



Mark Fowler  
Council Assessing Officer  
Bega Valley Shire Council

Email: [mfowler@begavalley.nsw.gov.au](mailto:mfowler@begavalley.nsw.gov.au)

Your reference: DA 2019.359.3  
Our reference: DOC21/813817-9

Dear Mark

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

**Address:** Lot 100 DP1201186 371 Arthur Kaine Drive Merimbula 2548

**Proposal:** Alternative (temporary) entry from Arthur Kaine Drive for construction use purposes

**IDA application no:** DA 2019.359.3 Modification Application PAN-137479 (CNR-28383)

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Thank you for referring the above Integrated Development Application (IDA) 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 alternative entry from Arthur Kaine Drive for construction use purposes.

According to the information provided, the proposed works are intended to occur within the area of the Merimbula Airport Extension and Future Works Aboriginal Heritage Impact Permit (AHIP) 4796 issued to Bega Valley Shire Council on 16 August 2021 (valid for 20 years).

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.

If you have any questions regarding these GTAs please contact me on (02) 6229 7089 or by email [jackie.taylor@environment.nsw.gov.au](mailto:jackie.taylor@environment.nsw.gov.au).

Yours sincerely

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

07 October 2021

Encl: Attachment A: General Terms of Approval for DA2019.359.3 Modification Application PAN-137479

**ATTACHMENT A: GENERAL TERMS OF APPROVAL FOR DA2019.359.3  
Modification Application PAN-137479**

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

**Aboriginal Heritage Impact Permit conditions**

- Ensure works are undertaken in accordance with the conditions of Merimbula Airport Extension and Future Works AHIP (AHIP# 4796), issued to Bega Valley Shire Council at Lot 100 DP1201186 on 16 August 2021 for 20 years.
- Should the proposed works be inconsistent with the issued AHIP, a variation to the AHIP may need to be sought or a new AHIP sought for additional areas of land.
- Should works extend/occur beyond the approved AHIP area further archaeological assessment (including field survey and subsurface testing) may be required including consultation with registered Aboriginal parties.

**Our Ref: C22/263; FE19/993#3; CNR02749**

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

25 May 2022

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

Attn: Mark Fowler  
Emailed to: [mfowler@begavalley.nsw.gov.au](mailto: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 28 April 2022 providing additional information on the above proposal in regard to the deferred consent matters for the Stage 2 runway extension. In providing comment on this additional information, which now includes removal of the southern haul road as part of this application, DPI Fisheries has assessed the following additional submitted reports (and associated appendices):

- *Deferred Matters – Merimbula Airport Runway Extension Stage 2* (NGH Environmental, Bega Valley Shire Council, November 2021, Project No: 21-501)
- *Offset Strategy Merimbula Airport Runway Extension* (September 2021, Project No: 21-301)
- *Water Quality Monitoring and Water Quality Management Plan: Construction of Merimbula Airport Runway Starter Extensions, Stage 2* (South East Environmental, November 2021)
- *Plans for the Merimbula Airport Expansion Stage 2 (Ultimate) Runway Starter Extensions* (Rehbein Airport Consulting, dated 16 August 2021).

DPI Fisheries comment on this proposal addresses the following referral and consultation requirements 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 s.200 of the FM Act for dredging and reclamation; and
- 2) Consultation undertaken in accordance with the *State Environmental Planning Policy (Primary Production and Rural Development) 2019* (now known as *State Environmental Planning Policy (Primary Production) 2021*).

### **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 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)* (DPI Policy).

### *Removal of Southern Haul Road*

DPI Fisheries is supportive of the proposed removal of the southern haul road. These works will remove a structure that alters the natural flow of rivers and streams that is currently listed as a Key Threatening Process under the FM Act.

The road removal works are considered to be environmental restoration works that will significantly improve the health and area of the coastal wetland habitat in this area. This will be achieved by:

- Restoring the natural tidal flushing hydrological regime to the coastal wetland east of the haul road, from removal of the tidal barrier created by the haul road; and
- recolonisation of the area of wetland currently smothered by the haul road.

The removal of the southern haul road is linked to the FM Act on-ground offset habitat requirements for both stage 1 and 2 of the project. As FM Act offsets are focussed on compensating for the loss of the following ecosystem services provided by marine vegetation: key fish habitat, fisheries production and water quality, DPI Fisheries has an interest in returning these ecosystem values to the system as soon as possible. Therefore, we support Council's proposal to remove this haul road within 3 years from the commencement of stage 1 works. This proposed timing of the haul road removal is aligned with conditions on the FM Act permit already issued for the Stage 1 runway extension construction works.

### *FM Act Offsets*

DPI Fisheries has assessed the *Offset Strategy Merimbula Airport Runway Extension* (September 2021, Project No: 21-301) (Offset Strategy) and determined that it satisfies the 2:1 offset requirements under the FM Act as outlined in DPI Policy for both Stage 1 and 2 of this proposal.

