

DATE OF DETERMINATION	9 October 2025
DATE OF PANEL DECISION	8 October 2025
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	None
DECLARATIONS OF INTEREST	Council Interest Development Application

Papers circulated electronically on 7 October 2025.

MATTER DETERMINED

PPSSTH-448 - BEGA VALLEY - DA2024.258 at 10 Lagoon Street BEGA - National Circularity Centre incorporating uses of an Information and Education Centre, Function Centre, Community Facility, Entertainment Centre, Food and Drink Premises (Café), Retail Premises (Gift Shop) and Subdivision (Stage 1 Lot A and Residue, Stage 2 Lots B and C).

PANEL CONSIDERATION AND DECISION

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

Request to contravene a development standard:

Following consideration of a written request from the applicant, made under cl 4.6 (3) the Bega Valley Local Environmental Plan 2013 (LEP), the Panel was satisfied that the Applicant had demonstrated that:

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

The Panel was further satisfied that the:

- Applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP;
- Development is in the public interest because it is consistent with the objectives of cl.4.3 (height of buildings) of the LEP and the objectives for development in both the E4 General Industrial and RU1 Primary Production zones; and
- Concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*, subject to the draft conditions provided by the Council, and as amended by the Panel.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 request to contravene the building height and approve the application for the reasons outlined in the Council Assessment Report, subject to the draft conditions recommended by the Council. The Panel was satisfied that:

- The development application had been considered in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulations.
- A thorough assessment in terms of section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken.
- The preconditions to the grant of consent had been satisfied.
- Key issues relating to site constraints, particularly the potential for flooding-related impacts, had been thoroughly considered and can be managed through appropriate conditions of consent, including the need to prepare and adhere to a detailed Emergency Response Plan for flooding events.
- The proposal is unlikely to result in any unacceptable amenity, environmental or land use safety impacts subject to the imposition of the conditions of consent.
- Construction impacts can be managed through the imposition of standard conditions of consent.
- The proposal is considered appropriate with regard to the zoning of the site and the applicable provisions of the Bega LEP 2013 and other relevant environmental planning instruments. It is noted that the proposal is generally consistent with the objectives of both the E4 General Industrial and RU1 Primary Production zones, taking into account the additional permitted uses in the E4 zone. Furthermore, it is noted that the proposal will not impact the land subject to the RU1 zone.
- The development, with its high-quality architectural design, will form a landmark for those entering Bega from the north.
- The development will have significant economic and social benefits for the locality and region. It will generate employment and facilitate forums for the community, businesses, and industries to connect, aiming to diversify the Bega Valley's economic profile, implement circularity programs, and improve resilience in the region.

Given the above, the Panel was satisfied that the development was in the public interest.

CONDITIONS



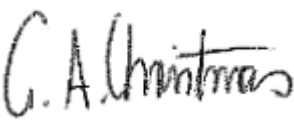
The Development Application was approved subject to the conditions recommended in the Council Assessment Report, with the following amendments:

- **Condition 24** was amended to replace the first line with the following text: 'The maximum construction height above ground level (existing) shall be to RL 30.4'. This is to ensure the certainty of height outcomes.
- **Condition 45** was amended to include in the first line the following text, 'to the satisfaction of Council'. Given the importance of the Emergency Response Plan to the ongoing operation of the site, the Panel considered Council's initial approval of the Plan necessary, in particular to ensure the Plan is generally consistent with Chapter 6 of the Rhelm Flood Impact and Risk Assessment Report dated December 2023.

The final set of conditions endorsed by the Panel, which includes the above amendments, can be found in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

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

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-448 - BEGA VALLEY - DA2024.258
2	PROPOSED DEVELOPMENT	National Circularity Centre (the Centre) - National Circularity Centre incorporating uses of an Information and Education Centre, Function Centre, Community Facility, Entertainment Centre, Food and Drink Premises (Café), Retail Premises (Gift Shop) and Subdivision (Stage 1 Lot A and Residue, Stage 2 Lots B and C)
3	STREET ADDRESS	10 Lagoon Street BEGA, Ridge Street BEGA being Lot: 1 DP: 1264640 and Lot: 39 DP: 1307477
4	APPLICANT/OWNER	Applicant: TA Project Services Owner: Bega Cheese Limited. The land for the proposed Centre has been provided through formal agreement by Bega Cheese Limited to the Regional Circularity Co-operative (being Lot 1 DP 1264640) Bega Valley Shire Council (Lot 39 DP 1307477 created from road closure)
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 Bega Valley Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Bega Valley Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 1 October 2025 cl 4.6 request: cl 4.3 Height of Buildings Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 14 May 2025 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas <u>Council assessment staff</u>: Mark Fowler, Cecily Hancock, Phillip Morey <u>Applicant representatives</u>: Carley McGregor (TA Project Services), Kobi Thompson (TA Project Services), Andrew Taylor (Regional Circularity Cooperative), Allen Grimwood (Zenith Town Planning)

