

4. DA No. 2008.0215: Five lot subdivision – Lot 41 DP739306, 1291 Upper Brogo Road, Upper Brogo

Group Manager, Planning and Environment

Applicant	RW Surveying & Valuations
Owner	C & P Parker
Site	Lot 41 DP739306 – 1291 Upper Brogo Road, Upper Brogo
Zone	1(a) Rural General Zone
Site area	144.9 hectares
Proposed development	Five lot subdivision comprising four concessional lots and a residue lot

PRECIS

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

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The application is referred to Council as the applicant seeks a variation to the construction standard required by the Policy.

The development application is recommended for approval.

DESCRIPTION OF THE PROPOSAL

The application seeks approval for the subdivision of the land into five lots being Lots 1 to 4 (concessional lots) and Lot 5 (residue lot).

Access to the site is currently via the crown road reserve off Upper Brogo Road. The distance from the intersection with Upper Brogo Road and the subject land is 125m and would require upgrading in accordance with Council adopted Policy 4.1.1(q) – Extension of Council Maintained Roads in Concessional Lot Subdivisions.

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

[Subdivision layout plan – Attachment 1]

DESCRIPTION OF THE SITE

The land is currently utilised for the grazing of livestock and retains a dwelling, associated farm sheds and other farm buildings. The land is characterised by pockets of cleared areas amongst major stands of native vegetation.

The land is described as hilly with numerous drainage lines traversing the property. The land is generally bounded by similar properties with the Brogo River running along the southern boundary.

Access to the land is via an existing formed track over a crown road reserve from Upper Brogo Road.

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 highlight the key issues of the proposal in this report for Council's consideration.

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 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 125m of Crown Road reserve as public road to be maintained by Council under Council Policy 4.1.1(q). As part of the application the applicant has requested the requirement for a bitumen seal construction standard be varied. The request is discussed below.

Request for variation to Council Policy 4.1.1(q)

Council at its meeting on 24 March 2009 resolved, "That the 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:

60 (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."

The development application is being reported to Council as a variation to the road construction standard is being sought.

Under the Policy the proposed standard of construction requires a minimum 6.4 metre wide bitumen sealed road. The applicant has requested that the requirement for bitumen sealing be waived given the distance to the nearest bitumen sealed road.

70 The Group Manager, Infrastructure Waste and Water has advised that due to the road being located some 12 kilometres from the nearest bitumen seal, that strict compliance with the adopted construction standard is not warranted in this instance and a gravel road construction as proposed would be appropriate.

Asset

On completion of the subdivision, ownership and maintenance responsibilities associated with the newly constructed 125m section of Crown Road reserve would be transferred from the Crown to Council.

Consultation

The application was notified in accordance with development Control Plan No 3 – Notification Policy. No submissions were received.

CONCLUSION

80 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.

