

## 6. DA No. 2008.0651: Proposed courier business – Glisson Watson Road, Cobargo

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Group Manager, Planning Development and Environmental Services

<b>Applicant</b>	Shane Braz
<b>Owner</b>	S and L E Braz
<b>Site</b>	Lot 33 DP 1060526 Glisson Watson Road, Cobargo
<b>Zone</b>	1(a) Rural General Zone
<b>Site area</b>	2.202 hectares
<b>Proposed development</b>	Regularisation of courier business

### PRECIS

Council is in receipt of an application seeking to regularise the establishment of a courier business currently operating from the subject property.

The application has been the subject of a public notification process and in response, Council is in receipt of four submissions objecting to the development.

10 Approval is recommended.

### BACKGROUND

Council became aware of the courier business as a result of a routine inspection in the area. The owner/operator was subsequently advised that the use of the land for the conduct of the courier business would require Council consent and would be subject to the lodgement of a detailed development application to Council for assessment and determination.

The development application was lodged with Council on the 9 October 2008.

### DESCRIPTION OF THE SITE

20 The subject land is located on the eastern side of Glisson Watson Road at its intersection with Mynora Lane. Access to the property is from Mynora Lane. Both these roads are Council maintained and constructed to a minimum 6 metre wide gravel standard. A cattle grid is located within the Glisson Watson Road reserve to the east of its intersection with the Princes Highway. The cattle grid effectively restricts the width of the constructed carriage way to a single lane.

The property supports an existing single storey dwelling and farm building. The buildings have only recently been completed and occupied. The curtilage of the buildings are still in the process of being established.

The property has no significant stands of vegetation and as a consequence, is highly exposed to adjoining and adjacent lands.

30 Some earth mounding and landscaped areas have been established. However, given the size of the property and length of adjoining road frontages, the landscaping has had little benefit to the overall visual appearance of the property to date.

The farm building is constructed in factory pre-coloured metal cladding and is located on a 30 metre building line to Mynora Lane. The building has a floor area of 220m<sup>2</sup> and is also used for domestic and farm storage purposes.

A caravan is parked adjacent the Mynora Lane road frontage.

40 Dwellings on adjoining and adjacent lands are well removed and/or screened from the farm shed. Excluding the proponents dwelling, the closest dwelling is located approximately 100 metres from the farm shed on land (Lot 15 DP 1060526) opposite the subject property and fronting Mynora Lane.

## DESCRIPTION OF THE PROPOSAL

The application seeks approval for the use of part of the approved farm shed as a courier business.

In support of the application the applicant has advised the following:

- The business operates 5 days a week and involves the assembly and distribution of light retail freight items between Batemans Bay, Eden and as far west as Wyndham and Bemboka.
- The business employs a staff of 4 including the owner residents of the property and 2 casual non-resident persons.
- 50 • Deliveries are made to the property between 7am and 9.30am Monday to Friday involving a 10 metre ridged truck. Items are unloaded from the truck into the farm shed. The truck departs the property and has no further involvement in the daily operation of the business.
- The process of unloading and sorting the freight items into “delivery runs” takes approximately one hour.
- Deliveries are made using an 8 metre ridged truck and a transit van. The process of loading these vehicles takes approximately 2 hours to complete. A small fork lift is used as required within the farm shed.

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- The 2 delivery vehicles depart the site returning mid to late afternoon or early evening depending on the remoteness of the deliveries made. These vehicles are parked on the property over night.
- The vehicles of casual employees are parked on the property during the day.
- There are occasions throughout the year (6 week Christmas period) which would involve an increase in the number of deliveries from the site but not to the site.
- The decision to locate the business on a rural property was made after it was established that there was no suitable land within the north Bega industrial estate and that the subject land was reasonably central to the delivery area.

## PLANNING ASSESSMENT

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The proposal has been assessed in accordance with the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Staff highlight the key issues of the proposal in this report for Council's consideration.

### Zoning

A courier business would constitute a "transport terminal" as defined in Bega Valley Local Environmental Plan 2002 (BVLEP 2002).

The subject land is zoned 1(a) Rural General under the provisions of BVLEP 2002 with a transport terminal permissible with Council consent.

