

PLANNED Town Planning Solutions  
PO Box 261  
MERIMBULA NSW 2548

## 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>2021.358</b>
APPLICANT	<b>PLANNED Town Planning Solutions</b>
LAND	<b>Lots 19 and 20 Sec 33 DP 758825 and Lots 15 and 16 DP 1204078</b>
LOCATION	<b>35-37 Quondolo Street and 36 Merimbola Street PAMBULA</b>
ZONE	<b>Zone B2 Local Centre</b>
PROPOSED DEVELOPMENT	<b>Demolition of existing buildings and construction of a new commercial building (comprising supermarket, drive through bottle shop and licenced café)</b>
DETERMINATION MADE ON	<b>&lt;DRAFT&gt;</b>
CONSENT TO OPERATE FROM	<b>&lt;DRAFT&gt;</b>
CONSENT TO LAPSE ON	<b>&lt;DRAFT&gt;</b>

# 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
Architectural Plans	A-001, A-002, A-003, A-101, A-102, A-110, A-120, A-121, A-201, A-202, A-601, A-611, V-101 – Various dates
Demolition Site Plan	Plan no. RA102 – 25/6/2021
Landscape Plan Set	Plans L401-L403 – 25/5/2021
Statement of Heritage Impact	PHILIP LEESON ARCHITECTS PTY. LTD. – 24/6/2021
Response to Council's Heritage Advisor Comments	PHILIP LEESON ARCHITECTS PTY. LTD. – 4/7/2022
Preliminary Arboricultural Assessment	Canopy Tree Experts – 10/10/2020
3D Visualisation & Rendering Plan set	Sheets 1 to 7 – 1/7/2022
Revised Traffic and Parking Assessment	MCLAREN TRAFFIC ENGINEERING – 28/5/2021
Response to TfNSW	MCLAREN TRAFFIC ENGINEERING – 8/11/2021
Environmental Noise Assessment	Report no. 6935-1.1R – 2/6/2021
Flood Assessment Report	Catchment Simulation Solutions – June 2022
Aboriginal Culture and Heritage Due Diligence Report	Eden Local Aboriginal Land Council – 14/10/2020
Hydrologic and Hydraulic Assessment of Catchment for proposed Culvert Crossing of Existing Council Drain	VLA – 19 March 2018
Sustainable Management Plan	Undated.

### 2. Transport for NSW

The development shall comply with the conditions of Transport for NSW (TfNSW) requirements dated 20 November 2021.

*Note: The conditions issued by the TfNSW are provided as an Attachment A to this development consent.*

### 3. **Erection of signage**

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

### 4. **Public Art**

For the purpose of satisfying Clause 2.7.2.2 of the Bega Valley Development Control Plan 2013 the developer shall provide a public artwork in Pambula or provide a monetary payment in lieu for the provision of public artwork. Prior to the issue of a Construction Certificate, details shall be submitted to Council, in accordance with Councils Public Art Procedure 1.03 for Council approval or alternatively an agreement reached for the payment of a monetary contribution. In preparing the proposal, consultation shall be undertaken with Council's Community and Cultural Assets Section regarding the location, design integration, artist selection, themes, content and other details of the proposed public art works.

The approved Public Art shall be installed prior to the issue of an Occupation Certificate.

### 5. **Delivery vehicles**

All delivery vehicles for the supermarket shall enter and exit the site via Merimbola Street. The maximum length vehicle permitted to enter the site to service the supermarket shall be 20 metres articulated.

### 6. **Comply with BCA**

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

### 7. **Signs**

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

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

### 8. **Accessible car parking**

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

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

### 9. **Temporary use of existing building as bottle shop**

The temporary use of the existing building on Lot 15 DP 1204078 as a bottle shop shall be restricted to a maximum of two years from the issue of the Construction Certificate for the proposed development. A Construction Management Plan shall be prepared and approved by Council that details how access to the temporary bottle shop is to be managed during construction. The hours of operation of the temporary bottle shop shall be confined to Monday to Friday – 8am to 9pm, Saturday – 9am to 8pm and Sunday 10am to 7pm.