The on-ground offsets proposed under this offset strategy associated with removal of the southern haul road, and removal of vehicle damage in the southern part of the wetland will account for the 2:1 FM Act offset requirements for the harm of both saltmarsh and mangrove habitat across both stages of the runway extension project. It will also account for some of the required offset for the seagrass area to be harmed during the Stage 2 works only. The mangroves and saltmarsh harmed during the runway extension works are situated within a Coastal Wetland mapped under the *State Environmental Planning Policy (Resilience and Hazards) 2021*, the seagrass to be harmed lies outside of this area.

The area of marine vegetation to be offset as part of the stage 2 FM Act permit application process is outlined in the Offset Strategy and this area would be:

- 0.738ha (2:1 FM Act offset area) should the southern haul road be removed within 3 years of the commencement of stage 1 works; or
- 2.94 ha (2:1 FM Act offset areas) if the southern haul road is not removed within the above timeframe.

The Offset Strategy has adequately outlined the additional FM Act offset requirements that could be required should/when the Stage 2 works proceed. These offsets will be achieved via compensatory payments or additional FM Act on-ground offset works determined at the time of applying for the Stage 2 FM Act permit.

The Offset Strategy has also outlined mechanisms to recalculate the offset required for Stage 2 works should the actual impact area to marine vegetation from the runway extension be reduced from the marine vegetation impact area included in the FM Act offset calculations to date, or if the seagrass extent within the footprint of the works changes naturally prior to Stage 2 works. DPI Fisheries is supportive of these measures, as the area of actual impact may have been over-estimated in the original estimation of area harmed.

Considering the inclusion of removal of the southern haul road as part of this proposal, and that some of the GTAs previously issued by DPI Fisheries for this project (Our ref: IDA19/133, dated 25 November 2020) have already been achieved, DPI Fisheries wishes to submit the following amended GTAs for this proposal.

### 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.

DPI Fisheries notes that, prior to the Stage 2 deferred consent additional considerations, GTA Conditions 1 and 7 below have already been achieved.

1. Prior to any works for the construction of Stage 1, the proponent must apply for and obtain a Part 7 permit under the *Fisheries Management (FM) Act 1994* 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: [Get a permit \(nsw.gov.au\)](https://www.nsw.gov.au).
2. FM Act offsets for Stage 1 and 2 runway extension works are to be implemented as outlined in the *Offset Strategy Merimbula Airport Runway Extension* (September 2021, Project No: 21-301).
3. Prior to the commencement of works to remove the southern haul road, the proponent must apply for and obtain a Part 7 permit under the FM Act for the dredging and reclamation and harm of marine vegetation during these works. Authority for these works can also be obtained by requesting an amendment to any Part 7 FM Act Permit already issued for the Stage 1 runway extension construction works.
4. The southern haul road is to be removed within 3 years of commencement of the construction of the Stage 1 works.
5. Following completion of Stage 1 and prior to any works on site for the construction of Stage 2 runway extension works, the proponent must apply for and obtain a Part 7 permit under the FM Act for the harm of marine vegetation and dredging and reclamation associated with Stage 2 runway extension works.  
Future Stage 2 works may also be subject to offset or other provisions consistent with relevant NSW Fisheries legislation and offsetting policy at the time of applying for the permit. The offset conditions for Stage 2 should consider the offset works that were undertaken for Stage 1.
6. The FM Act offset requirements for the Stage 2 works, that have not been allocated for from the on-ground offset works conducted prior to applying for the Stage 2 permit are as follows:
  - a. 0.738ha (2:1 FM Act offset area) should the southern haul road be removed within 3 years of the commencement of stage 1 works; or
  - b. 2.94 ha (2:1 FM Act offset areas) if the southern haul road is not removed within the above timeframe.

Should the proponent determine that the actual impact area to marine vegetation harmed during both Stage 1 and 2 runway extension works is less than the 2.47ha impact area to marine vegetation estimated to be harmed during both Stage 1 and 2 runway extension works in the *Offset Strategy Merimbula Airport Runway Extension* (September 2021, Project No: 21-301), they can seek an amendment to the residual FM Act offset requirements from DPI Fisheries prior to applying for the Stage 2 FM Act permit.

7. 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.
8. As currently permissible under s.220 of the FM Act, and if applicable under the relevant DPI Fisheries legislation and offsetting policy at the time of applying for a s.205 permit under the FM Act for the Stage 2 runway extension works, a bond may be taken by DPI Fisheries as a condition of this permit. The value of this bond would be calculated according to the relevant offsetting policy at the time. All or part of the bond will be redeemable pending the successful completion of on-ground offsetting measures in accord with DPI Policy.
9. 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
10. 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).

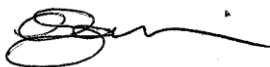
### SEPP Primary Production and Rural Development 2019

Following consideration of the Stage 2 deferred consent matters, DPI Fisheries comments under this SEPP remain essentially unchanged from the comments previously issued on this development (Our ref: Ida19/133, dated 25 November 2020).

DPI Fisheries acknowledges that Bega Council has maintained continued communications with affected and nearby oyster leases during the detailed development of the Construction Environmental Management Plan and the implementation of the Acid Sulphate Soil Management Plan. We recommend that this communication be maintained until both stages of the project have been completed.

If you any further information, please contact me on 4222 8342.

Yours sincerely,



**Carla Ganassin**

Senior Fisheries Manager, Coastal Systems