

COUNCIL ASSESSMENT REPORT

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| Panel Reference | PPSSTH-179 |
| DA Number | 2022.279 |
| LGA | Bega Valley Shire Council |
| Proposed Development | Bega Valley Sporting complex, comprising demolition of existing facilities, construction of new sporting and community use building and ancillary infrastructure. |
| Street Address | 249 Carp Street, Bega |
| Applicant/Owner | Bega Valley Shire Council |
| Date of DA lodgement | 17 August 2022 |
| Total number of Submissions | 0 |
| Recommendation | Approval with conditions |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | Council related development with a capital investment of more than \$5 million in which council is the owner of land and the development is to be carried out by the council. The estimated overall cost of the development is \$10,197,000.00. |
| List of all relevant s4.15(1)(a) matters | <p>Environmental Planning and Assessment Regulations 2000</p> <ul style="list-style-type: none"> Regulation 92(b) – demolition of building <p>Relevant Environmental Planning Instruments</p> <p>State Environmental Planning Policies (SEPPs)</p> <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Resources and Energy) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 <p>Local Environmental Plan</p> <ul style="list-style-type: none"> Bega Valley Local Environmental Plan 2013. <p>Draft Environmental Planning Instruments</p> <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 (Remediation of Land) <p>Planning Agreements (existing/draft)</p> <ul style="list-style-type: none"> Nil <p>Relevant Council Policy</p> <ul style="list-style-type: none"> Bega Valley Development Control Plan 2013 |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> Attachment 1: Draft conditions of consent Attachment 2: State Agency comments Attachment 3: Current plans of the proposed development Attachment 4: Council report and minutes |
| Clause 4.6 requests | <p>Please list:</p> <ul style="list-style-type: none"> The Local Environmental Plan (LEP) the clause 4.6 application relates too height of buildings The development standard the clause 4.6 application relates to 4.3 Height of buildings under Bega Valley Local Environmental Plan 2013 The zone the clause 4.6 relates too RE1 Public Recreation |
| Summary of key submissions | <ul style="list-style-type: none"> Landowners consent |
| Report prepared by | Mark Fowler – Planning Services Coordinator |
| Report date | 15 June 2023 |

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

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

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

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

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

Yes

EXECUTIVE SUMMARY

This report considers a Development Application (DA) for the Demolition of the existing Bega Sporting Stadium and ancillary buildings/structures and the construction of a new sporting and community use building and ancillary infrastructure.

The DA will be determined by the Southern Regional Planning Panel as the proposal is classified as 'regional development' pursuant to Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021. In accordance with the SEPP, the development is Council related development over \$5 million as the Council is the owner of Lot 16 DP1204078 on which part of the development is to be carried out, and Council is a party to an agreement or arrangement relating to the development over Lot 16 DP1204078.

The application has been publicly advertised in accordance with Council's Community Engagement Strategy & Community Participation Plan with a no submissions being received.

Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPAA) requires a consent authority to take into consideration, various matters when assessing a development application, including the provisions of any relevant environmental planning instruments that apply to the land, the likely impacts of the proposed development on the natural and built environments and the public interest.

This report provides an assessment of the DA, including those issues the Panel raised in their record of briefings dated 22 November 2022 and 30 May 2023. This assessment makes a recommendation for the Southern Regional Planning Panel to approve the development subject to the imposition of conditions and advisory notes detailed in Attachment 1 of this Assessment Report.

Based on the detailed assessment of the proposal against Section 4.15, it is considered that the development is appropriate, would be of benefit to the local community and is worthy of support.

1.0 Introduction

1.1 Overview

The purpose of this report is to provide a detailed assessment to assist the Southern Regional Planning Panel in its deliberations and determination of a DA for the Demolition of the existing Bega Indoor Sporting Complex and ancillary structures and construction of a new building comprising a new sporting and community use building and ancillary infrastructure including carparking areas, landscaping and associated works.



Image: Visualization of proposed sporting complex

1.2 Scope of the Report

This Report details the scope of the proposed development, describes the location and physical characteristics of the site on which the development is proposed, identifies and comments on the prescriptions of relevant environmental planning instruments and Council adopted Policies applying to the land, and identify any potential environmental impacts and required mitigation measures for the purpose of addressing those impacts.

1.3 The Proponent and Land Tenure

The applicant for the proposed development is Carmelo Palamara of N2SH Design Studio, on behalf of Bega Valley Shire Council.

The site is described as Lots 8, 13 and 15 Section 33 DP 758076 and Lot 701 DP 94051 - 116 Bega Street and 249 Carp Street, Bega.

Part of Lots 8 and 15 Section 33 DP 758076 and Lot 701 DP 94051 comprise Crown reserve 580074 being for Athletic Sports and Public Recreation that was notified 25 August 1909 and Reserve 32165 for Public Recreation (with an additional purpose as Public Pound) notified 16 February 1901.

Lot 13 Section 33 DP 758076 is owned by Bega Valley Shire Council and contains the existing Bega Sports Stadium.

1.4 Background

The DA was receipted by Council on 17 August 2022 and seeks approval to redevelop the land incorporating the demolition of the existing Bega Indoor Sporting Complex and ancillary structures and construction of a new building comprising a new sporting and community use building and

ancillary infrastructure including carparking areas, landscaping and associated works. It is categorised as regional development under the State Environmental Planning Policy (State and Regional Development) 2011 as the capital investment value exceeds \$5 million and Council is the owner of land on which part of the development is to be carried out. The DA is consequently captured by Schedule 7 of the Policy and constitutes one which the Southern Regional Planning Panel is authorised to exercise the consent authority function of Council.

The DA was exhibited pursuant to Bega Valley Community Engagement Strategy (which contains the Community Participation Plan) from 30 September 2022 to 24 October 2022 excluding public holidays.

No public submissions were received during the exhibition period.

Referrals were made to the Transport of NSW (TfNSW) and Essential Energy under the provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 and NSW Police having regard to Crime Prevention through Environmental Design (CPTED). No response was provided by NSW Police.

The application was also referred to Crown Lands for review as part of the site comprises Crown Reserves managed by Council. Crown Lands initially objected to the development as landowners consent had not been provided to the application. The applicant subsequently received landowners consent from Crown lands on the 4th May 2023.. A letter was also received from Crown Lands on the 16th May lifting their objection to the application.

The DA was also reviewed by various Council officers to address matters relevant to their expertise including; Development Engineering, Strategic Planning, Building and Regulation, Water and Sewer Services and Property Services. The application was also reviewed by Council's Heritage Advisor (a Council appointed contractor).

Copies of responses from TfNSW, Essential Energy and Crown lands are included as Attachment 2 to this report and include landowners consent issued by Crown Lands.

2. Site Description and Local Context

2.1 Site Description

The site comprises four allotments described as Lots 8, 13 and 15 Section 33 DP 758076 and Lot 701 DP 94051 and encompasses an area of approximately 4.5 hectares. The site fronts two streets being Carp Street along the southern boundary and Bega Street along the Norther boundary, both being two lane bitumen sealed roads.

Carp Street acts as the main entrance into the existing sporting complex.

The sites landform has previously been extensively modified to provide two football sized ovals located east and west of the existing Sports stadium which sits elevated above both these ovals.

The site is connected to all essential services including water, sewer, telecommunications and electricity.



Image: Extent of development Site.

The current structures located on-site and that are detailed to be demolished are generally located centrally within the site and comprises a large indoor stadium of brick and masonry construction, separate concrete and metal grandstand, playground equipment, metal freestanding awnings and other ancillary portable structures used for the storage of sporting equipment and seating as detailed in the Images below.



Image: Existing Indoor stadium to be demolished, free standing seating and sheds to be removed



Image: Awning to be removed



Image: Playground equipment to be removed



Image: Shed and ATCO structure to be demolished and removed.



Image: Indoor stadium to be demolished and shipping containers to be removed



Image: Existing grandstand to be demolished.

2.2 History of site

The land incorporating the development has historically been used for recreational purposes since 1909 and contains several buildings, sports fields, ball games rinks, stadium and other seating areas and carparking.

