wish to comment as follows:

I OBJECT to the DA 10-2019-359-1. My reasons for objection are as follows:

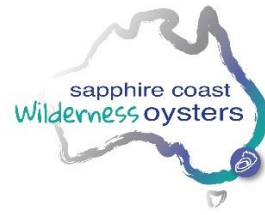
1. The runway extension proposal will destroy SEPP14 coastal wetlands. 1.46 Ha of mangrove forest is proposed to be removed. The mangroves are the life of Merimbula Lake. 70 percent of juvenile fish live amongst the mangroves. The mangroves stabilise the shoreline and stop pollutants running into the lake. A delicate eco system.
2. The Lake is our asset for future tourism.
3. Bangalay sand forest is a TEC and is also threatened by this proposal.
4. The reduced habitat for threatened birds will affect populations of Beach Stone Curlew, Sooty Oystercatcher, and Pied Oystercatcher.
5. The reduced area of lake will affect aquatic biodiversity.
6. Construction activities will disturb acid sulphate soils and leachate will kill aquatic creatures. Lake water quality during construction will also be affected.
7. The runway does not need to be extended to accommodate jets. Aircraft such as the Bombardier Q400 (which seats 72 people) is designed to use runways of 1,354m, much less than Merimbula's existing 1600m length.
8. Merimbula and surround human population continues to grow and to have a larger runway and more aircraft will impact on the quality of life for all residents due to noise and more pollution from aviation fuel/exhaust discharge due to overhead flight paths.
9. Alternative airport sites such as Frogs Hollow, Bega should be further investigated. The Garret Barry 2011 Report is flawed. It only considered sites for runways greater than 1,800m for which the report concluded there are none. The Garret Barry 2011 Report should have explored shorter runway length options in detail.
10. An airport at Frogs Hollow would be central to Bega Valley and would compliment BVSC's vision of Bega as the regional town. And this site is NOT SUBJECT to rising sea levels. Over time the inundation of the Merimbula runway would become more frequent as sea level rises. The EIS fails to consider how the runway and infrastructure would adapt to gradual change of rising sea levels and inundation.
11. Climate change has not been thoroughly examined by the EIS. The airport runway is 2.0m to 2.2m above sea level or AHD. And the airport terminal and the business park are not much higher. It is high risk to be extending a runway and utilising land for intense development which will be subject to rising sea levels, king tides and 1% AEP flood events peaks of 1.78m AHD. An alternate site will have to be found in the next couple of decades so why not investigate in detail now? The EIS fails to investigate other sites, other than a reference to the Garret Barry 2011 report.
12. There is no evidence contained in the EIS that airfares will be cheaper. In fact airfares will increase. The world has passed "peak oil". Oil prices will go up. And to date there are no hybrid aircraft on the market.



13. What happened to user pays? A levy of \$5 for 52,000 passenger movements (2011) equates to \$260,000. Loan funding for airport improvements should be paid for by airport users NOT ratepayers.
14. The EIS states "passenger numbers have gradually fallen since 2007, however the decline has lost momentum since 2011. Passenger traffic is subsequently expected to increase following growth of the airport infrastructure and capabilities". To think that a longer runway will generate growth in passenger numbers is flawed logic. Airlines make money by having planes full with passengers. They will not fly planes empty. Merimbula needs more people flying for the airlines to put on more flights. It is the people/passenger demand that generates the need for more flights or larger aircraft NOT longer runways. The DA application logic appears to be if you extend the runway, then passenger numbers will increase, and we will get jets and cheaper air fares!
15. Jet aircraft are effective over long hauls. This means that it will not be economical to land at Moruya. A jet must fly direct to Sydney from Merimbula. With passenger numbers falling and with the Moruya passengers removed then how will jets be economical? And with jets there will only be one flight in and out of Merimbula. And based on current passenger numbers you would be lucky to get one daily flight. A huge reduction in service.
16. And with the use of jet aircraft comes a jet blast barrier (an eye sore) at the Merimbula end of the runway. This has not been considered by the EIS.
17. Traffic and parking needs to be fully examined if there is an increase in passenger numbers. The existing carpark is full. The business park also generates traffic and parking. A traffic study should be undertaken for possible increased patronage of the airport site.
18. Who uses the current airline service? If passenger numbers are 80/20 business/visitor then increasing passenger numbers by targeting backpackers and Victorians will not work. Backpackers tour Oz in Combies not via aircraft and Victorians tow caravans, boats and trailers, and are represented by retirees (grey nomads with money and time), families (not much time or money but lots of kids with toys), DINKs (lots of money but they want to bring toys too).

Yours Faithfully,





Rebecca Hamilton  
EMS Coordinator  
Sapphire Coast Wilderness Oysters  
PO Box 424  
Merimbula, NSW 2548  
Ph: 0413 859 120

Bega Valley Shire Council  
PO Box 492  
Bega, NSW 2550  
Att: General Manager – Leanne Barnes  
Cc: Mark Fowler

Dear Ms Barnes

Re : Proposed Merimbula Airport extension

On behalf of Sapphire Coast Wilderness Oysters, (SCWO), thank you for the opportunity to provide feedback on the proposed extension to the Merimbula airport runway. Whilst acknowledging the significance that this project holds for the region, we would like to take this opportunity to raise the following areas of concern / opportunity;

*Concerns of current EIS and the information this presents:*

The current EIS provided contains inaccuracies that therefore present an incorrect perspective of the possible effects the extension may have on oyster farming in Merimbula Lake. These issues have been raised previously to Council by Aquaculture Enterprises Pty Ltd, and SCWO would like second these concerns which include:

- (pg 84) *"The bed of the lake was very shallow (<.5m) and the substrate consisted of fine sediment"*. This claim is incorrect, with significantly greater depths found within golf lake depending on tidal conditions (1.8m – 2m). These deeper waters are a significant aquatic habitat, and understanding of the true depth is required to accurately assess the impact reclamation may have.
- (pg 89) Figure 7-9. The figure identifies leases as per the DPI Oyster Industry Sustainable Aquaculture Strategy Areas showing the section of Golf Lake leases as falling outside the "Priority area" This classification is a result of the Commonwealth acquiring the area for the airport, therefore removing the leases from DPI control. The Golf Lake leases are just as productive as those classified as priority.

- (pg 90) *"The proposal is unlikely to cause indirect harm..... If harm occurred, it would be of short term and... or until tidal movements transport sediment away from vegetation"* This claim does not acknowledge the tidal nature of golf lake where tidal flow is slow with a filling up without the movement observed in the main lake.
- (pg 91) *"Tidal range and frequency of inundation where the southern extension footprint...is variable with existing tidal flows into the saltmarsh habitat occurring infrequently at 2 – 3 times per year.* This claim is false. Staff of Aquaculture Enterprises P/L had previously met with Council staff and consulting hydrographer to raise awareness of this incorrect claim. The lake is impacted at least 3 – 4 days each month. Council staff and consulting hydrographer were shown the extent of the monthly inundation during an onsite visit prior to the publication of the EIS.

*Concerns during construction phase and operational phase*

- SCWO would like to highlight the importance of ensuring that the construction phase will not contaminate the lake with acid sulfate soil or yellow pinch soil which is high in aluminum and a concern to shellfish and other organisms in the lake. It is vital that appropriate measures are in place to address this significant risk.
- SCWO hold concerns regarding flow dynamics and how siltation will be altered due to the new development, it is recommended that further /ongoing studies be included to enable monitoring.
- SCWO would like to ensure that vegetation be treated in a such a way as to not create a situation where anaerobic breakdown by bacteria is creating low dissolved oxygen levels

*Opportunities during construction and operational phase*

- Mangroves should be planted around the periphery of the new development for stability.
- If the proposed extension were to impact on the carparking (northern end of runway), it is suggested that Council use the opportunity to review current carparking issues within this location. Alternate options including exclusive space for commercial operators, a roundabout to improve safety on entering / exiting carparking, potential expansion of parking spaces on the opposite side of the road.

SCWO welcomes any further opportunity to provide feedback.