## Prior to issue of Construction Certificate (Building)

### 10. Relocation of overhead powerlines in Quondola Street

The overhead powerlines are to be relocated underground to a location approved by Essential Energy and in accordance with Essential Energy's contestable works process.

### 11. Sustainable Design Management Plan

The following shall be detailed in the plans for construction certificate as identified in the Sustainable Design Management Plan (SDMP) submitted with the application;

- Installation of high water efficiency fixtures and fittings to reduce water usage/demand with a minimum 4-star rating;
- Installation of high efficiency lighting throughout the building (including the shopping floor, store rooms, offices, ancillary retail outlets, loading area, security lighting, emergency lighting), carparking area and external communal areas.
- Commitment to the use of low VOC finishes and products (i.e., paints and floor coverings).
- Energy recovery to HVAC systems and outside air rates to provide better indoor air quality.
- Commitment to the provision of indoor planters/plants within appropriate locations.
- An appropriate roof venting system to expel hot air shall be designed and installed in the building.

All sustainability commitments shall be detailed on the construction plans and submitted to Council for approval prior to the issue of a Construction Certificate by the PCA.

### 12. Design changes to be detailed on construction plans

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

- a. Shopfront glazing sills to be no lower than 600mm above the footpath, with ceramic tiling to the wall below the sills.
- b. Verandah posts to be 150mm x 150mm with concealed fixings at the base in a clear stained finish matching the timber colour.
- c. Provide typical detail of the shopfront glazing section and parapet projections

### 13. Carparking plan

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

Of the total number of car parking spaces provided, four (4) shall be designed as disabled car parking spaces, six (6) shall be designated as seniors car parking spaces and four (4) car parking spaces shall be designated for parents with prams.

**14. Construction Environmental Management Plan**

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

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

**15. Operational Waste Management Plan**

An Operational Waste Management Plan must be prepared and submitted to Council for approval prior the issue of a Construction Certificate. The Waste Management Plan shall include all areas of waste storage for each premises and detail the location of waste service pick-ups within the site.

**16. Site Contamination Investigation/Contaminated Site Audit**

- a) Prior to the approval of a Construction Certificate, a detailed site investigation with the objective to define the nature, extent and degree of any contamination from the UPSS shall be submitted to Council for approval to assess potential risk posed by contaminants to health and the environment; and obtain sufficient information to develop a Remedial Action Plan (if needed). The investigation shall include a Site Audit Statement and Site Audit Report prepared by a NSW Environment Protection Authority accredited Site Auditor. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site.
- b) All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

**17. Remediation Action Plan (RAP)**

A Remediation Action Plan (RAP) shall be prepared and submitted to Council in accordance with the *Managing Contaminated Land Planning Guidelines* under State Environmental Planning Policy (Resilience and Hazards) 2021 and the Contaminated Land Management Act 1997. The RAP shall be received at Council and be approved prior to works commencing on site.

The following matters shall be included in the Remediation Action Plan:

- Hours of Remediation Work
- Soil and Water Management Measures including stockpiles, site access, excavation pump-outs, landscaping/rehabilitation and bunding.
- Noise and Vibration

- Air quality and dust and odour control.
- Groundwater
- Transport (management plan)
- Hazardous materials - removal and disposal
- Disposal of Contaminated Soil
- Containment/Capping of Contaminated Soil
- Importation of Fill
- Site Signage and Contact Numbers
- Site Security
- Occupational Health and Safety
- Removal of Underground Storage Tanks

**18. Section 7.11 or 7.12 contributions (formerly Section 94 and Section 94A)**

Payment to Council of the following contributions pursuant to Section 7.11 or 7.12 (formerly Section 94 and Section 94A) of the *Environmental Planning and Assessment Act* and *Bega Valley Section 94 and 94A Contributions Plan 2014*.

Contribution type	\$ Total	Allocation No.
Section 7.12 contribution	\$ 88,242.00	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.