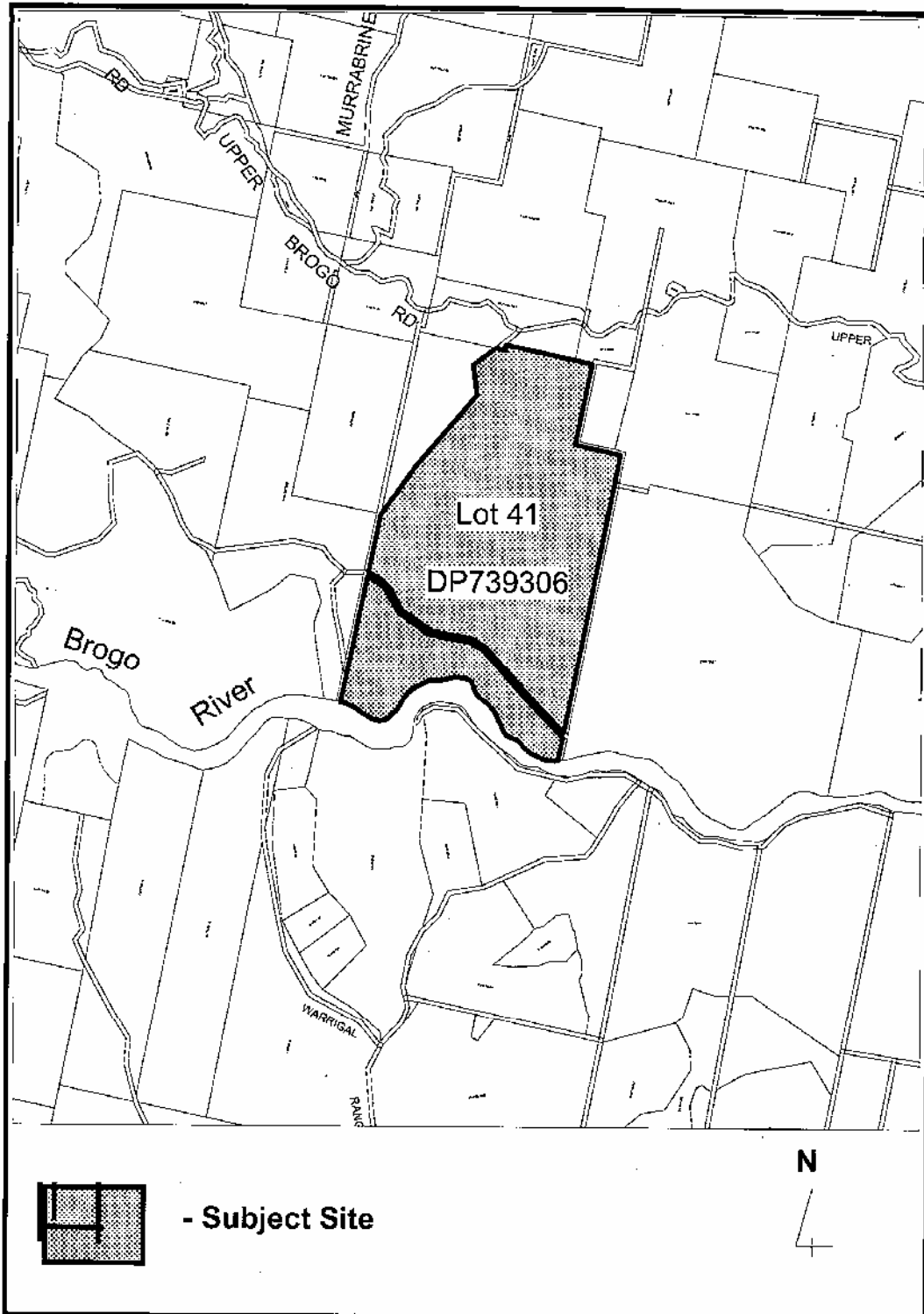
The request for variation to the road construction standard under Council Policy 4.1.1.(q) "Extension of Council Maintained Roads in Concessional Lot Subdivision" has been assessed by Council's Group Manager, Infrastructure Waste & Water and is considered reasonable in this instance. Conditions have been included in the draft consent requiring compliance with the road construction standards under the Policy other than the requirement for bitumen sealing.

RECOMMENDATION

- 90 1. That Development Application 2008.0215 for the five lot subdivision of Lot 41 DP739306, 1291 Upper Brogo Road, Upper Brogo be approved subject to the conditions outlined in the draft consent submitted to Council on 26 May 2009.

2. That Policy 4.1.1(q) "Extension of Council Maintained Roads" be varied to permit a gravel road standard.
3. That Council add that 125m section of Crown Public Road, from its intersection with Upper Brogo Road to the boundary of proposed Lot 5 in the subdivision of Lot 41 DP 739306, Upper Brogo Road, Upper Brogo to its road maintenance schedule.

Locality Plan





Bega Valley Shire Council

DA No. 2008.0215

<DATE>

RW Surveying & Valuations
PO Box 639
EDEN NSW 2551

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 12, 16, 65, 74, 75 and 79 of the *Bega Valley Local Environmental Plan 2002* subject to conditions.

APPLICANT **RW Surveying & Valuations**

LAND **Lot 41 DP 739306**

LOCATION **Upper Brogo Road, Brogo**

ZONE **1(a) Rural General Zone**

PROPOSED DEVELOPMENT **5 lot subdivision**

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CLASSIFICATION(S) UNDER
BUILDING CODE OF
AUSTRALIA **n/a**

DETERMINATION MADE ON **<DATE> 2009**

CONSENT TO OPERATE
FROM **<DATE> 2009**

CONSENT TO LAPSE ON **<DATE> 2014**

ADDRESS ALL
CORRESPONDENCE TO:
PO Box 492
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
EMAIL
council@begavalley.nsw.gov.au

DEVELOPMENT CONSENT

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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 by the following conditions.
2. This subdivision approval exhausts the concessional lot entitlements from the "existing holding" as prescribed in *Bega Valley Local Environmental Plan 2002*, as amended.
3. 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.
4. 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.
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 \$ 450.00).
6. Prior to the endorsement of a subdivision certificate by the Principal Certifying Authority, the following contributions must be paid to Council pursuant to Section 94 and 94B of the Environmental Planning and Assessment Act, 1979 and the following Contributions Plans. Section 94 Contributions plans can be inspected at Council's Bega Office during normal office hours.

