

Bega Valley Shire Council  
PO Box 492  
BEGA NSW 2550

## 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	<b>2025.11</b>
PORTAL CASE REFERENCE NO.	<b>PAN-502304</b>
APPLICANT	<b>Bega Valley Shire Council</b>
LAND	<b>Lot: 7032 DP: 1047318, Lot: 1 DP: 109636, Lot: E DP: 355155, Lot: 98 DP: 747323, Lot: 202 DP: 793447 and Lot: 36 DP: 208862</b>
LOCATION	<b>Imlay Street, 1A Market Street, Short Street, Kiama Place, 21 Tern Close, Market Street MERIMBULA</b>
ZONE	<b>C2 Environmental Conservation, R3 Medium Density Residential Zone and W1 Natural Waterways</b>
PROPOSED DEVELOPMENT	<b>Alterations and Additions to existing Environmental Facility (Reconstruction of existing boardwalk and water recreation structures including jetties, viewing platforms, pathways, signage, parking and landscaping works)</b>
DETERMINATION MADE ON	-
CONSENT TO OPERATE FROM	-
CONSENT TO LAPSE ON	-

development consent

# Conditions of approval

## General

### 1. Approved development plans

The 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
Statement of Environmental Effects	Project 220669, Final v1.2, 13/6/25
Locality Plan	Rev M, Dwg LA_04, 17/1/2024
General Arrangement 01	Rev M, Dwg LA_05, 17/1/2024
General Arrangement 02	Rev M, Dwg LA_06, 17/1/2024
General Arrangement 03	Rev M, Dwg LA_07, 17/1/2024
General Arrangement 04	Rev M, Dwg LA_08, 17/1/2024
General Arrangement 05	Rev M, Dwg LA_09, 17/1/2024
General Arrangement 06	Rev M, Dwg LA_10, 17/1/2024
General Arrangement 07	Rev M, Dwg LA_11, 17/1/2024
General Arrangement 08	Rev M, Dwg LA_12, 17/1/2024
General Arrangement 09	Rev M, Dwg LA_13, 17/1/2024
General Arrangement 10	Rev M, Dwg LA_14, 17/1/2024
General Arrangement 11	Rev M, Dwg LA_15, 17/1/2024
General Arrangement 12	Rev M, Dwg LA_16, 17/1/2024
General Arrangement 13	Rev M, Dwg LA_17, 17/1/2024
General Arrangement 14	Rev M, Dwg LA_18, 17/1/2024
Detail Plans 01 – Western Entry	Rev M, Dwg LA_19, 17/1/2024
Detail Plans 02 – (Jetty 03)	Rev M, Dwg LA_20, 17/1/2024
Detail Plans 03 – (Jetty 02 and Others)	Rev M, Dwg LA_21, 17/1/2024
Detail Plans 04	Rev M, Dwg LA_22, 17/1/2024
Detail Plans 05	Rev M, Dwg LA_23, 17/1/2024

Detail Plans 06 – (Jetty 01)	Rev M, Dwg LA_24, 17/1/2024
Detail Plan 07 – Carpark South	Rev M, Dwg LA_25, 17/1/2024
Detail Plan 08 - Carpark North	Rev M, Dwg LA_26, 17/1/2024
Detail – Timber boardwalk construction typical	Rev M, Dwg LA_27, 17/1/2024
Detail – FRP deck	Rev M, Dwg LA_28, 17/1/2024
Typical Balustrade Details (where applicable)	Rev M, Dwg LA_29, 17/1/2024
Typical Stair handrail (at entry from Market Street)	Rev M, Dwg LA_30, 17/1/2024
Typical Seat Details 01 – Jetty 01-03	Rev M, Dwg LA_31, 17/1/2024
Lookout/Boardwalk Structures Key Water Levels 01	Rev M, Dwg LA_32, 17/1/2024
Lookout/Boardwalk Structures Key Water Levels 02	Rev M, Dwg LA_33, 17/1/2024
Lookout/Jetty Concept Structures	Rev M, Dwg LA_34, 17/1/2024
Entries Concept Structures	Rev M, Dwg LA_35, 17/1/2024
Proposed Materials	Rev M, Dwg LA_36, 17/1/2024
Proposed Materials	Rev M, Dwg LA_37, 17/1/2024
Planting Precedents Salt marsh	Rev M, Dwg LA_38, 17/1/2024
Planting Precedents Swamp oak Forest	Rev M, Dwg LA_39, 17/1/2024
Planting Precedents Open Forest	Rev M, Dwg LA_40, 17/1/2024
Merimbula Boardwalk Upgrade - Proposed Staging Plan (Amended in Red)	Undated
Development Design Plans (Amended in Red)	11855 – RP, 29/4/2024
Biodiversity Development Assessment Report	Final V3.0, NGH Consulting, June 2025
Merimbula Aquatic Ecology Assessment	Final V1.3, NGH Consulting, Nov 2024
Heritage Due Diligence	Project 22-669, December 2023
Heritage Advice	Project 22-69, 30 April 2024
Acid Sulphate Soils Management Plan	Final V1.1, Project 220669, May 2024
Geotechnical Investigation Report	Ref: SA/AP/UK/C14315, 28 June 2023