		<ul style="list-style-type: none">○ <u>DPH</u>: Nikita Lange• Site inspection: 15 July 2025<ul style="list-style-type: none">○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas○ <u>Council assessment staff</u>: Mark Fowler
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

Conditions of approval

General

1. Approved development plans

The development including the subdivision 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
Subdivision Plan	Sheets 1-2 TA Project Services Job No. J000566 dated 21.5.2025
Site Plan (overview)	DA-1102 Rev 3 Job No.222111.01 Cox Architects dated 27.9.2024
Site Plan (detail)	A-11-01 Rev 4 Job No.222111.01 Cox Architects dated 30.9.2024
North/South Elevations	DA-3001 Rev 2 Job No.222111.01 Cox Architects dated 27.9.2024
East/West Elevations	DA-3002 Rev 2 Job No.222111.01 Cox Architects dated 27.9.2024
Masterplan Ground Floor	DA-2101 Rev 3 Job No.222111.01 Cox Architects dated 18.2.2025
Floor Plan Zone A	DA-2110 Rev 3 Job No.222111.01 Cox Architects dated 27.9.2024
Floor Plan Zone B	DA-2111 Job No.222111.01 Cox Architects dated 27.9.2024
Floor Plan Zone B2	DA-A-21-01 Job No.222111.01 Cox Architects dated 27.9.2024
Floor Plan Zone C	DA-2112 Rev 4 Job No.222111.01 Cox Architects dated 2.10.2024
Landscape Plan	DA-2001 Rev 2 Job No.222111.01 Cox Architects dated 27.9.2024
External Finishes	Sheets 1-2 DA-8501, DA-8502 Job No.222111.01 Cox Architects dated 27.9.2024
Signage Plans	Sheets 1-6 Job No.222111.01 Cox Architects dated 27.9.2024
Statement of Environmental Effects	Zenith Town Planning dated 23.10.2024
Noise Assessment Report & Noise Compliance Assessment	ARUP Job No. 297035 dated 4.10.2024

Access Capability Report	Philip Chun Building Compliance 16.4.2024
Traffic & Parking Impact Assessment	McLaren Traffic Engineers and Road Safety Consultants dated 3.10.2024
Flood Impact and Risk Assessment	Rhelm Consultants dated December 2023
BCA Compliance Report	ATLR dated 01.08.2024
Flora and Fauna Assessment Report	Local Environmental Solutions October 2024 Rev 2
Environmental Sustainability Design Report	ARUP dated 4.10.2024
Contamination Report	Lanterra Consulting dated 4.10.2023

2. Compliance with the Building Code of Australia

All building work shall be carried out in accordance with the provisions of the Building Code of Australia. A reference to the *Building Code of Australia* is a reference to that code as in force on the date the application is made for the relevant construction certificate.

3. Signs

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

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

Prior to issue of Construction Certificate

4. Construction certificate must be obtained

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

5. Appoint PCA

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

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

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

6. Section 7.12 contributions

Payment to Council of the following contributions pursuant to *Section 7.11 or 7.12* (formerly *Section 94 and 94A*) of the *Environmental Planning and Assessment Act* and *Bega Valley Shire Council Local Infrastructure Contributions Plan 2024 - 2036*.

Contribution type	\$ Total	Allocation No.
Section 7.12 contribution	\$271,000.00	W5307.1651.1416

Indexation: Where the monetary contribution is not paid before the first anniversary of the date of this development consent, the contribution amount must be indexed between the date of the consent and the date of payment, in accordance with annual movements in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

7. Detailed landscape plan by qualified person

A detailed landscape plan shall be submitted and approved by Council. The landscape plan shall be prepared by a person possessing qualifications acceptable to Council in the field of horticulture or landscape design and shall be consistent with Council's adopted Landscaping Guidelines.