- a) Section 94 Contributions Plan No.3 – Recreational Facilities & Public Reserves

Recreational facilities	\$2,304
Allocation no	1679-009

This contribution will be applied to the provision and/or improvement of public recreation facilities at Quaama.

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

Local Rural Roads Fund (to be expended on improvements to Shire Roads)	\$20,756
Allocation no	1622-037

This contribution will be expended on improvements to Upper Brogo Road and/or on roads leading to that road.

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

Payment for provision of public parking in the Bega town centre.	\$2,000
Allocation no	1688-009

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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.

7. 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.
8. Where a positive covenant is intended to be created in favour of Council pursuant to Section 88E of the *Conveyancing Act*, the Section 88B instrument must be endorsed by the Council prior to the endorsement of the Subdivision Certificate by the Principal Certifying Authority.
9. 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.
10. 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.
11. Building and effluent disposal envelopes shall be nominated on the plan of subdivision to the satisfaction of Council. The exact limit of both the building and effluent disposal envelopes are to be determined on site in consultation with relevant Council officers prior to the preparation of the final plan of subdivision.
12. The erection of dwellings on proposed Lot 1, 2, 3 and 4 will require the installation of an on-site sewerage management system in accordance with the recommendations contained within the report prepared by RW Surveying & Valuations or to an equivalent or superior standard. The plan of subdivision and Section 88B Instrument shall establish a suitable positive covenant to give effect to this requirement. Council is to be nominated as having the benefit of the covenant and the sole authority to release, vary or modify the covenant.
13. The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants, with the Council having the benefit of these covenants and having sole authority to release vary or modify these covenants. Wherever possible the extent of the land affected by bearings and distances shown on the plan of subdivision shall define these covenants.
 - a) Prohibiting the disposal of treated or untreated sewage or septic tank effluent on, in or under land within 40 metres of the gully / watercourse as delineated on the Approved Development Plan.
14. All noxious weeds are to be controlled or provision made for their effective management by way of a management plan agreed to and signed off by Council and the landowner prior to the release of the subdivision certificate. Consultation with Council's Noxious Weeds Officer is required.

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A management plan shall include (but is not limited to) the following:

- Name of weed/s being managed;
- Method and timing of control operations – either by season or stage of growth;
- Areas of property where work will be implemented;

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- Ongoing maintenance details;
- Outline of any proposed rehabilitation works.

Note: To avoid any delays in the issue of the Subdivision Certificate an early pro-active response to the control of noxious weeds is recommended.

Council requires that noxious weeds are controlled in accordance with the declaration requirements specified in the Government Gazette. It should be noted that Class 4 declared weeds are to be managed in accordance with Bega Valley Shire Council's weeds specific management plan.

15. Prior to the issue of the subdivision certificate, the applicant must submit to Council documentation from Council's Noxious Weeds Officer to confirm that effective control of noxious weeds has occurred on the property or an endorsed management plan is being suitably implemented.

Engineering Conditions

16. **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.

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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).

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- 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
 - 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 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.

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(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.)

17. **Traffic Control Plan**

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 the Roads and Traffic Authority has approved 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.)

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18. 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.

- 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) After laying and jointing of all stormwater pipelines prior to backfilling.
- f) After completion of works.
- g) As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

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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).

19. Works as executed plans

Upon completion of all subdivision work, Council shall be provided with one complete copy of the plans to which the Construction Certificate relates, 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 cadastral information, roads and stormwater drains for this subdivision shall also be provided to Council in an electronic format* suitable for inclusion in Council's Geographic Information System with a brief metadata description of the projection & datum used in the survey.

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* Council's preferred format for the electronic data is AutoCAD DWG or DXF files in a locally used grid projection. i.e. MGA94 or AMG86. Data will need to be resupplied if coordinates are not valid for the surveyed area. Data will also need to be resupplied if provided using "paper space" coordinates.

The works as executed plans must be examined and accepted by Council's engineering staff prior to the endorsement of the Subdivision Certificate by the Principal Certifying Authority (Council).

(Reason: To ensure that Council holds complete records of civil engineering works being transferred to Council ownership).

20. Defects liability period for subdivision works:

- 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.

