

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH - 28
DA Number	2019.446
LGA	Bega Valley Shire Council
Proposed Development	Stage 2 – Bega Valley TAFE Facility – Specialist Centre.
Street Address	1 McKee Drive Bega Lot 2 DP 1243054
Applicant/Owner	Applicant - Gardner Wetherill and Associates Owner - Health Administration Corporation Proponent – Technical and Further Education Commission (TAFE NSW)
Date of DA lodgement	14 January 2020
Number of Submissions	Nil
Recommendation	Approval subject to terms and conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 4 - Crown development with a Capital Investment Value of more than \$5 million.
List of all relevant s4.15(1)(a) matters	Environmental Planning and Assessment Regulations 2000 <ul style="list-style-type: none"> Regulation 92(b) – demolition of building Relevant Environmental Planning Instruments State Environmental Planning Policies (SEPPs) <ul style="list-style-type: none"> State Environmental Planning Policy 55 Remediation of Land. State Environmental Planning Policy (State and Regional Development) 2011. State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017. Local Environmental Plan <ul style="list-style-type: none"> Bega Valley Local Environmental Plan 2013. Draft Environmental Planning Instruments <ul style="list-style-type: none"> Nil Planning Agreements (existing/draft) <ul style="list-style-type: none"> Nil Relevant Council Policy <ul style="list-style-type: none"> Bega Valley Development Control Plan 2013. Bega Valley Section 94 and 94A Contributions Plan 2014.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Architectural Plans – Gardner Wetherill and Associates - Project No. 19060 Revision A dated 29 November 2019. Survey Plan – R W Surveying and Valuations - Plan Reference 2171A Revision 1 dated 2 November 2015. Plan of Levels and Contours – Veris - Plan Reference 201533A Revision 0 dated 19 June 2019. Drainage Layout Plan – Van der Meer Consulting – Plan Reference SY192094 Drawing no. DAC401 Revision D dated November 2019. Drainage Detail Plan – Van der Meer Consulting – Plan Reference SY 192094 Drawing no. C402 Revision B dated November 2019. Erosion and Sediment Control Plan – Van Der Meer Consulting - Plan Reference SY192094 Drawing DAC210 Revision C dated November 2019. Landscape Concept Plan – Taylor Brammer – Plan Reference LC01 Revision A dated 29 November 2019. Landscape Cross section and Indicative Planting List - Taylor Brammer – Plan Reference LC02 Revision A dated 29 November 2019. Hydraulic Services Site Plan – Erbas – Plan reference SYD19421 – H001 Issue P1 dated November 2019. Ecological Assessment – NGH Consulting - dated 11 November 2019. Preliminary Site Investigation for Contamination and Geotechnical Report - GHD - dated September 2019. Traffic Impact Assessment – Premise - dated December 2019.

	<ul style="list-style-type: none"> • Building Code of Australia Compliance Report – BCA Vision – Reference P19233 Issue 2 dated 29 November 2019. • Aboriginal Heritage Report – New South Wales Archaeology – dated 4 April 2020. • Quantity Surveyors Certificate – Wilde and Woollard – dated 28 November 2019 • Draft Conditions of Consent (Appendix 1)
Clause 4.6 requests	Not Applicable
Summary of key submissions	No submissions received
Report prepared by	Rob Slapp
Report date	19 May 2020

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? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes – in**

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 **accordance with Section 4.33(1)(b) of the EP and A Act 1979.**

EXECUTIVE SUMMARY

On the 1 August 2018 Council, subject to conditions detailed in Development Consent 2018.188 approved a TAFE Connected Learning Centre (Stage 1) on a section of the old Bega hospital site (Lot C DP 351037). The approved development has been completed and subsequently excised onto its own individual lot (Lot 1 DP 1243054) leaving the balance of the land (Lot 2 DP 1243054) containing several buildings and carparking areas associated with the past hospital use and large areas of vacant land.

The current application provides for the demolition of an existing dwelling and the erection of a new purpose built education facility being Stage 2 of the Connected Learning Centre development catering for education in hospitality, multi trades, health/wellbeing/community services and horticulture and the attainment of recognized qualifications. The land area accommodating Stage 2 would be excised from Lot 2 DP 1243054 and consolidated with the Lot 1 DP 1243054. The subdivision of the land does not form part of the current application and is to be pursued by TAFE through acquisition under the *Land Acquisition (Just terms Compensation) Act 1991*.

It has been necessary to refer the current application to the Southern Joint Regional Planning Panel pursuant to Clause 4 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 on the basis that the proposed development comprises a Crown development with a capital investment value of more than \$5 million.

This Report provides an assessment of the proposal in accordance with the prescriptions of Section 4.15 of the Environmental Planning and Assessment Act 1979. In doing so, the following environmental planning instruments have been addressed:

- SEPP 55 – Remediation of Land - Clause 7;
- SEPP (State and Regional Development) 2011 – Part 4 Clause 20 and Schedule 7;
- SEPP (Education Establishments and Child Care Facilities) 2017 – Part 6 Clauses 50 and 52 and Part 7 Clause 57;
- Bega Valley Local Environmental Plan 2013 – Clauses 1.2, 2.3, 4.3, 4.4, and 5.10

In summary, it is considered that the scope of the proposed development would not be inconsistent with the relevant environmental planning instruments.

The current application was subject to a public consultation process in accordance with Council's adopted Notification Policy. The process involved the individual notification of all adjoining and adjacent landowners and the publishing of public notices in the local newspaper. The exhibition period extended from 7 February 2020 to the 21 February 2020. In response, no public submissions have been received.

Based on the planning assessment undertaken by this Report, it is considered that the proposed development would have noteworthy social and economic benefits to the local community without adversely impacting on the natural and built environments within the immediate locality and/or the greater regional area.

Accordingly, it is recommended that the Southern Joint Regional Planning Panel, as the determining authority, grant development approval for the proposed development subject to the terms and conditions as detailed in the recommendations contained in this Report.

1.0 Introduction

1.1 Overview

The purpose of this report is to provide a detailed assessment to assist the Southern Joint Regional Planning Panel in its deliberations and determination of a development application for the erection of a modern TAFE educational facility within the Bega Township.

The application provides for the erection of an educational facility which will integrate with and complement the existing Connected Learning Centre located on adjoining land and other TAFE facilities located in the Bega Township.

The facility would provide flexible space for the delivery of a range of vocations and trades.

1.2 Scope of the Report

This Report will detail the scope of the proposed development, describe the location and physical characteristics of the site on which the development is proposed, identify and comment 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 Gardner Wetherill and Associates, for and on behalf of the Technical and Further Education Commission (TAFE NSW). The land according to Council's records is held under the ownership of the Health Administration Corporation.

1.4 Background

On the 1 August 2018 Council, subject to conditions detailed in Development Consent 2018.188 approved a TAFE Connected Learning Centre (Stage 1) on a section of the old Bega hospital site (Lot C DP 351037). The approved development has been completed and subsequently excised onto its own individual lot (Lot 1 DP 1243054) leaving the balance of the land as a separate lot (Lot 2 DP 1243054) containing several buildings and carparking areas associated with the past hospital use and large areas of vacant land.

The current application provides for the demolition of an existing disused dwelling and the erection of a new purpose built education facility being Stage 2 of the Connected Learning Centre development catering for education in hospitality, multi trades, health/wellbeing/community services and horticulture and the attainment of recognized qualifications. The land area accommodating Stage 2 would be excised from Lot 2 DP 1243054 and consolidated with the Lot 1 DP 1243054. The subdivision of the land does not form part of the current application and is to be pursued by TAFE through acquisition under the *Land Acquisition (Just terms Compensation) Act 1991*.

2. Site Description and Local Context

2.1 Site Description

The property is described as Lots 1 and 2 DP 1243054 (no.1) McKee Drive Bega. The property has a secondary road frontage being Auckland Street which would be regarded as the primary road frontage given the function and capacity of the local road network and the location of the existing access arrangements servicing Stage 1 of the development.

At the present time, Lot 1 is occupied by the existing TAFE Connected Learning Centre and Lot 2 still retains the old Bega Hospital and associated buildings and carparking albeit non-operational.

The area of Lot 2 to be excised to accommodate the proposed TAFE development would have dual road frontages to McKee Drive and Auckland Street and is currently occupied by a disused single storey poorly maintained brick and tile dwelling. A dense stand of significant non-native mature trees (Exotic Cypress and London Plane) occupy the McKee Drive street frontage. Landscaping, inclusive of the retention of a large London Plane tree, has been established across part of the Auckland Street road frontage to Lot 1.

The area would be irregular in shape, have an area of approximately 7,150m² (subject to survey) and a pronounced fall from its McKee Drive frontage to the common boundary with Lot 1.



Photo showing existing Connected Learning Centre building – Auckland Street frontage



Photo showing existing dwelling to be demolished.



Photo Showing existing trees along McKee Drive road frontage.

2.2 Local Context

Bega is an inland settlement on the south coast of NSW located 423 kilometres by road south of the Sydney GPO and 224 kilometres south-east of Parliament House, Canberra. It is within the local government area of Bega Valley Shire. The development site is located about 500 metres to the south of Bega town centre.

The surrounding locality is mostly characterized by a mix of older style, 1 and 2 storey dwellings. In most cases, well established and maintained landscaped surrounds are common place. The old Bega Hospital and associated buildings still have a significant visual presence within the adjoining streetscapes.



Source: Six Maps March 2020.



Source: Google Maps March 2020

3. The Proposed Development

3.1 Future Subdivision

The proposal involves the erection and subsequent use of a new contemporary TAFE educational facility on an area of land currently within the old Bega Hospital grounds. The development site would be acquired by TAFE NSW and subsequently excised and consolidated in subdivision with the adjoining Lot 1 DP 1243054. The subdivision process would involve the creation of a right of access over existing and proposed driveways which will ultimately traverse the consolidated lot. The right of access being required to provide continuity in legal and practical access to the Hospital's land.

Note: the subdivision process does not form part of the current application.



Source: Extract from Site Map (Drawing No. DA000 Revision A dated 29 November 2019) showing future subdivision boundaries in context with existing buildings.

3.2 Siting and Design

The proposed development has been designed to integrate with and complement the existing Connected Learning Centre located on Lot 1 and would be similar in architecture character. The proposed building would be of a split level design taking advantage of the sloping nature of the site and the need to integrate with the finished ground floor levels of the existing Centre.

To facilitate construction, the existing disused dwelling would be demolished and all existing trees (London Plane and Exotic Cypress) across the McKee Drive frontage would be removed. Extensive site works inclusive of variable height retaining walls would be required. Retaining walls would be setback from the boundaries of the land to ensure land stability and the establishment and maintenance of proposed landscape treatments.

Variable building setbacks are proposed ranging from 4.75m (McKee Drive/Auckland Street intersection) to 6.7m from McKee Drive.