8. Section 68 approval – carry out stormwater drainage work

A separate application is required to modify or construct council owned public stormwater infrastructure within private land. This application shall be made to council under Section 68 of the Local Government Act 1993 and must be accompanied by construction plans and specifications in accordance with the design and construction requirements specified in this consent.

9. Section 68 approval – connect to existing sewer service

A separate application to obtain approval to connect to Council's sewerage system under Section 68 of the Local Government Act 1993 must be submitted to Council for approval (copy attached). A plumbing and drainage design plan is to be submitted with the application to Council.

10. Section 68 approval - Liquid Trade Waste Approval

An application to obtain approval to discharge liquid trade waste to Council's sewage system under Section 68 of the Local Government Act 1993 must be submitted to Council for approval.

11. 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.

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

The construction 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.

13. Section 138 Roads Act approval required for civil construction works within the road reserve Lagoon Street

Detailed Civil Engineering plans must be prepared by a qualified Civil Engineer, issued for construction, and provided to the road authority generally in accordance with the following documents –

- a) DA concept plans by McLaren Traffic Engineering & Road Safety Consultants, 03/10/24, revision F.
- b) DA concept plans by Cox Architecture, 27/09/24, revision 3.
- c) Council's Development Design Specifications

The construction plans must provide the following changes from the above DA plans:

- d) Provision of a grassed nature strip between footpath and back of kerb with a minimum width of 1 metre. *Note: The bus stop pick up zone is excluded from this requirement.*
- e) In sections where the nature strip cannot be achieved, provide bollards or barriers designed to AS/NZS 3845.1:2015 and in accordance with Austroads Guide to Road Design – Part 6: Roadside Design, Safety and Barriers. *Note: Extended width of footpath may be necessary to accommodate the bollards/barrier and the minimum footpath width.*

The application must also include the following –

- f) Traffic Guidance Scheme (TGS) prepared by a qualified person
- g) Evidence of public liability insurance (minimum \$20,000,000.00)

The plan is to be accompanied by a design compliance certificate.

14. Private stormwater detention (OSD) - design

Before the issue of the relevant Construction Certificate obtain approval under Section 68 of the Local Government Act for stormwater drainage, and onsite detention (OSD) within the site.

A detailed stormwater management plan must be prepared by a qualified hydraulic or civil engineer and provided to Council in accordance with the following documents –

- a) DA stormwater concept plans by JSA Engineering Solutions, 22/10/2024, revision E.
- b) AS3500.3 – Plumbing and Drainage, Part 3.1 – Stormwater Drainage.
- c) Council's stormwater drainage guidelines for development.
- d) Council's Development Design Specification D5

The plan is to be accompanied by a design compliance certificate.

15. Preparation of a Stormwater Quality Management Plan (SQMP)

Prior to the issue of the Construction Certificate, a Stormwater Quality Management Plan (SQMP) must be prepared and certified by a suitably qualified consultant with demonstrated experience in stormwater quality and water-sensitive urban design.

The SQMP must be submitted to and approved by the Principal Certifier and must demonstrate that development incorporates stormwater quality improvement measures capable of achieving the following minimum post-construction water quality performance objectives, expressed as average annual pollutant load reductions. These may be achieved through one or more treatment types:

- 80% retention of the typical urban annual load for Total Suspended Solids (TSS)
- 45% retention of the typical urban annual load for Total Phosphorus (TP)
- 45% retention of the typical urban annual load for Total Nitrogen (TN)
- 70% retention of the typical urban annual load for gross pollutants (>5mm)
- Litter > 50mm Retention up to the 4EY (\approx 3 month ARI) peak flow

The SQMP must clearly specify:

- The type, location and sizing criteria for each treatment device;

- MUSIC modelling (or equivalent stormwater quality modelling tool) or other supporting calculations (if used) to demonstrate compliance with pollutant reduction objectives;
- Prepared in accordance with ARR2019 rainfall data, and WaterNSW's 'Using MUSIC in the Sydney Drinking Water Catchment' guidance or industry best practice equivalent.
- Construction details and inflow design flow assumptions;
- Long-term inspection, maintenance, and renewal requirements.

The plan is to be accompanied by a design compliance certificate.

16. Payment of security deposits – Damage Bond

Before the issue of the relevant construction certificate the applicant must:

- a) make payment of **\$50,000.00** for a security deposit (damage bond) to the consent authority, and if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.

17. Construction Site Management Plan

Before the issue of a construction certificate a construction site management plan must be prepared and provided to the principal certifier.

