

## 5. DA No. 2007.0640: Two lot subdivision – Lot 43 DP814168, Widgeram Road, Bournda

---

Group Manager, Planning and Environment

|                             |   |
|-----------------------------|---|
| <b>Applicant</b>            | E A and SA Done   |
| <b>Owner</b>                | As above  |
| <b>Site</b>                 | Lot 43 DP814168 (No. 171) and Strata Plan 50576<br>(No. 111) Widgeram Road, Bournda |
| <b>Zone</b>                 | 1(a) Rural General Zone   |
| <b>Site area</b>            | 21.2 hectares   |
| <b>Proposed development</b> | Two lot subdivision comprising one concessional lot and a residue lot.              |

### PRECIS

Council is in receipt of a development application for a two lot subdivision comprising one concessional lot and a residue. Access to the concessional lot in part is proposed over an existing Crown Public Road reserve which would need to be constructed in accordance with Council adopted Policy 4.1.1(q) – Extension of Council Maintained Roads in Concessional Lot Subdivisions.

10

The application is referred to Council to determine whether Council would be prepared to accept ownership and maintenance responsibilities over that part of the Crown Public Road proposed to be used for access as part of the subdivision.

The development application is recommended for approval.

### BACKGROUND

The application was lodged with Council on 17 October 2007. On assessment, Council staff identified a number of issues relating to the proposed access arrangements for the subdivision which required further investigation by the applicant.

This investigation resulted in the re-alignment of the proposed access route including proposing the creation of a right of carriageway over adjoining lands held under separate ownership and use of a crown road reserve to provide access to proposed lot A. The creation of the right of carriageway required the endorsement of the adjoining landowners which was received by Council on 12 February 2009.

20

[Subdivision layout plan – Appendix 1]

## DESCRIPTION OF THE SITE

The land borders the Bournda National Park, Woodbine Park Tourist Park and land owned by the applicants that is not part of this application.

The land is characterised by pockets of cleared areas amongst major stands of native vegetation. It supports two existing dwellings and a wholesale plant nursery.

30 A large dam is located on the land. Sandy Beach Creek traverses the property.

Access to the land is from Widgeram Road which is an existing gravel road. The road is partly maintained by Council and part crown road.

## DESCRIPTION OF THE PROPOSAL

The application seeks approval for the subdivision of the land into two lots being Lot A (concessional lot) and Lot B (residue lot). Both proposed lots would contain an existing approved dwelling while proposed Lot B being the residue of the existing holding would also contain the existing wholesale plant nursery (Bournda Plants).

40 Access to proposed Lot A would be off the Council maintained section of Widgeram Road via a combination of Crown road reserve and right of carriageway. This would require a 150m section of Crown road reserve to be constructed in accordance with Council adopted Policy 4.1.1(q) – Extension of Council Maintained Roads in Concessional Lot Subdivisions. It should be noted that a gravel track currently exists within the crown road reserve and would be required to be upgraded to meet the Policy.

Once constructed and sealed, this new section of road would be included in Council's road maintenance network.

Proposed lot B would retain the existing access arrangements via Widgeram Road.

## PLANNING ASSESSMENT

50 The proposal has been assessed in accordance with the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The main issues for Council's consideration are as follows.

### Zoning

The land is zoned Rural 1(a) (General Rural Zone) under the provisions of the Bega Valley Local Environmental Plan 2002 (BVLEP 2002). The land has an entitlement to subdivide subject to development consent in accordance with the objectives of the zone and Clauses 16, 65, 74 and 79 of BVLEP 2002 as they existed prior to the introduction of State Environmental Planning Policy SEPP (Rural Lands) 2008 on 9 May 2008.

Part 6 of the SEPP (Rural Lands) 2008 states that if a development application has been made before the commencement of this Policy in relation to land to which this

60 Policy applies and the application has not been finally determined before that commencement, the application must be determined as if this Policy had not commenced.

## ISSUES

The application seeks Council approval for the dedication of 150m of Crown Road reserve as public road to be maintained by Council under Council Policy 4.1.1(q).

