

DATE OF DETERMINATION	26 June 2023
DATE OF PANEL DECISION	26 June 2023
DATE OF PANEL MEETING	19 June 2023
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	None
DECLARATIONS OF INTEREST	<i>Council interest DA</i>

Papers circulated electronically on 16 June 2023.

MATTER DETERMINED

PPSSTH-179 – Bega Valley - DA2022.279 at 249 Carp Street, Bega - Bega Valley Sporting complex, comprising demolition of existing facilities, construction of new sporting and community use building and ancillary infrastructure (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Clause 4.6 – Contravention of a development standard

Following consideration of a written request from the applicant for non-compliance with a development standard made under cl 4.6 of the Bega Valley Local Environmental Plan 2013 (LEP), the Panel was satisfied that the Applicant had demonstrated that:

- a) compliance with cl. 4.3 (height of buildings) is unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

the Panel was further satisfied that:

- a) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height of buildings) of the LEP and the objectives for development in the RE1 Public Recreation zone; and
- b) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

The Panel determined to uphold the request for non-compliance with clause 4.3 relating to the building height and approve the application for the reasons outlined in the Council Assessment Report.

The proposal will significantly improve sporting facilities in Bega providing both social and physical benefits to the local and regional community. The Panel is satisfied that the proposal is in the public interest.

The decision was unanimous.

CONDITIONS

The Development Application was approved subject to the draft recommended conditions contained in Council's Assessment Report, attached at Schedule 2, with the following inclusions and amendments:

- The Panel requested Council include the following two additional conditions in the instrument of consent to strengthen flood and traffic management and further mitigate potential impacts at the site;

➤ **New condition - Flood Management and Evacuation Plan**

Prior to the issue of a Construction Certificate, the applicant shall provide to the satisfaction of the Manager of Planning and Sustainability, a Flood Management and Evacuation Plan detailing all mitigation measures for the management of the building and site before, during and after a flood event.

➤ **New condition - Event Traffic Management Plan**

Prior to the issue of a Construction Certificate, the applicant shall provide to the Manager of Planning and Sustainability for approval, an Event Traffic Management Plan detailing the procedures for minimising traffic impacts for the site and surrounding streets and public carparking areas during large sporting events occurring at the site.

- The Panel requested amendments to the following conditions;

➤ Amendment to the heading for condition 4 to read **"Signs – prior to construction"**

➤ Amend condition 5 to clarify the timing of the issue of a Construction Certificate for demolition as follows;

5. Demolition in association with new work

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the issue of a Construction Certificate, appointment of a Principal Certifying Authority and submission of a Notice of Commencement to Council must occur before commencement.

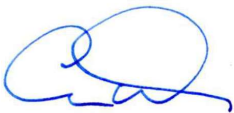


➤ Delete reference to demolition in heading for condition 10

➤ Amend condition 51 to reference the correct date for the *Environmental Planning and Assessment Act 1979*

- The Panel also requested minor administrative changes to provide clarity to several conditions of consent. None of these amendments changed the intent of the relevant conditions.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-179 – Bega Valley - DA2022.279
2	PROPOSED DEVELOPMENT	Bega Valley Sporting complex, comprising demolition of existing facilities, construction of new sporting and community use building and ancillary infrastructure.
3	STREET ADDRESS	249 Carp Street, Bega
4	APPLICANT/OWNER	Bega Valley Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> ○ Environmental planning instruments: <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 ○ Bega Valley Local Environmental Plan 2013 ○ Draft environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 (Remediation of Land) ○ Development control plans: <ul style="list-style-type: none"> ○ Bega Valley Development Control Plan 2013 ○ Planning agreements: Nil ○ Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> ○ Coastal zone management plan: Nil ○ The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality ○ The suitability of the site for the development ○ Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> ○ The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 15 June 2023 • Clause 4.6 Bega Valley LEP – Contravention of a development standard - Clause 4.3 (Building Height) • Written submissions during public exhibition: 0 • Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Council / Applicant Preliminary Briefing: 22 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Renata Brooks, Tim Fletcher ○ <u>Council assessment staff</u>: Mark Fowler, Cecily Hancock, Jamie Pickett ○ <u>Applicant representatives</u>: Carmelo Palamara (N2SH Design Studio), John Grady (BVSC), Jenny Symons (BVSC) ○ <u>Other</u>: Amanda Moylan (DPE) • Site inspection: 30 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Mark Fowler, Cecily Hancock ○ <u>Other</u>: Amanda Moylan (DPE)