The plan must include the following matters:

- a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;
 - ii. Estimated frequency of truck movements; and
 - iii. Measures to ensure pedestrian safety near the site;
- e) Details of bulk earthworks to be carried out;
- f) The location of site storage areas and sheds;
- g) The equipment used to carry out works;
- h) The location of a garbage container with a tight-fitting lid;
- i) Dust, noise and vibration control measures;
- j) The location of temporary toilets;

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

18. Car parking details

Before the issue of the relevant construction certificate, written evidence prepared by a suitably qualified engineer must be obtained that demonstrates, to the certifier's satisfaction, the plans for parking facilities comply with the relevant parts of AS 2890.1 Parking Facilities – Off-Street Carparking and Section 5.9 of Bega Valley Shire Council Development Control Plan of council's relevant development control plan (in force as at the date of determination of this consent).

Prior to construction work commencing

19. Commencement of Works & Appointment of PCA

Works in accordance with a consent must not commence until:

- (a) A Construction Certificate has been issued;
- (b) The person having the benefit of the development has appointed the Principal Certifying Authority (PCA);

- (c) The PCA (if not Council) has, no later than two (2) days before the work commences, notified the Council (or other consent authority where applicable) of the PCA's appointment;
- (d) The person having the benefit of the consent has given at least two (2) day's notice to the Council of the person's intention to commence works.

20. 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 person who is authorised by Transport for NSW Services to prepare these plans. 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.

21. Prior to any earthworks

Prior to any earthwork occurring across the site a construction environmental management plan (CEMP) which includes an unexpected finds protocol (UFP) to manage any unexpected occurrences of contamination must be prepared by a suitably qualified environmental consultant.

22. Soil removal and transport

Any soil to be removed from the site as part of the development works must be assessed in accordance with the NSW EPA (2014) 'The Excavated Natural Material Order 2014' if suitable for off-site use as natural excavated material (ENM) or NSW EPA (2014) 'Waste Classification Guidelines, Part 1: Classifying Waste' for off-site disposal as waste.

During construction

23. Implementation of the site management plans

While site work is being carried out:

- a) the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and
- b) a copy of these plans must be kept on site at all times and made available to council officers upon request.

24. Survey of building height

The maximum construction height above ground level (existing) shall be to RL 30.4. Council will require verification by a qualified surveyor of this height during the construction of the proposed building.

A Certificate is to be submitted to the Principal Certifying Authority by a Registered Surveyor when ground floor level is reached giving:

- a) the projected maximum height of the building above natural ground level,
- b) the maximum height, measured from ground floor level to the proposed apex, to which the building can be built so as not to exceed Council's prescribed height limit.

No work is to proceed past natural ground floor level until these heights have been verified and approved by the Principal Certifying Authority.

25. Certification that development is above 1:100 yr flood level

A Registered Surveyor shall provide certification to Council confirming the floor level of the building and that the electrical services of any building are at least 500mm above the 1 in 100 year flood level at that site.

26. 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 Guidance Scheme
- 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
- h) After completion of works
- i) 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 must 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 throughout the construction phase of the development.

27. Kerb and gutter construction and associated road widening

Construction of the following roadwork in Lagoon Street to the frontage of lot 1:

- 150mm upright kerb and gutter.
- pavement designed for a traffic loading and subgrade CBR as per BVSC Design Specifications (unless site specific testing provided),
- Bitumen sealed wearing surface between the lip of the gutter and the edge of the existing seal,
- grassing of the adjacent verge,
- all associated stormwater and subsoil drainage,
- all other works necessary to achieve the above.

28. Vehicular entrance - other

Construct vehicular entrance(s) and exit(s) serving Proposed Lots A, B and C.

The vehicular entrances(s) shall be designed in accordance with AS2890.1, BVSC DCP and BVSC Specifications.

29. Concrete footpaths

Construction of public concrete footpath(s) to the extents shown in approved development plans, to include the following:

- concrete pavement not less than 1.5m wide,
- minimum concrete thickness 100mm,
- minimum reinforcement SL82 steel mesh,
- minimum concrete strength grade 25MPa.

30. Redundant vehicular entrance

Removal of any redundant vehicular entrances and restoration of kerb and gutter and footpath area to match the surroundings is required.

31. 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.

32. Inspection of stormwater junction required

Inspection required for residential stormwater cut-in to the Council controlled system (pits and pipes).

Note: Please call Council's Development Engineers to book an inspection.