Landscaping would be established and maintained along both street frontages and internal to the site in context with the established, but immature plantings on the adjoining Connected Learning Centre site.

Water sensitive urban design measures would be incorporated in the proposed development.

3.2.1 Building Materials and Treatments

Building materials/treatments would comprise a mixture of:

- Fibre cement and factory pre-colored metal wall cladding;
- Factory pre-colored roof sheeting;
- Factory pre-colored aluminium timber look architectural batten features; and
- Black powder coated aluminium window and door framing with grey tint glazing

3.2.2 Internal Room Composition

Ground Level

- Multi trade/workshop areas;
- Covered outdoor bricklaying and forklift areas;
- Storage areas
- Teaching areas
- Communication and service areas
- Male and female amenities
- Lift shaft and stairwell.

Upper level

- Main foyer area;
- Administration, staff offices and amenities;
- Teaching kitchen and restaurant/bar (not commercial);
- Mezzanine break out space: and
- Lift shaft and stairs.

3.2.3 Carparking

The existing driveway and carparking (11 spaces) servicing the existing Connected Learning Centre would be extended in a westerly direction to provide an additional 32 spaces. Access would continue to be provided solely from Auckland Street. In total, 43 spaces (inclusive of compliant parking for people with disabilities) would be provided.

3.2.4 External Lighting

All external lighting would be installed in compliance with Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting.

3.2.5 Occupation

Hospitality

- Commercial kitchen training
- Beverage bar and barista training
- Dining/restaurant training

Dining/Restaurant Operation

TAFE propose to provide a simulated restaurant experience within the educational establishment that would provide real world experience for students.

The facility would be open to the public one evening a week between the hours of 6 pm and 9 pm and one lunch service per week, between the hours of 12-2pm. The day on which the lunch or dinner service is offered will typically be a set week-day but may change from week to week depending on external matters (such as public holidays etc).

The ancillary use of the dining area for the purposes of a restaurant is considered to be permissible with consent given the prescriptions of Clause 52(4) of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP).

Multi Trade Workshop

- Metal work fabrication
- Carpentry
- Automotive
- Bricklaying

Health, Wellbeing and Community Services

- Aged care training
- Early Childhood education training

Horticulture

- Training in horticultural and greenhouse practices

3.2.6 Staff and Student Complement and Operating Hours

The proposed development would accommodate 22 staff and up to 98 students at any one time. Hours of operation would typically be 8am to 6pm Monday to Friday although approval is sought for 8am to 9pm Monday to Friday and 9am to 5pm Saturday and Sunday to provide flexibility in use consistent with the existing Connected Learning Centre.

Together with the existing Centre, the total development would accommodate up to 25 staff and 143 students on a daily basis.

4 Statutory Planning Framework

4.1 Environmental Planning and Assessment Act 1979

4.1.1 Clause 1.3 - Objectives

The Objectives of the Act are:

“(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,

- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment."*

Comment

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Act on the basis that:

- Bega is a recognized regional centre which provides administration and institutional functions. It services a catchment comprising the Bega Valley local government area and surrounding rural communities. As a regional centre, higher order goods and services are available.

The proposed development will serve to reinforce the continuation of TAFE level education in Bega and confirm the commitment of TAFE NSW to the far south coast. In doing so, the proposed development would make a positive contribution to the social and economic fabric of the Bega Valley and the broader region by providing short and long term employment and educational opportunities.

- The nature of the proposed development would be in keeping with the orderly and proper development of the subject land and would have no significant effect on the management, development and conservation values of the State's resources.
- The proposed development would not be contrary to the Principles of Ecological Sustainable Development. The scope of the proposal would pose no serious threat or irreversible environmental degradation; would ensure inter-generational equity by reinforcing the presence of higher education opportunities in the region without adversely affecting the health, diversity and productivity of the environment; would have no impact on biodiversity and/or ecological integrity and, through its siting and design, effectively integrates economic and environmental considerations.
- The proposed development would not restrict the development potential of land within the Bega Valley and greater region for the purpose of affordable housing.
- The proposed development would have no adverse impact on the conservation of threatened species, ecological communities and/or their habitats.
- The proposed development would have no impact on European heritage and/or Aboriginal heritage and culture.
- The architectural character of the proposed development is modern and reflective of the existing Connected Learning Centre. It would provide a modern conducive learning environment offering high standards in staff and student amenities and will contribute positively to the built environment and streetscape character.

- The building would be constructed in accordance with the National Construction Code, Building Code of Australia, all relevant Australian Standards and Council Policy.
- The application has been subject to a public participation process which resulted in no submissions being received.

4.1.2 Clause 1.7 – Application of Part 7 of Biodiversity Conservation Act 2016

The prescriptions of Section 1.7 of the Act require consideration of Part 7 of the Biodiversity Conservation Act 2016. Part 7 of the Biodiversity Conservation Act 2016 obligates a proponent and determining authority to consider the potential impact of development or an activity on threatened species, ecological communities and/or their habitats.

For the purpose of Clause 7.2 of the Biodiversity Conservation Act 2016, a development or activity is likely to significantly affect threatened species if:

- “(a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or*
(b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or
(c) it is carried out in a declared area of outstanding biodiversity value.”

Comment

The application is supported by a concise ecological report prepared by NGH Consulting dated 11 November 2019. The Report concludes that there are no threatened communities on the subject land and no likely impacts on threatened flora and fauna. Accordingly, a 5 Part test of significance was not considered warranted.

Notwithstanding, the Report made several recommendations to minimise potential impacts on common local fauna. Those being:

- Staged removal of the upper canopy and checking for any nests or drays.
- Wildlife handler on call should any fauna require handling or capture and if necessary, relocate to a suitable location as close to the subject site as possible.
- Avoid removing trees during spring and early summer to reduce risk of displacing mammals or nesting birds with young.
- Follow best practices in removal of trees in development areas.
- Trees to be retained should be fenced during tree removal works and construction works.
- Retained trees should be fenced based on ASAS 4970-2009: Protection of trees on development sites.

The Report also notes that the vegetation on site is planted exotic trees with a predominantly exotic ground cover and that the site is not located within an area mapped as having biodiversity values.

The recommendations in the Report are considered reasonable and justified. Suitable condition(s) should be imposed on any subsequent consent to ensure compliance.

Refer to Condition 1 in the Draft Consent attached as Appendix 1 to this Report.

4.1.3 Clause 4.33 – Determination of Crown development applications

Under the prescriptions of Clause 4.33, the determining authority (other than the Minister) must not:

- “(a) refuse its consent to a Crown development application, except with the approval of the Minister,*
or

(b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.”

In accordance with the provisions of the Act, the Draft Conditions of Approval were referred to TAFE NSW for consideration and advice on their appropriateness. In response, TAFE NSW has advised by email dated 13 May 2020 that they have no objection to the form and the terms and conditions of the Draft Consent (Appendix 1)

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

4.2.1 State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP) provides the legislative planning framework for State and Regionally significant development.

It has been necessary to refer the current application to the Southern Joint Regional Planning Panel pursuant to Clause 4 of Schedule 7 of SEPP on the basis that the proposed development comprises a Crown development with a capital investment value of more than \$5 million. The proposed development would have a capital investment value of \$12.5 million.

4.2.2 State Environmental Planning Policy No.55 – Remediation of Land

Clause 7 of the SEPP states that a consent authority must not consent to the carrying out of development unless it has considered, among other things, whether the land is contaminated.

In this instance, the subject land is not listed in Council’s records as being contaminated. However, given the historic use of the land as a hospital and associated infrastructure (circa 1946), the potential for the land to have been exposed to land use and building activities of a contaminating nature warranted detailed evaluation and reporting.

The current application is supported by a detailed preliminary site investigation report prepared by GHD dated September 2019. The scope of the Report having a dual purpose being, to assess the suitability of the proposed development against the geotechnical characteristics of the land and to establish the nature and extent of any site contamination which may influence the siting and design of the development and/or its occupation as an education facility.

Based on the development history of the site and field observations, the Report identified 4 potential areas of contamination being:

- Imported fill of unknown quality and origin within the northern, southern and eastern parts of the site. However, fill may exist in other areas including below existing internal access roads associated with the old Bega Hospital.
- Ash material in the southern part of the site and at the surface in the balance of the site.
- Potential impacts to soil from weathering of hazardous building materials and application of pesticides adjacent to existing structures.
- On-site migration of potential contamination via stormwater drain which collects surface water runoff from McKee Drive and directs it onto the site. The source of contamination being associated with incidental spills of fuel/oil and other general road grime.

The Report also noted that field observation and laboratory results did not identify contaminants which had potential to affect human health and as such, any potential constraint on the suitability of the site to accommodate the proposed development was assessed as low. Notwithstanding, the Report identified concentrations of zinc, total recoverable hydrocarbons (TRH) and polycyclic

aromatic hydrocarbons (PAH) as exceeding ecological assessment criteria at 3 locations in near surface soils.

Based on the findings of the investigations, the Report makes several recommendations in order to assess or mitigate potential contamination risks being:

- Preparation of an Unexpected Finds Protocol to manage occurrence of contamination that may be encountered during construction. These occurrences may include asbestos containing materials, staining, odours or ground conditions that differ significantly to what has been encountered to date.
- Assessment of the western portion of the site following removal of the internal access road. This assessment would target potential fill material that may exist below the road and adjacent to the Community Health Care building.
- Assess the building footprints for potential asbestos and lead impacts following the removal of site structures in preparation for redevelopment. The existing residential dwelling contains asbestos and it is possible that the section of building in the western portion of the site may also contain hazardous building materials due to its age. There is potential for soil contamination following demolition of structures containing hazardous building materials. Soils should be assessed for potential contamination following demolition of structures and prior to commencing earthworks/construction activities.
- Reassess exposure pathways for ecological receptors once the new layout has been finalized.

The observations and recommendations in the Report are considered reasonable and justified. However, additional considerations in relation to the demolition of buildings/structures are necessary and would require the imposition of specific conditions on any subsequent consent.

Refer to Conditions 1, 21, 23 and 45 in the Draft Consent attached as Appendix 1 to this Report.

4.2.3 State Environmental Planning Policy (Educational Establishments and Child care Facilities) 2017

The SEPP aims to facilitate the effective delivery of educational establishments and early education and child care facilities across the State.

In part, the prescriptions of Clause 8(1) of the SEPP state:

“if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.”

In this instance, the subject land is located in an R2 Low Density Residential Zone pursuant to the provisions of the Bega Valley Local Environmental Plan 2013. Within that Zone, ‘educational establishments’ are typically prohibited.

Under the provisions of the Bega Valley Local Environmental Plan 2013, an ‘educational establishment is defined as meaning:

“a building or place used for education (including teaching), being –

(a) a school or

(b) a tertiary institution, including a university or TAFE establishment, that provides formal education and is constituted by or under an Act.”