		<ul style="list-style-type: none"> • Council Status Update Briefing: 30 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Mark Fowler, Cecily Hancock ○ <u>Other</u>: Amanda Moylan (DPE) • Final briefing to discuss council's recommendation: 19 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Mark Fowler, Cecily Hancock ○ <u>Applicant representatives</u>: Carmelo Palamara (N2SH Design Studio), John Grady (BVSC), ○ <u>Other</u>: Amanda Moylan (DPE)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2

Conditions of approval

General

1. Approved development plans

Development shall take place in accordance with the following plans, specifications and reports, except as may be amended in red on the approved plans and by the following conditions.

Plan, Specification or Report	Plan Reference and Date
Architectural Plan set prepared by n2sh design studio	DA000 Cover Page and drawing Schedule Revision G – 8.12.22 DA001 Locality Site Plan, Location Plan and Site Analysis Revisions G – 8.12.22 DA002 Proposed Site Plan Revision F – 8.12.22 DA003 Existing Ground Plan Revision B – 8.12.22 DA004 Existing Exterior Elevations Revision A – 5.4.22 DA100 Proposed Upper Floor Plan Revision F – 8.11.2022 DA101 Proposed Lower Floor Plan Revision G – 7.11.22 DA102 Proposed Roof Plan Revision C – 8.11.22 DA103 Proposed Forecourt – Carp Street Revision G – 8.12.22 DA104 Proposed Forecourt – Bega Street Revision B – 8.11.22 DA200 Proposed Exterior Elevations Revision F – 8.11.22 DA201 Existing/Proposed Exterior Elevations Revision C – 8.11.22 DA300 Proposed Sections Revision D – 8.11.22 DA400 Shadow Diagrams Revision E – 8.11.22
Access Report prepared by Credwell	Reference 21408 Access R5 – 9 August 2022
NCC Assessment Report prepared by Credwell	Reference 21408 NCC R5 – 9 August 2022
Geotechnical Investigation Report prepared by ACT Geotechnical Engineers Pty Ltd	Reference SM/C12470 – 6 December 2021
Traffic Impact Assessment Report prepared by Quantum Traffic Pty Ltd	Reference 21-0238 Revision F - 06/04/2022

2. Accessible car parking

Car parking spaces provided for people with disabilities shall be designed and constructed to comply with requirements of AS/NZS 2890.6:2009 (Off-street parking for people with disabilities)

Note: An accessible path of travel is required from the designated car space to the principal entrance of the building.

3. Comply with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

4. Signs

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

- owner's name, lot number and street number
- a rural address number (when relevant) provided at the entrance of the property (eg. affixed to an entrance gate)
- signage must clearly identify the Principal Certifying Authority (PCA) and contact number
- that unauthorised entry to the work site is prohibited
- details of the Principal Contractor (i.e.. the coordinator of the building work).

Demolition works

5. Demolition in association with new work

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is commencement of erection of building" pursuant of section 81A(2) of the Environmental Planning and Assessment Act. In such circumstances, all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifying Authority and submission of a Notice of Commencement to Council.

6. Removal of demolition materials

No demolition materials are to leave the site until Council Planning Services Coordinator has been provided with the following information for approval:

- a) a complete list of all destination sites approved to receive demolished materials, including locations of any materials containing asbestos;
- b) a report providing details as to how material will be transported, so there is no dust nuisance and/or material deposited along public roads;
- c) a transport route for cartage vehicles.