Kind Regards

Rebecca Hamilton

# **Attachment 5 – State Government Agencies submissions**



Mark Fowler  
Senior Town Planner  
Bega Valley Shire Council  
Email: [mfowler@begavalley.nsw.gov.au](mailto:mfowler@begavalley.nsw.gov.au)

Your reference: DA2019.359  
Our reference: DOC20/960631-11

via Concurrence and Referral Portal: CNR-2749

Dear Mr Fowler

**HERITAGE NSW – GENERAL TERMS OF APPROVAL  
INTEGRATED DEVELOPMENT APPLICATION  
NATIONAL PARKS & WILDLIFE ACT 1974**

**Address:** 371 Arthur Kaine Drive Merimbula

**Proposal:** Merimbula Airport Upgrade (Runway Extension) - construction and operation of extended runway in two stages.

**IDA application no:** DA2019.359 (CNR-2749; A-17388) received 2 December 2020

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Thank you for referring the above Integrated Development Application to our office via the NSW Concurrence and Referral Portal. We understand that Council is seeking our General Terms of Approval (GTAs) pursuant to s4.46 of the *Environmental Planning & Assessment Act 1979* relating to the Merimbula Airport Upgrade (runway extension).

After reviewing the report provided: 'Aboriginal Cultural Heritage Assessment Merimbula Airport Extension' prepared by NGH Environmental and dated October 2020, we advise that an Aboriginal Heritage Impact Permit (AHIP) under section 90 of the *National Parks & Wildlife Act 1974* can be issued subject to conditions.

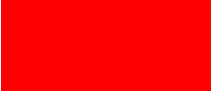
We request Council include the GTAs provided at **Attachment A** in any development consent.

If the development footprint changes from that shown in the information provided, Heritage NSW must be further consulted to determine whether our GTAs need to be modified.

While we are able to issue GTAs, we advise that additional information must be provided by the applicant when submitting the AHIP application. This information is in **Attachment B**.

If you have any questions regarding these GTAs please contact Sarah Robertson, Archaeologist, Aboriginal Cultural Heritage Regulation – South, Heritage NSW, on 6229 7088 or by email at [sarah.robertson@environment.nsw.gov.au](mailto:sarah.robertson@environment.nsw.gov.au).

Yours sincerely



**Jackie Taylor**  
**Senior Team Leader, Aboriginal Cultural Heritage Regulation - South**  
**Heritage NSW**  
22 December 2020

Encl: Attachment A: General Terms of Approval for DA2019.359; Attachment B: Additional AHIP Requirements for DA2019.359

## **ATTACHMENT A: GENERAL TERMS OF APPROVAL FOR DA2019.359**

Based on the information that has been provided to Heritage NSW we provide the following General Terms of Approval (GTAs):

### **Administrative conditions**

Except as expressly provided by these General Terms of Approval, works and activities must be carried out in accordance with the proposal contained in the:

- Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by NGH Environmental, dated October 2020.

### **Aboriginal Cultural Heritage Regulation conditions**

- An Aboriginal Heritage Impact Permit (AHIP) under section 90 of the *National Parks and Wildlife Act 1974* 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.
- The application must include complete records satisfying the requirements of the [\*Code of Practice for Archaeological Investigation in NSW\*](#) (DECCW 2010).

## **ATTACHMENT B: ADDITIONAL AHIP REQUIREMENTS FOR DA2019.359**

We provide the following advice for Council and the applicant for the Aboriginal Heritage Impact Permit (AHIP) application.

### **Mapping**

The AHIP application must be accompanied by a map which clearly delineates stages 1 and 2 of the work, as well as the access track for which the AHIP would apply.

### **Aboriginal community consultation must be maintained**

Consultation with the Registered Aboriginal Parties (RAPs) must be maintained. We recommend updates on the project are provided to the RAPs every 6 months to ensure the consultation is continuous.

**From:** Airport Developments  
**To:** [Fowler, Mark](#)  
**Cc:** [Airspace Protection](#)  
**Subject:** RE: NSW-MA-654 - Rwy ext, Merimbula Airport [SEC=OFFICIAL]  
**Date:** Wednesday, 9 December 2020 12:11:49 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[RE Merimbula Airport Runway Starter Extension SECUNCLASSIFIED.msg](#)  
[012 - RE NSW-MA-654 - Rwy ext. Merimbula Airport.msg](#)

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Hi Mark,

Provided there are no changes to the proposal, Airservices previous advice remains valid. I have attached some correspondence to this email confirming "If the thresholds are not moving there will be no amendment to the Airservices DAP procedures required. As there will be no change to Airservices DAP procedures, our Environmental and Noise team will not conduct an assessment." I have also included correspondence with Jennifer Symons, Project Manager, Merimbula Airport.

The proposed use of any plant or cranes required for the construction of any proposed developments associated with this runway extension will require separate consultation between the airport, the proponent(s) and Airservices, prior to construction commencing, to ensure there are no impacts on Airservices CNS facilities or instrument flight procedures at Merimbula Airport. Airservices requires a completed **Development Application Submission Form** (returned via email to [Airport.Developments@AirservicesAustralia.com](mailto:Airport.Developments@AirservicesAustralia.com)). Please refer to the following link to our webpage that contains all of the information you will need to make an application:

<https://www.airservicesaustralia.com/industry-info/airport-development-assessments/>

Please note the assessment process can take approximately 6 weeks and will be forwarded to CASA.

Kind regards,

**JOHN GRAHAM**

**AIRPORT DEVELOPMENT APPLICATIONS COORDINATOR**

**WORKING FROM HOME**

**Mobile** 0439 385 472

**Email** [John.Graham@airservicesaustralia.com](mailto:John.Graham@airservicesaustralia.com)

Website



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**From:** Fowler, Mark

**Sent:** Wednesday, 9 December 2020 10:31 AM

**To:** Airport Developments

**Subject:** RE: NSW-MA-654 - Rwy ext, Merimbula Airport [SEC=UNCLASSIFIED]

Dear John Graham (Airport Development Applications Coordinator - Airservices Australia)

I am writing to follow up previous Airservices Australia comments (detailed below) and advice that the applicant has undertaken with you since that advice. I note that on the 7 April 2020, you provided advice to the applicant that "If the thresholds are not moving there will be no amendment to the Airservices DAP procedures required. As there will be no change to Airservices DAP procedures, our Environmental and Noise team will not conduct an assessment." This information was provided by the applicant in a Submissions Report that was referred onto Airservices through the Planning Portal.

I am trying to finalise comments from relevant State and Federal agencies to be reported to the Joint Regional Planning Panel for determination. I note on the NSW Planning Portal that



Airservices has had the referral for 645 days and would like to confirm that Airservices have no further concerns with the additional information provided by the applicant including that advice provided on the 7<sup>th</sup> April.

It would be appreciated if you could review and advise at your earliest.

If you have any questions, please give me a call.

Regards



**From:** Airport Developments <[Airport.Developments@AirservicesAustralia.com](mailto:Airport.Developments@AirservicesAustralia.com)>

**Sent:** Wednesday, 18 March 2020 11:36 AM

**To:** Fowler, Mark <[MFowler@begavalley.nsw.gov.au](mailto:MFowler@begavalley.nsw.gov.au)>

**Cc:** Instrument Flight Procedures Design <[IFP@AirservicesAustralia.com](mailto:IFP@AirservicesAustralia.com)>

**Subject:** RE: NSW-MA-654 - Rwy ext, Merimbula Airport [SEC=UNCLASSIFIED]

Hi Mark,

Unfortunately, it does not appear that Airservices received the original request for comment/assessment.

However, Airservices do note under section 2.2.1, (p11), that the statement, "There is no change to the flight paths or approach paths with the Proposal", is incorrect. This is due to the fact that the Missed Approach Point (MAPt) of both the RNAV RWY 03 and 21 procedures are anchored to the runway thresholds. Therefore, both procedures will need amendment if both runway ends are extended. Additionally, if the runway is extended, and made operational, before having Airservices amend the procedures, the Straight-In (S-I) minima will need to be NOTAMed as unavailable. This effectively means that aircraft would only be able to descend to the circling altitudes specified on the approach charts, adding around 400ft to the minima for both procedures. The airport would be responsible for any costs associated with any procedure amendments.

As per my previous email, the amendment of the RNAV procedures will trigger an assessment by our Environmental and Noise team.