In this instance, the proposed development clearly falls within the definition and as a consequence, would be prohibited if not for the prescriptions of the SEPP.

The prescriptions of Clause 50 to the SEPP lists the R2 Low Density Residential Zone as a ‘*prescribe zone*’ for the purpose of applying the SEPP.

The prescriptions of Clause 52(1) and (2) enable the development of land in a prescribed zone for the purpose of a TAFE establishment or within the boundaries of an existing TAFE establishment subject to the granting of development consent.

By virtue of Clause 8 to the SEPP, it is Council’s position that there is no statutory impediment to the granting of development consent for the proposed development.

In part, the prescriptions of Clause 57(1) to the SEPP applies to development of land for the purpose of an educational establishment that will accommodate 50 or more additional students and involves the erection of a new premises where the land has direct vehicle or pedestrian access to any road.

In the case where the proposed development falls within the specified requirements of Clause 57(1) the prescriptions of Clause 57(2) to the SEPP requires referral of the development application to Roads and Maritime Services (now Transport NSW) and consideration given to any matters raised by the Service.

The application was referred to the Service for consideration in accordance with the provisions of the SEPP. In response, the Service has raised no objection to the proposed development. Additional comment is provided in Section 4.10 of this assessment.

4.2.4 Bega Valley Local Environmental Plan 2013

4.2.4.1 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.”*

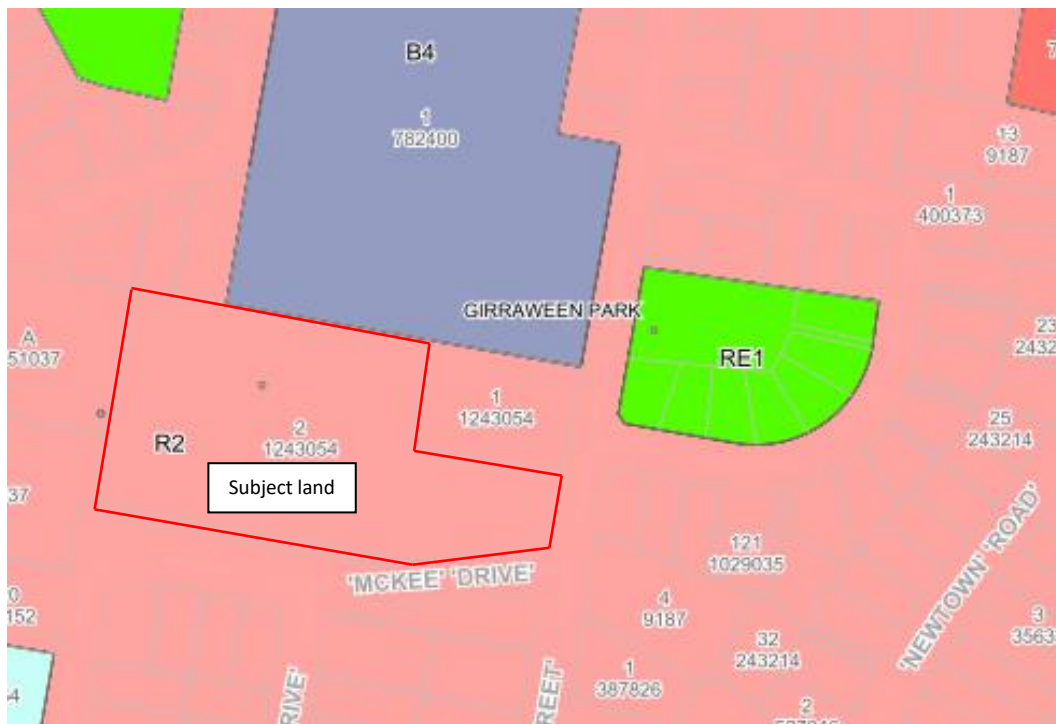
Comment

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Plan on the basis that:

- The proposed development would not be contrary to the Principles of Ecological Sustainable Development. The scope of the proposal would pose no serious threat or irreversible environmental degradation; would ensure inter-generational equity by reinforcing the presence of higher education opportunities in the region without adversely affecting the health, diversity and productivity of the environment; would have no impact on biodiversity and/or ecological integrity and, through its siting and design, effectively integrates economic and environmental considerations.
- The proposed development would make a positive contribution to the social and economic fabric of the Bega Valley and the broader region by providing short and long term employment and educational opportunities.
- The proposed development involves the development of vacant land which forms part and parcel of the old decommissioned Bega Hospital site which is located within the Bega Township boundaries. The area of land immediately adjoins an existing TAFE development which will facilitate the efficient and effective use of land within an established locality.
- The architectural character of the proposed development is modern and reflective of the existing TAFE facility. It would provide a modern conducive learning environment offering high standards in staff and student amenities and will contribute positively to the built environment and streetscape character.
- The proposed development would not restrict the development potential of land within the Bega Valley and greater region for residential purposes or adversely impact on agricultural productivity.
- The proposed development would have no impact on European heritage and/or Aboriginal heritage and culture.
- The subject land is not affected by natural hazards.
- Subject to additional investigation and engagement of appropriate mitigation measures as warranted, the proposed development is unlikely to adversely impact on water quality and environmental flows of receiving waters by reason of contamination and/or stormwater discharge.

4.2.4.2 Clause 2.3 Zone Objectives and Land Use Table

Under the provisions of the Bega Valley Local Environmental Plan 2013 the subject land is located within an R2 Low Density Residential Zone.



Map extract Bega Valley Local Environmental Plan 2013

The Objectives of the Zone are:

- “ To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.”

Comment

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Plan on the basis that:

- The proposed development would not restrict the development potential of land within the Bega Valley and greater region for residential purposes and would facilitate the orderly and proper development of land for educational purposes having a significant contribute to existing educational opportunities currently available within the local area and surrounding districts.

Land use table and Zoning

As documented earlier, the subject land is located in an R2 Low Density Residential Zone pursuant to the provisions of the Bega Valley Local Environmental Plan 2013. Within that Zone, ‘educational establishments’ are typically prohibited. Notwithstanding, the prescriptions of the State Environmental Planning Policy (Educational establishments and Child care Facilities) 2017 would enable the development of the land for the purpose of a TAFE establishment subject to the granting of development consent.

4.2.4.3 Clause 4.3 Height of Building

The Objectives of the Clause are:

- “(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.”

Comment

Under the prescriptions of the Clause, the maximum height of building must not exceed 10m. As proposed, the building would be of a contemporary split level design maintaining a maximum height of approximately 8m with the main visual façade presenting to Auckland Street.



Source: (Drawing No. DA000 Revision A dated 29 November 2019) showing Auckland Street elevation.

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Plan on the basis that:

- The proposed height of the building is compliant with the prescriptions of the Clause.
- The split level design of the proposed development and the establishment and maintenance of extensive landscape treatments across the total width of both street frontage will effectively reduce the visual bulk and scale of the building when viewed from adjoining and adjacent lands and public domain.
- Streetscape character and the visual amenity of adjacent residential properties will improve as a result of the demolition of the existing disused and poorly maintained dwelling.
- Given the natural characteristics of the site and the siting and design of the proposed development, any potential impact on privacy, views and solar access currently enjoyed by residential properties in the immediate locality would be negligible.

4.2.4.4 Clause 4.4 Floor Space Ratio

The Objectives of the Clause are:

- “(a) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic that the development will generate,*
- (b) to ensure that buildings are compatible with the bulk and scale of the locality.”*

Comment

The scope of the proposed development would involve the excision and consolidation of a parcel of land with the adjoining TAFE land (Lot 1 DP 1243054) giving a total lot size of approximately 7,150m².

Under the prescriptions of the Clause, the maximum floor space ratio for building must not exceed 0.5: 1 (3575m²). The total gross floor area across the existing and proposed TAFE developments would be 2842m². This equates to a compliant floor space ratio of 0.39:1.

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Plan on the basis that:

- The proposed floor space ratio is compliant with the prescriptions of the Clause.
- The development across both stages would not require any major augmentation of service infrastructure.
- The potential traffic and pedestrian generating characteristics of the development would not exceed the capacity and function of the local road and pedestrian networks.
- The bulk and scale of building whilst not typical of residential development within the immediate locality would be effectively reduced by architecture composition reflective of site characteristics and the establishment and maintenance of extensive landscape treatments across both street frontages.

4.2.4.5 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.”*

Comment

The prescriptions of the 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,”*

- **European Heritage**

In terms of European heritage, the subject land is not listed as a heritage item under Schedule 5 of the Bega Valley Local Environmental Plan 2013 or located within a heritage conservation area or in the immediate vicinity of a heritage listed item. Accordingly, any potential impact on the heritage values within the Bega Township and broader regional area would be negligible.

- **Aboriginal heritage and Culture**

In relation to Aboriginal heritage and culture, the application is supported by a detailed Aboriginal Heritage Report prepared by New South Wales Archaeology entitled “Bega TAFE Stage 2 Aboriginal Due Diligence Assessment” dated 4 April 2020. The report concludes:

“No Aboriginal objects were found during the field survey. This assessment has concluded that based on an understanding of Aboriginal land use (the predictive model), a visual inspection and the extent of previous impacts, the site is assessed to be of very low archaeological potential and sensitivity.

The Due Diligence Code of Practice (NSW DECCW 2010) - Step 4 of the Due Diligence Code of Practice (NSW DECCW 2010) indicates that where the assessment or visual inspection does not indicate that

there are (or are likely to be) Aboriginal objects, the proponent can proceed with caution without an AHIP application. Section 5 provides further summary information of the legislative context relating to Aboriginal heritage in development contexts."

"The assessment has concluded that based on environmental grounds and the extent of previous impacts, the activity area is unlikely to be archaeologically sensitive. Accordingly, further archaeological assessment and an AHIP is not required.

Bega Local Aboriginal Land Council, has indicated that the immediate local area is of cultural significance to the Aboriginal community, but that at the site, these values are compromised due to the high levels of previous impacts."

The report recommends:

- "1. No further heritage assessment is required; an AHIP is not required;*
- 2. There are no heritage constraints to the activity;*
- 3. The BLALC has indicated that there are no cultural constraints but has requested that a sites officer be engaged to monitor the initial ground disturbance works at the site.*
- 4. If Aboriginal objects are found while undertaking the activity (considered unlikely), the proponent must stop work and notify the NSW OEH; an AHIP may need to be sought.*
- 5. If human skeletal remains are found while undertaking the activity (considered unlikely), the proponent must stop work immediately, secure the area to prevent unauthorized access and contact the NSW Police and OEH."*

On assessment, it is considered that the proposed development would not be contrary to the Objectives of the Plan on the basis that:

- The level of reporting has suitably addressed the potential for the land to contain items of Aboriginal heritage and its cultural importance.
- The 'precautionary approach' has been applied to ensure that suitable protocols are followed in the event that items of significance present during the construction stage of the development.