### Policy

The applicant seeks approval under Council Policy 4.1.1(q) to dedicate that part of the crown road reserve providing access to proposed lot A to public road. The length proposed to be dedicated is 150m.

70 As originally submitted, the proposed standard of construction failed to satisfy the requirements of Council's adopted Policy 4.1.1(q). A 4 metre wide gravel formation was proposed, whereas Council's requirements nominate a minimum 6.4 metre wide bitumen seal.

This advice was conveyed to the applicants consultant on 18 December 2007. In response, the applicants by letter dated 21 January 2008, advised Council that they strongly objected to the standard of construction required by Council Policy 4.1.1(q) but were prepared to construct to a 4 metre wide bitumen standard.

The applicant's grounds of objection were on the basis that:

- 80 • The standard of construction would involve the removal of large areas of native vegetation and significant trees within the road reserves.
- The standard of construction would result in significant site disturbance to the detriment of the environment.
- Only one additional vehicle would use the section of road involved.
- The standard of construction required by Council would contribute to ongoing road maintenance costs to Council.

The matter was subsequently referred to Council's engineering staff for investigation and advice. In response, Council's Group Manager Infrastructure by letter dated 20 February 2008 advised the applicants that compliance with the Policy would be required to effect the subdivision and that the Policy had been applied without  
90 exception in similar circumstances throughout the Shire.

Advice was also sought from the applicant as to whether they wished to proceed with the application. In response, the applicants by letter dated 3 April 2008 confirmed that they wished to proceed with the application in accordance with the Policy, but wanted their objection to the Policy registered.

In response to the applicant's objections to the Policy, staff make the following comments:

- Construction within the Crown Road reserve would not involve the removal of significant areas of native vegetation. The section of road to be upgraded is already constructed to a gravel standard to a width which exceeds 6.4 metres for most of its length.

The application was referred to the Southern Rivers Catchment Management Authority for comment. In response, the Authority has raised no objection to the proposed subdivision and associated road works.

- The upgrade of the road would involve a degree of site disturbance during the construction process and for a period of time following the completion of works. The construction and maintenance of erosion and sediment control works would be necessary to ensure the quality of stormwater discharge from the construction site. To this effect, a detailed site specific soil and water management plan would need to be endorsed by Council's engineering staff prior to any site works commencing.
- The fact that only one vehicle is likely to use the section of upgraded road is not relevant in the determination of the application. If not for the application of Policy 4.1.1(q) the proposed subdivision would otherwise be prohibited. Departing from the Policy in relation to its standards of road construction would not be consistent with its implementation to date and would set an undesirable precedent in the determination of any future applications.
- It is accepted that in the application of the Policy, Council would be responsible for ongoing road maintenance over that section of road at a cost.

## ASSET

On completion of the subdivision, ownership and maintenance responsibilities associated with the newly constructed section of Widgeram Road would be transferred from the Crown to Council.

## CONCLUSION

The property has the potential to be subdivided. The proposed subdivision has been designed taking into account the characteristics of the land and existing improvements.

The proposal complies with the provisions of the BVLEP 2002, particularly Clause 16(7) which are the mandatory matters for consideration in the assessment of concessional lot subdivisions.

In accordance with Council Policy 4.1.1 (q) "Extension of Council Maintained Roads in Concessional Lot Subdivisions", it is recommended that approval be given to the upgrading of the 150m section of Crown Public Road and that Council add that section of road to the road maintenance schedule.

