

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 234-9-2004

(FILE NO. 9036021-1)

2 LOT RURAL RESIDENTIAL SUBDIVISION

I, the Acting Deputy Director-General, Office of Sustainable Development, Assessments and Approvals, as the delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005 and pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10(2) of State Environmental Planning Policy No. 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 ensure that measures are implemented to manage environmental and social impacts which may arise from the development;
- (2) To ensure development proceeds in accordance with approved plans;
- (3) To ensure development satisfies the relevant statutory requirements;
- (4) To ensure lots are adequately serviced;
- (5) To ensure public utility services, access and restrictions are legalised over the land; and
- (6) To ensure that the development contributes towards the cost and provision of community facilities, public works, open space and recreation facilities in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*.

Chris Wilson
Acting Deputy Director-General
Office of Sustainable Development, Assessments and Approvals

Sydney,

2005

SCHEDULE 1

PART A—TABLE

Application made by:	Don Wells, PO Box 309, Bermagui, NSW 2549
Application made to:	Minister for Planning
Development Application:	No. 234-9-2004
On land comprising:	Portion 134 DP752130 Comben Lane, Bermagui
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	No significant cost
Type of development:	State Significant Development Integrated Development
S.119 Public inquiry held:	No
BCA building class:	N/A
Approval Body / Bodies:	NSW Rural Fire Service
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 formal notification letter accompanying the Determination.
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 physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 234-9-2004***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

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 Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under Section 94 of the Act. The imposing of levies where imposed in accordance with the Bega Valley Council Section 94 Contribution Plan.

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

PART C—DEFINITIONS

In this consent,

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

Applicant means Don Wells 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 Bega Valley Shire Council.

DA No. 234-9-2004 means the development application and supporting documentation submitted by the applicant on 28 September 2004.

Issuing Authority means the Minister for Planning or Council.

Department means the Department of Planning or its successors.

Director-General means the 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.

Regulation means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

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

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 234-9-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

Two (2) lot rural residential subdivision of Portion 134 DP752130 Comben Lane, Bermagui

NB: This consent does not allow for any construction or excavation works to commence on site other than that required by the conditions of this consent. Prior to any additional works being carried out, the appropriate consent must be obtained.

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number DA No. 234-9-2004 submitted by the applicant on 28 September 2004, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects including Detailed Site Flora/Fauna, On-site Sewage Study and Bushfire Protection for Portion 134 DP752130 Comben Lane, South Bermagui prepared by Resources Allocation Pty Ltd dated September 2004.			
Drawing No.	Revision	Name of Plan	Date
47349	-	Plan of Proposed Subdivision as contained in the Statement of Environmental Effects prepared by Resource Allocation Pty Ltd	16 September 2004

[Reason: To ensure development proceeds in accordance with approved plans]

A3 *Application for Subdivision Certificate*

Prior to the lodgement of the plan of subdivision for registration under Division 3 of Part 23 of the Conveyancing Act 1919, a Subdivision Certificate is to be obtained in accordance with Section 109D (1)(d) of the Act.

[Reason: To enable separate land titles to be issued for the proposed lots]

PART B—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

B1 Easement

Where any easement, right-of-carriageway or restrictive covenant is to be created pursuant to Section 88B of the *Conveyancing Act, 1919*, the subject Section 88B 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. Bega Valley Shire Council shall be nominated on the Restriction as to User as the sole party to vary, modify or extinguish the Section 88B Instrument.

B2 Effluent Disposal

A restrictive covenant shall be created pursuant to Section 88B of the *Conveyancing Act, 1919* requiring the installation of an on-site sewage management system in accordance with the recommendations contained in the report prepared by “Resource Allocation, dated September 2004” and Council’s Development Control Plan No. 5 – On Site Sewage Management when a dwelling is erected on Lot A. The covenant shall incorporate the following restrictions:

- The wastewater management system is to be designed in accordance with the principles contained within the guidelines ‘On-site Sewage Management for Single Households’ and AS/NZS 1547-2000 ‘On-site Domestic Wastewater Management’,
- The wastewater management system is to be maintained according to Section 5 of the guidelines ‘On-site Sewage Management for Single Households’ and AS/NZS 1547-2000,
- All effluent is to be assimilated within the boundaries of the lot,
- No effluent management areas are to be located within 100 metres of any creek or watercourse, whether perennial or intermittent or within 40 metres of a drainage depression,
- AAA-rated water conservation devices are to be installed in the dwelling to minimise the volume of wastewater produced,
- All stormwater collected from roofs and other hardstand areas are to be diverted away from any effluent management area by means of stabilised bund or drain with provision for energy dissipation at the outlet to prevent scouring or erosion

B3 Monetary Contributions

In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following monetary contributions:

(1) Amount of Contribution

Contribution Category	Rate of Contribution	Amount
Recreational Facilities	\$529 per additional lot	\$529.00
Local Roads	\$894 per additional lot	\$894.00
TOTAL		\$1,423.00

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Bega Valley Shire Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Bega Valley Shire Council

Evidence of the payment to Bega Valley Shire Council shall be submitted to the issuing authority prior to the issue of the Subdivision Certificate.

(3) Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

[Reason: To ensure the development contributes towards the cost and provision of community facilities, public works, open space and recreation facilities in accordance with Sections 94 and 94a of the Environmental Planning and Assessment Act 1979 (as amended)]

B4 Connection to Reticulated Sewer

A caveat shall be created on the land title pursuant to Section 88B of the Conveyancing Act, 1919 that proposed Lot A shall be connected to reticulated sewer within one year of its availability in the area.

[Reason: To ensure effective environmental management and minimise impact to the water quality]

B5 Utilities – Telephone and Electricity Services

Prior to issue of a Subdivision Certificate, documentation shall be submitted to the issuing authority from Country Energy and Telstra stating that satisfactory arrangements have been made for the supply of electricity and telephone services to the allotments. Easements for electricity purposes, satisfactory to Country Energy, shall be created over existing and proposed electricity lines (pursuant to Section 88B of the *Conveyancing Act, 1919*).

[Reason: To ensure public utility services, access and restrictions are legalised over the land. To ensure lots are adequately serviced.]

B6 Cost in Installation of Utilities

Any necessary alterations to public utility installations will be at the applicant's expense and to the requirements of both Council and the appropriate authorities.

PART C - GENERAL

C1 Tree Preservation

No trees will be lopped or removed from the site without the prior written consent of Council.

[Reason: To preserve vegetation and prevent soil erosion]

PART D—GENERAL TERMS OF APPROVAL

NSW Rural Fire Service

D1 Upgrade of Existing Dwelling

The existing dwelling shall be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with non-corrosive metal screen. This includes any sub-floor areas, where applicable and eaves.

D2 Asset Protection Zone

The Asset Protection Zone shown on plan no. 47349 dated 16 September 2004 shall be provided and maintained in accordance with Section 4.2.2 of Planning for Bushfire Protection 2001.

ADVISORY NOTES

AN1 *Requirements of Public Authorities for Connection to Services*

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Water Supply Authority, 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 *Application under Part 4A of the Act*

An application under Part 4A of the Act shall be submitted to the issuing authority along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN3 *Roads Act, 1993*

A separate application and consent under Sections 138 and 143 of the *Roads Act 1993* is required for any proposed construction work taking place within a Public Road Reserve. The relevant consents required under the *Roads Act 1993* are to be obtained prior to the release of the relevant Construction Certificate.

AN4 *Street Numbering*

In the event that street numbers or a change to street numbers are required, a separate application shall be made to Council.

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with Council's Street Naming Policy, prior to the occupation of the building(s) or commencement of the use.

AN5 *Bushfire Protection*

The NSW Rural Fire Service has issued a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997. The Bush Fire Safety Authority is dated 15 March 2004.

AN6 *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

AN7 *Part 3A Permit*

A Part 3A Permit under the Rivers and Foreshores Improvement Act 1948 for removal of vegetation within 40m of the watercourse shall be obtained from Department of Natural Resources prior to release of a development consent to erect a dwelling on Lot A.