

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 262-06-2003

(FILE NO. S03/01689)

TOURIST FACILITY

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy 71 – Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To maintain the amenity and rural character of the local area;
- (2) To minimise and mitigate potential environmental impacts from the development;
- (3) To ensure development is carried out in accordance the provisions of State Environmental Planning Policy 71 – Coastal Protection and the Great Lakes Local Environmental Plan, 1996; and
- (4) To ensure that the constructed development is consistent with the assessment of the subject development application.

Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2003

SCHEDULE 1 –THE DEVELOPMENT

PART A—TABLE

Application made by:	Martin Morrell Pty Ltd 9 Marine View Newcastle NSW 2300
Application made to:	Minister for Infrastructure and Planning
Development Application:	262-06-2003
On land comprising:	Lot 5 DP 238209 No 1069 Coomba Road, Woota
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$450,000
Type of development:	State Significant Development Integrated Development Advertised Development
S.119 Public inquiry held:	No
BCA building class:	Class 1(a) and 1(b)
Approval Body / Bodies:	Department of Infrastructure, Planning and Natural Resources Rural Fire Service Great Lakes Council
Determination made on:	
Determination:	Development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter. 
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 262-06-2003

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Deputy Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Martin Morrell Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Great Lakes Council.

DA No.262-06-2003 means the development application and supporting documentation submitted by the applicant on 16 June 2003.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments branch (or its successors) within the Department.

Director-General means the Director-General of the Department.

Deputy Director-General means the Deputy Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations mean the Environmental Planning and Assessment Regulations, 2000 (as amended).

Senior Planner means the Senior Planner, Urban Assessments branch (or its successors) within the Department.

Subject site has the same meaning as the land identified in Part A of this schedule.

Team Leader means the Team Leader, Urban Assessments branch (or its successors) within the Department.

SCHEDULE 2 –

THE CONDITIONS OF CONSENT (INCLUDING ADVISORY NOTES)

DEVELOPMENT APPLICATION NO. 173-04-2003

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Development consent is granted only to carrying out the development described in detail below:

- (1) A Tourist Facility comprising 6 cabins, studio workshop, access roads, car parking spaces, landscaping, and water tanks.

Please note: Consent is not granted nor implied for any landscaping works or excavation works within that portion of the site identified as being wetland (known as a Freshwater Meadow) ie. landscaping works and stormwater pond.

A2 *Development in Accordance with Plans*

The development shall be generally in accordance with development application number 173-04-2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Architectural (or Design) Drawings prepared by Designinc Canberra			
Drawing No.	Revision	Name of Plan	Date
A1	C	Site Plan	01.08.03
A4	-	Plans and elevations Office and Workshop	11.11.02
A3	-	Plans and Elevations	01.08.03
A2	b	Plans and Elevations	01.08.03
A2	A	Plans and Elevations	13.11.02

A3 *Development in Accordance with Documents Submitted*

The development shall be generally in accordance with the material submitted with the development application as follows:

- (1) Statement of Environmental Effects prepared by Bryan and Jenny Zagar.
- (2) Bushfire Evacuation Plan
- (3) Report on Effluent Disposal System to AS1547-2000 prepared by Geoff Exell & Associates Pty Ltd.

A4 *No Residential Use*

The development has been assessed as a Tourist Facility and one studio workshop. There is to be no residential use of the cabins at any time.

A5 *Construction Certificate*

No works are to commence prior to a construction certificate being issued pursuant to Section 81A(2) of the Environmental Planning and Assessment Act, 1979 (the Act). Copies are to be forwarded to the Department and Council.

A6 *Notification*

A Principal Certifying Authority (PCA) is to be appointed and the Department and Council are to be notified of the appointment. The Department and Council are to be given at least two days notice of the date intended for the commencement of building works.

A7 *Occupation Certificates*

Prior to occupation of the premises, Occupation Certificates are to be issued, with copies being forwarded to the Department and the Council.

Note: Part 4A of the Act provides specific certification requirements in respect of Conditions **A5 – A7**.

A8 *Native Vegetation Act*

The Native Vegetation Conservation Act (NVCA) requires all persons intending to clear vegetation on State Protected Land or native vegetation on any land, to obtain development consent from the Minister for Natural Resources, where necessary. This consent does not affect the proponent's obligations to obtain consent under the NVCA if it is required.

A9 *Protection of the Environment Operations Act, 1997*

The development shall comply with the requirements of the *Protection of the Environment Operations Act, 1997* at all times.

A10 *Compliance with the requirements of other agencies*

The development shall comply with the requirements of the Department of Environment & Conservation (formerly the EPA), and WorkCover at all times.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Section 94 Contributions

Payment to Bega Valley Shire Council of the following contributions pursuant to Section 94 and Section 94B of the Environmental Planning & Assessment Act and the following Development Contributions Plans, prior to the release of a Construction Certificate:

a) Section 94 Contributions Plan – Recreational Facilities and Public Reserves

i) Recreational Facilities Contribution - \$1631.50

Allocation No. – 1679-007

Contributions will be adjusted as of 1st July, each year in line with cost movements in the Consumer Price Index for the previous 12 months. The Contribution amount will hold for a period of 12 months from the date of consent and thereafter the updated figure will be payable. Contributions Plans can be inspected at Council's office, Zingel Place, Bega.