## State Agency Requirements

### 2. Heritage NSW

The applicant shall comply with the requirements of Heritage NSW requirements dated 19 March 2025.

*Note: The general terms of approval issued by Heritage NSW are provided as Attachment A to this development consent.*

### 3. Department of Primary Industries and Regional Development

The applicant shall comply with the requirements of the Department of Primary Industries and Regional Development requirements dated 28 March 2025.

*Note: The general terms of approval issued by the Department of Primary Industries and Regional Development are provided as Attachment B to this development consent.*

### 4. Accessible car parking

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

## Prior to issue of Construction Certificate

### 5. Fisheries Management Act Permit

A Part 7 fisheries management act permit is required for harming marine vegetation. A copy of this permit will be made available to Council prior to issuance of the Construction Certificate.

### 6. Ecosystem Credit Retirement

- a) The class and number of ecosystem credits in **Table 1** (below) relate to the area displayed in **Figure 3-5** of BDAR Merimbula Boardwalk, NGH Consulting, June 2025, V3.0, page 25. Any changes to the area of native vegetation clearing will require further assessment and an update of the BAM Credit Calculator (BAM-C)1 calculations. In this case, consent conditions will be updated.
- b) Prior to issue of a Construction Certificate, the class and number of ecosystem credits in **Table 1** must be retired to offset the residual biodiversity impacts of the development.
- c) The requirement to retire biodiversity credits under **Condition 6(b)** may be fulfilled by one of the following methods to an amount equivalent to the class and number of ecosystem credits as calculated by the BAM Credit Calculator (BAM-C)1:
  - i. Making a payment into the Biodiversity Conservation Fund, thereby transferring the obligation to the Biodiversity Conservation Trust;
  - ii. Retiring biodiversity credits purchased from the market; or
  - iii. Funding a biodiversity conservation action in accordance with the requirements set out in the Ancillary Rules

- d) Evidence of the payment to the Biodiversity Conservation Fund, retirement of credits, or approved biodiversity conservation action, in satisfaction of **Condition 6(b)**, must be provided to Bega Valley Shire Council prior to issue of a Construction Certificate.

**TABLE 1: Ecosystem credits required to be retired – like for like**

Impacted plant community type	Plant community type(s) that can be used to offset the impacts from development	Trading Group	IBRA subregion	HBT	Number of ecosystem credits
<b>3108-South Coast Scarp Wet Vine Forest</b>	Brogo Vine Forest of the South East Corner Bioregion This includes PCT's: 3108		South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Yes	2
<b>3639-South Coast Sands Bangalay Littoral Forest</b>	Bangalay Sand Forest of the Sydney Basin and South East Corner bioregions This includes PCT's: 3546, 3638, 3639, 3640	-	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	No	2
<b>4054-South Coast Tidal Flats Samolus Paperbark-Grey Box Forest</b>	Coastal Floodplain Wetlands This includes PCT's: 4015, 4020, 4023, 4024, 4025, 4026, 4027, 4028, 4029, 4033, 4034, 4035, 4036, 4037, 4038, 4041, 4042, 4044, 4046, 4048, 4049, 4050, 4051, 4054, 4055, 4056, 4057, 4059	Coastal Floodplain Wetlands ≥50% and <70%	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	No	1