## ISSUES

### Submissions

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The application was subject to a public consultation process involving the individual notification of all adjoining and adjacent landowners. In response, Council is in receipt of 4 submissions objecting to the proposed development on a number of grounds. The following represents a summary of the submissions together with a planning comment.

Being an industrial use, a courier business would be a prohibited use in the Rural Zone.

» **Comment:**

The proposal is permissible with Council consent.

The conduct of a courier business would be totally out of character with the surrounding rural properties which enjoy a quiet rural residential amenity.

» **Comment:**

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The immediate area is characterised by rural residential development and rural activities. Individual allotments are large in area and the topography is undulating. As a result, dwellings are well removed and/or screened from one another.

The business is considered to be a small scale operation. It would involve the use of an existing farm shed on a daily basis (Monday to Friday) for the delivery, sorting and distribution of light retail freight items. The on-site activities associated with the use would be mostly confined to a few hours daily being early morning and mid to late afternoon.

100 Afternoon activities would only involve the return of the delivery vehicles for garaging overnight and the departure of private staff vehicles.

There would be no on-site activity associated with the use outside those times. It is considered any impact on the rural residential character of the area would be negligible.

The business established without approval and without regard to the feelings of neighbours. If approved, it is highly unlikely that any conditions of approval would be complied with and as a consequence, the business would become more intense and invasive.

110 **» Comment:**

If approved, Council under the provisions of the Environmental Planning and Assessment Act 1979, would have the authority to control and regulate the approved use in accordance with the conditions of any subsequent consent.

Should the proponents seek to modify their operational characteristics at any stage, it would be necessary for them to seek approval under Section 96 of the Act at which time, Council would be in a position to fully assess the impact of any proposed changes on the amenity of local residents. Further any proposed modification would be notified in accordance with Council Policy.

120 Glisson Watson Road and Mynora Lane are dirt roads occasionally maintained by Council. Their standard of construction are not suited to continuous heavy vehicle use and as a consequence, public safety would be compromised if the development is approved.

**» Comment:**

In addressing the issue, Council's Group Manager, Infrastructure has advised the following:

*"Glisson Watson Road and part of Mynora Lane are maintained by Council. They are class B roads which means that staff aim to grade them once each year. The present dry conditions mean that limited grading is possible and grading of roads generally is behind schedule. The use of roads proposed in this development will not add significantly to the loadings on the Council roads involved and the roads are considered to have reasonable alignments.*

130 *The developer would be required to make a rural roads contribution in accordance with Council's adopted Section 94 Contribution Plan No. 1 – Existing Rural Rands and there would be no grounds to refuse the application*

*based on the additional impact the development would have on the standard of local roads in use.”*

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The function of the intersection of Glisson Watson Road and Princes Highway is totally inadequate for use by heavy vehicles given the presence of a cattle grid which effectively reduces the width of the road to a single lane.

►► **Comment:**

The intersection treatment has been constructed and sealed in conformity with the requirements of the Roads and Traffic Authority.

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The cattle grid referred to is located within the Glisson Watson Road reserve, approximately 38 metres from the south bound travel lane to the Princes Highway. Whilst the width of the cattle grid effectively reduces the width of Glisson Watson Road to a single lane at that point, there is sufficient width within both the constructed road reserves to cater for the standing of a vehicle without conflicting with a vehicle travelling over the cattle grid.

The characteristics of the vehicles used in the courier business would have no greater impact on the function of the intersection than that of a 4 wheel drive vehicle towing a horse float and/or rural vehicles/machinery used in the conduct of routine farm activities. Accordingly, the courier business as proposed would not have and adverse impact on the function and/or capacity of the intersection.

Trucks associated with the use travel too fast along Glisson Watson Road and Mynora Lane to the detriment of public safety. The roads are often used by local residents to ride horses.

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►► **Comment:**

The owner/operator emphatically denies that his drivers use excessive speed. He has also advised that drivers are vigilant at all times given that the roads are used by local residents for horse riding.

The movement of heavy vehicles over local roads all day, 7 days a week commencing at 7am is an unsuitable activity for a rural area.

►► **Comment:**

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As submitted, the use would be conducted Monday to Friday commencing 7am daily. All onsite activities would be completed by mid morning with drivers departing the site. Drivers would return to the site mid to late afternoon to collect their private vehicles only. For the balance of the day, there would be no on site activities conducted in association with the proposed use.