Kind Regards,

*John Graham*

**Airport Development Applications Coordinator**

Airservices Australia

25 Constitution Avenue

Canberra City 2601

**t 02 6268 5964 ext 25964**

**e [John.Graham@airservicesaustralia.com](mailto:John.Graham@airservicesaustralia.com)**



**From:** Fowler, Mark

**Sent:** Friday, 13 March 2020 10:16 AM

**To:** Airport Developments

**Cc:** Instrument Flight Procedures Design ; Docs, Amend ; 'Andrew Beattie' ; Hancock, Cecily

**Subject:** RE: NSW-MA-654 - Rwy ext, Merimbula Airport [SEC=UNCLASSIFIED]

Hi John,

Thankyou for your email below. I would like to clarify some of the comments you provided below and my request for information/comments in regards to Development application 2019.359 - Proposed Merimbula airport runway extension - Arthur Kaine Drive Merimbula. Council is the applicant and also the assessing officers for this development application, and my request for information/comments is from the assessing officers.

The proposed development application is accompanied by an Environmental Impact Statement (EIS) that details the works proposed, being to construct "Starter Extensions" at both ends of the runway over two stages. The SEARS provided by the NSW Dept of Planning required the applicant to consult with Airservices Australia in the preparation of the EIS, which I cannot identify in reading the EIS that this occurred.

The EIS details that the *'extension is required to enable the continuation of existing services as aircraft types change resulting in an incremental increase in size of regular transport aircraft servicing the area. This change in aircraft requires the lengthening of the available take off distance available to aircraft.'* The EIS also identifies that the proposal would require the upgrading of runway line marking and lighting with the extension of runway lighting to include starter extensions.

The EIS details that the extent of 'Starter Extensions' at both ends of the runway also provides details on the environmental impacts of the development, including the provision of a noise assessment report based on larger planes being able to take off from the runway.

It would be appreciated if you could advise whether you have had any opportunity to review the EIS, whether the EIS adequately addresses the Airservices Departure and Approach Procedures (DAP) at Merimbula Airport for the proposed runway extension, and whether the noise assessment has or will be reviewed. Your review and comments on this application would be greatly appreciated to assist in the assessment of the impacts of this proposed development.

Regards



Check out all the latest news and events at Council on [www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au).

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**From:** Airport Developments <[Airport.Developments@AirservicesAustralia.com](mailto:Airport.Developments@AirservicesAustralia.com)>

**Sent:** Tuesday, 10 March 2020 3:25 PM

**To:** Fowler, Mark <[MFowler@begavalley.nsw.gov.au](mailto:MFowler@begavalley.nsw.gov.au)>

**Cc:** Instrument Flight Procedures Design <[IFP@AirservicesAustralia.com](mailto:IFP@AirservicesAustralia.com)>; Docs, Amend <[docs.amend@AirservicesAustralia.com](mailto:docs.amend@AirservicesAustralia.com)>

**Subject:** NSW-MA-654 - Rwy ext, Merimbula Airport [SEC=UNCLASSIFIED]

Hi Mark,

Thank you for your email.

The Airservices Departure and Approach Procedures (DAP) at Merimbula Airport will need to be redesigned for the proposed runway extension. There are fees associated with redesigning procedures, charged to the airport operator.

If the airport operator was to proceed with the proposed runway extension, and Airservices procedures were redesigned, this will then trigger an assessment by our Environmental and Noise team, subject to change criteria.

Once the coordinates for the new runway thresholds are known, this information will need to be sent to:

- IFP ([IFP@AirservicesAustralia.com](mailto:IFP@AirservicesAustralia.com))
- AIM ([docs.amend@AirservicesAustralia.com](mailto:docs.amend@AirservicesAustralia.com))

The proposed use of any plant or cranes required for the construction of the runway extension will require separate consultation between the airport, the proponent(s) and Airservices, prior to construction commencing, to ensure there are no impacts on Airservices facilities or operations.

Kind Regards,

*John Graham*

**Airport Development Applications Coordinator**

Airservices Australia

25 Constitution Avenue

Canberra City 2601

**t 02 6268 5964 ext 25964**

**e [John.Graham@airservicesaustralia.com](mailto:John.Graham@airservicesaustralia.com)**



**From:** Fowler, Mark

**Sent:** Tuesday, 10 March 2020 2:26 PM

**To:** Airport Developments

**Subject:** DA2019.359 - Proposed Merimbula airport runway extension - Arthur Kaine Drive Merimbula

Dear Airservices Australia,

I am following up of the above development application was referred to you for comment. Council is seeking any comments you may have on the Environmental Impact Statement, especially in regards to issues relating to noise associated with the proposed runway extensions.

It would be greatly appreciated if someone could advise of the timeframe of whether a response will be provided by Airservices Australia and contact details of an officer who I maybe able to speak to concerning the proposal.

Regards



Check out all the latest news and events at Council on [www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au).

Our ref: STH19/00169/02  
Contact: Hayley Sarvanandan 4221 2423  
Your ref: DA2019.0359

23 July 2020

Jennifer Symons  
Bega Valley Shire Council  
BY EMAIL: jsymons@begavalley.nsw.gov.au  
CC: council@begavalley.nsw.gov.au

**DEVELOPMENT APPLICATION 2019.0359 – LOT 100 DP 1201186, MERIMBULA AIRPORT, 371 ARTHUR KAINE DRIVE, RUNWAY EXTENSION**

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Dear Jennifer

Transport for NSW (TfNSW, formerly Roads and Maritime Services) refers to your correspondence dated 9 July 2020 regarding the subject development application.

TfNSW has completed an assessment of the development, based on the information provided and focussing on the impact to the state road network. For this development, the key state road is Princes Highway.

TfNSW notes the following:

- The development proposes to utilise the existing access to Arthur Kaine Drive (local road).
- The development proposes to increase the runway as shown in Attachment 1.
- Email correspondence dated 9<sup>th</sup> July 2020 from Bega Council states DA.2019.309 in relation to the terminal extension addressed the 53% increase in passengers that will flow through the existing terminal once the runway is extended. Terminal capacity will continue to limit the passenger numbers as per DA20178.309 until a further DA is submitted for a further extension in the next stage of the master plan (Attachment 2).

Provided Council is satisfied with the traffic generation as a result of the proposed runway extension TfNSW will not object to the development application.

If you have any questions please contact Hayley Sarvanandan on 4221 2423.

Please ensure that any further email correspondence is sent to [development.southern@rms.nsw.gov.au](mailto:development.southern@rms.nsw.gov.au).

Yours faithfully



Hayley Sarvanandan  
Development Assessment Officer  
Community and Place | South Region