<b>4056-Southern Estuarine Swamp Paperbark Creekflat Scrub</b>	Coastal Floodplain Wetlands This includes PCT's: 4015, 4020, 4023, 4024, 4025, 4026, 4027, 4028, 4029, 4033, 4034, 4035, 4036, 4037, 4038, 4041, 4042, 4044, 4046, 4048, 4049, 4050, 4051, 4054, 4055, 4056, 4057, 4059	Coastal Floodplain Wetlands ≥50% and <70%	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	No	1
<b>4091-Grey Mangrove-River Mangrove Forest</b>	Mangrove Swamps This includes PCT's: 4091	Mangrove Swamps ≥50% and <70%	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	No	4
<b>4097-South Coast Bracelet Honey-myrtle Sea Rush Saltmarsh</b>	Subtropical and Temperate Coastal Saltmarsh This includes PCT's: 4040, 4094, 4095, 4096, 4097, 4101, 4102, 4103	-	South East Coastal Ranges, Bateman, Bungonia, East Gippsland Lowlands, Kybayan-Gourock, Monaro and Snowy Mountains.  or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	No	3

## 7. Species Credit Retirement

- a) Prior to issue of a Construction Certificate, the class and number of species credits in **Table 2** must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire biodiversity credits under **Condition 7(a)** may be fulfilled by one of the following methods to an amount equivalent to the class and number of ecosystem credits as calculated by the BAM Credit Calculator (BAM-C)2:
  - i. Making a payment into the Biodiversity Conservation Fund, thereby transferring the obligation to the Biodiversity Conservation Trust;
  - ii. Retiring biodiversity credits purchased from the market; or
  - iii. Funding a biodiversity conservation action in accordance with the requirements set out in the Ancillary Rules.

- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of **Table 2** requirements must be provided to Bega Valley Shire Council prior to issue of a Construction Certificate.

**TABLE 2: Species credits required to be retired – like for like**

Impacted species credit species	Number of species credits	IBRA subregion
<i>Haematopus longirostris</i> / Pied Oystercatcher	3	Anywhere in NSW
<i>Lathamus discolor</i> / Swift Parrot	9	Anywhere in NSW
<i>Myotis macropus</i> / Southern Myotis	15	Anywhere in NSW
<i>Numenius madagascariensis</i> / Eastern Curlew	13	Anywhere in NSW

**8. Biodiversity Management Plan**

- a) Prior to issuance of the Construction Certificate, a Biodiversity Management Plan (BMP) will be prepared to the satisfaction of Council's Environmental Services Team. The BMP may be included as part of a Construction Environmental Management Plan (CEMP).
- b) The BMP must identify the development site and areas of land that are to be retained as per the Biodiversity Development Assessment Report (BDAR) and approved plans.
- c) The BMP shall collate mitigation measures for impacts outlined in the BDAR in Table 8-4 p 110-114 of the BDAR; Section 5.2.2 of the Aquatic Ecology Assessment Report and any conditions imposed under the Part 7 Fisheries Management Act Permit. Performance measures are to be included for each commitment.

**9. Aquatic Ecology Offset Plan**

Prior to the issue of the Construction Certificate, an Aquatic Ecology Management Plan will be prepared to the satisfaction of NSW DPIRD Fisheries. The final copy shall be provided for approval by Council prior to issuing the Construction Certificate.

**10. Construction Environmental Management Plan**

The applicant is to prepare a Construction Environmental Management Plan (CEMP) to ensure all measures outlined in the Statement of Environmental Effects (SEE) and conditions received on approval are implemented, monitored and audited to ensure compliance. The CEMP shall be submitted to Council for approval prior to issuing the Construction Certificate.

**11. Noise and Vibration Management Plan**

A Noise and Vibration Management Plan (NVMP) will be prepared and submitted to Council for approval prior to issuing the Construction Certificate. The plan shall be implemented as part of the CEMP to manage noise impacts.

## 12. **Construction Traffic Management Plan (CTMP)**

A Construction Traffic Management Plan (CTMP) is to be prepared for the proposed works prior to the commencement of construction. The CTMP would address the following matters:

- Notification to neighbours if traffic control is required and may disrupt access.
- Management and coordination of the timing of delivery vehicle movements.
- Management of western carpark to minimise impact to the boat club users.
- All vehicles to enter and exit the site in a forward direction.
- Proactive management of roads, hardstands and laydown areas.
- Obtaining any relevant road and hoarding permits.

## 13. **Acid Sulphate Soils Management Plan**

An updated Acid Sulphate Soils Management Plan shall be provided to Council for approval prior to issuing the Construction Certificate. The updated Plan shall remove reference to the Existing 'bush tracks' that connect the boardwalk to Otway Close, Kiama Place, Imlay Street and Terry Place.