Prior to the recreational use, part of the land was used for a Public Pound in 1901. A history of the availability and use of the various parts of the land is contained within the LANDSAS Native Title advice of September 2020 included in the Statement of Environmental Effects accompanying the development application.



Image: 13/11/1989 Source: NSW Government Historical Imagery

<https://portal.spatial.nsw.gov.au/portal/apps/webappviewer/index.html?id=f7c215b873864d44bccddda8075238cb>

2.3 Local Context

The site is located on the western fringe of the Bega Town Centre and is positioned in close proximity to schools, public carparking areas and other public recreational areas linked by pedestrian paths and parks.



Image: Site in relation to existing Bega surrounds

3. The Proposed Development

3.1 Elements of proposed development

The development proposal involves:

- a) The demolition of several structures including the existing indoor sports building and adjoining smaller buildings and infrastructure shown on the Demolition Architectural Plan DA003 and Existing/Demo Exterior Elevations Plan DA004 in the architectural Plan set.

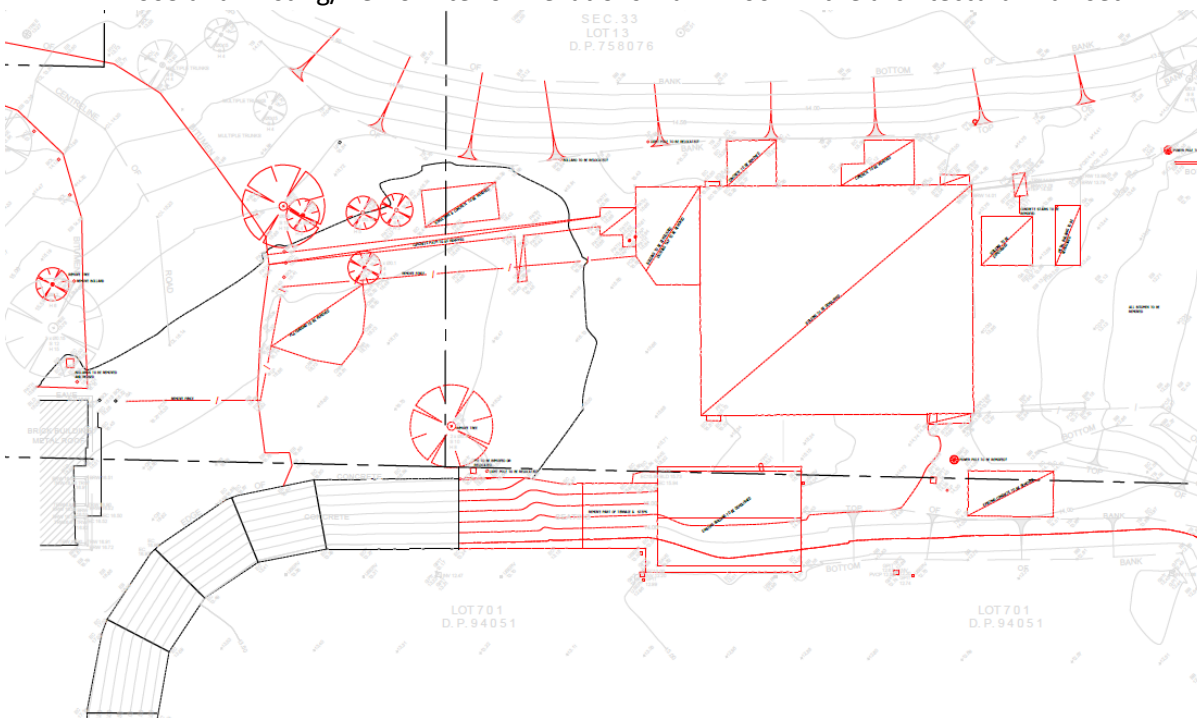
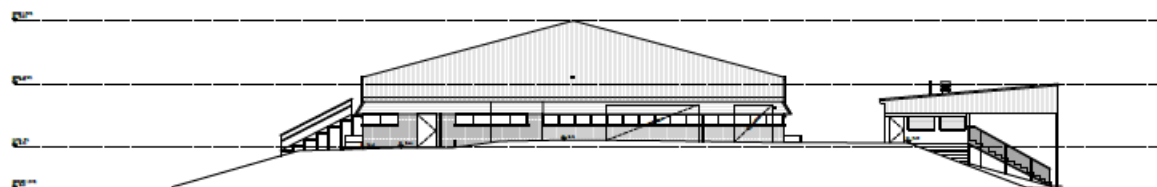


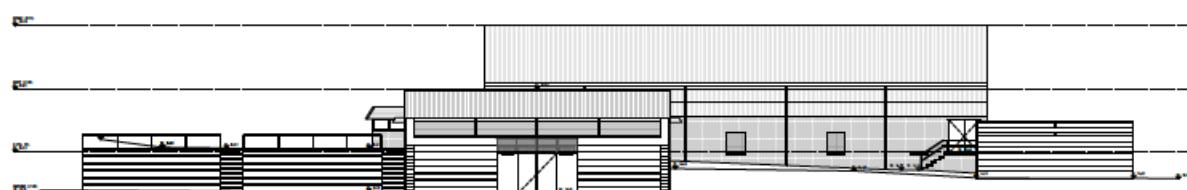
Image: Extent of structures and trees to be removed.



EXISTING - NORTH ELEVATION



EXISTING - SOUTH ELEVATION



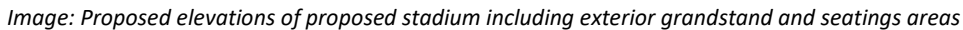
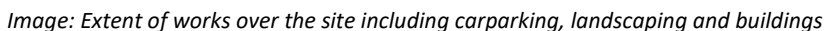
EXISTING - EAST ELEVATION



EXISTING - WEST ELEVATION

Image: Existing elevations of structures on site.

- b) The construction of a building with a maximum overall height of 11,915 metres. The height of the existing building is identified on the architectural plans as 23.93m AHD making the new building 1.02m higher than the existing building.
- c) The building would contain an indoor sports rink/stadium, entry foyers, reception, multipurpose rooms, change rooms, toilet facilities, store rooms, offices, external plant area, kiosk, seating, utility rooms (e.g., media, timekeeper),
- d) The installation of new covered concrete tiered seating to the Rugby Ground,
- e) The installation of new tiered seating fronting the George Griffin Oval,
- f) The modification of the existing tiered seating,
- g) The provision of 4 accessible car parking spaces off Bega Street and Carp Street,
- h) The installation of new ramped races to the east to the Rugby Oval and to the west to George Griffin Oval,
- i) The installation of 32 car parking spaces off Carp Street (Including 4 accessible spaces),
- j) A new forecourt to the south and upgraded driveway and shared pathway to Carp Street (including an Outdoor Gym, Area and grass mounds, bicycle parking, seating and waste receptacles.
- k) Associated earthworks to enable the installations and infrastructure including an upgraded access and driveway from Bega Street and Carp Street and pathway form Carp Street.,
- l) The carrying out of works to match the development to the existing surface and as required by the determining authority on the issue of development consent.



The development is not intended to be carried out in stages as defined by Section 4.22 of the Environmental Planning and Assessment Act 1979.

3.2 Project need and strategic alignment

The Statement of Environmental Effects details that the provision of the new sports stadium has developed through a community consultation and planning process identifying a need for a new facility to meet the current and future needs of the communities in the Bega Shire. This process has been extensive and effective at arriving at the proposal now proposed.

In reaching the stage of preparing and lodging a development application the Council had followed strategies which support the development of sports facilities in the shire and Bega. These are detailed as follows;

Bega Town Centre Report -

- Identifying the “unifying qualities of sport” as a significant part of the Social Fabric
- Bega is recognised and functions as a regional centre – the cultural, administrative, service, educational and sporting capital of the Shire and beyond; a centre which respects and capitalises upon its natural and cultural contexts.

Bega Shire Local Strategic Planning Statement in Planning Priority 9 – Open Space and Recreation states –

- A network of green spaces has created healthier and more liveable towns and villages and public places attract people of all ages and abilities to socialise, engage in arts and culture and be active and healthy. Noting that from stakeholder engagement we know that residents want better access and improvements to recreation facilities and spaces as well as more support from Council for community activities and events.