Accordingly, the recommendations in the Report are considered reasonable and justified and should be endorsed by the inclusion of a suitable condition(s) on any subsequent consent.

Refer to Condition 1 in the Draft Consent attached as Appendix 1 to this Report.

4.3 Section 4.15(1)(a)(ii) Any Proposed Instrument

Comment

There are no proposed planning instruments which have relevance in the assessment and determination of the current application.

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

4.4.1 Bega Valley Development Control Plan 2013

The Plan came into effect on 11 September 2013 and covers the whole of the Bega Valley Local Government Area. The Plan supplements the Local Environmental Plan and provides more detailed provisions to guide development within the Shire.

The development standards of the Plan do not specifically address the siting and design parameters for educational establishments. However, the Plan documents general development standards which should be taken into account when assessing the appropriateness of development.

The following is a summary of the general standards of the Plan as considered relevant to the circumstances of the case.

4.4.2 Part 5 General Development

4.4.2.1 Parts 5.1 and 5.2 European and Aboriginal Heritage

Refer to Section 4.2.4.5 of this assessment.

4.4.2.2 Part 5.3 Access and Mobility

The Objective of the Plan is:

- *“Improve physical access to the built environment which includes all public access buildings, paths of travel, streetscapes, accessible parking, amenities and Council facilities.”*

Comment

In application, the Plan among other forms of land use activities, applies to education establishments. The Plan draws reference to the Commonwealth Disability Discrimination Act 1992 and associated Disability (Access to Premises-Building) Standards 2010, Australian Standard 1428 – Design for Access and Mobility (Parts 1 and 2).

The application is supported by a detailed BCA Design Compliance Report prepared by BCA Vision dated 29 November 2019 (Appendix D). In relation to access, the Report concludes that the requirements of the BCA as they relate to access and mobility can be achieved but subject to the recommendations contained in the Report.

To give effect to the Objectives of the Plan and the recommendations of the Report, Accordingly, the recommendations in the Report should be endorsed by the inclusion of a suitable condition(s) on any subsequent consent.

Refer to Conditions 1, 2, 5 and 11 in the Draft Consent attached as Appendix 1 to this Report.

4.4.2.3 Part 5.5 Sustainable Design Principles.

The Objective of the Plan is:

- *“Ensure that sustainable design principles are considered in developments.”*

Comment

The application provides for the erection of a contemporary educational facility which has been sited and designed taking into account the natural form and shape of the land, the lands ecological, social and cultural values and the general character of existing developments within the immediate locality. Its occupation would integrate with an existing TAFE facility on the land and other remote TAFE campuses within the Bega Township.

Having assessed the scope of the proposed development against the Principles of Ecological Sustainable Development, it is considered that the Objective of the Plan has been satisfied on the basis that:

- The scope of the proposal would pose no serious threat or irreversible environmental degradation. Any potential impacts during construction and over the operational life of the

- facility can be suitably addressed through the imposition of conditions of approval on any subsequent consent and TAFE's management practices.
- Would ensure inter-generational equity by reinforcing the presence of higher education opportunities in the region without adversely affecting the health, diversity and productivity of the environment;
- Would have no impact on biodiversity and/or ecological integrity; and
- The siting and design of the facility effectively integrates economic and environmental considerations by acknowledging the land's suitability to accommodate and sustain the development over its operational life whilst preserving environmental values to the benefit of local communities.

4.4.2.4 Part 5.8 Planning for Hazards.

Part 5.8.3 Contaminated Land

The Objective of the Plan is:

- *"Safeguard and improve the quality of public and environmental health by ensuring that any land contamination issues are resolved early in the planning process."*

Comment

Refer to Section 4.2.2 of this assessment.

4.4.2.5 Part 5.9 Off-street Car and Bicycle Parking.

The Objectives of the Plan are:

- *"Determine the number of off-street parking spaces provided on the site to alleviate undue congestion in adjacent streets."*
- *Provide secure and accessible parking on site to meet the needs of residents and visitors."*

Comment

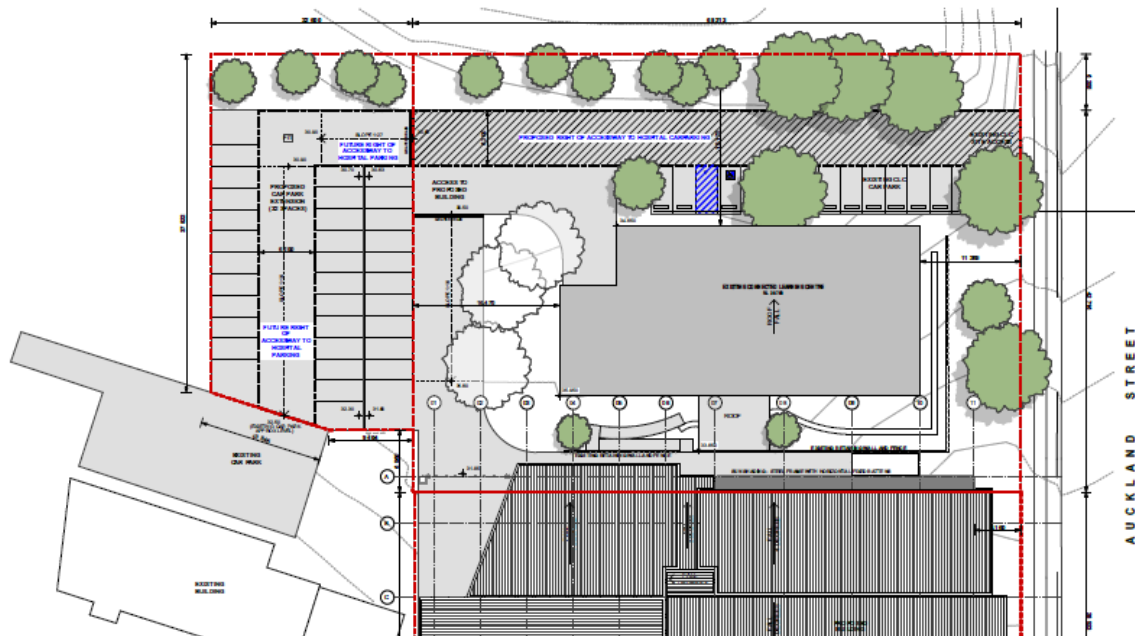
At the present time, access to the existing TAFE facility is provided over an existing concrete driveway formation intersecting with Auckland Street. The vehicle cross-over and driveway immediately adjoins and is parallel to the northern boundary of the land (Lot 1 DP 1243054) and satisfies Council's engineering standards.

Existing on-site 90° carparking (11 spaces) is provided between the existing building and driveway formation. The carparking as provided is compliant with Council's DCP requirements.

The provisions of the DCP specifically list educational establishments and tertiary institutions, and are based on:

"1 parking space per employee, plus 1 parking space per 10 students, plus 1 parking space per 10 seats in assembly hall."

As now proposed, the existing driveway and carparking formations would be extended in a westerly direction and would effectively service both the existing and proposed facilities and an existing carparking area associated with the old Bega Hospital.



Source: (Drawing No. DA003 Revision A dated 29 November 2019) showing driveway and carpark extensions.

In total, the facility (Stages 1 and 2) will engage 25 staff and cater for 143 students at any one time. Based on the DCP standards, this would require the provision of 40 on-site spaces. As now proposed, 43 spaces would be provided.

The driveway configuration is suitable to facilitate forward in/forward out vehicle movements inclusive of delivery and service vehicles.

Dining/Restaurant Operation

The facility would be operated by TAFE hospitality students only. Based on the proposed dining area (107m²), a conventional restaurant would generate the need for 5 on-site car parking spaces (based on 1 space/25m²). As mentioned above, a total of 43 on-site carparking parking spaces would be provided for the purpose of accommodating the parking demands for facility being 3 more than that typically required.

Notwithstanding the above, the facility would employ no external/additional staff and, in the case of the dinner service, would operate outside the proposed core hours of the educational establishment. Accordingly, potential competition for on-site parking would be negligible but, in any event, ample kerbside parking would be available.

The standards of the DCP relating to tertiary institutions also require the provision of on-site bicycle parking based on:

“1 space per 20 employees and 1 space per 10 full time students”

The current application acknowledges that the total facility (Stages 1 and 2) would require the provision of 15 spaces but is silent on their location(s) within the development and that 3 spaces have been provided in Stage 1. On observation, 4 spaces have been provided and are readily accessed from the driveway formation in proximity to the main entrance to the building.

On assessment, an additional 11 bicycle spaces are required to be provided. Whilst the application is silent on the matter, there would appear to be suitable areas within the development that could cater for the provision of secure bicycle parking. To ensure compliance with the requirements of the DCP, a suitable condition(s) should be imposed on any subsequent consent.

Subject to full compliance with the specified standards, the proposed development would not be inconsistent with the Objectives of the Plan.

Refer to Conditions 1, 4, 5, 13, 19, 40, 50, 51, 54 and 63 in the Draft Consent attached as Appendix 1 to this Report.

4.4.2.6 Part 5.11 Signage and Advertising.

The Objective of the Plan is:

- *“Ensure that the design and location of signage complements the development on which it is displayed and the amenity and character of the surrounding area.”*

Comment

High quality signage has been integrated into the siting and design of the exiting Connected Learning Centre (Stage 1) which clearly and tastefully identifies the location of the facility within the streetscape and within the general amenity of the locality.



Source: Email extract from applicant showing existing signage.

The current application provides for some additional discrete illuminated signage in the form of the TAFE logo which would be attached to the Auckland Street façade of the proposed building above the main pedestrian entrance. The sign would be relatively small in nature and would be to a scale in keeping with the character of the building.



Source: (Drawing No. DA000 Revision A dated 29 November 2019) showing indicative signage.

The applicant has provided advice to the effect that no determination has been made on whether the signage is to be 'back lit' or 'flood lit' and that a decision on the type of illumination will be made prior to the commencement of site works.

It is Council's opinion that the characteristics of the sign constitute a '*building identification sign*' as referenced by the provisions of State Environmental Planning Policy No.64 – Advertising and Signage and defined by the Standard Instrument.

The Standard Instruments defines a '*building identification sign*' as meaning:

"a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services."

In considering the appropriateness of the sign, it is Council's position that the provisions of State Environmental Planning Policy No. 64 – Advertising and Signage do not apply in this instance as Clause 9 of the SEPP excludes '*building identification signs*' from the provisions of Part 3 of the SEPP.