## RECOMMENDATION

1. That Development Application 2007.0261 for the two lot subdivision of Lot 43 DP814168 (No. 171) and Strata Plan 50576 (No. 111) Widgeram Road, Bournda

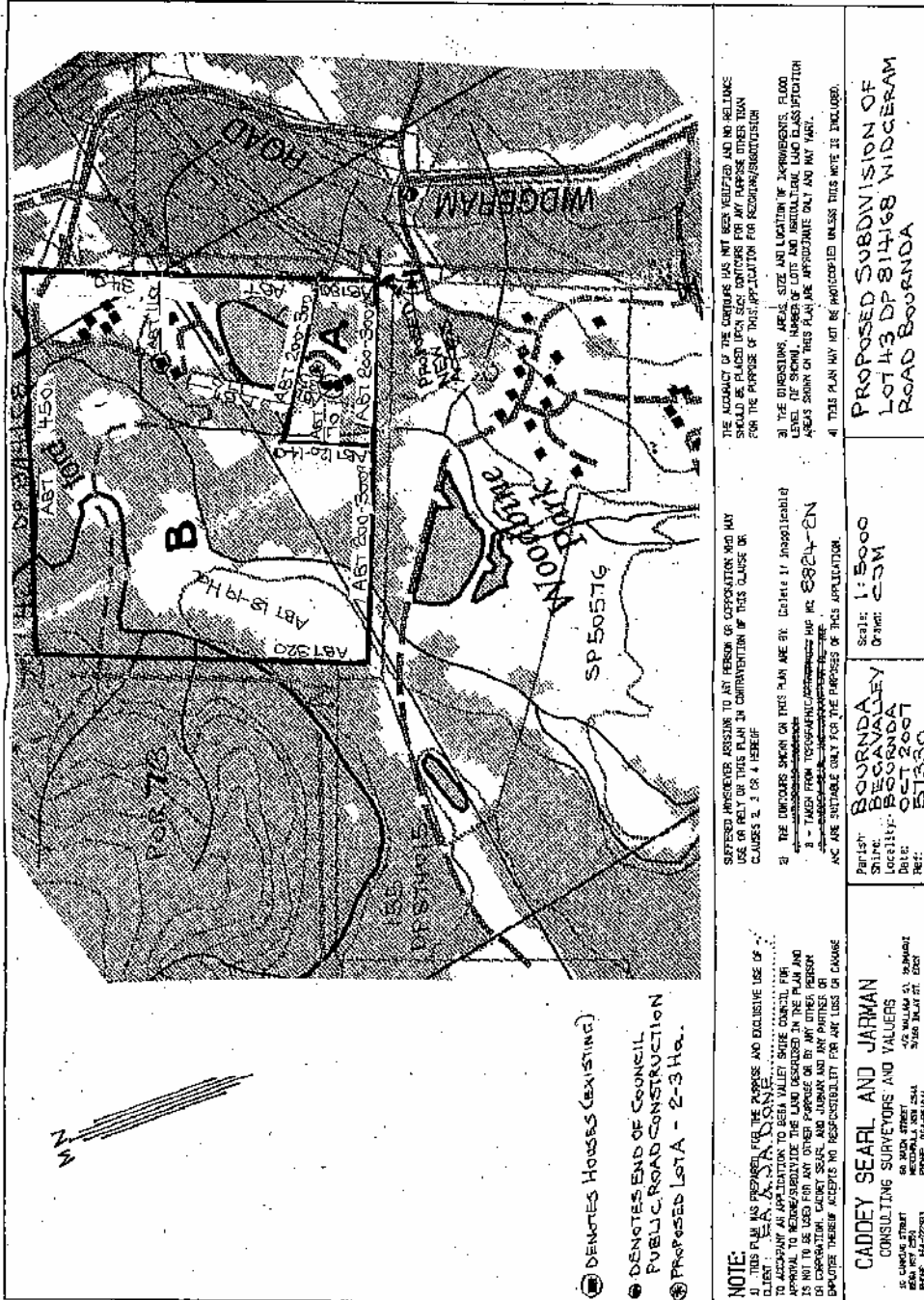
be approved subject to the conditions outlined in the draft consent submitted to Council on 24 March 2009

2. That Council add the 150m section of Crown Public Road, from its intersection with Widgeram Road to the access driveway to proposed Lot A to its road maintenance schedule.
- 140 3. That the Group Manager, General Manager be delegated authority to determine development applications for concessional lot subdivision in accordance with Council Policy 4.1.1(q) "Extension of Council Maintained Roads in Concessional Lot Subdivisions" when:
  - (a) The Group Manager, Infrastructure Waste and Water agrees to inclusion of the additional section of road on Council's road maintenance schedule.
  - (b) Conditions are imposed in any consent in accordance with the Policy.