7. Validation of works

A validation report shall be submitted by the Principal Contractor to Council within 60 days after completion of demolition works detailing where all materials have been transported to as per condition 6 of this consent.

8. Essential Energy

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.

9. Construction Environmental Management Plan

Prior to the commencement of demolition works, the Applicant must prepare a Construction Management Plan (CEMP) for the development to the satisfaction of Council. The plan must include the following information and sub-plans:

- a) Traffic Management Plan
- b) Soil and Water Management Plan
- c) Demolition operations (including providing details of any resource recovery proposed) in compliance with AS-2601-2001 (The Demolition of Structures).
- d) Waste Management during demolition and construction.
- e) Tree Management Plan
- f) detail the measures which would be implemented to ensure any noise and vibration emissions during the construction of the development do not impact upon surrounding landowners
- g) detail procedures for notifying surrounding landowners and the community of the construction works, if approved outside of normal hours

10. Demolition and Construction hours

Works shall be confined to normal working hours, being 7.00am to 6.00pm Mondays to Fridays and 8.00am to 5.00pm Saturdays, (no work on Sundays or Public Holidays) and in a manner so as not to cause a nuisance (by the generation of unreasonable noise or other activity) to the owners and/or residents of adjoining and adjacent properties.

Variations to these hours or days may be approved by the consent authority on a case by case basis.

11. Demolition

- a) Two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:
 - The date when demolition will commence
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer
 - The licence number of the demolisher, and relevant WorkCover licenses (see minimum licensing requirements in (d) below
 - Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$20 million.
- b) Demolition of buildings and structures must comply with all current and relevant Australian Standards.
- c) If the works require a construction certificate, work shall not commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be found to be wholly or partly clad with or contain asbestos cement products, approval to commence demolition shall not be given until the PCA is satisfied that all measures are in place so as to comply with WorkCover's *Guide to Working with Asbestos*.

Note: A copy of this publication can be obtained from WorkCover Authority's website www.workcover.nsw.gov.au

- d) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover 'Demolition Licence' and a current WorkCover 'Class 2 (Restricted) Asbestos Licence'.
- e) In addition to the above provisions, any work carried out on asbestos cement products must be in accordance with those provisions relating to asbestos cement within the NSW Construction Safety Act 1912 Regulations 84A-J *Construction Work Involving Asbestos or Asbestos Cement 1983, as amended 1984*.
- g) No materials shall be burnt or buried onsite.
- h) Where practical, any building materials that are not being reused for the purpose of this development shall be disassembled in a manner that minimises damage and made available for reuse through local salvage operators.

12. Demolition – site safety fencing

Site fencing shall be erected to a minimum height of 1.8m (complying with WorkCover Guidelines) to exclude public access to the site throughout the demolition. The fencing must be erected before the commencement of any demolition work and shall be maintained at all times.

The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s), complying with WorkCover requirements must be obtained; including

- Payment to Council of a Public Land Use fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- Provision of a Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

13. Demolition – erosion and sediment control

Erosion and sedimentation controls shall be in place prior to commencement of demolition works and shall be maintained throughout demolition of the building and any regrading of ground levels, approved removal of vegetation, etc. The controls shall be installed in accordance with Managing Urban Stormwater – Soils and Construction produced by Landcom (Bluebook). A copy of the Erosion and Sediment Control Plan must be kept on site during demolition works and made available to Council officers on request.

14. Copy of plans onsite

The persons responsible for the demolition works and builder must at all times maintain on the job, a legible copy of the all the relevant plans and specifications bearing the stamp and development consent of Council.

15. Disposal of excavated soils

The disposal of excavated soils associated with demolition works shall be in accordance with the requirements of the Protection of the Environment Operations Act 1997.

16. Dust control requirements

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

17. Water meter capped off

The existing water meter shall be capped off and made available to the future building on the proposed site.

18. Protection of water assets - water disconnected from multiple metered sites

The water services shall be capped off and disconnected from Council's water main.