The proposal would generate in the order of 10 additional traffic movements per day which is considered insignificant.

This matter was discussed with the owner/operator. In response, it was advised that in the freight industry the lead up to Christmas is traditionally very busy in terms of

180 volume and as a consequence, there may be extra deliveries made from the site outside the normal daily deliveries. It was also advised that a transit van is used for private/domestic use and acknowledged that the private use of the vehicle may be mistakenly associated with the conduct of the business outside normal working hours and on weekends.

The visual impact of vehicles parked on the property and the outdoor storage of pallets is totally out of character with the rural setting. The property resembles a "busy industrial site".

►► **Comment:**

190 At present non-resident staff park their vehicles informally adjacent the Mynora Lane property frontage. Their visual appearance coupled with the caravan detracts from the visual quality of the site.

There is sufficient room on-site to provide a more formal carparking arrangement in a less prominent area. The area could be used for the overnight parking of delivery vehicles and day parking of non-resident staff vehicles. A suitable condition could be imposed on any consent which would assist compliance.

200 The concern expressed over the outdoor storage of pallets was discussed with the owner/operator of the business. In response, advice has been received to the effect that there was a short period after the initial occupation of the shed when a number of pallets were stored adjacent to the front of the building.

The pallets have since been removed from the site. However, given the nature of the business the storage of pallets will always be an issue and as such, a suitable condition should be imposed on any consent requiring all storage to be within the shed.

210 As previously mentioned the existing dwelling and farm shed have only recently been completed and occupied and as such, their curtilage has yet to be properly established. Some small areas of landscaping have been established together with earth mounding adjacent the entrance to the property. However, the landscape treatment to date has had little benefit to the overall character of the site.

Landscaping could be extended across the road frontages in the vicinity of the shed and driveways to help reduce the bulk and scale of the shed and to generally improve the appearance of the property with time. A suitable condition could be imposed on any consent.

## CONCLUSION

The application provides for the regularisation of an existing small scale courier business which is presently operating from the subject land.

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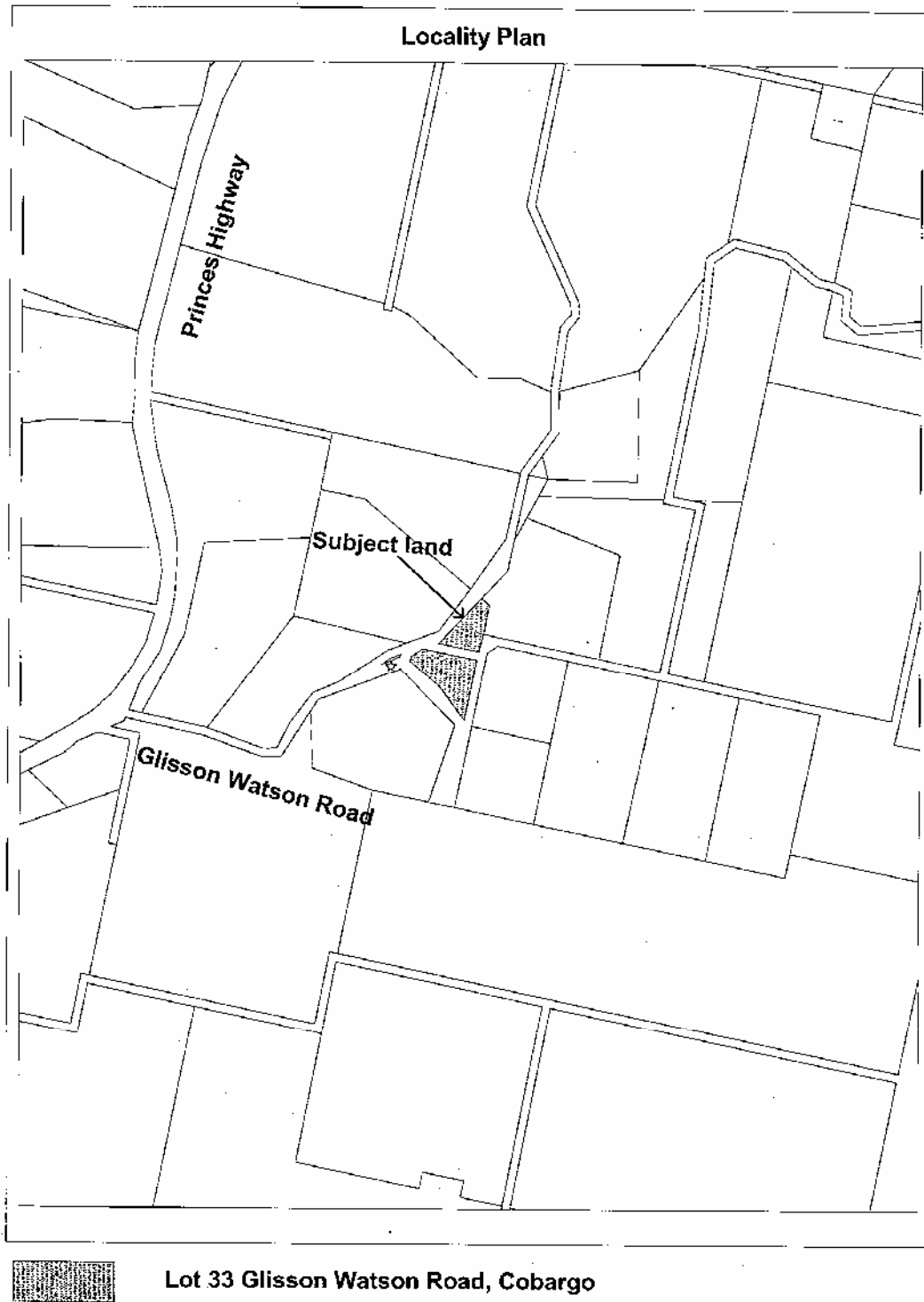
The application was subject to a public notification process and in response, four submissions were received by Council all objecting to the proposed development. On review, the main grounds of objection revolve around the impact of delivery vehicles on the capacity and function of the local road network and associated public safety issues and the proposed use being out of character with the rural/residential amenity of the area. The grounds for objection have been thoroughly assessed however it is considered they do not warrant refusal of, or modification to the application.