Appendix 1 – Subdivision Layout Plan

150



**NOTE:**  
1. THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE AND EXCLUSIVE USE OF THE CLIENT.  
2. THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSE OR IN CONNECTION WITH ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF CADDEY SEARL AND JARMAN CONSULTING SURVEYORS AND VALUERS.  
3. THE ACCURACY OF THE CONTOURS HAS NOT BEEN VERIFIED AND NO RELIANCE SHOULD BE PLACED UPON SUCH CONTOURS FOR ANY PURPOSE OTHER THAN FOR THE PURPOSE OF THIS APPLICATION FOR RECOGNITION/REGISTRATION.  
4. THE DIMENSIONS, AREA, SIZE AND LOCATION OF IMPROVEMENTS, FLOOD PLANS AND OTHER INFORMATION SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND NOT FINAL.  
5. THIS PLAN MAY NOT BE REPRODUCED UNLESS THIS NOTE IS INCLUDED.

OFFERED INSTEAD OF THE ABOVE AND EXCLUSIVE USE OF THE CLIENT.  
USE OR RELY ON THIS PLAN IN CONNECTION WITH THIS CLAUSE OR CLAUSES 2, 3 OR 4 HEREIN.  
3. THE DIMENSIONS SHOWN ON THIS PLAN ARE BY COORDINATE IT IS NECESSARY TO TAKE FROM THE PUBLIC RECORDS HAS NO. 8824-CN AND ARE SUITABLE ONLY FOR THE PURPOSES OF THIS APPLICATION.  
Scale: 1:5000  
Drawn: COM

Parish: BOURNDA  
Shire: BOURNDA  
Locality: BOURNDA  
Date: OCT 2007  
Ref: B1330

PROPOSED SUBDIVISION OF  
LOT 143 DP 814168 WIDGERAM  
ROAD BOURNDA

Scale: 1:5000  
Drawn: COM

CADDEY SEARL AND JARMAN  
CONSULTING SURVEYORS AND VALUERS  
55 CHURCH STREET  
MELBOURNE VIC 3000  
PHONE: 03 9415 8100  
FAX: 03 9415 8101

DA No. **2007.0640**

E A and J A Done  
C/- Caddey Searl and Jarman  
PO Box 488  
Merimbula NSW 2548

**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 16 and 65 of the *Bega Valley Local Environmental Plan 2002* subject to conditions.

|                      |  |
|----------------------|--|
| APPLICANT            | <b>E A and J A Done</b>  |
| LAND                 | <b>Lot 43 DP 814168 and SP 50576</b>   |
| LOCATION             | <b>171 Widgerman Road, Bournda</b>   |
| ZONE                 | <b>1(a) Rural General Zone</b>   |
| PROPOSED DEVELOPMENT | <b>DRAFT</b><br><b>2 lot subdivision comprising</b><br><b>1 concessional lot and residue lot</b> |

|  |            |
|--|------------|
| CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA | <b>N/A</b> |
|--|------------|

|                         |             |
|-------------------------|-------------|
| DETERMINATION MADE ON   | <b>2009</b> |
| CONSENT TO OPERATE FROM | <b>2009</b> |
| CONSENT TO LAPSE ON     | <b>2014</b> |

DRAFT OF MEETING CONSENT

## Conditions of approval

1. The plan of subdivision shall be 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. This development consent is for the subdivision of land and related works. No approval of existing buildings or structures is granted or implied by this consent.
3. As part of any subsequent subdivision certificate application, the applicant shall submit to Council documentary evidence / compliance certificate to confirm compliance with all conditions of this Consent.
4. The subdivider shall appoint a Principal Certifying Authority for this development who will have the responsibility to issue a Subdivision Certificate in conformity with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* and related Regulations.