Note: Lodgement of appropriate 'Application to Disconnect' forms and payment of applicable fee will be required.

19. Protection of sewer assets – full demolition

Prior to any individual demolition works occurring, all internal sewer drainage pipework shall be flushed and disconnected ('capped off') at the point of connection to Council's sewer main to avoid any demolition materials entering Council's reticulated sewerage system. All works to be undertaken by a qualified licenced plumber.

Note: Lodgement of appropriate 'Application to Disconnect' forms will be required.

20. Inspection of capped off services

Each capped off sewer and water service shall be inspected by Council's Water and Sewerage Quality Assurance Officer.

Note: Please contact Council to arrange for inspection(s).

Prior to issue of Construction Certificate (Building)

21. Certification that development can withstand floodwaters

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

22. Payment of Long Service Levy

The payment of a long service levy is required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*.

Proof of payment is to be submitted to Council.

The levy can be paid through the LSL Portal at www.longservice.nsw.gov.au

Note: The Long Service Levy is a State Government Levy, not a Council fee.

23. Access and sanitary facilities in accordance with BCA and AS1428

The plans shall demonstrate compliance for access of people with disabilities and must be provided in accordance with the requirements of the Building Code of Australia; relevant Australian Standards and with regard to the Disability Discrimination Act 1992.

Note: Disability Access to Premises Standards 2010 – As of May 2011, if access is provided to the extent covered by these standards, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

24. Carparking and bus turn around area plan

The following design changes shall be included in the construction certificate plans and reviewed and approved by Council as per the approved architectural plans amended in red before the issue of a Construction certificate;

- i. Sealed concrete path of travel from the bus drop down area located to the north of the stadium shall be detailed and not be affected by any landscaping works.

25. Engineering design plans for carparking areas

Engineering design plans for all on-site car parking, loading/unloading areas and their associated driveways shall be prepared and certified by a suitably qualified and experienced chartered professional engineer (or equivalent) and submitted to Council.

26. Protection of infrastructure assets (building over or within the zone of influence)

Protection of Council's infrastructure system is required. The following shall be provided to Council:

- a. Site survey information (by registered surveyor) accurately showing the vertical and horizontal proximity (details to include offsets, Australian Height Datum invert levels and pre and post surface levels) of the infrastructure to the proposed development.

Note: Please contact Council for access to Council's infrastructure.

- b. Detailed design by a suitably qualified and experienced chartered professional Engineer (or equivalent) that ensures no loading is imposed on or transmitted to the sewer pipeline by the proposed development. This may require complete relocation of the infrastructure.
- c. A letter of certification indicating that the proposed building and/or structure/s will not impact on Council's infrastructure. The accompanying letter shall be prepared by a suitably qualified and experienced chartered professional Engineer (or equivalent) and submitted to Council.

OR

- d. Relocate the sewer line to be outside the zone of influence of the building. All costs for the relocation shall be at the developer's expense

27. Sewerage supply design (gravitational areas)

The design of all sewerage reticulation works including sewerage junction works and any associated facilities to service the development shall be in accordance with WSAA Codes and Australian Standards. All plans and specifications for proposed sewerage works are to be approved by Council.

Note: Designs are to be of sufficient depth and grade so that at least 90% of the developable land can drain to proposed reticulated sewerage system. This may require augmentation of Council's existing sewerage system. The applicant is advised to consult with Council before proceeding with detailed design and specifications for any sewer reticulation works.

28. Infrastructure Augmentation

Design of the relocation of Council's existing sewer main to be outside of the building footprint.

Prior to construction work commencing

29. Construction certificate must be obtained

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing. A construction certificate certifies that the provisions of Clauses 79A-79H of the Environmental Planning and Assessment Amendment Regulations, 1998 have been satisfied, including compliance with the Building Code of Australia and conditions of development consent.

30. Vegetation removal

No vegetation shall be removed or destroyed unless;

- (a) identified on the approved plans, or
- (b) required to comply with any other condition of this consent in relation to such matters as servicing or provision of Asset Protection Zones.

