

## 9. DA No. 2008.0481: Erection of a dwelling – Lot 21 DP 707712, Wallaga Lake Road, Bermagui

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Group Manager, Planning and Environment

<b>Applicant</b>	LFA (Pacific) Pty Ltd
<b>Owner</b>	Bob Brock (Wellands Pty Ltd)
<b>Lot</b>	Lot 21 DP 707712, Wallaga Lake Road, Bermagui
<b>Zone</b>	1(c) Rural Small Holdings and 7(b) Environment Protection Foreshore Zones
<b>Site area</b>	19.64ha
<b>Proposed development</b>	Erection of a dwelling

### PRECIS

Council is in receipt of an application seeking approval for the erection of a dwelling.

The application is referred to Council for determination due to the history associated with development potential of this site and the receipt of eight submissions during the notification period.

10 The application is recommended for approval subject to conditions.

### BACKGROUND

Lot 21 DP 707712 site is also a subject of a separate development application (DA 2008.0582 for a two lot subdivision) - Assessment and determination of this application will be the subject of a separate report to Council at a later date.

### DESCRIPTION OF THE PROPOSAL

The proposal seeks approval for a single storey dwelling with skillion corrugated metal roof.

### DESCRIPTION OF THE SITE

20 The subject land has an area of 19.64 hectares and is located approximately 4.5m along Wallaga Lake Road (MR272) from the northern boundary of Bermagui township.

From Wallaga Lake Road, the site is characterised by vegetation comprising of dense bushland, open forest, cleared areas and woodland sloping towards Meads Bay and legal access to the property is via an established "recessed rural intersection".

[Locality plan]

## PLANNING ASSESSMENT

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

### 30 Zoning

The subject land is located within 1(c) Rural Small Holdings and 7(b) Environment Protection Foreshore Zones under the provisions of the Bega Valley Local Environmental Plan 2002.

The proposed development is permissible with Council consent.

### Development Control Plan No. 6 – Minimum Setbacks to Roads and Nominated Waterways

Clause 4 of the Plan states in part:

#### Nominated Waterways

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1. The minimum setback for development from a nominated waterway other than that in subclauses (2) and (3) shall be 75 metres.
2. In the case of development for the purpose of an intensive livestock keeping establishment or development involving the disposal of sewerage on the land, the minimum distance shall be 150 metres.

#### » Staff Comment:

The proposal has been assessed against the controls identified within DCP6 and the application complies with the requirements and intent of the plan.

### State Environmental Planning Policy No. 62 – Sustainable Aquaculture

The application was referred to both the NSW Department of Primary Industries (fisheries) and the Batemans Bay Marine Park Authority.

### 50 Issues related to Fisheries

The responsibilities of the Department of Primary Industries (DPI) include conserving fish stocks and fish habitat, marine vegetation, threatened fish species and aquatic biodiversity. The Department is concerned as to potential impacts that the proposed development may have on aquatic species and habitats in the vicinity, and on the Priority Oyster Aquaculture Areas in Wallaga Lake listed under the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS).

The DPI has recommended that any future development of the subject lands should include a minimum foreshore buffer of 100m (from Mean High Water Mark) to Meads Bay (Wallaga Lake), and the use of best practice Water Sensitive Urban Design

60 (WSUD) for effluent/wastewater disposal and stormwater management to safeguard the adjacent aquatic environmental and ensure there are no adverse impacts on water quality downstream.

### **Issues Related to Batemans Bay Marine Park Authority**

The authority has raised similar issues to that of fisheries in respect to onsite sewage management and water management controls.

#### **» Staff Comment:**

70 The concerns of both departments have been addressed by the agreement of the applicant and the dwelling site is proposed to be a minimum 100m from the mean high water mark and appropriate treatment of effluent and stormwater consistent with best practice.

An aerated onsite sewage management system (Bio-septic) is proposed in accordance with Council's Development Control Plan No. 5 "Onsite Sewage Management" and erosion/sediment management plans will be required to be submitted and approved by Council prior to issue of construction certificate.

### **State Environmental Planning Policy No. 71 – Coastal Protection**

The land is within the designated Coastal Zone and the provisions of the SEPP therefore apply.