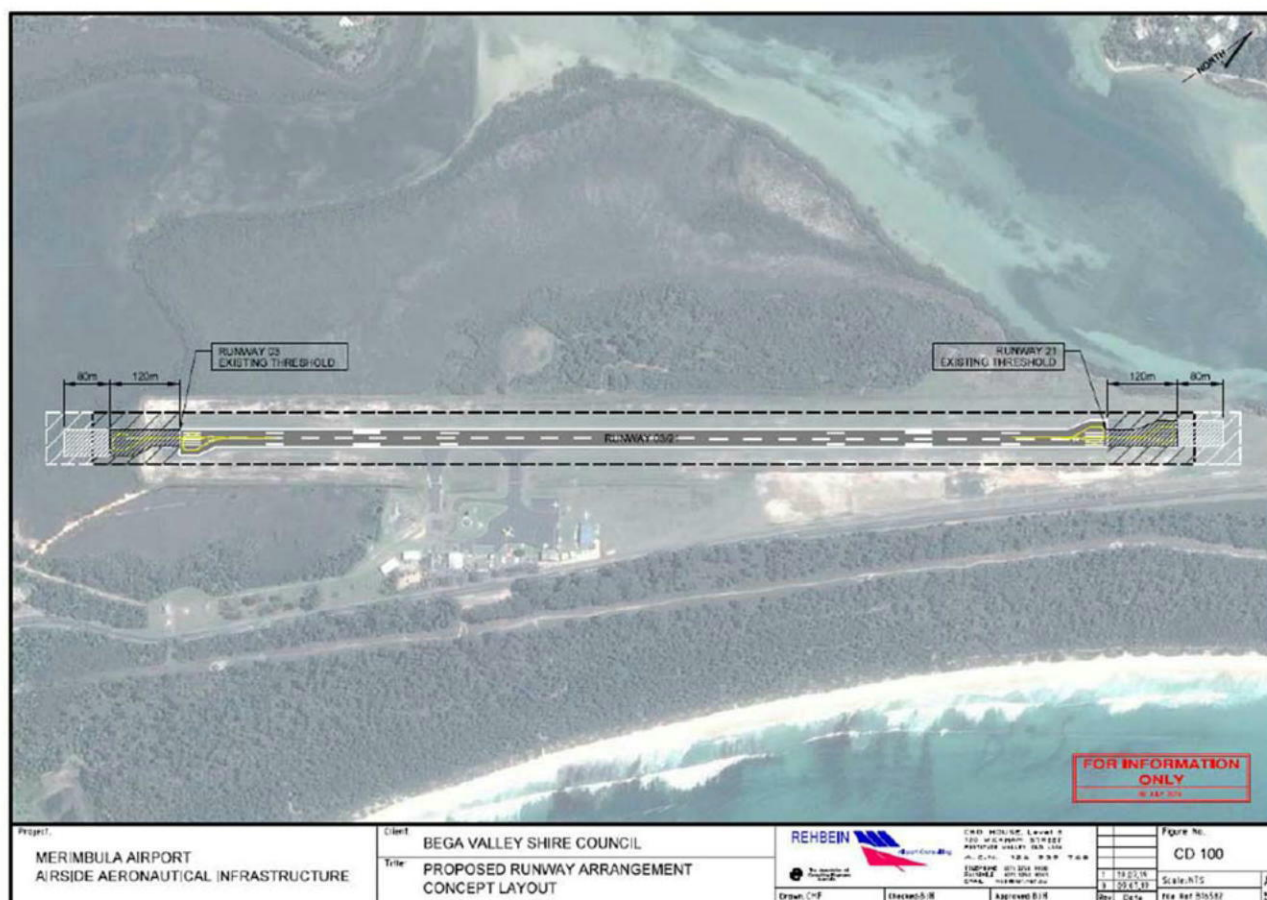


Figure 1-2 Proposed runway arrangement concept layout



Merimbula Airport – Projected Maximum Passengers Inbound (or Outbound), Aligned With Typical Infrastructure Staging

Runway Capacity		First Stage Terminal Capacity* as at May 2020	↓ Development approval for terminal extension ↓	Second Stage Terminal Capacity* ^				↓ Development approval for terminal extension ↓	Third Stage Terminal Capacity* ^
		1 x Dash8/ ATR72 + 1 x Saab34 (all full)		2 x Dash8/ ATR72 (both full)	1 x Dash8/ ATR72 + 2 x Saab 34 (all full)	2 x Dash8/ ATR72 + 1 x Saab 34 (all 85% full)	1 x B717/ F100 + 1 x Q400/ ATR72 (both 90% full)		1 737 + 1 x Q400/ ATR72 (both 90% full)
		2 x Saab34/ Dash8/ ATR72 apron parking bays		2 x x Saab34/ Dash8/ ATR72 apron parking bays	3 x x Saab34/ Dash8/ ATR72 apron parking bays~	3 x x Saab34/ Dash8/ ATR72 apron parking bays	3 x Saab34/ Dash8/ ATR72 and 1 x B717/ F100/ B737 apron parking bays~		3 x Saab34/ Dash8/ ATR72 and 1 x B717/ F100/ B737 apron parking bays~
Runway as at May 2020	Saab34	68 passengers							
Runway with 'Project' starter extension	As above and - Dash8 Q400 ATR72	104 passengers		150 passengers	150 passengers	150 passengers			
Runway with 'Ultimate' starter extension	As above and - F100 B717 B737						150 passengers		200 passengers

\* Terminal capacity determined by capacity of secure departures lounge and apron parking bays

Terminal capacity requirement is determined by airlines' operational practice

^ Terminal extension could occur across a number of staging options. The three stages shown in this table are viewed as being typical

~ The fourth apron parking bay is required due to the height and wing span of the larger aircraft (B717, F100 and B737) rather than the number of aircraft

Created May 2020



Our ref: DOC20/998124-1

Your Ref: DA 2019.359

The General Manager  
Bega Valley Shire Council  
PO Box 492  
Bega NSW 2550

**Attention: Mark Fowler**

Dear Mr Fowler

**Subject: Merimbula Airport Upgrade – Runway Extension – 371 Arthur Kaine drive, Merimbula**

I refer to your request for comments from the Biodiversity and Conservation Division (BCD) regarding the additional documents added to the Planning Portal. From our investigations, the Final Biodiversity Development Assessment Report (BDAR) is the same report that we have previously provided comments on (19/08/2020 email correspondence to NGH Consulting) as well as the Biodiversity offsets strategy. Please note that our Cultural Heritage Team has now moved Departments and will be providing comments separately.

We have reviewed the offset strategy, provided that the development is conditioned in accordance with the [ancillary rules](#) for offsetting and [model conditions](#) we are satisfied with the strategy.

We would like to reiterate that in our previous phone meetings with Council and NGH Consulting we advised that targeted surveys should be completed for the three species credit species (Beach Stone-Curlew, Sooty Oystercatcher and Pied Oystercatcher) as their presence on the site has been assumed. If the surveys were conducted and the species were not detected on the site this would reduce the credit requirement. We note that the BDAR still assumes presence for these species and continue to advise Council to undertake targeted surveys to reduce the credit requirement.

If you have any questions regarding this review, please do not hesitate to contact, Nicola Hargraves, Senior Conservation Planning Officer, on 02 6229 7195.

Yours sincerely

3<sup>rd</sup> December 2020

**ALLISON TREWEEK**  
**Senior Team Leader – South East Branch**  
**Biodiversity and Conservation Division**

**Our Ref: IDA19/133**

Your Ref: DA No. 2019/359; CNR-2749

25 November 2020

The General Manager  
Bega Valley Shire Council  
PO Box 491  
BEGA NSW 2550

Attn: Mark Fowler  
Emailed to: mfowler@begavalley.nsw.gov.au

Dear Mr Fowler,

**Proposal: Merimbula Airport Upgrade (Runway Expansion)**  
**Property: 371 Arthur Kaine Drive, Merimbula**

Thank you for your referral of the Response to Submissions report to DPI Fisheries on 22 October 2020 and 6 November 2020. In providing comment on this proposal, DPI Fisheries has assessed the following reports (and associated appendices) submitted with this development application:

- *Environmental Impact Statement: Merimbula Airport Upgrade – Runway Extension* (NGH Environmental, October 2019).
- *Submissions Report: Merimbula Airport Upgrade – Runway Extension* (NGH Environmental, October 2020; Project Number: 18-143).

DPI Fisheries comment on this proposal addresses the following referral and consultation undertaken as part of the assessment of this designated development application lodged under Part 4 of the EP&A Act:

- 1) Integrated Development Application Referral in accordance with S.4.46 of the EP&A Act as the works require a permit under s.205 of the *Fisheries Management Act 1994* (FM Act) for the harm of marine vegetation; and
- 2) Consultation undertaken in accordance with Division 4 of the *State Environmental Planning Policy (Primary Production and Rural Development) 2019*.

#### **Integrated Development Application Referral Comment**

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)* (hereafter referred to as DPI Policy).

#### ***Required offsets associated with harm of marine vegetation***

DPI Fisheries fulfils its responsibility to conserve key fish habitats by working with proponents to help them effectively apply the mitigation hierarchy which prioritises avoidance and mitigation of impacts and offsetting of those residual impacts that are unavoidable.

The proposal involves the direct harm of up to 2.47 ha of marine vegetation key fish habitat including seagrass, mangrove and saltmarsh, which cannot be further avoided. This proposed harm to marine vegetation can only be completed under the authority of a permit issued under s.205 of the FM Act,



prior to commencement of each stage of construction. Throughout the assessment process for this application DPI Fisheries has informed the proponent, consistent with S.220 of the FM Act and in accordance with s.3.3.3 of the DPI Policy, that this permit will require offsets calculated as a 2:1 offset:impact basis for the loss of marine vegetation (seagrass, mangroves and saltmarsh). The offsets required under the FM Act are appropriate for the loss of the following ecosystem services provided by marine vegetation: key fish habitat; fisheries production; and water quality.