The provision of the new improved stadium is in accordance with the adopted “Bega Sporting Complex (and Valley Fields) Master Plan” adopted by Bega Valley Shire Council on 6 April 2016, which has the vision “to provide Bega’s premier multi-sport and recreation venue. Facilities will be developed to see the venue continue to attract regular community events and be able to better accommodate regular users and higher-level events on a regular basis”, with the rationale for the stadium, seating and associated facilities-

- to ensure suitable ancillary facilities are provided to all users of the site
- to maximise the use of the proposed facility and provide suitable indoor sport and recreation opportunities
- to enable site to better cater for larger events.
- to improve spectating facilities in general and to allow facility to better cater for larger events into the future.
- [for the George Griffin Oval] to provide playing field adequate with lack of ancillary facilities addressed through proposed indoor centre’s features.
- to develop the site as a destination precinct.
- to allow safe and easy access to proposed centre and provide an attractive entry statement to building
- to promote site and its features to passing traffic and add to the aesthetics of the site.

In terms of Council’s adopted Policies, the design would appear to be pursuing the development of the sports stadium having regard to –

- Council Policy 1.02 – Inclusive communities by designing future public infrastructure works to be accessible.

- Council Policy 4.09 – Families and Children by prioritising programs, education and services that enhance the capacity of families and children to live well and contribute to community life.
- Council Policy 5.01 – Asset Management by ensuring that Council’s services and infrastructure are provided in a sustainable manner, with the appropriate levels of service to users and the environment.
- Council Policy 3.07 – Climate change by the consideration of flood effect and the design of the building to achieve lighting efficiency.

The development is consistent with the direction under Planning Priority 9: Open Space and Recreation of the Bega Valley Shire Local Strategic Planning Statement 2040 by implementing the following;

- Continue to improve the accessibility of Council managed public open space and venues.
- Identify opportunities to undertake accessibility and amenity upgrades in major town centres.

3.3 Design and layout

The applicant has detailed that a view of the facility is taken in its context that the site services three areas (Bega Rec Oval, George Griffin Oval and the Indoor stadium). All facilities are very close and can be available and adaptable for regular use or larger events. Bega Recreation area is perceived as a show oval and has regional facilities to suit. Likewise, George Griffin and the indoor stadium have facilities to suit the needs of their main users and competition levels. Overall, the total site will be an adaptable and well provisioned regional site.

In external terms the development will consist of concrete structures with Cemintel Barestone finishes, Colourbond Monument colour Trimdeck metal cladding, Natural finish structural timbers, with some painted surfaces in Colourbond Monument colour. Details of finished materials are shown in the materials and colours sheet detailed in Attachment 3.

Materials and design considerations were guided by the Geotechnical Assessment conducted by ACT Geotechnical Engineers Pty Ltd (December 2014 and December 2021). The report notes that *“the permanent groundwater table is expected to be well below expected excavations”*, and that *“Suitable surface and sub-surface drainage should be provided to ensure rainfall run-off or other surface water cannot pond against buildings or pavements. Drainage should be provided behind all retaining walls, and subsoil drains should be installed along the upslope sides of access roads and carparks.”*

Stormwater would be directed to a proposed water tank retention system under the new tiered seating fronting the Rugby Oval with water to be utilised for the maintenance of the recreation area installations and landscaping. Overflow stormwater would be directed to existing stormwater management in Bega and/or Carp Streets.

4 Statutory Planning Framework

4.1 Other Acts of Legislation

Protection of the Environmental Operations Act 1997

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

Biodiversity Conservation Act 2016

The Application is not supported by a detailed biodiversity assessment on the basis that the development proposed is located within the boundaries of a highly modified, long-standing

recreational area. A review of the Biodiversity Values Map detailed that the site is not mapped and site inspections identified that the site is extensively modified retaining minimal biodiversity value with only several trees proposed to be removed. It is considered that the development would have no impact on biodiversity values.

Heritage Act 1977

There is no State heritage listed items on or within the near vicinity of the subject site. Matters relating to Local Heritage items and Heritage Conservation Zones are addressed under Bega Valley Local Environmental Plan 2013 provisions further in this assessment report.

National Parks and Wildlife Act 1974

Part 6 of the National Parks and Wildlife Act 1974 (NPW Act) states that it is an offence to harm or desecrate an Aboriginal object unless authorised by an Aboriginal heritage impact permit (AHIP).

An Aboriginal Heritage Due Diligence Assessment was conducted by Macrozamia and states as follows-

- A. A Search of the AHIMS web site has identified no Aboriginal sites recorded or places declared in or near the site. The search was conducted in excess of 200m from the site.
- B. The recreation area is located within Bega which has a high probability of Aboriginal Cultural Heritage values.
- C. There are no landscape features that would indicate the potential presence of Aboriginal objects.
- D. There are no known Aboriginal Heritage studies undertaken on the subject land.
- E. The development site is not within a declared Aboriginal Place of Significance as listed in Schedule 5 of the Bega Valley Local Environmental Plan 2013.

With consideration for the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, the site has been highly modified and there is a lower potential for Aboriginal objects to occur on the site. It is recommended that Conditions of approval be applied to ensure compliance with the provisions of this Act.

Environmental Planning and Assessment Act 1979

The following matters pursuant to the provision of the Environmental Planning and Assessment Act 1979 (EPA Act), have been taken into consideration.

Section 1.3 Objects of Act

The proposal is considered satisfactory regarding the objectives of the EPA Act as outlined in the following assessment of the application under the provisions of Section 4.15 of the EPA Act.

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The proposal is considered satisfactory regarding the additional assessment requirements as outlined in Section 1.7 of the EPA Act and are addressed in the assessment of the relevant Acts applying to the development.

Section 4.5 Designation of consent authority

Pursuant to clause 4.5 (b) of the EPA Act, as the development is declared by the State Environmental Planning Policy (State and Regional Development) 2011 to be regionally significant development, the Southern Regional Planning Panel is the consent authority.

Section 4.10 Designated development

Clause 4.10 defines designated development as development that is declared by an environmental planning instrument or the regulations as designated development. The development is not declared by any environmental planning instrument as designated development.

Section 4.12 Application

Section 4.12 (6A) states that the reference to a council in sub-section (3) includes a reference to a regional planning panel. This provision allows for certain Local Government Act approvals to be addressed within the development consent. A Section 68 approval is required for the following:

- Works within the road reserve
- Sewer, water and stormwater works

Section 4.13 Consultation and Concurrence

Section 4.13 provides for an environmental planning instrument to identify where consultation or concurrence is required before determining a development application.

The State Environmental Planning Policy (Transport and Infrastructure) 2021, Clause 2.122 Traffic-generating development requires consultation with the Transport of NSW (TfNSW) and consideration of any submission that TfNSW provides in response. The TfNSW provided comments on 6 October 2022 who advised “TfNSW has reviewed the information and has no objections to the proposed development.”

4.2 Section 4.15(1)(a)(i) Any Environmental Planning Instrument

State Environmental Planning Policy (SEPP) (Planning Systems 2021)

(SEPP) Planning Systems provides the legislative planning framework for State and Regionally significant development. It has been necessary to refer the current application to the Southern Regional Planning Panel pursuant to Part 2.4 of the SEPP for determination as it is listed under Schedule 6 on the basis that the proposed development has been submitted on behalf of Council with a capital investment value of the development more than \$5 million. The proposed development would have a capital investment value of \$10.197 million.

Therefore, the Southern Regional Planning Panel is the determining authority in accordance with Section 4.5(b) of the EP&A Act 1979.

State Environmental Planning Policy (Resilience and Hazards 2021)

Clause 7 of the SEPP states that This State policy stipulates that the consent authority must not consent to the carrying out of any development unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or will be remediated, so that is suitable, before the land is used for that purpose.

The land is not identified as an investigation area, nor does it contain any historic evidence to suggest that the development site has been used for any of the purposes listed in Table 1 of the Contaminated Land Planning Guidelines.