*Time for payment:* Deferred payments of contributions may be accepted in certain circumstances and will need to be secured by bank guarantee. Refer to the contributions plan for Council's policy on deferred payments.

**19. Screening of plant and equipment**

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

**20. Colour and materials schedule**

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

- All external building finishes (including glazing treatments and details of the green wall provided by a suitable qualified horticulturalist), a physical sample board of all external colours (especially samples of any tiles, paving finishes and the like)
- A colour palette (including colour samples).

Note: a physical sample board of all external colours is required to consider the above.

**21. Detailed landscape plan by landscape architect**

A revised detailed landscape plan shall be submitted and approved by Council. The landscape plan shall include the addition of two trees (being heritage evergreen species to match Covington's House 'park') within the planter box adjacent to the bottle shop. The trees must be capable of being planted in deep soil. The revised landscape plan shall be prepared by a qualified landscape architect and be consistent with Council's adopted Landscaping Guidelines.

Note: The use of miniature trees such as a prunus placed in the planter box does not match the bulk and scale of the development

**22. Engineering design plans for carparking areas**

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

**23. Structural engineers report for awning**

A structural engineers report shall be submitted to the Principal Certifying Authority certifying the structural adequacy of the existing awning.

**24. Certification that development can withstand floodwaters**

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

**25. Dilapidation report – major works**

Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of all buildings at 33 Quondolo Street, Pambula are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works.

A copy of the dilapidation report/s together with accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and Council.

The applicant/owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.

**26. Section 138 approval for major construction works within the road reserve – Prior to CC**

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

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

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

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

**27. 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.

Specific works –

Detailed design and re-construction, augmentation of the stormwater drainage channel that traverse the site.

Design and Construction of a new box culvert structure, consistent with Stormwater Drainage concept plans by Marshman O'Neill Engineers – Sheet C1.1 Rev A March 17<sup>th</sup> 2021.

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

**28. Design of pavement re-construction/stabilisation**

The Merimbola St pavement and wearing course fronting Lot: 15 DP: 1204078 and including the intersection into the subject development, shall be re-constructed for a total length of 60m, 20m North and South of the lot boundaries, for the full width of the road formation.

A design for these works shall be submitted for approval by council under S138 of the Roads Act.

**29. Private stormwater detention (OSD) - design**

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

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

**30. Support and protection for neighbouring buildings**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of Clause 74 of the Environmental Planning and Assessment Regulation 2021, including:

- (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
- (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

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

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

**31. Payment of Long Service Levy**

The payment of a long service levy is required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*. Proof of payment is to be submitted to Council. The levy can be paid through the LSL Portal at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au)

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



### 32. **Construction hours**

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

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

### 33. **Access and sanitary facilities in accordance with BCA and AS1428**

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

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

### 34. **Erosion and sediment control plan – greater than 2,500m<sup>2</sup> site disturbance**

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

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

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

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

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

- circumstances contributing to the damage to BMPs
- repairs affected on erosion and pollution control devices.

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

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

**35. 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:

- 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.*
- 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.
- 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

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

**36. Sewerage supply design (gravitational areas)**

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

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

**37. Infrastructure Augmentation**

Design of the relocation of Council's existing sewer main to the site from the boundary of Lot 31 DP 861207 to outside of the building footprint to the satisfaction of Council's Water and Sewer Services.

## Prior to demolition commencing

### 38. Demolition in association with new work

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

### 39. Demolition – site safety fencing

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

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

#### Hoardings

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

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

### 40. Demolition – erosion and sediment control

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

### 41. Water meter capped off

The existing water meters shall be capped off and made available to the proposed development.

### 42. Protection of water assets

All internal water lines are to be disconnected from the existing internal water service and appropriately capped off, after the meter, to avoid any damage during demolition of existing building/s.

### 43. Protection of water assets - water disconnected from multiple metered sites

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

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

**44. Inspection of capped off services**

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

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

**45. Validation report**

Validation and reporting of the condition of the UPSS site following tank removal must address all areas of the site consistent with the requirements of the UPSS Regulation.