33. Removal of gross pollutants

Construction of a facility to reduce the volume of gross pollutants discharged downstream of the development. Pollutant retention criteria:

POST CONSTRUCTION STORMWATER MANAGEMENT TARGETS POLLUTANT RETENTION CRITERIA

Suspended Solids (SS): 80% of average annual load

Total Phosphorus (TP): 45% of average annual load

Total Nitrogen (TN): 45% of average annual load

Gross Pollutants (>5mm): 70% of average annual load

Litter > 50mm: Retention up to the 4EY (\approx 3 month ARI) peak flow

Oil and Grease: 90% of average annual load OR no visible oils or grease for flows up to the 4EY (\approx 3 month ARI) event; where hydrocarbon risk areas are present (e.g. car parks, service/loading areas), provide a Class 1 oil-water separator or SQIDEP verified proprietary device sized in accordance with manufacturer guidance.

The above retention criteria relate to "reduction of average annual load" of stormwater pollutants that may be expected from a fully developed catchment or site.

Compliance must be demonstrated through a MUSIC model (or equivalent) prepared to current NSW technical guidance, and/or through SQIDEP verification for proprietary devices.

34. Water supply construction

Construction of all water supply reticulation works and associated facilities necessary to service the proposed development. All construction shall be as per the approved design plans. Any construction

must be carried out by Bega Valley Shire Council approved contractor(s) and in accordance with WSAA Codes and Australian Standards.

35. Sewer construction

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

36. Dust control requirements

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

37. 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.

38. 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. Fill imported to the site must consist of Virgin Excavated Natural Material (VENM) as defined in Part 3 of Schedule 1 of the *Protection of the Environment Operations Act 1997* (PoEO Act), or another material subject to a current NSW EPA Resource Recovery Exemption, or a combination of the above.
 - 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

39. 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.

40. 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.

41. Toilet facilities

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

Each toilet must:

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

42. Soil Management

While site work is being carried out, the Principal Certifier must be satisfied that all soil removed from or imported to the site is managed in accordance with the following requirements:

- a) All excavated material removed from the site must be classified in accordance with the NSW EPA's Waste Classification Guidelines before disposal at an approved waste management facility. The classification and volume of material removed must be reported to the Principal Certifier.
- b) All fill material imported to the site must be:
 - i. Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the Protection of the Environment Operations Act 1997, or
 - ii. A material that is subject to a current resource recovery exemption by the NSW EPA, or
 - iii. A combination of the above.

43. Responsibility for changes to public infrastructure

While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.

44. Accessible car parking

Car parking spaces provided for people with disabilities shall be constructed to comply with requirements of AS/NZS 2890.6:2022 (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 Occupation or Use

45. Detailed Emergency Response Plan for Flooding Events

A detailed Emergency Response Plan must be submitted to the satisfaction of Council based on the recommendations outlined in Chapter 6 of the Rhelm Flood Impact and Risk Assessment Report dated December 2023. It must include thresholds for the orderly evacuation procedures for all persons utilising the site and include a detailed strategy for protection and re-location of any moveable assets within the development.

46. Plan of Management

Prior to the commencement of use of the site, a Plan of Management must be prepared and approved by Councils Manager, Planning and Sustainability. The Plan of Management must:

- a) Provide detailed measures to ensure the recommendations of the Noise Assessment Report prepared by ARUP and dated 4 October 2024 are implemented
- b) Provide measures to restrict amplified noise to defined levels to ensure noise experienced at all sensitive receivers are below the operational noise limits for the development; and
- c) Include a complaints handling procedure and measures to provide nearby residents with advanced notification of night-time events and a contact number to direct issues to during events.

The Plan of Management must be implemented to the satisfaction of Council for the life of the development and should not be amended without the approval of Council.

47. Occupation Certificate must be obtained

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

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

48. Works in the road reserve in accordance with Section 138 approval

All works within Council's road reserve are to be constructed in accordance with approval issued by Council under Section 138 of the Roads Act, 1993.

49. Public Engineering Works Completion Certificate

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

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

50. Works as executed plans

Council shall be provided with the following works as executed plans for all public assets constructed:

- a) A PDF copy of the construction certificate 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 GDA2020 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.

51. Easement to contain Council owned drainage works

Establishment of easements to drain water not less than 3.0 metres wide (piped) in favour of Council within all lots (and downstream where proposed) that contain stormwater drainage works within a Council-controlled drainage system. The width of easements to contain overland flow paths will be determined based on the conveyance system for the major event (1% AEP) peak flow.