### **DRAFT**

At the date of endorsement of this development consent, only the Council is able to carry out the functions of a Principal Certifying Authority for subdivisions.

5. The subdivider must obtain a Subdivision Certificate for this subdivision from the appointed Principal Certifying Authority before the plan of subdivision can be registered by the Department of Land and Property Information NSW. All conditions of consent must be satisfied, or suitable bonding arrangements made with Council, before a Subdivision Certificate can be issued. A copy of the prescribed form for an Application for a Subdivision Certificate is enclosed. (Council's current fee for a Subdivision Certificate as at the date of this consent is \$ 450).
6. Where any easement, right-of-carriageway or restrictive covenant is to be created pursuant to Section 88B of the *Conveyancing Act, 1919*, the subject S88B Instrument shall be submitted to the Principal Certifying Authority with the final plan of subdivision as a prerequisite to the endorsement of the Subdivision Certificate by the Principal Certifying Authority.
7. Each allotment in the proposed subdivision shall be serviced with electricity at no cost to Council. A letter from Country Energy advising that its requirements have been met shall be sufficient to establish compliance with this condition.
8. The final plan of subdivision shall include the establishment of easements for electricity transmission lines over any existing and/or proposed power lines in Lots A and B.
9. The subdivider shall arrange for the provision of telephone services to the lots in the subdivision. Prior to the endorsement of a subdivision certificate, the subdivider shall submit to the Principal Certifying Authority written notification from a recognised telecommunications carrier to confirm that arrangements have been undertaken to satisfy this condition.
10. All public utility service connections to the existing dwellings shall be contained within their respective lots or within suitable easements for services.

DA No. 2007.0640

11. Prior to the issue of any subsequent construction certificate associated with the provision of access over the adjoining land (Strata Plan 50576), documentation to the effect that the Body Corporate raises no objection to the creation of the proposed right of carriageway and its construction shall be submitted to Council.

**Subdivision Engineering Conditions:**

**12. Procedures - Requirements before commencement of subdivision work:**

- A. Subdivision work in accordance with this development consent must not be commenced until:
- a) **Construction Certificate** for this subdivision work has been issued by:
    - i) the council, or
    - ii) an accredited certifier, and
  - b) the person having the benefit of this development consent:
    - i) has appointed the Council as Principal Certifying Authority for this development, and
    - ii) has notified the Council of this appointment (see below), and
  - c) the person having the benefit of this development consent has given at least 2 days notice to the Council of the person's intention to commence the subdivision work.

**DRAFT**

The notification to Council of appointment of the Principal Certifying Authority and intention to commence work must be submitted on the form prepared by the Council for that purpose.

- B. The notification to Council of appointment of the Principal Certifying Authority must contain the following information:
- a) the name and address of the person by whom the notice is being given, and
  - b) a description of the work to be carried out, and
  - c) the address of the land on which the work is to be carried out, and
  - d) the registered number and date of issue of this development consent, and
  - e) the name and address of the Principal Certifying Authority (Council).
- C. The notice to Council of intention to commence the subdivision work must contain the following information:
- a) the name and address of the person by whom the notice is being given, and
  - b) a description of the work to be carried out, and
  - c) the address of the land on which the work is to be carried out, and
  - d) the registered number and date of issue of this development consent, and

DA No. 2007.0640

- e) the registered number and date of issue of the relevant Construction Certificate, and
  - f) a statement signed by or on behalf of the Principal Certifying Authority (Council) to the effect that all conditions of the consent that are required to be satisfied prior to the work being commenced have been satisfied, and
  - g) the date on which the work is intended to commence.
- D. The plans and specifications to which the Construction Certificate relates must conform to the conditions of this development consent, the standards set out in Council's Development Control Plans, Subdivision Guidelines and construction and design specifications and sound engineering practice.
- E. Any levy payable under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* must be paid before the Construction Certificate is issued.
- F. Payment to Council of a security deposit for the making good of any damage caused to any Council property as a consequence of the doing of anything to which this consent relates. This security shall be provided in an amount of 5 per cent of the value of the construction works, either as a cash deposit or unconditional bank guarantee. A bond administration fee may also be payable to Council.