B2 Bega Valley Shire Council's Water and Sewer Headworks Contribution Plan

Prior to the release of a Construction Certificate, the developer shall apply for and obtain from Bega Valley Shire Council a Compliance Certificate pursuant to Section No. 27 of the Water Supply Authorities Act, 1987 (see Note below).

Note:

A condition of this approval requires the developer to obtain a Compliance Certificate. A separate application must be made to Bega Valley Shire Council for this certificate. The form (attached) must be returned to Council with the payment of contributions.

Before the Certificate of Compliance is issued, Council will require the following:

(a) Payment of a contribution of \$9356.45 to Council's Water Headworks Fund.

Allocation No. – 80161-004

The amounts of the contributions specified will be adjusted as of 1st July each year in line with movements in the Consumer Price Index for the previous 12 months. The contribution amounts will hold for a period of 12 months from the date of consent and thereafter the updated figure will be payable.

The current basis of determination of Water & Sewer Headworks, dated 1 July 1993. Copies of these plans may be inspected at Council's Office at Zingel Place, Bega.

B2 Effluent Disposal

Prior to the issue of any construction certificate an application is to be made to, and approved by the Council for an on site sewerage management system. The system must comply with the recommendations of the Report On Effluent Disposal System prepared by Geoff Exell & Associates Pty Ltd and the Council's Effluent Disposal Policy.

B3 *Details of Materials, Colours and Finishes*

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved the Senior Planner prior to the issue of a Construction Certificate. Materials are to be non-reflective and be compatible with the rural character of the locality.

B4 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B5 *Erosion and Sedimentation Control*

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction* (NSW Department of Housing, 1998) and Council's Erosion and Sediment Control Policy. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B6 *Landscape Plan*

Prior to the issue of a Construction Certificate a revised landscape plan shall be submitted to the Department's Urban Assessment Unit for approval by a Senior Planner. The plan shall address the following requirements:

- (1) Show the proposed treatment of that portion of the site (wetland – Freshwater Meadow) where consent is not granted for landscaping or the detention pond. It is recommended contact is made with the Department's Bega Office (Natural Resources) to determine the appropriate treatment for this area.
- (2) Increase the setback of the water tank from the southern boundary and continue the row of plantings.

B7 *Water Conservation and Management*

The development shall incorporate all practical measures to minimise the use of reticulated water on site through conservation practices and, where possible, the collection and reuse of rainwater in gardens, toilets, laundries and car washing areas

B8 *Storage and Handling of Waste*

The design and management of facilities for the storage and handling of waste must comply with the requirements of Council's Waste Policy. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C2 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C3 Construction Waste Management Plan

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the PCA a Waste Management Plan prepared by a suitably qualified person. The Applicant shall submit a copy of the plan to the Department and Council.

C4 Compliance Report

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART D—DURING CONSTRUCTION

D1 Erosion and Sediment Control

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D2 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D3 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D4 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 7:00 am and 1:00 pm, Saturdays, if inaudible on residential premises, or between 8:00 am and 1:00 pm, Saturdays, if audible on residential premises;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
- (3) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D5 Noise Control

All work, including demolition, excavation and building work must comply with Australian Standard AS2436: 1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

D6 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

D7 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (2) Covers are to be adequately secured, and
- (3) Roadways must be kept clean.

D8 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the National Parks and Wildlife Service and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

PART E—PRIOR TO ISSUE OF SUBDIVISION OR STRATA SUBDIVISION CERTIFICATE

There are no conditions in respect of this part.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE***F1 Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

F2 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the consent authority initial Fire Safety Certificate is received.

F3 Road Damage

The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Applicant prior to the issue of an Occupation Certificate.

F4 Energy Star Rating

All white goods installed within the premises are to have an energy star rating of 3 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more). Prior to the issue of an Occupation Certificate, the Applicant shall submit to the PCA a statement demonstrating compliance with the requirements of this condition.

F5 Water Conservation Devices

The development shall include water-saving devices such as low consumption dishwashers and washing machines, dual flush toilets, AAA-rated shower heads and tap aerators. Prior to the issue of an Occupation Certificate, the Applicant shall provide to the PCA evidence demonstrating that such measures have been incorporated.

PART G—POST OCCUPATION**G1 *Annual Fire Safety Certification***

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

G2 *Loading and Unloading*

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

G3 *Noise Control – Music and Entertainment*

Any recorded music, live music or other entertainment played or provided within the premises shall be controlled to comply with the requirements of the *Environmental Noise Control Manual* (1985) and the *Protection of the Environment Operations Act, 1997*. Noise shall not exceed 5dB(A) above the background noise level when measured at the boundary of the nearest residential property.

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (e.g. Country Energy, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN2 Compliance with Building Code of Australia

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN3 Construction Inspections

Compliance certificate/s shall be issued by the PCA and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN4 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.