80 An assessment of the application and matters for consideration under Clause 8 has been undertaken and the proposed development is consistent with the aims and objectives of the SEPP.

### **The Bermagui and Wallaga Lake Land Use Structure Report**

This report is a planning investigation of land use needs for the Bermagui and Wallaga Lake areas for the coming 20 years.

The Structure Report has been adopted by Council and contains a series of recommendations that set the preferred land use zoning and planning actions to be included in the comprehensive LEP.

There is no conflict between the identified outcomes of the report and the development of this site for the erection of a single dwelling.

### **90 South Coast Sensitive Urban Lands Review (Department of Planning)**

The outcomes of this review are contained in the South Coast Regional Strategy and nominate Wallaga Lake and in particular Meads Bay as an area of environmental sensitivity.

The recommendations contained in the review aim to limit the potential for low density development of lands in the immediate vicinity of Meads Bay and has suggested that

part of this area including the development site be dedicated for conservation purposes in return for the rezoning of part of the land for residential purposes.

100 While the Department of Planning has acknowledged that it does not have a specific role to play in the determination of this application it has raised the issue of the 100m buffer to the lake and concern as to excessive clearing for asset protection zones, access and provision for services particularly work that may involve the removal of hollow bearing or sap trees.

» **Staff Comment:**

110 Council has been advised by the Department of Planning that no Government Department is prepared to acquire the land for conservation purposes. The Department has also indicated that it is not prepared to support any residential rezoning without the dedication of the remaining land. The owner has indicated that he is not prepared to dedicate land. Consequently the Department of Planning is in agreement with the erection of the two dwellings (as per DA 2008.0479 and 2008.0481).

The suggestions as to land management made by the Department have been considered along with comment from Council's Manager of Environmental Services who has also suggested strategies that aim to protect vegetation corridors. As previously identified the site will be located outside the 100m buffer zone and appropriate conditions have been placed in the draft consent to satisfy concerns in respect to vegetation management.

### **Wallaga Lake Estuary Management Plan**

120 The only recommendation identified in this plan that would have an impact on the determination of the application relates to the question of acquisition of the land for conservation purposes as discussed above.

## **ISSUES**

### **Submissions**

The application was placed on public exhibition for a period of 14 days and adjoining and adjacent owners notified in accordance with Council's Notification Policy.

A total of eight submissions were received.

The grounds for objection raised in the submissions are outlined below followed by staff comment.

130 Concern has been raised that the application fails to address the overall development and zoning of the land in light of the special Refshauge Panel's recommendation, and also the implementation of the adopted Bermagui Structure Plan.

▶▶ **Comment:**

The acquisition of the land is not being pursued by the State Government. The Structure Report does not prevent the erection of a single dwelling on the site.

The sites for these two proposed single dwellings are on land reviewed by the South Coast Sensitive Urban Land Review Panel. The Panel recommended that this land be dedicated to public ownership for conservation and the protection of the Meads Bay catchment.

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▶▶ **Comment:**

The acquisition of the land is not being pursued by the State Government.

Concern that the development will have a detrimental environmental impact

▶▶ **Comment:**

While it is accepted that proposals put forward by the owner in the past sought to develop the land for a range of different uses that had potential to significantly impact on Meads Bay and surrounds, the current proposal will not have a significant impact on the environment.

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Appropriate controls have been suggested by various Government Departments and Council staff that will limit potential for environmental impact. Nutrient concentration and runoff can be appropriately controlled by the location of the proposed residence and effluent disposal area outside recommended buffer zones utilising current best practice methods of water quality management.

Approval of these DAs would create a precedent for further Meads Bay development.

▶▶ **Comment:**

The consideration of this application has no bearing on the future development potential in the Meads Bay area. Subsequent applications would be treated on merit with consideration of the relevant environment planning controls.

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**Cultural Heritage:** The DA document falsely states no Aboriginal heritage present/to be considered. There are extensive, possibly ancient midden areas on this site. (Photo provided with hard copy.) Other midden sites in this Meads Bay region of Wallaga Lake have been dated at many thousands of years. This site needs investigation by qualified representatives who have the approval of Land Councils and National Parks.

▶▶ **Comment:**

The application has been referred to the Local Aboriginal Land Council and no comment was received. No items of aboriginal heritage have been observed on the proposed development site by Council officers, however an appropriate condition has been included with the draft consent for the applicant to be aware of their responsibilities and take appropriate action if items are located.