It is noted that with this proposal the mangrove and saltmarsh to be removed is used by species of birds, bats and terrestrial animals including threatened species that are protected under the *Biodiversity Conservation Act, 2016 (BC Act)*. This use triggers associated offsetting procedures under the BC Act that addresses the threatened species values associated with these habitats.

The proponent has been provided advice, that the offsets in accordance with both DPI Policy and the BC Act apply to this proposal. These offset processes seek to replace very different values associated with marine vegetation, and satisfaction of the requirements under both processes will ensure delivery of an offset strategy that replaces **all** ecological, economic and social values associated with the loss marine vegetation. This is supported by S.1.4 of the BC Act, which states that the BC Act applies in relation to animals and plants and not in relation to fish and marine vegetation.

The proponent's proposal to solely offset the loss of mangrove and saltmarsh in accordance with the offset provisions under the BC Act does not comply with DPI Policy, will not guarantee the delivery of appropriate offsets under the FM Act and is therefore not supported by DPI Fisheries.

#### *Assessment of the current offset strategy as it applies to DPI Policy*

DPI Fisheries offset policy focusses on the policy of 'no net loss'. This requires the delivery of on-ground offsets to rehabilitate impacts and restore ecological function to marine vegetation in the first instance. If this cannot be achieved within or around the subject site, suitable on-ground offsets should then be sought either within the catchment area of the development or more broadly within the Local Government Area. DPI Policy also explains that habitat rehabilitation efforts should be directed at achieving the maximum benefits for fish habitat and fisheries.

DPI Fisheries has assessed the current offset strategy for the proposal (Appendix P) and determined that it does not provide any certainty that required on-ground offsets in accordance with the DPI Policy and the FM Act will be achieved. The only certain components of the current offset strategy appear to be limited to monitoring locations within the site and administratively protecting the proposed offset area, which is already located within, and protected by, a Coastal Management SEPP - Coastal Wetland (CM SEPP) area. This proposal does not meet DPI Fisheries offset requirements because in DPI Fisheries view the subject site has quite a strong level of protection, and much of the marine vegetation at the site is in good condition and not in need of any rehabilitation measures (apart from two areas within the subject site referred to below). The provisions of the CM SEPP require development proposals within Coastal Wetland areas to be assessed as designated development and limit a consent authority to only grant consent for development when: 'the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland'. DPI Fisheries considers this to provide an existing level of suitable protection to this area.

While several different management measures are outlined in Appendix P, the only measures with the potential to satisfy DPI Fisheries offset requirements, if implemented are:

- Removal of the southern access road and remediation of potential impacts from the drainage channels east of the runway, to remove direct and indirect impacts to marine vegetation and



- achieve full natural tidal flushing to the wetland upstream of the access road. This will significantly improve the condition and resilience of marine vegetation upstream of the road.
- The proposed assisted remediation of an area of previously disturbed saltmarsh that is currently recovering to the south and east of the southern access road. However, further investigation of the current regeneration of marine vegetation at this site, and assessment of whether the factor that resulted in this impact has been mitigated, is required to assess this offset option.

Only areas of marine vegetation (seagrass, saltmarsh, mangroves) that are improved (either physically, or by restoration of ecological function) through on-ground works can be considered to count towards the DPI Fisheries offset requirement. The proposed offset strategy is incorrect in assuming that all marine vegetation within the investigation area following completion of the runway extension will contribute to the offset required under DPI Policy.

Certainty of offset delivery in accordance with DPI Policy, and agreement on the proposed offset strategy from DPI Fisheries will be required prior to the issuing of any permit to harm marine vegetation under the FM Act. Close liaison with DPI Fisheries is strongly recommended to ensure that a proposed site is likely to fulfil DPI Fisheries offset requirements.

#### *An offset that involves removing the southern access causeway*

To assist Council, DPI Fisheries has prioritised full removal of the southern access causeway to improve tidal flushing to a large area of wetland upstream of this road and, enable reinstatement of marine vegetation within the current footprint of the road, as the primary option to achieve a marine vegetation offset in accordance with DPI Policy. An offset involving removal of the causeway would address the impact of a structure that obstructs water flows, a key threatening process under the threatened species provisions of both the FM Act and the BC Act. Reinstating full tidal flows would achieve DPI Fisheries offset requirements to rehabilitate and restore ecological function to key fish habitat achieving the maximum benefits for fish habitat and fisheries. DPI Fisheries acknowledges the offset strategy proposes to investigate the potential to remove this road, however it is the on-ground component of these works that will satisfy DPI offset policy and DPI Fisheries requires commitment to achieving these outcomes prior to permit issue.

#### *Environmental bond requirement*

s.220 of the FM Act provides DPI Fisheries with an option to impose a financial environmental bond to increase the certainty that an offset in accord with DPI Policy will be successfully delivered ensuring no net loss of key fish habitat.

Given that an offset strategy that satisfies DPI Policy has not yet been developed for this proposal and further investigations into potential on-ground offsets that would benefit key fish habitat are required, DPI Fisheries may require the permit holder to enter into a bond or guarantee or other financial arrangement for the due performance of the permit holder's offset obligations under the FM Act. This environmental bond would be issued in accordance with s.3.3.4.2 of DPI Policy. The Policy identifies three general categories to estimate the value of the environmental bond required: small scale development such as the removal of less than two square metres of seagrass; medium scale development including marinas where a bond could be \$100,000; and, large scale development or significant environmental impact such as port or airport facilities where bonds may be \$1,000 000 or more.

The aim of this environmental bond would be to provide some guarantee to DPI Fisheries that the offsets required under DPI Policy for the loss of marine vegetation (i.e. seagrass, mangroves and saltmarsh) will be achieved and delivered as part of the Part 7 permit required for these works.



### *Harm of marine vegetation from airport mowing activities*

DPI Fisheries has noted that saltmarsh plants growing within the grassland next to the airport runway are currently being mown as part of the ongoing operational management of the Merimbula Airport site. The airport operator will need to ensure that it has the appropriate approvals to conduct this activity. This could require a permit to harm marine vegetation under the FM Act.

### **SEPP Primary Production and Rural Development 2019**

DPI Fisheries Aquaculture Management encourages the continued communications with affected and nearby oyster lease holders especially during the detailed development of the Construction Environmental Management Plan and the implementation of the Acid Sulphate Soil Management Plan. In particular, those sections attributed to the mitigation measures and safeguards to be employed during construction.

The inclusion of monitoring of water quality (particularly turbidity, suspended solids and acidity) during construction as outlined is supported. Along with the ability to cease operations should levels of suspended sediment or acidity become higher than trigger values developed for water quality objectives in consultation with the nearby oyster lease holders. Section 5.6 of the *Preliminary Water Quality Monitoring and Water Quality Management Plan* (Southeast, July 2020; Project number 429) should be strengthened by including these mitigation measures should water quality readings near the construction site exceed targets. Any increased sedimentation or rise in acidity due to acid sulphate soil disturbances has the potential to impact on oyster health.

The Department wishes to remind Council that Priority Oyster Aquaculture Areas (POAA) are present in the estuarine waters in proximity to the proposed development. These POAA areas are mapped and described in the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS). This strategy details the required water quality growing and harvest standards for the NSW oyster industry in chapters 3 & 4. OISAS can be accessed on the DPI Fisheries – Aquaculture website at:

<http://www.dpi.nsw.gov.au/fishing/aquaculture/publications/oysters/industry-strategy>

It is recognised that protecting water quality in oyster growing and harvest areas is crucial to the long-term future of the oyster industry, and protecting water quality in oyster growing and harvest areas from incompatible development is the primary purpose of Division 4 of the State Environment Planning Policy (Primary Production and Rural Development) 2019 (which replaces State Environmental Planning Policy No. 62 – Sustainable Aquaculture).

The Healthy Estuaries for Healthy Oysters Guidelines provides advice on how to ensure development in close proximity to estuaries is compatible with requirements of oyster aquaculture. This document details mitigation measures for new developments, including diffuse source guidelines, and can be accessed at:

[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0009/738972/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0009/738972/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf)

The Environmental Impact Statement for the proposal states that the existing and proposed grassed area between the airport pavement and receiving waters performs well at removing pollutants that may be generated on the runway. The footprint of the southern airport extension in the Response to Submissions stage has been reduced. Will this reduced footprint reduce the effectiveness of stormwater treatment in this extension area? Will the southern extension area require additional stormwater treatment measures to reduce potential water quality impacts from the proposal on the adjoining coastal wetland and oyster harvesting activities?