The use of the property for a courier business is permitted in the 1(a) zoning of the land with Council consent. It is considered that subject to suitable conditions, the use would have only a minor impact on local roads and the amenity of adjoining and adjacent lands.

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### **RECOMMENDATION**

1. That Development Application 2008.0651 for the regularisation of an existing courier business operating from Lot 33 DP 1060526 Glisson Watson Road and Mynora Lane Cobargo be approved subject to the conditions as detailed in the Draft Development Consent attached to this report.
2. That those persons who made a submission during the public exhibition of the application be advised of Council's determination.





Bega Valley Shine Council

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## DRAFT

### NOTICE OF DETERMINATION

under Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979* (as amended).

The development application has been determined by granting consent under Clauses 8, 12 and 65 of the *Bega Valley Local Environmental Plan 2002* subject to conditions.

APPLICANT	<b>Shane Braz</b>
LAND	<b>Lot 33 DP 1060526</b>
LOCATION	<b>Glisson Watson Road, Cobargo</b>
ZONE	<b>1(a) Rural General Zone</b>
PROPOSED DEVELOPMENT	<b>Operation of a courier business</b>

CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA	<b>7b</b>
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DETERMINATION MADE ON	<b>2009</b>
CONSENT TO OPERATE FROM	<b>2009</b>
CONSENT TO LAPSE ON	<b>2014</b>

ADDRESS ALL  
CORRESPONDENCE TO:  
PO Box 482  
Bega NSW 2550  
DX 4904  
ABN 26 987 935 332

Council Chambers  
Zingel Place, Bega

PHONE  
(02) 6499 2222  
FAX  
(02) 6499 2200

INFORMATION  
[www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)  
EMAIL  
[council@begavalley.nsw.gov.au](mailto:council@begavalley.nsw.gov.au)