31. Protect trees during construction

Before starting any site works, all trees to be retained must be enclosed with protective fencing to prevent them being damaged during the construction period in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites.

32. Erosion and sediment control – less than 2,500m² site disturbance

Erosion and sedimentation control measures are to be applied during site development in accordance with Council's Guidelines as follows: -

- a) Erosion and sediment control measures shall be installed prior to the clearing of any site vegetation.
- b) Site clearing and disturbance shall be confined to the base area of the approved structure, sites of permanent access ways, and land extending a maximum of three (3) metres beyond the building envelope.
- c) Topsoil shall only be stripped from approved areas and stockpiled for re-use during site rehabilitation and landscaping.
- d) Uncontaminated runoff shall be intercepted and diverted around all disturbed areas.
- e) The capacity and effectiveness of erosion and sedimentation control measures shall be maintained at all times.
- f) All disturbed areas shall be progressively revegetated or stabilized to prevent erosion.
- g) Stormwater from roof areas shall be collected and linked to a Council approved disposal system immediately after completion of the roof.

h) All disturbed areas shall be rendered erosion resistant by turfing, mulching, paving or otherwise suitably stabilized within thirty (30) days of completion and before erosion and sedimentation controls are removed.

33. Removal of excavated material

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

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

34. Appoint PCA

The person having the benefit of the Development Consent and a Construction Certificate shall:

- a) appoint a Principal Certifying Authority and notify Council of the appointment (if Council is not appointed), and
- b) notify Council of their intention to commence the erection of the building (at least 2 days' notice is required).

The Principal Certifying Authority shall determine when inspections and compliance certificates are required.

35. Infrastructure Asset Protection Plan

Prior to any excavation or building works starting, a detailed Asset Protection Plan shall be provided to and approved by Council. The plan is to indicate all protection arrangements of Council's existing infrastructure with regards to movement of trucks and heavy engineering equipment in and adjacent to the development site.

During construction

36. Construction hours

Works shall be confined to normal working hours, being 7.00am to 6.00pm Mondays to Fridays and 8.00am to 5.00pm Saturdays, (no work on Sundays or Public Holidays) and in a manner so as not to cause a nuisance (by the generation of unreasonable noise or other activity) to the owners and/or residents of adjoining and adjacent properties.

Variations to these hours or days may be approved by the consent authority on a case by case basis.

37. Maintenance of site

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

- c) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- d) During construction:
 - i. All vehicles entering or leaving the site must their loads covered, and
 - ii. All vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- e) At the completion of the works, the work site must be left clear of waste and debris.

38. Copy of plans onsite

The builder must at all times maintain on the job, a legible copy of all the relevant plans and specifications bearing the stamp and development consent of Council.

39. Toilet facilities

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

Each toilet must:

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

40. Unexpected Archaeological Finds or Relics

The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery. Council's Heritage Staff must also be notified of the find concurrently.

41. Unexpected Finds of Aboriginal Cultural Heritage

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

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

- a) If any objects which are suspected of being Aboriginal, including human remains, are identified during development, the following procedure must be followed;
- b) Immediately cease all work at the particular location
- c) The find and the immediate area must not be unnecessarily disturbed

- d) The area of the find must be marked as a no-go area to ensure no inadvertent impacts occur
- e) Notify Heritage NSW via the Environment Line on 131 555
- f) Not recommence any work at the particular location unless authorised in writing by Heritage NSW

42. Dust control requirements

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

43. Construction noise and vibration – general

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

44. Sewer construction

Construction of all sewerage reticulation works including sewerage junction works and any associated facilities to service the development shall be in accordance with the approved design plans. Any construction shall be carried out by Council accredited contractor(s) and in accordance WSA Codes and Australian Standards.

45. Certification and inspection of work

The works must be inspected and tested by Council's inspector at each stage of construction listed below, in accordance with Council's Technical Specification for Civil Engineering Works.

A Completion of Engineering Works Certificate must be obtained from Council to demonstrate that all works have been completed.