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'Paper road' incorporation into private property. We understand that the owner of the land is currently trying to obtain ownership of a 'paper road' which could/would facilitate future development plans.

Sections of the community oppose this as public access to foreshore is of importance both to community and goals & principles of the NSW Coastal Policy which protect both environment and valid community rights.

For some years now, access has been illegally denied to people through 'Trespassers' notices, and local residents being 'heavied' and warned off etc.

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►► **Comment:**

Opportunity exists for visitors and residents to access the lake from many public vantage points without the reliance and use of an unformed crown road. Should individuals feel that they would like to question access to the crown road, then they have the opportunity by direct enquiry to the Lands Department as the responsible authority.

The plans for a proposed dwelling provide for a septic tank. To most people this seems ridiculous after the recent connection of the area to the sewerage system...and all the cost and controversy that went along with it.

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There is a sewer connection point to the property and if a dwelling were to be built connection to the sewer should be a condition of construction. We believe the applicant would be willing to do this as he has publicly expressed concern over the pollution of Wallaga Lake from septic tanks.

►► **Comment:**

The development is outside Councils reticulated pressure sewerage system and development servicing plan.

A requirement that effluent disposal areas be located a minimum of 150m from the lake will adequately address environmental compliance for a single dwelling on the lot.

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The plans submitted indicate only one tree is to be removed. Knowing the site and having observed the owner's previous attitude to the removal of trees, we find this difficult to believe. If the dwelling were to be approved we would like to know how council proposed to guarantee that only one tree would be removed, according to the plan. To clear road access, alone would require the removal of many trees. And what about future possible removal of even more trees for bushfire protection? The trees provide privacy and protection for neighbouring properties, a habitat for wildlife and, in this era of global warming and climate change their preservation is most important.

►► **Comment:**

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The design plan clearly identifies the removal of a number of trees that would be required as part of establishment of an asset protection zones for bushfire.

A condition of consent will require that a vegetation management plan be submitted for approval by Council. The proposed location of the building site will provide adequate provision for the retention of a vegetation buffer to the nearest residential premises that adjoin the site. It is not considered that the removal of the proposed vegetation will have a significant impact.

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The plan also outlines a Crown Road as probable vehicle access to the dwelling. This road exists on paper only and sections of it, particularly the section behind my property are heavily wooded.

For this road to provide access to the proposed dwelling a large number of tall trees, which currently protect my property from the southerlies that blow in across Wallaga Lake would have to be cut down. If these trees were not there my property, including many large trees on it would be vulnerable to high winds.

The section of the Crown road that runs behind the properties on Bellbrook Crescent provides a wooded area, which offers privacy and protection to the homeowners and a habitat for wildlife. It should remain as it is.

» **Comment:**

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The concern is supported by staff and in consultation with the applicant it has been agreed that the existing vegetation that adjoins neighbouring properties to the north of the site shall remain and that vehicle access to the site be maintained via an existing internal track that is located away from the extremities of the property. An appropriate condition has been included in the draft conditions to ensure compliance with this requirement.

**CONCLUSION**

The proposal is a permitted use within this zoning of the land and is consistent with the provisions of BVLEP 2002 and Council's adopted policies.

While the site is located within an area that is environmentally sensitive, Council may grant consent for a dwelling with adequate controls for environment protection.

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The issues raised in the submissions to Council have been thoroughly assessed, however staff are of the opinion they do not warrant any further modification to or refusal of the application.

**RECOMMENDATION**

1. That Development Application No. 2008.0481 for a dwelling be approved subject to the terms and conditions as detailed in the Draft development consent as submitted to Council at its meeting dated 3 March 2009.
2. That those individuals who made a submission during the public exhibition of the application be formally advised of Council's determination.



3 March 2009

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**DEVELOPMENT CONSENT**

LFA (Pacific) Pty Ltd – C Scott  
 Suite 4, Edgecliff court  
 2 New McLean Street  
 EDGECLIFF NSW 2027

**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 Part 2 Clauses 13, 19 Part 7 Clauses 43, Part 11 Clauses 65, 74, 75 of the *Bega Valley Local Environmental Plan 2002* subject to conditions.