DEVELOPMENT CONSENT

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## Conditions of approval

1. Development shall take place in accordance with the Approved Development Plan, the application form and any supporting documentation received with the application, except as may be amended in red on the attached plans and by the following conditions.
2. A detailed landscape plan shall be submitted to Council for endorsement. The plan shall be prepared by a person possessing qualifications acceptable to Council in the field of horticulture / landscape design. The plan shall cater for the establishment of planting across the Mynora Lane road frontage which at maturity will effectively screen the farm shed when viewed from adjoining and adjacent lands. All landscape works shall be completed in accordance with the approved plan within 6 months from the endorsement date of the Consent and shall be maintained at all times thereafter.
3. A minimum of 2 offstreet staff carparking spaces shall be provided in accordance with Councils adopted Development Control Plan No. 7 – Parking. Details of the proposed parking layout including surface and drainage details must be submitted to Council for endorsement prior to work commencing. The carpark area shall be located adjacent the existing farm shed and shall be suitable landscaped to limit its visual impact when viewed from adjoining lands.
4. Payment to Council of the following contributions pursuant to Section 94 and Section 94B of the *Environmental Planning and Assessment Act* and the following Development Contributions Plans, prior to the release of the construction certificate:

- a) Section 94 Contributions Plan No. 1 - Local Rural Roads

Local Rural Roads Fund	
(to be expended on improvements to Shire Roads)	\$972.00
Allocation no	1622-360

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 The actual payment due will be calculated at the rate specified in Council's adopted Fees and Charges Schedule as at the time of payment. The payments listed in this condition are as at the date of issue of this consent.

5. No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with the exempt provisions of Development Control Plan No. 4: Exempt and Complying Development.
6. Work shall be confined to between the hours of 7am and 6.30pm, Monday to Friday.
7. All work shall be carried out and all goods and materials shall be stored wholly within the confines of the farm shed.
8. The external storage of waste packaging and pallets shall not occur without the separate specific approval of Council.
9. Unless otherwise approved by Council, the number of deliveries to the subject land shall be restricted to 1 per day.
10. The number of delivery vehicles used in association with the approved use shall not exceed 2 without the separate and specific approval of Council.

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**Building Conditions**

- 11. i) CLOSET ACCOMMODATION for workmen to be provided BEFORE building work commences pursuant to Section 79C of the Environmental Planning and Assessment Act.
- ii) The Builder must at all times maintain on the job, a legible copy of the plans and specifications bearing the stamp and Development Consent of Council.
- iii) Construction work shall be confined to normal working hours, mainly 7am to 5pm Mondays to Fridays and 8am to 1pm Saturdays (no work on Sundays or Public Holidays)
- iv) Where Council is the PCA a minimum of TWO WORKING DAYS NOTICE shall be given by the Builder to PCA to enable inspections to be carried out at each of the following steps where applicable: -
  - Pier holes before concrete is poured
  - Steel reinforcement for footings, slabs or other structural concrete components prior to placement of concrete
  - Bearers and joists, and damp courses before the floor is laid
  - When wall and roof framing is erected, bracing and tie downs is in place.
  - Flashing of wet areas prior to lining or tiling of these areas (viz: bathrooms, en-suites, laundries and water closets).
  - When the building is completed and ready for approval to occupy
  - Storm water drainage under hydrostatic test and prior to backfill inspections
  - At any other stage during construction deemed as being required by the Principal Certifying Authority.

**NOTE:**

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- It should be noted that if work that needed a mandatory critical stage inspection was covered without the inspection taking place, then the **only way to enable the issuing of an occupation certificate maybe for the builder to uncover the work** so that the required inspection can take place.
- Approval shall be obtained from the PCA at each inspection stage prior to further works proceeding.
- v) A minimum of TWO WORKING DAYS NOTICE shall be given by the Builder to Council to enable inspections to be carried out at each of the following steps where applicable: -
  - a) When sanitary drainage is laid ready for test.
  - b) Prior to backfilling of land application areas.
  - c) Prior to commissioning of systems of on-site sewage management before occupation of the premises.

**NOTE:**

Approval shall be obtained from Council at each inspection stage prior to further works proceeding.

- vi) 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

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necessary setbacks as specified by Council's Codes for Local Government Legislation.

vii) Signs to be provided at the front of the property or in a prominent location **PRIOR** to the first inspection: -

- Owner's name, lot number and street number
- A rural address number is to be provided at the entrance of a property (eg. affixed to an entrance gate)
- Signage to clearly identify the Principal Certifying Authority (PCA) and contact number
- That unauthorised entry to the work site is prohibited; and
- The Principal Contractor (the coordinator of the building work).