A validation report for tanks that are removed or decommissioned must be submitted to the local planning authority no later than 60 days after the completion of works or, where site remediation is required, within 60 days of its completion. The purpose of the validation report is to assist planning consent authorities with future planning decisions.

**46. Removal of underground petroleum tanks**

UPSS tanks removed from the site shall be correctly disposed of in accordance with Australian Standard 1940 - 2004: *"Storage and handling of flammable and combustible liquids"* and Australian Standard 4976 - 2008: *"The removal and disposal of underground petroleum storage tanks"*

**47. Disposal of excavated soils**

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

**48. 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.

## **Prior to construction works commencing**

**49. 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 Clause 73 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 have been satisfied, including compliance with the Building Code of Australia and conditions of development consent.

**50. Vegetation removal**

No vegetation shall be removed or destroyed unless identified on the approved plans.

**51. Protect trees during construction**

Before starting any site works, all trees to be retained must be enclosed with protective fencing to prevent them being damaged during the construction period in accordance with Australian Standard 1470:2009 Protection of Trees on Development Sites.

**52. Removal of excavated material**

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

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

**53. Appoint PCA**

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

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

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

**54. Protection of existing public infrastructure**

Lodgement of security with Council, in the amount of \$10,000, for remedying any damage to any public assets resulting from the execution works in connection with this consent.

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

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

**During construction****55. Construction on hot days**

To minimise the risk of significant impact to the Grey-headed Flying-foxes from heat-related stress and potential mortality, construction activities of the development must not occur on days above 38° Celsius.

**56. Certification and inspection of public engineering works**

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

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

- a. After placement of all signs and control measures in accordance with the approved Traffic Control Plan;
- b. After stripping of topsoil from roads and fill areas, all Soil & Water Management Plan controls shall be in place at this stage;
- c. During application of bitumen seal or asphaltic concrete wearing surface;

- d. After completion of works;
- e. As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

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

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

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

**57. Pavement re-construction/stabilisation Merimbola Street**

The Merimbola St pavement and wearing course fronting Lot: 15 DP: 1204078 and including the intersection into the subject development, shall be re-constructed for a total length of 60m, 20m North and South of the lot boundaries, for the full width of the road formation.

**58. Vehicular entrance - other**

Construct vehicular entrance(s) serving Lot: 15 DP: 1204078 from Merimbola St.

The vehicular entrances(s) shall be consistent with Stormwater Drainage concept plans by Marshman O'Neill Engineers – Sheet C1.2 Rev A March 17th 2021.

**59. 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.

**60. Construction of council stormwater drainage works in private property**

Detailed design and re-construction, augmentation of the stormwater drainage channel that traverses the site.

Construction of a new box culvert structure, consistent with Stormwater Drainage concept plans by Marshman O'Neill Engineers – Sheet C1.1 Rev A March 17<sup>th</sup> 2021.

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

**61. 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 80% of average annual load

Total Phosphorus 45% of average annual load

Total Nitrogen 45% of average annual load

Gross Pollutants >5mm 70% of average annual load

Litter > 50mm Retention up to the 3 month ARI peak flow

Oil and Grease 90% of average annual load

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.

Design of the facility shall be in accordance with Council’s Development Design Specification D7.

**62. Box Culvert crossing**

Construct a box culvert crossing over the drainage channel bisecting the site. This structure will need to be of concrete construction, include appropriate barriers and be built to recognised engineering standards and in accordance with Council’s Development Construction Specification (where appropriate).

A hydraulic assessment of the crossing will be undertaken to illustrate the performance of the structure during the peak minor and major flood events. The crossing shall be designed such that the peak minor flood event will not overtop the crossing finished surface. The structure, including its approaches shall be designed by a qualified structural engineer.

The design shall be consistent with Stormwater Drainage concept plans by Marshman O’Neill Engineers – Sheet C1.1 Rev A March 17<sup>th</sup> 2021.

Council shall be provided with certification from a qualified and experienced structural engineer confirming that the works satisfy the specified performance and acceptance criteria.