Standard best operational practice for Merimbula Airport should include clear emergency response procedures to respond to any fuel/hydrocarbon spill incidents at the site, including notification of oyster lease operators. This should include regular training of staff in such emergency and notification procedures. It is recommended that such measures be included in an Operational Environmental Management for the airport, if this has not already been done.

### General Terms of Approval

DPI Fisheries has reviewed the proposal in light of the provisions under the FM Act and associated policy stated above and has no objections, subject to the proponent meeting the General Terms of Approval that follow. As per S.4.47(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. Prior to any works on site for the construction of Stage 1, the proponent 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>.
2. 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; and

3. 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 *Fisheries Management Act 1994* 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.

4. 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.
5. 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 *Fisheries Management Act 1994* 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.

6. 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
7. 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).

If Council development assessment staff, members of the Independent Assessment Panel or the proponent require any further information, please contact me on 4222 8342.

Yours sincerely,



**Carla Ganassin**  
Senior Fisheries Manager, Coastal Systems



## NSW RURAL FIRE SERVICE

Bega Valley Shire Council  
PO Box 492  
BEGA NSW 2550

Your reference: (CNR-2749) 2019.359  
Our reference: DA20191119001128-Original-1

**ATTENTION:** Mark Fowler

Date: Wednesday 19 February 2020

Dear Sir/Madam,

**Development Application**  
**s4.14 - Other - Air Transport Facility**  
**371 Arthur Kaine drive MERIMBULA NSW 2548 AUS, 100//DP1201186**

I refer to your correspondence dated 15/11/2019 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Peter Dowse on 1300 NSW RFS.

Yours sincerely,

Martha Dotter  
**Team Leader, Dev. Assessment & Planning**  
**Planning and Environment Services**

**Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

**T** (02) 8741 5555  
**F** (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

**From:** [Damian Munday](#)  
**To:** [Damian Munday](#)  
**Cc:** [ConveyancingTeam](#)  
**Subject:** RE: Update: NSW Government concurrence and referral request CNR-2749(BEGA VALLEY SHIRE COUNCIL)  
**Date:** Tuesday, 10 December 2019 11:31:15 AM  
**Attachments:** [image001.png](#)

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Strictly based on the documents submitted as part of CNR -2749, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure. <https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements.pdf>;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW); and
- Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

Should you require any clarification, please do not hesitate to contact us.

Damian Munday

Land & Route Team Leader  
02 6214 9664 (Ext 39664) | [damian.munday@essentialenergy.com.au](mailto:damian.munday@essentialenergy.com.au)  
PO Box 5730 Port Macquarie NSW 2444 | [essentialenergy.com.au](http://essentialenergy.com.au)  
General enquiries: 13 23 91 | Supply interruptions (24hr): 13 20 80

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**From:** NSW Planning <[planning.apps@planning.nsw.gov.au](mailto:planning.apps@planning.nsw.gov.au)>  
**Sent:** Friday, 6 December 2019 1:32 PM  
**To:** Damian Munday <[damian.munday@essentialenergy.com.au](mailto:damian.munday@essentialenergy.com.au)>  
**Cc:** ConveyancingTeam <[conveyancingteam@essentialenergy.com.au](mailto:conveyancingteam@essentialenergy.com.au)>  
**Subject:** Update: NSW Government concurrence and referral request CNR-2749(BEGA VALLEY SHIRE COUNCIL)



The NSW Government consideration of an application 2019.359 at 371 ARTHUR KAINE DRIVE MERIMBULA 2548 has been assigned to you for assessment.

Please log into the [NSW Planning Portal](#) and use reference number CNR-2749 to action this request.

You can find general information about the online concurrence and referral system [here](#) or call our help line on





17 December 2019

EF19/561, DOC19/1003525-2

Mr Mark Fowler  
Senior Town Planner  
Bega Valley Shire Council  
PO Box 492  
BEGA NSW 2550

Via email: [mfowler@bgavalley.nsw.gov.au](mailto:mfowler@bgavalley.nsw.gov.au)

Dear Mr Fowler

**RE: EPA Comments - Merimbula Airport Runway Extension DA 2019.359 A-2806 CNR-2749**

Thank you for contacting the Environment Protection Authority (EPA) seeking comment regarding the above development application and providing the various documents outlining the details of the project. The EPA has now reviewed the documents supplied by Bega Valley Shire Council (Council) and provides the following for your consideration:

**EPA Regulatory Role**

The provided document *Merimbula Airport Runway Upgrade Surface Water Assessment* (Southeast Engineering and Environmental, April 2019) identifies that an Environment Protection Licence (EPL) will not be required as no scheduled activities, as outlined in Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act), will be undertaken during the proposal. The EPA agree with this assertion based on the information provided.

The same document (SEE, 2019, s3.1.5, p6) states that “*Bega Valley Council will be the regulatory authority for management of water quality on the site.*”. In accordance with s6(2)(c) of the POEO Act, the EPA do not agree with this assertion and consider the EPA will be the appropriate regulatory authority as the activities will be undertaken by Bega Valley Shire Council (Council) or their agent, a public authority, who is both the owner/occupier of the land where the works will be undertaken and the proponent for the project.

**Surface Water Management**

As you are aware, the immediate receiving environment during construction of the project is Merimbula Lake. The Merimbula Lake is a high conservation value ecosystem that supports numerous environmental values including ‘protecting aquatic ecosystem health’, primary and secondary contact recreation and recreational fishing. In addition, the immediate receiving environment supports an oyster growing industry.

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The EPA note that the surface water assessment states (SEE, 2019, 5.6.2) that: “Given the extents of disturbance, duration of exposure, and highly sensitive nature of receiving waters a ‘no site discharge’ approach is recommended. This will mean that runoff from the construction area will need to be contained on site, and only discharged if water quality objectives within receiving waters will be met.” and agree with that assertion. The EPA also note that “A detailed soil and water management plan will be required as part of the construction design...” (SEE, 2019, 5.6.1)

Due to the environmentally sensitive location of the project and the high conservation value of the receiving waters, the EPA considers that the proposal should clearly demonstrate how a discharge to Merimbula Lake will be avoided through high level stormwater management practices including reuse of dirty water.

The EPA’s corporate policy is that water pollution be avoided in the first instance. When this is not possible, the *NSW Water Quality Objectives* (the “NSW WQOs”) and the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZECC and ARMCANZ, 2000) (“the ANZECC Guidelines”) are used to assess potential pollution impacts of a discharge. It is the responsibility of the proponent undertaking the works or activity to undertake an assessment to consider the potential impact on receiving waters if a discharge to waters is proposed.

### **Discharges to the environment must meet the NSW Water Quality Objectives**

If a discharge point is proposed the sediment basin size and discharge criteria for water pollutants that will be discharged must be developed in consideration of the NSW WQOs and ANZECC Guidelines. The EPA can provide Council with more detailed information on the framework that it uses to assess water pollution.

Council should also demonstrate whether the discharge criteria for pollutants will maintain or restore the environmental values of the receiving waters. Where it is demonstrated that the environmental values will not be maintained or restored, Council must also consider any practical measures that can be taken to restore or maintain the environmental values of the receiving waters.

Examples of the practical measures that can be taken include (but are not limited to) reusing as much stormwater as possible, varying the sediment basin size and design and discharging pollutants at a concentration, volume, frequency or timing that protects the environmental values or enhanced sediment and erosion control measures. The EPA also recommends the following:

- Council develop a water quality monitoring and management plan.
- Derive a correlation between nephelometric turbidity units and total suspended solids using either onsite calibration or laboratory based calibration using sediment collected from the proposed work areas and outline how turbidity measurements in the field will be used to track performance on the construction project against the identified trigger levels and implement management actions and procedures.

The EPA makes use of a range of guidance material on urban and rural soil erosion and sediment control, stormwater management, unsealed road maintenance, and other guidance, including *Managing Urban Stormwater Soils and construction Volumes 1* (the Blue Book) and 2. The EPA note that these documents have been referenced in the Surface Water Assessment document (SEE, 2019, s5.6.2).