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

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 to works commencing. The Crown Road Reserve shall be transferred to the Council under Section 151 of the Roads Act 1993.

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

22. Compliance from State government departments

The Developer shall obtain, and submit to Council, the written concurrence of the the Department of Primary Industries for all improvements within the Water Reserve. Documentary evidence to this effect is to be submitted to Council to works commencing.

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

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23. **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:

Roadworks

- a) design (full engineering design plans) and construction of a type BAL **intersection treatment** at the junction of Upper Brogo Road with the existing Crown 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. The design shall include the requirement for Safe Intersection Sight Distance for a speed environment 60 km/h along Upper Brogo 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) The subdivider shall incorporate into the intersection works suitable locations on both sides of the Upper Brogo Road to provide for school buses to pick up and set down children safely. The Council must approve design details of this work with the intersection works.

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(Reason: to provide for school buses servicing the residents of the subdivision).

- c) design (full engineering design plans) and construction of the following in the proposed new Council Public Road (Policy 4.1.1(q) formally PE 175 – Extensions to Council Maintained Roads in Concessional Lot Subdivisions) from its intersection with Upper Brogo Road to the northern boundary of proposed lot 5:

- 6.4 metre wide gravel road,
- 200mm thick compacted gravel pavement,
- suitable vehicle turning facility at the southern 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,

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 then 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).

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- d) design (full engineering design plans) and construction of the following in the proposed right of access from its intersection with the public road to the frontages of lots 1, 2, 3 & 4:

- 4 metre wide gravel road,
- 200mm thick compacted gravel pavement,
- 1.0 metre wide table drains as necessary,
- all associated stormwater and subsoil drainage works,
- erection of street name sign,
- 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 then 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.

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(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 structures over the water courses bisecting the accesses to be a single lane concrete structure, constructed to recognized engineering standards and providing a design service life of not less than 40 years. All works associated with the construction of the structure and its approaches shall be carried out and completed in accordance with detailed engineering plans and specifications as prepared by a suitably qualified engineer and as approved by Council. The structures are to provide for a 1 in 10 year flood free access.

Prior to the endorsement of the Subdivision Certificate for this development, Council shall be provided with certification from a suitably qualified and experienced Chartered Professional Engineer (NPER 3 registered) confirming that the works identified in the condition referred to above satisfies the specified performance and acceptance criteria.

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

- f) design and construction of individual **vehicular entrances** serving lots 1, 2, 3 and 4 in conformity with Council's standard drawing 2111.

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

- g) 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.

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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.)

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

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

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

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

24. **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.)

25. **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 \$10,000,000 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.)

26. **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)

27. **Easements for services**

The plan of subdivision shall establish easements for services as necessary to provide for the connection of electricity services to all lots.

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

28. **Right of access**

The plan of subdivision shall establish right(s) of access not less than 20.0 metres wide in favour of lots 1, 2, 3 and 4 to contain the physical access to that land. A right of access shall also be established over the corner of lot 1121 in DP 632202 in favour of lots 1 to 5 inclusive to provide a total frontage of 20.0 metres to the new Council road.

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(Reason: to secure the authority for land benefited to use and maintain the access provided within this subdivision.)

29. Dedication of road widening

The final plan of subdivision shall include the dedication as Public Road of such land as is necessary to contain the constructed road in use, and known as unnamed Crown Public Road over the frontages of all surveyed lots. The registered surveyor who prepares the plan of subdivision shall certify to the Principal Certifying Authority that the existing constructed road is wholly contained within the road reserve boundaries shown on the plan of subdivision.

(Reason: To rectify encroachments as part of the subdivision).

30. Encroachments onto Council's Road Reserve

Prior to the issue of a Subdivision Certificate, any boundary fencing currently encroaching onto Council's road reserve shall be relocated onto the correct boundary alignment. The registered surveyor who prepares the plan of subdivision shall certify to the Principal Certifying Authority that the fence(s) are constructed wholly upon the property boundaries and shown on the plan of subdivision.

(Reason: To rectify encroachments as part of the subdivision).

NSW Rural Fire Service Conditions

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31. 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 8 September 2008. The terms of the Bushfire Safety Authority outlined below are also conditions of this Consent:

- a) The development proposal is to comply with the subdivision layout identified on the drawing prepared by RW Surveying numbered 1203A dated 12-11-2007.

Asset Protection Zone

- b) At the commencement of building works and in perpetuity the property around the existing dwelling to a distance of 20 metres shall be managed as an 'Inner Protection Area' as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.