**63. Private stormwater detention (OSD) construction**

Construction of stormwater drainage works as necessary to limit the peak stormwater discharge from the development to not exceed calculated flow rates for this site in an undeveloped state for rainfall events up to a 1 in 10 year average recurrence interval. Any design shall be in accordance with Council’s Development Design Specification D5, Stormwater Drainage Design and in conformance with recognised industry practice.

*Note: Appropriate easements shall be created in favour of the lots benefited to contain all drainage works that are located outside of roads and drainage reserves.*

**64. Maintenance of site**

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- d) During construction:
  - i. All vehicles entering or leaving the site must their loads covered, and

- ii. All vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
  - e) At the completion of the works, the work site must be left clear of waste and debris.
65. **Earthworks, retaining walls and structural support**
- a) Any earthworks (including any structural support or other related structure for the purposes of the development):
    - i. Must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
    - ii. Must not redirect the flow to any surface or ground water or cause sediment to be transported onto an adjoining property, and
    - iii. That is fill brought to the site – must contain only virgin excavated natural material (VENM) *as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997*, and
    - iv. That is excavated soil to be removed from the site – must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) regulation 2005*.
  - b) *Any excavation must be carried out in accordance with Excavation Work:Code of Practice (ISBN 978-0-643-785442) published in July 2012 by Safe Work Australia*
66. **Drainage connections**
- a. Roof storm water is to be disposed of to the satisfaction of council.
  - b. Any roof storm water and surface water from driveways and car parking area to be conveyed to the street water table / drainage easement / watercourse / reserve.
67. **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.
68. **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.
69. **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.

**70. 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.

**71. Sewer construction**

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

**72. Certification and inspection of work**

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

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

Inspections must be conducted at the following stages:

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

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

## **Prior to Occupation and Use**

**73. 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.

**74. Fencing**

A 1.8 metre high lapped and capped timber fence shall be erected along the northern boundary of the property to comply with the noise assessment report.

**75. Development finished in accordance with approved colour/materials schedule**

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

**76. Lighting system**

A lighting system shall be installed in accordance with Australian Standard 4282 "Control of the obtrusive effects of outdoor lighting" (1997) to provide uniform lighting across the common areas and driveways.

**77. 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.

**78. 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](http://www.begavalley.nsw.gov.au)

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

**79. 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.

**80. Food premises – final inspection**

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

**81. Landscape works completed**

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

**82. Carparking in accordance with design plans**

All works required in the construction of any on-site car parking, loading/unloading areas and their associated driveways shall be undertaken and completed in accordance with the certified engineering design plans. On completion, the works are to be certified by a suitably qualified

and experienced chartered professional engineer (or equivalent). Documentation to this effect shall be submitted to Council.

**83. Signage for on-site parking**

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

**84. Public risk insurance for awning**

The existing awning shall be covered by public risk insurance obtained from a company approved by Council to the value of twenty million dollars (\$20,000,000).

The policy shall be in joint names of the applicant and Council. The endorsed policy and all relevant receipts shall be lodged with Council. In the event of default or lapsing, the insurance use of the premises shall cease immediately and not recommence until such times as Council permits.

**85. Flooding of commercial/industrial sites**

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

**86. Follow up dilapidation report**

Follow up dilapidation report/s, including a photographic survey, shall be submitted at least one month after the completion of demolition/excavation works. A copy of the dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and Council.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

**87. Landscaping Implementation Report**

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. The individual or company who undertook the original landscape design for the development shall prepare these reports.

**Implementation Report**

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by the company or individual that completed the approved landscape design.

An Occupation Certificate shall not be issued until such time as a satisfactory Implementation Report has been received. If Bega Valley Shire Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council with the copy of the Occupation Certificate.

**Maintenance Report**

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Bega Valley Shire Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

The same individual or company who undertook the approved landscape design must prepare this report.

**88. Consolidation**

The proposal as submitted shall require consolidation of Lots 19 and 20 Sec 33 DP 758825 and Lot 15 DP 1204078. A copy of the registered plan shall be submitted to Council prior to an occupation certificate being issued of any part of the building.