## 14. **Protection of infrastructure assets (building over or within the zone of influence)**

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

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

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

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

OR

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

## 15. **Certificate of compliance**

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



## Prior to construction work commencing

### 16. Vegetation removal

No vegetation shall be removed or destroyed unless:

- (a) identified on the approved plans, or
- (b) in accordance with conditions of this consent.

### 17. Protect trees and sensitive areas during construction

Trees to be retained must be enclosed with protective fencing to prevent them being damaged during the construction period in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites.

### 18. Infrastructure Asset Protection Plan

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

## During construction

### 19. Obstacles in flight path

A minimum of 48 hours notice to the Merimbula Airport is required for the operation or placement of any obstruction into the approach surface or the transitional surface of the Merimbula airport. Obstacles operating on the site (crane or concrete pump) shall be fitted with a strobe light on the top of the obstacle to ensure its visibility to approaching and departing aircraft. *Note: Merimbula Airport advises that approval to operate a crane within the air space will be denied or the obstacle will be required to be removed during any period of low visibility.*

### 20. Implementation of the Biodiversity Management Plan

While work is being carried out, the commitments and measures required by the approved Biodiversity Management Plan must be implemented at all times and impacts must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the Footprint area assessed by NGH Consulting, Merimbula Boardwalk BDAR, June 2025. A copy of the approved plan is kept on site at all times and made available to Council officers upon request.

### 21. Construction Hours

Standard daytime construction hours would be 7.00am to 6.00pm Monday to Friday and 8.00 am to 1.00 pm on Saturdays. Construction is not to occur on Sundays or public holidays.

### 22. Electricity Infrastructure

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](http://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.

### 23. **Landscaping and Revegetation**

To maintain the high natural integrity of the surrounding forest, it is recommended that species from the PCTs identified in NGH Consulting's BDAR, November 2024 shall be utilised. Avoid use of identified Weed Species in Section 5 of Council's Landscaping Guidelines: [BVSC Landscaping Guidelines](#).

## **Prior to Occupation or Use**

### 24. **Revegetation of disturbed areas**

Minimal site disturbance shall be caused to the site during construction works. Any disturbed areas are to be reinstated and revegetated to the satisfaction of Council prior to issuing the Occupation Certificate. **Carparking areas designed in accordance with DCP**

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

## **Conditions of use / during occupation**

### 25. **Installation of signage**

No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with any Council or State exempt provisions.

### 26. **Maintain signage at all times**

All signs shall be maintained in good order at all times to the satisfaction of Council.

## **Advisory notes**

### **Essential Energy**

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. Any activities in proximity to electrical infrastructure 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.
4. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
5. 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](http://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.

#### Location of building

It is the owner's responsibility to ensure that the development 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](http://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.

#### 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: Phone Number 1800 810 443

#### Section 64 Contributions

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

#### Reasons for the Determination and Consideration of Community Views

- The proposed development, subject to the specified conditions, is consistent with the objectives of the applicable environmental planning instruments, being:
  - Bega Valley Local Environmental Plan 2013
  - State Environmental Planning Policy (Resilience and Hazards) 2021
  - State Environmental Planning Policy (Biodiversity and Conservation) 2021
  - State Environmental Planning Policy (Transport and Infrastructure) 2021
- The proposed development is, subject to the specified conditions, consistent with the objectives of the Bega Valley Development Control Plan 2013
- The 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
- *Sections 7.11 and 7.12 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'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 Quick*

Senior Town Planner

FOR BEGA VALLEY SHIRE COUNCIL

**Department of Climate Change, Energy, the Environment and  
Water**



HMS Application ID: 9682

Rob Quick  
Bega Valley Shire Council  
PO BOX 492  
BEGA NSW 2550  
Email: [rquick@begavalley.nsw.gov.au](mailto:rquick@begavalley.nsw.gov.au)  
Letter uploaded to the NSW Planning Portal

**Address:** Merimbula Boardwalk, Merimbula NSW 2548

**Proposal:** Demolition of the existing Merimbula Boardwalk approximately 1.7km in length and 1.5m wide boardwalk structures over water and includes concrete and gravel sections on land. Construction of new Boardwalk with proposed additions, alterations, and upgrades to increased width 2.5m to boardwalk structures, gravel sections, associated path connections and carparking.