The practices and principles in these guidelines can be used to help manage the identified impacts of land disturbance activities on the water quality of receiving waters. The nature and extent of the management measures adopted will be determined by the required water quality outcomes using the EPA’s framework for assessing and managing water pollution.

Thank you for discussing this matter with the EPA. If you have any queries or wish to discuss this matter further, please contact Tristan Johnston or myself on (02) 6229 7002 or via email to [queanbeyan@epa.nsw.gov.au](mailto:queanbeyan@epa.nsw.gov.au) .

Yours sincerely



**MATTHEW RIZZUTO**  
**Unit Head – South East Region**  
**Environment Protection Authority**



## DPI Agriculture

int19/194894

### Analysis

Merimbula Airport Upgrade – Runway Extension is proposed for land that is zoned SP2 Infrastructure - Air Transport Facility (Bega Valley Environmental Plan 2013, Part 2).

Due date: 29 November 2019.

## Suggested Response

- DPI Agriculture has no comments on the proposal.

## Key reasons

- Merimbula Airport Upgrade – Runway Extension is being developed on land that is zoned SP2 Infrastructure - Air Transport Facility (Bega Valley Environmental Plan 2013, Part 2).
- Land uses in the immediate surrounds include the environmental land uses, aquaculture, and recreation.
- There are no identified agricultural impacts.

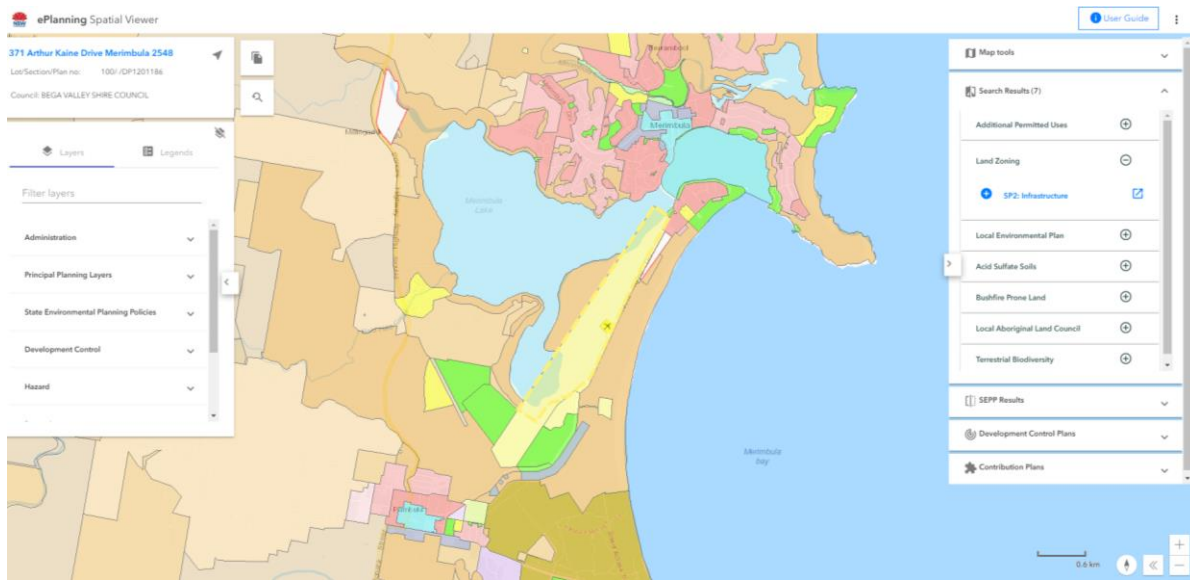
## Divisional approvals (Optional)

Comments:

Position	Signature	Date
Contact officer: Lilian Parker ALUP 69381906	lp	27/11/19

Comments:

# Background





Natural Resources  
Access Regulator

Contact: Gina Potter  
Phone:  
Email: [Gina.Potter@dpi.nsw.gov.au](mailto:Gina.Potter@dpi.nsw.gov.au)

General Manager  
Bega Valley Shire Council  
Brogo Hall  
Brogo Public Hall  
PO Box 492  
BEGA NSW 2550

Our ref: IDAS1121081  
Our file: CNR-2749; A-2808  
Your ref: DA2019/359

Attention: Mark Fowler

02 June 2020

Dear Sir/Madam

**Re: Development – for controlled activity described as: 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  
Located at: 371 ARTHUR KAINE DRIVE MERIMBULA 2548**

Natural Resources Access Regulator (formerly the Department of Industry - Water) has reviewed documents for the above development application and considers that, for the purposes of the *Water Management Act 2000* (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

The proposed activity is exempt from section 91E (1) of the WM Act in relation to controlled activities specified in clause 42, and Part 2 of Schedule 4 of the Water Management (General) Regulation 2018 that are carried out in, on or under waterfront land. See attached for details of the exemptions

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then NRAR should be notified.

Further information on controlled activity approvals under the WM Act can be obtained from NRAR's website: [www.industry.nsw.gov.au/water](http://www.industry.nsw.gov.au/water). Go to Licensing and trade > Approvals > Controlled activities.

Please direct any questions regarding this correspondence to Gina Potter by email to [Gina.Potter@dpi.nsw.gov.au](mailto:Gina.Potter@dpi.nsw.gov.au).

Yours sincerely

**David Zerafa**  
**Senior Water Regulation Officer**  
**Natural Resources Access Regulator**

## Water Management (General) Regulation 2018

### Subdivision 4 – Exemption from requirement for controlled activity approval.

#### 42 Controlled activities-persons other than public authorities

A person (other than a public authority) is exempt from section 91E(1) of the *Water Management Act 2000*, in relation to controlled activities specified in Part 2 of Schedule 4 that are carried out in, on or under waterfront land.

#### Schedule 4 Exemptions

##### Part 2 – Controlled activities exemptions

Clause	Details
<input type="checkbox"/> 18	<p><b>Activities under mining, crown lands or western lands legislation</b></p> <p>Any activity carried out in accordance with any lease, licence, permit or other right in force under the <i>Mining Act 1992</i>, the <i>Crown Lands Act 1989</i>, the <i>Crown Lands (Continued Tenures) Act 1989</i> or the <i>Western Lands Act 1901</i> or a petroleum title in force under the <i>Petroleum (Onshore) Act 1991</i>.</p>
<input type="checkbox"/> 19	<p><b>Activities on land of Maritime Authority or Port Corporation</b></p> <p>Any activity:</p> <ul style="list-style-type: none"><li>(a) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of the Maritime Authority of NSW or a Port Corporation (within the meaning of the <i>Ports and Maritime Administration Act 1995</i>), or</li><li>(b) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of a port operator (within the meaning of the <i>Ports and Maritime Administration Act 1995</i>), but only if the operator, after considering the environmental impact of the activity in accordance with section 5.5 of the <i>Environmental Planning and Assessment Act 1979</i> (as if the operator were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment, or</li><li>(c) for which the Minister administering that Act is the consent authority under the <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>.</li></ul>
<input type="checkbox"/> 20	<p><b>Activities under water supply works approval</b></p> <p>Any activity comprising the excavation of the bed of a river, lake or estuary for the purpose of facilitating the use of a water supply work, being an activity that:</p> <ul style="list-style-type: none"><li>(a) is detailed in the conditions of the water supply work approval for the water supply work, and</li><li>(b) is carried out in accordance with those conditions.</li></ul>