12. The proposed development has been assessed under the provisions of the Building Code of Australia as:

Classification	- 7b
Rise in Storeys	- 1
Type of Construction	- C

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13. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
14. All sound producing equipment is to be insulated and/or isolated so as not to create a noise nuisance.
15. Doors serving as or forming part of a required exit shall be readily open able without a key, and by means of a single handed action on a single device which is located between 900mm and 1200mm above the floor and does not comprise a bolt or a padlock or a separately operated deadlock from the side that would face any person seeking egress from the building.
16. Portable fire extinguishers as required by Part E1.6 Building Code of Australia to be installed in accordance with AS2444 and to the satisfaction of the PCA.
17. Exit signs shall be provided and constructed in accordance with the requirements of Part E4.5, E4.6 and E4.8 of the Building Code of Australia and AS2293.1.
18. All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- a) complying with the deemed to satisfy provisions, or
  - b) formulating an alternative solution which:
    - complies with the performance requirements, or
    - is shown to be at least equivalent to the deemed to satisfy provision, or

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- c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

19. Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
20. Access and sanitary facilities shall be provided for people with disabilities in accordance with Bega Valley Shire Council's Access and Equity Policy for people with disabilities.
21. The Building Code of Australia and AS1428.1 are the minimum standards for access and facilities for the disabled. These, however, may not negate the applicant or owner's responsibilities under the Disability Discrimination Act. Information concerning this may be obtained from the Disability Council of NSW.
22. That no dangerous or hazardous goods are to be stored on site.
23. The following information shall be submitted for assessment when applying for a Construction Certificate:
  - a) A schedule and location of all proposed essential services in the building in accordance with Section E of the Building Code of Australia.
  - b) Proposed method of egress from the building in accordance with Section D of the Building Code of Australia.
  - c) Fit out details for the disabled *toilet/s* in accordance with As 1428.1 (2001).
24. When issuing a Construction Certificate, a certifying authority must attach a **Fire Safety Schedule** specifying all of the fire safety measures required for the building so as to ensure the safety of the persons in the building in the event of fire.
25. On the completion of the erection of the proposed building works the owner of the building must arrange for Council to be given a certificate in relation to each essential service installed in the building.

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The certificate is to state, in regard to each essential service installed in the building:

- a) that the service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such an inspection and test;
- b) that the service was or was not (as at the date on which it was inspected and tested) found to have been designed and installed, and to be capable of operating, to the standard required by relevant conditions of this development consent.

It shall also be necessary for the owner to provide Council with a certificate at least once in each period of twelve months after the first certificate has been given to Council.

26. An Occupation Certificate is to be obtained authorising occupation or use of the new building. Occupation must not take place until the certifying authority is satisfied:

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- a) that a development consent or complying development certificate is in force with respect to the building, and has been substantially complied with; and
- b) that a Construction Certificate has been issued with respect to the plans and specifications for the building, and
- c) that the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia, and
- d) that such other matters as are required by the regulations to be complied with before such a certificate may be issued have been complied with.

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 Development Contribution Plan and Tree Preservation Order.*

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Notes:

1. If you do not agree with this determination you can apply to Council for a review under Section 82A of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).  
  
An application for review must be made within one year from the date of this notice, and must be accompanied by the prescribed fee. This provision does not apply to designated development or integrated development. (Please contact Council for details).
2. If you are dissatisfied with Council's determination, you can appeal to the Land and Environment Court under Section 97 of the EP&A Act 1979 within 12 months from the date of this notice.
3. Before you start any building or subdivision works you must obtain a Construction Certificate from Council or an accredited certifier.
4. It is an offence under the *National Parks and Wildlife Act 1974* to destroy, deface or damage an Aboriginal relic. If during works on site any Aboriginal relic is discovered then you should immediately stop work and contact representatives of the National Parks and Wildlife Service and the Local Aboriginal Land Council.
5. The *Native Vegetation Act 2003* requires consent for the clearing of remnant native vegetation or protected regrowth from the Southern Rivers Catchment Management Authority. It is the proponent's responsibility to consult the Southern Rivers Catchment Management Authority to determine the need or otherwise for their approval and you should not construe the granting of this development consent as notification to you that the NSW Native Vegetation Act does not apply. The NSW Native vegetation Act 2003 may have direct application to your proposal and you should obtain advice about this matter directly from the Southern Rivers Catchment Management Authority.

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6. 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.

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FOR BEGA VALLEY SHIRE COUNCIL