The site contains a history of recreational use since the gazettal of the lands for that purpose. The application proposes the demolition of buildings and structures on site. Demolition shall be carried out in accordance with AS 2601—2001 and the NSW Government Code of Practice – Demolition Work - August 2019, including the appropriate identification, removal and disposal of any asbestos located in any of the structures

State Environmental Planning Policy (Transport and Infrastructure 2021)

The proposed development has a frontage to Carp Street which accesses the Princes Highway approximately 700 metres to the west of the site.

Under Chapter 2, Division 17 Roads and traffic, Subdivision 2 Development in or adjacent to road corridors and road reservations the proposal is identified as development for “any other purpose” that would involve a size or capacity involving traffic volumes listed in Column 2 or Column 3. The application requires referral to Transport NSW.

A Traffic Impact Assessment Report has been conducted by Quantum Traffic (Traffic Impact Assessment Report (6 April 2022)). The report refers to a demand for parking of around 110-140 spaces but does not identify a number of vehicles per hour. Notwithstanding this the development does not access a classified road nor is it within 90m of a classified road and may not exceed 200 vehicles per hour.

As the development application did not detail the number of vehicles per hour, the application was referred to Traffic NSW as ‘traffic-generating’ for comment.

TfNSW reviewed the application and advised they had reviewed the information and had no objections to the proposed development.

(See Attachment 2: TfNSW letter dated 2022).

Clause 2.48 of the SEPP (Transport and Infrastructure) also requires before determining a development application (or an application for modification of a consent) for development, the consent authority must—

(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and

(b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Essential Energy for comment in accordance with this Clause as there are existing electricity power services located within the site and within the surrounding road network.

Essential Energy provided the following general comments:

Strictly based on the documents submitted, Essential Energy makes the following comments as to potential safety risks arising from the proposed development:

1. Essential Energy’s records indicate existing low voltage overhead powerlines located within Lot 8 and Lot 13. Prior to any demolition works commencing, all overhead powerlines located on these properties must be disconnected and removed.
2. Essential Energy’s records also indicate existing overhead powerlines across the Carp Street frontage of the properties:
 - a. Minimum safety clearance requirements are to be maintained at all times for the proposed driveway/s access and/or exit (concrete crossovers), as such driveway/s access will pass under Essential Energy’s existing overhead powerlines located at the front of the property. The driveway/s must comply with clearances for trafficable land, ground clearances must be maintained. Refer Essential Energy’s policy *CEOM7106.25 Minimum Clearance Requirements for NSW* and the latest industry guideline currently known as [*ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*](#).
 - b. Any proposed driveway/s access and/or exit (concrete crossovers) must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.

- c. Any excavation works in this area or works on the proposed driveway/s must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
- d. Any landscaping, tree planting in this area must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
3. Essential Energy's records also indicate that the existing overhead service connection to the adjoining property, Lot 92 DP602567, crosses partly through Lot 701 DP94051 on its Carp Street frontage. This existing service will need to comply with the *NSW Service and Installation Rules*, in relation to clearances to the proposal. This may mean that this existing service will need to be re-located, at the Applicant's expense. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.
4. Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees, contributions and if required, new designated electrical infrastructure. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.
5. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the development in accordance with *NSW Service and Installation Rules*. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

Essential Energy also makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
3. In addition, Essential Energy's records indicate there is overhead electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations 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 properties encroach on the electricity infrastructure.
4. 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).
5. 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) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines/Underground Assets*.

The comments provided by Essential Energy have been assessed and are considered appropriate to be included as both conditions of consent to ensure appropriate works and safety measures are undertaken for both the demolition and construction works and include the general comments as Advisory notes to ensure that the applicant is aware of general procedures required by working in and around powerlines/services.

State Environmental Planning Policy (Resources and Energy 2021)

Clauses 2.19 of the policy requires the determining authority to consider the compatibility of proposed development with mining, petroleum production or extractive industries. A review of Council and government databases indicate that there are no Mining, Petroleum Production or Extractive Industries located in the vicinity of the site and therefore this development would not impact any existing mining, petroleum production or extractive industries or known resources.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 Koala habitat protection 2020 is required to be considered where a site has an area of more than 1 hectare, which this site is. Inspection of the site identified that the site is not of a core koala habitat and the trees to be removed are not Koala feed trees. There would be no impact on Koalas associated with this development.

4.3 Bega Valley Local Environmental Plan 2013

The following Clauses of BVLEP 2013 are addressed as they either apply to the proposed development or the subject site.

Clause 1.2(2) Aims of the Plan

The Aims of the Plan:

- “(a) to protect and improve the economic, natural and social resources of Bega Valley through the principles of ecologically sustainable development, including conservation of biodiversity, energy efficiency and taking into account projected changes as a result of climate change,
- (b) to provide employment opportunities and strengthen the local economic base by encouraging a range of enterprises, including tourism, that respond to lifestyle choices, emerging markets and changes in technology,
- (c) to conserve and enhance environmental assets, including estuaries, rivers, wetlands, remnant native vegetation, soils and wildlife corridors,
- (d) to encourage compact and efficient urban settlement,
- (e) to ensure that development contributes to the natural landscape and built form environments that make up the character of Bega Valley,
- (f) to provide opportunities for a range of housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,
- (g) to protect agricultural lands by preventing land fragmentation and adverse impacts from non-agricultural land uses,
- (h) to identify and conserve the Aboriginal and European cultural heritage of Bega Valley,
- (i) to restrict development on land that is subject to natural hazards,
- (j) to ensure that development has minimal impact on water quality and environmental flows of receiving waters.”

In assessing the DA, including all accompanying reports, plans and advice from agencies and internal staff, it is considered that the development is not contrary to the Aims of the Plan as addressed and detailed throughout this assessment report.

Clause 2.3 Zone Objectives and Land Use Table

Under the provisions of the Bega Valley Local Environmental Plan 2013 the subject land is zoned RE1 Public Recreation.

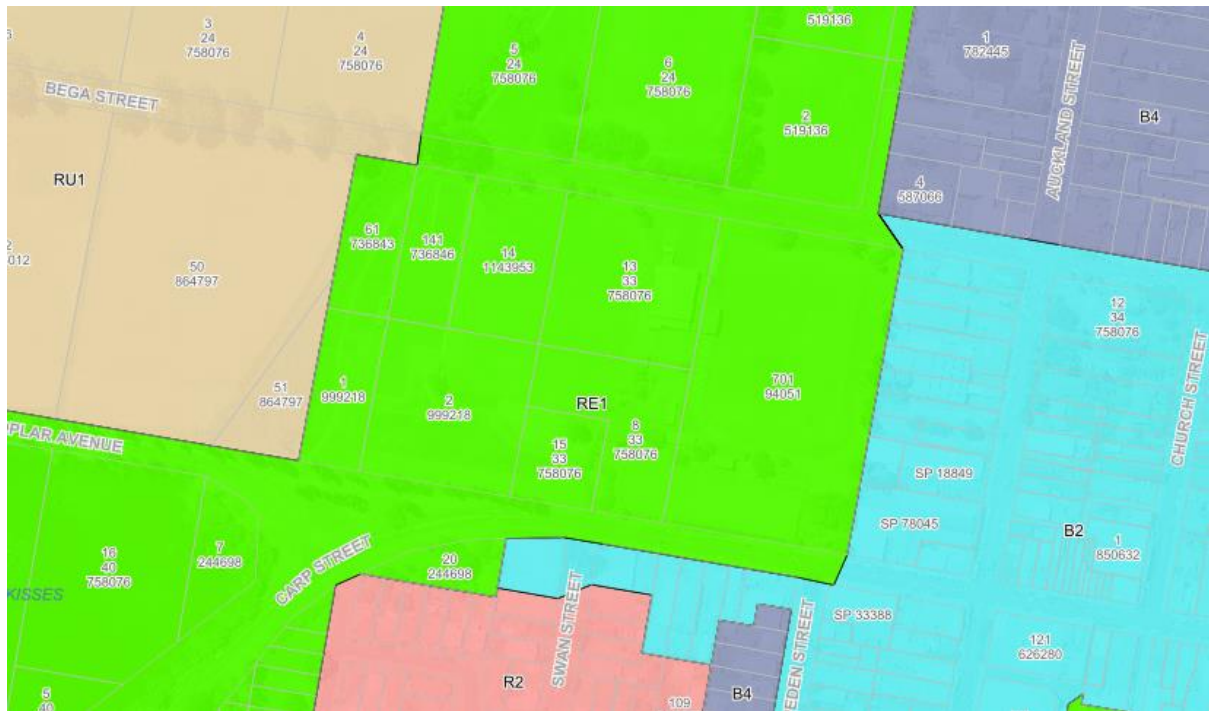


Image: Extract of BVLEP 2013 zoning layer

The applicant has described the development as a mixed-use development being a “Community facility” providing a “Recreation Area comprising Recreation facilities (indoor); and Recreation facilities (outdoor).”

