



PO Box 492, Bega NSW 2550

P. (02) 6499 2222

F. (02) 6499 2200

E. [council@begavalley.nsw.gov.au](mailto:council@begavalley.nsw.gov.au)

[www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)

[02 6499 2222](tel:0264992222)

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.

The applicant shall submit Revised Development Plans inclusive of Stage 1 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 for stage 1 must be endorsed by the Biodiversity Conservation Division and DPI Fisheries, and submitted to Council prior to works commencing.

Note: Any environmental protection works identified in the Offset Strategy that are located within the Coastal Wetland will require the lodgement of a separate development application in accordance with Clause 10 of the State Environmental Planning Policy (Coastal Management) 2008.

#### **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 Council 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 Council 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 and the Operational 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 other 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. A copy of the updated Airport Emergency Management Plan shall be placed on Council's website.

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 NSW Heritage, DPIE (Biodiversity and Conservation Division) and NSW Fisheries for endorsement prior to commencement of construction works on site. The CEMP shall be undertaken in consultation with the Merimbula Lake Oyster Lease holders and must include:

- a) a description of activities to be undertaken during construction;
- b) a program for ongoing monitoring and 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.
- g) Protocols for consultation with oyster lease holders

The CEMP must include other management plans and measures 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). 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 to Council and DPIE (Biodiversity and Conservation Division) and NSW Fisheries for endorsement prior to commencement of construction works on site.

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 recovery 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 DPIE (Biodiversity and Conservation Division).

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, DPIE (Biodiversity and Conservation Division) and NSW Fisheries 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.

50. Aboriginal archaeology

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

## 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.

### 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