Inspections must be conducted at the following stages:

- a) After placement of all signs and control measures in accordance with the approved Traffic Control Plan;
- b) After laying and jointing of all water supply pipelines prior to backfilling;
- c) After laying and jointing of all sewerage pipelines prior to backfilling;
- d) During pressure testing of all water supply pipelines;
- e) During pressure testing of all sewerage pipelines;
- f) During testing of all sewer manholes;
- g) Upon submission of the chlorination certificate of all water supply pipelines
- h) Upon submission of the CCTV inspection report of all sewerage supply pipelines
- i) After completion of works;
- j) As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

It should be noted that Council charges fees for inspections and certificates.

46. Replacement of underground asset

Replacement of the sewer main under the proposed dwelling is required. The replacement shall extend a minimum of 1.5 m outside of the building footprint. The pipe shall be replaced with PN16 PVC-o Class 400 SDR 37 rubber ring jointed pipe. Any construction shall be carried out by Council accredited contractor(s) and in accordance with the WSAA 02 – Sewerage Code.

47. Upgrade to Pedestrian Crossing facilities on Carp St.

Design and construction of the pedestrian crossing facilities on Carp St. The design should be in accordance with the relevant Austroads publications, including AGRD04 and AGTM06.

48. Certification and inspection of public engineering works

All public engineering works (driveway crossover, footpaths, roadworks, stormwater works etc) must be inspected and tested by Council's inspector in accordance with Council's Development Design and Construction Specifications.

Typically, inspections are required at, but not limited to, the following stages:

- a. After placement of all signs and control measures in accordance with the approved Traffic Control Plan;
- b. After stripping of topsoil from roads and fill areas, all Soil & Water Management Plan controls shall be in place at this stage;
- c. During application of bitumen seal or asphaltic concrete wearing surface;
- d. After completion of works;
- e. As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

It should be noted that Council charges fees for inspections and certificates.

The developer will complete quality assurance testing of all public asset works in accordance with the inspection and testing plans detailed in Council's Development Construction Specifications.

Testing results shall be provided as required throughout the construction phase of the development.

49. Private stormwater drainage

Construction of stormwater drainage works as necessary to convey runoff from roof and paved areas of the development to public roads or Council controlled drainage systems. Any design shall be in accordance with Council's Development Specification D5, Stormwater Drainage Design and AS3500.3 – Plumbing and Drainage, Part 3.1 – Stormwater Drainage.

50. Food Premises General

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards including:

- The Food Act 2003
- Food Regulation 2015
- Food Standards Australia and New Zealand – Food Standards Code 2001
- AS 4674- 2004 Australian Standards for Design, Construction and Fit out of Food Premises
- Mechanical ventilation – Australian Standard 1668.2-2012

Prior to Occupation or Use

51. Occupation Certificate must be obtained

An **Occupation Certificate** must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning and Assessment Act 1997* have been satisfied.

If you have obtained an Occupation Certificate that only covers part of the development a further Occupation Certificate for the whole development must be obtained within 5 years of the partial Occupation Certificate being issued.

52. Development finished in accordance with approved colour/materials schedule

The development shall be finished in accordance with the approved colour and building materials schedule.

53. Lighting system

A lighting system shall be installed in accordance with Australian Standard 4282 “Control of the obtrusive effects of outdoor lighting” (1997) to provide uniform lighting across the common areas around the stadium entrances.

54. Food premises – final inspection

The food premises shall be inspected by Council’s Environmental Health Officer to determine compliance with applicable food legislation.

55. Landscape works completed

All landscape works shall be completed and maintained at all times in accordance with the approved landscape plan.

56. Revegetation of disturbed areas

Minimal site disturbance shall be caused to the site during construction works. Any disturbed areas are to be reinstated and revegetated to the satisfaction of Council.

57. Carparking areas designed in accordance with DCP

All on-site car parking, loading/unloading areas and their associated driveways shall be constructed and clearly defined or linemarked for the approved use in accordance with the Approved Development Plan and Council’s Development Control Plan.