**Development Application no:** 2025.11, CNR-79630, A-98054

**Received:** 19 March 2025

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**Subject: General Terms of Approval for Integrated Development Application, *National Parks and Wildlife Act 1974***

Dear Rob,

This letter contains our general terms of approval for the above integrated development application that will require an Aboriginal Heritage Impact Permit pursuant to s.90 of the *National Parks and Wildlife Act 1974*.

We note that:

- Council is seeking approval for Stage 1 and 2 proposed works, located within the current extent of the Merimbula Boardwalk. Stage 3 works will be subject to separate approval.
- Aboriginal Heritage Impact Permit (AHIP) C0003582 currently covers the extent of the works proposed for Stage 1 and 2.
- A separate AHIP will be prepared for Stage 3 works.

We have reviewed the letter of heritage advice, prepared by NGH Pty Ltd dated 30 April 2024. The letter has identified that proposed works for Stage 1 and 2 can proceed under existing valid AHIP C0003582. The proposed works must be compliant with all conditions of AHIP C0003582. Mitigation is also proposed in the form of an avoidance area, in accordance with Schedule C outlined in AHIP C0003582.

None of the public submissions referred to Aboriginal cultural heritage matters.

Considering the above, and in accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

### **Approved development**

Development must be in accordance with:

- a. Merimbula Boardwalk Letter of Heritage Advice prepared by NGH Pty Ltd dated 30 April 2024
- b. Statement of Environmental Effects prepared by NGH Pty Ltd dated 14 March 2025
- c. Merimbula Boardwalk and Foreshore Path Site Plans prepared by Loci Design Collective dated 17 January 2024

### **Except as amended by the following general terms of approval:**

2. A s.90 Aboriginal Heritage Impact Permit for the proposed works must be sought and granted prior to the commencement of works.
3. The Aboriginal Heritage Impact Permit application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (2011).
4. Consultation with the Aboriginal community undertaken as part of the Aboriginal Heritage Impact Permit application must be in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010.
5. The Aboriginal Heritage Impact Permit application must be completed with reference to the requirements of the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (2011).
6. The Aboriginal Heritage Impact Permit application must include complete records satisfying the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010).
7. Long term management of Aboriginal objects must be considered as part of the Aboriginal Heritage Impact Permit application.

Please note that any modification of the above development that will result in impacts to Aboriginal cultural heritage must be referred to Heritage NSW to determine whether changes to these general terms of approval are required.

### **Aboriginal community consultation must be maintained**

Consultation with the registered Aboriginal parties must be maintained. We recommend updates on the project are provided to the registered Aboriginal parties every six months to ensure the consultation is continuous.



Department of Primary Industries  
And Regional Development



IDA25/37  
28 March 2025

Bega Valley Shire Council  
C/O Rob Quick  
Via Planning Portal

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Re: DA2025.11, CNR-79630 – Demolition of Merimbula boardwalk and construction of new boardwalk - Multiple Lots and DPs

Dear Rob,

Thank you for your referral of this integrated development application dated 13 February 2025 to Department of Primary Industries and Regional Development (DPIRD) - Fisheries.

DPIRD Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPIRD Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. DPI Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves in NSW.

DPIRD Fisheries has reviewed the proposal in light of those provisions and has no objections, subject to the proponent meeting the General Terms of Approval (GTAs) that follow. As per s.4.47(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. The proponent must apply for and obtain a Part 7 permit for dredging and reclamation and harm marine vegetation under the FM Act from DPI Fisheries prior to any works on site. Permit application forms are available from the DPI Fisheries website at: <https://www.dpi.nsw.gov.au/fishing/habitat/help/permit>; and
2. DPIRD Fisheries approves the maximum loss of marine vegetation calculated at 1,156.54 m<sup>2</sup>. The loss of marine vegetation is to be compensated at a ratio of 2:1, consistent with s.3.3.3.2 of DPIRD Fisheries Policy and Guidelines (Updated 2013). DPIRD Fisheries notes the mitigation



measures in the Statement of Environmental Effects which will likely avoid and minimise the harmed area and will determine the final offset figure based on actual area harmed.

3. Environmental safeguards (as outlined in the Statement of Environmental Effects) are to be used minimise the harm to the natural environment both at the work site and in adjacent waters. The Department expects implementation of Best Management Practice with respect to erosion and sediment control as outlined in the publication “Managing Urban Stormwater: Soils and Construction” (4th Edition Landcom, 2004), commonly referred to as “The Blue Book” (see <https://www.environment.nsw.gov.au/research-and-publications/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition> ).

Fisheries Manager, Coastal Systems

DPIRD Fisheries