APPLICANT	<b>LFA ( Pacific) Pty Ltd – C Scott (Owner – B Brock – Wellands Pty Ltd)</b>
LAND	<b>Lot 21 DP 707712</b>
LOCATION	<b>Wallaga Lake Road, Bermagui</b>
ZONE	<b>1(c) Rural Small Holdings and 7(b) Environment Protection Zones</b>
PROPOSED DEVELOPMENT	<b>Erection of dwelling</b>
CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA	<b>1a</b>
DETERMINATION MADE ON	<b>20</b>
CONSENT TO OPERATE FROM	<b>20</b>
CONSENT TO LAPSE ON	<b>20+5</b>

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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 by the following conditions.
2. The erection of a building the subject of this development consent **MUST NOT** be commenced until:
  - a) detailed plans/specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The Council, or
    - (ii) an accredited certifier, and
  - b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the Council of the appointment, and
  - c) the person having the benefit of the development consent has given at least two days notice to the Council of the person's intention to commence the erection of the building.
3. 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:

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- d) Section 94 Contributions Plan No. 2 – Car parking

Payment for provision of public parking in the Bega town centre.	\$500.00
Allocation no	1688-009

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.

4. Prior to the issue of a Construction Certificate by the Principal Certifying Authority, a detailed colour and building materials schedule shall be submitted to and approved by Council. The schedule shall include:
  - e) External building finishes (including glazing treatments)
  - f) A colour palette (including colour samples)

The development shall be finished in accordance with the approved schedule, prior to occupation.
5. The developer's attention is drawn to the requirements of the *National Parks and Wildlife Act* with respect to the conservation of Aboriginal archaeology.

As a landowner and/or developer you have a responsibility to not disturb or destroy any such item. Should you become aware of the existence of an item during the construction of this development you are required to comply with the *National Parks and Wildlife Act* and contact Council or the National Parks and Wildlife Service

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immediately for guidance in the conservation or collection of the item(s).

Note: In this respect it is recommended that representatives from the relevant Local Aboriginal Land Council are present during the initial stages of site disturbance.

6. Prior to the commencement of construction Council shall be provided with a survey report (undertaken by a registered surveyor) that identifies the location of the dwelling site a minimum of 100m clear of the mean high water mark of Wallaga Lake.
7. Council shall be provided with and approve a vegetation management plan that identifies:
  - a) Protection of an east-west riparian corridor incorporating the "Myrtle Forest", linking the foreshore areas to a larger north-south wildlife corridor.
  - b) The applicant shall identify proposed routes for service provision via the same alignment as the existing access track.
  - c) The proposed removal of any trees and their location as part of requirements for asset protection for the dwelling and access driveway.
  - d) The clearing for Asset Protection Zones for access or services shall avoid hollow bearing or sap trees. (Identification of these areas shall be marked onsite and details to be provided prior to issue of Construction Certificate.)
  - e) Retention and use of the existing vehicular access track leading directly to the proposed dwelling site with identification as to what vegetation requires removal in order to comply with access under the NSW Rural Fire Service Planning for bushfire protection guidelines

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**Building**

7. 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

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- At any other stage during construction deemed as being required by the Principal Certifying Authority.

**NOTE:**

- 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.

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**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 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).

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

9. The following information shall be submitted for assessment when applying for a Construction Certificate:

- a) Details of termite protection in accordance with AS 3600.1 (1995).
- b) The location of smoke detectors in the building.
- c) Details from a suitable qualified and insured Structural Engineer in regard to: -
  1. footings;

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2. reinforced concrete slabs;
  3. retaining walls;
  4. structural steelwork;
  5. wall, subfloor bracing and tie-down requirements;
- d) Proposed method of stormwater disposal.
- e) Home Building Act Insurance.
- f) Copy of Owner Builders Permit.
- g) Details of the commitments listed in each relevant BASIX certificate for the development.
- h) A detailed Erosion Sediment Control Plan for the site is to be submitted to and approved by the Principal Certifying Authority with the application for Construction Certificate. The Erosion and sediment control plan is to include details of:
- Extent of clearing or disturbance
  - Soil stockpile areas
  - Contours of the site
  - Proposed methods to contain or limit sedimentation and erosion
  - Maintenance of physical devices
  - Site access points, buffer zones etc.