58. Flooding of sites

A Registered Surveyor shall provide certification to Council confirming that the electrical services of any building are at least 500mm above the 1 in 100 year flood level at that site and/or a suitably qualified electrical engineer verifying that electrical components of the building will be water proofed below the Flood Planning Level.

59. Fire safety upgrade

A Final Fire Safety Certificate must be issued for the building. As soon as practicable after a Final Fire Safety Certificate is issued, the owner of the building to which it relates must:

- a) provide a copy of the certificate (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- b) provide a copy of the certificate (together with a copy of the current fire safety schedule) is also prominently displayed in the building.

60. Public Engineering Works Completion Certificate

All public engineering works (driveway crossover, footpaths, roadworks, stormwater works etc) shall be constructed in accordance with the accepted construction plans, Council's Development Construction Specifications and conditions of this consent.

In this regard a Completion of Engineering Works Certificate (Compliance Certificate) must be obtained from Council prior to the issue of an Occupation Certificate.

Conditions of use / during occupation

61. Lighting of premises to be shielded

The lighting of the premises shall be shielded and directed so as not to cause annoyance to the owners or occupiers of adjoining premises or glare to motorists on adjoining or nearby roads.

62. Annual fire safety statement – essential fire safety – Class 2-9

The owner of a building, to which an essential fire safety measure is applicable, shall provide Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- a) deal with each essential fire safety measure in the building premises, and
- b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

Advisory notes

Essential Energy

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.

Location of building

It is the owner's responsibility to ensure that the building is located on the correct block of land is located free of any easements/services and satisfies the necessary setbacks as specified by Council's Codes for Local Government Legislation.

Utility services

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

Existing structures

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

Dial before you dig

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

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

National Parks and Wildlife Act

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

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

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

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

Carparking calculations

Car parking requirements have been calculated on the basis of the specified use. Should any change of use be contemplated car parking requirements may need to be re-assessed.

Biosecurity Act 2015

All landowners should be aware of their General Biosecurity Duty under the provisions of the Biosecurity Act 2015 which states; *"any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised"*.

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

Change of contact details

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

Telecommunications Act 1997 (Commonwealth)

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

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

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

Section 64 Contributions

- a. Section 64 of the Local Government Act authorises the Council to issue Certificates of Compliance under section 305 of the Water Management Act 2000.

Reasons for the Determination and Consideration of Community Views

- The proposed development, subject to the specified conditions, is consistent with the objectives of the applicable environmental planning instruments, being;
 - Bega Valley Local Environmental Plan 2013
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - State Environmental Planning Policy (Transport and Infrastructure) 2021
- The proposed development is, subject to the specified conditions, consistent with the objectives of the Bega Valley Development Control Plan 2013
- The variations proposed have been found to be reasonable in the specific circumstances of this application and have been taken account in the Assessment Report.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality
- The proposed development, subject to specified conditions, will not result in unacceptable adverse impacts upon the natural or built environments
- The proposed development is a suitable and planned use of the site and its approval is in the public interest
- Any submission issues raised have been taken into account in the Assessment Report and where appropriate, conditions of consent have been included. Council has given due consideration to community views when making the decision to determine the application.

Reasons for conditions

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

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

Right of appeal

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

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

For the purposes only of Section 8.7 of the *Environmental planning and Assessment Act 1979*, if this consent is a deferred commencement consent under Section 4.16 of the Act, Council is deemed to

have notified the applicant that Council is not satisfied as to the deferred commencement conditions after 28 days from the date the applicant has provided the applicant' evidence."

Review of determination

Section 8.2 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to request the Council to review the determination of your application. This request must be made within sufficient time so as to allow Council to determine the application within the time prescribed by Section 8.3 and be accompanied by the fee prescribed by Section 257 of the *Environmental Planning and Assessment Regulation 2000*. Review provisions do not apply to a determination:

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

Mark Fowler

Senior Town Planner