**89. 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.

**90. CCTV of Stormwater Infrastructure**

Prior to Council accepting new stormwater infrastructure, a CCTV inspection of all new and modified stormwater assets must be undertaken in accordance with the Conduit Inspection Reporting Code of Australia WSA 05.

A copy of the CCTV inspection footage and inspection report prepared and certified by a suitably qualified person shall be provided to Council prior to the acceptance of works into the nominated 'into maintenance period'

**91. Engineer's certification – Box Culvert Structure**

Council shall be provided with certification from a suitably qualified and experienced chartered professional engineer (or equivalent) confirming that the works satisfy the specified performance and acceptance criteria.

**92. Private stormwater detention facilities – certification**

The stormwater detention facility shall be certified by a suitably qualified engineer. Evidence of this certification shall be provided to council prior to an occupation certificate being issued of any part of the building.

**93. Works as executed plans**

Council shall be provided with the following works as executed plans for all public assets constructed prior to an occupation certificate being issued of any part of the building:

- 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.

**94. Easement to contain Council owned drainage works**

Establishment of easements to drain water 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 in 100 year ARI) 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.

Note – The existing drainage channel extends beyond the boundary of the BVSC owned drainage reserve. An easement is required that covers access and maintenance of this infrastructure.

**95. 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.

**96. Easement to contain Council sewer mains**

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

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

**97. Noise verification report**

The operator shall provide Council with a noise verification report 3 months after occupation of the supermarket to establish that the predicted noise levels specified in the noise assessment report is accurate.

This report shall be prepared by an appropriately qualified and insured acoustic consultant, at the operators cost, and submitted to Council. The following criterion is to be addressed for residential receptors located at 28 Merimbola Street, Pambula:

That all Mechanical Plant and traffic associated with the carpark and loading docks complies with the Predicted Leq Noise Levels as installed at that receptor

**98. Lighting of premises to be shielded**

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

99. **Structural adequacy report for awning every 3 years**

The structural adequacy of the existing awning shall be subject to the submission to Council of a detailed structural engineer's report every 3 years from the date of this consent or occupation certificate, whichever is the latter. Any works recommended by the report shall be carried out to the satisfaction of Council subject to the necessary approvals being issued.

100. **Service areas kept clear of goods**

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

101. **Loading operations within the confines of the site**

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

102. **Hours of trading**

The supermarket hours of trading will be Monday to Sunday – 7am to 7pm throughout the year – except during the summer season where the trading hours are extended to 9pm.

The bottle shop hours of trading will be restricted to Monday to Friday – 8am to 9pm, Saturday – 9am to 8pm and Sunday 10am to 7pm.

103. **Hours of operation for delivery vehicles**

The hours of operation for delivery vehicles accessing the supermarket shall be confined to 7am to 8am for the 20m long Articulated Vehicle and all other vehicles less than a 6.4m long Small Rigid Vehicle (SRV) confined to 7am to 10pm.

The hours of operation for delivery vehicles accessing the bottle shop shall be confined to 7am to 8am for the 12.5m long Heavy Rigid Vehicle.

All delivery vehicles shall operate under the PoM approved for the site.

All delivery vehicles except those servicing the Bottle Shop will enter and exit the site via Merimbola Street.

104. **Maintenance of stormwater detention facility**

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

105. **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.

106. **Annual fire safety statement – essential fire safety – Class 2-9**

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

- a) deal with each essential fire safety measure in the building premises, and
- b) be given:
  - within 12 months after the last such statement was given, or

- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

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

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

## Advisory notes

### Essential Energy

- 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; and
- In addition, Essential Energy's records indicate there is electricity infrastructure located within 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.
- 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](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 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

## 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 (Planning Systems) 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
- *Section 94/94A Development Contribution Plan.*

## Right of appeal

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

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

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

## Review of determination

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

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

<DRAFT>

FOR BEGA VALLEY SHIRE COUNCIL