Design and Construction

- c) The existing dwelling on proposed Lot 5 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. This includes any sub floor areas where applicable and eaves.

Department of Water and Energy Conditions

- 32. The development is to be carried out in accordance with Department of Water and Energy General Terms of Approval as attached as Appendix 1.
- 33. The Department should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional 'works' on waterfront land (ie in or within 40 metres from top of highest bank of a watercourse, foreshore or lake). Once notified, the Department will ascertain if the amended plans require review or variation/s to the General Terms of Approval. This requirement applies even if the proposed 'works' are part of Council's proposed consent conditions and the 'works' do not appear in the original documentation.

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34. The Department should be notified if Council receives an application to modify the consent conditions. Failure to notify may render the consent invalid.
35. The Department requests notification of any legal challenge to the consent.

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 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.
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.

Mark Fowler
Development Control Planner

FOR BEGA VALLEY SHIRE COUNCIL

Appendix 1



NSW Government
Department of Water & Energy

General Terms of Approval – for works requiring a Controlled Activity Approval under the Water Management Act 2000

Our Reference	10 ERM2009/0276	File No:	
Site Address	1291 Upper Brogo Road, Upper Brogo		
DA Number	DA 2008.0215		
LGA	Bega Valley Shire Council		

Number	Condition
Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 2008.0215 and provided by Council</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the Department of Water & Energy must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water & Energy. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Works Schedule</p> <p>(ii) Soil and Water Management Plan</p>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the Department of Water & Energy for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with Department of Water & Energy guidelines located at www.naturalresources.nsw.gov.au/water/controlled_activity.shtml.</p> <p>(i) Outlet structures</p> <p>(ii) Watercourse crossing plans</p>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the Department of Water & Energy.</p>



NSW Government

Department of Water & Energy

Number	Condition
Rehabilitation and maintenance	
6	N/A
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the Department of Water & Energy.
Reporting requirements	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the Department of Water & Energy as required.
Security deposits	
9	N/A
Access-ways	
10	N/A
11	N/A
Bridge, causeway, culverts, and crossing	
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the Department of Water & Energy.
13	The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the Department of Water & Energy.
Culvert	
14	The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.
Disposal	
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the Department of Water & Energy; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the Department of Water & Energy.
16	N/A
Drainage and Stormwater	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water & Energy. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site



NSW Government

Department of Water & Energy

Number	Condition
	has been fully stabilised.
Erosion control	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.
19	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the Department of Water & Energy.
Excavation	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the Department of Water & Energy.
Maintaining river	
21	N/A
River bed and bank protection	
22	N/A
23	N/A
Plans, standards and guidelines	
24	N/A
25	N/A
26	N/A
27	N/A
END OF CONDITIONS	

26 May 2009



INTEGRATED DEVELOPMENT ASSESSMENT
LICENSING SOUTH

REFERENCE NO:	10 ERM2009/0276	DATE RECEIVED:	16/03/2009
DETAILS OF PROPOSAL:	5 Lot subdivision with a number of minor creek crossing to access the proposed subdivision lots.		
CATEGORY OF WORKS:	Crossings		
PROPERTY LOCATION:	1291 Upper Brogo Road, Upper Brogo		
LGA OR AGENCY:	Bega Valley Shire Council	DEVELOPMENT REFERENCE:	DA 2008.0215
STREAM DETAILS:			
NAME OF STREAM:	unnamed minor drainage lines	STREAM ORDER: (If Known)	2nd and 3rd Order
CATCHMENT:	Brogo swamp Creek – Brogo River – Bega River Catchment		
The abovementioned Environmental Review Matter has been received. In order to make a coordinated and comprehensive response the units/officers listed below are requested to review the matter and provide input or a NIL response by the dates shown:			
IDAS DUE DATE:	25/04/2009		
REQUEST FOR FURTHER INFORMATION BY:	10/04/2009		
SENT TO:	Bob Britten		
Is Anyone else to comment? (1)	[[COMMENT_OFFICER_NAME]]		
(2)	OTHER NAMES HERE – MANUAL INSERT?		
(3)	OTHER NAMES HERE – MANUAL INSERT?		
COMMENTS/RESPONSE DUE BY:			
NOTES: (Being advice or additional information about Application)			
5 Lot Subdivision at 1291 Upper Brogo Road, Upper Brogo. Minimal information, however the subdivision will require a number of minor creek crossing to access the proposed lots.			
DATA ENTERED BY:	Bob Britten, Phone 02 6491 8209		

DATED: 16 March 2009