A copy of the plan registered with the NSW Land and Property Information creating this easement shall be provided to the Council demonstrating compliance.

52. Works completed in accordance with acoustic requirements

A verification report shall be provided from the acoustic consultant certifying that the works have been completed in accordance with their requirements and desired acoustic performance has been achieved.

53. Food – certificate of test of mechanical ventilation

On the satisfactory completion of work a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

54. Fire safety upgrade

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

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

55. Certification of On-site Detention and/or Stormwater Quality Improvement Device system as constructed

Prior to the issue of an Occupation Certificate the approved On Site Detention (OSD) and Stormwater Quality Improvement Device (SQID) systems must be fully installed, functional, and operational in accordance with the approved design and the endorsed Stormwater Quality Management Plan (SQMP).

A compliance certificate must be submitted to the Principal Certifier and be signed by a qualified hydraulic or civil engineer. The certificate must:

- (a) Certify that the OSD and SQID systems have been constructed and will function in accordance with the approved design and SQMP;
- (b) Identify any deviations from the approved design, with an assessment of whether these affect system performance;
- (c) If there is a detrimental impact on performance, detail the steps taken to mitigate the impact, and confirm that the systems now comply and are fully functional;
- (d) Or, certify that any deviations do not impair system performance.

The certificate must also include a summary of the ongoing maintenance and inspection requirements for each system, as required under the approved SQMP.

56. Release of securities

After completion of all public and site work, an application may be lodged to release the securities held in relation to the Damage Bond.

57. Defects liability period for public works

The developer is liable for maintenance of the public works to which the S138 Approval relates. The developer shall;

- a) Remedy any defects in the public works that arise within 12 months after the issue of confirmation of Practical Completion of Public Works Certificate,

- b) Making good any damage caused to any property of Council as a consequence of the doing of anything to which the consent relates,

In this regard the developer must enter into a bonding deed with Council prior to the issue of the Occupation Certificate. In this regard the developer shall provide Council a cash bond or bank guarantee in an amount equivalent to 5.0% of the final construction value of the public works for which Council is accepting maintenance responsibility for.

The funds realised from this security may be paid out by Council to meet any costs referred to in paragraph (a) or (b) above. A bond administration fee will be payable to Council, as per the latest schedule of fees and charges.

At the cessation of the maintenance period the developer must write to Council to request release of the bond. A final inspection will be required prior to release of the bond.

58. Repair of infrastructure

Any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council, or if the works are not carried out to council's satisfaction, council may, at its discretion, carry out the works required and the costs of any such works must be paid as directed by council and in the first instance will be paid using the security deposit required to be paid under this consent.

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 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.

62. 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.

Prior to the issue of a Subdivision Certificate (both stages)

63. Obtain subdivision certificate

The subdivider must obtain a Subdivision Certificate from the consent authority before the plan of subdivision can be registered by NSW Land and Property Information. All conditions of consent must be satisfied, or suitable bonding arrangements (where permitted) made with Council, before a Subdivision Certificate can be issued.

64. Easements for services

The plan of subdivision shall establish easements for services as necessary to provide for the connection of water supply, sewerage, electricity and telecommunications services.

65. Right of access

The plan of subdivision shall establish right(s) of access in accordance with Council's DCP to contain the full extent of the formation to provide the physical access to that land.

66. Inter-allotment drainage easements

The plan of subdivision shall establish easement(s) to drain water not less than 1.0 metre wide to contain stormwater drainage works that service the subdivision. The easement(s) shall be established to benefit all lots with potential to discharge water into these drainage works. Each inter-allotment drainage easement should serve no more than two allotments, except where no feasible alternative exists as per Council's Development Design Specifications.

67. Easement/restrictive covenant

Where any easement, right-of-carriageway or restrictive covenant is to be created pursuant to Section 88B of the Conveyancing Act, 1919, the subject S88B Instrument shall be submitted to the Principal Certifying Authority with the final plan of subdivision.

68. Registration of On-Site Detention on title – Positive Covenant and Restriction On The Use of Land

The applicant must provide council with evidence the instrument setting out the terms of the Restriction On The Use Of Land and Positive Covenant have been created pursuant to Section 88B or Section 88E of the Conveyancing Act, 1919.