Clause	Details
<input type="checkbox"/> 21	<p><b>Activities with respect to domestic and stock rights</b></p> <p>Any of the following activities for the purpose of enabling a person to take, or facilitating a person's taking of, water pursuant to section 52 (Domestic and stock rights) of the Act:</p> <p>(a) the removal of alluvial material from the bed of a river to enable or facilitate the taking of water, if:</p> <ul style="list-style-type: none"> <li>(i) any excavation: <ul style="list-style-type: none"> <li>(A) is no deeper than 1 metre, and</li> <li>(B) is no wider than 1/3 of the width of the river at that point or 6 metres (whichever is lesser), and</li> <li>(C) is no longer than its width, and</li> </ul> </li> <li>(ii) the only alluvial material that is removed is material that has been deposited on the riverbed by the flow of water in the river such as sand, silt or gravel, and</li> <li>(iii) no material is removed within 1 metre of the bank of the river, and</li> <li>(iv) any alluvial material that has been removed is placed in the bed of the river, immediately upstream of the excavation,</li> </ul> <p>(b) any controlled activity in, on or under the bank of a river to enable or facilitate the installation of a pipe, if:</p> <ul style="list-style-type: none"> <li>(i) the pipe is above ground or in a trench that is the minimum size necessary to hold the pipe but is no more than 0.3 metres wide and 0.3 metres deep, and</li> <li>(ii) any material that is removed is used to backfill the trench within 48 hours after its removal,</li> </ul> <p>(c) any controlled activity in, on or under waterfront land to enable or facilitate the installation of a water supply work that is a pump, if:</p> <ul style="list-style-type: none"> <li>(i) the controlled activity is not on the bed or bank of a river, and</li> <li>(ii) any material removed is the minimum amount necessary to establish a suitable pump site but is no more than 1 cubic metre, and</li> <li>(iii) the area of land from which any material is removed is no greater than 4 square metres.</li> </ul>
<input type="checkbox"/> 22	<p><b>Activities in accordance with harvestable rights orders</b></p> <p>Any activity carried out, in accordance with a harvestable rights order, in connection with the construction or use of a dam on land within the harvestable rights area constituted by the order.</p>
<input type="checkbox"/> 23	<p><b>Activities connected with construction of fencing, crossings or tracks</b></p> <p>Any activity carried out in connection with the construction or use of fencing, or of a vehicular crossing or an access track, that does not impound water, being an activity carried out in, on or under waterfront land:</p> <ul style="list-style-type: none"> <li>(a) relating to a minor stream, and</li> <li>(b) within a rural zone (other than a rural village) under an environmental planning instrument.</li> </ul>
<input type="checkbox"/> 24	<p><b>Activities in connection with works under former 1912 Act</b></p> <p>(1) Any activity carried out in connection with the construction or use of a work to which Part 2 of the former 1912 Act applies in accordance with a licence issued under that Part in relation to that work, being an activity that:</p> <ul style="list-style-type: none"> <li>(a) is detailed in the conditions of the licence, and</li> <li>(b) is carried out in accordance with those conditions.</li> </ul> <p>(2) Any activity carried out in connection with the construction or use of a controlled work within the meaning of Part 8 of the former 1912 Act in accordance with an approval issued under that Part in relation to that work, being an activity that:</p> <ul style="list-style-type: none"> <li>(a) is detailed in the conditions of the approval, and</li> <li>(b) is carried out in accordance with those conditions</li> </ul>
<input type="checkbox"/> 25	<p><b>Removal of vegetation</b></p> <p>Any activity authorised under the Act or any other Act or law comprising nothing more than the removal of vegetation (other than large woody debris), but only if the activity does not include the removal or disturbance of soil or other extractive materials.</p>
<input type="checkbox"/> 26	<p><b>Development at Rouse Hill Regional Centre</b></p> <p>The carrying out of development in accordance with section 6 of Part D (Rouse Hill Regional Centre) of The Hills Development Control Plan 2012 on the land to which that section applies (being land bounded by Windsor Road, Commercial Road and Withers Road, Rouse Hill).</p>
<input type="checkbox"/> 27	<p><b>Development on waterfront land at Oran Park or Turner Road</b></p> <p>The carrying out of development in accordance with the <i>Oran Park and Turner Road Waterfront Land Strategy 2009</i>, as published in the Gazette on 17 July 2009.</p>
<input type="checkbox"/> 28	<p><b>Activities on waterfront land if river is concrete lined or in pipe</b></p> <p>Any activity carried out on waterfront land relating to a river where the channel of the river is fully concrete lined or is a fully enclosed pipe channel.</p>

Clause	Details
<input type="checkbox"/> 29	<p><b>Activities with respect to dwellings</b></p> <p>(1) Any activity carried out in connection with the erection or demolition of, the making of alterations or additions to or the provision of ancillary facilities for, a dwelling house or dual occupancy building, being activities:</p> <ol style="list-style-type: none"> <li>that comprise exempt development or that are the subject of a development consent or complying development certificate in force under the <i>Environmental Planning and Assessment Act 1979</i>, and</li> <li>that are not carried out on or in: <ol style="list-style-type: none"> <li>the bed or bank of any river, or</li> <li>the bed or shore of any lake, or</li> <li>the bed, or land lying between the bed and the mean high water mark, of any estuary.</li> </ol> </li> </ol> <p>(2) In this clause:</p> <p><b>development</b> has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><b>dual occupancy building</b> means a building containing 2, but no more, dwellings within the meaning of the standard instrument prescribed by the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>.</p> <p><b>dwelling house</b> has the same meaning as it has in the standard instrument prescribed by the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>.</p>
<input type="checkbox"/> 31	<p><b>Controlled activities on certain waterfront land</b></p> <p>Any controlled activity that is carried out on waterfront land in relation to a minor stream or third order stream, where the activity is separated from the bed of the minor stream or third order stream by one or more of the following that has been lawfully constructed:</p> <ol style="list-style-type: none"> <li>a public road,</li> <li>a hard stand space (such as a car park or building),</li> <li>a levee bank, but only if the levee bank is in an urban area, was the subject of a development consent under the <i>Environmental Planning and Assessment Act 1979</i> and is located within a designated high risk flood area (within the meaning of clause 45 of the Regulation).</li> </ol>
<input type="checkbox"/> 32	<p><b>Pontoons, jetties and moorings</b></p> <p>Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:</p> <ol style="list-style-type: none"> <li>the removal of material from the land,</li> <li>the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land,</li> <li>works which change the profile of the waterfront land adjoining the lake or estuary.</li> </ol>
<input type="checkbox"/> 33	<p><b>Maintenance of existing lawful works</b></p> <p>Any activity necessary for the purpose of the preservation, repair or upkeep of any building or structure lawfully constructed on waterfront land (other than an agricultural drain), but does not include additions or enhancements to, or the expansion of, the building or structure.</p>
<input type="checkbox"/> 34	<p><b>Repair and restoration work after storms</b></p> <p>The following activities after a storm event:</p> <ol style="list-style-type: none"> <li>repair work on any building or structure (including any access track, watercourse crossing, water supply works or essential services infrastructure) damaged by the storm, but only if: <ol style="list-style-type: none"> <li>the work does not involve the replacement of a structural component of any building or structure that could not otherwise be repaired under Part 2 of Schedule 4, and</li> <li>the work does not include enhancements to, or the expansion of, the building or structure beyond its condition immediately before the storm damage occurred.</li> </ol> </li> <li>the removal of detritus (including woody debris) deposited on waterfront land as a result of the storm.</li> </ol>
<input type="checkbox"/> 35	<p><b>Compliance with enforcement action</b></p> <p>(1) Any activity required to be carried out to comply with any direction, request or order under the Act or any other Act or law, but only if the direction, request or order was made:</p> <ol style="list-style-type: none"> <li>by a court, or</li> <li>by the Minister or an authorised officer.</li> </ol> <p>(2) Any activity that is not otherwise specified in Part 2 of Schedule 4 that is required to be carried out to comply with a direction, request or order made under the Act or any other Act or law (other than a direction, request or order referred to in subclause (1)), but only if the Minister approves the carrying out of the activity without a controlled activity approval.</p>



Clause	Details
<input type="checkbox"/> 36	<p><b>Exempt development, complying development and controlled activities with development consent on certain waterfront land</b></p> <p>(1) Any activity on waterfront land adjoining a lake or estuary identified on a map approved by the Minister and published on the Department's website for the purposes of this clause, before the commencement of this Regulation, that is development for which development consent has been granted, or is exempt development or complying development.</p> <p>(2) In this clause, <b>complying development</b>, <b>development consent</b> and <b>exempt development</b> have the same meanings as in the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<input type="checkbox"/> 37	<p><b>Activities by State owned bodies</b></p> <p>Any activity carried out by a body (whether incorporated or unincorporated) established or continued for a public purpose that is wholly owned by the State or a Government agency, but only if:</p> <ul style="list-style-type: none"> <li>(a) the activity does not cause any change in the course of the river, and</li> <li>(b) the body, after considering the environmental impact of the activity in accordance with section 5.5 of the <i>Environmental Planning and Assessment Act 1979</i> (as if the body were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment.</li> </ul>