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Note: Responsibility for the supervision of the installation and maintenance of approved erosion and sediment control measures during and after construction and until the site has been restored to the satisfaction of (the consent authority), must reside with the nominated personnel with appropriate training, or demonstrated knowledge/experience in erosion and sediment control.

The owner of the property has this responsibility upon completion of any building contract.

10. Roof storm water to be conveyed to tanks of at least 90,000 litres capacity (if not connected to Council's reticulated water system – includes Basix and bushfire requirements).
11. The floors of wet areas shall be of an approved impervious material, properly graded and drained. The junctions of the floors with the walls shall be so treated as to prevent the penetration of moisture into the walls.
12. An application for an on-site sewerage management facility is to be submitted to and approved by Council and in consultation with the Batemans Marine Park Authority. Submission shall include fees and full details of proposals (including details of the secondary/tertiary treatment and land application areas) in accordance with the requirements of Council's DCP 5 "On-site Sewerage Management" prior to issue of Construction Certificate.
13. The proposed system of on-site sewage management shall be installed, operated, maintained and managed to ensure that treatment provides reuse of effluent on-site with performance indicator levels greater than:
  - 10mg/L Biochemical oxygen demand
  - 10mg/L Suspended solids

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- 10mg/L Nitrogen
- 10 Thermotolerant bacteria colony-forming units (cfu) per 100ml
- 5mg/L Phosphorous

Note: The effluent test results are taken from the soil at a distance of 6 m downslope from the land application area(s)

14. A statement from a suitably qualified environmental consultant confirming the capability of the proposed system to reliably produce an effluent quality identified in Condition No 13 shall be provided prior to the issue of a construction certificate. The costs associated with any compliance testing if required are the sole responsibility of the applicant.
15. Effluent reuse is to be effected by way of subsurface irrigation.
16. The top of the overflow relief gully is to be minimum of 150mm below the lowest drainage fixture and a minimum of 75mm above the finished ground level.
17. All plumbing and drainage works to be carried out by Licensed Tradesmen.
18. All waste pipes, stackwork and vents to be concealed.
19. A works as executed diagram to include drainage, stormwater and water supply is to be submitted to the Council prior to issue of an Occupation Certificate.
20. Council's minimum standard for backflow prevention where water tanks are installed together with the town water supply is the installation of an approved dual check valve at the water meter.
21. A final **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 Section 109H of the Environmental Planning and Assessment Act 1997 have been satisfied.

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#### **Engineering conditions - Development**

19. **Conditions to be satisfied prior to Engineering Construction Certificate**  
The following matters shall be completed prior to the endorsement of a Construction Certificate for this development:

- a) approval of **detailed construction plans and specifications** for access works, road and drainage works by Council's Director of Engineering Services or his delegate and the RTA (see RTA requirements).

These works shall be designed and specified in conformity to the standards set out in Council's Technical Specifications (or other documents formally adopted by Council for the purpose of specifying standards for construction works, DCP No.2) as current at the date of approval, and sound engineering practice.

These detailed construction plans must include all **erosion and sediment control works** necessary to ensure that the quality of stormwater discharged from these works, both during and after the construction period, will not result in erosion, sedimentation or pollution of any land or water. These plans shall be in accordance with Council's Development Design Specification D7, Erosion Control and Stormwater Management.

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(Reason: to ensure that the development is compatible with the design of the specified works and to specify technical standards.)

- b) No work shall be carried out within three metres of or adjacent to Wallaga Lake Road, the carriageway of a public road subject to motor vehicle traffic until RTA has approved a satisfactory Traffic Control Plan relating to that work, and the Roads and Traffic Authority has approved any associated Road works Speed Limit. (RTA APPROVAL FOR DTR SPEEDLIMITS APPLIES TO ALL ROADS AND STATE HIGHWAYS)

The Traffic Control Plan shall be prepared by a person who is authorised by the Roads and Traffic Authority to prepare these plans. The Traffic Control Plan must bear the name, signature and Traffic Control at Worksites Certificate Number of the person who prepared it.