A community facility is defined as “a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
 - (b) used for the physical, social, cultural or intellectual development or welfare of the community,
- but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”

A Recreation Area is defined as “means a place used for outdoor recreation that is normally open to the public, and includes—

- (a) a children’s playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).”

A Recreation facilities (indoor) is defined as, “means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club”

Recreation facilities (outdoor) is defined as *“means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)”*

All land uses applied for in this DA are permissible in the zone subject to development consent.

The Objectives of the RE1 Zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

It is considered that the development is consistent with the RE1 zone objectives by providing a community facility that would not only service the people of Bega, but the wider community of the Bega Valley Local Government Area.

As detailed throughout this assessment report, the proposal minimises impact to the surrounding land uses by consolidating recreational facilities within the Bega Recreational Grounds already utilised for these purposes, but by also improving the facilities to ensure increased accessibility and meet standard sporting design requirements in a modern facility.

The design and siting of the development has taken into consideration the existing built and natural landform of the site, by keeping the building within the existing disturbed built areas.

Clause 4.3 Height of buildings

The site is mapped under Height of Buildings Map under BVLEP 2013 with a maximum height of 10 metres. The development plans indicate that the maximum height of the building would exceed the height limit by 1.915 metres.

The objectives of Clause 4.3 state;

- (a) to retain the existing character and landscape of the locality and to encourage a low-set building form,
- (b) to protect residential amenity, views, privacy and solar access.

The applicant has lodged a Clause 4.6 Variation and this is detailed below. It is considered that the minor increase in the height limit meets the objectives of the zone as the siting of the building and when viewed from nearby public vantage points ensure that its design would still retain the existing character and landscape of the locality and to encourage a low-set building form and not impact on any residential amenity, views, privacy and solar access due to the buildings setbacks to the nearest adjoining residential land uses.

Clause 4.6 Variation to Development Standard

A clause 4.6 variation is sought for the development due to the height of the building exceeding the maximum Height of Buildings Limitation of 10 metres for the site.

The architectural plan detail that the proposed building would exceed the height limit by 1.915m.

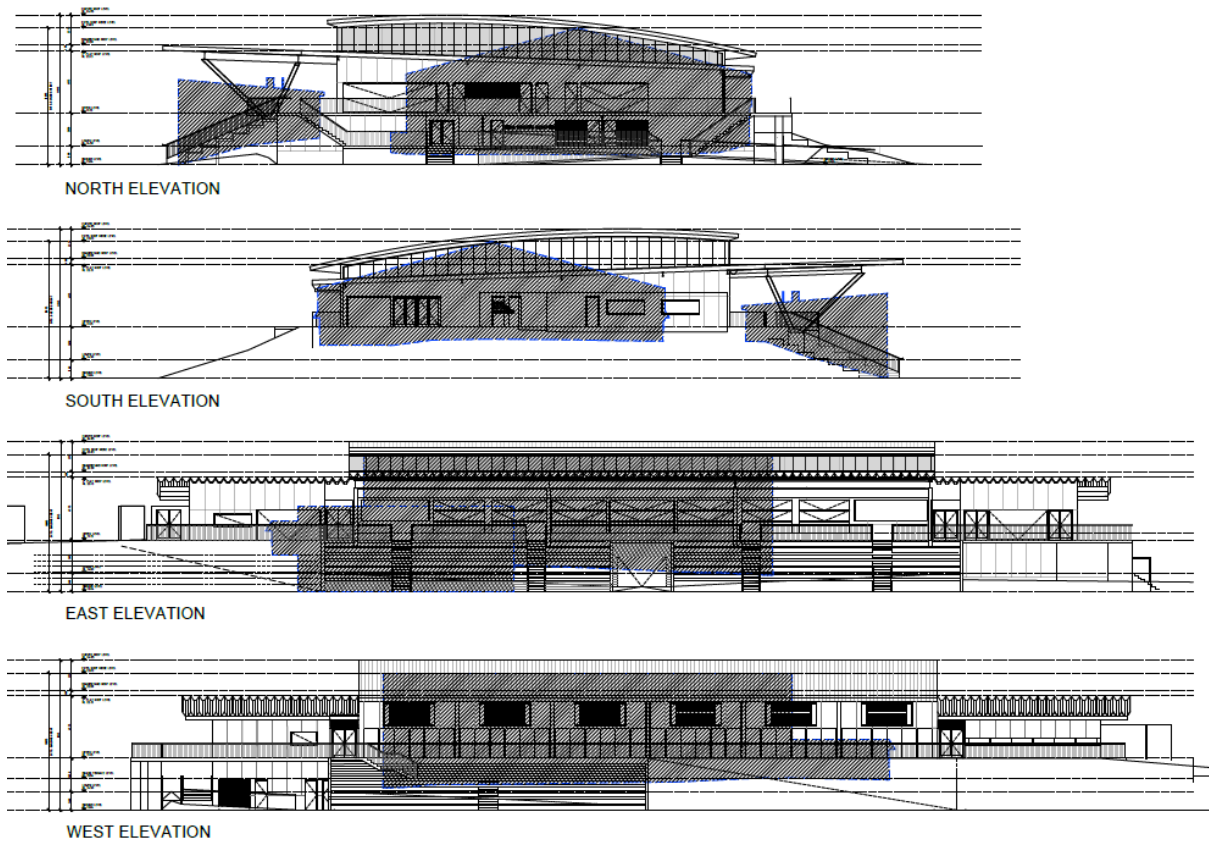


Image: Proposed elevations superimposed with existing building detailing change in height.

Council, as the consent authority, may consider variations to development standards (with the use of Clause 4.6 of BVLEP 2013) provided the proposal:

- meets the objectives of the zone, and
- meets the objectives of the development standard, and
- demonstrates that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and
- demonstrates there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has provided justification to the height variation for the subject site as detailed in the accompanying Statement of Environmental Effects.

Objectives of the Zone

The Objectives of the RE1 Zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

It is considered that the development is consistent with the RE1 zone objectives by providing a community facility that would service the people not only of Bega, but the wider community of the Bega Valley Shire Council area but also minimises impact to the surrounding land uses by consolidating recreational facilities within the Bega Recreational Grounds already utilised for these purposes and by improving current facilities to ensure improved accessibility and meet standard sporting design requirements in a modern facility.

Objectives of the Development Standard

The following objectives apply to Clause 4.3 height of buildings:

Clause 4.3 – Height of Buildings

(1) The objectives of this clause are as follows:

- (a) to retain the existing character and landscape of the locality and to encourage a low-set building form,
- (b) to protect residential amenity, views, privacy and solar access.

As detailed earlier, it is considered that the minor increase in the height limit meets the objectives of the zone as the siting of the building and when viewed from nearby public vantage points ensures that its design would still retain the existing character and landscape of the locality and to encourage a low-set building form and not impact on any residential amenity, views, privacy and solar access due to the buildings setbacks to the nearest adjoining residential land uses.

It is considered that the design and placement of the silos are consistent with the objectives of Clause 4.3.