Additionally, the provisions of both State Environmental Planning Policy (Education Establishments and Child Care) 2017 and of State Environmental Planning Policy (Exempt and Complying Development Code) 2008 specify development standards for '*building identification signs*'. However, in this instance the characteristics of the sign have not been finalised by TAFE and as such, the proposed sign may or may not satisfy the exemption provisions of either SEPP.

If not exempt development under the aforementioned SEPPs, the proposed signage would be subject to development consent under the prescriptions of the Bega Valley Local Environmental Plan 2013 and as such, the development standards of the DCP would apply.

In general, the standards of the DCP require Council to consider the specific characteristics of the proposed signage and any potential impacts on:

- the amenity of the area;
- the architectural character of the building and adjoining buildings; and
- public safety

In this instance, the detail of the proposed sign is indicative only and as such, a full and complete assessment of the appropriateness of the sign is not achievable. However, given the likely location and the small scale characteristics of the sign, any potential impact on established residential amenity, public safety or architectural character would be minor.

A suitable condition(s) should be imposed on any subsequent consent to ensure compliance.

Refer to Conditions 1 and 3 in the Draft Consent attached as Appendix 1 to this Report.

4.5 Bega Valley Section 94 and 94A Contributions Plan 2014.

The Plan came into effect on the 17 February 2015 and identifies the projected demands for Local infrastructure arising from expected development in the Bega Valley Local Government Area. The Plan authorises Council or and accredited certifier to impose conditions on development consents or complying development certificates requiring:

- Section 94 Contributions from (now Section 7.11) from residential accommodation developments that would result in a net increase in dwellings (including subdivision);
- Section 94A levies (now Section 7.12) for other nominated forms of development under the Plan.

In most circumstances, a proposed development having a capital investment value in the order of \$12.5 million attract the payment of a Section 7.12 levy in the order of \$125,000.00 based on 1% of the documented value of the development.

In this instance, the applicants have sought a waiver of the need to pay the levy based on:

- the methodology in determining the estimated cost of construction as prescribed by Clause 25J(3) of the Environmental Planning and Assessment Regulations 2000;
- Clause 2.8 of the Contribution Plan would exempt the proposed development from the payment of the levy on the basis that the development would be a community facility provided by State Government and that the development would not increase the demand for community infrastructure as nominated in the Plan.
- the proposed development would have a material public benefit to local and regional communities; and
- common local government practice to exempt educational facilities given their benefits to local and regional communities.

Comment

In addressing the request by the proponent, Council has given consideration to the requirements of Clause 2.8 of the Plan and Department of Urban Affairs and Planning Circular No. D6 dated 21 September 1995.

Clause 2.8 of the Plan lists specific development which is exempt from the payment of contributions as determined by the provisions of the Plan.

Clause 2.8(b) states:

“Development provided by or on behalf of State Government or the Council:

- *for the purposes of Local Infrastructure included in this Plan or another contributions plan prepared under the EP&A Act;*
- *for infrastructure provided by water, sewer or energy providers;*
- *that provide not-for-profit community facilities, such as sportsgrounds, parks, community centres, emergency services; and*
- *that in the opinion of Council does not increase the demand for the categories of community infrastructure addressed by this Plan”.*

Circular D6 provides advice to local government on the appropriateness of contributions and imposition of conditions on Crown development which provide essential community services such as education, health, community services, law and order and housing.

The Circular includes a matrix providing a summary of guidelines of appropriate categories of contributions towards off-site works associated with Crown development. An extract from the matrix is provided below.

Note: that the category referencing the 'Upgrading of Local Roads/Local Traffic Management' only relates to the works associated with the site entrance to a development.

CROWN ACTIVITY	PUBLIC SERVICE/AMENITY							Upgrading of Local Roads Local Traffic Management**
	Open Space	Community Facilities	Parking	Drainage	Local Roads	Sub-Arterial Non-classified Roads	Arterial (classified)* Roads	
Educational Services	No	No	No	Yes	No	No	No	Yes (including bus bays)

NOTE 1: All 'yes' entries rely on the contributions being justified by the council.

NOTE 2: Contributions towards water supply and sewerage facilities can no longer be levied under section 94.

NOTE 3: Landcom have not been included in the above matrix, as Landcom has indicated that it will generally no longer operate under the provisions of section 91A.

NOTE 4: The Minister for Urban Affairs and Planning will consider waiving the section 94A Direction on SEPP 5 developments in cases where councils can show good cause.

* Where council is the construction authority.

** Works associated with the site entrance.

*** "Medium density infill" refers to dual occupancy development, townhouses, villas and walk-up flats in established areas, but does not include high rise development.

Appendix A3 to Contribution Plan lists required capital works and public infrastructure necessary for Council meet community expectations. The Appendix identifies that certain sections of Auckland Street require pavement stabilisation. However, those nominated sections of Auckland Street do not form a frontage to subject land.

Having considered the circumstances of the case, Council has formed the opinion that to levy a contribution pursuant to Section 7.12 of the Act would not be appropriate in this instance on the basis that:

- the proposal is a Crown development that will have a material public benefit which would not increase the demand for community infrastructure as nominated in the Plan.
- The site entrance to be utilised as part of the current application has been fully constructed to Council' engineering standards and satisfaction as part of Stage 1 of the Connected Learning Centre development.

Accordingly, Council supports the applicant's request seeking a waiver of the contribution.

4.6 Section 4.15(1)(a)(iia) Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F

Comment

There are no planning agreements entered into or any draft agreements which have relevance to the assessment and determination of the current application.

4.7 Section 4.15(1)(a)(iv) The Regulations (to the extent that they prescribe matters for the purpose of this paragraph).

4.7.1 Regulation 92 Additional matters that consent authority must consider

Comment (as relevant)

The Regulation prescribes matters which are to be taken into consideration by the consent authority in determining a development application.

Regulation 92(1)(b) states:

- *“in the case of a development application for the demolition of a building, the provisions of AS 2601,”*

The current application involves the demolition of an existing poorly maintained disused dwelling. Accordingly, the demolition process would need to comply with AS 2601. A suitable condition(s) is recommended for inclusion in any subsequent consent.

Refer to Conditions 1, 21 and 23 in the Draft Consent attached as Appendix 1 to this Report.

4.8 Section 4.15(b) Likely impacts of development

4.8.1 Context and Setting

Comment

The proposed development has been designed to integrate with and complement the existing Connected Learning Centre located on adjoining land and would be similar in architecture character and landscape treatments. The proposed building would be of a contemporary split level design reflective of the natural form and shape of the land.

The surrounding locality is mostly characterised by a mix of older style, 1 and 2 storey dwellings. In most cases, well established and maintained landscaped surrounds are common place. The old Bega Hospital still has a significant visual presence within the adjoining streetscapes.

It is considered that the development would be an efficient and effective use of land having minimal impact on the established land use character within the immediate locality.

4.8.2 Access, Transport and Traffic

Comment

The adequacy of the proposed on-site carparking arrangements and driveway function has been assessed against the development standards of Council's adopted Bega Valley Development Control Plan 2013 and found to be fully compliant or achievable (bicycle parking).

The application is supported by a detailed report prepared by Premise Australia P/L entitled Traffic Impact Assessment dated December 2019. The Report establishes that based on likely staff and student numbers over the course of a day, the facility (Stages 1 and 2) is expected to generate in the order of 80 additional vehicle movements (to and from) at various times of the day dependant on class scheduling.

The Report effectively concludes that the additional vehicle movements would not adversely impact on the capacity and function of the local road network and would be noticeably less than that associated with the old Bega Hospital. A view which is supported by Council.

Additionally, the Report recommends that TAFE engage Council for the purpose of providing timed parking restrictions on the eastern side of Auckland Street across the property frontage to ensure adequate capacity for through southbound traffic to navigate around any standing traffic queuing to access the driveway. This is considered to be a separate and distinct issue which is beyond the scope of the current application and would be subject to the preparation and lodgement formal submission from TAFE to the Local Traffic Committee (LTC) for consideration and determination.

4.8.3 Public Domain

Comment

The land/existing disused dwelling are poorly maintained and as such, present poorly within the streetscape.

The proposed development has been designed to integrate with and complement the existing Connected Learning Centre located on the adjoining Lot 1 and would be similar in architecture character. The proposed building would be in the form of a contemporary split level design. Quality building materials and finishes would be used in construction. Large variable landscaped building setbacks would be established and maintained.

The existing dwelling would be demolished and replaced by a modern TAFE facility with integrated landscape surrounds. In general terms, the proposed development would result in a significant improvement in the visual appearance of the land when viewed from the public domain and would, once established, contribute positively to streetscape character.

Additionally, the proposed development would have no impact on the availability and function of public recreational opportunities, public spaces or pedestrian networks within the general locality.

4.8.4 Utilities

Comment

The scope of the proposed development would not place any undue demands on existing service infrastructure. All utility services (reticulated water, sewerage, power and telecommunications) are available to the land and would be augmented as required in accordance with the requirements of the appropriate service provider.

Section 64 Headwork Contributions

The proponent maintains, that under the Water Directorate Section 64 Determinations of Equivalent Tenement Guidelines, the use of land for the purpose of a tertiary education establishment would attract payment of Section 64 headwork charges for the provision of water and sewer infrastructure. The charges being based on 0.02 ET/person. It is further maintained that based on the above, the now proposed development would attract charges based on 2.4 ETs for both water and sewage.

However, the proponent maintains that as a Crown development providing a material public benefit, the development enjoys an exemption under the prescriptions of Section 306(4) of the Water Management Act 2000 notwithstanding the likely generated demand for the provision of water and sewer infrastructure.

Section 306(4) states:

"If a water supply authority imposes a requirement under this section on the Crown, the Crown may request the Minister for Urban Affairs and Planning to determine whether such a requirement should be imposed and, if so, in what terms."

Accordingly, the proponent is formally seeking a waiver from the payment of water and sewer headworks charges.

In considering the request, Council's Water and Sewer Assets Group has advised that there are no Section 64 headworks contributions to be paid and as such, the request seeking a formal waiver has no relevance on the basis that:

- The previous development application which created Lot 1 DP 1243054 (TAFE Connected Learning Centre Stage 1) paid 1 Equivalent Tenement (1ET) in contributions, which is the only mandatory contribution Council requires for most non-residential connections.
- The new building under this consent is proposed to be consolidated with the existing development on Lot 1 DP 1243054, giving a total 1 ET contribution credit for the consolidated lot, which meets the minimum requirements as noted in dot point 1.
- Council's recently adopted a non-residential High Consumption Charge which will be applied in lieu of Section 64 water and sewer headwork charges in this instance.

4.8.5 Land Resources

Comment

It is considered that the proposed development would enable and contribute to the orderly and proper development of land and would not compromise the development potential of the adjoining old hospital site.

Additionally, the proposed development would not be located on land within a water supply catchment, strategically significant agricultural lands or on land the subject of a mineral exploration or mining licence.