(Reason: Statutory requirements. See *Environmental Planning and Assessment Act 1979*, Sections 80A, 81A and 109F and *Environmental Planning and Assessment Regulation 2000*, Clauses 103 and 104.)

13. **Traffic Control Plan**

**DRAFT**

No work shall be carried out within three metres of the carriageway of a public road subject to motor vehicle traffic until Council has approved a satisfactory Traffic Control Plan relating to that work, and any associated Roadworks Speed Limit.

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.)

14. **Certification and inspection of subdivision work**

The subdivision works must be inspected and tested either by Council's inspector, or by an Accredited Certifier (PCA) at each of the following stages of construction listed below to confirm compliance with the standards set out in Council's Technical Specification for Civil Engineering Works.

Before the endorsement of the Subdivision Certificate for this development, a Completion of Engineering Works Certificate must be obtained from Council (where Council is the PCA), to demonstrate that all subdivision works have been completed.

Where Council is not the PCA, documentary evidence shall be provided by the PCA to Council demonstrating compliance with the following.

DA No. 2007.0640

- 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) After completion of road subgrade.
- d) After placement and compaction of each layer of gravel pavement material.
- e) During application of bitumen seal or asphaltic concrete wearing surface.
- f) After laying and jointing of all stormwater pipelines prior to backfilling.
- g) After completion of works.
- h) 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. These fees must be paid prior to the endorsement of a Subdivision Certificate.

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

15. Defects liability period for subdivision works:

**DRAFT**

- a) The developer shall remedy any defects in the subdivision works arising within six months after the completion of the works and shall make good any damage caused to any Council property as a consequence of doing anything to which this consent relates.
- b) If the Subdivision Certificate is issued prior to the expiry of this period, the Council must first be provided with a security deposit or unconditional bank guarantee in a form acceptable to Council, in an amount of five percent (5%) of the value of the subdivision works. This amount is security for remedying any defects in the subdivision works 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 funds realised from this security may be paid out by Council to meet any costs referred to in paragraph (a) above. A Bond Administration Fee may be payable to Council.
- c) This condition is authorised by Section 80A(6)-(10) of the Environmental Planning and Assessment Act 1979.

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

16. Subdivision works

The following subdivision work shall be designed (Engineering Design plans submitted to Council for approval) and constructed in conformity with Council's Subdivision Guidelines and Technical Specifications (or other documents formally adopted by Council for the purpose of specifying standards for subdivision works, DCP No.2) as current at the date of the relevant Construction Certificate, and sound engineering practice:

DA No. 2007.0640

**Roadworks**

- a) design (full engineering design plans) and construction of a type BAL **intersection treatment** at the junction of Widgegam Road with the unnamed crown public road in conformity with the standards specified in the *Road Design Guide* published by the NSW Roads and Traffic Authority and shown as figure 4.8.34 (copy attached).

The design shall include the requirement for Safe Intersection Sight Distance for a speed environment 60 km/h along Widgegam Road.

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

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

- b) design (full engineering design plans) and construction of the following in the unnamed Crown Public Road (Policy 4.1.1(q) formally PE 175 – Extensions to Council Maintained Roads in Concessional Lot Subdivisions) from its intersection with Widgegam Road to the eastern boundary of SP 50576:

- 6.4 metre wide gravel road with a 6.4 metre wide bitumen seal,
- 200mm thick compacted gravel pavement,
- suitable vehicle turning facility at the north-western end of this road,
- 1.5 metre wide table drains as necessary,
- all associated stormwater and subsoil drainage works,
- installation of guideposts, protection fencing and signposting to the standards specified in the *Road Design Guide* published by the NSW Roads and Traffic Authority,
- erection of street name sign, and
- all other works necessary to achieve the above,

**DRAFT**

The design speed for this road shall be not less than 60 km/h. The maximum grade for a gravel pavement is not to exceed 15%, if this can not be achieved than the pavement will be required to be bitumen sealed with a maximum grade of 20%. Evidence shall be provided to Council confirming that the access complies with the above grade requirements.