The location of the "Onsite Stormwater Detention System" must be shown on the Deposited Plan or included as a site plan attached to the appropriate documents, which may be obtained from the Land Registry Services.

69. Positive covenant

Where a positive covenant is intended to be created in favour of Council pursuant to Section 88E of the Conveyancing Act 1919, the Section 88B instrument must be endorsed by the Council.

70. Certificate of compliance (subdivision)

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* must be obtained.

Conditions of use / during occupation

71. Hours of operation

The hours of operation for the development shall be confined to seven (7) days per week 7am to 10 pm.

72. Maintenance of wastewater and stormwater treatment device

During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).

73. Noise levels

The proposed use of the buildings and the operation of the car park shall not give rise to 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations. In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy 2000.

74. 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.

75. Maintenance of stormwater quality improvement devices (SQIDs)

The stormwater quality improvement devices constructed as part of the development shall be maintained by the landowner(s) for the life of the development.

76. Maintenance of wastewater and stormwater treatment device

During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).

77. Council waste collection on private land

Before Council agrees to waste collection via private roads or driveways, the landowner must:

- Provide evidence of a minimum \$20,000,000.00 in Public and Products Liability insurance. The policy must indemnify Council and its waste contractor(s) against Public and Product liability claims arising from, or in connection with, waste collection from the site. The insurance policy must be maintained whilst ever Council is providing on-site waste collection services.
- Indemnify Council and its contractor's against routine wear and tear from waste vehicles undertaking waste collection operations within the site.

These requirements must be captured in the Community Management Statement, Strata Management Statement or document governing the use of the development.

Advisory notes

Stormwater Modifications

Any plans to modify the stormwater infrastructure in the locality must consider impact significance to the Southern Myotis (*Myotis macropus*). A Test of Significance for this species would need to be completed as part of a Review of Environmental Factors (REF) for works outside of the development site.

Essential Energy

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with
- As part of the subdivision, an easement is created for any existing electrical infrastructure (located within the property or adjoining the property as required). The easement is to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au. BE AWARE THERE IS ESSENTIAL ENERGY INFRASTRUCTURE ON THIS PROPERTY.
- Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.
- In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as [*ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*](#). Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995* (NSW).
- Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

Crown Lands

The proponent must not:

- Encroach upon the adjacent Crown land,
- Remove any vegetation from the adjacent and adjoining Crown land,
- Stockpile materials, equipment or machinery on the adjacent and adjoining Crown Land,

- Use the adjacent and adjoining Crown Land as access,
- Direct stormwater or rainwater tank overflow discharges, septic or contaminated waste on the adjacent and adjoining Crown Land, or
- Use the adjacent and adjoining Crown land as an effluent management zone or as asset protection zone.

Location of building

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

Utility services

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

Existing structures

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

Dial before you dig

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

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

National Parks and Wildlife Act

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

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

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

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

Carparking calculations

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

Biosecurity Act 2015

All landowners should be aware of their General Biosecurity Duty under the provisions of the Biosecurity Act 2015 which states; *"any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or*

dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised”.

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

Change of contact details

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

Telecommunications Act 1997 (Commonwealth)

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

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

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

Section 64 Contributions

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

Reasons for the Determination and Consideration of Community Views

- The proposed development, subject to the specified conditions, is consistent with the objectives of the applicable environmental planning instruments, being;
 - Bega Valley Local Environmental Plan 2013
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - State Environmental Planning Policy (Sustainable Buildings) 2022
 - State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - State Environmental Planning Policy (Transport and Infrastructure) 2021
- The proposed development is, subject to the specified conditions, consistent with the objectives of the Bega Valley Development Control Plan 2013
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality
- The proposed development, subject to specified conditions, will not result in unacceptable adverse impacts upon the natural or built environments
- The proposed development is a suitable and planned use of the site and its approval is in the public interest
- Any submission issues raised have been taken into account in the Assessment Report and where appropriate, conditions of consent have been included. Council has given due consideration to community views when making the decision to determine the application.

Reasons for conditions

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

- the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations
- any environmental planning instruments applying to the subject land
- Council's codes and policies
- Local Infrastructure Contributions Plan.

Right of appeal

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

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

For the purposes only of Section 8.7 of the *Environmental planning and Assessment Act 1979*, if this consent is a deferred commencement consent under Section 4.16 of the Act, Council is deemed to have notified the applicant that Council is not satisfied as to the deferred commencement conditions after 28 days from the date the applicant has provided the applicant' evidence."

Review of determination

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

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