4.8.6 Water

Comment

An unnamed first order watercourse is located approximately 60m to the north of the development site (Stage 2). The watercourse generally follows open overland flow paths and urban drainage infrastructure to the receiving water of Kisses Lagoon which is located approximately 700m to the north west.

The development site has no direct interface with the watercourse. The watercourse is located on vacant adjoining land currently owned by the Department of Education which forms part of the Bega High School campus.

The watercourse has no defined bed or bank, has a mown grass overland flow path and a small number of trees within its path.

As the proposed development would be in excess of 40m from the watercourse, the provisions of the Water Management Act 2000 would have relevance in this instance.

Provided suitable soil and water management controls are installed prior to any major site works commencing on the subject land, the integrity of the watercourse should not be affected.

Suitable condition(s) should be imposed on any subsequent development consent to ensure connection to Council's reticulated.

Refer to Conditions 1 and 12 in the Draft Consent attached as Appendix 1 to this Report.

4.8.7 Soils

Comment

The development site has not been identified as containing acid sulfate soils or being prone to salinity impacts. Accordingly, there would appear to be no apparent issues which would preclude the development of the land as proposed.

Notwithstanding, extensive site works inclusive of variable height engineered retaining walls would be required. Retaining walls would be well setback from the proposed boundaries of the land to ensure land/soil stability and the establishment and maintenance of proposed landscape treatments.

The design of retaining walls and would be suitably engineered and certified as part of any subsequent design compliance process.

To mitigate potential erosion and the migration of soil laden waters from the site into the natural environment, appropriate soil and water management controls would be installed in accordance Landcom's publication "Managing Urban Stormwater, Soils and Construction – Volume 1, 4th Edition".

Potential soil contamination has been appropriately addressed in Section 4.2.2 of the assessment.

The geotechnical characteristics of the site have been assessed in the Report prepared by GHD entitled Preliminary Site Investigation for Contamination and Geotechnical dated September 2019.

The Report concludes that there would appear to no geotechnical limitations which would preclude the development of the land as proposed. However, the Report recommends specific actions to facilitate construction. Compliance with the recommendations of the Report would be reasonable and justified.

Suitable conditions should be imposed on any subsequent consent to ensure compliance.

Refer to Conditions 1, 12, 23, 29 and 31 in the Draft Consent attached as Appendix 1 to this Report.

4.8.8 Air and Microclimate

Comment

As an educational establishment it is not expected to have any deleterious effect on air quality and/or micro-climate. However, there may be minor impacts on air quality associated with the operation of the teaching kitchen (vented cooking odours) and trade workshop (dust and particulates).

Additionally, there may also be impacts associated with the demolition of the existing disused dwelling given the likelihood that asbestos materials have been used in its construction.

Suitable condition(s) should be imposed on any subsequent development consent to limit potential impacts.

Refer to Conditions 21, 23 and 38 in the Draft Consent attached as Appendix 1 to this Report.

4.8.9 Waste

Comment

TAFE facilities across the State have well developed waste management strategies. Internal waste collection is provided at the source with integrated waste collection at the activity points within the facility. External waste and recycling collection would be provided by a commercial waste collection service.

Commercial cleaning services collect internal waste for on-site, external storage within dedicated 240 litre bins. A dedicated and secure bin storage area would be provided having ease of access for kerbside collection.

Construction and demolition waste will be separated and recycled thus minimising waste to landfill.

A waste management plan has not been submitted in support of the current application. Accordingly, it is recommended that a suitable condition(s) be imposed on any subsequent consent requiring the submission and endorsement of a plan by Council.

Refer to Conditions 18, 21 and 23 in the Draft Consent attached as Appendix 1 to this Report.

4.8.10 Stormwater

Comment

As proposed, the development would incorporate on-site stormwater detention to ensure off-site flows do not exceed pre-development levels. Site discharge would be at a controlled rate and directed to the mapped water course located on adjoining land.

The application is supported by drainage layout plan (Plan Reference SY192094) which shows the discharge point at the western end of the proposed carparking and driveway formation.

On assessment by Council's development engineering staff, the discharge point is not considered appropriate given its distance (approximately 60m) from the unnamed first order watercourse located on the adjoining Department of Education land. Accordingly, Council's engineer has advised that there would appear to be no engineering impediment which would preclude the relocation of the discharge point to the eastern end of the existing driveway configuration being closure to the watercourse.

Accordingly, it will be necessary to impose suitable conditions on any subsequent consent to ensure an appropriate outcome.

Refer to Conditions 17, 32, 40, 41, 42, 52, 53 and 56 in the Draft Consent attached as Appendix 1 to this Report.

4.8.11 Energy

Comment

Reticulated electricity is available to land of a suitable supply capacity.

The proposed development is designed to ensure compliance with Section J of the Building Code of Australia (as relevant).

A suitable condition should be imposed on any subsequent consent to ensure compliance.

Refer to Condition 2 in the Draft Consent attached as Appendix 1 to this Report.

4.8.12 Noise and Vibration Impacts

Comment

Operational Noise

The applicant suggests that as an educational establishment, the use of the premises will not result in any unreasonable impacts. At this point in time, the view expressed by the applicant can not be substantiated as the true operational characteristics of the facility, more specifically, those nominated trade vocations as detailed in the application (metal fabrication, carpentry, automotive and bricklaying) are not known. Accordingly, Council is reluctant to recommend the imposition of a condition(s) on any subsequent consent which regulates operational noise.

In any event, the operational characteristics of the facility would have to conform with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Industrial Noise Policy 2017 which, given the that the facility is a Crown development, would be regulated by the Environment Protection Authority.

Construction Noise and Vibration

It is likely that noise and vibration impacts will be experienced over the duration of the construction period. Potential impacts can be mitigated by ensuring plant and equipment are properly maintained and operated and that noise generating activities be confined to nominated working hours. Accordingly, a suitable condition(s) should be imposed on any subsequent consent for the purpose of limiting any potential impacts.

Refer to Condition 39 in the Draft Consent attached as Appendix 1 to this Report.

4.8.13 Natural Hazards

Comment

There are no known natural hazards which would influence the development of the land as proposed.

4.8.14 Crime Prevention

There are four principles that need to be considered across both the existing (Stage 1) and proposed (Stage2) TAFE development for the purpose of minimising the opportunity for individuals to participate in anti-social behaviour and crime. They are:

- **Surveillance Measures** (i.e. natural/technical/formal, lighting and landscaping)

Opportunities for anti-social behaviour and crime can be reduced by providing opportunities for effective surveillance by creating sight lines between public and private places and maximising natural surveillance and by providing appropriate lighting and landscaping.

- **Access Control**

The principle of access control is to use physical and symbolic barriers to attract, channel or restrict movement of people to minimise opportunities for anti-social behaviour and crime by increasing the effort required to commit the act or offence.

- **Territorial Reinforcement**

The principle revolves around community ownership of public spaces and the creation, promotion and maintenance of public spaces which the public feel comfortable in using. Well used public spaces act as a deterrent against anti-social behaviour and crime as they reduce the opportunity to commit the act or offence. Designing with clear transitions and boundaries between public and private spaces is essential.

- **Activity and Space Management**

This principle is linked to the principle of territorial reinforcement and ensures that spaces are appropriately utilised and well-cared for. Space management strategies include activity co-ordination, site cleanliness, timely repair of vandalism and graffiti, the replacement of lighting to name a few.

Comment

In addressing the above principles, the following elements of the facility and proposed design treatments would help ensure against the incidence of anti-social behaviour and crime within the complex and its immediate curtilage.

Lighting

Lighting plays a vital role in crime protection and personal safety. The proposed development would involve the installation of various forms of internal and external lighting systems designed not only to enhance the architectural elements of the buildings within its locational setting and its use by staff and students alike, but also, to ensure the security of the asset.

Fencing

The characteristics of fencing is important and should integrate with the individual components of the development without compromising their use, the security of the asset and the personal safety of user groups and individuals.

The application is silent on fencing. However, to ensure uniformity, it would be expected that any future fencing of the premises would be reflective of the fencing servicing the existing TAFE facility. A mixture of fencing materials has been used comprising black powder coated chain wire mesh and more complementary architectural style fencing in those areas of the development which present visually to the streetscape.

Car Parking

The siting and design of on-site carparking and associated driveway areas is critical to their safe, effective and efficient day and night time use. The proposed development would see an extension of the existing driveway and parking arrangements. These areas will remain as open air common spaces and as such, would continue to be highly exposed for the purpose of casual surveillance both external and internal to the site. The use of these areas would also be enhanced by security lighting.

Entrapment Spots and Blind Corners

Given the nature of the proposed development it is important to eliminate these areas as much as possible through careful design of buildings and facilities and their spatial relationships both internal and external to the site. However, achieving a desired outcome can prove illusive given the motivated intent of persons engaged in anti-social behaviour or crime.

The siting and design of the proposed development has mostly eliminated potential areas of conflict internal to the site. The installation of security lighting in prominent locations will help create safe common spaces during night time use.

Landscaping

The design, establishment and ongoing maintenance of landscaping within a development of this type is of paramount importance if surveillance oversight within the development and its immediate curtilage is to be effectively managed.

New areas of landscaping are to be established across the property frontages and internal to the site comprising tree and understorey plantings. The landscape treatments have been designed to maximise visual surveillance capability and to clearly delineate between those areas available to public use and those areas which have no public access.

Movement Predictors

Movement predictors are routes which people move through on a regular and predictable basis. The movement of staff, students and general public has been effectively controlled and regulated by the siting and design of the building and landscaped open space/communal areas.

Entrances

The entrance to any type of development must be sited and designed to facilitate their safe effective and efficient use. They need to be prominent and identifiable so as to promote their quick and convenient use whilst limiting the opportunity to engage in anti-social behaviour.

Access to the premises would be provided via the proposed new entry foyers which discharge to the Auckland Street property frontage and lower level carparking/communal areas. The access points are visual prominent in their locational setting and have open clear sight lines which will assist passive surveillance oversight.

4.8.15 Social Impacts

Comment

It is not anticipated that the proposed development would have any negative impact on people's life style opportunities, their culture or community. Positive social benefits would result from the provision and accessibility of additional TAFE facilities within the local and surrounding communities.

4.8.16 Economic Impacts

Comment

The proposed development is not anticipated to generate any negative economic impacts in the local community and surrounding districts. Positive flow on effects will be experienced during the construction and operational stages of the development through the creation of long and short term employment opportunities.