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

- c) design and construction of a **bitumen sealed vehicular entrance(s)** serving lot A in conformity with Council's standard drawing 2111 and the standards for a rural property access as shown in the *Road Design Guide* published by the NSW Roads and Traffic Authority.

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

- d) design (full engineering design plans) and construction of the following in the proposed right of access from the boundary of SP 50576 to the frontage of lot A:

- 4 metre wide gravel road,
- 200mm thick compacted gravel pavement,
- 1.5 metre wide table drains as necessary,
- all associated stormwater and subsoil drainage works,

DA No. 2007.0640

- all other works necessary to achieve the above.

The design speed for this road shall be not less than 40 km/h. The maximum grade for a gravel pavement is not to exceed 15%, if this can not be achieved than the pavement will be required to be bitumen sealed with a maximum grade of 20%. Evidence shall be provided to Council confirming that the access complies with the above grade requirements.

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

- e) design (full engineering design plans) and construction of the access driveway to the existing dwelling on lot A from its southern boundary to the existing dwelling:

- 3 metre wide gravel road,
- 200mm thick compacted gravel pavement,
- 0.5 metre wide table drains as necessary,
- all associated stormwater and subsoil drainage works,
- all other works necessary to achieve the above,

**DRAFT**

The design speed for this road shall be not less than 40 km/h. The maximum grade for a gravel pavement is not to exceed 15%, if this can not be achieved than the pavement will be required to be bitumen sealed with a maximum grade of 20%. Evidence shall be provided to Council confirming that the access complies with the above grade requirements.

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

- f) 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 controlling stormwater quality shall remain with the developer until the Council authorizes the removal of temporary works or takes over the maintenance responsibility for permanent works.

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

- g) construction of **electricity reticulation** works and associated facilities to service every lot.

(Reason: to provide appropriate electricity servicing for of each lot.)

- h) construction of **telecommunications cabling** and associated facilities to service every lot.

DA No. 2007.0640

(Reason: to provide appropriate telecommunications servicing for of each lot.)

17. **Qualifications and insurance of engineering designers**  
All subdivision work 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.)

18. **Contractor's insurance**  
Each contractor engaged in the construction of subdivision work must hold current public liability insurance for an amount of not less than \$20,000,000 suitably endorsed to note the contractor and Council for their respective rights and interests.

Prior to the commencement of the construction of subdivision works Council must be provided with evidence of the currency of this insurance.

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

19. **Road naming**  
The developer shall submit proposed names for new roads and rights of access for approval by the Council's Director of Engineering Services or his delegate, in accordance with Council's Road Naming Policy and addendum. The approved road names shall be clearly shown on the subdivision plans accompanying the application for the Subdivision Certificate. Road name signs shall be erected in conformity with Council's Technical Specification for Civil Engineering Works.

(Reason: so that new roads have suitable names)

**DRAFT**

20. **Easements for services**  
The plan of subdivision shall establish easements for services as necessary to provide for the connection of electricity services to lot A.

(Reason: to secure the authority for land benefited to install, use and maintain connections to utility services across other land.)

21. **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 prior to works commencing.

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

**NSW Rural Fire Service**

- 22.. A Bushfire Safety Authority under Section 100B of the *Rural Fires Act 1997*, was issued by the NSW Rural Fire Service in respect of the proposed development on 10 December 2007. The terms of the Bushfire Safety Authority outlined below are also conditions of this Consent:

a) **Asset Protection Zone**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

DA No. 2007.0640

In perpetuity, the property around the existing dwellings 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 Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.

b) **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire-fighters providing property protection during a bush fire and for occupants faced with evacuation.

Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

c) **Design and Construction**

Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.

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.*

**DRAFT**

**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

DA No. 2007.0640

may have direct application to your proposal and you should obtain advice about this matter directly from the Southern Rivers Catchment Management Authority.

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.

**DRAFT**

Development Control Planner  
FOR BEGA VALLEY SHIRE COUNCIL