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

(Reason: so that work on public roads is performed safely.) **DRAFT**

- c) **lodgement of security with Council** in an amount of \$5000 as security for remedying any defects in any public work required in connection with this consent (such as road work, kerbing and guttering, footway construction, stormwater drainage, water supply and sewerage works and environmental controls) that arise within six months after the works are completed, and for making good any damage caused to Council property as a consequence of the doing of anything to which the consent relates.

The security lodged with Council shall be either in money or unconditional bank guarantee in a form acceptable to Council.

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

This condition is authorised by Section 80A(6)-(10) of the Environmental Planning and Assessment Act 1979.

(Reason: to ensure that public works are in satisfactory condition when transferred to Council and that any damage to Council property is remedied.)

- d) **Qualifications and insurance of engineering designers (Public Works)**  
All public works (such as road work, stormwater drainage and environmental controls) shall be designed by persons holding suitable qualifications for the design of works of this type and current professional indemnity insurance.

(Reason: to ensure appropriate professional standards.)

- e) **Contractor's insurance (Public Works)**  
Each contractor engaged in the construction of public works (such as road work, stormwater drainage and environmental controls) must hold current public liability insurance for an amount of not less than \$10,000,000.00 suitably endorsed to note the contractor and Council for their respective rights and interests.

Prior to the commencement of the construction of these public works Council

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must be provided with evidence of the currency of this insurance.

(Reason: to ensure that contractors hold suitable public liability insurance.)

**20. Conditions to be satisfied prior to occupation subject to Council acceptance.**

The following matters shall be completed prior to the occupation of this development:

These works shall be designed and constructed in conformity with Council's Technical Specifications (or other documents formally adopted by Council for the purpose of specifying standards for construction works) as current at the date of the approval of construction plans, and sound engineering practice:

One or more Compliance Certificates must evidence the satisfactory completion of these works. See below.

- a) construction of a **BAR/rural property access intersection treatment** at the junction of access to the dwelling site with Wallaga Lake Road in conformity with the standards specified in the *Road Design Guide* published by the NSW Roads and Traffic Authority.

The right turn treatment is to be in accordance with a BAR treatment, figure 4.8.23. The BAR is to be sealed. A verge in accordance with Section 3.6 of the Road Design Guide shall be constructed outside the BAR.

The left turn treatment is to be in accordance with a rural property access treatment, figure 4.9.7. The access is to be sealed to a minimum of 10 metres from the edge of the traffic lane. The gate or grid at the entrance to the property shall be indented a minimum of 20 metres from the edge of the through carriageway of the highway.

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The design shall ensure that no water is directed onto the formation of the through roadway (Wallaga Lake Road). The applicant will be required to provide suitable drainage, including structures if necessary, underneath the driveway. Drainage headwalls shall be located outside the Clear Zone of the Highway. The width of the Clear Zone must be in accordance with Section 3.7 of the RTA's Road Design Guide.

The applicant shall submit detailed engineering plans, including drainage, at a scale of 1:200 to Council for provision to the RTA to be assessed for approval.

**Note: Evidence of the concurrence of the Roads and Traffic Authority to the design of all works within any classified road (as defined in the Roads Act, 1993) and copy of RTA ROL must be provided to the Council prior to the endorsement of a Construction Certificate for this work.**

(Reason: To provide an appropriate standard of access to the land and to accommodate the traffic likely to be generated by this development).

- b) Compliance Certificate(s) in relation to the **inspection and testing of all public works** associated with this consent (such as road work, kerbing and guttering, footway construction, stormwater drainage, water supply and sewerage works and environmental controls) must be obtained either from Council or from an Accredited Certifier to demonstrate that these works have been completed.

These public works must be inspected and tested either by Council's inspector, or

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by an Accredited Certifier at each of the following stages of construction to confirm compliance with the standards set out in the approved plans and specifications. Any inspection and testing performed by Accredited Certifiers shall be documented by Compliance Certificate(s) for those parts of the public work.

- After placement of all signs in accordance with the approved Traffic Control Plan.
- After stripping of topsoil from roads and fill areas, all Soil & Water Management Plan controls shall be in place at this stage.
- After completion of road subgrade.
- After placement and compaction of gravel pavement material.
- Prior to the application of bitumen seal or asphaltic concrete wearing surface.
- After laying and jointing of all stormwater pipelines prior to backfilling.
- After completion of works.
- 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 Compliance Certificates. These fees must be paid prior to the endorsement of a Final Occupation Certificate.