4.8.17 Construction Impacts

It is likely that the construction process will cause some short term disruption to residential amenity and environmental impacts in the immediate locality. Accordingly, appropriate mitigation measures for the purpose of limiting those impacts have been identified in the application. They include:

- All vehicles and equipment would be operated and maintained in accordance with the manufacturer's specifications.
- Construction would be restricted to standard operating hours between 7am to 6pm on weekdays and from 8am to 1pm on Saturday. No work would be undertaken on Sundays or on public holidays.
- Where necessary, erosion and sediment controls will be installed in accordance with the NSW Governments Managing Urban Stormwater: soils and construction, Volume 1, commonly referred to as "The Blue Book".
- Maximising recycling and minimising waste going to landfills by separating waste materials during the demolition phase, not after.
- All material generated from the work will be recycled or reused where possible.

As considered relevant, suitable conditions should be imposed on any subsequent consent to limit potential construction impacts.

Refer to Conditions 12, 18, 23, 25, 27, 28, 30, 33, 38, 39, in the Draft Consent attached as Appendix 1 to this Report.

4.8.18 Cumulative Impacts

Comment

Cumulative impacts are characterised by:

- Individual impacts so close in time that the effects of one are not dissipated before the next (time crowded effects);
- Individual impacts so close in space that the effects overlap (space crowded effects);
- Repetitive, often minor impacts eroding environmental conditions (nibbling effects); and
- Different types of disturbances interacting to produce an effect which is greater or different than the sum of the separate effects (synergistic effects).

In this instance, the proposed development involves the construction and operation of a contemporary educational establishment the design of which has considered the suitability of the land to accommodate and sustain the development over the long term. Where potential impacts have been recognised, appropriate mitigation measures have been integrated into the siting and design of the development. Accordingly, it is considered that subject to compliance with relevant conditions as recommended in the Draft Consent (Appendix 1) attached to the Report, the cumulative impacts associated with the development can be mitigated.

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

Comment

The topographic characteristics of the site have posed some challenges in the siting and design of the proposed educational establishment. Extensive site excavation and engineered retaining walls will be required to accommodate the proposed development and its physical integration with the existing TAFE development on the adjoining land.

The site has some minor contamination and geotechnical issues which have been identified and will need to be appropriately addressed in the final design stages for the development in accordance with the technical reports lodged in support of the current application.

The site has limited biodiversity value. However, the exotic trees across the McKee Drive street frontage have habitat value and as a result, their removal may have some effect on the roosting and foraging opportunities currently available to native (non-threatened) fauna. The technical reporting accompanying the application has appropriately addressed the biodiversity values of the land generally and the issues revolving around the removal of the trees in question.

Streetscape character will experience visual change with the development of the site. However, any potential visual impact associated with the bulk and scale of development has been reduced by the natural form and shape of the land, extent of required excavation and the selective siting and design of building and landscaped elements.

The occupational aspects of the development should not pose any significant impact on residential amenity currently enjoyed by adjoining/adjacent lands.

Given the traffic generating potential of the proposed development and its proposed access arrangements, any impact on the function and capacity of the local road network would be negligible.

The site is located within reasonable distance to the Bega Town Centre and the services provided in the Centre. It has access to reliable local public transport and utility infrastructure of suitable capacity to accommodate the operational needs of the facility.

Accordingly, it is considered that subject to compliance with relevant conditions as recommended in the Draft Consent (Appendix 1) attached to the Report, there would appear to be no underlying issues which would discount the suitability of the site to accommodate the proposed development.

4.10 Section 4.15(d) Submissions.

Comment

Public Submissions

The application was subject to a public consultation process between the dates of 7 December 2019 and 21 January 2020. The process involved the display of public notices in local newspapers and the individual notification of all adjoining and adjacent land owners.

In response, no submissions have been received to the endorsement date of this Report.

Agency Submissions

The application was formally referred to Transport for NSW.

The Agency formally advised Council on the 18 February 2020 that it had completed an assessment of the development based on the information provided and focussing on the impact of the proposed development on the State road network being the Princes Highway.

Whilst the Agency noted that the development would generate additional traffic, the likely generated demand would have no significant impact on the Princes Highway and on that basis, the Agency did not object to the proposed development.

Refer to Appendix 2 as attached to this Report.

4.11 Section 4.15(e) Public interest.

Comment

The proposed development would have some public benefit through the provision and availability of additional educational facilities within the Bega Valley and the broader regional area.

Potential impacts associated with the development of the site which may raise public interest can be suitably addressed through the final design stages of the development and/or by the imposition and compliance with conditions of approval design to mitigate those impacts.

5.0 Conclusion

The current application provides for the demolition of an existing disused dwelling and the erection of a new purpose built education facility being Stage 2 of the Connected Learning Centre development catering for education in hospitality, multi trades, health/wellbeing/community services and horticulture and the attainment of recognized qualifications.

The land area accommodating Stage 2 would be excised from Lot 2 DP 1243054 and consolidated with the Lot 1 DP 1243054. The subdivision of the land does not form part of the current application and is to be pursued by TAFE through acquisition under the *Land Acquisition (Just terms Compensation) Act 1991*.

The proposed development is permissible in the land use zone under the prescriptions of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017 and would not be inconsistent with the provisions of the Bega Valley Local Environmental Plan 2013 and the development standards of Council's adopted Bega Valley Development Control Plan 2013 as relevant.

The proposed development would have no adverse environmental, social or economic impact and would provide improved access and availability to additional educational facilities within the Bega Valley and broader regional area.

The current application was subject to a public consultation process in accordance with Council's adopted Notification Policy. The process involved the individual notification of all adjoining and adjacent landowners and the publication of public notices in local newspapers. The exhibition period extended from 7 February 2020 to the 21 February 2020. In response, no public submissions have been received.

Based on the merits of the case, there would appear to be no reasonable or justified grounds to refuse the issue of development consent subject to the imposition of suitable conditions designed to ensure the orderly and proper development of the land subject to the application.

A draft consent has been prepared is attached as Appendix 1



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APPENDIX 1

NOTICE OF DETERMINATION

under Section 4.18 of the *Environmental Planning and Assessment Act 1979* (as amended).

The development application has been determined by Bega Valley Shire Council granting consent subject to the conditions specified below.

DEVELOPMENT APPLICATION	2019.446
APPLICANT	Gardner Wetherill Associates
LAND	Lot: 2 DP: 1243054
LOCATION	1 McKee Drive BEGA
ZONE	Zone R2 Low Density Residential
PROPOSED DEVELOPMENT	Educational Establishment TAFE NSW - Connected Learning Centre Stage 2
DETERMINATION MADE ON	-
CONSENT TO OPERATE FROM	-
CONSENT TO LAPSE ON	-

development consent

Conditions of approval

General

1. Approved development plans

Development shall take place in accordance with the following plans, specifications and reports, except 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 – Gardner Wetherill and Associates	Project No. 19060 Revision A dated 29 November 2019.
Landscape Concept Plan – Taylor Brammer	Plan Reference LC01 Revision A dated 29 November 2019
Landscape Cross section and Indicative Planting List - Taylor Brammer	Plan Reference LC02 Revision A dated 29 November 2019
Ecological Assessment – NGH Consulting	Reference 19-685 Bega TAFE Ecology report dated 11 November 2019
Preliminary Site Investigation for Contamination and Geotechnical Report - GHD	Reference TAFE NSW Bega – Stage 2 Development Due Diligence dated September 2019
Traffic Impact Assessment – Premise	Reference Bega TAFE Connected learning centre – Stage 2 dated December 2019
Building Code of Australia Compliance Report – BCA Vision	Reference P19233 Issue 2 dated 29 November 2019
Aboriginal Heritage Report – New South Wales Archaeology	Dated 4 April 2020

2. Comply with BCA

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

3. Erection of signage

No building identification or commercial signage shall be erected, painted or displayed without prior approval from Council except those in accordance with any Council or State exemption provisions.

4. Off-street car parking areas

A minimum of 40 off-street car parking spaces shall be provided and made available for parking at all times in accordance with the Approved Development Plans and Council's Development Control Plan.

5. 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.

Prior to the issue of a Design Compliance Certificate

6. State Approval

The applicant shall obtain in accordance with Section 6.7 of the Environmental Planning and Assessment Act, 1979 certification that the proposed works satisfy the technical provisions of the New South Wales Building Laws.

7. Screening of plant and equipment

Details of the proposed screening of any roof top ducts, air conditioning and plant equipment shall be submitted for approval by Council.

8. Colour and materials schedule

A final detailed colour and building materials schedule shall be submitted to and approved by Council. The schedule shall include:

- a) External building finishes (including glazing treatments),
- b) A colour palette (including colour samples).

9. Structural Engineer's Details

The following details from a suitably qualified and insured Structural Engineer shall be submitted for assessment when applying for a Design Compliance Certificate:

- a) Footings;
- b) Reinforced concrete slabs;
- c) Retaining walls over 600mm in height;
- d) Structural steelwork; and
- e) Wall, subfloor bracing and tie-down requirements.

10. Long Service Levy payments

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, proof that the levy has been paid is to be submitted to Council. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's office.

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

11. 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.

12. Erosion and sediment control plan – greater than 2,500m² site disturbance

Where more than 2,500m² of land is to be disturbed a Soil and Water Management Plan (SWMP) is required. The SWMP shall be prepared in accordance with the provisions of the NSW Government and Landcom, "Managing Urban Stormwater - Soils and Construction" (4th Edition 2004) and submitted for approval by the Principal Certifying Authority.

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

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

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

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

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

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

13. Section 138 approval for construction works within the road reserve

An application for approval under Section 138 of the Roads Act, 1993 for works within the road reserve shall be submitted to Council for acceptance. The Section 138 application shall be accompanied by construction plans and specifications for all public engineering works within the road reserve required as part of this development consent.

These works shall be designed in accordance with Council's Development Design and Technical Specifications as current at the date of approval, and sound engineering practice.

The works shall be designed by persons holding suitable qualifications and experience for design of works of this type and current professional indemnity insurance.

Note: Evidence of the concurrence of Roads and Maritime Services to the design of all works within any classified road (as defined in the Roads Act, 1993) must be provided to Council.

14. Protection of infrastructure assets

Protection of Council's infrastructure (McKee Drive) is required. The following shall be provided to Council for concurrence:

- 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 road 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 that the excavation and retaining wall works will not create stability issues or cause settlement on McKee Drive.
- c) A letter of certification detailing that the proposed excavation and retaining wall works 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.
- d) Lodgement of security with Council, in the amount of \$5000.00, for remedying any damage to any public assets resulting from the execution works in connection with this consent.

Security can be provided by the payment of money or by unconditional bank guarantee in a form acceptable to Council. A bond administration fee will be payable to Council, as per the latest schedule of fees and charges.

The funds realised from this security may be paid out by Council to meet any costs referred to in this condition.

15. Contractor's insurance (Public Works)

Each contractor engaged in the construction of public works (such as road work, kerb and guttering, footway construction, stormwater drainage, water supply, sewerage works and environmental controls) must provide evidence of public liability insurance (minimum \$20,000,000.00) endorsed to note the contractor and Council for their rights and interests.