Whether compliance with the standard is unreasonable or unnecessary

The applicant submits that compliance with the requirements of Clause 4.3 of LEP 2013 is both unreasonable and unnecessary for the following reasons:

- *The design of the building is such that the roofline tends to conform with the ground variations across the sporting field from east to west, in my opinion, in a more pleasing manner with a curved roof.*
- *The elevation of the existing building ends (north and south elevations) is blank and flat, but is varied, stepped and not flat in the proposed building. This effectively reduces the impression of height of the proposed building and improves its appearance of scale and bulk and height within the streetscape and locality.*
- *The building is separated from residential development, there being no such development to the north (sports fields) and set back at least 130m from any residential development to the south (and not visible due to landscaping) and to the east northeast.*

The development would not affect residential amenity, views, privacy and solar access (solar access are addressed having regard to the overshadowing diagrams provided in Attachment 3).

Non-compliance with the height controls for this development is considered reasonable given the variation to the height is consistent with the existing built environment of the site.

Consideration of the variation

The variation to the height control does not impact on the amenity of surrounding land uses which are utilised for the purpose of various recreational facilities, namely outdoor ovals. There is slight increase in overshadowing by the proposed buildings, but these would be accommodated within the development site.

It is recommended that the Variation to the 10 metre height of building required under Clause 4.3 be supported.

Clause 2.7 Demolition requires development consent

The DA proposes demolition works, and accordingly has sought consent for these demolition works as part of its approval.

The application seeks the demolition of all structures as detailed in the submitted Demolition Plan.

It is recommended that a detailed Construction Management Plan nominating method of demolition of all structures be included as a condition of Consent to ensure that demolition works comply with Australian Standards and where possible materials are recycled to minimise waste.

Conditions are recommended to ensure appropriate disconnection of all existing services, including water, sewer and electricity services to occur prior to demolition works commencing to ensure their protection and safety for workers during demolition works and construction.

Clause 5.10 Heritage Conservation

The Objectives of the Clause are:

- (a) to conserve the environmental heritage of Bega Valley,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The requirements of Clause 5.10(2)(a) require the granting of development consent for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,

Part of the subject land is listed as a heritage item under Schedule 5 of the Bega Valley Local Environmental Plan 2013, being heritage item described as Item 017 being the Soldiers Memorial Gates, Park and Artillery which fronts Carp Street.



Image: Heritage Item 017 and views from the Park with vegetation screening existing sports stadium left in photo.

These items are located approximately 125 metres to the south east of where the works are proposed. The application was reviewed by Council's Heritage Advisor who advised that there will be only a minor heritage impact on views from the war memorial.

The site is located west of the majority of locally listed heritage items and the site Bega Heritage Conservation Area. The redevelopment of the site is considered that although the site is located immediately within the vicinity of numerous heritage items listed under Schedule 5 (See Image below), its design and setbacks would ensure that there would be no loss in the amenity or the visual settings that these items and the Heritage Conservation Area sits within.



Image: Plan extract detailing site in relation to listed heritage sites in the vicinity of the site and Bega heritage conservation area.

It is considered that the development would not impact on Heritage Items located on the site or Items/Heritage Conservation Area located within the vicinity of the site.

Aboriginal cultural heritage

The application is supported by a search of AHIMS on and around the identified site. A 200m buffer was applied to this search and returned no registered or known sites of Aboriginal culture and heritage significance. A referral was provided to the Bega Local Aboriginal Land Council with no comments being provided.

It is considered that the application has suitably addressed matters regarding Aboriginal Archaeology and it is recommended conditions of consent be applied regarding earthworks for the site to ensure compliance with the provisions of the National Parks and Wildlife Act.

Clause 5.21 Flood planning

The objective of this Clause is to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, to avoid adverse or cumulative impacts on flood behaviour and the environment and to enable the safe occupation and efficient evacuation of people in the event of a flood.

The BVDPC 2013 outlines the requirements for developments within the Bega Local Government Area (LGA). Section 5.8.1 relates to flood planning considerations and specifically applies to development on flood prone land within the LGA.

The site is identified in the 'Bega River' floodplain that shows that there is potential for inundation across the site during significant rainfall in both the local catchment, as well as the wider Bega River catchment.

The applicant has detailed that the SMEC (6 June 2014) - Bega and Brogo Rivers Flood Study indicates that the land is located within the 1% AEP floodplain and would be affected by floodwaters.

The Statement of Environmental effects has provided substantial information on the impacts of flooding for the site. The impact of flood levels for the site were identified as follows;

Advice through the architects from the Council engineers is that they were able to derive the 1% AEP flood event level in relation to the building as –

- *NE corner of existing stadium – 15.925m AHD*
- *NW corner of existing stadium – 15.941m AHD*
- *SE corner of existing stadium – 15.889m AHD*
- *SW corner of existing stadium – 16.048m AHD*

From this advice the highest flood 1% AEP flood event level would be 16.048m

Based upon the advice from the Council engineers derived levels the proposed building would be subject to a flooding depth of 1.548m. Advice through the architect is that the existing building has been subject to flooding with no other details available as to the effect on the building or contents.

The upper level would thus be 1.102m above the 1%AEP flood event (also being more than 500mm (freeboard) above the 1% AEP flood event level). A 1% AEP flood event level of 16.048m would also place the existing ground level at the southern entrance subject to flooding to a depth of 318mm.

Council ultimately came to the decision that they were willing to accept the risks associated with the anticipated flood events and effects on the ground floor, to provide for the requisite functional facilities suitable to service the sporting needs of the community in the current location.

The applicant details that in November 2021 the Council had considered the flood liability of the proposed development and has determined –

1. *Noting the project is being constructed in a flood prone area the following further flood risk management actions be taken to reduce and mitigate impacts of flooding on the project:*
 - a) *The lower floor height of the building be raised by 1m to 14.5m as a key flood risk management action to avoid more lower-level flood events.*
 - b) *All lower floor area facilities) predominantly change rooms, additional amenities, storage and indoor court areas) be constructed of more resistant and robust materials in the event they are subject to water ingress.*
 - c) *Flood event management be included as an item in the emergency plan for the building.*
 - d) *Water sensitive facilities, plant and equipment be located on the upper levels, above the 1% AEP flood event level.*
 - e) *It is accepted that in a major flood event the lower floor will be impacted and clean up / repairs may be required.*
2. *The design reflect option 3 (single oval race to each oval) being the more inclusive design for the regional multipurpose facility.*

Council has considered the flood liability of the proposed development and has resolved at a meeting of Council on 16 June 2021

1. That Council receive and note the information in the report.
2. That Council endorse the lower-level concept version 6 as tabled at the meeting for the Bega Sporting Complex upgrades.
3. That Council endorse the upper-level concept 6b as tabled at the meeting with provision to be made for serving on the southern side of the south east kiosk and the toilets on the southern end to be designated as male and female with a urinal to be incorporated into the male toilets.
4. That Council delegate authority to the General Manager, to endorse amendments to the design as recommended by the Project Control Group to deliver best outcomes in balancing user needs, building function and the project budget.

From the advice to Council, it is understood that the lower floor level would be marginally below (100mm) the 5% AEP flood event level of 14.6m AHD.

Copy of the Council report and minutes are included as Attachment 4 to this report.

The application has been reviewed by Council's Environmental Services. The review of the development provided the following response regarding the flood assessment;

The subject site is within the Flood Planning Level for the established for the Bega – Brogo River systems through the Bega and Brogo Rivers Flood Study (2014) undertaken by SMEC. The majority of the proposed building footprint is within the 1% AEP flood envelope, while parts of the footprint are within the 5% AEP flood envelope.

The site sits on the southern side of the flood plain. In a 1% and 5% AEP the Bega River leaves the main river channel on the western side of the Keith Mitchell Playing fields / Pony Club grounds and flows directly past the site and is considered a floodway. Between the floodway and the subject site is an area of the floodplain classified as flood fringe. Flood water within the 'flood fringe' is characterised as being slow moving or standing water, outside the main floodway.

As the site is only within the flood fringe there is no requirement to provide specific structural modifications to address the velocity of the floodwater as would be required in areas exposed to the floodway component of the floodplain.