(Reason: to demonstrate that subdivision works are completed in conformity with development consent conditions and to appropriate technical standards).

21. **Conditions to be satisfied prior to occupation subject to engineer's certification.**

The following matters shall be completed prior to the occupation of this development: The satisfactory completion of these works must be evidenced to Council by certification from a suitably qualified and experienced Chartered Professional Engineer (NPER 3 registered) confirming that the works identified in this condition satisfy the specified performance and acceptance criteria, and recognised good engineering practice.

- a) 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 or natural environment. Any design shall be in accordance with Council's Development Design Specification, Stormwater Drainage Design D5.

(Reason: to provide for the drainage of the development, to protect public and private assets from potential damage and to minimize the environmental impacts of this development.)

- b) construction and maintenance of all **erosion and sediment control works** necessary to ensure that the quality of stormwater discharged from this development site, both during and after the construction period, is similar to the quality of stormwater runoff from the site in an undeveloped state. These works shall be documented in a site specific Soil and Water Management Plan. These plans shall be in accordance with Council's Development Design Specification D7, Erosion Control and Stormwater Management.

Note: Technical advice on the design, construction and maintenance of stormwater quality control measures is contained in *Managing Urban Stormwater: Soils and Construction* published by the NSW Department of Housing.

Note: The responsibility for the maintenance of all works constructed for the purpose of controlling stormwater quality shall remain with the developer until the

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Council authorizes the removal of temporary works.

(Reason: to minimize the environmental impacts of this development.)

- 22. Only one access point to Wallaga Lake Road will be permitted from the subject lot.
- 23. Any other existing access points from Wallaga Lake Road to the subject property are to be permanently closed.
- 24. Access to the development site shall be via the existing track that leads directly to the proposed site and does not utilise the existing crown road for that part that is adjacent to the neighbouring site off Bellbrook Crescent, Fairhaven.

(Reason: to minimize the environmental impacts of this development.)

- 25. **Compliance from State government departments**  
The Developer shall obtain, and submit to Council, the written concurrence of the Department of Lands for all improvements within the Crown Road Reserve. Documentary evidence to this effect is to be submitted to Council to works commencing.

(Reason: to ensure that the subdivision has legal access.)

- 26. **Maintenance of Crown Roads**  
The Crown public road that is to be utilised in part as access to the dwelling site shall be maintained by the users of this section of road in a safe and trafficable condition at their own expense at all times, whether or not this road becomes a Council public road at any time.

(Reason: to ensure that vehicular access continues to be available to each lot.)

**Engineering conditions – Water and Sewer**

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Any alterations to the development application lodged will require review of the conditions/requirements.

- 27. This lot is currently within Council's Development Control Plan 10 Boundary. A Section 64 (Development Servicing Plan for **Water Supply – 80161.003**) contribution of eleven thousand and ten (\$11,010.00) (2008/09) is applicable for this development application.
- 28. The submitted 'Statement of Environmental Effects – September 2006' indicates that details of the water supply will be contained with future development applications additionally, the submitted 'Statement of Environmental Effects – September 2006' indicates that Council has a trunk water supply main within the road reserve of Wallaga Lake Road. These statements require amending, reticulated town water shall be provided as part of this development application and No water supply connection will be permitted from Council's trunk water main
- 29. Council's existing reticulated water supply is to be extended along Wallaga Lake Road to at least one (1) metre past proposed lots common boundary.
- 30. Design and construction of all **water supply reticulation** works and associated facilities to service every lot. Any design shall be in accordance with Council's Development Design Specification D11 and any construction to be carried out in accordance with Council's Development Construction Specification C401 – Water Reticulation. Water main designs and all plans and specifications are to be submitted to, and approved by Council.