16. Infrastructure Augmentation

Design of the relocation of Council's existing sewer main traversing the site to be outside of the building footprint by a minimum of 1.5 metres. A copy of the final design shall be provided to council for concurrence.

17. Private stormwater detention facilities - design

Design of stormwater drainage works as necessary to limit the peak stormwater discharge from the development to not exceed calculated flow rates for this site in an undeveloped state for rainfall events of up to a 1 in 10 year average recurrence interval.

The facility shall be designed by a suitably qualified engineer in accordance with Council's Development Design Specification D5 and in conformance with recognised industry practice. A copy of the final design shall be provided to council for concurrence.

18. Construction Waste Management Plan

A construction waste management plan shall be prepared and submitted to Council for endorsement prior to the Design Compliance Certificate.

19. Bicycle parking and storage

On-site provision shall be made for a total of 15 bicycle storage spaces. Details on their location shall be provided to Council for endorsement.

Prior to demolition

20. 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
- 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).

21. 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*.
- f) Demolition 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.
- 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.

Prior to construction work commencing

22. Certification of Compliance with NSW Building Laws

The relevant provisions of Section 6.28 of Environmental Planning and Assessment Act 1979 shall be complied with prior to any commencement of building, demolition and incidental works on the subject property which relates to this approval.

23. Construction Environmental Management Plan

Prior to the commencement of works a Construction Environmental Management Plan (CEMP) shall be submitted to Council for endorsement. The Plan shall clearly outline the full scope of the works and associated impacts, risks and mitigation and procedures for monitoring construction processes against potential environmental risk.

24. Drainage – liquid trade waste

Prior to building works commencing, the proponent shall apply to Council for the purpose of obtaining approval for the discharge of liquid trade waste to Council's reticulated town sewerage system.

25. Traffic Control Plan

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

The Traffic Control Plan shall be prepared by a suitably qualified person. Evidence of Certification must be submitted with the Traffic Control Plan.

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

26. 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.

27. Garbage receptacle

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

During construction

28. 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.

29. Support and protection for neighbouring buildings

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of Clause 98E of the Environmental Planning and Assessment Regulation 2000, including:

- (a) protect and support the adjoining premises from possible damage from excavation, and
- (b) where necessary, underpin adjoining premises to prevent any such damage.

This condition does not apply if the person having benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Compliance with the requirements of WorkCover NSW is required and a copy of such requirements is to be submitted to the Principal Certifying Authority.

30. 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.

31. Earthworks, retaining walls and structural support

- a) Any earthworks (including any structural support or other related structure for the purposes of the development):
 - i. Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - ii. Must not redirect the flow to any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - iii. That is fill brought to the site – must contain only virgin excavated natural material (VENM) *as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997*, and
 - iv. That is excavated soil to be removed from the site – must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) regulation 2005*.
- b) *Any excavation must be carried out in accordance with Excavation Work:Code of Practice (ISBN 978-0-643-785442) published in July 2012 by Safe Work Australia*

32. Drainage connections

- a. Roof storm water is to be disposed of to the satisfaction of council.
- b. Any roof storm water and surface water from driveways and car parking area to be conveyed to the street water table / drainage easement / watercourse / reserve.

33. Protection of adjoining areas

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- b) Could cause damage to adjoining lands by falling objects, or
- c) Involve the enclosure of a public place or part of a public place.

34. 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.

35. Kitchen exhaust

Kitchen exhaust not to be ducted into roof cavity. Any ductwork through roof cavity to be of non-combustible material.

36. Floors of wet areas

The floors of wet areas shall be on an approved impervious material, properly graded and drained. The junctions of the floors with the walls shall be so treated as to prevent the penetration of moisture into the walls.

37. Waste pipes

All waste pipes, stack work and vents to be concealed.

38. Dust control requirements

During all site 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.

39. 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.

40. 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. After completion of road subgrade

- d. After placement and compaction of each layer of gravel pavement material
- e. During application of bitumen seal or asphaltic concrete wearing surface
- f. After laying and jointing of all stormwater pipelines prior to backfilling
- g. After surface preparation, placing reinforcement and prior to pouring concrete for roads and driveways
- g. After completion of works
- h. 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.

41. Stormwater drainage works – upstream diversion

Construction of stormwater drainage works as necessary to divert upstream stormwater flows safely around the development and then discharge downstream. Any design shall be in accordance with Council's Development Specification Stormwater Drainage Design D5 and recognised industry practice.

The design must incorporate details for kerb, pavement and footpath remediation works. Where the proposed stormwater works disturb or damage existing road assets these must be remediated in accordance with the design details and to match the surroundings.

Note: Appropriate easements shall be created to contain all drainage works that are located outside of roads and drainage reserves.

42. 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.

Stormwater must be discharged directly into a Council road or the watercourse as mapped on the 1:25 000 Topographical map of Bega.

43. 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 Code and Australian Standards.

44. 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) After completion of works;
- h) 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.

45. Excess fill to be deposited at approved site

Any excess fill arising from the proposed development shall be deposited at a Council approved site. Notification and prior arrangement to this Council approved site may be required prior to any fill being deposited. The details of the composition and volume of the fill and the site of disposal are to be forwarded to Council.

Prior to Occupation or Use

46. Food shop registration requirements

Occupation of the premises shall not occur until:

- a) a registration form has been submitted to Council for the food premises; and
- b) notification to Council under *Food Safety Standard 3.2.2 Division 2 Section 4 Notification*. This requirement is to be met by notifying through the following website:

www.begavalley.nsw.gov.au

Evidence of compliance of the above shall be submitted to Council prior to occupation and/or commencement of business.

47. Fence along rear and side boundaries

Prior to occupation of the building the property shall be fenced at the developer's cost along the side and rear boundaries using materials that complement the proposed development. Details are to be submitted to Council for approval.

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

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

49. Landscape works completed

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

50. 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 line marked for the approved use in accordance with the Approved Development Plan and Council's Development Control Plan.

51. Signage for on-site parking

Signs indicating on-site parking is available must be erected so they are visible to persons driving along the street. All spaces must be suitably signposted/marked indicating their designated use. The signs shall be maintained in good condition at all times.

52. Public Engineering Works Completion Certificate

All public engineering works (i.e. sewer, stormwater, footpath works etc) shall be constructed in accordance with the Council endorsed design, approval under Section 138 of the Roads Act 1993, Council's Development Construction Specifications and conditions of this consent.

In this regard Council must confirm, in writing, the satisfactory completion of these works prior to issue of a Final Crown Compliance Certificate.

53. Private stormwater detention facilities – certification

The stormwater detention facility shall be certified by a suitably qualified engineer. Evidence of this certification shall be provided to council.

54. Easements over existing and proposed driveway and carparking areas

A suitable right of access as shown on the approved development plans shall be created over all existing and proposed driveway areas to ensure their effective and efficient use at all times. A copy of the plan registered with the NSW Land and Property Information creating this easement shall be provided to the Council demonstrating compliance with this requirement.

55. Easement to contain Council sewer mains

Establishment of easements to drain sewage not less than 3.0 metres wide in favour of Council within the development site to contain sewerage reticulation works within a Council-controlled sewerage system. A copy of the plan registered with the NSW Land and Property Information creating this easement shall be provided to the Council demonstrating compliance with this requirement.

56. Works as executed plans

Council shall be provided with the following works as executed plans for all development works:

- a) A PDF copy of the public works plans clearly marked up to show all variations from the approved design.
- b) AutoCAD DWG or DXF file that includes the as-built details of all works. The map projection in the drawing shall be MGA94 Zone 55 and different infrastructure elements shall be delineated into different drawing layers.

Works as executed plans must be prepared and certified by an experienced Surveyor or Professional Engineer as a complete and accurate record of the work.

Conditions of use / during occupation

57. General hours of operation

The general operating hours of the Connected Learning Centre shall be confined to 8am to 6pm Monday to Friday and 9am to 5pm Saturday and Sunday.

58. Hours of operation – Restaurant Dining

The hours of operation of the public restaurant shall be confined to 6pm to 9pm one evening a week and 12 noon to 2pm one lunch time per week.

59. 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*

60. Food premises – final inspection

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

61. Food safety supervisor requirements

Occupation of the premises shall not occur until a Food Safety Supervisor (if required) has been appointed to the food premises. Evidence of compliance shall be submitted to Council prior to occupation and/or commencement of business.

62. 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.

63. Service areas kept clear of goods

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

64. Loading operations within the confines of the site

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site at all times (and must not obstruct other properties/units or the public land).

65. External storage of goods

External storage of goods, waste or extraneous material shall not occur without the consent of Council.

66. 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.

67. Fire safety statement – critical fire safety – Class 2-9

A supplementary fire safety statement is to be given to Council where a critical fire safety measure is implemented. A supplementary fire safety statement for a critical fire safety measure must be given at such intervals (being intervals of less than 12 months) as is specified in respect of that measure in the current fire safety schedule for the building.

As soon as practicable after the supplementary 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.

68. Maintenance of stormwater detention facility

The stormwater detention facility constructed as part of the development shall be maintained by the landowner(s) for the life of the development.

Advisory notes

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 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. Should you become aware of the existence of an item during the construction of this development you are required to comply with the National Parks and Wildlife Act and contact Council or the National Parks and Wildlife Service immediately for guidance in the conservation or collection of the item(s).

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

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 and Tree Preservation Order.*

Right of appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to appeal to the Land and Environment Court within 6 months after the date you receive this notice or the date the application was determined under Section 82(1).

Section 97 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 97 of the *Environmental planning and Assessment Act 1979*, if this consent is a deferred commencement consent under Section 80(3) 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's 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.

Robert Slapp

Town Planner

FOR BEGA VALLEY SHIRE COUNCIL

APPENDIX 2

Our ref: STH20/00025
Contact: Rachel Carocci 4221 2548
Your ref: DA2019.446 (CNR-4691)

18 February 2020

Robb Slapp
Bega Valley Shire Council
BY EMAIL: council@begavalley.nsw.gov.au

DEVELOPMENT APPLICATION 2019.446 – LOTS 1 & 2, DP1243054, 1 MCKEE DRIVE, BEGA – EDUCATIONAL ESTABLISHMENT STAGE 2

Dear Robb

Transport for NSW (TfNSW, formerly Roads and Maritime Services) refers to your correspondence dated 14 January 2020 regarding the subject development application.

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

TfNSW notes the development would generate additional traffic. The impact of this traffic needs to be considered and adequately mitigated.

TfNSW does not believe the development will have a significant impact on the Princes Highway and on this basis, does not object to the development application.

If you have any questions please contact Rachel Carocci on 4221 2548.

Please ensure that any further email correspondence is sent to development.southern@rms.nsw.gov.au.

Yours faithfully



Chris Millet
Manager Land Use
Southern Region