The methodology used in the Laterals Planning Statement of Environmental Effects section 5.8 is considered appropriate including the use of the 5% AEP event as a datum on which to design the lower level of the building on. The 1% AEP modelled flood level for this area of the floodplain is between 15.5 and 15.9 meters AHD. There are substantial uncertainties with regard flood behaviour in this section of the flood plain as it sits directly above the Bega / Brogo River junctions. The timing of flood peaks at the "junction" has a direct impact on flood levels in this area. The mapped 1% AEP levels at this site are arguably conservative and as such the location of critical elements of the building at or above this level is appropriate.

With regard the lower level of the building it is noted that there have been numerous compromises made with regard floor levels and access in attempt to raise this area to the 5% AEP Flood event from a risk management point of view. From a total flood impact point of view it would have better to have the main playing court, 1 set of amenities and office on main level at a similar datum as current facility floor level. By leaving the main court at a lower level and proposing a more resilient surface to be more robust should it be inundated, Council is compromising the current and future uses of the indoor court.

If the main court was raised to the level 1, this would only the change rooms servicing the playing fields at a lower level to be potentially impacted by floods. Football / Soccer changerooms need to be more robust than those that service an indoor playing facility. They will be exposed to mud, soil, water and other waste on a regular basis and as such need to have a finish that is not only robust

to these impacts but can also be easily cleaned maintained, including appropriate ventilation. If constructed to meet these robust usage requirements, the lower level change rooms would be sufficiently resilient to the impacts of any minor flood water ingress.

Flooding Recommendation

- 1) The flood assessment methodology used in the Statement of Environment Effects and the derived levels used to inform building design are considered appropriate.*
- 2) We would recommend the building be modified to move the main playing court to the upper level and if needed reduce the levels of the lower level change rooms to improve the accessibility of these facilities that are essential components of both the rugby league, soccer and cricket user groups. This would allow the main playing court to be constructed from a material specifically designed for indoor based sports such as basketball, netball and volleyball which are better played on a sprung timber surface.*
- 3) Should the building design remain the same; key potential floodwater ingress points be identified and “flood shutters” be manufactured to be erected as part of flood emergency management plan for the new facility*

The issues raised by Council’s Environmental Services regarding the possible design changes to lift the main playing court to the existing buildings floor height was provided to the applicant for consideration.

The applicant responded to the recommended design considerations with the following;

the design has been worked with Council to arrive at the current design with the Court at the lower level. This has been well discussed during the design development meetings including the Project Control Group (which includes representatives of current user groups, BVSC Councillors and the funding partner). Several iterations and options were looked at with regards to the Facility/Complex design and in turn Court Layouts. Upper level Court locations were looked at, but quickly was dismissed highlighted by the challenges presented in trying to cater for all the various sporting user groups on one (upper) level. By having everything at one level it also increased the overall mass, bulk and scale of the facility/complex - this was undesirable and potentially then presented other planning issues with regards to max Building height.

In summary the benefits to users (and the project) of the court being on the lower level are outlined below, noting the design process progressed based on it's location clearly considering the need to consider, develop and include measures to mitigate against the risk of flood:

- Better enables flexibility and multiple / shared use of court and related facilities (change rooms / first aid room etc)*
- Enables ease of access and use of court and lower level facilities for major events. (eg NRL matches, regional gala days, regional jnr championships etc)*
- Accommodates clear areas (high) to Indoor Court sports standards.*
- Provides for viewing / spectator areas into the court which are not affected by court run off/clear areas.*
- Enables combined use or separation of spectator areas from internal active sports areas and oval areas (multiple uses / bookings at a time)*
- Enables additional upper level multi use space*
- Provides space for main forecourt and entry*

We understand the SEE articulates the design development of the facility around addressing flood mitigation and references the attached Memorandum of Understanding with regards to Flooding Mitigation and acceptance of the Lower Level Court Location and other amenities will be impacted in the event of a major flood and consequential clean up/repairs.

The design has considered the potential impact of flooding for the proposed development. The design is considered appropriate and consistent with the design outcomes discussed with the user groups of the facility and adjoining playing fields, and as reported to Council during the design options for the site. Any design to lift the ground floor of the court to the upper level to reduce flooding impacts would require raising the height of the building further to comply with current Indoor Court sports standards.

It is considered that although the buildings would be flood affected, suitable steps have been undertaken to assess those impacts and the obligations on Council to maintain those facilities in the event of a flood event. It is considered that the development application has appropriately assessed and considered the design in relation to flooding and is supported.

Clause 7.2 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal requires excavation of the site to provide the stadium court, but also various changing rooms, amenities, stores and meeting rooms to respond to the adjoining playing fields. This design is to provide additional and improved accessibility of these facilities for the adjoining playing fields.

There is no detail regarding the quality of the material to be excavated or any fill. As such it is recommended that the Council dispose of any material, not tested and determined as suitable for use on any particular land, to an authorised waste management facility. It is further recommended that any fill material be Virgin Excavated Native Material (VENM).

There is no indication of erosion and sediment controls on the current development plans but it is advised by N2SH that they would be shown on construction plans. In reviewing the site, it is apparent that lands to the east and west would contain any overland flow of water preventing any offsite impacts.

The remaining land to the north and south is easily accessed and of low to moderate slopes such that it would be possible to adequately capture and manage runoff waters to prevent adverse impacts. It is recommended that Erosion and Sediment Control Plans be provided prior and approved by Council's planning services section prior to any works commencing on-site, including demolition works.

4.4 Section 4.15 (1) (a) (ii) the provisions of any draft EPI

Draft Remediation of Land SEPP55 (now State Environmental Planning Policy (Resilience and Hazards) 2021)

The explanation of intended effects has been reviewed and considered. No impacts are envisaged as a result of the proposal.

4.5 Section 4.15(1)(a)(iii) Development Control Plans

Bega Valley Development Control Plan (BVDCP) 2013

The following sections of BVDCP 2013 are considered relevant to the assessment of this application;

Section 5 General Development

Aboriginal Heritage

As detailed earlier in this assessment, the application is supported by an Aboriginal Culture and Heritage Due Diligence Report. It is considered that the application has adequately addressed Aboriginal Heritage for the site as required by this Clause and recommendations detailed in the Report are proposed as a condition of consent.

Non Aboriginal Heritage

The Clause provides that in accordance with Clause 5.10 of the BVLEP 2013, Council will not grant consent to a development application unless it has made an assessment of the impact of the proposal on the heritage significance of the place, including historic, architectural, aesthetic, cultural, social, technological, landscape, archaeological or other features of the place, including its setting and where a development may have significant impact on a heritage item or Heritage Conservation Area, Council may request the applicant to provide a full Heritage Impact Assessment prepared by an appropriately qualified person.

As detailed earlier in this assessment, the impact of the development in relation to the Item 017 being the Soldiers Memorial Gates, Park and Artillery which fronts Carp Street under Schedule 5 of the LEP has been assessed. The proposed works are well separated with no impact on the existing settings of the Heritage Items when viewed from Carp Street. The development would also not impact on the any heritage items and the Bega Heritage Conservation Area located to the east of the site.

Access and Mobility

The objective of this Clause is to improve physical access to the built environment which includes all public access buildings, paths of travel, streetscapes, accessible parking, amenities and Council facilities. The application has detailed that the design is to improve facilities and access to and within the building for a range of sporting groups that utilise the site. It is considered that the design does provide improved accessible facilities including accessible parking spaces to be located adjacent and near both entrances to the facility and adjacent ovals and has adequately addressed the provisions of this Clause.

Sustainable Design Principles

The intent of this Clause is to ensure that sustainable design principles are considered in developments. The design provides for a large indoor sporting facility that responds to the building needs and adjoining sporting ovals. The application provided little information on sustainable design principles, and it was requested what opportunities would be available to improve options including the future ability of the structure to accommodate Solar Arrays for electricity generation.

The applicant provided an amended plan detailing that the roof design is structurally capable of bearing additional Solar Arrays on the roof should Council wish to do so. It is considered that the future use for the provision of solar arrays has demonstrated that the building can be adapted for improve energy efficiency in the future.

Planning for Hazards

As detailed earlier in this assessment, the SMEC (6 June 2014) - Bega and Brogo Rivers Flood Study indicates that the land is located within the 1% AEP floodplain and would be affected by floodwaters.