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31. **Works as executed plans for all public works** associated with this consent (such as water supply and environmental controls) shall be provided to the Council, to the satisfaction of Council's Director of Engineering Services or his delegate. The works as executed plans shall comprise one complete copy of the approved plans for the public works, clearly marked up to show all variations of the completed works from the approved design in regard to alignment, levels and other details of the works. These plans must show the location and depth of any filling placed on any lot. Works-as-executed plans must be prepared and certified by a Registered Surveyor or Chartered Professional Engineer as a complete and accurate record of the subdivision work.
- A complete record of all public works for this development shall also be provided to Council in an electronic format suitable for inclusion in Council's Geographic Information System.
  - Council's preferred format for the electronic data is AutoCAD DWG or DXF files in a locally used grid projection, i.e. MGA94 or AMG66. Data will need to be resupplied if coordinates are not valid for the surveyed area. Data will be also need to be resupplied if provided using "paper space" coordinates.
32. This development is outside Council's reticulated pressure sewerage system and Development Servicing Plan for **Sewerage** areas. Council has no future intentions to include these proposed lots into Council's pressure sewerage system. No town sewerage is available.

**Additional notes for this development:**

- A. All works are to be at the developer's expense.
- B. Contributions/fees/charges payable will be those applicable at the time of payment.
- C. If the developer chooses to connect to Council's reticulated water main it shall be for the purpose of a single domestic dwelling.

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33. **Prior to the Construction Certificate**, the developer shall apply for and obtain from Council a Compliance Certificate pursuant to the *Water Management Act, 2000*. (form attached)

**Note:**

In accordance with Section 306 of the *Water Management Act 2000* the payment of a contribution is required. The actual payment due will be calculated at the rate specified in Council's adopted Fees and Charges Schedule as at the time of applying for a Compliance Certificate. The payments listed below are as at the date of issue of this consent. This condition also acts as a notice given under the *Water Management Act 2000*.

Copies of the current plan(s) can be viewed at Council offices or on the internet at [www.begalley.nsw.gov.au](http://www.begalley.nsw.gov.au).

c) Payment of a contribution of:		
to Council's Water Headworks Fund		\$11,010.00
	Allocation no	80161-003
d) Payment of:		
Water Connection Fee		\$860.00
	Allocation no	80300-001

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**NSW Rural Fire Service**

34. At the commencement of building works the property around the building to a distance of 25 metres, shall be maintained as an inner protection area (IPA) and 15 metres, shall be maintained as an outer protection area (OPA) as outlined within section 4.1.3 and appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document "Standards for asset protection zones".
35. Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.
36. In recognition that no reticulated water supply exists, a 20,000 litre static water supply and tank (non-combustible or shielded from the threat) shall be provided for fire fighting purposes.
  - Tanks on the hazard side of a building shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire-fighters.
  - Underground tanks shall have an access hole of 200mm to allow tankers to refill direct from the tank. A hardened ground surface for truck access is to be supplied within 4 metres of the access hole.
  - Above ground tanks are manufactured of concrete or metal and raised tanks are to have their stands protected. Plastic tanks shall not be used.
  - Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.
  - The water tank if located above ground shall be of non-combustible material.
  - An RFS standard 65mm metal Storz outlet with a gate or ball valve shall provided.
  - The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are metal rather than plastic.
  - Tanks and associated fittings on the hazard side of the building shall be provided with adequate shielding to mitigate the impact of flame contact and radiant heat and provide safe access for fire-fighters.
  - All above ground water pipes external to the building shall be metal including and up to any taps/outlets/fittings. Pumps are to be shielded from the direct impacts of bush fire.
  - All associated fittings to the tank shall be non-combustible.
  - All above ground water pipes and taps/outlets/fittings external to the building shall be non-combustible.
  - Pumps for the water tank shall be adequately shielded from potential bush fire threat.
  - Pumps where provided, to supply water for fire suppression activities, shall be a minimum 5hp or 3kW and petrol or diesel powered.
37. Property access roads shall comply with the following requirements of section 4.1.3 (20 of Planning for Bush Fire Protection 2006.

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38. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 2.
39. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the building.
40. Roofing shall be gutterless or all guttering including box guttering and valleys are to be screened with non corrosive mesh, to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
41. The property must be clearly identified at entry point from Wallaga Lake Road by Rural Address number using Standard BVSC type reflective numerals.
42. The above conditions relate only to the proposed building envelope identified on applicants Location Plan DA 02 Site Plan as attached to BVSC Development application 2008.0481.

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*.

## Notes:

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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.

Authorised Officer

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FOR BESA VALLEY SHIRE COUNCIL