The application has provided a flood assessment that addresses flood hazard for the development and potential impacts on adjoining lands. It is considered that the design of the development responds to the potential impacts of flood hazard for the site, ensuring that the development does not alter the existing flood impacts for adjoining and adjacent properties.

Site contamination considerations have been addressed earlier in this assessment report with no issues identified from the historical uses of the site.

It is noted that the site is mapped as grasslands under the Bega Valley gazetted Bushfire Prone Land Map. Consideration of the site details that the managed land in the form of maintained playing fields and paved areas extend more than 50 metres from the proposed building and therefore no bushfire protection measures for the construction is required. The site has access to reticulated water and suitable access to sealed roads.

Off-street car and Bicycle Parking

A Traffic Impact Assessment Report was prepared by Quantum Traffic Pty Ltd and is included with the DA submission to consider access and carparking matters

The assessment detailed that the surrounding road network is expected to continue to accommodate the traffic demands associated with typical winter uses (i.e. soccer and rugby league matchdays) at Bega Sports Complex.

The proposed redevelopment is expected to result in the gain of four (4) car parking spaces on the subject site and it is considered that there is sufficient available car parking on and adjacent to the subject site (220 spaces) to continue to accommodate the typical car parking demands (110-140 spaces).

The main vehicle access, via Carp Street, is proposed to remain unchanged. Minor changes are proposed at the secondary vehicle access, via Bega Street and ensures the redevelopment would retain service vehicle access and U-turns by school buses.

A design review has been undertaken to assess the design of the proposed on-site parking and vehicle access arrangements against the relevant Australian Standards. This design review found that the proposed development accords with or exceeds the relevant requirements.

As the proposed redevelopment includes a marginal gain in car parking capacity (four (4) additional spaces for a total of 220 spaces) on or adjacent to the subject site, the supply of car parking is expected to remain sufficient to accommodate the typical car parking demands associated with Bega Sports Complex.

Events which generate greater than typical traffic demands (i.e. local grand-finals, NRL trial matches, etc.) may result in the demand for car parking exceeding supply on or adjacent to the subject site. In this case, car parking demands are expected to spread further from the subject site, to be accommodated within the supply of public car parking within Bega

Transport for NSW had no objection to the development application but did offer the following comments for Council's consideration;

- TfNSW entrusts Council to determine appropriate parking solutions on the local road network to accommodate events with high parking demand;
- TfNSW entrusts Council to assess and manage the traffic implications of this development application. TfNSW believes it is more appropriate for Council to consider and determine if proposed arrangements for the development are acceptable from a network perspective; and
- Upgrades to the existing pedestrian crossing facilities on Carp Street could be considered by Council, as the proposal may generate additional crossing movements.

The application was reviewed by Council's Development Engineers who raised no concerns with the comments and recommendations detailed in the Traffic Impact Assessment Report. It was noted that as part of the proposed works, it is recommended that an upgrade to the existing Pedestrian

Crossing facilities on Carp Street be provided to accommodate the anticipated increase in pedestrian use from the upgraded facility to the town centre and shops located opposite the site.



Image: Existing Pedestrian Crossing facilities on Carp Street.

The design should be in accordance with the relevant Austroads publications, including AGRD04 and AGTM06.

The design would provide more formalised parking areas in front of the proposed building which currently has a large turning area and no marked carparking spaces. The design also accommodates for accessible parking spaces to the southern and northern entrances to the proposed building.

It is recommended that the plans be amended to ensure clear path of travel from the northern carparking area/bus drop off to the building and not be impacted by landscaping.



Image: Proposed formalised car parking spaces off Carp and Bega Streets

There is ample room located in and around the forecourt areas of the facility to accommodate the informal parking of bicycles.

The development seeks to replace the existing indoor sports facilities with a more upgraded facility that also upgrades toilet and changing facilities to the adjoining ovals. It is considered that the upgraded parking arrangements as appropriate. For larger sporting events that may occur periodically, there is ample surrounding public car parks and on street parking areas that can be utilised with these sporting events occur.

4.6 Section 4.15(1)(a)(iia) The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no draft planning agreement associated with the subject Development Application.

4.7 Section 4.15(1)(a)(iv) The Regulations - Additional matters that consent authority must consider.

The prescribed matters outlined in Clauses 92 (demolition) and 93 (fire safety) of the regulations have been considered and conditioned through the recommended conditions of consent.

4.8 Section 4.15(b) Likely impacts of development

The likely impacts of the proposed development have been considered and discussed in detail under the provisions of BVLEP 2013 and the BVDCP 2013 provision above. The key issues considered in the assessment of the application are detailed as follows;

Traffic and car parking

The application was referred to Transport of NSW who have provided their comments. The application was also considered by Council's Development Engineers who have reviewed the proposed traffic generations by the proposed development, carparking and stormwater considerations.

The issues relating to traffic and carparking have been considered and conditioned through the recommended conditions of consent.

Flooding

The key issue associated by the development is the issue of flooding impacts for the development. As addressed earlier in this assessment report under BVLEP 2013 Clause 5.21 Flood planning, the impacts have been adequately addressed.

Waste generation

The development would generate waste associated with the demolition of the existing buildings/structures and vegetation and through the construction of the proposed building. It is recommended that these items be managed through a Construction Environmental Management Plan that will require Waste Management details being provided and approved.

4.8 Section 4.15(c) Suitability of the site for development

It is considered that the proposed development fits with the locality. The development would replace and improve the existing recreational facilities located on-site. The development proposes a form of development that is consistent with the existing site sporting operations and is considered to provide a good design outcome for the site having regard to the known effects of flooding and access. The design would provide an incremental increase in the height of the current building and increase the overall bulk when viewed from adjoining public streets, however, these increases can be comfortably absorbed into the existing landscape and not impact important views of the surrounding rural and mountain views to the North.

Accordingly, it is considered that the development is suitable in the context of the site being zoned land for recreational purposes with numerous sporting facilities located on and adjacent to the site including netball courts, ovals, tennis courts and skate park within close proximity to the Bega Central Business District and schools.

4.9 Section 4.15(d) Submission

The application was subject to public consultation between 30/09/2022 to 24/10/2022 in accordance with Bega Valley Shire Council Community Engagement Strategy.

No public submission were received during the exhibition period.

Agency Submissions

The application was formally referred to Transport for NSW, Essential Energy, Crown Lands and NSW Police. No comments were received from NSW Police. An assessment of the other agencies comments and recommendations have been detailed throughout the assessment of this report. Copies of their submissions are included as Attachment 2 to this Report.

An initial submission was received from Crown lands who objected to the application based on the provision that Landowners consent had not been issued by NSW Crown lands. This submission was withdrawn when it was confirmed that Landowners consent by NSW Crown Lands had been granted on the 4th May 2023.

There are no comments from State Agencies that would preclude a determination of this application.

4.10 Section 4.15(e) Public interest

The development has been assessed against NSW and local environmental planning instruments and related policies and procedures for the Bega Valley Shire Council. The assessment identified that the development complies with development standards and objectives while providing modern sporting facilities in an attractive building on a strategically important site surrounded by established sporting facilities or both local and regional importance.

The combined uses in one location, provides services to the community that will improve the sporting facilities that would provide for both social and physical benefits of the community.

Accordingly, the proposal is in the public interest.

4.11 Any other relevant legislation/Matters

Bega Valley Section 94 and 94A Contributions Plan 2014.

The development proposed does not trigger any payment of contributions in accordance with the Bega Valley Section 94 and 94A (now described as Section 7.11 and 7.12) Contributions Plan 2014.

In accordance with Clause 2.8 Development exempted from contributions under this Plan, it is considered to be development that is provided by or on behalf of the Council that is for the purposes of Local Infrastructure included in this Plan that includes uses like sportsgrounds, parks, community centres, emergency services.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

5.0 Conclusion

This application has been assessed having regard for Section 4.15 (Matters for Consideration) under the Environmental Planning and Assessment Act.

In considering the development application, an assessment of the development has determined that the proposal is consistent with the provisions of relevant SEPPs, BVLEP 2013 and BVDCP2013.

It is recommended Development Application No. 2022.279 be approved subject to the conditions of consent as detailed in Attachment 1.